



Committee: Directly to Council
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #LMA H-143, #EYADevelopmentLLC
#BLStrathmoreLLC #GarrettParkAcademy #HolyCross

AGENDA ITEM#8
May 10, 2022
Action

SUBJECT

Local Map Amendment (LMA) H-143, 4910/4920 Strathmore Avenue in North Bethesda¹ – In the Matter of EYA Development, LLC and BL Strathmore, LLC

EXPECTED ATTENDEES

Lynn Robeson Hannan, Hearing Examiner

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Grant or deny the request for oral argument
- If oral argument is denied, approve, disapprove, or remand the Hearing Examiner's recommendation to approve Local Map Amendment H-143

DESCRIPTION/ISSUE

LMA H-143 is a request to rezone the property located at 4910/4920 Strathmore Avenue in North Bethesda, Maryland from its current R-60 Zone to CRNF 0.75, C 0.25, R 0.75, H 50. The property is currently improved by Garrett Park Academy of the Holy Cross and Garrett Park-Holy Cross Convent, or St. Angela's Hall, a vacant and unoccupied retirement home for nuns. If approved, the proposed development of the property will include 125 single-family dwelling units, including a minimum of 15% MPDUs, and a 145-bed residential care facility. The surrounding area is made up of single-family detached homes; public schools, private schools, and a church; three public parks or playgrounds; institutional uses; and the Grosvenor-Strathmore Metro Station. The Hearing Examiner recommended approval of the application.

A request for oral argument before the Council was filed by a community member who lives adjacent to the property. The applicants filed an opposition to the request for oral argument.

SUMMARY OF KEY DISCUSSION POINTS

- The District Council may grant or deny the request for oral argument. If oral argument is denied, the Council will hear the Hearing Examiner's report and recommendation and take a roll call vote. If oral argument is granted, it will be scheduled for a later date.
- The request for oral argument lists 3 issues for argument: 1) a lack of support for the finding that the proposed development will not detrimentally impact the already congested traffic conditions on Strathmore Avenue; 2) failure of the application and evidence to prove that

¹ Property records indicate this address is in Kensington, MD.

this particular rezoning will serve the goal of enhancing transit use in the County; and 3) that recommendations to approve the rezoning rely on speculative future actions.

- The applicants oppose the request for oral argument, arguing that: 1) the Hearing Examiner found the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy; 2) the Zoning Ordinance does not require a finding that the rezoning will serve the goal of enhancing transit use in the County; 3) none of the “speculative” future actions are required; and 4) opposition actively participated in the proceedings before OZAH.
- The District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that the local rezoning will be consistent with the coordinated and systematic development of the regional district. Specifically, the Council must find that the application: 1) substantially conforms with the master plan, 2) is compatible with adjacent uses and the surrounding area, 3) will be served by adequate public facilities, and 4) satisfies the intent and standards of the proposed floating zone. The Planning Board, Planning Staff, and Hearing Examiner recommend approval. A simple majority vote (5) from District Council is required for approval.

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Worksession/Action

M E M O R A N D U M

May 5, 2022

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Local Map Amendment (LMA) H-143, In the Matter of EYA Development, LLC
and BL Strathmore, LLC

Expected Participants

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

Council Decision Points

1. The Council must decide whether to grant oral argument.
2. If the request for oral argument is denied, the Council will receive OZAH's report and recommendation, with action immediately following.
3. If the request for oral argument is granted, oral arguments will be scheduled for a later date.

Background

The Office of Zoning and Administrative Hearings (OZAH) transmitted LMA H-143 on April 6, 2022. Per the Zoning Ordinance, parties have 10 days to request oral argument before the District Council. The request must state the matters to be presented. Any interested party may, within 5 days after a request for oral argument is filed, file a written opposition to a request for oral argument or request to participate in oral argument if oral argument is allowed.

Section 7.2.1.D.3.

- c. Any party of record or aggrieved party may, within 10 days after the Hearing Examiner issues a report and recommendation, file a written request with the District Council to present oral argument.
 - i. Any party who submits a request for oral argument must send a copy of the request to all parties of record.
 - ii. The request must concisely state the matters desired to be presented at the oral argument. The District Council may grant or deny the request. The District Council

may, on its own motion, require oral argument on any aspect of the case. When oral argument is allowed, the District Council must:

- (a) set the day and time for oral argument;
- (b) limit oral argument to specific topics;
- (c) set time limits for oral argument; and
- (d) specify the order of presentations.

iii. Each oral argument must be limited to matters contained in the record compiled by the Hearing Examiner.

iv. After oral argument, the District Council must either decide the application or remand the application to the Hearing Examiner for clarification or taking additional evidence.

v. Any interested party may, within 5 days after a request for oral argument is filed with the District Council, file a written opposition to a request for oral argument or request to participate in oral argument if oral argument is allowed. The opposition must be concise and limited to matters raised by the party who requested oral argument. Any party who files an opposition or request to participate must send a copy to all parties of record.

Summary of OZAH's Report

LMA H-143 is a request to rezone the property located at 4910/4920 Strathmore Avenue in North Bethesda, Maryland from its current R-60 Zone to CRNF 0.75, C 0.25, R 0.75, H 50.¹ The property is currently improved by Garrett Park Academy of the Holy Cross and Garrett Park-Holy Cross Convent, or St. Angela's Hall, a vacant and unoccupied retirement home for nuns. If approved, the proposed development of the property will include 125 single-family dwelling units, including a minimum of 15% MPDUs, and a 145-bed residential care facility. The surrounding area is made up of single-family detached homes; public schools, private schools, and a church; three public parks or playgrounds; institutional uses; and the Grosvenor-Strathmore Metro Station.

Planning Board agreed with Planning Staff, recommending approval of the application with binding elements. During the OZAH public hearing, six witnesses and two community members testified in support of the application; and seven community members testified in opposition to the application, including the Town of Garrett Park, and the Garrett Park Estates and White Flint Civic Association. Much of the public testimony expressed concern with the traffic impacts. Initial traffic studies were rejected by the Maryland Department of Transportation (MDOT) and State Highway Administration (SHA), who raised issue with the low traffic numbers taken during the COVID-19 pandemic and an underestimated growth factor. The traffic study was supplemented, and a traffic engineer testified that mitigation was needed at Strathmore Avenue and the center site driveway intersection in the form of a traffic signal, as well as a westbound left turn lane into the new site, primarily to mitigate the traffic generated by the school. The Hearing Examiner concluded that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy.

Request for, and Opposition to, Oral Argument

¹ Property records indicate this address is technically in Kensington, MD.

The Council received a Request for Oral Argument from Douglas Burdin on April 12, 2022. The request listed 3 matters to be presented:

- 1) the lack of support for the purported findings that the proposed development (125 homes; 145-bed senior residential facility) will not detrimentally impact the already congested traffic conditions on Strathmore Avenue (the only road servicing the proposed development);
- 2) the failure of the application and evidence to prove that this particular rezoning will serve the goal of enhancing transit use in the County; and
- 3) the recommendations to approve the rezoning rely on speculative future actions – such as the installation of a traffic light and left-turn lane, the continued provision of a police officer to manage traffic at the school entrance, and the acquisition of a right-of-way over private property for the purpose of linking the proposed on-property multi-use path with sidewalks in Garrett Park.

Opposition to the Request for Oral Argument was received on April 19, 2022, from the applicants. Their letter contends that:

- 1) The hearing examiner found the applicants' traffic expert credible and her methodology sound; and that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy. Therefore, no evidence of record could reasonably lead the Council to a different conclusion regarding the traffic impact.
- 2) The Zoning Ordinance does not require a finding that the rezoning will serve the goal of enhancing transit use in the County.
- 3) The Hearing Examiner's recommendation was based on the same binding elements recommended by the Planning Board, and none of the "speculative" future actions are required or formally committed to by the applicants as part of the LMA process.
- 4) Mr. Burdin actively participated in the proceedings before OZAH, so his concerns have been raised to—and analyzed by—the reviewing agencies.

Council Staff Recommendation

The District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that the local rezoning will be consistent with the coordinated and systematic development of the regional district. Specifically, the Council must find that the application: 1) substantially conforms with the master plan; 2) is compatible with adjacent uses and the surrounding area; 3) will be served by adequate public facilities; and 4) satisfies the intent and standards of the proposed floating zone.

The applicants' opposition states: "Mr. Burdin does not allege any technical defect or legal error in either Staff's analysis or the Hearing Examiner's Report and Recommendation, but rather he expresses a simple disagreement with the basis for their findings, which is an insufficient basis for the granting of oral argument before the Council." But the Zoning Ordinance does not specify on what grounds oral argument should be granted or denied. In other words, it is silent as to what a

“sufficient basis” is.² Council’s review of OZAH’s report and recommendation is limited to the record that was before the Hearing Examiner, so potential reasons to deny oral argument would be if the issues raised in the request were extraneous, or no reasonable person could conclude the Hearing Examiner’s recommendation was supported by the record. Based on the record that was before the Hearing Examiner, that does not appear to be the case. Importantly, granting a request for oral argument is not an automatic disapproval of the Hearing Examiner’s recommendation.

Council Staff recommends granting the request for oral argument.

² Based on Council Staff’s review and consultation with OZAH, Council has not denied a request for oral argument since at least 2010.

April 12, 2022

Via Email County.Council@MontgomeryCountyMD.gov and first-class mail

Montgomery County Council (sitting as the District Council)
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

**Re: Request of Douglas S. Burdin for Oral Argument in the Matter of
APPLICATION NO. H-143 (LMA), 4910-4920 Strathmore Ave.,
Application of EYA Development, LLC for Local Zoning
Amendment**

Dear County Council President and Members:

I am a party of record in this proceeding and an aggrieved party, as I reside in a townhouse directly adjacent to the property that is the subject of this rezoning request. I request that the County Council (sitting as the District Council) hold Oral Arguments on this matter and allow me to present oral argument. I have been deeply involved in this proceeding since the beginning. I participated in meetings with the developer and neighbors, filed comments with the Planning Board and hearing officer, and participated actively in the OZAH's hearing (I presented testimony, cross-examined witnesses, and gave closing argument). The Hearing Examiner issued his Report and Recommendation on April 6, 2022, so this request is timely. I understand that other members of the surrounding community will be requesting oral argument.

The matters I desire to address in oral argument center around three issues:

- (1) the lack of support for the purported findings that the proposed development (125 homes; 145-bed senior residential facility) will not detrimentally impact the already congested traffic conditions on Strathmore Avenue (the only road servicing the proposed development);
- (2) the failure of the application and evidence to prove that this particular rezoning will serve the goal of enhancing transit use in the County; and
- (3) the recommendations to approve the rezoning rely on speculative future actions – such as the installation of a traffic light and left-turn lane, the continued provision of a police officer to manage traffic at the school entrance, and the acquisition of a right-of-way over private property for the purpose of linking the proposed on-property multi-use path with sidewalks in Garrett Park.

If you need any further information, please contact me as soon as possible.

Respectfully Submitted

Douglas S. Burdin

Douglas S. Burdin
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571-277-0266

cc: Hearing Examiner Derek J. Baumgardner
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Parties of Record (mayorkacky@garrettparkmd.gov,
councilgerilee@garrettparkmd.gov, egirard@MilesStockbridge.com,
david.shaffer@davidshafferlaw.com, V.Lide2345@gmail.com,
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Erin E. Girard
301.517.4804
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April 19, 2022

Mr. Gabe Albornoz, President,
And Montgomery County Councilmembers
100 Maryland Avenue, 4th Floor
Rockville, Maryland 20850

Re: Opposition to Request for Oral Argument in Local Map Amendment H-143

Dear Mr. Albornoz and District Councilmembers:

On behalf of our clients, EYA Development LLC and BL Strathmore LLC (the “Applicants”), and pursuant to Section 59.7.2.1.D.3.v of the Montgomery County Zoning Ordinance (“Zoning Ordinance”), the purpose of this letter is to oppose the April 12, 2022 Request of Douglas Burdin for oral argument in Local Map Amendment H-143 (the “LMA”). As explained more fully below, the issues identified by Mr. Burdin were critically reviewed as part of the LMA process, and the LMA has been recommended for approval by Planning Board Technical Staff, the Montgomery County Planning Board (unanimously), and the Montgomery County Hearing Examiner. As such, it would be a waste of the District Council’s time and resources to hold oral argument on this matter.

Mr. Burdin acknowledges in his letter that he was “deeply involved” in the LMA proceedings, “participated in meetings with the developer and neighbors, filed comments with the Planning Board and hearing officer, and participated actively in the OZAH’s hearing” by presenting “testimony, cross-examin[ing] witnesses, and g[iving] closing argument.” Burdin April 12, 2022 Letter, p.1. By his own admission, therefore, his concerns have been raised to, and analyzed by, all reviewing agencies to date. In fact, both Technical Staff and the Hearing Examiner expressly addressed Mr. Burdin’s traffic concerns in their respective reports. *See* December 12, 2021 Staff Report, p. 28, Attachment B; April 6, 2021 OZAH Report and Recommendation, pp. 30-35. Importantly, Mr. Burdin does not allege any technical defect or legal error in either Staff’s analysis or the Hearing Examiner’s Report and Recommendation, but rather he expresses a simple disagreement with the basis for their findings, which is an insufficient basis for the granting of oral argument before the Council.

With regard to the specific concerns raised by Mr. Burdin, the Applicants briefly note the following:

(1) Alleged Lack of Support for Finding of No Detrimental Traffic Impact

As noted above, Mr. Burdin's assertions regarding perceived traffic impacts have been repeatedly addressed by relevant County and State agencies and experts. As noted by the Hearing Examiner:

[t]he concerns expressed by community members during this two-day hearing were real, sincere, well-considered and reasonable, but at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided....[the Applicants' traffic expert's] methodology was sound and her testimony was credible with regard to the LATR study, the supplemental analysis, and the conclusions drawn from the study. Without evidence or compelling argument to the contrary, the Hearing Examiner accepts the LATR and supplemental analysis as satisfying this standard. OZAH Report and Recommendation, p. 35.

No evidence of record could reasonably lead the Council to a different conclusion.

(2) Alleged failure of evidence to "prove that this particular rezoning will serve the goal of enhancing transit use in the County."

The Applicants note that no such finding need be made for approval of an LMA under Section 59.7.2.1.E of the Zoning Ordinance. However, it should be recognized that the property subject to the LMA is within 0.6 miles of the Grosvenor Metro Station and was therefore recently included in the red Grosvenor Metro Station Policy Area as part of the 2020-2024 Growth and Infrastructure Policy. Through the Growth and Infrastructure Policy and other recently adopted plans and policies, the County has expressed a desire to concentrate growth within its red policy areas, and approval of the LMA would achieve this objective.

(3) Alleged Reliance of Recommendations to Approve on Speculative Future Actions

Although Mr. Burdin represents that the LMA was recommended for approval in reliance on (1) "installation of a traffic light and left-turn lane," (2) "the continued provision of a police officer to manage traffic at the school entrance," and (3) "the acquisition of a right-of-way over private property for the purpose of linking the proposed on-property multi-use path with sidewalks in Garrett Park," there is absolutely no evidence to support this argument. On the contrary, the Hearing Examiner's recommendation of

approval is based on the same binding elements recommended by the Planning Board, none of which require any of the cited actions.

Moreover, none of the identified actions could formally be committed to by the Applicants as part of the LMA process. Strathmore Avenue lies entirely within the jurisdiction of the Maryland State Highway Administration (“SHA”). Therefore, the Applicants’ ability to install a traffic signal and left-turn lane on Strathmore Avenue is entirely dependent on SHA’s approval. While SHA has indicated its support for such improvements, and the Applicants have committed to pursuing such approvals, formal approval will not happen until the time of preliminary plan and/or permitting. With regard to the police officer, that officer is employed by The Academy of the Holy Cross, who is not an applicant for the LMA, and the provision of such officer was not relied on in any of the traffic analysis supporting the application.¹ Finally, with regard to the potential extension of a sidepath off-site, the Applicants have indicated they would work with the adjacent owner to attempt to provide such an extension, with final determination to be made at the time of preliminary plan.

Based on the foregoing, we respectfully request that Mr. Burdin’s oral argument request be denied. If such request is granted over the Applicants’ objection, however, the Applicants request the opportunity to participate in such argument before the Council.

Thank you for your consideration. If you have any questions or concerns, or would like any additional information, please feel free to contact me.

Very truly yours,

MILES & STOCKBRIDGE P.C.



Erin E. Girard

cc: Parties of Record

¹ While, in response to questioning by Mr. Burdin, a representative of the school did indicate that the officer would be provided for “the indefinite future”, that commitment was not made by or relied on by the Applicants in their LMA application. See February 1, 2021 Transcript, p. 329, lines 21-25.



MONTGOMERY COUNTY, MARYLAND

MEMORANDUM

April 6, 2022

TO: Livhu Ndou, Legislative Attorney for the Montgomery County Council
County Council

FROM: Lynn Robeson Hannan, Director
Office of Zoning and Administrative Hearings

SUBJECT: Tentative Agenda for LMA Application

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

LMA H-143

**10 DAY
ORAL
ARGUMENT
DEADLINE:**

April 18, 2022

**COUNCIL ACTION
REQUIRED BY:**

June 6, 2022

**SCHEDULED
BEFORE COUNCIL
ON:**

****Substantial Opposition**

DISTRICT COUNCIL SESSION

Action - Hearing Examiner's report and recommendation on OZAH Case No. H-143 for amendment to the zoning ordinance map. Erin Girard, Esquire, Attorney for the Applicants, EYA Development LLC and BL Strathmore LLC., requests reclassification from the R-60 Zone to the CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood Floating) of 4920 Strathmore Avenue, more particularly known as Parcel No. 045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824, and all of the property located at 4910 Strathmore Avenue, more particularly known as Parcel N875, Parcel A, Garrett Park- Holy Cross Convent, as shown on Plat No. 9347.

-- No Opposition

***Opposition**

****Substantial Opposition**

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

cc: Selena Singleton, Clerk
Stephen Mathany

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

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

**IN THE MATTER OF:
EYA DEVELOPMENT, LLC
BL STRATHMORE, LLC**

Applicants

For the Application:

Jack Lester
Brenda Bacon
Jeff Amateau
Josh Sloan
Katie Wagner
Jack McLaurin
Katy Prebble
Sister Ruth Marie Nikerson

Erin Girard, Esq.
Attorney for the Applicant

Opposed to the Application:

Kip Edwards
Cynthia Wertz
Douglas Burdin
Vanessa Lide
Gerilee Bennett

David Shaffer, Esq.
Attorney for Garrett Park Estates
and White Flint Civic Association

Local Map Amendment
Application No. H-143

Before: Derek J. Baumgardner, Hearing Examiner

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I. CASE SUMMARY

Applicant:	EYA Development, LLC and BL Strathmore LLC (“Applicants” or “EYA”)
Property:	4920 Strathmore Avenue, more particularly known as Parcel No. 045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824, and all of the property located at 4910 Strathmore Avenue, more particularly known as Parcel N875, Parcel A, Garret Park- Holy Cross Convent, as shown on Plat No. 9347
Location:	The Site is located at 4910-4920 Strathmore Avenue (MD 547), which is approximately 1,500 feet east of Rockville Pike (MD 355) and is adjacent to both the Strathmore Music Hall and the Holy Cross School and Church, as shown in Figure 1, below. Directly to the west of the Site is a stream valley and the Symphony Park townhouse development, which includes open space that visually links the Property to Rockville Pike.



Figure 2: Overall Site

Acreage:	15.36 acres
Current Zoning:	R-60 Zone (residential detached)
Proposed Zoning:	CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential

	Neighborhood- Floating)
Current Use:	School buildings, athletic fields, and a former group home for retired nuns (St. Angela's Hall)
Proposed Use:	125 single-family dwelling units (including a minimum of 15% MPDUs) and a 145-bed residential care facility
Affordability:	Minimum of 15% MPDUs
Current Density Permitted:	R-60 zone permits up to 1.5 FAR
Density Proposed:	.75 FAR
Environmental Issues:	There are no other environmentally sensitive features such as wetlands, 100-year floodplain or stream valley buffers, and the Site is not located within a Special Protection Area. There are no cultural facilities or historic sites located within or adjacent to this Site or any known endangered species or critical habitats.
Master Plan:	1992 North Bethesda/Garrett Park Master Plan
Neighborhood Response:	Significant community input was received. Multiple community members testified at the public hearing in opposition to the proposed LMA.
Water/Sewer:	W-1/S-1 with no upgrades required
Planning Staff Recommends:	Approval
Planning Board Recommends:	Approval
Hearing Examiner Recommends:	Approval
District Council votes required for approval:	5

II. PROCEDURAL HISTORY

On August 4, 2021, EYA Development, LLC (“Applicant” or “EYA”) filed Local Map Amendment (LMA) application (H-143) requesting the rezoning of the property located at 4910/4920 Strathmore Avenue (the “Property”) in North Bethesda, Maryland from its current R-60 Zone (detached residential) to CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood- Floating). Exhibit 1. The property is currently improved by Garrett Park Academy of the Holy Cross (Parcel B), and Garret Park- Holy Cross Convent, or St. Angela’s Hall (Parcel N875/Parcel A), a vacant and unoccupied retirement home for nuns.

On December 6, 2021, Staff of the Montgomery County Planning Department (Planning Staff or Staff) issued its revised report recommending approval of the application with binding elements. Exhibit 62. The Planning Board agreed with Staff and recommended approval on December 17, 2021. Exhibit 61.

On November 26, 2021, OZAH issued a hearing notice schedule this LMA for a public hearing on December 27, 2021.

On December 22, 2021, David Shaffer, on behalf of Garrett Park Estates & the White Flint Civic Association, filed a request to postpone the scheduled hearing.

On December 23, 2021, all parties were notified by email that the Motion to Postpone would be granted, but the case would be called on the scheduled hearing date of December 27, 2021, for the purposes of postponing the hearing. The hearing was formally postponed on December 27, 2021.

On January 3, 2022, OZAH issued a Hearing Notice rescheduling the public hearing for January 31, 2022, through February 2, 2022.

On January 31, 2022, the public hearing was conducted over two (2) days by OZAH Hearing Examiner Derek Baumgardner. Erin Girard, Esq., represented the Applicant. Six (6) witnesses

testified in support of the application either as the Applicant or as an expert witness of the Applicant: Jack Lester (Applicant), Brenda Bacon (Brandywine Living), Jeff Amateau (civil engineer), Joshua Sloan (land planner), Katie Wagner (traffic engineer), and Jack McLaurin (architect). Community members Katie Prebble and Sister Ruth Marie Nickerson also testified in support of the application.

Mr. David Shaffer, Esq. appeared on behalf of Garrett Park Estates and White Flint Civic Association. Community members testifying in opposition included: Douglas Burdin, Kip Edwards, Arthur Ribeiro, Vanessa Lide, Cynthia Weitz, and Gerilee Bennett, as town councilmember representing the Town of Garrett Park. The Hearing Examiner left the record open for 10 days following the conclusion of the two-day public hearing, or until February 11, 2022. Several additional exhibits were received during this period and marked and admitted without objection as evidentiary exhibits.

Following the conclusion of the hearing, counsel for the Applicant submitted a draft Declaration of Covenants to be fully executed and filed within the Land Records of Montgomery County pending Council's approval of this application and adoption of H-143. Exhibit 87. The record was re-opened on April 5, 2022, to receive a corrected Floating Zone Plan and closed immediately thereafter. Exhibit 88.

II. FACTUAL BACKGROUND

A. Subject Property

The subject property is located at 4910/4920 Strathmore Avenue, immediately south of the intersection of Strathmore Avenue and Stillwater Avenue. Exhibit 62, p. 4. The two areas proposed for rezoning under this LMA are Parcel A, which is currently improved with the former St. Angela's Hall (approximately 38,000 square feet) with two driveway entrances on Strathmore Avenue, surface parking, outdoor amenity spaces, pedestrian paths, and open lawn areas, and a portion of Parcel B, which is currently improved by a school site known as the Academy of the Holy Cross, a

Catholic high school for girls, consisting of various school buildings and athletic fields. *Id.* See Figure 2 below for an aerial image of the demarcated subject property.

The entire property including all of parcels A and B is approximately 38.22 acres in size. Exhibit 62, p. 4. The portion subject to this rezoning application (hereinafter the “site”), which is comprised of all of Parcel A and a portion of Parcel B, is approximately 15.36 acres (669,082 square feet) in land area, all areas under common ownership. *Id.* The building and driveways for the existing but closed and vacant St. Angela’s Hall are located on the high point of the site and slope down to a nearby tributary of Rock Creek and associated wetlands along the western, southern, and eastern sides of the property. *Id.* The main existing school site, which will remain unchanged under this application and is not subject to rezoning, is further improved by buildings, lawn, athletic fields, driveways, and parking areas. The property is currently zoned R-60. *Id.* An aerial of the property, including the site (outlined in red) is shown below (Exhibit 62, p. 4):



The subject property and site are subject to the 1992 North Bethesda/Garrett Park Master Plan (the “Master Plan”) and was not recommended for rezoning. Exhibit 62, p. 5. The Master Plan recommended that “the zoning for all parcels in North Bethesda, outside of [the above areas], remain unchanged with the single exception of White Flint Neighborhood Park” (page 35). *Id.* After

the adoption of the Master Plan, Montgomery County adopted a new Zoning Ordinance in 2014, which also retained the R-60 Residential Detached zoning district for the Subject Property which allows development under either the Standard or Optional Methods of Development. *Id.*

B. Surrounding Area

The “surrounding area” in a Floating Zone case includes the area that will be most directly impacted by the proposed development. It is identified and characterized to assess whether the new development will be compatible with that area.

The Staff-defined neighborhood is shown in Figure 1 from the Staff Report, below (Exhibit 62):



The area identifies the properties that contribute to the community character and may experience the most direct impacts of the proposed rezoning. The Staff-defined neighborhood is primarily defined by the community of single-family detached homes that front the property to the north across Strathmore Avenue (Garret Park Estates), the single-family attached neighborhood to the west (Symphony Park townhouse community), institutional uses abutting the property to the south and east (The Music Center at Strathmore and The Mansion at Strathmore), and a public transit station (Grosvenor-Strathmore Metro Station). Exhibit 62, p. 4; Exhibit 34, p. 5. Other surrounding uses include nearby public and private schools and a church. Exhibit 34, p. 5. Three public parks or

playgrounds are also nearby: Garrett Park Estates Local Park, Druid Drive Neighborhood Park, and Garrett Park – Waverly Park. Exhibit 62, p. 4.

The Hearing Examiner accepts the staff-defined neighborhood as defined by the boundaries shown in Figure 1, above. The Hearing Examiner characterizes the area as predominantly residential with single-family detached and single-family attached homes with institutional uses to serve the surrounding community.

C. Proposed Development and Floating Zone Plan (“FZP”)

1. Proposed Development

The subject application seeks to rezone this R-60 property to CRNF 0.75 C-0.25 R-0.75 H-50, (Commercial Residential Neighborhood-Floating). Private roads, open spaces, environmental conservation areas, and infrastructure will also be implemented through the redevelopment process with access to the Academy of the Holy Cross maintained but redesigned through the redevelopment. Exhibit 34, p. 4. Following approval of the rezoning, future development on the site will relocate the entry drive, replace St. Angela’s Hall on Parcel A with a 145- bed residential care facility owned and operated by Brandywine Living, and locate up to 10 detached single-family dwellings and 115 attached townhouse units on the area currently occupied by athletic fields and landscaped lawns, for a total of 125 single-family dwelling units (including a minimum of 15% MPDUs). Exhibit 34, p. 9. No commercial uses are proposed and a prohibition on commercial uses is listed as a binding element to this application. Exhibit 34, p. 19. The property’s existing R-60 zone only allows townhouses by limited or conditional use and residential care facilities by conditional use only, therefore, the Applicant is seeking to rezone the property to the CRNF zone to permit both uses by right as a comprehensive project. Exhibit 53, p. 2.

The planned 145-bed residential care facility will be owned and operated by Brandywine Living, a senior housing and care provider. Exhibit 53, p. 2. Brandywine Living was founded in

1996 and is headquartered in Mt. Laurel, New Jersey. *Id.* The proposed residential care community would provide a wide array of services and amenities that are “unique to Brandywine.” *Id.* Brandywine plans to also provide memory care services at this location and supervision for individuals with dementia that allows residents to age in place by broadening the continuum of care. *Id.* “Brandywine communities also provide highly trained licensed nurses on site all day and night every day of the year.” *Id.* While the design of the proposed residential care facility is yet to be determined, the Applicant states that Brandywine designs each of its buildings to “fit the context of the neighborhood around it and uses architectural styles compatible with the surrounding area.” *Id.* The Applicant asserts that the development as a whole proposes a “unique multi-generational community, where families, students of the adjacent schools, and seniors can interact and benefit from proximity to one another.” *Id.* Ms. Brenda Bacon, President and CEO of Brandywine Living testified:

The opportunity to develop an intergenerational place for people to be is very attractive to us, particularly for our seniors, for our parents. We’ve done two communities like that before where they were townhouses and then a senior living, assisted living community...it really fosters the opportunity for empty nesters, for example, to have their grandchildren come over and also to have their moms and dads next door. So is a great opportunity. Is almost a perfect situation for just the quality of life that it brings to all of the generations. T. 46-47.



Figure 6: Conceptual Architectural Precedents

2. Floating Zone Plan and Binding Elements

A Floating Zone Plan (FZP) shows the details of the proposed development, including building locations, height, preliminary stormwater management strategies, and on-site circulation. *Zoning Ordinance*, §59.7.2.1.B.2. A FZP may also include binding elements that permanently restrict future development of the property. *Zoning Ordinance*, §59.1.4.2. Binding elements may restrict building types, density, or height, among other aspects of the development. *Id.* The binding elements recommended by Staff and accepted by the Applicant include the following:

1. Permitted uses on the Site include up to 125 single-family detached and attached dwelling units (including a minimum of 15% MPDUs) and a residential care facility (with up to 145 beds).
2. Commercial uses are not permitted on the Property, except permitted accessory uses associated with the residential care facility.
3. A natural surface trail must be provided along the western side of the Site that is subject to a public access easement
4. The Property is limited to no more than three points of vehicular access from Strathmore Avenue.
5. The Property must be subdivided to formally delineate the boundary of the area subject to the rezoning at the time of Preliminary Plan.
6. A Phase I Noise Analysis must be submitted with the Preliminary Plan to identify noise levels that might impact interior and exterior spaces subject to the Planning Department's Noise Guidelines. The analysis must be performed by a qualified acoustical engineer. If a combined Preliminary/Site Plan is submitted, the Site Plan must include recommendations from a qualified acoustical engineer to mitigate excessive noise levels per the Noise Guidelines.

Staff advised that since the requested floating zone was not recommended in the Master Plan, requested density cannot exceed 1.25 FAR, as the tract is greater than 3 acres and the existing zoning is R-60. Exhibit 62, p. 18. The application requests 0.75 in overall FAR and all residential units and the residential care facility are within the 50-foot height limit established by the CRNF Zone. *Id.*

Staff noted that the Master Plan “urges special attention to the design of existing and proposed streetscapes to encourage pedestrian usage, particularly along corridors that are within walking distance to transit.” Exhibit 62, p. 18. To improve the condition of existing

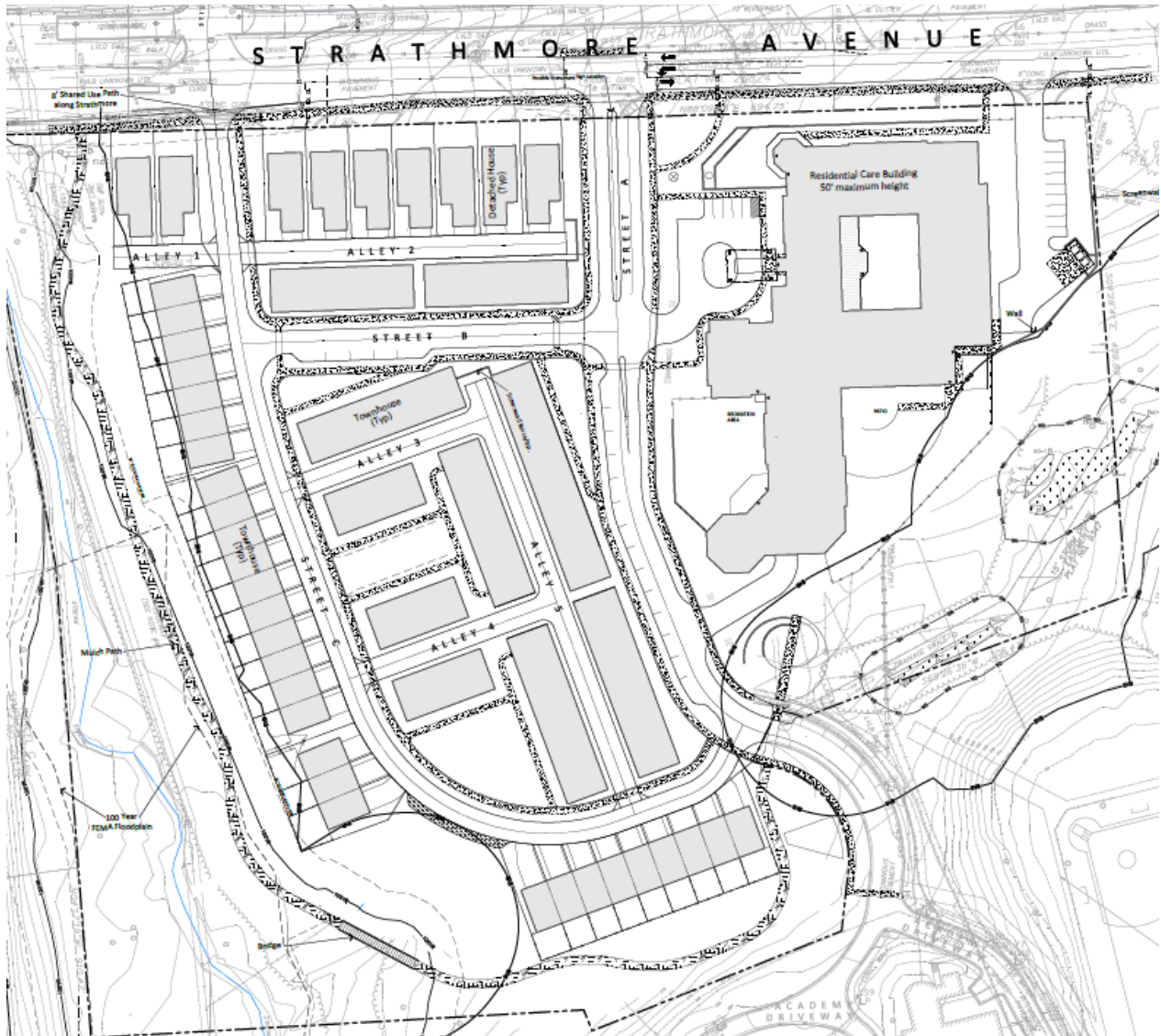
streets, the Master Plan recommends that addition of street trees to create an appropriate buffer and the widening of sidewalks, and where necessary, additional special design treatment. *Id.* The subject application proposes upgrades to the Strathmore Avenue frontage through the construction of the master-planned 10-foot-wide shared use path with 6-foot-wide green buffer which, according to Staff, will “improve the pedestrian experience along this stretch of road to reach various surrounding destinations, including Holy Cross School and the Garrett Park Middle School.” *Id.* at 19. The application further provides for the construction of new internal streets to the site that “will contain street trees between the curb and sidewalk and, wherever possible, on-street parking.” *Id.*

Figure 5 from the Staff Report (below) shows the proposed floating zone with proposed improvements and features of the lot and neighboring properties (Exhibit 62, p. 8):



Figure 5: Proposed Floating Zone Plan [rendering]

An excerpt from the Floating Zone Plan with binding elements is depicted below (Exhibit 88(a)):



D. Environment

Staff advised that Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420211410 was approved on July 27, 2021 for the property. Exhibit 62, p.11; *See* Exhibits 19 & 20. The NRI/FSD illustrates that more than 10 acres of the 35+ acres that make up the subject property is encumbered by stream valley buffer, with approximately four acres of the property lying in stream valley buffers. *Id.* The 2021 Environmental Guidelines require that these stream valley

buffers are preserved and restored as part of the subject application and the Applicant proposes minor encroachments into the stream valley buffer for a natural surface trail. *Id.* Joshua Sloan stated in his report that the proposed new residential uses will be “enveloped with stream valley buffer plantings, including new conservation areas replacing the existing lawns.” Exhibit 34, p. 11.

The property is within the Rock Creek watershed and streams run along the eastern, southern, and western edges where three (3) non-tidal wetlands are present. Exhibit 62, p.11. Staff notes that after being piped under the driveway, the tributary from Parcel A runs into the western stream, which continues to the south, and a portion of this stream is within a FEMA 100-year floodplain. *Id.*

According to Staff, the site contains 4.06 acres of forest with 152 significant and specimen trees on-site and/or within 100 feet. Exhibit 62, p. 11. There is 0.64 acres of forest and 46 significant and specimen trees, and one soil type (16D) classified as highly erodible, along with areas of steep slopes (15% to 25%) with erodible soil, and steep slopes greater than 25%. *Id.* The Applicant states that there are no observed or known rare, threatened, or endangered species, nor historic resources on the Property. Exhibit 34, p. 24.

Staff notes that due to the shape and topography of the site, protective buffers create challenges for the site’s new layout. Exhibit 62, p. 11. The development proposes a nature trail that “will traverse the primary open space area behind residential units on the western side of the Property.” *Id.* Along this trail, Category I and II Conservation Easements are proposed and a second area of Category I and II Conservation Easements is proposed along the southeastern tributary. *Id.* “Other encroachments into the stream valley buffer include some stormwater management features, a small portion of Street C for fire access that is permeable pavement, and rear yards and fencing, all as allowed by the Environmental Guidelines.” *Id.* Staff advises that to meet reforestation and afforestation requirements a total of 2.84 acres is required for new plantings. Exhibit 62, p.11. To

meet this requirement, the Applicant proposes to plant 3.0 acres and an “extra area of plantings as enhanced forestation for mitigation for proposed stream buffer encroachments.” *Id.* With respect to the Master Plan’s stated objectives of preserving green and open space, the Applicant states that the development supports the objective of protecting green areas and open spaces “through the preservation of approximately 5.7 acres in stream valley, 2.7 acres of which is already forested and 3 acres of which will be reforested, and the provision of a minimum of 10% open space throughout the Project.” Exhibit 53, p. 6.

E. Stormwater Management

The property does not currently utilize stormwater management best practices. Under this application, the Applicant proposes to implement micro-bioretenion features “to the maximum extent practicable to meet the current stormwater requirements.” Exhibit 62, p. 12. Staff advises that due to the topography and location of streams around the site, new stormwater management facilities will be placed at low points to capture and filter roadway runoff. *Id.*

The Applicant’s Land Planner, Mr. Sloan, in his Land Planning Report, states that the proposed development is subject to the Maryland Stormwater Management Act of 2007 and the Montgomery County Bill No. 40-10 which requires managing stormwater runoff by using “Environmental Site Design” (ESD) to the “Maximum Extent Practicable” (MEP). Exhibit 34, p. 25. Mr. Sloan describes ESD as “utilizing small scale stormwater management practices, non-structural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of development on water resources,” like the planter box style Micro-Bioretenion facilities proposed in this application. *Id.* Mr. Amateau testified that the volume of stormwater to be managed on site was 44,491 cubic feet. T. 85. The site will be developed with large areas of impervious surface and porous surfaces contain a mixture of soils in both hydrologic group “B” and “C”, therefore, the site will be required to implement micro-bioretenion structures

to the maximum extent practicable (MEP) to meet the stormwater requirements. Exhibit 34, p. 25. Mr. Amateau estimated the amount of impervious surface proposed to be 6.18 acres of the 15-acre site. T. 85. Mr. Sloan stated that “the project development team will work with the County at each Phase through the Stage 3 process, to ensure ESD to MEP implementation.” Exhibit 34, p. 25.

F. Public Facilities

According to Staff, the 2020-2024 Growth and Infrastructure Policy went into effect on January 1, 2021. Since Staff approved scoping for the Applicant’s traffic study in November 2020, Staff advised that the study was subject to the previous 2016-2020 Subdivision Staging Policy. Exhibit 62, p. 14. The property was previously located within the North Bethesda orange policy area, as determined under the 2016-2020 Subdivision Staging Policy, which required both Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay analyses. *Id.* LATR compliance is required, therefore and the Applicant submitted a traffic impact study to determine multimodal adequacy. *Id.* Staff advised that future traffic analysis will be completed in accordance with the 2020-2024 Growth and Infrastructure Policy will review the project under the Grosvenor Policy Area if this LMA is approved and implemented. *Id.*

A traffic study was completed in accordance with LATR standards and admitted into the record as Exhibit 47 and a supplemental analysis admitted into the record as Exhibit 58(c). The analysis was conducted and the report was prepared by traffic engineer Katie Wagner, Director of Planning and Engineering with Gorove Slade. Ms. Wagner testified that the results of the original LATR analysis indicated “that the surrounding network can adequately support traffic generated by the proposed project without any roadway improvements or mitigation.” T. 157. Ms. Wagner further commented that taking into account the impacts of the COVID-19 pandemic, her team “included a growth factor to assume that schools were not in session and people were telecommuting. In addition to that, “we had to balance traffic volumes along the roadway as well

as take into consideration the schools that were in the study area that were not operating at [regular] capacity.” T. 158. While Planning staff accepted the conclusions of that original study, Maryland Department of Transportation (MDOT) and State Highway Administration (SHA) staff expressed concerns regarding the application of low traffic numbers, and so the traffic study was supplemented:

“In response to this, the Applicant team prepared a supplemental analysis using historic traffic counts that were available at study area intersections from 2016 and 2013. This analysis provided a conservative analysis as the traffic counts higher than those used in the LATR analysis. In addition, the analysis not only incorporated counts and that were higher than what we collected in 2020, but we also applied background growth to bring the counts from 2013 and 2016 up to 2020 rates and these rates were based on historical counts collected by SHA to account for growth year over year in the area.” T. 159.

As a result of the supplemental analysis, Ms. Wagner testified that “[mitigation] was needed at the Strathmore Avenue and the center site driveway intersection.” This was needed in the form of “[a] traffic signal, as well as a westbound left turn lane into the new site, primarily to mitigate the traffic [and] generated by the school.” T. 159-160. Community members questioned the validity of the traffic analysis based upon the counts, timing, volume, and the growth factor applied, coupled with their practical experience living in the community, including concerns regarding “significant traffic heading east from Rockville Pike traveling towards the Connecticut Avenue corridor.” T. 170-205, 206, 215. Mr. Kip Edwards testified that community members were concerned that “planning board staff based their conclusions and recommendations on traffic reports which the community felt were inherently flawed.” T. 246. Ms. Vanessa Lide, a community member, stated that, “I also find it very, very difficult to accept that if you are putting that many people, that many staff into an assisted living facility and that many new homes” that traffic counts would be that low. T. 299. Mr. Edwards also expressed concern regarding, “The notion that the Applicant will relieve the burdens of traffic that their development creates by encroaching upon that green buffer space

was very concerning for people” referring to the 1-3 ft. portion of Strathmore Avenue shoulder that would be encroached upon for the planned turn lane, a traffic mitigation component proposed to alleviate delays on Strathmore Avenue. T. 247-248. Ms. Lide echoed these sentiments, as her property fronts on the Strathmore Avenue access drive adjacent to the proposed lane widening. T.

380. Responding to those concerns expressed previously, Ms. Wagner testified, in part:

In existing conditions, the delays at this specific intersection, Stillwater and Strathmore, drastically exceed the congestion standard due to a number of reasons. Primarily being the offset of the HCA driveway and the Stillwater Avenue intersection. This caused significant vehicular delays. The current driveway only has one outbound lane causing delays due to any vehicle wanting to turn left and needing gaps in traffic in both directions. And then, a significant delay is decreased because we have taken away that shift and aligned Stillwater and site driveway intersections as well as shifted all of the school driveway traffic volumes.

T. 160.

In further response to community comments and concerns, Ms. Wagner explained:

We collected traffic counts in December of 2021 in response to community concerns that were raised at meetings as well as received in correspondence to really have a better understanding of making sure that we conducted a traffic study in the most appropriate manner given the ongoing pandemic. And when we collected traffic counts the pandemic was not where it is now and there was -- schools were really back in session and we found that traffic counts were -- traffic counts that we collected in 2021 were [s]till less than what were used in the supplemental analysis to address the SHA and MCDOT concerns.”

T. 160-161.

Based upon the Applicant’s transportation study and supplemental study, Staff found that each of the studied intersections remain within acceptable levels of congestion and the LATR capacity analysis was consistent with the Department’s LATR Guidelines. Exhibit 62, p.14. “While existing delay for the Stillwater Avenue and Strathmore Avenue intersection exceeds the 71 second delay per vehicle standard,” traffic mitigation measures proposed by the Applicant including the realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will better accommodate school traffic during the AM peak hour.

Circulation

[illegible]

With respect to public transit, Ride-On Routes 5 and 37 operate along the Strathmore

Avenue frontage and both the Grosvenor-Strathmore Metrorail and Garrett Park MARC stations are located within a 1/2 of mile from the Site. Exhibit 62, p. 15. Staff notes that a formal determination of adequacy is required at the time of Preliminary Plan. *Id.*

Water and Sewer

Staff advises that the property is “served by a 12” water line along Strathmore Avenue and a 15” sewer line running north-south through the Property.” Exhibit 62, p. 15. Existing water and sewer infrastructure will not require upgrades to the service line or installation of a pump station due to the proposed development. Exhibit 53, p. 10. Electric, gas, and communications utilities will be provided via a public utility easement connected to Strathmore Avenue and running along the central drive, alleys, and behind the proposed front-load townhouses. *Id.*

Schools

Staff advises that the property is located within the Walter Johnson School cluster, which includes the nearby Garrett Park Elementary School, Tilden Middle School, and Walter Johnson High School. Exhibit 62, p. 15-16. While the proposed residential care facility will not generate any school-aged children to impact school capacity, the remaining residential portion of the proposed development “may require a Utilization Premium Payment at the time of building permit for one or all the schools.” Exhibit 62, p. 16. Staff notes that further assessment of school capacity will be conducted at the time of Preliminary Plan.

Staff concluded that a preliminary analysis indicates that public facilities will be adequate for the proposed development while the Planning Board will make a final determination at the time of Preliminary Plan. Exhibit 62, p. 16.

G. Community Concerns

This application has generated significant community participation and comment. Staff advises that the Applicant has complied with the required notification signage and has informed all

the adjacent property owners, community organizations, and homeowners' associations within one-half mile of the Property about the Application and the proposed Project. Exhibit 62, p. 27. Staff summarized the Applicant's public outreach as follows:

- January 19, 2021 - Virtual meeting with Garrett Park Mayor and Staff
- February 12, 2021 - Virtual meeting with Garrett Park Estates and Friends of White Flint
- February 26, 2021 - Virtual Meeting with Symphony Park Homeowners Association
- March 30, 2021 - Virtual Meeting with Holy Cross Community
- October 4, 2021 - Virtual Meeting with Representatives of Garrett Park Estates and White Flint Park Citizens Association
- November 8, 2021 - Virtual Meeting with Holy Cross Parish and School Community
- email correspondence with Grosvenor III Park Condominium Association, Stoneybrook Homeowners Association, Grosvenor Citizens Association, Parkside Condominium, and Strathmore Park Condominium.

Exhibit 62, p. 27-28.

Staff noted additional concerns related by community members with respect to the overall change of the school property, traffic impacts, and pedestrian safety concerns. Exhibit 62, p. 27-32. Staff also received correspondence in support for the proposed rezoning. Community concerns raised prior to the LMA hearing are comprehensively addressed in the Staff Report, p. 27-32. *See* Exhibit 62. Mr. Shaffer, on behalf of the community associations, in his opening remarks on the second day of testimony, stated that residents' concerns primarily had to do with traffic and the environment, as the testimony from community members confirmed. T. 244. Ms. Gerilee Bennett, councilperson for the Town of Garrett Park, testified as to a common theme from other community members that "We haven't been shown what other options were considered and what the pros and cons of those options were." T. 313.

Staff noted that many questions and concerns raised by community members will be addressed through subsequent preliminary plan and site plan review processes, which are independent of this LMA process by the Hearing Examiner. Specific community testimony will be referenced throughout the following findings and conclusions.

IV. FINDINGS AND CONCLUSIONS

A floating zone is a flexible device that allows a legislative body to establish development standards and uses for a zoning district before “attaching” it to a specific property. The zone is applied to properties via the approval of an LMA.

To approve an LMA, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with the coordinated and systematic development of the Regional District. *See, Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or “Necessary Findings,” that the Council must make. *See, Zoning Ordinance*, §59.7.2.1.E. These standards incorporate the requirements of other sections of the Zoning Ordinance, and most fall within three main categories: (1) conformance with the Master Plan, (2) compatibility with the surrounding area and adjacent properties, and (3) whether the project is supported by adequate public facilities.

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

1. Substantial Conformance with the Master Plan

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

Section 7.2.1.E.2.a. For a Floating zone application the District Council must find that the floating zone plan will:

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

* * *

Section 59.7.2.1.E.2.b: ...further the public interest...¹

* * *

Section 59.7.2.1.E.2.c: ...satisfy the intent and standards of the proposed zone...

* * *

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

The entirety of the subject property falls within the boundaries of the 1992 North Bethesda/Garrett Park Master Plan (“Master Plan” or “Plan”). Exhibit 62, p. 17. The Master Plan area is bordered by I-270 to the west, the City of Rockville to the north, Rock Creek Park to the east, and I-495 to the south. *Id.* The subject property is listed as one of the “Key Vacant or Redevelopable Parcels” in the Plan area, or Parcel #14. Exhibit 34, p. 12.

The Master Plan lays out both general recommendations for the Master Plan area and specific recommendations for the subject property. According to Staff, the proposed rezoning will support the objectives of the plan “to encourage land use patterns that preserve and increase the variety of the housing stock particularly with elderly housing, provide safe and efficient transportation, provide facilities to meet the recreational needs of the public, and reduce environmental impacts.” Exhibit 62, p. 17. General recommendations of the Plan include: focusing future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing; reduction in block sizes in the vicinity of Metro areas; improvements to the pedestrian friendliness of streets, particularly near transit nodes; and provision of a landmark quality and sense of place for nodal areas and districts. *Id.* Staff opined that the proposed development supports these objectives as it “achieve[s] this critical land use and

¹ OZAH has interpreted the “public interest” to address whether the property conforms to adopted County plans and policies and whether there are adequate public facilities to support the use.

transportation linkage” by providing residential housing to replace a vacant retirement home and “deliver more housing than was previously on the Site” while accessible to nearby rail service at the Grosvenor-Strathmore Metrorail Station, public bus stops and routes that traverse Strathmore Avenue, coupled with the construction of an “internal system of new private roads that create short, walkable blocks.” *Id.* Based on her experience with other Brandywine sites, Ms. Bacon testified that many employees of the Brandywine residential care facility will likely use public transit for their daily travel to and from work. T. 57. The Applicant stated that the provision of housing is repeated as a primary objective throughout the plan, which calls for development of “[a] wide range of housing types within each neighborhood...to avoid large concentrations of any single type and increase the potential for pedestrian connection between diverse housing types,” “preserv[ing] and increase[ing] the variety of housing stock, including affordable housing” and “encourag[ing] a mixture of land uses in redeveloping areas to promote variety and vitality.” Exhibit 53, p. 5, citing the Master Plan at pp. 12, 33, 35.

In addition to general recommendations, the Master Plan also includes recommendations specific to 4910/4920 Strathmore Avenue. Exhibit 62, p. 18. Listed as Parcel No. 14, the Plan specifically identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Exhibit 62, p. 18 (citing the Master Plan, pp. 80-81). Also linking to nearby transit, Staff notes that the Plan “supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed.” *Id.* Staff opines that the application satisfies this specific objective by retaining the Academy of the Holy Cross School but replacing the now vacant retirement home with a new but analogous use as a residential care facility for seniors, and adding residential housing as infill development in a previously unimproved portion of the lot, all within

proximity to a transit node. Exhibit 62, p. 18. The Plan specifically recommended retaining the Academy of the Holy Cross because of its proximity to excellent transit. Exhibit 34, p. 13.

The Master Plan also emphasizes other objectives for 4910/4920 Strathmore Avenue including “preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief.” *Plan*, p. 81. Staff notes that portions of the existing open lawn areas on the property are proposed to be protected through Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development. Exhibit 62, p. 18. Portions of these conservation easements are proposed to be located along a planned nature trail located along the western edge of the property which will be open to the public during daylight hours. *Id.*

Staff further noted that the proposed development will “complement the existing sense of place” created by the surrounding residential neighborhoods to the north and west and educational and institutional spaces to the southwest and east. Exhibit 62, p. 17. Staff concluded that the proposed development “aims to fit within the existing neighborhood fabric of this well-established community while also delivering exceptional urban design and architectural detailing to further articulate quality.” *Id.*

Transportation

According to Staff, the Master Plan “makes significant recommendations to encourage and support transit use, including expansion to the public transportation system.” Exhibit 62, p. 19. The Master Plan recommends that “future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing.” *Id.*; citation to Master Plan, unknown. Staff notes that the proposed site is in close proximity to existing transit services including bus and rail services and the application includes: improving access to transit services through upgrading pedestrian and bicycle infrastructure along

the corridor; constructing a new master-planned 10-foot-wide shared use path along Strathmore Avenue to support walking to the nearby Grosvenor-Strathmore Metrorail Station; construction of a new internal road and pathway system with five-foot wide asphalt sidewalks throughout the Site's new roads and natural surface trail along the western edge of the Property. *Id.* With respect to public transit, Mr. Sloan added that Ride-On Routes 5 and 37 run along Strathmore Ave while Routes 37 & 46 run along Rockville Pike. Exhibit 34, p. 6. Further, he estimated that "the Garrett Park MARC station is a 12-minute walk to the northwest and the Grosvenor-Strathmore Metro Red Line Station is a 10-minute walk along the trails in Symphony Park and the Music Center at Strathmore." *Id.* Mr. Douglas Burdin, a community member, testified that because of the site layout, residents living in this new development would be required to use Strathmore Avenue and a walking path in Symphony Park to access the Metro station, as the planned development does not contain a cut-through connecting to Cloister Drive or Tuckerman Lane. T. 340-341. Mr. Burdin estimated this walk-time to be between 13-18 minutes. *Id.* Mr. Burdin estimated this same walk-time to the Garrett Park MARC station. *Id.*

Senior Care Housing

Staff notes that the Master Plan recommends supporting adult day-care facilities and affordable elderly housing including through the special exception process, and encouraging the location of elderly housing and elderly support services along public transit. Exhibit 62, p. 20. Staff opines that the subject application supports these recommendations by replacing the vacant St. Angela's Hall with a new senior care facility located in close proximity to public transit and serving the needs of seniors as identified in the Plan. *Id.*

In sum, Staff concluded that the underlying application furthers the public interest by supporting the goals and recommendations of the Master Plan through the project's proposed uses, land improvements including stormwater management and conservation easements, and the design

of the residential care facility and residential housing as a complement to the surrounding residential neighborhoods. Exhibit 62, p. 21.

Conclusion: The Hearing Examiner agrees with Staff and the Applicant that the proposed rezoning supports the general objectives of the North Bethesda/Garrett Park Master Plan, and satisfies the intent and standards of the floating zone by furthering the goals of the Plan to provide housing near public transit and mixed-use nodes, and furthers the public interest by advancing the goals and objectives of the Master Plan. In closing argument, Mr. Shaffer makes the assertion, based on the testimony offered at the hearing, that the proposed development is not a transit-oriented development as envisioned by the Master Plan. The Hearing Examiner disagrees, and finds that the proposed residential development restricts commercial uses as a binding element and its location within 15 minutes of Metro, MARC, and public bus lines will service the single-family residential and residential care facility (residents and staff), in furtherance of the goals of the Plan. Therefore, the preponderance of the evidence supports a finding that this standard has been met.

2. Compatibility

Several sections of the Zoning Ordinance require an analysis of the compatibility of the proposed FZP with adjacent uses and the surrounding area. The application must:

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

* * *

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

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

impacts found to be caused by the new use.

* * *

Section 7.2.1.E.2.d. be compatible with existing and approved adjacent development...

* * *

The existing community is comprised predominantly of attached (e.g. townhouse) and detached residential homes and condominiums as well as nearby institutional uses such as the Music Center at Strathmore, public transit at the Grosvenor-Strathmore Metro stop, and neighborhood schools. Exhibit 62, p. 3; Exhibit 34, p. 5. The proposed development includes single-family detached homes, single-family attached homes, and a residential care facility to serve seniors all with a maximum height of 50 feet. *Id.* The rezoning of the property to the CRNF zone would allow for the development of the residential care facility portion of this application by right, in addition to increased density for single-family housing. Staff concluded that the proposed mix of residential uses was compatible with adjacent development, which includes a townhouse development to the west, institutional uses to the south and east, and a single-family residential neighborhood to the north. Exhibit 62, p. 22. Mr. McLaurin testified that “when we create infill communities like this which have surrounding context around our immediate site, it's important that we focus on compatibility. And one aspect of compatibility is height and scale. So I think we, after studying the property, we come up with a land plan that I believe addresses that.” T. 231. Under the requested CRNF zone, up to 1.25 FAR is permissible while the application requests 0.75 FAR with no commercial uses except for permitted accessory uses associated with the residential care facility. Exhibit 62, p. 18. Staff found this density more consistent with the abutting and confronting existing residential uses. Exhibit 62, p. 23.

Staff noted that the closure of St. Angela’s Hall and major mixed-use redevelopment proposals on parcels nearby or adjacent to the Grosvenor-Strathmore Metrorail Station make

rezoning an appropriate land use tool rather than a scheduled Master Plan update “to meet the intent of the governing plan that prioritizes housing.” Exhibit 62, p. 22. Staff further noted that according to the 2020 housing needs assessment, Montgomery County currently faces a housing shortage and estimates that more than 60,000 new housing units are needed by 2040. Exhibit 62, p. 22. Staff concluded that this application and proposal will help meet an acute need for diverse housing within Montgomery County. *Id.* The Applicant’s Land Planning Report, prepared by Joshua Sloan at VIKA, stated that:

...the proposed development will not have any adverse impact to the existing character of the neighborhood: detached lots will face onto Strathmore Avenue enhancing the residential character of the street; the existing institutional use will be replaced with a residential building ensuring compatible uses and maintaining the feel of the clustered civic, institutional, and cultural building types to the east; and the townhouses to the west are complemented by the proposed interior townhouse uses with similar block and open space patterns.

Exhibit 34, p. 5-6.

Regarding the planned design of the residential care facility, Ms. Brenda Bacon of Brandywine testified:

“The thing that I think is important is that sometimes people think that senior living communities or nursing homes are institutional settings, [but] our communities are never institutional looking. They are more residential looking because these are indeed residences for seniors.” T. 48.

Conclusion: The Hearing Examiner finds that the proposed development will be compatible with adjacent properties and the surrounding area. The proposed residential care facility will replace and provide necessary improvements to the previous retirement home with an updated residential care facility to serve seniors. The FZP utilizes the site’s topography to mitigate the height, size, and impact of the proposed buildings, as the lot slopes east to west. T. 150; *See* Exhibit 40. The proposed residential housing serves the needs of increased residential housing demand as identified in the Master Plan, by providing single-family housing specifically located in close proximity to

public transit at the Grosvenor-Strathmore Metro station, Garrett Park MARC station, and bus routes. For these reasons, the Hearing Examiner finds that these standards are satisfied.

3. Adequate Public Facilities/Public Interest

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

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

* * *

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

* * *

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

* * *

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

LATR & Traffic

According to Staff, the 2020-2024 Growth and Infrastructure Policy went into effect on January 1, 2021. Exhibit 62, p. 14. The scope of the Applicant's traffic impact study was approved by Staff in November of 2020 and as such, the transportation study for the Local Map Amendment was subject to the previous 2016-2020 Subdivision Staging Policy. *Id.* At the time of the review, the subject property was located within the North Bethesda orange policy area, as determined under the 2016-2020 Subdivision Staging Policy. *Id.* Under the North Bethesda orange policy area, LATR compliance is required, and the Applicant submitted a traffic impact study to determine multimodal adequacy including both Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay

analyses. *Id.*

In accordance with the 2016-2020 *Subdivision Staging Policy*, a transportation study was conducted by Ms. Katie Wagner, Applicant's traffic engineer, to analyze the congestion levels at nearby intersections to satisfy the LATR test, as preliminary analysis determined that peak a.m. and peak p.m. trips generated by the proposed land uses would exceed the 50-trip threshold. Exhibit 62, p. 14. *See* Table 2 below for site generated trips. Staff notes that Preliminary Plan will be subject to the 2020-2024 *Growth and Infrastructure Policy* (GIP) and a new transportation study will be required as part of that analysis. *Id.* Critical Lane Volume (CLV) and Highway Capacity Manual delay analysis (HCM) conducted by Ms. Wagner are described below.

With respect to Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay analysis, the intersection congestion standards for the policy area are a CLV of 1,550 and 71 seconds of delay per vehicle. Exhibit 62, p. 14. As demonstrated in Table 3, provided in the traffic engineer's report and reproduced below, each of the studied intersections remain "within acceptable levels of congestion." *Id.* The traffic study further concluded, as did Staff, that the LATR capacity analysis was consistent with the Department's LATR Guidelines in that while existing delay for the Stillwater Avenue and Strathmore Avenue intersection exceeds the 71 second delay per vehicle standard, the proposed realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will accommodate school traffic during the AM peak hour sufficient to mitigate the capacity delay. Exhibit 62, p. 14. Staff concluded that the traffic study demonstrates that "all intersections within the study area will operate within the policy area's congestion standards." *Id.*

Mr. Kip Edwards, a member of the community, testified that the community had concerns regarding the credibility of the traffic study and therefore purchased a traffic counting software service called Camlytics that uses "machine learning to count cars which enter and exit the frame"

to conduct their own lay analysis. T. 249. Mr. Edwards testified that the Camlytics analysis resulted in a traffic count that was “much higher than the numbers used in the August 2021 LATR supplemental report, which is what planning board staff ultimately relied on when they met their conclusions.” T. 250. Ms. Wagner responded that she reviewed the video and compared the video recorded by the community with her own analysis and “found that the spreadsheet overexaggerated the number of vehicles traveling along Strathmore Avenue.” T. 162. Ms. Wagner also noted that the video was “not collected on a typical weekday as required by the park and planning staff.” *Id.* Staff noted that future traffic analysis will be completed in accordance with the updated 2020-2024 Growth and Infrastructure Policy, with the property now being located in the Grosvenor Policy Area and subject to those requisite standards. *Id.*

Mr. Douglas Burdin, a community member, testified that despite measures taken by the Academy of the Holy Cross to assist with traffic control, “...the traffic still backs up and the delays are still significant. And I have also, occasionally, been stuck trying to get out of my development, either going east or west and had delays from traffic. And I have been personally in that traffic occasionally that gets backed up on Strathmore.” T. 342. Mr. Burdin also expressed concern about the “massive delays” noted in the LATR study and the supplemental analysis with respect to the studied intersections, and the reliability of the proposed traffic mitigation measures (e.g. traffic signal, turn lane, realignment of Stillwater) proposed to alleviate that delay and congestion.

Land Uses	Square Feet, Units, or Beds	Site-Generated Peak-Hour Person Trips	
		Morning	Evening
Former Use			
Assisted Living	38,000 sf.	12	15
Total Existing Person Trips		22	28
Proposed Land Uses under this application			
Townhomes	115 Units	45	56
Detached Single Family Residential	10 Units	10	9
Assisted Living	150 Beds	24	32
Proposed Subtotal Vehicular Trips		79	97

Proposed Subtotal Person Trips	127	154
Net Increase in Peak-Hour Person Trips	+105	+126

Table 2: Site-Generated Peak-Hour Person Trips

	AM				PM			
	Existing CLV	Future CLV	Existing Delay	Future Delay	Existing CLV	Future CLV	Existing Delay	Future Delay
Rockville Pike and Strathmore Avenue	716	1,289	16.8	21.4	964	1,538	23.3	29.1
Stillwater Avenue and Strathmore Avenue	862	1,033	445.2	2.0	757	1,102	5.3	1.7

Table 3: Existing and Future Traffic ImpactOther Public Facilities

While the findings necessary for approval of an LMA specifically require an analysis of whether the proposed development complies with the traffic and transit congestion standards in the LATR Guidelines, a final determination of the adequacy of other public facilities will be determined by the Planning Board at preliminary or site plan approval. Exhibit 62, p. 15. However, Sections 7.2.1.E.1.b and 7.2.1.E.1.c, as well as Section 5.1.2.A.2, permit the Hearing Examiner to evaluate other public facilities in which compatibility, the public interest, and the intent of the floating zone are satisfied. Staff concluded that “a preliminary analysis indicates that public facilities will be adequate for the proposed development.”

With respect to circulation, existing and future vehicular access to the site is provided primarily from three access points on Strathmore Avenue. The primary entrance/exit will be utilized for the proposed residential care facility and the Academy of the Holy Cross, and secondarily for the single-family residential portion of the development. The second access/exit on Strathmore Avenue will be located more proximate to the single-family homes, and is intended to primarily serve those residences and only secondarily for the school and residential care facility. And the third access/exit will be located proximate to the rear of the residential care facility and will only

be used for loading/unloading, deliveries, and other servicing for the residential care facility including limited employee parking. Exhibit 34, p. 10. This third access point will not be connected to the internal roadway system proposed throughout the site, and therefore cannot be utilized for the other uses or for school traffic. *See* Exhibit 37. Staff found that the vehicular access points along Strathmore Avenue were adequate to accommodate vehicular traffic anticipated by the proposed redevelopment while internal roadways and sidewalks will be upgraded under this application including the addition of a shared use path proposed along Strathmore Ave. Exhibit 62, p. 15. Staff noted that property's frontage currently lacks sidewalks and that "future roadways and sidewalks will be constructed to provide additional infrastructure along the frontage and internal to the Site." *Id.* Members of the community testified to their preference for access to the site be from Tuckerman Lane or Cloister Drive, at the southern end of the property. Jeff Amateau, the Applicant's civil engineer, testified that while that option was considered, site conditions including a steep slope, a stream valley buffer, floodplain and other topographic conditions made vehicular access from the southern portion of the property unfeasible. T. 75.

With respect to water and sewer services, Staff states that the property is currently served by a 12" water line along Strathmore Avenue and a 15" sewer line running north-south through the Property. Exhibit 62, p. 15. "Electric, gas, and communications will be provided via a public utility easement connected to Strathmore Avenue and running along the central drive, alleys, and behind the proposed front-load townhouses." *Id.*

With respect to public services like schools, police, and fire access, due to the proposed residential use, a subsequent Preliminary Plan will be subject to the FY21 Annual School Test under the 2020-2024 Growth and Infrastructure Policy (GIP). Exhibit 62, p. 15. Staff notes that the property falls within the Walter Johnson School cluster, which includes the nearby Garrett Park Elementary School, Tilden Middle School, and Walter Johnson High School. *Id.* at 16. Staff opines

that further assessment of school capacity will be conducted at the time of Preliminary Plan. *Id.* The Applicant submitted a fire access plan into the record (Exhibit 9) and a formal determination for fire access adequacy will be issued by the Montgomery County Department of Fire and Rescue Service.

Conclusion: The Hearing Examiner finds that adequate public facilities are met under this application and that the FZP furthers the public interest by implementing the comprehensive planning objectives contained in the Master Plan to support diverse residential housing options in close proximity to public transit. The concerns expressed by community members during this two-day hearing were real, sincere, well-considered, and reasonable, but at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided. While the Hearing Examiner shares the reservations of community members with regard to traffic congestion on an instinctual level, as the development proposes dense residential uses on previously unimproved land and a vacant building, Ms. Wagner's methodology was sound and her testimony was credible with regard to the LATR study, the supplemental analysis, and the conclusions drawn from that study. Without evidence or compelling argument to the contrary, the Hearing Examiner accepts the LATR and supplemental analysis as satisfying this standard. The record reveals that the Applicant has demonstrated that the proposed development meets the LATR Guidelines and there is no credible evidence suggesting that other public facilities will be insufficient to meet demand.

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

Section 59.7.2.1.E.2.c of the Zoning Ordinance requires the District Council to find that the FZP "satisfy the intent and standards of the proposed zone." The Zoning Ordinance includes an "intent" clause for all Floating Zones and a "purpose" clause for the zone requested. Some of

the intent or purpose clauses have already been analyzed above. The balance of the intent findings for Floating Zones and the purposes of the CRTF Zone, are examined here.

1. Intent of Floating Zones (Section 59.5.1.2)

The intent of Floating Zones is to ensure (1) the FZP complies with the Master Plan, (2) is supported by adequate public facilities, and (3) achieves the following goals:

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

A. Implement comprehensive planning objectives by...

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

The first two goals of Section 59.1.2.A (compliance with the Master Plan and adequacy of public facilities) are addressed above. The third intent standard of Section 59.5.1.2 is addressed below.

Staff opined that the proposed uses include single-family detached and single-family attached, as well as a residential care facility, “provide an appropriate mix of uses for the Property’s context, and the maximum height of 50 feet for all uses ensures compatibility within the Property’s setting.” Exhibit 62, p. 22. Staff further stated that “the proposed mix of residential uses is compatible with adjacent development, which includes a townhouse development to the west, institutional uses to the south and east, and a single-family residential neighborhood to the north.” *Id.* According to Staff, the arrangement of density and uses as proposed is more consistent with the abutting and confronting existing residential uses than the current state of the property, and the replacement of the currently vacant retirement home and parking lot with an updated building with amenities will be a “productive use that fits within the residential character and provides minimal parking spaces with direct view from the public realm.” *Id.* at 23. Mr. Sloan testified that the FZP meets the intent standard as:

“One, it provides a residential care facility, replacing the vacant building now for our aging

population. It provides housing including moderately priced dwelling units at a time when we are facing a housing shortage. It does place density appropriately near transit and other services. And it will significantly improve the environmental conditions of these two tributaries that drain to the Rock Creek by placing conservation easements on them and enhancing the habitat and forest in those areas.” T. 119.

With regard to integrating development into circulation networks, there was some community testimony questioning the purpose behind multiple access points to the property versus limiting access to one primary access point. Mr. Sloan responded that:

“Working with staff they required a second entrance to disperse traffic and give different options for people to access Strathmore Avenue, both pedestrians and drivers. So we took that requirement and worked on maintaining the primary entrance as our focal point for the community where it will sort all three different uses, where it will serve for fire and emergency access, and where it is the most safe, effective, and efficient for our primary point to get into and around the site. The secondary access, we worked with staff to align it with Stillwater and keep it at a size that would not impact any environmental areas, but otherwise we were working under a requirement of agency review for that. We think it does provide some benefits. It does get us closer to the Metro access at Strathmore Avenue that way and some other elements. But I think from a land planning perspective it was really driven by that dispersal of traffic required by staff.”

T. 374. Ms. Wagner’s testimony supported this reasoning by adding:

“We worked for months prior to developing this plan for the access scenarios with park and planning staff and determined that each access point was needed for a very specific reason. The Stillwater connection was adamantly proposed by staff that they wanted to have that as a secondary access point for residents, for emergency vehicles to connect to the community.”

T. 354

Conclusion: From this record, the Hearing Examiner finds that the FZP utilizes the design flexibility provided by the Floating Zones to integrate the development compatibly with surrounding uses, employing design strategies to mitigate the visual impact of the proposed single-family homes and the residential care facility, and expanding access points for vehicular and pedestrian safety and efficiency of access to eliminate queuing and traffic congestion, thereby satisfying the intent of a floating zone in furtherance of the public interest.

B. Encourage the appropriate use of land by:

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

Staff noted that the Master Plan confirmed the continuance of the institutional uses on the property (St. Angela's Hall and The Academy of the Holy Cross). Exhibit 62, p. 22. The Applicant reiterated that the Master Plan that recommended retention of the property's R-60 zoning is now almost 20 years old, and as stated on page VII of the Master Plan, "[m]aster plans generally look ahead to a time horizon of about 20 years from the date of adoption....[i]t is recognized that the original circumstances at the time of plan adoption will change over time, and the specifics of a master plan may become less relevant as time goes on." Exhibit 53, p. 8. As St. Angela's Hall has closed and major mixed-use redevelopment proposals for other properties adjacent to the Grosvenor-Strathmore Metrorail Station have progressed, Staff found that a rezoning was appropriate to address the surrounding changes as well as to meet the intent of the Master Plan that prioritizes housing. Exhibit 62, p. 22. Under the new CRNF zone, the property will help mitigate a housing shortage identified by a 2020 housing needs assessment, and locating that housing near public transit. *Id.* Staff noted that the FZP and accompanying application indicate that all open space and environmental requirements are satisfied. *Id.* The density proposed (.75 FAR) is half of the permitted density (1.50), and the application contains a binding element prohibiting commercial uses on site. *Id.*

Conclusion: The Hearing Examiner finds that these requirements are satisfied. The FZP will provide diverse housing options for families and seniors which supports Master Plan goals for single-family residential and senior housing, and self-limits with a restriction on commercial uses and a density below the maximum permitted under zone regulations.

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

Section 59.5.3.2 of the Zoning Ordinance describes the purpose of the Commercial/Residential Floating Zones.

Section 59.5.3.2. (Purpose of Commercial/Residential Floating Zones)

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

A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;

B. allow flexibility in uses for a site; and

C. provide mixed-use development that is compatible with adjacent development.

The Applicant's Land Planning Report asserts that the purposes of the CRNF Zone are met under this application as the proposed development will "create a neighborhood appropriate to the setting with compatible uses and site design." Exhibit 34, p. 17. The uses allowed in the CRNF Zone are the same as those allowed in the CRN Zone including the proposed single-family and senior residential housing, while no commercial uses or commercial building types are proposed. *Id.* The Applicant proposes a "unique multi-generational community, where families, students of the adjacent schools, and seniors can interact and benefit from proximity to one another." Exhibit 53, p. 3.

Conclusion: The Hearing Examiner finds that the FZP furthers the purpose of commercial/residential floating zones. Binding elements limiting the use of the property to density, height, and restriction on commercial uses will further ensure compatibility with adjacent development and the surrounding area. The CRNF Zone allows the flexibility to incorporate a new building to replace an aging one, and to provide diverse infill housing to

a previously unimproved site in a manner compatible with the surrounding area while minimizing environmental impacts through open space requirements, conservation easements, and protection of two stream valley buffers.

C. The Applicability of the Zone (Section 59.5.1.3)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a property may apply for a Floating Zone. These subsections are addressed as follows:

Section 59.5.1.3. A. A Floating zone must not be approved for property that is in an Agricultural or Rural Residential zone.

Conclusion: The property to be rezoned is currently within the R-60 Zone, a Residential Detached Zone; therefore, this provision does not apply.

Section 59.5.1.3. C. If a Floating zone is not recommended in a master plan, the following apply:

1. The maximum allowed density is based on the base zone and on the size of the tract as stated in Division 5.2 through Division 5.5. Any density bonus requested under Chapter 25A may be added to the density allowed under Division 5.2 through Division 5.5 and included in the units per acre or FAR of the zone requested.

2. Residential Base Zone

* * *

b. When requesting a Townhouse Floating (TF) zone, Apartment Floating (AF) zone, or Commercial Residential Neighborhood Floating (CRNF) zone for a property with a Residential base zone:

i. The property must front on a nonresidential street or must confront or abut a property that is in a Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone; and

ii. The application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.3. D. Section 59.5.1.3. D. Prerequisites [see table]

Per Section 59-5.1.3.C.2.b of the Zoning Ordinance, to request the CRNF zone for a property with a residential base zone, the property must “front on a nonresidential street” and “satisfy a minimum of two (2) prerequisites for each of the categories under Section

59.5.1.3.D.” The subject property fronts on Strathmore Avenue, which, according to Staff, is designated as an arterial road in the Master Plan, meeting the first requirement. Exhibit 62, p. 23. Further, Staff found that the LMA Application meets the following prerequisites in the three (3) categories listed below:

1. Transit and Infrastructure:

- a. At least 75% of the site is within ¼ mile of a Level 3, ½ mile of a Level 2, or ¼ mile of a Level 1 transit station/stop.
- b. The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.

2. Vicinity and Infrastructure:

- a. The site is adjacent to a route that provides access to an existing or master-planned school within ½ mile.
- b. The site is adjacent to a pedestrian route that provides access to existing public park and recreation facilities that satisfy a minimum of 30% of the recreation demand under the Planning Board’s Recreation Guidelines, as amended, within ¾ mile.

3. Environment and Resources:

- a. The limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 35 feet at any point.
- b. The site does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources.

Exhibit 62, p. 23; *See* Section 5.1.3.D (and Table 5.1.3.D) for a full list of eligible prerequisites.

Conclusion: Having no evidence to the contrary, the Hearing Examiner finds that the subject property meets the prerequisites to filing a Floating Zone application.

D. Development Standards and Uses Permitted in the Commercial/Residential Floating Zones
(Division 59.5.4)

1. Uses and Building Types Permitted (Sections 59.5.3.)

Section 59.5.3.3A.2 of the Zoning Ordinance permits “only” those uses permitted in the CRN Zone in the CRNF zone. Detached residential, attached residential, and residential care

facilities are all permitted uses in the CRN and, therefore, the CRNF zone, as proposed under this application.

Under Section 59.5.3.4.A., “[a]ny building type” is permitted in the Commercial/Residential Floating Zone, therefore, the FZP meets this standard as well.

Conclusion: The Hearing Examiner finds that the proposed use and building type satisfy the standards under this requirement.

2. Development Standards of the CRNF Zone (Section 5.3.5.A-D)

Section 5.3.5.A-E sets out the development standards for floating zones including: density, setback and height, lot size, general requirements, and public benefits requirements. Staff concluded that the FZP meets the development standards of the proposed CRNF 0.75 C-0.25 R-0.75 H-50’ (Commercial Residential Neighborhood-Floating) Zone. The Staff Report includes a table, marked as Table 4 and reproduced on the next page, comparing the development standards of the Zone with those proposed. Exhibit 62, p. 24. Development beyond 1.0 FAR is not requested under this application and therefore no public benefits are requested or required, and therefore Section 5.3.5.E. does not apply.

In accordance with Section 59-5.3.5.D.2.a, the application must provide common open space for the townhouses and public open space for the residential care facility. Exhibit 62, p. 9. The Applicant proposes to provide a combined total of 10% or 63,463 square feet of public open space and common open space spread across the site including 19,451 square feet (0.44 acres) of linear pathway along proposed “Street A” (to be constructed), lawn area with terraced seating and other amenities, a 1.01 acre natural surface trail that traverses the rear of the townhouse units to the west of the site and within two smaller areas adjacent to proposed “Street C.” Exhibit 62, p.10. The

	Required/Permitted	Proposed
Site		
Gross Tract Area (Overall Site)		38.55 acres

Gross Tract Area (Subject Property)	N/A	15.36 acres 688,877 sf.
Previous ROW Dedications		19,952 sf.
Proposed ROW Dedications		0 sf.
Net Lot Area (Subject Property)		668,925 sf.
Maximum Density of Development (CRNF-0.75, C-0.25, R-0.75, H-50)	Residential - 0.75 FAR/ (516,658 sf.) Commercial - 0.25 FAR (172,219 sf.)	Residential - 0.70 FAR/ (482,000 sf.) Commercial - 0 FAR (0 sf.)
Public Open Space	10%	44,012 sf. (1.01 acres)
Common Open Space	10%	19,451 sf. (0.44 acres)
Lot Coverage (max.)	Set at Site Plan	To be determined at Site Plan
Building Height (max.)	50 feet	50 feet
Principal Building Setbacks (min.)		
Front setback from public street	Set at Site Plan	To be determined at Site Plan
Side street setback		
Side setback		
Rear setback		
Parking*		
Townhouse	1 space per unit; 2 per unit max	297-313 spaces
Townhouse MPDU	minimum reduced by 50%	
Single-Family Residential	1 space per unit; 2 per unit max	
Residential Care Facility	0.25 per bed min./max. 0.5 space per employee min./max.	To be determined at Site Plan

Applicant submitted an Open Space Plan, shown on the next page, which provides a color-coded site plan indicating where the proposed common open space (blue shade) and public open space (red shade) may be located. *See* Exhibit 41, shown below. Mr. Sloan testified that the purpose of the conceptual design of the open space areas was to:

“...focus people and get them down and engaged with the natural conservation areas where we are going to be planting different types of habitat species and provide screening to the school. And also maintain no impervious area really, so that we can keep the environmental quality there. So it's very unique in those aspects. It's focused on the environmental open spaces.” T. 116.

Staff noted that these defined areas will be further reviewed at Preliminary Plan. Exhibit 62, p. 9.



E. General Development Requirements (Article 59.6)

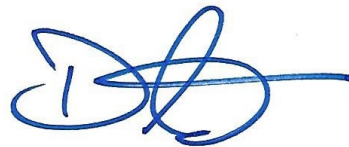
(51)

V. RECOMMENDATION

For the foregoing reasons, the undersigned conclude that the proposed reclassification and Floating Zone Plan will meet the standards set forth in the Zoning Ordinance and that it will be consistent with a coordinated and systematic development of the Regional District under State law. Therefore, we recommend that Local Map Amendment Application No. H-143, requesting reclassification from the R-60 Zone to the CRNF-0.75 C-0.25 R-0.75 H-50 zone be **approved** subject to the specifications and requirements of the Floating Zone Plan (Exhibit 88(a)), provided that the Applicant files an executed Declaration of Covenants reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

Issued: April 6, 2022

Respectfully submitted,



Derek J. Baumgardner
Hearing Examiner

Issued by:



Lynn Robeson Hannan
Hearing Examiner

Resolution No.: _____
Introduced: _____
Adopted: _____

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

By: District Council

SUBJECT: APPLICATION NO. H-143 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Erin Girard, Esquire, Attorney for the Applicant, EYA Development LLC and BL Strathmore LLC; OPINION AND RESOLUTION ON APPLICATION; 4920 Strathmore Avenue, more particularly known as Parcel No. 045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824, and all of the property located at 4910 Strathmore Avenue, more particularly known as Parcel N875, Parcel A, Garret Park- Holy Cross Convent, as shown on Plat No. 9347; Tax Account Nos. 04-03234564 and 04-00045122

OPINION

On August 4, 2021, EYA Development, LLC (“Applicant” or “EYA”) filed Local Map Amendment (LMA) application (H-143) requesting the rezoning of the property located at 4910/4920 Strathmore Avenue (the “Property”) in North Bethesda, Maryland from its current R-60 Zone (detached residential) to CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood- Floating). Exhibit 1. The property is currently improved by Garrett Park Academy of the Holy Cross (Parcel B), and Garret Park- Holy Cross Convent, or St. Angela’s Hall (Parcel N875/Parcel A), a vacant and unoccupied retirement home for nuns. If approved, the proposed development of the property will include 125 single-family dwelling units (including a minimum of 15% MPDUs) and a 145-bed residential care facility.

On December 6, 2021, Staff of the Montgomery County Planning Department (Planning Staff or Staff) issued its revised report recommending approval of the application with binding elements. Exhibit 62. The Planning Board agreed with Staff and recommended approval on December 17, 2021. Exhibit 61. OZAH’s public hearing proceeded as noticed on January 31, 2022 and concluded on February 1, 2022. Six (6) witnesses testified for the Applicant: Jack Lester (Applicant), Brenda Bacon (Brandywine Living), Jeff Amateau (civil engineer), Joshua Sloan (land planner), Katie Wagner (traffic engineer), and Jack McLaurin (architect). Community members Katie Prebble and Sister Ruth Marie Nickerson also testified in support of the application. Mr. David Shaffer, Esq. appeared on behalf of Garrett Park Estates and White Flint Civic Association. Community members testifying in opposition included: Douglas Burdin, Kip

Edwards, Arthur Ribeiro, Vanessa Lide, Cynthia Weitz, and Gerilee Bennett, a town councilmember representing the Town of Garrett Park. The Hearing Examiner left the record open until February 11, 2022. Several additional exhibits were received during this period and marked and admitted without objection as evidentiary exhibits. The Hearing Examiner issued a report recommending approval on April 6, 2022. The Hearing Examiner reopened the record to receive the revised Floating Zone Plan with binding elements, entered into the record as Exhibit 88.

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

Subject Property

The subject property is located at 4910/4920 Strathmore Avenue, immediately south of the intersection of Strathmore Avenue and Stillwater Avenue. Exhibit 62, p. 4. The two areas proposed for rezoning under this LMA are Parcel A, which is currently improved with the former St. Angela's Hall (approximately 38,000 square feet) with two driveway entrances on Strathmore Avenue, surface parking, outdoor amenity spaces, pedestrian paths, and open lawn areas, and a portion of Parcel B, which is currently improved by a school site known as the Academy of the Holy Cross, a Catholic high school for girls, consisting of various school buildings and athletic fields. *Id.*

The entire property including all of parcels A and B is approximately 38.22 acres in size. Exhibit 62, p. 4. The portion subject to this rezoning application (hereinafter the "site"), comprised of all of Parcel A and a portion of Parcel B, is approximately 15.36 acres (669,082 square feet) under common ownership. *Id.* The building and driveways for the existing but closed and vacant St. Angela's Hall are located on the high point of the site and slope down to a nearby tributary of Rock Creek and associated wetlands along the western, southern, and eastern sides of the property. *Id.* The main existing school site, which will remain unchanged under this application and is not subject to rezoning, is further improved by buildings, lawn, athletic fields, driveways, and parking areas. The property is currently zoned R-60. *Id.*

Surrounding Area

The Staff-defined neighborhood includes the community of single-family detached homes that front the property to the north across Strathmore Avenue (Garret Park Estates), the single-family attached neighborhood to the west (Symphony Park townhouse community), institutional uses abutting the property to the south and east (The Music Center at Strathmore and The Mansion at Strathmore), and a public transit station (Grosvenor-Strathmore Metro Station). Exhibit 62, p. 4; Exhibit 34, p. 5. Other surrounding uses include nearby public and private schools and a church. Exhibit 34, p. 5. Three public parks or playgrounds are also nearby: Garrett Park Estates Local Park, Druid Drive Neighborhood Park, and Garrett Park – Waverly Park. Exhibit 62, p. 4.

The Hearing Examiner concurred with the delineation of the surrounding area as described by Staff and the Applicant. The Hearing Examiner further characterized the area as predominantly

residential with single-family detached and single-family attached homes with institutional uses to serve the surrounding community. *Hearing Examiner's Report*, p. 9.

Proposed Development

The subject application seeks to rezone this R-60 property to CRNF 0.75 C-0.25 R-0.75 H-50, (Commercial Residential Neighborhood-Floating). Private roads, open spaces, environmental conservation areas, and infrastructure will also be implemented through the redevelopment process with access to the Academy of the Holy Cross maintained but redesigned through the redevelopment. Exhibit 34, p. 4. Following approval of the rezoning, future development on the site will relocate the entry drive, replace St. Angela's Hall on Parcel A with a 145- bed residential care facility owned and operated by Brandywine Living, and up to 10 detached single-family dwellings and 115 attached townhouse units on the area currently occupied by athletic fields and landscaped lawns, for a total of 125 single-family dwelling units (including a minimum of 15% MPDUs). Exhibit 34, p. 9. No commercial uses are proposed and a prohibition on commercial uses is listed as a binding element to this application. Exhibit 34, p. 19. The property's existing R-60 zone only allows townhouses by limited or conditional use and residential care facilities by conditional use only, therefore, the Applicant is seeking to rezone the property to the CRNF zone to permit both uses by right as a comprehensive project. Exhibit 53, p. 2. The FZP contains six binding elements that will permanently restrict future development:

1. Permitted uses on the Site include up to 125 single-family detached and attached dwelling units (including a minimum of 15% MPDUs) and a residential care facility (with up to 145 beds).
2. Commercial uses are not permitted on the Property, except permitted accessory uses associated with the residential care facility.
3. A natural surface trail must be provided along the western side of the Site that is subject to a public access easement
4. The Property is limited to no more than three points of vehicular access from Strathmore Avenue.
5. The Property must be subdivided to delineate the boundary of the area subject to the rezoning at the time of Preliminary Plan.
6. A Phase I Noise Analysis must be submitted with the Preliminary Plan to identify noise levels that might impact interior and exterior spaces subject to the Planning Department's Noise Guidelines. The analysis must be performed by a qualified acoustical engineer. If a combined Preliminary/Site Plan is submitted, the Site Plan must include recommendations from a qualified acoustical engineer to mitigate excessive noise levels per the Noise Guidelines.

Criteria for Approval

To approve an LMA, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with the coordinated and systematic development of the Regional District. See, *Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or "Necessary Findings," that the Council must make. See,

Zoning Ordinance, §59.7.2.1.E. These standards incorporate the requirements of other sections of the Zoning Ordinance, and most fall within three main categories: (1) conformance with the Master Plan, (2) compatibility with the surrounding area and adjacent properties, and (3) whether the project is supported by adequate public facilities.

Conformance with the Master Plan¹

The entirety of the subject property falls within the boundaries of the *1992 North Bethesda/Garrett Park Master Plan* (“Master Plan” or “Plan”). Exhibit 62, p. 17. The Master Plan area is bordered by I-270 to the west, the City of Rockville to the north, Rock Creek Park to the east, and I-495 to the south. *Id.* The subject property is listed as one of the “Key Vacant or Redevelopable Parcels” in the Plan area, or Parcel #14. Exhibit 34, p. 12.

The Master Plan lays out both general recommendations for the Master Plan area and specific recommendations for the subject property. According to Staff, the proposed rezoning will support the objectives of the plan “to encourage land use patterns that preserve and increase the variety of the housing stock particularly with elderly housing, provide safe and efficient transportation, provide facilities to meet the recreational needs of the public, and reduce environmental impacts.” Exhibit 62, p. 17. General recommendations of the Plan include: focusing future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing; reduction in block sizes in the vicinity of Metro areas; improvements to the pedestrian friendliness of streets, particularly near transit nodes; and provision of a landmark quality and sense of place for nodal areas and districts. *Id.* Staff opined that the proposed development supports these objectives as it “achieve[s] this critical land use and transportation linkage” by providing residential housing to replace a vacant retirement home and “deliver more housing than was previously on the Site” while accessible to nearby rail service at the Grosvenor-Strathmore Metrorail Station, public bus stops and routes that traverse Strathmore Avenue, coupled with the construction of an “internal system of new private roads that create short, walkable blocks.” *Id.* Based on her experience with other Brandywine sites, Ms. Bacon testified that many employees of the Brandywine residential care facility will likely use public transit for their daily travel to and from work. T. 57. The Applicant testified that the provision of housing is repeated as a primary objective throughout the plan, which calls for development of “[a] wide range of housing types within each neighborhood...to avoid large concentrations of any single type and increase the potential for pedestrian connection between diverse housing types,” “preserv[ing] and increase[ing] the variety of housing stock, including affordable housing” and “encourag[ing] a mixture of land uses in redeveloping areas to promote variety and vitality.” Exhibit 53, p. 5, citing the Master Plan at pp. 12, 33, 35.

In addition to general recommendations, the Master Plan also includes recommendations specific to 4910/4920 Strathmore Avenue. Exhibit 62, p. 18. Listed as Parcel No. 14, the Plan

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

identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Exhibit 62, p. 18 (citing the Master Plan, pp. 80-81). Also linking to nearby transit, Staff notes that the Plan “supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed.” *Id.* Staff opines that the application satisfies this specific objective by retaining the Academy of the Holy Cross School but replacing the now vacant retirement home with a new but analogous use as a residential care facility for seniors, and adding residential housing as infill development in a previously unimproved portion of the lot, all within proximity to a transit node. Exhibit 62, p. 18. The Plan specifically recommended retaining the Academy of the Holy Cross because of its proximity to excellent transit. Exhibit 34, p. 13.

The Master Plan also emphasizes other objectives for 4910/4920 Strathmore Avenue including “preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief.” Plan, p. 81. Staff notes that portions of the existing open lawn areas on the property are proposed to be protected through Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development. Exhibit 62, p. 18. Portions of these conservation easements are proposed to be located along a planned nature trail located along the western edge of the property which will be open to the public during daylight hours. *Id.*

Staff further noted that the proposed development will “complement the existing sense of place” created by the surrounding residential neighborhoods to the north and west and educational and institutional spaces to the southwest and east. Exhibit 62, p. 17. Staff concluded that the proposed development “aims to fit within the existing neighborhood fabric of this well-established community while also delivering exceptional urban design and architectural detailing to further articulate quality.” *Id.*

According to Staff, the Master Plan “makes significant recommendations to encourage and support transit use, including expansion to the public transportation system.” Exhibit 62, p. 19. The Master Plan recommends that “future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing.” *Id.*; citation to Master Plan, unknown. Staff notes that the proposed site is in close proximity to existing transit services including bus and rail services and the application includes: improving access to transit services through upgrading pedestrian and bicycle infrastructure along the corridor; constructing a new master-planned 10-foot-wide shared use path along Strathmore Avenue to support walking to the nearby Grosvenor-Strathmore Metrorail Station; construction of a new internal road and pathway system with five-foot wide asphalt sidewalks throughout the Site’s new roads and natural surface trail along the western edge of the Property. *Id.* With respect to public transit, Mr. Sloan added that Ride-On Routes 5 and 37 run along Strathmore Ave while Routes 37 & 46 run along Rockville Pike. Exhibit 34, p. 6. Further, he estimated that “the Garrett Park MARC station is a 12-minute walk to the northwest and the Grosvenor-Strathmore Metro Red Line Station is a 10-minute walk along the trails in Symphony Park and the Music Center at Strathmore.” *Id.* Mr. Douglas Burdin, a community member, testified that because of the site layout, residents living in this new development would be required to use Strathmore Avenue and a walking path in Symphony Park to access the Metro station, as the planned development does not contain a cut-through connecting to Cloister Drive or Tuckerman Lane. T. 340-341. Mr. Burdin

estimated this walk-time to be between 13-18 minutes. *Id.* Mr. Burdin estimated this same walk-time to the Garrett Park MARC station. *Id.*

Both the Hearing Examiner and Staff agreed that the proposed development substantially conforms to the Master Plan. The Hearing Examiner concluded that the the proposed rezoning supports the general objectives of the North Bethesda/Garrett Park Master Plan, and satisfies the intent and standards of the floating zone by furthering the goals of the Plan to provide housing near public transit and mixed-use nodes, and furthers the public interest by advancing the goals and objectives of the Master Plan. *Hearing Examiner's Report*, p. 27. Based on this record, the District Council agrees with the Hearing Examiner and so finds.

Compatibility

Several sections of the Zoning Ordinance require the District Council to decide whether the FZP is compatible with adjacent uses and the surrounding area.² The Hearing Examiner found that the proposed development will be compatible with adjacent properties and the surrounding area. *Hearing Examiner's Report*, p. 30. The Hearing Examiner found that the proposed residential care facility will replace and provide necessary improvements to the previous retirement home with an updated residential care facility to serve seniors. *Id.* The FZP utilizes the site's topography to mitigate the height, size, and impact of the proposed buildings, as the lot slopes east to west. T. 150; *See* Exhibit 40. Further, the proposed residential housing serves the needs of increased residential housing demand as identified in the Master Plan, by providing single-family housing specifically located in close proximity to public transit at the Grosvenor-Strathmore Metro station, Garrett Park MARC station, and bus routes. *Hearing Examiner's Report*, p. 30. The District Council agrees and finds that the FZP will be compatible with the surrounding area.

Adequacy of Public Facilities/Public Interest

The District Council must also find that public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the development process, a threshold analysis must be performed at the rezoning stage.³

² The application must satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter. *Zoning Ordinance*, §59.7.2.1.E.1.c. The intent of the Floating Zones requires the applicant to “ensure protection of established neighborhoods” by “establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses” and “providing development standards and general compatibility standards to protect the character of adjacent neighborhoods.” *Id.*, Section 59.5.1.2.C.1 and 2. One purpose of the Commercial/Residential Floating Zones (which includes the CRNF Zone), is to “provide development that is compatible with adjacent development.” *Id.*, 59.5.3.2.C. Finally, §59.7.2.1.E.2.f states that “when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, [it must] not adversely affect the character of the surrounding neighborhood.” Because the property falls within a Residential Detached Zone (the R-60 Zone), this provision applies as well.

³Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development “does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . .” The adequacy of other facilities is part of the Council’s determination that an application will be “in the public interest...” and that it be “it will be consistent with a coordinated and systematic development of the Regional District” under State law. *Zoning Ordinance*, §59-7.2.1.E.1.b; *Md. Land Use Art.*, §21-101(a) and

The FZP must comply with the Planning Board's Local Area Transportation Review (LATR) Guidelines. *Zoning Ordinance*, 59.7.2.1.E.1.c. According to Staff, the 2020-2024 Growth and Infrastructure Policy went into effect on January 1, 2021. Exhibit 62, p. 14. The scope of the Applicant's traffic impact study was approved by Staff in November of 2020 and as such, the transportation study for the Local Map Amendment was subject to the previous 2016-2020 Subdivision Staging Policy. *Id.* At the time of the review, the subject property was located within the North Bethesda orange policy area under the 2016-2020 Subdivision Staging Policy. *Id.* In this policy area, LATR compliance is required, and the Applicant submitted a traffic impact study to determine multimodal adequacy including both Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay analyses. *Id.* Staff noted that Preliminary Plan will be subject to the 2020-2024 Growth and Infrastructure Policy (GIP) and a new transportation study will be required as part of that analysis.

The Traffic Study concluded that Critical Lane Volume (CLV) and Highway Capacity met the intersection congestion standards for the policy area. CLVs are 1,550 and the HCM analysis measured 71 seconds of delay per vehicle. Both are "within acceptable levels of congestion." Exhibit 62, p. 14. The traffic study further concluded congestion standards met the LATR requirements even though existing delays for the Stillwater Avenue and Strathmore Avenue intersection exceed the 71 second delay standard. Staff concluded that the proposed realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will accommodate school traffic during the AM peak hour sufficient to mitigate the capacity delay. Exhibit 62, p. 14. Staff concluded that the traffic study demonstrates that "all intersections within the study area will operate within the policy area's congestion standards." *Id.* The Hearing Examiner found that adequate public facilities are met under this application and that the FZP furthers the public interest by implementing the comprehensive planning objectives contained in the Master Plan to support diverse residential housing options in close proximity to public transit. *Hearing Examiner's Report*, p. 35. The Hearing Examiner further noted that "at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided" and concluded that the methodology used in the Traffic Study was credible and there was no credible evidence suggesting that LATR requirement were not satisfied by this application or that other public facilities will be insufficient to meet demand. *Id.* The District Council agrees and finds that public facilities will be adequate to serve the FZP.

Mr. Kip Edwards, a member of the community, testified that the community had concerns regarding the credibility of the traffic study. purchased a traffic counting software service called Camlytics that uses "machine learning to count cars which enter and exit the frame" to conduct their own lay analysis. T. 249. Mr. Edwards testified that the Camlytics analysis resulted in a traffic count that was "much higher than the numbers used in the August 2021 LATR supplemental report, which is what planning board staff ultimately relied on when they met their conclusions." T. 250. Ms. Wagner responded that she reviewed the video and compared the video recorded by the community with her own analysis and "found that the spreadsheet overexaggerated the number of

(b). The intent of the Floating Zones is to "implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..." *Zoning Ordinance*, §59-7.2.1.E.1.b; 59-5.1.2.A.2.

vehicles traveling along Strathmore Avenue.” T. 162. Ms. Wagner also noted that the video was “not collected on a typical weekday as required by the park and planning staff.” Id. Staff noted that future traffic analysis will be completed in accordance with the updated 2020-2024 Growth and Infrastructure Policy, with the property now in a different policy area (*i.e.*, the Grosvenor Policy Area) and subject to those requisite standards. *Id.*

Mr. Douglas Burdin, a community member, also expressed concern about the “massive delays” noted in the LATR study and the supplemental analysis with respect to the studied intersections, and the reliability of the proposed traffic mitigation measures (e.g. traffic signal, turn lane, realignment of Stillwater) proposed to alleviate that delay and congestion. T. 342.

The Hearing Examiner characterized the community’s traffic concerns as “real, sincere, well-considered, and reasonable”, but found the weight of the evidence in the Applicant’s favor, stating:

...at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided. While the Hearing Examiner shares the reservations of community members with regard to traffic congestion on an instinctual level, as the development proposes dense residential uses on previously unimproved land and a vacant building, Ms. Wagner’s methodology was sound and her testimony was credible with regard to the LATR study, the supplemental analysis, and the conclusions drawn from that study.

The Council finds that the Traffic Impact Study and Supplemental Analysis in the record are the best, most reliable evidence that the application will meet the LATR Guidelines and finds the evidence sufficient to approve the rezoning of the property. Further review will occur at subdivision under the current Growth and Infrastructure Policy will occur at subdivision.

The Intent of Floating Zones (§59.5.1.2)

The District Council must determine whether the FZP fulfills the intent of the Floating Zones. Several of these have already been addressed.⁴ The remaining include (from Section 59-5.1.2):

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

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

⁴ The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the Zoning Ordinance has already been addressed in the Council’s findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses are discussed here.

The Hearing Examiner found that the FZP utilizes the design flexibility provided by the Floating Zones to integrate the development compatibly with surrounding uses by employing design strategies to mitigate the visual impact of the proposed single-family homes and the residential care facility, and expanding access points for vehicular and pedestrian safety and efficiency of access to eliminate queuing and traffic congestion, thereby satisfying the intent of a floating zone in furtherance of the public interest. From this record, the District Council finds, as did the Hearing Examiner, that the proposed FZP satisfied the intent of Floating Zones.

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

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

The FZP will provide diverse housing options for families and seniors which supports Master Plan goals for single-family residential and senior housing, and self-limits with a restriction on commercial uses and a density below the maximum permitted under zone regulations. The District Council finds that the development proposed meets this intent, as did the Hearing Examiner.

Purpose of Commercial/Residential Floating Zones (Section 59.5.3.2)

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

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

The District Council has already addressed the third purpose (*i.e.*, providing compatible development) above. The Hearing Examiner found that that the FZP furthers the other purposes of commercial/residential floating zones. Binding elements limiting the use of the property to density, height, and restriction on commercial uses will further ensure compatibility with adjacent development and the surrounding area. The CRNF Zone allows the flexibility to incorporate a new building to replace an aging one, and to provide diverse infill housing to a previously unimproved site in a manner compatible with the surrounding area while minimizing environmental impacts through open space requirements, conservation easements, and protection of two stream valley buffers. *Hearing Examiner's Report*, p. 40. The CRNF Zone allows the

flexibility to incorporate a new building into a developed site in a manner compatible with the surrounding area while minimizing environmental impacts. The District Council agrees with this analysis and finds that the FZP proposed meets the purposes of the Commercial/Residential Floating Zone.

The Applicability of the Zone (Section 59.5.1.3.)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a site may apply for a Floating Zone.⁵ Because the Master Plan does not recommend a Floating Zone for this property and the property is in a Residential Detached Zone, it must meet the following prerequisites (*Zoning Ordinance*, §59.5.1.3.C.2.b):

- i. The property must front on a nonresidential street or must confront or abut a property that is in a Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone; and
- ii. The application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.3. D., Section 59.5.1.3. D. Prerequisites.

The Hearing Examiner found that the FZP meets these prerequisites. The Staff Report and the Hearing Examiner's Report set forth in detail the reasons the application meets the additional requirements of Section 59.5.1.3. Having no evidence to the contrary, the District Council finds that the FZP meets the applicability standards of the Zoning Ordinance.

Uses and Building Types Permitted (Section 59.5.4.3 and 59.5.4.4)

Section 59.5.3.3A.2 of the Zoning Ordinance permits "only" those uses permitted in the CRN Zone in the CRNF Zone. Detached residential, attached residential, and residential care facilities are all permitted uses in the CRN and, therefore, the CRNF zone, as proposed under this application. Under 59.5.3.4.A., "[a]ny building type" is permitted in the Commercial/Residential Floating Zone, therefore, the FZP meets this standard. The District Council finds that the use and building type proposed meet these standards.

Development Standards of the Zone (Section 5.3.5)

Staff concluded and the Hearing Examiner found that the FZP meets the development standards of the CRNF Zone. Based on this evidence, the District Council agrees with the finding of the Hearing Examiner that the application meets the development standards of the CNRF Zone.

⁵ Section 59-5.1.3.A prohibits placement of a Floating Zone on property currently in an Agricultural or Rural Residential Zone. As this property is zoned R-60, a Residential Detached Zone and NR, and Employment Zone, that section does not apply.

Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner's Report issued April 6, 2022, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

ACTION

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

Local Map Amendment Application No. H-143, requesting reclassification of the property located at 4910/4920 Strathmore Avenue (the "Property") in North Bethesda, Maryland, Tax Account Nos. 04-03234564 and 04-00045122, from its current R-60 Zone (detached residential) to CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood-Floating)., is hereby **approved** subject to the specifications and requirements of the revised Floating Zone Plan (Exhibit 88), provided that the Applicant files an executed Declaration of Covenants reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.

Judy K. Rupp
Clerk of the Council

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

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

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

Subject to the penalties of perjury, I, BL Strathmore, LLC

**(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT
OR PARTY OF RECORD)**

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

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

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

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

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

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

2. ☒ I HAVE NOT made a contribution requiring disclosure.

Kenneth C. Segarnick
SIGNATURE OF DECLARANT

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

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

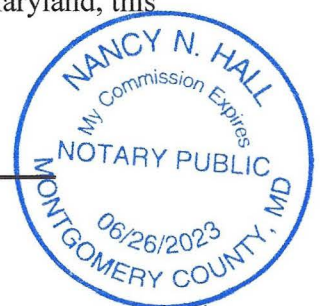
Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this

4 day of January, 2024.

Nancy N. Hall

NOTARY PUBLIC

My Commission Expires: 06/26/2023



Partial List of Definitions under Md. Code Ann., Gen. Prov. §5-842

* * *

(b) Applicant.

(1) (i) "Applicant" means an individual or business entity that is:

1. a title owner or contract purchaser of land that is the subject of an application;
2. a trustee who has an interest in land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or
3. a holder of 5 percent or greater interest in a business entity who has an interest in land that is the subject of an application.

(ii) "Applicant" includes, if the applicant is a corporation, the directors and officers of the corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(2) "Applicant" does not include:

- (i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction or improvements on the land that is the subject of an application;
- (ii) a municipal or a public corporation;
- (iii) a public authority;
- (iv) a public service company acting within the scope Division I of the Public Utilities Article; or
- (v) a person who is hired or retained an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

* * *

(e) "Candidate" means an individual who wins an election to the Office of County Executive or County Council of Montgomery County.

* * *

(f) (1) (i) "Contribution" means:

1. A payment or transfer of money or property of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or a political committee.
2. The incurring of any liability or promise of anything of value of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or political committee.

(ii) "Contribution" includes a payment or transfer to a slate with which a candidate is associated.

(2) (i) Except as provided in subparagraph (II) of this subsection, the \$500 cumulative threshold contribution is calculated separately as to each candidate or elected official.

(ii) For purposes of this subtitle, a cumulative contribution of \$500 or more to a slate is fully attributed to each candidate on the slate.

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

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

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

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

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

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

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

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

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

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

2. ☒ I HAVE NOT made a contribution requiring disclosure.

[Signature] EVP
SIGNATURE OF DECLARANT

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

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

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this
22 day of December, 2020.

[Signature]
NOTARY PUBLIC
My Commission Expires: 06/26/2023



Partial List of Definitions under Md. Code Ann., Gen. Prov. §5-842

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

December 17, 2021

Ms. Lynn Robeson Hannan, Director/Hearing Examiner
Montgomery County Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

SUBJECT: Local Map Amendment No. H-143
4910-4920 Strathmore Avenue

Dear Ms. Robeson Hannan:

On December 16, 2021, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Local Map Amendment No. H-143, a request to rezone 15.36 acres from the R-60 Zone to the CRNF-0.75, C-0.25, R-0.75, H-50 Zone for the future subdivision of up to 126 lots, containing up to 125 single-family dwelling units and a 145-bed residential care facility with up to 50 employees during the peak shift, located at 4910-4920 Strathmore Avenue, Kensington. The Planning Board received a presentation from Planning Staff, and the Applicant was present to answer questions.

The Planning Board received written testimony ahead of the hearing that both supported the requested rezoning and opposed its approval. Written comments received by the date of the Staff Report are included as Staff Report Attachment B (Attachment 1 to this letter) and correspondence received after the date of the Staff Report is included in Attachment 3 to this letter for your reference. During the hearing, the Planning Board heard public testimony regarding concerns about potential impacts related to school capacity, the traffic study, cut-through traffic, traffic control devices, pedestrian facilities, parking, access to open space, and preservation of a landscaped median.

In addition to its endorsement of the Local Map Amendment and approval of the Preliminary Forest Conservation Plan, the Planning Board recommends that the Hearing Examiner consider the comments submitted by the Town of Garrett Park, dated December 14, 2021 (Attachment 4). Those comments include constructive comments pertaining to general circulation, bicycle access, and pedestrian access to the nearby Metrorail.

The current submission of the proposed Local Map Amendment, dated September 22, 2021, complies with the general conditions and standards of Residential Uses, subject to the recommended conditions of approval.

The Subject Application is governed by the Zoning Ordinance in effect on October 29, 2014. As conditioned, the proposed uses meet the findings set forth in Section 59-7.2.1.E.2 of the Zoning Ordinance, are consistent with the goals and recommendations of the 1992 *North Bethesda/Garrett Park Master Plan*; and the Applicant has met the burden of proof by showing that the proposed residential uses and residential care facility will not create a detriment to the neighborhood and will not adversely affect the public interest.

On a motion by Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson, and Commissioner Patterson voting in favor and Commissioner Rubin absent, the Board recommends (4-0) that Local Map Amendment No. H-143, 4910-4920 Strathmore Avenue, be approved with the conditions enumerated in the Staff Report.

We hope the Planning Board's recommendations and the Staff Report will be helpful to your proceedings. Please contact Ms. Tamika Graham, Senior Planner, with any questions. Ms. Graham can be reached by phone at 301-495-4551 or via email at Tamika.Graham@montgomeryplanning.org.

Sincerely,



Casey Anderson
Chair

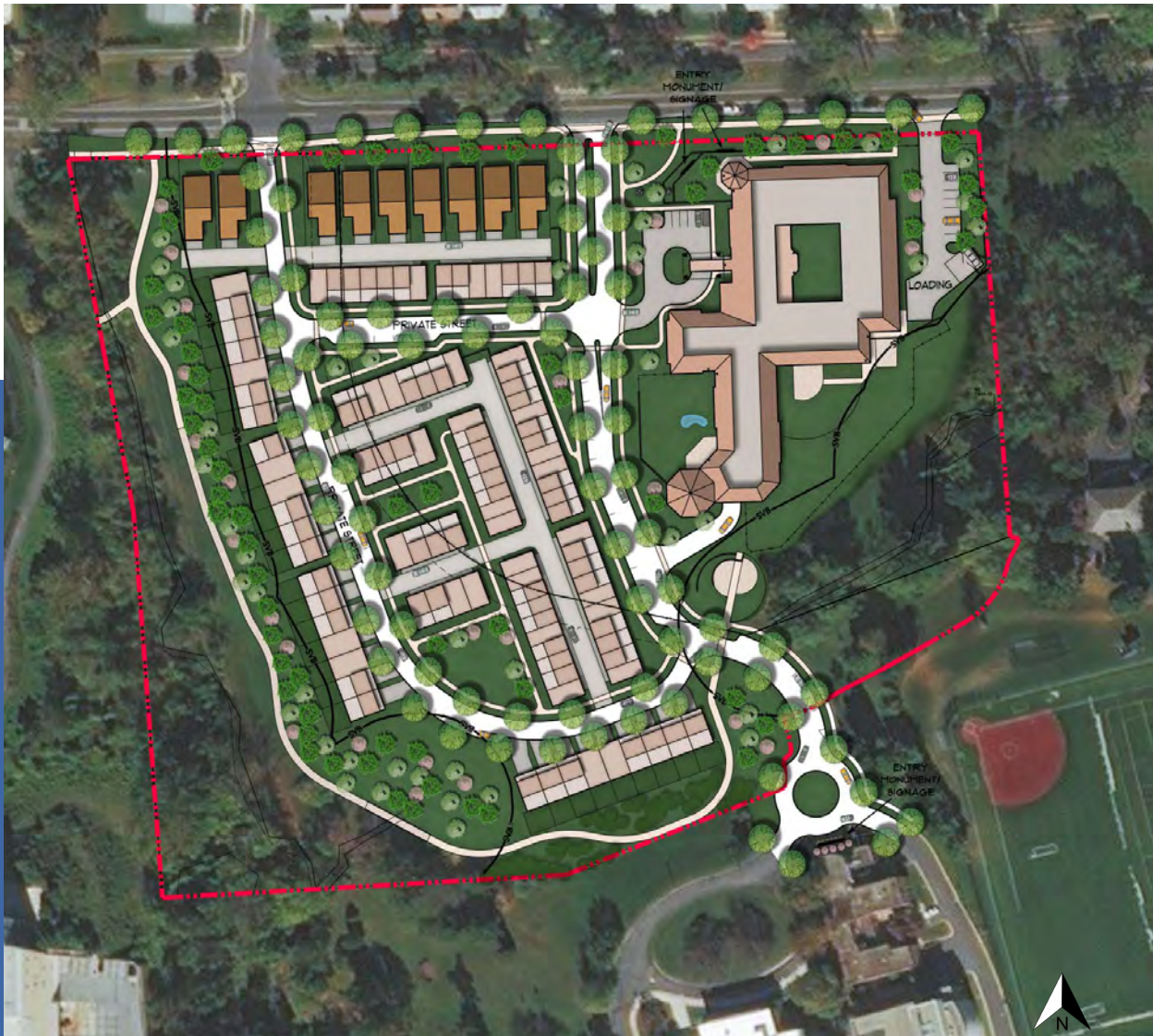
Exhibit 60
H-143

CA:tg:ha

Attachments:

1. Revised Staff Report for Local Map Amendment H-143 with Attachments
2. Staff Report for Preliminary Forest Conservation Plan H-143 with Attachments
3. Correspondence received following Staff Report Posting
4. Town of Garrett Park comment letter, dated December 14, 2021

4910-4920 STRATHMORE AVENUE LOCAL MAP AMENDMENT NO. H-143



Description

Request to rezone 15.36 acres from the R-60 Zone to the CRNF-0.75, C-0.25, R-0.75, H-50 Zone to construct 126 lots containing up to 125 single-family dwelling units and a 145-bed residential care facility.

NO. H-143

COMPLETED: ~~11-5-2021~~
REVISED: 12-6-2021

MCPB

Item No.

~~11-18-2021~~ 12-16-2021

2425 Reddie Drive

Floor 14

Wheaton, MD 20902



Tamika Graham, Senior Planner, Mid-County Planning, Tamika.Graham@montgomeryplanning.org, 301.495.4551

Matthew Folden, Supervisor, Mid-County Planning, Matthew.Folden@montgomeryplanning.org, (301) 495-4539

Carrie Sanders, Chief, Mid-County Planning, Carrie.Sanders@montgomeryplanning.org, (301) 495-4653

LOCATION:

4910-4920 Strathmore Avenue, Kensington

MASTER PLAN ZONE

1992 North Bethesda/Garrett Park Master Plan

PROPERTY SIZE

15.36 acres

APPLICANTS

EYA Development LLC ("EYA") and BL
Strathmore LLC ("Brandywine")

ACCEPTANCE DATE:

July 29, 2021

HEARING EXAMINER PUBLIC HEARING:

~~November 29, 2021~~ REVISED December 27, 2021

REVIEW BASIS:

Chapter 59, Zoning Ordinance



Summary

- Staff recommends approval of Local Map Amendment (LMA) H-143 to rezone the 15.36-acre Site from the R-60 zone to the CRNF 0.75, C-0.25 R-0.75 H-50', zone with conditions, to be transmitted to the Hearing Examiner.
- The Property is currently developed with the vacant St. Angela Hall Retirement Home, open space, and frontage associated with the Academy of the Holy Cross School.
- The rezoning will allow for the future redevelopment of the Property with up to 125 single-family dwelling units (including a minimum of 15% MPDUs) and a 145-bed residential care facility.
- The Property is not recommended for a floating zone in the North Bethesda/Garrett Park Master Plan; therefore, the Application must meet the prerequisites in Section 59.5.1.3.C & D, "Floating Zone Applicability," of the Zoning Ordinance.
- An associated Preliminary Forest Conservation Plan and Tree Variance is recommended for approval and discussed in a separate Staff Report.
- Subsequent Preliminary and Site Plan reviews will be required if the Local Map Amendment is approved.
- Staff received correspondence for this Application regarding concerns about traffic and impacts to the surrounding existing neighborhoods, and they are addressed below.
- This Staff Report has been revised from the original Report (dated 11/5/21), beginning on page 27 "Community Correspondence", to include comments received through 11/29/21.

SECTION 1

STAFF RECOMMENDATION

Staff Recommendation

Staff recommends approval of Local Map Amendment H-143 and the associated Floating Zone Plan with the following binding elements:

1. Permitted uses on the Site include up to 125 single-family detached and attached dwelling units (including a minimum of 15% MPDUs) and a residential care facility (with up to 145 beds).
2. Commercial uses are not permitted on the Property, except permitted accessory uses associated with the residential care facility.
3. A natural surface trail must be provided along the western side of the Site that is subject to a public access easement.
4. The Property is limited to no more than three points of vehicular access from Strathmore Avenue.
5. The Property must be subdivided to formally delineate the boundary of the area subject to the rezoning at the time of Preliminary Plan.
6. A Phase I Noise Analysis must be submitted with the Preliminary Plan to identify noise levels that might impact interior and exterior spaces subject to the Planning Department's *Noise Guidelines*. The analysis must be performed by a qualified acoustical engineer. If a combined Preliminary/Site Plan is submitted, the Site Plan must include recommendations from a qualified acoustical engineer to mitigate excessive noise levels per the *Noise Guidelines*.

At the time of Preliminary Plan and Site Plan(s) approval, the Applicant must address the following:

1. The Applicant will upgrade the Strathmore Avenue frontage through the construction of the 10-foot-wide shared use path and 6-foot-wide green buffer that complies with the North Bethesda/Garrett Park Master Plan, the Bicycle Plan, and other applicable plans and policies.
2. Create a safe and attractive pedestrian trail that connects open spaces within the development and, to the extent practicable, connects the development with the surrounding community.
 - a) The trail should be of a permeable material (i.e. natural surface, wood chip, wood mulch) that provides good accessibility and low maintenance and seating should be provided along select portions of the natural surface trail that are outside of the floodplain but may lie within the stream valley buffer.
3. Create an attractive and walkable streetscape on both sides of Street C:
 - a) Continue to coordinate with Staff on the townhouse driveways to create a pedestrian friendly environment.
4. Create useable public open spaces:
 - a) Consolidate public open space to two or three areas and work with staff to improve the utility of these spaces at the time of Site Plan.

SECTION 2

PROPERTY AND PROJECT DESCRIPTION

Vicinity

The Site is located at 4910-4920 Strathmore Avenue (MD 547), which is approximately 1,500 feet east of Rockville Pike (MD 355) and is adjacent to both the Strathmore Music Hall and the Holy Cross School and Church, as shown in Figure 1. Directly to the west of the Site is a stream valley and the Symphony Park townhouse development, which includes an open space that visually links the Property to Rockville Pike.

The Site is located near established residential neighborhoods and associated amenities, such as the Garrett Park Elementary School, Garrett Park Estates Local Park, Druid Drive Neighborhood Park, and Garrett Park – Waverly Park. The Site is within 0.6 miles of the Grosvenor-Strathmore Metro Station.

The Staff-defined neighborhood, outlined in blue in Figure 1 below, identifies the properties that contribute to the community character and may experience the most direct impacts of the proposed rezoning. The Staff-defined neighborhood is primarily defined by the community of single-family detached dwelling units that confront the Property to the north, across Strathmore Avenue, the single-family attached neighborhood, to the west, and the institutional uses abutting the Property to the south and east.

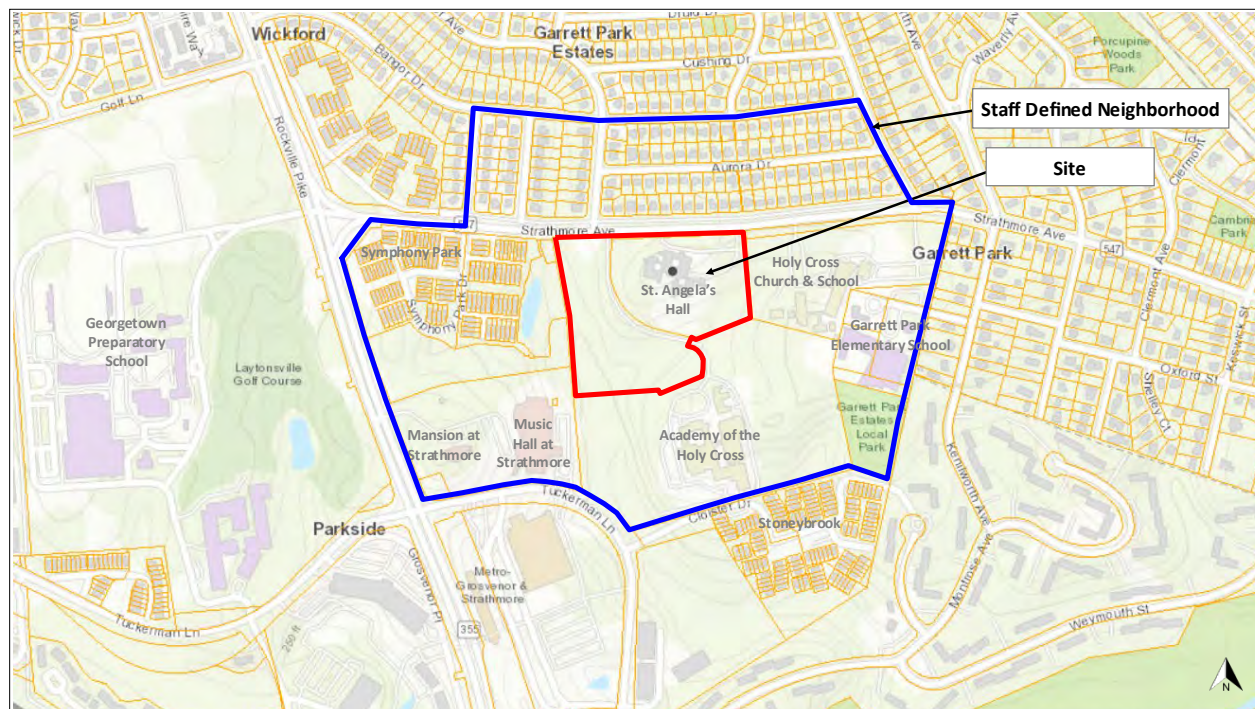


Figure 1: Vicinity/Staff Defined Neighborhood

Although the Subject Property is not listed as a historic site, there are properties in the surrounding area listed in the National Register of Historic Places, including the Strathmore Hall Arts Center to the southwest of the Site and the Garrett Park Subdivision approximately 1,000 feet to the east of the Site. The proposed Local Map Amendment will not negatively impact these nearby historic resources.

Property Description

The Sisters of The Holy Cross, Inc. is located at 4910 Strathmore Avenue (Parcel N875, Parcel A, Garret Park-Holy Cross Convent, as shown on Plat No. 9347) and the Academy of The Holy Cross, Inc. is located at 4920 Strathmore Avenue (Parcel No. N045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824).

The Site, the area subject to the Application (“Proposal”, “Project”, or “LMA Application”), as outlined in red in Figure 2 below, is located along Strathmore Avenue, immediately south of its intersection with Stillwater Avenue. The Site is more specifically described as part of Parcel B and consists of all the Property located at 4910 Strathmore Avenue known as Parcel A. Together these two areas compose approximately 15.36 acres (669,082 square feet) out of the Subject Property, all areas under common ownership.

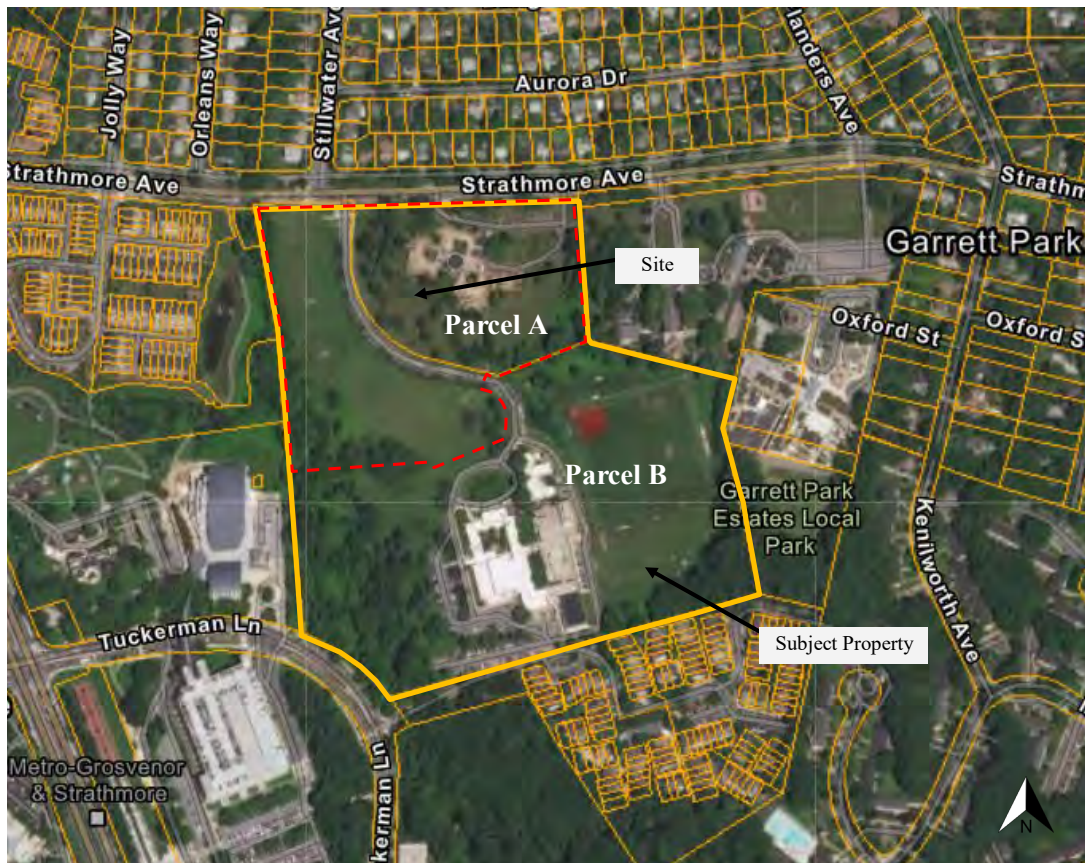


Figure 2: Overall Site (outlined in yellow) and LMA Subject Property (outlined in red)

The Subject Property, outlined in yellow in Figure 2, represents the entirety of both Parcels A and B, is approximately 38.22 acres in size. The Subject Property is zoned R-60 and improved with school buildings, athletic fields, and a former group home for retired nuns (St. Angela's Hall) that fronts onto Strathmore Avenue. The school site is known as the Academy of the Holy Cross, which is a Catholic high school for girls.

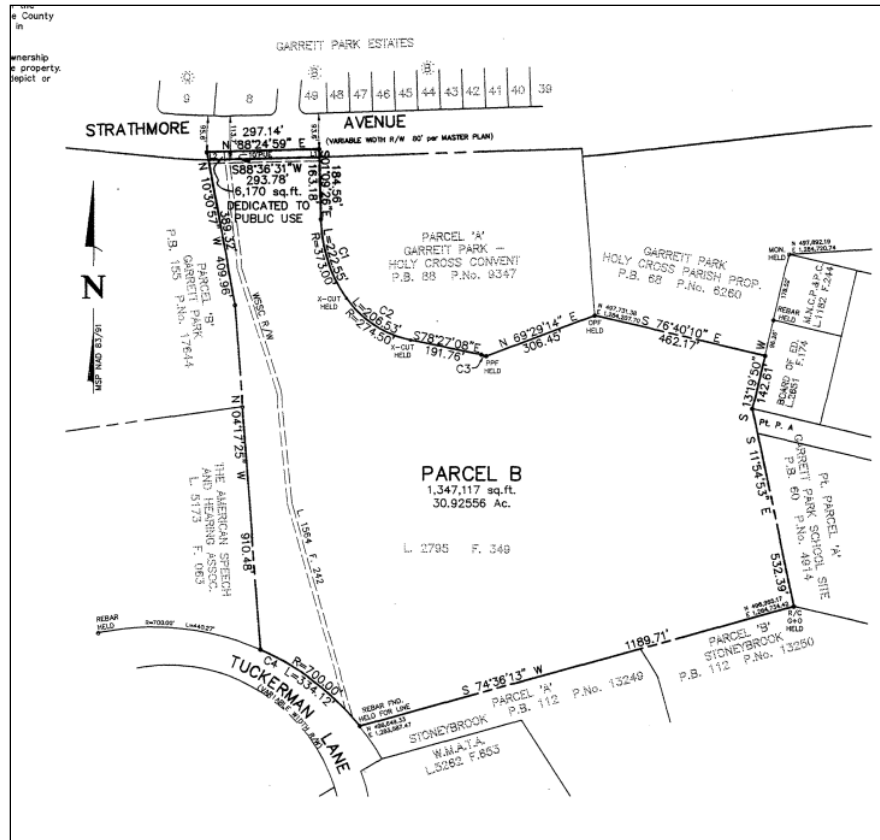


Figure 3: Plat 20824 (Parcels A and B)

More specifically, Parcel A is improved with the former St. Angela's Hall (approximately 38,000 square feet) with two driveway entrances on Strathmore Avenue, surface parking, outdoor amenity spaces, pedestrian paths, and open lawn areas. The building and driveways for the existing St. Angela's Hall are located on the high point of the site and slope down to a nearby tributary of Rock Creek and associated wetlands along the western, southern, and eastern sides of the Site. The portion of Parcel B, subject to the rezoning Application, is improved with a driveway and two athletic fields, sloped lawns, and a stream along the western border of the Site.

The Subject Property, including the LMA Site, has several environmental resources that impact the Application and is discussed further in Section 3.

Zoning Context

The Subject Property (the entirety of Parcels A and B) and all adjacent properties are currently zoned R-60. The Subject Property and Site was not recommended for rezoning in the 1992 *North Bethesda/Garrett Park Master Plan* (the "Master Plan"). The Master Plan recommended that "the zoning for all parcels in North Bethesda, outside of [the above areas¹], remain unchanged with the single exception of White Flint Neighborhood Park" (page 35). After the adoption of the Master Plan, Montgomery County adopted a new Zoning Ordinance in 2014, which also retained the R-60 Residential Detached zoning district for the Subject Property which allows development under either the Standard or Optional Methods of Development. Some uses permitted in the R-60 zone include single-unit living, residential care facilities (up to 8 persons), cultural institutions, family day care,

¹ The Master Plan refers to "the above areas" as Twinbrook, White Flint, Grosvenor, Key Vacant and Redevelopable Parcels, Garrett Park Overlay District, and Rock Spring Park.

and religious assembly. Further, the existing R-60 zone only allows townhouses by limited or conditional use, depending on the circumstances, and residential care facilities by conditional use only; therefore, the Applicant is seeking rezoning to the CRNF zone to permit both townhouse and residential care facility uses on the Site as a joint project.



Figure 4: Existing Zoning for the Site

SECTION 3

PROPOSAL DESCRIPTION

Project Overview

The Subject Local Map Amendment Application seeks to rezone the R-60 property to CRNF 0.75 C-0.25 R-0.75 H-50', (Commercial Residential Neighborhood-Floating). Following approval of the rezoning, future development on the Site is envisioned to relocate the entry drive, replace the religious institution use on Parcel A with a 145-bed residential care facility and locate up to 10 detached and 115 attached townhouse units on the area currently occupied by athletic fields and landscaped lawns, for a total of 125 single-family dwelling units (including a minimum of 15% MPDUs). The western portion of the Site will be developed with the single-family residential uses and the eastern portion will contain the residential care facility. While permitted under the CRNF zone, no commercial uses are proposed and as a binding element, and none will be permitted on the Site in the future except permitted accessory uses associated with the residential care facility. Future development on the Site will be governed by subsequent Preliminary Plan and Site Plan approvals.



Figure 5: Local Map Amendment Floating Zone Plan

Architectural Precedents

The conceptual architectural precedents, shown in Figure 6, demonstrate the type of future development envisioned through the Subject Local Map Amendment. Details pertaining to the Site design and architecture will be refined as part of the future Site Plan review.



Figure 6: Conceptual Architectural Precedents

Open Space and Recreation

Open Space

In accordance with Section 59-5.3.5.D.2.a, “Commercial/Residential Floating Zones General Requirements,” of the Montgomery County Zoning Ordinance, the Application must provide common open space for the townhouses and public open space for the residential care facility. The proposed single-family detached homes are not subject to this requirement. Therefore, the Applicant proposes to provide a combined total of 10% or 63,463 square feet of public open space and common open space spread across the Site, as shown in Table 1 below. The LMA Application includes a conceptual open space design and the exact location and design details for each of these areas will be refined during the subsequent development review phases.

Table 1: Open Space Requirement by Residential Type & Square Footage

Type	Type of Open Space Required	Area for Building Type	Proposed Open Space
Residential Care	Common	194,507 sf.	19,451 sf.
Detached Single Family	Not required	N/A ²	N/A
Attached Single Family	Public	440,111 sf.	44,012 sf.
Total		634,618 sf.	63,463 sf. (1.45 ac.)

² A total of 54,259 s.f. is associated with the site area designated for the detached single-family dwellings not subject to provide open space.

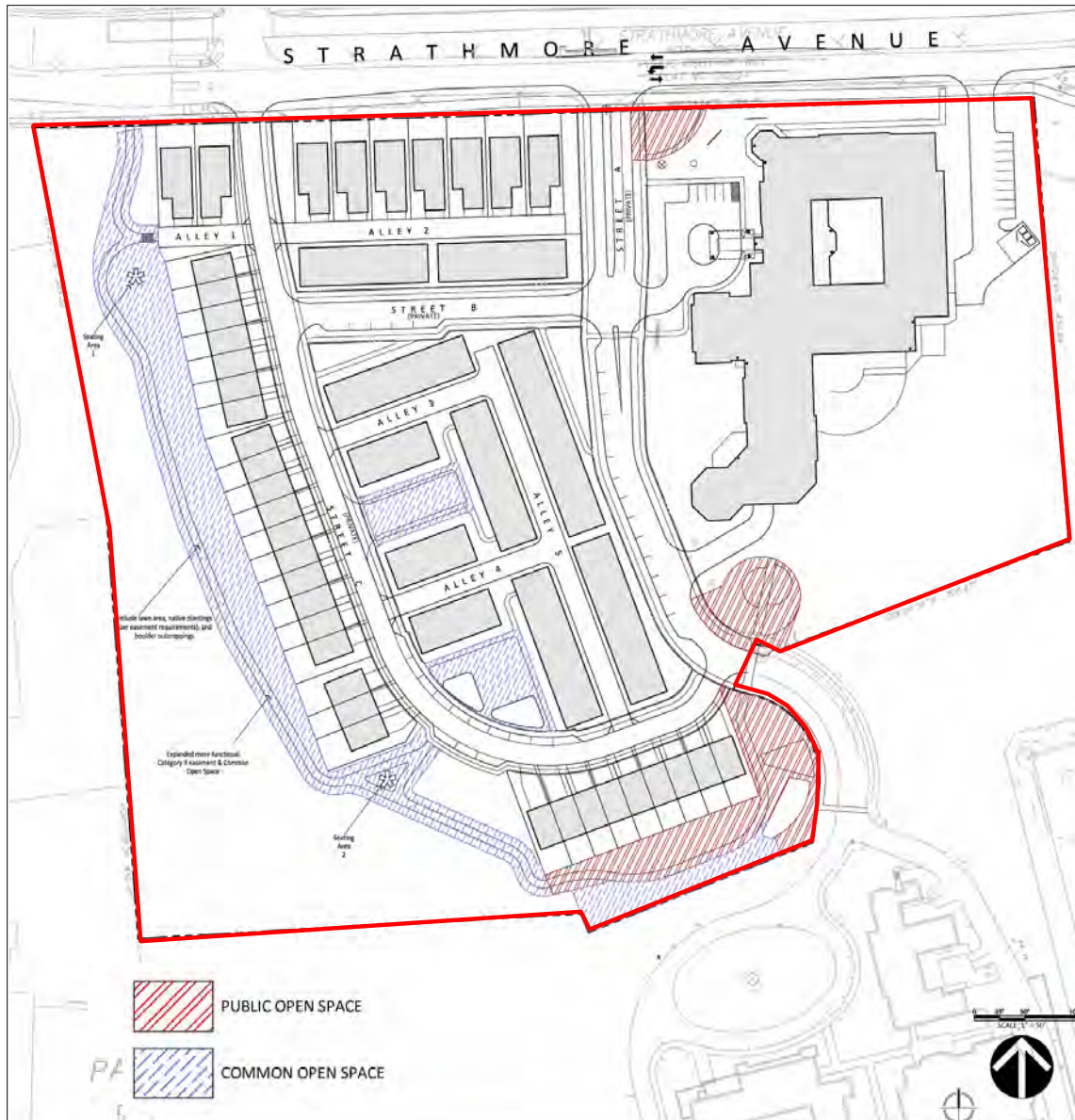


Figure 7: Proposed Open Spaces for the LMA Site

To satisfy the public open space requirement for the proposed residential care facility, the Applicant proposes approximately 19,451 square feet (0.44 acres) as a linear pathway along proposed Street A and a lawn area with terraced seating and other amenities that appeal to a wide range of residents. While the open space proposed on Street A is internal to the Site and intended to be accessible and visible, Staff has requested that the Applicant continue to explore alternative configurations that separate this space from a significant amount of traffic that is expected and consolidates the space into two or three more usable open spaces.

To satisfy the common open space requirement for the proposed townhouses, the Floating Zone Plan is providing approximately 44,012 square feet (1.01 acres) as a natural surface trail that traverses the rear of the townhouse units to the west of the Site and within two smaller areas adjacent to proposed Street C. The trail will remain in private ownership with a public access easement. Per Section 59-6.3.5.B of the Zoning Ordinance, three design requirements must be met for common open space. Accordingly, the Applicant is proposing common open space area that is centrally located to the development - around proposed Street A and adjacent to an open space area identified for multi-generational use. The minimum width for any required common open

space is 50 feet unless the deciding body grants an exception for items such as a trail easement, a mid-block crossing, or a linear park, by finding that its purpose meets the intent of Division 6.3 of Chapter 59 of the Zoning Ordinance. As proposed, the common open space is variable in width up to 40 feet and linked by a series of sidewalks and paths. These open spaces must meet the intent of Section 59-6.3., “Open Space and Recreation,” by providing access to light, air, and green space thereby promoting recreation while preserving and engaging with natural resources. At the time of Site Plan, the Planning Board will make the final determination of compliance. Further, given the site constraints, the common open space overlaps the proposed stream valley buffer areas, which is a permitted feature within an environmentally sensitive area under Section 59-6.3.3 of the Zoning Ordinance.

Recreation

In addition to the open space requirements, the Application is subject to recreation requirements for developments with 20 or more dwelling units. The Applicant must provide a calculation of demand, supply, and adequacy of recreation facilities based on the M-NCPPC 2017 *Recreation Guidelines for Private Residential Development*. Recreation is proposed to be satisfied through several amenities, such as a pedestrian connection, heart smart trail, bikeways, natural areas, playground, picnic/seating areas, and a terraced garden. The Applicant’s proposed onsite recreation facilities and their supply points will be finalized at the time of Site Plan.

Environment

The Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420211410 was approved by Staff on July 27, 2021 for the Subject Property, of which there are several environmental resources that impact the Site and Subject Property. The Property is within the Rock Creek watershed and streams run along the eastern, southern, and western edges of the Property where three (3) non-tidal wetlands are present. After being piped under the driveway, the tributary from Parcel A runs into the western stream, which continues to the south. The NRI/FSD illustrates that more than 10 acres of the 35+ acres that make up the Subject Property is encumbered by stream valley buffer. A portion of this stream is within a FEMA 100-year floodplain. There is 4.06 acres of forest on the Site, with 152 significant and specimen trees on-site and within 100 feet. There is 0.64 acres of forest and 46 significant and specimen trees on the Subject Property for this LMA Application. There is one soil type (16D) classified as highly erodible, along with areas of steep slopes (15% to 25%) with erodible soil, and steep slopes greater than 25%. There are no observed or known rare, threatened, or endangered species, nor historic resources on the Property.

As previously noted, streams run along the eastern, southern, and western edges of the Property. Due to the shape of the Subject Property, the associated buffers create challenges for the Site’s new layout. As a result, approximately four acres of the Property lie in stream valley buffers. As required by the Environmental Guidelines (updated 2021), these stream valley buffers will be preserved and restored as part of the Project. The Applicant proposes minor encroachments into the stream valley buffer for a natural surface trail, which may possibly connect to the Symphony Park trail to the Metrorail Station and Strathmore Avenue (pending the Applicant’s access easement discussions). The trail will traverse the primary open space area behind residential units on the western side of the Property. Along this trail, small open spaces and numerous plantings are proposed within Category I and II Conservation Easements. A second area of Category I and II Conservation Easements is proposed along the southeastern tributary.

Other encroachments into the stream valley buffer include some stormwater management features, a small portion of Street C for fire access that is permeable pavement, and rear yards and fencing, all as allowed by the Environmental Guidelines. Per the Environmental Guidelines these encroachments may be permitted under unique circumstances, which is further explained under Section 4 and within the separate Staff Report for the Forest Conservation Plan. A total of 2.84 acres is required for new plantings to meet reforestation and afforestation requirements. The Applicant proposes to plant 3.0 acres and the extra area of plantings as enhanced forestation for mitigation for proposed stream buffer encroachments.

Stormwater Management

To accommodate the new residential development, the Applicant proposes to implement micro-bioretenion features to the maximum extent practicable to meet the current stormwater requirements. Due to the topography and location of the two streams around the Site, new stormwater management facilities will be placed at these low points to capture and filter roadway runoff.

Transportation

For circulation, the Application proposes a realigned entry road that will bisect the Site into western and eastern halves and will serve both the Project uses and the abutting Academy of the Holy Cross. The Project will be served by three access points: one on the western side of the site, re-aligning the existing entry with Stillwater Avenue to the north, the main entry road through the center of the Site, and a service-only entrance along the eastern edge of the Site, serving the residential care facility. Internal private roads (Streets A through C) will be established for direct access to the attached and detached residential units which will develop into an on-site circulation system that also provides enhanced access to the Academy of the Holy Cross to the south. The two access points to the far west will serve all the residential units, the residential care facility, and the existing school to the rear of the Site. The access point to the east provides exclusive access to the residential care facility service area and a small parking area for employees. Additionally, the Strathmore Avenue and Center Driveway Access intersection is proposed to be improved with the installation of a 150-foot-long westbound left turn lane.

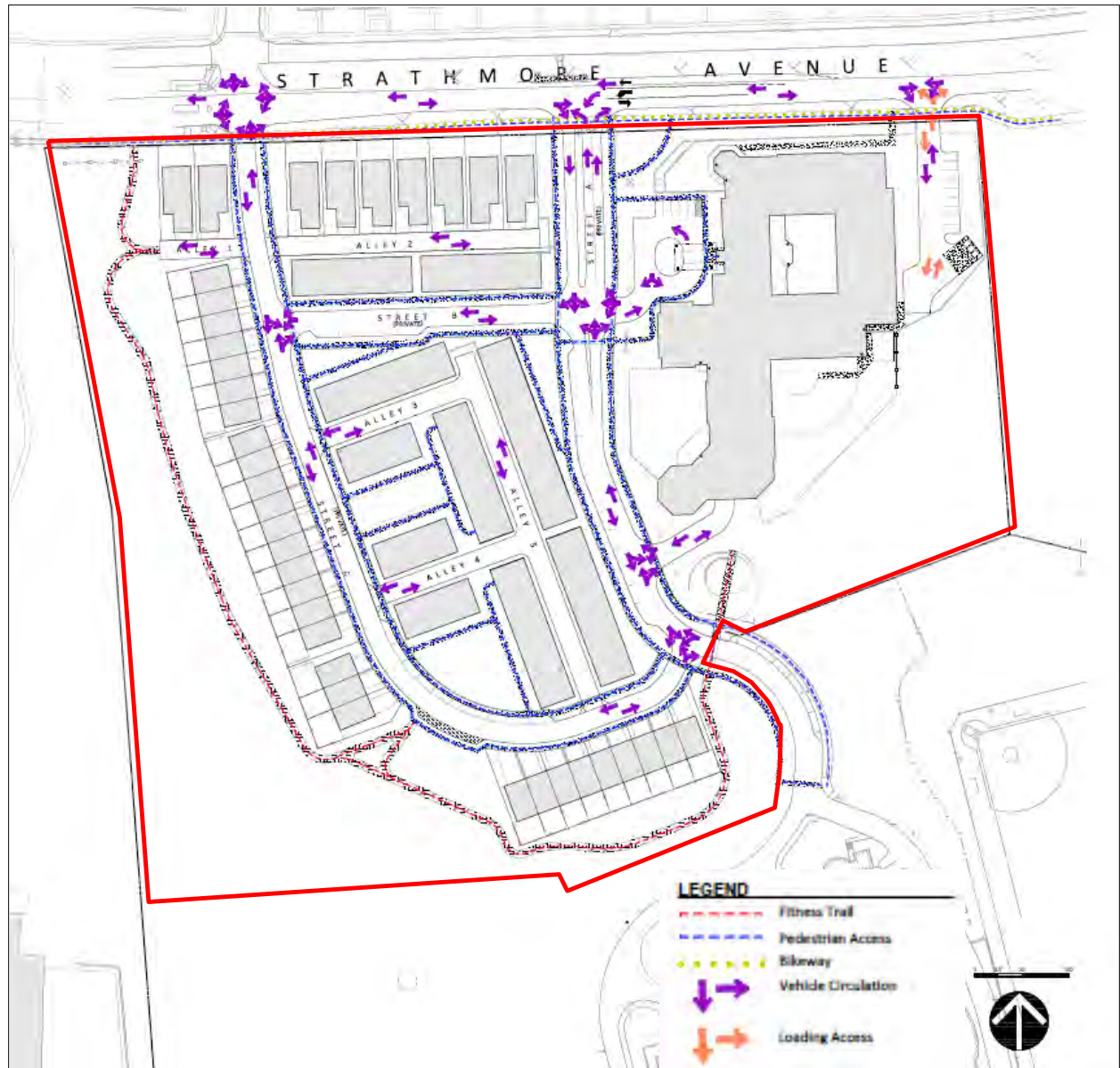


Figure 8: Proposed Circulation Plan

Master-Planned Roadways and Bikeways

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan*, Strathmore Avenue (MD 547) is designated as an Arterial, A-272, with a planned 80-foot right-of-way and a separated bikeway. According to the 2018 *Bicycle Master Plan*, a two-way shared use path is designated along the southern frontage between Rockville Pike (MD 355) and Kenilworth Avenue. No sidewalk currently exists along the Strathmore Avenue property frontage. The Applicant proposes to construct the master planned 10-foot-wide shared use path with a 6-foot-wide green panel, extending the existing sidepath from the west of the Property.

The Application also includes the provision of a natural surface trail, that is sensitive to the on-site environmental features and provides a connection from the Property to the paths leading to Metro to the west. This natural surface trail improvement exceeds the requirements in the Bicycle Master Plan.

Local Area Transportation Review (LATR)

Montgomery Council Resolution 19-655, the 2020-2024 *Growth and Infrastructure Policy*, went into effect on January 1, 2021. The scope for their proposed traffic impact study was approved by Staff in November of 2020 and as such, the transportation study for the Local Map Amendment was subject to the 2016-2020 *Subdivision Staging Policy*. Additionally, at the time of the review of the Local Map Amendment, the Subject Property was previously located within the North Bethesda orange policy area, as determined under the 2016-2020 *Subdivision Staging Policy*. Therefore, LATR compliance is required, and the Applicant submitted a traffic impact study to determine multimodal adequacy.

Table 2: Site-Generated Peak-Hour Person Trips

Land Uses	Square Feet, Units, or Beds	Site-Generated Peak-Hour Person Trips	
		Morning	Evening
Former Use			
Assisted Living	38,000 sf.	12	15
Total Existing Person Trips		22	28
Proposed Land Uses under this application			
Townhomes	115 Units	45	56
Detached Single Family Residential	10 Units	10	9
Assisted Living	150 Beds	24	32
Proposed Subtotal Vehicular Trips		79	97
Proposed Subtotal Person Trips		127	154
Net Increase in Peak-Hour Person Trips		+105	+126

In accordance with the 2016-2020 *Subdivision Staging Policy*³, a transportation study is required to analyze the congestion levels at the nearby intersections to satisfy the LATR test because the net number of new peak-hour person trips generated by the proposed change in land uses exceeds 50 trips within the weekday morning and evening peak periods. Based on an effective date that is noted above, the forthcoming Preliminary Plan will be subject to the 2020-2024 *Growth and Infrastructure Policy* (GIP) and a new transportation study will be required as part of that analysis.

Under the 2016-2020 Subdivision Staging Policy, the Property was previously subject to the North Bethesda Policy Area, which required both Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay analyses. The intersection congestion standards for the policy area are a CLV of 1,550 and 71 seconds of delay per vehicle. As demonstrated in Table 3, each of the studied intersections remain within acceptable levels of congestion. The LATR capacity analysis was consistent with the Department's LATR Guidelines.

Table 3: Existing and Future Traffic Impact

	AM				PM			
	Existing CLV	Future CLV	Existing Delay	Future Delay	Existing CLV	Future CLV	Existing Delay	Future Delay
Rockville Pike and Strathmore Avenue	716	1,289	16.8	21.4	964	1,538	23.3	29.1
Stillwater Avenue and Strathmore Avenue	862	1,033	445.2	2.0	757	1,102	5.3	1.7

³ The LMA transportation analysis was subject to the former 2016-2020 Subdivision Staging Policy based on the Subject Property previously being located within the North Bethesda orange policy area and the traffic impact study scoping submittal received prior to January 1, 2021 when the 2020-2024 Growth and Infrastructure Policy went into effect.

	AM				PM			
	Existing CLV	Future CLV	Existing Delay	Future Delay	Existing CLV	Future CLV	Existing Delay	Future Delay
Strathmore Avenue and center drive access	427	1,044	0.0	10.7	561	1,091	0.0	3.4
Strathmore Avenue and eastern drive access	427	807	0.0	0.1	561	929	0.0	0.1
Strathmore Avenue and Kenilworth Avenue	479	738	11.7	11.6	639	902	10.8	10.8
Rockville Pike and Flanders Avenue	626	1,003	2.8	7.9	838	1,113	19.7	6.5

(Source: Applicant's LATR Review prepared by Gorove Slade, dated August 24, 2021.)

While existing delay for the Stillwater Avenue and Strathmore Avenue intersection exceeds the 71 second delay per vehicle standard, realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will accommodate school traffic during the AM peak hour. As such, all intersections within the study area will operate within the policy area's congestion standards. Future traffic analysis completed in accordance with the 2020-2024 *Growth and Infrastructure Policy* will review the project under the Grosvenor Policy Area due to the Policy Area's expansion under the recently adopted GIP.

Traffic Mitigation Requirements

The Applicant is required to submit a Project-based Transportation Demand Management (TDM) Plan with the Montgomery County Department of Transportation (MCDOT) and the Planning Board, and to participate in the North Bethesda Transportation Management District (TMD) due to the site being located within the TMD's boundary.

Adequate Public Facilities

A preliminary analysis indicates that public facilities will be adequate for the proposed development. The Planning Board will make a final determination at the time of Preliminary Plan.

Circulation

A formal determination of adequacy is required at the time of Preliminary Plan. Existing and future vehicular access to the Site is provided primarily via Strathmore Avenue, which is adequate to accommodate vehicular traffic anticipated by the proposed redevelopment and will be upgraded. Currently, sidewalks are lacking along the Property's frontage. Future roadways and sidewalks will be constructed to provide additional infrastructure along the frontage and internal to the Site. Also, Ride On Routes 5 and 37 operate along the Strathmore Avenue frontage. Both the Grosvenor-Strathmore Metrorail and Garrett Park MARC stations are located within a 1/2 of mile from the Site, with additional Ride On routes located along Rockville Pike to the west of the Subject Property.

Water and Sewer

The Subject Property is served by a 12" water line along Strathmore Avenue and a 15" sewer line running north-south through the Property. Dry utilities (electric, gas, and communications) will be provided via a public utility easement connected to Strathmore Avenue and running along the central drive, alleys, and behind the proposed front-load townhouses.

Schools

Due to the proposed residential use, a subsequent Preliminary Plan will be subject to the FY21 Annual School Test under the 2020-2024 *Growth and Infrastructure Policy* (GIP). The Property falls within the Walter Johnson School cluster, which includes the nearby Garrett Park Elementary School, Tilden Middle School, and Walter

Johnson High School. The proposed residential care facility will not generate any school-aged children to impact school capacity. However, the remaining residential portion of the Project may require a Utilization Premium Payment at the time of building permit for one or all the schools. Further assessment of school capacity will be conducted at the time of Preliminary Plan.

Other Public Facilities

The Project will be served by dry utilities including gas, electricity, and telephone. Fire access for the Property has been evaluated; however, during the subsequent Preliminary Plan, a formal determination for fire access adequacy will be issued by the Montgomery County Department of Fire and Rescue Service.

SECTION 4

ANALYSIS AND FINDINGS

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

Section 59-7.2.1.E.2.a. - *substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;*

The Subject Property falls within the boundaries of the 1992 *North Bethesda/Garrett Park Master Plan* (“Master Plan”), which is at the confluence of two major thoroughfares. The Master Plan area is bordered by I-270 to the west, the City of Rockville to the north, Rock Creek Park to the east, and I-495 to the south. A major north/south roadway within the Plan area is Rockville Pike (MD 355), which is less than a half-mile west from the Subject Property. The *North Bethesda/Garrett Park Master Plan* lays out both general recommendations for the Master Plan area and specific recommendations for the Subject Property. Since the approval of the Master Plan, some recommendations have been realized while others remain yet to be implemented. This Subject Application contributes to the objectives established for this area. The proposed rezoning will support the objectives to encourage land use patterns that preserve and increase the variety of the housing stock particularly with elderly housing, provide safe and efficient transportation, provide facilities to meet the recreational needs of the public, and reduce environmental impacts.

Master Plan Compliance

The Application substantially conforms to the recommendations within the 1992 *North Bethesda/Garrett Park Master Plan*, as outlined below for various areas of emphasis.

Land Use and Zone Plan

Generally, the Master Plan provides a blueprint for the future that will transform the Master Plan area into a vibrant community served by transit and enhanced by activating uses, open spaces, and amenities. The Subject Property is not contained within a particular Master Plan Sub-Area. The nearby Grosvenor-Strathmore Metrorail Station is located within the Grosvenor-Strathmore Plan Sub-Area, which abuts the western border of the Subject Property, and is also zoned R-60.

Some general recommendations include:

- Focus future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing.
- Reduction in block sizes in the vicinity of Metro areas.
- Improvements to the pedestrian friendliness of streets, particularly near transit nodes.
- Provision of a landmark quality and sense of place for nodal areas and districts.

The Project satisfies the areawide objectives of the Master Plan. In terms of future development with a heavy focus on transit and housing, the Project proposes to achieve this critical land use and transportation linkage. The Proposal will replace a vacant retirement home and deliver more housing than was previously on the Site.

The Subject Property is accessible to nearby rail service and is served by bus stops and routes that traverse Strathmore Avenue. Within the vicinity of the Grosvenor-Strathmore Metrorail Station, the Project proposes to deliver an internal system of new private roads that create short, walkable blocks. The new sidewalks and

sidepath will contribute to the civic realm and create attractive, pedestrian friendly streets that are en-route to adjacent transit nodes. In addition to reducing block sizes, the sidepath will include a green buffer that provides enhanced protection from adjacent travel lanes.

In terms of the vision for landmark quality and sense of place, the Site benefits from the existing surrounding human and physical environment. A broader sense of place is present and well established due to the existing surrounding residential areas to the north and west and educational and institutional spaces to the southwest and east. The Project aims to fit within the existing neighborhood fabric of this well-established community while also delivering exceptional urban design and architectural detailing to further articulate quality.

Key Redevelopable Parcels

Beyond general recommendations, the Master Plan also includes recommendations specific to the Property. Outside of sub-areas, the Master Plan identifies parcels and groups of parcels that are undeveloped or under-developed and have the greatest potential for redevelopment. Listed as Parcel No. 14 (pages 80-81), the Plan specifically identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Citing the students' use of nearby transit, the Plan "supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed" (page 81).

Following the Plan's recommendation, the Proposal includes the retention of the Holy Cross School alongside of the proposed redevelopment. However, with the closure of the St. Angela's Hall retirement home, this part of the recommendation can no longer be fully realized. While a change in use for the Site was not specifically prescribed by the Master Plan, the overall goals are achieved through the rezoning and redevelopment process. As noted in the land use and community facilities sections, the Plan emphasizes new housing that capitalizes on its adjacency to a transit node. Through the rezoning, a variety of housing types can be provided as infill development near a transit node. The proposed housing includes attached and detached single-family units and elderly housing through a residential care facility. Further, since the Property is not recommended for a floating zone in the Master Plan, the Application must meet the prerequisites in Section 59-5.1.3.C and D of the Zoning Ordinance, which is explained on page 22 of this Report.

The Master Plan also emphasizes other objectives for the Subject Property: "preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief" (page 81). While a portion of the institutional use on the Property is proposed for alteration (redevelopment of St. Angela's Hall), the Application seeks to address this environmental objective and others. In response, portions of the existing open lawn areas on the Site are proposed to be protected through Category I and Category II Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development.

Density and Building Height

The Master Plan does not provide specific density and height recommendations for the Subject Property. However, by referencing the Master Plan language that confirms the continued use of the Academy of the Holy Cross School, the school's building height can be used for comparative purposes. None of the new structures will exceed the existing heights of any existing school structure on the Subject Property.

Furthermore, the Subject Application's proposed density and building heights are consistent with the requested zoning district. Per Section 59-5.3.5 of the Zoning Ordinance, since the requested floating zone was not recommended in the Master Plan, requested density cannot exceed 1.25 FAR, as the tract is greater than 3 acres and the existing zoning is R-60. Therefore, the Application is requesting 0.75 in overall FAR. The proposed height

of the detached and attached residential units and residential care facility is within the 50-foot height limit established by the CRNF Zone.

Urban Design

The Master Plan urges special attention to the design of existing and proposed streetscapes to encourage pedestrian usage, particularly along corridors that are within walking distance to transit. The Master Plan acknowledges that most of the Plan area has sidewalks that are immediately adjacent to travel lanes and lack buffering for enhanced safety and comfort. This is the current condition of the Subject Property's frontage along Strathmore Avenue. To improve the condition of existing streets, the Master Plan recommends that addition of street trees to create an appropriate buffer and the widening of sidewalks, and where necessary, additional special design treatment.

The Application will upgrade the Strathmore Avenue frontage through the construction of the master-planned 10-foot-wide shared use path with 6-foot-wide green buffer which will improve the pedestrian experience along this stretch of road to reach various surrounding destinations, including Holy Cross School and the Garrett Park Middle School. New streets will contain street trees between the curb and sidewalk and, wherever possible, on-street parking.

Transportation

The *North Bethesda/Garrett Park Master Plan* makes significant recommendations to encourage and support transit use, including expansion to the public transportation system. The Master Plan recommends that "future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing."

The Site is in close proximity to existing transit services. The Proposal includes improving access to these transit services. Currently, bus routes traverse Strathmore Avenue and a bus stop is located at the entrance of the vacant St. Angela's Hall. The Project proposes to substantially upgrade the pedestrian and bicycle infrastructure along this corridor to support the frequent use of public transit. Additionally, the previously noted new master-planned 10-foot-wide shared use path, along the Property's Strathmore Avenue frontage, will support walking to the nearby Grosvenor-Strathmore Metrorail Station.

The Application proposes a new internal pathway system with the construction of the natural surface trail along the western edge of the Property, the ten-foot-wide shared use path along Strathmore Avenue, and the five-foot wide asphalt sidewalks throughout the Site's new roads. Additionally, the Application will comply with the guidance provided by Staff for a front-loaded townhome layout to maximize streetscapes for pedestrians.

Historic Resources

The Master Plan emphasizes that historic sites play an important role and highlight the values to this Master Plan area and the broader region and should be integrated into new developments (page 192). As previously noted, there are no historic resources on the Subject Property; however, a few surrounding uses (Strathmore Hall Arts Center and the Garrett Park Subdivision) have historic designations. The Proposal does not propose any negative impacts to these surrounding uses. The Project will maintain public access and views of the surrounding historic resources while also constructing new residential structures within an appropriate scale. The new structures are well below the existing height of these existing structures as well.

Community Facilities

Related to schools, the Master Plan recommends that safe pedestrian access is provided to all school facilities. The Plan proposes a shared use path that will be extended off-site and will assist in providing a walkable/bikeable facility that connects to the adjacent Holy Cross School. Additionally, the proposed sidewalks along Street A will facilitate pedestrian movements to the south to access the Academy of the Holy Cross School.

Related to elderly housing facilities, the Master Plan recommends the following:

- Support the provision of adult day-care facilities,
- Encourage the location of elderly housing and elderly support services along bus routes,
- Support the provision of affordable elderly housing through the special exception process, and
- Support the consideration of land in public ownership for affordable elderly housing.

With the closure of St. Angela's Hall retirement home and the need for elderly housing identified in the Master Plan, the rezoning Application seeks to bring forth a use that fills a significant gap in the community's existing housing stock. Further, the Application will address the Moderately Priced Dwelling Units requirements of Chapter 25A of the County Code.

Related to park and recreation facilities, the *North Bethesda/Garrett Park Master Plan* recommends providing green spaces in appropriate locations. There are no specific open space recommendations for the Subject Property.

In accordance with the Zoning Ordinance, the Site must provide a minimum of 10% of the Site for public open space and common open space related to the attached townhouse units and the residential care facility (shown in Figure 7). As previously noted, the Applicant proposes to provide a combined total of 63,463 square feet or 10% of public open space and common open space spread across the Site. These open spaces will be connected by an internal network of sidewalks and a natural surface trail as well as sidewalks external to the Property that connect to surrounding neighborhood uses.

Environmental Resources

The Master Plan makes the following wide-ranging environmental recommendations to restore environmental functions in the Plan area as it undergoes redevelopment (pages 4 and 247):

- Protect the woodlands through land use recommendation and development guidelines,
- Create a system of greenways,
- Adopt a "green corridors" policy for North Bethesda roadways,
- Focus development at transit stations to improve air quality, and
- Address existing stormwater management problems, particularly at the time of new development.

The Proposal meets the recommendations of the *North Bethesda/Garrett Park Master Plan* as well as the intent of the Forest Conservation law, and the Environmental Guidelines (also expounded upon in the associated Forest Conservation Staff Report). The Proposal provides broad environmental sustainability improvements, including preserving natural resources, improving water and air quality, and reducing carbon emissions.

Regarding the intent to protect the woodlands, the Project follows the environmental regulations and guidelines for the protection of existing natural resources on the Site. To preserve and enhance natural resources and their associated functions, the Project will create new housing and new roadways that avoid impact to natural resource areas. While some forest is proposed for removal and some specimen trees are proposed for impacts, the Project will provide appropriate tree mitigation and satisfy afforestation and reforestation requirements. As a result, areas that are currently lawn will have some new tree cover.

To advance the vision for greenways and green corridors, an interconnected system of sidewalks, a ten-foot-wide-sidepath, and natural surface trail are proposed. Where feasible, these important site elements will be connected to existing infrastructure for broader mobility beyond the Site. Given the Site's close proximity to bus and rail service, this proposed system for pedestrians and bicyclists will make alternative modes of transportation safer, more convenient, and contribute to broader air quality improvements. Additionally, the Project follows the Environmental Guidelines as it relates to minor encroachments that are permitted into a stream valley buffer under unique circumstances for the construction of the natural surface trail and stormwater management.

To address stormwater management and to protect and improve water quality, the Project proposes to minimize imperviousness by using permeable pavers where needed along proposed Street C, using micro-bioretenment areas and other techniques to assist with filtering and retaining water on-site and landscaping the redeveloped Site with native plants. Further, in an additional analysis requested by nearby residents concerned about stormwater, the Applicant calculated that there are approximately 1.5 acres that currently sheet flow into Strathmore Avenue. With the stormwater management improvements, this flow will be captured and managed on-site after development of the Project and will substantially reduce the amount of stormwater the community has reported to observe flowing.

In conclusion, the rezoning request is consistent with the *North Bethesda/Garrett Park Master Plan*, the General Plan, or any other applicable county plans and policies.

Section 59-7.2.1.E.2.b. - further the public interest;

The General Plan, the *North Bethesda/Garrett Park Master Plan*, and other relevant county plans and policies reflect the mandate to promote the public health, safety, and general welfare and responsible, effective ways to advance the public interest through plans, policies, programs, and new and redevelopments. This Project furthers the public interest through the following:

- Proper and efficient use of the land and appropriate density with respect to the surrounding neighborhood.
- Redevelopment of a vacant structure to eliminate blight.
- Providing sufficient space for residential dwelling units.
- Address a need for single-family housing, affordable housing, and assisted living housing for the diverse population of the Plan area within close proximity to transit.
- Preservation of the residential character of the neighborhood with a binding element for no commercial uses, except permitted accessory uses associated with the residential care facility.
- Provides adequate light and open space.
- Provides a desirable visual environment through good urban design.
- Road improvements that promote free-flowing traffic.
- Provision of new streetscape and a sidewalk along the Property frontage.
- Preservation of the environmental features of the Property.
- Protection from natural hazards by locating properties outside of the nearby floodplain.
- Protection of existing surrounding historic properties.

Section 59-7.2.1.E.2.c. - satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;

The Applicant requests a rezoning to the CRNF-0.75 C-0.25 R-0.75 H-50', (Commercial Residential Neighborhood-Floating).

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

Implement comprehensive planning objectives by:

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

Compared to Euclidean zones, Floating zones have more flexible development standards, which the Proposal requires, but must prove that the development will be compatible with the surrounding land uses and meet the purpose of the zone. The proposed uses, which include single-family detached, single-family attached, and a residential care facility, provide an appropriate mix of uses for the Property's context, and the maximum height of 50 feet for all uses ensures compatibility within the Property's setting. The Applicant is seeking rezoning from the R-60 (which precludes the construction of the residential care facility), to the CRNF zone due to its permission of both the single family and residential care components of the Project. The proposed mix of residential uses is compatible with adjacent development, which includes a townhouse development to the west, institutional uses to the south and east, and a single-family residential neighborhood to the north.

Encourage the appropriate use of land by:

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

As previously noted, the Master Plan confirmed the continuance of institutional uses on the Property. Since then, several changes have occurred within this area of the Master Plan, including the closure of St. Angela's Hall and major mixed-use redevelopment proposals advancing for other properties adjacent to the Grosvenor-Strathmore Metrorail Station. Therefore, in lieu of a scheduled Master Plan update, a rezoning is appropriate to address the surrounding changes as well as to meet the intent of the governing plan that prioritizes housing. While residential uses are already permitted within the base R-60 zone, the request to apply the CRNF zone will allow for both the proposed single-family and residential care uses needed to serve the diverse population of the area. Under the new CRNF zone, the Proposal will comply with all open space and environmental requirements. Additionally, the Proposal will meet an acute need for housing within the County. According to the 2020 housing needs assessment, Montgomery County currently faces a housing shortage and estimates that more than 60,000 new housing units are needed by 2040.

Ensure protection of established neighborhoods by:

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

Under the requested CRNF zone, up to 1.25 FAR is permissible (since the requested floating zone is not recommended in the Master Plan, the tract is greater than 3 acres, and the existing zoning is R-60), whereas the Proposal seeks 0.75 FAR with no commercial uses (except permitted accessory uses associated with the residential care facility). This arrangement of density and uses is more consistent with the abutting and confronting existing residential uses. The build-out of the Subject Property will include the currently vacant retirement home and associated surface parking lot to be transformed into a productive use that fits within the residential character and provides minimal parking spaces with direct view from the public realm. Mitigation related to traffic and environmental requirements will be addressed fully in subsequent applications.

Section 59-5.1.3. Applicability

To ensure the objectives of the floating zones are achieved, the Zoning Ordinance sets forth specific requirements and prerequisites for CRNF local map amendment applications. Per Section 59-5.1.3.C.2.c of the Zoning Ordinance, to request the CRNF zone for a property with a residential base zone, the property must “front on a nonresidential street” and “satisfy a minimum of two (2) prerequisites for each of the categories under Section 59.5.1.3.D.”

The Subject Property fronts on Strathmore Avenue, which is designated as an arterial road in the Master Plan, meeting the first requirement. To address the second requirement for the CRNF zone request, Staff concurs that the LMA Application meets the following prerequisites in the categories listed below:

1. Transit and Infrastructure:
 - a. At least 75% of the site is within ¼ mile of a Level 3, ½ mile of a Level 2, or ¼ mile of a Level 1 transit station/stop.
 - b. The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.
2. Vicinity and Infrastructure:
 - a. The site is adjacent to a route that provides access to an existing or master-planned school within ½ mile.
 - b. The site is adjacent to a pedestrian route that provides access to existing public park and recreation facilities that satisfy a minimum of 30% of the recreation demand under the Planning Board’s Recreation Guidelines, as amended, within ¾ mile.
3. Environment and Resources:
 - a. The limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 35 feet at any point.
 - b. The site does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources.

Additionally, per Section 59-5.3.2 of the Zoning Ordinance, the purpose of the Commercial/Residential Floating zones is to:

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

Development Standards for CRNF Zone

The design of the development will be finalized and reviewed by the Montgomery County Planning Board at the time of subsequent Preliminary Plan and Site Plan review. The Project will meet the Development Standards for the CRNF 0.75 C-0.25 R-0.75 H-50' (Commercial Residential Neighborhood-Floating) zone as illustrated in the table below. The height and principal building setbacks from the Site boundaries are established and shown on the Floating Zone Plan, whereas the internal setbacks will be established at the time of Site Plan. Further, the minimum lot sizes will also be established at the time of Site Plan.

Table 4: Development Standards and Parking Requirements

	Required/Permitted	Proposed
Site		
Gross Tract Area (Overall Site)	N/A	38.55 acres
Gross Tract Area (Subject Property)		15.36 acres 688,877 sf.
Previous ROW Dedications		19,952 sf.
Proposed ROW Dedications		0 sf.
Net Lot Area (Subject Property)		668,925 sf.
Maximum Density of Development (CRNF-0.75, C-0.25, R-0.75, H-50)	Residential - 0.75 FAR/ (516,658 sf.) Commercial - 0.25 FAR (172,219 sf.)	Residential - 0.70 FAR/ (482,000 sf.) Commercial - 0 FAR (0 sf.)
Public Open Space	10%	44,012 sf. (1.01 acres)
Common Open Space	10%	19,451 sf. (0.44 acres)
Lot Coverage (max.)	Set at Site Plan	To be determined at Site Plan
Building Height (max.)	50 feet	50 feet
Principal Building Setbacks (min.)		
Front setback from public street	Set at Site Plan	To be determined at Site Plan
Side street setback		
Side setback		
Rear setback		
Parking*		
Townhouse	1 space per unit; 2 per unit max	297-313 spaces
Townhouse MPDU	minimum reduced by 50%	
Single-Family Residential	1 space per unit; 2 per unit max	
Residential Care Facility	0.25 per bed min./max. 0.5 space per employee min./max.	To be determined at Site Plan

*Final parking counts to be determined at the time of Site Plan.

Section 59-7.2.1.E.2.d. - be compatible with existing and approved adjacent development;

The proposed rezoning for future redevelopment of the Property is in substantial conformance with the recommendations of the 1992 *North Bethesda/Garrett Park Master Plan* as well as compatible with the adjacent and confronting uses and pending developments.

The Subject Property is close to institutional and residential uses, including the Holy Cross Church and School to the east, the Academy of the Holy Cross to the south, and Symphony Park and Garrett Park residences to the

west and north. The Floating Zone Plan provides compatibility with the existing neighboring properties and roads. The Project includes single-family detached residences along Strathmore Avenue to reflect the confronting single-family uses and locates the proposed townhouse units to the interior to the Site. These detached residential units also avoid front yard parking facing Strathmore Avenue. The proposed layout of the townhouses establishes a compatible relationship with the abutting townhouses and create uniformity. Additionally, the Application includes a binding element that ensures that no principal commercial uses (except permitted accessory uses associated with the residential care facility) will be developed on the Property, which will preserve the residential character of the neighborhood.

The Project will separate the detached and attached residential units on the west of the Site from the residential care facility on the east of the Site by Street A. The residential uses to the south will be separated from the Academy of the Holy Cross with landscaping and the proposed natural surface trail. In fact, significant buffering will be provided between the proposed uses and those to the west, south and east, further ensuring compatibility between the uses. The Project conforms with reduction of the building height to establish a compatible relationship with the nearby existing structures. The residential care facility also takes advantage of the Subject Property's gently sloping grade to reduce bulk and massing from Strathmore Avenue, and is compatible with the institutional uses to the south and east.

The Project is compatible with approved adjacent development and pending developments. Nearby pending development includes the Strathmore Square Redevelopment to the southwest of the Subject Property. The Strathmore Square Development is located directly adjacent to the Grosvenor-Strathmore Metro Station and is bordered on the north and east by Tuckerman Lane, just east of the intersection of Tuckerman Lane and Rockville Pike. Strathmore Square will be redeveloped as a mixed-use, predominately residential, center and is envisioned to be a transit-oriented, walkable and dynamic arts and cultural community that will be well connected through streets, blocks, and open spaces to surrounding neighborhoods. This development aims for many of the same efficient design features and are proposed for the LMA Applicant and both sides will be connected via pathways and sidewalks that tie into Cloister Avenue to the south. Therefore, the Subject Application is compatible with existing and approved or pending adjacent development.

Section 59-7.2.1.E.2.e. - *generate traffic that does not exceed the critical lane volume or volume/ capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrates an ability to mitigate such adverse impacts; and*

A Transportation Study was submitted with the LMA Application that analyzed the Floating Zone Plan's access concept and proposed residential density in accordance with the 2016-2020 Subdivision Staging Policy. In terms of access and circulation, proposed vehicular access for the new single-family dwellings and residential care facility will be provided via private Streets A through B and via private alleyways. The reconfiguration of private Street C with Stillwater Avenue across Strathmore Avenue will improve connectivity and access points into the abutting developments. Staff supports the site access concept pending further review and approval by MDSA.

The required off-street parking will be provided, along with efforts to reduce of the number of vehicular parking spaces per dwelling unit. The surface parking for the residential care facility is intended to provide adequate parking without dominating the streetscape. The Project aligns with the general site access requirements such as reducing conflicts between vehicular and non-motorized travel, allowing vehicles to safely enter and exit parking areas, and the provision of off-street loading. As noted under the LATR summary, realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will accommodate school traffic during the AM peak hour and each of the studied intersections will operate below their relevant congestion standards. As illustrated in the Applicant's traffic study submitted as part of the LMA, multimodal traffic generated from the proposed 125 dwelling units and assisted living facility will not have detrimental impacts to capacity and delay. The Project is also required to provide traffic mitigation improvements which will be further evaluated and finalized at the time of Preliminary Plan. Furthermore, under

the Preliminary Plan review process, the Applicant will be required to submit a new traffic study that conforms with the standards in place by the 2020-2024 Growth and Infrastructure Policy, which will provide definitive guidance with regards to potential improvements tied to safety, accessibility, and congestion mitigation as they relate to the programming and design of the Project.

Section 59-7.2.1.E.2.f. - *when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.*

The Application seeks to apply a non-Residential Floating zone to the Subject Property that is currently zoned R-60, which is a Residential Detached zone. The Staff-defined neighborhood generally includes institutional and residential uses, whereas commercial uses are further north and south of this delineated neighborhood. Despite the commercial uses that are permitted under the CRNF zoning designation, the Application proposes a binding element to prohibit principal commercial uses on the Property (except permitted accessory uses associated with the residential care facility), thereby protecting the existing character of the neighborhood. As previously explained, the proposed single-family detached and attached residences on the western portion of the Site are compatible with the density and arrangement of the Symphony Park townhouse development on the west and the confronting single-family residences of the Garrett Park subdivision to the north.

The proposed scale and massing of the residential care building is minimized using the Site's topography and a compatible building height to the existing institutional uses. While the architecture will be finalized at the later stage, the Applicant's intent is to use architectural details that are complementary to the new adjacent and existing confronting residential uses. The currently vacant St. Angela's Hall institutional use will be converted into residential uses, which further contributes to the residential uses along Strathmore Avenue. Therefore, the Project's proposed land uses will not adversely impact the character of the neighborhood.

SECTION 5

COMMUNITY CORRESPONDENCE

The Applicant has complied with the required notification signage and has informed all the adjacent property owners, community organizations, and homeowners' associations within one-half mile of the Property about the Application and the proposed Project as required under the Zoning Ordinance and the Manual of Development Review Procedures for Montgomery County.

While a pre-submittal community meeting is not required for Local Map Amendments, there has been an intentional and robust effort to engage the surrounding community in this public process. The Applicant has conducted significant community outreach for this Application, as summarized below:

- January 19, 2021 - Virtual meeting with Garrett Park Mayor and Staff
- February 12, 2021 - Virtual meeting with Garrett Park Estates and Friends of White Flint
- February 26, 2021 - Virtual Meeting with Symphony Park Homeowners Association
- March 30, 2021 - Virtual Meeting with Holy Cross Community
- October 4, 2021 - Virtual Meeting with Representatives of Garrett Park Estates and White Flint Park Citizens Association
- November 8, 2021 - Virtual Meeting with Holy Cross Parish and School Community

The Applicant has also had email correspondence regarding the Application with Grosvenor III Park Condominium Association, Stoneybrook Homeowners Association, Grosvenor Citizens Association, Parkside Condominium, and Strathmore Park Condominium.

Additionally, by request of the Garrett Park Estates and Friends of White Flint, the Applicant conducted a virtual community meeting on October 4, 2021, with 8 attendees, to address questions and concerns regarding:

1. Circulation and Parking:
 - A. request for the school to create a new entrance on Cloister Drive to the south.
 - B. use of traffic counts from pandemic-level traffic.
 - C. more information on the grassy median on Strathmore Avenue.
 - D. need for overflow parking for guests.
 - E. sidepath extended to the east of the Property to the existing crosswalk and bus stop.
 - F. How stormwater management will be addressed.
2. How will trees be addressed with the redevelopment, particularly along Strathmore Avenue.

Along with speaking to surrounding residents via telephone calls and email correspondence, Planning staff also met virtually with residents of the Garrett Park Estates-White Flint Park Citizens Association on October 20, 2021, to review these concerns. A total of 7 members from the community attended the virtual community meeting.

All Staff produced documents have been provided in an accessible format and the majority of the Application Materials have been modified for accessibility. As of the date of the initial Staff Report and this updated Community Correspondence report section, staff received several letters from the community raising concerns about the overall change of the school property, traffic impacts, and pedestrian safety concerns. Letters received echo earlier meeting discussions which are reflected in Attachment B. Planning Staff also received correspondence in support for the proposed rezoning.

The following summary re-addresses and expands on the list of concerns. Generally, many questions and concerns raised will be addressed through subsequent preliminary plan and site plan review processes.

Zoning

Staff received public correspondence related to the overall rezoning of the Site and summarized it below.

- Comment: There is no community support for an increase in density.

Staff Response: Staff has also received correspondence in support of the Application. Staff and the Applicant understand the concerns about the overall change that the redevelopment will bring if approved. As explained in Section 4 of the Report, much has changed over the past 29 years since the adoption of the 1992 North Bethesda/Garrett Park Master Plan, including the closure of St. Angela's Hall that sits vacant and underutilized on the Site. Today, the Master Plan area is a part of a fast-growing metropolitan area that has a great need for housing, multimodal solutions to move people and goods, and dynamic, mixed-use communities that exhibit design excellence. Current plans and policies reflect support for infill development that creates livable, walkable communities. Infill development allows the County to meet its growth needs while also maintaining existing neighborhoods and protecting environmental resources. Some compromises offered by surrounding residents include reducing the number of units. Density is not solely represented by a total number of units. Site layout, design features, and building form and massing are also important elements in this Applicant that supports how this new development "fits" with existing development. Further, the Applicant meets all the objectives of the floating zones and the requirements of Section 59-5.1.3.C.2.c of the Zoning Ordinance for the requested density.

- Comment: There is community support to maintain the existing R-60 zoning classification.

Staff Response: The Applicant's rezoning petition is to allow for the future development of the Site with up to 125 single-family detached and attached dwelling units and a residential care facility (with up to 145 beds). The existing R-60 zoning permits these land uses that are proposed including single-family detached, residential care facilities (up to 8 persons), and allows attached dwelling units by limited or conditional use. The rezoning effectively allows more than 8 beds for elderly persons and an increase in townhouses with additional prerequisites imposed. As conditioned, principal commercial uses would not be permitted on the Site, although this use is permitted under the requested CRNF zone.

- Comment: A possible alternative could be building single-family homes of all sizes.

Staff Response: Please see the comment and response above. The rezoning would support the future development of residential uses only including up to 125 single-family homes of various configurations. The minimum lot sizes will be established at the time of the Site Plan.

Circulation and Parking

Staff received public correspondence related to traffic concerns and pedestrian safety that have been grouped and summarized below. Additionally, please refer to Attachment B for a point-by-point response to the community.

- Comment: The Traffic Study is inadequate and uses traffic counts from pandemic-level traffic.

Staff Response: There are several points to consider concerning the revised traffic study, including the following:

- 1) The traffic counts conducted follow the latest requirements related to pre-and post-pandemic conditions. In past briefings to the Planning Board, Staff has acknowledged that the COVID-19

pandemic added uncertainty to traffic analysis. Therefore, the Montgomery County Planning Department initiated an interim policy to not accept transportation impact studies using traffic counts taken during the COVID-19 pandemic on March 14, 2020, or later. The policy was updated on May 7, 2020, to reflect changing conditions and to allow the use of existing counts taken prior to the pandemic, with potential modifications. Therefore, the Proposal follows the latest policies adopted by the Planning Board and the County Council and is thoroughly reviewed by transportation professionals within the Planning Department, MDSHA, and MCDOT.

- 2) Per the 2020-2024 Growth and Infrastructure Policy (GIP) and Chapter 50 of the County Code, this analysis will carry over into a future Preliminary Plan application and conclude, including a statement of adequate public facilities for transportation and schools. Future traffic analysis completed in accordance with the GIP will review the project under the Grosvenor Policy Area due to the Policy Area's expansion under the recently adopted GIP. The updated traffic study that is required at the time of the Preliminary Plan will not have new conclusions about the traffic analysis related to motor vehicles.
 - 3) Both the Applicant and the Planning Department have met with the community to discuss a myriad of concerns related to the revised traffic study and provided an understanding of how it fits within the new Growth and Infrastructure Policy. Please refer to Attachment B for an extensive 6-page point-by-point response to traffic study questions from the community.
- Comment: Parking for the residential care facility should not front onto Strathmore Avenue.

Staff Response: Vehicle parking design standards are both general and specific when governed by the zoning district, such as the prohibition of parking between the building and street. For example, within the R-60 district for which the Site is currently zoned, Section 59.6.2.5.M.1 of the Zoning Ordinance states that: "Parking for any vehicle or trailer in the area between the lot line and the front or side street building line must be on a surfaced parking area." Development standards per Article 59-6 for the CRNF zone that is requested will govern the Application. Additionally, final parking spaces and the arrangement of parking is a Site Plan element and will be re-evaluated and approved at the time of the Site Plan.

- Comment: There is not adequate parking with the development.

Staff Response: In response to concerns from surrounding residents, particularly the Symphony Park Citizens Association, the Applicant increased the total number of parking spaces on the Site. In terms of adequate parking, the Plan will meet the minimum parking requirement, while creating the provision for overflow guest parking that is not excessive and out of character for the area. This means that the additional parking spaces have been provided on several townhouse lots and along the new private roads as on-street parking. No new surface parking has been proposed to meet the surrounding neighbor's requests for additional parking.

- Comment: Traffic currently backs up several times daily along Strathmore Avenue. The rezoning of this property will add more traffic to Strathmore Avenue, making it difficult for existing residents to travel and create cut-through traffic.

Staff Response: If the rezoning petition is approved, the future Project will provide traffic mitigation measures such as the realignment of the access road with Stillwater Avenue, a left-bound turn lane, and a traffic signal on Strathmore Avenue at the main entrance. Within the traffic analysis, these measures

demonstrated a significant reduction in existing traffic delays. Under future applications, Staff will continue to examine the concerns raised about cut-through traffic in the Garrett Park neighborhood.

- Comment: Vehicular access points should be reduced to one point of access on Strathmore Avenue.

Staff Response: There are currently three access points along Strathmore Avenue associated with the Site. The future development proposal maintains these points to accommodate the anticipated vehicular traffic and movements for fire safety vehicles. The Project will be served by three access points: one on the western side of the site, which will be realigned with Stillwater Avenue to the north, the main entry road down the center of the site, and a service-only entrance along the eastern edge of the site, serving the residential care use.

- Comment: Vehicular access should be provided south of the Academy of the Holy Cross.

Staff Response: Please refer to Attachment B for a point-by-point response to this question. The creation of a new entrance on Cloister Drive to the south was examined by the Applicant and is infeasible due to the stream valley, topography, existing forest cover, and projected traffic counts on Tuckerman Lane. Please refer to the Forest Conservation Plan Staff Report for a detailed summary of the environmental resources and constraints.

- Comment: Traffic to the existing schools in the area is difficult. It is also detrimental to permit these developments without adequate schools.

Staff Response: Please refer to Attachment B for the previous response provided. Due to the proposed residential use, a subsequent Preliminary Plan will be subject to the FY21 Annual School Test under the 2020-2024 *Growth and Infrastructure Policy* (GIP). The proposed residential care facility will not generate any school-aged children to impact school capacity. However, the remaining residential portion of the Project may require a Utilization Premium Payment at the time of building permit for one or all the schools. Required assessment of school capacity will be assessed and approved at the time of the Preliminary Plan.

- Comment: Pedestrian safety should be a priority.

Staff Response: The Department agrees that pedestrian and bicycle safety is a priority and well-supported in our planning documents and policies. The Project is also nearby transit services (Ride On and Metrorail) and improvements are proposed to facilitate safe and convenient access to these alternative modes of transportation, which is promoted by the Master Plan. We've heard several valuable comments about existing challenges with crossing Strathmore Avenue at Stillwater Street from the north side to the south side and traversing the arterial to reach the Grosvenor-Strathmore Metrorail Station. Through the Growth and Infrastructure Policy, the future Preliminary Plan submission will address ADA requirements to reach transit services.

- Comment: Describe the sidepath extended to the east of the Property to the existing crosswalk and bus stop.

Staff Response: The Plan proposes a new shared-use path along the Strathmore Avenue frontage that may be slightly extended off-site to the west, which requires the Applicant to acquire the right-of-way or an easement from the adjacent property owner. The final extent and details of this shared-use path will be confirmed through the Preliminary and Site Plan processes.

Environment and Stormwater Management

Staff received public correspondence related to environment and stormwater management that have been grouped and summarized below.

- Comment: The developer is cutting down all these trees for this project.

Staff Response: All existing trees on the Site are not being removed. The Application complies with Chapter 22A: Forest Conservation Law, which permits removal of protected trees under certain circumstances, and complies with the Environmental Guidelines. There are 152 significant and specimen trees on-site and within 100 feet of the Subject Property. The Applicant is requesting a variance to remove 12 specimen trees and to impact but retain 3 specimen trees. There are 4.06 acres of forest on-site and the Applicant proposes to clear 0.49 acres of existing forest and retain 3.57 acres. Please refer to the Preliminary Forest Conservation Plan Staff Report for details of tree preservation, impacts, and mitigation requirements that will be met. Environmental comments were also previously provided to the community and found in Attachment B. The Final Forest Conservation Plan will be reviewed and approved under future development applications.

- Comment: Stormwater management is a concern.

Staff Response: To address stormwater management, the Project proposes to implement new facilities that meet current State standards and will improve the current state of stormwater pooling that is reported to occur in the area. Additionally, the new roads will incorporate stormwater management within the road right-of-way. In response to the community's questions, the Applicant conducted an additional analysis as previously explained on Page 21 which calculated that there are approximately 1.5 acres that currently sheet flow into Strathmore Avenue. With the stormwater management improvements, this flow will be captured and managed on-site after the development of the Project and will substantially reduce the amount of stormwater the community has reported to observe flowing.

Open Space and Landscaping

- Comment: This development should have a park.

Staff Response: The Site is not identified in any planning document as a location for a master-planned public park. However, the North Bethesda/Garrett Park Master Plan has a broad recommendation for providing green spaces in appropriate locations. Please refer to pages 9-11 of this Report for the details of the Proposal's intended compliance with the 10% open space requirements and Recreation Guidelines. If the rezoning is approved, final details of the proposed common open spaces and public open spaces will be re-reviewed and approved at the time of the Site Plan.

- Comment: The community is losing open space with the redevelopment.

Staff Response: The Property owner is pursuing legal rights to transform the existing open lawn areas and building areas on their Site in a manner that conforms with established zoning and land use regulations. The Site is privately owned, has a gated entrance, and is not a part of any public open space inventory. Through the future redevelopment, the required 10% of open spaces to be provided will permit use from surrounding residents via public access easements. Additionally, the Proposal will meet the Master Plan's objective of preserving green areas and open spaces on the Property through the preservation of approximately 4 acres in the stream valley.

- Comment: How will trees be addressed with the redevelopment, particularly along Strathmore Avenue?

Staff Response: The south side of Strathmore Avenue will be lined with newly planted trees and the overall Site is anticipated to have more trees after redevelopment due to the Site's reforestation requirement where there are currently playing fields. The Proposal will comply with the minimum tree caliper at the time of planting and the trees will produce greater environmental impacts in the longer term as they mature. The Staff Report explaining the Preliminary Forest Conservation Plan for the Site covers forest and tree retention and removal in more detail.

Public Input

- Comment: This site should consider the neighborhood's concerns and suggestions.

Staff Response: Staff agrees that public input is valuable. Efforts to take the public concerns into account are reflected in responses to calls, emails, and the more than a half-dozen meetings convened to dialogue with the surrounding residents and citizen groups. Please refer to Attachment B for public comments reviewed and under consideration by Planning Staff, the Applicant, the Planning Board, and the OZAH. If the rezoning is approved, there will be additional opportunities to provide input into the public process as plan details are refined.

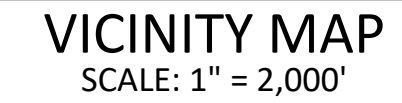
SECTION 6

RECOMMENDATION

The proposed CRNF-0.75 C-0.25 R-0.75 H-50' (Commercial Residential Neighborhood-Floating) zone complies with the standards and requirements for approval of a Local Map Amendment. The proposed zone and use (residential only with no commercial) are consistent with the goals and recommendations of the 1992 *North Bethesda/Garrett Park Master Plan*, are in the public interest, and will not alter the character of the surrounding neighborhood. Staff recommends approval of the Local Map Amendment and the associated Floating Zone Plan with the proposed binding elements.

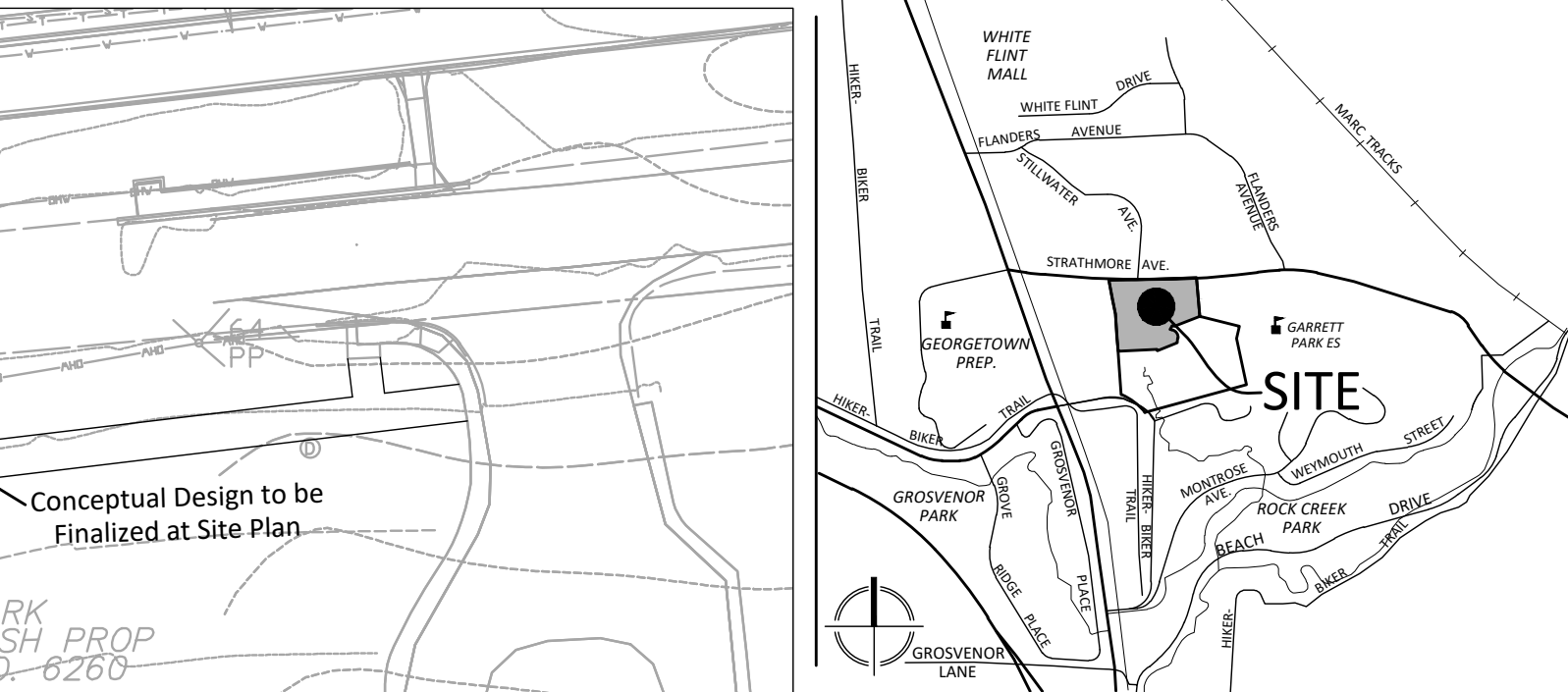
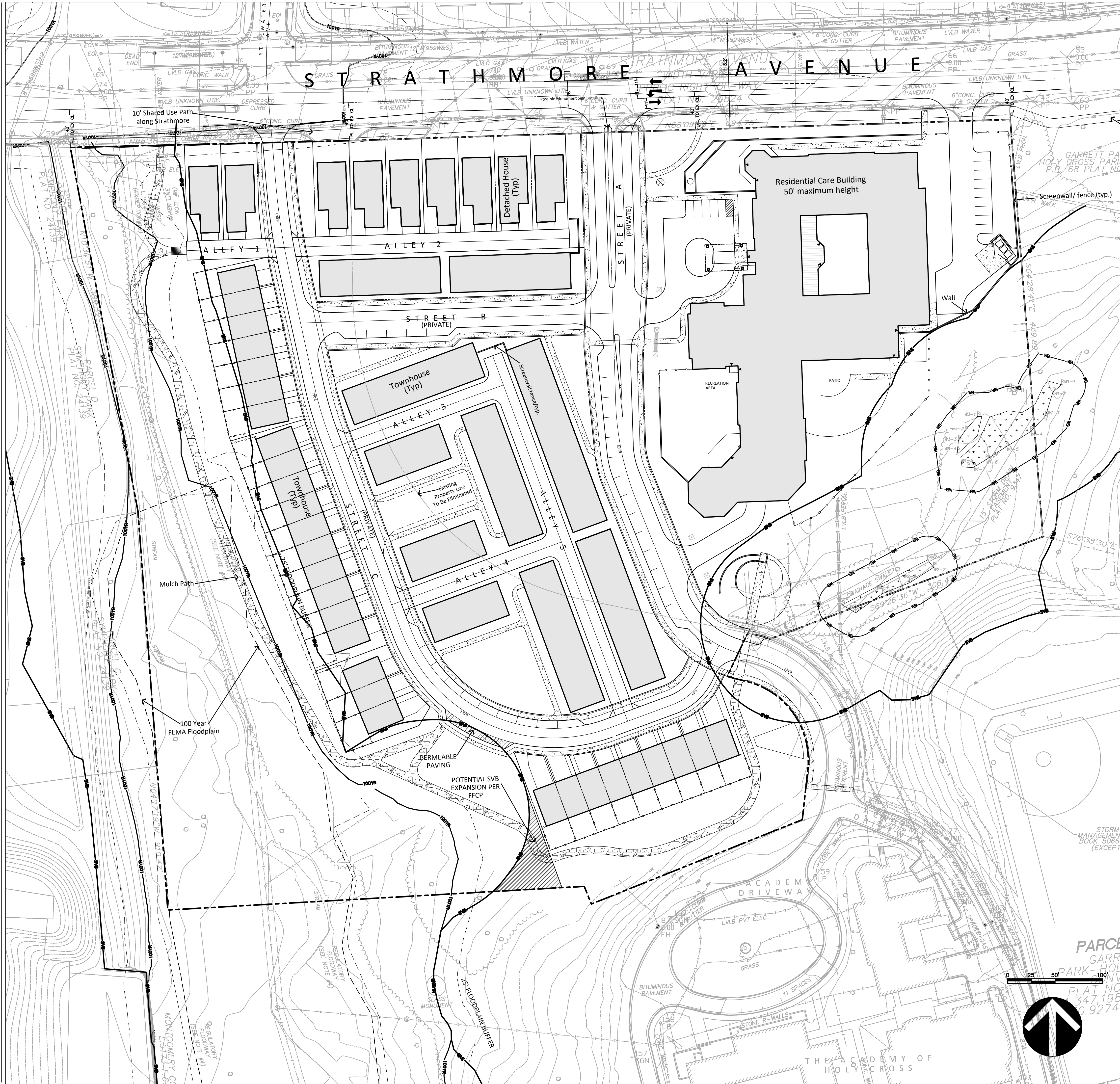
ATTACHMENTS

- A. Floating Zone Plan
- B. Public Correspondence [\(REVISED 12/3/21\)](#)



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A graphic scale bar and a north arrow. The scale bar is horizontal with markings at 0, 100', 200', and 400'. Below it, the text reads "SCALE: 1" = 200'". To the right is a north arrow consisting of a circle with a vertical line through the center. The top half of the vertical line is thick and black, and the word "NORTH" is written vertically next to it.



LEGEND	
	Proposed Building
	Subject Property Limits
	Proposed Sidewalk
	Proposed Face of Curb
	Proposed Public Utility Easement
	Proposed Fence

- BINDING ELEMENTS**
- NO COMMERCIAL USES WILL BE PROPOSED OR ALLOWED ON THE SUBJECT PROPERTY.
 - INTERNAL TRAIL SYSTEM SHOWN WILL BE SUBJECT TO A PUBLIC ACCESS EASEMENT TO ENSURE PUBLIC ACCESS.

FLOATING ZONE PLAN DEVELOPMENT TABULATIONS				
Address	4910/4920 Strathmore Avenue			
Property Description	Parcel No. N875, Parcel A, Plat 9347 and Part of Parcel No. N045, Parcel B, Plat 20824			
Current Zone:	R-60			
Proposed Zone:	CRN-0.75 C-0.25 R-0.75 H-50			
Existing Site Area to be rezoned (full tract is 38.55 acres between Plats 20824 and 9347)	668,925 SF		15.36 AC	
AREA TO BE RE-ZONED TO CRNF				
Tract Area	688,877 SF		15.81 AC	
Previous R.O.W. Dedications (Plats 9347 & 20824)	19,952 SF		0.46 AC	
Proposed R.O.W. Dedications	0 SF		0.00 AC	
Proposed Site Area	668,925 SF		15.36 AC	
PROPOSED USES				
Townhouse - Residential			115 du	
Single Family Detached - Residential			10 du	
Total Units			125 du	
Total MPDU ***			19 du	
Residential Care Beds			145 beds	
Residential Care Employees at peak shift			50 Employees	
DEVELOPMENT STANDARD				
	Permitted / Required		Provided	
Maximum Density*				
CRNF-0.75 Zone (CRNF-0.75 C-0.25 R-0.75 H-50)				
Commercial	0.25	172,219 SF	0.00	0 SF
Residential	0.75	516,658 SF	0.70	482,000 SF
Principal Building Setbacks				
From Site Boundary - Strathmore Avenue	Est. by FZP		10'	
From Site Boundary - Side & Rear	Est. by FZP		50'	
Front Setback	Est. by Site Plan		TBD	
Side Street Setback	Est. by Site Plan		TBD	
Side Setback	Est. by Site Plan		TBD	
Rear Setback, Alley	Est. by Site Plan		TBD	
Accessory Structure Setbacks	Est. by Site Plan		TBD	
Maximum Building Height	50'		50'	
Minimum Lot Size	Est. by Site Plan		TBD	
Maximum Lot Coverage	Est. by Site Plan		TBD	
Minimum Public Open Space, see Open Space Plan for Breakdown by Type	41,464 SF		41,464 SF	
Minimum Common Open Space, see Open Space Plan for Breakdown by Type	23,626 SF		23,626 SF	
PARKING**	Baseline Min/Max		Provided	
Townhouse (1 per unit min / 2 per unit max)	115 min / 230 max		Off-Street Resident Parking	184-200 spaces
Townhouse MPDU (min reduced by 50%)	9 min / 35 max		On-Street Visitor Parking	31 spaces
Single Family - Residential (1 per unit min / 2 per unit max)	9 min / 18 max			10 spaces
Residential Care Beds (0.25 per bed min / max)	37 spaces			37 spaces
Residential Care Employees (0.5 space per employee min / max)	25 spaces			25 spaces
Total Parking	195 min / 345 max			297-313 spaces
PARKING Setbacks for Surface Parking Lots (Residential Care)				
Front Setback	behind front		Yes	
Side Street Setback	behind the side		Yes	
Side Setback	must accommodate		Provided	
Rear Setback	must accommodate		Provided	
Rear Setback, Alley				

* Density is calculated in the CRNF zone based on tract area.
** Final parking will be determined at site plan.
***MPDUs will be provided and distributed among the townhouse units, at 15% of those permitted and constructed.
Note: Although 9 detached homes are illustrated, final building footprint and number of lots will be determined at preliminary plan up to 10 detached units.

Open Space Calculations	Site Area	Required	Proposed
Residential Care Public Open Space (10% Required)	194,507	19,451	19,451
Townhouse Public Open Space (10% Required)	440,111	44,012	44,012

PROFESSIONAL SEAL

STATE OF MARYLAND
JOSHUA C. SLOAN
3778
LANDSCAPE ARCHITECT

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DAILY LICENSED REGISTERED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND. JOSHUA SLOAN LICENSE NO. 3778 EXPIRATION DATE: MAY 13, 2022

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DRAWN BY: _____
DESIGNED BY: _____
DATE ISSUED: _____

VIKA PROJECT: VM50370
DRAWING NO. _____

SHEET NO. FZP-2

October 15, 2021

Staff Response – October 19, 2021

Strathmore 4910/4920 Development:

List of Questions for Montgomery County Parks & Planning

Accessibility of MNCPPC Documents

- Are there plans to make the documents posted on the MNCPPC website accessible to those with visual disabilities? We have a neighbor on our committee, who has experience with environmental law, who is unable to review the documents due to his disability.

Staff Response:

Many of the documents submitted to the Planning Department are not accessible at this time. However, the Staff Report and Planning Board Presentation can be made into an accessible format.

Traffic and Roads

Staff Responses are in Blue font below:

- A DOT attachment is referenced in the response to comments but is not included anywhere in the document list, on the MNCPPC website with documents for this development. If possible, please share this document with us ahead of the meeting. If there are any other documents referenced in the response that are not posted on the website, please share them with us.
 - **Please see the attached MCDOT response letter.**
- Was consideration given to having the developer build an entrance to the Academy of the Holy Cross from Tuckerman Lane instead of, or in addition to, the one that currently comes from Strathmore Avenue?
 - **Various avenues for adequate vehicular access were considered. The Subject Property for the Application, which is delineated separately from the Academy of Holy Cross School to the south, does not have direct access to Tuckerman Lane as that portion of the Overall Site will soon be under separate ownership. Additionally, while a secondary access to Tuckerman Lane was reviewed during initial conversations with the Applicant, the presence of the stream buffer, elevation, and private ownership of Cloister Drive limit potential connections to Tuckerman Lane.**

- When was the traffic study for this development done?
 - **Details of the Study can be found here:
<https://www.mcatlas.org/daic8/Default.aspx?apno=H143>**
- Please describe the plans for the access roads into the development. Will it involve stop lights?
 - **No traffic signals are proposed along Strathmore Avenue. Staff is conducting discussions with the Applicant for the need of a potential traffic signal at the intersection of Strathmore Avenue and the central driveway.**
- What are the safety measures for cars accessing Strathmore Avenue? What are the safety measures for pedestrians crossing Strathmore Avenue? A stop light at the main entrance to the EYA development may help. But what about Stillwater and Jolly Way?
 - **The existing signalized pedestrian crossing between the Ride On bus stops at the Strathmore Avenue and Stillwater Avenue intersection will remain. There are no traffic signals proposed for Stillwater or Jolly Way.**
- Are safe bicycle lanes a part of the plans for this section of Strathmore Avenue, adjacent to your development? Currently the service roadway serves as part of the bicycle initiative.
 - **The Plan proposes a 10-foot-wide sidepath with a 6-foot-wide green buffer along Strathmore Avenue that pedestrians and bicyclists can use.**
- Are there plans to continue the sidewalk on the south side of Strathmore Avenue all the way to the Town of Garrett Park? Will this sidewalk involve planted trees along the path?
 - **The Plan proposes a 10-foot-wide sidepath with a 6-foot-wide green buffer along Strathmore Avenue that pedestrians and bicyclists can use. This sidepath is being discussed for an off-site extension; however, the Applicant is currently in discussions with adjacent Property owners regarding the feasibility via an assessment easement to the west and/or the purchase of right-of-way to the east. Final details will be determined during subsequent applications.**
- EYA assured us their plans for the left turn lane/ROW do not carve into the grass buffer strip separating Strathmore Avenue from the north side access road that runs from Stillwater to Flanders. Who do we talk to at the county and state highway level to protect this buffer strip -

October 15, 2021

Staff Response – October 19, 2021

- and ensure that adequate plantings protect the north side homes from the traffic light and headlights from the new development's main entry?

- **The Plans submitted do not include changes to the median. Planting details will be provided and reviewed at the time of Site Plan.**

- How can our neighborhood be protected from cut-thru traffic from Strathmore Avenue to Rockville Pike by vehicles using Flanders, Stillwater, and Jolly Way?

- **Minimal cut-through traffic is anticipated.**

- How much parking is planned for the assisted living facility? Is it enough parking for employees and visitors, in addition to the residents?

- **Final parking for counts is finalized at the time of Site Plan. The Plan must comply with Section 59.6.2 of the Zoning Ordinance for off-street parking and loading.**

- How much parking will be available within the development?

- **Please see the response above.**

- I think it is important that any assisted living have a design that allows for an ambulance and fire engine to be on their property and not blocking Strathmore Avenue when they have calls at the facility. This is not the case for the facility near Connecticut Avenue, but there are more lanes there to get around.

- **The Fire and Rescue Services (FRS) Division of the Department of Permitting Services has reviewed the LMA Application. During future Preliminary and Site Plans, FRS will review the final plans for adequacy against fire access standards.**

Schools

- What is the expectation/calculation for the number of children going to Montgomery County public schools from this development?

- **Due to the proposed residential use, a subsequent Preliminary Plan will be subject to the FY21 Annual School Test under the 2020-2024 Growth and Infrastructure Policy (GIP). The proposed residential care facility will not generate any school-aged children to impact school capacity. However, the remaining residential portion of the Project may require a Utilization**

Premium Payment at the time of building permit for one or all the schools. Further assessment of school capacity will be conducted at the time of Preliminary Plan.

- How does this calculation compare to the number of children going to public schools right now from Symphony Park, a new neighboring development of similar size?
 - **Please see the response above.**

Environmental Impact/Recreation

- What are the plans for storm water runoff on the development?
 - **To accommodate the new residential development, the Applicant proposes to implement micro-bioretenction structures to the maximum extent practicable to meet the current stormwater requirements. Due to the topography and location of the two streams around the Site, new stormwater management facilities will be placed at these low points to capture and filter roadway runoff.**
- Are there plans to include a green area on the development site for a playground, dog park, recreation, exercise or relaxation? If so, would there be access for neighbors in our community?
 - **In addition to the open space requirements, the Application is subject to recreation requirements for developments with 20 or more dwelling units. The Applicant must provide a calculation of demand, supply, and adequacy of recreation facilities based on our *Recreation Guidelines for Private Residential Development*. Recreation is proposed to be satisfied through several amenities, such as a pedestrian connection, heart smart trail, bikeways, natural areas, playground, picnic/seating areas, and a terraced garden. These amenities are planned to be accessible to the surrounding existing residents. The Applicant's proposed onsite recreation facilities and their supply points will be finalized at the time of Site Plan.**
- Will there be a pedestrian path to get to the Grosvenor metro stop?

- **As previously noted, the new master-planned 10-foot-wide sidepath, along the Property's Strathmore Avenue frontage, will support walking to the nearby Grosvenor-Strathmore Metrorail Station.**

Zoning

- Was there required to be a pre-submission community meeting under Sec. 50.10.01.05(A)(1)? If yes, did it happen and if it didn't why not?
 - **A pre-submission community meeting is not required for a Local Map Amendment application. However, a pre-submission meeting is required for the subsequent Preliminary and Site Plan applications. The Application complies with the required notification signage and the Applicant has informed all the adjacent Property owners, community organizations and homeowners' associations within one-half mile of the Property about the Application and the proposed Project as required under the Zoning Ordinance and the Manual of Development Review Procedures for Montgomery County.**
- The DOT reviewer referenced an attachment of comments from the DOT. See Response to Comments, p. 2. Why is this attachment?
 - **Please see the attached MCDOT response letter.**
- Why does the "Notice of Application" describe the submission as a "Forest Conservation Plan to be Considered by the Montgomery County Planning Board at a Public Meeting," and "Forest Conservation Plan under Local Map Amendment to Convert the Zone from R-60 to CRNF 0.75 C 0.25 R0.75 H50."? The main and most important action is the zoning change, which is ultimately decided by the Council, not the Planning Board. Also, the meaning of the numbers and letters following the Commercial Residential Neighborhood Floating acronym needs to be explained (it has to do with percentage of commercial and residential development and the height, see Section 5.3.1, page 247 of the zoning ordinance).
 - **The Planning Board is required to review Local Map Amendment Applications and transmit a recommendation to the Hearing Examiner for final approval.**
 - **Each zone classification is followed by a number and a sequence of 3 additional symbols. The first number following the classification is the maximum total floor area ratio (FAR) allowed which in this case is 0.75 FAR. The number following the C is the maximum nonresidential FAR allowed, R is the maximum residential FAR,**

and following the H is the maximum building height. The “F” in CRNF represents a Floating Zone.

- By what standard did the traffic report conclude that the project would have no detrimental impact on traffic? What were the parameters:
 - Development vs. no-development?
 - Development vs. R-60 development? (see question below about what this means)
- **Traffic Study related comments and questions have been forwarded to Gorove Slade.**
- The R-60 zoning allows 6,000 sq. ft. lots. What number of homes does this translate into on each of the two parcels if single family homes were built instead of mostly townhomes? In this calculation, how are streets, sidewalks, parking, open space, water retention, etc., accounted for.
 - **The total yield for single-family lots could vary based on how the streets, sidewalks, parking, open space, stormwater management, etc., are addressed.**
- The Statement of Justification from the developer mostly focuses on bicycles, what about cars?
 - **Please refer to the details of the Study found here:**
<https://www.mcatlas.org/daic8/Default.aspx?apno=H143>
- Regarding Local Area Transportation Study for 4910 & 4920 Strathmore Ave, the report details a Transportation Impact Study (TIS) developed by [Gorove Slade Transportation Planners and Engineers](#). The TIS study was developed based on the site within the North Bethesda Policy Area (Policy Area 22), however, as of January 1st, 2021, the site lies within the Grosvenor Policy Area per Montgomery County’s 2020-2024 Growth and Infrastructure Policy.
 - What impact does that change in Policy Area have?
- Referencing pages 4-5 and the graph on page 7, the TIS includes only background developments North and Northwest of the proposed site. There are nearby developments in Kensington on Knowles Road and in the Kensington area of Connecticut Avenue.
 - Should the impact of these developments be included, too? Especially those that impact Knowles Road that turns into Strathmore Ave.
- The TIS does not provide sufficient evidence or explanation as to how the elimination of the offset condition at Stillwater Ave in favor of a curb cut to the proposed development

directly across from Stillwater Ave will reduce vehicular movement conflicts or lessen traffic demand.

- Details: On page 16 (and in Figure 12), the authors explain that the elimination of the current offset of Stillwater and the school entrance and school traffic being rerouted to utilize the center site driveway will result in improvements at study intersections so that all intersections operate below congestion standard of 71 seconds (see results in Table 7). However, it is not clear how these modifications/design elements will decrease wait times/congestion - especially considering the increased use of all three site entrances.

- **Please see comment above.**

- According to Table 3: Trip Generation Summary, the AM Peak Hour Total Proposed Vehicle Trips will increase by 467% (from 12 to 68 total trips) from the existing land use to the proposed land use. The PM Peak Hour Total will increase by 453% (from 15 to 83 total trips). Question for Montgomery County Planner: How do these results not impact the delays at intersections, etc, and not exceed thresholds? Please explain LATR guidelines/thresholds considering increases in vehicle trips of this magnitude that LATR guidelines/thresholds are not exceeded. The conclusions in question are on page 12.
 - It should be noted that a scoping form which informed the scope of this analysis was agreed to by M-NCPPC (from approved on November 23, 2020).
- Concerns about turning count data being gathered in Fall of 2020 during pandemic and Holy Cross being operated under hybrid model of virtual and in person schooling. We also have concerns that this analysis fails to include the impact of rush hour traffic or traffic as the result of accidents on I-495/I-270. Strathmore Ave is often used as an alternate route when I-495/I-270 are congested.
 - Questions for Montgomery County Planner: Please explain the adjustment factor of 1.07 under the County's policy on new traffic counts.
 - Are there alternatives we can suggest to developer such as an entrance to Holy Cross on the back side (from Tuckerman or Cloisters Dr)?
- **The Subject Property for the LMA Application is being subdivided from the Overall Site and it will not have direct access to Tuckerman Lane or Cloister Drive.**
- Does the planned left turn lane at the new entrances involve taking land from the existing green buffer zone that separates Strathmore Avenue from access road/homes on the north side of Strathmore?

October 15, 2021

Staff Response – October 19, 2021

- **At this time, this is not proposed.**
- Several homes on the north side of Strathmore will now have oncoming headlights shining into their living rooms/bedrooms. Are there plans to ensure the plantings in the existing green buffer zone are preserved, or replaced?
 - **Planting details will be provided and reviewed at the time of Site Plan.**
- What is the timeline/procedure for discussions with MDSHA and MNCPPC on the planned changes to Strathmore Avenue?
 - **Through our inter-agency development review process, MDSHA along with other relevant regulatory agencies will review the subsequent Preliminary and Site Plan applications for approval. A schedule for these future submittals is unknown currently.**

Part 2 - Questions from Garrett Park Residents – 10/20/21

Montgomery Planning Staff Response – 10/22/21

Staff Responses in Blue font below:

1. Explain the process for the decision-making and what each decision-maker decides and when. Zoning change vs. compliance of project with development requirements.
 - **Step by step details about the approval process can be found here: <https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/ZoningProcesses/Updated Local map amendment rezoningMarty Final.pdf>**
 - **Compliance is evaluated for applicable sections of the County Code during the corresponding regulatory application and by the corresponding regulatory agency with jurisdiction. Certain development requirements are reviewed with the site layout concept during the rezoning request but will be finalized at the time of Site Plan, such as open space, recreation facilities, parking and loading spaces, minimum lot sizes, landscaping, etc. Also, please see the response to Question No. 7 that is related to timing of requirements.**
2. How does the location relative to the Metro Station and GP train station factor into the analysis and decision-making?
 - a. What is the projected use of each transit option by the future residents of the development and senior living residents and employees and what is this based on?
 - i. Very few residents of Symphony Park use either station, Grosvenor Metro is underutilized, and the walk to each station is longer than suggested in the developers' materials.
 - ii. Statement of Justification says that the development will be geared to empty nesters, who generally are not big users of public transportation. Page 7.
 - iii. If this is a factor, County should look at the developers' statement that the project is going to generate a "minimal amount of transit trips." Page 38 Traffic Study (8/24/21). Transit trips are on metro, the train, and buses.
 - **The presence of a Metro Station influences the designated transportation policy area; please see the response to question No. 6. Transit is factored into the analysis via the Local Area Transportation Review (LATR) Guidelines. More details about modal adequacy can be found on pages 14-17 and 51-52 of the Guidelines: <https://montgomeryplanning.org/planning/transportation/latr-guidelines/>. Transit adequacy applies for any site generating at least 50 net new weekday peak-hour person trips in red, orange, and yellow policy areas.**
3. The peak traffic hours in the traffic study are 5:00-6:00, which doesn't account for the Holy Cross Academy end of school and the outflow of cars then. Shouldn't they recount with school in session and during this dismissal time.
 - **The submitted study complies with the defined peak periods for morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.). The study also identifies the system peak**

- period as 5:00 p.m. to 6:00 p.m., which represents the single hour within the study period that has the highest hourly volume.
- Additionally, if the LMA is approved by the County Council, the Applicant will file a new transportation study at the time of Preliminary Plan. More information about the Department's 2020-2024 Growth and Infrastructure Policy (GIP) can be found here: <https://montgomeryplanning.org/planning/countywide/growth-and-infrastructure-policy/>
4. Is Strathmore Ave. worse on Fridays, when Beach Drive, the other route from Connecticut and Knowles to Rockville Pike, is closed?
- Please see above for the link to the GIP.
5. The Statement of Justification claims that the "Applicant is requesting less than the maximum density allowed as a result of the Property's site and base zone." Page 8 (undated and unsigned). This appears to be an alleged satisfaction of the density if the zoning change is approved and does not address increased density as compared to the existing R-60 zoning.
- Per Section 59.5.3.5.A of the Zoning Ordinance, the requested floating zone density cannot exceed 1.25 FAR, as the tract is greater than 3 acres and the existing zoning is R-60. The LMA Application is requesting 0.75 in overall FAR.
6. Under Zoning Ordinance 59-7.2.1(E), the floating zone plan must "substantially conform with the recommendations of the applicable master plan, general plan, or other applicable County plans." What plans apply here?
- a. The Statement of Justification says that the property is now included in the Grosvenor red policy area under the Growth and Infrastructure Policy. Page 5, n.4. What does this mean? It is not apparent from that Policy that this property is now subject to the Grosvenor Plan and in what ways. Note that the Grosvenor Policy Area is red, presumably signaling the worst traffic conditions. This Plan also recommends keeping Symphony Park and Strathmore Music Hall areas at the current R-60.
 - The Site falls within the 1992 North Bethesda/ Garrett Park Master Plan. Other functional plans include the 2018 Bicycle Master Plan and the Master Plan of Highways and Transitways.
 - The Red Policy Areas cover Downcounty central business districts, Purple Line station policy areas and Metro station policy areas (MSPAs) which are generally characterized by high-density development and the availability of premium transit service (i.e., Metrorail, Purple Line, MARC). There are 4 transportation policy areas in the county and are used as a basis for transportation analysis and review. For each Metro Station Policy Area, the Planning Board, in consultation with MCDOT, evaluates adequate safety for pedestrians and vehicles, access to buildings and sites, and traffic flow within the vicinity. A map of the Policy Areas can be found here: https://montgomeryplanning.org/wp-content/uploads/2018/04/PolicyAreaMap_20201111_Inset.pdf

- **The current R-60 zoning for Symphony Park and Strathmore Music Hall areas will remain as those areas are not a part of the LMA application.**
7. What calculations of storm water runoff will be created by the increase in impermeable surfaces?
- **The Montgomery County Department of Permitting Services (MCDPS) is the regulating authority that reviews and approves stormwater management plans. The LMA submission requirement include a requirement to submit a Preliminary Stormwater Management Strategy. A Preliminary Stormwater Concept exhibit is included among the documents on the DAIC: https://www.mcatlas.org/Development_Info/Default.aspx. That exhibit includes a description of the stormwater review and approval process at the successive stages of the regulatory review process, including at Preliminary Plan and Site Plan. The calculations become more accurate with each stage in the review process as more detailed engineering is done.**
8. What is the project storm control plan; will there be a storm water drainage holding facility to prevent the runoff from going into the stream?
- **Please see the Preliminary Stormwater Concept exhibit included with the submitted plans.**
9. What runoff increases are anticipated to go into the stream, which feeds into Rock Creek?
- **MCDPS would be the best source for that information.**
10. What permitting requirements are there for containing storm water runoff?
- **The project will have to comply with the requirements of Chapter 19 of the County Code. That chapter deals with stormwater, sediment and erosion control, and floodplain regulations. An approved stormwater management concept will be required at each stage of the regulatory review process. MCDPS is the regulatory authority for Chapter 19.**
11. Does the developer plan to get a permit from the Army Corp of Engineers due to the effect on the runoff into Rock Creek?
- **Typically, an ACE permit is not required for stormwater discharges. It is required for significant floodplain modifications or large wetland disturbances.**
12. If ACE permit is required, what is the developer doing to anticipate the proposed Biden regulations that roll back the definition of navigable water to pre-Trump regulations?
- **Please see the answer to question above.**
13. Since one of the nearby residents is blind, will there be an APS installed at Strathmore and Stillwater to permit safe pedestrian crossing, not only for the blind, but the older population anticipated in the development? If there is an APS, will it be tied to a traffic light to permit safe pedestrian crossing?

- **Pedestrian safety is a high priority and is factored in via a pedestrian adequacy test as required by the Local Area Transportation Review. Details about a traffic signal and its associated pedestrian facilities, including street lighting and ADA compliance, will be finalized during the subsequent Preliminary and Site Plans.**

14. Is there a wildlife population study of the effected environment?

- **A wildlife population study is not required by the current laws and regulations for this review. The process does require approval of a Natural Resources Inventory and Forest Stand Delineation (NRI/FSD), which maps important natural resources such as streams, floodplains, wetlands, forests, and significant and specimen trees. It also requires that the Maryland Department of Natural Resources be contacted to see if any records of Rare, Threatened or Endangered (RTE) species occurring on the site. Environmental staff are also aware of other resources that have documented RTE species in areas near the property and watch for occurrences of those species as they field check the NRI/FSD information.**

15. What additional carbon emissions will be caused by the increase in traffic and density?

- **Staff recognizes the importance of this issue. However, at this time there are no laws or regulations requiring accounting for projected emissions associated with individual development projects in Montgomery County.**

16. Does the anticipated Metro traffic take into account reduced ridership projections on Metro, the effect of the recent derailments, and safety concerns?

- **Please see the response to Question No. 2. WMATA may be the best contact for information about derailment safety.**

17. What is the estimated increased usage of Metro by the project, and when was the study done? Does it take into account the agency's admissions that service won't be back to normal until 2024, and then the commuting patterns are anticipated to change significantly due to internal agency studies of the effects of increased telecommuting?

- **Please see the response to Question No. 2 regarding how transit adequacy is factored into the transportation analysis.**

Gorove Slade Responses to Questions from Garrett Park Residents
10/27/21

- By what standard did the traffic report conclude that the project would have no detrimental impact on traffic? What were the parameters:

Based on the LATR Guidelines adopted by the Montgomery County Planning Board, impact is determined by the Motor Vehicle Adequacy Test and the specific policy area congestion standards. If the addition of the net new trips generated by the project exceeds the congestion threshold, the project is then required to mitigate the impact to the congestion standard. If conditions without the project (background conditions) already exceed the congestion standards, the project is required to mitigate the impact to background conditions. In the North Bethesda Policy Area, the congestion standard is 71 seconds per vehicle. This is documented on page 16 of the LATR and page 24 in the Supplemental Analysis.

- Development vs. no-development?

The no-development scenario (background conditions) includes volumes from the approved background developments, the existing driveway configuration (school traffic using the westmost entrance), the AHC School at full enrollment (600 students) and volumes from an occupied site as currently approved.

For the purposes of traffic analysis, the development scenario includes volumes from background developments, the proposed site driveway improvements (school traffic using the center entrance), the proposed signal, and the volumes generated by the project.

In the development scenario, no study intersection is found to exceed the congestion standard of 71 seconds per vehicle because of the project, with the exception of the Rockville Pike and Strathmore Avenue intersection. In the case of the Rockville Pike and Strathmore Avenue intersection, delays increase by approximately 5 seconds at a location that already exceeds the congestion standard in the no-development scenario. The 5 second “impact” or increase in delay can be mitigated with optimized signal timings that more efficiently allocate green time to movements and approaches based on the analyzed traffic volumes.

Because the impact is mitigated and no additional intersections exceed the congestion standards, the project does not have a detrimental impact on the area’s roadways in accordance with the LATR Guidelines.

- Development vs. R-60 development? (see question below about what this means)
- Regarding Local Area Transportation Study for 4910 & 4920 Strathmore Ave, the report details a Transportation Impact Study (TIS) developed by Gorove Slade Transportation

Planners and Engineers. The TIS study was developed based on the site within the North Bethesda Policy Area (Policy Area 22), however, as of January 1st, 2021, the site lies within the Grosvenor Policy Area per Montgomery County's 2020-2024 Growth and Infrastructure Policy.

- What impact does that change in Policy Area have?

Per Montgomery County's 2020-2024 Growth and Infrastructure Policy (GIP) and the new Policy Area designation, the project would not be subject to the motor vehicle system adequacy test described above, nor the required vehicular analysis/traffic study to determine whether the project meets the congestion standards. As the project was scoped before the GIP and change of Policy Area were implemented, however, the project was subject to the former 2016-2020 Subdivision Staging Policy for purposes of the present analysis.

- Referencing pages 4-5 and the graph on page 7, the TIS includes only background developments North and Northwest of the proposed site. There are nearby developments in Kensington on Knowles Road and in the Kensington area of Connecticut Avenue.
 - Should the impact of these developments be included, too? Especially those that impact Knowles Road that turns into Strathmore Ave.

The "approved but unbuilt" background developments included in the analysis are consistent with the applicable LATR Guidelines which call for the inclusion of background developments from the same geographic area as the study intersections so long as those background developments are estimated to contribute at least 5 peak hour trips to the study intersections. The list of included background developments was submitted to and approved by Planning, MCDOT, and SHA Staff prior to the preparation of the Traffic Study.

Of the current development pipeline in Kensington on Knowles Road and Connecticut Avenue, the Knowles Manor, the Residences at Knowles Station, and the Tomar's Addition developments would have been considered approved but unbuilt developments at the time of Scoping in November 2020, but were not included or analyzed for the following reasons:

- Knowles Manor: up to 94 independent living units for seniors estimated to generate 11 new trips total on the network during the morning peak hour and 16 new trips total during the afternoon peak hour. This development was not included as it is estimated to add less than 5 trips to the study intersections for this project during both peak hours.
- Residences at Knowles Station: up to 6 townhome units estimated to generate 5 new trips total on the network during the morning peak hour and 5 new trips total during the afternoon peak hour. This development was not included as it is estimated to add less than 5 trips to the study intersections for this project during both peak hours.

- Tomar's Addition: one single-family detached unit. This development was not included as it is estimated to add less than 5 trips to the study intersections for this project during both peak hours.

As the Flats at Knowles Station project (100 dwelling units and 23 kSF of commercial land use) was approved **after** the proposed project's scoping review it was not required to be analyzed per the LATR Guidelines. Per Figure 8 on page 17 of the approved traffic impact study for the Flats at Knowles Station project, the project is specifically estimated to add 9 vehicle trips to the study intersections along Strathmore Avenue for the 4910 & 4920 Strathmore Ave project during the morning peak hour and 13 vehicle trips during the afternoon peak hour. These trips would have minimal impact on analyzed conditions.

The addition of the background developments listed above would not substantially change the analysis and conclusions included in the LATR and in the Supplemental Analysis.

- The TIS does not provide sufficient evidence or explanation as to how the elimination of the offset condition at Stillwater Ave in favor of a curb cut to the proposed development directly across from Stillwater Ave will reduce vehicular movement conflicts or lessen traffic demand.
 - Details: On page 16 (and in Figure 12), the authors explain that the elimination of the current offset of Stillwater and the school entrance and school traffic being rerouted to utilize the center site driveway will result in improvements at study intersections so that all intersections operate below congestion standard of 71 seconds (see results in Table 7). However, it is not clear how these modifications/design elements will decrease wait times/congestion - especially considering the increased use of all three site entrances.

The internal connection to the school will be realigned to make the Center Driveway the primary entrance for school traffic. This change in circulation shifts traffic demand from the westmost driveway to the center driveway. With these circulation changes, development conditions result in significantly less vehicles entering and exiting the site at the Strathmore Ave and Stillwater Ave intersection that is currently off-set and experiences turning conflicts between neighborhood traffic and school traffic entering and exiting their respective minor street/driveway. The improved delays are a result of the significantly reduced traffic demand on the existing site driveway.

Also, please note the reported delays reflect delays experienced by vehicles on every approach. The delays under existing conditions and background conditions at the Strathmore Ave and Stillwater Ave intersection are primarily influenced by long delays experienced by left-turning vehicles entering and exiting the School driveway. In the proposed condition, this traffic demand is shifted to the Center Driveway. Because the Center Driveway intersection only includes one

minor approach the delays are primarily influenced by left-turning vehicles entering and exiting the site.

- According to Table 3: Trip Generation Summary, the AM Peak Hour Total Proposed Vehicle Trips will increase by 467% (from 12 to 68 total trips) from the existing land use to the proposed land use. The PM Peak Hour Total will increase by 453% (from 15 to 83 total trips). Question for Montgomery County Planner: How do these results not impact the delays at intersections, etc, and not exceed thresholds? Please explain LATR guidelines/thresholds considering increases in vehicle trips of this magnitude that LATR guidelines/thresholds are not exceeded. The conclusions in question are on page 12.
 - It should be noted that a scoping form which informed the scope of this analysis was agreed to by M-NCPPC (from approved on November 23, 2020).

The change in trip generation was reviewed by Planning, MCDOT, and SHA Staff as part of the scoping process.

Per the LATR Guidelines, the motor vehicle adequacy test and project impact are based on the delay/congestion standard, in this case 71 seconds, and measured as the change in delays between future conditions with the project and future conditions without the project (background conditions).

- If delays with the project **increase to exceed** the congestion standard, the project is required to mitigate the delay back down to below the congestion standard.
- If delays with the project **increase where delays already exceed** the congestion standard in background conditions, the project is required to mitigate the delay back down to background delays.

If the project does not result in delays that exceed the congestion standard and/or unacceptable delays that exceed congestion standard without the project in background conditions, the project is found to satisfy the motor vehicle adequacy test.

As shown on Table 7 on page 30 of the LATR and on Table 5 on page 26 of the Supplemental Analysis, the majority of study intersections operate well below the congestion standard even after the proposed additional trips are added to the network.

- Concerns about turning count data being gathered in Fall of 2020 during pandemic and Holy Cross being operated under hybrid model of virtual and in person schooling. We also have concerns that this analysis fails to include the impact of rush hour traffic or traffic as the result of accidents on I-495/I-270. Strathmore Ave is often used as an alternate route when I-495/I-270 are congested.

In the LATR analysis, school trips as captured in the Fall of 2020 counts at the driveways were removed because these were not considered to reflect typical school day operations.

School trips were then added back in as estimated in Table 5 (page 13) of the LATR to assume full enrollment and in-person operations.

In the Supplemental Analysis, the school trips in the raw data reflected enrollment from 2013, these were similarly removed from the network and replaced with school trip generation that reflects full enrollment.

With respect to travel patterns and congestion on Strathmore Avenue associated with accidents or delays on I-495/I-270, please note that per the LATR Guidelines counts are required to be collected on typical non-holiday weekdays and the County does not require worst case scenario analysis as that would lead to over designed infrastructure. Traffic that often uses Strathmore Avenue as an alternate route would be captured as part of typical weekday patterns. Because the Supplemental Analysis also used historical count data from typical weekdays, both models would reflect traffic using Strathmore Avenue as an alternate route.

Both MCDOT and SHA had expressed concerns through the review process that current counts to which the 1.07 growth factor was applied were still not representative of actual traffic volumes outside of the pandemic. We therefore prepared the Supplemental Analysis to address their concerns. The volumes used to establish baseline conditions in the Supplemental Analysis are comprised of the following:

1. Turning movement count data at two (2) study intersections, collected in the Fall of 2020 with an adjustment factor of 1.07 applied to volumes collected before 4:30 PM, per the County's policy on new traffic counts:
 - a. Strathmore Avenue and Kenilworth Avenue, collected by Gorove Slade on Tuesday, October 6, 2020
 - b. Rockville Pike and Flanders Avenue/Wickshire Way, collected by Gorove Slade on Wednesday, November 18, 2020

Pre-COVID-19 historical volumes were not available at these locations.

2. Historical pre-COVID-19 volumes at two (2) study intersections, collected in April 2013 and October 2016, with applied growth factors based on MDOT SHA AADT data:
 - a. Strathmore Avenue and Stillwater Avenue/School Driveway, collected by MDOT SHA on Wednesday, April 17, 2013.
 - b. Rockville Pike and Strathmore Avenue, collected by Sabra, Wang & Associates on Tuesday, October 18, 2016.

- i. A positive growth factor of 0.1% per year was added to the historical data along Rockville Pike despite an average decrease in traffic volumes between 2011 and 2019. Between 2011 and 2019, volumes decreased by at an annual rate of -1.4% per SHA AADT Volume data as shown on Table 4 on page 5 of the Supplemental Analysis.

3. Volume adjustments to account for the following:

- a. Adjustments to account for a 600-student enrollment at the Academy of the Holy Cross
- b. Additional added traffic volumes (average of 22% increase) to the intersections collected in 2020 to bring them up to “pre-COVID-19” traffic volumes based on the historical data after growth factor adjustments.
- c. Questions for Montgomery County Planner: Please explain the adjustment factor of 1.07 under the County’s policy on new traffic counts.

Park and Planning is best able to address this question.

- d. Are there alternatives we can suggest to developer such as an entrance to Holy Cross on the back side (from Tuckerman or Cloisters Dr)?

There is significant topography and environmental constraints separating Holy Cross and Tuckerman/ Cloisters. Because the Traffic Study demonstrates that the project will not have a detrimental impact on area roadways with the access points as proposed on Strathmore Avenue, further exploration of an alternative access point and the attendant environmental impacts such a connection would have is not warranted.

From: Barbara Jackson <BEJR@msn.com>;
Received: Mon Sep 20 2021 13:04:49 GMT-0400 (Eastern Daylight Time)
To: MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;
Cc: mayorkacky@garrettparkmd.gov;
Subject: Objections to new developments at: 4910 and 4920 Strathmore and Strathmore Square

I am writing to express my concerns regarding the developments at 4910 and 4920 Strathmore as well as Strathmore Square.

These developments show a total lack of livability consideration for the communities surrounding it, as well as for their own future residents. The current infrastructure cannot support the existing traffic let alone additional traffic generated by such a dramatic increase in population density. These new developments put tremendous pressure on the local area both in terms of traffic but also on our parks and open space, treasured even more since the pandemic hit. Accommodations must be made to provide additional egress and sidewalks for the community before these plans can be approved.

The current traffic situation is barely tenable:

1. Strathmore is already frequently at capacity with lanes completely filled between 355 and Connecticut Avenues. Garrett Park Elementary, Holy Cross and the Academy all depend on vehicular access to and from Strathmore. Garrett Park students have the option of buses, but Holy Cross and the Academy rely more on private cars for transportation.
2. When the schools closed early for Hurricane Ida, traffic was backed up on 355 going north from Tuckerman to turn right on Strathmore and from Nicholson Lane going south to turn left onto Strathmore. It is not uncommon to see traffic blocking 355 whenever there is an issue on Strathmore.
3. Whenever the Beltway backs up (which is fairly frequently) Strathmore becomes the alternate east-west route for many commuters.
4. When Beach Drive is closed for the pandemic yet another route for commuters is blocked putting more pressure on Strathmore.
5. Turn lanes may marginally increase storage but the real issue is the traffic lights at each end of Strathmore/Knowles. The light at Summit also becomes a major source of delay when Walter Reed shifts change. With the right turn on red, the storage space from Summit to Connecticut is already filled before the light turns green for people going east on Knowles.

In addition, there seems to be no realistic consideration of where residents in this new community will attend school. Garrett Park Elementary is already beyond capacity with talk of requiring portable classrooms. The most recent expansion failed to include any additional parking which means staff and visitors are utilizing our town streets for parking.

Access to the elementary school has always been difficult due to the sharp right hand turn from Kenilworth onto Oxford Street which is very narrow. Bus drivers have continually complained about this turn and emergency fire and rescue equipment also have difficulty. Should there be a fire at the school it is not clear that emergency vehicles could respond if the street is blocked or if cars are parked on it. This entrance should and would be much improved by paving a street directly from Strathmore across the Holy Cross parking lot.

The assumption that many of these residents will depend on Metro, rather than driving is also incorrect. The estimated driving trip count for the new development is laughingly low. In addition, Metro has been so relentlessly unreliable many gave up on riding it even prior to the pandemic. My son used to commute from Grosvenor to Dupont Circle on the red line but found the service so miserable that he moved to more affordable housing in Baltimore and enjoyed riding the Marc train from Camden.

While the developer may argue that cutting down all of these trees for this project is cost effective, it is ironic that they refuse to provide egress to preserve, "forest." Trees seem to only matter when they serve the developer's desire to not provide any additional needed infrastructure.

And, given our weather patterns with climate warming, allowing any new construction in a flood zone makes absolutely no sense. There is growing evidence that the recently constructed sidewalks along Strathmore have caused substantial new flooding in Garrett Park by increasing the amount of impervious surfaces and water runoff, overwhelming existing infrastructure.

I urge the Planning Board, County Council and State Highway administration to take a harder look at both the density and infrastructure before approving these projects.

Barbara Jackson
10922 Montrose Ave.
Garrett Park, MD 20896

240-731-7043

Barbara E. Jackson
10922 Montrose Ave.
Garrett Park, MD 20896

November 14, 2021

Mr. Casey Anderson, Montgomery County Planning Board Chair
Planning Board, M-NCPPC
2425 Reddie Drive, 14th floor
Wheaton, MD 20902

Dear Mr. Anderson,

I have been a resident of Garrett Park for 64 years. During this time there have been numerous developments approved and added into the Master Plan, encouraged by the concept of smart growth and building around mass transit. I believe that the latest developments envisioned by EYA for 4910 and 4920 Strathmore Avenue are severely detrimental to current residents and to potential future residents, by making it more difficult to access their own homes or to travel elsewhere.

Strathmore Avenue is already facing gridlock between the intersections of Connecticut Avenue and Rockville Pike. Adding such increased density of housing will only exacerbate an already troublesome traffic reality. We have four schools that depend on Strathmore for access: Garrett Park Elementary; Holy Cross Elementary; the Academy of Holy Cross and; Georgetown Prep. The only school providing bus service for their students is Garrett Park Elementary. The remaining schools depend on private transportation for their students.

There is a finite amount of vehicular storage on Strathmore Avenue. We already see congested traffic stalled on Rockville Pike and backed into Kensington without any additional new development.

It is also detrimental to all involved, current or future residents, to permit these developments without adequate schools. All of the schools that the developer mentions for these communities are at, or over, capacity. It is irresponsible to permit any further development unless additional classroom space is made available. It takes considerably more time to approve and construct a school than it does to build such a development.

The infrastructure for storm water drainage along Strathmore Avenue is currently incapable of handling our existing developments. We are already experiencing flooding in parts of Garrett Park and can anticipate even more with the increase in impervious surfaces that are proposed by these developments. This issue must be addressed by SHA as well as the developer.

In addition, I find it incredible that a \$700,000 town house could be considered, "affordable housing." To make this, "affordable housing," I understand that County residents will ultimately be subsidizing this housing by paying more taxes.

If this rezoning is approved, despite all of the problems I have mentioned, there are a few changes that might help mitigate the adverse impact.

First, the entrance for the Academy should be relocated to Cloister Drive. This would eliminate the steady stream of inexperienced drivers passing through the development every day and help lessen the load on Strathmore. I find it ironic that the Academy, which stands to collect millions from the sale of this property while creating such harm for its neighbors, refuses to be in any way inconvenienced by their decision.

Second, if the traffic survey is to be trusted, the amount of additional traffic generated by the development would not justify three entrances to Strathmore. One entrance should suffice, particularly if the Academy entrance is repositioned.

Third, the developer should be required to set aside land and money for schools. There is no justification for permitting a developer to capitalize on building in an area without contributing to the type of infrastructure that made this area desirable. The current residents not only paid the taxes and volunteered to support our schools, cultural institutions and libraries but, at least in the case of Garrett Park, actually contributed a library.

As a current resident I see no positive outcomes from this development. It is obvious that the Academy and the developer will collect substantial sums. The County may increase its tax base but at what cost to its residents?

Sincerely,



Barbara Jackson

October 27, 2021

Casey Anderson, Chair
Montgomery County Planning Board
2425 Reddie Drive 14th floor
Wheaton, Maryland 20902

To Chairman Anderson:

Re: Local Map Amendment No. H-143 - Rezoning of Holy Cross
Property

My name is Kip Edwards, President of the Garrett Park Estates-White Flint Park Citizens Association ("GPE-WFP CA") which represents the families and residents of more than 650 homes adjacent to the proposed development of 4910-4920 Strathmore Avenue, Local Map Amendment No. H-143. **The purpose of this letter is to serve as notice of our request to be provided with copies of all documents, exhibits, letters, maps, drawings, filings, etc., in an accessible format for the visually impaired.**

One of our residents whose property directly faces the proposed development and who is a member of GPE-WFP CA's 14-member ad hoc committee reviewing and assessing the impact this development will have on our community with respect to traffic, pedestrian safety, and our local ecology, is blind.

Accordingly, under 28 U.S.C. Section § 35.160, the Code of Federal Regulations requires that all documents be provided in accessible format upon request and in the requester's preferred means of communication. This means, in the case at hand, that all documents relating to the development be compliant with WCAG 2.1AA, PDF/UA or Section 508 standards. See also, the ADA Tool Kit for state and local governments: <https://www.ada.gov/pcatoolkit/chap3toolkit.htm>

These documents must be provided in this format in a reasonable time to allow the attorney to review the materials and provide his analysis in preparation for the scheduled MCPD and OZAH hearings next month.

Thank you for your understanding and if you have any questions, please don't hesitate to reach out to me at president@gpewfp.org.

Sincerely,

A handwritten signature in black ink that reads "Kip Edwards". The signature is fluid and cursive, with the first name "Kip" and last name "Edwards" clearly legible.

Kip M. Edwards, Esq.

President

GPE-WFP Citizens Association

CC:

Tamika Graham

Lead Reviewer, MCPD

graham@montgomeryplanning.org

Pamela Lee

Development Manager, EYA

plee@eya.com

Kacky Chantry

Mayor, Town of Garrett Park, MD

301-933-7488

mayorkacky@garrettparkmd.gov

From: [Torma, Rebecca](#)
To: [Doug Burdin](#); [Kwesi Woodroffe](#)
Cc: ["Arthur Ribeiro"](#); [Graham, Tamika](#); [dgunn](#); [Gonzalez, Elwyn](#)
Subject: RE: County and State Review of Holy Cross Development Traffic Report
Date: Friday, November 5, 2021 10:48:57 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

As I stated below, the applicant will be required to install the traffic signal and construct the left turn lane. As for the requirement, that will come from planning staff.

Rebecca Torma | Manager, Development Review
Director's Office | Department of Transportation
101 Monroe Street
10th Floor
Rockville MD 20850
(240) 777-2118 (work)
(240) 383-5252 (cell)
Rebecca.torma@montgomerycountymd.gov

Please call my cell for time-sensitive communications.

From: dburdin@verizon.net <dburdin@verizon.net>
Sent: Thursday, November 4, 2021 5:01 PM
To: Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>; 'Kwesi Woodroffe' <KWoodroffe@mdot.maryland.gov>
Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org; dgunn <dgunn@mdot.maryland.gov>
Subject: RE: County and State Review of Holy Cross Development Traffic Report

[EXTERNAL EMAIL]

Rebecca - Thank you, that is helpful. One follow up question. If the proposed development is not compliant with the requirements without a traffic light and left turn lane at the center entrance, where in the supplemental report is it proven that the installation of light and turn lane (and adjusted timing at Strathmore and Rockville Pike if I understand it correctly) will bring the development into compliance. It seems that just because the light and turn lane are "warranted" under your rules does not necessarily mean they will fix the problem. If the purported proof is in technical attachment, would an expert on your staff be able to point it out to us lay people and explain the rationale?

I'm sure others in the neighborhood would like to hear this explanation.

Doug Burdin
Cell: 571-277-0266

From: Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>
Sent: Thursday, November 4, 2021 4:22 PM
To: Doug Burdin <dburdin@verizon.net>; 'Kwesi Woodroffe' <KWoodroffe@mdot.maryland.gov>
Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org; dgunn <dgunn@mdot.maryland.gov>
Subject: RE: County and State Review of Holy Cross Development Traffic Report

Good afternoon Mr. Burdin,

Thank you for your questions and concerns regarding the traffic study for the Holy Cross development. Montgomery County's Department of Transportation reviews and provides comments on traffic studies submitted by the applicant/consultant for all developments which require one.. The studies are sent to our Division of Traffic Engineering and Operations for their agreement with the conclusions and recommendations provided by the traffic consultants proposed in the study.

For this project, the applicant/consultant submitted a traffic study and a traffic signal was warranted at the new intersection with Strathmore Avenue. In addition, the applicant/consultant findings included a proposed left turn lane into the site as the proposed mitigation to satisfy the LATR and to accommodate a safe traffic operation at the new intersection. MCDOT agreed with the conclusions of the report and these improvements will need to be completed prior to the completion off the development.

Please let me know if you have any questions.

Rebecca Torma | Manager, Development Review
Director's Office | Department of Transportation
101 Monroe Street
10th Floor
Rockville MD 20850
(240) 777-2118 (work)
(240) 383-5252 (cell)
Rebecca.torma@montgomerycountymd.gov

Please call my cell for time-sensitive communications.

From: dburdin@verizon.net <dburdin@verizon.net>
Sent: Thursday, November 4, 2021 4:00 PM
To: 'Kwesi Woodroffe' <KWoodroffe@mdot.maryland.gov>; Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>

Kim@montgomerycountymd.gov>

Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org; dgunn <dgunn@mdot.maryland.gov>

Subject: RE: County and State Review of Holy Cross Development Traffic Report

[EXTERNAL EMAIL]

Thank you for your response. That helps explain things.

Doug Burdin
Cell: 571-277-0266

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Sent: Thursday, November 4, 2021 8:09 AM

To: dburdin@verizon.net; 'Torma, Rebecca' <Rebecca.Torma-Kim@montgomerycountymd.gov>

Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org; Derek Gunn <DGunn@mdot.maryland.gov>

Subject: RE: County and State Review of Holy Cross Development Traffic Report

Good morning Mr. Burdin.

Thank you for your email outlining your concerns with the proposed Holy Cross development.

When Maryland Department of Transportation – State Highway Administration (MDOTSHA) receives Developers' traffic reports, they are distributed internally to several offices in the agency to be reviewed by our Traffic experts. Although the Developers' engineers conclude that the proposed traffic being generated by their client's development will not have an adverse effect on the surrounding road networks, our Traffic experts still must perform their own independent reviews to determine if the generated traffic will have any safety or operational issues to the network.

Based on information included in the report submitted by the Developer's Traffic Engineer for this project, a traffic signal is warranted, along with a longer turn lane on Strathmore (MD 547) at the central site/school entrance. Our reviewers confirmed that these improvements will be required as part of their Access Permit. Once detailed engineering plans and other supporting information are submitted, a comprehensive review will again be performed to ensure that the required improvements are provided and all applicable standards are being met.

Hope this addresses your concerns. Please feel free to reach out to me with any additional questions or concerns.

Thank you.

Kwesi

Kwesi Woodroffe
Regional Engineer
District 3 Access Management

MDOT State Highway Administration

KWoodroffe@mdot.maryland.gov

301-513-7347 (Direct)

1-888-228-5003 – toll free

Office Hours

M-Thurs.: 6:30a-3:30p

Fr: 6:30a-10:30a

9300 Kenilworth Avenue,

Greenbelt, MD 20770

<http://www.roads.maryland.gov>



From: dburdin@verizon.net <dburdin@verizon.net>

Sent: Wednesday, November 3, 2021 11:37 AM

To: 'Torma, Rebecca' <Rebecca.Torma-Kim@montgomerycountymd.gov>; Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org

Subject: RE: County and State Review of Holy Cross Development Traffic Report - SECOND REQUEST FOR INFORMATION

Rebecca – when can I expect an answer? The Staff/Director’s report and recommendation must be published by next Tuesday at the latest. I am hoping to submit comments by tomorrow. I cannot submit full comments without answers.

Thank you.

Doug Burdin

Cell: 571-277-0266

From: Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>

Sent: Monday, November 1, 2021 12:07 PM

To: Doug Burdin <dburdin@verizon.net>; KWoodroffe@mdot.maryland.gov

Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org

Subject: RE: County and State Review of Holy Cross Development Traffic Report - SECOND REQUEST FOR INFORMATION

Thank you for your concerns. DOT, SHA and Planning on working together to provide a response.

Rebecca Torma | Manager, Development Review
Director's Office | Department of Transportation
101 Monroe Street
10th Floor
Rockville MD 20850
(240) 777-2118 (work)
(240) 383-5252 (cell)
Rebecca.torma@montgomerycountymd.gov

Please call my cell for time-sensitive communications.

From: dburdin@verizon.net <dburdin@verizon.net>
Sent: Monday, November 1, 2021 11:40 AM
To: KWoodroffe@mdot.maryland.gov; Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>
Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>; tamika.graham@montgomeryplanning.org
Subject: RE: County and State Review of Holy Cross Development Traffic Report - SECOND REQUEST FOR INFORMATION

[EXTERNAL EMAIL]

Kwesi and Rebecca – I ask for a reply to my email below. The hearing is less than three weeks away and time is growing short.

Doug Burdin
Cell: 571-277-0266

From: dburdin@verizon.net <dburdin@verizon.net>
Sent: Tuesday, October 26, 2021 3:40 PM
To: 'KWoodroffe@mdot.maryland.gov' <KWoodroffe@mdot.maryland.gov>; 'Rebecca.torma@montgomerycountymd.gov' <Rebecca.torma@montgomerycountymd.gov>
Cc: 'Arthur Ribeiro' <ardasilva@verizon.net>
Subject: County and State Review of Holy Cross Development Traffic Report

Kwesi and Rebecca – I am a neighbor of the proposed development at Holy Cross in Kensington (4910-4920 Strathmore Avenue Local Map Amendment No. H-143). Staff at the Planning Department gave me your contact information.

I had asked them who would be critically reviewing the traffic reports submitted by the developer of the Holy Cross Property. Large parts of these documents are very technical and beyond the understanding of lay persons. For that reason, the community is counting on the State and County to critically review these documents and challenge the analysis and conclusions in those documents. The increase in the already problematic traffic on Strathmore Ave. (a two lane road with no turn lanes) that will occur with the proposed project is the major concern of the neighbors and wider community.

One particular concern is the conclusion of the expert hired by the developer that the project (adding 125 single-family housing units and a 150-bed residential care facility with 50 employees) will not have a detrimental impact on traffic. Strathmore Ave. is the only access to the project and the 400-student Holy Cross Academy behind the land where the development will go (the development and the Academy will be sharing one of the access points).

Also concerning (and confusing) is that the hired expert prepared a second set of traffic reports based on the assumption that the developer could convince the State and County to install a traffic light and add a left turn lane at one of the project's three access points. As approval of the traffic light and extra lane is not certain or knowable at this time, the State and County should not base any approvals on the assumption a light will be installed.

I am working with a larger group of neighbors and will share any information you can provide. I already have the comments on the proposal by various state and county agencies. I note that none of them appear to address the traffic report in any detail, including the report that addresses the impact of a traffic light.

Thank you for your time.

Doug Burdin
5112 Strathmore Ave.
Rockville, MD 20852
Cell: 571-277-0266



For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19



**For COVID-19 Information and resources, visit:
www.montgomerycountymd.gov/COVID19**

November 5, 2021

Via email: gwen.wright@montgomeryplanning.org

Gwen Wright, Planning Director
Montgomery County Planning Department
2425 Reedie Drive, 14th floor
Wheaton, Maryland 20902

Re: Comments of Doug and Dianna Burdin - Local Map Amendment No. H-143 - Rezoning of Holy Cross Property (4910-4920 Strathmore Ave.)

Dear Planning Director Wright:

We are residents of Symphony Park, which is directly adjacent to the property at 4910-4920 Strathmore Ave., for which a developer is requesting a change to the zoning from R-60 to CRNF 0.75, C 0.25, R 0.75, H 50. We oppose the zoning amendment and proposed development, as currently formulated, for numerous reasons, including the adverse and unacceptable impact on traffic, that the project would not serve the goal of placing high density housing near transit (such as Metro), and that the project does not currently serve walkability goals. We discuss these point in more detail below.

The Code Requires the County to Critically Analyze the Zoning Change

The Code requires the County, in each level of the decision-making process, to critically analyze the application and clearly detail and explain, with citations to facts and data in the record, the analysis. The County must make what are called “**Necessary Findings**” per Section 7.2.1(E), provided below.

E. Necessary Findings

1. A Floating zone application that satisfies Article 59-5 may not be sufficient to require approval of the application.
2. For a Floating zone application the District Council must find that the floating zone plan will:
 - a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;
 - b. **further the public interest;**
 - c. satisfy the intent, purposes, and standards of the proposed zone and requirements of this Chapter;
 - d. **be compatible with existing and approved adjacent development;**
 - e. **generate traffic that does not exceed the critical lane volume** or volume/ capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an **ability to mitigate such adverse impacts;** and

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

The Impact on Traffic Will be Unacceptable

- **Traffic Will Increase and be Unacceptable.** Without doubt, **traffic on the already overburdened two-lane Strathmore Ave. (which serves three schools and is a major cut-through between Kensington and Rockville) and nearby streets would increase considerably.** More congestion will make this road even less safe and will make getting out of our neighborhood and nearby neighborhoods even harder. While this is not a factor for the Symphony Park neighborhood, the congestion will also lead to increased cut-through in the Garrett Park Estates (i.e., on Flanders and Stillwater), which is unfair to those neighbors.
 - The **125 homes**, with likely at least two cars each, will add numerous new cars to Strathmore and surrounding streets.
 - The assisted-living facility will compound the problems, as it adds **150 residents, visitors, 50 employees, and 24-hour staffing.**
- **More information on Post-Pandemic Traffic Projections is Needed.** The County needs information that better **reflects or calculates current traffic conditions and better projects post-COVID 2021 conditions.** The historical traffic data is only available for two intersections (and apparently the 2016 data was from a Friday in July, not a reliable baseline) and the 2020 data was inadequately adjusted. The County needs **solid and justifiable data for all intersections** before making a decision.
- **The County Should Critically Analyze the Developer's Traffic Report.** The County should critically analyze the already submitted traffic report to ascertain the correctness of the developer's conclusion that the development will have no detrimental impact on traffic. **Lay people cannot be expected to refute the expert report.** Presumably the basis for this conclusion is buried in the technical attachments, which the **neighborhood must rely on the County and State experts to ensure that the reasoning and data are sound and justified.** But it seems inescapable that the addition of a significant number of cars would have a detrimental and unreasonable impact on traffic.
- **The County Should Not Approve the Zoning Change Without Certainty about Mitigation.** Until the mitigation actions are approved, the County should not rely on a traffic report based on the existence of these hypothetical actions at these intersections, as it appears the developer's second traffic report does. The developer's Supplemental Analysis on traffic only concludes that the project will not have a detrimental impact if certain mitigation steps are implemented, including changing the timing of the light at Strathmore and Rockville Pike, installing a light at the center entrance, and installing a west-bound left turn lane at the center entrance. See Supplemental Analysis at page 24-25. **This report admits that without hypothetical mitigation, these intersections are not compliant. Not one of these measures is certain to occur.**

- **The Report Ignores the Critical 3:00 pm Traffic.** The traffic report does not address traffic problems around 3:00, when the Holy Cross Academy lets out and the traffic gets so bad a traffic police officer must direct traffic. It also doesn't address Fridays, when the next closest cut-through from Kensington to Rockville Pike – Beach Drive – is closed to vehicular traffic.

Pedestrian Safety/Walkability

- **Sidewalk to Nowhere.** Nothing guarantees that the developer will be able to connect the planned sidewalk (multi-use path that ends at the border of its property) to the sidewalk that starts near Kenilworth and Strathmore. The developer touts this action as a benefit for walkability. **But for this to happen, the developer would have to purchase the land or an easement from the Parish of Holy Cross.** The likelihood of this happening is low because such a path would:
 - Increase foot and bike traffic on a path right in front of their church, school, and playground.
 - Cross the western entrance to the Church and School and the eastern entrance to the School (both heavily trafficked during drop off and pick up).
 - Infringe on the current drainage along the road.
 - Require the Parish to relocate the fencing on the northeast end of their field, making their field smaller.
 - Likely require the removal of very mature trees, especially in the small field at the eastern end of the property.
- **Improvement to Walkability is Minimal.** The proposed **path from the new development to the Grosvenor Metro as planned is neither safe nor Americans with Disabilities Act compliant.** The developer has suggested that it only takes 10 minutes to walk from the development to the Metro and to the train station in Garrett Park. We have walked both, starting from the Holy Cross main entrance, and walked both routes at a relatively fast pace. The actual walking time by an average walker is closer to 15 minutes, in the best of weather. For those residents in the back of development, the walk would be even longer to both stations. The employees of the residential care facility would have an even longer walk to the Metro.
- **Strathmore-Stillwater Crossing is Not Signalized and is Already Dangerous.** The County should correct its misperception that the Strathmore and Stillwater intersection has a “signalized pedestrian crossing.” **It does not.** Those walking or biking across this intersection must rely on the car drivers seeing the pedestrians at the crosswalk and stopping in time. The eastbound cars often come down the hill at excessive speed. More cars on Strathmore will exacerbate this problem.

The Change to Denser Zoning is Not Warranted

- **Relative Proximity to Metro Does Not Warrant Zoning Change.** The developer is arguing for the zoning change and approval of this denser housing project largely based on the proximity (relative) of the development to mass transit, mainly the Grosvenor Metro station. See Statement of Justification at page 8. However, **the developer also admits in its own documents that use of transit will be “minimal.”** Local Area Transportation Report, amended August 24, 2021, at page 38. The Grosvenor Metro is underutilized, including by the residents of Symphony Park where we live, an adjacent townhome development that is even closer to Metro than the property. We are out most morning between 8-9 walking our dog and almost never see anyone heading to the Metro. **The developer should not be able to rely on this goal of the Master Plan** without hard evidence of projected strong use of Metro (and to a lesser extent the bus line and MARC train station at Garrett Park).

The requested change is from the R-60 zone, which allows only housing and at a much lower number of units. The amendment, if approved, would allow a greater number of houses and a large assisted-living facility, which add more impacts from the project. While the amendment no doubt would add to the developer's bottom line, the burden of this increased use and density would fall on the neighborhood and community. The County should not lightly change this longstanding zoning status.

We appreciate the efforts of the Planning Department during these trying times and ask for your careful consideration of this important issue. Please let us know if have any questions or need anything further from us.

Sincerely,

Doug Burdin
Dianna Gonzales-Burdin

Doug Burdin
Dianna Gonzales-Burdin

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)
Kip Edwards (president@gpewfp.org)

November 8, 2021

Via email: gwen.wright@montgomeryplanning.org

Gwen Wright, Planning Director
Montgomery County Planning Department
2425 Reedie Drive, 14th Floor
Wheaton, Maryland 20902

Re: Correction and Sign on by Symphony Park Neighbors to Comments of Doug and Dianna Burdin (filed Nov. 5, 2021) - Local Map Amendment No. H-143 - Rezoning of Holy Cross Property (4910-4920 Strathmore Ave.)

Dear Planning Director Wright:

The undersigned and listed persons are residents of Symphony Park, which is directly adjacent to the property at 4910-4920 Strathmore Ave., for which a developer is requesting a change to the zoning from R-60 to CRNF 0.75, C 0.25, R 0.75, H 50. We collectively oppose the zoning amendment and proposed development, as currently formulated, for the reasons explained in the Comments of Doug and Dianna Burdin submitted to you on November 5, 2021. We ask that you and your Department consider those comments before publishing your report and recommendation.

In addition, we need to correct one error in the Burdin Comments. The second to last paragraph contained the following sentence: “While the amendment no doubt would add to the developer’s bottom line, the burden of this increased use and density would not fall on the neighborhood and community.” (Emphasis added.) As is clear from the context of the comments, the sentence should not have contained the word “not.” Thus, the sentence should have read: “While the amendment no doubt would add to the developer’s bottom line, the burden of this increased use and density would fall on the neighborhood and community.”

In case it is easier for you to use a corrected copy, the attached copy of the November 5 Burdin Comments contains the corrected sentence and is otherwise the same.

Please let us know if have any questions or need anything further from us.

Sincerely,

Doug Burdin
Dianna Gonzales-Burdin
5112 Strathmore Ave.
Rockville, Md 20852

The following Symphony Park Residents have indicated a desire to sign on to the November 5, 2021 Comments of Doug and Dianna Burdin, as corrected above:

Steven and Mara Brick	10882 Symphony Park Dr.
Jerry and Mindy Stouck	10863 Symphony Park Dr.
Cathie and Al Goltz	10753 Symphony Park Dr.
Jody Menick	10758 Symphony Park Dr.
Joseph and Nancy Rose	10737 Symphony Park Dr.
Leslie Tarantola and Simeon Taylor	10845 Symphony Park Dr.
Edda Guerrero	10880 Symphony Park Dr.
Jean-Michel Eid and Amy Ballard	10873 Symphony Park Dr.
Sudha Srinivasan	10796 Symphony Park Dr.
Bob and Gail Dufek	10875 Symphony Park Dr.
Jeffrey and Michelle Milton	10857 Symphony Park Dr.
Sheila Levin	5226 Strathmore Ave.
Tim Arling	5238 Strathmore Ave.
Katharine Roberts	5110 Strathmore Ave.
Marcia Feuerstein	5242 Strathmore Ave.
Julie Black and Robert Shepard	5250 Strathmore Ave.
Ivy Baer and Marc Rothenberg	5248 Strathmore Ave.
John and Marylouise Serrato	5216 Strathmore Ave.
Benjamin and Susan Pontano	5227 Symphony Forest Ln.

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)
Kip Edwards (president@gpewfp.org)
Kacky Chantry (mayorkacky@garrettparkmd.gov)
William Neches, President, Strathmore Place HOA (nechesw@yahoo.com)



DAVID SHAFFER LAW, PLLC
CIVIL RIGHTS AND DISABILITY LAW

David J. Shaffer
202-210-7424
david.shaffer@davidshafferlaw.com

November 8, 2021

Gwen Wright, Planning Director
Montgomery County Planning Board
2425 Reedy Drive, 14th Floor
Wheaton, Maryland 20902

Re: Comments on Local Map Amendment No. H-143 - Rezoning of Holy Cross Property

To Whom it May Concern:

As a resident of Garret Park Estates, and as an attorney with experience in environmental law, having represented NRDC, Sierra Club, EDF, Defenders of Wildlife and other environmental organizations, as well as a class action civil rights lawyer, I have been attempting to assess the impact of this zoning change on myself and advise the neighborhood on these issues.

However, I am legally blind, and despite my requests for accessible documents required by the Department of Justice under 28 C.F.R. Section 35.160¹, I have been denied access to any accessible documents relating to this project. Moreover, your own planning website is completely inaccessible to the residents of the County with disabilities. (See attached compliance

¹ The applicable DOJ regulation states:

“(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.

(2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.”

report, in direct violation of the Americans with Disabilities Act and Section 508 of the Rehabilitation Act, applicable to any entity receiving federal funds. *See Generally*, Shaffer and Simoneaux, Web Accessibility and Layered Approaches. <https://davidshafferlaw.com/web-accessibility-and-layered-approaches/>.)

Recently, WMATA experienced this same issue and was required to re-notice its budget and accept additional comments to its legally adopted budget.² This was under legal threat that the entire budget for the year did not conform to legally required notice and comment requirements, which could also affect these proceedings.

I write to object to these proceedings because they leave out the 20% of residents in Montgomery County with disabilities and does not conform with the notice requirements of Maryland law. Unless delayed, these proceedings are subject to an immediate injunction from a federal court until the materials involved are made accessible to the 20% of Montgomery County residents with disabilities.

If necessary, I will consider a class action on behalf of the disabled residents of this County to address the county's failures to comply with the ADA and seek and order halting any official acts of the county until it comes into compliance with the ADA, and, particularly, in the zoning change at hand, will seek to halt all proceedings until accessible documents are provided to the residents of this County.

I also agree with and incorporate by reference the comments of Garret Park/White Flint Estates, on the traffic and environmental impact of the proposed change.

Moreover, as a blind resident of the area, it is already unsafe for me to try to cross Strathmore Ave during peak hours when I need to walk to the Metro, which is my only means of transportation. There should be an APS at the intersection of Stillwater and Strathmore to permit safe crossing by disabled and seniors to cross this street safely. Moreover, the planned path to the Metro is unsafe as planned and not accessible to people with disabilities, in violation of the ADA.

You have demonstrated total disregard of the civil rights of the disabled population of Montgomery County and must take immediate steps to make this process accessible to 100% of the population of the country, not just 80%.

Sincerely,

² <https://wamu.org/story/20/03/04/metros-proposed-2021-budget-wasnt-accessible-to-blind-riders-until-this-week/>.

/s/ David J. Shaffer, Esq.

David J. Shaffer

D.C. Bar Number: 413484

Maryland Bar Number: 13055

DAVID SHAFFER LAW, PLLC

Phone: 202-210-7424

Email: David.Shaffer@davidshafferlaw.com

November 8, 2021

Gwen Wright, Planning Director
Montgomery County Planning Board
2425 Reedie Drive 14th floor
Wheaton, Maryland 20902

Re: Comments of Arthur and Ariel Ribeiro on Local Map Amendment No. H-143 - Rezoning of Holy Cross Property

Dear Planning Director Wright:

We are residents and homeowners of 5101 Strathmore Avenue, the house across the street from the property at 4910-4920 Strathmore Ave., for which a developer is requesting a change to the zoning from R-60 to CRNF 0.75, C 0.25, R 0.75, H 50. We are members of the Garrett Park Estates - White Flint Park (GPE-WFP) citizens association. We submit the following comments to the Planning Department, in the hope that they will take them into account before finalizing their report and submitting their recommendation to the Planning Board.

We oppose the request to change the zoning for the subject property from R-60 to a CRNF 0.75, C 0.25, R 0.75, H 50 zone. **We also oppose the proposed development, as currently formulated**, for numerous reasons, including the adverse and unacceptable impact on traffic, that the project would not serve the goal of placing high density housing near transit (such as Metro), that the project does not currently serve walkability goals, and the failure to properly analyze the environmental impact of the development. We discuss these points in more detail below.

The Code Requires the County to Critically Analyze the Zoning Change

The GPE-WFP homes have existed across from the Holy Cross Academy and the St. Angela convent property since the 1950's. The R-60 zoning, with its limited density, are a part of the fabric of this community. **The community expected continued lower density development** if this property was ever developed.

The Code requires the County, in each level of the decision-making process, to critically analyze the application and clearly detail and explain, with citations to facts and data in the record, the analysis. The County must make what are called **"Necessary Findings"** per Section 7.2.1(E), provided below.

E. Necessary Findings

1. A Floating zone application that satisfies Article 59-5 may not be sufficient to require approval of the application.
2. For a Floating zone application the District Council must find that the floating zone plan will:
 - a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;

- b. **further the public interest;**
- c. satisfy the intent, purposes, and standards of the proposed zone and requirements of this Chapter;
- d. **be compatible with existing and approved adjacent development;**
- e. **generate traffic that does not exceed the critical lane volume or volume/ capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts;** and
- f. when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, **not adversely affect the character of the surrounding neighborhood.**

(Emphasis added.)

The Impact on Traffic Will be Unacceptable

- **Traffic Will Increase and be Unacceptable.** Without doubt, **traffic on the already overburdened two-lane Strathmore Ave. (which serves three schools and is a major cut-through between Kensington and Rockville) and nearby streets would increase considerably.** More congestion will make this road even less safe and will make getting out of our neighborhood and nearby neighborhoods even harder. The congestion will also lead to increased cut-through in our neighborhood (i.e., on Flanders and Stillwater Avenues), which is unfair to residents on those streets.
 - The **125 homes**, with likely at least two cars each, will add numerous new cars to Strathmore and surrounding streets.
 - The assisted-living facility will compound the problems, as it adds **150 residents, visitors, 50 employees, and 24-hour staffing.** There will also be emergency vehicles responding to incidents at the assisted-living facility possibly daily and at all hours of the night. There will also be increased delivery trucks, visitors, and additional medical support personnel.
- **More information on Post-Pandemic Traffic Projections is Needed.** The County needs information that better **reflects or calculates current traffic conditions and better projects post-COVID 2021 conditions.** The historical traffic data is only available for two intersections (and we have on record that the 2016 data was from a Friday in July, not a reliable baseline) and the 2020 data was inadequately adjusted. The County needs **solid and justifiable data for all intersections** before making a decision.
- **The County Should Critically Analyze the Developer's Traffic Report.** The County should critically analyze the already submitted traffic report to ascertain the correctness of the developer's conclusion that the development will have no detrimental impact on traffic. **Lay people cannot be expected to refute the expert report.** Presumably the basis for this conclusion is buried in the technical attachments, which the **neighborhood must rely on the County and State experts to ensure that the reasoning and data are sound and justified.** But it seems inescapable that the addition of a significant number of cars, delivery trucks to

the assisted-living facility, and ambulances would have a detrimental and unreasonable impact on traffic.

- **The County Should Not Approve the Zoning Change Without Certainty about Mitigation.** Until the mitigation actions are approved, the County should not rely on a traffic report based on the existence of these hypothetical actions at these intersections, as it appears the developer's second traffic report does. The developer's Supplemental Analysis on traffic only concludes that the project will not have a detrimental impact if certain mitigation steps are implemented, including changing the timing of the light at Strathmore and Rockville Pike, installing a light at the center entrance, and installing a west-bound left turn lane at the center entrance. See Supplemental Analysis at page 24-25. **This report admits that without hypothetical mitigation, these intersections are not compliant. Not one of these measures is certain to occur.**
- **The Report Ignores the Critical 7:00 am and 3:00 pm Traffic.** The traffic report does not address traffic problems around 7:00 am, before the start of school at Holy Cross Academy, and 3:00 pm, when the Holy Cross Academy lets out, and the traffic gets so bad a traffic police officer must direct traffic. It also doesn't address Fridays, when the next closest cut-through from Kensington to Rockville Pike – Beach Drive – is closed to vehicular traffic.

Pedestrian Safety/Walkability

- **Sidewalk to Nowhere.** Nothing guarantees that the developer will be able to connect the planned sidewalk (multi-use path that ends at the border of its property) to the sidewalk that starts near Kenilworth and Strathmore. The developer touts this action as a benefit for walkability. **But for this to happen, the developer would have to purchase the land or an easement from the Parish of Holy Cross.** The likelihood of this happening is low because such a path would:
 - Increase foot and bike traffic on a path right in front of their church, school, and playground.
 - Cross the western entrance to the Church and School and the eastern entrance to the School (both heavily trafficked during drop off and pick up).
 - Infringe on the current drainage along the road.
 - Require the Parish to relocate the fencing on the northeast end of their field, making their field smaller.
 - Likely require the removal of very mature trees, especially in the small field at the eastern end of the property.
- **Improvement to Walkability is Minimal.** The proposed **path from the new development to the Grosvenor Metro as planned is neither safe nor Americans with Disabilities Act compliant.** The developer has suggested that it only takes 10 minutes to walk from the development to the Metro and to the train station in Garrett Park. I have received information from neighbors who have walked both, starting from the Holy Cross main entrance, at a relatively fast pace. The actual walking time by an average walker is closer to 15 minutes, in the best of weather. For those residents in the back of the development, the walk would be

even longer to both stations. The employees of the assisted-living facility would have an even longer walk to the Metro. The employees of the assisted-living facility will also have working hours during times the Metro is closed. Visitors to the assisted-living facility are likely families, who would more likely drive than pay Metro fares for each member of the family.

- **Strathmore-Stillwater Crossing is Not Signalized and is Already Dangerous.** The County should correct its misperception that the Strathmore and Stillwater Avenue intersection has a “signalized pedestrian crossing.” **It does not.** Those walking or biking across this intersection must rely on the car drivers seeing the pedestrians at the crosswalk and stopping in time. The eastbound cars often come down the hill at excessive speed. More cars on Strathmore will exacerbate this problem. The pedestrian-crossing sign is regularly run over and some signs have not been replaced. There are routinely accidents at this intersection, especially as cars leave the Holy Cross road to turn onto Strathmore Avenue. The telephone pole at that intersection has also been hit by cars.

The Change to Denser Zoning is Not Warranted

- **Relative Proximity to Metro Does Not Warrant Zoning Change.** The developer is arguing for the zoning change and approval of this denser housing project largely based on the proximity (relative) of the development to mass transit, mainly the Grosvenor Metro station. See Statement of Justification at page 8. However, **the developer also admits in its own documents that use of transit will be “minimal.”** Local Area Transportation Report, amended August 24, 2021, at page 38. The Grosvenor Metro is underutilized, including by the residents of Symphony Park, an adjacent townhome development that is even closer to Metro than the property. One of our neighbors, who lives in Symphony Park, is out most mornings between 8-9 am walking their dog and almost never sees anyone heading to the Metro. The developer should not be able to rely on this goal of the Master Plan without hard evidence of projected strong use of Metro (and to a lesser extent the bus line and MARC train station at Garrett Park).

Environmental Impact of this Development Has Not Been Properly Studied

- We are very concerned about potential environmental impacts of the zoning change. We have not seen any documents reflecting the amount of impermeable surfaces that will replace the current green space. As climate change increases rapidly, no zoning decision should be made until there is documentation of how the storm water flow from these unknown areas of impermeable surface will affect the stream that runs into Rock Creek and the navigable waters of the Potomac. **No zoning decision should be made until a storm water drainage control plan is provided that takes into account the immediate effects of climate change** we are seeing in this area with the increased flooding of many parts of our community.
- We also understand that there are some **wetlands on the project that may require federal approvals**, which are not discussed in the documents we have been provided. Moreover, bald eagles are often seen on this property, and we hear Barred Owls over there every night.

Essentially, this zoning change is proposed without any concept or data on the environmental impacts of the development.

- In addition, the noise from Strathmore will increase significantly with the increased traffic and **the noise levels in the community** affected should also be analyzed. The **increase in carbon footprint** of the proposed zoning change should also be considered in the light of climate change.

Development of this site should take full account of the neighborhood's concerns and suggestions

- **Rear Entrance to the Academy is a Viable Option.** The County **should require the construction of a rear entrance**, with a bridge over the creek, for the Academy of Holy Cross from Tuckerman Lane (an underused four-lane road). According to the developer, 600 students attend the Academy, plus faculty, other staff and delivery vehicles, with a total population of roughly 700, including daily drop-off and pick-up of students.
- **The County Should Require Brandywine to Flip its Design.** The developer's proposed plan has the center entrance to the property as the main car and foot entrance to the Brandywine assisted living facility. The developer proposes to share this center entrance with the Academy and some of the townhouses. **The County should require the developer to flip the current design** so that the main car and foot entrance is on the east side of the building, which would mean sharing the entrance with the currently proposed service entrance. At the least, this change would direct some traffic to an entrance other than the overburdened center entrance.
- **Recourse Needed if Assumptions are Wrong.** The County should explain to the neighborhood and community what recourse there would be if the County approves this zoning change, then the various projections and analyses turn out to be wrong. **The neighborhood and community must have measures built into the approval that provide relief** in this scenario.
 - This could include measures to address cut-through traffic in our neighborhood on Flanders Avenue and Stillwater Avenue. Such measures might include forbidding non-residents from entering our neighborhood during peak traffic times, and the addition of speed bumps on Stillwater Avenue (Flanders Avenue already has speed bumps).
- **Schools are too Overcrowded for Denser Development.** The Walter Johnson cluster has experienced large enrollment increases in recent years. MCPS attributes this primarily to turnover of existing homes to younger families. However, the residences at NoBe Market and Pike & Rose feed into our cluster. The Harwood Flats Apartments plans to open with 335 units in summer 2022, and Strathmore Square is moving ahead with their first phase of 220 units. While MCPS plans to open a new high school (Woodward) in a few years, there are no plans yet for another elementary school in our cluster. **MCPS should plan for another elementary school in this cluster to accommodate the increase in denser development.**

- **This Development Needs a Park.** The proposed plans preserve very little accessible green space, and expects families to leave their new neighborhood to access heavily used playgrounds nearby. The County should **require the developer to incorporate an ADA-compliant, accessible park** large and appropriate enough for this so-called intergenerational community.
- **Preserving the existing green buffer along Strathmore Avenue.** The homes along the Strathmore Avenue access road (on the north side of the street) are separated from traffic and road noise by a green buffer zone with trees and shrubs. Residents do not want to see spillover traffic along this narrow access road - but also want to be sure that **the proposed new turn lanes into the development are not created by carving into this green buffer zone**, or the loss of trees and shrubs along this buffer, both of which threaten to bring traffic noise and pollution significantly closer to our homes.
- **Placement of traffic light.** There are approximately 650 homes in GPE-WFP, and (a very modestly estimated) 1,000 vehicles in GPE-WFP associated with these homes. These vehicles leave the neighborhood either by Flanders Avenue or Stillwater Avenue. If a traffic light is added to Strathmore Avenue, **we request the light to be located at the intersection of Stillwater and Strathmore Avenues**, to facilitate cars exiting GPE-WFP. Placing a new traffic light at the new entrance to the proposed development could result in residents of GPE-WFP being unable to exit the neighborhood during the peak traffic times. A light located at Stillwater Avenue and Strathmore would benefit both the residents of GPE-WFP and the residents of the new development.

The requested change is from the R-60 zone, which allows only housing and at a much lower number of units. The amendment, if approved, would allow a greater number of houses and a large assisted-living facility, which add more impacts from the project. While the amendment no doubt would add to the developer's bottom line, the burden of this increased use and density would fall on the neighborhood and community. The County should deliberate carefully on changing this long-standing zoning status.

We appreciate the efforts of the Planning Department and ask for your careful consideration of this important issue. Please let us know if you have any questions or need anything further from us.

Sincerely,

Arthur Ribeiro

Ariel Michelman Ribeiro

Arthur Ribeiro
Ariel Michelman Ribeiro
5101 Strathmore Avenue, Kensington, MD 20895

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)

November 8, 2021

Gwen Wright, Planning Director
Montgomery County Planning Board
2425 Reedie Drive 14th floor
Wheaton, Maryland 20902

Re: Comments from a resident of Strathmore Avenue, across from the proposed development site being discussed for rezoning: Local Map Amendment No. H-143 - Rezoning of Holy Cross Property/4910-4920 Strathmore Avenue

Dear Ms. Wright:

I live on the north side of Strathmore Avenue, and I'm writing to echo the submitted written objections of the Garrett Park Estates-White Flint Park Citizens Association ("GPE-WFP"). After meeting with the developer of this project, very helpful meetings with Ms. Tamika Graham and other Montgomery County planning officials, and also email correspondence with Ms. Brenda Pardo in the Montgomery County Department of Transportation, I remain very concerned that the proposed zoning change for the 4910-4920 Strathmore Avenue property, Local Map Amendment No. H-143, would bring highly unwanted changes to the surrounding neighborhoods.

For the single-family homes located on the north side of Strathmore Avenue in Garrett Park Estates, separated from the main Strathmore Avenue artery by a green buffer strip with trees and bushes, this proposed development and the certainty of increased traffic threatens to materially damage the value of our homes. Many of my neighbors and I are concerned that the increase in traffic, despite the traffic mitigation proposals the developer has promised will effectively bring more traffic noise, automobile emissions, and even light pollution from oncoming headlights into our bedrooms and living rooms.

My primary objections are as follows:

1) The request to **change the zoning for the subject property** from R-60 to a CRNF 0.75, C 0.25, R 0.75, H 50 zone **seems rushed and haphazard**, as it is predicated on faulty or missing data, particularly on road usage and typical traffic conditions. **Please do not make this zoning decision without a recent, reliable, accurate, and comprehensive traffic study** — and please consider the reality that a lower-density, R-60 development may be a far more prudent decision, as fewer homes would put fewer cars on the road, and have less of an impact on the environment.

Traffic currently backs up several times daily along Strathmore Avenue, in part timed to when students arrive and depart from the three schools located in close proximity to each other — but also simply because of heavier traffic during the morning and evening rush hour. When traffic backs up, some drivers seek to jump the queue, either by zipping far too quickly down our Strathmore access road (which is narrow, with cars parked in front of our homes on the north side, making this effectively a one-lane, go-slow road), or by making a quick turn onto Flanders Avenue or Stillwater Avenue to the only other alternative exit, at Rockville Pike. With added traffic, more drivers will no doubt attempt to be cutting through our Garrett Park Estates neighborhood.

The traffic data and traffic studies also seem to rely on studies taken during the pandemic (when schools were not meeting in person, and many people were working from home) and an earlier data set from a traffic study conducted on a Friday afternoon in mid-summer, with no schools in session. It's simply not plausible, to anyone who lives here, that the proposed development will have no detrimental impact on local traffic, as the developer claims! An added concern about traffic backups is the fact that Strathmore Avenue provides critical access for emergency vehicles from the Kensington Fire Department, who frequently use this route to travel to emergencies along Rockville Pike or the Beltway, or transport patients to Suburban Hospital. What may appear as "extra curb space" is in fact critical pullover space to let emergency vehicles pass.

The developer has proposed the addition of a new traffic signal will resolve any traffic issues — and proposes to locate this light for the convenience of the new development. If the County is serious about overall traffic safety, and pedestrian safety, the logical place for a new traffic signal would be **at the bottom of the hill**, where the proposed plans indicate the current Stillwater intersection would become a 4-way intersection, continuing the road into the new development. A traffic signal at that intersection would allow GRE-WFP residents to exit safely onto Strathmore, and allow walkers/bikers to cross Strathmore safely on their way to the Metro (there is currently a pedestrian crossing and island, but the crossing on Strathmore is not signalized — see photo).



2) Local residents want to **fully protect the current Strathmore Avenue green buffer** zone that separates our homes from traffic along this busy roadway.

This buffer zone, with its trees and shrubs, is vital to mitigating road noise and pollution that affect our homes along the north side of Strathmore Avenue, but is also a place where people walk. This usage has become even more evident during the pandemic, as large numbers of local residents used the sidewalk, street, and the green buffer zone to move up and down Strathmore Avenue. Even the Holy Cross Academy cross-country team uses this side/access roadway to do interval workouts.

The developer has assured me that their plans for enlarging Strathmore Avenue to accommodate the proposed left turn lanes **would NOT encroach** on this green buffer zone, and comments from County planning and traffic officials also say that any right of way to accommodate the entries to the proposed development and road frontage to accommodate the proposed bike path must come from the south side of Strathmore Avenue.

Nonetheless, my neighbors and I seek assurances that any zoning changes, any future developments, and any future changes to the main roadway **will not materially alter the current buffer zone or our access road along the north side of Strathmore Avenue** — and that any destroyed trees and shrubs would be replanted. These may seem “minor” changes that might appear inconsequential on paper or schematic drawings, and yet matter immensely, as they materially threaten the livability, comfort, and value of the homes of people who live directly across from the proposed development plot.

3) The proposed **stormwater solutions appear inadequate**, given the downward slope towards the Strathmore-Stillwater Avenue dip in the road, where the roadway crosses over a small creek. Because of this terrain, what would stop rainwater from a new development, and more paved roads/built space, from flowing down the proposed center entrance and down the south side of Strathmore Avenue?

Currently, the dip at the bottom of Strathmore Avenue (near the pedestrian crossing at Stillwater Avenue) tends to flood during heavy rains, making driving dangerous or impossible. Please see this August 2021 photo taken after one storm, and note the debris level along the fence fronting the south side of Strathmore Avenue, at the southwest corner of the 4910-4920 Strathmore Avenue property, just west of the current entrance to Holy Cross Academy.



4) **Loss of overall green space in the area.** The recent Strathmore Square development, which was approved, offered maps that included the 4910-4920 parcel as “green space,” to show that the Strathmore Square development would be surrounded by plenty of trees and green space. Does the County simply ignore one development’s surrounding “green space,” when considering the rezoning of that very “green space” to allow more dense development, in a hearing held just weeks later? This appears to be happening right now. What green space will be left in our area?

5) Lack of parks/play areas, or connected walkways, in the proposed rezoning/development.

The proposed plans accompanying this rezoning effort call for a bike/walking path that goes only as far as the eastern property line, but does not connect to anything east of the property. The proposed development also includes a “heart health” path that similarly goes nowhere — and County planners have raised concerns about the safety of that path, given that it will not be visible from the proposed new homes, and the lack of lighting or benches.

Every neighborhood deserves outdoor space, and it seems foolhardy to propose a new development that excludes a playground altogether — are families supposed to hop in their cars to drive toddlers to a park or playground? Are older children expected to hop on their bikes and cross a busy road to meet up with their friends? The proposed plans that are prompting this rezoning request simply don’t make sense when it comes to parks and recreation, and the overall health and well-being that open spaces, playgrounds, and communal green space offer—please insist that plans include more green space/play areas that are accessible, ADA-compliant, and designed with both older/younger County residents in mind.

In any future development of the 4910-4920 parcel, wouldn’t direct walking paths to Metro be a priority? And if we want children to walk to schools, wouldn’t creating direct, safe pathways to the surrounding schools (Garrett Park Elementary and Holy Cross Parish School K-8) be a priority? Why would parents opt to walk out to the main road, then cautiously walk along the busy roadway to bring their children safely to either one of these schools? Out of convenience and safety considerations, it’s likely most parents simply put their children in the car, even for a relatively short school run — and that puts more cars on a busy roadway, each day.

Thank you for your close consideration of these concerns, which are shared by many of my neighbors.

Sincerely,

Vanessa Lide
5013 Strathmore Avenue
Kensington, MD 20895
v.lide2345@gmail.com

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)
Kip Edwards, President, Garrett Park Estates - White Flint Park Mayor
(president@gpewfp.org)
Kacky Chantry, Mayor of Garrett Park (mayorkacky@garrettparkmd.gov)
William Neches, President, Strathmore Place HOA (nechesw@yahoo.com)

From: Courtenay Culp <Cejculp@aol.com>;

Received: Tue Nov 09 2021 12:45:43 GMT-0500 (Eastern Standard Time)

To: County Executive Marc Elrich <marc.elrich@public.govdelivery.com>; MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;

Subject: EYA Planned Development on 15 acres of Holy Cross

I think the EYA development plans on the 15 acre Holy Cross property is way too extensive. Reducing the number of townhouses and beds in the assisted living facility by half could work. Or, just building single family homes would be a positive move. Anyway, the EYA plans cannot be sustainable for this area- too much traffic, unhealthy wildlife and people due to stress, hardly any green space, and very negative environmental impact. Please do not rezone property as it stands.

Sincerely yours,
Courtenay Culp
Garrett Park

Sent from my iPhone

From: Karol E. Soltan <ksoltan@umd.edu>;

Received: Tue Nov 09 2021 19:20:59 GMT-0500 (Eastern Standard Time)

To: MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;

Subject: Holy Cross development on Strathmore

Hi,

I am a long time resident of Garrett Park and former Town Council member. I strongly support greater density near metro stations. Hence I also strongly support the EYA development plans, and the rezoning that is required.

Sincerely,

Karol Soltan

Graham, Tamika

From: Cynthia <weitzcyn@msn.com>
Sent: Wednesday, November 10, 2021 2:24 PM
To: Graham, Tamika
Cc: William Neches; president@gpewfp.org
Subject: Letter of support for Garrett Park Estates-White Flint Park Citizens Association position on proposed development of 4910-4920 Strathmore Ave
Attachments: Strathmore Place HOA Letter of Concern.pdf
Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Ms. Graham, thank you for taking the time to speak with me this afternoon. I am attaching a letter from the Strathmore Place HOA supporting the position of the GPE-WFP Citizens Association that the current R-60 zoning of the property in question should be maintained.

Please do include me as well as our HOA President, William Neches (cc'd above) as persons to receive notice of any future hearings, meetings, public documents, etc. regarding this proposed development.

Thank you again,

Cyndy

Cynthia R. Weitz
5305 Strathmore Ave
Kensington, MD

Strathmore Place Homeowner's Association
5207-5357 Strathmore Ave.
Kensington, MD 20895
William Neches, President

November 8, 2021

Gwen Wright, Planning Director
Montgomery County Planning Board
2425 Reddie Drive 14th floor
Wheaton, Maryland 20902

Dear Planning Director Wright:

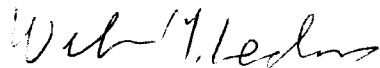
The Strathmore Place Homeowner's Association supports the position of the Garrett Park Estates – White Flint Park Citizens Association regarding the request for the zoning change and proposed development of 4910-4920 Strathmore Ave, Local Map Amendment No H-143.

Our Association, established in 1981, represents the 49 townhomes located at the intersection of Strathmore Ave. and Rockville Pike. Our community has one exit out, along our access road to Jolly Way. For residents wishing to travel east, towards the Connecticut Avenue corridor, this requires an often difficult and dangerous left turn onto Strathmore Ave. During school drop off and pick up times at The Academy of the Holy Cross, traffic frequently backs up to the light at Rockville Pike in both directions. Vehicles block “the box” as they wait in line for traffic to move, making it a challenge to exit onto Strathmore Ave.

Our community raised concerns about the speed and safety of traffic conditions along Strathmore Ave. during meetings held regarding the new development at the Grosvenor Metro. This development is proceeding and will add additional traffic to Strathmore Ave. Changing the zoning at the above referenced property will add even more vehicles and make entering and exiting our community extremely problematic.

We support maintaining the current R-60 zoning for this property and are in opposition to the current plan as submitted.

Sincerely,



William Neches
President

Strathmore Place Homeowner's Association

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)
Kip Edwards (president@gpewfp.org)

Strathmore Place Homeowner's Association
5207-5357 Strathmore Ave.
Kensington, MD 20895
William Neches, President

November 8, 2021

Gwen Wright, Planning Director
Montgomery County Planning Board
2425 Reddie Drive 14th floor
Wheaton, Maryland 20902

Dear Planning Director Wright:

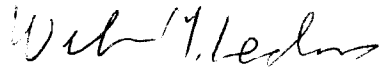
The Strathmore Place Homeowner's Association supports the position of the Garrett Park Estates – White Flint Park Citizens Association regarding the request for the zoning change and proposed development of 4910-4920 Strathmore Ave, Local Map Amendment No H-143.

Our Association, established in 1981, represents the 49 townhomes located at the intersection of Strathmore Ave. and Rockville Pike. Our community has one exit out, along our access road to Jolly Way. For residents wishing to travel east, towards the Connecticut Avenue corridor, this requires an often difficult and dangerous left turn onto Strathmore Ave. During school drop off and pick up times at The Academy of the Holy Cross, traffic frequently backs up to the light at Rockville Pike in both directions. Vehicles block "the box" as they wait in line for traffic to move, making it a challenge to exit onto Strathmore Ave.

Our community raised concerns about the speed and safety of traffic conditions along Strathmore Ave. during meetings held regarding the new development at the Grosvenor Metro. This development is proceeding and will add additional traffic to Strathmore Ave. Changing the zoning at the above referenced property will add even more vehicles and make entering and exiting our community extremely problematic.

We support maintaining the current R-60 zoning for this property and are in opposition to the current plan as submitted.

Sincerely,



William Neches
President

Strathmore Place Homeowner's Association

cc: Tamika Graham (tamika.graham@montgomeryplanning.org)
Kip Edwards (president@gpewfp.org)

From: Courtenay Culp <cejculp@aol.com>;
Received: Fri Nov 12 2021 14:42:31 GMT-0500 (Eastern Standard Time)
To: Councilmember Friedson <councilmember.friedson@montgomerycountymd.gov>; Jawando's Office, Councilmember <councilmember.jawando@montgomerycountymd.gov>; Senator Jeff Waldstreicher <jeff.waldstreicher@senate.state.md.us>; County Executive Marc Elrich <marc.elrich@public.govdelivery.com>; Albornoz's Office, Councilmember <councilmember.albornoz@montgomerycountymd.gov>; Katz's Office, Councilmember <councilmember.katz@montgomerycountymd.gov>; Councilmember Rice <councilmember.rice@montgomerycountymd.gov>; Councilmember.Riemer@montgomerycountymd.gov <councilmember.riemer@montgomerycountymd.gov>; Councilmember Navarro <councilmember.navarro@montgomerycountymd.gov>; MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;
Cc: mayorandcouncil@garrettparkmd.gov;
Subject: EYA and Rezoning of the Holy Cross 15 acre land site

Dear Councilmembers,

As you know, EYA wants to develop the Holy Cross 15 acre land site and is planning on building 125 townhouses, a 145 bed assisted living facility and 9 single family homes. And, the Holy Cross land site must be rezoned by the MoCo Planning Board before EYA can move forward. And, the Planning Board wants to hear from us, the citizens on Nov 18th and Nov 29th to share our concerns and suggestions in person or virtually. Or, by email or written letter to Casey Anderson, Chair of the Planning Board.

My concerns as a citizen of Garrett Park are the following- the traffic on Strathmore Ave will be out of control, the neighboring schools are already busting at the seams, considerably less green space, the wildlife habitat and human stress levels in this area will be over capacity, and the environmental impact will only add to the downward spiraling of destructive weather patterns caused by climate change.

Also, as an observation, there are and will be 6 assisted and senior living facilities counting the proposed EYA facility planned at Holy cross site. These 6 facilities are within a mile radius of each other all in a row from Plyers Mill Rd to Tuckerman Lane.

I know it's all about the tax revenue this development would generate but at what cost?

A possible alternative plan for development could be building single family homes of all sizes including saving lots of the trees and green space, creating recreational opportunities by building a swimming pool, tennis and pickleball courts, and a community center. Also, building a bypass road from Tuckerman to the new planned development would relieve the already congested Strathmore Ave.

Thanks for reading.

Sincerely yours,
Courtenay Culp
Citizen of Garrett Park

Sent from my iPhone

From: Amelia Fogarty <ameliafogarty@gmail.com>;
Received: Mon Nov 15 2021 13:59:05 GMT-0500 (Eastern Standard Time)
To: MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;
Cc: Councilmember Friedson <councilmember.friedson@montgomerycountymd.gov>;
eff.waldstreicher@senate.state.md.us;
Subject: Holy Cross Development Plan

Dear Casey Anderson,

I'm writing as a resident of Garrett Park, Maryland in regards to the Holy Cross Development Plan (H143)

I've been following along with the progress of the development since I first saw the zoning sign go up on HolyCross property. Often times I've had a good view of the sign from my car on Strathmore Ave because the traffic is so bad.

While a turn lane would improve traffic flow into the Holy Cross School now, after building 9 homes, 125 townhomes, and a 145 assisted living facility a turn lane will do nothing to assuage the new volume of traffic.

Strathmore ave is the only east/west street between Rockville Pike & Connecticut ave for miles in either direction, it's already woefully inadequate for the volume of traffic it sees most days. I don't believe that the traffic study done by the developer is at all a proper snapshot of how congested this street gets 2-3 times a day.

Traffic aside, this development may break the elementary school, which currently has over 800 students enrolled. The Strathmore Square project already promises a giant wave of students coming in as their phases are completed. Add in families from HolyCross townhomes & houses and it's going to overwhelm our already crowded Garrett Park ES.

Attaching assisted living facilities to building plans seems to be the new way to get a development approved without having to contribute to the educational infrastructure, which is a real shame.

I haven't spoken to one neighbor who thinks this zoning change & potential development is a good idea or asset to the community.

If you were able to put the entrance to this new community off of Tuckerman Lane, and contributed to the expansion of the current school or the building of a new one, it may seem feasible, but the current plan isn't one we can support.

Thanks,
Amelia Fogarty

From: Steve Warner <sdwarner219@gmail.com>;

Received: Mon Nov 15 2021 08:41:33 GMT-0500 (Eastern Standard Time)

To: MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;

Subject: St Angela on Strathmore

I read with interest a,developer wants rezoning to construct housing on the St angels Hall site on Strathmore Avenue in Garrett Park as,that is open space with mature trees as, a taxpayer I do not support that request to rezone as,jam packed houses of any income level is not a good idea, as runoff from this as other sites cause, environmental damage.

Steve Warner

Silver Spring

Graham, Tamika

From: David Murray <davemur@mac.com>
Sent: Monday, November 15, 2021 9:27 PM
To: Graham, Tamika
Subject: 4910-4920 Strathmore, Local Map Amendment H-143

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Ms. Graham,

I had prepared a comment letter on the local map amendment for this project, but having seen that the agenda item has been postponed, I thought I would summarize my comments in hopes that they could be addressed before the Board meets to consider its position.

I live in Garrett Park and enthusiastically welcome the proposed new housing and the proposed care facility on Strathmore Avenue, because the County urgently needs more housing. In particular, the County needs more transit-oriented housing. Unfortunately, the applicant's site plan does not deliver transit-oriented housing. Oddly, despite being just more than 1,000 from the entrance to a Metrorail station, the site plan is unambiguously oriented toward automobile travel. I have read with interest the comments that you and your team have transmitted to the applicant in an effort to shift the project's orientation from cars toward transit. It's too bad the developer has not taken more of them on board, especially the suggestion of a pedestrian connection from the site across Tuckerman to Grosvenor.

In addition, the site plan should:

- **Limit the site to one entrance to Strathmore Avenue.** The Bicycle Master Plan calls for "greater consolidation of driveways as part of facility planning and development approvals along master-planned bikeways." The Bicycle Master Plan rightly notes that "Driveways create a conflict area between bicyclists and motorists, and stronger policies are needed to require greater driveway consolidation." Strathmore Avenue has a master planned bikeway. Thus, the proposal for three entrances from Strathmore Avenue is inconsistent with the Bicycle Master Plan as well as common sense. The applicant's traffic study forecasts that the project will generate less than two car trips per minute even during the peak hour, so the three entrances to the development from Strathmore appear to exceed the site's needs and create unnecessary risk for pedestrians and cyclists. Accordingly, the site should have just one entrance to Strathmore Avenue.
- **Require the parking lots to be placed behind the residential care facility, away from Strathmore Avenue.** Located as proposed, the care facility's two parking lots will be prominent features for people approaching it on Strathmore Avenue from either Rockville Pike or Beach Drive. As the chair and Planning staff have noted, parking should never be the dominant feature of buildings. "What we keep asking to do is bring the building to the street and don't put parking in front of the building," the Chair said during a September meeting. Strathmore Avenue is the only east-west street that runs from Rockville Pike to Connecticut Avenue between Montrose Avenue and the Beltway. As such, it is one of this area's main streets. Trying to hide parking lots behind shrubbery is not sufficient; this approach is heavily — though ineffectively — used in commercial areas and is not appropriate for Strathmore Avenue. Accordingly, the care facility's parking lots should be moved behind the building.

I see that the staff report notes that the amount of parking is consistent with existing structures in the area. But most of the existing structures in the area were built decades ago, when the County grew up around the car. If developers continue to build in a manner similar to existing structures, the County will continue to put the car at the center of the built environment. To change the County's car orientation, Planning should insist that sites near transit be oriented toward transit, not cars. "Transit-oriented development" cannot merely be a label; it must be an ideal that imbues new development. Being close to transit and being oriented toward transit are not the same thing, as this site plan clearly demonstrates.

Endorsing the site plan as proposed would contradict the overall vision that the Planning Board has endorsed for Montgomery County through Thrive, the Growth and Infrastructure Policy, and recently adopted master plans. I hope that the Planning Board notes the site plan's considerable shortcomings when it transmits its comments to the hearing examiner.

Regards,
David Murray

November 17, 2021

Casey Anderson, Chair
Montgomery County Planning Board
2425 Reedie Drive 14th floor
Wheaton, Maryland 20902

Re: Local Map Amendment No. H-143 - Rezoning of Holy Cross
Property

To Chairman Anderson:

I am Kip Edwards, President of the Garrett Park Estates-White Flint Park Citizens Association which represents the families and residents of more than 650 homes adjacent to the proposed development of 4910-4920 Strathmore Avenue, Local Map Amendment No. H-143.

Thank you for cancelling the November 18, 2021, Planning Board hearing related to this development to allow time for submission of relevant plan documents in accessible format so members of our citizens association and neighbors abutting the development can properly assess the relevant documents.

The purpose of this letter is to demand a stay on rescheduling of the Montgomery County Planning Department preliminary plan hearing and Office of Zoning and Administrative Hearings LMA hearing for this development until a new Local Area Transit Review (LATR) is performed with new traffic count data and submitted for analysis and review by our community and government stakeholders.

The proposed project redevelops the site currently occupied by a retirement home and infills most of the green space at the Academy of the Holy Cross with a larger retirement home, 9 single family homes and 110+ townhomes. Increased traffic volume and added cut through traffic is clearly a concern for our community. Even now many residents find it difficult to exit our neighborhood at Stillwater and Flanders onto Strathmore during rush hour and school drop off and pick up times.

The applicant submitted an initial LATR on December 18, 2020 and a supplemental analysis on August 24, 2021 to the Montgomery County Parks and Planning Department, Montgomery County Department of Transportation (MCDOT), and the Maryland Department of Transportation State Highway Administration (MDOT SHA) as part of their application to develop this property. However, **the data supporting both the original LATR and the supplemental analysis are unreliable and any decision made by MCPD or OZAH based on its flawed assumptions would be arbitrary and capricious and subject to legal challenge.**

The applicant completed the initial LATR by collecting traffic count data in October and November of 2020. These traffic counts occurred when four of the primary causes of congestion on Strathmore Avenue—the Academy of the Holy Cross, Garrett Park ES, the Holy Cross School, and the Garrett Park Co-Op Nursery—were either closed or on limited attendance due to the COVID-19 pandemic. The other primary source of congestion on Strathmore Avenue and Rockville Pike—commuter traffic—was also minimal in the Fall of 2020 due to widespread COVID-19 office closures and movement restrictions.

MCDOT reviewers saw the weakness in relying on COVID impacted data and asked for a new LATR relying on historical counts from 2013 and 2016. As the applicants own resubmission notes, relying on historical counts this old is not in compliance with rules pertaining to traffic study and analysis for our region. Noncompliance aside, even a lay observer would admit that relying on historical counts from five and eight years ago is a flawed approach considering the tremendous amount of development which has occurred in North Bethesda since the time those counts were taken.

Thus, the data which form the basis for the study's conclusions are clearly flawed and cannot be relied upon. The Applicant should prepare a new LATR now with realistic traffic counts, but they are instead attempting to submit new findings after the MCPD and OZAH approve their Local Area Map Amendment request and the Council rules on it. This would leave the record for both the MCPD and OZAH LMA hearings, and ultimate Council decision, devoid of an effective LATR, providing all these bodies with no reasonable basis to make an informed decision.

Smart growth is good policy. Blind growth is reckless. We respectfully ask MCPD and OZAH to reschedule their respective hearings until after a new LATR is submitted with realistic de novo background traffic counts obtained and with sufficient time for our association and the surrounding communities to analyze its findings.

Thank you for your consideration and we look forward to your response.

Sincerely,



Kip M. Edwards, Esq.

President

GPE-WFP Citizens Association

president@gpe-wfp.org

CC:

Tamika Graham

Lead Reviewer, MCPD

graham@montgomeryplanning.org

Pamela Lee

Development Manager, EYA

plee@eya.com

Kacky Chantry

Mayor, Town of Garrett Park, MD

mayorkacky@garrettparkmd.gov

Andrew Friedson

District 2 Councilman

Councilmember.Friedson@montgomerycountymd.gov

Casey Anderson, Chair
Montgomery County Planning Board
2425 Reddie Drive
Wheaton, Maryland 20902
MCP-Chair@mncppc-mc.org

Office of Zoning and Administrative Hearings
100 Maryland Avenue
Room 200
Rockville, Maryland 20850
OZAH@montgomerycountymd.gov

Re: 4910 and 4920 Strathmore Avenue; Local Map Amendment LMA-143

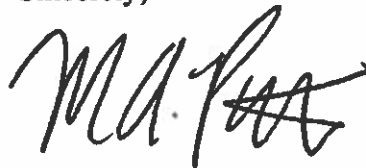
Dear Chair Anderson and Hearing Examiner Baumgardner,

I am writing to express my support for pending Local Map Amendment Application LMA-143. As a resident of the area, I believe the proposed project strikes an appropriate balance between providing needed infill housing and protecting the natural features of the site. I also believe the proposed assisted living building will provide our neighbors with an important housing opportunity that will allow them to remain a part of our community as they age and need supportive services.

While traffic generation from new development is always a concern, I understand that the relocation of the access for the Academy of the Holy Cross to a new driveway, the introduction of new turn lanes, and the installation of a traffic light at the new main entrance will actually improve traffic flow along Strathmore Avenue over existing conditions, which would be a welcome improvement. The new sidewalks, bikeway, and trail system proposed with the project will also create new opportunities for pedestrian and bicycle circulation in the area.

I look forward to welcoming the new residents of the project to our community and urge you to approve this local map amendment. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'M.A. Pappano', with a stylized flourish at the end.

Matthew Anthony Pappano
10909 Clermont Avenue
Garrett Park, MD 20896

November 19, 2021

Casey Anderson, Chair
and Members of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

Re: November 17, 2021 Request of Garrett Park Estates- White Flint Park Citizens
Association for Stay of Local Map Amendment H-143

Dear Chairman Anderson and Members of the Montgomery County Planning Board:

On behalf of our clients, EYA Development LLC and BL Strathmore LLC (collectively, the “Applicants”), the applicants for Local Map Amendment H-143 (“LMA”), the purpose of this letter is to respond and object to the November 17, 2021 request of Garrett Park Estates- White Flint Park Citizens Association (“Garrett Park Estates”) for a stay of the LMA proceedings and the imposition of a requirement that a new Local Area Transportation Study (“LATR”) be performed. As discussed more fully below, the LMA, which has been pending since early August, is in compliance with all regulatory review requirements and has fully satisfied the Planning Board’s LATR policies. Therefore, contrary to Garrett Park Estates’ representations, the granting of Garrett Park Estates’ request would, in fact, be the arbitrary and capricious action, not Planning Board action on the LMA.

The Traffic Study associated with the LMA was originally submitted on December 18, 2020 (“Traffic Study”), and, as your Staff has noted, was reviewed under the 2016-2020 *Subdivision Staging Policy* because the scope of the study was approved in November 2020, prior to the 2020-2024 *Growth and Infrastructure Policy* going into effect on January 1, 2021 (“Growth Policy”). In accordance with the Planning Board’s *Traffic Counts During Covid 19 Pandemic- Policy Update Memorandum* dated September 17, 2020 (“Pandemic Memorandum”), the traffic counts for the study were conducted on October 6, 2020 and November 18, 2020, and a growth factor of 1.07 was subsequently applied to account for the pandemic. Additionally, and contrary to Garrett Park Estate’s allegations, in recognition of the fact that the Academy of the Holy Cross was operating under a hybrid schedule at the time of the counts, additional adjustments were made to the traffic analysis to account for school traffic at peak enrollment, as detailed on page 13 of the Traffic Study.

For a variety of reasons, the formal acceptance of the LMA was not completed until August 4, 2021. In response to comments received by Technical Staff as part of their review of the LMA and Traffic Study, an updated study was submitted on August 24, 2021. Per the Staff Report posted for the original Planning Board hearing date of November 18, 2021 (“Staff Report”), the

submitted “LATR capacity analysis was consistent with the Department’s LATR Guidelines” and, as demonstrated by the study and verified by Staff, “all intersections within the study area will operate within the policy area’s congestion standards” after development of the project. *See* Staff Report, pp. 14-15.

Importantly, Garrett Park Estates’ request does not allege that there were any errors in the analysis contained in the Traffic Study or that the Applicants failed in any way to comply with the LATR requirements, which allegations, even if made, would be baseless. Instead, Garrett Park Estates’ request directly challenges the policy adopted in the Pandemic Memorandum allowing traffic studies to continue during the pandemic using current counts and the application of an established growth factor. Granting Garrett Park Estates’ request would therefore essentially be an admission on the part of the Planning Board that its policy, under which numerous other projects have been processed and approved, and under which the LMA proceeded, is erroneous. Moreover, treating the LMA differently than other projects approved under the Pandemic Memorandum, for which supplemental counts were not required, would be arbitrary and in violation of the Applicant’s equal protection rights.

Additionally, it should be noted that, had the Traffic Study been completed after January 1, 2021 and subjected to the Growth Policy currently in effect, *no traffic counts would have been required*. As was recommended by this Planning Board and approved by the County Council, as part of the Growth Policy the subject property was moved from an Orange Policy Area into a Red Policy Area, given its proximity to transit. Therefore, a Traffic Study for the property under the Growth Policy, which will be required at the time of preliminary plan, will remove the focus on vehicular counts and increase the scope of analysis of the multimodal environment. This analysis will include an evaluation of the pedestrian, bicycle, and transit infrastructure, as well as a safety analysis to assess Vision Zero surrounding the site, but will not include additional vehicular analysis. Therefore, requiring additional traffic counts at this point in time, when none are required under the Growth Policy, would be counter to the County’s current policies and would serve no logical purpose.

Finally, it is important to note that, in an abundance of caution, the Applicants’ expert transportation consultants also prepared a supplemental analysis that used an alternate methodology to establish expected non-pandemic traffic volumes. This analysis was much more conservative than that required by the LATR guidelines, and identified the need for mitigation measures in the way of a new leftbound turn lane on Strathmore Avenue at the project and school’s new main entrance, as well as the installation of a traffic signal at this intersection. The institution of these measures, in concert with the relocation of the Academy of the Holy Cross’ main entrance away from Stillwater Avenue, were demonstrated in this analysis to dramatically improve traffic conditions over existing conditions, in some instances reducing current delays from 250 seconds to 9, as more fully explained in that analysis. This analysis was reviewed and approved by both the Montgomery County Department of Transportation and the Maryland State Highway Administration, as demonstrated by email correspondence between a Mr. Doug Burdin and these agencies, which is attached to the Staff Report. In this regard, the Applicants have already gone above and beyond the required LATR analysis in order to ensure that traffic concerns are addressed

and a very conservative analysis of future, post-pandemic traffic, and potential mitigation measures, are provided.

While the Applicants met with representatives of Garrett Park Estates on February 12th and October 4th and have attempted to address their questions regarding the traffic analysis both in those meetings and in the formal responses to their written questions included as an attachment to the Staff Report, what Garrett Park Estates is now requesting is a deviation from standard practice and established policies, which cannot be supported by the Planning Board. As such, and for the reasons outlined above, we respectfully request that the Planning Board deny Garrett Park Estates' request and schedule the LMA for a Planning Board hearing as soon as the accessibility issues that caused the postponement of the November 18th hearing can be appropriately addressed.

Thank you for your consideration. If you have any questions, or would like any additional information, please feel free to contact us.

Sincerely,


Erin E. Girard

cc: Montgomery County Office of Zoning and Administrative Hearings
Mayor Kacky Chantry
Councilman Andrew Friedson
Matthew Folden
Tamika Graham