

Cadogan Property, LLC * BEFORE THE
Petitioner * PLANNING BOARD OF
PLANNING BOARD CASE NO. 430 * HOWARD COUNTY, MARYLAND

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DECISION AND ORDER

On August 17, 2017, the Planning Board of Howard County, Maryland, in accordance with Section 107.0.F. of the Howard County Zoning Regulations, held a public hearing to consider the petition of Cadogan Property, LLC, owner/developer for approval of a Preliminary Equivalent Sketch Plan (SP-15-010, St. Charles Woods). The SP is for ten single-family, semi-detached, residential lots, twelve single-family, attached residential lots, three open space lots, and other improvements to be developed by the Petitioner. The project consists of 17.26± acres zoned Residential: Environmental Development (R-ED) and is located between Baltimore National Pike and Frederick Road in the Third Election District of Howard County, Maryland, and is identified as Tax Map 16, Grid 23, Parcel 248. Baltimore National Pike (US 40) abuts the property to the north and Frederick Road (MD-144) abuts the property to the south. To the east is lot 61, "St. College Farms" subdivision, lots 4 & 5 "C. Fischer Property", parcel 100 owned by the Cramer Family and lot 106 "Terra Maria"; all of which are zoned R-ED (Residential: Environmental Development). To the west is the "Ellicott Meadows" Subdivision, zoned RC-DEO (Rural Conservation: Density Exchange Option).

The notice of the public hearing was published and the subject property was posted in accordance with the Planning Board's requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board's Rules of Procedure, the reports and official documents pertaining to the petition were incorporated into the record of the hearing, including the Preliminary Equivalent Sketch Plan, Certificate of Advertising, Certification of Posting of the property, the Fifth Edition of the Howard County Subdivision and Land Development Regulations, the Howard County Zoning Regulations (HCZR) and Zoning Map, the October 6, 2013, Comprehensive Zoning Plan, the Adequate Public Facilities Ordinance, the Howard County Design Manual, the Howard County Forest Conservation and Landscape Manuals, the Technical Staff Report of the Department of Planning and Zoning, and the reports of the responding reviewing agencies.

The Petitioner was not represented by legal counsel and exhibits were not introduced into evidence by the Petitioner at the hearing. Opening statements were also waived. Nearby property owners, who were unrepresented by legal counsel, appeared in opposition to the petition.

After careful evaluation of all the evidence accepted into the record, the Planning Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The subject property was properly posted and advertised in accordance with legal requirements for this public hearing.
2. This project is subject to the Howard County Subdivision and Land Development Regulations including the Forest Conservation Regulations, the Landscape Manual, the Zoning Regulations and Maps, the Design Manual, and the Adequate Public Facilities Ordinance.
3. The Planning Board has the authority to review the Preliminary Equivalent Sketch Plan in accordance with the pertinent criteria set forth pursuant to Section 107.0.F. of the October 6, 2013, Howard County Zoning Regulations. Those criteria are as follows:
 - a. The proposed lay-out of lots and open space effectively protects environmental and historic resources.
 - b. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.
 - c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.
4. Tanya Krista-Maenhardt presented the Technical Staff Report for the Department of Planning and Zoning, which recommended approval of Preliminary Equivalent Sketch Plan, SP-15-010, subject to remaining comments from reviewing agencies and any conditions of approval by the Planning Board.
5. The proposed development is summarized in the Technical Staff Report as follows-

SP-15-010 proposes twenty-two residential lots (ten single-family, semi-detached dwellings and twelve single-family, attached dwellings), ranging from 2,805 square feet to 6,467 square feet on 17.26 acres of land, zoned R-ED (Residential-Environmental Development). Eight semi-detached lots will gain access from a Use-In-Common Access drive that connects to Gibran Lane (a proposed public road); all others will directly access Gibran Lane. Three open space lots ranging from 16,527 square feet to 10.44 acres are also proposed.

The proposal will be developed per the R-ED Regulations, which permits 2 dwelling units per net acre. The subject property has a net tract area of 11.67 acres, thus 22 lots are permitted.

The site contains 5.59 acres of floodplain, 9.40 acres of wetlands, 6.38 acres of streams, and 10.70 acres of forest. There are no steep slopes (25% or greater) onsite.

Three on-site forest conservation retention easements (FCE) will contain 4.21 acres of forest.

The site fronts both Frederick Road (MD RT 144) and Baltimore National Pike (US RT 40). Frederick Road is a scenic road and, therefore, must meet the requirements of Section 16.125 (Protection of Scenic Roads) of the Howard County Subdivision and Land Development Regulations.

All required setbacks and building restriction lines are being respected.

6. Planning Board member, Ms. Adler, asked Mr. Hikmat who is responsible for removing or relocating the BGE power poles. Mr. Hikmat responded that it is the developer's responsibility and that the utilities would probably be moved underground.
7. Based on criteria #1, Planning Board Chairman, Mr. Englke asked Mr. Hikmat how the design of the proposal protects environmental features. Mr. Hikmat responded that the entire site is wooded and contains wetlands and streams. Therefore, some clearing is inevitable, but townhomes and duplexes have smaller footprints and minimum lot sizes are being used whenever possible. None of the proposed lots affect environmental features and there is one stream crossing for the road that enables connecting both sections of the subdivision.
8. Ms. Adler asked that Mr. Hikmat confirm that there is no other option beside a stream crossing, which triggers the related alternative compliance request, to connect the two sections of the subdivision. Mr. Hikmat confirmed that there are two developable areas to be connected by the road. In addition, the new road is also needed for water and sewer connections. Access to Route 40 is not permitted.
9. Planning Board member, Ms. Roberts asked Mr. Hikmat to explain the proposed buffering from the existing "Ellicott Meadows" subdivision. Mr. Hikmat indicated that there is approximately 400' between the closest existing home in that subdivision and any proposed dwelling in the St. Charles Woods project.
10. Planning Board member, Mr. Coleman asked Mr. Hikmat whether the State Highway Administration (SHA) had approved the access. Mr. Hikmat responded, yes, that it has been approved conceptually and access engineering would be reviewed in greater detail at Final Plan stage.
11. Ms. Adler asked Mr. Hikmat if BGE would maintain their current easement to access the utility poles. Mr. Hikmat confirmed that the easement would be maintained and BGE will have access to utilities via Gibran Lane.
12. Based on Criteria #2, Mr. Engelke and Ms. Adler asked Mr. Hikmat to discuss grading in relation to topography and stormwater management. Mr. Hikmat explained that topography was considered during the design stage as evidenced by the limited grading around the units. He also stated that there will be small raingardens. Many of them are specific to an individual lot and they will be incorporated into the terrain. No large ponds are proposed.
13. Mr. Coleman questioned Mr. Hikmat about using dry wells on a site where the water table is so high. Mr. Hikmat responded that the design is still in the preliminary stages and that based on soil borings it will be determine what areas will be suitable for drywells at the Final Plan stage.
14. Mr. Jiangang Song of 11008 Frederick Road testified in opposition to the proposed subdivision. He stated that his house is very close to the proposed Gibran Lane and he had concerns about safety for his children and the location of the proposed public road. He indicated that other neighbors also have safety concerns. He also expressed concern over the removal of forest.

Mr. Hikmat stated that he has spoken with other adjacent property owners (the Slaters) and that he is working with them to create a landscape plan that will occur within their property lines and

that he would pay for. Mr. Hikmat reminded the Board that the Department of Public Works (DPW) does not permit fencing and landscaping within a public right-of-way.

Mr. Coleman asked Mr. Hikmat for confirmation on the speed limit. He stated it would probably be 25 mph.

Ms. Adler asked for confirmation that the developer would be providing landscaping on both sides of Gibran Lane. Mr. Hikmat confirmed that some landscaping would be provided outside of the right-of-way, on both sides of Gibran Lane.

15. Ms. Lenore Slater of 3014 John Bernard Drive indicated her concern for safety and expressed her concerns with current traffic coming down her street thinking it is a through-street. She also confirmed that she has spoken to Mr. Hikmat about placing additional landscaping or fencing on her property to help buffer her home from Gibran Lane.

Mr. Engleke asked Ms. Slater how close her home is from the proposed road. She indicated approximately 100'.

16. The Planning Board noted that sites that have been left relatively undisturbed and where adjoining neighborhoods have been developed around them are themselves a challenge to develop. The Board noted that there is a conscious effort to limit disturbance and to locate necessary disturbance away from existing dwellings, whenever possible.
17. The Planning Board discussed, at length, whether criterion #3 applied to landscaping along Gibran Lane. It was determined that the criterion would apply to the flagstem portion of Parcel 248. Some board members were concerned that criteria #3 was not met to the extent possible for Gibran Lane and asked that the developer pursue a denser buffer along the proposed right-of-way, subject to the Department of Public Works approval.
18. The Board finds that, subject to conditions, the proposed subdivision will effectively protect, preserve, and minimize disturbance of the environmental resources by placing streams, wetlands, required buffers and floodplains within open space lots and/or forest conservation easements.

CONCLUSIONS OF LAW

1. The Petitioner, as the one seeking the Planning Board's approval of Preliminary Equivalent Sketch Plan, SP-15-010, for a residential subdivision consisting of ten single-family, semi-detached, residential lots, twelve single-family, attached residential lots, three open space lots, and other improvements in the R-ED Zoning District, pursuant to Section 107.0. F.6. of the HCZR, has the burden of demonstrating that the criteria of Subsections a. through c. of Section 107.0. F.6. have been met, for the Board to approve the above-mentioned plan.
2. There is sufficient evidence, as identified in the Board's Findings of Fact above, for the Board to conclude that the Petitioner has met the burden of demonstrating that the cited criteria for approval have been satisfied.
3. For the reasons stated in the above Findings of Fact, the Board concludes that Petitioner has conclusively established through the evidence in the record that the following criteria for approval have been met by its proposal, subject to conditions:
 - a. The proposed lay-out of lots and open space effectively protects environmental and

historic resources.

- b. Buildings, parking areas, roads, storm water management facilities, and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.
- c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

For the foregoing reasons, the petition of Cadogan Property, LLC, to approve a Preliminary Equivalent Sketch Plan, SP-15-010, to subdivide ten single-family, semi-detached, residential lots, twelve single-family, attached residential lots, three open space lots, and other improvements, zoned R-ED Residential: Environmental Development, is this 28th day of September, 2017 APPROVED, by the Planning Board of Howard County, Maryland, subject to: 1) the Petitioner further investigate added buffers along Gibran Lane to shield existing properties on the south side of Gibran Lane.

HOWARD COUNTY PLANNING BOARD



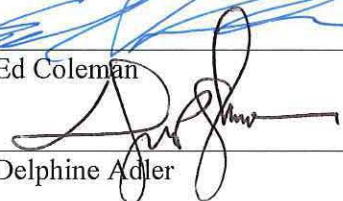
Phillips Engelke, Chairperson



Erica Roberts, Vice Chairperson



Ed Coleman



Delphine Adler

PB Case No. 430

ATTEST:



Valdis Lazdins
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:

HOWARD COUNTY OFFICE OF LAW

Gary W. Kuc, County Solicitor



David Moore, Sr. Assistant County Solicitor

LIST OF APPLICANT'S EXHIBITS:
None were introduced

LIST OF PROTESTANT'S EXHIBITS:
None were introduced