



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

MCPB No. 17-026  
 Preliminary Plan No. 120160260  
 Springfield  
 Date of Hearing: April 20, 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 March 31, 2016, Todd and Cynthia Chamberlin (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 0.39 acres of land in the R-60 zone, located on the north side of Wiltshire Drive, 200 feet west of Cromwell Drive (“Subject Property”), in the Bethesda/Chevy Chase Policy Area and *Bethesda – Chevy Chase Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160260, Springfield (“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 7, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 20, 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, on motion of Commissioner Dreyfuss, seconded by Commissioner Cichy, by a vote of 5-0, Commissioners Dreyfuss, Cichy, Anderson, Fani-Gonzalez, and Wells-Harley voting in favor;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120160260 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.

- 1) This Preliminary Plan is limited to two lots for one one-family dwelling unit on each lot.
- 2) The Applicant must include the stormwater management concept approval letter and Preliminary Plan resolution on the approval or cover sheet(s).
- 3) Prior to demolition, clearing, or grading, the Applicant must record a Category II Conservation Easement in the Montgomery County Land Records by deed. The deed must be in a form approved by the M-NCPPC Office of the General Counsel, and the Liber Folio for the easement must be referenced on the record plat.
- 4) Prior to certification of the Preliminary Plan, the Applicant must submit, for review and approval by Staff, a revised Tree Save Plan that addresses the following:
  - a. Revise the onsite tree planting list to include at least four, minimum 2.5-inch caliper, native canopy trees, and add a note stating the M-NCPPC Forest Conservation Inspector may allow substitutions of the onsite species.
  - b. Revise the street tree species and locations as necessary to meet Montgomery County Department of Transportation ("MCDOT") requirements. The plans must retain two existing street trees and provide up to two additional canopy trees for a total of up to four street trees fronting the Subject Property. The street trees must also be included on the Preliminary Plan and approved by MCDOT staff prior to certification of the Preliminary Plan.
  - c. Revise onsite planting locations to be at least five feet from any property line, measured to the center of the trunk.
  - d. Coordinate with Staff on necessary Tree Save Plan corrections, clarifications and note revisions.
  - e. Show the required Category II Easement on the Tree Save Plan. The Category II Easement must be located at the north side of Lot 9 (behind the existing house), measuring approximately 2,000 square feet, as shown in the Staff Report.
  - f. Provide a note stating that the Applicant must make good faith efforts to secure permission from adjacent property owners for mitigation of impacts to off-site trees.
  - g. Revise the plan drawing to provide, in addition to the four trees specified in 4.a above, a row of canopy and screen plantings within the rear setback of Lot 10. The plantings must consist of native canopy and understory trees, at least 2.5-inch caliper at the time of planting. Final quantity, location, and species will be determined by Staff.
- 5) Prior to certification of the Preliminary Plan, revise the Preliminary Plan to show the required Category II Easement.

- 6) Prior to removal of any tree protection fencing or sediment control fencing, the Applicant must plant four native canopy trees on Lot 10, as shown on the approved Tree Save Plan.
- 7) Prior to removal of any tree protection fencing or sediment control fencing, the Applicant must plant up to two street trees on the Wiltshire Drive property frontage, in accordance with MCDOT street tree standards. The number of trees to be installed may vary, depending on site conditions, as determined by the Montgomery County Department of Permitting Services ("MCDPS"), and as shown on the approved Tree Save Plan.
- 8) After the preconstruction meeting with the M-NCPPC forest conservation inspector and no later than 10 business days prior to any clearing, grading or issuance of the building permit, the Applicant must provide letters to the affected property owners (associated with tree #5 and its canopy and critical root zone), with copies to Staff, advising of the anticipated construction activity and related tree impacts and preservation measures. The letters must describe the proposed treatments and maintenance schedules that would be implemented at the sole cost of the Applicant.
- 9) The Planning Board accepts the recommendations of MCDOT in its letters dated January 9, 2017, and February 21, 2017, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 11) The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated April 27, 2016, and 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 12) 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.
- 13) Record plat must show necessary easements.

- 14) Prior to recordation of the plat, the Applicant must satisfy MCDPS requirements to ensure the construction of a five-foot wide sidewalk along the property frontage on Wiltshire Drive, as shown on the certified Preliminary Plan, unless construction is waived by MCDPS.
- 15) 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 Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. The Master Plan does not specifically address the Subject Property, but does call for retention of the existing R-60 zoning. In the Master Plan, the Subject Property and surrounding development are identified as suitable for one-family detached housing. The Application substantially conforms to the Master Plan because the Application provides one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The lots are similar to surrounding existing lots with respect to dimensions, orientation, and shape, and future residences will have a similar relationship to the public street and surrounding residences as do existing residences in the area. The Application will not alter the existing pattern of development or land use, which is in substantial conformance with the Master Plan recommendation to maintain the existing residential land use.

The Subject Property is not within a formal Special Protection Area (SPA). However, it is in the Palisades subsection of the Master Plan. The Master Plan's major goals include the protection of the natural resources, environmental quality, and associated character of the Planning Area (p. 20). The Master Plan recommends on page 69 that where areas of steep slopes and mature trees exist, a conservation easement may be placed to ensure the preservation of these environmentally-sensitive areas in an undisturbed state. Finally, the Master Plan encourages on page 152 the preservation of environmentally sensitive areas and recommends examining ways to protect mature trees as part of the subdivision review procedure.

The areas of remaining significant and specimen trees on the Subject Property, and the mature tree canopy associated with the Subject Property and adjacent

properties, reflect the environmental character that should be protected under the recommendations of the Master Plan.

The Resolution includes a condition that requires the Applicant to protect several existing trees that will be retained on the Subject Property. In order to extend this protection beyond the time of development of the property, the Resolution also includes a condition of approval that a Category II Forest Conservation Easement be placed on the north side of Lot 9 (behind the existing house) measuring approximately 2,000 square feet. The Category II Easement will allow the owner of the lot to continue the existing uses of the easement area, while also providing regulatory protection for the highest concentration of remaining trees and steeply sloped areas. The Application, as conditioned, is in substantial conformance with the Master Plan recommendations to protect the natural resources and environmental qualities of the Palisades.

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

The Application does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the Application is not subject to a traffic study under the Local Area Transportation Review (LATR). In addition, the Application does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the Application is also not subject to Transportation Policy Area Review (TPAR).

Public facilities and services are available and will be adequate to serve the subdivision. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

- 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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including the requirements for resubdivision as discussed below. The lot size, width, shape, and orientation are appropriate for the location

of the subdivision taking into account the recommendations included in the Master Plan, and for the type of development or use contemplated.

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Application.

At the public hearing in this matter, several neighbors raised concerns about the name of this Preliminary Plan and the possible impact that the name would have on portions of the subject property that they indicated are subject to certain covenants. The name of this preliminary plan is just a name, and has no legal significance as far as the Board is concerned. In approving this Preliminary Plan, the Board has no intention of affecting any private covenants that may apply to the subject property.

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

A. Forest Conservation

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

The Application is subject to the Forest Conservation Law; however, the activity qualifies for a Forest Conservation Exemption under Section 22A-5(s)(2) as a small property for the reasons outlined below, and Exemption 42016133E was confirmed for the Application on March 2, 2016.

- An activity occurring on a tract less than one 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
- Reforestation requirements would not exceed 10,000 square feet
- Forest in any priority area on-site will be preserved

A tree save plan is required to ensure that the remaining trees and mature landscape on and near the Subject Property are not unnecessarily damaged or removed. The damage or removal would otherwise alter the character of the Planning Area associated with the Palisades.

A tree save plan for the Application has been prepared by an International Society of Arboriculture (ISA) certified arborist. Most of the area associated with Lot 10 will be disturbed, but the LOD has been restricted where

possible to avoid excessive damage to the nearby offsite trees. The tree save plan includes replanting four native canopy trees on Lot 10 and replanting up to two street trees in the fronting street right-of-way. The tree save plan specifies tree protection and stress reduction measures for the offsite trees associated with the Application. Some of the proposed measures include mulching, core aeration, and fertilizing within the remaining root zones. Coordination with the adjacent property owners will be needed to fully implement the arborist's recommendations. However, if the Applicant does not secure permission to do mitigation work on the adjacent property, the tree care measures will be implemented solely on the Subject Property.

The Resolution includes a condition of approval that a Category II Forest Conservation Easement be placed on the north side of Lot 9 to ensure that the Application is in substantial conformance with the Master Plan's recommendations on environmental protection.

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 MCDPS Stormwater Management Section approved the stormwater management concept on April 27, 2016, and reconfirmed the approval on October 4, 2016. The stormwater management concept consists of environmental site design through the use of drywells and a micro-bioretenion planter box.

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 122 lots, lot frontages range from 42 feet to 246 feet. Five of the lots have frontages of less than 60 feet, 90 lots have frontages between 60 and 100 feet, and 27 lots have frontages of over 100 feet. Lot 9 will have a frontage of 77 feet, and Lot 10 will have a frontage of 86 feet. The approved lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.

**Alignment:** Sixty-eight of the 122 existing lots in the neighborhood are perpendicular in alignment, 23 are corner lots, and 31 are radial. Both of the approved lots will be perpendicular in alignment. The approved lots are of the

same character as existing lots in the neighborhood with respect to the alignment criterion.

Size: The lots in the delineated neighborhood range from 6,378 square feet to 16,314 square feet. Four of the lots are smaller than 7,000 square feet, 97 are between 7,000 and 10,000 square feet, and 21 are larger than 10,000 square feet. Lot 9 will be 7,253 square feet, and Lot 10 will be 9,604 square feet in size. The approved lot size is in character with the size of existing lots in the neighborhood.

Shape: Fifty-six of the 122 existing lots in the neighborhood are rectangular, 13 are irregularly shaped, and fifty-three are trapezoids. Lot 9 will be trapezoidal in shape, and Lot 10 will be rectangular. The shapes of the approved lots will be in character with shapes of the existing lots in the neighborhood.

Width: The lots in the delineated neighborhood range from 59 feet to 156 feet in width. One of the lots has a width of less than 60 feet, 107 of the lots have widths between 60 and 100 feet, and the remaining 16 lots have widths of more than 100 feet. Lot 9 will have a width of 73 feet, and Lot 10 will have a width of 83 feet. The approved lots will be in character with existing lots in the neighborhood with respect to width.

Area: The lots in the delineated neighborhood range from 1,868 square feet to 9,329 square feet in buildable area. Sixty-seven of the lots have buildable areas smaller than 4,000 square feet, 51 have buildable areas between 4,000 and 6,000 square feet, and four have buildable areas larger than 6,000 square feet. Lot 9 will have a buildable area of 3,394 square feet in size, and Lot 10 will have a buildable area of 4,291 square feet. The approved lots will be of the same character as existing lots in the neighborhood with respect to buildable area.

Suitability for Residential Use: The existing and the approved lots are zoned residential 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).

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**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 Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, 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