Conditional Use No. 2020-09, Residential Care Facility (Liberty Mill)

Date: 10/8/2020

Request: Conditional use approval to construct and operate a residential care facility for over 16 persons.

Location: 19115 Liberty Mill Road, Germantown

Property Size: 3.59 acres

Zoning: Residential 200 (R-200)

Master Plan: 1989 Germantown Master Plan

Applicant: Flournoy Development Group, LLC

Filing Date: July 7, 2020

Planning Board: October 8, 2020

Hearing Examiner: October 30, 2020

Staff recommends approval of the conditional use application with conditions.

- The applicant requests a 125-bed residential care facility.
- Forest Conservation Plan No. 120170210 will be amended as part of a subsequent preliminary plan of subdivision in accordance with the forest conservation law requirements of Chapter 22A.
- As conditioned, the conditional use conforms to Sec. 59.4.4.7 (development standards for the R-200 zone), Sec. 59.7.3.1 (findings for a conditional use) and Sec. 59.3.3.2.E (use standards for a residential care facility) of the Montgomery County Zoning Ordinance.
- The proposed use is consistent with the 1989 Germantown Master Plan.
- The Project complies with Montgomery County Environmental Guidelines, as conditioned.
- There are no significant land use or environmental impacts associated with the request.
- At the time of the publication of the staff report, no communication has been received by staff from community organizations or members of the public.
Section I: Staff Recommendations and Conditions of Approvals

Staff recommends approval of Conditional Use No. 2020-09 to construct and operate a Residential Care Facility for over 16 persons, subject to the following conditions:

1) Physical improvements to the Subject Property are limited to those shown on the Applicant’s conditional use site plan, landscaping plan, and lighting plan that are part of the submitted Application.

2) The maximum number of residential care units is limited to 125 beds in accordance with Montgomery County Zoning Ordinance Section 59.3.3.2.E (Residential Care Facility).

3) The maximum number of employees is limited to 35 persons on-duty at one-time.

4) Prior to the issuance of any building permit for the subject conditional use, the Applicant must amend or obtain approval of a Preliminary Plan of Subdivision and Record Plat pursuant to Chapter 50 of the Montgomery County Code.

5) The Applicant must comply with or amend the Final Forest Conservation Plan No. 120170210 in accordance with the approval or amendment of a Preliminary Plan of Subdivision and Record Plat pursuant to Chapter 50 of the Montgomery County Code.

6) At the time of Preliminary Plan of Subdivision, the Applicant must demonstrate compliance with the 2018 Bicycle Master Plan recommendations for a minimum 10-foot-wide shared-use side-path along the west side of Liberty Mill Road, or an alternative method of compliance as acceptable by Planning Department staff.

7) At the time of Preliminary Plan of Subdivision, the Applicant must demonstrate compliance with requirements to provide a minimum 5-ft. wide sidewalk along the frontage of the Subject Property with Liberty Mill Rd.
Section II: Project Description

A. Background and Location
The Applicant has requested approval of a conditional use to allow the construction and operation of a residential care facility (for over 16 persons) for up to 125 beds in the R-200 zone (Project). The subject property is located at 19115 Liberty Mill Road, Germantown, Maryland (Subject Property or Property).

Figure 1 – Aerial view of the subject Property.

B. Site Description
The Property consists of 3.59 acres and is improved with a 2,584 square foot, two-story single-unit house with detached accessory buildings. While the Property has frontage to both Liberty Mill Road and Dawson Farm road, access to the Property is from Liberty Mill Road via a semi-circular asphalt paved driveway with two entrance aprons to Liberty Mill Road. The exiting improvements are located towards the northwest corner of the Property. Along with three significant trees, the remainder of the property consists primarily of lawn but also ornamental grass, landscape, and a variety of trees.

The Property is encumbered along the southern and part of its western property lines by a 40-foot-wide Washington Suburban Sanitary Commission (WSSC) easement for a 30-inch sewer main. Also,
there exists an overlapping storm drain easement for a 24-foot storm drain line following the southern property line.

The Property is generally rectangular in shape, except that it follows the curvature of Dawson Farm Road on the northern property line. The topography gently slopes from the front of Liberty Mill Road to the rear (eastern property line). There is 269 feet of frontage along Liberty Mill Road and 569 feet of frontage on Dawson Farm Road.

There are no known rare, threatened, or endangered species that exist on this Property. There is a portion of a stream valley buffer on the southeast corner of the Property, which is generated by an off-site stream.

Figure 2 (below) shows the existing Property conditions.

Figure 2 – Subject property and existing conditions.

C. Neighborhood Description
For the purposes of determining the compatibility of the Project, it is necessary to delineate and characterize the surrounding neighborhood. The Applicant has offered a proposed definition of the neighborhood to include the area most likely to be affected by the Project (Figure 3). Staff concurs and accepts this proposed definition of the neighborhood.

The defined neighborhood is comprised of predominantly residential uses consisting of single-unit houses and townhouses in the R-200 zone. Germantown Elementary School is located directly
across Liberty Mill Road to the west and a commercial building (former post office) to the south is used for religious assembly.

Prior approvals associated with the Property include:

- Conditional Use CU2017-02 for a 64-bed residential care facility which was never constructed.
- Preliminary Plan 120170210 for a two-lot subdivision of the Property and associated with CU2017-06 but was never platted.
- Forest Conservation Plan 120170210, which was approved on September 13, 2017 with the aforementioned Preliminary Plan.

There are no other existing conditional uses, and there are no other known pending or proposed development approvals within the defined neighborhood.

D. Zoning and Land Use History
The Property is zoned R-200 and is improved with a single-unit house. The Germantown Master Plan (Master Plan) was adopted in 1989 and is applicable for this Property. The Property lies within Analysis Area No. CL-2 of Clopper Village, as noted in the Master Plan. The plan confirmed the residential land use and the R-200 zone for the Property. Prior to the adoption of the 1989 Master Plan, the Property was also zoned R-200.
Figure 3 – Zoning map with subject property (R-200) and the defined neighborhood (red-dashed line). The only existing conditional uses within the defined neighborhood are associated with the subject property.
Proposed Use
The Project consists of the construction and operation of a residential care facility that will replace a detached single-unit house. The Applicant proposes to provide both assisted living and memory care services. This includes 102 units of assisted living and 17 units of memory care for a total of 119 residential care units. The 119 residential care units will have a total of 125 beds available.

The Project comprises a 98,955 gross square foot, three- to four-story building. The building is configured in a rectangular footprint with three wings and has a pitched roofline. It resembles the style, materials, and massing typically found in an apartment building of similar size in the larger community.

There is a retaining wall placed along the edge of the driveway for an approximate length of 330 feet. This retaining wall varies from zero feet to about four feet in height. A second retaining wall is
placed along the northwest portion of the Property for a length of about 350 feet. It ranges from about zero feet to about five feet in height. This second retaining wall encompasses an outdoor patio and recreation area described in further detail below.

The entire Property is part of the conditional use application. (See conditional use site plan and elevations below.)

Figure 5 – Proposed site plan.
Figure 6 – Perspective elevations. Top: south elevation, Bottom Left: property entrance west elevation, Bottom Right: building entry and passenger loading area on south elevation.
Figure 7 – Perspective elevation of southwest building view, exterior dining, and rear terrace.

Access and Parking
As shown on the site plan (Figure 4), vehicular ingress and egress are consolidated into a single point at Liberty Mill Road via a 25 ft. wide commercial driveway, which leads to the passenger drop-off area, parking area, and truck receiving area. The parking garage consists of 63 partially subterranean parking spaces, with ten surface parking spaces located near the front building entrance. Sixteen long- and short-term bicycle parking spaces are also provided.

Pedestrian access is provided from an existing public sidewalk that runs along Liberty Mill Road to the building’s main entrance and passenger receiving area via a concrete sidewalk on the Property.

Landscaping
In addition to the existing woodland strips along the northern, southern, and eastern boundary lines, the Applicant proposes to install additional landscaping to obscure the Project from off-site views. As shown on the landscape plan, proposed are varieties of shade and evergreen trees along the drive aisle and open yard areas to adjacent properties. Shade trees are proposed along the perimeter of the parking area to provide the required tree canopy coverage (See Figure 6 and Table 1 below). In accordance with a subsequent amended forest conservation plan and new preliminary
plan applications, three identified significant trees on the north side of the Property will be retained and monitored by an arborist during the removal of the existing house and other improvements.

![Figure 8](image.png)

**Figure 8** – Landscape plan for the surface parking lot (shaded) near the main entrance of the building.

<table>
<thead>
<tr>
<th>Table 1 – Parking Lot Landscape Requirements for 10 or More Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Parking Lot Landscape Requirement</strong></td>
</tr>
<tr>
<td>Minimum Landscaped Island Area</td>
</tr>
<tr>
<td>Minimum Landscape Area</td>
</tr>
<tr>
<td>Minimum Shaded Area</td>
</tr>
</tbody>
</table>

**Operations**
The maximum number of employees at one time is 35. Employees will work in three shifts that change at approximately 7:00 a.m., 3:00 p.m., and 11:00 p.m. The care facility will operate 24 hours every day. The level of care and diversity of services offered are customary to similar facilities and include meal preparation, household chores, managing medications, medical treatments, personal services, and social or recreational activities.

**Resident Amenities**
In addition to a full-service staff, the facility will provide a diverse and complimentary array of amenities. These include outdoor spaces (discussed below), fitness room, living room, bistro, dining...
room, demonstration kitchen, wellness room, medical center, card/pub room, theater, art studio, bar, salon, laundry room, porch, and balconies.

**Outdoor Spaces**
There are three outdoor spaces proposed: raised courtyard, outdoor patio, and a park as shown on the landscape and lighting plan. The raised courtyard is located above the parking structure and provides for seating, recreation, and planter boxes for gardening. The outdoor patio is located on the north side of the building and provides an area for seating area, a fireplace, and recreation. A playscape is situated on the west side of the building which includes seating, a bird feeding area, and other landscape materials.

**Deliveries and Services**
Deliveries and services include customary trash and recycling management on an as needed basis and likely at least two to three times each week. Receptacles are located inside the building and will be moved outdoor for service. Other deliveries (packages, food, supplies) will be managed similar to those received at other residential properties. There is a circular driveway and drop-off area located directly adjacent to the front entrance, as well as a truck loading/receiving area located adjacent to the parking area.

**Shuttle Services**
The Applicant proposes to provide a shuttle service for residents. This will include transportation to appointments and other excursions. Generally, such shuttle services will occur between the hours of 9:00 a.m. and 3:00 p.m., with five shuttle bus runs per week for medical needs, shopping, and other events.

**Preliminary Plan**
As part of a separate application, the Applicant indicates that a preliminary plan of subdivision application will be submitted pursuant to the approval of this conditional use application. The proposal is to merge the two-existing lots into one lot for the conditional use.

**Forest Conservation Plan**
This conditional use application is subject to the forest conservation law. On July 24, 2017, a forest conservation plan was approved as part of Preliminary Plan No. 120170210 and Conditional Use No. 2017-02. While this forest conservation plan was completed for a different development project, the impacts of the proposed Project are substantially similar with respect to the forest conservation law (see Attachment 3, FCP 120170210). The existing forest conservation plan remains valid for the Property, and therefore, the forest conservation law is satisfied with this conditional use review. The final forest conservation plan will be revised as part of the subsequent preliminary plan amendment.
A. Development Standards

The following table displays the relevant R-200 development standards for the Property. The conditional use application is applicable to the entire Property. As shown on the Applicant’s site plan, the Project complies with the following development standards: Table 2 – Development Standards

<table>
<thead>
<tr>
<th>Development Standard</th>
<th>Permitted/Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>20,000 sq. ft.</td>
<td>156,307 sq. ft.</td>
</tr>
<tr>
<td>Minimum Lot Area, Use¹</td>
<td>3.44 acres</td>
<td>3.59 acres</td>
</tr>
<tr>
<td></td>
<td>(1,200 sq. ft. * 125 beds)</td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Width at Front Building Line</td>
<td>100 ft.</td>
<td>487 ft. (Dawson Farm Rd.)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>279 ft. (Liberty Mill Rd.)</td>
</tr>
<tr>
<td>Minimum Lot with at Front Lot Line</td>
<td>25 ft.</td>
<td>569 ft. (Dawson Farm Rd.)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>269 ft. (Liberty Mill Rd.)</td>
</tr>
<tr>
<td>Maximum Density</td>
<td>130 beds²</td>
<td>125 beds</td>
</tr>
<tr>
<td></td>
<td>1,200 sq. ft. per bed</td>
<td></td>
</tr>
<tr>
<td></td>
<td>156,307 sq. ft. / 1,200 = 130</td>
<td></td>
</tr>
<tr>
<td>Maximum Coverage</td>
<td>25% (39,077 sq. ft.)</td>
<td>25% (39,076 sq. ft.)</td>
</tr>
<tr>
<td>Gross Floor Area</td>
<td>Not applicable</td>
<td>98,955 gross sq. ft.</td>
</tr>
<tr>
<td>Minimum Front Setback, Principal Building</td>
<td>40 ft.</td>
<td>42 ft. (Dawson Farm Rd.)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>79 ft. (Liberty Mill Rd.)</td>
</tr>
<tr>
<td>Minimum Side Setback, Principal Building</td>
<td>20 ft.</td>
<td>100 ft. (south)</td>
</tr>
<tr>
<td>Minimum Rear Setback, Principal Building</td>
<td>30 ft.</td>
<td>93 ft. (east)</td>
</tr>
<tr>
<td>Maximum Height, Principal Building</td>
<td>50 ft.</td>
<td>43 ft. (south)</td>
</tr>
<tr>
<td>Parking Facility Minimum Rear Setback</td>
<td>30 ft.</td>
<td>80 ft. (east)</td>
</tr>
<tr>
<td>Parking Facility Minimum Side Setback</td>
<td>24 ft.</td>
<td>43 ft. (south)</td>
</tr>
<tr>
<td>Vehicle Parking Spaces Required (Residential Care Facility)</td>
<td>49 spaces³</td>
<td>73 spaces⁴</td>
</tr>
<tr>
<td></td>
<td>0.25 per bed</td>
<td>(0.25 * 125 = 31.25)</td>
</tr>
<tr>
<td></td>
<td>0.50 per employee</td>
<td>(0.50 * 35 = 17.5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>31.25 + 17.5 = 48.75</td>
</tr>
<tr>
<td>Bicycle Parking Space Required</td>
<td>4² long-term spaces</td>
<td>6 short term, 10 long term</td>
</tr>
</tbody>
</table>

¹ Per 59.3.3.2.E.2.c.ii.d.2.i the minimum lot area is 1,200 sq. ft. per bed or 2 acres, whichever is greater.
² Per 59.3.3.2.c.ii.d.2.i maximum density in the R-200 zone is minimum of 1,200 sq. ft. per bed.
³ Per 59.6.2.4.B required parking for a residential care facility.
⁴ Includes 63 spaces in garage parking and 10 surface spaces, accessible parking located inside garage.
⁵ Per ZTA 19-01, 0.1 bicycle parking spaces per employees is required and 95% of required spaces must be long term.
B. Master Plan

The Project is subject to the policies and recommendations contained in the 1989 Germantown Master Plan. The Master Plan discusses interrelated themes to address challenges and opportunities with respect to land development, housing, community identity, community facilities, and employment. It establishes six villages distinguished by their own identity and character, to provide a mix of housing types at varying prices, all inter-connected by a functional pedestrian/bikeway/roadway system. A town center was also designated to be developed as the downtown area of Germantown with major retail, offices, high density residential, and a cultural arts center.

The Property is located in Clopper Village area of the Master Plan. Clopper Village is generally located south of the MARC rail line and east of Germantown Road, and extends south to the greenbelt. It also includes the Germantown historic district near the MARC rail station.

The Property is not specifically referenced in the Master Plan; however, it is compatible with the following recommendations contained in the Master Plan:

“The intent of this Plan is to promote a mix of housing types that can accommodate families of varying ages and income levels and allow opportunities for them to continue living in Germantown as their needs and tastes change.”

The Project consists of a residential housing for seniors who need personal services, supervision and assistance with the activities of daily living. The proposed residential care facility is similar to an elderly day-care center in that both facilities provide services and activities to assist with daily living for seniors. Such services generally include social activities, health care, meals, and recreation. Both facilities would generate similar morning and afternoon vehicular traffic and deliveries. However, the proposed use is a less intense use because 1) the residents live on-site, 2) generally do not drive personal vehicles, and 3) utilize shuttle services for transportation. Therefore, the Project is consistent with this recommendation.

“The Master Plan identifies the Property as within Analysis Area No. CL-2. Due to its proximity to Dawson Farm Road (an arterial roadway) and being located in a residential area, the Property is suitable for a child or elderly day-care center, religious facility or other similar use.”

The Master Plan provides that the Property is not suitable for special exception uses (conditional uses) that are incompatible with the character of the area, and retail uses should be located elsewhere.
The proposed building is designed to be compatible with the surrounding residential area. As shown on the elevations above, the building incorporates several residential architectural elements such as gabled roof and residential fashioned windows. The facades incorporate stone elements and painted cement board horizontal siding, materials that are compatible with nearby residential properties. And, no retail or other commercial uses are proposed. Sloping topography, a retaining wall and existing and proposed landscape will effectively screen vehicle movements and the truck receiving area from off-site views. Therefore, the Project is consistent with this recommendation.

C. Transportation

Master-Planned Roadways
Dawson Farm Road is classified as a four-lane arterial road with 100 feet right-of-way (ROW). Liberty Mill Road is classified as a two-lane primary residential street with a 70-foot ROW. As part of the subsequent preliminary plan application, an additional 6.5 to 6.8 feet of width amounting to 1,622 square feet of ROW will be dedicated on the south side of Liberty Mill Road to accommodate sidewalk facilities. All other ROW requirements are met.

Pedestrian and Master Planned Bicycle Facilities
The 2018 Bicycle Master Plan recommends a 10-foot-wide shared-use-path (SUP) to be constructed along this segment of Liberty Mill Road, the side of road unspecified. As part of the subsequent preliminary plan, the Applicant will construct the SUP on the north side of Liberty Mill along the frontage of the Germantown Elementary School. This side of the road was chosen as a continuation of the recommended SUP that is to be built on the north side on the section of Liberty Mill Road above Dawson Farm Road. This will additionally provide direct connectivity to Germantown Elementary School.

Public Transit Service
Ride-on routes 71 and 75 provide service directly in front of the Subject Property on Dawson Farm Road. As part of the subsequent Preliminary Plan, the Applicant will reconstruct this bus stop. Additionally, Ride-on route 61 provides service along Germantown Road, approximately 1,000 ft. to the northwest.

Local Area Transportation Review
A transportation statement has been provided along with this application. As shown in Table 3 below, the proposed use will generate a net of 34 a.m. and 49 p.m. peak-hour net new person trips. The trip generation rate falls below the 50-person peak-hour Local Area Transportation Review (LATR) threshold and is exempt from additional review.

<table>
<thead>
<tr>
<th>Development</th>
<th>Measure</th>
<th>AM Peak Hour</th>
<th></th>
<th>PM Peak Hour</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>Total</td>
<td>In</td>
</tr>
<tr>
<td>Existing Single-Family Home</td>
<td>Dwelling</td>
<td>0</td>
<td>(2)</td>
<td>(2)</td>
<td>(2)</td>
</tr>
<tr>
<td>Assisted Living Facility</td>
<td>Employees</td>
<td>23</td>
<td>13</td>
<td>36</td>
<td>19</td>
</tr>
<tr>
<td>Net New Person Trips</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>34</td>
<td>--</td>
</tr>
</tbody>
</table>

Trip generation rates are based on the ITE Trip Generation Manual, 10th Edition and adjusted as detailed in the 2017 LATR guidelines.
Circulation and Connectivity
The site will be accessed via a new driveway off Liberty Mill Road. The driveway will provide direct access to the main entrance, service bay, and below grade parking facilities. A lead-in walkway will connect the entrance to the sidewalk along Liberty Mill Road. Access and circulation, as proposed, are safe and adequate for the proposed use.

Therefore, the proposed use is consistent with the 2018 Master Plan of Highways and Transitways, and the 2018 Bicycle Master Plan.

D. Landscaped Area for Parking Lots
The Project’s parking lot landscaped areas, tree canopy and perimeter plantings meet or exceeds the required landscaping as required by Sec. 6.2.9.C as shown on the Applicant’s landscape plan and as discussed above in Section II of this report. The submitted Landscape Plan satisfies the requirements of Section 6.2.9.C.1 through 3: Parking Lot Requirements for 10 or more Spaces. This standard is satisfied.

Tree Canopy
The Project meets the 25 percent minimum tree canopy coverage requirement by providing a total of 1,510 square feet of tree canopy coverage for a parking lot pavement area of 5,760 square feet. This standard is satisfied.

Perimeter Planting
The Project meets the perimeter planting requirements through a combination of canopy trees, evergreen trees, large and medium size shrubs and an 8-foot high, composite wood privacy fence with a minimum of at least 10-foot-wide planting area along the entire perimeter of the conditional use site and Property. This standard is satisfied.

E. Lighting
The photometric plan provided by the Applicant shows the projected lighting intensity across the entire Property in foot-candles, locations where lighting fixtures will be mounted, and manufacturer’s specifications on the lighting fixtures being proposed.

The lighting plan is adequate and safe for vehicular and employee movement and meets the requirements under Section 59.6.4.4. The proposed lighting serves multiple purposes, including illumination of the site entrance, visibility lighting in the employee parking areas and area lighting near the structures. The photometric plan shows that the lighting will not cause glare on adjoining properties, nor will it exceed the 0.1 foot-candle standard at the side and rear property lines. The lighting, with no direct light or light glare, will not have a negative impact on neighboring properties. The five pole mounted lighting fixtures are mounted at a height of 16-feet above grade and are full cut-off, LED fixtures. This standard is satisfied.

F. General Landscaping and Screening Requirements
The property is within a Residential Detached Zone, R-200, and abuts other properties on two sides within the same zone that are improved with residential and religious institutional uses. Since there are abutting properties improved with residential uses to both the east and south of the property, the Applicant must ensure adequate screening in these directions under Section 6.5.3.C.7. As shown on the Applicant’s landscape plans, the general landscaping and screening provide is composed of canopy trees, understory trees, evergreen trees, large and medium shrubs. Adequate
screening is provided along the east and south property lines. Staff concludes that the landscaping meets or exceeds the requirements under Section 59.6.5.3.C.7 (Screening Requirements) and Section 59.6.4.3 (General Landscaping Requirements) as shown on the Applicant’s landscape plan. This standard is satisfied.

G. Forest Conservation Plan
As discussed above in Section II, on July 24, 2017, a forest conservation plan was approved as part of Preliminary Plan No. 120170210 and Conditional Use No. 2017-02. However, the approvals were not used, and the property was not redeveloped. While the forest conservation plan was completed for a different development project, the impacts of the proposed Project are substantially similar with respect to the forest conservation law. The existing forest conservation plan remains valid for the Property, and therefore, the forest conservation law is satisfied with this conditional use review. The final forest conservation plan will be revised as part of the subsequent preliminary plan amendment. Therefore, as conditioned this requirement is satisfied.

H. Signage
The Applicant proposes an approximately 40 square feet (5 ft. height by 7 ft. width), double-sided monument sign. The sign’s finish materials will coordinate with the building’s finish materials and include matching stone and paint, with contrasting letters and logo. The sign is landscaped, illuminated, and located near the driveway entrance. While signage is proposed, it not part of this conditional use application because a separate sign permit is required. Therefore, this standard is not applicable.

I. Environment
As discussed above, there are no known rare, threatened, or endangered species that exist on this Property. No seeps, springs, wetlands or floodplains exist on the Property. However, a stream buffer extends into the Property from an intermittent stream that begins near the southern-most corner of the Property. An ephemeral stream continues northwest, parallel to the southwest boundary of the Property. No development is proposed within the stream buffer. Therefore, these requirements are satisfied.

J. Community Concerns
At the time of the publication of the staff report, no communication has been received by staff from community organizations or members of the public.
Section IV: Compliance with Necessary Findings

Section 59.7.3.1.E, Conditional Use

E. Necessary Findings

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:

   a. Satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;

   **Staff Response:** This finding is satisfied. The proposed conditional use will replace Conditional Use CU2017-02. After approval of this conditional use, the Applicant will subsequently amend Preliminary Plan 120170210 and the final forest conservation plan. With the approval of the Project and subsequent preliminary plan of subdivision, the Project complies with the applicable requirements under an approved conditional use.

   b. Satisfies the requirements of the zone, use standards under Article 59.3 (Uses and Use Standards), and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59.6 (General Development Requirements);

   **Staff Response:** This finding is satisfied. The Project satisfies applicable provisions under Article 59.3 (Uses and Use Standards) as shown in Section III of this report. The Project satisfies applicable provisions under Article 59.6 (General Development Requirements) as shown in Table 2 of Section III of this report. Therefore, with the approved conditional use, this finding is satisfied.

   c. Section 59.7.3.1.E.1.c: Substantially conforms with the recommendations of the applicable master plan.

   **Staff Response:** As discussed in Section III of this report, this finding is satisfied.

   d. Is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan.

   **Staff response:** This finding is satisfied. This finding includes both Master Plan analysis and other compatibility considerations. The Master Plan issues have been discussed in the preceding section. The character of the surrounding area is residential, consisting of single-family attached and detached homes. The Project will not alter the character of the surrounding neighborhood in a manner inconsistent with the master plan because the use is residential in character, design, and is adequately buffered with landscaping, and sufficiently located away from any sensitive land uses or dwelling units. The Property is located opposite the Germantown Elementary School, which is a substantially larger property in land area and building square footage than the Project. With respect to operations and occupancy, the school has a substantially larger impact on the surrounding neighborhood than the Project. Further, the school property and Dawson Farm Road adequately buffers and mitigates the Project from potential off-site impacts to surrounding properties. Therefore, staff concludes that the Project...
will be harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the Master Plan.

e. Section 59.7.3.1.E.1.e: Will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area.

Staff Response: This finding is satisfied. As discussed in Section III of this report, the Project substantially conforms to the policies and recommendations contained in the Master Plan which included a recommendation for this category of use. There are no residential areas that would be adversely affected or altered by the Project because the Project is a residential use in character and the site is sufficiently buffered from existing residential uses. Furthermore, as discussed above in Section II, no other conditional use/special exceptions exist in the defined neighborhood. As such, there would not be an overconcentration of conditional uses in the area.

f. Section 59.7.3.1.E.1.f: 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. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

i. If a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, or storm drainage; or

ii. If a preliminary plan of subdivision is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage.

Staff Response: This finding is satisfied. Adequate public services and facilities will be reviewed as part of subsequent preliminary plan of subdivision. As of this time, none of the reviewing agencies have identified any outstanding issues with respect to this requirement.

g. Section 59.7.3.1.E.1.g: will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

i. The use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;

ii. Traffic, noise, odors, dust, illumination or lack of parking; or

iii. The health, safety or welfare of neighboring residents, visitors or employees.

Staff Response: This finding is satisfied. The inherent physical and operational characteristics associated with a senior residential apartment building will not cause undue harm to the neighborhood.
The inherent characteristics include:

- Vehicle and pedestrian trips to and from the Property;
- Parking for residents and employees;
- Varied hours of operation;
- Noise or odors associated with vehicles;
- Noise or odors associated with trash collection and trucks;
- Emergency electrical generator; and
- Lighting.

These characteristics are inherent and typically associated with similar uses and do not exceed what is normally expected for the proposed project. Residential uses adjoining the Property to the south and east are well-buffered from the Project in distance, topography, and by existing and proposed landscape.

Non-inherent characteristics are unique to the physical location, operation, or size of a proposed use. There are no identified non-inherent adverse impacts with the proposed use on the Property.

The Project would not cause undue harm to the neighborhood with regard to inherent or non-inherent characteristics, or combination thereof, or in any of the following categories: the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood; traffic, noise, odors, dust, illumination or lack of parking; or the health, safety or welfare of neighboring residents, visitors or employees.

2. **Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.**

**Staff Response:** This finding is satisfied. There is a variety of building scales, forms, and design details exhibited in the neighborhood. The architecture of the Project is residential in design and form. The visual character of the neighborhood is mixed with detached dwellings, townhomes, a public school, and a former post office building used for religious assembly. Therefore, the proposed residential building is not out of character and is compatible with the surrounding residential neighborhoods.

3. **The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.**

**Staff Response:** Acknowledged by the Applicant. As described above in this section of the report, staff concludes that the Project is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the master plan.

4. **In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.**
Staff Report
Conditional Use No. 2020-09

Staff Response: This finding is not applicable. The Applicant does not propose an agricultural conditional use. The Project is a conditional use approval for a residential care facility.

5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:

   i. Filling Station;
   ii. Light Vehicle Sales and Rental (Outdoor);
   iii. Swimming Pool (Community); and
   iv. the following Recreation and Entertainment Facility use: swimming pool, commercial.

Staff Response: The finding is not applicable. The Project is not a filling station, light vehicle sales and rental (outdoor), swimming pool (community); or a swimming pool, commercial. The Project is a residential care facility.

6. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:

   i. Funeral Home; Undertaker;
   ii. Hotel, Motel;
   iii. Shooting Range (Outdoor);
   iv. Drive-Thru
   v. Landfill, Incinerator, or Transfer Station; and
   vi. a Public Use Helipad, Heliport or a Public Use Helistop.

Staff Response: This finding is not applicable. The Project is not a funeral home, undertaker, hotel, motel, shooting range (outdoor), drive-thru, landfill, incinerator, transfer station, public use helipad, heliport or a public use helistop. The Project is a residential care facility.

Section 59.3.3.2.E, Residential Care Facility (Over 16 Persons) Use Standards

2. Use Standards:

c. Residential Care Facility (Over 16 Persons)

   i. Where a Residential Care Facility (Over 16 Persons) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.

Staff Response: Not applicable. The Project is allowed as a conditional use, not a limited use.
ii. Where a Residential Care Facility (Over 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

a) The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.

Staff Response: The Project will provide ancillary services for the enjoyment, service, and care of residents as discussed above in Section II of this report. The Applicant proposes services which are customary (medical, fitness programming, laundry services) along with select elevated-level services (theater, art studio). Additionally, the Applicant will provide regular shuttle service for residents, as described above in this report. As such, the standard is satisfied.

b) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children who will use the facility.

Staff Response: Not applicable. The Project is a residential care facility for senior adults (persons aged 62 or older), not children.

c) Where residential dwelling units are provided

1. the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and

2. the minimum green area is 50%.

Staff Response: Not applicable. The Project consists of residential care facility as defined by Section 59.3.3.2.E.1. The proposed living units do not meet the definition of a dwelling unit because the living units do not contain a kitchen. Further, the applicant has proposed the facility contains beds in living units, it will not contain separate kitchens in dwelling units, and that the Project should be reviewed as units of beds rather than dwelling units.

d) Where facility size is based on the number of beds, not dwelling units, the following lot area is required:

1. In the R, RC, and RNC zones, 2,000 square feet per bed or 5 acres, whichever is greater.

2. In all other zones, the minimum lot area is 2 acres or the following, whichever is greater:

   i. in RE-2, RE-2C, RE-1, and R-200 zone: 1,200 square feet per bed;
   ii. in R-60, R-90, and R-40 zone: 800 square feet per bed;
   iii. in TLD, TMD, THD, R-30, and R-20 zone: 600 square feet per bed; and
iv.  in R-10: 300 square feet per bed

**Staff Response:** The Project is based on the number of beds, not dwelling units. It is located in the R-200 zone and the lot is 156,307 square feet in area. Accordingly, the maximum yield is 130 beds (156,307 ÷ 1,200 = 130). As described above in Section II of this report, the Project proposes 125 beds. Therefore, this standard is satisfied.

e)  **The minimum side setback is 20 feet.**

**Staff Response:** The Property is located on a corner lot with two front yards, one rear yard, and one side yard. The proposed side yard setback is 101 feet, which is at least 20 feet. This standard is satisfied.

f)  **In the R-10 and R-20 zones, the development standards of the apartment building type apply, except as modified by Section 3.3.2.E.2.c.**

**Staff Response:** Not applicable. The Project is not located in the R-10 or R-20 zone. It is located in the R-200 zone.

g)  **Independent dwelling units must satisfy the MPDU provisions of Chapter 25 (Section 25.A-5).**

**Staff Response:** Not applicable. The Project consists of residential care facility as defined by Section 59.3.3.2.E.1. The proposed living units do not meet the definition of dwelling unit because the living units do not contain a kitchen.

h)  **In a continuing care retirement community occupancy of any independent dwelling unit is restricted to persons 62 years of age or older, with the following exceptions:**

   1.  the spouse of a resident, regardless of age;

   2.  another relative of a resident, 50 years of age and older;

   3.  the resident widow, widower, or other surviving relative of a resident who dies while residing at the continuing care retirement community, is allowed to remain even though the resident widow, widower, or other surviving relative has not reached the age of 62.

   4.  A minimum of 80% of the dwelling units must be occupied by at least one person per unit who is 55 years of age or older.

**Staff Response:** Not applicable. This Project is not a Continuing Care Retirement Community.

i)  **Height, density, coverage, and parking standards must be compatible with surrounding uses; the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.**
Staff Responses: This finding is satisfied. As described above in Section II, the Project satisfies all applicable development standards for the R-200 zone. The Project consists of a 125-bed facility in a new three- to four-story 42-foot height residential building. There exists a variety of height, density, coverage, and architecture in the neighborhood. The visual character of the neighborhood is varied with detached dwellings, townhomes, an elementary school, a former post office building and open space. Most of the proposed parking is located in a subterranean garage, with only ten surface spaces provided near the primary building entrance. The Project is sufficiently buffered with landscape and by distance from adjoining uses. Therefore, the proposed residential care use, building, and parking configuration is not out of character and is compatible with the surrounding neighborhood.

j) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

Staff Response: Not applicable. The Project is not located in the AR zone. It is located in the R-200 zone.

Section V: Conclusion

The proposed residential care facility, as recommended in Section I of this report, satisfies all applicable requirements for the approval of a conditional use as specified in the Montgomery County Zoning Ordinance and is consistent with the recommendations of the 1989 Germantown Master Plan. Planning staff RECOMMENDS APPROVAL of Conditional Use No. 2020-09.

Attachments
1. Site plan, building elevations and schematic design, landscape/lighting plan.
2. Site photographs.
3. Forest Conservation Plan 120170210.
# Liberty Mill Road Unit Matrix

Last updated: April 20, 2020

<table>
<thead>
<tr>
<th></th>
<th>Assisted Living</th>
<th>Memory Care</th>
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<tbody>
<tr>
<td></td>
<td>ST</td>
<td>JR1</td>
</tr>
<tr>
<td><strong>Unit GSF</strong></td>
<td>400 GSF</td>
<td>500 GSF</td>
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<tr>
<td><strong>Garage</strong></td>
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<tr>
<td><strong>Service/BOH</strong></td>
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</tr>
<tr>
<td><strong>1st Floor</strong></td>
<td>25</td>
<td>5</td>
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<tr>
<td><strong>2nd Floor</strong></td>
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<tr>
<td><strong>3rd Floor</strong></td>
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<tr>
<td><strong>Total</strong></td>
<td>65</td>
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<tr>
<td><strong>% of total</strong></td>
<td>54.6%</td>
<td>12.6%</td>
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<tr>
<td><strong>Total by type</strong></td>
<td>102 UNITS</td>
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<tr>
<td><strong>% by type</strong></td>
<td>85.7%</td>
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</tbody>
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**Avg GSF/unit**: 831.6 GSF
SECOND FLOOR PLAN
PERSPECTIVE - SOUTH WEST BUILDING VIEW

PERSPECTIVE - EXTERIOR DINING

PERSPECTIVE - EXTERIOR REAR TERRACE
BUILDING ELEVATIONS

1. SOUTH ELEVATION - S1

2. SOUTH ELEVATION - S2
2 BUILDING SECTION 4B

1 BUILDING SECTION 4A
Canopy Tree requirement.

PLC 12 Prunus laurocerasus 'Chestnut Hill'
Chestnut Hill Cherry Laurel
30-36" #3 cont. 4' o.c.

* The existing four (4) specimen trees in Screening Segment A are to remain and count towards the
Parking Lot Pavement Area = 5,760 s.f.

PLAN

Minimum Landscape Dimensions (depth) 12' 93"

1 tree

LANDSCAPE & LIGHTING

Large Shrubs 8 per 100' = 18 shrubs
18 shrubs

Medium Shrubs 12 per 100' = 67 shrubs
67 shrubs

Small Shrubs 24 per 100' = 136 shrubs
136 shrubs

Large Trees 2 per 100' = 12 trees
12 trees

PROPOSED SHADE TREES

Canopy Trees 2 per 100' = 12 trees
12 trees*

Minimum Canopy Diameters (In Feet)*

Parking Lot Pavement Area = 5,760 s.f.

Minimum Landscaped Island Area Required = 100 s.f.

Minimum Landscape Area provided = 384 s.f.

Landscape Area required (5% of Total Pavement Area) = 288 s.f.

The Landscape Area provided should be a minimum of 5% of the total area of the paved area.

PROPOSED EVERGREEN TREES

LST 2 Liquidambar styraciflua Sweetgum
2

CCA 2 Carpinus caroliniana American Ironwood
2

FGA 2 Cornus sericea 'Cardinal' Cardinal Red Twig Dogwood
2

JVI 3 Juniperus virginiana Eastern Red Cedar
7-8' ht. B&B AS SHOWN

JOP 6 Ilex opaca American Holly
8-10' ht. B&B AS SHOWN

KLN 3 Ilex glabra 'Chamzin' Nordic Inkberry
30-36" #3 cont. 3' o.c.

PLC 12 Prunus laurocerasus 'Chestnut Hill' Chestnut Hill Cherry Laurel
30-36" #3 cont. 4' o.c.

HAA 3 Magnolia virginiana Sweetbay Magnolia
8-10' ht. B&B AS SHOWN

QRU 4 Quercus rubra Red Oak
2

IOP 6 Ilex opaca American Holly
8-10' ht. B&B AS SHOWN

SWM EASEMENT

BS-1 25 foot concrete sidewalk
462

FFE = 477.0'

L conditional

MEMORANDUM

Memorandum to:

Date: 9/19/2014

CC: N. Smith

From: K. Sabin

Subject: Parking Lot Shade Tree List

Parking Lot Shade Tree List

Section 59-6.2.C.1. Landscaped Area

Minimum landscaped area required is 5% of total pavement area.

Parking Lot Pavement Area = 5,760 s.f.

Minimum landscaped area required (5% of Total Pavement Area) = 288 s.f.

Parking Lot Perimeter Landscaping Requirements

Section 59-6.5.2.C

Minimum landscape area required is 5% of the total area of the paved area.

Total Landscape Area provided = 384 s.f.

Landscape Area required (5% of Total Pavement Area) = 288 s.f.

Landscaping within the stormwater management easements to be reviewed.

MCW-3 25' revocable trust

ART-3

MB-3 472

ART-3

REV-4 482

GARAGE

COMMUNITY PARK

PLAYGROUND

SENSORY PLAY

KITCHEN HERB GARDEN

BOARDWALK

CONC. SIDEWALK

SURFACE PLAYGROUND

BOCCE COURT

WHITE MULBERRY

WHITE MULBERRY

WHITE MULBERRY

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PLANTING NOTES

1. THIS PLAN IS FOR PLANTING PURPOSES ONLY.
2. CONTRACTOR SHALL kommen TO INSERT VERTICAL HOLES AS SHOWN ON THE PLAN TO ALLOW FOR PROPER GROWTH OF THE PLANTS.
3. CONTRACTOR SHALL PREPARE ALL BEDS AND PLANTS TO THE SPECIFICATIONS SHOWN ON THE PLAN. CONTRACTOR SHALL ENSURE A COORDINATED INSTALLATION WITH THE OWNER AND THE LANDSCAPE ARCHITECT.
4. CONTRACTOR SHALL GUARANTEE ALL LANDSCAPE IMPROVEMENTS, INCLUDING SEEDING, FOR ONE FULL YEAR AS REQUIRED BY THE CONTRACT PERIOD.
5. CONTRACTOR SHALL MAINTAIN AN UPDATED, ORIENT THE SIDE OF THE TREE THAT FACED NORTH IN NURSERY TO FACE NORTH IN THE GROUND. IF CONFLICTS ARISE BETWEEN ACTUAL SIZE OF THE TREES PLANTED AND THE ORIGINAL SPECIFICATIONS, CONTRACTOR SHALL OCCUR WITHIN EXISTING TREE AREAS.
6. ALL MATERIALS SHALL BE SUBJECT TO THE OWNER'S APPROVAL. CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MATERIALS TO THE OWNER PRIOR TO INSTALLATION. OWNER SHALL RECEIVE TAG FROM EACH PLANT SPECIES AND A COPY OF THE PLANT LIST FOR SPACING.
7. CONTRACTOR SHALL ADD VERTICAL HOLES TO THE PLANTS AS SHOWN ON THE PLAN TO ALLOW FOR PROPER GROWTH OF THE PLANTS.
8. CONTRACTOR SHALL MAINTAIN AN UPDATED, ORIENT THE SIDE OF THE TREE THAT FACED NORTH IN NURSERY TO FACE NORTH IN THE GROUND. IF CONFLICTS ARISE BETWEEN ACTUAL SIZE OF THE TREES PLANTED AND THE ORIGINAL SPECIFICATIONS, CONTRACTOR SHALL OCCUR WITHIN EXISTING TREE AREAS.
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Figure 1 - Northeasterly view of property interior from Liberty Mill Road toward Dawson Road with woodland strip to remain.

Figure 2 - Northeasterly view of property interior from Liberty Mill Road.
ATTACHMENT 2
Site Photos
Conditional Use No. 2020-09

Figure 3 - View of single-unit house at northwest corner of the property (to be removed) with mature tree to remain.

Figure 4 – Southeasterly view of property along Liberty Mill Road with woodland strip of trees to remain.