

APPENDIX E



Town of Chevy Chase View

Public Hearing on Proposed Subdivision of 4201 and 4205 Saul Road (Plan No. 120180160)

Report for the Public Record

April 18, 2018

To: Town Council

From: Ronald M. Bolt, Town Attorney

Subject: Subdivision Recommendation Authority and Criteria
Public Hearing, April 30, 2018

Limited Review Authority – Mandatory Referral

As the Town is located within the Regional District, subdivision approval authority is exercised by the Maryland-National Capital Park and Planning Commission (M-NCPPC), (Maryland Code, Land Use Art., Sec. 20-101, *et seq.*). According to State law, however, the Town has the right to review and comment on a preliminary subdivision plan, concerning property located in the Town.

Maryland Code, Land Use Art., Sec. 23-202(c)(3) contains a mandatory referral requirement. Said Section provides, with respect to Montgomery County, the “subdivision regulations and zoning law shall provide that, before any action is taken by the county planning board on an application for a preliminary subdivision plan, project plan, or site plan review ... a copy of the application shall be referred promptly to the municipal corporation or governed district for review and comment.”

Montgomery County Subdivision Standards

Sec. 23-202(d)(4) of said law further provides that, a “municipal corporation or governed district may recommend denial of a plan under this subsection only if the municipal corporation or governed district determines that the plan does not comply with a particular provision of the subdivision regulations.” Sec. 23-202(d)(7) provides that, a “two-thirds majority vote of the members of the county planning board then present and participating is required to override a recommendation of a municipal corporation or governed district to deny a residential resubdivision application.”

The applicable County subdivision regulations provide generally that, to “approve a preliminary plan, the M-NCPPC Planning Board must find that:

1. **the layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59;**

2. the preliminary plan substantially conforms to the master plan;
3. public facilities will be adequate to support and service the area of the subdivision;
4. all Forest Conservation Law, Chapter 22A requirements are satisfied;
5. all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied; and
6. any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied” (Montgomery County Code, Sec. 50-4.2 (emphasis added)).

With respect to lot design, the County regulations more specifically provide, in pertinent part, as follows:

“1. *General requirements.*

a. *Lot dimensions.* **Lot size, width, shape, and orientation must be appropriate for the location of the subdivision and for the type of development or use contemplated, considering the recommendations of the master plan and the applicable requirements of Chapter 59.** The dimensions of a lot must be able to accommodate any proposed building and other infrastructure deemed necessary to serve the lot, including but not limited to any accessory structure, stormwater management, parking, access drive, and off-street service...” (Montgomery County Code, Sec. 50-4.3 (emphasis added)).

The reference to Chapter 59, refers to the County Zoning Ordinance. The requirements of Chapter 59, concerning lots in the Town (R-90 zone) are set forth on the attached County guidance, issued by the Department of Permitting Services.

Chevy Chase View Subdivision Review Standards

Chevy Chase View adopted its own criteria, set forth on the attached administrative policy, to assist the Town Council in exercising the limited review authority and making a recommendation to the Planning Board. The criteria is aimed at assessing whether a proposed subdivision is “compatible with the neighborhood.”

Consistent with the County lot design standards above, concerning “**lot size, width, shape, and orientation**” the Town review standards provide that “compatible” lots are those that would be of the same character as other lots in the immediate vicinity with respect to “**size, width, shape, street frontage and alignment.**” Per the Town standards, lots in the “immediate vicinity” means those lots that are: (1) on the same block as the proposed subdivision; and (2) on a confronting block.

Size. Per the Town standards, a lot is generally considered compatible in size if the proposed area (square footage) is within 10% of the average area of typical lots in the immediate vicinity.

Width. A lot is generally considered compatible in width if the proposed width is within 10% of the average width of typical lots in the immediate vicinity.

Shape. Proposed lots should have a geometric shape that is similar to the other lots in the mediate vicinity. Proposed lots should generally be rectangular unless there is a different predominate geometric lot shape.

Street frontage. A lot is generally considered compatible in street frontage if the proposed frontage is within 10% of the average frontage of typical lots in the immediate vicinity.

Alignment (orientation). Generally, if all lots in a block face the same directions (*e.g.*, north and south), any new lots also should face the same directions.

Councilmember Sherrow and Mr. Toomey, Building Permit Administrator, have compiled the attached table reflecting the average size of comparable lots.



DPS

**Montgomery County
Department of Permitting Services**

255 Rockville Pike, 2nd Floor
Rockville, MD 20850-4166
Phone: 311 in Montgomery County or (240)777-0311
Fax: (240)777-6262
<http://www.montgomerycountymd.gov/permittingservices>



Section 4.4.8. Residential - 90 Zone (R-90) Standard Method Development Standards.

For Guidance Only

Zone	R-90 Residential, one-family, detached.
Area Requirement	Minimum lot size 9,000 sq. ft.
Maximum Coverage	30% including accessory buildings. **See Page 2 for infill development & lot coverage.
Minimum Front Setback	30 ft. or established building line (EBL), whichever is greater. EBL is not required for additions, only new one-family dwellings. ¹
Minimum Side Setback	Total 25 ft.; one side 8 ft. Lot recorded between 1/1/54 - 5/31/58; total 21 ft.; one side 10 ft. ¹ OR Total 25 ft.; one side 8 ft. Lot recorded before 1/1/54, 7 ft. each side. Lot recorded between 3/6/1928 - 10/28/30 and if lot width is at least 40 ft. but less than 50 ft., 5 ft. each side. Lot recorded before 3/16/28, if lot width is 40 ft. or less, 5 ft. each side.
Minimum Side Street Setback	Abutting lot fronts on the Side Street and is in a Residential Detached Zone 30 ft. Abutting lot Does Not front on the Side Street or is not in a Residential Detached Zone 15 ft.
Minimum Rear Setback	25 ft. Lot recorded before 1/1/54, 20 ft. Lot recorded between 9/30/41 - 12/31/53 minimum average depth of rear setback is 20 ft. but in no case less than 15 ft. at any one point.
Minimum Lot Frontage	75 ft. at front building line. 25 ft. at street line.
Maximum Building Height	35 ft. to roof peak or 30 ft. to mean height between eaves & ridge of gable, hip, mansard or gambrel roof.
Accessory Buildings The footprint of an accessory building must not exceed 50% of the footprint of the main building (one-family detached dwelling) or 600 sq/ft whichever is greater. This limit does not apply to a building accessory to an agricultural use. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot line and a minimum of 100' from a dwelling on another lot.	Rear yard only. 20 ft. maximum height, measured to the highest point of roof surface. <ul style="list-style-type: none"> • 60 ft. Front setback • 30 ft. Side Street Setback, abutting lot fronts on the side street and is in a residential detached zone. • 15 ft. Side Street Setback, abutting lot does not front on the side street or is not in a residential detached zone. • 5 ft. Side Setback^{2,3} • 10 ft. Rear on a Corner lot where abutting lot fronts on the side street and is in a residential detached zone. • 5 ft. Rear Setback, if not otherwise addressed^{2,3} Town of Garrett Park call 240-777-6240 for info.

Section 4.4.8. Residential - 90 Zone (R-90) Standard Method Development Standards.

<p>Remarks</p>	<p>¹See <u>Established Building Line Methods</u> on DPS website. ²Additional setback required if length of accessory structure along a rear or side lot line has linear dimension greater than 24 ft., side or rear setback is increased 2 ft. of setback for every 2 ft. that the structure dimension exceeds 24 ft. This does not apply to swimming pools. ³Additional setback required if bldg. ht. is greater than 15 ft. then side & rear setback is increased 2 ft. of additional setback for each foot of height over 15 ft.</p>							
<p>INFILL DEVELOPMENT Your project is considered infill development if the following apply: The lot was created: -By a plat recorded before January 1, 1978; or -By a plat of resubdivision that created fewer than 6 lots from a lot previously created by a plat recorded before January 1, 1978; -the lot is less than 25,000 square feet in area AND</p> <p>The construction proposed is: -A new detached house, OR -demolition is more than 50% of the existing floor area of all floors of the dwelling; OR -addition is more than 50% of the existing floor area of all floors of the dwelling.</p> <p>INFILL DEVELOPMENT LOT COVERAGE- definition: Area that may be covered by any building, including any accessory building, and any weather-proofed floor area above a porch. This does not include any bay window, chimney, porch, or up to 240 sq.ft. of a detached garage if it is less than 350 sq.ft. of floor area and less than 20 ft. in height.</p>	<p>Maximum Coverage for Infill Development Lots</p> <table border="1" data-bbox="716 583 1398 940"> <tr> <td data-bbox="716 583 943 667">Lot area less than 6000 sq.ft.</td> <td data-bbox="943 583 1398 667">30%</td> </tr> <tr> <td data-bbox="716 667 943 835">Lot area equal to or greater than 6000 sq.ft. but less than 16,000 sq.ft.</td> <td data-bbox="943 667 1398 835">30%, minus .001 multiplied by the square foot of lot area over 6000 sq.ft. See EXAMPLE below</td> </tr> <tr> <td data-bbox="716 835 943 940">Lot area equal to or greater than 16,000 sq.ft.</td> <td data-bbox="943 835 1398 940">20%</td> </tr> </table> <p>EXAMPLE: Your lot size is 9458 sq. ft. Minus <u>6000</u> sq. ft. Equals 3458 sq. ft. Multiply times <u>.001</u> Equals 3.45 percent Base Coverage 30.00 percent Minus <u>3.45</u> percent Equals 26.55 percent This is the new maximum amount of lot coverage for this lot.</p>		Lot area less than 6000 sq.ft.	30%	Lot area equal to or greater than 6000 sq.ft. but less than 16,000 sq.ft.	30%, minus .001 multiplied by the square foot of lot area over 6000 sq.ft. See EXAMPLE below	Lot area equal to or greater than 16,000 sq.ft.	20%
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SUBDIVISION STANDARDS FOR THE TOWN OF CHEVY CHASE VIEW

Pursuant to Maryland Code, Article 28, Section 7-117.2, Chevy Chase View is authorized to make recommendations to the Montgomery County Planning Board regarding proposed subdivisions or resubdivisions of property within or bordering the Town. The Town Council will evaluate a proposed subdivision or resubdivision to determine if it is compatible with the neighborhood.

The following standards are adopted to provide guidance to property owners and members of the public who are considering proposing or opposing the subdivision or resubdivision of property in Chevy Chase View. These standards are guidelines and there may be special circumstances where the Council would recommend approval of a subdivision or resubdivision even if the proposed lots would not meet all of the standards, and there may be circumstances where the Council would recommend denial of a proposed subdivision or resubdivision, even if the resulting lots would meet the standards.

“Compatible” means that the resulting subdivided lots would be of the same character as other lots in the immediate vicinity with respect to street frontage, alignment, size, shape and width. Generally, a lot would be considered to be of the same character with respect to street frontage if the frontage would be within 10% of the average frontage of typical lots in the immediate vicinity. Generally, a lot would be considered to be of the same character with respect to size if the size (square footage) is within 10% of the average size of typical lots in the immediate vicinity. Generally, a lot would be considered to be of the same character with respect to width if the width, at the building restriction line, would be within 10% of the average width of typical lots in the immediate vicinity.

“Alignment” means the direction that the front of the lot faces (i.e. north, east, south or west). Generally, if all lots in a block face north or south, any new lots also should face north or south.

The resulting subdivided lots should have a geometric shape that is similar to the other lots in the immediate vicinity (i.e. the proposed lots should generally be rectangular unless there is a different predominant geometric lot shape).

“Properties in the immediate vicinity” means all lots on the block on which the proposed lots would be located and all lots on confronting block(s). For corner lots, all confronting and caddie-corner blocks will be considered “confronting blocks”. The term “block” means a separately numbered or lettered block as shown on a recorded subdivision plat.