



JUL 17 2014

MCPB No. 14-48  
Preliminary Plan No. 120070230  
Woodside Park  
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 October 11, 2006, Mary Jane Checchi ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 5 lots and 2 outlots on 1.48 acres of land in the R-60 zone, located 300 feet north of the intersection of Watson Road and Dale Drive ("Subject Property"), in the Silver Spring-Takoma Policy Area, North and West Silver Spring master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070230, Woodside Park ("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 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, 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. 120070230 to create 5 lots and 2 outlots on the Subject Property, including a waiver pursuant to Section 50-38(a)(1) of the Subdivision Regulations, 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) Approval under this Preliminary Plan is limited to 5 lots for 5 one family dwelling units and two outlots.
- 2) 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 permit(s). 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.
- 3) 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 10, 2014, 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 15, 2014, and amended by email on June 6, 2014, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) Prior to issuance of the first building permit, the Applicant must satisfy the Transportation Policy Area Review ("TPAR") test by making a TPAR Mitigation Payment, pursuant to the 2012-2016 Subdivision Staging Policy. The amount of this payment will be equal to 25 percent of the General District Impact Tax. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 6) The Applicant must comply with County Council Resolution No. 17-743 with respect to the abandonment of Edgevale Road.



- 7) The record plat for this subdivision must include the incorporation of the former portion of the Edgevale Road right-of-way into Outlot A and Outlot B.
- 8) The record plat must reflect common ingress/egress and utility easements over the entire width of the abandoned portion of Edgevale Road. The ingress/egress easements must protect perpetual motorized access to 1102 Edgevale Road as well as non-motorized public access over the full extent of the abandoned right-of-way.
- 9) The Subject Property is within the Einstein High School cluster area. The Applicant must make a school facility payment to MCDPS at the high school level at the single-family detached unit rate for four (4) net new units for which a building permit is issued. 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 this Resolution.
- 11) The Applicant must comply with the Tree Save Plan approved by Staff on June 25, 2014. If construction requires any modifications to the approved Tree Save Plan, the Applicant must receive Staff approval of a revised Tree Save Plan prior to issuance of sediment and erosion control permits, and must comply with the revised Tree Save Plan.

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 does not specifically address the Subject Property, but it recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. In the case of the Subject Property, the Master Plan calls for retention of the existing R-60 zoning. The Application complies with the recommendations adopted in the Master Plan as it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The lots will be similar to surrounding

lots with respect to dimensions, orientation, and shape. The subdivision will not alter the existing pattern of development or land use and is in substantial conformance with the Master Plan recommendation to maintain the existing land use.

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

### Roads and Transportation Facilities

The Subject Property is located at 9206 Watson Road approximately 300 feet north of its intersection with Dale Drive. The Subject Property currently has vehicular access to Watson Road from one existing residential driveway. There are no existing sidewalks within the neighborhood and none are proposed on either Watson Road or Greyrock Road as part of this Application. The Subject Property is served by nearby transit routes.

County Council Resolution No. 17-743 abandoned a portion of Edgevale Road along the Subject Property's frontage, subject to the Applicant's grant of ingress/egress and utility easements to the owner of 1102 Edgevale Road and Montgomery County, respectively. Approval of this Application is subject to the Applicant's compliance with the conditions of approval of County Council Resolution No. 17-743.

The Master Plan designates Dale Drive (A-30) an arterial roadway, and it is the nearest master planned roadway to the Subject Property. The Subject Property has direct access to Dale Drive via Watson Road and indirect access to Dale Drive via Greyrock Road, through Harvey Road. Both Watson Road and Greyrock Road are publicly maintained tertiary residential streets with 50 feet of right-of-way, and they are adequate to serve the Subject Property.

Neither the Master Plan nor the 2005 Bikeways Functional Master Plan makes any specific recommendations for either Watson or Greyrock Roads. Due to their low vehicular speed and low traffic volume, both roads are appropriate for bicycle access to the Subject Property. For the same reasons, both roads provide adequate pedestrian access to the Subject Property without sidewalks.

The Subject Property will generate five morning peak-hour and six evening peak-hour vehicular trips. As a result of this limited impact, the Application satisfied the Local Area Transportation Policy Review (LATR) without further analysis. As a subdivision within the Silver Spring – Takoma Park Policy



Area, a transportation impact tax payment, equal to 25% of the general district impact tax, is required to satisfy the Transportation Policy Area Review (TPAR). Upon payment of the TPAR impact fee, the subdivision will satisfy the LATR and TPAR requirements of the APF review and will provide safe, adequate, and efficient site access.

#### Other Public Facilities and Services

The Subject Property will be adequately served by public water and sewer systems. The Montgomery County Fire and Rescue Service reviewed the Application and determined that the Subject Property has appropriate access for fire and rescue vehicles. The Subject Property is located in the Einstein High School Cluster, and a school facility payment is required for the four net new residential units approved as part of the Application. Other public facilities and services, such as police stations, firehouses and health services are available to serve the Subject Property. Electrical, gas, and telecommunications 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.*

The Application meets all applicable sections of the Montgomery County Code, Chapter 50, Subdivision Regulations, including the requirements for resubdivision as discussed below. The approved lots will also meet all the dimensional requirements for area, width, frontage and setbacks of the R-60 zone as specified in the Zoning Ordinance. The lots' frontage, size, shape, orientation, alignment, width and area are appropriate for the location of the subdivision given the recommendations of the Master Plan for retention of the existing R-60 zoning and one-family residential development consistent with surrounding development patterns.

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

A Simplified Natural Resource Inventory/Forest Stand Delineation and a Forest Conservation Exemption request (42007039E) were approved for the Subject Property on October 10, 2006. The Subject Property received an exemption from the requirements of submitting a Forest Conservation Plan under Chapter 22A-5(s)(1) of the Montgomery County Forest Conservation Law. This exemption applies to an activity on a tract of land less than 1.5 acres with no existing forest that will not result in the clearing of any existing



specimen or champion tree, and where reforestation requirements would not exceed 10,000 square feet. The Application meets the exemption requirements, except that it will require the removal of specimen trees. Under Chapter 22A-6(b), an activity or development that would be exempt under Section 22A-5, except that it involves clearing of a specimen or champion tree, requires a Tree Save Plan that may require tree preservation or mitigation for loss of individual trees.

The Application will result in the removal of seven (7) onsite specimen trees and impacts to the critical root zones of three (3) offsite specimen trees

Staff approved a Tree Save Plan for the Application on June 25, 2014. As mitigation for the loss of the size and character of the on-site specimen trees that will be removed, the Applicant's approved Tree Save Plan shows two (2) native 3" caliper hardwood canopy trees and two (2) native understory trees on each approved lot and one (1) additional native 3" caliper hardwood canopy tree within the subdivision. Pursuant to the Tree Save Plan, the Applicant will implement tree protection measures such as tree protection fencing and root pruning to the critical root zones of trees 23, 34, 35, 42, 43, 44 and 48. If construction requires any amendments to the approved Tree Save Plan, the Applicant must receive Staff approval of a revised Tree Save Plan prior to issuance of sediment and control permits.

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

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 Stormwater Management Section has reviewed a stormwater management concept plan (#228763) and determined by letter dated April 10, 2014, that the Application meet the stormwater management requirements contained in Chapter 19 of the Montgomery 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).*

**Frontage:** The delineated neighborhood contains 68 lots, with lot frontages ranging from 50 feet to 207 feet. Frontage for thirty-two lots ranges from 50 feet to 75 feet; twenty lots have frontage between 75 feet and 100 feet; two lots have frontage between 100 and 125 feet; while six lots have frontage



between 125 and 150 feet. The remaining eight lots have frontage in excess of 150 feet. Lot 5 will have frontage of 101 feet, Lot 3 will have frontage of 123 feet while frontage for Lot 4 will be 146 feet. These three lots will be of the same character as other lots in the neighborhood with respect to lot frontage. Lots 1 and 2 will have frontage on Greyrock Road of 43 feet and 33 feet, respectively, which are both smaller than the smallest existing frontage in the neighborhood. The smaller frontage for both lots is the result of their location on Greyrock Road, an existing cul-de-sac, and the Board waives the frontage compatibility criterion for Lots 1 and 2 pursuant to Section 50-38(a)(1) of the Subdivision Regulations, as described below.

**Alignment:** Of the 68 lots in the neighborhood, fifty-two lots are perpendicular and sixteen are corner lots. Lots 3, 4, and 5 will be perpendicular while Lots 1 and 2 will be radial. Lots 1 and 2 will be located on an existing cul-de-sac which necessitates this radial alignment. A radial alignment is commonly associated with lots that will front on cul-de-sac and does not create a unique or unusual situation in the delineated neighborhood. The lots are of the same character as existing lots with respect to the alignment criteria

**Size:** Lot sizes in the delineated neighborhood range from 6,365 square feet to 12,466 square feet. Thirty-four lots fall within the 6,000 square feet to 10,000 square feet range. Twenty-six lots are between 10,000 and 14,000 square feet. Six lots fall within the range of 14,000 to 18,000 square feet with the remaining two lots range between 18,000 and 19,417 square feet. All five of the approved lots under this Preliminary Plan lots will fall within the 10,000 to 14,000 square foot range. The approved lot sizes are in character with the size of existing lots in the neighborhood.

**Shape:** The 68 lots in the neighborhood consist of the following shapes: fifty-five lots are rectangular and thirteen lots are irregular. Lots, 3, 4, and 5 will be rectangular while Lots 1 and 2 will be irregularly shaped, which is not uncommon for lots fronting on a cul-de-sac. The shapes of the approved lots will be in character with shapes of the existing lots in the neighborhood.

**Width:** Lots in the neighborhood range from approximately 55 feet to 144 feet in width at the building line. Twenty four lots are between 55 to 75 feet in width, thirty three lots range from 75 feet to 100 feet in width, seven lots fall within 100 feet to 125 feet in width and the remaining four lots are in excess of 125 feet in width. Lots 1 and 2 will be 68 feet and 61 feet in width, respectively. Lot 5 will be 100 feet in width; Lot 3 will be 123 feet in width; while Lot 4 will be 131 feet in width. The lots will be in character with existing lots in the neighborhood with respect to width.



**Area:** The buildable area for lots in the delineated neighborhood range from 1,911 square feet to 14,466 square feet. Twenty three lots have buildable areas of between 1,000 and 4,000 square feet. Thirty-eight lots have buildable areas between 4,000 square feet and 8,000 square feet. Six lots will fall between 8,000 and 12,000 square feet. The remaining one lot has a buildable area in excess of 12,466 square feet. Buildable areas for all five lots range between 5,665 square feet and 7,249 square feet. The lots will fall within the 4,000 to 8,000 square foot range for buildable area, which contains the largest number of existing lots in the neighborhood. The approved lots will be of the same character as other lots in the neighborhood with respect to buildable area

**Suitability for Residential Use:** The existing and the approved lots are zoned residential. Currently, a one family detached house is contained on the Subject Property, and the land is suitable for the approved single-family residential use. The approved lots will be in character with the existing lots in the neighborhood with respect to suitability for residential uses.

7. *The Application meets the requirements for a waiver of the Section 50-29(b)(2) street frontage compatibility criterion pursuant to Section 50-38(a)(1) of the Subdivision Regulations.*

While Lots 1 and 2 meet the minimum standard of 25 feet for street frontage as specified in the R-60 Zone, both lots will have the smallest lot frontages within the delineated neighborhood and therefore require a waiver from the frontage criterion of Section 50-29(b)(2) of the Subdivision Regulations. Under Section 50-38(a)(1) of the Subdivision Regulations, the Board may grant such a waiver upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.

A waiver of the frontage compatibility criterion is justified for Lots 1 and 2 due to the fact that the lots will front on an existing 70-foot diameter cul-de-sac, which is smaller than contemporary cul-de-sacs typically built with 90-foot diameters. Lots, such as Lots 1 and 2, that are located on cul-de-sacs are often smaller at the front but fan out to wedge or irregular shapes that encompass areas similar to those of neighboring lots. In this case, Lot 1 will be 11,294 square feet and Lot 2 will be 13,194 square feet, which are both comfortably within the neighborhood range. Given the practical difficulty of the Subject Property's location on a 70-foot cul-de-sac, this waiver is justified



in order to create lots that are otherwise consistent with the characteristics of the delineated neighborhood.

The waiver is the minimum needed to permit development of Lots 1 and 2 and is not inconsistent with the purposes and objectives of the General Plan. The Preliminary Plan substantially conforms to the Master Plan, which recommends retention of the R-60 Zoning and its one family residential development patterns. The waiver is not adverse to the public interest, because the development of two lots is more in keeping with the existing patterns of development in the neighborhood.

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

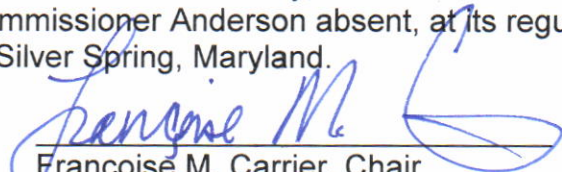
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 17 2014 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor, and Commissioner Anderson absent, at its regular meeting held on Thursday, July 10, 2014, in Silver Spring, Maryland.

  
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Françoise M. Carrier, Chair  
Montgomery County Planning Board