



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

MCPB No. 20-023
Administrative Subdivision No. 620200020
8104 Woodhaven Boulevard
Date of Hearing: April 16, 2020

APR 24 2020

RESOLUTION

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

WHEREAS, on September 27, 2019, Brett Urlich ("Applicant") filed an application for approval of an administrative subdivision plan of property that would create two lots on 0.49 acres of land in the R-90 zone, located on Woodhaven Boulevard approximately 200 feet north of Thoreau Drive ("Subject Property"), in the Bethesda/Chevy Chase Policy Area and 1990 Bethesda-Chevy Chase Master Plan ("Master Plan") area; and

WHEREAS, Applicant's administrative subdivision plan application was designated Administrative Subdivision Plan No. 620200020, 8104 Woodhaven Boulevard ("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 3, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 16, 2020, 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. 620200020 to create two lots 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.

1. This Administrative Subdivision is limited to two (2) lots for one single-family dwelling unit on each lot.
2. The Adequate Public Facility (APF) review for the Administrative Subdivision will remain valid for sixty (60) months from the date of mailing of the Planning Board resolution.
3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated March 4, 2020, 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.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letter dated March 5, 2020, and hereby incorporates them as conditions of 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 Administrative Subdivision Plan approval.
5. The record plat must show necessary easements.
6. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a 5-foot wide sidewalk along the property frontage on Woodhaven Boulevard and Wahly Drive, unless construction is waived by MCDPS. If construction of the sidewalk is waived, the Applicant must pay a fee-in-lieu for the total cost of implementation of the sidewalk, as approved by MCDPS staff, in compliance with Section 49-40(b)(1)(C) of the County Code.
7. The development must comply with the Final Tree Save Plan as shown on the Certified Administrative Subdivision Plan.
 - a. The Applicant must comply with all tree protection and tree save measures shown on the Final Tree Save Plan;
 - b. The Applicant must plant three two-inch caliper native canopy trees onsite to mitigate for the loss of specimen trees;
 - c. Prior to certification of the Administrative Subdivision Plan, the Applicant must revise the tree save plan to show the location of mitigation plantings priority areas where trees have been removed, with planting locations to be finalized by the MNCPPC Inspector onsite during the pre-planting meeting;
 - d. The mitigation plantings associated with each lot, as shown on the Final Tree Save Plan, must be installed within the first planting season after receiving a Final Inspection, from MCDPS, for the respective lot(s).
8. Prior to approval of the Certified Administrative Subdivision Plan, the

Applicant must make the following changes:

- a. Show resolutions and approval letters on the certified plan;
- b. Modify the data table to reflect development standards approved by the Planning Board;
- c. Confirm the front building line width for Lot B is in conformance with Section 59.4.1.7.A.5 of the Zoning Ordinance, as determined by MCDPS;
- d. Include 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) 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 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 the standard method of development;*

The lots were submitted and are approved for standard method development in the R-90 zone.

- b. *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;*

The lots will not be served by wells or septic areas, as the Property is served by public water and sewer service and is designated in the W-1 and S-1 categories.

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

Woodhaven Boulevard and Wahly Drive are each designated as a Secondary Residential Roadway, and each has an existing 60-foot right-of-way; therefore

no further dedication is required as part of this Application. The Applicant will coordinate with County agencies to ensure that any necessary public utility easements are shown on the plat.

- d. The requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat; and*

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

Local Area Transportation Review (LATR)

The Project generates fewer than three (3) peak hour trips and is considered to have a *de minimis* impact on the transportation network. As a result, the Application is not subject to the Local Area Transportation Review (LATR). Based on the Project's *de minimis* impact and provision of new sidewalks on the Wahly Drive and Woodhaven Boulevard frontages, vehicle and pedestrian access for the administrative subdivision will be adequate.

School Adequacy

The Property is served by Burning Tree Elementary School, Pyle Middle School, and Whitman 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 currently served by public water and sewer, classified in the S-1 and W-1 categories, and 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.

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

The Application received an exemption from Forest Conservation requirements on July 5, 2019. The exemption cited the requirement of a Tree Save Plan (TSP) to be approved with the Subject Application. The TSP proposes mitigation for the removal of an existing 33" American Elm through the planting of three 2" caliper canopy trees. As conditioned, the Application complies with the requirements of the Forest Conservation Law.

The Application has received approval of a Stormwater Management Concept that demonstrates the requirements of Chapter 19 for Stormwater Management have been met.

There no additional environmental protection requirements to be 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.*

1. *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.

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

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Code. Proposed Lots A and B are appropriate in size, shape, width, and orientation, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and the building type (single-family detached dwelling units) contemplated for the Property.

3. *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.

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

The lots were reviewed for compliance with the dimensional requirements of the R-90 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage,

and width, and can reasonably accommodate two single-family detached dwellings on each lot.

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

The Property is located in the "Mid-Bethesda – Northern B-CC" area of the 1990 *Bethesda-Chevy Chase Master Plan* which is described as a mature, stable area, predominantly zoned R-60, R-90 and R-200 in the westernmost portion. The Master Plan reconfirmed the existing zoning throughout the Mid-Bethesda – Northern B-CC area. The Application proposes two residential lots for a detached house on each lot meeting the development standards of the R-90 zone, therefore the Administrative Subdivision Plan substantially conforms to the Master Plan.

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

As discussed in the findings above, public facilities will be adequate to support and service the area of the subdivision.

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

1. Environmental Guidelines

This site contains no significant environmentally-sensitive features such as forest, stream buffers, wetlands, or flood plains.

2. Forest Conservation

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

This Application is subject to Chapter 22A of the Forest Conservation Law but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2). Forest Conservation Exemption 42019204E was confirmed for the Subject Property on July 5, 2019. The project meets the particular requirements of the exemption 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 or champion tree, and will not result in reforestation requirements more than 10,000 square feet.

With the approval of this exemption, the Application is subject to the Tree Save Provision due to the removal of a specimen tree under

Forest Conservation Law section 22A-6(b). The removal of the specimen tree, a 33" diameter at breast height (DBH) American Elm, will be mitigated with the planting of three 2" caliper canopy trees, as conditioned.

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

As discussed in the findings above, as conditioned, the Application received a revised Stormwater Management Concept Approval per Chapter 19 of the County Code. That approval demonstrates onsite stormwater managed through environmental site design.

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 in 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 APR 24 2020 (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 Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor, and Vice Chair Fani-González absent at its regular meeting held on Thursday, April 16, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board