



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**

**Item # 4 & 5**

**Date: 10/02/03**

**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** September 26, 2003

**TO:** Montgomery County Planning Board

**VIA:** John A. Carter, Chief, Community-Based Planning *JAC*

**FROM:** Joel A. Gallihue, AICP *JAG*  
Bill Barron, Team Leader, Eastern County Team *BB*

**SUBJECT:** **S-2480: Lucas Group Home** – by Connie Lucas, 16434 Batson Road, Spencerville, appx. 7.9 acres in area, RC Zone, Cloverly Master Plan

**PUBLIC HEARING:** October 20, 2003

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**RECOMMENDATION      APPROVAL with conditions:**

1. The applicant is bound by all submitted statements and plans.
2. The group home for the elderly is limited to 16 (sixteen) residents, including residing staff. Up to four nonresident staff are permitted on the largest shift.
3. The applicant must possess, not later than the issuance date of the use and occupancy certificate, valid State of Maryland and County licenses, certificates, or registrations that may be required for a group home.
4. Compliance with the conditions of approval of the Preliminary Forest Conservation Plan prior to issuance of building permit and sediment control permit.
5. The sediment and erosion control plan and a stormwater management plan must be submitted to MNCPPC for review prior to approval by the Department of Permitting Services. The plans must conform to the limits of disturbance specified on the Preliminary Forest Conservation Plan.
6. Evergreen shrubs or fencing must be provided along the southern and western edges of the parking to screen the parking from Batson Road and adjacent parcels.

**PROJECT SUMMARY**

The applicant, Connie Lucas, is requesting a special exception to operate a large group home for elderly residents on an undeveloped lot at 16434 Batson Road in Spencerville,

in the RC (Rural Cluster) Zone. The property is Lot 4 of Jackson's Addition to Spencerville on Tax Map KS 33. Ms. Lucas proposes to construct a new residence to provide assisted living care for up to 16 elderly residents. Ms Lucas will be a member of the staff and she and her spouse will live in the group home. The proposed two-story structure with a basement will comprise approximately 11,745 square-feet on the two floors. The proposed floor plans for the home shows sixteen bedrooms, with each bedroom having a bathroom. The plans also show a kitchen and a pantry, two dining areas, a family room, a craft area, a den, an office, and a covered porch, which wraps around two sides of the structure. A total of 11 parking spaces, located over 100 feet from Batson Road, are provided along a 16-foot wide driveway.

**Neighborhood Description**

The subject property is located north of Spencerville Road west of the Patuxent River Watershed Conservation Park area. Properties adjacent to the subject site include three single-family homes located off a common driveway along the eastern boundary, a single-family home to the north, an undeveloped parcel to the east and a single-family home across Batson Road to the south.

**Site Description**

The undeveloped site of approximately 7.9 -acres is mostly wooded with a relatively small clearing near Batson Road. Two gravestones are located under two specimen white oak trees near Batson Road. Approximately six acres of the property will remain forested, and there will be a selective cutting of trees located within the proposed septic system area at the rear of the structure. The grade drops approximately eighty feet from Batson Road to the stream along the northwest corner of the property in the rear. The proposed driveway and parking along the western boundary and a portion of the group home are to be located within the presently unforrested portion of the property. Staff recommends that evergreen plantings be provided along the southern and western edges of the parking to screen the parking from Batson Road and adjacent parcels.

**Project Description and Elements of Proposal**

In the statement of operations it is stipulated that most of the elderly residents will be over seventy-five (75) years of ages. Residents would typically need assistance with the tasks of every day living (e.g., bathing, dressing and meal preparation) and would not drive. Once the group home has received appropriate licensure from the County and State, an appropriate ratio of staff to residents will be maintained. At full capacity, there will be a maximum of four staff (not including the applicant) present at any given time. Staff will be employed seven days a week. Staff schedules will be staggered as follows:

- 1 Staff member - 7:30 a.m. – 4:00 p.m.
- 1 Staff member - 8:00 a.m. – 4:30 p.m.
- 1 Staff member - 10:00 a.m. – 6:30 p.m.
- 1 Staff member - 2:00 p.m. – 10:00 p.m.

In addition to the above staffing, the applicant will be on staff through the evening/night hours from 5:00 p.m. to 7:45 a.m. Ms. Lucas or her staff will purchase groceries and household products from neighborhood stores.

### **ADDITIONAL REVIEW REQUIREMENTS**

This lot was recorded by minor subdivision under the 50-35A-6, since it was a parcel created by deed prior to June 1, 1958. It is part of the Jackson's Addition to Spencerville subdivision of Tax Map KS 33. No preliminary plan of subdivision was required for this process. Adequate public facilities review has been made of the special exception and the petition meets the transportation-related requirements of the APF test.

### **ISSUES**

There are no outstanding issues associated with this application.

### **Master Plan**

The site is located in the Cloverly Master Plan area, which was approved and adopted in 1997. The master plan does not have any specific guidance for this use, however, a large group home use (up to 16 residents) is allowed by special exception in the RC zone. The plan does emphasize the importance of retention of residential character, where feasible, in special exception applications. On page 37 the Plan provides the Board of Appeals with guidelines for evaluation that are similar to the standards in the Zoning Ordinance. The attached elevations depict a two-story structure. The use of a pitched roof, residential scale windows, and siding materials maintain a residential appearance and make it compatible with the adjoining neighborhood. The lighting plan indicates "acorn" fixtures and ground lighting that is typical of residential settings. A sign is indicated which will require a variance of the of the Sign Review Board. No illumination is specified and would not be recommended.

### **Development Standards**

The application conforms to the Development Standards in the Zoning Ordinance. The lot is exempt from the area and dimensional requirements for the RC zone. Section 59-C-9.73(b)(2) provides an exemption because this is a lot created by deed on or before the approved date of the most recent sectional map amendment. The intent of this zone is to provide designated areas in the county for a compatible mixture of agricultural uses and low-density residential development to promote agriculture, and to protect scenic and environmentally sensitive areas.

### **Parking**

The parking requirement for a group home is one space for every two residents plus one space for every two employees on the largest work shift. Based upon these criteria, a total of ten parking spaces are required for this special exception, eight spaces for up to 16 residences, plus two spaces for the four employees and on the largest work shift. A total of eleven off-street parking spaces are provided with this application.

### **Transportation**

Transportation Planning staff recommends no transportation-related conditions should this special exception case be granted for the proposed group home as the petition meets the transportation-related requirements of the APF test. As a single-family detached unit, the site-generated traffic would be only one peak-hour trip during the morning peak period (7:00 a.m. to 9:00 a.m.) and one peak-hour trip during the evening peak period (4:00 p.m. to 6:00 p.m.). As a group home for elderly residents, the site-generated traffic would be nominal, if any, during the weekday peak periods because the residents typically do not drive motor vehicles. The minimal traffic generated by the group home would be by the on-site caregiver and four staff members on a daily basis and by occasional visitors during the week. If this were a subdivision case, a traffic study would not be required for LATR, because the site would generate fewer than 50 total peak-hour trips during the morning and evening peak periods. Therefore, the applicant is not required to analyze the impact of site-generated traffic on adjacent intersections. The site is located in a rural policy area where the Policy Area Review test is not applicable. Staff finds that this action will have no adverse effect on area roadway conditions.

### **Environmental Analysis**

The property consists of approximately 8 acres of primarily wooded land located in the Lower Patuxent River watershed. The property contains a small portion of one tributary stream and its associated buffer, and the stream buffer of another tributary stream just outside the property boundary. The property drains to the Rocky Gorge Reservoir, which is a primary drinking water supply for the region. The Patuxent River and the reservoir are being heavily impacted by increasing pollution levels associated with land development, and from ongoing pollution associated with agricultural activities. The Patuxent River Policy Plan (State Policy Plan) was approved in 1984 to address these impacts. Under this State Policy Plan, Montgomery County agreed to develop and implement a primary management area approach to watershed protection.

The Primary Management Area (PMA) in Montgomery County is a water quality protection and restoration area along streams and the river, where land use activities are managed to protect and enhance water quality. The width of the PMA is 660 feet for all tributaries. It consists of a stream buffer as defined in the Environmental Guidelines, and a transition zone where lower density uses are recommended and imperviousness should not exceed 10 percent.

The majority of the subject property falls within the PMA transition zone and therefore should meet the 10 percent imperviousness limitation. According to the approved

stormwater management concept plan, the proposed imperviousness is 7 percent of the site.

### Preliminary Forest Conservation Plan

The proposed Preliminary Forest Conservation Plan (PFCP) includes preservation of 3.7 acres of forest within the on-site stream buffers and on adjacent upland area. A significant amount of the forest being counted as cleared is within the extensive septic reserve area required for this use. Clearing will not take place in the reserve area until replacement septic trench is needed. The Health Department requires more than typical length of septic reserve on properties which drain to the Patuxent reservoirs as extra precaution for water quality protection. In keeping with other forest conservation plans approved with this requirement, some of the forest included in the extra reserve area is not required to be counted as cleared. A minimum of 1.15 acres of off-site reforestation is required as part of the forest conservation plan.

The Preliminary Forest Conservation Plan also includes preservation of a specimen tree. A detailed tree protection plan has been submitted and is recommended for approval as part of the PFCP.

### **Landscaping and Lighting**

The lighting plan indicates "acorn" fixtures and ground lighting that is typical of residential settings. The plan demonstrates that lighting levels will not exceed a half-foot candle at the property line. The "acorn" fixtures include an internal reflector to direct light and deflect glare. The ground lighting is directed towards the building to prevent offsite glare. No lighting is proposed for the sign.

### **Inherent and Non-inherent Effects**

The non-inherent adverse effects, alone and in conjunction with the inherent adverse effects, are sufficient to justify denial of this application.

The inherent effects are the **(generic)** effects generally associated with the use. Non-inherent effects are the **(particular)** physical and operational characteristics not generally associated with the use, or effects created by unusual characteristics of the site.

This application represents a proposal for a new group home for the elderly. The inherent, generic physical and operational characteristics arising from the given use include residential activities consistent with a large home, except that the age of clients is restricted. Such a use will include parking by staff and residents. The non-inherent characteristics include the size and mass of the building, setbacks, and specific operational characteristics of the senior housing including any combined use. No combined use is proposed. Staff also finds that the proposed size, mass and setbacks are compatible with existing and proposed adjacent development. Staff finds that there are no non-inherent characteristics that warrant a recommendation of denial. Staff finds that all of the physical and operational characteristics of the proposed use will be compatible with existing development.

## **CONCLUSION**

The staff finds that the special exception satisfies all of the applicable special exception provisions found in the Zoning Ordinance. Therefore, we recommend approval with the conditions found in the beginning of the report.

### **Attachments:**

General and Specific Special Exception Provisions

Vicinity Map – Page A-1

Location Map – Page A-2

Site Plan – Page A-3

Floor Plans & Elevations for Group Home Pages A-5 – A-9

Floor Plans & Elevations for Future Garage Pages A-10 – A-15

Lighting – Page A-16

Transportation Referral – Page A-17

Environmental Referral – Page A-19

Forest Conservation – Page A-22

**Attachment 1.**

**Montgomery County Zoning Ordinance  
Compliance with Specific and General Special Exception Provisions**

**Sec. 59-G-2.26. Group home, large.**

(a) When allowed. In addition to the general conditions required in division 59-G-1, a group home may be allowed upon a finding by the Board of Appeals:

- (1) That any property to be used for a group home is of sufficient size to accommodate the proposed number of residents and staff.

*The floor plans for the proposed home indicates one for each of the sixteen residents, which includes any residing staff. The home also includes common areas. The proposed structure is of sufficient size to house to accommodate the proposed sixteen residents and residing staff.*

- (2) That the site to be used as a group home for children provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.

*This proposal is to house the elderly.*

- (3) That off-street parking must be provided in the amount of one parking space for every 2 residents and one space for every 2 employees on the largest work shift. The Board may decrease the off-street parking where the method of operation or clientele indicates the decrease is warranted.

*There will be sixteen residents (clients or staff) and up to four off-site employees. Ten parking spaces are required. Eleven parking spaces are indicated.*

(b) Decision to be expedited. In order to expedite a decision regarding a proposed group residential facility, the Board must give priority consideration in scheduling a public hearing and in deciding petitions for such a facility.

*This application has not been expedited.*

**59-G-1.21. General conditions.**

(a) A special exception may be granted when the board, the hearing examiner, or the district council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

*The use is permissible in the RC zone*

- (2) Complies with the standards and requirements set forth for the use in division 59-G-2.

*The proposal does comply with the requirements for the Large Group Home use.*

- (3) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the Commission.

*The use has been found to be consistent with the recommendations of the Cloverly Master Plan.*

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

*The proposal is compatible given these considerations. The larger residential structure is designed to be compatible. The low intensity and residential character of the use would be harmonious with the existing neighborhood.*

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

*The use will not be detrimental to the these aspects of surrounding properties or the general neighborhood as it is residential in nature.*

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

*The use will not create noise inconsistent with other residential. Fumes, odors and dust are not anticipated. Problems with illumination and glare are not anticipated.*

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature. Special exception uses in accord with the



recommendations of a master or sector plan are deemed not to alter the nature of an area.

*There are two unrelated special exceptions in the Batson Road vicinity. BAS 1703 is an approved (1989) special exception for a landscape contractor on Batson Road. BAS 820 is an approved (1982) special exception for a horticultural nursery on Spencerville Road, right near the intersection with Batson Road. This use will not alter the residential nature of the area.*

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

*The use will not adversely affect the safety of area residents.*

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

*Well and septic will serve the site. The site has access to public roads. A preliminary storm water management concept has not been approved by DPS. The use does not require public school services. Police and Fire protection service is available.*

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.

*The property is a lot recorded through the minor subdivision process. Staff finds the petition meets the transportation-related requirements of the APF test and that the proposal will have no adverse effect on area roadway conditions. Therefore a finding that public facilities are adequate may be made during the review of the special exception and a condition requiring a preliminary plan of subdivision is not required.*

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

*Staff has reviewed vehicular and pedestrian circulation plans for the site and has determined that the proposal will have no detrimental effect.*

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Staff has reviewed vehicular and pedestrian circulation plans for the site and has determined that the proposal will have no detrimental effect.