



Committee: Directly to Council
Committee Review: N/A
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #LMAH148 #CORSODCLLC #ChevyChase
#ResidentialCareFacility

AGENDA ITEM #3
June 13, 2023
Worksession/Action

SUBJECT

Hearing Examiner's report and recommendation on Local Map Amendment (LMA) Application No. H-148

EXPECTED ATTENDEES

Lynn Robeson Hannan, Director/Hearing Examiner, Office of Zoning and Administrative Hearings (OZAH)

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Approve, disapprove, or remand the application.
- Local map amendments require a roll call vote.
- This packet includes a resolution provided by the Hearing Examiner, and reviewed by Council Staff, that is consistent with the Hearing Examiner's Report and Recommendation. But any Councilmember may make a motion to disapprove or remand the LMA application. If that motion passes, Council will take a straw vote, and action on the LMA will be scheduled for a subsequent date to allow adequate time to prepare a new resolution.

DESCRIPTION/ISSUE

The Hearing Examiner recommends approval of Local Map Amendment (LMA) Application No. H-148, requesting reclassification of property located at 7100 Connecticut Avenue, Chevy Chase, MD, from the existing R-60 (Residential Detached Zone) to CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone).

SUMMARY OF KEY DISCUSSION POINTS

- CORSO DC LLC seeks to rezone approximately 12.29 acres of property from the R-60 (Residential Detached Zone) to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone).
- The applicant proposes to use the property as a Residential Care Facility with 287 independent living units, 190 assisted living beds, and 30 memory care beds.
- The Hearing Examiner recommends approval in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, with 21 binding elements.
- The District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that the local rezoning will be consistent with the coordinated and systematic development of the regional district.

This report contains:

Staff Report	Pages 1-5
Hearing Examiner's Transmittal	© 1
Hearing Examiner's Report and Recommendation	© 2
Hearing Examiner's Proposed Resolution	© 37
Planning Board Recommendation	© 49
Planning Staff Report	© 52
Applicants' Financial Disclosure Statements	© 93

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Worksession/Action

MEMORANDUM

June 8, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Local Map Amendment (LMA) H-148, In the Matter of CORSO DC, LLC

PURPOSE: Approve, disapprove, or remand the Hearing Examiner's recommendation to approve Local Map Amendment (LMA) H-148

Expected Participants

- Lynn Robeson Hannan, Director/Hearing Examiner, Office of Zoning and Administrative Hearings (OZAH)

Introduction

A local map amendment (LMA) is a zoning map change to apply a Floating or Euclidean zone to an individual property. LMA H-148 is a request by CORSO DC, LLC to rezone approximately 12.29 acres of property located at 7100 Connecticut Avenue, Chevy Chase, MD, from the R-60 (Residential Detached Zone) to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone). The proposed use is a residential care facility and ancillary commercial establishments.

Summary of OZAH's Report

The hearing for this application was on March 24, 2023. Planning Staff recommended approval of the application with 21 binding elements (discussed further below). The Planning Board agreed, recommending approval, but modified some of the binding elements to address concerns raised by the Town of Chevy Chase and the Village of Chevy Chase. The applicant presented 7 witnesses, including a principle of CORSO and 5 experts. The Mayor of the Town of Chevy Chase and the Village Manager of the Village of Chevy Chase also testified. A Declaration of Covenants with agreed-upon revisions was submitted into the record.

The subject property is improved with buildings that had been used by the former National 4-H Conference Center. The surrounding area is primarily single-family detached residential dwellings, with institutional uses typical of a residential neighborhood. The property has

approximately 3.71 acres of existing forest, 2.94 acres of which will be preserved in a Category I forest conservation easement. The applicant proposes a “residentially scaled” senior care community containing 287 independent living dwelling units, 190 assisted living beds, and 30 memory care beds. The applicant also proposes up to 5,000 square feet of retail that will be open to the public.

The community is generally supportive of the application. However, concerns include that traffic from redevelopment will be more than the prior use; availability of parking on neighborhood streets; and the safety of the access on Connecticut Avenue.

Proposed Binding Elements

When requesting a Floating zone, an applicant may propose binding elements. A binding element may include, but is not limited to, a restriction on use and building type that the zone would otherwise allow; a limit on a development standard to less than the maximum allowed; or a general development requirement beyond the minimum required. A binding element binds the applicant, and any successor or assigned, unless lawfully amended. LMA H-148 includes 21 binding elements, negotiated with the Town of Chevy Chase and the Village of Chevy Chase.¹ They include:

- 1) Use of the property will be limited to a residential care facility, and no more than 5,000 square feet of ancillary commercial establishments available to the general public.
- 2) Vehicular access will be limited to Connecticut Avenue, and the Applicant will complete a Comprehensive Vehicular Site Access Study.
- 3) The Applicant will complete a Parking Demand Analysis.
- 4) The Applicant shall provide garage space and five (5) separate parking spaces for use by the Town of Chevy Chase.
- 5) The Applicant shall place areas in a Category I Conservation Easement.
- 6) The Applicant shall construct new pathways connecting the existing sidewalk on Thornapple Street with Connecticut Avenue and connecting the property with Woodside Place.
- 7) The Applicant shall maintain minimum building setbacks as shown on the Floating Zone Plan, including a maximum building height of 60 feet for 80 feet from Connecticut.
- 8) The Applicant shall comply with all applicable stormwater management regulations.
- 9) The Applicant shall locate and/or screen refuse storage and collection areas and loading and service areas to minimize the view and noise from the adjacent property boundaries.
- 10) The Applicant shall install planting materials that are primarily native species.
- 11) The Applicant shall install a non-deciduous tree screen along the south property line outside of the Category I Conservation Easement.
- 12) The Applicant shall provide exterior lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.

¹ The property is within the municipal boundaries of the Town of Chevy Chase and confronts the Village of Chevy Chase across Connecticut Avenue.

- 13) The Applicant will enter into a Construction Management agreement with the Town of Chevy Chase before approval of the Certified Site Plan for the Property.
- 14) At the time of Site Plan, the Applicant will provide an interim landscaping plan for the phased build-out of the Project.
- 15) Vinyl siding and EFIS are prohibited on all new buildings.
- 16) The Applicant shall execute and record among the land records, to be enforceable against all successors and assigns, a Declaration of Covenants that will include the binding elements included in the approved Local Map Amendment prior to approval of the Certified Site Plan for the Property.
- 17) The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, except for the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof.
- 18) The Project will provide ground floor entrances along both Thornapple Street and Connecticut Avenue commensurate with individual units located along these respective facades.
- 19) The Project will include a porte cochere² at the site entrances featuring specialty paving.
- 20) The Project will incorporate a fountain or similar gateway feature at the main entrance along Connecticut Avenue.
- 21) Before obtaining any building or grading permits, the Project must receive Site Plan Approval.

Hearing Examiner's Findings and Conclusions

The Hearing Examiner made several findings and conclusions, detailed in the Report and Recommendation at pages 16 through 35. These findings include:

- Substantial conformance with the master plan
- General compatibility
- Compatibility of traffic and parking
- Adequate public facilities
- Public interest
- Intent of floating zones
- Purpose of the commercial residential floating zones
- Applicability of a floating zone
- Uses and building types permitted
- Development standards of the CRNF zone
- Requirements of Article 59.6 (general development standards)

After reviewing each of these criteria, the Hearing Examiner recommended approval of LMA H-148 in the amount requested and subject to the specifications and requirements of the Floating Zone Plan.³

² A "porte cochere" is a covered entrance for vehicles.

³ The applicant must file an executed Declaration of Covenants reflecting the binding elements in the land records; and submit to the Hearing Examiner for certification a true copy of the Floating Zone Plan

Necessary Findings

Under Section 7.2.1. of the Zoning Ordinance, the District Council must find that the floating zone plan will:

- a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;
- b. further the public interest;
- c. satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of the Zoning Ordinance;
- d. be compatible with existing and approved adjacent development;
- e. generate traffic that does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrates an ability to mitigate such adverse impacts; and
- f. when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.

Local map amendments require a roll call vote. The Council may approve, disapprove, or remand the Hearing Examiner's recommendation to approve Local Map Amendment H-143. The application can be remanded for clarification or taking additional evidence. This packet includes the resolution provided by the Hearing Examiner, and reviewed by Council Staff, that is consistent with the Hearing Examiner's Report and Recommendation for approval. But any Councilmember may make a motion to disapprove or remand the LMA application. If that motion passes, Council will take a straw vote, and action on the LMA will be scheduled for June 20, 2023, to allow adequate time to prepare a new resolution. The revised resolution will reflect the Council's decision and its reasons for denial or remand. If remanded, the resolution would specify what additional information or clarification is sought.⁴

approved by the District Council within 10 days of approval, in accordance with Sec. 7.2.1.H.1.a. and b. of the Zoning Ordinance.

⁴ The Court has found that remands may be limited. This includes whether a new hearing is required, or just a new decision. The Court looks to the resolution itself in making this determination. *See, People's Counsel for Balt. Cty. v. Country Ridge Shopping Ctr., Inc.*, 144 Md. App. 580, 590-91, 799 A.2d 425, 431 (2002) ("This Court concedes that a remand from the CSA does not automatically require the Board to hold a new hearing in every case. This Court will also concede that a remand to a Board with two new members does not always require a de novo hearing. However, due to the totality of circumstances in this case, it is this Court's opinion that a de novo hearing was required. Petitioner has persuaded this Court that Prosser is not applicable in this case. There, the remand was on a limited technical issue. In the case sub judice, the remand is for a 'new consideration' of an application for Special Exception, which unquestionably is not a limited technical issue. It is the opinion of this Court that Clark is applicable as witness credibility and demeanor is certainly an important factor in the Board's decision to grant or deny an application.").

This report contains:

Hearing Examiner's Transmittal	© 1
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Hearing Examiner's Proposed Resolution	© 37
Planning Board Recommendation	© 49
Planning Staff Report	© 52
Applicants' Financial Disclosure Statements	© 93




MONTGOMERY COUNTY, MARYLAND

MEMORANDUM

April 26, 2023

TO: Livhu Ndou, Legislative Attorney for the County Council

FROM: Lynn Robeson, Hearing Examiner 
Office of Zoning and Administrative Hearings

SUBJECT: Tentative Agenda for LMA Application

**CASES TO BE
SCHEDULED
FOR COUNCIL
ACTION:**

**10 DAY
ORAL
ARGUMENT
DEADLINE:**

**COUNCIL ACTION
REQUIRED BY:**

**SCHEDULED
BEFORE COUNCIL
ON:**

LMA H-148

Monday, May 8, 2023

Monday, June 26, 2023

--No Opposition

DISTRICT COUNCIL SESSION

Action - Hearing Examiner’s report and recommendation on LMA Application No. H-148 for amendment to the zoning ordinance map. Steven Robins, Esq. and Elizabeth Rogers, Esq., Attorneys for Applicant, CORSO DC LLC, request rezoning from the R-60 (Residential Detached) Zone to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone) of the property located at 7100 Connecticut Avenue, Chevy Chase, Maryland, in the 7th Election District (Tax Account No. 07-00464946).

-- *No Opposition*

* *Opposition*

** *Substantial Opposition*

*** *Recommendations and analyses are inconsistent and may involve some Council discussion*

cc: Judy Rupp, Clerk
Stephen Mathany

**BEFORE THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THE MARYLAND-
WASHINGTON REGIONAL DISTRICT IN
MONTGOMERY COUNTY, MARYLAND**

**Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
(240) 777-6660**

**IN THE MATTER OF:
CORSO DC LLC**

Applicant

Grant Epstein
Timothy Gary
Jane Przygocki
Timothy Hoffman
Anne (Nancy) Randall
Sara Alexander
Daniel Park

For the Application

Steven A. Robins, Esquire
Elizabeth C. Rogers, Esquire
Attorney for the Applicant

* * * * *

Barney Rush, Mayor
Town of Chevy Chase

Robert C. Dalrymple, Esquire
Ron Bolt, Esquire
Attorneys for the Town of Chevy Chase

Andy Leon Harney, Village Manager
Village of Chevy Chase

* * * * *

Before: Lynn Robeson Hannan, Hearing Examiner

Local Map Amendment
Application Case No. H-148

HEARING EXAMINER’S REPORT AND RECOMMENDATION

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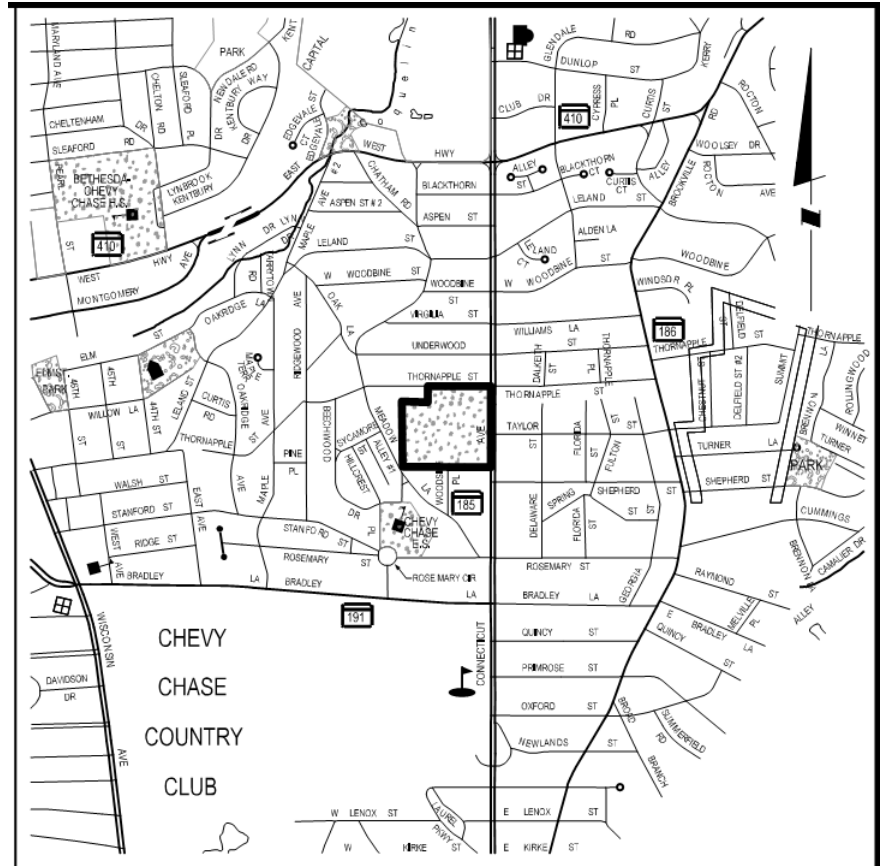
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I. CASE SUMMARY

Applicant: CORSO DC LLC
LMA No. & Date of Filing: H-148, filed November 2, 2022.
Location: 7100 Connecticut Avenue, Chevy Chase, Md., approximately 1,100 feet north of Bradley Boulevard (shown below):



Current Zone: R-60 (Residential Detached).
Current Use: Former National 4-H Conference Center (no longer operating).
Requested Zone: CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone).
Proposed Use: Residential Care Facility with 287 independent living units, 190 assisted living beds, and 30 memory care beds.
MPDUs Required/Provided: 15%/15%

Public Open Space Req./Provided: 10%/10.6% (T. 72)

Consistency with Master Plan: Consistent with the *1990 Bethesda Chevy Chase Master Plan*.

Neighborhood Response: Property is within the municipal boundaries of the Town of Chevy Chase (Section 4) and confronts Section 3 of the Village of Chevy Chase across Connecticut Avenue. Both support the application with the binding elements to (1) require additional analysis of the safety and efficiency of the intersection of the site access with Connecticut Avenue and Taylor Street, (2) require a parking demand analysis to ensure all parking is accommodated on-site, and (4) provide for continuing community engagement during subsequent approvals.

Planning Board Recommends: Approval

Technical Staff Recommends: Approval

Hearing Examiner Recommends: Approval

District Council Votes Needed
to Approve: 6

II. STATEMENT OF THE CASE

CORSO DC LLC (Applicant or CORSO) filed LMA Application No. H-148 on November 2, 2022. The application seeks to rezone approximately 12.29 acres of property from the R-60 (Residential Detached) Zone to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating Zone). Exhibit 1. The subject property is located at 7100 Connecticut Avenue, Chevy Chase, MD, further identified as Parcel 1, Block 5, "Section 4 Chevy Chase" subdivision (Tax Account No. 07-00464946). *Id.*

OZAH issued notice of the public hearing, which established a hearing date of March 24, 2023, on February 6, 2023. Exhibit 23. Staff of the Montgomery County Planning Department (Planning Staff or Staff) transmitted its report and the Planning Board's written recommendation on March 14, 2023. Staff recommended approval of the application with 21 binding elements. Exhibit 45, pp. 3-4. The Planning Board also recommended approval but modified some of the binding elements to address concerns expressed by both the Town of Chevy Chase (Section 4) (Town) and Section 3 of the Village of Chevy Chase (Village). Exhibit 47.

The public hearing proceeded on the scheduled date. The Applicant presented seven witnesses, including a principle of CORSO and five experts. Mr. Barney Rush, Mayor of the Town, and Ms. Andy Leon Harney, Village Manager of the Village, also testified. The Town and Village requested an amendment to Binding Element Nos. 2 and 3 to require a parking demand study and a vehicle access study *prior* to submission of the applicant's preliminary and site plans. The Hearing Examiner left the record open to receive an updated FZP and Declaration of Covenants that included the agreed-upon revisions to the binding elements. The Applicant submitted these, and the record closed on April 3, 2023. Exhibits 65(a) and (b). The record re-opened on May 11, 2023, to receive corrections to this report, an Errata, and an Order Re-Opening and Closing the Record.

III. FACTUAL BACKGROUND

A. Subject Property

Containing about 12.29 acres, the subject property is in the southwest quadrant of the intersection of Connecticut Avenue and Thornapple Street, within the municipal boundaries of the Town. The Village confronts the property across Connecticut Avenue. An aerial photograph of the property (Exhibit 45, p. 8) is shown below:



The property is improved with buildings that had been used by the former National 4-H Conference Center. Staff advises that the property slopes from generally from west to east, rising 40 feet towards the center and then gently sloping down 10 feet approaching Connecticut Avenue. Approximately 3.71 acres of forest border the north, west and southern property lines. According to Staff, there are no other environmentally sensitive features on the site, such as wetlands, protected floodplains or stream valley buffers. The historic Stephano Lozupone House is located to the north

across Thornapple Avenue. Staff advises that it will not be impacted by the proposed use. Exhibit 45, p. 8-9.

B. Surrounding Area

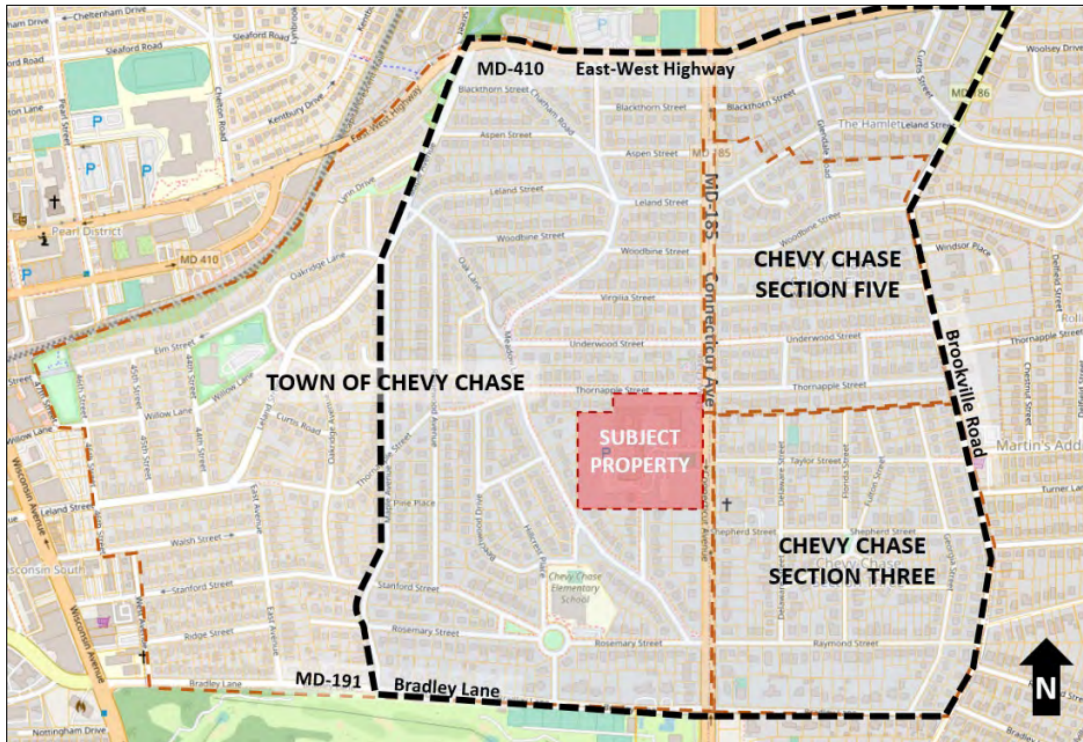
The surrounding area is typically identified and characterized in an application for a Floating Zone. The boundaries are defined by those properties that will experience the direct impacts of the use. This area is then characterized to determine whether the development will be compatible with the neighborhood's character.

Staff used major roadways in this area of Chevy Chase and surrounding municipalities to delineate the surrounding neighborhood. Staff's boundaries include East-West Highway to the north, Bradley Lane to the south, and Brookville Road to the east. Staff determined the western boundary to be the western limits of the Town of Chevy Chase, which is zoned R-60 as well.¹ Exhibit 45, p. 7.

Staff described the surrounding area as consisting primarily of single-family homes on all sides with some institutional uses. *Id.* Ms. Jane Przygocki, the Applicant's expert in land planning, agreed with Staff's assessment, characterizing the area "largely residential in nature with some institutional uses, such as the Chevy Chase Elementary School and Chevy Chase United Methodist Church." T. 53. A graphic from the Staff Report shows the Staff-defined neighborhood boundary (Exhibit 45, p. 7, on the next page).

Based on this record, the Hearing Examiner characterizes the area as primarily single-family detached residential dwellings in the R-60 Zone with institutional uses typically associated with

¹ At the public hearing, the Applicant's land planner, Ms. Jane Przygocki, testified that there was a discrepancy between the neighborhood boundaries described in the text of the Staff Report and the graphic shown in the Staff Report (on the next page). The text states that the boundary is the western limits of the Town, while the graphic shown places the western boundary at Maple Avenue. In her opinion, the distinction makes no difference, as the character of both is the same.



**Surrounding Area
Exhibit 45, p. 7**

residential development.

C. The Applicant’s Proposal

Mr. Tim Gary, founder and CEO of Gallerie Senior Living, believes that the site is well-suited for the proposed residential care facility. Gallerie Living, which owns and operates CORSO, chose the site because it is so close to families in the surrounding area. He testified that this gives residents and families the ability to age gracefully with dignity in the same community. T. 21.

CORSO proposes to remove the existing conference center and replace it with a “residentially scaled” senior care community containing 287 independent living dwelling units, 190 assisted living beds, and 30 memory care beds. Exhibit 45, pp. 10-11. CORSO submitted a conceptual aerial architectural rendering of the project (Exhibit 38, on the next page). The project will include up to 5,000 square feet of retail facing Connecticut Avenue that will be open to the public, bringing the total size to 700,000 square feet. Construction will be in two phases, beginning



with structures in the site interior. Exhibit 45, pp. 9-10. Final phasing will be determined at site plan. *Id.* The Applicant has agreed with the Town and Village to limit the heights of buildings along the property's perimeter. A binding element restricts the height of buildings along Connecticut Avenue to 60 feet for the first 80 feet into the site. Another binding elements requires all buildings on the perimeter to present as four stories plus a roof. Buildings on the northwest corner of the site are restricted to three stories on top of a garage plus the roof. Exhibit 45, p. The stepped building heights are shown on the next page (Exhibit 37).

1. Floating Zone Plan

Under Zoning Ordinance §59.7.2.1.B.2.g., every application for rezoning to a Floating Zone must be accompanied by a Floating Zone Plan that contains required information and often a list of “binding elements” that restrict future development of the property. The Applicants have submitted the required plan. Exhibit 65(b). An excerpt of the FZP showing the proposed building layouts, drive aisles, and forest conservation areas is reproduced on page 11.

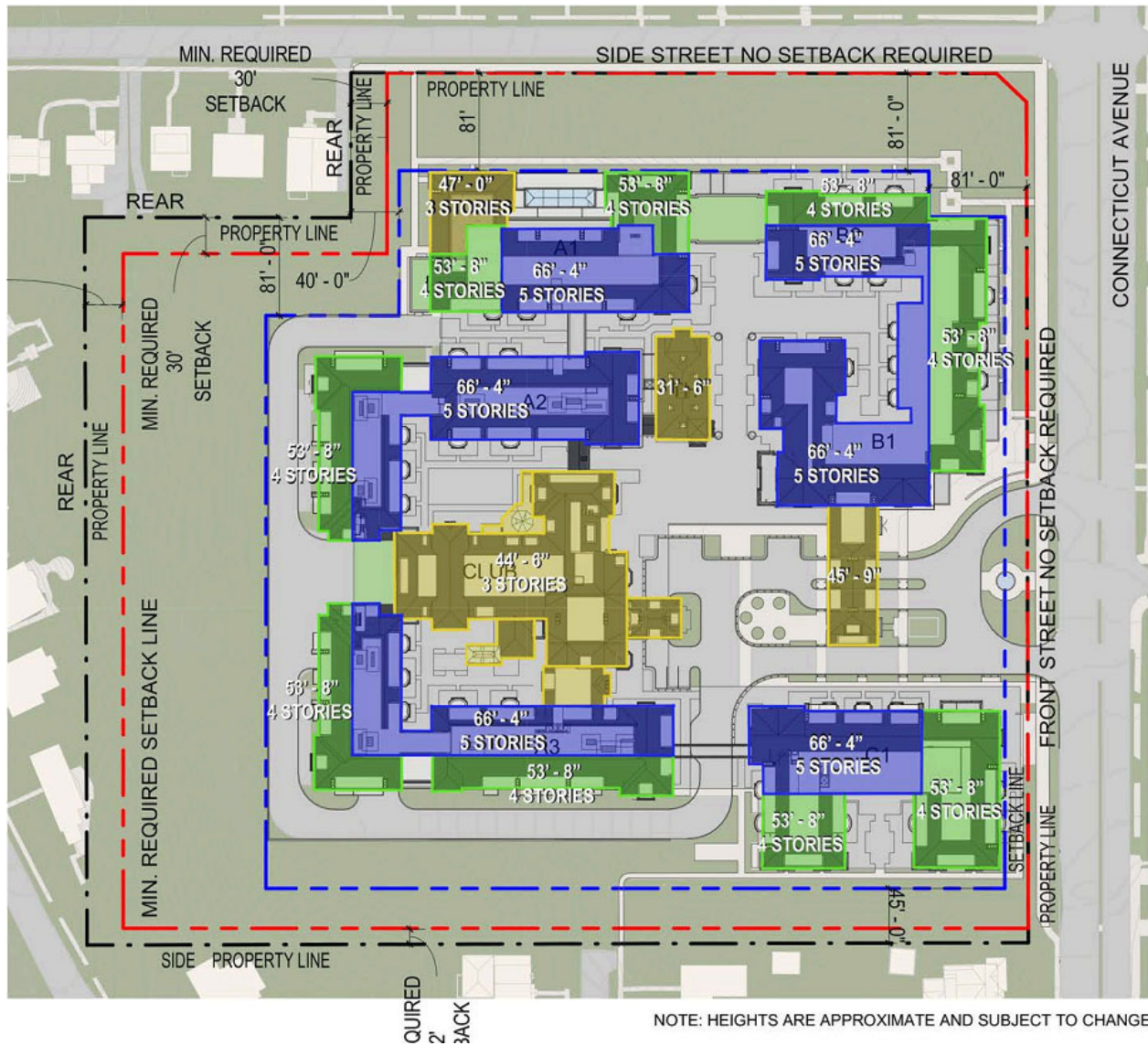
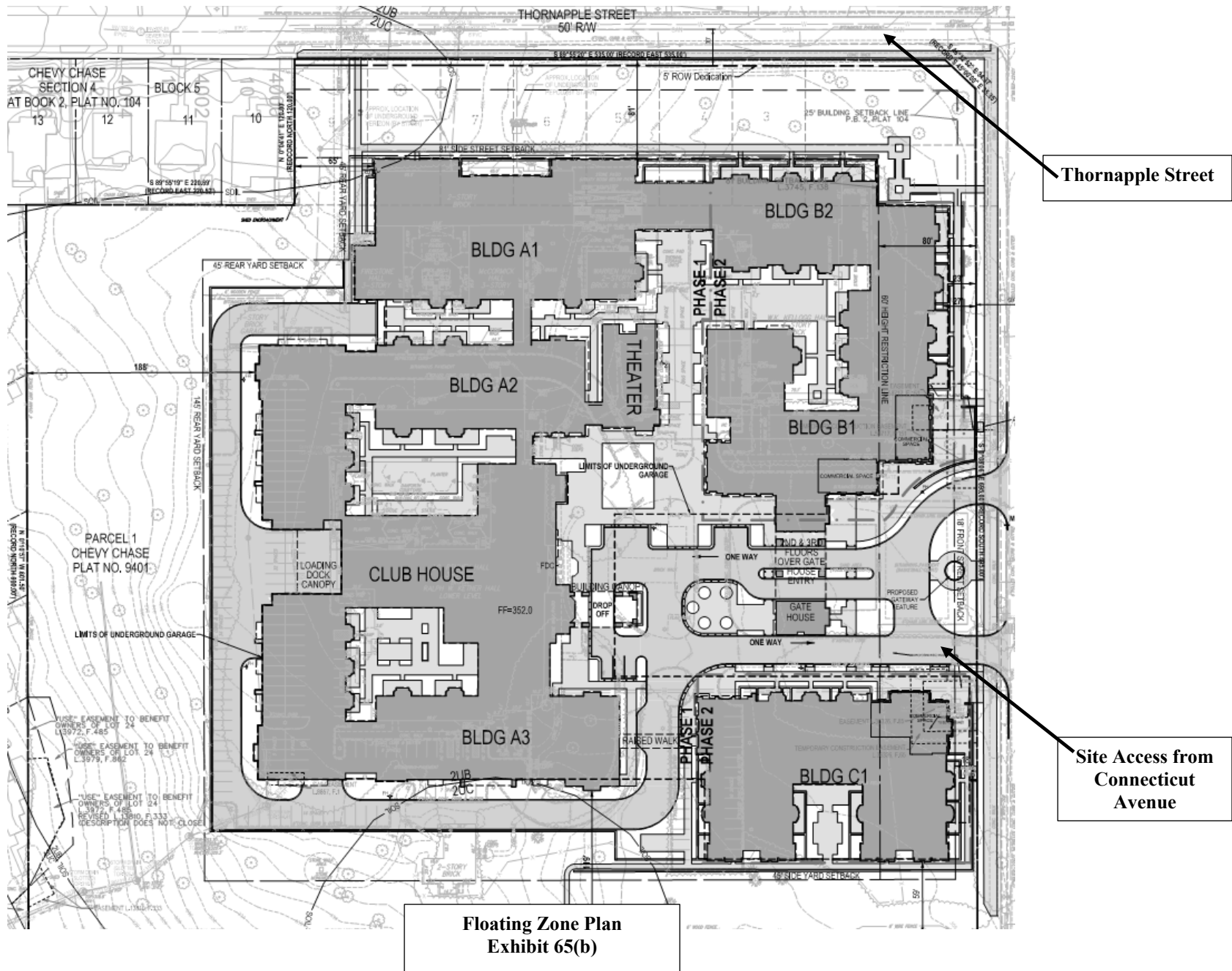


Diagram of Building Heights (Exhibit 37)

2. Binding Elements

The FZP contains 21 binding elements, two of which were modified during OZAH's public hearing (Exhibits 65(a) and (b)):

1. Use of the property will be limited to a residential care facility and ancillary commercial establishments. No more than 5,000 square feet of commercial use, with no single establishment larger than 2,500 square feet shall be permitted. Such commercial establishments shall be made available to the general public.



2. Vehicular access will be limited to Connecticut Avenue. Vehicular access to and from Thornapple Street, Woodside Place, and Meadow Lane and the property must be prohibited. Before submission of a Preliminary Plan and/or Site Plan applications, the Applicant will complete a Comprehensive Vehicular Site Access Study that shall include, but not be limited to review of the existing roadway, intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. The Applicant will work with the State Highway Administration and the Town of Chevy Chase to determine the need for traffic-related measures along Connecticut Avenue. In addition, the Applicant will coordinate with Chevy Chase Section 3 to address traffic-related impacts to that neighborhood.
3. Before submission of Preliminary Plan and/or Site Plan Applications, the Applicant will complete a Parking Demand Analysis to ensure on-site parking for all property employees and visitors, including during peak use and visitation periods, is adequate. The Applicant will implement the recommendations of the Parking Demand Analysis to ensure that all parking necessary to meet the needs of the Project is accommodated on-site, subject to approval by the necessary governmental entities.
4. The Applicant shall provide garage space and five (5) separate parking spaces for use by the Town of Chevy Chase, the details of which will be provided during site plan review.
5. The Applicant shall place areas, as more accurately depicted on the Final Forest Conservation Plan, generally along the southern, western and northern property lines, in a Category I Conservation Easement. The Town of Chevy Chase forester shall be included in the proceedings regarding the creation and maintenance of the Category I Conservation Easement.
6. The Applicant shall construct new pathways connecting the existing sidewalk on Thornapple Street with Connecticut Avenue and connecting the property with Woodside Place. No pedestrian pathway shall directly connect between Woodside Place and Connecticut Avenue. A public walking path through the proposed Category I Conservation Easement, as applicable, generally located along the western property boundary, shall be prohibited.
7. The Applicant shall maintain minimum building setbacks as shown on the Floating Zone Plan, including a maximum building height of sixty feet (60') for a distance of eighty feet (80') from Connecticut.
8. The Applicant shall comply with all applicable stormwater management regulations. A Town of Chevy Chase-appointed engineer will be included in the review of the stormwater management plans for the Property, as coordinated by the Montgomery County Department of Permitting Services.

9. The Applicant shall locate and/or screen refuse storage and collection areas and loading and service areas so as to minimize the view and noise from the adjacent property boundaries.
10. The Applicant shall install planting materials that are primarily native species. The Applicant will remove all invasive species on the Property, in accordance with the Final Forest Conservation Plan. The Applicant will provide sufficient planting depth above garage areas to support canopy and shade trees, where applicable.
11. The Applicant shall install a non-deciduous tree screen along the south property line outside of the Category I Conservation Easement. Foundation planting shall be installed where garage walls extend above grade.
12. The Applicant shall provide exterior lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.
13. The Applicant will enter into a Construction Management agreement with the Town of Chevy Chase before approval of the Certified Site Plan for the Property.
14. At the time of Site Plan, the Applicant will provide an interim landscaping plan for the phased build-out of the Project.
15. Vinyl siding and EFIS are prohibited on all new buildings.
16. The Applicant shall execute and record among the land records, so as to be enforceable against all successors and assigns, a Declaration of Covenants that will include the binding elements included in the approved Local Map Amendment prior to approval of the Certified Site Plan for the Property.
17. The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, with the exception of the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof. Additionally, these outward facing facades must adhere to a maximum height, as observed from the established measuring point of 55 feet with the exception of the northwest corner of the Property, which shall adhere to a maximum height of 50 feet.
18. The Project will provide ground floor entrances along both Thornapple Street and Connecticut Avenue commensurate with individual units located along these respective facades.
19. The Project will include a porte cochere at the site entrances featuring specialty paving, with the final design and location to be finalized at the time of Site Plan.
20. The Project will incorporate a fountain or similar gateway feature at the main entrance along Connecticut Avenue, with the final design to be approved by the Planning Board in connection with the Site Plan approval.

21. Before obtaining any building or grading permits, the Project must receive Site Plan approval

CORSO proposes to utilize the existing site access. An aerial photograph of the access is shown below (Exhibit 60). Ms. Nancy Randall, CORSO's expert in transportation planning, testified that inbound access is from southbound right turn or northbound left on Connecticut Avenue. Ms. Randall testified that egress is a right-turn only to southbound Connecticut.



4. Environment

The property contains approximately 3.71 acres of existing forest. A Preliminary Forest Conservation Plan (PFCP), approved by the Planning Board, calls for removal of 0.74 acres of forest. Approximately 2.94 acres of forest will be preserved in a Category I forest conservation easement. Exhibit 45, p. 17.

D. Community Concerns

Mr. Barney Rush, Mayor of the Town, and Ms. Andy Leon Harney, Village Manager of the Village, testified at the public hearing. Both are generally supportive of the development but have some concerns still to be addressed. Mr. Rush testified that his constituents are skeptical that the trip generation rates used to calculate trips generated from the former 4-H conference center are accurate. He believes that traffic from the Center was *lower* than estimated in the Traffic Study, which found that the redevelopment would *reduce* traffic from the site. His constituents are concerned that traffic from the redevelopment may result in an *increase* in traffic from the former use. The Town also wants to ensure that all employees, residents, and visitors park on-site and not on neighborhood streets. This includes peak visitation days. Keys to the Town's support are the binding elements negotiated with CORSO. These include requiring CORSO to complete a parking demand study and a comprehensive vehicle access study prior to submission of a preliminary plan or site plan and continuing to involve the Town in future approvals.

The Village is concerned about safety of the access on Connecticut Avenue, directly across from the Village. Ms. Harney testified that the right-only southbound exit onto Connecticut is dangerous without a signal, because cars that want to proceed north will be forced to cross several lanes of traffic to make a U-turn. These, and other concerns from the Town and the Village, are discussed in more detail later in this Report.

IV. FINDINGS AND CONCLUSIONS

A floating zone is a flexible device that allows a legislative body to establish development standards and uses for a particular district before "attaching" to individual properties. The zone may be applied to individual properties with the approval of a Local Map Amendment (LMA).

To approve the LMA, the District Council must find that the proposal will meet the

standards required by the Zoning Ordinance and that it will be consistent with a coordinated and systematic development of the Regional District. *See, Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or “Necessary Findings” that the Council must make. These standards incorporate the requirements of other sections of the Zoning Ordinance and are listed below.

A. The “Necessary Findings” Required by Zoning Ordinance §59.7.2.1.E.2.

1. Substantial Conformance with the Master Plan

Several sections of the Zoning Ordinance require an applicant to demonstrate that the proposed rezoning conforms to the applicable Master Plan:

Section 7.2.1.E.1.a. For a Floating zone application the District Council must find that the floating zone plan will:

a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;

* * *

Section 59.7.2.1.E.1.b: ...further the public interest...

* * *

Section 59.7.2.1.c: ...satisfy the intent and standards of the proposed zone...

* * *

Section 59.5.1.2.A.1. (Intent of Floating Zones): Implement comprehensive planning policies by... furthering the goals of the general plan, applicable master plan, and functional master plan...

The property lies within the boundaries of the *1990 Bethesda Chevy Chase Master Plan* (Master Plan or Plan). Staff concluded that the project substantially conforms to Master Plan.

While Staff recognized that the Plan in general reconfirmed the existing R-60 zoning, the Plan also recommended housing for existing country clubs, private schools, and “institutional uses” if these “ever redeveloped.” *Plan*, p.; Exhibit 45, p. 21.

Staff also found that this application conformed to four of the seven “overarching” goals of the Plan (*Id.*, p. 21):

- *Provide for a balanced housing supply so that persons of varying income levels, age, backgrounds, and household characteristics may find suitable housing appropriate to their needs.*

The Project provides diverse housing opportunities on-site that will help to meet the needs of the surrounding community. As proposed, the Project includes a variety of units for senior living, with three levels of care (i.e., Independent Living, Assisted Living and Memory Care), to allow residents of the surrounding community to age-in-place. The Project will provide MPDUs per the standards of Chapter 25A with final review at the time of Site Plan application.

- *Protect the high-quality residential communities throughout the Planning Area as well as the services and environmental qualities that enhance the area.*

The Project layout has been designed to protect and retain the existing tree canopy that exists along the northern, western, and southern Property boundaries to the maximum extent feasible. This natural screening provides a significant physical and visual buffer from the surrounding residential communities, but also serves to protect the environmental features on-site.

- *Protect the natural resources and environmental qualities of the Planning Area.*

The Project will preserve and enhance the natural resources that exist on-site and the environmental qualities of the Planning Area. As mentioned, the Project preserves a majority of the existing tree canopy that exists on-site today and will provide for its permanent protection through Category I Forest Conservation Easement(s) as proposed with the associated Preliminary Forest Conservation Plan. This will also provide for the protection of the steep slopes that exist along the western Property boundary. The Project also will provide stormwater management on-site, to be reviewed during the Preliminary Plan application.

- *Contribute to a strong sense of community and help reinforce community cohesion.*

The Project proposes a conceptual layout design and building heights to be compatible with, and complement, the character of the surrounding residential neighborhood. The proposed conceptual building architecture related to styles found in the surrounding neighborhood, and many of the proposed Binding Elements reinforce these styles by restricting certain materials and requiring the future buildings to read as a limited amount of building stores. The Master Plan recognizes that “[t]he way we meet the special needs of the elderly...also relates to our sense of a community that cares about its residents.” The Project accomplishes this by providing a range of services for residents ages 62 years and older, which will serve County residents and allow Chevy Chase residents to stay in their community as they age.

Ms. Przygocki agreed with Staff that the project fulfilled these goals of the Master Plan. According to her, it addresses the strong demand for senior housing and maintains the high-quality of housing in the area. T. 64. It protects natural resources by permanently retaining much of the the existing forest and by modernizing on-site stormwater management.

Conclusion: The Hearing Examiner agrees with Staff and the Applicant that the project conforms to the Master Plan. The Plan is more than 30 years old, and notes that specific recommendations may age over time. *Plan*, p. vi. The proposed development meets the Plan's general goal to “balance” the housing supply by providing opportunities for residents to age in their own neighborhood. It protects the existing forest through Category I Conservation Easements, and upgrades on-site stormwater management to current standards. The Hearing Examiner is persuaded by the evidence and expert testimony that the project has been designed to create a sense of community with the surrounding area. A pedestrian side walk will border Connecticut Avenue and the northern side includes public open space. Retail fronting Connecticut Avenue will be open to the public as well as residents. The stepped-up heights also ease the transition between the surrounding single-family detached homes and the residential care facility.

2. Compatibility

Several sections of the Zoning Ordinance require the District Council to analyze the compatibility of the proposed FZP with adjacent uses and the surrounding area. The application

must:

Section 7.2.1.E.1.c.: satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;

* * *

Section 5.1.2.C. (Intent of Floating Zones). Ensure protection of established neighborhoods by:

- 1. establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;***
- 2. providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and***
- 3. allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.***

* * *

Section 5.3.2.C. (Purpose of Commercial/Residential Zones). The purpose of the Commercial/Residential Zones is to ... provide mixed-use development that is compatible with adjacent development.

Section 7.2.1.E.1.d. be compatible with existing and approved adjacent development...

i. General Compatibility (Summary of Testimony and Evidence)

Staff concluded that the development will be compatible with the surrounding area and adjacent properties for several reasons. Preservation of the existing forest establishes a visual and physical barrier from the surrounding community. Exhibit 45, p. 26. Maintaining the existing forest also causes setbacks to be much larger than required for the Zone. Staff found that the retail and first-floor units have been oriented toward Connecticut Avenue, which will “activate” and “enliven” this portion of a major road. *Id.* The architecture and building materials incorporate elements from homes in the surrounding area, and buildings will be limited to 60-feet in height for an 80-foot depth from Connecticut Avenue. *Id.*

For similar reasons, Ms. Przygocki opined that the application will be compatible with the

surrounding area. It replaces an institutional use with a residential use more in keeping with the character of the community. The setbacks from the curb line along Connecticut Avenue are comparable to the building setbacks on the other side of that street. T. 54-55.

Ms. Sarah Alexander, CORSO's expert in architecture, submitted photographs of homes in the surrounding area and testified that the proposed project will use materials and architectural elements reminiscent of these homes. The project uses sloped roofs and dormers and gables rather than the typical flat roof, which makes the buildings blend with the surrounding homes. T. 95-96.

ii. Compatibility of Traffic and Parking (Summary of Testimony and Evidence).

A major issue in this case is whether the site access will operate safely and efficiently. Ms. Przygocki contends that the project is compatible with adjacent land uses because it uses the existing site access. T. 59. Ms. Randall opined that the access shown on the FZP would have no adverse traffic impacts. Because the proposed development generates fewer than 50 person trips, the Local Area Transportation Review (LATR) Guidelines do not require CORSO to do a full traffic study. She testified that the project generates fewer than 50 person trips because the LATR Guidelines permit a credit for "existing" trips even though the former use no longer operates. T. 110-118. The County Code requires only that a building be "substantially intact" to obtain credit for "existing trips." T. 117. When a credit for "existing" trips (from the former 4-H conference center) is applied against estimated trips generated by proposed facility, the traffic generated from the site is less than that generated by the former conference center. T. 110.

In response to questions from the Hearing Examiner, Ms. Randall did supply information on traffic volumes at two intersections near the site access and crash data for the access point. She submitted 2019 and 2022 traffic counts for Bradley Boulevard/Connecticut Avenue and East-West Highway/Connecticut Avenue. The 2019 counts (pre-COVID) were taken when the 4-H Center was open; it was closed at the time the 2022 counts were taken. At both intersections, the 2019

Critical Lane Volumes (CLV) were under the policy area standards.² In 2022, the Bradley Boulevard intersection remained below the CLV standard of 1600 for the policy area. There is no current CLV cap on the East-West Highway intersection, however, the 2022 CLVs were less than the 2019 counts. T. 125-126.

In Ms. Randall's opinion, redevelopment will not cause delays at the intersection of the site access/Connecticut Avenue/Taylor Street above the maximum standard for the policy area. The maximum for the policy area is an 80-second delay. Ms. Randall estimated the traffic generated by the 4-H conference center and factored that into the existing delays. The result showed delays of 1.9 seconds in the morning peak hour and 1.5 seconds in the evening peak hour, well under the 80-second cap. When they added existing volumes to projected traffic from the proposed facility, the delays were reduced (*i.e.*, .7 seconds in the a.m. peak hour and 1 second in the p.m. peak hour). T. 126-129.

Ms. Randall also presented crash data for the intersection of the site access, Connecticut Avenue, and Taylor Street (in the Village). These included accidents reported to the police for the last 5 years and two months (Exhibit 61, on the next page). Ms. Randall testified that there have been 6 reported, all of which occurred on northbound side of Connecticut avenue east of the median, on the opposite side from the site access. T. 133.

In Ms. Randall's opinion, traffic will be compatible with the surrounding area. Redevelopment with a residential care facility will generate 82 fewer vehicle trips in the morning

² "CLV" or Critical Lane Volume measures an intersection's ability to carry traffic by analyzing the level of congestion at locations with conflicting vehicle movements, such as an intersection. *2021 LATR Guidelines*, p. 33. The County is divided into different "policy areas," each of which have different congestion standards. *Id.*, p. 7. In some policy areas, congestion standards also include measure of the delay. The amount of delay is measured by the weighted average of all approaches. T. 126.

Category	Subcategory	Number of Crashes	Number of Crashes	Number of Crashes	Number of Crashes	Number of Crashes	Number of Crashes	Number of Crashes
		2018	2019	2020	2021	2022	2023	Total of 5yrs and 2 months
Severity	Property Damage	1	0	0	2	0	0	3
	Injury Crash	2	0	1	0	0	0	3
Collision Type	Side Swipe	1	0	0	1	0	0	2
	Same Direction Rear End	1	0	1	1	0	0	3
	Angle	1	0	0	0	0	0	1
Intersection Related	Yes	3	0	1	2	0	0	6
Direction	NB	3	0	1	2	0	0	6
	SB	0	0	0	0	0	0	0

**Crash Data at Access Intersection
Exhibit 61.**

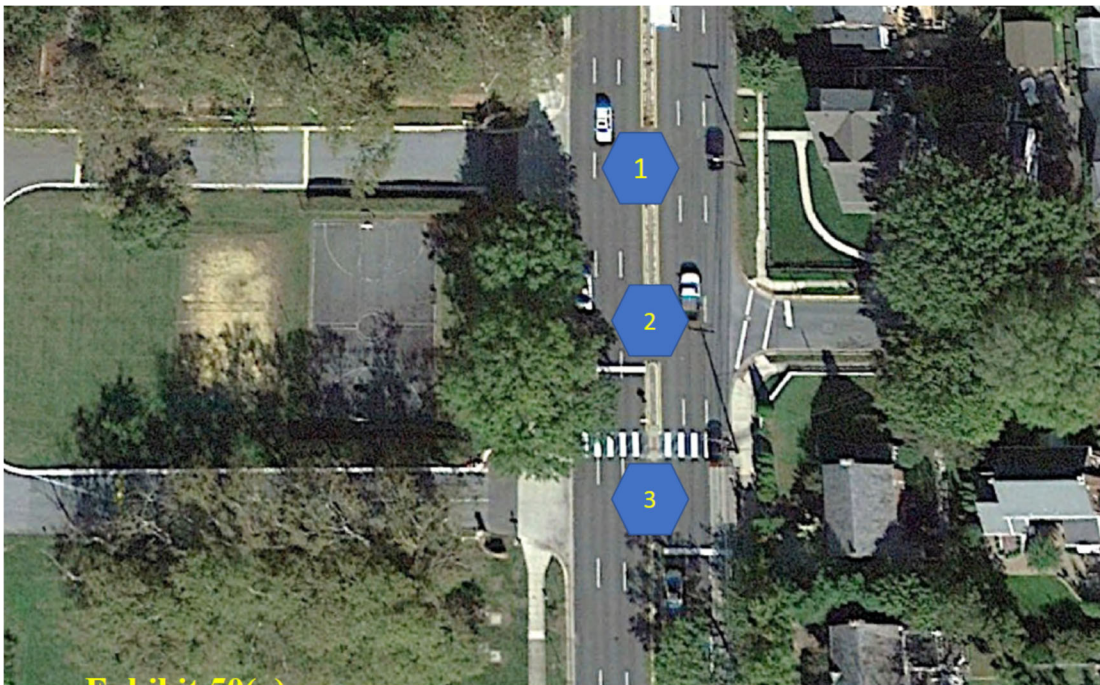
and 46 fewer in the evening peak hours. Residential care/assisted living is a very low traffic generator. Transit stops for Ride-On and Metro are adjacent to the site and along the east side of Connecticut. T. 135-136.

Ms. Randall described what would be involved in the “comprehensive vehicular access study” required by Binding Element No. 2. The study will examine and collect data relevant to whether modifications can be made to make the intersection operate more efficiently and (if the data supports this) more safely. Information considered will include current traffic counts and delays from all approaches to the intersection, projected future counts and delays, queuing issues, crash data for the last three years, and an analysis whether a signal warrant is appropriate. After collection of this data, the study will then analyze whether modifications that can be made to improve efficient operation and safety, if necessary. Potential modifications include signalization (enabling a full-movement intersection), changes to the location of the crosswalk, and changes to signage. T. 120-124.

The Town and Village are “deeply skeptical” of the traffic credit applied in the LATR traffic statement. Mr. Rush believes the traffic formulas used by CORSO to estimate traffic from the 4-H Center are “wildly” excessive. Those who stayed at the Center did not have cars (they arrived by

bus) and did not add to traffic in the area. The Center had a very small staff. T. 159. One reason the Town continues to support the development is the binding element (*i.e.*, Binding Element No. 2) requiring CORSO to conduct a comprehensive vehicular access study. It is very important to the Town that CORSO attempt to use actual amount of traffic generated from the 4-H Center traffic to the extent possible, rather than the formula used by the Applicant. The Town expects CORSO to conform to any changes recommended by the study. T. 160.

The Village raises similar concerns. Ms. Harney testified that the Village is concerned about cut-through traffic using Taylor Street. She believes that the current configuration may result in risky and unsafe traffic maneuvers for vehicles wanting to proceed north because they will have to cross three narrow lanes to make a U-turn to head north. To explain, Ms. Harney submitted a graphic showing the three existing median breaks at the intersection (Exhibit 50(a), below):



Ms. Harney testified that median break No. 3 allows vehicles exiting the site to proceed northbound on Connecticut. Break No. 2 used to permit eastbound vehicles to exit Taylor Street and proceed southbound on Connecticut Avenue, although she believes there may be signs

prohibiting that now. Break No. 1 is the site entry used by northbound buses on Connecticut Avenue to make a left turn into the Center. She testified that the crosswalk is in a "crazy" location because there are no signals and it's south of Taylor Street and north of the current exit. T. 166-167. People use a much safer crosswalk to the north. In December 2022, the Town sent a letter reiterating its position that redevelopment of the residential care facility would result in an increase in traffic from the 4-H Center. T. 168.

The Village is concerned about relying on a vehicular access study prepared by the Applicant because it may be slanted in their favor. Ms. Harney does not believe that the crash data presented by CORSO in this hearing comprehensively captures safety problems because accidents without property damage or personal injury (*e.g.*, fender benders) do not have to be reported. She pointed out that the lanes on the east side of Connecticut are only 9-feet wide, a substandard width. T. 168-169.

Ms. Harney testified that it's clear that the median breaks at the site access are dangerous and will have to be closed because, while it was easy to see buses entering and exiting the former 4-H Center, it will be difficult to see the vehicular traffic accessing the residential care facility. T. 169. Using the existing access is also unsafe because traffic exiting the site must proceed south on Connecticut Avenue. Traffic that wishes to proceed north will then have to cross several lanes of traffic on Connecticut to make a U-turn onto Connecticut Avenue northbound. Some streets south of the site access prohibit left turns. There is one street where a U-turn is possible if there isn't much northbound traffic. She believes these maneuvers are "risky," particularly during the two-year construction period with heavy traffic.

When the Village asked for SHA's opinion on using the site access, SHA engineers agreed with them that the existing configuration "does present serious public safety hazards." T. 171. The Village initially supported a signalized intersection to avoid these concerns, but then realized that

would lead to cut-through traffic from Taylor Street. To address CORSO's desire to maintain the existing configuration, SHA prepared the following intersection design concept called "Split Phase, Alternative 2" (Exhibit 50(c), below):



The Village does not agree with this approach because the signal at Taylor Street will create cut-through traffic and the configuration does not deal with the need for vehicles exiting the site to make a U-turn on Connecticut Avenue to proceed north. T. 172. The Village prefers a second alternative, "Split Phase Alternative 1" (Exhibit 50(c), on the next page). This option permits vehicles to exit from the northern driveway and permits them to turn left or right without the need to make U-turns on Connecticut Avenue. The southern entry could be used for service and emergency vehicles, while the northern entry could be made wider to permit two-way traffic. T. 174. Because of the potential impacts on the Village, Ms. Harney feels it important to retain the language in Binding Element No. 2, requiring CORSO to coordinate with the Village during the comprehensive vehicular access study.



**Split Phase Alternative 2 (Configuration
favored by Village)
Exhibit 50(c)**

Staff advises that the FZP shows 545 parking spaces on-site, although the range required by the Zoning Ordinance is between 323 spaces and a maximum of 528. Exhibit 45, p. 29. Ms. Przygocki testified that 503 spaces would have direct access to a drive aisle and 42 spaces would be tandem (one space with no direct access to a drive aisle). CORSO has agreed to perform a parking demand analysis (Binding Element No. 3) to determine whether all parking can be met on-site. Mr. Rush testified that the requirement for a parking demand analysis is also important to the Town's support. The Town wants to ensure that all parking for employees, residents, and visitors may be accommodated on-site rather than on streets in the Town. The Town did not see in the back-up information on the parking demand for residents, employees during shift changes, and visitors, especially on heavy visitor days. T. 160-161. The Town is looking for these much more concrete measures of what will occur. The Town interprets the binding element to mean that recommendations of the study will be implemented. If the parking is determined to be inadequate,

that means that the binding element hasn't been met. It would require some additional changes in the plans that would meet the actual parking demand. *Id.*

Ms. Harney reiterated her support for the parking demand study required by Binding Element No. 3. She testified that Village residents are concerned about on-street parking in their community and believe that all parking for the residential care facility should be accommodated on-site. T. 164, 175.

iii. Conclusion: General Compatibility.

The Hearing Examiner agrees with Staff that the project will be compatible with surrounding and adjacent land uses. She primarily relies on the significant visual and physical barrier created by permanently preserving forest on three sides and the stepped-up building heights, which are lower around the perimeter and highest in the site's interior. The uncontroverted evidence that building materials and architectural elements of the project reflect those of the surrounding neighborhood also supports a finding that the use will be compatible with surrounding and adjacent development.

iv. Conclusion: Compatibility of Traffic Impacts.

Even when a traffic study is not required, the Hearing Examiner must still make a finding that traffic impacts will be compatible with the surrounding uses.³ Were this application subject to a full traffic study, some analysis of the safety and operation of the intersection would be required at the rezoning stage. *See, LATR Guidelines*, Sections 3.C.3 (Vision Zero Statement), p. 25. A full traffic study is not required, however, for developments that will result in fewer than 50 person trips. *Id.*, §II.B (p. 7.) CORSO's proposal is under 50 person trips due to a credit for "existing trips" from the 4-H Center, even though that use has been abandoned and no trips are currently on

³ Maryland courts have held that traffic impact is a component of compatibility to be considered in land use cases. *Md. Reclamation Assocs. v. Harford County*, 414 Md. 1, 34 (2010).

the road.⁴

Ms. Randall did provide evidence (crash data for the last five years) and expert testimony that the current configuration of the intersection does not pose significant safety hazards. This data is the only expert or objective evidence on the safety of the intersection. That, combined with Ms. Randall's expert testimony that most of the accidents were unrelated to the site access (northbound turns from Taylor Street), supports a finding that the *existing* operation (with the 4-H Center initially in operation but without the residential care facility) is relatively safe. The concerns of the Village and the Town are based on their belief that the residential care facility will result in more traffic than was generated by the 4-H Conference Center. While the Hearing Examiner does not doubt sincerity of the testimony, she must give more weight to the objective and expert evidence in this record. Both the Town and Village acknowledge that they are not traffic experts. T. 159. The Town plans to continue to pursue using trip numbers from the 4-H Center that are "as realistic as possible," so the Town's concerns will continue to be addressed. T. 160.

Ms. Randall's testimony that intersections north and south on Connecticut Avenue will continue to meet policy area standards also supports a finding that traffic will not have an adverse impact on the area. Based on the objective evidence before her, the Hearing Examiner finds that the vehicular access study, which will be conducted with oversight by SHA and the Planning Department, and with participation from the Village and Town, will adequately address any potential adverse impacts from site traffic.

Similar reasoning applies to the concerns expressed that on-site parking provide may be

⁴ Ms. Randall submitted information regarding Council Bill 38-10, adopted in 2010, that amended the definition of "existing building" for the purpose of testing the roadway adequacy. The Hearing Examiner reviewed the legislative history of the bill and included both the Bill and the legislative history in the record of this case. Exhibits 49(a)-(d). Based on the information presented to her for the first time, she agrees that the Council intended to permit applicants to take credit for "existing trips" that are no longer on the road for a variety of policy reasons.

inadequate. The FZP demonstrates that the development may accommodate more than the number of spaces required by the Zoning Ordinance. There is no objective evidence before the Hearing Examiner that the FZP doesn't provide sufficient on-site parking, and she commends both parties on addressing these concerns through the binding element requiring a parking demand analysis prior to filing a preliminary plan or site plan application.

3. Adequate Public Facilities/Public Interest

Several sections of the Zoning Ordinance require an applicant for a Floating Zone to demonstrate that public facilities will be adequate to serve the property. The Council must find that the application meets the following standards:

Section 7.2.1.E.1.e: generate traffic that does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts; and...

* * *

Section 7.2.1.E.1.b: further the public interest...

* * *

Section 7.2.1.E.1.c.: satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;

* * *

Section 5.1.2.A.2: (Intent of the Floating Zones). "...implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..."

Staff advises that the proposed development generates fewer than 50 person trips due to the trip credit claimed for the former 4-H Conference Center use. Ms. Randall presented expert testimony and evidence to support this position.

Staff also determined that existing public facilities, such as water and sewer, utilities, fire

and police, and health care facilities are adequate to serve the use. Exhibit 45, p. 23. Mr. Timothy Hoffman, CORSO's expert in civil engineering, agreed, opining that water, electric, sewer, gas already served the site. T. 47. A stormwater management concept is not required for rezoning, but stormwater management will be addressed in detail during preliminary and site plan. *Id.* According to Mr. Hoffman, stormwater strategies will be green roofs and micro-bioretenion facilities distributed throughout the site in sequence with underground structural treatment practices to provide the required treatment volumes. T. 47-48.

Conclusion: As described, Ms. Randall presented persuasive testimony and evidence that a full traffic study is not required for this application because the credit for existing trips brings the total new trips under 50. The uncontroverted evidence and testimony support a finding that the remaining public facilities, except for stormwater management, are already present at the property. While stormwater has not been finalized, expert testimony establishes that it can be accommodated using accepted techniques, with the final design established later in the approval process. This standard has been met.

B. The Intent and Standards of the Zone (Section 59.7.2.1.E.2.c)

As already stated, Section 59.7.2.1.E.2.c of the Zoning Ordinance requires the District Council to find that the FZP "satisfy the intent and standards of the proposed zone." The Zoning Ordinance lists the "intent" of all Floating Zones and a "purpose" for each zone. Several of these have already been analyzed in Part IV.A of this Report. The balance of the intent findings for Floating Zones and the purposes of the CRNF Zone are discussed below.

1. Intent of Floating Zones (Section 59.5.1.2)

Section 5.1.2 of the Zoning Ordinance lists the intent of all Floating Zones. The Hearing Examiner has already discussed whether the application has met the intent Sections 59.5.1.2.A.1 and 2. This section discusses whether the FZP meets the remaining intent standards.

Section 59.5.1.2.A.3 ... The intent of the Floating zones is to:

A. Implement comprehensive planning objectives by...

3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property...

Planning Staff concluded that (Exhibit 45, p. 23):

The proposed rezoning will allow the project to be integrated into the existing community and provide much needed senior housing and neighborhood-serving retail. The natural features of the site consist of mature trees, areas of steep slopes, and forest; these areas are proposed to be maintained with much of these areas being protected via conservation easement.

Ms. Przygocki testified that the FZP integrates the development into the existing community and provides needed housing. While primarily designed for residents, it will be available to visitors and the neighborhood. It protects and maintains the tree canopy and steep slopes around the property and preserves them in forest conservation easements. This also will ensure a physical and visual buffer. It also permits development to respond to changing demographic trends. This development permits some Master Plan goals to be achieved in a manner that promotes sustainability. This is consistent with smart growth policies with existing utilities and transit already established and provides a housing need that is County-wide. T. 68.

Conclusion: The Hearing Examiner agrees with Staff and the Applicant that the project fulfills this intent. It integrates the community outside of the property by providing public retail and walking paths. At the same time, she agrees that retention of most of the existing forest provides a visual buffer from three sides of the site. Stepping up heights of the facades along Connecticut Avenue and Thornapple Street provides an appropriate transition from the lower density homes in the surrounding area to the larger structure. This criterion for approval has been met.

B. Encourage the appropriate use of land by:

1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive

- District or Sectional Map Amendments;***
2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population; and
3. ensuring that development satisfies basic sustainability requirements including:
a. locational criteria,
b. connections to circulation networks,
c. density and use limitations,
d. open space standards,
e. environmental protection and mitigation; and

Staff determined the FZP meets this intent of the Floating Zone (Exhibit 45, p. 25):

The proposed Floating Zone will allow the Petitioner the flexibility to redevelop this now unused, long-standing institutional use with a more compatible mixed-use, predominantly residential development. As documented in the 2018 Housing Needs Study [footnote omitted], the County faces a significant need for more senior housing, which the proposed Project plans to meet through developing high-quality senior housing, at varying levels of care, which will serve County residents and allow them to stay in their community as they age.

The Project layout and architecture has been designed to ensure compatibility with the surrounding neighborhood with respect to setbacks, building height, design, and access/circulation. The project promotes sustainability and smart growth principles through infill redevelopment of the Property, which is already served by the existing infrastructure and public transportation...

Staff also confirmed that the redevelopment complies with all basic sustainability requirements. *Id.*

Conclusion: The Hearing Examiner agrees with Staff that the project meets this intent of the Floating Zones. The Master Plan, which made no specific recommendation for this site, is over 30 years old. As Staff notes, a more recent (2018) study identifies the need for more senior housing in Montgomery County. This project will contribute to meeting that need. Expert testimony demonstrates that the architecture is reminiscent of existing homes in the community, including dormers and gabled roofs that help reduce the scale of the redevelopment. Ms. Randall testified that the property is served by two bus routes and Staff confirms that the redevelopment complies with all sustainability criteria. The Hearing Examiner finds that this intent standard has been met.

2. Purpose of the Commercial Residential Floating Zones (Section 59.5.3.2)

In addition to meeting the intent of Floating Zones, the FZP must meet the purpose of the zone requested. The Hearing Examiner has already discussed some of these purposes; the remaining are discussed here.

Section 5.3.2. Purpose

The purpose of the Commercial/Residential Floating zones is to:

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;***
- B. allow flexibility in uses for a site; ...***

Conclusion: The remaining purposes listed here are redundant of the findings already made. The Hearing Examiner has already found that the FZP uses additional height of the zone requested and flexible setbacks to accomplish a compatible residential project through height transition, provision of public open space, and forest retention. The FZP allows redevelopment with a residential rather than institutional use, in accordance with the Master Plan. This standard has been met.

C. Applicability of a Floating Zone (§59.5.1.3)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a Floating Zone may be applied to properties currently in a Residential Zone. Because the existing zoning is residential (R-60) the tests must be applied to this application. No one contests the findings of the Staff Report that the application meets the requisite number of thresholds, and the Hearing Examiner does not repeat them here. Exhibit 45, pp. 27-28. Given the uncontroverted evidence, the Hearing Examiner finds that the property meets the requisites for application of a Floating Zone.

D. Development Standards and Uses Permitted in the CRNF Zone (Div. 59.5.3)

1. Uses and Building Types Permitted (§§59.5.3.3 and 59.3.3.4)

Section 59.5.3.3 of the Zoning Ordinance limits the uses permitted in the CRNF Zone to “only” those uses permitted in the CRN Zone. A residential care facility is a limited use in the

CRNF Zone. *Zoning Ordinance*, §59.3.1.6. Commercial retail uses are permitted uses in the CRNF Zone. The CRNF Zone permits any building type, thus, the multi-family buildings are permitted in the requested zone. *Id.*, §59.5.3.4.

2. Development Standards of the CRNF Zone

Staff found that the FZP meets the development standards of the CRNF-1.5, C-0.25, R-1.25, H-70 Zone (*Zoning Ordinance*, §59.5.3.5), as demonstrated in the table from the Staff Report (Exhibit 33, p. 14, shown below):

	Required/Permitted	Proposed
Site		
Tract Area	N/A	594,271 sf (13.64 acres)
Previous ROW Dedications		58,850 sf (1.35 acres)
Proposed ROW Dedications		2,688 sf (0.06 acres)
Site Area		532,733 sf (12.23 acres)
Maximum Density of Development	891,406 GFA (1.50 FAR)	700,000 gsf (1.18 FAR)
Open Space	10% of Site Area	11.1% of Site Area, to be finalized at Site Plan
Lot Coverage (max.)	Set at Site Plan	To be determined at Site Plan
Building Height (max.)	70 feet	70 feet
Principal Building Setbacks (min.)³		
Front setback from public street	Set by Floating Zone Plan	18 feet
Side street setback (Thornapple Street)		81 feet
Side setback		45 feet
Rear setback		145 feet

As indicated, the FZP demonstrates that the site can accommodate more than the required number of parking spaces. Staff further advises that it the FZP demonstrates that the required number of bicycle spaces can be accommodated on-site.

Conclusion: The approved Floating Zone Plan determines the setbacks from the site boundary. *Zoning Ordinance*, §59.5.3.5.B.2. Remaining development standards may be finalized at site plan unless they are restricted by a binding element. The Floating Zone Plan demonstrates that the redevelopment can be built according to standards of the Zoning Ordinance and incorporate the binding elements listed.

3. Requirements of Article 59.6

Article 59.6 of the Zoning Ordinance contains general development standards for most developments. These standards regulate the number and design of parking spaces, drive aisles, landscaping, lighting, and public and private open space. Based on the undisputed evidence at this stage, the Applicant's proposal will be able to meet these standards, subject to review and modification of the particulars during site plan review.

V. RECOMMENDATION

For the foregoing reasons, the Hearing Examiner concludes that the proposed reclassification and Floating Zone Plan will meet the standards set forth in the Zoning Ordinance and that it will be consistent with a coordinated and systematic development of the Regional District, under State law. Therefore, I recommend that Local Map Amendment Application No. H-148, requesting reclassification from the existing R-60 to the CRNF-1.5, C-0.25, R-1.25, H-70 of property located at 7100 Connecticut Avenue, Chevy Chase, MD, further identified as Parcel 1, Block 5, "Section 4 Chevy Chase" subdivision (Tax Account No. 07-00464946) be **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan (Exhibit 65(b)), provided that the Applicant files an executed Declaration of Covenants (Exhibit 65(a)) reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

Issued: May 12, 2023.

Respectfully submitted,



Lynn Robeson Hannan
Hearing Examiner

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: APPLICATION NO. H-148 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Steven A. Robins, Esquire, Elizabeth C. Rogers, Esquire, Attorneys for the Applicant, CORSO DC LLC; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 07-00464946.

OPINION

CORSO DC LLC (CORSO or Applicant) filed Local Map Amendment (LMA) Application No. H-148 on November 2, 2022. The application seeks to rezone approximately 12.29 acres of property from the R-60 (Residential Detached) Zone to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating) Zone. Exhibit 1. The subject property is located at 7100 Connecticut Avenue, Chevy Chase, MD, further identified as Parcel 1, Block 5, “Section 4 Chevy Chase” subdivision (Tax Account No. 07-00464946). *Id.*

Staff of the Montgomery County Planning Department (Planning Staff or Staff) transmitted its report and the Planning Board’s written recommendation on March 14, 2023. Staff recommended approval of the application with 21 binding elements. Exhibit 45, pp. 3-4. The Planning Board also recommended approval but modified some of the binding elements to address concerns expressed by both the Town of Chevy Chase (Section 4) (Town) and Section 3 of the Village of Chevy Chase (Village). Exhibit 47. OZAH’s public hearing proceeded as noticed on March 24, 2023. Representatives of the Town and Village testified at the public hearing. The Hearing Examiner issued a corrected Report and Recommendation (HE Report) recommending approval with two revised binding elements on May 12, 2023.

To avoid unnecessary detail in this Opinion, the HE Report is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application meets the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

Subject Property

The property is improved with buildings formerly used by the National 4-H Conference

Center. Staff advises that the property slopes generally from west to east, rising 40 feet towards the center and then gently sloping down 10 feet approaching Connecticut Avenue. Approximately 3.71 acres of forest border the north, west and southern property lines. There are no wetlands, protected floodplains or stream valley buffers on the site. The site does contain some steep slopes along the western property boundary. Exhibit 45, pp. 8-9, 22.

Surrounding Area

The “surrounding area” is identified and characterized in a Floating Zone application to measure whether the development shown in the Floating Zone Plan (FZP) will be compatible with the properties directly impacted by the use. The boundaries of the surrounding area include those properties. Once delineated, the surrounding area is “characterized” to compare whether the development proposed will adversely impact the character of the area.

The Hearing Examiner agreed with Planning Staff that the surrounding area is bounded by major roadways and surrounding municipalities: East-West Highway to the north, Bradley Lane to the south, and Brookville Road to the east. Staff named the western boundary as the western limits of the Town of Chevy Chase, which is zoned R-60 as well.¹ Exhibit 45, p. 7. Based on this record, the Hearing Examiner characterizes the area as primarily single-family detached dwellings in the R-60 Zone with institutional uses typically associated with a residential neighborhood, including Chevy Chase Elementary School and the Chevy Chase United Methodist Church.

Proposed Development

CORSO proposes to remove the existing conference center and replace it with a “residentially scaled” senior care community containing 287 independent living dwelling units, 190 assisted living beds, and 30 memory care beds. Exhibit 45, pp. 10-11. The project will include up to 5,000 square feet of retail facing Connecticut Avenue that will be open to the public, bringing the total size to 700,000 square feet. Construction will be in two phases, beginning with structures in the site interior. Exhibit 45, pp. 9-10. Final phasing will be determined at site plan. Id. The binding elements, agreed upon with the Town and Village, limit heights of the buildings along the property's perimeter. A binding element restricts the height of buildings along Connecticut Avenue to 60 feet for the first 80 feet into the site. Another binding elements requires all buildings on the perimeter to present as four stories plus a roof. Buildings on the northwest corner of the site are restricted to three stories on top of a garage plus the roof. Exhibit 45, p. 13.

The FZP contains 21 binding elements, two of which were modified during OZAH's public hearing (Exhibits 65(a) and (b)). These are listed on Appendix A attached hereto and herein.

¹ There is a discrepancy in the text and the graphic of the surrounding area in the Staff Report. The text states that the boundary is the western limits of the Town, while the graphic shown places the western boundary at Maple Avenue. CORSO's expert land planner opined that the distinction makes no difference, as the character of both is the same. The Hearing Examiner agreed, the larger area consists primarily of single-family detached homes in the R-60 Zone. The District Council agrees and so finds.

Criteria for Approval

Every application for a Floating Zone must be accompanied by a Floating Zone Plan (FZP) that meets certain requirements. *Zoning Ordinance*, §59-7.2.1.B.2.g. The Applicant has filed an FZP meeting those requirements (Exhibit 65(b)), which is described in the Hearing Examiner's Report. *HE Report*, pp. 9-11.

The Zoning Ordinance and State law govern the standards of approval for a floating zone application. Generally, these standards fall into five categories: (1) conformity to the Master Plan, (2) compatibility with adjacent uses and the surrounding area, (3) the adequacy of public services to support the proposed development, (4) technical requirements governing the property's eligibility to apply for a Floating Zone, and (5) whether the FZP meets the development standards of the zone requested.

Conformance with the Master Plan²

The *1990 Bethesda Chevy Chase Master Plan* (Master Plan or Plan) guides the development of this property. The Plan reconfirmed the existing R-60 zoning but recommended that existing country clubs, private schools, and "institutional uses" be redeveloped residentially if ever abandoned. *Plan*, p. 2; Exhibit 45, p. 21.

The Hearing Examiner and Planning Staff found that this application conformed to four of the seven "overarching" goals of the Plan. *Id.*, p. 21. These goals call for: (1) a diverse supply of housing for different income levels, ages, backgrounds, and household characteristics, (2) maintaining a high quality of residential neighborhoods with both services and environmental enhancements, (3) protecting natural resources and environmental features, and (4) supporting development that contributes to a strong sense of community.

The Hearing Examiner found that the project provided diverse housing opportunities that will meet the needs of the surrounding community. It will provide three levels of care for seniors (*i.e.*, independent living, assisted living, and memory care) as well as Moderately Priced Dwelling Units to meet the housing needs of individuals with diverse incomes. The project is designed to protect and retain the existing tree canopy that exists along the northern, western, and southern property, providing a natural physical and visual buffer from the surrounding residential communities. This also permanently preserves the existing environmental features, such as forest and steep slopes. Based on this record, the District Council finds that the LMA substantially conforms to the Master Plan.

² Section 59-7.2.1.E.2.a. of the Zoning Ordinance requires the District Council to find that the FZP "substantially conforms with the recommendations of the applicable master plan, general plan, and other applicable County plans." Section 59-7.2.1.E.2.b requires the FZP to be "in the public interest," which includes a review of conformity with County plans and policies, which incorporates adequate public facilities tests to determine whether the development will be consistent with the coordinated and systematic development in the Regional District under State law. Section 59-7.2.1.E.2.c requires the application to further the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance*, §59-5.1.2.A.1.

Compatibility with Adjacent Uses and the Surrounding Area

Multiple standards for approval require the District Council to find that the FZP be compatible with adjacent uses and the surrounding area.³ The District Council agrees with the Hearing Examiner and Planning Staff that the project will be compatible with surrounding and adjacent land uses because the existing woods form a visual and physical barrier on three sides. These woods will be permanently protected by Category I Forest Conservation Easements. The Council also finds, as did the Hearing Examiner, that the transition in building heights from the outer boundary of the footprint to the site interior contributes to compatibility with adjacent single-family detached homes. *HE Report*, p. 27. CORSO's expert in architecture opined that that building materials and architectural elements of the project reflect those of the surrounding neighborhood. This also supports a finding that the use will be compatible with surrounding and adjacent development. T. 95-96.

The Town and Village are concerned about the compatibility of the site access on Connecticut Avenue and the potential for overflow parking on neighborhood streets. Both want to ensure that all parking can be accommodated on-site. They also want to ensure that the access point will operate as efficiently and safely as possible. Two binding elements address these concerns. One requires CORSO to complete a Comprehensive Vehicular Site Access Study before applying for site plan approval. This study will look at intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. Exhibit 65(b). The second binding element requires CORSO to complete a Parking Demand Analysis to determine whether all parking for residents, employees, and visitors will be available on-site. *Id.*

Based on expert testimony from CORSO's transportation planner, the Hearing Examiner found that traffic from the site did not contribute to accidents at the access point when the 4-H Center was operating. While the Town believes that the traffic estimated for the redevelopment is too low, there was no expert testimony contradicting this and the issue can be further reviewed both in the Comprehensive Vehicle Site Access Study and during site plan review. The District Council agrees with the Hearing Examiner that the weight of testimony in this record demonstrates that the proposed development will not contribute to safety problems at the intersection.

Similarly, the project provides more than the number of parking spaces required by the Zoning Ordinance. There is no objective testimony or evidence that the number of on-site spaces will be inadequate to serve the demand for parking generated by the residential care facility. Due to the lack of objective testimony, the Hearing Examiner found that inadequate parking was not a basis for denying the rezoning. *HE Report*, pp. 28-29. The District Council agrees and finds that

³ The FZP must further the intent of Floating Zones in general and the purpose of the CRNF Zone. *Zoning Ordinance*, §§59-7.2.1.E.2.c; 59-5.1.2.C; 59-5.3.2. Floating zones are intended to: (1) establish compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses, (2) provide development standards and general compatibility standards to protect the character of adjacent neighborhoods; and (3) allow design flexibility to mitigate any negative impacts found to be caused by the new use. *Id.*, §59-5.1.2.C. One purpose of the CRNF Zone is to "provide mixed-use development that is compatible with adjacent development." *Id.*, §59-5.3.2.C. Similarly, Section 59-7.2.1.E.2.d of the Zoning Ordinance requires the Council to find that the FZP is "compatible with existing and approved adjacent development."

parking demand generated by the project may be accommodated on-site compatibly with adjacent and surrounding uses. Again, this will be reviewed further when the Parking Demand Analysis is completed prior to application for a site plan.

Adequacy of Public Facilities/Public Interest

The District Council must also find that public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the development process, a threshold analysis must be performed at the rezoning stage.⁴

The Applicant in this case submitted a Traffic Statement rather than a Traffic Study, as permitted under Planning Board's Local Area Transportation Review (LATR) Guidelines when a development will generate fewer than 50 new weekday peak hour person trips. *Zoning Ordinance*, §59.7.2.1.E.2.e; *LATR Guidelines*, p. 8. CORSO's proposal is under 50 person trips due to a credit for "existing trips" from the 4-H Center, even though that use has been abandoned and no trips are currently on the road.⁵ CORSO'S Traffic Statement (Exhibit 10) finds that the proposed development will reduce the number of weekday peak hour person trips below the amount generated by the former conference center. The Town and Village believe that the estimated number of trips attributed to the conference center are too high and testified to community observations that traffic in the past was much lower. Lower estimates of the conference center trips would mean that the proposed development will generate more traffic than presented in the Traffic Statement, triggering a full traffic study.

CORSO's expert in transportation planning provided the rationale for the trip estimates stated in the Traffic Statement. The Hearing Examiner found the weight of the expert testimony more compelling than the anecdotal evidence presented by the Town. *HE Report*, pp. 27-29. Based on this record, the District Council agrees with the Hearing Examiner and so finds. A more detailed analysis of the actual traffic generated by the former conference center may still occur during the Comprehensive Vehicular Site Access Study required by the binding elements.

While a full traffic study is not required, CORSO'S transportation expert opined that intersections on Connecticut Avenue north and south of the site access would meet current LATR

⁴Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development "does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . .". The adequacy of other facilities is part of the Council's determination that an application will be "in the public interest..." and that "it will be consistent with a coordinated and systematic development of the Regional District" under State law. *Zoning Ordinance*, §59-7.2.1.E.1.b; *Md. Land Use Art.*, §21-101(a) and (b). The intent of the Floating Zones is to "implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..." *Zoning Ordinance*, §59-7.2.1.E.1.b; 59-5.1.2.A.2.

⁵ CORSO's transportation expert submitted information regarding Council Bill 38-10, adopted in 2010, that amended the definition of "existing building" for the purpose of testing the roadway adequacy. The Hearing Examiner reviewed the legislative history of the bill and included both the Bill and the legislative history in the record of this case. Exhibits 49(a)-(d). Based on the information presented, she found that the County Council intended to permit a credit for "existing trips" that are no longer on the road for a variety of policy reasons. *HE Report*, p. 28, fn. 4. The District Council agrees.

standards. T. 125-129. Nothing in the record contravenes this testimony. The District Council finds this further supports a finding that public facilities will be adequate to serve the use.

Uncontroverted evidence establishes that other public facilities are adequate as well. CORSO's expert in civil engineering testified the water, electric, sewer, and gas already serve the site. T. 47. Staff concluded police and fire services are adequate to serve the proposed development. Exhibit 45, p. 3. There is no evidence that stormwater management cannot be accommodated on the site, and this will be addressed at site plan. T. 47-48. The District Council finds that public facilities will be adequate to serve the proposed development.

The Intent of Floating Zones (Section 59.5.1.2)

The District Council must determine whether the FZP fulfills the intent of the Floating Zones. Several of these have already been addressed.⁶ The remaining (from Section 59.5.1.2) are:

Section 59-5.1.2.A.3. Implement comprehensive planning objectives by:

3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and

Planning Staff concluded that the project met this intent by preserving much of the existing natural features, including mature trees, forest, and steep slopes while providing needed senior housing. Exhibit 45, p. 23. The Hearing Examiner concluded that the project integrates the off-site community with the residential care facility by providing public retail and walking paths. *HE Report*, p. 18. Stepping up heights of the facades along Connecticut Avenue and Thornapple Street provides an appropriate transition from the lower density homes in the surrounding area to the larger structure. *HE Report*, p. 31. The District Council finds that the project meets this intent of the Floating Zones.

Section 5.1.2.B. Encourage the appropriate use of land by:

1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;

2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population;

3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and

⁶ The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the Zoning Ordinance has already been addressed in the Council's findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses is discussed here.

Planning Staff concluded that the project offers an opportunity to replace an unused institutional use with a more compatible residential development. Staff also confirmed that the development would comply with all sustainability requirements and meets smart growth principles because it is already served by transit. Exhibit 45, p. 25. The Hearing Examiner agreed, noting that the property is served by two bus routes. *HE Report*, p. 35. Based on this record, the District Council finds that the development will meet these intents of the Floating Zones.

The Applicability of the Zone (Section 59.5.1.3.)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a site may apply for a Floating Zone.⁷

Planning Staff provided uncontroverted evidence that the application meets all the threshold tests needed to apply a Floating Zone to the property. The District Council finds that the requirements of this section are met, as did the Hearing Examiner. *HE Report*, p. 33.

The Purpose of Commercial/Residential Floating Zones, Permitted Uses, and Permitted Building Types (Sections 59.5.3.2 through 59.5.3.4)

Zoning Ordinance Division 59-5.3 specifies the purposes of the Commercial/Residential Floating Zone, and establishes the allowed uses, building types, and development standards. The FZP must fulfill the purposes of the Commercial/Residential Floating Zones and meet all technical standards.

Section 59.5.3.3 of the Zoning Ordinance limits the uses permitted in the CRNF Zone to “only” those uses permitted in the CRN Zone. A residential care facility is a limited use in the CRNF Zone. Zoning Ordinance, §59.3.1.6. Commercial retail uses are permitted uses in the CRN Zone. The CRNF Zone permits any building type, thus, the multi-family buildings are permitted in the requested zone. *Id.*, §59.5.3.4.

Purpose. The District Council has already found that the FZP is compatible with adjacent development, one of the purposes of the Commercial/Residential Zones. *Zoning Ordinance*, §59.5.3.2.C. The remaining purposes are:

Section 5.3.2. Purpose

The purpose of the Commercial/Residential Floating zones is to:

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site...*

The District Council has already found that the FZP uses the additional height permitted and flexible setbacks permitted by the zone to accomplish a compatible residential project through height transition, public open space, and forest retention. The FZP allows redevelopment with a

⁷ Section 59-5.1.3.A prohibits placement of a Floating Zone on property currently in an Agricultural or Residential Zone. As this property is zoned R-60, that section does not apply.

residential rather than institutional use, in accordance with the Master Plan. The District Council finds that this standard has been met, as did the Hearing Examiner.

Development Standards of the Zone (Section 5.3.5)

Planning Staff prepared a table comparing the development standards of the CRNF Zone with the development shown on the FZP. Exhibit 45, p. 29. The table demonstrates that the proposed development may meet all the development standards of the requested zone. The approved Floating Zone Plan determines the setbacks from the site boundary. Zoning Ordinance, §59.5.3.5.B.2. Remaining development standards may be finalized at site plan unless they are restricted by a binding element. The District Council agrees with the Hearing Examiner that the FZP meets all development standards of the Zone.

General Development Standards (Article 59.6)

Article 59.6 of the Zoning Ordinance contains general development standards for most developments. These standards regulate the number and design of parking spaces, drive aisles, landscaping, lighting, and public and private open space. Based on the undisputed evidence at this stage, the Applicant's proposal will be able to meet these standards, subject to review and modification of the particulars during site plan review.

Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, including the corrected Hearing Examiner's Report and Recommendation issued May 12, 2023, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland, approves the following resolution:

Local Map Amendment Application No. H-148, requesting reclassification from the R-60 Zone to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood Floating) Zone for property located at 7100 Connecticut Avenue, Chevy Chase, MD, further identified as Parcel 1, Block 5, "Section 4 Chevy Chase" subdivision (Tax Account No. 07-00464946) is hereby **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 65(b), provided that the Applicant files an executed Declaration of Covenants (Exhibit 65(a)) reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.

Judy Rupp
Clerk of the Council

APPENDIX A

Binding Elements

1. Use of the property will be limited to a residential care facility and ancillary commercial establishments. No more than 5,000 square feet of commercial use, with no single establishment larger than 2,500 square feet shall be permitted. Such commercial establishments shall be made available to the general public.
2. Vehicular access will be limited to Connecticut Avenue. Vehicular access to and from Thornapple Street, Woodside Place, and Meadow Lane and the property must be prohibited. Before submission of a Preliminary Plan and/or Site Plan applications, the Applicant will complete a Comprehensive Vehicular Site Access Study that shall include, but not be limited to review of the existing roadway, intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. The Applicant will work with the State Highway Administration and the Town of Chevy Chase to determine the need for traffic-related measures along Connecticut Avenue. In addition, the Applicant will coordinate with Chevy Chase Section 3 to address traffic-related impacts to that neighborhood.
3. Before submission of Preliminary Plan and/or Site Plan Applications, the Applicant will complete a Parking Demand Analysis to ensure on-site parking for all property employees and visitors, including during peak use and visitation periods, is adequate. The Applicant will implement the recommendations of the Parking Demand Analysis to ensure that all parking necessary to meet the needs of the Project is accommodated on-site, subject to approval by the necessary governmental entities.
4. The Applicant shall provide garage space and five (5) separate parking spaces for use by the Town of Chevy Chase, the details of which will be provided during site plan review.
5. The Applicant shall place areas, as more accurately depicted on the Final Forest Conservation Plan, generally along the southern, western and northern property lines, in a Category I Conservation Easement. The Town of Chevy Chase forester shall be included in the proceedings regarding the creation and maintenance of the Category I Conservation Easement.
6. The Applicant shall construct new pathways connecting the existing sidewalk on Thornapple Street with Connecticut Avenue and connecting the property with Woodside Place. No pedestrian pathway shall directly connect between Woodside Place and Connecticut Avenue. A public walking path through the proposed Category I Conservation Easement, as applicable, generally located along the western property boundary, shall be prohibited.

7. The Applicant shall maintain minimum building setbacks as shown on the Floating Zone Plan, including a maximum building height of sixty feet (60') for a distance of eighty feet (80') from Connecticut Avenue.
8. The Applicant shall comply with all applicable stormwater management regulations. A Town of Chevy Chase-appointed engineer will be included in the review of the stormwater management plans for the Property, as coordinated by the Montgomery County Department of Permitting Services.
9. The Applicant shall locate and/or screen refuse storage and collection areas and loading and service areas so as to minimize the view and noise from the adjacent property boundaries.
10. The Applicant shall install planting materials that are primarily native species. The Applicant will remove all invasive species on the Property, in accordance with the Final Forest Conservation Plan. The Applicant will provide sufficient planting depth above garage areas to support canopy and shade trees, where applicable.
11. The Applicant shall install a non-deciduous tree screen along the south property line outside of the Category I Conservation Easement. Foundation planting shall be installed where garage walls extend above grade.
12. The Applicant shall provide exterior lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.
13. The Applicant will enter into a Construction Management agreement with the Town of Chevy Chase before approval of the Certified Site Plan for the Property.
14. At the time of Site Plan, the Applicant will provide an interim landscaping plan for the phased build-out of the Project.
15. Vinyl siding and EFIS are prohibited on all new buildings.
16. The Applicant shall execute and record among the land records, so as to be enforceable against all successors and assigns, a Declaration of Covenants that will include the binding elements included in the approved Local Map Amendment prior to approval of the Certified Site Plan for the Property.
17. The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, with the exception of the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof. Additionally, these outward facing facades must adhere to a maximum height, as observed from the established measuring point of 55 feet, with the exception of the northwest corner of the Property, which shall adhere to a maximum height of 50 feet.

18. The Project will provide ground floor entrances along both Thornapple Street and Connecticut Avenue commensurate with individual units located along these respective facades.
19. The Project will include a porte cochere at the site entrances featuring specialty paving, with the final design and location to be finalized at the time of Site Plan.
20. The Project will incorporate a fountain or similar gateway feature at the main entrance along Connecticut Avenue, with the final design to be approved by the Planning Board in connection with the Site Plan approval.
21. Before obtaining any building or grading permits, the Project must receive Site Plan approval.

March 14, 2023

Ms. Lynn Robeson Hannan, Director/Hearing Examiner

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

Dear Ms. Robeson Hannan:

On March 9, 2023, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Local Map Amendment H-148, a request to rezone the property located at 7100 Connecticut Avenue, Chevy Chase, from R-60 to CRNF 1.5, C-0.25 R-1.25 H 70 to allow the construction of a Residential Care Facility (over 16 persons) containing up to 287 independent dwelling units, 190 assisted-living beds, and 30 memory-care beds, and up to 5,000 square feet of commercial/retail use.

As allowed under Section 59-7.2.1.A.3., the Applicant proposed 21 binding elements with the Local Map Amendment Application, which were developed in coordination with the Town of Chevy Chase and neighborhood stakeholders. During the Planning Board hearing and in response to public testimony, the Applicant agreed to, and the Planning Board accepted the following revisions to recommended binding elements #2, #3, #5, #12, and #17, with deletions shown as text with strikethroughs and additions shown in underline:

- 2) Vehicular access will be limited to Connecticut Avenue. Vehicular access to and from Thornapple Street, Woodside Place, and Meadow Lane and the property must be prohibited. Before submission of the Preliminary Plan, the Applicant will commission a Comprehensive Vehicular Site Access Study that shall include, at a minimum, review of the existing roadway, intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. The Applicant will work with the State Highway Administration and the Town of Chevy Chase to determine the need for traffic-related measures along Connecticut Avenue. In addition, the Applicant will coordinate with Chevy Chase Section 3 to address traffic-related impacts to that neighborhood.
- 3) ~~At the time of~~ Before submission of Preliminary Plan and/or Site Plan Applications, the Applicant will commission a Parking-Demand Analysis to ensure on-site parking for all property employees and visitors, including during peak use and visitation periods, is adequate.

Exhibit 47
H-148

- 5) The Applicant shall place areas, as more accurately depicted on the Final Forest Conservation Plan, generally along the southern, western, and northern property lines, in a Category I Conservation Easement. The Town of Chevy Chase forester shall be included in proceedings regarding the creation and maintenance of the Category I Conservation Easement.
- 12) The Applicant shall provide exterior lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.
- 17) The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, with the exception of the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof. Additionally, these outward-facing facades must adhere to a maximum height, as observed from the established measuring point, of 55 feet with the exception of the northwest corner of the property, which shall adhere to a maximum height of 50 feet.

The Planning Board Chair commented that the overall number and specificity of select binding elements is greater than may be typical but recognized the Applicant's prerogative to do so under the Zoning Code and the mutual agreement on those binding elements with the Town of Chevy Chase, in whose boundaries the property lies.

The Planning Board received several letters of written testimony ahead of the hearing that opposed the Project (Attachment 1). Staff addressed these concerns regarding the traffic concerns, neighborhood compatibility, environmental impacts, and construction management, within the Staff Report. Additional written correspondence was received following the posting of the Staff Report (Attachment 2). Concerns raised in these letters were related to the timing and participants for the required traffic and parking study, maximum heights of the perimeter buildings, and clarification regarding binding elements related to forest conservation and lighting. All these concerns were discussed with the Planning Board and were resolved through updates to the binding elements as shown above. The Applicant has committed to conducting the traffic and parking study before submittal of the Preliminary and Site Plan Applications; the Applicant will also coordinate with Chevy Chase Section 3 for the traffic and parking study. In providing clarity and reassurance to the neighboring communities, the Applicant has also agreed to include language regarding maximum building heights to match the exhibits shown during the presentation.

Following discussion with staff and the Applicant's attorney, the Planning Board unanimously recommends approval of the CRNF 1.5, C-0.25 R-1.25 H 70 rezoning application and the associated Floating Zone Plan for the reasons set forth in the technical Staff Report and modified binding elements as presented, which are hereby incorporated by reference in this recommendation.

The Planning Board recommends approval of the rezoning application in that the application is consistent with the purpose clause and all applicable standards for the CRNF 1.5, C-0.25 R-1.25 H 70 Zone, including density; satisfies the prerequisites, intent statement, and necessary findings of the CRNF 1.5, C-0.25 R-1.25 H 70 Zone; and is in harmony with the general intent and objectives of the 1990 *Bethesda Chevy Chase Master Plan*.

Ms. Lynn Robeson Hannan

March 14, 2023

Page 3

The Board finds that the CRNF 1.5, C-0.25 R-1.25 H 70 Zone is appropriate at this location and that the proposed redevelopment of this site to allow the construction of a Residential Care Facility (over 16 persons) containing up to 287 independent dwelling units, 190 assisted living beds, and 30 memory care beds, and up to 5,000 square feet of commercial/retail use, is compatible with the existing and approved development and the surrounding neighborhood.

On a motion by Vice Chair Piñero, seconded by Commissioner Pedeem, with Planning Board Chair Zyontz, and Commissioners Bartley and Hedrick voting in favor, the Planning Board recommends (5-0) that Local Map Amendment H-148, Corso Chevy Chase, be approved with the binding elements and conditions enumerated in the Staff Report and modified in the staff presentation.

We hope the Planning Board's recommendations and the Staff Report will be helpful to your proceedings.

Sincerely,



Roberto R. Piñero

Vice Chair

RP: tg

Attachment 1: Staff Report for Local Map Amendment H-148 with Attachments

Attachment 2: Correspondence received following Staff Report Posting

LOCAL MAP AMENDMENT H-148 & PRELIMINARY FOREST CONSERVATION PLAN H-148, CORSO CHEVY CHASE



Description





The Applicant requests to rezone a 13.64-acre property from R-60 to CRNF-1.5, C-0.25, R-1.25, H-70. The rezoning would allow the redevelopment of the property most recently used by the National 4-H Council as a conference center to a senior-care community with a maximum mixed-use density of 700,000 square feet comprised of a Residential Care Facility (over 16 persons) containing up to 287 independent dwelling units, 190 assisted-living beds, and 30 memory-care beds, and up to 5,000 square feet of commercial/retail uses.

Local Map Amendment and
Preliminary Forest
Conservation Plan H-148
Completed: 02-27-2023

MCPB
Item No. 5
03-09-2023

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

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LOCATION/ADDRESS

7100 Connecticut Avenue, approximately
1300 feet north of Bradley Boulevard

MASTER PLAN

1990 *Bethesda Chevy Chase Master Plan*

ZONE

R-60

PROPERTY SIZE

13.64 tract acres

APPLICANT

Corso DC, LLC

ACCEPTANCE DATE

November 3, 2022

REVIEW BASIS

Chapter 59



Summary:

- Local Map Amendments (LMA) change the zoning for a property and are subject to the requirements of Zoning Ordinance Section 59.7.2.1. The Planning Board provides a recommendation to the Hearing Examiner, who in turn provides a recommendation to County Council, acting as the District Council, who has the final decision-making authority to approve the LMA.
- A Preliminary Forest Conservation Plan is required as part of the LMA review process. If approved, a Final Forest Conservation Plan would be required with a subsequent regulatory review.
- If the County Council approves the LMA, the applicant must file subsequent Preliminary and Site Plan applications for review.
- The proposed LMA would allow the applicant to redevelop the former National 4-H Conference Center into a senior-living community.
- The Property is located within the municipal boundary of the Town of Chevy Chase, which has a private development agreement with the applicant. The Mayor and Town Manager have been actively involved in the review and the Town Council voted in favor of the project. Chevy Chase Section 3 confronts the Property to the east across Connecticut Avenue and provided comment.
- Staff recommends approval of the LMA, Floating Zone Plan, and Preliminary Forest Conservation Plan (PFCP).

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SECTION 1: RECOMMENDATIONS AND BINDING ELEMENTS/CONDITIONS

LOCAL MAP AMENDMENT H-148

Staff recommends approval of Local Map Amendment H-148, to rezone the Property from R-60 to CRNF 1.5 C 0.25 R 1.25 H 70, and the associated Floating Zone Plan with the following binding elements:

1. Use of the property will be limited to a residential care facility and ancillary commercial establishments. No more than 5,000 square feet of commercial use, with no single establishment larger than 2,500 square feet shall be permitted. Such commercial establishments shall be made available to the general public.
2. Vehicular access will be limited to Connecticut Avenue. Vehicular access to and from Thornapple Street, Woodside Place, and Meadow Lane and the property must be prohibited. At the time of Preliminary Plan, the Applicant will commission a Comprehensive Vehicular Site Access Study that shall include, at a minimum, review of the existing roadway, intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. The Applicant will work with the State Highway Administration and the Town of Chevy Chase to determine the need for traffic-related measures along Connecticut Avenue.
3. At the time of Site Plan, the Applicant will commission a Parking Demand Analysis to ensure on-site parking for all property employees and visitors, including during peak use and visitation periods, is adequate.
4. The Applicant shall provide garage space and five (5) separate parking spaces for use by the Town of Chevy Chase, the details of which will be provided during site plan review.
5. The Applicant shall place areas, as more accurately depicted on the Final Forest Conservation Plan, generally along the western and northern property lines, in a Category I Conservation Easement. The Town of Chevy Chase forester shall be included in proceedings regarding the creation and maintenance of the Category I Conservation Easement.
6. The Applicant shall construct new pathways connecting the existing sidewalk on Thornapple Street with Connecticut Avenue and connecting the Property with Woodside Place. No pedestrian pathway shall directly connect between Woodside Place and Connecticut Avenue. A public walking path through the proposed Category I Conservation Easement, as applicable, generally located along the western property boundary, shall be prohibited.
7. The Applicant shall maintain minimum building setbacks as shown on the Floating Zone Plan, including a maximum building height of sixty feet (60') for a distance of eighty feet (80') from Connecticut Avenue.
8. The Applicant shall comply with all applicable stormwater management regulations. A Town of Chevy Chase-appointed engineer will be included in the review of the stormwater management plans for the Property, as coordinated by the Montgomery County Department of Permitting Services.

9. The Applicant shall locate and/or screen refuse storage and collection areas and loading and service areas so as to minimize the view and noise from adjacent property boundaries.
10. The Applicant shall install planting materials that are primarily native species. The Applicant will remove all invasive species on the Property, in accordance with the Final Forest Conservation Plan. The Applicant will provide sufficient planting depth above garage areas to support canopy and shade trees, where applicable.
11. The Applicant shall install a non-deciduous tree screen along the south property line outside of the Category I Conservation Easement. Foundation planting shall be installed where garage walls extend above grade.
12. The Applicant shall provide site lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.
13. The Applicant will enter into a Construction Management agreement with the Town of Chevy Chase before approval of the Certified Site Plan for the Property.
14. At the time of Site Plan, the Applicant will provide an interim landscaping plan for the phased build-out of the Project.
15. Vinyl siding and EFIS are prohibited on all new buildings.
16. The Applicant shall execute and record among the land records, so as to be enforceable against all successors and assigns, a Declaration of Covenants that will include the binding elements included in the approved Local Map Amendment prior to approval of the Certified Site Plan for the Property.
17. The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, with the exception of the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof.
18. The Project will provide ground floor entrances along both Thornapple Street and Connecticut Avenue commensurate with individual units located along these respective facades.
19. The Project will include a porte cochere at the site entrances featuring specialty paving, with the final design and location to be finalized at the time of Site Plan.
20. The Project will incorporate a fountain or similar gateway feature at the main entrance along Connecticut Avenue, with the final design to be approved by the Planning Board in connection with the Site Plan approval.
21. Before obtaining any building or grading permits, the Project must receive Site Plan approval.

At the time of Preliminary Plan and Site Plan review, the Applicant must address the following:

1. In compliance with the 2021 *Complete Streets Design Guide*, the Applicant must improve pedestrian comfort and access on its frontage on Connecticut Avenue and Thornapple Street to meet the following streetscape design parameters:
 - a) On Connecticut Avenue, an eight-foot-wide vegetated street buffer and an 11-foot-wide sidepath. The sidepath may be minimized to the extent necessary to limit impacts to existing mature trees in this area.

- b) On Thornapple Street, a five-foot-wide vegetated street buffer and a six-foot-wide sidewalk.
2. The Preliminary Plan and subsequent record plat must show dedication along Thornapple Street to achieve their portion of the Master Planned ROW of 60 feet.
3. The Site Plan must provide parking and bicycle parking per the requirements of Section 59.6 of the Zoning Ordinance.
4. Specifications for soil restoration and soil amendments associated with the landscape and lawn areas must be provided on the Final Forest Conservation Plan for review and approval by MNCPPC Staff.
5. A noise analysis must be submitted at time of Preliminary Plan submission.

PRELIMINARY FOREST CONSERVATION PLAN

Staff recommends approval of Preliminary Forest Conservation Plan H-148 with the following conditions:

1. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
2. The Preliminary Plan must include building restriction lines as appropriate to maintain a 20-foot distance from any future building to the proposed conservation easements.
3. Before certification of the Preliminary FCP, the Applicant must address the following items subject to staff approval:
 - a) Update all FCP sheets for consistency regarding tree removals, variance tables, mitigation plantings, and associated plan elements as shown in the staff report and/or approved by the Planning Board.
 - b) The overall plans, forest conservation worksheet and associated plans/notes/figures must be revised to reflect the updated footprint of the Category I Conservation easement.
 - c) Update LOD and variance request to include all applicable work and grading.
 - d) Clarify/correct notes and graphics as needed.
4. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling at least 123 caliper inches and consist of canopy tree species which are native to the Piedmont Region of Maryland. Planting locations to be shown on the Final Forest Conservation Plan (“FFCP”).
5. The Applicant must submit a Final Forest Conservation Plan (“FFCP”) for review and approval before obtaining a Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property.

6. The FFCP must be consistent with the approved Preliminary Forest Conservation Plan.
7. The development must comply with the Final Forest Conservation Plan which is to include a Tree-Save Plan prepared by an ISA-Certified Arborist who is also a Maryland Licensed Tree-Care Expert. A five-year maintenance and management plan for Trees 50 and 51 must be implemented by a similarly qualified tree care professional. Replacement street trees will be required if Trees 50 and/or 51 dies or severely declines within the five-year timeframe.

SECTION 2: SITE DESCRIPTION

VICINITY/NEIGHBORHOOD

The 13.64-acre Property is located on the west side of Connecticut Avenue (MD 185) approximately ¼-mile north of the intersection at Bradley Lane (MD 191). Many properties fronting on Connecticut Avenue are developed with single-family residential homes. The Property is bordered on the north, west, and south by single-family homes within the Town of Chevy Chase; directly to the east, across Connecticut Avenue, is the municipality of Chevy Chase Section 3. A church is located within the Chevy Chase Section 3 neighborhood, also fronting on Connecticut Avenue. Chevy Chase Elementary School is located to the southwest of the Property, separated by single-family residences along Meadow Lane and Woodside Place.

The Staff-defined Neighborhood, outlined in black in Figure 1 below, is primarily defined by major roadways which border this area of Chevy Chase and the handful of municipalities within the area: East-West Highway to the north, Bradley Lane to the south, and Brookville Road to the east. The western boundary of the Neighborhood is defined by the western limits of the Town of Chevy Chase which also the R-60 zoned neighborhood to the east from primarily CR zone of downtown Bethesda.

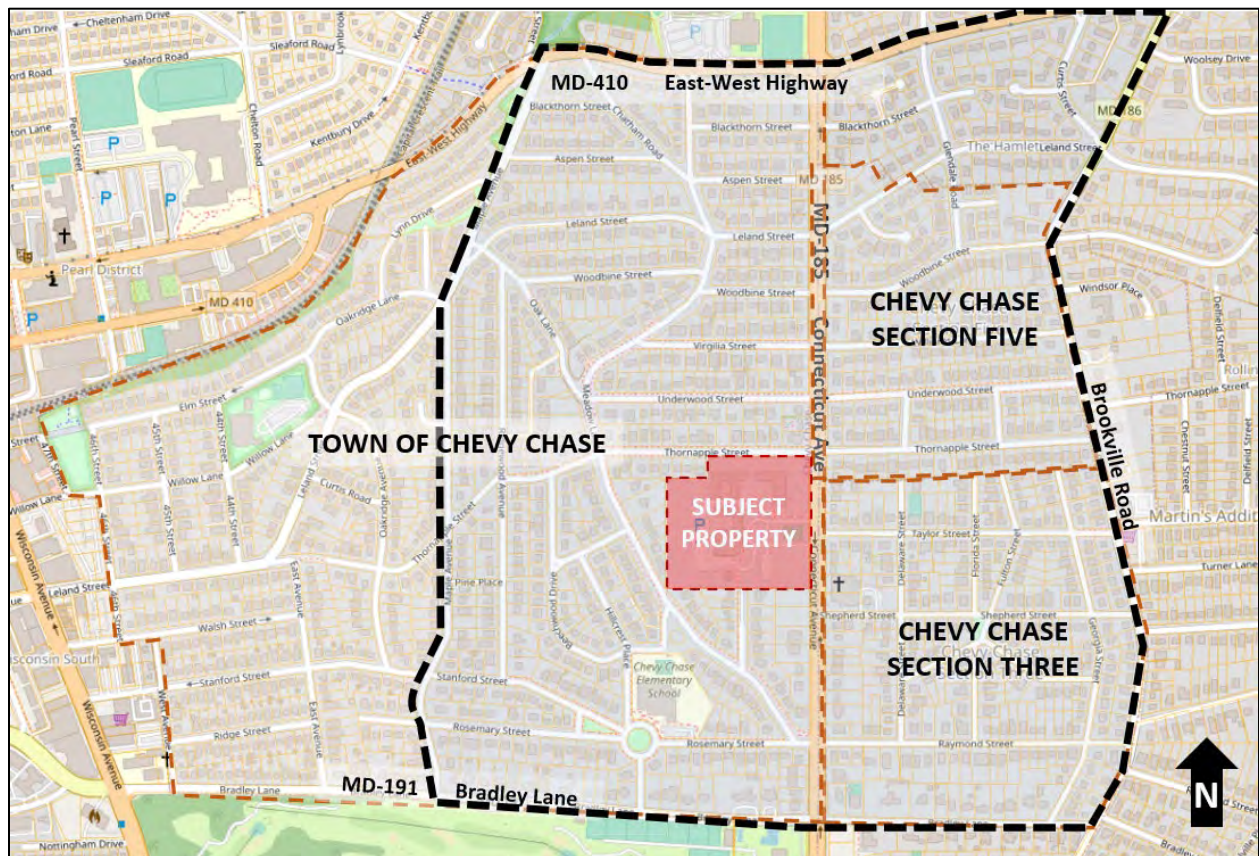


Figure 1: Vicinity/Staff-Defined Neighborhood (dashed black outline), with Property in red

PROPERTY DESCRIPTION

The subject site (Subject Property, Property, or Project) consists of Parcel 1 in Block 5, as recorded in 1969 by Plat No. 9401, "Chevy Chase". The Property is currently zoned R-60 (residential detached) and was originally developed in the mid-1960s as the National 4-H Conference Center. The Property is currently improved with two access points from Connecticut Avenue and five buildings ranging in height from two- to three-stories with associated surface parking. The Conference Center utilized the space as a retreat, hotel, conference center, and office space.

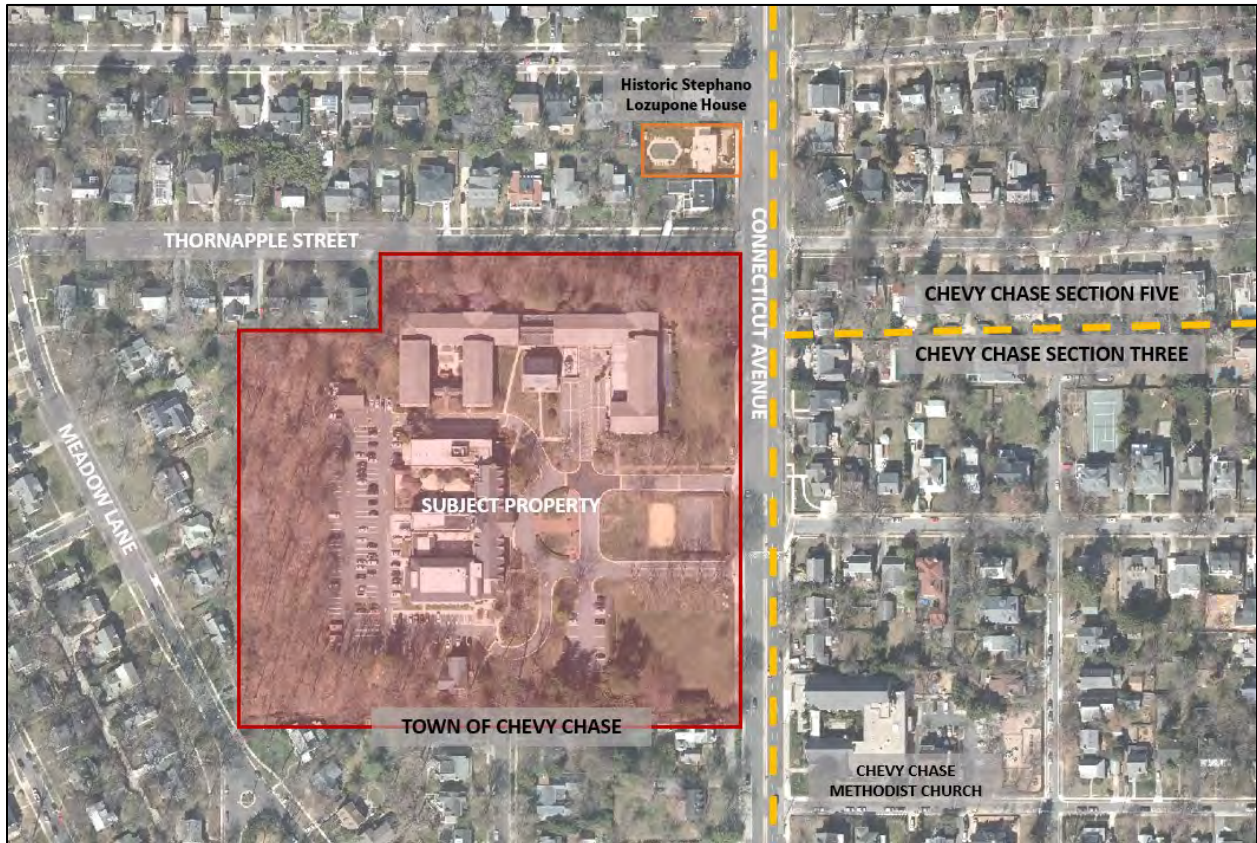


Figure 2: Aerial view of the Property



Figure 3: View from Connecticut Avenue looking into the Site at the existing entrance/exit

The Property topography slopes moderately from west to east with the grade rising 40 feet towards the center of the Property and slopes gently towards Connecticut Avenue, dropping approximately 10 feet from the central high point. The Property contains areas of forest (approximately 3.71 acres) located along the north, west, and southwestern boundaries. The forest, which features several mature trees, serves as a buffer to the abutting residential properties. There are no other environmentally sensitive features such as wetlands, 100-year floodplain or stream valley buffers, and the Site is not located within a Special Protection Area. Just to the north of the Property, across Thornapple Street, at 7202 Connecticut Avenue is the historic Stephano Lozupone House; this history property, shown north of the Subject Property in Figure 2 above, is not expected to be impacted by the proposed development. There are no cultural facilities or additional historic sites located within or adjacent to the Site nor any known endangered species or critical habitats.

ZONING/REGULATORY HISTORY

The Property is located within the 1990 *Bethesda-Chevy Chase Master Plan* area, which does not contain any site-specific recommendations for the Property, nor does it recommend this site for a floating zone. The Property is a long-standing institutional use that is surrounded by single-family residential uses, zoned R-60, on all sides. The surrounding homes range in size from approximately

3,000 square feet to 5,100 square feet. Additionally, confronting the Property across Connecticut Avenue is the Chevy Chase United Methodist Church, also zoned R-60.



Figure 4: Existing Zoning in the Area (Yellow Areas zoned R-60)

The Master Plan generally reaffirms the existing uses within the Master Plan area, however the Master Plan also includes an area-wide recommendation which endorses “housing as the primary future alternative use” if the institutional uses within the area were ever redeveloped.

SECTION 3: PROJECT DESCRIPTION

PROPOSAL

The Applicant proposes to rezone 13.64 acres of land from the R-60 Zone to the CRNF-1.5, C-0.25, R-1.25, H-70 (Commercial Residential Neighborhood) Floating Zone. The rezoning would allow the redevelopment of the Property, that was most recently used by the National 4-H Council as a Conference Center, to a residentially scaled senior care community. The Applicant proposes to remove the existing buildings in order to construct this Project which consists of a maximum mixed-use density of 700,000 square feet comprised of a Residential Care Facility (over 16 persons)

future layout of the senior living facility would relate to the surrounding residential neighborhoods within the Town of Chevy Chase to the north, west, and south, and additionally to Chevy Chase Section 3, located to the east across Connecticut Avenue.

With the Floating Zone Plan, the Applicant proposes an 18 foot setback from Connecticut Avenue frontage, and the proposal conceptually shows an even larger setback on the northern portion of Connecticut Avenue of approximately 27 feet. Given that the Property abuts single-family detached neighborhoods in the rear, the Project will be required to conform to the Residential Compatibility Standards of Section 59.4.1.9 with further review during the Site Plan stage. Conceptually, the Applicant shows generous setbacks along the side street and rear property lines, beyond the requirements of the Zoning Ordinance.

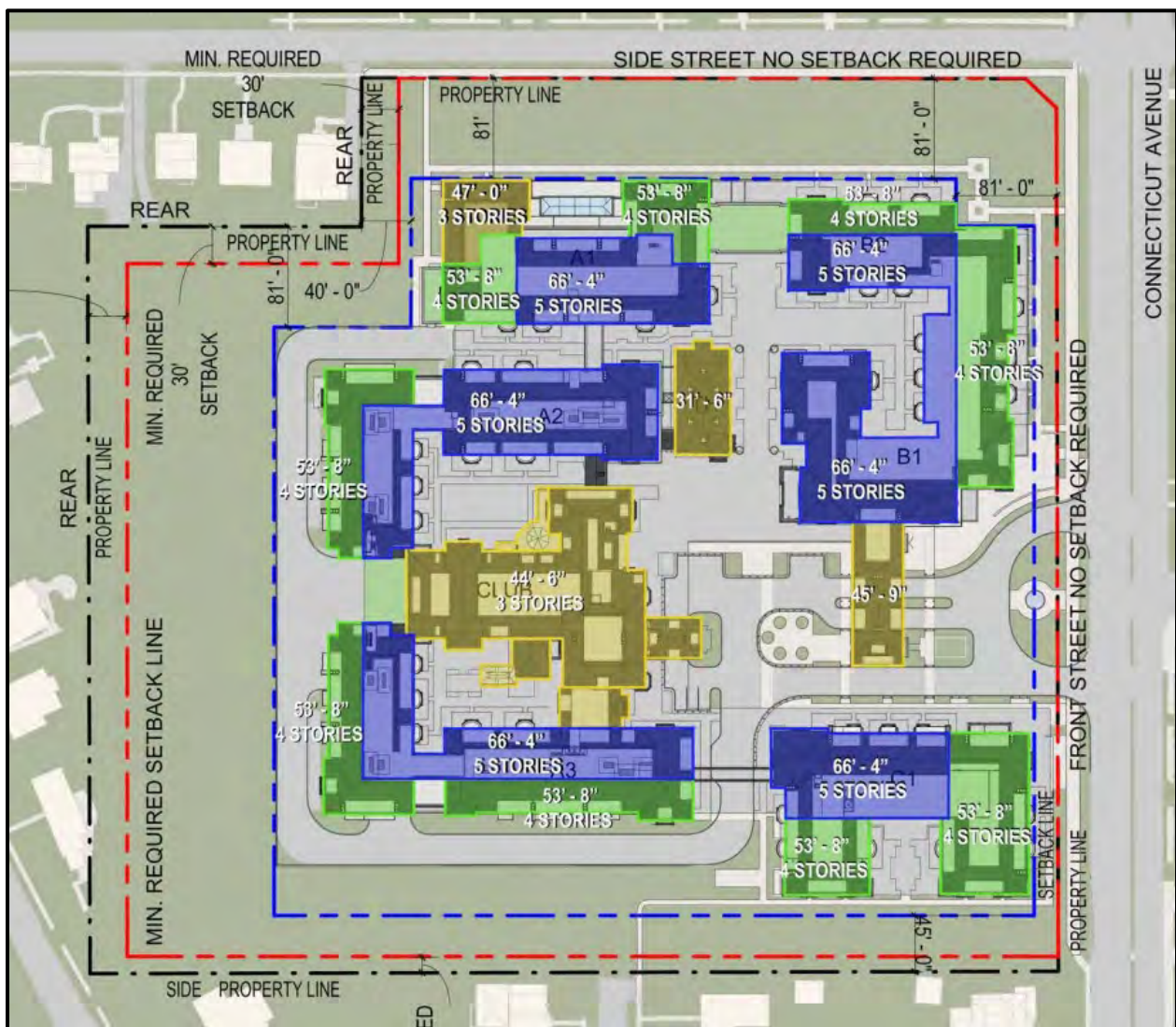


Figure 6: Conceptual building heights exhibit

The proposed heights are intended to align with proposed Binding Elements 7 and 9, which cumulatively restrict height along Connecticut Avenue to 60 feet for the first 80 feet into the Property and require the outward facing facades along all property lines to read as four stories plus roof, with the northwestern corner of the Property to read as three stories on top of garage plus roof.

The interior of the Site would feature the taller building heights, as shown in Figure 6 above as blue at approximately 67 feet in height. This Application requests a maximum building height of 70 feet, which would be measured, per Section 59.4.1.7 of the Zoning Ordinance, from the Connecticut Avenue frontage; this measurement will be finalized at the time of Site Plan.



Figure 7: Rendering from Connecticut Avenue at Taylor Street



Figure 8: Rendering from Connecticut Avenue looking north



Figure 9: Rendering from Connecticut Avenue looking south



Figure 10: Rendering from Thornapple Street looking south



Figure 11: Rendering from Woodside Place looking north

OPEN SPACE

Given the Property size and frontages, the Project will be required to provide 10% of the site area as Public Open Space, totaling approximately 53,542 square feet. The Applicant conceptually shows this open space being located along the north and eastern Property lines, fronting on Thornapple Street

where there is existing forest, and Connecticut Avenue where there will be enhanced streetscape and sidewalks, to be finalized and designed at the time of Site Plan.



Figure 12: Conceptual Public Open Space exhibit

TRANSPORTATION

All vehicular access to and from the Site will be provided from Connecticut Avenue, as limited by proposed Binding Element 2. As shown on the Floating Zone Plan, the Applicant proposes two driveways on the Site: one for ingress only and the other for egress only. The ultimate design, traffic operations, and configuration of the access will be determined at Preliminary Plan. The access will be reviewed by Planning, MDOT SHA and MCDPS Fire and Rescue staff to ensure that there is safe, adequate and efficient access to and from the Site. The Applicant has agreed to conduct a queuing analysis to ensure that the visitors' queue will not impact vehicular traffic on Connecticut Avenue.

Final review by County and State agencies for access will occur during the Preliminary Plan Application, however, MCDPS has reviewed the concept for Fire Access and has determined that the proposed design of the driveways is accessible and sufficient for the County's emergency vehicles.

Access to the loading and trash areas onsite was also evaluated. The truck turning templates demonstrated that the design of the onsite driveways is sufficient for trash collection and delivery trucks.

Parking will be finalized at the time of Site Plan. Based on the number of independent dwelling units, memory care beds and employees, the minimum required parking spaces for the Project is 323 spaces and the maximum is 528. The Applicant is proposing a total of 478 total spaces onsite for residents, employees and visitors. Per Binding Element 3, at the time of site plan, the Applicant will be required to commission a Parking Demand Analysis to ensure on-site parking accommodates both peak use and visitation periods. Bicycle Parking will also be finalized at the time of Site Plan per Section 59.6 of the Zoning Ordinance.

The Project proposes to provide pedestrian and bicycle access improvements to and within the Site per the 2021 *Complete Street Design Guide* for the frontage on Connecticut Avenue and Thornapple Street. Connecticut Avenue is a Boulevard, which currently has a seven-foot-wide street buffer with a six-foot sidewalk. The street buffer will be widened to eight feet and the sidewalk will be replaced with an 11-foot sidepath. Thornapple Street, a Neighborhood Street, will be improved by widening the four-foot sidewalk to six-feet. The sidewalk will be buffered by a five-foot street buffer. The 2021 *Complete Street Design Guide* recommends a six-foot-wide buffer for Neighborhood Streets, such as Thornapple, however, given the steep grades of the vegetated berm directly abutting the sidewalk on the south side, a five-foot wide buffer will be sufficient to buffer the sidewalk from on-street parking and adequate in width to support street trees. These improvements will be finalized at the time of Site Plan.

ENVIRONMENT

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420222220 for this Property was approved on September 27, 2022. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property including numerous significant and specimen trees throughout the Site and a 3.71-acre high priority forest along the north, west, and southern boundaries of the Site.

Preliminary Forest Conservation Plan

The associated Preliminary Forest Conservation Plan shows that the subject Property contains 3.71 acres of forest, most of which will be retained within a Category I Conservation Easement. The Applicant proposes to remove approximately 0.74 acres of forest and retain approximately 2.97 acres of forest. No afforestation or reforestation planting is required as the requirements are fully addressed by the preservation of existing forest within the proposed Category I Easement (and no payment of a fee-in-lieu or offsite banking is proposed).

Please see the analysis in Section 6 for an expanded explanation of the PFCP.

Variance

The Applicant proposes to impact 13 trees and remove, or potentially remove with the intent to save, 15 trees that are 30 inches or greater DBH and are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. The trees to be removed are all located within the developable area of the site and the inability to remove these trees would potentially render the site undevelopable for this project. The Applicant will be required to mitigate the 492 diameter-inches of protected trees to be removed (or potentially removed) with mitigation plantings of at least 123 caliper-inches. In this case, the Applicant proposes to plant approximately 41 trees of 3-inch caliper size, however the final locations and quantities will be determined as part of the FFCP review. Additionally, no mitigation is required for trees that are impacted, but retained.

Noise Analysis

The Application proposes residential units along an arterial roadway (Connecticut Avenue) and a noise analysis will be needed at time of Preliminary Plan submission.

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with the required notification and signage requirements of Section 59.7.5 of the Zoning Ordinance, which are coordinated with the Office of Zoning and Administrative Hearings (OZAH). As a Property located within the Town of Chevy Chase, the Town has been a part of the review of the Project and all letters on the Project review, including a final letter of support dated February 15, 2023 is included in the Staff Report as Attachment E.

Correspondence has also been received from Chevy Chase Section 3 and several residents, which are included in Attachment F, and those concerns are summarized below:

Traffic

Concerns were raised that the proposed Project will generate a high volume of traffic. Staff reviewed the transportation exemption statement submitted with the Subject Application and determined that it met the requirements of the 2020-2024 Growth and Infrastructure Policy (GIP) and complied with the 2022 Local Area Transportation Review (LATR Guidelines). Therefore, a transportation impact study would not be required.

Staff also received correspondence sharing concerns about the configuration of the Site driveways on Connecticut Avenue. The Applicant proposes keeping the existing driveways on Connecticut Avenue which are both offset from Taylor Street.

In response to both of these concerns, the Applicant has agreed to commission a Comprehensive Vehicular Site Access Study that shall include, at a minimum, review of the existing roadway,

intersection geometrics, speed limits, existing turning movements, vehicular and pedestrian counts, evaluation of collision data for the most recent three-year period, forecasted future traffic volumes based upon the existing traffic counts and proposed program, and a signal warrant analysis. The Applicant has met with MDOT SHA to determine the scope of the study and possible access design alternatives. This study is not required by the GIP and is a voluntary measure element on the part of the Applicant. Staff notes that although initiating the study was volunteer by the Applicant, it is recommended as a binding element of the Subject Application. The results of the study will be shared with MDOT SHA, MCDOT, and Planning staff as well as the adjacent municipalities. MDOT SHA will ultimately determine what operational and geometric changes are warranted and/or appropriate within the state right-of-way on Connecticut Avenue.

Massing & Setbacks

Concerns regarding massing and setbacks have been received from residents of Chevy Chase Section 3, located to the east of Connecticut Avenue. Of specific concern is the proposed setback along Connecticut Avenue (18 feet front setback) being out of character with the development along the east side of Connecticut Avenue. While the Floating Zone Plan proposes a smaller front setback than what is required on the east side which is zoned R-60 (25 feet front setback), the Applicant is proposing several Binding Elements that will result in a residential architecture to minimize the bulk of the massing such as Binding Element No. 17 that requires the architecture to read as four stories plus roof to minimize a bulky design, Binding Element No. 18 which requires the units facing Thornapple Street and Connecticut Avenue to include individual ground floor entries, and Binding Element No. 19 and 20 which requires the entry to contain a porte cochere with specialty paving material and a gateway feature to ensure the entry aesthetic remains appealing in nature.

Additionally, it is important to note that the current right-of-way differs significantly from the centerline of Connecticut Avenue. This results in a larger existing dedication on the west side than the east side, and as a result, the setbacks on the west side will be farther back from the curb than the east side. As shown in the following diagram provided by the Applicant. The future development will be a minimum of 44 feet from the curb on the west side, while the existing structures on the east side of Connecticut Avenue are currently 37 feet from the curb.

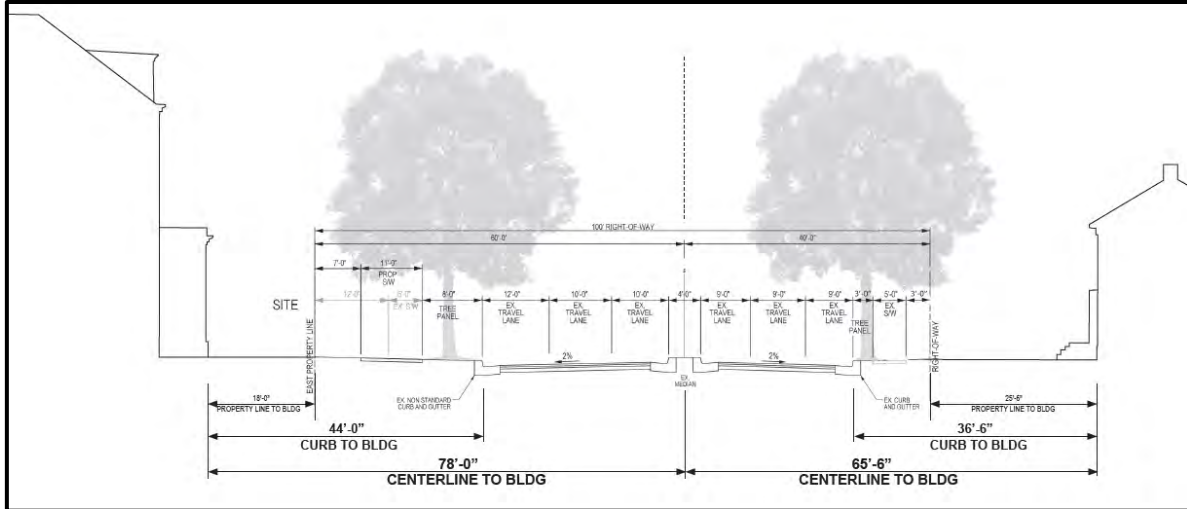


Figure 13: Cross Section of Connecticut Avenue looking north, with Subject Site on the left

Density

The concerns related to density are that the number of units proposed with the senior care community are far denser than the existing single family detached housing in the area. The Floating Zone Plan proposes a density that would allow a Residential Care Facility containing up to 287 independent dwelling units, 190 assisted living beds, and up to 5,000 square feet of commercial/retail use, it is not anticipated that this density will be detrimental to the residential character in the surrounding area. The Applicant states that the average resident will be 80 years of age and the grounds itself will be designed as a gated community to ensure safety for its residents. The concerns extend beyond future residents to potential traffic as a result of the staff, waste management, and deliveries associated with the development. As previously discussed in the traffic concerns, the Subject Application does not generate enough net new peak-hour person trips to necessitate a transportation impact study. The trip generation estimates for the proposed use encompasses all trips made to and from the Site during morning and evening peak travel hours, which includes those trips made by residents, visitors, staff, deliveries, etc.

Environment

Community concerns regarding potential de-forestation of the Subject Property were also raised by residents of Chevy Chase Section 3. As shown in the submitted Preliminary Forest Conservation Plan, and described in the findings of this report, the Subject Property contains 3.71-acres of forest which lies mostly on the perimeter of the Property along the north, west, and south edges. Most of this forest area is proposed to be retained within a Category I Conservation Easement; approximately 0.74-acres of forest removal is proposed. It is important to note, however, that a portion of the forest declared as removed in the Forest Conservation Plan will not be actively cleared and actually lies outside of the limits of disturbance of the plan. This is a nuance of the required Forest Conservation Worksheet in which any forest not protected is classified as removed. Through the inclusion of the proposed

Conservation Easement onsite, the existing forest is required to be maintained in a healthy state and cleared of invasive species. While it is true that minor areas of forest will be impacted/cleared, a majority of existing forest stand will be preserved and protected, in alignment with the County's Forest Conservation Law, so that it may remain a natural habitat and buffer for the community.

Construction

The concerns related to construction are that noise, vibration, debris, and traffic congestion will create an ongoing nuisance for adjacent neighborhoods throughout the phased construction. As with any development, careful consideration of construction staging/parking locations as well as timing for the start and stop of work during the day are important factors to consider as they have direct impact to the surrounding area. For ease of construction, staging and preliminary activities would be sited as near to the Subject Property as possible. With the major roadway of Connecticut Avenue as a major barrier to the east, it is expected that most impacts would be localized to the Town of Chevy Chase. As such, the Applicant has included, as a Binding Element, the requirement for a construction management agreement with the Town of Chevy Chase. An advantage of the Subject Property, which is laid out in a campus format, is that the large site area should provide ample space to limit the overflow of construction needs onto neighboring streets. Further, all development projects in the County must comply with the Noise Control Law which sets restrictions on construction activities. As future neighbors, the Applicant has expressed the desire to forge strong relationships with the neighboring communities and, as conditioned herein, is expected to limit impacts of this project to the greatest extent possible.

SECTION 5: LOCAL MAP AMENDMENT FINDINGS AND ANALYSIS

Per Section 59-7.2.1.E.2 of the Zoning Ordinance, for a Floating zone application, the District Council must find that the floating zone plan will:

- a) substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;***

The Project is located within the boundaries of the 1990 *Bethesda Chevy Chase Master Plan*. The Master Plan generally reconfirmed the R-60 Zone throughout to maintain the residential character where possible, therefore this Site was reconfirmed with the R-60 zoning with no further site-specific recommendations. However, on page 3 under Land Use and Zoning, Areawide Recommendations No. 4, the Master Plan states "*Encourage the continuation of the current country club uses. For country clubs, as well as private schools and institutional uses, endorse housing as the primary future alternative use if these parcels are ever redeveloped.*"

The Master Plan identifies 7 overarching goals, for which the following applies to the Project:

- *Provide for a balanced housing supply so that persons of varying income levels, age, backgrounds, and household characteristics may find suitable housing appropriate to their needs.*

The Project provides diverse housing opportunities on-site that will help to meet the needs of the surrounding community. As proposed, the Project includes a variety of units for senior living, with three levels of care (i.e. Independent Living, Assisted Living and Memory Care), to allow residents of the surrounding community to age-in-place. The Project will provide MPDUs per the standards of Chapter 25A with final review at the time of Site Plan application.

- *Protect the high-quality residential communities throughout the Planning Area as well as the services and environmental qualities that enhance the area.*

The Project layout has been designed to protect and retain the existing tree canopy that exists along the northern, western and southern Property boundaries to the maximum extent feasible. This natural screening provides a significant physical and visual buffer from the surrounding residential communities, but also serves to protect the environmental features on-site.

- *Protect the natural resources and environmental qualities of the Planning Area.*

The Project will preserve and enhance the natural resources that exist on-site and the environmental qualities of the Planning Area. As mentioned, the Project preserves a majority of the existing tree canopy that exists on-site today and will provide for its permanent protection through Category I Forest Conservation Easement(s) as proposed with the associated Preliminary Forest Conservation Plan. This will also provide for the protection of the steep slopes that exist along the western Property boundary. The Project also will provide stormwater management on-site, to be reviewed during the Preliminary Plan application.

- *Contribute to a strong sense of community and help reinforce community cohesion.*

The Project proposes a conceptual layout design and building heights to be compatible with, and complement, the character of the surrounding residential neighborhood. The proposed conceptual building architecture related to styles found in the surrounding neighborhood, and many of the proposed Binding Elements reinforce these styles by restricting certain materials and requiring the future buildings to read as a limited amount of building stories. The Master Plan recognizes that “[t]he way we meet the special needs of the elderly...also relates to our sense of a community that cares about its residents.” The Project accomplishes this by providing a range of services for residents ages 62 years and older, which will serve County residents and allow Chevy Chase residents to stay in their community as they age.

Therefore, the proposed Floating Zone request to rezone the Property from the R-60 zone to the CRNF zone to allow senior living housing is in conformance with the 1990 *Bethesda Chevy Chase Master Plan*, now that the 4-H Conference Center institution is no longer occupying the Site.

Transportation

There are no designated bicycle facilities on the Site frontages in either the 1990 *Bethesda/Chevy Chase Master Plan* or the 2018 *Bicycle Master Plan*.

The Applicant has demonstrated that the Project will conform with Section 49-32 of the County Code (Design Standards for types of roads). At the time of Preliminary Plan, the Applicant will be required to dedicate an additional five-feet to the Thornapple Street right-of-way from the Property line, to achieve the master-planned total width of 60 feet. No further dedication is required on Connecticut Avenue or Woodside Place.

The Application has demonstrated that the Project will comply with the 2021 *Complete Street Design Guidelines* as it shows an eight-foot-wide street buffer and an 11-foot-wide sidepath on Connecticut Avenue and a six-foot-wide sidewalk with a six-foot-wide street buffer on Thornapple Street. Final street section design will be reviewed at the time of Preliminary Plan application.

b) further the public interest;

The Local Map Amendment Application requests to rezone an R-60 zoned Property to CRNF to allow a senior living facility. The now vacant, 13.64-acre Property will be redeveloped to provide housing for an aging population. The proposed reuse of the Property is in line with the vision of the 1990 *Bethesda Chevy Chase Master Plan* to provide additional housing on the Property, if the institutional use were no longer present, and furthers a Countywide vision of providing additional housing for an aging population. Therefore, the Application will further the public interest.

c) satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;

INTENT OF FLOATING ZONES

Per Section 59-5.1.2. of the Zoning Ordinance, the intent of the Floating zones is to:

A. Implement comprehensive planning objectives by:

- 1. furthering the goals of the general plan, applicable master plan, and functional master plans;***
- 2. ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan, applicable master plan, functional master plan staging, and applicable public facilities requirements; and***
- 3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the Property; and***

As described above, the proposed development is consistent with the goals and recommendations of the 1990 *Bethesda-Chevy Chase Master Plan*. The Property is supported by existing infrastructure and will provide compatible infill development which serves to further smart growth principles.

The Property is serviced by existing water and sewer and is located within water and sewer categories W-1 and S-1. Electric, gas, and telecommunications services are also available. Other public facilities and services – including police stations, firehouses, and health care facilities – are currently operating in accordance with the Growth and Infrastructure Policy and will continue to be sufficient following construction of the Project. Formal findings for adequate public facilities will be further discussed at time of Preliminary Plan.

The proposed rezoning will allow the project to be integrated into the existing community and provide much needed senior housing and neighborhood-serving retail. The natural features of the Property consist of mature trees, areas of steep slopes, and forest; these areas are proposed to be maintained with much of these areas being protected via conservation easement.

Site Access and Circulation

As required in the Binding Elements, all vehicular access will be confined to Connecticut Avenue. The Subject Application proposes two driveways: one for ingress and one for egress movements. Department of Permitting Services Fire & Rescues, Planning, MCDOT and MDOT SHA staff reviewed the Site and determine that conceptually the onsite access is acceptable. The final design and configuration of the Site's access will be determined at the time of Site Plan.

Existing sidewalks along the Site's frontage on Connecticut Avenue and Thornapple Street will be improved with wider, more accessible facilities. Connecticut Avenue will have an 11-foot wide-asphalt path with an eight-foot-wide street buffer. Thornapple Street will have a six-foot-wide sidewalk and a five-foot wide buffer.

The Applicant will install publicly accessible pedestrian connections between the on-site pedestrian network to both Woodside Place and Thornapple Street.

B. Encourage the appropriate use of land by:

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;**
- 2. allowing various uses, building types, and densities as determined by a Property's size and base zone to serve a diverse and evolving population; and**
- 3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and**

The proposed Floating Zone will allow the Petitioner the flexibility to redevelop this now unused, long-standing institutional use with a more compatible mixed-use, predominately residential development. As documented in the 2018 Housing Needs Study¹, the County faces a significant need for more senior housing, which the proposed Project plans to meet through developing high-quality senior housing, at varying levels of care, which will serve County residents and allow them to stay in their community as they age.

The Project layout and architecture has been designed to ensure compatibility with the surrounding neighborhood with respect to setbacks, building height, design, and access/circulation. The Project promotes sustainability and smart growth principles through infill redevelopment of the Property, which is already served by existing infrastructure and public transportation.

Section 59.5.2.5.A.1.b provides criteria for applying density to floating zones for Properties that were not recommended by the Sector Plan for rezoning. Based on these provisions, an FAR of 1.5 is appropriate for this Property given the base R-60 zone and tract area larger than 3 acres. Within the overall maximum permitted density, both the commercial and residential density are limited to a maximum of 1.25 FAR. The total density proposed by this Project is approximately 1.18 FAR; the commercial density for the Project is proposed at approximately 0.01 FAR and residential density is proposed at approximately 1.17 FAR, both well within the overall density allowed by the Zoning Ordinance.

The Project will be required to provide 10% of the site as public open space, per the standards in Section 5.3.5.D.2.a and 4.5.3.C of the Zoning Ordinance, which will be reviewed during the Site Plan application process. The Project has been designed to limit impact to the existing slope, mature trees, and forest onsite as much as possible, however the Project will require the removal of 15 specimen trees to allow for the development of the Site including internal circulation, buildings, and necessary utility connections. These impacts have been evaluated with the associated Forest Conservation application. Per the include forest conservation worksheet, the FCP will not require any amount of afforestation based on the total amount of forest and forest retained in conservation easement. Variance mitigation plantings of at least 123 caliper-inches are required due to the proposed loss of specimen trees. As described in the findings below, the Applicant proposes to plant approximately 41 trees of 3-inch caliper in order to meet this requirement.

C. Ensure protection of established neighborhoods by:

- 1. establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;**

¹ M-NCPPC Housing for Older Adults Study (May 2018) quantified the supply of housing serving older adults and assessed current and future demand for senior housing.

- 2. providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and**
- 3. allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.**

The proposed floating zone plan has been carefully designed, with feedback from the Town of Chevy Chase, to ensure compatibility with the surrounding neighborhood. The proposed density falls below the maximum allowed for the Property, while the layout preserves the existing tree canopy and natural screening that exists around the perimeter of the site.

The preserved wooded areas provide both a physical and visual buffer. This physical buffer results in both side and rear yard setbacks that are substantially greater than what would otherwise be required in the CRNF Zone. Additionally, the commercial uses and walk-up residential units have been oriented toward Connecticut Avenue, to activate and enliven this major roadway. The Petitioner has designed the building architecture to ensure compatibility with the surrounding neighborhoods, though the buildings will largely be screened from view from the surrounding residential neighborhood, and primarily only visible from Connecticut Avenue.

The Floating Zone Plan will set development standards and general compatibility standards to protect the character of the adjacent neighborhoods. The Property is adjacent to existing single-family detached neighborhoods on all sides and therefore must meet the residential compatibility standards of Section 59.4.1.8 of the Zoning Ordinance. As reflected in the Binding Elements, the building heights along Connecticut Avenue will be limited to 60 feet. As shown on the Floating Zone Plan, this height limit will carry into the site for a distance of eighty feet (80') from Connecticut Avenue. Additionally, as previously stated the Floating Zone Plan specifies minimum side setbacks which are more generous than the required setbacks for a typical CRNF development, thereby setting the standard for compatibility which will be further reviewed in subsequent Applications.

INTENT OF THE COMMERCIAL/RESIDENTIAL FLOATING ZONE

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;**
- B. allow flexibility in uses for a site; and**
- C. provide mixed-use development that is compatible with adjacent development.**

As proposed, the Floating Zone Plan would allow the Property to redevelop as a Residential Care Facility with a range of options for senior care and living and 5,000 square feet of neighborhood serving commercial uses. The Floating Zone Plan has been carefully oriented to focus taller building heights interior to the Site and several Binding Elements provide the flexibility necessary to achieve the senior care community while providing a development that will remain compatible with the existing adjacent residential detached neighborhoods. These include Binding Element No. 17 that requires the architecture to read as four stories plus roof to minimize a bulky design, Binding Element

No. 18 which requires the units facing Thornapple Street and Connecticut Avenue to include individual ground floor entries, and Binding Element No. 19 and 20 which requires the entry to contain a porte cochere with specialty paving material and a gateway feature to ensure the entry aesthetic remains appealing in nature.

APPLICABILITY

Section 5.1.3 of the Zoning Ordinance sets forth specific requirements for local map amendment applications that propose the CRNF Zone.

The Property is currently zoned R-60, rather than an Agricultural or Rural Residential zone, so a floating zone can be approved on this Property. A floating zone is not recommended for the Property in the Sector Plan, so prerequisites are required for this Application. The Applicant is requesting a Commercial Residential Neighborhood Floating zone, CRNF, so the Property must front on a nonresidential street or must confront or abut a property that is in a Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone; and the application must satisfy a minimum of two (2) prerequisites for each of the categories under Section 5.1.3.D. The Property fronts onto Connecticut Avenue, a nonresidential street. The Application meets the following three prerequisites:

Transit & Infrastructure:

- 1. The site has frontage on and vehicular, bicycle, and pedestrian access to at least 2 roads, at least one of which is nonresidential.***
- 2. The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.***
- 3. The project is age-restricted or senior housing, or if proposing development that may generate students, the site must not be in an area that is under moratorium due to school capacity or result in a school utilization rate greater than 120% because of the proposed development. For any site within 2 school clusters, only the portions of the site that satisfy this requirement can proceed.***

The Property has frontage along Connecticut Avenue, Thornapple Street and Woodside Place, all of which provide pedestrian access to the Property. Vehicular access is restricted to Connecticut Avenue, which is classified as a non-residential street. The Property is currently served by existing water and sewer. The water and sewer needs for the Project will be met through connections to these existing lines. Additionally, the residential component of the Project is age-restricted for residents 62-years of age and older, which will not impact schools.

Vicinity & Facilities:

- 1. The site is adjacent to a route that provides access to an existing or master-planned school within 1/2 mile.***
- 2. The site is adjacent to a pedestrian route that provides access to existing public park and recreation facilities that satisfy a minimum of 30% of the recreation demand under the Planning Board's Recreation Guidelines, as amended, within 3/4 mile.***

The Property fronts on Connecticut Avenue, which serves as a bicycle route to the Chevy Chase Lake center. The Chevy Chase Lake center has several existing and proposed commercial services (including medical offices; grocery store; restaurants and other retail shops). The Property is adjacent to a route that provides access to an existing school, the Chevy Chase Elementary School, within 1/2 mile. The Property is also adjacent to a pedestrian route that provides access to the Chevy Chase Local Park within 1/2 mile and the Jane E. Lawton Community Recreation Center within 3/4 miles, which contain diverse indoor and outdoor recreation opportunities. Additionally, the Property is approximately 1.5 miles from the commercial area of downtown Bethesda.

Environment & Resources:

- 1. The limits of disturbance for the development will not overlap any stream, floodplain, wetland, or environmental buffer or any slopes greater than 25% or slopes greater than 15% where erodible soils are present.***
- 2. The site does not contain any forest or, if forest is present, the limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 35 feet at any point.***
- 3. The site does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources.***

The Project has been designed to preserve the existing environmental features around the perimeter of the site. As such, the limits of disturbance for the Project will not overlap any stream, floodplain, wetland, or environmental buffer. While there is an existing forested area on the Property, the limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 35 feet at any point. Additionally, the Property does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources.

DEVELOPMENT STANDARDS

The Applicant proposes to rezone the Property from R-60 to the CNRF zone to allow a Residential Care Facility for more than 16 persons, which is allowed as a limited use in the CRN zone. Given the location of the Property confronts and abuts a residential detached zone, the proposal will require a Site Plan

approval per Section 59.3.3.2.c.i. The design of the development will be finalized and reviewed by the Montgomery County Planning Board at the time of subsequent Preliminary Plan and Site Plan review. As proposed, the Floating Zone Plan will meet the Development Standards for the CR Zone per Section 59.4.5 and the CRNF Zone per Section 59.3.5 as illustrated in the table below.

Table 1: Development Standards and Parking Requirements for the CRNF Zone

	Required/Permitted	Proposed
Site		
Tract Area	N/A	594,271 sf (13.64 acres)
Previous ROW Dedications		58,850 sf (1.35 acres)
Proposed ROW Dedications		2,688 sf (0.06 acres)
Site Area		532,733 sf (12.23 acres)
Maximum Density of Development	891,406 GFA (1.50 FAR)	700,000 gsf (1.18 FAR)
Open Space	10% of Site Area	11.1% of Site Area, to be finalized at Site Plan
Lot Coverage (max.)	Set at Site Plan	To be determined at Site Plan
Building Height (max.)	70 feet	70 feet
Principal Building Setbacks (min.)³		
Front setback from public street	Set by Floating Zone Plan	18 feet
Side street setback (Thornapple Street)		81 feet
Side setback		45 feet
Rear setback		145 feet
Vehicle Parking¹		
<u>Residential Units</u> 0.25 per bed ² 0.5 per unit min./1 per unit max. 0.5 per employee ²	8 min./8 max. 210 min./420 max. 75 min./75 max.	
<u>Commercial</u> 5 spaces per 1,000 SF	25 spaces	
Total	318 min./528 max.	545 spaces
Bicycle Parking		
<u>Residential Units</u> .25 per unit (max 50) 95% long-term, 5 % short-term	45 long-term/5 short-term	
.10 per employee 95% long-term, 5 % short-term	14 long-term/1 short-term	

<u>Commercial</u> 1 per 10,000 SF (max 50)	1 short-term/1 long-term	
Total	60 long-term/7 short-term	60 long-term/1 short-term
Loading Spaces	1 space	1 space

¹Final parking counts to be determined at the time of Site Plan. Required Parking as shown in Table is based on maximum density requested with the LMA.

²Section 59.6.2.4B, in the CR Zones within a reduced parking area, the minimum and maximum parking rates are the same

³Subject to the Residential Compatibility Standards of Section 59.4.8, to be finalized at the time of Site Plan application.

d) be compatible with existing and approved adjacent development;

The Project will transform this long-standing, institutional use into more compatible residential-scaled senior housing development that will contribute to the diversity of housing in the Town of Chevy Chase. The layout of the Project has been carefully designed to preserve the natural buffer that surrounds the Property, which will continue to provide a physical and visual distance from the surrounding residential homes. A small amount of the amenities provided on-site will be made available for use by the public to provide desirable neighborhood serving commercial uses within walking distance of the surrounding community. These uses will be located along Connecticut Avenue, to be easily accessible by residents of the surrounding neighborhoods.

e) generate traffic that does not exceed the critical lane volume or volume/ capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrates an ability to mitigate such adverse impacts; and

The Applicant submitted a Transportation Exemption Statement (TES) prepared by Wells & Associates, dated May 31, 2022. As permitted by the 2022 Local Area Transportation Review (LATR) Guidelines, the Applicant applied a trip credit for the existing hotel and corporate headquarters uses on the Site. The estimated trip generation for the assisted living/memory care units, senior adult housing multi-family units and the 5,000 square feet of retail proposed, results in 121 fewer net new person trips in the morning peak hour and 60 fewer net new person trips in the evening peak hour. The 2020-2024 Growth and Infrastructure Policy requires transportation impact studies for all projects that estimate 50 net new person trips in either of the peak travel periods. With fewer than 50 net new person trips estimated in the peak hour, the LATR is satisfied with the submitted TES. The results of the TES analysis are summarized in the table below.

Table 2: Transportation Exemption Statement Trip Analysis

Land Uses	ITE Trip Generation Rates		Adjusted Vehicle Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
Existing						
Hotel 183 units	84	108	66	85	109	140
Corporate Headquarters 93,301 SF	135	121	109	98	176	459
Subtotal	219	229	175	183	285	299
Proposed						
Assisted Living/Memory Care 220 units	40	53	35	46	62	82
Senior Adult Housing 287 units	55	72	48	63	86	112
Strip Retail Plaza 5,000 SF	12	33	10	28	16	45
Subtotal	107	158	93	137	164	239
Net New	-112	-71	-82	-46	-121	-60

Source: Transportation Exemption Statement, Wells & Associates, dated May 31, 2022

f) when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.

The proposed Project will not adversely affect the character of the surrounding neighborhood. In fact, the Project will provide a more compatible use by transforming this long-standing institutional use into a residential-scaled, age-restricted community. Furthermore, the Project’s architecture and building layout has been carefully designed to promote compatibility with the surrounding residential communities and the architectural character and scale found therein. The Applicant is, and will continue to, work closely with the Town of Chevy Chase to ensure compatibility is addressed at all levels.

SECTION 6: PRELIMINARY FOREST CONSERVATION PLAN FINDINGS & ANALYSIS

ENVIRONMENTAL GUIDELINES

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420222220 for this Property was approved on September 27, 2022. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The Subject Property contains the now vacant 4-H Club headquarters campus and the associated lawns, landscape and parking. Numerous significant and specimen trees occur throughout the site and a 3.71-acre high priority forest is located along the rear

and side boundaries within the site. There are considerable onsite impervious areas but with minimal existing stormwater management. The topography modestly slopes from east to west however the forest areas have increased slopes and also include minor pockets of steep slopes. There are no wetlands, floodplains, or rare, threatened and endangered plant species are known to be associated with the Property. The Site is located in the Lower Rock Creek watershed, which is a Use I Watershed.

PRELIMINARY FOREST CONSERVATION PLAN

The Preliminary Forest Conservation Plan shows that the subject property contains 3.71 acres of forest, most of which will be retained within a Category I Conservation Easement. There is approximately 0.74 acres of forest removal however due to the amount of forest preservation there is no afforestation or reforestation planting needed and the worksheet requirements are fully addressed by the preservation of existing forest within the proposed Category I Easement (and no payment of a fee-in-lieu or offsite banking is proposed). Furthermore, some of the areas declared as forest cleared will not be actively cleared and are not with the LOD but are considered cleared because they could not be protected within the Conservation Easement setting. Furthermore, as conditioned, minor portions of the Conservation Easement boundary will be modified to exclude conflicting utilities and to simplify the overall shape. Some of the expanded areas will be replanted with a few of the variance mitigation trees rather than traditional reforestation plantings. The mitigation tree plantings associated with the Forest Conservation Variance are discussed in detail further below.

The Subject Property is currently zoned R-60, which is classified as High Density Residential, however under this Application the Property will be rezoned to CRNF-1.5, C-0.25, R-1.25, H-70' and will be classified as Mixed-Use Development as defined in Section 22A-3 of Chapter 22A of the Montgomery County Forest Conservation Law ("FCL") and specified in the Trees Technical Manual. This gives the site an afforestation requirement of 15% of the net tract (under either land use category) and a conservation threshold of 15-20% under the proposed use. However, the amount of forest preservation exceeds the threshold amounts and no afforestation or reforestation planting is required.

The NRI/FSD shows a total of 3.71 acres of forest on the project site. The FFCP proposes to remove 0.74 acres and retain 2.97 acres of forest. When the numbers of the total tract area, land use category, total amount of forest, forest removed, and forest retained are entered into the Forest Conservation Worksheet it results in a total afforestation/reforestation requirement of 0.00 acres. However, the minor revisions in the easement boundary as recommended by Planning staff will ultimately result in slight changes to the Worksheet. The updated amounts will be addressed as part of a subsequent development plan application which will be reviewed by the Planning Board.

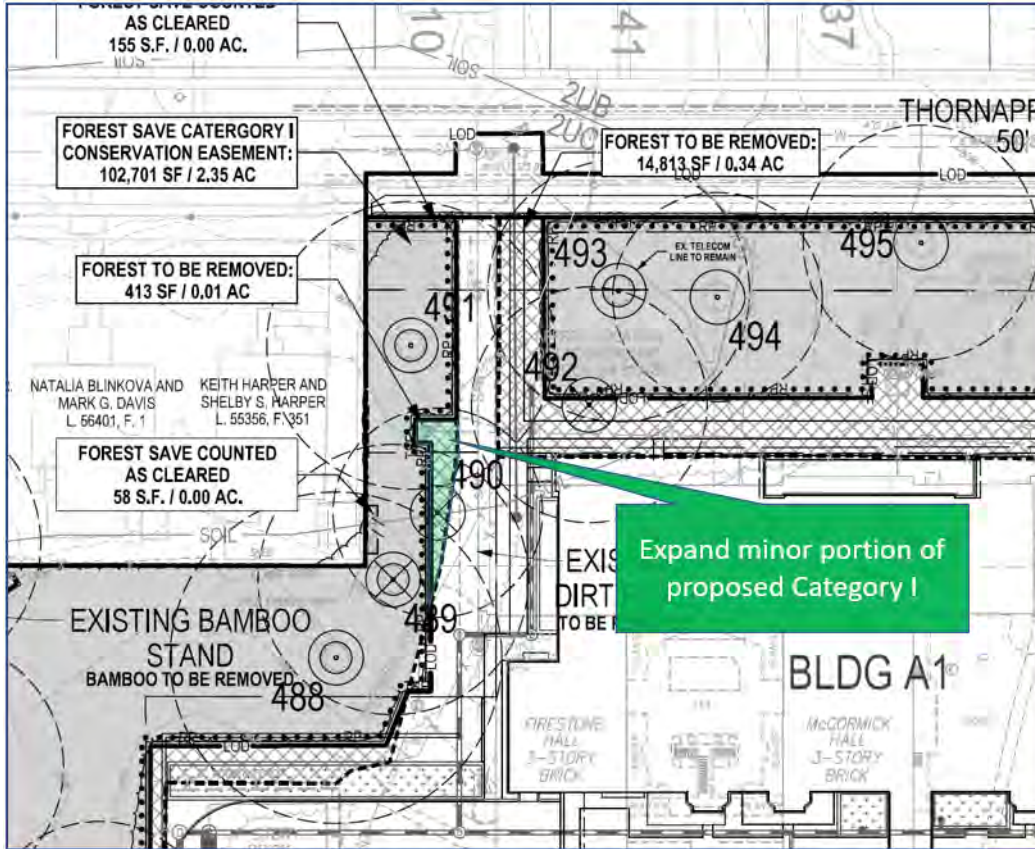


Figure 14: Minor Portion of Proposed Category I Easement to be Added

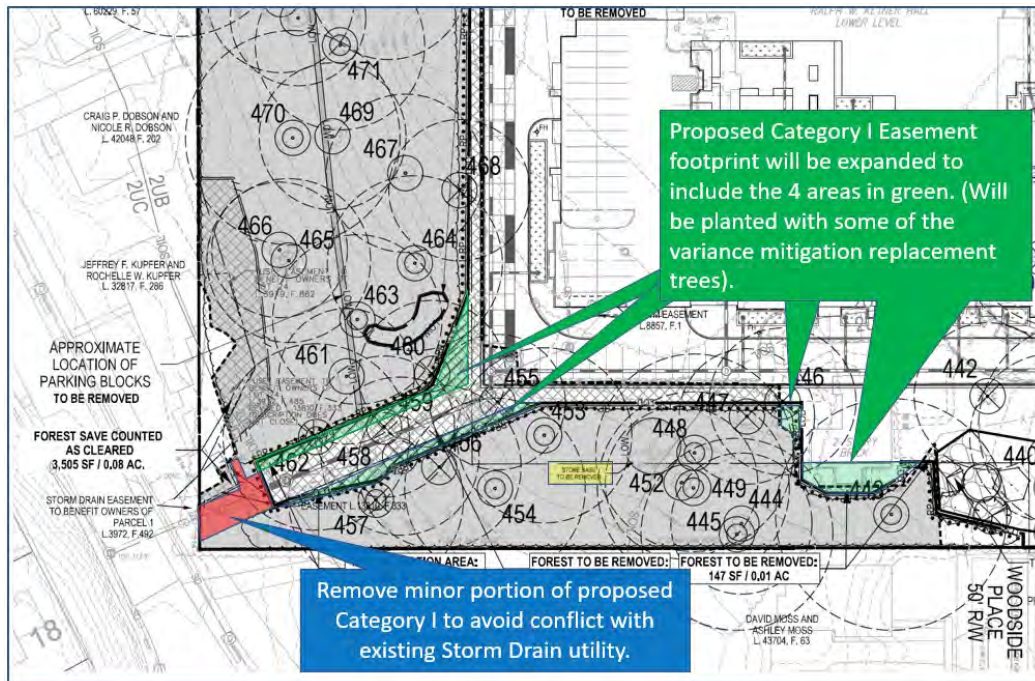


Figure 15: Minor Portions of Proposed Category I Easement to be Removed/Expanded

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines.

FOREST CONSERVATION VARIANCE

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”) requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left in an undisturbed condition. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The proposed project includes disturbance within the CRZs of trees which are subject to a variance due to their size measuring 30 inches DBH or greater.

Variance Request

The Applicant submitted a variance request in a letter dated February 4, 2023 (Attachment C). Based on the tables in the request, the Applicant proposes to impact 13 trees and remove or potentially remove² 15 trees that are 30 inches or greater DBH and are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

² The potentially removed variance trees are indicated as “Remove with intent to save” on Table 3. The Applicant will make efforts to save and protect these trees, however the associated mitigation plantings are calculated and provided whether or not the trees are ultimately removed.

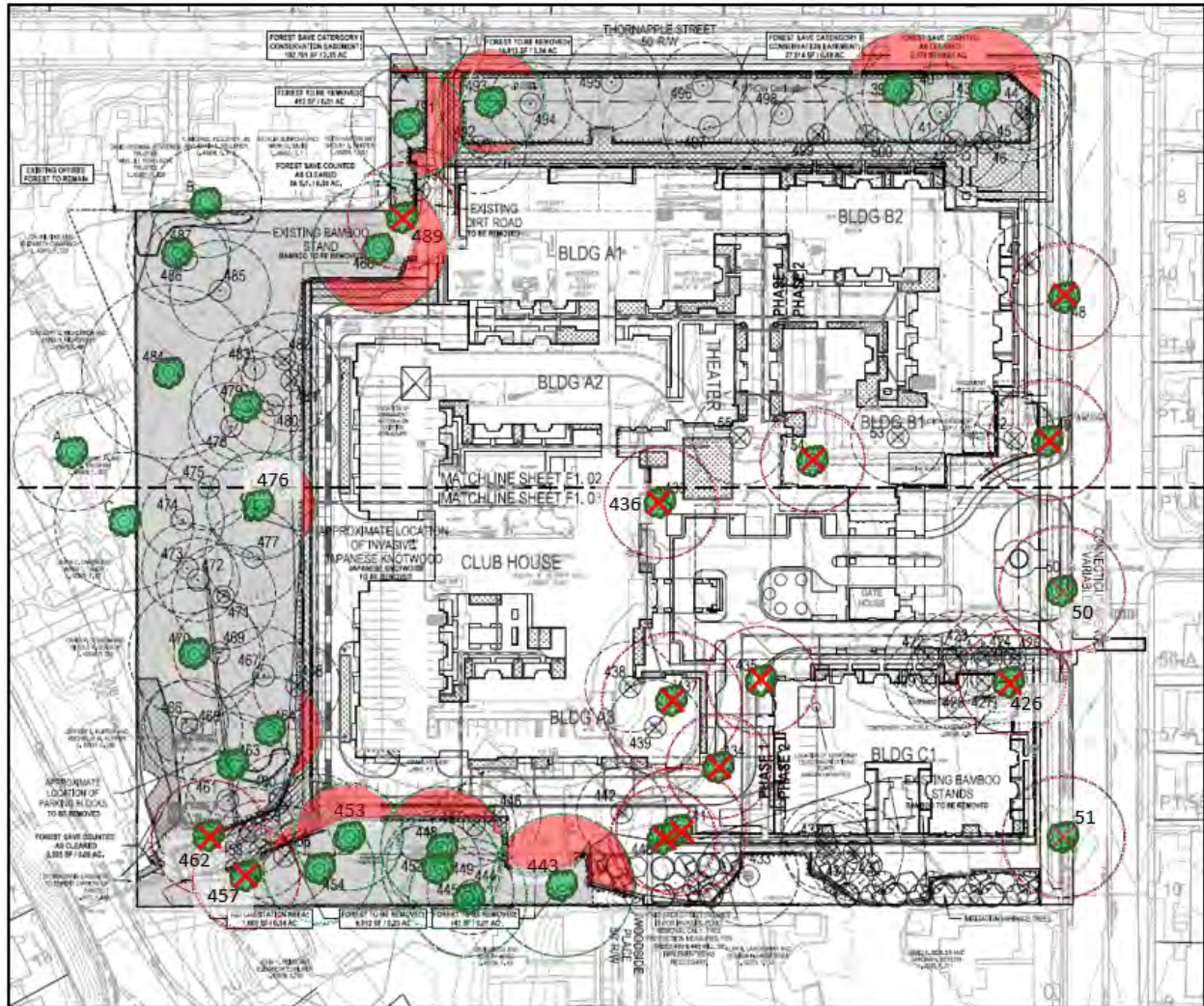


Figure 16: Variance Tree Exhibit

Table 3: Trees to be removed or potentially removed

Variance Tree Removal										
No.	Forest	Offsite	Common Name	Scientific Name	DBH (inches)	CRZ Area	CRZ Impact	% Impacted	Condition	Remove / Save
48	No	Yes	Red Oak	<i>Quercus rubra</i>	31	6792	6792	100	Poor	Remove
49	No	Yes	London Plane Tree	<i>Platanus acerifolia</i>	35	8659	8659	100	Good	Remove
50	No	Yes	Willow Oak	<i>Quercus phellos</i>	36	9156	8698	95%	Fair	Remove with intent to save
51	No	Yes	Willow Oak	<i>Quercus phellos</i>	35	8655	8222	95%	Fair	Remove with intent to Save
54	No	No	London Plane Tree	<i>Platanus acerifolia</i>	30	6359	6359	100%	Fair	Remove
426	No	No	London Plane Tree	<i>Platanus acerifolia</i>	30	6359	5297	83%	Fair	Remove
434	No	No	Ornamental Cherry	<i>Prunus avium</i>	30	6359	6359	100%	Poor	Remove
435	No	No	Pin Oak	<i>Quercus palustris</i>	31	6789	6789	100%	Fair	Remove
436	No	No	American Sycamore	<i>Platanus occidentalis</i>	32	7235	7235	100%	Poor	Remove
437	No	No	American Sycamore	<i>Platanus occidentalis</i>	40	11304	11304	100%	Poor	Remove
440	No	No	Tulip Poplar	<i>Liriodendron tulipifera</i>	30	6359	4556	72%	Poor	Remove
441	No	No	Southern Red Oak	<i>Quercus falcata</i>	37	9672	7125	74%	Fair	Remove
457	Yes	No	Tulip Poplar	<i>Liriodendron tulipifera</i>	31	6789	2175	32%	Poor	Remove
462	Yes	No	White Oak	<i>Quercus alba</i>	33	7694	2359	100%	Fair	Remove
489	Yes	No	Tulip Poplar	<i>Liriodendron tulipifera</i>	31	6789	2289	34%	Fair	Remove
Total					492					

Table 4: Protected Trees to be Impacted but Retained

Variance Tree Impact										
No.	Forest	Offsite	Common Name	Scientific Name	DBH (inches)	CRZ Area	CRZ Impact	% Impacted	Condition	Remove / Save
39	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	31	6793	2106	31%	Fair	Save
43	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	35	8659	4015	46%	Fair	Save
443	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	41	11876	3342	28%	Fair	Save
445	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	34	8167	58	1%	Fair	Save
448	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	35	8655	1663	19%	Good	Save
449	X		White Oak	<i>Quercus alba</i>	34	8167	185	2%	Good	Save
453	X		White Oak	<i>Quercus alba</i>	31	6789	2240	33%	Fair	Save
454	X		White Oak	<i>Quercus alba</i>	32	7235	773	11%	Poor	Save
464	X		Southern Red Oak	<i>Quercus falcata</i>	31	6789	1043	15%	Poor	Save
476	X		White Oak	<i>Quercus alba</i>	31	6789	330	5%	Poor	Save
488	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	38	10202	3507	34%	Good	Save
491	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	33	7694	2702	35%	Good	Save
493	X		Tulip Poplar	<i>Liriodendron tulipifera</i>	30	6361	2242	35%	Fair	Save

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship results from the existing obsolete development and the Master Plan endorsement for housing as the primary future alternative if former institutional uses redevelop. The project is carefully designed to balance protection of the natural resources and environmental qualities of the Planning Area (also per the Master Plan recommendations) while generally keeping the redevelopment limited to the areas of existing development. However, since the entire site perimeter is mostly encompassed by subject trees, which are also interspersed within the central areas of the site, the redevelopment recommended by the Master Plan (which is a reasonable and significant use of the Property) would not be possible without impacts and removal of subject trees. Therefore, the Applicant has demonstrated a sufficient unwarranted hardship to justify a variance request.

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

Variance Findings

To approve the Variance, the Planning Board must find that the Variance:

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

Granting the variance will not confer a special privilege on the Applicant as the removal of the trees is due to the location of the trees and necessary site design requirements. Notably more than 90% of the proposed redevelopment is on top of land already occupied by infrastructure of buildings, parking, and utilities. Additionally, considerable efforts were made to avoid and minimize the overall impacts and the proposed layout allows most of the existing forest setting (which also contains many protected trees) to be preserved within a Category I Easement. Furthermore, the Applicant will provide onsite mitigation for the removals of protected trees. The variance request would be granted to any applicant in a similar situation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project which among other things, includes the desire to maintain the existing onsite forest containing numerous subject trees.

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

The requested variance is a result of the existing conditions on the Property and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The site is not located in the vicinity of a stream buffer, wetland or special protection area.

The area of proposed redevelopment generally coincides with the areas of existing development. The existing conditions have considerable impervious areas with very little existing stormwater management. Ultimately a stormwater management plan addressing water quality through Environmental Site Design will be provided for the development as approved by the Montgomery County Department of Permitting Services. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality. Additionally, the soil restoration techniques to be implemented as conditioned will maximize the permeability of the soil helping to further reduce runoff while also enhancing the setting for the associated plantings. The replanting of mitigation trees will also help water quality goals by providing shading and water retention and uptake. Collectively these efforts are anticipated to ultimately have an improvement on water quality. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There are 15 trees proposed for removal or potential removal in association with the Application. There will also be disturbance to CRZs of another 13 trees that will be retained. Planting mitigation for the removals should be at a rate that approximates the form and function of the trees removed. Replacement should occur at a ratio of approximately one inch caliper for every four inches DBH of removal, using onsite trees that are a minimum of three inches caliper, overstory trees native to the Piedmont Region of Maryland. For the 492 diameter-inches of protected trees to be removed (or potentially removed), the applicant must provide mitigation of at least 123 caliper-inches of replacements. In this case, the Applicant proposes to plant approximately 41 trees of 3-inch caliper size, however the final locations and quantities will be determined as part of the FFCP review. Additionally, no mitigation is required for trees that are impacted, but retained.

Maintenance & Monitoring for Impacted Trees Subject to the Variance Provisions

It is important to discuss additional information regarding the proposed significant impact on Trees 50 and 51. These trees are located along the Connecticut Avenue frontage within the SHA ROW. The trees are situated in a lawn panel between the existing curb and sidewalk. Although the work

proposed at this location is to be performed under the direct supervision of an arborist and utilize specialized construction techniques, the trees will be subject to a significant amount of disturbance as indicated by the 95% CRZ impacts. The Applicant will continue to work with an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert to prepare a tree-save plan which includes protective measures for Trees 50 and 51. As conditioned, an appropriate tree care professional will also implement a five-year tree care program to ensure the long-term maintenance and monitoring for the prominently featured specimen Trees 50 and 51. This level of care is needed due to the combination of impact proposed and the location of the trees; both trees have canopies that extend over the roadway and sidewalk. The Applicant has submitted a letter (Attachment D) prepared by an arborist with proposed methods to preserve these trees. However, more detailed terms of the tree save plan and associated maintenance and monitoring shall be determined in coordination with the tree care professional and M-NCPPC at the time of Site Plan submission.

Variance Recommendation

As a result of the above findings, Staff recommends that the Board approve with conditions the Applicant's request for a variance from Forest Conservation Law to remove 15 protected trees (2 of which are potential removals), and to impact, but retain, 13 other protected trees associated with the site (affecting a total of 28 protected trees).

SECTION 7: CONCLUSION

The Local Map Amendment H-148 complies with the standards and requirements of Section 59.7.2.1 of the Zoning Ordinance. The proposed CRNF zone and use are consistent with the goals and recommendations of the 1990 *Bethesda Chevy Chase Master Plan*, are in the public interest, and will not alter the character of the surrounding neighborhood. Therefore, Staff recommends transmittal of comments to the Hearing Examiner with a recommendation of approval of the LMA and associated Floating Zone Plan with the proposed binding elements.

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines, including the waiver. Therefore, Staff recommends approval of the associated Preliminary Forest Conservation Plan H-148, and waiver, with the conditions cited in this Staff Report.

ATTACHMENTS

Attachment A: Floating Zone Plan

Attachment B: Preliminary Forest Conservation Plan

Attachment C: Tree Variance Request Letter

Attachment D: Tree Preservation Letter

Attachment E: Town of Chevy Chase correspondence

Attachment F: Community correspondence

**LOCAL MAP AMENDMENT APPLICATION
DISCLOSURE STATEMENT
(Revised February 7, 2019)**

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. **If more than one applicant is involved in a single application, each applicant must file this statement.**

Subject to the penalties of perjury, I, CORSO DC LLC
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my

knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK
APPROPRIATE STATEMENT)


1. I HAVE made a contribution of _____
(FILL IN AMOUNT OF CONTRIBUTION IF \$500
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on _____
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)
(If more space is required, use the back of this form.)

2. I HAVE NOT made a contribution requiring disclosure.


SIGNATURE OF DECLARANT

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for FULTON County, Georgia

22 day of September, 2022


NOTARY PUBLIC
My Commission Expires: 12/16/2024

