



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item No.: 6
Date: 05-16-2019

CU-19-04: Francisco Landscaping Contractor-Supplemental Report

ET

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Completed: May 6, 2019

Description

- A. Request for a Conditional Use to operate a Landscape Contractor business, on a 6.18-acre property located at 15400 Holly Grove Road, Silver Spring, MD, approximately 315 feet southwest of Awkard Road and 1,250 feet southwest of the intersection of Holly Grove Road and Norwood Road, known as P066 on tax map JS41, Snowdens Manor. 1997 *Cloverly Master Plan* Area.

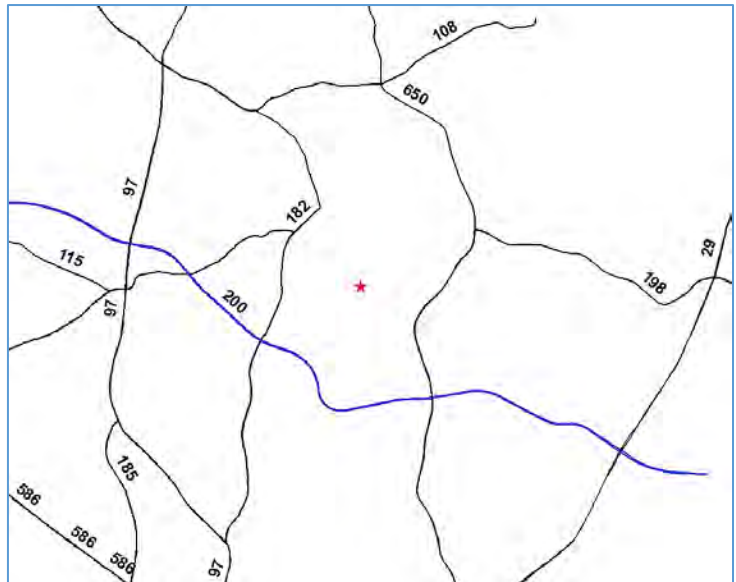
Staff Recommendation: Approval with conditions

Application Filed: September 20, 2018

OZAH Public Hearing: June 7, 2019

Planning Board Hearing: January 10, 2019; May 16, 2019

Applicant: FM Group, Inc. (d/b/a "Francisco Landscaping")



Summary

- With the recommended conditions, the subject use conforms to all applicable requirements and regulations for approval of a Landscape Contractor Conditional Use, **Section 59.3.5.5** of Montgomery County Zoning Ordinance and the applicable development standards under the RE-2C Zone (**Section 59. 4.4-5**)
- The subject use is consistent with the recommendations of the *1997 Cloverly Master Plan* and compatible with the character of the surrounding area.
- Approval of the requested Conditional Use will not cause undue harm or adverse impact on the immediate neighborhood.
- There are no traffic, circulation, noise or environmental issues associated with the application, provided that the recommended conditions are satisfied.
- This application complies with the Montgomery County Environmental Guidelines.
- Staff Recommends approval of the Variance Request from the 50-foot side street setback requirement.
- The Conditional Use Application proposes to decrease the impervious surface on the property from 18 percent to 13.8 percent.

SECTION I: STAFF RECOMMENDATION AND CONDITIONS OF APPROVAL

Staff recommends approval of CU-19-04 subject to the following conditions:

- The total number of employees including family members must not exceed a maximum of 15.
- The conditional use must not use the gated driveway on the west side of the property's frontage along Holly Grove Road for access.
- The hours of operations must be Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 5:00 p.m. Snow removal may be provided when needed seven days a week, 24 hours a day.
- The total number of parking spaces must not exceed 30, including parking for trailers associated with the business on the property.
- The total number of trucks and trailers for the proposed use must not exceed 16: 10 trucks and 6 trailers.
- There must be no identification sign on the property.
- No mulch manufacturing, composting or retail sales of plant materials, garden supplies, or equipment shall be conducted on the conditional use property.
- Semi-trucks shall visit the subject property for mulch deliveries up to two times a week, between the hours of 10:00 am and 2:00 pm, during prime mulch season only, March 1 through April 30.
- The Applicant shall be bound by the landscaping plan approved by the Hearing Examiner.
- The conditional use must comply with the conditions of the Final Forest Conservation Plan.

I. Background

A. Project Description

The Applicant, Francisco Landscaping, a family owned business, is requesting approval of a Conditional Use to validate the existing landscape contractor business that has been in operation on the property for the past 13 years without an approved Conditional Use permit. The Applicant stated that the landscape contractor business provides traditional, commercial, and residential landscaping as well as fencing, gutter cleaning, firewood delivery and snow removal services. The business also offers stonework, including patios, walkways, steps and gardens.

The subject application was initially filed on September 20, 2018. On December 28, 2018, the Planning Staff issued its report recommending Approval of the application with conditions (Attachment C-S). At the January 10, 2019 Planning Board meeting, the Board heard Staff's presentation and the testimony from the Applicant, the Cloverly Civic association, and neighbors who came to testify in opposition to the proposal, expressing traffic and safety concerns. Subsequently, the Board determined to defer its recommendation and instructed the Applicant and the neighbors to meet in the hope of returning to the Board with mutually agreed upon solutions to issues that had been identified.

The initial Conditional Use application proposed a seasonal maximum of 19 employees, consisting of administrative staff, loading and on-site operation crew, and a field crew. However, the Applicant agreed to Staff's recommendation to limit the total number of employees to the current level of 15. Five of the employees are members of the family owned business. The number of employees will vary, depending on the season, with the largest number of employees needed during the spring, summer and fall. Many of the laborers carpool to work, and often will report directly to the job site without coming to the property.

Hours of operation for the landscape contractor business are Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 5 p.m.

This supplemental report focuses on developments that took place after the January 10, 2019 Planning Board meeting and provides an assessment of the new information and modifications based on communications between Staff, the neighbors and the Applicant. Staff's findings on the Zoning standards, specific special exception requirements and Master Plan findings that are contained in the December 28, 2019 Staff report remain unchanged. However, the supplemental report reflects slight changes in the recommended conditions of approval to account for new circumstances and elements

II. Post January 10, 2019 Developments

In a letter addressed to Staff, dated March 6, 2019, the Applicant's attorney has reported the following:

After the January 10 Planning Board meeting we had significant communications with neighbors via a designated spokesperson, Ms. Patricia Thomas. Ms. Thomas was very kind with her time, professionalism and efforts. The Argueta family and I also attended, presented and answered questions at the January 28, 2019 Cloverly Civic Association meeting, which many neighbors attended (See attached Exhibit 14 emails). Throughout these efforts we have emphasized a desire to listen and attempt to further enhance the application as well as improve overall neighborly relations. Unfortunately, at this time, we must report that it appears that the known neighbors who spoke at the January 10 Planning Board and/or January 28 Cloverly Civic Association meeting are not satisfied with our application, or our offered enhancements (noted herein below) and thus, we appear to be at an impasse. (See attached Exhibit 15 emails with neighbor and neighborhood spokesperson Ms. Patricia Thomas of #15510 Holly Grove Road.

The Applicant's March 6, 2019 letter to Staff (attachment B-S) also states that the Applicant has made modifications to the Plans to address concerns voiced by the Planning Board members, Staff and the neighbors who testified in January. The modifications also address comments and concerns expressed by area residents as well as the Cloverly Civic Association meeting of January 28, 2019. The modifications include the following:

1. Reducing the impervious area percentage by an additional two percent over what was proposed in the original application by eliminating 15 of the 45 parking spaces originally proposed and altering the fire access design and turn around area and other minor layout design adjustments.
2. Adding additional landscaping on the west side of the property to further screen the operations from the neighbors with properties at 15317, 15315, 15311, 15307 (Myers) and 15301 (Myers) Holly Grove Road, as suggested by the Planning Board on January 10, 2019.
3. Agreeing to be bound by an additional condition suggested by the planning Staff to include an additional condition of approval of establishing a community liaison group that would include the Argueta family business and the Holly Grove Road neighbors.

The Applicant revised the plans and related documents and submitted them to the Planning Department and the Office of Zoning and Administrative Hearing (OZAH) in early March. In addition, by a letter dated on March 27, 2019, the Applicant submitted a request for the rescheduling of the Public Hearing. By mutual agreement between the Hearing Examiner, representatives of the community, the Applicant, and the Planning Staff, the Hearing Examiner scheduled a public hearing for June 7, 2019. Subsequently, the Planning Board Hearing of the case was placed on the May 16, 2019 Planning Board's Agenda.

To summarize: since January 10, 2019, the following activities have transpired concerning the proposed Landscape Contractor Conditional Use application:

1. Applicant initiated and communicated with neighbors via a designated spokesperson, Ms. Patricia Thomas.

2. Applicant communicated via email with Quentin Remein, President, Cloverly Civic Association regarding setting up a meeting with the association and the community to discuss the proposed conditional use application.
3. On January 28, the Applicant made a presentation at the Cloverly Civic Association meeting attended by the Applicant team, the community, including the immediate neighbors.
4. On March 19, 2019 the neighbors who testified at the January 10 Planning Board hearing of the case met with the Planning Staff to discuss their concerns.
5. On April 10, 2019 the Applicant team met with the Planning Staff to discuss the various revisions and modifications since the January 10, 2019 Planning Board meeting and to provide updates on the status of the Applicants effort to discuss matters with the neighbors.

Staff met separately with the Applicant and the neighbors who testified at January 10, 2019 Planning Board hearing of the Application, including the Cloverly Civic Association representative. Both sides have voiced their concerns and shared with Staff supporting documents including camera videos and pictures. Staff has listened to both sides and has taken into consideration some of the relevant issues and concerns raised at the meetings relative to the Application. Staff also noted that some of the issues raised at both meetings were rooted in past interactions between neighbors that were beyond the purview of the Conditional Use review.

Based on discussions with both parties and information emerged at the meetings Staff has added the following conditions to the ones already listed on the original Staff report:

- Semi-trucks visit to the subject property for mulch deliveries shall be up to two times a week, between the hours of 10:00 am and 2:00 pm, during prime mulch season only beginning March 1 to April 30.

Staff would have also liked to add the following condition:

The Applicant shall initiate the establishment of a community liaison group that include the Francisco Landscaping Business Owners and operators, and the Holly Grove Road Residents. The group must meet a minimum of twice a year at the Cloverly Citizen's Association's monthly meeting. Francisco landscaping must submit a written report to the Office of Zoning and Administrative Hearings within thirty days (30) days of each meeting.

However, because the neighbors indicated that they do not favor this condition due to the additional demand it would place on their otherwise busy daily life. Staff understands the neighbors' reluctance to Staff's suggestion of establishing a neighborhood liaison group because it would place additional demands on their time. However, Staff believes that a formation of such group would help to foster trust and better understanding between neighbors and would allow for opportunities to quickly resolve discontents.

If it is unlikely that a Community Liaison Group can be formed, in the alternative, staff believes that the following condition could serve a similar purpose:

The Applicant must attend two Cloverly Civic Association meetings annually to discuss any neighborhood issues and work on resolution. Francisco Landscaping must provide a written report to the Office of Zoning and Administrative Hearings within thirty (30) days of each meeting.

However, the Applicant had indicated to staff that their last appearance at the Civic Association, their attempt to present their case before the community was interrupted by heckling and sarcastic comments. If it is acceptable by both parties, participation in the Cloverly Civic Association meetings as prescribed above, will provide an opportunity for neighbors and Francisco Landscaping to communicate on issues and problem solve.

Staff has not included either one of the suggested conditions in the conditions of approval due to the concerns expressed by both sides. But it is staff's view that either a liaison group or participation in the mandated meeting would make it easier to monitor activities that raise concerns and reduce distrust between both sides. It would allow to avert potential problems before they turn into serious issues and it could assist all affected parties in working towards a common goal—the betterment of the community.

Staff's supplemental analysis and recommendation is based on the following findings:

1. Truck traffic and the danger that it poses to residents and children, and unregulated time of arrivals of delivery trucks are concerns expressed by the neighbors. The neighbors also expressed a concern that a nearby property served as an extension of the subject contracting business, signifying an expansion beyond the boundaries of the property.
2. The Applicant has denied any business arrangements between the two properties. The Applicant indicated that the owner of the 15500 Holly Grove property is one of 15 siblings of the patriarch of the Francisco Landscaping business family who happened to buy into the neighborhood where his brother also owns a property. There is no business relationship between the two brothers and the two properties.

The Applicant explained that the presence of the company trucks on the other property is simply normal interaction with family members that includes exchanging materials such as fire wood or tools. The five family members drive the smaller trucks that are also used for the Landscape Contractor's business. Staff has not found any evidence of a business relationship between the two properties. The Applicant has also submitted a letter from Mr. Teofilo A. Argueta, the owner the property at 15500 Holy Grove Rd (Attachment B-S) confirming that there is no business interest shared between the two properties.



Figure 1: Holy Grove Properties West of Norwood Road

3. There are approximately 20 homes, including the subject property, accessed from Holly Grove Road west of Norwood Road between the west side of Norwood road and the main access to the subject property. The religious institution that has approximately 590 feet of frontage along the south side of Holly Grove Road is accessed from Awkard Lane.
4. Site distance is clear and straight between Norwood Road and the entrance to the subject property, which is a stretch of approximately 1,400 feet with varying width ranging between 24 feet and 14 feet, narrowing down as it gets closer to the subject property and before it turns into a bend at the southwest corner of the property. There are some pull off areas and some widened driveway accesses that serve as pull offs if a need arises.
5. Repeated site visits to the area by Staff discloses that there is very little, if any, pedestrian movement along the stretch of Holly Grove Road west of Norwood Road. Both the Applicant and the immediate neighbors report that currently, there is only one middle school student taking a school bus at a stop west of the intersection of Norwood Road and Holly Grove Road. However, this does not mean that the area is totally devoid of pedestrian traffic, nor would the number of children using the bus stop always remain the same. Given the crash data, which indicates no reported incidents in the past decade, the contractor business' current level of operation added to the traffic generated by other businesses in the area doesn't appear to cause an increased negative impact on the safety of residents in the area.

Moreover, the proposed hours of operation (Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 5 p.m.) are such that the vehicles from the contractor's business leave the property long before the pick-up time of the school buses and return to the property several hours after the drop off time for the school buses.

6. A 2.20-acre religious establishment is located across Holly Grove Road (west) from the subject site. The area also consists of an asphalt pavement business, a nonconforming use located at 14301 Holy Grove Road confronting the subject property, and the subject landscape contractor business, which replaced an older contracting use in 2006, are among the larger business operators in the area. As noted, neither the previous operation nor the current landscape contractor business was approved as a conditional use. A site visit of the area as well as aerial photography reveal that many of the non-residential uses maintain trucks that travel on Holly Grove Road.
7. The area appears to contain several nonresidential uses of an unknown nature as well as recognized businesses that were previously established and have been in operation for several years. With respect to the subject site, the proposed Conditional Use application would subject the property to substantial landscaping, afforestation, an organized site design and a four percent of reduction in impervious area. In addition, the applicant has offered to rehabilitate a destabilized area on adjacent property located to the rear by extending the forest plantings. These proposed and required improvements bring the property within the current Johnson Road tributary impervious level of approximately 13.8 percent. They would also help to maintain the existing character and scale of development in the semi-rural residential community.



Figure 2. Subject site and adjacent properties

8. The subject landscape contractor business has been operating on the subject property for 13 years. Currently, the contractor business has 15 employees of which five are family members. Two of the family members rarely go to the property but, instead perform managerial duties from other locations. The Applicant agreed to Staff's recommendation to limit the number of employees to the current maximum level of 15.
9. The number of trucks and equipment are also restricted not to exceed those that are currently utilized to conduct the Applicant's business:
 - **10 trucks:** *including 2 international dump trucks, 3 large trucks, 4 medium size trucks, 1 box truck*
 - **6 trailers:** *5 utility trailers and one carry-on trailer*
 - **1 Chipper**

As noted, 5 of the trucks are driven by family members.
10. Staff had previously recommended Approval of the proposed Landscape use with conditions. Since January 10, 2019, the Applicant has revised the plans reducing the impervious area percentage by an additional two percent by eliminating 15 of the 45 originally proposed parking spaces, altering the fire access design and turn around area and making other minor layout adjustments. The Applicant also has added additional shade trees and understory plantings along the property's western boundary line and frontage on Holly Grove Road.

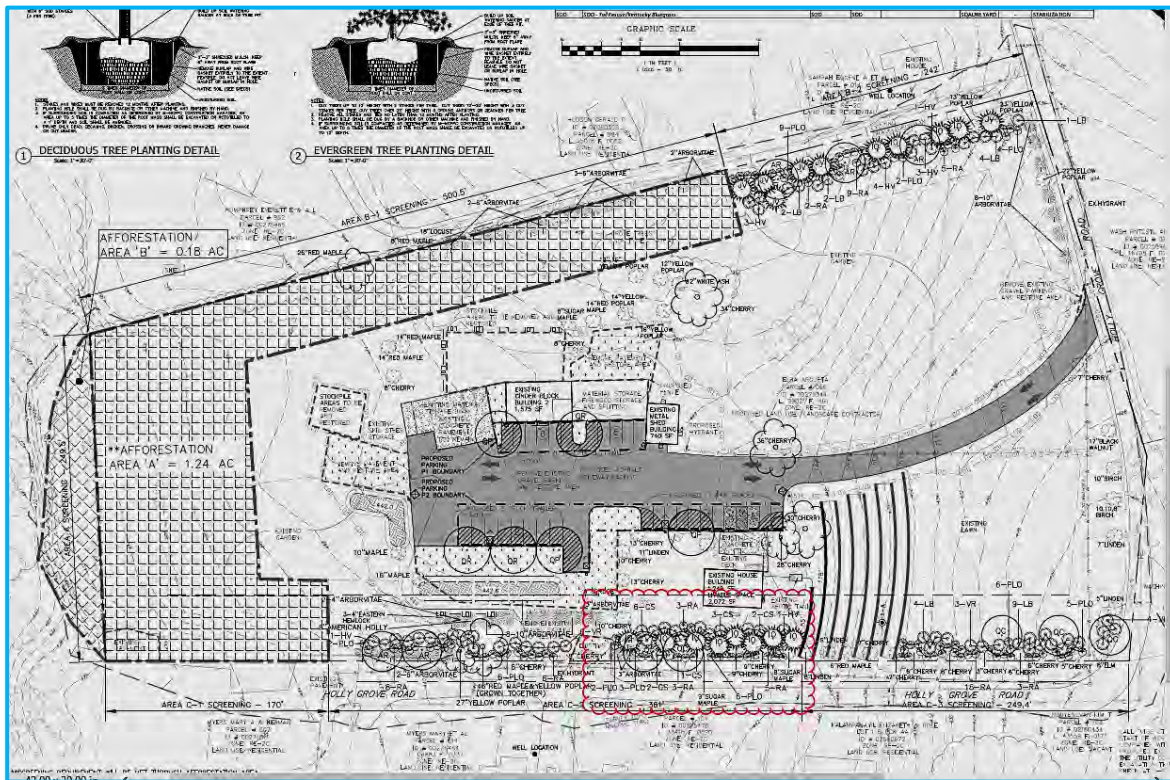


Figure 3: Revised Landscape Plan (March 2019)

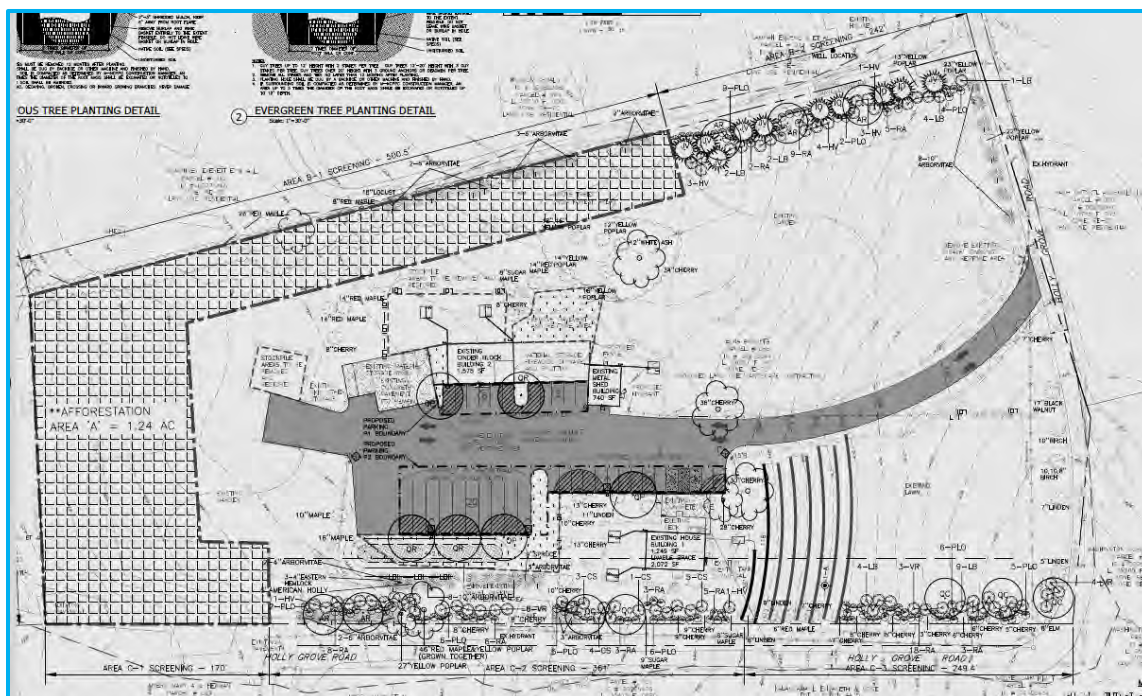


Figure 4: Landscape Plan (January 10, 2019)



Figure 5 Landscape Plan (Illustrative)

11. After a careful analysis of the concerns voiced by the neighbors, the additional measures taken by the Applicant to further improve conditions on the property, Staff's recommendation for approval of the proposed Landscape contractor business remains unchanged. However, the conditions of approval are slightly modified to reflect developments since the Planning Board meeting on January 10, 2019. Staff recommends approval of Application CU-19-04 with the Conditions listed on page 2 of this supplemental report.

ATTACHMENTS

- A-S Plans and Drawings
- B-S Supplemental Information and Supporting Documents
- C-S Staff Report December 18, 2018
- D-S Community Concerns

ET/CU19-04/0502019

A-S Plans and Drawings

Attachment-A-S



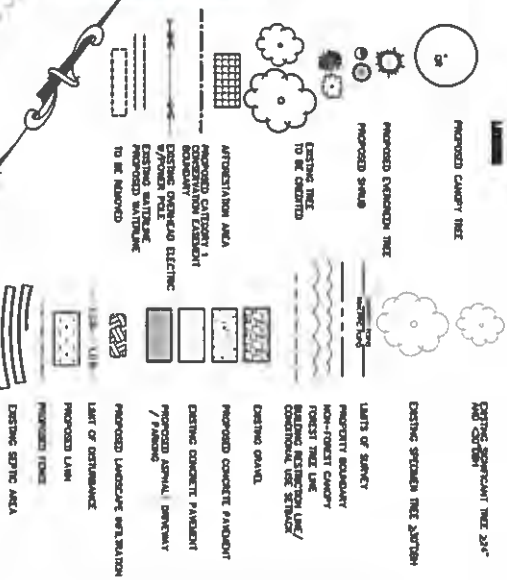
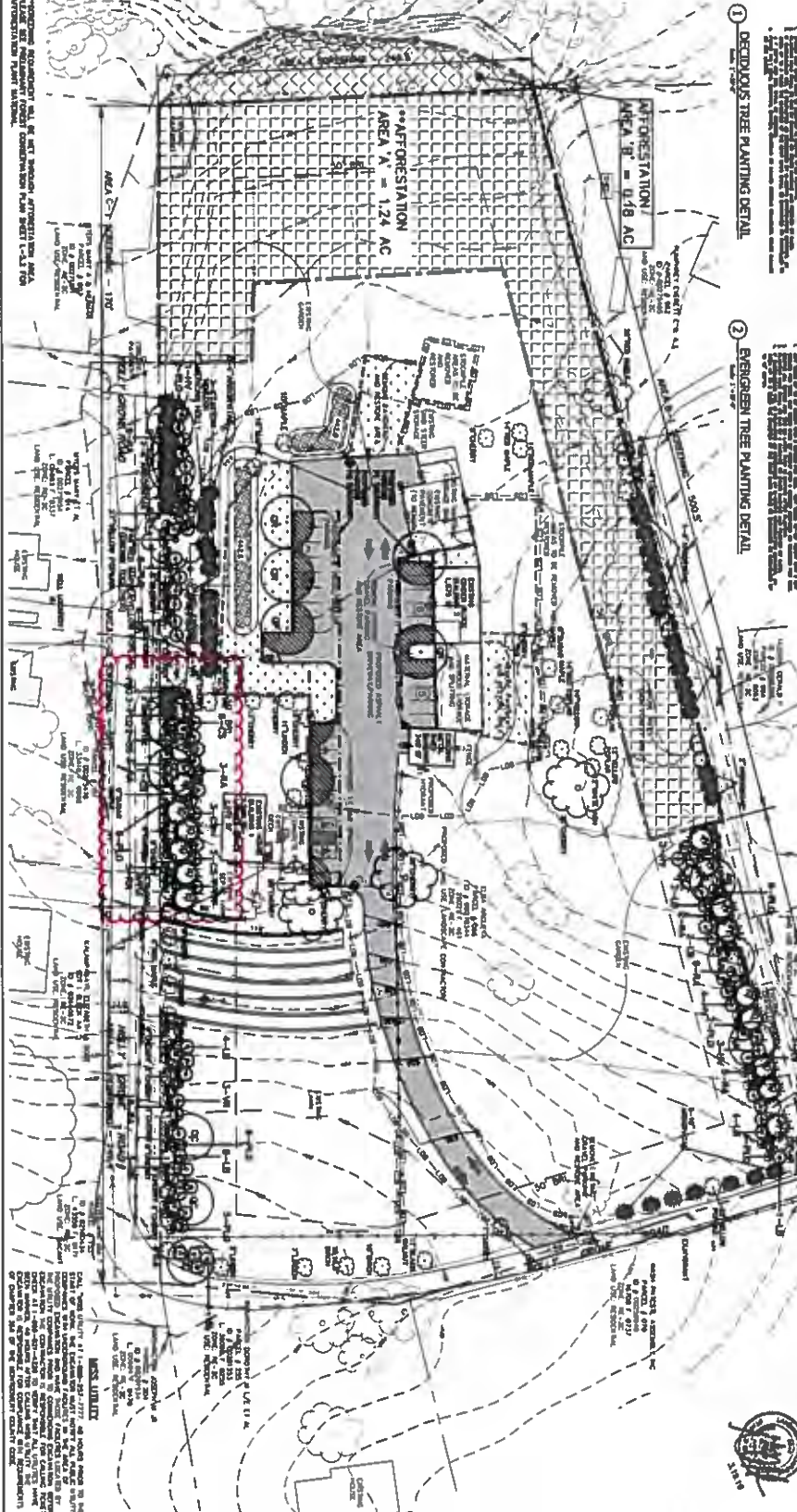
6.4.3. GENERAL LABORATORY PROCEDURES

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Only use these products on



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PROPOSED CON TOLER

PROPOSED PAVING BOUNDARY

PROPOSED CANYON AREA

PROPOSED CANYON AREA

DRAINAGE TEST

LANDSCAPE PLAN

ARGUETA PROPERTY
15400 HOLLY GROVE RD
SILVER SPRING, MARYLAND 20905

NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE • ENVIRONMENTAL PLANNING
SUSAN GRYN, AIA, LEED AP
SUSAN GRYN, AIA, LEED AP
SUSAN GRYN, AIA, LEED AP

**TOTAL CONCEPTUAL LIMITS OF
DISTURBANCE:
LOD = 63,000 SF**

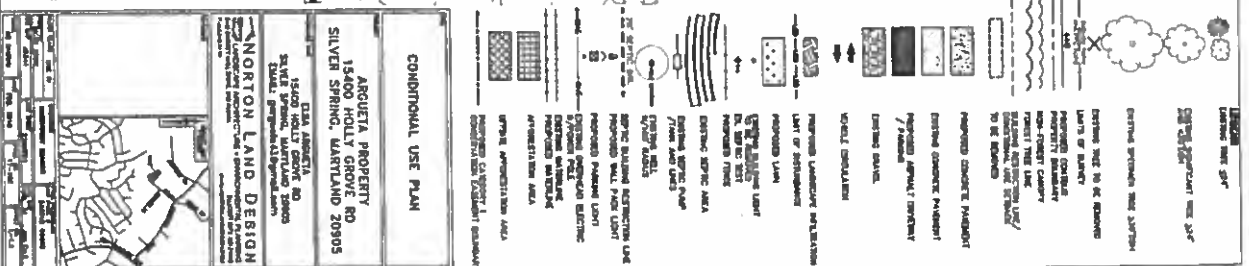
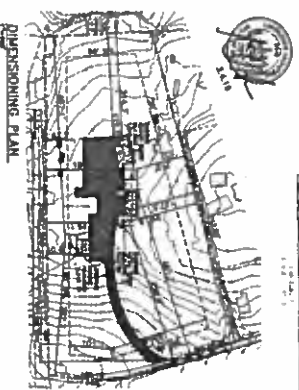
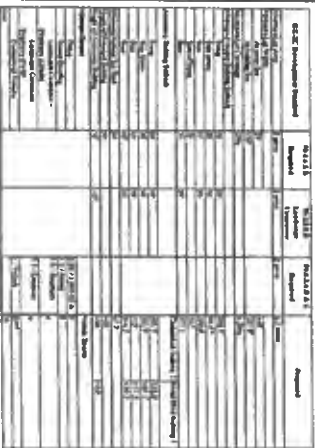
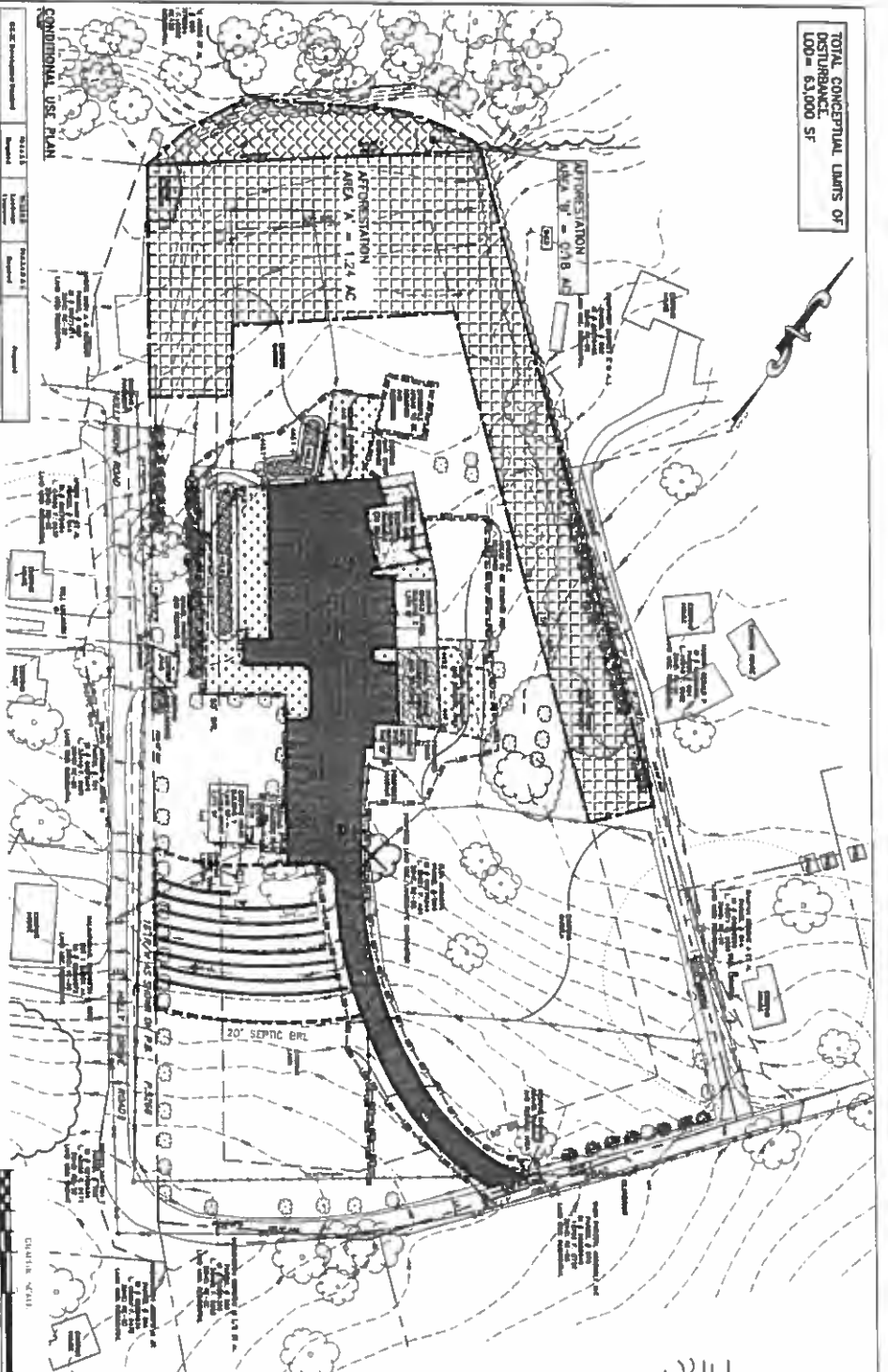
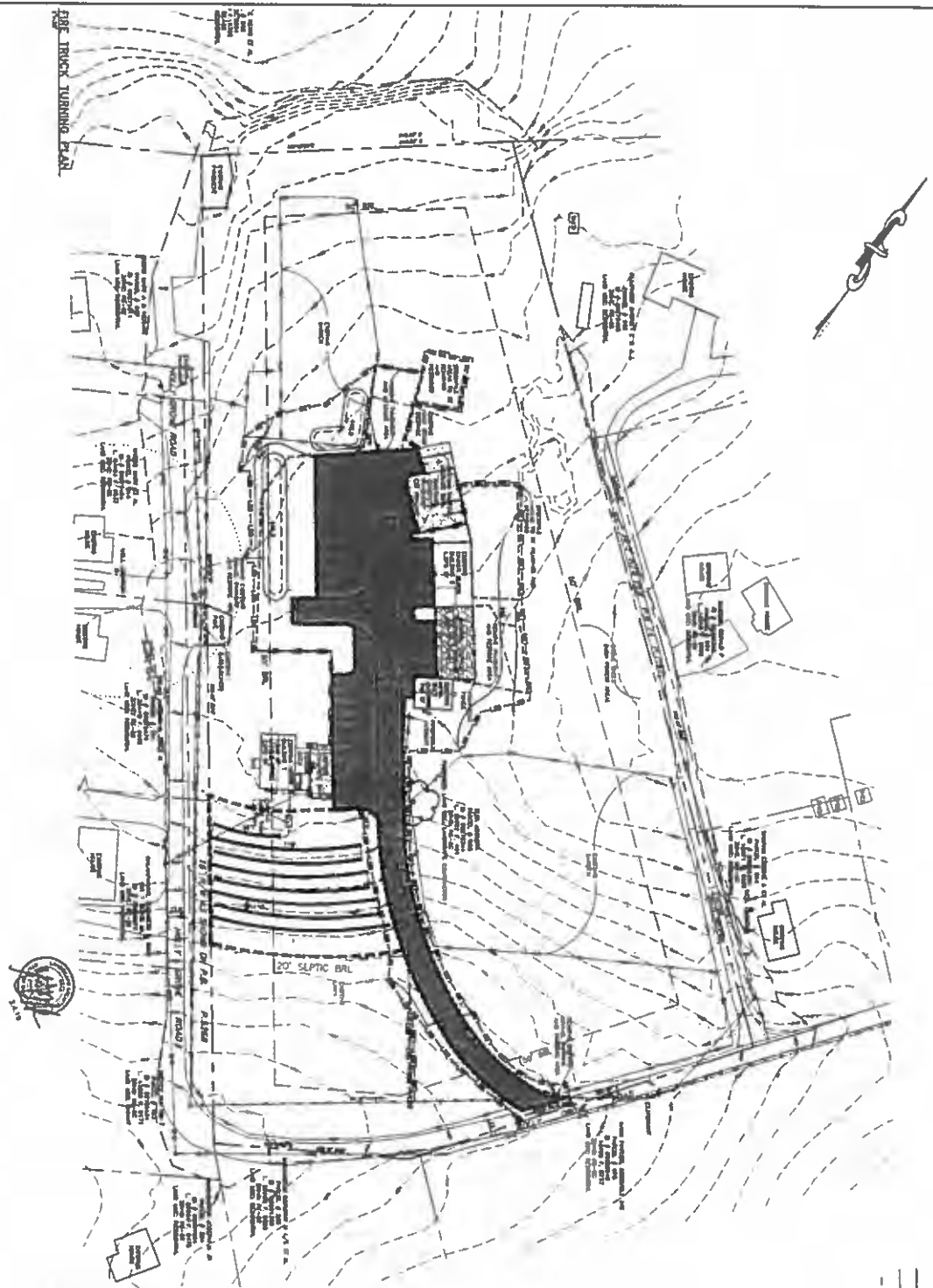


FIG. TRUCK TURNING PLAN



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 - 940' SETBACK
 - 945' SETBACK
 - 950' SETBACK
 - 955' SETBACK
 - 960' SETBACK
 - 965' SETBACK
 - 970' SETBACK
 - 975' SETBACK
 - 980' SETBACK
 - 985' SETBACK
 - 990' SETBACK
 - 995' SETBACK
 - 1000' SETBACK

SCALE: 1" = 40'

TRUCK ACCESS & CIRCULATION PLAN

ARGUEA PROPERTY
13400 HOLLY GROVE RD
SILVER SPRING, MARYLAND 20905

13400 HOLLY GROVE RD
SILVER SPRING, MARYLAND 20905
DATE: 08/01/2000
DRAWN: J. J. JONES

NORTON LAND DESIGN
LANDSCAPE ARCHITECTS & PLANNERS
13400 HOLLY GROVE RD
SILVER SPRING, MARYLAND 20905
TEL: 301-581-1111
WWW.NORTONLANDDESIGN.COM



NAME _____

UNITED KINGDOM

Country _____

Region _____

City/Town/Village _____

Postcode _____

Street Name _____

House No. _____

Phone No. _____

Mobile No. _____

Internet _____

Language _____

Religion _____

Marital Status _____

Age _____

Gender _____

Occupation _____

Education _____

Family Size _____

Family Income _____

Family Expenditure _____

Family Assets _____

Family Liabilities _____

Family Net Worth _____

Family Health _____

Family Education _____

Family Religion _____

Family Culture _____

Family Values _____

Family Beliefs _____

Family Attitudes _____

Family Behaviors _____

Family Habits _____

Family Interests _____

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Family Fondue Fondue Fondue Lawn Mower _____

Family Fondue Fondue Fondue Hedge

[illegible][illegible][illegible][illegible][illegible]



-



ARGUETA'S PROPERTY

FILED ABOVE
13400 HOLLY CROFT RD
SILVER SPRING, MARYLAND 20903

NORTON LAND DESIGN

Good University • 100% Approval • Top Quality
© 2000-2001

University of the Pacific
www.upacific.edu

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B-S Supplemental Information and Supporting Documents

Attachment-B-S

To Whom It May Concern,

Re: Francisco Argueta family (Francisco's Landscaping), 15400 Holly Grove Road, Silver Spring

I am writing this letter related to my brother, Francisco Argueta, and the family landscaping business he runs with his wife, Elba and their three adult children, Melvin, Glenda and Geovanni.

First, I continue to support my brother and his family's request to gain approval from Montgomery County to operate its landscaping business, Francisco Landscaping, located at 15400 Holly Grove Road, Silver Spring, MD.

Second, to state that I have no ownership interest or role in their family property at 15400 Holly Grove Road or their family landscaping business. I do own my own property with my wife, Maria D. Portillo Argueta, on the same street at 15500 Holly Grove Road. My brother, Francisco, likewise has no interest in my property at 15500.

Thank you for your consideration.

Sincerely,

Teofilo A Argueta

Name-printed

04-20-18

Date

12225 Kendall St.

Silver Spring MD. 20902

Address



Signature

Law Offices Of
MILLER, MILLER & CANBY
MM&C
CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.762.6044 WWW.MILLERMILLERCANBY.COM

All attorneys admitted in Maryland and where indicated.

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JODY S. KLINF
JOSEPH P. SUNTUM
ROBERT E. GOUGH

DONNA E. MCBRIDE (DC)
GLENN M. ANDERSON (FL)
SEAN P. HUGHES (DC)
CATHY G. BORTEN (DC)
MICHAEL G. CAMPBELL (DC, VA)

SOO LEE-CHO (CA)
DAVID A. LUCAS (DC)
DIANE E. FEUERHERD
CHRISTOPHER L. YOUNG (VA)
CALLIE CARNEMARK (VA)
JAMES T. ROTH

SPHUGHES@MMCANBY.COM

March 6, 2019

Ms. Elsabet Tefaye
Area 3 Planning Team
M-NCPPC
8787 Georgia Avenue, 3rd Fl.
Silver Spring, MD 20910

Re: Conditional Use Application No. CU 19-04,
FM Group Inc. (d/b/a "Francisco Landscaping"),
15400 Holly Grove Road, Silver Spring

Dear Ms. Tefaye,

Please find enclosed for your review and consideration the below and attached:

Applicant has completed revisions of plans to address recent comments received from the Planning Board, Planning Staff, neighbors, a local Civic Association president, and other public agencies as well as additional discussions with the community. As you are aware the Planning Board meeting on January 10, 2019 resulted in deferral action by the Board that day. The specific changes to the drawing plans are noted at the end of this letter.

At the January 10 Planning Board meeting four speakers voiced concerns about the Argueta family of five (Mr. and Mrs. Francisco and Elba and their three adult children Glenda, Melvin and Geovanni) application requesting permission to continue to operate their family landscaping business (Francisco's). The family business has operated at 15400 Holly Grove Road, Silver Spring since January 2006, without governmental involvement until the DPS citation in the Spring/Summer of 2017, which precipitated this application. The prior property owner (Hammond family) had also operated a contracting business of significant sorts (See Exhibit 1, the two attached DPS citations from 2005 and Exhibit 2 the historical aerial photos from Google with years noted) at 15400 Holly Grove.

While we acknowledge that the Argueta family could and likely should have done additional legal and/or land use research due diligence in late 2005 before purchasing the property, we respectfully ask that the County consider the totality of the circumstances when evaluating the conditional use criteria here. Some key facts from 2005 include the demonstrative proof that the prior property owner was operating a significant contracting business on the six (6) plus acre parcel for many years and that other business operations also existed in the neighborhood. Before the purchase, the prior owner and the real estate agents involved in the 2005 real estate purchase/sale all informed the Argueta family that business contracting operations like that had been ongoing on the subject property for many years and a landscape contractor business like Francisco's would be permitted at 15400 Holly Grove Road. We believe these assurances were given in good faith by all persons.

The Argueta parents were not sophisticated land use or property owners. English is their second language, and the now adult children were teenagers or in their early 20s. In good faith the Argueta family relied upon the assurances received prior to purchase and immediately began operating the family business openly and continuously and have done so to this day. Such operations continued without public incident from January 2006 until Spring/Summer 2017. Francisco's had conducted its business and attempted to be a good neighbor for the prior 11 plus years (nearly 4,100 days). The family remains committed to finding ways to enhance its neighborly relations moving forward.

The neighbors' primary concern seems to be related to traffic. The Planning Staff report has some encouraging data, where the County reviewed its own traffic records and noted that they are not aware of a single reported traffic accident on the subject road (see Exhibit 3 attached), let alone near or involving Francisco's Landscaping. This data, or lack thereof, is good evidence of appropriate traffic flow and co-existence on the neighborhood road. Fortunately, Holly Grove Road is quite straight, not extremely long (See attached # 4), with pull offs if needed (See attached Exhibit 5) and with few homes (approximately 19) with addresses on the west side of Norwood Road, plus the Argueta family property, and the church property which is technically on Awkard Lane, at the intersection of Holly Grove Road and Awkard Lane. Further, the road has successfully served the neighborhood since the Argueta family purchased the property in January 2006, and in fact, even before with the prior owners, the Hammond family. In addition, besides the business run by the Argueta family the past 13 years and previously by the Hammond family at 15400 Holly Grove Road, another long established family run business has existed a few houses away, a paving company operated by the Myers family at 15301 Holly Grove Road (See Exhibit Nos. 6 and 7 with the online DPS records about the property and property aerial picture). This other family business also has trucks to support the paving business operations, and they have all co-existed along with the approximately 20 homes on the street from the Myers home at the end of Holly Grove Road until it exits onto Norwood Road for many, many years. In fact, the Argueta family business is quite small in overall numbers by nearly any standard as noted in Staff Conditions of Approval, which the Argueta's have committed to accept. Key numbers include a maximum of ten (10) business trucks. These include five (5) standard size pickup trucks, in which two (2) of them do not even reside on site. In addition, daily operations typically require a maximum of up to five (5) trucks used each day for operations. Further, the number of persons working in the business is capped at fifteen (15),

including the five (5) Argueta family members. This is limited even more so by the fact that the two (2) ladies in the family, Elba and Glenda, are rarely to never at the subject property or out on customer job sites, instead working on back office and logistical functions for the family business. Thus, it will be more like up to thirteen (13) employees on site in the morning and late afternoon as the operations necessitate an early commute to customer locations, before 7 am Monday-Friday, which is before rush hour and clearly before school buses begin their routes to the local MCPS schools (Stonegate ES, White Oak MS and Blake HS (NEC)). (See attached items Exhibit 8 showing school times, which are 745am-230 pm for High School, 815am-3pm for Middle School and 9am-325pm for Elementary School). In addition, a small church has and continues to exist at the corner of Holly Grove and Awkard Lane (230 Awkard Lane). The traffic to the church exists on weekends. The Argueta family business has reduced hours on Saturdays and is closed on Sundays. The church traffic has also coexisted in the neighborhood for many years as well.

Our official community outreach began in June 2018. Related to the outreach the Argueta family received nine (9) letters of support for the application (see Exhibit 9 attached and Exhibit 10 a map showing the locations). And we were not aware of any opposition until January 3, 2019, a week before the January 10, 2019 Planning Board hearing when Planning Staff distributed an email by Quentin Remein, President of the Cloverly Civic Association. In fact, this writer, personally walked the area and visited all of the adjoining and confronting properties with homes on June 19, 2018 and spoke with many of the residents that day, including the Meyers family at 15301 Holly Grove, Mrs. Trejos at 15311 Holly Grove, Mrs. Washington at 15325 Holly Grove, Mr. Hudson at 15410 Holly Grove, Mr. Pumphrey at 15406 Holly Grove and Mr. Subash from Washington Pentecostal Assembly located at corner of Holly Grove and Awkard Lane (230 Awkard Lane). And that day we left the attached letter (see Exhibit 11 attached) with the persons we spoke with or at the home of any unanswered doors or sent via US mail (including Mary Myers at 15307 Holly Grove, Eliza Kalampanyayil at 15315 Holly Grove Road, Mr. Joseph Washington, Jr. at 15321 Holly Grove Road, Eugene Sampah at 15414 Holly Grove Road and Powell heirs at P.O. Box 4363). Our outreach extended to and included four (4) additional follow-up letters on August 2, August 17, September 25 and December 5, 2018 (see attached Exhibit 12 Adjoining and Confronting list and Exhibit 13 a copy of the template letters sent to all). Each letter provided a status update and invited neighbors to contact us with any questions. Thus, up until seven (7) days before the Planning Board hearing on January 10, 2019 date we believed, in good faith, that we had the support of at least (nine) 9 property owners as well as no significant opposition.

After the January 10 Planning Board meeting we had significant communications with neighbors via a designated spokesperson, Ms. Patricia Thomas. Ms. Thomas was very kind with her time, professionalism and efforts. The Argueta family and I also attended, presented and answered questions at the January 28, 2019 Cloverly Civic Association meeting, which many neighbors attended (See attached Exhibit 14 emails). Throughout these efforts we have emphasized a desire to listen and attempt to further enhance the application as well as improve overall neighborly relations. Unfortunately, at this time, we must report that it appears that the known neighbors who spoke at the January 10 Planning Board and/or January 28 Cloverly Civic Association meeting are not satisfied with our application, or our offered enhancements (noted

Ms. Elsabet Tefaye
March 6, 2019
Page 4

herein below) and thus, we appear to be at an impasse. (See attached Exhibit 15 emails with neighbor and neighborhood spokesperson Ms. Patricia Thomas of #15510 Holly Grove Road).

Per the comments by the Planning Board and neighbors at the January 10 meeting, as well, as neighbor letters/emails and the Civic Association meeting on January 28 we have listened carefully and are able to provide an enhanced application with the below alterations to our application. The enhancements on our plan and noted below include:

1. Reducing the impervious land cover percentage significantly at the subject property and the resulting adjustments by eliminating the onsite parking spaces by fifteen, to 30 from 45, altering the fire access design and turn around area and other minor layout redesigns that results in the overall impervious land cover further being reduced to 13.2 % of the property from 15 % in the initially filed application. This latest reduction involves nearly 5,000 square feet (4,920) and is considerably lower than the current on site impervious percentage of 18.2. Reducing the impervious land cover was a unanimous recommendation of the Planning Board, staff, neighbors and Civic Association. (See Exhibit 16, revised drawing plans).
2. Agreeing to add additional landscaping on the west side of the property to further screen the operations to the neighbors with properties at 15317 (Kguyen), 15315 (Kalampanayil), 15311 (Trejos), 15307 (Myers) and 15301 (Myers) Holly Grove Road, as suggested by the Planning Board on January 10. We welcome specific recommendations of types and locations of potential additional landscaping in the area as so directed by the Planning Staff and/or Planning Board.
3. Requesting that Planning Staff add an additional condition of approval, per Staff suggestion at the Jan 10 Planning Board meeting, of establishing a community liaison group that would include the Argueta family business and the Holly Grove Road neighbors. The group would meet twice a year at the Cloverly Civic Association's monthly meeting and the Argueta family would submit a written report of the meeting notes to OZAH within thirty (30) days.

The above additional enhancements are beyond the Argueta family already agreeing at the Planning Board hearing to accept all of County professional planning staff's recommendations of approval, including capping by maintaining the current number of the family businesses' employee number at fifteen (15), which includes the five (5) family members and ten (10) vehicles.

DRAWING EDITS

Applicant has completed revisions of plans to address comments received from the Planning Board, the community and County staff. Accordingly, the following materials are enclosed for inclusion in the record of the above-referenced cases:

1. Conditional Use Plans (cover sheet)

2. Natural Resource Inventory & Forest Stand Delineation (L-01)
3. Natural Resource Inventory & Forest Stand Delineation (L-02)
4. Existing Conditions Plan (L-03)
5. Conditional Use Plan (L-1.1)
6. Fire Access & Circulation Plan (L-1.2)
7. Stormwater Management Concept Plan (L-2.1)
8. Stormwater Management Concept Plan (L-2.2)
9. Landscape Plan (L-3.1)
10. Lighting Plan (L-4.1)
11. Lighting Plan – Photometrics (L-4.2)
12. Preliminary/Final Forest Conservation Plan (L-5.1)
13. Preliminary/Final Forest Conservation Plan Notes & Details (L-5.2)
14. Preliminary/Final Forest Conservation Plan Notes & Details (L-5.3)
In accordance with the rules, also enclosed is:
15. Disk with electronic copies of all of the above-referenced materials.

We thought that you would find the following comments about the plan changes to be helpful as you review the revised plans.

Conditional Use Plan page

- Proposed 45 parking spaces has been reduced to 30 spaces.
- Existing areas of pavement along the southern property line are now shown to be removed and restored.
- Existing asphalt millings beyond skid steer storage is now shown to be removed and restored.
- Percent impervious on the property has been reduced from 15.0% (original submittal) to 13.2% (current submittal).

Fire Access and Circulation Plan page

- Fire access has been reduced to front of existing cinder block building.

Ms. Elsabet Tefaye
March 6, 2019
Page 6

Landscape Plan page

- Parking P2, canopy coverage and island coverage have been updated.
- Proposed canopy tree locations within parking P2 have been updated.

Overall Plans

- All plans have been updated to reflect conditional use changes.

Thank you for your assistance. Please let me know if you have any questions.

Sincerely,

MILLER, MILLER & CANBY



Sean P. Hughes
Counsel for Applicant FM Group d/b/a/
Francisco Landscaping

SPH:sda
Enclosures

cc: Ms. Patricia Thomas
Ms. Judy Mauldin (w/o enclosures)
Ms. Ola T. Myers (w/o enclosures)
Mr. Quentin Remein, President (w/o enclosures)
Geovanni Argueta
Michael Norton
Shahriar Etemadi



www.ADTEKengineers.com

Civil, Structural, and Specialty Engineering

March 11, 2019

Ms. Marie Labaw
Fire Prevention and Code Compliance Division
Department of Permitting Services
Montgomery County
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850

Re: Argueta Property - Francisco Landscaping
15400 Holly Grove Road, Silver Spring, MD
Conditional Use CU-19-04

Marie,

Based on comments from the MNCPPC Planning Board Hearing, we have reduced pavement onsite by reducing the travel length of the emergency equipment past the existing structures onsite. There are no changes to the hydrant location, entrance or drive width.

With this information, we are requesting approval of the Fire Access and Circulation Plan.

Respectfully yours,
ADTEK Engineers, Inc.

Shawn Benjaminson, PE
Principal



I HEREBY CERTIFY THAT THESE DOCUMENTS ARE
PREPARED OR APPROVED BY ME, AND THAT I AM A
DULY LICENSED PROFESSIONAL ENGINEER UNDER
THE LAWS OF THE STATE OF MARYLAND, LICENSE
NO 29524. EXPIRATION DATE: 19 JULY 2019.

FIRE CODE ENFORCEMENT

Fire Department Access Review

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to properly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access is required if found upon inspection after installation.

3/12/2019

BY: SAC ENR CB DATE: original 11/1/2018



**Department of Permitting Services
Fire Department Access and Water Supply Comments**

DATE: 01-Nov-18
TO: Shawn Benjaminson - SBenjaminson@adtekenginee
ADTEK Engineers
FROM: Marie LaBaw
RE: Argueta Property - Francisco Landscaping
CU-19-04

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 01-Nov-18. 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.

***** See Statement of Performance Based Design *****

***** 3/12/2019 Amendment: removing extraneous pavement at north end of site *****

C-S Staff Report

Attachment-C-S



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item No.:
Date: 01-10-2019

CU-19-04: Francisco Landscaping Contractor

ET Elsabett Tesfaye, Planner Coordinator, Area 3	Elsabett.Tesfaye@montgomeryplanning.org	301-495-1301
FB Fred Boyd, Master Planner, Area 3	Fred.Boyd@montgomeryplanning.org	301-495-4654
RAW Richard Weaver, Chief, Area 3	Richard.Weaver@montgomeryplanning.org	301-495-4544

Completed: December 28, 2018

Description

- B. Request for a Conditional Use to operate a Landscape Contractor business, on a 6.18-acre property located at 15400 Holly Grove Road, Silver Spring, MD, approximately 315 feet southwest of Awkard Road and 1,250 feet southwest of the intersection of Holly Grove Road and Norwood Road, known as P066 on tax map J541, Snowdens Manor. 1997 Cloverly Master Plan Area.

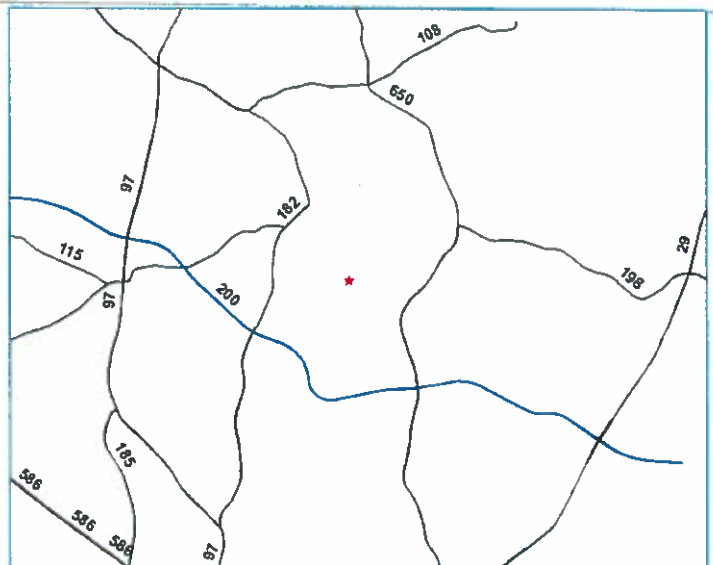
Staff Recommendation: Approval with conditions

Application Filed: September 20, 2018

OZAH Public Hearing: January 18, 2019

Planning Board Hearing: January 3, 2019

Applicant: FM Group, Inc. (d/b/a "Francisco Landscaping")



Summary

- With the recommended conditions, the subject use conforms to all applicable requirements and regulations for approval of a Landscape Contractor Conditional Use, Section 59.3.5.5 of Montgomery County Zoning Ordinance and the applicable development standards under the RE-2C Zone (Section 59. 4.4-5)
- The subject use is consistent with the recommendations of the 1997 Cloverly Master Plan and compatible with the character of the surrounding area.
- Approval of the requested Conditional Use will not cause undue harm or adverse impact on the immediate neighborhood.
- There are no traffic, circulation, noise or environmental issues associated with the application, provided that the recommended conditions are satisfied.
- This application complies with the Montgomery County Environmental Guidelines.
- Staff Recommends approval of the Variance Request from the 50-foot side street setback requirement.
- The Conditional Use Application proposes to decrease the impervious surface on the property from 18 percent to 16 percent and with staff's recommended condition to reduce the number of parking spaces, the impervious area on the property will be further reduced to approximately 14.8 percent.

SECTION I: STAFF RECOMMENDATION AND CONDITIONS OF APPROVAL

Staff recommends approval of CU-19-04 subject to the following conditions:

1. The total number of employees including family members must not exceed a maximum of 15.
2. The conditional use must not use the gated driveway on the west side of the property's frontage along Holly Grove Road for access.
3. The hours of operations must be Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 5:00 p.m. Snow removal may be provided when needed seven days a week, 24 hours a day.
4. The total number of parking spaces must not exceed 30, including parking for trailers associated with the business on the property.
5. The total number of trucks and trailers for the proposed use must not exceed 16: 10 trucks and 6 trailers.
6. There must be no identification sign on the property.
7. No mulch manufacturing, composting or retail sales of plant materials, garden supplies, or equipment shall be conducted on the conditional use property.
8. The Applicant will be bound by the landscaping plan approved by the Hearing Examiner.
9. The conditional use must comply with the conditions of the Final Forest Conservation Plan.

SECTION II: PROJECT DESCRIPTION

A. Site Description



Figure 1: Vicinity Map

The subject property is located at 14500 Holly Grove Road, Silver Spring, approximately 1,250 feet southwest of the intersection of Holly Grove Road and Norwood Road. The property consists of approximately 6.18 acres of land on an unrecorded parcel known as P066 on tax map JS41, Snowdens Manor. The subject property is an elongated trapezoid, improved with a 2,072 square-foot dwelling, a 1,575 square-foot cinderblock storage building, and a 740 square-foot metal shed building.

Other improvements on the property include gravel parking areas and driveways, material storage bins, a skid steer storage area, and two private garden areas. The property is currently used as a residence and a family owned landscape contractor's business.

The property has two frontages on Holly Grove Road (southern and western property lines), a narrow local road that extends approximately 2,350 feet from its intersection with Norwood Road and wraps around the subject property before terminating at the northwest corner of the subject property. Primary access to the property is via a driveway from Holly Grove Road on the property's southern frontage. A second access on the property's western frontage along Holly Grove Road is not actively used, gated, and is kept locked.



Figure 2: The Subject Site

The site slopes generally from north to west. It is located within the Johnson Road subwatershed of the Northwest Branch Watershed (Use Class IV). There are no streams, wetland areas, 100-year floodplains or highly erodible soils on the property. There are no rare, threatened or endangered species on the property.

The property is not designated as historic.

B. Neighborhood Description

For purposes of this Application, staff defines the surrounding neighborhood as the area within a 2,000-foot radius of the Subject Property. Staff's definition of the surrounding area attempts to include developed and vacant residential properties within the RE-2C and R-200 Zones with proximity or direct access to Norwood Road, Holly Grove Road and Awkard Lane. The surrounding area is predominantly semi-rural with approximately 75 percent of the land in the RE-2C Zone. It is sparsely developed and contains several undeveloped and wooded parcels. The denser residential

development is concentrated in the southern portion of the neighborhood (Stonegate Subdivision) consisting of single-family detached dwellings in the R-200 zone.

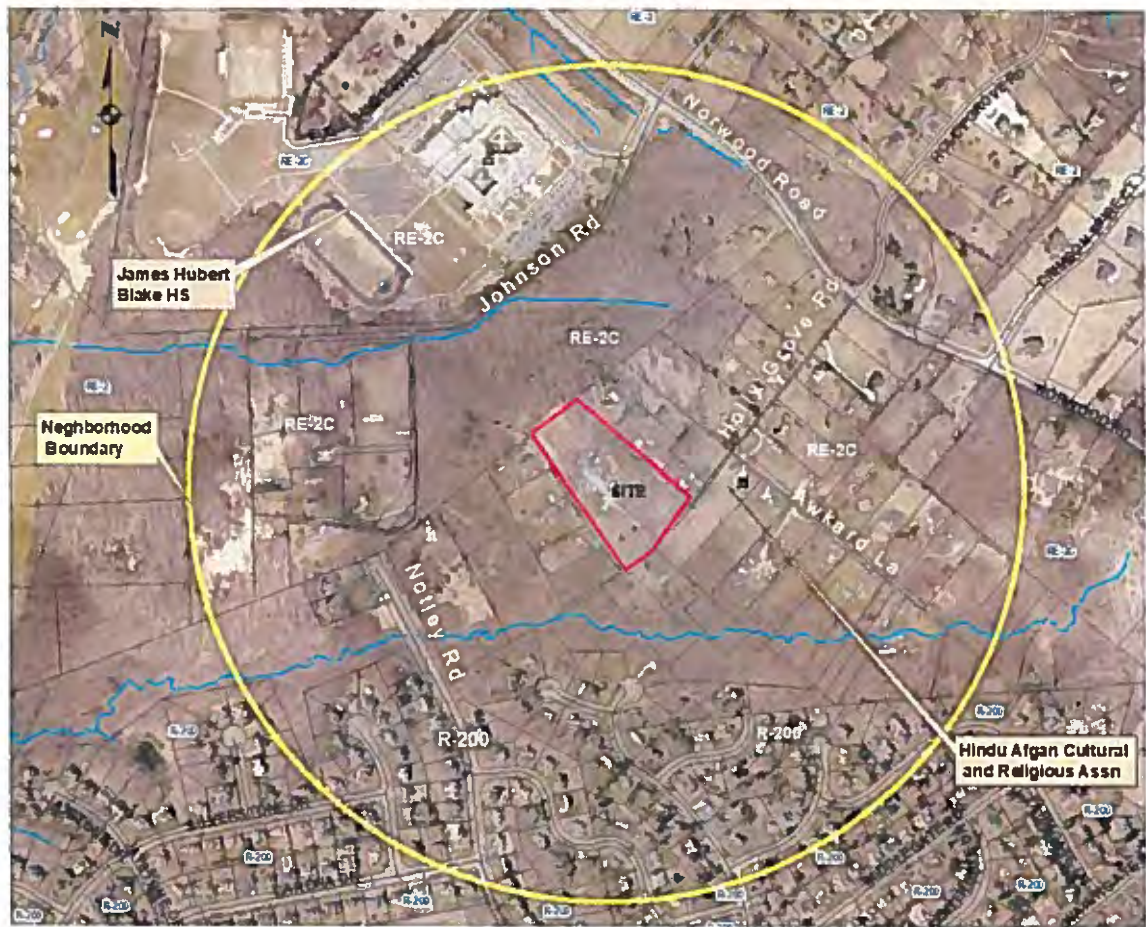


Figure 3: Surrounding Area

The subject property is surrounded by a 27-acre unimproved wooded property (rear, north), Holly Grove Road (west and south), and three residential properties (east). To the west and south directly across Holly Grove Road are residential properties and a house of worship, all located in the RE-2C Zone.

C. Zoning and Land Use History

The Property was placed in the RE-2 Zone prior to 1981. The 1981 *Eastern Montgomery County Master Plan for Eastern Montgomery County Planning Area: Cloverly, Fairland, White Oak* confirmed the RE-2 zoning of the Property. The 1997 *Cloverly Master Plan* and the subsequent *Sectional Map Amendment* rezoned the Property RE-2C. There has been no previously approved Conditional Uses (formerly referred to as Special Exception) on the property.



Figure 4: Zoning

D. Proposed Use

The Applicant, Francisco Landscaping, a family owned business, is requesting approval of a Conditional Use to validate the existing landscaping contractor business that has been in operation on the property for the past 13 years without an approved Conditional Use permit. The Applicant stated that the landscape contractor business provides traditional, commercial, and residential landscaping as well as fencing, gutter cleaning, firewood delivery and snow removal services. The business also offers stonework, including patios, walkways, steps and gardens.

The proposed operation consists of two elements:

- Residential and commercial landscaping and property maintenance
- Custom stonework and driveway services

The justification statement explains that the Holly Grove Road site is primarily used for their loading and field teams. The field staff typically departs around 7:00 AM and is off site until the end of the work day. At the end of the work day, the field staff and management usually return to the site between 4:00 p.m. and 6:00 p.m. After unloading the vehicles and cleaning up for about 15 to 30 minutes, the employees carpool and leave the property for the day. The

Applicant's Statement of Justification states that many of the laborers carpool to work, and often will report directly to the job site without coming to the property.

The number of employees will vary, depending on the season, with the largest number of employees needed during the spring, summer and fall.

The Conditional Use application proposes a seasonal maximum of 19 employees, consisting of administrative staff, loading and on-site operation crew, and a field crew. The justification statement provides the following breakdown of employees:

Table 1: Breakdown of Employees

Employees	Current	Proposed
Owner and family administration	2	2
Field Crew (including 3 family members)	13	17*
Total	15	19

**Staff recommends that the total number of employees remain the same as the existing total number of employees*

Hours of operation for the landscape contractor business are Monday through Friday 6:00 a.m. to 7:00 p.m. and Saturday, 7:00 a.m. to 5 p.m.

The justification statement indicates that the only landscaping material typically stored on the property is mulch. All other plant materials and supplies are picked up at nurseries and taken directly to the customer's property for planting. At times firewood is also stored on site prior to delivery to customers. The plan shows an existing area assigned for bulk storage bins located on the northern portion of the property on the west side of the existing 1,575-square foot cinderblock storage building. The plan also shows materials, firewood storage and wood splitting area of approximately 1,850 square feet located on the east side of the existing cinderblock building.

The Applicant's family maintains two private gardens where they grow corn and vegetables. The gardens that are located on the northwest and southeast portions of the property are strictly dedicated for private use and are not part of the contractor operation. There are no sales of plant material, garden supplies or equipment on the property or as part of the landscape contractor's business. The Conditional Use proposes no new construction or expansion of buildings.

The Conditional Use Site Plan shows an existing septic system located on the western portion of the property. Staff asked the Applicant to provide documentary evidence (Attachment C-1) to establish adequacy of the septic system to accommodate the proposed use. The Applicant indicated that while a family member resides in the existing house, no part of the residence will be used as an office.

In a supplemental statement, the Applicant stated that upon approval of this application, at full capacity, the subject Conditional Use will have the following equipment and vehicles:

- **10 trucks:** *including 2 international Dump trucks, 3 large trucks, 4 medium size trucks, 1 box truck*
- **6 trailers:** *5 utility trailers and one carry-on trailer*
- **1 Chipper**

The application proposes a total of 45 onsite surface parking spaces (including two van-accessible handicapped spaces) of which 20 are dedicated for trucks and trailers (double depth parking) and 31 are dedicated for employees and visitors.

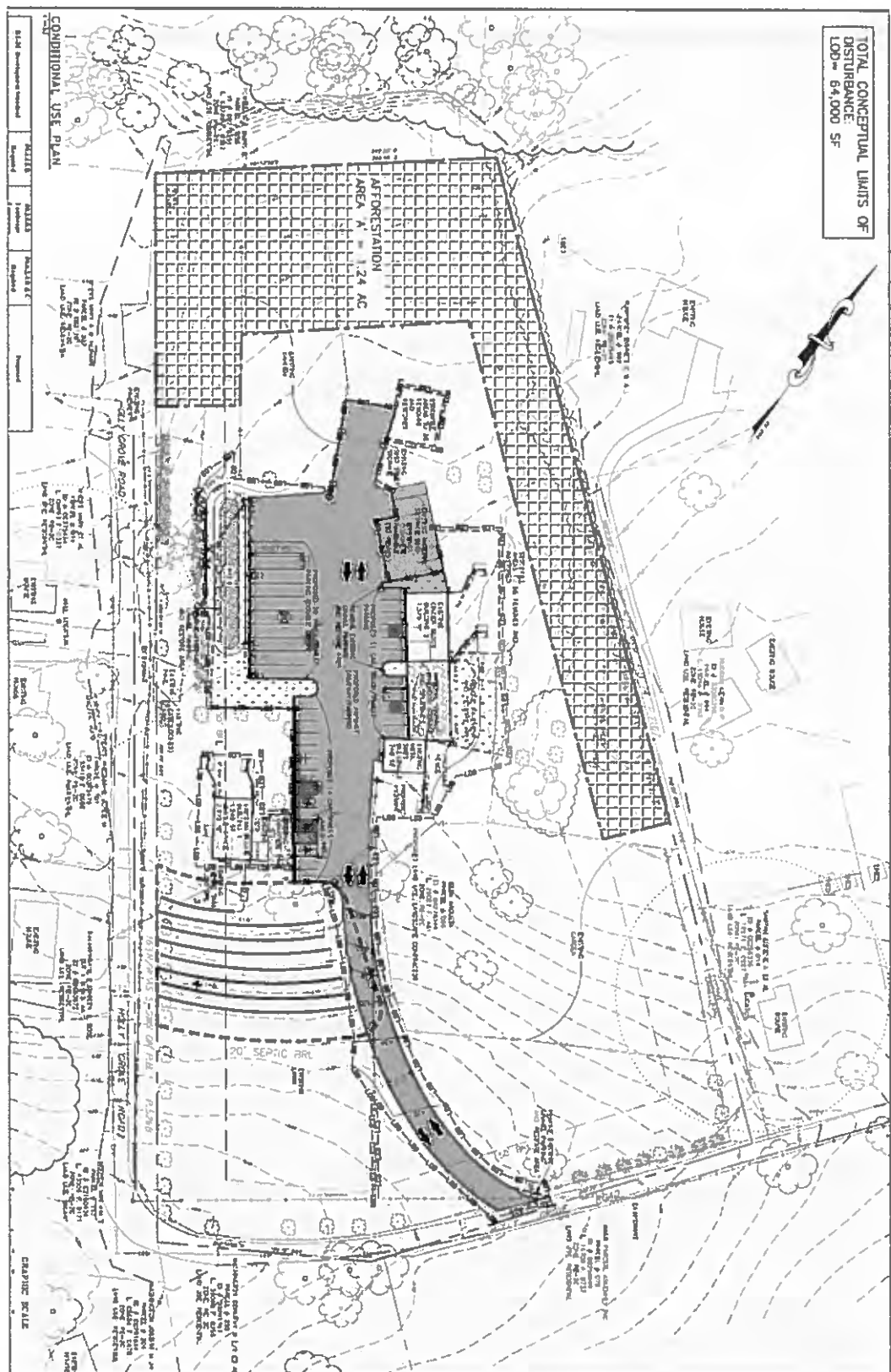


Figure 5: Conditional Use Site Plan

SECTION III: ANALYSIS AND FINDINGS

A. Master Plan

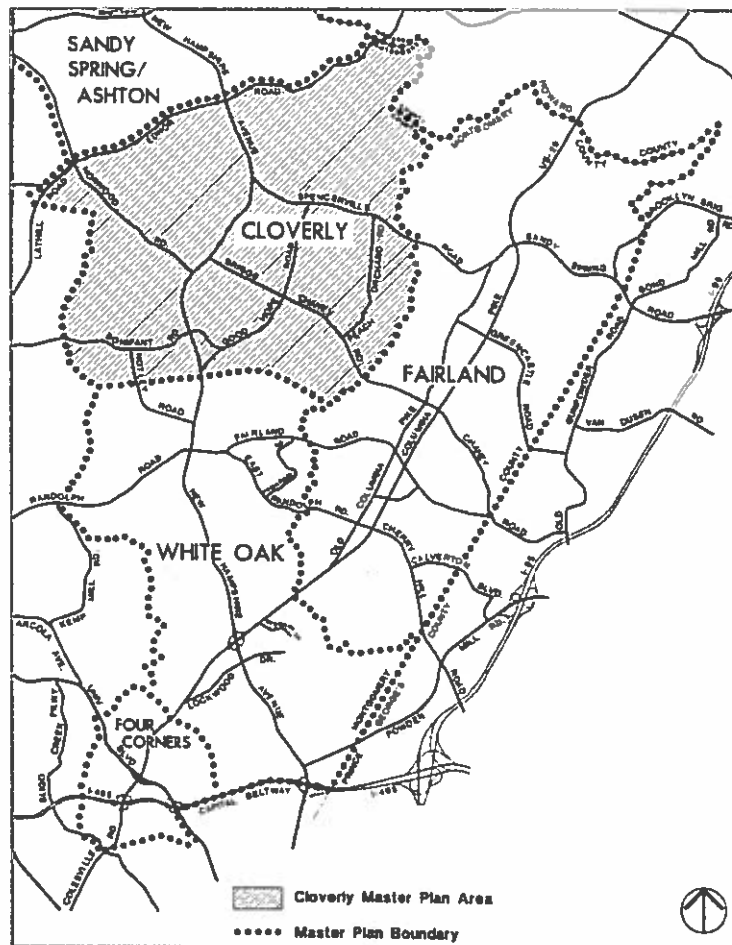


Figure 6: Cloverly Master Plan Area

The property is located within the 1997 *Cloverly Master Plan Area*. This area falls within the part of the area that the Cloverly Master Plan designates as "Residential Wedge" communities and within the Northwest Branch Watershed. The Master Plan, discusses the Residential Wedge and states that, "the RE-2C zone was applied to properties of sufficient size to provide substantial amounts of open space or properties within the historically African American community of Holly Grove where lot sizes are generally smaller than 2-acre minimum of the RE-2 Zone." (p. 21)

The Master Plan also provides guidelines for special exceptions (now Conditional Uses) in the Residential Wedge Communities. The following guidelines (p. 37) are applicable to the subject property and the proposed use:

- *Maintenance of a residential appearance, where feasible.*

- *Compatibility with the scale and architecture of the adjoining neighborhood, consistent with the proposed use.*
- *The impact of signs, lighting, and other physical features on surrounding residential communities.* No signs exist or are proposed. No new lighting is proposed with this use.
- *Location of parking, loading, and other service areas to maintain residential appearances to the extent feasible.*
- *Options for landscaping that minimize the non-residential appearance of the site and the view from surrounding properties and roads. It is preferable for landscaping to reinforce Cloverly's rural character and be consistent with the streetscape standards (page 49).*

The existing single-family house on the site will not change with this application. The residential structure that was constructed in 1989 preexisted the landscape contractor business and is a two-story single-family dwelling with a basement. The activities associated with the landscaping contractor use were established before the current Applicant purchased the property in 2005. All landscape contractor activities will occur in the rear yard of the property. In addition, these operations will be screened and buffered from surrounding neighbors by existing and proposed landscaping and tree conservation areas.

The accessory structures associated with the landscape contractor use are of a height and dimension that is consistent with those in the neighborhood and are in the interior of the property, hidden from the views from the street as well as from the residents of neighboring properties. All parking, loading, and other services are in the rear yard with distance and screening in the form of afforestation and landscaping providing substantial buffer.

IMPERVIOUS LEVEL

The 1997 Cloverly Master Plan defines the areas within the Upper Northwest Branch Watershed with RE-2 and RE-2C zoning as the Residential Wedge. This wedge area "should remain in the 10-15 percent impervious range, which is within the generally acceptable limits for the protection of cold-water stream systems in Maryland. Individual developments with high site-imperviousness should be discouraged." The subject property is in the Johnson Road tributary of the Northwest Branch. The Johnson Road tributary currently has an impervious level of approximately 13.8 percent.

The impervious level of this site has increased incrementally over a period of years with the expansion of the landscaping business. The site's current impervious level is approximately 18 percent. By formalizing and limiting the areas needed for vehicles, and in the process, providing stormwater management for those areas, the impervious level is reduced to approximately 16 percent. With the staff recommendation to reduce the parking areas, the impervious level will be further reduced to approximately 14.8

percent. The Johnson Road tributary will remain well below the 15% impervious goal in the Master Plan.

The proposal calls for removal of currently graveled areas and their conversion to lawn and green areas, reducing the size of impervious areas. With the additional landscaping and afforestation, the existing character and scale of development in the semi-rural residential community would not be negatively impacted by the continuation of the subject landscape contractor business at its current level of operation.

B. Development Standards

The following table summarizes the relevant RE-2C Zone development standards:

Table 2: Development Standards

RE-2C	Required	59.3.5.5.B		
Development Standard	59.4.4.5.B	Landscape Contractor	Proposed	
Minimum Lot Area	2 acres	2 acres	6.18 acres	
Minimum Lot Width:				
• At street line	25'		449'	
• At building line	150'		335.9'	
Maximum Lot Coverage	25%		1.2%	
Minimum Principal Building Setback				
• Front	50	50'	284'	
• Side street	20	50'	40.3'*	
• Side	17	50'	300'	
• Sum of Sides	35		340.4'	
• Rear	35	50'	451.5'	
• Accessory Building Setback			Cinderblock Building 2	Metal Shed Building 3
• Front	80'		401.7'	328.6'
• Side Street	20		181.9'	165.1'
• Side	15		115'	157.5'
• Rear	10'		314.3'	419.3'
Height of Principal Building	50'		≤50'	
Height of Accessory Building	50'		≤50'	
*NOTE: A variance for principal building setback has been requested in conjunction with this application.				

C. Transportation

The subject property is accessed from and fronts on Holly Grove Road, a publicly maintained right-of-way running through a predominantly residential neighborhood. The existing driveway access for the subject property, which currently intersects Holly Grove Road at an angle, will be realigned to intersect perpendicularly. The property also has a second entrance on the west side of the property also along Holly Grove Road. This entrance is gated. This entrance is primarily reserved for tenants who reside onsite, therefore, it is rarely used.

Because of the distance required to reach a bus stop and the lack of a sidewalk network, all access to the property is expected to occur via automobile, either driving alone or carpooling. Holly Grove Road at this location is a narrow rural road that serves a few homes and the subject property. There are no pedestrian or bicycle activities along this road, mainly because it is a dead-end street. There are no existing or future plans for sidewalks or bicycle facilities along Holly Grove Road. The Countywide Long-range Bicycle Plan recommends an on-road class 2 bicycle facility on Norwood Road. The Washington Metropolitan Area Transit Authority (WMATA) Z2 bus route operates on Norwood Road and is the closest bus route serving the site. There are no other transit services serving the area.

The Conditional Use Plan for the proposed use of a landscaping contractor with 19 employees produces 18 peak hour AM and PM person trips. This project is exempt from additional LATR review as it is below the 50-person trip peak period threshold.

D. Parking

In general, the application meets the applicable requirements of Article 59-6. The parking table in Section 59.6.2.4 requires a base minimum of .50 spaces per employee plus 1 space per each vehicle operated in connection with the landscape contractor use located within the Re-2c Zone:

Table 3: Parking

Section 59.6.2.4 Parking	Required	Provided	Staff Recommended
0.50 sp/employee	0.50 X19=9.5=10 sp	45	0.50 X15=7.5=8 sp
1sp/each Vehicles associated with use	1X16=16 sp		1X16=16 sp
Residential dwelling	2X1=2 sp		2X1=2
Total	28 sp including 2 van-accessible handicapped spaces	45 sp including 2 van-accessible handicapped spaces. The residential Parking spaces not included	<ul style="list-style-type: none">26 sp including 2 van-accessibleRecommended: maximum 30 sp including 2 van-accessible

The proposed total number of spaces is 17 more than the required 28 minimum parking spaces. As indicated earlier, staff recommends that the number of employees remain at the current level of 15 including family members. Staff also recommends that there must be no more than 30 vehicle parking spaces, including parking for trailers associated with the business on the property. The use can adequately be served by a total of 30 spaces given the total number of trucks and trailers, the fact that some of the employees are using ride-share, and others travel directly to the work site. The Applicant's statement indicates that all the vehicles and trailers will be stored overnight on site in parking areas designated on the Conditional Use Site Plan, except the two vehicles of the family members managing the business.

Given the existing number of staff and vehicles, staff recommends that 15 of the proposed spaces, including some of the double depth parking spaces, be eliminated to further reduce the amount of impervious surface on the property.

E. Landscaping

Section 6.2.9.C. Parking Lot Requirements for 10 or More Spaces

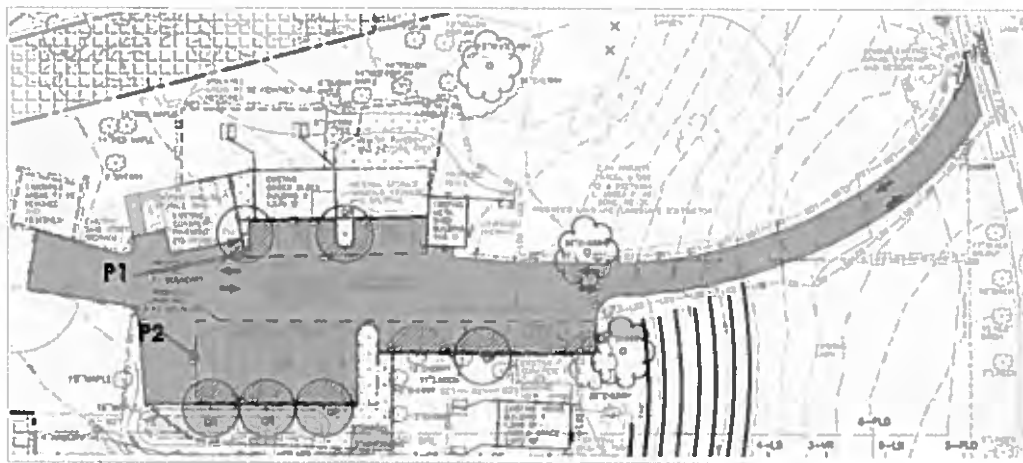


Figure 7: Parking

1. Landscaped Area

- a. A surface parking lot must have landscaped islands that are a minimum of 100 contiguous square feet each comprising a minimum of 5 percent of the total area of the surface parking lot. Where possible, any existing tree must be protected and incorporated into the design of the parking lot.
- b. A maximum of 20 parking spaces may be located between islands.
- c. A landscaped area may be used for a stormwater management ESD facility.

The revised Landscape Plan (revision date/engineer signature, November 20, 2018) satisfies the requirements of Section 6.2.9.C.1 through 3: **Parking Lot Requirements for 10 or more Spaces**. The Applicant is proposing 45 parking spaces towards the rear portion of the property, directly accessed via the stretched driveway from Holly Grove Road on the

southern property line. The driveway widens as it approaches the central part of the property to provide parking spaces along its eastern and western edges. As noted earlier, staff recommends that the number of parking spaces must be reduced from the proposed 45 to 30 spaces.

The Applicant's Landscape Plan provides a breakdown of total area coverage and the size of landscaped islands (Table 4).

Table 4-Parking Lot Requirements

6.2.9. PARKING LOT REQUIREMENTS CALCULATION

TOTAL PROPOSED PARKING AREA P1	2,683 S.F.
TOTAL LANDSCAPED ISLANDS WITHIN PARKING AREA P1	260 S.F.
TOTAL LANDSCAPED ISLANDS COVERAGE WITHIN PARKING AREA P1	9.7%
TOTAL REQUIRED LANDSCAPED ISLANDS COVERAGE FOR PARKING	5.0%
 TOTAL PROPOSED PARKING AREA P2	 8,590 S.F.
TOTAL LANDSCAPED ISLANDS WITHIN PARKING AREA P2	606 S.F.
TOTAL LANDSCAPED ISLANDS COVERAGE WITHIN PARKING AREA P2	7.1%
TOTAL REQUIRED LANDSCAPED ISLANDS COVERAGE FOR PARKING	5.0%

The application complies with the 100 square foot and five percent requirement for the size of landscaped islands.

2. Tree Canopy

Each parking lot must maintain a minimum tree canopy of 25 percent coverage at 20 years of growth, as defined by the Planning Board's Trees Technical Manual, as amended.

Table 5-Canopy Coverage

6.2.9.CANOPY COVERAGE CALCULATION

TOTAL PROPOSED PARKING AREA P1	2,683 S.F.
TOTAL EXISTING AND PROPOSED CANOPY COVERAGE AREA WITHIN THE PARKING	890 S.F.
TOTAL EXISTING AND PROPOSED CANOPY COVERAGE (%)	33.2%
TOTAL REQUIRED CANOPY COVERAGE (%)	25.0%
 TOTAL PROPOSED PARKING AREA P2	 8,590 S.F.
TOTAL PROPOSED CANOPY COVERAGE AREA WITHIN THE PARKING	2,335 S.F.
TOTAL PROPOSED CANOPY COVERAGE (%)	27.2%
TOTAL REQUIRED CANOPY COVERAGE (%)	25.0%

Staff finds that the proposed landscaping meets or exceeds the standards set in Sections 6.2.9.C.1 and C.2 of the current Zoning Ordinance for Landscape Area and Tree Canopy Coverage.

3. Perimeter Planting

a. The perimeter planting area for a property that abuts an Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use must:

- i. Be a minimum of 10 feet wide;**
- ii. Contain a hedge, fence, or wall a minimum of 6 feet high;**
- iii. Have a canopy tree planted every 30 feet on center; and**
- iv. Have a minimum of 2 understory trees planted for every canopy tree.**

The application meets the requirements through a combination of afforestation areas as well as a combination of canopy trees, evergreen trees, large and medium size shrubs and wood split rail fences with a minimum of at least 10-foot-wide planting area along the entire perimeter of the Conditional Use site.

Section 59-6.4.3: General Landscaping Requirements specifies and defines the types of plant materials, canopy trees, understory trees, and evergreen trees. In response to Staff's comments, the Applicant had submitted a revised Landscape Plan. The revised landscaping satisfies the General Landscape Requirements as defined and specified under Section 59 6.4.3.

F. Lighting

Pursuant to Division 6.4.4.E, outdoor lighting for Conditional Uses must be directed, shielded or screened to ensure that the illumination is 0.1 foot-candles or less at any lot line that abuts a lot with a detached house building type, not located in a Commercial/Residential or employment zone.

The Lighting Plan is adequate and safe for vehicular and employee movement. The proposed lighting serves multiple purposes, including illumination of the site entrance, visibility lighting in the employee parking areas and area lighting near the structures. A photometric study submitted with the Application shows measured lighting intensity across the entire property in foot-candles, the locations of lighting fixtures and the manufacturer's specifications on the proposed lighting fixtures. The Photometric Plan shows that the lighting will not cause glare on adjoining properties, nor will it exceed the 0.1 foot-candle standard at the side and rear property lines. The lighting, with no direct light or light glare, will not have a negative impact on neighboring properties.

G. Signage

There will be no identification sign on the property.

H. Environment

Consistency with Environmental Guidelines

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for this Property on April 12, 2018.

Forest Conservation

The Property currently has no forest, but the proposed Forest Conservation Plan provides for 1.24 acres of forest on-site located along the north and portions of the east and west boundaries of the property. A Final Forest Conservation Plan has been submitted for review and is recommended for approval as a separate action by the Planning Board as part of this Conditional Use Application. The Forest Conservation Plan review reveals that over a period of years, there has been a significant amount of off-site clearing that has resulted in the loss of approximately 6,500 square feet of forest. This area will be cleared of debris and re-stabilized as part of the forest planting proposed adjacent to this area (see attached Forest Conservation Report-Attachment B-1-). The Applicant has also requested a tree variance.

I. Community Concerns

At the time of the Staff's report publication, no direct communication with staff had been received from the community either in support of or in opposition to the proposed use.

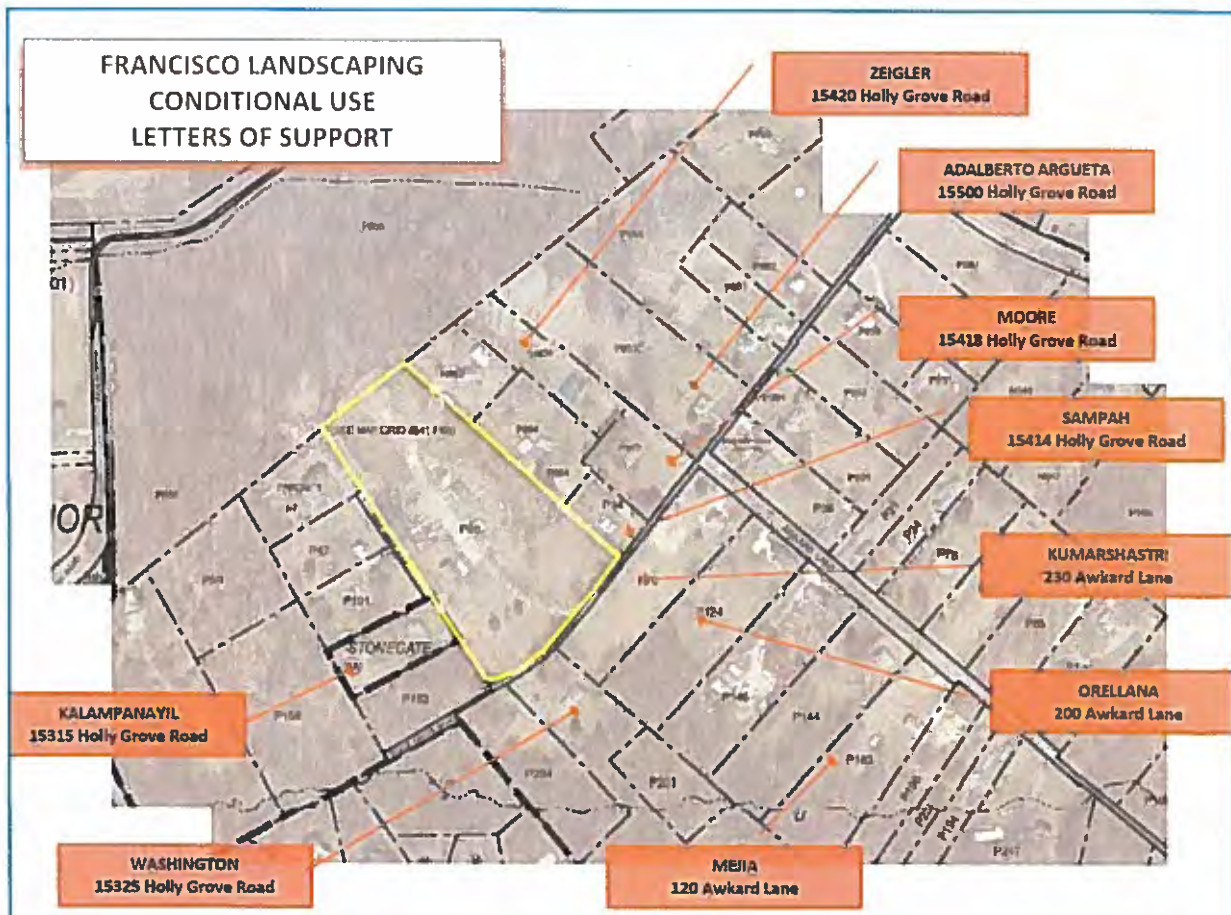


Figure 9: Neighbors in Support

However, the Applicant has submitted several letters supporting the application from residents of the immediate area including from owners of adjoining and confronting properties (see attachment C-2). The Applicant also submitted an aerial photograph identifying the location of the properties corresponding to the letters of support (Figure 9).

SECTION IV: COMPLIANCE WITH THE NECESSARY FINDINGS IN SECTION 59.7.3.1.E AND SPECIFIC CONDITIONAL USE REQUIREMENTS IN SECTION 59-3

Section 59.7.1.E. Necessary Findings

1. Section 59.7.3.1.E.1 states that, to approve a Conditional Use application, the Hearing Examiner must find that the proposed development satisfies the following requirements of Sections 59.7.1.E.a through g.

- a. Satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;

There are no prior Conditional Use approvals associated with the subject property.

- b. Satisfies the requirements of the zone under Division 59-3, the use standards (Division 4), and applicable general requirements under Article 59-6.

With Staff's recommended conditions of approval and the variance, the proposal satisfies the specific Conditional Use standards and requirements of Section 59.3.5.5-Landscape Contractor. As shown on the Use Standard Table in Section III of this report the application generally meets the RE-2C Zone development standards in Section 59.4.4.5.B and the applicable parking, screening, perimeter landscaping, and sign requirements of Article 6. As noted above, the Applicant has requested a variance from the side street setback requirements

Section 59. 3.5.5. Landscape contractor: Specific Conditional Use Requirements:

A. Defined

Landscape contractor means the business of designing, installing, planting, or maintaining lawns, gardens, or other landscaping and providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape contractor includes tree installation, maintenance, or removal. Landscape contractor does not include Lawn Maintenance Service (see Section 3.5.14.G, Lawn Maintenance Service).

The proposed landscape contractor business meets the Use Definition of Landscape Contractor as described by this Section. The proposed use does not include a Lawn Maintenance Service.

B. Use Standard

Where a Landscape contractor is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- 1. In the Agricultural, Rural Residential, and Residential Detached zones the minimum lot area is 2 acres. The Hearing Examiner may require a larger area if warranted by the size and characteristics of the inventory or operation.**

The proposal satisfies this requirement. The subject property comprises 6.18 acres of land.

- 2. Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line.**

Areas for parking and loading of trucks and equipment as well as other on-site operations are located a minimum of 50 feet from any property line. Adequate buffering and screening are provided in the form of a landscape strip, and substantial distances from the neighboring residential dwellings. However, the existing building is located within 40 feet and 33 inches of the side street lot line and the Applicant is requesting a 9-foot, 7-inch variance from the required 50-foot setback. Staff supports the requested variance (See section VI: Variance).

- 3. The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on-site must be limited by the Hearing Examiner to avoid an adverse impact on abutting uses. Adequate parking must be provided on-site for the total number of vehicles and trailers permitted.**

The Conditional Use Site Plan proposes parking in excess of the required number of parking spaces. Staff has recommended a reduction in the proposed parking from 45 to a maximum of 30 (see discussion in Section III-D under Parking). The parking areas are located in the interior of the property towards the rear portion, a substantial distance from the adjoining residential properties. The closest residential property is located west of the subject property across Holly Grove Road about 140 feet from the closest parking area. Screening of the parking area between the closest residential property includes perimeter planting of two rows of trees, a proposed restored lawn area, and a fence.

The landscape contractor business currently has 15 employees, including three family members.

4. **Sale of plant materials, garden supplies, or equipment is prohibited unless the contracting business is associated with a Nursery (Retail) or Nursery (Wholesale).**

There is no Nursery (Retail) or Nursery (Wholesale) business operating on the property and there will be no sale of plant materials or garden supplies on the property.

5. **The Hearing Examiner may regulate hours of operation and other on-site operations to avoid adverse impact on abutting uses.**

The landscape contractor business operates six days a week, 6:00 a.m. to 7:00 p.m., Monday through Friday and 7:00 a.m. to 5:00 p.m. on Saturdays. Snowplow operations may occur during the winter for up to 24 hours a day.

The Applicant's statement of justification indicates that there will be no retail sales and that customers would visit the property very rarely. There will be little activity on-site during most of the day since management and employees will be performing landscaping work at off-site locations. An exception to these hours/days of operations snow removal, occurs on days and times dictated by weather.

- c. **Substantially conforms to the recommendations of the applicable Master Plan.**

The property is located within the *1997 Cloverly Master Plan* area. The subject use conforms to the recommendations of the applicable Master Plan (*Please see analysis and findings under SECTION III. A: Master Plan*).

- d. **Is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan.**

With the recommended conditions, the proposed use will be in harmony with the general character of the neighborhood. The Conditional Use Site Plan and the Landscape and Lighting Plan provide for extensive landscaping and adequate setbacks meeting code requirements.

The Conditional Use Site and Landscape Plans provide for extensive landscaping, adequate setbacks, green areas (in the form of lawns and private gardens), new afforestation areas and sufficient building setbacks. There is extensive buffering, in the form of landscaping, afforestation, and fencing between the nearest residential properties and the proposed use.

The Applicant proposes 19 employees, including three family members of whom two handle the administration part of the business. Staff recommends that the total number

of employees to remain unchanged from the current 15 to maintain the family-run business nature of the use at scale that doesn't impose change to the existing semi-rural character of the immediate neighborhood. There is a single-family dwelling on the property that is occupied by one of the three family members working in the business. However, there is no office on site or within the existing residential dwelling. The Applicant has indicated that two of the three family members manage the business electronically via telephone and computers off site. The number of employees varies seasonally, with the largest number of employees being present during the spring, fall and summer seasons.

Due to the nature of the use, the restricted hours of operation, and with staff recommended condition that the existing use remain at its current level of operation, it is unlikely that the proposed use will generate a level of traffic or noise that will adversely affect the residential neighborhood.

- e. **Will not, when evaluated in conjunction with existing and approved Conditional Uses in any neighboring Residential Detached zone, increase the number, intensity or scope of Conditional Uses sufficiently to affect the area adversely or alter the predominately residential nature of the area; a Conditional Use application that conforms with the recommendations of a Master Plan does not alter the nature of the area.**



Figure 10: Existing Storage Buildings



Figure 11: Existing Dwelling (West Side of the Property)

It is not likely that the approval of the subject Conditional Use would adversely affect the predominantly semi-rural nature of the area. In fact, it is more likely that the operation will not be visible from any adjacent property or road.

There is one approved Conditional Use (Special Exception) within the neighborhood boundary as defined by staff. The use was first approved in 1970 for animal boarding by CBA 2822, amended to add a Kennel for Dogs, in 1972 by S-142 and to increase the size of the property to five acres in 1973. The conditional use doesn't appear to be currently active. It is not likely that the approval of the subject Conditional Use would adversely affect the predominantly residential area, nor would it represent an over concentration of Conditional Uses in the immediate neighborhood.

- f. 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 Conditional Use is equal or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:**
 - i. If a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, or storm drainage; or**
 - ii. If a preliminary plan of subdivision is filed concurrently or required subsequently, 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;

The Conditional Use does not require approval of a Preliminary Plan of Subdivision at this stage, but one will be required if a building permit application is submitted in the future. The Application does not propose construction of any new structures. Existing public facilities—public roads, storm drainage, fire and police protection—are adequate to serve the proposed use.

(a) Water and Sewer Service

The property is served by well and a septic disposal system. The well serves the existing dwelling and will continue to do so. The Applicant explained that the contractor business doesn't have an office on the property and that the use of the residential structure remains as a private dwelling. The existing septic system has been determined to be sufficient to serve the residential dwelling.

(b) Storm Water Concept Plan

The stormwater management concept plan had been submitted to the MCDPS Water Resource Section. MCDPS has posted on its web site an Approved Storm Water permit dated December 20, 2018.

Permit Number	284172	Type	Stormwater Concept
Application Date	08/29/2018	Approved Date	12/20/2018
Final Date		Status	Permit Issued
Work Type	Disturb	Site Address	15400 HOLLY GROVE RD SILVER SPRING, MD 20905
Value	\$0.00	Lot/Block	N/A/N/A
Subdivision	Colesville Outside		
Phase Name			

Figure 12: Storm Water Concept Approval

(c) Transportation

Adequate Public Facilities Review (APF) and Local Area Transportation Review (LATR)

The Conditional Use Plan for the proposed use of a landscaping contractor with 15 current employees without shifts does not trigger LATR based on the operational statement provided by the applicant. According to the latest 2017 *Local Area Transportation Review (LATR) Guidelines*, the project will not exceed the threshold for an LATR since the operation does not generate more than 50 new person trips in either the morning or evening peak hour.

Holly Grove Road west of Norwood Road is a narrow local road with varying width ranging from 14 feet to 24 feet. The Road has about 14 feet of paved width along the property's southern frontage from which it is accessed, the width of the adjoining Holly Grove Road at this location is less than the minimum 50 feet of width standard for publicly owned tertiary roads.



Figure 13: Property's Southern Frontage and Access on Holly Grove Road

However, although the County maintains a portion of Holly Grove Road and provides snow removal services, the road at this location is a prescriptive right-of-way. Given the status of the road, a right-of-way dedication cannot be obtained or enforced. If at a future time the county takes ownership of the road and decides to widen it, the applicant may be required to provide sufficient dedication to provide 25 feet from the center-line of the road.

While the road does not meet any modern road design standards, it over does not appear to present any issues for the safe passage of vehicles. It was noted at a staff field visit that vehicles will have to slow and pull off to the right to allow another vehicle to pass. This driver courtesy has evolved over many decades of vehicular use in this neighborhood on this particularly rural road. Staff notes that sight distance is excellent along this very flat and straight road section and further notes that the Fire Marshall's office has approved a fire access plan discussed below.

Fire Access

The Applicant submitted a fire access plan to the MCDPS, Fire Department Access and Water Supply Office. The Office approved the proposed fire access plan on November 1, 2018 (Figure 14)

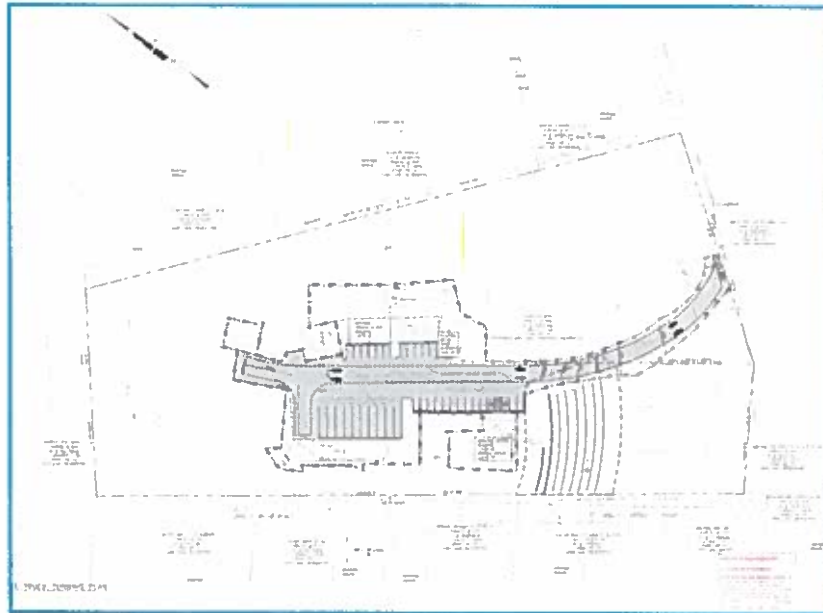


Figure 14: Fire Access Plan

(d) Other Facilities

The Hillandale Volunteer Fire Department is located at 13216 New Hampshire Ave, Colesville approximately 3.4 miles (seven minutes) south of the property. The closest police station is located at 1002 Milestone Dr. White Oak, Maryland, 3.7 miles south of the property.

Due to the nature of the Conditional Use, it does not generate any school aged children; therefore, school facilities review is not necessary.

- g. Will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:
- i. The use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;
 - ii. Traffic, noise, odors, dust, illumination or lack of parking; or
 - iii. The health, safety or welfare of neighboring residents, visitors or employees.

The inherent, generic physical and operational characteristics associated with landscape contractor businesses are (1) buildings, structures, outdoor areas for the storage of

plants and gardening-related equipment; (2) outdoor storage of plant stock, mulch, soil and landscaping materials in bulk and in containers; (3) on-site storage of business vehicles and equipment including small trucks and landscaping trailers; (4) traffic associated with the trips to the site by employees and suppliers; trips to and from the site by employees engaged in off-site landscaping activities; (5) adequate parking areas to accommodate employees; (6) dust and noise associated with the movement of landscaping products and the loading and unloading of equipment associated with landscaping businesses; and (7) hours of operation.

Staff found that the scale of the existing structure, the proposed access points, the internal vehicular circulation system, onsite parking areas, storage buildings, material storage areas, loading and unloading of supplies and equipment for off-site operations are operational characteristics typically associated with a landscape contractor operation. Staff, however, considered the fact that the property fronts on and is accessed from a local road with a paved width of about 14 feet to be a non-inherent characteristic. Staff believes that this non-inherent characteristic does not rise to a level that warrants a denial.

The subject landscape contractor business has operated on the subject property for 13 years. There is also evidence that the use existed on the property prior to the Applicant taking ownership of the property in 2005. There is no accident data or report of another incident that bring to question the safety of the road due to the operation of the landscape contractor business using the adjoining local road.

The proposed operation would not have an adverse impact on the transportation facilities of the area. No LATR review is required, and the proposed landscape contractor business application will have no adverse effect on area roadway conditions. There is no sale of plant materials or equipment on the property customers will only rarely visit the site, and almost all operational activities of the landscape contractor business are conducted in the interior of the property, away from views from the adjoining road and residential properties.

Holly Grove Road west of Norwood Road is very lightly traveled, and speeds are generally low. Morning trips generated by the subject property occur before the residents of the 30 residential properties accessing Holly Grove Road begin their morning commutes. The Applicant's statement of justification states that trucks from the business do not return to the site at mid-day. Moreover, the Applicant maintains that the largest truck used by the business has a width of 8 feet and can easily pass oncoming traffic on those infrequent occasions when the situation occurs.

To ensure that the current safe road condition remains unchanged and the semi-rural nature of the immediate neighborhood is maintained, staff recommends that the level of operation of the landscape contractor business, number of employees, trucks and trailers remain unchanged. The proposed application provides for a much-improved condition on the property through the Conditional Use process, including less

impervious surface, more trees, and restricted growth. The Applicant has also offered to provide forest on adjacent property along a shared property line in the back in an area currently destabilized.

With the recommended conditions of approval, the inherent and non-inherent impacts associated with the proposed use do not rise to a level sufficient to warrant a denial of the application.

SECTION V: VARIANCE

The Applicant is requesting a variance of 9 feet, 7 inches (9.6 Feet) from the 50-foot setback requirement for the existing residential structure on the subject property. Pursuant to Section 59-7.3.2.E, granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the board of appeals must find that:

1. denying the variance would result in no reasonable use of the property; or
2. each of the following apply:
 - a. one or more of the following unusual or extraordinary situations or conditions exist:
 - i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;
 - ii. the proposed development uses an existing legal nonconforming property or structure;
 - iii. the proposed development contains environmentally sensitive features or buffers;
 - iv. the proposed development contains a historically significant property or structure; or

The property has exceptional shape or extraordinary conditions due to the following features:

1. Holly Grove Road, which is a local road, bends at the southwestern end of the property and wraps around the property creating a situation that the property fronts the same road on both its western and southern property lines.
2. The property is accessed from a road that is publicly maintained and 14 feet wide (in front of the property).

The existing home was constructed with a building permit approved by the County Department of Permitting Services in 1989 and met all required setbacks for a residential dwelling. The dwelling has not been expanded or had any changes to its original footprint since its construction.

The residential use substantially conformed with the established historic and/or traditional development pattern of the street and/or neighborhood. Although there is no evidence of an approved Special Exception or Conditional Use for Landscape Contractor on the property, there is evidence of the use existing on the property prior to the current owner taking ownership in 2005.

- b. The special circumstances or conditions are not the result of actions by the applicant;**

As noted, the existing residential dwelling meets and exceeds the setback from the side street requirements for a residential dwelling in the RE-2C Zone. The need for the requested variance is triggered because the specific Conditional Use requirements necessitate an additional setback that is above the normally required setback for residential uses in the zone.

Section 3.5.5.: Landscape Contractor

Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line.

The existing side street setback on the west side of the property is only 40.33 feet from the property line. Although it exceeds the 20 feet set back requirement for residential use in the RE-2C Zone it fails short of the 50-foot set back requirement causing the need for the requested variance of 9.6 feet.

- c. The requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;**

The requested variance is the minimum necessary to overcome the practical difficulties that full compliance with the specific Conditional Use requirement would impose due to the unusual or extraordinary situations or conditions on the property. Any attempt to meet the Conditional Use requirement would necessitate a demolition of a portion of the existing house which would be unreasonable and would create an unusual and practical difficulties on the Applicant.

- d. The variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and**

The variance can be granted without substantial impairment to the intent and integrity of the General Plan and the 1997 Cloverly Master Plan. In addition, the variance, if granted, would be in harmony with the general purpose, intent and spirit of the Zoning Ordinance.

- e. **Granting the variance will not be averse to the use and enjoyment of abutting or confronting properties.**

Granting the variance will not be averse to the use and enjoyment of abutting or confronting properties. The variance would not result in any change in the current conditions or appearance of existing developments on the property. The requested variance of 9.6 feet from the 50 feet setback requirement, in this case, is minor given the fact that the proposed use meets or exceeds all other required setbacks and other development standards. The variance, if granted, would be in harmony with the general purpose, intent and spirit of the Zoning Ordinance.

Based on the preceding analysis, staff recommends approval of the requested variance.

SECTION VI: CONCLUSION

The proposed Conditional Use satisfies all applicable requirements for approval of a Conditional Use as specified in the 2014 Montgomery County Zoning Ordinance. The proposed use is consistent with the recommendations of the 1997 Cloverly Master Plan. There are no unacceptable traffic, circulation, noise or environmental impacts associated with the Application provided that the recommended conditions are satisfied.

Based on the foregoing analysis, staff recommends **Approval** of Conditional Use CU-19-04 and the associated variance request subject to the conditions found on Page 2 of this report.

ATTACHMENTS

- A. Plans and Drawings
- B. Forest Conservation Plan Recommendation
- C. Supplemental Information and Supporting Documents
- D. Referral Comments

ET/ CU19-04/123018

D-S Community Concerns

Attachment-D-S

Re CU 19-04

**Opposition Statement Against FM Group Inc. dba Francisco
Landscaping in the Holly Grove Residential Community**

Tuesday, January 8, 2019

My name is Jean Thomas Moore I'm 89 years old, and I moved to 15510 Holly Grove Road in 1941 when I was 10 years old with my parents Edgar and Elizabeth Thomas. At that time, our address was Route 3, Rockville Md. We would walk out to Norwood Road to get our mail, and it was aligned with many family's mailboxes. Holly Grove Rd was a narrow one-lane gravel road at that time. Automobiles waited at the entrance of Holly Grove and Norwood Rd for cars to exit before entering.

Later in the 50's we had a family the Myers who ran a small paving company at the very end of their long private driveway which was then grandfathered into the current residential only zone community along with Joseph Washington who's family dates to the 1930's. In 1961 we built our home on property my Dad and Mom gave to us currently located at 15520 Holly Grove Rd. I moved in with my husband and we raised five daughters their which is where I currently reside. The Hammonds built their home at 15400 and had a small septic business with one truck and a back hoe.

Shortly after the Argueta's purchased 15400 Holly Grove Road, I was standing at my front door when one of their large truck's pulling a trailer knocked my mailbox off its pedestal. The driver and its workers continued down Holly Grove Rd without stopping. I waited outside my home with my mailbox in hand for them to return. They did not, so I gathered my mailbox and got into my automobile and drove down the road to their place of business. By the time I got to 15400, the three worker men had parked and were sitting on their parked cars watching as I approached. I knocked on the resident's door, and a young lady answered, I asked her who was in charge of the trucks and men? She stated some man's name, and eventually, a young man came out. I told him my name is Jean Thomas Moore and I live at 15520, and one of your truck drivers knocked my mailbox down. He said, "we have all of our necessary papers to be." I interrupted him and said. "I'm not here about your papers, I'm here about my mailbox. I want it fixed and those three men that are looking at me now hit it with their truck and knocked it off." I told him I want it repaired now, or I'm calling the police. He wasn't too happy about it. He was agitated with me, and I was just as agitated as he was. 20 minutes later my mailbox was back on its pedestal.

The traffic is terrible. The trucks don't give you any leeway, they won't wait for you to pass. They just plow through. Had I not been home and witnessed the incident I would've had no idea how my property was damaged. Trucks are in and out at all hours of the night even some Sunday's. Cars speed in and out and make it dangerous for pedestrians to walk the road. They do not yield and allow me, my family or visitors to turn into my driveway instead they try to pass. Big tractor-trailer trucks come in, and its too many trucks and traffic for a residential community. I strongly oppose the Argueta family now attempting to legitimize their landscape business and expand it in our residential enclave which was once very peaceful and safe.

Respectfully submitted by,



Jean Thomas Moore
15520 Holly Grove Road
Silver Spring, Md. 20905

Cloverly Civic Association

Recommendation for Denial of CU-19-04: Francisco Landscaping Contractor

ATTACHMENTS

E2 Petitions Opposed to Conditional Use CU 19-04 Francisco Landscaping

Petition: Opposing application CU-19-04, Francisco Landscaping Conditional Use Request at 15400 Holly Grove Road, Silver Spring, MD 20905

To: Montgomery County Council

Casey Anderson, Chair, Montgomery County Planning Board

We, the signers of this petition, strongly oppose the conditional use application for Francisco Landscaping to operate a landscape business at 15400 Holly Grove Road. This 6.18 acre parcel is located 1,250 feet southwest of the intersection of Norwood and Holly Grove Road and 315 feet southwest from the intersection of Holly Grove Road and Awkard Lane. A business of this magnitude is inconsistent with the Cloverly Master Plan in the RE-2C zone. There have been no previously approved conditional uses in this designated single family residential neighborhood. Further, this use raises environmental concerns with respect to imperviousness within the Johnson Road sub-watershed of the Northwest Branch watershed, as well as noise and air quality concerns. Holly Grove Road is a narrow, rural roadway that is not designed nor intended for large volumes of industrial trucks, trailers and equipment.

We urge the Montgomery County Planning Board and Montgomery County Council to reject this conditional use request and enforce the Cloverly Master Plan that is guided by the protection of watersheds, and reinforcement of the low-density rural neighborhood character and residential stability of the community.

Print Name	Signature	Address&zip	phone/email
1. Jean T. Moore	<i>Jean T. Moore</i>	15520 Holly Grove Rd SS Maryland SS. (209105)	
2. Patricia Thomas	<i>Patricia Thomas</i>	15510 Holly Grove Rd. SS Md 20905	pathomas110@yahoo.com Lightnings3@aol.com
3. Judy McCauld	<i>Judy McCauld</i>	15520 Holly Grove Rd SS Md 20905	
* 4. GERALD HUDSON	<i>Gerald Hudson</i>	15410 Holly Grove Rd. Md 20905	
* 5. George Myers	<i>George Myers</i>	15301 Holly Grove Rd SS MD 20905	23yflex@gmail.com
* 6. O.T. Myers	<i>O.T. Myers</i>	15301 Holly Grove Rd SS Md 20905	
* 7. Henry R. Myers	<i>Henry R. Myers</i>	15301 Holly Grove Rd SS Md	
* 8. Sherrone R. Myers	<i>Sherrone R. Myers</i>	15301 Holly Grove Rd SS 20905	
* 9. Antonio Trejos	<i>Antonio Trejos</i>	15311 Holly Grove Rd SS 20905	
* 10. Joyce Trejos	<i>Joyce Trejos</i>	15311 Holly Grove Rd SS. 20905	

All signers of this petition live in Montgomery County, Maryland and are age 18 or older.

Petition: Opposing application CU-19-04, Francisco Landscaping Conditional Use Request at 15400 Holly Grove Road, Silver Spring, MD 20905

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Print Name	Signature	Address&zip	phone/email
1. Keith McConnell	<i>Keith McConnell</i>	121 Awkard lane S.S. MD	(301) 384-3966
2. Gloria Bond-McConnell	<i>Gloria Bond-McConnell</i>	121 Awkard lane S.S. MD	(301) 384-3966
3. Sherman Burruss	<i>Sherman Burruss</i>	131 Awkard Lane S.S. MD 20905	(202) 528-7069
4. Angela Burruss	<i>Angela Burruss</i>	131 Awkard Lane S.S. MD 20905	(202) 528-7069
5. <i>John B. Anderson</i>	<i>John B. Anderson</i>	26 Awkard Lane - S.S., MD	301-384-2355
6. <i>John B. Anderson</i>	<i>John B. Anderson</i>	27 Awkard lane	240-476-1780
7. <i>John B. Anderson</i>	<i>John B. Anderson</i>	15 Awkard Ln.	240 601-1152
8. John B. Anderson	<i>John B. Anderson</i>	15511 Holly Grove Rd.	
9. Gladis Reyes	<i>Gladis Reyes</i>	15501 Holly Grove Rd	
10.			

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Print Name	Signature	Address&zip	phone/email
* 1. Wilber Moto Trejos	Wilber A. Trejos	15311 Holly Grove Rd Silver Spring MD 20905	301-503-1157
* 2. Joshua Trejos	Joshua M. Trejos	15311 Holly Grove Rd SS md 20905	
3. Norma Chubatin	Norma Chubatin	15526 Holly Grove Rd Silver Spring MD 20905	301-324-9294
* 4. Joseph Washington	Joseph Washington	15321 Holly Grove Rd Silver Spring MD 20905	
* 5. Douth Washington	Douth Washington	15325 Holly Grove Rd Silver Spring MD 20905	
* 6. Mary A. Myers	Mary A. Myers	15301 Holly Grove Rd SS, md 20905	
* 7. Quentin Hill JR	Quentin Hill JR	15311 Holly Grove Rd Silver Spring, md 20905	
* 8. Edward [unclear]	Edward [unclear]	15406 Holly Grove Rd SS, md	
* 9. Emer [unclear]	Emer [unclear]	15406 Holly Grove Rd	
10.			

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Print Name

Signature

Address&zip

phone/email

- * 1. Trace Sampson Francisco 15414 Holly Grove Rd/20905
- * 2. Eugene Smith 15414 Holly Grove Rd Silver Spring 20905
- * 3. Deborah A. Zeigler Deborah G. Zeigler 15420 Holly Grove Rd S.S. MD 20905
- * 4. Latiera Johnson 15420 Holly Grove Rd S. Spring, MD 20905
- * 5. Malando Zeigler Malando Zeigler 15420 Holly Grove Rd S.S MD 20905
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

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Print Name

Signature ,

Address&zip

phone/email

- * 8. Felicia Myers 15301 Holly Grove Rd
Silver Spring Md S.S. 20905
- * 9. Dustin Hayes 15301 Holly Grove Rd S.S. 20905
- * 10. Dustin Hayes 15301 Holly Grove Rd S.S. 20905

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Print Name	Signature	Address & zip	Octauk's phone/email
Octauk's	[Signature]	111 Norwood Rd	51@jmmf
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

All signers of this petition live in Montgomery County, Maryland and are age 18 or older.

Tesfaye, Elsabet

From: Cloverly Civic <cloverly@verizon.net>
Sent: Thursday, January 3, 2019 8:50 AM
To: Tesfaye, Elsabet; Nelson, Katherine
Subject: FM Group Francisco Landscaping CU2019-04
Attachments: 19870731LancasterLandscapingDenial.pdf; StreamStats Johnson Rd.pdf; StreamStats.pdf

The Cloverly Civic Association was not aware of the filing of the Francisco Landscaping Conditional Use application CU-19-4 to the Office of Zoning and Administrative Hearings until it appeared on the Planning Board Agenda for January 10. We have not yet obtained the pre-hearing statement from OZAH, but based on the Planning Staff reports would like to clarify a few points. First, many of the residents in the community do not support the project. People who signed petitions did so from August to November 2018 before the details of the project were known, and the petitions only supported the Argueta family and Francisco Landscaping business and stated that there would be a hearing in the fall at which they could attend and speak to the Conditional Use application. We are working to provide, for the record, petitions of residents who oppose the project.

The Francisco Landscaping Conditional Use of residential property in the Holly gove neighborhood, zoned RE-2c, is entirely inconsistent with the Cloverly Master Plan. The Holly Grove neighborhood is zoned RE-2C. The Francisco operation is not compatible with a single family, residential neighborhood. The narrow, rural character of Holly Grove Road does not support this excessive volume of traffic. 10 commercial vehicles leaving and entering Holly Grove Road on week days, exacerbates existing traffic conditions and create a dangerous situation for emergency vehicles requiring access to the neighborhood. This use request raises serious environmental concerns relating to imperviousness and impacts on the Johnson Road sub-watershed in addition to noise, pollution, and air quality concerns.

Additionally, impervious data provided by the Us Geological Survey under the Stream Stats Program for the subwatershed south of Johnson Road, where most of the property is located, calculated an impervious level of 19.7 (see StreamStat.pdpdfs attached). A portion of the property drains into the Johnson Road stream watershed, which is 24.9 impervious (see StreamStats Johnson Rd.PDF) attached. These values are already above the 8% impervious values recommended by the State of Maryland to support cold water trout streams as specified for this area in the Cloverly Master Plan.

A similar plan to the Francisco Landscaping case was that of the Lancaster Landscaping S-1312 Special Exception case located nearby at 841 Norwood Road. The Lancaster Landscaping case S-1312 was recommended for denial by Park and Planning staff report of May 18, 1987, and was denied by County Board of Appeals for Montgomery County on July 31, 1987. We urge the staff to consider these denials in reviewing the Francisco Landscaping case. A copy of testimony by Rolf Nieman, review by the Development Review Division recommending denial to the Montgomery County Planning Board and finally the Montgomery County Board of Appeals denial of the Lancaster Special Exception (now called conditional use).

The Francisco conditional use request goes above and beyond any such previous uses by our residents and is inconsistent with the Cloverly Master Plan that is guided by the protection of the watersheds and reinforces the low-density, rural character and residential stability of our neighborhood.

Cloverly Civic Association
Quentin Remein, President



Virus-free. www.avg.com