



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

AUG 4 2014

MCPB No. 13-140  
Preliminary Plan No. 120070480  
Ancient Oak West  
Date of Hearing: July 10, 2014

**RESOLUTION**

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

WHEREAS, on December 14, 2006, Yukon and Jing Huang ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create three lots on three acres of land in the R-200 Zone, located on the southeast corner of Darnestown Road and Chestnut Oak Drive ("Subject Property"), in the Rural West Policy Area, 2002 Potomac Subregion master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070480, Ancient Oak West ("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 September 5, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 19, 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, on September 19, 2013, at the Applicant's request, the Planning Board deferred taking any action on the Application and scheduled it to be heard at a later date; and

WHEREAS, the Applicant subsequently revised the Application for approval of a preliminary plan of subdivision of property that would create two lots on three acres of land in the R-200 Zone; and

WHEREAS, following review and analysis of the revised Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to

the Planning Board, dated June 27, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 10, 2014, 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, on July 10, 2014, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor, and Commissioner Anderson absent.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120070480 to create two lots on the Subject Property, subject to the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to two lots for two one family detached dwelling units.
2. The Applicant must comply with the following conditions of approval for the Preliminary Forest Conservation Plan no. 120070480, received by M-NCPPC on June 09, 2014, approved as part of this Preliminary Plan.
  - a. Prior to any land disturbing activities, the Applicant must obtain M-NCPPC approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan.
  - b. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the Final Forest Conservation Plan.
  - c. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan.
  - d. Additional tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
  - e. The record plat must show a Category I Conservation Easement over all areas of forest retention and planting as specified on the approved Preliminary Forest Conservation Plan and reference the Category I Conservation Easement recorded at liber 13178, folio 412.
  - f. The Applicant must install permanent Category I Conservation Easement signage along the perimeter of all Forest Conservation Easements areas as specified on the approved Final Forest Conservation Plan or as determined by the M-NCPPC forest conservation inspector.

---

<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.

- g. Prior to any land disturbing activities, the Applicant must delineate the Category I Conservation Easement area boundary with split rail fencing, or Staff-approved equivalent, across the rear yard of Lot 26 as shown on the Preliminary Plan.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated September 15, 2010 and reconfirmed on June 04, 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 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 Maryland State Highway Administration ("MDSHA") in its letter dated January 18, 2007, 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 MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. 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 October 12, 2010, 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.
7. 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.

8. The record plat must show necessary easements.
9. The Subject Property is within the Northwest High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
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.

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 Application substantially conforms to the recommendations set forth in the Master Plan. The Subject Property is located in the Darnestown Triangle and Vicinity section of the Master Plan area, which allows for limited access to public water service, but does not allow for sewer line extension except for public health reasons. The Master Plan prohibits sewer extensions in the Darnestown Triangle to encourage a variety of lot sizes, dependent on the septic suitability of a given property. This variety of lot sizes serves as a transition from higher density uses to the east of the Darnestown Triangle, which have sewer service, to the lower densities to the west. This Application creates two lots of 47,010 and 83,670 square feet, respectively, which are compatible with the size of adjacent lots, are larger than the R-200 Zone's 20,000 square foot minimum lot size, have access to public water, and can be adequately served by on-site septic systems. As envisioned by the Master Plan, the sizes of the two new lots are in part related to the area required by MCDPS to accommodate the lots' septic tanks, initial septic trenches, and reserve septic trenches.

The Master Plan identifies Darnestown Road as a Major Highway, intended to be two lanes wide with 120 feet of right-of-way. Because the road and right-of-way width already exist, no further dedication is necessary. The Master Plan also

identifies the section of Darnestown Road near the Subject Property as bikeway designation PB-1, which calls for a Class I off-road bike path. The Master Plan describes this off-road bike path as an extension of the existing Darnestown Road bike path located east of the Main Street traffic signal into the Kentlands, located on the opposite side of Darnestown Road as the Subject Property. The Countywide Bikeways Functional Master Plan further designates Darnestown Road as DB-16, dual bikeway, with a mix of on and off road sections.

In its September 15, 2010 letter and its June 4, 2013 supplemental e-mail, MCDOT requested that M-NCPPC and MDSHA coordinate to determine whether Darnestown Road's existing pavement width can accommodate its use as a dual bikeway. MDSHA staff concluded that the existing shoulders on Darnestown Road in the vicinity of the Subject Property are compatible with MDSHA's May 2013 Bicycle Policy and Design Guidelines, and the Planning Board finds, consistent with its Staff's recommendation, that no pavement widening or other improvements are necessary for Darnestown Road to accommodate bicycling.

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

#### Roads and Transportation Facilities

The vehicle and pedestrian access for the subdivision is adequate for the two lots. All Master Planed rights-of-way have been dedicated for both roads that front the Subject Property. The lots do 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. The Property is located in the Rural West Policy area and is exempt from roadway and transportation tests under the TPAR guidelines. The Subject Property has access to existing bicycle facilities located on Darnestown Road. Sidewalk along the Chestnut Oak Drive frontage is shown on the Preliminary Plan; however, in the event MCDOT approves a waiver, no such sidewalk will be required to be shown on the certified Preliminary Plan or constructed.

#### Other Public Facilities and Services

All other public facilities and services are available and will be adequate to serve the Application. Public water is available to serve the two lots. The Subject Property is not planned for public sewer service, and each lot has been approved to provide for on-site septic treatment by the MCDPS Well & Septic Section. Other services including natural gas, electric, and telecommunications are available to the Subject Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the

submitted Fire Access Plans adequately provide fire and emergency access to the lots. Other public facilities and services, including health services, are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Application is located within the Northwest High School Cluster, which does not require any school facility payments.

- 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, which includes a determination that the size, width, shape and orientation are within the character of the defined neighborhood. The Preliminary Plan was also reviewed for compliance with the dimensional requirements for the R-200 Zone as specified in the Zoning Ordinance. The two approved lots meet all the dimensional requirements for area, frontage, and width, and new homes on the lots can meet the R-200 Zone's required setbacks.

- 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. A preliminary forest conservation plan ("PFCP") was submitted for review as part of the Application. The PFCP establishes 0.81 acres of forest clearing and 0.67 acres of forest retention as a result of the proposed dwelling and septic field locations. The PFCP worksheet generates a 0.14 acre planting requirement, which the Applicant must meet on-site. The 0.67 acres of retained forest and 0.14 acres of planted forest will be placed in a Category I Conservation Easement.

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

The MCDPS–Water Resources Section determined that the proposed stormwater management concept for the Subject Property is acceptable, in accordance with its letter dated October 12, 2010. The concept proposes Environmental Site Design technology that meets the current stormwater requirements under Chapter 19 of the County Code.

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 ("Neighborhood").*

Frontage: The approved lots are of the same character as existing lots in the Neighborhood with respect to lot frontage, as the frontage for the new lots fall within the range of existing lots within the Neighborhood. Frontage in the Neighborhood ranges from 25 to 412 feet. The approved lots have frontages of 123 and 306 feet along Chestnut Oak Drive.

Alignment: The approved lots are of the same character as existing lots in the Neighborhood with respect to alignment. The two lots are perpendicular in alignment. The alignments of the other lots in the Neighborhood are a mix of angular, perpendicular and radial.

Size: The sizes of the approved lots are in character with the size of existing lots in the Neighborhood. The sizes of lots in the Neighborhood range between 42,264 square feet and 145,887 square feet. The two approved lots are 47,010 and 83,670 square feet, which fall within the range of existing lot sizes within the Neighborhood.

Shape: The shapes of the approved lots are in character with shapes of the existing lots in the Neighborhood. The two approved lots are an irregular in shape. The existing lots in the Neighborhood are various shapes including irregular pipestems and rectangular.

Width: The approved lots are in character with existing lots in the Neighborhood with respect to width. The range of width at building line in the Neighborhood is between 160 feet and 405 feet. The approved lots have widths at building line of 166 feet and 300 feet, which are within the Neighborhood range.

Area: The approved lots are of the same character as existing lots in the Neighborhood with respect to buildable area. The two lots have buildable areas of 20,306 square feet and 47,585 square feet, which are within the range in the Neighborhood of 15,504 square feet to 102,728 square feet.

Suitability for Residential Use: The Subject Property is zoned residential and the lots are approved for residential use.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

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

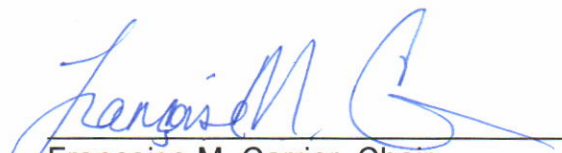
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 14 2014 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley present and voting in favor of the motion, and Commissioner Anderson absent, at its regular meeting held on Thursday, July 24, 2014, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Françoise M. Carrier, Chair  
Montgomery County Planning Board