



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

MCPB No. 17-029  
 Preliminary Plan No. 120170100  
 Lake Normandy Estates  
 Date of Hearing: May 11, 2017

MAY 17 2017

**RESOLUTION**

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

WHEREAS, on November 29, 2016, Alireza Zahedian (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 0.94 acres of land in the R-200 zone, located at 9108 Marseille Drive (“Subject Property”), in the Potomac Policy Area and 2002 Potomac Subregion Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120170100, Lake Normandy Estates (“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 April 28, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and


WHEREAS, on May 11, 2017, 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. 120170100 to create two lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<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.

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Approved as to  
 Legal Sufficiency:  5/4/17  
 8787 Georgia Avenue, NCFECS Legal Department Chairman's Office: 301.495.4605 Fax: 301.495.1320  
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1. This Application is limited to two (2) lots for two (2) single family detached homes.
2. The Final Sediment Control Plan must depict the limits of disturbance (LOD) identical to the LOD on the approved Forest Conservation Plan Exemption 42017033E and Tree Save Plan, subject to Staff approval.
3. The Applicant must comply with all tree protection and tree save measures shown on the approved Tree Save Plan. Tree save measures not specified on the approved Tree Save Plan may be required by the M-NCPPC forest conservation inspector.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated March 20, 2017, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated March 28, 2017, and hereby 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 amendments do not conflict with other conditions of Preliminary Plan approval.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
7. Prior to recordation of the plat(s) the Applicant must satisfy MCDOT requirements to ensure the construction of a five (5) foot wide sidewalk along the property frontage along Marseille Drive, unless construction is waived by MCDPS.
8. Prior to the recording of a record plat, the existing house on the Subject Property must be razed.
9. The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its Stormwater Management Concept letter dated December 22, 2016, and hereby incorporates 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 – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

10. The certified Preliminary Plan must contain the following 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 permits. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”*

11. Record plat must show all necessary easements.
12. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.

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 Planning Board finds that the Application is in substantial conformance with the objectives and recommendations of the *2002 Potomac Subregion Master Plan*.

The Property is located in the “Potomac” community area of the Master Plan. The Master Plan does not specifically address the Subject Property. However, the Master Plan (Page 41) recognizes this part of the Subregion as more developed than the other three community areas identified in the Master Plan. Because residential development is dispersed throughout the area, the Master Plan “recommends infill development of remaining vacant properties with

residential development essentially similar to what is now there, unless specifically stated otherwise in this Plan.”

This Application is in conformance with the Master Plan recommendations for residential infill in this part of the Subregion.

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

#### Adequate Public Facilities

The Planning Board finds that the transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy since the application was submitted prior to January 1, 2017. The Property is located in the Potomac Policy Area which is exempt from the APF’s Transportation Policy Area Review (TPAR) test for roadways but not the transit test.

The Potomac Subregion Master Plan recommends a total of 60 feet of right-of-way on Marseille Drive. Plat No. 3516 granted 60 feet of right-of-way for the full width of Marseille Drive. Therefore, additional right-of-way dedication is not required.

#### Local Area Transportation Review

A traffic study is not required to satisfy the APF’s Local Area Transportation Review (LATR) test because one new single-family detached units (one unit exists already) does not generate 30 or more peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

#### Transportation Policy Area Review

While the Subject Property is located within the Potomac Policy Area for the Transportation Policy Area Review (“TPAR”) test and is subject to the 2012-2016 Subdivision Staging Policy, which would exempt this Application from TPAR because it generates three or fewer weekday peak hour trips. TPAR payment will not apply in this particular case because, as of March 1, 2017, the MCDPS stopped collecting TPAR payments. Instead, MCDPS collects impact fees for all building permits, as adopted by the County Council under the current Subdivision Staging Policy. Because the Applicant will receive a building permit for these two proposed lots after March 1<sup>st</sup>, 2017, the Applicant will pay the impact fees based on the Subdivision Staging Policy currently in effect rather than the Subdivision Staging Policy in effect at the time of Application submission.

#### Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the lots. The Subject Property is in the W-1 and S-1 water and sewer service categories,

respectively, and will utilize public water and sewer. The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on March 28, 2017. 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 Subdivision Staging Policy in effect at that time that the Application was submitted.

The Application is located in the Winston Churchill High School cluster, which is identified as inadequate at the High school level, and which would have been subject to a School Facilities Payment under the 2012-2016 Subdivision Staging Policy. However, as mentioned above in the transportation section, as of March 1, 2017 MCDPS stopped collecting School Facilities Payments and instead collects impacts fees for school facilities based on the current Subdivision Staging Policy for all building permits. The Applicant will pay the fees in place under the current Subdivision Staging Policy at the time of building permit application. As such, no condition for a School Facilities Payment is included in this Staff Report.

- 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 Planning Board finds that Preliminary Plan meets all applicable sections of the Subdivision Regulations including the resubdivision analysis which is discussed in detail later. The proposed lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan and for the building type (single family homes) contemplated for the Property.

The lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage and can accommodate a building which can reasonably meet the width and setbacks requirements in that zone.

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

#### Forest Conservation Chapter 22A

The Planning Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Forest Conservation Plan Exemption

An exemption from submitting a Forest Conservation Plan (#42017033E) was confirmed for this Property on November 10, 2016. This exemption plan identifies the environmental features and resources on the Property. The Property does not contain any forest. There are no streams, wetlands, 100-year floodplain, stream buffers, highly erodible soils, or slopes greater than 25 percent located on or immediately adjacent to the Property. There are 18 trees greater than or equal to 24" Diameter at Breast Height (DBH) that were identified on or adjacent to the Property, eleven of which are 30" DBH and greater.

Tree Save Plan

The confirmation for an exemption from submitting a forest conservation plan included a condition requiring the submission and approval of a Tree Save Plan with the Preliminary Plan due to proposed impacts to the critical root zones of two off-site specimen trees. Tree #4, a 40" DBH willow oak and Tree #8, a 44" DBH scarlet oak will be impacted by the proposed construction. Tree #4 will be impacted due to the construction of a water house connection and driveway for proposed Lot 2 and Tree #8 will be impacted due to grading and construction of a dry well on Lot 2. Both trees will be minimally impacted by the construction and the Tree Save Plan provides for necessary tree protection measures, including root pruning and tree save fence to minimize the impacts to the trees. No forest or tree planting is required of this Application.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on December 22, 2016. The Application will meet stormwater management goals through the use of drywells and non-rooftop disconnection for each new lot.

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.*

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board determined the appropriate resubdivision neighborhood ("Neighborhood") for evaluating the Application. This Neighborhood, which consists of 36 lots, is identical to the Neighborhood which the Planning Board

supported in their review of the Pre-Preliminary Plan application. The analyzed lots include only properties that are recorded by plat in the R-200 Zone, are adjacent to the Subject Property, and are within a reasonable distance from the Subject Property to provide an adequate sampling of comparable lots.

The Planning Board finds that each of the lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations as analyzed below:

**Frontage:** The approved lots will be of the same character as existing lots in the neighborhood with respect to lot frontage. Both approved lots have a frontage of 110 feet. In the Neighborhood, the range of non-corner lot frontages is between 25 and 348 feet. The lots are at the low end of the range but within the range of lot frontages in the Neighborhood.

**Alignment:** The approved lots are of the same character as existing lots in the neighborhood with respect to the alignment criterion. The alignment of the lots is perpendicular. Lots in the Neighborhood are a mix of perpendicular, angular, radial alignments. The Neighborhood contains 17 perpendicular, 1 angular, and 18 radial alignments.

**Size:** The approved lots size are of the same character as the size of existing lots in the Neighborhood. The lot sizes are 20,487 and 20,470 square feet, respectively. The range of lot sizes in the Neighborhood is between 20,000 and 87,120 square feet. These approved lots are only 487 and 470 square feet larger than the smallest lots in the Neighborhood (two lots are 20,000 square feet). The lots are at the low end of the range but within the range of lot sizes in the Neighborhood.

**Shape:** The shapes of the approved lots are in character with shapes of the existing lots in the neighborhood. Both lots are rectangular (regular in the datasheets) in shape. Because of the meandering nature of Marseille Drive, the Neighborhood has a variety of lot shapes. The Neighborhood contains a mix of lot shapes including pipestem, rectangular, squares, triangular and irregular shapes.

**Width:** The approved lots are of similar character with existing lots in the neighborhood with respect to width. The lot width for both lots is 112 feet, which is on the low end of the range of lot width within the Neighborhood which is between 100 and 339 feet. The lot width is within the range of existing lot widths.

**Area:** The approved lots will be of the same character as existing lots in the neighborhood with respect to buildable area. Both lots offer a building area of

9,782 and 9,779 square feet respectively; within the range of buildable areas for lots in the Neighborhood, which range between 6,074 and 54,202 square feet. The lots will be the 5<sup>th</sup> and 6<sup>th</sup> smallest in terms of buildable area and are in the range of area in the Neighborhood.

Suitability for Residential Use: The lots are all zoned R-200 and the land is suitable for residential use.

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 50-35(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 MAY 17 2017 (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 Vice Chair Wells-Harley, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Cichy voting in favor, Commissioner Fani-González opposed, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, May 11, 2017, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board