



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

MCPB No. 18-087
Preliminary Plan No. 120180160
Chevy Chase View
Date of Hearing: September 6, 2018

SEP 18 2018

RESOLUTION

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

WHEREAS, on March 27, 2018, PHH Loring, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create three lots and one outlot on 1.16 acres of land in the R-90 Zone, located in the northwest quadrant of the intersection of Saul Road and Gartrell Place in Kensington (“Subject Property”), in the 1989 *Master Plan of the Communities of Kensington-Wheaton* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120180160, Chevy Chase View (“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 August 24, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 6, 2018, 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, on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chairman Anderson, Commissioners Fani-González, Cichy and Patterson voting in favor, with Vice-Chair Dreyfuss being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120180160 to create three lots and one outlot on the Subject

Approved as to
Legal Sufficiency:

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Property, subject to the following conditions:¹

1. This Preliminary Plan is limited to three lots for three detached, single-unit living dwellings and one outlet.
2. Include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated July 20, 2018, 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 no 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 accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated July 2, 2018, 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.
6. 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 July 2, 2018, 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 approval.
7. The Applicant must dedicate and show on the record plat(s) approximately 418 square feet of right-of-way along the Subject Property frontage for Saul Road at the southwest corner of proposed Lot 101 as shown on the Preliminary Plan.
8. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a five-foot wide sidewalk along the

¹ 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.

property frontage on Saul Road, or equivalent length near the intersection of Summit Avenue and Saul Road, if approved by MCDPS and the Town of Chevy Chase View.

9. The record plat must show all necessary easements.
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.”

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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The proposed lots were reviewed for compliance with the dimensional requirements for the R-90 Zone as specified in and pursuant to Section 59.4.4.8 of the current Zoning Ordinance. The proposed lot dimensions, size, width, shape and orientation are appropriate for the location of the subdivision and this type of development and will meet all dimensional requirements for area, frontage, width, and setbacks in the zone. The application represents infill development in a well-established, low-to-medium density, residential neighborhood. The proposal is consistent with the intent of Section 4.4.8 Residential – 90 Zone and its applicable development standards. Table 1 demonstrates how these standards are met in a Standard Method of Development:

Table 1: R-90 Zone, Standard Method Development Standards

PLAN DATA	Required/Permitted	Approved Lot 101	Approved Lot 102	Approved Lot 103
1. Lot and Density (59.4.4.8.B.1.)				
Lot (min)	9,000 SF	22,085 SF	12,659 SF	12,702 SF

PLAN DATA	Required/Permitted	Approved Lot 101	Approved Lot 102	Approved Lot 103
Density (max) Density (units/acre)	4.84	3.0		
Coverage (max) Lot	30%	≤ 30%	≤ 30%	≤ 30%
Specification for Lot & Density				
2. Placement (59.4.4.8.B.2.)				
Principal Building Setbacks (min)				
Front setback	30 ft.	≥ 30 ft.	≥ 30 ft.	≥ 30 ft.
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	30 ft.	≥ 30 ft.	≥ 30 ft.	≥ 30 ft.
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	15 ft.	≥ 15 ft.	≥ 15 ft.	≥ 15 ft.
Side setback	8 ft.	≥ 8 ft.	≥ 8 ft.	≥ 8 ft.
Sum of side setbacks	25 ft.	≥ 25 ft.	≥ 25 ft.	≥ 25 ft.
Rear setback	25 ft.	≥ 25 ft.	≥ 25 ft.	≥ 25 ft.
Height (max) (59.4.4.8.B.3.)	35 ² ft., & 30 ³ ft.	≤ 35 ft.	≤ 35 ft.	≤ 35 ft.

2. The Preliminary Plan substantially conforms to the Master Plan.

The Property is located in the 1989 *Master Plan of the Communities of Kensington-Wheaton* area. While the Master Plan does not specifically identify the Property as one of its “critical parcels,” the land use and zoning goals of the plan seek to:

- Protect and stabilize the extent, location, and character of existing residential and commercial land uses; and
- Maintain the well-established low-to-medium-density residential character which prevails over most of the planning area.

² Maximum height to the high point.

³ The maximum mean high point.

The Master Plan emphasizes the protection of the existing residential character. A land use and zoning policy of the Master Plan states that “all infill residential development be similar in character and compatible in density with the immediate neighborhood within which it is contained.”

The application proposes lots which are generally consistent in size, width, shape, orientation and density with the surrounding neighborhood and maintains the established low-to-medium density character of the planning area.

The Master Plan also identifies Saul Road as Primary Residential Street “P-3” and recommends a minimum right-of-way width of 70 feet and proposes a pavement width of 36 feet. The Planning Board finds the Preliminary Plan is in substantial conformance with the land use and zoning goals of the 1989 *Master Plan of the Communities of Kensington-Wheaton* and that it will maintain the well-established low-to-medium residential character envisioned in the original Chevy Chase View subdivision.

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

Schools

With a net of two new dwelling units, the project falls within the de minimis (three units or less) exemption. Therefore, the project is exempt from any applicable residential moratoria and it is unnecessary to test the project’s estimated impact on school enrollment. Additional information about schools and the school cluster that serves the application property is in the record and is summarized herein. The project is in the Bethesda-Chevy Chase (B-CC) High School Cluster. Based on the FY19 Annual School Test results current projections for the cluster fall well within the threshold at each level, therefore the cluster service area remains open to new residential development. The applicable elementary schools for this project are Rosemary Hills ES (K-2) and North Chevy Chase ES (3-5). Silver Creek MS is the applicable middle school. Individual school information based on the FY19 Annual School Tests results shows current projections from both Rosemary Hills ES/Chevy Chase ES/North Chevy Chase ES and Silver Creek MS fall well within the thresholds, therefore both service areas remain open to new residential development.

Transportation

The proposed three single-unit detached living dwellings (minus credit for the existing unit) will generate much fewer than 50 new person trips during the weekday morning and the evening peak periods. Therefore, a traffic study is not required to satisfy the Local Area Transportation Review test. The Applicant is dedicating up to 11 feet of additional right-of-way (ROW) along Saul Road for a

total of 70 feet from the opposite ROW line and this is consistent with the 1989 *Master Plan of the Communities of Kensington-Wheaton*. Gartrell Place is not listed in the Master Plan and is Town-maintained; however, it is designated as a Tertiary Residential Street with a 50-foot ROW.

The Applicant conducted vehicle sight-distance analyses for both Saul Road and Gartrell Place for all three proposed vehicular access points. Because Saul Road is County-maintained, the Applicant must comply with Montgomery County Department of Transportation's requirements as conditioned, namely that the vehicular access for Lots 101 and 103 and the existing sight-distance meets the 85th percentile speed along Saul Road. The Town of Chevy Chase View will determine the sight-distance requirements on Gartrell Place for the driveway on Lot 102.

Currently, the Property has bicycle, pedestrian and vehicular access at the existing driveway on Saul Road and no sidewalks along either Saul Road or Gartrell Place frontages. There is an existing (substandard) four-foot wide sidewalk on the opposite side of Saul Road that provides access to Holy Redeemer Catholic School and its main driveway located approximately 300 feet west of the Property. The Applicant is required to install a five-foot wide, ADA-compliant sidewalk along the Property's Saul Road frontage with a green panel. The Town of Chevy Chase View does not require a sidewalk along the Property's frontage of Gartrell Place and the Planning Board agrees that there is adequate area on the road for bicyclists and pedestrians given the relatively low traffic volume. The Property is located within a quarter-mile from Metrobus and Ride On service, including Metrobus L8 on Connecticut Avenue and Ride On 34 on Cedar Lane.

Other Public Facilities

The Property will be served by public water and sewer services. The Montgomery County Department of Permitting Services (MCDPS) – Fire Department Access and Water Supply Section has reviewed the application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following construction of the project. Electric, gas and telecommunications services are available and adequate.

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 Applicant has submitted a Final Forest Conservation Plan, in conjunction with the Preliminary Plan. Although there is no forest on-site, there is an 0.18-acre afforestation requirement. The Applicant will meet the requirement with a fee-in-lieu payment.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal of seven trees and CRZ impact to five Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is a result of the need to demolish the existing dwelling and detached garage structures to build infill housing at the density of the surrounding neighborhood. Disturbance has been minimized to reduce impact on surrounding dwelling units. The size and configuration of the Property precludes alternative site designs that would allow the variance trees to remain undisturbed.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The variance is necessary due to the constraints of size, the requirements to demolish

two existing structures, and the location of the existing trees on and around the Property.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the location of trees and the proposed development and not a result of land or building use on a neighboring property. The impact to the trees is the minimum disturbance necessary to demolish the two existing structures and to build three new single-unit, detached dwellings with associated infrastructure.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Protected Trees requested for removal are not located in an environmental buffer or special protection area. The Applicant will plant 21 three-inch caliper native shade trees to replace the form and function of the seven variance trees to be removed. In addition, the Property will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management, including the provision of Environmental Site Design (ESD) to protect natural resources to the maximum extent practicable. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The five Protected Trees being impacted will remain to provide the same level of water quality protection as these currently provide. Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 3:1. No mitigation is required for Protected Trees impacted but retained.

- 5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Applicant received approval of its stormwater management concept from the Montgomery County Department of Permitting Services, Water Resources Section on July 2, 2018. The concept proposes to meet required stormwater management goals using a combination of ESD approaches including dry wells and micro-infiltration trenches. The Property is not subject to a water quality plan and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

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 50.4.2.G, 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 SEP 18 2018 (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 Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Dreyfuss and Commissioner Patterson absent at its regular meeting held on Thursday, September 13, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board