

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-050
Preliminary Plan No. 120230070
Heritage Potomac
Date of Hearing: May 11, 2023

MAY 26 2023

RESOLUTION

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

WHEREAS, on January 25, 2023, Heritage Gardens Land, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 30.60 acres of land in the RE-2 zone, located at 10601 S. Glen Road in the NW Quadrant, intersection of South Glen Road and Norton Road (“Subject Property”), in the Potomac Policy Area and 2002 Potomac Subregion Master Plan (“*Master Plan*”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120230070, Heritage Potomac (“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 April 28, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on May 11, 2023, 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 Pedoeem, with a vote of 4-0-1; Chair Zyontz, Vice Chair Piñero, Commissioners Hedrick and Pedoeem voting in favor. Commissioner Bartley abstained.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120230070 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 (1) lot for a Residential Care Facility.
2. The Applicant must comply with conditions from the Hearing Examiner's Report and Decision, dated September 6, 2022, from the Office of Zoning and Administrative Hearings (OZAH) approving Conditional Use No. 22-01.
3. The Applicant must receive approval of a Conditional Use Amendment for any changes not shown on the approved Conditional Use site plan.

Adequate Public Facilities and Outside Agencies

4. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for eight (8) 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 May 1, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth 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. 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 March 1, 2022, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth 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.
 8. The Planning Board has reviewed and accepts the recommendations of the MCDPS – Fire Department Access and Water Supply Section in its letter dated March 1, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which
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MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

9. Before approval of a record plat or any clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

Environment

10. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 120230070 ("FFCP"), subject to the following conditions:
 - a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b. 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.
 - c. Before recordation of the plat or the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must 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.
 - d. Before the start of any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - e. 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.

Transportation

Frontage Improvements

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 South Glen Road.

12. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of an eight-foot-wide sidepath along the Subject Property's frontage on South Glen Road and the extension of an existing five-foot-wide sidewalk to connect with the 8-foot-wide sidepath.

Surety

13. 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.

- b) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- c) The cost estimate must include all site elements shown on the Conditional Use Site Plan, approved by the Hearing Examiner, including, but not limited to, the internal drive-aisle, landscaping, lighting and sidewalks.
- d) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- e) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

Certified Preliminary Plan

14. 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 clearing, or grading occurs on-site. The Applicant, along with its representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the

approved Certified Preliminary Plan and Conditional Use Plan is required to be on-site at all times.

- c. Include the approved Fire Access Plan on the approval sheet.

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 proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plans, and for the approved Conditional Use as a Residential Care Facility.

The lot was reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The proposed lot will meet all the dimensional requirements for area, frontage, width, and setbacks in the RE-2 zone.

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

This project implements a previously approved use of a Residential Care Facility on an approximately 31-acre property on South Glen Road at its intersection with Norton Road in Potomac. The 2002 Potomac Subregion Master Plan includes this area as part of the Potomac planning area. In general, there are no specific recommendations for this property; however, the Plan recognizes that this part of Potomac is largely developed and therefore recommends “infill development of the remaining vacant properties with residential development essentially similar to what is now there...” (p 41)

The Master Plan also made recommendations for conditional uses (called Special Exceptions at the time the Plan was approved and adopted). The Master Plan recommends ways to limit the impact of these uses, by encouraging compatibility with surrounding architecture, designing parking facilities to minimize commercial appearance, and using landscaping to screen non-residential uses from adjoining residential properties. The Master Plan also encouraged additional senior housing in Potomac, reflecting a shortage of available housing for the

elderly in the area. “Senior housing,” the Plan states, “is appropriate throughout the Subregion wherever zoning permits this use, either by-right or as a special exception use.” (p 38).

The Property is in the Watts Branch watershed, which, the Plan notes, has the subregion’s most extensive collection of unique environmental features, including the Glen, northwest of the Property’s location.

The 2002 Potomac Subregion Master Plan recommends the preservation of existing forest on properties containing forested areas identified on Foldout Map F to maintain stream valley buffers with the clustering of homes away from sensitive areas. The 9.17-acre forest on the north side of the property, labelled as Stand F-A is delineated on Map F and classified as a high priority for preservation. The Applicant has no planting requirement under the Forest Conservation Law (Chapter 22A) but has proposed to provide supplemental planting, above and beyond the requirements of the Chapter 22A, for master plan conformance.

The Residential Care Facility is the subject of a conditional use and is consistent with the Master Plan’s statement on the appropriateness of senior housing throughout Potomac. It has been designed as a series of two to three-unit structures that will have the residential appearance of single-family dwellings; the number of buildings will be similar to the number allowed in a residential community under the RE-2 Zone. It will look like a residential neighborhood that would be proposed for a property of this size in Potomac.

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

Adequate public facilities exist to support and service the Subject Property under Section 50.4.3.J of the Subdivision Regulations. The Property is located in the Potomac Policy Area, categorized as a yellow Policy Area under the 2020 – 2024 Growth and Infrastructure Policy (the “GIP”).

The Applicant is proposing to build an 8-foot sidepath with a 6-foot buffer along the frontage of the Property. Concurrently, the Applicant is extended an existing 5-foot-wide internal paved sidewalk, which currently provides no access to South Glen Road. Access to the property is provided via a singular access point on South Glen Road offset approximately 200 feet West from Norton Road.

Other public facilities and services are available and adequate to serve the proposed lot. The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on March 1, 2023 (Attachment C). The Fire Department Access Plan provides a fire compliant entrance and drive to adequately access the proposed building. The entrance and drive meet all required turning radii, widths, and turnaround

requirements for fire trucks serving the Subject 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 Subdivision Staging Policy in effect at the time that the Application was submitted. Because this is a senior housing facility, it does not have an impact on schools.

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

Technical Review 50.4.3.K

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Final Forest Conservation Plan has been submitted for review and is recommended for approval by the Planning Board.

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) under Section 22A-4(b) a person required by law to obtain approval of a special exception or a conditional use, or a sediment control permit on a tract of land 40,000 square feet or larger, and who is not otherwise required to obtain an approval under subsection (a) must comply.

The Preliminary Forest Conservation Plan was approved as part of Conditional Use Application, to operate a Residential Care Facility.

A Final Forest Conservation Plan has been submitted for review. The Application proposes to clear 2.81 acres of existing forest. Based on the land use category and the forest conservation worksheet there is no planting requirement generated for the Application. The Applicant proposes to retain 8.78 acres of existing forest onsite. All forest saved as well as environmental buffers, not previously approved for encroachment, will be protected in a Category I Conservation Easement. The FFCEP is consistent with the approved PFCP.

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

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Preliminary Plan received an approved stormwater plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on March 1, 2022 (Attachment C). The Application will meet stormwater management goals via microbioretention, planter boxes and bioswales.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for eight 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; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 26 2023 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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 Commissioner Bartley, with a vote of 5-0; Chair Zyontz, Vice Chair Piñero, and Commissioners Bartley, Hedrick, and Pedoeem, voting in favor of the motion, at its regular meeting held on Thursday, May 18, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board