

Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item No.

Date: 2.25.21

9221 Colesville Road, Conditional Use No. CU202103

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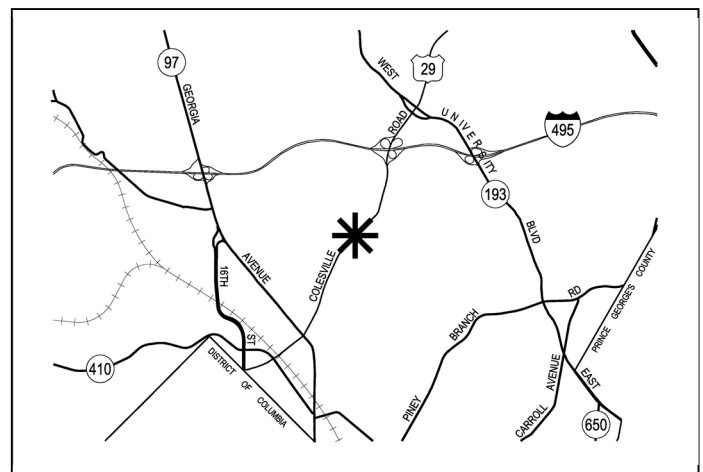
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Description

Completed 2-15-21

- Request for approval of a conditional use for a Home Health Practitioner (Major Impact).
- Location: 9221 Colesville Road, Silver Spring.
- Zone: R-60.
- Master Plan: 2000 *North and West Silver Spring Master Plan*.
- Property Size: 0.72 acres.
- Application Accepted: November 12, 2021.
- Applicant: E&M Investment LLC.
- Review Basis: Chapter 59.
- Hearing Examiner Public Hearing: March 15, 2021.



Summary

- Staff recommends approval with conditions.
- Staff supports a waiver under Section 59.6.2.10 for relief from the design specifications for four (4) tandem parking spaces for the Home Health Practitioner use and minimum drive aisle width.
- At the time of this report, no correspondence from the community has been received.
- The Site was previously approved for a Non-Resident Medical Practitioner's Office (S-1640) and the Special Exception was in effect from 1989 until 2012 after which time the former Special Exception use was abandoned.
- All reviewing agencies have approved the project.

SECTION 1: STAFF RECOMMENDATION

Staff recommends approval of Conditional Use No. CU202103 subject to the following conditions:

1. The Home Health Practitioner (Major Impact) use must be limited to up to two (2) resident health practitioners and up to six (6) non-resident support persons in any 24-hour period.
2. The Home Health Practitioner use is limited to serving a maximum of two (2) patients on-site at any one time.
3. The specified hours of operation are limited to Monday through Friday, 8:00 AM to 5:30 PM.
4. Appointments are required for visits, but emergency patients may visit outside the specified hours or without appointment.
5. The maximum amount of floor area used for the Home Health Practitioner use will be 1,195 square feet, 22% of the existing 5,507 square foot single family detached residential dwelling unit.
6. Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.
7. An indoor waiting room must be provided.
8. The Applicant must widen the existing four (4)-foot sidewalk along Colesville Road to five (5)-feet, preserving the existing one (1)-foot grass buffer along the Site's Colesville Road frontage.
9. The Applicant must provide ten (10) off-street parking spaces on-site.

SECTION 2: SITE DESCRIPTION

Site and Neighborhood Description

Site Description

The Subject Property ("Property" or "Site") is located at 9221 Colesville Road in Silver Spring, otherwise known as Lot 20, Block A of the Seven Oaks Subdivision. The Site is improved with a detached, one-story brick house with a cellar (Figure 1). The Site is subject to the 2000 *North and West Silver Spring Master Plan*.



Figure 1: Aerial photo of the Subject Site (outlined in red)

The 0.72-acre lot is located on Colesville Road between Dale Drive and Sligo Creek Parkway. The Property has a paved driveway that is approximately 18 feet wide and 105 feet long. At the end of the driveway is a three (3)-bay carport that has space for six (6) tandem parking spaces. An additional four (4) perpendicular parking spaces, including one ADA-accessible parking space with an adjacent service aisle is provided on-site. The total number of existing off-street parking spaces is ten (10).

An existing four (4)-foot sidewalk with a one (1)-foot grass buffer from the street extends along the Colesville Road frontage. A four (4)-foot concrete walkway connects the front of the single family detached residential dwelling unit to the sidewalk and to the adjacent driveway. An ADA-accessible ramp with handrails connects the driveway to the main entrance. The front entrance to the proposed medical practice is also accessible by both stairs and an ADA-accessible concrete ramp with handrails.

The single family detached residential dwelling unit has residential-type lighting fixtures in the front yard and distinct entrances to both the proposed Home Health Practitioner (Major Impact) use and the single family detached residential dwelling unit portion of the home.

No material changes to the exterior of the existing building on the site are proposed with this Conditional Use application. An exterior, free-standing sign is proposed along the Colesville Road frontage, for which the Applicant will seek a permit for from the Montgomery County Sign Review Board.

Neighborhood Description

The Staff-defined Neighborhood (outlined in yellow in Figure 2) is generally bounded by Sligo Creek Parkway/Sligo Creek Park to the north; Dale Drive to the south; Ellsworth Drive and Bennington Road to the east; and by Harvey Road to the west.



Figure 2: Staff-Defined Neighborhood

The Neighborhood is composed of detached houses in the R-60 Zone. Staff identified four (4) approved conditional uses/special exceptions within the defined neighborhood:

- S-30: Day Nursery on a church property for up to 40 children at one time, located at 9226 Colesville Road
- S-1673: Accessory Apartment, located at 9207 Watson Road
- S-2122: Non-resident medical practitioner's office at 9225 Colesville Road
- S-2086: Accessory Apartment, located at 615 Bennington Drive

SECTION 3: PROJECT DESCRIPTION

Previous Approvals on the Site

A “Family Doctor Practice”¹ first began on the Subject Property under Dr. George Patrick, Jr. in 1959, as a permitted use. In 1989, the doctor requested and received approval for Special Exception No. S-1640 to permit his son, Dr. George Patrick III, to join the practice as a non-resident medical practitioner. It appears that Dr. Patrick's office operated continuously until around October 2007 when Dr. George Patrick, Jr., the property's resident and special exception holder passed away. On September 13, 2012, the Board of Appeals passed a resolution to revoke the special exception due to abandonment of the use. No other special exceptions have been in operation on the Property since revocation of the former special exception.



Figure 3: Front view of house from Colesville Road (looking southeast)

Project Description

The Applicant is seeking conditional use approval for a Home Health Practitioner (Major Impact)² use. The two owners/adult residents of the Property intend to reside on the Property and operate a health care business with up to six (6) non-resident employees. The main function of the business is to provide health care services at the homes of patients, with most health care appointments located off the Subject Property. This business model will result in both owners spending about half the workday on the Subject Property and the other half off the Property conducting in-home healthcare visits. Of the six (6) staff assigned to the Home Health Practitioner Site, two (2) will work full time (eight (8) hours a day) at the

¹ Family Doctor Practice was the term used before “home health care practitioner” in Montgomery County at the time Special Exception S-1640 was approved.

² Code section 59.3.3.3.G. I. defines Home Health Practitioner as the office of a health practitioner who is licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene, has an advanced degree in the field from an accredited educational institution, and who resides in the dwelling unit in which the office is located. Home Health Practitioner includes a registered nurse or physician's assistant if that person has an advanced degree in the field and practices independently. Home Health Practitioner does not include an electrologist, mortician, nursing home administrator, pharmacist, or veterinarian.

residence. The other four (4) staff members will be primarily off-site at patients' homes for most of the day. Off-property duties include treating patients at patients' homes, interacting with health care staff and operators at hospitals, health care facilities, performing sales duties, and conducting meetings.

The proposed Home Health Practitioner use will occupy approximately 1,195 square feet (22%) of the 5,507 square foot existing single family detached residential dwelling unit and will be located entirely on the first-floor level (Figure 4). The Home Health Practitioner use will consist of a reception and waiting area (as required by Section 59.3.3.3.G.4), staff offices, a staff locker room/toilet, a staff meeting room, and a visitor bathroom. The Applicant is not proposing any expansion or change to the building or exterior structures. The Applicant proposes additional landscaping to further screen the existing parking. The Applicant (two homeowners) and two children live on the Property.

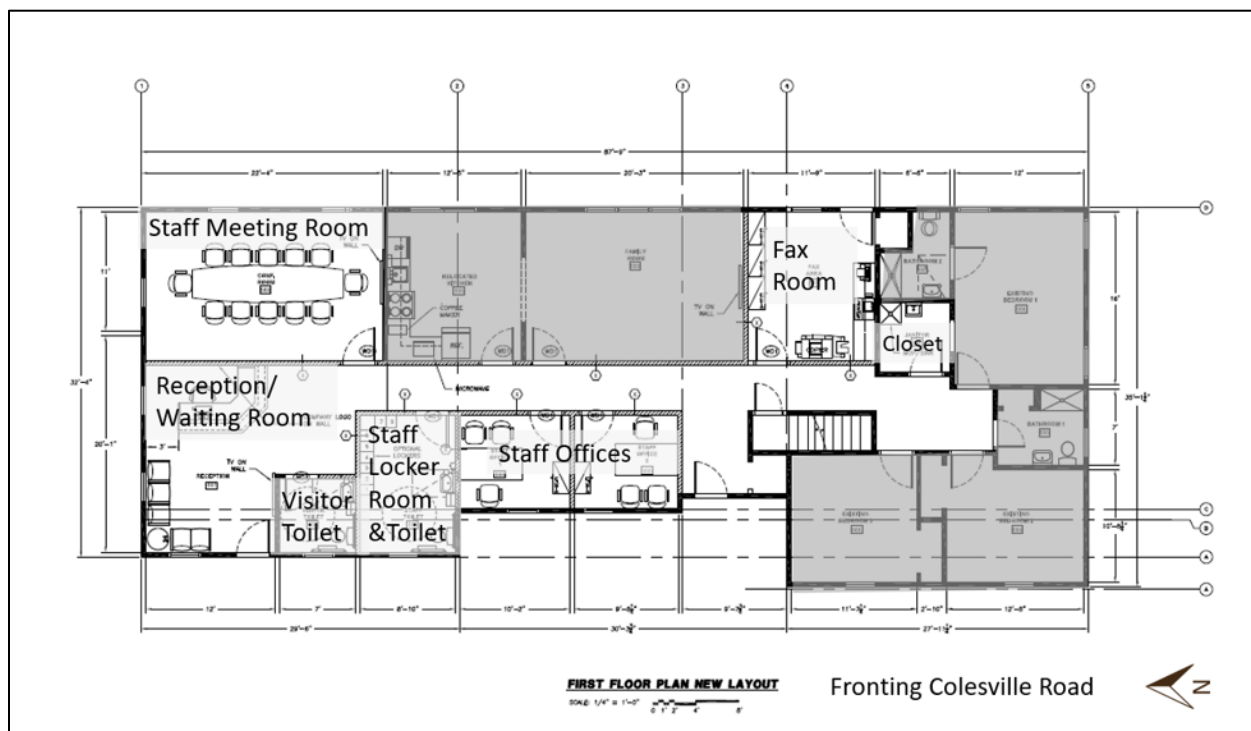
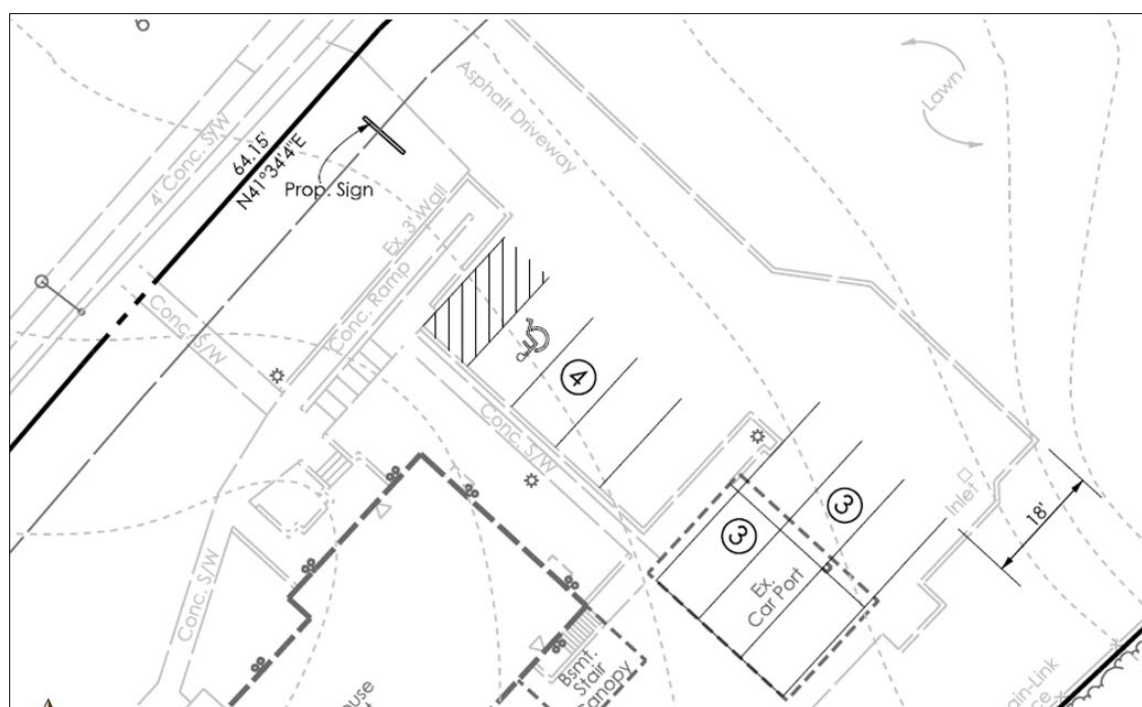
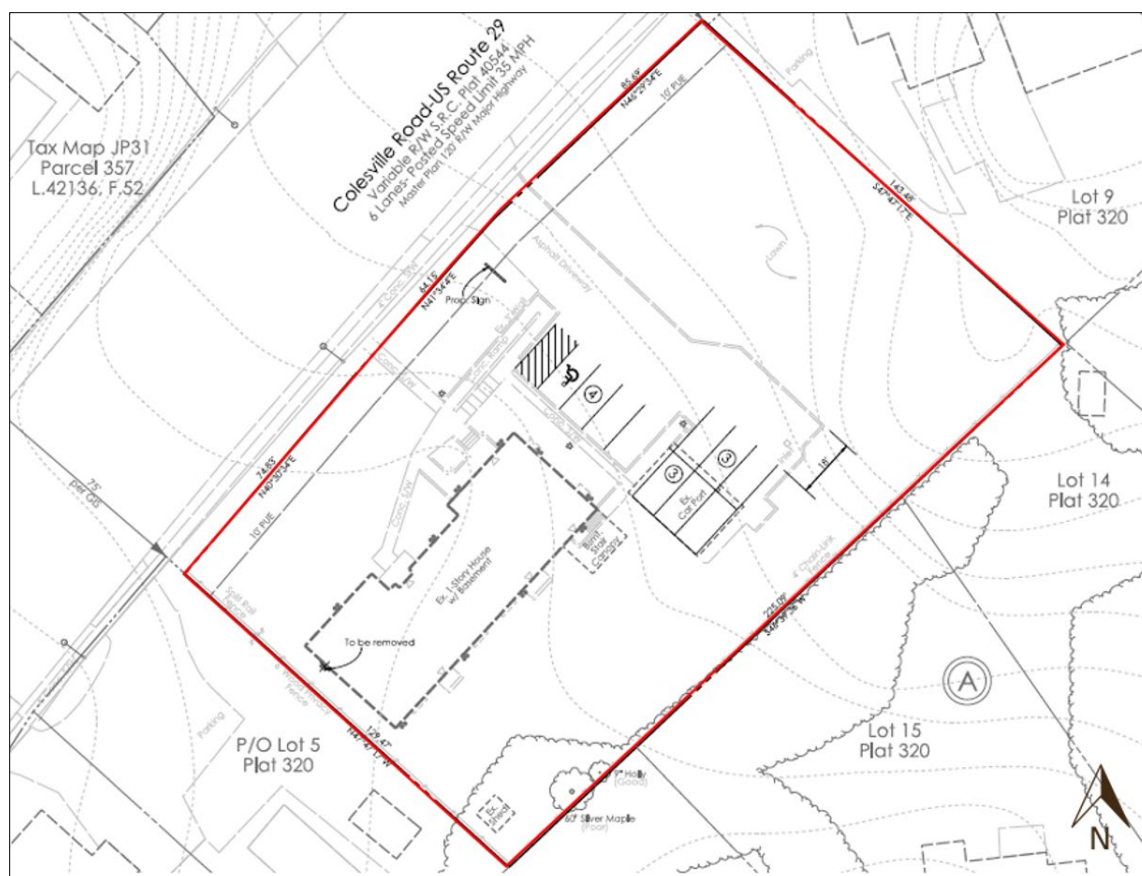


Figure 4: First Floor Schematic Floorplan

The staff business hours will be from 8:00 AM until 5:30 PM, Monday through Friday, excluding any emergencies. Of the six (6) non-resident staff members, two (2) will be based at the residence and the other four (4) will be working off-site for most of the day. The Applicant proposes that there will be a total of ten (10) patients arriving at the Site per week with a maximum of two (2) at any one time.

The Applicant indicates that a total of ten (10) parking spaces are available for the residence and Home Health Practitioner use (Figure 5). This includes six tandem parking spaces; three (3) of which are within the existing carport and three (3) immediately behind them on the driveway. These parking spaces are intended for the residents and the employees. Four (4) spaces, including one (1) ADA accessible space and access aisle provided within the existing driveway are available for either employees or patients.



To uphold the residential character of and around the Site, no dumpsters or other commercial trash receptacles are proposed on-site.

The Applicant proposes a sign along the Colesville Road frontage. The proposed sign will be a maximum of five (5) feet in height and will be set back five (5)-feet from the public right-of-way. The sign will be a maximum of five (5) square feet to be reviewed and approved by the Montgomery County Sign Board.

SECTION 4: ANALYSIS AND FINDINGS

Master Plan

The Site is located within the 2000 *North and West Silver Spring Master Plan* (Master Plan) area. Although the Master Plan does not specifically discuss this Property, one of the generalized planning goals is to “preserve the existing character and to reinforce the many desirable features of the North and West Silver Spring neighborhoods” (page 15).

The Master Plan recommends retention of R-60 zoning for the majority of the Plan area, while recognizing that the Zone allows certain uses in addition to single-family residential that may be non-residential but are considered compatible (page 43).

A home-based medical practice was previously permitted on the Site between 1989 and 2012 (and as a by-right use from 1959 to 1989). The Subject Application, which is similar in scale and operations to the previously approved special exception, will not change the character of the neighborhood. The Subject Site is in an appropriate location for a Home Health Practitioner use and is compatible with the neighborhood when considering its access off Colesville Road, a Major Highway with Planned Bus Rapid Transit (BRT). The existing structure on the property will remain as a single family detached residential dwelling unit and the primary residence of the owners of the Home Health Practitioner use. The exterior of the home and other structures on the Site are residential in nature and are not proposed to change. Therefore, the proposal is in substantial conformance with the R-60 zone and with the Master Plan.

Transportation

Transit Service

The Site is located within 200 feet of a bus stop on the west side of Colesville Road and within 650 feet of the east side of Colesville Road. This bus stop pair is served by several RideOn and WMATA bus routes, including the following:

- RideOn: 8, 9, 13, 14, 21, 22
- WMATA: Z2, Z6, Z8

All of these routes stop at the Silver Spring Transit Center, which is served by MetroRail, M.A.R.C. commuter rail, several local and regional bus routes, the Colesville Road Bus Rapid Transit (BRT), and future Purple Line light rail service.

The Colesville Road BRT line (Phase 1) is currently in operation along the Site’s Colesville Road frontage, and it operates in mixed traffic. The closest stations to the Site are in Downton Sliver Spring to the south and Blair High School to the north.

Master-Planned Roadways and Bikeway

Colesville Road is designated as a Major Highway with Planned Bus Rapid Transit (BRT) with a 120-foot-wide right-of-way. Phase 1 of the Colesville Road BRT service is in operation today, and as stated previously, the bus operates in mixed traffic along the roadway. No additional widening is proposed for Phase 2 and therefore the proposed conditional use is not expected to have any impact on the future BRT design and operations.

The 2018 *Bicycle Master Plan* does not recommend any designated bicycle facilities along Colesville Road. Per Section 59-6.2.4.C of the Zoning Ordinance, no bicycle parking spaces are required for the residential or Home Health Care Practitioner (Major Impact) uses.

Pedestrian Facilities

A four (4)-foot-wide sidewalk with a one (1)-foot grass buffer is present along the entire Colesville Road frontage. As conditioned, the Project will be required to widen the sidewalk to a width of five (5) feet to meet the Maryland Department of Transportation State Highway Administration's (MDOT SHA) minimum standards for sidewalks within state rights-of-way.

On-site Parking

The Site will provide ten (10) off-street parking spaces. No on-street parking is available along Colesville Road. The provided parking spaces will accommodate the two (2) required spaces for the residence, one (1) space for each non-resident employee, one (1) typical parking spaces for a patient and 1 ADA accessible space for a patient.

The parking configuration consists of six (6) tandem parking spaces (three (3) rows of two (2)) and four (4) perpendicular parking spaces. The six (6) tandem parking spaces are to be used by the residents and non-resident employees. The four (4) surface parking spaces will be available to patients and overflow parking for employees.

Two (2) tandem parking spaces are permitted for residential use, but the additional tandem parking spaces for employees will require approval by the Hearing Examiner of a waiver per Section 59.6.2.10. Staff supports the requested waiver because the tandem configuration makes use of the existing pavement on-site and is reasonable for employee use. Keeping the existing footprint of the driveway which reads a common residential driveway also upholds the residential character of the neighborhood.

The existing driveway, which also functions as a drive aisle for the parking spaces, is 18-feet wide in its current configuration. Per Section 59.6.2.5.G.2 of the Zoning Ordinance, the minimum driveway aisle width for perpendicular spaces and two-way movement is 20 feet. Therefore, a waiver, to be approved by the Hearing Examiner, is required for the two (2)-foot deficit. Staff supports this waiver because with the two (2) homeowners, six (6) non-residential employees, and two (2) patients on-site at a time the volume on the drive aisle/driveway is very low and it will be easy to maneuver within the slightly narrower drive aisle. The 18-foot driveway is also more in character with the residential context. Therefore, the volume of vehicles on this driveway will be comparatively low and the additional two (2) feet of new asphalt is not necessary.

Local Area Transportation Review

A proposed schedule of staff and patient arrivals during the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and evening peak period (4:00 p.m. to 7:00 p.m.) is included in the Application for Conditional Use. The greatest activity within a single hour of both peak periods was analyzed to determine the peak trip generation for the proposed use.

The morning arrival schedule shows up to six (6) non-residential employees arriving on site within the Site's peak morning hour (8:00 AM -9:00 AM) and four (4) leaving within that same hour. It is possible that the two (2) resident health care practitioners also leave within this hour to begin serving patients in their respective homes. Two (2) non-resident employees are expected to stay on-site throughout the day. It is possible that two (2) patients may be arriving and leaving within that same morning peak hour.

In the Sites' evening peak hour (4:30 PM and 5:30 PM), the two (2) remaining staff on-site will leave, and one (1) patient may enter and leave the Site within that same hour. The incoming and outgoing trips are shown in Table 1.

Table 1: Estimated Peak Hour Site Trip Generation

Peak Travel Hours	In	Out	Total
8:00 AM – 9:00 AM <ul style="list-style-type: none"> • 2 resident health care practitioners leave • 6 non-resident employees arrive • 4 non-resident employees leave • 2 patients arrive and leave 	8	8	16
4:30 PM – 5:30 PM <ul style="list-style-type: none"> • 2 non-resident employees leave • 2 resident health care practitioners arrive • 2 patients arrive and leave 	3	4	6

Under the *2016-2020 Subdivision Staging Policy*, a transportation study is not required to conduct a transportation impact study because the proposed Home Health Practitioner use generates fewer than 50 person-trips during the weekday morning and evening peak hours. Therefore, the Local Area Transportation Review is satisfied with the submitted transportation exemption statement.

Environment

The Site contains no streams, wetlands or their buffers, or known habitats of rare, threatened, or endangered species; thus, the project is in conformance with the *Environmental Guidelines*. As confirmed by M-NCPPC Staff on November 4, 2020, this Application is not subject to Chapter 22A Forest Conservation Law. Chapter 22A is specifically not applicable to this Application because it is a conditional use application for a tract of land that is smaller than 40,000 square feet and the project does not propose any land disturbing activity that would directly threaten the viability of a champion tree. Any Conditional Use Application meeting these qualifications is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code. Although not required, the Applicant did submit a Forest Conservation Plan Exemption No. 42021092E which was reviewed and approved by staff.

Community Correspondence

As of the date of this Staff Report, Staff has not received any comments from the community. The Application package included two (2) letters of support from adjacent property owners on Colesville Road (9225 and 9215 Colesville Road, Attachment 2).

Conditions for Granting a Conditional Use- Section 59.7.3.1.E. Necessary Findings³

1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*

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

The Site was previously approved for a non-resident medical practitioner use through Special Exception No. S-1640, which was in effect between 1989 and 2012. That Special Exception was revoked by the Board of Appeals only because the medical practice on the site had ceased in 2007. As there are no special exception uses currently in effect on the Property, the Subject Application is not subject to any previous approvals.

- b. satisfies the requirements of the zone, use standards under Article 59.3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59.6;*

Use Standards for Home Health Practitioner (Major Impact)- Section 59.3.3.3.G.4

- a. Where a Home Health Practitioner (Major Impact) 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:*

- i. The hours of operation and number of clients, customers, patients or other visitors allowed during that time are determined by the Hearing Examiner.*

The Applicant proposes to operate the Home Health Practitioner use between 8:00 AM and 5:30 PM Monday through Friday, with the rare exception of emergency patient visits outside of the established hours of operation. The Applicant anticipates seeing ten (10) patients on-site per week and no more than two (2) patients at any one time.

- ii. The maximum number of deliveries is determined by the Hearing Examiner.*

The Applicant proposes the use of delivery services typical of a residential use, such as USPS, UPS, FedEx, Amazon, etc. There will be no deliveries out of character with the underlying or surrounding residential uses.

³ Findings 59-7.3.1.E.5 and 59-7.3.1.E.6 are not applicable to this Application because the application is for a Home Health Practitioner (Major Impact) and not community swimming pool, filling station, etc.

- iii. *On-site sale of goods is determined by the Hearing Examiner.*

No on-site sale of goods is proposed as part of the conditional use application. All sale of goods will occur off-site.

- iv. *The Hearing Examiner may grant a conditional use for a Home Health Practitioner (Major Impact) on the same site as a Home Health Practitioner (Low Impact), a Home Occupation (Low Impact), or a Home Occupation (No Impact) if it finds that both together can be operated in a manner that satisfies Section 3.3.3.G.4 and Section 7.3.1, Conditional Use.*

This finding is not applicable because no other conditional use is proposed with the Home Health Practitioner (Major Impact) Conditional Use application.

- v. *The Hearing Examiner must not grant a conditional use for a Home Health Practitioner (Major Impact) where the site is already approved for any other conditional use under Section 7.3.1, Conditional Use.*

All previous special exceptions approved for the Site have been revoked and therefore this finding does not apply to the proposal.

- vi. *An indoor waiting room must be provided.*

An indoor waiting room will be provided by the Applicant. The patient entrance into the building on the first floor will include a waiting room/reception area.

- vii. *Screening under Division 6.5 is not required.*

- b. *Where a Home Health Practitioner (Major Impact) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards and Section 7.3.1, Conditional Use;*

Table 2: R-60 Zone Development Standards- Section 59.4.4.9.B

Section	Development Standard	Required/ Permitted	Proposed
59.4.4.9.B.1	Minimum Lot Area	6,000 SF	31,241 SF
59.4.4.9.B.1	Minimum Lot Width at Front Building Line	60 ft	225 ft
59.4.4.9.B.1	Minimum Lot Width at Front Lot Line	25 ft	225 ft
59.4.4.9.B.1	Maximum Density	1 unit (7.26 dwelling units/acre)	1 unit
59.4.4.9.B.1	Maximum Lot Coverage	35%	12%
59.4.4.9.B.2	Minimum Front Setback	25 ft	41 ft
59.4.4.9.B.2	Minimum Side Setback	8 ft	8 ft
59.4.4.9.B.2	Minimum Sum of Side Setbacks	18 ft	136 ft
59.4.4.9.B.2	Minimum Rear Setback	20 ft	53 ft
59.4.4.9.B.3	Maximum Height	30 ft	20 ft

Table 3: Parking Requirements- Division 59.6.2.4

Section	Parking	Required Spaces	Proposed
59.6.2.4.B	Vehicle Parking Requirement	Home Health Care Practitioner 1 Per non-resident employee = 6 1 Per patient = 2 Dwelling: 2 Total: 10	Home Health Care Practitioner 1 Per non-resident employee = 6 1 Per patient = 2 Dwelling: 2 Total: 10
59.6.2.4.C	Bicycle Parking Requirement	None	None

The Applicant requested a waiver, to be approved by the Hearing Examiner, under Section 59.6.2.10 of the Zoning Ordinance, for the tandem spaces and for a segment of the driveway width that is narrower than the minimum permitted.

Two tandem spaces are permitted for the residential use, but a waiver is required for the additional two (2) sets of tandem spaces. The two (2) additional tandem spaces are intended to be used by the employees, who can easily move the vehicles

if necessary. This configuration of the tandem spaces also makes the best use of the existing pavement on the Site. To accommodate more perpendicular, non-tandem parking spaces, the Applicant would need to expand the asphalt pavement, thereby increasing impervious surfaces on the Site. The proposed parking space configuration satisfies the intent of Section 59.6.2.1 to ensure efficient vehicular parking.

The existing driveway is 18-feet wide. This meets the design requirements for a residential driveway but is below the minimum width for a drive aisle that permits two-directional travel, which is 20 feet (Section 59.6.2.5.G.). The expected volume on the driveway is very low with six (6) non-residential employees and two (2) patients on-site at any one time. Given the expected traffic volumes and speeds, and that most of the occupants will be very familiar with the layout of the driveway the parking configuration and the drive aisle width satisfies the intent of Section 59.6.2.1 to ensure safe access within a parking facility.

Staff recommends approval of both waivers.

Lighting

The existing lighting is residential in nature and will not cause any unreasonable glare on neighboring properties. No additional lighting is proposed with this application.

Signage

The Applicant proposes a standalone sign along the Colesville Road frontage. The proposed sign will be a maximum of five (5) feet in height, set back five (5)-feet from the public right-of-way. The sign will be a maximum of five (5) square feet to be reviewed and approved by the Montgomery County Sign Board.

- c. *substantially conforms with the recommendations of the applicable master plan;*

As discussed in the Analysis section above, the Site is located within the boundaries of the 2000 *North and West Silver Spring Master Plan*, and the proposal is in substantial conformance with the Master Plan.

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

The proposal is harmonious with, and will not alter the character of, the surrounding neighborhood. No physical changes to the buildings or structures are proposed on the Property. The Applicant proposes additional plantings around the north side of the property adjacent to the existing driveway and parking facilities. Therefore, the proposed conditional use will not alter the character of the 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 predominantly*

residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

Staff identified three (3) approved conditional uses within the Staff-defined neighborhood, and they include a Day Nursery⁴ for up to 40 children, two (2) accessory apartments and one (1) Non-resident medical practitioner's office. Although approval of this Application will increase the number of conditional uses in the Staff-defined Neighborhood, the proposed Home Health Care Practitioner (Major Impact) use will not affect the area adversely or alter the area's predominantly residential nature. The Property was previously approved for home-based and non-residential medical office use for decades prior to this petition.

- 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 to 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 services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or*
 - ii. if a preliminary subdivision plan 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, and*

There are adequate public services and facilities to serve the proposed use and a Preliminary Plan of Subdivision is not required.

- 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 a lack of parking; or*
 - iii. the health, safety, or welfare of neighboring residents, residents, visitors, or employees*

An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every conditional use has some or all of these effects in varying degrees. Thus, inherent effects associated with the use have to be

⁴ Section 59-3.4.4.E of the 2014 Zoning Ordinance defines this use as a "Day Care Facility"; an establishment where care is provided for less than 24 hours a day, for which the provider is paid, for any of the following: children under the age of 17 years; developmentally disabled persons; handicapped individual; or any elderly individual.

determined. In addition, non-inherent effects have to be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a conditional use. It must be determined during the course of review whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Staff has identified the following inherent impacts of the proposal:

- The inherent physical and operational characteristics necessarily associated with a Home Health Practitioner (Major Impact) use include: (1) vehicular trips to and from the Site (2) parking for the residential and proposed use (3) physical changes to the site out of character with the surrounding neighborhood.

The proposal is estimated to generate 14 person trips during the morning peak hour and 5 trips during the evening peak hour. With fewer than 50 net new person trips generated by the proposed use, the Applicant has demonstrated that there are adequate public facilities to accommodate the trips generated by the Home Health Practitioner (Major Impact) use. Furthermore, the Site fronts on Colesville Road, a master-planned Major Highway with Bus Rapid Transit (BRT). The Site's location along this major roadway is ideal for a home-based business and it ensures that traffic to and from the medical practice will be primarily on the major roads and away from the residential streets in the surrounding neighborhood behind the Site.

With approval of the requested parking waivers adequate parking is available on-site. The existing parking facility can accommodate the minimum 10 spaces required for both the existing residential use and the proposed Home Health Care Practitioner (Major Impact) use without any modifications.

There are no changes proposed to the exterior of the existing structures on the site. The existing dwelling unit, carport and shed are proposed to remain as they are today. All changes to the building will be made to the interior and will not be discernable from the outside. The Applicant proposes additional plantings on the north side of the Property to further screen the parking facility, but this is not a requirement of the Zoning Ordinance. That Applicant proposes a sign on-site that will be reviewed for approval by the Montgomery County Sign Review Board.

- Staff has determined that the proposal will not have any non-inherent effects at this location.

2. *Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

The Applicant proposes a sign along the Colesville Road frontage. The proposed sign will be a maximum of five (5) feet in height and will be set back five (5)-feet from the public right-of-

way. The sign will be a maximum of five (5) square feet to be reviewed and approved by the Montgomery County Sign Board.

3. *The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and is not sufficient to require conditional use approval.*

The proposed use will be compatible with the nearby residential properties and Staff recommends approval with the conditions enumerated at the beginning of this Staff Report.

SECTION 5: CONCLUSION

CONCLUSION

The proposed conditional use complies with the general conditions and standards of a Home Health Practitioner (Major Impact) use, subject to the recommended conditions of approval. The proposed use meets the required findings set for in Section 59.7.3.1.E. of the Zoning Ordinance, is consistent with the goals and recommendations of the 2000 *North and West Silver Spring Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval with conditions.

Attachments:

Attachment 1: Agency Approval Letters

Attachment 2: Application (Site Plan, Statement of Justification, Letters of Support)

Attachment 3: Plat 24392

Attachment 3: Previous Approvals



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

DATE: 14-Jan-21
TO: John Sekerak - john.sekerak@stantec.com
Stantec
FROM: Marie LaBaw
RE: 9221 Colesville Road
CU202103

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **13-Jan-21** .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 on plan sheet: existing single family adding a small, single story commercial occupancy *****

CU202103 - 9221 Colesville Road

MCDOT Reviewer: Deepak Somarajan **MNCPPC Reviewer:** Katherine Mencarini

deepak.somarajan@montgomerycountymd.gov

240-777-2194

In an effort to improve our responsiveness and streamline development reviews, we will not be preparing a formal letter for this Plan. These comments reflect MCDOT's official comments on this Plan.

Significant Comments:

1. Per the 2000 North & West Silver Spring Master Plan:
 - Colesville Road (MD-29) is classified as a major highway with a proposed right-of-way of 120-ft., six (6) lanes with reversible lane.
2. Per the Countywide transitway Master Plan:
 - Dedicated Bus Rapid Transit (BRT) Lane with a minimum 120-ft of right-of-way. We recommend that the applicant coordinate with Mr. Corey Pitts of our Transportation Engineering Section at 240-777-7217 or at corey.pitts@montgomerycountymd.gov regarding the BRT.
3. Access and improvements along Colesville Road (MD-29) as required by the Maryland State Highway Administration (MDSHA).
4. If a Preliminary Plan is required, pay the Montgomery County Department of Transportation plan review fee in accordance with Montgomery County Council Resolution 16-405 and Executive Regulation 28-06AM ("Schedule of Fees for Transportation-related Reviews of Subdivision Plans and Documents").
5. At Preliminary Plan/Site Plan Stage:
 - a. Show necessary dedication along Colesville Road (MD-29) in accordance with the Master plan.
 - b. We defer to MDSHA for sight distance approval for the access from Colesville Road (MD-29).
 - c. **Storm Drain Analysis:**
 - Submit a storm drain study for the portion of the subject site draining to the Montgomery County public storm drain system.
 - MDSHA approval required for the portion of the site draining to the public storm drain system maintained by MDSHA.

Mencarini, Katherine

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Sent: Friday, January 15, 2021 7:51 AM
To: Mencarini, Katherine
Cc: Dickel, Stephanie; Farhadi, Sam
Subject: RE: CU202103 - 9221 Colesville Road

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Katie,

Yes it can.

Thanks, Kwesi

Kwesi Woodroffe
Regional Engineer
District 3 Access Management
MDOT State Highway Administration
KWoodroffe@mdot.maryland.gov

301-513-7347 (Direct)
 1-888-228-5003 – toll free

Office Hours

M-Thurs.: 6:30a-3:30p

Fr: 6:30a-10:30a

9300 Kenilworth Avenue,
Greenbelt, MD 20770

<http://www.roads.maryland.gov>



From: Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>
Sent: Friday, January 15, 2021 7:49 AM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>
Subject: RE: CU202103 - 9221 Colesville Road

Thanks Kwesi,

The sidewalks are less than 5ft wide and I was planning to include a condition of approval requiring that they be widened.

I expect this will be the final submittal for the Applicant. With that condition of approval (widening the sidewalks to 5ft) does your email serve as an official approval for the project?

Thanks!
Katie



Katherine (Katie) Mencarini

Planner Coordinator

Montgomery County Planning Department

2425 Reddie Drive, 13th floor, Wheaton, MD 20902

Katherine.mencarini@montgomeryplanning.org

p: 301.495.4549



WE'VE MOVED!

THE NEW PARK AND PLANNING HEADQUARTERS IS NOW LOCATED AT
2425 REEDIE DRIVE, WHEATON, MD 20902

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Sent: Friday, January 15, 2021 6:33 AM

To: Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Gatling, Tsaiquan <tsaiquan.gatling@montgomeryplanning.org>; Goutos, Melissa <Melissa.Goutos@montgomerycountymd.gov>

Cc: LaBaw, Marie <Marie.LaBaw@montgomerycountymd.gov>; Somarajan, Deepak <deepak.somarajan@montgomerycountymd.gov>; Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>

Subject: RE: CU202103 - 9221 Colesville Road

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Katie,

I looked at the site on Google Earth and the driveway looked like it was in good condition. The sidewalks did not look like they were 5-ft (but I could not verify this from Google). If they are narrower than 5-ft, they will need to be made 5-ft along the property frontage in order to be ADA compliant.

Other than that, I have no other comments at this time.

Thanks, Kwesi

Kwesi Woodroffe
Regional Engineer
District 3 Access Management
MDOT State Highway Administration
KWoodroffe@mdot.maryland.gov
301-513-7347 (Direct)

1-888-228-5003 – toll free

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M-Thurs.: 6:30a-3:30p

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9300 Kenilworth Avenue,

Greenbelt, MD 20770

<http://www.roads.maryland.gov>



From: Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>

Sent: Thursday, January 14, 2021 4:37 PM

To: Gatling, Tsaiquan <tsaiquan.gatling@montgomeryplanning.org>; Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>; Goutos, Melissa <Melissa.Goutos@montgomerycountymd.gov>

Cc: LaBaw, Marie <Marie.LaBaw@montgomerycountymd.gov>; Somarajan, Deepak <deepak.somarajan@montgomerycountymd.gov>; Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>

Subject: FW: CU202103 - 9221 Colesville Road

All,

The Applicant for 9221 Colesville Road has submitted their second and hopefully final submittal for the request for a medical office conditional use (see attached).

Please let me know if you have any final comments, conditions of approval and/or agency letters by **COB January 21**. Even if you have no comments, please send me a note that says the Applicant has addressed your previous comments and you have nothing further.

I believe I have approval letters from Marie (Fire & Rescue) and Deepak (MCDOT). I believe I still need an approval from Kwesi (MDOT SHA) and any final comments from Melissa, Sam, and Tsaiquan.

Thanks for your time and care with this project! It's a pleasure working with you.

Sincerely,
Katie



Katherine (Katie) Mencarini

Planner Coordinator

Montgomery County Planning Department

2425 Reedie Drive, 13th floor, Wheaton, MD 20902

Katherine.mencarini@montgomeryplanning.org

p: 301.495.4549



From: [Pitts, Corey](#)
To: [Sekerak, John](#)
Cc: [Mencarini, Katherine](#); [Dickel, Stephanie](#); [Sean Patrick Hughes](#); [Mohamed Matope](#)
Subject: RE: CU202103 - 9221 Colesville Road
Date: Thursday, January 7, 2021 9:14:02 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.jpg](#)
[image007.gif](#)
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[image029.png](#)
[image030.png](#)
[image031.jpg](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

John,

That summary is accurate. I do not anticipate this conditional use application to affect the BRT now or in the future.

I appreciate you reaching out to coordinate and ensure there were no conflicts.

Regards,

Corey Pitts, AICP

Montgomery County Department of Transportation
240-777-7217

From: Sekerak, John <John.Sekerak@stantec.com>
Sent: Wednesday, January 6, 2021 5:09 PM
To: Pitts, Corey <Corey.Pitts@montgomerycountymd.gov>
Cc: Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Sean Patrick Hughes <sphughes@mmcanby.com>; Mohamed Matope <msmatope@gmail.com>

Subject: RE: CU202103 - 9221 Colesville Road

[EXTERNAL EMAIL]

Hello Corey,

Thanks so much for returning my call and providing the information regarding the BRT program as it relates to this Conditional Use application. If I've accurately understood the information you provided, here's a quick summary:

Phase One of the BRT is currently in use along this section of Colesville Road operating in mixed traffic. The closest BRT stations are in downtown Silver Spring to the south and near Blair High School to the north. The program will operate using managed lanes and no additional widening is needed at this time or expected for Phase Two. The proposed home health practitioner Conditional Use is not expected to have any impact to the BRT program.

Please let us know if I've incorrectly summarized any of this and again, thank you for your time.

John

John Sekerak, Jr., ASLA, AICP

Senior Land Use Planner, Landscape Architect

Office: 301 444-8282

Mobile: 240 338-0462

20440 Century Boulevard Suite 240

Germantown MD 20874-7115



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From: Sekerak, John

Sent: Wednesday, January 6, 2021 3:49 PM

To: corey.pitts@montgomerycountymd.gov

Cc: Sean Patrick Hughes <sphughes@mmcanby.com>; Mohamed Matope <msmatope@gmail.com>

Subject: RE: CU202103 - 9221 Colesville Road

Hello Corey,

Following up on our voicemail message exchanges. Please give me a call to discuss the Mr. Somarajan's review comment recommendation to get in touch with you. I've attached the Site Plan for Conditional Use for any information that can provide for your consideration.

Thanks,
John

John Sekerak, Jr., ASLA, AICP

Senior Land Use Planner, Landscape Architect

Office: 301 444-8282

Mobile: 240 338-0462

20440 Century Boulevard Suite 240



20410 Century Boulevard, Suite 200
Germantown, Maryland 20874
Phone: (301) 444-8282 Fax: (301) 444-8181
www.stantec.com

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No.	Revision	Date	By
1	Add approximate dimensions to right-of-way	01/12/21	DK

Owner/Applicant: Mohamed Matope 9221 Colesville Road, Silver Spring, MD 20901 Phone: (301) 655-0409	SITE PLAN for Conditional Use 9221 Colesville Road Silver Spring, MD 20901 13th Election District Montgomery County, Maryland
---	--

Seal
1/13/21

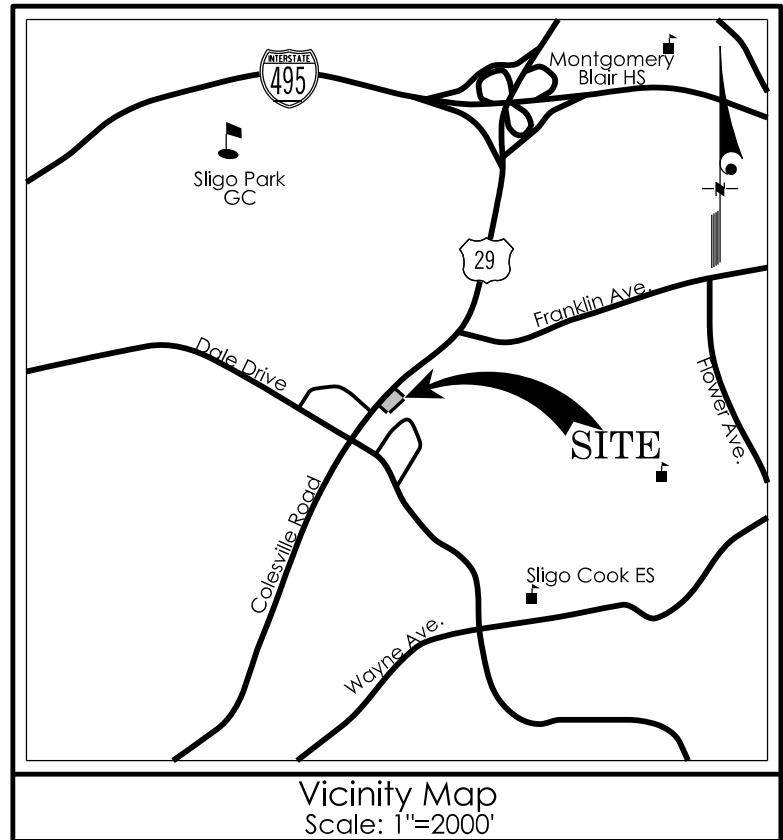
I hereby certify that these documents were prepared or approved by me and that I am a duly licensed landscape architect under the laws of the State of Maryland, license No. 690, expiration date: 04/09/2022.

Project No. 2026262038 Scale 1"=20'

Design JS/DK	Checked JS
Drawn DK	Date Oct. 2020

Sheet

1 of 1



General Notes

- The purpose of this plan is the Conditional Use application for a Home Health Practitioner, Major Impact (59.3.3.3.G) in the R-60 zone.
- Boundary information shown is based on compilation of plats of record for the subject property and Montgomery County GIS (dated 07/01/2020) for surrounding properties.
- Topographic information is two foot contour interval from Montgomery County GIS (dated 11/16/2018). Additional existing condition and surrounding area information added from field observations and from a Location of Improvements plan prepared by Surveys, Inc. (dated 04/14/2020).
- Property identified as Lot 20, Block A, Section One, Seven Oaks recorded as Plat 24392 in 2012.
- Forest Conservation Law not applicable (Section 24A-4.(b)).
- Water & Sewer Categories W-1 & S-1 respectively. The use will be served by public water and sewer.
- This site is within the 2000 North and West Silver Spring Master Plan area.
- The property was subject to a previous Special Exception (S-1640) for a Non-resident Medical Practitioner's Office.
- This site is within the Sligo Creek watershed.
- The proposed sign will be a maximum of five foot height, set back five feet from the right-of-way, and a maximum of five square feet to be reviewed and approved by the Montgomery County Sign Review Board.
- This plan is not for construction purposes.

Project Team

Applicant/Owner: Mr. Mohamed Matope	(301)655-0409
Land Use Planner/Engineers/Landscape Architects: Stantec Consulting Services	Contact: John Sekerak, Jr., ASLA, AICP (301) 444-8282
Attorneys: Miller, Miller and Canby	Contact: Sean Patrick Hughes, Esq. (301) 762-5212
Traffic Consultant: STS Consulting	Contact: Mr. Shahriar Etemadi (410) 718-8660
Architect: Infinite Focus	Contact: Mr. James Guyton (410) 841-4660

Tract Area

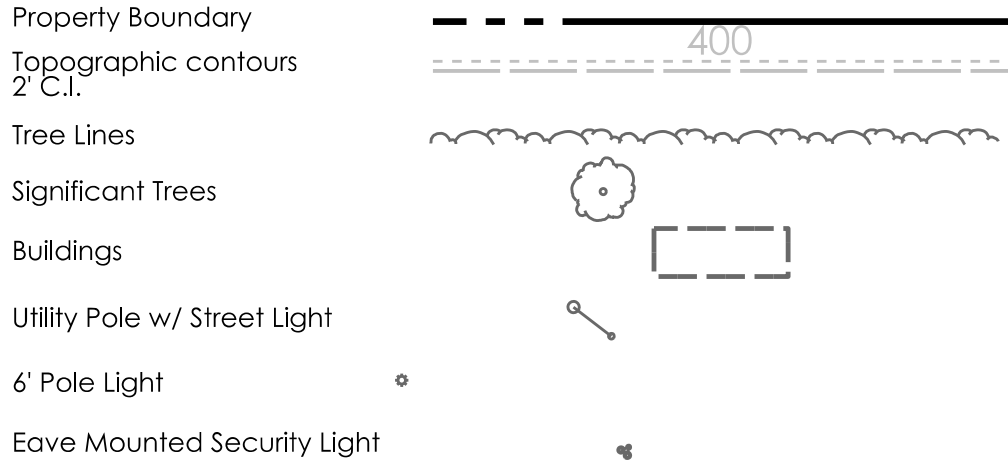
Gross Tract Area (GTA)	= 31,241 s.f. or 0.7172 acres
- Previous dedications to public use	0 s.f. or 0.0000 acres [1]
Existing Lot 20 tract area (Plat 24392)	= 31,241 s.f. or 0.7172 acres
- Proposed dedication to public use	0 s.f. or 0.0000 acres
Net Lot Area (NLA) of subject property	= 31,241 s.f. or 0.7172 acres

[1] Possible previous dedications not identified. Further determination of Gross Tract Area is unnecessary for the purposes of this application.

Development Program

No exterior improvements are proposed other than the proposed plantings and one sign. This project will be completed in one phase. Inspections will be scheduled and performed according to MCDPS building and sign permit requirements.

LEGEND



Parking Tabulation

Parking spaces required for Home Health Practitioner (6.2.4.B):		Required
1 single-unit d.u. @	2 spaces per d.u.	= 2.0 spaces
1 hm health pract'ner @	1 space per practitioner	= 1.0 spaces
6 non-res employees @	1 space per employee	= 6.0 spaces
1 client max. per hr. @	1 space per client	= 1.0 spaces [1]
Total =		10 spaces [2]
Motorcycle spaces required (59.6.2.3.C):		0 required (less than 50 p.s.)
Car-Share spaces required (59.6.2.3.D):		0 required (less than 50 p.s.)
Charging spaces required (59.6.2.3.E):		0 required (less than 100 p.s.)
Parking spaces provided:		Provided
9 regular spaces (8.5' min. x 18')		= 9 spaces [3]
1 ADA parking spaces (8' x 18' w/ 8' aisle)		= 1 spaces
Total parking spaces provided =		10 spaces
Bicycle spaces:		
Bicycle spaces required (59.6.2.4.C):		n/a
Off-street Loading Spaces:		
Loading spaces required (59.6.2.8.B.1):	0 required (< 25k s.f. GFA)	[4]
Footnotes:		
[1] Estimated at ten clients per week with a maximum of one at any one time. Most clients are served at their homes.		
[2] Includes the redundancy of a required space for the dwelling unit and for the home health practitioner.		
[3] Including three tandem spaces, one of which is allowed for the dwelling unit per 59.6.2.5.E.5. A waiver is requested for the remaining two tandem spaces.		
[4] No dumpster. Trash and recycling kept in roll-out bins.		

Parking Design Standards:	Required	Provided	
Drive aisle width (59.6.2.5.E.5 & 59.6.2.5.G.2)	20 ft. min.	18 ft.	[1] [2]
Rear setback (59.6.2.5.K.2.a)	20 ft. min.	25 ft.	
Side setbacks (59.6.2.5.K.2.b)			[1]
- east	16 ft. min.	63 ft.	
- west	16 ft. min.	108 ft.	
Front parking area (59.6.2.5.M.3.b)	50% of yard or 4,000 s.f.	12% of front 974 s.f.	[3]
Landscaped Area (59.6.2.9.C.1.a)	5% of facility	5% of facility	
Spaces between islands (59.6.2.9.C.1.b)	20 spaces max.	6 spaces	
Tree Canopy (59.6.2.9.C.2)	25% of facility	25%	
Perimeter planting area widths:			
- north (59.6.2.9.C.3.b) - Colesville Road	6 ft. min.	32 ft.	[4]
- east (59.6.2.9.C.3.b.iv)	0 ft. min.	n/a	[5]
- south (59.6.2.9.C.3.a)	10 ft. min.	25 ft.	[6]
- west (59.6.2.9.C.3.b.iv)	0 ft. min.	n/a	[5]

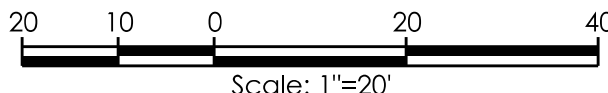
- Footnotes:**
- [1] This standard does not apply to the two spaces for the detached house (59.2.5.A.1).
- [2] Three spaces are tandem spaces, two of which are for the detached house. The remaining tandem space is for a non-resident employee. Existing drive aisle width is 18 feet. Waivers requested for drive aisle width and for tandem space (59.6.2.10).
- [3] "Additional" parking must be located behind the front building line (59.3.3.3.G.2.c.xii).
- [4] Must contain one canopy tree and a three foot high hedge or low wall (59.6.2.9.C.3.b).
- [5] If abutting another parking lot, no planting area required (59.6.2.9.C.3.b.iv).
- [6] Must contain two canopy trees, four understory trees, and six foot hedge or low wall (59.6.2.9.C.3.a).

Development Standards

Home Health Practitioner, Major Impact (59.3.3.3.G) in the R-60 zone:

Lot area (59.4.4.9.B.1)	Required 6,000 s.f. min.	Provided 31,241 s.f.	
Lot width at front building line (59.4.4.9.B.1)	60 ft. min.	225 ft.	
Lot width at front lot line (59.4.4.9.B.1)	25 ft. min.	225 ft.	
Building coverage of lot (59.4.4.9.B.1)	35 % max.	12 %	[1]
	or 10,934 s.f. max.	3,689 s.f.	
Principal building setbacks (59.4.4.9.B.2)			
- front	25 ft. min.	41 ft.	
- side	8 ft. min.	8 ft.	
- sum of side setbacks	18 ft. min.	136 ft.	
- rear	20 ft. min.	53 ft.	
Accessory structure setbacks (59.4.4.9.B.2)			
- front	60 ft. min.	82 ft.	
- side	5 ft. min.	5 ft.	
- rear	10 ft. min.	10 ft.	
Principal building height (59.4.4.9.B.3)	35 ft. max.	20 ft.	[2]
Lighting illumination (59.6.4.4)			
- north (59.6.4.4.D) - Colesville Road	0.5 fc max.	0.6 fc max.	[3]
- east (59.6.4.4.E)	0.1 fc max.	0.0 fc max.	
- south (59.6.4.4.E)	0.1 fc max.	0.1 fc max.	
- west (59.6.4.4.D)	0.5 fc max.	0.1 fc max.	
Screening requirements (59.6.5) - not required for this use per 59.3.3.3.G.2.b.			

- Footnotes:**
- [1] Existing storage shed, carport covering, and basement steps roof all located in rear yard and included in building coverage calculation.
- [2] Existing height visually estimated, not field measured.
- [3] Existing light levels measured by meter 08/13/20. Readings included existing off-site public streetlights and adjoining neighbors' lights in addition to on-site lights. Existing eave-mounted, motion-activated security light on west end of home to be removed. The resulting condition expected to be compliant readings of 0.1 fc or less along the west property line or 0.5 fc or less along the other property lines generated by on-site lighting.



**BEFORE THE OFFICE OF ZONING
AND ADMINISTRATIVE HEARINGS**

IN THE MATTER OF THE APPLICATION	*	
OF E&M INVESTMENT LLC	*	
FOR A CONDITIONAL USE	*	Case No. CU 21-03
FOR A HOME HEALTH PRACTITIONER (MAJOR	*	
IMPACT)	*	

APPLICANT'S STATEMENT OF JUSTIFICATION

I. INTRODUCTION

The Applicant, E & M Investment LLC ("E&M") via its CEO and our client, Mr. Matope, is the owner of a 0.72 acre parcel of land (Tax I.D.# 03695448) located at 9221 Colesville Road, Silver Spring, Maryland 20901. E&M through Mr. Matope and his wife are seeking a conditional use to utilize an existing structure and in-place site improvements to operate a Home Health Practitioner facility. They will operate it along with six (6) staff members in order to primarily provide in-home care at patients' homes and secondarily care at the subject property. E&M patients will benefit from the health care treatment, supervision and assistance. Such a conditional use is allowed pursuant to Section 59.3.1.6, Section 59.3.3.3.G and Section 59.7.3.1 of the Montgomery County Zoning Ordinance.

II. APPLICANT INFORMATION

Mr. Matope and his wife, Elizabeth Luanda, are the fee simple title owners of the property, which is the subject of this application ("Subject Property"). They purchased the property in 2019. Mr. Matope and his wife intend to use the property as a residential setting in which he, his wife and family will reside and where they can operate a home-based business in their field of Home Health Care. Mr. Matope is a long-standing Maryland Certified Registered Nurse (RN) (See copy of State of MD License Attachment # A (#R167881)). Code section 59.3.3.3.G.1. defines Home Health Practitioner as the office of a health practitioner who is

licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene, has an advanced degree in the field from an accredited educational institution, and who resides in the dwelling unit in which the office is located. Home Health Practitioner includes a registered nurse or physician's assistant if that person has an advanced degree in the field and practices independently. Home Health Practitioner does not include an electrologist, mortician, nursing home administrator, pharmacist, or veterinarian.

This request will allow the Matope family to meet the current and future projected business needs of E&M, but keep the residential structure and feel, by requesting these six (6) employees work as part of the Home Health Practitioner operation along with Mr. Matope and his wife. The location will likely have less impact than a traditional Home Health Practitioner, or by the prior, late owner and doctor, Dr. Patrick, who operated the medical office at the residence on the subject property from approximately 1959 until 2007. See SE # S-1640 (Attachment. # B). More to follow herein about the history and use of the property.

Mr. Matope's Home Health Practitioner business would consist of six (6) staff members, he and his wife. The main function of Mr. Matope's business is providing health care services at the homes of patients, thus offsite of Mr. and Mrs. Matope's residence. This will result in both Mr. and Mrs. Matope spending about half the workday at their residence and the other half plus off the property in the field. Of the six (6) staff assigned to the Matope residence's Home Health Practitioner location, two will work full time (eight hours a day) at the residence. The other four (4) staff members will be primarily offsite at patients' homes for the vast majority of the day. Off property duties include treating patients at patients' homes, interacting with health care staff and operators at hospitals, health care facilities and similar, performing sales duties and meetings and such. The typical schedule will involve the below type of schedule for visits and activity at the Matope residence, located on Colesville Road/ Rt. 29, one of the County's busiest roads. It will involve six (6) staff members arriving in the morning. The two staff members who work on site all day will arrive at 8am. The other four may arrive as early as 8am as well, but could be later in the morning and they will only be on site briefly before leaving for typical in the fieldwork duties. Ten patients are projected a week, two per day. The two per day will not be on site at the same time. It will likely be one patient in the morning and one in the afternoon. Please see the attached traffic statistics, "Traffic Volume Map 2018 Annual Average Daily

Traffic Montgomery County” for this area Silver Spring and Colesville Road by Matope residence (Attachment # C). In fact, Colesville Road outside of the Matope home is in the category of heaviest traveled road with over 50,000 vehicles on it each day. (See intersections of Colesville Road and Sligo Creek Parkway (400 plus feet north) and Colesville and Dale Drive (500 ft. south from Matope residence on Colesville Road). As the schedule shows, the home health practitioner office will have minimal daily/weekly patient visits, projected at two per day, as well as any necessary emergency visits to the residence. The LATR Guidelines generation rates indicate this operation to only add about twelve (12) peak trips in morning and fourteen (14) in the afternoon. These numbers clearly not requiring a traffic study. Please see attached revised Traffic Report dated January 13, 2021 from STS Consulting, Mr. Shahriar Etemadi, PTP, which provides a detailed analysis and does conclude that due to the low number of trips that a comprehensive Traffic Study is not required. In fact, the Matope home health care family business will add less than 0.00052 percent to the number of daily vehicle trips on Colesville Road. Certainly a miniscule number that will not result in any material impact. Additionally, the Matope residence is in very close proximity to public bus routes and stops along Colesville Road (at Dale Drive and just south of Sligo Creek Parkway) as well as about a mile from the Silver Spring metro rail station. Thus, staff and/or patients may decide to use public transportation to reach the property.

III. SUBJECT PROPERTY

The subject property is 0.72 acres in size, located right on Colesville Road and just north of downtown Silver Spring (Routes 29 and 97). It is zoned R-60 and improved with the following physical features.

The front of the property along Colesville Road contains a conventional one-story brick residence with a cellar. The one-story structure will be occupied by the Matope family, which includes Mr. Matope, his wife, his 2 children and his mother in law.

The land includes an existing three (3) bay carport and shed at the rear of the property. The overall parking area, which includes the carport area, is existing and applicant is proposing providing ten parking spaces as shown on the Site Plan and parking tabulation numbers. No material changes to these existing site conditions are proposed.

The Subject Property fronts on and has direct access to Colesville Road. An existing 18-foot wide driveway to the left of the residence driveway provides access to the carport located to the left and off the rear of the residence and leads back to the parking area serving the proposed residential Home Health Care property.

The proposed residential Home Health Care operations will consist of 1,195 square feet of the 2,743 square feet on the residence's first floor level. It will be located entirely on the main floor of the residence generally on the left side of that level (staff offices, staff room, reception and waiting area, conference room, visitor bathroom), with the residential use and bedrooms being on the right side area. Please see the First Floor Plan (A102) drawing page for details. In addition, the home has an existing cellar area of 2,764 sq. feet in size, which will not be used for the Health Care operations. (See also cover sheet page CS1).

IV. SURROUNDING PROPERTIES

A. Description

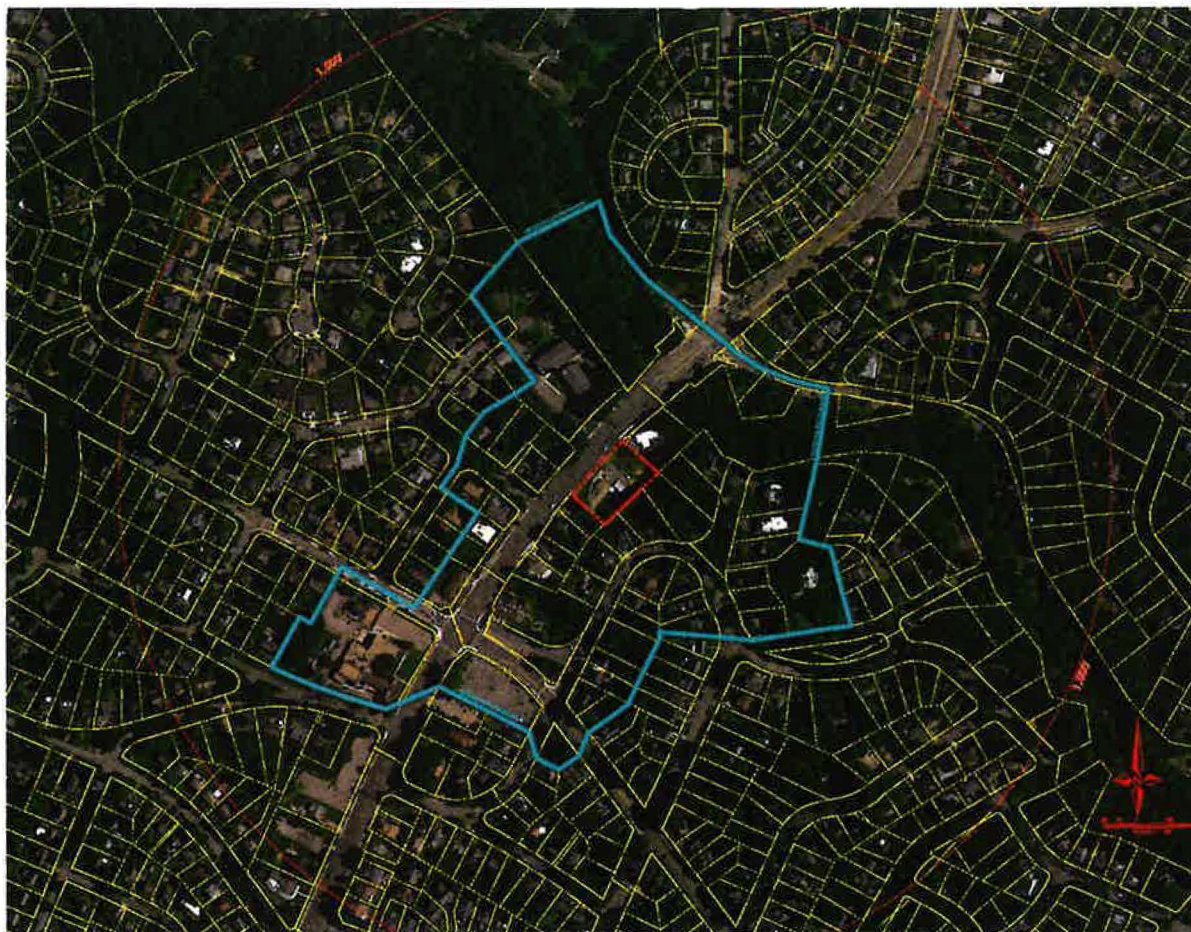
To the immediate east and west of the Matope residence, as well as across the road are similar single-family residences also sitting directly upon Colesville Road/Rt. 29. Included herein are support letters (Attachment # D) for the application from the two neighbors on each side of the Matope residence on Colesville Road (# 9225 Dentist -Dr. Galkin operating practice on property and the Rushefsky's who own #9215). Behind the Matope property to the south is a long established community known as Seven Oaks, which gains access from Colesville Road via the south on Dale Drive, then onto Kingsbury Drive.

The subject property is located north and approximately 0.8 mile from downtown Silver Spring (intersection of Colesville Rd. /Rt. 29 and Georgia Ave. /Rt. 97) and its various shops, restaurants, Silver Spring Metro Center and businesses. It is also located south from Sligo Creek Park and 0.5 miles from the Capital Beltway/Rt. 495 and Colesville Rd. /Rt. 29 intersection. The six (6) lane Colesville Road/Rt. 29 is among the busiest roads in the County, for vehicular traffic leading to and from the Capital Beltway and downtown Silver Spring.

B. Definition of “Surrounding Area”

For purposes of analyzing E&M’s proposal, the Applicant submits that the area outlined in yellow on Figure 1 below (also as Attachment # E) represents a logical “zoning neighborhood” for purposes of analyzing the influence of the proposed use on surrounding uses. The area identified is well within a 1,500-foot radius from the subject site. The proffered “neighborhood” contains all abutting and confronting properties.

Within the area identified, there are not any existing special exception or conditional uses. There is an approved non-conforming use next door to the north at 9225 Colesville Road that hosts a very long running dental practice to serve the community. The dental practice, like the former Dr. Patrick family doctor practice at the subject property, appears to pre-date zoning for the area. The non-conforming use was established in 1999. Attached is the County DPS online record (Attachment # F). To the south, at the intersection of Colesville



Road and Dale Drive is the 90 year old, still standing and operational Silver Spring institution of Mrs. K's Toll House restaurant.

FIGURE 1
Surrounding Area

V. ZONING HISTORY

The Subject Property has a very interesting zoning history. A family doctor practice (home health care practitioner practice before the term was used in Montgomery County) first began on the subject property by the late Dr. George Patrick, Jr. by at least 1959, as a permitted use. In 1989, the doctor requested and received approval for special exception (Case number S-1640) to permit his son, George Patrick III, to join the practice as a non-resident medical practitioner.

It appears that Dr. Patrick's office operated successfully until around October 2007 when the doctor passed away. Subsequent to his passing, the property was sold to the Christian Community of Greater Washington Baltimore Area. They considered establishing a church at the location. On September 13, 2012, the Board of Appeals passed a resolution to revoke Dr. Patrick's special exception. In 2019, the church sold the property to applicant's CEO Mr. Matope and his wife. Thus, the property had operated as a home health care medical office, similar to what is being proposed herein, from approximately 1959 to 2007 and not officially revoked until 2012 (Attachment G). Therefore, such use has existed on the subject property for 48 of the last 61 years and maintained approval for 53 of the last 61 years.

Applicant proposes to utilize only the features that exist on the Subject Property today. The only physical changes to the property proposed in this application are the addition of some plant material to shade and fill in screening along the parking lot and possibly, the future addition of a small identifying sign.

VI. PROPOSED USE

A. Prologue

E&M brings forth a proposal that the existing structure and property previously used as a similar Home Health Care Practitioner residential location, which began by 1959 and continued full operations until 2007, be once again used for such a use. County records indicate that Dr. Patrick's office stopped operating upon his death in 2007. In 2012, the County officially revoked the doctor's special exception on the property (since the use had been abandoned) when the Church who bought the property from Dr. Patrick's family was contemplating developing the property for church purposes. After deciding that the property did not fully meet its growing needs, the church sold the property to Mr. Matope and his wife in 2019. Mr. Matope, a highly trained and experienced medical practitioner. He maintains a State of Maryland certified Nursing designation with over twenty years of practice, and experience as a former supervisory nurse at Children's National Medical Center (CNMC) and HSC Pediatric Center. Mr. Matope now brings forth this application requesting for a very similar approval as the one that existed for nearly 50 of the last 60 years for a home medical/doctor's office. As medicine and treatment of patient's has evolved, Mr. Matope is looking to bring the following projected care to the area via his home health care practitioner operation by providing in home care to patients, at their residences versus requiring them to come to his home office. This is a business that Mr. Matope has been engaged in now for 11 years. He and his wife would now like to manage this business from their familial residence and ask for the six (6) staff in order to properly serve its patients. They believe the request is an appropriate and reasonable number for the location, its physical space at hand and precedent of housing a former and similar health care operation in the past. Mr. Matope does desire and requests to offer limited in office appointments, projected at 10 a week, as well as the occasional unscheduled emergency visit.

B. Operational Information

1. Residents

The Matope family members will have full time residence at 9221 Colesville Road. The family consists of Mr. Matope, his wife, two (2) minor children and his wife's mother. The home health care practitioner office in the residence will allow Mr. and Mrs. Matope to both care for their family as well as run their family business. They believe it is an ideal location based on the property history of having a similar medical office on site for nearly 50 of the last 60 years, its proximity of residing upon Colesville Road and its use meeting the County code requirements.

2. Staff

The total number of staff proposed is six (6), in addition to Mr. and Mrs. Matope. The typical staff business hours will be 8am until 5:30pm Monday through Friday, excluding any emergencies. Of the six (6) staff members, two will be based at the residence full time, while the other 4 staff members will spend the bulk of their work days offsite visiting and caring for patients at the patients' homes and other operational tasks. Additionally, the Matope residence is in very close proximity to public bus routes and stops along Colesville Road (at Dale Drive and just south of Sligo Creek Parkway) as well as about a mile from the Silver Spring metro rail station. Thus, staff will have the option to use public transportation to reach the property.

The existing building and property is perfectly sized and contains ample space for the family and business operations both inside the structure (1,195 sq. feet for the home health care practitioner areas-see attached Plan pages number CS1 and A102 by Infinite Focus) and outside for parking and access to the home one would expect based on the prior long standing approved operations of the late Dr. Patrick.

DAILY SCHEDULE	
8:00 AM	Nonresidential living Staff being arriving.
8:15 AM – 5:00 PM	Limited number of patients arrive and leave
5:00- 5:30 PM	Remaining Staff leave property

As can be seen from this schedule, resident, staff and patient presence and activity at and in the Matope residence is light during the day. Therefore, the level of activity that is associated with the use will have minimal to no material impact on traffic on Colesville Road or to the neighborhood.

C. Physical Improvements

The only physical improvement proposed for the site is to add landscaping to help further screen the parking and possibly, to add a small identification sign at some point in the future.

D. Access and Circulation

Ingress and egress from the residence and home health care practitioner office will continue to be via the existing, long standing and previously reviewed and approved driveway connected to Colesville Road. There existed ample parking for the prior medical office on site and per the code and applicant's projected needs there is ample number of parking spaces for the applicant's need, which is essentially the same as Dr. Patrick's prior use.

E. Site Features

1. Trash Receptacles

To help maintain the residential look there will not be a dumpster onsite. Instead, Applicant will have multiple residential trash bins that will be stored behind the rear of the property. They will be wheeled/placed outside and returned in appropriate time before and after the regular trash pick-up for Colesville Road.

2. Lighting

The property includes three lampposts, approximately six feet in height, located in the front yard and in the parking area along the side of the home. The lampposts are typical of the residential character found in common single-family communities.

There are also a number of security lights mounted under the eaves along the perimeter of the home. The lights are motion-activated but even when all lights are on, the illumination does

not exceed 0.5 foot-candles along Colesville Road or along the property line shared with the dentist office use nor does it exceed 0.1 foot-candles along the property lines shared with lots with a detached house building type.

3. Proposed Signage

There is no signage on the property and none is proposed. However, applicant does expect later to apply to the County's Sign Committee for approval of signage larger than the permitted 2 sq. feet after the Conditional Use review process. See additional discussion under 6.7 of this document.

VII. CONFORMANCE WITH NECESSARY FINDINGS

A. General Conditional Use Findings Required Under Section 59-7.3.1.E

1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*
 - a. *Satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

This section is not applicable. As noted above, a prior home health practitioner office did exist from 1959 and the Special Exception (SE) was approved in 1989. Thereafter, the SE was revoked in 2012 after the use was abandoned.

- b. *Satisfies the requirements of the zone, the use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;*

• Compliance with Standards of the Zone

The proposed use, a Home Health Practitioner (Major Impact) for two resident health practitioners and 2 or more non-resident support persons in any 24-hour period is permitted by

conditional use approval in the subject property R-60 zone. (Section 59.3.3.3.G.). The following development standards are met per the requirements of Section 4.4.9.B. for standard development in the R-60 zone.

TABLE 4

R-60 Development Standard	Required	Provided
Lot Area	6,000 SF	31,241 SF
Lot Width at Front Building Line	60 feet	225 feet
Lot Width at Front Lot Line	25 feet	225 feet
Maximum Lot Coverage	35% Or 10,934 SF	12% Or 3,689 SF
Principal Building Front Setback	25 feet	41 feet
Principal Building Side Setback	8 feet	8 feet
Principal Building Sum of Side Setbacks	18 feet	136 feet
Rear Setback	20 feet	53 feet
Building Height – Lot is >40,000 SF	35 feet	20 feet

Based on the information contained in the Table above, the proposed improvements meet all of the dimensional requirements of the R-60 zone.

VIII. CONFORMANCE WITH NECESSARY FINDINGS

- A. General Conditional Use Findings Required Under Section 59-7.3.1.E
(cont.)

c. Substantially conforms with the recommendations of the applicable master plan;

The Subject Property is located within the planning area for the North and West Silver Spring Master Plan (“Master Plan”), which was approved and adopted in August 2000. The Plan is silent with regard to recommendations for the Subject Property.

While there are no specific recommendations for the subject property, the proposal substantially conforms with the general recommendations of the Plan, is compatible with the character of the surrounding area and is not inconsistent with the Plan’s purposes.

The requested use of a Home Health Practitioner (Major Impact) is permissible as a conditional use in the R-60 zone. The Plan does state on page 16, “Preserve the residential character of the North and West Silver Spring neighborhoods”. It also says, “The character of individual neighborhoods should be preserved and enhanced”. This is important as in 1999 the subject property had the special exception approved for a non-resident medical practitioner’s office, following 40 years of a home health care practitioner (residential doctor office) at the property on Colesville Road now owned by the Matope family. On page 20 the Plan stated, “A sensitive land use/zoning policy that balances the needs of properties fronting on major roads with those of residences in the interior is critical”. The Plan continued, “The 1978 Sector Plan developed several strategies for properties with Highway or CBD frontage: non-resident professional office special exceptions... This Plan evaluated those options and provides guidance that sees to stabilize the edges of the neighborhoods while preserving their residential character”. Additionally, on it stated, “Reconfirm the existing residential zoning in North Silver Spring, except as recommended below.” No mention of the subject property and its SE were so noted. Last and perhaps most importantly page 44 of the Plan’s words were, “Summary of General Conditions for Special Exceptions from the Zoning Ordinance- A Special Exception may be granted when the Board of Appeals finds on the basis of evidence on record that the proposed use:

- Is a permissible special exception in the zone.
- Satisfies the specific standards for the special exception.
- Is consistent with the relevant master plan.

- Is in harmony with the character of the neighborhood considering population, design, intensity, character, traffic, and number of similar uses.
- Will not be detrimental to the use, value, and enjoyment of other properties.
- Will not adversely affect traffic, cause objectionable noise, vibrations, odors, and glare.
- Will not overburden existing public services or facilities.”

We do not see any major Master Plan issues associated with the application. The proposed Home Health Practitioner is consistent with the 2000 North & West Silver Spring Master Plan. In addition, the use is compatible with the existing development pattern of the adjoining uses as well as the immediate area, as relates to height, size, scale, traffic and visual impacts. Lastly, Applicant is keeping the previously approved parking area essentially as is and complying with the Master Plan goal of minimizing parking for Special Exceptions in residential areas and promoting compatibility. For all of the reasons in this Statement of Justification, application materials and projected public testimony we are confident that just like Dr. Patrick’s prior special exception met the above criteria. The Use now requested here by Mr. Matope also meets the spirit and detailed review of the current code and Master Plan and is an appropriate and legal use of the subject property for the family office.

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

The proposed conditional use will be in harmony with the general character of the neighborhood and will not constitute a nuisance because of traffic, noise or physical activity in view of the size and scope of the proposed use, its hours of operation and its location. As noted earlier, the nearly identical use previously existed on the subject property for 48 of the last 61 years and was approved for 53 of the last 61 years. In addition, the on-site infrastructure is already in place as was previously reviewed by the County. The applicant is essentially requesting here to recommence a home based medical office/business for the Matope family at 9221 Colesville Road. Such approval will allow Mr. & his wife of E&M to act as the two (2)

resident health practitioners along with their six (6) non-resident support persons (the code allows for “2 or more non-resident support persons in any 24-hour period”).

Mr. Matope is not proposing to materially modify the existing structures or grounds previously reviewed and approved by the County in SE S-1640. He is requesting for E&M this Conditional Use essentially to re-commence the on-site family residential medical practice that has existed for the vast majority of the past seven decades years at the subject property. Such approval will enable the Matope family to balance their family and business lives and provide an important and needed medical service to the greater community via offering home health care services at patients’ homes and providing medical consulting and treatment at the Matope home.

From the outside, the property will continue to maintain the look and feel of a conventional R-60 zoned residence. The existing structure and grounds will remain very residential in scale and design and will continue to be very compatible with the surrounding residences in terms of density and appearance.

For all of these reasons, the Use was formerly and will remain harmonious with its surroundings and general character of the neighborhood. The Use will be operated in a manner that will not interfere with orderly use, development and improvement of surrounding properties and will not result in any material negative impact on the residential area related to noise or traffic.

- 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 predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area.*

There are no active special exception/conditional uses located within the “Surrounding Area” as previously identified in this document. As noted earlier herein, the subject property had a now-revoked Special Exception that had existed as a doctor’s office for nearly 50 of the last 60 years. The applicant is confident that the location remains an ideal location. It is located upon the very heavily traveled Colesville Road, being conveniently near thousands of homes and major attractions (downtown Silver Spring, Silver Spring’s Four Corners, Capital Beltway and Georgia Ave/Rt. 97) to serve as a resource for the community and surrounding areas. There is a Non-Conforming Use next door at 9225 Colesville Road for the long-standing dental office. See Attachment # E.

- 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 to 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 services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*
 - ii. if a preliminary subdivision plan 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; and

The Subject Property is and has been adequately served by Public Facilities for many years. However, the following information is noted below and will be explained in detail by the Applicant's development team at the time of the public hearing.

- Traffic

As set forth in the traffic statement filed herewith, the proposed use does not generate enough traffic to warrant the preparation of a full-scale traffic report. Therefore, the surrounding transportation network is deemed adequate to accommodate the low volume of traffic to be generated by the use. The proposed use fronts on Colesville Road, and will not have material impact upon the six (6) lane, heavily traveled road. Because the proposed use is "residential" in both function and appearance, its recommencement in the neighborhood does not alter the character of the neighborhood nor does it change the predominantly residential nature of the area.

- Schools

School capacity is not a material consideration in this case, as the residential component of the use will remain as one, single-family home. The health practitioner's use does not generate schoolchildren.

- Fire and Rescue

Fire service is conveniently provided from both the Silver Spring Fire Stations #1 at 8110 Georgia Avenue (1.2 miles away) and Station 16 at 1111 University Blvd (1.5 miles away).

- Public Water and Sewer Service

Public water and sewer service presently serve the property and there is no evidence of any treatment or transmission restrictions or water pressure problems.

- 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.*

The proposed Home Health Practitioner use involves what amounts to nearly a recommencement of Dr. Patrick's prior home doctor office at the site, which existed for nearly 50 out of the last 60 years. The use proposed use is an ideal location, as was Dr. Patrick's, and will not have a negative impact on the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. In fact, like the prior home medical use on the property, we contend that the use will provide a positive impact to the community and area. Since the use is permitted, via a conditional use in the zone, at the subject property and the change in use and to the property is quite minor in scale and operation, it will not cause a non-inherent, or the combination of an inherent and a non-inherent, adverse effect on the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. The 0.72-acre Home Health Practitioner at the residence will continue to be surrounded by similar residentially zoned and developed properties. The scope of activities associated with the use will not result in activity or noise beyond other typical residential uses in the area or those anticipated by this use. The home health practitioner office has a very structured schedule (minus rare emergency treatment) as shared previously in this document with set days, hours and staff.

Applicant contends that the size, scale and scope of the proposed Home Health Practitioner will not adversely affect the residential character of this Silver Spring neighborhood or lead to unacceptable noise, traffic issues, or environmental impact. Therefore, the use does not have any inherent or non-inherent adverse effects associated with the Application that would not lead to an approval.

- ii. *traffic, noise, odors, dust, illumination, or a lack of parking; or*

The Applicant's traffic report confirms that traffic will not cause an adverse effect on the surrounding transportation network. Due to the benign nature of the residential home health practitioner office and minimal visit by patients, there should be no material noise, odors, dust, glare, or inadequate parking that will cause an adverse effect. Additionally, the Matope residence is in very close proximity to public transportation (bus routes and stops along Colesville Road (at Dale Drive and just south of Sligo Creek Parkway) as well as about a mile from the Silver Spring metro rail station). Thus, staff and/or patients may decide to use public transportation to reach the property.

- iii. *the health, safety, or welfare of neighboring residents, visitors, or employees.*

The facility will not materially negatively impact the health, safety, or welfare of neighboring residents, visitors, or employees. It will not produce any abnormal risks, activities, events, fumes, traffic or conditions that would affect the health, safety or welfare of the neighboring residents, visitors or employees. The property was previously approved as developed for nearly the exact same use. In fact, this proposed will likely have less patient visits and overall daily activity. In addition, it will not result in any material alterations to the property in order to operate the Matope family's home medical business and is not likely to result in any material or obvious change on the property. The existing combined resident/medical office home had been a fixture in the neighborhood for nearly 50 of the last 60 years and the small gap in use and minor change in actual use of the property will not cause an increase in a material intensification of the use of the property.

- 2. *Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

The existing structure is already residential in appearance and design. No material external construction, reconstruction or alteration of a structure is planned. Internal renovations will occur; however, it will not be noticeable to the outside world.

G. Use Standards For Home Health Practitioner Required Under Section 59.3.3.3.G.

Applicant's proposed Home Health Practitioner office complies with the use standards in Section 59.3.3.3.G. as follows:

G. Home Health Practitioner

1. Defined, In General

Home Health Practitioner means the office of a health practitioner who is licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene, has an advanced degree in the field from an accredited educational institution, and who resides in the dwelling unit in which the office is located. Home Health Practitioner includes a registered nurse or physician's assistant if that person has an advanced degree in the field and practices independently. Home Health Practitioner does not include an electrologist, mortician, nursing home administrator, pharmacist, or veterinarian.

2. Use Standards for All Home Health Practitioners

a. A Home Health Practitioner is prohibited in an apartment, multi use, and general building type.

The subject property is a single-family residence.

b. Screening under Division 6.5 is not required.

Understood.

c. To maintain the residential character of the dwelling:

i. The use must be conducted by an individual or individuals residing in the dwelling unit.

Yes, the applicant E&M CEO, Mr. Matope, his wife, and their family will reside in the dwelling unit.

ii. The use must be conducted within the dwelling unit or any accessory building and not in any open yard area. The use must be subordinate to the use of the dwelling for residential purposes and any external modifications must be consistent with the residential appearance of the dwelling unit.

Yes, the use will be within the dwelling unit and it is subordinate to the Matope family use as its residence. No external modifications to the dwelling unit are planned.

iii. Exterior storage of goods or equipment is prohibited.

No exterior storage of goods or equipment is planned.

iv. The maximum amount of floor area used for the Home Health Practitioner is 33% of the eligible floor area of the dwelling unit plus any existing accessory building on the same lot, or 1,500 square feet, whichever is less.

Agreed, the floor area to be used for the Home Health Practitioner will be less than 33% of the eligible floor area of the dwelling unit. Please see application and plan pages CS1 and A102 by Infinite Focus that noted that proposed office space as 1,195 square feet of the main floor and basement floor's 5507 sq. feet.

v. An existing accessory building may be used for the home health practice, but external evidence of such use is prohibited. Only one accessory building may be used and it must be an eligible area.

The existing accessory structure is a storage shed for use by the residence and will not be used for the practice.

vi. Equipment or facilities are limited to:

- (a) office equipment; or*
- (b) medical equipment.*

Applicant agrees that equipment and facilities for the Use are limited to office equipment and medical equipment.

vii. Any equipment or process that creates a nuisance or violates any law is prohibited in connection with the operation of a home health practice.

Applicant agrees to such prohibition.

viii. Disposal of medical waste must be regulated by State laws and regulations.

Applicant agrees that disposal of any medical waste will be regulated by State laws and regulations.

ix. Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.

Applicant agrees that any deliveries will be typical residential in nature such as USPS, UPS, FED EX, Amazon and similar.

x. Appointments are required for visits, but emergency patients may visit outside the specified hours or without appointment.

Applicant agrees to this requirement and will have an office policy that requires appointments for patient visits at the site, except for any required emergency patient visit scenarios.

xi. Clients, patients, or other visitors must be informed of the correct address and parking location.

Applicant agrees to this requirement and will have an office policy to inform patients and visitors of the correct address and parking location.

xii. In a Residential zone, any additional parking must be located behind the front building line.

Yes, as shown on the plans the existing, previously approved parking area is at and behind the front building line.

d. The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).

Applicant agrees to provide such valid proof of home address.

e. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

The subject property is in the R-60 zone.

4. Home Health Practitioner (Major Impact)

a. Defined

Home Health Practitioner (Major Impact) means a Home Health Practitioner limited to 2 resident health practitioners and 2 or more non- resident support persons in any 24-hour period.

b. Use Standards

Where a Home Health Practitioner (Major Impact) 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:

i. The hours of operation and number of clients, customers, patients or other visitors allowed during that time are determined by the Hearing Examiner.

Applicant is requesting the standard days and hours of operations of Monday through Friday from 8am until 5:30pm, along with the rare emergency patient visit outside of normal hours. Mr. Matope is projecting about 10 patients a week to the residence. The bulk of the patient service occurs offsite via home health care service at the patients' homes.

ii. The maximum number of deliveries is determined by the Hearing Examiner.

Applicant agrees to such a condition and expects standard residential deliveries such as by USPS, UPS, FED EX, Amazon and similar.

iii. On-site sale of goods is determined by the Hearing Examiner.

Applicant does not project any on-site sale of goods.

iv. The Hearing Examiner may grant a conditional use for a Home Health Practitioner (Major Impact) on the same site as a Home Health Practitioner (Low Impact), a Home Occupation (Low Impact), or a Home Occupation (No Impact) if it finds that both together can be operated in a manner that satisfies Section 3.3.3.G.4 and Section 7.3.1, Conditional Use.

Not applicable, as no such low or no impact would operate besides the proposed Use.

v. The Hearing Examiner must not grant a conditional use for a Home Health Practitioner (Major Impact) where the site is already approved for any other conditional use under Section

There is not a conditional use on the property. As noted earlier, the late Dr. Patrick had a similar active use as on the property from 1959 until 2007 (S 1640). The Board of Appeals revoked that special exception in 2012.

7.3.1, Conditional Use.

vi. An indoor waiting room must be provided.

Yes, the application has a planned indoor waiting room. See plan page A102 by Infinite Focus. See Ex. # 12.

vii. Screening under Division 6.5 is not required.

Understood. Applicant is proposing some landscape related to parking screening requirements.

C. Conformance with the General Development Requirements of Article 59-6

1. Division 59.6.1. Site Access.

The site access requirements in Division 6.1 is not applicable to this R-60 property (see 59.6.1.2). However, access to the site is from an adjacent public street, which will provide safe and convenient vehicle, bicycle and pedestrian circulation. Furthermore, the existing, previously approved driveway, leading from Colesville Road into the site is 18 feet wide.

2. Division 6.2 Parking. Queuing and Loading.

As shown on the Development Standards Table on the Site Plan for Conditional Use, the Subject Property complies with all applicable requirements of Division 6.2 with the exception of 59.6.2.5.E.5 and 59.6.2.5.G.2.

The parking area has been previously reviewed and approved via prior special exception in 1989 for eleven (11) spaces. Applicant is proposing ten (10) parking spaces for the Matope family, staff and patients. The breakdown of required and provided spaces for all transportation types is:

Vehicle Type	Required	Provided
Automobiles	9	9
ADA Space	1	1
Bicycles	0	0

The proposed spaces are for perpendicular parking and measure 8.5' x 18.0' at a minimum, with the exception of one handicap van accessible parking space at the minimums of 8' x 18' with 8' ADA aisle next to it. There are ten (10) parking spaces in the parking lot, which meets the number of spaces required by code. It is anticipated that the use will be more than ample, since minimal on site patient visits occur and staff is often offsite treating patients at the patients' homes. Additionally, the Matope residence is in very close proximity to public transportation (bus routes and stops along Colesville Road (at Dale Drive and just south of Sligo Creek Parkway)) as well as about a mile from the Silver Spring metro rail station. Thus, staff and/or patients may decide to use public transportation to reach the property.

Due to the dimensional characteristics of the existing parking area, three of the spaces will be located in a tandem configuration. Three spaces are located under the existing carport canopy and three spaces are located behind them. This will not cause inconvenience to the users since two of the spaces are for the residents of the home who are also practitioners. Four of the other practitioners will typically be off-site serving patient clients at the clients' homes. The occasional visit by a patient on-site will use the space reserved next to the ADA space (or the ADA space itself if applicable). There will not be more than one patient on site at any one time. Tandem parking is allowed for the single-family residential use (see 59.6.2.5.E.5) but any tandem space(s) for the health practitioner's use will require a waiver under 59.6.2.10. This waiver is appropriate for many reasons including that the parking lot was previously approved by a Special Exception, is to remain essentially the same, will not add parking spots or expand the parking area in order to maintain the residential feel and look and thus compatibility with the neighborhood. The waiver generally seeks to comply with the prior SE parking approval and thus will not adversely impact the surrounding neighborhood. All of this does help meet the parking intent under 6.2.1.

This configuration results in a drive aisle of 18 feet wide behind the more seldom-used tandem spaces. A second waiver from the typical 20 foot width (see 59.6.2.5.G.2) for two-way use is requested under 59.6.2.10. This is the most efficient configuration for the existing facility and best serves the nature of the site's users. This waiver is also appropriate for same reasons as noted above, including that the parking lot was previously approved by a Special Exception, is to remain essentially the same, will not add parking spots or expand the parking area in order to

maintain the residential feel and look and thus compatibility with the neighborhood. The waiver generally seeks to comply with the prior SE parking approval and thus will not adversely impact the surrounding neighborhood. All of this does help meet the parking intent under 6.2.1.

Section 59.6.2.5.K provides standards for off –street parking facilities for a conditional use when located in residential detached zones.

a. Location

Each parking facility must be located to maintain a residential character and a pedestrian friendly street.

The existing parking, set back over 30 feet from the street and located along the side and the rear of the property, is partially visible from the street, located further back than the existing parking facilities on both sides of the Subject Property, and maintains the residential character along the six (6) lane Colesville Road.

b. Setbacks

i. The minimum rear-parking setback equals the minimum rear setback required for the detached house.

The parking complies with the rear-parking setback of 20 feet.

ii. The minimum side-parking setback equals 2 times the minimum side setback required for the detached house.

The minimum side setback for a detached house in the R-60 zone is 8 feet. This would require a 16-foot setback along the side lot lines. The parking facility is located 63 feet and 108 feet from the respective side property lines.

Bicycle Parking requirements are discussed at Section 59.6.2.4.C. Resident Health Practitioner is not a use requiring bicycle parking spaces.

3. Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting

C. Parking Lot Requirements for 10 or More Spaces

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% 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.

2. Tree Canopy

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

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.

b. The perimeter planting area for a property that abuts any other zoned property, right-of-way, or an Agricultural, Rural Residential, or Residential Detached zoned property that is improved with a civic and institutional, commercial, industrial, or miscellaneous use must:

- i. be a minimum of 6 feet wide;

- ii. contain a hedge or low wall a minimum of 3 feet high; and
- iii. have a canopy tree planted every 30 feet on center; unless
- iv. the property abuts another parking lot, in which case a perimeter planting area is not required.

4. Lighting

Parking lot lighting must satisfy Section 6.4.4, General Outdoor Lighting Requirements.

Parking lot requirements are met and are shown on the Site Plan for Conditional Use included with the application. Additional landscaping has been added to the existing landscaping. The planting provided on the landscape plan, provides greater aesthetic interest and color as well as meeting the screening and canopy requirements per Section 6.2.9.C.

3. Division 59.6.4. General Landscaping and Outdoor Lighting

a. Section 59.6.4.3. General Landscaping Requirements

The landscaping proposed by the Applicant for its community is depicted and is described in the Landscape and Lighting Plan that is part of this conditional use application. The species, size and planting specifications as shown on the attached landscape plans comply with the requirements of Section 59.6.4.3.B of the Zoning Ordinance.

b. Section 59.6.4.4 General Outdoor Lighting Requirements

Accompanying this conditional use application is a Site Plan for Conditional Use that identifies the existing light fixtures on the site. No new fixtures are proposed. On-site field measurements by light meter have confirmed that lighting will not exceed 0.1 or 0.5 foot candles at the applicable respective lot lines (see Site Plan), as prescribed in Section 59.6.4.4.E of the Zoning Ordinance.

5. Division 6.7. Signs

The property does not currently include any signage identifying the use. The applicant is not asking for any additional signage herein, but will likely request approval from the County Sign Committee later, upon completion of the Conditional Use process.

IX. CONCLUSION

This Statement of Justification demonstrates that the proposed conditional use application for a Home Health Practitioner (Major Use) on Colesville Road meets the development standards for the underlying R-60. Further, it satisfies the use standards for a Home Health Practitioner, meets all applicable requirements of the Zoning Ordinance, with the approval of the two modest waivers under 59.6.2.10 for tandem parking and drive aisle width, is consistent with the North and West Silver Spring Master Plan. Thus, it will deliver a compatible land use at this site that provide a positive impact on the area via enabling this home health care practitioner services for a population in need of such services.

Respectfully submitted,
MILLER, MILLER & CANBY

By: _____
Sean P. Hughes
200-B Monroe Street
Rockville, MD 20850
(301) 762.5212
sphughes@mmcanby.com

Counsel for Applicant, E&G Investment LLC

To Whom It May Concern,

We are writing to express our support for our neighbor, the Matope family, and its plan for a Home Health Care Practitioner (E&M Investment LLC), to be run by Mr. and Mrs. Matope with up to six (6) staff members at the Matope residence at 9221 Colesville Road, Silver Spring, MD.

They have informed us that they will be working through the County's land use review process in order to obtain a Conditional Use approval for the Home Health Care Practitioner. We understand that their request will be reviewed at public hearing before the County's Planning Board and Office of Zoning and Administrative Hearings (OZAH), which the public can attend and speak to the application. We also understand that there will be County signs posted on the Matope property that will provide information about the request.

Thank you for your consideration.

Sincerely,

NORMAN RUSHEFSKY
JANE E. RUSHEFSKY

Name-printed

Norman Rushefsky
Jane E. Rushefsky

Signature

September 22, 2020

Date

9215 COLESVILLE RD

SILVER SPRING, MD 20910

Address

To Whom It May Concern,

We are writing to express our support for our neighbor, the Matope family, and its plan for a Home Health Care Practitioner (E&M Investment LLC), to be run by Mr. and Mrs. Matope with up to six (6) staff members at the Matope residence at 9221 Colesville Road, Silver Spring, MD.

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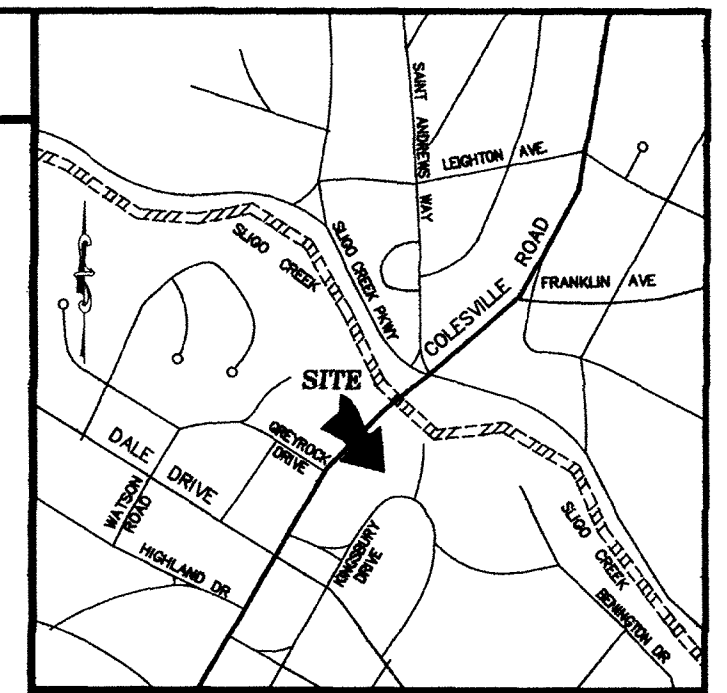
Thank you for your consideration.

Sincerely,

Dr. Jason Gaucin
Name-printed
[Signature]
Signature

9/11/2020
Date
9221 COLESVILLE Rd.
SILVER SPRING, MD 20910
Address

PLAT NO. 24392



VICINITY MAP
ADC MAP 37 TH EDITION
ADC MAP PAGE 37, GRID B-7
SCALE: 1" = 2000'

OWNER'S CERTIFICATE:

WE, THE CHRISTIAN COMMUNITY OF THE GREATER WASHINGTON - BALTIMORE AREA, INC., OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES AND ESTABLISH THE TEN (10) FOOT PUBLIC UTILITY EASEMENT SHOWN HEREON AS 10' P.U.E. FOR THE PARTIES NAMED IN THE DOCUMENT ENTITLED "DECLARATION OF TERMS AND PROVISIONS OF PUBLIC UTILITY EASEMENTS" RECORDED IN LIBER 3834 AT FOLIO 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

THERE ARE NO LEASES, LIENS OR TRUSTS ON THE PROPERTY INCLUDED ON THIS PLAN OF SUBDIVISION.

3/6/12
DATE

Bruce Chamberlin
BRUCE CHAMBERLIN, PRESIDENT
OF THE BOARD OF TRUSTEES
THE CHRISTIAN COMMUNITY OF GREATER
WASHINGTON-BALTIMORE AREA, INC.

W. H. C.
WITNESS

GENERAL NOTES:

1. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE UNLESS MODIFIED BY FURTHER ACTIONS BY THE BOARD. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.

2. THIS PLAT CONFORMS WITH REQUIREMENTS FOR MINOR SUBDIVISION APPROVALS CONTAINED IN SECTION 50-35A OF THE MONTGOMERY COUNTY SUBDIVISION REGULATIONS, BEING CHAPTER 50 OF THE COUNTY CODE. THIS PLAT INVOLVES A CONSOLIDATION OF TWO OR MORE PARTS OF LOTS INTO ONE LOT AS PROVIDED FOR IN SECTION 50-35A(a)(3).

3. THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE, NOR EVERY MATTER RESTRICTING THE OWNERSHIP AND USE OF THIS PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE THE EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.

4. THE APPROVAL OF THIS PLAT IS PREDICATED ON THE ADEQUACY AND AVAILABILITY OF PUBLIC WATER AND SEWER.

5. THIS PROPERTY IS CURRENTLY ZONED R-60.

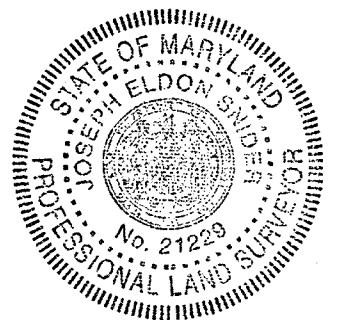
6. THE LOT SHOWN HEREON APPEARS ON MONTGOMERY COUNTY TAX MAP GRID JP-31 AND W.S.S.C. SHEET# 211 NW 01.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT IT IS A RESUBDIVISION OF ALL THE LAND CONVEYED TO THE CHRISTIAN COMMUNITY OF THE GREATER WASHINGTON-BALTIMORE AREA, INC., BY GEORGE B. PATRICK III, SOLE OWNER, BY DEED DATED OCTOBER 7, 2011 AND RECORDED IN LIBER 42485, FOLIO 296; AND ALSO BEING KNOWN AS PARTS OF LOTS 6, 7 & 8, BLOCK A, SECTION ONE IN THE SUBDIVISION KNOWN AS "SEVEN OAKS" AS RECORDED IN PLAT BOOK 4 AT PLAT 320; ALL BEING RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND; AND THAT PROPERTY CORNERS MARKED THUS ARE IN PLACE AS SHOWN HEREON. THE TOTAL AREA INCLUDED ON THIS PLAT OF SUBDIVISION IS 31,241 SQUARE FEET, NONE OF WHICH IS DEDICATED FOR PUBLIC USE.

3/12/2012
DATE:

Joseph E. Snider
JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

**LEGEND:**

IPF INDICATES IRON PIPE FOUND.
R/C SET INDICATES REBAR & CAP SET.
X-CUT SET INDICATES CROSS CUT SET

RECEIVED

APR 19 2012

Clerk of the Circuit Court
Montgomery County, Md.

SUBDIVISION RECORD PLAT
LOT 20, BLOCK A
SECTION ONE
SEVEN OAKS

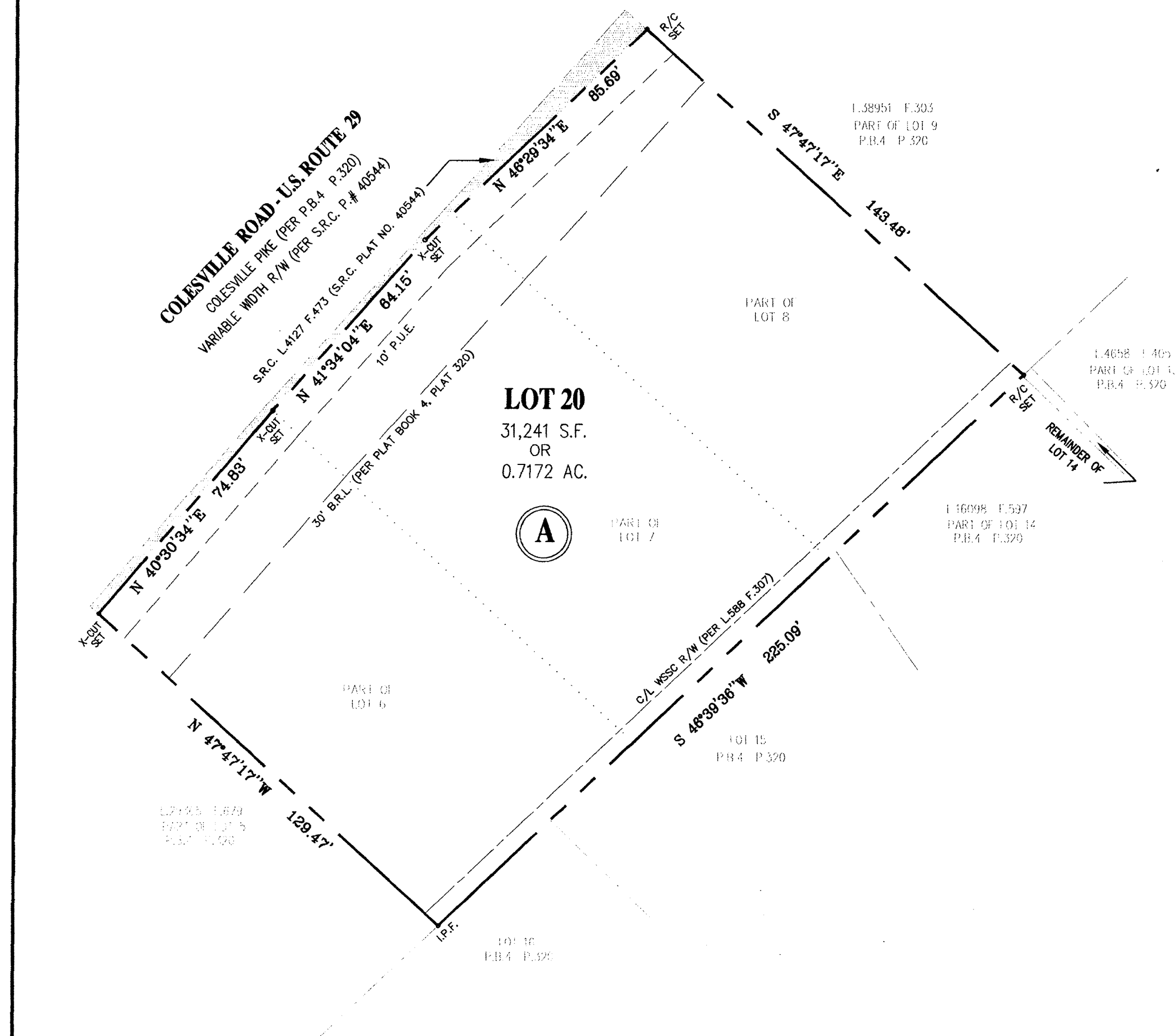
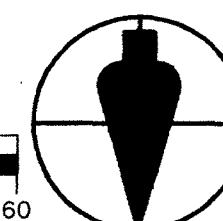
A RESUBDIVISION OF PARTS OF LOTS 6, 7 & 8, BLOCK A
WHEATON (13th) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 30' NOVEMBER 2011

PREPARED BY

SNIDER & ASSOCIATES
LAND SURVEYORS

20270 GOLDENROD LANE, SUITE 110
GERMANTOWN, MARYLAND 20876
301/948-5100 Fax 301/948-1286

GRAPHIC SCALE



220120610 MINOR (R-60)

DEPARTMENT OF PERMITTING SERVICES MONTGOMERY COUNTY, MARYLAND DIRECTOR: <i>Deborah R. Schwartz Jones</i> DATE: <i>March 29, 2012</i>	RECORDED: _____ PLAT NO: _____	DRAFTED: <i>E.M.G.</i> CHECKED: <i>J.E.S.</i> JOB NO.: 11-25100
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M-NCPPC RECORD FILE NO.: 633-60

MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION MONTGOMERY COUNTY PLANNING BOARD	
APPROVED: <i>March 27, 2012</i> DATE	<i>James A. Lavin</i> CHAIRMAN <i>Paul Lavin</i> ASSIST. SECRETARY - TREASURER

AREA TABULATION	
LOT 20 =	31,241 S.F. OR 0.7172 ACRES
DEDICATION AREA =	N/A
TOTAL AREA =	31,241 S.F. OR 0.7172 ACRES

p193110

MSA SSN 1249 29999 633-60

COUNTY BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. S-1640

PETITION OF GEORGE B. PATRICK, JR., M. D.
(Hearing held February 15, 1989)

OPINION OF THE BOARD

Case No. S-1640 is the petition of George B. Patrick, Jr., M. D. for a special exception pursuant to Section 59-G-2.36 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1984, as amended) to permit a non-resident medical practitioner's office.

The subject property is Lots 6, 7, 8, Block A, Seven Oaks Subdivision, located at 9221 Colesville Road, Silver Spring, Maryland in the R-60 Zone.

Decision of the Board: Special Exception GRANTED to petitioner only, subject to conditions enumerated herein.

Eileen T. Basaman, Esq. appeared on behalf of petitioner and presented oral and written testimony as follows:

The property at 9221 Colesville Road is owned by petitioner and his wife and comprises approximately 32,123 square feet. Petitioner and his family have lived in the house for thirty years and during this entire time petitioner has operated a residential medical office there as permitted in the R-60 zone.

Petitioner now wishes to take in his son to share the use of the medical office facilities. Eventually petitioner may retire and then the son may assume the entire practice. At present the son is expected to spend only 35% of this time at the property since approximately 65% of his time is taken up with practicing at nursing homes.

The work schedules for both practitioners will not overlap, and in no event will there be more than two medical practitioners on the premises at any one time. The practice will include the petitioner, his son, a secretary, a medical assistant, and a part-time nurse. Hours of operation will be:

7 a.m. to 6 p.m. Monday through Friday
7 a.m. to 12 noon on Saturday

Considerably more than 50% of the home is dedicated to residential use. The first floor of the home has 2,930 square feet of which 782 square feet will be dedicated to the medical practice.

Parking for eleven cars is available on the property.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

The Technical Staff of Park and Planning recommended approval of the petition (Exhibit No. 10).

FINDINGS OF THE BOARD

After carefully considering the oral and written evidence, the Board finds that this petition complies with the general requirements found in Section 59-G-1.21 of the Zoning Ordinance, as well as the specific requirements of Section 59-G-2.36. This property has been used for thirty years for the practice of medicine and the addition of one more practitioner in the manner proposed will have a minimal effect. Staff of Park and Planning had recommended that a landscape plan be submitted for approval, however, the Board finds that this is not necessary. The parking area was established many years ago and will not be changed. The pictures which petitioner submitted into the record show extensive landscaping on the property and additional landscaping would serve no purpose.

Accordingly, this petition for a special exception for a non-resident medical practitioner's office is granted, subject to the following conditions:

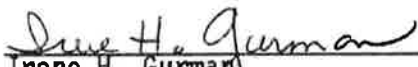
1. Special Exception is granted to petitioner only.
2. Petitioner is bound by all oral and written testimony and evidence in the record.

The Board adopted the following Resolution:

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition.

The foregoing Resolution was proposed by Judith B. Heimann, Chairman and concurred in by Max H. Novinsky, Howard Jenkins, Jr., K. Lindsay Raufaste and Helen R. Strang.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 24th day of February, 1989.


Irene H. Gurman
Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-months' period within which the right granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.