



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

MCPB No. 20-127
Administrative Subdivision No. 620200150
Linden Forest
Date of Hearing: November 19, 2020

JAN 14 2021

RESOLUTION

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

WHEREAS, on July 19, 2020, Sterling Mehring (“Applicant”) filed an application for approval of an administrative subdivision plan of property that would create two lots on 0.81 acres of land in the R-60 zone, located at 2424/2500 Forest Glen Road (“Subject Property”), in the 1996 Forest Glen Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620200150, Linden Forest (“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 November 9, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on November 19, 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, on Motion of Commissioner Verma, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0, Chair Anderson, Vice-Chair Fani-Gonzalez, and Commissioners Cichy, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620200150 to create two lots on the Subject

Property, subject to the following conditions:¹

1. The Administrative Subdivision Plan is limited to two lots for two single-family detached dwelling units.
2. 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.
3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated August 10, 2020 and 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 if the amendment does not conflict with any other conditions of the Administrative Subdivision approval.
4. The Applicant must obtain a Residential Access Permit from Maryland State Highway Administration (SHA) for the proposed driveway.
5. 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 October 28, 2020 and incorporates them as conditions of the Administrative Subdivision 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 if the amendment does not conflict with any other conditions of the Administrative Subdivision approval.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated October 15, 2020 and incorporates them as conditions of the Administrative Subdivision approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Administrative Subdivision approval.

Forest Conservation/Environment

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.

7. The Limits of Disturbance (LOD) on the Final Forest Conservation Plan must be consistent with the LOD on the Sediment and Erosion Control Plan.
8. No clearing, grading, or any demolition may occur prior to receiving approval of the Sediment and Erosion Control Plan.
9. Prior to the start of any clearing, grading, or demolition occurring on the Property, the Applicant must receive approval from the M-NCPPC Office of the General Counsel of a Certificate of Compliance to use an off-site forest mitigation bank for mitigation credit as shown on the Final Forest Conservation Plan submitted with the Certified Administrative Subdivision Plan.
10. The Certificate of Compliance must be recorded in the Montgomery County Land Records prior to any clearing, grading, or demolition occurring on the Property.

Transportation

11. The Applicant must provide and show on the record plat:
 - a. Dedication of twenty (20) feet of right-of-way, for a total of forty (40) feet of right-of-way from the centerline on Forest Glen Road.
12. Prior to issuance of a building permit, the Applicant must pay a fee-in-lieu, equivalent to 90% of the cost of 200 linear feet of sidewalk to the general sidewalk fund or a CIP to be identified by Planning Staff, MCDOT, and SHA. If MCDOT or SHA cannot accept funds, funds will not be required.

Record Plats

13. The record plat must show all necessary easements.

Certified Administrative Subdivision Plan

14. The certified Administrative Subdivision Plan must show the following changes:
 - a. Revise the Forest Conservation Plan to remove all references to forest retention and Category I Conservation Easements.
 - b. Replace cross section with one showing a six (6) foot lawn panel.
15. The Applicant must include the stormwater management concept approval letter and Administrative Subdivision Plan Resolution on the approval or cover sheet(s).
16. 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.

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 development;*

The Administrative Subdivision Plan uses the standard method of development.

- 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;*

Not applicable.

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

All required road dedications and associated public utility easements will be shown on the record plat and the applicant will provide any required improvements.

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

The requirements for adequate public facilities will be satisfied before approval of the plat.

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

Forest conservation, stormwater management and environmental protection requirements will be satisfied before approval of the plat.

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 proposed lots were reviewed for compliance with the dimensional requirements for the R-60 Zone as specified in the Zoning Ordinance. The proposed lot dimensions, size, width, shape and orientation are appropriate for the location of the subdivision and this type of development and will meet all dimensional requirements for area, frontage, width, and setbacks in the zone. The proposal is consistent with the intent of the R-60 Zone that reads as follows:

“... to provide designated areas of the County for moderate density residential uses. The predominant use is residential in a detached house. A limited number of other building types may be allowed under the optional method of development.”

Pursuant to Section 59.4.4.9 of the current Zoning Ordinance, applicable development standards for a Standard Method development in the R-60 Zone are as follows:

R-60		Provided	
Lot Area	6,000sf	Lot A	Lot B
		12,907 sf	18,052 sf
Principal Building Placement			
Lot Width at Front Lot Line / Front Building Line	25' / 60'	>25' / >60'	>25' / >60'
Front Setback (Minimum)	25'	38' (established) or more	25' (or established)
Side Setback	Sides:	8' or more each side	8' or more each side

	8' min. 18' total	18' or more total	18' or more total
Rear Setback	20'	≥20'	≥20'
Building Height	35'	35' or less	35' or less
Lot Coverage	35% (max)	22.75% or less	20% or less

The proposed lots meet the standards for the R-60 Zone.

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

The Property is in the 1996 Forest Glen Sector Plan (Sector Plan) but not specifically mentioned in the Plan. However, the proposed subdivision meets the general recommendations of the Sector Plan including:

- To preserve the Forest Glen community as a stable, predominantly single-family residential community.

The creation of two lots from two parcels and the development of an additional single-family house will contribute to the preservation of the Forest Glen community as a stable single-family residential community.

- To focus new development at appropriate locations near the Metrorail station consistent with the General Plan.

The Application is located approximately 1/3 of a mile from the Forest Glen Metro Station, so this development will add a residential unit within walking distance of a Metrorail station.

- To encourage non-automobile modes of transportation such as transit, bicycles, and walking by providing for attractive, safe, and convenient access to major destinations including the Metrorail station and the center in Montgomery Hills.

Master-Planned Roadways and Bikeways

The Master Plan of Highways and Transitways calls for 80 feet of right-of-way along Forest Glen Road (MD-192), which is classified as a two-lane arterial adjacent to the site. The right-of-way is currently 40-feet. As such, the Applicant proposes to dedicate 20 feet of right-of-way adjacent to the

proposed lots consistent with the Master Plan. The properties across the street would be responsible for dedicating the remaining property. The Bicycle Master Plan recommends a sidepath along the north side of the roadway across from the proposed lots. The provision of the full 80-foot right of way and the sidepath may prove challenging due to the historic cemetery and single-family development pattern across the street.

Pedestrian Facilities

While the Forest Glen Sector Plan includes a cross-section showing the sidewalk separated from the road, the Planning Board found that the existing sidewalk meets the intent of the Sector Plan. Instead of upgrading the pedestrian facilities to create a landscaped buffer between the road and the sidewalk, the Applicant will pay a fee-in-lieu, equivalent to 90% of the cost of 200 linear feet of sidewalk to the general sidewalk fund or a CIP to be identified by Planning Staff, MCDOT, and SHA. If MCDOT or SHA cannot accept funds, funds will not be required.

While SHA's own *Accessibility and Policy Guidelines for Pedestrian Facilities Along State Highways* states the following:

"Whenever feasible, sidewalks shall be separated from the back of curb by a green space/planting/utility strip. This area can be used for signs and utility poles and provides pedestrians with a greater sense of safety from traffic. This strip shall be continuous along the sidewalk, a minimum of 3 feet wide and can be grassed, brick or patterned concrete." (p. 14)

The rationale for the required pedestrian safety improvements is clear, the Applicant requested relief from the requirement to provide the pedestrian safety improvements for four primary reasons:

1. Based on the adjacent pattern of single-family development, it is extremely likely that the recommended condition would only be continued in either direction beyond the site frontage through a SHA capital project (not through development) and would likely require property takings. Because the Applicant is dedicating its share of the required right-of-way, the State would be able to make use of the dedicated space for the project if and when a capital project was to be pursued.
2. The Applicant contends that the improvement may diminish project returns to the extent that the project is no longer worth pursuing. Staff are required to request master-planned improvements and safety enhancements in the public interest where applicable and relevant. However, the extent of improvements requested for smaller projects,

including minor subdivisions or improvements to existing lots, may disincentivize housing growth.

3. Upgrading the pedestrian facilities would require extensive grading and retaining walls, as the ground slopes away from the existing road.
4. The sidewalk was constructed by SHA within the last 3 years, directly adjacent to the roadway. No issues were raised at that time so reconstructing the sidewalk in a different location is a disproportional burden to a private developer.

The Planning Board agreed that while the sidewalk improvements would generally be required, in this case, a contribution of a fee-in-lieu payment equivalent to the on-site cost would meet the intent of the Sector Plan. This fee-in-lieu payment will contribute towards the costs of additional sidewalks in the County.

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

As discussed above, all public facilities will be adequate to support and service the subdivision.

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

As previously stated, the Forest Conservation requirements are being met off-site because the area of forest at the rear of the Property is covered by an easement to SHA.

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

The Administrative Subdivision Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on October 28, 2020.

F. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

Not applicable; the Applicant is not aware of any burial sites and the Property is not included in the Montgomery County Inventory.

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

Not applicable.

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 JAN 14 2021 (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 Commissioner Verma, seconded by Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, January 7, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board