



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Date Mailed: September 18, 2003**

**Action: Approved Staff Recommendation**

**Motion of Comm. Robinson, seconded by  
Comm. Wellington with a vote of 5-0:**

Comms. Berlage, Bryant, Perdue,  
Robinson and Wellington voting  
in favor

Attachment D

## MONTGOMERY COUNTY PLANNING BOARD

### OPINION

Preliminary Plan 1-03051

NAME OF PLAN: BANNOCKBURN HEIGHTS (RESUBDIVISION)

On 1/09/03, AL S. KHALATBARI submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 2 lots on 1.5 acres of land. The application was designated Preliminary Plan 1-03051. On 3/13/03, Preliminary Plan 1-03051 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received additional evidence into the record.

In order to approve an application for resubdivision, the Planning Board must find, among other things, that the proposed lot(s) comply with all seven characteristics of the "Resubdivision Criteria" as set forth in Section 50-29 (b)(2) of the Subdivision Regulations.

The Planning Board adopts Staff's delineation of the neighborhood, as set forth in the Staff Report dated February 14, 2003, for comparison purposes in analyzing the Resubdivision Criteria. With respect to the Resubdivision Criteria, the Planning Board finds that, based upon the testimony and evidence in the record, the proposed lots are not of the same character as to frontage and width as other lots within the existing neighborhood. Therefore, the Planning Board denies this application based on its failure to comply with the requirements of Section 50-29 (b)(2) of the Subdivision Regulations.

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org



**MEMORANDUM**

**DATE:** April 16, 2004

**TO:** Montgomery County Planning Board

**VIA:** Richard Hawthorne, Acting Chief *mail for Richard Hawthorne*  
Development Review Division

**FROM:** Richard Weaver, Senior Planner (301) 495-4544 *RAW*  
Dolores Kinney, Senior Planner (301) 495-1321 *DK*

**REVIEW TYPE:** Preliminary Plan Review

**APPLYING FOR:** Resubdivision of Existing Lot 7, Block 4, Bannockburn Heights

**PROJECT NAME:** Bannockburn Heights, Lots 18 & 19

**CASE #:** 1-03051

**REVIEW BASIS:** Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations, and Resubdivision Criteria

**ZONE:** R-200

**LOCATION:** On the west side of River Road (MD 190), approximately 1,000 feet east of Wilson Lane (MD 188)

**MASTER PLAN:** Bethesda/Chevy Chase

**APPLICANT:** Al S. Khalatbari

**FILING DATE:** January 9, 2003

**HEARING DATE:** April 22, 2004

**STAFF RECOMMENDATION:** Denial, Pursuant to Section 50-29 (b) (2), Montgomery County Subdivision Regulations.

## **PROJECT DESCRIPTION: Proposal**

The subject application requests the resubdivision of a 1.5 acre site identified as Lot 7, into two (2) single-family residential lots. The proposed lots, Lot 18 and Lot 19 will contain 36,150 square feet and 25,575 square feet respectively. An existing single-family dwelling is proposed for removal. The lots will have direct access to River Road (MD 190), via a service road. The applicant proposes to dedicate approximately 5,970 square feet of frontage to construct a cul-de-sac at the termination of the service road.

## **VICINITY**

The subject property, Lot 7, Block 4, of the Bannockburn Heights subdivision ("Subject Property") is located on the southwest side of River Road between Orkney Parkway and Braeburn Parkway. The Subject Property was recorded by record plat in 1939, as were the rest of the lots within the same block. The lots surrounding the subject property are developed with single-family dwelling units. The block in which the subject site is located has remained virtually unchanged since its original recordation except for one resubdivision which occurred between Lots 13 and 14 for the purpose of adjusting the property boundaries.

## **BACKGROUND**

On March 13, 2003, Preliminary Plan No. 1-03051, Bannockburn Heights, was considered by the Board. The application proposed the resubdivision of one (1) lot into two (2) with a neighborhood of eleven (11) surrounding properties. The application was denied for non-compliance with the resubdivision criteria. Specifically, the Planning Board found that the proposed lots were not of the same character with respect to frontage and width as other lots within the existing neighborhood. (See attached Planning Board opinion, dated September 18, 2003).

Subsequent to the Board's decision, the applicant submitted a request for reconsideration to allow submission of additional information, which the applicant believes might influence the Board to approve the proposed resubdivision. The additional information concerned the applicant's proposal to construct a cul-de-sac at the frontage of the properties. On October 16, 2003, the Planning Board voted to grant the request for reconsideration and the subject application is now presented for re-review and action by the Board. Attached, is a copy of the applicant's request for reconsideration and supporting documentation and a copy of the Legal Department memorandum concerning the reconsideration request.

## **DISCUSSION OF ISSUES**

### **Master Plan Compliance**

The property is located within the Approved and Adopted Bethesda Chevy Chase Master Plan ("Master Plan"). The Master Plan does not specifically identify this property but does give general guidance and recommendations regarding zoning and land use.

The Master Plan recommends that this area maintain the residential zoning as adopted. The proposed resubdivision conforms with the recommendations adopted in the Master Plan in that it is a request for residential development.

## **Conformance to Chapter 50-29(b)(2)**

### **A. Statutory Review Criteria**

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots comply with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

### **B. Neighborhood Delineation**

In administering the Resubdivision section, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. At the March 13, 2003 hearing, the Planning Board agreed with the Staff's proposed neighborhood delineation. The applicant did not offer an alternative neighborhood delineation. In its analysis of the revised proposal, Staff has used the same neighborhood delineation. However, as described below, the applicant now seeks to expand the neighborhood for analysis purposes. Below, Staff describes the respective neighborhoods proposed by Staff and the Applicant; and, attached to this Staff Report are vicinity maps that graphically portray the two proposed neighborhood delineations.

#### **1. Applicant's Neighborhood**

The applicant proposes an expanded neighborhood, consisting of a total of thirty-two (32) lots. As shown on the attached vicinity map and tabular summary, applicant's proposed neighborhood includes all lots in blocks 2 and 4. It is Staff's opinion that this expansion of the neighborhood cannot be justified because those lots in Block 2 are not impacted by the proposed resubdivision and are not located on a travel path leading to the Subject Property.

#### **2. Staff's Neighborhood**

The neighborhood used by Staff for analysis purposes includes all lots located in Block 4. As stated above, Staff continues to support the previously delineated and approved neighborhood since the Subject Property lies squarely in the center of that Block and the proposed resubdivision would impact most, if not all, of those lots.

### C. Cul-de-sac

The applicant has proposed to dedicate approximately 5,970 square feet of frontage of the property for a cul-de-sac. The Department of Public Works and Transportation (DPWT) feels that this dedication will provide a turn-around for service vehicles, therefore a public benefit and accepts the dedication. It is important to note however, that DPWT does not consider the dedication to be necessary for those subdivision approvals.

## ANALYSIS

### Comparison of the Character of Proposed Lots to Existing

In performing the analysis, Staff applied the above-noted resubdivision criteria to the delineated neighborhood. Staff concludes that the proposed resubdivision does not comply with the width, shape, alignment and size criteria of Section 50-2(b)(2). As set forth below, the attached tabular summary supports this conclusion:

**Width:** In the neighborhood, which consists of 11 lots, lot widths range from 105 feet to 260 feet. It is the well established practice of the Planning Board to measure the width of a lot at its building line. Based on a measurement at the building line, proposed Lots 18 and 19 both have lot frontages equal to 100 feet.<sup>1</sup> Therefore, both lots would be the narrowest in the neighborhood with respect to width. As such, the high correlation required between the width of each of the proposed lots and the widths of the existing lots does not exist.

**Shape:** The two proposed lots are irregular in shape due to the curvature of the front lot line. None of the other lots in the neighborhood are located on a cul-de-sac and are either rectangular or trapezoidal in shape. Consequently, the high correlation required between the shape of each of the proposed lots and the shapes of the existing lots does not exist.

**Alignment:** The side lot lines for proposed lot 19 and one lot line of lot 18 are not perpendicular with the proposed cul-de-sac right-of-way. The remainder of the lots in the neighborhood are aligned perpendicular to their respective rights-of-way. As such, the high correlation required between the alignment of each of the proposed lots and the alignments of the existing lots does not exist.

**Size:** In Staff's neighborhood, which, again, consists of 11 lots, lot sizes range from a low of 23,727 square feet to a high of 69,208 square feet. As is shown on the attached tabular summary, Proposed Lot 19 has a size of 25,575 square feet, which is a smaller size than all but one of the existing lots. As such, proposed lot 19 has a size that falls at the bottom of the range of lot sizes in the neighborhood.

---

<sup>1</sup> The Staff Report for the March 13, 2003 hearing erroneously listed proposed lot 18 and 19 as having widths of 105 and 110 feet respectively. Staff has verified that the proposed lots, in fact, have widths of 100 feet.

Consequently, the high correlation required between the size of proposed lot 19 and the size of the existing lots does not exist.

The above analysis demonstrates that the proposed lots do not have a high correlation to existing lots with respect to the lot characteristics of size, width, shape and alignment. As such, the proposed resubdivision does not comply with Section 50-29(b)(2) of the Subdivision Regulations.

## **CONCLUSION**

In applying the resubdivision criteria to the neighborhood, staff finds that the proposed resubdivision does not comply with all seven criteria set forth in Section 50-29(b)(2) as illustrated by the characteristics set forth on the attached tabular summary and graphics. Staff finds that a high correlation does not exist between the size, width, shape, and alignment of the proposed lots and existing lots within the delineated neighborhood. As such, staff recommends denial of the proposed resubdivision application.

## **Attachments**

- Attachment 1 Vicinity Development Map
- Attachment 2 Neighborhood Delineation Maps
- Attachment 3 Proposed Development Plan
- Attachment 4 Tabular Summary
- Attachment 5 Request for reconsideration and supporting documents
- Attachment 6 Planning Board Opinion dated September 18, 2003.
- Attachment 7 Citizen Correspondence