

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-120
Preliminary Plan No. 120210230
1910 University Senior Housing
Date of Hearing: December 15, 2022

JAN 05 2023

RESOLUTION

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

WHEREAS, on September 9, 2021, 1910 University, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two (2) lots on 3.56 acres of land in the R-60 zone, located on University Boulevard at the terminus of Reddie Drive (“Subject Property”), in the Wheaton CBD and Vicinity Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120210230, (“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 December 5, 2022, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 15, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Piñero, seconded by Vice Chair Presley, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, Hill, and Piñero voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120210230 to create two (2) 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.

General Approval and Validity

1. This Preliminary Plan is limited to two lots for up to 90 dwelling units for seniors with 30% MPDUs, or DHCA approved equivalent, and up to 22,000 square feet of religious assembly uses.
2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).
3. The Preliminary Plan will remain valid for three years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date 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 filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated January 24, 2022, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated November 29, 2021, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated January 24, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”),

in its letter January 31, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

9. The Applicant must comply with all conditions of approval associated with Conditional Use CU202204 on Lot 1.
10. Before Certification of the Preliminary Plan of Subdivision, the parties to the Joint Use Parking Agreement must execute that document, addressing the requirements of Section 59-6.2.3.G, record it among the Land Records of Montgomery County and provide a copy of the executed and recorded agreement to the Planning Department and to the Office of Zoning and Administrative Hearings.
11. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, whichever comes first, the Applicant must receive Staff certification of this Preliminary Plan.

Environment

12. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
13. Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Sligo Creek watershed to satisfy the reforestation requirement for a total of 0.53 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Sligo Creek watershed, or by making a fee-in-lieu payment if mitigation credits are not available at any bank.
14. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
15. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
16. Prior to issuance of the first above ground building permit for the independent living facility on Lot 1, the Applicant must provide certification from an

acoustical engineer or architect that the units will be constructed so that all interior level noise levels do not exceed 45 dBA Ldn.

Transportation

17. The Applicant must provide a dedication and show on the record plat(s) all land necessary to accommodate 75 feet from the existing pavement centerline along the Subject Property frontage for University Boulevard.
18. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions.
 - a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include, but is not limited to, the private sidewalk connecting Reddie Drive with University Boulevard, on-site lighting, landscaping and fencing.
 - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
 - d) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

Record Plats and Easements

19. There shall be no clearing or grading of the site before recordation of plats.
20. The record plat must show necessary easements.
21. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
22. The record plat must reflect a common use and access covenant for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way or private street parcel. The covenant must be in a form approved by the M-NCPPC Office of the General Counsel and recorded among the Montgomery County Land Records.

Certified Preliminary Plan

23. The certified Preliminary Plan must contain the following notes:
 - a) *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.

- b) *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the preconstruction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times. (Note No. 16 on cover sheet must be replaced with this note).*

24. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and agency approval letters on the Approval Sheets.
- b) Include the approved Fire and Rescue Access plan in the certified set.
- c) Remove the use standards from the cover sheet and update the development standards table to match the version approved by the Planning Board.
- d) Remove Existing Conditions (Sheet PP-4) and update the Sheet Index accordingly.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 proposes two lots: one for the existing Synagogue, and the other for the Independent Living Facility for Seniors ("Senior Building"). The layout of the two lots is appropriate for the development of the Senior Building and the Synagogue given the recommendations of the Sector Plan and the applicable requirements of Chapter 59.

Lot 1, for the Senior Building, accommodates the building and infrastructure necessary to serve the facility as determined by County agencies, all of which reviewed the Project and recommended Planning Board approval. Lot 2 is an appropriate size and configuration to accommodate the Synagogue and sufficient vehicle parking for the Synagogue and the Senior Building pursuant to a joint use agreement discussed below.

The lots were reviewed for compliance with the dimensional requirements for the R-60 Zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for the R-60 zone or the use standards for Independent Living Facility for Seniors, as applicable. A summary of this review is included in Table 1.

Parking

Under Section 59.6.2.3.I.2.c, for a religious assembly use, the deciding body may reduce the required number of parking spaces from 0.25 spaces per fixed seat to 0.125 spaces per fixed seat if used by a congregation whose religious beliefs prohibit the use of motor vehicles in traveling to or from religious services conducted on their Sabbath and principal holidays. The Synagogue is a traditional Conservative synagogue, and its members tend to adhere to more orthodox traditions which include prohibition of certain activities on the Sabbath including driving a motor vehicle. Testimony at the Hearing Examiner hearing for Conditional Use No. CU202204 indicated that 1/3 to 1/2 of Synagogue congregants walk to services, and that the Synagogue continues to conduct Zoom services, further reducing the number of members who attend services in person. The Planning Board approved using the religious assembly parking reduction (0.125 spaces per fixed seat) with the conservative assumption that 1/3 of the 200 total fixed seats (66 seats) in the Synagogue will be for congregants who walk, while the requirement for the other 2/3 of the fixed seats (134 seats) are calculated using the normal religious assembly rate (0.25 spaces per fixed seat). Under these assumptions, the Synagogue's parking requirement is 42 spaces. With a total of 83 spaces, the Synagogue parking lot will be adequate to accommodate the religious assembly parking requirement (42 spaces) in addition to the 37 off-site spaces required for the Senior Building. In accordance with Section 59-6.2.3.G, the developer of the Senior Building will enter into a joint use agreement with the Synagogue to satisfy the vehicle parking requirement for the Senior Building by making up to 37 parking spaces available off-site on the Synagogue property. Between the two properties, there will be 93 vehicle parking spaces available, satisfying the parking requirements of both uses (89 spaces).

Table 1: Development Standards in the R-60 Zone, Standard Method (Section 59-4.4.9.B)¹

Development Standard	Required/Allowed	Approved
Tract area	n/a	154,934.3 sf/ 3.56 acres
Previous Dedications	n/a	938.25 sf/0.02 acres
Proposed Dedications	n/a	8,817.34 sf/0.20 acres
Site area	n/a	145,178.75 sf/3.33 acres
Lot area (min)	6,000 sf	Lot 1: 72,835 sf/1.67 acres Lot 2: 72,343 sf/1.66 acres
Frontage on street or open space	Required	Both lots front on University Boulevard
Density (max)	Lot 1: Determined by Hearing Examiner under Section 59-3.3.2.C.2.c.v	Lot 1: 90 units (98,000 sf)

	Lot 2: n/a for religious assembly	Lot 2: 22,000 sf religious assembly
Lot Coverage (max)	35%	35% max
Front setback (min)	Lot 1: 30 ft ² Lot 2: 25 ft	Lot 1: 30 ft min Lot 2: 25 ft min
Side setback (min)	Lot 1: 25 ft ³ Lot 2: 8 ft	Lot 1: 25 ft min Lot 2: 8 ft min
Rear setback (min)	Lot 1: 25 ft ³ Lot 2: 20 ft	Lot 1: 25 ft min Lot 2: 20 ft min
Height (max)	Lot 1: 60 ft ⁴ Lot 2: 35 ft	Lot 1: 60 ft max Lot 2: 35 ft max
Vehicle Parking (min)		
Religious Assembly (200 fixed seats)	0.125 spaces/seat x 66 seats ⁵ 0.25 spaces/seat x 134 seats (42 total spaces)	46 spaces
Independent Living Facility for Seniors (90 units + 3 employees)	0.5 space/unit 0.5 space/employee (47 total spaces) ⁶	47 spaces ⁷
TOTAL	89 spaces	93 spaces
¹ Or as required by an Independent Living Facility Conditional Use under Section 59-3.3.3.C.2, as noted herein. ² Section 59-3.3.2.C.2.c.vi ³ Section 59-3.3.2.C.2.c.vii ⁴ Section 59-3.3.2.C.2.c.iv ⁵ See further discussion of the parking reduction for the religious assembly use in the parking section above. ⁶ Includes a 0.5 reduction for senior housing pursuant to Section 59-6.2.3.I.2.b. ⁷ 10 spaces for the Senior Building are provided on site (Lot 1), and the additional 37 spaces required for the Senior Building are provided on Lot 2 with a joint use parking agreement pursuant to Section 59-6.2.3.G.		

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

The Preliminary Plan substantially conforms to the Sector Plan. The Property is within the boundary of the 2012 Wheaton CBD and Vicinity Sector Plan (“Sector Plan” or “Plan”). Overall, the Application is in conformance with the Sector Plan. The Sector Plan does not specifically address the Property, but general recommendations related to housing, connectivity, and transportation are relevant to this Application.

Housing

The following Sector Plan objectives and recommendations are related to housing:

The Plan describes Wheaton's role in the County as an area with "broad housing choices" (page 9) and envisions the Wheaton of the future to continue providing, "housing opportunities for the eastern part of the County." (page 11).

The Plan also recommends that "Existing single-family residential neighborhoods should be preserved and protected from the adverse impacts of nearby non-residential development." (page 58).

The Senior Building will provide additional housing choices in Wheaton. The Senior Building will occupy a Property that is currently developed with a non-residential use. The building is context-sensitive in massing and orientation and provides an appropriate transition to the single-family neighborhood located along Reedie Drive to the west.

Connectivity

The Sector Plan recommends that through-block pedestrian connections should be provided where feasible, particularly for large blocks (page 64).

A pedestrian/bicycle connection is provided along the northwest side of the Senior Building. This location provides pedestrian access between Reedie Drive and University Boulevard while maintaining the secure environment the Applicant requires for the Synagogue and the Senior Building.

Master-Planned Roadways, Bikeways and Transit

The segment of University Boulevard along the Property frontage is classified as M-19, a major highway with planned Bus Rapid Transit (BRT), within the Master Plan of Highways and Transitways. The existing section has six (6) lanes, as well as an existing vegetated median. The Applicant will dedicate approximately 25-feet of right-of-way to meet the 75-foot public planned right-of-way, from centerline, to accommodate the six travel lanes, a central median, and the future University Boulevard transitway identified in the Countywide Transit Corridors Functional Master Plan. A BRT station is planned at the University Boulevard-Amherst Avenue intersection, less than a 1/4 mile west of the Subject Property.

Currently along the University Boulevard Property frontage, an existing six-foot sidewalk, without a street buffer, is located directly from the back of curb. The University Boulevard Property frontage will be enhanced with a six-foot sidewalk and eight-foot street buffer with street trees, in accordance with the Boulevard streetscape requirements in the Complete Streets Design Guide. Furthermore, the Applicant will construct a new ADA-compliant curb ramp connecting directly with the existing crosswalk across University Boulevard. The driveway access at the University

Boulevard-Reedie Drive approach will be raised to sidewalk-level to foster safe travel for people walking north to south, consistent with standard detail MC-302.01.

The *Bicycle Master Plan* recommends a neighborhood connector trail through the Property to connect Reedie Drive and University Boulevard. The Applicant will provide an eight-foot-wide asphalt pathway north of the Senior Building that will provide a public pedestrian and bicycle connection between Reedie Drive and University Boulevard. The pathway provides clear indication of public access using decorative tree plantings and natural features. A bidirectional off-street sidepath is planned along the opposite frontage of University Boulevard and the Subject Preliminary Plan does not preclude implementation of the future bikeway.

Additionally, the future University Boulevard Transitway is planned along this segment of University Boulevard. A bus rapid transit station is planned at the University Boulevard-Amherst Avenue intersection, less than a 1/4 mile west of the Subject Property.

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

Transportation

Transportation infrastructure will be adequate to serve the development. Master planned roads, bikeways, and transit are discussed in finding no. 2. The Property is currently serviced by Ride On and WMATA buses, with existing bus stops located along the Property's frontages with University Boulevard. The Property is also within a 1/3 mile of the Wheaton Metrorail Station, located to the west along Reedie Drive. The nearest public transit routes are as follows:

- Ride On route 7 operates along Reedie Drive and University Boulevard, providing service between the Wheaton CBD, Inwood Avenue, and the Wheaton and Forest Glen Metrorail stations.
- Ride On route 8 operates along University Boulevard, providing service to the Wheaton CBD, Holy Cross Hospital, the Silver Spring CBD, and the Wheaton, Forest Glen, and Silver Spring Metrorail stations.
- Metrobus route C2 operates along University Boulevard, providing service to the Wheaton CBD, Four Corners, Langley Park, the US 29 Flash Route, the University of Maryland, and the Wheaton and Greenbelt Metrorail stations.
- Metrobus route C4 operates along University Boulevard, providing service to the Wheaton CBD, Four Corners, Langley Park, the US 29 Flash Route, and the Wheaton and Prince George's Plaza Metrorail stations.

Transportation Adequate Public Facilities (APF) Review

The Applicant filed a transportation statement, which included up to 90 independent living dwelling units. The transportation statement indicates that the Project will generate an increase of 28 morning and 39 evening person trips, with an increase of 15 morning and 22 evening peak hour vehicle trips.

As such, under the 2020-2024 Growth and Infrastructure Policy, a traffic study is not required to satisfy the LATR test, because the number of morning and evening person trips is fewer than the standard of 50 or more trips within the weekday peak hours.

Schools

A School Test is not required for the existing Synagogue. The Independent Living for Seniors use is not projected to generate any school-age children and a School Test is not required.

Other Public Facilities and Services

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission ("WSSC") through connection to the existing water and sewer lines. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy in effect at the time that the Application was submitted.

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

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law ("FCL"). As required by Chapter 22A, a Final Forest Conservation Plan ("FFCP") was submitted with this Preliminary Plan application. The total net tract area for forest conservation purposes is 3.55 acres. The Property is zoned R-60 and is classified as High Density Residential ("HDR") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Site does not contain any forest. However, there is a 0.53-acre afforestation requirement as calculated in the Forest Conservation Worksheet, as determined by the property size and 15% afforestation threshold. The afforestation requirement will be met off-site in a forest bank or by payment of fee-in-lieu. The Final Forest Conservation Plan (FFCP) is consistent with the Preliminary Forest Conservation Plan that was approved with Conditional Use No. CU202204.

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

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on November 29, 2021. The Application will meet stormwater management goals through a variety of techniques including Micro-Bioretenention, Enhanced Micro Bioretention, Planter Boxes, and a Green Roof.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.*

The Applicant has not had notice of any burial site on the Property, nor is the Property or any portion thereof included in the Inventory

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 05 2023 (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 the motion of Commissioner Branson, seconded by Commissioner Presley, with a vote of 5-0-; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, at its regular meeting held on Thursday, December 22, 2022, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
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