

**STATEMENT OF JUSTIFICATION IN SUPPORT OF
ADMINISTRATIVE SUBDIVISION PLAN #620250080
FOREST CONSERVATION PLAN F20250380**

On behalf of the applicant, Arlindo and Maria Neiva, we hereby submit this Statement of Justification setting forth the facts and reasons in support of approval of the Proposed Administrative Subdivision Application #620250080 and Forest Conservation Plan #F20250380.

I. Introduction

This subdivision application proposes to create one (1) lot from existing unrecorded parcel, P920.

The application for approval of an Administrative Subdivision Plan and Forest Conservation Plan is being filed pursuant to Section 50.6.3.C of the Subdivision Regulations (Chapter 50 of the Montgomery County Code, 2017) and the development standards applicable to property classified in the AR zone. This proposed subdivision plan provides a form of development consistent with the approved and adopted Damascus Master Plan.

II. Subject Property Description

The subject property is comprised of parcel P920 containing 435,623 square feet or 10.00 acres. The property is located approximately 420 feet east of Burnt Hill Road along a private unnamed driveway in Clarksburg, Montgomery County.

III. Approval Criteria

- I. 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 subdivision of the subject property into one residential lot is in full compliance with the objectives and general land use recommendations of the Damascus Master Plan and AR zoning. The proposed 10.00-acre lot will meet all zoning requirements, including size, width, setbacks, use and other required components of the zone. The applicant proposes to construct a single-family residential house on the lot, which is a permitted use in the AR zone. Since the property was created by deed in 1961 and has not changed in size or configuration, it meets the

provisions of the Section 59-7.7.1.D.9 and is exempt from the area and dimensional requirements of the AR zone.

2. *The administrative subdivision plan substantially conforms to the master plan;*

The Damascus Master Plan does not address this property specifically, but the general area is within the Agricultural Reserve zoning with agriculture the preferred use, although low density residential is a permitted use within the zone. This project proposes a single lot that will be used to construct a single-family residence, and thus substantially complies with that recommendation.

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

According to the 2024 Update to the Subdivision Staging Policy (Growth and Infrastructure Policy), the subject property is located in the Turnover Impact Area for schools and the Rural West (Green) Transportation Policy Area;

Since this application for 1 lot will generate less than 50 peak-hour person trips this subdivision is exempt from Local Area Transportation Review (LATR) under the SSP. Therefore, roads and transportation facilities are adequate to support this subdivision application.

Schools serving this proposed subdivision are the Little Bennett Elementary School, Rocky Hill Middle School, and Clarksburg High School. Based on the FY2025 school test results, the enrollment for all schools is listed as below the projected school capacity.

The subject property will be served by a private well and septic system. Additionally, dry utilities including electric and communications lines are available adjacent to the property.

Police, fire, and health services are adequate to serve the property. The subject property is located in Police District 5 and would be served by Fire Station 35 located on Frederick Road in Clarksburg. Holy Cross Germantown Hospital is the closest medical facility.

4. *All Forest Conservation Law, [Chapter 22A](#) requirements are satisfied;*

A forest conservation plan, F20250380, has been designed and submitted with the application in accordance with Chapter 22A of the County Code. All criteria for forest conservation approval have been met. The property will retain sufficient existing forest cover and place it in a Category 1 easement to meet the requirements of the Code.

5. *All stormwater management, water quality plan, and floodplain requirements of [Chapter 19](#) are satisfied;*

A stormwater management Concept Plan has been submitted for approval by the County Department of Permitting Services. The stormwater management concept plan provides stormwater runoff treatment for the proposed impervious areas using Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). There are no mapped floodplains on the property, and no work is proposed in or near any stream buffer.

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;*

A review of the Montgomery County Cemetery Inventory shows there are no burial sites on or near the property. There are no other known burial sites on the property.

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

This property is located in water and sewer service categories W-6 and S-6. It will be served by private well and septic. Well and septic field locations are shown on the proposed plans in accordance with MCDPS regulations. Approval from MCDPS will be obtained prior to approval of this plan.

According to the Montgomery County's Master Plan of Highways and Transitways, Burnt Hill Road, as it is accessed from the private driveway from the subject property is classified as a Rustic Road with an ultimate right of way of 70'. Since the property does not front on the public road, no dedication is proposed.

8. Waiver of Subdivision Regulations

Section 50-4.3.C.1.c.ii of the Subdivision Regulations require that:

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

This Property does not abut a public or private road but rather be accessed by an existing private driveway through an easement thus a waiver of the Subdivision Regulations is requested. We feel the waiver is justified based on the following.

- a. This property, existing parcel P920, was created by a deed recorded at Liber 2920 in Folio 638 on December 20, 1961, and has not changed in size or shape since then. The location of the property is unusual since it does not have direct access to or frontage on a public street. Access to this property from Burnt Hill Road, as well as the property to the south was considered by early property owners by granting access easements created by deeds recorded in Liber 2271 at Folio 323 and in Liber 968 at Folio 472. Plat 19732, which created the lots to the south established a Common Driveway easement along the western frontage of this parcel.
- b. In order to provide the required frontage, additional land would need to be acquired which would then change the configuration of the Property and result in the Property not meeting the requirements of the legacy provisions of the Subdivision Regulations regarding the minimum size.

IV. Conclusion

On behalf of the Applicant, the undersigned certifies that the information set forth in this Statement of Justification is true, complete, and correct to the best of his knowledge, information, and belief, and hereby requests that the subject application be approved as submitted. Thus, the Applicant respectfully requests that the Planning Director grant approval of this application, which will permit the creation of one lot in the AR zone.

Respectfully Submitted,
SITE SOLUTIONS, LLC

Jeffrey S. Lewis, P.E.
Principal