

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-114
Preliminary Plan No. 120210150
Remembrance Park
Date of Hearing: December 15, 2022

JAN 26 2023

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on March 17, 2021, Remembrance Life, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot on 40.43 acres of land in the Rural Cluster (RC) zone, located at 16621 New Hampshire Avenue, on the east side of the road, approximately 2,800 feet north of Spencerville Road (MD 198) and approximately 2,600 south of Ednor Road in Silver Spring (“Subject Property”), in the Rural East Policy Area and 1997 *Cloverly Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120210150, Remembrance Park (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 2, 2022, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 15, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Branson, seconded by Vice Chair Presley, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, Commissioners Branson, Hill, and Piñero, voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120210150 to create one (1) lot on the Subject Property, subject to the following conditions:¹

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

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605 | Fax: 301-495-1320

www.montgomeryplanningboard.org | mcp-chair@mncppc.org

Approved as to

Legal Sufficiency: Matthew T. Mills

M-NCPPC Legal Department

General Approval

1. This Preliminary Plan is limited to one (1) lot for a Cemetery and community assembly building with a capacity of up to 200 people.
2. The Applicant must comply with conditions from the Hearing Examiner's Report and Decision, dated October 11, 2021, and June 15, 2022 and as amended on October 24, 2022, from the Office of Zoning and Administrative Hearings (OZAH) approving Conditional Use No. 21-06.

Adequate Public Facilities and Outside Agencies

3. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

4. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated September 1, 2022, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
 6. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
 7. Before the issuance of access permits, the Applicant must satisfy SHA's requirements for access and improvements.
 8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 3, 2021, and incorporates them as conditions of the Preliminary Plan approval. The
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Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

9. The Planning Board has reviewed and accepts the recommendations of the MCDPS – Well and Septic Section in its letter December 2, 2022, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
10. The Planning Board has reviewed and accepts the recommendations of the MCDPS – Fire Department Access and Water Supply Section in its letter dated March 3, 2021, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

11. Before approval of a record plat or any clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

Environment

12. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 120210150 (“FFCP”), subject to the following conditions:
 - a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land

Records by deed. The Book/Page for the easement must be referenced on the record plat.

- d) Before the start of any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- e) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

Transportation

Frontage Improvements

- 13. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate sixty (60) feet from the existing pavement centerline along the Subject Property frontage for New Hampshire Avenue (MD-650).
- 14. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of a 6-foot-wide sidewalk along the Subject Property's frontage on New Hampshire Avenue.

Surety

- 15. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions.
 - a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include all site elements shown on the Conditional Use Site Plan, approved by the Hearing Examiner, including, but not limited to, the internal drive-aisle, landscaping, lighting and sidewalks.
 - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.

- d) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

Certified Preliminary Plan

16. The certified Preliminary Plan must contain the following notes:

- a) Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
- b) The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan and Conditional Use Plan is required to be on-site at all times.

17. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set.
- b) Include the approved Fire and Rescue Access plan in the certified set.
- c) Revise the data table to state that all building are considered principal buildings.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

The Subject Property is identified as Parcel 911, "Snowden's Manor" on Tax Map KT11 (Tax ID No.05-00272622), comprised of 40.39 acres (1,759,388 square feet) of land in the Rural Cluster (RC) zone. The Subject Property is within the "Agricultural Wedge" area of the 1997 *Cloverly Master Plan* and partially within the 1993 *Functional Master Plan for the Patuxent River Watershed*.

On October 11, 2021, the Montgomery County Hearing Examiner approved Conditional Use No. CU2021-06 (CU 21-06), Reflection Park Inc., for the establishment of a "green" Cemetery² on the Subject Property, under Section 59-3.5.4.A of the Zoning Ordinance ("Conditional Use" or "CU 21-06"). Landscape and Lighting plans were also approved as part of the Conditional Use Application. In conjunction with the Conditional Use, the Hearing Examiner approved a variance to the minimum lot width at front building line and minimum lot width at front lot line and a waiver of the parking standards. The accompanying Preliminary Forest Conservation Plan ("PFCP") No. CU2021-06, was approved on July 8, 2021, by Planning Board Resolution MCPB No. 21-061.

Conditions of approval from the Hearing Examiners report, dated October 11, 2021:

1. *Physical improvements to the Subject Property are limited to those shown on the Conditional Use Plan (Exhibits 38(a) through (g)), Landscape Plan (Exhibit (p), (q) (r) and (t), building plan (Exhibit 21), and Photometric Plan (Exhibit 38(u)).*
2. *No more than seven employees may be on the property at any one time.*
3. *Hours of operation are between 8:30 a.m. to sunset, seven days a week.*
4. *The Applicant must remove all pulse generator components of implanted cardiac pacemakers, including batteries, from cadavers prior to burial.*
5. *Gravesites must be located within the area depicted on the Conditional Use Plan (Exhibit 38(b)).*
6. *The Applicant must obtain approval of BOA Case No. A-6693 prior to approval of a preliminary plan of subdivision.*

² According to the Hearing Examiner's Report, dated October 11, 2021, "the differences between traditional burials and "green burials." The major difference is that traditional graves have a vault lined in concrete. The casket itself is made of artificial materials, including polyethylene materials that make up the liner. Green gravesites use either a bamboo or cardboard box, a shroud, or a casket made of raw wood with no glues. This is placed 3½ - 4 feet below the surface because decomposition happens more quickly with exposure to air in the soil rather than at a depth of 5 feet, where the soil is more anaerobic. T. 79. The traditional burial vault is left permanently, the green burial gravesite will become soil itself within a very short time" (pg.10)."

7. *During preliminary plan review, the Applicant must submit to the Planning Board an assessment of whether riparian buffers exist along on-site streams.*
8. *Sediment and erosion control measures must be implemented during all clearing and grading on the property, including gravesite areas.*
9. *Trip generation for the approved use must not exceed 50 peak hour trips within the weekday morning and evening peak periods.*
10. *The Applicant must obtain a sign permit from the MCDPS for the proposed freestanding sign. A copy of the sign permit obtained from MCDPS must be submitted to the Hearing Examiner before the sign is installed on the property.*
11. *Prior to the issuance of any building permit for the subject Conditional Use, the Applicant must obtain approval of a Preliminary Plan of Subdivision and a Record Plat pursuant to Chapter 50 of the Montgomery County Code. If changes to the approved Conditional Use Site Plan or other plans filed in this case are required at Subdivision, the Applicant must file a copy of the revised site and related plans with OZAH.*
12. *The proposed development must comply with the Preliminary Forest Conservation Plan and the conditions of approval therein.*
13. *The Applicant must obtain approval of the Final Forest Conservation Plan by the Planning Board, after which time the Applicant must comply with the terms of the Final Forest Conservation Plan.*
14. *Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by the Maryland State Highway Administration ("SHA").*
15. *Impervious surfaces are limited to no more than 10.0 percent of the subject property as shown on Exhibit 38(z).*
16. *Prior to the start of any clearing or grading on the subject property, the owner of the subject property must enter into an agreement with the Planning Board to limit impervious surfaces ~~within the transition area of the Patuxent River Primary Management Area ("PMA")~~³ on the subject property to no more than 10.0 percent, as shown on Exhibit 38(z). The agreement must be in a form approved by the M-NCPPC Office of the*

³ On December 1, 2022, the Hearing Examiner issued an Errata amending a clerical error (revised as shown) in condition 15 of her decision date October 11, 2021.

General Counsel and recorded by deed in the Montgomery County Office of Land Records.

- 17. The Applicant and any successors in interest must obtain and satisfy the requirements of all Federal, State, and County licenses, regulations, and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant and any successors in interest shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.*

Subsequently, a community member requested oral argument before the Board of Appeals (“BOA”). On November 17, 2021, the Board of Appeals remanded the case back to the Hearing Examiner to take additional evidence regarding the potential impact of necroleachate on groundwater, the Rocky Gorge Reservoir, and the Patuxent watershed.

On June 15, 2022, after hearing additional evidence and expert testimony, the Hearing Examiner approved the Conditional Use, with conditions.

Conditions of approval from the Hearing Examiners report, dated June 15, 2022:

- 1. The Applicant may clear no more than one burial section (shown on the Applicant’s Master Plan for Burial and Reforestation) at a time.*
- 2. The Applicant shall replant each burial section utilizing the Applicants Cemetery Section Development and Field to Forest Sequencing Strategies (Exhibit 47).*
- 3. All reforested areas shall be consistent with the Reforestation Planting Concept shown on p. 12 of Exhibit 47.*

On October 24, 2022⁴, the Hearing Examiner approved a minor amendment to the approved Conditional Use plan to allow the installation of a temporary office building and utility shed (storage container) and modify the associated landscape plan. The temporary office building and utility shed will allow the Applicant to begin marketing and will only include limited land preparation, before

⁴ On November 15, 2022, the Hearing Examiner issued an Errata to correct a typographical error which referred to the original date of approval.

constructing any of the permanent structures that require a building permit, which cannot be issued before recordation of the record plat. No new conditions were added with this amendment.

The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plans, and for the proposed use as a cemetery.

The lot was reviewed for compliance with the dimensional requirements for the RC zone as specified in the Zoning Ordinance. With the variance (described below) for lot width at front building line and lot width at front lot line, approved by the Hearing Examiner, the proposed lot will meet all the dimensional requirements for area, frontage, width, and setbacks in the RC zone, considering the approved variance and waiver discussed below. A summary of this review is included on Table 1 of the Staff Report and reflected on the Certified Preliminary Plan Data Table. The Application has been reviewed by other applicable County agencies, all of which have recommended approval of the plan.

Approved Variance No. A-6693

As shown in Table 1 of the Staff Report, the Subject Property does not meet the minimum requirements for lot width at front building line and at front lot line. The Applicant filed a request for a variance (A-6693) from these requirements with the Board of Appeals, which was transferred to OZAH for review in conjunction with the Conditional Use Application.

On March 5, 2021, the Board of Appeals (“BOA”) referred Variance Case No. CU 21-06 (renumbered) associated with the application to the Hearing Examiner for hearing. As part of the Conditional Use, the Hearing Examiner approved the following:

- 1. A variance of 94.1 feet for the front lot line as the front lot line is 205.9 feet long and the minimum required is 300 feet (RC zone) per Section 59.4.3.4.B.1.*
- 2. A variance of 85.9 feet for the lot width at the front building line as the lot width is 214.1 feet and the minimum required is 300 feet (RC zone) per Sections 59.4.3.4.B.1.*

Approved Parking Setback Waiver

In approving CU 21-06, the Hearing Examiner also approved a waiver of the parking standards (Section 6.2.1), allowing the on-site parking of 79 spaces (53 parking spaces adjacent the community building and 6 spaces along the internal road), to be located further than ¼ miles from the entrance of the establishment being served, the cemetery.

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

The Property is within the “Agricultural Wedge” area of the 1997 *Cloverly Master Plan* (“Master Plan”). It is also guided by recommendations in the 1993 *Functional Master Plan for the Patuxent River Watershed* (“Functional Master Plan”). The Master Plan does not provide explicit recommendations for the Property, nor does it identify areas that are deemed suitable for the proposed use. As discussed in the Hearing Examiner’s Report, the use of the Property as a Cemetery substantially conforms to the Master Plan and Functional Master Plan recommendations discussed below.

1997 Cloverly Master Plan

The Master Plan is guided by two fundamental concepts: protecting watersheds and reinforcing the character of Cloverly’s communities (p. 13). The Property is in the Lower Patuxent River watershed, where the Master Plan highlights the importance of maintaining the quality of the bi-county water supply, namely the Rocky Gorge Reservoir. According to the Master Plan, the protection of open space rather than agriculture is the primary purpose of the Agricultural Wedge in this part of Cloverly (p. 9).

The Master Plan maintained low-density zoning for the area to help protect the watersheds as well as to reinforce the character of the Agricultural Wedge community. The Master Plan also expressed concern that special exceptions (now conditional uses), institutions, places of worship, and other large developments could adversely affect the rural character and water quality (p. 17). The Master Plan lists several recommendations that should be considered when reviewing an application for a conditional use, including:

- Maintain a residential appearance where feasible.
- Maintain compatibility with the scale and architecture of adjoining neighborhoods.
- Limit the impact of signs, lighting, and other features.
- Locate parking, loading, and other services in a way that maintains residential appearances to the extent feasible.
- Apply landscaping that minimizes the non-residential appearance from surrounding properties and the roads.

Conditional Use CU21-06 has already been approved by the Hearing Examiner, who found that the Cemetery conforms to the Master Plan by locating the larger buildings well away from New Hampshire Avenue, thereby preserving the

residential/rural character of the area. The proposed use helps retain the low-density rural character of this part of Cloverly.

The Land Use Plan (p. 19) envisions single-family residential uses for the Property, and the Master Plan recommends maintaining the rural and suburban character of New Hampshire Avenue through a 100-foot front setback for non-residential uses. The Master Plan explains that this setback, which is 20 feet greater than the setback for houses, “is designed to minimize the impact of buildings that tend to be taller, wider, and more massive than homes” (p. 31). It recommends forest or naturalistic landscaping to help maintain the rural and suburban character of New Hampshire Avenue.

The Preliminary Plan shows three small buildings near New Hampshire Avenue: a small maintenance building, a small office building, and an entrance pavilion. The Application also shows a trailer to be used as a temporary office. The maintenance building, office, and trailer appear to be about 120 feet from the right-of-way line, while the pavilion is about 95 feet from the line. Given the environmental constraints on this part of the Property and the required septic field, this is close enough to the recommended distance to not be a problem given the modest sizes of the three buildings compared to the more massive structures the Master Plan has concerns with. The approved Landscape Plan shows a wall of shrubs and several larger trees around the parking lot and along the road to screen the parking lot and buildings.

A larger community building (approximately 6,000 square feet and approximately 26 feet high) and a larger maintenance building (approximately 1,000 square feet and approximately 26 feet high) are proposed in a later phase of the development. These buildings will be in the rear of the Property at a substantial distance from New Hampshire Avenue. A 50-foot forest buffer is proposed between the Property line and the parking that will surround these buildings. Being set well back from the road, these buildings and surrounding parking lots should have no impact on the residential or rural character of the area.

1993 *Functional Master Plan for the Patuxent River Watershed*

Because of its proximity to tributary streams, the Property is located within the Patuxent River Primary Management Area (PMA). The PMA on the Property is the land area within ¼ mile (660 feet) of the streams on and near the Property. The 660-foot-wide PMA consists of the stream valley buffer and the transition area. There are specific requirements outlined in the Environmental Guidelines for properties located within the PMA.

The stream valley buffer is delineated based on the stream buffer calculations outlined in the *Environmental Guidelines*. The (“Guidelines”) remaining area within the 660-foot-wide PMA is the transition area. To protect the water quality

within the Patuxent watershed, the Environmental Guidelines establish impervious limits and state the following:

Patuxent Primary Management Area: Overall imperviousness within the PMA transition area of a Subject Property should not exceed 10 percent. If a higher imperviousness is desirable in the transition area to maintain community character, achieve compatibility and/or accomplish master plan goals, imperviousness may be averaged over the entire Property (*i.e.*, not to exceed 10 percent on the entire site, p. 25).

The Guidelines further state that the high water quality of the Patuxent River watershed is important to its use as a public drinking water supply and the high-quality aquatic communities currently found in the streams. Continuation of low-density land-use patterns and enforcement of the Guidelines for the Primary Management Area are necessary to maintain this quality. Restoration and enhancement activities should be undertaken through existing programs (p. 58).

The Property has limited frontage on New Hampshire Avenue and the major and larger buildings are located further away from New Hampshire Avenue (and within the PMA) to take advantage of the greater property width in that location and allow the New Hampshire Avenue frontage to be more in keeping with the semi-rural nature of the neighborhood. If the larger buildings were located outside the PMA, not only would they be visible from New Hampshire Avenue, but would be out of character with this semi-rural neighborhood because they are larger than the relatively modest dwellings in the area. Therefore, Staff appropriately calculated the imperviousness over the entire Property and not just within the transition area.

The Property is currently undeveloped. The new construction to accommodate the proposed use will add 3.95 acres of impervious surface which equates to 9.77 percent of the entire Property. Of that, 2.41 acres of impervious surface area will be located within the PMA transition area, and this equates to 12.8 percent imperviousness within the transition area.

When averaged across the entire Property, the Application is below the ten percent threshold as conditioned in CU21-06 (conditions 15 and 16) and as recommended by the *Environmental Guidelines*.

15. Impervious surfaces are limited to no more than 10.0 percent of the subject property as shown on Exhibit 38(z).

16. Prior to the start of any clearing or grading on the subject property, the owner of the subject property must enter into an agreement with the Planning Board to limit impervious surfaces ~~within the transition area of~~

~~the Patuxent River Primary Management Area (“PMA”)⁵ on the subject property to no more than 10.0 percent, as shown on Exhibit 38(z). The agreement must be in a form approved by the M-NCPPC Office of the General Counsel and recorded by deed in the Montgomery County Office of Land Records.~~

The Hearing Examiner found that the proposed development conforms to both the Master Plan and the Functional Master Plan by providing more open space and less forest clearing than would be required for standard residential development.

Likewise, the Preliminary Plan substantially conforms to the recommendations of the 1997 *Cloverly Master Plan* and the 1993 *Functional Master Plan for the Patuxent River Watershed*. Both plans seek to protect water quality and rural residential character through low-density zoning and imperviousness limits. The Application will maintain a very natural and mostly forested setting on the Property, which will result in a much more rural character than would the large residential lots that are possible in the area.

Master-Planned Roadway and Bikeways

The Subject Property has frontage on New Hampshire Avenue (MD 650), identified by the 2018 *Master Plan of Highways and Transitways* as a two-lane Major Highway with a 120-foot right-of-way. To accommodate the master-planned right-of-way, the Applicant is dedicating all land necessary to accommodate sixty feet from the existing pavement centerline along the Subject Property frontage on New Hampshire Avenue. There is an existing 10-foot-wide asphalt shared-use path along the west side of New Hampshire Avenue, on the opposite side of the Subject Property. Per the 2018 *Bicycle Master Plan*, there are no bicycle improvements envisioned along the Property frontage.

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

a) *Roads and other Transportation Facilities*

Vehicular access to the Property will be from New Hampshire Avenue via a 20-foot driveway. The entrance driveway will transition to an internal roadway network consisting of loops throughout the Property that accommodate vehicular circulation. The office building is accessible via a full movement loop that connects to its associated parking, consisting of 16 parking spaces, including 2 ADA spaces. The community building is accessible via two different access points, consisting of 53 parking spaces, including 2 ADA spaces.

Pedestrian and Bicycle Facilities

⁵ On December 1, 2022, the Hearing Examiner issued an Errata amending a clerical error (redlined) in condition 15 of her decision date October 11, 2021.

Entering the Property, pedestrian access will be provided via a proposed 6-foot-wide sidewalk along New Hampshire Avenue that will connect through the front entrance pedestrian gate, leading to an internal natural surface trail system for gravesite access. The Applicant proposes to provide a total of 12 short-term bicycle parking spaces at the front entrance and the Community Building.

Internally, pedestrian access will be provided via 5-foot-wide sidewalks to parking areas and around buildings. A trail network will also be located throughout the entire Property, connecting to sidewalks that lead to building entrances providing efficient pedestrian circulation. All gravesites are also proposed to be located within a walkable distance from the circulating roadway and via the internal trail network.

b) Local Area Transportation Review (LATR)

The Application is for a 40-acre cemetery (ITE code 566). According to the Institute of Transportation Engineer’s (ITE) 10th Edition Trip Generation Manual and adjusted for the Rural East Policy Area, this cemetery use will result in seven (7) AM and 24 PM peak-hour person trips. The Applicant proposes to conduct workshops, seminars, and other educational programs as well as provide the community building to other community-oriented groups for meetings and events that will take place during off-peak hours. In addition, the Applicant proposes to offer educational seminars during both peak and off-peak hours for up to 15 students, resulting in 20 AM peak-hour person trips and 20 PM peak-hour person trips. The proposed uses for the Property, a cemetery and the unique educational seminar use for up to 15 students, results in a combined 27 AM and 44 PM peak-hour person trips.

The Applicant is not required to submit a transportation impact study to satisfy the LATR because the proposed land uses generate fewer than 50 peak-hour person trips within the weekday morning and evening peak periods. To ensure the use does not exceed 50 peak hour person trips, the Hearing Examiner placed a condition of approval on the Conditional Use stating that the CU cannot exceed 50 peak hour person trips within the weekday morning and evening peak periods.

Table 1: Site Vehicle Trip Generation

Use	Development	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Existing (Credit) Vacant, undeveloped	0 sq. ft	0	0	0	0	0	0
Proposed: Cemetery (ITE-566)*		5	1	6	6	12	18

Up to 15 students visiting the site for Education Seminars		15	0	15	0	15	15
Total New Vehicle Trips		20	1	21	6	27	33
Total Peak Hour Person Trips				27			44

Source: Traffic statement, Shahriar Etemadi, PTP., dated March 17, 2021. Sums may not add due to rounding; all numbers are rounded to the nearest whole number for presentation. *As explained via Transportation Exemption Statement

c) Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the lot. The Application has been reviewed by the MCDPS - Fire Department Access and Water Supply Section which determined that the Subject Property has adequate access for fire and rescue vehicles in a letter dated May 3, 2021.

Due to the nature of the use, this Application does not generate any school-aged children; therefore, school facilities review is not necessary.

The Property is in the W-3 and S-1 water and sewer categories, respectively, and will be served by public water and septic disposal systems. Water table and percolation testing to evaluate the Property have been successfully completed. MCDPS, Well and Septic Section, by memorandum dated May 10, 2021, has determined that the proposed septic reserve areas are adequate to serve the subdivision.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the 2020-2024 Growth and Infrastructure Policy in effect at the time that the Application was submitted.

4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.

A. Consistency with Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420202290 was approved for the Property on September 10, 2020. The Property contains 40.29 acres of forest, and several streams also traverse

the Property. There are no wetlands identified per the National Wetlands online inventory; however, the Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) indicates that 0.03 acres of wetlands were found during site inspection. The Subject Property drains to the Lower Patuxent River, Rocky Gorge Watershed. There are no rare, threatened, or endangered species on the Property. The Property is not designated as historic nor is it currently included on the Burial Sites Inventory.

The Property drains to the Lower Patuxent River Watershed, which is classified by the State of Maryland as Use Class I-P waters. The Property is located within the Patuxent River Primary Management Area (PMA).

There are no impacts to streams, wetlands, floodplains, or their associated buffers. The Application is in compliance with the January 2000 Planning Board approved Environmental Guidelines – Guidelines for Environmental Management of Development in Montgomery County (“Environmental Guidelines”).

B. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and under Section 22A-4(b) an applicant is required by law to obtain approval of a special exception or a conditional use, or a sediment control permit on a tract of land 40,000 square feet or larger, who is not otherwise required to obtain an approval under subsection (a).

The Preliminary Forest Conservation Plan (“PFCP”) was approved as part of Conditional Use Application, to operate a Cemetery.

A Final Forest Conservation Plan has been submitted for review. The Application proposes to clear 25.63 acres existing forest. Based on the land use category and the forest conservation worksheet there is no planting requirement generated for the Application. The Applicant proposes to retain 14.66 acres of existing forest onsite. All forest saved as well as environmental buffers will be protected in a Category I Conservation Easement. The FFCP is consistent with the approved PFCP.

All impacts to Variance Trees were approved as part of the PFCP and no additional impacts are requested, so no new Variance Request is needed.

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

The Preliminary Plan received an approved stormwater plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on June 3, 2021. The Application will meet stormwater management goals via microbioretention, enhanced microbioretention and bioswales.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 3 years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that before the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

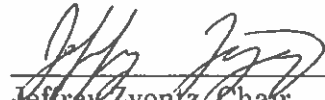
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 26 2023 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hill, seconded by Commissioner Piñero, with a vote of 3-0; Chair Zyontz, and Commissioners Hill, and Piñero, voting in favor of the motion, Commissioners Branson and Presley were necessarily absent, at its regular meeting held on Thursday, January 19, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board

DAVID CROWE
9220 WIGHTMAN ROAD SUITE 120
MONTGOMERY VILLAGE
MD, 20886

Quentin Remein
201 BRYANTS NURSERY RD
SILVER SPRING, MD 20905

Mark Ethridge
Manager
2425 Reddie Drive, 7th Floor
Wheaton, MD 20902

David Post
Engineer
9220 Wightman Rd,
Montgomery Village, MD 20886

Jason Flemming
2425 Reddie Drive, 7th floor
Wheaton, MD

Basil Eldadah
15116 Bauer Drive
Rockville, MD 20853

Donald Chamberlin
4624 Dustin Road
Burtonsville, MD 20866

Heidi Benham
Manager, Well and Septic Section
2425 Reddie Drive, 7th floor,
Wheaton, MD 20902

Steve Crum
Engineer
9220 Wightman Rd,
Montgomery Village, MD 20886

Jody Kline
200-B Monroe Street
Rockville, MD 20851

Dr. Linda Moore
16602 Doral Hill Ct
Ashton, MD 20861

Shahriar Etemadi
6449 Red Keel #100,
Columbia, MD 21044

Haroon Mokhtarzada
200 Quaint Acres Drive
Silver Spring, MD 20904