

Area 1 Division  
 Montgomery County Planning Department  
 M-NCPPC  
 2425 Reddie Dr 14th Floor  
 Wheaton, MD 20902

RE: Chevy Chase Lake Block A, F20230410  
 Variance Request for Specimen Tree Removal/Impact  
 Revised October 11, 2023

Dear Planning Team:

Introduction

The project associated with this variance request is Applicant’s redevelopment of the property located to the west of Connecticut Avenue, the east of Loughborough Place, the south of Manor Road, and the north of Laird Place in Silver Spring, MD (the “Property”), which consists of approximately 1.71 acres of currently multiple buildings of various businesses including retail stores, a bank, and a gas station. The project proposes redevelopment of the Property to include 19,000 square feet of retail stores, a 220 dwelling unit residential building, recreation areas, and outdoor space.

As part of the proposed Project, Applicant seeks a variance for impacts to the Critical Root Zone (“CRZ”) or removal of seven (7) specimen trees on the Property. This variance request complies with M-NCPPC and Maryland state law, which require Applicant to file for a variance from these laws to remove or impact any specimen tree (tree 30” or greater in Diameter at Breast Height [DBH] or tree with a DBH equal to or greater than 75% of the current State Champion of its species as designated by MDNR); trees that are part of an historic site or associated with an historic structure; any tree designated by the State or County as a national, State, or County champion tree; or any tree, shrub or plant identified on the Rare, Threatened, or Endangered (RTE) species list provided by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

The following table lists the five specimen trees for which Applicant seeks a variance to remove or impact the CRZs:

TREE NO.	BOTANICAL NAME	COMMON NAME	D.B.H. (in.)	CONDITION	RECOMMENDATION
28	<i>Quercus palustris</i>	Pin Oak	31	Fair	REMOVE: 100% CRZ IMPACT
29	<i>Liquidambar styraciflua</i>	Sweet Gum	34	Good-Fair	REMOVE: 100% CRZ IMPACT
31	<i>Liquidambar styraciflua</i>	Sweet Gum	31	Fair	SAVE: 2.66% CRZ IMPACT
34	<i>Acer rubrum</i>	Red Maple	38	Good	SAVE: 5.55% CRZ IMPACT
37	<i>Acer rubrum</i>	Red Maple	36	Good	SAVE: 0.05% IMPACT
2111	<i>Quercus palustris</i>	Pin Oak	31	Good	SAVE: 22.77% CRZ IMPACT
2136	<i>Quercus palustris</i>	Pin Oak	45	Good	SAVE: 2.77% CRZ IMPACT



### Justification of Variance

Section 22A-21 of the County Ordinance authorizes the County to approve variances to the Forest Conservation Law allowing disturbances to certain trees, including specimen trees. An applicant seeking a variance must present a request in writing and the applicable approving authority must make certain findings and descriptions prior to approval. Applicant's variance request satisfies the required findings as follows:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The proposed construction is for the purpose of redeveloping currently developed property and improving its condition. The specimen trees (2 trees) proposed for removal are located along the location of the new curb and gutter, sidewalk, and building and within landscaped areas of the Property. The remaining nine specimen trees, two trees with proposed CRZ impacts, are recommended to be saved.

The specimen trees (2 trees) proposed for removal are located between the existing sidewalk and curb without enough room for growth without damaging the existing sidewalk and curb and the close curb location is affecting the health of the trees. The same condition holds true for any proposed sidewalk or curb and gutter.

Specimen tree #29 is located at the corner of Laird Place and Loughborough Place and has been struck several times by vehicles causing trunk damage and scarring.

The CRZ and health of the trees would be adversely impacted by the installation of the proposed building. Design considerations impacting the trees were considered to the extent practicable, but it is not possible to construct the building without affecting less than 50% of the CRZ.

The Project will require removal of two (2) specimen trees located within the LOD on the subject property. The five (5) trees with minimal to moderate impacts from construction activities are proposed to be saved; four are located off-site to the west of the property on the other side of Loughborough Place and one is located off-site at the northwest corner of Connecticut Avenue and Manor Road.

The requested tree variance is necessary for implementation of this mixed-use redevelopment project and is proceeding through the development approval process with the submission of the Preliminary Plan. The proposed development also was subject to Sketch Plan review for which it received Planning Board approval for substantially similar layout, densities, and uses on the subject property.

This development directly addresses the recommendations of the Chevy Chase Lake Sector Plan for infill, transit-oriented, mixed-use reuse of older single-use commercial strip centers. More globally, it also provides necessary housing to meet County demographic projections and eases the pressure to develop our open spaces, greenfields, and agricultural lands.



Not granting the requested variance is an unwarranted hardship because of the particular layout necessary to implement the Council-approved density under the Sector Plan's zoning and transit-oriented infill at a Purple Line station directly adjacent to the subject property. This redevelopment density was recommended in the Sector Plan because it is synergistic with new transit and the need to retain retail and services in this important town center. It was also understood that redevelopment would result in improved stormwater management and new tree plantings to mitigate for impacts.

Impacts minimization and avoidance to the specimen trees are described as follows:

Trees 28 and 29

Proposed CRZ Impact: Severe at 100%

Tree Conditions: Varies from Good-Fair to Fair

Waiver Request: Approve for removal

These trees are proposed for removal due to their locations inside the proposed Limits of Disturbance (L.O.D.). An effort to save these trees would require a significant reduction in usable building space to clear the CRZs and would not be reasonably feasible within the scope of Project's design.

Trees 31 and 34

Proposed CRZ Impact: Minimal at 2.66 and 5.55%

Tree Conditions: Fair and Good

Waiver request: Approve for CRZ impacts

These trees are located outside of the subject property with minimal impacts due to the reconstruction of the curb and streetscape along the subject property. These impacts are required to conform to regulations and guidelines for complete streets and ADA improvements. Given the fact that the impacts are on the opposite side of a paved street, potential harm to the root structure is minimal.

Trees 37, 2111, and 2136

Proposed CRZ Impact: Minimal to Moderate at 0.05%, 22.77%, & 2.77%, respectively

Tree Conditions: Good

Waiver request: Approve for CRZ impacts

These trees are located outside of the subject property with minimal to moderate impacts necessary for undergrounding "dry" utilities from a pole along Connecticut Avenue and installation of a storm drain in Manor Road and to underground "dry" utilities along Manor Road. These impacts are necessary to comply with utility infrastructure requirements.

- (2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;

Denial of the variance would also deprive Applicant of rights commonly enjoyed by others in similar areas. The Project minimizes development impact by providing a single complex. The Property use is consistent with the existing character of the surrounding neighborhood, with a compatible use.

Development was focused on the areas of the property currently improved, which



contain the trees subject to the variance.

Approval of the variance will allow Applicant to create a development that is consistent with the existing land uses in the area. Approval will also allow for the creation of new and wider sidewalks/pathways connecting the project to the adjacent communities for community enjoyment of proposed recreation and outdoor spaces. All of these goals are consistent with the rights enjoyed by nearby property owners.

- (3) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of the granting of the variance;

The granting of Applicant's variance request will not result in a violation of State water quality standards, nor will a measurable degradation in water quality occur as a result. On the contrary, the Project will implement measures to improve water quality. The Project also integrates current state-of-the-art stormwater management practices, which will improve upon the Property's previous stormwater management system and enhance water quality.

- (4) Provide any other information appropriate to support the request.

In addition to the summary below, please see the Statement of Justification. It is envisioned that additional plantings will occur throughout the property, including shade trees, evergreen trees, ornamental trees, and planting beds, all of which will serve to improve ecological quality. Focusing redevelopment on existing developed land, increasing Forest Conservation, landscape plantings, and greatly improved stormwater management design all combine to significantly improve water quality protection, wildlife value, carbon sequestration, and reduction in urban heat island effects.

Further, this project will provide environmental benefits under the Sector Plan guidance and the Applicant is currently examining several potential options to be finalized with the Final Forest Conservation Plan. Within the Sector Plan area, property owned by Chevy Chase Land Company has already been placed under a management or restoration plan through previous approvals. To address the recommendations, however, first, the project may continue and augment the non-native invasive species plan implemented with Site Plan 820160190 for Block B. Second, the project may consider implementing a portion of the Tranquility Trail, although this non-standard right-of-way improvement will need to be coordinated with County agencies.

The proposed site layout reflects a contemporary configuration of retail and restaurant space on the ground floor with residential living above utilizing compact, infill development. The centralized plaza area provides potential to activate the space on a pedestrian level and encourages events, shows, concerts, etc. The addition of the Purple Line rail stop will allow people to travel and commute to the Metro Area easier and reduce the amount of vehicular traffic, while still maintaining the Capital Crescent Trail use for recreation

Furthermore, the variance does not arise from a condition related to land or building use, either permitted or nonconforming, on a neighboring property.

Thank you for your consideration of Applicant's tree variance request. The supporting information provided in this letter establishes that denial of the variance would result in unnecessary hardship or practical difficulty, as



well as demonstrating Applicant's extensive efforts to minimize impacts. Please contact me with any questions, or if you require additional information.

Sincerely,

VIKA Maryland, LLC

*Joshua C. Sloan*

Joshua Sloan, RLA, ASLA, AICP  
Director of Planning and Landscape Architecture / Vice President

