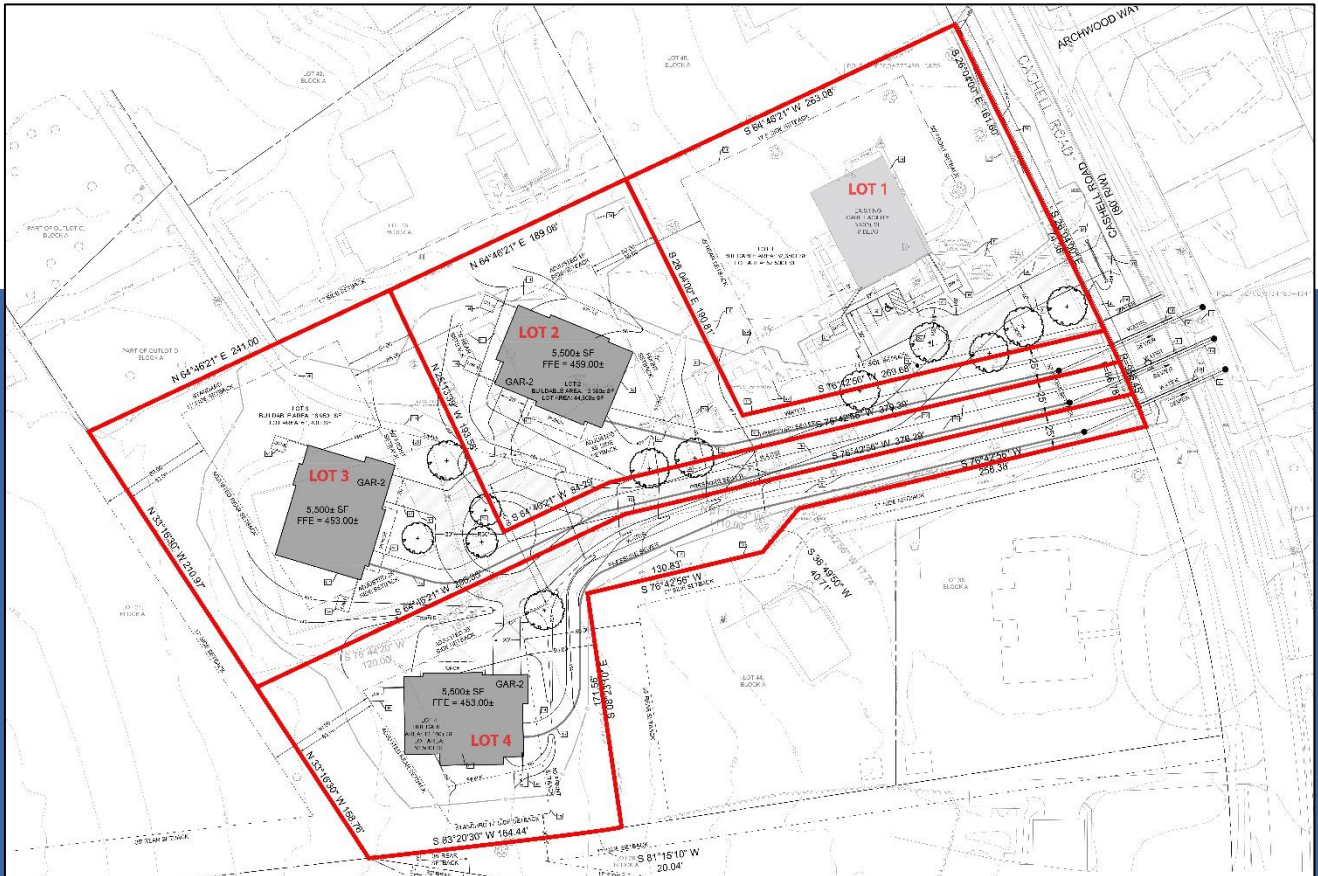


OLNEY ACRES

PRE-PRELIMINARY PLAN NO. 720240010



Description

Application to obtain binding direction from the Planning Board on the application of the flag lot provisions to the Subject Property.

No. 720240010

Completed: 6-7-2024

MCPB

Item No. 6

6-20-2024

Montgomery County
Planning Board
2425 Reedy Drive, Floor 14
Wheaton, MD 20902

Planning Staff

JS	Jeffrey Server, Planner III, Upcounty Planning, jeffrey.server@montgomeryplanning.org , 301-495-4513
SP	Sandra Pereira, Supervisor, Upcounty Planning, sandra.pereira@montgomeryplanning.org , 301-495-2186
	Patrick Butler, Chief, Upcounty Planning, patrick.butler@montgomeryplanning.org , 301-495-4561

LOCATION/ADDRESS

18100 Cashell Road, approximately 75 feet southwest of Archwood Way

MASTER PLAN

2005 *Approved and Adopted Olney Master Plan*

ZONE

RE-1

PROPERTY SIZE

4.96 acres

APPLICANT

AlfredHouse Elder Care, Inc.

ACCEPTANCE DATE

March 20, 2024

REVIEW BASIS

Chapters 50 and 59

Summary:

- This Pre-Preliminary Plan Application requests binding direction from the Planning Board on the on the application of the flag lot provisions to the Subject Property if it were subdivided to create four (4) lots including three (3) flag lots.
- Per Section 50.5.1.A of the County Code: “Before a subdivider submits a preliminary plan, the subdivider may seek advice on limited aspects of a future subdivision plan from the Planning Department Staff, the Development Review Committee, or the Board as appropriate, or seek a binding decision from the Board” through a pre-preliminary plan application.
- The Pre-Preliminary Plan expires after 90 days following Planning Board issuance of binding direction unless the Applicant submits a Preliminary Plan application.
- One letter from the community has been received to date not offering objections to the Application.

TABLE OF CONTENTS

SECTION 1: EXECUTIVE SUMMARY.....	3
SECTION 2: STAFF RECOMMENDED BINDING ELEMENTS.....	3
PRE-PRELIMINARY PLAN 720240010.....	3
SECTION 3: SITE DESCRIPTION.....	4
VICINITY.....	4
PROPERTY DESCRIPTION.....	7
SECTION 4: PROJECT DESCRIPTION.....	7
PREVIOUS APPROVALS.....	7
PROPOSAL.....	8
SECTION 5: COMMUNITY OUTREACH	9
SECTION 6: ANALYSIS.....	10
SECTION 7: CONCLUSION	13
ATTACHMENTS	13

SECTION 1: EXECUTIVE SUMMARY

Olney Acres, Pre-Preliminary Plan No. 720240010 (“Application”) was accepted on March 20, 2024, pursuant to Section 50.5.2.C.2 . This Application has been submitted to obtain binding advice from the Planning Board. The Board must act on one of the following:

- i. approve the pre-preliminary submission;
- ii. disapprove it, stating in writing the reasons for disapproval; or
- iii. approve it, subject to conditions or modifications as the Board finds necessary. Approval of any feature of a pre-preliminary submission does not limit the ability of the Board to impose further conditions at the time of preliminary plan on features not included in the Board's binding decision.

Once binding advice is received from the Planning Board, the Applicant has 90 days to submit a Preliminary Plan application that is supported by the Board’s decision at the Pre-Preliminary Plan stage; otherwise, the approval expires.

The Applicant has submitted a Pre-Preliminary Plan Application and is requesting a binding decision by the Planning Board to determine if a future potential subdivision of the Subject Property into four (4) lots, including three (3) flag lots, satisfies the flag lot provisions. Specifically, the Application is requesting confirmation of the following three items:

1. The position of the tract in relation to surrounding properties and rights-of-way permits no feasible way to subdivide other than by creating flag lots.
2. Appropriate separation between building envelopes is achieved through 80-foot separations in both directions as specified in Section 50.4.3.C.1.b.i:
 - a) Between each proposed flag lot and the building envelopes of all lots between each flag lot and Cashell Road; and
 - b) Between each proposed flag lot and the building envelopes of all lots that are adjacent to the rear lot line of the flag lot.
3. The proposed setbacks provide appropriate separation between lots to meet the flag lot requirements.

SECTION 2: STAFF RECOMMENDED BINDING ELEMENTS

PRE-PRELIMINARY PLAN 720240010

Staff supports the submission of a preliminary plan amendment application that, at a minimum, addresses the application of the flag lot provisions to the Subject Property, subject to the following binding elements.

1. At the time of Preliminary Plan Amendment, the Applicant must provide building restriction lines that provide a minimum of 80 feet of separation between the building envelope of the proposed flag lot and the building envelope of all lots adjacent to the rear lot line of the proposed flag lot and all lots that are between the proposed flag lot and road on which it fronts. All building restriction lines must be shown on the record plat.
2. The Preliminary Plan Amendment must reflect the following minimum building restriction lines (“BRL”) as shown on the Pre-Preliminary Plan drawing provided in the staff report:
 - a) Lot 2: A 35-foot rear BRL from proposed Lot 3, a 45-foot side BRL from proposed Lot 1, and remaining side BRLs satisfying standard side setback requirements in the RE-1 zone.
 - b) Lot 3: A 63-foot rear BRL from existing Lot 21, a 45-foot side BRL from proposed Lot 2, and remaining side BRLs satisfying standard side setback requirements in the RE-1 zone.
 - c) Lot 4: A 63-foot rear BRL from existing Lot 21, a 45-foot side BRL from existing Lot 44, and remaining side BRLs satisfying standard side setback requirements in the RE-1 zone.
3. The Applicant must file an amendment to the previous Preliminary Plan within 90 days of the Resolution approving this Pre-Preliminary Plan.

SECTION 3: SITE DESCRIPTION

VICINITY

The Subject Property is located at 18100 Cashell Road, approximately 75 feet southwest of Archwood Way, and consists of approximately five acres in the Residential Estates (RE-1) Zone (“Property” or “Subject Property”). Surrounding properties are predominantly residential in character on a mix of large estate and smaller lots, all within the RE-1 and R-200 Zones. Surrounding properties range in size and contain single-family detached residential houses. The Subject Property abuts residential properties to the north, south, and west, all of which are zoned RE-1. To the east, across Cashell Road, are residential properties which are zoned R-200. Further north on Cashell Road are residential properties zoned RE-1 and are located within the Upper Rock Creek Overlay zone, which includes a TDR-2.0 receiving area.

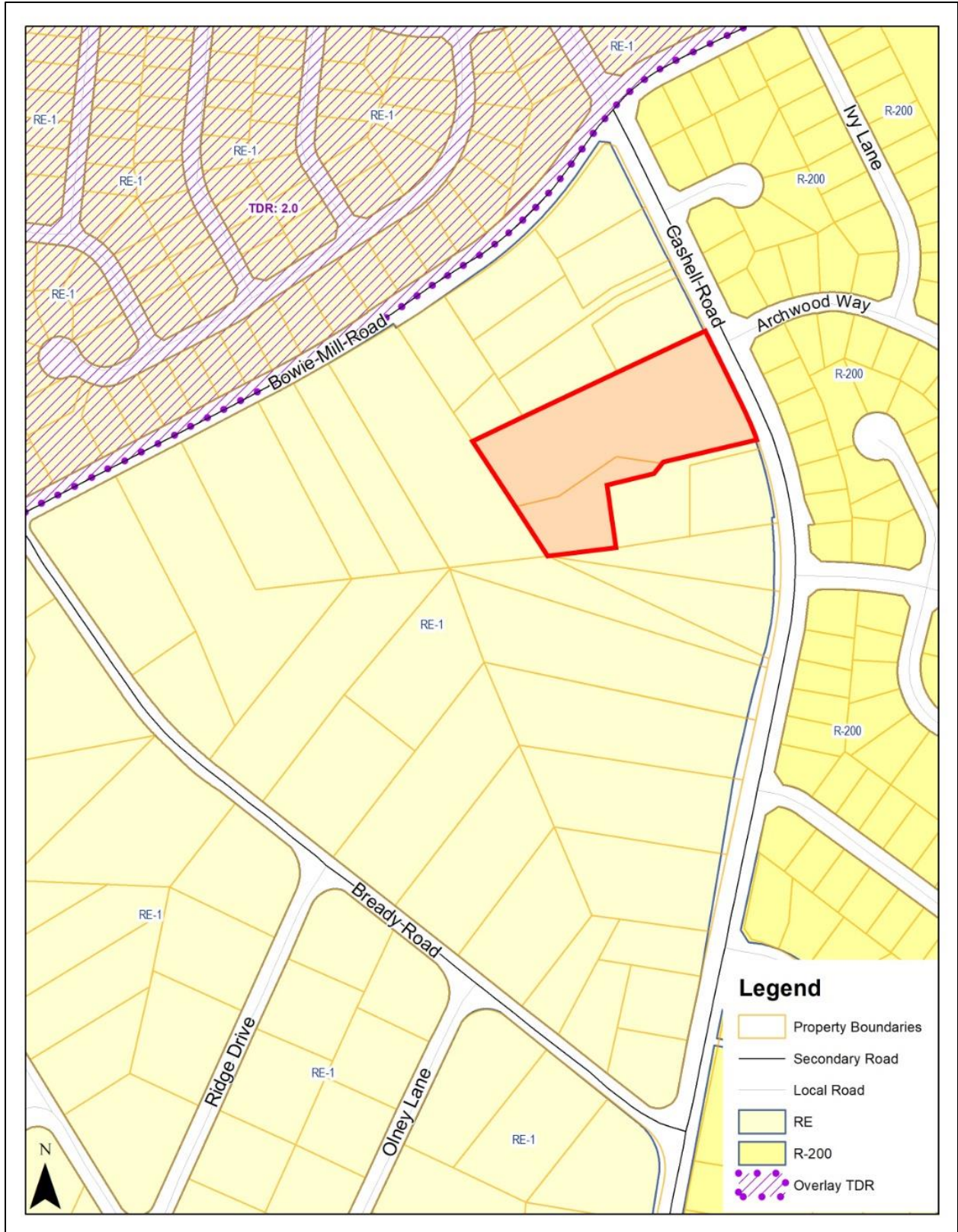


Figure 1 - Zoning Map



Figure 2 – Aerial View of the Subject Property

PROPERTY DESCRIPTION

The Subject Property is a 4.96-acre polygonal lot (216,105 sq. ft.), with the existing Alfred House residential care facility located in the northeast corner of the lot. The Subject Property fronts on Cashell Road, with the closest intersection located at Archwood Way. The Property, as depicted in Figures 1 and 2 above, is developed with existing structures and a driveway. The existing structures include a two-story office building, a swimming pool, and two small outbuildings. The Property is located within the Rock Creek watershed, which is classified by the State of Maryland as Use Class III waters. The Subject Property includes existing landscaping in the form of grass and perimeter trees along the northern, southern, and western property lines. There are no sensitive environmental features located on the Property. No known rare, threatened, or endangered species or habitats exist on the Subject Property. There are no designated historic sites on or near the Property.

SECTION 4: PROJECT DESCRIPTION

PREVIOUS APPROVALS

PRELIMINARY PLAN 119811510

Preliminary Plan No. 119811510 was approved on March 29, 1984 to create eight lots on 18.53 acres of land.

SPECIAL EXCEPTION S1474

Special Exception S1474 permitted the continued use of a commercial riding stable and applied to the Subject Property, as well as surrounding adjacent properties. The Special Exception is no longer in effect and was revoked in 2010.

SPECIAL EXCEPTION S1794

Special Exception S1794 permitted the continued use of an existing accessory apartment on the Subject Property. The Special Exception is no longer in effect and was revoked in 2007.

DPS PERMIT

On November 3, 2006, DPS issued a Permit for the Alfred House since it was limited to 8 beds and a permitted use within the zone.

PRELIMINARY PLAN 120220070

On September 21, 2022, the Planning Board, by Resolution MCPB No. 22-092, approved Preliminary Plan No. 120220070 to create one 0.98-acre lot for an existing residential care facility (Alfred House) and one outlot of approximately 3.98 acres. The Preliminary Plan validity period will expire on September 21, 2025. As of the date of approval, the lots have not yet been platted.

PROPOSAL

PRE-PRELIMINARY PLAN 720240010

The Property is subject to approved Preliminary Plan No. 120220070, which approved a one-acre lot for the existing residential care facility (Alfred House) and an approximately 4-acre outlot. The Preliminary Plan will be amended based on the binding elements provided within this Application. This Pre-Preliminary Plan application requests binding direction from the Planning Board on the proposed application of the flag lot provisions to three (3) of the four (4) potential new lots on the Subject Property for residential use (Figures 3 and 4). The proposed flag lots would be accessed from Cashell Road by a shared driveway, which would be terminated with a cul-de-sac bulb.

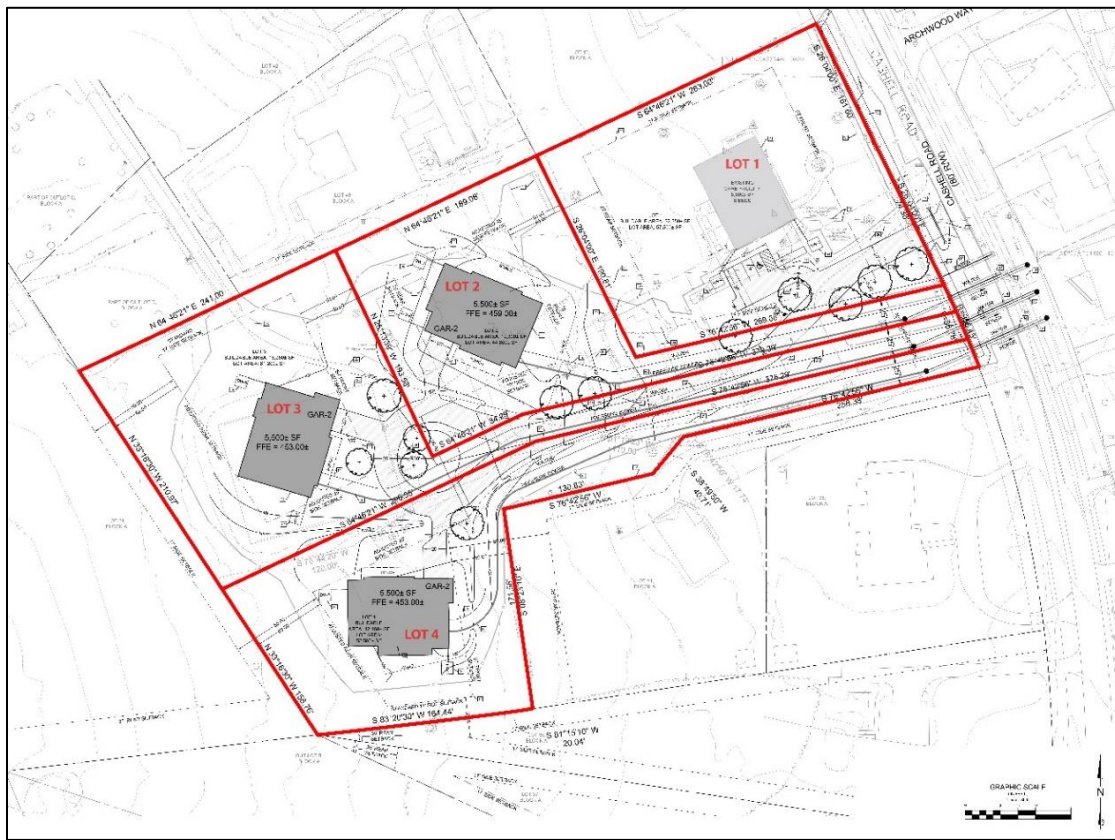


Figure 3 – Pre-Preliminary Plan Layout



Figure 4 – Proposed Lotting Diagram

SECTION 5: COMMUNITY OUTREACH

The Applicant has complied with all application submittal, noticing, and sign posting requirements under COMCOR 50.10.01.04 of the Subdivision Regulations. The required hearing notice sign was adequately posted at the Subject Property. Written notice of the Application was mailed by the Applicant to all required parties. One (1) sign at 18100 Cashell Drive, referencing the proposed Application was posted along the Subject Property’s frontage. A pre-submission meeting was not required for this Application.

As of the published date of this Staff Report, one letter of community correspondence from the Patuxent Watershed Protective Association was received regarding the Application (Attachment D). The letter expressed that there are no objections to the proposed subdivision of the Subject Property.

SECTION 6: ANALYSIS

Staff recommendations on the requested binding decisions are based on review with county agencies, master plan conformance, and applicable requirements of Chapter 50, Subdivision Regulations, and Chapter 59, Zoning Code.

The four (4) proposed lots as dimensioned and laid out on the Pre-Preliminary Plan, are appropriate for the existing residential care facility and potential detached dwelling units, considering the recommendations of the 2005 *Approved and Adopted Olney Master Plan* and the applicable requirements of Chapters 50 and 59. The dimensions of the lots are adequate to accommodate the existing Alfred House facility and potential new detached dwelling units.

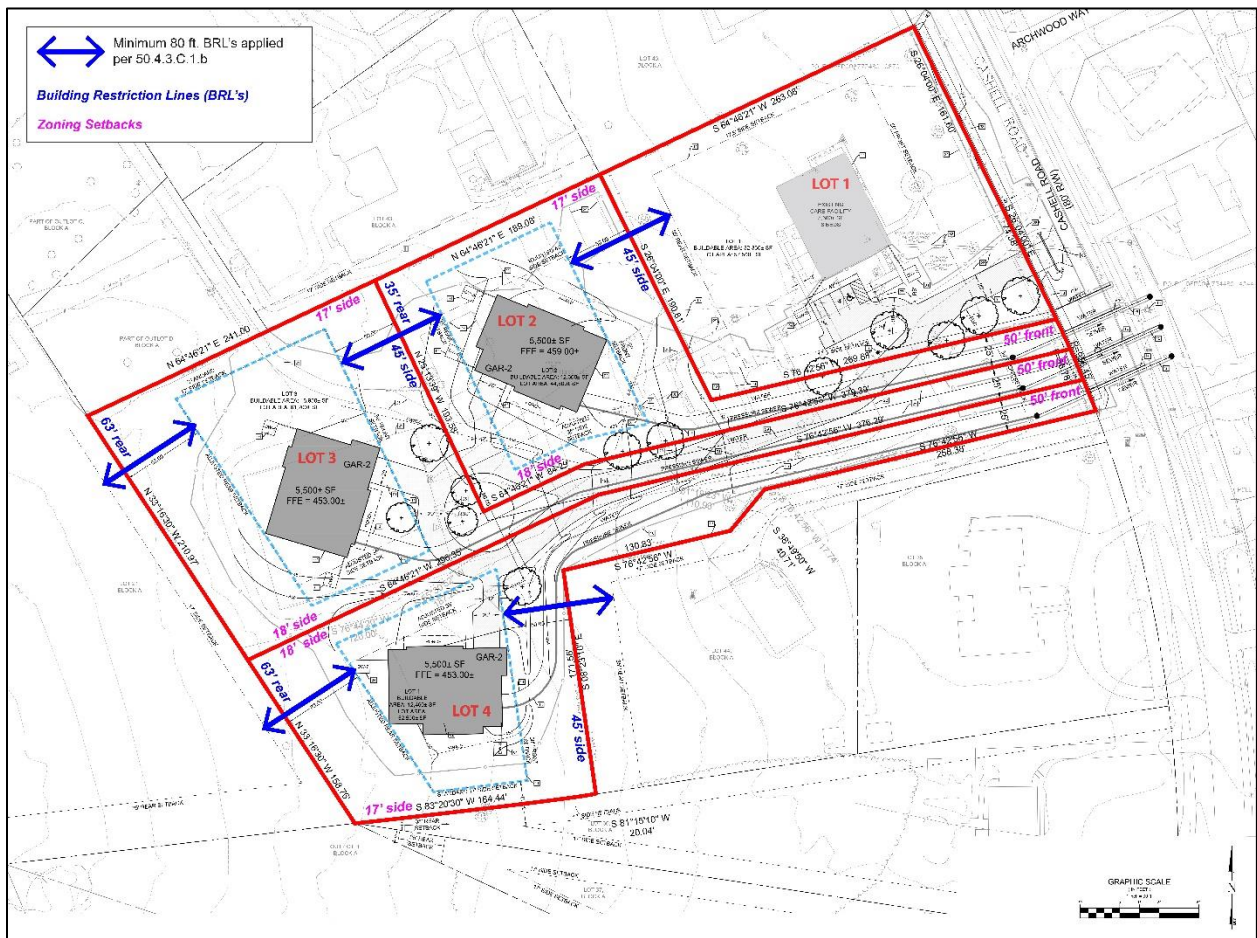


Figure 5 – Composite Pre-Preliminary Plan (BRL's shown in blue)

Creation of Flag Lots

Pursuant to Chapter 50, Section 6.3.B.5, the Planning Board must review potential Lots 2, 3, and 4 with regard to the flag lot provisions.

Section 4.3.C.1.b. of the Subdivision Regulations states that the Planning Board must not approve flag lots, except where unusual topography, environmental conditions, or the position of the tract in relation to the surrounding properties and right-of-way permit no other feasible way to subdivide and the Board determines that the appropriate separation between building envelopes can be achieved.

In this case, the creation of flag lots is acceptable, considering the shape of the Property, the location of the existing Alfred House care facility, and the position of the tract in relation to the surrounding properties. The Subject Property is irregularly shaped with over 50% of the buildable area located to the rear half of the Property. Of the 323 feet of frontage on Cashell Road, 236 feet is used for the existing Alfred House residential care facility and driveway. The existing facility is being retained which leaves only a maximum of 87 feet, measured at the curvature of the property line, along Cashell Road, making it infeasible to avoid the creation of flag lots (or lots without frontage). The flag lots meet the 25-foot minimum frontage for creation of a lot within the RE-1 zone. Taking into consideration the shape of the property, the existing conditions, and the RE-1 zone development standards, the creation of flag lots is the only feasible manner in which to subdivide the Subject Property.

In addition, the following provisions apply per Section 50.4.3.C.1.b:

- i. in residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed flag lot and:
 - (a) the building envelopes of all lots that are adjacent to the rear lot line of the proposed flag lot; and
 - (b) the building envelopes of all lots that are between the proposed flag lot and the road on which it fronts;
- ii. the Board may require additional building restriction lines to ensure appropriate separation between building envelopes and to provide appropriate location of the building envelope within the lot; and
- iii. all building restriction lines must be shown on the plat.

Consistent with the flag lot requirements, the Applicant has demonstrated that the potential lots can accommodate the minimum of 80 feet of separation between the building envelope of the proposed flags lots and the building envelopes of the lots that are adjacent to the rear lot line of the proposed flag lot. In addition, the building envelopes of all lots that are between the proposed flag lot and the road on which it fronts will also accommodate the 80-foot separation. Taking into consideration the standard RE-1 setbacks (35-foot rear setback and 17 foot / 35 foot combined side setback) of the adjacent lots, additional setbacks are provided on the Subject Property to provide a cumulative minimum setback of 80 feet between building envelopes. All other setbacks are the minimum required within the RE-1 zone.

As conditioned and shown in Figure 5, the following BRLs will be provided:

- Lot 2 will have a 35-foot rear BRL from proposed Lot 3 and a 45-foot side BRL from proposed Lot 1.
- Lot 3 will have a 63-foot rear BRL from existing Lot 21 and a 45-foot side BRL from proposed Lot 2.
- Lot 4 will have a 63-foot rear BRL from existing Lot 21 and a 45-foot side BRL from existing Lot 44.

As conditioned, all building restriction lines must be shown on the plat.

d. The Lot(s) and Use comply with the basic requirements of Chapter 59

As reflected in Table 1, the potential lots conform to the dimensional standards of the RE-1 zone, taking into consideration the expanded building restriction lines (BRL’s) required for flag lots. A summary of this review is included below in the Pre-Preliminary Plan Data Table.

Table 1 – Pre-Preliminary Plan Data Table (RE-1 Zone)

Development Standards	Required / Permitted	Proposed Lot 1	Proposed Lot 2	Proposed Lot 3	Proposed Lot 4
Minimum lot size	40,000 sq. ft.	57,535 sq. ft.	44,841 sq. ft.	61,176 sq. ft.	52,552 sq. ft.
Min. lot width at front building line	125 ft.	125 ft. or greater	125 ft. or greater	125 ft. or greater	125 ft. or greater
Min. lot width at front lot line	25 ft.	25 ft. or greater	25 ft. or greater	25 ft. or greater	25 ft. or greater
Min. Front setbacks (Principal Blg.)	50 ft.	50 ft. or greater	50 ft. or greater	50 ft. or greater	50 ft. or greater
Min. Side setbacks (Principal Blg.)	17 ft. / 35 ft. sum	17 ft. or greater / 35 ft. sum	17 ft. and 45 ft. BRL**	17 ft. and 45 ft. BRL**	17 ft. and 45 ft. BRL**
Min. Rear setbacks (Principal Blg.)	35 ft.	35 ft. or greater	35 ft. BRL**	63 ft. BRL**	63 ft. BRL**
Max Lot Coverage	15%	15% or less	15% or less	15% or less	15% or less
Max Building Height (Principal and Accessory)	50 ft.	50 ft. or less	50 ft. or less	50 ft. or less	50 ft. or less

** See Pre-Preliminary Plan for additional BRL’s established to provide a minimum of 80 feet of separation, as required per Section 50.4.3.C.b.

SECTION 7: CONCLUSION

The Applicant has requested binding direction on the proposed application of the flag lot provisions to three (3) of the four (4) potential new lots on the Property for residential use. As discussed above the Application, with binding elements, satisfies the flag lot provisions. Staff supports the general layout, lot configuration, and access. As conditioned, the Applicant must provide BRL's that provide 80 feet of separation between building envelopes and the BRL's must be shown on the record plat. Further, the Applicant must file an amendment to the Preliminary Plan within 90 days of the date of the Board's Resolution in order to maintain the validity of this decision.

ATTACHMENTS

Attachment A: Pre-Preliminary Plan Composite

Attachment B: Statement of Justification

Attachment C: MCDPS Zoning Correspondence, May 7, 2024

Attachment D: Community Correspondence

Attachment E: Flag Lot BRL Exhibit