Montgomery Planning S. W. BLOYD PROPERTIES LLC CONDITIONAL USE NO. CU202419



Request for Conditional Use approval for a residential care facility for up to 10 persons located at 5501 Southwick Street, west of Old Georgetown Road, in Bethesda.

COMPLETED: 11/19/2024 ADMINISTRATIVE APPROVAL



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LOCATION/ADDRESS

5501 Southwick Street, Bethesda

MASTER PLAN

1990 Bethesda Chevy Chase Master Plan

ZONE

R-60

PROPERTY SIZE

0.50 acres

APPLICANT

S.W. Bloyd Properties, LLC

ACCEPTANCE DATE

August 6, 2024

REVIEW BASIS

Chapter 59

HEARING EXAMINER PUBLIC HEARING

December 10, 2024

Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner for a hearing scheduled on December 10, 2024.
- This Application is being reviewed administratively per Chapter 59-7.3.1.D which states: "The Planning Director may provide a report and recommendation for review by the Planning Board at a public meeting or issue a report and recommendation directly to the Hearing Examiner."
- Accordingly, Montgomery County Planning Board policy 2024-03 allows for the administrative review and transmittal of recommendations to the Hearing Examiner for any conditional use application that does not require further regulatory approvals.
- No exterior improvements are included in the proposal. All construction will occur within the existing building. No additional parking is required or requested onsite. Therefore, no further Planning Department approvals are required.
- The Subject Site currently operates as an existing residential care facility for up to 8 individuals, which is allowed by right in the R-60 zone. The Proposal requests approval for up to 10 residents to be housed within the existing residential care facility.
- Staff has not received any public correspondence as of the date of this Staff Report.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO. CU202419

Staff recommends approval of S.W. Bloyd Properties LLC Conditional Use No. CU202419, for a residential care facility accommodating up to ten (10) persons, subject to the following conditions:

- 1. The use is limited to a residential care facility for up to ten (10) residents.
- 2. The maximum number of employees allowed onsite at any one time is five (5) for the day and evening shift and three (3) for the overnight shift.
- 3. The Applicant must obtain all necessary licensing/permits for operation of the residential care facility.
- 4. The Applicant will submit a waiver for the bicycle parking requirements to the Hearing Examiner for review during the Public Hearing with the Office of Zoning and Administrative Hearings.

PROPERTY DESCRIPTION

The Property consists of a single lot located at 5501 Southwick Street, Bethesda (Property or Subject Property). The Property is identified as "Lot 8, Block 2" as recorded on Plat 131, dated August 1910. The Property is zoned R-60 and has an area of 21,586 square feet (0.50 acres), and is generally rectangular in shape. It is developed with a single brick structure, residential in character, appearing similar to a single-family residential structure. The Subject Property features a half-circle driveway with ample queuing and drop-off space onsite. The Property also features a parking area facing Old Georgetown Road, accessed from Southwick Street. The Subject Property has operated as a residential care facility, known as the Auxiliary House, for up to eight residents since 1995. The facility contains approximately 8,100 square feet of floor area and currently provides each resident with a private studio bedroom with an attached private bathroom.

The site does not contain any streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, hydraulically adjacent steep slopes, or known occurrences of Rare, Threatened and Endangered species. The site drains to the Cabin John Creek watershed, a State Use Class I-P stream. The site is not within a Special Protection Area.



Figure 1: Subject Property viewed from Southwick Street

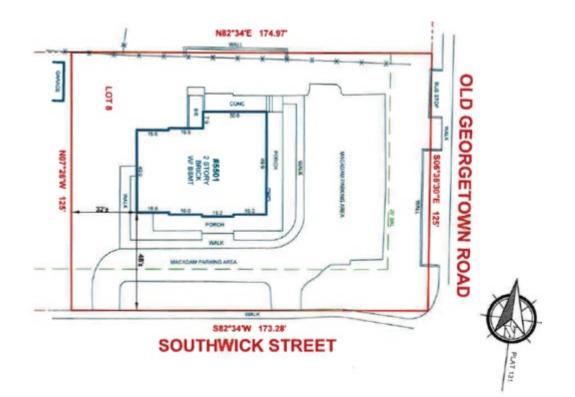


Figure 2: Conditional Use Plan / Existing Conditions

VICINITY/NEIGHBORHOOD

The Property is located on the north side of Southwick Street, at the intersection of Southwick Street and Old Georgetown Road (Maryland State Highway MD 187). As shown in Figure 3 below, the Staffdefined neighborhood surrounding the Subject Property is generally bound by Sonoma Road/Center Drive to the north, Old Georgetown Road to the east, McKinley Street/Suburban Hospital to the south, and Garfield Street/Oneida Lane to the west. This area is primarily developed with single-family detached residential dwellings to the north and west of the Subject Property but is also complimented by the institutional uses of Suburban Hospital and the National Institutes of Health to the South and West.



Figure 2: Vicinity Map with Staff-defined neighborhood

The Subject Property is located immediately south of the historic Bethesda Community Store Master Plan Site (#34/43). Constructed in 1924, the store's simple utilitarian design is typical of early 20thcentury commercial buildings. The store was designated on the Master Plan for Historic Preservation for its significance as one of the few remaining structures from rural Bethesda's pre-development period and as a well-established local landmark along Old Georgetown Rd. The changes proposed to the Subject Property will not impact the Master Plan Site or its environmental setting. It should be noted that the store has been closed since 2016 and the property now features a temporary structure housing a local deli franchise.



Figure 3: Historic Bethesda Community Store (left) and deli (right)

The staff-defined neighborhood is entirely within the R-60 zone and in the 1990 *Bethesda-Chevy Chase Master Plan* area. This report includes analysis regarding the compatibility of the existing residential care facility within this context. In addition to this Application, Staff identified the following four existing, approved conditional use/special exceptions within the defined neighborhood:

- 1. Special Exception S2065 for an accessory apartment
- 2. Special Exception S1320– for a charitable/philanthropic institution
- 3. Special Exceptions S274, S274A, S274B, S274C, S274D, CBA2283, CBA2896 for the operation of a Hospital (Suburban Hospital) and construction/maintenance of its associated facilities
- 4. Special Exception and S639 for a private educational institution located at Suburban Hospital

SECTION 3: PROJECT DESCRIPTION

EXISTING CONDTIONS/PREVIOUS APPROVALS

Per section 59-3.1.6, a residential care facility (up to 8 people) is classified as a permitted use in the R-60 zone. The Applicant has established the Subject Property as an active residential care facility under this designation since 1995 under the name Auxiliary House, owned by the Applicant - S.W. Bloyd Properties LLC.

PROPOSAL

Auxiliary House offers personalized, licensed memory care catered to residents in the early and moderate stages of Alzheimer's or other forms of dementia, with services including assistance with daily living activities, medication management, holistic memory care activities, housekeeping and laundry, and supportive technology. To further operations, the Applicant proposes an expansion of the residential care facility from eight (8) persons to ten (10) persons. A Residential Care Facility is defined in Section 59-3.3.2.E of the Zoning Code as group care for persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. Such a facility must have applicable federal, state and county licensing.

This Application proposes no physical changes to the exterior of the Property. The facility will accommodate the additional residents solely through limited internal changes to the building; in addition to the existing eight-bedroom units with adjoining bathrooms occupied by residents, the Property has two existing bedrooms with adjoining bathrooms that currently serve as a model/show room and a conference room. As such, no physical alterations are needed to increase the maximum occupancy to accommodate ten (10) residents.

Auxiliary House will continue to provide 24-hour staff support to residents, comprised of three shifts (day, evening, and overnight). The largest shift contains five (5) employees during daytime and evening hours, with three (3) employees overnight. Individual support is provided through a typical staff- to-resident ratio of 1:4 during both the day and evening shifts and 1:8 overnight. Auxiliary House managers are on-site seven days a week. External health specialists, such as doctors, mobile dentists, and therapists, are scheduled to provide on-site care as needed. The shift hours are included below for the maximum of ten (10) residents, with appropriate adjustments taken to correlate with any reduced resident numbers as occupancy in the facility fluctuates. Typically, the staff's full time morning shift begins at 7:00 a.m. and ends at 3:00 p.m.; the evening shift begins at 3:00 p.m. and ends at 11:00 p.m.; and the overnight shift begins at 11:00 p.m. and ends at 7:00 a.m.

Auxiliary House is a secure environment, and residents can only leave the building if accompanied by a staff member or a family member. As discussed in the Applicant's Traffic Statement, residents do not have their own vehicles on-site. Residents are transported by family, friends, or staff. Visitation by family and friends does not constitute a significant stream of traffic, especially during peak travel hours. Delivery of food and supplies for the facility and residents is anticipated to remain at the current frequency of one to three times per week but may increase slightly. Accordingly, the Applicant does not anticipate a significant change in vehicular traffic associated with the increase in residency.

ENVIRONMENT

This Project is not subject to Chapter 22A (Forest Conservation) because (1) the Application applies to a property of less than 40,000 square feet, (2) the Property is not subject to a previously approved Forest Conservation Plan, and (3) the Conditional Use proposal will not impact any champion tree as

defined by the Montgomery County Forestry Board. This was confirmed by Planning Staff in a letter dated June 20, 2024, and is included as Attachment A to this Staff Report.

SECTION 4: COMMUNITY CORRESPONDENCE

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

SECTION 5: FINDINGS

CONDITIONAL USE NO. CU202419

- 1. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:
 - a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.

The Site does not have any applicable previous approvals.

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

A residential care facility for 9-16 persons is allowed as a conditional use in the R-60 Zone. Where a Residential Care Facility (9 - 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards (59-3.3.2.E.2.b):

- A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.
 The proposed facility is not a group home for children.
- ii. Height, density, coverage, and parking standards must be compatible with surrounding uses and the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood

The height, density, coverage, and parking are associated with an

existing building onsite which is not proposed to change with this Application. The existing two-floor building is residential in character in line with the neighboring properties, as shown above, and adheres to the height, density, coverage, and parking standards of the R-60 zone.

ii. Development Standards

Development Standard Section (59.4.4.9)	Permitted/ Required	Existing/Proposed*
Minimum Lot Area	6,000 SF	21,000 SF
Minimum Lot Width at Front Building Line	60 ft	74 ft
Minimum Lot Width at Front Lot Line	25 ft	74 ft
Maximum Density	7.26 units/acre	<7.26 units/acre
Maximum Lot Coverage	35%	< 35%
Minimum Front Setback	25 ft	25 ft
Minimum Side Setback	8 ft	8 ft
Minimum Sum of Side Setbacks	18 ft	18 ft
Minimum Rear Setback	20 ft	20 ft
Maximum Height	35 ft	35 ft
Vehicle Parking Requirement (Section 59.6.2.4.B) (0.25 spaces per bed x 10 residents plus 0.5 spaces per employee x 4 employees)	6 spaces	9 spaces
Bicycle Parking spaces	1 long-term and 1 short-term space**	0

Table 1: Development and Parking Standards (R-60 Zone)

* There are no proposed external changes to existing building with this Application.

** The applicant is submitting a waiver for the bicycle parking requirements to the OZAH for approval by the Hearing Examiner at the scheduled Conditional Use Public Hearing.

iii. General Requirements

(1) Access- 59-6.1.4

Existing vehicular access to the Property is provided by one driveway curb cut onto Southwick Street. This Application does not propose to change this existing configuration which is safe and efficient for the current use and proposed expansion.

(2) Parking, Queuing and Loading-59-6.2

As demonstrated in Table 1, there is sufficient parking existing on-site to serve the proposed residential care facility. In accordance with the applicable Parking Requirements of Section 59.6.2.4., this residential care facility use for ten (10) residents requires a minimum of six (6) parking spaces (0.25 spaces per bed and 0.5 spaces per employee) and the existing facility provides nine (9) parking spaces onsite. The configuration and number of existing parking areas is proposed to remain unchanged by this Application.

Per the bicycle parking requirements in Section 59-6.2.4, this residential care facility with a maximum of four employees on site at a time requires a minimum of one (1) long-term and one (1) short-term bicycle parking space. However, since the number of employees is not changing from what is existing and the bicycle parking requirements are calculated based on the number of employees, Staff concludes that the existing bicycle parking is satisfactory and supports waiving the bicycle parking requirement. Section 59-6.2.10 provides the basis for a parking waiver; in this instance the Hearing Examiner has the final determination on the approval of the waiver.

An existing six-foot-high privacy fence provides screening between the parking area and the neighboring property to the north, which abuts the parking area. Landscape plantings are also provided per 59.6.2.9. and this Application satisfies the parking lot requirements under section 59.6.2.9.B through the existing landscaping and fencing between the Subject Property and the adjacent residential detached zoned lot to the north. (see Attachment C for parking plan).

(3) Open Space and Recreation-59-6.3

Not Applicable in the R-60 zone for this development.

(4) Landscaping and Outdoor Lighting- 59-6.4

As required by Section 59-6.4.4.D, the photometric plans indicate that illumination at the lot line will not exceed 0.5 footcandles, excluding street lights within the right-of-way. No changes to existing features, including lighting and landscaping, are proposed with this Application.

(5) Screening-59-6.5

As the proposed residential care facility use is within a detached house, this section is not applicable to the Subject Application per 6.5.2.

(6) Outdoor Display and Storage- 59-6.6

Not Applicable per 59-6.6.2.A as no merchandise, material, or equipment is displayed or stored outside of the building on the Subject Property.

(7) Signage-59-6.7

There is no existing signage onsite, nor any proposed signage associated with this Application.

c) substantially conforms with the recommendations of the applicable master plan;

The Site is located within the 1990 *Bethesda-Chevy Chase Master Plan* (Master Plan) area, which does not include recommendations specific to the Subject Property. However, this proposal substantially conforms to the general recommendations of the Master Plan for Old Georgetown Road. The Master Plan recommends discouraging "further special exceptions not only along the Road but also in adjacent communities, except for community-serving uses (pg. 59)." Among the examples of listed community service uses is "elderly care and housing [and] group homes." The proposed Conditional Use is for a community serving residential care facility which is classified elderly care/group housing in the zoning ordinance.

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

The proposed use is harmonious with and will not alter the character of the surrounding neighborhood. The proposed use includes only a modest two-resident increase for the facility which has served up to eight (8) residents at a time during its eight years in the community with no complaints filed in that time; notably, a residential care facility has been in operation at the Subject Property for at least 20 years inclusive of SW Bloyd's ownership of the Property. The facility already contains the capacity for this increase in users, without the need for exterior modification, and does not expect a noticeable increase in intensity of operation requirements with this proposal.

Given that this facility has operated this use successfully in the community, has a residential appearance, and provides elderly care, which is cited as a recommendation in the Master Plan, this Application will continue to be compatible with the existing neighborhood.

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

This Application will not increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely. The Master Plan, as cited above, contains recommendations which limit new conditional uses except for those that directly serve the community, which is largely residential in nature; in addition to the residential character, the institutional uses in the neighborhood all relate to community serving health/medical needs which is in line with the proposed residential care facility. Although the number of conditional uses in the area would increase by one with this Application, the facility already operates as a permitted use in the neighborhood. Functionally, the neighborhood would remain unchanged with this proposed conditional use Application given its extensive history in this neighborhood.

f) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

> if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or

A Preliminary Plan of Subdivision is not required because the Property is already a recorded lot. Staff has determined that there are adequate public services and facilities to serve the proposed use as described below.

(1) Transportation

Master-Planned Roadways and Bikeway

The Property has frontage on both Old Georgetown Road and Southwick Street. Old Georgetown Road is classified as a Boulevard in the Master Plan of Highways and Transitways. The 2018 *Bicycle Master Plan* and 2024 *Complete Streets Design Guide* envision a sidepath on Old Georgetown Road. Since the Applicant is only seeking to accommodate two additional residents at this site and no exterior changes to the

building will be made, the existing conditions are satisfactory. However, should there be any further increase in residents above the ten (10) currently proposed, then the Applicant may need to participate in frontage improvements in compliance with the 2024 *Complete Streets Design Guide* and 2018 *Bicycle Master Plan*.

Pedestrian Facilities

There is an existing buffered sidewalk on Southwick Street and an unbuffered sidewalk on Old Georgetown Road; no additional pedestrian facilities are recommended or proposed with this Application.

Parking and Drop-Off/Pick-Up

A total of nine (9) parking spaces are provided in onsite; additionally, the existing half-circle driveway provides queuing and drop-off space onsite. No changes to the parking and drop-off/pick-up zone areas are proposed.

Local Area Transportation Review

The proposed increase in residents from eight to 10 will not generate more than 50 net new peak hour person trips and thus a transportation impact study is not required. Over the past eight years that this Property has operated as a residential care facility, none of the residents have owned or operated a personal vehicle. In addition, with 10 residents the maximum staffing is anticipated to be five (5) during the daytime and evening shifts and three (3) in the overnight shift.

(2) Schools

This Application has no impact on school capacity because the proposed residential care facility provides residency to an adult population who are not enrolled in school.

(3) Other Public Facilities

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy in effect at the time that the Application was submitted.

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

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 1.4.2 of the Zoning Ordinance defines inherent adverse effects as "adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations." Inherent adverse effects, alone, are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as "adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site." Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes "undue" harm to the surrounding neighborhood. When analyzing whether impacts are inherent or noninherent, Staff examines the size, scale, scope, light, noise, traffic and environmental effects of the proposed use. Given that the facility current operates a residential care facility for up to 8 residents, the peaceful enjoyment, economical value, or development potential of abutting and confronting properties will be unaffected by the proposal. As described in the findings above, traffic and associated noise, odors, dust, and parking impacts not expected to change given that the residents do not drive and staffing will not change. Further, the existing onsite parking facility continues to provide adequate parking associated with the use. The health, safety, and welfare of neighboring residents, visitors, and employees is not expected to be impacted as the proposed use is unchanged from the existing condition and the modest expansion is not expected to be noticeable outside of the facility given that no exterior changes are proposed.

Staff identified the following physical and operational characteristics necessarily associated with (i.e., inherent to) a residential care facility: 1) buildings and structures; 2) vehicular trips to and from the Site; 3) outdoor lighting; 4) parking; and, 5) deliveries and trash pick-up. The inherent physical and operational characteristics of the proposed use are no different than what is normally associated with elderly housing facilities. The building is residential in character and will not be altered. The existing landscaping on the grounds and in the parking area are presently compatible with the residential character of the neighborhood and will not be impacted by this Application.

Noise associated with trash pick-ups, as well as deliveries to the proposed use will not be excessive. Adequate parking is available to serve visitors and employees; residents do not drive. Therefore, based on the submitted plans, the Applicant's statement of operations and other submitted documentation, there are no inherent adverse effects associated with the Application.

The Property is located along Old Georgetown Road and provides sufficient access and vehicular circulation off of Southwick Street. It is adjacent to a commercial use (the historic property used for a mobile deli) and nearby to Suburban Hospital and the NIH Campus. It is not adversely impacting the current residential community and will continue to be compatible when considering noise, lighting, activities, etc. given that no external or operational changes are proposed. There are no specific characteristics of this Property and this use that create non-inherent adverse effects.

Accordingly, the proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

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.

No external structures are proposed to be constructed or altered; therefore, the existing residential-style building will remain compatible with the residential neighborhood.

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

The long-established residential care facility use at this Property is in harmony with its neighborhood, and this Application proposes no material changes that would alter its compatibility with the nearby properties. This Proposal is unique in that it requests to expand upon its permitted use, requiring conditional use approval, without the need to alter the structure or greatly change operations. Staff recommends approval of the conditional use.

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.

Not Applicable.

- 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:
 - a) Filling Station;
 - b) Light Vehicle Sales and Rental (Outdoor);
 - c) Swimming Pool (Community); and
 - d) the following Recreation and Entertainment Facility use: swimming pool, commercial.

Not Applicable

- 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:
 - e) Funeral Home; Undertaker;
 - f) Hotel, Motel;
 - g) Shooting Range (Outdoor);
 - h) Drive-Thru
 - *Landfill, Incinerator, or Transfer Station; and a Public Use Helipad, Heliport or a Public Use Helistop.* Not Applicable.

FOREST CONSERVATION LAW - APPLICABILITY

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

This Project is not subject to Chapter 22A (Forest Conservation) because (1) the application applies to a property of less than 40,000 square feet, (2) The property is not subject to a previously approved Forest Conservation Plan, and (3) The Conditional Use proposal will not impact any champion tree as defined by the Montgomery County Forestry Board.

SECTION 6: CONCLUSION

The proposed Conditional Use complies with the findings required for approval of a residential care facility for up to ten (10) people, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 1990 *Bethesda-Chevy Chase Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner.

ATTACHMENTS

Attachment A: Forest Conservation Applicability Letter Attachment B: Conditional Use Plan & Existing Features Attachment C: Parking Plan

ACCEPTED & RECOMMENDED FOR APPROVAL BY:

Mon K. Shiton

ason K. Saftori, Planning Director

November 22, 2024

Date