



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

**JUN 7 2013**

**MCPB No. 13-79**  
**Preliminary Plan No. 120120190**  
**Fernwood**  
**Date of Hearing: May 23, 2013**

**RESOLUTION**

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

WHEREAS, on April 19, 2012, Fariborz Honarpisheh, ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 0.47 acres of land in the R-90 zone, located at 9810 Fernwood Road ("Subject Property"), in the North Bethesda/Garrett Park master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120190, ("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 May 9, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 23, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12012090 to create 2 lots on the Subject Property, subject to the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to 2 lots.

<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.

Approved as to  
Legal Sufficiency:

*Christina Jones* 5/16/13  
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2. The Applicant must comply with the Tree Save Plan received by the Planning Department on April 11, 2013 or as amended by the Planning Department inspector at the time of the pre-construction meeting and inspections.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated March 1, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. Prior to recordation of the plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
5. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated April 12, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Applicant must relocate the Fernwood sidewalk five (5) feet from the edge of pavement/curb north of the existing Driveway, and replace Fernwood Road and gutter as necessary.
7. The Applicant must provide at-grade crossings of the sidewalks across the proposed two driveways from Fernwood Road and Inglemere Drive.
8. The Applicant must construct a five-foot wide sidewalk along the property frontage on Inglemere Drive, unless construction is waived by the Montgomery County Department of Permitting Services (MCDPS).
9. The record plat must show necessary easements.
10. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

11. The Property is within the Walter Johnson High School Cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle and high school levels at the applicable unit rates for any building permit issued for a new residential unit. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

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 Preliminary Plan substantially conforms to the Master Plan.*

The surrounding area is a mature, stable community, predominantly zoned R-90. The Fernwood neighborhood is largely built out and does not contain any commercial properties.

The Master Plan does not specifically address this site but does make a general recommendation reconfirming the existing zoning throughout the Master Plan area. This Application is for a one-family detached use and is consistent with the existing residential character and land use patterns described in the Master Plan area. Additionally, the Master Plan aims to protect the "integrity of existing residential neighborhoods" (p.33).

The Preliminary Plan substantially conforms to the Master Plan recommendations since it is compatible with the existing neighborhood in terms of use and building type, and meets the requirements and development standards of the R-90 zone.

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

Roads and Transportation Facilities

The Application does not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. For the Transportation Policy Area Review (TPAR) test, the land use will generate less than three (3) new weekday peak-hour trips. Therefore, the Applicant is not required to pay the transportation impact tax to satisfy the TPAR test. Additionally, the Applicant is not proposing any new roads, drainage structures or pavement widening. Existing conditions will be maintained as much as possible resulting in very little impact on the capacity and/or operation of roads, intersections and

drainage systems at or near the Property. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a (5) five-foot wide sidewalk along the Property frontage on Inglemere Drive, unless construction is waived by the Montgomery County Department of Permitting Services (MCPDS). The vehicle and pedestrian access for the subdivision will be safe and adequate with the public improvements.

Other Public Facilities and Services

The Application has been reviewed by all public utilities including: Washington Gas, PEPCO, Verizon and WSSC. All agencies having found that their respective utilities are adequate to serve the development. The Department of Fire and Rescue Services has approved a Fire Access Plan that assures emergency vehicles can access the site. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect.

The Property is within the Walter Johnson school cluster which is currently operating above capacity at the high school level. The Preliminary Plan proposes the construction of an additional residential unit; as such a school facilities payment is required at the middle and high school levels.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The lots were reviewed for compliance with the dimensional requirements for the R-90 zone as specified within the Montgomery County Zoning Ordinance. The Application meets all applicable sections and, as proposed, will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone and for the location of the Property. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

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

This Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) but was granted an Exemption from submitting a forest conversation plan under section 22A-5(s)[2] for an activity on a tract of land less than 1-acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree...". A tree variance is also not required. However, under

Section 22A-6(b), Exemptions-Special Provisions, a Tree Save Plan is required for activity involving the clearing of a specimen or champion tree.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Applicant on April 18, 2012. The stormwater management concept meets required stormwater management goals via Environmental Site Design such as drywells, rooftop disconnect, and non-rooftop disconnect practices.

6. *The approved lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood (as delineated in the Staff Report).*

Frontage: In the Neighborhood of 54 existing lots, lot frontages range from 70 feet to 324 feet. Twenty-six of the lots have frontages of 75 feet or less. Twenty-eight lots have frontages of 77 feet or greater. Lot 1 will have a frontage of 75.07 feet and Lot 2 will have a frontage of approximately 130 feet. The approved two lots will be of the same character as existing lots in the Neighborhood with respect to frontage.

Alignment: Forty-three of the 54 existing lots in the Neighborhood are perpendicular in alignment, and the remaining 11 are corner lots. The approved lots include a perpendicular alignment (Lot 1) and a corner alignment (Lot 2), similar in character as existing lots with respect to the alignment criterion.

Size: The size of the lots in the Neighborhood range from 9,369 square feet to 26,197 square feet. Seven of the existing lots are 10,340 square feet or smaller. Sixteen of the lots are 10,341 square feet to 12,568 square feet and 31 lots are 13,061 square feet to 26,197 square feet. At 10,184 and 10,340 square feet, the approved lots will fall within the range of the existing lots in the delineated Neighborhood. Therefore, the approved size of Lots 1 and 2 are similar in character with the existing lots in the Neighborhood.

Shape: Twenty-five existing lots in the Neighborhood are rectangular, eighteen are trapezoidal, and eleven are irregular. The rectangular shape of the approved lots will be in character with shapes of the existing lots in the Neighborhood.

Width: Lot widths in the Neighborhood range from 70 feet to 201 feet. The lot widths for the most part are evenly dispersed within the range. Thirty-nine lots are 75 feet to 85 feet in width and 12 lots are greater than 85 feet wide. Three existing lots, at 70 feet in width, are less than the 75-foot width requirement in the R-90 Zone. Therefore, the approved lots, at 75 and 80 feet wide, will be in character with existing lots in the Neighborhood with respect to width.

Area: The buildable area of lots in the Neighborhood ranges from 2,473 square feet to 15,651 square feet. Lot 1 will have a buildable area of 4,064 square feet. Lot 2 will have a buildable area of 3,184 square feet. The approved lots fall within the range and will be of the same character with existing lots in the Neighborhood.

Suitability for Residential Use: The existing and the approved lots are zoned residential and the land is developed with residential use. The lots are, therefore, in character with the rest of the Neighborhood.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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

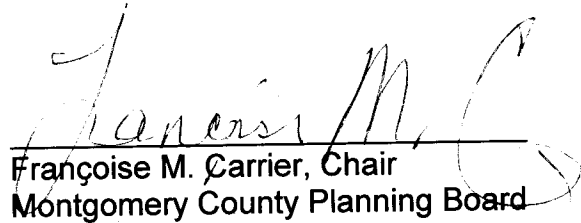
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 7 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor, and Commissioner Presley absent, at its regular meeting held on Thursday, May 23, 2013, in Silver Spring, Maryland.

  
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Françoise M. Carrier, Chair  
Montgomery County Planning Board