

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

SEP 27 2010

MCPB No. 10-97
Preliminary Plan Amendment No. 11988225A
University Gardens
Date of Hearing: July 1, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 9, 2009, Korean Community Senior Housing Corporation of Maryland, filed an application for review of a modification to a previously approved special exception that would allow an existing senior housing facility to be increased in size from 65 units to 97 units on 2.08 acres of land in the R-60 zone, located on the east side of University Boulevard, 50 feet north of Buckingham Drive ("Property" or "Subject Property"), in the East Silver Spring Master Plan area ("Master Plan"); and

WHEREAS, the special exception modification was designated as Special Exception Modification S-1424-A ("Modification") by the Montgomery County Office of Zoning and Administrative Hearings; and

WHEREAS, following review and analysis of the Modification by Staff and the staff of other governmental agencies, on March 5, 2010, the Planning Board held a public hearing on the Modification (the "Modification Hearing"); and

WHEREAS, at the Modification Hearing, the Planning Board made a determination of adequate public facilities and recommended approval of the Modification; and

WHEREAS, on May 6, 2010, NCBA Housing Corporation of Maryland ("Applicant"), filed an application for approval of an amendment to a previously approved preliminary plan of subdivision of property that would achieve consistency between the Modification and the preliminary plan; and

Approved as to
Legal Sufficiency:

 8/31/10

8787 Georgia Avenue, Suite 300, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan Amendment No. 11988225A, University Gardens ("Preliminary Plan Amendment" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 18, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 1, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 1, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Wells-Harley; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, and Commissioner Dreyfuss being absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No. 11988225A to amend a previously approved preliminary plan by allowing an existing senior housing facility to be increased in size from 65 units to 97 units on the Property, in the East Silver Spring Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a senior housing facility containing up to 97 dwelling units to be located on the existing part of a lot.
- 2) The existing Adequate Public Facilities (APF) agreement for the property, dated July 25 (year not specified), is no longer applicable and may be terminated.
- 3) The Applicant must comply with the conditions of Special Exception Modification 1424-A.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated August 27, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 5) The certified preliminary plan amendment 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, site circulation, and sidewalks shown on the preliminary plan are

illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 6) 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.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The East Silver Spring Master Plan does not contain detailed recommendations for the Subject Property. The Master Plan's proposed land use map recommends the site for "Elevator Apartments," but there is no further recommendation for the Property. However, one of the main goals of the Master Plan is to preserve the existing residential character of the area. The Master Plan's land use recommendations encourage neighborhood reinvestment and maintaining social diversity. The Planning Board finds that the Preliminary Plan meets these goals. By providing additional affordable senior housing in the area, this project provides an opportunity for additional senior residents to reside in the community, and construction of the addition demonstrates reinvestment in the neighborhood. Therefore, the Planning Board finds that the Preliminary Plan substantially conforms to the Master Plan.

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

Preliminary Plan 119882250, which was approved in 1989, was conditioned on execution of an APF agreement that limited the senior housing facility to 65 units. The Planning Board approved an APF review for Special Exception Modification 1424-A that confirmed that public facilities will be adequate to serve the proposed expanded use. The APF agreement was required in 1989 because a moratorium on development was in effect at that time. The moratorium has since been rescinded. Therefore, a revised APF agreement is not required. A condition is included in this approval that permits

the APF agreement to be terminated. The Planning Board reconfirms the adequacy of public facilities.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. Section 50-9(d) of the Subdivision Regulations provides an exception to platting for parcels of land that are sold or exchanged between owners of adjacent properties, if the exchanged land does not exceed 2,000 square feet and the exchange occurred before May 19, 1997. In this instance, the 2,000-square-foot parcel of land was conveyed in 1990, and the exchange meets all of the criteria for an exception.

The existing part of a lot was reviewed for compliance with the Zoning Ordinance. The proposed expansion of the existing senior housing use is consistent with the Modification, which specifically permits the use to be expanded by 27 units.

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

A preliminary forest conservation plan was approved by the Planning Board in a separate action on February 18, 2010. Approval of the forest conservation plan also included approval of a forest conservation variance to remove two trees that are larger than 36 inches in diameter.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on August 27, 2009. The stormwater management concept consists of construction of a landscaped infiltration area and a grassed swale to meet the full environmental site design requirements for new construction and provide control for the existing parking lot. A portion of the existing building will continue to drain to the existing infiltration structure via roof downspout connections.

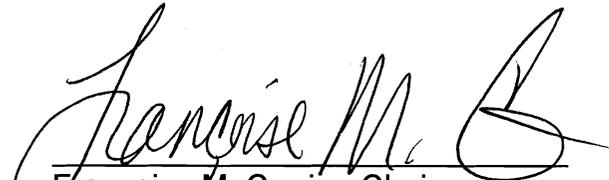
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 27 2010 (which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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 Alfandre, seconded by Vice Chair Wells-Harley, with Chairman Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board