North Hills of Sligo Park and Argyle Park, Administrative Subdivision Plan No. 620170040

Description
- Administrative Subdivision Plan to abandon a portion of the previously dedicated but unimproved twenty-foot-wide right-of-way (ROW) within the North Hills of Sligo Park and Argyle Park subdivisions, and creation of two new lots by incorporating the abandoned ROW into the two existing and adjacent lots in the R-60 Zone; no new units.
- ROW area: 2,672 square feet (20 feet by 133.6 feet); proposed Lot 30 area: 9,973 s.f.; proposed Lot 23 area 11,141 s.f.
- Located at 9622 (Lot 1) and 9700 (Lot 29) Lorain Avenue and the adjacent path.
- 1996 Four Corners Master Plan.
- Application Accepted: May 2, 2017.
- Applicants: Lorraine L. Renner Revocable Trust (9700 Lorain Avenue) and Richard W. and A.B. West (9622 Lorain Avenue).

Summary
- Staff recommends approval of the Administrative Subdivision Plan to abandon a portion of the unimproved ROW (20 feet by 133.6 feet) within the North Hills of Sligo Park and Argyle Park, and creation of two new lots by incorporating the abandoned ROW into the two existing adjacent Lots 1 and 29 (Lot 1 will get 1,348 square feet and Lot 29 will get 1,324 square feet). This application does not result in the creation of any new undeveloped property or result in new construction, and therefore is not reviewed for APF.
- Review Basis: Chapter 50 Subdivision Regulations; Chapter 49 Streets and Roads; Chapter 59 Zoning Ordinance in effect on October 30, 2014.
- The proposed subdivision would release the public interest in the 20 feet of ROW that currently lies between 9622 and 9700 Lorain Avenue.
- Staff received a letter of support for the proposed subdivision from the North Hills of Sligo Creek Civic Association.
- This Administrative Subdivision Plan would normally be reviewed by the Planning Director. However, since it involves an abandonment of unimproved ROW, the abandonment requires action by the Planning Board. The Planning Board is granted the authority to approve abandonment of unimproved ROW under Chapter 49 of the County Code.
SECTION 1: RECOMMENDATION AND CONDITIONS

Administrative Subdivision No. 620170040

Staff recommends approval of this Administrative Subdivision Plan No. 620170040 subject to the following conditions:

1. The approval is limited to the abandonment of a portion of the existing unimproved right-of-way of 2,672 square feet, within the North Hills of Sligo Park and Argyle Park Subdivisions, and creation of two new lots by incorporating the abandoned right-of-way into the two existing and adjacent Lots 1 and 29 (Lot 1 will get 1,348 square feet and Lot 29 will get 1,324 square feet). No new units will be created because of this abandonment.

2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 11, 2017, and hereby incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicants must comply with each of the recommendations as set forth in the letter, which MCDOT may amend if the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.

3. The Applicants must record plat(s) to incorporate the abandoned 2,672 square feet portion of right-of-way into the two existing and adjacent Lots 1 and 29 (Lot 1 will get 1,348 square feet and Lot 29 will get 1,324 square feet) for the creation of two new lots, within the North Hills of Sligo Park and Argyle Park Subdivisions.

4. The record plat(s) must show necessary easements.

5. The Applicants must include the forest conservation exemption letter and Administrative Subdivision Plan Resolution on the approval sheet(s) of the Certified Administrative Subdivision Plan drawings.
SECTION 2: SITE LOCATION AND DESCRIPTION

Site Vicinity

The Property lies in the southwest quadrant of the intersection of the Capital Beltway and Colesville Road (US 29). The Capital Beltway (I-495) is to the north of the Property, Sligo Creek Parkway and Golf Course are to the west, and Colesville Road is to the east (Figure 1: Vicinity Map).

The Property is located on the west side of Lorain Avenue where it intersects with Granville Drive in Silver Spring, Maryland. The Property comprises the following three distinct pieces of land (Figure 2):

1. 9622 Lorain Avenue (Lot 1, Block G, North Hills of Sligo Park, Section 2);
2. 9700 Lorain Avenue (Lot 29, Block F, Argyle Park, Section No. 1); and
3. A previously dedicated, but unimproved 20-foot-wide public right-of-way (Path), that separates the two properties.

The neighborhood surrounding the Property is predominately single-family detached houses zoned R-60. Recreational facilities near the Property include the YMCA, Sligo Creek Golf Course, and Argyle Local Park. Montgomery Blair High School is located east of the Property. The Property is within the 1996 Four Corners Master Plan.
Site Analysis

9622 Lorain Avenue (Lot 1) is approximately, 9,793 square feet, and has a single-family house built in 1949. 9700 Lorain Avenue (Lot 29), is approximately 8,649 square feet and contains a single-family detached home built in 1945.

Figure 2: Aerial view of the three parcels of land outlined in red

9622 and 9700 Lorain Avenue are separated by a twenty-foot-wide public Right-of-Way (ROW) (Figure 2 and Figure 3). The ROW was created by a combination of two ten-foot-wide dedications in Plat No. 339 (recorded in 1926) and Plat No. 471 (recorded in 1933) (Attachment 1). The entire ROW measures approximately 330 feet long between Lorain Avenue and Brunett Avenue as shown in Figure 2 above. The portion of ROW proposed for abandonment between the two adjoining lots is approximately 133.6 feet long, between Lorain Avenue and an alley as shown in Figure 2. It has never been in public use, and is currently unimproved and covered by trees, grass and other vegetation (Figure 4).

Lorain Avenue is a 50-foot-wide tertiary residential street, and it is not listed in the Four Corners Master Plan. There are currently no sidewalks or transit along Lorain Avenue. Ride On Route No. 8 operates along Brunett Avenue between the Wheaton Metrorail Station and the Silver Spring Metrorail Station with half hour headways on weekdays and Saturdays. The nearest bus stops are located at the intersections with Guilford Street and Branson Avenue. Twelve other bus routes operate along nearby Colesville Road (US 29), including three Ride On, seven Metrobus, and two Maryland Transit Administration commuter bus routes.

The Property is within the Middle Sligo Creek Watershed and contains no streams or their buffers, wetlands or their buffers, hydraulically adjacent steep slopes, 100-year floodplains, or known habitats of rare, threatened and endangered species.
Figure 3: Lorain Avenue looking west

Figure 4: Photo of Brunett Avenue – the right-of-way (Path), looking east (from Brunett Avenue)
SECTION 3 – HISTORY AND PROPOSAL

History

While both the 9622 and 9700 Lorain Avenue Properties were improved over time, the changes related to 9700 Lorain Avenue Property are discussed in more detail below because that property is currently encroaching into the area of the unimproved 20 feet wide ROW, which separates 9622 and 9700 Lorain Avenue Properties. The house on 9622 Lorain Avenue does not currently meet the side setback requirements on the east side of the property.

Encroachment of 9700 Lorain Avenue onto the 20 feet wide ROW
On August 13, 1998, the owners of 9700 Lorain Avenue filed a petition to the Montgomery County Board of Appeals seeking a variance of six (6) feet from the required side yard setback of seven (7) feet to construct a two-story addition. The reason given was that they were “unable to expand in the rear of house due to existing hill and insufficient space on side of the house”. The variance application also stated, “Property has unused 10’ easement adjacent to side” (Attachment 2). The ROW was mistakenly identified as an easement on the drawings which accompanied the variance request, prepared by Richard Lawrence Associates, Inc. (Attachment 3).

The Board of Appeals held a hearing on September 16, 1998, and granted the variance on October 16, 1998. At the time, the applicable side yard setback was seven feet and the variance reduced the setback to one foot. It appears that the Board of Appeals believed the ROW to be an easement, as set out in their letter: “The proposed addition is actually sited eleven (11) feet from the west side lot line because of the ten (10) foot easement. Therefore, the strict application of the setback requirements would result in practical difficulty to the applicant if the variance is not granted” (Attachment 4). Thus, the Board of Appeals’ statement that the addition would be sited eleven feet from the side lot line is inaccurate, because the material which accompanied the variance application mistakenly identified the ROW as an easement with the setback measured from the centerline of the ROW.

Following the variance approval, the owners obtained a building permit (Permit No. 9811230208 – Attachment 5) to construct the addition based on the setbacks approved by the Board of Appeals. The documents show that the two-story addition was intended to be built in the location permitted by the variance. In 2003, A subsequent building permit (No. 307394) was issued to construct a shed at the property. This building permit also shows the two-story addition, which appears to encroach into the ROW (Attachment 6). This Administrative Subdivision Plan Application confirms the encroachment of the two-story addition into the ROW by approximately 0.3 feet.
Proposal

This Administrative Subdivision Plan seeks to abandon a portion of the previously dedicated, but unimproved twenty-foot wide ROW within the North Hills of Sligo Park and Argyle Park subdivisions, and creation of two new lots by incorporating the abandoned ROW into the two existing and adjacent lots in the R-60 Zone, as shown in Table 1, Figure 5, and Attachment 7. This application does not involve the construction of new houses on the lots.

Table 1: Existing and Proposed Lot Areas

<table>
<thead>
<tr>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9622 Lorain Avenue</td>
<td>1</td>
<td>9,793 SF</td>
<td>1,348 SF</td>
<td>Lot 23</td>
<td>11,141 SF</td>
</tr>
<tr>
<td>9700 Lorain Avenue</td>
<td>29</td>
<td>8,649 SF</td>
<td>1,324 SF</td>
<td>Lot 30</td>
<td>9,973 SF</td>
</tr>
</tbody>
</table>
Figure 5: Proposed New Lots
SECTION 4: ANALYSIS AND FINDINGS – ADMINISTRATIVE SUBDIVISION PLAN NO. 620170040

The following findings are required to be made for the review of this Administrative Subdivision application.

Findings of Administrative Subdivision Regulations, Section 50.6.1.C. Applicability – Subdivision for creation of certain residential lots

Per Section 50.6.1.C, up to three lots for detached houses are permitted in any residential zone, if:

1. *The lots are approved for standard method development.*

   The existing residential structures/properties are to remain after the proposed subdivision is approved and constitute standard method development.

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.*

   Not applicable; the existing properties are connected to public water and sewer services and no change is proposed.

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

   Lorain Avenue is a 50-foot-wide tertiary residential street, and Granville Drive is a 60-foot-wide secondary residential street. Neither is listed in the *Four Corners Master Plan*, and no additional dedication or public utility easements are required for this subdivision.

   A typical preliminary plan of subdivision would require a 5-foot-wide sidewalk with a green panel along the Lorain Avenue frontage of each lot. However, since there is no construction involved in this application, no sidewalk or bikeway improvements are required.

4. *The requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat.*

   This application is for the creation of two new lots by incorporating the abandoned ROW into the two existing adjacent Lots 1 and 29 (Lot 1 will get 1,348 square feet and Lot 29 will get 1,324 square feet). This application does not result in the creation of any new undeveloped property or new construction, and is therefore not reviewed for APF.

   The proposed subdivision is served by existing public water and sewer systems. Fire and Rescue has reviewed the application and has determined that the Properties have appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses, health care and schools are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient. Electric, gas and telecommunications services are available and adequate.

5. *Forest conservation, stormwater management, and environmental protection requirements are satisfied before approval of the plat.*
Staff issued a Forest Conservation Exemption for the proposed plan on May 2, 2017 (Forest Conservation Exemption No. 42017115E – Attachment 8). This Forest Conservation Exemption includes what is termed a simplified NRI as a part of the Exemption Plan, therefore a separate NRI is not required. The Exemption Plan conforms with the Montgomery County Planning Department’s Environmental Guidelines and complies with Chapter 22A, the Forest Conservation Law.

The Applicants are not required to obtain approval for a stormwater management concept from the Montgomery County Department of Permitting Services (MCDPS), since no new residential units are proposed.

Section 50.4.3 Technical Review, Findings of 50.4.2.D – Preliminary Plans

Administrative Subdivision Plans must be reviewed by the necessary technical requirements of Section 50.4.3, which is addressed by making the Preliminary Plan findings under section 50.4.2.D as follows:

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 layout of the subdivision, including size, width, shape, orientation and density of lots and location meets all the requirements of the R-60 Zone under Section 59.4.4.9B as shown by the development data analysis Table 2 below:

Table 2: Standard Method Development Standards R-60 Zone

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Zoning Ordinance Requirement</th>
<th>Existing PT Lot 1 (9622 Lorain Ave)</th>
<th>Existing Lot 29 (9700 Lorain Ave)</th>
<th>Proposed Lot 23 (9622 Lorain Ave)</th>
<th>Proposed Lot 30 (9700 Lorain Ave)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot (min)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Area</td>
<td>6,000 SF</td>
<td>9,793 SF</td>
<td>8,649 SF</td>
<td>11,141 SF</td>
<td>9,973 SF</td>
</tr>
<tr>
<td>Lot width at front of building line</td>
<td>60’</td>
<td>69.08’</td>
<td>56.39’</td>
<td>79.66’</td>
<td>66.31’</td>
</tr>
<tr>
<td>Lot width at front lot line</td>
<td>25’</td>
<td>69.65’</td>
<td>56.30’</td>
<td>79.20’</td>
<td>65.14’</td>
</tr>
<tr>
<td>Frontage on Street /or open space</td>
<td>Required, except exempt under Chapter 50</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Density (max)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Density (units/acre)</td>
<td>7.26</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coverage (max)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>35%</td>
<td>±18.9%</td>
<td>±17.5%</td>
<td>±16.6%</td>
<td>±12.2%</td>
</tr>
</tbody>
</table>
### Analysis of Setback Requirements

The 9622 Lorain Avenue (Lot 1) property does not meet the minimum side setback on the east side where the house is currently set back 6.5 feet from the lot line.

Currently, the 9700 Lorain Avenue (Lot 29) Property does not meet the minimum 8-foot side setback requirement on either side of the lot. On the east side, the house is 6.8 feet from the lot line; on the west side, the existing house crosses the lot line, encroaching into the ROW by 0.3 feet.

If the portion of the ROW subject to this application is abandoned and incorporated into the existing lots as proposed, the resulting side setback for the new lot for 9622 Lorain Avenue will measure 16.5 feet on the east-side and will meet the minimum requirement. Therefore, this property will be in compliance with all the dimensional requirements for the R-60 Zone. As for 9700 Lorain Avenue, the resulting side setback for the new lot will measure 9.7 feet on the east side and will meet the requirement on one side but not the east side, which will continue to measure 6.8 feet. However, the Department of Permitting Services (DPS) has determined that this is an existing legal nonconformance, and that any alterations or additions to the existing home will require that the current zoning setbacks be met. Therefore, with the exception of the existing legal nonconformance, the proposed lots meet all dimensional requirements of the R-60 Zone, and the proposed incorporation of the ROW into the adjacent lots will decrease the degree of current legal non-conformance.
Design of Road
This application does not result in the creation of any new undeveloped property, or result in new construction. Therefore, the existing design of the lot, block pattern, or the road is not being altered.

No physical change will be made to the property, and no difference will be perceivable after the abandoned area is added to 9622 and 9700 Lorain Avenue. The proposed layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads will be of the same character as existing subdivisions/lots in the neighborhood.

2. The preliminary plan substantially conforms to the master plan;

The Property is located within the 1996 Four Corners Master Plan area. The Master Plan seeks to “Preserve and maintain the character and integrity of the existing, well-established Four Corners residential neighborhoods as the foundation of the community by assuring that new development, infill development, and special exception uses are compatible with the existing residential character” (pg. 25).

The Master Plan does not specifically address the Property, but “reconfirms the existing R-60 (residential, one family) zoning for the residential neighborhoods in the Four Corners Master Plan area” (pg. 25).

The Master Plan identifies the Property and surrounding areas as suitable for one-family detached housing (R-60). This Administrative Subdivision Plan is in conformance with the general recommendations of the Master Plan as it does not propose any change to the existing residential character of the neighborhood. The application will not alter the existing pattern of development or land use, which is in substantial conformance with the Master Plan recommendation to maintain the existing residential land use.

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

The existing public facilities are adequate to support the subdivision. Please refer to the findings of Section 50.6.1.C, (4) above.

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

The Applicants have received a Forest Conservation Exemption Plan. This Plan conforms with the Montgomery County Planning Department’s Environmental Guidelines and it complies with Chapter 22A, the Forest Conservation Law. Please refer to the findings of Section 50.6.1.C, (5) above.
5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied; and

The Applicants are not required to obtain approval for a stormwater management concept from the Montgomery County Department of Permitting Services (MCDPS), since no new residential units are proposed, only changes to the lot lines. Please refer to the findings of Section 50.6.1.C, (5) above.

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

Not applicable.

Section 50.8.4.A.2. – Abandonment of Land Dedicated for Public Use

Per Section 50.8.4.A.2., the Planning Board is authorized under Section 49-68 of the Montgomery County Road Code to abandon all or part of land dedicated to public use, if the land has not been in public use.

A. Land dedicated to the County for public use. When a record plat contain land dedicated to the County for public use, the dedication must be in perpetuity and must not be altered or taken for private use. However, the person who originally filed the plat, any successor in interest, or the County may petition to abandon any land dedicated under this Section. Abandonment of all or part of the dedicated land may be authorized by:

2. The Board under Section 49-68, if the land has not been in public use.

The existing 20-foot wide ROW is unimproved, there are no public utilities in the ROW, and the ROW was never in public use. The ROW is not necessary for anticipated public use since it is unlikely that this ROW will be improved for a road connection because: a road is not needed here; it is not identified in the Master Plan; the ROW is only 20-foot-wide and could only accommodate an alley; and there is a significant grade difference between Lorain Avenue and Brunett Avenue.

In May 2017, MCDOT had considered the ROW as a desirable location to make an east-west bicycle connection from Brunett Avenue to the Indian Spring Terrace and Franklin Knolls neighborhoods to the east of the Property. However, following further consideration, MCDOT and Staff conclude that a bicycle connection is not recommended between Brunett Avenue and Lorain Avenue due to the steep grades within this ROW. It will be very difficult to engineer a safe bike path with such a steep grade over such a short distance (Attachment 7: elevation plan), and there are multiple trees and abundant vegetation, which would need to be removed. An alternative alignment or location was also not appropriate. And, it would be unsafe for cyclists to cross Colesville Road from Granville Drive to Hastings Drive because the intersection is practically in the exit ramp of I-495. Drivers merging from the Beltway will not expect or anticipate the presence of cyclists. Pedestrian infrastructure does not currently exist and is not proposed between these houses. Therefore, Staff, MCDOT and MCDPS support this abandonment petition and recommend that the ROW be abandoned as requested (Attachment 9 – MCDOT Approval Letter).
Findings of Montgomery County Code - Roads and Street Regulations – Section 49-68 (e)
Abandonment of Previously Unused Right-of-Way

Per Section 49-68 (e) of the County Code, if the Planning Board finds:

e. The right-of-way is not necessary for anticipated future public use or that an alternative alignment or location will not adversely affect the public interest, the Board may authorize the right-of-way to be abandoned by incorporating the abandoned land into an amended plat of subdivision.

Based on the analysis above, the existing 20-foot wide ROW is unimproved, there are no public utilities in the ROW, and the ROW never appears to have been in public use. Review of the adopted and emerging master plans and careful analysis of the ROW have allowed MCDOT and Staff to determine that the ROW is not anticipated for future public use. Due to the significant grade, vegetation, and existing dwellings between Brunett Avenue and Loraine Avenue, an alternative alignment or location is not appropriate. Staff finds that the proposed abandonment will not adversely affect the public interest, and that the right-of-way may be incorporated into the record plat(s) for the existing/adjacent lots of 9622 and 9700 Lorain Avenue.

SECTION 5: COMMUNITY CORRESPONDENCE

A notice of this Administrative Subdivision Plan was sent to all required parties by the Applicants on May 4, 2017. The notice gave the interested parties 15 days to review and comment on the contents of the plan. On May 17, 2017, the Applicants met with the North Hills Neighborhood Association and clarified to the community that no new homes were being built on the Property. At the time of preparation of this Report, Staff received a letter of support for this application from the North Hills of Sligo Creek Civic Association (Attachment 10).

SECTION 6: CONCLUSION

The proposed lots for this Administrative Subdivision Plan meet the requirements established in the Subdivision Regulations and the Zoning Ordinance, and conform to the recommendations of the 1996 Four Corners Master Plan. Access and public facilities will continue to be adequate to serve the proposed lots, and the Application has been reviewed by other applicable county Agencies, all of whom have recommended approval of the plan. Therefore, Staff recommends approval of this Administrative Subdivision Plan No. 620170040, which includes the ROW abandonment, with the conditions listed at the beginning of this report.

ATTACHMENTS
1. Record Plat Nos. 339 and 471
2. Variance application for 9700 Lorain Avenue, dated August 14, 1998
5. Building Permit No. 9811230208 for 9700 Lorain Avenue
6. Building Permit No. 307394 for 9700 Lorain Avenue
7. Administrative Subdivision Plans/drawings
8. Forest Conservation Exemption letter, dated May 2, 2017
9. MCDOT letter, dated August 11, 2017
10. Letter of support from the North Hills of Sligo Creek Civic Association
Exhibit A

Plat Book 3, Plat 339
(Lot 29, Block F, Section 1, Argyle Park)
Exhibit A, cont’d

Plat Book 4, Plat 471
(Pt Lot 1, Block G, Section 2, North Hills of Sligo Park)
ATTACHMENT 2

Form 2 (Revised 9/97)

BOARD OF APPEALS
FOR
MONTGOMERY COUNTY, MARYLAND
(301) 217-6600

PETITION FOR Variance UNDER ZONING ORDINANCE
Please Note Instructions on Reverse Side

Name of Petitioner(s):  Lori Renner / Roger Blevins

Address of Petitioner(s):  9700 Lorraine Ave  City Silver Spring  Zip 20901

Description of property involved: Lot 29  Block E  Parcel ________ Subdivision Angles Point

Appellant's present legal interest in above property (check one):  Owner (including joint ownership)  Tax Account No.  Other (describe)  

If not owner, name and address of owner:

What variance is requested, and what is the pertinent section of the Zoning Ordinance:

Side Yard Sec 59-C.1.323(b)(1)

What is the particular requirement(s) from which a variance is desired, in that section or subsection:

1. Side Yard Setback (Requesting C: Variance = 1 Side Yard)

Check existing reason(s) why the Ordinance requirement(s) in question would result in practical difficulties for the owner property:

narrowness  shallowness  shape  Topography  other

Describe briefly:  Unable to expand in rear of house due to existing hill and insufficient space on side of house.

What is the date of recording of plat of present subdivision if any:  ________ or, if property is unsubsidiated, either give the date on which a deed conveying the identifiedly-bounded tract was first recorded or state that such a deed was first recorded prior to March 6, 1928:  

Briefly describe the practical difficulty for the owner if the requested variance is not granted:

See Attached Statement

Has any previous petition or appeal involving this property been made to this Board, or the former Board of Zoning Appeals by this Appellant, or by anyone else to this Appellant's knowledge?  If so, give Case Number(s):

Further comments, if any:  Property has unused 10' easement adjacent to side

I have read the instructions on the reverse side of this form and am filing herewith all of the required accompanying information.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Name of Attorney (if petitioner will be represented by an attorney)

Address of Attorney

Phone Number  (OVER)

Signature of Petitioner(s)

Home  Telephone Numbers  Office

Docket No.  A- 5031
Date Filed  9-11-98
Hearing Date  9-16-98
Time  9:30

000340/108
Name of Petitioner: Lori Renner  
Date Filed: Aug 13, 1998

TO: Members of the Montgomery County Board of Appeals

SUBJECT: Request for Variance

On behalf of my family, I petition the Board of Appeals for a variance under the Montgomery County Zoning Ordinance. We make this request to seek relief from the current building restriction on our lot. Our home is presently a two bedroom, one bath house. Our son Nathan is 10 years old, not yet a teenager, but already demonstrating his desire for privacy. We are planning for another child next summer. Consequently, our home has become too small. We believe strongly in a sense of neighborhood community. Nathan is very fond of his school and we feel strong ties to the community we have lived in for the last 5 years. Selling and buying a new house is financially challenging at this time in terms of cashflow for closing costs on two ends and a required sizeable downpayment. The logical option for us is to modestly expand our present dwelling to accommodate our family growth. Therefore, we petition the board and sincerely ask that you grant our request for variance.
ATTACHMENT 4

Exhibit C

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301) 217-8600

Case No. A-5034

PETITION OF LORI RENNER
(Hearing held September 16, 1996)

OPINION OF THE BOARD
(Effective date of Opinion, October 16, 1996)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a two-story addition and seeks a variance of six (6) feet from the required side lot line setback of seven (7) feet.

The subject property is Lot 29, Block F, Argyle Park Subdivision, located at 9700 Lorain Avenue, Silver Spring, Maryland, in the R-60 Zone (Tax Account No. 985457).

Decision of the Board: Requested variance granted.

Lori Renner, the petitioner, appeared at the hearing and testified that the lot is long and narrow and that the dwelling is sited close to the west side lot line. She testified that the property has an uneven terrain and that the dwelling is sited to the front of the lot because of this existing condition. Ms. Renner further stated the area of the lot in further reduced by a ten (10) foot easement at the west side of the property where the proposed addition will be located. The proposed two-story addition would extend into the side lot line setback by six (6) feet (as depicted in Exhibit No. 3). The proposed two-story addition would be architecturally integrated with the existing house. Materials to be utilized would harmonize with those of the existing home.

The petitioner’s neighbors support the instant application as indicated by the testimony of the applicant. No evidence in opposition was presented. The applicant was of the opinion that the proposed addition would increase the utility and value of the subject property.

Based on the petitioner’s binding testimony and the evidence of record, the Board finds that the variance can be granted. The siting of the existing dwelling and the uneven terrain of the lot severely restrict the buildable area and are factors which create difficulties in the siting of any new construction. The proposed addition is actually sited eleven (11) feet from the west side lot line because of the ten (10) foot easement. Therefore, the strict application of the setback requirements would result in practical difficulty to the applicant if the variance is not granted. Further, the Board finds that the variance requested is the minimum reasonably necessary to accomplish the proposed project and that the variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan. The Board further finds that construction of a two-story addition located beyond the setback, as proposed herein, will not be detrimental to the use and enjoyment of adjoining properties.
Accordingly, the requested variance of six (6) feet from the seven (7) foot required side lot line setback for the proposed construction of a two-story addition is granted subject to the following conditions:

1. Applicant must be bound by all testimony and evidence in the record.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 3 and 4.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

The foregoing Resolution was proposed by Angelo M. Caputo and concurred in by Louise L. Mayer, Wendell M. Holloway, Donna L. Barron and Susan W. Tumbull, Chair.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 16th day of October, 1996.

Katherine Freeman
Acting Executive Secretary to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.
Department of Permitting Services

Online Services - Data Search

If you have trouble scheduling next day commercial inspections (before 12:00 PM), please call the Montgomery County Service Center at 240-777-0311 and ask to speak with a DPS Permit Technician to schedule your commercial inspections.

Please select one of the Search By methods below and define your search criteria first. Then, click the Search button to display the results. Fields with * are required items.

Search By: [Property Address]

Application

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<tr>
<th>Permit Number</th>
<th>Type</th>
<th>Application Date</th>
<th>Issue Date</th>
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<th>Status</th>
<th>Work Type</th>
<th>Site Address</th>
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<tr>
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<td>Finalized</td>
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<td></td>
<td></td>
<td>Single Family Dwelling</td>
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<th>Lot/Block</th>
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<tr>
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Montgomery County
Department of Permitting Services

Approved: Daniel Date: 11/19/98

Zoning Class: R-60
Page: 2

Board of Appeals Case: A-5034

Lot 29
Block F
Section 1
Argyle Park

98/1230208
MONTGOMERY COUNTY MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF DEVELOPMENT SERVICES & REGULATION
250 Hungerford Drive, Rockville, Maryland, 20850-4153

SPECIAL INSPECTION REPORT/CERTIFICATION

This report is submitted in conformance with procedures governing special inspection report/certification established by the Department of Environmental Protection. As such, the Division of Development Services and Regulation will accept this report/certification in lieu of inspecting the work noted below:

I hereby certify that I have authority to sign this report/certification in the name of the following permits and I certify the report is a true report of job site conditions, the laws and building code of Montgomery County are being followed, and that I am currently approved by the Montgomery County Department of Environmental Protection, Division of Development Services and Regulation to submit this report/certification.

SPECIAL INSPECTION REPORT

FOOTING
Elevation at bottom of excavation, as per approved plans or as noted: 

Footings located in natural ground, soil conditions are adequate to carry the load:

Footings located on fill controlled to 90% of maximum density per ASTM standards:

Attach companion report(s):

Width and depth of footing trench and rebar placement is in accordance with approved plan and Montgomery County Building Code and below frost line for Montgomery County:

Concrete-encased electrode in place with a minimum 2 ft. accessible length outside the footing:

PARGING
Parging material, thickness and application is in accordance with requirements of Montgomery County Building Code:

Exterior Foundation Drains

Interior Foundation Drains

Weep Holes (Interior Drains Only)

2" minimum diameter, 6" on center

SPECIAL INSPECTION REPORT/CERTIFICATION

DATE INSPECTED 12-11-98

PERMIT NUMBER 9B1230208 INSPECTION CODE (CHECK TYPE)

FOOTING 001 shall be performed within 12 months of issuance

FOOTING 002 shall be performed within 14 months of issuance

LOT 29 BLOCK F SUBDIVISION ABBOT PARK

PREMISE ADDRESS 9700 LARAIN AVE ELECTION DISTRICT 13

INSPECTOR CODE NUMBER 8R INSPECTION RESULT CODE: 01 (APPROVED)

CERTIFICATION OF ABOVE REPORT/RECORD

Scott J. Klevenhagen, P.E.
NAME (PRINT) AUTHORIZED INDIVIDUAL

P.O. Box 190
ADDRESS

Germantown, MD 20875 SEAL

THIS CERTIFICATION IS TO BE HAND DELIVERED TO THE INSPECTOR AT THE TIME OF THE FRAMING INSPECTION UNLESS IT IS NOT PERFORMED WITHIN 12 MONTHS OF PERMIT ISSUANCE. OTHERWISE HAND DELIVER OR MAILED TO FIELD SERVICES SECTION AT THE ABOVE ADDRESS IN ORDER TO PREVENT THE PERMIT FROM EXPIRING.
Department of Permitting Services

Online Services - Data Search

If you have trouble scheduling next day commercial inspections (before 12:00 PM), please call the Montgomery County Service Center at 240-777-0311 and ask to speak with a DPS Permit Technician to schedule your commercial inspections.

Please select one of the Search By methods below and define your search criteria first. Then, click the Search button to display the results. Fields with * are required items.

Search By: [ ] Property Address

Search Criteria (#) Details (#) Schedule Inspection (#) Cancel Inspection (#)

Application

<table>
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<th>Type</th>
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<td>Issue Date</td>
<td>05/30/2003</td>
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<td>Final Date</td>
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<td>Status</td>
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<td>Subdivision</td>
<td>Argyle Park</td>
<td>Lot/Block</td>
<td>29/F</td>
</tr>
</tbody>
</table>

Reviews

Copyright 2015. Montgomery County Government All Rights Reserved.
BUILDING PERMIT

Issue Date: 5/30/2003

Permit No: 307394
Expires: 5/30/2004

THIS IS TO CERTIFY THAT: RODGER & BLEVINS
LORI L RENNER 9700 LORAIN AVE
SILVER SPRING MD 209013250

HAS PERMISSION TO: CONSTRUCT

PERMIT CONDITIONS:

PREMISE ADDRESS: 9700 LORAIN AVE
SILVER SPRING MD 20901-3250

LOT 29 LIBER
FOLIO
PERMIT FEE: $55.00

BLOCK F ZONE R-60 GRID
ELECTION DISTRICT 13 PLATE PARCEL
TAX ACCOUNT NO.: PS NUMBER 0
SUBDIVISION ARGYLE PARK

MUST BE POSTED ON JOB SITE
AN APPROVED FINAL INSPECTION IS REQUIRED PRIOR TO USE OR OCCUPANCY

NOTICE
THIS APPROVAL DOES NOT INCLUDE PLUMBING, GAS PIPING OR ELECTRICAL OR CONSTRUCTION IN ANY DEDICATED RIGHT-OF-WAY.

NOTE
THIS PERMIT DOES NOT INCLUDE APPROVAL FOR ANY ELECTRICAL WORK. YOU MUST HAVE A SEPARATE ELECTRICAL PERMIT TO DO ANY ELECTRICAL WORK.

Director, Department of Permitting Services

255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4166. Phone: (240) 777-6210 permits.emontgomery.org
**APPLICATION FOR RESIDENTIAL BUILDING PERMIT**

### Sediment Control #

**AC852634**

**Building AP #**

**207394**

**Demolition #**

---

**DESCRIPTION OF WORK:** (check all that apply)

- [ ] ADD
- [ ] ALTER
- [ ] CONSTRUCT
- [ ] DEMOLISH
- [ ] MOVE
- [ ] FOUNDATION ONLY
- [ ] RESTORE and/or REPAIR

**USE OF STRUCTURE:**

- [ ] SINGLE FAMILY DWELLING
- [ ] TOWNHOUSE
- [ ] DUPLEX
- [ ] FENCE
- [ ] RETAINING WALL
- [ ] TRAILER
- [ ] MODULAR HOME
- [ ] HOT TUB
- [ ] SHED
- [ ] OTHER

---

*IF BUILDING A FENCE OR RETAINING WALL*

**HEIGHT:** __________ ft. __________ in.  
**Note:** (A signed approval letter from the adjacent lot owner(s) is required)

- [ ] Located entirely on the land of the owner
- [ ] Public Right of Way/Easement
- [ ] Located on the lot line

---

**NOTE:**

Manufacturer's Name and Model # for All Trailers and Modular Homes

---

**MODEL HOUSE PROGRAM:** to build new homes

- [ ] INITIAL SUBMITTAL or
- [ ] PREVIOUSLY APPROVED PERMIT #

**REFER-BACK SYSTEM:** to build new homes & pools

- [ ] INITIAL SUBMITTAL or
- [ ] PREVIOUSLY APPROVED PERMIT #

**New Home Model Name or #**

---

**REVISION to ORIGINAL PERMIT #**

(Original permit has been issued and is active)

- [ ] SITE
- [ ] STRUCTURAL
- [ ] HOUSE TYPE
- [ ] OTHER:

---

**BUILDING PREMISE ADDRESS:**

- **House #**
- **Street**:
- **City**:
- **State**:
- **Zip**:

**Lot(s) #**

**Block**

**Subdivision**:

**Nearest Cross Street**

---

**APPLICANT INFORMATION:**

**Contact ID #**

**Fax #:**

**Email:**

**Name of Applicant**

Rodger Blevins

**Daytime Phone #:** 301.589.8440

**Address**

9700 Lorain Ave

City: Silver Spring

State: MD

Zip: 20904

---

**CONTACT INFORMATION:**

**Contact ID #:**

**Fax #:**

**Email:**

**Contact Person**

(If other than Applicant)

**Daytime Phone #**

---

**Address**

**City**

**State**

**Zip**

---

**Contractor**

**MHIC or Montgomery County Builders License #**

---

**Contractor Address**

**Daytime Phone #**

---

**EXPEDITED PLAN REVIEW:**

- [ ] I request an Expedited Plan Review, when available, which is subjected to additional fees.

**(Applicant's Signature)**

Rodger Blevins

**Date**

5/26/03

**(Print Name)**

---

---
ADDITIONAL APPROVALS:
Properties located within historic districts, municipalities and special taxing districts may require additional approvals beyond the required Department of Permitting Services (DPS) building permit.
For projects located in the City of Takoma Park's Commercial Revitalization Overlay, certain permits must be approved by the City prior to commencing construction.
Please refer to "Permit Procedures for Properties within a Montgomery County Municipality" for more information.

TYPE OF WATER SUPPLY  □ WSSC  □ WELL  □ OTHER (specify)  

SEWAGE DISPOSAL  □ WSSC  □ SEPTIC  □ OTHER (specify)  

MPDU ... 20% of this new home development will be built as Moderately Priced Dwelling Units  □ Yes  □ No  

IMPACT TAX ... New Homes will be assessed an Impact Tax based on the area where the house is built ... (see Impact Tax guide)  □ I will exercise an approved Impact Tax Credit, a copy of which is attached  

DAP & EDAET AGREEMENTS...Agreement must be attached for new homes when applicable.  

SPECIAL EXCEPTION: Is this lot subject to a Special Exception?  □ Yes, Case #  □ No  

VARIANCE: Has a Variance been granted to perform this work?  □ Yes, Variance #  □ No  

HISTORIC AREA IN ATLAS or MASTER PLAN: Is the property a Historic resource?  □ Yes  □ No  

AUTHORIZED AGENT AFFIDAVIT: I hereby declare and affirm, under the penalty of perjury, that:
1. I am duly authorized to make this permit application on behalf of: (please print property owner's name)  
2. The work proposed by this building permit application is authorized by the property owner; and  
3. All matters and facts set forth in this Affidavit are true and correct to the best of my knowledge, information and belief.  

(Signature of Authorized Agent)  Date  (Print Name)  

HOMEOWNER ACTING AS NEW HOME BUILDER AFFIDAVIT:
By this instrument, I, as the property owner, am applying for an exemption from the licensing requirements for a building contractor, I hereby declare and affirm, under the penalty of perjury that:
1. I or a member of my immediate family will perform any and all construction associated with the foregoing building permit application; and  
2. The type of improvement indicated on the building permit application is designed for use as a residence or dwelling place for my own or my immediate family's use; and  
3. I take full responsibility for all and any code violations.  
4. All matters and facts set forth in this affidavit are true and correct to the best of my knowledge, information, and belief.  

(Signature of Property Owner)  Date  (Print Name)  

TO BE READ BY THE APPLICANT:
Any information that the applicant has set forth in this application that is false or misleading may result in the rejection of the application. A condition for the issuance of this permit is that the proposed construction will comply at all times with the plans as approved by all applicable government agencies. I hereby declare and affirm, under the penalty of perjury, that all matters and facts set forth in the building permit application are true and correct to the best of my knowledge, information and belief.  

(Applicant's Signature)  Date  (Print Name)  

FOR OFFICE USE ONLY: Permit Fee: $  + impact Tax, DAP or EDAET: $  Balance: $  
Bldg.appl.res.403
No evidence of property corners was found. Apparent occupation is shown.

**Surveyor's Certification**

I hereby certify that the survey shown hereon is correct to the best of my knowledge and that, unless noted otherwise, it has been prepared utilizing description of record. This survey is not a boundary survey and the location or existence of property corners is neither guaranteed nor implied. Fence lines, if shown, are approximate in location. This property does not lie within a 100-year flood plain according to FEMA insurance maps as interpreted by the originator unless otherwise shown hereon. Building restriction lines shown are as per available information and are subject to the interpretation of the originator.

[Signature]

Meridian Surveys, Inc.
811 Russell Avenue
Suite #303
Gaithersburg, MD 20879
(301) 721-9400
MISS UTILITY
EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE AND MUST BE FIELD VERIFIED. UTILITY LOCATIONS ARE BASED UPON AVAILABLE RECORDS AND ARE SHOWN TO THE BEST OF OUR ABILITY.

UTILITY INFORMATION
UTILITY CO. REQUEST DATE BY INFO. RECEIVED PLAN REVISED BY

ADMINISTRATIVE SUBDIVISION PLAN
SECTION 2 NORTH HILLS OF SLIGO PARK AND ARGYLE PARK, SECTION 1
9622 + 9700 LORAIN AVENUE
MNCP&PC No. 620170040
ADMINISTRATIVE SUBDIVISION PLAN
MNCP&PC No. 620170040

NOTICE: THIS ADMINISTRATIVE SUBDIVISION PLAN DOES NOT PROPOSE ANY LAND DISTURBANCE.
Preliminary Plan Note:

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 boundaryshown on the Preliminary Plan are illustrative. The final locations of buildings, structures, and accessways 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. Other limitations for site development may also be included in the conditions of the Planning Board approval.

Legend:

- **Green**: Existing Vegetation
- **Dark Green**: Vegetation to Be Maintained
- **Light Green**: Vegetation to Be Removed
- **Red**: Existing Structures
- **Purple**: Proposed Structures
- **Orange**: Utility Lines
- **Black**: Roads
- **Blue**: Streams

Note: This right-of-way/path is not servicing any public use; there are no public utilities located in the right-of-way, and there is no evidence of pedestrian use within the right-of-way.

Note: This administrative subdivision plan does not propose any land disturbance.
NOTE: THIS RIGHT-OF-WAY (PATH) IS NOT SERVICING ANY PUBLIC USE. THERE ARE NO PUBLIC UTILITIES LOCATED IN THE RIGHT-OF-WAY AND THERE IS NO EVIDENCE OF PEDESTRIAN USE WITHIN THE RIGHT-OF-WAY.
May 2, 2017

Mr. Richard W. & Ms. Alyce B. West
9622 Lorain Avenue
Silver Spring, MD. 20910

Re: Forest Conservation Exemption 42017115E; North Hills of Sligo Park and Argyle Park; Lot 23, Block G; & Lot 30, Block F

Dear Mr. & Ms. West:

This letter is to inform you that your request for an exemption from submitting a forest conservation plan for an administrative subdivision for Lot 23, Block G; & Lot 30, Block F is confirmed. This plan submitted on April 14, 2017 is in compliance with Chapter 22A-5(S)(2) of the Forest Conservation Law. This exemption covers an activity conducted on a tract less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. Forest in any priority area on-site must be preserved.

A statement of justification has been included in this file from other subdivision application information which was submitted. Please provide a follow-up letter from the MD. Department of Natural Resources regarding a review for the presence of RTE species.

You may contact me at david.wigglesworth@montgomeryplanning.org or at 301-495-4581 if you have further questions.

Sincerely,

David Wigglesworth
Sr. Planner
Development Applications & Regulatory Coordination

CC: Nathan Renner-Johnson
    Eric Tidd (Case Eng.)
    42017115E
August 11, 2017

Ms. Rhoda Hersson-Ringskog, Senior Planner
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Administrative Subdivision Review Plan Letter
Administrative Subdivision Review Plan No. 620170040
North Hills of Sligo Park and Argyle Park

Dear Ms. Ringskog:

We have completed our review of the amended Statement of Justification (dated July 17, 2017) and the revised Administrative Subdivision Review Plan dated July 19, 2017. This plan was reviewed by the Development Review Committee (DRC) at its meeting on May 30, 2017. We recommend approval for the plan based on the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. We appreciate the additional property research, as well as the new planimetric and topographic information, that were provided with the amended Statement of Justification and revised plan package. We now agree that the existing conditions render future construction of a public sidewalk/bikeway, within the existing dedicated path right-of-way, could not occur without significant public expense and impact on the abutting residential lots. We do not foresee a future need to construct a sidewalk/bikeway at this location. Thus, we support Planning Board approval of the proposed abandonment of the twenty (20)-ft. right-of-way between proposed Lots 23 and 30.
extending from the right-of-way at Lorain Avenue to the existing Alley on the west end of the property.

2. The revised plans dated July 19, 2017 do not show any existing utilities within the portions of the proposed abandonment of the existing twenty (20)-ft. right-of-way. The applicant should certify that there are no existing utilities within the portion of the right-of-way proposed for abandonment.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Deepak Somarajan, our Development Review Team Engineer for this project at deepak.somarajan@montgomerycountymd.gov or (240) 777-7170.

Sincerely,

[Signature]

Gregory M. Leck, Manager
Development Review
Office of Transportation Policy

cc: Richard W. and Alyce B. West Owner
    Nathan Renner-Johnson Owner
    Eric Tidd CAS Engineering
    Patrick O'Neil Lerch, Early & Brewer
    Preliminary Plan folder
    Preliminary Plan letters notebook

cc-e: Patrick Butler M-NCPPC Area 2
      Edward Axler M-NCPPC Area 2
      Sam Farhadi MCDPS RWPR
      Marie LaBaw MCDPS Fire Dept. Access
      John Thomas MCDOT DTE
      Deepak Somarajan MCDOT OTP
Ms. Rhoda Hersson-Ringskog  
Lead Reviewer  
Maryland-National Capital  
Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20850

Re: 9622 & 9700 Lorain Ave., Silver Spring, MD 20191  
Administrative Preliminary Plan of Subdivision No. 620170040

Dear Ms. Hersson-Ringskog:

I am writing on behalf of the Board of Directors for North Hills of Sligo Creek Civic Association (the “Board”) regarding the above-referenced application. The properties that are the subject of the application are within the Civic Association boundaries. The Board has reviewed the application, met with representatives of the applicants and do not oppose of their effort to abandon a twenty-foot wide path between the properties. We understand that the abandonment will help address a building encroachment into the path area. The community has not otherwise expressed concern about the loss of the potential trail connection.

If you have any questions, please feel free to contact me directly at 301-585-1954 or by email at jay777@gmail.com.

Very truly yours,

Jay Elvove  
President, North Hills of Sligo Creek Civic Association