

## APPENDIX H

1

TOWN OF CHEVY CHASE VIEW

7

Public Hearing on  
Proposed Subdivision of 4201 and 4205 Saul Road  
(Plan Number 120180160)

Monday, April 30, 2018

7:00 p.m. to 8:10 p.m.

Christ Episcopal Church  
4001 Franklin Street  
Kensington, Maryland

*A Matter of Record*  
*(301) 890-4188*

**.Members Present**

Ronald Bolt

Tom Brown

Paula Fudge

Nancy Kehne

Peter Marks

Joe Toomey

Ron Sherrow

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P R O C E E D I N G S

(7:00 p.m.)

**Opening Welcome and Orientation**

MS. FUDGE: My name is Paula Fudge. I'm the current council chair for Chevy Chase View Council. I've lived in Chevy Chase View for 25 years on Cleveland Street. The subject of tonight's hearing is Subdivision Proposal Number 120180160 currently before the Maryland National Capital Parks and Planning Commission. The purpose of the meeting is to allow the Town Council to determine whether a recommendation should be made to the Planning Board in accordance with the municipal corporation's authority under state law.

Before starting, I'll make a few introductions. To my left here is Ron Sherrow; Pete Marks; Nancy Kehne; and Tom Brown, the current Town Council. Ron Bolt is the Town attorney and Jeff [sic] Toomey is the building permit administrator and municipal engineer.

I'm now going to ask Ron Bolt to explain the hearing order.

### Staff Reports

MR. BOLT: Good evening, everybody. Can everybody hear me okay?

(Audience replies in the affirmative.)

MR. BOLT: All right. There are on the table you may have collected it already copies of the agenda and materials that will be introduced to you tonight. The hearing will proceed as follows. There were sign-in sheets on the back. They've been collected. We will, after the presentation of the staff reports, go through the testimony. The chair will call the names of those folks who have signed up to testify.

Please note that the hearing is being recorded, so for the benefit of a potential transcript, we would ask that before you speak, please wait until you're identified by the chair and please come forward to the microphone so that your testimony will be recorded.

I will provide some background on the Town's role and the review criteria that will be applied. Mr. Toomey, the building permit administrator, will

provide a brief summary of the application before the Council. And finally, Councilmember Sherrow will provide the results of some investigation he's done into lotsize metrics.

It looks like we have about six people signed up to testify. Originally, we anticipated limiting testimony to three minutes, but given that we have only six signed up, that can be extended to five minutes. If you don't need all five minutes, that's quite all right. And if you have submitted a letter, please note that your letter is already in the record. You don't need to read it into the record tonight, but please feel free to highlight what you'd like to highlight or focus the Council on anything specific.

After the testimony has been received, the record will close, and the Council will deliberate and decide whether or not to submit a recommendation to the Planning Board. Again, if a recommendation is submitted, the Town has to provide with its recommendation a complete copy of the record, including a transcript, so it is

important that we have a good transcript if needed. So again, please wait to be called before you speak. If there is more than one voice speaking at a time, the reporter may have to type "inaudible," and then we lose the benefit of that testimony.

I'll begin with my report then.

As folks may or may not know, the Town is located within what's known as the regional district. As the suburbs in the metropolitan area around D.C. started to develop, the legislature recognized there ought to be some agency overseeing all the development to make sure roads connected properly and public facilities were adequately planned for, so the Planning Board and the Planning Commission was created to oversee that development.

As a result, municipalities in the regional district, save for a handful that had zoning authority prior to the Regional District Act, have no zoning authority, and we must defer to Park and Planning, and that includes subdivision review as well. The Town does not have the authority to grant or deny requests for subdivisions. That

authority rests with the Planning Board.

However, that same Maryland law provides that if a subdivision takes place in our jurisdiction, we are subject to a mandatory referral provision. We have the opportunity to submit a recommendation to the Planning Board on the application. That same state law provides that if the Town Council were to oppose this subdivision, it can do so if it finds that the county subdivision criteria or standards are not met. And if a recommendation for denial is submitted, then we would trigger a requirement that the Planning Board approve the application by a two-thirds majority vote instead of a simple majority vote.

So what are the county review criteria that the Town Council will be looking at? In my report, I've cited to the applicable provisions of the Montgomery County subdivision regulations, and turning to page 3 of my report, at the top of the page are the six primary factors.

I've highlighted the factor number 1 in bold

because that is the factor that Chevy Chase View has historically decided it would apply. And that's whether, quote, "the layout of this subdivision, including size, width, shape, orientation, and density of lots, and location and design of roads is appropriate for this subdivision, given its location and the type of development of use contemplated by the applicable requirements of chapter 59."

Chapter 59, as you may know, is the county's zoning ordinance, and that ordinance sets forth the building requirements for lots and lot sizes and the like. And I've attached to my report a summary sheet issued by the Montgomery County Department of Permitting Services, which lists the development standards in chapter 59 for the R90 zone, which the Town of Chevy Chase is located within.

Some of those pertinent requirements are that your lots be a minimum of 9000 square feet in size; that they accommodate a front setback of at least 30 feet or established building line, which is calculated based on the adjoining dwellings; and

that there be a minimum side setback of a combined 25 feet or 8 feet for one side; and that they have a rear setback of at least 25 feet. There are other requirements, but those are some of the more applicable.

Now, in order to exercise its mandatory review authority, in December 2007, the Town Council adopted a policy to help guide the Town Council in implementing this mandatory referral. And I've also attached to my report a copy of the subdivision review standards that were adopted by the Town Council. Most of you have probably already seen that because it is also posted on the Town website.

So consistent with county standard number 1 at the top of the page that's in bold, the Chevy Chase View criteria provides that the Council should consider the lot design standards that I mentioned, lot size, width, shape, and orientation. The Town Council would look at whether proposed lots are compatible with respect to those dimensions and sizes and compare them with other

lots in the immediate vicinity; and that means the lots that are on the same block as the proposed subdivision and on a confronting block.

Now with respect to size, the Town standards say that generally a lot would be considered compatible in size if the proposed area, square footage, is within 10 percent of the average of the typical lots in the immediate vicinity, again meaning on the same block and the confronting blocks.

Regarding width, the Town policy states a lot would generally be considered compatible in width if the proposed width is within 10 percent of the average width of typical lots in the vicinity.

With regard to shape, the policy states that lots should generally be same in terms of the geometric shape of other lots in the area, street frontage, and similar to size and width. If the frontage is within 10 percent of the average frontage of other typical lots, that factor would generally be considered compatible.

Orientation, or what we like to refer to as

alignment, generally if a lot if all the lots on a block face north or south, any proposed lots on that block should also face north and south. And there we just look at the existing block and not any confronting blocks.

So that's the conclusion of my report, and I'll turn it over to Mr. Toomey to briefly summarize the application before us.

MR. TOOMEY: My name is Joe Toomey, the building permit administrator. I've just put together some information to familiarize you with what we're talking about. Page 8 has the vicinity map, so outlined in red is the two blocks along the southern border of Chevy Chase View.

Page 9 shows a sort of blowup of that, of the two existing lots. If you can see the map there, outlined in red would be the two existing lots. The yellow line would be the area that we're looking at, but the red is the boundary lines of the two existings, and then blue would be the alignment of the proposed subdivision.

On page 10 is a diagram of map taken from

the State Department of Assessment and Taxation, but it's the subject lot in the middle and then the the subject block in the middle and then the adjoining blocks, block meaning the area that is bound by the rightof-ways that surround it. So the colored areas are the subject block and the adjacent blocks. And that's all I have for that.

MS. FUDGE: Ron, do you want to go further into the subdivision metrics?

MR. SHERROW: Okay. Right before I start the subdivision metrics, I just want to take a minute to ensure you that we are spending we've spent an awful lot of time looking over facts and figures. The applications we've looked at. We've looked at state law that's been brought to our attention. We've looked at the county laws, and we certainly are familiar with the character study that was made in 2015. Yet, this is a question for a deliberation afterwards.

We are not going to go just by one facet of what you're going to hear tonight as far as these metrics go. Metrics give us a starting point, but

this is a deliberation. But I'm going to I also want to say that we are going to listen carefully. Some of us have been on the Council for five years. Pete's been on the Council before and was chairperson and has come back with us.

The deliberative process is something where we prepare for, and yet, as much preparation as we do, when we come to a meeting, I can truthfully say that we don't have a point of view already set in stone because I've gone to 10 variance hearings in the last five years, and in preparing for those hearings, most of the time I thought I knew what I wanted to how I would decide, but I knew that I had to listen. And there have been more than one time where I listened and listened carefully, like we're all going to do for you tonight. I voted differently than I would have imagined beforehand.

So what you're going to say tonight, what you're going to hear tonight, we're going to listen carefully. And I ask that you listen carefully also to be fair-minded about this. We come with different points of view, but if you can listen, at

least we'll have an understanding of people's points of view, whether we agree or not with each other, whether we agree with what decision might be reached tonight here by the Council, at least we know where people stand on this. I just promise you that we're going to listen very carefully.

I'll talk about the metrics, and I want to skip down and talk about the metrics. By metrics, what I'm talking about are the lot sizes and dimensions. These are what we're talking about with metrics. I'm going to share what we've learned about 58 properties that are on the blocks that Joe described a few minutes ago.

We pay attention to blocks because in our policy it says the properties in the immediate vicinity as specified in the subdivision standards for the Town of Chevy Chase View. So those are certainly the block that the subdivision is proposed for, but the adjoining blocks are the blocks that were highlighted on page 10.

The word "block" may be a different meaning than we use commonly. If somebody asks me who

lives on my block, I would be mentioning the neighbors that live next to me like the Eskelsens, and I'd also be mentioning the Kellys probably across the street. But in the state's definition and the land-use definition for block, and in the definition in our policy, block is a group of homes that are surrounded by streets. For instance, on my block at Glenridge Street, I'm on the north side, so my block is defined by Glenridge Street, Gartrell, Glenrose, and Connecticut Avenue. The Kellys' block across the street would be defined by Glenridge, Connecticut Avenue, Saul Road, and Gartrell.

So those are the definitions of blocks that we're using, and that's why we put them on the map, because it may not be so clear until you see them and say, "Yes, these are the blocks." They're all groups of houses surrounded by streets.

Joe's already pointed out on page 10 that's the one with the colors. And we'll talk about the colors in a few minutes. I'm not quite ready for that yet. But these are the three confronting

blocks, and then the block in the center is the block that is the block where the subdivision has been proposed.

If you'll please turn to page 12, we're going to skip down to there for just a moment. On page 12, we see the beginning of a spreadsheet. This list, the size of well, first of all, let me tell you that the lot sizes that are in one of the columns for each of these properties were copied from the Maryland State Department of Assessments and Taxation. Okay?

These 58 properties are the properties around the confronted lots and on the lot being subdivided. We doublechecked. We already had tables that we use for our town meetings and such, but as we were preparing this, we also went back to the state records and made sure as of last week, these are the square footages that are measured, that have been recorded for each of these lots, 58 lots.

The properties are sorted by block, street, and then address. The block id's are the ones you

just saw on page 10. If we glance back at page 10 for just a second, we see that the subdivision that's proposed is on block number D, and we have blocks to the west of that is block B, to the north of that is block E, and the block towards Connecticut Avenue is block 3A, and you see those block numbers on the same chart, then, on page 12.

Now, the average lot size of all 58 lots, of these particular 58 lots, is 14,554 square feet; 14,554 square feet. And if you forget that number, it's on page 13. I'll be coming back to this page. We have a summary sheet that we prepared so you don't have to go flipping around so much. The column to the right of the lot size shows the variation of the average. In other words, the average is 14,554 square feet. By how much does each of these lots vary from that average? So we have that. And then the column to the right is just the percentage.

Remember in our discussion of how close a lot is, we talked about 10 percent or so. Is a lot more than 10 percent and smaller than the other lot

size, the proposed lot? Is the proposed lot more than 10 percent larger than the size? So we needed to do some study to see what is the average, and also we needed to know how average the average is because if all the lots happen to be if all 58 lots were preferably the same size, then 10 percent would have more meaning maybe then if there's a big variation.

In my presentation at this moment, I'm not going to give you an interpretation of the variation, but I'm just saying that we did figure that out, and we identified in pink those lots which are 10 percent smaller than average. On the map, if you went back to page 10, you would see on that map also the color pink and where those lots are located.

So I'll just say it one last time, that the lots that are in pink on page 10 are lots that have been identified as being more than 10 percent smaller than the average lots of all of these lots that we're looking at.

Now, it's much easier to keep track of some

of this if we go to page 11. Page 11 has a Subdivision Metrics Summary. Let me orient you to this page. The numbers come from those Excel spreadsheets that we were looking at. There are three sections here. The top section is comparing the we're saying we counted 58 lots. We found the average area. So 10 percent smaller than the average area, it would be 13,099 square feet. So now you've got a number to go with that 10 percent, 13,099 square feet. Of all those 58 properties, there are 17 properties that are smaller than 10 percent. So that represents 29 percent of all those 58 properties are smaller than 10 percent.

Now, if we go to the next section, this title is Property Sizes and Variances from Average on Subject Block D following a proposed subdivision, and on confronting blocks, the numbers change as we would expect. We know that if it is approved, that there would be 59 blocks, not 58, and the average is going to change a little bit because one of the lots would be subdivided and one of the lines of the lots would be moved over making

the largest lot of each property a little bit smaller. And the numbers have just been done for you here, so the average would be down to 14,834 square feet, and now there would be 15 lots that would be 10 percent or more lower.

Again, I'm not making a value judgment on this. I just want to let you know what it might be before what it is now and what it might be after a subdivision.

Down near the bottom, the bottom third, we have the proposed new lots square footage differentials from current lots. The three lots are identified. They're identified by a lot number, 101, 102, 103. The address, you see the new lot that would be proposed for Gartrell Place, 9804; the next column, the square footage. How much would that square footage differ from the current average lot size? We can see it. The first lot would be larger than the average lot size. The next two lots would be smaller than the average lot size. And how much smaller? The square footage is over in that right column.

So let's see. I believe that's all I've got to say about the metrics. I'll point out as long as I'm speaking that there is another page to this document that is from the character study that was done in 2015. Is it in

MS. FUDGE: I'd be happy to. This is just one page out of the character study we went through a lot of it as we were doing our research that talks about, toward the beginning of the presentation I think, that the character study resulted in a description of many different what they called fabrics within Chevy Chase View. There are the large lots on Dresden Street. There are the lots confronting Cedar Lane and Connecticut Avenue.

The particular block and the lots that we're looking at fall under fabric C, which are smaller lots with shell or backyards, and the difference between C and C prime are the fact that the prime ones are facing Summit Avenue or Cedar Lane. Anyway, that's another item that we took into consideration as we were looking at this.

I think the next thing we're going to do is, as Ron has already said, reminding everybody that the hearing is being recorded and that the comments that we've already received have been entered into the record. We've got a very detailed spreadsheet of all the emails and letters we've received, which have all been compiled in preparation for forwarding to Parks and Planning if necessary.

Based on the number of people that have signed up to talk, we are actually going to give everybody five minutes, and Joe will keep track of the time. He's got a timer, and he can explain that.

MR. TOOMEY: So I have a timer. My name is Joe Toomey. I've got the timer, and it's got the colored lights on it. And when your time starts, I'll push the button and the green light will start. Four and a half minutes later, the yellow light will come on indicating that you've got 30 seconds to summarize your comment. And then at the end of five minutes, the red light will come on and give you a little beep also.

### Testimony

MS. FUDGE: Okay. Great. So I guess we're ready to start. You all ready? I think Paul Hurley, you signed up first to speak.

MR. HURLEY: Thank you for giving us this opportunity to address our concerns about this proposal.

MR. TOOMEY: Introduce yourself for the record.

MR. HURLEY: Oh, I was introduced I thought. Paul Hurley. I'm a resident of Chevy Chase View at 4029 Franklin Street.

I have long been not long been, but I've been concerned about this proposal since I first received the notices that there would be a possible five-lot development in Chevy Chase View. And I thought, well, one of the reasons that I was attracted to this neighborhood is that it is particularly spacious, some of the characteristics, which were identified in the study to which you referred. But when I looked at this proposal, I saw that no matter how you present the proposal in

terms of metrics on lot sizes, it doesn't take mathematical acumen to realize that it is going to amount to a reduction in the lot sizes in our community, and that's something which would erode attractive characteristics of the neighborhood no matter whether you live on Dresden or Saul Road. We're all members of one community.

After attending Town Council meetings and expressing my misgivings, I learned that the Council doesn't have authority over has authority over variance requests, and this clearly is not a variance request. But as Mr. Bolt has pointed out to us, the Council does have a role in defending the characteristics of the neighborhood, and indeed the county planning authorities do invite participation of neighborhood associations. So you can have a vote, which would trigger a requirement for a higher majority vote to approve this proposal at the county level.

I hope that more careful assessment of the situation will encourage the Council to oppose the subdivision because it is inconsistent with

established Town objectives, not just the character study but the standards which were referred to on consideration of subdivisions. And that objective is to preserve open vistas, site lines, privacy, and the spacious appearance of the neighborhood.

Now, I'd like to offer a few reasons why I think it's in the interest of the Council to approve the recommendation opposed. If you look on that map that was provided to us, when we were looking at the metrics, the little pink lots there, several months ago, this council was presented with a variance request by one of the owners of one of those lots. The problem was that the lot was not large enough to accommodate the owner's interest in having a shed.

What the Council solomonically did was referred the issue to neighbors. And ultimately and I don't fault the Council for the decision. Ultimately, the Council approved the decision because approved a variance because the neighbors were willing to go along with it. What I want to point out, however, that if this council

does not oppose reducing lot sizes in this case, then future councils may have to confront similar variance requests from smaller lot owners. So you may only be compounding the concern, the problems.

Also, I want to call attention to something that Mr. McCarthy pointed out in his email note of April 26th to the Council and make sure that all of our neighbors are acutely aware of that, that the current subdivision proposal amounts to a surreptitious variance on the building restriction lines over which the county the Chevy Chase View does have some authority. But the more obvious problem I find with this and why I think a Council decision to oppose this is warranted is that it is not compatible with the Town subdivision standards because of the characteristics of the lots in the immediate vicinity with respect to street frontage, alignment, size, and width. And by immediate vicinity, I refer to the lots on the opposite side of Gartrell Place. I raised this concern at the developer's meeting on November 30th, but it was not reflected in the summary presented with the

subdivision application.

Given a precedent for deferring to neighbors most immediately affected, I think that the Council owes some deference to the opposition of the neighbors across Gartrell Place from this proposed subdivision.

Another point is that at the developer meetings, several Chevy Chase View residents expressed concern over the damage to the neighborhood tree canopy, and we were told that the damage was inevitable. Now, however, with the application, we find that the developer requires a variance from the provisions of Montgomery County's Forest Conservation Ordinance.

So I believe that the Council should also defer to the concerns of residents and register opposition to the variance for the Forest Conservation Ordinance in the development of the property.

MS. FUDGE: Thank you. I think we've finished with the five minutes.

MR. HURLEY: Thank you.

MS. FUDGE: Next we've got Lucy Swartz.

MR. TOOMEY: Oh, and if I can add this is Jim Toomey again that the yellow light will come on at four minutes, so when the yellow light comes on, you've got one whole minute to finish up your testimony

MS. SWARTZ: My name is Lucy Swartz. I live at 4112 Franklin Street in Chevy Chase View. Thank you all for holding this hearing. I think it's very important that we get to tell you our views, and you get to be here and listen to them. So we thank you very much for that. And I have submitted further comments for the record. I'm just going to summarize a couple of my thoughts here.

I do appreciate the desire to keep the Gartrell parcels undisturbed to protect the existing trees, and I imagine there is some wildlife that lives there and calls that home. But I don't oppose the subdivision application because I don't see any regulatory reasons to oppose it.

Specifically, in my view, the proposed subdivision would meet the Chevy Chase View and

Montgomery County regulations, and it would be consistent with the character of the neighborhood. When you look at all the facts and the fact that there are two pieces of property now, one of those pieces of property is proposed for subdivision into two, that means there's one additional house in Chevy Chase View and in this community, and in my view, that is consistent with the character of the community. The lot sizes are even. Yes, they're a little bit smaller; not by a large percentage.

All property owners are entitled to the use of their property, including decisions regarding nonrightof-way trees as long as that use is consistent with the county and the Town regulations.

Thank you again for holding the hearing.

MS. FUDGE: Thank you.

Now we've got Kevin McCarthy.

MR. MCCARTHY: Members of the Council and members of the Chevy Chase View community, my name is Kevin McCarthy. I've lived in Chevy Chase View for over 20 years with my family. Our home is

located at 4117 Saul Road, immediately next to the proposed subdivision site.

We have known since we've moved into our home that the Peach property, including the two lots on Glenridge that are already under construction or completed, would likely someday be developed with four homes where there only existed two homes for many, many years.

We are not against change, and we are not against development. We are, however, against subdividing existing lots in Chevy Chase View in an effort to cram in more homes into smaller lots for the sole purpose of maximizing the profits to both the developer and the heirs of the Peach estate, who do not live in Chevy Chase View, and at the expense of those who live in the neighborhood who will see a dramatic change in the character of this area of Chevy Chase View with both a loss to the tree canopy and bigger homes on smaller lots.

I'd like to reiterate my concern in my letter to you regarding the variance to the Forest Conservation Ordinance where the subdivision plan

calls for removal of 100 percent yes, 13 out of 13 of the specimen trees that are 24 inches or larger in diameter located today on those two lots. These trees are a vital part of the existing tree canopy, and the vista is currently enjoyed in this area of Chevy Chase View. This is a major concern to me, a major concern to our neighbors, and it should be a major concern to the members of the Council.

The Chevy Chase View just spent \$53,000 on a character study in 2015. The character study found that, with few exceptions, houses in the community are screened from the street with established trees and that the tree canopy strongly harmonizes the streetscape. Buildings are set within a landscape of trees. A mature tree canopy can mitigate against the characterchanging effects of development. I think that the character study says it well.

Besides the major problems that a variance from a forest conservation ordinance poses, the Council already has in its hands the tools needed

to oppose the proposed subdivision. The CC subdivision review standards are clear in the criteria laid out as to what qualifies as compatible lots. The metrics that were provided tonight and that were sent out a couple of days ago show that the square footage of two of the proposed lots are more than 10 percent smaller in size than the average area of typical lots in the immediate vicinity.

In addition, there are compatibility issues with respect to street frontage, with it the building restriction line, and alignment of lots, all of which I expressed in my letter to you. And all of it show that the proposed subdivision would create two lots that are not compatible lots, as they would not be of the same character as other lots in the immediate vicinity.

When the Council drafted the regulations for the subdivision and came up with a criteria regarding the lot size within 10 percent of the average, which apparently was about 10 or 12 years ago, the same lot sizes that exist today existed

then. Thus, we knew then that some lots were more than 10 percent smaller than the average.

I don't believe that the number of existing homes and I heard the percentage 25 or 29 percent. I don't think that the number of existing homes that exist today with a greater than 10 percent variance should have any bearing at all on the Council's decision on this matter.

Due to these reasons that I've outlined in my letter to you and the reasons expressed tonight, I would urge the Council to express Chevy Chase View's opposition of the proposed subdivision to the Montgomery County Planning Commission. Thank you for your time and consideration.

MS. FUDGE: I think next is Todd Eskelsen.

MR. ESKELTEN: Todd Eskelsen. We live at 4011 Glenridge Street, my wife Hannah and I. We wanted to make formal comment today, and we also submitted these comments to you by letter last night.

First off, we want to make it very clear that we support the subdivision. We attended the

public hearings and listened carefully to the developer and thought that he was trying to engage the community and come up with a plan that was consistent with applicable zoning and would add to the community. We've monitored the building at the property and believe that he's done so with the materials that have been put up so far.

From what we can tell, the construction to date has been in conformance with the applicable zoning laws, Chevy Chase View regulations, and the master plan for the neighborhood. So now the subdivision process should unfold as designed so as to give the authorized decision-makers relevant information to allow them to make a logical and considered judgment with citizen input.

We encourage the Town Council to carefully consider the information that's been provided. And unless there are deviations from the established zoning and other building laws and regulations, we encourage the Town Council not to adopt the position against the rights of property owners to use their property within the requirements of the

law that have been adopted through the orderly multiyear process of master plan adoption, zoning, and building regulation enactment.

We appreciate your service on the Town Council, particularly at times like this, and are grateful for the chance to make our statement. Thank you.

MS. FUDGE: Thank you. Okay. I think we've got Amy McCarthy.

MS. MCCARTHY: Good evening. My name is Amy McCarthy. I reside at 4117 Saul Road. There were a couple items that I wanted to make the Council aware of because I personally sent a letter out indicating my concern about the new development, and I want it on the record to know that I received 40 neighbors indicating that they also oppose this subdivision, and I wanted to make a note of that. I'm sure the Council received some independent of mine, but I wanted to make note that I had received 40, and I'm happy to submit these to the Council.

I wanted to indicate also my concerns about if this subdivision did go through, that it would

set a precedent for the future for people that have a large lot and feel, as the age of the house, they can destroy the house and put multiple houses up in their place.

My main concern is and I think that you should evaluate as well how does this subdivision benefit our community. In analysis of the forestry that we've gone over, we determined by looking at what was proposed that, basically, the lots that are up for subdivision will be basically cleared, and there will be no trees on those lots. And I think that is out of the realms of what Chevy Chase View as a neighborhood and the character study found as desirable for a neighborhood.

One statement that I found from the character study that I thought was important said that the houses in the neighborhood not to dominate the landscape but to be placed on it in a gentle way. And I think placing it in a gentle way means retaining the foliage, the trees; that part makes Chevy Chase View special.

Also, the developer's application to

Montgomery County indicated unwarranted hardships and some indication to minimize the impact of existing trees even if he built two homes. But if you look at the way the existing home, the Peach existing home, is there, if the new home was built there and then just one additional home is built there, we would be able to maintain most of those trees on those properties.

So that's my concern, and I hope that you will represent our community as our elected officials and oppose this subdivision. Thank you.

MS. FUDGE: And I think

MR. BOLT: We should have one more.

MS. FUDGE: -- we've got one more. Ann Easby Smith.

MS. SMITH: I think I must have sent the wrong paper.

MS. FUDGE: You put a check in you wanted to testify.

MS. SMITH: I'm sorry.

MS. FUDGE: Okay. Then I think we're finished.

We've received many requests from residents as tonight that we deny this proposal. In response, we have spent a significant amount of time researching the criteria, analyzing the criteria, and as Ron had done, doing the math that was required by the criteria. As a municipal corporation, we understand that we do not have authority over county subdivision matters. However, state law allows a municipal corporation to recommend denial, and this is a quote from it, "only if the municipal corporation determines that the plan does not comply with the particular provision of the county subdivision regulations."

The way I see it again, this is mine that there are two aspects of the county requirements that are impacted in this proposal. One of them is the forest conservation law. We know that the applicant is aware of this law. We've been told by the county that the way they apply this law, it is separate from the subdivision chapter and separate from the zoning ordinance. According to the county, there are seven trees that are affected that are

30inch diameter or greater. They've also decided that or they've discussed that the county expects a variance as a standard part of this process.

Chevy Chase View, we agree, has a longstanding and robust street tree program. However, we have no authority over trees on private property. In 2006, residents of Chevy Chase View strongly rejected an attempt to regulate the removal of private trees. We therefore must rely on the county to determine how this issue is addressed.

The next one is the lot size, the width, the shape, and the orientation. It must be appropriate for the location of the subdivision and for the type of development contemplated. And I'm just going to briefly discuss it. As we said earlier, this only applies to block D of which there are currently eight lots. Six are larger than the new proposed lots; two are smaller. If you remove the three very large lots, 30,000 square feet, 18,000 square feet, and what was the third one? I don't remember. But in any event, the remaining

five lots are between 12,500 square feet and 12,099 square feet, which is a difference of 499 square feet, which based on all the criteria, I find to be a very small width of the lots. The county requires a minimum street frontage of 75 feet. Chevy Chase View requires a minimum of 100 feet. Both of these new lots all three of these new lots meet that requirement.

The shape. With few exceptions, virtually all lots at Chevy Chase View are rectangular. The proposed new lots are also rectangular.

Orientation. Part of this is Chevy Chase View in general; part of it's the lots specifically. For eastwest running streets, homes predominantly face north and south. Corner lots vary. Some are angled. From northsouth streets, many of the homes face east or west. There was one other home on that block built in 1928 that faces east and one of the proposed new homes would face west. Oh, the other way around, yeah. But one's east and one's west.

It's also important to know that as we look

at this, the subdivision standards are guidelines and they're not regulations or ordinances. We have studied them in great detail as they apply to this proposed subdivision. In doing so, we also find it notable that Gartrell is an unusual street in that its northsouth streets are not through streets. I think storm water management, somebody has brought up as a concern. It has been noted. It is part of the county review. It might also be worth nothing that Chevy Chase View is undertaking the study of our current storm water system throughout the neighborhood because we know there are some areas that have some deficiencies.

If we broaden the area of consideration to include the confronting lots, the 58 current homes and as you can see on the summary, the two lots that fall below the 13,099 range between 374 square feet and 418 square feet; again, find this to be appropriate for the location. A lot of the lots in this area in fact, as stated by the character study, these are smaller lots with shallower backyards.

Finally, my last, while separate and apart from any consideration or criteria that we are able to use, I'm reminded that the main beneficiary of this proposed subdivision is the owner of the original lots. I would also point out the benefit to new families who are able to enjoy the richness we all value in our community. So my personal opinion is I don't find the material reason to oppose this.

Anybody else?

MR. SHERROW: I'm going to comment on the orientation of the proposed lot. We were focusing in on that particular block, and I note that on the particular block, as you have mentioned there, the older farmhouse is facing west. So it seems to me that within this block, there would be symmetry as far as which way the lots are facing. One is going in from Summit Avenue, and the proposed lot would be going in from Gartrell. So I think that the orientation would be compatible on that particular lot.

I am concerned about the number of houses

that are more than 10 percent below average. At first I thought that that meant that we didn't have that that criteria maybe wasn't the right number. But I note that if we were to apply these same standards to another part of our town, we might get different results. It seems that the council that crafted these guidelines for us said, okay, 10 percent or more, ignore I mean, don't permit that subdivision to occur. And on the other hand, it didn't say in black and white, even in that policy, that 10 percent below would be a standard.

This block in itself and I looked at page 10, the diagram on page 10, and you see the areas that are pinked out on that particular block. I mean, it's the exception rather than the rule. The lots are smaller there. So now it's not a question of comparing them on that block, but what does that affect?

It was raised tonight that it would be a problem or not be a problem. It would be undesirable to have even more lots. We've got

these many lots that are this small, and now we want to make another lot that's smaller. I think there is some validity to that. And certainly, a lot that's proposed the two lots that are proposed, the smaller lots would not be acceptable in other parts of the town based on the square footage in other parts of the town. But as the character study pointed out, this section, there's just those lots are smaller. It almost seems like this is in keeping not only with the confronting lots but throughout that well, the other lots that are in the character study's findings for being short backyards.

I'll say one thing about cutting down the trees and such. I think that does depend on the that's a lot owner's prerogative, in my point of view. And on the other hand, one thing that occurred to me is that if the lots were only facing north and south, and if a third lot was not allowed to be created on Gartrell, then we would have more of a pathway of trees and such in the backyards of these lots. I know in my yard, I can look out left

and right in the backyard, and there's a pathway of trees. But nonetheless, the alignment of that house and the position of that house in the middle of Gartrell Place, going away from Gartrell, that would be consistent.

Now, I have to say it. That standard is met, so I'm inclined to approve this. I'm willing to hear more comments.

MR. MARKS: Good evening. Thanks, Paula. Thanks, everybody who's come here tonight, and particularly regardless of which perspective you've taken on this, whether you're supportive of it or against it. I'm not going to repeat what Paula and Ron just went through. I think they stated some facts very well. I will basically summarize. I will touch, though, on the trees and on the character.

It's clear that the tree issue is not directly involved with our criteria, our design standards here for the subdivision. For those of you who know where I live, in the middle of Franklin Street, I have very many large, mature

trees on my lot. Some of my neighbors would say that I have too many trees on my lot, particularly in the fall when all the leaves are on the ground. Nevertheless, I appreciate the rights of homeowners to take those trees down even though I sometimes wince, like I did recently when my adjoining neighbors had removed large trees from their lots. But nevertheless, I recognize until Chevy Chase View were to enact some sort of tree ordinance, that homeowners have that right.

Finally, the character study. Paula mentioned that I had been on the Council previously, then I went into retirement and came back on the Council several years ago, and one of the things that got me motivated was the character issue of the town. I worked prior to coming back on the Council and then as a councilmember when the character study was being considered and shaped, and then when it was executed.

It's a guideline to help us. There is no one single character in the town. We have six or seven overlays or areas or zones. Many of them

have different attributes. And again, I certainly appreciate and enjoy the spaciousness of our community and what it presents to somebody who's either walking or driving through, or simply standing in a yard and looking around. Yet, nevertheless, I think that the proposed subdivision certainly meets the standards for the character. I think a lot of the character has to do with the type of construction that's put on a lot, how it's placed, what it looks like versus the topography and things like that.

Having said that, I'm inclined to support a recommendation to approve to recommend the support of the subdivision.

MS. KEHNE: Hello. I am not going to repeat what my fellow councilmembers have said. I recognize the beauty of the trees in the neighborhood. I also respect people's property rights and the right for them to have some control over their property. And moreover, I do not see a material barrier to supporting this subdivision, so I would be inclined to propose that we accept the

subdivision.

MR. BROWN: Thank you, everybody, for showing up tonight and voicing your opinions and your analyses. My name is Tom Brown. I live at 10123 Cedar Lane, and I'm a new member of this board.

Fundamentally, my understanding is that we are to review this to the Chevy Chase View guidelines only, which don't include trees, unfortunately, and does not include the forest conservation law, which is reviewed by others. So if there are variances that need to be applied to that, they will review that. And I believe this application meets the building requirements of Chevy Chase View. I understand that there's a within 10 percent, but it's a generally within 10 percent. And I believe that the addition of one added lot to Chevy Chase View is a benefit to the community in lieu of the existing condition. Thank you.

MR. BOLT: So it sounds as if the majority of the Council is in the position of no opposition.

I did hear some councilmembers state that they may even support the application. So the Council does have some options in that the Council could not oppose or the Council could issue a recommendation supporting.

Does any councilmember wish to

MR. SHERROW: Would that affect the voting requirements of the Park and Planning Commission?

MR. BOLT: No, it would not.

MR. SHERROW: Only if there was a negative one.

MR. BOLT: Correct.

MR. SHERROW: I think there are quite a few people that strongly oppose this, and I would think that their voices should be heard maybe clearly. I'm not so inclined to think we should have a motion to approve it, but that's just my thought.

MS. FUDGE: Okay. I'll throw this out there. Based on some of what Ron has said and what we've discussed previously in preparation for this hearing, I might want to make a motion that we make no recommendation but forward all the transcripts,

all the emails, and all the letters that we've received to the Planning Board, so that they have the benefit of hearing the residents.

Tom, you're frowning.

MR. BROWN: They receive the transcript anyway.

MS. FUDGE: If we make a recommendation. We have an option to make no recommendation. We could recommend approval, we could recommend denial, make no recommendation, but we can forward the transcripts.

Is that correct?

MR. BOLT: That's correct. And residents also have the opportunity to engage directly in the Planning Board's process and submit comments directly to the Planning Board and testify before the Planning Board.

MS. FUDGE: Because they will have a public hearing that you all will be notified. If you've been to the preliminary, the November 17 hearing, you'll all receive notice of that. And we'll put that out there when we get it, too.

MR. SHERROW: I'll just add one thing, and I have nothing else to add. But we have spent quite a bit of time researching this. We've spent a lot of time reading. And maybe to walk away from this without going on the record with a point of view is not proper.

Any thoughts on that?

MR. BROWN: What are our options, legal counsel?

MR. BOLT: Sure. So the options include taking no position. The proceedings could end tonight, and you could not submit something to the Planning Board; or you could submit a recommendation against approval, but it doesn't sound as if the Council is leaning that way. You could submit a recommendation that the proposal be approved, in which case we would have to have this hearing transcribed. There would be a cost. We would have to write up a written recommendation based on findings of fact made tonight and submit that together with the transcript and our complete record, all of these emails and letters that have

been received. And that's it. Those are the options.

MS. FUDGE: We can't make a recommendation to support? That would be a forfeit, wouldn't it?

MR. BOLT: I'm sorry?

MS. FUDGE: That we have no position and no submission, can we make no position but submit the testimony we have?

MR. BOLT: You can take no position and submit the testimony in record. That is an option. It is somewhat outside of the statutory framework, so I'm not going to guarantee that the Planning Board would do anything with that submission, but I think likely would do so. We'd give that to staff, and staff would probably include it in the record for us.

MR. BROWN: Is there an option to provide you said an option a little earlier. I thought I heard you say we do not oppose rather than approve.

MR. BOLT: Correct. In other words, you could take no action.

MS. FUDGE: That would be no position.

MR. BOLT: Right.

MR. BROWN: That's the no position?

MR. BOLT: Yes. The first option is taking no position.

MS. FUDGE: Any further discussion?

(No response.)

MS. FUDGE: Okay. So of those options, of the two that seem to be the most appropriate right now, one would be take no position with no submission, and one would be take no position and submit the testimony, which as Ron said is outside statutory framework, but it will at least be on the record with the Planning Board that we have held this hearing, we have heard from residents, and we have forwarded their comments.

MR. SHERROW: Are we to ask for a motion?

MS. FUDGE: Ask for a motion. Somebody make a motion.

MR. SHERROW: I'm going to make a motion that the Council forward our approval of this. I believe we've I feel like I've listened to both

sides, and I believe that it's appropriate, after we have studied this, that we come up with an opinion that we forward. And I would make a motion to forward to Park and Planning

MR. BOLT: A recommendation of approval.

MR. SHERROW: -- a recommendation of approval. Thank you.

MR. MARKS: I second it.

MS. FUDGE: All in favor?

(A chorus of ayes.)

MR. BROWN: It was 5 to zero.

MS. FUDGE: So we will recommend approval with the transcript.

MR. BOLT: Correct.

MS. FUDGE: It will all be sent.

Do we adjourn now?

MR. BOLT: Yes.

#### **Adjournment**

MS. FUDGE: Okay. We will adjourn at 8:10.

(Whereupon, at 8:10 p.m., the hearing was adjourned.)

#### **CERTIFICATE OF REPORTER/TRANSCRIPTIONIST**

*A Matter of Record*

*(301) 890-4188*

I, JANET EVANS-WATKINS, certify that the hearing was recorded electronically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any of the parties, nor in any way interested in the outcome of this action.

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JANET EVANS-WATKINS