

16998 OVERHILL ROAD
PRELIMINARY PLAN NO. 120240060
FINAL FOREST CONSERVATION PLAN NO. F20230100



Subdivision to create one lot for an Independent Living Facility for Seniors comprised of one apartment building with up to 130 units (100% MPDU).

COMPLETED: 12/30/2024

PLANNING BOARD HEARING DATE: 1/9/2025

MCPB ITEM NO. 4

Planning Staff



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LOCATION/ADDRESS

16998 Overhill Road, Derwood

MASTER PLAN

2004 Upper Rock Creek Master Plan

ZONE

Residential Estate 1 (RE-1)

PROPERTY SIZE

164,221 square feet (3.77 acres)

APPLICANT

Community Housing Initiative, Inc.

ACCEPTANCE DATE

February 7, 2024

REVIEW BASIS

Chapter 50

Summary:

- Staff recommends approval of the Preliminary Plan with conditions for the creation of one lot for an Independent Living Facility for Seniors.
- Conditional Use Plan CU2023-14 was approved by OZAH on September 13, 2023, for the redevelopment of the Property for up to 130 affordable senior independent living units (all priced at or below the MPDU threshold) in one, five-story building.
- The Subject Site is currently improved with an existing landscape contractor and storage yard. The Proposal would replace the existing use with an Independent Living Facility for Seniors.
- Staff has not received any public correspondence as of the date of this Staff Report.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 120240060

Staff recommends approval with conditions of the Preliminary Plan No. 120240060 to create one lot for an Independent Living Facility for Seniors. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120240060 as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.

GENERAL APPROVAL

1. This Preliminary Plan is limited to one lot for development an Independent Living Facility for Seniors with up to 130 units.

ADEQUATE PUBLIC FACILITIES

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).

PLAN VALIDITY PERIOD

3. The Preliminary Plan will remain valid for three (3) 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 November 12, 2024, 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. The Board recognizes that Overhill Road ROW may be conveyed from MDOT SHA to MCDOT and the Applicant must comply the appropriate agency’s permitting and approval processes at the time of right-of-way permit.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“MDOT SHA”) in its letter dated November 26, 2024, 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 MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.
8. 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 October 24, 2024, 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.
9. 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 October 27, 2024, 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.
 - a. Before approval to release any portion of the preliminary plan performance bond, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the fire access improvements have been constructed and installed per the recommendations from the Fire Department Access and Water Supply Section, and as shown in the approved MCDPS fire access plan, or as amended.

OTHER APPROVALS

10. The Applicant must comply with conditions of Hearing Examiner's Report and Decision dated September 13, 2023, approving Conditional Use 2023-14.
11. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

TRANSPORTATION

Frontage Improvements on Existing Roads

12. The Applicant must confirm that at least 30 feet of right-of-way exists between the centerline of Overhill Road and the property boundary. If the distance is not already existing, the Applicant must provide the following dedication and show it on the record plat for the following existing roads:
 - a. All land necessary to accommodate thirty feet from the existing pavement centerline along the Subject Property frontage on Overhill Road.
13. Before the recordation of plat, the Applicant must satisfy all necessary requirements to ensure the construction of a ten (10)-foot wide shared-use path to the west of the Subject Property, connecting to the existing sidewalk along Redland Road.

SURETY

14. 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 construct a ten-foot (10 ft) wide shared-use path to the west of the Subject Property, connecting to the existing sidewalk along Redland Road.
 - 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

15. There shall be no clearing or grading of the site before recordation of plat.
16. The record plat must show necessary easements.
17. The record plat must reflect a common use and access covenant for the benefit of the public over all trails 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

18. 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 pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*
19. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set.
 - b. Include the approved Fire Department Access Plan.

- c. Include all landscape and lighting plans associated with approved Conditional Use No. CU 2023-14.

FINAL FOREST CONSERVATION PLAN F20230100

1. 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.
2. 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.
3. 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.
4. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the associated development application the Applicant must:
 - a. Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b. Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the Forest Conservation Plan (“FCP”) or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c. Execute a five (5)-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - d. Submit a cost estimate for the reforestation/afforestation and other FCP requirements, which includes but is not limited to trees and shrubs, variance mitigation trees, five (5) years of maintenance including invasive species management controls, permanent easement posts and signage, natural surface trails, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as shown on the FCP. This cost estimate must be

reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.

- e. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 0.63 acres of new forest planting, mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
5. Within one year or two growing seasons following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff the Applicant must install the Afforestation/Reforestation plantings as shown on the approved FCP.
6. Within the one year or two growing seasons n following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 78 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
7. Before submittal of the certified FFCP, the Applicant shall revise the Final Forest Conservation Plan to include the correct Land Use Category “IDA” and include worksheets for both, if the requirements will be met onsite or offsite. Additionally provide the full planting schedule.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property, outlined in Figure 1 in the red dashed line, is located at 16998 Overhill Road, in Derwood. The Property is subject to the 2004 *Upper Rock Creek Master Plan*.

The area surrounding the Site is comprised of low-density residential development, with some religious assembly use and a few Conditional Uses/Special Exceptions. The properties immediately to the east, south, and west are all zoned RE-1 with low-density residential uses, a religious assembly, and a private club. The ICC (MD-200) is abutting the northern property line. Rock Creek Regional Park is to the southeast across Overhill Road from the Subject Property.

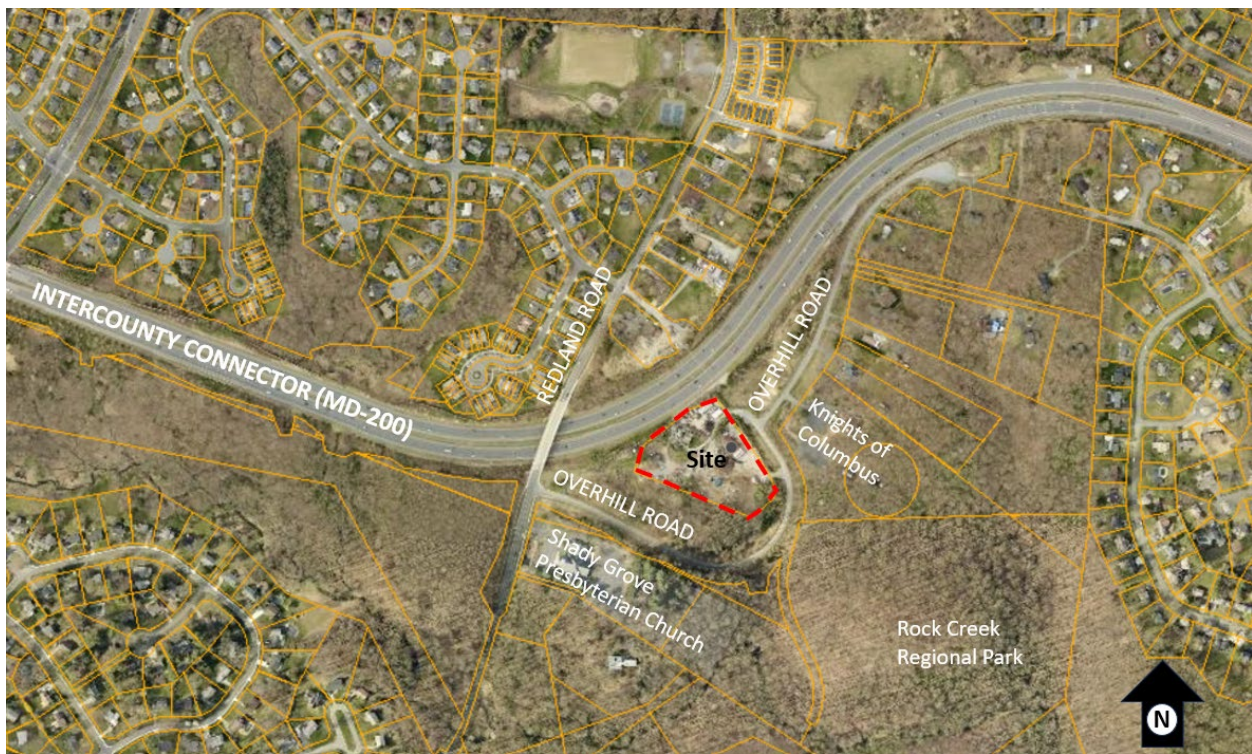


Figure 1 - Vicinity Map

PROPERTY DESCRIPTION

The Subject Property (outlined in red, dashed line in Figure 2) consists of 3.77 acres identified as Part of Lot 6 on Plat 1581, on Tax map 04-00117554. The Property will have access via a new driveway entrance on Overhill Road.

The Property currently consists of a landscape contractor and associated storage yard under an approved Special Exception (CBA-2778) for Horticultural Nursery/Landscape Contractor with two points of access from Overhill Road. The Property contains multiple outbuildings, landscape materials stockpiles, and a single-family dwelling unit. In the southwest corner of the Property, there is an area of Stream Valley Buffer (SVB) associated with an offsite stream.



Figure 2- Subject Property

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

CBA 2778

On April 17, 1970, the Board of Appeals approved with conditions Case No. CBA 2778 for a horticultural nursery and landscaping and maintenance service on the Subject Site. The approval was amended later that month to limit the days of operation to six days per week. On October 5, 1978, the ownership of the Special Exception was transferred to a new owner, with no changes to the conditions of approval.

CONDITIONAL USE CU 2023-14

On September 13, 2023, the Hearing Examiner issued a report approving Case No. CU 2023-14 with conditions the following conditions:

1. A preliminary plan of subdivision is required.
2. The conditional use is limited to a 130 dwelling unit for an Independent Living Facility for Seniors.
3. The project must contain 100% affordable housing (MPDUs).
4. Upon 75% occupancy, the Applicant must make a determination based on residents' transportation needs whether to add a shuttle or van service to residents to provide accessibility to shopping, medical offices, etc.
5. The facility must be operated to meet all applicable Federal, State, and County licensure, certificate, and regulatory requirements.
6. No ancillary or retail services to non-residents are permitted on-site.
7. The Applicant must abandon the existing special exception, (CBA 2778) for Horticultural Nursery/Landscape Contractor use associated with the property.
8. Occupancy of the dwelling units shall be in accordance with the provisions of the Zoning Ordinance Sections 59.3.3.2.C.2.a.iii (age of occupants) and 59.3.3.2.C.2.c.iii (income levels of the occupants), and any amendment thereto.
9. Prior to issuance of any building permit for the subject conditional use, the Applicant or any successor in interest must obtain approval of a Preliminary Plan of Subdivision and Record Plat under Chapter 50 of the Montgomery County Code. The Applicant and any successors in interest must report to OZAH any proposed changes to the conditional use plans as a result of subdivision proceedings and must file a copy of the proposed amended plans with OZAH.
10. The facility must be operated in accordance with all applicable County noise regulations.
11. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant

shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

PRELIMINARY FOREST CONSERVATION PLAN F20230100

On July 20, 2023, the Planning board approved with conditions Preliminary Forest Conservation Plan (PFCP) in association with the CU 2023-14 application. The PFCP proposed no forest clearing and based on the land use category, Institutional Development Area (“IDA “) and the forest conservation worksheet generated a 0.86 planting requirement. The Applicant proposed to plant 0.62 acres of forest onsite with the Stream Valley Buffer (“SVB”) and the remaining .24 acres offsite.

PROPOSAL

The Applicant proposes to create one lot, 3.77 acres in size, to allow construction of a new Independent Living Facility for Seniors per Section 59.3.3.2.C.2.c, as allowed by the approved Conditional Use in the RE-1 zone. The Application includes a new multi-unit building, parking lot, lighting, and landscaping. The Property will have access via a new driveway entrance on Overhill Road. The building will contain up to a total of 130 dwellings units all of which will be Moderately Priced Dwelling Units (MPDUs). Approval of the conditional use is conditioned on the abandonment of the existing Special Exception for a Horticultural Nursery/Landscape Contractor.



Figure 3: Existing Site Conditions



Figure 4: Preliminary Plan, Category 1 Afforestation Area Shown in Green-dotted Area

OPEN SPACE

The landscaped area provides amenities for residents, including a large patio, kitchen, shade structure, seating areas, a path, open lawn, dog run, and community garden plots. A small number of spaces are left unprogrammed to allow for future expansion or integration of amenities that the community decides to install over time. In combination with other naturalized and landscaped areas, these spaces achieve the minimum 50 percent green area required for the use.

A stream and small tributary with associated wetlands sit offsite to the south, southwest. These environmentally sensitive areas will be protected by a buffer that will be reforested significantly increasing tree canopy on site and improving air and water quality. Removed specimen trees will be mitigated on site, spread throughout. Stormwater will be treated on site through bio-retention filtration planters integrated with the landscaped areas.

TRANSPORTATION

Motor vehicle access to the Subject Property will remain unchanged. The Proposed Development will have two access points for motor vehicles provided by circular-style, two-way driveways (see Figure 5 below). It was determined by Montgomery County Department of Transportation (“MCDOT”) and Planning Staff that the Applicant will not be required to improve Overhill Road to the standard of a Neighborhood Street per the 2024 *Complete Streets Design Guide* due to constraints with grading and existing stormwater management facilities, which are explained in detail in the finding section of this report. Therefore, there will be no pedestrian or bicycle facilities along Overhill Road. Instead, as conditioned, the Applicant will provide a 10-foot-wide shared-use path to the west, which will connect the Proposed Development to existing public pedestrian facilities along Redland Road.



Figure 5: Circulation Diagram

ENVIRONMENT

The Final Forest Conservation Plan No. F20230100 (“FFCP”) shows no existing forest on the Property. The site contains numerous specimen and significant trees. There is Stream Valley Buffer onsite from an offsite stream. The stream valley buffer will be planted as part of the development process. A full analysis is provided in Section 6 of this Staff Report. A noise analysis was reviewed as part of the conditional use and no additional noise conditions or analysis is warranted.

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. A pre-submittal public meeting was held on December 5, 2023, via a virtual meeting platform and a sign was posted on the Property. One neighbor attended the meeting and raised questions about noise, traffic volume and safety, as well as the general timeline for the Project. The Applicant responded to all questions that were raised. A summary of the questions and Applicant responses is included in this section of report.

Additional meetings were held in connection with the approved Conditional Use Plan.

NOISE

After the Planning Board Hearing, the Applicant submitted an updated Noise Analysis dated July 28, 2023, to the Hearing Examiner as part of the Conditional Use Application.

The calculated exterior noise levels in 20 years are projected to fall below the exterior noise limit of 60 dBA Ldn in the Courtyard area. Non-noise sensitive areas facing the highway exceed the 60 dBA Ldn limit. With the planned construction details including double-glazed windows, interior noise levels are expected to stay within the 45 dBA Ldn noise limit.

This updated report satisfied any concerns raised at the time of the Planning Board hearing and no additional noise conditions or analysis is warranted.

TRAFFIC VOLUME AND SAFETY

There was concern about the potential volume of traffic and the age of the drivers. There is a school bus stop located at the intersection of Redland Road and Overhill Road. The Applicant explained that the estimated trip generation was fewer than 50 net new person trips, and the Project is therefore exempt from the requirement to conduct a transportation impact study.

GENERAL TIMELINE FOR THE PROJECT

The Project would need to progress through the development review process including Planning Board approval, permitting and ultimately construction. The Applicant anticipated construction in mid to late 2024.

As of date of this Staff Report, no correspondence has been received.

SECTION 5: PRELIMINARY PLAN 120240060 FINDINGS AND ANALYSIS

The Preliminary Plan would create one lot, measuring approximately 164,713 square feet or 3.77 acres of site area, for a maximum density of up to 130 units of affordable independent living, in a single, five-story building. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State, County, and City agencies.

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.*

a) *The block design is appropriate for the development or use contemplated*

The block design is existing and appropriate for the development and use. The length, width, and shape of the block are compatible with the development in the neighborhood in which the Site is located. The proposed lot design is appropriate for the proposed development and use. The Property is situated to the south of MD 200 in an area surrounded by institutional uses, parkland, and a few properties with special exceptions and residential uses. Before MD 200 was constructed, the Site was on Needham Road and the neighborhood was a historically zoned for large-lot residential use. With the new highway, the Site is an odd remainder that is somewhat secluded but still accessible to parks, commercial centers, and other services. Due to the significant right-of-way takings around the Property, there are no abutting privately-owned properties.

b) *The lot design is appropriate for the development or use contemplated*

The lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The layout of the single-lot subdivision, including its size, shape, and orientation is appropriate for residential development in the RE-1 Zone.

c) *The Preliminary Plan provides for required public sites and adequate open areas*

i. *Master Planned Sites*

The Site is subject to the 2004 *Upper Rock Creek Master Plan* (“Master Plan”). The Master Plan does not identify the Property specifically, but the Master Plan generally endorses housing of various types and prices to residents in a wide range of incomes, ages, lifestyles, and physical capabilities (page 35).

ii. **Local Recreation**

The Preliminary Plan does not include dedication of land for public recreation purposes. The Subject Application will provide 50 percent green area on site, as required for all Independent Living Facilities for Seniors allowed as a conditional use.

iii. **Transportation and Utilities**

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

Independent Living Facilities for Seniors are allowed uses in the RE-1 Zone as a conditional use. The Hearing Examiner approved CU 2023-14 for the Subject Property in its reported dated September 13, 2023. The Subject Preliminary Plan conforms with all required conditions. Pertinent to the scope of Preliminary Plan it is proposing no more than the approved 130 dwelling units (CU Condition No. 1) and no ancillary retail services to non-residents are proposed (CU Condition No. 6).

As shown in the data table below, the Application will comply with the development standards of the RE-1 Zone, Standard Method. The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The size, width, shape, and orientation of the lot are appropriate for the zone, location, and use provided for the Site.

Table 1: 16998 Overhill Preliminary Plan Data Table for RE-1 Zone (as modified by Section 3.3.2.C.2.c.), Standard Method, Section 59.4.4.6B.

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	164,713 sf
Prior Dedication	n/a	0 sf
Proposed Dedication	n/a	0 sf
Site Area	n/a	164,713 sf
Density	n/a units 30% MPDU	130 units 100% MPDU
Minimum Lot Area	40,000 sf	164,713 sf
Minimum Lot Frontage	25 ft	177 ft
Minimum Lot width at B.R.L.	125 ft	187 ft
Maximum Lot Coverage	15%, 24,707 sf	15%, 24,707 sf
Green Area (min) (Section 59-3.3.2.viii)	50%, 82,356 sf	50%, 82,356 sf
Principle Building setbacks		
Front	50 ft	50 ft
Side Street	20 ft	20 ft
Side	25 ft	n/a (no abutting lot)
Sum of Side	35 ft	n/a (no abutting lot)
Rear	25ft	n/a (no abutting lot)
Height*	60 ft	60 ft

Development Standard	Permitted/ Required	Proposed
Site Plan Required	No	No
Vehicular Parking Requirement (Section 59-6.2.4.B) Spaces/Unit	0.75 spaces/unit** 98 spaces	123 spaces
Bicycle Parking Requirement (Section 59-6.2.4.C) Spaces/Unit	0.25 spaces/unit 33 spaces	33 spaces

* Per Section 59.3.3.2.C.2.c.iv, The Hearing Examiner may modify height, density, coverage, and parking to maximize the compatibility of buildings with the residential character of the surrounding neighborhood. The Hearing Examiner approved the maximum height of 60 feet in their report dated September 13, 2023, for CU 23-14.

** Per Section 59.6.3.1.2.b: Adjustment factor for Age-Restricted Housing

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

a) Land Use

The Master Plan confirms the RE-1 zoning for the Property but does not contain any site-specific recommendations. The Project conforms with the general recommendations contained in the Master Plan.

The Project, which provides over 50 percent green area and only 15 percent building coverage, maintains a footprint compatible with low density, large estate properties. Although proposing approximately 35 units per acre, these units are for affordable, independent living units, that have low impacts on traffic and no impact on schools. The Project will remove significant commercial storage yards and dumping areas and create forest and landscaped buffers around the periphery of the Site, to provide ample screening and buffering from the surrounding roads.

The Master Plan endorsed housing of varying types and prices to residents in a wide range of socioeconomic strata of all incomes, ages, lifestyles, and physical capabilities (page 35). This is reinforced by the statement on page 35 that, “the provision of affordable housing for the elderly”. The Project directly implements this policy goal through affordable senior housing in an appropriate building type.

Furthermore, the Master Plan recognized a lack of affordable housing for seniors (and others) and the difficulty in finding new areas for such housing (pages 35-36). The Master Plan identified some properties as suitable for increased density and MPDUs. The Subject Property, although not identified in the Master Plan as such a location, is a good place for denser, affordable senior housing. It is occupied by an existing Special Exception and has no abutting residential properties.

b) Environment

Of particular significance, the Master Plan focuses on environmental protection and restoration (see Page 11-12) establishing a Special Protection Area (SPA) north of Muncaster Road. Although the Subject Property is not within the SPA, the Project proposes significant new plantings to establish forest over most of the existing stream valley and wetland buffers that are not currently planted or protected.

c) Transportation

The 2004 *Upper Rock Creek Area Master Plan* calls for connecting communities all around the area by enhancing the ability of local residents to reach community facilities and important destinations safely by bicycle or on foot. To this end, the 2004 *Upper Rock Creek Area Master Plan* encourages improving pedestrian and bicyclist access to local parks and the larger regional park system, nearby commercial areas, and Metro Rail service.

The 2004 *Upper Rock Creek Area Master Plan* also calls for the creation of a system consisting of pedestrian and bicycle infrastructure such as bikeways and trails to better connect nearby residential communities to the existing and future commercial, retail, and recreational localities.

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

a) Roads and other Transportation Facilities

i. Existing Facilities

The Subject Property has frontage on Overhill Hill Road, a state-owned road¹. Overhill Road is not classified in the Master Plan of Highways and Transitways, but functions as a Neighborhood Residential Street. Per Chapter 49 Section, 32 Neighborhood Residential Streets require 60 feet of right-of-way. As shown in Record Plat No. 57012, there is an existing variable right-of-way on Overhill Road. As conditioned, the Applicant shall provide all land necessary to accommodate 30 feet from the existing pavement centerline along the Subject Property on Overhill Road.

Overhill Road does not contain any pedestrian and bicyclist facilities. The nearest pedestrian facilities are along Redland Road, which provides motor vehicle access to Overhill Road.

¹ Per MDOT SHA's approval letter dated November 26, 2024, (included in Attachment C) Overhill Road is in the process of being transferred to County ownership and maintenance. As of the date of this report the transfer has not occurred.

Proposed public transportation infrastructure

As mentioned earlier, the Proposed Development does not contain any pedestrian or bicyclist facilities. Similarly, this Application will not provide any applicable frontage improvements under the 2024 *Complete Streets Design Guide* for Neighborhood Streets due to grading and stormwater management constraints. Providing a sidewalk and street buffer along the entirety of the Subject Property will create disproportionate challenges for the Applicant not only topographically, but economically, making this requirement infeasible for the Proposed Development.

Instead, as conditioned, the Applicant will provide a 10-foot-wide shared-use path from the Proposed Development to the existing pedestrian facilities along Redland Road (Approximate alignment shown in Figure 7 below). This will provide the future residents and nearby community residents with the only pedestrian access to the Site. The 10-foot-wide shared-use path can be constructed with either concrete or asphalt. The intention of this 10-foot-wide shared-use path is to diversify mobility and recreation options for residents, granting them the possibility to move by foot or bicycle to nearby churches, parks, residential, commercial, and retail centers, and transit hubs. Without this pedestrian and bicyclist connection, the mobility alternatives for the affordable housing Proposed Development will be reduced exclusively to a private motor vehicle or a shuttle, as conditioned by the Hearing Examiner².

At the time of the Conditional Use, the Hearing Examiner requested the Applicant and Planning Staff to establish communication with MDOT SHA to ask for an access easement to make this connection possible. MDOT SHA confirmed on February 23rd, 2023 (Attachment C), that there was no objection to collaborating with the Applicant and Planning Staff to grant this access easement and, therefore, made this pedestrian connection possible³.

² In the Hearing Examiner's report, dated September 13, 2023, the Applicant is required to assess whether a shuttle is needed for the residents at 75% occupancy of the facility.

³ By way of email correspondence date February 23rd, 2023, MDOT-SHA is willing to provide the access easement for the Applicant to provide the pedestrian connection through Redland Road right-of-way for a 10-foot-wide shared use path.



Figure 6: Proposed Public Transportation Infrastructure

ii. **Proposed private transportation infrastructure**

As conditioned by the Hearing Examiner with approval of Conditional Use No. CU 2023-14, the Applicant will be required to evaluate the potential need for a private shuttle for the residents. No other private transportation infrastructure is proposed.

b) Local Area Transportation Review (LATR)

The Subject Property is located in the Derwood Transportation Policy Area, which is classified as an Orange Policy Area under the 2020-2024 *Growth and Infrastructure Policy* (“the GIP”). The previous use on the Site was four (4) landscape contracting companies. The proposed use is 130 senior multifamily units. According to the Transportation Exemption Statement (“TES”) submitted by the Applicant on January 9, 2023, the Proposed Development will generate 36 net new person trips in the morning peak hours and 47 in the evening peak hours. The 2020-2024 *Growth and Infrastructure Policy* (“the GIP”) requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. As that is not the case for this Application, the Local Area Transportation Review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided in Table 2 below.

Table 2: Trip Generation Analysis

		ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Derwood Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	Four Landscape Contracting Companies	2	3	2	3	3	4
Proposed	130 Senior Multifamily Units	26	33	26	33	39	51
Net Change						36	47

Source: Transportation Exemption Statement from Lenhart Traffic Consulting, Inc., January 9, 2023

c) Schools

The Subject Application is for an affordable Independent Senior Living Facility, which is an age-restricted use. Therefore, there is no foreseeable impact on school capacity.

d) 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 2020-2024 GIP in effect at the time the Application was submitted.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Final Forest Conservation Plan satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines. Please refer to Section 6 of this report for the analysis and findings for the Final Forest Conservation Plan.

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

MCDPS approved a Stormwater Management Concept on October 24, 2024. The Preliminary Plan proposes to meet required stormwater management goals via Environmentally Sensitive Design (“ESD”) to the Maximum Extent Possible (MEP) using five (5) micro bio-retention facilities.

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.

This finding is not applicable to the Subject Application because the Applicant has no actual notice or constructive notice of a cemetery located within the subdivision.

7. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.

No other provisions apply to the Subdivision.

SECTION 6: FOREST CONSERVATION PLAN F20230100 FINDINGS AND ANALYSIS

All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Final Forest Conservation Plan satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines.

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation ("NRI/FSD") 420222360 for this Property was approved on June 10, 2022. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is comprised of one 3.77-acre parcel. The Subject Property is located within the Upper Rock Creek watershed and classified as a Use Class IV-P watershed by the State of Maryland. The NRI/FSD identified no forest on the Subject Property. The site contains numerous specimen and significant trees. There are no streams or floodplain onsite, however there is 0.53 acres of Stream Valley Buffer from an offsite stream to the south.

Environmental Guidelines

The Application is in compliance with the Environmental Guidelines. All proposed construction is outside on the Stream Valley Buffer ("SVB") and the entire SVB is being reforested. In the southeast corner of the Property, inside the SVB, is an existing sediment/stormwater pond which will remain, there are no proposed improvements for this pond.

Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20230100 ("FFCP") (Attachment A) for concurrent review with the Preliminary Plan No. 120240060. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and complies with the Montgomery County Planning Department's approved Environmental Guidelines.

The Subject Property is zoned RE-1 but the use is an institutional use and is assigned a Land Use Category of Institutional Development Areas ("IDA") as defined in Section 22A-3 of the Montgomery County Forest Conservation Law ("FCL") and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 20 percent and a conservation threshold of 25 percent of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 3.77-acre Total Tract plus 0.50 acres of offsite improvements associated with this Application, for a total Net Tract area of 4.28 acres. The Subject Property contains approximately 0.53 acres of stream valley buffer of which none is forested and will be planted with forest cover. All areas will be protected with a proposed Category I Conservation Easement.

The application results in an afforestation requirement of 0.86 acres, which will be met with 0.62 acres of forest planted and protected in a Category I Conservation Easement and 0.24 acres offsite.

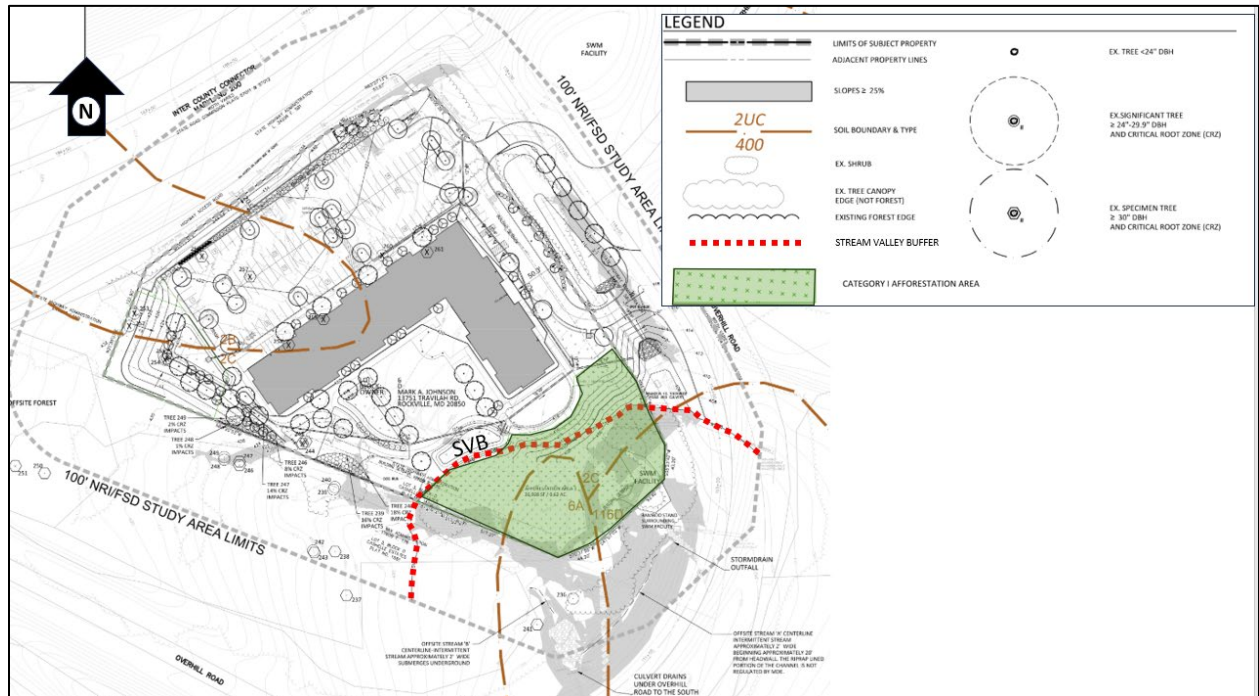


Figure 7: NRI/FSD Showing Stream Valley Buffer in Red Dotted Line

Variance Request

A Variance request was approved by the Planning Board on July 6, 2023, with the Preliminary FCP F20230010 (MCPB No. 23-089) and the impacts to the variance trees has not changed. A new Variance Request is not needed for this application.

SECTION 7: CONCLUSION

As conditioned, the Preliminary Plan substantially conforms to the recommendations of the 2004 *Upper Rock Creek Master Plan* and satisfies the findings of the Subdivision Regulations. The Forest Conservation Plan satisfies applicable requirements of the Forest Conservation Law and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Therefore, Staff recommends approval of the Preliminary Plan and Forest Conservation Plan with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Preliminary/FCP Plan

Attachment B: Prior Approvals

Attachment C: Agency Letters

Attachment D: Affidavit Regarding Community Meeting and Meeting Minutes