



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 18-084
Administrative Subdivision No. 620180060
Briggs Chaney Estates
Date of Hearing: July 26, 2018

SEP 18 2018

RESOLUTION

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

WHEREAS, on March 23, 2018, Joseph and Susan Brule ("Applicant") filed an application for approval of an administrative subdivision plan of property that would create one lot on 4.71 acres of land in the RE-2C and Upper Paint Branch Overlay zones, located at 1105 Briggs Chaney Road, approximately 800 feet northwest of Lear Lane ("Subject Property"), in the Cloverly Policy Area and 1997 Cloverly Master Plan ("Master Plan") area; and

WHEREAS, Applicant's administrative subdivision plan application was designated Administrative Subdivision Plan No. 620180060, Briggs Chaney Estates ("Administrative Subdivision Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 13, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 26, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620180060 to create one (1) lot on the Subject Property, subject to the following conditions:¹

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

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

1. This Administrative Subdivision Plan is limited to one (1) lot for one (1) one-family detached dwelling unit.
 2. Prior to record plat, the Applicant must obtain approval of the requested sewer category change from S-5 to S-1 from the Montgomery County Department of Environmental Protection ("MCDEP").
 3. Prior to Certification of the Administrative Subdivision Plan, the Applicant must revise the plans to include a 5-foot wide sidewalk with a 17-foot buffer on Briggs Chaney Road along the frontage of the Subject Property, subject to permitting by MCDPS.
 4. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan ("FCP") No. 620180060, approved as part of this Administrative Subdivision Plan, including:
 - a. Prior to Certification of the Administrative Subdivision Plan, the Applicant must revise the FCP to:
 - i. Demonstrate how the afforestation requirement will be met. If any portion of the afforestation requirement will be met off-site, prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record among the land records of Montgomery County, a M-NCPPC approved Certificate of Compliance to use an M-NCPPC approved off-site forest bank to satisfy the portion of the afforestation requirement that is not being met on the Property.
 - ii. Correct the deed reference on the drawing.
 - iii. For the planting that will occur onsite, the afforestation plant stock sizes must be revised to a minimum of 1-inch caliper trees and shrubs with a height of 18-24 inches. The quantities of trees must be adjusted accordingly per Chapter 22A.00.01.08(E)(3)(c) of the Forest Conservation Regulations.
 - iv. Revise the limits of disturbance to include the water and sewer house connections, and any proposed off-site disturbance.
 - b. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FCP.
 - c. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over all areas of forest planting as shown on the approved FCP. The Category I Conservation Easement (to be approved by the M-NCPPC Office of General Counsel) must be recorded among the
-

- Montgomery County Land Records by deed and the Liber/Folio of the Category I Conservation Easement must be referenced on the record plat.
- d. Prior to the start of any demolition, clearing, or grading on the Property, the Applicant must provide financial surety to be approved by the M-NCPPC Office of the General Counsel to the M-NCPPC Planning Department for the on-site forest planting areas.
 - e. Prior to the start of any demolition, clearing, or grading on the Property, the Applicant must submit for review and approval a five-year Maintenance and Management Agreement for the forest planting areas. The Agreement (to be approved by the M-NCPPC Office of General Counsel) must be recorded among the Montgomery County Land Records.
 - f. Forest planting must begin within the first planting season after issuance of the first grading permit.
 - g. The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easement, or as determined by the M-NCPPC forest conservation inspector. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction.
 - h. The Applicant must comply with all tree protection and tree save measures shown on the approved Forest Conservation Plan. Tree save measures not specified on the approved Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
5. The Applicant must comply with the conditions of approval for the Preliminary/Final Water Quality Plan including:
- a. Prior to certification of the Administrative Subdivision Plan, the Applicant must submit a revised Impervious Surface Plan to include all on-site and off-site impervious surfaces, both existing to remain and proposed as part of this Application, using the methodology illustrated in the Environmental Guidelines. The Impervious Surface Plan must demonstrate compliance with the 8.0 percent impervious surface limit.
 - b. Prior to recordation of the plat, the Applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 8.0 percent.
 - c. Prior to release of building permits, the Applicant must demonstrate conformance with the impervious surface limit.
 - d. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Service's Preliminary/Final Water Quality Plan approval dated March 6, 2018, unless otherwise amended by MCDPS, provided the amendments do not conflict with other conditions of this Administrative Subdivision Plan approval.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 28, 2018, and

hereby incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.

7. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section in its letter dated June 26, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Administrative Subdivision Plan approval.
8. The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated March 6, 2018, and hereby incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section, provided that the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.
9. The record plat must show all necessary easements.
10. The Adequate Public Facility (“APF”) review for the Administrative Subdivision Plan will remain valid for sixty-one (61) months from the date of mailing of this Memorandum.
11. The Certified Administrative Subdivision 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 Administrative Subdivision 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. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified

herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Administrative Subdivision Plan meets the requirements of Chapter 50, Section 6.1.C for up to 3 lots for detached houses permitted in any residential zone.*

A. *The lots are approved for standard method of development.*

The lot was submitted and is approved for the standard method of development in the RE-2C zone.

B. *Written approval for any proposed well and septic area is received from the MCDPS, Well and Septic Section before approval of the plat.*

The lot is classified as W-1 and S-5 and will be served by public water and sewer. A sewer category change has been filed with the Montgomery County Department of Environmental Protection and is scheduled for a public hearing in August. Public water and sewer mains are available within Briggs Chaney Road.

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

There is no required dedication and a 10' PUE will be shown on the record plat. The Subject Property previously dedicated 40 feet of right-of-way from centerline along its frontage. The Applicant will construct a 5-foot wide sidewalk with a 17-foot buffer on Briggs Chaney Road along the frontage of the Subject Property, subject to permitting by MCDPS. Alternatively, MCDPS may waive the requirement to build the sidewalk.

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

As conditioned and discussed below, the requirements for adequate public facilities have been met.

E. *Forest conservation, stormwater management, and environmental protection requirements are satisfied before approval of the plat.*

a. The Application is subject to the requirements of Chapter 22A. As conditioned and discussed in the findings below, the Forest Conservation requirements of Chapter 22A have been satisfied.

b. As conditioned and discussed in the findings below, the Application has received approval from MCDPS for the Preliminary and Final Water Quality Plan, including a stormwater management concept plan.

- c. As conditioned and discussed in the findings below, the requirements of the Upper Paint Branch Overlay Zone, including limits on impervious surfaces, have been met.

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

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

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations. The proposed lot size, width, shape and orientation is appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, the environmental constraints, and the building type (single-family home) contemplated for the Subject Property. The proposed lot is essentially a mirror image of those already platted in the same block.

The lot was reviewed for compliance with the dimensional requirements for the RE-2C zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage and width, and can accommodate a building which can reasonably meet the setback requirements in that zone.

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

The Planning Board finds that the Application substantially complies with the 1997 Cloverly Master Plan.

The Application for one, one-family, detached residence on a +/- 4.5-acre lot is consistent with the Land Use Plan which identifies the Property as "single-family residential". The subdivision is consistent with the Master Plan's recommendations for "Suburban Communities", by retaining the RE-2C zone on the Property and low-density residential use. In accordance with the Master Plan, the Subject Property is seeking a sewer category change to S-1.

In the Upper Paint Branch watershed, the Master Plan endorses limits on impervious surfaces created as part of new development through a Special

Protection Area Overlay Zone. The Upper Paint Branch Overlay Zone has an impervious surface limit of 8 percent and is applied to new development such as is approved under this Application. The impervious level of the Application is 7.6 percent.

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

Roads and Transportation Facilities

The transportation Adequate Public Facilities test is satisfied under the current 2016-2020 Subdivision Staging Policy. The Property is located in the Cloverly Policy Area.

A sight-distance analysis was completed and access to the Property is found to be safe. The Application depicts the driveway access point to be directly across from the driveway on the opposite side of the road for roadway efficiency and to increase the buffer with the adjacent driveway to the north.

Local Area Transportation Review

A traffic study is not required to satisfy the APF's Local Area Transportation Review (LATR) test because one new single-family detached unit does not generate 50 or more person trips during the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

Under the 2018 *Master Plan of Highways and Transitways*, Briggs Chaney Road is classified as an arterial road requiring 80 feet of right-of-way from New Hampshire Avenue to the Paint Branch. The Subject Property previously dedicated 40 feet of right-of-way from centerline along its frontage; total frontage right-of-way meets the 80 feet total required of the 2018 Master Plan. As such, no additional dedication is necessary.

Under the Streets and Roads Code requirements for arterial roads that are not within rural zones, the Applicant will construct a sidewalk and buffer along the frontage of the Property along Briggs Chaney Road, unless a waiver of this requirement is pursued by the Applicant and granted by MCDPS. A paved, bikeable shoulder exists along the north and south sides of Briggs Chaney Road, serving as a bikeway. Per the 2018 Bicycle Master Plan Planning Board Draft, a separate bikeway is planned for the opposite (north) side of Briggs Chaney Road but is outside the scope of this project.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Subject Property has W-1 and S-5 water and sewer categories, respectively, and will utilize public water and sewer. A sewer category change request has been filed with MCDEP. Public water and sewer mains are available within Briggs Chaney Road.

The Application was reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply office. A Fire Access Plan was approved on June 26, 2018. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are operating with the standards set by the Subdivision Staging Policy Resolution currently in effect.

School Adequacy

With a net of one new one-family detached dwelling unit, the Application falls within the de minimis (three units or less) exemption. Therefore, the Application is exempt from any applicable residential development moratoria and it is unnecessary to test the project's estimated impact on school enrollment.

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

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420170600 for the Property was approved by Staff on February 13, 2017. The NRI/FSD identifies the environmental features and forest resources on the Property. The Subject Property is 4.57 acres within the Upper Paint Branch watershed, which is classified by the State of Maryland as Use Class III waters. The Property is located within the Upper Paint Branch Special Protection Area and the Upper Paint Branch Overlay Zone, where impervious surface for new development is limited to 8 percent. The Property does not contain any forest, streams, wetlands, 100-year floodplains, stream buffers, highly erodible soils, or slopes greater than 25 percent. There is a 1.45-acre orchard on the Property that has been planted in fruit trees. There are no trees greater than 24 inches in diameter at breast height (DBH) located on the Property. Twelve trees greater than 24 inches DBH were identified on the adjacent M-NCPPC park property to the south.

Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law, Chapter 22A of the County Code, a Preliminary and Final Forest Conservation Plan ("FCP") for the Property was submitted with the Administrative Subdivision Plan Application. The total net tract area for forest conservation purposes is 3.12 acres, which excludes the 1.45-acre orchard, an agricultural activity exempt from the requirements of the Forest Conservation Law. As required by Section 22A.11.01.13 of the Forest Conservation Regulations, the Applicant has provided an Agricultural Declaration of Intent as part of their Application. The Property is zoned RE-2C and is considered Medium Density Residential (MDR) under the *Trees Technical Manual*.

Since there is no forest on the Property, there will be no forest removal and the result is an afforestation requirement of 0.62 acres. The Application has proposed to meet the afforestation requirement by planting 0.46 acres of forest in the rear of the Property, adjacent to existing forest on M-NCPPC park land and the remaining 0.16 acres in the northeastern corner of the Property. The 0.16-acre planting area does not meet the minimum size criteria for forest of 10,000 square feet (0.23 acres) and would create an isolated stand of trees as it is not adjacent to any existing protected forest or conservation easements. As conditioned, the FCP must be revised prior to certification of the Administrative Subdivision Plan to demonstrate where the 0.16 acres of forest planting will be met, either by expanding the 0.46-acre planting area in the rear of the Property, or at an off-site location, such as an M-NCPPC approved forest bank. All planted forest on the Subject Property will be protected in a Category I conservation easement. No trees subject to the Tree Variance provision of the Forest Conservation Law will be impacted by this Application.

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

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Administrative Subdivision Plan received an approved Preliminary/Final Water Quality Plan from the Montgomery County Department of Permitting Services, Water Resources Section on March 6,

2018. The Application will meet stormwater management goals via the use of dry wells and a grass swale.

The Application has demonstrated efforts to minimize impervious surfaces. The Preliminary/Final Water Quality Impervious Surface Plan demonstrates compliance with the Upper Paint Branch Overlay Zone requirement to limit impervious surfaces to no more than 8 percent with a proposed imperviousness of 7.6 percent.

BE IT FURTHER RESOLVED that this Administrative Subdivision Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Administrative Subdivision Plan must be recorded among the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 18 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, September 6, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board