

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

May 23, 2025

MCPB No. 25-049

Administrative Subdivision No. 620240180

Cavanaugh Family Parcel

Date of Hearing: April 17, 2025

RESOLUTION

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

WHEREAS, on September 3, 2024, Cavanaugh Family, LLC (“Applicant”) filed an application for approval of an administrative subdivision plan that would create one (1) lot for one (1) new single-family detached unit on 8.60 acres of land in the AR zone, located at the southwest intersection of Damascus Road and Hipsley Mill Road (“Subject Property”), in the Rural East Policy Area and 2006 *Damascus Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620240180, Cavanaugh Family Parcel (“Administrative Subdivision Plan” or “Application”); and

WHEREAS, the Application was submitted for concurrent review and approval with Forest Conservation Plan No. F20240560; and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 17, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 17, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of **3-0**; Vice Chair Pedoeem, and Commissioners Hedrick and Linden voting in favor; Chair Harris and Commissioner Bartley being necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620240180 to create one (1) lot for one (1) new single-

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Approved as to
Legal Sufficiency:

/s/ Matthew Mills
M-NCPPC Legal Department

family detached unit on the Subject Property, subject to the following conditions:¹

General Approval

1. This Administrative Subdivision Plan is limited to one (1) lot for one (1) 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 Transportation (“MCDOT”) in its letter dated March 12, 2025, 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 Maryland State Highway Administration (“SHA”) in its letter dated March 11, 2025, 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 SHA if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
8. 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 November 20, 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

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.

9. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Well and Septic Section, in its letter dated October 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 MCDPS – Well and Septic Section if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
10. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated October 2, 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 Administrative Subdivision Plan approval.

Other Approvals

11. Before approval of a record plat or any demolition, clearing, or grading for the Subject Property, the Applicant must receive Staff certification of this Administrative Subdivision Plan.

Transportation

12. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate forty (40) feet from the existing pavement centerline along the Subject Property frontage for Damascus Road (MD 650).
 - b) All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for Hipsley Mill Road.
13. Before recordation of the plat, the Applicant must make a de minimis payment of \$34,478 to MCDOT towards the Capital Improvements Project (CIP) – Sidewalk Program Minor Projects (CIP# P506747). The payment will be adjusted based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board Resolution to the date of the recordation of the plat. Proof of payment is required.
14. The Applicant shall remove/trim/relocate any obstructions, such as trees, shrubs, traffic signs, etc., in the line of sight prior to the issuance of access permits in accordance with MCDOT standards.

Record Plats

15. There shall be no clearing or grading of the site prior to the recordation of plats.
16. The record plat must show the septic reserve areas as shown on the approved plans in accordance with MCDPS standards.

17. The record plat must show necessary easements.

Notes and Labels

18. Any record plat for the Subject Property must contain the following note:

Agriculture is the preferred use in the AR Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery, and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.

Certified Administrative Subdivision Plan

19. 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 permits. 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.*

20. Prior to the 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. Remove the Primary Residential Roadway detail.
- d. Add a complete Road Section diagram to the certified set to include pavement information and a cross section of Damascus Road that includes the bikeable shoulders and a six-foot-wide (6 ft) sidewalk (minimum) with a fifteen-foot-wide street buffer (15 ft) with a note that the sidewalk and street buffer will be constructed by others.
- e. Add a complete Road Section diagram to the certified set to include pavement information and a cross section of Hipsley Mill Road.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Administrative Subdivision Plan meets the requirements of Chapter 50, Section 6.1.B for subdivision for creation of certain residential lots located in the Agricultural Reserve zone. Up to 5 lots for detached houses may be created under these procedures in the AR zone if:*

a) *written approval for a proposed well and septic area is received from the Department of Permitting Services before approval of the plat;*

The Planning Board has reviewed and accepts the recommendation(s) of the Montgomery County Department of Permitting Services – Well and Septic Section, in its approval letter dated October 29, 2024.

b) *any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant provides any required improvements;*

The Property has frontage along Damascus Road (MD 650), which is a State Highway, and Hipsley Mill Road, which is classified as a Rustic Road (R-69) with an ultimate right-of-way of 70 feet. The Applicant is dedicating 0.37 acres of land along Damascus Road, which is sufficient to achieve the ultimate right-of-way width of 80 feet (40 feet from the existing pavement centerline). Approximately 0.67 acres of land is being dedicated on Hipsley Mill Road, which is sufficient to achieve the ultimate right-of-way width (35 feet from the existing pavement centerline). The record plat will show all necessary dedications and public utility easements will be shown on the record plat.

c) *the requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;*

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

d) *a covenant is recorded for the unplatted balance of the tract noting that density and development rights have been used for the new lots and noted on the record plat for the lots;*

This criterion is not applicable because the entire tract of land subject to the Application is being recorded as a buildable lot and recorded on a record plat.

e) *lots created in the AR zone through this procedure are 5 acres or less, unless approved by the Board; and*

The Application to convert the existing 8.60-acre parcel into a lot that exceeds the 5-acre lot size limit is approved by the Planning Board. The lot shape and house location, on the unforested center of the Property, allows for maximum retention of a large contiguous agricultural use. After dedication, the proposed lot will be 7.56 acres.

- f) forest conservation plan approval and stormwater management and environmental protection requirements, if applicable, are satisfied before approval of the plat.*

The Application is subject to the requirements of Chapter 22A. As conditioned and discussed below, the Application satisfies the forest conservation requirements.

2. *The Administrative Subdivision Plan meets the technical review requirements of Chapter 50, Section 4.3.*

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

The Subject Property is exempt from certain area and dimensional requirements of the AR Zone. Per Section 7.7.1.D.9 of the Montgomery County Zoning Ordinance:

“A lot or parcel in the Agricultural Reserve (AR) Zone, in addition to other exemptions in this subsection, is exempt from the minimum lot area requirements and lot width requirements of the AR Zone but must satisfy the requirements of the zone applicable to its classification to the AR Zone if the lot or parcel was created before January 6, 1981.”

The current deed for the Subject Property (Book 25624 at Page 435) describes the parcel as being “9.21 acres located on Damascus Road” and also as “being the same land as described in Book 3389 at Page 146, being approximately 10.00 acres of land, more or less”. The deed at Book 3389 Page 146 recorded in 1965 refers to a conveyance of 5,000 square feet that occurred on May 3, 1963. Therefore, the Subject Property in its current configuration originated in 1963. While tax records and the deed recorded at Book 25624 at Page 435 identify the Property as 9.21 acres in size, a more recent survey of the land found the property to be 8.60 acres.

Given the deed history the Subject Property is exempt from the area and dimensional requirements of the AR zone but must meet the requirements of the Rural (R) zone. The Subject Property meets all the Rural zone requirements, including an area of 5 acres and a minimum width at the building line of 300 feet.

Table 1: Cavanaugh Family Parcel Administrative Subdivision Plan Tract Area Data Table for AR Zone² Standard Method, Section 59.4.3.3B

Development Standard	Permitted/Required	Proposed
Tract Area	N/A	8.60 AC / 374,616 SF
Proposed Dedication	N/A	0.37 AC (Damascus Road) 0.67 AC (Hipsley Mill Road) 1.04 AC / 45,302 SF (Total)

Table 2: Cavanaugh Family Parcel Administrative Subdivision Plan Lot Area Data Table for AR Zone³ Standard Method, Section 59.4.3.3B

DEVELOPMENT STANDARDS: Agricultural Rural (AR) Zone¹		
ZONE: AR¹	Permitted/Required	Proposed Lot 1
Lot Size*	5 AC (Min.)	7.56 AC / 329,314 SF
Front Setback (Principal Building)	50 ft. (Min.)	50 ft. or more
Side Setbacks (Principal Building)	20 ft. (Min.)	20 ft. or more
Rear Setback (Principal Building)	35 ft. (Min.)	35 ft. or more
Building Height (Principal and Accessory Buildings)	50 ft. (Max.)	50 ft. or less
Lot Coverage	10% (Max.)	10% Max (less than 2% is shown)
Lot Width at Front Building Line*	300 ft. (Min.)	300 ft. or more
Lot Width at Front Lot Line*	25 ft. (Min.)	25 ft. or more
Front Setback (Accessory Structures)	50 ft. (Min.)	50 ft. or more
Side Setback (Accessory Structures)	15 ft. (Min.)	15 ft. or more
Rear Setback (Accessory Structures)	15 ft. (Min.)	15 ft. or more

² Lot Area and width requirements of the Rural Zone are applicable to the proposed lot. Per Section 7.7.1.D.9, a lot or parcel in the Agricultural Reserve (AR) zone is exempt from the minimum lot area requirements and lot width requirements of the AR Zone but must satisfy the requirements of the zone applicable to it before its classification to the AR Zone of the lot or parcel was created before January 6, 1981.

*Per Section 7.7.1.D.9, the Rural zone development standards apply for minimum lot area and lot width because the parcel was created prior to January 6, 1981.

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

a) Land Use

The Subject Property is located within the 2006 *Damascus Master Plan* area, which confirmed the zoning for the property as Rural Density Transfer (now AR). The Application conforms to the Master Plan by proposing a detached residential dwelling unit, and residential development, accessory uses, and agricultural activities are permitted uses in the AR zone.

b) Environment

The property is in the Hawling River Watershed where the 2006 *Damascus Master Plan*'s environmental recommendations seek to protect water resources by encouraging "agricultural conservation measures and best management practices", as well as protecting "forest areas and wetlands through the development process..." (p.68). The overall development, including the conservation easement, will be consistent with the Master Plan's recommendations.

c) Transportation

The Property is located near the intersection of Damascus Road (MD RT 650) and Hipsley Mill Road. The Rustic Roads Functional Master Plan Update (December 2023) reconfirmed the status of Hipsley Mill Road as a Rustic Road. Hipsley Mill Road was originally designated a Rustic Road by the 1996 *Rustic Roads Functional Master Plan*. The current Master Plan states, "the road is on high ground with vistas across farmland," with the driving experience between Laytonsville Road and Damascus Road as "driving through the fields, with no fences on either side". The Subject Property fronts along Damascus Road.

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

a) Roads and other Transportation Facilities

i. Existing Facilities

Per the 2018 *Master Plan of Highways and Transitways*, Damascus Road is classified as a Country Connector with eighty (80) feet of right-of-way master planned. Damascus Road currently has no bicycle or pedestrian facilities, and there are no transit facilities or routes nearby. Additionally, per the 2018 *Master Plan of Highways and Transitways*, Hipsley Mill Road is classified as a Rustic Road with seventy (70) feet of right-of-way master planned. Hipsley Mill Road has no existing bicycle, pedestrian, or transit facilities.

ii. *Proposed public transportation infrastructure*

The Applicant will be dedicating forty (40) feet of right-of-way dedication from the roadway centerline on Damascus Road and thirty-five (35) feet of right-of-way dedication from the roadway centerline on Hipsley Mill Road in compliance with the 2018 *Master Plan of Highways and Transitways*. The 2018 *Bicycle Master Plan* recommends bikeable shoulders for Damascus Road, and per the Complete Streets Design Guide a sidewalk is also required for Damascus Road. Instead of constructing these facilities, the Applicant will contribute \$34,478 to the Montgomery County Department of Transportation Capital Improvements Project – Sidewalk Program Minor Projects. Per policy M-NCPPC 2022- 01A, this project qualifies for a fee-in-lieu for constructing frontage improvements because it is a project with less than three residential units and the frontage qualifies as an “excessive length” under the policy definition. This fee-in-lieu contribution was also reviewed and agreed to by MCDOT and the State Highway Administration. Since Hipsley Mill Road is a Rustic Road there are no proposed pedestrian or bicycle facilities.

iii. *Local Area Transportation Review (LATR)*

The 2020-2024 Growth and Infrastructure Policy requires a Transportation Impact Analysis for all projects that generate 50 or more net new person trips. Per the 2023 LATR Guidelines, subdivisions of four or fewer single-family detached houses generate less than five new peak hour person trips. Therefore, the new single-family dwelling unit approved with the Application is exempt from further Local Area Transportation Review (LATR) analysis.

iv. *Schools*

a. *Overview and Applicable School Test*

The Updated FY25 Annual School Test, approved by the Planning Board on December 19th, 2024, and effective January 1st, 2025, applies to this application. The Project is approved for a single lot for a new single-family detached dwelling unit.

b. *School Adequacy Test*

The Project is served by Laytonsville Elementary School, John T. Baker Middle School, and Damascus High School. Based on the Updated FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following Table 3:

Table 3. Updated FY2025 Annual School Test Projections (2028-2029 School Year)

	Program Capacity	Enrollment	%Utilization	Surplus/ Deficit
Laytonsville ES	497	409	82.3%	+88
John T. Baker MS	766	876	114.4%	-110
Damascus HS ⁴	1,543	1,477	95.7%	+66

Table 4. Updated FY2025 Annual School Test Results

School	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Laytonsville ES	No UPP	162	188	262
John T. Baker MS	No UPP	10	44	159
Damascus HS	No UPP	226	375	607

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 Updated FY25 Annual School Test, Laytonsville Elementary School, John T. Baker Middle School, and Damascus High School do not require any UPP as identified in Table 4. Based on the school capacity analysis performed, using the Updated FY2025 Annual School Test, this application does not require a Utilization Premium Payment.

v. **Other Public Facilities and Services**

Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses, and health services, are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect.

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

The Application 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 as further discussed in the findings for Forest Conservation Plan F20240560,

⁴ 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.

which are included in a separately approved resolution and are incorporated herein.

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

MCDPS approved the Stormwater Management Concept Plan on November 20, 2024. The plan will meet stormwater management requirements using Micro-Infiltration Trench and Drywells.

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

There is no evidence, actual notice, or constructive notice of a burial site on the Subject Property. The Subject Property is not included in the Montgomery County Inventory.

- G. Any other applicable provision specific to the property and necessary for approval of the Administrative Subdivision is satisfied.*

There are no other applicable provisions specific to the Preliminary Plan that are necessary for the approval of this Application.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

May 23, 2025

(which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Pedoeem, seconded by Commissioner Linden, with a vote of 3-0-2; Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Chair Access and Commissioner Bartley abstaining at its regular meeting held on Thursday, May 15, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board