

**TRAVILAH SENIOR LIVING TOWNHOUSES
CONDITIONAL USE NO. CU202310, PRELIMINARY PLAN NO.
120250100 AND FINAL FOREST CONSERVATION PLAN NO.
F20250360**

Description

Request for approval of Preliminary Plan to subdivide the Subject Property into 60 lots for the proposed Independent Living Facility for seniors using a townhouse building type, a Conditional Use for approval of the use of a R-200 property as an Independent Living Facility, and approval of the accompanying Final Forest Conservation Plan.

COMPLETED: 7/7/2024

PLANNING BOARD HEARING DATE: 7/17/2024

MCPB ITEM NO. 06

Planning Staff



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LOCATION/ADDRESS

13741 & 13751 Travilah Road

MASTER PLAN

2002 Potomac Subregion Master Plan

ZONE

R-200

PROPERTY SIZE

10.75 Acres

APPLICANT

Community Housing Initiative, Inc.

ACCEPTANCE DATE

CU202310: December 14, 2022

120250100 & F20250360: March 19, 2025

REVIEW BASIS

Chapter 22A, 50, 59

HEARING EXAMINER PUBLIC HEARING

August 7, 2025

Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner (date of hearing TBD).
- Staff recommends approval of the associated Preliminary Plan and Forest Conservation Plan with conditions.
- The Subject Property has an existing landscape contractor and two single-family houses. The Proposal would allow an Independent Living Facility for seniors using a townhouse building type.
- Staff has not received any public correspondence as of the date of this Staff Report.

TABLE OF CONTENTS

SECTION 1: EXECUTIVE SUMMARY.....	3
SECTION 2: RECOMMENDATIONS AND CONDITIONS	3
CONDITIONAL USE NO. CU202310	3
PRELIMINARY PLAN 120250100.....	4
FOREST CONSERVATION PLAN F20250360.....	8
SECTION 3: NEIGHBORHOOD & SITE DESCRIPTION	10
VICINITY/NEIGHBORHOOD	10
PROPERTY DESCRIPTION.....	12
SECTION 4: PROJECT DESCRIPTION.....	14
PREVIOUS APPROVALS	14
PROPOSAL	14
SECTION 5: COMMUNITY CORRESPONDENCE	16
SECTION 6: FINDINGS.....	16
CONDITIONAL USE NO. CU202310	16
SECTION 7: PRELIMINARY PLAN 120250100 FINDINGS AND ANALYSIS.....	29
SECTION 8: FOREST CONSERVATION PLAN F20250360 FINDINGS AND ANALYSIS.....	34
SECTION 9: CONCLUSION	43
ATTACHMENTS	43

SECTION 1: EXECUTIVE SUMMARY

This Application is for an Independent Living Facility for seniors using a townhouse building type. The Project received and approved NRI/FSD on June 28, 2022. The Applicant filed a Conditional Use and a Preliminary Forest Conservation Plan for an Independent Living Facility for seniors on December 14, 2022. The Applicant was required to go through a sewer category change which took several months. The Applicant filed for the Preliminary Plan and Forest Conservation Plan on March 19, 2025, after Montgomery Planning's change in policy to allow the Preliminary Plan and Conditional Use Application to run concurrently to the Planning Board.

SECTION 2: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO. CU202310

Staff recommends approval of Travilah Senior Living Townhouses, Conditional Use No. CU202310, for an Independent Living Facility, subject to the following conditions:

1. The use is limited to an Independent Living Facility townhouse community for up to sixty (60) lots.
2. All previous Special Exceptions must be abandoned prior to the issuance of the first building permit.
3. Before the 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 not be limited to private roads, alleys, landscaping, sidewalks, paths, seating and benches, pergolas, fencing, and other similar items.
 - c) Completion of all improvements covered by the surety will be followed by an inspection and, if necessary, a 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.
5. The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Conditional Use Plan conformance and compliance. The pre-con must occur before any site development work commences and before any work that is covered by the surety and maintenance agreement. The

Applicant, along with their representatives, must attend the pre-con with DPS Staff. A copy of the approved Conditional Use Plan along with any subsequent amendments is required to be on-site at all times.

6. Before approval to release any portion of the 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.
7. Prior to the release of building permits, the Preliminary Plan must be certified.
8. The Record Plat must be recorded prior to the release of any building permits.

PRELIMINARY PLAN 120250100

Staff recommends approval with conditions of the Preliminary Plan to construct an Independent Living Facility for seniors using a townhouse building type. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120250100 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 60 lots for 60 townhouses, HOA parcels, and private road parcels.
2. This preliminary plan approval is contingent on approval of the conditional use plan No. CU202310, for the proposed land use in a manner consistent with the preliminary plan application and findings.
3. The preliminary plan must not be certified until Conditional Use No. CU202310 is approved by the Hearing Examiner. If the conditional use approval necessitates minor changes to the preliminary plan drawings that do not impact findings or conditions of approval, the certified preliminary plan drawings may be updated to reflect those changes but must not be certified until 16 days after the Hearing Examiner issues the CU approval. If the conditional use approval necessitates major changes to the preliminary plan drawings that impact findings or conditions of approval, or if relevant objections are received to the changes within 15 days of the conditional use approval date, the preliminary plan may not be certified, and a preliminary plan amendment must be filed.

ADEQUATE PUBLIC FACILITIES

4. 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

5. 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

6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 3, 2025, 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.
7. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’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 June 13, 2025, 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 June 13, 2025, 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.

OTHER APPROVALS

10. 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

11. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for Travilah Road.

12. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDOT to ensure construction of a six-foot wide (6 ft) sidewalk along the Property frontage on Travilah Road

Private Roads

13. The Applicant must provide Private Roads and name all private roads within the development. *Only include roads and alleys that function as roads*, including any sidewalks, bikeways, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required by either the Preliminary Plan within the delineated private road area (collectively, the “Private Road”), subject to the following conditions:
 - a) The record plat must show the Private Road in a separate parcel.
 - b) The Private Road must be subject by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions in the Montgomery County Code § 50-4.3.E et seq regarding private roads. The Covenant includes, but is not limited to the following requirements/conditions:
 - i) The Applicant, at its expense, shall design, construct and maintain the Private Road.
 - ii) The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Road and all improvements located within the Private Road, in good condition and repair for safe use and operation of the Private Road. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Road). The reserves must be adequate to cover the costs of needed repairs.
 - iii) The Applicant must post and retain signage to notify the public that the Private Road is not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Road.
 - iv) Approved sub-grade for private roads to be six-inch Graded Aggregate Base (GAB).
 - c) Before issuance of the first building permit, 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 Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate

typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

- d) Before approval to release any portion of the performance bond, the Applicant must deliver to the Planning Department and MCDPS inspector certification by a professional engineer licensed in the State of Maryland that the Private Road has been constructed in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on the Preliminary Plan, including in-place density testing of the roadway soil sub-grade, aggregate base, and asphalt, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshall.

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 as conditioned in the Conditional Use conditions above.
- 15. Before approval to release any portion of the 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.

RECORD PLATS

- 16. There shall be no clearing or grading of the site before the recordation of plat(s).
- 17. Before record plat approval, the Applicant must abandon the existing well and septic system in accordance with MCDPS standards.
- 18. The record plat must show necessary easements.
- 19. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 20. 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.

Notes and Labels

- 21. The record plat must reflect all areas under common ownership.

22. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 (“Covenant”).

LANDSCAPE AND LIGHTING PLANS

23. All landscape and lighting must be installed per the Conditional Use Plan as approved by the Hearing Examiner.

AFFORDABLE HOUSING/MPDU’S

24. Per Chapter 25A, Section 25A-5(l), the affordable housing requirements will be met through an automatic alternative payment to the Housing Initiative Fund for for-sale, age-restricted units by agreement with the Department of Housing and Community Affairs (DHCA).

CERTIFIED PRELIMINARY PLAN

25. 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) as approved on the Conditional Use Plan. 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.*

26. 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) Show private roadway details and cross sections on the certified set.
- c) Include the approved Fire Department Access Plan.

FOREST CONSERVATION PLAN F20250360

Staff recommends approval with conditions of the Final Forest Conservation Plan No. F20250360 (“FFCP”) to subdivide the Property in order to build Independent Living facilities for seniors in the R-200 zone. All site development elements shown on the latest electronic version of the Final Forest

Conservation Plan No. F20250360, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, subject to the following conditions¹:

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Code of Montgomery County Regulations (“COMCOR”), 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 Conditional Use and the Preliminary Plan 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 FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Install permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - d) Execute a five-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. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
 - e) 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 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.

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

- f) 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 2.15 acres of new forest planting and for the landscape trees, mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
5. Within the first planting season following the release of the first Sediment and Erosion Control Permit 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 plantings outside of the LOD as shown on the approved FFCP.
6. Within the first planting season following the stabilization of the applicable disturbed area inside of the LOD, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the Afforestation/Reforestation plantings for the Afforestation Area (inside the LOD), as shown on the approved FFCP.
7. Within the first planting season following the release of the first Sediment and Erosion Control Permit 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 150 caliper inches, as shown on the approved FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

SECTION 3: NEIGHBORHOOD & SITE DESCRIPTION

VICINITY/NEIGHBORHOOD

The Subject Property is located at 13741 and 13751 Travilah Road, Potomac (yellow dashed line). To determine the compatibility of the proposed use with the surrounding area, it is necessary to delineate the “surrounding neighborhood,” which is the area that the proposed use will be most directly impact. Once delineated, Staff must assess the character of the neighborhood and determine whether the impacts of the proposed conditional use will adversely affect that character.

Staff defines the surrounding neighborhood as shown in Figure 1, outlined in bold red. The surrounding neighborhood is residential in nature consisting of single-family detached houses to the north and west, a Private Club, a Service Establishment (Rockville Moose Lodge) to the east and a landscape contractor to the south. The properties to the north are zoned R-200/TDR: 3.0 and the properties to the east, south, and west are all zoned RE-2. The Property is located approximately two miles southwest of the Traville Village Center. The Traville Village Center, as well as several other commercial uses, including the Travilah Square Shopping Center at Darnestown Road and Travilah Road, will serve the diverse needs of the residents for goods and services and medical appointments.



Figure 1: Vicinity Map with Staff-defined neighborhood

Staff identified two existing, approved conditional use/special exceptions within the defined neighborhood:

- 13755 Travilah Road (CBA2172A, CBA3049, S461)- Private Club, Service Establishment
- 13761 Travilah Road (S1704)- Horticultural Nursery/Landscape Contractor

PROPERTY DESCRIPTION

The Subject Property located at 13741 and 13751 Travilah Road, Potomac consists of three parcels made up of 10.75 acres (Figure 2). The three parcels are identified as Tax Parcels P709 and P804 Harbins Lot on Tax Map 06-00389265, 06-0099300 & 06-00405195, and Recorded Parcel B (N765) on Plat 9926. The Property is zoned Residential Estate-2 (RE-2) and is currently improved with a landscape company and associated surface parking, as well as two single-family homes. The Property slopes from the front to the back. The Property has an existing driveway to Travilah Road. The Property is located on the south side of Travilah Road, approximately 2.5 miles south of the Trville Village Center at the intersection with Shady Grove Road.



Figure 2 – Subject Property

The Site contains forest, a stream, wetlands and environmental buffers. The Site drains to the Watts Branch watershed and the stream is a State Use Class I-P stream. The Site is not within a Special Protection Area.

SECTION 4: PROJECT DESCRIPTION

PROPOSAL

The Applicant proposes an Independent Living Facility for seniors using a townhouse building type (Figure 3), which is defined in Section 59-3.3.2.C as:

“Independent Living Facility for Seniors or Persons with Disabilities means a building or collection of buildings, of any building type, containing dwelling units for senior adults or persons with disabilities. An Independent Living Facility for Seniors or Persons with Disabilities may include on-site support services such as meal preparation and service, day care, personal care, nursing or therapy, or any service to the senior adult or disabled population of the community that is an ancillary part of one of these operations. Support services may be located either in the same structure as the dwelling units or in a structure physically separated from the independent living dwelling units.”

The Applicant is proposing sixty (60) age-restricted residential townhouses on individual fee simple lots. The proposal consists of private roads and alleys along with sidewalks and walking paths for residents. The development will include open green spaces, bench seating throughout the community, a pergola and other site amenities. The Project will have a new access point entrance at Travilah Road in proximity to the current access point. All of the existing structures, buildings and uses will be removed from the Property. The Applicant is proposing all new lighting and landscaping throughout the community along with stormwater management facilities. The Applicant proposes to construct a new entrance off Travilah Road close to the current driveway. The Applicant is not proposing on-site support services with this application. Homeowners are welcome to have live-in care providers if they wish.



Figure 3- Proposed Site Plan

ENVIRONMENT AND SUSTAINABILITY

The proposal will place most of the Property's forest and the entire Stream Valley Buffer (SVB) under a Category I Forest Conservation Easement. Afforestation of the currently unforested SVB will improve water quality and meet all the requirements under Montgomery County's Forest Conservation Law (Chapter 22A). Increased forest cover will increase climate resiliency by increasing carbon storage and supporting an ecologically sustainable landscape.

SECTION 5: COMMUNITY CORRESPONDENCE

Noticing signs have been posted at the Property per regulations. All noticing requirements have been met. The Applicant team held a Pre-Submission Meeting with the public on March 4, 2022. As of the date of this Staff Report, Staff has not received any letters of correspondence from the public.

SECTION 6: FINDINGS

CONDITIONAL USE NO. CU202310

Per Section 59.3.3.2.C.2., where an Independent Living Facility for Seniors or Persons with Disabilities is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:

i. The site or the proposed facility has adequate accessibility to or provides on-site public transportation, medical service, shopping areas, recreation and other community services frequently desired by senior adults or persons with disabilities. The application must include a vicinity map showing major thoroughfares, public transportation routes and stops, and the location of commercial, medical and public services within a one-mile radius of the proposed facility.

The Property is approximately two miles from the Traville Village Center at the intersection of Travilah Road and Darnestown Road. Traville Village Center features a variety of retail and restaurant businesses. Travilah Square, located at Darnestown Road and Travilah Road is another commercial development in proximity to the proposed development. The Property is also approximately three miles from the Shady Grove Life Science Center, which contains numerous medical facilities for seniors. The Applicant will not transportation; however, the closest RideOn bus stop is approximately 170 feet from the Property on the south side of Travilah Road. The Nancy H. Dacek North Potomac Community Recreation Center is less than a half mile from the subject Property.

ii. The Hearing Examiner may restrict the availability of ancillary services to nonresidents and specify the manner in which this is publicized. Retail facilities may be included for the exclusive use of the residents of the building.

The Applicant is not proposing any ancillary uses with this application.

iii. A minimum of 15% of the dwelling units is permanently reserved for households of very low income, or 20% for households of low income, or 30% for households of MPDU income, and otherwise satisfies [Chapter 25A](#). If units are reserved for households of more than one of the specified income levels, the minimum percentage must be determined by agreement with the Department of Housing and Community Affairs under Executive regulations. Income levels are defined in [Section 1.4.2, Defined Terms](#).

Per Chapter 25A, Section 25A-5(l), the affordable housing requirements will be met through an automatic alternative payment to the Housing Initiative Fund for for-sale, age-restricted units by agreement with the Department of Housing and Community Affairs (DHCA).

iv. The maximum building height of an Independent Living Facility for Seniors or Persons with Disabilities is the height of the applied-for building type in the underlying zone under the standard method of development, except for the apartment building type which may be up to 60 feet. If a particular building type is not allowed under the standard method of development, the maximum height is the height of a Conditional Use in the underlying zone. The maximum density is determined by the Hearing Examiner under the development standards of [Section 3.3.2.C.2.c.vi through Section 3.3.2.C.2.c.ix](#), without regard to any other limitation in this Chapter.

The maximum height, as per the RE-2 zone is 50 feet. The Applicant is proposing townhouses up to 50 feet or less in height.

v. Height, density, coverage, and parking must be compatible with surrounding uses and 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 maximum height in the RE-2 zone is 50 feet and the Applicant is proposing to build townhouses up to 50 feet or less in height. The maximum lot coverage in the RE-2 zone is 25% and the Applicant is proposing a maximum of 20% lot coverage throughout the site. Most of the surrounding neighborhoods is on well and septic systems have a density between three to five dwelling units per acre. The Applicant is proposing approximately 5.5 dwelling units per acre with this application. The parking for the units will be within the garages and driveways for each unit along with some onsite parking for visitors. The onsite parking will be located in the center of the project and therefore will be screened from the surrounding community by the townhouses and perimeter landscaping.

vi. The minimum front setback to the street for a lot abutting a property not included in the application is equal to the front setback for a detached house in the underlying zone under the standard method of development. Except for an access driveway, this front setback area must be maintained as green area.

There are no dwelling units with frontage on Travilah Road. The units along Travilah Road front onto an HOA parcel. The HOA parcel will be landscaped and screened from Travilah Road to maintain a green area between the units and the road.

vii. The minimum side and rear setback is 25 feet to abutting lots not included in the application.

The Applicant is proposing a minimum of 35 feet setbacks from the abutting properties not included as part of this application.

viii. The minimum green area is 50%.

The proposed development will implement 60% green area or 277,725 square feet, which exceeds the minimum 50% or 231,438 square feet green area requirement.

ix. Principal building setbacks for all building types must meet the minimum setbacks required under the standard method of development for the subject building type in the R-30 zone (see Section 4.4.14.B.3, Placement).

Per Table 1 below the proposed project will meet the minimum setback requirements for the R-30 standard method development.

The Limited Use standards of Section 59-3.3.2.D.2 also apply. The following standards are required:

a. Where an Independent Living Facility for Seniors is allowed as a limited use, it must satisfy the following standards:

i. The facility must meet all applicable Federal, State, and County licensure, certificate, and regulatory requirements.

The Applicant has met all Federal, State and County requirements for an Independent Living Facility for seniors.

ii. Resident staff necessary for the operation of the facility are allowed to live on-site.

The Applicant is not proposing on-site medical care, nursing, or meal prep; however, homeowners are welcome to have live-in care providers and food service delivery to their individual units.

iii. Occupancy of a dwelling unit is restricted to the following:

(a) a senior adult, as defined in Section 1.4.2, Defined Terms;

The Applicant is proposing a senior living for the development.

(b) other members of the household of a senior adult, regardless of age;

Other family members will be allowed to live with the residents of the units regardless of age.

(c) a resident care-giver, if needed to assist a senior resident; or

Homeowners are welcome to have live-in care providers and food service delivery to their individual units.

(d) a person authorized to occupy housing provided under any federal or state program that is specifically designed and operated to assist seniors as defined in that program.

Homeowners are welcome to have live-in care providers as well as food service delivery to their individual units.

(e) If imposing age restrictions that would limit occupancy otherwise allowed by this Subsection, the facility must only impose age restrictions that satisfy at least one type of exemption for housing for older persons from the familial status requirements of the federal "Fair Housing Act," Title VIII of the Civil Rights Act of 1968, as amended, or the state Fair Housing Act, Subtitle 7 of Title 20 of the Annotated Code of Maryland, State Government Article, as amended.

The Applicant is not proposing any other restrictions that would not be allowed by the Subsection.

Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:

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

The Site does have a prior special exception (S-409) for 13741 Travilah Road. The Applicant will abandon this previous Special Exception that may still be valid prior to filing for building permits. The Applicant has filed the Preliminary Plan to have both the Preliminary Plan and Conditional Use reviewed by the Planning Board simultaneously.

b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;

i. Use Standards

An Independent Living Facility townhouse community for seniors is allowed as a conditional use in the RE-2 Zone. Section 59.3.3.2.C includes any specific use standards for the Conditional Use.

ii. Development Standards

The Property is in the RE-2 zone, which allows and Independent Living Facility townhouse community for seniors as a Conditional Use. The project complies with all the standard method development standards of the RE-2 zone as shown on the Development Standards Table below (Table 1).

Table 1: Development and Parking Standards (RE-2 & R-30 Zone for Principal Building Setbacks)

Development Standard RE-2 (Section 59.4.4.4.B)	Permitted/ Required- RE-2	Proposed
Minimum Lot Area	1,000 sq. ft.	>1,000 sq. ft.
Minimum Lot Width at Front Building Line	n/a	n/a
Minimum Lot Width at Front Lot Line	n/a	n/a
Maximum Density	14.5 dwelling units/acre	5.58 dwelling units/acre
Maximum Lot Coverage	n/a	20% of total site
Green Space	50%	60%
Development Standard R-30 (per 59.3.3.2.D.2.c.ix)	R-30 Minimum	Proposed
Minimum Front Setback	4 ft.	10 ft.
Minimum Side Setback	n/a	3 ft. (end units)
Minimum Sum of Side Setbacks	n/a	n/a
Minimum Rear Setback	20 ft.	20 ft.
Maximum Height	35 ft.	50 ft.
Vehicle Parking Requirement (Section 59.6.2.4.B)	2 spaces/unit	2 spaces/unit= 120 spaces Visitor= 34 space Total= 154 spaces

iii. General Requirements of 59-6 –

(1) Access- 59-6.1

The Applicant is proposing a new access point on Travilah Road where the existing driveway is located.

(2) *Parking, Queuing and Loading-59-6.2*

The Applicant proposes two parking spaces for each dwelling unit, in addition to the 34 on-street visitor parking spaces throughout the project.

(3) *Open Space and Recreation-59-6.3*

There are no open space or recreation requirements with this application. However, the Applicant is required to provide 50% green area and is proposing 60% green area. The Applicant is also providing walking paths, sidewalks, benches and a pergola for the residents of the new townhouse community (Figure 4).

(4) *Landscaping and Outdoor Lighting- 59-6.4*

The Applicant is proposing landscaping throughout the project. The proposal includes street trees along Travilah Road as well as along the internal private streets. The Applicant is also proposing the installation of trees in the front yards and rear yards of all units that do not have rear load garages. The rear load garages will have trees in the front yards but not along the alleys. The proposal includes deciduous trees along the walking path towards the southern end of the project. The eastern and western boundaries will consist of landscape buffers with a mix of deciduous trees, understory trees, shrubs and a four (4) foot high privacy fence from fifteen (15) to twenty (20) feet wide.

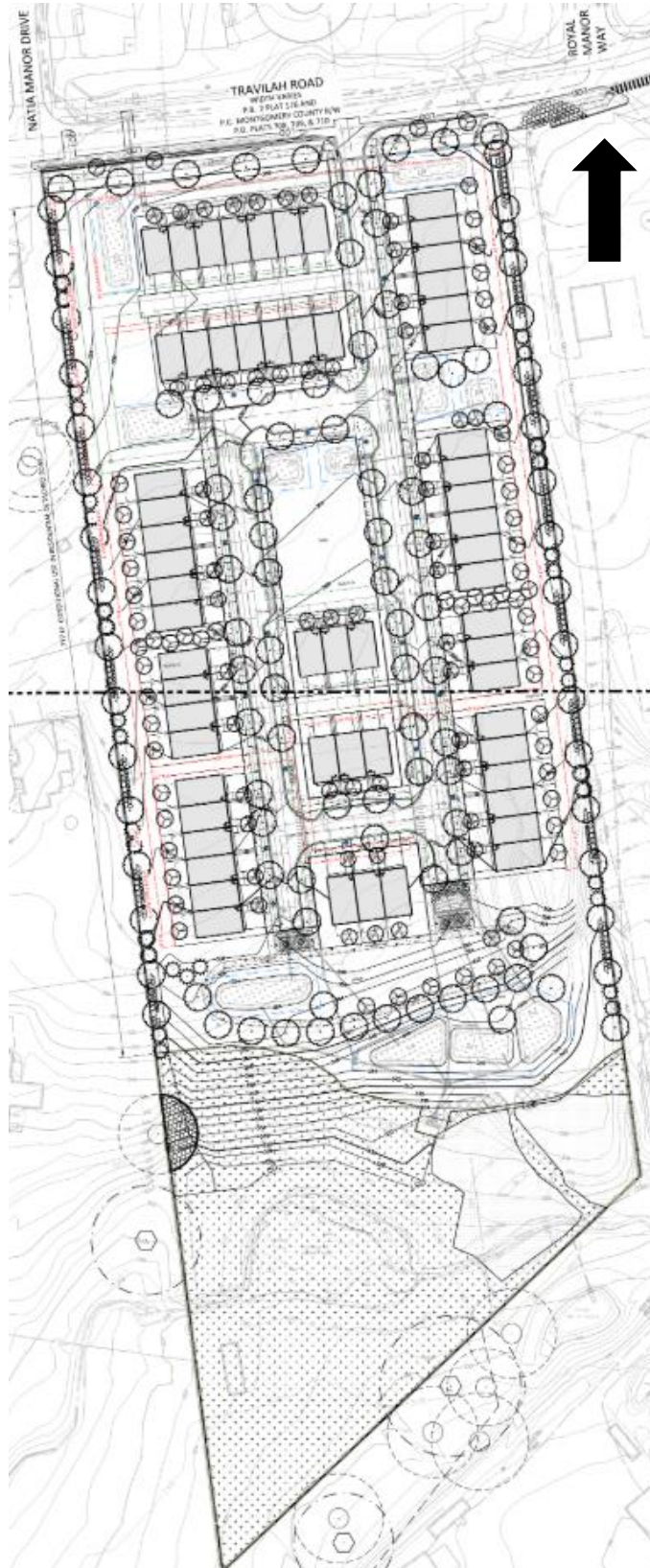


Figure 4- Proposed Site Plan

As required by Section 59-6.4.4.E, the photometric plans indicate that illumination will not exceed 0.1 footcandles at any lot line that abuts a lot with a detached house. The proposed street lighting and onsite lighting will provide for a safe environment throughout the community. The streetlights are located on the internal portions of the project and should not cause glare to neighboring properties due to because of the landscape screening and the townhouses themselves.

(5) Screening-59-6.5

The eastern and western boundaries will consist of landscape buffers with a mix of deciduous trees, understory trees, shrubs and a four (4) foot high privacy fence from fifteen (15) to twenty (20) feet wide. Staff feels the landscape buffer along the eastern and western property lines will be an adequate screen for the project.

(6) Signage-59-6.7

The Applicant is not proposing any signage with this application. Any signage will require approval from the Hearing Examiner. Signage must also comply with Chapter 59 and the Applicant must obtain the required sign permits through Department of Permitting Services (DPS).

c) *substantially conforms with the recommendations of the applicable master plan;*

The Site is located within the 2004 *Potomac Subregion Master Plan* (Master Plan) area, which has recommendations for the Johnson portion of the property to be used for residential use once the Nursery/Landscape Contractor ceases to operate. The remaining portion of the property does not have specific recommendations. The Master Plan states that the Subregion falls short on senior living within its boundaries. The Subregion would need to accommodate close to 750 units to accommodate the growth in its older population. The Subregion should meet its own senior housing needs within its boundaries. By adding the proposed sixty (60) dwelling units, this Application will help to close the gap in the senior housing needs.

d) *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

As described above, the Conditional Use design promotes compatibility with the surrounding neighborhood. Additionally, the proposed independent living townhouses for seniors will be operated in a manner typical of a suburban residential community ensuring compatibility and preservation of the residential character of the surrounding neighborhood. The proposed setbacks, perimeter landscaping and fencing will provide an appropriate buffer from the adjacent single-family residential uses. Furthermore, the landscaping proposed along Travilah Road will substantially screen the townhouses from the street. The Project will result in the redevelopment of the existing commercial use with a more compatible, residential use.

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

The proposed Independent Living Facility will be replacing an existing Special Exception at the same location. The existing Special Exception was for a Horticultural Nursery/Landscape Contractor. The proposed use is more in character with the neighborhood due to its residential nature, as opposed to the more industrial type of use that was previously on the Property. Staff only recognized two other Special Exceptions in the neighborhood and adding this use will not alter the character of the residential neighborhood.

- f) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:***

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

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

The Applicant has filed the Preliminary Plan with Montgomery Planning so the Conditional Use Plan and the Preliminary Plan will be reviewed by Planning Staff

and the Planning Board concurrently.

Transportation

Master-Planned Roadways and Bikeway

According to the Master Plan of Highways and Transitways, Travilah Road is classified as an Area Connector with seventy feet of right-of-way required. The Applicant will dedicate the right-of-way to equal thirty-five feet from the roadway centerline. There is no bicycle facility planned for the Subject Property side of Travilah Road in the Bicycle Master Plan.

Pedestrian Facilities

There are no current pedestrian facilities on southern side of Travilah Road; however, the Applicant will construct a six-foot wide sidewalk along the Subject Property's frontage and extend it slightly to the east. The Project will also include pedestrian facilities throughout the site, which is described further in the Adequate Public Facilities section of the Preliminary Plan analysis.

Transit Service

There are no transit stops directly along the Subject Property frontage, but there are nearby stops for RideOn routes 67 and 301. The applicant will be extending the six-foot sidewalk to connect to the nearby eastbound bus stop.

Parking and Drop-Off/Pick-Up

The Applicant is providing two parking spaces per townhouse for a total of 120 spaces. They will also have 34 parking spaces for visitors for a total of 154 parking spaces. Two out of the total parking spaces will be ADA accessible.

(7) Schools

The Application is for an Independent Living Facility for seniors. The Application will not have any impact on the schools.

(8) Other Public Facilities

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. The Applicant has obtained an approved Fire Department Access Plan through DPS. The Applicant has also obtained an approved Stormwater Management Concept Plan through the Water Resources Section of DPS.

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

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;***
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or***
- iii. the health, safety, or welfare of neighboring residents, residents, visitors, or employees.***

This finding requires consideration of both the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects, alone, are not a sufficient basis for the denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes “undue” harm to the surrounding neighborhood. When analyzing whether impacts are inherent or non-inherent, Staff examines the size, scale, scope, light, noise, traffic and environmental effects of the proposed use.

Staff identified the following physical and operational characteristics necessarily

associated with (i.e., inherent to) an Independent Living Facility townhouse community for seniors:

- Trash and recycling pickup
- Deliveries
- Parking
- Lighting

Trash pickup, recycling pickup and deliveries are similar to other residential developments. There will be no large commercial deliveries, as would be the case with a commercial business. All parking will be in the garages for each unit or their driveways. The visitor on-street parking is internal to the site and will be screened by the townhouse units themselves as well as the fifteen (15) to twenty (20) feet buffer along the eastern and western boundary lines. The street lighting is internal to the project and the townhouse units and landscape buffering will screen the light for neighboring properties as indicated on the photometric plan which shows the light at 0.0 footcandles at the property lines.

Staff did not identify any non-inherent characteristics of the proposed use.

The proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

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

The Applicant is proposing residential townhouses designed with a residential appearance (Figure 5). The design features residential style materials, and the units will include garages, decks, and individual driveways.



Figure 5: Proposed Townhouse Elevations

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

The proposed Independent Living Facility will be replacing an existing Horticultural Nursery/Landscape Contractor use at the same location. The proposed use is more compatible with the surrounding residential neighborhood. With the street trees along Travilah Road, the project will be screened and will blend in with the rest of the existing neighborhood. The Applicant is also proposing trees in the front yards and rear yards of all the units that do not have rear load garages which aligns with the other existing subdivisions within the neighborhood. The eastern and western boundaries will consist of landscape buffers with a mix of deciduous trees, understory trees, shrubs and a four (4) foot high privacy fence from fifteen (15) to twenty (20) feet wide. These buffers will help screen the proposed project from the existing neighbors.

j) In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.

The Applicant is not proposing an agricultural conditional use; therefore, this section does not apply.

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

- a) Filling Station;***
- b) Light Vehicle Sales and Rental (Outdoor);***
- c) Swimming Pool (Community); and***
- d) the following Recreation and Entertainment Facility use: swimming pool, commercial.***

This Application is for an Independent Living Facility townhouse community; therefore, this section does not apply.

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

- a) Funeral Home; Undertaker;***
- b) Hotel, Motel;***
- c) Shooting Range (Outdoor);***
- d) Drive-Thru***
- e) Landfill, Incinerator, or Transfer Station; and***
- f) a Public Use Helipad, Heliport or a Public Use Helistop.***

This Application is for an Independent Living Facility townhouse community; therefore, this section does not apply.

SECTION 7: PRELIMINARY PLAN 120250100 FINDINGS AND ANALYSIS

PRELIMINARY PLAN

The Preliminary Plan would create 60 lots on 10.75 acres of Site area, for a maximum density of up to 5.58 dwelling units per acre. 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**
- b) The lot design is appropriate for the development or use contemplated**
- c) The Preliminary Plan provides for required public sites and adequate open areas**

Master Planned Sites

iii.

Local Recreation

iv.

Transportation and Utilities

v.

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

The lots and uses comply with the requirements of Chapter 59 as described in the sections above for the Conditional Use application. The block design and layout for the subdivision are consistent with most townhouse communities in the area. The Applicant has proposed a mix of front load and rear load garage townhouses. The Applicant is proposing open amenity spaces throughout the project which includes sidewalks, walking paths, benches and a pergola. The Project included public water and public sewer along with power and telephone in public utility easements throughout the project. The Applicant is proposing private streets with access to Travilah Road through a new entrance close to the existing driveway.

The Preliminary Plan substantially conforms to the Master Plan.

- e) Land Use**
- f) Environment**
- g) Transportation**

The Site is located within the 2004 *Potomac Subregion Master Plan* (Master Plan) area, which has recommendations for the Johnson portion of the property to be used for residential use once the Nursery/Landscape Contractor ceases to operate. The remaining

portion of the property does not have specific recommendations. The Master Plan states that the Subregion falls short in terms of senior living within its boundaries. The Subregion would need to accommodate close to 750 units to accommodate the growth in its older population. The Subregion should meet its own senior housing needs within its boundaries. By adding the proposed sixty (60) dwelling units, this Application will help close the gap in the senior housing needs. The proposal conforms with the recommendations in the 2018 Bicycle Master Plan and the 2024 Complete Street Design Guidelines.

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

h) Roads and other Transportation Facilities

Existing Facilities

- i. There is a sidepath on Travilah Road, located on the opposite side of the Subject Property. There is currently no pedestrian or bicycle facility along the Subject Property's frontage.

Proposed public transportation infrastructure

- ii. The Applicant will be dedicating thirty-five feet of right-of-way from the roadway centerline along the Subject Property on Travilah Road. Additionally, the Applicant will construct a six-foot sidewalk with a nine-foot street buffer and an eight-foot tree panel along the Subject Property frontage on Travilah Road. The Applicant will also extend the six-foot sidewalk beyond the Subject Property frontage to the east to connect to an existing bus stop across from the intersection with Royal Manor Way. Two crosswalks and one ramp will be added as shown in Figure 6 below. One crosswalk will cross Travilah Road and the other will cross an existing driveway.



Figure 6: Location of Proposed Crosswalks

iii.

Proposed private transportation infrastructure

The roadways within the Subject Property will be private roads. The travel lanes will be ten and a half feet wide and there will be parallel parking that is eight feet wide in some places. Internally, the Project feature have six-foot wide sidewalks on both sides of most private roads and through open space areas. The internal sidewalks will connect to the sidewalk along Travilah Road.

i) Local Area Transportation Review (LATR)

The proposed 60 senior adult housing (multifamily) units are estimated to generate 12 vehicle trips in the morning peak hour and 15 vehicle trips in the evening peak hour. The 2024-2028 Growth and Infrastructure Policy requires a transportation impact study for any project estimated to generate a net increase of 30 or more vehicle trips during either the morning or evening peak hours. As that is not the case for this Application, the LATR 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 Rural West Policy Area		Total Vehicle Trips	
		AM	PM	AM	PM	AM	PM
Proposed	60 Senior Adult Housing – Multifamily Units (ITE code 252)	12	15	12	15	12	15

j) Schools

This Application is for an Independent Living Facility for seniors and therefore does not have any impacts on the schools in the area.

k) Other Public Facilities and Services

The Property is served by public water and sewer and is classified in the W-1 and S-1 categories. Public water and sewer mains currently serve the Property, which will be adequate to serve the proposed subdivision.

Dry utilities including electricity, gas, and telephone are also available to the Property. 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. The Applicant has obtained and approved the Fire Department Access Plan through the Department of Permitting Services.

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

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. It complies with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan No. F20250360.

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

DPS approved a Stormwater Management Concept on June 13, 2025. The plan proposes to meet the required stormwater management goals via stormwater management structures.

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.

Not applicable to this Property.

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 8: FOREST CONSERVATION PLAN F20250360 FINDINGS AND ANALYSIS

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. The Forest Conservation Plan complies with the *Guidelines for Environmental Management of Development in Montgomery County* (“Environmental Guidelines”) and the Forest Conservation Law, as conditioned and described below.

ENVIRONMENTAL GUIDELINES

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420222000 was approved for the Property on June 28, 2022. The Property is within the Sandy Branch subwatershed or the Watts Branch Watershed, which is classified by the State of Maryland as Use I-P watershed, and contains streams, wetlands, steep slopes, and Environmental Buffers. There are 0.034 acres of wetlands, and 2.17 acres of stream valley buffers. There are large specimen trees distributed across the Property. The Property is not within the Special Protection Area of Primary Management Area. The Final Forest Conservation Plan (FFCP) submitted with this Application conforms with the Environmental Guidelines by meeting forest conservation requirements and promoting ecological health.

FOREST CONSERVATION

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420222000 was approved for the Property on June 28, 2022. A Preliminary Forest Conservation Plan was submitted on December 14, 2022, but was placed on hold with the Conditional Use application. A Final Forest Conservation Plan was submitted and later accepted on March 19, 2025.

The Final Forest Conservation Plan proposes 0.04 acres of forest clearing. Based on the land use category and the forest conservation worksheet, the project requires 1.80 acres of reforestation. The Applicant will retain 0.44 acres of existing forest onsite, and proposes planting within currently unforested portions of the SVB. All saved and planted forest, as well as environmental buffers, will be protected under a Category I Conservation Easement. Clearing within Forest Stand Areas A and B will be offset by providing 2.15 acres of supplemental planting within the SVB and adjacent areas. This afforestation is an effective long-term conservation method that will improve water quality and increase connectivity between nearby, fragmented forest areas.

The forest areas are located on the South side of the property, labelled as Forest Area A (0.29 ac.) and Forest Area B (0.19 acres). The Applicant has a planting requirement of 1.80 acres under the Forest Conservation Law (Chapter 22A) and has proposed to clear 0.04 acres of Forest Stand Areas A and B. The FCP shows a total of 0.04 acres of forest not being placed into Category I Conservation Easement that is necessary for stormwater management and the development of the site.

The LOD will extend into a portion of the unforested SVB, to allow necessary grading for stormwater management and bioretention system construction. This temporary encroachment is essential to provide adequate space for development. Once construction is complete, afforestation plantings will occur in the SVB and the entire SVB will be placed into a Category I Conservation Easement.

Some grading within the SVB is necessary to carry out design elements prior to afforestation planting, as there are significant elevation changes in the southern portion of the property. To meet current ADA standards and ensure accessible site features and community facilities, significant earthwork is required across the site. The Property has an elevation of change of 50 feet from the northeastern corner to the lower southern edge, which must be addressed through grading to support safe and functional development.

PRIORITY FOREST REMOVAL

The Subject Property includes 0.48 acres of forest designated as a high priority for retention, as it is located within a Priority Urban Forest area, as mapped by the Maryland Department of Natural Resources. This plan proposes clearing 0.04 acres of forest and meeting Forest Conservation requirements onsite. Per Sec. 22A-12(b) of the Forest Conservation Law, the FCP must retain certain vegetation and specific areas in an undisturbed condition unless specific findings are made.

PRIORITY FOREST REMOVAL FINDINGS

The following determinations are based on the required findings for the removal of priority forest:

1. The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention.

The Property is zoned RE-2, which is intended to support large-lot residential uses. Currently, there are 0.48 acres of forest on the 10.75-acre Property. Impacts to the forested areas will be minimized as 0.44 of 0.48 acres of the forest onsite will be placed into an easement (91.6% of the existing forest will be placed into a Category I Easement). This proposed development makes ideal use of the RE-2 zone by creating substantial residential uses on the property, while still retaining the maximum amount of forest possible. The design incorporates forest conservation easements as part of the development, ensuring that both the availability of residential spaces and continued forest retention are accommodated.

2. Reasonable efforts have been made to protect the specific areas and vegetation listed in the plan.

The proposed development has been carefully designed to avoid impacts to the SVB, where the majority of the existing forest is located. As a result, only a small portion of the forest outside the SVB must be cleared, and this impact has been minimized to the greatest extent feasible. Remaining forested areas will be protected through a Category I Conservation Easement, and afforestation will occur within an unforested portion of the SVB, which will increase ecological health and connectivity. The afforestation area will connect with preserved Priority Urban Forest, creating a larger and more resilient forested landscape. Additionally, all specimen trees proposed for removal outside the forest will be mitigated in accordance with the Forest Conservation Law. Diligent actions have been taken to protect and restore vegetation on the Property.

3. The development proposal cannot be reasonably altered.

The proposed development has been carefully designed to strike a balance between site functionality, environmental requirements, and planning considerations. Limited forest clearing is necessary to perform grading on sloped terrain, which is essential for constructing key features on

the site and achieving a functional layout that supports the Property’s intended use. Due to the site’s topography and environmental constraints, grading in these forested areas is unavoidable. The Applicant has made substantial efforts to minimize forest disturbance and to preserve existing forest where it is feasible. There are no viable alternatives to rearranging easement locations or adjusting the Forest Conservation Plan in a way that would allow for the full preservation of the forest.

RECOMMENDATION OF REMOVAL OF PRIORITY URBAN FOREST

Staff recommends approval of the request to remove 0.04 acres of priority forest, as the Applicant has demonstrated that further minimization of forest loss would compromise essential site design, environmental integration, and support the best use of the zone.

FOREST CONSERVATION VARIANCE

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”) requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left in an undisturbed condition. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

VARIANCE REQUEST

This Forest Conservation Plan variance request is for the removal of eighteen (18) on-site Protected Trees due to construction and demolition activities. The trees identified in this variance request for removal or CRZ impacts are shown on the Forest Conservation Plan. The trees to be removed are either located within the limits of disturbance or the LOD impacts to their critical root zone are too large to expect tree survival.

Table 3: Variance Trees to be Removed

Tree #	Common Name	Latin Name	DBH	CRZ	CRZ Impact	%CRZ Impact	Condition
14	American Sycamore	<i>Platanus occidentalis</i>	30.1	6,404	6,404	100%	Good

15	American Sycamore	<i>Platanus occidentalis</i>	33	7,698	7,698	100%	Good
18	Willow Oak	<i>Quercus phellos</i>	33.5	7,933	7,933	100%	Fair
25	Red Maple	<i>Acer rubrum</i>	34	8,171	8,171	100%	Poor
28	Eastern White Pine	<i>Pinus strobus</i>	30.5	6,576	6,576	100%	Good
29	Red Maple	<i>Acer rubrum</i>	35.5	8,908	8,908	100%	Poor
33	European Chesnut	<i>Castanea sativa</i>	32.5	7,466	7,466	100%	Poor
37	Red Maple	<i>Acer rubrum</i>	35.5	8,908	8,908	100%	Poor
42	American Sycamore	<i>Platanus occidentalis</i>	34	8,171	8,171	100%	Good
44	Red Maple	<i>Acer rubrum</i>	30.5	6,576	6,576	100%	Fair
46	Red Maple	<i>Acer rubrum</i>	33	7,698	7,698	100%	Fair
50	Silver Maple	<i>Acer saccharinum</i>	37	9,677	9,677	100%	Fair
57	Red Maple	<i>Acer rubrum</i>	30	6,362	6,362	100%	Good
64	Cherry sp.	<i>Prunus sp.</i>	30	6,362	6,362	100%	Poor
65	Red Maple	<i>Acer rubrum</i>	40	11,310	11,310	100%	Fair
66	Red Maple	<i>Acer rubrum</i>	36.5	9,417	9,417	100%	Fair
74	Red Maple	<i>Acer rubrum</i>	30	6,362	6,362	100%	Fair

75	Red Maple	<i>Acer rubrum</i>	30	6,362	6,362	100%	Fair
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UNWARRANTED HARDSHIP BASIS

Per Section 22A-21 of the Montgomery County Code, a variance may only be granted if the Planning Board finds that leaving the requested trees in their undisturbed state would result in unwarranted hardship, thereby denying the Applicant a reasonable and significant use of their property. In this case, there are several special conditions specific to the Property which would cause an unwarranted hardship for the applicant, without a variance for the removal of specimen trees.

The stream valley buffer at the rear of the Property severely limits the developable area of the site. The Property contains 2.17 acres of stream valley buffer, accounting for 20.2% of the land area, which is both forested and not forested. There is a total of 0.48 acres of forest on the Property, with 0.44 acres of forest existing in the SVB. The project proposes the construction of senior housing entirely outside of the SVB. Existing specimen trees have grown throughout the Property, outside of the forest areas. The plan incorporates environmental conservation elements, including afforestation, planting and forest conservation measures that work in conjunction with meeting senior housing needs. Without the removal of specimen trees, the proposed development would not be possible due to the scattered locations of these trees, which lie outside the SVB, the existing forest, and site's topography.

Additionally, the rear of the Property contains Priority Urban Forest (as identified by the Maryland Department of Natural Resources), which requires limiting clearing and development in these areas. To avoid the forested areas, development must occur on the northern end of the property, where the scattered specimen trees are located.

Furthermore, bioretention areas, in addition to the required stormwater facilities, will be incorporated into the site's design, thus improving stormwater management on the immediate site and its vicinity.

The removal of specimen trees cannot be reasonably avoided. Therefore, the Applicant has a sufficient unwarranted hardship to justify a variance request.

VARIANCE FINDINGS

The following determinations are based on the required findings for granting of the requested variance:

1. Will not confer on the Applicant a special privilege that would be denied to other applicants.

Granting the variance will not confer a special privilege on the Applicant, as the removal and impacts of the specimen trees is due to the scattered location of the trees and the necessary site

design requirements for a residential development that has been designed to minimize environmental impacts. The Applicant proposes the removal of 18 trees with mitigation. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested variance is based on the existing site conditions and the necessary design requirements for this specific use.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of existing conditions and not due to land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The FCP proposes to provide mitigation for the removal of specimen trees in the form of tree planting on the Property. These new trees will replace any water quality functions that may be lost due to the removal of existing trees. Furthermore, the afforestation planting in the SVB significantly protects and improves water quality. The protection and enhancement of the stream and wetland areas on site will improve water quality beyond the current condition.

MITIGATION FOR PROTECTED TREES

There are eighteen (18) trees proposed for removal in this variance request, resulting in 595.6 inches of DBH removed. The Applicant proposes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every four inches removed using trees that are a minimum of three inches caliper in size. This results in a total mitigation of 148.90 inches with the installation of 50 3-inch caliper trees. Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost due to the removal of these trees. These mitigation trees must be overstory trees native to the region. No specimen trees are being impacted that aren't being removed.

VARIANCE RECOMMENDATION

Staff recommends the that Planning Board approve the variance request.

SECTION 9: CONCLUSION

CONDITIONAL USE

The proposed conditional use complies with the findings require for approval of an Independent Living Facility townhouse community, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 2004 *Potomac Subregion Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use with conditions and the transmittal of comments to the Hearing Examiner and approval of the associated Forest Conservation Plan.

PRELIMINARY PLAN

As conditioned, the Preliminary Plan application satisfies the findings under Sections 59.7.3.3 & 7.3.4 and the applicable standards of the Zoning Ordinance, substantially conforms to the recommendations of the 2004 *Potomac Subregion Master Plan* and satisfies the findings of the Subdivision Regulations. Therefore, Staff recommends approval of the Preliminary Plan with the conditions specified at the beginning of this report.

FOREST CONSERVATION PLAN

The Final Forest Conservation Plan meets all applicable requirements of Chapter 22A of the Montgomery County Code, as well as the Environmental Guidelines, and will support ecological health. Therefore, Staff recommends that the Planning Board approve the Final Forest Conservation Plan with the conditions cited in this Staff Report.

ATTACHMENTS

Attachment A: Forest Conservation Plan

Attachment B: Conditional Use Plan

Attachment C: Preliminary Plan

Attachment D: Agency Approvals