

03.3.22

M-NCPPC
Tsaiquan Gatling
Planner II, Down County Planning
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Preston Place and Lake Apartments, 120220130
Variance Request for Specimen Tree Removal/Impact

Dear Mr. Gatling:

Introduction

The project associated with this variance request is Applicant's redevelopment of Preston Place and Lake Apartments located at 3728, 3722, 3712, 3710, and 3700 Manor Road in Chevy Chase (the "Property"), which consists of approximately 12.61 acres of currently improved 67 townhome and 66 garden apartment residential rental properties. The site is located along the southern side of Manor Road, southwest of the intersection with Jones Bridge Road. The project proposes redevelopment of the Property with 147 transit-oriented townhomes to include recreation areas, outdoor space, and improved stormwater management. The stream valley buffer on the east of the site will include a Forest Conservation area with an ADA-compliant walking trail that will connect existing community sidewalks and paths to the nearby Capital Crescent Trail, proposed Purple Line Station, local restaurants and shops, and other amenities.

As part of the proposed Project, Applicant seeks a variance for impacts to the Critical Root Zone ("CRZ") or removal of 43 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 43 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
2	<i>Acer rubrum</i>	Red maple	34	Fair	REMOVE: 100% CRZ IMPACT
4	<i>Liquidambar styraciflua</i>	Sweetgum	32	Good	REMOVE: 100% CRZ IMPACT
7	<i>Liriodendron tulipifera</i>	Tuliptree	44	Good	REMOVE: 100% CRZ IMPACT
8	<i>Acer rubrum</i>	Red maple	30	Good	REMOVE: 100% CRZ IMPACT
9	<i>Acer rubrum</i>	Red maple	34	Good	REMOVE: 100% CRZ IMPACT
13	<i>Acer rubrum</i>	Red maple	33	Fair	REMOVE: 100% CRZ IMPACT
18	<i>Quercus rubra</i>	Northern red oak	43	Good	REMOVE: 100% CRZ IMPACT
19	<i>Liquidambar styraciflua</i>	Sweetgum	31	Good	REMOVE: 100% CRZ IMPACT
20	<i>Quercus palustris</i>	Pin oak	32	Fair	REMOVE: 100% CRZ IMPACT
21	<i>Quercus palustris</i>	Pin oak	36	Fair/Poor	REMOVE: 100% CRZ IMPACT
22	<i>Quercus palustris</i>	Pin oak	35	Fair	REMOVE: 100% CRZ IMPACT
23	<i>Quercus rubra</i>	Northern red oak	30	Fair/Poor	REMOVE: 100% CRZ IMPACT
24	<i>Quercus rubra</i>	Northern red oak	45	Fair	REMOVE: 100% CRZ IMPACT
25	<i>Quercus rubra</i>	Northern red oak	39	Poor	REMOVE: 100% CRZ IMPACT
26	<i>Quercus rubra</i>	Northern red oak	40	Fair	REMOVE: 100% CRZ IMPACT
27	<i>Acer rubrum</i>	Red maple	40	Fair/Good	REMOVE: 100% CRZ IMPACT
29	<i>Acer rubrum</i>	Red maple	42	Poor	REMOVE: 100% CRZ IMPACT
32	<i>Quercus palustris</i>	Pin oak	50	Good	REMOVE: 100% CRZ IMPACT
35	<i>Acer rubrum</i>	Red maple	39	Good	REMOVE: 100% CRZ IMPACT
37	<i>Quercus rubra</i>	Northern red oak	43	Fair	REMOVE: 100% CRZ IMPACT
38	<i>Quercus palustris</i>	Pin oak	33	Fair/Good	REMOVE: 100% CRZ IMPACT
39	<i>Quercus palustris</i>	Pin oak	46	Fair	REMOVE: 100% CRZ IMPACT
40	<i>Quercus montana</i>	Chestnut oak	41	Fair	REMOVE: 100% CRZ IMPACT
41	<i>Quercus palustris</i>	Pin oak	41	Fair/Poor	REMOVE: 100% CRZ IMPACT
42	<i>Platanus occidentalis</i>	American sycamore	36	Fair	REMOVE: 100% CRZ IMPACT
44	<i>Liquidambar styraciflua</i>	Sweetgum	35	Fair/Good	REMOVE: 100% CRZ IMPACT
45	<i>Pinus strobus</i>	Eastern white pine	42	Fair	REMOVE: 100% CRZ IMPACT
46	<i>Acer rubrum</i>	Red maple	32	Fair/Poor	REMOVE: 100% CRZ IMPACT
48	<i>Pinus strobus</i>	Eastern white pine	34	Fair	REMOVE: 100% CRZ IMPACT
50	<i>Pinus strobus</i>	Eastern white pine	46	Fair	REMOVE: 44% CRZ IMPACT
53	<i>Liriodendron tulipifera</i>	Tuliptree	34	Fair	SAVE: 9% CRZ IMPACT
54	<i>Quercus rubra</i>	Northern red oak	32	Fair	SAVE: 5% CRZ IMPACT
55	<i>Liriodendron tulipifera</i>	Tuliptree	31	Good	SAVE: 1% CRZ IMPACT



TREE NO.	BOTANICAL NAME	COMMON NAME	DBH	CONDITION	RECOMMENDATION
56	<i>Liriodendron tulipifera</i>	Tuliptree	32	Good	SAVE: 11% CRZ IMPACT
59	<i>Liriodendron tulipifera</i>	Tuliptree	35	Fair	SAVE: 26% CRZ IMPACT
60	<i>Liriodendron tulipifera</i>	Tuliptree	36	Good	REMOVE: 68% CRZ IMPACT
62	<i>Liriodendron tulipifera</i>	Tuliptree	34	Fair	REMOVE: 50% CRZ IMPACT
65	<i>Liriodendron tulipifera</i>	Tuliptree	54	Good	SAVE: 16% CRZ IMPACT
66	<i>Liriodendron tulipifera</i>	Tuliptree	44	Good	SAVE: 6% CRZ IMPACT
73	<i>Quercus palustris</i>	Pin oak	32.5	Fair	SAVE: 11% CRZ IMPACT
74	<i>Quercus palustris</i>	Pin oak	30.5	Fair	SAVE: 4% CRZ IMPACT
75	<i>Quercus rubra</i>	Northern red oak	38	Poor	SAVE: 13% CRZ IMPACT
76	<i>Quercus palustris</i>	Pin oak	33.6	Fair	SAVE: 11% 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 with some impact to the forest edge located at the east end of the site. The majority of the specimen trees (29 trees) proposed for removal are located within landscaped areas of the Property that will be developed. Three additional specimen trees proposed for removal are located outside of the Limit of Disturbance (L.O.D.) at the eastern edge of the site and significant impacts could not be avoided in spite of efforts to minimize the development footprint and consideration of several storm drain outfall alignment options. The remaining 11 specimen trees with proposed CRZ impacts are recommended to be saved. The Project has been intentionally designed to minimize stream buffer impacts, preserve forest, and limit redevelopment to the previously improved areas. Removal of existing improvements alone would cause impacts to these trees. Grading and other design considerations impacting the trees were minimized to the extent practicable. Denial of the variance would cause unwarranted hardship by making any redevelopment of the property unviable, and would preclude implementation of the Project, considerably undermining the economic viability of any redevelopment of the Property, and preventing achievement of the **County’s** adopted planning goals. Further, implementation of a master-planned shared use path requires grading and disturbance of several trees that would not otherwise



have been impacted.

The Project will require removal of thirty-two (32) specimen trees and CRZ impacts to eleven (11) specimen trees. Twenty-nine (29) trees proposed for removal are located within the LOD and three (3) additional specimen trees proposed for removal are located on the east side of the project just outside of the LOD. The remaining 11 specimen trees with proposed CRZ impacts are expected to be saved. Of the 11 trees to be saved, four (4) are located on the opposite (north) side of Manor Road with minimal impacts from construction activities. The remaining seven (7) specimen trees with CRZ impacts to be saved are located in the forest to the east of the site. Impacts minimization and avoidance to the specimen trees are described as follows:

- Trees 2, 4, 7, 8, 9, 13, 18 – 29, 32, 35, 37 – 42, 44 – 48 (a total of 29 trees)

Proposed CRZ Impact: Severe at 100%

Tree Conditions: Varies from Good to Poor conditions

Waiver Request: Approve for removal

These trees are proposed for removal due to their locations well inside the proposed Limits of Disturbance (L.O.D.). These trees are located in landscaped areas. 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 50, 60, and 62

Proposed CRZ Impact: Severe at 44%, 68%, and 50%

Tree Conditions: Fair to Good

Waiver request: Approve for removal

Tree 50 is in Fair condition and is impacted by the adjacent storm drain outfall and pathway at the edge of the proposed development at 44% CRZ impact. Minimizing impacts to tree 50 by moving the storm drain outfall was considered; however, the adjacent path is in close proximity to the tree and would make survivability of the tree unlikely. The width of the path is constrained by ADA requirements and could not be further minimized. Therefore, the tree is proposed to be removed and the storm drain outfall location to remain as shown on the PFCP.

Trees 60 and 62 are in Good and Fair condition and were originally proposed to be saved; however, with several sewer line connection options reviewed the least harm to the total number of existing trees was assessed to be with the layout showing the removal of these two specimen trees in order to save another group of trees to the northeast. The sewer line alignment would be located downslope from trees 60 and 62 in any of the reviewed options with impacts to a significant portion of the supporting structural roots on the downslope side of the trees; therefore, moving the proposed sewer line closer to these trees and proposing their removal would minimize impacts to a group of large trees to the northeast.



- Trees 73, 74, 75, and 76
Proposed CRZ Impacts: Minor, between 4% and 13%
Tree Conditions: Fair to Poor
Waiver request: Approve for CRZ impacts
These four trees are street trees located on the north side of Manor Road, across from the subject Property. Their conditions range from Fair to Poor; however, the CRZs are not likely to be actually impacted the proposed development on the south side of Manor Road. Therefore, these trees are proposed to be saved.
- Trees 53-56, 59, 65 and 66 (seven trees)
Proposed CRZ Impact: Minor to Moderate at 1% To 26%
Tree Conditions: Fair to Good
Waiver request: Approve for CRZ impacts
All of these trees are located in the forest on the east side of the proposed development. Trees 53, 54, 55, and 56, and 59 would have impacts by a proposed path along the east side of the Project, a proposed storm drain outfall, and a proposed sewer line connection alignment. A proposed path along the east side of the Project connecting foot traffic from Manor Road to the existing Capital Crescent trail and proposed Purple Line was minimized to the extent possible to remain in compliance with ADA width requirements. Impacts to these trees were also minimized to the extent possible by adjusting the location of the proposed sewer line connection away from trees 56 and 59, reducing CRZ impacts to 11% and 26% on the upslope sides of these trees.

Trees 65 and 66 in Good condition are located within the forest to the east of the Project and have 16% and 6% proposed CRZ impacts from the proposed path. Actual CRZ impacts to these trees would likely be less than 16% and 6% due to their locations downslope from the LOD and typically more limited root zones for trees located within forest.

- (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. Despite the constraints the existing environmental features create for redevelopment of the property, this project establishes compatible relationships between new development and existing neighborhoods through limits on density and uses; the Project includes for-sale townhomes including Moderately Priced dwelling Units (MPDUs) at a similar scale to the currently existing rental garden apartments and townhomes. No commercial uses will be developed on the Property, preserving the residential character of the neighborhood. Development was focused on the areas of the property currently improved, which contain many of the trees subject to the variance. Furthermore, the proposed development achieves the 2013



Approved and Adopted Chevy Chase Lake Sector Plan (the Sector Plan) recommendation of retaining the current zoning and similar development. Avoiding any impacts to the trees would significantly inhibit any compatible redevelopment. Therefore, strict enforcement of the County Code would unfairly prevent the redevelopment of the Property to the same extent as similarly situated properties along Manor Road.

Approval of the variance will allow Applicant to create a community that is consistent with the existing land uses in the area. Approval will also allow for the creation of master-planned pathways connecting the project to the adjacent communities along restored greenways for intangible yet significant community enjoyment of natural areas. 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. A significant area within the Stream Valley Buffer (SVB) at the east end of the site will be placed into a Category I Forest Conservation Easement and allow for a perpetual protection of forested area buffering the offsite stream. A hiker/biker path will be installed adjacently to the Category I Forest Conservation easement, allowing low-impact community use and enjoyment of the site's natural areas. 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.

Approving Applicant's variance request is justified for other reasons as well. The **proposed project will advance the County's** Sector Plan vision for the Property through the development of an attractive public transit-oriented residential community that contains an open space component. The project also includes attractive landscaped open spaces and amenities while continuing to provide access to the nearby shops, metro, schools, and nature sanctuary. The Project offers recreational and natural habitat preservation near a Metro stop that are consistent with the current character of the surrounding neighborhood.

Additionally, the Project proposes preserving most of the existing forest adjacent to the stream buffer, subject to a Category I Forest Conservation easement. The low-impact path planned for community enjoyment of the natural areas provides access to open spaces and the adjacent communities, which will promote additional



pedestrian and cyclist activity in the area. It is envisioned that a significant number of 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.

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 demonstrates 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

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