



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

MCPB No. 18-128
Preliminary Plan No. 120180150
The Crescent at Chevy Chase
Date of Hearing: November 29, 2018

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RESOLUTION

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

WHEREAS, on March 2, 2018, Newdale Mews, LLC, ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.98 acres of land in the CRT 1.5, C 0.25, R 1.5, H 50 zone, located on the north side of Newdale Road 200 feet west of Connecticut Avenue ("Subject Property"), in the Bethesda-Chevy Chase Policy Area and the Chevy Chase Lake Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120180150, The Crescent at Chevy Chase ("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 November 16, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 29, 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, on November 29, 2018, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Patterson, with a vote of 5-0; Commissioners Anderson, Cichy, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120180150 to create one lot on the Subject Property, subject to

Approved as to
Legal Sufficiency:

the following conditions:¹

1. This Preliminary Plan is limited to 1 lot for up to 111 multi-family dwelling units with 12.5% MPDUs.
2. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letters dated October 5, 2018, and November 13, 2018, 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 MCDOT if the amendment does not conflict with other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
5. Prior to the first above-grade building permit for the Subject Site the Applicant must pay to MCDOT \$29,968 towards implementation of the Newdale Road Bicycle side path. In coordination with Purple Line Transit Partners, prior to payment MCDOT may approve a lesser payment amount that reflects cost savings associated with coordinated implementation.
6. The Planning Board accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated October 22, 2018 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 MDSHA if the amendment does not conflict with other conditions of the Preliminary Plan approval.
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 October 12, 2018 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 if the amendment does not conflict with other conditions of the Preliminary Plan approval.

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.

8. 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 October 23, 2018 and 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 amendment does not conflict with other conditions of Preliminary Plan approval.
9. The record plat must show necessary easements.
10. In lieu of right-of-way dedication, along the Newdale Road property frontage, the Applicant must provide and show on the record plat a 5’ public improvement easement (PIE).
11. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, “To Be Constructed By _____” are excluded from this condition.
12. Before submitting a record plat application or clearing or grading the Subject Property, the Applicant must receive Staff certification of Site Plan No. 820180130.
13. If a future site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.
14. No clearing or grading of the site prior to recordation of plat.
15. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
16. 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 site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

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 lot size, width, shape and orientation are appropriate for the location of the subdivision considering the recommendations in the 2013 *Chevy Chase Lake Sector Plan* and the type of development and use contemplated. The lot was reviewed under Chapter 59 and found to be in compliance with the dimensional requirements for the CR zone as specified in the Zoning Ordinance.

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

As conditioned, the application substantially conforms to the recommendations for the Subject Property included in the 2013 *Chevy Chase Lake Sector Plan* and the approved Design Guidelines and has been designed to respond to and incorporate the specific recommendations for the Subject Property and the area described as the Town Center. The Application responds to the three main planning theses in the Sector Plan (page 19):

- *Preserve the well-established community character of Chevy Chase by protecting existing residential areas, and focusing on new development and redevelopment in the Center and by defining a standard for compatibility;*

The application proposes redevelopment of the Subject Property, which is located in the Town Center. The Sector Plan included specific recommendations for the redevelopment of the Subject Property to ensure neighborhood compatibility, which have been incorporated into the design of the site and building and is described in detail below.

- *Enhance quality of life and connectivity within and to the Chevy Chase Lake community by promoting pedestrian-oriented mixed-use development within the Center, improving access to different modes of transportation throughout the community;*

The residential development has been designed to improve Newdale Road into a pedestrian friendly street with the enhancement of the streetscape on

both sides of the road. The application proposes the street be lined with trees at thirty feet on center, and when mature, will provide sufficient canopy to screen the retaining wall for the Purple Line. On the south side of Newdale, the Applicant has incorporated the design of a 10-foot shared use path as recommended by the *Chevy Chase Lake Sector Plan*, and the project has been conditioned to contribute financially to the construction of the path which will ultimately be constructed by MCDOT in coordination with the Purple Line Transit Partners (PLTP). Lastly, the Project includes an access point to the Capital Crescent Trail at the southern point of the Site along Newdale, as recommended by the *Chevy Chase Lake Sector Plan*.

- *Create new choices in the Chevy Chase Lake Center with new opportunities for local shopping, housing, public spaces, and transit.*

As recommended in the Sector Plan, the Project provides new housing opportunities in an area that is appropriate for higher density residential due to being within the Town Center and proximity to transit, local shopping along Connecticut, and public spaces such as the Capital Crescent Trail.

The Sector Plan provided specific recommendations for the development of the Subject Property, which the application addresses:

Newdale Mews (CRT 1.5, C 0.25, R 1.5, H 50): The Sector Plan rezoned this site from R-30, used for Garden Apartments, to CRT to prioritize additional housing choices in the Town Center, while maintaining compatibility with the adjacent single-family homes. While the zoning allows a small portion of commercial, the Sector Plan discourages commercial uses unless they can be compatible with the adjacent residential. To ensure compatibility with the adjacent residential, the Sector Plan recommended any proposal address the following:

- Solar access and shading;
- Maintaining and extending building setbacks from the existing single family residential: new development should be set back between 35 and 50 feet of the rear property line;
- Vegetative screening, including maintaining existing viable trees and increasing landscaping to create an attractive buffer between exiting homes and new development; and
- View corridors between the new buildings

The Project proposes an entirely residential multifamily building to ensure compatibility of use and has addressed many of the concerns listed above through building and site design. The building will be setback 37.5 feet from the rear property line, which is within the prescribed range. Through landscaping, the vegetative buffer proposed at the rear will screen the views from the single-

family dwellings and has particularly landscaped views from the corridors between the two buildings. The buffer has been designed to preserve existing healthy, non-invasive trees, and will be enhanced by additional plantings of shrubs, ornamental trees, and canopy trees suited to local site conditions.

Environmental Recommendations

The Sector Plan also focuses heavily on minimizing the environmental impacts of development on the Coquelin Run watershed, and the community as a whole. To minimize impacts on the watershed, the Applicant has maximized on-site management of Stormwater to the greatest extent practicable via biofilters integrated into the front walks of the street-level units and has committed to enhance off-site clearing areas destroyed by non-native invasive plants by eradicating the vines and replacing them with native trees and shrubs.

To meet the Sector Plan goals for retaining the relatively high levels of tree canopy coverage – 25-30% for the core area – the Applicant has committed to over 20% onsite, increasing to over 30% with street tree plantings on both sides of Newdale Road.

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

Based on the traffic analysis provided in accordance with the *2016-2020 Subdivision Staging Policy*, sufficient capacity exists to serve proposed development on the Site. Further, Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to 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 schools, electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the 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. For Forest Conservation purposes the project has a 2.03-acre net tract area

which includes the property area of 1.45 acres, plus the offsite LOD which measures 0.58 acres. There is no forest onsite or immediately adjacent to the property, however there is an afforestation requirement of 0.30 acres. The Applicant will meet all of the forest conservation requirements offsite and Staff is recommending a related condition of approval for the use of a certificate of compliance for an offsite bank.

The Forest Conservation plans include a tree save component which mainly addresses construction impacts to the existing trees at the rear of the site. The same trees are tied to a Sector Plan recommendation of vegetated screening for the adjacent residential lots which includes maintaining existing viable trees (and increasing landscaping) to create an attractive buffer (page 30).

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 or CRZ impact to one Protected Tree 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.*

The site is located near a planned mass transit station where increased density is highly recommended. Furthermore, the Sector Plan specifically recommends the redevelopment of the site. Although the sector plans also recommends tree preservation, the particular tree subject to the variance has decay and other structural defects and should not be retained especially since its CRZ extends into the center of the buildable area. Therefore, the variance request would be granted to any applicant in a similar situation.

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 based on proposed development allowed under the existing zoning and Sector Plan along with the need to avoid a potentially hazardous condition.

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 current application on the subject property and is not related to land or building use on a neighboring property.

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

The Department of Permitting Services (DPS) Staff approved the storm water management (SWM) concept for the project on October 12, 2018. The SWM concept proposes to meet required storm water management goals using micro-bioretenion and a waiver of stormwater management water quantity and partial water quality. However, as conditioned the project will reduce direct stormwater discharge into Coquilin Run and increase the effectiveness of the rear buffer and associated site canopy. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

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 1" caliper for every 4" DBH of removal. 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.*

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

Montgomery County Department of Permitting Services (MCDPS) approved a Stormwater Concept Plan on October 12, 2018. The Preliminary Plan will meet stormwater management requirements through the use of microbioretenion and

a waiver of quantity and quality control for remaining requirements based on site limitations.

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 JAN 22 2019 (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, January 17, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board