



MCPB

Item No.: xx

Date: 04/23/2020

Item A: Milestone Senior Germantown, Senior Independent Living Facility, Forest Conservation No. CU 20-02

JP Joshua Penn, Planner Coordinator, Area 3, Joshua.Penn@montgomeryplanning.org, 301-495-4546

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RAW Rich Weaver, Division Chief, Area 3, Richard.Weaver@montgomeryplanning.org, 301-495-4544

Completed: 04/10/2020

Description

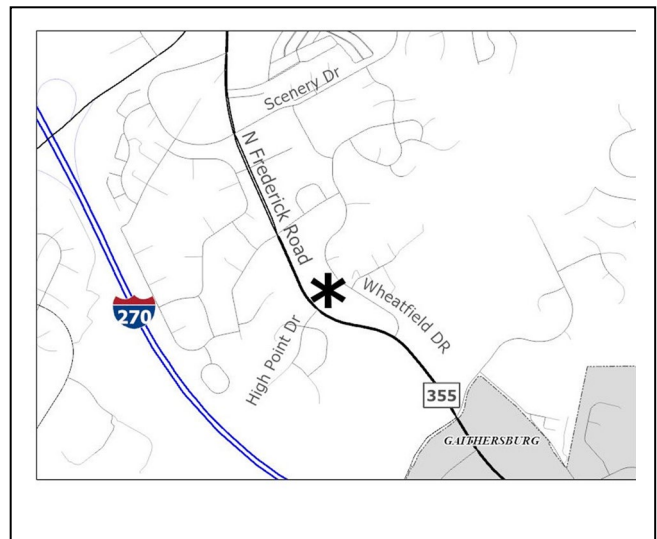
A. Preliminary Forest Conservation Plan CU 20-02

Preliminary Forest Conservation Plan CU 20-02 for an Independent Living Community, on a 2.64-acres located on the east side of Frederick Road (MD-355), approximately 0.2 miles north of the intersection of Wheatfield Drive and Frederick Road in Germantown, identified as Parcel 507, R-90 Zone, *The 2009 Germantown Employment Area Sector Plan*.

Applicant: Edmondson & Gallagher Property Services, LLC

Submittal Date: February 12, 2020

Review Basis: Chapter 22A; Forest Conservation Law



SUMMARY

- **Staff Recommendation: Approval with Conditions**
- The Planning Board must take action on the Forest Conservation Plan for Conditional Use Application CU 20-02. The development proposed under this application fully complies with Chapter 22A, the Forest Conservation Law.

STAFF RECOMMENDATION: Approval of Preliminary Forest Conservation Plan (“PFCP”) No. CU2019-09, subject to the following conditions:

1. The Applicant must submit a Final Forest Conservation Plan (“FFCP”) at time of Preliminary Plan of Subdivision application. The FFCP must be in substantial conformance to the approved Preliminary Forest Conservation Plan.
2. The limits of disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the FFCP.

SITE DESCRIPTION

The Property is an approximately 2.6-acre parcel of land. Access to the Property is from Frederick Road. Presently, there is a paved driveway from Frederick Road that provides access to the adjacent property to the south. The Property has varied topography with areas of relatively steep slopes covered with mature trees. The elevation starts 420 ft. along the south lot lines along Frederick Road, rises to about 440 ft. in a flatter area in the center of the Property, and then decreases down to about 426 ft at the northern lot line. The parcel is irregularly shaped with 408 ft. of frontage along Frederick Road.

There are no wetlands, intermittent or perennial streams on or within 100 ft. of the Property. No known rare, threatened, or endangered species exist on this Property. There are no designated historic sites on or near the Property.



Figure 1: Project vicinity

The boundary of the defined neighborhood comprises of residential property lines and street rights-of-way. The neighborhood boundary begins at the intersection of Plummer Drive and Frederick Road, follows south along Frederick Road to the intersection of Wheatfield Drive, then north roughly along Wheatfield Drive to Plummer Drive, and west on Plummer Drive to the intersection of Frederick Road.

This neighborhood itself consists primarily of suburban residential with limited commercial uses: gas station, fraternal club, and a credit union. Much of the neighborhood to the east was developed from 1992 to 1993. The residences directly across Frederick Road from the Property were developed around 1962. The building housing the fraternal lodge and restaurant (adjacent property to the north) was built in 1940. South of the Property, a small portion of the Great Seneca Stream Valley Park lies within the southern portion of the neighborhood.

There are no prior conditional uses associated with the Property. However, located about 600 ft. to the north of the Property is Special Exception No. S-1553 (Figure 4). This special exception, which was approved in 1988, authorized a gas station to operate at 19235 Frederick Road. The site remains in operation as gas station and car wash.

Two other prior special exception located at 19114 Frederick Road were approved and have been revoked. In 1961, via CBA-1173-A, the Board of Appeals granted a permit to authorize the operation of a care home for not more than five patients. In 1996, the Board of Appeals granted approval in S-2170 to allow a group residential facility for up to 14 elderly persons. Later in 2002, the Board of Appeals revoked both CBA-1173-A and S-2170.

PROJECT DESCRIPTION

The PFCP (Attachment A) was prepared in support of Conditional Use Application No. CU2020-02. The Project consists of the construction and operation of an independent senior living facility in a new 104,551 sq. ft., five-story, 111-unit apartment building. Proposed are 97 one-bedroom and 14 two-bedroom units. The maximum height of the building is 60 ft. The entire Property is subject to the conditional use review.

The Applicant indicates that a majority of units will be reserved for persons with incomes below 60 percent of the average median income (AMI) for Montgomery County. And, the Applicant further states that occupancy of dwelling units will be restricted to senior adults, members of the household of a senior adult, and a resident care-giver.

While the Planning Board is advisory on Conditional Use applications per 59.7.3.1 of the Zoning Ordinance, the Planning Board must make a finding that the pending conditional use application complies with Chapter 22A of the County Code and approve the Preliminary Forest Conservation Plan.



Figure 2. 2015 Aerial Photograph of Project Site

ANALYSIS AND FINDINGS

Environmental

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation Plan (“NRI/FSD”), Plan No. 420191320, for the Subject Property was approved on March 29, 2019. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The Subject Property is 2.64 acres in size and is substantially forested with 2.29 acres of a mixed hardwood forest. There are nine specimen trees measuring 30-inches or greater diameter breast height (“DBH”) within the forested area and one that is located just off-site. The Subject Property lies within the Middle Great Seneca Creek watershed, which is classified by the State of Maryland as Use I-P waters¹.

Forest Conservation

A Preliminary Forest Conservation Plan (“PFCP”) was submitted as part of this Conditional Use application. The PFCP shows the Net Tract Area on the PFCP Worksheet to be 2.81 acres which consists of the overall parcel size of 2.64 acres plus off-site disturbance of 0.17 acres for right-of-way improvements, pedestrian access and utility connections. The Subject Property is in the R-90 Zone and is classified as High Density Residential (“HDR”) as specified in the Chapter 22A of the County Code Trees Technical Manual. The net tract area of the Property contains 2.29 acres of forest and the Applicant proposes to remove this forest (Figure 3). This results in a Total Reforestation/Afforestation requirement of 1.56 acres. The Applicant is proposing to satisfy this requirement by purchasing the appropriate credit

¹ I-P waters; Waters that are suitable for: water contact sports; play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial and public water supply.

in an off-site forest bank. The Applicant must submit a Final Forest Conservation Plan at time of Preliminary Plan of Subdivision application to M-NCPPC.

As part of the PFCP, the Planning Board must consider an Applicant's request for a variance from Section 22A-12(b)(3) of Montgomery County Forest Conservation Law ("FCL") if impacts to protected tree species are proposed. The Forest Conservation Variance is described below. The Application meets the requirements of Chapter 22A of the Montgomery County code.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to high priority vegetation, including disturbance to the critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. Development of the Property requires impact to one and removal of nine trees identified as high priority for retention and protection, therefore, the Applicant has submitted a variance request to impact these trees.

Variance Request - The Applicant submitted a request letter dated March 12, 2020 seeking a variance from Section 22A-12(b)(3) of the FCL (Attachment A). The Applicant proposes to impact one (1) and remove nine (9) trees that are 30 inches or greater DBH, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 1).

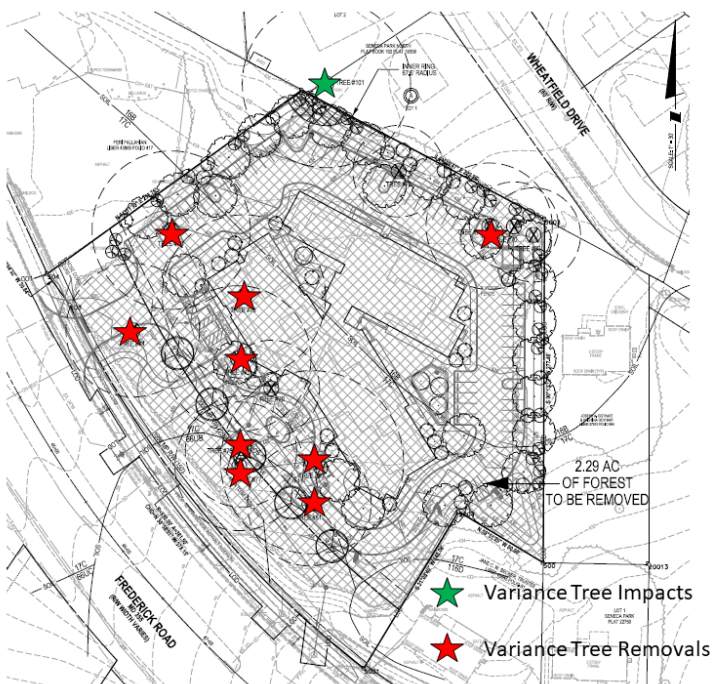


Figure 3: Forest Removal and Variance Tree Locations

Tree #	Species	DBH Inches	% Impacts	Condition	Status
71	White Oak (<i>Quercus alba</i>)	34.1	79%	Good	On-site, to be removed
73	White Oak (<i>Quercus alba</i>)	42.6	79%	Good	On-site, to be removed
74	White Oak (<i>Quercus alba</i>)	35.7	100%	Good	On-site, to be removed
75	Black Oak (<i>Quercus velutina</i>)	39.4	100%	Good	On-site, to be removed
76	Black Oak (<i>Quercus velutina</i>)	44.3	100%	Poor	On-site, to be removed
77	Black Oak (<i>Quercus velutina</i>)	34.5	100%	Fair	On-site, to be removed
78	Black Oak (<i>Quercus velutina</i>)	30.1	100%	Good	On-site, to be removed
80	Black Oak (<i>Quercus velutina</i>)	49.6	100%	Fair	On-site, to be removed
81	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33.6	100%	Good	On-site, to be removed
101	Black Oak (<i>Quercus velutina</i>)	45.0	28%	Good	Off-Site; Impact only, to be saved

Table 1: Variance Trees to be impacted or removed

Unwarranted Hardship Basis

Pursuant to Section 22A-21(Forest Conservation), a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. The subject property is 2.64 acres in size and almost entirely forested with 2.29 acres of forest. The variance trees requested to be removed are located toward the front of the property with one at the rear of the site. These variance trees are located within the existing forest cover (Figure 1). The one variance tree requested to be impacted is located off-site. Any development of this property would require the impact or removal of variance trees. Tree Nos. 74, 77, and 78 will need to be removed for the installation of the driveway/pedestrian access and utility connections. The remaining six trees are located within the construction envelope of the proposed building and parking. There is no redesigning of the site layout which would reduce the impacts to these variance trees. Tree No. 101 is located off-site and will be impacted by the construction of the proposed parking lot, but will be retained. Given the small size of the property and the distribution of the variance trees, leaving these trees in an undisturbed condition would be an unwarranted hardship. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

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

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

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

This finding is satisfied. Granting the variance will not confer a special privilege on the Applicant as the impact to one tree and the removal of nine trees is due to the location of the trees and necessary site design requirement. Therefore, Staff concurs that the granting of this variance is not a special privilege that would be denied to other applicants.

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

This finding is satisfied. The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project.

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

This finding is satisfied. The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. All specimen trees are being mitigated for either via the forest conservation worksheet or through Variance Tree Mitigation as described below. While mitigation does not replace the trees being removed it does provide additional environmental benefits replacing the form and function of the trees removed. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision - There are a total of one off-site tree being impacted and nine on-site trees proposed for removal in this variance request. All of the nine trees proposed for removal are located within the existing forest stand on the Subject Property. It has been M-NCPPC policy not to require mitigation for specimen trees removed within forest stands since the removal of the forest stand is compensated for through the Forest Conservation Worksheet. Additionally, no mitigation is required for trees that are impacted, but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection. The request was forwarded to the County Arborist on March 18, 2020. To date, staff has not received a response from the County Arborist.

Variance Recommendation - Staff recommends approval of the variance request.

CONCLUSION

The PFCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends that the Planning Board approve Applicant's request for a variance from Chapter 22A and the Preliminary Forest Conservation Plan with the conditions cited in this Staff Report.

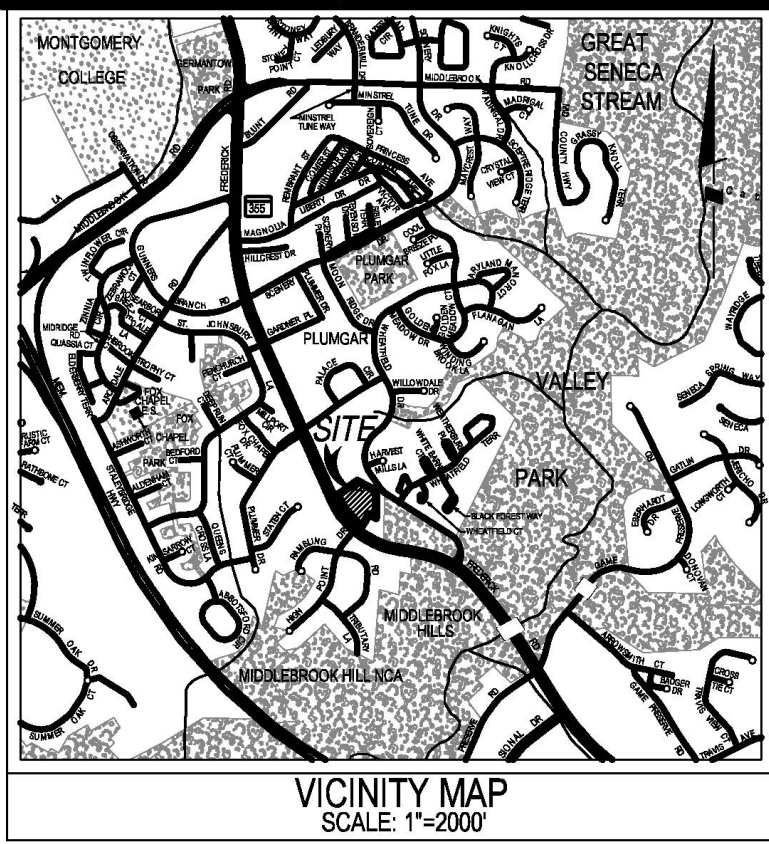
Attachments:

Attachment A – Preliminary Forest Conservation Plan

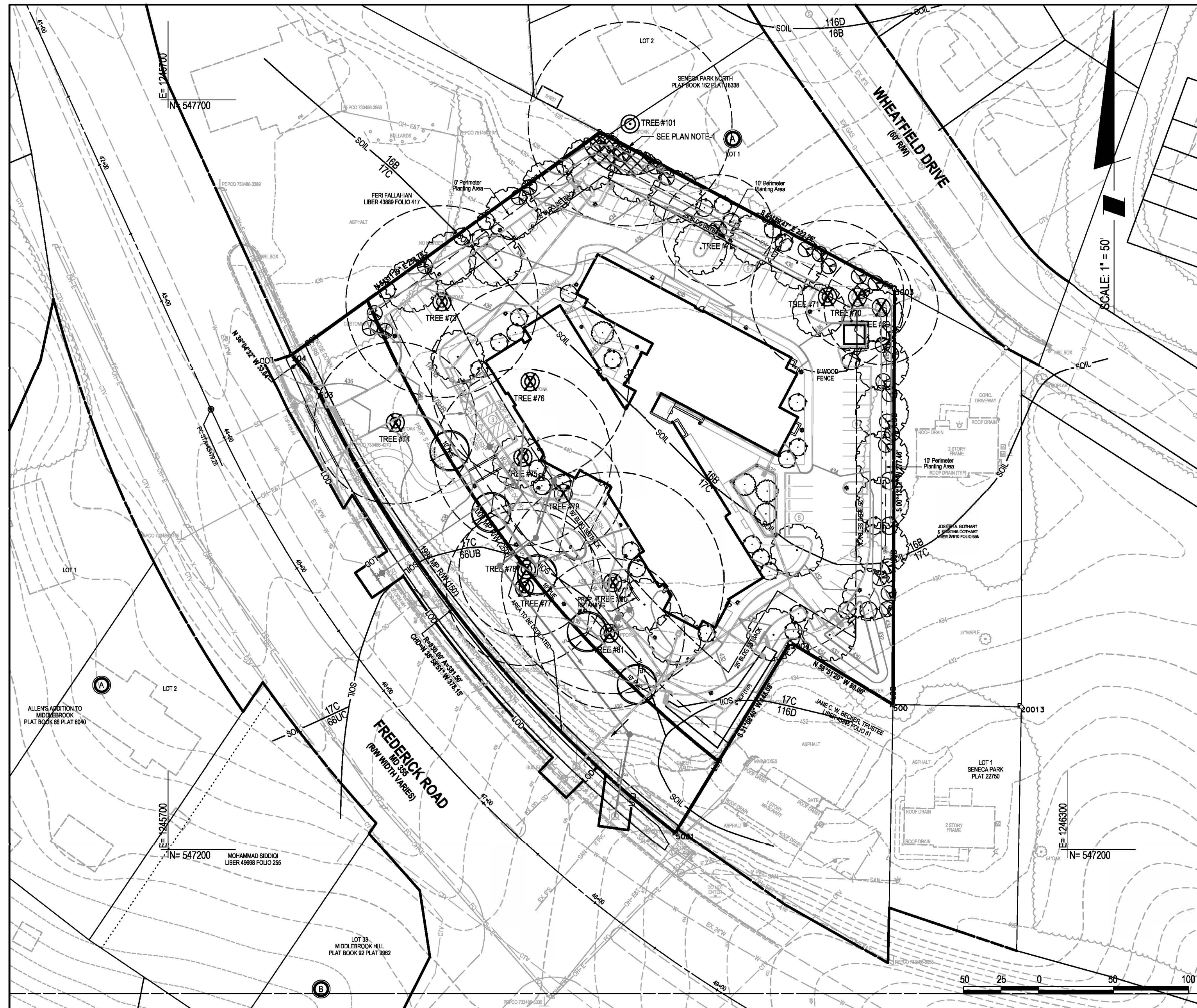
Attachment B – Applicant’s Variance Request

ATTACHMENT A

Preliminary Forest Conservation Plan

**PLANNING DEPARTMENT USE ONLY (E-PLANS)**

FOREST CONSERVATION WORKSHEET						
Milestone Senior Germantown						
NET TRACT AREA:						
A. Total tract area						2.64
B. Land dedication acres (parks, county facility, etc.) ...						0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...						0.51
D. Area to remain in commercial agricultural production/use ...						0.00
E. Offsite disturbances (extension of water/sewer; construction of site entrance, bikeway, and connecting pathway)						0.68
F. Net Tract Area						2.81
LAND USE CATEGORY: (from <i>Trees Technical Manual</i>)						
input the number "1" under the appropriate land use, limit to only one entry.						
	ARA	MDR	IDA	HDR	MPD	CIA
	0	0	0	1	0	0
G. Afforestation Threshold ...					15%	x F = 0.42
H. Conservation Threshold ...					20%	x F = 0.56
EXISTING FOREST COVER:						
I. Existing forest cover						2.29
J. Area of forest above afforestation threshold						1.87
K. Area of forest above conservation threshold						1.73
BREAK EVEN POINT:						
L. Forest retention above threshold with no mitigation						0.91
M. Clearing permitted without mitigation						1.38
PROPOSED FOREST CLEARING:						
N. Total area of forest to be cleared						2.29
O. Total area of forest to be retained						0.00
PLANTING REQUIREMENTS:						
P. Reforestation for clearing above conservation threshold						0.43
Q. Reforestation for clearing below conservation threshold						1.12
R. Credit for retention above conservation threshold						0.00
S. Total reforestation required						1.56
T. Total afforestation required						0.00
U. Credit for landscaping (may not exceed 20% of "S")						0.00
V. Total reforestation and afforestation required						1.56
W. Total reforestation and afforestation provided on-site.....						0.00
X. Total reforestation and afforestation provided off-site.....						1.56



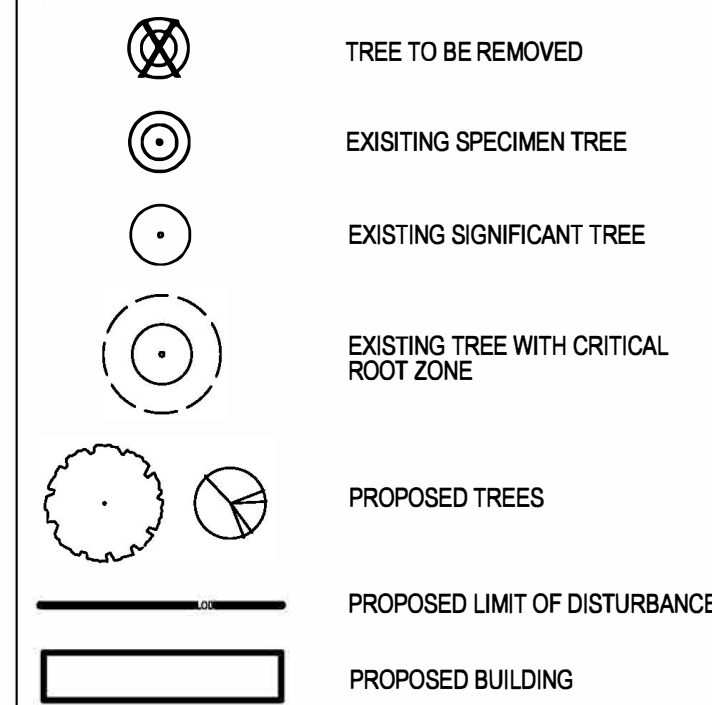
FINAL FOREST CONSERVATION PLAN

SHEET 1	COVER SHEET & TREE REMOVAL PLAN
SHEET 2	FOREST CONSERVATION PLAN & TREE PLANTING PLAN
SHEET 3	FCP NOTES & DETAILS

GENERAL NOTES:

1. THE EXISTING ZONE IS R-90.
2. TOTAL TRACT AREA: 2.64 ACRES.
3. NET TRACT AREA: 2.13 ACRES.
4. THE PROJECT LIES WITHIN THE GERMANTOWN SECTOR MASTER PLAN.
5. THE SUBJECT PROPERTY LIES WITHIN THE MIDDLE GREAT SENECA CREEK WATERSHED.
6. THE SUBJECT PROPERTY IS NOT WITHIN A SPECIAL PROTECTION AREA.
7. UTILITY SERVICE TO BE PROVIDED BY POTOMAC EDISON, VERIZON, WASHINGTON GAS, AND COMCAST.
8. PUBLIC WATER AND SEWER SERVICE TO BE PROVIDED BY WASHINGTON SUBURBAN SANITARY COMMISSION (WSSC).
9. THE PROPERTY IS IN WATER AND SEWER CATEGORIES W-1, S-1, RESPECTIVELY.
10. THE SITE IS LOCATED ON WSSC MAP 226NW11.
11. THE SITE IS LOCATED ON TAX MAP GRID FU121.
12. BOUNDARY AND TOPOGRAPHIC INFORMATION IS FROM FIELD SURVEY PERFORMED BY SOLTESZ, INC. DATED 01/07/2019.
13. THE LAYOUT OF ALL SITE ELEMENTS DEPICTED ON THIS PLAN, SUCH AS PARKING AND UTILITIES ARE APPROXIMATE AND SUBJECT TO CHANGE.
14. AN APPROVED NRI/FSO EXISTS FOR THIS SITE: PLAN NUMBER 420191320, APPROVED ON 03/29/2019.
15. NO FLOODPLAIN EXISTS ON THE SITE.
16. NO WETLANDS AND/OR INTERMITTENT OR PERENNIAL STREAMS EXIST ON OR WITHIN 100 FEET OF THIS PROPERTY.
17. THERE ARE NO KNOWN RARE, THREATENED OR ENDANGERED SPECIES OCCURRING ON THIS PROPERTY.
18. THERE ARE NO DESIGNATED HISTORIC SITES ASSOCIATED WITH THE PROPERTY.
19. OFF-SITE REFORESTATION AND AFFORESTATION TO BE PROVIDED IN AN OFF-SITE FOREST BANK. CERTIFICATE OF COMPLIANCE WHICH SATISFIES THE 1.06 ACRE REFORESTATION REQUIREMENT WILL BE PROVIDED PRIOR TO ANY CLEARING, GRADING OR DEMOLITION.
20. SWM CONCEPT WAS SUBMITTED TO MCDPS ON 05/08/2019.
21. WHERE PRACTICAL, TREES IN MD 355 RW DEDICATION AREA WILL BE SAVED.

LEGEND:



DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. _____ including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: EDMONSON & GALLAGHER
PROPERTY SERVICES, LLC
Printed Company Name

Contact Person or Owner: Benjamin Miller
Printed Name

Address: 1651 Old Meadow Drive, Suite 305 Mclean, VA 22102

Phone and Email: (703) 891-2410

Signature: _____

COVER SHEET & TREE REMOVAL PLAN

PRELIMINARY FOREST CONSERVATION PLAN MILESTONE SENIOR GERMANTOWN

GAITHERSBURG (9TH) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND



ROCKVILLE OFFICE
2 Research Place, Suite 100
Rockville, MD 20850
P. 301.948.2750 F. 301.948.9067

Rockville
Lanham
Waldorf
Leonardtwn
Frederick
Soltesz DC, LLC

NO.	REVISIONS		BY	DATE
DATE: DECEMBER 2018		CAD STANDARDS VERSION: V8 - NCS		
DESIGNED: ECO		TECHNICIAN: ECO	CHECKED: JLF	

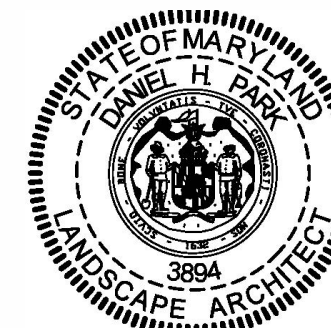
MISS UTILITY NOTE

INFORMATION CONCERNING EXISTING UNDERGROUND UTILITIES. WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND ELEVATION OF ALL EXISTING UTILITIES AND UTILITY CROSSINGS BY DIGGING TEST PITS BY HAND, WELL IN ADVANCE OF THE START OF EXCAVATION. CONTACT "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF EXCAVATION. IF CLEARANCES ARE LESS THAN SHOWN ON THIS PLAN OR TWELVE (12) INCHES, WHICHEVER IS LESS, CONTACT THE ENGINEER AND THE UTILITY COMPANY BEFORE PROCEEDING WITH CONSTRUCTION. NO GUARANTEES LESS

APPLICANT

EDMONDSON & GALLAGHER PROPERTY
SERVICES, LLC
1651 OLD MEADOW DRIVE
SUITE 305
MCLEAN, VA 22102
(703) 891-2410
BENJAMIN MILLER

MAP <u>5047</u> GRID <u>C3</u>	
TAX MAP FU 121, 11	ZONING CATEGORY R-90
WSSC 200' SHEET 226 NW 11	WATERSHED: MIDDLE GREAT SENECA CREEK
SITE DATUM HORIZONTAL: <u>XXXXXX</u> VERTICAL: <u>XXXXXX</u>	



1° = 50'

EET 1
OF 3









PROJECT NO.
3851-00-00

TREE TABLE						
Tree Tag #	Common Name	Botanical Name	DBH in inches	Significant Tree 24" to 29" DBH	Specimen Tree 30" DBH or greater	To Be Removed
69	Tulip Tree	<i>Liriodendron tulipifera</i>	25.4	x		yes
70	Tulip Tree	<i>Liriodendron tulipifera</i>	23.8	x		yes
71	White Oak	<i>Quercus alba</i>	34.1		x	yes
72	Tulip Tree	<i>Liriodendron tulipifera</i>	24.4	x		yes
73	White Oak	<i>Quercus alba</i>	42.6		x	yes
74	White Oak	<i>Quercus alba</i>	35.7		x	yes
75	Black Oak	<i>Quercus velutina</i>	39.4		x	yes
76	Black Oak	<i>Quercus velutina</i>	44.3		x	yes
77	Black Oak	<i>Quercus velutina</i>	34.5		x	yes
78	Black Oak	<i>Quercus velutina</i>	30.1		x	yes
79	Black Gum	<i>Nyssa sylvatica</i>	25.9	x		yes
80	Black Oak	<i>Quercus velutina</i>	49.6		x	yes
81	Tulip Tree	<i>Liriodendron tulipifera</i>	33.6		x	yes
101	Black Oak (Off-Site)	<i>Quercus velutina</i>	45.0		x	no

TREE CRZ IMPACT						
Tree Tag #	Common Name	Scientific Name	DBH in inches	CRZ Area (Sq ft)	Impact Area (Sq ft)	Percentage of Impact
101	Black Oak (Off-Site)	<i>Quercus velutina</i>	45	14307	4033	28%

PLAN NOTE-1:
 - DISTURBANCE TO INNER RING OF THIS TREE CONSISTS OF SOIL FILL TO MEET THE EXISTING GRADE. ROOT AERATION MATTING WITHIN THE INNER RING IS PROPOSED TO PROTECT THE ROOT ZONE.
 - NO HEAVY EQUIPMENT ACTIVITY WITHIN THE INNER RING OF THIS TREE.
 - COORDINATE WITH OFFSITE TREE OWNER TO WATER AND TREAT THE TREE. THESE TREATMENTS INCLUDE IRRIGATION, FERTILIZATION, PACLOBUTAZOL TREATMENT AND INSECT PEST PREVENTION.

LEGEND:

	TREE TO BE REMOVED
	SPECIMEN TREE
	SIGNIFICANT TREE
	TREE WITH CRITICAL ROOT ZONE
	SOIL LINE
	LOD
	FOREST COVER TO BE CLEARED
	PROPOSED BUILDING

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. _____ including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: **EDMONSON & GALLAGHER
PROPERTY SERVICES, LLC**
Printed Company Name _____

Contact Person or Owner: **Benjamin Miller**
Printed Name _____

Address: **1651 Old Meadow Drive, Suite 305 Molean, VA 22102**

Phone and Email: **(703) 891-2410**

Signature: _____

<p align="center">FOREST CONSERVATION PLAN</p>		
<p align="center">PRELIMINARY FOREST CONSERVATION PLAN</p> <p align="center">MILESTONE SENIOR GERMANTOWN</p>		<p align="center">  1" = 30' </p>
<p align="center">GAITHERSBURG (9TH) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND</p>		<p> SHEET <u>2</u> OF <u>3</u> </p>
		<p> PROJECT NO. 3851-00-00 </p>

The logo for Soltesz, Inc. features a stylized circular emblem on the left, composed of a grey outer ring and a white inner section with a black diagonal line. To the right of the emblem, the company name "SOLTESZ, INC." is written in a large, bold, black sans-serif font. Below the company name, the text "ROCKVILLE OFFICE" is centered. Further down, the address "2 Research Place, Suite 100" and "Rockville, MD 20850" are listed. To the left of the address, a list of services is provided: "Engineering", "Surveying", "Planning", and "Environmental Sciences". To the right of the address, the phone and fax numbers "P. 301.948.2750 F. 301.948.9067" are listed. On the far right, a vertical list of locations includes "Rockville", "Lanham", "Waldorf", "Leonardtown", "Frederick", and "Soltesz DC, LLC". At the bottom right, the website "www.solteszco.com" is displayed.

[illegible]


MISS UTILITY NOTE

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APPLICANT

EDMONDSON & GALLAGHER PROPERTY
SERVICES, LLC
1651 OLD MEADOW DRIVE
SUITE 305
MCLEAN, VA 22102
(703) 891-2410
BENJAMIN MILLER

MAP <u>5047</u> GRID <u>C3</u>	
TAX MAP FU 121, 11	ZONING CATEGORY: R-90
WSSC 200' SHEET 226 NW 11	WATERSHED: MIDDLE GREAT SENECA CREEK
SITE DATUM HORIZONTAL: <u>XXXXXX</u> VERTICAL: <u>XXXXXX</u>	



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March 12, 2020

Mr. Doug Johnsen
Landscape Architect – Area 3 Planning
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Forest Conservation Variance Request
Milestone Senior Germantown
CU20-02

Dear Mr. Johnson,

On behalf of our client, Edmondson & Gallagher Property Services, LLC, (the "Applicant") we request approval of a variance pursuant to Section 22A-21(b) of the Montgomery County Forest Conservation Law. The Variance is necessary to allow removal of trees on the property that are 30" DBH or greater. The property is an undeveloped parcel, Parcel P507 on Frederick Road in Germantown, Maryland.

This variance request is submitted in conjunction with the Forest Conservation Plan for Milestone Senior Germantown CU20-02. A Natural Resources Inventory for the site, No.420191320, was approved on March 29, 2019.

Variance Request

As detailed below, existing conditions, site constraints and the nature of the proposed project justify the granting of the variance pursuant to Section 22A-21(b) of the Code. Additionally the variance is in conformance with Section 22A-21(d) of the code, because the granting of the variance (i) will not confer a special privilege on the Applicants that would be denied to others; (ii) is not based on conditions or circumstances which result from the action of the Applicant; (iii) is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property; and (iv) will not violate State water quality standards or cause measurable degradation in water quality.

Pursuant to Section 22-A-21(b) of the Forest Conservation Law, the Variance request must provide the following:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of the Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;

- (3) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance; and
- (4) Provide any other information appropriate to support the request.

In accordance with these requirements, we submit the following information in support of the variance.

Description of the Property and Justification for Impacts

The subject property is an undeveloped 2.64 acre site in the R-90 zone, adjacent to Frederick Road (MD 355) in Germantown, Maryland. The site is surrounded by residential development in the R-90 zone to the north, east and south. The adjacent to the property to the west is developed with a restaurant, in the NR (Neighborhood Retail) zone. The property is almost entirely wooded, with 2.29 acres of forest. The property is sloping away from the center of the site toward the perimeter.

The property lies in the Fox Chapel district of the Germantown Master Plan. Frederick Road is proposed in the Master Plan to be expanded to a 250' right-of-way. This results in a 55-foot wide right-of-way dedication area of 0.51 acres – nearly 20 percent of the property area.

The applicant proposes a Residential Care Facility for Seniors. The building proposed is positioned in the center of the remaining property, with an entry drive and porte-cochere in the front, and surface parking along the sides and rear of the building. An ADA compliant walkway surrounds the building. Entrance to the property is at the northwestern end of the property to maximize sight distance. As per SHA design standards and specific request by SHA and MCDOT at the Development Review Committee (DRC) meeting with the client, the entrance was changed from a right-in, right out to a standard commercial Two-way Entrance, to reduce crossing distance. The building is designed around two interior courtyards for the ease of access and enjoyment of the residents.

The project proposes increased setbacks from adjacent properties for conformance and compatibility. In addition to the 55-foot wide dedication, the setback for the building is another 50 feet from the dedication line, resulting in a 105.7 foot setback from the existing property line. Side setbacks for the conditional use are two times the usual setback for a house or other building permitted in the zone. Parking in front of the building is restricted to less than 50% of the area in front of the building and the right-of-way. The project provides over 50% of green area as required, including a green roof. With the significant right-of-way dedication, setbacks and green area requirement, the buildable area of the site is considerably reduced. To avoid forest clearing and all specimen trees is not possible.

The property is proposed to be developed in accordance with all zoning restrictions and the master plan guidance for the area. The applicant requests the removal of eleven trees, and impacts to one offsite tree. The impacts to the offsite tree only affect 28% of the CRZ and mitigation of the impacts are proposed to protect and retain the tree. Impacts to each of the

trees are further detailed in the following Attachment A. The inability to remove the specimen trees described would prevent this Applicant from developing the site and would deprive the area of much needed affordable housing for seniors. The development is similar in size and scale and function to other facilities of this nature. Denial of the tree removal would deprive the owner of rights enjoyed by others for the lawful development of property.

Water Quality Standards

The applicant has submitted a Stormwater Management Concept Plan to the Department of Permitting Services Water Resources Section, which is currently under review. The plan demonstrates the protection of water quality through a series of microbioretention/planterbox facilities to capture, store, and treat runoff before release to public storm drain facilities. Runoff from development is captured to prevent impact to adjacent properties downhill from the site. In addition, green roof facilities will be used to reduce and filter rooftop drainage as well provide energy savings, reduction of heat island effects and improved air quality. The plan utilizes environmentally sensitive design practices to the maximum extent possible. The proposed stormwater management and mitigation measures are all in compliance with the current Maryland Department of the Environment (MDE) and Montgomery County Department of Permitting Services (DPS) regulations and standards.

Conditions for Granting Request

In accordance with 22A-21(d) of the code, granting of the requested variance will not confer a special privilege on the Applicants that would be denied to others. The application is in conformance with all regulations and is typical to other applications of its type. The request is not based on conditions or circumstances which result from the action of the Applicant and is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property. Granting of the request will not violate State water quality standards or cause measurable degradation in water quality.

We appreciate your consideration of this request. We believe that the supporting information provided supports granting of the variance.

If you have any questions or need additional information, please do not hesitate to contact our office.

Sincerely,

Soltesz, Inc.



Jane L. Przygocki
Technical Director

ATTACHMENT A

SPECIMEN TREES IMPACTED OR PROPOSED FOR REMOVAL									
Tree #	Scientific Name/ Common Name	DBH (in.)	CRZ Radius (ft.)	CRZ Area (sq ft)	CRZ Impact (sq ft)	CRZ Impact (%)	Condition	Problems	Disposition Justification
71	<i>Quercus alba</i> / White Oak	34.1	51	8,215	6,523	79%	Good	Dieback, large dead branches	Remove This tree exists at the rear of the site and is at the edge of proposed parking. Construction of the parking and grading at the rear of the site will impact most of the tree's CRZ.
72	<i>Liriodendron tulipifera</i> / Tulip Tree	24.4	37	4,206	3,523	84%	Fair	Large area of decay on trunk halfway up	Remove This tree exists at the rear of the site and is at the edge of proposed parking. Construction of the parking and grading at the rear of the site will impact most of the tree's CRZ.
73	<i>Quercus alba</i> / White Oak	42.6	64	12,821	10,126	79%	Good		Remove This tree is located in the parking area. Construction of the parking will impact most of the tree's CRZ.
74	<i>Quercus alba</i> / White Oak	35.7	54	9,004	9,004	100%	Good		Remove This tree is located in the entry road to the property and cannot be saved.
75	<i>Quercus velutina</i> / Black Oak	39.4	59	10,967	10,967	100%	Good		Remove This tree is next to the building and cannot be saved. 100% of CRZ will be impacted.
76	<i>Quercus velutina</i> / Black Oak	44.3	66	13,865	13,865	100%	Poor	Severe decay in trunk, large dead branches	Remove This tree is located near center of site where building is proposed.
77	<i>Quercus velutina</i> / Black Oak	34.5	52	8,409	4,443	53%	Fair	Split trunk at 20 ft	Remove This tree is at the edge of MP R/W, adjacent to the access road. More than 50% of the CRZ will be impacted by construction and grading.
78	<i>Quercus velutina</i> / Black Oak	30.1	45	6,401	4,127	64%	Good		Remove This tree is at the edge of MP R/W, adjacent to the access road. More than 50% of the CRZ will be impacted by construction and grading.
79	<i>Myrica sylvatica</i> / Black Gum	25.9	39	4,739	4,739	100%	Fair		Remove This tree is between the building and the access road to the building. The building and access road construction will impact 100% of the CRZ.
80	<i>Quercus velutina</i> / Black Oak	49.6	74	17,381	15,316	88%	Fair	Twin trunks at 6 ft with included bark	Remove This tree is in the sidewalk adjacent to the travel aisle and dropoff to the building. Construction of the building and road will affect the majority of this tree's CRZ.
81	<i>Liriodendron tulipifera</i> / Tulip Tree	33.6	50	7,976	6,375	80%	Good		Remove This tree is in the travel aisle, necessary for access to the front door and for fire access.
101	<i>Quercus velutina</i> / Black Oak	45.0	68	14,307	4,033	28%	Good		Retain This tree is located offsite on the adjacent property. Some fill will be required over the CRZ to meet existing grade at the property line. The applicant proposes to provide root aeration matting within the inner ring to protect the root zone. And coordinate with the property owner to provide irrigation, fertilization paclobutazol treatment and insect pest prevention.