


14731 Myer Terrace, Conditional Use No. CU202110

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Completed: September 16, 2021

Description

Proposal: Request to increase the maximum number of children at an existing Family Day Care (up to 8 persons) to a Group Day Care Facility (9-12 Persons).

Location: 14731 Myer Terrace, Rockville, MD

Zone: R-90

Master Plan: 1994 *Aspen Hill Master Plan*

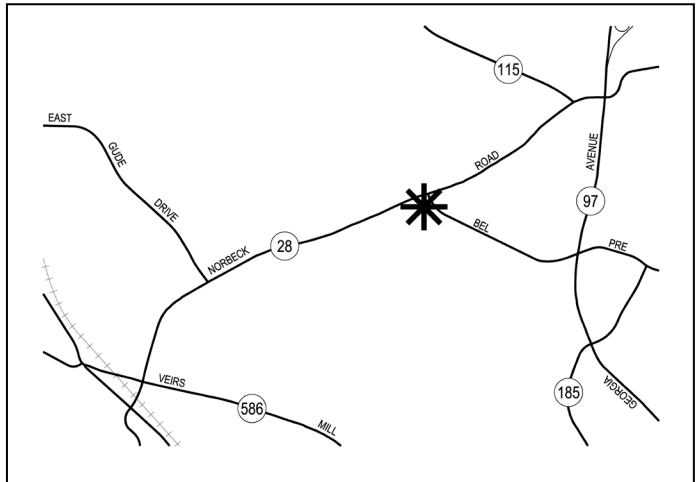
Property Size: 10,558 square feet

Acceptance Date: 6/15/2021

Applicant: Gabriela Gueorguieva

Review Basis: Chapter 59

Hearing Examiner Public Hearing: 10/11/21



Summary

- Staff recommends approval with conditions.
- Staff has not received any correspondence from the community as of the date of this Staff Report.

SECTION 1: STAFF RECOMMENDATION

Staff recommends approval of Conditional Use No. CU202110 subject to the following conditions:

1. The Group Day Care facility must be limited to a maximum of twelve (12) children and two (2) non-resident employees.
2. The hours of operation are limited to Monday through Friday, 7:30 a.m. to 5:30 p.m.
3. The Applicant must schedule staggered drop-off and pick-up of children with a maximum of two (2) vehicles dropping off or picking up children during any fifteen (15)-minute period.

SECTION 2: SITE AND NEIGHBORHOOD DESCRIPTION

Site Description

The Subject Property (Property or Site) is 14731 Myer Terrace, Rockville, otherwise known as Lot 25, Block 19, (Plat #7622, 1964). It is improved with a detached house (Figure 1) and three-car driveway. The Applicant has been operating a Family Day Care (up to 8 persons), for two-year-old children through five-year-old children, for approximately two years. The existing Family Day Care (up to 8 children) use occupies the lower level of the house and is a permitted use in the R-90 zone. The 10,558-square foot lot is located on the northeastern terminal cul-de-sac of Myer Terrace.

The existing Family Day Care is accessed via the rear door of the house that opens into the daycare area. People dropping off children may park on the street and walk with their child up the driveway, or park on the driveway itself and use a path leading to the rear of the property.

The rear yard of the house is partially enclosed by a combination of fencing and landscaping. There is fencing along the eastern and southern property lines and heavy landscaping along the western property line. The outdoor play area is located in the rear yard and separated from adjoining properties by landscaping and fencing.

Unrestricted on-street parking is allowed on both sides of Myer Terrace and three parking spaces are provided on the Subject Property.



Figure 1: Subject Property (outlined in red)

Neighborhood Description

The Staff-defined Neighborhood (Figure 2) is bounded by Norbeck Road (MD 28) to the north, Bel Pre Road to the northeast, Arctic Avenue to the southeast, Bauer Drive to the south, and Nadine Drive to the west. The Neighborhood is comprised exclusively of single-family detached homes. The neighborhood is bordered by Lucy V. Barnsley Elementary School to the west. Staff identified one approved conditional use/special exception within the defined neighborhood: Special Exception No. S1154 (5000 Norbeck Road) for an accessory apartment.

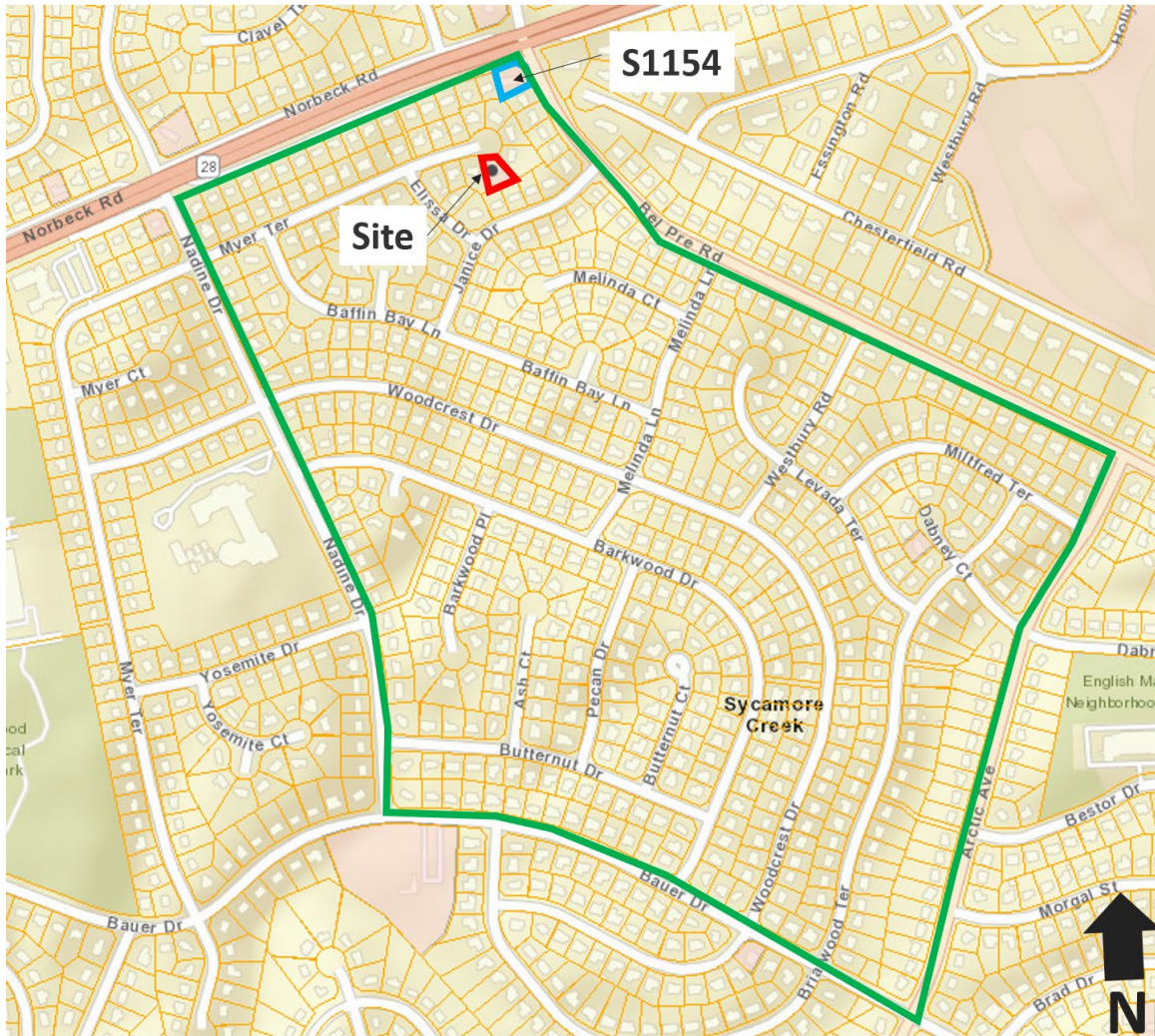


Figure 2: Staff-Defined Neighborhood (outlined in green)

SECTION 3: PROJECT DESCRIPTION

The Applicant requests to expand an existing Family Day Care (up to 8 persons) to a Group Day Care Facility (9-12 Persons) for a maximum enrollment of 12 children. The proposed Group Day Care Facility will occupy the same space as the existing Family Day Care. The Applicant is not proposing any physical changes to the indoor or outdoor daycare space(s) and the current hours of operation, Monday through Friday, from 7:30 a.m. to 5:30 p.m., will remain the same. The Applicant's sister owns the Property and has authorized the use of the Property. The Applicant lives on the Property and serves as the primary caregiver for the existing Family Day Care. Currently, one non-resident staff member is employed by the existing day care. No additional staff members are proposed with this Application.

Weather permitting, the children will play outside during designated outdoor play hours. Outdoor play hours typically occur from 10:00 a.m. to 11:00 a.m. and from 4:00 p.m. to 5:30 p.m., in two groups of six children. Parent drop-off will typically take place between the hours of 7:30 a.m. and 8:30 a.m. and pick-up will typically occur between 4:30 p.m. and 5:30 p.m.

Adequate on-street parking is available along Myer Terrace, where there are no parking restrictions, to serve the expanded Conditional Use. There is also parking for three cars on the Property's driveway.

The Applicant has not proposed any signage with this Application.



Figure 3: Subject Property, as viewed from Myer Terrace, looking south.

SECTION 4: ANALYSIS AND FINDINGS

Master Plan

The Site is located within the 1994 *Aspen Hill Master Plan* (Master Plan) area. The Master Plan does not specifically discuss the Site; however, it does include guidance about day cares, special exceptions/conditional uses, and residential areas. The Master Plan includes the following language:

Child care facilities should be encouraged to meet the needs of the residents of Aspen Hill. To the extent possible, they should consistently provide the following:

- *Sufficient open space to provide adequate access to sunlight and suitable play areas, taking into consideration the size of the facility.*
- *Location and design to protect children from excessive exposure to noise, air pollutants and other environmental factors potentially injurious to health or welfare.*
- *Location and design to ensure safe and convenient access. This includes appropriate parking areas and safe and effective on-site circulation of automobiles and pedestrians.*
- *Location and design to avoid creating undesirable traffic, noise and other impacts upon the surrounding community.*
- *Consideration should be given to locations in employment centers to provide locations convenient to workplaces. However, these locations should make provisions for a safe and healthful environment in accord with the criteria listed above. (Pages 190-193)*

and

This Plan supports various types of child day care facilities within the planning area, particularly those providing care to the youngest children. Day care (for any age group) may be an appropriate use for some Parks Department buildings in the planning area. (Page 193)

The existing Family Day Care (up to 8 persons) has been operating on the Site for two years, and the proposal is a modest expansion of the maximum enrollment which will not change the character of the neighborhood. The Subject Site is an appropriate location for a Group Day Care Facility (9-12 Persons) and is compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Master Plan.

Transportation

Master-Planned Roadways and Bikeway

Myer Terrace is designated as a secondary residential street within a 60-foot wide public right-of-way. The Subject Property itself sits within a cul-de-sac at the terminus of Myer Terrace. There are no existing or planned bikeway facilities along Myer Terrace, therefore no implementation participation or right-of-way dedication is required of the Applicant as part of the subject Conditional Use application. In the local area, the 2018 *Bicycle Master Plan* recommends a separated two-way bikeway along the southern frontage of Bel Pre Road, within the vicinity of the Site. Bikeways are also planned along both sides of Norbeck Road, to the north of the Subject Property.

Pedestrian Facilities

There are no existing sidewalks along either side of Myer Terrace adjacent to the Property, which is consistent with properties in the immediate vicinity along Myer Terrace, Elissa Drive, and Janice Drive. The nearest sidewalk connection lies approximately 735-feet to the west along Myer Terrace. No upgrades to these existing sidewalks are necessary as part of the subject Conditional Use application.

Transit Service

There is no bus service that runs along Myer Terrace. Transit service within the quarter-mile of the Subject Property includes Ride On Bus Routes 49 and 52, which run along Norbeck Road and Route 49, which runs along Bel Pre Road. Service from the two routes provides access to Aspen Hill, downtown Rockville, Olney town center, and the Rockville and Glenmont Metrorail stations.

Parking and Drop-Off/Pick-Up

Along Myer Terrace, on-street parking is available on both sides of the street. The property also contains a driveway, accessed from Myer Terrace with capacity for three parked vehicles. To minimize impacts to the neighborhood, Staff recommends limiting scheduled parental drop-off and pick-up to two vehicles every 15-minutes.

Local Area Transportation Review

A proposed schedule of drop-offs/pick-ups during the weekday morning peak period (6:30 to 9:30 a.m.) and evening peak period (4:00 to 7:00 p.m.) was submitted with the subject Conditional Use application. The morning arrival schedule shows up to twelve children dropped off between 7:30 a.m. and 8:30 a.m., and the evening schedule shows up to twelve children picked-up between 4:30 and 5:30 p.m. Sibling groups will likely reduce the total number of projected vehicle trips, however, the trip generation is conservative and assumes that each child will arrive individually. The projected peak-hour morning and evening trips based on the Institute of Transportation Engineers' (ITE) trip generation rates for a day care center, and the Policy Area mode split assumptions, are shown below:

| Table 1: Trip Generation | | | | | |
|---|--------------------------|---|--------------------------|-----------------------------|--------------------------|
| Period | ITE Vehicle Trips | Growth and Infrastructure Policy Projected Trips | | | |
| | | Person Trips | Auto Driver Trips | Auto Passenger Trips | Pedestrian Trips* |
| Morning Peak Hour | 11 | 14 | 9 | 3 | 2 |
| Evening Peak Hour | 11.12 | 14 | 9 | 3 | 2 |
| ITE Land Use Category: 565 – Day Care Center; pedestrian trips represent all walking, biking, and transit trips | | | | | |

*Pedestrian trips are the projected sum of transit riders walking to/from their bus stop, bicyclists, and other students expected to walk to the daycare.

The Subject Application was submitted in June 15, 2021 and is therefore subject to the 2020-2024 Growth and Infrastructure Policy, which took effect on January 1, 2021. Under the 2020-2024 Growth and Infrastructure Policy, a traffic study is not required to satisfy the Local Area Transportation Review (LATR) test because the proposed day care center generates fewer than 50 person-trips during each weekday AM and PM peak hour. The LATR test parameter is in the form of total peak-hour person trips, not vehicular peak-hour trips. Person trips include all travel modes - vehicular, transit, walking, and bicycle trips, and this total is 14 person-trips in both the AM and PM peak hours.

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*. This Application is not subject to Chapter 22A, the Forest Conservation Law, because the property is less than 40,000 square feet in size and no disturbance is proposed.

Community Outreach

As of the date of this Staff Report, Staff has not received any comments from the community.

Necessary Findings - Conditions for Granting a Conditional Use 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.*

There are no applicable previous approvals on the Site. The existing Family Day Care (up to 8 persons) is allowed by right.

- 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 Group Day Care- Section 59.3.4.4.D.2

- a. *Where a Group Day Care (9-12 Persons) is allowed as a limited use, it must satisfy the following standards:*
 - i. *The facility must not be located in a townhouse or duplex building type.*
 - ii. *In a detached house, the registrant is the provider and a resident. If the provider is not a resident, the provider may file a conditional use application for a Day Care Center (13-30 Persons) (See Section 3.4.4.E).*
 - iii. *In a detached house, no more than 3 non-resident staff members are on-site at any time.*
 - iv. *In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.*

The facility is not located in a townhouse or duplex and the Applicant is the provider and a resident. As conditioned, no more than two non-resident staff members will be on-site at any time. The Site is not located in the AR Zone.

- b. *Where a Group Day Care (9-12 Persons) 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: Conditional Use Data Table (R-90 Zone) | | |
|--|---|------------------|
| Development Standard | Required/Permitted | Provided* |
| Minimum Lot Area: (Section 59.4.4.8.B.1) | 9,000 sq. ft. | 10,558 sq. ft. |
| Minimum Lot Width at Front Building Line (Section 59.4.4.8.B.1) | 75 feet | ±75 feet |
| Minimum Lot Width at Front Lot Line (Section 59.4.4.8.B.1) | 25 feet | ±55 feet |
| Maximum Density (Section 59.4.4.8.B.1) | 1 unit (4.84 dwelling units/acre) | 1 unit |
| Maximum Lot Coverage (Section 59.4.4.8.B.1) | 30% | ±16% |
| Minimum Front Setback (Section 59.4.4.8.B.2) | 30 feet | ±35 feet |
| Minimum Side Setback (Section 59.4.4.8.B.2) | 8 feet | ±12 feet |
| Minimum Sum of Side Setbacks (Section 59.4.4.8.B.2) | 25 feet | ±25 feet |
| Minimum Rear Setback (Section 59.4.4.8.B.2) | 25 feet | ±55 feet |
| Maximum Height (Section 59.4.4.9.B.3) | 35 feet | ±28 feet |

*No proposed development with this application

| Table 3: Conditional Use Parking Requirements | | |
|--|--|------------------|
| | Required Spaces | Proposed |
| Vehicle Parking Requirement (Section 59.6.2.4.B) | Group Day Care: 1 (1/ non-resident employee) ¹ Dwelling: 2 Total: 3 | 3 spaces on-site |

¹ Space is available for a second non-resident employee if hired in the future.

Screening

The existing fencing in the rear yard provides sufficient screening between the proposed use and the adjacent homes. The rear yard of the house is partially enclosed by a combination of fencing and landscaping. There is fencing along the eastern and southern property lines and heavy landscaping along the western property line.

Lighting

The existing lighting is residential in nature and will not cause any unreasonable glare on neighboring properties.

Signage

No signage is proposed as part of this Application, but any signage added in the future must satisfy Division 59.6.7.

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

As discussed in the Analysis section above, the Site is located within the *Aspen Hill Master Plan* area, 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 are proposed on the Property. Therefore, the proposed expansion of the existing day care 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 one approved conditional use within the Staff-defined neighborhood, an existing Accessory Apartment in a private dwelling at 5000 Norbeck Road. Although approval of this Application will increase the number of conditional uses in the Staff-defined Neighborhood, the proposed daycare expansion will not affect the area adversely or alter the area's predominantly residential nature. The existing day care has been operating on the Site since July 2019, the increase in the number of children being served is modest, and the Applicant is not proposing any physical changes to the Property.

- 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 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 Group Day Care facility include: (1) vehicular trips to and from the Site; (2) outdoor play areas; (3) noise generated by children; (4) drop-off and pick-up areas; and (5) lighting.

Adequate parking and drop-off/pick-up areas are available on the adjacent public street in front of the Site. The drop-offs and pick-ups will be limited by the conditions of approval of the proposed use to minimize impacts to the neighborhood.

The play area is adequate for the proposal.

The existing lighting and landscaping on the Site is adequate for the proposal. The existing lighting fixtures are residential in nature and will not intrude on neighboring properties.

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 proposal is for the expansion of an existing day care facility in an existing house; no construction, reconstruction or alteration of any structure is proposed.

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 conditions.

SECTION 5: CONCLUSION

The proposed conditional use complies with the general conditions and standards of a Group Day Care facility, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the *Aspen Hill 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:

- A. Forest Conservation Applicability for Conditional Uses/Special Exceptions
- B. Subdivision Plat
- C. Property Survey
- D. Backyard Plan



Development Applications and Regulatory Coordination Division

Effective 6/29/2015

M-NCPPC

8787 Georgia Avenue, Silver Spring, MD 20910

301-495-4550, fax: 301-495-1306

Forest Conservation Law Applicability for Conditional Uses/Special Exceptions

Property Information

Address 14731 Myer Ter City Rowville MD 20853

Subdivision Name _____ Plot(s) _____ Lot(s) _____ Block(s) _____ Tax Map _____ Parcel(s) _____
 Property Tax ID 1 _____ Property Tax ID 2 _____ Property Tax ID 3 _____ Property Tax ID 4 _____

Applicant (Owner, Contract Purchaser, or Owner's Representative)

Name Mariana Georgieva Company _____
 Address 14731 Myer Ter
 City Rowville State MD Zip Code 20853
 Phone Number 240-422-2508 Email Address mjgeorgieva@gmail.com

Total Area of Property: 10.000 acres 3,065 square feet

Applicant attests that the following statements apply to the subject property conditional use/special exception application:

☒ The application does not propose any clearing or grading activities on or near the conditional use/special exception site. (Requires plan number and M-NCPPC signature below)

OR, all of the following:

- ☐ {
- The application applies to a property of less than 40,000 square feet.
 - The property is not subject to a previously approved Forest Conservation Plan.
 - The conditional use/special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Board.
- (Not subject to Forest Conservation Law; requires M-NCPPC signature below)

PLEASE NOTE: If regulated activities occur on the property other than what is being attested to, the exemption immediately terminates without action by the Planning Board. The Planning Director may require the submission and approval of a Natural Resources Inventory/Forest Stand Delineation and a Forest Conservation Plan, and may also issue a fine of up to \$1,000 per day.

Applicant's Signature [Signature] Date 3/22/2021
 Printed Name _____

For Staff Use Only

M-NCPPC acknowledges that the conditional use/special exception for the above property:

- ☒ is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.
☐ is exempt from the Forest Conservation Plan requirements under Section 22A-5(q)(1) of the Forest Conservation Law.

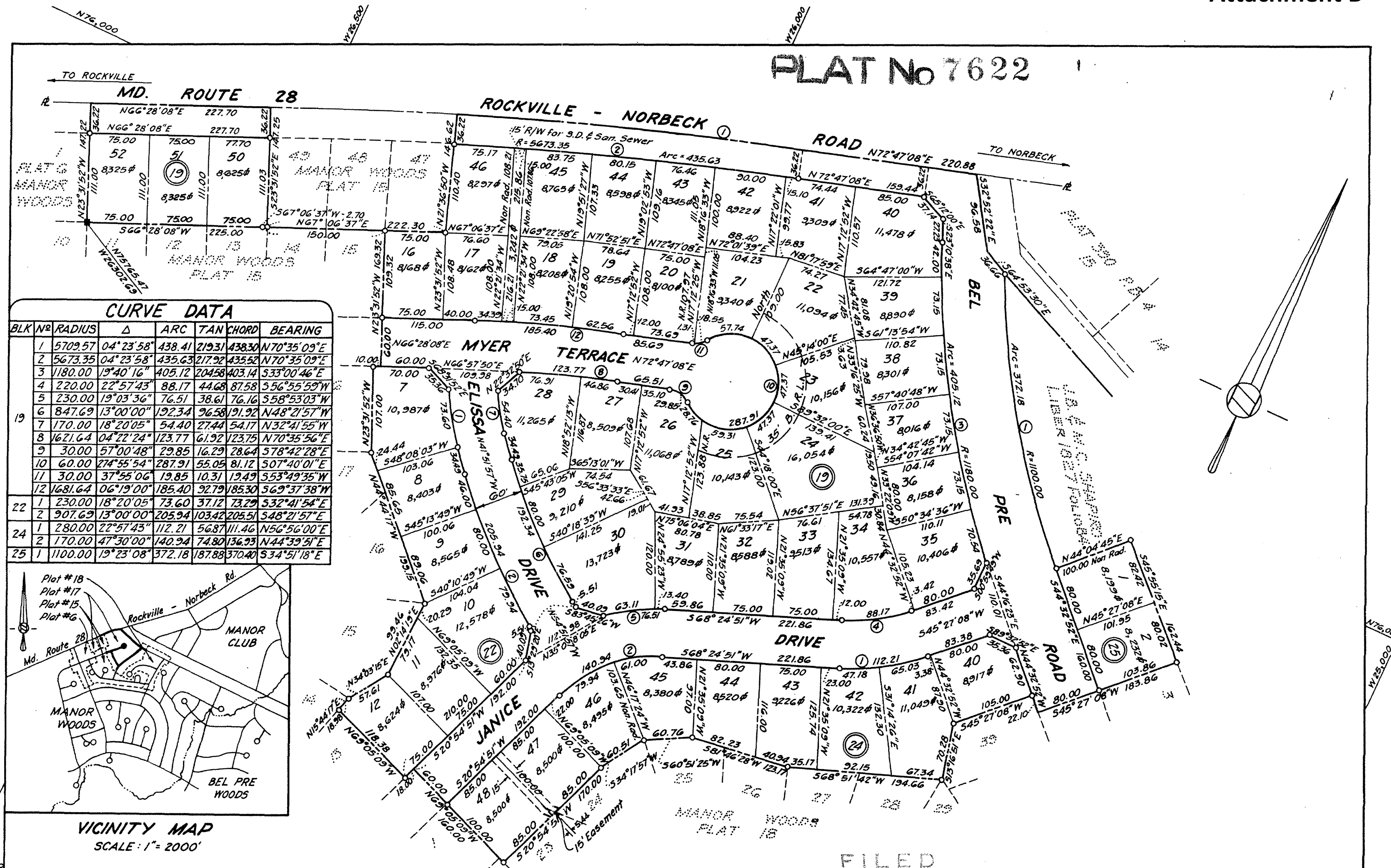
Plan Name: 14731 Myer Terrace
 Plan Number: 4 2021253E

M-NCPPC Signature
 Aaron Savage

5/25/21
 Date

Printed Name _____

PLAT No 7622



OWNERS

We, Nathaniel J. Taube and Herman Eig, trustees for Earle Tract Joint Venture, owners of the property shown and described hereon hereby adopt this plan of subdivision, establish the minimum building restriction lines, dedicate the streets to public use, establish easements and rights-of-way for the construction, reconstruction, operation and maintenance of storm drains and sanitary sewers as shown and also establish slope easements 15 feet wide along all streets as required by Montgomery County Ordinance #4-115. Slope easements granted hereon shall be terminated after all required public improvements abutting said easements have been lawfully completed and have been accepted for maintenance by Montgomery County, Maryland.

There are no suits of action, leases or liens on the property included in this plan of subdivision except a certain note and deed of trust and the parties in interest thereto have hereon indicated their assent.

Total area dedicated to public use is 189,116 square feet. October 10, 1964

"For public sewer and water systems only."

DEDICATION

EARLE TRACT JOINT VENTURE

Nathaniel J. Taube
NATHANIEL J. TAUBE, Trustee

Frank A. Gunther
FRANK A. GUNTHER, Trustee

Harry J. Kane Jr.
HARRY J. KANE JR., Trustee

J.B. Shapiro
J.B. SHAPIRO, Note Holder

Maurice C. Shapiro
MAURICE C. SHAPIRO, Note Holder

Herman Eig
HERMAN EIG, Trustee

Seibert H. Buck
Witness

Louise M. Redmond
Witness

Frances R. Atwood
Witness

Frances R. Atwood
Witness

SURVEYORS CERTIFICATE

I hereby certify that this plat is correct and that it is a subdivision of part of the land conveyed by Frances R. Atwood, unmarried, to Nathaniel J. Taube and Herman Eig, trustees for Earle Tract Joint Venture by deed dated March 27, 1964 and recorded in Liber 3203 Folio 475 among the Land Records of Montgomery County, Maryland.

Iron pipes have been set where indicated thus ○; and monuments have been set where indicated thus ■.

The total area dedicated to public use is 189,116 square feet. October 10, 1964.

Rodney L. Hanson
RODNEY L. HANSON
Registered Land Surveyor Md. No. 3084

13TH ELECTION DISTRICT
PART OF BLOCKS 19, 22, 24 & 25
PLAT SEVENTEEN
MANOR WOODS

MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 100' SEPTEMBER, 1964

HANSON & ASSOCIATES

LAND SURVEYORS
LAND PLANNING CONSULTANTS
156 CONGRESSIONAL AIRPORT LANE
ROCKVILLE, MARYLAND Phone 427-7670

138E1

HOUSE LOCATION SURVEY

LOT 25 BLOCK 17

DEAT SEVENTEEN
MANOR WOODS

Maryborough County, Maryland

PLAT BOOK..... PLAT 1422

HANSON & ASSOCIATES



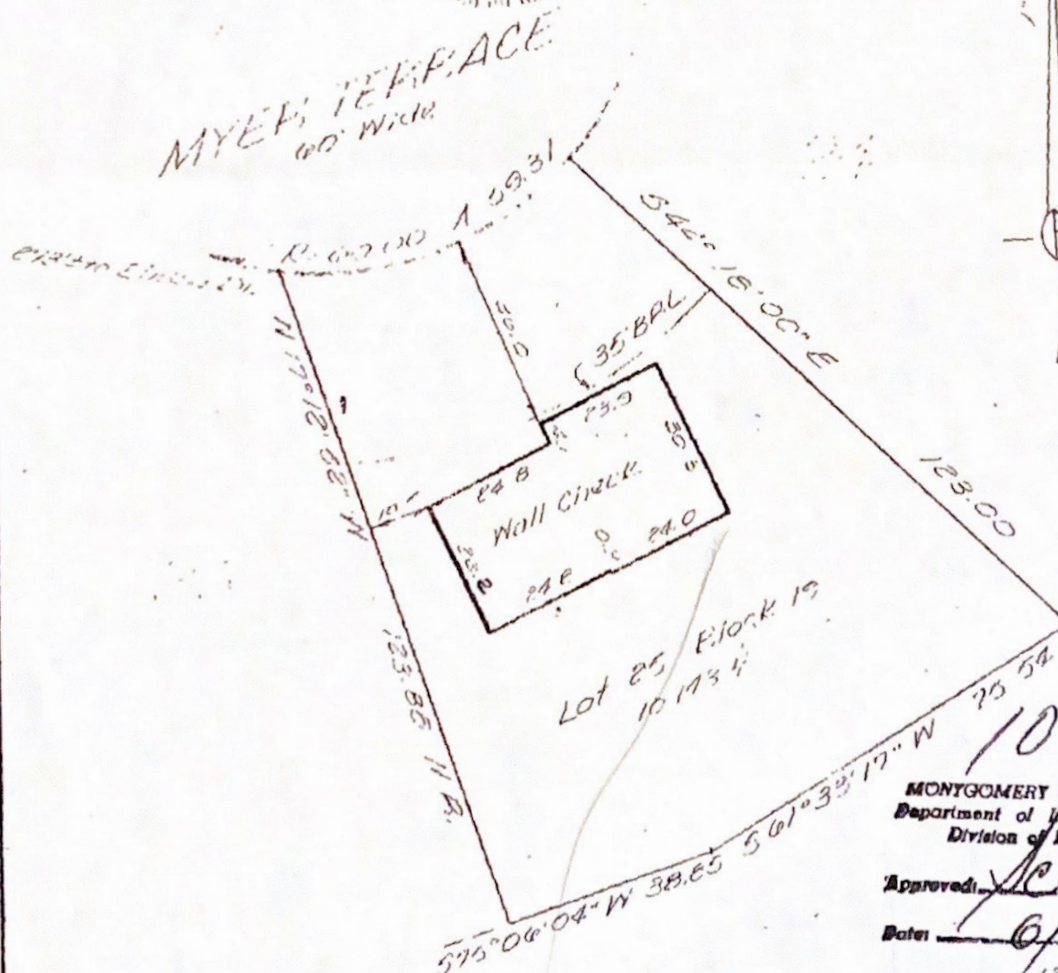
LAND SURVEYORS
LAND PLANNING CONSULTANTS
172 HOLLINS AVENUE
ROCKVILLE, MD. PHONE 427-7870

I hereby certify that the location of the existing improvements shown hereon is correct as made by a transit-tape survey dated 5-17-66 and that there are no encroachments either way across property lines unless otherwise shown.



RODNEY L. HANSON

RODNEY L. HANSON
Registered Land Surveyor, Md. No. 3084



NOTE: Lot corners have not been set by this survey unless otherwise shown.

MONTGOMERY COUNTY, MARYLAND
Department of Inspection and License
Division of Building Inspection

Approved _____

Paten

13561 Silkor.

PLAY GROUND

PLAY GROUND

High Fences
Trees & bushes

Fencing
2 ft.

