

Conditional Use Application No. 23-06 and Preliminary Plan Application No. 120230040

The Diener School

9312 Old Georgetown Road, Bethesda, Maryland

Applicant's Amended Statement of Justification

March 1, 2023

**I. Introduction**

The Diener School (“Diener,” the “School” or the “Applicant”) is a non-profit, independent school that supports the academic and social needs of students with learning differences ranging from Kindergarten to eighth grade. Diener offers a multifaceted educational approach based on multi-sensory instruction, a connection between movement and learning, individualized learning, and collaboration among teachers, therapists, parents and outside professionals. Diener seeks approval for a conditional use and a preliminary plan of subdivision to permit its relocation to 9312 Old Georgetown Road, Bethesda, on the west side of Old Georgetown Road a few blocks south of I-495 (the “Subject Property”). The Subject Property is composed of part of Parcels 1 and 2, P268, the Gleaning subdivision. It measures approximately 2.5 acres and is located in the R-60 zone. It is currently developed with an office building occupied by special exception holder the American Podiatric Medical Association (SE Case No. BA 2202). Diener seeks abandonment of Special Exception BA 2202<sup>1</sup> and approval of (1) a new conditional use for a Private Educational Institution to allow conversion of the existing office building for school use in a first phase of the project and the addition of a gymnasium in phase 2; and (2) a preliminary plan of subdivision to designate the Subject Property as one lot.

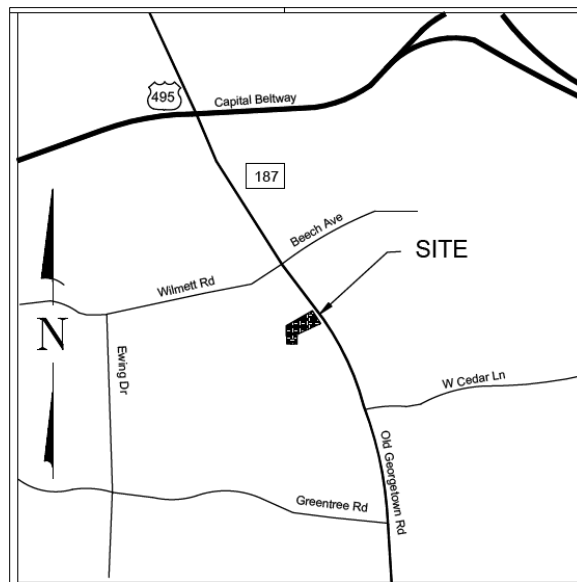
**Exhibit 25**  
**OZAH Case No: CU 23-06**

<sup>1</sup> If Special Exception Case No. BA 1543, shown in Board of Appeals records but not in operation, is still in effect on the property, the Applicant requests its abandonment.

**II. Existing Conditions and Surrounding Neighborhood**

The Subject Property fronts on Old Georgetown Road to the east. It is bordered to the north by office uses and to the south by a residentially-zoned property developed with a vacant single-family-detached structure<sup>2</sup>. To the west, northwest and southwest the Subject Property abuts single-family homes in the R-60 zone. Across the six-lane width of Old Georgetown Road, the Subject Property confronts non-residential uses including medical offices and a veterinary hospital.

*Figure 1 – Site Location*



The existing office building on the Subject Property has two stories and approximately 25,783 square feet of space, as well as surface parking distributed around the site perimeter and in two parking lots behind the building. Driveway openings at the north and south ends of the site frontage, linked by a long, semi-circular drive aisle that wraps around the building and parking areas, provide vehicular access to and from Old Georgetown Road. The Subject Property has extensive decorative landscaping along its road frontage and substantial, mature plantings providing a visual buffer along the north, west and south property lines. An undeveloped area at the rear of the site is dominated by bamboo and contains a small area of 0.19 acres designated as forest. The approved Natural Resources

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<sup>2</sup> The adjoining property is under corporate ownership and is not classified in state tax records as a primary residence.

Inventory/Forest Stand Delineation indicates that the site contains no streams, wetlands or threatened or endangered species. Principal existing site features are shown in the site photographs that follow and on Figure 2, Existing Conditions.



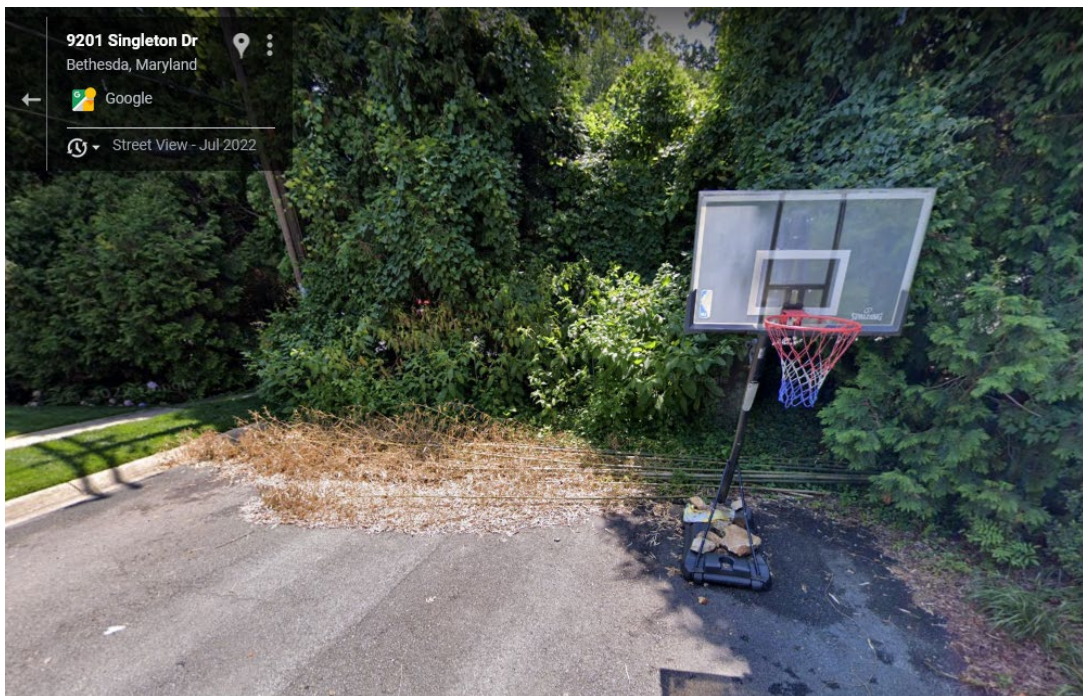
***South End of Subject Property Seen from Old Georgetown Road***



***North End of Subject Property Seen from Old Georgetown Road***



*Aerial View of Subject Property and Surrounding Area*



*Terminus of Singleton Drive Looking Towards Subject Property*

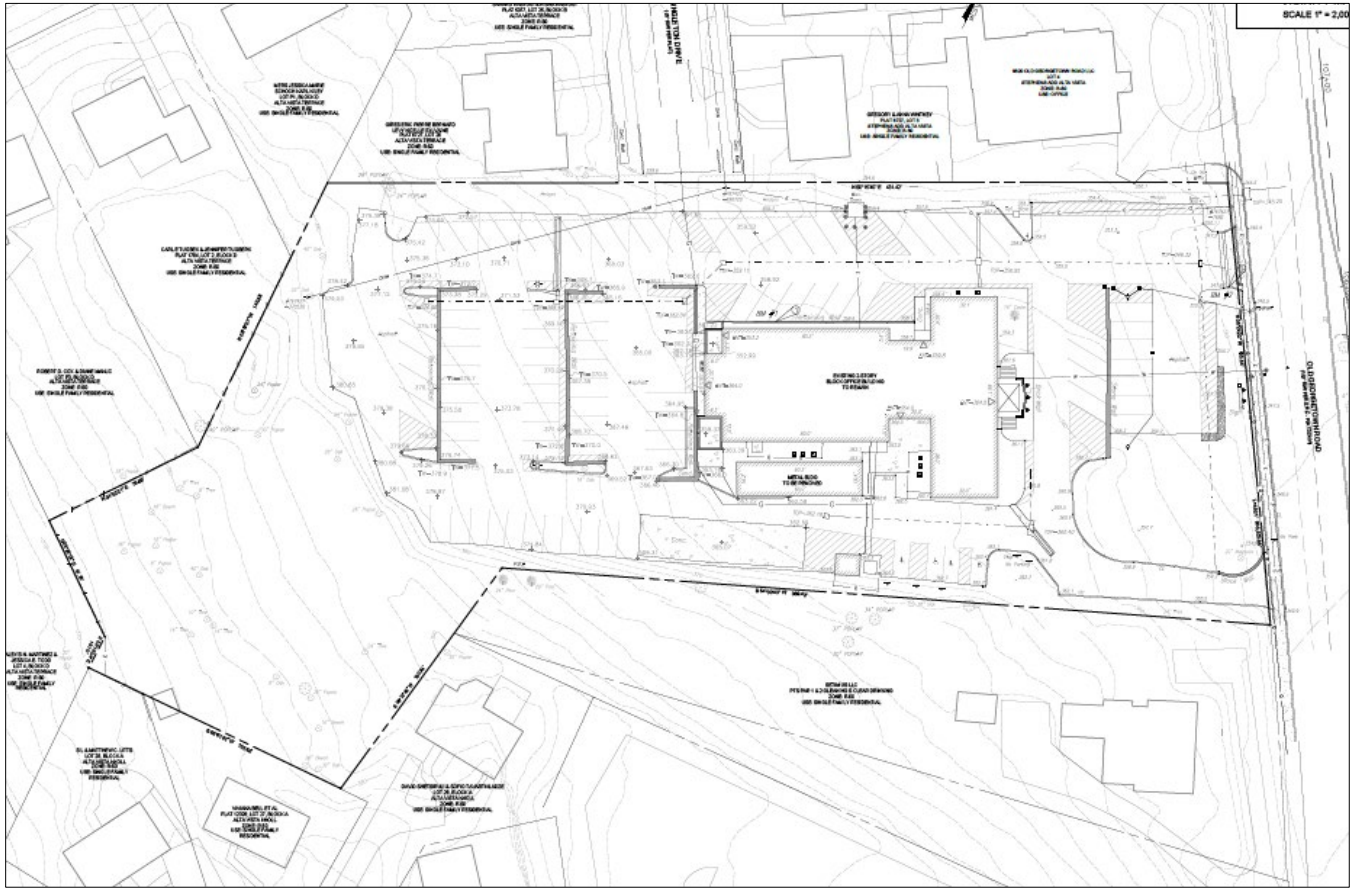


***Southwest Side of Subject Property Seen from the Parking Lot***



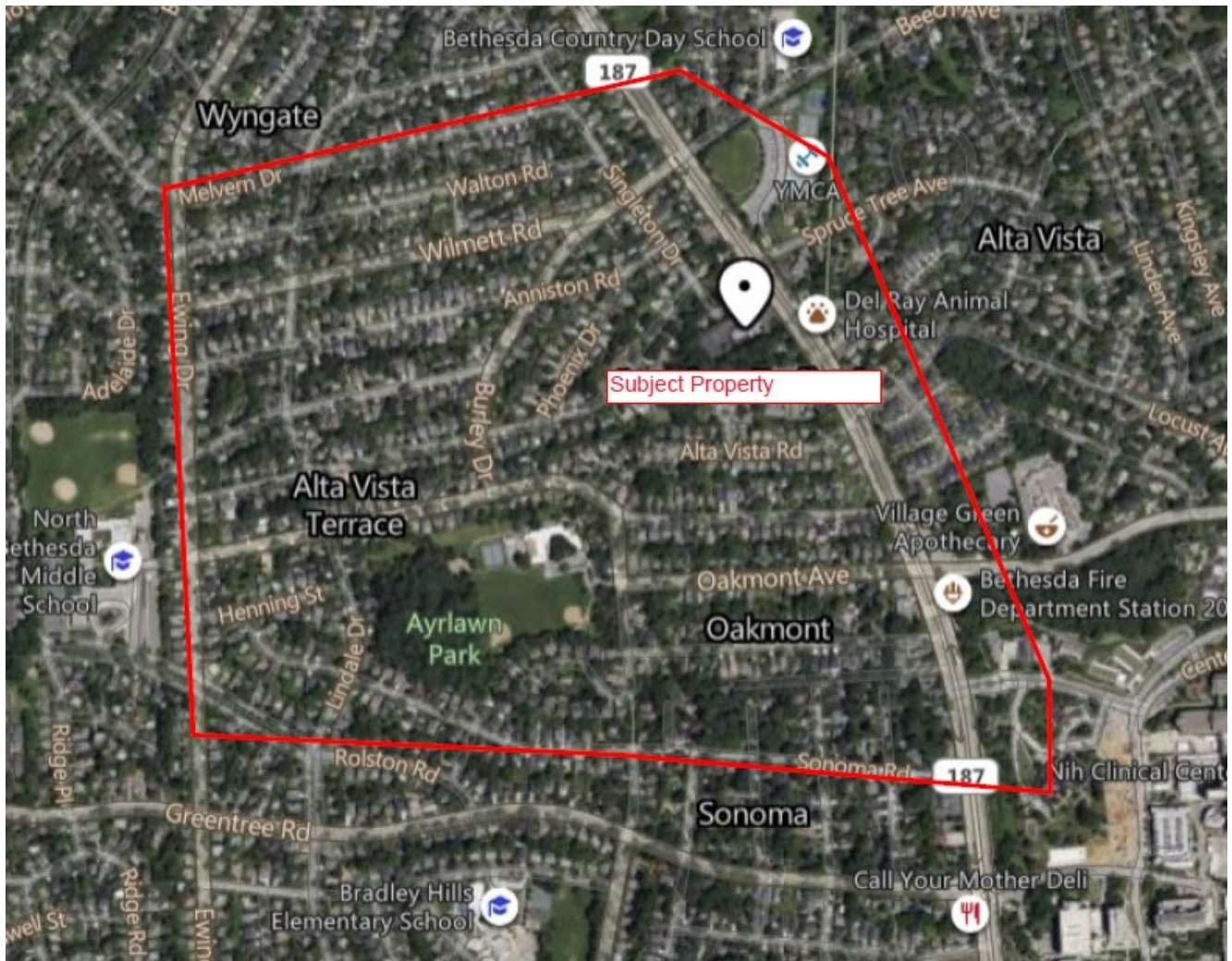
***West Side of Subject Property Seen from the Parking Lot***

Figure 2 – Existing Conditions



The surrounding neighborhood can be defined to extend to Melvern Drive to the north, properties fronting on Old Georgetown Road to the east, Sonoma Drive to the south and Ewing Drive to the west, as delineated on the aerial image below. The surrounding neighborhood consists primarily of single family detached houses on small lots in the R-60 zone, with lots along Old Georgetown Road occupied primarily by non-residential uses. These include a nursing home, medical office buildings, and a number of single-family residential-type structures housing commercial uses such as a general contractor's office and several medical offices. In keeping with master plan recommendations discussed further below, the first block to the north of the Subject Property on Old Georgetown Road has a series of special exceptions. In most cases the structures are residential in appearance, but large parking areas give the block a predominantly commercial appearance. A nearby nursing home at the corner of Old Georgetown Road and Alta Vista Road also operates by special exception. Other special exceptions are located along the northern part of Old Georgetown Road within the surrounding

neighborhood, but at a lower density. In addition, there is a smattering of special exceptions on other streets in the surrounding area.



**Surrounding Neighborhood**

### **III. Proposed Project**

#### **A. School Operations**

Diener currently has 72 students from Kindergarten through 8<sup>th</sup> grade and 39 staff members. The school plans to carefully phase an enrollment expansion to accommodate up to 100 students over the next ten years, with 50 staff members. This application requests approval for up to 120 students and 57 staff members to provide some long-term flexibility. Traffic impacts were assessed based on

120 students to take the most conservative approach<sup>3</sup>. Grade levels offered will remain Kindergarten through 8<sup>th</sup> grade. The school year runs from late August/early September to mid-June. Regular school hours are Monday through Friday, 8 am to 3 pm. Staff hours are 7:45-3:45, although some staff members may choose to arrive early or leave late. In addition, tutoring and private therapy are provided to a small number of students (generally between one and five students) in the school building from 7:00 to 8:00 am and again between 3:00 and 5:00 p.m. Students also have the option to participate in after-school clubs from 3:00 to 4:00 p.m. three days a week. Drop-off/pick-up procedures are discussed in detail under Transportation below.

Diener intends to use the outdoor spaces on site for both educational and recreational purposes. For educational purposes, students will generally be outside in groups ranging from 8-12 or 16-24, accompanied by staff members at a minimum staff:student ratio of 1:6. Recreational outdoor activities may involve cohort groups of 16-24 or larger groups of up to 48 students, and will be accompanied by staff members at a minimum staff:student ratio of 1:10. Diener typically has two outdoor events during the school day per year – a Halloween parade that takes place partly outdoors and an Olympics event in June. Diener Special events during the school day to which parents are invited occur about six times per year, including a Thanksgiving Feast, Grandparents' Day and graduation, all of which take place indoors. After-hours weekday events include Back to School Night, parent presentations three to four times per year, and a middle school Valentine's Dance. Weekend events consist of a Fall Harvest Festival (which is partly outdoors and may continue to be held off-site), an end-of-year party held outdoors, an alumni gathering for 20-40 people held partially outdoors, and Summer Playdates held two to four times per summer, outdoors, for 20-50 people.

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<sup>3</sup> The Local Area Transportation Report assumed a staff complement of 66 with 120 students. Since the preparation of that report, the School has reconsidered the staffing needs that would result from a student body of 120 and determined that 57 is a more realistic estimate of the maximum number of staff that will be needed if enrollment should rise to 120 students.



During the summer months, Diener offers summer camp and private therapy/tutoring to a small number of students. Historically, these activities have drawn about 20 people to campus, including students, tutors, therapists and staff. Diener anticipates that this number may rise, as enrollment increases, to a maximum of 50 students and 24 staff members.

Diener requests approval to operate within the following parameters:

1. Maximum student enrollment, K through 8, of 120.
2. Maximum 57 staff members.
3. School year extending from late August to mid- June.
4. School day running from about 8:00 a.m. to about 3:00 p.m., with a morning drop-off period of approximately 30 minutes and an afternoon pick-up period of approximately 30 minutes.
5. Tutoring and therapy for up to ten students per school day, before school from 7:00 to 8:00 a.m. and after school from 3:00 to 5:00 p.m.
6. School clubs meeting between 3:00 and 4:00 p.m. up to three times per week, with up to 35 students and 10 staff participating.
7. Maximum of seven weeks of summer school or summer camp, with a maximum student enrollment of 50 and maximum staffing of 24. Hours of operation should be the same or shorter than during the school year.
8. Maximum of 12 special events per year to which the entire school community is invited, including students and parents, and eight special events to which smaller groups are invited. Whole-school weekend events will be limited to five times per year and weekday evening events to eight times per year. A list of typical special events is provided on the next page.

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<b>DIENER SCHOOL TYPICAL SPECIAL EVENTS</b>			
<b>Event</b>	<b>Indoors/ Outdoors</b>	<b>Timeframe</b>	<b>Typical Attendance</b>
<b>School Day Events</b>			
1. Sneak Peak	Indoors	Late August/ early September	All students/staff plus 75-99% of parents
2. Halloween Parade	Indoor/outdoor	October	All students/staff plus 75-99% of parents
3. Thanksgiving Feast	Indoors	November	All students/staff plus 75-99% of parents
4. Valentine's Day Class Celebrations	Indoors	February	All students/staff plus 75-99% of parents
5. Grandparents' Day	Indoors	Winter/Spring	All students/staff plus 75-99% of parents
6. Pastries with Parents	Indoors	Winter	All students/staff plus 75-99% of parents
7. Science Fair	Indoors	Spring	All students/staff plus 75-99% of parents
8. Graduation	Indoors	June	All students/staff plus 50-75% of parents
9. Parent Coffee	Indoors/Outdoors	Monthly	5-10 parents
<b>Weekday After-Hours Events</b>			
10. Back to School Night	Indoors	September (1 or 2 evenings)	Parents only
11. Parent Trainings/ Presentations	Indoors	3-4 times per year	Parents only
12. Middle School Valentine's Day Dance	Indoors	February	38-60 students and 15 staff
<b>Weekend and Summer Events</b>			
13. Fall Harvest Festival	Indoors/Outdoors	Fall	Whole school and families (may continue to be held off-site)
14. End-of-Year Party	Outdoors	June	Whole school and families
15. Alumni Gathering	Indoors/Outdoors	Varies	20-40 people
16. Summer Playdates	Outdoors	2 to 4 per summer	20-50 people

## **B. Phase 1 Site Design**

During Phase 1 of the project, Diener proposes a full interior renovation of the existing building to accommodate the school's needs. Changes to the exterior of the site during Phase 1 will focus on the area between the building and the street. Most of the existing parking in front of the building will be removed, leaving only three visitor parking spaces in the front driveway. The landscaping and parking that currently occupy the space between the two driveway entrances will be replaced by more extensive landscaping, stormwater management facilities, a pedestrian path with a staircase leading up to the front entrance, and an exterior elevator providing ADA-compliant access. The elevator and pedestrian routes are planned next to one another, joining at the upper level of the site to follow the same path across the drive aisle for the visitor parking spaces to reach the school's front entrance. A ramp will be provided along the face of the building to allow for an ADA accessible route to the front entry from the drive aisle path.

Other site changes will include identification signage; removal of one rear asphalt parking area to be replaced with a grassy playground area; removal of a metal storage structure on the south side of the building, to be replaced with a playground area; installation of signage and/or markings to designate the semi-circular drive aisle as a one-way, two-lane queuing area for student drop-off/pick-up; and the installation of gated entrances on both sides of the school building. In addition, the Applicant proposes frontage improvements consistent with Complete Streets guidelines, including a new, 11-foot wide, sidepath with an 8-foot landscape buffer along Old Georgetown Road and new street trees along the property's frontage. Figure 3 below presents a conceptual image of the Phase 1 site layout. Figure 4 is an artist's rendering of the elevator and pedestrian path as seen from the sidewalk in front of the site.

Figure 3 – Phase 1 Site Layout

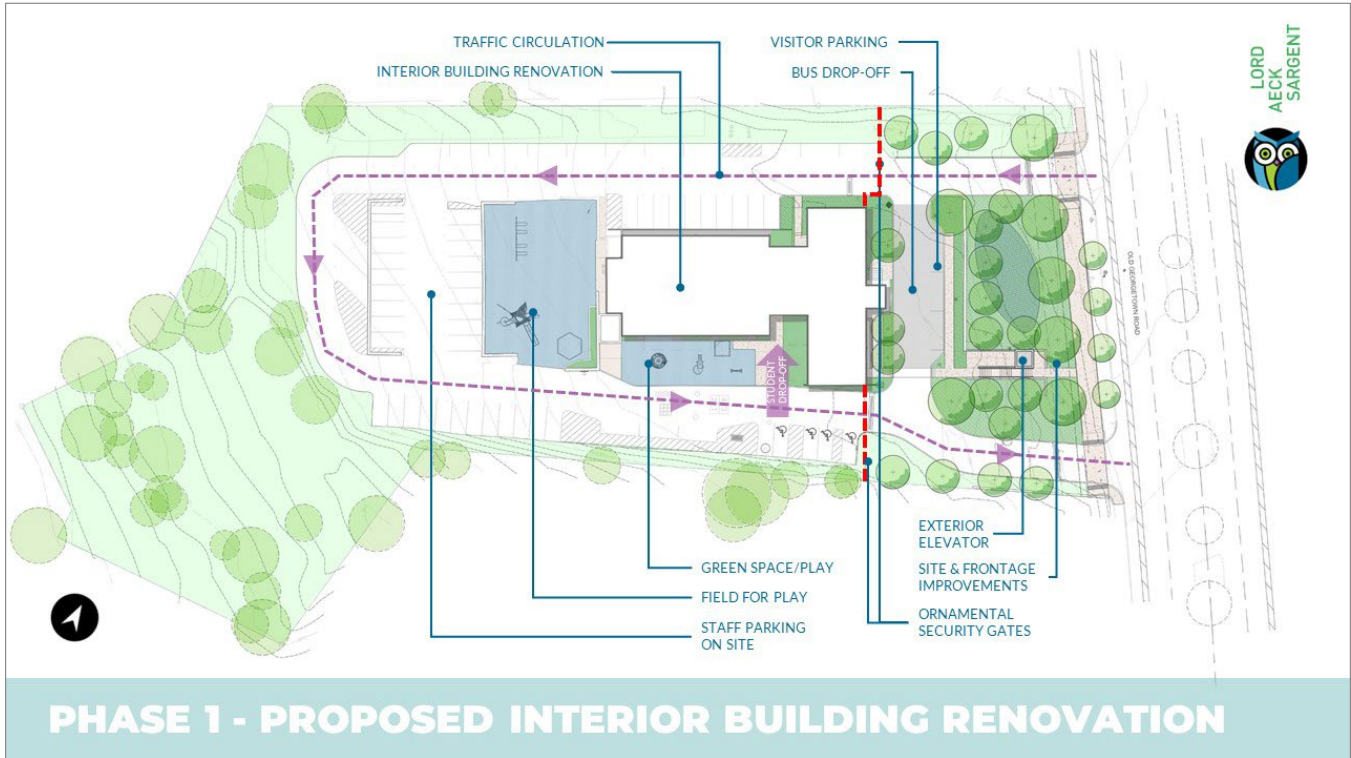
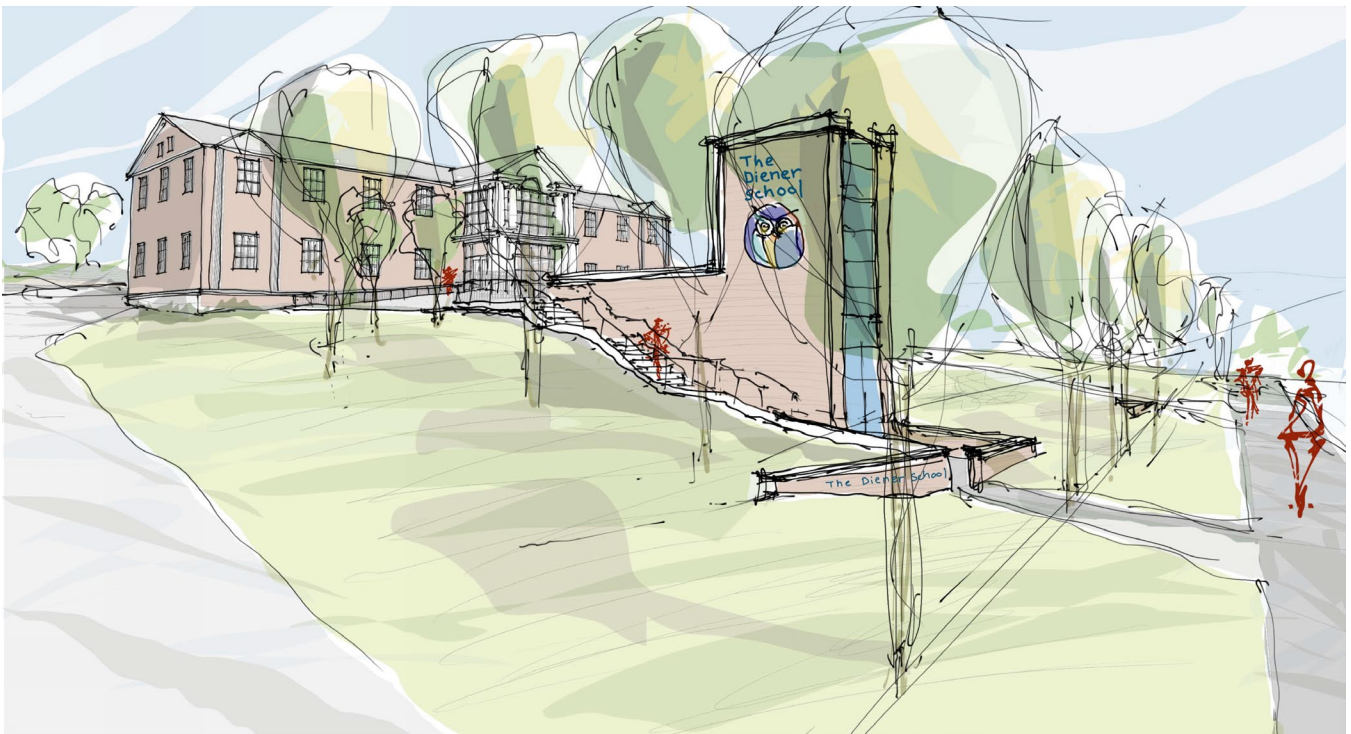


Figure 4 – ADA and Pedestrian Access as Seen from Old Georgetown Road



Vehicular access will be available inbound at the north end of the Old Georgetown Road frontage and outbound at the south end; on-site traffic will be one-way. Because of a median along this stretch of Old Georgetown Road, vehicles will be limited to right turns into the site at the north end and right turns out at the south end. During Phase 1, the project will provide 65 parking spaces on site, 19 more than the zoning code requirement of 46 spaces and ample for the School's current 39-member staff and its expected future staffing complement of 50, potentially rising to 57. Students are not expected to come to school via bicycle, and pedestrian arrivals/departures are expected to be infrequent. A current pedestrian access point between the Subject Property and Singleton Drive will have to be closed for safety reasons. Some members of Diener's neuro-divergent student population make impulsive decisions/reactions which can result in elopement, so for student safety Diener maintains a closed campus. The Subject Property cannot provide cut-through access for individuals who are not associated with the School. Diener intends to add ornamental gated entrances on both sides of the school building, to be kept closed outside of pick-up and drop-off periods, so that students cannot unintentionally wander off site and individuals not associated with the School can enter only through the main doors.

### **C. Phase 2 Site Design**

The timing of Phase 2 will be dependent on fundraising; Diener hopes to be able to build Phase 2 within five to seven years. The central element of Phase 2 will be an 11,000-square-foot gymnasium addition at the rear of the site, connected to the main school building by a breezeway. The addition will have two stories plus a basement. Natural daylighting and views are thoughtfully integrated into the design. The entry floor façade is strategically 'carved away' to reveal a large transparent zone that creates a strong relationship between interior and exterior. This transparent zone relates directly to the collaborative courtyard situated between the existing building and the gym. It allows for direct access from the gym via glass garage doors and one of the main entries to the building. The connector provides for daylighting into the new open stair connecting all levels, and the stair running to the upper level is expressed on the exterior façade. The gym provides ample daylighting and views via the glazing at the upper portion of the space. As shown in Figure 5 below, Phase 2 will provide the

opportunity for additional site improvements such as an outdoor educational space and additional outdoor play space. Adjustments to grading will also be needed to tie the Phase 2 improvements behind the building façade into the Phase 1 improvements in the front portion of the site. Renderings in Figures 6 and 7 provide a conceptual idea of how the proposed addition will fit into the site.

Figure 5 – Phase 2 Site Layout



Figure 6 – Building with Phase 2 Expansion



Figure 7 – Proposed Gymnasium and Rear Entrance



#### **D. Parking**

During Phase 2, Diener will have 46 on-site parking spaces, having repurposed some of the rear parking for the gym and outdoor play space. Under Zoning Code Section 59.6.2.4, 46 parking spaces is the minimum required to support 57 staff members. Based on the School's typical staff: student ratios, Diener anticipates that 57 staff members will be sufficient to serve the maximum enrollment of 120 anticipated in this application.

#### **E. Frontage Improvements**

The project includes a 15-foot-wide dedication along the site frontage where the Applicant will construct an 11-foot-wide asphalt sidepath with an 8-foot-wide landscaped buffer and a 2-foot-wide maintenance strip. As directed by Planning Department staff, the existing separated bike lane recently installed by the State along this stretch of Old Georgetown Road will remain in place.

#### **F. Relationship to Neighboring Land Uses**

Neighboring non-residential uses are not expected to be sensitive to the level and type of activity taking place on the Subject Property. Neighboring residential uses will have little to no view of

the Diener campus due to extensive, mature perimeter landscaping that will be largely maintained and also enhanced. Residential neighbors will be buffered from school activities and noise by distance as well as landscaping due to ample setbacks from the school building and its outdoor play areas.

Building setbacks will be unchanged from existing conditions in Phase 1. The setbacks will help keep sound levels reasonable and are summarized in the table below.

Building and Play Area Setbacks				
	Phase 1		Phase 2	
	Min. Rear Setback	Min. Side Setback	Min. Rear Setback	Min. Side Setback
Building	198 ft.	48 ft.	101 ft.	38 ft.
Play Areas	127 ft.	42 ft.	64 ft.	34 ft.

**G. Transportation**

At maximum enrollment of 120 students, Diener is expected to generate 192 trips during the morning peak hour, 149 trips during the school’s afternoon peak hour from 3:00 to 4:00 p.m., and 10 trips during the roadway peak hour from 5:00 to 6:00 p.m. The submitted Traffic Study concludes that the project would not increase delays beyond the relevant allowable congestion standards along the Old Georgetown Road corridor. The project satisfies the motor vehicle adequacy test without the need for roadway improvements.

The Traffic Study concluded that the local transportation network provides for convenient and efficient transportation options via transit, bicycle, walking and driving. The study also included an assessment of multi-modal transportation system deficiencies in the area of the Subject Property, as required under the County’s Growth and Infrastructure Policy. In keeping with Local Area Transportation Review Guidelines, the Applicant proposes to contribute to improving off-site transportation deficiencies by installing a Real Time Information (RTI) display at a nearby bus shelter.

One of the Applicant’s imperatives for the use of the Subject Property is ensuring that no site traffic queues on Old Georgetown Road at any time. To this end, Diener’s Phase 1 plans include:

1. Two buses that will provide transportation to and from school for up to 60 students from central locations within the D.C. region.
2. Signage and/or pavement markings that will direct all vehicles entering the site during drop-off and pick-up periods to form a two-lane, one-way queue that

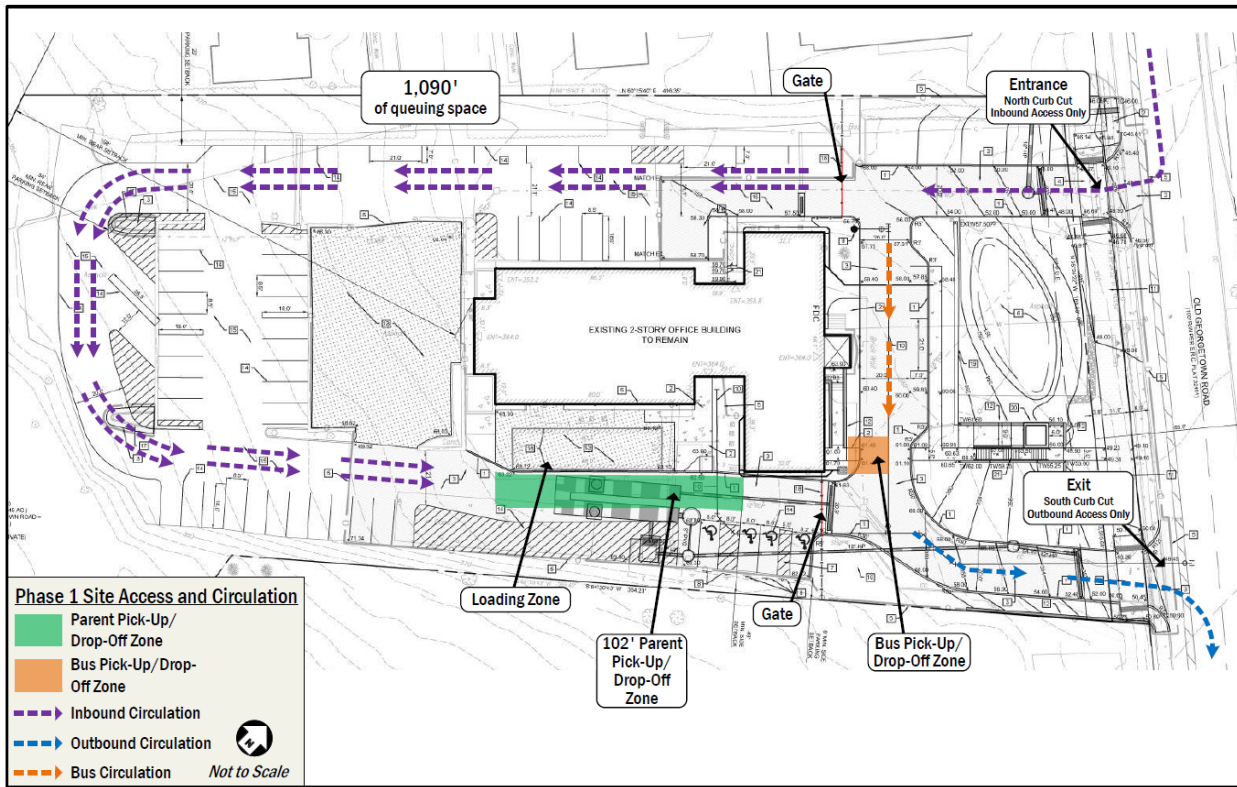


wraps around the building, leading to the student drop-off/pick-up area identified on Figure 3; the queuing lanes will accommodate a total of approximately 44 vehicles.

3. An approximately 30-minute drop-off period in the morning and an approximately 30-minute pick-up period in the afternoon, which Diener's traffic engineers estimate will be sufficient for the anticipated number of vehicles.
4. Staff posted at the drop-off/pick-up location to bring children to and from the school entrance quickly and efficiently while parents remain in their vehicles.
5. Staff posted at the vehicular entrance during drop-off and pick-up periods to monitor arriving vehicles and ensure no queuing takes place in the public roadway.
6. Parents to be informed through orientation, the Parent Handbook and periodic reminders that stopping or queuing on Old Georgetown Road is prohibited at all times.

The plan below depicts graphically how on-site circulation will function.

Figure 8 – Circulation Plan



The School is also keenly aware of the need to keep all parking for Diener on-site. There will be little incentive for parents or staff to park on neighborhood streets, given that there will be convenient parking on-site and no direct pedestrian connection between the Subject Property and neighborhood streets. Nonetheless, staff contracts and the Parent Handbook will require all parking associated with

Diener to take place on school property except during special events, when overflow parking will be provided off-site. A submitted Transportation Management Plan will help achieve three goals:

- a. Manage traffic flow to allow efficient traffic movements into and out of the site with minimal impact on the surrounding transportation network;
- b. Ensure that on-site circulation is conducted in an organized, safe and efficient manner that accommodates pick-up/drop-off activity and associated queuing on site; and
- c. Minimize, wherever reasonably possible, the volume of vehicles coming to and from the School to support goals (i) and (ii).

### **III. Conditional Use Findings**

The proposed Conditional Use satisfies the findings required for approval in Montgomery County Code Chapter 59, Sections 3.4.5 and 7.3.1, quoted below in bold and italics.

#### ***Section 59.3.4.5. Educational Institution, Private.***

- 1. Where an Educational Institution (Private) is allowed as a limited use, it must satisfy the following standards:***

***\* \* \* \****

Not applicable.

- 2. Where an Educational Institution (Private) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section [7.3.1](#), Conditional Use, and the following standards:***
  - a. The Educational Institution (Private) will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element that is incompatible with the environment and character of the surrounding neighborhood.***

The Diener School will not constitute a nuisance. The present application proposes a modest number of students relative to the size of the site; has a detailed plan in place to manage arrivals and departures without adverse impacts on local traffic conditions; will create no noticeable noise except the sound of children playing, a typical noise from schools, private and public, which are often embedded in residential neighborhoods; and will have less physical activity than many schools, given that Diener's students do not play on organized sports teams and the student body is relatively small. No aspect of the School will rise to the level of creating a nuisance. Moreover, the project will provide the community with an important educational opportunity for children who would benefit from Diener's special approach to instruction.

- b. The Educational Institution (Private) will be in a building compatible with the residential character of the surrounding neighborhood, and, if the Educational Institution (Private) is located on a lot of 2 acres or less, in either an undeveloped area or an area substantially developed with detached houses, the exterior architecture of the building must be similar to a detached house design, and at least comparable to any existing homes in the immediate neighborhood.***

The existing building has been part of the neighborhood for many years – State Department of Taxation and Assessment Records indicate that the building was constructed in 1966. The building is comparable in scale and function to other non-residential buildings along this stretch of Old Georgetown Road, all of which buffer the adjoining residential neighborhoods from the noise and constant activity of traffic on Old Georgetown Road. The Subject Property is more than two acres in size. The building will not be visible from surrounding residential properties due to distance, mature landscaping and its modest height, making it fully compatible with the character of the surrounding neighborhood. The gymnasium planned for Phase 2 of the project will be consistent with the existing building in size and scale and will complement its architecture while bringing a slightly more modern aesthetic to the site. The gym integrates into the existing context by using roof forms and scale that are consistent with the existing building. It also strategically uses a complementary brick to ground the project in the site and create a strong aesthetic relationship with the existing building. The gym uses school colors for the façade of the building to both create greater connection to the school's history and aid in defining its future.

- c. The Educational Institution (Private) will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community.***

The School will not, either on its own or in combination with other existing uses, affect the surrounding residential community adversely or change its character or future development. The surrounding neighborhood combines predominantly non-residential uses fronting on Old Georgetown Road, in buildings of modest size and scale, with mature, stable neighborhoods of well-maintained, attractive single-family homes fronting on side streets. The slightly larger scale of most of the non-residential buildings helps to insulate nearby homes from the impacts of persistently heavy levels of traffic on Old Georgetown Road. The co-location of residential and non-residential uses in this area

over many years has created a stable relationship in which the residential communities continue to thrive and to attract new investment, as evidenced by a number of new homes that appear to have been built on blocks near the Subject Property in recent years. The proposed Conditional Use will not convert a residential use to a non-residential one, build a taller building than the area is accustomed to, or otherwise make a significant change in the character of the area. Rather, it will simply convert the site to a new use (one that will serve Montgomery County children, including from the surrounding residential community) that is appropriate for the size and location of the site, and will maintain significant setbacks and dense, mature perimeter screening on all sides of the Subject Property.

***d. The number of pupils per acre allowed to occupy the premises at any one time must be specified by the Hearing Examiner considering the following factors:***

***i. traffic patterns, including:***

***(a) impact of increased traffic on residential streets;***

***(b) proximity to transit services, arterial roads, and major highways; and***

***(c) provision of measures for Transportation Demand Management in Chapter 42 (Section 42A-21).***

The submitted traffic study concludes that the proposed project will not increase delays or critical lane volumes beyond the relevant allowable congestion standards along the Old Georgetown Road corridor, which includes three study intersections of Old Georgetown Road with a residential street. The traffic study's analysis of trip distribution (the routes vehicles will likely use to travel to and from the site) indicates that about 80% of inbound site traffic will arrive via I-495, Old Georgetown Road (classified as a major highway) and Cedar Lane (classified as an arterial) without using any nearby residential roads, and that roughly 80% of outbound site traffic will leave the site using Old Georgetown Road and Cedar Lane, leaving only 20 percent of site traffic using any of the local residential roads. These modest traffic increases are not expected to have a noticeable impact on residential streets.

The traffic study also concludes that the Subject Property is served by convenient and efficient transportation options via transit, bicycle, walking and driving. The Subject Property benefits from an extensive regional and local transportation system including bus routes, Metro within 1.5 miles, pedestrian and bicycle facilities and excellent vehicular access to the Capital Beltway and multiple arterial roadways from its location on a major highway.

The Applicant has submitted a proposed Transportation Management Plan that will address salient transportation issues including trip reduction efforts, the Applicant's Pick-up/Drop-Off Plan to prevent off-site queuing, and preventing off-site parking (except as permitted for special events).

***ii. adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter vehicle queues on adjacent streets;***

As noted above, the Subject Property is designed to maximize on-site queuing space, with a two-lane, one-way drive aisle leading from the sole vehicular entrance, around the site perimeter to the drop-off/pick-up area and thence to the sole vehicular exit. The on-site drive aisle can accommodate approximately 44 vehicles in Phase 1 and 42 vehicles in Phase 2. As described in detail in the traffic study, school staff will be stationed at key locations to facilitate the efficient movement of students between the school building and vehicles, and parents will be instructed to remain in their cars to increase efficiency. As discussed in depth above, both parents and staff will be strictly prohibited from standing or waiting on Old Georgetown Road at any time, and this prohibition will be enforced by the Applicant. These steps, as well as measures outlined in the Transportation Management Plan such as bussing students, will effectively deter vehicle queuing on Old Georgetown Road.

***iii. adequacy of student and visitor parking; and***

No student parking is needed due to the ages of Diener's students. Adequate visitor parking will be provided at the front of the site, near the school entrance.

***iv. noise or type of physical activity.***

Like other elementary and middle schools, Diener students will have periods of outdoor activity, as detailed above, with typical sounds of children playing. The proposed school can be expected to generate less noise than many schools due to the small size of the student body and the absence of organized sports teams. The Subject Property can easily accommodate Diener's expected maximum enrollment.

***e. Density greater than 87 pupils per acre may be permitted only where the Hearing Examiner finds that:***

- i. the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements;***
- ii. the additional density will not adversely affect adjacent properties; and***

**iii. additional traffic generated by the additional density will not adversely affect the surrounding streets.**

The Applicant seeks a density of 48 pupils per acre, well below the listed threshold.

**f. Outdoor recreation facilities are screened from abutting residential properties under Division [6.5](#).**

The proposed recreational facilities are limited to small play areas. Diener does not propose ball fields or other large play areas that are common to many private educational institutions. General perimeter screening is not required per Section 59.6.5.3.4 because parking areas are situated between the building/outdoor play areas and the property lines on all three sides that abut residential properties. However, the project is subject to parking lot screening requirements under Section 59.6.2.9. As discussed in more detail under the conditional use findings, the Applicant seeks minor waivers from certain elements of the parking lot screening requirements due to site constraints such as a narrow shape, re-using a building that sits in the center of the site, and steep slopes. Nonetheless, the trees and shrubs provided to satisfy the parking lot screening, in combination with setbacks and the existing tree and plant material that is to remain, will provide an effective visual screen between neighboring residential properties and the proposed outdoor recreation facilities.

**g. Any lighting associated with outdoor recreation facilities must satisfy Section [6.4.4](#).**

All site lighting will comply with Section 59.6.4.4. Fixtures will be full or partial cut-off and illumination levels will be 0 footcandles along all property lines other than Old Georgetown Road, where illumination will be 0.2 footcandles.

**h. If an Educational Institution (Private) operates or allows its facilities by lease or other arrangement to be used for: (i) tutoring and college entrance exam preparatory courses; (ii) art education programs; (iii) artistic performances; (iv) indoor and outdoor recreation programs; or (v) summer day camps, the Hearing Examiner must find, in addition to the other required findings for the grant of a conditional use, that the activities in combination with other activities of the institution, will not have an adverse effect on the surrounding neighborhood due to traffic, noise, lighting, or parking, or the intensity, frequency, or duration of activities. In evaluating traffic impacts on the community, the Hearing Examiner must take into consideration the total cumulative number of expected car trips generated by the regular academic program and the after school or summer programs, whether or not the traffic exceeds the capacity of the road. A transportation management plan that identifies measures for reducing demand for road capacity must be approved by the Hearing Examiner.**

Diener's limited summer tutoring and therapy will have a modest level of participation and will not, in combination with school-year activities, have an adverse effect on the surrounding neighborhood. A Transportation Management Plan has been submitted for review as part of this application process.

***i. The Hearing Examiner may limit the number of participants and frequency of events.***

The Applicant requests approval of the Conditional Use with the limitations on number of participants and frequency of events listed below.

1. Maximum student enrollment, K through 8, of 120.
2. Maximum 57 staff members.
3. School year extending from late August to mid- June.
4. School day running from about 8:00 a.m. to about 3:00 p.m., with a morning drop-off period of approximately 30 minutes and an afternoon pick-up period of approximately 30 minutes.
5. Tutoring and therapy for up to ten students per school day, before school from 7:00 to 8:00 a.m. and after school from 3:00 to 5:00 p.m.
6. School clubs meeting between 3:00 and 4:00 p.m. up to three times per week, with up to 35 students and 10 staff members participating.
7. Maximum of seven weeks of summer school or summer camp, with a maximum student enrollment of 50 and maximum staffing of 24. Hours of operation should be the same or shorter than during the school year.

Maximum of 12 special events per year to which the entire school community is invited, including students and parents, and eight special events to which smaller groups (up to 60 attendees) are invited. Whole-school weekend events will be limited to three times per year and weekday evening events to eight times per year.

***Section 59.7.3.1. Conditional Use***

***E. Necessary Findings***

***1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:***

- a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;***

There are no applicable previous approvals on the subject site. The only previous approvals were for unrelated special exceptions for which abandonment has been requested.

- b. satisfies the requirements of the zone, use standards under Article [59-3](#), and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article [59-6](#);***

A private educational use is allowed in the R-60 zone as a conditional use. See Section 59.3.1.6. Both phases of the project will satisfy most applicable development standards. This is demonstrated in the Data Table below and on the next page, excerpted from the Conditional Use Cover Page, and on the submitted Landscaping Plan.

CONDITIONAL USE DEVELOPMENT STANDARDS			
CURRENT ZONING: R-60 EXISTING PROPERTY AREA: 109,796 SF (2.52 AC) PROPOSED DEDICATION: 3,180 SF (0.07 AC) SITE AREA: 106,616 SF (2.45 AC) EXISTING USE: OFFICE PROPOSED USE: EDUCATIONAL INSTITUTION (PRIVATE)			
ZONING STANDARD	PERMITTED/REQUIRED	PROVIDED PER PHASE 1	PROVIDED PER PHASE 2
MAXIMUM LOT COVERAGE 59-4.4.1.1.B.2	20%	8%	12.9%
MINIMUM LOT AREA 59-4.4.9.B.1	6000 SF	106,616 SF	106,616 SF
MINIMUM LOT WIDTH AT FRONT BUILDING LINE 59-4.4.9.B.1	60 FT	202 FT	202 FT
MINIMUM LOT WIDTH AT FRONT LOT LINE 59-4.4.9.B.1	25 FT	211 FT	211 FT
FRONTAGE ON STREET OR OPEN SPACE 59-4.4.9.B.1	REQUIRED	PROVIDED	PROVIDED
MAXIMUM DENSITY 59-4.4.9.B.1	7.26 (UNITS/ACRE)	N/A	N/A
MINIMUM FRONT SETBACK 59-4.4.9.B.2	25 FT	93 FT	93 FT
MINIMUM SIDE SETBACK 59-4.4.9.B.2	8 FT	48 FT	38 FT
MINIMUM SUM OF SITE SETBACKS 59-4.4.9.B.2	18 FT	97 FT	87 FT
MINIMUM REAR SETBACK 59-4.4.9.B.2	20 FT	198 FT	101 FT
MAXIMUM HEIGHT 59-4.4.9.B.2	35 FT	28.6 FT	28.6 FT
PARKING LOT LANDSCAPING - LANDSCAPED AREA 59-6.2.9.C.1	5%	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS
PARKING LOT LANDSCAPING - PERIMETER PLANTING WIDTH 59-6.2.9.C.3.a.i	10 FT	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS <sup>7</sup>
PARKING LOT LANDSCAPING - PERIMETER PLANTING HEIGHT 59-6.2.9.C.3.a.ii	6 FT	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS
PARKING LOT LANDSCAPING - TREE CANOPY 59-6.2.9.C.2	25%	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS <sup>8</sup>
PARKING LOT LANDSCAPING - CANOPY TREES 59-6.2.9.C.3.a.iii	EVERY 30' O.C	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS
PARKING LOT LANDSCAPING - UNDERSTORY TREES 59-6.2.9.C.3.a.iv	2 PER CANOPY TREE	SEE LANDSCAPE PLANS	SEE LANDSCAPE PLANS <sup>10</sup>
REAR PARKING SETBACK 59-6.2.5.K.2.a	20 FT	54 FT	51 FT
SIDE PARKING SETBACK 59-6.2.5.K.2.b	16 FT	8 FT <sup>6</sup>	8 FT <sup>6</sup>

*[See next page for parking requirements and footnotes]*



PARKING REQUIREMENTS				
VEHICLE 59-6.2.4.B	0.25 PER STUDENT <sup>1</sup> + 1 PER EMPLOYEE <sup>2</sup> (INCLUDING 20% NADMS REDUCTION)	46 SPACES (PHASES 1 & 2) <sup>10</sup>	65 SPACES <sup>11</sup>	46 SPACES <sup>11</sup>
ACCESSIBLE SPACES 59-6.2.3.B / COMAR 05.02.02		3 SPACES (PHASES 1 & 2)	4 SPACES (2 VAN ACCESSIBLE / 2 NON-VAN ACCESSIBLE)	3 SPACES (2 VAN ACCESSIBLE / 1 NON-VAN ACCESSIBLE)
MOTORCYCLE / SCOOTER SPACES 59-6.2.3.C		2 SPACES (PHASE 1)	2 SPACES	N/A <sup>3</sup>
CAR-SHARE SPACES 59-6.2.3.D		1 SPACE (PHASE 1)	1 SPACE	N/A <sup>3</sup>
ELECTRIC VEHICLE CHARGING SPACES 59-6.2.3.E		N/A (PHASES 1 & 2) <sup>3</sup>	N/A <sup>3</sup>	N/A <sup>3</sup>
BICYCLE 59-6.2.4.C	SHORT TERM BICYCLE PARKING <sup>2</sup> 0.05 PER STUDENT (120 STUDENTS X 0.05) =	6 SPACES (PHASES 1 & 2)	6 SPACES	6 SPACES
	LONG TERM BICYCLE PARKING <sup>2</sup> 0.10 PER EMPLOYEE (57 EMPLOYEES X 0.10) =	6 SPACES (PHASES 1 & 2)	6 SPACES	6 SPACES <sup>4</sup>
<p>FOOTNOTES:</p> <ol style="list-style-type: none"> <li>1. THE SCHOOL PROVIDES EDUCATION FOR STUDENTS UP TO 8TH GRADE AND NO STUDENTS ENROLLED WILL BE AGE 16+.</li> <li>2. 57 STAFF MEMBERS IS THE ESTIMATED MAXIMUM NUMBER OF STAFF THAT WILL BE NEEDED IF ENROLLMENT SHOULD RISE TO 120 STUDENTS, NUMBER OF EMPLOYEES PROVIDED BY THE OWNER/APPLICANT.</li> <li>3. THE PARKING FACILITY CONTAINS LESS THAN 100 SPACES TOTAL IN PHASE 1 AND LESS THAN 50 SPACES TOTAL IN PHASE 2.</li> <li>4. LONG TERM BICYCLE PARKING TO BE PROVIDED IN A SECURE FACILITY WITHIN THE EXISTING BUILDING</li> <li>5. REFER TO LANDSCAPE PLANS FOR DEVELOPMENT STANDARDS RELATED TO LANDSCAPING.</li> <li>6. THE APPLICANT IS REQUESTING A PARTIAL WAIVER UNDER SECTION 6.2.10 OF THE SIDE PARKING SETBACK REQUIREMENT. REFER TO STATEMENT OF JUSTIFICATION AND LANDSCAPE PLANS FOR ADDITIONAL DETAILS.</li> <li>7. THE APPLICANT IS REQUESTING A PARTIAL WAIVER UNDER SECTION 6.2.10 OF THE PERIMETER PLANTING AREA WIDTH. REFER TO STATEMENT OF JUSTIFICATION AND LANDSCAPE PLANS FOR ADDITIONAL DETAILS.</li> <li>8. IN ACCORDANCE WITH SECTION 59-6.2.5.K.1 THE PROPOSED USE WILL CONTINUE THE EXISTING APPEARANCE OF THE FRONT PORTION OF THE SITE AND WILL BE CONSISTENT WITH NEIGHBORING NON-RESIDENTIAL USES.</li> <li>9. THE APPLICANT IS REQUESTING A PARTIAL WAIVER UNDER SECTION 6.2.10 OF THE UNDERSTORY TREE REQUIREMENTS. REFER TO STATEMENT OF JUSTIFICATION AND LANDSCAPE PLANS FOR ADDITIONAL DETAILS.</li> <li>10. THE BASELINE PARKING MINIMUM HAS BEEN REDUCED BY THE NON-AUTO DRIVER MODE SHARE (NADMS) PERCENTAGE GOAL RECOMMENDED IN ACCORDANCE WITH SECTION 59-6.2.3.I.7a. THE BASELINE PARKING HAS BEEN REDUCED BY 20%.</li> <li>11. PHASE 1 PROVIDES 65 PARKING SPACES, WHICH INCLUDES 58 STANDARD SPACES, 2 MOTORCYCLE / SCOOTER SPACES, 1 CAR-SHARE SPACE, AND 4 ADA ACCESSIBLE SPACES. PHASE 2 PROVIDES 46 PARKING SPACES, WHICH INCLUDES 43 STANDARD SPACES, AND 3 ADA ACCESSIBLE SPACES.</li> </ol>				

The proposed site layout will satisfy the location requirement for conditional use parking under Section 59.6.2.5 by removing 7 of the current 11 parking spaces at the front of the site. The School will reconfigure the front parking area to provide three visitor parking spaces in front of the school, which will be parallel to and at the same elevation as the school building, and therefore less visually prominent than current front-yard parking. All staff parking will be located to the sides and rear of the building. This is consistent with neighboring non-residential uses and will not affect the character of adjoining residential neighborhoods or of Old Georgetown Road. The project will provide 65 parking spaces during Phase 1 and 46 parking spaces during Phase 2, satisfying the requirement in Section 59.6.2.4 for one parking space per employee, reduced by 20% due to the Subject Property's location in master plan area with a stated Non Auto Driver Mode Share goal.

The Applicant requests a partial waiver under Section 59.6.2.10 of three elements of parking lot design for a conditional use in a residential zone:

- The side parking setbacks (16' required vs 8' provided on the south and 12' on the north). See Sec. 59-6.2.5.K.2.b.
- The width of the planting strip on the south side (10' required vs 8' provided). See Sec. 59-6.2.9.C.3.a.i.
- The requirement to provide two understory trees for every canopy tree along the north and south property lines. See Sec. 59-6.2.9.C.3.a.iv.

These waivers are necessary due to a combination of factors including reuse of an existing building in the center of a narrow site, topography that restricts parking space locations, and the priority to align the drive aisle with existing curb cuts. The drive aisle width must be increased to meet emergency vehicle access requirements, which puts pressure on the width of the side planting strips. To satisfy parking requirements, parking spaces have been placed in areas in close proximity to school entrances and where the existing grades are the flattest. This includes the north and south sides of the site, where the standard side setback requirement cannot be met. Other areas of the site, such as the west side, have steeply sloping topography. Providing parking in those areas in lieu of the north and south sides would require introducing retaining walls, removing additional trees and extending the limits of disturbance, which would increase stormwater management requirements. In addition, spaces at the west end of the site would be farther from school entrances. The spaces on the north side of the site have been reduced to 16 feet in length to maximize the available setback. We also note that the new spaces are within about a foot of the location of existing parking spaces with respect to the north property line, and are the same distance from the south property line as existing parking spaces.

The understory plantings proposed fall short of the standard due to space constraints. Specifically, in some locations the anticipated light poles interfere with the placement of trees. The Applicant considered it more important to provide as many canopy trees as possible, so some understory trees are not provided where they would interfere with a light pole. Also, a six-foot hedge requires shrubs of a significant size. The Applicant's landscape architects found that in some areas, providing these large shrubs as well as understory trees would overcrowd the space and not allow the plants adequate room to thrive. Finally, along the southern property line a retaining wall splits the available planting width in half. This significantly reduces space for shrubs and understory trees.

The parking lot design and plantings as proposed will satisfy the intent of the Zoning Code parking standards under Section 59.6.2.1 to ensure that adequate parking is provided in a safe and efficient manner. The existing and proposed parking areas are broken up into small areas of parking tucked into various parts of a site that has a very substantial amount of landscaping, shading and buffer plantings and will have even more after Phase 2 site improvements are implemented. New parking along the north side of the site will be located within one foot of where existing parking spaces have been located for many years. Adjoining residences are protected from potential adverse impacts of a reduced side setback by extensive, mature landscape buffering, and by the fact that most site traffic will arrive after 7:45 a.m. and leave the site by 4:00 p.m., minimizing the risk of headlights shining through the trees. Under these circumstances, the minor waivers requested can be granted without interfering with the intent of the parking design standards.

***c. substantially conforms with the recommendations of the applicable master plan;***

The Montgomery County Council recently approved the *Thrive Montgomery 2050* general plan (“Thrive”), which builds on previous general plans by placing greater emphasis on the development of compact, complete communities and the role of major corridors as places to grow. See Thrive County Council Draft, p. 40. Thrive makes a new commitment to promoting growth in proximity to major transportation corridors such as Route 355, and places the Subject Property in the Corridor-Focused Growth Area recommended for the largest share of new growth. See Thrive County Council Draft, p.42. The applicable geographic area master plan should be interpreted in light of this guidance.

The Subject Property is within the area covered by the *Bethesda-Chevy Chase Master Plan*, approved and adopted April 1990 (the “Master Plan”).<sup>4</sup> The proposed conditional use substantially conforms with the Master Plan’s recommendations, as discussed below.

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<sup>4</sup> As a threshold matter, the first guidance on application of the Master Plan comes from the Notice to Readers in the introductory section, which explains that master plans generally look ahead about 20 years, that circumstances at the time of plan adoption will change over time, and that the specifics of a master plan may become less relevant as time goes on. Here, the Master Plan is 32 years old, well beyond its anticipated lifetime, suggesting that its most relevant guidance will be found in its general objectives and recommendations, rather than in specifics.

The Master Plan's overarching goal is to protect the high quality of life and residential character of neighborhoods within the plan area. Areawide objectives and those for the Old Georgetown Road corridor including maintaining residential character along major highways through a Green Corridors policy that discourages front-yard parking and encourages landscaping; discouraging concentration of office-related uses except in designated locations; and discouraging new special exception (i.e. conditional use) approvals except for community-serving uses. See Master Plan at 27, 31.

Transportation recommendations include encouraging multi-modal forms of transportation and developing a network of paths and sidewalks.

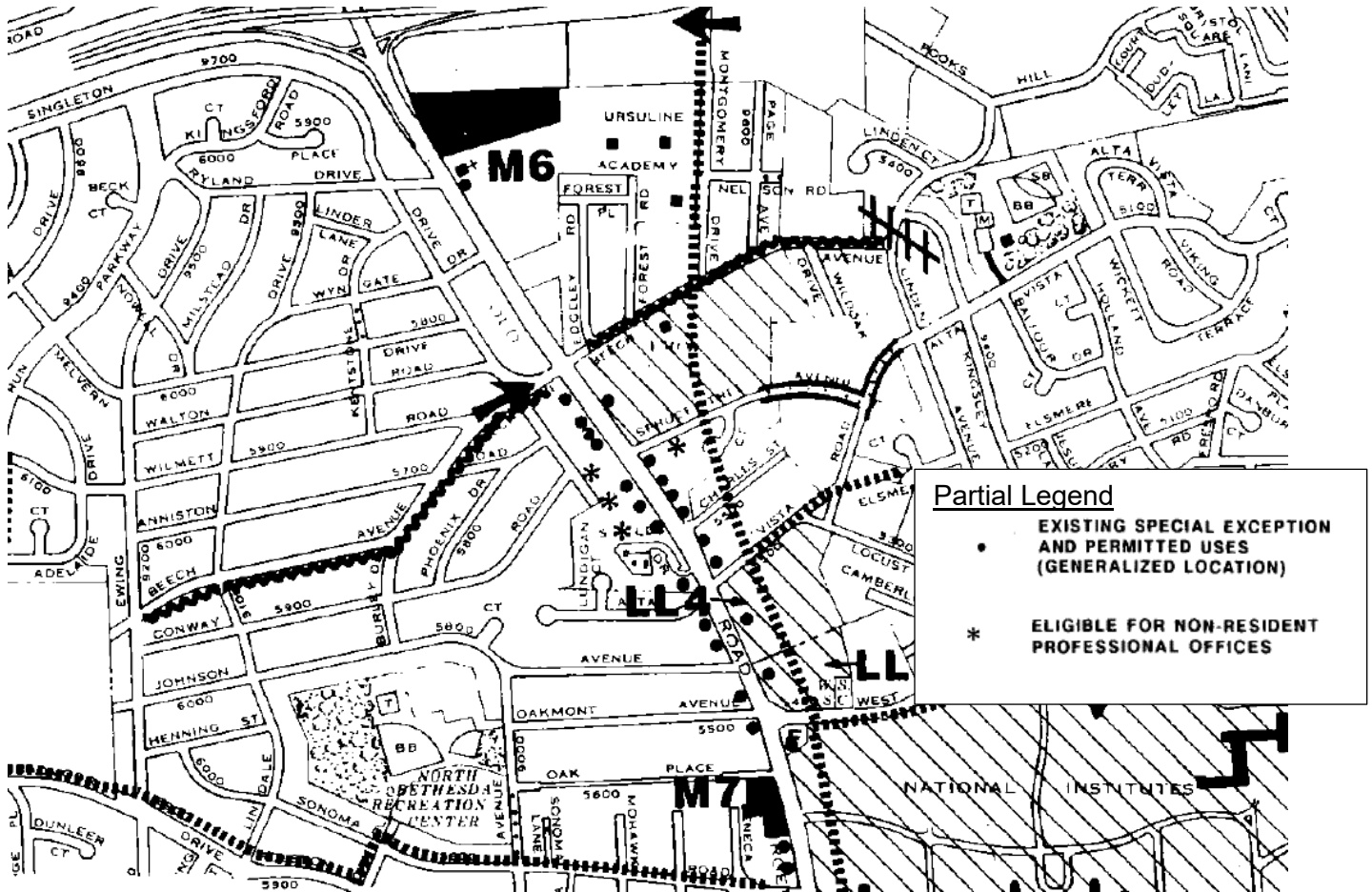
The Master Plan includes an Old Georgetown Road Plan comprised of both text and a drawing. It describes Old Georgetown Road as both a major highway to Bethesda and a front door to adjacent residential areas, noting that a significant number of special exceptions had been approved, leading to conversion of homes to commercial and service uses and the construction of non-residential buildings. This was particularly true from McKinley Street to Beech Avenue (an area that includes the Subject Property), where few residential uses remained on Old Georgetown Road.

The Old Georgetown Road Plan lists four objectives:

1. Maintain residential character
2. Preserve neighborhood stability
3. Discourage special exceptions except those that are community-serving
4. Implement design and landscaping guidelines

The Master Plan also notes that a 1981 master plan for this area designated certain properties as suitable for non-residential professional offices, including 9300 and 9020 Old Georgetown Road, and confirms this designation in the area relevant to the present application. While the address 9312 Old Georgetown Road is not among those listed, the Old Georgetown Road Plan drawing designates the geographic area from 9300 to 9020 Old Georgetown Road, including the Subject Property, as suitable for non-residential professional offices. The relevant portion of the drawing is excerpted below.

Figure 7 – Excerpt from Master Plan Figure 9, page 58



The Old Georgetown Road Plan also provided specific design and landscaping guidelines for special exceptions, including:

- Eliminate paved front yards by putting parking in the rear.
- Limit special exceptions to existing structures and keep any additions to no more than 50% of the size of the existing structure.
- Ensure that the architecture of any additions is consistent with the existing structure.
- Lighting and signage must meet Zoning Code standards.
- Limit operating hours to lessen impact on residential neighbors.
- Minimize curb cuts where possible.

Finally, the Old Georgetown Road Plan provides transportation recommendations, including encouraging alternatives to single-occupancy vehicles, discouraging commuter traffic and parking on secondary streets, minimizing curb cuts on Old Georgetown Road and encouraging pedestrian paths.

The proposed conditional use is substantially consistent with the Master Plan and its recommendations for the Old Georgetown Road corridor. The Subject Property is within an area

designated for non-residential professional offices, indicating that non-residential use is acceptable at this location. Moreover, the proposed school will contribute to quality of life in the surrounding area by providing a community-serving use, offering an educational option for children whose needs would be met by Diener's special focus (the Applicant is aware of at least three current and former Diener families that live in the immediate vicinity of the Subject Property). Thus, the proposed conditional use is appropriate at this location for two reasons: (i) the location is master-plan-designated as appropriate for a non-residential use; and (ii) the School does not perpetuate the over-concentration of office uses in the area, but rather will convert an existing office use into a community-serving use, which the Master Plan considers appropriate throughout the plan area.

The proposed project will maintain the attractive, well-landscaped appearance of the Subject Property's front yard, implementing many of the applicable landscape and design guidelines. The vast majority of the parking will be at the sides and in the rear, leaving landscaping and an attractive building façade as the main features visible from Old Georgetown Road. The proposed addition will be at the rear of the site, barely visible (if at all) from Old Georgetown Road or neighboring properties, and will increase the square footage of the existing building by less than 50%. The addition has been carefully designed to be compatible with and complement the architecture and scale of the existing building and will look like a seamless extension of the building with some modern updates. Lighting has been designed to meet all applicable standards. Signage is expected to meet Zoning Code standards, although it is possible that a sign variance will be necessary. Signage will be designed to be compatible with the surrounding area. As detailed above, school hours will be limited, with a modest number of evening and weekend activities to minimize impacts on residential neighbors outside of normal business hours. Diener is not in a position to remove either of the existing curb cuts on Old Georgetown Road due to the importance of maintaining efficient traffic flow to avoid any possibility of queuing on Old Georgetown Road – an instance where planning goals must be balanced. Diener will provide an improved sidepath along its frontage, increasing pedestrian and bicycle safety, as well as providing an RTI sign at a nearby bus shelter to contribute to multimodal transportation safety and convenience in the surrounding area. While Diener is not able to accommodate a pedestrian path

through the site, removing the existing pedestrian connection will serve the important goal of eliminating any incentive for staff or parents to park on neighborhood streets and walk to the site.

For all of the above reasons, the present application will bring to the Subject Property a community-service use that preserves residential character and stability in the surrounding neighborhood by maintaining and enhancing already-extensive landscaping and screening, maintaining the building at an appropriate scale and size, and improving pedestrian facilities along the property frontage.

***d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;***

For all of the reasons described above in connection with the Master Plan, the proposed conditional use will be harmonious with the surrounding neighborhood and will not alter its character as a stable, attractive single-family neighborhood bordered by a series of well-maintained, well-landscaped non-residential uses along a major highway.

***e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;***

For all of the reasons described above in connection with the Master Plan, the proposed conditional use substantially conforms to the recommendations of the Master Plan and will not, when considered together with existing special exceptions/conditional uses in the same Residential Detached zone, affect the area adversely or alter the character of the nearby residential neighborhoods.

***f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:***

***i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and***

- facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or**
- ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and**

A preliminary plan of subdivision is being filed concurrently for Planning Board review.

The Subject Property is currently and is expected to be served by adequate public facilities including police and fire protection, water, sanitary sewer, public roads and storm drainage.

- g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:**
- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;**
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or**
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.**

The proposed conditional use will have no non-inherent adverse effects. Inherent adverse effects typically associated with a private educational institution include:

1. a significant number of students, faculty and staff;
2. buildings and facilities for academic and athletic programs;
3. parking;
4. traffic;
5. noise;
6. lighting;
7. signage;
8. outdoor areas for children to play;
9. early and long hours of operation;
10. deliveries of supplies and trash pick-up; and
11. drop-off and pick-up areas for students who attend the school or summer camp.

Any adverse effects on the surrounding area from the Diener School will be inherent to a private educational institution and more limited than many similar institutions due to the size of the school building and its small student population; limited outdoor, evening and weekend activities; extensive setbacks and perimeter landscaping; a modest student population density relative to the size of the site; and a careful, thorough approach to transportation demand management and on-site traffic circulation.



#### **IV. Preliminary Plan Findings**

The proposed preliminary plan satisfies the findings required for approval in Montgomery County Code Chapter 50, Section 4.2.D., quoted below in bold and italics.

- 1. The layout of the subdivision, including size, width, shape, orientation, and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

The proposed preliminary plan satisfies these requirements. The layout and density are appropriate for the use and the area. The surrounding area has lots of varying sizes and shapes interspersed among lots that are rectangular and of a similar size, and includes a substantial number of non-residential lots with irregular sizes and shapes. The proposed subdivision will continue that pattern while combining parts of two parcels into a single lot. The proposed subdivision satisfies the applicable requirements of Chapter 59, as described more fully above, with the exception of minor deviations from certain parking lot design standards. The parking lot design and landscaping as proposed will satisfy the intent of the Zoning Code parking standards under Section 59.6.2.1 to ensure that adequate parking is provided in a safe, efficient and appropriate manner.

- 2. The preliminary plan substantially conforms to the master plan.***

As discussed above, the proposed project substantially conforms to the Master Plan.

- 3. Public facilities will be adequate to support and service the area of the subdivision.***

As discussed above, all necessary public facilities will be adequate for the area of the subdivision.

- 4. All Forest Conservation Law, Chapter 22A requirements are satisfied.***

The submitted Preliminary/Final Forest Conservation Plan shows that the applicant will meet forest conservation requirements by purchasing credits in a forest bank or by fee in lieu payment if a forest bank is not available. The total forest conservation requirement is 0.57 acres. A specimen tree variance request is being submitted as a part of the Preliminary Plan application. Removal of existing specimen trees onsite will require planting eight shade trees as a part of the planned improvements.

- 5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.***

A stormwater management plan is being submitted for concurrent review with the present applications. All requirements of Chapter 19 will be satisfied.

**6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3M.**

The Applicant is not aware of any burial site within the subdivision boundary, nor is any such burial site listed in the Montgomery County Burial Sites Inventory.

**7. Any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.**

Not applicable.

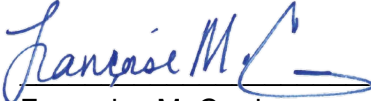
### **Conclusion**

The proposed project will convert an existing office use to a community-serving school use, will preserve and enhance already extensive landscaping and screening, will provide a new, improved sidepath along the property frontage and an RTI Display at a nearby bus shelter to improve multimodal transportation facilities, and will ensure that all vehicular queuing and parking is contained on site. It will be consistent with the requirements of Chapter 59 (with the exception of minor waivers sought for certain parking design standards) and will substantially conform to the Master Plan. It will also provide a fully functional, long-term home for a school with a mission to serve children whose learning style suits Diener's multi-faceted, individualized educational program. For all of these reasons, the proposed conditional use and preliminary plan of subdivision should be approved.

This submission is intended to satisfy the requirements of the Code and the Hearing Examiner's and Planning Board's submission standards for conditional use and preliminary plan applications. If amended or supplemental information becomes necessary to support the present application, the Applicant will make a supplemental submission in a timely fashion.

Respectfully submitted,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC

By:   
Françoise M. Carrier