



Ethan Jackson Property, Preliminary Plan 120170120

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Description

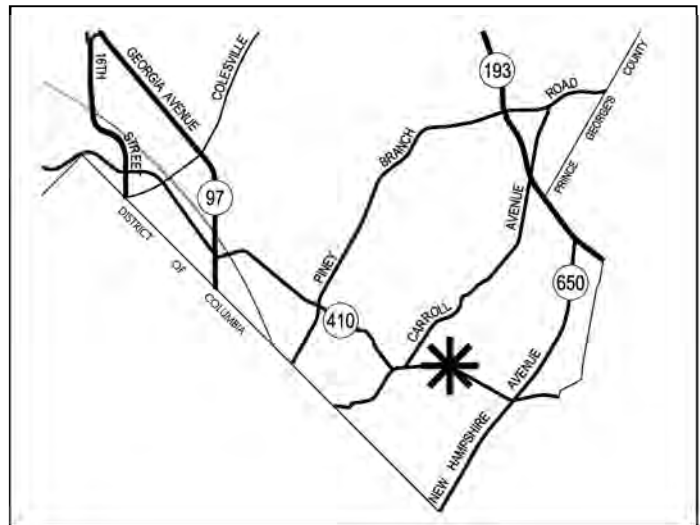
Application to create two residential lots for two single-family dwellings; located in the northeast corner of the intersection of Jackson Avenue and Ethan Allen Avenue in the City of Takoma Park; 0.37 acres, R-60 Zone, 2000 *Takoma Park Master Plan*.

Recommendation – Approval with conditions

Applicant: Benjamin Davis

Acceptance Date: 01.30.17

Review Basis: Chapter 50, Chapter 59, Chapter 22A



Summary

- As conditioned, the proposal meets the development standards and findings of Chapters 50 and 59 and is consistent with the Takoma Park Master Plan.
- The Takoma Park City Council passed a resolution opposing the proposed subdivision as submitted on the grounds that the potential house placement permitted by the Zoning Code was not compatible with the surrounding building fronts along Ethan Allen Avenue, and encouraged the Planning Department and the Applicant to revise the proposal to mitigate this impact. This opposition requires the Planning Board to approve the project with four of five votes.
- Staff has worked with the Applicant to address the issue by increasing the Building Restriction Line on Ethan Allen Avenue.

SECTION 1 – STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval with conditions of the Preliminary Plan 120170120 subject to the following conditions:

1. This Preliminary Plan is limited to 2 lots for 1 single-family dwelling unit on each.
2. The Plat must reflect a minimum Building Restriction Line on Ethan Allen Avenue of 30 feet.
3. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by the City of Takoma Park.
4. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
5. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
6. The Planning Board accepts the recommendations of the City of Takoma Park Department of Public Works in its stormwater management concept approval letter dated March 27, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park Department of Public Works provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. The Applicant must provide sidewalks along the property frontage on Ethan Allen Avenue and Jackson Avenue, with a minimum width of five feet as illustrated on the Certified Preliminary Plan.
8. The Applicant must dedicate and show on the record plat along the Ethan Allen Avenue frontage necessary to achieve a public right-of-way measuring twenty-five feet from the existing pavement centerline to the Subject Property frontage.
9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
10. The record plat must show necessary easements.
11. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
12. The certified Preliminary Plan must contain the following 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 sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for

development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

13. Prior to issuance of a building permit, the applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
14. Prior to issuance of a building permit, the Applicant must provide a signed commitment to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
15. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
16. Along the Jackson Avenue frontage the Applicant must provide at least two street trees and make good faith efforts to provide a third.
17. The Applicant must provide at least two street trees along the Ethan Allen Avenue frontage.
18. Prior to certification of the Preliminary Plan, the Applicant must submit, for Staff review and approval, and implement a revised Tree Save Plan which:
 - a. Consistently includes references to the Planning Department Inspector;
 - b. Provides the applicable standard notes, specifications, and details;
 - c. Provides native landscape plantings; and
 - d. Provides detail on the treatment of invasive species (including ground cover), particularly within/near the tree save areas.
19. All landscape plantings shown on the approved Tree Save Plan must be installed on each lot prior to final inspection.
20. The Applicant must enter into a contract with an appropriate tree care professional to implement a 3-year tree care program noted on the plans. The terms of the program shall be determined in coordination with the tree care professional and the M-NCPPC inspector as part of the pre-construction measures. The program must include provisions for removal and replacement of any protected trees which die or show signs of severe decline within the 3-year maintenance period.

SECTION 2 – SITE DESCRIPTION

Site Vicinity

The neighborhood surrounding the site consists primarily of single-family homes, with a church located across Jackson Avenue from the site and the Takoma Crossing commercial area to the west. Sligo Creek Park is located to the north.



Figure 1 – Aerial Map

Ethan Allen Avenue

Ethan Allen Avenue, along the southern boundary of the site, is part of State Highway Route 410, which runs through the City of Takoma Park as Philadelphia Avenue, Carroll Avenue, Ethan Allen, and East-West Highway. The *Takoma Park Master Plan* identifies Ethan Allen Avenue as an arterial road, A-20, with a recommended minimum right-of-way of 50 feet for two lanes of traffic. The two lanes of traffic exist today, but the right-of-way varies from about 30 feet to about 70 feet, as illustrated diagrammatically below. This right-of-way condition is the accumulated result of over 75 years of platting properties along this road, in both Montgomery and Prince George's Counties.



*Figure 2 – Ethan Allen Avenue ROW (Rotated for fit)
Carroll Avenue is at the top of the image and New Hampshire Avenue at the bottom.*

Site Description

The property consists of one parcel, which is 0.37 acres. The property is located in the northeast corner of the intersection of Jackson Avenue and Ethan Allen Avenue in the City of Takoma Park. The subject property contains lawn area, a grove of trees (including one 40" DBH specimen tree), a gravel parking area. There are no historic or environmentally sensitive features such as forest areas, stream buffers, wetlands, or 100-year floodplains. The site is within the Sligo Creek watershed which is a Use I¹ watershed.



Figure 3 – Aerial View

¹ Use I: WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.



Figure 4 – Street View Looking East at Jackson Avenue

Along the property, the existing Ethan Allen Avenue right-of-way measures approximately 45 feet approaching Jackson Avenue from the west, narrowing to about 30 in front of the site, expanding to 50 feet for the five properties to the east, then back down to about 30 feet.

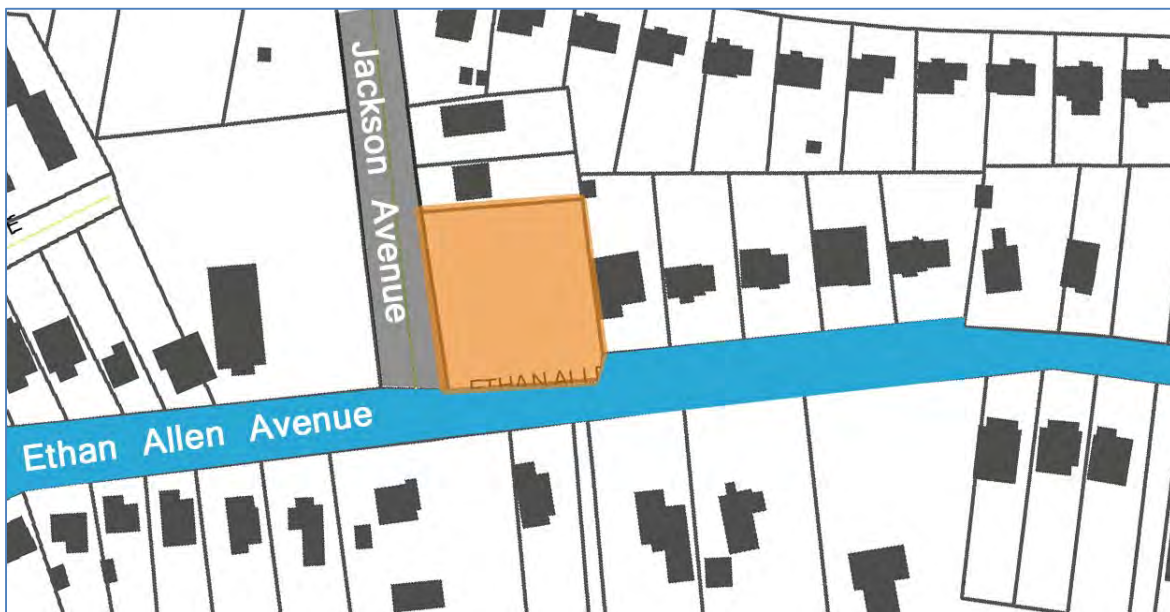


Figure 5 – Existing Right-of Way Detail

SECTION 3 –PROPOSAL

Proposal

The Applicant proposes to subdivide the site to create two lots for two single-family homes on 0.37 acres of land in the R-60 Zone. Vehicular access to both lots is provided from Jackson Avenue. The corner condition requires front setbacks of 25 feet on both frontages and limits the narrow dimension of the buildable area to 42 feet on the rear lot and 38 feet on the corner lot.

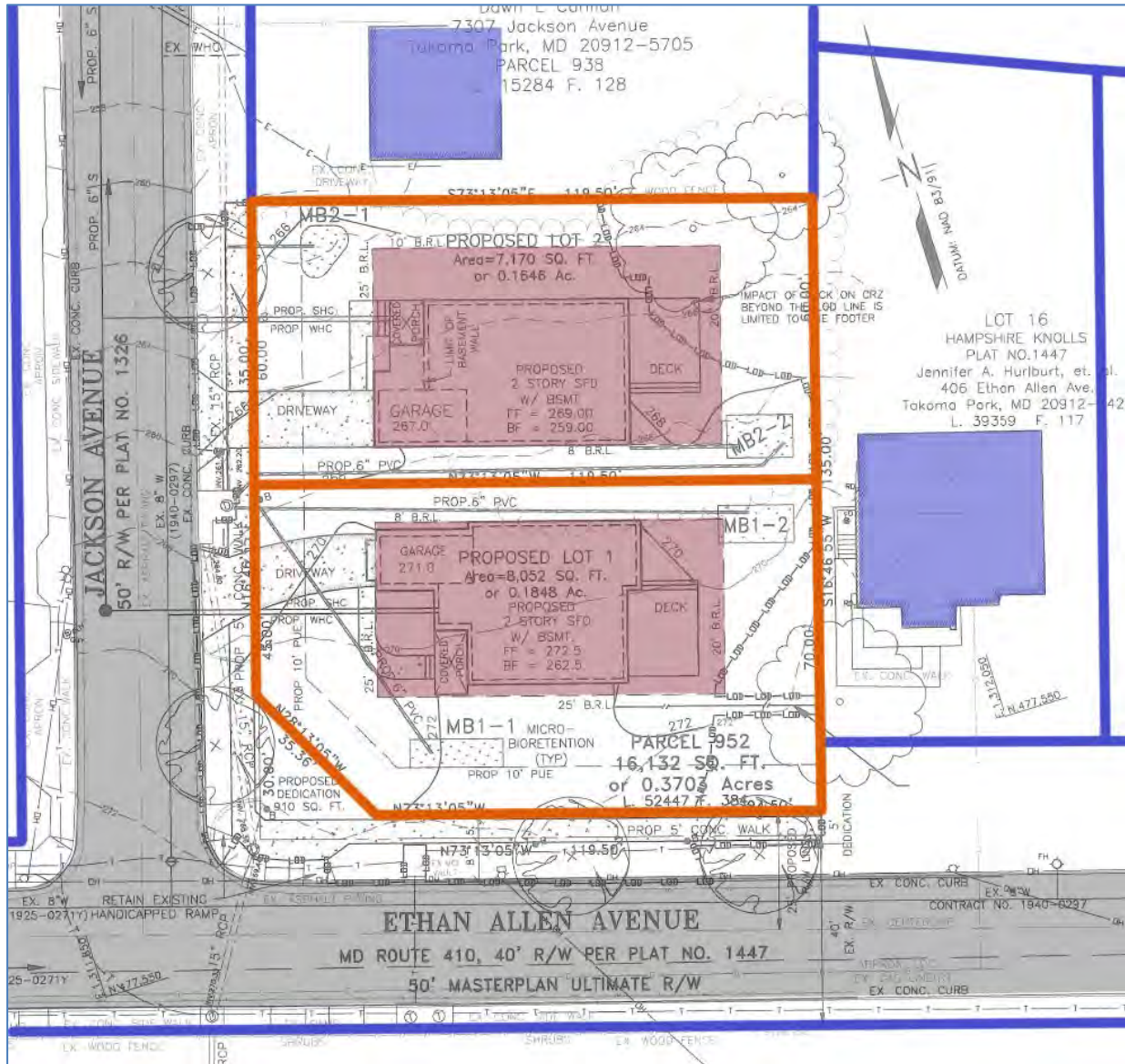


Figure 6 – Preliminary Plan (Buildable Area in Dusty Rose)

The Applicant will be dedicating area along the property frontage on the Ethan Allen right-of-way to accommodate their half of the recommended 50-foot right-of way. They will also be installing new 5-foot-wide sidewalks within the rights-of-way along the property frontages.

SECTION 4 – CITY OF TAKOMA PARK OPPOSITION

Planning Staff from the City of Takoma Park participated in the review of the Application and raised a concern about the degree to which the house on the proposed corner lot (“Lot 1”) would project closer to Ethan Allen Avenue than the houses just to the east of the site. This projection occurs because the Ethan Allen Avenue right-of-way is not consistent between the subject property and its neighbors to the east. The same building setback measured from different right-of-way lines yields building fronts that are not aligned.

The Standard Method Development Standards for the R-60 Zone, found in Section 59.4.4.9.B., list the minimum front building setback as 25 feet. A further Specification, at 59.4.4.9.B.2.a., indicates that “Development may have to satisfy Section 4.4.1.A., Established Building Line.”

Section 59.1.4.2., which defines specific terms and phrases used in the Zoning Code, sets Established Building Line (EBL) as “A front setback line that is greater than the minimum setback required for structures in a designated zone.” Section 59.4.4.1.A., provided in full in Attachment 3, defines its measure. For this site, if more than half of the neighboring houses on the block have a greater setback than the minimum, the EBL would be equal to the average front setback of those buildings. An analysis conducted by Montgomery County Department of Permitting Services determined that since only two of the five adjoining lots have a setback greater than the minimum, there is no EBL on Ethan Allen Avenue, and the building setback should be taken from the right-of-way line at Ethan Allen. (Attachment 2) Staff accepts this application of Section 59.4.4.1.A. This setback will allow the new house on Lot 1 to be approximately 18 feet closer to the curb than its neighbors.

On May 3, 2017, the Takoma Park City Council passed Resolution No. 2017-32, which “opposes the project as proposed because of the placement of one proposed structure close to Ethan Allen Avenue” and requests the proposal be modified “to place the corner house more in line with properties to the east of the subject property so as to better conform to the built environment in this highly visible location along Ethan Allen Avenue.”(Attachment 1) Because the City Council has voted to oppose the Application, the Planning Board must approve the proposal with a 4/5 “Supermajority”, as required by Land Use Article Section 24-202.

As acknowledged in the City Council Resolution, and discussed below, the proposed subdivision on its face arguably meets the development standards of the zone, is consistent with the recommendations of the Master Plan, and meets the findings required for approval. The City requests instead a qualitative modification to the subdivision. To this end, Staff has been working with the Applicant to explore alternatives.

Staff developed two alternatives (with design credit to Neil Sullivan). The first alternative rotates the lots so that the narrow dimension faces Ethan Allen Avenue, consistent with most of the lots along the Avenue. This would allow the houses to be set back in line with their neighbors. This scheme is unfeasible, however, because the overall width of the site does not permit two lots with a minimum lot width of 60 feet.

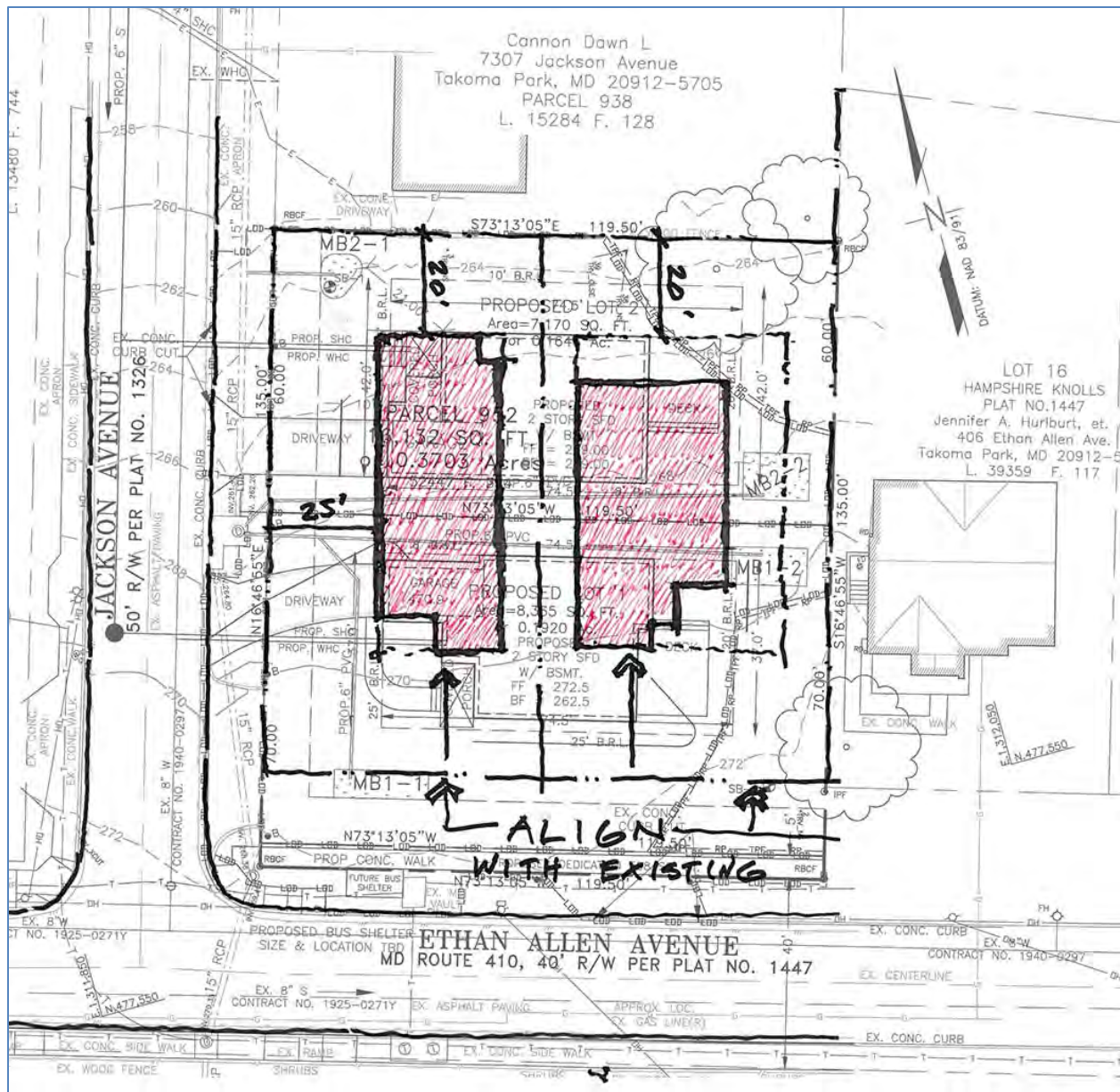


Figure 7 – Alternative 1

The second alternative retains the proposed orientation of the lots but increases the building restriction line (BRL) along Ethan Allen Avenue, from the minimum 25 feet. As proposed, the corner lot has a building area with a minimum dimension of 38 feet. Increasing the BRL the necessary 18 feet to match the front of the adjacent house would yield a buildable area with a minimum dimension of 20 feet, typically economical only in a townhouse configuration. The dimension of the BRL should be a compromise that affords construction of a marketable home while minimizing its prominence along the block. The sketch below posits a BRL of 35 feet, allowing a minimum buildable dimension of 28 feet. In discussions with Staff, the Applicant has indicated that they need a minimum buildable dimension of 32 feet. Staff has included a condition of approval to set the Ethan Allen Avenue BRL to 30 feet. Staff believes this meets the City's concerns in an equitable fashion.

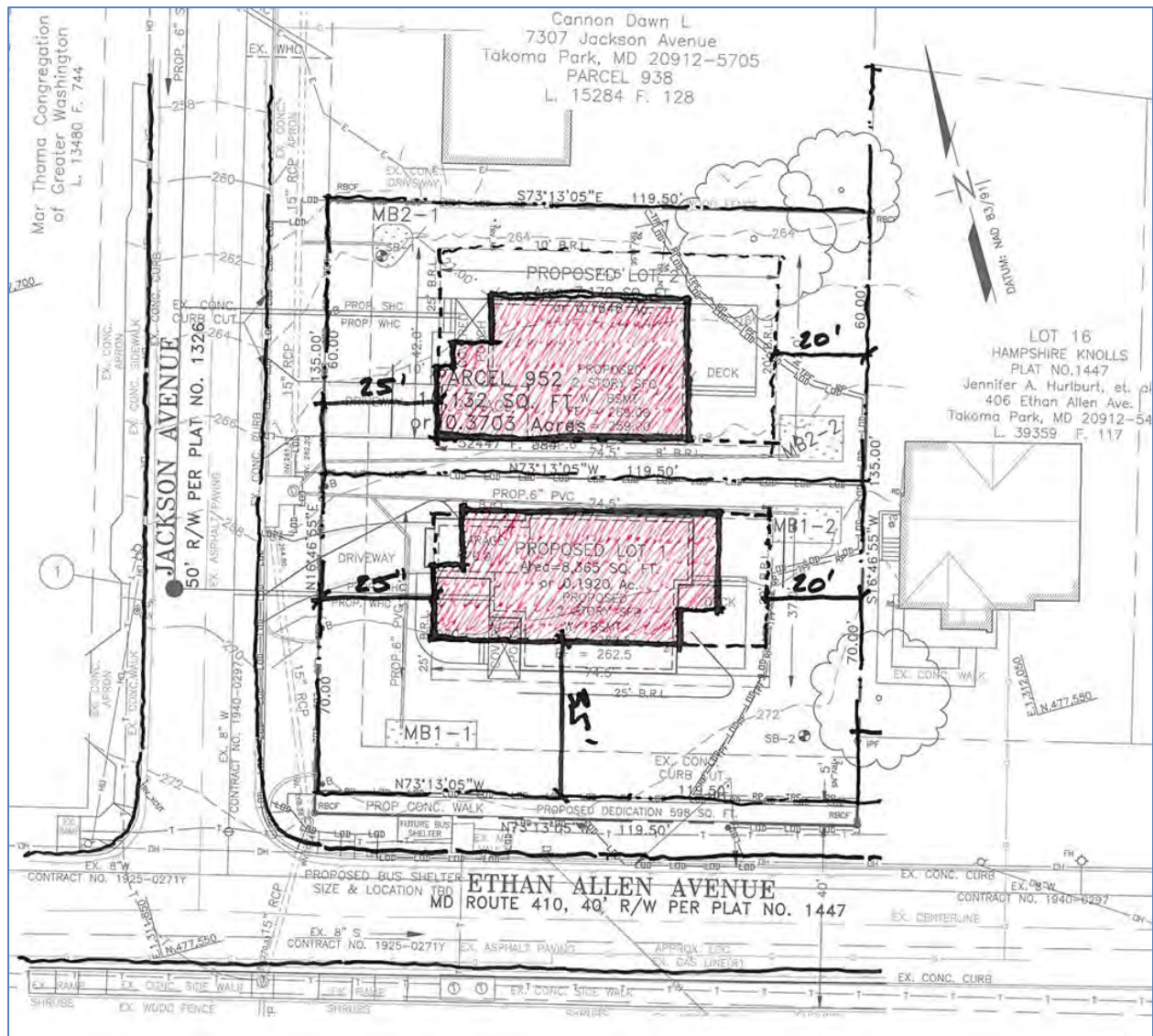


Figure 8 – Alternative 2

SECTION 5 – COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Application. Staff received one e-mail on the proposal, raising two issues. (Attachment 4)

The first concern is that under the proposal the new houses would be too close together. The Preliminary Plan will clearly identify the BRL created by the development standards, to which DPS will refer in granting a building permit, and will insure that the houses meet the minimum setback requirements.

The second concern is that the addition of two houses here will create a dangerous traffic situation on Jackson Avenue, particularly from vehicular conflicts between cars turning from Ethan Allen Avenue onto Jackson Avenue. As discussed in the public facilities finding below, the Project will close the existing Jackson Avenue access point and construct two new driveways toward the north side of the site, approximately 40-feet and 75-feet north of the existing driveway. The Jackson Avenue access concept shifts access as far away from the Ethan Allen Avenue intersection as possible and furthers the Project's

improvement to the public roadway network. Staff notes that the two proposed driveway locations will not directly align with the existing church driveway on the west side of Jackson Avenue, which is not preferred in this location because it would place the site access points close to an intersection. Additionally, the corner lot necessitates minimum building setbacks of 25 feet along both streets, providing ample visual access to this three-way stop intersection.

SECTION 6 – ANALYSIS AND FINDINGS, 50.4.2.D

1. *The layout of the subdivision, including size, width, shape, orientation and diversity 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*

- a. *The block design is appropriate for the development or use contemplated*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Having considered the technical review requirements of Section 50.4.3.B, the Application meets all applicable sections.

- b. *The lot design is appropriate for the development or use contemplated*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Having considered the technical review requirements of Section 50.4.3.C, the Application meets all applicable sections. The location of the corner lot, which will have a front setback closer to the curb of Ethan Allen Avenue than its neighbor due to the adequate but inconsistent right-of-way, will give visual prominence to the house built there. A condition of approval increases the Building Restriction Line along Ethan Allen Avenue to temper that prominence. As conditioned, the size, width, shape, and orientation of the lot is appropriate for the location of the subdivision taking into account the recommendations included in the Master Plan, and for the type of development or use contemplated.

- c. *The Preliminary Plan provides for required public sites and adequate open areas*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Having considered the technical review requirements of Section 50.4.3.D.1.-3., the Application meets all applicable sections.

- d. *The Lot(s) and Use comply with the basic requirements of Chapter 59*

The lots were reviewed for compliance with the dimensional requirements for the R-60 Zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Montgomery County Department of Permitting Services conducted an analysis and determined that since only two of the five adjoining lots have a setback greater than the minimum, there is no Established Building Line, as defined under Section 59.4.4.1.A., on Ethan Allen Avenue, and the building setback should be taken from the right-of-way line at Ethan Allen Avenue. Staff accepts this application of Section 59.4.4.1.A. A summary of this review is included in Table 1.

Table 1 – Development Standards in the R-60 Zone

Standard	Required/Permitted	Proposed
Lot size, Min.	6,000 sf.	7,170 sf.
Front setbacks, Min.	25	25 on Jackson Avenue, 30 on Ethan Allen Avenue
Side setbacks	8 ft. min., 18 ft. total	
Rear setbacks, Min.	20 ft.	
Lot Width at Front, Min.	60 ft.	
Lot Coverage, Max.	35%	
Building Height, Max.	35 ft.	
Site Plan Required	No	
MPDUs Required	No	

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan*

The 2000 *Takoma Park Master Plan* does not have recommendations specific to the Subject Site, but includes as one of its overall objectives to sustain and enhance residential neighborhoods. As conditioned, this development will preserve and enhance the residential character of the neighborhood, and encourages neighborhood reinvestment, by converting an empty lot into two single-family residences. Additionally, as discussed in Finding 4 below, as conditioned the development will further the environmental goals of the Master Plan through implementation of urban forestry practices. The Preliminary Plan substantially conforms to the recommendations within the *Takoma Park Master Plan*.

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

Roads and Transportation Facilities

The Project proposes improving site access by permanently closing the existing driveway entrance on Ethan Allen Avenue, thus eliminating a point of conflict on that roadway. The Project will also close the existing Jackson Avenue access point and construct two new driveways toward the north side of the site, approximately 40 feet and 75 feet north of the existing driveway. The Jackson Avenue access concept shifts access as far away from the Ethan Allen Avenue intersection as possible and furthers the Project's improvement to the public roadway network. Staff notes that the two proposed driveway locations will not directly align with the existing church driveway on the west side of Jackson Avenue, which is not preferred in this location because it would place the site access points close to an intersection.

The Project will improve pedestrian safety and comfort by adding a new five-foot wide sidewalk on both Jackson Avenue and Ethan Allen Avenue Jones Bridge Road that includes a landscaped buffer with street trees, measuring approximately eight feet wide on Ethan Allen Avenue and approximately six feet wide on Jackson Avenue.

Transit Connectivity

Transit within approximately one quarter-mile vicinity of the Subject Property includes:

1. RideOn Bus Route 16 (Takoma Metrorail Station – Silver Spring Metrorail Station)

2. WMATA Metrobus Route F4 (New Carrollton Metrorail Station – Silver Spring Metrorail Station)

Master Plan Roadways and Pedestrian/Bikeway Facilities

The Property is subject to the 2000 *Takoma Park Master Plan*, which identifies Ethan Allen Avenue as a two-lane arterial roadway (A-20) within a 50-foot wide right-of-way. The Master Plan does not have specific recommendations for Jackson Avenue, which was previously dedicated to a width of 50-feet through Plat # 1326. The Property is also subject to the 2005 *Countywide Bikeway Functional Master Plan*, which has no recommendations for either Ethan Allen Avenue or Jackson Avenue.

Local Area Transportation Review (LATR)

Based on the 2016-2020 *Subdivision Staging Policy* transportation impact criteria, because the proposed lots generate fewer than 50 peak-hour person trips, the Application is not subject to a Local Area Transportation Review analysis. As a result of the Jackson Avenue and Ethan Allen Avenue frontage improvements, proposed site access, internal circulation, and vehicular and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Public facilities, including water and sewer, utilities, police, fire, health, and schools are adequate to serve the Project.

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

The application is subject to the Forest Conservation Law. On January 26, 2017, the Planning Department confirmed for the development a Forest Conservation Exemption (#42017042E) under Section 22A-5(s)(2) as a small property, for the reasons outlined below:

- An activity occurring on a tract less than one 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;
- Reforestation requirements would not exceed 10,000 square feet;
- Forest in any priority area on-site must be preserved.

Tree Save Plan

A Tree Save Plan is required to ensure that the trees and mature landscape near the subject property are not unnecessarily damaged or removed. The Tree Save Plan will also protect certain onsite trees and include new plantings. The protection measures and/or new plantings are necessary to meet the requirements of the exemption consistent with the recommendations of *Takoma Park Master Plan* regarding urban forestry concepts to improve the quality of the urban ecosystem (p. 77) by "minimizing yard maintenance through natural landscaping and maintaining a healthy tree stock which is important to the character of the Takoma Park Community". Special construction techniques and careful coordination with a contracted tree care professional will be necessary to ensure that the subject trees are appropriately protected throughout the construction. Conditions of approval address the Tree Save Plan approval and its implementation.

Noise Impacts

The project is located along an arterial roadway and is therefore subject to the noise regulations associated with residential development. A noise analysis dated September 27, 2017, was prepared showing that excessive noise impacts (greater than or equal to 65 dBA Ldn) affect most of the proposed Lot along Ethan Allen Avenue, and that future projected noise levels would slightly impact portions of

the second Lot. While interior noise levels can be mitigated to appropriate levels by suitable building shell construction, exterior noise would need to be mitigated via a 6' tall wooden noise barrier fence along Ethan Allen Avenue. Given the "front yard" character of this section of Ethan Allen Avenue, there is no condition of approval requiring construction of this fence, which may not be visually compatible with the surrounding residential properties. However, there is similarly nothing to prevent a homeowner from erecting such a fence in future, as desired.

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

On March 27, 2017, the City of Takoma Park, Department of Public Works approved the Storm Water Management concept that features multiple micro-bio-retention facilities for each lot.

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

There are other provisions required for this finding.

SECTION 7– CONCLUSION

As conditioned, the proposed lots meet all of the requirements established in the Subdivision Regulations and the Zoning Ordinance, and conform to the recommendations of the *Takoma Park Master Plan*. Access to the lots is adequate and all public facilities and utilities have been deemed adequate to serve this Application. The Application was reviewed by other applicable County agencies, all of whom have recommended approval of the plans. Therefore, staff recommends approval of the Application, with the conditions as specified.

Attachments

- Attachment 1 – City of Takoma Park Resolution No. 2017-32
- Attachment 2 – MCDPS Determination on Established Building Line
- Attachment 3 – Section 59.4.4.1.A.: Established Building Line
- Attachment 4 – Citizen Correspondence
- Attachment 5 – Agency Letters