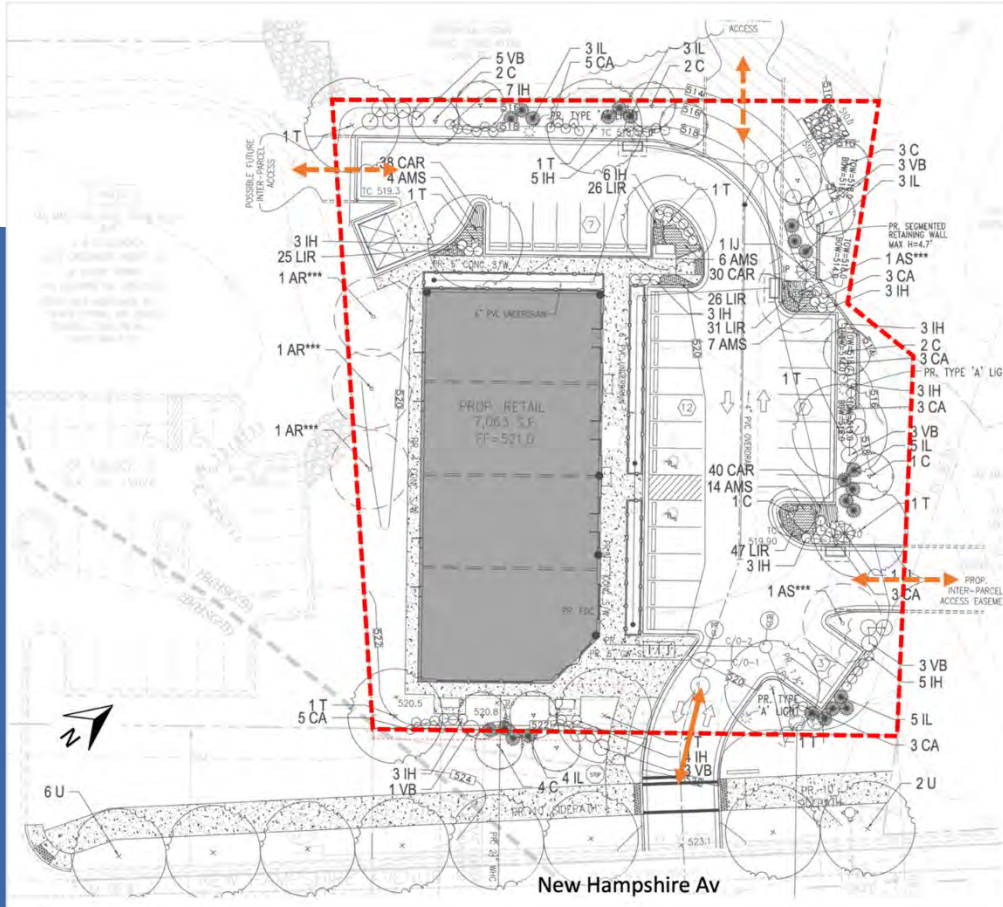


RETAIL SHOPS – 15504 NEW HAMPSHIRE AVENUE
PRELIMINARY PLAN AMENDMENT NO. 11999100B
FINAL FOREST CONSERVATION PLAN AMENDMENT NO. F20230130



Description

Amendment to allow the development of a 7,063 sq. ft. single-story commercial building and parking.

Nos. 11999100B, F20230130
Completed: 12-01-2023

MCPB
Item No. 9
12-14-2023

Montgomery County
Planning Board
2425 Reddie Drive, Floor 14
Wheaton, MD 20902

Planning Staff



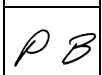
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LOCATION/ADDRESS

15504 New Hampshire Avenue, Cloverly

MASTER PLAN

1997 *Cloverly Master Plan*

ZONE

NR-0.75 H-45 (Neighborhood Retail)

PROPERTY SIZE

0.78 acres (34,104 sq. ft.)

APPLICANT

AZ Real Estate, LLC

ACCEPTANCE DATE

June 14, 2023

REVIEW BASIS

Chapter 22A, 50

Summary:

- Staff recommends approval of the Preliminary Plan Amendment and Final Forest Conservation Plan Amendment, with conditions.
- The proposal requires a Preliminary Plan Amendment due to the change in use, increased building square footage, and substantive changes to the site layout. The Project does not need Site Plan approval because the proposed use and square footage are permitted by-right in the NR zone.
- Applicant proposes to amend the existing Preliminary Plan to allow the development of a 7,063 sq. ft. single-story commercial building with parking.
- The Application achieves a street-oriented form of development by locating the building towards New Hampshire Avenue with parking areas to the side and rear of the building, and providing the main entrance of the building facing New Hampshire Avenue.
- The Application accommodates future inter-parcel connectivity with adjoining properties, and provides enhanced landscaping and seating areas.
- The Application will construct a 10-foot wide sidepath along the Property frontage on New Hampshire Avenue.
- To date, staff has received no community comments concerning this application.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN AMENDMENT 11999100B

Staff recommends approval with conditions of the Preliminary Plan Amendment to develop one lot for a 7,063 square foot commercial retail/service establishment building, 29 surface parking spaces on a 0.78-acre site. All site development elements shown on the latest electronic version of the Preliminary Plan Amendment No. 11999100B as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. The following conditions supersede all previous conditions:

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for 7,063 square feet of retail/service establishment uses¹.
2. Prior to Certified Preliminary Plan, the Applicant must withdraw Site Plan No. 820080200.

ADEQUATE PUBLIC FACILITIES

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 Amendment will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G).

OUTSIDE AGENCIES

5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter November 14, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated November 30, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the

¹ The retail space may be changed to other permitted non-residential uses if there is no adverse impact on the Preliminary Plan and the APF findings and such change is approved by Staff.

recommendations in the letter, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration'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 June 3, 2022 incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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 MCDPS, Fire Department Access and Water Supply Section in its letter November 29, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

TRANSPORTATION

10. Before the issuance of the initial building permit for the building, Applicant must satisfy all necessary requirements of SHA to ensure construction of a 10-foot wide sidepath along the Property frontage on New Hampshire Avenue, to continue off-site approximately 180 feet southward as shown on the Certified Preliminary Plan.
11. Before the release of the use and occupancy permit for the building, the Applicant must construct the 10-foot wide sidepath along the Property frontage on New Hampshire Avenue and off-site extension.
12. Before the certification of the Preliminary Plan, the Applicant must record in the Land Records of Montgomery County a covenant to provide a reciprocal access easement between the Subject Property and Parcel 870, Parcel 865, and Parcel 969. The covenant must be approved by the Commission's Office of the General Counsel prior to recordation.
13. The Applicant must provide a total of three (3) access easements on the northeast, northwest, and southwest portions of the Property as shown on the Certified Preliminary Plan to allow for future vehicular inter-parcel connectivity consistent with the 1997 Cloverly Master Plan.

SURETY

14. 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.
 - a) The cost estimate must include all aspects required for the landscaping plan.

- b) Completion of all improvements covered by the surety will be followed by a final inspection and potential reduction of the surety with a one-year warranty period.
- c) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

LANDSCAPE PLANS

- 15. Before certified Preliminary Plan approval, a landscape plan must be submitted to and approved by Staff that include the following minimum elements:
 - a) Landscape screening between the parking lot and New Hampshire Avenue frontage, along the eastern property line and the parking lot, and along the rear property line and the parking and maneuvering area.
 - b) Landscaped tree islands with ground cover, shrubs and trees.
 - c) A continuous row of canopy trees planted in the right-of-way along New Hampshire Avenue.

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 demolition, 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 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 Access Plan.
 - c) Must show all necessary easements.

FINAL FOREST CONSERVATION PLAN AMENDMENT F20230130

Staff recommends approval of Final Forest Conservation Plan Amendment No. F20230130, subject to the following conditions. All site development elements shown on the latest electronic version of the Final Forest Conservation Plan Amendment No. F20230130, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

18. 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.
19. 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 Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
20. 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.
21. Before any demolition, clearing, grading, or construction for this development Application, the Applicant must:
 - a. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - b. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Northwest Branch watershed or Priority Area to satisfy the reforestation requirement for a total of 0.15 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Northwest Branch watershed or Priority Area or by making a fee-in-lieu payment to M-NCPPC if mitigation credits are not available at any bank.
 - c. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of three (3) caliper inches for a total of 10.25 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property is located at 15504 New Hampshire Avenue (MD 650), south of Bryant's Nursery Road and north of Briggs Chaney Road; and is in the *Cloverly Master Plan* area and the NR-0.75 H-45 zone (“Subject Property” or “Property”).

To the southwest, the Property abuts the Cloverly Village Center commercial center which is zoned NR-0.75 H-45 (Neighborhood Retail); it contains a variety of retail, restaurant, and business establishments. To the northwest is vacant land owned by the Se Me Hahn Presbyterian Church (“Church Property”) and a regional storm water management facility owned by the Maryland State Highway Administration (“SHA”). Directly to the northwest of the Property (at 15520 New Hampshire Avenue), Preliminary Plan No. 120200230 approved a subdivision for a new restaurant with a new 5,000 square foot building.

To the east and across New Hampshire Avenue are additional commercial establishments, some of which are referred to as the Cloverly Shopping Center or the Cloverly Town Center. These properties include a supermarket, Montgomery County alcohol beverage store, along with various other retail and commercial uses. These properties are zoned NR-0.75 H-45 (Neighborhood Retail).



Figure 1 - Vicinity Map

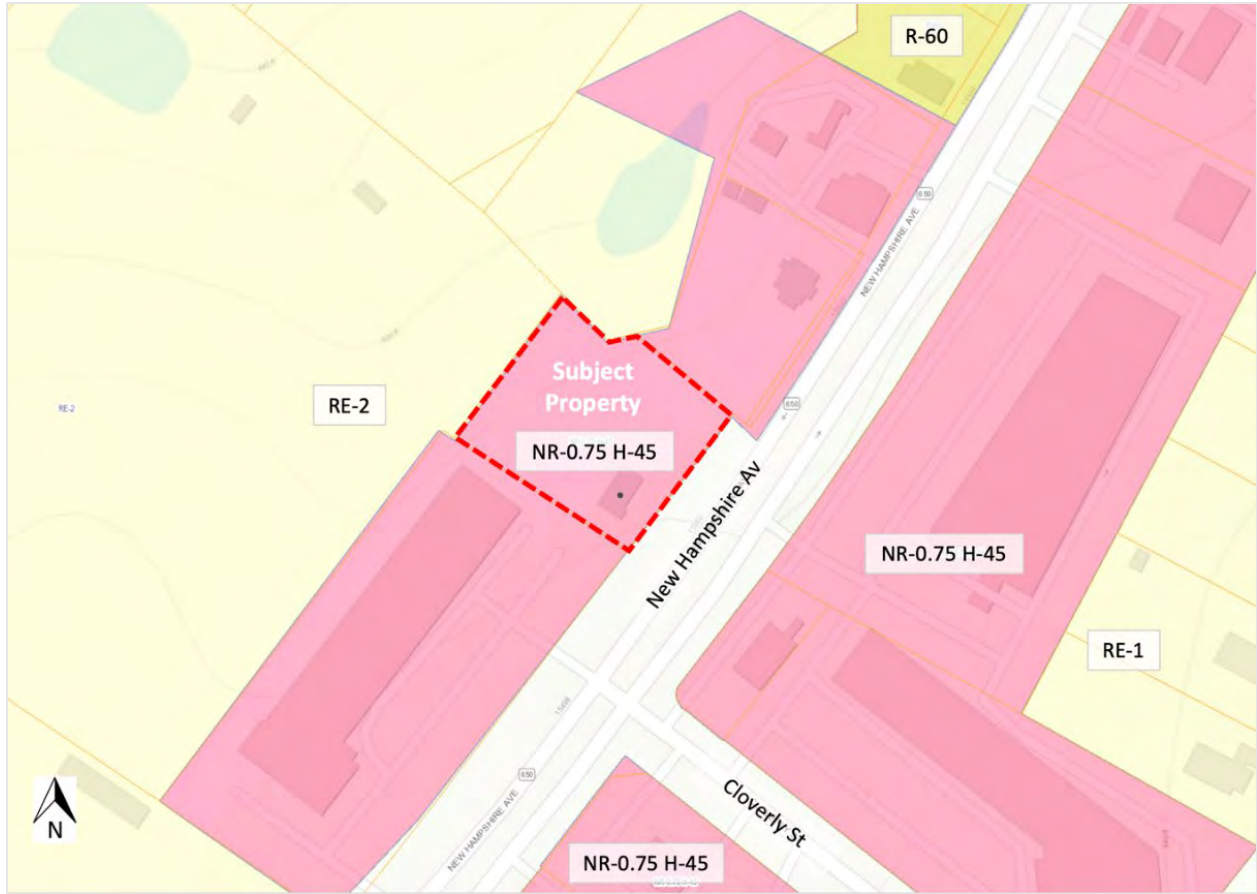


Figure 2 – Zoning Map

PROPERTY DESCRIPTION

The Property consists of one lot (Lot 4, Block D of Cloverly) totaling 34,104 square feet (0.78 acres) per Plat 22805. The present use is an abandoned single-family detached house and gravel driveway. The Property is generally rectangular in shape, with an irregular northern property line that wraps the boundaries of the adjacent SHA stormwater management facility. The lot itself features approximately 166 feet of frontage along the west side of New Hampshire Avenue; the lot extends approximately 200 feet to the rear lot line from the street frontage. The topography drops at a consistent five percent slope from New Hampshire Avenue to the northwest corner of the Property.

The Property lies within the Northwest Branch Watershed (Use IV streams). There are no streams, wetlands, 100-year flood plain, stream buffers, steep slopes, highly erodible soils, or other sensitive environmentally features present on the Property. No historic resources, cemeteries, burial grounds, or archeological sites are known to exist on the Property.



Figure 3 – Subject Property

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

On September 23, 1999, the Planning Board approved Preliminary Plan No. 11999100 (Resolution dated October 4, 1999) for the creation of one lot for a maximum of 7,800 square feet of general retail space. This approval was followed by three extensions of the preliminary plan validity period by the Planning Board because of delays associated with the Applicant obtaining an easement agreement in cooperation with the adjoining property owner for storm water management facility access. Record Plat No. 22805 was recorded in February 2004.

On November 6, 2003, the Planning Board approved Site Plan No. 820030100 which consists of 7,600 square feet of commercial retail space on 0.78 acres. This building was never constructed.

On March 19, 2009, the Planning Board approved Preliminary Plan Amendment No. 11999100A (Resolution No. 09-37 dated June 1, 2009) and Site Plan 820080200 (Resolution No. 09-39 dated June 1, 2009) which created one lot on 0.78 acres of land and limited the use to a 3,172 square foot bank with drive-thru service. Pursuant to Sec. 59-C-15.634 of the 2004 Zoning Code, an approved Site Plan was required for a drive-through facility. This building was never constructed.

The current proposal requires a Preliminary Plan Amendment due to the change in use, increased building square footage, and substantive changes to the site layout. The Project does not need Site Plan approval because the proposed use and square footage are permitted by-right in the NR zone.

PROPOSAL

Pursuant to Sec. 59.7.3.4.J (Site Plan Amendments) and Sec. 59.7.7.1.B.3 (Exemptions), the proposal is an amendment to Preliminary Plan No. 11999100A to develop one lot for a 7,063 square foot commercial retail/service establishment building, 29 surface parking spaces on a 0.78-acre site, with vehicular and pedestrian access from New Hampshire Avenue (“Project” or “Application”).

The Project provides opportunities for inter-parcel connections with the Church Property and the Cloverly Village Shopping Center, should future redevelopment occur on the adjoining properties. Additionally, the proposed parking and drive aisle layout provides for an inter-parcel connection with the adjacent property to the north (Block D, lot 5), which is subject of Preliminary Plan No. 120200230. These three connections would allow vehicular access between the properties and with New Hampshire Avenue.

Pedestrian improvements along New Hampshire Avenue will create a 10-foot wide sidepath along the Property frontage and continue off-site approximately 180 feet to the south. Along New Hampshire,

the landscape plan includes a row of canopy trees, as well as ground cover, shrubs and understory trees. The landscape plan also includes ground cover, shrubs, understory and canopy trees along the north and west Property lines and within parking lot islands.

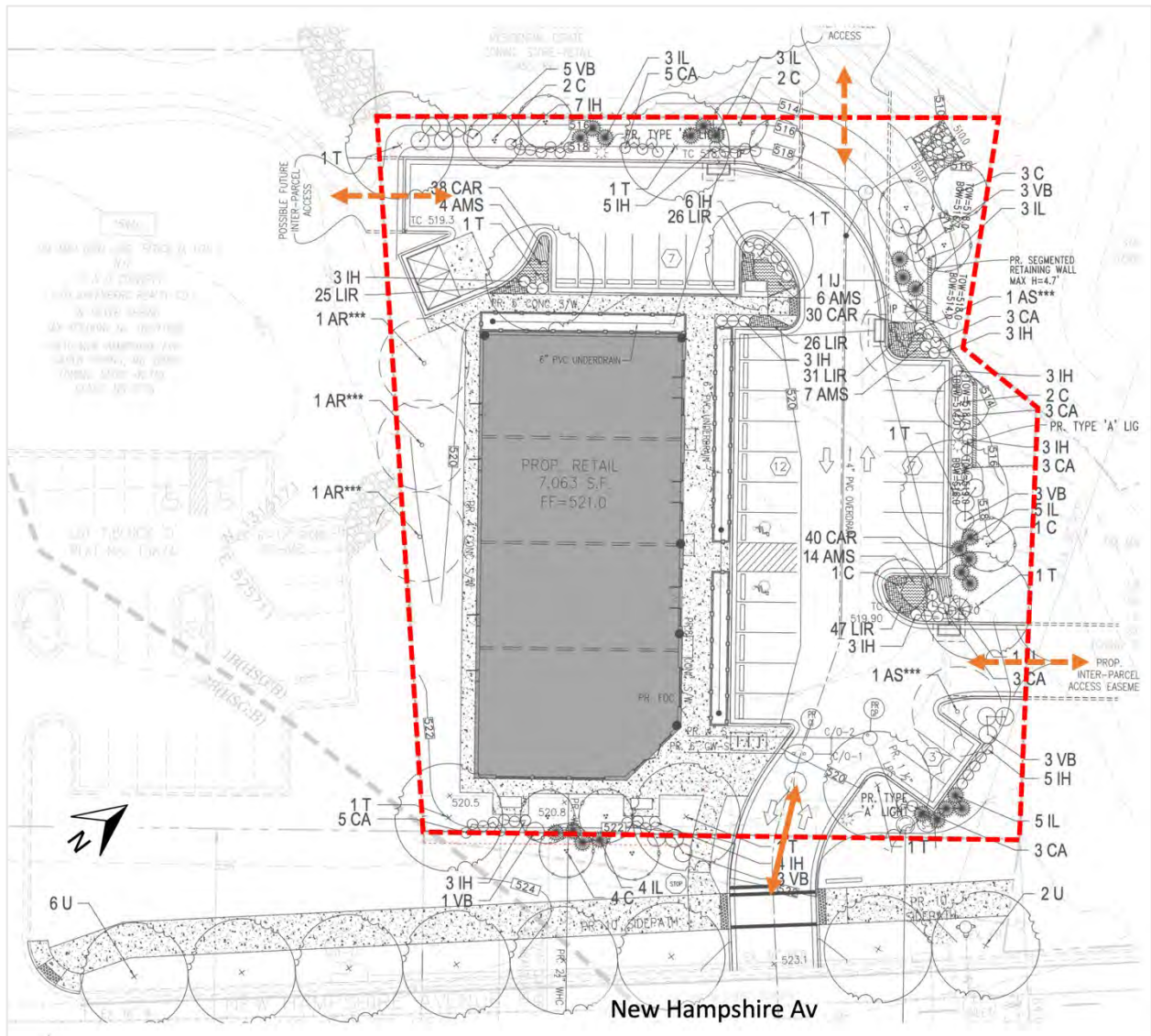


Figure 4 - Proposed Preliminary Plan Amendment, landscaping, street trees, three future inter-parcel connections, and a 10 foot-wide sidepath improvement

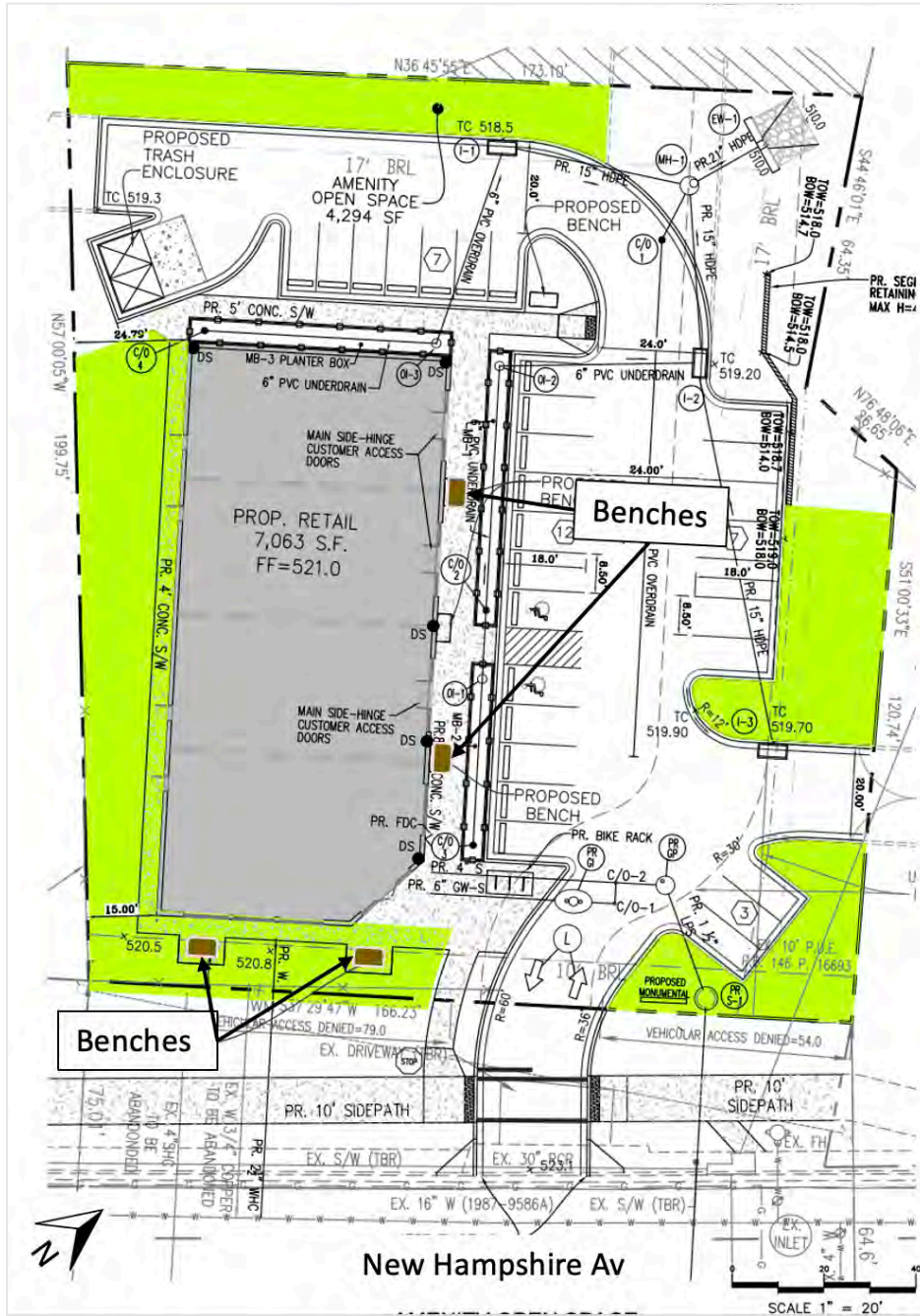


Figure 5 – Proposed green space and seating

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittals and noticing requirements under Division 7.5 of the Zoning Ordinance. Pursuant to Division 7.5, a hearing notice sign was posted at the Property. Notice of the Application letter was mailed on June 9, 2023 to all required parties by the Applicant. A pre-submittal meeting is not required for an amendment application.

As of the date of this Staff Report, no community comments have been received.

SECTION 5: PRELIMINARY PLAN AMENDMENT 11999100B FINDINGS AND ANALYSIS

The Planning Board approved Preliminary Plan No. 11999100A, MCPB No. 09-37, to create one (1) lot on the Subject Property, with conditions. The subject Preliminary Plan Amendment No. 11999100B requests to develop one (1) lot for a 7,063 square foot commercial retail building, 29 surface parking spaces on 0.78-acre of land. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State, County and City agencies.

- 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 Application satisfies all applicable requirements of Chapter 50 (Subdivision of Land) for a Preliminary Plan Amendment. The size, width, shape and orientation of the proposed lot is appropriate for the location of the subdivision, in accordance with applicable Master Plan recommendations, and for the commercial use and building contemplated for the Property.

The proposed use is reviewed under Section 59.3 (Uses and Use Standards), pursuant to the current 2014 Zoning Ordinance and NR zone. A retail/service establishment use is permitted in the NR zone and, therefore, a Site Plan review is not required. Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant has elected to amend the Preliminary Plan under the C-1 development standards, which were effective on October 29, 2014. The proposed lot satisfies all applicable development standards for the C-1 zone. A summary of this review is included in Table 1. The Application has been reviewed by other applicable county and state agencies, all of whom have recommended approval.

Table 1 - Preliminary Plan Data Table for C-1 (Commercial) Zone, Standard Method, Section 59-C-4.34

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	34,104 sq. ft. (0.78 acres)
Prior Dedication	n/a	0.00
Proposed Dedication	n/a	0.00
Site Area, minimum	n/a	34,104 SF (0.78 acres)
Lot Area, maximum	15 acres	0.78 acres
Floor Area Ratio (FAR)	n/a	0.21
Building Area	n/a	7,063 sq. ft.
Building Height, maximum	30 ft.	25 ft.
Green Area, minimum lot percentage	10%	22%

Development Standard	Permitted/ Required	Proposed
Principle Building Setbacks, minimum		
Street right-of-way, New Hampshire	10 ft.	10 ft.
NW property line (Block D, Lot 3)	17 ft.	17 ft.
NE property line (SHA property)	17 ft.	17 ft.
SW property line (Block D, Lot 1)	0 ft.	0 ft.
NE property line (vacant Lot)	0 ft.	0 ft.
Parking Setbacks, minimum		
Street right-of-way, New Hampshire	10 ft.	10 ft.
NW property line (Block D, Lot 3)	17 ft.	17 ft.
NE property line (SHA property)	4 ft.	4 ft.
SW property line (Block D, Lot 1)	4 ft.	4 ft.
NE property line (vacant Lot)	4 ft.	4 ft.
Parking Facility Internal Landscape, minimum percentage	5%	5%
Parking Spaces, minimum (59-7.7.1.B.3.b)	25 spaces	29 spaces
Site Plan Required	No	No

2. The Preliminary Plan substantially conforms to the Master Plan

The Application substantially conforms with the 1997 *Cloverly Master Plan* general recommendations, including site design, inter-parcel connections, landscaping, and streetscape improvements. The Property is located within the Cloverly Commercial Area and substantially conforms to the following applicable recommendations:

- Locate parking areas to the side or rear of the buildings to minimize views of parking lots.
- Provide vehicular and pedestrian connections with adjacent properties to interconnect parking areas, minimize the number of driveway entrances, and minimize traffic congestion along New Hampshire Avenue. If a connection is not possible because an adjacent property has not developed, design parking, access, and pedestrian connections that will allow future interconnection.
- Provide access to the land-locked property (P845 - Church Property) through N915 (Subject Property). Encourage shared access, if possible, for N915, P859, P869, and the SHA storm water management facility.
- Locate buildings a minimum of 15 feet from the right-of-way for sidewalks, streetscape treatment, and a compatible building line. Achieve a street-oriented form of development with entrances facing New Hampshire Avenue.
- Provide streetscape in conformance with Master Plan recommendations.
- Provide extensive landscaping to create an attractive commercial area and reduce the impacts of any large, paved areas.

The Project meets the Master Plan recommendations by placing the building closer to New Hampshire with parking located to the side and rear. The site has been designed to allow for future inter-parcel connections should adjoining properties be improved or redeveloped. Access to the Church Property is provided. Pedestrian circulation is improved with a new 10-foot wide sidepath that extends beyond the property frontage toward the south. The Project will provide attractive internal landscaping to the parking area and to provide adequate screening of off-site views. Along the frontage of New Hampshire Avenue, a row of canopy shade trees is provided.

Transportation

The Property is located on New Hampshire Avenue, which is classified as a four-lane boulevard in the 2018 *Master Plan of Highways and Transitways* and the 2021 *Complete Streets Design Guide*. New Hampshire Avenue contains a variable right-of-way, with a minimum of 100 feet and a maximum of 125 feet. The section of New Hampshire Avenue fronted by the Property has an approximate master-planned right-of-way of 120 feet. The 1997 *Cloverly Master Plan* states that New Hampshire Road shall contain a 120-foot right of way between Briggs Chaney Road to a distance of 250 feet north of Cloverly Street. The Applicant has provided the necessary dedication of 120 feet. Therefore, no additional dedication is required.

The Applicant will provide two inter-parcel access easements from the Property, which will tie into existing properties at 15410 New Hampshire Avenue (south) and 15520 New Hampshire Avenue (north). A third inter-parcel access point is provided to the Church Property, which is located to the rear (west) of the Property.

Planned bikeway facilities, from the 2018 *Bicycle Master Plan*, include a recommendation for a 10-foot sidepath along a substantial portion of New Hampshire Avenue. As conditioned, the Applicant will construct a portion of the sidepath along the frontage of the Property. Additionally, to further improve the transportation network as recommended in the Master Plan, the new sidepath will extend off-site approximately 180 feet south and connect with the driveway entrance of the adjacent parcel at 15410 New Hampshire Avenue. No additional bicycle or pedestrian facilities are recommended in applicable master plans.

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

a) Roads and other Transportation Facilities

As discussed in the section below, adequate public facilities exist to support and service the Property under Section 50.4.3.J of the Subdivision Regulations. The Property is located in the Cloverly Policy Area, categorized as a yellow Policy Area under the 2020–2024 *Growth and Infrastructure Policy* (the “GIP”).

a) Local Area Transportation Review (LATR)

This Application was reviewed under the 2020–2024 *Growth and Infrastructure Policy* (GIP) and associated 2022 *Local Area Transportation Review* (“LATR”) Guidelines. Additionally, the Applicant may utilize credits for existing site trips if use and occupancy permits were granted 12 years before any current Transportation Impact Study (“TIS”) or Transportation Exemption Statement (“TES”). The original approval is from 2009; therefore, the Applicant is eligible based on LATR Guidelines. As demonstrated on the Applicant’s Traffic Exemption Statement, dated August 30th, 2022, and discussed below, the Preliminary Plan is exempt from completing a Transportation Impact Study because the Subject Property will not generate 50 or more net-new peak-hour person trips. Therefore, it is exempt from additional review under LATR and the GIP.

The Property is currently developed with an unoccupied single-family detached house. As discussed above, the Property was previously approved for a 3,172-square-foot bank with a drive-thru facility (Preliminary Plan 1199100A).

The Application consists of a new 7,063 square-foot retail commercial use with no drive-thru facility. The following trip generation table contains the previous and currently approved uses for the Subject Property. The previously approved use would have generated 42 morning peak-hour person trips and 89 evening peak-hour person trips. The proposed commercial use is poised to generate 31 person trips during the morning peak-hour and 84 person trips during the evening peak-hour. The new use will result in a net decrease of 11 morning peak-hour person trips and five (5) person trips during the evening peak hour. The GIP requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. As that is not the case for this Application, the LATR review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided in Table 2 below.

Table 2 - ITE Trip Generation

Proposed Use	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
ITE Generation Code – 822 (Strip Retail Plaza @ 7,063 sq. ft.)	14	9	23	30	31	61
Policy Area Adjustment Factor (Cloverly Policy Area – 100%)	14	9	23	30	31	61
Total LATR Adjusted Vehicle Trips by Mode Share (Cloverly Policy Area – 100%)						
	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Auto Driver	14	9	23	30	31	61
Auto Passenger	5	3	8	10	11	21
Transit	0	0	0	0	0	0
Non-Motorized (Bike)	0	0	0	1	1	2
Total Person Trips	19	12	31	41	43	84

		AM Peak Hour			PM Peak Hour		
		AM Peak Hour			PM Peak Hour		
Previous Site Approval		In	Out	Total	In	Out	Total
ITE Generation Code – 912 (Drive-In Bank) @ 3,172 sq. ft.		19	13	32	33	34	67
Total Vehicle Trips Per ITE 11 th Edition		19	13	32	33	34	67
Policy Area Adjustment Factor (Cloverly Policy Area – 100%)		19	13	32	33	34	67
Total LATR Adjusted Vehicle Trips by Mode Share (Cloverly Policy Area – 100%)		AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Auto Driver		19	13	32	34	34	68
Auto Passenger		5	3	8	9	8	17
Transit		0	0	0	1	0	1
Non-Motorized (Bike)		1	1	2	1	2	3
<i>Total Person Trips</i>		25	17	42	45	44	89
		AM Peak Hour			PM Peak Hour		
Net Trip Generation	Proposed	19	12	31	41	43	84
	Previous Site Approval	25	17	42	45	44	89
	<i>Total Net New Person Trips</i>	6	5	11	4	1	5

*Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR Guidelines. Figures are rounded to nearest whole number. Source: Lenhart Traffic Consulting Local Area Transportation Review – August 30th, 2022, modified by staff.

a) Schools

The Project has no impact on school enrollment because the Project does not include any new residential units. The Project is exempt from the schools facility test.

b) Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Property is in the W-1 and S-1 water and sewer service categories, respectively, and will connect to public water and sewer lines. The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on November 23, 2023 (Attachment D). The Fire Department Access Plan indicates that access is adequate utilizing public road infrastructure. 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 GIP in effect at the time that the Application was accepted.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied

The Final Forest Conservation Plan Amendment No. F20230130 (“FFCP”) shows no forest cover on the Subject Property, however this results in an afforestation requirement of 0.15 acres. The Applicant submitted a tree variance request with this submittal to impact one and remove one protected trees.

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines as further discussed in the findings for Forest Conservation Plan F20230130. Refer to Section 6 below for the analysis and findings for the Final Forest Conservation Plan Amendment.

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

The Application received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on June 3, 2022 and was reconfirmed on June 29, 2023 (Attachment D). The Application will meet stormwater management goals through Environmental Site Design (ESD) utilizing permeable pavement and micro-bioretenion.

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M

There is no evidence, actual notice, or constructive notice of a burial site on the Property. The Property is not included in the Montgomery County Inventory.

7. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied

There are no other applicable provisions specific to the Project that are necessary for approval of this Application.

SECTION 6: FINAL FOREST CONSERVATION PLAN AMENDMENT F20230130 FINDINGS AND ANALYSIS

All Forest Conservation Law, Chapter 22A requirements are satisfied

The Application is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan Amendment. The FFCP was reviewed under Montgomery County Code, Chapter 22A, Forest Conservation Law that was effective on February 25, 2021 because the development application was submitted and all initial plans uploaded on March 15, 2023, before the current Forest Conservation Law became effective on April 3, 2023. Included with this FFCP is a request for a tree variance for impacts to two significant trees. The Plan complies with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned in the Staff Report and described below.

Forest Conservation Plan Amendment

The Final Forest Conservation Plan No. 820080200 was approved on February 20, 2009. Forest Conservation Plan Amendment F20230130 (Attachment A) was submitted for concurrent review with Preliminary Plan Amendment No. 11999100B.

The Application satisfies the applicable requirements of the Forest Conservation Law, Chapter 22A of the Montgomery County Code, and complies with the Montgomery County Planning Department's approved *Environmental Guidelines*. This FFCP revises the previously approved limits of disturbance ("LOD") to provide for change of use and layout of the property. The FFCP also shows the currently proposed alterations to the Subject Property as required under Section 22A.00.01.09.B of the Forest Conservation Regulations.

The Subject Property is zoned NR and is assigned a Land Use Category of Commercial and Industrial Areas ("CIA") as defined in Section 22A-3 of the Montgomery County Forest Conservation Law ("FCL") and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15% and a conservation threshold of 15% of the Net Tract Area.

The Net Tract Area for forest conservation purposes is 0.98 acre. There is no forest on the Subject Property. This results in a total afforestation requirement of 0.15 acres. The Applicant proposes to meet the planting requirement offsite.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone ("CRZ") requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such

resources must be left in an undisturbed condition. A request for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the Montgomery County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

VARIANCE REQUEST

The Applicant submitted a variance request in a letter dated November 29, 2023 (Attachment B). The Applicant proposes to impact one Protected Tree and remove one Protected Tree that are 30 inches or greater DBH, and that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 3)

Table 3 - Protected Trees proposed to be impacted and removed

Tree No.	Common Name	Botanical Name	DBH	CRZ (SF)	CRZ Impact (SF)	Percent of Impact	Proposed Status
1	Silver Maple	Accer Saccarinum	41 inches	11,882	11,882	100%	Removed
2	Black Cherry	Prunus Serotina	24 inches/32 inches	7,234	1,950	27%	Saved



Figure 6 - Tree Variance Exhibit

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property.

The current land use is an unoccupied single-family detached house. The proposed development consists of a retail shop building and associated parking on a site in size of 0.78 acres. This work will require disturbance of the entire site. The Protected Tree is located in the middle of the Property; therefore, any type of development would cause a major impact of the CRZ. If the developer were required to keep all improvements outside the CRZ, the building, drive aisles, stormwater management facilities, and parking could not reasonably be constructed due to close proximity to the specimen tree. Due to the specimen tree location and the site layout constraints, it is unfeasible to avoid a major impact to the specimen tree. Prohibiting the impact and removal of the specimen trees would deprive the Applicant of developing the Property for a permitted use in the NR zone. As such, this would cause an unwarranted hardship to the development.

Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would otherwise be denied the ability to use the Property for the redevelopment and which is a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, for a variance to be granted.

VARIANCE FINDINGS

The following determinations are based on the required findings for granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the impacts to Tree No. 2 and removal of Tree No. 1 are due to the reasonable development of the Property and the location of the trees within the property adjacent to the limits-of-disturbance (“LOD”). Granting a variance to allow disturbance within the developable portion of the site is not unique to this Applicant. Therefore, the granting of this variance is not a special privilege that is granted only to this Applicant and denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application.

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

The requested variance is a result of the existing conditions and the proposed site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Tree being removed are not located within a stream buffer, wetland or Special Protection Area. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

The Project proposes tree removal mitigation for the removal of a 41-inch Silver Maple. The proposed mitigation ratio of one (1) inch of planting for every four (4) inches removed is provided. Therefore, the removal of the 41-inch Silver Maple equals 10.25 inches of mitigation using minimum of three (3) inch caliper trees. Four (4) shade, native trees will be planted which will equal 12 inches of mitigation.

Recommendation on the Variance

Staff recommends approval of the variance request.

SECTION 7: CONCLUSION

As conditioned, the Preliminary Plan Amendment application satisfies the findings under Sections 59.7.3.3 and 7.3.4 and the applicable standards of the Zoning Ordinance, substantially conforms to the recommendations of the 1997 *Cloverly Master Plan* and satisfies the findings of the Subdivision Regulations (Chapter 50). The Forest Conservation Plan Amendment application meets the requirements of Chapter 22A. Therefore, Staff recommends approval, with conditions.

ATTACHMENTS

Attachment A: Preliminary Plan Amendment and Forest Conservation Plan Amendment

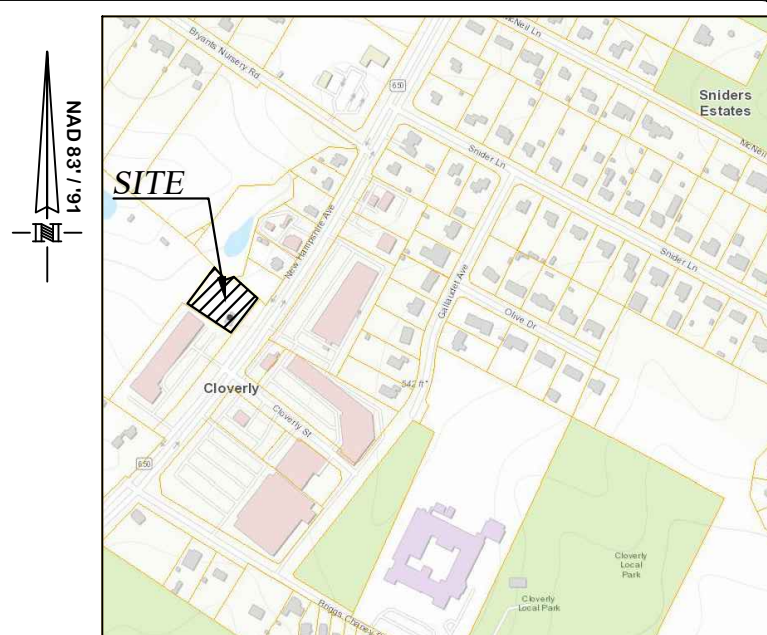
Attachment B: Tree Variance Request

Attachment C: Prior Approvals

Attachment D: Agency Letters

15504 NEW HAMPSHIRE AVE.
RETAIL SHOPS
M-NCPPC FILE NUMBER: 11999100B

ATTACHMENT A



VICINITY MAP
COPYRIGHT ADC. THE MAP PEOPLE
PERMIT USE NO. 2060253-6
ADC MAP # 5412, GRID 0-5
SCALE: 1" = 200'

GENERAL NOTES:



- EXISTING ZONE = NR-0.75 H-45 (NEIGHBORHOOD RETAIL)
- THIS SITE IS LOCATED AT 15504 NEW HAMPSHIRE AVENUE, SILVER SPRING, MD 20905. TAX MAP JS62, PARCEL P915, SUBDIVISION 1, BLOCK D, LOT 4
- GROSS TRACT AREA (GTA) = 34,104sf or 0.78ac.
AREA PREVIOUSLY DEDICATED TO PUBLIC USE = 00,000sf or 0.00ac.
RESIDUE = 34,104sf or 0.78ac.
AREA TO BE DEDICATED TO PUBLIC USE = 00,000sf or 0.78ac.
NET TRACT AREA (NTA) = 34,104sf or 0.78ac.
- WATER AND SEWER CATEGORIES: W-1 AND S-1
- THE SITE IS WITHIN THE CLOVERLY MASTER PLAN AND THE CLOVERLY POLICY AREA.
- THIS SITE IS WITHIN THE NORTHWEST BRANCH WATERSHED (CLASS IV).
- SERVICING UTILITY COMPANIES ARE: WATER AND SEWER: WSSC
ELECTRIC: PEPCO
TELEPHONE: BELL ATLANTIC
NATURAL GAS: WASHINGTON GAS
- THE LAYOUT ON THIS SITE NEEDS TO PROVIDE A 24 FOOT WIDE INTERNAL DRIVE AISLE WHICH WOULD FUNCTION AS PRIMARY ACCESS TO THE ADJACENT/ PROPOSED CHURCH PROPERTY.
- THIS PLAN IS NOT FOR CONSTRUCTION. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN THEIR APPROXIMATE LOCATIONS AS PER AVAILABLE UTILITY COMPANY RECORDS. THE EXACT LOCATION OF ALL UNDERGROUND UTILITIES SHOULD BE VERIFIED BY "MISS UTILITY" (1-800-257-7777) PRIOR TO ANY EXCAVATION.
- PRIOR DEDICATION AREAS HAVE NOT BEEN DETERMINED. LOW INTENSITY OF PROPOSED DEVELOPMENT MAKES THE DETERMINATION UNNECESSARY.
- THE LIMITS OF DISTURBANCE ENCOMPASSES THE ENTIRE SITE AND NO EXISTING STRUCTURES ARE TO REMAIN.
- PRIOR DEDICATION AREAS HAVE NOT BEEN DETERMINED. LOW INTENSITY OF PROPOSED DEVELOPMENT MAKES THE DETERMINATION UNNECESSARY.
- BOUNDARY AND TOPOGRAPHIC INFORMATION FOR THE SITE IS FROM A FIELD SURVEY BY GOODE SURVEYS, MARCH 2022. SURROUNDING PROPERTY INFORMATION IS FROM A COMPILATION OF PLATS AND DEEDS. SOME TREE LOCATIONS HAVE BEEN APPROXIMATED.
- AN ON-SITE PRE-CONSTRUCTION MEETING IS REQUIRED TO BE SET UP WITH THE MNCPPC INSPECTION STAFF BEFORE ANY DEMO, CLEARING, OR GRADING OCCURS ON-SITE. THE OWNER OR HIS DESIGNEE WHO HAS SIGNATURE AUTHORITY, AND THE GENERAL CONTRACTOR MUST ATTEND THE PRE-CONSTRUCTION MEETING WITH THE MNCPPC INSPECTOR. A COPY OF THE APPROVED CERTIFIED PRELIMINARY PLAN IS REQUIRED TO BE ON-SITE AT ALL TIMES. TO SCHEDULE AN INSPECTION WITH MNCPPC STAFF, PLEASE CONTACT JOSH KAYE AT 301-495-4722.

EASEMENTS:

EASEMENT 1: THIS WOULD PROVIDE ACCESS AND UTILITY EASEMENTS TO BENEFIT LOT 3 - BLOCK D. EXACT ORIENTATION AND DIMENSIONS OF EASEMENTS TO BE DETERMINED IN COORDINATION OF LOT 3 - BLOCK D CONSTRUCTION DOCUMENTS.

EASEMENT 2: THIS WOULD PROVIDE FOR A POSSIBLE FUTURE INTER-PARCEL CONNECTION AND EASEMENT FOR CONSTRUCTION OF THIS CONNECTION BETWEEN LOT 1 - BLOCK D, LOT 4 - BLOCK D AND THE CURRENTLY VACANT LOT ON THE NORTHEAST SIDE OF THE SUBJECT PROPERTY.

DEVELOPMENT PROGRAM

THIS PROJECT IS TO BE COMPLETED IN ONE PHASE

- FINAL PAVING AND STRIPING MUST BE COMPLETED WITHIN SIX MONTHS OF THE OCCUPANCY OF THE BUILDING.
- LANDSCAPING, INCLUDING THE STREET TREES AND FOUNDATION PLANTING AND ON-SITE LIGHTING MUST BE COMPLETED WITHIN SIX MONTHS OF THE OCCUPANCY OF THE BUILDING.
- CLEARING AND GRADING WILL BE IN ACCORDANCE WITH THE APPROVED FINAL FOREST CONSERVATION PLAN & SEDIMENT CONTROL PLAN. MNCPPC STAFF MUST INSPECT ALL TREE SAVE AREAS AND PROTECTION DEVICES PRIOR TO CLEARING AND GRADING.
- ALL DEDICATIONS AND EASEMENTS WILL BE INDICATED IN THE APPROVED RECORD PLAT. SIMILARLY, THE AFFORESTATION AND THE CORRESPONDING INSPECTIONS WILL BE INDICATED IN THE APPROVED FINAL FOREST CONSERVATION PLAN. ALL SEQUENCE OF CONSTRUCTION ASSOCIATED WITH STORMWATER MANAGEMENT AND SEDIMENT AND EROSION CONTROL WILL BE INDICATED IN THE APPROVED SEDIMENT CONTROL PLAN.

DEVELOPMENT STANDARDS (NR-0.75 ZONE)

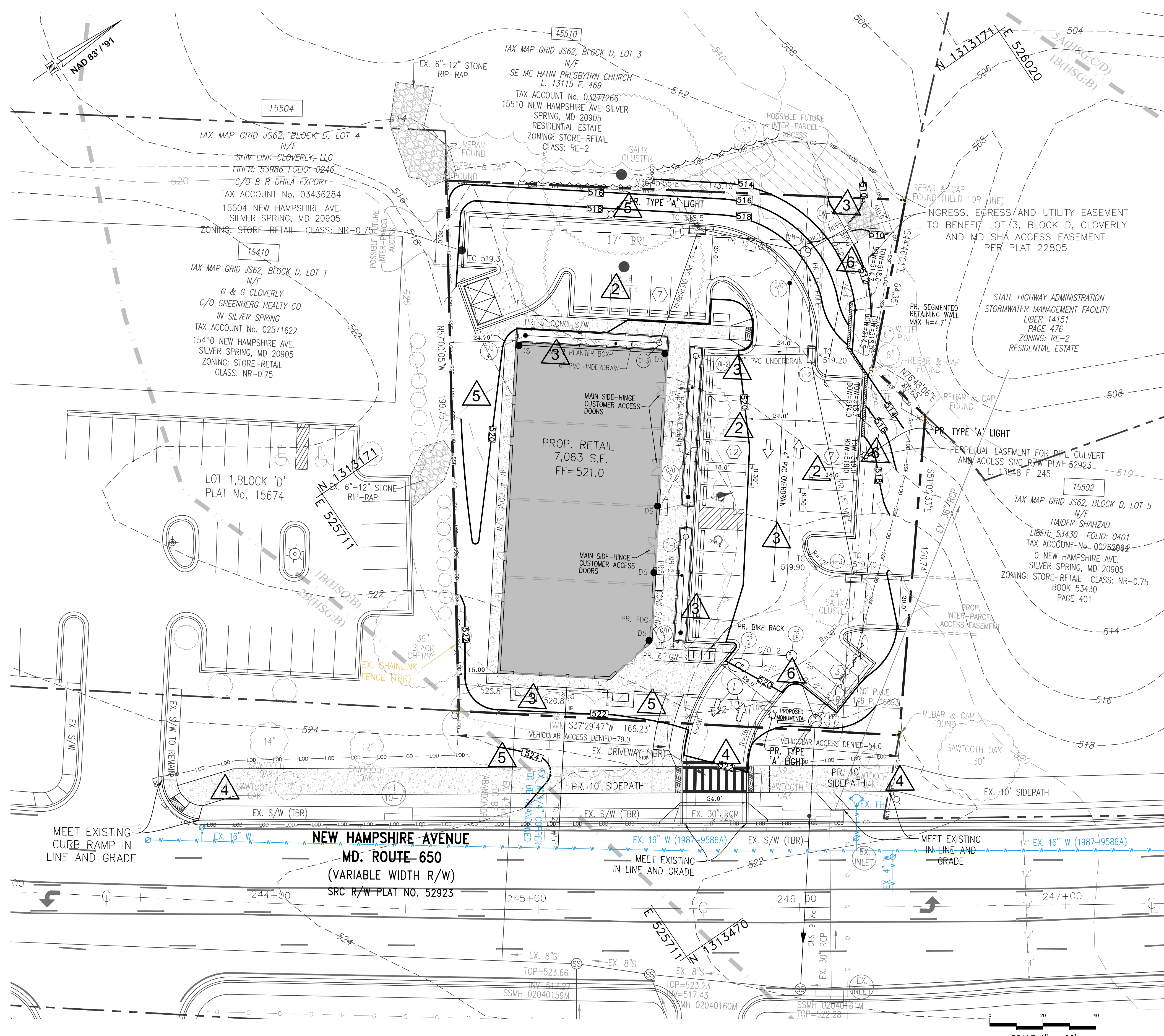
REQUIRED / PERMITTED	PROVIDED	
BUILDING HEIGHT (59-C-4.32 and ARTICLE A, pg 59A-24)	45 ft. MAX	25 ft. MAX
BUILDING SETBACKS		
- FROM NEW HAMPSHIRE AVE. R/W (59-C-4.343 (a)(1))	10 ft. MIN	57.7 ft.
- FROM NORTHWEST (LOT 3, BLOCK D) PROP. LINE (59-C-4.343 (b) (1))	17 ft. MIN	17.1 ft.
- FROM NORTHEAST (SHA) PROP. LINE (59-C-4.343 (b))	17 ft. MIN	72.3 ft.
- FROM SOUTHWEST (LOT 1, BLOCK D) PROP. LINE (59-C-4.343 (b) (2))	0 ft. MIN	23.5 ft.
- FROM NORTHEAST (VACANT LOT) PROP. LINE (59-C-4.344 (b) (2))	0 ft. MIN	91.7 ft.
GREEN AREA (59-C-4.344)	10% NTA MIN	50%
PARKING SETBACKS		
- FROM NEW HAMPSHIRE AVE. R/W (59-E-2.81 (b)(1))	10 ft. MIN	10 ft.
- FROM NORTHWEST (LOT 3, BLOCK D) PROP. LINE (59-E-2.81 (a))	17 ft. MIN	17 ft.
- FROM NORTHEAST (SHA) PROP. LINE (59-E-2.81 (b))	17 ft. MIN	23 ft.
- FROM SOUTHWEST (LOT 1, BLOCK D) PROP. LINE (59-E-2.81 (b))	4 ft. MIN	13 ft.
- FROM NORTHEAST (VACANT LOT) PROP. LINE (59-E-2.72)	4 ft. MIN	25 ft.
PARKING FACILITY INTERNAL LANDSCAPING (59-E-2.73)	5% MIN	5% MIN

*AVERAGE ELEVATION OF FINISHED GRADE SURFACE ALONG THE BASE OF THE FRONT, REAR AND SIDES OF THE PROPOSED BUILDING IS 21.53
BUILDING HEIGHT = [AVERAGE HEIGHT TO F.F. (22.3)] + [F.F.E. (522.00) - AV. ELEV. OF FINISHED GRADE (521.53) = 22.77]

PARKING SPACE REQUIREMENTS

7,063 SF GFA OFFICE		
@ 3.5 SPACES PER 1,000 S.F.	25 SPACES	29 SPACES *

* INCLUDES ONE ADA VAN ACCESSIBLE SPACE.
- UNDER SECTION 59-C-4.341.2 OF THE ZONING ORDINANCE, ANY DEVELOPMENT OR REDEVELOPMENT OF LAND ZONED NR-0.75 WHERE NR-0.75 IS IN EXCESS OF 15 ACRES A ONE LOCATION REQUIRES APPROVAL OF SITE PLAN IN ACCORDANCE WITH DIVISION 59-3



LEGEND

TITLE	SYMBOL
PROPERTY BOUNDARY	---
ADJACENT PROPERTY BOUNDARY	---
PR. ROAD CENTERLINE	---
EX. SEWER PIPE	---
LIMIT OF DISTURBANCE	---
EX. OVER-HEAD UTILITY LINE	---
EX. WATER LINE	---
EX. UTILITY POLE	---

LIST OF AMENDMENT ITEMS

- BUILDING INCREASE FROM 3,127 SF TO 7,063 SF.
- CHANGE PARKING LOT LAYOUT
- CHANGE TO ALL UTILITY LAYOUT (INCLUDING STORM DRAIN, STORMWATER MANAGEMENT, SEDIMENT CONTROL, SEWER, WATER, AND LIGHTING)
- CHANGE TO SIDEWALK LAYOUT AND PEDESTRIAN CROSSWALKS
- CHANGE TO PROPOSED GRADING
- CHANGE TO LIGHTING LAYOUT
- ADDED (1) STANDARD PARKING SPACE
- REVISE GENERAL NOTES
- REVISE DEVELOPMENT STANDARD
- SWM CONCEPT APPROVAL LETTER

APPLICANT / OWNER

AZ REAL ESTATE
120 ALCO PLACE
BALTIMORE, MD 21227
TEL. (410) 242-0505
amirwmd@gmail.com
CONTACT: Amir Ahmed

DESIGN CONSULTANTS

3G ARCHITECTS, LLC
MICHAEL D. GREIGG
13100 FOXHALL DRIVE
SILVER SPRING, MD 20906
(301) 657-0738

ATTORNEY
LERCH EARLY BREWER
PATRICK O'NEIL
7600 WISCONSIN AVENUE, SUITE 700
BETHESDA, MD 20814
(301) 986-1300



6305 IVY LANE, SUITE 225
GREENBELT, MD 20770
Phone: (240) 206-8055
amiljkovic@eliteeng.co
Contact: Asko Miljkovic

PROFESSIONAL CERTIFICATION

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland.

Signature
Ibrahim K. Khatib
Printed Name
Project Engineer

11/08/2022
Date
10/16/2024
Expiration Date
License No.28003

DEVELOPER'S CERTIFICATE

The undersigned agrees to execute all the features of the Preliminary Plan Approval No. 11999100B, including Approval Conditions, Development Program, and Certified Site Plan.

Developer's Name: AZ REAL ESTATE COMPANY
NIAZ BUTT CONTACT PERSON
Contact Person: NIAZ BUTT
Address: 120 ALCO PLACE, BALTIMORE, MD 21227
Phone: 410-242-0505
Signature:

REVISIONS	BY



ELITE ENGINEERING, LLC
Engineers * Landscape Architects
6305 IVY LANE SUITE 225
GREENBELT, MD, 20770
(240)206-8055



10-06-2023

PRELIMINARY PLAN
FOR
RETAIL SHOPS
AT
15504 NEW HAMPSHIRE AVENUE
MONTGOMERY COUNTY, MARYLAND
5th ELECTION DISTRICT
MDCR-220001-TAX MAP GRID JS62

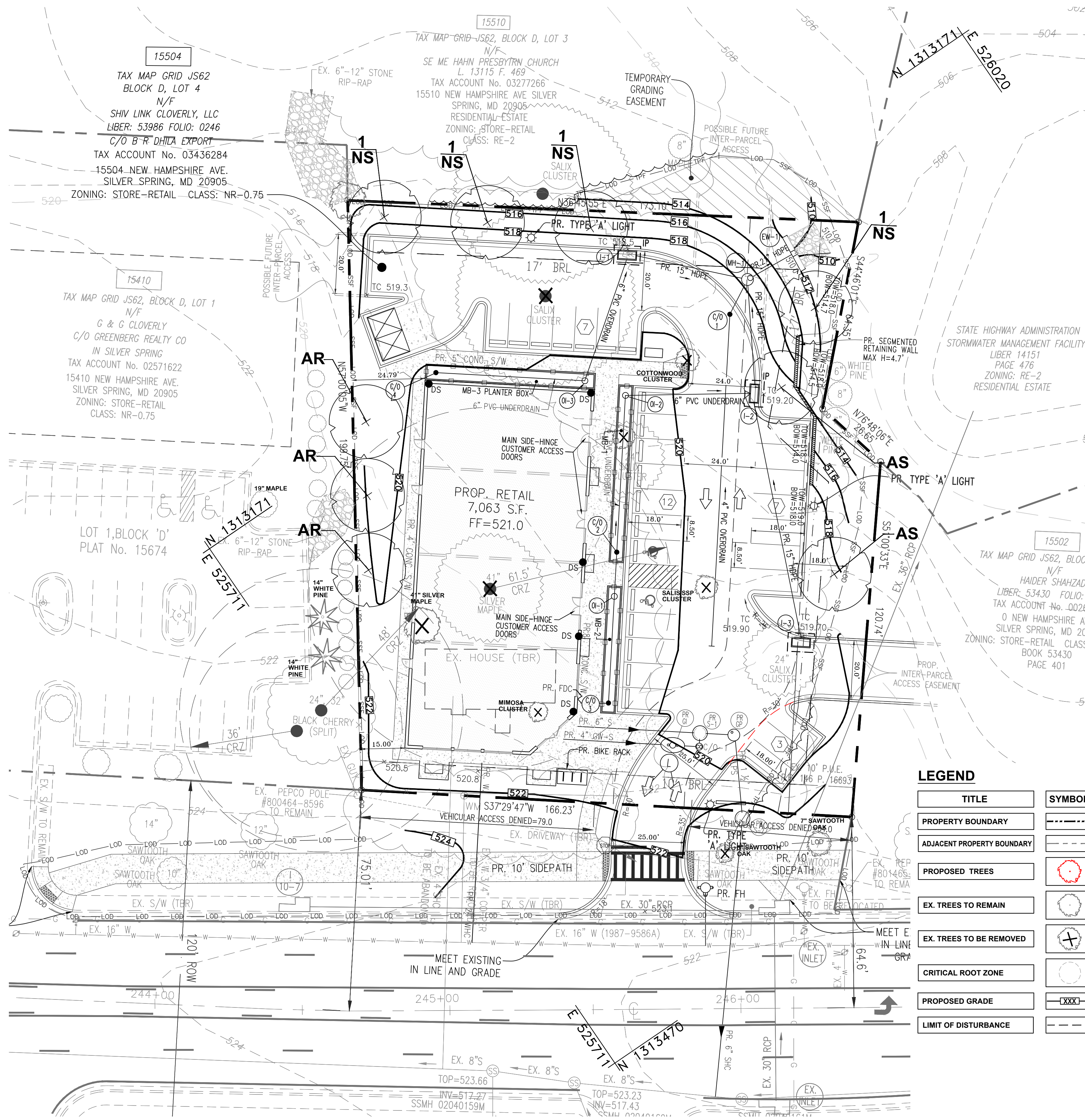
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FINAL FOREST CONSERVATION PLAN

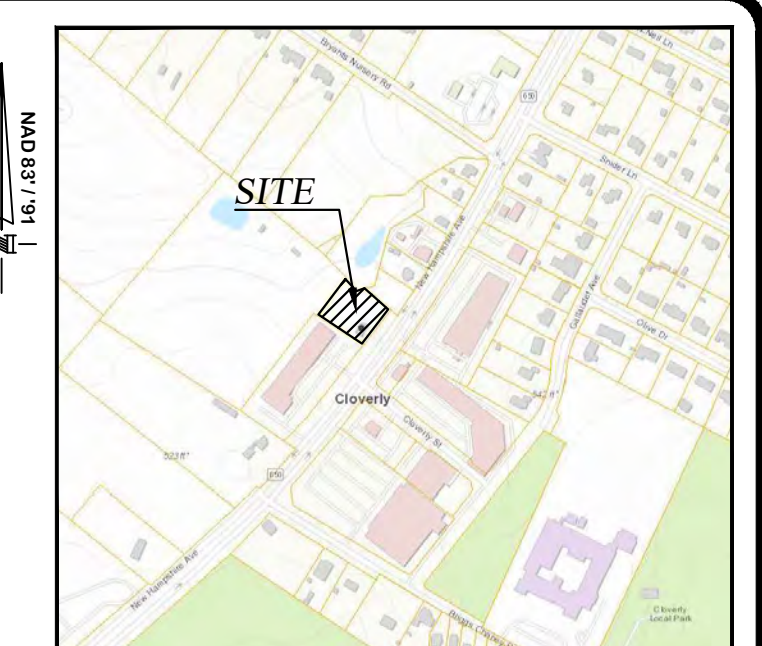
FOR 15504 NEW HAMPSHIRE AVE.

LOCATION OF SITE
SILVER SPRING, MONTGOMERY COUNTY, MD
TAX MAP JS62, GRID 0000, PARCEL 915
5TH ELECTION DISTRICT



GENERAL NOTES:

- EXISTING ZONE = NR-75 (NEIGHBORHOOD RETAIL)
- THIS SITE IS LOCATED AT 15504 NEW HAMPSHIRE AVENUE, SILVER SPRING, MD 20905. TAX MAP JS62, PARCEL P915, SUBDIVISION 1, BLOCK D, LOT 4
- GROSS TRACT AREA (GTA)= 34,104sf or 0.78ac.
- AREA PREVIOUSLY DEDICATED TO PUBLIC USE RESIDUE= 34,104sf or 0.78ac.
- AREA TO BE DEDICATED TO PUBLIC USE= 00,000sf or 0.00ac.
NET TRACT AREA (NTA)= 34,104sf or 0.78ac.
- WATER AND SEWER CATEGORIES: W-1 AND S-1
- THE SITE IS WITHIN THE CLOVERLY MASTER PLAN AND THE CLOVERLY POLICY AREA.
- THIS SITE IS WITHIN THE NORTHWEST BRANCH WATERSHED (CLASS IV).
- SERVING UTILITY COMPANIES ARE : WATER AND SEWER: WSSC
ELECTRIC: PEPCO
TELEPHONE: BELL ATLANTIC
NATURAL GAS: WASHINGTON GAS
- THIS PLAN IS NOT FOR CONSTRUCTION. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN THEIR APPROXIMATE LOCATIONS AS PER AVAILABLE UTILITY COMPANY RECORDS. THE EXACT LOCATION OF ALL UNDERGROUND UTILITIES SHOULD BE VERIFIED BY "MISS UTILITY" (1-800-257-7777) PRIOR TO ANY EXCAVATION.
- THE LIMITS OF DISTURBANCE FOR THE SITE (0.73 AC), THE LOD AREA PROPOSED OFFSITE ON THE LOT 3, BLOCK D PROPERTY (0.03 AC) AND THE LOD AREA WITHIN THE PUBLIC ROW (0.17 AC) FOR A TOTAL OF 0.93 AC.
- PRIOR DEDICATION AREAS HAVE NOT BEEN DETERMINED. LOW INTENSITY OF PROPOSED DEVELOPMENT MAKES THE DETERMINATION UNNECESSARY.
- BOUNDARY AND TOPOGRAPHIC INFORMATION FOR THE SITE IS FROM A FIELD SURVEY BY GREENHORNE & OMARA, JUNE 2007. SURROUNDING PROPERTY INFORMATION IS FROM A COMPILED PLATS AND DEEDS.



FINAL FOREST CONSERVATION PLANS NOTES

- AN ON-SITE PRE-CONSTRUCTION MEETING SHALL BE REQUIRED AFTER THE LIMITS OF DISTURBANCE HAVE BEEN STAKED AND FLAGGED, BUT BEFORE ANY CLEARING OR GRADING BEGINS. THE OWNER SHALL CONTACT THE MNCPPC INSPECTION STAFF PRIOR TO COMMENCING CONSTRUCTION TO VERIFY THE LIMITS OF DISTURBANCE AND DISCUSS TREE PROTECTION AND TREE CARE MEASURES. THE ATTENDANTS AT THIS MEETING SHOULD INCLUDE: DEVELOPER'S REPRESENTATIVE, CONSTRUCTION SUPERINTENDENT, MNCPPC INSPECTOR AND DPS SEDIMENT CONTROL INSPECTOR.
- NO CLEARING OR GRADING SHALL BEGIN BEFORE STRESS-REDUCTION MEASURES HAVE BEEN IMPLEMENTED. APPROPRIATE MEASURES MAY INCLUDE, BUT ARE NOT LIMITED TO:
 - ROOT PRUNING
 - CROWN REDUCTION OR PRUNING
 - WATERING
 - FERTILIZING
 - VERTICAL MULCHING
 - ROOT AERATION MATING
 MEASURES NOT SPECIFIED ON THE FOREST CONSERVATION PLAN MAY BE REQUIRED AS DETERMINED BY THE MNCPPC INSPECTOR IN COORDINATION WITH THE ARBORIST.
- A STATE OF MARYLAND LICENSED TREE EXPERT, OR AN INTERNATIONAL SOCIETY OF ARBORICULTURE CERTIFIED ARBORIST MUST ALL STRESS REDUCTION MEASURES. DOCUMENTATION OF STRESS REDUCTION MEASURES MUST BE PERFORMED AND STRESS REDUCTION MEASURES. DOCUMENTATION OF STRESS REDUCTION MEASURES MUST BE EITHER OBSERVED BY THE MNCPPC INSPECTOR OR SENT TO THE MNCPPC INSPECTOR AT 8707 GEORGIA AVENUE, SILVER SPRING, MD 20910. THE MNCPPC INSPECTOR WILL DETERMINE THE EXACT METHOD TO CONVEY THE STRESS REDUCTION MEASURES DURING THE PRE-CONSTRUCTION MEETING.
- TEMPORARY TREE PROTECTION DEVICES SHALL BE INSTALLED PER THE FOREST CONSERVATION PLAN AND PRIOR TO ANY CONSTRUCTION ACTIVITIES. TREE PROTECTION FENCING LOCATIONS SHOULD BE STAKED PRIOR TO PRE-CONSTRUCTION MEETING. MNCPPC INSPECTOR, IN COORDINATION WITH THE DPC SEDIMENT CONTROL INSPECTOR, MAY MAKE FIELD ADJUSTMENTS TO INCREASE THE SURVIVABILITY OF TREES AND FORESTS AS SHOWN ON THE APPROVED PLAN. TEMPORARY TREE PROTECTION DEVICES MAY INCLUDE:
 - CHAIN LINK FENCE (FOUR FEET HIGH)
 - SUPER SILT FENCE WITH WIRE STRUNG BETWEEN THE SUPPORT POLES (MINIMUM FOUR FEET HIGH) WITH HIGH VISIBILITY FLAGGING.
 - 1/4 GAUGE 2 INCH X 4 INCH WELDED WIRE FENCING SUPPORTED BY STEEL T-BAR POSTS (MINIMUM FOUR FEET HIGH) WITH HIGH VISIBILITY FLAGGING.
- TEMPORARY TREE PROTECTION DEVICES SHALL BE MAINTAINED AND INSTALLED BY THE CONTRACTOR FOR THE DURATION OF CONSTRUCTION PROJECT AND MUST NOT BE ALTERED WITHOUT PRIOR APPROVAL FROM MNCPPC. NO EQUIPMENT, TRUCKS, MATERIALS, OR DEBRIS MAY BE STORED WITHIN THE TREE PROTECTION FENCE AREAS DURING THE ENTIRE CONSTRUCTION PROJECT. NO VEHICLE OR EQUIPMENT ACCESS TO THE FENCED AREA WILL BE PERMITTED. TREE PROTECTION SHALL NOT BE REMOVED WITHOUT PRIOR APPROVAL OF MNCPPC. TREE PROTECTION DEVICES TO BE COORDINATED WITH EROSION AND SEDIMENT CONTROL DEVICES AS INDICATED ON THE APPROVED EROSION AND SEDIMENT CONTROL PLAN APPROVED BY THE DEPARTMENT OF PERMITTING SERVICES.
- FOREST RETENTION AREA SIGNS SHALL BE INSTALLED AS REQUIRED BY THE MNCPPC INSPECTOR, OR AS SHOWN ON APPROVED PLANS.
- LONG-TERM PROTECTION DEVICES WILL BE INSTALLED PER THE FOREST CONSERVATION PLAN AND ATTACHED DETAILS. INSTALLATION WILL OCCUR AT THE APPROPRIATE TIME DURING THE CONSTRUCTION PROJECT. REFER TO THE PLAN DRAWING FOR LONG-TERM PROTECTION MEASURES TO BE INSTALLED.
- PERIODIC INSPECTIONS BY MNCPPC WILL OCCUR DURING THE CONSTRUCTION PROJECT. CORRECTIONS AND REPAIRS TO ALL TREE PROTECTION DEVICES, AS DETERMINED BY THE MNCPPC INSPECTOR, MUST BE MADE WITHIN THE TIMEFRAME ESTABLISHED BY THE MNCPPC INSPECTOR.
- AFTER CONSTRUCTION IS COMPLETED, AN INSPECTION SHALL BE REQUESTED. CORRECTIVE MEASURES WHICH MAY BE REQUIRED INCLUDE:
 - REMOVAL AND REPLACEMENT OF DEAD AND DYING TREES
 - PRUNING OF DEAD AND DECLINING LIMBS
 - SOIL AERATION
 - FERTILIZATION
 - WATERING
 - WOUND REPAIR
 - CLEAN UP OF RETENTION AREAS
- AFTER INSPECTION AND COMPLETION OF CORRECTIVE MEASURES HAVE BEEN UNDERTAKEN, ALL TEMPORARY PROTECTION DEVICES SHALL BE REMOVED FROM THE SITE. NO ADDITIONAL GRADING, SODDING, OR BURIAL MAY TAKE PLACE.

AFFORESTATION REQUIREMENTS

TOTAL AFFORESTATION REQUIREMENTS ARE	0.15 ACRES OR 6,534 SF
TREE CANOPY AREAS OF 3 ACER RUBRUM (RED MAPLE)-	3 X 1,809 SF = 5,427 SF
1 ACER SACCHARUM (SUGAR MAPLE) AT 20 YEARS-	2 X 706 SF = 1,412 SF
TOTAL CANOPY AREA=	6,839 SF
TOTAL NUMBER OF TREES REQUIRED TO SATISFY AFFORESTATION REQUIREMENTS IS	5 TREES

EXISTING TREE INVENTORY

KEY	BOTANICAL NAME/COMMON NAME	SIZE	CONDITIONS/REMARKS
1	ACER SACCHARUM/SILVER MAPLE	41" DIA.	FAIR/POOR-VINES, ROT DEADWOOD IN CROWN.
2	PRUNUS SEROTINA/BLACK CHERRY	24" & 32" DIA.	POOR-SPLITS, BASE ROT (OFF-SITE).
3	SALIX BABYLONICA/WILLOW	RANGE/CLUMP 20",14",5",4"	FAIR/POOR-VINES

PLANT LIST

SYM.	QUANT.	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION/REMARKS
AR	3	ACER RUBURN	RED MAPLE	2.5"-3" CAL.	B & B
AS	2	ACER SACCHARUM	SUGAR MAPLE	2.5"-3" CAL.	B & B

MITIGATION REQUIRED

SYM.	QUANT.	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION/REMARKS
NS	4	NYSSA SYLVATICA	BLACK GUM	3" CAL.	B & B

* TREES IN THIS PLANTLIST ARE ALSO PART OF AN OVERALL ALL LANDSCAPE PLAN FOR THE ENTIRE PROPERTY

DATA TABLE

1. ACREAGE OF TRACT (AREA OF LOT 4 + AREA OF OFFSITE GRADING ON LOT 3 (0.03 AC.) + AREA WITHIN THE PUBLIC ROW (0.17 AC.)	0.98
2. ACREAGE OF TRACT REMAINING IN AGRICULTURAL USE	0.00
3. ACREAGE OF ROAD AND UTILITY ROWS WHICH WILL NOT BE IMPROVED AS PART OF THE DEVELOPMENT APPLICATION	0.00
4. ACREAGE OF TOTAL EXISTING FOREST	0.00
5. ACREAGE OF FOREST RETENTION	0.00
6. ACREAGE OF TOTAL FOREST CLEARED	0.00
7. LAND USE CATEGORY AND CONSERVATION/AFFORESTATION THRESHOLDS FROM SECTION 22A-12(1) OF THE FOREST CONSERVATION LAW	CIA
8. ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN WETLANDS	0.00
9. ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN 100-YEAR FLOODPLAIN	0.00
10. ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN STREAM BUFFERS	0.00
11. ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN PRIORITY AREAS	0.00
12. LINEAR FEET AND OVERAGE WIDTH OF STREAM BUFFER PROVIDED ON EACH SIDE OF STREAMS	0.00

OFF-SITE AREA: LOT 3, BLOCK D

- ALL TREES 7" OR GREATER ARE LISTED ON PLAN
- NO SIGNIFICANT OR SPECIMEN TREES EXIST IN THIS AREA, ALL TREES ARE ≤ 13" DBH
- TREE LINES SHOWN REPRESENT A BAMBOO THICKET AND SMALL CLUSTERS OF TREES
- THERE IS NO SIGNIFICANT GROUP OF TREES TO CLASSIFY A TREE STAND
- NO SIGNIFICANT LOW GROWING VEGETATIVE CHARACTER EXISTS

LEGEND

TITLE	SYMBOL
PROPERTY BOUNDARY	---
ADJACENT PROPERTY BOUNDARY	---
PROPOSED TREES	(Red circle with cross)
EX. TREES TO REMAIN	(Circle with cross)
EX. TREES TO BE REMOVED	(Circle with X)
CRITICAL ROOT ZONE	(Circle with cross)
PROPOSED GRADE	---XXX---
LIMIT OF DISTURBANCE	---

CERTIFICATION

I HEREBY CERTIFY THAT THIS FOREST CONSERVATION PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE MARYLAND FOREST CONSERVATION ACT OF 1991 AND THE MONTGOMERY COUNTY TREES TECHNICAL MANUAL, EFFECTIVE MAY 1, 1992.

SIGNATURE: *ASKO MILKOVIC*
ASKO MILKOVIC
MD DNR-PROFESSIONAL

REVISIONS	BY

ELITE Engineering
ELITE ENGINEERING, LLC
 Engineers * Landscape Architects
 6305 IVY LANE SUITE 225
 GREENBELT, MD, 20770
 (240)206-8055

11-29-2023

FINAL FOREST CONSERVATION PLAN
 FOR
 15504 NEW HAMPSHIRE AVENUE
 MONTGOMERY COUNTY, MARYLAND
 5TH ELECTION DISTRICT

DRAWN AT
 CHECKED AM
 DATE 05/04/2023
 SCALE AS SHOWN
 DRAWING
FCP - 1

PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 28003, EXPIRATION 10/16/2024.



ATTACHMENT B

ELITE

Engineering

ELITE ENGINEERING, 6305 Ivy Lane, Suite 225, Greenbelt, MD 20770

Tel. (240) 206-8055

November 28, 2023

Mr. Joshua Penn, Planner III
Montgomery County Planning Department
2425 Reddie Drive, 13th Floor
Wheaton, MD 20902

RE: Preliminary Plan #11999100B – Retail Shops
15504 New Hampshire Avenue
Request for Tree Removal Variance

Dear Mr. Penn,

On behalf of the property owner, AZ Real Estate and pursuant to Section 22A-21 of Montgomery County's Forest Conservation Law and 2010 revisions to the State Forest Conservation Law enacted by State Bill 666, where it notes the variance pertains to "Trees having a diameter at 4.5 above the ground of 30 inches diameter or 75% of the diameter of the current state champion tree of that species as designated by the department", we are writing to request a variance(s) to allow impacts to and/or removal of the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named property:

Project Description:

The Project Site, Parcel P915 (herein after referred to as the "Property" or the "Site") is located at 15504 New Hampshire Avenue in Silver Spring, Maryland. The property is currently owned by AZ Real Estate. The total area of the existing property is 0.78 acres based upon the field survey.

The subject site is within the Northwest Branch watershed (use IV streams). There are no environmental features on the site such as streams, wetlands, 100-yr floodplain, environmental buffers, or steep slopes. There is no forest onsite; however, stands of individual trees exist on the site; including a specimen Silver Maple in poor conditions.

Tree Impact and Removal:

There are some tree impacts that require specific treatment to enhance survivability based on conditions noted during the NRI/FSD field investigations. Some of the impacted trees designated to be saved will require prolonged monitoring due to proposed work and/or health conditions and may require future removal if the condition of the tree begins to decline:

Specimen Tree 41" Silver Maple, 24"&32" (split) Black Cherry

These trees will have 100% and 27%, respectively, impacts to the Critical Root Zone during the proposed construction. The 41" specimen tree Silver Maple is located entirely within the limit of disturbance, and it would not be possible to save this tree. A split Black Cherry tree is located on the adjacent property. The final disposition of the trees will be determined at the pre-construction meeting. If any of these trees is determined to be removed during construction, permission from the adjacent property owner is required to remove a co-owned tree. If the tree is determined to be saved, the tree will require pruning during construction. These trees are to be monitored during and after construction. If the trees begin to show signs of decline or hazardous conditions, it may be removed with adjacent owner's permission. Work performed in the root zone of the tree calls for remediation of the damaged roots to be performed by a licensed tree expert:

- Roots are to be properly pruned at the point of construction damage.
- Mycorrhizal treatment is to be applied to the damaged roots.
- Vertical mulching 8-12 inches is to take place in the affected root area.
- Tree protection fencing is to be installed around each tree

Tree #	Common Name	Botanical Name	DBH	CRZ (sf)	CRZ Impact (sf)	% of Impact	Proposed Status
1	Silver Maple	Accer Saccharinum	41"	11,882	11,882	100	Remove - in LOD
2	Black Cherry	Prunus Serotina	24"/32"	7,234	1,950	27	to be saved

Additional Application Requirements

Montgomery County's Forest Conservation Law Section 22A-21(b) of the *Application Requirements* states that the applicant must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and

(4) Provided any other information appropriate to support the request.

Pursuant to: Item “**(1)** describe the special conditions peculiar to the property which would cause the unwarranted hardship; and” Item “**(2)** describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas”:

The current land use is vacant, as the property contains a vacant shed. The proposed development consists of a retail shop building and associated parking on a site in size of 0.78 acres. This work will require disturbance of the entire site. Due to the specimen tree location, and site layout constrains, it is unfeasible to save this specimen tree. The tree is in very poor condition and located in the middle of the site, therefore, any type of development will cause major impact of the CRZ and/or removal of the tree. If the developer were required to keep all improvements outside the CRZ, the building, drive aisles, SWM facilities, and parking would fail to be built to the close proximity of the specimen tree.

Prohibiting the removal and impact of the specimen trees would deprive the applicants of developing the site. As such, this would cause an unwarranted hardship to the development.

Pursuant to “**(3)** verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance”

The tree proposed for removal is not directly connected to any streams, or part of a riparian buffer system. The proposed stormwater management plan for the development project makes provision for stormwater runoff that would have been intercepted by these trees.

Pursuant to “**(4)** Provided any other information appropriate to support the request.”

The specimen tree 41” DBH Silver Maple, is in poor condition and will present a risk to life regardless of a site design. Per the current site design, the specimen tree is within the LOD and is impractical to save it. This tree should be removed.

Minimum criteria for Variance

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;*
- (2) Is based on conditions or circumstances which are the result of actions by the applicant;*
- (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or*

(4) Will violate State water quality standards or cause measurable degradation in water quality

Pursuant to “(1) Will confer on the applicant a special privilege that would be denied to other applicant”, the use of this site will be for retail shops and common associated infrastructure such as parking. This is not a special privilege to be conferred on the applicants because this is an allowed use per zone NR-75 of the Montgomery County Zoning Code.

Pursuant to “(2) Is based on conditions or circumstances which are the result of actions by the applicant; and (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property”, the applicant has taken no actions leading to the conditions or circumstances that are the subject of this variance request. Furthermore, the surrounding land uses do not have any inherent characteristics that have created this particular need for a variance.

Pursuant to “(4) Will violate State water quality standards or cause measurable degradation in water quality”, the applicant cites the reasoning in the previous response to requirement 22A-21 (b)(3) and restates its belief that granting this variance request will not violate State water quality standards or cause measurable degradation in State water quality standards.

Tree Removal Mitigation

The development proposes tree removal mitigation for removal of 41” Silver Maple. The method to replace individual trees is based on a ratio of 1” of planting for every 4” removed. Therefore, Silver Maple 41” removed equals 10.25 inches of mitigation using minimum of 3” caliper trees. Four (4) shade, native trees will be planted which will equal 12 inches of mitigation.

For these reasons listed above, we believe it is appropriate to grant this request for a variance. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,
Asko Miljkovic

Date Mailed: October 4, 1999



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Action: Approved staff recommendation

Motion of Comm. Bryant, seconded by Comm.
Wellington with a vote of 5-0; Comms. Bryant,
Wellington, Perdue, Holmes and Hussmann
voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION


Preliminary Plan 1-99100

NAME OF PLAN: CLOVERLY COMMERCIAL

On 06/25/99, DARIUSH VEDADI submitted an application for the approval of a preliminary plan of subdivision of property in the C-1 zone. The application proposed to create 1 lot on 33,105 square feet of land. The application was designated Preliminary Plan 1-99100. On 09/23/99, Preliminary Plan 1-99100 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-99100 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-99100.

Approval, pursuant to the FY 2000 Annual Growth Policy (AGP) Alternative Review Procedures for Expedited Development Approval ("Pay and Go"), subject to the following conditions:

- (1) Prior to recording of plat, applicant to submit an Adequate Public Facilities (APF) agreement with the Planning Board limiting development to a maximum of 7,800 square feet of general retail space
- (2) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit, as appropriate
- (3) Terms and conditions of access and improvements, as required, to be approved by MDSHA prior to issuance of building permit
- (4) Landscape, lighting and parking facilities plan to be reviewed and approved with site plan
- (5) No clearing, grading or recording of plat prior to site plan approval
- (6) Conditions of stormwater management approval dated 07/26/99



Preliminary Plan 1-99100

Page 2 of 2

- (7) Record plat to reference common ingress/egress and utilities easement with adjoining Preliminary Plan 1-97083
- (8) Other necessary easements
- (9) In accordance with the provisions of the expedited development approval excise tax (EDAET) of the FY 2000 AGP, this preliminary plan will remain valid until November 4, 2001 (25 months from the date of mailing, which is October 4, 1999). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded. In order for the approval to remain valid, all building permits must be issued within two years of the recordation of the associated plat(s).



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

MCPB No. 09-37
Preliminary Plan No. 11999100A
Chevy Chase Bank at Cloverly
Date of Hearing: March 19, 2009

JUN - 1 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on March 13, 2008, Chevy Chase Bank ("Applicant"), filed an application for approval of an amendment to a preliminary plan of subdivision of property that would create 1 lot on 0.78 acres of land located on New Hampshire Avenue (MD 650) ("Property" or "Subject Property"), approximately 220 feet northeast of the intersection with Cloverly Street within the Cloverly master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 11999100A, Chevy Chase Bank at Cloverly ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated March 5, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on March 19, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 19, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
 Legal Sufficiency:

Christina Sorrento 5/15/2009

8787 Georgia Avenue, N.C.P.P.C. Legal Department 30101 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 11999100A to create 1 lot on 0.78 acres of land located on New Hampshire Avenue (MD 650) ("Property" or "Subject Property"), approximately 220 feet northeast of the intersection with Cloverly Street within the Cloverly master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan amendment is limited to one lot for a 3,172 square foot bank with drive thru lanes. Any increase in the footprint or use will require APF review and a traffic study, which may result in additional improvements and requirements.
- 2) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated November 21, 2007. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 3) The certified Preliminary Plan must delineate the ingress/egress and utilities easement for the church property to the west of the Subject Property, and the access easement for future connection to the adjacent commercial properties as shown on the Preliminary Plan.
- 4) Prior to issuance of a building permit, the Applicant must record a new plat for the Subject Property that contains the ingress/egress and utility easement to the adjacent church property, and the future access easements to the adjacent commercial properties as shown on the Preliminary Plan.
- 5) The Applicant must relocate and reconstruct a five-foot-wide sidewalk with variable width green panels between the curb and new sidewalk along the entire Property frontage, and extend these improvements to the adjacent commercial property driveway to the south as shown on the Preliminary Plan.
- 6) No clearing, grading or recording of plats prior to certified site plan approval.
- 7) A landscape and lighting plan must be submitted as part of the site plan application for review and approval.
- 8) Site Plan 820080200 must be approved by the Board and signed by the Development Review Staff prior to the approval of the record plat.
- 9) The proposed development must comply with the conditions of the preliminary and final forest conservation plan. The Applicant must satisfy all conditions prior to certification of Preliminary Plan, site plan, or MCDPS issuance of sediment and erosion control permits, as appropriate.
- 10) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated April 18, 2008. These conditions may be amended by MDSHA, provided the amendments do not conflict with other

conditions of the Preliminary Plan approval.

- 11) The Applicant must satisfy provisions for access and improvements as required by MDSA prior to issuance of access permits.
- 12) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
- 13) The record plat must show necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The Subject Property is located within the Cloverly Master Plan area. The Property is part of the Cloverly Commercial Area identified on pages 24 through 27 of the Cloverly Master Plan. The Master Plan recommends locating parking areas to the side or rear of buildings to minimize views of parking lots; provide vehicular and pedestrian connections with adjacent properties to minimize driveway entrances and congestion along New Hampshire Avenue, or design parking, access, and pedestrian connections to allow future interconnection; provide access to the land-locked property "(Church Property)"; achieve a street-oriented form of development with entrances facing New Hampshire Avenue; provide extensive landscaping to create an attractive commercial area and reduce the impacts of any large paved areas; and avoid tall, highway-oriented pole mounted signs.

In an effort to meet the recommendations of the Master Plan the Applicant has pulled the building back to accommodate the future possibility of interconnection between the C-1 zoned properties. This shifts some of the parking to the front of the building; however, the Applicant will provide adequate landscaping to effectively screen the parking from New Hampshire Avenue. The Applicant is providing an ingress/egress and utilities easement across the Subject Property to the land-locked property "(Church Property)", which abuts the Subject Property to the west. The Applicant will also significantly improve the pedestrian environment and provide more orderly access to the Cloverly Commercial Area by relocating the sidewalk along the entire Property frontage, and extend these improvements to the adjacent commercial property driveway to the south. A 15-foot green panel will be installed along New Hampshire Avenue between the curb and the new sidewalk, and the Applicant will plant street trees along the frontage of the Property. The Applicant will construct a 6.5 foot high internally illuminated

monument sign accented with landscaping, rather than a tall, highway-oriented, pole mounted sign. The proposed sign with appropriate landscaping will visually enhance the improved pedestrian environment. The proposed layout balances the challenges of the site and is similar in character to the other existing commercial development in the Cloverly area. Therefore, the Planning Board finds that the Preliminary Plan substantially conforms to the Master Plan.

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

Roads and Transportation Facilities

The proposed 3,172 square-foot Chevy Chase Bank is required to satisfy both Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) tests as part of this APF review since the proposed bank with drive-through windows is estimated to generate 30 or more peak-hour trips during the typical weekday evening (4:00p.m. – 7:00p.m.) peak period. To satisfy the LATR component of the APF test, the consultant for the Applicant submitted a traffic study dated October 4, 2007; revised May 29, 2008, which examined traffic-related impacts of the subject development on nearby intersections. Based on the traffic study provided by the Applicant, under Total (Build) traffic conditions, critical lane volume (CLV) at the study intersections will be below the applicable congestion standard of 1,450 CLV for the Cloverly Policy Area during morning and evening peak periods. The application therefore satisfies the LATR requirements of the APF test. The Cloverly Policy Area is currently operating under “acceptable” conditions for PAMR and does not require mitigation of site-generated trips. Therefore, the Planning Board finds that the proposed use satisfies LATR and PAMR requirements of the APF test.

Other Public Facilities and Services

The Planning Board finds that public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Electrical, gas, and telecommunications services are also available to serve the Property.

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

A Final Forest Conservation Plan (FFCP) has been submitted with the site plan for review. The FFCP proposes clearing and grading of the entire site. No

existing trees will be preserved. The 0.15 acre of required afforestation is proposed to be met through onsite landscaping with overstory, native trees outside the public right of way. The Board finds that it is appropriate to meet afforestation requirements with onsite tree cover (i.e., native, landscape trees) instead of forest cover for to the following reasons:

The site is zoned C-1 in the Cloverly Commercial Area with a proposal to develop almost the entirety of the site, and adjoins C-1 properties to the north and south; and the site lacks existing forest stands, environmental buffers, or other environmentally-sensitive features on or adjacent to the site.

Therefore, the Planning Board finds the Preliminary Plan meets all applicable requirements of the county Forest Conservation Law.

- 4. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the bank site on November 21, 2007. The stormwater management concept consists of on-site water quality control via installation of a proprietary filtration cartridges. Onsite recharge is not required for redevelopment projects. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cubic feet per second.

BE IT FURTHER RESOLVED, that the date of this Resolution is JUN - 1 2009 (which is the date that this Resolution is mailed to all parties of record); and

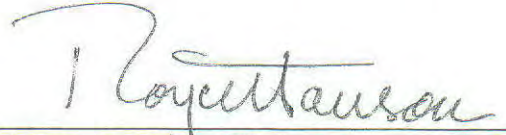
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland 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 Cryor, seconded by Commissioner Presley, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 21, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, reading "Royce Hanson". The signature is written in dark ink and is positioned above a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

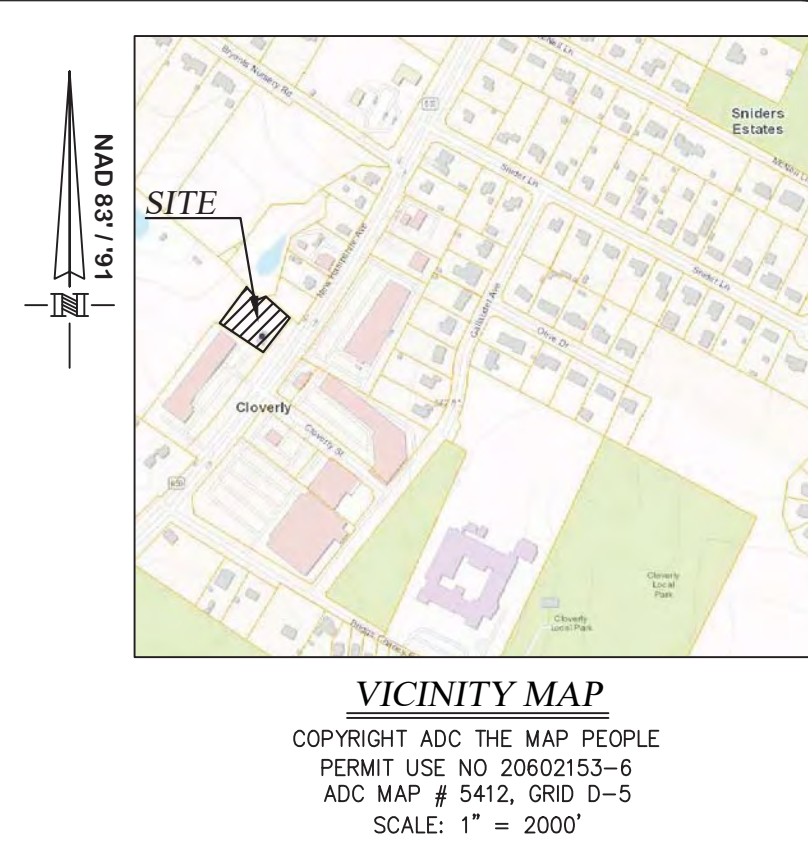
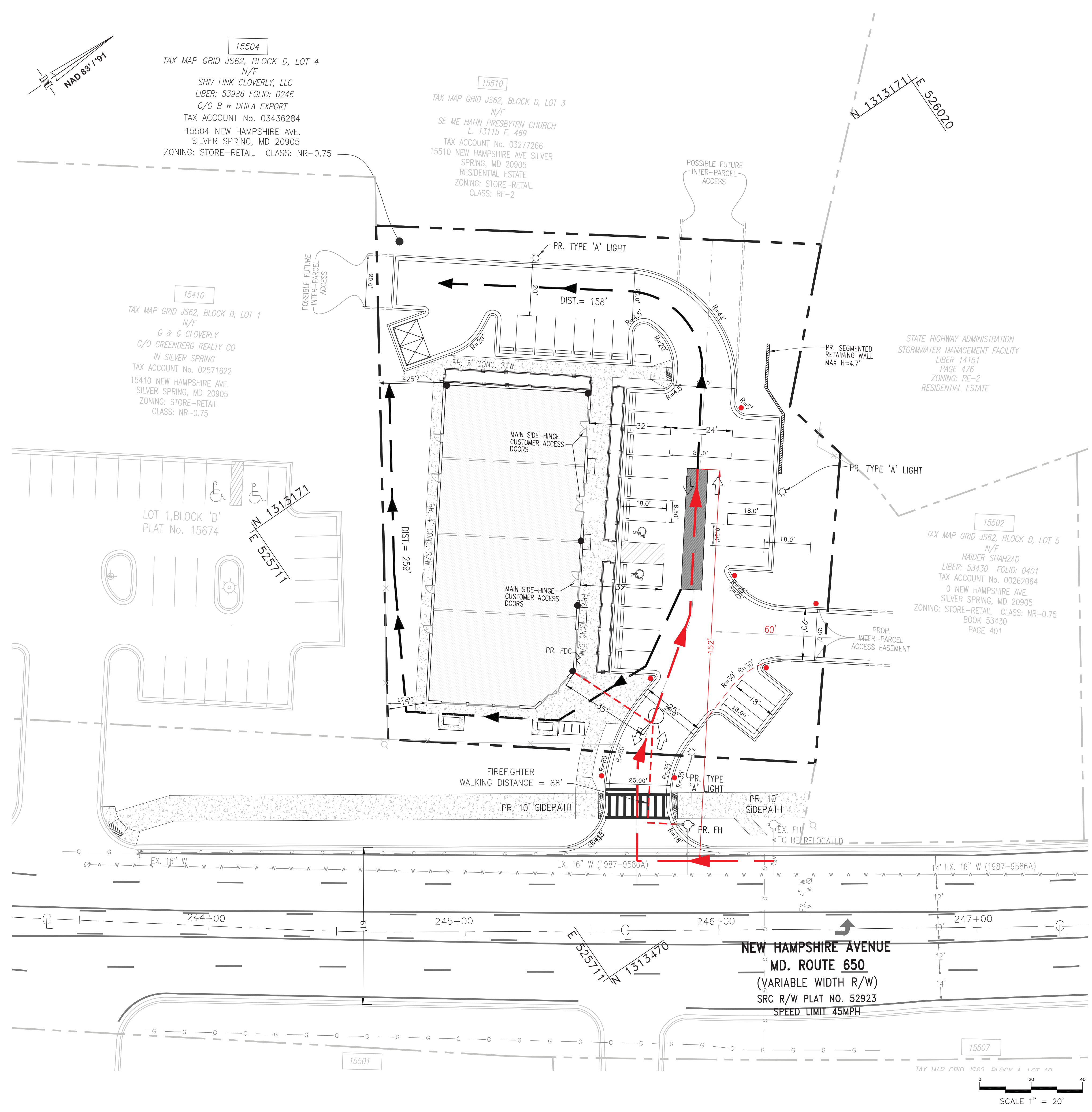


**Department of Permitting Services
Fire Department Access and Water Supply Comments**

DATE: 29-Nov-23
TO: Asko Miljkovic - amiljkovic@eliteeng.co
Elite Engineering
FROM: Marie LaBaw
RE: Retail Shops: 15504 New Hampshire
11999100B

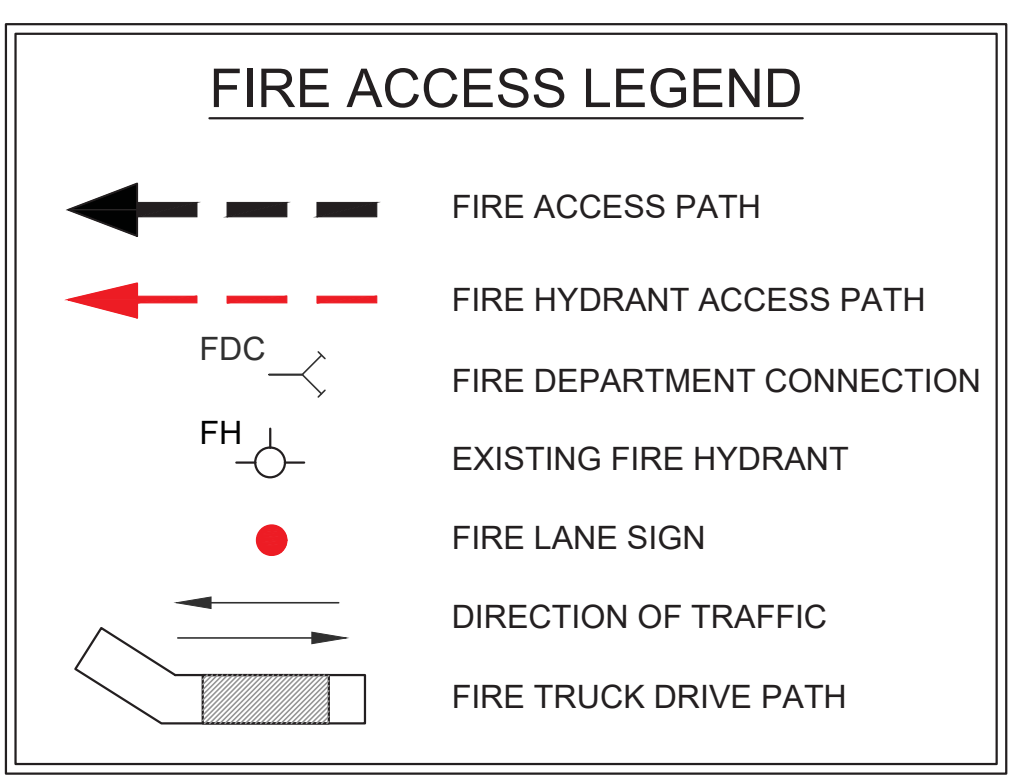
PLAN APPROVED

1. Review based only upon information contained on the plan submitted **28-Nov-23**. 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.



GENERAL NOTES

1. SIGNS TO BE CONSISTENT WITH THE MONTGOMERY COUNTY FIRE AND RESCUE (MCFR) GUIDELINES.
2. FIRE LANE SIGNS TO BE 12" WIDE BY 18" HIGH.
3. ZONING: NR-0.75 H-45
4. TAX MAP: JS52
5. PARCEL: 915
6. TOTAL PROPERTY AREA: 0.78 AC.
7. WSSC 200 SHEET: 221NE01
8. BOUNDARY AND TOPOGRAPHIC SURVEY BASED OFF OF MONTGOMERY COUNTY GIS DATA AND SURVEYS INFORMATION PROVIDED BY GOODE SURVEYS, DATED MARCH 2021.



PROFESSIONAL CERTIFICATION
 I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.

LICENSE NUMBER : 28003
 EXPIRATION DATE : 10/16/2024

FIRE CODE ENFORCEMENT
 Fire Department Access Review
 Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.

BY: SAC PK 43 DATE: 11/29/2023

**APPLICANT
 OWNER / DEVELOPER**
 AZ Real Estate, LLC
 5424 Wecker Way
 Elkridge, MD 21075
 Tel. (410) 242-0505
 Email: amirwmd@gmail.com
 Contact: Amir Ahmed

**ELITE
 Engineering**
 6305 Ivy Lane, Suite 225
 Greenbelt, MD 20770
 Phone: (240) 206-8055
 amiljkovic@eliteeng.co
 Contact: Asko Miljkovic

REVISIONS	BY

ELITE ENGINEERING, LLC
 Engineers * Landscape Architects
 6305 IVY LANE SUITE 225
 GREENBELT, MD, 20770
 (240)206-8055

**FIRE DEPARTMENT ACCESS PLAN
 FOR
 RETAIL SHOPS AT
 15504 NEW HAMPSHIRE AVENUE
 MONTGOMERY COUNTY, MARYLAND
 5th ELECTION DISTRICT
 22ND EDITION, TAX MAP GRID JS52**

DRAWN AT
 CHECKED AM
 DATE 11/03/2023
 SCALE AS SHOWN
 DRAWING
FDA-1

November 30, 2023

Phillip Estes
Planner III
Montgomery County Planning Department
2425 Reedie Drive, Wheaton, MD 20902


Dear Mr. Estes:

Thank you for the opportunity to review the Preliminary Plan Applications (No. **11999100B**) for the **15504 New Hampshire Avenue development (SHA Tracking No. 22APMO039XX)**. The State Highway Administration (SHA) has reviewed the plans and we are pleased to respond.

Based on preliminary review, SHA finds the Stopping and Intersection Sight Distances acceptable. An Access Permit will be required for construction of the proposed access point and any other improvements in the State's right of way. SHA recommends approval of the above referenced Application; however, reserves the right to provide additional comments as needed for final approval of the plans during the Access Permit review process.

If you have any questions or require additional information, please contact Mr. Kwesi Woodroffe at 301-513-7347, by using our toll free number (in Maryland only) at 1-800-749-0737 (x7347), or via email at kwoodroffe@mdot.maryland.gov.

Sincerely,


11/30/2023

for Derek Gunn, P.E.
District Engineer, District 3, MDOT SHA

DG/kw

cc: Mr. Asko Miljkovic, Elite Engineering



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

June 3, 2022

Mr. Asko Miljkovic
Elite Engineering, LLC
6305 Ivy Lane, Suite 225
Greenbelt, MD 20770

Re: **COMBINED STORMWATER MANAGEMENT
CONCEPT /SITE DEVELOPEMNT
STORMWATER MANAGEMENT PLAN** for
15504 New Hampshire Avenue
MNCP&PC Preliminary Plan: TBD
SM File #: 287827
Tract Size: 34,104 sq. ft.
Total Concept Area: 34,104 sq. ft.
Zone: NR-0.75
Watershed: Northwest Branch
Type of Development: New Development

Dear Mr. Miljkovic

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above-mentioned site is **acceptable**. The concept proposes to meet required stormwater management goals via Permeable Pavement and Micro-bioretenion.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of DPS approved material.
4. The detailed plan must utilize the latest DPS guidance.

This list may not be all-inclusive and may change based on available information at the time.



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311
www.montgomerycountymd.gov/permittingservices

Mr. Asko Milijovic
June 3, 2022
Page 2 of 2

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required** as long full stormwater management compliance is provided at the time of construction.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mary Fertig at 240-777-6202 or at mary.fertig@montgomerycountymd.gov.

Sincerely,

Mark Etheridge
Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: MMF

cc: N. Braunstein
SM File # 287827

ESD: Required/Provided 3044 cf /3096 cf
PE: Target/Achieved: 1.8"/1.8"
STRUCTURAL: n/a
WAIVED: n/a



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311
www.montgomerycountymd.gov/permittingservices



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

October 13, 2023

November 14, 2023

Mr. Phillip Estes, Planner Coordinator
Up-County Planning Division
The Maryland-National Capital
Park & Planning Commission (M-NCPPC)
2425 Reedie Drive
Wheaton, Maryland 20902

RE: Preliminary Plan No.11999100B
Retail Shops-15504 New Hampshire Avenue

Dear Mr. Estes:

We have completed our review of the preliminary plan uploaded to eplans on October 10, 2023. A previous plan was reviewed by the Development Review Committee at its July 5, 2023, meeting. The subject property is fronting the public street maintained by Maryland State Highway Administration (MDSHA). Therefore, MCDOT does not have any jurisdiction other than the maintenance and operation of the traffic signal, sidewalk, bus stop, bus shelter, or shared use path. Per Montgomery County Code Chapter 50 Section 4.2, MCDOT shall provide the following recommendations about the subject property per the review of the preliminary plan for the attention of the concerned agencies.

Plan Review Comments

1. New Hampshire Avenue (MD-650):
 - a. Based on the Complete Streets Design Guidelines, 120
 - i. This roadway is classified as a four (4)-lane Boulevard with a minimum ~~425~~-ft right-of-way. The plan shows 120-ft ultimate right-of-way. The applicant shall dedicate right-of-way per the minimum requirements of the Master Plan.
 - ii. Based on the Bicycle Master Plan, a sidepath is recommended on both sides. We agree with the proposed 10-ft sidepath along the property frontage as shown on the plan.
 - b. For all other improvements along New Hampshire Avenue (MD-650), we defer to MDSHA.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Standard Comments

1. All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services (DPS) in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
2. Design all access points and alleys to be at-grade with the sidewalk, dropping down to street level between the sidewalk and roadway.
3. **Storm Drain Analysis:** We defer to MDSHA for review and approval.
4. **Sight Distance:** We defer to MDSHA for review and approval.
5. The Forest Conservation shall not extend into the Slope Easements and the Public Utility Easements.
6. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Deepak Somarajan, our Development Review Engineer for this project, at deepak.somarajan@montgomerycountymd.gov or (240) 777-7170.

Sincerely,

Deepak Somarajan

Deepak Somarajan, Engineer III
Development Review Team
Office to Transportation Policy

SharePoint\teams\DOT\Director's Office\Development Review\Deepak\Preliminary Plan\11999100B-Retail Shops-15504 New Hampshire Avenue\Letter\11999100B-Retail Shops-15504 New Hampshire Avenue-DOT Preliminary Plan Letter

cc: SharePoint\Correspondence Folder FY'24

cc:	Asko Miljkovic	Elite Engineering
	Atiq Panjshiri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Kwesi Woodroffe	MDSHA District 3
	Rebecca Torma	MCDOT OTP