



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

MCPB
Item #
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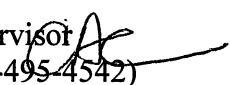


MEMORANDUM

DATE: December 27, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor
Development Review Division (301-495-4542) 

REVIEW TYPE: Subdivision Review Waiver

APPLYING FOR: Request for waiver of the requirement to submit a preliminary plan of subdivision and associated record plat

PROJECT NAME: The Woods Academy

CASE #: SRW01006A

REVIEW BASIS: Chapter 50, Sec. 50-38 (a)(1), Montgomery County Subdivision Regulations

ZONE: R-200

LOCATION: Located in the north quadrant of the intersection of Greentree Road and Burdette Road

MASTER PLAN: Potomac Subregion

APPLICANT: The Woods Academy

ATTORNEY: Linowes and Blocher LLP

FILING DATE: June 7, 2007

HEARING DATE: January 10, 2008

STAFF RECOMMENDATION: Approval of the request to waive submittal of a preliminary plan and record plat, subject to the following condition:

- 1) Issuance of any future building permit(s) for this property will be subject to the applicable record plat requirements of Chapter 50 of the County Code.

SITE DESCRIPTION

The subject property ("Property") is an unplatted, 6.15-acre parcel (P 184) located on the north side of Greentree Road at its intersection with Burdette Road in the Potomac Subregion (Attachment A). It is the site of the former Fernwood Elementary School and is owned by Montgomery County. Since 1977, The Woods Academy ("Applicant") has leased the Property from the County for a private educational facility. The Property is zoned R-200 and is surrounded by existing residential lots to the east, west and southeast; and M-NCPPC parkland to the north (Fernwood Local Park) and southwest (McCrillis Gardens Special Park).

BACKGROUND

This is a second request by the Applicant for a Subdivision Regulations Waiver ("SRW" or "Waiver"). A previous Waiver was granted in association with a Site Plan approval in 2001 that permitted expansion of the then-existing facility to construct a gymnasium, a student activity center, additional classrooms, and increased storage. A Mandatory Referral review of the requested changes was also done.

The Applicant and Montgomery County concurrently sought the first Waiver based on the justification that the filing of a subdivision application for the unplatted property would have been duplicative of the processing, review and approvals of the Site Plan application materials. They also argued that publicly-owned properties are typically not required to be platted prior to issuance of building permits. The Planning Board granted the requested Waiver subject to the condition that the school's enrollment be limited to 302 students and that full subdivision review (including Adequate Public Facilities (APF) Ordinance review) be conducted prior to any enrollment increase.

The record of the previous hearing on this application indicates that the Board's primary concern in granting the Subdivision Waiver was that a full APF review (including a traffic study) be done before any future increase in the school's enrollment. The Applicant is now seeking to increase the school enrollment cap to 410 students and has filed this second SRW request along with an amendment to the previously approved Site Plan.

CURRENT REQUEST

In a letter dated June 5, 2006 (Attachment B), the Applicant's representatives outline their belief that the current Waiver request should be granted based on the same reasons that the original Waiver was granted. They point out that the Property will continue to be used as a school operated on publicly-owned land and that the requested increase in the enrollment cap does not include any changes to existing facilities. They argue that submittal of a preliminary

plan of subdivision would be duplicative of the review already taking place as part of the Site Plan amendment and that any aspects of subdivision that are not included, such as platting and dedication, are irrelevant because the proposed amendment does not seek any further expansion of the facility, application for building permits, or changes to the Property's physical conditions. To satisfy the condition of the Board's previous Waiver, Local Area Transportation Review (LATR), including submittal of a full traffic study, is being done as part of the Site Plan amendment.

DISCUSSION

The Planning Board has the authority to grant a waiver pursuant to Section 50-38(a)(1) of the Subdivision Regulations provided certain findings can be made. The section states:

"The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest."

In this instance, staff agrees with the Applicant that review of a preliminary plan of subdivision with the current Site Plan amendment would be duplicative. The primary objective of a subdivision review for this Property would be the APFO review of traffic impacts related to the proposed enrollment increase. This review can be done as part of the submitted Site Plan amendment, which is permitted under Chapter 8 of the County Code. Although staff does not agree that the Subdivision Regulations exempt publicly-owned property from the requirement to be platted prior to issuance of a building permit, this aspect of subdivision review does not need to be addressed now since the enrollment increase does not involve any change to existing facilities. In staff's opinion, platting and dedication may need to be provided as part of any future building permit application, but could be addressed by a minor subdivision under Section 50-35A of the Subdivision Regulations.

Staff finds that submission of a preliminary plan of subdivision presents an unnecessary practical difficulty for the Applicant because the review of the preliminary plan would be duplicative to that occurring as part of the submitted Site Plan amendment. As such, staff recommends waiving this requirement. This waiver is the minimum required to provide the necessary relief, is not adverse to the public interest because review of the submitted Site Plan amendment covers the applicable aspects of a subdivision review, and is not inconsistent with the objectives of the General Plan. As previously noted, it is staff's opinion that platting and dedication may be needed prior to issuance of any future building permits for the Property, but this issue does not need to be addressed now since the enrollment increase does not require any building. Staff recommends the waiver condition noted above to highlight the potential need for a future determination.

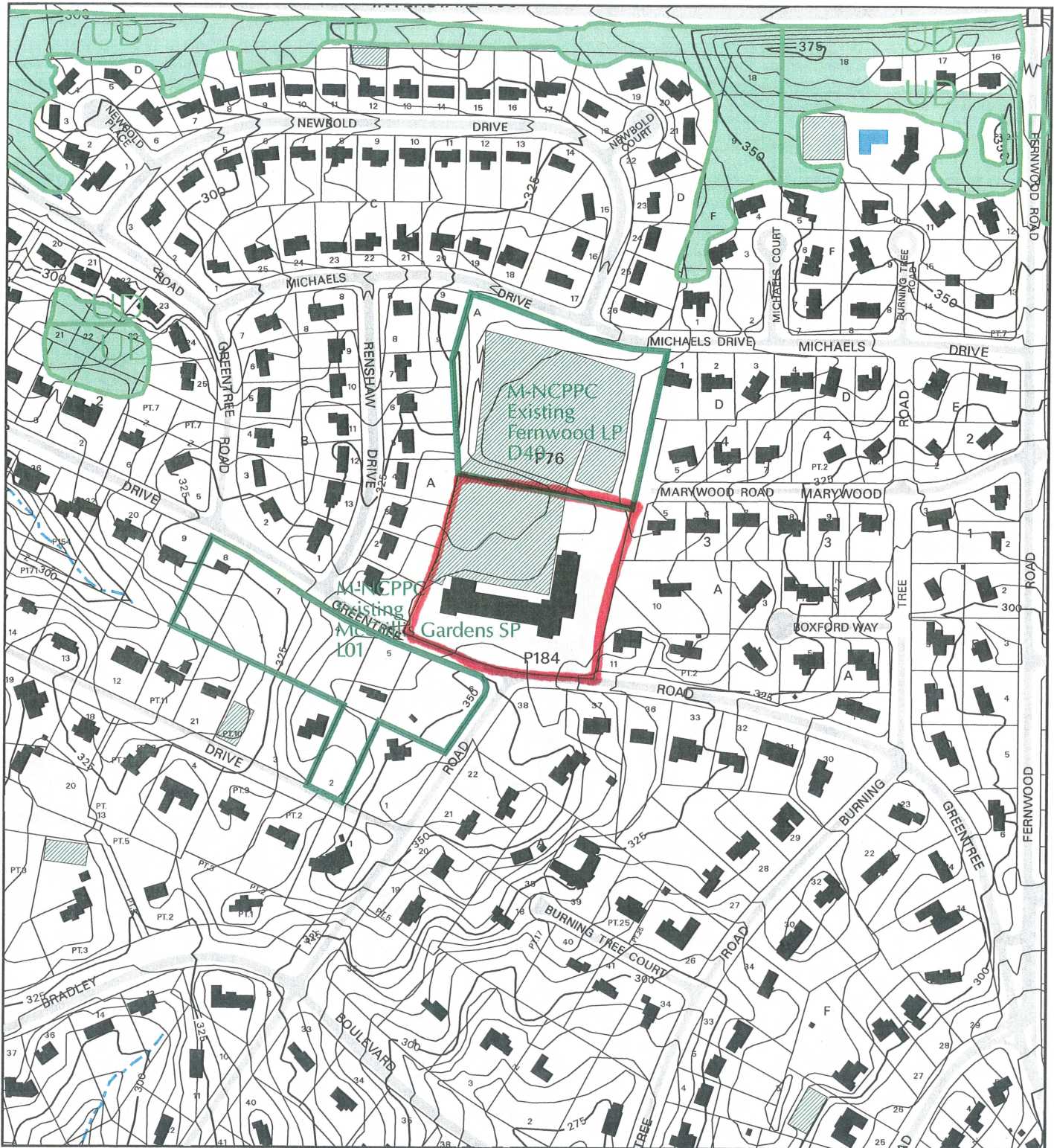
CONCLUSION

Staff recommends approval of a waiver of the requirement to submit a preliminary plan for this Property with the condition specified above.

Attachment A – Vicinity Map

Attachment B – Applicant's Waiver Request

THE WOODS ACADEMY (82001018A & SRW01006A)



Map compiled on November 22, 2006 at 2:55 PM | Site located on base sheet no - 211NW07

NOTICE

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



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Research & Technology Center

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1 inch = 400 feet
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June 5, 2006

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Derick P. Berlage, Chairman
The Montgomery County Planning Board
The Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: The Woods Academy – Site Plan Amendment/Subdivision Waiver Amendment
Site Plan No. 8-01018, SRW 01006

Dear Chairman Berlage and Members of the Planning Board:

On behalf of the Woods Academy, an independent, Catholic co-educational school (Montessori through eighth grade) and the lessee of the former Fernwood Elementary School owned by Montgomery County and located at 6801 Greentree Road in Bethesda in the R-200 zone (the "Property"), we respectfully request an amendment to one condition of the Site Plan Approval and the corresponding Subdivision Waiver concurrently granted by the Planning Board by Opinion dated August 16, 2001 (the "Opinion", attached hereto as Exhibit "A"). The Woods Academy seeks to raise the limit on the maximum enrollment allowed pursuant to the Site Plan ("enrollment cap") from 302 students to 410 students (which is significantly less than the facility's rated capacity when it operated as a public school); there are no changes proposed to the physical infrastructure of the Property or the school facilities with this Amendment.

The school's request for an increase in the enrollment cap is a necessary component of its strategy to responsibly plan for the future while continuing its tradition of providing a high-quality education. Enrollment at The Woods Academy is currently at or near the Site Plan capacity of 302 students, making any further growth impossible under the existing Site Plan. With the above in mind, The Woods Academy considered several factors in deciding to seek an increase its enrollment cap to 410 students. These factors included: 1) the school's previous rated capacity as a public school; 2) the school's anticipated gradual growth over the next three-to-five years; 3) the school's desire for class sizes that will enhance the learning opportunities for its students; 4) the school's intent to make efficient and economical use of its existing facilities; 5) the school's need for flexibility to manage potential growth over the long term without the need to seek another Site Plan amendment for additional increases in enrollment; and 6) the

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school's strong desire to set its enrollment cap at a level that will not negatively impact its neighbors and surrounding community.

The Woods Academy submits a Local Area Transportation Review ("LATR") in support of its application and to satisfy Adequate Public Facilities ("APF") review (see Exhibit "B"). The LATR includes: 1) a traffic study finding that the additional vehicular trips associated with the proposed enrollment cap increase will not adversely impact traffic on neighboring streets; 2) a Queuing Analysis demonstrating that the projected queues generated by a 410 student population will remain on-site; and 3) a Transportation Management Plan ("TMP") that establishes protocols addressing parking, traffic, and other transportation-related issues. The TMP was developed with input from the M-NCPPC Staff and neighbors and will ensure traffic flow and safety in support of the proposed Site Plan Amendment.

Also included in support of this application are the following additional items: 1) Montgomery County Department of Park and Planning Fee Schedule and Worksheet with check payable to the M-NCPPC in the amount of \$5,410.00 (This includes \$1,390 for the Subdivision Regulation Waiver fee and \$4,020 for the Site Plan; 2) Site Plan Application; 3) a Request for Waiver of Requirement of the Subdivision Regulations Application; 4) List with labels of adjacent and confronting property owners; and 5) certification of the May 2, 2006, community meeting which includes an attendance list, and subsequent community correspondence.

On the basis of these application materials and as set forth below, The Woods Academy requests that its proposed Site Plan Amendment and Subdivision Waiver be granted.

1. Property History

Montgomery County previously used the Property for the Fernwood Elementary School, which opened in 1961 with 18 classrooms and a rated capacity of 532 students. The Fernwood Elementary School facility closed in 1977 with a rated maximum capacity of 450 students and 15 classrooms. Since 1977, The Woods Academy has leased the Property from Montgomery County. The lease was extended in 1999 for an additional twenty five (25) years. The current lease expires in 2024. Over the past 30 years, The Woods Academy has strived to be a good neighbor, an integral part of the community, and a good steward of the County's property. This is evident by the actions and improvements that The Woods Academy undertook starting in 2001. In February 2001, having been an integral part of the surrounding community for 25 years, the Woods Academy sought Site Plan approval (as required by Section 59-G-2.19(e)(2) of the Zoning Ordinance for a private educational institution on land owned or leased by Montgomery County) and Montgomery County sought Mandatory Referral review for an expansion of the existing facility to construct a gymnasium, a student activity center, additional classrooms and increased storage. The Woods Academy and Montgomery County concurrently sought Subdivision Waiver approval (the Property is not a recorded lot of record), which was

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granted with the acknowledgement that the filing of a subdivision application would have been duplicative of the processing, review and approvals of the Site Plan application materials.

The Site Plan approval (and Subdivision Waiver) limited the school's enrollment capacity to 302 students and was conditioned on a requirement to conduct APF review if additional enrollment is subsequently desired. Although the Opinion states that an increase in the student population will require subdivision review, it is clear from the record of the case that the Board would require satisfaction of the subdivision review criteria, namely APF review (and specifically a LATR with a traffic study), should an increase in enrollment be sought; however, full subdivision review, platting and dedication, etc. would not be required with a proposed enrollment increase. Although an APF review was conducted with the original Site Plan and Subdivision Waiver, it is important to note that a traffic study was not required as part of the LATR to satisfy APF review because the enrollment generated less than 50 peak hour trips (the trip generation threshold at that time) during the peak hour. However, with the proposed enrollment cap increase, the Woods Academy has conducted a full traffic study (including traffic counts for six intersections) as part of the LATR, as well as a Queuing Analysis for an assessment of the current and future on-site queuing operations for the drop off and pick up of students. These studies have been conducted and submitted to satisfy the nature of the subdivision review intended by the Board's condition in the Opinion relating to subsequent increases in enrollment.

2. Supporting Documentation

As stated above, the proposed student enrollment increase is only requested for the Woods Academy to more efficiently utilize its existing facilities without any physical changes to the buildings or the facilities on the Property. The Woods Academy wanted to plan for internal growth and potential changes to class sizes or other curriculum changes (although the grade levels will remain Montessori through Eighth grade) in a comprehensive, thoughtful, and long term manner. Therefore, in addition to the traffic study and Queuing Analysis included in the LATR, the Woods Academy has prepared a Transportation Management Plan ("TMP"), based on examples provided by M-NCPPC Transportation Staff, and revised its Guide for Drivers (a guide for parents regarding drop off and pick up procedures and vehicle protocols).

A. LATR – Traffic Study and Queuing Analysis

In support of the proposed amendment, and as part of its desire to substantively fulfill all APF requirements, The Woods Academy commissioned Wells & Associates, LLC, an independent engineering firm, to conduct a LATR, including an extensive traffic study to assess the potential impact on the local transportation network and to conduct a Queuing Analysis to assess the existing and projected queues during drop-off and pick-up of students. The LATR was prepared in accordance with: 1) the LATR Guidelines published July 1, 2004; and 2) the March 28, 2006 Scoping Letter from Scott James, to Lawrence Sefcik.

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Based on the traffic study and Queuing Analysis, Wells & Associates, LLC affirmatively concluded that: 1) the proposed increase of the enrollment cap to 410 students will have a minimal impact to the local area transportation network; 2) the projected queues for drop off and pick up will remain on-site and no queuing will occur on Greentree Road; 3) the pedestrian and vehicular circulation on and around the site will continue to operate in a safe, adequate, and efficient manner; and 4) the proposed student enrollment increase from 302 to 410 students will maintain the compatibility of the school with the adjacent community.

B. Transportation Management Plan & Guide for Drivers

In addition to the traffic study and queuing analysis included in the LATR, the school prepared a Transportation Management Plan ("TMP") and revised its Guide for Drivers. The TMP is based in part on examples provided by M-NCPPC Transportation Staff and includes specific provisions based on input from the school's neighbors. The school received this input at a community meeting held at the Woods Academy on May 2, 2006, and through further exchanges of correspondence with several neighbors. The TMP provisions that were derived from the input at the community meeting include: 1) school support of neighborhood initiatives on parking permits and/or restriction, (2) collection of vehicle information from parent drivers to enhance enforcement, (3) scheduling of regular community meetings to address any transportation questions or concerns, (4) arranging off-site parking accommodations for special events, (5) requiring third-party users to adhere to the TMP and Guide for Drivers, and (6) written protocols that facilitate enforcement of transportation related policies. In addition, the neighbors were given an opportunity to comment on a draft TMP that was provided to them after the May 2nd meeting. Based on this feedback, the TMP also 7) specifies that parents and faculty shall obey local traffic and parking laws (also stated in the Guide to Drivers); 8) includes notice to specified individuals/addressees of the Community Council meetings (a group consisting of the school, neighbors on adjacent streets and the Bradley Boulevard Citizens Association); and 9) provides for more frequent meetings of the Community Council.

As part of its outreach to the community regarding its enrollment cap increase, The Woods Academy has forwarded the interested neighbors a copy of the LATR, which includes the TMP and Guide for Drivers. In addition, The Woods Academy has begun to immediately implement the policies of its TMP including procedures for special event parking. The Woods Academy is pleased to report that it successfully implemented the policies of the TMP relating to special event parking at the recent school-wide events of Literacy Day (May 12th), the Spring Art show and Musical Production (May 18th and 19th), as well as the First Communion Liturgy (May 22nd). These events took place without event related parking on the neighborhood streets. While the TMP imposes burdens and measures not typically required for a public school or a private educational institution utilizing a Montgomery County public school property, the implementation of the TMP by The Woods Academy will ensure that the school continues to be an integral part of the Bradley Hills neighborhood and will continue to maintain safe and

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efficient pedestrian and vehicular circulation with minimal impact to the surrounding community.

3. Site Plan Amendment and Subdivision Waiver

The application to amend the Site Plan condition to increase the student enrollment capacity to 410 students remains consistent with the previous Subdivision Waiver approval and the conditions set forth in Section 50-38(a)(1) of the County Code. The amendment is for the limited purpose of resetting the enrollment cap and does not seek any other change to the existing Site Plan. The Property will continue to be used as a school operated on publicly-owned land. An LATR has been completed in connection with the Site Plan Amendment. The LATR includes a traffic study, Queuing Analysis, TMP, and Guide for Drives, thus satisfying the APF condition in the existing Site Plan. Moreover, any aspect of subdivision review, such as platting and dedication are irrelevant because the proposed amendment does seek further any expansion of the facility or change to the physical conditions present on the Site Plan. These factors support renewal of the Subdivision Waiver.

The practical difficulties and duplicative procedures of the subdivision review process (other than APF review) would place an unnecessary burden on Planning Board staff, agency staffs, and The Woods Academy for the subdivision of land that is typically exempt through ownership by Montgomery County. The amendment of the subdivision waiver condition with the Site Plan Amendment is the minimum necessary to provide relief from the subdivision requirements since the APF review that has been provided is the only applicable and relevant review for the proposed student enrollment increase. Requiring full subdivision compliance for this publicly owned parcel would provide absolutely no additional public benefits not already addressed through Site Plan and APF review. The renewal of the Subdivision Waiver with the Site Plan Amendment remains consistent with the recommendations in the Bethesda-Chevy Chase Master Plan, approved and adopted in 1990 (the "Master Plan"), that closed public school facilities may be used for private institutions. Further, the increase in the enrollment cap with the implementation of the TMP will allow for The Woods Academy to continue its successful tradition in educating Montgomery County students while ensuring that the school facilities will remain adequate and available for public uses such as polling, civic meetings and athletic field uses. Lastly, the amendment of the Subdivision Waiver condition with the amendment to the Site Plan enrollment cap condition is in the public interest insofar as the APF review has provided the necessary review processes necessary and any additional measures would be duplicative and a burden on public resources and agencies. The Woods Academy has coordinated with the community before filing this request and is committed to the implementation of the measures included in the TMP, including the regularly scheduled Community Council meetings. Although The Woods Academy would hope to address any concern in advance, the public interest is further served through the opportunity to comment at the public hearing on the Site Plan Amendment.

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4. Conclusion

The Woods Academy appreciates your consideration of this request to amend the Site Plan and Subdivision Waiver condition of the student enrollment cap from 302 to 410 students for this minimal amendment for a private educational institution utilizing Montgomery County public property. It is our hope that a public hearing on the application can be scheduled during July, or as soon thereafter as reasonably possible. Please do not hesitate to contact us if you need any additional information.

Very truly yours,

LINOWES AND BLOCHER LLP

C. Robert Dalrymple, AM

C. Robert Dalrymple

Anne C. Martin

Anne C. Martin

Enclosures

cc: Ms. Catherine Conlon
Mr. Michael Ma
Mr. Scott James
Ms. Mary C. Worch

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