

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

April 1, 2025

MCPB No. 25-020
Preliminary Plan No. 120240060
16998 Overhill Road
Date of Hearing: January 9, 2025

RESOLUTION

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

WHEREAS, on February 7, 2024, Community Housing Initiative, Inc. (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 3.77 acres of land in the RE-1 zone, located southeast quadrant, of Overhill Road and Redland Road. (“Subject Property”), in the Derwood Policy Area and 2004 *Upper Rock Creek Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120240060, 16998 Overhill Road (“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 30, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 9, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, Commissioners Hedrick and Linden voting in favor, with Commissioner Bartley necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120240060 to create one lot 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

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 submittal of the certified Preliminary Plan, the Applicant will study alternatives for providing an accessible six-foot- (6 ft.) wide minimum shared-use path from Redland Road to the Applicant’s Property subject to MDOT SHA approval. The studies will be accompanied by cost estimates for materials and access for which there will be flexibility based on ADA access. If no resolution can be supported by both the Applicant and the Planning staff, the alternatives will be presented to the Planning Board at a subsequent hearing.

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. Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
 - c. 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.

CERTIFIED PRELIMINARY PLAN

17. 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.
18. 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.

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 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 lot design is appropriate for the 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.

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.

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).

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.

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 report dated September 13, 2023. The Subject Preliminary Plan conforms with all required conditions. Pertinent to the scope of Preliminary Plan, the Applicant is proposing no more than the approved 130 dwelling units (CU Condition

No. 1) and no ancillary retail services to non-residents are included in the Project (CU Condition No. 6).

As shown in the data table, 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	Approved
Tract Area	n/a	164,713 sf
Prior Dedication	n/a	0 sf
Approved Dedication	n/a	0 sf
Site Area	n/a	164,713 sf
Density	n/a 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
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.I.2.b: Adjustment factor for Age-Restricted Housing

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

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 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, including “the provision of affordable housing for the elderly” (page 35). 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.

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.

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.*

The Subject Property has frontage on Overhill Road, a state-owned road. 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.

As mentioned earlier, the Application 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 Application.

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 included in the approved Application.

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 (“GIP”). The previous use on the Site was four landscape contracting companies. The approved use is 130 senior multifamily units. According to the Transportation Exemption Statement (“TES”) submitted by the Applicant on January 9, 2023, the Application will generate 36 net new person trips in the morning peak hours and 47 in the evening peak hours. The 2020-2024 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.

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.

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

The Application 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 as further discussed in the findings for Forest Conservation Plan F20230100, which are included in a separately approved resolution and are incorporated herein.

- 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 will meet required stormwater management goals using Environmentally Sensitive Design to the Maximum Extent Possible using five micro bio-retention facilities.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 3 years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that before the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

April 1, 2025

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0-1; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley abstaining, at its regular meeting held on Thursday, March 27, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board