



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

MCPB No. 17-086
Preliminary Plan No. 120170270
Brightview Grosvenor
Date of Hearing: September 28, 2017

OCT 19 2017

RESOLUTION

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

WHEREAS, on December 21, 2016, the Office of Zoning and Administrative Hearings approved Conditional Use Application No. CU 16-14 to permit a Residential Care Facility for up to 98 units (up to 104 beds) ("Approved Conditional Use") on 2.75 acres of land in the R-90 zone, located 5510 Grosvenor Lane, Bethesda ("Subject Property"), in the Area 2 Policy Area and in the North Bethesda/Garrett Park ("Master Plan") area, subject to certain conditions; and

WHEREAS, on April 26, 2017, Shelter Development, LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one lot for the Approved Conditional Use on the Subject Property; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120170270, Brightview Grosvenor ("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 September 15, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 28, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 28, 2017, the Planning Board approved the Preliminary Plan on motion of Commissioner Cichy; seconded by Commissioner Fani-Gonzalez; with a vote of 4-0, Commissioners Cichy, Dreyfuss, Fani-Gonzalez, and Patterson all voting in favor, with Chairman Anderson being absent.

Approved as to
Legal Sufficiency:

 - 9/28/17
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NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170270 to create one lot for a Residential Care Facility with 98 assisted living units (104 beds) on the Subject Property, subject to the following conditions:¹

- 1) This Preliminary Plan is limited to one lot to allow for a Residential Care Facility with up to 98 assisted living units (up to 104 beds).
- 2) The Applicant must comply with the conditions of the Hearing Examiner's approval for Conditional Use Application No. CU 16-14.
- 3) The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Seventy (70) feet from the opposite right-of-way line along the Property frontage for Grosvenor Lane.
 - b. Sixty (60) feet from the opposite right-of-way line along the Property frontage for Fleming Avenue.
- 4) Prior to recordation of the plat(s) the Applicant must satisfy the Montgomery County Department of Permitting Services (MCDPS) – Right-of-Way Permitting Section requirements to ensure the construction of a 5-foot-wide sidewalk along the property frontage on Grosvenor Lane and a 10-foot-wide shared-use path along the property frontage on Fleming Avenue.
- 5) Prior to issuance of any building permits, the Applicant must pay the development impact tax in accordance with Chapter 52 of the Montgomery County Code, subject to any County Council amendments to this chapter.
- 6) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated May 25, 2017, as amended by email dated July 24, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter and email, which MCDOT may amend if 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.

- 7) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 8) The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated March 16, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS – Water Resources Section may amend if the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Planning Board accepts the recommendations of the MCDPS – Fire Department Access and Water Supply Section in its letter dated June 22, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
- 10) Prior to submission of any plat, Site Plan No. 820170090 must be certified by M-NCPPC Staff.
- 11) No clearing or grading of the site, or recording of plats may occur prior to Certified Site Plan approval.
- 12) All necessary easements must be shown on the record plat.
- 13) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
- 14) The certified Preliminary Plan 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 at the time of site plan approval. 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.”

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:

- The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The size, width, shape, and orientation of the lot is appropriate for the location. The development is shown at an appropriate and efficient location on the Property, with generous building setbacks from Grosvenor Lane and Fleming Avenue. A significant tree preservation area will occupy the northern section of the lot and extensive landscaping will screen views of the building from the north, west and south.

The lot was reviewed for compliance with the dimensional requirements for the R-90 Zone as specified in the Zoning Ordinance. The proposed lot will meet all the dimensional requirements for area, frontage, width, and setbacks in the zone and accommodate the proposed use (see Table 1 below).

Table 1: Applicable Development Standards, R-90 Zone		
Section 59-4.4.8.B. Standard Method Development ¹		
	Required / Allowed	Proposed
1. Lot and Density		
Lot (min)		
Lot area <i>Section 59-3.3.2.E.2.c.ii(d)</i>	Greater of 2 acres or 83,200 SF (800 SF per bed)	2.66 acres/ 1,115 SF per bed
Lot width at front building line	75'	345'
Lot width at front lot line	25'	314'
Density (max)		
Density <i>Section 59-3.3.2.E.2.c.ii(d)</i>	Greater of 2 acres or 83,200 SF (800 SF per bed)	2.66 acres/ 1,115 SF per bed
Coverage (max)		
Lot	30%	21%
2. Placement		
Principal Building Setbacks (min)		
Front setback	30'	133'
Side street setback, abutting lot	30'	38'

fronts on the side street and is in a Residential Detached zone		
Side setback <i>Section 59-3.3.2.E.2.c.ii(e)</i>	20'	40'
Sum of side setbacks	25'	78'
Rear setback	25'	37'
3. Height		
Height (max)		
Principal Building, measured to mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof	30', or 40' with site plan approval	40'

¹ As noted in the table, certain development standards are modified by the use standards for a Residential Care Facility (Over 16 Persons) in Section 59-3.3.2.E.2.c.

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

As described below, the Preliminary Plan substantially conforms to the 1992 *North Bethesda/ Garrett Park Master Plan*. The Master Plan does not specifically address the Property, but several general recommendations in the Master Plan are relevant to this Application:

- *“Direct future development to land nearest to Metro stops and new transit stations, and to areas best served by transportation infrastructure.”* (page 33, 35)

The Property is served by existing transportation infrastructure. The Grosvenor Metro Station is within a mile, and Ride On Bus Route 6 runs along Grosvenor Lane, with stops at the intersection of Fleming Avenue and Grosvenor Lane. The North Bethesda Trail also runs adjacent to the Property along Fleming Avenue.

- *“Encourage a land use pattern that provides opportunities for housing and employment.”* (page 35)

The facility will provide up to 98 residential units of assisted living, and it will employ up to 65 full time equivalent employees, providing housing for the elderly population as well as adding a modest amount of employment to the area.

- *“Protect and reinforce the integrity of existing residential neighborhoods.”* (page 33)

The design of the facility is residential in character. The extensive landscaping along Fleming Avenue and retention of the existing forest along Grosvenor Lane will screen the facility from the existing houses in the neighborhood. The

residential nature of the use is consistent with the surrounding residential neighborhood. Noise, outdoor lighting, and service deliveries will be kept to a minimum and the garage and parking/service areas are screened from the adjacent properties. The orientation of the building with a smaller façade facing Fleming Avenue, craftsman style architecture, and articulation of the facades will create a building that blends in with the predominantly residential character of the neighborhood. Therefore, the facility will protect and reinforce the integrity of the existing residential neighborhood.

The residential care facility contributes to the diversity of housing in the Plan area; it will provide 98 assisted living units including 29 units for memory care patients. There is only one other elderly care facility in the Neighborhood: Bethesda Health and Rehabilitation Center.

The building and site design will be compatible with the surrounding residential neighborhood, and uses the site's topography (lower elevation than Fleming Avenue), existing natural features (existing forest along Grosvenor Lane), the style of architecture (residential, Craftsman), the building step-downs at the corners facing Fleming Avenue, and articulation of the building facades to create a facility that fits well in its context and will be compatible with the surrounding neighborhood. The Property's grade difference along Fleming Avenue, approximately six to eight feet below the Fleming Avenue elevation, will help reduce the visual impact of the height and the bulk of the building when viewed from the Fleming Avenue side. Thirty-seven of the fifty-one parking spaces are below grade under the building, allowing the retention of the existing forested area in the front of the building. The building employs Craftsman style architecture to achieve the appropriate visual compatibility with the residential buildings in the area, specifically those across Fleming Avenue and Grosvenor Lane. The articulation of the facades, sloping roof with design variations to create a more interesting roof line, building orientation with smaller façade facing Fleming Avenue, and screening on all sides will make the building compatible with the surrounding buildings.

Housing Diversity

The Plan emphasizes the need for a variety of housing, including elderly housing, located in proximity to transportation corridors:

- *This Plan recommends that future development be focused at...areas best served by transportation infrastructure, with more emphasis on housing.” (page 2)*
- *A wide range of housing types within each neighborhood should be encouraged to avoid large concentrations of any single type and increase the potential for pedestrian connection between diverse housing types.” (page 12)*

- *Preserve and increase the variety of housing stock, including affordable housing.* (page 33, 35)
- *Encourage a land use pattern that provides an opportunity for housing and employment.* (page 33)
- *Encourage the location of elderly housing and elderly support service along bus routes.* (page 228, 244)
- *Support the provision of housing for special populations through the special exception process.* (page 229)

The residential care facility satisfies several of the Plan's housing goals. A Residential Care Facility (which includes an assisted living facility) is classified as "Group Living" under the Residential Use Category in the Zoning Ordinance. The facility will increase the housing diversity in a neighborhood, which comprises primarily detached houses, by increasing the area's housing choice for elderly residents. In addition, 29 of the 98 units will be for residents who need specialized memory care. The facility will be along Ride On Bus Route 6, which travels between Parkside and the Montgomery Mall transit center via Grosvenor Metro Station. Bus stops are located on Grosvenor Lane adjacent to the Property.

Environment/Green Infrastructure

The Property is located on Grosvenor Lane, one of the Plan's designated "Green Corridors." The purpose of the Plan's Green Corridors policy is, "to ensure the identity and integrity of residential areas along major roadways, and to strengthen community identity by creating attractive transportation corridors." (page 250). The Plan provides further guidance on preservation and enhancement of environmental features:

- *Preserve existing woodland and encourage reforestation throughout the Planning Area.* (page 34)
- *Retain mature trees as buffers in new residential development to create visual separation from major roads.* (page 247)
- *Retain the maximum number of specimen trees on sites where they occur.* (page 247)
- *Provide screening for parking, even when less than six parking spaces are involved.* (page 251)
- *Retain green space, particularly when it provides trees that screen buildings.* (page 251)

The building will be setback more than 133 feet from Grosvenor Lane and retain 0.32 acres of the forest along Grosvenor Lane, which will maintain the existing "Green Corridor." Further, the Applicant must remove a stand of bamboo, a non-native invasive species, on the adjacent historic property that will be replanted as forest to expand the existing forest conservation easement. The 14 surface

parking spaces will be screened by the preserved forest to the north and landscape plantings to the east and west of the Property.

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

Transportation infrastructure and other public facilities are adequate to support and service the facility. The Property is located along both Grosvenor Lane and Fleming Avenue, with convenient access to MD-355, I -270, and the Capital Beltway. Vehicular access to the Property is currently from Grosvenor Lane, which will be retained at its current location and no additional access is proposed from Fleming Avenue.

Master-Planned Roadway and Bikeways

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, the current master-planned roadway and bikeway designations near the Property are:

Grosvenor Lane is designated as a two-lane primary residential street, P-5, with a recommended 70-foot-wide right-of-way. The existing right-of-way along Grosvenor Lane is only 65 feet wide and requires dedication of five more feet along the Property frontage for a total of 70 feet from the opposite right-of-way line as recommended in the *North Bethesda/Garrett Park Master Plan*. The *Countywide Bikeways Functional Master Plan* recommends a signed shared roadway (SR-36) along Grosvenor Lane.

Fleming Avenue is not listed in the *North Bethesda/Garrett Park Master Plan*, but is classified as a secondary residential street requiring a 60-foot-wide right-of-way. The existing right-of-way along Fleming Avenue ranges from 45 to 60 feet wide. The Applicant is required to provide dedication along the Property frontage for a total of 60 feet of right-of-way from the opposite right-of-way line. The *Countywide Bikeways Functional Master Plan* recommends a 10-foot-wide shared use path (SP-41).

Public Transit Service

Along Grosvenor Lane, Ride On route 6 operates between the Grosvenor Metrorail Station and Westfield Montgomery Mall with 30-minute headways on weekdays. The bus stops are located at the intersection of Grosvenor Lane and Fleming Avenue. Transit service is not available along Fleming Avenue. The Grosvenor Metrorail Station is located less than a mile away to the northeast of the site.

The Applicant is not required to enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the North Bethesda

Transportation Management District (TMD) because the site is located outside the TMD's boundary. However, the Applicant is encouraged to participate in the TMD to provide employees alternative modes of transportation rather than commuting via their single-occupancy vehicle.

Pedestrian and Bicycle Facilities

Along the Property frontage of Grosvenor Lane, the Applicant must upgrade the existing sidewalk from 4 feet to 5 feet and the existing green panel from 5.5 feet to 7 feet.

Along the Property frontage of Fleming Avenue, the Applicant must replace the existing substandard shared-use-path with an updated 10-foot-wide shared-use-path, which will connect to the shared-use-path required of the adjacent residential development (Preliminary Plan No. 120130110 and Site Plan No. 820130130) and provide access to Fleming Local Park to the south.

Lead-in sidewalks are required from Grosvenor Lane and Fleming Avenue, and all sidewalks and connections will be ADA compliant.

The Applicant must provide eight bicycle parking spaces, or four inverted-U bike racks, where each rack stores two bicycles each. Two inverted-U bike racks are located near the main entrance (short-term), and two are located in the underground parking garage (long-term) for employees.

Transportation Adequate Public Facility Tests

The Preliminary Plan application was reviewed under the 2016-2020 Subdivision Staging Policy (SSP), because it was filed after January 1, 2017.

Local Area Transportation Review (LATR)

A traffic statement dated February 8, 2017, was submitted and analyzed based on a 104-bed assisted living facility using trip generation rates in the Institute of Transportation Engineers' (ITE) Trip Generation report. The 104-bed facility will generate 19 peak-hour person trips during the weekday morning peak period (6:30 to 9:30 a.m.) and 30 peak hour person-trips during the weekday evening peak period (4:00 to 7:00 p.m.). A traffic study is not required because the facility generates fewer than 50 total peak-hour person-trips within the weekday morning and evening peak periods.

Policy Area Review

The Applicant is required to pay the updated General District Transportation Impact Tax. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, as amended.

Schools Test

The FY2017 Annual School Test does not apply to this property because the use does not generate any children/students.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the development. The Property is proposed to be served by public water and public sewer. This application has been reviewed by the Montgomery County Fire and Rescue Service, who has determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

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

Environmental Guidelines

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for this site on December 18, 2015. The site contains no streams or their buffers, wetlands or their buffers, steep slopes, 100-year floodplains, or known habitats of rare, threatened, and endangered species. This plan complies with the Montgomery County Planning Department's *Environmental Guidelines*.

Previous Preliminary Forest Conservation Plan and Variance Approval

A Preliminary Forest Conservation Plan (PFCP) and Variance was approved as a part of the Planning Board's review and recommendation of approval of Conditional Use No. CU 16-14. The site contains 0.98 acres of forest. The PFCP proposed clearing 0.95 acres of forest, and retaining 0.33 acres in a Category I Conservation Easement. The land use, zoning, net tract area, forest cleared, and forest retained yielded a reforestation requirement of 0.54 acres of forest planting. The Applicant proposed to fulfill the planting requirement through a combination of landscape credit and by planting an area on the adjacent Wild Acres property that is contiguous with an existing Category I Conservation Easement on that property. The accompanying Variance request was also approved, permitting removal of seven trees and permitting impacts to an additional 13 trees defined as high priority for retention and protection under Section 22A-12(b)(3) of the County code. The trees are on the Property and the adjacent Wild Acres property. A condition of the approval of the Preliminary Forest Conservation Plan was "A Final Forest Conservation Plan (FFCP) that substantially conforms to the PFCP must be approved with the Preliminary Plan approval, or with the Site Plan approval if a Site Plan is required."

The Final Forest Conservation Plan substantially conforms to the Preliminary Forest Conservation Plan, and complies with Chapter 22A, the Forest Conservation Law, and the Montgomery County Planning Department's Environmental Guidelines. The Final Forest Conservation Plan has been reviewed and approved as part of the concurrent Site Plan No. 820170090.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS - Water Resources Division on March 16, 2017. Stormwater treatment will be accomplished using porous pavement, proprietary filtration structures, and micro-bioretenion facilities.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for six (36) months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, 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 OCT 19 2017 (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).

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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 Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, October 12, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board