



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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MEMORANDUM

DATE: March 13, 2004

TO: Montgomery County Planning Board

VIA: Joseph R. Davis, Chief *JRD*
Development Review Division

FROM: A. Malcolm Shaneman, Supervisor, (301) 495-4587 *AMS*
Dolores Kinney, Senior Planner (301) 495-1321 *DK*
Development Review Division

REVIEW TYPE: Pre-Preliminary Plan Review, pursuant to Montgomery County Code § 50-33A (Alternative procedure for preapplication submission).

APPLYING FOR: Resubdivision of Lot 4

PROJECT NAME: Columbia Forest

CASE#: 7-04022

REVIEW BASIS: Chapter 50, Sec.50-29(b)(2), Montgomery County Subdivision Regulations

ZONE: R-60

LOCATION: On the east side of Kentbury Drive, approximately 100 feet southeast of Rosedale Avenue

MASTER PLAN: Bethesda/Chevy Chase

APPLICANT: Marco A. Calderon

FILING DATE: December 31, 2003

HEARING DATE: March 18, 2004

STAFF RECOMMENDATION: Pursuant to Section 50-29(b)(2) of the Subdivision Regulations, Disapproval of Applicant's proposed Two-Lot Resubdivision.

SITE DESCRIPTION:

The subject property, Lot 9 of Block 6 ("Subject Property"), is located in Section One of the Columbia Forest Subdivision, which was originally approved in 1949. The Subject Property is located on the eastern side of Kentbury Drive, south of the intersection with Rosedale Avenue and north of the intersection with Newdale Road. The Subject Property contains 13,288 square feet. The block in which the Subject Property is located is zoned R-60, as are all adjoining residential blocks with frontage on Kentbury Drive, Newdale Road, Rosedale Avenue, and Chestnut Street. The Subject Property is presently improved with a single-family detached dwelling.

PROJECT DESCRIPTION: Proposal

This resubdivision application proposes the resubdivision of the Subject Property into two lots, identified as Proposed Lots 10 and 11, fronting on what is mapped as an unimproved right-of-way on the attached development plan. Proposed Lot 10 would be a corner lot containing 7,026 square feet and Proposed Lot 11 would be a rectangular lot containing 6,262 square feet. The Applicant intends to demolish the existing single-family detached dwelling to facilitate the construction of two new single-family detached dwellings on each of the proposed lots. The proposal would provide Proposed Lot 10 with direct access to Kentbury Drive, while Proposed Lot 11 would have access to Kentbury Drive via a private driveway, proposed to be constructed in the unnamed 60' right-of-way.

BACKGROUND

On Thursday, March 4, 2004, the referenced application was presented to the Planning Board for its consideration and advice under the procedure for preapplication submissions, which is set forth in § 50-33 of the Subdivision Regulations. However, at the outset of its testimony, the Applicant clarified that its desire was, in fact, that the Planning Board take formal action on the application pursuant to the procedures set forth in § 50-33A of the Subdivision Regulations (Alternative procedure for preapplication submissions). Applicant requested a deferral in order to submit a formal request that the concept plan be reviewed pursuant to the procedure set forth in § 50-33A. The applicant has submitted such a written request pursuant to the provisions stated above and Staff has attached a copy of the request to this Staff Report. The hearing has been rescheduled for Thursday, March 18, 2004.

CHAPTER 50-33A (Alternative procedure for preapplication submission).

This alternative procedure allows an applicant to submit a concept plan concerning major aspects of its submission on which the applicant desires a decision of the Planning Board prior to preparation and submission of a preliminary plan. Section 50-33A of the Subdivision Regulations requires that the Board act to:

- (i) Approve the concept plan;
- (ii) Disapprove it, stating in writing to the applicant the reasons therefore;
- (iii) Approve it, subject to conditions or modifications as the board finds as necessary, with respect to those features of the concept plan on which its decision is requested by the applicant, or recommended by a public agency, to produce a preliminary plan that would meet the requirements of section 50-34 and 50-35, assuming all other features of the preliminary plan not included in the concept plan to be in accordance with the provisions of this chapter.

The Planning Board should note that approval of any feature of a concept plan shall not limit the ability of the Board to impose further conditions as required by subdivision regulations on features of the preliminary plan not included in the concept plan. The Planning Board should further be advised that an approval of a preapplication submission under § 50-33A will be considered binding if the applicant files an application for preliminary plan review within ninety (90) days following the action of the Board on the preapplication submission. If an applicant fails to file such a preliminary plan application within the above-stated time period, the concept plan shall be deemed to have expired, unless extended by action of the Board.

Here, the applicant is requesting that the Planning Board approve resubdivision of the Subject Property into "the two proposed lots, with their proposed respective access points and lot design, based upon the resubdivision criteria of Section 50-29 of the Montgomery County Code." Letter from Emily Vaias, Esquire, dated March 9, 2004 is attached.

DISCUSSION OF ISSUES

Master Plan Compliance

The subject property is located on the east side of Kentbury Road in the Bethesda Chevy Chase Master Plan Area and is identified as Lot 9, Block 6, Section 1 of the Columbia Forest Subdivision. The master plan does not specifically identify this property for discussion but does give general guidance and recommendations regarding zoning and land use. The plan recommends that this area maintain the existing zoning as adopted and maintain the residential land use consisting of one family detached homes. The proposed resubdivision complies with the recommendations adopted in the sector plan in that it is a request for residential development.

Conformance to § 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots comply with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering the Resubdivision section, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. Staff and the applicant have conflicting views on the delineation of the neighborhood. Below, Staff describes the respective neighborhoods proposed by Staff and the Applicant; and, attached to this Staff Report are vicinity maps that graphically portray the two proposed neighborhood delineations.

1. Applicant's Neighborhood

The neighborhood that the applicant proposes, includes the lots to the east side of Lynbrook Drive fronting Chestnut Street and Rosedale Avenue. The area east and around the Lynbrook Recreation Center, and south along Newdale Road to Sleaford Road. This neighborhood includes approximately 125 residential lots. The neighborhood proposed by the applicant is considerably larger than those usually evaluated by the Board in assessing the resubdivision criteria.

2. Staff's Neighborhood

In defining the appropriate neighborhood for lot character comparison purposes, it has been a Planning Board practice to limit the neighborhood to include only lots within the neighborhood which were developed under the same standards as the same property. Here, only similarly zoned lots are included in Staff's neighborhood.

The Staff's neighborhood also consists of the lots east of Lynbrook Drive, east and around the Lynbrook Recreation Center, south along Kentbury Drive to Sleaford Road. However, as distinguished from the Applicant's neighborhood, Staff's neighborhood only takes into consideration the lots fronting Newdale Drive to the intersection of Lynbrook Drive. Staff did not include the area southwest of the neighborhood which was included in the applicant's neighborhood, a difference of

approximately twenty-three (23) lots. Staff's neighborhood includes all lots that front on rights-of-way leading to and from the Subject Property from specific "neighborhood" ingress/egress points. These neighborhood "gateways" are located at the following intersections: Lynbrook Drive and Chestnut Street, Lynbrook Drive and Rosedale Avenue, Lynbrook Drive and Newdale Road, and Sleaford Road and Kentbury Drive.

Staff has excluded certain lots that are included in Applicant's neighborhood because those lots, in Staff's opinion cannot reasonably be considered part of the neighborhood of the Subject Property, for analysis purposes. Those lots fronting on Kentbury Way form a small neighborhood unto themselves, characterized by a distinctive radial lot development pattern, which is the consequence of frontage of these lots on the semi-circular Kentbury Way. Furthermore, lots fronting on Lynbrook Drive, to the south of the intersection of Lynbrook Drive and Newdale Road, are excluded from Staff's neighborhood because they are not along a travel path that necessarily leads to the subject property and, in Staff's opinion, should be considered part of a separate neighborhood.

The Planning Board should note that, in this case the neighborhood delineation proposed by Staff is larger than that typically recommended and approved by the Board for resubdivision because the Subject Property is located at a point where, effectively, three rights-of-way (Newdale, Kentbury Drive, and Rosedale Avenue) converge and intersect. Additionally, the travel path upon which the Subject Property is located is a continuous one, leading to three intersections of Kentbury Drive with Lynbrook Drive to the west and one intersection with Sleaford Road to the south, which intersections constitute gateways to the neighborhood.

C. Comparison of the Character of Proposed Lots to Existing

In performing its analysis, Staff applied the above-noted resubdivision criteria to its delineated neighborhood. Staff concludes that the proposed resubdivision does not comply with the size and area criteria of § 50-29(b)(2). As set forth below, the attached tabular summary supports this conclusion:

- a) **Area:** In Staff's neighborhood, which consists of 102 lots, lot areas range from a low of 1,776 square feet (a corner lot) to a high of 22,308 square feet. Proposed Lot 10, a corner lot, has an area of 2,031 square feet, which is the second smallest, with respect to area, of all the lots in the neighborhood. Proposed Lot 11, which is not a corner lot has an area of 2,404 square feet, which is a smaller area than all but three of the existing lots. Consequently, the high correlation required between the area of each of the proposed lots and the area of the existing lots does not exist.
- b) **Size:** In Staff's neighborhood, which, again, consists of 102 lots, lot sizes range from a low of 5,774 square feet to a high of 32,076 square feet. Proposed Lot 10 has a size of 7,026 square feet. Proposed Lot 11, has a size of 6,262 square feet, which is a smaller area than all but two of the existing

lots. Both of the proposed lots would have sizes near, if not at the bottom of the range of lot sizes in the neighborhood. Consequently, the high correlation required between the size of each of the proposed lots and the area of the existing lots does not exist.

Applicant has submitted a "Lot Analysis Summary" with its letter requesting review under § 50-33A. This analysis compares the percentages of lots that fall within 10% of the average proposed lot size and average proposed buildable area. The Planning Board should note that, in the opinion of Staff, this analysis is faulty and inconsistent with the analysis required under § 50-29(b)(2). The analysis that the Board undertakes must consider the characteristics of each proposed lot individually and not an average of the characteristics of the proposed lots. The latter analysis would yield deceptive results.

CONCLUSION

The proposed lots do not have a high correlation to the size and area of the existing lots in the applicant's or Staff's neighborhood. Therefore, staff recommends that the Planning Board disapprove the proposed resubdivision.

Also attached is citizen correspondence pertaining to the referenced pre-preliminary request which was received subsequent to the March 4, 2004 hearing..

Attachments

Vicinity and Development Map

Staff's Neighborhood Delineation Map

Applicant's Request Pursuant to Section 50-33A

Applicant's Neighborhood Delineation Map,
Tabular Summary and Supporting Documents

Proposed Resubdivision Plan