



Chevy Chase View Preliminary Plan 120070520



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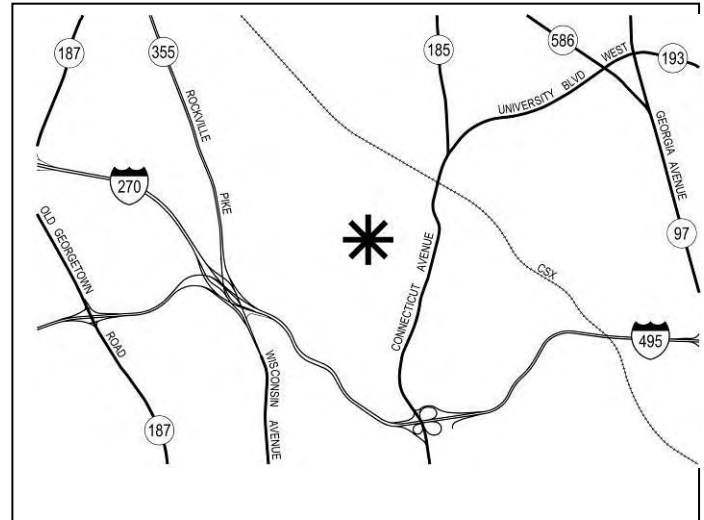


Robert Kronenberg, Acting Chief, Area One, robert.kronenberg@montgomeryplanning.org, (301) 495-2187

Staff Report Date: 1/4/13

Description

- Location: 4311 Clearbrook Lane, 125 feet west of Cedar Lane
- Zone: R-60
- Master Plan: Kensington-Wheaton
- Property size: 0.96 acres
- Application to subdivide 0.96 acres of land into two lots for two one-family detached dwellings and two outlots
- Applicant: Fred Gore
- Filing date: January 5, 2007
- Resubmitted: March 11, 2010



Summary

- **Staff recommendation: Approval of the preliminary plan and final forest conservation plan with conditions and adoption of the resolution**
- The application was originally submitted for three lots, and was denied on October 8, 2009. A reconsideration and subsequent deferral was granted on March 4, 2010. The revised, two-lot layout was submitted pursuant to the reconsideration.
- The application is a resubdivision, and a finding that the proposed lots are of the same character as existing lots in the neighborhood is necessary for approval.
- Approval of waiver is recommended for two resubdivision criteria (lot size and buildable area) for proposed Lot 9.

RECOMMENDATION: Approval subject to the following conditions:

- 1) This Preliminary Plan is limited to two lots for one dwelling unit on each lot and two outlots.
- 2) 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 permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
- 3) The applicant must comply with the conditions of approval for the final forest conservation plan approved as part of this Preliminary Plan, subject to the following:
 - a. The final sediment control plan must be consistent with the final limits of disturbance shown on the approved final forest conservation plan.
 - b. Prior to recordation of the plat, the applicant must obtain staff approval of a Certificate of Compliance Agreement for use of a M-NCPPC-approved offsite forest mitigation bank to satisfy the forest mitigation planting requirements.
 - c. The applicant must comply with all tree protection and tree save measures shown on the approved final forest conservation plan. Tree save measures not specified on the final forest conservation plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 16, 2009, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, 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 not conflict with other conditions of the Preliminary Plan approval.
- 5) Prior to recordation of plat(s), the applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 6) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated November 30, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, 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.
- 7) 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 subject property frontage on Clearbrook Lane, unless construction is waived by MCDPS.
- 8) The record plat must reflect common ingress/egress and utility easements over the shared driveway.
- 9) The subject property is within the Walter Johnson High School cluster area. The applicant must make a School Facilities Payment to MCDPS at the elementary and middle school levels at the single-family unit rates for which a building permit is issued for Lot 10. The

timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

- 10) The deed reference of the covenant required by the MCDOT letter of June 16, 2009, must be noted on the record plat.
- 11) The record plat must show necessary easements.
- 12) The Adequate Public Facility (“APF”) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board resolution.

SITE DESCRIPTION

The property, shown below and in Attachment A, is a recorded lot measuring 0.96 acres (41,916 square feet) in area. The property is located on the north side of Clearbrook Lane 125 west of Cedar Lane. It is located in the R-60 zone. The property is developed with one one-family detached dwelling. Surrounding properties are developed with one-family detached dwellings in the R-60 zone.

The property is located in the Lower Rock Creek watershed. There are no streams, floodplains, forests, or other sensitive environmental features on the site.



PROJECT BACKGROUND

As originally submitted, the application proposed to create three lots on the subject property, instead of the currently proposed two-lot configuration. Staff recommended denial of the application, and, at a hearing on October 8, 2009, the Planning Board voted to deny the application. The applicant was granted a reconsideration by the Planning Board on March 4, 2010. The staff report for the March 4, 2010, reconsideration hearing is attached as Attachment B.

The application was denied because the Planning Board found that the subdivision did not comply with the lot size criteria of Section 50-29(a)(1) and the resubdivision criteria of Section 50-29(b)(2) of the Subdivision Regulations. Specifically, the Planning Board found that the orientation of proposed Lot 10 (as shown on the original submittal) would result in a new dwelling unit being located behind dwelling units on proposed Lots 9 and 11 and would face the rear yards of those lots. The Planning Board found that this orientation was inappropriate for the location of the subdivision, where the other lots in the area conform to a grid pattern.

In addition, the Planning Board found that proposed Lot 10 did not meet the frontage or shape factors of the resubdivision criteria. The frontage of Lot 10 was proposed to be the minimum required as a result of a pipestem configuration, and only two other lots in the neighborhood have the minimum frontage but do not have pipestems. There is only one existing pipestem in the neighborhood, and the Planning Board found that its existence did not warrant another. Therefore, the Planning Board determined that Lot 10, as proposed in the original submittal, would not be in character with the shape and frontage of the existing lots in the neighborhood.

The Planning Board granted the reconsideration request for the limited purpose of allowing the applicant a deferral from the October 8, 2009, hearing. The deferral gave the applicant the opportunity to revise the application to the current two-lot version.



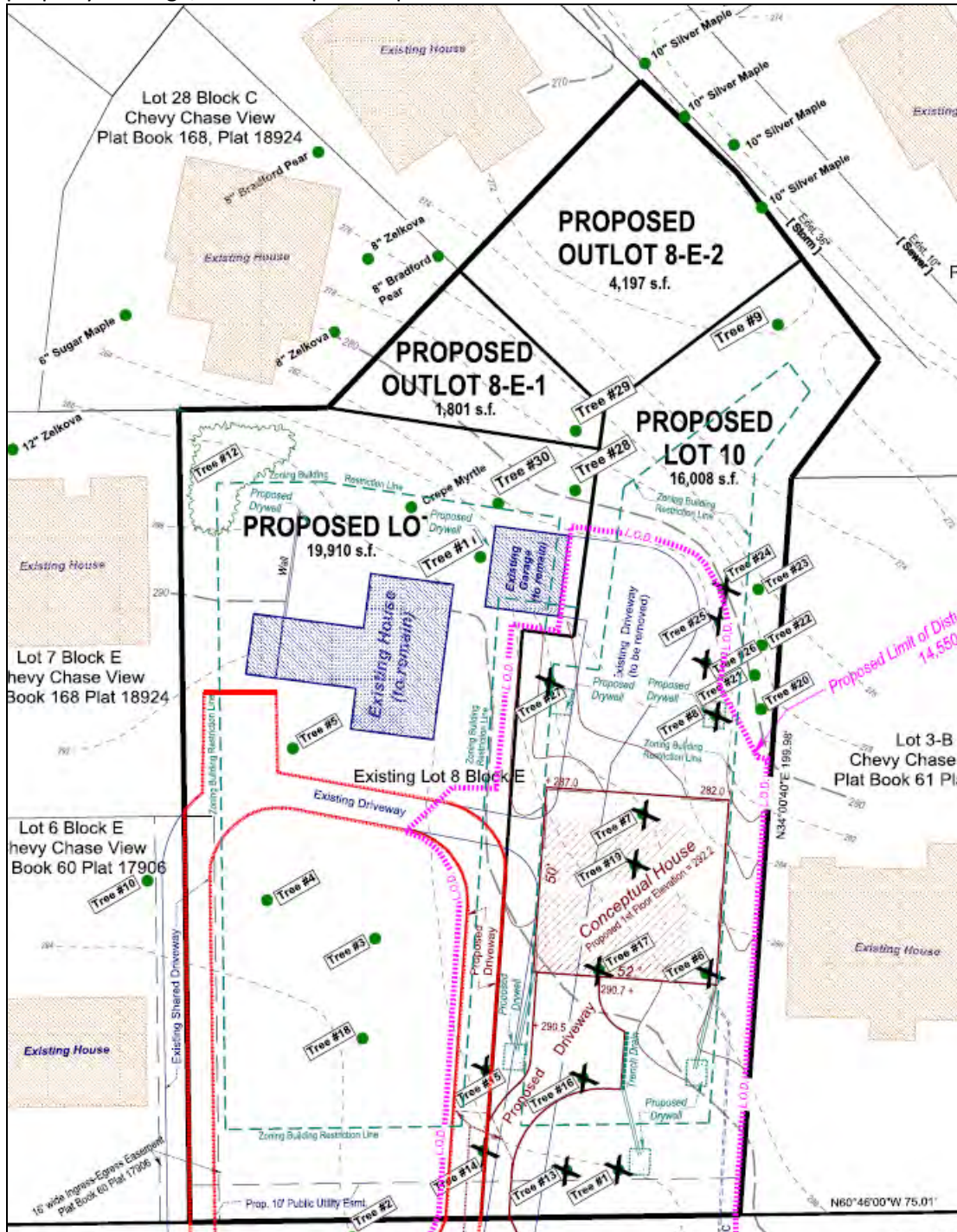
Original three-lot subdivision

PROJECT DESCRIPTION

The applicant proposes to resubdivide the existing lot into two lots for two one-family detached dwellings and two outlots. Lot 9 is proposed to be 19,910 square feet, and Lot 10 is proposed to be 16,008 square feet in area. The existing dwelling and detached garage will remain on proposed Lot 9. Outlot 8-E-1 is proposed to contain 1,801 square feet, and Outlot 8-E-2 is proposed to contain 4,197 square feet. It is the applicant's stated intent to offer these outlots to adjacent property owners as additions to their properties. In the event that those property owners wish to formally merge the outlots with their existing lots, separate subdivision approvals will be required.

Vehicular access to the lots will be provided by a shared driveway from Clearbrook Lane. Proposed Lot 9 will also be served by a second existing driveway that is shared with the property the west. This second driveway will connect to the proposed driveway, creating a U-shaped driveway for

proposed Lot 9. The staff recommendation includes a condition to provide a sidewalk along the property frontage, which will provide pedestrian access.



Revised two-lot subdivision

(See also Attachment C – proposed plan)

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. The Master Plan does not specifically address the subject property, but does call for retention of the existing R-60 zoning. In the Master Plan, the subject property and surrounding development are identified as suitable for one-family detached housing. The application substantially conforms to the Master Plan because the application provides one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The lots are similar to surrounding existing lots with respect to dimensions, orientation, and shape, and future residences will have a similar relationship to the public street and surrounding residences as do existing residences in the area. The application will not alter the existing pattern of development or land use, which is in substantial conformance with the Master Plan recommendation to maintain the existing residential land use.

Public Facilities

Roads and Transportation Facilities

Access to the proposed lots will be via a shared driveway from Clearbrook Lane. Pedestrian access will be provided via a sidewalk along the subject property frontage on Clearbrook Lane. Installation of this sidewalk is included in a condition in the staff recommendation. Although the adjacent property to the east does not have a sidewalk along its frontage, only this small gap will exist between the subject property and an existing sidewalk along Cedar Lane.

The proposed subdivision does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the application is not subject to Local Area Transportation Review. In addition, the proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the application is also not subject to Policy Area Mobility Review.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The 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 who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as 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. The subject property is within the Walter Johnson School cluster area, which is currently operating between 105-120% of capacity at the elementary and middle school levels, and a school facilities payment is required for the future dwelling unit. Electrical, telecommunications, and gas services are also available to serve the property.

Environment

Environmentally Sensitive Areas

There are no intermittent or perennial streams, no mapped 100-year floodplain, and no wetlands or environmental buffers on or immediately adjacent to the site. There are no steep slopes or highly-erodible soils on the site.

Forest Conservation

A final forest conservation plan for the previous 1.47-acre subdivision that created Lot 8, which is the subject property, was approved with Preliminary Plan 19920530 in 1993. That subdivision did not contain any forest at that time, but the forest conservation plan resulted in an afforestation requirement of 0.22 acres. The planting requirement was satisfied through onsite landscape credits, and conservation easements were not required.

There is no forest on the property. There are six trees greater than 30 inches in diameter at breast height (DBH) on the property. There are three trees between 24 and 30 inches DBH on or adjacent to the site.

The applicant proposes to resubdivide Lot 8 into two lots and two outlots. As required by the County Forest Conservation Law (Section 22A of the County code), the applicant submitted a final forest conservation plan (Attachment C). The application will result in the development of the areas used for landscape credits, and the applicant proposes to satisfy the 0.22-acre planting requirement through an offsite, M-NCPPC-approved forest mitigation bank.

Provided that the recommended conditions of approval are adopted, the application is in compliance with the Forest Conservation Law.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees, called "protected trees," as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An application for a variance must include certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The applicant submitted a variance request for the removal of two trees and impact to four trees that are considered high priority for retention under Section 22A-12(b)(3) of the County code (Attachment D). Since the time of the submittal of the variance request, the plans were revised such that only one of the trees included in the request (Tree #1) will need to be removed. Tree #11, originally proposed to be removed, will be retained, with some impact to the critical root zone. Additionally, Tree

#9, a 46-inch DBH shingle oak that was included in the variance request due to proposed impacts only, has since been determined to be dead and a hazard. A M-NCPPC forest conservation inspector verified the condition of the tree and authorized its removal. Approval of a variance is not required for removal of dead trees.

Trees to be removed

Tree Number	Species	DBH (Inches)	Status
1	Norway Maple	30	Non-native invasive; Good condition; impacted by grading, driveway, stormwater management (SWM)

Trees to be affected but retained

Tree Number	Species	DBH (Inches)	CRZ Impact	Status
3	Norway Spruce	30	26%	Good condition; impacted by driveway
4	Red Maple	34	1%	Fair/Poor condition; driveway
5	American Elm	44	13%	Good condition; driveway
11	Black Cherry	32	15%	Fair condition; grading, SWM

Unwarranted Hardship – Per Section 22A-21 of the Forest Conservation Law, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in an unwarranted hardship. Future development on the property is constrained by the existing conditions on the site. The subject property contains an existing house that will remain and a driveway that will be improved for use as a shared driveway. There are several large trees scattered throughout the site. The applicant proposes to subdivide the property into two lots and two outlots. One lot will encompass the existing single family home, and the second lot is for the construction of a new single family home. The applicant proposes to use the existing driveway (with some improvements) as a shared driveway for the two homes. The construction for the new home will not impact any of the trees subject to the variance provision. The impacts to the subject trees are due to measures to improve the existing driveway for shared use and required stormwater management features. Staff has reviewed this application and, based on the number and size of the trees found on the property and the proximity of the affected trees to the existing development on the site, finds that there would be an unwarranted hardship if a variance were not approved.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

The protected trees and their critical root zones lie within the developable area of the subject property. The only protected tree to be removed is a Norway maple. The Norway Maple is

listed by the Maryland Department of Natural Resources as an invasive species of concern in Maryland and is generally encouraged to be removed. The other four protected trees will be minimally impacted by the improvements to the driveway for the homes and required stormwater management features. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is based upon existing site conditions that would necessitate impact to the protected trees to develop the site consistent with zoning and applicable regulatory controls.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing and proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The only protected tree being removed is not within a stream buffer, wetland, or a special protection area. Furthermore, it is classified as an invasive species of concern in Maryland and is generally encouraged to be removed. All other protected trees are being impacted, but will remain to provide the same level of water quality protection as they currently provide. A stormwater management concept plan was approved by the MCDPS – Stormwater Management Section. The stormwater management concept incorporates Environmentally Sensitive Design (ESD).

Mitigation for Trees Subject to the Variance Provision - There is one living tree proposed for removal in this variance request. This tree, a Norway maple, is listed by the Maryland Department of Natural Resources as an invasive species of concern in Maryland and is generally encouraged to be removed. Staff does not recommend mitigation for the removal of this tree. There is some disturbance within the critical root zones of four trees; however, they will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on November 30, 2011. The stormwater management concept consists of environmental site design through the use of drywells.

Compliance with the Subdivision Regulations and Zoning Ordinance

The application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections, including the requirements for resubdivision as discussed below. The lots meet all the dimensional requirements for

area, frontage, width, and setbacks in the R-60 zone as specified in the Zoning Ordinance. A summary of this review is included in attached Table 1. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate neighborhood for evaluating the application. In this instance, the neighborhood selected by the applicant, and agreed to by staff, consists of 21 lots (Attachment F). The neighborhood includes platted lots in the R-60 zone in the vicinity of the property. All the lots share multiple access points on Clearbrook Lane, Clearbrook Place, Westbrook Lane, and Puller Lane. The designated neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment G.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage:

In the neighborhood of 21 lots, lot frontages range from 19 feet to 108 feet. Five of the lots have frontages of less than 60 feet, 15 lots have frontages between 60 and 100 feet, and one lot has a frontage of over 100 feet. One approved lot has a frontage of 70 feet, and the other has a frontage of 79 feet. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment:

Eighteen of the 21 existing lots in the neighborhood are perpendicular in alignment, and the remaining three are corner lots. Both of the approved lots are perpendicular in alignment. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Size:

The lots in the delineated neighborhood range from 6,000 square feet to 18,877 square feet. Six of the lots are smaller than 7,000 square feet, 12 are between 7,000 and 10,000 square feet, and three are larger than 10,000 square feet. One proposed lot will be 16,008 square feet in size, and the other will be 19,910 square feet in size.

Proposed Lot 9, at 19,910 square feet, will be the largest lot in the neighborhood. This is a consequence of resubdividing the largest lot in the neighborhood (41,916 square feet). Resubdividing the existing lot into three lots would have created lots that are within the range of sizes for existing lots. However, the Board found the three-lot subdivision as originally proposed in the 2007 application to be out of character with existing lots with respect to shape and frontage. Therefore, creation of the largest lot in the neighborhood is an unavoidable consequence of approval of the application, and **staff recommends approval of a waiver under Section 50-38 for lot size for proposed Lot 9.**

Proposed Lot 10, at 16,008 square feet, will be the third largest lot in the neighborhood and will be within the range of existing lot sizes. The size of proposed Lot 10 is in character with the size of existing lots in the delineated neighborhood. **The size of proposed Lot 10 is in character with the size of existing lots in the neighborhood.**

Shape:

Fourteen of the 21 existing lots in the neighborhood are rectangular, six are irregularly shaped, and one has a pipestem shape. The two approved lots will be irregular in shape. **The shapes of the proposed lots will be in character with shapes of the existing lots.**

Width:

The lots in the delineated neighborhood range from 60 feet to 133 feet in width. Eight of the lots have widths between 60 and 70 feet, 11 lots have widths between 70 and 100 feet, and the remaining two lots have widths of more than 100 feet. One of the proposed lots will have a width of 70 feet, and the other will have a width of 84 feet. **The proposed lots will be in character with existing lots in the neighborhood with respect to width.**

Area:

The lots in the delineated neighborhood range from 1,995 square feet to 10,728 square feet in buildable area. Twelve of the lots have buildable areas that are less than 3,000 square feet, five are between 3,000 and 5,000 square feet, and four are between 5,000 and 11,000 square feet.

Proposed Lot 9, with 12,453 square feet of buildable area, will have the largest buildable area in the neighborhood. This is a consequence of resubdividing the largest lot in the neighborhood (41,916 square feet). Resubdividing the existing lot into three lots would have created lots that are within the range of buildable area for existing lots. However, the Board found the three-lot

subdivision as originally proposed in the 2007 application to be out of character with existing lots with respect to shape and frontage. Therefore, creation of lot with the largest buildable area in the neighborhood is an unavoidable consequence of approval of the application, and **staff recommends approval of a waiver under Section 50-38 for lot buildable area for proposed Lot 9.**

Proposed lot 10, with a buildable area of 8,772 square feet, will be within the range of existing buildable areas. **The buildable area of proposed Lot 10 is in character with the existing lots in the delineated neighborhood.**

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the proposed lots are suitable for residential use.

Subdivision Regulations Waiver

As noted above, proposed Lot 9 will have the largest size and buildable area for all lots within the neighborhood. Staff recommends approval of a Subdivision Regulations Waiver pursuant to Section 50-38 of the Subdivision Regulations to provide relief from two (size and buildable area) of the seven Resubdivision Criteria found within 50-29(b)(2) of the Subdivision Regulations. The Planning Board has the authority to grant such a waiver pursuant to Section 50-38(a)(1) of the Subdivision Regulations, provided that certain findings can be made. The section states:

The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.

The waiver request pertains only to proposed Lot 9. A practical difficulty exists due to the fact that the existing lot, at 41,916 square feet, is significantly larger than any other lot in the neighborhood. Although resubdivision into three lots would create lots that are of the same character as existing lots with respect to size and buildable area, the 2007 application for three lots was rejected by the Planning Board because the lots were found to be out of character with respect to the shape and frontage criteria of the resubdivision analysis. As a result, nearly any resubdivision into two lots would create at least one lot that is larger than and contains a greater buildable area than the other lots in the neighborhood.

The applicant's intent to retain the existing house and garage on Lot 9 precludes making the lot or the buildable area smaller because there would be insufficient space for the required setbacks in the zone. This constitutes practical difficulties that prevent full compliance with the requirements.

Further, the waiver is the minimum necessary to provide relief from this requirement because the waiver only applies to one of the lots and the size and buildable area were already reduced by excluding the rear of the subject property by creating two outlots. The waiver is not inconsistent with the purposes and objectives of the General Plan, as the Preliminary Plan substantially conforms to the Master Plan. The waiver is not adverse to the public interest because the creation of two lots through this preliminary plan are significantly more in character with the neighborhood than the existing lot prior to resubdivision.

Therefore, all required findings can be made pursuant to Section 50-38(a)(1), and staff recommends approval of a waiver of Section 50-29(b)(2) for size and buildable area for proposed Lot 9.

Citizen Correspondence and Issues

The applicant has complied with all submittal and noticing requirements, and staff has not received correspondence from any community groups or citizens as of the date of this report.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Kensington-Wheaton Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply: street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, proposed Lot 10 is of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and, therefore, complies with Section 50-29(b)(2) of the Subdivision Regulations. Proposed Lot 9 is of the same character as the existing lots in the defined neighborhood with respect to five of the resubdivision criteria, and approval of a waiver is recommended with respect to the other two criteria – size and buildable area. A waiver of these two criteria for proposed Lot 9 is justified by the large size of the existing lot that constitutes the subject property and by the desire to retain the existing structures on the lot.

Attachments

- Attachment A – Vicinity Development Map
- Attachment B – Staff Report for March 4, 2010, Reconsideration Hearing
- Attachment C – Proposed Preliminary Plan and Final Forest Conservation Plan
- Attachment D – Forest Conservation Variance Request
- Attachment E – County Arborist’s Recommendation
- Attachment F – Resubdivision Neighborhood Map
- Attachment G – Data Table
- Attachment H – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan
Minimum Lot Area	6,000 sq. ft.	16,008 sq. ft. minimum
Lot Width	60 ft.	70 ft. minimum
Lot Frontage	25 ft.	70 ft. minimum
Setbacks		
Front	25 ft. Min.	Must meet minimum ¹
Side	8 ft. Min./18 ft. total	Must meet minimum ¹
Rear	20 ft. Min.	Must meet minimum ¹
Maximum Residential Dwelling Units per Zoning	6	2
MPDUs	N/a	
TDRs	N/a	
Site Plan Required	No	

¹ As determined by MCDPS at the time of building permit.



Map compiled on October 11, 2012 at 4:20 PM | Site located on base sheet no - 213NW04

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Key Map



Research & Technology Center



1 inch = 300 feet
1 : 3600

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

**OFFICE OF
THE GENERAL COUNSEL**

**Agenda Date: March 4, 2010
Item # 11
Reconsideration Request**


**(301) 495-4646
FAX (301) 495-2173**

February 23, 2010

REQUEST FOR RECONSIDERATION

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Christina Sorrento, Associate General Counsel 
301.495.4646

RE: Reconsideration Request for Chevy Chase View,
Preliminary Plan No. 120070520

With this memorandum we forward for the Board's review a request for reconsideration of the Chevy Chase View Preliminary Plan approval filed by Mr. John Witmer.

I. BACKGROUND

On October 8, 2009, the Planning Board voted to deny the Chevy Chase View Preliminary Plan on a vote of 4-1 with Commissioners Cryor, Hanson, Presley, and Wells-Harley voting in favor of the denial and Commissioner Alfandre voting against the denial. The resolution memorializing the Board's denial was mailed on October 28, 2009 and is attached as Attachment 1.

The Preliminary Plan application was for a resubdivision of property that would create 3 lots on .96 acres of land located at 4311 Clearbrook Lane, 125 feet west of Cedar Lane in the Kensington-Wheaton master plan area. The Board denied the application because the Preliminary Plan did not comply with the lot size criteria under Section 50-29(a)(1) and the resubdivision criteria under Section 50-29(b)(2) of the Montgomery County Code.

Specifically, the Board found that the orientation of lot 10 would result in a new dwelling unit being located behind dwelling units on lots 9 and 11 and would face the rear yards of those lots. The Board found that this orientation is inappropriate for the

location of the subdivision where the other lots in the area conform to a grid pattern. Additionally, the Board found that lot 10 did not meet the frontage or shape factors of the resubdivision criteria. The frontage of lot 10 is the minimum required as a result of a pipestem and only two other lots in the neighborhood have the minimum frontage but do not have a pipestem. There is only one other pipestem lot in the neighborhood and the Board found that its existence did not warrant another. Therefore, the Board determined that lot 10 would not be in character with the shape and frontage of the existing lots in the neighborhood.

On November 10, 2009, Mr. Witmer filed a request for reconsideration of the Preliminary Plan resolution, which is attached as Attachment 2.¹ Mr. Witmer cites one main ground for his reconsideration request, which is discussed below.

II. APPLICABLE RULES

A reconsideration request must “specify any alleged errors of fact or law and state fully all grounds for reconsideration because of mistake, inadvertence, surprise, fraud, or other good cause.” The Board is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

Only a Board member who voted in the majority of the decision that is the subject of the request for reconsideration can move to reconsider the decision. In this case, Commissioners Hanson, Wells-Harley, and Presley are eligible to move for reconsideration. If there is no motion for reconsideration, the request for reconsideration is denied. Any motion to reconsider must be supported by a majority of the Board members present who either participated in the previous decision or read the record on which it was based.

III. RECONSIDERATION REQUEST

In his request for reconsideration, Mr. Witmer argues that his clients proceeded to take the application to the Planning Board on a recommendation of denial because they were informed that the case was a close call and they expected the Board to have a discussion on the application. When a motion to deny the application was made, Mr. Witmer attempted to ask for a deferral but was unable to speak until after the Board voted to deny the application. Mr. Witmer asserts that based on the Board’s comments and further discussions with Staff, there are minor modifications that need to be made to the Preliminary Plan. Mr. Witmer would like to be able to make these modifications without beginning the application process over again. Therefore, Mr. Witmer asks for a reconsideration of the Planning Board’s decision to allow the applicant to obtain a deferral from the October 8, 2009 Planning Board hearing and make these modifications to the Preliminary Plan.

¹ Under the Board’s Rules of Procedure, a petition for reconsideration must be filed within 10 days of the date of mailing of the Board’s resolution. However, on February 22, 2010, in accordance with Rule 4.12.1 of the Planning Board’s Rules of Procedure, Chairman Hanson waived the 10 day filing deadline due to an administrative error in mailing the resolution to the applicant.

IV. RECOMMENDATION

Staff does not have objections to Mr. Witmer's request for a deferral to make modifications to the application without beginning the application process over again. If the Board agrees that reconsideration is appropriate based upon a finding of mistake, inadvertence, surprise, fraud, or other good cause, the Board should grant the reconsideration request for the limited purpose of allowing the applicant a deferral from the October 8, 2009 hearing. If the Board grants this reconsideration request, the Board should also make a motion to defer the hearing to allow the applicant time to make the necessary plan modifications. A motion for deferral must be approved by the majority of the Board members present. However, if the Board determines that Mr. Witmer's request is not a good cause for reconsideration then the Board may deny the reconsideration request.

IV. ATTACHMENTS

Attachment 1 - Planning Board Resolution dated October 28, 2009

Attachment 2 - Preliminary Plan reconsideration request dated November 10, 2009



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

OCT 28 2009

MCPB No. 09-131
Preliminary Plan No. 120070520
Chevy Chase View
Date of Hearing: October 8, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 8, 2009, Frederick Gore ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 3 lots on 0.96 acres of land located at 4311 Clearbrook Lane, 125 feet west of Cedar Lane ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan"); and

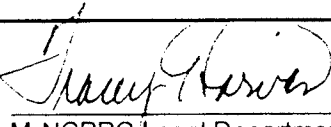
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070520, Chevy Chase View ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 24, 2009, setting forth its analysis, and recommendation for denial, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on October 8, 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

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on October 8, 2009, the Planning Board denied the Application on motion of Commissioner Wells-Harley; seconded by Commissioner Cryor; with a vote of 4-1, Commissioners Cryor, Hanson, Presley and Wells-Harley voting in favor of the denial, with Commissioner Alfandre voting against.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board denied Preliminary Plan No. 120070520 to create 3 lots on 0.96 acres of land located at 4311 Clearbrook Lane, 125 feet west of Cedar Lane ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan").

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

1. *The Preliminary Plan fails to comply with Section 50-29(a)(1) of Chapter 50, the Subdivision Regulations.*

Section 50-29(a)(1) of the Subdivision Regulations states, with respect to lot dimensions, that: *Lot size, width, shape and orientation shall be appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated in order to be approved by the board.*

The Planning Board finds the subdivision does not result in lots that have appropriate sizes, shapes, widths and orientations for the area in which they are located. For this application, the Planning Board believes the orientation of proposed lot 10 is inappropriate for the location of the subdivision. The orientation of lot 10 is such that a new dwelling unit on the lot will be behind and face the rear yards of proposed lots 9 and 11. Other lots within the area conform to a grid pattern of development or were created in such a way that dwelling units on the lots have a direct relationship to the street on which they front. While lots 29, 3C and 7 to the north of proposed lot 10 have similar lot frontages, these lots directly front Puller Drive without obstruction.

2. *The Preliminary Plan fails to comply with Section 50-29(b)(2) of Chapter 50, the Subdivision Regulations.*

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states that: *Lots on a plat for the Resubdivision of any lot, tract or other parcel of*

land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

For this preliminary plan application, the Planning Board finds the proposed lots are not of the same character as to street frontage and shape as other lots within the existing neighborhood ("Neighborhood"), as delineated by Staff in the Staff Report, and as analyzed below:

Size:

Lot sizes in the Neighborhood range from 6,000 square feet to 18,877 square feet. Proposed lot 9 is 16,043 square feet in size, proposed lot 10 is 16,504 square feet and proposed lot 11 is 9,369 square feet. **The proposed lot sizes are in character with the size of existing lots in the Neighborhood.**

Width:

Lot widths in the Neighborhood range from 60 feet to 133 feet. The three proposed lots are subject to an established building line for measuring width. Proposed lot 9 has a lot width of 65.82 feet, proposed lot 10 a width of 78.26 feet and proposed lot 11 a width of 60 feet at the Established Building Line. Three lots in the Neighborhood have a lot width of 60 feet and a total of eight lots in the Neighborhood range from 60 feet to 65 feet in width. **For these reasons, the three proposed lots will be in character with existing lots in the Neighborhood with respect to width.**

Frontage:

Lot frontages for the 21 lot Neighborhood range from 19 feet to 111.55 feet. The minimum lot frontage permitted in the R-60 zone is 25 feet. Lot 7, block 16 has nonconforming lot frontage of 19 feet and lots 3C and 29 in the Neighborhood have 25 feet of street frontage. While these three lots have minimal lot frontage, all three lots directly front the substandard termination of Puller Drive. Proposed lot 9 has 63.73 feet of frontage and proposed lot 11 has 60 feet of frontage. Proposed lot 10 has 25 feet of frontage to accommodate a pipestem lot. **Given that only lot 3C and lot 29 have 25 feet of frontage in the Neighborhood, the Planning Board finds that an established pattern of lots with minimum lot frontage is not present within the Neighborhood. As a result, Proposed lot 10 fails to be of the same character as existing lots in the Neighborhood with respect to lot frontage.**

Area:

Buildable area calculations for the Neighborhood range from 1,995 square feet to 10,728 square feet. The three proposed lots have buildable areas of 9,956

square feet for lot 9, 7,493 square feet for lot 10 and 4,710 square feet for lot 11. **The proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.**

Alignment:

Within the resubdivision Neighborhood, 18 lots have a perpendicular alignment to the street and 3 lots are corner lots. The three lots as proposed will also align to Clearbrook Lane in a perpendicular fashion. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Shape:

Of the 21 lots in the Neighborhood, 13 lots are rectangular in shape, 7 lots are irregular in shape and one lot, lot 3C, is a pipestem lot. Proposed lots 9 and 11 are rectangular and proposed lot 10 is configured as a pipestem lot. Staff does not believe the existence of one other pipestem lot in the Neighborhood warrants another. In fact, lot 3C is pipestem in shape due to a part of lot that was created for lot 7, block 16. The dwelling unit on lot 3C does not face the rear yards of adjacent lots and does not have a pipestem appearance from the street. **The Planning Board finds proposed lot 10 will not be in character with the shapes of the existing lots in the Neighborhood.**

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 28 2009 (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).

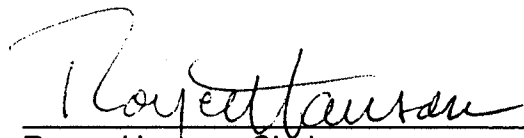
* * * * *

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 Wells-Harley, seconded by Commissioner Alfandre, with Chairman Hanson, Commissioners Wells-Harley and

MCPB No. 09-131
Preliminary Plan No. 120070520
Chevy Chase View
Page 5 of 5

Alfandre present and voting in favor of the motion, and Commissioners Cryor and Presley absent at its regular meeting held on Thursday, October 22, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



WITMER ASSOCIATES, LLC

Land Surveying, Land Planning & Design
7626 Airpark Road, Gaithersburg, MD 20879
Tele. (301) 740-1409 Fax: (301) 740-3056
email: witmerllc@ymail.com

November 10, 2009

Royce Hanson, Chairman
Montgomery County Planning Board
The Maryland National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

RECEIVED
1020
NOV 13 2009
OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Re: MCPB Np. 09-131
Chevy Chase View
Application No. 120070520

Dear Chairman Hanson:

On behalf of W. Frederick and Jean Gore, applicants in the referenced subdivision application, I submit the following request for reconsideration of the Planning Board opinion dated, October 28, 2009.

After nearly four years of coordination and plan modifications, the Development Review Staff's final report and recommendation for a denial was issued. During a meeting with Development Review staff to discuss their findings, in what they presented to the Gore's as a close call, it was suggested that the Gore's could take the matter on to the Board for their review and analysis. At that point, this was how the Gore's decided to proceed.

At the hearing, some Board discussion was expected. The only comment was from Commissioner Alfandre, indicating his support of the plan on the basis of the testimony presented. Immediately following his comment, the motion to deny was made. I attempted to interrupt to express the Gore's desire to request a deferral, but I was not allowed to speak.

At this point, based on further discussion with staff, the Gore's need only to make a few modifications to their plan to bring it into conformance with staff's opinion. The revised plan will require some minor technical reviews of one or two other agencies before it would be ready to come back before the Board. As they have been done through the process, the Gore's will share their revised plan with their neighbors prior to returning to the Board.

On behalf of Mr. and Ms Gore, we would appreciate consideration and approval of a minor procedural deviation, permitting this matter to be referred back to staff, for intake and review of a plan modification, to then be returned to the Board for review and approval.

Sincerely,

John R. Witmer

cc Mr & Ms. Gore
MNCP&PC - Development Review Staff

SURVEYOR'S CERTIFICATE
I hereby certify that the boundary and topographic information is correct as qualified and noted hereon.
April 3, 2011
August 16, 2012

John B. Witmer
Professional Land Surveyor
Maryland No. 10968
P.L. 150201
C.A. No. 150201

GENERAL NOTES

- The plan is a proposed re-subdivision of Lot 8, Block E, Chevy Chase View, which is included on a subdivision record plat recorded, February 9, 1993, among the Land Records of Montgomery County, Maryland in Plat Book 168 as Plat 18924. The boundary and area calculations indicated herein are based on the dimensions of Lot 8 as described on said plat.
- The proposed subdivision is based on a field survey, dated 1992, by Sjobolt, Gore, Nequist and Berinsky.
- Existing zoning is R-60.
- Lot 8 is divided into 2 and 2 outlots.
- Area included is 43,910 square feet or 0.9923 acres.
- Site is located in Planning Area 13 and included on the Kensington-Wheaton Master Plan.
- Site is located in the Rock Creek Watershed hydrologic segment 10.
- Site is located in the Rock Creek Watershed hydrologic segment 10.
- Site is located in the Rock Creek Watershed hydrologic segment 10.
- Site is located in the Rock Creek Watershed hydrologic segment 10.
- Site is located in the Rock Creek Watershed hydrologic segment 10.
- There are no historic or cultural features located on this site.
- Site tax identification number = 03015922.
- Site address = 4311 Clearbrook Lane.

DEVELOPMENT TABULATION

R-60 ZONING STANDARD METHOD

Proposed area of street dedication = 0 s.f.

Proposed area of street dedication = 0 s.f.

REQUIREMENT	EXISTING	PROPOSED	PROPOSED	PROPOSED
		LOT 9	LOT 10	OUTLOTS
Lot Size	6,000 s.f. min.	19,910 s.f.	16,008 s.f.	1,801 s.f. & 4,197 s.f.
Lot Width	60' min. @ B.R.L.	83.85'	70'	N.A.
Lot Frontage	25' min. or E.B.L.	78.8'	70'	0'
Front Setback	25' min. or E.B.L.	128.7' existing	62.4' E.B.L.	N.A.
Side yard setback	8' min., 18' total of both	17.2' & 20.5'	8' & 10'	N.A.
Rear yard setback	20' min.	42.2'	103'	N.A.
Building	30% up to 6,000 s.f. (13,910 x 0.001) = 13.910 - 16.09% permitted	(19,910 - 6,000) = 13,910 x 0.001 = 13.910 - 16.09%	30 - 10,008 = 20 - 19.992%	N.A.
Building height	35' max.	35' max.	35' max.	N.A.

Dimensions and areas are preliminary and subject to final survey and platting.

THIS PLAN IS SUBMITTED AS A REVISION TO THE JANUARY 2007 PRELIMINARY SUBDIVISION PLAN WHICH WAS PREVIOUSLY REVIEWED, DENIED AND WAS GRANTED A RECONSIDERATION ON AUGUST 16, 2012. MONITORING PLAN NO. MNC207C FILE #1-20070290

HP 343
213 NW 04
36
B-4

SITE

REVISED PRELIMINARY SUBDIVISION PLAN

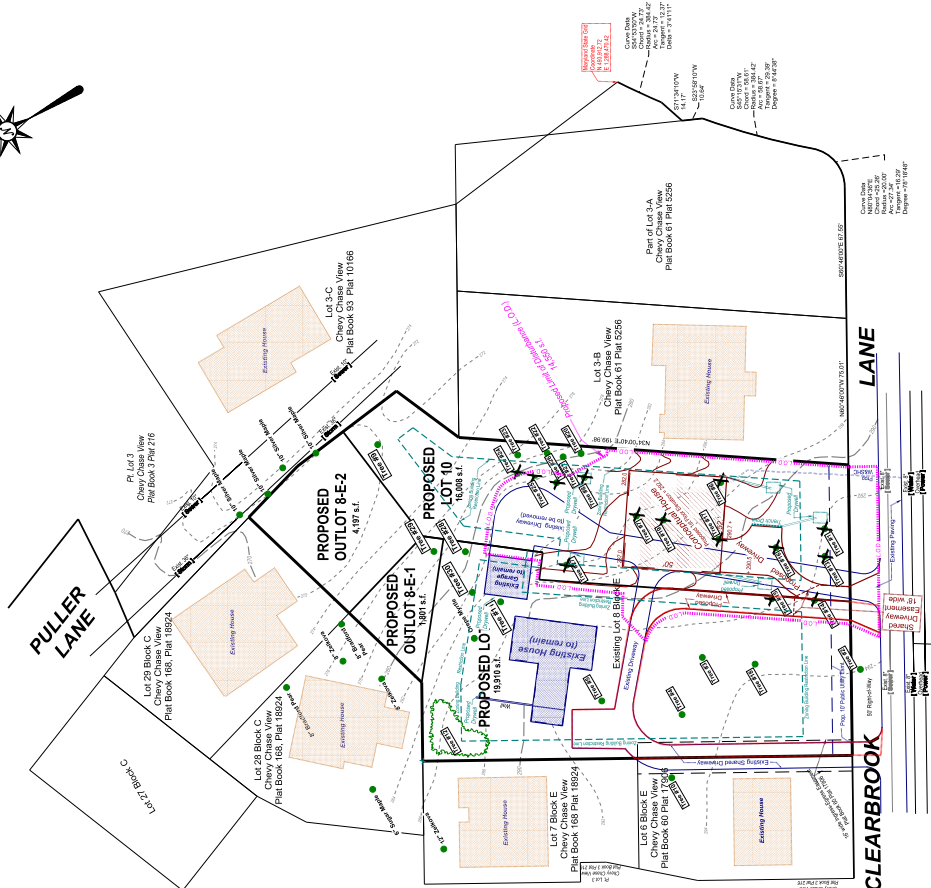
PROPOSED LOTS 9 & 10 & OUTLOTS B, C & E
A MONUMENTAL ADJUNCTION TO
CHEVY CHASE VIEW
A MONUMENTAL ADJUNCTION TO
MONTGOMERY COUNTY, MARYLAND

WITMER ASSOCIATES, LLC
14711 Clearbrook Lane
Kensington, MD 20895

August 2010 95098H

1" = 30'

1 of 1



PLAN VIEW
0 30

Inspection of Forests for Research, Research, Research to Corroborate
Forest Conservation and/or Tree-Save Plans

REQUIREMENTS

1. The contractor shall be responsible for the maintenance of the forest during the construction project. The contractor shall be responsible for the maintenance of the forest during the construction project. The contractor shall be responsible for the maintenance of the forest during the construction project.
2. The contractor shall be responsible for the maintenance of the forest during the construction project. The contractor shall be responsible for the maintenance of the forest during the construction project. The contractor shall be responsible for the maintenance of the forest during the construction project.
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Notes

1. Routes may be changed with sediment control fencing.
2. Location and limits of fencing shall coordinate in field with arborist.
3. Fencing shall be maintained throughout construction.
4. Fencing shall be maintained throughout construction.
5. Fencing shall be maintained throughout construction.
6. Fencing shall be maintained throughout construction.

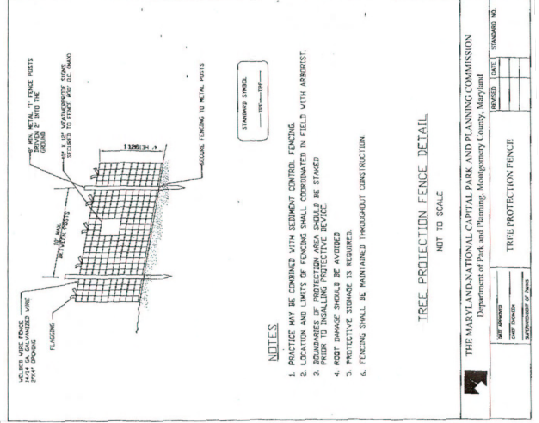
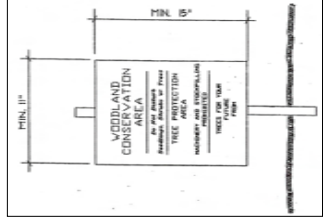
Tree Protection Fence Detail

NOT TO SCALE



- NOTES:**
1. Retention Areas to be established as part of the forest conservation plan review process.
 2. Down 1/2 inch of trench along the fence line.
 3. Down 1/2 inch of trench along the fence line.
 4. Down 1/2 inch of trench along the fence line.
 5. Down 1/2 inch of trench along the fence line.

NO SCALE



DETAIL - ROOT PRUNING

NO SCALE

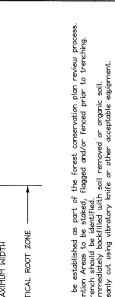


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NO SCALE

Tree Protection Fence Detail

NOT TO SCALE



- NOTES:**
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 6. Fencing shall be maintained throughout construction.

NO SCALE

NO.	DATE	DESCRIPTION	BY	CHKD.

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Department of Park and Planning, Montgomery County, Maryland

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE

SCALE: AS SHOWN

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE

SCALE: AS SHOWN

DATE: 08/20/10

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SCALE: AS SHOWN

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE

SCALE: AS SHOWN

DATE: 08/20/10

Final Forest Conservation Plan Amendment # 119290530

PROPOSED LOTS 8, 10, & OUTLOT BLOCK E
AREA 11 M. AMOUNTS ADDITION TO
CHEVY CHASE VIEW
SUB-ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE

SCALE: AS SHOWN

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE

SCALE: AS SHOWN

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SCALE: AS SHOWN

DATE: 08/20/10

PROJECT: TREE PROTECTION FENCE



September 24, 2010
 Rev November 29, 2010

Forest Conservation Variance Request

Fred Gore Property
 Lots 9, 10, & Outlot – Block E,
 H.M. Martins Addition to Chevy Chase View
 4311 Clearbrook Lane, Kensington, MD 20865
 Montgomery County

The owner of the property located at 4311 Clearbrook Lane is requesting a variance to the Forest Conservation Act to allow the removal of two (2) specimen trees, and impact to the critical root zone of four (4) additional specimen trees. The following trees shown on the Forest Conservation Plan will be impacted by the proposed resubdivision and subsequent development:

Specimen Trees Proposed for Removal				
Tree #	Species	Size	% CRZ impacted	Reason for Removal
#1	Norway maple	30" dbh	100%	Tree cannot be saved because it is located within the Limits of Disturbance of the proposed new lot.
#11	Black cherry	32" dbh	100%	

Specimen Trees Proposed for Retention				
Tree #	Species	Size	% CRZ impacted	Reason for Impact
#3	Norway spruce	30" dbh	26%	Nearly the entire existing lot is covered by the critical root zone of one specimen tree or another. While it was possible to locate the proposed house outside of the crz of any of the specimen trees, the requirements for driveways, utilities, and drywells for storm-water management result in some portion of the critical root zone of these trees being impacted.
#4	Red maple	34" dbh	1%	
#5	American elm	44" dbh	13%	
#9	Shingle oak	46" dbh	1%	

- 1) The special conditions peculiar to the property which would cause an unwarranted hardship include:
 - a. The large number and size of the trees found on the property,
 - b. The large size of the property, and

- c. The property has not been subdivided to the full extent allowable based on zoning or predominant neighborhood conditions.
The property being re-subdivided is .96 acres or 41,916 square feet in size. This is considerably larger than the surrounding lots that have all been subdivided to a much smaller size of about .2 acres or 8000 sq ft. The zoning in this neighborhood is R-60 which allows lots to a minimum size of 6000 sq ft. Because this lot has not been re-subdivided to a lot size that conforms to the rest of the neighborhood, there are more trees and larger trees present on the lot than will be found on surrounding properties. The locations of these trees does not allow for all of them to be preserved. There are currently 6 specimen trees on this property and while it is possible to save 4 of these, 2 cannot be preserved and still re-subdivide and develop the property.
- 2) Enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas: The surrounding properties have by and large all been subdivided to an average size of .20 acres. By prohibiting the removal of these two trees Mr. Gore will be denied the rights to subdivide his property to a lot size that conforms to the zoning and the predominant lot size for this neighborhood. In fact, the lots created by this re-subdivision will still be considerably larger than surrounding lots.
- 3) State water quality standards will not be violated nor will a measurable degradation in water quality occur as a result of the granting of the variance: The stormwater management systems that are designed for this property include 5 drywells. These drywells will reduce the amount of storm water runoff created on this property to below the current levels. There will not therefore be any degradation in water quality as a result of this variance.
- 4) Provide any other information appropriate to support the request.
- a. The Gores have resided on this property since they acquired it in 1972. Their intention has been to create additional lots, compatible with the neighborhood, around their home for their personal financial support.
 - b. Since acquiring the property, the Gores have created and sold off five lots from the original parcel. This is the final step in executing their plan which creates one more lot which will have an area of just over 14,000 square feet.
 - c. All the public facilities/utilities required to serve the property are in place, so there are no extensions or community disturbance necessary.

Respectfully submitted,



Joseph H. Burckle
MD Licensed Forester #699
MD Tree Expert # 1176
ISA Certified Arborist, MA-4516A
SAF Certified Forester, #1202



Keith C. Pitchford
MD Licensed Forester, #675
MD Tree Expert #589
ISA Certified Arborist, MA-0178



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

March 10, 2011

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Chevy Chase View, DAIC 119920530, Forest Stand Delineation Plan approved on 7/6/1992

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the application for the above referenced request is required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since this application was submitted before this date, I will not provide a recommendation pertaining to the approval of this request for a variance.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief

**RE-SUBDIVISION NEIGHBORHOOD DIAGRAM
MARTIN'S ADDITION TO CHEVY CHASE VIEW
MNCP&PC REVISED SUBDIVISION APPLICATION FILE #1-20070520
AUGUST, 2012**



LEGEND

- Residue of original four acre Lot 3 (Areas not included in prior subdivisions)
- Area of proposed resubdivision application
- Existing house from MC-GIS
- Conceptual house per subject plan
- Existing pavement approximated from MC-GIS
- Minimum front building restriction line (No E.B.L.)
- Minimum side & rear building restriction lines
- Resubdivision neighborhood boundary

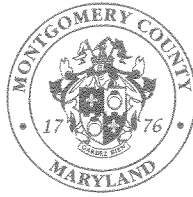
NOTES

Rationale for the neighborhood boundary as shown,
 - include the confronting lots along Clearbrook Lane, a 50' wide secondary roadway.
 - include the residential subdivision lots within contiguous Blocks C & E in which the subject property is centrally positioned.
 - include other lots to which a portion of original Lot 3 is a significant factor in utilizing the neighboring lot as currently platted.

E.B.L. indicated on proposed Lot 11, Block E is based on a survey completed by this office, May, 2009, along the north side of Clearbrook Lane within Block E.

Existing houses, as shown, have been graphically reproduced from Montgomery County GIS data and may not reflect actual dimensions or locations.

#120070520 CHEVY CHASE VIEW RESUBDIVISION DATA TABLE							
LOT	BLOCK	FRONTAGE	ALIGNMENT	BUILDABLE AREA	SHAPE	WIDTH	SIZE
5	E	75	PERPENDICULAR	1,995	RECTANGLE	75	6,000
27	C	62	PERPENDICULAR	2,381	RECTANGLE	62	6,134
1	C	60	PERPENDICULAR	2,442	RECTANGLE	60	6,198
2	E	60	PERPENDICULAR	2,730	RECTANGLE	60	6,600
7	E	25	PERPENDICULAR	2,973	IRREGULAR	64	6,660
6	E	63	PERPENDICULAR	2,924	IRREGULAR	63	6,834
29	C	25	PERPENDICULAR	3,305	RECTANGLE	62	7,548
28	C	60	PERPENDICULAR	3,580	IRREGULAR	87	7,815
26	C	108	PERPENDICULAR	3,562	IRREGULAR	108	8,554
1	E	80	CORNER	3,055	RECTANGLE	80	8,714
3	E	80	CORNER	3,055	RECTANGLE	80	8,714
1	A	80	PERPENDICULAR	2,578	RECTANGLE	80	8,924
2	A	80	PERPENDICULAR	2,578	RECTANGLE	80	8,924
3	A	80	PERPENDICULAR	2,578	RECTANGLE	80	8,924
4	A	80	PERPENDICULAR	2,578	RECTANGLE	80	8,924
5	A	80	PERPENDICULAR	2,578	RECTANGLE	80	8,924
6	A	87	CORNER	2,540	RECTANGLE	87	9,665
4	E	58	PERPENDICULAR	5,081	IRREGULAR	63	9,820
7	16	19	PERPENDICULAR	5,491	IRREGULAR	60	11,503
3B		75	PERPENDICULAR	8,783	RECTANGLE	75	14,945
10	E	70	PERPENDICULAR	8,772	IRREGULAR	70	16,008
3C	E	25	PERPENDICULAR	10,728	PIPESTEM	133	18,877
9	E	79	PERPENDICULAR	12,453	IRREGULAR	84	19,910



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

June 16, 2009

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan #1-20070520
Chevy Chase View

Dear Ms. Conlon:

We have completed our review of the preliminary plan stamped on May 22, 2009. This preliminary plan was previously reviewed by the Development Review Committee at its meeting on March 5, 2007. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Right of way dedication for Clearbrook Lane if required by the Planning Board.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
4. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by each common driveway.
5. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan. Also homeowners' documents to establish each driveway user's (property owner's) rights & responsibilities with respect to use, maintenance & liability of the common driveway.

Division of Traffic Engineering and Operations

Ms. Catherine Conlon
Preliminary Plan No.1-20070520
June 16, 2009
Page 2

6. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future construction or reconstruction of Clearbrook Lane, whether built as a Montgomery County project or by private developer under permit, prior to DPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
7. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
8. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operation Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
9. We have reviewed and accepted the applicant's letter indicating their financial hardship in upgrading the downstream storm drain system. No improvements to the existing public storm drain are required for this preliminary plan.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Sam Farhadi or Ms. Dewa Salihi at (240) 777-2197.

Sincerely,

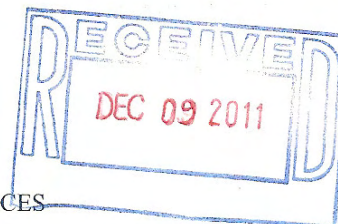


Gregory M. Leck, P.E. Manager
Development Review Team

m:/subdivision/farhas01/preliminary plans/ 1-20070520, Chevy Chase View, gml revs.doc

Enclosures (2)

cc: W. Frederick and Jean M. Gore
John R. Witmer; Witmer Associates
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Henry Emery; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Sam Farhadi, DOT TEO
Dewa Salihi, DOT TEO
Preliminary Plan Folder
Preliminary Plans Note Book



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

November 30, 2011

Dick Witmer
Witmer Associates, LLC
18401 Woodfield Road, Suite C
Gaithersburg, MD 20879

Re: Stormwater Management **CONCEPT** Request
for Revision to Chevy Chase View
Preliminary Plan #: 120070290
SM File #: 229577
Tract Size/Zone: 0.9623 Ac./R-60
Total Concept Area: 0.9623 Ac.
Lots/Block: 9&10/E
Watershed: Lower Rock Creek

Dear Mr. Witmer:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD by the use of drywells.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Compensation for the ESD volume for the portion of relocated driveway on Lot 9 will be provided on Lot 10.
6. Stormwater management for Lot 9 will be addressed when it redevelops.
7. Use the most current design specs for the drywells at time of plan submittal.

This list may not be all-inclusive and may change based on available information at the time.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tla CN229577 Chevy Chase View Revision.DWK

cc: C. Conlon
SM File # 229577

ESD Acres:	0.33 Ac.
STRUCTURAL Acres:	0.0
WAIVED Acres:	0.0