

**CITY OF ROCKVILLE HISTORIC DISTRICT COMMISSION
STAFF REPORT
for
March 18, 2010
Meeting No. 4-2010**

APPLICATION: HDC2010-00496
Courtesy Review

ADDRESS: Victory Court/ 209 Monroe
Street

ACCEPTED: February 23, 2010

45 DAY LIMIT: N/A

OWNER: Montgomery County/
Victory Housing

REQUEST: Shared Use Path; Forest
Conservation Easement at
Outlot A/Lot 1; Landscape
Plan

STAFF: Robin D. Ziek



Approximate project area and historic district, current

OVERVIEW

SPX2009-00378, a Special Exception for senior housing on land adjacent to the Rockville Heights Historic District, was approved by the Board of Appeals (BOA) on 1/9/2010. The Board of Appeals (BOA) approved a modified design with a lower roof height, which reflects a townhouse development design to complement adjacent townhouse development at Courthouse Walk to the south.

The HDC has held Courtesy Reviews on different aspects of the proposal: December 18, 2008; March 19, 2009; July 16, 2009; and, November 19, 2009 (see minutes, Circle 15-21). At the November 19, 2009 meeting, the HDC reviewed the Preliminary Plan of Subdivision to send a recommendation to the Planning Commission (PC). The HDC will likely review the Site Plan on April 15th and provide their recommendation to the PC for their review.

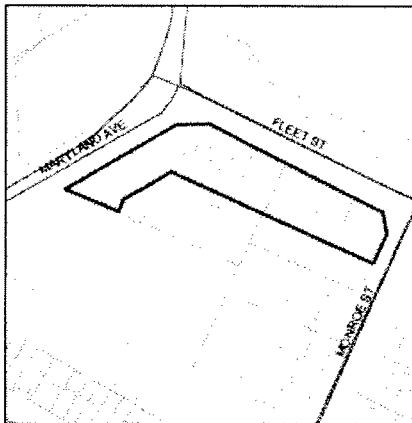
DRAFT MOTION OF RECOMMENDATION

Finding that the Preliminary Plan of Subdivision for the Rockville Heights Historic District complies with prior guidance provided by the HDC, I recommend approval of the Preliminary Plan of Subdivision with the following recommendations:

- 1) Lot 1 should be platted separately from Outlot A;
- 2) Lot 1 East boundary should be moved closer to the emergency vehicle paving to increase the east sideyard of Lot 1;
- 3) Screening plantings at Outlot A will be revised to reflect the revised property lines;
- 4) The proposed shared-use path along Fleet Street should be modified to avoid all encroachment into the Historic District; and
- 5) The Landscape Plan, in general, provides suitable edge plantings within the Historic District. The HDC will review this in more detail at the time of the Site Plan review.

The applicant will be returning to the HDC for a Certificate of Approval on the Site Plan, at which time landscape buffers, sidewalks, and any other proposed alterations within the historic district boundaries will be reviewed for HDC approval.

BACKGROUND



Historic Significance:

The Rockville Heights Historic District is significant as an intact collection of early 20th century residential architecture of varying styles. The district borders the Town Center and conveys small town land use patterns that characterized Rockville's built environment prior to WWII. The Rockville Heights Historic District is located at the northern end of the Rockville Heights subdivision, platted in 1890. The house at 107 Fleet Street dates to 1904 and reflects the late 19th century Queen Anne style. The other four houses were built between 1926 and 1936. Together, they present an early 20th century streetscape and reflect the early

residential character of this part of Rockville, where commercial, office and governmental offices now dominate.

Historic District today:

The historic district is owned by Montgomery County as are all the parcels defined by Maryland Avenue, Fleet Street, Monroe Street and Mount Vernon Place. The houses were acquired by the county in the 1960s and have been used for a variety of office uses. Approval of the historic district coincided with the County and Victory Housing Inc. finalizing an agreement to construct low-to-moderate income housing for independent seniors. Immediately after designation, the County undertook deferred maintenance at the properties.

The five homes in the Rockville Heights Historic District front Maryland and Fleet Streets, and sit on a larger piece of wooded property owned by Montgomery County. To the south of this property is the townhouse community of Courthouse Walk. Because of the sloping topography of the site, with the grade along Fleet Street at an elevation of 424 feet above sea level (asl) and the grade at the back of the site at an elevation of 404 feet asl, the impact of the new construction will vary depending on one's perspective. The HDC is charged with the preservation of Rockville's historic resources, and the Commission has therefore restricted their review to impacts on the Historic District.

PREVIOUS ACTIONS

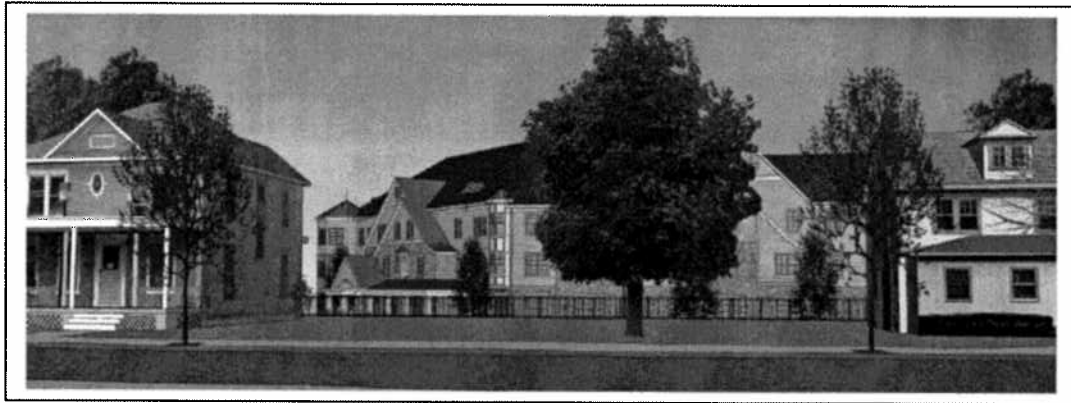
September 12 th , November 17 th December 5, 2009	Board of Appeals review of proposed use through Special Exception application SPX2009-00378
November 19, 2009	Courtesy Review with HDC
July 16, 2009	Courtesy Review with HDC
March 19, 2009	Courtesy Review with HDC
December 18, 2008	Courtesy Review with HDC
October 13, 2008	Historic District adopted by M&C
June 16, 2005	HDC recommended the "Rockville Heights Historic District" to include buildings at 101, 103, 105, 107 Fleet Street and 150 Maryland Avenue

PROPOSED PROJECT

The Victory Court Senior Housing Project will provide 86 units of affordable housing for independent elderly residents. The building will have three stories, and has a "C" configuration that provides a south-facing courtyard. The driveway and parking will be placed behind the backyards of the Rockville Heights properties. Topographic changes will be mediated with terraced landscape beds and retaining walls. Residential metal fencing, which has already been presented to the HDC, will provide a safe edge along the backs of Lots 3 – 7. Lot 1 and Outlots A and B are on grade with the parking area for Victory Court and do not require safety fencing.

As a point of information, staff is providing images of the approved design. The changes were mandated by the BOA in order to reduce the height of the Senior Housing project and to reduce the scale of the building with a hope that it will be more in keeping with the existing neighborhood character.

Elevations proposed but NOT approved by the BOA



View past proposed Lot 6, from Fleet Street looking south

Elevation approved by the Board of Appeals January 2010

38'-6"



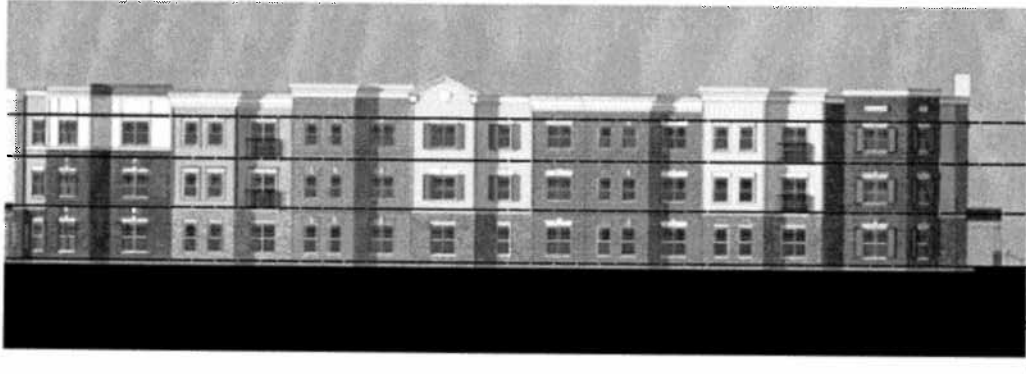
Entrance at corner of Monroe and Fleet Streets

38'-6"

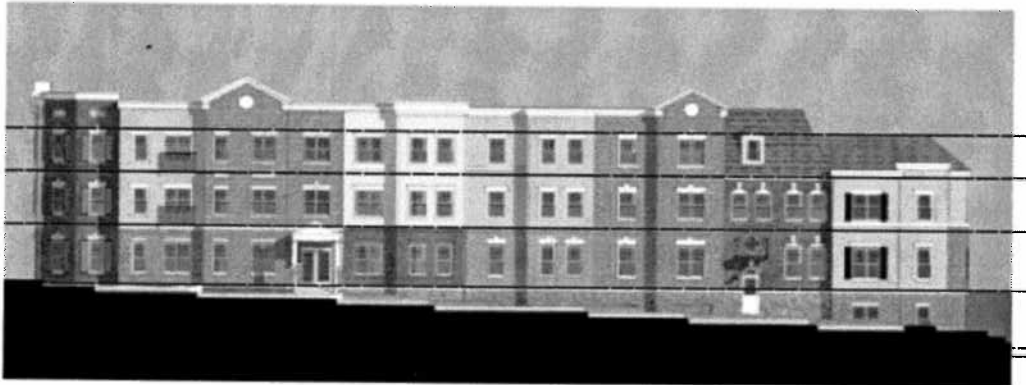


Monroe Street Elevation

Both the "Fleet Street Elevation" and the "Maryland Avenue Elevation" have no actual street frontage, and will sit behind the Rockville Heights Historic District.

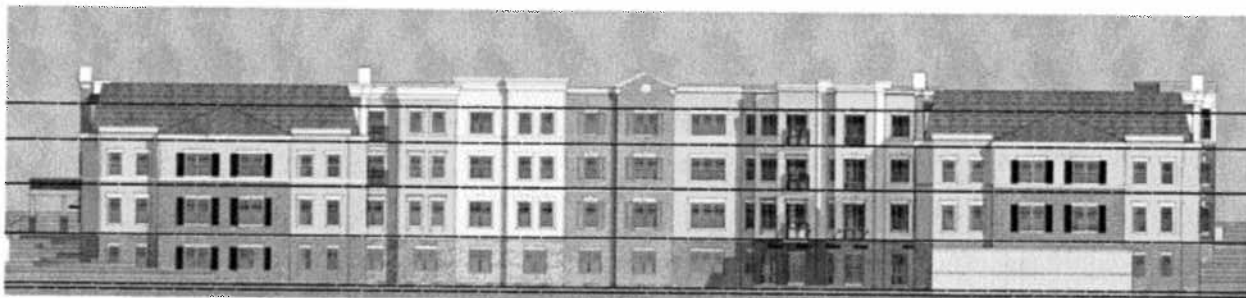


Fleet Street Elevation



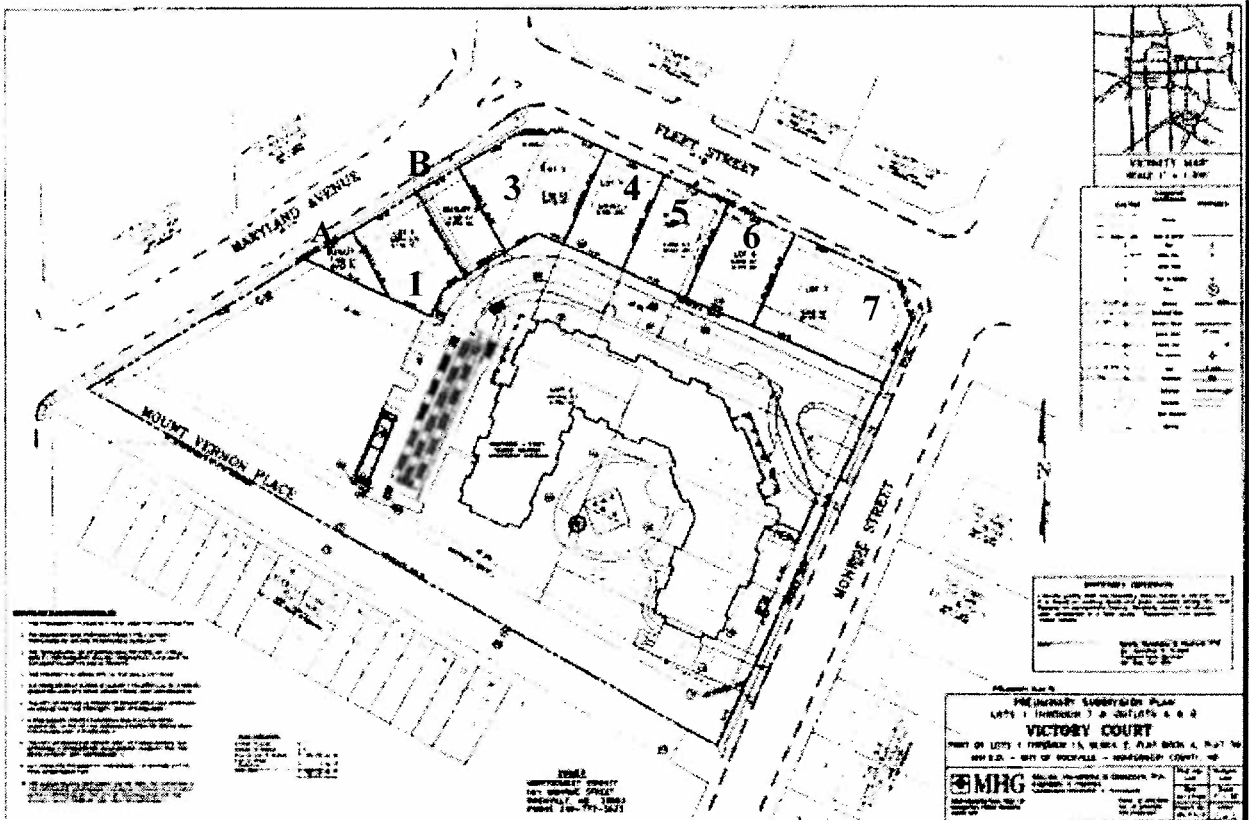
Maryland Avenue Elevation

38'-6"



Viewing looking north into courtyard

Preliminary Subdivision Plan - Lots 1 through 7 and Outlots A & B
(10/27/09)



Proposed:

Outlot A – with Forest Conservation easement

Lot 1: 150 Maryland Avenue

Outlot B – with pedestrian path and emergency vehicle access

Lot 3: 101 Fleet Street

Lot 4: 103 Fleet Street

Lot 5: 105 Fleet Street

Lot 6: vacant

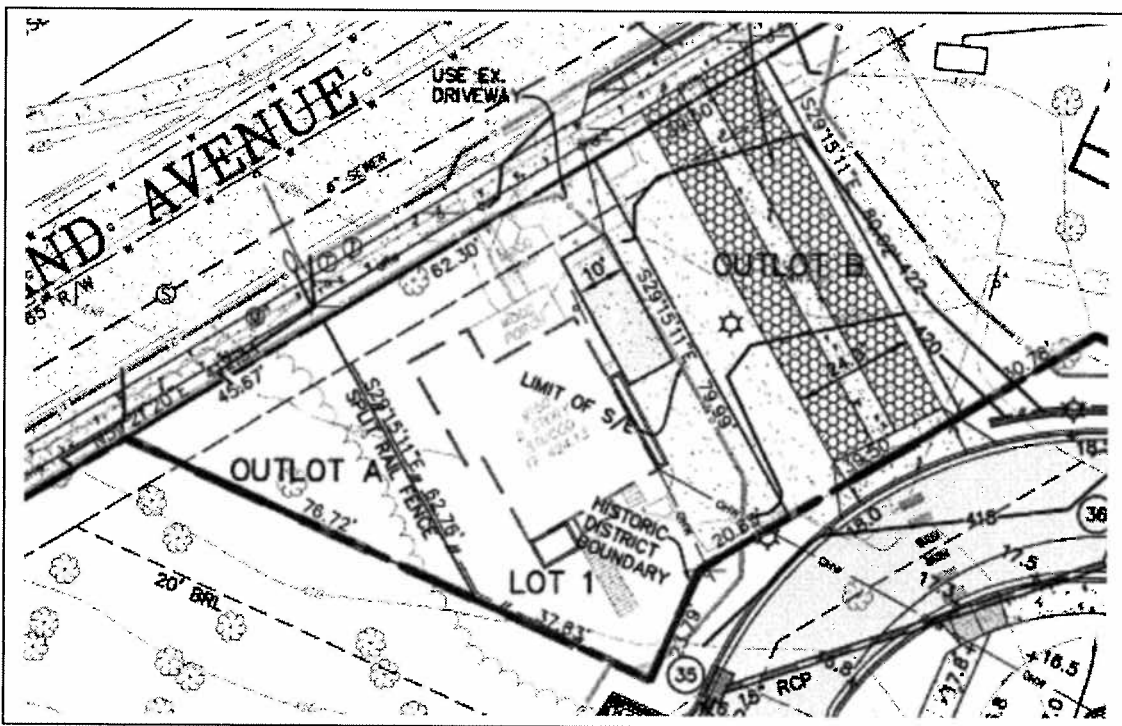
Lot 7: 107 Fleet Street

Issues for discussion:**1) Lot 1 and Outlot A, with Forest Conservation Easement:**

The area labeled as “Outlot A” lies within the Historic District at its southeast edge. The City Forester noted that this corner of the Historic District was part of the larger forest that covers a high percentage of the property. The City Forester seeks to preserve intact forest areas as a matter of City policy. By setting this aside as an Outlot, the City states that this cannot be developed further as a building site.

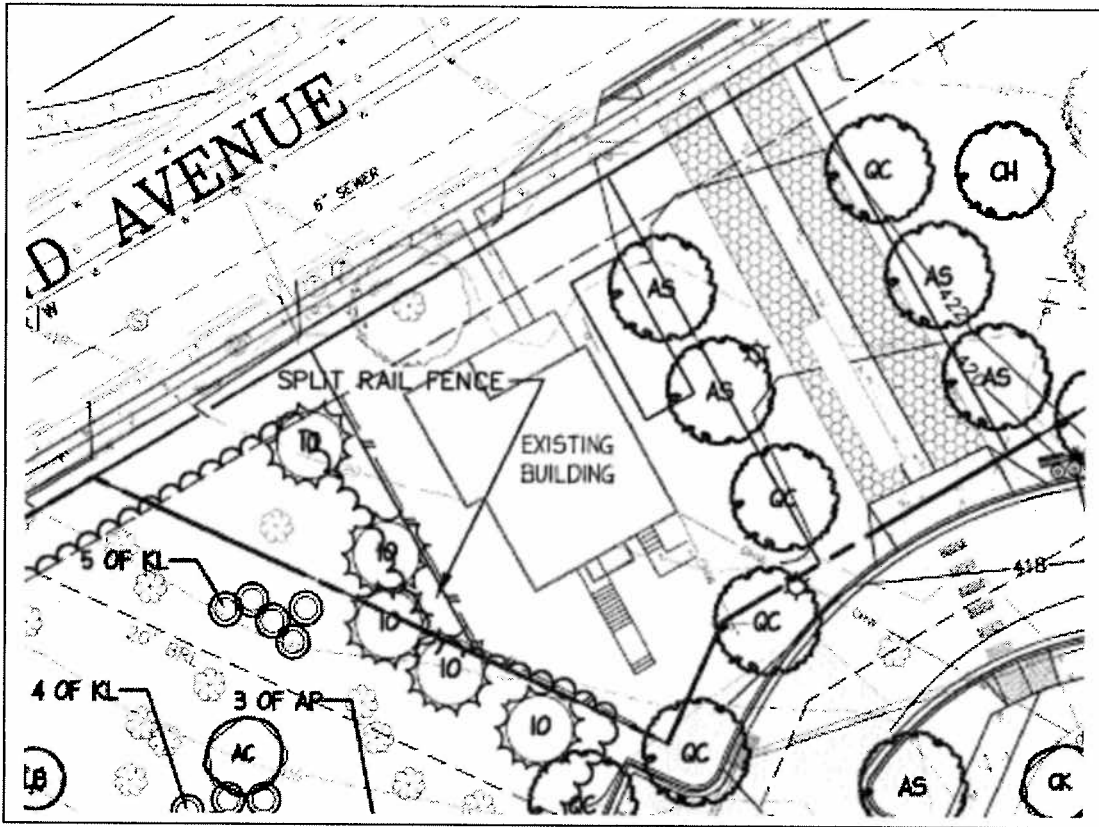
The Forest Conservation Easement, which will cover a large part of the senior housing site as well as Outlot A, has several requirements: the removal of invasive species, retention of all trees, and retention of understory growth (see Circle 22-28).

At the November 19, 2009 Courtesy Review, the HDC commented that Outlot A should be part of Lot 1, as “this will provide more options for a property owner in terms of parking and open space.” (see Circle 21). This will only be possible if there is no Forest Conservation Easement on the Outlot A area.



Staff notes that the City Forester agreed to combine Outlot A and Lot 1 only if there is a fence at that property line, and if evergreen trees are planted on the south side of the fence to screen the forest from the occupants in Lot 1 (150 Maryland Avenue). Experience has shown that, where there are neighboring properties to sites protected with Forest Conservation Easements, the

neighbors tend to encroach on the protected area to extend their residential lot. Forestry staff therefore recommends clearly delineating the forest conservation easement area and screening it with evergreens to differentiate this conservation area from the residential area.



In general practice, the City Forester does not recommend the placement of a Forest Conservation Easement on private property because of neighboring encroachments into the easement area, and also because of positive work requirements placed on the property owner, such as notifying City Forestry staff prior to tree maintenance work.

Staff Recommendation:

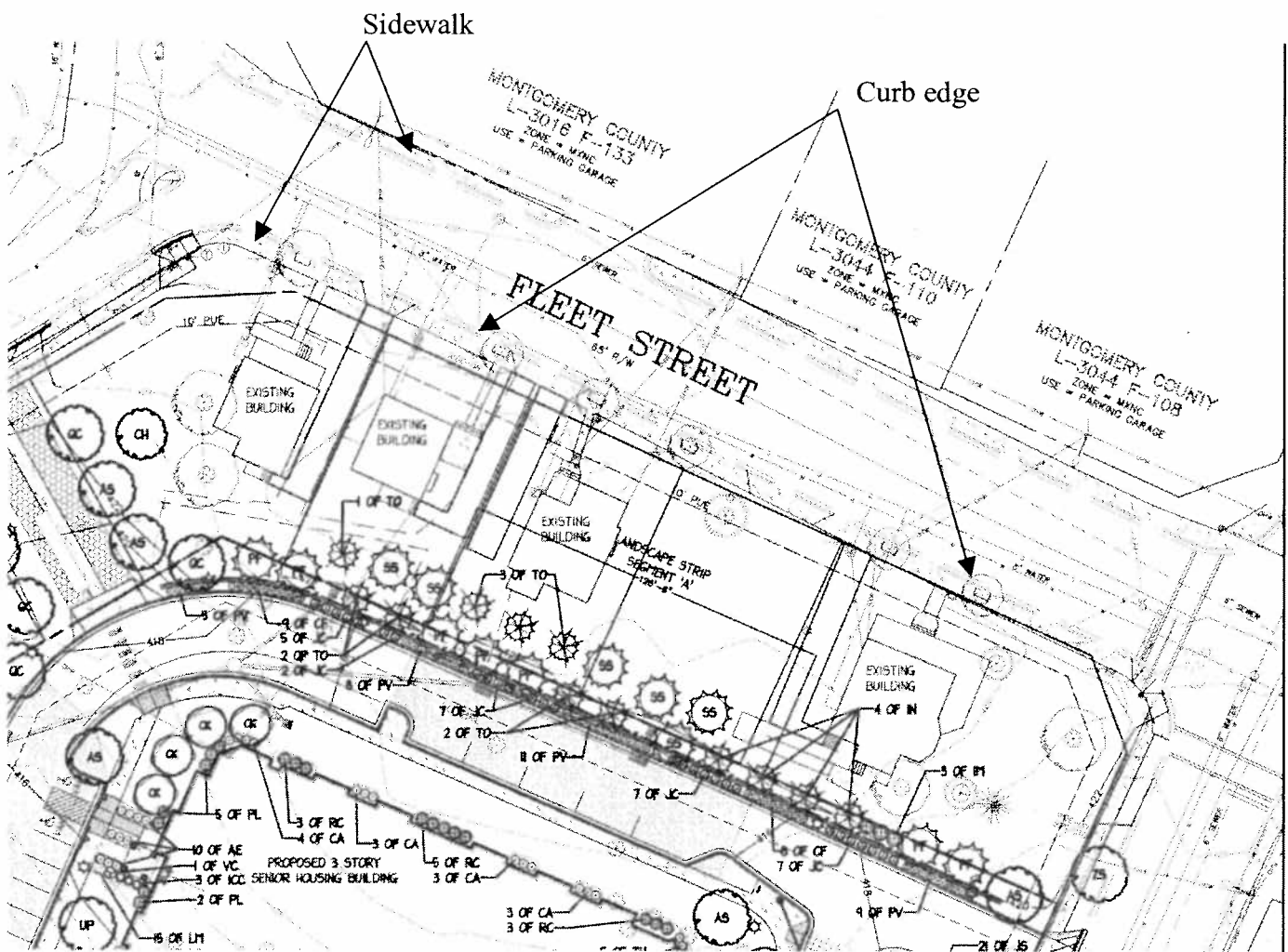
Another option would be to leave Outlot A under the ownership of the County and management of Victory Court, as part of the larger project. The east boundary of Lot 1, however, could be moved approximately ten (10) feet towards Outlot B, providing an additional 800 sf of sideyard area to 150 Maryland Avenue, with ground that would not be included in the Forest Conservation Easement area. With this adjustment, the owners of 150 Maryland Avenue will have more flexibility for parking and landscaping. This was made possible by relocating the pedestrian path into the emergency vehicle area.

2) Shared-use path along Fleet Street

At the July 16, 2009 Courtesy Review, the HDC reviewed a proposal from the City's Transportation Planners to construct a shared-use path along Fleet Street between Monroe Street and Maryland Avenue (see Circle 19-20). Such a path is proposed in the City's *Bikeway Master Plan*. This was adopted prior to the designation of the Rockville Heights Historic District.

The Applicant will stake out the proposed limits of the shared-use path on March 16th, providing an opportunity prior to the HDC meeting on March 18th to see the proposed alignment and assess the impact of the proposed path on the Historic District.

Because of the angle of Fleet Street with respect to the Historic District boundary, there is sufficient space in front of 101 and 103 Fleet Street to build a shared-use path outside of the Historic District boundaries. The property that will be the most impacted by the sidewalk extension is the Victorian house at 107 Fleet Street, at the corner of Monroe and Fleet Streets.



There are two issues of concern with respect to the shared-use path and the Historic District:

- a) Reduction of perceived front yard lawn area along Fleet Street; and
- b) Introduction of a non-typical streetscape along the edge of a Historic District.

a) Reduction of perceived front yard lawn area along Fleet Street

The Rockville Heights Historic District is designated as a remnant of early 20th century suburban Rockville. The HDC recommended a larger environmental setting at the rear of the properties, in order to protect the existing trees and the landscape qualities that typified these 20th century suburban lots. The Mayor and Council designated a smaller environmental setting, in order to accommodate a proposed senior housing project and retain an environmental setting sufficient to convey the sense of time and place that characterizes this historic district. Reducing the front lawn area for this shared-use path provides an additional reduction of the actual and the apparent environmental setting, given the irregularity of the right-of-way with respect to the existing sidewalk and historic district boundary.

Staff notes that Transportation Staff have agreed to leave the existing 5' sidewalk along Maryland Avenue (see Circle 11,13). The proposed 10' fragment of shared-use path along Fleet Street will therefore meet a 5' segment of sidewalk. This may indicate that the proposed 10' width is desirable, but not mandatory.

b) Introduction of a non-typical streetscape along the edge of a Historic District.

The Comprehensive Plan (see Circle 8-14) states that "The historic districts should be distinguished through appropriate sidewalk treatment ..." in order to complement and call out these areas as "special." In the past, this has been accomplished by using brick as the paving material. This can be seen along North Adams Street (paving recently redone) and along West Montgomery Avenue. The shared-use path is proposed to be a concrete surface to accommodate bicycles, pedestrians, strollers, etc. This is a change in material from the asphalt shared-use path in front of Richard Montgomery High School.

Staff recommendation:

The shared-use path does not meet the *Comprehensive Plan's* recommendation for special treatment of streetscape elements within a historic district. At the point when the sidewalk along Fleet Street and Maryland Avenue are redone, the paving should be done in brick or brick-like pavers to call out this area as special.

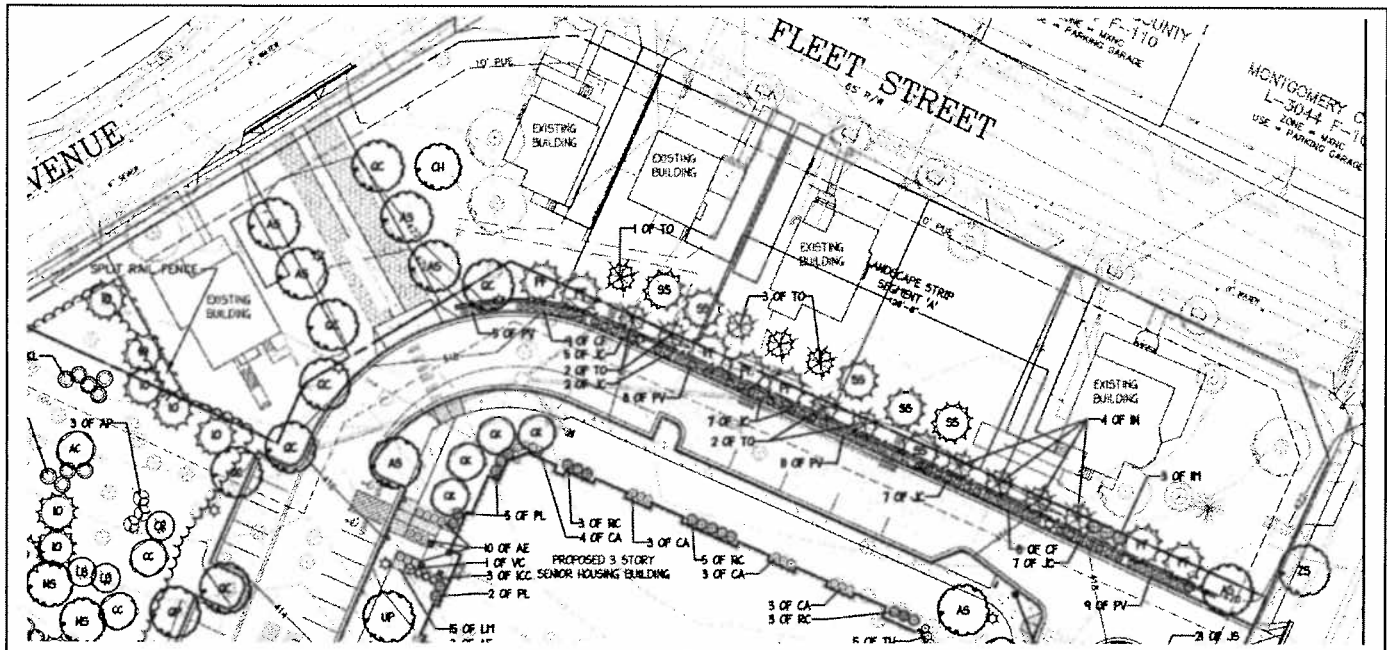
As the proposed shared-use path along Fleet Street will intersect a 5' sidewalk along Maryland Avenue, there does not seem to be a particular need to install a 10' wide path in this section of Fleet Street. However, if this is required, the shared use path should be built on the opposite side of Fleet Street, perhaps all the way to a crosswalk at Richard Montgomery High School. There are no buildings that front the street along this side. Further, the block of Fleet Street between Monroe and Maryland on the north side will be modified with county construction with the addition to the parking garage.

3. Introduction of trees/shrubs in the Historic District for City forestry requirements

At the July 16, 2009 Courtesy Review, the HDC responded favorably to the applicant's indication that they propose to meet their on-site forestry requirements by planting within the Historic District boundaries (see Circle 20). This is permissible because Montgomery County owns all of the subject property, even though Victory Court will use only a portion of it. Once the subdivision is accomplished, the County will continue to own all of the newly established lots despite the differing uses at each lot. The County has discussed future sale of the houses in the Historic District to individual homeowners.

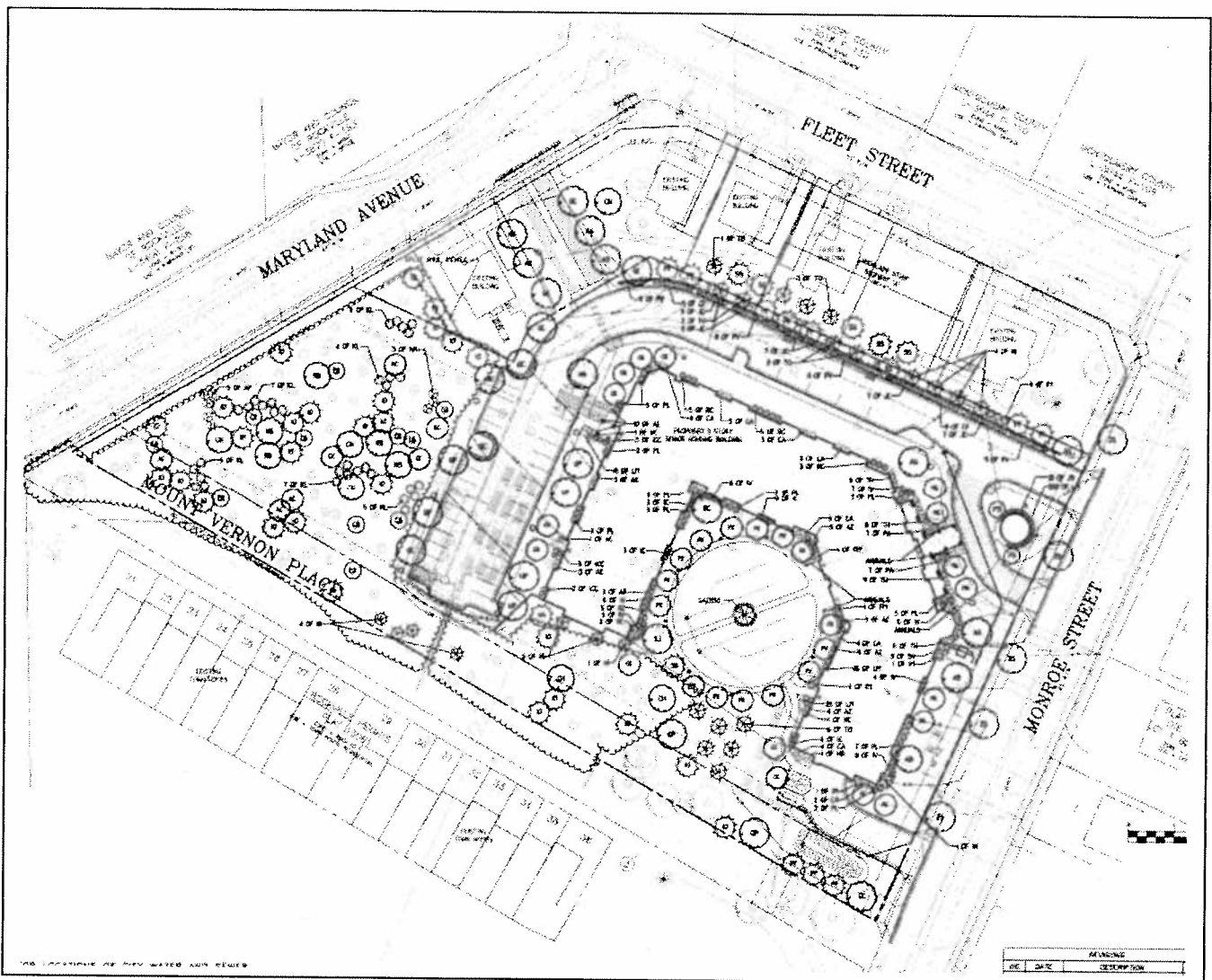
Staff has not reviewed the landscape plan with the City Forester, and will have specific comments for the HDC's review of the Site Plan in April. The applicant, however, wanted informal HDC comments on the addition of plantings into the environmental setting of the Historic District.

The applicant proposes to plant a mix of evergreen and deciduous trees along the south boundary of the historic district to buffer the district from the new construction. This may also, to some degree, add back a wooded backdrop that has marked this south boundary in the recent past.



Detail of Landscape Plan

Landscape Plan



Staff recommendation:

Staff recommends that the HDC reiterate support for boundary plantings within the Historic District, as part of a vegetative buffer between the historic homes and the new senior housing site. More detailed comments will be provided at the time of Site Plan review.

Attachments: Cover letter for Pre-Application (seeking Site Plan approval); Transportation Report 6/2/2009; HDC Minutes 11-2008, 2-2009, 6-2009, 10-2009; largescale drawings of Landscape Plan (LS-1), Preliminary Forest Conservation Plan (PFCP-1, -2, -3); Forest and Tree Conservation Easement and Declaration of Covenants sample.



LAW OFFICES
MILLER, MILLER & CANBY

CHARTERED

PATRICK C. McKEEVER (DC)
JAMES L. THOMPSON (DC)
LEWIS R. SCHUMANN
JODY S. KLINE
ELLEN S. WALKER
MAURY S. EPNER (DC)
JOSEPH P. SUNTUM

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850
(301) 762-5212
FAX (301) 424-9673
WWW.MILLERMILLERCANBY.COM

SUSAN W. CARTER
ROBERT E. GOUGH
DONNA E. McBRIDE (DC)
GLENN M. ANDERSON (FL)
MICHAEL G. CAMPBELL (DC, VA)
SOO LEE CHO (CA)
AMY C. GRASSO

** All attorneys admitted in Maryland and where indicated*

SLCHO@MMCANBY.COM

January 11, 2010



Dear Property Owner/Resident/Tenant:

Please be advised that a Pre-Application (PAM2010-00020) has been submitted to the City of Rockville seeking Site Plan approval for the Victory Court Senior Housing Project to be located on property bordered by Maryland Avenue on the west, Fleet Street on the north and Monroe Street on the east, also known as the "Fleet Street Property". The Board of Appeals Decision to approve the associated Special Exception Application for Housing for Senior Adults (SPX2009-00378) for Victory Court was adopted on January 9, 2010.

The Applicant is proposing to develop and operate an 86-unit affordable housing community for independent elderly residents that will also include amenities for the residents such as a community room, living room, TV room, arts & crafts room, wellness center, computer room and exercise room.

In compliance with the City's Zoning Ordinance, an Area Meeting will be held to provide you an opportunity to become fully aware of our development intentions and to give you an opportunity to comment on the proposal. The Area Meeting will be held on **Thursday, January 28th at 7:00PM** in the First Floor Auditorium of the Council Office Building (COB) located at 100 Maryland Avenue, Rockville, MD 20850.

At this meeting the Applicant will make every effort to illustrate how the property will be developed and to answer any questions. Should you have questions prior to the meeting, please contact me.

Sincerely,
On behalf of Applicant, Victory Housing, Inc.

Soo Lee-Cho

①

**Victory Court Senior Housing Project
Pre-Application Area Meeting re Site Plan Approval
January 28, 2010, 7:00PM
Council Office Building, 1st Floor Hearing Room**

Attendees

Jonathan Lock (JL); Al Ripskis (AR); Margaret Chao (MC); Marylee Gwinn (MG); Bridget Newton (BN), Rockville City Council; Alisa Wilson, Montgomery County Dept of Housing

Victory Housing, Inc: James Brown (JB), President; Jeff Blackwell (JBI), Senior Project Manager; Shaina Korman-Houston, Asset Mgmt Assoc. (official note taker)

For VHI: Mike Plitt, Engineer, Macris, Hendricks & Glascock, PA (MP); Logan Schutz, Architect, Grimm & Parker Architects (LS)

JB: Provided brief project background / update. Board of Appeals approved SE recently and is requiring flat roof, lowered to approximately 39'. The appearance is now similar to a townhouse design. JB and JBI recently met with Alice Liu, Noreen Bryan, and Laurent Myers to go over the latest elevations which are still a work in progress. All three seemed to like the direction of the new design and provided input, which has now been integrated into the elevations you will see tonight.

JL: Alice likes lower roof. Thinks she is still concerned about size, proximity to houses.

Site Plan

MP: Very close to what was seen in Special Exception process.

He outlined features of the site plan, including: building, parking lot, underground garage, driveways / turn around, seating area. The emergency generator and the trash bins will be located near the garage entrance and screened by fence. He pointed out fence and landscaping screen along back of property.

The SWM system will be underground and will connect to the existing pipe in the current Mount Vernon Place ROW. The water will completely bypass CHW's storm water management pond. Right now there's just surface runoff into the ROW, but the SWM system we install will capture the water, filter it, and pipe it away from the property.

The driveway on Monroe Street was moved down a bit to address concerns of a neighbor directly across the street. Now it is right next to the storm water system and fence.

MC & BN: Is generator loud? Can it go on roof / in garage to be quieter?

LS, MP, JB: The generator runs during emergencies, so noise will rarely be an issue. However, the amount of noise generated is subject to legal limits. The generator must go on the ground for structural reasons and we wouldn't want it to be visible on a flat roof.

New building design

LS: (Walks through elevations of new building design from all 4 sides)

Now building must have flat roof. We picked up on the townhouse design from surrounding area with a repetition of colors & materials. It will have a fountain in front.

JB1: Note that there is a 10' drop from Fleet Street Elevation due to a retaining wall, so first floor on that side can't be seen from street.

LS: From Courthouse side you'd see deep courtyard with gazebo, walking path, etc. A fence will hide generator & parking.

JB: When we met recently with Noreen Bryan & Alice Liu they asked that the siding on the southern wings be toned down, more brick to be added, and configure windows similar to the rest of the building that include shutters. We've incorporated their comments which are reflected in the elevations we are presenting tonight.

JL: Why not more parking? We don't want it above-ground, but what about under-ground?

JB: Code requires a minimum of 29 spaces. We're providing 52 (18 underground). There would be no way to access more underground spaces without removing the common areas designed for the residents. As you know, we wanted to keep the existing parking lot but the Historic District Commission wants it removed. Now we have to put some spaces underground at \$20-25,000 / space. Legally we could just provide the minimum 29 spaces on-site but we didn't want to have elderly residents coming home at night trying to find street parking and possibly having to walk long distances. During the abandonment process we took spaces out of abandonment area.

MC: Did you lose units in favor of parking?

JB: No, but we did come down from the initial 90 units to 86 by removing units from the top of the southern wings in order to reduce the height of the building nearest CHW. Keep in mind that from any direction this building is no wider than 1/2 of the CHW townhouses.

BN & others: The Monroe Street elevation looks good, but the back looks institutional.

JB: That's why we talked to Alice & Noreen. We will look at that. The area furthest away is faded out, which is affecting the view.

MG: Have seniors been involved in planning this? There's too much walking.

LS: G&P has done over 100 focus groups for various senior buildings we've developed over the years, with constant new feedback. Actually very little walking, and it is independent living anyway (shows parking entrances, elevators, etc).

MC & JL: We want pictures of the new site design with landscaping. Right now we have dense growth. Give that to us as soon as possible. JL cites Rollins Park Apartments as a good example, although notes that the building is 25+ years old.

JB: Footprint of the building isn't changing much other than some bump-outs and adjusting the entrance to the parking garage area, so the landscaping isn't changing much either. We're taking down about 48 trees but replacing them with about 103.

BN: And the storm water?

LS & MP: The SWM system will be underground and will connect to the existing pipe in the current Mount Vernon Place ROW. The water will completely bypass CHW's storm water management pond. Right now there's just surface runoff into the ROW, but the SWM system we install will capture the water, filter it, and pipe it away through the existing storm drain underground (in the ROW).

Next Steps / Financing

JB: Next steps – we'll be integrating comments so we can submit our Site Plan and SWM concept for approval; applying for LIHTC financing, which includes requesting Mayor/Council support for the application at a M/C meeting on Monday night, and working on architectural plans and engineering.

AR: Cost?

JB/JBl: Roughly \$11 million, though some things may change (e.g. storm water)

MG: Why use State money?

JB: We're applying to the State for Federal tax credits (not "State" money), which will result in us having to borrow less money. The tax credits allow owners to raise private equity for affordable housing projects. We might apply for bonds, conventional financing, etc. We're looking at all of the options.

AR: Who will subsidize the rents?

JB: There may be some Section 8, but mostly the tax credits will lower development costs and financing required (and therefore the rents that are charged).

MG: Does building have to sustain itself?

JB: It will. We'll set aside reserves.

AR: No subsidies?

JB: Maybe

MG: Income limits?

JB: Approximately \$43,000 for a one bedroom and \$49,000 for a two bedroom. Rents about \$1,000, maybe lower. Please note these are subject to HUD Area Median incomes which are adjusted annually.

NB: Will it meet MPDU Requirements (Moderately Priced Dwelling Unit)?

JB: Yes.

MC: How is a non-profit eligible for tax credits?

JB: (Gives basic LIHTC explanation.) Technically investors are part owners and we'll buy them out in 15 years. We're going to build this right and own it long term.

AR: Relationship between VHI and Archdiocese?

JB: We are a nonprofit affiliate of the Archdiocese of Washington, similar to how Catholic Charities is affiliated with AOW. The AOW has provided us land in the past which is significant.

JB: Victory Housing is always looking for opportunities because there's a huge affordable housing need and we're trying to be part of solution.

JL & AR: Is income only determination of eligibility, or does wealth play a role?

JB & JB1: Imputed value of income from assets is considered.

JB: Timeline – want to start this year.



Street Traffic Studies, Ltd.

RECEIVED
FEB 25 2010
COMMUNITY PLANNING
AND DEVELOPMENT SERVICES

—————
**TRANSPORTATION REPORT
VICTORY HOUSING
ROCKVILLE, MARYLAND**
—————

**Prepared For:
Victory Housing, Inc.**

**Date: June 2, 2009
Revised: August 5, 2009
Project Manager: Carl F. Starkey, P.E.
STS Job No.: 5721**

COMPONENT A - INTRODUCTION AND EXISTING CONDITIONS

The purpose of this report is to provide a limited Comprehensive Transportation Review covering Components A, B and E for a project which will generate less than 30 peak hour trips during both the morning and evening weekday peak hours of the adjacent street system. The project area is bound by the Rockville Heights Historic District to the north, Maryland Avenue to the West, Monroe Street to the east and undeveloped Mount Vernon Place to the south. The proposal is to construct a 86 unit Senior Housing apartment building, with three stories, totaling 97,049 square feet of space. The general location of the new facility is illustrated in Exhibit 1. It is noted that this location is within the limits of the Transit Oriented Area as defined in the Comprehensive Transportation Review Methodology.

The proposed building will be available to house senior residents of the surrounding community of Rockville, and greater Montgomery County. Currently, the property is wooded with four single family dwelling units which front along Monroe Street. A schematic of the proposed plan is shown in Exhibit 2. The projected build-out is approximately 18 months, dependent on the ability to obtain the necessary permits.

With respect to trip generation, it is anticipated that the project will generate fewer than thirty (30) new peak hour trips as determined using trip generation rates published by the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, Land Use #252, as shown below.

**TABLE A
VICTORY HOUSING TRIP GENERATION**

<u>DEVELOPMENT</u>	<u>MORNING PEAK HOUR</u>			<u>EVENING PEAK HOUR</u>		
	<u>IN</u>	<u>OUT</u>	<u>TOTAL</u>	<u>IN</u>	<u>OUT</u>	<u>TOTAL</u>
<i>Generation Rate¹</i>						
Trips/Unit	T=0.13(x) 36%/64%			T=0.16(x) 60%/40%		
<i>Generated Trips</i>						
Trips/86 Units	4	7	11	8	6	14

¹ Note: For conservative purposes, the average trip rate was used. Applying the fitted curve equation results in a total of 3 morning peak hour trips and 5 evening peak hour trips.

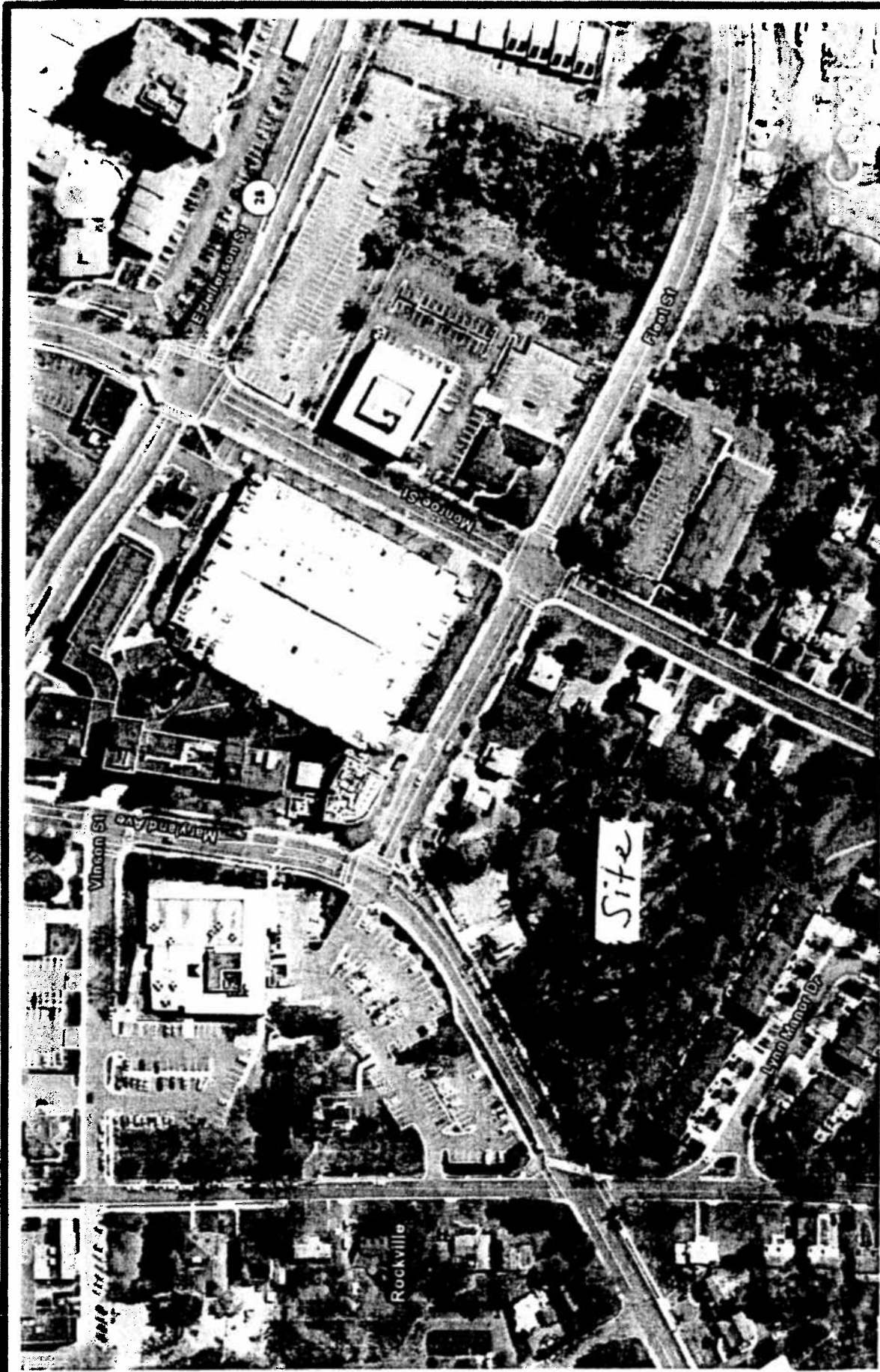


Exhibit 1
Site Location



COMPONENT B - SITE ACCESS AND CIRCULATION

Monroe Street serves as the project site's primary street frontage and point of access. A twenty-four (24) foot wide driveway is proposed, as permitted under the Zoning Ordinance, to be located off of Monroe Street, approximately 120 feet south of Fleet Street. In addition, there is a secondary drop-off driveway is proposed 70 feet south of the main driveway. Lastly, Fire Access is available by way of Maryland Avenue through the proposed parking area. Monroe Street is designated as a Primary Residential Class 2 roadway, south of Fleet Street. Maryland Avenue is designated as a Business District roadway between South Washington Street and Beall Avenue. Each has a posted speed limit of 25 miles per hour (mph) in the immediate vicinity of the site.

Victory Housing is proposing a total of 53 parking spaces to serve residents and guests. A total of 30 spaces are required pursuant to code, however, Victory Housings' experience is that a higher number of spaces is necessary to accommodate its properties. Trash pick up is planned via a "trash access drive" located in the southeast corner of the property. Trucks would access the trash receptacle directly from Monroe Street to collect refuse. A schematic illustration of truck movements for trash pick up is shown in Exhibit 3. Pick ups are anticipated to occur twice weekly.

The peak hourly flow rates along Monroe Street are 247 vehicles per hour (vph) during the morning peak hour and 331 vph during the evening peak hour. The nearby intersection of Monroe Street and Fleet Street currently operates at a Level of Service "A" condition throughout the day.

Currently, there are four single family dwelling units on the property which front along Monroe Street.

The parking is oriented around two sides of the proposed structure allowing adequate access to the building. There will be two handicap accessible and van accessible spaces each, as well as 4 bicycle spaces for short and long term use.

See Revised
outlot B
on
landscape
plan

outlot A

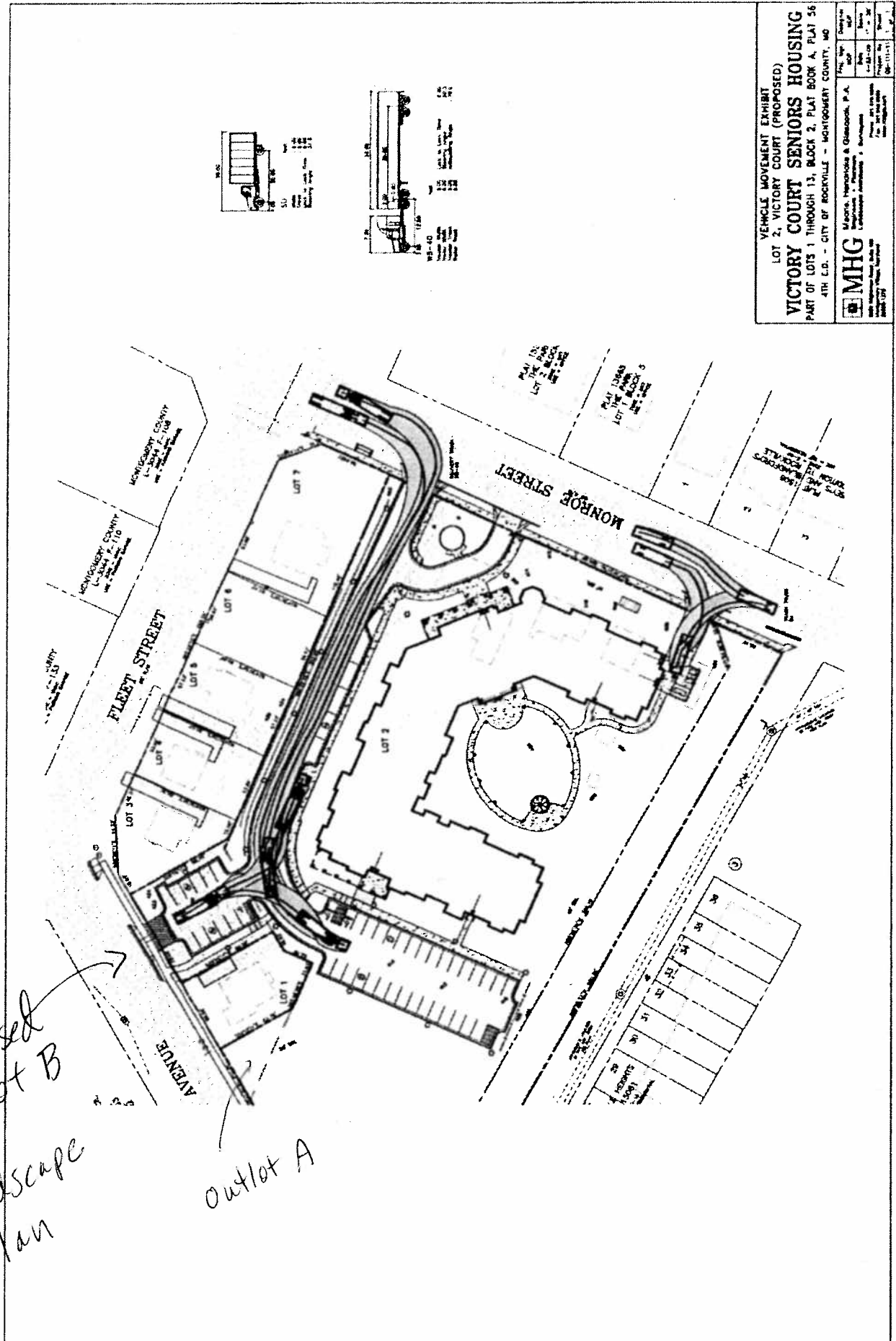


Exhibit 3

COMPONENT B2- NON-AUTO FACILITIES

Pedestrian Facilities

Within the property boundaries, pedestrian connections will be planned along the northern and western sections of the building, with a court yard internal to the structure itself. In addition, pedestrian/sidewalk connections will be provided directly to Monroe Street, and Maryland Avenue. Furthermore, the applicant's proposed plan depicts a relocation of the existing 5 foot sidewalk, seven (7) feet off the existing curb along the project site's frontage (Monroe Street) to improve pedestrian safety. The existing sidewalk along Maryland Avenue is in good condition and varies from 5 to 6 feet wide. Nonetheless, City staff has requested and the applicant has agreed to upgrade the existing sidewalk section along the east side of Maryland Avenue that abuts the project area with a three (3) foot wide grass panel and a five (5) foot wide sidewalk.

Bicycle Facilities

The Bicycle Facilities Master Plan recommends a Signed-Shared Roadway along Monroe Street. The Bicycle Master Plan recommends a width of ten (10) feet. A field review indicates that Monroe Street, as currently configured, has ample width to implement the recommended signed-shared roadway/bikeway.

The Bicycle Master Plan recommends a ten (10) foot wide Shared-Use Path along Fleet Street. However, the project area does not abut Fleet Street and, therefore, is not within the scope of this Transportation Report.

Transit Facilities

Montgomery County RideOn bus Route 46 operates along East Jefferson Street; Routes 47 and 56 operates along Maryland Avenue; and Route 44 operates along Monroe Street. Each of these

routes have connections to the Rockville Metro Station. In addition, Routes 44 and 46 have connections to Twinbrook, Shady Grove and White Flint Metro Stations. Bus stops exist on either side of Monroe Street along the eastern property frontage. The stops serve RideOn Route 44. Stops are also located on Fleet Street for RideOn Route 47. Each stop is signed and is located within an area of sidewalk for riders to wait. In addition, streetlighting is provided in the general area of each stop.

COMPONENT E - SUMMARY

The project to be built is bound by the Rockville Heights Historic District to the north, Maryland Avenue to the west, Monroe Street to the east, and undeveloped Mount Vernon Place to the south. The proposal is to construct a 86 unit Senior Housing apartment building, totaling 97,049 square feet of space.

This report has been prepared in accordance with the Comprehensive Transportation Review Methodology, but is limited to a discussion of only 3 of the 5 components, A, B, and E, as discussed with City of Rockville staff. Vehicular access to the new facility will be via a twenty-four (24) foot driveway located on Monroe Street, approximately 120 feet south of Fleet Street. Pedestrian connections are planned around the perimeter of the building, and within a court yard internal to the structure itself. Sidewalks currently exist along Maryland Avenue and Monroe Street which front the site; i.e., Monroe Street and Maryland Avenue. Notwithstanding, the applicant's proposed plan depicts a relocation of the existing five (5) foot sidewalk, seven (7) feet off the existing curb along the site's frontage (Monroe Street) to improve pedestrian safety, as well as an upgrade of the existing sidewalk section along the east side of Maryland Avenue that abuts the project area with a three (3) foot grass panel and five (5) foot sidewalk. *

It is anticipated that the project will generate fewer than thirty (30) new peak hour trips as determined using trip generation rates published by the Institute of Transportation Engineers. The project is directly accessible via walking from the surface parking, or the adjacent sidewalks. Since the expected "new" trip totals are less than the 30 trip threshold, a more extensive traffic study is not required.

The report does include a discussion of non-auto facilities in close proximity of the site. In brief, RideOn routes 44 and 47 operate along Monroe Street and nearby Fleet Street, respectively, with bus stops along the site frontage.

In summary, the proposed development will have a minimal impact on the roadway network surrounding the site. Therefore, this report does not recommend any mitigation measures, nor does development of the site require any trip credits to offset the traffic impact.

Historic District Commission Minutes Meeting No. 11-2008 Thursday, December 18, 2008

PRESENT: Max van Balgooy (Chair); Janet Hunt McCool; Craig Moloney; Anita Neal-Powell; Jeremy Tucker

Staff present: Jeffrey Winstel, Robin Ziek, Preservation Planners

B. Fleet Street Senior Victory Housing HDC2009-00452

Applicant: Victory Housing Inc.

Address: 107, 105, 103, 101 Fleet Street and 150 Maryland Avenue

Request: Adjacent construction and redesign of historic district parking lot

Staff Winstel outlined the project, with a Power Point presentation highlighting the two primary issues: (1) Compatibility of the proposed Fleet Street Senior Housing development with the adjacent Rockville Heights Historic District, and (2) the re-working of the parking space between 150 Maryland Avenue and 101 Fleet Street. The review of the parking space will require a Certificate of Approval, as it is within the historic district. Staff Winstel proposed a type of shared parking arrangement, so the historic buildings could have access to parking needed for redevelopment.

Soo Lee Cho, attorney for the applicant provided some background to the project, noting that nothing has been filed, and their intent is to get input before filing application. Jeff Blackwell, from Victory Housing explained that the organization is a NFP arm of the Catholic Archdiocese specializing in affordable housing for seniors. The parking between the historic houses is needed for the seniors, as they don't think street parking for seniors is appropriate – they don't want to walk along Monroe. They feel strongly the spaces are needed for the seniors in the housing facility. Other instances in the county used less parking than required, and ended up short.

Soo Lee Cho stated that the parking in the plans does meet development standards for MXT zone as requested. Architect Logan Schutz explained that the building site was located down from the Fleet Street level and the building is 3 stories in height with a walkout terrace. The two retaining walls in back of the historic district along the drive will be terraced, planted and will not be located in the HD.

Chair van Balgooy stated he had concerns about the view of the senior housing facility from City Hall between 150 Maryland and 101 Fleet Street.

Attorney Soo Lee Cho referenced the proposed subdivision lines as consistent with the current lots, but somewhat shallower. Access to the parking lot off Maryland Avenue is to be closed as per request from the city based on safety concerns, however there may be emergency access needed. Regarding the proposal for a shared use parking arrangement, historic building use may be incompatible with seniors. The future use of the houses is market driven and is not the purview of Victory Housing.

Chair van Balgooy expressed concern about creating a situation of no reuse possibility for the historic buildings. The new trend in the City is to minimize parking and provisions in the new ordinance may help, but there are no guarantees.

Commissioner Moloney pointed out the Victory Housing's land continues over to Maryland Avenue and asked why they couldn't locate additional parking there? Attorney Soo Lee Cho stated that forest conservation requirements led them to gravitate toward the existing paved area so they wouldn't lose so many trees. Commissioner Moloney pointed out that it would seem that taking up the only available space would preclude any parking for the Historic District buildings. Ms. Cho stated that potential parking could be located between 105 and 107 Fleet Street and Victory Housing needs the corner spaces.

Commissioner Moloney asked if the lot also served the historic buildings, could the lot be accessed through the Victory Housing drive. Attorney Cho speculated that it could. Jeff Blackwell from Victory Housing commented that because of the grade and the trees, locating the parking further over to the west could create new issues involving the turn around for fire trucks. Architect Login Chutes added that they received big push back from the City Forester and are now being asked to save even more trees on site. Chair van Balgooy established that the parking lot would be leased to Victory Housing by the county.

Chair van Balgooy asked if there were any other speakers. Alice Lieu – 232 Manor Drive, Courthouse Walk Townhouses, stated that she had attended the Mayor and Council meetings regarding the development and voiced concerns over the lose of green space, the open view straight through to Monroe Street, and drainage issues. She has no problem with the historic district designation, but is concerned that the parking be screened from the townhouses as well as the historic district. She stated that the senior housing facility was to be 3 ½ stories and the townhouses are 3 stories and is concerned that the townhouse residents would be looking up into the senior housing facility unless there is adequate vegetative screening.

Chair van Balgooy stated that the HDC does not have purview over these issues, but thanked Ms. Lieu for coming out and speaking about her concerns.

Judy Christensen, Preservation Consultant Victory Housing stated that the Mayor and Council recommended this development because it's a good plan. Three previously submitted plans all missed the mark -- they got about 75% right but the other 25% they got very wrong. They had too much density, traffic impacts were bad, removal of most historic buildings, etc. Ms. Christensen stated that the lot lines are based on the original division of the property, according to research for the Maryland Historic Trust inventory form. She stated the parking lot was located there for the county's office use of the Fleet Street/ Maryland Avenue historic buildings, adding that parking has always been a problem, but this plan has the flexibility to accommodate the use of the buildings. In terms of the forestry conservation issue, they can't lose one more tree – the city regulations for the site require all replacement trees be on the lot.

Noreen Bryan, a South Washington Street resident addressed the commission next, asking what will happen to Mt. Vernon Place? Staff Winstel responded that it will be abandoned. Ms. Bryan asked if there was adequate parking on site for the senior housing or if they need additional parking. Sue Lee Cho stated that the one lot does meet code, but it is their experience that code underestimates the actual need for senior residents and they don't want residents searching the neighborhood for parking.

Commissioner Moloney asked how many units there will be and Attorney Cho responded that there will 90 – adding they found space for 2 more units. The required number of parking spaces (1 per 3 units) will still be 30. Architect Login Schutz added that earlier laws to encourage senior housing focused on the assumption that they abandoned cars, but today seniors are healthier and keep cars longer.

Resident Noreen Bryan asked if the facility was to be independent living or assisted? She also would like to know what the actual height of the building will be compared to the historic buildings and the townhouses, adding that she hasn't yet heard an answer, and stating her concern that the mass of the building will loom over neighbors. She stated support for the fact that we are doing something for seniors and is very concerned about the historic buildings being viable stand alone properties and questions how can they go on the market without parking? Summarizing she stated her concerns are the height, adequate parking, and potential lose of character of historic district. She stated one alternative is to consider fewer senior units.

Chair van Balgooy thanked her for her statements and asked for the applicant's response. Architect Login Schutz responded that the height from the street front setback is 35' (from Monroe Street) above grade and the grade drops an additional 4' so it's actually 39' from ground level. From Fleet Street the grade drops 8' to the building line, so the building may be a couple of feet above the houses on Fleet Street, but it will not loom over the buildings and will be imperceptible to the naked eye.

Commissioner Hunt-McCool stated that she thinks it is important to find out exactly what the heights will be compared to the surrounding buildings. Architect Schutz states they will have engineers shoot the sight lines to determine this.

Jeff Blackwell from Victory Housing said they had meet with the residents of Courthouse Walk and showed animated views from the Townhouses, adding that there was more foliage at that time and stating they intend to have another meeting. He said they understand the sightline issue and the drainage issue and can address both with a reasonable solution.

Chair van Balgooy asked if anyone else wished to speak. Peerless Rockville Executive Director Mary van Balgooy stated that Peerless has concerns about the parking lot creating an asphalt sea around the historic housing, which would eliminate the context. They agree that there needs to be screening for any lot, and requests that Montgomery County dedicate the lot to the historic houses.

Chair van Balgooy stated that it is now over 10:00 pm and as Chair, he extended the meeting and asked if there are any more questions from the Commission? Commissioner Moloney asked the architect to provide for more definition of the corner of the building that will face the parking lot at the corner of Maryland and Fleet.

Chair van Balgooy asked if Commissioner Moloney was asking for a rendering of another view. Commissioner Moloney said yes and requested the facing material be identified as well. Architect Chutes said the facing would be a manufactured stone below and "Hardiplank" above and shingles in the upper gable areas. The Roof will be architectural grade shingles that will have a shadow line and there will be metal roofs over the porch and towers. Commissioner Moloney stated that is acceptable and Chair van Balgooy affirmed the colors would be the same as those in the rendering.

Commissioner Tucker expressed concern about a simple shared parking arrangement stating that he has handled numerous easements related to these and doubts if such an agreement in this circumstance would be successful in meeting both party's needs. Chair van Balgooy asked if such a shared arrangement could work if the historic buildings were developed as a type of office condo. Commissioner Tucker stated that a land condominium use pad lot with dedicated parking might work, if the lots are converted for condominiums, but if not this shared parking scheme would be problematic.

Commissioner Hunt-McCool stated she was deeply concerned about loss of parking in the Historic District. In terms of the design, she finds the scale and massing of the building huge and is concerned about how the height reads from the street. Although the images help provide a better understanding, she still thinks the scale is not appropriate.

Chair van Balgooy stated that he thinks the design for the complex is better than expected, adding that it is large but with the topography it is okay. He expressed concern about the view from City Hall and concern about the parking lot on Maryland Avenue. The applicant or county needs to show a way that some use of the historic buildings can be accomplished with parking under the code. The ownership is what can make a condominium regime happen, which could then accommodate the needed parking.

He expressed his great concern about the parking lot exclusively prohibiting other uses in the Rockville Heights Historic District, stating that Montgomery County needs to provide some solution and make the HDC feel confident that something is possible. In terms of screening the HDC needs to see the other view from city hall, and the corner of the senior housing building. Perhaps include green space on top of structured parking.

Staff will draft a memo summarizing the HDC concerns and send it to the HDC through email, asking for revisions to the draft prior to passing them along to the applicant and attaching them to the project file.

Historic District Commission Minutes Meeting No. 02-2009 Thursday, March 19, 2009

PRESENT: Max van Balgooy (Chair); Janet Hunt McCool; Craig Moloney; Anita Neal Powell

Staff present: Robin Ziek, Preservation Planner; Jim Wasilak, Chief of Planning

IV. Courtesy Review

A. Victory Court Senior Housing HDC2009-000452B

Applicant: Victory Housing Inc.

Address: 107, 105, 103, 101 Fleet Street and 150 Maryland Avenue

Request: Adjacent construction, redesign of historic district parking lot, meeting forestry requirements

Staff made a brief presentation on Victory Housing Inc.'s second Courtesy Review with the HDC. They want to address HDC concerns mentioned in the December 18, 2008 meeting. New materials include 1) the County's recent decision to sell/rent the historic homes for residential use. This will require only 2 spaces for parking, and the site plan indicates private driveways for each house. 2) The existing parking lot will have landscaping as per the new Zoning Ordinance and Landscape Manual; and 3) the property between 105 and 107 Fleet Street will not be used for afforestation requirements for the Senior Housing project. Staff suggested some reduction to the height of the new building at its main entrance.

The HDC responded favorably to the redesign of the building as seen from Maryland Avenue across the open parking lot, and suggested including access to Maryland Avenue in this vicinity for the seniors at Victory Housing who might walk up to Town Center. Chair van Balgooy asked about the proposed fencing, and was assured that the fence would not block such a connection; it will only run along the back of the homes facing Fleet Street and protect against the 7' grade change for the new driveway.

The HDC had concerns that the County might not be able to find buyers for a residential use; and that therefore, the proposed parking might be inadequate. Victory Housing noted they do not do Group Homes, and would not be involved with these properties.

Noreen S. Bryan, of 207 S. Washington Street spoke in favor of review of this project in terms of the whole neighborhood and the adjacent townhomes. This would include absolute heights, size of proposed lots for the historic buildings, and use of them as residential.

HDC noted that the front entry part of the building may be as much as 8' higher than the Fleet Street Houses. This may or may not be a problem with the building set back from the corner, but could still be considered as the project moves ahead.

The HDC noted that, when a subdivision application is made, the lots should be platted to reflect the permitted setbacks of the zone for the existing homes in the historic district.

The HDC noted that leaving the open lot between 105 and 107 Fleet Street available for potentially additional parking could leave some options open for these properties in terms of parking requirements for non-residential uses. Alissa Wilson, Montgomery County Housing and Community Affairs, said that the County believes there is a residential demand for these properties; revenue will not be their primary concern.

Judy Christensen, Historic Preservation Consultant for Victory Housing, noted that these homes have been used for offices as early as 1986. She noted that the environmental setting is tight, whether these properties are used for residential, office or commercial use.

The HDC also wondered if the project might not be too big for the site. If the number of units were reduced, the parking requirement would also be reduced. Commissioner Moloney also suggested Victory Housing might offer "Zip Cars" to help reduce parking needs.

The formal application will include several public meetings: with the Planning Commission (PC), the Board of Appeals (for the Special Exception), and the HDC. The subdivision will also have to be reviewed by the HDC (recommendation requested) and the PC (approval authority).

Historic District Commission Minutes Meeting No. 06-2009 Thursday, July 16, 2009

PRESENT

HDC: Max van Balgooy (Chair); Janet Hunt McCool; Craig Moloney; Anita Neal Powell; Jeremy Tucker

Staff: Robin Ziek, Preservation Planner; Jim Wasilak, Chief of Planning

IV. COURTESY REVIEW: SUBDIVISION and SPECIAL EXCEPTION

A. HDC2010 - 00473

Applicant: Montgomery County and Victory Housing
Address: Rockville Heights Historic District 101, 103, 105, 107 Fleet St. and 150 Maryland Ave.
Request: Recommendation to Planning Commission / Board of Appeals

Staff Ziek noted the revised agenda, that the Evaluation of Significance for 23 Paca Place had been noticed but then postponed at the owner's request, and then put back on the agenda at the owner's request today.

Staff presented a staff report indicating revisions to the proposed Preliminary Plan of Subdivision for the Rockville Heights Historic District, which is being proposed in conjunction with the Special Exception for the Victory Housing apartment building for seniors on the County's property. Staff outlined the HDC review as two distinct requests: recommendation to the Planning Commission on the proposed layout of the subdivision; and comments on the proposed Special Exception and related requirements that will be coming back to the HDC in the form of a Site Plan (shared-use path, bus shelter, lighting, landscape plan, etc.). Chief of Planning Wasilak noted that there are no minimum lot size or road frontage requirements in this zone, even when the buildings are used for residential.

Victory Housing representative, Attorney Soo Lee-Cho, indicated agreement with staff recommendations 1,3,5,6 regarding changes to lot boundaries. Discussion about the zoning requirements with potential for parking off-site was responded to by Jim Wasilak with reference to the new zoning ordinance. Ms. Lee-Cho reviewed the use of shared-use paths and/or bicycle routes adjacent to other historic districts in the City. She indicated they will hire an arborist to review the trees and respond to comments by the City Forester.

The Chair asked for public comments:

Ms. Alice Liu, representative from the Courthouse Walk community directly to the south of the subject property, spoke. She reviewed the Purpose of the HDC, and said she thought staff was accommodating Victory Housing with regard to forestry and parking requirements. She expressed concern with preserving the economic viability of the homes within the historic district. She said Victory Housing could scale back the project to address parking and forestry concerns, and not have to rely on the parking lot along Maryland Avenue. She thought the project users could use the public parking lot across the street, or Zip Cars. She didn't want to see an extra lot #6 created, but thought the land could be divided to add value to Lots 5 and 7. She sees the proposed change to the Boundary for Lot 1 as an encroachment from Victory Housing on the historic district, and thinks they should meet all their forestry requirements on their lot. If trees have to be planted, Courthouse Square would like more trees along their boundary to screen their homes from the new apartment building.

Ms. Indra Antonipillai, of 226 Lynn Manor Drive, spoke briefly in support of the statements made by Ms. Liu.

Ms. Laurie Brooks of 300 Lynn Manor Drive spoke in appreciation of efforts to keep the historic properties. Her main issue was with encroachment by Victory Housing into the historic district. She supported Victory Housing meeting all their forestry requirements on their lot.

Close of Public Record. Commissioner Moloney asked if the parking lot could be separated from the Victory Housing lot as a separate lot? Chief of Planning noted that parking off-site is permitted in this zone with a written agreement in place. A landscape buffer is not necessarily required between lots in the zone, but parking cannot be the principal use of a single lot.

Transportation Staff Rebecca Torma responded to questions about the Maryland Avenue parking lot: access from Maryland Avenue (only for emergency vehicles), and the proposed driveway for 150 Maryland Avenue (cars will have to back out onto Md. Ave, which is not preferred). Staff will be looking at all the transportation issues more closely in the future.

Commissioner McCool asked about impervious surfaces; Chief of Planning Wasilak noted that the use may be residential, but the zoning is MXT (Mixed Use Transition), so development standards do not follow the residential zone requirements, which contain impervious surface limits.

Chair van Balgooy stated a preference for lots lines to adhere to boundary lines, re: Lot 1.

Commissioner Tucker asked if Lot 6 could be dedicated as a park? Regarding forestation requirements, the attorney Ms. Lee-Cho noted that the subdivision included the entire block, which is owned by Montgomery County. Therefore, plantings in the historic district are still considered planting within the project area.

Commissioner Moloney stated that he doesn't feel that the Maryland Avenue parking lot is an asset in the Historic District. He would prefer green space for a park, or trees. He suggests using Lot 6 for a parking lot with access from Fleet Street, which might not have the same objections from Transportation.

The commissioners discussed a "condo" option for the historic district, where all the buildings would be included in one lot, but separated for ownership purposes by a condo plat, thereby providing easier shared parking.

MOTION: Commissioner Moloney proposed the following Recommendation to the Planning Commission:

- 1) The parking area between Lots 1 and 3 should be revised to avoid negative impact to mature trees in the historic district;
- 2) Lot boundaries should adhere to the historic district boundaries, and Lot 1 should be platted concurrent with the historic district boundaries;
- 3) The west boundary for Lot 3 should be amended to provide a larger west sideyard for the historic house with a straight-line boundary that parallels, and is as close as feasible to, the proposed parking lot on Maryland Avenue;
- 4) The east property line for Lot 5 should assure compliance at least with the minimum sideyard setback in the zone (10');
- 5) The property for Lot 7 should be platted with the property shown as "Lot 6" thereby reducing the number of lots in the historic district;
- 6) The existing Maryland Avenue parking lot should be platted as a separate lot within the historic district.
Commissioner McCool seconded.

VOTE: 3-1 (Commissioner Tucker opposed) Motion Passed

Chair van Balgooy noted that the Recommendation to the Planning Commission part of the review was complete. He wanted to move through the other aspects of the project, as presented in the staff report as #6-9 of the staff recommendation, briefly:

#6 – Bus Shelter Staff Torma noted that bus use for this stop is not high enough to mandate a covered bus shelter at this time.

#7 – Shared-use Path The Chair indicated general support at this time, but comments will have to wait until the HDC has more information to be able to judge impacts on the historic district.

#8 – Street Lighting Staff Torma indicated that no additional lighting is required on site at this time. There are two pedestrian-style lights that could actually be removed.

#9 – Tree planting in HD - The Chair indicated support for additional trees to be planted within the historic district both as street trees and as backyard screening/buffer, especially in the west area of the proposed revised Lot 7.....

Historic District Commission

Minutes

Meeting No. 10-2009

Thursday, November 19, 2009

PRESENT: Max van Balgooy (Chair); Janet Hunt McCool; Craig Moloney; Anita Neal Powell I

Staff present: Robin Ziek, Preservation Planner; Jim Wasilak, Chief of Planning

B. HDC2010-00484

Applicant: Victory Court, Montgomery County
Address: 209 Monroe Street
Request: Review Preliminary Plan of Subdivision

The project was presented to the HDC in order that their comments may be conveyed to the Planning Commission, when they review the Preliminary Plan of Subdivision in December.

The HDC discussed the use of the Forest Conservation Easement on Outlot A, and suggested that the property would be better used as part of Lot 1. This will provide more options for a property owner in terms of parking and open space.

The HDC agreed to the establishment of Lot 6, understanding that a future new residence may be built here in the future.

Staff noted that other aspects of the redevelopment of this block, including landscape buffers for the Senior Housing project and paving materials for emergency vehicles on Outlot B need approval from the HDC, and the County will be applying for a Certificate of Approval in the near future.

(For forest only – Rev'd 11/16/07 to add ref to forestry permit and revise language re: invasives)

Parcel Identifier No. _____

**FOREST AND TREE CONSERVATION EASEMENT AND
DECLARATION OF COVENANTS**

THIS GRANT OF FOREST AND TREE CONSERVATION EASEMENT AND
DECLARATION OF COVENANTS is made this ____ day of _____, 200__, by
the _____, a Maryland _____, hereinafter referred to as the
"Grantor," for the benefit of THE MAYOR AND COUNCIL OF ROCKVILLE, a municipal
corporation organized under the Laws of Maryland (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, Grantor is the owner of real property located within the City of Rockville,
Maryland, described as follows:

All of that property conveyed to Grantor from _____ by
deed dated _____ and recorded among the Land Records of Montgomery
County, Maryland in Liber _____ at Folio _____.

Said property also being Lot ____, Block ____, in the _____ subdivision as
depicted on a plat of subdivision recorded among the Land Records of Montgomery
County, Maryland in Plat Book No. _____ at Plat No. _____.

herein referred to as the "Subject Property;" and

WHEREAS, Grantor desires to develop the Subject Property, and in furtherance thereof
has obtained certain development approvals and applied for a Rockville Sediment Control Permit
and Forestry Permit; and

WHEREAS, as a condition of Sediment Control Permit No. SCP _____, Forestry
Permit FTP _____, and other development approvals, Grantor must comply with the

requirements of Chapter 10.5 of the Rockville City Code pertaining to forest and tree preservation; and

WHEREAS, in accordance with said Chapter 10.5, Grantor has prepared and received approval of a Forest Conservation Plan for the Subject Property, designated FTP _____, which plan is filed with and maintained by the Rockville City Forester (hereinafter the “City Forester”); and

WHEREAS, FTP _____ provides for the protection of existing trees and forested areas and/or for the installation, maintenance, and protection of certain additional trees and forested areas on the Subject Property; and

WHEREAS, Chapter 10.5 requires Grantor to subject the Subject Property to a perpetual conservation easement across the areas designated on the approved Forest Conservation Plans for forest and tree conservation and preservation; and

NOW, THEREFORE, in consideration of the issuance by the City of the necessary development approvals and permits, and for the purpose of complying with the requirements of Chapter 10.5 of the Rockville City Code, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby executes this Forest and Tree Conservation Easement and Declaration of Covenants and does hereby grant and convey to the City, its successors and assigns, forever and in perpetuity, a conservation easement (“Conservation Easement”) across those areas of the Subject Property described in attached Exhibit “A” and shown on attached Exhibit “B” (“Conservation Area(s)”), for the purpose of protecting and preserving existing and future forest cover, individual trees, streams and adjacent buffer areas, wetlands and other sensitive natural features; maintaining existing natural conditions to protect plant habitats, water quality and wildlife; and generally protecting and

preserving the topography and natural features within the Conservation Area(s) consistent with the approved Forest Conservation Plan FTP _____ and applicable laws and regulations.

The said Conservation Easement is hereby intended to be granted and conveyed together with all the rights, privileges, appurtenances, and advantages thereto belonging or appertaining to its proper use and benefit forever by the City, its successors and assigns.

AND the Grantor covenants and agrees for itself, its successors and assigns to abide by the following terms, restrictions, and conditions:

1. The foregoing recitals are incorporated herein.
2. No healthy, living tree within the Conservation Area(s) shall be cut down, removed or destroyed without prior written consent from the City Forester or other designated agent of the City Manager (hereinafter referred to as the "City Forester"). Diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage after reasonable notice to the City Forester, unless such notice is not practical in an emergency situation or the removal is executed pursuant to an approved Forest Conservation Plan. Grantor shall plant any substitute trees as may be required by the City Forester in accordance with the City's Forest Conservation Manual.
3. Except for afforestation and reforestation activities pursuant to an approved Forest Conservation Plan, Grantor shall not engage in, or permit, any construction, excavation, grading, erection of any structure, or any other activity on the Subject Property in a manner that damages, kills, or injures any tree within the Conservation Area(s).
4. No plant materials (including, but not limited to bushes, brush, saplings, undergrowth, weeds and vines) within the Conservation Area(s) shall be pruned, mowed or cut down, dug up, removed or destroyed without prior written consent from the City Forester, unless said activity is

pursuant to the terms and conditions of an approved Forest Conservation Plan. Exotic and invasive plants as defined by the Maryland Department of Natural Resources Wildlife and Heritage Division may be removed as required by law, provided that such removal shall be limited to exotic and invasive plants only, and protective measures are taken to protect nearby trees and shrubs.

5. Grantor may replace dead trees or undergrowth within the Conservation Area(s) with plantings that are characteristic of trees or undergrowth native to the piedmont of Maryland.

6. The following activities may not occur in the Conservation Area(s) unless provided for in an approved Forest Conservation Plan or first approved in writing by the City Forester:

- a. Construction, excavation or grading or depositing of fill;
- b. Erection of any building, fence, retaining walls, or structural improvements on or above ground, including but not limited to sheds and dog pens;
- c. Construction of any roadway or private drive;
- d. Activities that in any way could alter or interfere with the natural ground cover or drainage;
- e. Location or installation of any component of a septic system;
- f. Installation of utility lines, pipes or cables;
- g. Dumping of unsightly or offensive material, including trash, construction material and debris. Prior approval is not required for the dumping of ashes, sawdust or grass clippings in a properly designed, managed or maintained compost pile. Upon written approval of the City Forester, suitable fill and other stabilization measures may be placed to control and prevent erosion, provided that the fill is properly stabilized;
- h. Posting of any advertising, including signs and billboards;

- i. Excavation, dredging or removal of loam, gravel, soil, rock, sand and other material;
- j. Diking, dredging, filling or removal of wetlands;
- k. Any other activity that damages forests or trees, streams or water quality, plant or wildlife habitats, or the natural topography.

7. All rights reserved by, or not prohibited to, Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the Conservation Area(s).

8. Nothing in this Forest and Tree Conservation Easement and Declaration of Covenants precludes the use of the area within the Conservation Area(s) for passive recreational activities, such as hiking or nature study, provided that no construction or grading shall occur in connection with such activity without the prior written approval of the City Forester.

9. The City Forester and other representatives of the City may, at reasonable hours and without prior notice, enter upon the Subject Property and the Conservation Area(s) for the purpose of making inspections to ascertain whether there has been compliance with the terms, restrictions, and conditions of this Forest and Tree Conservation Easement and Declaration of Covenants. This Forest and Tree Conservation Easement and Declaration of Covenants does not convey to the general public the right to enter the Subject Property or the Conservation Area(s) for any purpose whatsoever.

10. Grantor further agrees to specifically refer to this Forest and Tree Conservation Easement and Declaration of Covenants in a separate paragraph of any subsequent deed, sales contract, mortgage, or other legal instrument (including a lease agreement) by which any interest in the Subject Property is conveyed.

11. The City shall have the right, but not the obligation, to enforce the provisions, conditions, and restrictions contained in this Forest and Tree Conservation Easement and Declaration of Covenants in accordance with any statutory authority, including, but not limited to, the imposition of civil monetary fines and penalties, and by injunction or other appropriate relief in any court of competent jurisdiction, including the right to restore the Subject Property and Conservation Area(s) to a condition consistent with FTP _____ or approved modification thereof, and to recover damages in an amount sufficient to cover the cost of such restoration and court costs and reasonable attorneys' fees.

12. No failure on the part of the City to enforce any provision of this Forest and Tree Conservation Easement and Declaration of Covenants shall waive the City's right to enforce the same provision at a later date or to enforce any other provision of this document.

13. This Forest and Tree Conservation Easement and Declaration of Covenants in no way obligates the City to maintain the trees on the Subject Property or within the Conservation Area(s), nor does it render the City liable for any damage to persons, property, or the environment, resulting from the use of, or activity on, the Subject Property or within the Conservation Area(s), whether or not such use or activity is approved by the City or in accord with this Forest and Tree Conservation Easement and Declaration of Covenants.

14. Grantor will warrant specially the Conservation Easement granted herein and will execute such further assurances as may be requisite.

15. Grantor hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Subject Property, other than those for which the holder in interest has signed this document or otherwise consented in writing to this Forest and Tree Conservation Easement and Declaration of Covenants. Grantor further certifies that all parties with an interest in the Subject

Property necessary to give full effect to this Forest and Tree Conservation Easement and Declaration of Covenants have signed, or consented in writing to, this document.

AND Grantor does further agree to record this Forest and Tree Conservation Easement and Declaration of Covenants among the Land Records of Montgomery County, Maryland at Grantor's expense within ten (10) days of the date hereof, and shall provide the City with documentary proof of recordation within five (5) days of said recordation.

TO HAVE AND TO HOLD unto the City, its successors and assigns forever, this Forest and Tree Conservation Easement and Declaration of Covenants (including all terms, conditions and restrictions contained herein) shall be binding upon the heirs, successors and assigns of the Grantor and shall constitute a covenant running with the title to the Subject Property.

IN WITNESS WHEREOF, the undersigned GRANTOR has executed this Forest and Tree Conservation Easement and Declaration of Covenants as of the date first written above.

WITNESS/ATTEST:

GRANTOR:
a Maryland corporation

By: _____
President

STATE OF _____ SS:
COUNTY OF _____

I hereby certify that on this _____ day of _____, 200__, before me, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged himself/herself to be the _____ of the _____, a Maryland _____, and who did further acknowledge that he/she, in such capacity and