



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
9/12/02
Item #22

MEMORANDUM

DATE: September 6, 2002
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *JAC*
FROM: Bill Landfair, AICP, for the Department of Park and Planning *WLL*

REVIEW TYPE: Local Map Amendment – **Supplemental Report**
APPLYING FOR: Change in zoning from R-90 to PD-28
REVIEW BASIS: Chapter 59, Zoning Ordinance
MASTER PLAN: North Bethesda – Garrett Park Master Plan

CASE NUMBER: G-796
APPLICANT: The Georgetown Preparatory School, Inc.
LOCATION: NW Quadrant of Rockville Pike and Tuckerman Lane, North Bethesda

FILING DATE: February 5, 2002
PLANNING BOARD: September 12, 2002
PUBLIC HEARING: September 13, 2002

STAFF RECOMMENDATION

APPROVAL of the PD-28 Zone for the following reasons:

1. The application is consistent with the purpose clause and all applicable standards for the PD-28 Zone.
2. The application is in substantial compliance with the land use recommendations of the North Bethesda – Garrett Park Master Plan.
3. The proposed development, as reflected in the development plan, will be compatible with the surrounding area.

APPROVAL of the development plan with the following binding elements:

1. The 11.66 acres of the subject property identified as Area "A" on the plan will be limited to open space and outdoor school educational and recreational activities including golf.
2. The 2.33 acre area west of the subject property identified as the East-West Buffer Area shall be subject to site plan review and shall be restricted to the following uses: access road, sidewalk, gate, gatehouse or similar access-control feature and turnaround, landscaping, berming, screening, lighting, storm water management facilities, school recreational and educational activities and golf.
3. The East-West Buffer Area landscaping shall include: preservation of as many existing trees along the western property line adjacent to Tuckerman Heights as possible and enhanced by ten (10) feet of dense evergreen planting; an additional fifty (50) feet of wooded area adjacent to the ten (10) foot evergreen strip; and an additional area of landscaped open space continuing east to the access road.
4. The west façade of the building will be stepped from Tuckerman Lane going north from four stories to six stories to five stories to four stories.
5. The access point at Tuckerman Lane will be designed to prevent cut-through traffic from the access road to Grosvenor Place.
6. No encroachment in the stream buffer, except as may be necessary and unavoidable for infrastructure needs.

BACKGROUND

This memorandum is a supplemental staff report to the original report, dated May 3, 2002, which recommended denial or deferral of the application. Following the issuance of that earlier report but prior to the Planning Board's meeting on May 9, 2002, the staff changed its recommendation to approval based upon additional information provided by the applicant and the County Department of Public Works and Transportation.

The Planning Board, following considerable testimony both in support and in opposition to the application, recommended a continuance of the case to enable the applicant to address a number of issues including revision of the 15 acre zoning boundary shown on the development plan to bring it into substantial compliance with the Grosvenor Sector Plan recommendations found in the North Bethesda – Garrett Park Master Plan. The Master Plan states "the exact configuration of the fifteen acres of the site to which the PD-28 Floating Zone

may be applied will depend on environmental, topographic, or other similar reasons. Any deviations from the Sector Plan boundary would be expected to be minor in nature.” The Planning Board suggested that the minor deviation from the Sector Plan boundary delineated in the Master Plan be in the 10 percent range as opposed to what the applicant had submitted at the time, which was a 30 percent deviation.

Since the Planning Board meeting, the applicant and the major opposition, Tuckerman Heights Homeowners Association, have held numerous meetings together and with staff in an effort to respond to the concerns raised by the homeowners association. As a result of the extensive negotiations, the applicant and the homeowners association are close to completing a detailed agreement.

The dilemma facing the applicant was to accommodate the desired development program into an area with environmental and topographic constraints, maintain a suitable buffer from the Georgetown Preparatory School facilities to the north and the Tuckerman Heights community to the west, and the Planning Board’s recommendation to limit the deviation from the Sector Plan to approximately 10 percent. The applicant has responded with a revised development plan that is the subject of this supplemental staff report.

PROPOSAL DESCRIPTION

The applicant has filed the local map amendment to rezone 15 acres of The Georgetown Preparatory School campus located in the northwest quadrant of the intersection of Rockville Pike and Tuckerman Lane, in North Bethesda. The applicant requests rezoning of the R-90 zoned land to the PD-28 Planned Development Zone. As shown on the revised development plan, development would consist of 473 multi-family dwelling units, including 53 Moderately Priced Dwelling Units (MPDU’s).

Intended Use and Approval Procedures

The proposed development would retain the residential “campus” concept shown on the previous development plan. Development is arranged around an entry courtyard and a second larger courtyard containing a number of amenities including a swimming pool. While the development is essentially one building, the architecture provides two distinct building types distinguished by height (four to seven stories) and roof style (flat terrace or peaked gable). The building would maintain a minimum setback of 223 feet from the property line with the Tuckerman Heights community. The building height along this side would vary from four to six stories. Elsewhere, the building steps up to 7 stories. The entire complex is located over a 3-level underground-parking garage. A total of 750 parking spaces would be provided. Vehicular and pedestrian access to Tuckerman Lane would be constructed opposite Grove Ridge Place.

Of the 473 dwelling units proposed, 53 would be MPDU's provided in accordance with Chapter 25A of the Montgomery County Code. In addition to the rezoning, the proposed development would be subject to approval of a revised preliminary plan of subdivision and site plan by the Montgomery County Planning Board.

ANALYSIS

The staff finds that much of the analysis and conclusions found in the original staff report remain the same with respect to the merits of the rezoning application.

Purpose of the Zone

The rezoning application is consistent with the purpose clause of the Planned Development Zone found in Section 59-C-7.11 of the Zoning Ordinance.

As recommended by the Master Plan, the proposed development would be residential. Approximately 75% of the site would be preserved as green area to give the development a distinctive visual character and help to maintain the existing identity along this portion of the Rockville Pike corridor.

The applicant would retain ownership of the subject property, with a long-term lease to the eventual developer of the project. As such, the dwelling units would be rental apartment units. While the development is limited to multi-family, the architecture provides two distinct building types to take advantage of the topography, the environmental constraints, and establish compatibility with adjacent properties.

The development would maintain a significant portion of open space, including preservation of trees along Rockville Pike and portions of Tuckerman Lane. In addition to forest conservation there would also be reforestation. The proposed building would take advantage of the existing grade and utilize underground parking. The development would provide a variety of open space of benefit to residents and the public at large.

The development would result in an improved pedestrian circulation network for the area providing better access for residents, the school population, and those utilizing Metro.

The Master Plan recommends residential development for the property. The density of development achieved through the PD-28 Zone provides additional density near the Metro Station while remaining compatible with the school and surrounding area.

Master Plan

Master Plan Consistency

The subject property is located mostly in the Grosvenor Sector Plan area of the North Bethesda - Garrett Park Master Plan. The Master Plan supports residential development around the Grosvenor Metro Station.

The application would provide 473 multi-family residential units, including 53 MPDU's, in the vicinity of the Grosvenor Metro Station, while preserving the campus character of the Georgetown Preparatory School.

The Master Plan supports retaining open space on the Georgetown Preparatory School property by recommending that any future residential development on the site to be located in the portion recommended for PD-28 zoning. Specific recommendations in the Plan for residential development on the Georgetown Preparatory School site include:

1. Maintain as much of the properties existing open space as possible.
2. Provide convenient pedestrian access to the Grosvenor Metro Station.
3. If feasible, provide vehicular access from Tuckerman Lane.
4. Restrict residential development under the PD-28 zone to 15 acres, more or less conforming to the 15 acres of the site within the Grosvenor Sector Plan boundary.
5. Submit a landscaping plan that provides a buffer between the residential development and the remainder of the site.

Open Space

The proposed project retains a significant amount of open space on the campus. The open green adjoining Rockville Pike, along with the area across the street at Strathmore Hall, would provide a green corridor along Rockville Pike and an entry statement into North Bethesda.

Access to Metro and Tuckerman Lane

Walking distance to the Metro Station is approximately 1/3 mile. The applicant has an agreement with the Grosvenor Park Condominiums to allow pedestrians use of the path through the condominium property and use of the tunnel under Rockville Pike accessing the Metro Station. This walk is relatively easy

compared to the trek up Tuckerman Lane and across Rockville Pike at the signal. The proposed project would take vehicular and pedestrian access from Tuckerman Lane. As a result of the agreement with the Tuckerman Heights community, the applicant will be able to get an easement through the community's property so that access is opposite Grove Ridge Place. This is the optimum location for safety and efficiency.

Location of PD-28 Zone

The Master Plan states, "The exact configuration of the 15 acres of the site to which the PD-28 floating zone may be applied will depend on environmental, topographic, or other similar reasons. Any deviations from the Sector Plan boundary would be expected to be minor in nature."

The Master Plan depicts a square-shaped site of 15 acres at the corner of Rockville Pike and Tuckerman Lane as part of the Grosvenor Sector Plan area. The Planning Board had previously suggested that the minor deviation from the Sector Plan boundary be in the 10 percent range. The applicant's current proposal deviates by approximately 11 percent. Staff finds that the deviation from the Sector Plan boundary is justified. Locating the development in the proposed location minimizes the environmental and topographic impact to the site and provides compatibility with adjacent residential development.

The placement of the proposed building along the proposed zoning boundary will require a waiver. To assist in accomplishing compatibility, all development in Planned Development zones are required to maintain a 100-foot setback from land that the Master Plan recommends for a one-family zone. In this case, the Master Plan supports the existing R-90 Zone for the remainder of the Georgetown Preparatory School campus. At time of site plan, staff recommends that a waiver be granted from the setback requirement as permitted under Section 59-C-7.15 (b) of the Zoning Ordinance. As described below, a buffer would be required as a binding element of the development plan to ensure compatibility.

Landscaping and Buffer

The view of the development from the Georgetown Preparatory School facilities to the north and the Tuckerman Heights community would be substantially buffered by the topography and the addition of a landscaped buffer provided as a binding element of the development plan. The buffer between Tuckerman Heights and the development would be a minimum of 223 feet in width and would address compatibility by providing three tiers of landscaping: an evergreen screen, woodland buffer, and campus landscaping. In addition, existing specimen trees would be retained. The buffer would also protect Tuckerman Heights from activities that could occur if the strip of land continued to be used by the school. As a religious affiliated private educational institution, the school is

not subject to special exception regulations or site plan review. Additional measures can be addressed at the time of site plan review.

Future Site Plan Considerations

At the time of site plan review, several elements of the proposed development merit special attention:

- All permanent construction must be located outside of the stream buffer. Any disturbed area in the buffer should be regarded to no more than a 3:1 slope and revegetated with native plant material.
- As part of ensuring overall compatibility with existing uses, landscape buffers need to be sufficient to protect residents and the public rights-of-way from unsightly or intrusive views. As stated in the Master Plan, it is important to maintain a green landscaped edge along Rockville Pike. The applicant complies with that intent. Landscaped buffers are also very important along Tuckerman Lane and between the proposed development and the existing townhouses and apartments to the west and south. Any viable existing vegetation should be supplemented with evergreen and deciduous ornamental landscaping. Street trees should be provided along the internal road between the sidewalk and the roadway, and in parking areas for shading.
- A landscape plan for the entire development will be required.
- The sand trap filters proposed to the west of the development should be carefully sited closer to the project and farther from the adjacent community to provide for an adequate planted buffer and to preserve existing vegetation.
- The west façade of the building should be articulated to break up the visual mass of the structure.
- The 10-foot retaining wall on the west side of the development should be reduced in height to no more than 5 feet and the topographic change in that area addressed with a series of smaller walls.
- The access road to the school should be limited to a secondary access point. No heavy traffic flow to the campus for special events should be planned during peak hours of the day.
- Pedestrian safety and circulation must be further addressed.

Development Plan

The revised development plan is in conformance with the development standards for the PD-28 Zone found in Section 59-C-7.1 of the Zoning Ordinance. The standards are noted in the table below:

| | | |
|---|---|----------------------|
| Minimum Area | Required/Permitted 1.79 Acres (min. 50 Units) | Provided 15 Acres |
| Minimum % of Multi-family Units | 50% | 100% |
| Minimum % of Units 4 Story or Less | 25% * | 10% |
| Minimum % of Units 4 Story or More | 50% | 90% |
| Maximum Density | 28 Units/Acre (420 Units) +12.5% MPDUs (53) 473 Units | 473 Units |
| Maximum Height: (For building adjoining land recommended for one-family detached zone in Master Plan) | NA | NA |
| Green Area | 50% of Gross Area | 78% |
| Minimum Parking | | |
| Studio: 10 Units x 1.0 Spaces/Unit | 10 spaces | |
| 1 BR: 170 Units x 1.25 Spaces/Unit | 213 spaces | |
| 2 BR: 160 Units x 1.50 Spaces/Unit | 240 spaces | |
| 3 BR: 133 Units x 2.00 Spaces/Unit | 266 spaces | |
| Motorcycle Parking (2% or 10 max.) | 10 max. | |
| Total Vehicle Parking | 739 spaces | 750 spaces |
| Bicycle Parking | 38 | 38 |

Final unit mix to be determined at site plan review.

* Waiver permitted per 59-C-7.131

The applicant is seeking a waiver from the requirement that a minimum of 25% of the dwelling units be located in buildings that are four stories or less. In this case, the applicant has proposed that 10% of the units be located in buildings four stories or less with the remainder located in buildings over four stories in height.

With respect to the compatibility standards for the PD-28 Zone found in Section 59-C-7.15 of the Zoning Ordinance, staff finds that the development will be compatible with adjacent or nearby uses. In addition, staff finds that all of the requirements for a development plan found in Section 59-D-1.61 have been satisfied as they relate to compliance with the purpose of the zone, the maximum safety and convenience of residents, and compatibility with adjacent development.

Transportation Issues

The Transportation Planning staff recommends a number of conditions to be addressed at the time of preliminary plan of subdivision. These conditions for transportation improvements may not satisfy the adequate public facilities (APF)

test as applied at subdivision, but could be acceptable for zoning purposes in that the proposed improvements can be considered as reasonably probable of fruition in the foreseeable future. The conditions are outlined below and more fully described in the attached Transportation Planning staff memorandum.

1. Limit the development to a total of 473 multi-family dwelling units.
2. Satisfy Policy Area Review for the development that is located in the North Bethesda Policy Area. A limited portion of the development is located in the Grosvenor Policy Area that currently has remaining capacity for additional housing units.
3. Satisfy Local Area Transportation Review (LATR) including mitigating the impact of site-generated traffic at the intersection of Tuckerman Lane and Old Georgetown Road (MD 187).
4. Site access from Tuckerman Lane to serve as the main access for the proposed development but limited as secondary access for the Georgetown Preparatory School. Through movements should be prohibited across the intersection of Tuckerman Lane to Grove Ridge Place by constructing a raised island to restrict turning movements to right-in and right-out.
5. Coordinate with the Department of Public Works and Transportation to remove obstructions within the right-of-way to improve sight distance for a commercial curb cut and intersection with Tuckerman Lane.
6. Conduct a traffic signal warrant study to determine if a traffic signal is warranted at the intersection of Tuckerman Lane at Grove Ridge Place and the proposed site access. If it is warranted, design and install the traffic signal. If possible, the traffic signal should be installed prior to any use of the access road.
7. Dedicate 12 to 20 feet of right-of-way for 75 feet from the centerline of Rockville Pike (MD 355), as a major roadway.
8. Provide a five-foot concrete sidewalk where one does not exist along the north side of Tuckerman Lane.
9. Re-record the plat and revise the Adequate Public Facilities Agreement associated with the approval of Preliminary Plan No. 1-97072 to reflect the proposed residential land use for the subject property.

10. Satisfy the master plan recommendation to participate in the North Bethesda Transportation Management District (TMD) as a multi-family housing development.
11. Provide a Transportation Management Plan (TMP) to prevent the overflow traffic generated from large school events from impeding traffic movements on nearby roadways and intersections.
12. Provide for the dedication of right-of-way for the master-planned North Bethesda Transit Easement along Tuckerman Lane.

Environmental Issues

The Environmental Planning staff has reviewed the zoning application referenced above. Staff recommends approval of this zoning application and associated development plan with the following comments that must be addressed in subsequent reviews:

- All building and impervious areas must be outside the approved stream valley buffer. Grading may be allowed in the buffer so long as grading is minimized, existing forest is protected, and resulting graded areas are reforested as part of an overall forest conservation plan.
- The storm water management facility and associated grading shall be kept out of the stream valley buffer unless determined to be technically infeasible by the County Department of Permitting Services (DPS). Any necessary and unavoidable encroachment must be minimized and at least 15' from the edge of the forest canopy.
- An updated Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) must be approved by staff for the area of the zoning case and included in all future submissions. The NRI/FSD shall include the staff-approved stream valley buffer delineation, and the additional area recently added to the plan.
- Compliance with the requirements of the Forest Conservation Law and the conditions of approval for the preliminary and final forest conservation plan for the full Georgetown Preparatory School campus. The applicant must satisfy all conditions prior to recording of plat(s) or DPS issuance of sediment and erosion control permits. Applicant must submit a revised preliminary Forest Conservation Plan for the area of rezoning and a revised final forest conservation plan for the overall Georgetown Prep property addressing all comments at time of preliminary plan submission:

- o This plan must demonstrate full compliance with the forest conservation law, including the minimum retention requirements of the county code Section 22A-12. The forest conservation threshold shall be met on site through retention and reforestation planting.
- o A detailed tree protection plan must be provided for all trees to be protected, including specimen trees, trees within the stream buffer, and other trees determined essential to achieve compatibility.
- o A restoration and reforestation plan for the onsite informal fill area shall be submitted and approved as part of the preliminary forest conservation plan.
- o All existing forest on site to be retained on the PD-zoned site, except as needed to construct the entrance roadway off Tuckerman Lane, and to regrade to better achieve sustainable forest conditions in the fill area near the stream.
- o All retention or reforestation areas to be plat recorded as Category I forest conservation easements.

Critical Elements of Review

The preservation of existing forest and specimen trees, and the protection and enhancement of the designated stream buffer were critical factors in the environmental review of the revised development plan. The staff support of a deviation from the Sector Plan recommended zoning boundary is based in large part on the ability to construct the desired number of units while at the same time, protect the stream buffer from permanent encroachment, and preserve significant trees along the northern boundary. With a finding that this has been accomplished, the Environmental Planning staff support the development plan, subject to any refinements necessary to better achieve these environmental objectives in subsequent reviews. Staff recommends the following finding element, "No encroachment in the stream buffer, except as may be necessary and unavoidable for infrastructure needs".

Stormwater Management

No formal stormwater management (SWM) approval is yet granted to control runoff from this development, or for the overall site (proffered by the applicant). No binding elements or private agreements shall preclude DPS ability to place SWM facilities in the proper locations outside the stream valley buffers.

This site is located in the Luxmanor Branch subwatershed of the Lower Rock Creek watershed. The *Countywide Stream Protection Strategy* (CSPS) assesses the Luxmanor Branch subwatershed as having poor stream conditions

and fair habitat conditions, labeling it as a Watershed Restoration Area. The document calls for efforts to be made to comprehensively examine and address stormwater retrofit, stream restoration and habitat improvement opportunities.

Citizen Concerns

As noted at the beginning of the report, there was considerable testimony at the last Planning Board meeting both in support and in opposition to the application. Concerns raised at the time included the boundaries of the rezoning application, conformance with the Master Plan, traffic impact, and compatibility with the Tuckerman Heights community. Since that time, the applicant and the Tuckerman Heights Homeowners Association have held numerous meetings in an effort to respond to the communities concerns. As a result, they are close to completing a detailed agreement.

The applicant has also reached an agreement with the Grosvenor Park Condominiums to prevent thru-traffic from the subject property entering Grove Ridge Place. There is also an understanding with Grosvenor Park that pedestrians from the proposed development may access the pathways on the condominium property to provide better access to the Metro station.

Conclusion

The staff finds that the revised zoning application with the recommended binding elements will be consistent with the purpose clause and all applicable standards for the PD-28 Zone, in substantial compliance with the land use recommendations of the North Bethesda – Garrett Park Master Plan, and compatible with the surrounding area.

Attachments



Map compiled on September 06, 2002 at 12:26 PM | Site located on base sheet no - 213NW06

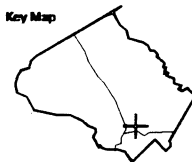
NOTICE

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Key Map



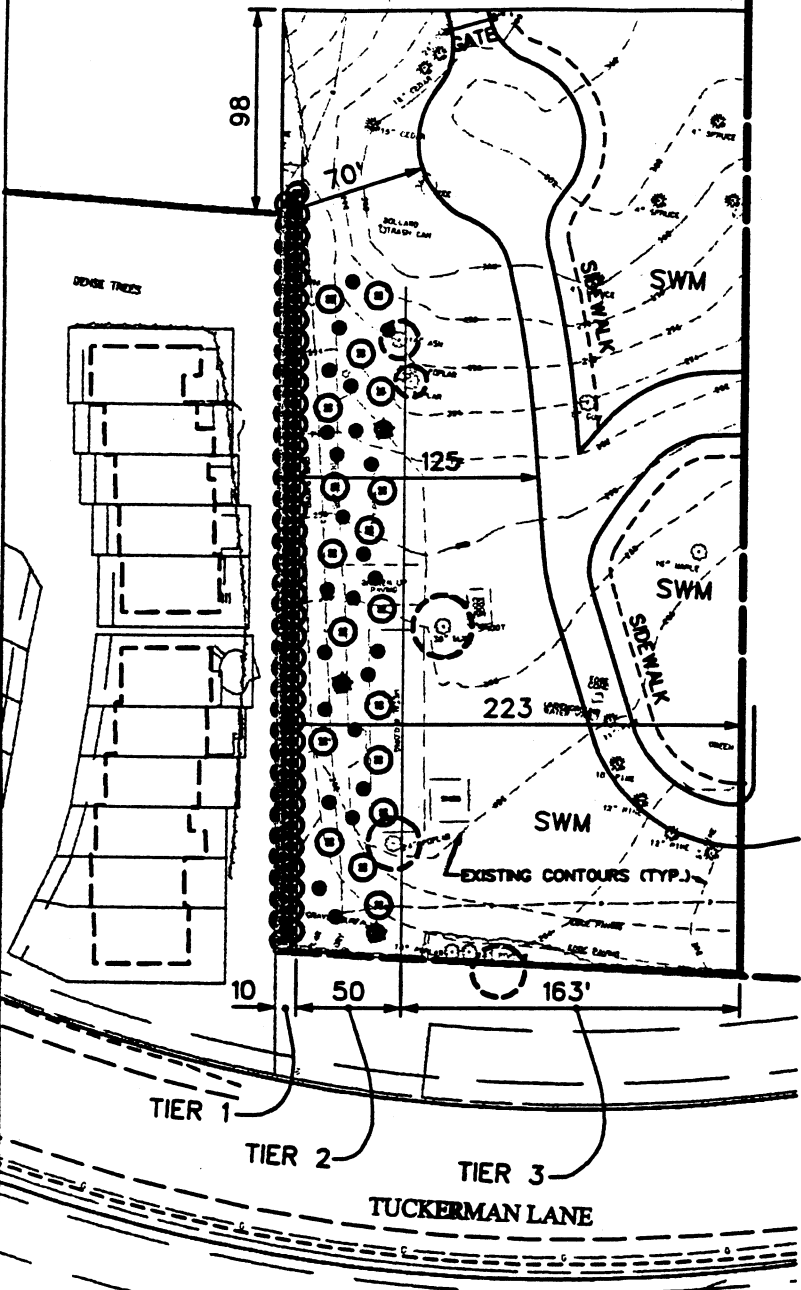
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Research & Technology Center



1:7200



| | | |
|--|-------------------------|------------------------------------|
| Tier 1 Screen | Width 10' x 320' | |
| Species | | |
| Evergreen Planting (Loyland Cypress Red Cedar White Pine) | Size 7 feet | Quantity 72 (10ft. o.c.) |

| | | |
|-------------------------------|-------------------------|-----------------|
| Tier 2 Woodland Buffer | Width 50' x 320' | |
| Species | Size | Quantity |
| Trees: | | |
| Beech | 2" - 2 1/4" cal. | 4 |
| Tulip Tree | 2" - 2 1/4" cal. | 4 |
| Black Gum | 2" - 2 1/4" cal. | 4 |
| Sassafras | 2" - 2 1/4" cal. | 5 |
| White Oak | 2" - 2 1/4" cal. | 3 |
| Black Oak | 2" - 2 1/4" cal. | 3 |
| Northern Red Oak | 2" - 2 1/4" cal. | 7 |
| White Pine | 8 - 10' ht. | 3 |
| | | Total 33 |

| | | |
|--------------------|-----------|-----------------|
| Understory: | | |
| Dogwood | 2" cal. | 8 |
| Mountain Laurel | 15 gallon | 4 |
| | | Total 12 |

Ground Cover:
Little bluestem or native switchgrass (seeded) on 3' - 6' earth berm.

Tier 3 New Campus Landscaping **Width: varies (approximately 163' x 320')**
And Specimen Tree Retention

The planting here is yet to be determined but it includes retention of many of the larger trees. It also includes 3' - 6' earth berming and a continuous lawn.

The intention is to extend the campus landscape character. That is, the planting of large trees and groves of similar species. However, the character should remain open with a manicured grass lawn and a minimum of Understory plantings or shrubs, except around buildings.

Evergreens and conifers will be used against buildings and service areas primarily for screening.

Note: In areas in Tier 1 where existing trees may not permit the planting of the screen, those Tier 1 plants may be relocated into Tier 2 to provide the intended screen.

LEGEND

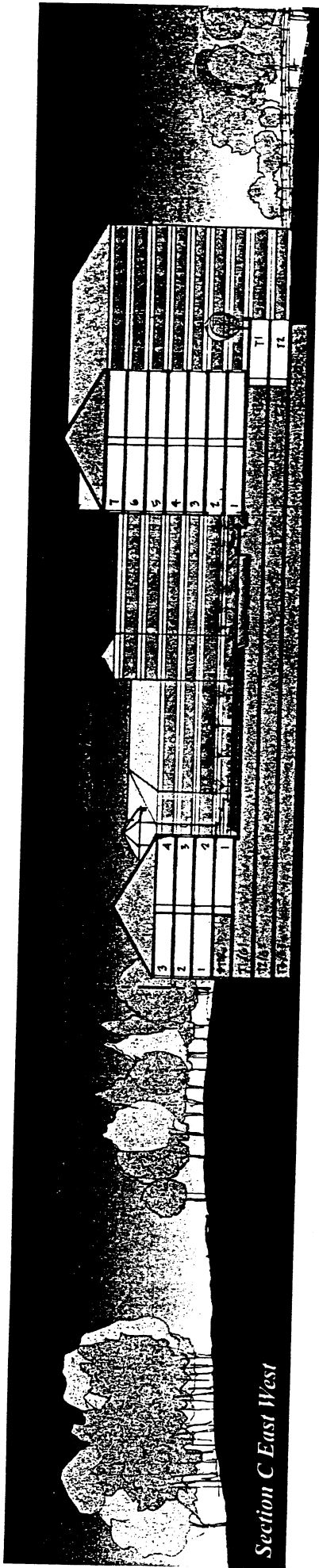
- ⊙ ● PROPOSED BUFFER PLANTING
- EXIST. TREE TO BE SAVED
- SWM AREA OF POTENTIAL STORMWATER MANAGEMENT FACILITY

TOTAL AREA OF EXHIBIT D - 2.33 ACRES

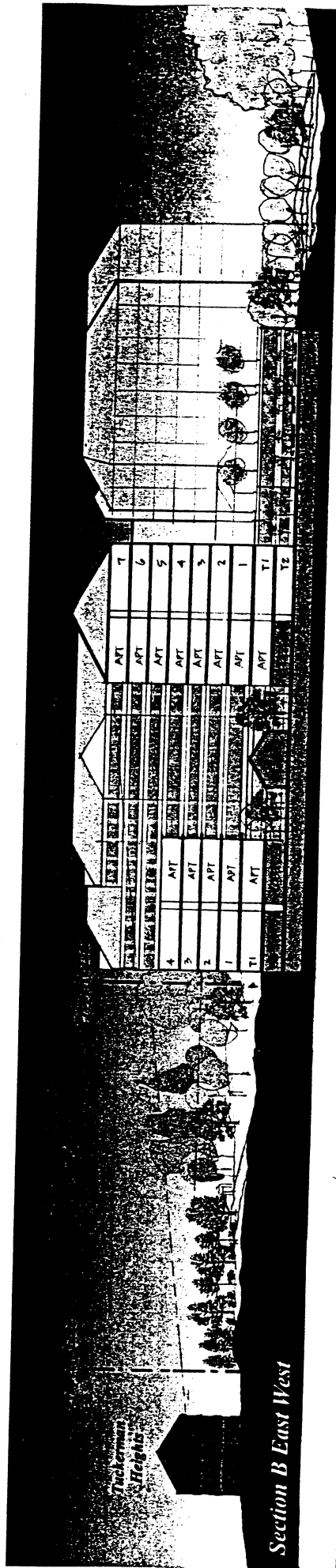
**INIGO'S CROSSING
EXHIBIT D
EAST-WEST BUFFER AREA**

SCALE: 1"=50'

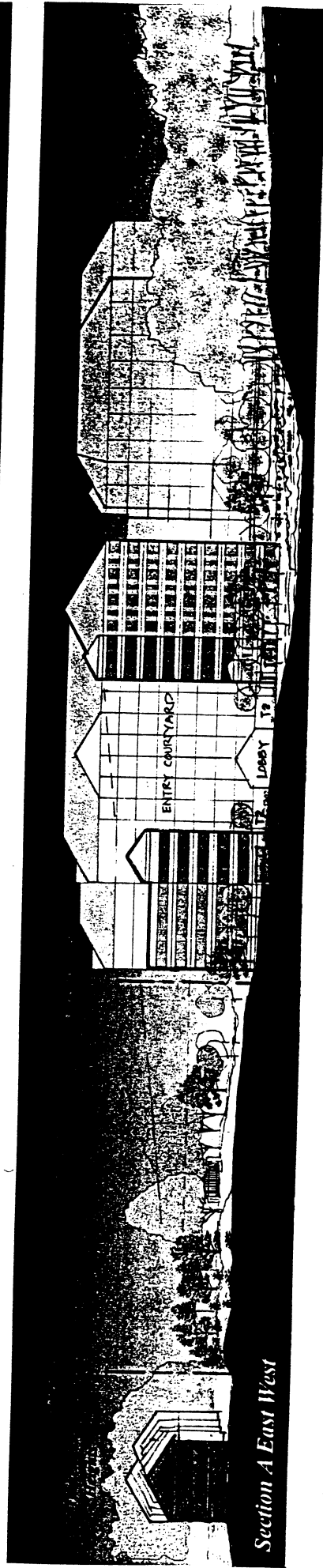
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Section C East West



Section B East West



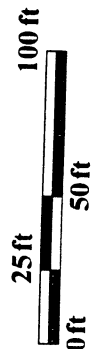
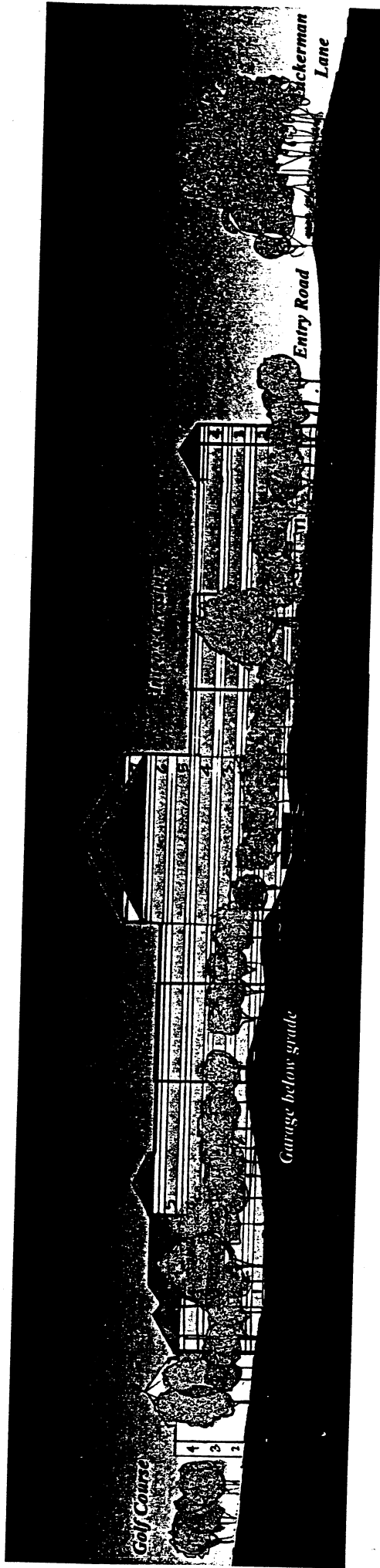
Section A East West

Site Sections East West
from Tuckerman Heights through Inigo's Crossing



Inigo's Crossing Residences

Niles Bolton Associates / Leo A Daly
Architects
August 21, 2002
#401022.00
Exhibit B



*Site Section North South
From Georgetown Prep to Tuckerman Lane*

Inigo's Crossing Residences

Niles Bolton Associates / Leo A Daly
Architects
August 21, 2002
#401022.00
Exhibit C



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

September 6, 2002

MEMORANDUM

TO: Bill Landfair, Zoning Analyst
Community-Based Planning Division

VIA: Ronald C. Welke, Supervisor
Transportation Planning

FROM: Ed Axler, Coordinator EA
Transportation Planning

SUBJECT: Zoning Application Case No. G-796
Georgetown Preparatory School (Inigo's Crossing)
10600 Rockville Pike, Rockville
North Bethesda and Grosvenor (Metrorail Station) Policy Areas

This memorandum updates Transportation Planning staffs' previous memorandum regarding our transportation review of the subject rezoning case.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the requirements related to the Planning Board's recommendation on this zoning application. These conditions for transportation improvements may not satisfy the adequate public facilities (APF) test as applied at subdivision, but could be acceptable for zoning purposes in that the proposed improvements can be considered as reasonably probable of fruition in the foreseeable future.

1. Limit the development to a total of 473 mid-rise apartments. The apartments may have to be phased to coincide with the availability of transportation capacity as publicly-programmed transportation projects receive construction funding and the applicant provides the recommended improvements.

2. At the time of preliminary plan of subdivision, satisfy Policy Area Review for the larger portion of the site located in the North Bethesda Policy Area. The smaller portion is located in the Grosvenor (Metrorail) Policy Area which currently has remaining capacity for additional housing units.

Public-funded transportation improvement projects are being programmed, but there is uncertainty, at this time, regarding how much staging ceiling capacity will be used for additional housing units and their allocation among the policy areas in the North Bethesda area. If the North Bethesda Policy Area were not allocated at least 600 housing units, a traffic mitigation agreement would be another alternative to satisfy Policy Area Review. The applicant has proposed in writing the following trip reduction measures in their Transportation Issues Addendum, dated April 9, 2002:

- a. Curtail the school's sophomore students' driving.
- b. Begin the school's library service hours before the start of the weekday morning peak period at 7:00 a.m.
- c. Expand the ridesharing program for the school's students, faculty, and staff by such means as enhanced ride share matching and priority parking.
- d. Locate the pedestrian access point of the proposed apartment's parking garage in the southeastern corner of the site to minimize the walking distance to the Metrorail station.
- e. Provide four-foot concrete sidewalks along the apartment's access road leading into the site from Tuckerman Lane as part of the pedestrian path to the Metrorail station.
- f. Provide a safe pedestrian crossing of Tuckerman Lane at the intersection of Grove Ridge Place/proposed apartment access associated with their access improvements.
- g. Expand the existing bus shuttle to the Metrorail station serving the school to also serve the proposed residents of the apartments.
- h. Make the proposed apartments available to the school faculty and staff to eliminate their commute in their private vehicles.

If determined to be feasible at the time of preliminary plan review, enter into a traffic mitigation agreement with the Planning Board and the Montgomery County Department of Public Works and Transportation (DPWT) to implement these and/or other feasible trip reduction measures to be identified later.

3. At the time of preliminary plan of subdivision, satisfy Local Area Transportation Review (LATR) including mitigating the impact of site-generated traffic at the intersection of Tuckerman Lane and Old Georgetown Road (MD 187). An intersection improvement was proposed in a supplemental analysis "Mitigation of Traffic Impacts at Old Georgetown Road and Tuckerman Lane," dated April 30, 2002. The improvement is to reconfigure the westbound approach lanes of Tuckerman Lane to use the second, left-most through lane as a combination (third) left-turn and (second) through lane. The applicant would be responsible for any needed modification to the traffic signal equipment and geometric change to accommodate the third left-turn movement through the intersection. The Maryland State Highway Administration (SHA) has not had an opportunity to review the improvement as it relates to SHA's current construction plans for their I-270/Rockledge Drive/Old Georgetown Road and Old Georgetown Road/Tuckerman Lane intersection project. In addition, the applicant is proposing another traffic mitigation measure to provide two bus shelters along Tuckerman Lane.
4. At the time of preliminary plan of subdivision, limit the site access from Tuckerman Lane to serve as the main access for the proposed apartment development but only as the secondary access for the Georgetown Preparatory School. Through movements should be prohibited across the intersection of Tuckerman Lane and the site access-Grove Ridge Place by constructing a raised island to restrict turning movements to right-turns-in and right-turns-out. Coordinate with DPWT and the Georgetown Preparatory School's emergency access needs.
5. At the time of preliminary plan of subdivision, coordinate with DPWT to remove the necessary obstructions (possibly tree trimming) to provide for a minimum of 325 feet of sight distance for a commercial curb cut and intersection with Tuckerman Lane. Provide left-turn storage bays, a deceleration lane, an acceleration lane, and provisions for safe pedestrian crossing as required by DPWT for safe and efficient intersection operation.
6. At the time of preliminary plan of subdivision, conduct a traffic signal warrant study to determine if a traffic signal is warranted at the intersection of Tuckerman Lane and Grove Ridge Place, the future site access point. If it is warranted, design and install the traffic signal. A traffic signal is desirable for the safe operation of this intersection. Coordinate with DPWT, the homeowner's associations located along Grove Ridge Place, and the Planning Board staff. If possible the traffic signal should be installed prior to any use of the access road.
7. At the time of preliminary plan of subdivision, dedicate 12 to 20 feet of right-of-way for 75 feet from the centerline of Rockville Pike (MD 355), as a major roadway, M-6.
8. At the time of preliminary plan of subdivision, provide a five-foot concrete sidewalk where one does not exist on the north side of Tuckerman Lane.

9. At the time of preliminary plan of subdivision, record the plat and revise the APF Agreement, dated May 25, 1993 (attached), associated with the approval of Preliminary Plan No. 1-97072 (Planning Board's opinion attached), to reflect the changes noted in the proposed recommendations.
10. At the time of preliminary plan of subdivision, satisfy the master plan recommendation to participate in the North Bethesda Transportation Management District (TMD) as multi-family housing development. The TMD participation is in addition to satisfying Policy Area Review requirements. The applicant must have a draft Traffic Mitigation Agreement (TMA) at the time of preliminary plan review and enter into the TMA with the Planning Board and DPWT prior to release of building permits. The TMA should include participation in the North Bethesda Transportation Management Organization (TMO). The traffic mitigation goals for Stage 2 of the master plan development are to achieve and maintain:
 - a. a 39% non-auto-driver mode share for employees.
 - b. a 30% non-auto-driver mode share for multi-family residents.
11. At the time of preliminary plan of subdivision, provide a Transportation Management Plan (TMP) to prevent the overflow traffic generated from large school events from impeding traffic movements on nearby roadways and at nearby intersections. The TMP should include such provisions as adequate parking, additional traffic control in congested areas, safe pedestrian movements from off-site parking areas to the campus, coordination with Police and DPWT.
12. At the time of preliminary plan of subdivision, provide for the dedication of right-of-way for the master-planned North Bethesda Transit Easement along Tuckerman Lane connecting to the Grosvenor/Strathmore Metrorail Station as required by DPWT.

DISCUSSION

Site Location

The proposed apartment site is located on the north side of Tuckerman Lane opposite Grove Ridge Place approximately 1,200 feet west of Rockville Pike. The site is split between the North Bethesda and Grosvenor Policy Areas where their border extends north from the intersection of Tuckerman Lane and Grove Ridge Place. The larger portion of the apartments is located west of the borderline or in the North Bethesda Policy Area.

Vehicular and Pedestrian Access

The site's vehicular access is proposed from Tuckerman Lane opposite Grove Ridge Place with the agreement of the Tuckerman Heights Homeowners Association to cross

their easement. The easement was designated for only public use by DPWT i.e., the limited right-of-way for the master planned North Bethesda Transitway between the Grosvenor/Strathmore Metrorail Station and Montgomery Mall. (Refer to the attached record plat with the highlighted plan note.) A reciprocal easement from the property owner, Tuckerman Heights Homeowners Association, and DPWT was obtained for a site access driveway to Tuckerman Lane directly opposite Grove Ridge Place. (Refer to site access discussion in Recommendations 4, 5, and 6.)

Pedestrian access is provided by a sidewalk connection from the proposed apartments to Tuckerman Lane as described in Recommendation 2.e. and sidewalks along Tuckerman Lane as described in Recommendation 8.

Prior Subdivision Action

The Planning Board approved Preliminary Plan No. 1-92072 on December 17, 1992, for the Georgetown Preparatory School to construct a new Humanities building with a limitation on the enrollment, the number of staff persons, and the end of weekday classroom hours. A new record plat was recorded and the applicant entered into an APF Agreement dated May 25, 1993.

Master Plan Roadways and Bikeways

According to the *North Bethesda/Garrett Park Master Plan*, the roadways and bikeways are as follows:

1. Rockville Pike is designated as a six-lane, divided, major highway, M-6, with a minimum right-of-way of 150 feet. A Class I bikeway is planned in the Master Plan to connect the Grosvenor/Strathmore Metrorail Station to the Twinbrook Metrorail Station.
2. Tuckerman Lane is designated as a four-lane, arterial road, A-71, with a minimum 80-foot right-of-way, and a Class I bikeway on the north side.

Grove Ridge Place is a private road and, therefore, not described in the Master Plan.

Nearby Planned Transportation Improvements

1. Old Georgetown Road (MD 187) and Tuckerman Lane: At this intersection, construction of an additional eastbound left-turn lane and a westbound left-turn lane on Tuckerman Lane is being built as part of SHA's I-270/Old Georgetown Road and Rockledge Boulevard interchange Construction Project.
2. Rockville Pike (MD 355) and Strathmore Avenue: SHA is funding a spot improvement at this intersection, identified as Contract No. MO6055187. SHA

would be extending the southbound left-turn lane on Rockville Pike by approximately 350 feet and creating a second westbound left-turn lane on Strathmore Avenue. The second left-turn lane is to be created by moving the northern curb line from four to seven feet and re-striping the pavement markings. Construction funding is appropriated and construction was anticipated to start in July 2002. A public hearing for a mandatory referral was held on March 1, 2002 to receive the Planning Board's comments.

3. Strathmore Avenue:

- a. SHA has a concept study to reconstruct Strathmore Avenue as a two-lane urban roadway, identified as Contract No. MO783-83. SHA will be developing the concept design with no reconstruction funding programmed at this time. This SHA project will be folded into the SHA project above and should not affect the intersection capacity at Rockville Pike.
- b. DPWT has plans to provide sidewalks along Strathmore Avenue between Jolly Way and Stillwater Avenue as PDF 11-109, Project 506747, to be included in the SHA reconstruction project.

Site-Generated Traffic

In the submitted revised traffic study, addendum, and two supplemental analyses, the number of site-generated peak-hour trips was determined using trip-generation rates as garden apartments as follows:

1. Without considering the site proximity to the Grosvenor/Strathmore Metrorail Station, the proposed 473-unit apartment development would generate a total of 192 peak-hour trips during the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and 224 peak-hour trips during the weekday evening peak period (4:00 p.m. to 7:00 p.m.).
2. With a 20% transit mode share, the proposed apartment development would generate 154 (or 38 fewer total) vehicular peak-hour trips during the weekday morning peak period and 179 vehicular (or 45 fewer total) peak-hour trips during the weekday evening peak period.

A revised traffic study, addendum, and two supplemental analyses were submitted to satisfy LATR because the proposed development generates 50 or more total peak-hour trips during the weekday morning peak period and the evening peak period. The congestion analysis in the revised traffic study and addendum included the following:

1. Transit Mode Share: Based on the results from WMATA's "Development-Related Ridership Survey II", 20% of the site-generated traffic would walk or bicycle to the Grosvenor/Strathmore Metrorail Station rather than use their vehicles. The 20% transit mode share is lower than the 25% mode share previously used for the approved Grosvenor Village development. The 5% difference in the transit mode share is because the pedestrian path from Inigo's Crossing to the Metrorail station is approximately 2,000 feet compared with Grosvenor Village located next to the Metrorail station.
2. Background Development and Traffic: In the submitted revised traffic study and addendum, the traffic from the approved, but unbuilt nearby developments was analyzed in the background traffic condition. The background traffic included Grosvenor Village, Strathmore Concert Hall, Strathmore Educational Center, Grosvenor/Strathmore Metrorail Station's parking garage, and the Montgomery County Conference Center.
3. Use of the School's Tuckerman Lane Access: The transportation consultant conservatively assumed some vehicular traffic currently is using the existing Tuckerman Lane access although it is supposed to be only for emergency use. In the traffic study, those weekday peak-hour trips entering from Tuckerman Lane were diverted to the main access from Rockville Pike. The number and reassignment of vehicular trips would be further refined at the time of preliminary plan review.
4. Consistency of the Traffic Count at the Intersection of Rockville Pike and Strathmore Avenue: In previous traffic studies, the traffic data was collected and had different approach volumes during weekday morning and evening peak hours. Specifically, a 1999 traffic count used in the traffic study for the Grosvenor/Strathmore Metrorail Station's garage and Strathmore Hall had been compared with three other traffic counts. The four traffic counts were collected between 1997 and 1999 during days when schools were in session. Upon Staff's comparative analysis, it was determined that the counts used in the Strathmore traffic study were representative of the typical weekday traffic conditions. Only one of the older traffic counts was excluded because it was more than 10% higher than the highest of the other three counts. Traffic counts collected in December 2001, for the subject housing development are consistent with the previous traffic counts.

Congestion at Nearby Intersections

Based on the results of the submitted revised traffic study and the Transportation Issues Addendum for the Planning Board hearing of May 9, 2002, the critical lane volumes (CLV) at nearby intersections for the existing, background, and total traffic conditions during the weekday morning and evening peak periods are as follows:

| Intersection | Peak Period | Congestion Standard | Weekday Traffic Condition | | | |
|---|--------------------|------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| | | | Existing | Background | Total | Total-Improved |
| Rockville Pike and Edson Lane | Morning Evening | 1,600 (North Bethesda) | 972 1,061 | 1,046 1,190 | 1,050 1,195 | N/A N/A |
| Rockville Pike and Strathmore Avenue/ School Main Access | Morning Evening | 1,800 (Grosvenor) | 1,550 1,541 | 1,708 1,703 | 1,691 1,695 | N/A N/A |
| Rockville Pike and Tuckerman Lane (North) | Morning Evening | 1,800 (Grosvenor) | 1,334 1,527 | 1,473 1,746 | 1,486 1,799 | N/A N/A |
| Rockville Pike and Tuckerman Lane (South) | Morning Evening | 1,800 (Grosvenor) | 957 838 | 1,081 1,068 | 1,097 1,084 | N/A N/A |
| Rockville Pike and Grosvenor Lane | Morning Evening | 1,800 (Grosvenor) | 1,448 1,168 | 1,549 1,358 | 1,565 1,368 | N/A N/A |
| Tuckerman Lane and Old Georgetown Road | Morning Evening | 1,600 (North Bethesda) | 1,664 ¹ 1,455 | 1,722 ² 1,451 | 1,733 ³ 1,461 | 1,670 ⁴ 1,444 |
| Tuckerman Lane and Grove Ridge Place/Site Access | Morning Evening | 1,800 (Grosvenor) | 517 598 | 566 681 | 718 801 | N/A N/A |

Six of the seven intersections satisfy their LATR congestion standard. The unique details of the congestion analysis are discussed below:

1. The intersection of Old Georgetown Road and Tuckerman Lane: As indicated as footnote one above, the LATR congestion standard of 1,600 at this intersection is exceeded in all the traffic conditions during the weekday morning peak hour. The CLVs in all traffic conditions are below the congestion standard of 1,600 during the weekday evening peak hour. As indicated as footnote two above, a funded Congestion Relief Study improvement by SHA will add an extra eastbound and westbound left-turn lane on Tuckerman Lane in the background and total traffic conditions. As indicated as footnote three above, the morning CLV in the total traffic condition is 11 more than the CLV in the background traffic condition.

As indicated as footnote four, the morning CLV in the total-improved traffic condition is 52 less than the CLV in the background traffic condition. As discussed in Recommendation 3, the applicant proposes to reconfigure the westbound approach lanes of Tuckerman Lane to use the second, left-most through lane as a

combination (third) left-turn and (second) through lane. The CLV was calculated in the applicant's "Mitigation of Traffic Impacts at Old Georgetown Road and Tuckerman Lane", dated April 30, 2002. For the weekday morning peak period, the site-generated traffic could be mitigated because the CLV in the total traffic condition is reduced so that the total-improved traffic condition is equal or less than the CLV in the background traffic condition.

The applicant still proposes to provide two bus shelters along Tuckerman Lane as their first mitigation measure as identified in the Transportation Issues Addendum. The applicant offered to pay for the construction of the bus shelters at two of the 12 existing bus stops served by Ride-On routes 6 and 37 along Tuckerman Lane between Rockville Pike and Old Georgetown Road. In accordance with the *Local Area Transportation Review Guidelines*, the applicant may reduce the site-generated traffic by 20 weekday peak-hour trips during the weekday morning and evening peak periods. The locations of the two bus shelters would be determined by DPWT, Transit Services Division. However, at least 11 of the 20 peak-hour trips during the weekday morning peak period were not shown to be in the critical movements through the intersection with Old Georgetown Road.

2. The Congestion Standard for an Intersection on the Border of Two Policy Areas: The critical lane volume (CLV) congestion standard for the intersection of Rockville Pike and Strathmore Avenue is a CLV of 1,800 which is in accordance with Planning Board practices. The intersection is located on the border of two policy areas (e.g., Grosvenor and North Bethesda) with different congestion standards (e.g., 1,800 and 1,600, respectively). The practice is to apply the higher intersection congestion standard on policy area borders (i.e., in this situation, the calculated CLV of 1,800). The higher congestion standard near Metrorail stations is consistent with the State's smart growth policy to encourage development near existing major transportation facilities.
3. Congestion Analysis for the Hour After the Weekday Evening Peak Period as Determined in a Previous Traffic Study: According to the *Local Area Transportation Review Guidelines*, the traffic study only needed to analyze the intersection congestion level highest peak hour within the weekday evening peak period from 4:00 p.m. to 7:00 p.m. The peak-hour of the traffic generated by the proposed apartments is within this weekday evening peak period. The peak hour of the site-generated traffic occurs at a different time period than the Grosvenor/Strathmore Metrorail Station's parking garage, Strathmore Concert Hall, and Strathmore Educational Center. Thus, appropriately, the traffic study prepared for the parking garage and Strathmore Hall included the analysis of the congestion levels during the weekday evening peak period from 6:00 p.m. to 7:00 p.m. (or after the 4:00 p.m. to 7:00 p.m. peak period) and for the Saturday traffic conditions.

Policy Area Review/Staging Ceiling Condition

The remaining capacity for housing units as of August 1, 2002, under the *Annual Growth Policy* (AGP) transportation staging ceilings is as follows:

1. North Bethesda Policy Area is a negative 130 housing units remaining.
2. Grosvenor Policy Area is a positive 540 housing units remaining.

The September 5, 2002 plan showed building locations but did not specify the number of apartment units per floor per building (which is to be determined at site plan). Only one of the seven-story buildings or an estimated 170 apartment units appear to be located within the Grosvenor Policy Area. The borderline between the Grosvenor and North Bethesda Policy Areas is the extension of Grove Ridge Place alignment northward across Tuckerman Lane.

For the North Bethesda Policy Area, the construction funding for the Montrose Parkway West between Tower Oaks Boulevard and East Jefferson Street is pending full County Council action to consider its inclusion in the *Montgomery County FY 03-08 Capital Improvements Program*. The capacity from the Montrose Parkway improvement will be counted when it is fully-funded in the first five years of the CIP. The resultant transportation capacity created by the Montrose Parkway would be distributed among the North Bethesda and Rockville City Policy Areas and the three Metrorail policy areas (i.e., Twinbrook, White Flint, and Grosvenor) and between non-residential (i.e., jobs) and residential (i.e., housing units) development. Two other transportation projects are under design or being planned now. SHA is designing the interchange at MD 355/Montrose Road/Randolph Road. DPWT is planning their Montrose Road East project. The number of housing units associated with the transportation staging ceiling capacity created by these projects has yet to be determined.

Between now and the time of preliminary plan, Transportation Planning and DPWT staffs will review the proposed trip reduction measures listed in Recommendation 2 and determine the number of vehicles to be taken off the road during the weekday morning and evening peak periods. If determined to be feasible trip reduction measures, the applicant would enter into a traffic mitigation agreement as discussed in Recommendation 2.

North Bethesda Transportation Demand Management

This site is within the boundary of the North Bethesda Transportation Management District (TMD).

If the County Council adopts the reestablishment of the annual Transportation Management Fee, the applicant of this new multi-family residential development would have to pay the fee to the North Bethesda TMO. The pending legislation would re-implement the recommendation in the North Bethesda-Garrett Park Master Plan and the requirements under County Code 42A-25, Ridesharing. The applicant of such multi-family

residential development would be required to submit a traffic mitigation plan for the North Bethesda TMD.

The North Bethesda TMD is operated by a private nonprofit organization, the North Bethesda Transportation Action Partnership. The TMD is not an entity to join per se but instead an organization in which to participate by cooperating in:

1. Conducting the annual employee survey.
2. Appointing a transportation coordinator.
3. Promoting alternative transportation modes to residents on the site.
4. Pay the annual Transportation Management Fee to the North Bethesda TMO given the County Council's renewal of TMD's enabling legislation.

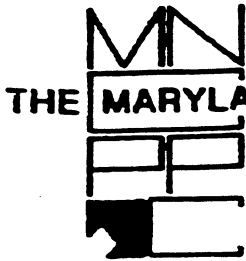
The Stage II goal is to achieve and maintain the 30% non-driver traffic mitigation goal for residents in the planning area.

EA:cmd

Attachments

cc: Sande Brecher
Jeff Dunckel
Mary Goodman
Dennis Johnson
Greg Leck
Bob Metz
Peggy Schwartz
Carl Starkey
Nicole White

G-796 Georgetown Preparatory School.DOC



Date of Mailing: December 29, 1992

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3780

Action: Approved Staff Recommendation
(Motion of Comm. Floreen, seconded by Comm. Aron, with a vote of 4-0; Comms. Floreen, Aron, Bauman and Baptiste voting in favor, with Comm. Richardson being absent.)

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-92072

NAME OF PLAN: GEORGETOWN PREPARATORY SCHOOL

On 09-16-92, GEORGETOWN PREP. SCHOOL, submitted an application for the approval of a preliminary plan of subdivision of property in the R90 zone. The application proposed to create 1 lots on 90.30 ACRES of land. The application was designated Preliminary Plan 1-92072. On 12-17-92, Preliminary Plan 1-92072 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-92072 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-92072, subject to the following conditions:

1. Prior to recording of plat, applicant must meet the conditions of the forest conservation plan as part of the preliminary plan
2. Prior to NCDEP issuance of the sediment and erosion control permit, applicant must meet the conditions of the forest conservation plan
3. Agreement with Planning Board to limit development to a private educational facility affiliated with a religious organization. Increase or expansion above the existing enrollment may result in further APF review
4. Conditions of NCDEP stormwater management approval dated 10-05-92
5. Necessary easements

APF AGREEMENT
ASSOCIATED WITH PRELIMINARY PLAN 1-92072

AGREEMENT

THIS AGREEMENT is made this 25 day of May
1973 by and between Georgetown Preparatory School, Inc.
(hereinafter "Applicant") and Montgomery County Planning Board of
the Maryland-National Capital Park and Planning Commission
(hereinafter the "Planning Board").

WHEREAS, Applicant is the owner in fee simple of proposed
Parcel 1, Georgetown Preparatory School, Inc., Fourth Election
District, Montgomery County, Maryland, more particularly
identified as Exhibit A attached hereto and made a part hereof,
subject to easements, rights of way, and restrictions of record;
and

WHEREAS, subdivision of the property was predicated upon
subdivision of an existing school-improved site without any
proposed increase in existing enrollment; and

WHEREAS, in order to assess the adequate public facilities
for any future improvement or increase in expansion to the
facility, restriction of the property to a private educational
facility affiliated with a religious organization is necessary;
and

WHEREAS, Applicant and the Planning Board have agreed that
the property could be subdivided, provided further development is
limited to a private educational facility affiliated with the
religious organization and that any increase or expansion above
the existing enrollment may result in further adequate public
facilities review; and

WHEREAS, Applicant and the Planning Board have agreed that this Agreement shall bind the Applicant, its successors and assigns; and

WHEREAS, by the execution of this instrument, Applicant intends to create a restriction on the property necessary to meet the conditions of subdivision approval. The purpose of this restriction is to limit the construction of structures on the property and to limit the use of the property so that persons and properties will not be harmed by overburdened public facilities. These restrictions shall be binding upon the Applicant, its successors and assigns and lessees and upon the land and improvements described herein in perpetuity or until release with the consent of the Planning Board.

NOW, THEREFORE, in consideration of mutual promises and stipulations set forth herein and other good and valuable consideration, receipt of which is hereby acknowledged, and in accordance with the approval of the subdivision of the property (Preliminary Plan 1-92072) dated December 17, 1992, and of the promises and covenants contained herein, the parties, their successors and assigns, hereby covenant and agree as follows:

1. The recitals set forth above are incorporated herein by reference and made a part hereof.

2. Development on the property shall be limited to a private educational facility affiliated with a religious organization. Increase or expansion above the enrollment existing at the time of the execution of this Agreement may

result in further adequate public facilities review and approval by the Planning Board.

3. Applicant must not violate the restrictions agreed to in paragraph 2 above without the successful completion of an adequate public facilities review by the Planning Board pursuant to Section 50-35(k) of the Montgomery County Code.

4. Applicant must notify the Planning Board of an application for building permit or use and occupancy permit for a structure or use on the property that violates the restrictions created herein. In the event permits are sought which violate the restrictions created herein, neither the Planning Board nor the Maryland-National Capital Park and Planning Commission need recommend issuance of any such permit, and Montgomery County, Maryland, may withhold issuance of any such permit.

5. Representatives or designees of the Planning Board may enter upon the property from time to time for the purpose of inspection and enforcement of the terms, conditions, and restriction created herein. Whenever possible, a representative of Applicant shall be present at the inspection. In the event that the representative or designee determines on the basis of the inspection that the restrictions created herein are being violated, the representative or designee must promptly advise Applicant concerning the problem.

6. The Planning Board, Maryland-National Capital Park and Planning Commission, and Montgomery County, Maryland, have the

right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.

7. Upon request of Applicant, the Planning Board shall release the property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35(k) of the Montgomery County Code for additional development of the property. Such review shall include the public facilities' impact of any existing building or use to remain on the property as well as the proposed additional development.

8. This Agreement shall bind and inure to the benefit of the Applicant, its successors and assigns. Wherever this Agreement refers to the Montgomery County Planning Board, it also shall refer to any successor agency, if any, who will administer the "adequate public facilities" ordinance (Section 50-35(k) of the Montgomery County Code).

9. A notation of this Agreement must be made on any record plat for the property.

10. This Agreement may be modified only in a writing signed by the parties, their heirs, successors, or assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ATTEST:

GEORGETOWN PREPARATORY SCHOOL,
INC.

Rose Marie Manis
Rose Marie Manis

By: Thomas E. Roach, S.J.
Rev. Thomas E. Roach, S.J.
President

ATTEST:

MONTGOMERY COUNTY PLANNING BOARD

James E. Green
6/27/93

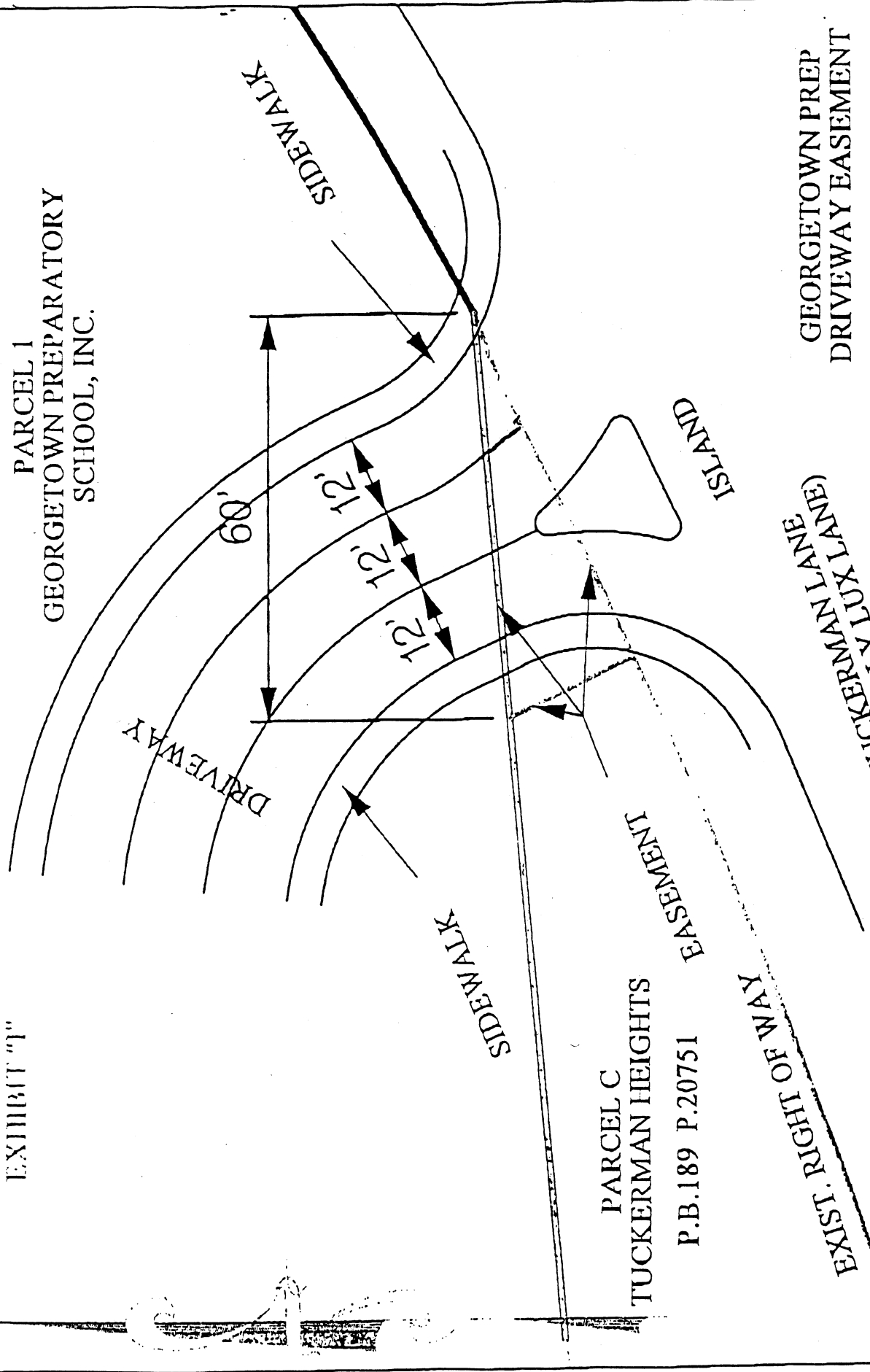
By: Charles R. Loehr
Charles R. Loehr
Deputy Planning Director

APPROVED AS TO LEGAL SUFFICIENCY

my
M-NCPPC Legal Department
6/17/93

EXHIBIT "T"

PARCEL 1
GEORGETOWN PREPARATORY
SCHOOL, INC.



PARCEL C
TUCKERMAN HEIGHTS
P.B. 189 P.20751
EASEMENT

EXIST. RIGHT OF WAY

ISLAND

TUCKERMAN LANE
(FORMERLY LUTK LANE)

GEORGETOWN PREP
DRIVEWAY EASEMENT
SCALE: 1" = 20'-0"
September 05, 2002

51

