

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

**June 28, 2024**

MCPB No. 24-057  
Administrative Subdivision No. 620230140  
Calverton  
Date of Hearing: June 13, 2024

## **RESOLUTION**

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

WHEREAS, on November 8, 2023, Zhixiong Shi and Xiumei Chen (“Applicant”) filed an application for approval of an administrative subdivision plan of property that would create three (3) lots on 0.97 acres of land in the R-90 zone, located approximately 500 feet east of the intersection of Fairland Road and Galway Drive at 3100 Fairland Road (“Subject Property”), in the Fairland/White Oak Policy Area and 1997 *Fairland Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620230140, Calverton (“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 May 31, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 13, 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 Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, Commissioners Hedrick and Linden voting in favor. Commissioner Bartley was absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620230140 to create three (3) lots on the Subject Property, subject to the following conditions:<sup>1</sup>

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<sup>1</sup> 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) single-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 April 22, 2024, 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 Plan approval.
5. Before recordation of 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 March 15, 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 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 December 7, 2023, and 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 amendment does not conflict with other conditions of Administrative Subdivision Plan approval.

### **Other**

8. Before recordation of plat(s) or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Administrative Subdivision Plan.
9. Before issuance of each building permit for a residential dwelling unit, the Applicant must obtain an assessment from Montgomery County Department of Permitting Services for Utilization Premium Payments (UPPs) consistent with County Code and the Growth and Infrastructure Policy, as follows:
  - a. No elementary school UPP required;
  - b. No middle school UPP required; and
  - c. Required Tier 1 high school UPP per unit.

### **Transportation**

10. Before release of the first building permit, the Applicant must construct a six (6)-foot wide sidewalk along the Property frontage on Fairland Road and a bus stop pad at the southeast corner of the Property, as shown on the Certified Administrative Plan. The Applicant must satisfy all necessary MCDPS requirements.

### **Record Plats**

11. There shall be no clearing or grading of the Site before recordation of plat.
12. The record plat must show necessary easements.

### **Certified Administrative Subdivision Plan**

13. The Applicant must include the Administrative Subdivision Plan Resolution, and agency approval letters on the approval or cover sheet(s).
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. Before submittal of the Certified Administrative Subdivision Plan, the Applicant must make the following changes:
  - a. Include the approved Fire Department Access plan in the certified set.
  - b. Ensure plans and data tables reflect those as approved by the Planning Board.

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 three (3) lots for detached houses in any residential zone.***

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

The Application was submitted for standard method of 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 are not served by water wells or septic areas. The Property is designated with W-1 and S-1 categories and will be served by public water and sewer.

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

This section of Fairland Road is classified as a Boulevard with an existing 80-foot right-of-way. Pursuant to Section 49-32 of the County Code, no additional right-of-way is required. The Applicant will coordinate with County agencies to ensure that any necessary public utility easements are shown on the plat. As conditioned, the Applicant will upgrade the existing sidewalk to a six-foot- (6 ft.) wide sidewalk along the Property's frontage and will construct a new bus stop pad.

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

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.***

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. The Administrative Subdivision Plan complies with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned and described below in the findings section of this report.

The Application received an approved stormwater concept plan from the MCDPS, Water Resources Section on March 15, 2024, which deems the stormwater management concept as acceptable. The Application will meet stormwater management goals through the use of Environmental Site Design (ESD) using micro-bioretenion facilities and micro-bioretenion planter boxes. The Application meets all requirements of Chapter 19.

***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.***

***i. The block design is appropriate for the development or use contemplated.***

The Application does not propose any new residential blocks. The approved subdivision is within an existing residential neighborhood and the approved use is residential.

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

The Application meets all applicable sections of the Subdivision Ordinance including the requirements under Section 50.4.3.C. (Lot Design).

Overall, the lots 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. Lots in the vicinity are typical

of those following the existing curvilinear street pattern present north of the Property: a mix of regular- and irregular-shaped lots, and flag lots.

Lot No. 1 and Lot No. 3 both abut Fairland Road, a public road. Lot No. 2 (situated behind Lot No. 3) does not abut a public or private road. Per Section 50.4.3.C.1.c (Lots to abut on a public or private road), the Board may approve a lot that does not abut a public or private road, where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide and that appropriate separation between building envelopes can be achieved. Given the position of the tract in relation to surrounding properties, the existing right-of-way, and the sloping topography, there is no other feasible way to subdivide the Property consistent with the existing zone and allowed density.

The Application satisfies the criteria of Section 50.4.3.C.1.c to approve a lot that does not abut a public or private road:

- 1. The Board must not approve more than two lots in a subdivision that do not abut a public or private road;***

The Application contains only one lot (Lot No. 2) in the subdivision that does not abut a public or private road.

- 2. The lots will be served by a private driveway that serves no other lots without frontage;***

Lot No. 2 is served by a private driveway and all other lots served by the shared driveway have frontage to a public road.

- 3. In residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed lot without frontage and:***

***the building envelopes of all lots that are adjacent to the rear lot line of the proposed lot without frontage; and***

***the building envelopes of all lots that are between the proposed lot without frontage and the road from which it is accessed;***

The Application provides at least 80 feet of separation between the building envelope of Lot No. 2 and the adjacent rear lot line building envelopes of 1 Memory Court and 3113 Memory Lane. Additionally, the Application provides at least 80 feet separation between the

building envelope of Lot No. 2 (the lot without frontage) and the building envelope of Lot No. 3 (the lot between the lot without frontage and the road).

**4. All building restriction lines must be shown on the plat; and**

The plat will show all approved building restriction lines for all lots.

**5. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.**

Access to all lots, including lot with no road frontage, is adequate to serve the lots for emergency vehicles and for the installation of any necessary public utilities. The Application received MCDPS Fire Department Apparatus Access and Water Supply approval on December 7, 2023, which deems emergency vehicle access as adequate. There are no additional public services necessary, and the approval would not be detrimental to the future development of adjacent land.

**iii. The Administrative Subdivision Plan provides for required public sites and adequate open areas.**

The Property was reviewed for compliance with Section 50.4.3.D, “Public Sites and Adequate Public Facilities,” of the Subdivision Code. There are no specific Master Plan recommendations for public facilities or local recreation requirements for the Subject Property. The Application provides adequate open areas as it meets all required building setbacks, maximum lot coverage, and minimum yard areas.

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

The lots were reviewed for compliance with the dimensional requirements for the R-90 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, and width. A summary of this review is provided in Table 1.

*Table 1 – Development Standards in the R-90 Zone.*

<b>Standard</b>	<b>Required/ Permitted</b>	<b>Approved Lot 1</b>	<b>Approved Lot 2</b>	<b>Approved Lot 3</b>
Lot size, min.	9,000 sq. ft.	15,238 sq. ft.	14,982 sq. ft.	11,739 sq. ft.
Lot width at front building restriction line (BRL), min.	75 ft.	75 ft.	99 ft.	119 ft.
Lot width at front lot line, min.	25 ft.	56 ft.	N/A <sup>2</sup>	129 ft.
Frontage on a public or private road	Required	Provided	No <sup>2</sup>	Provided
Lot coverage, max.	30%	30% (4,571 sq. ft. max.) 11% (1,680 sq. ft.) provided	30% (4,494 sq. ft. max.) 10% (1,550 sq. ft.) provided	30% (3,521 sq. ft. max.) 7% (792 sq. ft.) provided
Front setback, min.	30 ft.	30 ft.	30 ft. <sup>3</sup>	30 ft.
Side setback, min.	8 ft.	12 ft.	12 ft.	12 ft.
Rear setback, min.	25 ft.	25 ft.	55 ft.	39 ft. <sup>3</sup>
Building height, max.	35 ft.	35 ft.	35 ft.	35 ft.

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

The Administrative Subdivision Plan substantially conforms to the recommendations within the 1997 *Fairland Master Plan*. The Master Plan does not make specific recommendations for the Subject Property but reconfirmed the existing single family detached residential zoning throughout the Property’s vicinity. The Master Plan recommends maximizing the percentage of single-family detached units in developable residential areas (p. 28), which this Application does. The Application demonstrates conformance to the Master Plan by proposing a total of three compatible single-family detached units in a residentially zoned and developed neighborhood. Furthermore, the subdivision will advance the County’s goal of increasing housing supply in all communities.

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

<sup>2</sup> Lot No. 2 is subject to Sec. 50.4.3.C.1.c (lot that does not abut a public or private road).

<sup>3</sup> Pursuant to Section 50.4.3.C.1.c, the sum of the front building restriction line of Lot 2 and the rear building restriction line of Lot 3 must be a minimum of 80 feet.



Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations. 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 are adequate to serve the 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 2020–2024 *Growth and Infrastructure Policy* (the “GIP”) currently in effect.

***i. Roads and other Transportation Facilities***

***1. Existing Facilities***

Fairland Road is classified as an Arterial roadway with a right-of-way width of 80 feet, per applicable road design standards for as outlined in Section 49-32 of the County Code. Fairland Road does contain pedestrian and bicyclist facilities. The development fronts a five-foot-wide sidewalk. On the other side of the property line on Fairland Road, there is an existing sidepath that is intended to connect to master planned bikeways on Briggs Chaney Road to the east and Columbia Pike to the west, per the 2018 *Bicycle Master Plan*. For the section of Fairland Road that fronts the Property, there are no existing designated bicycle facilities.

***2. Planned Facilities***

Per the 2018 *Bicycle Master Plan*, no planned bicycle facilities are for this section of Fairland Road fronted by the Property. As conditioned, the Applicant will upgrade the existing five-foot- (5 ft.) wide sidewalk to a six-foot- (6 ft.) wide along the frontage consistent with *Complete Streets Design Guide* recommendations. Additionally, the Applicant will upgrade the existing bus stop at the southeast corner of the Property with a five-foot by eight-foot (5 ft. x 8 ft.) concrete bus stop pad. No additional master planned improvements are required for this Application. Therefore, roads and transportation facilities are adequate to support the Application.

***ii. Local Area Transportation Review (LATR)***

The Property is located in the Fairland/Colesville Policy Area, which is categorized as a Yellow Policy Area under the GIP. As demonstrated via the Applicant’s Traffic Exemption Statement (“TES”) dated July 3, 2023, the Application will generate fewer than 50 peak-hour person trips in the morning and evening peak hours. As a result, the Application is not subject to

additional Local Area Transportation Review (“LATR”) and is exempt from completing further transportation adequacy analysis.

**iii. Schools**

An existing single-family detached unit will remain, resulting in a total of two net-new single-family detached units. The Application is served by Galway Elementary School, Briggs Chaney Middle School and Paint Branch High School. Based on the fiscal year 2024 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 2:

*Table 2 – Fiscal Year 2024 Annual School Test Projection (2027-28 School Year)*

School	Program Capacity	Enrollment	Utilization	Surplus/ Deficit
Galway ES	759	762	100.4%	-3
Briggs Chaney MS	927	841	90.7%	+86
Paint Branch HS	1,985	2,270	114.4%	-285

*Table 3 – Fiscal Year 2024 School Test Results*

School	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Galway ES	No UPP	82	149	263
Briggs Chaney MS	No UPP	212	272	411
Paint Branch HS	Tier 1 UPP	-	112	410

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 fiscal year 2024 Annual School Test, Galway Elementary School and Briggs Chaney Middle School do not require any UPP. However, Paint Branch High School requires a Tier 1 UPP as identified in

Table 3. Based on the school capacity analysis performed, using the fiscal year 2024 Annual School Test, the Application is subject to a Tier 1 Utilization Premium Payment.

**iv. Other Public Facilities and Services**

All 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 GIP currently in effect.

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

Associated Preliminary/Final Forest Conservation Plan No. F20240010 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.

**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 Application satisfies the requirements of Chapter 19. The Application received an approved stormwater concept plan from the MCDPS, Water Resources Section on March 15, 2024. The Application will meet stormwater management goals through the use of Environmental Site Design ("ESD") using micro-bioretenion facilities and micro-bioretenion planter boxes.

**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 4.3.M.**

There are no known burial sites of which the Applicant has actual notice or constructive notice or that are included in the Montgomery County Cemetery inventory and located within the subdivision boundary.

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

June 28, 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 **4-0**; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley necessarily absent, at its regular meeting held on Thursday, June 27, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board