



MCPB No. 16-051  
Preliminary Plan No. 120160200  
Silver Spring Retirement Residence  
Date of Hearing: June 30, 2016

**JUL 11 2016**

**RESOLUTION**

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

WHEREAS, on February 1, 2016, Hawthorne Development, LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision to create one lot for the construction of a domiciliary care home for seniors consisting of a maximum of 141 units (155 beds) on approximately 4.46 acres of land in the R-200 Zone, located at 13716 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. 120160200, Silver Spring Retirement Residence ("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 17, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and


WHEREAS, on June 30, 2016, the Planning Board held a public hearing on the Application at which it 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. 120160200 to create one lot 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.

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Approved as to  
Legal Sufficiency:   
8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320  
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

1. Approval is limited to one lot to allow for a domiciliary care home for seniors limited to a maximum of 141 units (155 beds).
2. The Applicant must comply with the conditions of approval of the Board of Appeals opinion for Special Exception S-2882, as amended.
3. The Applicant must dedicate, and show on the record plat, 60 feet from centerline along the Property frontage on New Hampshire Avenue.
4. The limits of disturbance shown on the Sediment Control Plan must be consistent with the limits of disturbance on the Final Forest Conservation Plan.
5. Prior to Certified Preliminary Plan, the Applicant must revise the locations of the six 3-inch caliper native shade trees provided as mitigation for the removal of protected specimen trees and include all related planting details on the Final Forest Conservation Plan.
6. Prior to issuance of the final Use and Occupancy Permit, the Applicant must plant six 3-inch caliper native shade trees provided as mitigation for the removal of protected specimen trees. All mitigation trees must be located at least 5 feet outside of any stormwater management areas, and outside of the public right-of-way.
7. The Applicant must pay the fee-in-lieu for the 0.67-acres forest planting requirement prior to any demolition, clearing, or grading on site.
8. Prior to issuance of any 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.
9. Within two years of approval of the resolution, the Applicant must:
  - a. Obtain approval from the Maryland Board of Public Works to abandon/vacate the SHA drainage easement located along the frontage of New Hampshire Avenue;
  - b. Record in the Land Records a Public Improvement Easement (PIE), in a form approved by the County and/or Maryland State Highway Administration (SHA), for any portion of the shared use path which lies outside of the right of way for New Hampshire Avenue; and
  - c. Construct the shared use path as shown on the Preliminary Plan.

10. Prior to issuance of any building permit and Sediment Control Permit, 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(s) 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 the applicable elements of the Landscaping and Lighting Plan limited to the purchase, installation and maintenance of all landscape plant material; on-site lighting; and for the construction of a 10-foot wide shared use asphalt path along New Hampshire Avenue. The surety must be posted before issuance of any building permit.
  - c. Completion of all improvements covered by the surety will be followed by inspection and appropriate 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.
11. The Applicant must provide 10 bicycle parking spaces (5 inverted-U bike racks) on the Certified Preliminary Plan.
12. Prior to issuance of any building permit, a Transportation Policy Area Review (TPAR) payment of 50% of the Department of Permitting Services' (DPS) development impact tax payment will be required to satisfy the TPAR test.
13. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by SHA.
14. Except for Comment No. 8, the Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated February 19, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. Except for Comment No. 8, 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 the Preliminary Plan approval.
15. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letter dated May 16, 2016, 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 – Water Resources Section provided that the

amendments do not conflict with other conditions of the Preliminary Plan approval.

16. 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, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape must be consistent with the binding elements of the approved Special Exception and will be finalized 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. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
17. All necessary easements must be shown on the record plat.
18. 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 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.*

Although the Master Plan does not contain any specific recommendations for the Subject Property, it envisions the area outside of the identified commercial centers as remaining 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."

The Master Plan recognizes 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 also recognizes the

importance of providing affordable elderly housing and care options within the Master Plan's area and encourages the provision of elderly housing facilities at appropriate locations in the planning area, including locating such facilities along bus routes and near shopping and public facilities.

The Subject Property is a good location for elderly housing, because it is situated near several shopping facilities and is served by a Metrobus route. 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 building has been pushed back into the site as much as possible from all property lines, and the height of the east wing, facing New Hampshire Avenue is compatible with the existing nearby residential development. Access and parking will be provided along the southern and western property lines with landscaping to provide a buffer to adjacent properties. There will be an emergency access road that runs primarily along the northern property line with removable bollards. This will serve as a path/walking area while not in use for emergency purposes, and outdoor amenity areas have been designed to connect to this space. The architecture provides an appropriate transition to the surrounding residential neighborhoods and is consistent in scale and design with development in and around the White Oak Master Plan area.

The Preliminary Plan is in substantial conformance with the Master Plan.

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

#### Master Plan Roadways and Bikeways

As recommended in the Master Plan, 2005 *Countywide Bikeways Functional Master Plan*, and 2009 *Intercounty Connector (ICC) Limited Functional Master Plan Amendment*, the master-planned roadways and bikeways in the vicinity of the site are listed below:

1. New Hampshire Avenue (MD 650) is designated as a six-lane divided major highway (M-12) within a 120-foot right-of-way (ROW). The White Oak Master Plan recommends accommodating bicycles with a signed shared roadway (SR-30). The ICC Limited Functional Master Plan recommends a shared-use path along the west side of New Hampshire Avenue (DB-41). On-street bicycle lanes with signage have already been striped on both sides of New Hampshire Avenue from the ICC (MD 200) south to Randolph Road.
2. Notley Road (west of New Hampshire Avenue) is designated as a two-lane undivided primary residential street, P-7, within a 70-foot ROW. There are no recommended master plan bikeways along Notley Road.

Notley Road (east of New Hampshire Avenue), Orchard Way, Hobbs Drive and Colesville Manor Drive are not listed in the White Oak Master Plan. They are all substandard (narrow, two-lane and un-striped) residential streets that serve their respective neighborhoods.

#### Master Plan Transitway

The 2013 *Countywide Transit Corridors Functional Master Plan* recommends the Bus Rapid Transit (BRT) Corridor 5, "New Hampshire Avenue" along New Hampshire Avenue from the DC City Line north to the future Colesville Park and Ride Lot (near Notley Road). The nearest BRT stations would be located near the intersections of New Hampshire Avenue with Notley Road and Randolph Road and can be accommodated within the ultimate 120 feet of ROW.

#### Available Transit Service

Metrobus route Z2 is currently the only bus route operating along New Hampshire Avenue near the Subject Property. Buses typically run approximately every 25 to 40 minutes on weekdays only. There is no transit service on any other roadways near the Subject Property.

The nearest bus stops are located at the New Hampshire Avenue intersections with Bonifant Road/Good Hope Road (just north of the Intercounty Connector) and Randolph Road (south of the Subject Property).

#### Pedestrian and Bicycle Facilities

The existing sidewalks are substandard with no green panel along both sides of New Hampshire Avenues, and there are no sidewalks along Notley Road, Orchard Way, Hobbs Drive, and Colesville Manor Drive.

The *Intercounty Connector Limited Functional Master Plan Amendment* recommends a 10-foot wide shared-use path to be constructed along the western side of New Hampshire Avenue from Randolph Road to the Intercounty Connector. In addition to the internal sidewalks and handicap ramps shown on the Preliminary Plan, the Applicant is required to install this shared use path along the Subject Property's frontage along New Hampshire Avenue. Due to the current right-of-way configuration and constraints, it will be partially located on the Subject Property within a public improvement easement (PIE). The shared-use path may be relocated within the right-of-way as part of a larger rebuild and redesign of New Hampshire Avenue in the future.

There is an existing SHA drainage easement that encumbers the Property along the New Hampshire Avenue right-of-way line, and SHA will neither permit the construction of the shared use path, nor recordation of the PIE in any area covered

by their drainage easement. Therefore, prior to construction of the shared use path and recordation of the PIE, the Applicant must obtain approval from SHA and the Maryland Board of Public Works to abandon/vacate the existing drainage easement. Once the existing drainage easement is abandoned/vacated, the Applicant is required to construct the path and record the PIE in the Land Records, with either the County or SHA to accept the PIE. A financial bond/surety and associated agreement is required for all landscaping, lighting, onsite amenities, and the shared use path. The conditions of approval provide the Applicant two years from the date of the resolution to abandon/vacate the drainage easement, construct the shared use path, and record the PIE in the Land Records.

Under the Zoning Ordinance in effect on October 29, 2014, 5 bicycle parking spaces are required (one bicycle space for every 20 vehicular parking spaces). The Applicant is providing 10 bicycle parking spaces (5 inverted-U bike racks). The Applicant is providing 81 vehicular parking spaces, 4 ADA Van Accessible spaces, and 2 motorcycle parking spaces.

#### Local Area Transportation Review

The 155-bed facility will generate 15 trips during the weekday AM peak hour and 17 trips during the PM peak hour, which are below the LATR traffic study threshold of 30 peak hour trips. Therefore, a traffic study is not required, and the LATR test is satisfied.

#### Transportation Policy Area Review

A Transportation Policy Area Review (TPAR) payment of 50% of the Department of Permitting Service's (DPS) development impact tax payment will be required to satisfy the Policy Area Review test.

#### Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the Application. 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. A school facility payment is not required, because the use does not generate any children/students.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Preliminary Plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The 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 in effect on October 29, 2014, and substantially conforms to the recommendations of the Master Plan. The Application has been reviewed by other applicable County agencies, all of who have recommended approval of the Application.

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

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law and the Planning Board's Environmental Guidelines.

#### Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) (No. 420150440) for the Subject Property on October 21, 2014. The Subject Property lies within the Paint Branch watershed and the Northwest Branch watershed, but outside the Special Protection Area. There are no streams, wetlands, floodplains, or environmental buffers on the Subject Property.

#### Forest Conservation

The Application is subject to the Montgomery County Forest Conservation Law, and the Applicant has submitted a Final Forest Conservation Plan in conjunction with the Preliminary Plan. There is no forest on site and a 0.67-acre planting requirement will be met through payment of fee-in-lieu. The Planning Board approved a variance with the Preliminary Forest Conservation Plan at the time of the Special Exception review, and mitigation plantings are shown on the Final Forest Conservation Plan.

#### Noise

The Subject Property is located on the west side of MD 650 (New Hampshire Avenue) and is exposed to traffic noise from both trucks and passenger cars. This facility does not provide any external activity spaces adjacent to MD 650 and the building is required to mitigate interior noise to a maximum of 45 Dba Ldn per the Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development." The Applicant is required to comply with the noise guidelines.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*



The MCDPS Stormwater Management Section issued a letter accepting the stormwater management concept for the Subject Property on May 16, 2016. The stormwater management concept proposes to meet required stormwater management goals via the use of micro bio-filtration, permeable pavement, and a structural filter cartridge with a flow splitter. The concept proposes an alternate use of landscape infiltration instead of micro bio-filtration if the infiltration results are acceptable.

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)) 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 11 2016 (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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, June 30, 2016, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board