

TOWN OF CHEVY CHASE  
COUNCIL MEETING  
November 8, 2023

TOWN FORUM ON GAS-POWERED LEAF BLOWER BAN (6 p.m.)

The Town Council will hold a public forum on November 8 at 6 p.m. in the Town Hall and via Zoom to hear from residents about the possibility of enacting a full year ban on gas powered leaf blowers beginning in 2024. Residents are encouraged to attend this forum to understand the proposal and provide feedback to the Town Council.

- I. GENERAL BUSINESS (7:00-7:30 p.m.)
  - A. Call to Order
  - B. October 2023 Financial Report
  - C. Town Manager’s Report
  - D. Public Comments
  
- II. PUBLIC HEARINGS (7:30-8:15 p.m.)
  - A. [Keating, 4119 Rosemary Street, Tree Removal Appeal](#)
  
- III. COUNCIL DISCUSSIONS (8:15-9:00 p.m.)
  - A. Corso Chevy Chase
  - B. [Discussion and Possible Introduction of an Ordinance to Amend Chapters 4, 5, and 28 of the Town Code to Clarify Applicability](#)
  - C. Purple Line
  
- IV. OTHER BUSINESS/UPDATES (9:00-9:15 p.m.)
  - A. Bethesda Market Park
  - B. Maryland Municipal League Fall Conference Review
  
- V. ADJOURNMENT (9:15 p.m.)

How to Join the Council Meeting

- 1. In-Person  
4301 Willow Lane, Chevy Chase, MD 20815
  
- 2. [Online via Zoom](#)
  
- 3. By Phone via Zoom  
(301) 715-8592  
Meeting ID: 301 654 7144  
Passcode: 6547144

# STAFF REPORT

II-A

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Keating, 4119 Rosemary Street, Tree Removal Appeal  
DATE: November 8, 2023

Patrick Keating, contract purchaser of 4119 Rosemary Street, has filed an appeal of a denied tree removal permit for three hemlock trees on the east side of the subject property.

## **Background:**

On October 2, 2023, the applicant filed a permit application with the Town to remove multiple trees from the subject property. The Town Manager found that three hemlock trees, which the applicant requested to remove, are canopy trees that are not dead, dying, in danger of falling, or hazardous to the safety of persons or property; therefore, the permit for those trees was denied, and the applicant has appealed this denial. The permit for other tree removals was approved.

*Staff Note: The following assertions are a partial summary of the materials provided by the applicant in support of the appeal record. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the appeal. The applicant should indicate to the Council if any arguments have been misrepresented. The Council should consider the entire record in considering the appeal.*

## **Procedure:**

The Town Council shall consider the following factors in deciding whether to approve or deny an appeal of a denied tree removal permit. The record of the appeal is attached.

1. The reasons cited by the applicant for wanting to remove the canopy trees.  
*The applicant claims that it is necessary to remove the trees to construct a new driveway and side loading garage as part of a redevelopment project. The applicant has done some preliminary engineering work on stormwater runoff and water drainage plans related to the construction of a new house. The soils have poor infiltration rates, so infiltration of stormwater on this site is not feasible. The existing rear and side yards of the property are very flat, and runoff from the lot flows toward the adjacent properties. In order to minimize the impact of the proposed construction to the adjacent properties, the applicant intends to construct retaining walls in the rear and side yards to raise the grade of the yard and slope it toward the street. This will direct stormwater runoff from the proposed construction toward the street, where it can safely be conveyed into the public storm drain system. The proposed change of grade is not possible if the trees are retained.*
2. The applicant's intention to plant replacement trees, with consideration of the number, size and desirability of species, and with a minimum goal of replacing the canopy tree to be removed.  
*The applicant proposes to plant three arborvitaes in the vicinity of the hemlock trees that the applicant wishes to remove and nine hornbeam trees along the rear the rear property line as shown on an attached site plan.*

3. The applicant's intention to retain and protect existing trees.  
*There is a mature, healthy red oak tree in the western front yard of the property. The project has been designed to preserve and protect this tree. Other trees on the property were approved for removal in accordance with the Town's ordinance due to their size, condition, or species.*
4. The facts in support or opposition presented by town residents.  
*As of November 3, 2023, the Town has not received any correspondence related to the appeal.*
5. Information provided by the Town Arborist.  
*The denied tree removal permit application, which includes a detailed tree condition report, is attached as is a report from the Town Arborist.*
6. The extent to which no alternative to canopy tree removal exists that would allow the proposed development, construction, or land use otherwise permitted under the town building code.  
*The applicant addresses this extensively in his letter of appeal.*
7. The desirability of preserving a canopy tree by reason of its age, size or outstanding qualities, including uniqueness, rarity or species.  
*A description of hemlock trees from the Manual of Woody Landscape Plants is attached.*
8. The overall effect on the tree canopy of the adjacent properties, the neighborhood, and the town.  
*While the applicant acknowledges that the removal of the trees will affect the immediate tree canopy and the overall canopy of the Town, the applicant asserts that these trees do not provide a wide canopy and are currently functioning as "screening" trees along the side property line, so the canopy impact is not significant.*
9. The aggregate or cumulative effect of the proposed canopy tree removal(s), including any and all canopy tree removals from the property within the prior two-year period.  
*No canopy trees have been removed from the property in the past two years. Other trees proposed for removal are approved by the Town based on their condition/species.*

**Staff Note:** *It is the staff's understanding that this project will require approval of a water drainage variance. We have not yet received construction plans, but we do not anticipate the need for any building variances. The applicant intends to propose the retaining walls and grade change as part of the variance request to the Town Water Board and wants to have assurance that the trees will be permitted for removal if the drainage variance is approved. If the Council agrees that the trees can be removed, staff suggests that the removal be conditioned on approval of a Town building permit and water drainage plan.*

**Attachments:**

- Attachment 1: Appeal Request and Supporting Documents from the Appellant
- Attachment 2: Denied Tree Removal Permit Application
- Attachment 3: Site Plan showing proposed replacement trees
- Attachment 4: Information on hemlock trees from the Manual of Woody Plants
- Attachment 5: Notice of Appeal
- Attachment 6: Information from the Town Arborist
- Attachment 7: Letter from the Town Engineer and Supporting Infiltration Test Information



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**TOWN OF CHEVY CHASE - TREE REMOVAL APPEAL JUSTIFICATION**

**4119 ROSEMARY STREET**

**PARTS OF LOTS 3, 4, & 5, BLOCK 12  
CHEVY CHASE SECTION 4**

**OCTOBER 19, 2023**

The subject property, 4119 Rosemary Street in Chevy Chase, Maryland, is comprised of Parts of Lots 3, 4, and 5, of Block 12, Chevy Chase Section 4. The 11,287.5 square foot property is currently zoned R-60 and is located on the north side of Rosemary Street, approximately 550 ft east of Maple Avenue. The existing improvements include a two-story house with basement, two-car detached garage, and deck. The Applicant plans to combine the existing parts of lots into a single recorded lot through the County's Minor Subdivision process, raze the existing house, and construct a new single-family home with two covered porches, side-load garage, detached garage, and pool. The property contains nineteen (19) trees subject to the Town's Urban Forest Ordinance, Chapter 29 of the Town of Chevy Chase Municipal Code. The Town of Chevy Chase Tree Inventory by Feather and Associates, dated October 5, 2023, is included as an attachment to this letter.

An application for Tree Removal Permits was submitted on October 2<sup>nd</sup>, 2023 to remove eighteen (18) Urban Forest regulated trees, and approval was denied for the removal of trees Trees #10 (14" hemlock), #11 (9" hemlock), and #13 (9" hemlock). This letter is provided to appeal the denied removal of Trees #10, 11, and 13 to the Town Council. The denied Tree Permit Applications are included as an attachment to this letter.

Early in project design, Tree #4, a prominent 19" Red Oak located on the west side of the front yard, was identified as a priority tree to protect. It is healthy, offers valuable tree canopy, and contributes to the character of the street and neighborhood. Trees #10, 11, and 13 are located along the eastern property line in the side/rear yard and function as "screening" trees for the adjoining 4114 Stanford Street and 4117 Rosemary Street properties. The project proposes to prioritize protection of the 19" Red Oak (Tree #4) in the front yard by locating the proposed driveway along the eastern property line. Removing the three (3) hemlocks is necessary to implement the side load garage and proposed driveway on the east side of the property.

Although the three (3) denied hemlocks are not dying, dead, or in danger of falling, the removal of these trees is also necessary to the proposed engineered drainage solution. The property is located at the approximate high point of the Block. In the existing condition, the front portion of the property drains to the Rosemary Street Right-of-Way, and the rear portion drains onto the adjoining 4118 Stanford Street, 4116 Stanford Street, 4114 Stanford Street, and 4117 Rosemary Street properties to the north and east. Based on a topographic survey completed by CAS Engineering in June, 2023, and available MNCPPC 2-ft contour data, the rear yards in the project vicinity are flat and do not drain well. There is also a localized low point on the subject property with an area drain in front of the existing detached garage. The size and outlet of this drain are unknown, and this low point overflows to the adjoining 4117 Rosemary and 4114 Stanford Street properties.



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To address the Town's Water Drainage Ordinance, Chapter 28 of the Town Municipal Code, the proposed water drainage system must maintain or reduce the pre-development runoff rate onto adjoining properties. Due to poor soil conditions encountered on the subject property, on-site water retention devices, such as R-tank systems, are not feasible. Therefore, the project proposes to reduce runoff to the adjoining properties by raising the rear yard using site walls to direct all surface runoff to the Rosemary Street Right-of-Way. Implementation of this solution necessitates the removal of the three (3) denied hemlock trees; however, this design solution almost entirely eliminates runoff to adjoining properties, removes the localized low point, and can be implemented while still protecting the 19" Red Oak (Tree #4) in the front yard.

Removal of the hemlock trees does not present a severe impact to the overall tree canopy in the area because the trees, by nature, do not provide a wide canopy and are currently functioning as "screening" trees along the property line. The Applicant plans to replace the three (3) hemlocks requested for removal with three (3) arborvitae along the eastern property line. The proposed arborvitae will provide the same "screening" function as the hemlocks being removed. Additionally, the project proposes to plant nine (9) hornbeams along the rear property line. Though not required, the hornbeams will restore the screening provided by other existing trees approved for removal. The associated Preliminary Site Plan and Reforestation Planting Plan has been included as an attachment to this letter.

In consideration of the project's priority to protect the 19" Red Oak (Tree #4), the proposed reduction of runoff to adjoining properties, the existing drainage issues in the area, the design limitation imposed by poor on-site soils, and the Reforestation Planting Plan presented, please consider this appeal to remove Trees #10, 11, and 13.

***Attachments:***

*Photos of Trees #4, 10, 11, & 13*

*Town of Chevy Chase Tree Inventory by Feather and Associates, dated October 5, 2023*

*Preliminary Site Plan and Reforestation Planting Plan, dated October 19, 2023*

*Denied Tree Permit Applications, dated October 11, 2023*



**TREE #4**  
**19" RED OAK**  
**(PRIORITIZED FOR PROTECTION)**

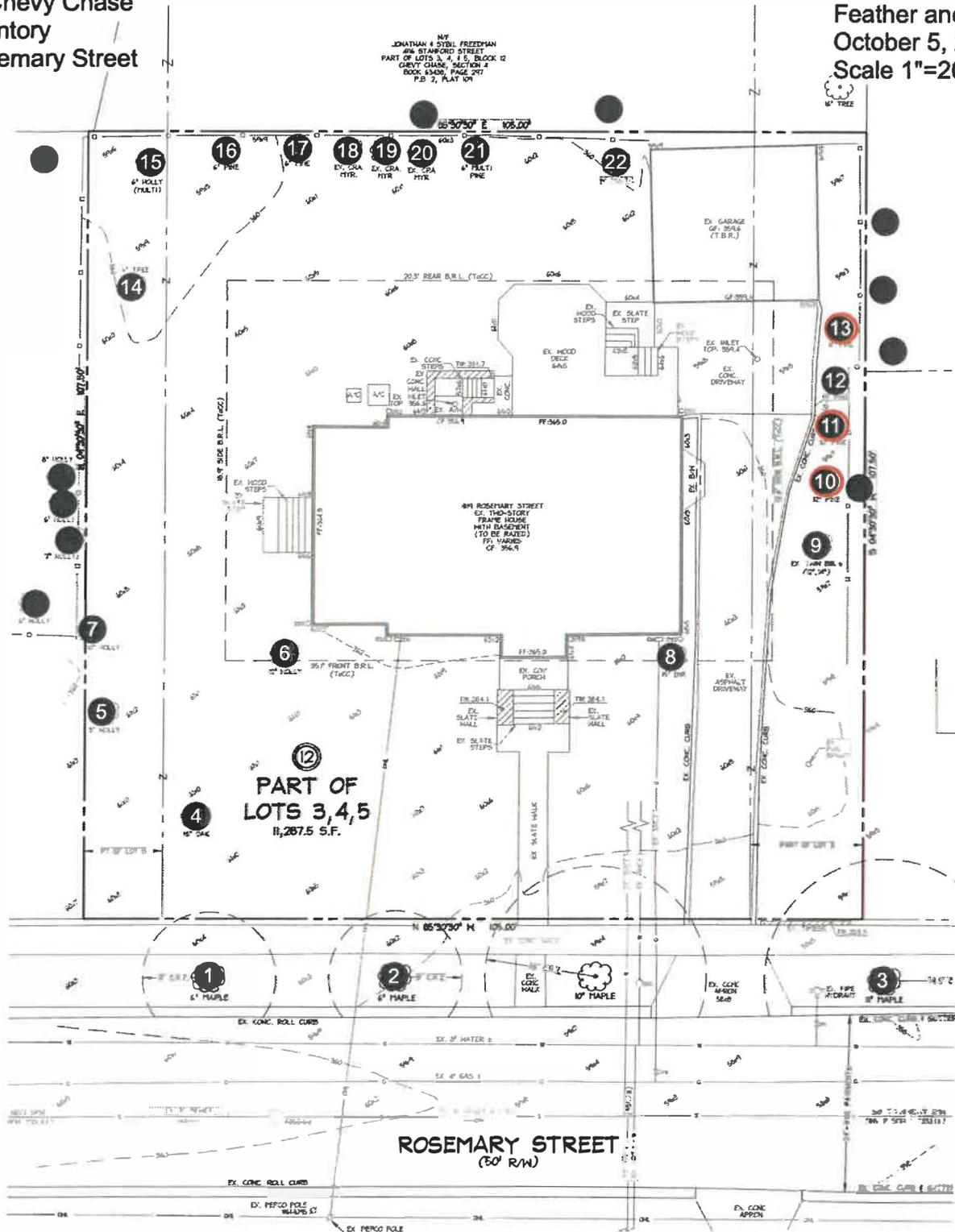


**TREE #13**  
9" HEMLOCK

**TREE #11**  
9" HEMLOCK

**TREE #10**  
14" HEMLOCK

**TREES #10, 11, & 13**  
**PROPOSED FOR REMOVAL**



BY  
JONATHAN A SYBLI FREEDMAN  
410 STAMFORD STREET  
PART OF LOTS 3, 4, 5, BLOCK 12  
CHEVY CHASE, SECTION 4  
BOOK 8340, PAGE 207  
P.B. 2, PLAT 101

Tree Inventory, size, conditions

Item	Tree	dbh "	Condition	Comments	Removable*
1	Sugar Maple	5	good	street tree	no
2	Sugar Maple	5	good	street tree	no
3	Red Maple	11	good	street tree	no
4	Red Oak	19	good		no
5	Nellie Stevens Holly	14	good		yes
6	Nellie Stevens Holly	14	good		yes
7	Nellie Stevens Holly	14	good		yes
8	Nellie Stevens Holly	16	good		yes
9	Japanese Maple	16	good	measured at base	yes
10	Hemlock	14	good		no
11	Hemlock	9	good		no

Item	Tree	dbh "	Condition	Comments	Removable*
12	Hemlock	7	good	<24" circumference	yes
13	Hemlock	9	good		no
14	Redbud	9	poor		yes
15	Nellie Stevens Holly	18	good		yes
16	Hemlock	9	poor	25% live canopy	yes
17	Hemlock	8	poor	25% live canopy	yes
18	Crepe Myrtle	18	good	measured at base	yes
19	Crepe Myrtle	18	good	measured at base	yes
20	Crepe Myrtle	18	good	measured at base	yes
21	Hemlock	18	poor	25% live canopy	yes
22	Nellie Stevens Holly	9	good	measured at base	yes

dbh - diameter at 4.5' above ground

\* Removable - may be removed without appeal, with a permit.

David Walton

From: noreply@civicplus.com
Sent: Monday, October 2, 2023 10:57 AM
To: David Walton; Tolbert Feather
Subject: Online Form Submittal: Tree Removal Permit Application

Tree Removal Permit Application

Overview

The Town requires a resident to obtain a permit to remove any tree measuring 24 inches in circumference at 4.5 feet above the ground. Once an application is received, the Town will post notice of the application on the property, and the arborist will inspect each tree requested to be removed. If the arborist determines that the tree is not a canopy tree, as listed here, the Town will issue a removal permit without conditions.

If the tree is a canopy tree, the arborist determines whether the tree is dying, dead, in danger of falling, or a hazard to the safety of persons or property. If the arborist finds one of these conditions to exist, a removal permit will be issued without conditions. If the arborist does not find one of these conditions to exist, the Town Manager will consult with the applicant and will review all available information to determine whether the tree meets the standards for removal.

If the Town Manager issues a removal permit for a tree that the Town arborist does not find meets a standard for removal, the applicant will be required to plant a replacement tree for each tree removed or pay an impact fee of \$750 per tree. Most trees approved for removal have a seven day posting requirement before the tree can be removed. If the Town Manager denies a removal permit, the property owner may appeal that decision to the Town Council.

Name Patrick Keating
Street Address 4119 Rosemary Street
Email keatingpk@aol.com
Parked 10/3/22
Evaluated 10/6/22
Remove 10/13/22

Phone Number

Location of the tree(s) to be removed All trees on the subject property with a circumference of greater than 24" except the 18" diameter Oak on the west side of the front yard.

Species of the tree(s) to be removed, if known Hemlocks, hollies, crepe myrtles, Japanese maple, redbud

Circumference of the tree(s) to be removed (at four and one-half feet above the ground), if known Field not completed.

## David Walton

---

**From:** CAROLYN ROBERTS  
**Sent:** Tuesday, October 17, 2023 3:34 PM  
**To:** Eric Murtagh  
**Cc:** Jim; Bretton Mork; David Walton; keatingpk  
**Subject:** Re: Tree Variance - Rosemary

Dave, please accept this email as my authorization for our buyer, Patrick Keating, PKK Builders, to apply for a tree removal variance on our property located at 4119 Rosemary Street.

Carolyn Roberts  
Sent from my iPhone

On Oct 17, 2023, at 2:18 PM, Eric Murtagh wrote:

Hi Carolyn & Jim,  
I've copied Dave Walton (TOCC) to this email.  
Could you both please email back (to "all") that you consent to have your contract purchaser, Patrick Keating, apply for a town tree removal variance for your property?

Thanks, Eric

On Mon, Oct 16, 2023 at 4:39 PM Bretton Mork wrote:

Hi Eric,

We heard from Lane at CAS Engineering that she spoke with Dave Walton and he's waiting for written authorization from the current owners for us to act as the applicant on the Tree Removal Variance in order to move forward with our application. Once the owner's authorization is provided, he will be able to issue the formal "denial" for the 3 hemlocks. She was wondering if we'd be able to get the owner's authorization to Dave this week? The deadline for us to file in order to have our appeal heard by the Town Council at the November 8th meeting is next Tuesday, 10/24.

Please let me know if you have any questions or need more information for them.

Thanks so much,  
Bretton

--

Bretton Mork

Patrick K. Keating & Co, Inc.

## David Walton

---

**From:** JAMES EVERETT  
**Sent:** Tuesday, October 17, 2023 3:31 PM  
**To:** Eric Murtagh  
**Cc:** CAROLYN ROBERTS; Bretton Mork; David Walton; keatingpk  
**Subject:** Re: Tree Variance - Rosemary

I, Jim Everett, consent for an application for the tree removal.

Sent from my iPhone

On Oct 17, 2023, at 2:18 PM, Eric Murtagh wrote:

Hi Carolyn & Jim,  
I've copied Dave Walton (TOCC) to this email.  
Could you both please email back (to "all") that you consent to have your contract purchaser, Patrick Keating, apply for a town tree removal variance for your property?

Thanks, Eric

On Mon, Oct 16, 2023 at 4:39 PM Bretton Mork wrote:

Hi Eric,

We heard from Lane at CAS Engineering that she spoke with Dave Walton and he's waiting for written authorization from the current owners for us to act as the applicant on the Tree Removal Variance in order to move forward with our application. Once the owner's authorization is provided, he will be able to issue the formal "denial" for the 3 hemlocks. She was wondering if we'd be able to get the owner's authorization to Dave this week? The deadline for us to file in order to have our appeal heard by the Town Council at the November 8th meeting is next Tuesday, 10/24.

Please let me know if you have any questions or need more information for them.

Thanks so much,  
Bretton

--

Bretton Mork

Patrick K. Keating & Co, Inc.

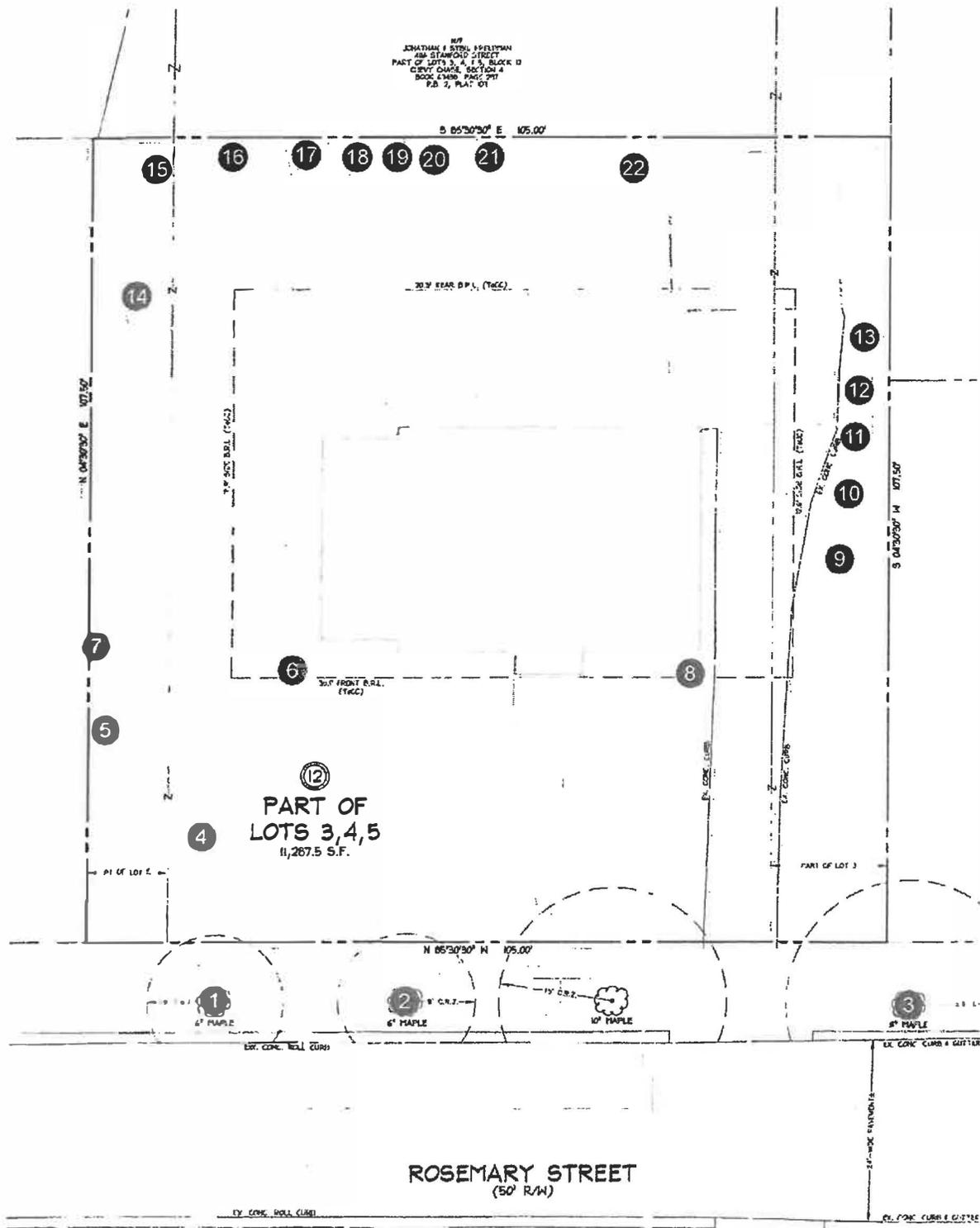
<https://www.patrickkeating.com/>

Town of Chevy Chase

Summary Tree Removal 4119 Rosemary Street

Tree Inventory, size, conditions, status of tree removal permit

Item	Tree	dbh "	Condition	Comments	Request	Status
1	Sugar Maple	5	good	street tree		
2	Sugar Maple	5	good	street tree		
3	Red Maple	11	good	street tree		
4	Red Oak	19	good			
5	Nellie Stevens Holly	14	good		Remove	approved
6	Nellie Stevens Holly	14	good		Remove	approved
7	Nellie Stevens Holly	14	good		Remove	approved
8	Nellie Stevens Holly	16	good		Remove	approved
9	Japanese Maple	16	good	measured at base	Remove	approved
10	Hemlock	14	good		Remove	denied
11	Hemlock	9	good		Remove	denied
12	Hemlock	7	good	<24" circumference	Remove	approved
13	Hemlock	9	good		Remove	denied
14	Redbud	9	poor		Remove	approved
15	Nellie Stevens Holly	18	good		Remove	approved
16	Hemlock	9	poor	25% live canopy	Remove	approved
17	Hemlock	8	poor	25% live canopy	Remove	approved
18	Crepe Myrtle	18	good	measured at base	Remove	approved
19	Crepe Myrtle	18	good	measured at base	Remove	approved
20	Crepe Myrtle	18	good	measured at base	Remove	approved
21	Hemlock	18	poor	25% live canopy	Remove	approved
22	Nellie Stevens Holly	9	good	measured at base	Remove	approved



Tree Inventory, size, conditions

Item	Tree	dbh "	Condition	Comments	Request
1	Sugar Maple	5	good	street tree	
2	Sugar Maple	5	good	street tree	
3	Red Maple	11	good	street tree	
4	Red Oak	19	good		
5	Nellie Stevens Holly	14	good		Remove
6	Nellie Stevens Holly	14	good		Remove
7	Nellie Stevens Holly	14	good		Remove
8	Nellie Stevens Holly	16	good		Remove
9	Japanese Maple	16	good	measured at base	Remove
10	Hemlock	14	good		Remove
11	Hemlock	9	good		Remove

dbh - diameter at 4.5' above ground

Item	Tree	dbh "	Condition	Comments	Request
12	Hemlock	7	good	<24" circumference	Remove
13	Hemlock	9	good		Remove
14	Redbud	9	poor		Remove
15	Nellie Stevens Holly	18	good		Remove
16	Hemlock	9	poor	25% live canopy	Remove
17	Hemlock	8	poor	25% live canopy	Remove
18	Crepe Myrtle	18	good	measured at base	Remove
19	Crepe Myrtle	18	good	measured at base	Remove
20	Crepe Myrtle	18	good	measured at base	Remove
21	Hemlock	18	poor	25% live canopy	Remove
22	Nellie Stevens Holly	9	good	measured at base	Remove

**Office Use Only – Town Arborist Review**

Tree Species: Tree 10 Hemlock Size (circumference, DBH): 14

In-person consultation:

- Not Requested
- Requested - Date held \_\_\_\_\_
- Permit withdrawn by applicant following consultation (no further action)

General Tree Information

- Tree is not regulated (undersized) – No permit necessary
- Tree is not a canopy tree species – permit should be approved
- Tree is a canopy tree as defined by the Town – condition report follows:

Health of Canopy (foliage density and/or presence of dead wood)

- good (85-100% live canopy)
- fair (75% - 86% live canopy)
- poor (under 75% live canopy)
- tree is dead

Trunk/Scaffold Branch Conditions

- Cracks present  yes  no
- Active decay present  yes  no
- Codominant or twin leaders  yes  no
- Strength of attachment of leader  strong  weak
- Significant hollows present  yes  no
- Ripped out/broken large branches  yes  no

Health of Roots

- Evidence of recent injury  yes  no
- Evidence of recent compaction  yes  no
- Evidence of fungal decay  yes  no
- Girdling roots  yes  no

Presence of serious pests/disease  yes  no

Other Factors

- Severely leaning  yes  no
- Growing upon/into a structure  yes  no
- Subject to windthrow  yes  no
- Unstable root support  yes  no

Target Assessment

Near structure, walkways, roads  yes  no

Additional Assessment Requested

- Hazardous conditions may be present that are not observable from the ground. I suggest further evaluation by qualified, certified arborist
  - Climb the tree to better assess hazards
  - Perform tests to evaluate hazards (described on separate sheet)

**Report to Town Manager:**

Based on the observations described above, I find that the tree is:

- Not a canopy tree
  - A canopy tree that is dead or dying
  - A canopy tree that is hazardous to the safety of persons or property
  - A canopy tree that does not, in my opinion, present sufficient hazard to justify removal
- Tree presents imminent harm to life or property (recommend waiving 7 day posting requirement)

Notes: \_\_\_\_\_

\_\_\_\_\_  
Arborist Signature

10/10/23  
\_\_\_\_\_  
Date

**Permit Disposition**

Upon reviewing the record of the tree removal permit application (and further consulting with the applicant, if necessary), I find that the tree requested for removal is:

- Not a canopy tree
- A canopy tree that is dead or dying
- A canopy tree that is hazardous
- None of these apply

And the tree removal permit is:

- Approved
- Denied
- Approved with Conditions (see below and attached)
  - An approved reforestation tree must be replanted as a condition of the approval
  - A \$750 reforestation fee must be paid prior to the release of the permit.

For approved permits:

- Approval sign must be posted on property for 7 days prior to removal
- The tree presents imminent harm to life or property (posting requirement is waived)

\_\_\_\_\_  
Town Manager Signature

10/11/23  
\_\_\_\_\_  
Date

**Would you like a replacement tree to be planted?**

In the interest of maintaining the long-term health of the Town's tree canopy, the Town offers a Native Tree Planting Program. This program offers native trees to be planted by the Town on private property on a first-come, first-served basis. Many types of tree are available, and trees are planted in the spring and fall. Residents are responsible for any necessary stump removal prior to planting.



If you are interested in participating in this program, you can sign up online at [www.townofchevy Chase.org](http://www.townofchevy Chase.org). Once the Town receives your request, the Town Arborist will contact you in the early spring or late summer to discuss tree species and location options prior to the installation of any tree. If you have any questions about the program, please contact the Town Office at 301-654-7144 or [townoffice@townofchevy Chase.org](mailto:townoffice@townofchevy Chase.org).

Office Use Only – Town Arborist Review

Tree Species: Tree 11 Hemlock Size (circumference, DBH): 9

In-person consultation:

- Not Requested
- Requested - Date held \_\_\_\_\_
- Permit withdrawn by applicant following consultation (no further action)

General Tree Information

- Tree is not regulated (undersized) – No permit necessary
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- Tree is a canopy tree as defined by the Town – condition report follows:

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- good (85-100% live canopy)
- fair (75% - 86% live canopy)
- poor (under 75% live canopy)
- tree is dead

Trunk/Scaffold Branch Conditions

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- Active decay present  yes  no
- Codominant or twin leaders  yes  no
- Strength of attachment of leader  strong  weak
- Significant hollows present  yes  no
- Ripped out/broken large branches  yes  no

Health of Roots

- Evidence of recent injury  yes  no
- Evidence of recent compaction  yes  no
- Evidence of fungal decay  yes  no
- Girdling roots  yes  no

Presence of serious pests/disease

yes  no

Other Factors

- Severely leaning  yes  no
- Growing upon/into a structure  yes  no
- Subject to windthrow  yes  no
- Unstable root support  yes  no

Target Assessment

Near structure, walkways, roads  yes  no

Additional Assessment Requested

- Hazardous conditions may be present that are not observable from the ground. I suggest further evaluation by qualified, certified arborist
  - Climb the tree to better assess hazards
  - Perform tests to evaluate hazards (described on separate sheet)

**Report to Town Manager:**

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- Not a canopy tree
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  - A canopy tree that is hazardous to the safety of persons or property
  - A canopy tree that does not, in my opinion, present sufficient hazard to justify removal
- Tree presents imminent harm to life or property (recommend waiving 7 day posting requirement)

Notes: \_\_\_\_\_

  
\_\_\_\_\_  
Arborist Signature

10/10/20  
\_\_\_\_\_  
Date

**Permit Disposition**

Upon reviewing the record of the tree removal permit application (and further consulting with the applicant, if necessary), I find that the tree requested for removal is:

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- A canopy tree that is dead or dying
- A canopy tree that is hazardous
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And the tree removal permit is:

- Approved
- Denied
- Approved with Conditions (see below and attached)
  - An approved reforestation tree must be replanted as a condition of the approval
  - A \$750 reforestation fee must be paid prior to the release of the permit.

For approved permits:

- Approval sign must be posted on property for 7 days prior to removal
- The tree presents imminent harm to life or property (posting requirement is waived)

  
\_\_\_\_\_  
Town Manager Signature

10/11/20  
\_\_\_\_\_  
Date

**Would you like a replacement tree to be planted?**

In the interest of maintaining the long-term health of the Town's tree canopy, the Town offers a Native Tree Planting Program. This program offers native trees to be planted by the Town on private property on a first-come, first-served basis. Many types of tree are available, and trees are planted in the spring and fall. Residents are responsible for any necessary stump removal prior to planting.



If you are interested in participating in this program, you can sign up online at [www.townofchevy Chase.org](http://www.townofchevy Chase.org). Once the Town receives your request, the Town Arborist will contact you in the early spring or late summer to discuss tree species and location options prior to the installation of any tree. If you have any questions about the program, please contact the Town Office at 301-654-7144 or [townoffice@townofchevy Chase.org](mailto:townoffice@townofchevy Chase.org).

**Office Use Only – Town Arborist Review**

Tree Species: Tree 13 Hemlock Size (circumference, DBH): 9

In-person consultation:

- Not Requested
- Requested - Date held \_\_\_\_\_
  - Permit withdrawn by applicant following consultation (no further action)

General Tree Information

- Tree is not regulated (undersized) – No permit necessary
- Tree is not a canopy tree species – permit should be approved
- Tree is a canopy tree as defined by the Town – condition report follows:

Health of Canopy (foliage density and/or presence of dead wood)

- good (85-100% live canopy)
- fair (75% - 86% live canopy)
- poor (under 75% live canopy)
- tree is dead

Trunk/Scaffold Branch Conditions

- Cracks present  yes  no
- Active decay present  yes  no
- Codominant or twin leaders  yes  no
- Strength of attachment of leader  strong  weak
- Significant hollows present  yes  no
- Ripped out/broken large branches  yes  no

Health of Roots

- Evidence of recent injury  yes  no
- Evidence of recent compaction  yes  no
- Evidence of fungal decay  yes  no
- Girdling roots  yes  no

Presence of serious pests/disease  yes  no

Other Factors

- Severely leaning  yes  no
- Growing upon/into a structure  yes  no
- Subject to windthrow  yes  no
- Unstable root support  yes  no

Target Assessment

Near structure, walkways, roads  yes  no

Additional Assessment Requested

- Hazardous conditions may be present that are not observable from the ground. I suggest further evaluation by qualified, certified arborist
  - Climb the tree to better assess hazards
  - Perform tests to evaluate hazards (described on separate sheet)

**Report to Town Manager:**

Based on the observations described above, I find that the tree is:

- Not a canopy tree
  - A canopy tree that is dead or dying
  - A canopy tree that is hazardous to the safety of persons or property
  - A canopy tree that does not, in my opinion, present sufficient hazard to justify removal
- Tree presents imminent harm to life or property (recommend waiving 7 day posting requirement)

Notes: \_\_\_\_\_

\_\_\_\_\_  
Arborist Signature

\_\_\_\_\_  
Date

10/10/27

**Permit Disposition**

Upon reviewing the record of the tree removal permit application (and further consulting with the applicant, if necessary), I find that the tree requested for removal is:

- Not a canopy tree
- A canopy tree that is dead or dying
- A canopy tree that is hazardous
- None of these apply

And the tree removal permit is:

- Approved
- Denied
- Approved with Conditions (see below and attached)
  - An approved reforestation tree must be replanted as a condition of the approval
  - A \$750 reforestation fee must be paid prior to the release of the permit.

For approved permits:

- Approval sign must be posted on property for 7 days prior to removal
- The tree presents imminent harm to life or property (posting requirement is waived)

\_\_\_\_\_  
Town Manager Signature

\_\_\_\_\_  
Date

10/11/27

**Would you like a replacement tree to be planted?**

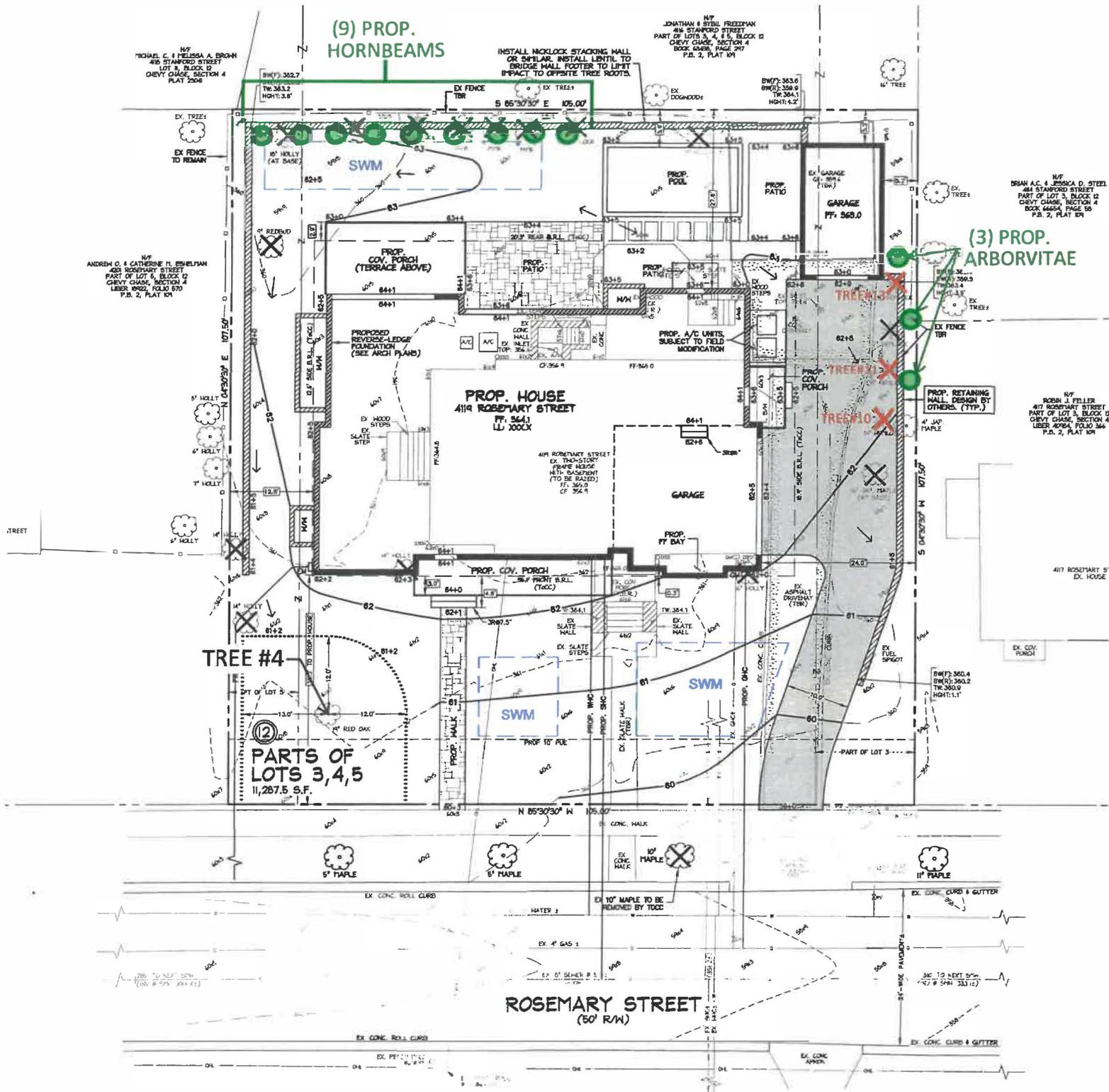
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If you are interested in participating in this program, you can sign up online at [www.townofchevy Chase.org](http://www.townofchevy Chase.org). Once the Town receives your request, the Town Arborist will contact you in the early spring or late summer to discuss tree species and location options prior to the installation of any tree. If you have any questions about the program, please contact the Town Office at 301-654-7144 or [townoffice@townofchevy Chase.org](mailto:townoffice@townofchevy Chase.org).

# Attachment 3

## PRELIMINARY SITE PLAN & REFORESTATION PLAN



NOTE: PROP. TREE LOCATIONS ARE APPROXIMATE AND SUBJECT TO FINAL SITE DESIGN.

**PRELIMINARY**  
**BUILDING PERMIT SITE PLAN**  
**NOT FOR PERMIT SUBMITTAL**

10/19/23  
NTS

***Tsuga canadensis*** — Canadian (Eastern) Hemlock  
(tsoo'gá ka-ná-den'sis)

**LEAVES:** Almost regularly 2-ranked, linear, obtuse or acutish, 1/4 to 2/3" long, 1/12 to 1/8" wide, obscurely grooved, lustrous dark green above, with 2 whitish bands beneath, toothed, with a short petiole.

**BUDS:** Minute, ovoid, with hairy scales, light brown.

**STEM:** Young stems slender, grayish brown, hairy.

**CONES:** Small, ovoid, 1/2 to 1" long on slender pendulous stalks, light to medium brown.

**SIZE:** 40 to 70' in height by 25 to 35' in spread; known to 100' or more.

**HARDINESS:** Zone 3 to 7 (8); actually languishes in heat of Zone 8 although occasional good specimens occur.

**HABIT:** Softly and gracefully pyramidal in youth with tapering trunk becoming pendulously pyramidal with age; one of the most beautiful conifers.

**RATE:** Medium, 25 to 50' in 15 to 30 years.

**TEXTURE:** Fine.

**BARK:** Flaky and scaly on young trees, brown, soon with wide, flat ridges; on old trees heavily and deeply furrowed; freshly cut surfaces showing purplish streaks.

**LEAF COLOR:** New spring growth light yellow-green changing to a glossy dark green, underside of needles with two glaucous bands.

**FLOWERS:** Monoecious; staminate light yellow, pistillate pale green.

**FRUIT:** Cones slender, stalked, ovoid, apex nearly blunt, 1/2 to 1" long by approximately 1/4 to 1/2" broad, brown at maturity; hang like small ornaments from the branches.

**CULTURE:** Transplants well balled and burlapped if root pruned; amenable to pruning; an excellent subject for moist, well-drained, acid soils, rocky bluffs or sandy soils; English literature lists this species as more lime tolerant than any other *Tsuga*; in Urbana IL there were many handsome specimens growing in calcareous soils; unlike most conifers tolerates shade well; can grow in full sun as long as it has good drainage and organic matter in the soil and there is no strong, drying wind to contend with; heavy soil from which water is unable to drain is not suitable; does not tolerate wind or drought; plant in sheltered locations, avoid windswept sites and polluted conditions.

**DISEASES AND INSECTS:** Leaf blight, cankers, blister rust, needle rust, sapwood rot, hemlock borer, hemlock looper, spruce leaf miner, hemlock florinia scale, grape scale, hemlock scale, spider mites, bagworm, fir flat headed borer, spruce budworm, gypsy moth, hemlock sawfly, and woolly adelgid. Two physiological problems include sunscorch which occurs when temperatures reach 95°F and above. The ends of the branches may be killed back for several inches. Another problem is drought injury for hemlocks are more sensitive to prolonged periods of dryness than most other narrowleaf evergreens. Plants may die during extended dry periods. For all the problems mentioned, hemlocks under landscape conditions prove to be reliable, handsome ornamentals if given proper cultural care.

**LANDSCAPE VALUE:** Makes an extremely graceful evergreen hedge of value in almost any situation except city conditions; excellent for screening, groupings, accent plant and foundation planting; the most commonly planted of the hemlocks, popular over a wide area; one of our best evergreens.

**CULTIVARS:** At one time I considered including a long list of cultivars but decided against such a move when the long list looked end "list". There are prostrate, globose, mounded, weeping, fastigiate and variegated forms. I refer the reader to Welch and Den Ouden and Boom.

Since the last edition, more cultivars have been introduced and several new or revised books, including Del Tridici, Swartley, and Krüssmann offer greater coverage than this book. In the summer of 1988, I had an opportunity to verify the collections in Mt. Airy Arboretum, Cincinnati, OH and the conifer collection, especially *Tsuga canadensis* cultivars were neigh impossible to accurately verify. So many clones are virtually the same and when the differences are based on growth habit, i.e., compact, more compact, most compact, one is easily confused. Even 'Jeddeloh' in three or four areas did not look exactly similar. Iseli Nursery, Boring OR listed 27 cultivars of *T. canadensis* while John Vermeulen and Son Nursery, Neshanic Station, NJ listed 38. Even a small specialty producer like

Washington Evergreen Nursery, Leicester, NC lists 24 and perhaps one of the premier growers of hemlock in New England, Weston Nurseries, Hopkinton, describe only four, but their 'Westonigra' strain which I have seen in the fields of Hopkinton, with extremely good dark green needle color in winter, may be the best around. The moral is that more is not necessarily better, only more.

'Sargentii' (var. *sargentii*)—A magnificent, broadly spreading, weeping form that is among the most handsome of all conifers; I have seen it used by water where it produced the effect of a green waterfall; as a single specimen or grouping it can be most effective; by no means a small plant although can be kept that way with judicious pruning; will grow 10 to 15' high, twice as wide. The late Professor C.E. Lewis of Michigan State likened it to a ghost, gracefully sweeping across the landscape; really an eye-catching plant and one that is frequently available in commerce. See *Arnoldia* 40:202–223. 1980.

PROPAGATION: Seed dormancy is variable so to insure good germination it is advisable to stratify the seeds for 2 to 4 months at about 40°F. Layering has also been used successfully. Cuttings have been successfully rooted but timing is important. Hormonal treatment is necessary. Percentages ranged from 60 to 90% depending on sampling time and hormonal strength.

NATIVE HABITAT: Nova Scotia to Minnesota, south along the mountains to Alabama and Georgia.

#### RELATED SPECIES:

***Tsuga diversifolia*** — Northern Japanese Hemlock  
(tsoo'gà dT-vēr-si-fō'li-à)

LEAVES: Densely arranged, generally shorter and more densely borne than *T. canadensis*, 1/4 to 5/8" long, 1/10" wide, distinctly notched at the apex, margins entire, glossy dark green and furrowed above, with two clearly defined chalk white bands of stomata below.

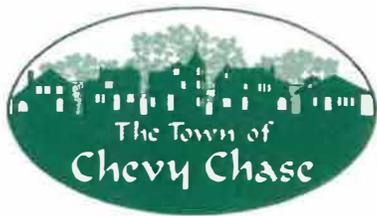
*Tsuga diversifolia*, Northern Japanese Hemlock, is a graceful, pyramidal tree that makes an excellent specimen in the landscape. Plant is broad pyramidal and gracefully branched. The branches are reddish brown, pubescent, while those of *T. sieboldii*, (tsoo'gà sē-bōi'dē-ī), are glabrous, grayish to yellowish brown. The egg-shaped cones are 1/2 to 3/4" long. The finest plants I have seen were at Millcreek Valley Park, Youngstown, Ohio and based on their beauty and performance would have no trouble recommending the tree for general landscape use. Average landscape height would approximate 35 to 60'. Neither tree is common in commerce and with so many excellent forms of *T. canadensis* it is difficult to compete. Japan. Introduced 1861. Zone 5 to 6.

***Tsuga heterophylla*** — Western Hemlock  
(tsoo'gà het-ēr-ō-fil'à)

LEAVES: More or less in 2 ranks (rows), although set all around the stems, 1/4 to 3/4" long, 1/20 to 1/16" wide, rounded at apex, entire, shining dark green and grooved above, broad white bands below.

*Tsuga heterophylla*, Western Hemlock, is a handsome tall tree with a narrow pyramidal crown, slightly semipendulous branchlets and fine textured dark green needles with two whitish bands below. I have seen the tree in Vancouver, BC and all over Europe and it makes an imposing specimen. The 3/4 to 1" long cones are sessile but hang from the branch tops. Best growth occurs in a moisture laden atmosphere and at cooler summer temperatures than are found in the eastern United States. The stems are yellow-brown, change to dark red-brown and remain pubescent for 5 to 6 years. Southern Alaska to Idaho and California. Introduced 1851. Zone 6 to ?

# Attachment 5



Irene Lane, *Mayor*  
Barney Rush, *Vice Mayor*  
Rich Brancato, *Treasurer*  
Stephanie Martz, *Secretary*  
Joy White, *Community Liaison*

## NOTICE OF TREE REMOVAL PUBLIC HEARING

**To: Residents Abutting and Confronting 4119 Rosemary Street**  
**From: David Walton, Town of Chevy Chase**  
**Date: October 24, 2023**  
**Re: Tree Removal Public Hearing**

A public hearing will be held by the Town Council in the Town Hall and via Zoom on November 8 at 7:00 p.m. to consider the tree removal request of Patrick Keating, 4119 Rosemary Street. Mr. Keating is a contract purchaser of the property. The owners have authorized him to file tree removal permits and appeals for the property.

The applicant filed a permit application with the Town to remove a number of trees from the property. A removal permit for three hemlock trees on the east side of the property (as shown on the attached site plan) was denied because the Town Manager found that the trees are canopy trees that are not dead or dying, in danger of falling, or a hazard to the safety of persons or property. Other trees requested for removal were approved.

The applicant has filed an appeal of the Town Manager's decision to the Town Council.

A meeting link and dial-in number for the Zoom meeting will be published on the Town website ([www.townofchevyCHASE.org](http://www.townofchevyCHASE.org)) before the meeting. Please contact the Town Office if you need additional assistance retrieving the meeting link.

At this hearing, Town residents will have an opportunity to express their views regarding this request. If you are unable to attend the November 8 hearing, but would like additional information or would like to voice an objection to or support of the application, please contact the Town at 301-654-7144 or [townoffice@townofchevyCHASE.org](mailto:townoffice@townofchevyCHASE.org) prior to the hearing.

Attachment: Appeal record

Sent To: 4112, 4114, 4117, 4200, 4201 Rosemary Street  
4114, 4116, 4118 Stanford Street

# Feather & Assoc.

Tolbert V. Feather, Ph.D.

*Advisors for: Landscape Development  
Landscape Management, Plant Pest Management*

Town of Chevy Chase  
4301 Willow Lane  
Chevy Chase, MD 0815

October 26, 2023

## **Tree Removal Appeal 4119 Rosemary Street**

The owner is appealing the denial of a tree removal permit for 3 Canadian Hemlock trees at 4119 Rosemary Street.

The trees shown in the photo and the attached plan are:

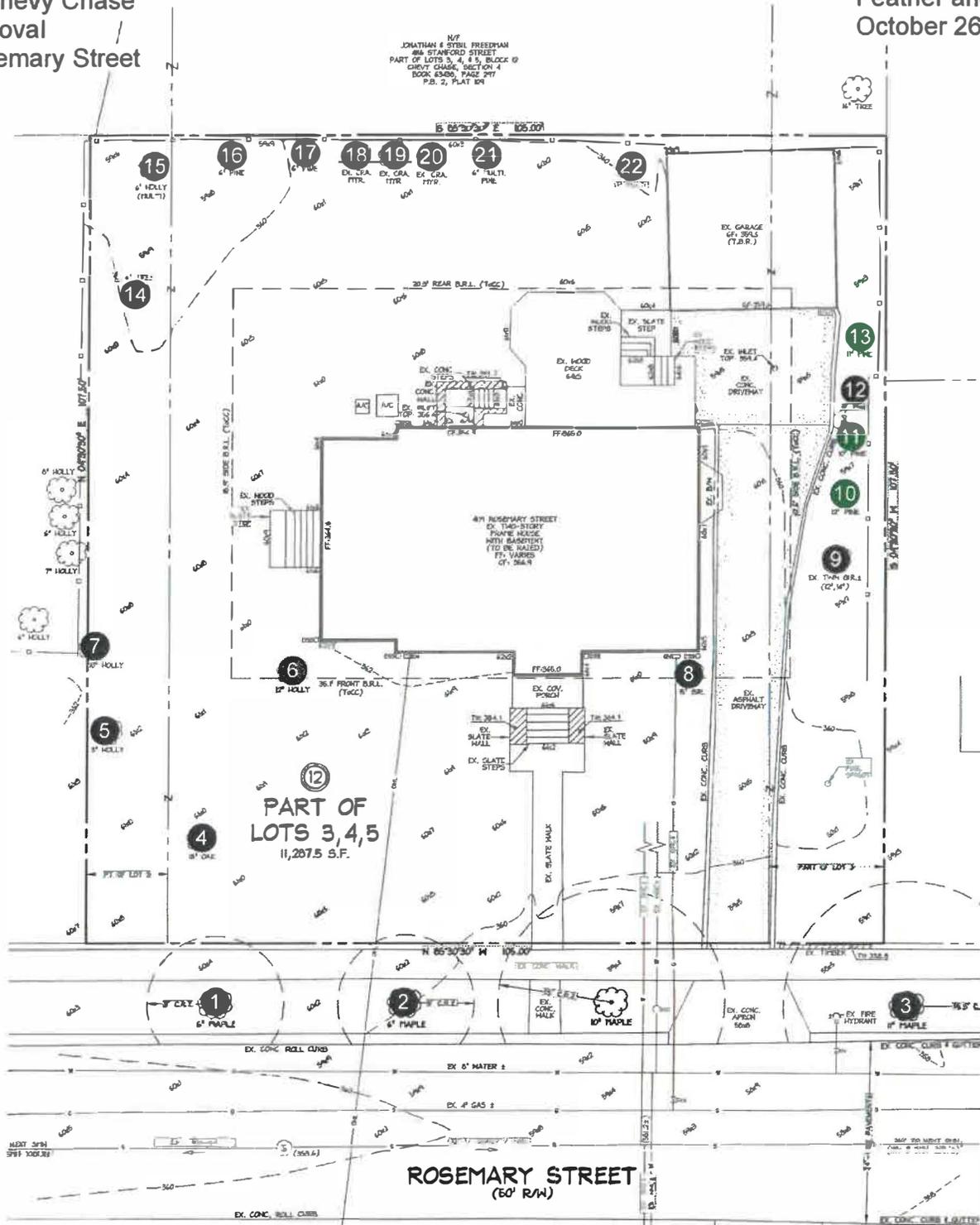
Tree # 10 Canadian Hemlock 14" dbh (diameter at 4.5' from ground level).

Tree# 11 Canadian Hemlock 9" dbh

Tree# 13 Canadian Hemlock 9" dbh.

All three trees are healthy.





Tree Inventory, size, conditions

Item	Tree	dbh "	Condition	Comments	Removable*
1	Sugar Maple	5	good	street tree	no
2	Sugar Maple	5	good	street tree	no
3	Red Maple	11	good	street tree	no
4	Red Oak	19	good		no
5	Nellie Stevens Holly	14	good		yes
6	Nellie Stevens Holly	14	good		yes
7	Nellie Stevens Holly	14	good		yes
8	Nellie Stevens Holly	16	good		yes
9	Japanese Maple	16	good	measured at base	yes
10	Hemlock	18	good		no
11	Hemlock	9	good		no

Item	Tree	dbh "	Condition	Comments	Removable*
12	Hemlock	7	good	<24" circumference	yes
13	Hemlock	9	good		no
14	Redbud	9	poor		yes
15	Nellie Stevens Holly	18	good		yes
16	Hemlock	9	poor	25% live canopy	yes
17	Hemlock	8	poor	25% live canopy	yes
18	Crepe Myrtle	18	good	measured at base	yes
19	Crepe Myrtle	18	good	measured at base	yes
20	Crepe Myrtle	18	good	measured at base	yes
21	Hemlock	18	poor	25% live canopy	yes
22	Nellie Stevens Holly	9	good	measured at base	yes

dbh - diameter at 4.5' above ground

\* Removable - may be removed without appeal, with a permit.

Trees being appealed for removal

# Attachment 7



**CIVIL ENGINEERS ♦ LAND PLANNERS ♦ SURVEYORS**  
11327 Amherst Ave., Suite A ♦ Wheaton, Maryland 20902  
301-949-2011 ♦ [www.oipengineering.com](http://www.oipengineering.com) ♦ 301-949-2013 (f)

November 2, 2023

Town Council:

I've completed a preliminary review of the Soils Report and Preliminary Building Site Plan for the proposed new house development at 4119 Rosemary Street as issued by PKK Builders, Inc.

As is the standard practice within the town, infiltration tests were performed in the front and rear yards that yielded rates of 0.12 and 0.09 inches per hour, respectively. These rates are approximately 23% of the County's minimum infiltration rate for retention systems in the front and 17% in the rear. The preliminary design provides proprietary void space systems (R-Tanks) in the front and rear. While these systems will provide some infiltration capacity, due to the poor infiltration rates they will not retain the total volume required by the Town.

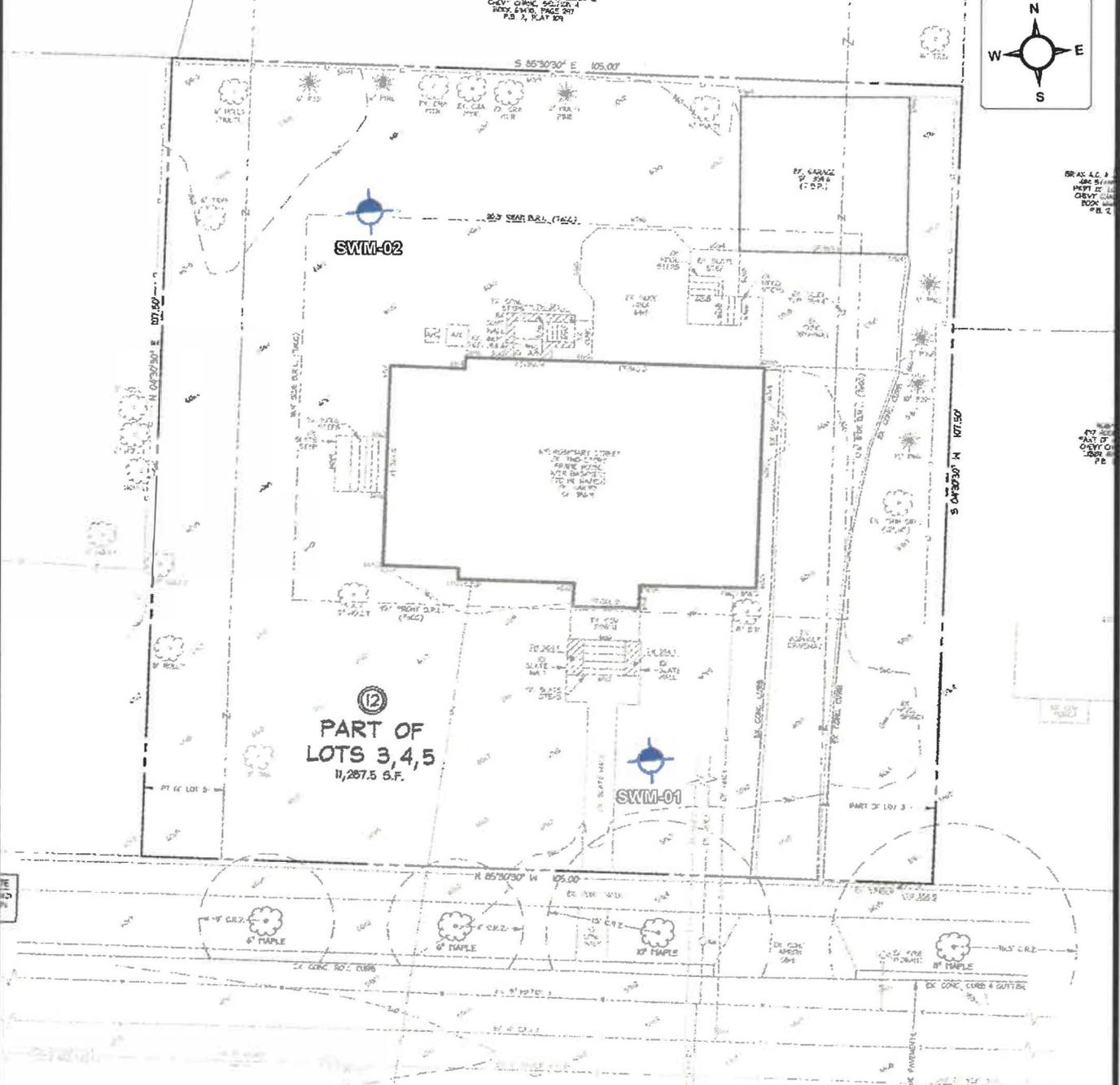
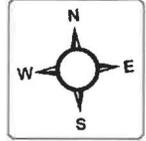
Based upon the preliminary information obtained and summarized above, I believe that a variance from the Water Drainage Ordinance will be required from the Water Board for this project.

The Water Board is the sole judge of the variance request. However, the strategy of the designer to grade and structure the site such that runoff from the site flows towards the right-of-way, instead of the neighboring abutters, has been seen in a good light by the Water Board in the past.

Sincerely,

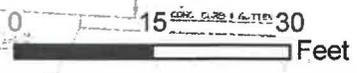
Lance Ball, PE,  
OIPA, 301-949-2011

Service Layer Credits: Sources: Esri, HERE, Garmin, Intermap, TerraMatch Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase,



**Legend**

 Approximate Boring Locations



**BORING LOCATION DIAGRAM**  
**4119 ROSEMARY STREET SWM**  
**4119 ROSEMARY STREET, CHEVY CHASE,**  
**CAS ENGINEERING**

ENGINEER BAM
SCALE AS NOTED
PROJECT NO. 13:10838
FIGURE 1 OF 1
DATE 7/18/2023

Test Location	Test Depth (ft)	Approximate Test Elevation (EL)	Soil Encountered at Test Depth	Field Infiltration Rate (in/hr)	USDA Soil Classification
SWM-1	8.3	352.2	Dense Sandy SILT (ML)	0.12	Sandy Loam
SWM-2	8.1	352.4	Medium dense Sandy SILT (ML)	0.09	Sandy Loam

**Appendix B – Field Operations  
Infiltration Test Results**  
ECS Project No. 13:10838



**4119 Rosemary Street SWM**  
4119 Rosemary Street  
Chevy Chase, Montgomery County, Maryland

**TOWN OF CHEVY CHASE DEWATERING CALCULATIONS**  
**ALLOWABLE DRYWELL DEPTHS**

**TEST LOCATION: SWM-1**

INFILTRATION RATE: 0.12 INCHES PER HOUR

**DESIGN GRAVEL DRYWELLS TO FULLY DEWATER WITHIN 48 HOURS:**

$$((0.12 \text{ IN/HR} * 48 \text{ HR}) / 0.40 \text{ (VOID RATIO)}) * (1 / 12 \text{ IN}) = 1.20 \text{ FT}$$

MAXIMUM GRAVEL DRYWELL DEPTH = 1.20 FT

PROPOSED DEPTH = 5 FT\*, PER MONTGOMERY COUNTY

\* ONLY 1.20 FT OF DEPTH WILL BE UTILIZED FOR TOWN OF CHEVY CHASE VOLUME COMPUTATIONS

**DESIGN R-TANKS TO FULLY DEWATER WITHIN 48 HOURS:**

$$((0.12 \text{ IN/HR} * 48 \text{ HR}) / 0.95 \text{ (VOID RATIO)}) * (1 / 12 \text{ IN}) = 0.51 \text{ FT}$$

MAXIMUM R-TANK DEPTH = 0.51 FT

**TEST LOCATION: SWM-2**

INFILTRATION RATE: 0.09 INCHES PER HOUR

**DESIGN GRAVEL DRYWELL 'C' TO FULLY DEWATER WITHIN 48 HOURS:**

$$((0.09 \text{ IN/HR} * 48 \text{ HR}) / 0.40 \text{ (VOID RATIO)}) * (1 / 12 \text{ IN}) = 0.90 \text{ FT}$$

MAXIMUM GRAVEL DRYWELL DEPTH = 0.90 FT

PROPOSED DEPTH = 5 FT\*, PER MONTGOMERY COUNTY

\* ONLY 0.90 FT OF DEPTH WILL BE UTILIZED FOR TOWN OF CHEVY CHASE VOLUME COMPUTATIONS

**DESIGN R-TANKS TO FULLY DEWATER WITHIN 48 HOURS:**

$$(0.09 \text{ IN/HR} * 48 \text{ HR}) / 0.95 \text{ (VOID RATIO)} * (1 / 12 \text{ IN}) = 0.38 \text{ FT}$$

MAXIMUM R-TANK DEPTH = 0.38 FT

**Town of Chevy Chase  
(Clarifying Applicability of Chapters 4, 5, and 28)**

Ordinance No.: 23-02  
Introduced:  
Adopted:  
Effective:

**AN ORDINANCE TO AMEND CHAPTERS 4, 5, AND 28 OF THE  
TOWN OF CHEVY CHASE MUNICIPAL CODE TO CLARIFY  
APPLICABILITY.**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Local Government Article, Section 5-211, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the \_\_th day of November 2023;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the \_\_\_th day of \_\_\_th day of November 2023, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council indicated receipt of the draft on \_\_\_th day of \_\_\_\_\_, 2023 and provided no comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council considered the following Ordinance in public session assembled on the \_\_\_th day of \_\_\_\_\_, 2023;

WHEREAS, the Town Council finds that certain provisions of the Town’s building regulations, sign regulations, and water drainage regulations, when substantially amended or adopted, effective in May 2008, December 2008, and December 2006, respectively, were intended to apply primarily to the residential lots in the Town being used for residential purposes, and not to the Chevy Chase Elementary School, the Jane E. Lawton Community Recreation Center, or the property formerly known as the 4-H Center, which is now being re-developed as a senior housing project;

WHEREAS, the Town Council finds that said regulations should be amended to clarify their applicability;

WHEREAS, nothing contained herein shall be construed to prevent the Town from adopting new ordinances in the future to regulate lots not being used for residential purposes;

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town’s property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town;

THEREFORE, BE IT ORDAINED AND ORDERED, this \_\_\_th day of \_\_\_\_\_, 2023, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that the Town Code is hereby amended to read as follows:

\* \* \*

**Chapter 4 – BUILDINGS**

ARTICLE I. – IN GENERAL

**Sec. 4-0. – Applicability.**

**(a) The provisions of this chapter apply to all real property and lots within the Town, except as expressly exempted by this section.**

**(b) The provisions of this chapter apply to all lots within the town that were used for residential purposes, or were vacant, as of May 17, 2008, and apply to any additional or new construction on such lots, and to the redevelopment of such lots.**

**(c) Sections 4-2(b) (Requirements for a preliminary plan and pre-permit application consultation), 4-3 (Building height, massing, and neighborhood compatibility), 4-4 (Building location requirements; prohibitions), 4-5 (Accessory building construction; prohibitions), 4-6 (Front-loading garages), 4-7 (Developmental nonconformities), 4-9 (Driveways), and 4-52 (Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property) of this chapter do not apply to a lot within the town that was used for institutional purposes as of May 17, 2008 for so long as such lot remains in institutional use. Said sections of this chapter shall apply to a lot if the use of the lot changes to a non-institutional use.**

**(d) Notwithstanding anything to the contrary contained herein, nothing in this section shall be construed to prevent the town from adopting any ordinances in the future to regulate any type of construction on any property in the town.**

**Footnote: May 17, 2008 is the effective date of Ordinance No. 08-01, adopted April 16, 2008, by which the Town’s building regulations were substantially amended.**

\* \* \*

**Sec. 4-1. - Definitions.**

(a) In this chapter, the following terms shall have the meanings indicated.

(b) Terms defined.

\* \* \*

***Institutional Use or Purpose: A use or purpose of an organization or establishment founded for a specific purpose, such as a hospital, church, school, community recreation center, senior living facility, or similar entity.***

\* \* \*

**Sec. 4-9. - Driveways and driveway aprons.**

(a) The construction, expansion, or replacement of a driveway ~~or driveway apron~~ within a public right-of-way or on private property shall require a building permit and, in addition, be subject to the following requirements:

(1) There shall be no more than one (1) driveway for a lot. ~~A driveway shall have no more than one (1) curb entrance at a street, provided however, that this limit shall not apply to a driveway on a lot requiring vehicular access to Bradley Lane, Connecticut Avenue, or East-West Highway. Except as provided above, in the event any portion of a shared driveway is located on a lot, the lot may not have an additional curb entrance.~~

(2) Driveways in the public right-of-way.

(a) A driveway shall be no wider than ten (10) feet in the public right-of-way.

(b) Notwithstanding the foregoing, a driveway in the public right-of-way that is wider than ten (10) feet as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

~~(c) At the curb entrance, the driveway apron may have an additional two and one-half (2½) foot radius on each side for a total width of up to a maximum of fifteen (15) feet. The driveway apron may have a maximum width of ten (10) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk.~~

~~(d) Notwithstanding the foregoing, a driveway apron that is wider than fifteen (15) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.~~

(3) Driveways on private property.

(a) A driveway on private property shall be no wider than ten (10) feet in front of the front building line, except that this restriction shall not apply to lots with frontage on Bradley Lane, Connecticut Avenue or East-West Highway.

(b) Notwithstanding the foregoing, a driveway on private property that is wider than ten (10) feet as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

(4) Shared driveways.

(a) A shared driveway in the public right-of-way or on private property shall be no wider than twenty (20) feet, in front of the front building line farthest from the street, provided, however, that no more than ten (10) feet of the width shall be located on any one lot.

(b) Notwithstanding the foregoing, a shared driveway that is wider than twenty (20) feet in front of the front building line or ten (10) feet on one lot, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

~~(c) At the curb entrance, the shared driveway apron may have an additional two and one half (2½) foot radius on each side for a total width of up to a maximum of twenty five (25) feet. The driveway apron may have a maximum width of twenty (20) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk.~~

~~(d) Notwithstanding the foregoing, a shared driveway apron that is wider than twenty-five (25) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.~~

~~(5) A curb entrance, driveway apron, and any sidewalk at the intersection of the driveway shall be installed in accordance with county construction standards in effect when the town permit is issued.~~

~~(6) The measurement of the width of a driveway or driveway apron shall be made from one (1) edge of the driveway or driveway apron to the other edge. Driveway and driveway apron width shall be measured parallel, or approximately parallel in the case of an oddly shaped lot, to the front property line.~~

~~(7) Improved surfaces adjacent to a driveway or driveway apron are included in the driveway width unless there is an unimproved buffer of at least two (2) feet between the improved surface and the driveway or driveway apron. Notwithstanding the foregoing, up to four (4) feet of a public sidewalk and/or a private walkway may cross the unimproved buffer and intersect a driveway.~~

~~(b) The town manager shall grant a permit to construct or expand a curb entrance, driveway, driveway apron, or sidewalk only if the proposed construction would comply with all laws, rules, regulations, and ordinances, and would not interfere with the public health, safety, or welfare. In determining whether the construction would interfere with the public health, safety, or welfare, the town manager shall consider the following:~~

~~(1) In determining whether the construction would interfere with the public health, safety, or welfare, the town manager shall consider the following:~~

- ~~a. Location of trees, hedges, berms, shrubbery, or other plant growth;~~
- ~~b. Location of fences, walls, or other structures;~~

- ~~e. Location of public utilities;~~
- ~~d. Vehicle or pedestrian traffic hazards, including obstruction of visibility;~~
- ~~e. Location of other public and private improvements in the public right of way;~~
- ~~f. Location of other potential access points for the subject property;~~
- ~~g. Distance from other existing and proposed curb cuts on the same street;~~
- ~~h. Water drainage;~~
- ~~i. Traffic and parking congestion;~~
- ~~j. Detrimental impacts on other public and private property in the town resulting from noise and/or litter; and~~
- ~~k. Other factors as may be determined by the town manager to be necessary to protect the public health, safety, or welfare.~~

~~(2) Any person aggrieved by a decision or action of the town manager under this section may file an appeal to the town council according to section 4-61. In addressing such an appeal, the town council may affirm or overturn the decision of the town manager, may direct the town manager to issue a permit, or may direct the town manager to issue a permit upon such conditions, terms, or restrictions as the town council may deem necessary to accomplish the intent and purposes of this chapter.~~

**Sec. 4-9A. - Driveway aprons.**

**(a) The construction, expansion, or replacement of a driveway apron shall require a building permit and, in addition, be subject to the following requirements:**

**(1) There shall be no more than one (1) curb entrance for a lot, provided however, that this limit shall not apply to a lot requiring vehicular access to Bradley Lane, Connecticut Avenue, or East-West Highway. Except as provided above, in the event any portion of a shared driveway is located on a lot, the lot may not have an additional curb entrance.**

**(2) Driveway aprons in the public right-of-way.**

**(a) A driveway apron shall be no wider than ten (10) feet in the public right-of-way. At the curb entrance, a driveway apron may have an additional two and one-half (2½) foot radius on each side for a total width of up to a maximum of fifteen (15) feet. The driveway apron may have a maximum width of ten (10) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk. The provisions of this subparagraph (2)(a) shall not apply to a lot within the town that was used for institutional purposes as of May 17, 2008 for so long as such lot remains in institutional use. Said provisions shall apply to a lot if the use of the lot changes to a non-institutional use.**

**(b) Notwithstanding the foregoing, a driveway apron that is wider than fifteen (15) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.**

**(3) Shared driveways.**

**(a) At the curb entrance, a shared driveway apron may have an additional two and one-half (2½) foot radius on each side for a total width of up to a maximum of twenty-five (25) feet. The driveway apron may have a maximum width of twenty (20) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk.**

**(d) Notwithstanding the foregoing, a shared driveway apron that is wider than twenty-five (25) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.**

**Sec. 4-9B. – Driveways and driveway aprons, miscellaneous requirements.**

**(a) A curb entrance, driveway apron, and any sidewalk at the intersection of the driveway shall be installed in accordance with county construction standards in effect when the town permit is issued.**

**(b) The measurement of the width of a driveway or driveway apron shall be made from one (1) edge of the driveway or driveway apron to the other edge. Driveway and driveway apron width shall be measured parallel, or approximately parallel in the case of an oddly-shaped lot, to the front property line.**

**(c) Improved surfaces adjacent to a driveway or driveway apron are included in the driveway width unless there is an unimproved buffer of at least two (2) feet between the improved surface and the driveway or driveway apron. Notwithstanding the foregoing, up to four (4) feet of a public sidewalk and/or a private walkway may cross the unimproved buffer and intersect a driveway.**

**(d) The town manager shall grant a permit to construct or expand a curb entrance, driveway, driveway apron, or sidewalk only if the proposed construction would comply with all laws, rules, regulations, and ordinances, and would not interfere with the public health, safety, or welfare. In determining whether the construction would interfere with the public health, safety, or welfare, the town manager shall consider the following:**

**(1) In determining whether the construction would interfere with the public health, safety, or welfare, the town manager shall consider the following:**

- a. Location of trees, hedges, berms, shrubbery, or other plant growth;
- b. Location of fences, walls, or other structures;
- c. Location of public utilities;
- d. Vehicle or pedestrian traffic hazards, including obstruction of visibility;
- e. Location of other public and private improvements in the public right-of-way;
- f. Location of other potential access points for the subject property;
- g. Distance from other existing and proposed curb cuts on the same street;
- h. Water drainage;
- i. Traffic and parking congestion;
- j. Detrimental impacts on other public and private property in the town resulting from noise and/or litter; and
- k. Other factors as may be determined by the town manager to be necessary to protect the public health, safety, or welfare.

(2) Any person aggrieved by a decision or action of the town manager under this section may file an appeal to the town council according to section 4-61. In addressing such an appeal, the town council may affirm or overturn the decision of the town manager, may direct the town manager to issue a permit, or may direct the town manager to issue a permit upon such conditions, terms, or restrictions as the town council may deem necessary to accomplish the intent and purposes of this chapter.

\* \* \*

## Chapter 5 – SIGNS

### Sec. 5-0. – Applicability

(a) The provisions of this chapter apply to all real property and lots within the Town, except as expressly exempted by this section.

(b) The provisions of this chapter apply to all lots within the town that were used for residential purposes, or were vacant, as of December 13, 2008, and apply to any additional or new construction on such lots, and to the redevelopment of such lots.

(c) Sections 5-3(1) (Private property), 5-5 (Temporary directional signs), and 5-7 (Signs permitted) of this chapter do not apply to a lot within the town that was used for institutional purposes as of December 13, 2008 for so long as such lot remains in institutional use. Said sections of this chapter shall apply to a lot if the use of the lot changes to a non-institutional use.

**(d) Notwithstanding anything to the contrary contained herein, nothing in this section shall be construed to prevent the town from adopting any ordinances in the future to regulate signs on any property in the town.**

**Footnote: December 13, 2008 is the effective date of Ordinance No. 08-14, adopted November 12, 2008, by which the Town’s sign regulations were substantially amended.**

\* \* \*

**Sec. 5-2. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

***Institutional Use or Purpose: A use or purpose of an organization or establishment founded for a specific purpose, such as a hospital, church, school, community recreation center, senior living facility, or similar entity.***

\* \* \*

**Chapter 28 – WATER DRAINAGE**

**Sec. 28-1. - Purpose and authority.**

**(a)** The purpose of this chapter is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with water drainage. Proper management of water drainage will minimize damage to public and private property, reduce the effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

**(b)** The provisions of this chapter are adopted under the authority of **the Local Government and the Land Use** Articles 23A of the Annotated Code of Maryland and the Town of Chevy Chase Charter and shall apply to all development occurring within the incorporated boundaries of the Town of Chevy Chase **except as expressly exempted by this section. The provisions of this chapter apply to all lots within the town that were used for residential purposes, or were vacant, as of December 8, 2006, and apply to any additional or new construction on such lots, and to the redevelopment of such lots.** The application of this chapter shall be the minimum water drainage requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute.

(c) The provisions of this chapter do not apply to a lot within the town that was used for institutional purposes as of December 8, 2006 for so long as such lot remains in institutional use. The provisions of this chapter shall apply to a lot if the use of the lot changes to a non-institutional use.

(d) Notwithstanding anything to the contrary contained herein, nothing in this section shall be construed to prevent the town from adopting any ordinances in the future to regulate any type of development activity on any property in the town.

Footnote: December 8, 2006 is the effective date of Ordinance No. 06-11, adopted November 8, 2006, by which the Town's Water Drainage Ordinance was adopted.

Sec. 28-2. - Definitions.

(a) In this chapter, the following terms shall have the meanings indicated.

(b) Terms defined.

\* \* \*

***Institutional Use or Purpose: A use or purpose of an organization or establishment founded for a specific purpose, such as a hospital, church, school, community recreation center, senior living facility, or similar entity.***

\* \* \*

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that:

(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the day of \_\_\_th day of \_\_\_\_\_, 2023 (30 days after adoption).

ATTEST:

TOWN OF CHEVY CHASE

\_\_\_\_\_  
Stephanie Martz, Secretary

\_\_\_\_\_  
Irene Lane, Mayor  
Town of Chevy Chase

**Bold and Underline** indicates new material

~~Strike through~~ indicates material deleted

\* \* \* indicates material unchanged