April 24, 2018

Area 2 Division
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Forest Conservation Tree Variance Request
Grosvenor-Strathmore WMATA Garage Expansion Mandatory Referral
Forest Conservation Plan Amendment MR-2000201
VIKA # VM50226A

Dear Mr. Findley:

On behalf of the property owner, WMATA (the "Applicant") through Fivesquares Development @ Grosvenor Metro, LLC, we are submitting this Tree Variance Request in compliance with Natural Resources, Title 5, Section 5-1607 of the Maryland Code, which requires the Applicant to file for a variance to remove or impact any tree greater than 30" in diameter-at-breast-height (dbh); any tree with a dbh equal to or greater than 75% of the current state champion; trees that are part of a historic site or associated with a historic structure; any tree designated as the County champion tree; and any tree, shrub, or plant identified on the rare, threatened or endangered list of the U.S. Fish and Wildlife Service of the Maryland Department of Natural Resources, if a project did not receive Preliminary Forest Conservation Plan Approval prior to October 1, 2009.

This Tree Variance Request is accompanying the submission of the Preliminary Forest Conservation Plan with Mandatory Referral MR-2000201.

The 14.58-acre Property is located in North Bethesda, Montgomery County, Maryland along Tuckerman Lane and 200 feet east of Rockville Pike. It is currently developed with the Grosvenor-Strathmore Metro 6-story parking garage, bus loop and facilities, Kiss & Ride parking facilities, and a 412-space surface parking lot. It is generally bounded by Tuckerman Lane to the east and north, residential uses to the east/south, and Metro tracks to the west. The proposed WMATA project will consist of a southern and western expansion of the existing parking garage, removal of the surface parking lot, addition of a bike station, redesign of the Artswalk, and reconfiguration of the Kiss & Ride facilities. The Applicant is submitting this request for the removal/disturbance of seven (7) affected trees on the Property, including: the removal of four (4) specimen trees; and disturbance of three (3) specimen trees (collectively, the "Subject Trees").

Table 1 on the following page lists the Subject Trees as they are identified on the Preliminary Forest Conservation Plan and provides their respective proposed impacts.
### Table 1

<table>
<thead>
<tr>
<th>TREE NO.</th>
<th>BOTANICAL NAME</th>
<th>COMMON NAME</th>
<th>D.B.H. (in.)*</th>
<th>CONDITION</th>
<th>CRZ (SF)</th>
<th>CRZ IMPACT (SF)</th>
<th>CRZ IMPACT %</th>
<th>DISPOSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>930</td>
<td><em>Quercus rubra</em></td>
<td>No. Red Oak</td>
<td>39</td>
<td>Good</td>
<td>10,751</td>
<td>830</td>
<td>7.72</td>
<td>Save</td>
</tr>
<tr>
<td>931</td>
<td><em>Quercus phellos</em></td>
<td>Willow Oak</td>
<td>38</td>
<td>Good</td>
<td>10,207</td>
<td>3,109</td>
<td>30.46</td>
<td>Save</td>
</tr>
<tr>
<td>932</td>
<td><em>Quercus nigra</em></td>
<td>Water Oak</td>
<td>34</td>
<td>Good</td>
<td>8,171</td>
<td>8,171</td>
<td>100.00</td>
<td>Remove</td>
</tr>
<tr>
<td>934</td>
<td><em>Quercus phellos</em></td>
<td>Willow Oak</td>
<td>38</td>
<td>Good</td>
<td>10,207</td>
<td>1,399</td>
<td>13.71</td>
<td>Save</td>
</tr>
<tr>
<td>935</td>
<td><em>Quercus phellos</em></td>
<td>Willow Oak</td>
<td>33</td>
<td>Good</td>
<td>7,698</td>
<td>7,698</td>
<td>100.00</td>
<td>Remove</td>
</tr>
<tr>
<td>936</td>
<td><em>Quercus phellos</em></td>
<td>Willow Oak</td>
<td>36</td>
<td>Good</td>
<td>9,161</td>
<td>9,161</td>
<td>100.00</td>
<td>Remove</td>
</tr>
<tr>
<td>939</td>
<td><em>Quercus rubra</em></td>
<td>No. Red Oak</td>
<td>31</td>
<td>Good</td>
<td>6,362</td>
<td>6,362</td>
<td>100.00</td>
<td>Remove</td>
</tr>
</tbody>
</table>

* Diameter at breast height in inches

The Assessment was performed by Douglas Koeser, RLA, ISA during a site visit in December of 2018. A visual at-grade-level inspection with no invasive, below grade, or aerial inspections was performed for each tree. Decay or weakness may be hidden out of sight for large trees.

1. **Tree # 930: 39" Northern Red Oak (Quercus rubra):** Tree #930 is west of the Grosvenor Metro Kiss & Ride and Bus Lane entrance road.
   - **Field Condition:** Good
   - **Proposed CRZ Impact:** Minimal at 7.72%, as the tree is approximately 40 feet from the limits of disturbance.
   - **Disposition:** Tree #930 is specified to be saved.

2. **Tree # 931: 38" Willow Oak (Quercus phellos):** Tree #931 is west of the Grosvenor Metro Kiss & Ride and Bus Lane entrance road, approximately twenty (20) feet from the curb.
   - **Field Condition:** Good
   - **Proposed CRZ Impact:** Significant at 30.46%, as the tree is adjacent to the proposed disturbance for the construction of the sidewalk.
   - **Disposition:** Tree #931 is specified to be saved.

3. **Tree # 932: 34" Water Oak (Quercus nigra):** Tree #932 is near tree #931 located west of Grosvenor Metro Kiss & Ride and Bus Lane entrance road, approximately four (4) feet from the curb.
   - **Field Condition:** Good
• **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction of the proposed sidewalk.
• **Disposition:** Tree #932 is specified to be removed.

4. **Tree # 934: 38" Willow Oak (Quercus phellos):** Tree #934 is west of the Grosvenor Metro Bus Loop Lane, in the area between the bus lane and the station tracks, near the plaza entrance to the Grosvenor Metro Station.
   • **Field Condition:** Good
   • **Proposed CRZ Impact:** Minimal at 13.71%
   • **Disposition:** Tree #934 is specified to be saved.

5. **Tree # 935: 33" Willow Oak (Quercus phellos):** Tree #935 is in the middle of the island between the Surface parking lot and the Kiss & Ride parking lot.
   • **Field Condition:** Good
   • **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction.
   • **Disposition:** Tree #935 is specified to be removed.

6. **Tree # 936: 36" Willow Oak (Quercus phellos):** Tree #936 is just to the west of the Kiss and Ride parking lot.
   • **Field Condition:** Good
   • **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction.
   • **Disposition:** Tree #936 is specified to be removed.

7. **Tree # 939: 31" Northern Red Oak (Quercus rubra):** Tree #939 is in the middle of the island between the Bus Lane and Kiss & Ride parking lot.
   • **Field Condition:** Good
   • **Proposed CRZ Impact:** Extensive at 100% as the tree lies entirely within the project limits of disturbance for the construction.
   • **Disposition:** Tree #939 is specified to be removed.

**Justification Narrative for Tree Disturbance**

We submit the following rationale in support of the request for a Forest Conservation Tree Variance:

The 14.58-acre property is located along Tuckerman Lane in North Bethesda, Montgomery County, Maryland and across the street from the Music Center at Strathmore. As stated in the introduction of this correspondence, the proposed WMATA project will consist of an expansion to the existing garage, removal of the surface parking lot, addition of a bike station, redesign of the Artswalk, and reconfiguration of the Kiss & Ride facilities.

The proposed improvements are necessary to implement the larger-scale, future redevelopment recommended for the Property in the 2017 Approved and Adopted Grosvenor Strathmore Metro Area Minor Master Plan (the "Master Plan"). M-NCPDC and thereafter, the County Council, spent the last year
or so working on the Master Plan, specifically for the purpose of ensuring that the Grosvenor-Strathmore Metrorail site would be redeveloped in a manner acceptable to M-NCPPC in accordance with a concept proposed by Fivesquares and WMATA. The proposal fully complies with the recommendations contained in the Master Plan.

The site is currently developed with the Grosvenor Metro Station, garage, surface parking and existing forest.

Under Section 5-1611, variances may be granted

(a) ... where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an Applicant.

(b) Variance procedures adopted under this section shall:

1. Be designed in a manner consistent with the spirit and intent of this subtitle; and
2. Assure that the granting of a variance will not adversely affect water quality.
The variance is in conformance with Section 22A-21(d) of the Montgomery County Code because the granting of the variance (i) will not confer a special privilege on the Applicant that would be denied to others; (ii) is not based on conditions or circumstances which result from the action of the Applicant; (iii) is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property; and (iv) will not violate State water quality standards or cause measurable degradation in water quality. Each of these is described in detail below.

1. **Describe the special conditions peculiar to the property which would cause the unwarranted hardship.**

   The Property is located within an urbanized area of Montgomery County, directly adjacent to the Grosvenor-Strathmore Metro Station. Given its transit-oriented location, the Property is currently significantly underutilized. As a result, and given the age of the Metro Station improvements, a large number of trees currently exist on the Property.

   The Property provides an excellent opportunity for infill re-development at a density reflective of its location adjacent to the Grosvenor-Strathmore Metro Station. The Property is proposed to be re-zoned CR 3.0, C-0.5, R-2.75, H-300’, which reflects the appropriateness of the Property for high-density mixed-use development.

   In conformance with the goals and objectives of the recently adopted Master Plan, the Applicant is proposing to develop a transit-orient community on the Property that will create a walkable and vibrant new center for the local community and Metro commuters, integrating the arts (given its proximity to the Music Center at Strathmore), residences, affordable housing, beautiful open spaces and vibrant places with neighborhood amenities ("Strathmore Square"). The currently proposed improvements take an important first step toward accommodating the future Strathmore Square development. Given the urban and transit-oriented nature of the Property, the currently proposed infrastructure improvements (e.g. expansion to the existing garage, reconfiguration of the Kiss and Ride parking facilities, addition of a bike station, renovation of the existing Artswalk, a pedestrian corridor that connects the site to Music Center at Strathmore, and associated upgrades), which are necessary to implement the mixed-use, pedestrian friendly, transit-oriented development recommended in the Master Plan, simply cannot be accommodated if the Subject Trees could not be removed.

2. **Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.**

   Because of the location and dispersal of the trees throughout the Property, and the extent of their critical root zones, the inability to remove the Subject Trees would prevent the Applicant from making any significant changes to the site or developing the Property in a manner that is consistent with the Master Plan. It would also deprive the Applicant of opportunities enjoyed by others with similarly situated properties in the CR Zone, in close proximity to transit. Any redevelopment of the Property, consistent with the approved CR zoning, the County's goals as expressed through the Master Plan, and WMATA's Metro Station redevelopment policies would require similar levels of disturbance and tree loss.

3. **Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.**
The variance will not violate state water quality standards or cause measurable degradation in water quality. The Subject Trees are not located within a stream buffer, wetland or special protection area.

In connection with the infrastructure improvements described above, the Applicant and Fivesquares are proposing improvements to the existing storm drain system and to provide stormwater management per current regulations. The existing conditions on the Property include a parking garage and a surface parking lot serving the Metro Station. There is an existing stormwater management pond on-site and stormwater is currently conveyed via a closed system (storm drain pipe) to the pond, which ultimately discharges to the Rock Creek. The concept stormwater management plan incorporates the State's / County's Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP), according to the latest revision to Chapter 5 of the MDE Stormwater Management Design Manual. The proposed development includes treatment via two (2) micro-bio retentions (planter-type) located adjacent to the parking garage, two (2) micro-bio retentions (at-grade facilities) located along Tuckerman Lane, and two (2) underground stormwater management storage and treatment systems located beneath the Kiss & Ride parking lot.

The current Maryland Department of the Environment (MDE) Stormwater Management regulations that Montgomery County has adopted require the use of environmental site design (ESD) techniques to treat the runoff from 1 inch of rainfall on all new developments, where stormwater management is required. Per MDE’s 2000 Maryland Stormwater Design Manual, “[t]he criteria for sizing ESD practices are based on capturing and retaining enough rainfall so that the runoff leaving the site is reduced to a level equivalent to a wooded site in good condition[.]” Therefore, the variance will not affect water quantity standards and no measurable degradation in water quality will be experienced because effective mitigation measures are being provided.

4. **Provide any other information appropriate to support the request.**

The subject property is located on a corner lot in a highly visible and desirable location in North Bethesda across from Strathmore Hall and adjacent to the Grosvenor-Strathmore Metro Station. As mentioned above, the proposed improvements take a necessary and important first step toward realizing the County’s goals for the Property as expressed in the Master Plan.

All efforts have been made to save Specimen Trees on the Property, where possible. For example: in consultation with a certified arborist, we propose special precautions that will be taken with specimen tree #931 which has less than 33% CRZ disturbance, but is being disturbed relatively close to its trunk. To ensure that the tree has a strong chance of survival, a professional arborist will be engaged to oversee its protection and maintenance.

Specific measures to be taken may include:

- **Reduced LOD:** We have shown the maximum LOD anticipated in this application, but we may be able to reduce the LOD based on field conditions and final grading during construction;
• **Root Pruning:** Light-weight machinery with rubber tracks or tires, such as a bobcat with a vibratory plow (or equivalent) may be used during root pruning with hand pruning of roots over 1” diameter within critical root zones. Deep excavations will be reviewed when open for hand root pruning during construction. Coordinate with silt fence installation to minimize unnecessary root damage.

• **Prescribed Pruning:** Size, health, species and impact from proposed construction will be taken into consideration in determining pruning type for each tree. Minimal interior green including sprouts will be removed. Hazard pruning to 2” diameter limbs will remove dead, dying, declining branches. Lower limbs obstructing equipment will be clearance pruned to avoid breakage. All work will be specified by ANSI A-300 arboricultural standards.

• **Wood Chip Mulch:** Install mulch at 6-8 Inches in depth on area impacted by proposed construction. Mulch shall be double ground shredded hardwood, composted for at least 18 months from an approved source. Insufficiently or improperly aged mulch containing high bacterial counts or elevated levels of bark mulch resistant to decomposition shall not be used. Mulch will not contact trunk of tree. Edging is neither necessary nor desirable for this operation. Mulch will be removed after construction has ended.

• **Tree Protection Fencing:** Install tree protection fencing around the specimen tree impacted by proposed construction.

• **Tree Growth Regulator (Cambistat® or Equivalent):** After root pruning has occurred, apply a tree regulator such as Cambistat® (or equivalent) to the tree. Dilute tree regulator in water and apply as a soil drench or soil injection using the appropriate application equipment. This can occur anytime during the growing season if the ground is not frozen or saturated with water. Research shows that Cambistat® gently slows the growth of trees, allowing the tree to redirect some of its energy from canopy growth into defense chemicals, fibrous root production, and stored energy. This reallocation of energy will result in a healthier, more durable tree.

• **Soil Nutrient Management:** Add granular and/or liquid bio-stimulant and microbial inoculants/amendments to rebuild and restore proper balance and composition for healthy, stress resistant root systems to the tree. Application of the amendments shall be implemented once a year in the fall as part of a maintenance program. Soil testing before treatments and after the second year of treatments determines formulations and the need for following years based upon response.

However, the creation of multiple tree-save areas on the Property was ultimately impossible, given the necessary infrastructure improvements required to accommodate the future transit-oriented redevelopment envisioned in the Master Plan. The proximity of the Subject Trees to the proposed infrastructure improvements makes it impossible to save these Subject Trees. The development of the Property, in a manner consistent with the County’s goals, is not feasible while retaining all the specimen trees that surround it.

To mitigate the loss of the Subject Trees, the Applicant and Fivesquares are proposing on-site plantings. The Project will accommodate all mitigation on-site, at a ratio of 4:1 (4” removed DBH
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inches to 1” replaced DBH inches). The on-site plantings will provide various environmental benefits and tree canopy that will compensate for the loss of the Subject Trees.

In conformance with Section 22A-21(d) of the Code, the variance will not confer a special privilege on the Applicant that would be denied to others. Rather, as discussed above, the variance will prevent a significant hardship to be incurred by the Applicant as well as the deprivation of rights to the Applicant that have been enjoyed by others similarly situated. The requested variance is based on plans being developed under 1) the approved zoning, 2) the County’s goals as expressed through the recently approved Master Plan; and 3) WMATA’s Metro Station redevelopment policies, not conditions or circumstances resulting from actions by the Applicant. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance.

Thank you for your consideration of this Tree Variance Request. We believe that the supporting information provided with this letter clearly demonstrate that the grant of the Variance pursuant to Section 22A-21(b) of the Code is appropriate in this case. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further. We appreciate your consideration of this request.

Sincerely,

VIKA Maryland, LLC.

Douglas Koester, RLA, ISA
Senior Landscape Architect