



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

SEP 14 2021

MCPB No. 21-092
Preliminary Plan No. 120210220
7402 Garland Avenue
Date of Hearing: September 9, 2021

RESOLUTION

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

WHEREAS, on May 13, 2021, Habitat for Humanity Metro Maryland (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two lots for a side by side duplex on 0.26 acres of land in the R-40 zone, located on Garland Avenue 180 feet southeast of Carroll Avenue (“Subject Property”), in the Takoma Park Policy Area and 2000 Takoma Park Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120210220, 7402 Garland Avenue (“Preliminary 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 August 30, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 9, 2021, 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 Preliminary Plan No. 120210220 to create two lots on the Subject Property, subject to

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

the following conditions:¹

1. This Preliminary Plan is limited to 2 lots for a side by side duplex.
2. The Preliminary Plan will remain valid for 36 months 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 Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.
3. The Planning Board has reviewed and accepts the conclusions found in City of Takoma Park Council Resolution Number 2021-23 dated July 21, 2021.
4. The Planning Board has reviewed and accepts the letters from the City of Takoma Park dated June 22, 2021, relieving the Applicant of both the requirement to install sidewalks along the Site frontage and to dedicate right-of-way along Garland Avenue, a City-owned roadway, to achieve the minimum prescriptive right-of-way width for a secondary residential roadway, as outlined in Section 49-32-(d)(4) of the County Code.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated June 22, 2021 in which it provides no comments on the Preliminary Plan.
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 August 11, 2021, and hereby incorporates them as conditions of the Preliminary Plan 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 Preliminary Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the City of Takoma Park Department of Public Works (DPW) in its stormwater management concept letter dated July 19, 2021, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park DPW provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

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.

8. Prior to any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.
9. Prior to record plat approval, the Applicant must receive the necessary permits for construction of an internal party wall separating the side by side duplex and removal of the existing shed.
10. The record plat must show necessary easements.
11. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the Forest Conservation Exemption Approval and Tree Save Plan.
12. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the required mitigation plantings, consisting of native canopy trees with a minimum size of 3 caliper inches, totaling at least 20 caliper inches or as shown on the approved Tree Save Plan, on the Subject Property. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
13. The Applicant must update the Tree Save Plan to graphically depict the locations of the required mitigation plantings on the Subject Property; all trees credited towards mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements, as shown on the Tree Save Plan.
14. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
15. The Limits of Disturbance shown on the Final Sediment Control Plan must be consistent with the Limits of Disturbance shown on the Tree Save Plan.
16. The Applicant must comply with all tree protection and tree save measures shown on the approved Tree Save Plan. Tree protection measures not specified on the Tree Save Plan may be required by the M-NCPPC Forest Conservation Inspector.

17. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the date of mailing of this Planning Board Resolution.
18. The certified Preliminary Plan must contain the following:
 - a. All agency approval letters and resolutions associated with the development.
 - b. Add 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 Preliminary 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 layout of the subdivision, including size, width, shape, orientation and diversity 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 block design is existing and not changing for the proposed development.

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

The design including size, width and shape and orientation of these lots is consistent with Section 50.4.3.C of the Montgomery County Code. The Preliminary Plan proposes two residential lots for a side by side duplex, an allowed use in the R-40 zone. The proposed lots accommodate the side by side duplex and will conform to the standards set forth in Section 59.4.4.9 of the Zoning Ordinance. Further, the design accommodates the necessary infrastructure including stormwater management, utilities, driveways and parking, and fire and emergency access.

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

The Site was reviewed for compliance with Section 50.4.3.D, “Public Sites and Adequate Open Spaces,” of the Subdivision Code and the 2000 *Takoma Park Master Plan*. There are no recommendations for public facilities or local recreation requirements for the Subject Property.

d. *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-40 Zone, under the Standard Method of Development as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is shown in Table 1.

Table 1-Development Standards R-40 Zone (Standard Method of Development)

R-40	Required for Duplex - Side	Proposed Lot A ¹	Proposed Lot B
Minimum Site Area	8,000 square feet	11,412 square feet	
Minimum Lot Area	4,000 square feet	5,381 square feet	6,031 square feet
Minimum Lot Width at B.R.L.	40 feet	40 feet	43 feet
Minimum Lot Width at Front Lot Line	10 feet	40 feet	43 feet
Maximum Coverage	40%	17%	10%
Front Setbacks (min)	25 feet	25 feet	25 feet
Side Setbacks east/west	10 feet	10 feet/0 feet	0 feet/10 feet
Rear Setbacks (min)	20 feet	20 feet	20 feet
Maximum Building Height ²	35 feet	Approx. 28'	Approx. 28'
Site Plan Required	No	No	No

¹ Lot A will contain an accessory structure (garage) as a nonconforming structure pursuant to the provisions in Section 59.7.7.1.A of the Zoning Ordinance with final review by MCDPS.

² Existing structure, height to be confirmed by MCDPS at building permit.

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan.*

Land Use

The 2000 *Takoma Park Master Plan* identifies this Property as being within the New Hampshire Avenue Neighborhood and Unification Area that was previously

within the Prince George's County boundary. The Project will support the following recommendations of the Master Plan:

- *Amend the Zoning Ordinance to allow single-family detached units that have legally converted to two and three family units to continue.*
- *Support townhouse development at select locations to increase housing choice between apartment and single-family detached housing.*
- *Support remodeling and rehabilitation of residential properties through various County or City home or neighborhood improvement programs.*

The Proposal is in partnership with the City of Takoma Park and Habitat for Humanity. The City acquired the Property through the Tenant Opportunity to Purchase Law in September of 2020, and it was subsequently purchased by Habitat for Humanity. The Proposal will create two lots for purchase and advance the City of Takoma Park and Montgomery County's goal to help provide Missing Middle homeownership opportunities.

Environmental

The Subject Property is located within the *Takoma Park Master Plan* area. This Master Plan recommends continued street tree maintenance and planting as well as the application of urban forestry principles to landscaping projects which serve to improve the diversity, health, and aesthetics of the urban ecosystem. The NRI/FSD and Tree Save Plan, submitted in support of a Forest Conservation Exemption as the proposed project is on a tract of land less than 1 acre, shows the proposed removal of Tree 1, a Black locust tree of 26 inches, and the proposed removal of Tree 2, a 54 inch Southern Red Oak; the Tree Save Plan also shows minor impacts to specimen and young trees as well as the removal of three trees less than 20" in size. The Applicant is required to mitigate for the removal of Trees 1 and 2 and provide protection measures for the affected specimen trees. As shown on the conditionally approved Tree Save Plan, the Applicant is providing protection techniques which include tree protection fencing and root pruning. As conditioned, the two specimen tree removals will be mitigated in the form of planting native canopy trees at least 3" in caliper, totaling at least 24 caliper inches. Through these measures, this Preliminary Plan will substantially conform to the tree preservation recommendations of the Master Plan and the requirements of the confirmed Chapter 22A Forest Conservation Law Exemption as conditioned.

Transportation

There are no specific transportation Master Plan recommendations for the Subject Property or Garland Avenue in the 2000 *Takoma Park Master Plan*. Additionally, Garland Avenue is not included in the 2018 *Master Plan of Highway and*

Transitways and the 2018 *Bicycle Master Plan* did not recommend any designated bicycle facilities on Garland Avenue specifically or generally on Secondary Residential roadways. The Application does not propose any new roadway or transportation facilities not envisioned by the applicable master plans. Therefore, this Preliminary Plan substantially conforms to the Master Plan recommendations.

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

Roads and Other Transportation Facilities

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

Both record lots will have frontage on Garland Avenue, which will provide all access to the Site. The existing driveway will remain and a new driveway, serving Lot B, will be constructed. Within the vicinity of the Subject Property, Garland Avenue is improved as a 26-foot wide roadway within a dedicated right-of-way that varies from 40.5-42.5 feet in width. The roadway is owned and maintained by the City of Takoma Park, which has indicated, in its letter to planning Staff dated June 22, 2021, that it will not be seeking additional right-of-way dedication from the Applicant. Along the Site's frontage, Garland Avenue is improved with curb and gutter on both sides of the street. Sidewalks are not present on either side of the street and the City of Takoma Park has also indicated that the Applicant will not be required to install a sidewalk along the Site frontage.

Master Plan Roadways and Pedestrian/Bikeway Facilities

There are no specific transportation recommendations for Garland Avenue in either the 2000 *Takoma Park Master Plan*, 2018 *Planning Board Master Plan of Highways & Transitways*, or the 2018 *Bicycle Master Plan*.

Transit Connectivity

Transit within approximately one quarter-mile vicinity of the Subject Property includes:

- Montgomery County Ride-On Bus Routes 17 and 18 (weekday and weekend service between Langley Park and the Silver Spring Transit Center), and Route 25 (weekday service between the Takoma Park Metro Station and Langley Park) stop at the intersection of Carroll Avenue and Garland Avenue, approximately 250 feet west of the Site.

Adequate Public Facilities

Based on the 2021-2024 Growth and Infrastructure Policy transportation impact criteria, the proposed lots generate fewer than 50 peak-hour person trips,

therefore, the Application is not subject to a Local Area Transportation Review analysis as shown in Table 2.

Table 2 - Project Peak Hour Trip Generation

	Vehicle Rates		Adjusted Vehicle Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
Existing: 3 multi-family units	2	3	2	3	3	4
Proposed: 2 Single-family units	6	2	5	2	9	3
Net new	4	-2	3	-1	6	-1

Schools

The FY22 Annual School Test, approved by the Planning Board on June 17, 2021 and effective July 1, 2021, is applicable to this Application. This Project proposes to subdivide a lot with an existing single-family detached structure that was converted to three rental units to create a side by side duplex (single family attached structure). While the City of Takoma Park confirmed licensing for three rental units, the Schools analysis is based on State Department of Assessments and Taxation (SDAT) data, which only reflects one single-family dwelling on the Property. Therefore, Schools adequacy was conservatively based on a net of one residential unit.

School Adequacy Test

The project is served by Takoma Park/Piney Branch ES, Takoma Park MS and Blair HS. Based on the FY22 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 3 - Applicable FY2022 School Adequacy

School	Projected School Totals, 2025					Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit	Tier 1		Tier 2	Tier 3	
Takoma Park/Piney Branch ES	1,240	1,250	100.8%	-10	No UPP	75	238	424	
Takoma Park MS	1,322	1,139	86.2%	+183	No UPP	309	448	646	
Montgomery Blair HS ²	2,889	2,693	93.2%	+196	No UPP	376	774	1,20	

² Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the DownCounty Consortium, Walter Johnson HS and Woodward HS in 2025.

Takoma Park MS	0.000	0.000	0.000
Montgomery Blair HS	0.000	0.000	0.000

Analysis Conclusion

Based on the school capacity analysis performed, using the FY2022 Annual School Test, there is adequate capacity within the schools that serve the Project, and the Application is not subject to a Utilization Premium Payment.

Other Public Facilities and Services

Public facilities, including water and sewer, utilities, police, fire, health, and schools are adequate to serve the Project. The Property will be served by existing public water and sewer systems. Electrical and telecommunications services are also available to serve the subject Property. The Application has been reviewed by MCFRS, and emergency vehicle access has been deemed adequate. Local health clinics, police stations and fire stations are all operating within the acceptable levels as established by the Growth and Infrastructure Policy.

- 4. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

Forest Conservation Plan

This Application is subject to Chapter 22A Forest Conservation Law but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2), as referenced in the Forest Conservation Exemption Approval Memo; this exemption was granted because the proposed activity will occur on a tract of land less than 1 acre, will not result in the clearing of more than a total of 20,000 square feet of existing forest or any specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. The proposed removal of Tree 1 and impacts to specimen trees requires the submission of a Tree Save Plan along with the Preliminary Plan Application. As conditioned, the Application will meet all requirements of Chapter 22A, Forest Conservation Law.

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

As confirmed by the Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section in a letter dated May 11, 2021, the City of Takoma Park operates under its own delegation of authority from the Maryland Department of the Environment for review and permitting for stormwater management compliance. The City of Takoma Park Department of Public Works issued a letter on July 19, 2021 stating that the Conceptual Stormwater Management Plan submitted by the Applicant was acceptable and further review would be conducted prior to issuance of the final permit.

6. *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.*

Not applicable.

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

Not applicable, no other provisions specific to the Property and necessary for approval of this subdivision are required.

BE IT FURTHER RESOLVED that this Preliminary 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; 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 SEP 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).

* * * * *

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 Patterson, with Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor of the motion at its regular meeting held on Thursday, September 9, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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