



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

MCPB No. 17-069
Preliminary Plan No. 120170210
Chestnut Ridge/Arden Courts at Germantown
Date of Hearing: July 24, 2017

JUL 31 2017

RESOLUTION

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

WHEREAS, on July 24, 2017, Arden Courts of Germantown MD, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 3.62 acres of land in the R-200 zone for an existing dwelling and for a 64-bed residential care facility, located at the southeast corner of the intersection of Liberty Mill Road and Dawson Farm Road (“Subject Property”), in the Germantown Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No.120170210, Chestnut Ridge/Arden Courts at Germantown (“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 July 14, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 24, 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, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170210 to create two lots on the Subject Property, subject to the following conditions:¹

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.

Approved as to Legal Sufficiency:  7/20/17
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1. This Preliminary Plan is limited to two lots: Lot 1 for an existing single-family residence which will remain, and Lot 2 for a proposed 64-bed residential care facility.
2. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan ("FFCP") No. 120170210, approved as part of this Preliminary Plan, subject to the following conditions:
 - a. Prior to the start of any demolition, clearing, grading or construction on the Property, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank for 0.49 acres (21,344.4 square feet), of mitigation credit.
 - b. Prior to the start of any demolition, clearing, grading or construction on the Property, the Applicant must provide financial surety to the M-NCPPC Planning Department for the 0.07 acres of onsite new forest planting.
 - c. Prior to the start of any demolition, clearing, grading or construction on the Property, the Applicant must submit a two year Maintenance and Management Agreement approved by the M-NCPPC Office of General Council. The Maintenance and Management Agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
 - d. The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements as shown on the approved Final Forest Conservation Plan (FFCP) and as specified by the M-NCPPC Forest Conservation Inspector.
 - e. Afforestation plantings that are located outside the limits of disturbance must occur within the first planting season following the release of the sediment and erosion control permit by Montgomery County Department of Permitting Services.
 - f. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved FFCP.
 - g. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - h. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any

demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.

3. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 19, 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 may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
6. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
7. The Applicant must dedicate and show on the record plat(s) an additional approximately 6.5 feet from the existing property line along Liberty Mill Road to allow the sidewalk to be within the public right-of-way.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section, in its stormwater management concept letter dated July 27, 2016, 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 may be amended by MCDPS – Water Resources Section, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section, in its letter dated May 23, 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. The Applicant must comply with conditions of Board of Appeals Resolution No. 2017-02 approving Conditional Use Application CU 2017-02, Arden Courts of Germantown.
11. The record plat must show necessary easements.
12. 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 issuance of building permit(s). Please refer to the zoning data table for

development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot”.

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 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 Application satisfies all applicable sections of the Subdivision and Zoning Ordinance. The lot size, width, shape, orientation, internal circulation and parking are appropriate for the subdivision given the Master Plan recommendations and the use proposed for the Property. The rectangular block design is appropriately scaled for the parcel to be divided into two lots – a 22,675 square-foot lot for the existing single family home, and a 133,639 square-foot lot for the approved 64-bed residential care facility. Lot 1 will create an appropriate setting for the existing house, detached garage and mature trees along the north and western boundaries of the lot. Additional trees and landscaping will be provided along the shared boundaries between Lot 1 and Lot 2. Lot 2 will accommodate development on the Property with the facility set back approximately 80 feet from the southern property boundary, and approximately 42 feet from Dawson Farm Road. The Preliminary Plan provides for adequate open, landscaped areas along the periphery of the Site. The lots are in compliance with the dimensional requirements for the R-200 Zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, width, and setbacks in this zone.

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

The Preliminary Plan substantially conforms to the recommendations within the 1989 Approved and Adopted Germantown Master Plan. The Master Plan locates the Property within the Clopper Village CL-2 Analysis Area, a 7-acre area that includes the former Germantown Post Office location and the Subject Property. The Clopper Village Land Use and Zoning Recommendations (table 10, page 61), recommends residential uses under the R-200 Zone, up to 13 units, and the area is a suitable location for child day-care center by special exception.

The Master Plan, on page 63, also provides the following recommendations relevant to this Application:

- *“This Master Plan recommends that this area retain its R-200 zoning.”*

The Property retains its R-200 zoning classification.

- *“Because of its location in a residential area and adjacent to an arterial road it would be suitable for a child or elderly day-care center, religious facility or other similar use. The existing post office site and building might well be able to be converted into a child day-care center.”*

A Residential Care Facility is similar to an elderly day-care center, one of the recommended uses for the CL-2 Analysis Area. The Planning Board finds that the one-story, 64-bed, residential care facility would be compatible with the adjacent old post office site and building if converted into a child day-care facility.

- *“The property is not suitable for special exception uses that are not compatible with the existing single-family detached character of this area. Retail or similar uses should be located at other, more appropriate locations.”*

The use is analogous to an elderly day-care center, which is recommended in the Master Plan. Compatibility with the existing single-family detached character of the area is also noted as a key consideration. The one-story Residential Care Facility is residential in character and compatible with the existing single-family detached development in the area. The three gable ends on the wings of the building help to articulate the roofline, and visually breaks up the mass of the building. A minimum 12-foot wide landscape buffer will be provided along the southern property line where single family detached homes are located, and a minimum 20-foot wide landscape buffer wide buffer will be provided along the eastern property line where townhouses are located. Therefore, the facility will be compatible with the surrounding residential development.

Land Use

The Master Plan notes that *“although Germantown’s elderly population is modest, it is expected to increase as Germantown continues to grow and its population matures and housing opportunities are broadened.”* (p. 141). The

Master Plan further notes that *“housing for the elderly will be needed in Germantown, as will nursing homes. Programs and day-care centers for the elderly parents of Germantown residents may also be needed.”* (p. 141). The Residential Care Facility will help to meet the demand for a greater range of housing options in the area, in particular for the elderly.

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

Roads and Transportation Facilities

Transportation access is adequate to serve the development by this Preliminary Plan. The northernmost access off Liberty Mill Road will remain in its current location to provide access to the existing residence on Lot 1. The southernmost access off Liberty Mill Road will be shifted further southward to provide additional separation between the two driveways. During the Conditional Use process, MCDOT approved the proposed access location for the residential care facility.

Master-Planned Roadways and Bikeways

In accordance with the 1989 *Germantown Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, Dawson Farm Road is recommended as a four-lane divided arterial, A-254, with a 100-foot wide right-of-way and no bikeway. The existing right-of-way is 100 feet.

Liberty Mill Road is not listed in the *Germantown Master Plan* but was formerly the major highway route MD 118 before it was relocated to the north of the site. Liberty Mill Road is a functional primary residential street. While the right-of-way varies on Liberty Mill Road, the right-of-way in front of the Subject Property is approximately 75-76 feet, which meets the overall primary residential street right-of-way requirement of 70 feet. The Applicant must dedicate approximately 6.5 additional feet of right-of-way to include the sidewalk within the right-of-way, as requested by Planning Staff, for a total of approximately 82 feet of total right-of-way from the opposite property line.

Note that without the right-of-way dedication proposed by the Applicant, the corner property at the intersection of Liberty Mill Road and Dawson Farm Road meets the corner lot truncation requirements set forth in Chapter 50 (50.4.3.E.2.f.iii). The right-of-way dedication for the sidewalk along Liberty Mill Road reduces the truncation distance along the Liberty Mill Road

segment, but the actual intersection corner does not move and therefore the Planning Board supports the reduced width truncation given traffic safety and operations remain the same and the truncation distance is approximately 22 feet along Liberty Mill Road instead of 25 feet.

Pedestrian and Bicycle Facilities

The Preliminary Plan provides a 5-foot wide lead-in sidewalk from Liberty Mill Road. Liberty Mill Road has existing 5-foot wide sidewalks with approximately 3-foot wide green panels on both sides. Dawson Farm Road has an existing 8-foot wide shared use path with a 7-foot tree panel on the south side and a 5-foot wide sidewalk with a 6-foot wide tree panel on the north side. Dawson Farm Road also has bike lanes on either side of the street extending from Germantown Road on the north to Great Seneca Highway (MD 119) on the south.

The intersection of Liberty Mill Road and Dawson Farm Road has handicap ramps with detectable warning strips at all corners and crosswalks across all intersection approaches. However, there are only one handicap ramp per corner instead of the preferred two handicap ramps – one for each direction of travel from the corner.

The Preliminary Plan has one bike rack that supports two bikes and one bike locker that holds two bikes located near the main entrance to the building. These facilities provide the four bicycle spaces the Applicant offered to provide during the Conditional Use process.

Local Area Transportation Review (LATR)

The Local Area Transportation Review (LATR) analysis was performed using the most recently adopted Subdivision Staging Policy (SSP), which requires projects that generate more than 50 peak-hour person trips to perform additional analysis of the impacts of their project to ensure there are adequate public facilities.

The peak-hour trip generation estimated for the development was based on trip generation rates from the *Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th edition*. Trip generation rates were calculated using the assisted living facility code, which best matched the use, and the number of beds within the facility as the unit of measure, because the number of beds is a constant element of the project in the future unlike employees. The 64-bed assisted living facility would generate nine peak-hour vehicle trips within the weekday morning peak period and 14 peak-hour vehicle trips within the evening peak period. These vehicle trips were adjusted using the appropriate Germantown West Policy Area adjustment factors to determine peak-hour person trips. This adjustment resulted in 14

peak-hour person trips within the weekday morning peak period and 22 peak-hour person trips within the evening peak period. The Applicant was not required to submit a traffic study to satisfy the LATR transportation test because the land use generates fewer than 50 peak-hour person trips within the weekday morning and evening peak periods.

Although the number of employees was also known for the project (20 in Shift 1, 10 in Shift 2, and 5 in Shift 3), the trip generation was not calculated using ITE rates based on the number of employees because these ITE rates did not have separate AM and PM peak hour trip generation rates. However, assuming a reasonable one AM peak hour and one PM peak hour trip per employee plus several guest trips during the peak hour, trip generation during the peak hours would still be lower than the 50 peak-hour person trip threshold under the new SSP at any of the shift change. Furthermore, because the project's peak hour of trip generation (i.e., shift changes) would not overlap with typical peak hours of surrounding roadways, there would be no adequate public facility issues for transportation.

Transportation Impact Tax and Transportation Policy Area Review (TPAR)

The Application was submitted after January 1, 2017, therefore the Applicant is no longer subject to the 2012-2016 Subdivision Staging Policy Transportation Policy Area Review (TPAR) test/tax. The Applicant will be required to pay the updated General District Transportation Impact Tax to Montgomery County DPS in lieu of the TPAR payment.

The Applicant submitted a transportation statement that says the 30,300 square-foot, 64 bed residential care facility generates 50 or fewer additional peak-hour person trips, therefore, the Application is exempt from review under the LATR guidelines.

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

Environment

The Application meets the requirements of Chapter 22A of the Montgomery County code. Staff approved a Natural Resources Inventory/Forest Stand Delineation for the Property on February 5, 2016 (NRI/FSD No. 420161070). The Property has no forest, however there is a small segment of stream valley buffer (SVB) in the lower southeast corner that extends from an off-site stream.

Development of this Property generates a 0.56-acre afforestation planting requirement. This afforestation requirement will be met by planting 0.07-acre of the on-site SVB and purchasing credits in an off-site forest mitigation bank for the remaining 0.49-acres. Although the 0.07-acre afforestation planting is smaller than the minimum size to be considered forest, this area is immediately adjacent to off-site forest in an SVB protected in a Category I Conservation Easement and thereby increases the overall size of protected forest in this SVB.

The FFCP submitted by the Applicant on February 27, 2017 conforms to the Preliminary Forest Conservation Plan approved by the Planning Board on November 10, 2016 as part of the Conditional Use Application, No. CU 2017-02.

Forest Conservation

The Board finds that, as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. On November 10, 2016, the Planning Board approved the Applicant's request for a tree variance from Chapter 22A and the Preliminary Forest Conservation Plan. No changes to that variance are necessary for this Application.

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

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

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 July 27, 2016. The Application will meet stormwater management goals using micro bioretention and pervious pavement.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 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 JUL 31 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).

* * * * *

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 Cichy, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Monday, July 24, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board