



Brightview Grosvenor: Preliminary Plan No. 120170270 and Site Plan No. 820170090

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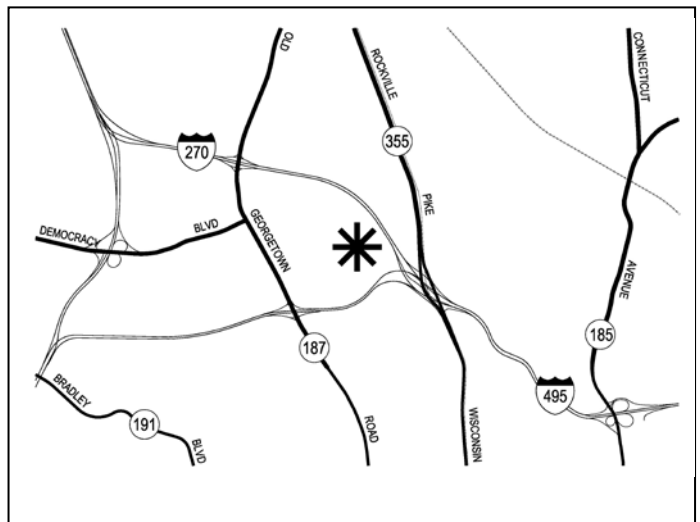
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Completed: 9/15/17

Description

- Request to create one lot for a Residential Care Facility with 98 assisted living units (104 beds);
- Located at 5510 Grosvenor Lane, Bethesda;
- 2.75 acres zoned R-90 within the 1992 *North Bethesda/Garrett Park Master Plan*;
- Applicant: Shelter Development, LLC;
- Application accepted: April 26, 2017;
- Review Basis: Chapter 50, Chapter 59, Chapter 22A.



Summary

- Staff recommends approval with conditions.
- On December 21, 2016, the Hearing Examiner approved Conditional Use Application No. CU 16-14 for the proposed Residential Care Facility. On September 15, 2016, the Planning Board approved an associated Preliminary Forest Conservation Plan for the site.
- Site plan approval is required under Section 4.4.8.B.3.a of the Zoning Ordinance because the proposed building height is 40 feet.
- The Site Plan approval includes approval of the Final Forest Conservation Plan.
- On July 27, 2017, the Planning Director granted a request to extend the review period until September 21, 2017. On September 14, 2017, the Planning Board granted an extension of the review period until October 19, 2017.
- A neighbor expressed concern about the "Moon Tree" on the adjacent property.

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ATTACHMENTS

1. Notification of OZAH Decision, Conditional Use No. CU 16-14
2. Preliminary Plan
3. Site Plan
4. Landscape Plan
5. Community Correspondence
6. MCDPS Water Resources Section Letter
7. MCDPS Fire Department Access and Water Supply Section letter
8. MCDPS Right-of-Way letter
9. MCDOT Letter
10. Final Forest Conservation Plan
11. Amended Forest Conservation Variance
12. County Arborist's Approval Letter

SECTION 1: RECOMMENDATIONS AND CONDITIONS

Preliminary Plan No. 120170270

Staff recommends approval of Preliminary Plan No. 120170270. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.¹

- 1) This Preliminary Plan is limited to one lot to allow for a Residential Care Facility with up to 98 assisted living units (up to 104 beds).
- 2) The Applicant must comply with the conditions of the Hearing Examiner's approval for Conditional Use Application No. CU 16-14.
- 3) The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Seventy (70) feet from the opposite right-of-way line along the Property frontage for Grosvenor Lane.
 - b. Sixty (60) feet from the opposite right-of-way line along the Property frontage for Fleming Avenue.
- 4) Prior to recordation of the plat(s) the Applicant must satisfy the Montgomery County Department of Permitting Services (MCDPS) – Right-of-Way Permitting Section requirements to ensure the construction of a 5-foot-wide sidewalk along the property frontage on Grosvenor Lane and a 10-foot-wide shared-use path along the property frontage on Fleming Avenue.
- 5) Prior to issuance of any building permits, the Applicant must pay the development impact tax in accordance with Chapter 52 of the Montgomery County Code, subject to any County Council amendments to this chapter.
- 6) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated May 25, 2017, as amended by email dated July 24, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter and email, which MCDOT may amend if the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 8) The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated March 16, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS – Water Resources Section may amend if the amendments do not conflict with other conditions of the Preliminary Plan approval.

¹ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

- 9) The Planning Board accepts the recommendations of the MCDPS – Fire Department Access and Water Supply Section in its letter dated June 22, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
- 10) Prior to submission of any plat, Site Plan No. 820170090 must be certified by M-NCPPC Staff.
- 11) No clearing or grading of the site, or recording of plats may occur prior to Certified Site Plan approval.
- 12) All necessary easements must be shown on the record plat.
- 13) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
- 14) The certified Preliminary Plan must contain the following note:
“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

Site Plan No. 820170090

Staff recommends approval of Site Plan 820170090, including the Final Forest Conservation Plan, for a Residential Care Facility with up to 98 assisted living units (up to 104 beds). All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.²

Conformance with Previous Approvals and Agreements

- 1) Conditional Use Conformance
The Applicant must comply with the conditions for approval of Conditional Use No. CU 16-14, dated December 21, 2016.
- 2) Preliminary Plan Conformance
The Applicant must comply with the conditions of approval for Preliminary Plan No. 120170270.

Environment

- 3) Forest Conservation
The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - a) Prior to any demolition, clearing, or grading, a Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed. The Liber Folio for the easement must be referenced on the record plat.
 - b) Prior to Certified Site Plan, the Final Forest Conservation Plan must be amended to enumerate landscape trees and canopy coverage totaling at least 0.10 acres of landscape credit per Forest Conservation Regulation 22A.00.01.08(G)(4)(c).
 - c) Prior to any land disturbing activities occurring onsite, the Applicant must obtain a financial security agreement reviewed and approved by M-NCPPC Associate General Counsel Office for the planting requirements and invasive management work specified on the Final Forest Conservation Plan.
 - d) The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the Final Forest Conservation Plan.
 - e) Site inspections are required by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - f) Prior to forest conservation planting, the Applicant must submit a Maintenance and Management Agreement for approval by staff.
 - g) The Forest Conservation Inspector may require additional tree save measures to protect the "Moon Tree" on the adjacent Wild Acres property.

² For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

Transportation and Circulation

4) Transportation

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way (MCDPS-ROW) in its letter dated July 18, 2017, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply fully with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of the Site Plan approval.

5) Pedestrian and Bicycle Circulation

- a) The Applicant must provide two inverted-U bicycle racks near the main building entrance, and two inverted-U bicycle racks in the garage in a secure, well-lit area. The specific locations must be shown on the Certified Site Plan.
- b) The Applicant must provide a five-foot wide sidewalk along Grosvenor Lane, and a 10 foot-wide shared-use path along the frontage of Fleming Avenue, as shown on the Certified Site Plan.

Site Plan

6) Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet 09-ARCH-820170090-AA4.0 of the submitted architectural drawings, as determined by M-NCPPC Staff.

7) Landscape Plan

Prior to the end of the first planting season after issuance of the final Use and Occupancy Certificate, all landscape plant materials must be installed.

8) Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior lighting must be installed in accordance with these standards.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Illumination levels generated from on-site lighting must not exceed 0.1 footcandles (fc) at any lot line that abuts a lot with a detached house.
- d) All onsite pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

9) Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, onsite lighting, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths, sidewalks, bikeways, storm drainage facilities, street trees and street lights.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

10) Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

11) Certified Site Plan

The following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, Conditional Use Opinion/Resolution, Preliminary Plan Resolution, and Site Plan Resolution.
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Revised conditional use plans (including lighting and landscaping plans), consistent with the approved site plan, must be filed with the Office of Zoning and Administrative Hearings.

SECTION 2: VICINITY AND SITE DESCRIPTION

Vicinity

The Property is located at 5510 Grosvenor Lane, on the southeast corner of the intersection of Grosvenor Lane and Fleming Avenue in Bethesda, Maryland. It consists of two parcels, identified as Parcels P963 and P980 on Tax Map HP13, with a total area of approximately 2.75 acres.



Figure 1: Vicinity Map

The neighborhood surrounding the Property is predominately residential (zoned R-60 or R-90), consisting of one- or two-story detached homes and townhouses. It also contains various institutional, civic, and commercial uses including the Wildwood Manor Swimming Pool, the Bethesda Health and Rehabilitation Center, and the Grosvenor Center, a Montgomery County Public Schools (MCPS) elementary level holding school, Fleming Local Park, and approximately 11.3 acres of Legacy Open Space.

Abutting the Property to the south and east is the Wild Acres/Grosvenor Estate, a historic site designated in the Master Plan for Historic Preservation (#30/15). A portion of the Wild Acres/Grosvenor Estate contains the 8,000-square-foot, three-story Grosvenor mansion and a caretaker's house. The Grosvenor mansion houses the headquarters of the Society of American Foresters. The balance of the Wild Acres/Grosvenor Estate site is under development with a residential development known as Grosvenor Heights. It will consist of 142 townhomes, and 10 detached houses facing Fleming Avenue. A previously approved two-story office building in the middle of the Wild Acres/Grosvenor Estate site will remain on the site.

Site Description

The Property is currently improved with a two-story, 3,488-square-foot detached house that the Applicant proposes to demolish. A driveway provides access to the Property from Grosvenor Lane. The Property is irregular in shape, and slopes down from the northwest towards the southeastern corner, with an elevation change of approximately 15 feet. A 0.98-acre forest stand is located on the north and west sides of the Property, obscuring the view of the existing house from Grosvenor Lane and Fleming Avenue. It is currently served by public water and sewer.



Figure 2: Aerial view with Property outlined in red

SECTION 3: PROJECT DESCRIPTION

Previous Approvals

On December 21, 2016, the Office of Zoning and Administrative Hearings approved Conditional Use Application No. CU 16-14 (Attachment 1) to permit a Residential Care Facility for up to 98 units (up to 104 beds) on the Property (the Conditional Use). The Conditional Use was granted subject to conditions including:

- *No more than 104 residents may reside at the proposed facility (Condition No. 3);*
- *The living rooms must not have full kitchens (Condition No. 4);*
- *Fewer than 30 employee vehicular trips may occur during either of the weekday peak periods of 6:30 to 9:30 a.m. and 4:00 to 7:00 p.m. (Condition No. 5);*
- *No more than 30 employees may work on-site at any one time (Condition No. 6);*
- *The architecture of the building must be consistent with the architectural renderings submitted with the conditional use application (Condition No. 7);*
- *Waste pick-up and truck deliveries (excluding mail and parcel deliveries) are prohibited between 7:00 p.m. and 9:00 a.m., and on weekends (Condition No. 8);*
- *The Applicant must address improvements to Fleming Avenue (Condition 11);*
- *The Applicant must provide and maintain landscaping for the Property (Condition Nos. 18, 19, and 22).*

Proposal

The Applicant proposes to redevelop the Property with a Residential Care Facility consisting of 98 assisted living units (a total of 104 beds). Twenty-nine of the units will provide specialized memory care. Residents will receive assistance with daily living activities such as bathing, dressing, grooming and medication management. The proposed facility will also offer personalized services to residents including concierge, security, meals, housekeeping, laundry, 24-hour emergency call response systems, wellness programs, social and recreational activities. A 15-passenger shuttle bus will be used for daily off-site excursions, including shopping, medical appointments, and social events. When not in use, the van will be parked on site. Limited personalized health care management will be provided by onsite nurses and visiting health care professionals.

In addition to the 98 assisted living units, the proposed development will include:

- Outdoor amenity space for residents at the rear of the Property.
- A large (approximately 0.32 acres) existing forested area along the northern portion of the lot (south side of Grosvenor Lane) will be retained in its natural state.
- A total of 51 parking spaces (of which 37 spaces will be below grade and 14 spaces above grade in the surface parking lot near the front entrance to the building) with the required drive aisles, loading/delivery areas, and a refuse enclosure.
- Two inverted-U bike racks near the main entrance to the building and two inverted-U bike racks in the garage, with a total of eight bicycle parking spaces; and
- New pedestrian paths within the Property, a 5-foot right-of-way dedication along Grosvenor Lane; and a 10-foot wide shared-use path (pedestrian and bikes) along Fleming Avenue, and a mid-block choker to slow traffic on Fleming Avenue.

The access to the proposed facility will be controlled after 8:00 p.m., when the doors will be locked for security purposes. The facility will employ 65 full time equivalent employees. Approximately five managerial staff will work on-site, typically from 9:00 a.m. to 5:30 p.m. The remaining employees will be divided between three proposed shifts, with a maximum of 30 employees present at any one time:

1. 25 employees from 7:00 a.m. to 3:00 p.m.;
2. 15 employees from 3:00 p.m. to 11:00 p.m.; and
3. 5 employees from 11:00 p.m. to 7:00 a.m.

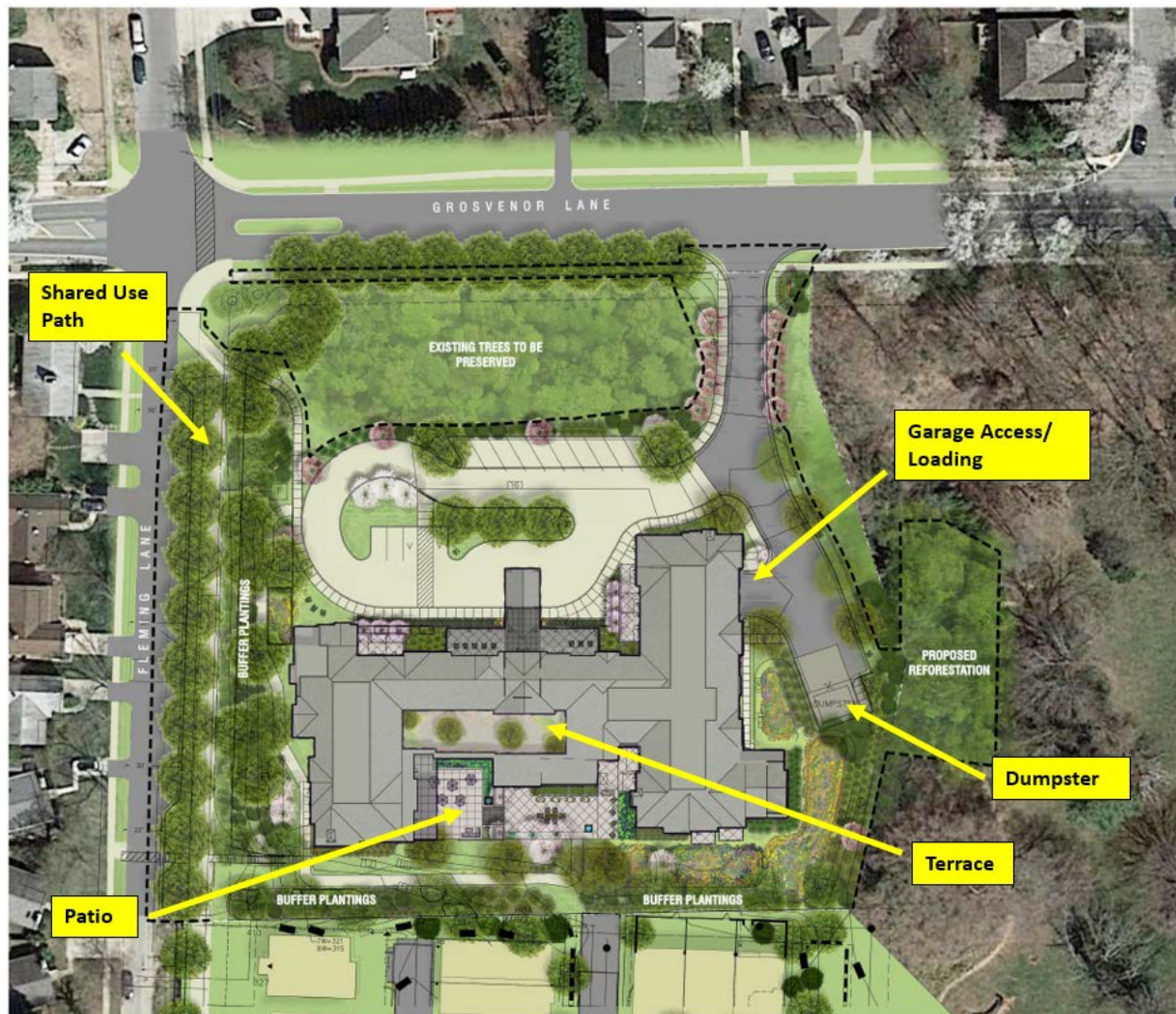


Figure 3: Rendered Landscape Plan

Site Design and Architecture

The proposed site design uses the Property's natural features, large setbacks, and extensive landscaping to enhance compatibility with the surrounding neighborhood. A large portion (0.32 acres) of the forested area on the Property along Grosvenor Lane will be retained, and the proposed building set back of approximately 133 feet from the Grosvenor Lane right-of-way will help screen the proposed building from the homes directly across Grosvenor Lane.

Along Fleming Avenue, the building will be set back 38 feet. The Property's grade difference along Fleming Avenue (approximately six to eight feet below the Fleming Avenue elevation) and the building setback reduce the perceived height of the proposed building from Fleming Avenue. Extensive landscaping is proposed along the western and southern Property lines to screen views of the proposed building from the nearby homes (Attachment 4).

The building's eastern façade is set back approximately 215 feet from the Grosvenor Mansion (the building is set back 40 feet from the property line). The Applicant proposes to expand the existing Forest Conservation Easement on the adjacent property to enhance screening between the building and the historic mansion.

The majority of proposed parking spaces are below grade, and the garage is accessed from the east side of the Property. The 14 spaces in the front of the building will be primarily for visitors, and the spaces will be extensively screened with landscape plantings. The dumpster and loading dock are also on the east side of the property, well away from the existing residential homes on Fleming Avenue, and screened with landscape plantings.

The building will be three stories in height and, due to the grading of the Property, will have the equivalent of a walk-out basement level (Figure 5). Thus, the building will appear to be four stories at the rear (south) and east side (towards the mansion). The north and south ends of the building façade along Fleming Avenue have been stepped down to two stories to further enhance compatibility with the surrounding area. The building façade facing Fleming Avenue will be approximately 117 feet; about the length of a stick of five townhouses, and a significant amount of landscaping will be provided between the building and Fleming Avenue.

The architecture of the proposed building is based on the Craftsman style, which utilizes residential-style materials, sloped roof forms, chimneys and mullioned windows to achieve a residential appearance and feel (Figure 4). It features darker colors and is reflected in the adjacent Grosvenor Mansion, on several newly constructed single-family homes along Fleming Avenue, and on the EYA townhomes to the south of the Property.



Figure 4: Rendering of the proposed building

SECTION 4: COMMUNITY CORRESPONDENCE

Staff has received correspondence from one resident concerning the “Moon Tree” on the adjacent Wild Acres property (Attachment 5). The tree grew from a seed that orbited the moon on board Apollo 14's command module “Kitty Hawk.” This seed, now a mature tree, was taken aboard Apollo 14 to study the effect of prolonged weightlessness on seed germination and seedling growth. The neighbor notes that the tree is an important part of America's scientific legacy, and it is Montgomery County's responsibility to ensure its survival. Staff has accounted for the Moon Tree on the Forest Conservation Plan and included a condition of approval stipulating that additional tree save measures may be required by the Forest Conservation inspector.

The Applicant has met all proper signage, noticing, and submission meeting requirements. The Applicant sent individual notices to 98 neighboring residents, schools and businesses, and on February 14, 2017 held the required pre-submission meeting at Walter Johnson High School, which was attended by eight citizens.

During the Conditional Use review period, Staff received several objections to the proposed development in relation to:

- Noise, traffic and general disturbance from the proposed development;
- The height and scale of the proposed building and compatibility with the surrounding neighborhood; and
- The perceived adverse economic impact of the proposed facility on the existing houses on the west side of Fleming Avenue that will face the proposed facility.

During the conditional use review phase, the Applicant conducted extensive outreach efforts with neighbors in the community and nearby Home Owner's Associations. Staff determined that the Applicant addressed all the issues raised by the community. The Planning Board recommended approval of the conditional use application with additional conditions to address community concerns, and the Applicant further modified the plan to address concerns before the application was approved by the Hearing Examiner.

SECTION 5: PRELIMINARY PLAN ANALYSIS AND FINDINGS

Under Section 50.4.2.D, the Planning Board must make the following findings to approve a Preliminary Plan:

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

The size, width, shape, and orientation of the proposed lot will be appropriate for the location. The Preliminary Plan will accommodate development on the Property at an appropriate and efficient location, with generous building setbacks from Grosvenor Lane and Fleming Avenue. A significant tree preservation area will occupy the northern section of the lot and extensive landscaping will screen views of the building from the north, west and south.

The proposed lot was reviewed for compliance with the dimensional requirements for the R-90 Zone as specified in the Zoning Ordinance. The proposed lot will meet all the dimensional requirements for area, frontage, width, and setbacks in the zone and accommodate the proposed use (see Table 1 in the Site Plan section of this report).

2. *The Preliminary Plan substantially conforms to the Master Plan.*

As described below, the Preliminary Plan substantially conforms to the 1992 *North Bethesda/Garrett Park Master Plan*. The Master Plan does not specifically address the Property, but several general recommendations in the Master Plan are relevant to this Application:

- *“Direct future development to land nearest to Metro stops and new transit stations, and to areas best served by transportation infrastructure.” (page 33, 35)*

The Property is served by existing transportation infrastructure. The Grosvenor Metro Station is within a mile, and Ride On Bus Route 6 runs along Grosvenor Lane, with stops at the intersection of Fleming Avenue and Grosvenor Lane. The North Bethesda Trail also runs adjacent to the Property along Fleming Avenue.

- *“Encourage a land use pattern that provides opportunities for housing and employment.” (page 35)*

The proposed facility will provide up to 98 residential units of assisted living, and it will employ up to 65 full time equivalent employees, providing housing for the elderly population as well as adding a modest amount of employment to the area.

- *“Protect and reinforce the integrity of existing residential neighborhoods.” (page 33)*

The design of the proposed facility is residential in character. The extensive landscaping along Fleming Avenue and retention of the existing forest along Grosvenor Lane will screen the proposed facility from the existing houses in the neighborhood. The residential nature of the use is consistent with the surrounding residential neighborhood. Noise, outdoor lighting, and service deliveries will be kept to a minimum and the garage and parking/service areas are screened from the adjacent properties. The orientation of the building with a smaller façade facing

Fleming Avenue, craftsman style architecture, and articulation of the facades will create a building that blends in with the predominantly residential character of the neighborhood. Therefore, the proposed facility will protect and reinforce the integrity of the existing residential neighborhood.

The proposed residential care facility contributes to the diversity of housing in the Plan area; it will provide 98 assisted living units including 29 units for memory care patients. There is only one other elderly care facility in the Neighborhood: Bethesda Health and Rehabilitation Center.

The proposed building and site design will be compatible with the surrounding residential neighborhood. The proposal uses the site's topography (lower elevation than Fleming Avenue), existing natural features (existing forest along Grosvenor Lane), the style of architecture (residential, Craftsman), the building step-downs at the corners facing Fleming Avenue, and articulation of the building facades to create a facility that fits well in its context and will be compatible with the surrounding neighborhood. The Property's grade difference along Fleming Avenue--approximately six to eight feet below the Fleming Avenue elevation--helps reduce the visual impact of the height and the bulk of the building when viewed from the Fleming Avenue side. Thirty-seven of the proposed 51 parking spaces are below grade under the proposed building, allowing the retention of the existing forested area in the front of the building. The proposed building employs Craftsman style architecture to achieve the appropriate visual compatibility with the residential buildings in the area, specifically those across Fleming Avenue and Grosvenor Lane. The articulation of the facades, sloping roof with design variations to create a more interesting roof line, building orientation with smaller façade facing Fleming Avenue, and screening on all sides will make the proposed building compatible with the surrounding buildings.

Housing Diversity

The Plan emphasizes the need for a variety of housing, including elderly housing, located in proximity to transportation corridors:

- *This Plan recommends that future development be focused at...areas best served by transportation infrastructure, with more emphasis on housing.* (page 2)
- *A wide range of housing types within each neighborhood should be encouraged to avoid large concentrations of any single type and increase the potential for pedestrian connection between diverse housing types.* (page 12)
- *Preserve and increase the variety of housing stock, including affordable housing.* (page 33, 35)
- *Encourage a land use pattern that provides an opportunity for housing and employment.* (page 33)
- *Encourage the location of elderly housing and elderly support service along bus routes.* (page 228, 244)
- *Support the provision of housing for special populations through the special exception process.* (page 229)

The proposed residential care facility satisfies several of the Plan's housing goals. A Residential Care Facility (which includes an assisted living facility) is classified as "Group Living" under the Residential Use Category in the Zoning Ordinance. The proposed facility will increase the housing diversity in a neighborhood, which comprises primarily detached houses, by increasing the area's housing choice

for elderly residents. In addition, 29 of the 98 units will be for residents who need specialized memory care. The facility will be along Ride On Bus Route 6, which travels between Parkside and the Montgomery Mall transit center via Grosvenor Metro Station. Bus stops are located on Grosvenor Lane adjacent to the Property.

Environment/Green Infrastructure

The Property is located on Grosvenor Lane, one of the Plan's designated "Green Corridors." The purpose of the Plan's Green Corridors policy is, "to ensure the identity and integrity of residential areas along major roadways, and to strengthen community identity by creating attractive transportation corridors." (page 250). The Plan provides further guidance on preservation and enhancement of environmental features:

- *Preserve existing woodland and encourage reforestation throughout the Planning Area. (page 34)*
- *Retain mature trees as buffers in new residential development to create visual separation from major roads. (page 247)*
- *Retain the maximum number of specimen trees on sites where they occur. (page 247)*
- *Provide screening for parking, even when less than six parking spaces are involved. (page 251)*
- *Retain green space, particularly when it provides trees that screen buildings. (page 251)*

The Applicant proposes to provide a building setback of more than 133 feet from Grosvenor Lane and retain 0.32 acres of the forest along Grosvenor Lane, which will maintain the existing "Green Corridor." Further, the Applicant proposes the removal of a stand of bamboo, a non-native invasive species, on the adjacent historic property that will be replanted as forest to expand the existing forest conservation easement. The 14 surface parking spaces will be screened by the preserved forest to the north and landscape plantings to the east and west of the Property.

3. Public Facilities will be adequate to support and service the area of the subdivision.

Transportation infrastructure and other public facilities are adequate to support and service the proposed facility. The Property is located along both Grosvenor Lane and Fleming Avenue, with convenient access to MD-355, I-270, and the Capital Beltway. Vehicular access to the Property is currently from Grosvenor Lane, which will be retained at its current location and no additional access is proposed from Fleming Avenue.

Master-Planned Roadway and Bikeways

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, the current master-planned roadway and bikeway designations near the Property are:

Grosvenor Lane is designated as a two-lane primary residential street, P-5, with a recommended 70-foot-wide right-of-way. The existing right-of-way along Grosvenor Lane is only 65 feet wide and requires dedication of five more feet along the Property frontage for a total of 70 feet from the opposite right-of-way line as recommended in the *North Bethesda/Garrett Park Master Plan*. The *Countywide Bikeways Functional Master Plan* recommends a signed shared roadway (SR-36) along Grosvenor Lane.

Fleming Avenue is not listed in the *North Bethesda/Garrett Park Master Plan*, but is classified as a secondary residential street requiring a 60-foot-wide right-of-way. The existing right-of-way along Fleming Avenue ranges from 45 to 60 feet wide. The Applicant is required to provide dedication along the Property frontage for a total of 60 feet of right-of-way from the opposite right-of-way line. The *Countywide Bikeways Functional Master Plan* recommends a 10-foot-wide shared use path (SP-41).

Public Transit Service

Along Grosvenor Lane, Ride On route 6 operates between the Grosvenor Metrorail Station and Westfield Montgomery Mall with 30-minute headways on weekdays. The bus stops are located at the intersection of Grosvenor Lane and Fleming Avenue. Transit service is not available along Fleming Avenue. The Grosvenor Metrorail Station is located less than a mile away to the northeast of the site.

The Applicant is not required to enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the North Bethesda Transportation Management District (TMD) because the site is located outside the TMD's boundary. However, the Applicant is encouraged to participate in the TMD to provide employees alternative modes of transportation rather than commuting via their single-occupancy vehicle.

Pedestrian and Bicycle Facilities

Along the Property frontage of Grosvenor Lane, the Applicant proposes to upgrade the existing sidewalk from 4 feet to 5 feet and the existing green panel from 5.5 feet to 7 feet.

Along the Property frontage of Fleming Avenue, the Applicant proposes to replace the existing substandard shared-use-path with an updated 10-foot-wide shared-use-path, which will connect to the shared-use-path required of the adjacent residential development (Preliminary Plan No. 120130110 and Site Plan No. 820130130) and provide access to Fleming Local Park to the south.

Lead-in sidewalks are proposed from Grosvenor Lane and Fleming Avenue, and all proposed sidewalks and connections are ADA compliant.

The Applicant proposes to provide eight bicycle parking spaces, or four inverted-U bike racks, where each rack stores two bicycles each. Two proposed inverted-U bike racks are located near the main entrance (short-term), and two are located in the underground parking garage (long-term) for employees.

Transportation Adequate Public Facility Tests

The Preliminary Plan application was reviewed under the 2016-2020 Subdivision Staging Policy (SSP), because it was filed after January 1, 2017.

Local Area Transportation Review (LATR)

A traffic statement dated February 8, 2017, was submitted and analyzed based on a 104-bed assisted living facility using trip generation rates in the Institute of Transportation Engineers' (ITE) *Trip Generation* report. The proposed 104-bed facility will generate 19 peak-hour person trips during the weekday morning peak period (6:30 to 9:30 a.m.) and 30 peak hour person-trips during the weekday evening peak period (4:00 to 7:00 p.m.). A traffic study is not required because the

proposed facility generates fewer than 50 total peak-hour person-trips within the weekday morning and evening peak periods

Policy Area Review

The Applicant is required to pay the updated General District Transportation Impact Tax. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, as amended.

Schools Test

The FY2017 Annual School Test does not apply to this property because the proposed use does not generate any children/students.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property is proposed to be served by public water and public sewer. This application has been reviewed by the Montgomery County Fire and Rescue Service, who has determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied

Environmental Guidelines

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for this site on December 18, 2015. The site contains no streams or their buffers, wetlands or their buffers, steep slopes, 100-year floodplains, or known habitats of rare, threatened, and endangered species. This plan complies with the Montgomery County Planning Department's *Environmental Guidelines*.

Previous Preliminary Forest Conservation Plan and Variance Approval

A Preliminary Forest Conservation Plan (PFCP) and Variance was approved as a part of the review and approval of Conditional Use No. CU 16-14. The site contains 0.98 acres of forest. The PFCP proposed clearing 0.95 acres of forest, and retaining 0.33 acres in a Category I Forest Conservation Easement. The land use, zoning, net tract area, forest cleared, and forest retained yielded a reforestation requirement of 0.54 acres of forest planting. The Applicant proposed to fulfill the planting requirement through a combination of landscape credit and by planting an area on the adjacent Wild Acres property that is contiguous with an existing Category I Forest Conservation Easement on that property. The accompanying Variance request was also approved, permitting removal of seven trees and permitting impacts to an additional 13 trees defined as high priority for retention and protection under Section 22A-12(b)(3) of the County code. The trees are on the Property and the adjacent Wild Acres property. A condition of the approval of the Preliminary Forest Conservation Plan was "A Final Forest Conservation Plan (FFCP) that substantially conforms to the PFCP must be approved with the Preliminary Plan approval, or with the Site Plan approval if a Site Plan is required."

The Final Forest Conservation Plan substantially conforms to the Preliminary Forest Conservation Plan. The plan complies with Chapter 22A and the Montgomery County Planning Department's *Environmental Guidelines*.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS - Water Resources Division on March 16, 2017. Stormwater treatment will be accomplished using porous pavement, proprietary filtration structures, and micro-bioretenment facilities.

SECTION 6: SITE PLAN ANALYSIS AND FINDINGS

Under Section 59-7.3.4.E.2, the Planning Board must find that the proposed development:

- a. satisfies any previous approval that applies to the site;*

The proposed development is generally consistent with Conditional Use No. CU 16-14, approved by the Hearing Examiner on December 21, 2016. Minor modifications have been made to the site plan because of additional right-of-way dedication required along Grosvenor Lane. Alterations to the landscape plan include the addition of street trees along Grosvenor Lane and changes to some of the species in the plant schedule. The outdoor light fixtures have been modified from the approved Conditional Use plan, however, the revised photometric plan indicates that illumination will not exceed 0.1 footcandles at any property line. The revised site plan, landscape plan, and photometric plan approved with the Conditional Use will need to be filed with the Office of Zoning and Administrative Hearings to reflect modifications made during the site plan process.

- b. satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;*

Not applicable; the proposed development is not subject to a development plan or schematic development plan.

- c. satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;*

Not applicable; the zoning classification for the Property on October 29, 2014 was not the result of a Local Map Amendment.

- d. satisfies applicable use standards, development standards, and general requirements under this Chapter;*

Use Standards

In approving Conditional Use No. 16-01, the Hearing Examiner found that the proposed development satisfied the applicable use standards for a Residential Care Facility (Over 16 Persons) under Section 3.3.2.E.2.c.ii.

Development Standards

The project covers approximately 2.75 acres in the R-90 Zone. The following table, Table 1, shows the Application's conformance to the development standards of the zone.

Table 1: Applicable Development Standards, R-90 Zone Section 59-4.4.8.B. Standard Method Development ¹		
	Required / Allowed	Proposed
1. Lot and Density		
Lot (min)		
Lot area <i>Section 59-3.3.2.E.2.c.ii(d)</i>	Greater of 2 acres or 83,200 SF (800 SF per bed)	2.66 acres/ 1,115 SF per bed
Lot width at front building line	75'	345'
Lot width at front lot line	25'	314'
Density (max)		
Density <i>Section 59-3.3.2.E.2.c.ii(d)</i>	Greater of 2 acres or 83,200 SF (800 SF per bed)	2.66 acres/ 1,115 SF per bed
Coverage (max)		
Lot	30%	21%
2. Placement		
Principal Building Setbacks (min)		
Front setback	30'	133'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	30'	38'
Side setback <i>Section 59-3.3.2.E.2.c.ii(e)</i>	20'	40'
Sum of side setbacks	25'	78'
Rear setback	25'	37'
3. Height		
Height (max)		
Principal Building, measured to mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof	30', or 40' with site plan approval	40'

¹ As noted in the table, certain development standards are modified by the use standards for a Residential Care Facility (Over 16 Persons) in Section 59-3.3.2.E.2.c.

General Requirements

i. Division 6.1 Site Access

The proposed site design will ensure safe and convenient vehicular, bicycle, and pedestrian access to, and circulation within, the Property. The existing single driveway curb cut on Grosvenor Lane will be retained at its current location. A lead-in sidewalk will be provided parallel to the driveway. An additional pedestrian connection will be provided from the surface parking lot to the northwest corner of the Property to connect to the bike path running along the east side of Fleming Avenue to the corner of Grosvenor Lane. The sidewalk along Grosvenor Lane will be widened from 4 feet to 5 feet, and the project will provide a 10-foot-wide shared use path along Fleming Avenue.

ii. Division 6.2 Parking, Queuing, and Loading

The proposed Site Plan provides adequate parking and loading to serve the proposed facility. The Zoning Ordinance requires a minimum of 41 vehicle parking spaces for this Property (0.25 spaces per bed, plus 0.5 spaces per employee); the proposed development will provide 51 spaces. Thirty-seven parking spaces will be provided below ground and the 14-space parking lot in the front of the building will be well-screened. The 80-foot-wide swath of retained forest along Grosvenor Lane will function as the perimeter planting area to the north of the parking lot. A proposed landscape planting bed to the north of the parking lot will provide additional screening. To the east, the drive aisle will be buffered by a six-foot planting bed, and canopy trees will be planted along the drive aisle adjacent to retained trees. Canopy trees and a mix of evergreens and flowering shrubs within a 28-foot-wide planting bed will screen views of the parking area from the west. The proposed development will also provide eight bicycle parking spaces (four near the main building entrance and four in the garage) and one loading space. The loading area will be located on the east side of the building and will be screened by a substantial planting bed, including a mixed evergreen hedge.

iii. Division 6.3 Open Space and Recreation

The majority of open space will be located in the northern portion of the Property and will be retained in a forest conservation easement. The primary outdoor amenity space for residents is a large patio located at the rear of the building, near the southern border of the Property. The proposed building has several indoor amenity spaces for residents including an exercise room, a library, and activity rooms.

iv. Division 6.4 General Landscaping and Outdoor Lighting

Landscaping and lighting, as well as other site amenities, will be provided and will be safe, adequate, and efficient for year-round use and enjoyment by residents, employees, and visitors. The Photometric Plan demonstrates that illumination will not exceed 0.1 footcandles (fc) at any property line in order to prevent light spilling onto nearby properties.

v. Division 6.5 Screening Requirements

The screening requirements are applicable along the Property's southern lot line because the abutting lots are located in a Residential Detached zone and improved with residential uses. The landscape plan indicates that the planting bed proposed along the southern lot line satisfies the planting requirement prescribed in Section 6.5.3.C.7 (Option B) for a conditional use in a Residential Detached Zone.

e. *satisfies the applicable requirements of:*

i. *Chapter 19, Erosion, Sediment Control, and Stormwater Management; and*

The Montgomery County Department of Permitting Services (DPS) issued a Stormwater Management Concept approval letter dated March 16, 2017. Stormwater treatment will be accomplished using porous pavement, proprietary filtration structures, and micro-bioretenment facilities.

ii. *Chapter 22A, Forest Conservation.*

Environmental Guidelines

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for this Property on December 18, 2015. The Property contains no streams or their buffers, wetlands or their buffers, steep slopes, 100-year floodplains, or known habitats of rare, threatened, and endangered species. The Property drains to the Rock Creek watershed, which is not in a Special Protection Area or Primary Management Area. The property adjacent to the east includes a historic resource identified as the Wild Acres/Grosvenor Estate, Resource #30/15. This plan complies with the Montgomery County Planning Department's *Environmental Guidelines*.

Previous Preliminary Forest Conservation Plan and Variance Approval

A Preliminary Forest Conservation Plan (PFCP) and Variance were approved as a part of the review and approval of Conditional Use No. CU 16-14. The site contains 0.98 acres of forest. The PFCP proposed clearing 0.95 acres of forest, and retaining 0.33 acres in a Category I Forest Conservation Easement. The land use, zoning, net tract area, forest cleared, and forest retained yielded a reforestation requirement of 0.54 acres of forest planting. The Applicant proposed to fulfill the planting requirement through a combination of landscape credit and by planting an area on the adjacent Wild Acres property that is contiguous with an existing Category I Forest Conservation Easement on that property. The accompanying Variance request was also approved, permitting removal of seven trees and permitting impacts to an additional 13 trees defined as high priority for retention and protection under Section 22A-12(b)(3) of the County code. The trees are on the subject property and the adjacent Wild Acres property. A condition of the approval of the Preliminary Forest Conservation Plan was "A Final Forest Conservation Plan (FFCP) that substantially conforms to the PFCP must be approved with the Preliminary Plan approval, or with the Site Plan approval if a Site Plan is required."

Final Forest Conservation Plan

Changes to the Site Plan result in a slightly reduced reforestation requirement of 0.52 acres of forest planting. Sidewalk improvements required as part of the conditions of Site Plan approval change the area of forest retained to 0.32 acres. This area will be protected within a Category I Forest Conservation Easement. This easement area will include supplementary understory plantings to enhance the function and aesthetics of the easement to act as a buffer between the development and the neighborhood.

The Applicant proposes to fulfill the 0.52-acre forest planting requirement with 0.10 acres of landscape credit, and by planting a 0.45-acre area on the adjacent Wild Acres property. The 0.45-acre planting area will be protected in a Category I Forest Conservation Easement that abuts an existing Category I easement on the Wild Acres property. The Applicant has a Memorandum of Understanding with the Wild Acres property owner authorizing the Applicant to plant and record the Category I easement on the Wild Acres property.

The Applicant is planting a sufficient number of native canopy trees outside of the Category I easement areas to total more than the 0.10 acres of landscape credit needed. Prior to Certified Site Plan, the FFCP must be amended to identify which of these trees will be counted toward the landscape credit. These trees should be outside of road rights-of-way and utility easements.

The Forest Conservation Plan is required to have “a maintenance plan which includes provisions for necessary watering, control of competing vegetation, protection from disease, pests, and mechanical injury, and reinforcement planting if plant survival falls below the requirements of subsection 108E(3)(c)” (Section 22A.00.01.08(E)(3)(c) of the Forest Conservation Regulations). This includes control of invasive species as necessary.

The “Moon Tree” mentioned in the conditions of approval is a loblolly pine that was grown from one of 500 seeds carried into space on Apollo 14 and planted to test the effects of a period of weightlessness on the germination and growth of tree seeds. The seedling germinated from one such seed was given to Gilbert H. Grosvenor, former editor of National Geographic Magazine and president of the National Geographic Society, and former owner of the adjacent Wild Acres estate. While this tree is not within the proposed Limits of Disturbance for this project, it is nearby, and special care should be taken to protect it during the construction process to prevent inadvertent damage.

Amended Variance Request

As noted above, a condition of the Site Plan approval is to upgrade the sidewalk that fronts on Grosvenor Avenue. The required sidewalk improvements create impacts to the Critical Root Zone (CRZ) of one specimen tree not previously impacted, and increases CRZ impacts to another tree that was approved for impact in the previous Variance approval.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The applicant submitted an amended variance request on July 17, 2017 to impact two trees that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law (Attachment 11). The variance seeks permission to impact the critical root zone of one tulip poplar tree and to increase the impact to the Critical Root Zone (CRZ) of one southern red oak tree.

Unwarranted Hardship Basis

The additional CRZ impacts are a direct result of the sidewalk improvements required along the property frontage on Grosvenor Lane to bring the existing sidewalk up to current standards. The improvements create additional impacts to specimen trees near the property frontage. A denial of the variance request would prevent the Applicant from making the required improvements to the sidewalk along Grosvenor Lane. For this reason, staff concurs that the Applicant has a sufficient unwarranted hardship to consider a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings

Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Given the proximity of two specimen trees to the required sidewalk improvements, impacts to the two variance trees are unavoidable. It is Staff's opinion that reasonable steps have been taken to reduce impacts, and that granting the variance will not confer a special privilege to the Applicant because any applicant developing this Property would be required to make the sidewalk improvements along Grosvenor Lane that would impact the variance trees.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

Upon review, staff concurs that the requested variance is based on the constraints of the site and the required sidewalk improvements, rather than on conditions or circumstances which are the result of actions by the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

Upon review, staff concurs that the requested variance is a result of the proposed site design and required sidewalk improvements and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The two trees being impacted are both to be saved, and should continue to intercept, detain, filter, and evapotranspire water as before. Therefore, staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Change in Status of One Variance Tree

The initial Variance approved impacts to one tree (No. 1222) which is intended to be saved. The potential impacts are significant (up to 77.48% of the CRZ), and saving the tree may be difficult. While the Applicant intends to use minimally invasive techniques within the CRZ of the tree, and still intends the tree to be saved, Staff and the County Arborist have recommended that permission be sought to remove the tree if it dies. The status of the tree in the amended Variance request has therefore been changed from "impacted, but not removed" to permission to be removed. This is not a request or requirement to remove the tree, but a granting of permission for removal if the tree does not survive.

Mitigation for Trees Subject to the Variance Provisions

Seven native canopy trees of at least three inches caliper, each are being planted to mitigate for the loss of variance trees on the property.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. On July 21, 2017, the County Arborist issued her recommendations on the variance request and recommended the variance be approved with mitigation (Attachment 12).

Variance Recommendation

Staff recommends that the amended Variance be granted.

- f. *provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;*

Parking

The proposed 51 parking spaces are well-integrated into the development plan and will allow for safe and efficient circulation around the Site. Thirty-seven of the of the proposed parking spaces are located in a below grade parking garage, and 14 spaces provided in front of the building are screened with extensive landscape plantings and a forest conservation area along Grosvenor Lane.

Circulation Patterns

The existing driveway from Grosvenor Lane will provide safe and efficient vehicular access to the Site. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area, and provides safe access to bus routes and the Grosvenor Metro Station.

Building Massing

Due to the grading of the Property, the proposed building will be three stories with a “walk-out basement” level. The east and south (rear) sides of the building will be four stories, while the front and west side will be three stories. The building’s architecture will be Craftsman style, using residential-style materials, sloped roofs, chimneys, and mullioned windows to achieve a residential feel, and enhance compatibility with the surrounding properties. The building’s orientation places a smaller façade along Fleming Avenue, reducing the visual impact of the building’s overall mass, and preserving an appropriate sense of scale from the residential street. The north and south ends of the building façade along Fleming Avenue have been stepped down to two stories to further ensure compatibility with the houses across Fleming Avenue.

Open Spaces and Site Amenities

The majority of open space on the Property will be located in the northern portion of the Property and will be retained in a natural state in a forest conservation easement. The primary outdoor amenity space for residents is a large patio located to the rear of the building, near the southern border of the Property. Extensive landscaping is provided along the western and southern property lines. The proposed building has several indoor amenity spaces for residents including an exercise room, a library, and activity rooms.

- g. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

As discussed in the Preliminary Plan section of this report, the proposed development substantially conforms with the recommendations of the *North Bethesda/Garrett Park Master Plan*.

- h. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

There are adequate public facilities to serve the Property, as described in the Preliminary Plan section of this report.

- i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

The orientation of the building with a smaller façade facing Fleming Avenue, craftsman style architecture, and articulation of the facades will create a building that blends in with the predominantly residential character of the neighborhood. The Fleming Avenue façade also includes step-downs to reduce the building height to two stories at the north and south ends, creating a visual break and thus reducing the perceived size of the façade along that frontage. The topography of the Property will also minimize the perception of the building's height from most vantage points, and will allow most of the onsite parking to be accommodated below ground. The extensive landscaping along Fleming Avenue and retention of the existing forest along Grosvenor Lane will screen the proposed facility from the existing houses in the neighborhood. The forest retention area on the north side of the Property will obscure views of the building from Grosvenor Lane.

The west wing of the building will shield the outdoor patio area from view of the single-family homes on the west side of Fleming Avenue. Extensive landscaping will buffer the patio area from the new residences to the south. The entrance to the garage, the loading dock, and the dumpster are located on the east side of the building, well away from the existing homes.

- j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.*

Not applicable.

SECTION 7: CONCLUSION

The Applications meet all requirements established in the Subdivision Regulations and the Zoning Ordinance. Access and public facilities will be adequate to serve the proposed lot, the use conforms with the Master Plan and the general requirements of Chapter 59, and the Applications have been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Staff recommends approval of the Preliminary Plan and Site Plan, with the conditions listed at the beginning of the Staff Report.

ATTACHMENT 1



MONTGOMERY COUNTY, MARYLAND

December 21, 2016

TO: Parties to OZAH Case No. CU 16-14, *Application of Shelter Development d/b/a Brightview at Grosvenor*

FROM: Montgomery County Office of Zoning and Administrative Hearings

SUBJECT: Notification of Decision and Applicable Procedures

On December 21, 2016, the Hearing Examiner issued a Report and Decision in **OZAH Case No. CU 16-14, Application of Shelter Development d/b/a Brightview at Grosvenor**, for a conditional use under Section 59-3.3.2.E.2.c. of the Zoning Ordinance. The decision approves the application to allow construction and operation of a residential care facility for more than 16 persons at 5510 Grosvenor Lane, Bethesda, Maryland, subject to the following conditions:

1. The Applicant shall be bound by the testimony of its witnesses and the representations of its counsel identified in this Report and Decision.
2. Physical improvements to the Subject Property are limited to those shown on the Conditional Use Plan (Exhibit 93) and Landscape Plan (Exhibit 84(c)).
3. No more than 104 residents may reside at the proposed facility.
4. The living units must not have full kitchens.
5. Fewer than 30 employee vehicular trips may occur during either of the weekday peak periods of 6:30 to 9:30 a.m. and 4:00 to 7:00 p.m.
6. No more than 30 employees may work on-site at any one time.
7. The architecture of the building must be consistent with the architectural renderings submitted with the conditional use application.
8. Waste pick-up and truck deliveries (excluding mail and parcel deliveries) are prohibited between 7:00 p.m. and 9:00 a.m., and on weekends.
9. Parking spaces in the surface parking lot (excluding the ADA spaces) must be reserved for visitors, and wayfinding signage must be provided to direct overflow visitor parking to the garage. All employees must park in the garage.

10. The Applicant must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code. Any changes to the approved site plan (Exhibit 93) necessitated by approval of the preliminary plan must be filed with OZAH.
11. At the time of Preliminary Plan, the Applicant must address improvements to Fleming Avenue, as described in the Staff Report (Exhibit 43), subject to Montgomery County Department of Transportation approval.
12. The Applicant must provide two inverted-U bike racks (or equivalent approved by Staff that conform to American Pedestrian and Bicycle Professionals Guidelines) intended for employees to store four bicycles in the underground parking garage near the garage entrance in a well-lit area.
13. The Applicant must comply with all conditions of the approved Preliminary Forest Conservation Plan (Exhibit 84(f)).
14. Prior to any land-disturbing activities, the Applicant must receive approval of a Final Forest Conservation Plan by the Montgomery County Planning Board.
15. Smoking on the Fleming Avenue side of the building is prohibited.
16. Shuttle bus idling on the property is prohibited.
17. The generator must be located below-grade.
18. The Applicant will include broadleaf evergreens – i.e., hollies – just north of the northern parking spaces and northwest curve of the oval driveway between Grosvenor Lane and the Shelter Development/Brightview facility/building. The Applicant will assure that these plantings continue along the entire length of this parking area and these parking spaces, as well as along the curved part of the oval driveway. Sufficient larger hollies (i.e., Nellie Stevens hollies), smaller hollies (i.e., Blue Princess hollies), and appropriate additional plants will be planted to help assure adequate green screening/buffering along Grosvenor Lane – a Green Corridor – and for the homes that are directly across Grosvenor Lane. The Applicant will continue to consult with WMCA, and WMCA will provide appropriate input, as details of the landscaping are worked out.
19. The Applicant will assure that adequate, appropriate canopy and understory plants are planted at the northwest corner of the property (at the southeast corner of Grosvenor Lane and Fleming Avenue) to help assure adequate green screening/buffering along Grosvenor Lane and for the homes confronting the property across Grosvenor Lane. Flowering trees such as white Natchez crape myrtle, as appropriate, are recommended. The Applicant will continue to consult with WMCA, and WMCA will provide appropriate input, as details on the landscaping are worked out.

20. The Applicant shall not construct the previously proposed four-story "tower element," identified on page 72 of this Report. No part of the structure/building facing Grosvenor Lane will exceed three stories (with pitched roof).
21. The Applicant will work with WMCA to agree on the size, design, and any lighting for a Brightview entrance sign on Grosvenor Lane that is appropriate for the surrounding residential area.
22. The Applicant will ensure continuous maintenance of all landscaping, which shall include the timely replacement of any required plantings that fail to survive, for as long as the Conditional Use is in place.
23. The Applicant shall include a provision in all service contracts or arrangements, including but not limited to trash and delivery services, that access to the property must be via Grosvenor Lane to either Old Georgetown Road or Rockville Pike, and that the contracted services shall not use secondary residential streets in the surrounding neighborhoods (that is, the area bounded by Interstate 270, Interstate 495, and Old Georgetown Road).
24. To the extent practicable, the Applicant shall install the landscaping along the western frontage as early in the development process as possible and retain the existing landscaping along the western frontage for as long as possible.
25. The Applicant shall preclude any construction activity associated with the project from starting prior to 7:00 a.m., including off-site queuing and the arrival of trucks, equipment or workers. The Applicant shall avoid, to the extent reasonably practicable, the commencement of any construction activity that generates high levels of noise or vibration until 8:00 a.m.
26. The Applicant must obtain a sign permit issued by the Department of Permitting Services or the Sign Review Board, as appropriate, and must file a copy of any such sign permit with OZAH. The final design of the proposed sign must be in compliance with the Zoning Ordinance restrictions for signs displayed in a residential zone, or the Applicant must first obtain a sign variance from the Sign Review Board.
27. The Applicant must operate this facility in accordance with all applicable County noise regulations, and if found in violation any such regulation, it must immediately take appropriate steps to ensure future compliance.
28. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements

The full text of the Hearing Examiner's report is available at the following website address: http://www.montgomerycountymd.gov/OZAH/spec_excep.html. Any person receiving this notice who does not have access to the internet or to a printer may request a paper copy of the report by stating in writing that he or she lacks internet or printer access. Any interested person may also make a paper copy of the report, at a cost of ten cents per page, by visiting our office in the County Council Office Building, 100 Maryland Avenue, Suite 200, Rockville, Maryland 20850. For further information on obtaining a paper copy, please call the Office of Zoning and Administrative Hearings at 240-777-6660.

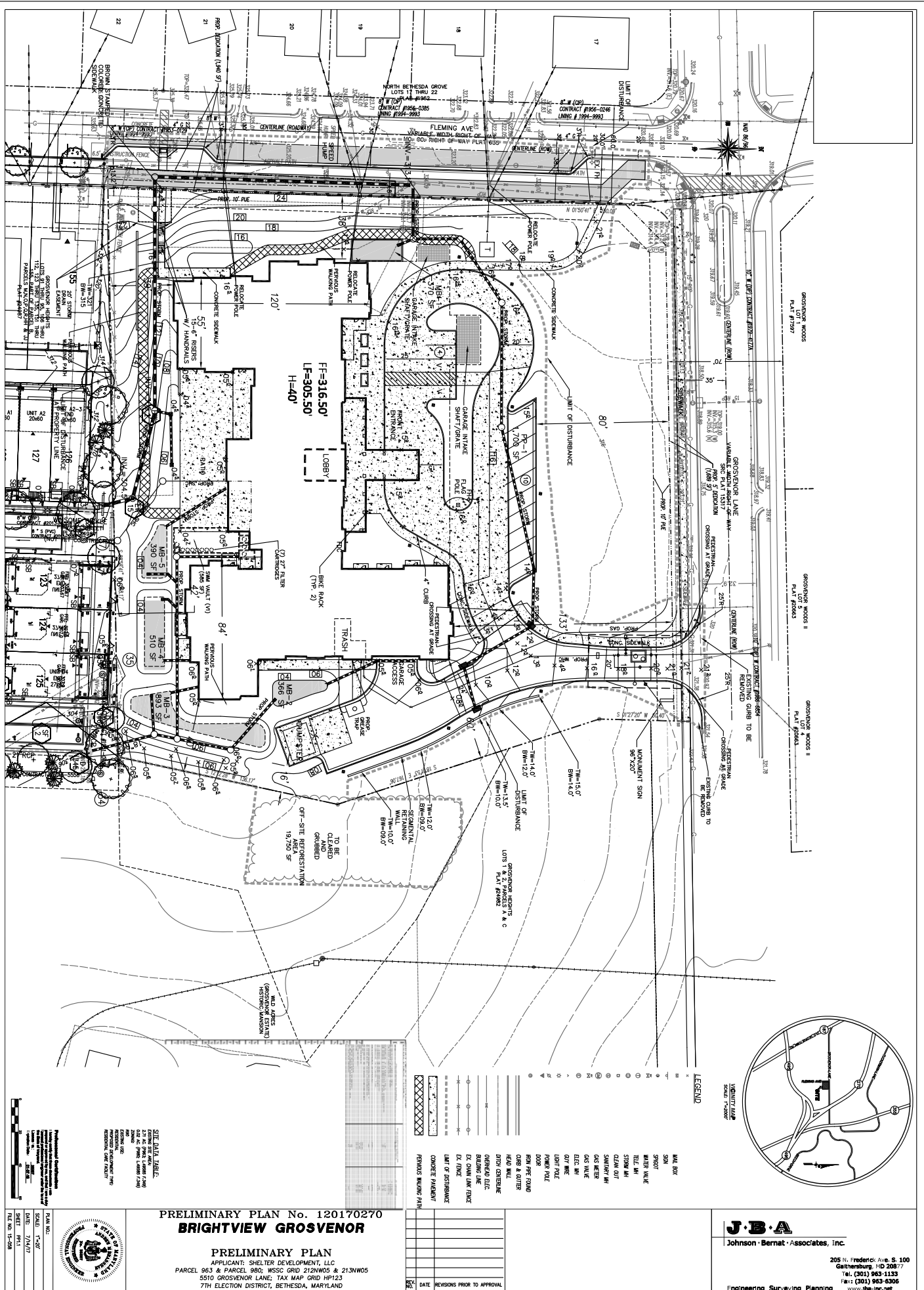
Any party of record or aggrieved party may file a written request to present oral argument before the Board of Appeals, in writing, within 10 days after the Office of Zoning and Administrative Hearings issues the Hearing Examiner's Report and Decision. Any party of record or aggrieved party may, no later than 5 days after a request for oral argument is filed, file a written opposition or request to participate in oral argument.

Contact information for the Board of Appeals is listed below, and additional procedures are specified in Zoning Ordinance §59.7.3.1.F.1.c.

Montgomery County Board of Appeals
100 Maryland Avenue, Room 217
Rockville, MD 20850
(240) 777-6600

You will be notified by the Board of Appeals if your request for oral argument is granted and at what time and place it will occur. If the request is granted, the oral argument must be confined to the evidence of record before the Hearing Examiner. No new or additional evidence or witnesses will be considered. Prior to oral argument do not attempt to discuss this case with individual Board members because such *ex parte* communications are prohibited by law. If you have any questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600 or visiting its website: <http://www.montgomerycountymd.gov/boa/>

cc: Pat Harris, Esquire
Chris Ruhlen, Esquire
Jeff Klein, Fleming Park Community Association
Anne Bowker, Wildwood Manor Community Association
Ms. Mariella Cacho
Ms. Marissa Faraclas
Emily Tettelbaum, Planning Department
Barbara Jay, Executive Director
Montgomery County Board of Appeals

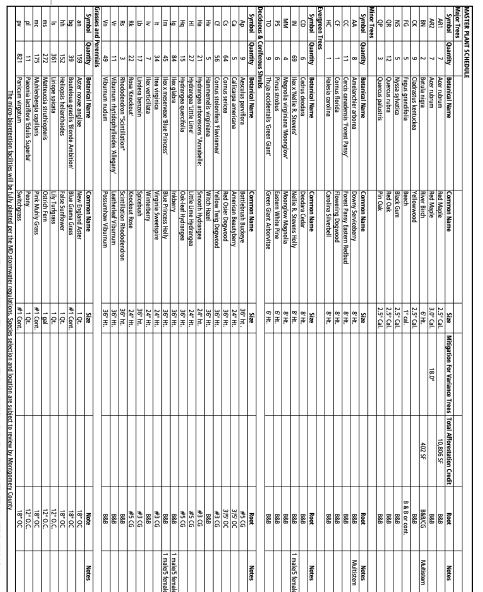




REV.	DATE	REVISIONS PRIOR TO APPROVAL

205 N. Frederick Ave. S. 100
Gaithersburg, MD 20877
Tel. (301) 963-1133
Fax: (301) 963-6306
www.jba-inc.net





SCREENING REQUIREMENTS (applicable only to southern property line)		
Perennial (Comfirmed) Lines in the Assessed Divided Area		
REQUIREMENTS	RECD. R.E. 10'	REQUIRED
Canopy Trees (min. per 100')	2	7
Understory or Emergent Trees	1	4
Large Shrubs	8	28.6
Small Shrubs	12	21
Wildflower Herbs	0	25
Wildflower Berms	4	0.0
4" W.	10	0.0
Wildflower Berms	N/A	N/A

Architectural drawing of a proposed entrance sign for "BRIGHT VIEW GOLF COURSE". The sign is a large, dark, rectangular structure with a curved top, mounted on two stone pillars. The text "BRIGHT VIEW" is prominently displayed in large, white, serif capital letters, with "GOLF COURSE" in smaller letters below it. The sign is set against a background of a golf course with trees and a building in the distance. Dimensions are provided for the sign's width (10'0" and 10'0"), height (10'0"), and depth (10'0"). A scale bar indicates 0' 10' 20' 30' 40' 50' 60' 70' 80' 90' 100'. A north arrow is located to the right of the sign, pointing towards the top right. A legend identifies the sign as "PROPOSED ENTRANCE SIGN" and the pillars as "STONE PILLARS".

DEVELOPER'S CERTIFICATE

The undersigned agrees to execute all the features of the Site Plan Approval No. 4630100080, including Approval Conditions, Development Program, and Certified Site Plan.

Developer's Name: Stellar Concepts, LLC
Contact Person: Andrea Martin
Address: 216 N. Central Street, 222 Baltimore, MD 21201
Phone: 504-989-1490
Signature: _____

Authorized Signature: _____

SHEET TITLE:
LANDSCAPE PLAN

DATE: 2017-06-1

SCALE: 1" = 20'

L2.0

REVISION:	DATE:
DRAWN: BM	
CHECKED: ZR	

BRIGHTVIEW - GROSVENOR
 APPLICANT: SHELTER DEVELOPMENT, LLC
 PARCEL 963 & PARCEL 980; WSSC GRID 212NW05 & 213NW05
 5510 GROSVENOR LANE; TAX MAP GRID HP123
 7TH ELECTION DISTRICT, BETHESDA, MARYLAND
 SITE PLAN # 820170090



PROFESSIONAL CERTIFICATION: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional landscape architect under the laws of the State of Maryland.

ATTACHMENT 5

Tettelbaum, Emily

Subject: FW: Concerned Resident: Development Application for Brightview Grosvenor

From: Michael Riedman [<mailto:mike.riedman@gmail.com>]

Sent: Monday, April 24, 2017 7:37 AM

To: MCP-CR <mcp-cr@mncppc-mc.org>; MCP-InfoCounter <MCP-InfoCounter@MNCPPC.onmicrosoft.com>

Subject: Concerned Resident: Development Application for Brightview Grosvenor

April 22, 2017

To Whom it May Concern,

On this Earth Day I write to you to express my concern about the Development Application for:

Brightview Grosvenor

Preliminary Plan Number: 120170270

Site Plan Application Number: 820170090

The grounds where this proposed development would take place is home to a national treasure and a testimony to the accomplishments of the human race: a Moon Tree. On September 30th, 1976, a Loblolly Pine (*Pinus taeda*) was planted near/on the grounds of the proposed development.

This Loblolly Pine that was planted was no ordinary tree, it grew from a seed that orbited the moon on board Apollo 14's command module "Kitty Hawk." This seed, now a mature tree, was taken aboard Apollo 14 to study the effect of prolonged weightlessness on seed germination and seedling growth. This tree is an important part of America's scientific legacy, and it is Montgomery County's responsibility to ensure its survival.

More info: https://nssdc.gsfc.nasa.gov/planetary/lunar/moon_tree.html

Before development of this area is allowed, there should be a careful study to determine if Site Plan Application Number: 820170090 would be detrimental to this tree's health. Additionally, a non-development buffer-zone should be established around this tree to ensure that it will be able to continue a healthy life. The size of this zone could be determined after the consultation of a dendrologist.

In order for a transparent review to occur, the data pertaining to the site plan needs to be available for the public to review. The data for Site Plan Application Number: 820170090 has not been uploaded to the [M-NCPCC Development website](#) yet. It is critical for this data be available for the public to review so the fate of the Moon Tree can be monitored. Please see the link below where a downloadable .pdf file should be available for download, but appears that the file has not been uploaded:

<http://eplans.montgomeryplanning.org/daiclinks/pdoxlinks.aspx?apno=820170090>

It is a great honor that this tree was planted and has grown in Montgomery County. As policy makers, you have the authority and responsibility to protect the natural history and scientific heritage of the county. I urge you to do all you can to cement the historical legacy of the Moon Tree by ensuring its current and future health by not allowing any development that would compromise its well being. It would be a shame to spoil it's legacy and renege on the stewardship Montgomery County was gifted as part of our nation's bicentennial celebration.

Sincerely,
Michael Riedman
Concerned Resident

ATTACHMENT 6



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

March 16, 2017

Mr. Andrew M. Bradshaw, P.E.
Johnson Bernat Associates, Inc.
205 N. Frederick Avenue, Suite 100
Gaithersburg, MD 20877

Re: **COMBINED STORMWATER MANAGEMENT
CONCEPT/SITE DEVELOPMENT
STORMWATER MANAGEMENT PLAN**
Request for Grosvenor
Preliminary Plan #: Pending
SM File #: 281930
Tract Size/Zone: 2.75 Ac./R-90
Total Concept Area: 2.63
Parcel(s): 963
Watershed: Lower Rock Creek

Dear Mr. Bradshaw:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD to the MEP using micro- bioretention and porous pavement. The remaining volume is to be treated using a proprietary filtration structure.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
5. Use the latest design criteria at the time of plan submittal.
6. You must use our standard type flow splitter on the structural proprietary filter.
7. Provide an approved hydrodynamic pretreatment device to the proprietary filtering structure.

Mr. Andrew M. Bradshaw, P.E.
March 16, 2017
Page 2 of 2

8. Provide easements and covenants for all stormwater management structures, including the flow splitter.

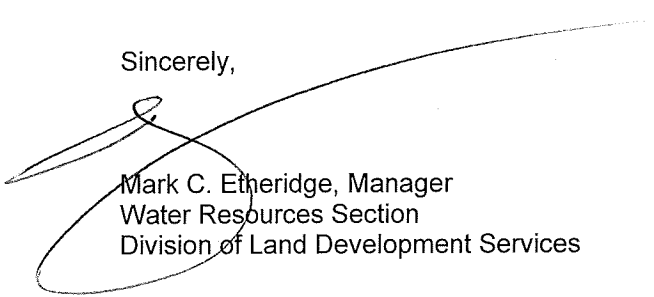
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: me CN281930 Grosvenor. DWK

cc: C. Conlon
SM File # 281930

ESD Acres:	2.63
STRUCTURAL Acres:	0.57
WAIVED Acres:	0.00

ATTACHMENT 7



Department of Permitting Services Fire Department Access and Water Supply Comments

DATE: 22-Jun-17
TO: Andrew Bradshaw - abradshaw@jba-inc.net
Johnson Bernat Associates
FROM: Marie LaBaw
RE: Brightview Grosvenor
120170270 820170090

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **22-Jun-17**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

ATTACHMENT 8

DPS-ROW CONDITIONS OF APPROVAL

July 18, 2017

820170090 Brightview Grosvenor

Contact: Sam Farhadi at 240 777-6333

We have reviewed site and landscape plans files:

“07-SITE-820170090-SP1.1.pdf V6” uploaded on/ dated **“7/17/2017”** and
“08-LL-820170090-L2.0.pdf V4” uploaded on/ dated **“6/14/2017”**.

The followings need to be addressed prior to the certification of site plan:

1. Proposed entrance:
 - a. Utilize the minimum curb radii that will accommodate the fire access requirements. Also label the existing curb to be removed.
 - b. Show the road centerline and provide safe truck turning for all movements.
2. Keep a minimum of 2' clear from the utility poles to public sidewalks/ bike path.
3. Provide a note that chokers meet DPS criteria.
4. Landscape plan indicates proposed red oaks along Fleming Ave. There are currently overhead wires along that side of the street. American Hornbeam trees are being planted along Fleming Ave by the adjacent project so they could be planted for this project to have continuity along this section of Fleming Ave and greatly improve the street tree quality.

The following needs to be condition of the certified of site plan:

1. As the storm drain system that collects the public streets runoff connects into a private onsite storm drain system, a declaration of covenant is needed and its recordation information needs to be reflected on the plat.

ATTACHMENT 9



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdieh
Director

May 25, 2017

Ms. Rhoda Hersson-Ringskog, Senior Planner
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Brightview Grosvenor
Preliminary Plan No. 120170270

Rhoda
Dear Ms. Hersson-Ringskog:

We have completed our review of the preliminary plan dated March 1, 2017. This plan was reviewed by the Development Review Committee at its meeting on May 16, 2017. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Provide necessary dedication along Fleming Avenue for a total right-of-way width of 60 (sixty) feet, measured from the western right-of-way line. Label the existing and proposed right-of-way widths for Fleming Avenue and Grosvenor Lane.
2. Grant necessary slope and drainage easements.
3. Relocation of utilities along Fleming Avenue and Grosvenor Lane to accommodate the required roadway improvements, if necessary, is the responsibility of the applicant.
4. Provide a minimum two (2) foot separation between the rear edge of the shared use path and the front edge of the relocated poles.

Office of the Director

101 Monroe St., 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX
www.montgomerycountymd.gov/dot

5. Provide a five (5) foot concrete sidewalk along Grosvenor Lane frontage with ADA compliant ramps at the site entrance.
6. Commuter Services (CSS) recommends that the applicant should be required to commit to allowing CSS to promote alternative modes of transportation to its commuting employees. This means allowing CSS to provide transit and car/vanpool marketing and promotional materials to the facility to ensure that employees know about alternatives to driving single-occupant vehicles (i.e., brochures, schedules for Ride-On Route 6 along Grosvenor Lane, etc.) Any contact with employees would be occasional and on a pre-arranged basis. Contact Beth Dennard or Sande Brecher of the MCDOT (CSS) at 240-777-8380.
7. At the permit stage, the applicant will need to provide a private, open-space covenant entering into an agreement with the County and the adjacent property owners of "Grosvenor Heights" for the public runoff entering into the existing, private, off-site storm drain system. If such agreement already exists, then the applicant may modify the existing document, accordingly, at the record plat stage.
8. The sight distance evaluation is acceptable and is included with this letter.
9. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
10. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Widen Fleming Avenue to thirty (30) feet (measured from the existing west side curbline), construct concrete curb and gutter, six (6) foot sodded lawn panel, ten (10) foot wide asphalt shared use path and two (2) foot sodded maintenance strip across the site frontage. At the southern site frontage on Fleming Avenue, construct an intersection choker (modified to narrow the roadway pavement width to twenty-two (22) feet with parking on only one side of the road). Plant street trees within the lawn panel, and provide handicap ramps within the limits of these improvements.

NOTE: MCDOT supports the retention of the existing speed bump on Fleming Avenue at the proposed southern mid-block choker.


NOTE: The Public Utility Easement is to be graded at a side slope not to exceed 4:1.

Ms. Hersson-Ringskog
Preliminary Plan No. 120170270
May 25, 2017
Page 3

- B. Reconstruct the existing sidewalk across the Grosvenor Lane site frontage to five (5) feet minimum width in accordance with the Americans with Disabilities Act (ADA).
- C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- E. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact William Whelan, our Development Review Area Engineer for this project at william.whelan@montgomerycountymd.gov or (240) 777-2173.

Sincerely,


WILLIAM F. WHELAN

for Gregory M. Leck, Manager
Development Review Team

[120170270 Brightview Grosvenor - MCDOT final plan review ltr.docx](#)

Enclosures (sight distance certification)

cc: Andrew Teeters Shelter Development, LLC
Kevin Johnson Johnson Bernat Associates, Inc.
Caroline Latimer Johnson Bernat Associates, Inc.
Andrew Bradshaw Johnson Bernat Associates, Inc.
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Sam Farhadi MCDPS RWPR
Marie LaBaw MCDPS Land Development
Pat Shepherd MCDOT DTE
William Whelan MCDOT OTP

Ms. Hersson-Ringskog
Preliminary Plan No. 120170270
May 25, 2017
Page 4

Ms. Rhoda Hesson-Ringskog, Senior Planner
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Andrew Teeters
Shelter Development, LLC
218 N. Charles Street, Suite 220
Baltimore, MD 21201

Kevin Johnson
Johnson Bernat Associates, Inc.
205 North Frederick Avenue, Suite 100
Gaithersburg, MD 20877

Caroline Latimer
Johnson Bernat Associates, Inc.
205 North Frederick Avenue, Suite 100
Gaithersburg, MD 20877

Andrew Bradshaw
Johnson Bernat Associates, Inc.
205 North Frederick Avenue, Suite 100
Gaithersburg, MD 20877



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: BRIGHTVIEW GROSVENOR Preliminary Plan Number: 1-20170270

Street Name: GROSVENOR LANE Master Plan Road Classification: RESIDENTIAL PRIMARY

Posted Speed Limit: 30 mph

Street/Driveway #1 () Street/Driveway #2 ()

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>250'</u>	<u>yes</u>	Right _____	_____
Left <u>250'</u>	<u>yes</u>	Left _____	_____

Comments: DRIVEWAY TO SITE

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: [Signature]
Date: 5/24/17
Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.
Licence No.: 35287
Expiration Date.: 01-07-16

Montgomery County Review:

☒ Approved
☐ Disapproved:

By: [Signature]

Date: 05/24/17

Form Reformatted:
March, 2000

Tettelbaum, Emily

Subject: FW: 120170270 Brightview Grosvenor - Grosvenor Lane R/W - MCDOT defers to Planning for dedication rec

From: Leck, Gregory [mailto:Gregory.Leck@montgomerycountymd.gov]

Sent: Monday, July 24, 2017 4:33 PM

To: Tettelbaum, Emily <Emily.Tettelbaum@montgomeryplanning.org>; Butler, Patrick <patrick.butler@montgomeryplanning.org>

Cc: Hersson-Ringskog, Rhoda <rhoda.hersson-ringsk@montgomeryplanning.org>; Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>; william.whelan <william.whelan@montgomerycountymd.gov>

Subject: RE: 120170270 Brightview Grosvenor - Grosvenor Lane R/W - MCDOT defers to Planning for dedication rec

Good afternoon Emily and Patrick,

Thank you for your emails this afternoon about this question. It appears there to be some urgency on this question. Since Billy has left for the day, I'm providing you this response on his behalf.

This reply is in lieu of an amended preliminary plan letter.

We are not aware of any MCDOT Facility Planning Study or a CIP project planned for Grosvenor Lane in the vicinity of this site. As a result, we defer to the Planning Department for the R/W dedication recommendation. We accept and support the proposal to dedicate 70' from the opposite property line, similar to what was required for the adjacent Grosvenor preliminary plan.

Thank you for your cooperation and assistance.

Greg

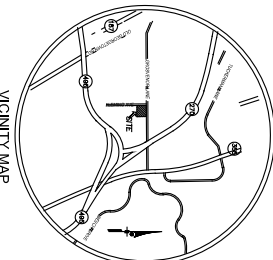
*Greg Leck, Manager
Development Review
Office of Transportation Policy
Montgomery County Department of Transportation*

*101 Monroe Street, 10th floor
Rockville, Maryland 20850*

*greg.leck@montgomerycountymd.gov
office: 240-777-7170
fax: 240-777-7178*



—UNDERSTORY PLANTING (15 PLANTS)
TREES OR SHRUBS TO BE PROVIDED
WITHIN EASTERN AREA TO BE RETAINED AT A RATE OF 33 SHRUBS
OR EQUIVALENT UNDERSTORY TREES PER ACRE, UNLESS OTHERWISE
DEFINED BY THE FOREST CONSERVATION INSPECTOR. SEE UNDERSTORY
PLANTING SCHEDULE FOR APPROXIMATE QUANTITIES.



PROFESSORIAL CERTIFICATION: I hereby certify that these documents were prepared or approved by me, and that I am a full tenured professor at Harrogate, enrolled under the laws of the State of Maryland.

FLOORKA JEIJER
 Interlocking plastic
 800 North Charles St., Ste. 100
 Baltimore, Maryland 21205
 Phone: 410.528.8339
 Fax: 410.528.8422

APPLICANT: SHELTER DEVELOPMENT, LLC
PARCEL 963 & PARCEL 980; WSSC GRID 212NW05 & 213NW05
5510 GROSVENOR LANE; TAX MAP GRID HP123
7TH ELECTION DISTRICT, BETHESDA, MARYLAND

SITE PLAN # 820170090

PLANTING REQUIREMENTS

PLANTING REQUIREMENTS

SCALE: 1" = 30'-0"



















PLANTING REQUIREMENTS

1. IN ACCORDANCE WITH THE MONTGOMERY COUNTY CODE, EACH VARIANCE TREE REMOVED WHICH IS NOT PART OF A FOREST STAND REQUIRES MITIGATION, FOR EVERY (1) INCH OF CALIPER REMOVED (4") INCH OF CALIPER SHALL BE REPLACED.

4338. 31.5" DBH TULIP POPLAR
4339. 24" DBH KENTUCKY COFFEE TREE
3. TOTAL MITIGATION CALIPER INCHES OF TREES PROVIDED IN LANDSCAPE PLAN = 210 INCHES
CALCULATION: 57.5'x4 = 14.38 INCHES.
4. EXCAVATION FOR THE REMOVAL OF EXISTING BARREN WITHIN THE LIMIT OF DISTURBANCE SHOWN IN THE REFORESTATION AREA SHOULD BE LIMITED APPROPRIATE CHEMICAL CONTROL, ROAD AND EXCAVATION IS REQUIRED WITHIN THE CRITICAL ROOT ZONES OF THE OFF-SITE TREES.
5. REFER TO THE DETAIL "TEMPORARY SOIL AND ROOT PROTECTION PRACTICES" ON P.03.0 FOR CRITICAL ROOT ZONE PROTECTION FOR TREES IMPACTED BY PLANTING IN THE OFF-SITE REFORESTATION AREA.
6. FIELD LOCATE AND IDENTIFY ALL POTENTIAL REFORESTATION TREE PLANTING LOCATIONS PRIOR TO DESIGNING TO MINIMIZE THE IMPACT OF ROOTS.
7. ALL PLANTING PIT LOCATIONS SHALL BE POND AND DUG WITH IN THE OFF-SITE REFORESTATION AREA, IMPACTED ROOTS 1' OR GREATER SHALL BE HAND CUT FLUSH TO THE REMAINING ROOT PRIOR TO TREE INSTALLATION.
8. TREE PROTECTION FENCING SHALL BE INSTALLED ALONG THE STRUCTURAL ROOT ZONES OF EXISTING TREES WITH TRUNKS WITHIN THE OFF-SITE REFORESTATION AREA. 3" DOUBLE SHROUDED HARDWOOD MULCH SHALL BE PLACED WITHIN THE TREE PROTECTION FENCING NOT TO ENCRUST WITHIN 1' ROOT WITHIN THE TRUNKS EXISTING ROOT PLANE.

LEGEND

- | | | | | | | | |
|---|---|---|----------------------|---|----------------------|---|-----------------------|
|  | OFF-SITE REFORESTATION AREA |  | RETAIN FOREST AREA |  | CRITICAL ROOT ZONE |  | STRUCTURAL ROOT ZONE |
|  | STEEP SLOPES
>25% (NON IDENTIFIED) |  | LIMIT OF DISTURBANCE |  | EXISTING GRADE MAJOR |  | TREE PROTECTION FENCE |
|  | EXISTING TREES WITHIN
LIMIT OF DISTURBANCE |  | EXISTING FOREST EDGE |  | SOIL UNIT |  | |
|  | TREE TO BE REMOVED |  | EXISTING GRADE MINOR |  | TRACT AREA |  | |

FOREST CONSERVATION NARRATIVE

EXISTING FOREST HAS BEEN LOCATED AND IDENTIFIED WITHIN THE TRACT AREA OF THE PROPERTY BOUNDARY AND TOTALS 0.98 ACRES. THE PROPOSED DEVELOPMENT WILL REQUIRE CLEARING OF 0.65 ACRES OF THE EXISTING FOREST ON-SITE AND SIX OF THE VARIANCE TREES.

TREE PRESERVATION MEASURES WILL BE USED TO RETAIN 0.33 ACRES OF EXISTING FOREST ON-SITE AND THREE OF THE POTENTIAL VARIANCE TREES.

ONE ON-SITE REFORESTATION AREA HAS BEEN IDENTIFIED ON THE ADJACENT PROPERTY TO SATISFY THE REFORESTATION REQUIREMENT OF 0.33 ACRES.

NOTES

1. THE SITE IS LOCATED IN MONTGOMERY COUNTY AT 5510 GROSVENOR LANE, BETHESDA, MD. (LATITUDE: 39° 01' 19.44" N, LONGITUDE: 77° 00' 39.36" W). ACCESS IS V GROSVENOR LANE.
2. THE SUBJECT PROPERTY IS LOCATED IN THE NORTHWEST CORNER OF WAREHOUT PARK MASTER PLAN.
3. THE SUBJECT PROPERTY IS LOCATED WITHIN THE LOWER ROCK CREEK WATERSHED (USE CLASS I-1).

4. THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPA OR PMA.
5. THERE ARE NO EMBARRAS, STREAMS OR CHANNELIZED DRAINAGWAYS WITHIN 50 FEET OF THE SUBJECT PROPERTY.
6. THERE IS NO 100 YEAR FLOODPLAIN ON NON-TIDAL WETLAND AREAS OR ON WITHIN 100 FEET OF THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS LOCATED ON FEMA FIRMA WD 240020388D IN ZONE "X" WHICH IS DETERMINED TO BE OUTSIDE OF THE 0.2% FLOODPLAIN.
7. NO RAPE, THEFT/ENTRY, OR KNIFE/EDGED SPECIES WERE OBSERVED ON THE SITE AS PER JBA SITE VISIT AND DNR RESPONSE LETTER DATED OCTOBER 6, 2015.
8. THERE ARE NO SLOPES OF 25% OR STEEPER. THERE ARE NO ERODIBLE SOILS ON THE SUBJECT PROPERTY.
9. THERE ARE NO HISTORICAL OR CULTURAL FEATURES ON THIS SITE.
10. A PORTION OF THE ADJACENT PROPERTY HAS BEEN IDENTIFIED AS BEING PART OF THE HAWLEY AND HENNINGSON TRUST. THIS PORTION IS DESIGNATED AS THE WILD ACRES/GEORGE/STEVENS ESTATE RESOURCE #5015.
11. INVASIVE PLANTS LOCATED ON SITE INCLUDE: BUSH HONEYSUCKLE, ORIENTAL Bittersweet, ENGLISH IVY, AND VITEXA.
12. LOT 11 GROSS/ENERG HEIGHTS HAS BEEN CLASSIFIED AS A HISTORIC PROPERTY.
13. REFER TO 12.4 (LANDSCAPE PLAN) FOR TREES APPLIED TO VARIANCE TREE REMOVAL.
14. PROTECTION AND REFORESTATION TREE CREDIT.
15. PROPERTY WILL BE LOCATED IN THE RESIDENTIAL-NO. (R-30) ZONE.
16. 0.45 ACRES AFFORESTATION/REFORESTATION REQUIREMENT TO BE MET THROUGH 0.45 ACRES OF OFF-SITE REFORESTATION ON THE ADJACENT WILD ACRES PROPERTY.

SHEET TITLE:
FINAL FOREST
CONSERVATION PLAN

DATE: 2017-07-21

SCALE: 1" = 30'

FCP2.0

ATTACHMENT 11



Attorneys at Law

3 Bethesda Metro Center, Suite 460
Bethesda, MD 20814
www.lerchearly.com

Patricia A. Harris

Tel. (301) 841-3832
Fax (301) 347-3756
paharris@lerchearly.com

July 17, 2017

BY ELECTRONIC DELIVERY

Mr. Steve Findley
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Brightview Grosvenor - 5510 Grosvenor Lane (the "Property")
Final Forest Conservation Plan # _____
Tree Variance Request and Justification

Dear Mr. Findley:

We are submitting this tree variance request on behalf of Shelter Development, LLC, the Applicant for the above-referenced Final Forest Conservation Plan (the "Application"). Pursuant to Section 22A-21(b) of the Montgomery County Code (the "Code"), we are requesting approval of a variance from the provisions of Maryland Annotated Code, Natural Resources Article, Section 5-1607(c)(2)(iii).

Background

The Applicant is the contract purchaser of approximately 2.74 acres of land (or 119,455 square feet) located in the southeast quadrant of the intersection of Grosvenor Lane and Fleming Avenue, more particularly known as Parcels P963 and P980 on Tax Map HP13. The Property is zoned R-90 and is currently improved with a two-story, 3,488 square foot residential detached dwelling and related site improvements. The Applicant proposes to redevelop the Property to accommodate an assisted living facility.

The Applicant is submitting a variance request for the following: 1) removal of six on-site significant trees with a diameter of 30 inches or more, five of which are located within the forest stand area to be cleared; 2) ability to impact, but retain, three on-site trees located within the forest stand area to be cleared; 3) removal of one 24-inch off-site tree, in poor condition, located on the adjacent historic property; and 4) with the intent to save the tree, given a 77% critical root zone impact to one 12-inch Spruce located off-site on the adjacent historic property, the ability to remove this tree, if needed; 5) ability to impact, but retain, 10 significant off-site trees (collectively, the "Subject Trees"). The location and existing condition of the specimen

and significant trees on the Property is shown on the Natural Resources Inventory Plan ("NRI"), approved by the Maryland-National Capital Park and Planning Commission ("M-NCPPC") on December 18, 2015 (NRI#420160670). The Subject Trees are discussed in greater detail below.

The Variance Request

A. The Property

The Applicant requests a variance to allow for the removal of six significant trees on the Property and to impact the three additional trees on the Property (the "On-Site Variance"). Importantly, the impact to the critical root zone of these trees will be minimal and thus these trees will be able to be retained. Five of the trees to be removed are located within the forest stand area that is to be cleared. The On-Site Variance trees are identified on the attached Final Forest Conservation Plan (Exhibit "A").

B. The Grosvenor Estate

Located directly to the east of the Property is the Grosvenor mansion house, garage and caretaker's house (collectively, the "Grosvenor Estate"), which is designated as a historic resource with an 8.9-acre environmental setting around the historic resource. The Grosvenor Estate was added to the Master Plan for Historic Preservation on March 31, 2009 and is currently used for philanthropic purposes as the Society of American Foresters' national headquarters. Because the Grosvenor Estate property is a "historic site," a variance under Section 22A-21(b) of the Code is required for the removal of any tree on the Grosvenor Estate property (*see* Section 22A-12(b)), even though the site is not included in the Application for purposes of development.

In connection with the proposed development of the Property, the Applicant is proposing certain improvements in the southeast corner of the Property that will impact the critical root zone ("CRZ") of two of the trees on the Grosvenor Estate property. Due to the location of the trees near the western property boundary of the Grosvenor Estate property, the CRZ of the off-site trees will be impacted such that the trees will need to be removed. Thus, the Applicant requests a variance for the removal of two trees. One tree to be removed is a 24-inch Kentucky Coffee tree in poor condition and the other is a 12-inch Spruce, that will only be removed if tree save efforts are unsuccessful. In addition, the Applicant requests a variance to impact 10 off-sites (collectively, the "Grosvenor Estate Variance"). Critically, the impact to the root zones of these trees will be minimal and thus these 10 trees will be able to be retained. The Grosvenor Estate Variance trees are identified on the attached chart (Exhibit "B").

Justification

As explained more fully below, retention of or avoiding any impact to the Subject Trees would result in undue hardship to the Applicant. The peculiar conditions of the Property and the nature of the proposed improvements justify granting the Variance pursuant to Section 22A-21(b) of the Code because the granting of the variance (i) will not confer a special privilege on the Applicant that would be denied to others; (ii) is not based on conditions or circumstances which result from the action of the Applicant; (iii) is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property; and (iv) will not violate State water quality standards or cause measurable degradation in water quality.

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The Property includes a generous 0.98 acres of Forest. The 2.74 acre Property is improved with a two-story, 3,488 square foot residential detached dwelling and related site improvements, which according to the Maryland State Department of Assessments and Taxation records were constructed in 1951. As a result of the age of the residence, and the fact that the large parcel was never redeveloped, several large trees currently exist on-site.

Development of the Property is guided in part by the 1992 Approved and Adopted North Bethesda/Garrett Park Master Plan (the "Master Plan"). The Master Plan emphasizes the need for a variety of housing within the Master Plan area and in particular, recognizes the need for housing for the elderly. The Project will further this recommendation of the Master Plan, as the proposed assisted living facility will introduce a new housing type to the surrounding neighborhood that does not currently exist in the area.

The impact to the Subject Trees as a result of the proposed redevelopment is the minimum necessary. The Project has been specifically designed to minimize impacts to the existing priority vegetation. Two of the Subject Trees are impacted by the proposed entrance road improvements. The location of the entrance road was strategically chosen to be in the approximate location of the existing access point, which is located as far as possible from the intersection of Fleming Avenue and Grosvenor Lane and from the residential neighborhood to the west. The impact to these Subject Trees is unavoidable, as the entrance drive improvements, necessary to service the proposed development, cannot be accommodated without the removal of these two trees. Critically, the proposed assisted living building is located to maximize retention of the existing tree stand on the Property along the northern frontage. As recommended in the Master Plan, the building and entrance drive location will allow for the creation of a .33 acre tree-preservation area along Grosvenor Lane within which three significant trees are located including a 43-inch Red Oak.

As mentioned above, the Property is located adjacent to the historic Grosvenor Estate. Pursuant to Section 22A-12(b), any tree, irrespective of its size, that is part of a historic site or associated with a historic structure must be left in an undisturbed condition unless a variance is approved by the Planning Board. Thus, by virtue of its location adjacent to a historic property, the Applicant must seek a variance for the removal of two trees located on the Grosvenor Estate and to impact 10 other trees. One off-site tree to be removed is 24 inches and in poor condition, and the other is a 12-inch tree that will be retained if possible, but given the impact to the root zone, may need to be removed. But for its location on the historic property, these removals would not trigger the need for a variance. Importantly, the effect on the impacted trees will be minimal and thus they will be retained.

The proposed impacts are necessary to allow for the redevelopment of the Property, consistent with the recommendations of the Master Plan. Furthermore, the proposed Project will result in the disturbance of fewer significant trees than would be necessitated by redevelopment of the Property with single-family detached homes under the standard under the Standard Method of Development.

- (2) *Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Because of the dispersal of trees throughout the Property, and due to the location and extent of the CRZ of the Grosvenor Estate Variance tree, the inability to remove and/or impact the Subject Trees would prevent the Applicant from developing the Property in a manner that is consistent with the Master Plan and the Property's zoning. It would also deprive the Applicant of the opportunities enjoyed by others with similarly zoned properties. Any redevelopment of the Property would likely require the removal of some of the Subject Trees and as noted above, the proposed development results in the removal of significantly less trees than would the development of the Property with single family homes in accordance with the standard method.

- (3) *Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance; and*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Subject Trees are not located within a stream buffer, wetland or special protection area. The Property currently contains no stormwater management on-site. Therefore, the provision of stormwater management facilities in connection with the proposed redevelopment will improve the stormwater quality on the Property. The project will comply with the requirements of Chapter 19 of the Montgomery County Code. Applicable requirements under Chapter 19 are addressed in a Concept Stormwater Management Plan submitted for review by the Montgomery County Department of Permitting Services ("DPS").

The current Maryland Department of the Environment (MDE) Stormwater Management regulations that Montgomery County has adopted require the use of environmental site design (ESD) techniques to treat the runoff from 1 inch of rainfall on all new developments, where stormwater management is required. Per MDE's 2000 Maryland Stormwater Design Manual, "[t]he criteria for sizing ESD practices are based on capturing and retaining enough rainfall so that the runoff leaving the site is reduced to a level equivalent to a wooded site in good condition[.]" The proposed stormwater management plans for the Property will meet this standard with the removal of and impact to the identified Subject Trees. Therefore, the variance will not affect water quantity standards and no measurable degradation in water quality will be experienced because effective mitigation measures are being provided.

(4) Provide any other information appropriate to support the request.

All efforts have been made to save the significant trees on the Property, where possible. The nature of the improvements and the location of the existing trees make it impossible to save the Subject Trees. However, to mitigate the loss of the Subject Trees located outside the forest stand area to be removed, the Applicant is proposing to plant 6 trees on-site, each with a minimum 3.0 inch caliper. The exact location and specifications of these plantings are shown in more detail on the Preliminary Forest Conservation Plan. The Project will accommodate all mitigation on-site, at a ratio of one (1) inch for every four (4) inches removed. Accordingly, through mitigation, the redevelopment will provide more trees on site than currently exist. In addition, the Applicant also intends to provide 90 new trees on the Grosvenor Estate property, which will go towards meeting a portion of the afforestation requirements for the Project and expand the existing forest conservation easement on the adjacent site by .45 acres.

In conformance with Section 22A-21(d) of the Code, the Variance will not confer a special privilege on the Applicant that would be denied to others. Rather, as discussed above, the Variance will prevent the deprivation of rights to the Applicant that have been enjoyed by others similarly situated.

Conclusion

We believe the foregoing, as well as the information contained in the Preliminary Forest Conservation Plan and Amendments, clearly demonstrate that the grant of the Variance pursuant to Section 22A-21(b) of the Code is appropriate in this case. If you have any questions or require any additional information for your review of this request, please feel free to contact me. We appreciate your consideration of this request.

Mr. Steve Findley
July 17, 2017
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Very truly yours,

LERCH, EARLY & BREWER, CHTD.

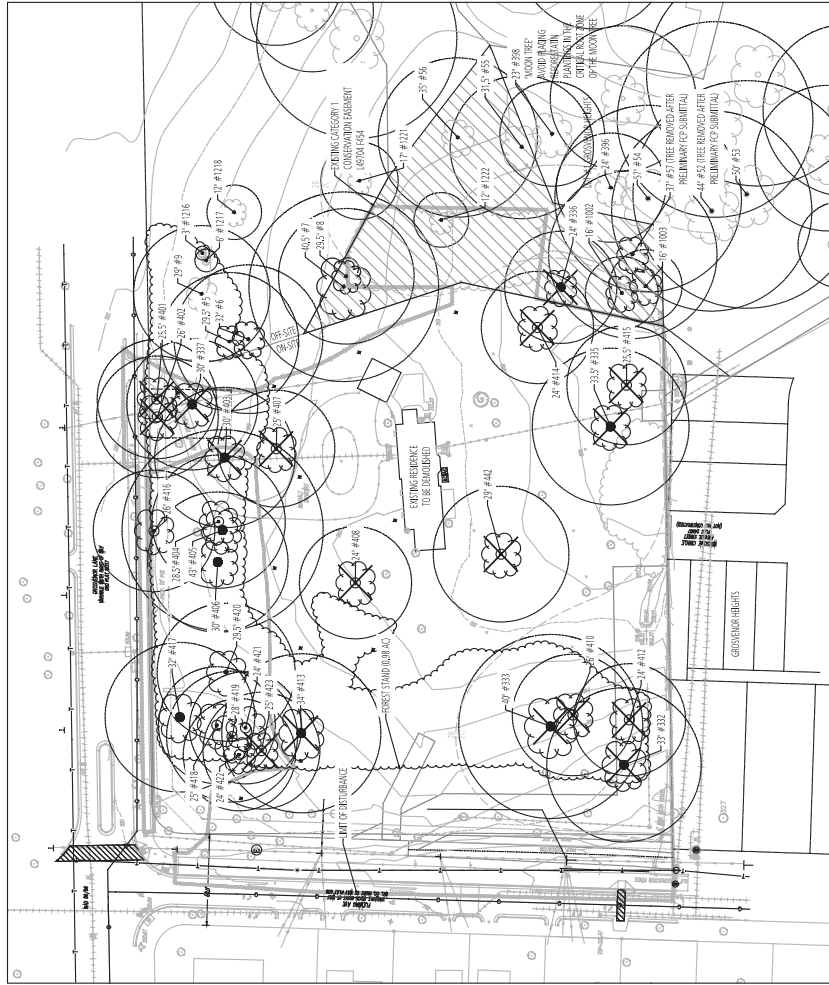
Patricia A. Harris

Attachments

ON SITE SIGNIFICANT TREES

Case Number	Case Name	Case Type	Case Status	Case Category	Case Sub-category	Case Description	Case Details	Case Notes	Case Remarks
1	Case 1	Case 1.1	Case 1.1.1	Case 1.1.1.1	Case 1.1.1.1.1	Case 1.1.1.1.1.1	Case 1.1.1.1.1.1.1	Case 1.1.1.1.1.1.1.1	Case 1.1.1.1.1.1.1.1.1
2	Case 2	Case 2.1	Case 2.1.1	Case 2.1.1.1	Case 2.1.1.1.1	Case 2.1.1.1.1.1	Case 2.1.1.1.1.1.1	Case 2.1.1.1.1.1.1.1	Case 2.1.1.1.1.1.1.1.1
3	Case 3	Case 3.1	Case 3.1.1	Case 3.1.1.1	Case 3.1.1.1.1	Case 3.1.1.1.1.1	Case 3.1.1.1.1.1.1	Case 3.1.1.1.1.1.1.1	Case 3.1.1.1.1.1.1.1.1
4	Case 4	Case 4.1	Case 4.1.1	Case 4.1.1.1	Case 4.1.1.1.1	Case 4.1.1.1.1.1	Case 4.1.1.1.1.1.1	Case 4.1.1.1.1.1.1.1	Case 4.1.1.1.1.1.1.1.1
5	Case 5	Case 5.1	Case 5.1.1	Case 5.1.1.1	Case 5.1.1.1.1	Case 5.1.1.1.1.1	Case 5.1.1.1.1.1.1	Case 5.1.1.1.1.1.1.1	Case 5.1.1.1.1.1.1.1.1
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7	Case 7	Case 7.1	Case 7.1.1	Case 7.1.1.1	Case 7.1.1.1.1	Case 7.1.1.1.1.1	Case 7.1.1.1.1.1.1	Case 7.1.1.1.1.1.1.1	Case 7.1.1.1.1.1.1.1.1
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18	Case 18	Case 18.1	Case 18.1.1	Case 18.1.1.1	Case 18.1.1.1.1	Case 18.1.1.1.1.1	Case 18.1.1.1.1.1.1	Case 18.1.1.1.1.1.1.1	Case 18.1.1.1.1.1.1.1.1
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23	Case 23	Case 23.1	Case 23.1.1	Case 23.1.1.1	Case 23.1.1.1.1	Case 23.1.1.1.1.1	Case 23.1.1.1.1.1.1	Case 23.1.1.1.1.1.1.1	Case 23.1.1.1.1.1.1.1.1
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36	Case 36	Case 36.1	Case 36.1.1	Case 36.1.1.1	Case 36.1.1.1.1	Case 36.1.1.1.1.1	Case 36.1.1.1.1.1.1	Case 36.1.1.1.1.1.1.1	Case 36.1.1.1.1.1.1.1.1
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38	Case 38	Case 38.1	Case 38.1.1	Case 38.1.1.1	Case 38.1.1.1.1	Case 38.1.1.1.1.1	Case 38.1.1.1.1.1.1	Case 38.1.1.1.1.1.1.1	Case 38.1.1.1.1.1.1.1.1
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50	Case 50	Case 50.1	Case 50.1.1	Case 50.1.1.1	Case 50.1.1.1.1	Case 50.1.1.1.1.1	Case 50.1.1.1.1.1.1	Case 50.1.1.1.1.1.1.1	Case 50.1.1.1.1.1.1.1.1
51	Case 51	Case 51.1	Case 51.1.1	Case 51.1.1.1	Case 51.1.1.1.1	Case 51.1.1.1.1.1	Case 51.1.1.1.1.1.1	Case 51.1.1.1.1.1.1.1	Case 51.1.1.1.1.1.1.1.1
52	Case 52	Case 52.1	Case 52.1.1	Case 52.1.1.1	Case 52.1.1.1.1	Case 52.1.1.1.1.1	Case 52.1.1.1.1.1.1	Case 52.1.1.1.1.1.1.1	Case 52.1.1.1.1.1.1.1.1
53	Case 53	Case 53.1	Case 53.1.1	Case 53.1.1.1	Case 53.1.1.1.1	Case 53.1.1.1.1.1	Case 53.1.1.1.1.1.1	Case 53.1.1.1.1.1.1.1	Case 53.1.1.1.1.1.1.1.1
54	Case 54	Case 54.1	Case 54.1.1	Case 54.1.1.1	Case 54.1.1.1.1	Case 54.1.1.1.1.1	Case 54.1.1.1.1.1.1	Case 54.1.1.1.1.1.1.1	Case 54.1.1.1.1.1.1.1.1
55	Case 55	Case 55.1	Case 55.1.1	Case 55.1.1.1	Case 55.1.1.1.1	Case 55.1.1.1.1.1	Case 55.1.1.1.1.1.1	Case 55.1.1.1.1.1.1.1	Case 55.1.1.1.1.1.1.1.1
56	Case 56	Case 56.1	Case 56.1.1	Case 56.1.1.1	Case 56.1.1.1.1	Case 56.1.1.1.1.1	Case 56.1.1.1.1.1.1	Case 56.1.1.1.1.1.1.1	Case 56.1.1.1.1.1.1.1.1
57	Case 57	Case 57.1	Case 57.1.1	Case 57.1.1.1	Case 57.1.1.1.1	Case 57.1.1.1.1.1	Case 57.1.1.1.1.1.1	Case 57.1.1.1.1.1.1.1	Case 57.1.1.1.1.1.1.1.1
58	Case 58	Case 58.1	Case 58.1.1	Case 58.1.1.1	Case 58.1.1.1.1	Case 58.1.1.1.1.1	Case 58.1.1.1.1.1.1	Case 58.1.1.1.1.1.1.1	Case 58.1.1.1.1.1.1.1.1
59	Case 59	Case 59.1	Case 59.1.1	Case 59.1.1.1	Case 59.1.1.1.1	Case 59.1.1.1.1.1	Case 59.1.1.1.1.1.1	Case 59.1.1.1.1.1.1.1	Case 59.1.1.1.1.1.1.1.1
60	Case 60	Case 60.1	Case 60.1.1	Case 60.1.1.1	Case 60.1.1.1.1	Case 60.1.1.1.1.1	Case 60.1.1.1.1.1.1	Case 60.1.1.1.1.1.1.1	Case 60.1.1.1.1.1.1.1.1
61	Case 61	Case 61.1	Case 61.1.1	Case 61.1.1.1	Case 61.1.1.1.1	Case 61.1.1.1.1.1	Case 61.1.1.1.1.1.1	Case 61.1.1.1.1.1.1.1	Case 61.1.1.1.1.1.1.1.1
62	Case 62	Case 62.1	Case 62.1.1	Case 62.1.1.1	Case 62.1.1.1.1	Case 62.1.1.1.1.1	Case 62.1.1.1.1.1.1	Case 62.1.1.1.1.1.1.1	Case 62.1.1.1.1.1.1.1.1
63	Case 63	Case 63.1	Case 63.1.1	Case 63.1.1.1	Case 63.1.1.1.1	Case 63.1.1.1.1.1	Case 63.1.1.1.1.1.1	Case 63.1.1.1.1.1.1.1	Case 63.1.1.1.1.1.1.1.1
64	Case 64	Case 64.1	Case 64.1.1	Case 64.1.1.1	Case 64.1.1.1.1	Case 64.1.1.1.1.1	Case 64.1.1.1.1.1.1	Case 64.1.1.1.1.1.1.1	Case 64.1.1.1.1.1.1.1.1
65	Case 65	Case 65.1	Case 65.1.1	Case 65.1.1.1	Case 65.1.1.1.1	Case 65.1.1.1.1.1	Case 65.1.1.1.1.1.1	Case 65.1.1.1.1.1.1.1	Case 65.1.1.1.1.1.1.1.1
66	Case 66	Case 66.1	Case 66.1.1	Case 66.1.1.1	Case 66.1.1.1.1	Case 66.1.1.1.1.1	Case 66.1.1.1.1.1.1	Case 66.1.1.1.1.1.1.1	Case 66.1.1.1.1.1.1.1.1
67	Case 67	Case 67.1	Case 67.1.1	Case 67.1.1.1	Case 67.1.1.1.1	Case 67.1.1.1.1.1	Case 67.1.1.1.1.1.1	Case 67.1.1.1.1.1.1.1	Case 67.1.1.1.1.1.1.1.1
68	Case 68	Case 68.1	Case 68.1.1	Case 68.1.1.1	Case 68.1.1.1.1	Case 68.1.1.1.1.1	Case 68.1.1.1.1.1.1	Case 68.1.1.1.1.1.1.1	Case 68.1.1.1.1.1.1.1.1
69	Case 69	Case 69.1	Case 69.1.1	Case 69.1.1.1	Case 69.1.1.1.1	Case 69.1.1.1.1.1	Case 69.1.1.1.1.1.1	Case 69.1.1.1.1.1.1.1	Case 69.1.1.1.1.1.1.1.1
70	Case 70	Case 70.1	Case 70.1.1	Case 70.1.1.1	Case 70.1.1.1.1	Case 70.1.1.1.1.1	Case 70.1.1.1.1.1.1	Case 70.1.1.1.1.1.1.1	Case 70.1.1.1.1.1.1.1.1
71	Case 71	Case 71.1	Case 71.1.1	Case 71.1.1.1	Case 71.1.1.1.1	Case 71.1.1.1.1.1	Case 71.1.1.1.1.1.1	Case 71.1.1.1.1.1.1.1	Case 71.1.1.1.1.1.1.1.1
72	Case 72	Case 72.1	Case 72.1.1	Case 72.1.1.1	Case 72.1.1.1.1	Case 72.1.1.1.1.1	Case 72.1.1.1.1.1.1	Case 72.1.1.1.1.1.1.1	Case 72.1.1.1.1.1.1.1.1
73	Case 73	Case 73.1	Case 73.1.1	Case 73.1.1.1	Case 73.1.1.1.1	Case 73.1.1.1.1.1	Case 73.1.1.1.1.1.1	Case 73.1.1.1.1.1.1.1	Case 73.1.1.1.1.1.1.1.1
74	Case 74	Case 74.1	Case 74.1.1	Case 74.1.1.1	Case 74.1.1.1.1	Case 74.1.1.1.1.1	Case 74.1.1.1.1.1.1	Case 74.1.1.1.1.1.1.1	Case 74.1.1.1.1.1.1.1.1
75	Case 75	Case 75.1	Case 75.1.1	Case 75.1.1.1	Case 75.1.1.1.1	Case 75.1.1.1.1.1	Case 75.1.1.1.1.1.1	Case 75.1.1.1.1.1.1.1	Case 75.1.1.1.1.1.1.1.1
76	Case 76	Case 76.1	Case 76.1.1	Case 76.1.1.1	Case 76.1.1.1.1	Case 76.1.1.1.1.1	Case		

OFF-SITE SIGNIFICANT TREES PER NRI 420081160 (HISTORIC PROPERTY)

[illegible]

1 TREE REMOVAL PLAN

SCALE: 1" = 30'-0"

PLAN

LEGEND

[illegible]

	TREE TO BE REMOVED		CRITICAL ROOT ZONE
	SIGNIFICANT TREE TAGGED GREATER THAN 24" DBH BUT LESS THAN 30" DBH		LIMIT OF DISTURBANCE
	VARIANCE TREE		

DEVELOPER'S CERTIFICATE
The undersigned hereby certifies that the following is the final Approved
Development Plan for the project described below. The project is located at:
No. 4205700090 including Approval Conditions, Development Program,
and Certified Site Plan.
Developer's Name: Zebra Development, LLC
Contact Person: _____
Address: 1215 S. Green Street 3102 Apartment, MO 63103
Phone: 314-241-1369
Signature: _____
Authorized Signature

DATE: 2017-06-05

DATE: 2017-06-05

 $\sigma_1 = 1.3$

FCP1.0

BRIGHTVIEW - GROSVENOR
APPLICANT: SHELTER DEVELOPMENT, LLC
PARCEL 963 & PARCEL 980: WSSC GRID 212NW05 & 213NW
510 GROSVENOR LANE; TAX MAP GRID HP123
TH ELECTION DISTRICT, BETHESDA, MARYLAND
TE PLAN # 820170090

REVISION: DATE:

RAWN: BM

CHECKED: ZR

ADDITIONAL CERTIFICATION: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional landscape architect under the laws of the State of Maryland.

FLOURA TEETER
Executive Director
200 North Charleston, S.C. 2900

EXHIBIT 'B'

Variance Trees To Be Removed		
#	Botanical / Common Name	DBH
332	Liriodendron tulipifera / Tulip Poplar	33"
333	Liriodendron tulipifera / Tulip Poplar	40"
335	Liriodendron tulipifera / Tulip Poplar	33.5"
337	Quercus faciaata / Southern Red Oak	30"
403	Liriodendron tulipifera / Tulip Poplar	30"
413	Liriodendron tulipifera / Tulip Poplar	34"
336	Gymnociadus dioicus / Kentucky Coffeetree	24"
1222	Picea spp. / Spruce spp.	12"

Specimen Trees To Be Impacted (Not Removed)				
#	Botanical / Common Name	DBH	% CRZ Impact	
405	Quercus faciaata / Southern Red Oak	43"	39.91%	
406	Liriodendron tulipifera / Tulip Poplar	30"	11.30%	
417	Liriodendron tulipifera / Tulip Poplar	32"	7.10%	
5	Acer saccharum / Sugar Maple	29.5"	13.52%	historic prop.
6	Acer saccharum / Sugar Maple	32"	15.60%	historic prop.
7	Liriodendron tulipifera / Tulip Poplar	24"	36.95%	historic prop.
8	Liriodendron tulipifera / Tulip Poplar	29.5"	28.03%	historic prop.
54	Fagus grandifolia / Beech	57"	4.45%	historic prop.
55	Morus alba / White Mulberry	31.5"	2.68%	historic prop.
56	Fraxunus americana / White Ash	35"	2.27%	historic prop.
57	Fagus grandifolia / Beech	37"	10.79%	historic prop.
1002	Liriodendron tulipifera / Tulip Poplar	16"	19.23%	historic prop.
1221	Liquidambar styraciflua / Sweetgum	17"	2.84%	historic prop.

ATTACHMENT 12



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Lisa Feldt
Director

July 21, 2017

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

RE: Brightview Grosvenor, ePlan 820170090, site plan application accepted on 4/26/2017

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

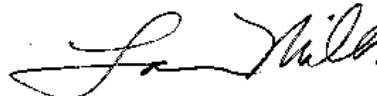
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon meeting 'conditions of approval' pertaining to variance trees recommended by Planning staff, as well as the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that minor revisions to the impacts to trees subject to variance provisions are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Miller', written in a cursive style.

Laura Miller
County Arborist

cc: Steve Findley, Planner Coordinator