



**MONTGOMERY COUNTY PLANNING BOARD**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MAR 11 2014**

MCPB No. 13-170  
 Preliminary Plan No. 120130110  
**Grosvenor**  
 Date of Hearing: January 9, 2014

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on January 23, 2013, 5400 Grosvenor LLC c/o EYA LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property pursuant to the Optional Method of Development regulations of the R-90 Zone for projects containing MPDUs, per Section 59-C-1.621 of the Zoning Ordinance, that would create 155 lots (12 one-family detached lots and 143 one-family attached lots) and associated Homeowners Association ("HOA") and stormwater management parcels on approximately 35.4 acres of land, located on the south side of Grosvenor Lane and west of I-270 near the intersection of Grosvenor Lane and Fleming Avenue ("Subject Property"), in the 1992 *North Bethesda Garrett Park Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130110, Grosvenor ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 30, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 9, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 9, 2014, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to  
 Legal Sufficiency

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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130110 to create 155 lots (12 one-family detached lots, and 143 one-family attached lots) and associated HOA and stormwater management parcels on the Subject Property, subject to the following conditions:<sup>1</sup>

1. Approval is limited to 143 one-family attached lots, 12 one-family detached lots, and associated Homeowners Association ("HOA") and stormwater management parcels for a total of 155 lots (including two lots for the existing uses), of which a minimum of 15% of 153 new residential lots (23) must be moderately priced dwelling units ("MPDUs"). The existing 31,931 square feet of philanthropic office uses under Special Exception No. S-257 will be retained on one of the one-family detached lots.
2. The Applicant must dedicate, and the record plat must reflect, the Master Plan recommended 70-foot right-of-way for Grosvenor Lane (70 feet from opposite right-of-way line along the Subject Property frontage).
3. The Applicant must dedicate, and the record plat must reflect, the Master Plan recommended 60-foot right-of-way for Fleming Avenue (60 feet from the opposite right-of-way line along the Subject Property frontage).
4. Prior to issuance of the 50<sup>th</sup> Use and Occupancy Certificate, the Applicant must improve Fleming Avenue to secondary residential street standards, as shown on the Preliminary Plan with parking on the east side, and include the following improvements between Grosvenor Lane and M-NCPPC's Fleming Local Park:
  - a. A vehicular and pedestrian access point for the Subject Property from Fleming Avenue;
  - b. A 10-foot wide North Bethesda Trail (a master-planned shared-use path) on the east side of Fleming Avenue, which must be extended off site along Fleming Avenue approximately 42 feet to the south of Fleming Local Park, with the necessary handicapped ramp/ADA accommodations;
  - c. A minimum 6 foot wide green panel and street trees along the east side of Fleming Avenue;
  - d. Street lighting, if needed, to satisfy the American Association of State Highway and Transportation Officials ("AASHTO") lighting recommendations; and
  - e. Any other improvements required by applicable agencies.
  - f. If the Applicant is unable to obtain off-site dedication or a Public Improvement Easement along Fleming Avenue (between the northern property line of Applicant's property and Grosvenor Lane) from the adjacent property owner, then the Applicant shall only construct the ten

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

(10)-foot shared use path, as shown on the Certified Site Plan, and install street lighting across the Subject Property's frontage at this time. Completion of the remaining improvements to Fleming Avenue along the Subject Property's frontage (including pavement widening, curb and gutter, enclosed storm drainage and appurtenances, and street trees) will be addressed in a recorded covenant prior to the Montgomery County Department of Permitting Services (DPS) approval of the record plat whereby the Applicant agrees to pay a pro-rata share for the future construction or reconstruction of Fleming Avenue, whether built as a Montgomery County project or by a private developer under permit. The deed reference for this covenant must be provided on the record plat.

- g. At the intersection of the private road and Fleming Avenue, the Applicant must install a bulb/bump out as a safety measure to ensure adequate sight lines for trail users.
5. Prior to issuance of a building permit, the Applicant must make the required transportation impact tax payment of \$340,891.50 to the Montgomery County Department of Permitting Services ("DPS") in order to satisfy the Transportation Policy Area Review ("TPAR") test.
6. Prior to issuance of the first Use and Occupancy Certificate, the Applicant must coordinate with the Montgomery County Department of Transportation ("MCDOT") and the Maryland State Highway Administration ("SHA") on the feasibility of providing improvements to reduce the existing excessive queuing at the intersections of Cheshire Drive/Grosvenor Lane-Wildwood Shopping Center and Cheshire Drive/Old Georgetown Road in order to satisfy the Local Area Transportation Review ("LATR") test. If an implementable and feasible solution is possible, the Applicant shall be responsible to make a payment equal to the Applicant's pro-rata share of the cost based on the impact of the traffic from the project on these intersections as determined by MCDOT and/or SHA.
7. The Applicant must provide, and the record plat must reflect, a 20-foot-wide ingress/egress easement to the internal private road for use of the adjoining Anne Grosvenor property to the north, as shown on the Preliminary Plan.
8. The Applicant must provide handicapped ramps at Grosvenor Lane/new private street intersection, Fleming Avenue/new private street intersection, Fleming Avenue/Lone Oak Drive (across Fleming into the Park), and any internal intersections at the time the internal roads and sidewalks are constructed.
9. All sidewalks and bike paths along Grosvenor Lane and Fleming Avenue must be ADA compliant.
10. The private street network must be located within its own parcel (Parcel A), separate from the development, and the record plat must reflect a public use and access easement over the private streets and adjacent parallel sidewalks.
11. The Applicant must convey to M-NCPPC, in fee simple, 11.35 acres of land adjacent to existing Fleming Local Park as shown on the Preliminary Plan. The exact boundaries of the conveyance must be shown on the record plat.

12. Maintenance access easements to Park dedication areas must be provided and approved by M-NCPPC Parks staff. The final location of these easements must be shown on the Certified Preliminary and Site Plans, and must be shown on the record plat.
13. All forest in the environmental setting around the historic resource must be placed in a Category I Conservation Easement as approved on the Final Forest Conservation Plan. All Category I Conservation Easements onsite must be recorded in the land records prior to the start of clearing and grading, and must be shown on the record plat(s).
14. The Planning Board has accepted the recommendations of the MCDOT in its letter dated December 13, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
16. The Planning Board has accepted the recommendations of the DPS stormwater management concept approval letter dated December 6, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
17. The Subject Property is located in the Walter Johnson High School Cluster. The Applicant must make a School Facilities Payment to DPS at the elementary school, middle school, and high school levels. The Applicant will be required to make a school facility payment at the middle and high school level at the "single-family detached" unit rate for all "single-family detached" units for which a building permit is issued. The Applicant will be required to make a school facility payment at the middle and high school level at the "single-family attached" unit rate for 37 "single-family attached" units for which a building permit is issued. The Applicant will be required to make a school facility payment at all three school levels at the "single-family attached" unit rate for 83 "single-family attached" units for which a building permit is issued. The 23 single-family attached MPDUs do not require a school facilities payment. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code and is determined by DPS. No school facilities payment will be required for MPDU's.
18. The Applicant must comply with the Final Forest Conservation Plan as approved with Site Plan No. 820130130.
19. Prior to approval of the Certified Site Plan, no clearing and grading of the site or recording of plats can occur, except for demolition of the existing office structure.
20. In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the Preliminary Plan with respect to lot configuration or

right-of-way location, width, or alignment (except the modifications required by these conditions), the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

21. The Certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
22. All necessary easements must be shown on the Record Plat.
23. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
24. The Applicant must increase the side yard setbacks for all 10 one-family detached dwellings on Fleming Avenue to a minimum of 6 feet.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Approved and Adopted (1992) *North Bethesda Garrett Park Master Plan* identifies the Subject Property as a key vacant or redevelopable parcel (No. 19). The Master Plan notes that the Subject Property is part of the original 100-acre "family estate of the late Dr. Gilbert H. Grosvenor, former president of the National Geographic Society. The estate remained intact until the purchase of 40 acres by the State Highway Administration for the I-495/I-270 interchange; the balance went to the Pooks Hill Marriott, Grosvenor Mews townhouses, and the Renewable Natural Resources Foundation, which conveyed a portion to M-NCPPC for Fleming Park." The Master Plan acknowledges the approval of a special exception of up to 300,000 square feet of development for the Renewable Natural Resources Foundation and the Society of American Foresters.

The Master Plan confirmed the existing R-90 Zone for the Subject Property, and stated that it "supports the planned expansion of the Renewable Natural Resources Foundation and the Society of American Foresters as a special exception approved by the Board of Appeals in the existing R-90 Zone." The Master Plan does not talk about

the redevelopment of the rest of the Subject Property. This development will achieve several Master Plan land use and environment objectives, including the following:

- Encourage a land use pattern that provides opportunities for housing and employment.
- Preserve and increase the variety of housing stock, including affordable housing.
- Preserve and expand green areas and greenways, including institutional open space, for environmental protection, wildlife sanctuary, recreation and visual relief.
- Preserve existing woodland and encourage reforestation throughout the Planning Area (pages 33-34).

The Preliminary Plan includes new residential development and retains the existing non-residential development on the Subject Property that was deemed to be consistent with the Master Plan through previous approvals by the Planning Board and Board of Appeals. The residential component will increase the variety of housing stock including 15 percent Moderately Priced Dwelling Units (MDPUs). Approximately 20 acres of the site will be preserved and enhanced as historic and Legacy Open Space areas, which aid environmental protection, recreation, and visual relief. The Preliminary Plan also achieves the preservation of existing woodland including reforestation and non-native species clearing in certain areas. And it provides significant vehicular, pedestrian, bicycle, and parks and recreation improvements, all consistent with the goals and objectives of the Master Plan.

#### *Street Network*

Grosvenor Lane (P-5) is classified in the Master Plan as a primary residential street with a minimum right-of-way of 70 feet with two travel lanes. The Preliminary Plan shows 61 feet and 78 feet as the existing rights-of-way along Grosvenor Lane. Within the 61-foot segment of Grosvenor Lane, the Applicant will dedicate an additional four feet of right-of-way to establish 35 feet from the centerline. Fleming Avenue is not classified in the Master Plan but the Applicant will improve Fleming Avenue as a secondary residential street with 30 feet of pavement and with two travel lanes (one in each direction) and parking on the east side. The Master Plan has no specific roadway recommendations for the Renewable Natural Resources Foundation property onsite.

#### *Urban Design*

The Master Plan does not provide specific urban design guidance for the Subject Property. However, two of the seven urban design objectives are applicable to the proposed development:

- Use historic and natural features as landmarks to give a sense of place and unique identity to each district.

- Add local streets to create a more interconnected local street network and reduce the size of blocks in high intensity areas (p.109).

The Planning Board finds the lot layout and street network, as shown on the Preliminary Plan, meets the objectives of the Master Plan, will better protect the Wild Acres historic setting, and will provide an interconnected street and pedestrian network.

#### *Green Corridors*

Grosvenor Lane is identified as a Green Corridor in the Master Plan. The intent of Green Corridors is "to strengthen community identity by creating attractive transportation corridors," and to address "the visual effects of roadways and abutting properties" (p.250).

The Green Corridor recommendations and design guidelines include:

- Maintain and enhance planting of vegetation along roadsides and in medians of major highway corridors.
- Place a landscape buffer between the curb and relocated sidewalks, place trees in medians and along curbs, screen front yard parking, and relocate utility poles to allow for optimum tree planting and sidewalks. Visibility for highway safety must also be considered.

The Planning Board finds the Preliminary Plan will implement the Green Corridor recommendation since the lot layout and street network will largely preserve the environmental setting of the historic resource, will not impact the existing forest along Grosvenor Lane, and will remove invasive species which will improve the quality of the forest along Grosvenor Lane.

#### *Pedestrian Network*

The Master Plan made no specific pedestrian recommendations for the Subject Property. The pedestrian network of sidewalks will link different sides of the development and the existing sidewalks on both sides of Grosvenor Lane and sidewalks along Fleming Avenue.

#### *Bikeway Network*

The Countywide Bikeways Functional Master Plan (2005) identifies Fleming Avenue, from Rossmore Drive to the entrance of Fleming Park, as a proposed Signed Shared Roadway/On-Road (Class III) bikeway. This segment of Fleming Avenue is part of the North Bethesda Trolley Trail (SP-41), which connects Bethesda to Rockville. The North Bethesda Garrett Park Master Plan also identified this segment of Fleming Avenue as a proposed Class III bikeway.

Part of the shared use path (Bethesda Trolley Trail) exists along the east side of Fleming Avenue. The Applicant will connect this segment to the Fleming Local Park, which is immediately southwest of the proposed development. Grosvenor Lane (SR-36) is recommended in the Bikeways Master Plan as a signed shared roadway/on-road (Class III) and is also recommended in the North Bethesda Garrett Park Master Plan.

#### *Environment*

The Master Plan's main environmental objective is to "protect and enhance the environmental resources of North Bethesda-Garrett Park" (p.247). The Master Plan also makes specific recommendations for tree preservation, green corridors and noise including the following:

- Protect woodlands, green space, steep slopes and wetlands through land use recommendations and development regulations.
- Retain mature trees as buffers in new residential development to create visual separation from major roads.
- Retain the maximum number of specimen trees on site where they occur.
- Provide noise attenuation wall when the I-270 spurs are widened at locations where existing residences will be subjected to high noise levels (p.247).

The Planning Board finds the Preliminary Plan will implement the applicable environmental recommendations of the Master Plan. Through the Legacy Open Space designation and Category I Easements, approximately 15.85 acres of the Subject Property will be retained as forest, which includes existing forest within the 8.9 acre Wild Acres historic setting. Although some specimen trees will be removed, the Applicant has been approved for a variance, and will preserve specimen trees outside of the area of dedication to Parks and the historic environmental setting as indicated on the Forest Conservation Plan.

#### *Noise*

The Master Plan states that noise from the Capital Beltway (I-495) and I-270 is intrusive because of large traffic volumes on both roadways. The Master Plan states that "any undeveloped or redevelopable land adjacent to major highways should use noise-compatible land use and site design and other mitigation measures recommended in the "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" (MP p. 252). The Applicant submitted a noise study with this Application. Based on the analysis of the noise study, the Planning Board is requiring a noise wall along I-270, but not along I-495 as discussed in detail in the environmental findings below.

#### *Fleming Local Park*

The Subject Property is located adjacent to Fleming Local Park, which contains a softball field, tennis courts, basketball courts, playground and parking for these facilities.



Given the proximity of the Subject Property to the Park, the Planning Board concludes that many of the new residents will use the Park facilities. Several of the existing park facilities are in need of improvement, and the park lacks some amenities most desired by County residents. For example, there is no trail in the park and yet trails are the most popular amenity. Other needed improvements include seating areas, landscaped buffers, better lighting at the courts, fencing at the downhill edge of the basketball court, and regrading the edge of the ballfield outfield. The Applicant will provide many of these improvements as required by the conditions of approval, including additional recreational equipment at Fleming Local Park.

*Legacy Open Space Program*

In January 2008, the Planning Board placed eleven acres of the Subject Property (known at that time as Natural Renewal Foundation) into the M-NCPPC's Legacy Open Space (LOS) program. The Applicant will dedicate 11.35 acres of LOS as an extension of existing Fleming Local Park. This dedication is largely consistent with the LOS Master Plan designation. The Planning Board has determined that a narrow area of LOS designated forest parallel to Interstate 270 is more appropriate for conservation easement, as opposed to park dedication, due to maintenance and policing issues that would arise if the Department of Parks owned such a narrow corridor fronting one-family attached units and the Interstate system. Therefore, that area will be retained on private property and will be preserved and maintained in a Category I Conservation Easement.

The Planning Board supports the proposed natural surface trail through the LOS Forest with connections to the development and to Fleming Local Park, as well as an ADA-compliant hard-surface trail connection from the development to the improved area of Fleming Local Park.

The Legacy Open Space Master Plan does not mandate acquisition of all properties deemed suitable to be in the LOS Program. Rather, the LOS Master Plan recommends various forms of protection including full or partial acquisition, fee-simple purchase, purchase of easements or dedication and other preservation depending upon the specific circumstances of each property in conjunction with development of the property. Zoning, special protection area status, clustering, designated conservation easements and dedications are among the tools that do not require acquisition.

Twelve specimen trees are proposed for removal within Legacy Open Space forest, with potential impacts to eleven additional specimen trees, as a result of grading impacts to the Critical Root Zone of trees as well as townhomes located within the target range of potentially hazardous trees. The Planning Board finds the development to be consistent with the area approved as LOS in 2008, noting that the LOS designation specified that it was not intended to reduce development density on the property.

Based on the analysis above and the conditions in this report, the Planning Board finds the proposed development to be in substantial conformance with the 1992 Approved and Adopted *North Bethesda/ Garrett Park Master Plan*.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

*Required Vehicular Site Access Points*

The Applicant initially submitted a preliminary plan that only provided one point of access from Grosvenor Lane. Later that preliminary plan was revised to provide a secondary access for emergency purposes only from Grosvenor Lane which, if approved by the Planning Board, would require a finding that an overlength cul-de-sac created a preferred street alignment, would conflict with multiple Master Plan recommendations, would impact the environmental setting of the historic resource and existing forest within the environmental setting, and would require a tree variance for removal of multiple specimen trees in the environmental setting. For these reasons, Staff requested a revised layout with two points of access, one from Grosvenor Lane and one from Fleming Avenue. The Planning Board finds the two access points from Grosvenor Lane and Fleming Avenue are superior to the previous options and necessary for adequate access to the subdivision for the following reasons:

1. The Applicant's provision of a secondary access eliminates the need for an overlength cul-de-sac approximately 1000 feet in length, well over the code established 500 foot maximum length. The Planning Board may approve a cul-de-sac longer than 500 feet if the Planning Board finds that, "because of property shape, size, topography, large lot size, or improved street alignment, the Board approves a greater length." A single-access layout does not meet any of the requirements to justify the overlength cul-de-sac. The Subject Property is quite large, with ample frontage on two separate public streets, and does not possess any constraints from the size, shape, or topography of the lot. Furthermore, an overlength cul-de-sac does not result in an improved street alignment compared to the approved alignment with secondary access to Fleming Avenue. There is plenty of space onsite to provide the required secondary connection and based on the constraints of the site (environmental setting of the historic resource and the LOS designated area to be dedicated to M-NCPPC), it is logical to have the internal road network connect from Grosvenor Lane to Fleming Avenue.
2. Providing two access points to the subdivision is in compliance with the County Rode Code and fire rescue requirements. The Applicant's initial submittal would have left one point of access for all 155 lots and the 31,931 square feet of office uses onsite. Per the County Road Code, two tertiary residential streets or one secondary residential street would be required to serve 155 lots including the

retained office space. A secondary residential street can serve up to 200 one-family detached units or up to an equivalent of 267 one-family attached units. If the Planning Board were to limit this development to one point of access, the Applicant would need to widen the primary access from 24 to 26 feet in order to adequately satisfy the Road Code standard for a secondary residential street. MCF&R determined that per National Fire Protection Association standards, 100-200 residential units requires two remote vehicular access points (no closer than  $\frac{1}{2}$  the diagonal of the overall site footprint), therefore, a secondary access would be required to serve the number of units proposed. A secondary access was proposed by the Applicant for emergency access only, and at the neighborhood's request this secondary access was proposed to connect from Grosvenor Lane and not from Fleming Avenue. A secondary access from Grosvenor Lane would have to cut through the environmental setting of the historic resource and impact a significant number of trees. Many of these trees that would be impacted are considered specimen trees under the Forest Conservation Law, and would require a tree variance if removed. There is sufficient size and frontage to accommodate a secondary access from the site that preserves the environmental setting of the historic resource and the trees that would require a variance for removal. The previous layout with emergency access from Grosvenor Lane did not meet the requirements for granting a variance for tree removal. The historic environmental setting and the trees within that setting should be preserved and that area should not be used to provide the required secondary access. There is sufficient frontage on Fleming Avenue to meet the applicable Fire and Road Code standards, accommodate a secondary access that limits impacts to the environmental setting, does not require a tree variance for the removal of those trees within the environmental setting, and provides sufficient access for both residents and emergency vehicles to the Subject Property.

3. Provision of the secondary access from Fleming Avenue is in compliance with the recommendations of the Master Plan. The Master Plan includes recommendations to use historic and natural features as landmarks to give a sense of place and unique identity to each district, and to add local streets to create a more interconnected local street network. The layout with the secondary access provided from Grosvenor Lane was in conflict with the Master Plan recommendations cited above by allowing the secondary access to be located through the environmental setting of the historic resource. That location would diminish both historic and natural features as landmarks. Furthermore, by allowing the secondary access to be for emergency use only, the Master Plan recommendation to create a more interconnected local street network is also not achieved. Providing a secondary access point on Fleming Avenue satisfies both Master Plan recommendations cited above.

4. The Application includes improvements to Fleming Avenue that are required under the Subdivision Regulations. The Applicant's initial submittal was not providing the standard frontage and road improvements on Fleming Avenue, as the neighborhood did not want Fleming Avenue widened or improved. However, per Section 50-24(b), the Applicant is required to provide standard frontage and road improvements along both Grosvenor Lane and Fleming Avenue. Without the provision of these improvements, the Applicant would need a waiver from the Planning Board, which requires a finding that, "practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest." A waiver could not be supported because practical difficulties or unusual circumstances do not exist preventing the Applicant from complying with the law. In this case, Fleming Avenue is a substandard street and is currently less than 20-feet-wide, with local residents parking their cars along the west side of the street. This leaves very little space for cars and emergency vehicles to pass. A waiver of construction would also leave the County with the financial burden of future improvement of the road or require a covenant for future construction of the road on the new lots. A waiver would be inconsistent with the objectives of the Master Plan and adverse to the public interest.

Therefore, the Planning Board finds that two points of access are necessary to serve the Subject Property, one from Grosvenor Lane and one from Fleming Avenue as shown on the Preliminary Plan. Fleming Avenue must be improved as shown on the Preliminary Plan and per the conditions of approval.

*Master-Planned Roadway and Bikeways*

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, Grosvenor Lane is designated as a two-lane primary residential street, P-5, with a recommended 70-foot right-of-way. A signed shared roadway, SR-36, is recommended in the *Countywide Bikeways Functional Master Plan* while a Class 3 bikeway is recommended in the *North Bethesda/Garrett Park Master Plan*.

Fleming Avenue is not listed in the *North Bethesda/Garrett Park Master Plan*, but is a public secondary residential street requiring a 60-foot right-of-way. The existing right-of-way is only 30 to 46 feet along different segments of this road. Dedication along the Subject Property frontage is needed to provide adequate access for Fire & Rescue vehicles and upgrade the cross-section to minimum required County Road Code standards. A shared use path, SP-41, the North Bethesda Trail, is recommended in the *Countywide Bikeways Functional Master Plan* while a Class 3 bikeway is recommended in the *North Bethesda/Garrett Park Master Plan*.

The Applicant will dedicate the needed right-of-way along both roadways to allow for the minimum required improvements to Fleming Avenue (to include the shared-use path) and Grosvenor Lane as conditioned.

*Transportation Demand Management*

The Applicant is not required to participate in the North Bethesda Transportation Management District (TMD) because the site is located outside the TMD's boundary.

*Public Transit Service*

Ride-On Route 6 operates along Grosvenor Lane between the Grosvenor Metrorail Station and Westfield Montgomery Mall, with 30-minute headways on weekdays. Bus stops are located on both sides of Grosvenor Lane at the existing entrance driveway and the intersection with Fleming Avenue. Transit service is not currently available along Fleming Avenue.

*Pedestrian and Bicycle Facilities*

Currently, a 5-foot wide sidewalk with a 6-foot wide green panel exists along the Grosvenor Lane frontage, while Fleming Avenue has no sidewalks along the property frontage. The Applicant will construct a 10-foot wide shared use path along the east side of Fleming Avenue and continue to the south approximately 42 feet off site to connect it to the Fleming Local Park entrance.

The Applicant will provide eight bike parking spaces near the main entrances of the office building and mansion house (used as office space) that will remain. Final location of these parking spaces will be determined at the time of Site Plan.

*Local Area Transportation Review (LATR)*

The Applicant submitted a traffic study to satisfy the LATR test because the development generates 30 or more peak-hour trips within the weekday morning and evening peak hours. The CLV values at all seven analyzed intersections are less than the applicable congestion standard for each intersection.

*Queuing Issue at Two Intersections*

The two nearby intersections of Old Georgetown Road with Democracy Boulevard/Wildwood Shopping Center Driveway and Cheshire Drive do not exceed their CLV congestion standard, but an operational problem exists at the closely-spaced intersections along Cheshire Drive at Old Georgetown Road and at Grosvenor Lane-Wildwood Shopping Center Driveway. Limited storage for the westbound Cheshire Drive traffic between Old Georgetown Road and Grosvenor Lane-Wildwood Shopping Center Driveway causes backups during peak hours. The development has a relatively small impact on these intersections by increasing the traffic impact by 2% to 4%.

This existing operational problem can be addressed by either:

1. Increasing a side-street green time to Cheshire Drive at Old Georgetown Road;
2. Constructing a third westbound lane on Cheshire Drive between Old Georgetown Road and Grosvenor Lane-Wildwood Shopping Center; or
3. Installing a new traffic signal at the Cheshire Drive-Grosvenor Lane-Wildwood Shopping Center intersection.

As stated in the "LATR and TPAR Guidelines":

*Payment Instead of Construction*

"Where an applicant has made a good faith effort to implement an acceptable improvement and where the Board finds that a desirable improvement cannot feasibly be implemented by the applicant but that it can be implemented by a public agency within six years after the subdivision is approved, the County Council has authorized the Planning Board to accept payment to the County of a fee commensurate with the cost of the required improvement."

Both the MCDOT staff and Planning Staff expect an improvement to be implemented by a public agency within the next six years. Therefore, the Planning Board finds with a payment to MCDOT and/or SHA equal to the pro-rata share of the cost, the LATR test is satisfied.

*Transportation Policy Area Review (TPAR)*

Under the 2012-2016 Subdivision Staging Policy, the TPAR test requires a payment of the transportation impact tax equaling 25% of the development impact tax. The development impact tax has been determined to be \$1,438,460; thus, the required TPAR payment will be \$359,615. Therefore, the Planning Board finds with the required payment to DPS, the TPAR test is satisfied.

*Other Public Facilities and Services*

The development will be served by public water and sewer systems. The Montgomery County Fire and Rescue Service has reviewed the Application and has determined that according to the lot layout and street network shown on the Preliminary Plan, the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the project. Electric, gas and telecommunications services will also be available and adequate. The Application is located in the Walter Johnson Cluster, which requires a School Facilities Payment at the elementary, middle school, and high school levels. DPS will determine the amount and timing of the payment.

Based on the analysis above and conditions of approval, the Planning Board finds that Adequate Public Facilities exist to serve the development.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The size, width, shape and orientation of the lots are appropriate for the location of the subdivision taking into account the recommendations in the North Bethesda/Garrett Park Master Plan, and for the type of development and uses contemplated. The lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Master Plan. The Planning Board is granting approval of greater than 50% townhomes. Per 59-C-1-621, the Planning Board may approve up to 100 percent of the total number of units as one-family attached units, upon finding that: *(1) a proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits; or (2) limits on development at that site would not allow the applicant to achieve MPDUs under Chapter 25A on-site. Any increase above the standard percentage allowed must achieve not less than the same level of compatibility with adjacent existing and approved development as would exist if the development were constructed using the standard percentage of that type of dwelling unit.*

The Applicant requested 92.25% of the total number of the units as one-family attached units. If the Subject Property had been developed using the standard method, the impacts to the environmental features on the Subject Property would be much greater, as one-family detached lots are larger, take up more space, and require more land area to accommodate that type of development. Given the constraints on the Subject Property, the Legacy Open Space designated area, historic environmental setting, and large stands of forest and tree cover, the Planning Board finds that the percentage of 92.25% one-family attached units is more desirable from an environmental perspective than development that would result from adherence to the standard 50% limit.

The Planning Board also approves a smaller lot size for the MPDU lots, as allowed in Section 59-C-1.625(a)(3), based on the environmental and site constraints as specified above. Access and public facilities will be adequate to serve the proposed lots, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

*Lot Frontage on a Private Street*

Section 50-29(a)(2) of the Subdivision Regulations requires that all lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. 144 lots will front onto a private street, ten lots will front on Fleming Avenue, and one lot will front on Grosvenor Lane. Therefore, in order to approve the lots as shown on the Preliminary Plan, the Planning Board must find that the private streets have acquired the status of public roads. As reflected in other similar cases approved by the Board, this finding must be based upon the private streets being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to the minimum public road standards, except for right-of-way and pavement widths.

In the case of this Preliminary Plan, the internal private streets, which provide frontage to 144 of the 155 lots, meet the minimum standards necessary to make the finding that they have attained the status of a public road. The private roads will be constructed to the minimum public road structural standards, and will have a minimum 20-foot pavement width (where there is no on-street parking) with adequate turning radii at intersections where needed for emergency access, an appropriate paving cross-section elsewhere for private vehicles, and an appropriate circulation and turnaround pattern. The private roads will be placed within their own separate parcel with an easement that ensures they remain fully accessible to the public.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

*Environmental Guidelines*

The Subject Property currently includes a developed central core with two houses, a barn and silo, two three-story office buildings, four parking lots, and a stormwater management facility. The remaining portions of the site surrounding the developed central core contain 22.10 acres of forest, a perennial stream, an intermittent stream and a wetland as depicted on the NRI/FSD (#420130150) approved on October 5, 2012. An environmental buffer encompasses the intermittent stream, perennial stream, and steep slopes within the southern portion of the site.

The Subject Property drains to the Lower Rock Creek watershed and is designated as Class I-P Waters<sup>2</sup> by the State of Maryland. There is a 100-year floodplain along the

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<sup>2</sup> Use I-P - Waters that are suitable for: water contact sports; play and leisure time activities where the human body may come in contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, industrial water supply, and public water supply.



perennial stream in the southern portion of the site. This Subject Property is not within a Special Protection Area and does not contain rare, threatened, or endangered species.

*Forest Conservation Plan*

The Subject Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code), and a Forest Conservation Plan (FCP) has been submitted for Planning Board approval. The FCP proposes the removal of 8.41 acres of forest, which is less than the 11.92 acres of clearing that is permitted without mitigation. Therefore, no new planting is required for the project.

The Applicant requests approval of 92.25% one-family attached units in the R-90 Zone, under the Optional Method of Development, which requires adherence to Section 22A-12(f)(2)(B) of the Forest Conservation Law and a finding from the Planning Board that the proposed development is more desirable from an environmental perspective than a development that would adhere to the 50% limit on one-family attached dwelling units, semi-detached dwelling units or townhouses. As required by Section 22A-12(f)(2)(B), the Applicant is proposing to retain the 20% conservation threshold (7.21 acres) of the net tract area in forest on-site. The Applicant is dedicating 11.35 acres to M-NCPPC as part of the Legacy Open Space (LOS) program and retaining the majority of the 8.9 acre historic environmental setting associated with the Grosvenor Mansion in its current condition. The Applicant will impact 0.03 acres of forest within the environmental setting to widen the existing entrance off Grosvenor Lane. The Applicant will place 4.05 acres of retained forest along the northern and eastern boundaries of the Subject Property in a Category I Conservation Easement as shown on the Preliminary Plan.

The Applicant must provide a revised Invasive Species Management Plan to include all Category I Conservation Easement forest on-site and a significant stand of bamboo along the northwestern property boundary. As stated in the Natural Resource Inventory/Forest Stand Delineation (#420130150) submitted by the Applicant and Staff's observations of the forest communities on-site, significant invasive species were noted in the understory of all the forest stands on-site. Due to the extensive nature of the invasive species within the forest, supplemental planting must be included in the invasive management plan to accelerate the closure of forest canopy openings. Therefore, the Planning Board requires the Applicant to provide invasive species management throughout all Category I Conservation Easement areas on-site to preserve the remaining forest in the best quality possible and to provide supplemental planting in areas where forest canopy is lost.

In order to minimize the amount of forest clearing within the Stream Valley Buffer and the proposed Legacy Open Space designation area, the Planning Board is requiring the Applicant to reduce the LOD for the installation of the proposed water main in the southern portion of the site to include only the removal of forest within the WSSC easement. If the LOD cannot be minimized to the limits of the WSSC easement, the

Planning Board requires the Applicant to replant the disturbed areas outside the WSSC easement with forest plantings. This will accelerate the re-establishment of the forest and help to minimize the establishment of invasives within the open forest canopy. By minimizing the disturbance of forest and/or restoring the forest canopy, the Applicant's project is more desirable from an environmental perspective.

As stated above, the Applicant is dedicating 11.35 acres of forested land to the Department of Parks, is preserving the majority of the 8.9 acres of the environmental setting of the historic resource, and is preserving 4.05 acres of forest. Additionally, the Preliminary Plan proposes approximately 12.36 percent building coverage, which is less than half the 30 percent maximum allowed by the Zone. Final building coverage to be determined by the Site Plan.

Based on the analysis above, the Planning Board finds the proposed development to be more desirable from an environmental perspective as opposed to standard method development, and approves up to 92.25% one-family attached units as shown on the Preliminary Plan.

#### *Forest Conservation Variance*

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on November 25, 2013 for removal of 131 specimen trees and impact to the critical root zones of 64 specimen trees that are considered high priority for retention under the Forest Conservation Law.

#### Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the limited developable area on-site. The amount of developable area on-site is limited since the northern portion of the site contains a protected environmental setting associated with the historic Grosvenor Mansion and the southern portion of the site will be dedicated to the LOS program. All

of these factors constrain the site and directly influence the layout of the lots, houses, parking, roads, and placement of stormwater management facilities. In order to avoid impacts to specimen trees within the developable area on-site, a significant reduction of lots would be required. In addition, noise mitigation measures are necessary to reduce the noise impacts associated with I-270. Any residential development on the Subject Property would require a noise mitigation, such as a noise wall, to be installed along the forested eastern boundary of the site, which would further impact specimen size trees. Therefore, the Planning Board finds that the Applicant has a sufficient unwarranted hardship to justify a variance request.

The Preliminary Plan achieves many of the North Bethesda/Garrett Park Master Plan's general recommendations for providing infill residential development, accessibility to existing transit infrastructure, protecting the historic resource and safeguarding mature forest. The Applicant has limited the developable area to the central portion of the site, which would necessitate the removal and/impacts to 190 specimen trees. These trees will be impacted or removed in order for the Applicant to develop the Subject Property as proposed in the Application. The majority of these trees will be removed as part of the 8.23 acres forest clearing in the central portion of the site and the 0.03 acres of forest clearing to widen the existing entrance from Grosvenor Lane.

Although the Forest Conservation Plan shows disturbance to the CRZ of trees in the vicinity of the noise wall, the Applicant will take extraordinary tree save measures to minimize impacts to CRZs and avoid any tree removal during the installation of the noise wall. The Applicant will provide root protection matting and other tree protection measures as directed by an arborist to minimize disturbance to CRZ and avoid tree removal to trees #86, #87, #89-91, #128, #129, #134-140, #155, #161, #162, #183-185, #187-190, #192, and #1227-1229. These trees are listed as removed to request a variance; however, the Applicant will use all tree protection measures possible during construction to avoid removing these trees for the installation of the noise wall. Also, aside from the footers of the noise wall, the Applicant will install the noise wall with the bottom of the wall resting on ground surface and not extending below grade. The Planning Board requires the Applicant to provide an arborist report with the revised FCP to detail the tree protection measures, for the trees listed above, that will be implemented in the field to protect these trees and will be specific to the noise wall detail and associated LOD that is required prior to Certified Site Plan.

Although the FCP depicts disturbance to the CRZs (in some instances greater than 30%) of specimen trees #1301, #1302, #1303, #1304, and #1306 on the west side of Fleming Avenue, the work within the LOD will consist of pavement mill and overlay only. The Applicant will ensure tree protection measures are implemented in the field to protect these trees and avoid removal.

In addition to implementing tree protection measures to protect specimen trees on-site, the Applicant was able to decrease the limits of disturbance west of Fleming Avenue and north of Fleming Park. This decrease in the limits of disturbance enabled a reduction in CRZ impacts/eliminated the impacts to the CRZ of specimen trees #300, #304, #305 and #310, retained additional forest, and increased the wooded buffer between the project area and Fleming Park just east of Fleming Avenue.

**Variance Findings** - The Board made the following findings necessary to grant the Variance:

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

Granting the variance will not confer a special privilege on the Applicant. The centralized locations and distribution of the existing specimen trees would require their removal for redevelopment of the site. Due to the unique constraints of the Subject Property caused by the historic designation of the environmental setting within the northern portion of the site and the LOS dedication in the southern portion of the site, the Applicant has a limited amount of developable area on-site. In addition, any residential development of the site would require the installation of a mitigation device such as a noise wall to reduce the noise impacts from Interstate 270. Installation of the noise wall will require impacts and removal of specimen trees along the eastern boundary of the site.

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

The requested variance is based on the layout of the existing buildings on the site, the constraints of the historic designation in the northern portion of the site, and the LOS designation in the southern portion of the site as well as the environmental conditions that warrant the protection of the stream valley buffer on-site, rather than on conditions or circumstances which are the result of actions by the Applicant.

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

The Planning Board finds that the requested variance is a result of the proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

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

Because the specimen trees proposed for removal will be mitigated with new tree plantings, any water quality benefits that would be lost by removing the specimen trees will ultimately be replaced by the planting of the proposed mitigation trees. In addition, with the exception of the installation of the proposed water main and sanitary sewer, the majority of the specimen trees to be removed are not located within the environmental buffer and all of the specimen trees are not within a Special Protection Area. The Applicant is proposing a comprehensively designed and integrated stormwater management system using Environmental Site Design (ESD) practices. Therefore, the Planning Board finds the project will not violate State water quality standards or cause measurable degradation in water quality.

**Mitigation for Trees Subject to the Variance Provisions** – The Applicant proposes to impact the critical root zones of 64 specimen trees and to remove a total of 131 specimen trees. A total of 42 trees are located outside the limits of the forest for a total of 605 inches DBH that must be mitigated for. The Applicant is proposing to plant 51 native canopy trees that are a minimum of 3” caliper in size on-site as mitigation for the specimen tree removal. This mitigation follows the Planning Board’s recommendation that replacement should occur at a ratio of approximately 1” caliper for every 4” DBH removed.

While the number of mitigation plantings follows the Planning Board’s recommendation for specimen tree replacement, the locations of the plantings as submitted by the Applicant do not provide adequate soil volumes for the tree plantings to achieve the canopy size and function of the specimen trees they are replacing. Therefore, the Planning Board is conditioning the approval of the FCP to provide a revised FCP prior to Certified Site Plan that provides adequate specimen tree mitigation to replace the form and function of the specimen trees being removed from the site. The Preliminary Plan depicts several open lawn areas in the environmental setting of the historic mansion and north of the LOS designation areas that would provide large, adequate planting locations for the mitigation trees to reach the size and form of the specimen trees they are replacing. Staff will review the revised mitigation proposal to ensure mitigation trees are planted in the appropriate locations on-site within areas of adequate soil volume, that are not within 10-feet of stormwater/ESD facilities, and not located within or overlapping the PUE and other easements on-site.

Therefore, based on the analysis above and conditions of approval, the Planning Board approves the variance request.

*Noise*

The Applicant prepared a Phase I Noise Analysis, dated May 14, 2013, for the development to assess the current and projected 2032 outdoor noise levels. A noise analysis is necessary to determine the projected interior and exterior noise levels requiring mitigation for residential units and outdoor recreational areas within the Subject Property since the site is bordered by Interstate 270 to the east and Interstate 495 to the southeast. The Montgomery County *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development* (Staff Guidelines), which follow the County's Noise Ordinance, stipulate a 65 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas.

The noise analysis for the Subject Property indicates that future unmitigated traffic noise levels slightly above 70 dBA Ldn and 65 dBA Ldn will impact the backyards of 40 of the proposed one-family attached unit lots closest to I-270 and I-495. All other one-family attached lots will not be exposed to noise levels above 65 dBA Ldn due to the distance from the roadways and/or the noise reduction provided by the one-family attached units closest to I-270 and I-495. To maintain noise levels below 65 dBA Ldn in the backyards closest to I-270, a noise barrier at least 23-foot tall along the site's eastern property lines will be installed. The Planning Board requires the Applicant to provide certification, prior to Certified Site Plan approval, from an engineer that specializes in acoustical treatment that the location and design of the noise mitigation techniques including the proposed noise wall is adequate to attenuate current and/or proposed noise levels to no more than 65 dBA Ldn for the outdoor backyards and areas of common activity.

In order to maintain the noise levels below 65 dBA Ldn in the backyards of the one-family attached units closest to I-495, a noise barrier along the site's property line (comparable to the proposed noise barrier along I-270) will be necessary. However, the noise analysis does not recommend a noise barrier along the southeastern portion of the site closest to I-495 since the amount of noise reduction provided to these backyards does not justify the environmental impacts to the LOS forest dedication area. Since the noise levels in the backyards closest to I-495 are projected to be slightly above 65 dBA (compared to 70 dBA Ldn in the backyards closest to I-270), a noise barrier will only reduce noise levels by one to three dBA, which is barely perceptible by the human ear.

Consistent with the noise guidelines, dwelling units that are impacted by traffic noise levels over 65 dBA Ldn should have interior noise no greater than 45 dBA Ldn. Most residential units meet the interior noise level through current construction methods, but, on occasion, additional acoustical noise mitigation is necessary. The additional mitigation typically includes special materials and additional construction measures of the building shell to attenuate exterior noise levels to acceptable levels inside the dwelling units. Noise measured at 25 feet above grade (to measure the noise of the

upper levels of the one-family attached units) indicates impact above 65 dBA Ldn for 65 of the 143 one-family attached units. Therefore, prior to the issuance of the first building permit, the Applicant must submit certification from an engineer that specializes in acoustical treatment that the building shell for the residential dwelling units will attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.

*Conclusion*

Based on the analysis above and conditions of approval, the Planning Board finds the Preliminary Plan to be in compliance with M-NCPPC's *Environmental Guidelines* and approves the FCP with the conditions of approval. The variance approval is assumed in the approval of the FCP.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. MCDPS issued a letter accepting the Stormwater Management Concept for the Grosvenor site on September 9, 2013 and issued a subsequent letter accepting the revised Stormwater Management Concept for the Grosvenor site on December 6, 2013. The stormwater management concept proposes to meet required stormwater management goals via ESD to the maximum extent practicable (MEP) with the use of porous pavement/pavers, micro-bioretenion, drywells, and a submerged gravel wetland. Additional treatment is required and is provided by the use of two structural sand filters.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 11 2014 (which is the date that this Resolution is mailed to all parties of record); and

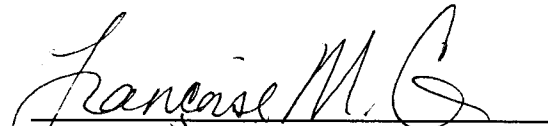
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Presley voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, February 27, 2014, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board