



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

JUN - 1 2009

**MCPB No. 09-41**  
**Subdivision Waiver Request No. SRW 200901**  
**West Chevy Chase**  
**Date of Hearing: April 2, 2009**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, on January 8, 2009, William Lewis ("Applicant"), filed an application for approval of a subdivision regulations waiver request to permit an unplatted parcel to be consolidated with an existing lot through minor subdivision to create one lot on 8,141 square feet of land located in the southeast quadrant of the intersection of Morgan Drive and De Russey Parkway ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"); and

WHEREAS, the provisions for approval of minor subdivisions are contained in Chapter 50 of the Montgomery County Code, the Subdivision Regulations ("Subdivision Regulations") and the Montgomery County Planning Board ("Planning Board" or "Board") has the authority to administer this chapter; and

WHEREAS, pursuant to Section 50-35A(a)(3) of the Subdivision Regulations, only lots or parts of lots created prior to June 1, 1958, may be consolidated through minor subdivision; and

WHEREAS, the Planning Board has the authority to grant a waiver of this requirement pursuant to Section 50-38(a)(1) of the Subdivision Regulations; and

WHEREAS, Applicant's Subdivision Regulations waiver request application was designated Subdivision Regulations Waiver No. SRW 200901, West Chevy Chase ("Waiver" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 20, 2009, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

Approved as to  
 Legal Sufficiency:

*Christina Sonnet* 5/13/09

8787 Georgia Avenue, N.C. Planning Board, Department 3010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 2, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 2, 2009, the Planning Board approved the Application on motion of Commissioner Cryor; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Cryor, Hanson, Presley, and Robinson voting in favor; Commission Alfandre absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Subdivision Waiver Request No. SRW 200901 to waive Section 50-35A(a)(3) of the Montgomery County Subdivision Regulations in order to permit an unplatted parcel to be consolidated with an existing lot to create one lot on 8,141 square feet of land located in the southeast quadrant of the intersection of Morgan Drive and De Russey Parkway ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"); and

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *Practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved.*

Unusual circumstances that warrant approval of the Waiver exist in this case in that the official tax map of Montgomery County incorrectly identifies the unplatted parcel to be combined with the platted lot as a "part of Lot 2". This and the age of the unplatted parcel, led the Applicant to believe that the proposed consolidation of property would qualify for approval under the minor subdivision provisions. In addition, the existence of a small, narrow, unplatted parcel in a down-county location is, in and of itself, an unusual circumstance. Relying on the accuracy of the tax map, the Applicant invested considerable time trying to pursue a minor subdivision record plat. The further delay that would be associated with a requirement to submit a full preliminary plan application would prevent the Applicant from meeting the construction schedule he has set up for renovation of the house on the lot being created.

2. *The Waiver is the minimum necessary to provide relief from the requirements, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest.*

The Planning Board finds that the Waiver is the minimum necessary to provide relief from the requirements because no lesser action can be taken to relieve the Applicant from the requirement to process a preliminary plan.

The Waiver is not inconsistent with the purposes and objectives of the General Plan because the Bethesda/Chevy Chase Master Plan, which was adopted in conformance with the General Plan, recommends that the Property be developed for residential uses, with R-60 zoning. The proposed lot to be created through the minor subdivision substantially conforms with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current R-60 zoning designation. The proposed lot will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residence will have a similar relationship to the public street and surrounding residences as existing residences in the area. The proposed lot will not alter the existing pattern of development or land use, consistent with the Master Plan recommendation to maintain the existing land use.

The Waiver is not adverse to the public interest because although a preliminary plan of subdivision could be submitted to effectuate the Applicant's desired lot consolidation, the plat resulting from following this process would be no different than the one being requested through minor subdivision. Nothing would be gained by requiring review of a preliminary plan because the site is already developed with a one-family residence and a one family residence is all that is proposed. There will be no adequate public facilities implications with respect to traffic, schools, access, and forest conservation, and stormwater management will be reviewed by the Montgomery County Department of Permitting Services (MCDPS) whether or not a preliminary plan is processed. As such, there appears to be no public benefit to the increased level of review that would be afforded by approval of a preliminary plan.

BE IT FURTHER RESOLVED, that the date of this Resolution is JUN - 1 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion, and 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 Cryor, seconded by Commissioner Presley, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 21, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board