



MCPB No. 16-124  
Preliminary Plan No. 120140170  
Vassar Circle  
Date of Hearing: November 10, 2016

**NOV 22 2016**

**RESOLUTION**

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

WHEREAS, on May 29, 2014, Two Vassar Circle, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create four lots on 0.58 acres of land in the R-60 zone, located in the center parcel of Vassar Circle (“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. 120140170, Vassar Circle (“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 October 28, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on November 10, 2016, 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. 120140170 to create four lots on the Subject Property, subject to the following conditions:<sup>1</sup>

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<sup>1</sup> For 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: 

- 1) This Preliminary Plan is limited to four 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 certification of the Preliminary Plan, the Applicant must submit, for review and approval by Staff, a Tree Save Plan that addresses the following:
  - a. All affected off-site trees six inches DBH and larger fronting the Subject Property must be accurately located and identified.
  - b. The Tree Save Plan must show that the Applicant will replace any offsite trees or landscaping that is removed for development of this subdivision. Any replacements must be planted by the end of the next planting season after damage or removal of the tree or landscaping.
  - c. Provide details, notes and specifications as needed to demonstrate appropriate level of protection of the affected trees.
  - d. The offsite limits of disturbance or other construction-related activity must not result in the removal of any specimen trees, as such removal would invalidate the Forest Conservation Exemption which has been confirmed for the Application.
  - e. The Tree Save Plan must include provisions for the Applicant's arborist to provide written reports to Staff at each appropriate milestone listed on the Tree Save Plan and/or as determined by the inspector.
  - f. The Tree Save Plan must be signed by an ISA-certified arborist who is also a Maryland Licensed Tree Expert.
  - g. The Tree Save Plan must show at least one two-inch caliper native canopy tree on each of the approved lots. The trees must be planted no later than the time of release of the sediment control permit.
- 4) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letters dated August 22, 2014, and June 24, 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 letters, 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 Town of Glen Echo in its waiver approval of street width requirements dated April 11, 2016, 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 waiver approval, which may be amended by the Town of Glen Echo

provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 6) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by the Town of Glen Echo.
- 7) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated September 1, 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.
- 8) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the design standards imposed by all applicable road codes, except as modified by MCDOT or the Town of Glen Echo, as applicable.
- 9) 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.
- 10) The Applicant must make a Transportation Policy Area Review (“TPAR”) Mitigation Payment for transit and roadways, equal to 50% of the applicable transportation impact tax to MCPDS. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 11) The record plat must show necessary easements, including the 10-foot-wide public improvement easement, as shown on the certified Preliminary Plan.
- 12) 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.

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 1990 *Bethesda – Chevy Chase 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.

The Subject Property contains only a few small trees and shrubs; the largest trees inside the circle are white pines measuring approximately 18 inches diameter at breast height (DBH) that are located in the right of way embankment along the southwest side of Subject Property. Therefore, the vegetation inside Vassar Circle is not emblematic of the mature trees, environmental features, or associated character that the Master Plan seeks to protect.

However, there are a number of specimen sized trees across from the Subject Property frontage which occupy significant portions of the circles' outer perimeter. There are at least five specimen trees which are over 40 inches DBH, the largest of which is an approximately 48-inch DBH red oak tree. The specimen trees and mature landscape across from the Subject Property do reflect the environmental character that should be protected under the recommendations of the Master Plan. This Resolution includes a condition of approval that requires the Applicant to replace any damaged or removed offsite landscaping and trees.

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

#### Roads and Transportation Facilities

Access to the lots will be via individual driveways from Vassar Circle. Pedestrian access will be provided via existing sidewalks on the opposite side of Vassar Circle and not directly along the Subject Property frontage.

By Town Ordinance, pursuant to Maryland and Montgomery County law, the Town of Glen Echo is exempt from Chapter 49 of the Montgomery County Code, governing streets and roads. The Town instead enforces its own road construction code. On April 11, 2016,<sup>2</sup> the Town approved a waiver of its road construction code for the development associated with this Application, allowing the subdivision to retain the existing 30-foot-wide right-of-way for Vassar Circle instead of dedicating to the otherwise required 50-foot width. The waiver also allows the subdivision to provide a public improvement easement if any street improvements cannot be accommodated within the existing right-of-way. The Town conditioned its approval of the waiver on construction of road improvements as shown in an exhibit to the waiver approval and reflected on the Preliminary Plan. The required improvements will widen the existing 18- to 20-foot-wide street pavement to 28 feet, with two travel lanes of ten feet each and one eight-foot-wide parking lane (on the exterior curb of the circle). With approval of the waiver, the Town found that the Application will provide safe and adequate access for all vehicles, including emergency vehicles, and that the Application “meets the principal purposes of the Road Code.”

The Town also concluded that under its waiver approval, the parking needs of the new homes would be met with adequate off-street parking in private driveways and garages, and that “relatively few” existing on-street parking spaces would be removed. The Town’s conclusions regarding parking were supported by the testimony of Glen Echo residents who attended the Planning Board’s public hearing. Although other residents at the hearing argued that parking on Vassar Circle after the approved development would be inadequate to serve the community, the Planning Board is satisfied that the weight of the evidence it received in this case indicates that Vassar Circle would remain adequate to support and service the area of the approved subdivision.

The subdivision 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”). The four one-family

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<sup>2</sup> The Town approved a modification to the waiver on June 21, 2016.

detached dwelling units are estimated to generate four peak-hour trips in each of the morning and evening peak periods. As a result of the four peak-hour trips, the Application is subject to Transportation Policy Area Review ("TPAR"). In accordance with the 2012-2016 Subdivision Staging Policy, developments within the Bethesda – Chevy Chase Policy area must satisfy the TPAR requirement by making payment equal to fifty percent of the applicable transportation development impact tax.

#### Other Public Facilities and Services

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, which 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. The lot size, width, shape, and orientation are appropriate for the location of the subdivision considering 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-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 plan.

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

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application qualifies for a Forest Conservation Exemption under Section 22A-5(s)(1) as a small property. Exemption #42014124E was confirmed for this Application on February 21, 2014, for the reasons outlined below:

- An activity occurring on a tract smaller 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 will not exceed 10,000 square feet.
- Forest in any priority area on-site must be preserved.

A Tree Save Plan is required to ensure that the trees and mature landscape 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. Special construction techniques and careful coordination with a supervising project arborist will be necessary to ensure that the off-site trees are appropriately protected throughout the construction. The Tree Save Plan also needs to consider the construction techniques of the houses, particularly on Lot 1, and whether any clearance pruning for crane access would be needed. Conditions of approval are included in this Resolution regarding the Tree Save Plan and its implementation.

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 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 September 1, 2016. The stormwater management concept consists of environmental site design using landscape infiltration and drywells.

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 NOV 22 2016 (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 Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Wells-Harley and Commissioner Dreyfuss absent at its regular meeting held on Thursday, November 17, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board