

HERITAGE GARDENS LAND, LLC

**APPLICATION FOR APPROVAL OF
CONDITIONAL USE NO. CU22-01**

10701 SOUTH GLEN ROAD, POTOMAC, MARYLAND

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July 16, 2021
Updated November 19, 2021

HERITAGE GARDENS LAND, LLC
APPLICATION FOR APPROVAL OF
CONDITIONAL USE NO. CU21-XX
10701 SOUTH GLEN ROAD, POTOMAC, MARYLAND

MONTGOMERY COUNTY
OFFICE OF ZONING & ADMINISTRATIVE HEARINGS
July 16, 2021, Updated November 19, 2021

Contents

CONTACT INFORMATION.....	2
SUMMARY OF PROPOSAL	3
STATEMENT OF HERITAGE GARDENS LAND, LLC IN SUPPORT OF THE REQUESTED CONDITIONAL USE	5
I. PROPERTY DESCRIPTION & PROPOSED CONDITIONAL USE	5
II. MASTER PLAN CONFORMANCE	7
III. ZONING ORDINANCE CONFORMANCE	7
IV. CRITERIA FOR CONDITIONAL USE APPROVAL (SECTION 7.3.1.E)	7
V. LIST OF INITIAL WITNESSES	7
VI. LIST OF INITIAL EXHIBITS	9
VII. ESTIMATED HEARING TIME.....	9
VIII. FILING FEES.....	9

HERITAGE GARDENS LAND, LLC

**APPLICATION FOR APPROVAL OF
CONDITIONAL USE NO. CU21-XX
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CONTACT INFORMATION

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Traffic Engineer: Chris L. Kabatt, P.E.
Wells + Associates
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Independent Living Services Provider: Kelly Cook Andress
SageLife Senior Living
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Springfield, PA 19064

SUMMARY OF PROPOSAL

Heritage Gardens Land, LLC, (the “**Applicant**”) submits this conditional use application in order to allow a Residential Care Facility (as defined in Section 59.3.3.2.E of the Montgomery County Zoning Ordinance) (the “**Senior Care Community**”) to be established on the property located at 10701 South Glen Road in Potomac, Maryland, in the Residential Estate-2 (“**RE-2**”) Zone. The proposed Senior Care Community will consist of 74 independent living units of which 45 units will be contained in cottage units comprised of triplexes and duplexes and 29 units will be located within a multi-use styled building referred to as the Lodge. The Lodge will also include 73 assisted living and memory care units (containing 96 beds). Based on market demand, operational requirements, and other factors, the Applicant requests the right to reduce the currently proposed number of independent living units located within the Lodge and correspondingly increase the number of assisted living units and memory care units. In no event will the change of units result in a trip generation greater than that produced by 74 independent living units and 73 assisted living and memory care units, and in no event will the maximum number of assisted living and memory care units exceed 87 units (105 beds).

The Property consists of approximately 30.60 acres. The project will also provide a variety of assisted living and independent living services, including dining, health, wellness, home, and lifestyle.

Through this submittal and its corresponding exhibits, as well as through the testimony of expert witnesses and their reports, the Petitioner will demonstrate that the proposed conditional use:

- (a) Is permitted in the RE-2 Zone;
- (b) Complies with the specific use standards set forth in Division 59-3, the development standards set forth in Division 59-4, and the general requirements set forth in Division 59-6
- (c) Satisfies the findings required for approval in Division 59-9, including that the use:
 - a. Substantially conforms with the recommendations of the applicable master plan;
 - b. Is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the master plan;
 - c. Does not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the

number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area;

- d. Will be served by adequate public services and facilities;
- e. Will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in the categories defined by the Montgomery County Zoning Ordinance; and
- f. Will be compatible with the character of the residential neighborhood.

IN THE MATTER OF THE APPLICATION *
 *
OF HERITAGE GARDENS LAND, LLC, FOR A * **Case No. CU-21-XX**
 *
CONDITIONAL USE *
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**STATEMENT OF HERITAGE GARDENS LAND, LLC IN SUPPORT OF THE
 REQUESTED CONDITIONAL USE**

On behalf of Heritage Gardens Land, LLC (the "**Applicant**"), we respectfully submit this request to the Montgomery County Office of Zoning & Administrative Hearings ("**OZAH**") pursuant to Section 7.3.1 of the Montgomery County Zoning Ordinance ("**Zoning Ordinance**"). The Petitioner seeks approval for the establishment of a Residential Care Facility (the "**Senior Care Community**") that will provide 74 independent living units, and 73 assisted living and 28 memory care units (the "**Conditional Use**") on the property located at 10701 South Glen Road in Potomac Maryland, currently described as Parcel B, Block B, and Parcels 896 and 950 on Tax Map FQ31 (the "**Property**").¹ Based on market demand, operational requirements, and other factors, the Applicant requests the right to reduce the currently proposed number of independent living units located within the multi-use building and correspondingly increase the number of assisted living units and memory care units. In no event will the change of units result in a trip generation greater than that produced by 74 independent living units and 73 assisted living and memory care units, and in no event will the maximum number of assisted living and memory care units exceed 87 units (105 beds).

I. PROPERTY DESCRIPTION & PROPOSED CONDITIONAL USE

As stated in the Applicant's Land Use Report, the site currently consists of approximately 1,332,988 square feet of land (± 30.60 acres) located along South Glen Road. The attached Certified Zoning Map prepared by the Montgomery County Planning Department ("Planning Department") indicates that the applicable zoning classification is Residential Estate-2 ("RE-2").

¹ Prior to implementing the proposed conditional use for an Independent Living Facility, the Applicant will submit the necessary applications to the Montgomery County Planning Board for a Preliminary Plan of Subdivision and subsequent Record Plat and Ownership Plat, to create one record lot and 46 corresponding ownership lots.

For purposes of evaluating the Conditional Use application, the surrounding neighborhood is generally bounded by the southern property line of the single family homes that front South Glen Road to the south and southwest, residential properties with access off of Edison Road and Dobbins Drive to the west and northwest, residential properties that front Broad Green Terrace to the north and northeast, the boundary line of the Falls Road Golf Course to the east, and single family homes that are on the east side of Lockland Road to the southeast (the "**Surrounding Neighborhood**"). The Land Use Report identifies the uses within the Surrounding Neighborhood as exclusively residential, with the exception of the Congregation B'Nai Tzedek facility. Consistent with the residential character of the Surrounding Neighborhood, the Petitioner proposes to redevelop the Property with a Residential Care Facility. As shown on the Conditional Use Site Plan, the Senior Care Community will comply with the development standards of Section 4.4.4 of the Zoning Ordinance for the RE-2 zone. SageLife Senior Living ("**SageLife**"), a senior care provider will operate the Senior Care Community (the "**Project**"). A detailed description of the Project and associated operations is provided in the Land Use Report. In addition to demonstrating compliance with all of the relevant development standards, the Land Use Report explains that:

- a. The Project's design will complement and ensure compatibility with the Surrounding Neighborhood by utilizing the topography and natural characteristics of the Property, minimizing building heights, and by employing an "Old World" architectural style that is appropriate for the surrounding context. The footprint of the independent living structures is comparable to the footprint of many single family residences located within the Potomac Subregion. The Lodge was specifically located at the low point of the Property and is designed to be compatible with the independent living units and the surrounding area.
- b. The layout of the Senior Care Community is carefully designed to ensure the protection of the surrounding environment. The Applicant also will take several measures to limit any adverse impacts to stream buffers existing on the Property. Examples of such measures include the removal of impervious surface area and subsequent restoration efforts, and the adaptive reuse of the currently existing gymnasium that will become the Heritage fitness center and recreational clubhouse.
- c. The vast majority of the parking is located either within the garages or driveways provided for the independent living cottages or below the Lodge. Limited surface parking is provide outside the Lodge.
- d. The one existing curb cut located along the western boundary of the Property will be relocated to provide vehicular access from South Glen Road. This curb cut will provide access to the Senior Care Community and connect to an internal private drive system

that will safely and efficiently circulate vehicular traffic throughout the site. No additional vehicle access is proposed for the Project.

The proposed Conditional Use is responsive to the needs and desires of the aging Potomac housing market. With a suburban design familiar to Potomac residents, coupled with three levels of senior care – independent living, memory care and assisted living, the Senior Care Community presents an attractive residential care facility in the Potomac Subregion.

II. MASTER PLAN CONFORMANCE

The Property is subject to the *2002 Approved and Adopted Potomac Subregion Master Plan* (the "**Master Plan**"). Pursuant to the Master Plan, vacant properties are encouraged to be developed with residential uses. Among other policies, the Master Plan also emphasizes the need for housing for the elderly, and specifically supports special exception (*i.e.*, conditional) uses that contribute to this housing objective. Additionally, the proposed Conditional Use advances Master Plan recommendations regarding design and environmental sustainability. The Land Use Report discusses the proposed Conditional Use's conformance with the Master Plan in great detail.

III. ZONING ORDINANCE CONFORMANCE

The Land Use Report provides a detailed analysis of the Project's conformance with applicable standards of the Zoning Ordinance for residential care facilities in in the RE-2 Zone, including the conditional use standards set forth in Article 59-3, the development standards set forth in Article 59-4, and the general development requirements set forth in Article 59-6.

IV. CRITERIA FOR CONDITIONAL USE APPROVAL (SECTION 7.3.1.E)

The Applicant will demonstrate through this Application and through testimony at the hearing that the proposed Conditional Use satisfies the required findings for approval specified in Zoning Ordinance Section 7.3.1.E. Specifically, the IL Community is harmonious with the character of the Surrounding Neighborhood, and will not cause any undue harm as a result of any combination of potential inherent or non-inherent effects.

V. LIST OF INITIAL WITNESSES

The Applicant intends to call the following witnesses at the public hearing, but reserves the right to call additional witnesses as necessary. The resumes and qualifications of the Petitioner's expert witnesses are submitted herewith as Exhibit O.

1. Ken Wormald, Partner, Wormald Companies, LLC

Summary of Testimony: Ken Wormald will provide background regarding Wormald Companies, LLC (“Wormald”) and the vision for the proposed Residential Care Community. He will discuss Wormald’s partnership with SageLife Senior Living, the Project’s senior care service provider.

2. Jim Soltesz, Civil Engineer, Soltesz

Summary of Testimony: Jim Soltesz will testify to the Project’s technical aspects, including its compliance with the relevant development standards of the Montgomery County Zoning Ordinance, the adequacy of public facilities, and the Project’s compliance with Montgomery County’s environmental regulations, including stormwater management, and forest conservation.

3. Jane Przygocki, Senior Planner, Soltesz

Summary of Testimony: Jane Przygocki will testify to the character of the Surrounding Neighborhood, the Project’s conformance with the *2002 Approved and Adopted Potomac Subregion Master Plan*, that the potential inherent and non-inherent characteristics of the Project will not cause undue harm to the neighborhood, and the Project’s compatibility with the Surrounding Neighborhood.

4. Dennis Swihart, Architect

Summary of Testimony: Dennis Swihart will provide testimony regarding the architecture of the proposed Project. He will shed light on the "Old World" style that will be employed to achieve aesthetic and stylistic compatibility with the Surrounding Neighborhood.

5. Chris L. Kabatt, Transportation Engineer, Principal, Wells + Associates

Summary of Testimony: Chris Kabatt will provide supplementary testimony as to the adequacy of public facilities as it relates to road capacity. Additionally, he will address why the Project will not cause undue harm to the Surrounding Neighborhood as a result of inherent or non-inherent adverse effects.

6. Kelly Cook Andress, President and Founder, SageLife Senior Living

Summary of Testimony: Kelly Cook Andress will testify as to the services provided by the Project and the operations of the Senior Care Community, including number of employees, roles and hours.

VI. LIST OF INITIAL EXHIBITS

1. Conditional Use Application
2. Letter of Authorization
3. List of Adjoining and Confronting Property Owners and Local Citizens Associations
4. Land Use Report, incorporating Statement of Operations
5. Certified Zoning Map
6. Existing Conditions Plan
7. Conditional Use Site Plan
8. Conditional Use Landscape and Lighting Plan
9. Architectural Plans
10. Surrounding Neighborhood Plan
11. Area Community Services Plan
12. Green Area Plan
13. Photometric Plan
14. Traffic Statement
15. Fire Department Access Plan
16. Stormwater Management Plans
17. Stormwater Management Concept Application
18. Stormwater Management Receipt
19. Forest Conservation Plan
20. Forest Conservation Fee Schedule
21. NRI/FSD Application
22. Tree Variance Statement
23. Color Coded Utility Plan
24. Sight Distance Evaluation
25. Resumes of Expert Witnesses

VII. ESTIMATED HEARING TIME

The Petitioner anticipates that, excluding questions, the presentation of its case-in-chief for the proposed conditional use will take approximately four (4) hours.

VIII. FILING FEES

Upon receipt of notice from Staff we will submit checks in the amounts of \$24,620 (application fee - \$6,155.00 to MNCPPC and \$18,465.00 to Montgomery County) and \$200 (sign fee) as payment in full of all fees associated with this Petition for Conditional Use Petition.

Respectfully submitted,

Lerch, Early, & Brewer, Chtd.



By: _____
Patricia A. Harris, Esq.
Attorney for Petitioner,
Heritage Gardens Land, LLC

Dated: July 16, 2021