



**University Gardens Limited Preliminary Plan Amendment 11988225B**

---

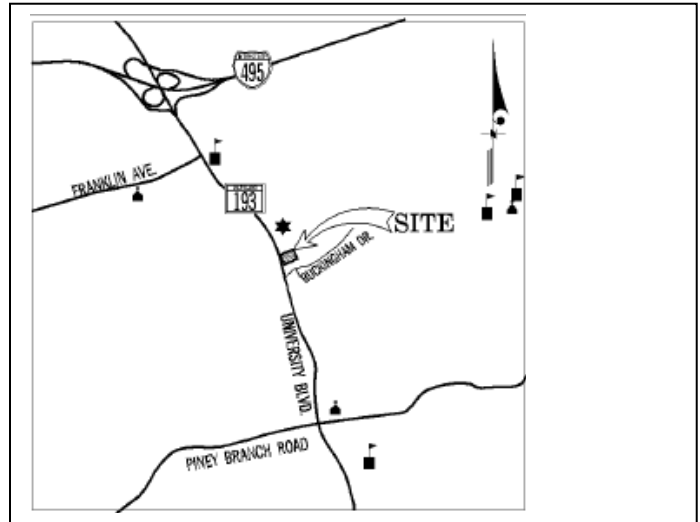
- Neil Braunstein, AICP, Area One, neil.braunstein@mncppc-mc.org, (301) 495-4532
- Robert Kronenberg, Supervisor, Area One, robert.kronenberg@mncppc-mc.org
- Rose Krasnow, Chief, Area One, rose.krasnow@mncppc-mc.org

Staff Report Date: 11/4/11

---

**Description**

Location: Located on the east side of University Boulevard, 50 feet north of Buckingham Drive.  
 Zone: R-60  
 Master Plan: East Silver Spring  
 Property Size: 2.08 acres  
 Limited Preliminary Plan Amendment to modify one condition of approval for a previously approved preliminary plan amendment that increased the size of an existing senior housing facility by 27 units through the construction of a four story building addition.



**Summary**

**Staff Recommendation: Approval with Conditions**

Staff recommends approval of the amendment to revise one condition of approval. The amendment would allow creation of one lot on the subject property, rather than retaining the subject property as a part of a lot.

**RECOMMENDATION:** Approval of the consent item and adoption of the draft resolution, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to one lot for a senior housing facility containing up to 92 dwelling units. This condition modifies approved condition no. 1 of the Planning Board Resolution 10-97 for Preliminary Plan Amendment 11988225A, dated September 27, 2010.
- 2) All remaining applicable previous conditions stated in the Planning Board Resolution of September 27, 2010, remain in full force and effect.

## **BACKGROUND**

On March 23, 1989, the Planning Board approved Preliminary Plan 119882250. The preliminary plan created one lot for a 65-unit senior housing facility.

On March 22, 1990, the owners of the senior housing facility transferred 2,000 square feet of land from their lot to an adjacent property owner. This action left the senior housing facility on a part of a lot.

On March 5, 2010, the Planning Board conducted a public hearing on Special Exception Modification 1424-A and recommended approval of the modification to increase the size of the senior housing facility by 27 units. The Planning Board's action included approval of an adequate public facilities (APF) review of the expansion, a preliminary forest conservation plan, and a forest conservation variance to remove two large trees. The Board also determined as a part of the special exception that the proposed expansion is in conformance with the applicable master plan. These approvals and findings continue to apply to this preliminary plan application.

On July 1, 2010, the Planning Board approved Preliminary Plan Amendment 11988225A (University Gardens). The purpose of the preliminary plan amendment was to allow the expansion of the existing senior housing facility on the existing part of a lot. The senior housing facility is to be expanded by constructing a four-story building addition containing 27 new units. The building will contain 92 units upon completion. The Planning Board resolution approving the preliminary plan amendment is included in this staff report as Attachment B.

The part of the lot containing the senior housing facility is exempt from platting requirements per Section 50-9(d) of the Subdivision Regulations. This section provides an exception for transfers of land between adjoining properties when the transfer is for not more than 2,000 square feet or 1% of the total land area, does not create additional lots, does not reduce either of the original lots below the minimum size permitted in the zoning ordinance, and takes place before May 19, 1997. The transfer in question meets all of the requirements of Section 50-9(d). Therefore, a new plat was not required before issuance of building permits for the building addition on the part of the lot.

## **PROJECT DESCRIPTION**

The applicant is requesting an amendment to modify one condition of approval in the September 27, 2010 resolution approving Preliminary Plan Amendment 11988225A. Because the applicant was not required and did not intend to plat the property as a new lot, the conditions of

approval did not state that approval of the preliminary plan was limited to one lot – as is typically the case. Rather, Condition 1 states that the use is limited to 97 units on the existing part of a lot. Now the applicant wishes to plat the property as a new lot, and, in order to accomplish this, the condition must be modified to specifically state that one lot is approved.

Therefore, the applicant requests that Condition 1 be modified as follows:

- 1) Approval under this preliminary plan is limited to [one lot for](#) a senior housing facility containing up to 92 dwelling units, ~~to be located on the existing part of a lot.~~

The applicant's desire to now plat the property is driven by a desire to further divide the property into lease or mortgage lines through a minor subdivision, in accordance with Section 50-35A(a)(4). That section authorizes the creation of deed, mortgage, or lease lines to further subdivide an existing commercial, industrial, or multi-family residential lot. The provisions of the section do not apply to parts of a lot.

## **ANALYSIS AND FINDINGS**

The Planning Board found the original preliminary plan and the previous amendment to be in substantial conformance with the East Silver Spring Master Plan, served by adequate public facilities, in compliance with the Forest Conservation Law (Chapter 22A), in compliance with the Subdivision Regulations (Chapter 50), and in compliance with the Zoning Ordinance (Chapter 59). The proposed limited preliminary plan amendment does not affect the application's fulfillment of these requirements, and the Planning Board's prior findings remain valid.

## **Citizen Correspondence and Issues**

Because this is a limited preliminary plan amendment, no pre-submission meeting was required. Written notice of the plan submittal and the public hearing date was given, however, by the applicant and staff, respectively. As of the date of this report, no citizen letters have been received.

## **CONCLUSION**

The proposed limited preliminary plan amendment to modify a condition of approval of a previously approved preliminary plan amendment does not alter the Planning Board's previous findings with respect to conformance with the Master Plan and compliance with the Forest Conservation Law, the Subdivision Regulations, the Zoning Ordinance, and adequate public facility requirements. Staff recommends approval of the limited amendment, subject to the conditions in this staff report.

## **Attachments**

Attachment A – Draft Resolution  
Attachment B – Resolution 10-97



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

**MCPB No. 11-107**  
**Preliminary Plan Amendment No. 11988225A**  
**University Gardens**  
**Date of Hearing: November 17, 2011**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 11, 2011, NCBA Housing Management Corporation ("Applicant"), filed an application for approval of a limited preliminary plan amendment that would modify one condition of approval for a previously approved preliminary plan amendment – that increased the size of an existing senior housing facility by 27 units through construction of a four story building addition – to create one lot on 2.08 acres of land in the R-60 zone, located on the east side of University Boulevard, 50 feet north of Buckingham Drive ("Property" or "Subject Property"), in the East Silver Spring Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan Amendment No. 11988225B, University Gardens ("Preliminary Plan Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff"), Staff issued a memorandum to the Planning Board, dated November 4, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on November 17, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, on November 17, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner \_\_\_\_\_; seconded by Commissioner \_\_\_\_\_; with a vote of **[X-X]**, Commissioners (listed in alphabetical order) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ voting in favor **[modify vote as applicable if PB member absent, abstains, etc.]**.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No. 11988225B to modify one condition of approval for a previously approved preliminary plan amendment – that increased the size of an existing senior housing facility by 27 units through construction of a four story building addition – to create one lot on the Subject Property, subject to the following conditions:

- 1) Approval under this Preliminary Plan Amendment is limited to one lot for a senior housing facility containing up to 92 dwelling units. This condition modifies approved condition no. 1 of the Planning Board Resolution 10-97 for Preliminary Plan Amendment No. 11988225A, dated September 27, 2010.
- 2) All remaining applicable previous conditions stated in the Planning Board Resolution of September 27, 2010, remain in full force and effect.

BE IT FURTHER RESOLVED, that this Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in the originally approved preliminary plan and that all findings remain in effect; and

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor(s) in interest to the terms of this approval; and

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

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

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

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, with Commissioners \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ voting in favor of the motion, **modify vote as applicable if PB member absent, abstains, etc.** at its regular meeting held on Thursday, \_\_\_\_\_, in Silver Spring, Maryland.

\_\_\_\_\_  
Françoise M. Carrier, Chair  
Montgomery County Planning Board



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

SEP 27 2010

MCPB No. 10-97  
Preliminary Plan Amendment No. 11988225A  
University Gardens  
Date of Hearing: July 1, 2010

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 9, 2009, Korean Community Senior Housing Corporation of Maryland, filed an application for review of a modification to a previously approved special exception that would allow an existing senior housing facility to be increased in size from 65 units to 97 units on 2.08 acres of land in the R-60 zone, located on the east side of University Boulevard, 50 feet north of Buckingham Drive ("Property" or "Subject Property"), in the East Silver Spring Master Plan area ("Master Plan"); and

WHEREAS, the special exception modification was designated as Special Exception Modification S-1424-A ("Modification") by the Montgomery County Office of Zoning and Administrative Hearings; and

WHEREAS, following review and analysis of the Modification by Staff and the staff of other governmental agencies, on March 5, 2010, the Planning Board held a public hearing on the Modification (the "Modification Hearing"); and

WHEREAS, at the Modification Hearing, the Planning Board made a determination of adequate public facilities and recommended approval of the Modification; and

WHEREAS, on May 6, 2010, NCBA Housing Corporation of Maryland ("Applicant"), filed an application for approval of an amendment to a previously approved preliminary plan of subdivision of property that would achieve consistency between the Modification and the preliminary plan; and

Approved as to  
Legal Sufficiency:

*C. [Signature]* 8/31/10

8787 Georgia Avenue, N.C. Special Department 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan Amendment No. 11988225A, University Gardens ("Preliminary Plan Amendment" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 18, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 1, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 1, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Wells-Harley; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, and Commissioner Dreyfuss being absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No. 11988225A to amend a previously approved preliminary plan by allowing an existing senior housing facility to be increased in size from 65 units to 97 units on the Property, in the East Silver Spring Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a senior housing facility containing up to 97 dwelling units to be located on the existing part of a lot.
- 2) The existing Adequate Public Facilities (APF) agreement for the property, dated July 25 (year not specified), is no longer applicable and may be terminated.
- 3) The Applicant must comply with the conditions of Special Exception Modification 1424-A.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated August 27, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 5) The certified preliminary plan amendment must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are



illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 6) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The East Silver Spring Master Plan does not contain detailed recommendations for the Subject Property. The Master Plan's proposed land use map recommends the site for "Elevator Apartments," but there is no further recommendation for the Property. However, one of the main goals of the Master Plan is to preserve the existing residential character of the area. The Master Plan's land use recommendations encourage neighborhood reinvestment and maintaining social diversity. The Planning Board finds that the Preliminary Plan meets these goals. By providing additional affordable senior housing in the area, this project provides an opportunity for additional senior residents to reside in the community, and construction of the addition demonstrates reinvestment in the neighborhood. Therefore, the Planning Board finds that the Preliminary Plan substantially conforms to the Master Plan.

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

Preliminary Plan 119882250, which was approved in 1989, was conditioned on execution of an APF agreement that limited the senior housing facility to 65 units. The Planning Board approved an APF review for Special Exception Modification 1424-A that confirmed that public facilities will be adequate to serve the proposed expanded use. The APF agreement was required in 1989 because a moratorium on development was in effect at that time. The moratorium has since been rescinded. Therefore, a revised APF agreement is not required. A condition is included in this approval that permits

the APF agreement to be terminated. The Planning Board reconfirms the adequacy of public facilities.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. Section 50-9(d) of the Subdivision Regulations provides an exception to platting for parcels of land that are sold or exchanged between owners of adjacent properties, if the exchanged land does not exceed 2,000 square feet and the exchange occurred before May 19, 1997. In this instance, the 2,000-square-foot parcel of land was conveyed in 1990, and the exchange meets all of the criteria for an exception.

The existing part of a lot was reviewed for compliance with the Zoning Ordinance. The proposed expansion of the existing senior housing use is consistent with the Modification, which specifically permits the use to be expanded by 27 units.

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

A preliminary forest conservation plan was approved by the Planning Board in a separate action on February 18, 2010. Approval of the forest conservation plan also included approval of a forest conservation variance to remove two trees that are larger than 36 inches in diameter.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on August 27, 2009. The stormwater management concept consists of construction of a landscaped infiltration area and a grassed swale to meet the full environmental site design requirements for new construction and provide control for the existing parking lot. A portion of the existing building will continue to drain to the existing infiltration structure via roof downspout connections.

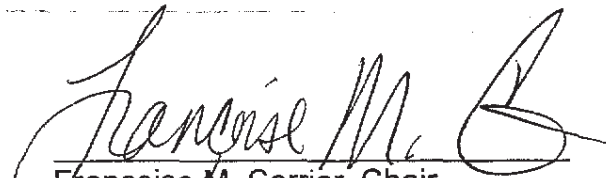
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 27 2010 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Chairman Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Françoise M. Carrier, Chair  
Montgomery County Planning Board