



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

MCPB No. 12-139
Preliminary Plan No. 120120090
Olney Assisted Living
Date of Hearing: December 13, 2012

DEC 21 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan applications; and

WHEREAS, on November 29, 2011, Olney Assisted Living Partners, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 3.59 acres of land in the R-200 zone, located on the west side of Georgia Avenue (MD 97) approximately 640 feet south of its intersection with Old Baltimore Road ("Subject Property"), in the Olney Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120120090, Olney Assisted Living ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated November 30, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 13, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120120090 to create one lot on the Subject Property, subject to

Approved as to
Legal Sufficiency:

[Handwritten Signature]
12/14/12

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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the following conditions:¹

- 1) Approval under this Preliminary Plan is limited to one lot for an assisted living facility not to exceed 64 beds and 17 employees on site.
- 2) The Applicant must comply with conditions of the Montgomery County Board of Appeals approval for Special Exception S-2819.
- 3) The Applicant must comply with the conditions of approval for the final forest conservation plan approved as part of this Preliminary Plan, including the following:
 - a) The final Sediment Control Plan must be consistent with the final limits of disturbance as approved by Staff.
 - b) The Applicant must place a Category I conservation easement over all retained and planted forest as specified on the approved forest conservation plan. Conservation easements must be shown on the record plats.
 - c) Prior to the start of clearing and grading, Applicant must submit financial security for planting 0.07 acres of forest and eleven shade trees for Variance mitigation.
 - d) Prior to the start of clearing and grading, Applicant must enter into a two-year Maintenance and Management Agreement for any on-site planting required.
 - e) Prior to the start of clearing and grading, Applicant must obtain the M-NCPPC Office of The General Counsel approval of a Certificate of Compliance agreement for any offsite forest planting required.
- 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 1, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

¹ 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.

- 5) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated March 28, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- 7) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated November 2, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Applicant must dedicate and show on the record plat 77 feet of right-of-way from the existing pavement centerline along the Subject Property frontage on Georgia Avenue.
- 9) Prior to obtaining any building permit, the Applicant must make a lump sum payment of \$11,700 to MCDOT to mitigate the PAMR required 1 peak-hour trip.
- 10) The record plat must show necessary easements.
- 11) The shared use path on Georgia Avenue must be constructed as shown on the Preliminary Plan.
- 12) 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.
- 13) The Applicant must provide the following for Noise Attenuation prior to issuance of the initial building permit:

- a. The Applicant must provide certification to Staff from an engineer that specializes in acoustical treatment that the building shell for residential dwelling units will be constructed to achieve an interior level not to exceed 45 dBA Ldn. If any changes occur to the plan which affect the validity of the noise analysis dated, November 30, 2011, acoustical certifications, and noise attenuation features, a new noise analysis will be required to reflect the revised plans and new noise attenuation features may be required.
- b. Applicant must certify that the noise-impacted units will be constructed in accordance with the recommendations of the engineer that specializes in acoustical treatments.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

The Preliminary Plan meets the Master Plan goal of providing housing choices for the elderly at a density and scale generally harmonious with the largely residential character of this part of Olney. The proposed facility is appropriate amongst the existing mix of institutional, residential and light commercial uses in the area.

The building as approved by the Special Exception will blend with the low-density, suburban characteristics of the surrounding area. The Master Plan recommends (p.41) a minimum 100-foot setback from the road right-of-way for those developments located along Georgia Avenue between Norbeck Road and the Town Center. At its two closest points, the wings of the residence are set back approximately 120 feet from the Georgia Avenue right-of-way while the remainder of the building's frontage is set back a minimum of 150 feet from the right-of-way, exceeding the minimum recommended by the Master Plan.

The proposed one-story facility has been designed to blend with the adjoining residential communities. The building incorporates architectural features and materials that match the character of the surrounding structures. Substantial landscaping provides screening of the parking area from Georgia Avenue. The proposed lighting will not cause glare on adjoining properties

The Master Plan recommends a shared use bike path (SP-29) on Georgia Avenue between MD 108 and Norbeck Road. The Preliminary Plan shows that

this shared use path will be constructed along the Property frontage in a manner recommended by the Master Plan.

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

The assisted living facility will generate a maximum of two peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and a maximum of four peak-hour trips during the weekday evening (4:00 p.m. to 7:00 p.m.) peak periods, respectively. Because the Application does not generate greater than 30 peak hour trips in the morning or evening, no traffic study was required and the project satisfies the Local Area Transportation Review test.

The Property is located within the Olney Policy Area where there is a 5 percent PAMR trip mitigation requirement according to the County's Subdivision Staging Policy. The Applicant is required to make a lump sum payment of \$11,700 to mitigate a minimum 1 peak-hour trip which represents 5 percent of new trips generated by the proposed development. Thus, the Application meets the PAMR requirements of the APF review.

Access to the site will be provided from Georgia Avenue via a driveway shared with the Church of Christ of Olney. The driveway will be widened in accordance with MDSHA standards. The Application shows the Master Plan recommended 8 to 10 foot wide shared use path along the Georgia Avenue frontage, and it has been accepted by MDSHA and MCDOT. The internal parking lot has been accepted for access by the Montgomery County Department of Fire and Rescue Services. The shared use path is connected to the internal sidewalk system by a lead walk that is appropriately located on the southern corner of the Subject Property where there is a bus stop on Georgia Avenue. The proposed vehicular and pedestrian access to the Property is safe and adequate.

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

The lot size, width, shape and orientation is appropriate for the location of the subdivision taking into account the recommendations of the Master Plan and for the type of development or use proposed. The lot meets the dimensional requirements for area, frontage, width, and setbacks in the zone.

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

Forest Conservation

The Board finds that as conditioned, the Application and the Forest Conservation Plan comply with the requirements of the Forest Conservation Law.

A preliminary Forest Conservation Plan, including a variance under §22A-12(b)(3) for the removal of twelve (12) specimen trees, and impacts to the critical root zones of four (4) specimen trees, was approved with conditions by the Planning Board at a public hearing on November 17, 2011 as part of a Special Exception Application S-2819 (MCPB Resolution No. 11-117). The amount of proposed forest clearing and retention has not changed on the final Forest Conservation Plan; however, the net tract area for the project increased from 3.75 acres to 3.85 acres due to additional offsite disturbance for improvements to the entrance driveway. The increase in net tract area results in an increase in the planting requirement from 1.61 acres to 1.65 acres. The Applicant proposes to clear 2.31 acres, retain 0.16 acres and plant an additional 0.07 acres of forest adjacent to the retained forest on the Property. The planting will satisfy a portion of the forest planting requirement. This combined 0.23 acres of forest will be protected in a Category I conservation easement. The easement will be located along the northern Property line, contiguous with forest on the adjacent property. The easement will protect the onsite forest as well as the critical root zones of healthy specimen trees located on the adjacent property to the north. The remaining 1.58 acres of forest planting requirement will be satisfied at an approved off-site forest mitigation bank.

5. *All storm water management requirements shall be met as provided in Chapter 19, Article II, Title "Stormwater Management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The storm water management concept indicates stormwater management goals will be met via micro-biofilters, planter box biofilters and permeable pavement for the shared use path. Partial attenuation of the 10-year storm, as required by MCDOT in their review of the storm drain study, is proposed via an underground facility due to the limited capacity of the existing downstream storm drain system.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all

property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

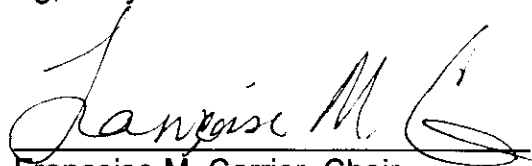
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 21 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice-Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion at its regular meeting held on Thursday, December 13, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board