



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

MCPB No. 19-051
Administrative Subdivision No. 620190020
5701 Sonoma Road
Date of Hearing: May 2, 2019

JUN 27 2019

RESOLUTION

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

WHEREAS, on November 2, 2018, Rebecca Gillespie ("Applicant") filed an application for approval of an administrative subdivision of property that would create two lots on 0.40 acres of land in the R-60 zone, located on Sonoma Road, approximately 1,500 feet west of Old Georgetown Road ("Subject Property"), in the Bethesda/Chevy Chase Policy Area and the 1990 *Bethesda-Chevy Chase Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's administrative subdivision application was designated Administrative Subdivision Plan No. 620190020, 5701 Sonoma Road ("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 April 22, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 2, 2019, 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, on May 2, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Cichy, with a vote of 3-1; Commissioners Anderson, Cichy, and Fani-Gonzalez voting in favor, Commissioner Dreyfuss voting against, and Commissioner Patterson absent.

Approved as to
Legal Sufficiency:

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision No. 620190020 to create two lots on the Subject Property, subject to the following conditions:¹

1. This Administrative Subdivision Plan is limited to two lots for one single-family detached dwelling unit on each lot.
2. The construction of the two single-family detached dwelling units must either be concurrent, or Lot 2 must be constructed prior to Lot 1. However, the construction of both of the single-family structures must utilize the same construction access on Lot 1 as shown on the Tree Save Plan.
3. The house on proposed Lot 2 must be designed and built so that the entire structure and associated foundation do not encroach into the existing recorded access easement area.
4. Prior to certification of the Administrative Subdivision Plan, the Applicant must coordinate with Staff on minor corrections and clarifications as required.
5. Prior to any staging, clearing, grading, or demolition, the Applicant must obtain Planning Department approval of the certified Tree Save Plan which addresses the following items to the satisfaction of Staff:
 - a. Address the LOD and associated tree care for all the work connected with the project such as utility demolition and sidewalk construction including the proposed ramp on the south side of Sonoma Road.
 - b. Provide insets or other graphic means of clearly showing the LOD extents for each phase and also address removal/resetting of temporary tree protection fences as applicable.
 - c. Clarify the phasing notes/graphics to specifically avoid staging, stockpiling, access, or other disturbance in areas outside of any current phase.
 - d. Clarify the timing and staging of backfill for the existing foundation to be removed.
 - e. Reformat the arborist qualifications to apply only to the contract arborist and remove references to a consulting arborist.
 - f. Increase the frequency of the arborist site visits to daily during the demolition phase and a minimum of once per week during the construction phase, unless an alternate time frame is agreed to by the Forest Conservation Inspector.

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.

- g. Provide a program to communicate the tree save protocols to all construction personnel prior to their site entry.
 - h. Confirm the accuracy of the tree survey and the associated extrapolation of the tree centers/locations and revise any locations if applicable.
 - i. Clarify the extents of the proposed permanent and temporary mulch beds.
 - j. Provide for the planting of at least two native canopy trees per lot, within 6 months after construction completion. The trees are to be planted and maintained as part of the contract with the arborist.
 - k. Coordinate with Staff on minor corrections and clarifications as required.
 - l. Construction work associated with this project shall be phased so that the root pruning will occur outside the dormant season, or as determined by the contract arborist and MNCPPC forest conservation inspector.
6. After the preconstruction meeting with the Planning Department Forest Conservation Inspector and Prior to any staging, clearing, grading, or demolition necessary to construct the project, the Applicant (or builder as applicable) must sign a contract with a tree care firm having the following minimum qualifications: International Society of Arboriculture (ISA) Certified, Tree Risk Assessment Qualification (TRAQ) Certified, Maryland Licensed Tree Care Expert, and ISA Board Certified Master Arborist. The tree care firm must also demonstrate successful experience of completing a minimum of three projects similar in scope to the 5701 Sonoma Tree Save Plan. Alternate qualifications/experience may also be considered, subject to approval by MNCPPC Staff. The contract must include the necessary tree care work for this project including pre and post construction maintenance and monitoring.
7. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated November 14, 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. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Fire Code Enforcement Section in its letter dated August 16, 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.

9. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated April 15, 2019, 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.
10. The record plat must show necessary easements.
11. The Adequate Public Facility (“APF”) review for the Administrative Subdivision Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
12. The Certified Administrative Subdivision Plan must contain the following note:

Unless specifically noted on this plan drawing or in the 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) approval. 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 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 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.*

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

The length, width, and shape of the block are consistent with Section 50.4.3.B of the Subdivision Code. The proposed subdivision is within an existing residential neighborhood with an established street grid. The Application is not proposing to create any new residential blocks.

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

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Code. The proposed lot sizes, widths, shapes, and orientations are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and for the building type (single family detached dwelling units) contemplated for the Property.

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

The Site was reviewed for compliance with Section 50.4.3.D, “Public Sites and Adequate Public Facilities,” of the Subdivision Code. There are no Master Plan recommendations for public facilities or local recreation requirements for the Subject Property.

- d. The Lots 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 will meet all the dimensional requirements for area, frontage, and width, and can each accommodate a building which can reasonably meet the setbacks requirements in that zone. A summary of this review is included in Table 1.

Table 1-Development Standards R-60 Zone

	Required by the Zone	Approved
Minimum Lot Area	6,000 sq. feet	Lot 1 = 8,334 sq. feet Lot 2 = 9,108 sq. feet
Minimum Lot Frontage	25 feet	Lot 1 = 60 feet Lot 2 = 70 feet
Minimum Lot Width at B.R.L.	25 feet	Lot 1 = 60 feet Lot 2 = 70 feet
Maximum Lot Coverage Per infill standards 59.4.4.1.B.2	Lot 1 = 27.66% Lot 2 = 26.89%	Lot 1 = 25% Lot 2 = 20%

Minimum Front Setback	34' Established Building Line	34' Established Building Line
Minimum Side Setbacks	8 feet min. / 18 feet total	Lot 1 = 8 feet min. / 18 feet total Lot 2 = 30 feet on west side, 8 feet on east side; 38 feet total
Minimum Rear Setback	20 feet	20 feet
Minimum setbacks for Accessory Structure	Placement per 59.4.4.9.2.	Lot 1 and Lot 2 Must satisfy 59.4.4.9.2.
Maximum Building Height	35 feet	35 feet
Site Plan Required	No	No

2. The Administrative Subdivision Plan substantially conforms to the Master Plan.

The Administrative Subdivision Plan substantially conforms to the 1990 Bethesda-Chevy Chase Master Plan. This Property is in the “Mid-Bethesda” area of the Master Plan. The Master Plan does not have site specific recommendations for the Property. However, page 152 recommends examining ways to protect trees as part of the subdivision process. The application addresses the Master Plan recommendation through the elaborate Tree Save Plan. The Approved and Adopted 2018 Bicycle Master Plan recommends Sonoma Road as a shared roadway. The application proposes a frontage sidewalk on Sonoma Road and has no adverse effect on the planned bikeway.

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

Roads and Transportation Facilities

There are adequate public facilities to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations. The Property is located within the Bethesda/Chevy Chase Policy Area, which is categorized as an Orange Policy Area under the 2016 – 2020 Subdivision Staging Policy (the “SSP”). The proposed Administrative Subdivision generates fewer than 50 peak-hour person trips and is therefore exempt from Local Area Transportation Review under the SSP. Sonoma Road is currently improved within a dedicated 50-foot-wide public roadway. Based on the established single-family development pattern of Sonoma Road and the ability to accommodate the sidewalk shown on the proposed subdivision, no additional dedication is required. Therefore, roads and transportation facilities are adequate to support the Application.

School Adequacy

The Property is served by Wyngate Elementary School, North Bethesda Middle School, and Walter Johnson High School. With a net of one new single-family-detached dwelling unit, the application falls within the de minimis (three units or less) exemption. Therefore, the project is not subject to testing for its estimated impact on school enrollment.

Other Public Facilities and Services

The Property is served by public water and sewer and is classified in the W-1 and S-1 categories. Public water and sewer mains currently serve the Property, which will be adequate to serve the proposed subdivision. Dry utilities including electricity, gas, and telephone are also available to the Property. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

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

A. Environmental Guidelines

The Site contains four specimen-sized trees along with other onsite and offsite trees which result in a considerable tree canopy among the Site and its surrounding properties. The Subject Property lies within the Cabin John Creek watershed which is a Use I-P watershed and is not associated with a special protection area. There are no other environmentally sensitive features on or near the Site such as forest cover, steep slopes, highly erodible soils, streams, wetlands or associated buffers.

B. Forest Conservation and Tree Save

This Application is subject to Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2) because the proposed activity occurs on a tract of land 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 tree or champion tree, and afforestation requirements would not exceed 10,000 square feet. However, since the project includes impacts to specimen trees, the tree save provision under Section 22A-6(b) is in effect. The Development and Regulatory Coordination Staff (DARC) confirmed Forest Conservation Exemption #42018256E for the project on July 12, 2018, with a condition that a Tree Save Plan addressing construction impacts to trees be submitted as part of the Administrative Subdivision Plan review. The proposed Tree Save Plan for the site work protects many of the onsite and neighboring trees.

The recommended conditions of approval associated with the Tree Save Plan are generally in keeping with the language already in the plan as submitted (such as the requirements for a 5-year maintenance and monitoring contract and extensive qualifications of the tree care professional who will be performing the work). The Tree Save Plan complies with the requirements of the Forest Conservation Law.

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

The Montgomery County Department of Permitting Services approved the Stormwater Concept Plan on November 14, 2018. The Administrative Subdivision Plan will meet stormwater management goals through a variety of techniques including the use of dry wells and a rain garden.

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 Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 27 2019 (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).

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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 Vice Chair Dreyfuss, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Cichy and Patterson voting in favor, and Commissioner Fani-González absent at its regular meeting held on Thursday, June 20, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board