



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

MCPB No. 17-055  
Preliminary Plan No. 120170030  
Parkview at Aspen Hill  
Date of Hearing: June 29, 2017

JUL 03 2017

**RESOLUTION**

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

WHEREAS, on February 27, 2017, Parkview at Aspen Hill, LLP ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create three lots on 11.70 acres of land in the RE-2 zone for a 120-unit independent living facility, including 15% of the units reserved for households of very low income as defined in Zoning Ordinance Section 59.1.4.2, a 6,500-square-foot addition to the existing church, and a detached house, located at 3132 Bel Pre Road ("Subject Property"), in the *Aspen Hill Master Plan* ("*Master Plan*") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120170030, Parkview at Aspen Hill ("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 June 16, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 29, 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. 120170030 to create three lots on the Subject Property, subject to

---

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to three lots for: a 120-unit independent living facility, including 15% of the units reserved for households of very low income as defined in the Zoning Ordinance Section 59.1.4.2; a 6,500-square-foot addition to the existing church; and a detached house.
2. The Applicant must comply with the conditions of the Hearing Examiner's approval of Conditional Use CU 17-04, as amended.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated March 31, 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 MCDOT may amend if the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
5. 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 April 26, 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.
6. The Planning Board accepts the recommendations of the MCDPS Fire Code Enforcement Section in its letter dated April 3, 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.
7. The limits of disturbance shown on the Sediment Control Plan must be consistent with the limits of disturbance on the Final Forest Conservation Plan.
8. The Applicant must place a Category I Conservation Easement over approximately 1.98 acres of forest retention and planting as shown on the Final Forest Conservation Plan. Prior to any demolition, clearing, or grading, the easement must be approved by the M-NCPPC Office of General Counsel and recorded by deed in the Montgomery County Land Records. The liber and folio of the recorded easement must be referenced on the record plat.
9. The Applicant must plant 19, 3-inch caliper, native canopy trees as shown on the FCP, as mitigation for the tree variance impacts on the Subject Property within one calendar year or two growing seasons after completion of building construction.

---

<sup>1</sup> 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.

10. The record plat must show necessary easements.
11. The record plat must reflect common ingress/egress and other utility easements over all shared driveways.
12. Prior to use and occupancy permit for the independent living facility on Lot 1, the Applicant must provide five short-term bicycle parking spaces located in a well-lit area near the main building entrance and 10 long-term bicycle parking spaces as shown on the Preliminary Plan.
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 this 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 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. 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:

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 size, width, shape, and orientation of the lots will be appropriate for the location of the subdivision. The Preliminary Plan will accommodate development on the Property at an appropriate and efficient location set back from Bel Pre Road. The Preliminary Plan includes an "L"-shaped lot for the independent living facility. A review of the area surrounding the Property indicates a lack of uniformity with respect to lot configuration. The lot configuration will allow the independent living facility use to meet the open space requirements under the Zoning Ordinance. Further, the lot configuration needs to accommodate the location of the existing Church and detached house. Overall, the three proposed lots are not dissimilar to many of the surrounding lot configurations, in their lack of uniformity.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 Zone as specified in the Zoning Ordinance. The proposed lots will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

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

The Property is within the boundary of the 1993 Aspen Hill Master Plan. The Plan does not specifically address the Property, but general recommendations related to housing, the environment, and special exceptions (conditional uses) are relevant to this Application.

Housing

The Plan includes the following objectives and recommendations related to housing:

- *To protect and reinforce the integrity of existing residential neighborhoods.* (page 29)

The independent living facility will be consistent in character with the existing three- to four-story residential multi-unit buildings that abut the Property, thus maintaining the character of development in this part of the neighborhood.

- *To preserve and increase the housing resources in support of Montgomery County housing policies.* (page 29)

The 2001 Housing Policy found that there was an unmet demand for independent senior living units and assisted living units in the County, as demand for such units was increasing. Among other objectives, the 2001 Housing Policy sought to provide housing for diverse residential needs (including housing for the elderly) and to ensure an adequate supply of affordable housing throughout the County. These goals are carried forward in the 2012 Draft Housing policy, which was never formally adopted by the County Council, but nevertheless can provide guidance about more recent County housing policy discussions. One of the overarching goals of the 2012 Draft Policy is to increase the number of affordable housing units, and another is to “increase diversity in the type and size of units, neighborhoods, facilities, and programs to accommodate current and future residents.”

The 2011 Housing Element of the General Plan contains a similar goal: “Encourage and maintain a wide choice of housing types and neighborhoods for people of all incomes, ages, lifestyles, and physical

capabilities at appropriate locations and densities. Implement policies to bridge any housing affordability gaps” (page 10). The Housing Element also encourages faith-based organizations to use their existing property to increase the supply of affordable housing (page 15). The independent living facility building will be constructed on land currently owned by a faith-based organization (The Potomac Conference Corporation of Seventh-Day Adventists). The facility, which will provide a significant amount of affordable senior housing units, clearly satisfies the goals put forth in the 2001 Housing Policy, the 2012 Draft Housing Policy, and the 2011 Housing Element of the General Plan.

- *Provide affordable housing for the elderly.* (page 177)  
The independent living facility clearly fulfills this recommendation by providing the area with a significant number of affordable senior housing units.

#### Environment

The Plan includes several environmental recommendations that are relevant to the Subject Property:

- *Reduce existing and avoid potential future property damage from flooding, erosion and sedimentation through appropriate stormwater management.* (page 122)

The project will result in significant improvements to the Subject Property’s stormwater management capabilities, as none are currently provided on-site. A Stormwater Management Concept Plan was submitted and approved by MCDPS. Stormwater management facilities for the proposed development will need to comply with the Maryland Department of the Environment’s Environmental Site Design criteria to the maximum extent practicable.

- *Respect appropriate stream buffer setbacks from watercourses, 100-year floodplains, wetlands and steep slopes as specified in M-NCPPC environmental guidelines and the Maryland Planning Act.* (page 122)

The western side of the Subject Property contains a floodplain and an associated buffer. The Conditional Use plan for the independent living facility shows the driveway and building outside of the floodplain buffer, and the buffer is almost entirely outside of the limits of disturbance (LOD). There is also an ephemeral drainage channel located in the central portion of the Subject Property that was associated with a previous storm water management facility that no longer exists on an adjacent property. The drainage channel is classified as “Water of the US” but is not a

stream and does not have a stream valley buffer associated with it. The channel will not be disturbed.

- *Maintain and add to existing forest cover in accordance with the County's Forest Conservation Law. (page 122)*

The Applicant will preserve existing tree stands, manage invasive species, and plant forest on-site.

### Special Exceptions

The Master Plan notes that special exceptions (conditional uses) had been previously approved that were out of character and scale with the low-density nature of their residential zone and the surrounding community. The Plan includes the following guidance for special exceptions (pages 80-81):

- *Avoid excessive concentration of special exception and other nonresidential land uses along major transportation corridors. Sites along these corridors are more vulnerable to over-concentration because they are more visible. Large scale institutional uses near the intersection of Homecrest and Bel Pre Roads are of particular concern; similar additional special exceptions in the area should be discouraged.*

Bel Pre Road is not considered a major transportation corridor; the Master Plan classifies it as an arterial roadway (page 103). The independent living facility will not create an excessive concentration of special exceptions along a major transportation corridor. Further, the new building will be set back 640 feet from Bel Pre Road and will be located behind the existing church, so it will not be particularly noticeable from Bel Pre Road.

Although the facility is relatively close to the intersection of Homecrest and Bel Pre Roads, it will be residential, rather than institutional, in character. Other existing, large-scale institutional uses located near the intersection are the Winchester School and the Moose Lodge on Bel Pre Road, and the Aspen Hill Club on Homecrest Road. The independent living facility will not add to the concentration of similar institutional uses near the intersection, and the building will be obscured from view from Bel Pre road.

The Subject Property is surrounded on three sides by multi-unit buildings in the R-20 Zone. The new building will continue the pattern of densely developed three- and four-story buildings. The design of the new building will be similar in scale and character to the neighboring buildings, and it

will have a residential appearance that blends well with the existing development.

- *Protect major transportation corridors and residential communities from incompatible design of special exception uses.*

As previously discussed, Bel Pre Road is not a major transportation corridor and the design of the independent living facility is compatible with the surrounding multi-unit buildings.

- *Close scrutiny should be given to replacing or enhancing the screening and buffering as viewed from the abutting residential areas and along the major roadways.*

The new building and parking lot will be well-screened from the abutting residential areas by existing tree stands and new landscape plantings. As previously described, the surrounding buildings are similar in scale and character to the new building, which will further enhance compatibility.

- *Minimize uses that might diminish the safety and reduce the capacity of the roadway by creating too many access points and conflicting turning movements.*

A consolidated access point will serve both the existing Church and the independent living facility. Access to the Property is improved by sharing the driveway between multiple uses and shifting access for these uses to the west, which improves sight lines. The existing driveway will remain, but will be limited to access for the detached house.

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

#### Master-Planned Roadways and Bikeways

The 1994 *Aspen Hill Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan* designate Bel Pre Road as a five-lane, divided arterial, A-40, with an 80-foot-wide right-of-way. The existing right-of-way is 80 feet wide with an existing Class I bikeway. *The Countywide Bikeways Functional Master Plan* recommends a shared-use path, SP-30 as “Bel Pre Road – East” along the south side. No dedication is required of this Applicant.

#### Public Transit Service

Public transit routes operate near the Subject Property. The nearest bus stop is located on Bel Pre Road approximately 65 feet west of the Property’s western

property line. A mid-block pedestrian crosswalk exists to cross between the eastbound and westbound bus stops on Bel Pre Road.

Pedestrian and Bicycle Facilities

An eight-foot-wide shared-use path with a six-foot-wide green panel exists along the south side of Bel Pre Road. A five-foot-wide sidewalk with no green panel exists on the north side of Bel Pre Road.

The Applicant is providing an ADA-compliant pedestrian connection from the Bel Pre Road sidewalk to the main entrance of the senior housing and existing house of worship that includes a 5-foot wide lead-in sidewalk with a 2-foot wide green panel, handicap ramps, and crosswalks. In addition, the Applicant is providing two internal ADA-compliant walking paths around the tree save area and partially the proposed senior housing building.

Although the Zoning Ordinance requires 29 long-term bicycle parking spaces for an independent living facility, the Planning Board supports the Applicant's waiver, approved by the Hearing Examiner for the conditional use, because 29 bicycle parking spaces is unnecessarily high for the independent living facility. Alternatively, the Applicant is providing, and showing on the plans, five short-term bicycle parking spaces and ten long-term bicycle parking spaces.

In addition, the Applicant will provide four short-term bicycle parking spaces in front of the addition to the church.

Local Area Transportation Review (LATR)

Currently, the Subject Property contains the Wheaton Seventh-Day Adventist Church, a single-family detached house that serves as the pastor's residence, and a surface parking area. Two full-time and two part-time employees will serve the independent living facility. The full-time employees will typically work from 8:30 a.m. to 5:30 p.m. or from 8:00 a.m. to 5:00 p.m., both within the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 and 7:00 p.m.).

An outside service will provide transportation to residents for shopping, medical appointments, social events, and other excursions. In addition, monthly health and wellness events, such as blood pressure testing, will occur on site so the residents will not need to travel off-site.

Using the Institute of Transportation Engineer's (ITE) trip generation rates, the proposed 120-unit facility will generate 24 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.), and 30 peak-hour trips within the evening peak period (4:00 and 7:00 p.m.). A traffic study was required to satisfy



the LATR test because the increase in site-generated peak-hour trips is 30 or more during the weekday evening peak hour.

The Montgomery County Council's Resolution No. 17-601, "2012-2016 Subdivision Staging Policy", states that, "if use and occupancy certificates for 75% of the originally approved development were issued more than 12 years before the LATR study scope request, the number of signalized intersections in the [traffic] study must be based on the increased number of peak-hour trips rather than the total number of peak-hour trips." The Subject Property is a recorded Parcel P776 with an existing church that was built in 1950. The existing use and occupancy certificate for the current uses have existed for at least 12 years. Therefore, the traffic study was based only on the increased number of peak-hour trips rather than the total number of peak-hour trips. All calculated Critical Lane Volume (CLV) values are below the CLV standard of 1,475 for the Aspen Hill Policy Area, and, therefore, the LATR test is satisfied.

Transportation Policy Area Review and Transportation Impact Tax

Under the 2012-2016 Subdivision Staging Policy, the Preliminary Plan application is subject to the Transportation Policy Area Review (TPAR) mitigation payment. However, since the building permit will be filed after March 1, 2017, the Applicant will be required to pay the updated General District Transportation Impact Tax. The timing and amount of the payment will be in accordance with that in Chapter 52 of the Montgomery County Code as amended.

School Facility Payment

A school facility payment is not required because the proposed use does not generate any students.

Other Public Facilities and Services

The independent living facility will be served by public water and sewer systems. The Montgomery County Fire and Rescue Service has reviewed the application and determined that the Subject Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the project. Electric, gas and telecommunications services are available and adequate.

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

**A. Forest Conservation**

As conditioned, the Final Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Subject Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Planning Board approved a Preliminary Forest Conservation Plan (PFCP) in conjunction with Conditional Use CU 17-04, on December 1, 2016. The Final Forest Conservation Plan is consistent with the approved PFCP. There are 0.46 acres of forest on site and the Applicant is allowed to clear 0.16 acres to build a hard surface walking path. There is a 2.22-acre reforestation and afforestation requirement. The Applicant will meet this requirement through 0.93 acres of supplemental planting and invasive species management within existing tree cover areas, 0.75 acres of forest planting, and 0.06 acres of landscape credit. The remaining 0.48 acres of reforestation and afforestation will be met off-site through purchase of credits in a forest conservation bank.

**B. Forest Conservation Variance**

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 12 Protected Trees as identified below. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship if denied reasonable and significant use of the Subject Property without the Variance.

**Impacts**

<b>ID</b>	<b>Size</b>	<b>Species</b>	<b>Condition</b>	<b>% Disturbed</b>	<b>Notes</b>
#2	43"	Southern Red Oak	Good	3%	Church addition construction and utilities
#5	48"	Willow Oak	Good	47%	Driveway removal
#14	32"	Sycamore	Good	2%	Stormdrain construction
#27	33"	Tulip Poplar	Good	2%	Stormwater management and grading
#37	34"	Tulip Poplar	Good	15%	Stormdrain construction and retaining wall
#39	30"	Tulip Poplar	Good	48%	Building, grading, and path construction

**Removals**

<b>ID</b>	<b>Size</b>	<b>Species</b>	<b>Condition</b>	<b>Notes</b>
#7	33"	White Mulberry	Fair/Poor	Path construction, grading
#8	34"	Red Maple	Good	Stormdrain construction and grading, path construction
#21	33" & 15"	Silver Maple	Good	Stormdrain construction and grading
#24	56"	Red Maple	Good	Parking lot and utilities
#35	31"	Tulip Poplar	Poor	Building and grading
#40	37"	White Mulberry	Good	Path construction, grading, and stormwater management

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to the location of the trees in the developable portions of the Subject Property and the need to provide access to the existing church and proposed independent living facility. Disturbance has been minimized using a compact development form that is designed to fit with the shape and topography of the Property.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. It is based on the locations of the trees in the most reasonable place suitable for new development and the minimum disturbance required to develop the Property with safe access and adequate stormwater facilities. Tree #2 will be impacted by the church addition and associated utilities. Tree #5 will be impacted by the removal of the existing church driveway, which will be done using minimally invasive techniques. While trees #7 and #39 will be impacted by the construction of an asphalt path for the residents to walk on, the path will be constructed as close to on grade as possible. This will minimize impacts. Trees #37, #35, and #39 will be impacted by the building construction and associated grading. Trees #24 and #40 are impacted by the site access and parking. Trees #27, #21, #14, #8, and #40 are impacted by the stormwater management areas and stormdrain connection. The Applicant has minimized disturbance and consolidated impervious surfaces wherever possible. Although some of the impacts will be significant, the Applicant has taken reasonable steps to assure survival of those highly impacted trees.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the layout of the independent living facility on the Property in the most reasonable location where

protected trees are located, and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The development does not impact environmental buffers and provides mitigation plantings for the size and function of the trees lost. Additionally, the Applicant is providing invasive species management and supplemental plantings within the environmental buffer, which will have water quality benefits. The requested variance will not violate State water quality standards or cause a measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1 caliper inch planted per 4-inch diameter at breast height (DBH) lost. No mitigation is required for Protected Trees impacted but retained.

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 Applicant received a stormwater concept approval from MCDPS water resources division on April 26, 2017. The Application will meet stormwater management goals via 12 micro-bioretenion facilities.

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 03 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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, June 29, 2017, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board