

**JUSTIFICATION STATEMENT  
FOR PRELIMINARY PLAN NO. 120130110**

**Preliminary Plan Justification for Grosvenor**

**I. INTRODUCTION**

Applicant, 5400 Grosvenor LLC (the "Applicant"), by its attorneys, Linowes and Blocher LLP, submits this Preliminary Plan Justification Statement to demonstrate conformance of the proposed development with all applicable review requirements and criteria. The subject property, of which Applicant is the contract purchaser, consists of approximately 35.4 acres, and is more particularly known as Parcels P65 and P71 and the Renewable Natural Resources Center Land Condominium Phase I and the Glascock Condominium as shown on Tax Maps HP 122 and 123 and Condominium Plats 5411 and 5413 (the "Property"). It is bounded by Fleming Avenue and Fleming Local Park to the west, Grosvenor Lane to the north, Interstate 270 to the east, and Interstate 495 and Fleming Local Park to the south. The Property, which currently contains two office buildings and structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate, is located in the R-90 Zone and is subject to the recommendations of the North Bethesda/Garrett Park Master Plan approved and adopted by the Montgomery County Council (the "County Council") in December 1992 and subsequently amended in November 1994 and June 1997 (the "Master Plan").

Pursuant to the applicable provisions of Chapter 50 of the Montgomery County Code, (the "Subdivision Regulations"), Applicant submits this application and preliminary plan for the proposed redevelopment of the Property with 153 single-family attached units, 23 of which will be MPDUs, and associated amenities, including the dedication of approximately 11.9 acres of the Property to Montgomery County's Legacy Open Space Program (collectively, "the Project"). By creating residential infill development with affordable housing units that is accessible to multiple

modes of public transit, protecting the Wild Acres (Grosvenor Mansion) 8.9-acre historic resource, and preserving approximately 11.9 acres of high quality downcounty forest as Legacy Open Space, the Project will facilitate a number of recommendations of the Master Plan. See Master Plan, pgs. 2-4. Applicant respectfully requests that the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (“the Planning Board”) grant approval of the requested preliminary plan application, including use of the optional method of development with MPDUs in the R-90 Zone to allow all units to be townhouses and the provision of private roads, described in more detail below.

## II. **BACKGROUND**

### A. **Special Exception History**

The entire Property is currently subject to a special exception held by the Renewable Natural Resource Foundation (“RNRF”) and RNRF Title Holding Corporation for a charitable or philanthropic institution use that the Board of Appeals (the “Board”) granted on November 21, 1973 in Case No. S-257 and subsequently modified by a series of amended opinions and resolutions, including Case No. S-257-A (collectively referred to as the “Special Exception”).<sup>1</sup> The Special Exception permitted the Property to be developed with 300,000 square feet of office space in three phases over twenty years: 102,000 gross square feet built in the first five years, 181,000 square feet constructed in the next five years, and the balance to be provided in a third phase in the following ten years. The Board required, among other things, that it approve site plans for the first two phases prior to any construction, review the Special Exception prior to the commencement of the second phase, permit the third phase as a separate special exception, and

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<sup>1</sup> RNRF was the first holder when the Special Exception was first granted in 1973. The Board added RNRF Title Holding Corporation as an additional holder of the Special Exception through administrative modifications approved on November 5, 1998 and February 3, 1999.

restrict access to the Property by Grosvenor Lane only. The Board then permitted the remodeling of the existing mansion house and garage from the Wild Acres (Grosvenor Mansion) as office space for RNRF and its member societies through an amended opinion issued on March 8, 1974.

The Board advanced the Special Exception on October 1, 1980 by approving a site plan for the first and second phases of office space development, floor plans and elevations for the first office building, and a staging plan that permitted the construction of 107,500 square feet of office space in the first phase and 175,500 square feet of office space in the second phase, in addition to the 7,500 square feet of office space contained in the existing mansion house and garage. The Board issued an opinion on May 21, 1990 that modified the approved site plan by reducing the size of an approved office building from the first phase by 22,500 square feet and transferring that development to the second phase. As a result, the Special Exception phasing was altered to 85,000 square feet of total office space in the first phase and 198,000 square feet of additional office space in the second phase. After considering traffic conditions, the Board allowed RNRF to proceed with the Special Exception's second phase on July 17, 1991.

Only a small portion of the office space approved through the Special Exception has been completed to date. The Property currently contains two office structures: 5430 Grosvenor Lane, which contains 22,560 square feet, and 5410 Grosvenor Lane, which contains 22,540 square feet. These two office buildings are served by two surface parking lots with 129 spaces. The renovated mansion house, which is currently used as the headquarters of the Society of American Foresters ("SAF"), also contains 8,086 square feet with 15 parking spaces on the driveway serving the mansion house.

**B. Historic Preservation**

On March 31, 2009, the County Council adopted Resolution 16-915, which designated the Wild Acres (Grosvenor Mansion)'s mansion house, garage, and caretaker's house as one historic resource. The County Council also created an 8.9 acre environmental setting around the historic resource. Additionally, the County Council forbade the Historic Preservation Commission (the "HPC") from requiring a historic area work permit for, among other things, any activity within the environmental setting required to complete the development approved in the Special Exception. The resolution expressly allows the HPC to approve historic area work permits for new buildings and structures within the environmental setting that are "respectful of the historic buildings." Resolution 16-915, pg. 2.

**C. Requested Special Exception Administrative Modification and Historic Area Work Permit Preliminary Consultation**

In order to proceed with the Project, Applicant is filing a request that the Board approve the administrative modification of the Special Exception and the transfer of the same from RNRF and RNRF Title Holding Corporation to SAF. The modification will reduce the Special Exception area on the Property from 35.4 acres to 10.11, raze the 22,540 square foot office building at 5430 Grosvenor Lane, improve and extend the existing entryway off Grosvenor Lane, remove one parking lot, relocate another parking lot to a location adjacent to 5410 Grosvenor Lane and reduce the total number of parking spaces in the Special Exception from 144 spaces to 95 spaces.

The existing Phase I land Condominium Unit and Glascock Condominium will remain and additional condominium units will be created for the mansion and garage, the caretaker's house, the 5410 Grosvenor Lane parking lot, and the balance of the Property contained in the

reduced Special Exception. Pursuant to this application, Applicant proposes to construct 153 dwelling units on the Property in accordance with the development standards of the R-90 Zone under the optional method for development including MPDUs.

Applicant has also had two preliminary consultations with the HPC on proposed historic area work permits (collectively, the "HAWP Applications") in order to develop those components of the Project located inside the historic environmental setting. Applicant's HAWP Applications seek to extend and improve the existing entryway off of Grosvenor Lane, install an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided by the HPC were incorporated in this application.

### **III. EXISTING CONDITIONS AND SURROUNDING AREA**

The Property contains a number of structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate. As shown on the plans included with this application, the Property is improved with a three-story mansion house (currently used as the national headquarters for SAF) containing 8,086 square feet, a 1½-story garage containing 1,305 square feet, and a 1½-story caretaker's house containing 1,041 square feet. The existing driveway serving the mansion house has a parking area with 15 spaces.

Although the Special Exception anticipates the development of 300,000 square feet of office space, only two new structures have been constructed to date: 5410 Grosvenor Lane, a 2-story office building containing 22,540 square feet, and 5430 Grosvenor Lane, a 2-story office building containing 22,560 square feet. Two surface parking lots serve these office buildings,

one with 53 spaces, and the other with 76 spaces. The Property is served by an internal road circulation system that has one point of access from Grosvenor Lane.

The Property is surrounded by highways and residential communities. The southern and eastern boundaries of the Property border Interstates 495 and 270. To the north of the Property is Grosvenor Lane and the Grosvenor Woods subdivision. Fleming Avenue, Fleming Local Park, and the North Bethesda Grove subdivision are all west of the Property.

#### **IV. PROPOSED PROJECT**

As noted on the included plans, Applicant proposes to redevelop the Property with 153 single family attached units, 23 of which will be MPDUs, and associated residential amenities under the optional method of development under the R-90 Zone for projects containing MPDUs in accordance with Section 59-C-1.621 of the Zoning Ordinance. As noted above, in order to realize the Project, Applicant has filed a request that the Board of Appeals approve an administrative modification of the Special Exception under Section 59-G-1.3(c)(1) of the Zoning Ordinance. Specifically, by separate application to the Board of Appeals for an administrative modification to the Special Exception, Applicant seeks to reduce the area Property subject to the Special Exception from 35.4 acres to 10.11 acres, demolish the office building located at 5430 Grosvenor Lane, remove the parking lot adjacent to 5430 Grosvenor Lane, relocate and reduce the parking lot south of 5410 Grosvenor Lane, improve and widen the existing entryway off of Grosvenor Lane, and add 11 parking spaces to the existing 15 spaces along the entryway serving the mansion.

As also discussed above, Applicant has also had two preliminary consultations with HPC regarding the HAWP Applications in order to develop those components of the Project located inside the historic environmental setting. The HAWP Applications request permission to extend

and improve the existing entryway off of Grosvenor Lane and create an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided have been incorporated in this application.

Additionally, the Planning Board designated a portion of the Property with "high quality forest" adjacent to Fleming Park and Interstates 495 and 270 as a Legacy Open Space Natural Resource site on January 24, 2008. The Planning Board's approval recommended dedication through the development review process if new development is proposed. Pursuant to this recommendation, Applicant is proposing to dedicate approximately 11.9 acres of the Property to Montgomery County's Legacy Open Space program as part of the Application.

Applicant seeks to improve the Property located outside the reduced Special Exception, the historic environmental setting, and the dedicated Legacy Open Space with 153 single family attached dwelling units, 23 of which will be MPDUs, in accordance with the optional method of development under the R-90 Zone for projects containing MPDUs. The attached preliminary plan shows that all of the dwelling units proposed are townhouses. Under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed in a subdivision in the R-90 Zone under this optional method of development is 50%, but the Planning Board retains the authority to permit 100% townhomes upon a finding that the proposed development is more desirable from an environmental perspective than development adhering to the 50% limit. Applicant has requested that the Planning Board make such a finding for the reasons detailed below.

The Application also reflects that the Project will be served by a network of local private streets. Although Section 50-29(a)(2) of the Subdivision Regulations generally requires all lots abut public roads, the Planning Board has the ability to waive this requirement. Applicant has requested that the Planning Board approve such a waiver for the reasons stated below.

## V. MASTER PLAN CONFORMITY

### A. § 50-35(l) – Relation to Master Plan

*In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan, or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan no longer appropriate.*

The Project substantially conforms to the Master Plan's specific guidance for the Property as well as area-wide planning goals. The Master Plan specifically recognizes the Property's ability to accommodate additional growth while identifying the presence of high quality forest. Additionally, the Project achieves many of the Master Plan's general recommendations for the planning area, including providing infill residential development, including 23 MPDUs, accessible to existing transit infrastructure, protecting and integrating the Wild Acres (Grosvenor Mansion) historic resource and surrounding neighborhoods, and safeguarding precious mature forest.

### B. Conformity with Specific Master Plan Recommendations for the Property

The Project capitalizes on the Master Plan's recognition of the Property's capacity to support further development. The Master Plan includes the Property in a list of "key vacant or redevelopable parcels." Master Plan, pg. 72. According to the Master Plan, these sites have "the greatest potential for change" outside smaller sector plan areas and are characterized as "critical" properties that are "undeveloped or underdeveloped for a variety of reasons." *Id.* The Master



Plan notes that the Property is a portion of the original Gilbert Grosvenor's family estate that is currently owned by RNR and SAF. *Id.* at pg. 83. The Master Plan observes that in 1973 the Board first considered the Special Exception for 300,000 square feet of development in three phases, approved 283,000 square feet for the first two phases, and required a review of the first phase before commencing the second. *Id.* The Master Plan further states that an additional review of the first two phases was completed in 1980. *Id.*

The Master Plan importantly recognizes that despite the large amount of office space approved by the Special Exception, there has been limited development activity on the Property. Beyond the renovation of the existing mansion house for SAF's use, only two office buildings containing 44,000 square feet with a .02 FAR have been constructed. *Id.* This fact has not changed since the Master Plan was first approved and adopted in 1992. The Master Plan, however, anticipates the full build out of the Special Exception: "[u]ltimate development under [RNR]'s approved comprehensive site plan for the entire [P]roperty will provide 300,000 square feet of office space, including a 16,500 square foot conference and common-services facility, housed in seven buildings" and "the FAR of the final plan will be 0.19, in 2- to 3-story buildings." *Id.* According to the Master Plan, "[t]he office structures plus surface parking will occupy 10 acres of the 35." *Id.* The Master Plan ultimately "supports the planned expansion of [RNR] and [SAF] as a special exception approved by the Board of Appeals in the existing R-90 Zone." *Id.*

The Project substantially conforms to these comments and recommendations because it will realize the Property's development potential under the R-90 development standards while supporting the future operations of SAF. By providing need housing, including 23 MPDUs, proximate to existing transit options, the redevelopment included in the Project will take full

advantage of the Property's "potential for change" and achieve a level of development on a "key" and "critical" parcel. Although the nature of the use is different than that anticipated by the Master Plan, the Project is consistent with the expected intensity of the Special Exception use. Additionally, the Project will generate more residential units and significantly less traffic in comparison to the approved Special Exception, which is consistent with the Master Plan's goals of increasing housing and reducing automobile use. *See, e.g.* Master Plan, pgs. 1-3, 33, 35, 149. Furthermore, SAF will become the holder of the Special Exception and continue to use the mansion house as its headquarters. Thus, the Project is consistent the Master Plan's vision by capturing the Property's development potential and allowing for SAF's continued on-site operation.

**C. Adherence to Area-Wide Recommendations**

The Project is also in harmony with the Master Plan's land use, transportation, historic preservation, and environmental goals and objectives for the entire planning area.

**(1) Land Use and Transportation**

The Master Plan consistently recommends that new residential development take place in areas with existing transit. Automobile dependence and housing affordability are issues that the Master Plan seeks to address. Master Plan, pg. 1. The Master Plan proposes that "future development be focused at Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing." *Id.* at pg. 2. This strategy of "direct[ing] future development to land nearest Metro stops and new transit stations, and to areas best served by transportation infrastructure," "preserv[ing] and increase[ing] the variety of housing stock, including affordable housing," and "encouraging a land use pattern that provides opportunities for housing and employment" must be balanced against the objective of

“protect[ing] and reinforc[ing] the integrity of existing residential neighborhoods.” *Id.* at pgs. 33, 35.

The Project substantially conforms to these recommendations by proposing 153 dwelling units near existing public transit and buffered from existing residential neighborhoods. There is a Ride-On bus stop (including a bus shelter) immediately adjacent to the Property’s existing entryway off of Grosvenor Lane that offers bus service every 30 minutes to important destinations such as the Grosvenor-Strathmore Metrorail station, Garrett Park and Bells Mill Elementary Schools, Walter Johnson High School, Rock Spring Center, and Montgomery Mall. The Grosvenor-Strathmore Metrorail station is approximately half a mile from the Property and provides frequent heavy rail service to locations throughout Montgomery County, the District of Columbia, and the greater Washington Metropolitan Area, in addition to other Ride-On and Metrobus routes. The Project thus places 153 dwelling units, 23 of which will be MPDUs, near existing transit infrastructure and offers future residents convenient non-auto driver transportation modes.

The Project also protects the character of existing homes along Grosvenor Lane and Fleming Avenue. The Property’s extensive forest serves as an important green screen between the Project and the surrounding area. Although the Project proposes an additional point of access from Grosvenor Lane to the Property existing driveway serving the mansion house, this entryway will be restricted to access for emergency vehicles and pedestrians only. Applicant’s Project does not seek to add any entrances off of Fleming Avenue thereby preserving the existing character of this residential area as desired by the Fleming Park Community Association and required by the Special Exception. As noted above, the Project will also generate less traffic in comparison to the existing office space and the permitted Special Exception development.

Therefore, the Project promotes the Master Plan's land use and transportation goals by providing new housing near public transportation and upholding the nature of surrounding residential neighborhoods.

(2) Historic Preservation

The Project is also in accordance with the Master Plan's objectives for historic preservation. Although the Master Plan did not recommend the inclusion of Wild Acres (Grosvenor Mansion) in the Master Plan for Historic Preservation, the County Council has since designated the existing mansion house, garage, and caretaker's cottage as a single historic resource and created an approximately 8.9-acre environmental setting on the Property in Resolution 16-915. The Master Plan advises to "protect and enhance North Bethesda's historic and architectural heritage for the benefit of present and future County residents" and "[i]ntegrate historic sites into new and existing development." Master Plan, pg. 192.

The Project, the Special Exception modification, and the HAWP Applications all substantially comply with this guidance in a number of ways. First, the existing Special Exception will be transferred to SAF, which will continue to use the mansion house as their headquarters. The proposed emergency access lane off of Grosvenor Lane will allow for additional pedestrian connections to the Wild Acres (Grosvenor Estate) historic resource and the Legacy Open Space, and improvements to the existing Grosvenor Lane entry will increase access to the Property's historic structures and setting. Applicant intends to sell the caretaker's cottage as a single family home and any improvements made to the residence by the purchaser must be in accord with historic renovation standards. Additionally, the Project's residential development takes advantage of the existing forest and open space for integration with both the historic

resource and the surrounding mature residential community. These components of the Project conform to the Master Plan's historic preservation objectives.

### (3) Environment

The Project also facilitates the environmental protection aims of the Master Plan. According to the Master Plan, "[a] major goal . . . is to protect the natural resources and environmental qualities which are important to the residents of North Bethesda-Garrett Park. Environmental concerns within the planning area include loss of mature woodlands, degradation of stream systems, air pollution and roadway noise." Master Plan, pg. 247. The dedication of cherished forest, the utilization of state-of-the-art stormwater management, and the use of other environmental protection measures all substantially conform to the Master Plan's recommendations.

As part of the Project, Applicant intends to dedicate approximately 11.9 acres of high quality forest bordering Interstates 495 and 270 on the Property to Montgomery County's Legacy Open Space Program. The Master Plan includes the SAF Property on a list of "wooded areas of large properties" that complement the planning area's mature forest. *Id.* at pg. 249. Applicant's dedication would achieve the Master Plan's objectives for "the protection of woodlands through land use recommendations and development guidelines," *id.* at pg. 4, the "preserv[ation] and expan[sion of] green areas and greenways, including institutional open space, for environmental protection, wildlife sanctuary, recreation and visual relief," *id.* at pg. 33, the "preserv[ation of] existing woodland . . . throughout the Planning Area," *id.* at pg. 34, and the "ret[ention of] the maximum number of specimen trees on sites where they occur." *Id.* at pg. 247. The orientation of the Project's dwelling units in relation to the dedicated Legacy Open Space and other trees is accordant with the Master Plan's directive to "[r]etain mature trees as

buffers in new residential development to create visual separation from major roads.” *Id.* Preserving a significant amount of the Property’s forest and tree resources through the Project “is important in retaining the character of the planning area, as well as providing a wide variety of environmental benefits, including reduced erosion, reduced flooding, shade to moderate temperature extremes, cover for wildlife and visual relief from the urban landscape” under the Master Plan. *Id.* at pg. 249.

The Project’s utilization of advanced stormwater management strategies, including environmental site design measures such as bioretention, dry wells, and pervious asphalt, also furthers the Master Plan’s environmental protection recommendations. For example, the Master Plan advises “that existing stormwater management problems be addressed, particularly at the time of new development,” *id.* at pg. 4, and suggests the “[a]doption of stormwater management and erosion control policies to minimize flooding, reduce erosion and improve water quality in the streams flowing through the Planning Area.” *Id.* at pg. 34. The stormwater management measures incorporated into the Project are also consistent with the Master Plan’s endorsement of “corrective measures to reduce flooding and to improve stream quality by retrofitting developed sites.” *Id.* at pg. 248.

The Project is also concordant with other environmental targets contained in the Master Plan. As noted above, the Project is located near many existing public transit alternatives to automobile use. This facilitates the Master Plan’s vision to “encourage higher density development near transit stations and place less emphasis on the need to use the private automobile, with the objective of improving air quality.” *Id.* at pg. 252. The Master Plan also acknowledges the issue of noise, especially along major roadways including I-495 and I-270. *Id.*

at pgs. 248, 252. The Project addresses this concern by utilizing noise attenuation measures such as sound walls and/or other design features as necessary.

## VI. COMPLIANCE WITH SUBDIVISION REGULATIONS

### A. § 50-35(e) *Sites for other than single-family dwellings*

- (1) *All sites proposed for uses such as churches, public utilities, shopping centers, multi-family dwellings, general commercial or industrial shall be indicated for such use on the preliminary plan, together with scaled dimensions and approximate area of each such site. The proposed use shall be in accordance with the uses for which the property is actually zoned or recommended for zoning on a duly adopted master plan. Nothing herein shall be constructed to limit actual development to such proposed uses.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

- (2) *When the property is included in more than one zoning application, the lines showing the limits of each classification shall be clearly indicated.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

- (3) *Interior road or street access, whether private or proposed to be dedicated, shall be shown.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

### B. § 50-34(f) *Wells and septic systems.*

This section is not applicable to the Project as the Property is served by public water and sewer.

### C. § 50-34(g) *Staging Schedule.*

*The applicant or his agent must submit with the written application a recording and construction schedule which must indicate those portions of the area covered by the preliminary plan for which record plats and building permits will be sought and obtained during each of the succeeding years, up to the validity period*

*of the APFO approval required by Sec. 50-35(k). Where a project is proposed to be built out in phases cumulatively exceeding three years, the applicant must submit a phasing schedule for approval by the Board as part of the preliminary plan. The preliminary plan establishes the validity period for the entire project.*

*When applicable, the phasing schedule should specifically identify the timing for the completion of construction and conveyance to unit owners of such things as common open areas and recreational facilities. In addition, the phasing schedule should indicate the timing for the provision of moderate priced dwelling units, and infrastructure improvements associated with each phase. Such a phasing schedule must be designed to have as little dependence on features (other than community-wide facilities) to be provided in subsequent phases and have minimal impact during construction on phases already built and occupied.*

Applicant proposes the following phasing schedule for the Project:

Phase I – Issuance of building permits for 46 residential units, including MPDUs, within 36 months from the 30th day after the Resolution is mailed;

Phase II – Issuance of building permits for 54 dwelling units, including MPDUs, within 36 months from the expiration date of the Phase I validity period; and

Phase III – Issuance of building permits for 53 dwelling units, including MPDUs, within 12 months from the expiration date of the Phase II validity period.

Because Applicant anticipates approval of the preliminary plan after April 1, 2013, this Application requests a seven (7)-year APFO validity period pursuant to § 50-20(c)(3)(A)(iv) of the Subdivision Regulations and, therefore, proposes the following phasing schedule under § 50-35(h)(2)(B) of the Subdivision Regulations by which time the record plat(s) for the land area that will be needed to construct the units in each APF phase must be recorded:

Phase I – 36 months from the 30th day after the Resolution is mailed;

Phase II – 36 months from the expiration date of the Phase I validity period; and

Phase III – 12 months from the expiration date of the Phase II validity period.



D. **§ 50-34(h) Staging schedule for land containing an arts or entertainment use as a public use space.**

*If a phasing plan for a preliminary plan of subdivision includes land or building space that the County has accepted for an arts or entertainment use under Section 59-C-6.2356, approval of a site plan under Section 59-D-3 for the phase containing that land or building space validates all remaining phases of the preliminary plan and the project plan for the purpose of Section 59-D-2.7(b).*

This section is not applicable to the Project as it does not include land or building space for an arts or entertainment use.

E. **§ 50-34(i) Increase of density.**

*A preliminary subdivision plan for a property in a receiving area which proposes to increase the density of the property by a utilization of development rights shall indicate, in addition to the number of lots permitted by the base density, the number of development rights to be conveyed to the receiving property, the total density, in dwelling units, of the proposed subdivision, the number of moderately priced dwelling units to be provided in accordance with the provisions of Chapter 25A, and the density recommended by the approved and adopted general, master, sector or functional plan.*

This section is not applicable to the Project as it does not propose to increase density by utilizing development rights.

F. **§ 50-34(j) Development rights.**

*Such a preliminary plan subdivision must include at least two-thirds of the number of development rights permitted to be transferred to the property under the provisions of the appropriate general, master, sector or functional plan. However, upon a finding by the Planning Board that for environmental reasons it would be desirable to permit a lower density, the two-thirds requirement may be waived.*

This section is not applicable to the Project as it does not propose to increase density by utilizing development rights.

G. **§ 50-34(k)**

*A preliminary subdivision plan application for a subdivision located in a transportation management district, as designated under Chapter 42A, Article II, must contain a draft traffic mitigation agreement that meets the requirements of*

*that article unless one has previously been submitted at the time of project plan submittal under the optional method of development*

This section is not applicable to the Project as the Property is not located in a transportation management district.

**H. § 50-35(d) Road grade and road profile.**

*Before the Board finally approves a preliminary plan, the subdivider must furnish road, and pedestrian path grades and a street profile approved in preliminary form by the County Department of Transportation.*

The preliminary plan package includes all required road and pedestrian path grades and street profiles.

**I. § 50-35(e) Wells and septic systems.**

*Before the Board approves a plan for lots with individual wells or septic systems, the plan must be approved by the Department of Permitting Services*

This section is not applicable to the Project as the Property is served by public water and sewer.

**J. § 50-35(j) Sediment control.**

*All preliminary plans and extensions of previously approved plans must provide for erosion and sediment control, in accordance with all applicable laws and regulations governing sediment control*

Applicant will comply with all applicable sediment control requirements.

**K. § 50-35(o) Forest Conservation.**

*If a forest conservation plan is required under Chapter 22A, the Board must not approve a preliminary plan or any extension until all requirements of that law for plan approval are satisfied. Compliance with a required forest conservation plan, including any plan reviewed on a preliminary or final basis, must be made a condition of any approved preliminary plan.*

Applicant will comply with all applicable requirements as detailed in the included Forest Conservation Plan.

L. **§ 50-35(r) Water quality.**

*If a water quality plan is required under Chapter 19, the Planning Board must not approve a preliminary plan or any extension until all requirements of Chapter 19 for plan approval are satisfied. Compliance with a required water quality plan, including any plan review on a preliminary or final basis, must be made a condition of any approved preliminary plan.*

This section is not applicable to the Project as a water quality plan is not required. A concept stormwater management plan has been submitted with this application.

VII. **DURATION OF VALIDITY PERIOD FOR DETERMINATION OF ADEQUATE PUBLIC FACILITIES AND APPROVED PRELIMINARY PLAN**

A. **§ 50-20(c)(3)(A)**

*A determination of adequate public facilities made under this Chapter is timely and remains valid:*

- (iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, 2013; and*
- (iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, 2013.*

As Applicant anticipates approval of the preliminary plan after April 1, 2013, it requests a determination of adequate public facilities remain valid for 7 years under § 50-20(c)(3)(A)(iv) of the Subdivision Regulations, based on the phasing and construction schedule outlined above.

B. **§ 50-35(h)(2) Duration of Validity Period.**

- (A) An approved preliminary plan for a single phase project remains valid for 60 months after its Initiation Date for any preliminary plan approved on or after April 1, 2009, but before April 1, 2013, and for 36 months after its Initiation Date for any preliminary plan approved on or after April 1, 2013. Before the validity period expires, the applicant must have secured all government approvals necessary to record a plat, and a final record plat for all property delineated on the approved preliminary plan must have been recorded in the County Land Records.*

(B) *An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phasing schedule approved by the Planning Board. The Planning Board must assign each phase a validity period on a case-by-case basis, the duration of which the applicant must propose as part of an application for preliminary plan approval, revision, or amendment, after considering such factors as the size, type, and location of the project. The time allocated to any phase must not exceed 60 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2009, but before April 1, 2013, and 36 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2013. The cumulative validity period of all phases must not exceed the APFO validity period which begins on the date of the initial preliminary plan approval, including any extension granted under Section 50-20(c)(5). A preliminary plan for a phase is validated when a final record plat for all property delineated in that phase of the approved preliminary plan is recorded in the County Land Records.*

Applicant proposes the following phasing schedule for the Project:

Phase I – Issuance of building permits for 46 residential units, including MPDUs, within 36 months from the 30th day after the Resolution is mailed;

Phase II – Issuance of building permits for 54 dwelling units, including MPDUs, within 36 months from the expiration date of the Phase I validity period; and

Phase III – Issuance of building permits for 53 dwelling units, including MPDUs, within 12 months from the expiration date of the Phase II validity period.

As Applicant anticipates approval of the preliminary plan after April 1, 2013, it proposes the following phasing schedule under § 50-35(h)(2)(B) of the Subdivision Regulations by which time the record plat(s) for the land area that will be needed to construct the units in each APF phase must be recorded:

Phase I – 36 months from the 30th day after the Resolution is mailed;

Phase II – 36 months from the expiration date of the Phase I validity period; and

Phase III – 12 months from the expiration date of the Phase II validity period.

## VIII. ADEQUATE PUBLIC FACILITIES

### § 50-35(k) *Adequate Public Facilities*

*The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined for adequacy include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics.*

#### A. **Roads and Public Transportation Facilities**

Vehicular circulation for the Project is provided by Grosvenor Lane, in addition to the proposed improvements and extension of the existing entryway off Grosvenor Lane and interconnected grid of private streets shown on the preliminary plans and discussed below. It is projected that Grosvenor Lane will serve as the main connecting artery for the traffic coming to and from the Project. The proposed street network serving the internal traffic demands of the Project will contain short and walkable blocks in a redundant grid. The Property contains a RideOn bus station providing service to the Grosvenor-Strathmore Metrorail Station and is located approximately half a mile from the Grosvenor-Strathmore Metrorail Station, which offers Red Line trains and other additional RideOn and Metrobus service.

##### (1) Local Area Transportation Review (LATR)

As more fully described in the Traffic Study included in the application, the LATR requirements for adequate public facilities under the Subdivision Staging Policy (formally called the Growth Policy) are satisfied.

##### (2) Transportation Policy Area Review (TPAR)

As more fully described in the Traffic Study included in the application, the TPAR requirements for adequate public facilities under the Subdivision Staging Policy (formally called the Growth Policy) will be satisfied by making TPAR payments if any are required under the

2012-2016 Subdivision Staging Policy.

**B. Sewerage and Water Service, Schools, Police Stations, Firehouses, and Health Clinics**

Other available public facilities and services are adequate to serve the proposed Project. The Property is located in the S-1 and W-1 sewer and water categories; the on-site sewer and water service is adequate to serve the Project. The Property is also situated in the Walter Johnson School Cluster. According to the Subdivision Staging Policy FY 2013 School Test - Cluster Utilizations in 2017-2018 analysis from the 2012-2016 Subdivision Staging Policy, the projected capacity for the test year of 2017-2018 is adequate for elementary school utilization (103.6% capacity). Middle school utilization (112.3%) and high school utilization (106.3%) in 2017-2018 for the Walter Johnson School Cluster is expected to exceed 105% utilization but not surpass 120% utilization, thus permitting subdivision approval with a School Facilities Payment. The need to provide a School Facilities Payment, however, will be confirmed based upon the date of actual approval of the preliminary plan. Police stations, firehouses, and health clinics are considered adequate under the 2012-2016 Subdivision Staging Policy unless there is evidence that a local area problem will be generated. There are no circumstances present that would rebut this presumption of adequacy.

**IX. OTHER RELEVANT MATTERS**

**A. Optional Method of Development for Projects Including MPDUs in the R-90 Zone**

As noted above, Applicant's Project proposes 153 dwelling units, 23 of which will be MPDUs. All of these dwelling units are intended to be townhouses. Section 59-C-1.6 of the Zoning Ordinance provides for an optional method of development when MPDUs are included

in a development in the R-90 Zone. Although townhouses are permitted uses in the R-90 Zone under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed in a subdivision in the R-90 Zone is 50%; the balance must be one-family detached dwelling units. Footnote 1 to Section 59-C-1.621 of the Zoning Ordinance. The Planning Board, however, has the authority to approve a development in which up to 100% of the total number of dwelling units are townhouses upon a finding that a proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits. *Id.* Any development that exceeds the 50% limit must be compatible with adjacent existing and approved development. *Id.*

It would be appropriate for the Planning Board to make such a finding in this matter. Applicant proposes as part of the Project dedicating approximately 11.9 acres of the Property for preservation under Montgomery County's Legacy Open Space Program. On January 24, 2008, the Planning Board approved the designation of a portion of the Property adjacent to the Fleming Local Park, including "appropriate areas of high quality forest bordering Interstates 495 and 270" as a Legacy Open Space Natural Resources site. *See* Approved Minutes of the January 24, 2008 Session of the Montgomery County Planning Board. The Planning Board also recommended that it seek dedication of "appropriate areas through the . . . development review process if a new . . . development is proposed." *Id.* This application allows the Planning Board to follow through by designating critical Legacy Open Space as part of the development review process. Preserving the greatest portion of the Property's precious mature forest, in turn, requires the density afforded by provision of 100% townhouses.

Furthermore, maximizing the Legacy Open Space dedication and redeveloping the Property with all townhouses is consistent with Master Plan's environmental goals, including,

among other things, capturing the Property's redevelopment potential as an infill site served by existing public transit infrastructure, protecting the integrity of surrounding existing neighborhoods, the integration of the historic resource with the Project, the preservation of woodlands, the retention of specimen trees, and providing a green buffer between the Project and surrounding major roads. Therefore, the Planning Board should find that permitting 100% of the Project's dwelling units as townhouses is more desirable from an environmental perspective than development that would result from adherence to the 50% limit and would be compatible with adjacent existing and approved development.

**B. Provision of Private Roads**

The Project proposes the establishment of an interconnected grid of local private streets on the Property as shown on the preliminary plans. Section 50-29(a)(2) of the Subdivision Regulations require that "[e]xcept as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." The Planning Board, however, retains the ability to waive this requirement.

*Id.*

Applicant believes that it would be proper for the Planning Board to allow the Project to be served by private streets. The private streets in question provide necessary circulation and connectivity such that they effectively function as public streets because they provide continuous passage to other private or public streets. Additionally, the access provided by the Project's private street network is adequate to serve the lots for emergency vehicles, the installation of public utilities, and the accessibility for other public services. The private streets are also not detrimental to future subdivision of adjacent lands. Thus, it would be suitable for the Planning Board to find that the Project can be served by the proposed network of private streets.



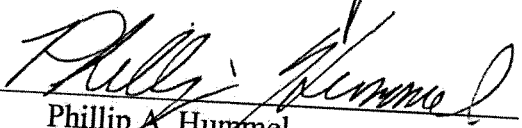
X. CONCLUSION

Applicant respectfully requests that the Planning Board grant approval of this Preliminary Plan for an optional method development including MPDUs in the R-90 Zone. The above analysis and submitted plans establish that the Project satisfies the required findings that the Planning Board must make to approve a Preliminary Plan application in accordance with the Subdivision Regulations.

Respectfully submitted,

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Attorneys for Applicant



**JUSTIFICATION STATEMENT  
FOR SITE PLAN NO. 820130130**

**Site Plan Justification for Grosvenor**

**I. INTRODUCTION**

Applicant, 5400 Grosvenor LLC (the "Applicant"), by its attorneys, Linowes and Blocher LLP, submits this Site Plan Justification Statement to demonstrate conformance of the proposed development with all applicable review requirements and criteria. The subject property, of which Applicant is the contract purchaser, consists of approximately 35.4 acres, and is more particularly known as Parcels P65 and P71 and the Renewable Natural Resources Center Land Condominium Phase I and the Glascock Condominium as shown on Tax Maps HP 122 and 123 and Condominium Plats 5411 and 5413 (the "Property"). It is bounded by Fleming Avenue and Fleming Local Park to the west, Grosvenor Lane to the north, Interstate 270 to the east, and Interstate 495 and Fleming Local Park to the south. The Property, which currently contains two office buildings and structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate, is located in the R-90 Zone and is subject to the recommendations of the North Bethesda/Garrett Park Master Plan approved and adopted by the Montgomery County Council (the "County Council") in December 1992 and subsequently amended in November 1994 and June 1997 (the "Master Plan").

Pursuant to the applicable provisions of Chapter 59 of the Montgomery County Zoning Ordinance, (the "Zoning Ordinance"), Applicant submits this application and site plan for the proposed redevelopment of the Property with 153 single-family attached units, 23 of which will be MPDUs, and associated amenities, including dedication of approximately 11.9 acres of the Property to Montgomery County's Legacy Open Space Program (collectively, "the Project"). By creating residential infill development with affordable housing units that is accessible to multiple

modes of public transit, protecting the Wild Acres (Grosvenor Mansion) 8.9-acre historic resource, and preserving approximately 11.9 acres of high quality downcounty forest as Legacy Open Space, the Project will facilitate a number of recommendations of the Master Plan. See Master Plan, pgs. 2-4. Applicant respectfully requests that the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (“the Planning Board”) grant approval of the requested site plan application, including use of the optional method of development with MPDUs in the R-90 Zone to allow all units to be townhouses and the provision of private roads, described in more detail below.

## **II. BACKGROUND AND PRIOR APPROVALS**

### **A. Special Exception**

The entire Property is currently subject to a special exception held by the Renewable Natural Resource Foundation (“RNRF”) and RNRF Title Holding Corporation for a charitable or philanthropic institution use that the Board of Appeals (the “Board”) granted on November 21, 1973 in Case No. S-257 and subsequently modified by a series of amended opinions and resolutions, including Case No. S-257-A (collectively referred to as the “Special Exception”).<sup>1</sup> The Special Exception permitted the Property to be developed with 300,000 square feet of office space in three phases over twenty years: 102,000 gross square feet built in the first five years, 181,000 square feet constructed in the next five years, and the balance to be provided in a third phase in the following ten years. The Board required, among other things, that it approve site plans for the first two phases prior to any construction, review the Special Exception prior to the commencement of the second phase, permit the third phase as a separate special exception, and

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<sup>1</sup> RNRF was the first holder when the Special Exception was first granted in 1973. The Board added RNRF Title Holding Corporation as an additional holder of the Special Exception through administrative modifications approved on November 5, 1998 and February 3, 1999.

restrict access to the Property by Grosvenor Lane only. The Board then permitted the remodeling of the existing mansion house and garage from the Wild Acres (Grosvenor Mansion) as office space for RNRFF and its member societies through an amended opinion issued on March 8, 1974.

The Board advanced the Special Exception on October 1, 1980 by approving a site plan for the first and second phases of office space development, floor plans and elevations for the first office building, and a staging plan that permitted the construction of 107,500 square feet of office space in the first phase and 175,500 square feet of office space in the second phase, in addition to the 7,500 square feet of office space contained in the existing mansion house and garage. The Board issued an opinion on May 21, 1990 that modified the approved site plan by reducing the size of an approved office building from the first phase by 22,500 square feet and transferring that development to the second phase. As a result, the Special Exception phasing was altered to 85,000 square feet of total office space in the first phase and 198,000 square feet of additional office space in the second phase. After considering traffic conditions, the Board allowed RNRFF to proceed with the Special Exception's second phase on July 17, 1991.

Only a small portion of the office space approved through the Special Exception has been completed to date. The Property currently contains two office structures: 5430 Grosvenor Lane, which contains 22,560 square feet, and 5410 Grosvenor Lane, which contains 22,540 square feet. These two office buildings are served by two surface parking lots with 129 spaces. The renovated mansion house, which is currently used as the headquarters of the Society of American Foresters ("SAF"), also contains 8,086 square feet with 15 parking spaces on the driveway serving the mansion house.

**B. Historic Preservation**

On March 31, 2009, the County Council adopted Resolution 16-915, which designated the Wild Acres (Grosvenor Mansion)'s mansion house, garage, and caretaker's house as one historic resource. The County Council also created an 8.9 acre environmental setting around the historic resource. Additionally, the County Council forbade the Historic Preservation Commission (the "HPC") from requiring a historic area work permit for, among other things, any activity within the environmental setting required to complete the development approved in the Special Exception. The resolution expressly allows the HPC to approve historic area work permits for new buildings and structures within the environmental setting that are "respectful of the historic buildings." Resolution 16-915, pg. 2.

**C. Requested Special Exception Administrative Modification and Historic Area Work Permit Preliminary Consultation**

In order to proceed with the Project, Applicant is filing a request that the Board approve the administrative modification of the Special Exception and the transfer of the same from RNRF and RNRF Title Holding Corporation to SAF. The modification will reduce the Special Exception area on the Property from 35.4 acres to 10.11, raze the 22,540 square foot office building at 5430 Grosvenor Lane, improve and extend the existing entryway off Grosvenor Lane, remove one parking lot, relocate another parking lot to a location adjacent to 5410 Grosvenor Lane and reduce the total number of parking spaces in the Special Exception from 144 spaces to 95 spaces.

The existing Phase I land Condominium Unit and Glascock Condominium will remain and additional condominium units will be created for the mansion and garage, the caretaker's house, the 5410 Grosvenor Lane parking lot, and the balance of the Property contained in the

reduced Special Exception. Pursuant to the application, Application proposes to construct 153 dwelling units on the Property in accordance with the development standards of the R-90 Zone under the optional method for development including MPDUs.

Applicant has also had two preliminary consultations with the HPC on proposed historic area work permits (collectively, the "HAWP Applications") in order to develop those components of the Project located inside the historic environmental setting. Applicant's HAWP Applications seek to extend and improve the existing entryway off of Grosvenor Lane, install an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided by the HPC were incorporated in this application.

### **III. EXISTING CONDITIONS AND SURROUNDING AREA**

The Property contains a number of structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate. As shown on the plans included with this application, the Property is improved with a three-story mansion house (currently used as the national headquarters for SAF) containing 8,086 square feet, a 1½-story garage containing 1,305 square feet, and a 1½-story caretaker's house containing 1,041 square feet. The existing driveway serving the mansion house has a parking area with 15 spaces.

Although the Special Exception anticipates the development of 300,000 square feet of office space, only two new structures have been constructed to date: 5410 Grosvenor Lane, a 2-story office building containing 22,540 square feet, and 5430 Grosvenor Lane, a 2-story office building containing 22,560 square feet. Two surface parking lots serve these office buildings,

one with 53 spaces, and the other with 76 spaces. The Property is served by an internal road circulation system that has one point of access from Grosvenor Lane.

The Property is surrounded by highways and residential communities. The southern and eastern boundaries of the Property border Interstates 495 and 270. To the north of the Property is Grosvenor Lane and the Grosvenor Woods subdivision. Fleming Avenue, Fleming Local Park, and the North Bethesda Grove subdivision are all west of the Property.

#### **IV. PROPOSED PROJECT**

As noted on the included plans, Applicant proposes to redevelop the Property with 153 single family attached units, 23 of which will be MPDUs, and associated residential amenities under the optional method of development under the R-90 Zone for projects containing MPDUs in accordance with Section 59-C-1.621 of the Zoning Ordinance. As noted above, in order to realize the Project, Applicant has filed a request that the Board of Appeals approve an administrative modification of the Special Exception under Section 59-G-1.3(c)(1) of the Zoning Ordinance. Specifically, by separate application to the Board of Appeals for an administrative modification to the Special Exception, Applicant seeks to reduce the area Property subject to the Special Exception from 35.4 acres to 10.11 acres, demolish the office building located at 5430 Grosvenor Lane, remove the parking lot adjacent to 5430 Grosvenor Lane, relocate and reduce the parking lot south of 5410 Grosvenor Lane, and improve and widen the existing entryway off of Grosvenor Lane, and add 11 parking spaces to the existing 15 spaces along the entryway serving the mansion.

As also discussed above, Applicant has also had two preliminary consultations with HPC regarding the HAWP Applications in order to develop those components of the Project located inside the historic environmental setting. The HAWP Applications request permission to extend

and improve the existing entryway off of Grosvenor Lane and create an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided have been incorporated in this application.

Additionally, the Planning Board designated a portion of the Property with "high quality forest" adjacent to Fleming Park and Interstates 495 and 270 as a Legacy Open Space Natural Resource site on January 24, 2008. The Planning Board's approval recommended dedication through the development review process if new development is proposed. Pursuant to this recommendation, Applicant is proposing to dedicate approximately 11.9 acres of the Property to Montgomery County's Legacy Open Space program as part of the Application.

Applicant seeks to improve the Property located outside the reduced Special Exception, the historic environmental setting, and the dedicated Legacy Open Space with 153 single family attached dwelling units, 23 of which will be MPDUs, in accordance with the optional method of development under the R-90 Zone for projects containing MPDUs. The attached site plan shows that all of the dwelling units proposed are townhouses. Under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed in a subdivision in the R-90 Zone under this optional method of development is 50%, but the Planning Board retains the authority to permit 100% townhomes upon a finding that the proposed development is more desirable from an environmental perspective than development adhering to the 50% limit. Applicant has requested that the Planning Board make such a finding for the reasons detailed in the justification statement submitted with the concurrently filed preliminary plan application.



The Application also reflects that the Project will be served by a network of local private streets. Although Section 50-29(a)(2) of the Subdivision Regulations generally requires all lots abut public roads, the Planning Board has the ability to waive this requirement. Applicant has requested that the Planning Board approve such a waiver for the reasons stated in the justification statement submitted with the concurrently filed preliminary plan application.

#### V. FINDINGS REQUIRED FOR SITE PLAN APPROVAL

Section 59-D-3.4(c) of the Zoning Ordinance provides the findings that the Planning Board must make before approving a site plan application. The following is an analysis of how the Application satisfies these findings:

- (1) *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning board expressly modifies any element of the project plan;*

The submitted site plan is consistent with the concurrently filed preliminary plan and the proposed Special Exception modification. Further, the site plan incorporates the Planning Board's January 24, 2008 designation of a portion of the Property as a Legacy Open Space Natural Resource and the historic environmental setting. There are no associated schematic development or project plans associated with the Project or the Property.

- (2) *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;*

Applicant's site plan proposes redeveloping the Property with 153 dwelling units, 23 of which as MPDUs, under the optional method of development in the R-90 Zone for projects including moderate priced dwelling units pursuant to Section 59-C-1.6 of the Zoning Ordinance. Townhouses are permitted uses under these development standards, but the maximum percentage

allowed in a subdivision is 50%. As noted above and in the concurrently filed preliminary plan justification statement, Applicant requests that the Planning Board exercise its authority under Footnote 1 to Section 59-C-1.621 and approve 100% of the total number of the Project's dwelling units as townhouses upon a finding that 1) the proposed development is more desirable from an environmental perspective than development that would result from adherence to the 50% townhouse limit; and 2) exceeding this limit achieves not less than the same level of compatibility as would exist if the development were constructed with 50% townhouses.

As shown on the Development Tabulations on the submitted site plan, the Application meets all of the applicable standards and requirements of Section 59-C-1.6 of the Zoning Ordinance.

- (3) *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

As proposed in the Project, the building locations and overall site design and layout, including the open space, landscaping and amenities, will be adequate, safe, and efficient. The single family homes shown on the site plan are efficiently clustered to provide ease of access while maximizing the preservation of open space. A bike path connection along Fleming Avenue is proposed as part of the development as well as a network of connecting sidewalks and paths. The site plan also reflects that the dwelling units are served by an internal grid network of private streets that provide efficient circulation and connectivity throughout the Project. These private streets effectively function as public streets because they provide continuous passage to other private or public streets. Additionally, the access provided by the Project's private street system is adequate to serve the lots for emergency vehicles, the installation of public utilities,

and the accessibility for other public services, and is not detrimental to future subdivision of adjacent lands.

The Project includes the improvement and extension of the existing entryway off of Grosvenor Lane to support adequate, safe, and efficient access for entering and exiting the Property. The Application also shows the installation of an emergency access lane/pedestrian connection, the design of which reflects the comments of the Montgomery County Department of Transportation and Montgomery County Fire and Rescue Services, from Grosvenor Lane to the existing driveway serving the mansion house.

Applicant's site plan also reflects the Project's open space, landscaping, and recreation facilities. The extensive open space provided in the Project, including the approximately 11.9 acres of dedicated Legacy Open Space, preserves a significant portion of the Property's existing green area and forest, protects the integrity of the historic resource, buffers the dwelling units from surrounding highways and existing neighborhoods, and offers opportunities for active and passive recreation. The landscaping shown on the site plan facilitates a residential feel that is harmonious with the historic resource. All recreational facilities will comply with the Montgomery County Code and other applicable safety and design standards. Thus, a review of the Application establishes that the Project's buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.

- (4) *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development;*

The buildings shown on the site plan have been carefully designed and situated on the Property to be compatible with existing uses and development. The Project's single family attached homes are well integrated with the historic resource, environmental setting, and

proposed Special Exception modification. The site plan reflects the demolition of the 5430 Grosvenor Lane office building office, the renovation of the existing garage in a manner consistent with its original configuration, the removal of one surface parking lot serving the existing office structures, the preservation of significant open space surrounding the existing mansion house, and the realization of a net reduction of asphalt within the environmental setting, all of which creates a more harmonious residential character. Applicant's site plan also shows the emergency access lane/pedestrian connection, which will provide an additional link to the historic resource and environmental setting, as well as other pedestrian trails that will allow passage through the dedicated Legacy Open Space. Additionally, the Project's landscape, lighting, and streetscape plans included in the site plan is sensitively designed to blend with the historic resource and environmental setting of Wild Acres (Grosvenor Mansion).

Although the Project is residential in nature, the site plan shows that the existing Special Exception office uses on the Property are well accommodated and establish a compatible relationship with each other and the surrounding uses. SAF will continue to occupy the mansion house and use it as its regional headquarters. The 15 parking spaces along the existing driveway serving the mansion house will remain, with an additional 11 parking spaces added. One of the existing surface parking lots for the two office structures will be relocated and modified with 69 spaces to serve 5410 Grosvenor Lane, which will remain on the Property. The total number of parking spaces will be reduced from the 144 existing spaces to the 95 spaces proposed in the site plan. Approval of the Project will ensure compatibility by foreclosing any additional commercial development under the Special Exception and reducing encroachments into the historic resource's environmental setting.

The Project is also compatible with the surrounding area through the utilization of the Property's forested areas. The site plan shows that the proposed Legacy Open Space acts as a green screen and buffer from Interstates 495 and 270 along the Property's southern and eastern boundaries. The mature subdivisions to the Property's north and west and are also well shielded from the Project. Specifically, the existing forested area along the Property's northern boundary buffers the Project from Grosvenor Lane and the confronting residential neighborhood. Additionally, the site plan does not propose any points of access along Fleming Avenue, thereby limiting impacts to the existing community to the west of the Property and maintaining the existing neighborhood character. The development shown on the site plan will also produce significantly less traffic than that authorized by the Special Exception. The site plan, therefore, establishes that the Project relates well to adjacent development.

- (5) *The site plan meet all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Applicant has provided an approved Natural Resource Inventory/Forest Stand Delineation and Preliminary Forest Conservation Plan under Chapter 22A of the Montgomery County Code. Pursuant to Chapter 19 of the Montgomery County Code, Applicant will provide sediment and erosion control and water quality and quantity treatment as required by Montgomery County laws, rules, and regulation. This is demonstrated in the concept sediment control plan and conceptual stormwater management plan included in the Application.

## VI. CONCLUSION

Applicant respectfully requests that the Planning Board grant approval of the site plan application, including a finding authorizing the provision of 100% townhouses and a waiver permitting the provision of a private road network. As explained above and shown in the plans

submitted with the Application, the Project satisfies the findings that the Planning Board must make to approve a site plan under Section 59-D-3.4(c) of the Zoning Ordinance.

Respectfully submitted,

**LINOWES AND BLOCHER LLP**

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Attorneys for Applicant



**JUSTIFICATION STATEMENT  
FOR PRELIMINARY PLAN NO. 120130110**

**Preliminary Plan Justification for Grosvenor**

**I. INTRODUCTION**

Applicant, 5400 Grosvenor LLC (the “Applicant”), by its attorneys, Linowes and Blocher LLP, submits this Preliminary Plan Justification Statement to demonstrate conformance of the proposed development with all applicable review requirements and criteria. The subject property, of which Applicant is the contract purchaser, consists of approximately 35.4 acres, and is more particularly known as Parcels P65 and P71 and the Renewable Natural Resources Center Land Condominium Phase I and the Glascock Condominium as shown on Tax Maps HP 122 and 123 and Condominium Plats 5411 and 5413 (the “Property”). It is bounded by Fleming Avenue and Fleming Local Park to the west, Grosvenor Lane to the north, Interstate 270 to the east, and Interstate 495 and Fleming Local Park to the south. The Property, which currently contains two office buildings and structures that were originally a part of Gilbert Grosvenor’s Wild Acres Estate, is located in the R-90 Zone and is subject to the recommendations of the North Bethesda/Garrett Park Master Plan approved and adopted by the Montgomery County Council (the “County Council”) in December 1992 and subsequently amended in November 1994 and June 1997 (the “Master Plan”).

Pursuant to the applicable provisions of Chapter 50 of the Montgomery County Code, (the “Subdivision Regulations”), Applicant submits this application and preliminary plan for the proposed redevelopment of the Property with 153 single-family attached units, 23 of which will be MPDUs, and associated amenities, including the dedication of approximately 11.9 acres of the Property to Montgomery County’s Legacy Open Space Program (collectively, “the Project”). By creating residential infill development with affordable housing units that is accessible to multiple



modes of public transit, protecting the Wild Acres (Grosvenor Mansion) 8.9-acre historic resource, and preserving approximately 11.9 acres of high quality downcounty forest as Legacy Open Space, the Project will facilitate a number of recommendations of the Master Plan. *See* Master Plan, pgs. 2-4. Applicant respectfully requests that the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (“the Planning Board”) grant approval of the requested preliminary plan application, including use of the optional method of development with MPDUs in the R-90 Zone to allow all units to be townhouses and the provision of private roads, described in more detail below.

## II. **BACKGROUND**

### A. **Special Exception History**

The entire Property is currently subject to a special exception held by the Renewable Natural Resource Foundation (“RNRF”) and RNRF Title Holding Corporation for a charitable or philanthropic institution use that the Board of Appeals (the “Board”) granted on November 21, 1973 in Case No. S-257 and subsequently modified by a series of amended opinions and resolutions, including Case No. S-257-A (collectively referred to as the “Special Exception”).<sup>1</sup> The Special Exception permitted the Property to be developed with 300,000 square feet of office space in three phases over twenty years: 102,000 gross square feet built in the first five years, 181,000 square feet constructed in the next five years, and the balance to be provided in a third phase in the following ten years. The Board required, among other things, that it approve site plans for the first two phases prior to any construction, review the Special Exception prior to the commencement of the second phase, permit the third phase as a separate special exception, and

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<sup>1</sup> RNRF was the first holder when the Special Exception was first granted in 1973. The Board added RNRF Title Holding Corporation as an additional holder of the Special Exception through administrative modifications approved on November 5, 1998 and February 3, 1999.

restrict access to the Property by Grosvenor Lane only. The Board then permitted the remodeling of the existing mansion house and garage from the Wild Acres (Grosvenor Mansion) as office space for RNRf and its member societies through an amended opinion issued on March 8, 1974.

The Board advanced the Special Exception on October 1, 1980 by approving a site plan for the first and second phases of office space development, floor plans and elevations for the first office building, and a staging plan that permitted the construction of 107,500 square feet of office space in the first phase and 175,500 square feet of office space in the second phase, in addition to the 7,500 square feet of office space contained in the existing mansion house and garage. The Board issued an opinion on May 21, 1990 that modified the approved site plan by reducing the size of an approved office building from the first phase by 22,500 square feet and transferring that development to the second phase. As a result, the Special Exception phasing was altered to 85,000 square feet of total office space in the first phase and 198,000 square feet of additional office space in the second phase. After considering traffic conditions, the Board allowed RNRf to proceed with the Special Exception's second phase on July 17, 1991.

Only a small portion of the office space approved through the Special Exception has been completed to date. The Property currently contains two office structures: 5430 Grosvenor Lane, which contains 22,560 square feet, and 5410 Grosvenor Lane, which contains 22,540 square feet. These two office buildings are served by two surface parking lots with 129 spaces. The renovated mansion house, which is currently used as the headquarters of the Society of American Foresters ("SAF"), also contains 8,086 square feet with 15 parking spaces on the driveway serving the mansion house.

**B. Historic Preservation**

On March 31, 2009, the County Council adopted Resolution 16-915, which designated the Wild Acres (Grosvenor Mansion)'s mansion house, garage, and caretaker's house as one historic resource. The County Council also created an 8.9 acre environmental setting around the historic resource. Additionally, the County Council forbade the Historic Preservation Commission (the "HPC") from requiring a historic area work permit for, among other things, any activity within the environmental setting required to complete the development approved in the Special Exception. The resolution expressly allows the HPC to approve historic area work permits for new buildings and structures within the environmental setting that are "respectful of the historic buildings." Resolution 16-915, pg. 2.

**C. Approved Special Exception Administrative Modification and Historic Area Work Permit Preliminary Consultation**

On July 18, 2013, the Board issued a resolution granting the administrative modification of the Special Exception and authorized reducing the Special Exception area from 35.4 acres to 10.11 acres, maintaining the Phase I Land Condominium Unit and Glascock Condominium for 5410 Grosvenor Lane, razing the 22,560 square foot office building at 5430 Grosvenor Lane, improving and extending the existing driveway off of Grosvenor Lane, removing one surface parking lot, relocating the other surface parking lot to a location adjacent to the 5410 Grosvenor Lane office building and reducing the number of parking spaces in that lot from 76 to 69, increasing the number of parking spaces on the driveway serving the mansion from 15 to 26, and transferring the Special Exception to SAF.

The Board approved a condition providing that the resolution granting the Special Exception administrative modification shall have no further force and effect and that S-257 and

S-257-A shall be in effect if the Special Exception area is not recorded during the validity period of the resolution, as may be extended, pursuant to Section 59-A-4.53 of the Zoning Ordinance. Consistent with the Board's approval of the Special Exception administrative modification, Applicant proposes to construct 153 dwelling units on the Property in accordance with the development standards of the R-90 Zone under the optional method for development including MPDUs.

Applicant has also had two preliminary consultations with the HPC on proposed historic area work permits (collectively, the "HAWP Applications") in order to develop those components of the Project located inside the historic environmental setting. Applicant's HAWP Applications seek to extend and improve the existing entryway off of Grosvenor Lane, install an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided by the HPC were incorporated in this application.

### **III. EXISTING CONDITIONS AND SURROUNDING AREA**

The Property contains a number of structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate. As shown on the plans included with this application, the Property is improved with a three-story mansion house (currently used as the national headquarters for SAF) containing 8,086 square feet, a 1½-story garage containing 1,305 square feet, and a 1½-story caretaker's house containing 1,041 square feet. The existing driveway serving the mansion house has a parking area with 15 spaces.

Although the Special Exception anticipates the development of 300,000 square feet of office space, only two new structures have been constructed to date: 5410 Grosvenor Lane, a 2-story office building containing 22,540 square feet, and 5430 Grosvenor Lane, a 2-story office building containing 22,560 square feet. Two surface parking lots serve these office buildings, one with 53 spaces, and the other with 76 spaces. The Property is served by an internal road circulation system that has one point of access from Grosvenor Lane.

The Property is surrounded by highways and residential communities. The southern and eastern boundaries of the Property border Interstates 495 and 270. To the north of the Property is Grosvenor Lane and the Grosvenor Woods subdivision. Fleming Avenue, Fleming Local Park, and the North Bethesda Grove subdivision are all west of the Property.

#### **IV. PROPOSED PROJECT**

As noted on the included plans, Applicant proposes to redevelop the Property with 153 single family attached units, 23 of which will be MPDUs, and associated residential amenities under the optional method of development under the R-90 Zone for projects containing MPDUs in accordance with Section 59-C-1.621 of the Zoning Ordinance. As noted above, in order to realize the Project, Applicant has received approval by the Board of Appeals of an administrative modification of the Special Exception under Section 59-G-1.3(c)(1) of the Zoning Ordinance. Specifically, by separate application to the Board of Appeals for an administrative modification to the Special Exception, the Board authorized the reduction of the Property's area subject to the Special Exception from 35.4 acres to 10.11 acres, the demolition of the office building located at 5430 Grosvenor Lane, the removal of the parking lot adjacent to 5430 Grosvenor Lane, the relocation and reduction of the parking lot south of 5410 Grosvenor Lane, the improvement and

widening of the existing entryway off of Grosvenor Lane, and addition of 11 parking spaces to the existing 15 spaces along the driveway serving the mansion.

As also discussed above, Applicant has also had two preliminary consultations with HPC regarding the HAWP Applications in order to develop those components of the Project located inside the historic environmental setting. The HAWP Applications request permission to extend and improve the existing entryway off of Grosvenor Lane and create an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided have been incorporated in this application.

Additionally, the Planning Board designated a portion of the Property with “high quality forest” adjacent to Fleming Park and Interstates 495 and 270 as a Legacy Open Space Natural Resource site on January 24, 2008. The Planning Board’s approval recommended dedication through the development review process if new development is proposed. Pursuant to this recommendation, Applicant is proposing to dedicate approximately 11.9 acres of the Property to Montgomery County’s Legacy Open Space program as part of the Application.

Applicant seeks to improve the Property located outside the reduced Special Exception approved by the Board, the historic environmental setting, and the dedicated Legacy Open Space with 153 single family attached dwelling units, 23 of which will be MPDUs, in accordance with the optional method of development under the R-90 Zone for projects containing MPDUs. The attached preliminary plan shows that all of the dwelling units proposed are townhouses. Under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed

in a subdivision in the R-90 Zone under this optional method of development is 50%, but the Planning Board retains the authority to permit 100% townhomes upon a finding that the proposed development is more desirable from an environmental perspective than development adhering to the 50% limit. Applicant has requested that the Planning Board make such a finding for the reasons detailed below.

The Application also reflects that the Project will be served by a network of local private streets. Although Section 50-29(a)(2) of the Subdivision Regulations generally requires all lots abut public roads, the Planning Board has the ability to waive this requirement. Applicant has requested that the Planning Board approve such a waiver for the reasons stated below.

## V. MASTER PLAN CONFORMITY

### A. § 50-35(1) – Relation to Master Plan

*In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan, or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan no longer appropriate.*

The Project substantially conforms to the Master Plan's specific guidance for the Property as well as area-wide planning goals. The Master Plan specifically recognizes the Property's ability to accommodate additional growth while identifying the presence of high quality forest. Additionally, the Project achieves many of the Master Plan's general recommendations for the planning area, including providing infill residential development, including 23 MPDUs, accessible to existing transit infrastructure, protecting and integrating the Wild Acres (Grosvenor Mansion) historic resource and surrounding neighborhoods, and safeguarding precious mature forest.

## B. **Conformity with Specific Master Plan Recommendations for the Property**

The Project capitalizes on the Master Plan's recognition of the Property's capacity to support further development. The Master Plan includes the Property in a list of "key vacant or redevelopable parcels." Master Plan, pg. 72. According to the Master Plan, these sites have "the greatest potential for change" outside smaller sector plan areas and are characterized as "critical" properties that are "undeveloped or underdeveloped for a variety of reasons." *Id.* The Master Plan notes that the Property is a portion of the original Gilbert Grosvenor's family estate that is currently owned by RNRF and SAF. *Id.* at pg. 83. The Master Plan observes that in 1973 the Board first considered the Special Exception for 300,000 square feet of development in three phases, approved 283,000 square feet for the first two phases, and required a review of the first phase before commencing the second. *Id.* The Master Plan further states that an additional review of the first two phases was completed in 1980. *Id.*

The Master Plan importantly recognizes that despite the large amount of office space approved by the Special Exception, there has been limited development activity on the Property. Beyond the renovation of the existing mansion house for SAF's use, only two office buildings containing 44,000 square feet with a .02 FAR have been constructed. *Id.* This fact has not changed since the Master Plan was first approved and adopted in 1992. The Master Plan, however, anticipates the full build out of the Special Exception: "[u]ltimate development under [RNRF]'s approved comprehensive site plan for the entire [P]roperty will provide 300,000 square feet of office space, including a 16,500 square foot conference and common-services facility, housed in seven buildings" and "the FAR of the final plan will be 0.19, in 2- to 3-story buildings." *Id.* According to the Master Plan, "[t]he office structures plus surface parking will occupy 10 acres of the 35." *Id.* The Master Plan ultimately "supports the planned expansion of



[RNRF] and [SAF] as a special exception approved by the Board of Appeals in the existing R-90 Zone.” *Id.*

The Project substantially conforms to these comments and recommendations because it will realize the Property’s development potential under the R-90 development standards while supporting the future operations of SAF. By providing need housing, including 23 MPDUs, proximate to existing transit options, the redevelopment included in the Project will take full advantage of the Property’s “potential for change” and achieve a level of development on a “key” and “critical” parcel. Although the nature of the use is different than that anticipated by the Master Plan, the Project is consistent with the expected intensity of the Special Exception use. Additionally, the Project will generate more residential units and significantly less traffic in comparison to the approved Special Exception, which is consistent with the Master Plan’s goals of increasing housing and reducing automobile use. *See, e.g.* Master Plan, pgs. 1-3, 33, 35, 149. Furthermore, the Board of Appeals approved the transfer of the Special Exception to SAF, which will continue to use the mansion house as its headquarters. Thus, the Project is consistent the Master Plan’s vision by capturing the Property’s development potential and allowing for SAF’s continued on-site operation.

**C. Adherence to Area-Wide Recommendations**

The Project is also in harmony with the Master Plan’s land use, transportation, historic preservation, and environmental goals and objectives for the entire planning area.

(1) Land Use and Transportation

The Master Plan consistently recommends that new residential development take place in areas with existing transit. Automobile dependence and housing affordability are issues that the Master Plan seeks to address. Master Plan, pg. 1. The Master Plan proposes that “future

development be focused at Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing.” *Id.* at pg. 2. This strategy of “direct[ing] future development to land nearest Metro stops and new transit stations, and to areas best served by transportation infrastructure,” “preserv[ing] and increase[ing] the variety of housing stock, including affordable housing,” and “encouraging a land use pattern that provides opportunities for housing and employment” must be balanced against the objective of “protect[ing] and reinforc[ing] the integrity of existing residential neighborhoods.” *Id.* at pgs. 33, 35.

The Project substantially conforms to these recommendations by proposing 153 dwelling units near existing public transit and buffered from existing residential neighborhoods. There is a Ride-On bus stop (including a bus shelter) immediately adjacent to the Property’s existing entryway off of Grosvenor Lane that offers bus service every 30 minutes to important destinations such as the Grosvenor-Strathmore Metrorail station, Garrett Park and Bells Mill Elementary Schools, Walter Johnson High School, Rock Spring Center, and Montgomery Mall. The Grosvenor-Strathmore Metrorail station is approximately half a mile from the Property and provides frequent heavy rail service to locations throughout Montgomery County, the District of Columbia, and the greater Washington Metropolitan Area, in addition to other Ride-On and Metrobus routes. The Project thus places 153 dwelling units, 23 of which will be MPDUs, near existing transit infrastructure and offers future residents convenient non-auto driver transportation modes.

The Project also protects the character of existing homes along Grosvenor Lane and Fleming Avenue. The Property’s extensive forest serves as an important green screen between the Project and the surrounding area. Although the Project proposes an additional point of access

from Grosvenor Lane to the Property existing driveway serving the mansion house, this entryway will be restricted to access for emergency vehicles and pedestrians only. Applicant's Project does not seek to add any entrances off of Fleming Avenue thereby preserving the existing character of this residential area as desired by the Fleming Park Community Association and required by the Special Exception. As noted above, the Project will also generate less traffic in comparison to the existing office space and the permitted Special Exception development. Therefore, the Project promotes the Master Plan's land use and transportation goals by providing new housing near public transportation and upholding the nature of surrounding residential neighborhoods.

(2) Historic Preservation

The Project is also in accordance with the Master Plan's objectives for historic preservation. Although the Master Plan did not recommend the inclusion of Wild Acres (Grosvenor Mansion) in the Master Plan for Historic Preservation, the County Council has since designated the existing mansion house, garage, and caretaker's cottage as a single historic resource and created an approximately 8.9-acre environmental setting on the Property in Resolution 16-915. The Master Plan advises to "protect and enhance North Bethesda's historic and architectural heritage for the benefit of present and future County residents" and "[i]ntegrate historic sites into new and existing development." Master Plan, pg. 192.

The Project, the approved Special Exception administrative modification, and the HAWP Applications all substantially comply with this guidance in a number of ways. First, the Special Exception allows its transfer to SAF, which will continue to use the mansion house as their headquarters. The proposed emergency access lane off of Grosvenor Lane will allow for additional pedestrian connections to the Wild Acres (Grosvenor Estate) historic resource and the

Legacy Open Space, and improvements to the existing Grosvenor Lane entry will increase access to the Property's historic structures and setting. Applicant intends to sell the caretaker's cottage as a single family home and any improvements made to the residence by the purchaser must be in accord with historic renovation standards. Additionally, the Project's residential development takes advantage of the existing forest and open space for integration with both the historic resource and the surrounding mature residential community. These components of the Project conform to the Master Plan's historic preservation objectives.

### (3) Environment

The Project also facilitates the environmental protection aims of the Master Plan. According to the Master Plan, “[a] major goal . . . is to protect the natural resources and environmental qualities which are important to the residents of North Bethesda-Garrett Park. Environmental concerns within the planning area include loss of mature woodlands, degradation of stream systems, air pollution and roadway noise.” Master Plan, pg. 247. The dedication of cherished forest, the utilization of state-of-the-art stormwater management, and the use of other environmental protection measures all substantially conform to the Master Plan's recommendations.

As part of the Project, Applicant intends to dedicate approximately 11.9 acres of high quality forest bordering Interstates 495 and 270 on the Property to Montgomery County's Legacy Open Space Program. The Master Plan includes the SAF Property on a list of “wooded areas of large properties” that complement the planning area's mature forest. *Id.* at pg. 249. Applicant's dedication would achieve the Master Plan's objectives for “the protection of woodlands through land use recommendations and development guidelines,” *id.* at pg. 4, the “preserv[ation] and expans[ion of] green areas and greenways, including institutional open

space, for environmental protection, wildlife sanctuary, recreation and visual relief,” *id. at* pg. 33, the “preserv[ation of] existing woodland . . . throughout the Planning Area,” *id. at* pg. 34, and the “ret[ention of] the maximum number of specimen trees on sites where they occur.” *Id. at* pg. 247. The orientation of the Project’s dwelling units in relation to the dedicated Legacy Open Space and other trees is accordant with the Master Plan’s directive to “[r]etain mature trees as buffers in new residential development to create visual separation from major roads.” *Id.* Preserving a significant amount of the Property’s forest and tree resources through the Project “is important in retaining the character of the planning area, as well as providing a wide variety of environmental benefits, including reduced erosion, reduced flooding, shade to moderate temperature extremes, cover for wildlife and visual relief from the urban landscape” under the Master Plan. *Id. at* pg. 249.

The Project’s utilization of advanced stormwater management strategies, including environmental site design measures such as bioretention, dry wells, and pervious asphalt, also furthers the Master Plan’s environmental protection recommendations. For example, the Master Plan advises “that existing stormwater management problems be addressed, particularly at the time of new development,” *id. at* pg. 4, and suggests the “[a]doption of stormwater management and erosion control policies to minimize flooding, reduce erosion and improve water quality in the streams flowing through the Planning Area.” *Id. at* pg. 34. The stormwater management measures incorporated into the Project are also consistent with the Master Plan’s endorsement of “corrective measures to reduce flooding and to improve stream quality by retrofitting developed sites.” *Id. at* pg. 248.

The Project is also concordant with other environmental targets contained in the Master Plan. As noted above, the Project is located near many existing public transit alternatives to

automobile use. This facilitates the Master Plan’s vision to “encourage higher density development near transit stations and place less emphasis on the need to use the private automobile, with the objective of improving air quality.” *Id.* at pg. 252. The Master Plan also acknowledges the issue of noise, especially along major roadways including I-495 and I-270. *Id.* at pgs. 248, 252. The Project addresses this concern by utilizing noise attenuation measures such as sound walls and/or other design features as necessary.

## VI. COMPLIANCE WITH SUBDIVISION REGULATIONS

### A. § 50-35(e) *Sites for other than single-family dwellings*

- (1) *All sites proposed for uses such as churches, public utilities, shopping centers, multi-family dwellings, general commercial or industrial shall be indicated for such use on the preliminary plan, together with scaled dimensions and approximate area of each such site. The proposed use shall be in accordance with the uses for which the property is actually zoned or recommended for zoning on a duly adopted master plan. Nothing herein shall be constructed to limit actual development to such proposed uses.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

- (2) *When the property is included in more than one zoning application, the lines showing the limits of each classification shall be clearly indicated.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

- (3) *Interior road or street access, whether private or proposed to be dedicated, shall be shown.*

This section is not applicable to the Project as Applicant only proposes single-family dwellings for the redevelopment of the Property.

B. § 50-34(f) *Wells and septic systems.*

This section is not applicable to the Project as the Property is served by public water and sewer.

C. § 50-34(g) *Staging Schedule.*

*The applicant or his agent must submit with the written application a recording and construction schedule which must indicate those portions of the area covered by the preliminary plan for which record plats and building permits will be sought and obtained during each of the succeeding years, up to the validity period of the APFO approval required by Sec. 50-35(k). Where a project is proposed to be built out in phases cumulatively exceeding three years, the applicant must submit a phasing schedule for approval by the Board as part of the preliminary plan. The preliminary plan establishes the validity period for the entire project.*

*When applicable, the phasing schedule should specifically identify the timing for the completion of construction and conveyance to unit owners of such things as common open areas and recreational facilities. In addition, the phasing schedule should indicate the timing for the provision of moderate priced dwelling units, and infrastructure improvements associated with each phase. Such a phasing schedule must be designed to have as little dependence on features (other than community-wide facilities) to be provided in subsequent phases and have minimal impact during construction on phases already built and occupied.*

Applicant proposes the following phasing schedule for the Project:

Phase I – Issuance of building permits for 46 residential units, including MPDUs, within 36 months from the 30th day after the Resolution is mailed;

Phase II – Issuance of building permits for 54 dwelling units, including MPDUs, within 36 months from the expiration date of the Phase I validity period; and

Phase III – Issuance of building permits for 53 dwelling units, including MPDUs, within 12 months from the expiration date of the Phase II validity period.

Because Applicant anticipates approval of the preliminary plan after April 1, 2013, this Application requests a seven (7)-year APFO validity period pursuant to § 50-20(c)(3)(A)(iv) of the Subdivision Regulations and, therefore, proposes the following phasing schedule under § 50-

35(h)(2)(B) of the Subdivision Regulations by which time the record plat(s) for the land area that will be needed to construct the units in each APF phase must be recorded:

Phase I – 36 months from the 30th day after the Resolution is mailed;

Phase II – 36 months from the expiration date of the Phase I validity period; and

Phase III – 12 months from the expiration date of the Phase II validity period.

D.     **§ 50-34(h)     *Staging schedule for land containing an arts or entertainment use as a public use space.***

*If a phasing plan for a preliminary plan of subdivision includes land or building space that the County has accepted for an arts or entertainment use under Section 59-C-6.2356, approval of a site plan under Section 59-D-3 for the phase containing that land or building space validates all remaining phases of the preliminary plan and the project plan for the purpose of Section 59-D-2.7(b).*

This section is not applicable to the Project as it does not include land or building space for an arts or entertainment use.

E.     **§ 50-34(i)     *Increase of density.***

*A preliminary subdivision plan for a property in a receiving area which proposes to increase the density of the property by a utilization of development rights shall indicate, in addition to the number of lots permitted by the base density, the number of development rights to be conveyed to the receiving property, the total density, in dwelling units, of the proposed subdivision, the number of moderately priced dwelling units to be provided in accordance with the provisions of Chapter 25A, and the density recommended by the approved and adopted general, master, sector or functional plan.*

This section is not applicable to the Project as it does not propose to increase density by utilizing development rights.

F.     **§ 50-34(j)     *Development rights.***

*Such a preliminary plan subdivision must include at least two-thirds of the number of development rights permitted to be transferred to the property under the provisions of the appropriate general, master, sector or functional plan. However, upon a finding by the Planning Board that for environmental reasons it*



*would be desirable to permit a lower density, the two-thirds requirement may be waived.*

This section is not applicable to the Project as it does not propose to increase density by utilizing development rights.

**G. § 50-34(k)**

*A preliminary subdivision plan application for a subdivision located in a transportation management district, as designated under Chapter 42A, Article II, must contain a draft traffic mitigation agreement that meets the requirements of that article unless one has previously been submitted at the time of project plan submittal under the optional method of development*

This section is not applicable to the Project as the Property is not located in a transportation management district.

**H. § 50-35(d) Road grade and road profile.**

*Before the Board finally approves a preliminary plan, the subdivider must furnish road, and pedestrian path grades and a street profile approved in preliminary form by the County Department of Transportation.*

The preliminary plan package includes all required road and pedestrian path grades and street profiles.

**I. § 50-35(e) Wells and septic systems.**

*Before the Board approves a plan for lots with individual wells or septic systems, the plan must be approved by the Department of Permitting Services*

This section is not applicable to the Project as the Property is served by public water and sewer.

**J. § 50-35(j) Sediment control.**

*All preliminary plans and extensions of previously approved plans must provide for erosion and sediment control, in accordance with all applicable laws and regulations governing sediment control*

Applicant will comply with all applicable sediment control requirements.

K. **§ 50-35(o) Forest Conservation.**

*If a forest conservation plan is required under Chapter 22A, the Board must not approve a preliminary plan or any extension until all requirements of that law for plan approval are satisfied. Compliance with a required forest conservation plan, including any plan reviewed on a preliminary or final basis, must be made a condition of any approved preliminary plan.*

Applicant will comply with all applicable requirements as detailed in the included Forest Conservation Plan.

L. **§ 50-35(r) Water quality.**

*If a water quality plan is required under Chapter 19, the Planning Board must not approve a preliminary plan or any extension until all requirements of Chapter 19 for plan approval are satisfied. Compliance with a required water quality plan, including any plan review on a preliminary or final basis, must be made a condition of any approved preliminary plan.*

This section is not applicable to the Project as a water quality plan is not required. A concept stormwater management plan has been submitted with this application.

**VII. DURATION OF VALIDITY PERIOD FOR DETERMINATION OF ADEQUATE PUBLIC FACILITIES AND APPROVED PRELIMINARY PLAN**

A. **§ 50-20(c)(3)(A)**

*A determination of adequate public facilities made under this Chapter is timely and remains valid:*

- (iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, 2013; and*
- (iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, 2013.*

As Applicant anticipates approval of the preliminary plan after April 1, 2013, it requests a determination of adequate public facilities remain valid for 7 years under § 50-20(c)(3)(A)(iv) of the Subdivision Regulations, based on the phasing and construction schedule outlined above.

**B. § 50-35(h)(2) Duration of Validity Period.**

- (A) *An approved preliminary plan for a single phase project remains valid for 60 months after its Initiation Date for any preliminary plan approved on or after April 1, 2009, but before April 1, 2013, and for 36 months after its Initiation Date for any preliminary plan approved on or after April 1, 2013. Before the validity period expires, the applicant must have secured all government approvals necessary to record a plat, and a final record plat for all property delineated on the approved preliminary plan must have been recorded in the County Land Records.*
- (B) *An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phasing schedule approved by the Planning Board. The Planning Board must assign each phase a validity period on a case-by-case basis, the duration of which the applicant must propose as part of an application for preliminary plan approval, revision, or amendment, after considering such factors as the size, type, and location of the project. The time allocated to any phase must not exceed 60 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2009, but before April 1, 2013, and 36 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2013. The cumulative validity period of all phases must not exceed the APFO validity period which begins on the date of the initial preliminary plan approval, including any extension granted under Section 50-20(c)(5). A preliminary plan for a phase is validated when a final record plat for all property delineated in that phase of the approved preliminary plan is recorded in the County Land Records.*

Applicant proposes the following phasing schedule for the Project:

Phase I – Issuance of building permits for 46 residential units, including MPDUs, within 36 months from the 30th day after the Resolution is mailed;

Phase II – Issuance of building permits for 54 dwelling units, including MPDUs, within 36 months from the expiration date of the Phase I validity period; and

Phase III – Issuance of building permits for 53 dwelling units, including MPDUs, within 12 months from the expiration date of the Phase II validity period.

As Applicant anticipates approval of the preliminary plan after April 1, 2013, it proposes the following phasing schedule under § 50-35(h)(2)(B) of the Subdivision Regulations by which

time the record plat(s) for the land area that will be needed to construct the units in each APF phase must be recorded:

Phase I – 36 months from the 30th day after the Resolution is mailed;

Phase II – 36 months from the expiration date of the Phase I validity period; and

Phase III – 12 months from the expiration date of the Phase II validity period.

## VIII. ADEQUATE PUBLIC FACILITIES

### § 50-35(k) *Adequate Public Facilities*

*The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined for adequacy include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics.*

#### A. **Roads and Public Transportation Facilities**

Vehicular circulation for the Project is provided by Grosvenor Lane, in addition to the proposed improvements and extension of the existing entryway off Grosvenor Lane and interconnected grid of private streets shown on the preliminary plans and discussed below. It is projected that Grosvenor Lane will serve as the main connecting artery for the traffic coming to and from the Project. The proposed street network serving the internal traffic demands of the Project will contain short and walkable blocks in a redundant grid. The Property contains a RideOn bus station providing service to the Grosvenor-Strathmore Metrorail Station and is located approximately half a mile from the Grosvenor-Strathmore Metrorail Station, which offers Red Line trains and other additional RideOn and Metrobus service.

(1) Local Area Transportation Review (LATR)

As more fully described in the Traffic Study included in the application, the LATR requirements for adequate public facilities under the Subdivision Staging Policy (formally called the Growth Policy) are satisfied.

(2) Transportation Policy Area Review (TPAR)

As more fully described in the Traffic Study included in the application, the TPAR requirements for adequate public facilities under the Subdivision Staging Policy (formally called the Growth Policy) will be satisfied by making TPAR payments if any are required under the 2012-2016 Subdivision Staging Policy.

**B. Sewerage and Water Service, Schools, Police Stations, Firehouses, and Health Clinics**

Other available public facilities and services are adequate to serve the proposed Project. The Property is located in the S-1 and W-1 sewer and water categories; the on-site sewer and water service is adequate to serve the Project. The Property is also situated in the Walter Johnson School Cluster. According to the Subdivision Staging Policy FY 2013 School Test - Cluster Utilizations in 2017–2018 analysis from the 2012-2016 Subdivision Staging Policy, the projected capacity for the test year of 2017-2018 is adequate for elementary school utilization (103.6% capacity). Middle school utilization (112.3%) and high school utilization (106.3%) in 2017-2018 for the Walter Johnson School Cluster is expected to exceed 105% utilization but not surpass 120% utilization, thus permitting subdivision approval with a School Facilities Payment. The need to provide a School Facilities Payment, however, will be confirmed based upon the date of actual approval of the preliminary plan. Police stations, firehouses, and health clinics are considered adequate under the 2012-2016 Subdivision Staging Policy unless there is evidence

that a local area problem will be generated. There are no circumstances present that would rebut this presumption of adequacy.

## **IX. OTHER RELEVANT MATTERS**

### **A. Optional Method of Development for Projects Including MPDUs in the R-90 Zone**

As noted above, Applicant's Project proposes 153 dwelling units, 23 of which will be MPDUs. All of these dwelling units are intended to be townhouses. Section 59-C-1.6 of the Zoning Ordinance provides for an optional method of development when MPDUs are included in a development in the R-90 Zone. Although townhouses are permitted uses in the R-90 Zone under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed in a subdivision in the R-90 Zone is 50%; the balance must be one-family detached dwelling units. Footnote 1 to Section 59-C-1.621 of the Zoning Ordinance. The Planning Board, however, has the authority to approve a development in which up to 100% of the total number of dwelling units are townhouses upon a finding that a proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits. *Id.* Any development that exceeds the 50% limit must be compatible with adjacent existing and approved development. *Id.*

It would be appropriate for the Planning Board to make such a finding in this matter. Applicant proposes as part of the Project dedicating approximately 11.9 acres of the Property for preservation under Montgomery County's Legacy Open Space Program. On January 24, 2008, the Planning Board approved the designation of a portion of the Property adjacent to the Fleming Local Park, including "appropriate areas of high quality forest bordering Interstates 495 and 270" as a Legacy Open Space Natural Resources site. *See* Approved Minutes of the January 24, 2008

Session of the Montgomery County Planning Board. The Planning Board also recommended that it seek dedication of “appropriate areas through the . . . development review process if a new . . . development is proposed.” *Id.* This application allows the Planning Board to follow through by designating critical Legacy Open Space as part of the development review process. Preserving the greatest portion of the Property’s precious mature forest, in turn, requires the density afforded by provision of 100% townhouses.

Furthermore, maximizing the Legacy Open Space dedication and redeveloping the Property with all townhouses is consistent with Master Plan’s environmental goals, including, among other things, capturing the Property’s redevelopment potential as an infill site served by existing public transit infrastructure, protecting the integrity of surrounding existing neighborhoods, the integration of the historic resource with the Project, the preservation of woodlands, the retention of specimen trees, and providing a green buffer between the Project and surrounding major roads. Therefore, the Planning Board should find that permitting 100% of the Project’s dwelling units as townhouses is more desirable from an environmental perspective than development that would result from adherence to the 50% limit and would be compatible with adjacent existing and approved development.

**B. Provision of Private Roads**

The Project proposes the establishment of an interconnected grid of local private streets on the Property as shown on the preliminary plans. Section 50-29(a)(2) of the Subdivision Regulations require that “[e]xcept as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road.” The Planning Board, however, retains the ability to waive this requirement. *Id.*

Applicant believes that it would be proper for the Planning Board to allow the Project to be served by private streets. The private streets in question provide necessary circulation and connectivity such that they effectively function as public streets because they provide continuous passage to other private or public streets. Additionally, the access provided by the Project's private street network is adequate to serve the lots for emergency vehicles, the installation of public utilities, and the accessibility for other public services. The private streets are also not detrimental to future subdivision of adjacent lands. Thus, it would be suitable for the Planning Board to find that the Project can be served by the proposed network of private streets.

**X. CONCLUSION**

Applicant respectfully requests that the Planning Board grant approval of this Preliminary Plan for an optional method development including MPDUs in the R-90 Zone. The above analysis and submitted plans establish that the Project satisfies the required findings that the Planning Board must make to approve a Preliminary Plan application in accordance with the Subdivision Regulations.

Respectfully submitted,

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**JUSTIFICATION STATEMENT  
FOR SITE PLAN NO. 820130130**

**Site Plan Justification for Grosvenor**

**I. INTRODUCTION**

Applicant, 5400 Grosvenor LLC (the “Applicant”), by its attorneys, Linowes and Blocher LLP, submits this Site Plan Justification Statement to demonstrate conformance of the proposed development with all applicable review requirements and criteria. The subject property, of which Applicant is the contract purchaser, consists of approximately 35.4 acres, and is more particularly known as Parcels P65 and P71 and the Renewable Natural Resources Center Land Condominium Phase I and the Glascock Condominium as shown on Tax Maps HP 122 and 123 and Condominium Plats 5411 and 5413 (the “Property”). It is bounded by Fleming Avenue and Fleming Local Park to the west, Grosvenor Lane to the north, Interstate 270 to the east, and Interstate 495 and Fleming Local Park to the south. The Property, which currently contains two office buildings and structures that were originally a part of Gilbert Grosvenor’s Wild Acres Estate, is located in the R-90 Zone and is subject to the recommendations of the North Bethesda/Garrett Park Master Plan approved and adopted by the Montgomery County Council (the “County Council”) in December 1992 and subsequently amended in November 1994 and June 1997 (the “Master Plan”).

Pursuant to the applicable provisions of Chapter 59 of the Montgomery County Zoning Ordinance, (the “Zoning Ordinance”), Applicant submits this application and site plan for the proposed redevelopment of the Property with 153 single-family attached units, 23 of which will be MPDUs, and associated amenities, including dedication of approximately 11.9 acres of the Property to Montgomery County’s Legacy Open Space Program (collectively, “the Project”). By creating residential infill development with affordable housing units that is accessible to multiple

modes of public transit, protecting the Wild Acres (Grosvenor Mansion) 8.9-acre historic resource, and preserving approximately 11.9 acres of high quality downcounty forest as Legacy Open Space, the Project will facilitate a number of recommendations of the Master Plan. See Master Plan, pgs. 2-4. Applicant respectfully requests that the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (“the Planning Board”) grant approval of the requested site plan application, including use of the optional method of development with MPDUs in the R-90 Zone to allow all units to be townhouses and the provision of private roads, described in more detail below.

## **II. BACKGROUND AND PRIOR APPROVALS**

### **A. Special Exception**

The entire Property is currently subject to a special exception held by the Renewable Natural Resource Foundation (“RNRF”) and RNRF Title Holding Corporation for a charitable or philanthropic institution use that the Board of Appeals (the “Board”) granted on November 21, 1973 in Case No. S-257 and subsequently modified by a series of amended opinions and resolutions, including Case No. S-257-A (collectively referred to as the “Special Exception”).<sup>1</sup> The Special Exception permitted the Property to be developed with 300,000 square feet of office space in three phases over twenty years: 102,000 gross square feet built in the first five years, 181,000 square feet constructed in the next five years, and the balance to be provided in a third phase in the following ten years. The Board required, among other things, that it approve site plans for the first two phases prior to any construction, review the Special Exception prior to the commencement of the second phase, permit the third phase as a separate special exception, and

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<sup>1</sup> RNRF was the first holder when the Special Exception was first granted in 1973. The Board added RNRF Title Holding Corporation as an additional holder of the Special Exception through administrative modifications approved on November 5, 1998 and February 3, 1999.

restrict access to the Property by Grosvenor Lane only. The Board then permitted the remodeling of the existing mansion house and garage from the Wild Acres (Grosvenor Mansion) as office space for RNRf and its member societies through an amended opinion issued on March 8, 1974.

The Board advanced the Special Exception on October 1, 1980 by approving a site plan for the first and second phases of office space development, floor plans and elevations for the first office building, and a staging plan that permitted the construction of 107,500 square feet of office space in the first phase and 175,500 square feet of office space in the second phase, in addition to the 7,500 square feet of office space contained in the existing mansion house and garage. The Board issued an opinion on May 21, 1990 that modified the approved site plan by reducing the size of an approved office building from the first phase by 22,500 square feet and transferring that development to the second phase. As a result, the Special Exception phasing was altered to 85,000 square feet of total office space in the first phase and 198,000 square feet of additional office space in the second phase. After considering traffic conditions, the Board allowed RNRf to proceed with the Special Exception's second phase on July 17, 1991.

Only a small portion of the office space approved through the Special Exception has been completed to date. The Property currently contains two office structures: 5430 Grosvenor Lane, which contains 22,560 square feet, and 5410 Grosvenor Lane, which contains 22,540 square feet. These two office buildings are served by two surface parking lots with 129 spaces. The renovated mansion house, which is currently used as the headquarters of the Society of American Foresters ("SAF"), also contains 8,086 square feet with 15 parking spaces on the driveway serving the mansion house.

**B. Historic Preservation**

On March 31, 2009, the County Council adopted Resolution 16-915, which designated the Wild Acres (Grosvenor Mansion)'s mansion house, garage, and caretaker's house as one historic resource. The County Council also created an 8.9 acre environmental setting around the historic resource. Additionally, the County Council forbade the Historic Preservation Commission (the "HPC") from requiring a historic area work permit for, among other things, any activity within the environmental setting required to complete the development approved in the Special Exception. The resolution expressly allows the HPC to approve historic area work permits for new buildings and structures within the environmental setting that are "respectful of the historic buildings." Resolution 16-915, pg. 2.

**C. Approved Special Exception Administrative Modification and Historic Area Work Permit Preliminary Consultation**

On July 18, 2013, the Board issued a resolution granting the administrative modification of the Special Exception and authorized reducing the Special Exception area from 35.4 acres to 10.11 acres, maintaining the Phase I Land Condominium Unit and Glascock Condominium for 5410 Grosvenor Lane, razing the 22,560 square foot office building at 5430 Grosvenor Lane, improving and extending the existing driveway off of Grosvenor Lane, removing one surface parking lot, relocating the other surface parking lot to a location adjacent to the 5410 Grosvenor Lane office building and reducing the number of parking spaces in that lot from 76 to 69, increasing the number of parking spaces on the driveway serving the mansion from 15 to 26, and transferring the Special Exception to SAF.

The Board approved a condition providing that the resolution granting the Special Exception administrative modification shall have no further force and effect and that S-257 and

S-257-A shall be in effect if the Special Exception area is not recorded during the validity period of the resolution, as may be extended, pursuant to Section 59-A-4.53 of the Zoning Ordinance. Consistent with the Board's approval of the Special Exception administrative modification, Applicant proposes to construct 153 dwelling units on the Property in accordance with the development standards of the R-90 Zone under the optional method for development including MPDUs.

Applicant has also had two preliminary consultations with the HPC on proposed historic area work permits (collectively, the "HAWP Applications") in order to develop those components of the Project located inside the historic environmental setting. Applicant's HAWP Applications seek to extend and improve the existing entryway off of Grosvenor Lane, install an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided by the HPC were incorporated in this application.

### **III. EXISTING CONDITIONS AND SURROUNDING AREA**

The Property contains a number of structures that were originally a part of Gilbert Grosvenor's Wild Acres Estate. As shown on the plans included with this application, the Property is improved with a three-story mansion house (currently used as the national headquarters for SAF) containing 8,086 square feet, a 1½-story garage containing 1,305 square feet, and a 1½-story caretaker's house containing 1,041 square feet. The existing driveway serving the mansion house has a parking area with 15 spaces.

Although the Special Exception anticipates the development of 300,000 square feet of office space, only two new structures have been constructed to date: 5410 Grosvenor Lane, a 2-story office building containing 22,540 square feet, and 5430 Grosvenor Lane, a 2-story office building containing 22,560 square feet. Two surface parking lots serve these office buildings, one with 53 spaces, and the other with 76 spaces. The Property is served by an internal road circulation system that has one point of access from Grosvenor Lane.

The Property is surrounded by highways and residential communities. The southern and eastern boundaries of the Property border Interstates 495 and 270. To the north of the Property is Grosvenor Lane and the Grosvenor Woods subdivision. Fleming Avenue, Fleming Local Park, and the North Bethesda Grove subdivision are all west of the Property.

#### **IV. PROPOSED PROJECT**

As noted on the included plans, Applicant proposes to redevelop the Property with 153 single family attached units, 23 of which will be MPDUs, and associated residential amenities under the optional method of development under the R-90 Zone for projects containing MPDUs in accordance with Section 59-C-1.621 of the Zoning Ordinance. As noted above, in order to realize the Project, Applicant has received approval by the Board of Appeals of an administrative modification of the Special Exception under Section 59-G-1.3(c)(1) of the Zoning Ordinance. Specifically, by separate application to the Board of Appeals for an administrative modification to the Special Exception, the Board authorized the reduction of the Property's area subject to the Special Exception from 35.4 acres to 10.11 acres, the demolition of the office building located at 5430 Grosvenor Lane, the removal of the parking lot adjacent to 5430 Grosvenor Lane, the relocation and reduction of the parking lot south of 5410 Grosvenor Lane, the improvement and

widening of the existing entryway off of Grosvenor Lane, and addition of 11 parking spaces to the existing 15 spaces along the driveway serving the mansion.

As also discussed above, Applicant has also had two preliminary consultations with HPC regarding the HAWP Applications in order to develop those components of the Project located inside the historic environmental setting. The HAWP Applications request permission to extend and improve the existing entryway off of Grosvenor Lane and create an emergency access lane/pedestrian connection from Grosvenor Lane to the existing driveway serving the mansion house, and achieve a 2,992 square foot net reduction of asphalt. Applicant appeared before the HPC for those preliminary consultations on July 25 and November 14, 2012. The Project was well received by the HPC and all the comments and feedback provided have been incorporated in this application.

Additionally, the Planning Board designated a portion of the Property with “high quality forest” adjacent to Fleming Park and Interstates 495 and 270 as a Legacy Open Space Natural Resource site on January 24, 2008. The Planning Board’s approval recommended dedication through the development review process if new development is proposed. Pursuant to this recommendation, Applicant is proposing to dedicate approximately 11.9 acres of the Property to Montgomery County’s Legacy Open Space program as part of the Application.

Applicant seeks to improve the Property located outside the reduced Special Exception approved by the Board, the historic environmental setting, and the dedicated Legacy Open Space with 153 single family attached dwelling units, 23 of which will be MPDUs, in accordance with the optional method of development under the R-90 Zone for projects containing MPDUs. The attached site plan shows that all of the dwelling units proposed are townhouses. Under Section 59-C-1.621 of the Zoning Ordinance, the maximum percentage of townhouses allowed in a



subdivision in the R-90 Zone under this optional method of development is 50%, but the Planning Board retains the authority to permit 100% townhomes upon a finding that the proposed development is more desirable from an environmental perspective than development adhering to the 50% limit. Applicant has requested that the Planning Board make such a finding for the reasons detailed in the justification statement submitted with the concurrently filed preliminary plan application.

The Application also reflects that the Project will be served by a network of local private streets. Although Section 50-29(a)(2) of the Subdivision Regulations generally requires all lots abut public roads, the Planning Board has the ability to waive this requirement. Applicant has requested that the Planning Board approve such a waiver for the reasons stated in the justification statement submitted with the concurrently filed preliminary plan application.

#### **V. FINDINGS REQUIRED FOR SITE PLAN APPROVAL**

Section 59-D-3.4(c) of the Zoning Ordinance provides the findings that the Planning Board must make before approving a site plan application. The following is an analysis of how the Application satisfies these findings:

- (1) *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning board expressly modifies any element of the project plan;*

The submitted site plan is consistent with the concurrently filed preliminary plan and the approved Special Exception modification. Further, the site plan incorporates the Planning Board's January 24, 2008 designation of a portion of the Property as a Legacy Open Space Natural Resource and the historic environmental setting. There are no associated schematic development or project plans associated with the Project or the Property.

- (2) *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;*

Applicant's site plan proposes redeveloping the Property with 153 dwelling units, 23 of which as MPDUs, under the optional method of development in the R-90 Zone for projects including moderate priced dwelling units pursuant to Section 59-C-1.6 of the Zoning Ordinance. Townhouses are permitted uses under these development standards, but the maximum percentage allowed in a subdivision is 50%. As noted above and in the concurrently filed preliminary plan justification statement, Applicant requests that the Planning Board exercise its authority under Footnote 1 to Section 59-C-1.621 and approve 100% of the total number of the Project's dwelling units as townhouses upon a finding that 1) the proposed development is more desirable from an environmental perspective than development that would result from adherence to the 50% townhouse limit; and 2) exceeding this limit achieves not less than the same level of compatibility as would exist if the development were constructed with 50% townhouses.

As shown on the Development Tabulations on the submitted site plan, the Application meets all of the applicable standards and requirements of Section 59-C-1.6 of the Zoning Ordinance.

- (3) *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

As proposed in the Project, the building locations and overall site design and layout, including the open space, landscaping and amenities, will be adequate, safe, and efficient. The single family homes shown on the site plan are efficiently clustered to provide ease of access while maximizing the preservation of open space. A bike path connection along Fleming Avenue is proposed as part of the development as well as a network of connecting sidewalks and

paths. The site plan also reflects that the dwelling units are served by an internal grid network of private streets that provide efficient circulation and connectivity throughout the Project. These private streets effectively function as public streets because they provide continuous passage to other private or public streets. Additionally, the access provided by the Project's private street system is adequate to serve the lots for emergency vehicles, the installation of public utilities, and the accessibility for other public services, and is not detrimental to future subdivision of adjacent lands.

The Project includes the improvement and extension of the existing entryway off of Grosvenor Lane to support adequate, safe, and efficient access for entering and exiting the Property. The Application also shows the installation of an emergency access lane/pedestrian connection, the design of which reflects the comments of the Montgomery County Department of Transportation and Montgomery County Fire and Rescue Services, from Grosvenor Lane to the existing driveway serving the mansion house.

Applicant's site plan also reflects the Project's open space, landscaping, and recreation facilities. The extensive open space provided in the Project, including the approximately 11.9 acres of dedicated Legacy Open Space, preserves a significant portion of the Property's existing green area and forest, protects the integrity of the historic resource, buffers the dwelling units from surrounding highways and existing neighborhoods, and offers opportunities for active and passive recreation. The landscaping shown on the site plan facilitates a residential feel that is harmonious with the historic resource. All recreational facilities will comply with the Montgomery County Code and other applicable safety and design standards. Thus, a review of the Application establishes that the Project's buildings and structures, open spaces, landscaping,

recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.

- (4) *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development;*

The buildings shown on the site plan have been carefully designed and situated on the Property to be compatible with existing uses and development. The Project's single family attached homes are well integrated with the historic resource, environmental setting, and approved Special Exception modification. The site plan reflects the demolition of the 5430 Grosvenor Lane office building office, the renovation of the existing garage in a manner consistent with its original configuration, the removal of one surface parking lot serving the existing office structures, the preservation of significant open space surrounding the existing mansion house, and the realization of a net reduction of asphalt within the environmental setting, all of which creates a more harmonious residential character. Applicant's site plan also shows the emergency access lane/pedestrian connection, which will provide an additional link to the historic resource and environmental setting, as well as other pedestrian trails that will allow passage through the dedicated Legacy Open Space. Additionally, the Project's landscape, lighting, and streetscape plans included in the site plan is sensitively designed to blend with the historic resource and environmental setting of Wild Acres (Grosvenor Mansion).

Although the Project is residential in nature, the site plan shows that the existing Special Exception office uses on the Property are well accommodated and establish a compatible relationship with each other and the surrounding uses. SAF will continue to occupy the mansion house and use it as its regional headquarters. The 15 parking spaces along the existing driveway serving the mansion house will remain, with an additional 11 parking spaces added. One of the existing surface parking lots for the two office structures will be relocated and modified with 69

spaces to serve 5410 Grosvenor Lane, which will remain on the Property. The total number of parking spaces will be reduced from the 144 existing spaces to the 95 spaces proposed in the site plan. Approval of the Project will ensure compatibility by foreclosing any additional commercial development permitted by S-257 and S-257-A, and reducing encroachments into the historic resource's environmental setting.

The Project is also compatible with the surrounding area through the utilization of the Property's forested areas. The site plan shows that the proposed Legacy Open Space acts as a green screen and buffer from Interstates 495 and 270 along the Property's southern and eastern boundaries. The mature subdivisions to the Property's north and west and are also well shielded from the Project. Specifically, the existing forested area along the Property's northern boundary buffers the Project from Grosvenor Lane and the confronting residential neighborhood. Additionally, the site plan does not propose any points of access along Fleming Avenue, thereby limiting impacts to the existing community to the west of the Property and maintaining the existing neighborhood character. The development shown on the site plan will also produce significantly less traffic than that authorized by the Special Exception. The site plan, therefore, establishes that the Project relates well to adjacent development.

- (5) *The site plan meet all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Applicant has provided an approved Natural Resource Inventory/Forest Stand Delineation and Preliminary Forest Conservation Plan under Chapter 22A of the Montgomery County Code. Pursuant to Chapter 19 of the Montgomery County Code, Applicant will provide sediment and erosion control and water quality and quantity treatment as required by

Montgomery County laws, rules, and regulation. This is demonstrated in the concept sediment control plan and conceptual stormwater management plan included in the Application.

**VI. CONCLUSION**

Applicant respectfully requests that the Planning Board grant approval of the site plan application, including a finding authorizing the provision of 100% townhouses and a waiver permitting the provision of a private road network. As explained above and shown in the plans submitted with the Application, the Project satisfies the findings that the Planning Board must make to approve a site plan under Section 59-D-3.4(c) of the Zoning Ordinance.

Respectfully submitted,

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