

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
ROSP SE 3344/5**

DECISION

Application: Revision of Site Plan for Medical/Residential Campus
Applicant: Collington Episcopal Life Care Community, Inc.
Opposition: None
Hearing Date: March 2, 2016
Hearing Examiner: Maurene Epps McNeil
Recommendation: Approval with conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 3344 was approved on August 25, 1982, when the Zoning Hearing Examiner's decision on a Medical/Residential Campus became final, subject to conditions. The District Council approved subsequent amendments to the approved Site Plan on July 30, 1985, May 9, 1989, and September 25, 2000.¹ The instant application is a request for a further amendment to the approved Site Plan to allow the construction of small sunrooms and/or additions to existing dwellings (cottages and villas).
- (2) The subject property is 123.84 acres of R-R (Rural Residential) zoned land. It is located in the northeast quadrant of the intersection of Lottsford Road and Campus Way North. It is developed and utilized in accordance with the conditions of SE 3344 and its various revisions.
- (3) No one appeared in opposition to the request.
- (4) The Technical Staff recommended approval of the proposed amended Site Plan with additional conditions, and the Planning Board accepted Staff's recommendation as its own. (Exhibits 21 and 26(b))
- (5) At the close of the hearing the record was left open to allow Applicant to submit additional items, and to allow staff to review the revised Site Plan. The last of these items was received on March 24, 2016, and the record was closed at that time. (Exhibit 39)

¹ The prior approvals and record are adopted and incorporated by reference herein.

FINDINGS OF FACT

- (1) The subject property is an irregularly shaped parcel located north of Lottsford Road and west of Bald Hill Branch. With the exception of the narrow (less than 200 foot wide) access to Lottsford Road, the majority of the 123.84 acre site is located approximately 1,300 feet north of Lottsford Road to the rear of the Fox Lake Subdivision.
- (2) The tree canopy requirement for the site is 19.46 acres. There are 21.65 acres of existing woodland. (Exhibit 21, p. 38) There is an approved Tree Conservation Plan for the Medical Residential Campus (TCPII - 124-99). (Exhibit 21, p. 11)
- (3) The subject property is surrounded by the following uses:
 - North - Undeveloped land owned by M-NCPPC in the R-O-S Zone
 - South - The Fox Lake subdivision of single-family homes in the R-S Zone
 - East- Undeveloped park land owned by M-NCPPC in the R-O-S Zone
 - West - A single-family residential development in the R-S Zone
- (4) The neighborhood is bounded on the north by Ardwick-Ardmore Road, on the south by Lottsford Road, on the southwest by Landover Road (MD Route 202), on the east by Lottsford-Vista Road, and on the west by the Capital Beltway (I-95/I-495).

Master Plan

- (5) The 1990 Master Plan for Largo-Lottsford and Vicinity recommends a low-suburban residential land use for the subject property and the 1990 Sectional Map Amendment for Largo-Lottsford and Vicinity retained the R-R Zone. The 2014 General Plan, Plan Prince George's 2035, places this property within an established community. The Plan notes that "Established Communities are most appropriate for context-sensitive infill and low-to medium-density developments." (2014 General Plan, Plan Prince George's 2035, p. 16)

Previous Approvals of SE 3344

- (6) SE 3344, approved when the decision of the Zoning Hearing Examiner became final on August 25, 1982, was subject to the following condition:

Approval of SE 3344, subject to a submission of a site plan, as required by Sec. 27-491, said plan to include the emergency vehicular path shown on Exhibit 34, and the detail required to show compliance with parking compound and loading area provisions. In addition, occupancy of any portion of the campus shall be [preceded] by the completion of an improved Lottsford Road between the site and Rt. 202, including a signal light if required, as recommended by Dale Coppage, Exhibit 30. The site plan shall

be filed with the Zoning Hearing Examiner and approved by the Examiner prior to this special exception becoming effective.

(Exhibit 31(f))

(7) A revision to the approved Site Plan was approved by the District Council on July 30, 1985, by the adoption of Zoning Ordinance 52-1985 subject to the following conditions:

1. The concept language plan shall be approved by the Urban Design Staff prior to, or in conjunction with, the initial building permits for development of the site.
2. A detailed landscape plan shall be approved by the Urban Design Staff with each building permit, which shall be in conformance with the concept landscape plan.
3. No buildings, structures, or parking spaces shall be within 100 feet of any property line.
4. The maintenance and storage facility in envelope G shall be screened from abutting properties in accordance with Section 27-124 (a) (2) of the Zoning Ordinance and no outside storage shall be visible from abutting properties.
5. The detailed parking schedule shall be required at the time of building permits to provide at least the 537 parking spaces depicted on the site plan.
6. All building permits shall be reviewed by the Urban Design Staff for compliance with these conditions and the envelopes identified on the revised site plan.
7. A copy of the final approved site plans shall be submitted for the official file in SE 3344.
8. The building permit application must be accompanied by a detailed site plan of each building, to be reviewed by the Urban Design Staff for compliance with the "envelope plan" hereby approved.
9. Subject to the approval by the Urban Design staff, the proposed road system may be modified as long as proper circulation is provided as determined by the Urban Design Staff.
10. The Urban Design Staff is authorized to approve the exclusion of up to five acres from the provisions of this Paragraph 10 for the purpose of boundary line adjustments. With the exception of acreage so excluded, all undeveloped portions illustrated on the site plan shall be maintained as recreational or open space in common ownership with the medical/residential campus.
11. That in regard to any of the foregoing, the applicant may appeal any denial or approval, with conditions, of the Urban Design Staff to the Planning Board.

(Exhibit 31(d))

(8) A second revision to the approved Site Plan was conditionally approved by the District Council on May 9, 1989, by the adoption of Zoning Ordinance 24-1989. This second revision was specifically granted conditional upon the continued compliance with the eleven conditions of the previous (1985) revision which were reiterated in Zoning Ordinance 24-1989. (Exhibit 31(c)) The third revision (SE 3344/03) was approved by the District Council upon the adoption of Zoning Ordinance 13-2000 on September 25, 2000. The District Council imposed four conditions in that Approval:

1. Prior to the issuance of any grading permits, the applicant shall obtain approval of a Type II Tree Conservation Plan.
2. The maintenance and storage facility in Envelope G shall be screened from abutting properties in accordance with the Landscape Manual. No outdoor storage shall be visible from abutting properties.
3. The detailed parking schedule shall be required at the time of building permits to provide, at a minimum, the 635 parking spaces depicted on the Site Plan.
4. The applicant's building permit application must be accompanied by a detailed site plan for each building, to be reviewed by the Urban Design Staff for compliance with the approved Special Exception Site Plan.

(Exhibit 31(a))²

(9) Staff had the opportunity to review the revised Site Plan and provided the following comment:

The revised site [plans] ... satisfactorily comply with all the requirements of the Zoning Ordinance and ... addressed Conditions 1 a-m listed in the M-NCPPC staff report. However, [the] following minor revisions to the site plan [are] required.

- A revision date of this site plan shall be added on the site plan and the responsible engineering/surveyor who prepared the revised site plan shall have their stamp and signature next to the revision date.
- A new condition shall be added to the plan. The condition is as follows:
 1. A copy of the final approved site plan shall be submitted to M-NCPPC for the official file in Special Exception Site Plan (ROSP-3344/05).
- Prior condition per ROSP-3344-03 may be deleted because it is being replaced by condition No. 1 above....

(Exhibit 39)

² Research reveals that Application SE 3344/04 involved an administrative approval of a few sunroom additions. (Exhibit 41) However, it was ultimately determined that additions require District Council approval so the instant Application was filed.

Applicant's Proposal

(10) The Applicant is seeking permission to revise the approved Site Plan to increase the existing development to allow residents to construct relatively small additions (sunrooms) to their existing homes. These existing homes range in size from fairly compact to 3 bedroom/2 car garage villas. The additions will range in size from (230) to (285) square feet. (Exhibits 40 (k) and (l)) There will only be a maximum of 139 additions constructed. The lot coverage for the site is proposed to increase to 28.23%, less than the 40% permitted under the Zoning Ordinance. (Exhibit 40(a)(l)) None of the proposed additions directly abut any adjacent properties. (Exhibit 36)

(11) Applicant submitted an exhibit that highlights, in yellow, all of the existing dwellings that might seek to construct an addition. (Exhibits 28(a) – (h); T. 12-13) It also submitted architectural renderings of the proposed additions. (Exhibits 28 (i) and (j)) Applicant only proposes to construct a total of 31,735 square feet for the future additions.

(12) The President of the Collington Residents Association Council, W. Michael McCully, appeared in support of the Application. He stated that the residents were in full support of the request, and submitted a copy of the approved minutes that show a vote of said report occurred on March 15, 2016. (Exhibit 37(b), T. 7-9)

Agency comment

(13) The Technical Staff recommended approval with several conditions that Applicant fully supported. (Exhibit 21, pp. 12-14) The revised site plan addressed all of the staff's initial recommendations and a few additional conditions were suggested. (Exhibit 39)

(14) The Environmental Planning Section noted that the proposal is in conformance with the approved Type II Tree Conservation Plan (TCP11-124-99). (Exhibit 21, p. 37)

(15) The Health Department advised that “no dust should be allowed to cross over the property lines and impact adjacent properties” and “[n]o construction noise should be allowed to adversely impact activities on the adjacent properties....” (Exhibit 21, p. 36)

(16) The Transportation Planning Section opined that the request would not have an adverse impact from a transportation standpoint, reasoning as follows:

The Applicant is proposing to add village sunrooms to existing cottage units. The additional square footage to each cottage will increase from 255 to 285 square feet....

The entrance to the site is from Lottsford Road, an arterial roadway listed in the Approved Master Plan Amendment and Sectional Map Amendment for Largo-

Lottsford, Planning Area 73. No structures are proposed within the right-of-way Lottsford Road.

No additional traffic is anticipated from the site. The Transportation staff would offer no objection to the additional square footage from the sunrooms....

(Exhibit 21, p. 35)

(17) The Environmental Planning Section approved a Natural Resource Inventory Equivalency Letter for the proposed additions with the following comment:

1. The site has a previously approved Type II Tree Conservator Plan (TCP II-124-99) that has been implemented on the subject Site; and
2. A site plan prepared by Chesterville Architects PC, dated May 23, 2015 showing the proposed development activity for the subject site shows that the proposed work will not result in any significant changes to the limits of disturbance of the previously approved TCP II-124-99 or create any additional impacts to any regulated environmental features as defined in Section 24-101(b) and Section 27-101(a) that exist on the site.

(Exhibit 9)

(18) People's Zoning Counsel requested clarification as to an easement that is used to access the gatehouse for the entire community at entrance to the community. The Applicant's Revised Site Plans provides a detail, and Applicant submitted a copy of the recorded easement. (Exhibits 32(a) and 40(c))

LAW APPLICABLE

(1) A Medical/Residential Campus is allowed in the R-R Zone by Section 27-441 upon approval of a special exception in accordance with Sections 27-317 and 27-374 of the Zoning Ordinance. Amendments to Special Exception Site Plans for a Medical/Residential Campus are permitted in accordance with Section 27-374.

(2) Section 27-317(a) states as follows:

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 Type 2 Tree Conservation Plan; and

(7)

The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle [24-130\(b\)\(5\)](#).

(b)

In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:

(1)

where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or

(2)

where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

(3) Section. 27-374 provides as follows:

(a) A medical/residential campus for retirement-aged persons may be permitted, subject to the following:

(1) General requirements.

(A) The campus shall primarily serve needs of the retirement-aged community. 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;

(B) The campus shall achieve a balanced residential/medical environment which is unique to the neighborhood in which it is located, and which cannot be achieved through the use of conventional zoning proposals;

(C) Residences shall be functionally, physically, and architecturally integrated with service and recreational/activity centers;

(D) Medical services (if any) shall be conveniently located for the residents; and

- (E) Commercial or service-oriented uses shall be grouped together, and shall be located near the population being served.

(2) Specific requirements.

- (A) The subject property shall contain at least twenty-five (25) contiguous acres;
- (B) The site shall have frontage on, and direct vehicular access to, an existing street with sufficient capacity to accommodate any traffic generated by the campus;
- (C) All buildings, structures, off-street parking compounds, and loading areas shall be located at least:
 - (i) One hundred (100) feet from any adjoining land in a Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan;
 - (ii) Fifty (50) feet from all other adjoining property lines (except street lines); and
 - (iii) Twenty-five (25) feet from all adjoining street lines;
- (D) All perimeter areas of the site shall be buffered or screened in accordance with the provisions of the Landscape Manual, and the applicant shall demonstrate that the required buffer yards will provide reasonable sight and sound barriers;
- (E) Not less than forty percent (40%) of the site shall be devoted to green area;
- (F) Regulations concerning the height of structure, lot size and coverage, frontage, setbacks, density, and other requirements of the specific zone in which such campus is to be located, 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 development under a given Special Exception; and
- (G) Notwithstanding Section 27-118.1, more than one (1) dwelling may be located on a lot containing a one-family dwelling.
- (H) Prior to approval of a Special Exception for a medical/residential campus for property for which a subdivision is not approved for the entire property in accordance with the proposed medical/residential campus site plan, the applicant shall demonstrate to the satisfaction of the Zoning Hearing Examiner or of the District Council that the entire development and use meet the following criteria:
 - (i) Transportation facilities (including streets and public transit) which are existing, which are under construction, or for which one hundred percent (100%) of the construction funds are allocated within the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or will be provided by the applicant, will be adequate to carry the anticipated traffic generated by the development based on the maximum proposed density. The uses proposed will not generate traffic which would lower the level of service anticipated by the land use and circulation systems shown on the approved General or Area Master Plans, or urban renewal plans;
 - (ii) Other existing or planned private and public facilities which are existing, under construction, or for which construction funds are contained in the first six (6) years of the adopted County Capital Improvement Program (such as public safety, recreation areas, water and sewerage systems, libraries, and fire stations, but excluding schools) will be adequate for the uses proposed; and
 - (iii) Notwithstanding subparagraphs (i) and (ii), above, where the application anticipates a construction schedule of more than six (6) years, public facilities (existing or scheduled for construction within the first six (6) years) will be adequate to serve the development

proposed to occur within the first six (6) years. The Zoning Hearing Examiner or the Council shall also find that public facilities will probably be adequately supplied for the remainder of the project. In considering the probability of future public facilities construction, the Zoning Hearing Examiner or the Council may consider such things as existing plans for construction, budgetary constraints on providing public facilities, the public interest and public need for the particular development, the relationship of the development to public transportation, or any other matter that indicates that public or private funds will likely be expended for the necessary facilities.

(3) Uses.

- (A) Only those uses which appear on an approved site plan shall be permitted on the medical/residential campus. The District Council may only approve those uses which provide a harmonious, balanced mix of medical, residential, and limited commercial uses primarily serving campus residents, and public, quasi-public, and medical services for the off-campus retirement-aged community. Other uses may include (but need not be limited to) the following:
- (i) Dwellings, nursing and care homes, and congregate living facilities for the elderly or physically handicapped;
 - (ii) Medical facilities, including professional offices, laboratories, clinics, professional or paramedical training centers, and ambulatory care facilities. Business signs in conjunction with approved medical facilities shall be permitted in accordance with the provisions of Part 12 applicable to the C-O Zone;
 - (iii) Retail commercial uses which are strictly related and subordinate to the residential/medical character of the campus and which directly serve the residents and employees of, or visitors to, the center, including retail uses similar to those in the C-A (Commercial Ancillary) Zone. The uses should be chosen to reflect their local orientation to the immediate campus vicinity and should be of a size and scope so as not to interfere with existing or proposed retail uses located in the off-campus area. Business signs in conjunction with retail commercial uses shall be permitted in accordance with the provisions of Part 12 of this Subtitle applicable to the C-A Zone; and
 - (iv) Recreational and social uses, such as athletic facilities, community centers, and assembly halls, limited to use only by campus residents, employees, and guests.

(4) Site plan and other submission requirements.

- (A) In addition to the requirements of Section 27-296(c), the site plan shall set forth:
- (i) Existing and proposed topography at not more than five (5) foot contour intervals;
 - (ii) Existing and proposed drainage patterns;
 - (iii) Existing vegetation and other natural features; and
 - (iv) Proposed provisions for sediment control and storm water management.

(5) Addition of land.

- (A) After the approval of a Special Exception, any addition of land to the campus shall be the subject of a new Special Exception application. The site plan accompanying the new application shall include the required information for both the previously approved campus and the proposed additional land. The approval of the new site plan shall nullify the previously approved site plan. The additional land shall be contiguous to an approved medical/residential campus, and may be less than twenty-five (25) acres.

(6) Amendment of site plan.

- (A) Notwithstanding other provisions of this Subtitle concerning the revision of site plans, requests to amend a site plan for a medical/residential campus shall only be approved by the District Council, and in accordance with this paragraph.
- (B) Requests to amend the approved site plan shall be filed concurrently with the Clerk of the Council and the office of the Planning Board. After receipt of the request by the Clerk, the Office of the Zoning Hearing Examiner shall schedule a public hearing, which shall occur not less than sixty (60), nor more than one hundred twenty (120), days after receipt of the request. The request shall be reviewed by the Technical Staff, taking into consideration the requirements of this Subtitle. The Technical Staff shall submit its recommendations to the Zoning Hearing Examiner within sixty (60) calendar days from the date of filing. The public hearing shall be conducted by the Zoning Hearing Examiner, in accordance with Section 27-129, at which time the applicant, Planning Board, Technical Staff, and members of the public may comment on the proposed amendments. The property shall be posted with a sign in the same manner as required for original applications. After the close of the hearing record, the Zoning Hearing Examiner shall file a written recommendation with the District Council. Any person of record may appeal the recommendation of the Zoning Hearing Examiner within fifteen (15) days of the filing of the Zoning Hearing Examiner's recommendation with the District Council. If appealed, all persons of record may testify before the District Council. Persons arguing shall adhere to the District Council's Rules of Procedure, and argument shall be limited to thirty (30) minutes for each side, and to the record of the hearing.
- (C) All amendments shall be in conformance with the purposes, regulations, and standards of this Section.
 - (i) The approved amended site plan shall become the official site plan, as if it had been approved as a part of the original application for a Special Exception.

(3) A special exception use should be approved unless it can be demonstrated that “there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” Turner, 270 Md. at 54-55, 310 A.2d at 550-51 (1973); Deen, 240 Md. at 330-31; 214 A.2d at 153 (1965); Anderson, 23 Md. App. at 617-18, 329 A.2d at 720, 724 (1974) Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also, Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS OF LAW

- (1) The general purposes of the Zoning Ordinance are listed in Section 27-102. The purposes applicable to the instant application are:
- (1) To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;
 - (2) To implement the General Plan, Area Master Plans, and Functional Master Plans;

- (3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;
- (4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;
- (5) To provide adequate light, air, and privacy;
- (6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development; and
- (8) To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents.

(2) A Medical/Residential Campus for retirement aged persons is legislatively presumed compatible with surrounding residential uses if the established setbacks, lot coverage, landscaping, traffic and parking impact, and all other regulations can be met. Since 1982 the District Council has thrice found that a Medical/Residential Campus at this location is in accordance with the purposes of the Zoning Ordinance provided that it is developed and utilized in accordance with its conditions of approval and the regulations of the Zoning Ordinance. The instant request will allow a very minimal addition to be constructed on existing homes to facilitate aging in place by providing residents some additional living space. Accordingly, the finding of compatibility with the purposes can be made if the request is approved. (Section 27-317(a)(1))

(3) Pursuant to Section 27-428(a)(1) the purposes of the R-R Zone are:

- (A) To provide for and encourage variation in the size, shape, and width of one-family detached residential subdivision lots, in order to better utilize the natural terrain;
- (B) To facilitate the planning of one-family residential developments with moderately large lots and dwellings of various sizes and styles;
- (C) To encourage the preservation of trees and open spaces; and
- (D) To prevent soil erosion and stream valley flooding.

This proposed revision is in harmony with these purposes for the same reason that it is in harmony with the general purposes of the Zoning Ordinance.

(4) The request must be in conformance with all the applicable requirements and regulations of the Zoning Ordinance. This requirement is met since the request does not require any variance and approval with the requisite conditions will ensure conformance with the Zoning Ordinance.

(5) The Medical/Residential Campus has existed at the instant location for over 35 years and has not proven to impair the integrity of the Master Plan, or to adversely affect the health, safety and welfare of residents or workers in the area, or to be detrimental to the use or development of adjacent property or the general neighborhood. The instant

proposal merely enlarges this existing use within the confines of the applicable regulations and densities. Buffering and green space requirements (80% green area) exceed the minimum requirement. There is no evidence in the record to support a finding to the contrary. (Sections 27-317(a)(3), (4) and (5)).

(6) The proposed development is in accordance with the approved Tree Conservation Plan (TCP II – 124-99).

(7) The request is to construct very small additions to the existing homes of certain residents within the Medical Residential Campus, if requested. There will be no impact outside of the existing building envelopes and, there, no impact on any regulated environmental features. (Section 27-317(a)(7))

(8) The property does not lie within a Chesapeake Bay Critical Area Overlay Zone. (Section 27-317(b))

(9) The Applicant's proposal has been found in prior proceedings to meet the general and specific requirements of Section 27-374. The instant proposal continues to meet these requirements since there will be no changes to the prior approvals and additional dwellings constructed: merely small additions to 139 dwellings as identified on the Site Plan.

RECOMMENDATION

SE 3344/05 is APPROVED, subject to the applicable conditions from the prior revisions, except as modified below:

1. A revision date shall be added to the Special Exception Site Plan stamped and signed by the engineer/surveyor who prepared it.
2. A copy of the Special Exception Site Plan shall be submitted to the Office of the Zoning Hearing Examiner for review and inclusion in the record. The boundaries of the Site Plan shall be outlined in red and the Site Plan shall be labeled "Special Exception Site Plan SE-3344/05" on all pages.
3. Any building permit application must be reviewed by the Urban Design Review Staff (M-NCPPC) for compliance with the approved Special Exception Site Plan.

[Note: The Special Exception Site Plan is Exhibit 40(a) – (l); the Tree Conservation Plan is Exhibit 16(a) – (i)]