

PETITION FOR CONDITIONAL USE

Office of Zoning and Administrative Hearings

Montgomery County, Maryland

Brookstone Senior Living

SENIOR CARE COMMUNITY

November 22, 2023 (Updated)



Dino Drive, Burtonsville, Maryland 20866

Exhibit 7
OZAH Case No: CU 23-12

Brookstone Senior Living

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BEFORE THE HEARING EXAMINER FOR MONTGOMERY COUNTY, MARYLAND

Office of Zoning and Administrative Hearings
Stella Werner County Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

IN THE MATTER OF THE APPLICATION OF	*	
ELDERHOME LAND LLC a/k/a BROOKSTONE	*	
SENIOR LIVING, FOR RESIDENTIAL	*	Case No. CU 23-12
CARE FACILITY (OVER 16 PERSONS)	*	

STATEMENT OF JUSTIFICATION

The Petitioner and Owner, ElderHome Land LLC a/k/a Brookstone Senior Living (“Brookstone”), by its attorneys, Bregman, Berbert, Schwartz and Gilday, LLC, respectfully submits this Statement of Justification in support of the foregoing Conditional Use Application (the "Application") for a Residential Care Facility (Over 16 Persons) on its 5.86-acre property located on Dino Drive in Burtonsville, Maryland. The Applicant will demonstrate conformance with all applicable review requirements and criteria for development of a **for-profit 212-person Senior Care Community** that will include **64 assisted living, 27 memory care, and 88 independent living suites.**

I. Introduction

The property that is the subject of this Application is an in-fill site that lies in between residential and industrial zones. The property consists of 5.86 acres of land located at the intersection of Dino Drive and Valley Stream Avenue in Burtonsville (Tax Map, Account No. 05-03552453), and more formally described as Outlot A, Block B of the Valley Stream Estates subdivision, as shown on the Record Plat No. 23347, dated February 8, 2006 (the “Property” or “Site”).

The Property is in the R-200 (Residential 200) zone, as indicated on the Certified Zoning Map included with the Application. The standards and specifications of the R-200 Zone are outlined in Section 59-4.4.7 of the Montgomery County Zoning Ordinance (the "Zoning Ordinance"). In accordance with Section 59-3.1.6 of the Zoning Ordinance, under the section Group Living, the operation of a "Residential Care Facility" for over 16 individuals is permitted in the R-200 Zone with the grant of a conditional use.

There is a significant need for more senior housing in the County, as a whole. The 1997 *Fairland Master Plan* makes special note of more senior housing in this area and the *Master Plan* specifically designates this site for senior housing. As such, the project provides important opportunity to develop much needed senior housing at varying levels of care (independent, assisted, and memory care), which will serve County residents and allow residents in the area to stay in their community, close to family and friends as they age. The proposed facility will provide a quality lifestyle and the necessary services for senior residents to obtain quality senior care assistance.

Brookstone desires to construct on the Property a four-story residential care facility for seniors, consisting of 88 independent units, 64 assisted living, and 27 memory care¹ with 142 parking spaces, **all in one phase of development**. The project will include resident dining rooms, sitting rooms, library, wellness suite, cyber café, an indoor pool, and a variety of related community amenities that support and complement a residential care facility for seniors, typical for a development of this type (collectively, the "Project").

¹Some units may be double occupancy to accommodate married couples, siblings, or friends who desire to share the same unit.

II. Background

A. The Site

The subject Property contains 5.86 acres of in-fill land and is located between residential and industrial zones to the West and South of the Dino Drive and Valley Stream Avenue intersection in Burtonsville. The Property, in the R-200 zone within the Eastern Montgomery County Planning Area, is unimproved, wooded and relatively level with 150' of frontage on the new Dino Drive, with an approved curb cut for ingress and egress on Valley Stream Avenue.

The subject Site is approximately 500' South of the Sandy Spring Road (Maryland Route 198) and Dino Drive intersection. The Property is accessed through the new Dino Drive and Valley Stream Avenue. Dino Drive is adjacent to this Property and is an industrial, two-lane road, within a 70' right-of-way. Valley Stream Avenue is a two-lane secondary residential street intersecting with Dino Drive and ending in a cul-de-sac approximately 800' from the intersection.

B. Surrounding Area

A small residential community lies to the east of the site on Valley Stream Avenue containing single-family houses in the R-200 zone. The Burtonsville industrial area, in the I-3 zone and I-1 Burtonsville Employment Overlay zones, is to the west and northwest, which contains self-storage warehouses, large distribution/service warehouse structures, and office space, including the U.S. Post Office that services the Burtonsville area. A wooded area and stream are to the south. To the north, is Maryland Route 198, also known as Sandy Spring Road, a four-lane divided highway and the main east-west thoroughfare in Burtonsville, which intersects with U.S. Route 29 about one-eighth of a mile west of the Site. Route 198

provides access to nearby shopping and services within the Burtonsville Commercial area. To the west is Columbia Pike, constructed as a limited access expressway in the area. Beyond Columbia to the west is a hardware store in the I-3 zone and in the overlay zone.

The subject property is located within the Little Paint Branch Watershed.

Approximately 4.67 acres of the Property qualify as forest. The accompanying vicinity and zoning maps show the location of the proposed facility.

C. Zoning History

At the time that the *1981 Master Plan for the Eastern Montgomery County Planning Area* (“1981 Plan”) was approved, the subject property was part of Parcel P191, which was approximately 7.64 acres in size. The Plan recommended light industrial development uses North of the proposed Dino Drive extension and residential development for the property South of the extension using Transferable Development Rights (TDRs). Through the Sectional Map Amendment (SMA G-747), I-3 zoning was assigned to the Northern portion of the parcel and R-200/TDR zoning was assigned to the Southern portion of the parcel.

The *Fairland Master Plan*, the latest version that was approved and adopted in 1997 (“Master Plan”), acknowledged the irregular zoning patterns established through the *1981 Plan* and made recommendations to re-zone certain properties, which were too small to develop under the then current zones. The property retained its split zoning: the Southern portion—the subject property—remained zoned R-200/TDR through the SMA, and the Northern portion was rezoned from I-3 to I-1.

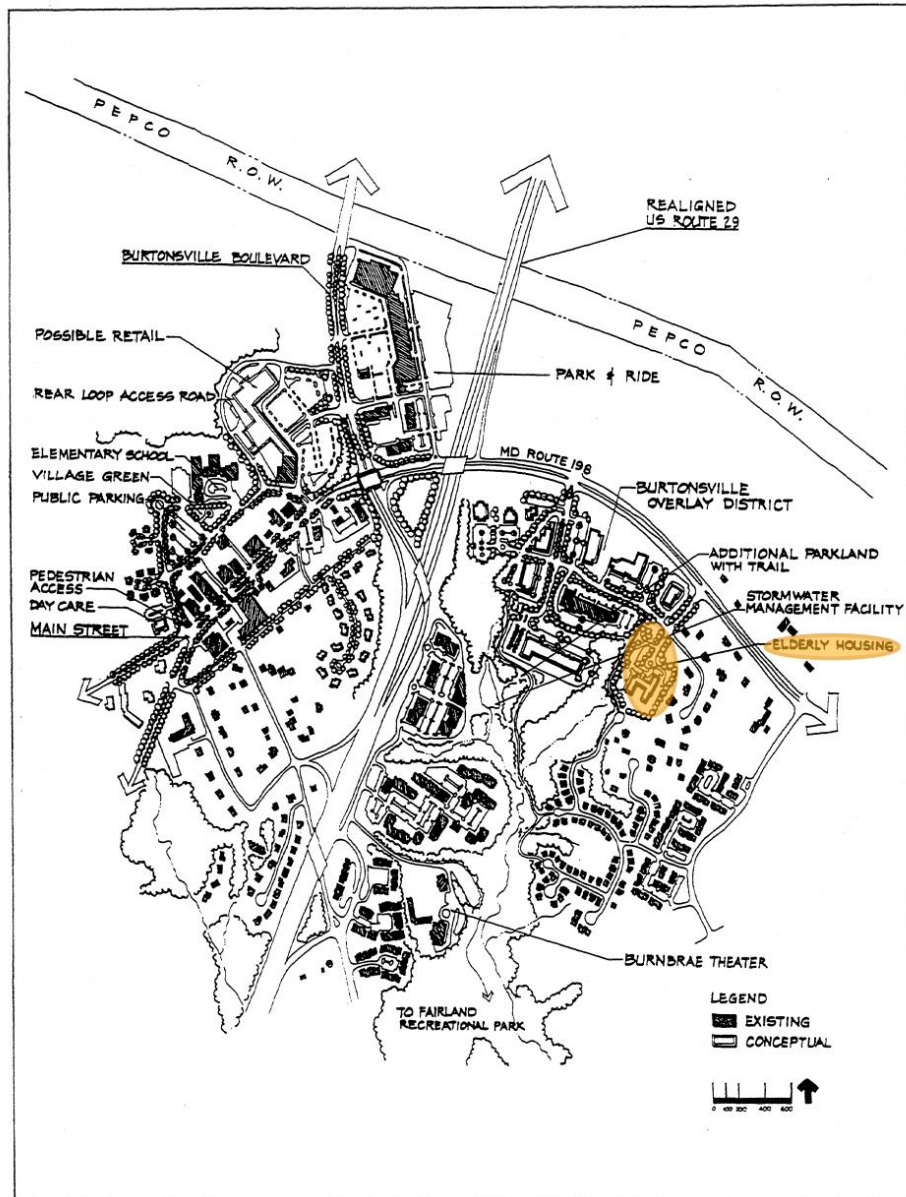
In 2006, the subdivision Record Plat (Lots 25 and 26 and Outlot A, Block B, Valley Stream Estates) was recorded in the Land Records of Montgomery County as Plat No. 23347. The record plat divided the 7.64-acre P191 parcel into two parcels and dedicated the seventy-

foot (70') wide Dino Drive right of way to public use: (1) Parcel 191A, Outlot A, Block B, which is the Subject Property of this proposed conditional use, is 5.86 acres in size and zoned R- 200/TDR; and (2) Parcel 191B became approximately 1.36 acres in size and zoned I-1.

The *Fairland Master Plan* specifically recommends “Elderly Housing” development for the Subject Property:

BURTONSVILLE CENTER CONCEPT

FIGURE 30



D. Previous Approvals for Senior Housing

On May 2, 1996, ElderHome, Inc., filed a Petition for Special Exception approval (Case No. S-2235) to permit the construction and operation of a senior care home for up to 120 senior residents on the Property, which was then an un-subdivided, 7.65-acre property in the R-200/TDR zone (see *Exhibit A*). The Planning Board advised that the Petitioner: “wait until the *Fairland Master Plan* is approved before proceeding to subdivision, so that there will be clear development guidance available as this property proceeds through the development process” (*Exhibit A*, page 3).

Following an analysis of the Technical Staff Report, the recommendation of the Planning Board, and expert witness testimony, the Board of Appeals for Montgomery County unanimously GRANTED the special exception for the southern Part of Parcel 191 (5.86 acres) subject to four conditions. The special exception holder was bound by the exhibits and testimony and was required to obtain approval of a subdivision plan, landscape plan, and lighting plan, which were completed, and, on March 25, 1998, the site received approval for Preliminary Plan No. 1-97094 (see *Exhibit B*), and to build the new Dino Drive Road on May 9, 1998 (see *Exhibit C*).

Pursuant to the Montgomery County Zoning Ordinance, the special exception approval was valid until April 25, 2001 (37 months from the date of mailing, which was March 25, 1998). Extensions were granted through October 2003 (*Exhibit D*). Because the market and financing for assisted living facilities had become problematic after the original approval, construction never started and the approval expired. As part of the special exception application, the Technical Staff made findings of adequate public facilities (i.e.,

traffic capacity, police, fire and rescue, etc.), which were renewed and valid through April 24, 2018 (*Exhibit E*).

Today, the site is located on a finished road (new Dino Drive) that has curb and gutter, sidewalks, street lights, and an approved curb cut off Valley Stream Avenue for the proposed facility. A stormwater management pond is located next to the southwestern end of the Property, which was installed when the new Dino Drive was constructed in 2006. The *1997 Fairland Master Plan* specifically identifies this Property as an appropriate site for senior housing as more fully detailed herein.

E. Community Outreach

The Applicant has undertaken outreach efforts in connection with the project. When the Applicant was first beginning its process in 2019, prior to the COVID-19 shut-down, they sought input on the proposed project from Montgomery County Planning Department staff, various agencies, and the community, including discussions with immediately surrounding neighbors and civic associations that resulted in revisions to the Project.

On May 26, 2022, the Applicant held the required pre-filing community meeting virtually through Zoom. Participants included the Project's land use counsel, architects, engineers, traffic consultant, representatives of the operator, and property owners; nearby civic, community, and condominium associations; and adjacent and nearby property owners. Notice was properly given for the pre-filing community meeting in accordance with the standards set forth in the Development Review Procedures Manual and Zoning Ordinance.

III. Proposed Improvements

A. The Management Team

The current management team has considerable experience constructing and operating adult and senior residential facilities. The property owner, ElderHome Land LLC a/k/a Brookstone Senior Living, LLC, and/or related entities, will own and develop this facility.

Distinctive Living, LLC (“Distinctive Living”), an experienced senior living operator, will manage, operate, and also co-own the facility. Distinctive Living is exclusively in the senior housing business and develops and manages various facilities across the United States for some of the most highly recognized providers on the national stage including Atria Senior Living, Milestone Retirement communities, Five-Star, Senior Lifestyle Corporation, Sunrise Senior Living, Manor Care and Beverly Enterprises. Distinctive Living currently serves as the operator for a number of communities, including independent living, CCRCs, memory care, and assisted living. Distinctive Living’s exceptional, highly-qualified team has worked collaboratively with the owners, neighbors, and architects to ensure the Project fulfills the needs of its residents and is also compatible with the surrounding neighborhood.

B. The Project

The Brookstone Senior Living Project will provide a wide array of services and amenities that are unique to its brand. The residence has been designed to provide separate areas within the building for each type of senior housing use, so that each level of care can function independently.

The Assisted Living component of the Project will include both private and shared suites that will be a mix of studio, one- and two-bedrooms. The Memory Care rooms will be

located in the western wing. The facility will be secured and will provide more advanced memory care services and supervision for individuals with dementia as part of its program that includes services to assist families in achieving the best possible experience in sharing life with a loved one with dementia. Often times, individuals with dementia are prematurely placed in nursing homes or are restricted in other assisted living facilities. Brookstone's objective is to give individuals impacted by dementia freedom within a secure environment that significantly enhances the lives of these individuals and their families. The Memory Care wing will have its own eating and common facilities to serve its residents.

The level of care is personalized to each resident, based on the resident's life experiences and current abilities, both physical and cognitive. Caregivers receive specialized training and are available to assist residents with meals, dressing, health care, and other daily living activities as necessitated by the individual needs of each resident. Brookstone will provide highly skilled licensed nurses on site all day and night every day of the year – a level of service that will set them apart from other assisted living communities.

C. Architecture and Design

The Applicant proposes to erect one four-story building as housing for adult seniors, age 55 and older. The Senior Care Community will consist of 88 independent, 27 memory care, and 64 assisted living units. The Conditional Use Site Plan, included in this Application (the "Site Plan") and Exterior Elevations, illustrate the Project. As reflected by the perspective views of the Project provided in support of this Application, an extensive amount of detail has been given to the architectural design of the proposed building that successfully evokes a contemporary yet traditional feel by employing the use of varied

materials and aesthetically rich color palate. The Project's elevated design aesthetic and quality will complement and enhance the surrounding area.



Proposed Front Elevation: *Brookstone Senior Living*



Site Entry: *Brookstone Senior Living*



View from Dino Drive: Brookstone Senior Living



Rear View: Brookstone Senior Living

1. Green Building Goals. The building will be designed to comply with applicable Montgomery County green building requirements. Green building design features are compatible with the goals that are in the facility's holistic approach to wellness.

2. Facility Layout. The approximately 195,000 square foot, four-story building is a maximum of 50 feet in height. The single access entrance is through Valley Stream Avenue. The Main entrance will face Route 198, a four-lane divided highway with a median strip; while the Independent Living entrance will face the small subdivision of a dozen single-family houses.

As shown on the Building Floor plans, Brookstone will be divided into three distinct 'communities' with two separate entrances: one will be for the Main entrance to the community and the other for the Independent Living units. The Assisted Living section has an internal courtyard, while the Independent Living has one open courtyard overlooking the wooded rear yard. A Discovery Garden is also included and exclusively for use by the Memory Care residents.

3. Amenities. The Independent Living section will include dining, bistro, and private dining options, as well as ancillary services such as a multipurpose room/theater, chapel, cyber café, art studio, beauty salon/barber shop, arts and crafts area, and a wine/coffee bar. The Assisted Living and Memory Care section will each have their own dining areas as well as ancillary services. The indoor pool, fitness area, and health center will be located in the rear and will include wellness programs and services (such as strength and balance, yoga/meditation, and dance classes). An office and marketing area will be located adjacent to each of the two entrances.

The facility will provide programs and coordination of various services for residents, including the following: transportation services for off-site excursions; organized community service and volunteering events; holiday celebrations; and other planned social events (e.g., socials and dances, game show nights, and intergenerational connections). The Project will provide landscaping and outdoor amenities for use by the residents, including outdoor walking paths, courtyards, and activity areas.

Each corridor will have distinctive names to aid in identification and to provide the residents with a sense of inclusion and privacy. Each ‘community’ will have separate lounge areas and a central hallway, where private resident suites are located. Trained chefs will prepare meals in the commercial kitchen, and residents will be served ‘restaurant-style’ in their respective community dining areas or privately in their rooms.

Approximately 40% of the building area will be devoted to amenities for residents, including an indoor pool that can be used for recreation, fitness, or aqua-therapy, beauty salon and spa, music room, pub, and a restaurant-style dining room. Interior and exterior courtyards and secure walking paths are also proposed for residents' enjoyment.

4. Resident Suites. Suite sizes range between 340 and 1,575 square feet, depending on the service type and occupancy of the unit, each with a full bathroom and some with balconies. Typical room layouts are also provided in support of this Application.

D. Site Layout

The Brookstone community with its generous landscaping will serve as a transitional use and buffer between existing single-family residences to the east and south and the more intense industrial uses to the west and the major thoroughfare of New Hampshire Avenue to the north.

1. Parking. Driveway access into the interior of the site is via a single access point leading to the building, surface parking, and maintenance areas. The Zoning Ordinance requires a minimum of 133 parking spaces for the proposed use. There will be a total of 133 surface parking spaces provided. Additionally, the Applicant is proposing perimeter plantings to provide a buffer between the parking area and the adjacent residences.

2. Development Standards. The project meets or exceeds the requirements of the R-200 zone and the specific conditional use standards for a Residential Care Facility (Over 16 Persons) found in Section 3.3.2.E.2.c of the Zoning Ordinance, as demonstrated in the table excerpt from the Conditional Use Site Plan below.

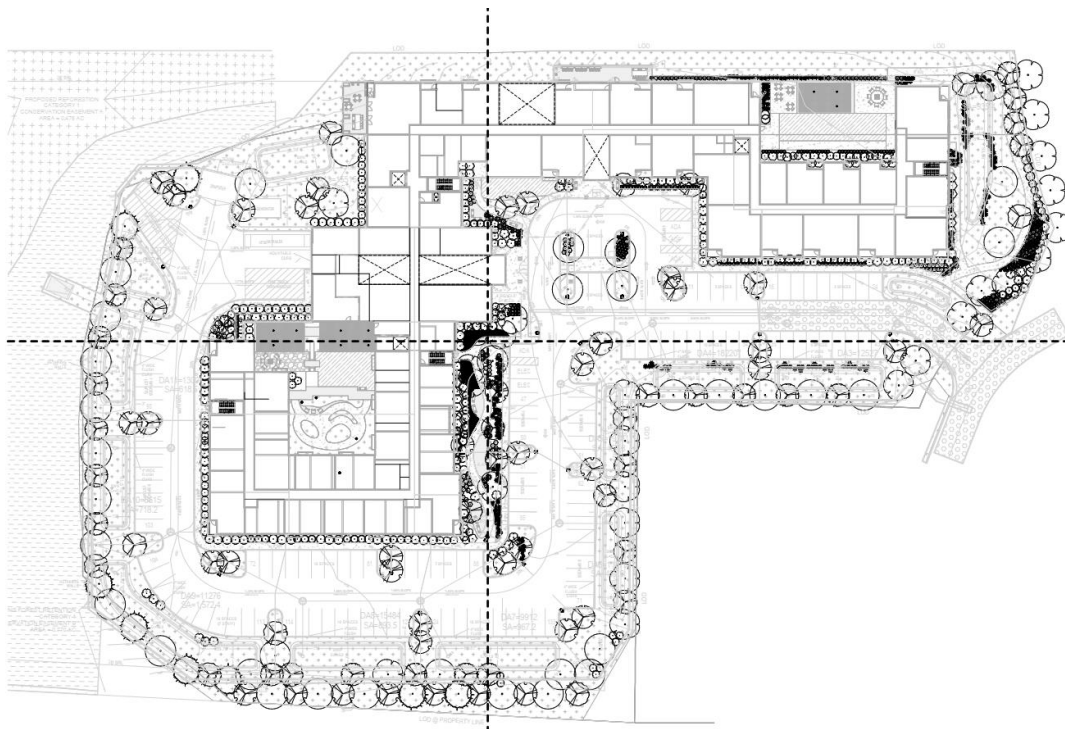
DEVELOPMENT DATA STANDARDS R-200 ZONE / TDR 3.0, LOT 27, BLOCK B (STANDARD METHOD / CONDITIONAL USE) RESIDENTIAL CARE FACILITY – SECTION 3.3.2.E.2.c		
ELEMENTS	REQUIRED /ALLOWED	PROPOSED
DENSITY (MAX)		
INDEPENDENT LIVING (IL) - 15 UNITS PER ACRE (5,8671 AC) ASSISTED LIVING (AL) + MEMORY CARE (MC) - 1200 SF PER BED	15 X 5,8671 = 88 UNITS 255,571 / 1200 = 213 BEDS	88 UNITS (121 BEDS) 64 BEDS (AL) 27 BEDS (MC)
LOTS		
LOT AREA (MIN) LOT WIDTH AT FRONT BLDG LINE (MIN) LOT WIDTH AT FRONT LOT LINE (MIN)	20,000 SF 100 FT 25 FT	255,571SF 180 FT 180 FT
OPEN SPACE		
GREEN AREA (MIN) - 50% (SECTION 3.3.2.E.2.c.ii.(c),(2))	255,571 X 0.50 = 127,786 SF	141,250/255,571=55.3%
PLACEMENT (SUBJECT TO SECTION 4.4.14.B.3 PURSUANT TO SECTION 3.3.2.E.2.c.ii.(e))		
FRONT SETBACK FROM PUBLIC STREET SIDE SETBACK - FROM ABUTTING LOTS NOT INCLUDED IN APPLICATION (SECTION 3.3.2.E.2.c.ii.(f)) REAR SETBACK - FROM ABUTTING RESIDENTIAL DETACHED ZONE (SUBJECT TO SECTION 4.1.8.A.2) HEIGHT (PRINCIPAL STRUCTURE)	20 FT 20 FT 20 FT 50 FT	40 FT 20 FT 45 FT 50 FT
VEHICLE PARKING		
RESIDENTIAL CARE FACILITY - 1 SPACE PER DWELLING UNIT (IL, 88 UNITS) - 0.25 SPACE PER BED (AL + MC, 91 BEDS) - 0.50 PER EMPLOYEE (44 FULLTIME EQUIVALENT) TOTAL HANDICAPPED (INCL.) ELECTRIC VEHICLE (INCL.)	88 SPACES 23 SPACES 22 SPACES 133 SPACES 5 SPACES 2 SPACES	133 SPACES 5 SPACES 2 SPACES
OFF-STREET LOADING		
GROUP LIVING (25,001-250,000 SF OF GFA)	1 SPACE	1 SPACE
BICYCLE SPACES		
RESIDENTIAL CARE FACILITY - 0.25 SPACE PER DWELLING UNIT (IL ONLY) - 0.10 SPACE PER EMPLOYEE (AL + MC ONLY) (95% LONG-TERM (LT) + 5% SHORT-TERM (ST))	22 SPACES 4 SPACES	25 SPACES (LT), 1 SPACE (ST)

NOTES:

1. THIS PROJECT SHALL BE DEVELOPED IN ONE PHASE

3. Stormwater Management. The Application includes a conceptual Stormwater Management Plan, which reflects a comprehensive stormwater management program that will comply with all applicable laws, regulations, and guidelines (including Environmental Site Design to the Maximum Extent Practicable).

4. Landscaping. The Property is currently surrounded by forest and landscape that will remain to provide a buffer for the Property and screening from the adjoining residential lots. As shown in the enclosed Landscape Plan, the site will be extensively landscaped, and is designed to provide seasonal interest and ensure a warm and inviting feel. Landscape features include sitting areas and courtyards, with open patio areas and a resident garden space. A six (6) foot board-on-board privacy fence is also proposed along those property lines adjacent to existing homes. Compatibility is reinforced with the natural growth of vegetation, trees, and bushes along the property lines.



OVERALL SITE PLANTING PLAN

5. Lighting Plan. Lighting associated with the Project is residential in nature and directional to avoid glare and light spillage.² As a result, the Project will be compatible with the surrounding residential community from a lighting perspective.

6. Traffic. The Project proposes access to the Property through an existing curb cut on Valley Stream Avenue. As shown by the Traffic Statement, prepared by the Traffic Group, Inc., included in the Application, only twenty (20) auto passenger trips are projected during the AM peak hour and thirty-five (35) trips during the PM peak hour.

Table 2. Trip Generation for Subject Site

Land Use	Size		AM Peak Hour			PM Peak Hour			ADT
			In	Out	Total	In	Out	Total	
Assisted Living	64	Beds	7	5	12	6	9	15	166
Congregate Care Facility	115	Units	5	4	9	10	11	21	245
New ITE Trips for Subject Site			12	9	21	16	20	36	411
Adjusted Vehicle Trips by Policy Area (97%)			11	9	20	16	19	35	
Total Person Trips (Vehicle Trips / 73.9%)			27			47			
Auto Passenger Trips (19.4%)			5			9			
Transit Trips (2.5%)			1			1			
Non-Motorized Trips (4.2%)			1			2			

The majority of the trips to and from the site would be from visitors and employees. A car service is provided to the residents to address their transportation needs. Therefore, the traffic associated with this use will be extremely limited and not during peak hours.

²The Project will also include emergency lighting along the perimeter of the building that would only be activated in the case of emergencies.

7. Water & Sewer. All major utilities necessary to service the Property are available at/near the site and adequate. In addition, the Property is classified on Montgomery County Zoning as Tier 1 with public sewer (S-1) and water (W-1) existing in the front and rear of the Property.

8. Environment. There are no wetlands, floodplains, environmental buffers, or Patuxent Primary Management Area (PMA) on or adjacent to the subject property. A formal wetland delineation was performed on September 20, 2018. One short segment of an intermittent stream was identified in the extreme southwest corner of the site; and a second intermittent stream is also located just beyond the southwestern corner. These environmental features are depicted on the approved Natural Resources Inventory/Forest Stand Delineation (“NRI/FSD”) Plan provided in support of this Application. Steep slopes do exist on the Property and are noted on the NRI/FSD.

9. Forest. The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the “Forest Conservation Law”). NRI/FSD No. 420222080 was prepared for the Property and approved by M-NCPPC on August 1, 2022 that reflects approximately 4.18 acres of existing forest on the property consisting of two stands: Stand A and Stand B:

- **Stand A**, 3.90-acres – Stand A is a mixed-hardwood forest dominated by yellow poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), persimmon (*Diospyros virginiana*), and black cherry (*Prunus serotina*); and
- **Stand B**, 0.77-acres – Stand B is a coniferous forest dominated by a monotypic stand of Virginia pine (*Pinus virginiana*).

There are two trees that are 30 inches in diameter or greater on the southern end of the property line and two trees outside of the property line, in the extreme southwest corner of

the Property on the adjacent property. All four trees are proposed to remain when constructing the new building and driveway.

IV. Master Plan Conformance

As stated above, the Property is located within the planning area covered by the *1997 Fairland Master Plan*. One of the stated objectives and key recommendations of the *Master Plan*, page 30, is:

“OBJECTIVE: Encourage housing for the elderly in appropriate locations.

RECOMMENDATION: Identify appropriate locations for housing for the elderly.”

The proposed Project satisfies this objective.

The *Master Plan* also recognizes that “there are very few existing opportunities for elderly housing in Fairland” and indicates that conditional use³ provisions in residential zones are for smaller developments targeted to assisted living, independent living, or nursing care (id.). In conformance with the *Master Plan*’s objectives and recommendations, the subject Application targets independent living, assisted living, and memory care for seniors.

Of significance, the *Master Plan* specifically recommends, “Elderly Housing” for the subject site. The subject property is located on the southeastern edge of the portion of the *Master Plan* area identified as the “Burtonsville Industrial Area” (page 80). The *Master Plan* specifically identifies the subject site for “Elderly Housing” in its concept drawings:

- page 70, Figure 30
- page 83, Figure 35, and
- page 84, Figure 36.

³The *Master Plan* was adopted prior to the Zoning Ordinance's recent renaming of special exceptions as conditional uses. For purposes of consistency, the term "conditional use" is used herein where the term "special exception" is used in the plan.

The *Master Plan* not only identifies the subject site for “elderly housing”, but also placed the building footprint for the previously approved assisted living facility in the plans. Moreover, the Planning Board noted, in its recommendation of approval of the previous application, “Such a use could serve as a transition between the existing residential neighborhoods and the industrial area” (*Exhibit A*, p. 3). Consistent with the Planning Board’s recommendation of approval in the previous special exception application, the proposed use is residential in nature and will serve as a buffer between single-family homes to the east and south and industrial and commercial development to the west and north.

One of the goals in the *Master Plan* is to develop diversity of uses and to serve and support businesses, employees, and area residents. The Project will also provide an important community amenity of independent, assisted living and memory care services in an area currently underserved by such facilities. The *Master Plan* correctly states, “there are very few existing opportunities for elderly housing in Fairland” (page 30).” In addition to the existing and approved senior housing for the elderly, studies have shown that 4,700 units need to be constructed to meet demand. Thus, the Project would address the critical deficit of senior housing in the subject area.

The proposed site is well situated within the community to accommodate senior housing development. The site is located on a bus route and within a mile of medical services, shopping, and commercial services. The availability of such amenities in such close proximity to the property provides an ideal location for seniors within the community.

Brookstone Senior Living is an age-restricted congregate living facility that will appeal to a broad range of seniors in the area. With its mix of suite styles and no upfront buy-in, this facility provides a housing opportunity for seniors with varying needs and

income levels. The age-in-place concept allows seniors to remain within the community while having assistance for specific and necessary services.

One of the stated objectives of the *Master Plan* is to minimize transportation demand generated by development (page 31). As noted above, the Application will have minimal impact on traffic and the adjacent roadways. Finally, an overarching theme in the County has been that new development and redevelopment must respect and enhance the environmental quality. As discussed below, the Project will enhance the environmental quality of the site.

In 2012, the County Council approved the *Burtonsville Crossroads Neighborhood Plan* (“Crossroads Plan”). One of its stated goals, under “Economy” on page 40, is to:

“Support local and regional retail and mixed uses including:

- affordable housing for all ages, including senior housing...”

The subject Property is located near the Burtonsville Crossroads area and on major Route 198. While the Property is not deemed part of the *Crossroads Plan* area, the general concepts for the area may be considered. The new use will service the community and meets the general goals of the *Crossroads Plan*.

The Applicant, therefore, submits that the subject Application conforms to the *Master Plan*.

V. Conditions of Approval

The proposed facility for seniors satisfies all applicable requirements for the approval of a conditional use as specified in the Montgomery County Zoning Ordinance and is consistent with the recommendations of the *Fairland Master Plan*. There are no unacceptable land use or environmental impacts associated with the Project. The following outlines the requirements of Article 59.

A. Article 59-7 Requirements

Pursuant to the applicable conditions and standards of Section 59-7.3.1.E of the Zoning Ordinance, to approve a Conditional Use Application, the Hearing Examiner must find the use complies with section “E. Necessary Findings” such that the proposed development:

1. *Necessary Findings:*

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

Applicant Response: Not applicable. While there is a previously approved special exception relative to this property, it is no longer valid and therefore not applicable for purposes of this finding.

- b. *“satisfies the requirements of the zone, use standards under Article 59-3 [Uses and Use Standards], and meets applicable general requirements under Article 59-6;”*

Applicant Response: Residential Care Facilities are permitted as conditional uses in the R-200 zone under Article 59-3 and the applicable requirements under Article 59-6, as shown on the data table of the Conditional Use Site Plan. Therefore, this provision is satisfied.

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

Applicant Response: As discussed above, the Project conforms with the recommendations of the *Fairland Master Plan*, which specifically identifies this site for “elderly housing” in several places—page 70 - Figure 30; page 83 - Figure 35; and page 84 - Figure 36. In its previous approval, the Planning Board noted, “Such a use could serve as a transition between the existing residential neighborhoods and the industrial area” (*Exhibit A*, p. 3). Therefore, the Project overwhelmingly conforms to the recommendations of the *Master Plan*.

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

Applicant Response: As discussed above, the Property lies in between residential and industrial zones. The character of the surrounding area is both residential and industrial, consisting of single-family homes, to the east; and industrial consisting of self-storage warehouses and other distribution/service structures, and office space, including the Burtonsville Post Office, to the west. The Project will not alter the character of the surrounding neighborhood in a manner inconsistent with the *Master Plan* because the use is residential in character and adequately buffered with landscaping, and sufficiently located away from any sensitive land uses or dwelling units. Therefore, this provision is satisfied.

- e. *“will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;”*

Applicant Response: As discussed in above, the Project conforms to the polices and recommendations contained in the *Master Plan*. There are no residential areas that would be adversely affected or altered by the Project because the Project is a transitional residential use, the site is sufficiently buffered and located away from existing single-family neighborhoods, and the site is located in between residential and industrial zones. Therefore, this provision is satisfied.

- f. *“will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, , roads, storm drainage and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*
- i. *If a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, or storm drainage; or*
 - ii. *If a preliminary plan of subdivision is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;”*

Applicant Response: Public facilities and services are available and will be safe and adequate to serve the proposed use. Public water and sewer, which is at the site, will serve the Property. Other public facilities and services, such as schools, police stations, firehouses, and health services are will be safe and adequate to serve the

Property. Electrical and telecommunications services are also available to serve the Property. Therefore, this provision is satisfied.

- g. *“will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*
- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*
 - ii. traffic, noise, odors, dust, illumination or lack of parking; or*
 - iii. the health, safety or welfare of neighboring residents, visitors or employees.”*

Applicant Response: The inherent physical and operational characteristics associated with a senior residential project will not cause undue harm to the neighborhood. The inherent characteristics include:

- vehicle and pedestrian trips to and from the Property;
- parking for residents and employees;
- varied hours of operation;
- noise or odors associated with vehicles;
- noise or odors associated with trash collection and trucks;
- emergency electrical generator; and
- lighting.

These characteristics are inherent and typically associated with similar uses and do not exceed what is normally expected. Residential uses adjoining the Property to the east are buffered from the Project in terms of the layout of the road, distance, topography, and existing landscape. Therefore, this provision is satisfied.

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

Applicant Response: This finding is satisfied. There is a variety of building scales, forms, and design details exhibited in the neighborhood. The existing warehouse architecture is modern. The architecture of the Project is contemporary in design and

form. The visual character of the neighborhood is mixed with detached single-family dwellings and industrial uses, such self-storage warehouses and office buildings.

Therefore, the proposed residential building is not out of character and is compatible with the surrounding residential neighborhoods.

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

Applicant Response: Acknowledged by the Applicant.

4. *“In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.”*

Applicant Response: This finding is not applicable. The Applicant does not propose an agricultural conditional use. The Project is an independent living and assisted living facility for seniors.

5. *“The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:*

- i. *Filling Station;*
- ii. *Light Vehicle Sales and Rental (Outdoor);*
- iii. *Swimming Pool (Community); and*
- iv. *the following Recreation and Entertainment Facility use: swimming pool, commercial.*

Applicant Response: This finding is not applicable. The Project is a residential care facility for seniors.

6. *“The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:*
- i. Funeral Home; Undertaker;*
 - ii. Hotel, Motel;*
 - iii. Shooting Range (Outdoor);*
 - iv. Drive-Thru*
 - v. Landfill, Incinerator, or Transfer Station; and*
 - vi. a Public Use Helipad, Heliport or a Public Use Helistop.*

Applicant Response: This finding is not applicable. The Project is a residential care facility for seniors.

B. Article 59-3 Requirements

The Application complies with the use standards and requirements of Section 59-3.3.2.E.c.ii of the Zoning Ordinance as follows:

“c.ii. Residential Care Facilities (Over 16 Persons)”

- (a) *“The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.”*

Applicant Response: As noted above, the proposed community will have a variety of unique amenities and services provided to its residents, including interior and exterior courtyards, a fitness pool, gym, beauty salon and spa, music room, pub, a car and driver for transportation needs, and a restaurant-style dining room. All of these amenities are intended to address the special needs of the residents only and provides everything residents need on-site.

- (b) N/A. There will be no children residing at the facility.

- (c) *“Where residential dwelling units are provided:*
1. *the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and*
 2. *the minimum green area is 50%.”*

Applicant Response: The independent living component of the Project is in compliance with no more than 15 units per acre, or 88 units. The Project also exceeds the minimum green area requirement by providing 60% of the site as green area.

- (d) *“Where facility size is based on the number of beds, not dwelling units, the following lot area is required:*

- (2) *In all other zones, the minimum lot area is 2 acres or the following, whichever is greater:*
 - (i) *in RE-2, RE-2C, RE-1, and R-200 zone: 1,200 square feet per bed;”*

Applicant Response: The assisted living and memory care components of the Project is in compliance with far less than the maximum allowable number of beds.

- (e) *“The minimum side setback is 20 feet.”*

Applicant Response: As shown in the Site Plan included in the Application, the proposed side setbacks are 20 feet, satisfying this requirement.

- (f) *“Independent dwelling units must satisfy the MPDU provisions of Chapter 25 (Section 25.A-5).”*

Applicant Response: The proposed application satisfies this requirement.

- (g) *“In a continuing care retirement community, occupancy of any independent dwelling unit is restricted to persons 62 years of age or older, with the following exceptions...”*

Applicant Response: This requirement is not applicable. The proposed project is not a continuing care retirement community.

(h) *“Height, density, coverage, and parking standards must be compatible with surrounding uses; the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.”*

Applicant Response: The proposed Project meets all of the development standards in the R-200 zone. The maximum height of the proposed building is 50 feet or four stories, which is allowable in this zone. The density, coverage and parking standards comply with all requisite regulations as detailed previously and on the Development Standards table shown on the Conditional Use Site Plan.

(i) Not applicable. The proposed project is not in the AR zone.

C. R-200 Zone Requirements

Residential Care Facilities are permitted as conditional uses in the R-200 zone. The proposed site for this facility is located in the R-200/TDR Zone, which has specific development standards when transferable development rights are used. The proposed senior care facility requires no development rights and will therefore occur under the standard method of development. The method requires development to comply with requirements set forth for the corresponding zone, in this case R-200. The proposed development conforms to the applicable requirements of this zone, as shown above and on the data table of the Conditional Use Site Plan.

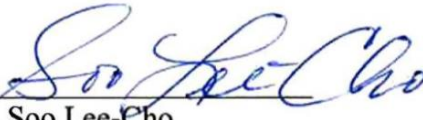
VI. Conclusion

The proposed Senior Care Community consisting of 88 independent, 64 assisted living and 27 memory care units is compatible with the vision and intent of the County land use plans and requirements for the approval of a Conditional Use as specified in the Montgomery County Zoning Ordinance and is consistent with the recommendations of the *1997 Fairland Master Plan*. There are no known unacceptable land use or environmental

impacts associated with the Project. The Project will provide much needed senior housing in the Burtonsville community that will serve both existing and future residents. Based on all the above, the Applicant respectfully requests approval of this Conditional Use application.

Respectfully submitted,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC

By: 
Soo Lee-Cho

7315 Wisconsin Avenue, Ste. 800 West
Bethesda, MD 20814
301-656-2707

Attorney for the Applicant

List of Exhibits

Exhibit A – Special Exception S-2235 Approval, July 19, 1996;

Exhibit B – Preliminary Plan 1-97094 Approval, March 25, 1998

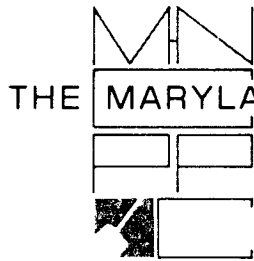
Exhibit C – Approved Dino Drive Road Plan, May 9, 1998

Exhibit D – Special Exception S-2235 Extension Request Granted Through October 1, 2003

Exhibit E – Development Pipeline showing APF Expiration, April 24, 2018

Exhibit A

Special Exception S-2235 Approval, July 19, 1996



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB
Item #20
7/25/96

MEMORANDUM

DATE: July 19, 1996
TO: Montgomery County Planning Board
FROM: Frederick Vernon Boyd for the Department of Park and Planning
(495-4654)

REVIEW TYPE: Special Exception
APPLYING FOR: Care Home
APPLICANT: ElderHome, Inc.
PROJECT NAME: Willow Brook Retirement and Wellness Center
CASE NUMBER: S-2235
REVIEW BASIS: Section 59-G-2.37

ZONE: R-200/TDR
LOCATION: Near the intersection of Dino Drive and MD 198, Burtonsville
MASTER PLAN: Master Plan for the Eastern Montgomery County Planning Area:
Cloverly, Fairland, White Oak

FILING DATE: May 2, 1996
PLANNING BOARD REVIEW: July 25, 1996
PUBLIC HEARING: August 14, 1996

STAFF RECOMMENDATION: Approval with conditions

1. The applicant is bound by statements of conditions and submitted plans
2. Approval of a subdivision plan by Montgomery County Planning Board
3. Resolution of issues involving access to the site from Valley Stream Avenue before issuance of building permits

SUMMARY OF ISSUES: There are no outstanding issues.

S-2235

The Site

The location proposed for the care home is a 7.64 acre parcel, P191, near the intersection of Dino Drive and MD 198 in Burtonsville. It is currently unimproved. The site is wooded, and contains some non-tidal wetlands. Steep slopes can be found at the southern end of the property. There is also a pond on this part of the property. The southern part of the property is in the R-200/TDR Zone; the northern part of the property is in the O-M Zone. The proposed project is designed entirely for the southern part of the property. The accompanying vicinity and zoning map show the location of the proposed facility and zoning in the area.

The Neighborhood

The proposed site lies between a residential community called Valley Stream Estates and an industrial park on the south side of MD 198 and east of its intersection with US 29. There is an office building now in the park and a number of other lots have necessary development approvals but are as yet unbuilt. MD 198, Sandy Spring Road, is the main east-west thoroughfare in Burtonsville. It is a divided highway with four lanes in this area. Access to the industrial park and to Valley Stream Estates is from MD 198. Dino Drive, as yet uncompleted, is designed to serve the industrial park. Plans for its completion are discussed more fully below.

The Proposal

ElderHome is proposing to construct a care home, also known as an assisted living and wellness facility, at this location. The firm has designed a 70,000 square foot, three-story building that would house as many as 120 persons, all of whom would be more than 62 years old, frail and in need of assistance with daily needs. At the same time, the facility is designed to offer a home-like environment and avoid the institutional setting common to nursing homes. The building will house the residents, who will live in individual suites, with bedrooms, baths, closets and small kitchenettes without stoves. The facility will offer common areas on each floor, a small convenience and book store, a chapel and hair styling shops. Classrooms, a library, computer rooms and lecture halls will be used for individual education activities and lectures. A large dining room with private dining areas will be used for meals. The accompanying sketch shows the exterior design of the facility.

The center also will provide a physical fitness center designed to encourage physical activity and recreation. The grounds will include fitness trails and walking paths, as well as gardening opportunities.

ElderHome employees will be on duty 24 hours a day to help with residents' daily routines and with all other activities. About 28 persons will be working at the facility during normal

S-2235

daytime operations. There will be three shifts for non-administrative workers: 6:30 am to 3 pm; 2:30 pm to 11 pm; and 10:30 pm to 6 am. Administrative staff will work a single daytime shift, 9:30 am to 6 pm.

ANALYSIS

Master Plan

The *1981 Master Plan for the Eastern Montgomery County Planning Area* recommended residential development using transferable development rights on the southern part of the property and light industrial development on the northern portion, proposing that part of the property for the I-3 Zone. The Sectional Map Amendment applied the R-200/TDR Zone to the southern part of the property and the I-3 Zone to the northern part. The property owner subsequently applied for the O-M Zone for the northern portion, arguing that the size of the I-3 portion precluded development to I-3 standards. That application was approved in 1983. The Community Planning Division has reviewed this petition and has concluded that the proposed use does not conflict with the recommendations of the 1981 Plan. The accompanying land use and zoning plan shows recommendations for this area.

The Planning Board has completed its review of the *Public Hearing Draft Fairland Master Plan*, and is scheduled to transmit a *Planning Board Draft* to the County Council in August. That Draft shows the northern part of this property, now in the O-M Zone, as part of the Burtonsville Industrial Area. The Draft makes recommendations for the Industrial Area that are designed to enable its development as a diversified and unified employment center. The

Draft shows the southern part of the property as a possible site for elderly housing. Such a use could serve as a transition between the existing residential neighborhoods and the industrial area. The Draft also makes detailed recommendations for relocating Dino Drive in this area and for abandoning the existing “paper” Dino Drive. The Community Planning

Division acknowledges that the issue of Dino Drive’s alignment is not relevant to land use and compatibility issues on this site, but that it will play a role in final development plans for this

property. The Division advises that the petitioner should wait until the *Fairland Master Plan* is approved before proceeding to subdivision, so that there will be clear development guidance available as this property proceeds through the development process. The petitioner has

prepared drawings showing access using the realigned Dino Drive and Valley Stream Avenue, which are included with this staff report.

Development Standards for Zone

The proposed site for this facility is located in the R-200/TDR Zone, which has specific development standards when transferable development rights are used. The proposed assisted living facility requires no development rights and will therefore occur under the standard

method of development. This method requires development to comply with requirements set forth for the corresponding zone, in this case R-200. The Zoning Ordinance requires that properties developing in the R-200 Zone have a minimum net lot area of 20,000 square feet, minimum frontage of 125 feet at the front building line and minimum frontage of 25 feet at the street line. Buildings must be set back 40 feet from the street. No main building may be nearer than 12 feet from a side property line and 30 feet from the rear property line. The maximum building height is 50 feet. A maximum of 25 percent of the net lot area may be covered by buildings.

Traffic

The Transportation Planning Division recommends approval of this petition. The Division recommends that the petitioner schedule workers' hours to insure that no employee need travel between 7 am and 9 am or between 4 pm and 6 pm. The petitioner has agreed to have its three shifts for non-administrative workers run from 6:30 am to 3 pm; from 2:30 pm to 11 pm; and from 10:30 pm to 6 am. The petitioner further agreed to have administrative employees work from 9:30 am to 6 pm. These work shifts would effectively eliminate travel during either the morning or evening peak period.

Because the physical condition of residents generally precludes driving or owning a car, remaining traffic would be generated primarily by deliveries and visitors, few of which will occur during peak travel periods. With employees arriving and departing outside the peak periods as well, the proposed facility will generate fewer than five peak period trips. It can therefore be considered under the County Council's *de minimus* impact policy for trip generation.

Environmental

The Environmental Planning Division recommends approval of the petition, with a number of conditions that can be addressed as part of the subdivision of this property. The property is located near a headwaters tributary of Little Paint Branch, and there are nontidal wetlands in the southwest corner and in the northwest section of the property. There are steep slopes in the southern part of the property that contain highly erodible soils. To preserve stream quality in the vicinity, the Division recommends that the southern portion of the property remain undisturbed to the extent possible, that clearing and grading be minimized and that, to the extent feasible, that impervious surfaces be reduced. The Division has reviewed a Forest Conservation Plan for the property and set forth a number of conditions to be met during the subdivision process.

Subdivision and Design Issues

S-2235

A pre-preliminary plan of subdivision (7-96058) has been filed for this property. The petitioner must subdivide the property and create a recorded lot before building permits can be issued.

Citizen Concerns

The Planning Department had received no expressions of citizen concern at the time that this staff report was prepared.

Compliance with Specific and General Special Exception Provisions

Sec. 59-G-2.37. Nursing and care homes.

- (a) A nursing or care home may be allowed if the Board can find as prerequisites the following:
- (1) That such use will not because of bulk, traffic, noise or number of patients or persons being cared for affect adversely the present character or future development of the surrounding residential community.

The proposed facility abuts but is not surrounded by residential neighborhoods. It is designed to provide a transition between those neighborhoods and more intense light industrial uses in the Burtonsville Industrial Area. As such, the number of residents at the facility is in keeping with likely employee levels in the industrial area while the overall atmosphere and setting is residential in character. A proposed realignment of Dino Drive in this area will enable visitors, employees and other users of the proposed facility to reach it without using residential streets. The proposed use does not therefore adversely affect the residential character of the adjacent community.

- (2) That such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood.

The assisted living facility, although housed in a single three story building of about 70,000 square feet, has been designed in a residential style. While similar in bulk and massing to larger light industrial buildings to the west, the structure will maintain a residential style and character, in keeping with its transitional nature.

- (3) That the site for such use will be adequately protected from noise, air pollution and other potential dangers to the patients or persons being cared for.

While the location for the proposed facility is adjacent to non-residential uses in the I-3 Zone, those uses will not be of an intensity likely to generate noise or air pollution. In addition, the facility is located in the center of its site and will offer residents fitness trails, gardens in an enhanced natural environment.

* * *

- (c) The following requirements shall apply to all such homes hereafter established and additions to existing homes where the total number of persons cared for in the home is 6 or more.

* * *

- (2) In all other zones, the minimum lot area shall be 2 acres or the following, whichever is greater:
 - a. In the RE-2, RE-2C, RE-1 and R-200 zones, 1,200 square feet for each bed.

The proposed 120-bed facility is located in the R-200 Zone, which therefore requires a minimum lot size of 144,000 square feet (3.3 acres). The site proposed for the facility is a 5-acre portion of a 7.6 acre site.

* * *

- (3) Minimum side yards shall be those specified in the zone, but in no case less than 20 feet.

The proposed site plan meets this standard and that of the R-200 Zone.

- (4) Maximum coverage, minimum lot frontage, minimum green area, minimum front and rear yards and maximum height, as specified in the applicable zone.

The proposed site plan meets these standards for the R-200 Zone.

- (d) Off-street parking shall be provided in the amount of one space for every 4 beds and one space for 2 employees on the largest work shift, except the Board may specify additional off- street parking spaces where the method of operation or type of care to be provided indicates such increase will be needed.

The proposal provides 45 off-street parking spaces, sufficient to meet the one space for every four beds standard (30 spaces for 120 beds) and the standard for worker parking (14 spaces for 28 employees).

- (e) No application shall be considered unless it is accompanied by a site plan, drawn to scale, showing the location of the building or buildings, parking areas, landscaping, screening, access roads, height of buildings, topography, and the location of sewers, water lines, and other utility lines. The site plan shall show property lines, streets, and existing buildings within 100 feet of the property, and shall indicate proposed routes of ingress and egress for automobiles and service vehicles. A vicinity map shall show major thoroughfares and current zone boundaries within one mile of the proposed home.
- (f) An application for a special exception for this use shall include an expansion plan showing the location and form of any expansions expected to be made in the future on the same site.

The petitioner has no expansion plans.

* * *

59-G-1.21. General conditions.

- (a) A special exception may be granted when the board, the hearing examiner, or the district council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

Care homes are permitted by special exception in the R-200/TDR Zone.

- (2) Complies with the standards and requirements set forth for the use in division 59-G-2.

The proposed facility complies with the standards set out in Section 59-G-2.37.

- (3) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the Commission.

The proposed use does not conflict with the recommendations of the 1981 Master Plan for the Eastern Montgomery County Planning Area.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

The proposed facility's location between a residential community and an industrial park allows it to act as a transition between those two uses. Its population, while higher than the residential neighborhood to the east, is in keeping with the non-residential uses to the west. The design of the facility, meanwhile, is harmonious with the residential character of the adjoining neighborhood. The level of activity, because of the physical condition of the residents, will not be substantially more than that found in residential neighborhoods, and it will be primarily residential in character. Relatively little traffic will be generated by the facility and there are no similar uses in the immediate neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity.

The residential nature of the community and the physical condition of the residents significantly limits the levels of physical activity--and the accompanying noise, fumes, odors and other objectionable intrusions--that are likely to occur on this property. It will affect neither the enjoyment nor the economic value of the adjacent neighborhoods and it will have no impact on future development.

- (6) Will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature. Special exception uses in accord with the

recommendations of a master or sector plan are deemed not to alter the nature of an area.

The proposed use does not conflict with the recommendations of the relevant master plan. There is one special exception in the immediate neighborhood, for the Calverton Elks Lodge at MD 198 and Cedar Tree Drive, east of the proposed site.

- (7) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

The intensity and character of the proposed use are essentially residential. No activity will occur that will affect negatively the health, safety, security, morals or general welfare of those in the area.

- (8) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities. If the special exception use requires approval of a preliminary plan of subdivision in accordance with chapter 50 of this Code, title "Subdivision of Land," the adequacy of public facilities will be determined by the Planning Board at the time of subdivision approval. In that case, the Board of Appeals must include such Planning Board approval as a condition of the grant of the special exception.

The proposed use requires approval of a subdivision plan.

Conclusions and Recommendations

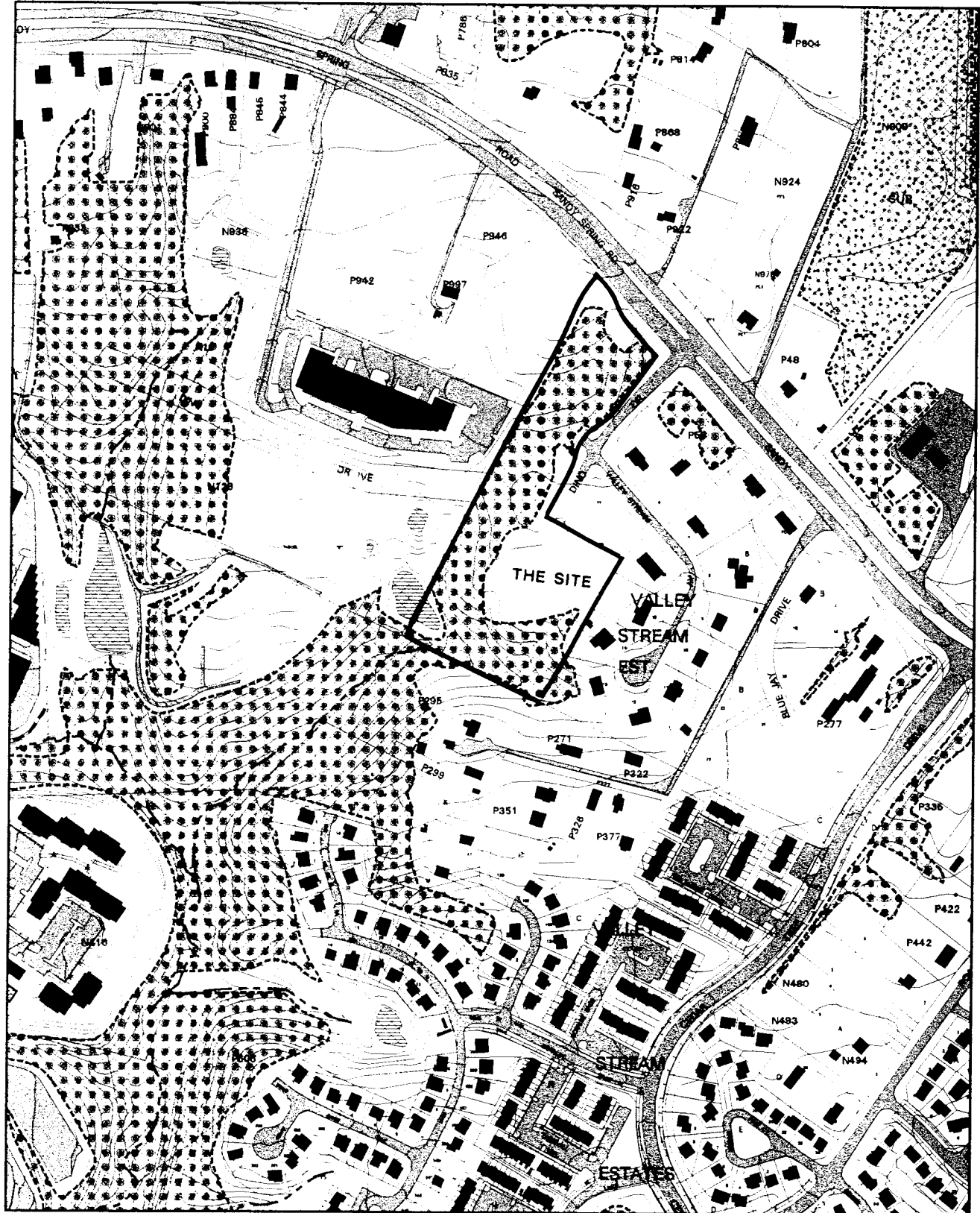
The essentially residential character of the proposed assisted living facility will provide a needed transition between non-residential office and light industrial uses in this portion of the Burtonsville community and residential uses to the east. The setting is large enough to provide a building of substantial size and natural features sufficient to enable residents to enjoy nature without leaving the grounds. It is in not in conflict with the current applicable master plan. The petitioner has promised to correct an off-site parking deficiency and is working with public agencies to accommodate proposed changes in the alignment of Dino Drive. The proposed plan satisfies the special exception standards for this use in the R-200 Zone at this location, and it satisfies the general conditions for granting special exceptions as well. With the conditions noted above, the Planning Department recommends approval of this petition.



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Attachments

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VICINITY MAP FOR BURTONSVILLE--ELDERHOME

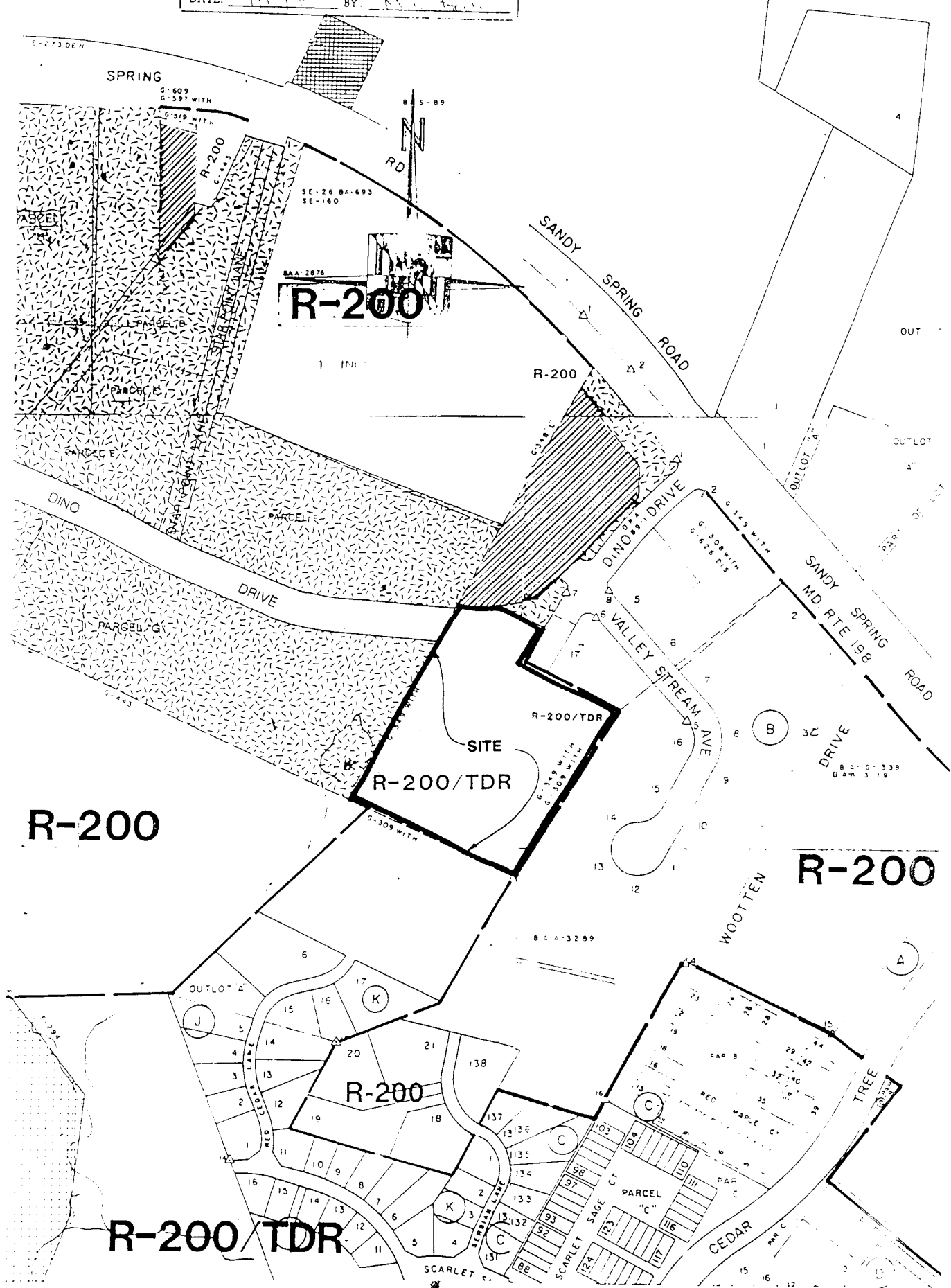


 Maryland-National Capital Park and Planning Commission
 Montgomery County Park and Planning Department

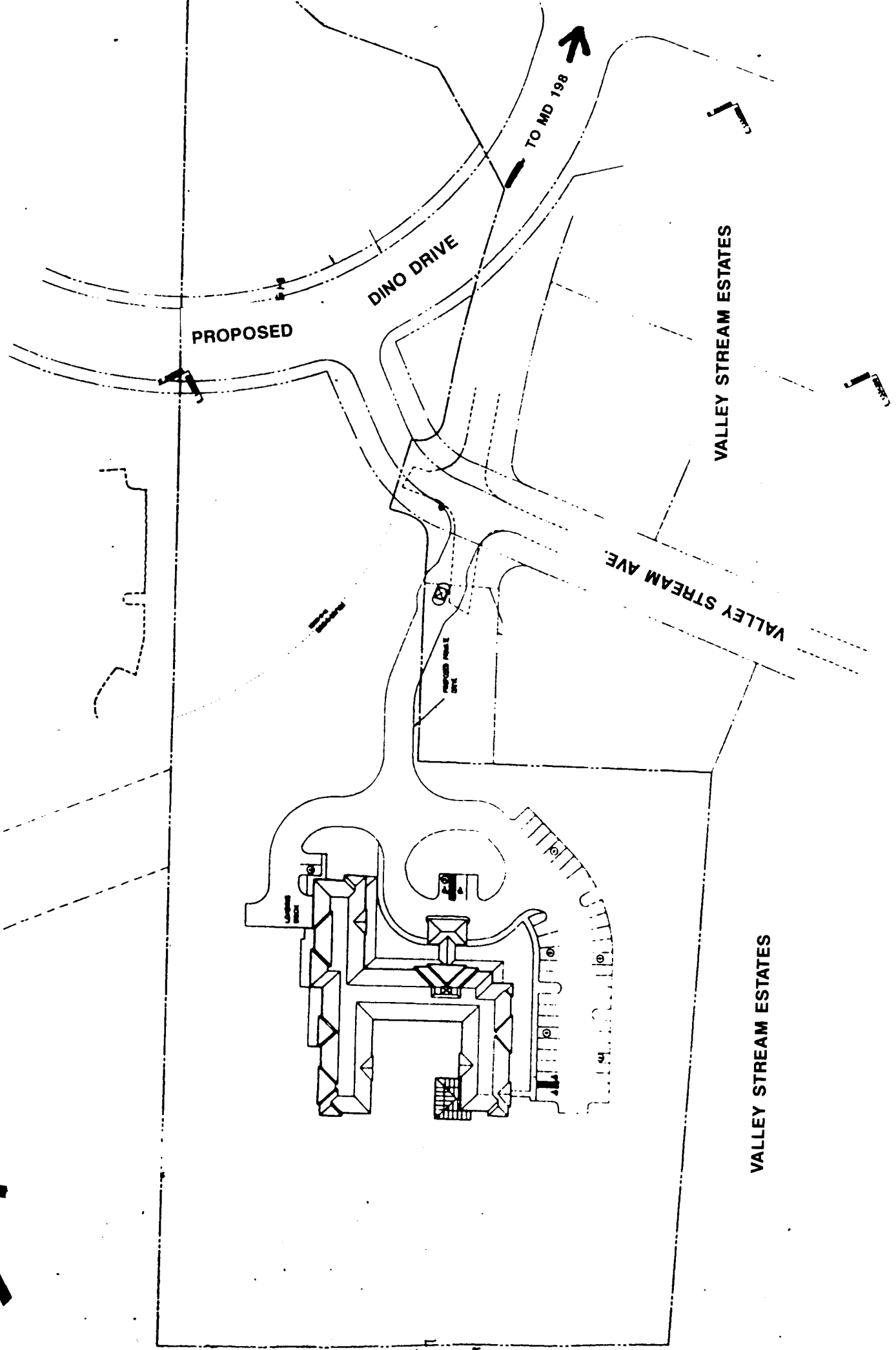


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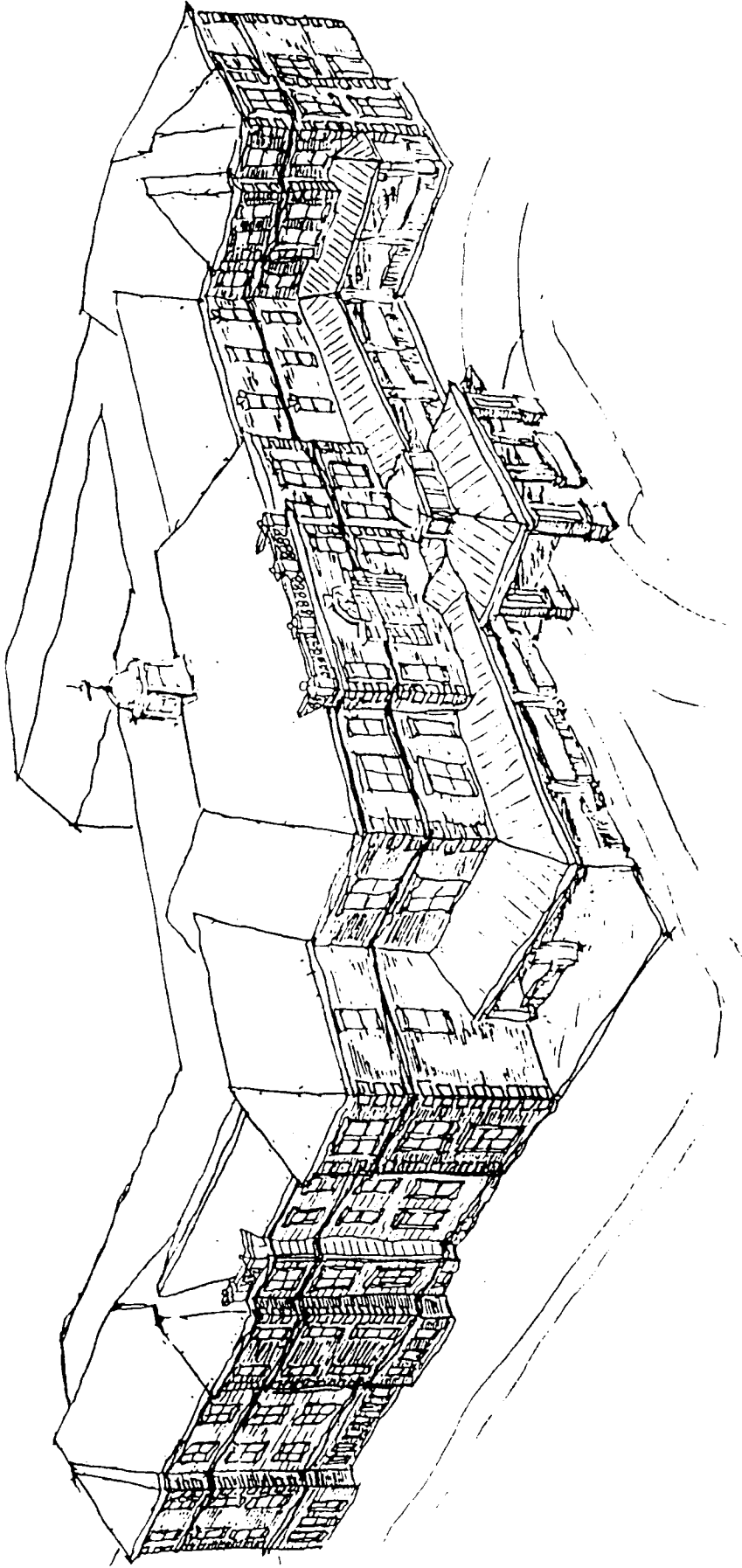
NOTE:
 THIS IS A TRUE COPY FROM THE FILES OF
 THE PLANNING AND ZONING DEPARTMENT, CAPITAL PARK A
 PLANNING COMMISSION
 DATE: 11/11/89 BY: [Signature]



S-2235



S-2235



SKETCH OF PROPOSED BUILDING

DEVELOPMENT SUMMARY

PROPERTY DEED 38167216

TAX MAP LB 121

PLANNING AREA FAIRLAND PLANNING AREA
P.A. 34SITE AREA: PARCEL B-1 5.068 AC.
PARCEL A-1 2.568 AC.

±7.636 AC

ZONING R-200 TDR (PARCEL B-1), O-M (PARCEL A-1)

PROPOSED USE FOR PARCEL B-1
NURSING AND CARE HOME
ELDERLY OR HANDICAPPED PERSONS

NUMBER OF BEDS: 123

PARKING REQUIREMENTS (59-E 3.7): 1 SPACE FOR EVERY
4 BEDS AND 1 SPACE PER 2 EMPLOYEES ON LARGEST SHIFT.

123 BEDS x 1/4 = 31)
+ 128 EMPLOYEES x 1/2 = 14)
<hr/>

45 SPACES REQUIRED

45 SPACES PROVIDED

	REQUIRED (ALLOWED)	PROPOSED (R200 PARCEL ONLY)
BUILDING COVERAGE:	25% - 1.27 AC (55,190 S.F.)	8.9% - 0.45 AC. (19,745 S.F.)
GROSS SQUARE FOOTAGE:	————	75,766 S.F.
BUILDING HEIGHT:	50' MAX.	50'
BUILDING SETBACKS SHOWN BASED ON: SEC. 59-G-2.37		
FRONT	40'	
SIDE	20'	
SIDE ADJACENT TO RESIDENTIAL:	30'	
REAR	30'	

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. S-2235
PETITION OF ELDERHOME, INC.
(Hearing held August 14, 1996)

Opinion of the Board
Effective date of Opinion: November 8 1996

Case No. S-2235 is the petition of Elderhome, Inc. for a special exception pursuant to Section 59-G-2.37 of the Zoning Ordinance to permit the construction and operation of a care home (assisted living and wellness facility) for up to 120 ambulatory senior residents.

Decision of the Board: Special exception GRANTED, subject to conditions enumerated below.

The subject property is Part of Parcel 191, containing 5.068 acres, located at the intersection of Dino Drive and Route 198, Burtonsville, Maryland, in the R-200\TDR Zone.

Jody Kline, Esquire, represented the petitioner, Elderhome, Inc. Testifying in support of the project were: John Clapsaddle, PE, qualified as an expert in civil engineering; Jan Clark, qualified as an expert in landscape architecture; and Steven Scott Schwartzman, qualified as an expert in architecture. The record contains a letter from Robert and Ellen Beck, adjoining property owners who noted their overall support of the project. However, the Beck's letter specifically addressed two concerns, building height and the parking lot location. Based on recognition of the fact that the file is complete and proves compliance with all the general and specific requirements of the special exception, an abbreviated oral presentation was made to the Board of Appeals. The presentation was basically limited to addressing the parking lot and building height concerns in response to the Beck's letter.

PETITIONER'S CASE

According to the petitioner's statement of operations, the applicant, Elderhome, has designed a 70,000 square foot, three-story building that would house as many as 120 persons, all of whom would be more than 62 years old, frail and in need of assistance with daily needs. The building will house the residents, who will live in individual suites, with bedrooms, baths, closets and small kitchenettes without stoves. The facility will offer common areas on each floor, a small convenience and book store, a chapel, and hair styling shops. Classrooms, a library, computer rooms and lecture halls will be used for individual education activities and lectures. A large dining room with private dining areas will be used for meals.

The center will provide a physical fitness center designed to encourage physical activity and recreation. The grounds will include fitness trails and walking paths, as well as gardening opportunities.

Elderhome employees will be on duty 24 hours a day to help with residents' daily routines and with all other activities. About 28 persons will be working at the facility during normal daytime operations. There will be three shifts for non-administrative workers: 6:30 a.m. to 3 p.m.; 2:30 p.m. to 11 p.m.; and 10:30 p.m. to 6 a.m.. Administrative staff will work a single daytime shift, 9:30 a.m. to 6 p.m..

Testifying on the subject of the parking area, Jan Clark explained that the zoning ordinance requires a hedge with 3 foot compact evergreen shrubs. The landscaping proposed would also include evergreens and the heavily forested site. An effort will be made to retain large areas of forest in the southwest corner of the property as well as the western edge and most of the southern lot line. Disturbance to the adjacent properties would be limited. An average of one foot candle in the parking lot would be adequate with adjustable shields on fixtures to limit light to the parking area. Additionally, staff will be directed to park in front of the building as close as possible to the front entrance at the 10:30 p.m. shift change. Additionally, the applicant agreed to increase the landscaping between the parking area and the Beck residence should the special exception be granted.

The proposed building is a modified "H". The building is predominantly a 3 story structure. It goes up to 4 stories to the rear of the property following the contour of the site. The building at its tallest point is less than 50' which is below the code requirement. The majority of the building is 45'. Topography drops off as the property moves away from the Beck residence which will help mitigate the building's height. Trees will also provide a building screen from the residence. Existing trees are approximately 30' - 50' high. Trees are primarily deciduous with existing understory.

The building has been designed in a way to reduce the impact of mass and bulk. Articulation of brick and block and the use of many double hung windows and a colonial style were planned to incorporate as many residential design elements as possible. The building was designed to be compatible with both the proposed use and the surrounding residential neighborhood. Other houses in the surrounding area which is flat with few trees are colonial or eclectic.

Most of the adjoining industrial area is undeveloped making further comparisons impossible. With this in mind, the building has been planned to stay within code guidelines as it serves as a buffer between a residential and industrial/commercial area.

At the time of the hearing, it was noted that the alignment of Dino Drive will play a role in final development plans for the subject property. The Planning Board has recommended in the Fairland Master Plan that Dino Drive be realigned and that it be the permanent access to the subject property. The petitioner requested that the two alternative plans for the driveway be approved whether or not the master plan relocates Dino Drive.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

M-NCPPC and the M-NCPPC Technical Staff recommended approval of S-2235 with conditions (Exhibits No. 14(a) and 14(b)).

FINDINGS OF THE BOARD

Based on the testimony and exhibits in the record, the Board finds that the petition satisfies all the requirements for Nursing and Care Homes found in Section 59-G-2.37 of the Zoning Ordinance and the general requirements for special exceptions contained in Section 59-G-1.21 of the Ordinance.

In reaching its findings, the Board found that the use is permitted in the zone; complies with the requirements and standards set forth in Section 59-G-2.37; is a use consistent with the 1981 Master Plan for the Eastern Montgomery County Planning Area and the Draft Fairland Master Plan. The draft, in fact, shows the southern part of the property as a possible site for elderly housing.

The Board found that the issue of Dino Drive's alignment is not relevant to land use and compatibility issues on this site, but will play a role in final development plans for the property.

Accordingly, the Board grants the requested special exception subject to the following conditions:

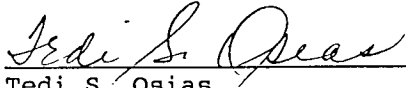
1. Special exception holder is bound by all the exhibits and testimony of record.
2. The holder of the special exception must obtain approval of a subdivision plan by the Montgomery County Planning Board.
3. The holder of the special exception must submit a landscape and lighting plan to Technical Staff for review and approval. Technical Staff must review the plan to determine that it provides ample screening of the facility from the Beck property. One copy of the approved plan must be submitted to the Zoning Supervisor at the Department of Permitting Services. One copy must be submitted to the Board for its records. All plant material must be installed according to plan and maintained and replaced as necessary. □
4. Construction must conform to Exhibit Nos. 11(a)-(e), except as modified by the staff approval of the landscape and lighting plan, and by resolution of issues regarding site access from Dino Drive or Valley Stream Avenue. □

The Board adopted the following Resolution:

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

On a motion by Allison Bryant, seconded by William Green with Donna Barron, Susan W. Turnbull and Helen Strang, Chair, in agreement, the Board adopted the foregoing resolution.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion book of the County Board of Appeals this 8th day of November, 1996.



Tedi S. Osias
Executive Secretary to the Board

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

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

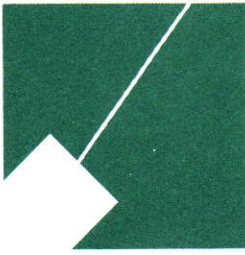
Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

See the Board's Rules of Procedure for information about the process for requesting reconsideration.

Exhibit B

Preliminary Plan 1-97094 Approval, March 25, 1998

M-NCPPC



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. Richardson, seconded
by Comm. Bryant with a vote of 3-0.
Comms. Richardson, Bryant and Hussmann
voting in favor. Comm. Holmes temporarily
absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-97094

NAME OF PLAN: WILLOWBROOK ASSISTED LIVING

On 05-27-97, ELDER HOME, INC submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 1 lot on 7.65 acres of land. The application was designated Preliminary Plan 1-97094. On 03-19-98, Preliminary Plan 1-97094 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 1-97094 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-97094, subject to the following conditions:

Approval, pursuant to the DeMinimis provisions of the FY98 Annual Growth Policy, subject to the following conditions:

- (1) Prior to recording of plat(s), submit an Adequate Public Facilities (APF) agreement with the Planning Board, limiting development to a care home (assisted living and wellness center) pursuant to the Board of Appeals approval opinion dated 11-8-97 for Case No. S-2235. The applicant must provide an operations statement as part of the APF agreement which outlines the mitigation of site-generated traffic by employees and service vendors. The work shifts of the employees and deliveries by the vendors should be scheduled so that they will not be traveling to or from the site between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m. on weekdays
- (2) Prior to recording of plat(s), enter into an agreement with the Planning Board and the Montgomery County Department of Public Works and Transportation to:
 - a) Participate in the construction of relocated Dino Drive
 - b) Dedicate the necessary right of way and easement areas for the relocated Dino Drive upon the execution of the participation agreement or ratification of construction contract, whichever occurs first
 - c) Upon construction of Dino Drive by the participants (or others) and the acceptance for maintenance of the right of way by MCDPW&T, Star Point Lane must be closed to traffic

- (3) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, or issuance of building permit, as appropriate
- (4) Prior to recording of plat(s), final County Council approval of abandonment resolution for Dino Drive
- (5) Prior to submission of building permit, applicant to notify MDSHA in writing of their intent to construct the facility
- (6) Record plat(s) to reflect delineation of conservation easements over the areas of flood plain, stream valley buffer and tree preservation
- (7) Conditions of MCDPS stormwater management approval dated 6-20-97
- (8) Prior to recording of plat(s), technical staff approval of the location and possible improvements needed for access to abutting proposed park area
- (9) Record plat(s) to reference abandonment resolution for Dino Drive and any construction and/or access easements
- (10) Final access and improvements to be approved by MCDPW&T prior to recording of plat(s)
- (11) Other necessary easements
- (12) This preliminary plan will remain valid until April 25, 2001 (37 months from date of mailing, which is March 25, 1998). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

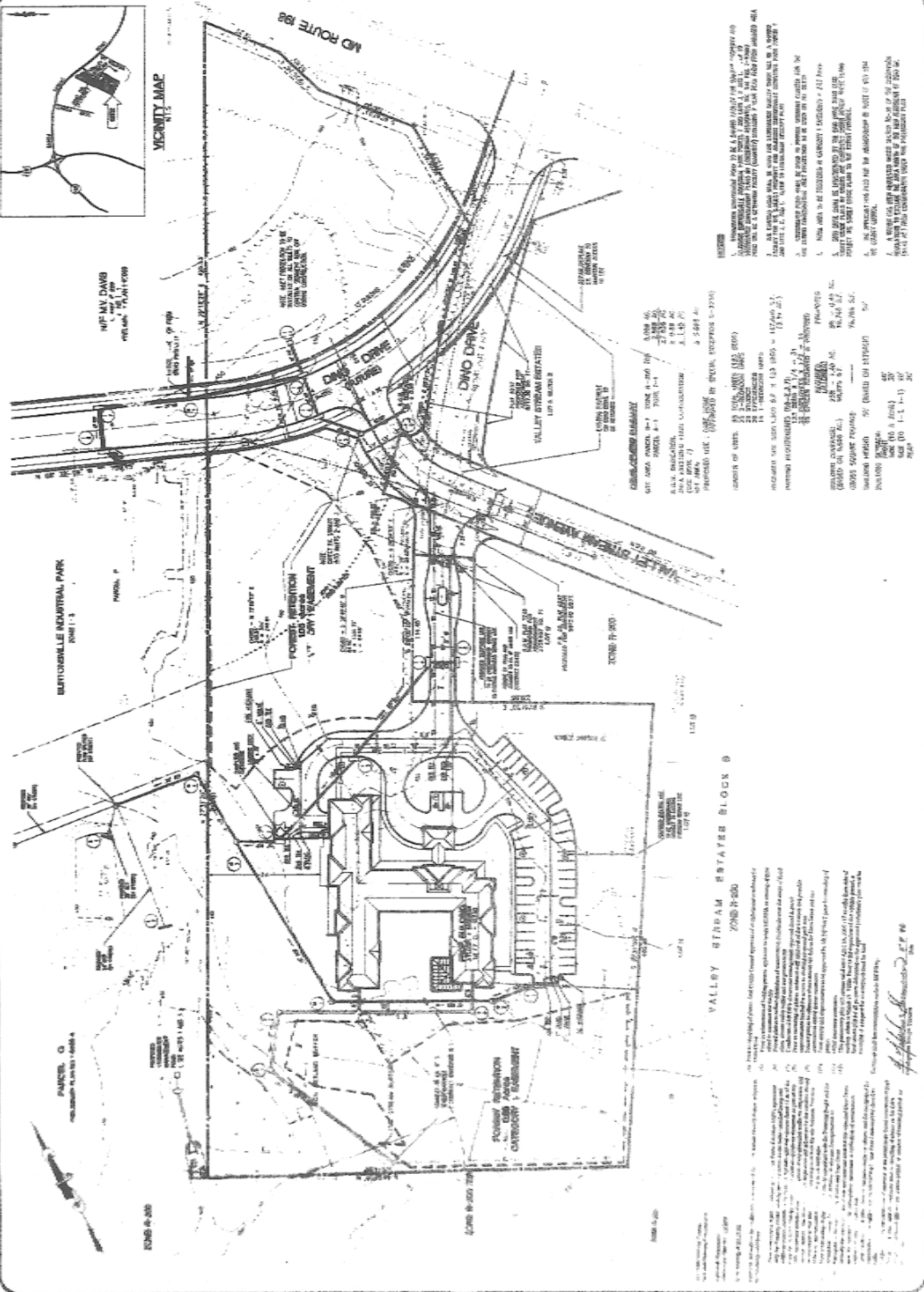
Exhibit C

Approved Dino Drive Road Plan, May 9, 1998

11970940

WILLOWBROOK ASSISTED LIVING FACILITY
 THE MAP SHOWS AND LABELS FACILITIES, THE COLLECTIVE TRAIL SIGNIFICANT OBJECTS
 MONTGOMERY COUNTY, MARYLAND

ELDERHOME INC.
 700 ROCK SPRING AVENUE
 ROCK SPRING, MD 20850
 301-491-8888



NOTES:

1. THIS AREA IS BEING DEVELOPED AS A RESIDENTIAL COMMUNITY FOR THE ELDERLY AND DISABLED. THE DEVELOPMENT WILL BE PHASED AND THE PHASES WILL BE SEPARATELY SUBMITTED TO THE LOCAL GOVERNMENT FOR REVIEW AND APPROVAL. THE PHASES WILL BE SEPARATELY SUBMITTED TO THE LOCAL GOVERNMENT FOR REVIEW AND APPROVAL. THE PHASES WILL BE SEPARATELY SUBMITTED TO THE LOCAL GOVERNMENT FOR REVIEW AND APPROVAL.
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GENERAL NOTES:

1. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND THE STATE OF MARYLAND. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND THE STATE OF MARYLAND. THE DEVELOPER HAS OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND THE STATE OF MARYLAND.

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Professional signature and seal

Exhibit D

**Special Exception S-2235 Extension
Granted Through October 1, 2003**

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

www.montgomerycountymd.gov/mc/council/board.html

WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 1, 2003, 9:00 A.M.

ACTION CALENDAR:

1. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following case:

- (a) **A-5892, Petition of Paul and Deborah Vergara** (second-story addition). Hearing held 7/9/03.
- (b) **A-5895, Petition of Ellis Theodorakos** (new single-family dwelling and a detached garage). Hearing held 7/23/03.
- (c) **A-5900, Petition of Patrick J. and Deborah D. Logsdon** (second-story addition). Hearing held 7/23/03.
- (d) **A-5901, Petition of Darlene Cowell** (one-story addition). Hearing held 7/23/03.
- (e) **A-5902, Petition of Charlotte Coffield (one-story addition). Hearing held 7/23/03.**
- (f) **A-5907, Petition of Lamont and Traci Hoffman** (an accessory structure/pool). Hearing held 7/23/03.

Action: Granted Order Extending Time, (LLM/AMC, 4-0).

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman - ABSENT
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

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WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 1, 2003, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, September 17 and 24, 2003 Worksessions.
Action: Approved as amended, (AIF/LLM, 4-0).
2. **A-5823, Appeal of Laurie E. Burch** (Department of Permitting Services (DPS) – Letter dated August 26, 2002). Letter to the Board from Sheldon P. Schuman, Esquire, withdrawing the appeal.
Action: Dismissed the appeal as withdrawn (LLM/AMC, 4-0)
3. **A-5890, Petition of Stephen Kern** (existing single-family dwelling, second-story addition, covered porch). Letter to the Board from Ben Van Dusen, AIA, requesting reconsideration.
Action: Denied request for reconsideration, (AMC/AIF, 4-0).
4. **CBA-1261 [CBA-1261-A], Petition of Barrie School** (private educational institution). Letter to the Board from Susan W. Carter, Esquire, requesting a clarification or an administrative modification.
Action: Granted administrative modification, (AIF/LLM, 4-0).
5. **CBA-2256, Petition of Danac Real Estate Investment Corporation** (automobile filling station). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.
Action: Revoked special exception as abandoned, (AMC/LLM, 4-0).
6. **CBA-2602, Petition of Al Golden & Simon Wolfman** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.
Action: Schedule Show Cause Hearing, (AMC/AIF, 4-0).

7. **CBA-2740, Petition of American Oil Company** (automobile filling station). Memorandum to the Board from the Stanley N. Garber, Investigator, DPR, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AIF, 4-0).

8. **CBA-175, Petition of Francis P. Noonan** (commercial riding stable and boarding). Letter to the Board John F. Whittemore, requesting a transfer of the special exception. Also included is a memorandum from Barbara J. Piczak, Inspector, DPS.

Action: (1) Refer the MNCPPC Technical Staff for review; (2) schedule Show Cause Hearing, (AMC/LLM, 4-0).

9. **S-416, Petition of Helen Brown** (home occupation). Memorandum to the Board from Barbara J. Piczak, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is letter of confirmation from the property owner.

Action: Revoked special exception as abandoned, (LLM/AIF, 4-0).

10. **S-456, Petition of Suburban Hospital Association, Inc.** (medical clinic). Letter to the Board from Scott C. Wallace, Esquire, requesting a transfer of the special exception and an administrative modification. (Large exhibit: landscape and lighting plan).

Action: (1) Granted transfer of the special exception; (2) granted administrative modification, (LLM/AIF, 4-0).

11. **S-518-B, Petition of American Speech-Language-Hearing Association (ASHA)** (private educational institution). Letter to the Board from Jody L. Kline, Esquire, withdrawing the special exception modification and requesting a 50% refund of the filing fee.

Action: Item deferred to a future Worksession.

12. **S-597, Petition of H. Steven Steinberg, V.M.D. and Kenneth R. Cowell, D.V.M.** (charitable and philanthropic institution). Letter to Board from Nicole M. Lacoste, Esquire, requesting a transfer of the special exception and administrative modification. (Large exhibit: site plan).

Action: (1) Denied administrative modification; (2) schedule Show Cause Hearing, (LLM/AIF, 4-0).

13. **S-682 [S-682-A, S-682-B, S-682-C, S-682-D], Petition of Bethesda Air Rights Company (t/a Bethesda Sport and Health Club).** Letter to the Board from Jody S. Kline, Esquire, notifying the Board the special exception is a permitted use in the zone and requesting that it be revoked. Also included is a letter from Pamela Browning.

Action: Revoked special exception as abandoned, the use is now permitted in the zone, (LLM/AIF, 4-0).

14. **S-688, Petition of The Barnesville School, Inc.** (private educational institution). Letter to the Board from Jaralyn L. Hough, Head of School, requesting an administrative modification.

Action: Item deferred for staff to request additional information.

15. **S-689 [S689-A, S-689-B], Petition of Kenwood Golf and Country Club** (golf and country club). Letters to the Board from James I. and Rukmini Seevaratnam and Sherwin Gardner, requesting a public hearing. Also included is a letter from Harry W. Lerch, Esquire.

Action: (1) Referred to the Office of the Hearing Examiner for a public hearing; (1) public hearing is scheduled for 1/26/04 @ 9:30 a.m., (LLM/AMC, 4-0).

16. **S-831-A [S-831], Petition of Exxon Corporation** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (AIF/LLM, 4-0).

17. **S-1346, Petition of Lucile B. Rowe** (home occupation). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is letter of confirmation from the property owner.

Action: Revoked special exception as abandoned, (AMC/AIF, 4-0).

18. **S-1380, Petition of Cary W. Greene** (non-resident medical practitioner's office). Letter to the Board from Jim and Stephen Lee requesting transfer of the special exception.

Action: Granted transfer of the special exception, (LLM/AIF, 4-0).

19. **S-1412, Petition of James W. Adcook** (accessory apartment). Memorandum to the Board from Lynn McCreary, Housing Code Inspector, Department of Housing and Community Affairs (DHCA), notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Item deferred for confirmation from the petitioner or property owner.

20. **S-1436, Petition of Amoco Oil Company** (automobile filling station). Memorandum to the Board from Stanley N. Garber requesting revocation of the special exception.

Action: Revoked special exception, (???/???, 4-0).

21. **S-1727, Petition of Bonneville Satellite Communications** (radio and television broadcasting stations and towers). Report and recommendation from Joel A. Gallihue, Zoning Analyst, M-NCPPC.

Action: (1) Re-opened the record to include M-NCPPC's Report and Recommendation (AIF/AMC, 4-0).

22. **S-1785, Petition of Mardirossian Family Enterprises** (automobile filling station and convenience and beverage store). Letter from Susan W. Carter, Esquire, requesting an administrative modification and that the Board dismiss or postpone the Show Cause Hearing. (Large exhibits: approved plans: site, landscape, signage, and elevations/construction details plans; proposed plans: landscape, lighting, signage and elevation plans).

Action: (1) Re-opened the record to include Ms. Carter's letter, (2) dismissed Show Cause Hearing; (3) granted administrative modification, (LLM/AMC, 4-0).

23. **S-1901, Petition of David Carrier and Monica Lander** (accessory apartment). Memorandum from Kevin Martell, Housing Code Field Supervisor, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked special exception as abandoned, (AMC/AIF, 4-0).

24. **S-2032, Petition of Claude Nicholson** (accessory apartment). Memorandum from Robert Dejter, Housing Code Field Supervisor, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (AMC/LLM, 4-0).

25. **S-2054, Petition of Rita Abdulkader** (accessory apartment). Letter to the Board from Michelle Weaver requesting reconsideration.

Action: Denied request for reconsideration, (AMC/LLM, 4-0).

26. **S-2235, Petition of Elderhome, Inc.** (care home). Letter to the Board from Stanley D. Abrams, Esquire, requesting an extension of time. Also included is Memorandum from Piera Weiss, Planner, M-NCPPC.

Action: Denied request for extension of time, (LLMAMC, 4-0).

27. **S-2515, Petition of Sprint PCS/APC Realty and Equipment Company, LLC and Terry H., Nerissa B. Frank H. and Eric Z. Lloyd** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from James R. Michal, Esquire, Michael R. Smith, and Peter Menke, Mayor, Town of Barnesville, requesting an administrative modification. (Large exhibit: monopole elevation).

Action: Granted administrative modification, (LLM/AIF, 4-0).

28. **S-2235, Petition of Mohammed A. Motalib** (accessory apartment). Letter to the Board from the petitioner withdrawing the special exception.

Action: Dismissed the special exception as withdrawn, (LLM/AMC, 4-0).

DECISION ITEMS:

29. **S-2079, Petition of Alberto F. Reluzco** (landscape contractor). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiner's report and recommendation and granted the special exception, (AIF/AMC, 4-0).

30. **S-2476, Petition of Safeway, Inc.** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter from C. Robert Dalrymple, Esquire, and Anne C. Martin, Esquire.

Action: Item deferred for a future Worksession.

PENDING ITEMS:

31. **CBA-916 [S-615], Petition of The Public Health Service Club, Inc. and The Foundation for Advanced Education in the Sciences, Inc.** (private club). Letter to the Board from Lois W. Kochanski, Executive Director, requesting an administrative modification and the deletion of one of the special exception holders. Item deferred for confirmation of the deletion of Public Health Service Club as a special exception holder.
32. **CBA-1332, Petition of Huggins and Harrison, Inc.** (outdoor automobile sales lot). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information. Board requests a site plan with dimensions that shows the location of the trailer in relation to the property's boundary lines.
33. **CBA-1620, Petition of Jack Coopersmith** (automobile filling station). Letter to the Board from John R. Barr, Esquire, requesting a transfer and an administrative modification. Also included is a letter of support from the Darnestown Civic Association. (Large exhibits: site and construction details plans). Referred to the M-NCPPC Technical Staff for review.
34. **CBA-2180 and S-254, Petition J. H. Burton and Sons, of Hyattsville, Inc.** (horticultural nursery and commercial greenhouse). Letter to the Board from Kevin P. Fay, Esquire, requesting the record to be re-opened to admit a June 11, 1999 site plan. Item deferred to allow Board time to review file.
35. **CBA-2196, Petition Chevron U.S.A.** (automobile filling station). Letter to the Board from C. Robert Dalrymple, Esquire, and Yum Yu Cheng, Esquire, requesting a transfer and an administrative modification. (Large exhibits: concept plan, survey and plot plan). Request referred to staff for comment.
36. **CBA-2709, Petition of Leonard Tempchin, et al t/a Silver Spring Associates** (off-street parking). Letter to the Board from Avi Halpert, Property Manager, requesting an administrative modification. Also included is a memorandum from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred to next available Worksession.
37. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.
38. **S-858, Petition of Surjeet K. Singh** (child day care facility). Letter to the Board from the petitioner requesting an administrative modification. Also included is a memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred for review by DPS of trash enclosure, stockade fence, existing and proposed landscaping and use of pool.
39. **S-1064, Petition of Greentech Landscaping, Inc.** (horticultural nursery and greenhouse). Letter to the Board from Leon Trager and Andrew Sebastian, requesting a transfer and an administrative modification. Deferred for review by M-NCPPC Technical Staff.
40. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property.

PENDING ITEMS (continued):

41. **S-2477, Petition of American Tower Corporation and AT&T Wireless Services** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from John R. D. Copley. Referred to DPS for review.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman - ABSENT
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

Exhibit E

Development Pipeline Showing APF Expiration, April 24, 2018

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Pipeline of Approved Development

Montgomery County, Maryland

The Montgomery Planning Department tracks the residential and non-residential development Pipeline for Montgomery County (Rockville, Gaithersburg, Laytonsville, and Poolesville included*). The Pipeline is an inventory of development projects that have been approved by the Montgomery County Planning Board but not completely built. This inventory covers unbuilt dwellings units and unbuilt non-residential building gross square footage.

Residential dwelling units are further characterized into single-family dwellings and multi-family dwellings. Non-residential gross floor area is characterized into the number of jobs and gross floor area for office, retail, industrial, and other non-residential types associated with the project.

* Rockville, Gaithersburg, Laytonsville, and Poolesville perform their own planning functions and have provided their pipeline data.

1. **September, 2017:** [Pipeline by Master Plan](#)

Montgomery County Development Pipeline (spreadsheet) contains residential and non-residential Pipeline by Master Plan. Expand each Master Plan to get project record level details, by clicking the plus (+) button to left of the Master Plan row. If you unhide columns "A" through "F" you can manipulate the data by master plan, policy area, traffic zones, submittal date, and Adequate Public Facility (APF) expiration date.

- **September, 2017:** [Pipeline Record Level Detail](#)
- **September, 2017:** [Pipeline Master Plan Summary](#)

2. **September, 2017:** [Pipeline Breakdown by Residential, Non-residential, and Mixed Developments](#)

Breakdown of the Pipeline in 5 year increments and by residential, non-residential and mixed developments. Rockville, Gaithersburg, Laytonsville, and Poolesville's Pipeline are not included in this report.

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[Steve Combs](#)

