



JUL 15 2015

MCPB No. 15-72  
Preliminary Plan No. 120140210  
Victory Crossing  
Date of Hearing: July 9, 2015

**RESOLUTION**

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

WHEREAS, on December 9, 2013, Victory Housing Inc. ("Applicant") filed an application for approval of a preliminary plan of subdivision that would create one lot (including two ownership lots) for the Third District Police Station and a senior housing facility with a maximum of 105 units, and one parcel (for right-of-way reservation for the future Stewart Lane interchange) on approximately 12.79 acres of land in the R-90/TDR Zone, located in the northeast quadrant of the intersection of Milestone Drive and New Hampshire Avenue ("Subject Property"), in the White Oak Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140210, Victory Crossing ("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 June 26, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 9, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120140210 to create one lot (with two ownership lots), and one parcel on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> 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.

Approved as to  
Legal Sufficiency:

*Christina Sout* 7/2/15

8787 Georgia Avenue, Spring, Maryland 20910

Chairman's Office: 301.495.4605 Fax: 301.495.1320

M-NCPPC Legal Department

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org)

E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

- 1) Approval is limited to one lot (including two ownership lots), and one parcel (for right-of-way reservation for the future Stewart Lane interchange) to allow for a senior housing facility limited to one-hundred and five (105) units.
  - 2) The Applicant must comply with the conditions of approval of the Board of Appeals opinion for Special Exception S-2873.
  - 3) The Applicant must place a Category I conservation easement over approximately 3.73 acres of forest retention and planting, as shown on the Final Forest Conservation Plan. Prior to any demolition, clearing, or grading, the easement must be approved by the M-NCPPC Office of General Counsel and recorded by deed in the Montgomery County Land Records. The liber and folio of the recorded easement must be referenced on the record plat. The amount of acreage may change based on the expected amendment to allow for the change in sidewalk location.
  - 4) The Applicant must place a Category II conservation easement over approximately 0.24 acres of landscape credit, as shown on the Final Forest Conservation Plan. Prior to any demolition, clearing, or grading, the easement must be approved by the M-NCPPC Office of General Counsel and recorded by deed in the Montgomery County Land Records. The liber and folio of the recorded easement must be referenced on the record plat.
  - 5) Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
  - 6) After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
  - 7) Prior to issuance of any use and occupancy permit, the Applicant must provide two inverted U bike racks near the entrance of the building, as shown on the Preliminary Plan.
  - 8) Prior to issuance of any use and occupancy permit, the Applicant must construct five-foot wide sidewalks on the south side of Seton Drive, and all other sidewalks, as shown on the Preliminary Plan.
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- 9) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by the Montgomery County Department of Transportation (MCDOT).
- 10) The Planning Board accepts the recommendations of MCDOT in its letter dated October 16, 2014 and July 7, 2015, and hereby 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 provided that the amendments do not conflict with other conditions of this Preliminary Plan approval.
- 11) The Planning Board accepts the recommendations of the MCDPS stormwater management concept approval letter dated December 6, 2013, and hereby 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 provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 12) The Certified Preliminary Plan must contain the following note: Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, and site circulation 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 permits. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
- 13) The record plat must reflect common ingress/egress and utility easements over all shared driveways and sidewalks.
- 14) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty five (85) months from the date of mailing of the Planning Board Resolution.
- 15) All necessary easements must be shown on the record plat.
- 16) Prior to record plat, the Applicant must revise their Preliminary Forest Conservation Plan to address the revised sidewalk location. The Preliminary Forest Conservation Plan must be submitted to M-NCPPC by the Applicant for review and approval by the Planning Board. The Amended Final Forest

Conservation Plan must be consistent with the Amended Preliminary Forest Conservation Plan.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and 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 Preliminary Plan substantially conforms to the Master Plan.*

The proposed use and development are consistent with the Master Plan. The Master Plan contains specific recommendations for the larger 12.79-acre parcel (which includes the Subject Property), known as Milestone Property, and identified as an "undeveloped parcel." The Master Plan envisions the area outside of the identified commercial centers to remain residential in nature and recommends that infill developments follow the established residential pattern. In keeping with this vision, the Master Plan further recommends that "the land use and zoning goal in the White Oak Master Plan area is to ensure livable communities for the future by protecting and strengthening their positive attributes and encouraging development that will enhance the communities' functions, sense of place and identity." (p. 16)

The Master Plan states that special exception uses may be approved by the Board of Appeals if they meet the standards, requirements, and the general conditions set forth in the Zoning Ordinance, but may be denied if there is an excessive concentration of such uses in an area or if the uses are inconsistent with the Master Plan recommendations. The Master Plan recognizes the importance of providing affordable elderly housing and care options within the Plan's area, stating that there will be a significant increase of persons over the age of 70 and limited number of housing opportunities for this segment of the population. The Master Plan encourages the provision of affordable elderly housing facilities at appropriate locations in the planning area that could support the needs of this population, including locating such facilities along bus routes and near shopping and public facilities (p. 66).

The Subject Property is situated near several public facilities and the White Oak Shopping Center, and is served by Metrobus and Ride On bus routes and is a good location for elderly housing. The Master Plan recommends a single-family housing option on the Subject Property, but it also recommends providing appropriate opportunities for elderly housing in the area near shopping, transit and other amenities. The senior housing development is residential in nature, and is located appropriately to serve the elderly housing needs of the area. As determined at the time of the approval of the special exception, the use can be supported by the existing infrastructure and facilities in the area without any negative impact on the surrounding land uses and

population. The Preliminary Plan indicates that the residential building will be fronting on both Milestone Drive and Seton Drive with parking, and outdoor gathering areas shielded from Milestone and Seton Drives by the multi-family residential building, which offers an appropriate transition from the US 29 corridor to the single-family detached neighborhoods to the north. The architecture is consistent in scale and design with many multifamily and townhouse developments in and around the White Oak Master Plan area.

Finally, the Preliminary Plan shows the minimum amount of pavement necessary to adequately and safely circulate vehicles, residents and pedestrians, and the building footprint is compact to minimize the on-site imperviousness. Therefore, the Preliminary Plan is in substantial conformance with the Master Plan.

- 2. Public facilities will be adequate to support and service the subdivision.*

#### Transportation Demand Management

The Applicant is not required to enter into a Traffic Mitigation Agreement because it is not located in a Traffic management District. .

#### Master Plan Roadways and Bikeways

In accordance with the Master Plan and 2005 Countywide Bikeways Functional Master Plan, the sector-planned roadways and bikeways are listed below:

1. New Hampshire Avenue (MD 650) is designated as a six-lane divided major highway, M-12, with a 120-foot wide right-of-way and a signed shared roadway/bikeway, SR-30 or Class III, PB-24.
2. Columbia Pike (US 29) is designated as a six-lane divided controlled major highway, CM-10, with a recommended 200-foot wide right-of-way and a dual bikeway, DB-9.
3. Stewart Lane is designated as a two-lane arterial, A-286, with the recommended 80-foot wide right-of-way and Class II bikeway, PB-27.

Milestone Drive, Sherbrooke Woods Lane, and Seton Drive are not listed in the White Oak Master Plan.

- Milestone Drive is a two-lane service road within the State's MD 650 and US 29 rights-of-way.
- Sherbrooke Woods Lane is a north-south secondary residential street within a 60-foot wide right-of-way within the residential Kaufman subdivision.

- Seton Drive was originally the east-west segment of Sherbrooke Woods Lane that was built as a public secondary residential street to connect to Milestone Drive/Columbia Pike opposite Stewart Lane. Seton Drive does not have its own dedicated right-of-way, but is part of Parcel P725.

#### Master Plan Transitway

The 2013 Countywide Transit Corridors Functional Master Plan recommends the Bus Rapid Transit (BRT) Corridor 9, "US 29 Corridor" along Columbia Pike (US 29) south of Lockwood Drive and north of Stewart Lane with the BRT shifted off Columbia Pike onto Stewart Lane and Lockwood Drive. The nearest BRT station is recommended to be at the intersection of New Hampshire Avenue (MD 650) and Lockwood Drive.

#### Current Public Transportation Projects

Besides the BRT study above, the other current public transportation projects are as follows:

- The SHA's CTP Project MO8875170, US 29, Columbia Pike interchange at Stewart Lane has approximately 30% design or preliminary investigation funding only, but none for engineering or construction. The Applicant's plan shows the right-of-way for this future interchange.
- SHA's CTP Project MO8445176, US 29, Columbia Pike/Stewart Lane interchange to add an additional left-turn/through lane on southbound US 29 is in the early design stage with the Project Impact Report approved, but further design work is currently on hold.

#### Available Transit Service

The following public transit is available along the nearby major highways:

- Metrobus routes K6, Z9, Z11, Z13, and Z29 currently operate along Columbia Pike near the property frontage south of Stewart Lane.
- Metrobus routes Z6, Z8, Z9, Z11, Z13, and Z29, Ride-On route 10, and Maryland Transit Administration's Commuter Bus routes 915 and 929 currently operate through the Columbia Pike/Stewart Lane intersection and along Columbia Pike near the property frontage north of Stewart Lane.
- Metrobus routes C8 and Z2 and Ride On route 21 currently operate along New Hampshire Avenue near the Property frontage.

The nearest bus stops are located at the intersections of New Hampshire Avenue/Heartfields Drive and Columbia Pike/Seton Drive/Stewart Lane.

### Pedestrian and Bicycle Facilities

The existing sidewalks include the following:

- Five-foot wide along the north side of Milestone Drive.
- Five-foot wide on the south side of Sherbrooke Woods Lane.

The Applicant is required to provide five-foot-wide sidewalks along the south side of Seton Drive, and five-foot-wide lead-in sidewalks from Milestone Drive and Seton Drive. From Milestone Drive and Seton Drive, residents and staff could walk to the nearby bus stops on New Hampshire Avenue and Columbia Pike and White Oak Library in the northeast corner of the New Hampshire Avenue/Heartfields Drive intersection. The Applicant is required to provide two bike racks to store at least four bicycles in front of the main entrance.

### Local Area Transportation Review

The number of weekday peak-hour trips were based on actual driveway counts collected in June 2014 for the existing 3rd District Police Station. The number of peak hour trips for the proposed building was determined using trip-generation rates for "senior adult housing attached" units from the Institute of Transportation Engineer's Trip Generation Manual.

Although the additional peak hour trips are less than 30 for the senior housing use only, a traffic study was required to satisfy LATR for the overall site (including the Police Station) because the combined uses generate 30 or more total (i.e., existing and additional) peak-hour trips within the weekday AM and PM peak periods. The calculated Critical Lane Volume (CLV) values at the five analyzed intersections are less than the applicable CLV standard and, thus, the LATR test is satisfied.

### Transportation Policy Area Review

A transportation impact tax payment is not required to satisfy the Transportation Policy Area Review (TPAR) test because the "multi-family senior" residential units are exempt.

### Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The Application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Public facilities and services, such as police stations, schools, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect.

- 3. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision.*

The Preliminary Plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations in the Master Plan, and for the type of development or use contemplated. As conditioned, the approved lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the Master Plan. The Application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Application.

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

#### Environmental Guidelines

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) (No. 420050860) for the Subject Property on November 2, 2004 and recertified it on March 18, 2009. Since then, a portion of the site has been developed as the Third District Police Station. Currently, there is approximately 6.2 acres of forest on-site.

The site lies within the Paint Branch watershed (State Use III, or non-tidal cold water), but outside the Special Protection Area. There are no streams, wetlands, floodplains, or environmental buffers on the site. The project is in compliance with the Environmental Guidelines.

#### Forest Conservation

This Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). The Planning Board approved a Preliminary Forest Conservation Plan (PFCP) with the Mandatory Referral (#MR2009742) for the Third District Police Station on December 16, 2010. The Police Station was explicitly considered to be Phase 1 of the development, with Phase 2 to be determined later. The Planning Board required amendment of the PFCP with Phase 2 and a separate Final Forest Conservation Plan (FFCP) for each phase. An amended PFCP was approved with the Planning Board's review of S-2873, Victory Housing, on October 4, 2014.

An FFCP for Phase 2 was submitted in association with Preliminary Plan No. 120140210. The FFCP is consistent with the approved PFCP. The only difference between the two plans is an additional 0.01 acres of clearing is shown on the FFCP. The additional forest clearing is required for the grading and construction of the proposed sidewalk, which will connect the Victory Housing project with Seton Drive to the north. The 0.01 acres will be reforested after disturbance. The FFCP shows 2.69



acres of forest retention, 1.04 acres of forest planting, and 0.24 acres of landscape credit.

Prior to approval of the record plat, the Preliminary and Final Forest Conservation Plans must be amended to reflect the change in location of the sidewalk along Seton Drive.

#### Noise

The Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" stipulate a 65 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas.

The Subject Property is located northeast of the intersection of US 29 (Columbia Pike) and MD 650 (New Hampshire Avenue) and is exposed to traffic noise from primarily US 29. A noise analysis demonstrates that the projected noise levels exceed the 65 dBA Ldn guideline applied to external activity spaces. However, this facility does not include any external activity spaces between the building and US 29, and the building will shield proposed external activity areas to the west of the building, away from US 29. Therefore architectural methods will be used to mitigate for interior noise, with a building shell analysis provided at the time of building permit to certify that interior noise levels will not exceed the 45 dBA Ldn standard.

- 5. All stormwater management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

The MCDPS Stormwater Management Section issued a letter accepting the stormwater management concept for the Subject Property on December 6, 2013. The stormwater management concept proposes to meet required stormwater management goals via Environmentally Sensitive Design through the use of micro-bioretenion.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to 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 JUL 15 2015 (which is the date that this Resolution is mailed to all parties of record); and

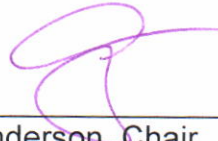
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, and Commissioners Dreyfuss and Presley absent, at its regular meeting held on Thursday, July 9, 2015, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board