



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

**MCPB**  
**Item #**  
**2/17/11**



**MEMORANDUM**

**DATE:** February 4, 2011

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Robert Kronenberg, Supervisor  
Area One Division

**FROM:** Neil Braunstein, AICP (301-495-4532)  
Area One Division

**REVIEW TYPE:** Preliminary Plan of Subdivision

**APPLYING FOR:** 3 lots for 3 one-family detached dwelling units (resubdivision)

**PROJECT NAME:** 7206 Meadow Lane

**CASE #:** 120100270

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** R-60

**LOCATION:** Located in the northwest quadrant of the intersection of Meadow Lane and Oak Lane

**MASTER PLAN:** Bethesda/Chevy Chase

**APPLICANT:** CC Green Vision, LLC

**ENGINEER:** CAS Engineering

**ATTORNEY:** Lerch, Early & Brewer

**FILING DATE:** April 8, 2010

**HEARING DATE:** February 17, 2011

Approval signatures

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**RECOMMENDATION:** Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to three lots for three one-family detached dwelling units.
- 2) Prior to certification of the preliminary plan, revise the Natural Resources Inventory / Forest Stand Delineation plan (NRI/FSD) and the preliminary plan drawing to remove any representation of a wetland per Maryland Department of the Environment (MDE) letter dated January 27, 2011.
- 3) The applicant must comply with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable. Specific conditions include:
  - a. Provide a correctly scaled drawing.
  - b. Remove any representation of a wetland per MDE letter dated January 27, 2011.
  - c. Show a Category I Easement area over the steep slopes and associated large trees.
  - d. Revise the plan, worksheet, notes, tables and legend to reflect the forest retained in the Category I Easement.
  - e. Provide a limit of disturbance (LOD) located at least 25' from the northern side of trees 4 & 5.
  - f. Revise the legend symbols for existing/proposed matting so they match actual existing and proposed conditions.
  - g. Include original signatures and arborist signature in non-black ink.
- 4) Prior to issuance of any building permit, the applicant must submit for review and approval a Final Forest Conservation Plan (FFCP). Specific conditions include:
  - a. Revised plan and associated arborist report to correspond with the conditions contained in this approval (including the recent LOD changes near trees #11 and #18).
  - b. Specify the reforestation requirements and how they will be met.
  - c. Provision for the project arborist to supervise tree care work including the directional boring of utilities.
  - d. Details and locations of the permanent boundary monuments at each corner of the proposed forest conservation easement.
- 5) The applicant must submit for review and approval a financial security for any planting requirements which may be specified in the FFCP, prior to any land disturbing activities occurring onsite.
- 6) The Category I conservation easement must be recorded by plat prior to any land disturbing activities occurring onsite. The record plat must reflect a Category I easement over all areas of steep slopes and forest conservation.
- 7) The certificate of compliance for any off-site forest mitigation must be submitted by the applicant, then approved by M-NCPPC's Associate General Counsel Office, prior to any land disturbing activities occurring onsite.
- 8) The certified preliminary plan must show, and the applicant must construct, a hard-surfaced pedestrian path from the sidewalk along Oak Lane to a hinged door on the east side of the proposed dwelling on proposed Lot 39. The path must be placed within the currently proposed limits of disturbance. The location of the path on the preliminary plan must be approved by Montgomery County Fire and Rescue Service

- (MCFRS) prior to certification of the plan. This condition may be amended in writing by MCFRS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated February 1, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
  - 10) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated June 18, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
  - 11) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
  - 12) Before any building permit is issued, the applicant must make school facilities payments to the MCDPS at the elementary and middle school levels.
  - 13) The record plat must show building restriction lines at the top and bottom of the steep slope area, as depicted on the preliminary plan. Building foundations, walls, or other permanent structures, except underground utility and stormwater management lines and pipes, must not be placed on the steep slope area between the two building restriction lines.
  - 14) 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 during the building permit process. 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.”
  - 15) The record plat must show necessary easements.
  - 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

## **SITE DESCRIPTION**

The subject property, shown below and in Attachment A, is a platted lot and is 57,726 square feet (1.33 acres) in area. The property is zoned R-60. It is located in the northwest quadrant of the intersection of Meadow Lane and Oak Lane, within the Town of Chevy Chase. The property has frontage on Meadow Lane and Oak Lane to the east and on a public alley to the west. There are currently no buildings on the property, but parts of the lot have been graded in a previous attempt to construct a one-family detached dwelling. The partially completed dwelling has been demolished. Surrounding properties to the north, south, east, and west are developed with one-family detached dwellings in the R-60 zone.

The subject property is located within the Lower Rock Creek watershed. Steep slopes, with gradients of 25% or greater, exist in a band in the center of the property. An area that

exhibits some of the characteristics of a wetland exists on the lower portion of the property, near Meadow Lane. This area was ultimately determined not to be a wetland. There are no streams or floodplains on the site. The subject property contains 0.32 acre of forest.



## PROJECT DESCRIPTION

The applicant proposes to resubdivide the existing lot into three lots for three one-family detached dwellings. The lots are proposed to range in size from 17,790 square feet to 21,290 square feet. The lots are proposed to be perpendicular to the street and the public alley to the west of the property, similar to other lots in the area. Despite having frontage on Meadow Lane and/or Oak Lane on one side and the alley on the other side, the lots are not considered to be through lots per the zoning ordinance. As such, they will have front and rear yards and not two front yards for each lot. Access to the lots is proposed via individual driveways from the alley. Although all three lots will have frontage on Meadow Lane and/or Oak Lane, no vehicular access is proposed from those streets.

(Attachment B – proposed plan)

## **ANALYSIS AND FINDINGS**

### **Conformance to the Master Plan**

The Bethesda/Chevy Chase Master Plan does not specifically address the subject property. 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. Thus, in the case of the subject property, the Master Plan calls for retention of the existing R-60 zoning. In the Land Use and Zoning section of the plan, the property and surrounding development is identified as suitable for one-family detached housing. The proposed subdivision complies with the recommendations adopted in the Bethesda/Chevy Chase Master Plan in that it proposes one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The proposed lots will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residences will have a similar relationship to the public street and surrounding residences as do existing residences in the area. The proposed subdivision 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 land use.

### **Public Facilities**

#### **Roads and Transportation Facilities**

Access to the proposed lots is proposed via individual driveways from the public alley, which is accessed from Ridgewood Avenue. This access will be safe and adequate for pedestrians and all vehicular access except for fire and rescue vehicles. Because fire and rescue vehicles cannot safely negotiate a 90 degree turn in the existing alley, those vehicles will serve the three proposed lots by entering the alley and stopping at the turn in the alley. Rescue vehicles will be able to serve proposed lots 37 and 38 and a portion of proposed lot 39 from that point. However, some portions of any dwelling built on proposed lot 39 will be farther from the fire and rescue staging area in the alley than is allowed by the Fire Code. Therefore, proposed lot 39 will also be accessed by fire and rescue vehicles from Oak Lane. In order to facilitate this access, the staff recommendation includes a condition that requires the applicant to install an improved pedestrian path from Oak Lane to a door on the east side of the dwelling on this lot.

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 Growth Policy resolution currently in effect and will be adequate to serve the property. The application is within the Bethesda Chevy Chase 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. Electrical, telecommunications, and gas services are also available to serve the Property.

## **Environment**

The site is characterized by three distinct topographic areas. The upper western portion of the subject property contains the area of highest elevation and has a number of individual trees and open lawn area that was formed after stabilization of a former home construction site. The central portion of the property contains a forested area associated with steep slopes in excess of 25%. At the bottom of the steep slopes there is a relatively flat area that contains low-lying ground. The area is lower in elevation than the adjacent street, Meadow Lane. The same area was part of a stream valley (associated with hydric soils) which was altered during previous development.

A pre-existing house appears in a 1951 aerial photograph of the vicinity. The date of the original construction is not clear; most of the adjacent homes were built in the 1920s-1940s. Forest conservation exemption 42001045E had been granted for the demolition of the original house and the construction of new home. The work included high end construction for the new home, and extensive tree care and preservation measures (above and beyond M-NCPPC requirements) had been installed to protect trees during the demolition of the original structure and the construction of the new home. The original applicant had utilized the services of one of the region's premier tree care companies to protect the trees during the construction process. The most significant item of the tree care/preservation measures at the Meadow Lane site included extensive use of protective matting that was installed over the existing undisturbed soil surface and overlaid with stone or mulch. The matting and its cover allowed heavy construction equipment and materials to access the site with only a minimal disturbance to the adjacent trees and their root systems. The sediment control fence was also lapped into the matting and was not trenched into the ground, which would have otherwise severed the roots of adjacent trees. Ultimately, the construction of the large home was not completed and it was demolished in 2007. The demolition was also conducted under the supervision of an ISA certified arborist.

Currently the existing forest contains large native trees and includes non-native landscape plantings in the understory. The definition of forest requires that only one half of its trees measure 2" diameter or greater; no minimum size is specified for the other half of the trees. The minimum forest area of 10,000 square feet would require as few as 12 trees reaching 2" diameter or greater and 11 trees less than 2" diameter. Although the forest on the subject property (measuring 13,900 square feet or 0.32 acres) contains landscape shrub plantings (which are not specifically precluded in the forest definition), there are also numerous native trees interspersed throughout, which contribute to the total tree counts. Numerous native tree species less than 2" diameter observed by M-NCPPC staff include dogwood, elm, ash, holly, beech and tulip tree.

The forest area meets the definition of forest even if the landscape plantings are not included in the stem counts.

### Wetland Delineation

Based on the 1961 “Soil Survey of Montgomery County” (U.S. Department of Agriculture), the area of interest was part of the bottomland of a stream valley prior to development. The soil survey shows the soils in the bottomland area as Worsham silt loam. Such soils are hydric and poor-draining and are typically associated with floodplains. As development progressed in this neighborhood, staff believes that most of the stream water was directed to the storm drainage system installed along Meadow Lane. However, the area has remained as lowland within the general vicinity and the surface topography indicates that some storm drainage continues to flow through this area. In addition, the groundwater table remains near the ground surface in this location. It appears that attempts have been made to alter and dry out this bottomland area as evidenced by an old cobble-lined pond and considerable fill within the bottomland; however, its location, poor drainage conditions, and the above mentioned site features are causing this area to revert back to wetland.

During the Natural Resources Inventory / Forest Stand Delineation (NRI/FSD) review process, staff noted the apparent wetland on the site and issued the following comment on February 1, 2010 (a similar comment was previously made on October 19, 2009):

1. M-NCPPC considers the wetland to exist on the subject property based on staff observations of standing water and associated plant species such as New York ironweed, in addition to soils exhibiting low chromas and mottling/oxidation (which were in some instances also associated with sulfidic odor). The NRI/FSD cannot be conditionally approved. Therefore, prior to approval of the plan the wetland must either be shown as existing or otherwise proven to be absent from the site (would require further information which disputes the presence of the wetland for consideration by staff, and staff would have to agree with findings). Update related plan notes, labels, legend datasheets and reports accordingly. Note: include the wetland buffer on the plans as applicable.

In response to the comments, the applicant’s consultants (CAS Engineering) re-visited the site and delineated the wetland boundary in the field, which was later reflected on NRI/FSD 420100470 approved on February 23, 2010. The applicant (Mr. Brault) had also been coordinating with a separate consultant specialized in wetland delineations and believed that he could ultimately prove that the wetlands did not exist on the property.

However, based on advice from his consultants, Mr. Brault reported that to make the final determination, a site visit during an appropriate time of the growing season would need to occur. In an attempt to address the staff comments quickly and continue with the subdivision process (instead of performing further study), Mr. Brault had voluntarily shown the wetland on the NRI/FSD and stated that he would revise the NRI/FSD plan at a future time if necessary, assuming he could confirm the wetland was not actually present.

The Maryland Department of the Environment (MDE) issued a letter to the applicant dated August 8, 2010 (Attachment C), stating:

...Based on the information received and the site visit conducted on May 24, 2010, I have concluded that the area delineated on the plans as nontidal wetlands did not contain all three parameters (hydrology, hydric soils, and hydrophytes) to be considered a nontidal wetland by its legal definition and, therefore will not be regulated as such....

The letter did not specify any details of the information received or the observations made in the field, or other information used to support its findings. Since April and May of 2010 had below average precipitation, conditions in the field would have been drier than normal. Staff believes it is important to understand the details of how the wetland determination was made. Given that County regulatory agencies can be more stringent than State requirements, and the questions associated with the MDE letter, staff was not immediately convinced that the wetlands were not present on the site.

Additionally, Mr. Brault had insisted that the pond adjacent to the wetland area in question contained water only because of a concrete lining. During a follow up visit by Staff, a long soil probe was used to try to verify the presence of concrete. No concrete or other impervious surfaces were detected, which provided further evidence of shallow groundwater or a seep. Groundwater was also encountered at approximately 2.5' depth in other areas of the site (away from the pond). Staff continued to request that the wetland and pond be included within a conservation easement. Meanwhile, the applicant believed that no easement was necessary due to the conclusion of the August 8, 2010 MDE letter.

This original MDE letter was not detailed, and staff could not get a clarification until a new MDE letter was written in late January 2011. Ultimately, in December 2010 and January 2011, staff had extensive meetings, discussions, and correspondence with the applicant and his consultants regarding the wetland issue, as the applicant had not yet satisfactorily proven to staff that the wetland was not on the site. No reports, datasheets or other detailed information that supported the applicant's position had been provided to Staff.

During a January 5, 2011 meeting with the applicant and his consultants, the until-recently-Acting Chief of Environmental Planning had suggested that the applicant set up an onsite meeting with M-NCPPC staff, MDE staff, and the applicant's consultants to jointly re-examine the site and reach consensus on whether the wetland is present. Based on that consensus, the application could then proceed accordingly. During the meeting, the wetland consultant acknowledged some of the M-NCPPC staff's findings, but disagreed with the overall conclusion, stating that the soils and vegetation did not meet the criteria for a wetland. It was agreed that winter is not an appropriate time to make a final determination on the wetland, as some of the parameters (especially vegetation) would not be visible (the same scenario which occurred the previous year). Again, the applicant did not want to wait for a more appropriate time to further examine the site.

However, during the extensive meetings and subsequent discussions, the applicant's wetland consultants verbally provided additional information that began to prove that the



wetland was not present. On January 19, 2011, two representatives from MDE and two consultants from Biohabitats (the applicant's wetland consultant) met on the site without having extended an invitation to M-NCPPC staff. MDE determined that the site does not contain jurisdictional wetlands and advised Biohabitats to submit US Army Corps of Engineers wetland data sheets that reflect findings from soil samples and site conditions.

A wetland, as defined by Federal and State regulations, as well as the Planning Board's Environmental Guidelines, has three parameters under normal circumstances: hydrology (the presence or evidence of water), hydric soil, and hydrophytes (plants found in saturated conditions). The consultant's data sheets submitted for three sample points (received by Staff on February 1, 2011) indicated that none of the three parameters were present at the time of the field survey, which was on January 19, 2011, after a substantial snowstorm. In the absence of certain parameters, the presence of specific indicators serves as a substitute.

M-NCPPC staff does not believe that performing a wetland delineation after a snow storm provides the opportunity to observe primary and secondary hydrology indicators such as water marks, stained leaves, and drift deposits as observed by M-NCPPC on earlier site visits in the fall of 2010. However, one hydrologic indicator not affected by weather or seasons is soils characteristics. The field sheets completed by Biohabitats on January 19, 2011 found 1% oxidized rhizospheres (soil discoloration from a chemical reaction associated with roots in saturated conditions) in the soils rather than the 2% or more required to show the presence of the wetland feature of oxidized rhizospheres.

Furthermore, the data sheets did not find any hydrophytic vegetation, which may be absent or difficult to see during the dormant season and/or when under snow cover. Although the winter is a bad time of the year to see hydrophytic vegetation, the re-delineation was performed by the applicant's consultant on January 19, 2011, and a predominance of wetland plants was not found. Based on the consultant's findings and MDE's concurrence, the necessary 50% or greater population of hydrophytic vegetation was not found at the time of their investigation.

The groundwater table remains high enough to feed the existing pond. Groundwater was encountered at a depth of 2.5 feet near the center of the wetland area shown on the plan. This measurement includes a layer of man-made fill that was placed in areas near the pond apparently in an effort to dry the landscape. The relatively recent fill (in terms of wetland formation) explains the lack of conclusive hydric soils in the upper soil layers. Below the fill area (and slightly beyond the 18" depth subject to wetland determination) the soils dramatically change to a highly gleyed soil (discolored soils associated with saturated conditions) which would otherwise be indicative of a wetland.

The January 27, 2011 revised letter from MDE (Attachment D), along with the data sheets of the applicant's consultant's field investigation provides detailed data to support the absence of the wetland. The detailed documentation supporting the absence of the wetland was received by staff on February 1, 2011.

It is agreed that the area is saturated and contains numerous wetland indicators. Staff believes that the existing fill and the area as a whole is transitioning back into a wetland. However, because of extensive fill and other past activities that have significantly modified the area of interest, there are not enough indicators present at the site to legally define the area as a wetland.

### Forest Conservation And Tree Save

The Forest Conservation Plan covers 1.57 acres, which includes the offsite limits of disturbance (LOD). The plan utilizes directional boring of utilities to allow service to the proposed homes and minimally disturb the sensitive forest area. Further refinement of the LOD and associated tree preservation notes and measures is needed to fully address recent LOD changes. Also, the plans and report do not fully acknowledge the previous use of root protection matting, which is still present and which had been implemented to protect trees during the earlier phases of construction. Therefore, many of the original critical root zones (CRZ) still contain viable roots (even though the areas overlap a previous LOD) and some of the proposed impacts may be more severe than normally anticipated. Furthermore, the proposed plan needs fine tuning to keep the LOD outside of the existing disturbed area where possible, especially in areas that contain existing roots (in keeping with the current arborists recommendations). The proposed changes to the plan and conditions of approval would address any of the remaining tree care details.

The submitted plans do not propose a forest conservation easement to protect the forest area in the long term. The proposed development excessively encroaches into environmentally sensitive areas (slopes over 25%) in conflict with the subdivision regulations. Section 50-32(c) of the subdivision regulations allows the Planning Board to restrict the subdivision of land to achieve the objectives of Chapter 22A relating to conservation of tree and forest resources and to protect environmentally sensitive areas.

For purposes of this subsection, environmentally sensitive areas are limited to critical habitats for wildlife or plant species, slopes over 25% *or over 15% with highly erodible soils*, wetlands, perennial and intermittent streams, and stream buffers.

A Category I conservation easement would satisfy the requirements of Section 50-32 of the Subdivision Regulations and is also required to comply with the Forest Conservation Law (Chapter 22A-12(b)). Furthermore, the Category I conservation easement area would ensure the stability of the steep slope, which currently shows no signs of erosion. The applicant indicated that he would be agreeable to a Category II conservation easement over the steep slopes, but not a Category I easement. The less stringent Category II easement would allow the removal of groundcover and understory, which could destabilize the slope. The gaps along the proposed easement edges within the property would remain for stormwater management installation and access routes. Additionally, the directional boring of utilities is allowed through portions of the Category I easement.

### Variance Requirements

Section 22A-12(b) of the Montgomery County code identifies the following trees, shrubs, plants, and specific areas as priority for retention and protection and shall be left in an undisturbed condition unless the applicant qualifies for a variance. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
  - (1) *The federal Endangered Species Act of 1973,*
  - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
  - (3) *COMAR 08.03.08;*
  
- B. *Trees that:*
  - (1) *Are part of an historic site,*
  - (2) *Are associated with an historic structure, or*
  - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*
  
- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
  - (1) *30 inches or more, or*
  - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code, a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Before considering the variance, the Planning Board must refer a copy of each request to the County Arborist within the Montgomery County Department of Environmental Protection for a written recommendation. The County Arborist must make a recommendation on the variance request to the Planning Board within 30 days from the receipt of the request. If there is no recommendation from the County Arborist the response is presumed to be favorable.

#### Variance Request

On January 13, 2011 the applicant requested a variance for impact and/or removal of 13 subject trees 30” or greater in diameter:

| Tree #     | Species        | Diameter (inches) | Condition | Disposition | CRZ Area (sf) | CRZ Impacts (%) |
|------------|----------------|-------------------|-----------|-------------|---------------|-----------------|
| 5          | Tulip Tree     | 41" DBH           | Good      | Save        | 11,883        | 72.0            |
| 6          | Tulip Tree     | 51" DBH           | Poor      | Save        | 18,386        | 55.0            |
| 8          | American Beech | 31" DBH           | Good      | Save        | 6,793         | 31.0            |
| 9          | American Beech | 34.5" DBH         | Hazard    | Remove      | 8,414         | 64.0            |
| 11         | American Beech | 31" DBH           | Good      | Save        | 6,793         | 43.0            |
| 13         | American Beech | 30" DBH           | Good      | Save        | 6,362         | 5.0             |
| 14         | American Beech | 30" DBH           | Good      | Save        | 6,362         | 9.0             |
| 15         | American Beech | 30" DBH           | Good      | Save        | 6,362         | 13.0            |
| 16         | American Beech | 30" DBH           | Good      | Save        | 6,362         | 17.0            |
| 17         | Tulip Tree     | 32" DBH           | Poor      | Remove      | 7,238         | 71.0            |
| 18         | Red Oak        | 30" DBH           | Good      | Save        | 6,362         | 21.0            |
| 19         | Tulip Tree     | 30" DBH           | Good      | Save        | 6,362         | 4.0             |
| unnumbered | White Oak      | 30" DBH           | Good      | Save        | 6,362         | 9.5             |

In accordance with Montgomery County Code Section 22A-21(c), the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request (refer to Attachment E for applicants' request letter). In this case, the variance request was referred to the Montgomery County Arborist on January 23, 2011.

The County Arborist responded on January 25, 2011, and will not provide a recommendation, based on the belief that the tree variance provision does not apply to development applications submitted before October 1, 2009 (refer to Attachment F).

#### Variance Findings

The Planning Board must make findings that the applicant has met all requirements of Chapter 22A-21 before granting the variance. Staff has made the following determination on the required findings:

- a) *Approval of the variance will not confer on the applicant a special privilege that would be denied to other applicants.* The site previously contained a large residential structure. The current proposal occupies roughly the same area of disturbance which would be needed to replace a similar structure. Further, removal of affected trees is necessary to develop the site in the manner recommended by the Master Plan.
- b) *Approval of the variance is not based on conditions or circumstances which are the result of the action by the applicant.* The general impacts of the proposed development have been minimized by the use of directional boring of utilities. These measures have reduced the overall footprint of the development to the maximum extent practical, and enabled preservation of most of the forested area. The removal of tree #17 is associated with work in the right of way beyond the purview of M-NCPPC. Tree # 9 also to be removed is documented as a hazard tree. The remaining impacts are necessary and unavoidable to

implement the plan as proposed. Staff believes that the variance can be granted under this condition as no mitigation for the two tree removals is necessary. Furthermore, the forest conservation requirements address any mitigation which would otherwise be considered necessary.

- c) *Approval of the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.* The requested variance is a result of the current application on the subject property and is not related to land or building use on a neighboring property.
- d) *Approval of the variance will not violate State water quality standards or cause measurable degradation in water quality.* Structural water quality measures approved for the subdivision include dry wells. The submitted stormwater management plan will be ultimately approved for this project by the Montgomery County Department of Permitting Services. The approved stormwater management plan will ensure that water quality standards will be met in accordance with State and County criteria.

As a result of the above findings and the associated conditions, staff recommends that the Planning Board approve the applicant's request for a variance from Forest Conservation Law to remove two subject trees and impact 11 subject trees. The variance approval is incorporated into the Planning Board's approval of the final forest conservation plan.

#### Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on February 1, 2011. The stormwater management concept consists of environmental site design through the use of nonstructural devices including drywells and permeable pavement.

#### Compliance with the Subdivision Regulations and Zoning Ordinance

This 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 proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

## 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 28 lots (Attachment G). The neighborhood includes platted lots in the R-60 zone on and in the vicinity of Meadow Lane. The lots share several points of access on Meadow Lane, Oak Lane, Ridgewood Avenue, and Thornapple Street. 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 H.

### 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 a neighborhood of 28 lots, lot frontages range from 50 feet to 224 feet. Six of the lots have frontages of less than 60 feet, 15 lots have frontages between 60 and 100 feet, and the remaining seven lots have frontages of 100 feet or more. The three proposed lots have frontages of 66 or 67 feet. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

#### **Alignment:**

Twenty-one of the 28 existing lots in the neighborhood are perpendicular in alignment, and the remaining seven are corner lots. The three proposed 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 5,007 square feet to 27,913 square feet. Twelve of the lots are smaller than 7,000 square feet, 11 are between 7,000 and 10,000 square feet, and five are between 10,000 and 28,000 square feet. Proposed Lot 37 will be 21,290 square feet in size, Proposed Lot 38 will be 17,790 square feet in size, and proposed Lot 39 will be 18,650 square feet in size. **The proposed lot sizes are in character with the size of existing lots in the neighborhood.**

**Shape:**

Fourteen of the existing lots in the neighborhood are trapezoidal, eight are rectangular, and six are irregular. Two of the proposed lots are irregularly shaped, and one is rectangular. **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 50 feet to 139 feet in width. Six of the lots have widths of less than 60 feet, 14 lots have widths between 60 and 80 feet, and the remaining eight lots have widths of more than 80 feet. The proposed lots have widths of 67, 77, and 86 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 1,083 square feet to 11,132 square feet in buildable area. Fifteen of the lots have a buildable area less than 3,000 square feet, nine are between 3,000 and 5,000 square feet, and four are between 5,000 and 11,500 square feet. Proposed Lot 37 has a buildable area of approximately 9,348 square feet, proposed Lot 38 has a buildable area of approximately 4,508 square feet, and proposed Lot 39 has a buildable area of approximately 3,386 square feet. **The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

Note: The resubdivision data table submitted by the applicant indicates that proposed Lot 37 has a buildable area of 13,459 square feet, proposed Lot 38 has a buildable area of 10,055 square feet, and proposed Lot 39 has a buildable area of 9,897 square feet. These figures include portions of the lots that are not actually buildable because they are behind a building restriction line and within a forest conservation easement that are recommended by staff to protect the steep slopes on the subject property, as discussed in this report. Staff estimated the buildable area figures used in the analysis by measuring on the plan the remaining buildable area after excluding the area behind the building restriction line and within the forest conservation easement.

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

## **Conformance with Section 50-32(b)**

Section 50-32(b) of the Subdivision Regulations states that “the board must restrict the subdivision of any land which it finds to be unsafe for development because of possible flooding or erosive stream action, soils with structural limitations, unstabilized slope or fill, or similar environmental or topographical conditions.”

Staff believes that the band of steep slopes, which exceed 25% gradient, that crosses the central portion of the subject property constitutes unsafe land in the meaning of Section 50-32(b). As such, staff recommends that that portion of the subject property be restricted by means of building restriction lines, as authorized by Section 50-32 of the Subdivision Regulations. The preliminary plan submitted by the applicant shows a building restriction line at the bottom of and near the top of the steep slope area. The staff recommendation includes a condition that requires that the building restriction line be shown on the certified preliminary plan and that no building foundation or other permanent structure may encroach beyond the building restriction line.

## **Town of Chevy Chase**

The subject property is located within the Town of Chevy Chase. As provided in Article 28 of the Maryland Code, the Montgomery County Planning Board exercises subdivision power within the Town. The Town provided three letters to the Planning Board, dated June 9, 2010, October 28, 2010, and November 15, 2010, respectively, that recommend denial of the application (Attachment I).

The reasons for the Town’s recommendation of denial, as put forth in their letters, along with staff responses are as follows:

### *Lot dimensions*

Section 50-29(a)(1) of the Subdivision Regulations requires that lot size, width, shape, and orientation be appropriate for the location of the subdivision. Lots in the Town are typically approximately twice as deep as they are wide. However, the proposed lots have a depth to width ratio of approximately 3:1 to 5:1 rather than 2:1.

Staff response: The subdivision regulations and the Montgomery County Zoning Ordinance do not regulate lot depth. The proposed lots are approximately rectangular, as are many of the existing lots in the area. The proposed lots also are of the same character as existing neighborhood lots with respect to lot width and area. Therefore, staff believes that the proposed lots have a size, width, shape and orientation that are appropriate for the location of the subdivision, without regard to the depth to width ratio.

### *Lots to abut a public street*

Section 50-29(a)(2) of the Subdivision Regulations requires that lots abut a public street, with certain exceptions. The lots do not comply with this requirement because they will be accessed by the public alley and not by the street frontage.



Staff response: The Town's recommendation conflates frontage with access. The Subdivision Regulations require that lots abut, or front onto, a public street. The three proposed lots have frontage on Meadow Lane and/or Oak Lane, which are public streets. The regulations do not require that vehicular access be provided from that frontage. Therefore, the application complies with this requirement.

*Resubdivision criteria*

The proposed lots are not of the same character with respect to frontage, alignment, shape, width, buildable area, and suitability for residential use, as required by Section 50-29(b)(2) of the Subdivision Regulations.

Staff response: As explained above in detail, staff finds that the proposed lots would be of the same character as existing neighborhood lots. Further, staff notes that in several instances, the Town's finding that the lots are not of the same character is based on observations of the potential dwellings that would be built on the lots, and not on the lots themselves. Staff reminds the Planning Board that a preliminary plan does not determine the size or location of any building, that the building footprints shown on the preliminary plan are conceptual only, and that the analysis required by Section 50-29(b)(2) applies to the proposed lots, and not to any potential buildings.

*Emergency access*

Access to the proposed lots will not be adequate for fire and rescue. The fire access plan approved by the Fire Marshal shows a pedestrian path leading from Meadow Lane to the proposed dwellings, but the current preliminary plan does not. The path is required to provide foot access to one of the proposed dwellings from a fire department staging area on Oak Lane.

Staff response: The staff recommendation includes a condition that requires that the certified preliminary plan show a hard-surfaced pedestrian path from Oak Lane to the proposed dwelling on Lot 39. Inclusion of this condition will bring the preliminary plan into conformance with the approved fire access plan.

*Pedestrian safety in the alley*

The three proposed lots will greatly increase vehicular traffic in the alley, putting pedestrians at risk.

Staff response: The addition of three one-family detached dwellings will not generate a significant amount of traffic. The alley provides primary vehicular access apparently to six existing lots; with the three proposed lots the total would be nine. The Planning Board has approved other preliminary plans for subdivisions on streets with no sidewalks, based on a determination that the low traffic volume allows pedestrians to safely travel in the roadway. Many of these subdivisions have been on streets with more dwellings accessing them than the nine lots that will access the alley if this subdivision is approved. Moreover, the alley is posted with a maximum speed of ten miles per hour, further ensuring pedestrian safety.

For the Planning Board's information, Article 28 of the Maryland Code stipulates that when an incorporated municipality recommends denial of a residential resubdivision application,

a two-thirds majority vote of the members of the Planning Board then present and participating is required to override the recommendation of the incorporated municipality.

### **Citizen Correspondence and Issues**

The applicant conducted a pre-submission community meeting on February 27, 2010. No significant subdivision issues were raised at the meeting. In addition, written notice of the plan submittal and the public hearing dates was given by the applicant and staff. As of the date of this report, four letters have been received from citizens opposed to the subdivision (Attachment J). These letters largely raise the same issues as were raised by the Town of Chevy Chase, and are discussed above. In addition, the letters raise the concern of excessive tree removal and the potential for houses that are larger than those in the surrounding area. With respect to tree removal, all tree removal will be consistent with an approved forest conservation plan, as provided for by the Montgomery County Forest Conservation Law. The forest conservation plan reduces loss of trees to the extent practical. With respect to potential house size, the preliminary plan does not determine house size or location, except that it sets building restriction lines. Any houses eventually built on the proposed lots will be placed within the area determined by the building restriction lines and will be built to meet the standards in the Montgomery County Zoning Ordinance and the Town of Chevy Chase Building Code.

Citizen concerns have been adequately addressed by the proposed plan, or with the recommended changes.

### **CONCLUSION**

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the three proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations. The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Bethesda/Chevy Chase 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. However, the Town of Chevy Chase has recommended denial of the application. As discussed in this report, staff does not agree with the Town's reasons for recommending denial and continues to recommend approval of the application despite the Town's recommendation to the contrary. For the Planning Board's information, Article 28 of the Maryland Code stipulates that when an incorporated municipality recommends denial of a residential resubdivision application, a two-thirds majority vote of the members of the Planning Board then present and participating is required to override the recommendation of the incorporated municipality.

## **Attachments**

- Attachment A – Vicinity Development Map
- Attachment B – Proposed Development Plan
- Attachment C – MDE Letter, August 8, 2010
- Attachment D – MDE Letter, January 27, 2011
- Attachment E – Forest Conservation Variance Request
- Attachment F – MCDEP Variance Letter, January 25, 2011
- Attachment G – Resubdivision Neighborhood Map
- Attachment H – Resubdivision Data Table
- Attachment I – Recommendation of the Town of Chevy Chase
- Attachment J – Citizen Correspondence
- Attachment K – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table and Checklist

| <b>Plan Name: 7206 Meadow Lane</b>        |  |  |                 |             |
|---|--|--|-----------------|-------------|
| <b>Plan Number: 120100270</b>             |  |  |                 |             |
| <b>Zoning: R-60</b>                       |  |  |                 |             |
| <b># of Lots: 3</b>                       |  |  |                 |             |
| <b># of Outlots: N/a</b>                  |  |  |                 |             |
| <b>Dev. Type: Residential</b>             |  |  |                 |             |
| <b>PLAN DATA</b>                          | <b>Zoning Ordinance Development Standard</b> | <b>Proposed for Approval by the Preliminary Plan</b> | <b>Verified</b> | <b>Date</b> |
| Minimum Lot Area                          | 6,000 sq. ft.                                | 17,790 sq. ft. minimum                               | NB              | 2/4/11      |
| Lot Width                                 | 60 ft.                                       | 67 ft. minimum                                       | NB              | 2/4/11      |
| Lot Frontage                              | 25 ft.                                       | 66 ft. minimum                                       | NB              | 2/4/11      |
| Setbacks                                  |  |  |                 |             |
| Front                                     | 25 ft. Min.                                  | Must meet minimum <sup>1</sup>                       | NB              | 2/4/11      |
| Side                                      | 8 ft. Min./18 ft. total                      | Must meet minimum <sup>1</sup>                       | NB              | 2/4/11      |
| Rear                                      | 20 ft. Min.                                  | Must meet minimum <sup>1</sup>                       | NB              | 2/4/11      |
| Height                                    | 35 ft. Max.                                  | May not exceed maximum <sup>1</sup>                  | NB              | 2/4/11      |
| Max Resid'l d.u. per Zoning               | 9  | 3  | NB              | 2/4/11      |
| MPDUs                                     | N/a  |  | NB              | 2/4/11      |
| TDRs                                      | N/a  |  | NB              | 2/4/11      |
| Site Plan Req'd?                          | No   |  | NB              | 2/4/11      |
| <b>FINDINGS</b>                           |  |  |                 |             |
| <i>SUBDIVISION</i>                        |  |  |                 |             |
| Lot frontage on Public Street             |  | Yes  | NB              | 2/4/11      |
| Road dedication and frontage improvements |  | Yes  | Agency letter   | 6/18/10     |
| Environmental Guidelines                  |  | Yes  | Staff memo      | 2/4/11      |
| Forest Conservation                       |  | Yes  | Staff memo      | 2/4/11      |
| Master Plan Compliance                    |  | Yes  | Staff memo      | 12/15/10    |
| <i>ADEQUATE PUBLIC FACILITIES</i>         |  |  |                 |             |
| Stormwater Management                     |  | Yes  | Agency letter   | 2/1/11      |
| Water and Sewer (WSSC)                    |  | Yes  | Agency comments | 9/30/10     |
| 10-yr Water and Sewer Plan Compliance     |  | Yes  | Agency comments | 5/24/10     |
| Well and Septic                           |  | N/a  | Agency letter   | 5/24/10     |
| Local Area Traffic Review                 |  | N/a  | Staff memo      | 5/24/10     |
| Policy Area Mobility Review               |  | N/a  | Staff memo      | 5/24/10     |
| Transportation Management Agreement       |  | No   | Staff memo      | 5/24/10     |
| School Cluster in Moratorium?             |  | No   | NB              | 2/4/11      |
| School Facilities Payment                 |  | Yes  | NB              | 2/4/11      |
| Fire and Rescue                           |  | Yes  | Agency letter   | 10/1/10     |

<sup>1</sup> As determined by MCDPS at the time of building permit.

# 7206 MEADOW LANE (120100270)



Map compiled on September 13, 2010 at 11:50 AM | Site located on base sheet no - 209NW04

### NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center



1 inch = 200 feet  
1 : 2400





**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

Water Management Administration  
Nontidal Wetlands Division  
1800 Washington Boulevard • Suite 430 • Baltimore MD 21230  
(Phone) 410-537-3745 • (Fax) 410-537-3751

Martin O'Malley  
Governor

Shari T. Wilson  
Secretary

Anthony G. Brown  
Lieutenant Governor

Robert M. Summers, Ph.D.  
Deputy Secretary

August 8, 2010

AUG 05 2010

Mr. Michael Thompson  
Biohabitats  
2081 Clipper Park Road  
Baltimore, Maryland 21211

RE: Nontidal Wetland Application # 10-NT-0215/201060887  
Project: CC Greenvision, LLC/Meadow Lane/Lot Fill & Outfall  
County: Montgomery

Mr. Thompson,

The Nontidal Wetlands Division has completed the review of the *Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* for the project referenced above. Based on the information received and the site visit conducted on May 24, 2010, I have concluded that the area delineated on the plans as nontidal wetlands did not contain all three parameters (hydrology, hydric soils, and hydrophytes) to be considered a nontidal wetland by its legal definition and, therefore, will not be regulated as such. No authorization is needed from the Nontidal Wetland Division.

If you have any questions regarding the above comments, please contact me via phone at 410-537-3788 or by e-mail [pcarlson@mde.state.md.us](mailto:pcarlson@mde.state.md.us).

Sincerely,

Paula Carlson  
Natural Resources Planner  
Nontidal Wetlands Division

CC: Mr. Tom Brault, CC Greenvision LLC

**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley  
GovernorRobert M. Summers, Ph.D.  
Acting SecretaryAnthony G. Brown  
Lieutenant Governor

January 27, 2011

Mr. Tom Brault  
CC Greenvision LLC  
c/o Woodside Ventures  
6912 Woodside Place  
Chevy Chase, MD 20815Nontidal Wetland Application #10-NT-0215/201060887  
Project: CC Greenvision, LLC/Meadow Lane/Lot Fill & Outfall  
County: Montgomery

Dear Mr. Brault,

The Maryland Department of the Environment, Nontidal Wetlands Division has determined that the parcel located at 7206 Meadow Lane, Chevy Chase, Maryland does not contain any jurisdictional wetlands as defined in the Corps of Engineers Wetland Delineation Manual and corresponding Regional Supplement. For an area to be considered a jurisdictional wetland, you must individually verify the presence of all three criteria (hydrology, hydric soil, and hydrophytes). These criteria were not met.

On May 24, 2010, the Department conducted a pre-application meeting with the consultant, Mr. Mike Thompson (Biohabitats), Mr. Hira Shrestha (MDE's Waterway Division), and myself. During this meeting, the Department determined there was no need for Mr. Brault to submit a *Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* for the proposed project.

In August of 2010, the Department did in fact receive a *Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* for the proposed project. This reviewer contacted Mr. Thompson on why an application had been submitted to the Department. Mr. Thompson stated that the wetland indicated on the plans were designated by Maryland-National Capital Parks and Planning Commission (M-NCPPC). Verbally and in a letter dated August 18, 2010, this reviewer stated that the site does meet the criteria to be considered a jurisdictional wetland.

After being contacted this January by the consultant, Mr. Thompson, an additional site visit was conducted. On January 19, 2011, the additional site visit took place Mr. Thompson (Biohabitats), Ms. Sara Roberts (Biohabitats), Ms. Pavla Cervova (MDE's Nontidal Wetland



Name  
Page Two

Division), and myself. During this site visit, the Department reaffirmed that the site does not contain jurisdictional wetlands. The Department advised Mr. Thompson to submit data sheets using the US Army Corps of Engineers regional supplement known as the Eastern Mountains and Piedmont Supplement.

The Department became in receipt of these data sheets on January 26, 2011. These data sheets are representative of what was at the site and further demonstrates that no jurisdictional wetlands are located at 7206 Meadow Lane, Chevy Chase, Maryland.

In conclusion, the Department would like to see any representation of a nontidal wetland removed the existing plans since the site does not contain any.

If you have any questions regarding the above comments, please contact me via phone at 410-537-3788 or by e-mail [pcarlson@mde.state.md.us](mailto:pcarlson@mde.state.md.us).

Sincerely,



Paula Carlson  
Natural Resources Planner  
Nontidal Wetlands and Waterways Division

CC: Mike Thompson, Biohabitats



January 13, 2011

M-NCP&PC  
Environmental Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

Attn: Mark Pfefferle, Forest Conservation Program Administrator

Re: **Preliminary Forest Conservation Plan and Variance Request (#120100270)**  
**Chevy Chase, Section 4**  
**Proposed Lots 37-39, Block 5**  
**7206 Meadow Lane**  
**REVISION (to address small changes in CRZ disturbance to trees 11 & 19)**

Dear Mark:

This letter is intended to serve as the Forest Conservation Variance Request pursuant to your DRC comments dated May 24, 2010. Two copies of the Preliminary Forest Conservation Plan are attached hereto for your review and comment. Digital copies of this request and Preliminary Forest Conservation Plan are also included on the attached CD. Should you have any questions or require any additional information please feel free to contact me directly.

Variance Justification

The applicant, CC Green Vision, LLC, hereby requests a variance for the removal and impact to specimen trees located on and near the subject property, currently 7206 Meadow Lane (Lot 36-A, Block 5, Chevy Chase, Section 4). The property is comprised of 1.325 acres (57,726 square feet) of land and is currently unimproved. The property is currently zoned R-60 and is located along the west side of Meadow Lane at the intersection of Oak Lane. The topography is such that the western third of the site is relatively flat as it contained the previous single family dwelling. The middle third of the property contains slopes of about 25% or more. The majority of the property's trees are located in the middle third. The eastern third of the site is adjacent to Meadow Lane, yet it is several feet lower in elevation than the adjacent Meadow Lane Right-of-Way, thereby creating a low area, where runoff ponds. A man-made concrete pond exists in this vicinity as does a small pocket of wetlands. **(On August 8, 2010, MDE confirmed that the "on-site wetlands" did not contain all three parameters to be considered a nontidal wetland by its legal definition and therefore will not be regulated as such. No authorization is needed from the Nontidal Wetland Division.)** The current Preliminary Plan includes a proposed three-lot subdivision. Each lot will contain a detached single family dwelling, driveway and individual stormwater

management systems. The wetlands and existing pond located in the low area are proposed for removal. Re-grading is also proposed to facilitate positive runoff. There are five (5) specimen trees located on the subject property and eight (8) specimen trees located off-site which may be impacted by the proposed project. Per Maryland State Law, effective on October 1, 2009, CC Green Vision is requesting a variance for the impact to 12 specimen trees.

It should be noted that this property was most recently occupied by a large single-family home, greater than 13,000 square feet, which was under construction. The property was previously developed with a modest single-family home. In 2000 a demolition permit was issued to raise the existing structure and construct the aforementioned large single-family home. The project was never completed and in 2008 it too was demolished. During this extended phase of demolition, construction and demolition again, many on-site trees were impacted. Specifically, those specimen trees numbered 5, 6, 8, 9, 17, 18, and 19 (17, 18, and 19 are off-site trees) and referenced on the attached Preliminary Forest Conservation Plan.

It should be further noted that only one on-site specimen tree and one off-site specimen tree is recommended for removal under this plan and request. Tree #9 (on-site) and tree #17 (off-site) is recommended for removal. The removal of tree #9 is necessary due to its location to the proposed house on proposed Lot 37 and its status as a hazard tree. Tree #17 is proposed for removal not only due to its proximity to the proposed re-grading of the lower third of the property, but also as a result of the requirement to extend the public sidewalk. The current condition of Tree #17 also factors in to its need to be removed. It contains 3 and 4-inch diameter dead limbs on the street and sidewalk side. Its roots have extensive damage and are infested with borer insects. The remaining trees numbered, 5, 6, 8, and 11 located on-site and 13, 14, 15, 16, 18, 19 and an unnumbered 30" white oak (on the opposite site of Meadow Lane) located off-site will be impacted. The extent of the impact to each of the trees is listed in the charts below. While the impact to trees 5 and 6 is greater than the recommended 33%, this impact is not significantly greater than the previous impact to these trees from the demolition / construction / demolition process from 2000 through 2008. Therefore they are indicated to be saved. **Impact to Tree 11 is also greater than 33%. However, this is due the removal of existing walls and concrete walk. The removal of these improvements can be done by hand to minimize impact to Tree 11.** Tree protection fencing, root pruning, and directional boring for proposed utilities will be utilized to aid in tree preservation.

#### On-Site Specimen Tree Data

| Tree No. | Common Name    | Botanical Name                 | D.B.H.   | C.R.Z. Radius | C.R.Z. Area | % C.R.Z. Area Disturbed | Condition       |
|----------|----------------|--------------------------------|----------|---------------|-------------|-------------------------|-----------------|
| 5        | Tulip Poplar   | <i>Liriodendron tulipifera</i> | 41.0 in. | 61.5 feet     | 11,883 s.f. | 72.0 %                  | Good / Save     |
| 6        | Tulip Poplar   | <i>Liriodendron tulipifera</i> | 51.0 in. | 76.5 feet     | 18,386 s.f. | 55.0 %                  | Poor / Save     |
| 8        | American Beech | <i>Fagus grandifolia</i>       | 31.0 in. | 46.5 feet     | 6,793 s.f.  | 31.0 %                  | Good / Save     |
| 9        | American Beech | <i>Fagus grandifolia</i>       | 34.5 in. | 51.75 feet    | 8,414 s.f.  | 64.0 %                  | Hazard / Remove |
| 11       | American Beech | <i>Fagus grandifolia</i>       | 31.0 in. | 46.5 feet     | 6,793 s.f.  | 43.0 %                  | Good / Save     |

**Off-Site Specimen Tree Data**

| Tree No.   | Common Name    | Botanical Name                 | D.B.H.   | C.R.Z. Radius | C.R.Z. Area | % C.R.Z. Area Disturbed | Condition     |
|------------|----------------|--------------------------------|----------|---------------|-------------|-------------------------|---------------|
| 13         | American Beech | <i>Fagus grandifolia</i>       | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 5.0 %                   | Good* / Save  |
| 14         | American Beech | <i>Fagus grandifolia</i>       | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 9.0 %                   | Good* / Save  |
| 15         | American Beech | <i>Fagus grandifolia</i>       | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 13.0 %                  | Good* / Save  |
| 16         | American Beech | <i>Fagus grandifolia</i>       | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 17.0 %                  | Good* / Save  |
| 17         | Tulip Poplar   | <i>Liriodendron tulipifera</i> | 32.0 in. | 48.0 feet     | 7,238 s.f.  | 71.0 %                  | Poor / Remove |
| 18         | Red Oak        | <i>Quercus rubra</i>           | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 21.0 %                  | Good* / Save  |
| 19         | Tulip Poplar   | <i>Liriodendron tulipifera</i> | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 4.0 %                   | Good* / Save  |
| Unnumbered | White Oak      | <i>Quercus alba</i>            | 30.0 in. | 45.0 feet     | 6,362 s.f.  | 9.5 %                   | Good* / Save  |

\* These off-site trees are assumed to be in good condition. They could not be formally evaluated as they are located on private property.

The owner hereby requests a variance for the disturbance/impact to the above referenced thirteen (13) specimen trees.

In accordance with Section 22A-21(b) of the Forest Conservation Law, the following is a description of the application requirements:

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

The subject property is located amongst other developed properties of similar size. The property was previously developed with a modest single-family home. In 2000 a demolition permit was issued to raise the existing structure and construct a new home totaling over 13,000 square feet in size. The project was never completed and in 2008 it too was demolished. During this extended phase of demolition, construction and demolition again, many on-site trees were impacted. Under the current preliminary plan, three houses are proposed within the western third of the property. This area contained the aforementioned partially constructed house. The majority of the on-site trees are confined to middle third of the site within the sloped area. The lower third of the site contains a man-made pond and small pocket of isolated wetlands. A May 24, 2010 site visit and review of "wetland" area was performed by MDE. As a result MDE confirmed that no wetlands exist on the property and therefore no authorization is needed. A copy of MDE's letter is attached to the Preliminary Forest Conservation Plan. No specimen trees exist in the lower third of the site. The proposed utilities will traverse the site from the upper third through the middle and lower thirds to the public systems located within the Meadow Lane Right-of-Way. The proposed driveways for each of the three houses will be accessed via the 20' Public Right-of-

Way along the western border of the property. This approach minimizes tree disturbance and reduces grading and impervious area upon the site.

In order to develop the property as proposed, five (5) specimen trees, located on-site and eight (8) specimen trees located off-site but near the proposed development will be impacted. One on-site specimen tree and one off-site specimen tree is proposed for removal. However, since the remaining four (4) on-site specimen trees and seven (7) off-site specimen trees are impacted (i.e. disturbance to their root zones) and they are not protected by easements, they are also considered to be impacted and thus must be included in this variance request. The site's topography combined with the proposed ideal placement of the houses and their respective proximity from public utilities present conditions peculiar to the subject property. This development is compatible with the surrounding properties in the neighborhood. The proposed Preliminary Forest Conservation Plan will protect the seven (7) specimen trees located on adjoining and confronting properties. It will also provide protection of the four (4) on-site specimen trees to a similar extent as they were protected during the 2008 demolition process.

- 2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.*

Saving these specimen trees (disturbing less than 66% of the critical root zone or placing them into a protective easement) would severely impact the development of this property in accordance with the existing neighborhood character as most properties are improved with large single-family homes. Restrictive easements do not exist on nearby properties nor would those existing properties be subject for forest conservation requirements. Redevelopment (i.e. new home construction) of many, if not all, of the nearby properties would not be subject to enforcement of these rules.

- 3. Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance.*

A Stormwater Management (SWM) Concept Plan for this project has been reviewed and approved by the Montgomery County Department of Permitting Services. The approved SWM Concept Plan will ensure that water quality standards will be met in accordance with State and County criteria.

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

Forest conservation requirements resulting from the redevelopment of this site will be met through an off-site forest conservation easement. Furthermore individual on-site trees, including the four (4) on-site specimen trees and seven (7) off-site specimen trees will be protected. Of the thirteen (13) specimen trees impacted, none are rare, threatened, or endangered, per the Maryland Nongame and Endangered Species Conservation Act. The property is not part of an historic site nor does it contain any historic structures. None of the specimen trees in question are 75% (or more) of the diameter of the current State champion for the subject species.

In accordance with Section 22A-21(e) of the Forest Conservation Law, the following is description of the minimum criteria necessary for granting a variance.

- 1. Will confer on the applicant a special privilege that would be denied to other applicants;*

Granting the variance will not confer a special privilege as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to redevelop the property as illustrated on the Preliminary Plan. Furthermore, the loss of certain trees and the need for a variance is often necessary and unavoidable in order to develop property in accordance with County criteria.

2. *Is based on conditions or circumstances which are the result of the actions by the applicant;*

The requested variance is not based on conditions or circumstances which are the result of actions of the applicant. The variance is based upon the R-60 zoning, the site's topography, proposed site development, required BMP's for stormwater management, and the need for connections to public utilities. Furthermore, the applicant has worked to reduce disturbance / impact to specimen trees by isolating the middle third of the property and designating it as a tree save area through the use of slope building restriction lines. Grading has been minimized to the extent feasible while still enabling the applicant to meet those necessary requirements for providing stormwater management and ensuring proper surface drainage.

3. *Is based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property*

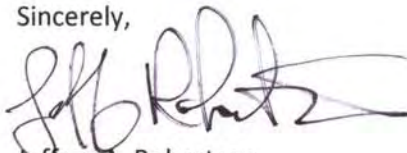
The requested variance is a result of the proposed site development, required BMP's for stormwater management, and the need for utility connections to each of the proposed lots and not a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer or a special protection area. A Stormwater Management Concept Plan has been approved by Montgomery County. Additionally, only one (1) specimen tree will be physically removed from the property.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Jeffrey A. Robertson  
*Senior Project Manager*

cc: T. Brault  
R. Brewer  
J. Dieruf



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

January 25, 2011

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

RE: 7206 Meadow Lane - Revised, DAIC 120100270, NRI/FSD applied for on 9/17/2009

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

# Attachment G

## GENERAL NOTES

- 1) GENERAL NOTES: SEE SHEET 01 FOR EXISTING CONDITIONS.
- 2) THE PROPOSED LOTS ARE BASED ON AVAILABLE RECORD INFORMATION.
- 3) BOUNDARY INFORMATION BASED ON AVAILABLE RECORD INFORMATION.
- 4) TOTAL LOT AREA: LOT 37-A = 47,726 SQ. FT. (1.08 ACRES)
- 5) PROPOSED LOT 37-A = 20,246 SQ. FT.
- 6) PROPOSED LOT 37-B = 27,480 SQ. FT.
- 7) PROPOSED LOT 37-C = 30,000 SQ. FT.
- 8) PROPERTY SHOWN ON TAX MAP IN 2002, CHEVY CHASE, SECTION 4.
- 9) SITE IS LOCATED IN THE LOWER ROCK CREEK MATTHEWS.
- 10) THE PROPERTY IS SUBJECT TO THE MONTGOMERY COUNTY ZONING ORDINANCE, TITLE 25, CHAPTER 10, SUBCHAPTER 10-201, WHICH PERMITS THE USE OF THE PROPERTY AS A RESIDENTIAL SINGLE-FAMILY DETACHED DWELLING.

## LEGEND

- PART OF LOTS AND PARCELS (NOT INCLUDED)
- ADJACENT BOUNDARY RESTRICTION LINES
- NEIGHBORHOOD BOUNDARY
- SUBDIVISION BOUNDARY
- SUBJECT PROPERTY

### PROPOSED LOTS 37-A BLOCK 5

| LOT # | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     |
|-------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|
| 37-A  | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 |
| 37-B  | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 |
| 37-C  | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 |

### PROPOSED LOTS 37-B BLOCK 5

| LOT # | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     |
|-------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|
| 37-B  | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 |
| 37-C  | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 |

### PROPOSED LOTS 37-A BLOCK 5

| LOT # | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     |
|-------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|
| 37-A  | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 | 20,246 | Chevy Chase, Inc. | 44788    | 10/28/81 |
| 37-B  | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 |
| 37-C  | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 |

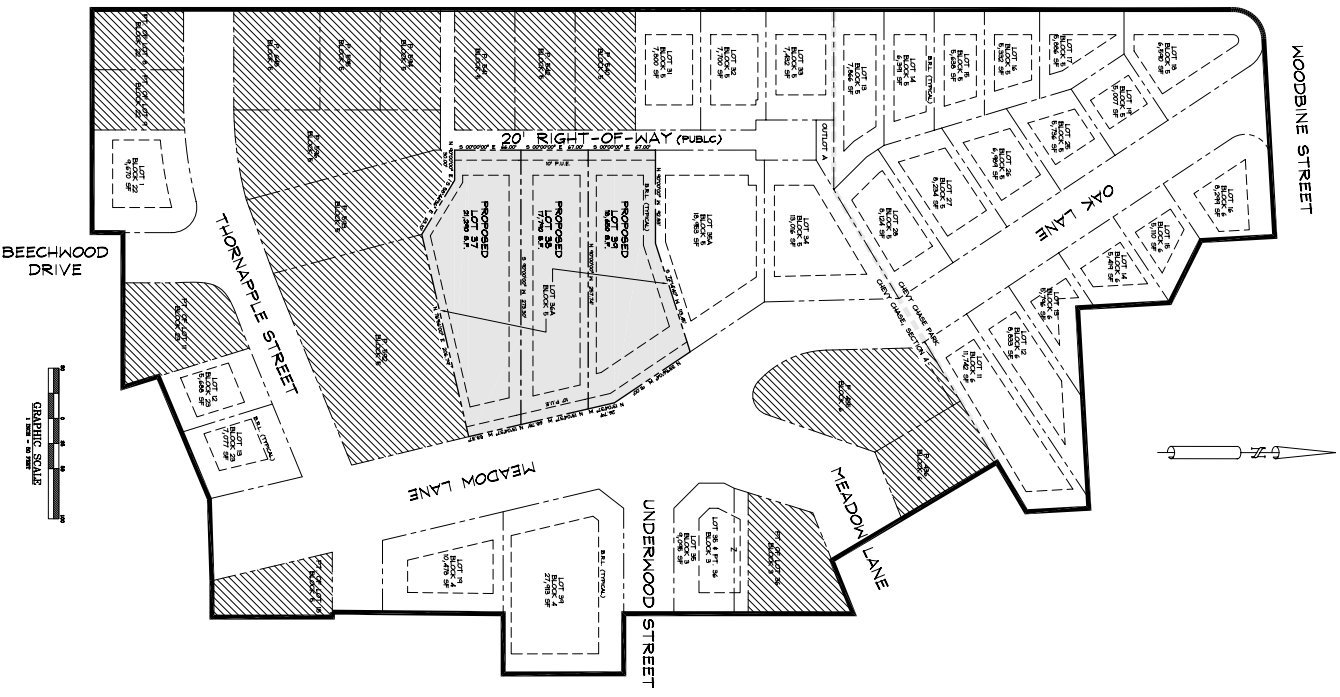
### PROPOSED LOTS 37-B BLOCK 5

| LOT # | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     | AREA   | OWNER             | RECORD # | DATE     |
|-------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|--------|-------------------|----------|----------|
| 37-B  | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 | 27,480 | Chevy Chase, Inc. | 44789    | 10/28/81 |
| 37-C  | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 | 30,000 | Chevy Chase, Inc. | 44790    | 10/28/81 |

## TABULAR NOTES

- 1) FOR THE PURPOSES OF THIS SUBDIVISION MAP ANALYSIS, NEIGHBORHOOD BOUNDARIES ARE BASED ON AVAILABLE RECORD INFORMATION.
- 2) LOT AREAS ARE BASED ON AVAILABLE RECORD PLAT INFORMATION.
- 3) PARTS OF LOTS AND PARCELS ARE EXCLUDED FROM THIS ANALYSIS, BUT HAVE BEEN SHOWN FOR REFERENCE.
- 4) IN THE CASE OF CONFLICT, THE LATEST RECORD INFORMATION SHALL PREVAIL.
- 5) PROPERTY LINES ARE SHOWN AS DOTTED LINES.
- 6) SUBJECT PROPERTY LINES HAVE BEEN DETERMINED BASED ON PROPERTY LINES.
- 7) SUBJECT PROPERTY LINES HAVE BEEN DETERMINED BASED ON PROPERTY LINES.
- 8) LOTS CONTAINING AT LEAST 50 FEET OF WIDTH AT THE REAR AND ADEQUATE FRONT YARD SETBACKS ARE CLASSIFIED AS RESIDENTIAL SINGLE-FAMILY DETACHED DWELLING.
- 9) THE SUBJECT AREA HAS BEEN REZONED FROM RS-1 TO RS-2.
- 10) THE SUBJECT AREA HAS BEEN REZONED FROM RS-1 TO RS-2.

## RIDGEWOOD AVENUE



FILE No. 120100270  
 7206 MEADOW LANE  
 CHEVY CHASE, SECTION 4  
 TOWN OF CHEVY CHASE  
 NEIGHBORHOOD MAP

WSSC GRID: 204 NW 04, TAX MAP: HN 342  
 TOWN OF CHEVY CHASE  
 PROPOSED LOT 37-A, BLOCK 5

PLAT 5723, CIRCA 1954  
**7206 MEADOW LANE**  
 BETHESDA (7TH) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND  
**NEIGHBORHOOD MAP**

| DATE     | BY  | REVISION                       | PROJECT | DATE     |
|----------|-----|--------------------------------|---------|----------|
| 02/22/10 | KAM | FOR SUBMITTAL TO NTP/CPC       | 04-050  | 02/20/10 |
| 02/24/10 | JAR | FOR PRELIMINARY PLAN SUBMITTAL | KAM     | N/A      |
|          |     |                                | JAR     | APPROVAL |

**CS ENGINEERING**  
 CIVIL - SURVEYING - LAND PLANNING  
 A DIVISION OF CAS ENTERPRISES, INC.  
 108 West Ridgeline Boulevard, Suite 101, Mount Airy, Maryland 21771  
 DC Metro (301) 607-8031 FAX (301) 607-8045



# Attachment H

## PROPOSED LOTS 37-39, BLOCK 5

7206 MEADOW LANE

CAS Project No. 09-050

Comparable Lot Data Table (Sorted in descending order by Lot Size)

| Lot | Block | Subdivision            | Frontage   | Alignment     | Lot Size    | Lot Shape   | Width      | Buildable Area |
|-----|-------|------------------------|------------|---------------|-------------|-------------|------------|----------------|
| 39  | 4     | Chevy Chase, Section 4 | 224.0 Feet | corner        | 27,913 S.F. | trapezoidal | 120.0 Feet | 11,132 S.F.    |
| 37  | 5     | Chevy Chase, Section 4 | 66.0 Feet  | perpendicular | 21,290 S.F. | irregular   | 85.6 Feet  | 9,348 S.F.     |
| 35A | 5     | Chevy Chase, Section 4 | 89.0 Feet  | perpendicular | 18,953 S.F. | irregular   | 108.4 Feet | 10,632 S.F.    |
| 39  | 5     | Chevy Chase, Section 4 | 67.0 Feet  | perpendicular | 18,650 S.F. | irregular   | 76.8 Feet  | 3,386 S.F.     |
| 38  | 5     | Chevy Chase, Section 4 | 67.0 Feet  | perpendicular | 17,790 S.F. | rectangular | 67.0 Feet  | 4,508 S.F.     |
| 34  | 5     | Chevy Chase, Section 4 | 134.0 Feet | perpendicular | 13,016 S.F. | trapezoidal | 93.8 Feet  | 5,917 S.F.     |
| 11  | 6     | Chevy Chase Park       | 50.8 Feet  | perpendicular | 11,742 S.F. | trapezoidal | 55.0 Feet  | 6,179 S.F.     |
| 19  | 4     | Chevy Chase, Section 4 | 123.4 Feet | corner        | 10,478 S.F. | trapezoidal | 120.1 Feet | 3,641 S.F.     |
| 1   | 22    | Chevy Chase, Section 4 | 102.2 Feet | corner        | 9,670 S.F.  | rectangular | 102.2 Feet | 3,513 S.F.     |
| 35  | 3     | Chevy Chase, Section 4 | 105.2 Feet | corner        | 9,095 S.F.  | irregular   | 66.4 Feet  | 2,709 S.F.     |
| 12  | 6     | Chevy Chase Park       | 50.0 Feet  | perpendicular | 8,833 S.F.  | trapezoidal | 50.0 Feet  | 3,531 S.F.     |
| 16  | 6     | Chevy Chase Park       | 123.8 Feet | corner        | 8,299 S.F.  | irregular   | 103.0 Feet | 2,453 S.F.     |
| 27  | 5     | Chevy Chase Park       | 64.5 Feet  | perpendicular | 8,234 S.F.  | trapezoidal | 64.5 Feet  | 3,794 S.F.     |
| 28  | 5     | Chevy Chase Park       | 64.6 Feet  | perpendicular | 8,124 S.F.  | rectangular | 61.4 Feet  | 3,778 S.F.     |
| 13  | 5     | Chevy Chase Park       | 50.0 Feet  | perpendicular | 7,866 S.F.  | trapezoidal | 50.0 Feet  | 3,288 S.F.     |
| 31  | 5     | Chevy Chase, Section 4 | 65.0 Feet  | perpendicular | 7,800 S.F.  | rectangular | 65.0 Feet  | 3,290 S.F.     |
| 32  | 5     | Chevy Chase, Section 4 | 65.0 Feet  | perpendicular | 7,700 S.F.  | rectangular | 65.0 Feet  | 3,280 S.F.     |
| 33  | 5     | Chevy Chase, Section 4 | 67.6 Feet  | perpendicular | 7,432 S.F.  | rectangular | 67.6 Feet  | 2,974 S.F.     |
| 13  | 23    | Chevy Chase, Section 4 | 95.0 Feet  | corner        | 7,077 S.F.  | rectangular | 77.4 Feet  | 2,041 S.F.     |
| 26  | 5     | Chevy Chase Park       | 64.5 Feet  | perpendicular | 6,989 S.F.  | trapezoidal | 64.5 Feet  | 2,891 S.F.     |
| 18  | 5     | Chevy Chase Park       | 139.2 Feet | corner        | 6,590 S.F.  | irregular   | 139.2 Feet | 3,628 S.F.     |
| 14  | 5     | Chevy Chase Park       | 50.0 Feet  | perpendicular | 6,391 S.F.  | trapezoidal | 50.0 Feet  | 2,612 S.F.     |
| 17  | 5     | Chevy Chase Park       | 84.0 Feet  | perpendicular | 5,886 S.F.  | irregular   | 84.0 Feet  | 1,457 S.F.     |
| 13  | 6     | Chevy Chase Park       | 60.0 Feet  | perpendicular | 5,796 S.F.  | irregular   | 60.0 Feet  | 1,083 S.F.     |
| 25  | 5     | Chevy Chase Park       | 64.5 Feet  | perpendicular | 5,736 S.F.  | trapezoidal | 64.5 Feet  | 1,987 S.F.     |
| 12  | 23    | Chevy Chase, Section 4 | 60.3 Feet  | perpendicular | 5,688 S.F.  | rectangular | 60.3 Feet  | 2,087 S.F.     |
| 15  | 5     | Chevy Chase Park       | 50.0 Feet  | perpendicular | 5,638 S.F.  | trapezoidal | 50.0 Feet  | 2,130 S.F.     |
| 14  | 6     | Chevy Chase Park       | 65.0 Feet  | perpendicular | 5,419 S.F.  | trapezoidal | 65.0 Feet  | 1,682 S.F.     |
| 16  | 5     | Chevy Chase Park       | 55.0 Feet  | perpendicular | 5,332 S.F.  | trapezoidal | 55.0 Feet  | 1,878 S.F.     |
| 15  | 6     | Chevy Chase Park       | 60.0 Feet  | perpendicular | 5,110 S.F.  | trapezoidal | 60.0 Feet  | 1,535 S.F.     |
| 19  | 5     | Chevy Chase Park       | 63.2 Feet  | perpendicular | 5,007 S.F.  | rectangular | 63.2 Feet  | 1,547 S.F.     |

1. Lot statistics taken from available record plats.
  2. Parts of lots and parcels were not included.
  3. Longest front property line used for frontage calculation on corner lots
  4. 25' Front BRL (per R-60 Zone) assumed for buildable area calculations.
  5. Average lot width measured at midpoint of lot.
- \* Buildable Area for proposed lots is based on Town of Chevy Chase Building Restriction Lines.

**CHEVY CHASE TOWN COUNCIL**

|                        |                                      |   |          |
|------------------------|--------------------------------------|---|----------|
| Preliminary Plan No.:  | 120100270                            | : |          |
| Name of Plan:          | 7206 Meadow Lane                     | : |          |
| Current Zoning:        | R-60 (Residential, one-family)       | : |          |
|                        | Bethesda-Chevy Chase Master Plan     | : | Case No. |
| Geographical Location: | West Side of Meadow Lane between     | : |          |
|                        | Thornapple Street and Oak Lane       | : |          |
| Plan Proposed:         | 3 lot single-family home subdivision | : |          |
| Applicant:             | CC Green Vision, LLC                 | : |          |

**RECOMMENDATION****Summary of Case**

This matter involves the application of CC Green Vision LLC (the "Applicant") to re-subdivide Lot 36A, Block 5, in the Chevy Chase, Section 4 subdivision into three lots. The Applicant is a contract-purchaser of the subject property. The subject property contains 57,730 square feet of land and is located on the west side of Meadow Lane between Thornapple Street and Oak Lane within the corporate boundaries of the Town of Chevy Chase (the "Town"). The three proposed Lots would range in size from 17,790 square feet to 21,290 square feet. In Montgomery County, subdivision and resubdivision plans are subject to approval by the Montgomery County Planning Board (the "Planning Board").

**Procedural History**

The subject Preliminary Plan (the "Plan") was filed with the Planning Board on April 8, 2010. On April 26, 2010, pursuant to Article 28, Section 7-117.2 of the Annotated Code of Maryland, the Planning Board referred the proposed Plan to the Chevy Chase Town Council (the "Town Council") for review and comment. The Planning Board's notice was received by the Town on April 27, 2010. On April 30, 2010, pursuant to the Town Council's protocol for processing subdivision and resubdivision referrals from the Planning Board, the

Town notified the public that a public hearing would be held on May 20, 2010 to receive testimony, other evidence, and comments from the public regarding the proposed resubdivision. On May 20, 2010 the public hearing was held as advertised.

### **Summary of Evidence**

The materials sent to the Town by the Planning Board included: the Plan, a copy of the Preliminary Plan Application, and a copy of a letter from the Applicant dated April 7, 2010 describing the proposed Plan. Prior to the hearing, written comments in opposition to the Plan were submitted by the following Town residents: Helene and Phil Tucker of 7200 Meadow Lane; Peter Edwards of 7400 Meadow Lane; Julia H. Miller of 4212 Oakridge Lane; Vicky Taplin of 4120 Leland Street; Elizabeth and Robert Bonardi of 4105 Thornapple Street; Jon Hiatt of 7410 Ridgewood Avenue; Ernest and Sally Kelly of 7300 Oak Lane; and Jay Endelman of 7404 Oak Lane.

At the hearing, Todd Hoffman, the Town Manager, submitted a staff report for the record. Thomas Brault, representing the Applicant, and George Collins, one of the owners of the subject property, appeared and testified regarding the elements of the Plan. The Applicant's civil engineer, Jeffrey A. Robertson, provided additional testimony about the Plan. The Applicant explained that the proposed houses would have front doors facing Ridgewood Alley and facing Meadow Lane, but the proposed Lots would not have vehicular access from Meadow Lane. The Applicant asserted that the alley adjoining the proposed Lots to the west is a "street" for purposes of the County and Town Codes. Mr. Collins explained that a prior owner commenced construction of a single house on the subject property.

Numerous Town residents asked questions at the hearing about the Plan. At the hearing, the following residents provided testimony in opposition to the proposed Plan: Tina Coplan of 7003 Meadow Lane; Jeffrey Berger of 7109 Meadow Lane; Phil Tucker of 7200 Meadow Lane; Jeffrey Balkind of 7201 Meadow Lane; Putnam Ebinger of 7306 Meadow Lane; Pam Gardner of 7320 Meadow Lane; Ann Christman of 7207 Ridgewood Avenue; Bridget and Lees Hartman of 7214 Ridgewood Avenue; Stephanie Flack of 7111 Oakridge Avenue; Ernest and Sally Kelly of 7300 Oak Lane; and Deborah Vollmer of 7202 44<sup>th</sup> Street.

**Findings of Fact**

Based on the record of the hearing, the Town Council makes the following findings of fact:

1. The subject property, Lot 36A, contains 57,730 square feet of land and is located on the west side of Meadow Lane between Thornapple Street and Oak Lane:

2. The subject property was platted in 1959:

3. The prior owner commenced construction of a single house on the subject property:

4. Jakubiak & Associates, a land use consultant, was retained by the Town in 2007 to study and recommend new regulations to address the adverse impacts of incompatible development throughout the Town and prepared a report in connection with that project:

5. According to the Jakubiak report, excerpts from which are attached at Tab 3 of the staff report, Meadow Lane is part of what is known as the "Valley District." in reference to the street's low terrain:

6. As explained by Jakubiak & Associates, the “Valley District” runs along Meadow Lane and a small section of Oakridge Drive, along the valleys of the Town’s hilly terrain and is known for the “Green spaces along the roads ... created by larger lots, broad front setbacks, and large street tree planting strips. These elements contribute to the park-like character of this district.”

7. The subject property has unusual topography, having an existing pond, a wetland area, and a grade that slopes steeply from west to east, as reflected in the Plan:

8. As proposed, Lot 37 would contain 21,290 square feet, Lot 38 would contain 17,790 square feet, and Lot 39 would contain 18,650 square feet;

9. The proposed Lots would not have direct vehicular access to a public street:

10. The proposed Lots would be accessed from Ridgewood Avenue via an alley:

11. The Town Code, like the County Code, defines a “street” as “A public or dedicated right-of-way for vehicular travel thirty (30) feet or more in width.”

12. The alley, known as Ridgewood Alley, is approximately 20 feet in width according to the Plan:

13. The hammerhead in Ridgewood Alley to the rear of Lot 34 is approximately 30 feet in width, as reflected by the Plan:

14. The proposed Lots would have 53.37, 68.78, and 117.79 feet of frontage along Meadow Lane:

15. Lots in the Town are generally approximately twice as deep as they are wide (e.g., 60’ x 120’):

16. As proposed, the Lots would have widths along Ridgewood Alley of 66, 67, and 67 feet, respectively:

17. The proposed Lots would have depths of approximately 281.5, 266.5, and 229 feet, respectively:

18. The Plan calls for the removal of the following nine (9) canopy trees that are protected by Chapter 29 of the Town Code: a 108-inch circumference American Beech tree; a 36-inch circumference Holly tree; a 27 and 29-inch circumference double-trunk Holly tree; a 33-inch circumference Holly tree, and a 27 and 27-inch circumference double-trunk Holly tree; two (2) 72-inch circumference American Beech trees, a 65-inch circumference Hickory tree; and a 67-inch circumference American Beech tree (Tab 4 to staff report):<sup>1</sup>

19. As proposed, the structures shown on the Plan would not comply with the Town's rear setback requirements and one of the three houses (Lot 39) would not comply with a required side setback, as reflected in the Town staff report:

20. As proposed, all three houses would exceed the Town's maximum wall plane length, as reflected in the Town staff report:

21. The Town residents who appeared at the hearing to provide testimony about the proposed Plan unanimously opposed the Plan; and

22. Apart from the Applicant's and Mr. Collins' submissions, no written comments or testimony in support of the proposed Plan were submitted for the record.

---

<sup>1</sup> The Town arborist notes in his report that the "tops of [two of the subject trees] have been damaged and would be considered for approval for removal. All of the other trees appear healthy and would be denied for removal" (Tab 4 to staff report).

### Applicable Law

Chapter 50 of the Montgomery County Code sets forth the process and criteria for evaluating subdivision and resubdivision applications. Section 50-29 of the Montgomery County Code sets forth the lot design factors to consider in reviewing a proposed resubdivision. Of particular relevance is Section 50-29(b)(2) which states:

Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a 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.

Taking into account the special character of the Town, the Town Council adopted guidelines to assist in the evaluation of proposed subdivisions and resubdivisions for compatibility with the neighborhood.

### Conclusions of Law

The Town Council concludes that many of the requirements and standards in Chapter 50 of the Montgomery County Code are not applicable to the proposed Plan because they relate to issues that are not relevant to the subdivision of a previously subdivided lot in an established neighborhood. For example, Section 50-28 regulates block design, but the Applicant is not proposing to create a new block. Accordingly, the Town Council concludes that any sections of Chapter 50 that are not discussed herein are either irrelevant to the proposed Plan or are not materially affected by the proposed Plan. As to the criteria that the Town Council finds relevant and material, the Town Council makes the following conclusions.

1. Section 50-29(a)(1) Lot Dimensions. 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.

*Although the proposed Lots would be larger than most of the adjoining or confining lots, the Town Council generally does not object to this aspect of the proposal. However, the Town Council finds that the width of the proposed Lots would not be proportionate to the depth. Lots in the Town are generally approximately twice as deep as they are wide (e.g., 60' x 120'). In contrast, the proposed Lots have an average width along Ridgewood Alley of 67 feet and range in depth from about 229 feet to about 281.5 feet. Accordingly, the proposed Lots would have a depth to width ratio of 3:1 to 5:1 rather than 2:1.*

*Except for lot 35A, all of the other lots in the surrounding area are oriented toward and have access to a public street with a 50 or 60-foot wide right-of-way. However, the applicant is proposing three Lots that are oriented to, and would have access via a 20-foot wide alley.*

2. Section 50-29(a)(2) Lots to Abut on Public Street. Except as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road...

*Access to the proposed Lots would not be from the abutting public street, Meadow Lane. Rather, the Applicant is proposing access from Ridgewood Avenue via an alley. According to the Plan, the Alley is 20 feet wide. The Applicant proposes to install parking strips along the Alley.*

*The proposed Lots would not have frontage on Ridgewood Avenue and the Alley is not adequate for emergency vehicles, public utilities, and other public services such as trash collection and snow plowing. The Town Council is particularly concerned about fire truck access. The Applicant did not demonstrate whether a fire truck would be able to reach the proposed Lots through the narrow Alley and its ninety-degree turn. Numerous residents testified about their concerns for emergency vehicle access. The Town Council finds it unimaginable for a ladder truck to be able to make the necessary ninety-degree turn, where the Alley is 20 feet in width, and to be able to turn around at the Alley's terminus, which is only about 30 feet in width.*

*Numerous residents testified about their concerns for pedestrian safety along the Alley, as the proposed Plan would greatly increase traffic on the narrow alley that is often used by pedestrians and children at-play. The three proposed Lots, which would be accessed exclusively from the Alley, and the proposed parking pads, would materially increase the traffic impact.*



*In addition, the Town Council notes that Section 50-29(a)(2) uses the term "street or road" in contrast to the term "public right-of-way". The Town Council believes this is significant and reveals an intent that lots should not have as their sole means of access an alley that does not meet the standards for a residential roadway.*

*Lot 35A, immediately to the north of the subject property, uses the Alley as its sole access. The exceptions to the requirement that all lots abut on a public street, although not applicable for other reasons, allow only two (2) lots to use a private driveway or right-of-way. Lots 35A and 36A fill this quota. The proposed resubdivision would result in four (4) lots using the Alley as their sole access.*

3. Section 50-29(a)(3) Side Lines. Side lines of interior lots shall be perpendicular to the street line, or radial to a curved street line, unless determined by the board that a variation from this rule will result in a better layout.

*The Town Council concludes that this subsection is not applicable to the exterior lines because they already exist. The new interior side lines, dividing proposed Lots 37 and 38 and dividing Lots 38 and 39, would be perpendicular to the street.*

4. Section 50-29(a)(4) Double Frontage Lots. Double frontage lots, meaning a block having only one (1) tier of lots between two (2) streets or roads, shall not be approved except: (a) Where unusual topography, orientation or the size of the subdivision permit no other feasible way to subdivide; or (b) Where access to one (1) of the streets may be controlled by the board as provided in subsection (g) of section 50-25 or paragraph (4) of subsection (a) of section 50-28.

*The Town Council concludes that the proposed Lots would not be "Double Frontage Lots." Although the Lots would abut an alley commonly known as "Ridgewood Alley" to the west and Meadow Lane to the east, the Council finds that the proposed Lots should be considered part of Block 50 which extends from Meadow Lane and Oak Lane on the east to Ridgewood Avenue on the west. Accordingly, the Council does not believe the proposed Lots would be "Double Frontage Lots" and, therefore, this subsection is not applicable. The Town Code, like the County Code, distinguishes an alley from a street. An alley is not a street under the Town and County Codes.*

*If one accepts the Applicant's argument that an alley is a "street," the proposed Lots could be considered "double frontage Lots." As indicated by the subdivision ordinance, double frontage lots are not favored.*

*Although the subject property does have unusual topography, the topography does not require that the applicant subdivide in the proposed manner. An alternative development plan could be developed so that most of the trees that the Applicant proposes to remove which are protected by the Town Code as noted below (i.e., seven of the nine trees) could be saved. Those include: a 108-inch circumference American Beech; a 36-inch circumference Holly; a 27 and 29-inch circumference double-trunk Holly; a 33-inch circumference Holly; a 27 and 27-inch circumference double-trunk Holly; a 72-inch circumference American Beech; and a 65-inch circumference Hickory.<sup>2</sup>*

5. Section 50-29(b)(1) Pedestrian paths or Alleys. If midblock pedestrian path or alley is provided in a residential subdivision, the lots adjoining the path or alley must be increased in width sufficient to provide for a side building restriction line running parallel to the path or alley 15 feet from it.

*The Town Council concludes that this subsection is not applicable. The applicant is not proposing a midblock pedestrian path or alley.*

6. Section 50-29(b)(2) Resubdivision. Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a 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.

*In order to evaluate the criteria in Section 50-29(b)(2) the Council must define the existing block, neighborhood and subdivision. The Town Council concludes that, as found by Jakubiak & Associates, the land use consultant retained by the Town in 2007 to study and recommend new regulations to address the adverse impacts of incompatible development, Meadow Lane has a recognizable district character. It is part of what is known as the "Valley District," in reference to the street's low terrain. As explained by Jakubiak & Associates, the "Valley District" runs along Meadow Lane and a small section of Oakridge Drive, along the valleys of the Town's hilly terrain. "Green spaces along the roads are created by larger lots, broad front setbacks, and large street tree planting strips. These elements contribute to the park-like character of this district."*

*Accordingly, the Town Council finds that for purposes of assessing the Plan's consistency with the character of the neighborhood, the*

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<sup>2</sup> Based on the damage noted by the Town arborist (see infra footnote 2), two of the seven trees would be considered by the Town arborist for approval for removal upon the filing of a tree removal permit application (i.e., the 27 and 29-inch circumference double-trunk Holly and the 33-inch circumference Holly). The appropriateness of removal of the two trees is not before the Council and is not being considered in this recommendation.

*neighborhood includes the subject property and the properties at 7200, 7201, 7205, 7301, 7303, and 7306 Meadow Lane, and 7300 and 7400 Oak Lane, as reflected on the map attached to the staff report.*

*The proposed three Lots would be inconsistent with the fabric and character of the neighborhood. The Plan would disrupt the "park-like" setting by creating an enclave of three large houses located in close proximity to each other. The neighborhood properties listed above have an average street frontage of 105 feet, as reflected in the staff report (124 feet including the subject property). The proposed Lots would have frontages on Meadow Lane of approximately 53, 69, and 117 feet. This limited frontage would materially change the characteristic broad front yards along Meadow Lane. As proposed, the structures would not comply with the Town's rear setback requirements and one of the three houses would not comply with a required side setback, as reflected in the Town staff report. Additionally, all three houses would exceed the maximum wall plane length.*

*Moreover, of great concern to the community is the impact on the mature trees that the Plan would have. The Plan calls for the removal of nine (9) canopy trees that are protected by the Town Code. The Applicant proposes to remove the following: a 108-inch circumference American Beech tree; a 36-inch circumference Holly tree; a 27 and 29-inch circumference double-trunk Holly tree; a 33-inch circumference Holly tree, and a 27 and 27-inch circumference double-trunk Holly tree; two (2) 72-inch circumference American Beech trees, a 65-inch circumference Hickory tree; and a 67-inch circumference American Beech tree. Removal of so many protected trees would change the park-like setting and character of Meadow Lane and the immediate neighborhood.*

a. Street Frontage

*As noted above, the properties identified by the Town Council as part of the neighborhood, have an average street frontage of 105 feet. The proposed Lots would have frontages of 53, 69, and 117 feet. Thus, the average lot in the neighborhood has twice the street frontage as Lot 37 and one and one-half times the street frontage as Lot 38. The Plan would not be consistent with the street frontage of the neighborhood.*

b. Alignment

*The Applicant explained that the proposed houses would have front doors facing Ridgewood Alley and facing Meadow Lane, but the proposed Lots would not have vehicular access from Meadow Lane. The Town Council finds that lots should not be doubly-*

*aligned such that their alignment to a public street is artificial and the sole means of vehicular access is an alley that does not meet the standards for a residential roadway. With parking along the Alley, visitors would approach the houses from the alley. The houses would almost certainly be oriented toward the alley and not a street. The Plan would not be consistent with the actual alignment and orientation of the houses in the neighborhood.*

c. Size

*Although the proposed Lots would be larger in size than most of the adjoining or confronting lots, the Town Council generally does not object to this aspect of the proposal. However, based on the elongated shape of the Lots and the ratio of width to depth, the large size of the proposed Lots could result in incompatible and adverse development as explained below. The proposed development would require, at a minimum, variances from the Town's rear setback requirements and one house (Lot 39) would require a side setback variance.*

d. Shape

*Most lots in the Town are rectangular in shape and are generally approximately twice as deep as they are wide (e.g., 60' x 120'). The proposed Lots would be elongated. The Plan would not be consistent with the shape of other lots in the neighborhood.*

e. Width

*As stated above, lots in the Town are generally approximately twice as deep as they are wide (e.g., 60' x 120'). In contrast, the proposed Lots have an average width along Ridgewood Alley of 67 feet and range in depth from about 229 feet to almost 281.5 feet. Accordingly, the proposed Lots would have a depth to width ratio of 3:1 to 5:1 rather than 2:1. As noted below, this inconsistent depth to width ratio can result in incompatible and adverse development.*

f. Area

*Although the proposed Lots would be larger in area than most of the adjoining or confronting lots, the Town Council generally does not object to this aspect of the proposal. However, based on the shape of the of the Lots, the ratio of width to depth, and the illustrative footprints, the large area of the proposed Lots would result in a concentration of massive and looming structures.*

*Based on the proposed lot area, houses of gross floor area of 8322.5, 7447.5, and 7662.5 square feet could be built. The Applicant proposes to locate the three houses only 25 feet from the rear lot lines where 95.6 to 126.2 feet setbacks would be required under the Town Code, as reflected in the staff report. Also, the three homes would be located 8 to 12 feet from one another. One of the proposed homes would be located only 8.1 feet from the north side lot line where 18 feet would be required under the Town Code (Lot 39). Accordingly, the apparent mass and bulk of such houses would be exacerbated by their proposed proximity to each other and to the rear and side lot lines, thereby adversely impacting adjoining properties and the properties confronting the subject property across the Alley.*

g. Suitability for residential use

*In addition to the issues discussed above, the Town Council finds that storm water management would be problematic, based on the proposed intensive development, due to the subject property's existing wetland areas and steeply sloping grade. The environmental sensitivities of the subject property should be studied in further detail. Based on the known environmental sensitivities of the subject property, limitations on the intensity of any subdivision would be appropriate.*

*In summary, there is a reason why this parcel has not been resubdivided since it was platted in 1959 and why the prior owner commenced construction of a single house on this lot. The desired access via an alley plus the existence of the steep slope, pond, and wetland area on the lot render it unsuitable for intense development such as that proposed.*

*The pre-application concept plan is an attempt to force a round peg into a square hole and clearly does not meet the requirements of section 50-29 of the Montgomery County Code.*

### **Recommendation**

Based on the evidence of record, the findings of fact and conclusions of law set forth above, the Town Council recommends that the proposed subdivision be denied.

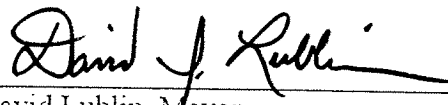
The forgoing Recommendation was adopted by the Town Council of the Town of Chevy Chase with the following members voting in favor: Linna M. Barnes, Patricia Burda,

David Lublin, and Kathy Strom. Albert Lang was not present for the public hearing and did not participate in this decision.

Attest:

TOWN COUNCIL OF THE  
TOWN OF CHEVY CHASE

  
Albert Lang, Secretary

By:   
David Lublin, Mayor

Date: June 8, 2010

NB

STEIN, SPERLING, BENNETT, DE JONG, DRISCOLL & GREENFEIG, P.C.

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OUR FILE NUMBER  
2051758.1

October 28, 2010

Via Hand-Delivery

The Maryland-National Capital Park and Planning Commission  
Montgomery County Planning Board  
c/o Françoise Carrier, Chair  
8787 Georgia Avenue, 2<sup>nd</sup> Floor  
Silver Spring, Maryland 20910

RE: Recommendation of the Town of Chevy Chase  
File No.: 120100270 (Preliminary Plan of Subdivision-7206 Meadow Lane)

Dear Board members:

In accordance with Article 28, Section 7-117.2 of the Maryland Code, enclosed please find the written recommendation of the Town of Chevy Chase concerning the referenced revised preliminary plan of subdivision, the transcript of the Town's public hearing held on October 13, 2010, and a copy of the additional record materials from the October 13, 2010 hearing. The record materials previously provided to you by my letter dated June 9, 2010 were incorporated into the record of the Town's hearing on October 13, 2010, but are not included with this letter as they have already been provided to you (Exhibits 1-14). We have confirmed with Mr. Braunstein that my prior letter and the attached materials are still in the Board's file.

The Town Council is disappointed with the revised plan. The applicant did not address the Town Council's previously articulated concerns. In fact, the revised plan makes matters worse because more protected canopy trees would be compromised. Although the applicant, through the testimony of a

STEIN, SPERLING, BENNETT, DE JONG, DRISCOLL & GREENFEIG, P.C.

Montgomery County Planning Board

October 28, 2010

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contract-purchaser, represented that the revised plan would allow three (3) protected trees to be saved that were previously proposed to be removed, the revised plan reflects that three (3) other trees—not previously designated for removal—are now proposed to be removed and one of the trees the applicant proposes to save may still be harmed by the development, according to the Town arborist.

Apart from the tree canopy loss, the Town's other concerns set forth in its previous recommendation have not been addressed. For the reasons set forth in the attached recommendation, the Town Council continues to recommend denial.

Very truly yours,



Ronald M. Bolt,  
Assistant Town Attorney

Enclosures

cc: David Lublin, Mayor (w/enclosures)  
Catherine Conlon, Development Review Division (w/enclosures)  
Neil Braunstein, Planner Coordinator (w/o enclosures)  
Robert G. Brewer, Esq. (w/enclosures)



**CHEVY CHASE TOWN COUNCIL**

Name of Plan: 7206 Meadow Lane :  
 Current Zoning: R-60 (Residential, one-family) :  
 Bethesda-Chevy Chase Master Plan : Preliminary Plan No.:  
 Geographical Location: West Side of Meadow Lane between : 120100270  
 Thornapple Street and Oak Lane :  
 Plan Proposed: 3 lot single-family home subdivision :  
 Applicant: CC Green Vision, LLC :

**RECOMMENDATION**

**Summary of Case**

This matter involves the application of CC Green Vision LLC (the "Applicant") to re-subdivide Lot 36A, Block 5, in the Chevy Chase, Section 4 subdivision into three lots. The Applicant is a contract-purchaser of the subject property. The subject property contains 57,730 square feet of land and is located on the west side of Meadow Lane between Thornapple Street and Oak Lane within the corporate boundaries of the Town of Chevy Chase (the "Town"). The three proposed Lots would range in size from 17,790 square feet to 21,290 square feet. In Montgomery County, subdivision and resubdivision plans are subject to approval by the Montgomery County Planning Board (the "Planning Board").

**Procedural History**

A Preliminary Plan (the "Plan") was filed with the Planning Board on April 8, 2010. On April 26, 2010, pursuant to Article 28, Section 7-117.2 of the Annotated Code of Maryland, the Planning Board referred the proposed Plan to the Chevy Chase Town Council (the "Town Council") for review and comment. The Planning Board's notice was received by the Town on April 27, 2010. On April 30, 2010, pursuant to the Town Council's protocol for processing subdivision and resubdivision referrals from the Planning Board, the Town notified the public that a public hearing would be held on May 20, 2010 to receive testimony,

other evidence, and comments from the public regarding the proposed resubdivision. On May 20, 2010 a public hearing was held as advertised. On June 8, 2010 a report and recommendation was submitted to the Montgomery County Planning Board.

On September 29, 2010, a Revised Preliminary Plan was received by the Town. On October 1, 2010, pursuant to the Town Council's protocol, the Town notified the public that a public hearing would be held on October 13, 2010 to receive testimony, other evidence, and comments from the public regarding the proposed resubdivision, as revised. On October 13, 2010 a public hearing was held as advertised.

#### **Summary of Evidence**

The Town announced that it was incorporating the record of the May 20, 2010 hearing into the record of the October 13, 2010 hearing. The record of the May 20, 2010 hearing included the following: the Plan; a copy of the Preliminary Plan Application; a copy of a letter from the Applicant dated April 7, 2010 describing the proposed Plan; written comments from Town residents; a staff report submitted to the Town Council at the hearing; and the transcript of the May 20, 2010 hearing. Prior to the May 20, 2010 hearing, written comments in opposition to the Plan were submitted by the following Town residents: Helene and Phil Tucker of 7200 Meadow Lane; Peter Edwards of 7400 Meadow Lane; Julia H. Miller of 4212 Oakridge Lane; Vicky Taplin of 4120 Leland Street; Elizabeth and Robert Bonardi of 4105 Thornapple Street; Jon Hiatt of 7410 Ridgewood Avenue; Ernest and Sally Kelly of 7300 Oak Lane; and Jay Endelman of 7404 Oak Lane.

At the May 20, 2010 hearing, Todd Hoffinan, the Town Manager, submitted a staff report for the record. Thomas Brault, representing the Applicant, and George Collins, one of the owners of the subject property, appeared and testified regarding the elements of the Plan.

The Applicant's civil engineer, Jeffrey A. Robertson, provided additional testimony about the Plan. The Applicant explained that the proposed houses would have front doors facing Ridgewood Alley and facing Meadow Lane, but the proposed Lots would not have vehicular access from Meadow Lane. The Applicant asserted that the alley adjoining the proposed Lots to the west is a "street" for purposes of the County and Town Codes. Mr. Collins explained that a prior owner commenced construction of a single house on the subject property.

Numerous Town residents asked questions at the May 20, 2010 hearing about the Plan. At the hearing, the following residents provided testimony in opposition to the proposed Plan: Tina Coplan of 7003 Meadow Lane; Jeffrey Berger of 7109 Meadow Lane; Phil Tucker of 7200 Meadow Lane; Jeffrey Balkind of 7201 Meadow Lane; Putnam Ebinger of 7306 Meadow Lane; Pam Gardner of 7320 Meadow Lane; Ann Christman of 7207 Ridgewood Avenue; Bridget and Lees Hartman of 7214 Ridgewood Avenue; Stephanie Flack of 7111 Oakridge Avenue; Ernest and Sally Kelly of 7300 Oak Lane; and Deborah Vollmer of 7202 44<sup>th</sup> Street.

On or about September 29, 2010 the Planning Board sent the following documents to the Town pursuant to Article 28, Section 7-117.2 of the Annotated Code of Maryland: a transmittal letter dated September 29, 2010 from Neil Braunstein, Planning Coordinator of the Maryland-National Capital Park and Planning Commission (M-NCPPC); a letter dated September 21, 2010 from Jeffrey A. Robertson of CAS Engineering to Mr. Braunstein describing the revisions to the Preliminary Plan; a copy of the Revised Preliminary Plan of Resubdivision; a letter dated May 18, 2010 from Mr. Robertson to Marco Fuster of the M-NCPPC regarding a Preliminary Forest Conservation Plan and a Variance Request; and a

copy of a Preliminary Forest Conservation Plan and Tree Save Plan prepared by CAS Engineering.

Prior to the October 13, 2010 hearing, written comments in opposition to the Plan, as revised (hereinafter the "Revised Plan"), were submitted by the following Town residents: Jay Endelman of 7404 Oak Lane; Hiroko McCamey of 7213 Ridgewood Avenue; Stephanie Brown of 4129 Woodbine Street; Anne and Paul Christman of 7207 Ridgewood Avenue; Ernest and Sally Kelly of 7300 Oak Lane; Phil and Helene Tucker of 7200 Meadow Lane; and Laura Lederman of 3916 Underwood Street. Letters in support of the Revised Plan were received from Naomi V. Kaminsky of 6903 Oakridge Avenue and Peter Dove of 3907 Underwood Street.

At the October 13, 2010 hearing, Todd Hoffman presented a staff report which compared the setbacks, height and other development standards of the Revised Plan with the requirements of the Town Code. Mr. Hoffman presented a comparison of the frontage, size and depth of each proposed lot with the frontage, size and depth of other lots in the immediate neighborhood as well as a 2007 report by Jakubiak & Associates, Incorporated ("Jakubiak & Associates"), a land use consultant, in which Mr. Jakubiak described and defined eight distinct neighborhoods in the Town. Also, Mr. Hoffman presented an October 6, 2010 report from Feather & Associates analyzing the Applicant's Preliminary Forest Conservation Plan and Tree Save Plan dated September 21, 2010.

At the October 13, 2010 hearing, Thomas Brault appeared on behalf of the contract-purchaser, CC Green Vision LLC. He testified that the Revised Plan shows two (2) steep slope building restriction lines to prohibit construction on the portion of the property that is steeply sloped. He stated that the Revised Plan would save three (3) trees previously

proposed for removal and that certain utilities would have to be relocated. He testified that the County Fire Marshall approved the Plan as originally proposed and Mr. Brault agreed to provide the Town with a copy of the Fire Marshall's approval letter. He testified that he does not know whether reforestation is required but that if it is, it would be provided in Poolesville.

George Collins testified that he represents the current owner. He believes that a 3-lot subdivision is the most viable way to develop the subject property, but he would consider alternatives.

The following witnesses testified in opposition to the Plan: Jeffrey Berger of 7109 Meadow Avenue; Sally Kelly of 7300 Oak Lane; Bridget Hartman of 7214 Ridgewood Avenue; Dedun Ingram of 4411 Elm Street; and Deborah Vollmer of 7202 44th Street. Additionally, Stephanie Flack of 7111 Oakridge Avenue expressed concerns about emergency vehicle access and Larry Aknan of 7303 Meadow Lane expressed concerns about the loss of tree canopy.

#### **Findings of Fact**

Based on the record of the hearing, the Town Council makes the following findings of fact:

1. The subject property, Lot 36A, contains 57,730 square feet of land and is located on the west side of Meadow Lane between Thornapple Street and Oak Lane;
2. The subject property was platted in 1959;
3. The prior owner commenced construction of a single house on the subject property;

4. Jakubiak & Associates, a land use consultant, was retained by the Town in 2007 to study and recommend new regulations to address the adverse impacts of incompatible development throughout the Town and prepared a report in connection with that project;

5. According to the Jakubiak & Associates report, excerpts from which are attached at Tab 3 of the staff report, Meadow Lane is part of what is known as the “Valley District,” in reference to the street’s low terrain;

6. As explained by Jakubiak & Associates, the “Valley District” runs along Meadow Lane and a small section of Oakridge Drive, along the valleys of the Town’s hilly terrain and is known for the “Green spaces along the roads ... created by larger lots, broad front setbacks, and large street tree planting strips. These elements contribute to the park-like character of this district;”

7. The subject property has unusual topography, having an existing pond, an intermittent wetland area, and a grade that slopes steeply from west to east, as reflected in the Revised Plan;

8. As proposed, Lot 37 would contain 21,290 square feet, Lot 38 would contain 17,790 square feet, and Lot 39 would contain 18,650 square feet;

9. The proposed Lots would not have direct vehicular access to a public street;

10. The proposed Lots would be accessed from Ridgewood Avenue via an alley;

11. The Town Code, like the County Code, defines a “street” as “A public or dedicated right-of-way for vehicular travel thirty (30) feet or more in width;”

12. The alley, known as Ridgewood Alley, is approximately 20 feet in width according to the Revised Plan;

13. The hammerhead in Ridgewood Alley to the rear of Lot 34 is approximately 30 feet in width, as reflected by the Revised Plan;

14. The proposed Lots would have 53.37, 68.78, and 117.79 feet of frontage along Meadow Lane;

15. Lots in the Town, including in the Valley District, are generally approximately twice as deep as they are wide (*e.g.*, 60' x 120');

16. As proposed, the Lots would have widths along Ridgewood Alley of 66, 67, and 67 feet, respectively;

17. The proposed Lots would have depths of approximately 281.5, 266.5, and 229 feet, respectively;

18. Chapter 27 of the Town Code protects canopy trees on private and public property;

19. A canopy tree is defined as a tree with a trunk that measures at least twenty-four (24) inches in circumference (*i.e.*, 7.6 inches in diameter) at four and one-half (4 1/2) feet above ground;

20. As depicted on the map prepared by the Town Arborist (Tab 4 to staff report), the Revised Plan calls for the removal of the following fourteen (14) canopy trees that are protected by Chapter 29 of the Town Code: a 34.5-inch diameter American Beech (no. 9); a 32-inch diameter Tulip Poplar located in the Town right-of-way (no. 17); a 22-inch diameter American Beech (no. 24); a 20-inch diameter Hickory (no. 26); a 20-inch diameter

Magnolia (no. 27)<sup>1</sup>; an 8-inch diameter Holly (no. 28); a 10-inch diameter Holly (no. 30); a 9-inch diameter Holly (no. 31)<sup>2</sup>; a 12-inch diameter Holly (no. 32); a 21.5-inch diameter American Beech (no. 33); a 17-inch diameter American Beech (no. 34); a 23.5-inch diameter American Beech (no. 37); a 23-inch diameter Blackgum (no. 38); and a 10-inch diameter Holly (no. 43);

21. Although the Applicant proposes to attempt to save three (3) trees previously proposed for removal, three (3) new trees are now proposed for removal;

22. Trees numbered 24, 34, and 43 described above were not depicted as trees to be removed on the Applicant's prior Plan;

23. The Town arborist notes in his report that two (2) other protected canopy trees, a 21-inch diameter American Beech and a 10-inch Norway Spruce (nos. 41 and 48), may also be harmed by the proposed development (Tab 4 to staff report). The American Beech (no. 41) was previously proposed by the Applicant to be removed. The Applicant now proposes to save this American Beech tree but the Town arborist indicates that the tree may be harmed despite the Applicant's efforts.

24. As proposed, the structures shown on the Revised Plan would not comply with the Town's rear setback requirements and one of the three houses (Lot 39) would not comply with a required side setback, as reflected in the Town staff report;

25. As proposed, all three houses would exceed the Town's maximum wall plane length, as reflected in the Town staff report;

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<sup>1</sup> This tree was depicted as being an 8-inch diameter Holly on the Applicant's previous Plan.

<sup>2</sup> The Town arborist noted in his previous report that the "tops of [trees numbered 30 and 31] have been damaged and would be considered for approval for removal. All of the other trees appear healthy and would be denied for removal (Tab 4 to the staff report dated May 19, 2010). In the October 6, 2010 report, the arborist notes that trees numbered 27 and 38 are hazardous and would be approved for removal upon the filing of a permit application.



26. The proposed project is opposed by residents representing over twenty (20) households, who appeared at the hearings to provide testimony or submitted written comments; and

27. Apart from the Applicant's and Mr. Collins' submissions, only two (2) written comments in support of the Revised Plan were submitted for the record.

### **Applicable Law**

Chapter 50 of the Montgomery County Code sets forth the process and criteria for evaluating subdivision and resubdivision applications. Section 50-29 of the Montgomery County Code sets forth the lot design factors to consider in reviewing a proposed resubdivision. Of particular relevance is Section 50-29(b)(2) which states:

Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a 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.

Taking into account the special character of the Town, the Town Council adopted guidelines to assist in the evaluation of proposed subdivisions and resubdivisions for compatibility with the neighborhood.

### **Conclusions of Law**

The Town Council concludes that many of the requirements and standards in Chapter 50 of the Montgomery County Code are not applicable to the proposed Revised Plan because they relate to issues that are not relevant to the subdivision of a previously subdivided lot in an established neighborhood. For example, Section 50-28 regulates block design, but the Applicant is not proposing to create a new block. Accordingly, the Town Council concludes

that any sections of Chapter 50 that are not discussed herein are either irrelevant to the proposed Revised Plan or are not materially affected by the proposed Revised Plan. As to the criteria that the Town Council finds relevant and material, the Town Council makes the following conclusions.

1. Section 50-29(a)(1) Lot Dimensions. 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.

*Although the proposed Lots would be larger than most of the adjoining or confronting lots, the Town Council generally does not object to this aspect of the proposal. However, the Town Council finds that the width of the proposed Lots would not be proportionate to the depth. Lots in the Town are generally approximately twice as deep as they are wide (e.g., 60' x 120'). In contrast, the proposed Lots have an average width along Ridgewood Alley of 67 feet and range in depth from about 229 feet to about 281.5 feet. Accordingly, the proposed Lots would have a depth to width ratio of 3:1 to 5:1 rather than 2:1.*

*Except for lot 35A, all of the other lots in the surrounding area are oriented toward and have access to a public street with a 50 or 60-foot wide right-of-way. However, the applicant is proposing three Lots that are oriented to, and would have access via a 20-foot wide alley.*

2. Section 50-29(a)(2) Lots to Abut on Public Street. Except as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road...

*Access to the proposed Lots would not be from the abutting public street, Meadow Lane. Rather, the Applicant is proposing access from Ridgewood Avenue via an alley. According to the Revised Plan, the Alley is 20 feet wide. The Applicant proposes to install parking strips along the Alley.*

*The proposed Lots would not have frontage on Ridgewood Avenue and the Alley is not adequate for emergency vehicles, public utilities, and other public services such as trash collection and snow plowing. The Town Council is particularly concerned about fire truck access. The Applicant did not demonstrate whether a fire truck would be able to reach the proposed Lots through the narrow Alley and its ninety-degree turn. Numerous residents testified about their concerns for emergency vehicle*

*access. The Town Council finds it unimaginable for a ladder truck to be able to make the necessary ninety-degree turn, where the Alley is 20 feet in width, and to be able to turn around at the Alley's terminus, which is only about 30 feet in width. Mr. Brault testified that the County Fire Marshall approved the Plan as originally proposed and agreed to provide the Town with a copy of the Fire Marshall's approval letter. As of the date of this Recommendation, the Town has not received a copy of the letter.*

*Numerous residents testified about their concerns for pedestrian safety along the Alley, as the proposed Revised Plan would greatly increase traffic on the narrow alley that is often used by pedestrians and children at-play. The three proposed Lots, which would be accessed exclusively from the Alley, and the proposed parking pads, would materially increase the traffic impact.*

*In addition, the Town Council notes that Section 50-29(a)(2) uses the term "street or road" in contrast to the term "public right-of-way". The Town Council believes this is significant and reveals an intent that lots should not have as their sole means of access an alley that does not meet the standards for a residential roadway.*

*Lot 35A, immediately to the north of the subject property, uses the Alley as its sole access. The exception to the requirement that all lots abut on a public street, although not applicable for other reasons, allows only two (2) lots to use a private driveway or right-of-way. Lots 35A and 36A fill this quota. The proposed resubdivision would result in four (4) lots using the Alley as their sole access.*

3. Section 50-29(a)(3) Side Lines. Side lines of interior lots shall be perpendicular to the street line, or radial to a curved street line, unless determined by the board that a variation from this rule will result in a better layout.

*The Town Council concludes that this subsection is not applicable to the exterior lines because they already exist. The new interior side lines, dividing proposed Lots 37 and 38 and dividing Lots 38 and 39, would be perpendicular to the street.*

4. Section 50-29(a)(4) Double Frontage Lots. Double frontage lots, meaning a block having only one (1) tier of lots between two (2) streets or roads, shall not be approved except: (a) Where unusual topography, orientation or the size of the subdivision permit no other feasible way to subdivide; or (b) Where access to one (1) of the streets may be controlled by the board as provided in subsection (g) of section 50-25 or paragraph (4) of subsection (a) of section 50-28.

*The Town Council concludes that the proposed Lots would not be "Double Frontage Lots." Although the Lots would abut an alley commonly known as "Ridgewood Alley" to the west and Meadow Lane to the east, the Council finds that the proposed Lots should be considered part of Block 50 which extends from Meadow Lane and Oak Lane on the east to Ridgewood Avenue on the west. Accordingly, the Council does not believe the proposed Lots would be "Double Frontage Lots" and, therefore, this subsection is not applicable. The Town Code, like the County Code, distinguishes an alley from a street. An alley is not a street under the Town and County Codes.*

*If one accepts the Applicant's argument that an alley is a "street," the proposed Lots could be considered "double frontage Lots." As indicated by the subdivision ordinance, double frontage lots are not favored. Although the subject property does have unusual topography, the topography does not require that the applicant subdivide in the proposed manner. An alternative development plan could be developed so that most of the trees that the Applicant proposes to remove which are protected by the Town Code as listed below (i.e., at least eight of the fourteen trees) could be saved. Those include: a 34.5-inch diameter American Beech (no. 9); a 26-inch diameter Hickory (no. 26); a 20-inch diameter Magnolia (no. 27); an 8-inch diameter Holly (no. 28); a 10-inch diameter Holly (no. 30); a 9-inch diameter Holly (no. 31); a 12-inch diameter Holly (no. 32); and a 10-inch diameter Holly (no. 43).<sup>3</sup>*

5. Section 50-29(b)(1) Pedestrian paths or Alleys. If midblock pedestrian path or alley is provided in a residential subdivision, the lots adjoining the path or alley must be increased in width sufficient to provide for a side building restriction line running parallel to the path or alley 15 feet from it.

*The Town Council concludes that this subsection is not applicable. The applicant is not proposing a midblock pedestrian path or alley.*

6. Section 50-29(b)(2) Resubdivision. Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a 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.

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<sup>3</sup> Based on the damage noted by the Town arborist (see *infra* footnote 2), two of the trees would be considered by the Town arborist for approval for removal upon the filing of a tree removal permit application (i.e., a 10-inch diameter Holly (no. 30) and a 9-inch diameter Holly (no. 31)). Also, based on the condition observed by the Town arborist of the 20-inch diameter Magnolia (no. 27), it would be approved for removal upon the filing of a permit application. The appropriateness of removal of the three trees is not before the Council and is not being considered in this recommendation.

*In order to evaluate the criteria in Section 50-29(b)(2) the Council must define the existing block, neighborhood and subdivision. The Town Council concludes that, as found by Jakubiak & Associates, the land use consultant retained by the Town in 2007 to study and recommend new regulations to address the adverse impacts of incompatible development, Meadow Lane has a recognizable distinct character. It is part of what is known as the "Valley District," in reference to the street's low terrain. As explained by Jakubiak & Associates, the "Valley District" runs along Meadow Lane and a small section of Oakridge Drive, along the valleys of the Town's hilly terrain. "Green spaces along the roads are created by larger lots, broad front setbacks, and large street tree planting strips. These elements contribute to the park-like character of this district."*

*Accordingly, the Town Council finds that for purposes of assessing the Revised Plan's consistency with the character of the neighborhood, the neighborhood includes the subject property and the properties at 7200, 7201, 7205, 7301, 7303, and 7306 Meadow Lane, and 7300 and 7400 Oak Lane, as reflected on the map attached to the staff report.*

*The proposed three Lots would be inconsistent with the fabric and character of the neighborhood. The Revised Plan would disrupt the "park-like" setting by creating an enclave of three large houses located in close proximity to each other. The neighborhood properties listed above have an average street frontage of 105 feet, as reflected in the staff report (124 feet including the subject property). The proposed Lots would have frontages on Meadow Lane of approximately 53, 69, and 117 feet. This limited frontage would materially change the characteristic broad front yards along Meadow Lane. As proposed, the structures would not comply with the Town's rear setback requirements and one of the three houses would not comply with a required side setback, as reflected in the Town staff report. Additionally, all three houses would exceed the maximum wall plane length.*

*Moreover, of great concern to the community is the impact on the mature trees that the Revised Plan would have. The Revised Plan calls for the removal of fourteen (14) canopy trees that are protected by the Town Code. The Applicant proposes to remove the following: a 34.5-inch diameter American Beech (no. 9); a 32-inch diameter Tulip Poplar located in the Town right-of-way (no. 17); a 22-inch diameter American Beech (no. 24); a 26-inch diameter Hickory (no. 26); a 20-inch diameter Magnolia (no. 27); an 8-inch diameter Holly (no. 28); a 10-inch diameter Holly (no. 30); a 9-inch diameter Holly (no. 31); a 12-inch diameter Holly (no. 32); a 21.5-inch diameter American Beech (no. 33); a 17-inch diameter American Beech (no. 34); a 23.5-inch diameter American Beech (no. 37); a 23-inch diameter Blackgum (no. 38); and a 10-inch diameter*

Holly (no. 43). Also, the Town arborist notes in his report that two (2) other canopy trees, a 21-inch diameter American Beech and a 10-inch Norway Spruce (nos. 41 and 48), may also be harmed by the proposed Revised Plan. Removal of so many protected trees would change the park-like setting and character of Meadow Lane and the immediate neighborhood.

a. Street Frontage

*As noted above, the properties identified by the Town Council as part of the neighborhood, have an average street frontage of 105 feet. The proposed Lots would have frontages of 53, 69, and 117 feet. Thus, the average lot in the neighborhood has twice the street frontage as Lot 37 and one and one-half times the street frontage as Lot 38. The Revised Plan would not be consistent with the street frontage of the neighborhood.*

b. Alignment

*The Applicant explained that the proposed houses would have front doors facing Ridgewood Alley and facing Meadow Lane, but the proposed Lots would not have vehicular access from Meadow Lane. The Town Council finds that lots should not be doubly-aligned such that their alignment to a public street is artificial and the sole means of vehicular access is an alley that does not meet the standards for a residential roadway. With parking along the Alley, visitors would approach the houses from the alley. The houses would almost certainly be oriented toward the alley and not a street. The Revised Plan would not be consistent with the actual alignment and orientation of the houses in the neighborhood.*

c. Size

*Although the proposed Lots would be larger in size than most of the adjoining or confronting lots, the Town Council generally does not object to this aspect of the proposal. However, based on the elongated shape of the Lots and the ratio of width to depth, the large size of the proposed Lots could result in incompatible and adverse development as explained below. The proposed development would require, at a minimum, variances from the Town's rear setback requirements and one house (Lot 39) would require a side setback variance.*

d. Shape

*Most lots in the Town are rectangular in shape and are generally approximately twice as deep as they are wide (e.g., 60' x 120'). The proposed Lots would be elongated. The Revised Plan would not be consistent with the shape of other lots in the neighborhood.*

e. Width

*As stated above, lots in the Town, including in the Valley District, are generally approximately twice as deep as they are wide (e.g., 60' x 120'). In contrast, the proposed Lots have an average width along Ridgewood Alley of 67 feet and range in depth from about 229 feet to almost 281.5 feet. Accordingly, the proposed Lots would have a depth to width ratio of 3:1 to 5:1 rather than 2:1. As noted below, this inconsistent depth to width ratio can result in incompatible and adverse development.*

f. Area

*Although the proposed Lots would be larger in area than most of the adjoining or confronting lots, the Town Council generally does not object to this aspect of the proposal. However, based on the shape of the of the Lots, the ratio of width to depth, and the illustrative footprints, the large area of the proposed Lots would result in a concentration of massive and looming structures. Based on the proposed lot area, houses of gross floor area of 8322.5, 7447.5, and 7662.5 square feet could be built. The Applicant proposes to locate the three houses only 25 feet from the rear lot lines where 95.6 to 126.2 feet setbacks would be required under the Town Code, as reflected in the staff report. Also, the three homes would be located 8 to 12 feet from one another. One of the proposed homes would be located only 8.1 feet from the north side lot line where 18 feet would be required under the Town Code (Lot 39). Accordingly, the apparent mass and bulk of such houses would be exacerbated by their proposed proximity to each other and to the rear and side lot lines, thereby adversely impacting adjoining properties and the properties confronting the subject property across the Alley.*

g. Suitability for residential use

*In addition to the issues discussed above, the Town Council finds that storm water management would be problematic, based on the proposed intensive development, due to the subject property's existing wetland areas and steeply sloping grade. The environmental sensitivities of the subject property should be studied in further detail. Based on the known environmental*

*sensitivities of the subject property, limitations on the intensity of any subdivision would be appropriate.*

*In summary, there is a reason why this parcel has not been resubdivided since it was platted in 1959 and why the prior owner commenced construction of a single house on this lot. The desired access via an alley plus the existence of the steep slope, pond, and wetland area on the lot render it unsuitable for intense development such as that proposed.*

*The Preliminary Plan is an attempt to force a round peg into a square hole and clearly does not meet the requirements of section 50-29 of the Montgomery County Code.*

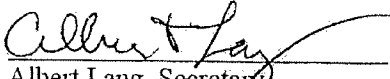
**Recommendation**

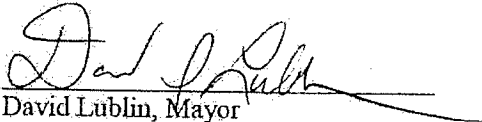
Based on the evidence of record, the findings of fact and conclusions of law set forth above, the Town Council recommends that the proposed subdivision be denied.

The forgoing Recommendation was adopted by the Town Council of the Town of Chevy Chase with the following members voting in favor: Linna M. Barnes, Patricia Burda, Albert Lang, David Lublin, and Kathy Strom.

Attest:

TOWN COUNCIL OF THE  
TOWN OF CHEVY CHASE

  
Albert Lang, Secretary

By:   
David Lublin, Mayor

Date: October 29, 2010



N.B.

NOV 17 2010

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MD., DC., VA., NY., CA. α  
MD., DC., VA., NY., FL. †  
MD., DC., VA., PA., NJ. π  
MD., DC., VA., NY. \*  
MD., DC., VA., WV. §  
MD., DC., MA. φ  
MD., DC., NY. α  
MD., DC., VA. •  
MD., VA., NC. \*  
MD., VA., FL. †  
MD., DC. \*  
MD., VA. μ  
MD., WI. φ  
MD., CA. ^  
MA. ONLY ▼  
MD. ONLY °  
SC. ONLY ◊  
TX. ONLY ‡

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MARY CRAINE LOMBARDO π  
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MARK W. SCHWEIGHOFER ^  
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RETIRED:  
STUART S. GREENFEIG

OUR FILE NUMBER  
2051758.1

November 15, 2010

The Maryland-National Capital Park and Planning Commission  
Montgomery County Planning Board  
c/o Françoise Carrier, Chair  
8787 Georgia Avenue, 2nd Floor  
Silver Spring, Maryland 20910

RE: Recommendation of the Town of Chevy Chase  
File No.: 120100270 (Preliminary Plan of Subdivision – 7206 Meadow Lane)

Dear Board Members:

We are writing to you on behalf of the Town of Chevy Chase, the municipality in which the above referenced property that is proposed for resubdivision is located. On September 29, 2010 the Town received a revised preliminary plan from the Planning Board. In accordance with Article 28, Section 7-117.2 of the Maryland Code, on October 13, 2010 the Town conducted a public hearing on the revised plan. At the October 13, 2010 hearing, Thomas Brault, on behalf of the Applicant, led the Town to believe that the Fire Marshal had approved the above referenced plan and Mr. Brault agreed to provide documentation of such approval to the Town.

The Maryland-National Capital Park and Planning Commission

November 15, 2010

Page 2

Enclosed herewith is a copy of the plan the Town obtained directly from the Fire Marshal. If you compare the enclosed plan with the revised preliminary plan dated September 21, 2010, you will see that the plan approved by the Fire Marshal differs from the revised plan before you in at least one critical way. Specifically, the plan approved by the Fire Marshal includes a pedestrian path to provide access to the houses from Meadow Lane. The Fire Marshal's approval is based on that path. However, the revised plan does not show a pedestrian path.

It appears that the Fire Marshal was given the original plan, not the revised plan. Obviously, elimination of access for fire equipment is a critical deficiency that indisputably affects health and safety. The Town did not include this issue in the materials sent to you on October 28, 2010, because at that time the Council had not received a copy of the plan that the Fire Marshal approved.

The discrepancy between the revised plan and the plan approved by the Fire Marshal requires denial of the revised preliminary plan. As stated on Page 10 of the Town's recommendation, the Applicant has failed to demonstrate that the lots would have adequate access for fire trucks. Accordingly, the Council reiterates its recommendation that the Planning Board not approve the revised preliminary plan.

Very truly yours,



David R. Podolsky  
Town Attorney

DRP:lgc

Enclosures

cc: David Lublin, Mayor (w/enclosures)  
Catherine Conlon, Development Review Division (w/enclosures)  
Neil Braunstein, Planner Coordinator (w/o enclosures)  
Robert G. Brewer, Esq. (w/enclosures)

October 4, 2010

Development Review Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 200910

This responds to a request for comments on the proposed development at 7206 Meadow Lane which is adjacent to our property.

Our view is the same as when we appeared at the May 20, 2010 town meeting: we strongly encourage the County and the Town to prevent the development as proposed. This well-attended meeting did not produce a single positive vote from the community or the town council for the developer's proposal.

Our first objection continues to be that it would create hazardous traffic. The alley which provides access to the property by car is not suitable for the additional traffic that would result from three houses. Both emergency vehicles and service people would find it very difficult to negotiate. And the additional traffic would endanger the children whose yards abut the alley and who play there.

We also believe that three houses would dramatically change the character of this block. For the last 75 or so years, there has been one house on each corner of this block of Meadow Lane for very good reasons. The lots are not shaped to accommodate more than one house without fundamentally changing the layout of the entire block. Specifically, at 7206, the lot drops off steeply to a large wetland area with access to the house only from the alley.

Finally, this block is enjoyed by the community at large and is one of the few remaining green spots available to strollers in the neighborhood. The proposed development would fundamentally alter the undeveloped space.

We are not against development of the property. Indeed, we are anxious for a house to be built. We have lived next door to the property for 15 years, and for the last 10 we have watched it sink into a jungle-like state. The owners have not maintained the grounds in a responsible way, or indeed in any way, and the consequences are falling trees, a large limb from one having just fallen on a power line September 24, 2010, and an eyesore replacing what was once a beautiful yard.

One can only wonder why the owners did not have more reasonable expectations during these many years -- all of us would have benefited if they had.

Phil and Helene Tucker  
7200 Meadow Lane  
Chevy Chase, MD 20815

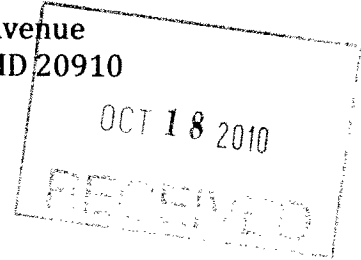
cc: Town of Chevy Chase

*Noel  
Braunster*

**Mr. and Mrs. Ernest B. Kelly**  
7300 Oak Lane, Chevy Chase, MD 20816  
October 13, 2010

Mayor David Lublin  
Town of Chevy Chase Town Council  
Town of Chevy Chase  
4301 Willow Lane  
Chevy Chase, MD 20185

Development Review Division  
Maryland-National Capitol Park and Planning  
Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910



RE: Preliminary Plan No. 120100270  
7206 Meadow Lane

Dear Members of the M-NCP&P Board and the Town of Chevy Chase Council,

We live adjacent to 7206 Meadow Lane and share a property line along the entire north side of the lot subject to the preliminary plan application by Chevy Chase Green Ventures, (CCGV).

We testified to our Town Council against the proposed subdivision last June. We are surprised and dismayed that the latest proposal for redeveloping the property varies in no significant way from the earlier one. This letter is an updated version of our June letter, which addresses some of the characteristics of the current proposal in more detail, however our objections remain the same.

We oppose the re-subdivision of the property into three lots for the following reasons:

- 1) The development departs from the historically established development pattern.
- 2) Increased density will negatively affect property values and quality of life for neighbors.
- 3) The development would have significant negative impacts on safety for neighbors and the public.
- 4) The existing infrastructure was not designed for the increased density and cannot be altered to without significant cost to the Town or detriment to neighbors.
- 5) Increased density of development will have negative environmental impacts.
- 6) Approval of this proposal will set a precedent for more such subdivisions in the future and therefore has the potential to change the entire character of the community.

When developing the County's first subdivision, The Chevy Chase Land Co. paid attention to natural features of the landscape and established Meadow Lane and the lots bordering it to be distinct from other streets and lots. Meadow Lane is a curving parkway bordered by larger lots, deeper or with greater street frontage than in other parts of the Town. Differences in lot sizes in the Town were intended by original planners to create a neighborhood comprised of residents of a variety of income levels with diversity of architecture. We therefore hold it is important that when determining context for the proposed project, that comparisons be made to the pattern of development along Meadow Lane, and not with other areas within the Town, including those directly behind the proposed development. In addition, the block of Meadow Lane on which the subdivision is proposed had (until the previous house at this address was demolished) only four homes. The proposed plan, therefore would increase the number of homes to six, a more significant increase than if it were in any of the neighboring (and longer) blocks along Meadow Lane. We note that though the CCGV proposal shows house sizes and locations, it is quite likely that the lots will be sold unimproved, so the proposed homes shown on the plans are purely speculative. However, the Planning Board has a responsibility to address and assess the size and locations of homes that could be built. Should this subdivision be approved, the size of houses that could

be built on such large lots would be significantly larger and closer together than the homes now surrounding them, thus also negatively affecting neighborhood character.

Increasing density in existing neighborhoods can negatively affect property values and property enjoyment. One of the functions of land planning is to create predictability for property owners. Changing the character of a piece of property unfairly penalizes adjacent owners who bought or built with expectations of what existed or could be built next door. We bought our home 16 years ago, and specifically chose it because of the landscape and lot sizes, which offer unique views, privacy and southern sunlight. We have paid for these privileges with high property taxes. Less of these will impact our retirement negatively in experience and financially. Our home is our greatest asset. Dividing the property next door to increase density by a factor of three will negatively impact the value of our property. Value added to the 7206 Meadow owner/developers will be taken away from us. Privacy, light, and view not only add value to real estate, but also to quality of life. We have enjoyed these when the original house was there, and even when it was replaced by the home that sat for years unfinished and was ultimately condemned. But, they would be lost if the property is developed into three lots, as we could be potentially facing a 35 foot wall, at an elevation above us, and far closer than would be the case if the property remained one lot and the house was located in conformance with Town zoning ordinance. Allowing such radical change would be unfair to all the neighbors of the property, not just us.

There are three types of public safety that this proposed development would negatively impact: fire, auto, and pedestrian safety. The site itself, as the M-NCP&PC staff review comments made clear, is unsuitable for development from the top of the forested slope, down to Meadow Lane. Any homes built will have to be accessed from Ridgewood Alley on the west.

Understanding the existing conditions of Ridgewood Alley are essential to making responsible decisions with regard to its future use. A bit of history: the alley began as a dead end driveway entering from Ridgewood Avenue with a cul-de-sac ending at the rear of our property at 7300 Oak Lane. It was later, for the purpose of Town service vehicle access (for trash and recycling trucks), and by means of creating an easement onto private property at 7400 Oak Lane, lengthened and opened to Oak Lane. It was and always has been an alley in function and in name. On Town maps it is named "Ridgewood Alley" and is distinctly different in character from surrounding streets. (See attached map.) When we moved here, yards on the alley had low fences, or none at all. Only two fences/walls were tall, required to protect pools. As more residents decided to fence in their yards there was confusion regarding whether "front yard fence" zoning requirements applied, and different Town administrations offered varying interpretations. To prevent this confusion and inconsistency, the Town Council acted to bring Town policy in conformance with that of the County, to recognize and codify Ridgewood Alley as an alley, not a street. Now it is possible for any resident abutting the alley to put a 6.5 foot fence on their property, right next to the alley, without requiring a variance. Although the CCGV proposal refers to a "20 foot public right of way", this claim is not supported by fact. A 20 foot right of way, in legal terms may exist, however, in actuality, the existing paved surface narrows to between 18 and 19 feet for most of its length and to 15 feet for the "leg" at the Oak Lane end. Five major mature trees, multiple fences, and well-established landscaping would be negatively impacted should it be widened to the 20 foot right of way that CCGV claims to already exist.

Fire safety is of paramount concern to us. Because this narrow alley has two 90-degree turns at each end, fire trucks cannot easily navigate it even when there is no one parked in the alley. The homes within the "island" bordered by Thornapple St., Ridgewood St., Oak Lane, and Meadow Lane ALL have direct access from the street for emergency vehicles. Our home is set back from Oak Lane, but is clearly visible and easily accessible from the street. This is not an accident. When we bought our home, we

recognized that being set back from the street could be problematic, and have endeavored to increase visibility and accessibility (without disturbing any trees) using architecture, landscaping, stairs, and signs. All the homes adjacent on Meadow Lane share features that make them both visible and accessible in cases of emergency. This would not be true of the proposed homes. Located far back from Meadow Lane, up a slope that is steeper, longer, and more forested than any ours, these homes would represent a great challenge for firefighters. The walkways up the slope and through the forest on the earlier version of this proposal have been removed, correctly, to protect trees, however this further compounds the problem of access by emergency personnel. The TOCC recently had a major fire where properties were located close together. The response was very quick, but still the neighboring properties were damaged. Such a quick response would be unlikely were one of these new homes to catch fire, so the danger of fire moving to trees and to neighboring homes would be much greater. Having one home on the lot with generous side yards is appropriate development to protect homes from one another in the event of fire when response times are clearly compromised. It would be negligent of the Town or the Planning Board to approve land development at such increased density without addressing this public safety issue completely and in advance of granting any approvals.

This alley never was designed for the increased traffic that will accompany this plan. The development will potentially add a minimum of 6-9 additional vehicles and many more trips by visitors and service vehicles to the alley. The alley barely has width for two cars to pass, no sidewalks, and was designed for occasional service vehicles and trash collection. It is in the shape of an "S" with double tight turns at both ends---one blind and one potentially so if a high fence was added--- and hazardous intersections at Oak Lane and Ridgewood Ave. Likelihood of traffic accidents will increase as more vehicles are added to an already hazardous situation. Having lived on Ridgewood Alley for 16 years, we can attest that is heavily used by pedestrians. For all of those years, at both ends of the alley, families have maintained basketball hoops that have been in pretty constant use by our own children and by those of many of our neighbors. Kids use it for skateboarding and sledding. The safety of these activities would be severely compromised by development and associated three times the number of cars and trucks using it.

More recent history is instructive, also. During the "blizzard of 2010" Ridgewood Alley, with fences immediately adjacent to the sides of the alley, had snow stacked in deep drifts on both sides, leaving a narrow passageway suitable for only one-way traffic. Melting and re-freezing made it an icy and dangerous slope. As the sole residents who use the alley for regular access, this was an inconvenience. However, if three additional families—as well as their housekeepers, baby sitters, visitors, and other service vehicles will be using the alley as their primary means of entrance, the situation will move from being an inconvenience to a hazard. With no sidewalks, pedestrians will be forced to use this steep and icy alley, sharing it with cars—an accident waiting to happen.

The existing infrastructure is not sufficient for this level of development and cannot be made so without detriment to neighbors. Considering the safety issues mentioned, Ridgewood Alley is not designed for this increase in traffic. There will surely be pressure from new families investing in these lots to create a full service street, complete with proper width, curbs, sidewalks, and associated lighting. This would require the taking of property from adjacent owners, not to mention additional traffic noise at both the front and rear for homes on the alley as more vehicles use it to cut through. Decisions of the Planning Board should not be such as to set up adjacent property owners and the Town of Chevy Chase for conflict and ensuing expensive legal proceedings.

The Town's 100-year-old storm water drainage system is already very stressed, particularly on this block of Meadow Lane as it is one of the lowest elevations in the Town and follows a stream bed

(now underground). Slopes at 7206 Meadow create a great deal of runoff, but thankfully, instead of going into the storm system, water stays on the site because there is a pond that acts as storm water retention feature. Both proposals eliminate the pond and simultaneously add large areas of roof and paving, creating great potential for overloading storm water infrastructure. Planning board review committee comments on the lack of a sufficient storm water management plan resulted in a revised plan featuring 9, not the former 3, "dry wells". However, each of the proposed "dry wells" also carries an overflow pipe going into the property to the west. Presumably this means that the proposed dry wells are not sufficient for large storms. The current proposal further states that the Meadow Lane frontage will be regraded for "positive runoff", sending the "overflow" into our overstressed storm water system. Given the increasing frequency of record deluges we still believe that this level of development increases potential for flooding. Living downhill from this property we have for years had a soggy yard and would expect the proposed development to make a marginally tolerable situation intolerable. CCGV states in documents submitted to M-NCP&P, "A Stormwater Management Concept Plan will be reviewed and ultimately approved for this project by the Montgomery County Department of Permitting Services." We find the fact that this is only a Concept (not fully engineered) Plan, and CCGV's presumption that their plan WILL be approved disturbing. Absent an actual completed review and approval process that demonstrates that there will be no negative impacts for neighbors, the storm water system, or roads, it would be irresponsible for the subdivision application to be granted.

One of the most valued environmental features of the Town of Chevy Chase is its mature tree canopy. The property at 7206 Meadow Lane is, in effect, a piece of urban forest with a variety of trees and an understory of mature rhododendrons and native species. This signature tree-covered green space has several beneficial effects for the community: reducing carbon emissions, providing cooling shade and wildlife habitat, stable soils and water management, and preserving open space. But instead of taking care of this valuable resource, owner neglect has resulted in its deterioration. Over the course of its long abandonment, we have seen a major oak, a major birch, and four large mature evergreens fall. It was only through our intervention that the owners began to control invasive vines that were smothering the trees as well as the understory plants. CCGV's proposal calls for the removal of many mature trees, presuming that despite the Town's canopy tree protection ordinance, tree removal permits will be granted. If, indeed, CCGV is able to get permits from the Town for tree removal due to the poor health of trees, it will be because they contributed to those trees' decline.

CCGC has applied to the M-NCP&PC for a variance citing removal of, or significant impact to, 12 specimen trees, 5 on site and 7 off site in order to accommodate their plans for 3 large houses on the site. The proposal still contains the removal of 14 trees, only 1 less than the earlier plan. Most of these do not meet the County's benchmark for "specimen" trees, but are large mature trees nonetheless. Directional boring of new utility lines for two of the three lots will further compromise this piece of urban forest. CCGV claims, in its variance request that "Forest Conservation requirements resulting from the redevelopment of this site will be met through an off site forest conservation easement." Where, exactly, will this off site easement occur? Within the Town of Chevy Chase? If not, then these actions—especially the removal/impact to off site trees—negatively impacts the community at large, especially as we struggle to maintain our valuable hundred year old tree canopy at taxpayer expense. CCGV also states (regarding the 12 trees to be impacted), that "None of the specimen trees in question are 75% or more of the current state champion for the subject species" as a rationale for allowing them to be removed/compromised by the proposed development. Such reasoning says that since these trees are not YET champions, there should be no opportunity for them to grow into one. The variance process asks that the applicant assure that "the required variance is not based on conditions or circumstances which are the result of the actions of the applicant". CCGV actions, specifically the decision to build three

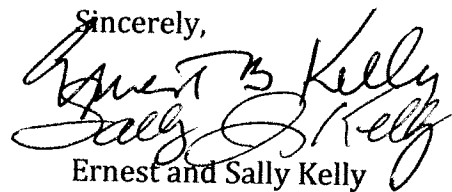


houses where one stood before, are clearly the sole reason for ANY tree impacts. Not one tree needs to be changed or threatened in any way if the lot is not subdivided and one home is built.

Precedents set by approval of this project could threaten not only the immediate environs, but the entire structure and character of the Town of Chevy Chase. The historic and beautifully green and open quality of the Town has changed a lot in the last decade. Numerous "tear downs" followed by larger homes have changed the character of the Town in many ways. But with few exceptions, these took place on individual lots where a single home replaced a single home. This proposal has the potential to set a precedent, on the single most visible property in the Town, encouraging an entirely different type of re-development: subdividing large lots and/or buying adjacent lots in order to subdivide them into smaller lots. Both would result in significantly higher concentration of people, children in our schools, traffic, noise, and place greater stress on an aging infrastructure. At the same time there will be fewer older homes, trees, and open space.

We have lived next door to 7206 Meadow Lane for 16 years. Unlike the current owners of 7206 Meadow, we, and all of our neighbors, take good care of our property. In the last many years, our enjoyment of our home has been compromised by: a demolition, a 3 year construction project, years when the unfinished project was derelict, years waiting for the County to condemn it, and a second demolition. For 10 years we have had to look at "temporary" chain link construction fences, "temporary" construction staging areas and gravel driveway, rotting wood fences and fallen trees, and deal with unwanted weeds and invasive plants coming over and through the fence. More than anyone else, we would like to see the property appropriately developed so that we could get full enjoyment of our home now and value when we sell it. But rewarding the owners for their poor stewardship of the property by giving them permission to put three homes where there was once one will not benefit neighbors or the community as a whole, and has potential for numerous negative consequences. Years ago the Planning Board looked at a similar plan on the same piece of property and did not approve it for good reasons. We urge you to do so again. We urge the Town of Chevy Chase Town Council to reject this plan, as well, and to strongly represent the Town's interests at the County level in opposition to this proposal.

Sincerely,



Ernest and Sally Kelly

Elizabeth and Robert Bonardi  
4105 Thornapple Street  
Chevy Chase, MD. 20815

January 6, 2011

Development Review Division  
Maryland-National Capitol Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

**RE; Preliminary Plan No. ~~12100270~~ <sup>120100270</sup>**  
**7206 Meadow Lane, Chevy Chase, MD 20815**

Dear Members of the M-NCP&P Board,

We are writing in response to the Chevy Chase Green Ventures' (CCGV) proposal of building three houses on the 7206 Meadow Lane lot. We live adjacent to the property on the south side. We have lived through years of construction and stalled construction. We have reviewed CCGV's two proposals for, first, a construction of a senior living facility containing from 12-15 units plus a single family house; and second, their current proposal of three houses. We are adamantly opposed to their proposal of building three houses for several reasons:

1. **Safety and Fire:** Three large houses built close together could become a fire hazard if one house were to catch fire. Fire trucks would have a difficult, if not impossible time trying to maneuver the two tight turns on either end of the alley on which these houses would face. It would also be impossible to access those houses from the front on Meadow Lane, as there is a steep, vegetated hill on the property. The response time would be greatly compromised and that would pose additional dangers for the adjacent houses and trees. The alley is not intended by the Town of Chevy Chase's (TOCC) rules to be a street. All other houses on the alley face town streets. The rears of these houses face the alley. The alley is used by pedestrians, dog walkers, and children playing basketball. It is used by very few cars and the town's service vehicles (trash collection). It is very difficult when two cars meet on the alley; one usually backs up to allow the other to pass. Extra cars that would come with three houses would be more traffic than the alley could bear. Pedestrians would be in danger, as there are blind spots at both ends and no sidewalks.
2. **Environmental Concerns:** CCGV proposes the removal of 14 trees. Many are full grown trees (beech and oak), which help clean and cool our air, as well as provide habitats for many animals, birds, and beneficial insects. The trees also act as a buffer for noise and a screen for neighboring properties. Having a mini forest in our town is a major asset. CCGV also proposes cementing over the existing pond on the lower end of the property. The pond is fed by an underground stream and also handles runoff. It is also the home of spring peepers and other frog species that have become endangered due to habitat removal. CCGV would like to make the bottom area of the property into a lawn. This would only add fertilizer and weed killer runoff to the Chesapeake Basin. We do not think the TOCC storm drain infrastructure could handle the substantial runoff that would occur with three properties and an expansive lawn.
3. **House Size:** CCGV proposes to build tree houses that are substantially larger than any house around them. The town is trying to curb mansionization. The footprint of these houses would bring one house right up to our fence line. The properties on Meadow Lane were envisioned to be large lots with single family homes. The TOCC contains houses and lots that are small, medium, and

large, which add diversity to our neighborhood. Three MacMansions on a lot that was intended to have one house is not in keeping with the TOCC's philosophy.

We have been to all TOCC hearings on this matter. At the first hearing, the town council was unanimous in its opposition to CCGV's proposal. CCGV stated that it would address the town's concerns and return again for another hearing. There was substantially no change in its proposal at the second hearing and CCGV was very dismissive of the town's concerns. It worries us greatly when a developer obviously has no intention of working with the town and the neighbors about their concerns. We are not against a developer building a single family home on the property. That is consistent with the original intentions of the town. We are adamantly against a developer building two or more houses and destroying full growth canopy trees.

We sincerely hope that the Review Board will follow the TOCC's lead and reject this proposal.

Thank you,

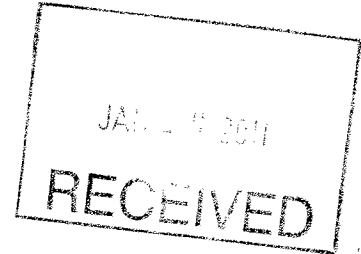
A handwritten signature in black ink that reads "Elizabeth & Robert Bonardi". The signature is written in a cursive, flowing style.

Elizabeth and Robert Bonardi

Jeffrey Balkind and Francoise Le Gall  
7201 Meadow Lane  
Chevy Chase  
MD 20815

December 31, 2010

Development Review Division  
Maryland-National Capitol Park and Planning  
Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910



RE: Preliminary Plan No. 120100270  
7206 Meadow Lane, Chevy Chase, MD 20815:  
Scheduled Hearing on January 20, 2011

Dear Members of the M-NCP&P Board,

We live across the street from the empty plot of land known as 7206 Meadow Lane. Our house at 7201 Meadow Lane is at the corner of Thornapple Street. The saga of the above piece of land (7206 Meadow Lane) has been a sad ongoing story for nearly ten years now. On numerous occasions, we and other neighbors have testified at the Chevy Chase Town Council against the proposed subdivision by Chevy Chase Green Ventures (CCGV) of the said plot of land into 3 sub-plots that could contain up to 3 houses. We are opposed to the re-subdivision of the property into three sub-lots for the following reasons:

- (i) Such development would imperil the safety for neighbors and the pedestrian public, specifically there is no room for a fire truck or an ambulance to swing into Ridgeway alley (this is an alley, not a street) behind the proposed three houses, should an emergency erupt.
- (ii) Such dense development would not be in keeping with the historically established development pattern in the town, especially along Meadow Lane, whose cherished history has been chronicled in the town's vintage books.
- (iii) such an increased density would negatively affect the quality of life of the neighbors.
- (iv) the existing infrastructure was not designed to handle the increased density and cannot be modified, without significant cost to the Town or to the detriment of the immediately adjacent neighbors.
- (v) Increased density of development would have negative environmental impacts on storm water drainage, sewerage flow and back-up, and put pressures on excessive tree removal. We understand that CCGC has applied to the M-NCP&PC for a variance citing the need to remove 12 specimen trees, 5 on site and 7 off site in order to accommodate their plans for 3 large houses on the site. We are strongly opposed to this.

(vi) Approval of the CCGV's proposal to construct three houses would set a poor precedent for more such subdivisions in the Town. The Chevy Chase Town Council has voted unanimously against the application to construct three houses on said plot.

We should note that Meadow Lane is a curving street with varying lot sizes. Differences in lot sizes in the Town were intended by the town's original planners to create a neighborhood comprised of residents of a variety of housing styles and also lot sizes that were not going to fall prey to "Mac-Mansions." This proposal for three houses on said lot is essentially a Mac-Mansion approach without the necessary infrastructure or adequate street access. In addition, the block of Meadow Lane on which the subdivision is proposed had only four homes, and then the previous structure on said lot was demolished while only half finished, as the owner at the time ran out of funds and the builder, Pederson and Collins, assumed title through holding the liens, as we understand this convoluted situation. The proposed plan, therefore, would increase the number of houses to six, which would saddle this block with greater density than the neighboring, longer blocks along Meadow Lane.

We also note that though the CCGV applicant's proposal shows tentative house sizes and locations, it is quite likely, as we understand it, that the lots would be sold as empty land with the buyer free to construct a house of his/her choice, subject to Town approval. Or perhaps CCGC, in conjunction with the builders (Pederson and Collins) plan to construct three similar-looking large houses and then sell them piece-meal. The applicant partner of CCGV is apparently one of those possible "buyers."

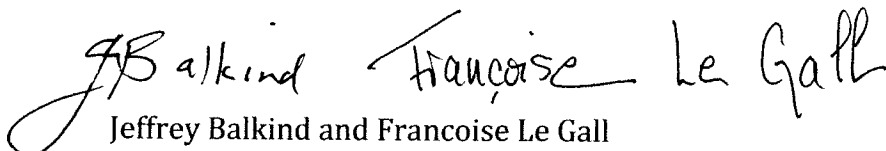
In the context of the County Planning Board's role of addressing the issue of size-appropriate structures, we wish to point out that the size of houses that could be built on this particular piece of land would likely be significantly larger and closer together than the homes that currently surround the said address. Such construction would diminish the environmental attractiveness of the area for all neighbors.

Several years ago, the County Planning Board did look at a similar plan on the same piece of property and did not approve it. As mentioned above, the Chevy Chase Town Council has unanimously rejected the proposed application for three houses, and we urge that the County Planning Board do the same.

It seems to us that the preferred alternative is to have just one house on the 7206 Meadow Lane plot, or at most two houses. And even then the issue of the access for a fire truck or ambulance from the Ridgway Alley side is still not assured. Nor is such access feasible from the front (Meadow Lane) side because of the creek/ drainage flow that runs through the property along the Meadow Lane side. This creek/drainage system was built by the U.S. Army Core of Engineers in 1926. It is essential that it be preserved and not become endangered by construction of an unnecessary third house.

For the many reasons cited, we appeal to you to reject CCGV's application.

Sincerely,

  
Jeffrey Balkind and Françoise Le Gall

cc. Mayor David Lublin  
Chevy Chase Town Council

4301 Willow Lane  
Chevy Chase, MD 20185



Attachment K

DEPARTMENT OF PERMITTING SERVICES

Carla Reid  
Director

Isiah Leggett  
County Executive

February 1, 2011

Mr. Jeffery A. Robertson  
CAS Engineering  
108 W. Ridgeville Boulevard, Suite 101  
Mount Airy, MD 21771

Re: Stormwater Management **CONCEPT REVISION**  
Request for 7206 Meadow Lane/Chevy Chase  
Section 4  
Preliminary Plan #: 120100270  
SM File #: 237428  
Tract Size/Zone: 1.33 Ac./R-60  
Total Concept Area: 1.33 Ac.  
Lots/Block: 36A/5  
Watershed: Lower Rock Creek

Dear Mr. Robertson:

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 consists of meeting Environmental Site Design (ESD) requirements through the use of non-structural devices. The ESD practices to be used are drywells and permeable pavement.

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. The engineer may substitute micro-bioretenion for the dry wells.
6. This site is considered to be new development and must be designed to meet the new development standards.
7. Each lot must provide the full onsite ESD volume. ESDv is to be calculated using the full lot size and current sizing criteria as stated in MDE Environmental Site Design Process & Computations, dated July 2010.
8. Lot 38 is to provide stormwater management at the top of the lot. No pervious pavement is allowed within ten feet from the house and in the ten foot P.U.E.
9. You must provide for safe conveyance of overflows down the steep slope.

10. The pervious material to be used in the driveway must be approved by MCDPS. At this time only porous concrete is approved for driveways.

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

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:ta CN237428 7206 Meadow Lane Chevy Chase Sect 4 REVISED.DWK

cc: C. Conlon  
M. Pfefferle  
SM File # 237428

QN - Onsite; Acres: 1.33  
QL - Onsite; Acres: 1.33  
Recharge is provided





DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

June 18, 2010

Arthur Holmes, Jr.  
Director

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 #1-20100270  
7206 Meadow Lane

Dear Ms. Conlon:

We have completed our review of the preliminary plan signed March 29, 2010. This plan was reviewed by the Development Review Committee at its meeting on May 24, 2010. 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. Necessary dedication for Meadow Lane per MNCPPC-TP.
2. Access and improvements along Meadow Lane as required by the Town of Chevy Chase.
3. We have accepted the applicant's storm drain capacity and impact analysis. No capacity improvements to the County maintained storm drain system will be required of this applicant.

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

Sincerely,

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

M:\subdivision\SALIHD01\Preliminary Plans\1-20100270 7206 Meadow Lane\1-20100270 7206 Meadow Lane.doc

cc: Jeff Robertson, CAS Engineering  
Thomas A. Brault, CC Green Vision LLC  
Neil Braunstein, MNCPPC DRD  
Shahriar Etemadi; M-NCPPC TP  
Todd Hoffman, Town of Chevy Chase  
Alan Beal, Town of Chevy Chase  
Preliminary Plan Folder  
Preliminary Plans Note Book

cc-e: Sarah Navid; DPS RWPPR  
Henry Emery; DPS RWPPR  
Dewa Salihi, DOT TEO

**Division of Traffic Engineering and Operations**

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov



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## FIRE MARSHAL COMMENTS

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**DATE:** 01-Oct-10  
**TO:** Jeff Robertson - - jeff@casengineering.com  
CAS Engineering  
**FROM:** Marie LaBaw  
**RE:** Meadow Lane 7206  
120100270

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted 21-Sep-10 .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.