



Exhibit 57 (e)

OZAH Case No: H-159

Silver Spring Retirement Residence, Special Exception, S-2882

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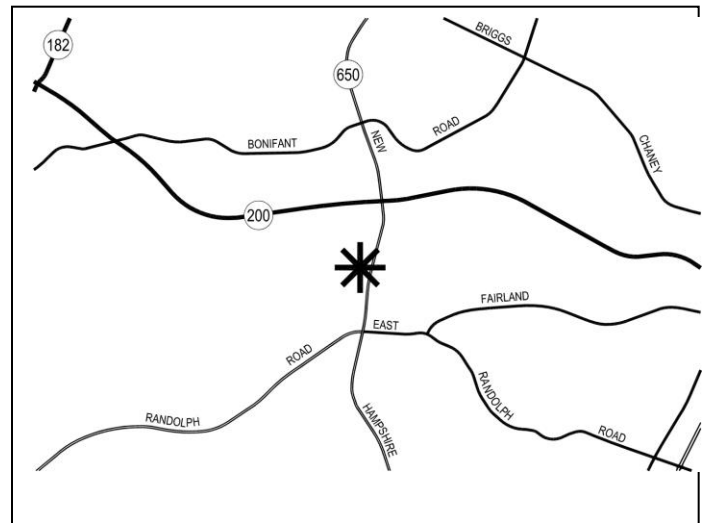
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Completed: 05/15/15

Description

- Request to construct a four-story domiciliary care facility for seniors consisting of 148 units (161 beds);
- Location: 13716 New Hampshire Avenue;
- R-200 Zone, 4.6 acres of land in the *1997 White Oak Master Plan*;
- Applicant: Hawthorne Development, LLC;
- Filing Date: October 27, 2014.



Summary

Staff Recommendation: Deny the special exception for a Domiciliary Care Home. If the Board of Appeals (BOA) approves this request, staff recommends conditions of approval as stated on the next page.

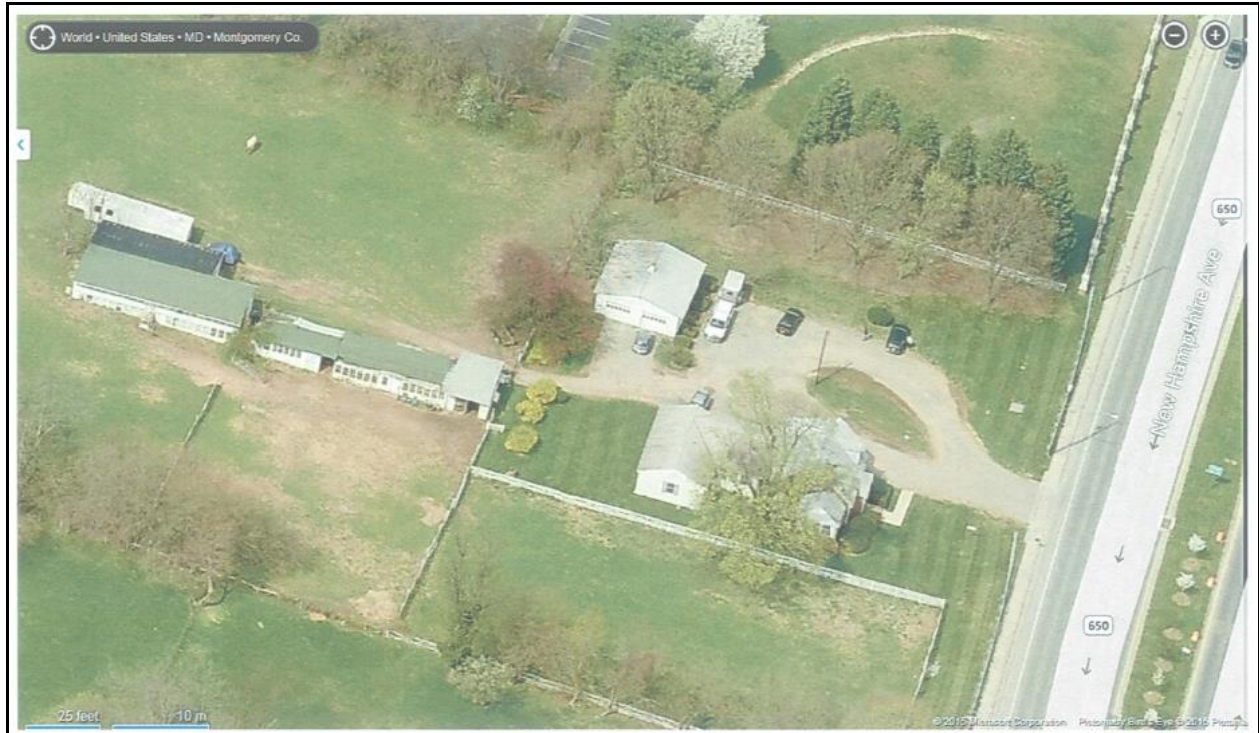
- Staff finds that the requested special exception does not comply with the specific standards set forth in Sections 59-G-1.2 and 59-G-2.37(a)(1) & (2) of the Zoning Ordinance, which requires that the use will not adversely affect the present character of the surrounding residential community and that the use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood. The size, scale and bulk of the proposed four-story (135,000-square-foot) senior retirement facility is incompatible with other buildings in the neighborhood and will negatively impact the residential character of the neighborhood.
- The proposal is inconsistent with the *1997 White Oak Master Plan* which encourages new special exception uses along major transportation corridors and in residential communities to be compatible with their surroundings. Staff finds the project to be incompatible with the surrounding neighborhood.

Conditions of Approval (if the BOA approves this request):

1. The Applicant must work with Planning Department and Maryland State Highway Administration (SHA) staff to identify whether the Orchard Way/Cambodian Temple Driveway or Notley Road intersections with New Hampshire Avenue (MD 650) would be the best candidate for signalization and then conduct and submit a traffic signal warrant analysis for that intersection, if not already submitted by another Applicant, at Preliminary Plan review.
2. The Applicant must comply with the recommendations of the *Intercounty Connector Limited Functional Master Plan Amendment* by reconstructing the existing sidewalk along the New Hampshire Avenue frontage to be a 10-foot wide shared-use path with a green panel and street trees. Lead-in sidewalks and handicap ramps must also be constructed.
3. The Applicant must provide 4 bicycle parking spaces (i.e., 2 inverted-U bike racks or the equivalent approved by Staff that conforms to American Pedestrian and Bicycle Professionals Guidelines). The Applicant must install the bike racks in a weather protected area ideally in front of the main entrance. The specific final location must be determined at Preliminary Plan review.
4. The Applicant must submit a traffic statement at Preliminary Plan review to satisfy Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR) tests.
5. The Applicant must coordinate a carpool program for employees who do not own vehicles and are scheduled to work on weekends since transit routes in this area only operate on weekdays.

SITE DESCRIPTION

The Property consists of approximately 4.6 acres of land located at 13716 New Hampshire Avenue (MD 650) in the White Oak area. The legal description is Parcel 505 in the Bealles Manor Subdivision. The Property is zoned R-200 and is improved with a two-story residential home and a detached two-car garage. The tenant who resides there operates an accounting/tax service business on the main floor of the home. The rear yard of the Property consists of stables and barns that were used in the past for agricultural use (i.e., produce sales, farm animals, including horses and other activities). Today, there appears to be no farming activity or produce sales on the site. Staff observed one horse grazing in the rear yard of the Property (see photo below).



The Property, outlined in red in the aerial photo below, is approximately 295 feet wide by 731 feet deep. Access to the Property is from New Hampshire Avenue. The partially wooded vacant site lies in both the Paint Branch and Northwest Branch watersheds, but outside any Special Protection Areas. There are no forests, streams, wetlands, floodplains, or environmental buffers on the site. The forested area consists of both pine and deciduous trees. The Property is approved as W-1 for its water category and has received approval for S-1 sewer category.



Aerial Photo & Neighborhood Boundary

Neighborhood Description

The neighborhood where the Property is located is generally bounded by Colesville Manor Drive to the north, New Hampshire Avenue (US 650) to the east, Notley Road to the south, and Shannon Drive to the west. The community located immediately north of the Property consists of a church (Cambodian Temple). Single-family detached homes located in the R-200 Zone are adjacent to the Property to the south and west. Across New Hampshire Avenue are a church and several single-family detached dwellings. To the south is a commercial center that provides shopping areas, various smaller retail facilities, medical service and other community services that are convenient and accessible. A special exception application (S-2881, Colesville Senior Living) is proposing a Domiciliary Care Home on property adjacent to the Cambodian Temple property to the north. This case is scheduled to be heard by the Planning Board on June 25, 2015.

PROPOSED PROJECT

The proposed Silver Spring Retirement Residence is a 148-suite, four-story facility for seniors (lease restricted to ages fifty-five and over). The proposed facility would consist of 161 beds and provide support and services for senior residents, who value being self-reliant but are in need of minor support and services as they age. The design of the building allows for shared common space central to the building layout with private suites extending out from the central core. The facility's main entry will be open from 8 a.m. - 8 p.m. and is otherwise access-controlled by key pad. The facility will employ a total of 35 people, 18 of which are full time staff. A typical shift will have a maximum of eight staff. There are approximately 76 surface parking spaces on the property as proposed, none facing New Hampshire Avenue. A private mini bus will be provided for transportation for the residents.

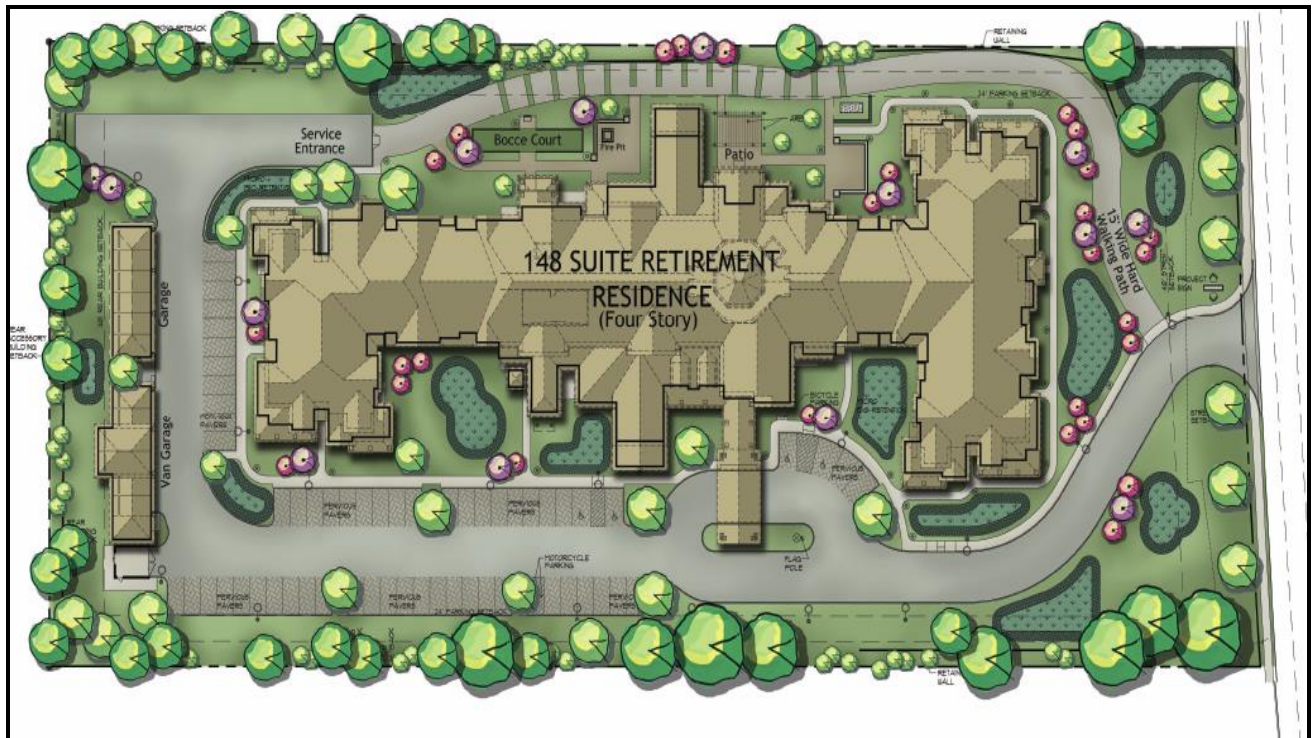
The proposed 48-foot high building will be accessed from New Hampshire Avenue. The New Hampshire Avenue frontage of the proposed building is approximately 165 feet wide. The bulk of the proposed building will directly face the adjoining residential neighborhood to the south at a length of approximately 420 feet.

Shared common areas are in the central core of the building. On the main floor, the shared space contains the main entry, reservation office, marketing office and managers units. As the suites do not provide cooking facilities, a commercial kitchen on the first floor serves three meals daily. Meals will be served in the adjacent central dining room. A private dining room is also available for the residents in the case of visiting family and friends. The main floor provides direct access to the outdoor amenity space on the north side of the building.

The square footage of suites varies from a minimum of 350 square feet for smaller studios to over 1,000 square feet for larger two bedrooms. Each private suite contains a full bathroom, a sleeping area, and an area with a sink and a small refrigerator. Two bedroom suites have an additional sleeping area and a second full bathroom. The private suites do not have cooking facilities and are not apartments or dwelling units.

Landscaping

The grounds of the proposed domiciliary care facility will be landscaped with plantings in an amount that is in compliance with the County's minimum planting requirements. Parking areas will be screened from neighboring properties by the use of evergreen vegetation along the perimeter. The revised landscape plan added several of the Norway Spruce and American Holly trees along the southern property line in a continuous line of evergreen trees 7 to 8 feet tall at planting. These plantings will provide dense screening of the Property and its surface parking area from the adjacent residential property. Foundation plantings will be provided along the base of the building to soften the building connection to the ground. The outdoor amenities area, including the patio, will be surrounded by plantings to provide screening and a landscaped separation from the parking and adjacent properties.



Landscape Rendering

MASTER PLAN

The Property lies within the 1997 *White Oak Master Plan*, which contains no specific recommendations for this site; however, it provides guidance relating to the compatibility of special exception uses along major roadway corridors that abut residential properties, as well as residential infill development. Staff finds that the proposed project is not consistent with the overall goals and objectives cited for special exception uses within the Master Plan for the following reasons.

The Master Plan envisioned the area outside of the identified commercial centers to remain residential in nature and recommended that infill developments follow the established residential pattern. In keeping with this vision, the Master Plan further recommended that “the land use and zoning goal in the White Oak Master Plan area is to ensure livable communities for the future by protecting and strengthening their positive attributes and encouraging development that will enhance the communities’ functions, sense of place and identity.” (pg. 16). Although the proposed project is an infill

residential use, it does not meet the Master Plan goal of “protecting and strengthening the positive attributes” and the Community’s “sense of place”. The size and scale of the proposed building is not compatible with the existing single-family, low-density residential character it is surrounded by. The project is located directly on New Hampshire Avenue with a 48.6-foot height and approximately 165 feet wide building frontage facing New Hampshire Avenue. Further, due to the narrow and deep lot configuration (295’ x 731’), the bulk of the building stretching back from its New Hampshire Avenue facade will directly face the adjoining residential neighborhood to the south for a length of approximately 420 feet; creating a building mass that will impose on the existing residential development adjoining the site.

The Master Plan recommended that “excessive concentration of special exception uses and non-residential uses along major transportation corridors should be avoided” (pg. 24). Specifically, the Master Plan recommended the following when evaluating special exception uses and their impact on the character and nature of the residential neighborhoods in which they are proposed (pg. 24):

- Requiring new requests for special exception uses along major transportation corridors and in residential communities to be compatible with their surroundings. Front yard setback should be maintained.
- Avoiding front yard parking because of its commercial appearance. Side and rear parking should be screened from view of surrounding neighborhoods.
- Requiring new buildings or any modification or additions to existing buildings to be compatible with the character and scale of the adjoining neighborhood.
- Avoiding the placement of large impervious areas in the Paint Branch watershed due to its environmental sensitivity.

The Master Plan recognized that special exception uses may be approved by the Board of Appeals if they meet the standards, requirements, and the general conditions set forth in the Zoning Ordinance, but may be denied if there is an excessive concentration of such uses in an area or if the uses are inconsistent with the Master Plan recommendations. The Master Plan objective was that special exception uses and their impact on the character and nature of the residential neighborhood should be compatible with their surroundings. This Application does not achieve that compatibility, and therefore does not conform to the goals and guidelines with regards to the locational guidance for special exception uses along the corridor.

The Master Plan recognized the importance of providing elderly housing and care options within the Plan’s area, stating that there will be a significant increase of persons over the age of 70 and limited number of housing opportunities for this segment of the population. The Plan recommended to “encourage the location of elderly housing and elderly support services along bus routes, and near shopping and public facilities” (pg. 66). This Property is situated near a shopping facility and is served by a Metro bus route and can therefore be considered a good location for elderly housing.

The proposed site plan indicates that the residential building will be situated closest to the religious institution to the north, but the main drop-off and pick-up area will be situated to the south of the property line, closest to the single-family detached homes of Bealles Manor. The proposed architecture, while residential in appearance, fails to break down the bulk and scale of the building sufficiently to be compatible with the scale and bulk of the surrounding residential neighborhoods. The topography of this site is such that the proposed building will be “at grade” with the adjacent dwelling units, and will sit higher than those residential units across New Hampshire Avenue, further imposing itself on the surrounding residences. Staff recognizes that as a special exception use of this nature, the proposed building’s footprint is not expected to be similar in size to the bulk and size of the single-family detached houses around the property. However, staff believes that the proposed building (165-foot wide by over 400-foot deep by over 50 feet high) is far in excess of what could be considered compatible bulk and scale.



Front Elevation (facing single-family detached homes)



Side Elevation (facing New Hampshire Avenue)

TRANSPORTATION

Master Plan Roadways and Bikeways

In accordance with the 1997 *White Oak Master Plan*, 2005 *Countywide Bikeways Functional Master Plan*, and 2009 *Intercounty Connector Limited Functional Master Plan Amendment*, the master-planned roadways and bikeways in the vicinity of the site are listed below:

1. New Hampshire Avenue (MD 650) is designated as a six-lane divided major highway (M-12) within a 120-foot right-of-way (ROW). The *White Oak Master Plan* recommends accommodating bicycles with a signed shared roadway (SR-30). On-street bicycle lanes with route signage have already been striped on both sides of New Hampshire Avenue from the ICC (MD 200) south to Randolph Road. The *Intercounty Connector Limited Functional Master Plan Amendment* recommends a dual bikeway with bike lanes and a shared-use path along the west side of New Hampshire Avenue (DB-41).

2. Notley Road (west of New Hampshire Avenue) is designated as a two-lane undivided primary residential street, P-7, within a 70-foot ROW. There are no recommended master plan bikeways along Notley Road.

Notley Road (east of New Hampshire Avenue), Orchard Way, Hobbs Drive and Colesville Manor Drive are not listed in the *White Oak Master Plan*. They are all substandard (narrow two-lane and un-striped) residential streets that serve their respective neighborhoods.

Master Plan Transitway

The 2013 *Countywide Transit Corridors Functional Master Plan* recommends the Bus Rapid Transit (BRT) Corridor 5, "New Hampshire Avenue" along New Hampshire Avenue from the DC City Line north to the future Colesville Park and Ride Lot (near Notley Road). The nearest BRT stations would be located near the intersections of New Hampshire Avenue with Notley Road and Randolph Road and can be accommodated within the 120-feet of ROW. This facility is not yet programmed.

Available Transit Service

Metrobus route Z2 is the currently the only bus route operating along New Hampshire Avenue near the property. Buses typically run approximately every 25 to 40 minutes on weekdays depending on time of day and direction; but no service on weekends. There are no transit routes on any other roadways within the immediate vicinity of the site.

The nearest bus stops are located at the New Hampshire Avenue intersections with Bonifant Road/Good Hope Road (just north of the Intercounty Connector) and Randolph Road (south of the site). Because there is no bus service on the weekends, the Applicant should coordinate a carpooling program for employees who do not have access to a personal vehicle and are scheduled to work on the weekends.

Pedestrian and Bicycle Facilities

The existing sidewalks in the study area include the following:

- Substandard with no green panel along both sides of New Hampshire Avenue;
- None along Notley Road, Orchard Way, Hobbs Drive, and Colesville Manor Drive.

The Applicant is not currently proposing to change the existing sidewalk configuration along the site frontage on New Hampshire Avenue. The Applicant is proposing an internal 15-foot wide path and internal sidewalks along the driveway to connect with the existing substandard sidewalk along New Hampshire Avenue. The *Intercounty Connector Limited Functional Master Plan Amendment* recommends a 10-foot wide shared-use path to be constructed along the western side of New Hampshire Avenue from Randolph Road to the Intercounty Connector. This 10-foot wide shared-use path, as well as lead in sidewalks and handicap ramps, where applicable, should be shown on the plans.

Bike racks are not currently proposed by the Applicant. Per the applicable Zoning Ordinance, 4 bicycle parking spaces or 2 inverted-U bike racks, are required, based on 1 bicycle parking space for every 20 vehicular parking spaces (Applicant is proposing 90 parking spaces). Staff recommends putting these bicycle parking spaces in a weather protected area ideally in front of the main entrance.

Local Area Transportation Review

The table below shows in detail the number of peak-hour trips generated by the proposed facility during both the weekday AM (6:30-9:30 AM) and PM (4:00-7:00 PM) peak hours, as well as the methodology for how the trips were calculated. As stated in the Applicant's statement of operations, it is anticipated that approximately 25% of residents would drive a vehicle on a daily basis and a large share of the staff/visitor-generated traffic would occur in the off peak hours based on typical operations for such facility.

Trip Generation for Colesville Senior Housing Facility S-2882

Land Use	Size	AM Peak Hour **			PM Peak Hour **			Daily *
		Enter	Exit	Total	Enter	Exit	Total	
Domiciliary Care	161 Beds (148 Suites)	10	5	15	7	10	17	236
<p>Notes: * Daily traffic volumes were determined based on the estimated number of staff trips, deliveries, and visitors, as described in the Applicant's Statement of Operations.</p> <p>** Peak hour volumes were determined based on the assumption that 6.3% and 7.2% of daily total traffic would occur during the weekday AM and PM peak hours, respectively, as published in the January 2015 ITE Journal article, <i>Hourly Variation in Trip Generation for Office and Residential Land Uses</i>. The enter/exit split was assumed as 65%/35% for the weekday AM peak hour and 44%/56% for the PM peak hour, based on data published in the ITE <i>Trip Generation Manual, 9th Edition</i> for the Assisted Living (#254) land use category.</p>								

As shown in the table above, the proposed 161-bed domiciliary facility is projected to generate 15 trips during the weekday AM peak hour and 17 trips during the PM peak hour, therefore the LATR traffic study threshold of 30 peak hour trips is not met and a traffic study is not required to satisfy the LATR test.

Several citizens raised concerns about the potential for increased U-turn movements at the median breaks on New Hampshire Avenue at Orchard Way/Cambodian Temple Driveway and Notley Road. A staff analysis estimated that, of the 10 entering vehicles in the AM peak hour (shown in the table above), approximately 4 would make a U-turn at Orchard Way in order to access the site. During the PM peak hour, approximately 4 out of 7 entering vehicles would make the northbound U-turn movement at Orchard Way. Of the 5 exiting vehicles during the AM peak hour, approximately 2 vehicles would travel southbound and make a U-turn at Notley Road to head north on New Hampshire Avenue, while during the PM peak hour approximately 6 of 10 exiting vehicles would make this maneuver. These U-turn estimates were based on the percentage split of vehicles traveling northbound and southbound on New Hampshire Avenue, which were extrapolated from the most recent traffic counts for the segment of roadway just north of the intersection with Randolph Road. The left-turn lanes on New Hampshire Avenue at both Orchard Way/Cambodian Temple Driveway and Notley Road intersections have adequate length to handle any existing or future U-turn movements.

Citizens also raised concerns regarding the difficulty of finding gaps in traffic to turn left onto and from New Hampshire Avenue at the Orchard Way/Cambodian Temple Driveway and Notley Road intersections. Given the large size of the intersection and sight distance difficulties (due to the crest in the road) for left-turning vehicles, many drivers pull half-way across the intersection (past three lanes of through traffic) and find themselves stranded in the middle with little to no queue space and high volumes of traffic traveling by in both directions.

Transportation staff visited the area surrounding the site and confirmed the left-turning difficulties expressed by the citizens. Staff believes that traffic generated by the site, as well as the combined effect of this application and S-2881 (a separate, unrelated special exception application on New Hampshire Avenue north of the Property, currently under staff review) will exacerbate the problems drivers experience trying to find acceptable gaps in traffic; therefore staff recommends that the Applicant work with Planning Department and SHA staff to determine the higher priority intersection for signalization and then conduct and submit a traffic signal warrant analysis at Preliminary Plan review.

Transportation Policy Area Review

A Transportation Policy Area Review (TPAR) payment of 50% of the Department of Permitting Services' (DPS) development impact tax payment will be required to satisfy the TPAR test.

ENVIRONMENT

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420150440) on October 31, 2014. The site lies in both the Paint Branch watershed and Northwest Branch watersheds, but outside any Special Protection Areas. There are no forest, streams, wetlands, floodplains, or environmental buffers on the site. The proposed project is in compliance with the *Environmental Guidelines*.

Forest Conservation

The proposed project is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the Code). Recommendations on the Amended Preliminary Forest Conservation Plan are covered in a separate memo.

Noise

The site is located on the west side of MD 650 (New Hampshire Avenue) and is exposed to traffic noise from both trucks and passenger cars. A noise analysis is necessary to determine the projected interior noise levels requiring mitigation for residential units. This facility does not include any external activity spaces adjacent to MD 650 and the building will shield all other proposed external activity areas. The Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" stipulate a 60 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas.

COMMUNITY COMMENTS

This Application was submitted and noticed in accordance with all required procedures. The Application met posting requirements with two signs. The Greater Colesville Citizens Association (GCCA) submitted a letter in support of special exception S-2882. (Attachment 1)

Staff has also received a letter in opposition to the proposed Silver Spring Retirement facility from a community resident who states that the proposed development would be totally out of character with the existing surrounding neighborhood. (Attachment 2)

CONDITIONS FOR GRANTING

59-G-1.2.1 Standard for evaluation.

Inherent and non-inherent characteristics

A special exception must not be granted absent the findings required by Section 59-G-1 of the Montgomery County Zoning Ordinance. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.

The inherent characteristics associated with a Domiciliary Care Home include: (1) physical buildings and structures, as well as outdoor passive areas for the residents and visitors; (2) lighting; (3) traffic to and from the site by staff, visitors and residents; (4) deliveries of supplies and trash pick-up; (5) parking areas; (6) noise associated with garbage pick-up and normal deliveries to individual residents.

Staff finds that the proposed use, if established at the proposed location, will exhibit the following non-inherent effects: physical size (bulk, scale & mass) of the proposed building, and the potential for increased traffic on and around the site. Staff has identified the physical size of the proposed development as the non-inherent effects on the surrounding neighborhood sufficient to recommend denial of this application.

The proposed four-story domiciliary care facility will provide 161 beds for seniors in a 135,000-square-foot building. Staff finds that the proposed building (4 stories) at this location is not compatible with the neighborhood in terms of its bulk and scale. Staff recognizes that a domiciliary care special exception use of this nature will be much larger than the typical single-family house around the property. However, staff finds that the architectural articulation of the proposed building, while residential in appearance and similar in character to the residential neighborhood around the site is not compatible with the scale and bulk of the surrounding residential neighborhoods, and therefore inconsistent with the Master Plan goal of compatible infill development. The topography of this site is such that the proposed building will be “at grade” and therefore at the same level as the adjacent houses, but will be on higher grade than the houses across New Hampshire Avenue further imposing itself on the surrounding residences. The building’s length exceeds 400 feet along the southern face, well over the typical scale of the residences, even if the proposed building height is less than the 50-foot maximum permitted height in this zone.

With regard to the second non-inherent effect of the proposed development, Staff estimated that approximately 25% of residents would drive a vehicle on a daily basis and a large share of the staff/visitor-generated traffic would occur in the off-peak hours based on typical operations for such facility. The primary concern is the potential for increased U-turn movements at the median breaks on New Hampshire Avenue at Orchard Way/Cambodian Temple Driveway and Notley Road, as described more fully in the Transportation analysis on page 9 of this report. If this request is approved, at the time of Preliminary Plan, the Applicant must work with Planning Department and Maryland State Highway

Administration (SHA) staff to identify whether the Orchard Way/Cambodian Temple Driveway or Notley Road intersections with New Hampshire Avenue (MD 650) would be the best candidate for signalization and then conduct and submit a traffic signal warrant analysis for that intersection (see recommended conditions of approval at the beginning of this report).

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.

The proposed use, a domiciliary care home, is allowed by special exception in the R-200 Zone.

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

Staff finds the proposed use meets all of the specific standards of Division 59-G-2, except the compatibility requirements of Section 59-G-2.37.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The proposed development is not consistent with the overall goals and objectives recommended for special exception uses within 1997 White Oak Master Plan. The Master Plan contains no specific recommendations for this site; however, it provides guidance relating to the compatibility of special exception use along major roadway corridors that abut residential properties, as well as residential identified commercial centers to remain residential in nature and recommended that infill developments follow the established residential pattern. In keeping with this vision, the Master Plan further recommended that "the land use and zoning goal in the White Oak Master Plan area is to ensure livable communities for the future by protecting and strengthening their positive attributes and encouraging development that will enhance the communities' functions, sense of place and identity." (p. 16). Although the proposed use is an infill residential development, it does not protect and strengthen the positive attributes (low scale single-family detached houses) of the neighborhood due to its size and scale of the proposed 4-story building, which will not be compatible with established pattern and character of the residential land uses around it.

- (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 building's size and bulk will not be in harmony with other buildings in the neighborhood. Although the proposed four-story building will be residential in style, it will be too large and overwhelming to be compatible with scale and character of the neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

There is no evidence to support that approval of the proposed four-story building will not present detrimental effects to the use and peaceful enjoyment of the surrounding properties.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will not cause any objectionable adverse effects. All exterior lighting will be installed and maintained in a manner not to cause glare or reflection into abutting properties. There will be limited outdoor activity and there will be no use of the property that will generate noise in an obtrusive manner.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

The approval of this special exception use will not increase the number, intensity, or scope of special exception uses sufficiently to adversely affect or alter the predominantly residential nature of the area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will not adversely affect the health, safety, security, morals or general welfare of residents, visitors, or workers in the area.

- (9) 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.

- (A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.

If the proposed special exception is approved, a preliminary plan of subdivision will be required.

- (B) If the special exception:
- (i) does not require approval of a new preliminary plan of subdivision; and
 - (ii) the determination of adequate public facilities for the site is not currently valid for an impact that is the same as or greater than the special exception's impact; then the Board of Appeals or the Hearing Examiner must determine the adequacy of public facilities when it considers the special exception application. The Board of Appeals or the Hearing Examiner must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

Not Applicable.

- (C) With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.

Staff is concerned about the potential for increased U-turn movements at the median breaks on New Hampshire Avenue at Orchard Way/Cambodian Temple Driveway and Notley Road. If this request is approved, at the time of Preliminary Plan, the Applicant must work with Planning Department and Maryland State Highway Administration (SHA) staff to identify whether the Orchard Way/Cambodian Temple driveway or Notley Road intersections with New Hampshire Avenue (MD 650) would be the best candidate for signalization and then conduct and submit a traffic signal warrant analysis for that intersection. In addition, Staff is recommending conditions of approval as stated at the beginning of this report, if the Board of Appeals approves this request.

59-G-1.23 General Development Standards

- (a) **Development Standards.** Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

The Property is zoned R-200. The proposed project has been designed to comply with standards of the R-200 Zone. Staff finds that the proposed four-story building would comply with all development standards as shown in the following table.

Development Standards Table

	<u>Required</u>	<u>Proposed</u>
Minimum Lot Area	20,000 sq. ft.	4.6 acres
Minimum Lot Width		
--at front building line	75 ft.	295 ft.
--at street line	25 ft.	295 ft.
Minimum Setback from Street (59-G-2.35(c)(1))	50 ft.	108 ft.
Minimum Setback from Adjoining Lot		
--side lot line	12 ft.	30 ft.
--sum of both sides	25 ft.	90 ft.
--rear lot line	30 ft.	111 ft.
Maximum Building Height		4 stories at
	50 ft.	48.6 ft.
Maximum Building Coverage	25%	24.2%

- (b) **Parking requirements.** Special exceptions are subject to all relevant requirements of Article 59-E.

The proposed development is in compliance with Section 59-E, which, for domiciliary care home, requires one parking space per four beds and one space per two employees on the largest work shift. Therefore, the proposed use requires 41 parking spaces for residents (161 beds) and 5 parking spaces for 8 employees, for a total of 46 spaces. Per the site plan submitted by the Applicant, 76 surface spaces are provided for the residents and visitors. Of the parking spaces provided, four are ADA van accessible.

- (c) **Minimum frontage.** *Not applicable to the proposed special exception use.*

- (d) **Forest conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

The proposed project is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the Code). Recommendations on the Preliminary Forest Conservation Plan are covered in a separate memo.

- (e) **Water quality plan.** *Not Applicable; The Property is not in a SPA. A Stormwater Management Concept Plan has been approved by Montgomery County (Attachment 3).*

- (f) **Signs.** The display of a sign must comply with Article 59-F.

The sign proposed meets the standards of Article 59-F.

- (g) **Building compatibility in residential zones.** Any structure that is constructed, reconstructed, or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

The proposed project is in a residential zone. The proposed 4-story building has been designed to be residential in appearance. However, staff finds that the proposed building's scale, bulk, and height are not compatible with the character of the neighborhood.

- (h) **Lighting in residential zones.** All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety: (1) Luminaries must incorporate a glare and spill light control device to minimize glare and light trespass; (2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.

According to the applicant, the lighting has been designed to be unobtrusive and consistent with the residential use of the property. Lighting levels along the side and rear lot lines will not exceed 0.1 foot candles.

Sec. 59-G-2.37. Nursing Home or Domiciliary Care Home

- (a) A nursing home of any size or a domiciliary care home for more than 16 residents (for 16 residents or less see "Group Home") may be allowed if the board can find as prerequisites that:
- (1) The use will not adversely affect the present character or future development of the surrounding residential community due to bulk, traffic, noise, or number of residents;
 - (2) The use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; and
 - (3) The use will be adequately protected from noise, air pollution, and other potential dangers to the residents.
 - (4) The Board of Appeals may approve separate living quarters, including a dwelling unit, for a resident staff member within a nursing home or domiciliary care home.

Staff finds that the proposed project will adversely affect the character of the surrounding residential community due to its bulk and scale. The proposed domiciliary care home is designed to be architecturally compatible with other residential uses in both style and appearance. However, the proposed four-story (135,000-square-foot) building is not compatible with other buildings in the surrounding neighborhood as described in detail on pages 13-14 of this report.

With the proposed screening, the use will be adequately protected from noise, air pollution and other potential dangers to the residents. To date, the Applicant has not indicated that the proposed domiciliary care home will require separate living quarters (dwelling unit) for a resident staff member.

- (b) The following requirements must apply to a nursing home housing 5 patients or less:
- (1) The minimum lot area must be as stated for the applicable zone but in no case less than 7,500 square feet.
 - (2) The minimum street frontage must be 50 feet.
 - (3) Minimum setbacks, minimum green area, maximum coverage and maximum height are those prescribed in these regulations for the zone.

Not applicable.

- (c) The following requirements apply to all new nursing homes, additions to existing nursing homes where the total number of residents is 6 or more, and to all domiciliary care homes for more than 16 residents.

- (1) The minimum lot area in the rural zone must be 5 acres or 2,000 square feet per bed, whichever is greater.

The subject property is residentially zoned R-200.

- (2) In all other zones, the minimum lot area must 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.
 - b. In the R-150, R-90, R-60 and R-40 zones, 800 square feet for each bed.
 - c. In the R-T, R-30, and R-20 zones, 600 square feet.
 - d. In the R-10, R-H, C-O, C-T and C-2, 300 square feet for each bed.
 - e. In the town sector and planned neighborhood zones, 800 square feet per bed.

The Property is zoned R-200 and the lot size is approximately 200,376 square feet (4.6 acres.) The Applicant is proposing 161 beds, which meets the density requirement of minimum 1,200 square feet per bed (based on the lot size of 4.6 acres, the maximum number of beds permitted on the site is 167 beds).

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

The proposed building will be setback approximately 60 feet from south side property line and approximately 30 feet from the north side lot line.

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

The proposed building, meets all applicable development standards identified in the R-200 Zone as shown on page 17 of this report, General Development Standards Table.

- (d) An application must be 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 must also show property lines, streets, and existing buildings within 100 feet of the property and indicate the proposed routes of ingress and egress for automobiles and service vehicles. A vicinity map showing major thoroughfares and current zone boundaries within one mile of the proposed home must be included.

The applicant has provided the above information with regards to the proposed special exception.

- (e) An application for special exception for this use must include an expansion plan showing the location and form of any expansions expected to be made in the future on the same site.

The proposed application is for 161 beds; no expansion is proposed in the current application.

- (f) Any nursing home, or domiciliary care home for more than 16 residents lawfully established prior to November 22, 1997, is not a nonconforming use, and may be extended enlarged or modified by special exception subject to the provisions set forth in the sections.

Not Applicable.

- (g) Any application for nursing home and/or care home which is pending at the Board of Appeals as of February 24, 1997, at the request of the applicant, may be processed under the applicable provisions of the Zoning Ordinance in effect at the time the application was filed.

Not Applicable.

CONCLUSION

Based on the foregoing analysis, staff recommends denial of the application.

ATTACHMENTS

Attachment 1 – Letter from GCCA

Attachment 2 – Letter in opposition

Attachment 3 – SWM Concept Plan Approval Letter

Attachment 4 – Notice of Public Hearing

ATTACHMENT 1

Gilbert, Carlton

From: Dan Wilhelm <djwilhelm@verizon.net>
Sent: Monday, May 11, 2015 9:11 PM
To: MCP-Chair
Cc: Gilbert, Carlton
Subject: S-2882, For May 28 Worksession

Greater Colesville Citizens Association
PO Box 4087
Colesville, MD 20914
May 11, 2015

Montgomery County Board
Mr. Casey Anderson, Chair
8787 Georgia Avenue
Silver Spring, MD 20910

Re: for May 28 Worksession. Special Exception S-2882, at 13716 New Hampshire Ave, Colesville, MD 20904.

Dear Chairman Anderson:

The Greater Colesville Citizens Association (GCCA) has had two presentations from the applicant for Special Exception S-2882 and had a number of discussions with staff. GCCA is supportive of the proposed independent living for seniors. Our initial concern was the building height and requested setback waiver on the south side next to the residents.

A number of community members are concerned with the four-story height of the senior housing. While we are concerned with the resulting bulk, the height is within the zoning ordinance limit.

The revised plan is a great improvement. By moving the building closer to the Cambodian Temple on the north side, the waiver on the south side was eliminated but now one is needed on the north side. We support the north-side waiver since the closeness will not impact the temple. Moving the building north also provides increased buffer with the existing residential uses on the south side. The applicant is also providing additional screening, which we support.

Thank you for the opportunity to work with staff to improve the site layout.

Sincerely

Daniel L. Wilhelm
GCCA President

ATTACHMENT 2

Paul Myers • 800 Hobbs Drive, Silver Spring, MD, 20904 • (301) 384-5791

March 15, 2015

Montgomery County Planning
Mr. Carlton Gilbert
Planning Coordinator

Reference: Proposed Senior Living projects

Dear Mr. Gilbert,

Per our phone conversation the other day, I wish to express my sincere disapproval of the proposed senior housing projects (S-2881 & S2882) on New Hampshire Avenue in Colesville, MD. I think these developments would be totally out of character with the existing surrounding properties and neighborhood. Although the use is conditional under the current zoning, I don't think projects of this scale were intended to be built in a semi-rural setting such as the intended sites. I could see a small group home, no more than 8-16 occupants; but commercial buildings of the proposed scale not only don't fit within the neighborhood but will be a total contradiction of the intended use of the R-200 residential zone. These developments may also compromise surrounding property values due to the total change in appearance of the streetscape from rural residential to commercial. There is now a distinct separation of the existing commercial area in Colesville from the development sites that would be used to build the proposed buildings. If constructed, this separation would be eliminated, which I can't imagine was the intent of the planners that carefully zoned this area. Since the master plan was adopted there has not been a change in character of the surrounding neighborhood that would support this type of commercial development which would in reality extend the current commercial area and encroach on and into the existing residential neighborhood. I don't think it is the intent of the Master Plan now in effect to approve a use that basically rezones the current use from residential to commercial. Furthermore, we residents already have several side streets in the immediate vicinity of the proposed projects; including Orchard Way, Hobbs Drive, Colesville Manor and Notley that already have an ingress and egress challenge due to the traffic on New Hampshire Avenue. The U-Turn lane at Hobbs Drive can also at times be a nightmare. This situation is already an accident waiting to happen especially at rush hour. This dangerous traffic pattern will be greatly exacerbated by the additional ingress and egress driveways to these new projects. I would be surprised if State Highway approves these new driveways onto New Hampshire Avenue. We have had conversations with other neighbors in the area and they all are appalled that the County would even consider these proposed new commercial developments in our neighborhood.

We appreciate your consideration in this matter and that you make the appropriate recommendations on our behalf to the Planning Board that express our concerns.

Sincerely,

Paul and Margaret Myers
301-384-5791, 301-384-1107

CC: Jewru Bandeh, Director, East County Citizens Advisory Board, Dan Wilhelm, President Greater Colesville Citizens Association and Christopher Bishop, State Highway Administration.

Paul Myers
pf.myers@verizon.net

ATTACHMENT 3



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

February 27, 2015

Mr. Bill Vest, P.E.
Timmons Group
20098 Ashbrook Place, Suite 195
Ashburn, VA 20147

Re: Stormwater Management **CONCEPT** Request
for Silver Spring Retirement Residence
Preliminary Plan #: N/A
SM File #: 271056
Tract Size/Zone: 4.4/R-200
Total Concept Area: 4.4ac
Lots/Block: N/A
Parcel(s): P505
Watershed: Paint Branch/Northwest Branch

Dear Mr. Vest:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
5. The maximum allowable drainage area to any micro biofilter will be limited to 20,000 sf.

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

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located

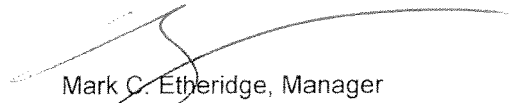
255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

Mr. Bill Vest, P.E.
February 27, 2015
Page 2 of 2

outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



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

MCE: me CN 271056

cc: C. Conlon
SM File # 271056

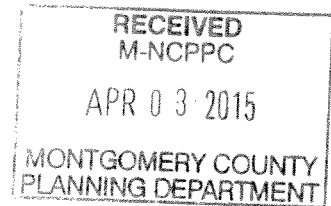
ESD Acres:	4.4ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A

ATTACHMENT 4

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

Phone: (240) 777-6660; Fax (240) 777-6665

CASE NO. S-2882



PETITION OF HAWTHORN DEVELOPMENT, LLC

NOTICE OF RESCHEDULED HEARING and MOTION TO AMEND PETITION

Please take notice that the public hearing currently scheduled for Friday, June 5, 2015, on the above-mentioned application has been rescheduled, at the request of Robert R. Harris, Esquire, Attorney for the Petitioner, to **Monday, June 15, 2015, at 9:30 a.m.**, or as soon thereafter as this matter can be heard. The hearing will be held in the Stella B. Werner Council Office Building, Second Floor, Davidson memorial Hearing Room, at 100 Maryland Avenue, Rockville, Maryland.

The subject property is Parcel P505, located at 13716 New Hampshire Avenue, Silver Spring, Maryland, 20904 in the R-200 Zone (Tax Account Number 00266632).

The above-captioned application seeks a special exception pursuant to Section 59-G-2.37 (*Domiciliary Care*) of the Zoning Ordinance to permit a 166-bed domiciliary care facility for senior residents.

The Petitioner also requests to amend the Petition by submitting the following plans and documents:

- 1) Architectural Site & Lighting Plan
- 2) Perspective Renderings
- 3) Main Building Exterior Elevations, Outbuildings and Signage Details
- 4) Building Floor Plans
- 5) Lighting Photometric Plans and Details
- 6) Existing Conditions and Tree Survey
- 7) NRI/FSD Plan
- 8) Special Exception Site Plan and Details
- 9) Concept Sediment Control Plan
- 10) Concept Grading and ESD Plan
- 11) Concept Utility Plan
- 12) Special Exception Landscape Plan and Details
- 13) Preliminary Forest Conservation Plan
- 14) Site Section and Distance Diagram
- 15) Comparable Senior Housing Projects
- 16) Revised Statement of Operations

A motion to amend the petition requests permission either to change what the Petitioner is seeking in its special exception petition or to provide additional evidence. Granting the motion merely

Continued

allows the Petitioner to make the requested changes to the petition and to provide additional evidence, but does not, in any way, approve the petition itself or express an opinion as to the merits of the petition or the proposed changes.

The Hearing Examiner will take the motion to amend under consideration for a period of ten days from the date of this notice, until **April 13, 2015**. Any person who objects to permitting the Petitioner to change its special exception request or provide additional evidence are requested to so indicate in writing, no later than **April 13, 2015**. If no objection is received by that time, the motion will be considered granted. Additional notification will be provided, either at the public hearing or by mail, only if an objection is received.

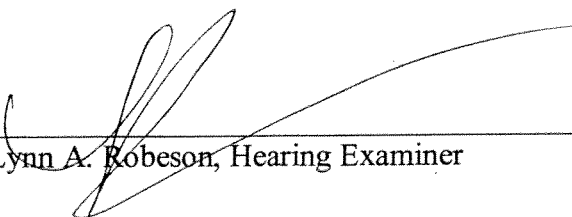
Details of the proposed development and operation of the facility may be reviewed in the case file location in the Office of Zoning and Administrative Hearings. Files are available on Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m., prior to the date of the hearing.

If you need services to participate in a public hearing, please contact us as far in advance as possible by emailing us at ozah@montgomerycountymd.gov or calling 240-777-6660 (TTY 240-777-7914). These documents are available in alternative format such as large print upon request, via the same phone numbers and email address.

Notices forwarded this Wednesday, April 1, 2015, to:

Barton G. Colson, President, Hawthorn Development, LLC
Robert R. Harris, Esquire
Charles Frederick, Esquire, Associate County Attorney
Diane Schwartz-Jones, Director, Department of Permitting Services
Mark Pfefferle, M-NCPPC, Division Chief, DARC
Carlton Gilbert, Planning Department
State Highway Administration
County Board of Education
Adjoining and Confronting Property Owners
Local Civic Associations

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS

By: 
Lynn A. Robeson, Hearing Examiner