



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

PLANNING DIRECTOR DECISION

Limited Departures and Revisions to Approved Plans

Application No: ROSP SE-4467/01

Project Name: Chestnut Oaks Senior Housing

Reviewer's Name: Kendra C. Wright, Senior Planner, Zoning Section

A. Nature of the Applicant's Request: The applicant requests approval of a revision of site plan to add 25 parking spaces and a fire hydrant and to relocate two transformer buildings at a planned retirement community known as Chestnut Oaks. The area of land covered by a structure will increase by nine percent.

B. Required Findings: Section 27-325(a) generally authorizes the Planning Board and Planning Director to approve certain minor changes to approved special exception site plans. Section 27-325(b) and (c) provide the following specific criterion for approval:

(b) Minor Changes, Planning Board.

(1) The Planning Board is authorized to approve the following minor changes:

- (A) An increase of no more than fifteen percent (15%) in the gross floor area of a building;**
- (B) An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;**
- (C) The redesign of parking or loading areas; or**
- (D) The redesign of a landscape plan.**

(2) The Planning Board is further authorized to approve the minor changes described in (d) and later subsections below.

(3) In reviewing proposed minor changes, the Board shall follow the procedures in (a) above.

(c) Limited minor changes, Planning Director.

- (1) The Planning Director is authorized to approve minor changes administratively, without public hearing, in cases listed in (b), but only if the proposed minor changes are limited in scope and nature, including an increase in gross floor area or land covered by a structure other than a building up to ten percent (10%). The Director shall deny any administrative approval request proposing site plan changes, which will have a significant impact on adjacent property.
- (2) Before approving a minor change, the Director shall make all findings the Planning Board would be required to make, if it reviewed the application.
- (3) The Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in any case.
- (4) The applicant's property shall be posted within ten (10) days of the Director's acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1. On and after the first day of posting, the application may not be amended.
- (5) The Director may waive posting after determining, in writing, that the proposed minor change is so limited in scope and nature that it will have no appreciable impact on adjacent property.
- (6) If posting is waived or a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Director's approval concludes all proceedings.
- (7) If the Director denies the application or a timely hearing request is submitted, then the application shall be treated as re-filed on the date of that event. The applicant, Director, and Technical Staff shall then follow the procedures for Planning Board review in (a) above.

The proposed revisions involve an increase in area of land covered by a structure of nine percent and the additional changes are limited in scope and nature. The proposed revisions also do not pose a significant impact on adjacent property. Therefore, the proposed revisions are eligible for review by the Planning Director.

Sec. 27-395. Planned retirement community.

- (a) A planned retirement community may be permitted, subject to the following criteria:
 - (1) Findings for approval.
 - (A) The District Council shall find that:
 - (i) The proposed use will serve the needs of the retirement-aged community;

- (ii) The proposed use will not adversely affect the character of the surrounding residential community; and
 - (iii) In the R-A Zone, there shall be a demonstrated need for the facility and an existing medical facility within the defined market area of the subject property.
- (2) Site plan.
 - (A) In addition to the requirements of Section 27-296(c), the site plan shall set forth the proposed traffic circulation patterns.
- (3) Regulations.
 - (A) Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, density, dwelling unit types, and other requirements of the specific zone in which the use is proposed shall not apply to uses and structures provided for in this Section. The dimensions and percentages shown on the approved site plan shall constitute the regulations for a given Special Exception.
 - (B) The subject property shall contain at least twelve (12) contiguous acres.
 - (C) The average number of dwelling units per acre shall not exceed eight (8) for the gross tract area.
 - (D) In the R-A Zone, buildings shall not exceed three (3) stories.
 - (E) In the I-3 Zone, the following shall apply:
 - (i) The gross tract area shall be a minimum of ninety (90) acres with at least twenty-five percent (25%) of its boundary adjoining residentially-zoned land or land used for residential purposes;
 - (ii) The property shall have at least one hundred fifty (150) feet of frontage on, and direct vehicular access to, a public street;
 - (iii) All buildings shall be set back a minimum of seventy-five (75) feet from all nonresidentially-zoned boundary lines or satisfy the requirements of the Landscape Manual, whichever is greater; and
 - (iv) The property shall be located within two (2) miles of mass transit, regional shopping, and a hospital.
 - (F) In the I-3 and C-O Zones, townhouses shall comply with the design guidelines set forth in Section 27-274(a)(11) and the regulations for development set forth in Section 27-433(d).
- (4) Uses.

- (A) The planned retirement community shall include a community center or meeting area, and other recreational facilities which the District Council finds are appropriate. These recreational facilities shall only serve the retirement community. The scope of the facilities shall reflect this fact. The Council may only permit a larger facility which serves more than the retirement community if the facility is harmoniously integrated with the retirement community and the surrounding neighborhood. All recreational facilities shall be constructed prior to, or concurrent with, the construction of the residential units, or in accordance with a schedule approved by the District Council;
 - (B) Retail commercial uses, medical uses, health care facilities, and other uses which are related to the needs of the community may be permitted.
- (5) Residents' age.
- (A) Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application and shall be approved by the District Council, and filed in the land records at the time the final subdivision plat is recorded.
- (6) Recreational facilities.
- (A) Covenants guaranteeing the perpetual maintenance of recreational facilities, and the community's right to use the facilities, shall be submitted with the application. The covenants shall be approved by the District Council, and shall be filed in the land records at the time the subdivision plat is recorded. If the recreational facilities are to be part of a condominium development, a proposed condominium declaration showing the recreational facilities as general common elements shall be approved by the District Council, and shall be recorded (pursuant to Title II of the Real Property Article of the Annotated Code of Maryland) at the time the subdivision plat is recorded.

The proposed revisions will not alter the services offered; decrease the amount of acreage of the property; increase the number of dwelling units; or otherwise change any of the aspects of the development that previously met the requirements of a planned community as granted in the original special exception.

Sec. 27-317. Required findings.

- (a) A Special Exception may be approved if:
 - (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
 - (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;**
- (4) **The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;**
- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and**
- (6) **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

A. Determinations:

- (1) The subject property is located on the northwest side of Palmer Road, about 3,600 feet east of its intersection with Indian Head Highway and about 2,700 feet west of Tucker Road. The 21-acre site contains two sections and is zoned (R-E). The southern section (known as Parcel G) contains almost 10 acres and has approximately 950 feet of frontage on Palmer Road. This is the section that is proposed to be developed with senior housing. The balance of the site is located to the northwest of the first section and is proposed to be left in open space. The site is currently being developed.
- (2) The neighborhood includes a variety of residential living areas ranging from multifamily apartments and townhouse condominiums to single-family detached homes.
 - a. Immediately surrounding the subject site are the following uses:
 - b. North and east—large lot residences and undeveloped land in the R-E Zone.
 - c. South—(across Palmer Road) Single-family detached houses in the R-R Zone.
 - d. West—Pinewood Townhouse Condominiums (R-18 Zone) and the Devon Hills Apartments (R30-C Zone).
- (3) Special Exception 4467 was approved on December 8, 2004, for a retirement community of 157 dwelling units to be located in a single four- to five-story structure. Occupancy of the apartments is restricted by covenant to retirement-aged individuals 62 years or older.
- (4) The applicant proposes to make the following changes:
 - (a) A fire hydrant will be located at the front west corner of the building. It is being added in accordance with comments received from WSSC. Due to the location of the fire hydrant near the parking lot, two parking spaces that were previously shown will now be striped to prevent use and to ensure that the hydrant is accessible in case of emergency.
 - (b) Two transformer buildings will be constructed on pads in areas that are more appropriately suited; however, these areas differ from the locations in the originally approved special exception. Neither transformer pad location has

presently been constructed. The transformers were to be located in landscape islands in the parking lot. Both were to be located in the front of the building, one on the east side and one on the west. They will now be located in more conspicuous areas between the building and the parking lot. Each pad measures 7.5 feet by 7.5 feet. The transformer that was to be located on the west is being moved 40 feet to the northwest. The transformer that was to be located on the east is being moved 60 feet to the east. These locations will be shown on the site plan.

- (c) Twenty-five (25) parking spaces will be added in front of the eastern portion of the building to meet the needs of the proposed residents. The units of the community will be sold as condominiums, rather than rented as apartments, and in so doing increases the need for parking. Four (4) of these spaces will extend the existing parking area, and the remaining 21 will create a second parking compound between the existing area and Palmer Road. It should be noted that two of the new spaces would replace the two spaces that were lost in providing the fire hydrant.
- (5) The proposed use is in conformance with all the applicable requirements and regulations of the Zoning Ordinance. The proposed revision will not substantially change the proposed use and site plan nor impair the purposes of the Zoning Ordinance or applicable Master Plans.
- (6) The proposed revisions will not affect the subject use as a planned retirement community. Nothing in the record suggests that the use will have an adverse impact on the community.
- (7) The revisions will comply with the building and setback requirements. The limits of grading on the approved site plan are held approximately 100 to 105 feet from adjoining property to the east. The proposed plan shows limits of grading approximately 110 to 115 feet from the property to the east. The revisions will not occur within the expanded stream buffer. The revisions will also make the development more functional and improve the appearance of the property. The changes are very minor and will not impair the findings made by the Planning Board or District Council in approving the special exception.

D. Recommendation: Based on the above findings, it is recommended that ROSP-SE-4467/01 be APPROVED.

**APPROVED BY AUTHORITY OF:
Fern V. Piret, Planning Director**

By: _____ **Date:** _____

Jimi Jones, Acting Zoning Supervisor