

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

April 23, 2024

MCPB No. 24-029

Administrative Subdivision Plan No. 620230150

Brickyard Estates

Date of Hearing: February 29, 2024

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, Division 50-6, the Montgomery County Planning Board is authorized to review administrative subdivision plan applications; and

WHEREAS, on August 3, 2023, 7601 Brickyard, LLC (“Applicant”) filed an application for approval of an administrative subdivision of property that would create three (3) new residential lots for three (3) single-family detached dwelling units on 6.64 acres of land in the RE-2 zone, located at 7601 Brickyard Road, at the southeastern corner of the intersection of Brickyard Road and New London Drive (“Subject Property”), in the Potomac Policy Area and 2002 *Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620230150, Brickyard 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 February 16, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 29, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620230150 to create three (3) new residential lots for three (3) single-family detached dwelling units 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.

General Approval

1. This Administrative Subdivision Plan is limited to three (3) lots for three (3) one-family detached dwelling units.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facilities (“APF”) review for the Administrative Subdivision Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Administrative Subdivision Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date 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 filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 7, 2024, and incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. 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 November 14, 2023, and incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations 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 Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated January 29, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Administrative Subdivision Plan approval.

Other Approvals

8. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Administrative Subdivision Plan.

Transportation

Frontage Improvements

9. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for Brickyard Road, for a total right-of-way width of seventy (70) feet.
 - b) All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for New London Drive, for a total right-of-way width of seventy (70) feet.
10. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 6-foot-wide sidewalk along the Property frontage on Brickyard Road, and a 5-foot sidewalk along the Property frontage on New London Drive.
11. Prior to issuance of the building permit for the second dwelling unit, the Applicant must obtain construction permits and post bonds for the construction of New London Drive Extended, from the existing terminus 400 feet east of Brickyard Road, with MCDOT approval. Further, before issuance of a Use and Occupancy Certificate for the second dwelling unit, New London Drive must be constructed and open to traffic with MCDOT and/or MCDPS approval.

Record Plats

12. There shall be no clearing or grading of the site prior to recordation of plat(s).

Easements

13. The record plat must show necessary easements.

Certified Administrative Subdivision Plan

14. The certified Administrative Subdivision Plan must contain the following notes:

- a) *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.*
- b) *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Administrative Subdivision Plan is required to be on-site at all times.*

15. Prior to submittal of the Certified Administrative Subdivision Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set.
- b) Include the approved Fire Department Access plan in the certified set.
- c) Update the data table to match the Staff Report.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 lots were submitted and are approved for standard method development within the RE-2 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. The Property is designated in the W-1 and S-1 categories and is served by public water and sewer service.

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

As conditioned, the Application provides road dedication in accordance with the Master Plan, which designates an approximate right-of-way width of 70 feet for both New London Drive and Brickyard Road, and the associated required improvements. 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*

Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations. Please refer to Finding No. 3 below for additional information.

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

The Subject Property is subject to Chapter 22A of the County Code. As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Subject Property has an afforestation requirement of 1.62 acres, which will be met on-site and protected with a Category I Conservation Easement, as provided in the accompanying Forest Conservation Plan No. F20230290 approved by separate resolution and incorporated herein.

The Application received approval of a Stormwater Management Concept Plan from the Department of Permitting Services, dated November 14, 2023, per Chapter 19 of the County Code. The SWM Concept Plan demonstrates that stormwater will be managed through acceptable ESD practices. There are 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.*

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, considering the recommendations of

the 2002 *Potomac Subregion Master Plan*, and for the residential use contemplated for the Subject Property. The three lots continue the lot pattern established by the existing lots and roads, and as part of this subdivision, the existing block will be completed.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements and can accommodate houses with the width and setback requirements. The Application is approved under the standard method in accordance with Section 4.5.3.C. of the Zoning Ordinance. The Administrative Subdivision Plan has been reviewed by other applicable County agencies, all of whom have recommended approval.

B. The Preliminary Plan substantially conforms to the Master Plan.

Land Use

The Property is subject to the 2002 *Potomac Subregion Master Plan* and is zoned for single-family residential use, consistent with the approved project. The Potomac subarea is recommended for infill development of remaining vacant properties with residential use. While the Subject Property is not vacant and contains a single, detached residential home, the approved subdivision will create two additional residential lots, consistent with this recommendation, as well as with the smaller lot residential neighborhood west of Brickyard Road.

Environment

Protection of existing forest stands, and tree canopy is a primary goal of the 2002 *Potomac Subregion Master Plan*. Configuration of the approved subdivision to create three (3) parallel lots fronting the new street connection of New London Drive to Brickyard Road allows the maximum amount of existing tree canopy protection possible, compared to other subdivision layout alternatives, and is consistent with the 2002 Plan.

Transportation

The 2002 *Potomac Subregion Master Plan* recommends improving community wide connectivity as mentioned previously, particularly to improve bike and pedestrian connectivity. The extension of New London Drive to intersect with Brickyard Road would follow this guidance and provide greater multimodal connectivity for residents and visitors of the surrounding neighborhoods.

The Master Plan offers several recommendations encouraging increased community connectivity such as establishing “a street pattern of short blocks and main axes that allow walking” (p. 34) and to “provide pedestrian and bike links to surrounding streets and neighborhoods” (p.34). The completion of the road would accomplish these goals by introducing a new intersection and by creating a more manageably

sized block for a neighborhood that currently has very limited connectivity. At present, the closest intersection is approximately 1,300 feet to the south with Darmuid Green Drive, requiring a lengthy half mile detour for residents to access Brickyard Road, a major hurdle for cyclists and pedestrians. The approved connection would significantly shorten and improve bike and pedestrian access. Also, an additional access point to the community using New London Drive would improve emergency response by providing a third access point for contingencies and reducing driving distance, likewise reducing response time.

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

Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations. As noted above, 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 approved subdivision. 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 2020 – 2025 *Growth and Infrastructure Policy* (the “GIP”) currently in effect.

Roads and other Transportation Facilities

Existing Facilities

The Subject Property contains frontages on two public roads – Brickyard Road and New London Drive. Brickyard Road is the Site’s main frontage and is classified as a Neighborhood Connector in the 2024 *Master Plan of Highways and Transitways* and 2021 *Complete Streets Design Guide*. The road does not have any drainage or pedestrian facilities. New London Drive, whose eastern and western halves are currently truncated, is unbuilt along the Property frontage but has 35 feet in width of right-of-way dedication.

New London Drive does not contain any drainage or pedestrian facilities. Currently, the road exists in two segments between Brickyard Road (west) and Natelli Woods Lane (east). From Brickyard Road, New London Drive continues east for approximately 400 feet before terminating at the eastern Property line of the Subject Property. A 200-foot gap exists between the two segments of New London Drive, east of the Subject Property. The remainder of existing New London Drive is dedicated with 70 feet of ROW with a 23-25 ft. paved road section.

Proposed Public Transportation Infrastructure

The Application will construct an extension of New London Drive to fill an existing gap in the road alignment, connecting the current terminus of the road to Brickyard Road to the west along the Subject Property’s northern edge. This is consistent with road construction requirements in Chapter 50 of the County Subdivision Regulations,

which states in part, “The subdivision must provide for continuation of any existing roads...in satisfaction of the Road Design and Construction Code.”

As conditioned, New London Drive will be constructed in compliance with the *Complete Streets Design Guide*. New London Drive is classified as a Neighborhood Street and will be built to the appropriate road design standards. The Applicant will be required to construct the unfinished section of New London Drive as a full movement through street. There is existing right-of-way dedication along the northern side of the road segment and this Application includes additional dedication for public use along the southern side of New London Drive. The extension of New London Drive will connect the two termini. The three new dwelling units will draw access from New London Drive. The road will be designed to minimum dimensions to limit impact to existing trees and to encourage traffic calming. The roadbed itself will be constructed to be 21 feet wide, the minimum allowed under the *Complete Streets Design Guide* and roughly two to four feet narrower than the existing New London Drive.

The 2018 *Bicycle Master Plan* has no recommendations for either Brickyard Road or New London Drive. However, the Applicant will construct a six-foot-wide sidewalk along the Property frontage on Brickyard Road, and a 5-foot-wide sidewalk on New London Drive. The sidewalk along Brickyard Road will contain a 6-foot-wide street buffer consistent with the 2021 *Complete Streets Design Guide* recommendation for Neighborhood Streets. The sidewalk will be provided on only one side of the road along the Applicant frontage (south side). The sidewalk will be five feet in width as opposed to the current six-foot standard, minimizing impact. Much of the remaining space is to be used to hold open section drainage for the road.

The completion of New London Drive conforms to the Master Plan and Subdivision Code, as well as to improve emergency and multi-modal access. Section 50.4.3.E.1.b states that “the subdivision must provide for continuation of any existing roads (constructed or recorded) in satisfaction of the Road Design and Construction Code, unless otherwise determined by the Board, considering the recommendations of other appropriate agencies.” Given the current alignment and dedication for New London Drive, roads and transportation facilities are adequate to support the Application.

Local Area Transportation Review (LATR)

The Subject Property currently exists as one residential corner lot. As part of this Application, the Applicant is further subdividing the Subject Property into three lots for three single-family homes. The Property is located in the Potomac Policy Area, which is categorized as a Yellow Policy Area under the 2020 – 2025 *Growth and Infrastructure Policy* (the “GIP”). As demonstrated via the Applicant’s Traffic Exemption Statement (“TES”) dated March 28th, 2023, the Application will generate fewer than 50 peak-hour person trips in the morning and evening peak hours. The

Property will generate a maximum of two net-new person trips during the AM peak-hour period, and three net-new person trips during the PM peak-hour period. As this is below the 50-person threshold to trigger a full-scale transportation study, the Application is not subject to additional Local Area Transportation Review (“LATR”) and is exempt from completing further transportation adequacy analysis.

Schools

Overview and Applicable School Test

The FY24 Annual School Test, approved by the Planning Board on June 22, 2023 and effective July 1, 2023 is applicable to this application. This plan approved three (3) new single-family detached units.

School Adequacy Test

The project is served by Carderock Springs ES, Thomas W. Pyle MS, and Walt Whitman HS. Based on the FY24 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 1 - Applicable FY2024 School Adequacy

School	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus / Deficit		Tier 1	Tier 2	Tier 3
Carderock Springs ES	430	369	85.8%	+61	No UPP	146	163	212
Thomas W. Pyle MS	1,523	1,301	85.4%	+222	No UPP	348	527	756
Walt Whitman HS ²	2,231	2,182	97.8%	+49	No UPP	229	496	830

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY24 Annual School Test, development projects approved within these school service areas are not automatically subject to Utilization Premium Payments as identified in Table 1.

Based on the school capacity analysis performed, using the FY2024 Annual School Test, this Application is not subject to a Utilization Premium Payment. Therefore, no UPP condition is required.

² Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Down County Consortium, Bethesda-Chevy Chase HS, Walter Johnson HS, Walt Whitman HS, and Charles Woodward HS in 2026.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the approved lots. The Administrative Subdivision Plan is within the W-1 and S-1 categories, respectively, and will utilize existing public water and sewer lines.

The Administrative Subdivision Plan was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Department Access Plan was approved on January 29, 2024. 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 2020 – 2025 *Growth and Infrastructure Policy* (the “GIP”) in effect at the time that the Administrative Subdivision Plan was accepted.

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

The approved Preliminary/Final Forest Conservation Plan satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines. The Preliminary/Final Forest Conservation Plan No. F20230390 was approved concurrently with this Application by separate resolution.

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

The Administrative Subdivision application received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on November 14, 2023. The Application will meet stormwater management goals using acceptable ESD practices.

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

There is no evidence, actual notice, or constructive notice of a burial site within the Administrative Subdivision Plan. The Subject Property is not included within the Montgomery County Inventory.

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

There are no other applicable provisions specific to the Administrative Subdivision Plan that are necessary for approval of this Application.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

April 23, 2024


(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0, Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, April 4, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board