



PGCPB No. 13-108

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed SE-4704, In Loving Hands requesting a congregate living facility for up to 15 residents in the R-R Zone in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on September 26, 2013, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The property is located at the terminus of Lucille Court, approximately 210 feet from its intersection with Lucille Drive. The property consists of 20,819 square feet in the Rural Residential (R-R) Zone and is currently improved with a detached single-family dwelling.
- B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-R	R-R
Use(s)	Single-Family DU/ Congregate Living Facility with up to 8 Residents	Congregate Living Facility with up to 15 Residents
Acreage	0.48	0.48
Lots	1	1
Parcels	0	0
Square Footage/GFA	7,168	7,168
Variance	Yes (Lot Coverage)	No

- C. **History:**

August 6, 1992—Preliminary Plan of Subdivision 4-92059 and Type I Tree Conservation Plan TCPI-003-92 were approved by the Planning Board for Lots 1 through 11 and Parcel A, Block A, and Lot 1, Block B, Krause's Addition to Bird Lawn (PGCPB Resolution No. 92-221).

October 4, 1994—Final Plat VJ 170@80 was recorded in Prince George's County Land Records for Krause's Addition to Bird Lawn.

September 15, 1994—Type II Tree Conservation Plan TCPII-079-94 was approved for Krause's Addition to Bird Lawn. Five subsequent revisions to the approved Type II tree conservation plan have been approved since that time.

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July 10, 2002—Appcal No. V-79-02 was approved by the Board of Zoning Appeals to permit the new construction of a detached single-family dwelling and driveway that is in excess of the 25 percent maximum amount of lot coverage allowed in the R-R Zone. A variance of 2.5 percent was granted.

July 22, 2002—Building Permit 20431-2002 was approved for the new construction of a detached single-family dwelling and a driveway.

July 18, 2007—Use and Occupancy Permit 27720-2007-00 was approved by the Permit Review Section for a congregate living facility for the elderly and physically-handicapped with up to eight residents.

March 21, 2013—Alternative Compliance AC-11030 was denied by the Planning Director.

June 26, 2013—Natural Resources Inventory Equivalency Letter NRI-066-13 was issued by the Environmental Planning Section.

- D. **Master Plan Recommendation:** The 2002 *Prince George's County Approved General Plan* locates the subject property within the Developing Tier. The vision for Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit-serviceable.

General Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining low- to moderate-density land uses.

Master Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application conforms to the residential low-density land use recommendation in the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (Henson Creek-South Potomac Master Plan and SMA).

The Henson Creek-South Potomac Master Plan and SMA retained the subject property in the R-R Zone.

- E. **Request—SE-4704:** The applicant, In Loving Hands, seeks approval of a special exception application for a congregate living facility in the R-R Zone with up to 15 elderly or physically-handicapped residents.

Section 27-107.01(a)(54) of the Zoning Ordinance defines a congregate living facility as follows:

- (54) **Congregate Living Facility:** A residential facility for four (4) to twenty (20) elderly or physically handicapped residents, within which sheltered care services are provided, which may include, but need not be limited to, living

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and sleeping facilities, meal preparation, laundry services, housekeeping, personal observation and direction in the activities of daily living, transportation for routine social and medical appointments, and the availability of a responsible adult for companionship or nonclinical counseling. The term shall not include an "Adult Day Care Center," "Hospital," "Nursing or Care Home," "Family," or "Group Residential Facility," as defined elsewhere in this Subtitle. A Congregate Living Facility shall comply with the licensing and other regulatory requirements of Subtitle 12, Division 7, of this Code.

In conjunction with the applicant's special exception request, the property is now subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual) as well as the parking space requirements and design standards contained in Part 11 of the Zoning Ordinance. As a result, a companion departure application (DDS-613) was submitted by the applicant which requests a departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual along the eastern and western property lines.

The applicant had requested a companion departure (DPLS-373) to waive five of the six required parking spaces. However, there is an error on the site plan's parking schedule concerning the total number of parking spaces that are required to serve the property. The parking schedule indicates six parking spaces are required to serve the property when only four are required.

Due to the spacial constraints associated with the existing residential driveway, the applicant proposes to provide only the required van-accessible parking space for the physically-handicapped. As a result, the correct departure the applicant should be requesting is the waiver of three of the required four parking spaces.

- F. **Neighborhood and Surrounding Uses:** Within the submitted statement of justification, the applicant describes the property as being situated south of the Capital Beltway (I-95/495), east of Indian Head Highway (MD 210), and just west of Allentown Road.

The applicant described the location of the property, but did not submit specific neighborhood boundaries. Therefore, staff submits that the appropriate neighborhood to be considered in this case is bounded to the north by Allentown and Tucker Roads, to the south by Steed and Allentown Roads, to the east by Temple Hill Road and Tinkers Creek, and to the west by Indian Head Highway (MD 210).

The property is surrounded by the following uses:

North— A detached single-family dwelling in the R-R Zone

West— A detached single-family dwelling in the R-R Zone

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South— Lucille Court (50-foot-wide public right-of-way)

East— A vacant lot in the R-R Zone

G. **Specific Special Exception Requirements:** Section 27-344(a) of the Zoning Ordinance provides the following specific special exception requirements for a congregate living facility:

(a) A congregate living facility for more than eight (8) elderly or physically handicapped residents, as defined by Section 12-168(a) of this Code, may be permitted, subject to the following:

(1) There is a demonstrated need for the facility;

At the time of acceptance, the applicant was required to submit a needs assessment to the Planning Department's Research Section in order to demonstrate compliance with Section 27-344(a)(1). Within the justification statement that was submitted for the subject application, the applicant further stated the following:

“According to a study on senior housing conducted by The Maryland-National Capital Park & Planning Commission (M-NCPPC), the 65+ population is projected to grow at a faster pace in Prince George's County than in Maryland and the U.S. (Study, Part 1. Profile of Prince Georges County and DC Metro Area, Page 41) Further, the study notes that ‘Prince George's County is underserved relative to independent living, assisted living and Alzheimer's care.’ Additionally, the study concludes that ‘the elderly population will continue to increase for at least the next decade’, and so will the demand for elderly services. (Study, Part 2. Trends: Conclusions, Page 50)”

The applicant frequently must turn away potential residents due to its licensing limitations. The applicant is therefore seeking to expand an existing use that meets the definition of a congregate living facility. Approval of the requested special exception would permit the applicant to serve a larger number of elderly residents in an intimate, friendly, home-style environment in a location that provides a tranquil residential setting.

In an email dated July 16, 2012, the Research Section stated that the applicant has met the criteria for the needs assessment and has proven that there is a demonstrated need for the facility.

(2) The facility is in compliance with the physical requirements of Subtitle 12, Division 7, of this Code, and shall be operated in accordance with the licensing and other requirements of that Subtitle; and

Within the justification statement that was submitted for the subject application, the applicant stated the following:

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“The Applicant’s facility shall comply with the physical requirements of Subtitle 12, Division 7, of this Code, and shall be operated in accordance with the licensing and other requirements of the Subtitle. Additionally, the facility will meet all applicable requirements of state and county ordinances. No alterations to the exterior of the building are being proposed, and the interior floor area of the dwelling complies with the regulations of the Maryland Department of Health and Mental Hygiene. The facility is currently licensed by, and is in good standing with, that agency.”

- (3) **There shall be a separate bedroom of a minimum of one hundred (100) square feet for each resident, or a separate bedroom of a minimum of one hundred and sixty (160) square feet for every two residents, or any combination of the above, so as to satisfy the accommodations requirements of the “Regulations for Congregate Living Facilities” (required by Section 12-173(d) of this Code), for the maximum number of permitted residents.**

In Loving Hands contains eight bedrooms, ranging in size from 160 square feet to 900 square feet. The Zoning Ordinance requires a single room to contain no less than 100 square feet and a double room no less than 160 square feet. This translates into eight double rooms in the existing space, for a total of 15 residents.

- H. **Parking Regulations:** The required parking for a congregate living facility is one parking space for every four residents. The applicant proposes to have 15 residents at the facility. Therefore, the parking requirement for the proposed use is four parking spaces.

The parking schedule on the applicant’s site plan further states that two additional parking spaces are required to serve the dwelling. During the pre-acceptance review for the subject application, staff requested that the site plan be revised to show that two parking spaces are required to serve the dwelling. However, during the review of the subject application, the applicant clarified that, should the special exception application be approved for the congregate living facility, the applicant would no longer be residing on the premises. Therefore, the two standard parking spaces that are typically required for all detached single-family dwellings would no longer be needed on the property. As a result, a total of four parking spaces are required to serve the proposed use. A condition has been recommended to have the parking schedule on the site plan corrected prior to final disposition of the case to remove the required parking spaces for the dwelling.

Due to spacial constraints associated with the width of the existing driveway, the applicant proposes only to provide the required van-accessible parking space for the physically-handicapped and has requested a departure to waive the other required parking spaces. The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. In implementing the special exception use to request more than eight residents in the facility, the site would now be subject to the commercial parking lot standards contained in Part 11 of the Zoning Ordinance.

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The two parking spaces in the garage will continue to be utilized by the staff of the facility for parking on a daily basis. However, the garage spaces are unable to be counted as provided parking spaces because a vehicle would have to "drive-through" and/or "back-over" the van-accessible handicapped parking space in order to gain access to the two parking spaces inside the garage. Piggyback parking is not allowed for any use other than residential dwelling units. As a result, adequate driveway aisles cannot be provided to serve the two parking spaces inside the garage.

- I. **Prince George's County Landscape Manual Requirements:** The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. A special exception is required for a congregate living facility once the number of residents in the facility exceeds eight. In implementing the special exception use to request a congregate living facility with up to 15 residents, the site would now be considered a change from a lower to a higher impact use. As a result, the property is now fully subject to the requirements of the 2010 *Prince George's County Landscape Manual*.
- J. **Zone Standards:** Section 27-442 of the Zoning Ordinance includes regulations for development in residential zones, including the R-R Zone. Section 27-442(c) lists the maximum percentage of lot coverage allowed for various uses. For "other allowed uses," such as the proposed congregate living facility in the R-R Zone, 60 percent lot coverage is allowed.

The submitted site plan demonstrates that the existing lot coverage on the site is approximately 31 percent.

- K. **Required Findings:** Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle;

The primary purposes of the Zoning Ordinance are to protect public health, safety, and welfare; to promote the most beneficial relationship between the uses of land and buildings; and to protect landowners from adverse impacts of adjoining development. A congregate living facility with over eight residents is permitted through the special exception process in the R-R Zone. Therefore, there is a legislative presumption that the use can be carried out in harmony with the purposes of this Subtitle with no adverse impacts on health, safety, and welfare.

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

The applicant's facility shall comply with the physical requirements of Subtitle 12, Division 7, of the County Code, and shall be operated in accordance with the licensing and other requirements of the Subtitle. Additionally, the facility will meet all applicable requirements of state and county ordinances. No alterations to the exterior of the building are being proposed as a part of the special exception application and the interior floor area of the facility complies with the regulations of the

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Maryland Department of Health and Mental Hygiene. The facility is currently licensed by, and is in good standing with, that agency. With the requested departures and recommended conditions, the use will be in conformance with all of 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;**

In a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application conforms to the residential low-density land use recommendation in the 2006 Henson Creek-South Potomac Master Plan and SMA, and further stated that the application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining low- to moderate-density land uses. As a result, the proposed use will not substantially impair the integrity of the approved master plan or General Plan.

- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;**

The applicant has operated the use on this property since approximately July 18, 2007 when Use and Occupancy Permit 27720-2007-00 was approved for a congregate living facility for the elderly and physically-handicapped with up to eight residents. Adding seven more residents to the facility, as proposed through the subject special exception application, will have no adverse effects on 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**

The residents of the facility are primarily 75 years of age or older. From the outside, the facility has the appearance of a typical detached single-family dwelling, and that is what the applicant hopes to maintain under the current proposal. By requesting the companion departure applications, the applicant is hoping to avoid installing a commercial parking compound in the front yard that would alter the appearance of the existing residential use and character of the neighborhood.

According to a study on senior housing conducted by The Maryland-National Capital Park and Planning Commission (M-NCPPC), the 65+ population is projected to grow at a faster pace in Prince George's County than in Maryland and the U.S. (Study, Part 1. Profile of Prince George's County and DC Metro Area, Page 41). Further, the study notes that "Prince George's County is underserved relative to independent living, assisted living and Alzheimer's care." Additionally, the study concludes that "the elderly population will continue to increase for at least the next decade," and so will the demand for elderly services (Study, Part 2. Trends: Conclusions, Page 50).

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The applicant frequently must turn away potential residents due to its licensing limitations which is currently capped at eight residents. Approval of the requested special exception application would allow the applicant to have seven additional elderly residents for a total of 15 residents. The facility provides an intimate, friendly, home-style environment in a location that provides a tranquil residential setting.

In an email dated July 16, 2012, the Research Section stated that the applicant has met the criteria for the needs assessment and has proven that there is a demonstrated need for the facility. The applicant proposes no new construction or increase in gross floor area, and the use has been in operation on the property since approximately 2007. Therefore, the applicant's request to add seven additional residents (for a total of 15) would not be detrimental to the use or development of adjacent properties or the general neighborhood.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

This property is subject to the Prince George's County Woodland Conservation Ordinance because the site has two prior approved Tree Conservation Plans, TCPI-039-07 and TCP2-079-94/06. In a memorandum dated August 19, 2013, the Environmental Planning Section stated the following:

The Environmental Planning Section finds conformance with the required environmental findings for a special exception and recommends approval of Special Exception SE-4704 and Type II Tree Conservation Plan TCPII-079-94-06, subject to the following condition:

1. Prior to final disposition of the special exception application and Type II tree conservation plan, the fee-in-lieu required to mitigate prior clearing, as shown on revised TCPII-079-94-06, shall be paid to the county Woodland Conservation Fund.

With the recommended condition, the proposed site plan will be in conformance with an approved tree conservation plan.

(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.

Because there are no regulated environmental features on the site except for woodland conservation under an approved and implemented Type II tree conservation plan, the site was eligible to receive a natural resources inventory (NRI) equivalency letter. On June 26, 2013, NRI-066-13 was issued for the property by the Environmental Planning Section.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and recommends to the District Council for Prince George's County, Maryland that the above-noted application be APPROVED, subject to the following conditions:

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1. Prior to final disposition of the case, the following revisions shall be made to the site plan:
 - a. Provide a general note on the site plan concerning the square footage of the residents' bedrooms in order to demonstrate compliance with Section 27-344(a)(3) of the Zoning Ordinance.
 - b. Remove General Note 20 concerning Alternative Compliance Pre-Application ACP-11030. This information is no longer relevant to the application since AC-11030 was denied by the Planning Director on March 21, 2013.
 - c. Revise the parking schedule to remove the two required parking spaces for the dwelling.
 - d. Revise General Note 5 to include the gross floor area of the garage.
 - e. Show the limits of the existing tree line along the eastern property line, so that it is consistent with the Type II tree conservation plan.

2. Prior to final disposition of the case, the following revisions shall be made to the landscape plan:
 - a. Remove the freestanding sign.
 - b. Revise the landscape schedules for Section 4.7 as follows:
 - (1) Designate the proposed use as a "Low-Impact" use, and the impact of the adjoining properties as "One-Family Detached."
 - (2) Remove the reference to alternative compliance and replace it with "DDS-613."
 - (3) Remove "Side A" and "Side B" and replace with "Eastern Property Line" and "Western Property Line."
 - (4) Add the required number of plant units to each schedule.
 - (5) Correct the Section 4.7 schedule for the rear property line to indicate that the minimum required width of the landscaped yard is 20 feet (not ten feet).
 - (6) Update the revision box after all of the required changes have been made to the plan.

3. Prior to approval of a use and occupancy permit, the fee-in-lieu required to mitigate prior clearing, as shown on revised TCPII-079-94-06, shall be paid to the county Woodland Conservation Fund.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Geraldo, Bailey and Hewlett voting in favor of the motion at its regular meeting held on Thursday, September 26, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of October 2013.

Patricia Colihan Barney
Executive Director



By Jessica Jones
Planning Board Administrator

PCB:JJ:JF:arj

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date 10/4/13