

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660

IN THE MATTER OF:
REDLEY CAPITAL INVESTMENTS &
HOLDING CORPORATION

Applicant

Jane Przygocki
Timothy Hoffman
Daniel Park
Carylton Ganong

For the Application

Jody Kline, Esquire

Attorney for the Applicant

* * * * *

Eric Bailey
Daryl Thorne
Basile Whitaker
Stephen Schertler

Opposing the Application

* * * * *

Before: Derek J. Baumgardner, Hearing Examiner (Decision)
 Lynn A. Robeson, Hearing Examiner

OZAH Case No. 20-06

HEARING EXAMINER'S REPORT AND DECISION

TABLE OF CONTENTS

I. STATEMENT OF THE CASE	3
II. FACTUAL BACKGROUND.....	4
A. The Subject Property	4
B. Surrounding Neighborhood.....	6
C. Proposed Use.....	9
1. Conditional Use Site Plan.....	10
2. Operations	12
3. Parking	14
4. Landscaping and Lighting	14

D. Environmental Issues	18
E. Community Response.....	18
III. FINDINGS OF FACT AND CONCLUSIONS OF LAW	20
A. Necessary Findings (Section 59.7.3.1.E)	21
B. Development Standards of the Zone (R-200)	29
C. Use Standards Specific to a Residential Care Facility (59.3.3.2.E)	30
D. General Development Standards (Article 59.6).....	32
1. Parking Standards	32
2. Site Perimeter Landscaping and Screening.....	35
3. Outdoor Lighting	37
IV. Conclusion and Decision	38

I. STATEMENT OF THE CASE

On May 13, 2020, Redly Capital Investments and Holding Corporation (hereinafter Applicant or Redly) filed an application seeking a conditional use to establish a Residential Care Facility for 9 to 16 persons under §59.3.3.2.E.2.b of the Zoning Ordinance. The application proposes to house 16 youths associated with nearby Sandy Spring Friends School that experience social and emotional problems. Exhibits 1, 7. Zoned R-200, the property is located at 17734 Norwood Road, Sandy Spring, Maryland (Lot N487, Parcel A, Aunt Hattie's place subdivision). Exhibit 1.

On August 28, 2020, Redly filed amendments to the application. Exhibit 31, 32. The Office of Zoning and Administrative Hearings (OZAH) issued notice of the request to amend the application on September 1, 2020. On the same day, OZAH noticed a public hearing to be held on October 2, 2020. Exhibits 3,4. Planning Staff issued its report recommending approval of the application with conditions on September 4, 2020. Exhibits 33, 33(a). The conditions recommended by Planning Staff were as follows (Ex. 33, p. 2):

1. The Residential Care Facility must be limited to a maximum of 16 residents and four employees on site at any one time.
2. No sign identifying the Facility as a Residential Care Facility may be located on the property or on the building.
3. No special events may be held on the facility's premises.
4. Landscaping must be in accordance with the Landscape Plan revised on August 19, 2020.
5. The Applicant must obtain and satisfy the requirements of all licenses including a use and occupancy permit.

On September 17, 2020, the Planning Board recommended approval of the application with the conditions recommended by Staff.

The public hearing proceeded as scheduled on October 2, 2020. Four witnesses testified for the Applicant: Mr. Carylton Ganong, an administrator at Sandy Spring Friends School (Lessee); Ms. Jane Przygocki, an expert in land planning; Mr. Timothy Hoffman, an expert in civil

engineering; and Mr. Daniel Park, an expert in landscape architecture. OZAH received multiple letters from community members in opposition to this application which are included in this record for review. Four community members testified at the public hearing in opposition or, in the alternative, as to their concerns about the proposed use: Mr. Eric Bailey, Ms. Daryl Thorne, Mr. Basile Whitaker, and Mr. Stephen Schertler. At the request of the parties, the Hearing Examiner left the record open until October 26, 2020 for all interested persons to submit post-hearing comments. OZAH received responses from community residents, several community associations, and from the applicant. Exhibits 71, 72, 74, 75. On October 26, 2020, OZAH received a letter from counsel stating that Sandy Spring Friends School would not renew its lease with the Applicant when it expires in 2021. Exhibit 73.

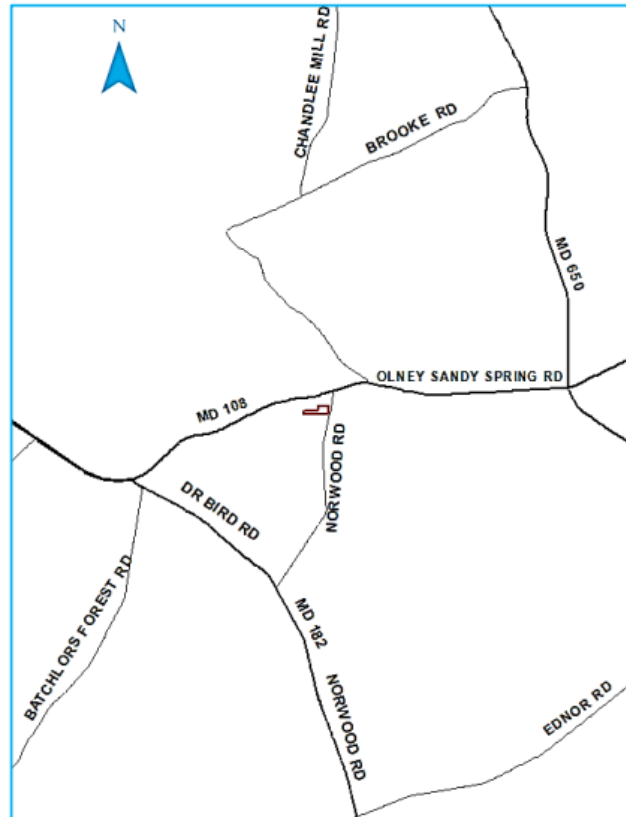
After a thorough review of the record in this case, including all documents and testimony, the Hearing Examiner approves the conditional use with the conditions included in Part IV of this Report for the following reasons.

II. FACTUAL BACKGROUND

A. The Subject Property

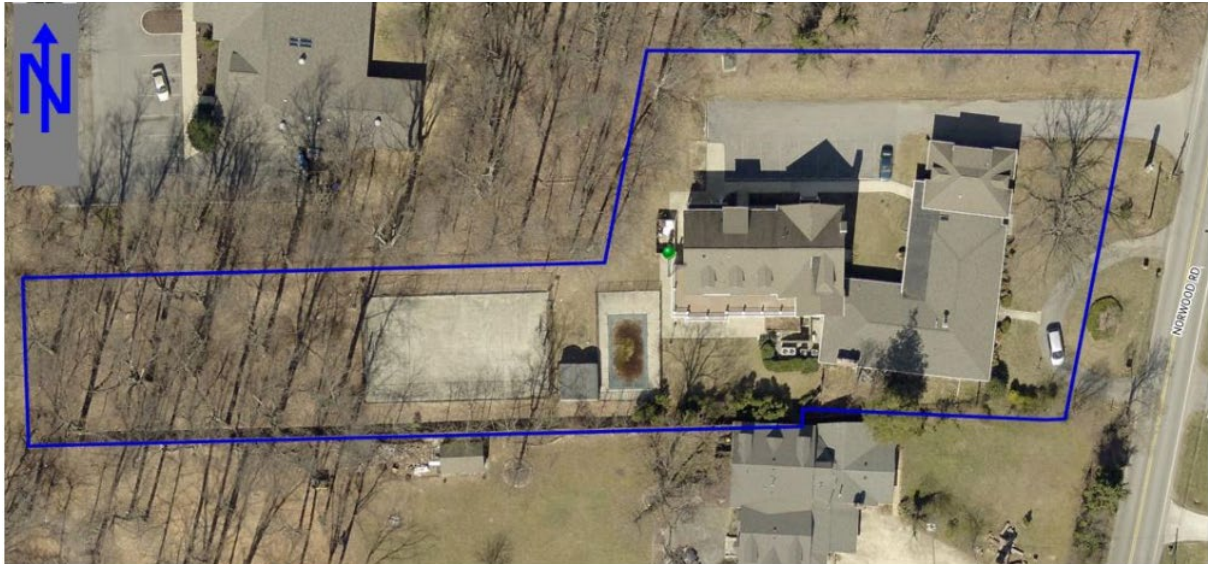
The site is located on the west side of Norwood Road approximately 300 feet south of its intersection with Olney-Sandy Spring Road (Md. 108). Exhibit 37, p. 3. A map from the conditional use site plan (Exhibit 33, p. 1, shown on the following page) identifies the subject property and its general vicinity (outlined in red in the center the figure).

The property consists of approximately 1.42 acres and is improved with a large, two-story residential building (with basement) totaling 10,277 square feet. Exhibit 33, p. 3. The building was formerly used as a residential care facility for 8 persons called "Aunt Hattie's Place." The front of



**Vicinity Map
Exhibit 33**

the building facing Norwood Road is presently used as a residence and is not a part of this application. A three-story addition in the rear was used to house residents in the residential care facility. Exhibit 33, p. 3. The property is configured in an L-shape, with the widest portion along Norwood Road, narrowing as it extends toward the rear addition. A parking area adjoins the addition; the western edge of the property is unimproved. An aerial photograph from the Staff Report (Exhibit 33, p. 3, shown on the following page) depicts the property and current improvements.



Aerial View of Subject Property
Exhibit 33

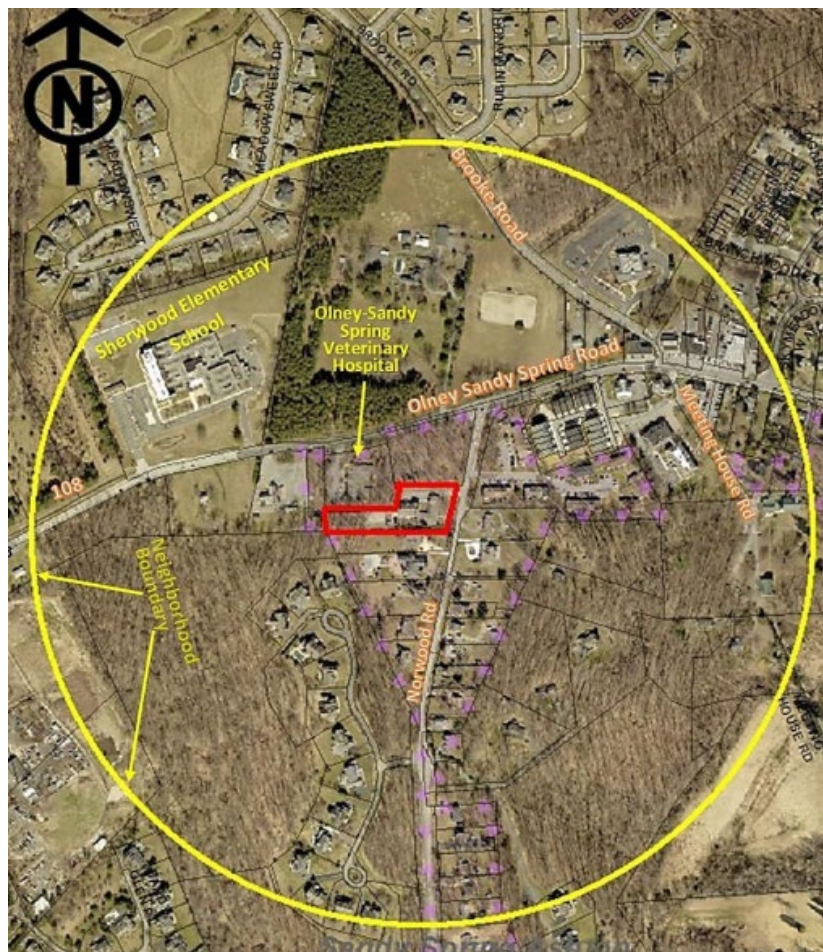
Access from Norwood Road occurs at three locations. The northern access point extends to the rear of the residence to the parking lot. Two front access points along Norwood Road form a curved driveway in front of the residence. Exhibit 33, p. 3. Staff advises that existing landscaping consists of shrubs and mature trees. According to Staff, there are no sensitive environmental conditions or species on the site. *Id.* The property was the subject of an earlier special exception application (S-2671) for a group home for 14 children. That application was approved by the Planning Board but was later withdrawn from consideration by the applicant. *Id.* at 5.

B. Surrounding Neighborhood

To determine the compatibility of the proposed use with the surrounding area, it is necessary to delineate the “surrounding neighborhood”, which is the area that will be most directly impacted by the proposed use. Once delineated, the Hearing Examiner must assess the character of the neighborhood and determine whether the impacts of the proposed conditional use will adversely affect that character.

On initial submissions, Staff and the Applicant disagreed on the boundaries of the surrounding area. Staff defines the surrounding area as a radius of 1,500 feet or 0.3 miles from the subject property. Exhibit 33, p. 4. Staff's proposed boundary is shown in an aerial photograph contained in the Staff Report, on the next page.

Staff reasoned that its boundary was more appropriate because it took "into consideration the nature of the proposed use, the existing characteristics of the surrounding area, and to include a nearby intersection of Md. 108 and Norwood Road." Exhibit 33, p. 4. At the hearing, Redly's expert in land use planning, Ms. Jane Pryzgocki, agreed to the delineation of the surrounding area adopted by Staff. T. 79.



Staff's Defined Neighborhood
Exhibit 33

Staff characterized the surrounding area as a “village type” development with a “semi-rural” character defined by environmental features such as streams, slopes, and large wooded properties. *Id.* at 4-5. Ms. Przygocki, concurred with this characterization. T. 80. Most of the area is zoned RE-2 (Residential Estate) and RNC (Residential Neighborhood Cluster). Staff advises that there are smaller nodes of R-200, CRN (Commercial Residential Neighborhood), RT and R-90 (Residential Single-Family) in the Sandy Spring Village Center and at intersections along Md. Route 108. These nodes are developed with a townhouse community, single-family detached dwellings, and retail uses. An institutional use, Sherwood Elementary School, also lies within the surrounding area. Properties abutting and confronting the subject property include Olney-Sandy Spring Veterinary Hospital (to the north), single-family homes in the R-200 Zone (to the west and south) and single-family detached dwellings as well as the Sandy Spring Village. Condominium townhouses are located to the east across Norwood Road. Exhibit 33, p. 5. Staff lists three special exceptions within the surrounding neighborhood--the veterinary hospital, a landscape contractor, and an accessory apartment. The veterinary hospital remains in operation. According to the Applicant, the conditional use for the veterinary hospital permits operation up to seven (7) days a week with a maximum of eight patients and 23 employees at any one time. Exhibit 7, p. 4. Staff could not verify whether the landscape contractor and accessory apartment special exceptions are still active. Exhibit 33, p. 6.

Redly further characterizes the surrounding area as “transitional” between the commercial and institutional uses to the north along Md. Route 108 and the residential uses to the southwest, south and southeast. Exhibit 7, p. 4.

The Hearing Examiner finds that Staff's delineation of the “surrounding area” is more appropriate for consideration of this conditional use as this perimeter captures nearby institutional,

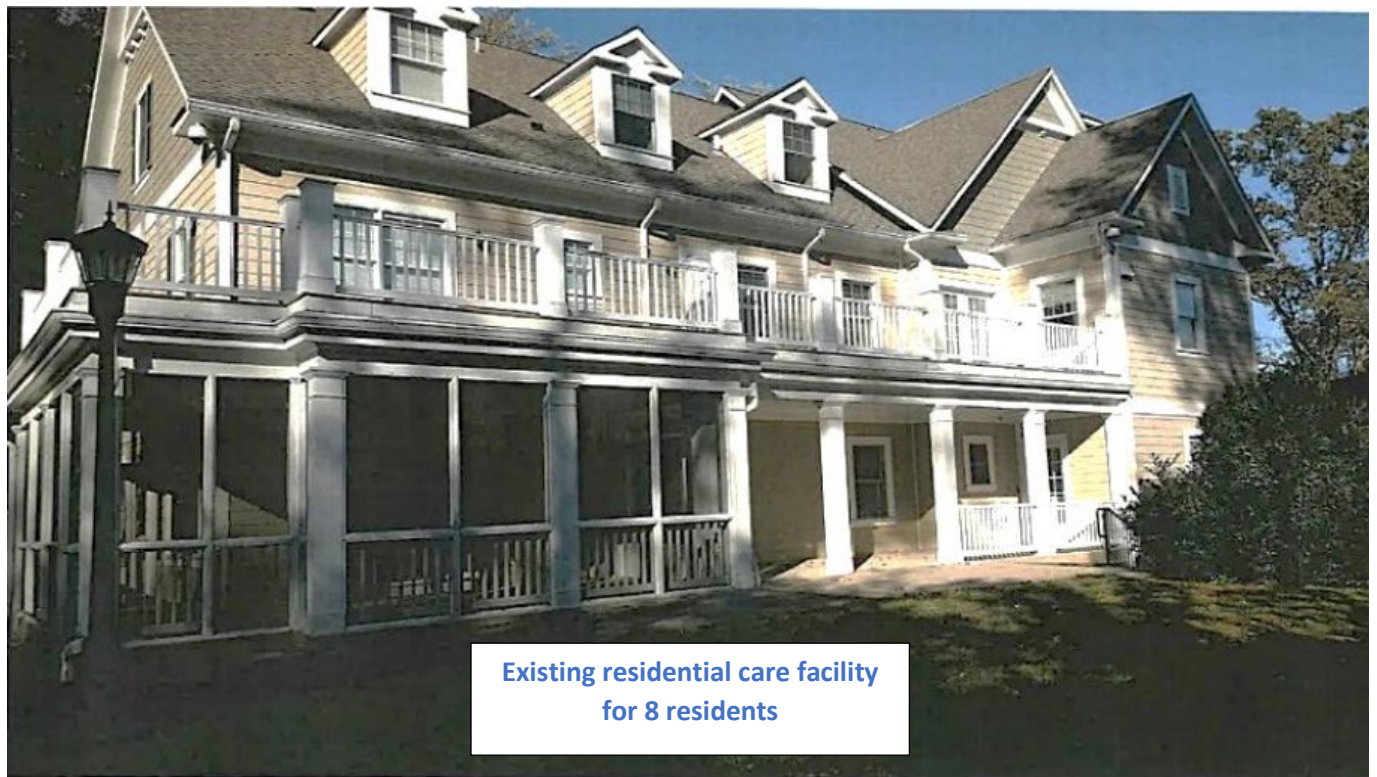
residential, and commercial uses by whole lots and includes roadway boundaries impacted by the proposed use. The Hearing Examiner finds staff's assessment of the character of the neighborhood to be fair and accurate. While maintaining a semi-rural character, the subject property is within close proximity to an institutional use, small-scale retail uses, a veterinary center, and mixed residential uses. The character of the surrounding community can be fairly categorized as semi-rural with a village-type character.

C. Proposed Use

Redly proposes to partner with the Sandy Spring Friends School (School), a nearby private, Quaker educational institution, to provide residential care for youths who have "experienced anxiety, depression and other social and emotional problems including such conditions as Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD). Exhibit 7, p. 7. The partnership seeks to train, guide and tutor youths to transition from residential care to become active members of the community. Exhibit 33, p. 5. Currently utilized as a residential care facility for eight (8) residents, Redly plans to use the subject property, named "Norwood House", to accommodate up to a total of 16 "overflow" students who cannot be accommodated on the School's main campus. Exhibit 33, p. 6. The School's Chief Financial Officer, Mr. Ganong, testified in support of these facts. T. 52-54. Mr. Ganong further testified as to the School's interest in pursuing a long-term lease of the premises but could not commit to any specific term of years. T. 63. After the public hearing, the School informed OZAH that it would not renew the lease when it expires next year. Exhibit 73.

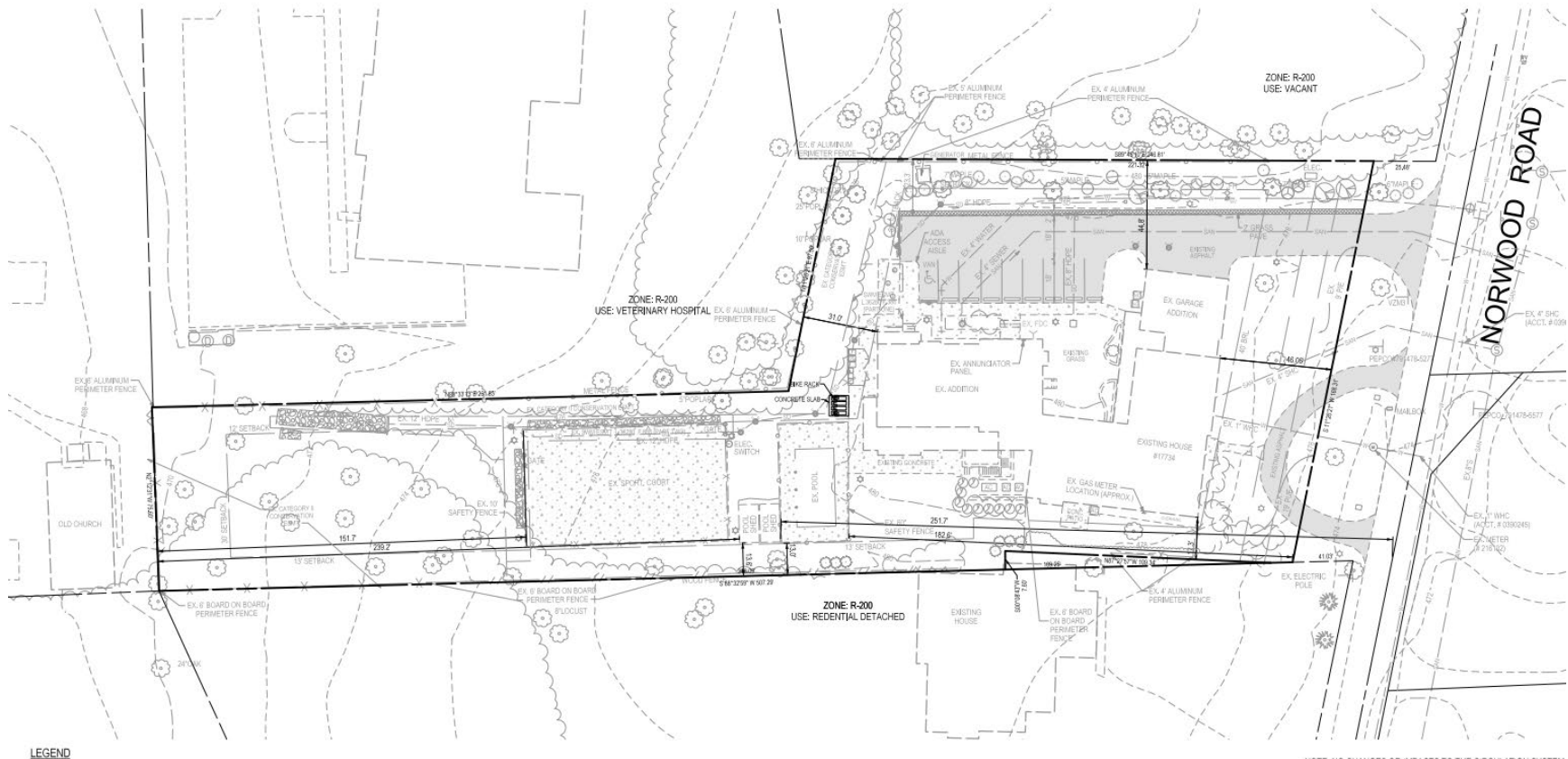
Redly plans to continue to use the existing one-story residence fronting Norwood Road as a residence for an administrator or educator from the School. The residential care facility will be located entirely within the three-story addition at the rear of the property which currently houses a

residential care facility for up to 8 residents. Although physically connected, there is no access between the residence and the residential care facility, as connecting doors are kept locked. Exhibit 33, p. 6. The Staff Report contains a photograph showing the rear extension (Exhibit 33, p. 6, below):



1. Conditional Use Site Plan

Ms. Jane Przygocki, Redly's expert in land planning, testified that Redly does not plan to alter the existing building on the property. T. 21. The only changes proposed include additional landscaping to improve screening, installation of a bike rack, and fencing around the waste pick-up area. *Id.* at 75. The conditional use site plan is shown on pages 11 and 12.



Excerpt from Conditional Use
Site Plan
Exhibit 30(b)

LEGEND	
EX. BUILDING	— — — — —
EX. STORMDRAIN	- — — SD — — — 8" HDPE
EX. WATERLINE	— — — W — — — EX. 4" WATER
EX. SEWERLINE	— — — SAN — — — EX. 4" SEWER
EX. CONTOURS	— — — 480 — — — — — — — — 482 — — — — —
EX. TREE	⊗ 15" OAK
EX. STORMDRAIN MANHOLE	⊙
EX. CLEANOUT	⊙
EX. LIGHT	⊙
EX. FENCE	— // — // — // — — — — — — — X — — — X — — —
EX. EDGE OF PAVING	- - - - -
EX. BOUNDARY	— — — — —
EX. GRASS PAVE	⊗ ⊗ ⊗ ⊗ ⊗ ⊗ ⊗ ⊗ ⊗ ⊗

Conditional Use Site Plan Legend
Exhibit 30(b)

2. Operations

a. Staffing.

Mr. Ganong, on behalf of Lessee, testified that one School supervisor will always be present on the subject property when students are present, no School staff person will permanently reside on residential care portion of the site. T. 58. The number of staff present will comply with county and state law and will depend on the number of students enrolled and residing at the property and the maturity and mix of students, but no more than four staff will be on-site at one time. Exhibit 33, p. 7. With respect to other staff members residing in other portions of the property, Mr. Ganong stated:

“... the front home, we currently have our middle school head of school, living there with his family. And then in the one-bedroom apartment that's above the garage is a

dorm supervisor. They are not necessarily the ones that are assigned to be taken care of the students all the time because we do have other dorm staff that would be coming and going in the facility itself.” T. 55.

Other adult staff may visit the property from time to time including counselors, educational professionals, maintenance staff, and a nurse remains on call to handle any emergency medical needs that may arise. Exhibit 7, p. 8.

b. Student Schedule.

Mr. Ganong testified that students are expected to spend most of their day on the School campus. T. 52. Students will be transported to the School by bus according to the following schedule (Exhibit 33, p. 7, below):

Table 1: Shuttle Schedule

DAILY SCHEDULE	
7:30 AM	Pick up at Norwood House and drop off at main campus.
7:30 AM – 4:30 PM	School day, including breakfast and lunch in the School cafeteria.
4:30 PM	Pick up at campus and drop off at Norwood House.
4:30 PM – 5:30 PM	Study time.
5:30 PM	Pick up at Norwood House and drop off at main campus for dinner.
7:30 PM	Pick up at campus and return to Norwood House.
7:30 PM – 9:30 PM	Study and relaxation before bed.

**Student Schedule
Exhibit 33, p. 7**

Mr. Ganong testified that students will not be permitted to have vehicles on site. T. 55. Mr. Ganong also testified that residents would be receiving most of their meals on campus and not at the subject property, although carry-out food deliveries would be allowed when arranged by a supervisor. T. 58.

c. Trash Pick-Ups and Deliveries.

No deliveries are proposed, and Mr. Ganong testified that no commercial deliveries are regularly scheduled on site. T. 59. The trash enclosure is located on the western portion of the property and will be picked up once a week on Wednesday mornings. Exhibit 33, p. 19. All personal mail deliveries for students are mailed to the main School campus and then distributed to students on campus. T. 64.

3. Parking

Six (6) vehicle parking spaces are required to serve the proposed use. The Staff Report includes a table showing the number of spaces required and provided (Exhibit. 33, p. 11, below.) Nine (9) parking spaces are provided under this application.

Table 3: Required Parking

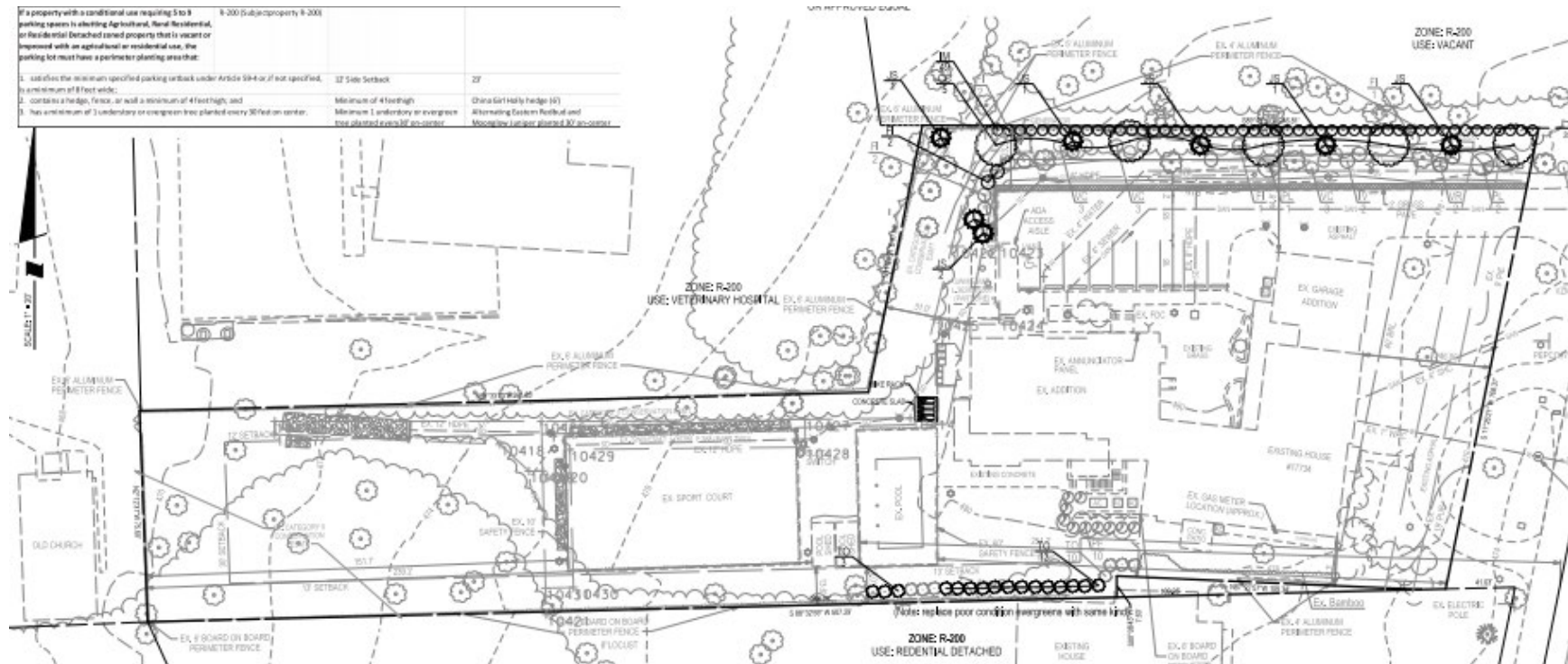
Section 59.6.2.4 Parking	Required	Provided
Vehicle spaces .25 sp/bed + 0.50 sp/employee	4 X .25 = 1 + 4 X .50 = 2 = 3 sp including 1 van-accessible handicapped spaces	9 sp including 1 van- accessible Handicapped spaces

4. Landscaping and Lighting

a. Landscape Plan

Mr. Daniel Park, Redly's expert in landscape architecture, described the landscaping and lighting. The Landscape Plan (Exhibit 30(c), shown on the following page) illustrates the existing landscaping, screening, tree cover, and other items currently on the property.

Mr. Park detailed the existing landscaping and screening and the proposed improvements. Mr. Park stated that the Forest Conservation Plan from 2007 remains in effect and was accepted at that time and would not be altered by this proposed conditional use as no exterior modifications are proposed. T. 106. As such, there is no proposal to remove trees, shrubs, or other disturbances



LEGEND

-  BOUNDARY LINE
 EXISTING TOPOGRAPHY
 EXISTING TREELINE
 EXISTING LANDSCAPING
 PROPOSED LANDSCAPING

**Landscape Plan
Exhibit 30(c)**

to soil. *Id.* Mr. Park and Ms. Przygocki testified that additional screening will be provided as well as a bicycle rack as shown below. T. 73-74.

b. Lighting

The Photometric Plan illustrates the existing and proposed exterior lighting for the proposed residential care facility (Exhibit 30(d), shown on page 18). The concentric circles demonstrate the emanating light by footcandles that illuminate ingress into the lot, entrance to the facility, rear and side yards, and the sport court at the rear of the property.

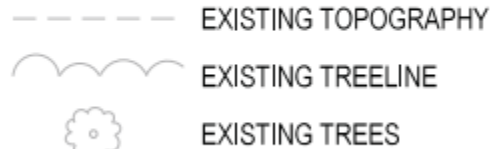
Mr. Park described the photometric plan and stated that the footcandles proposed are in compliance with existing county regulations and well below the limit in residential communities. T. 113-115. Mr. Park testified that in total the property will provide four large pole lights on the main portion of the property and four dome lights illuminating the basketball sport court. *Id.* at 114. Mr. Park testified that “all the light fixtures are shielded or screened to ensure illumination of .1 foot candle or less at the lot line.” *Id.*

When cross-examined by Mr. Bailey, a member of the community, regarding shielding or light dampening devices that could be installed on light fixtures, Mr. Park testified that would not be necessary as the exterior lights already had domes and that footcandle strength was well-within county regulations. T. 120. Mr. Park further stated that the illumination provided is necessary for the safety of the use at “the appropriate time of day would require those lights at those levels.” T. 120-121.

When cross-examined by Mr. Whittaker, a member of the community, regarding the impact of lighting to adjacent properties, Mr. Park responded that, “[i]t is my professional opinion that based on the height of the fixtures, the shielding, the cowl, and the existing mature vegetation, trees, of course conservation easement on the site, that the impact to neighboring, adjacent

Exhibit 30(d)
Photometric Plan

LEGEND



LUMINAIRE SCHEDULE

Symbol	Label	Qty	Catalog Number	Description	Lamp	File	Lumens	LLF	Watts
●	A	4	P10DMH00FFX - SD-364	PECHINA on a 10' pole * (14'-7" Fixture height)	100W CLEAR MH	102595.JES	9000	0.72	124
●	B	4	AR70DMH00XG3C	ARLINGTONIES Cutoff on an 8'-7" pole * (11'-0" Fixture height)	70W CLEAR MH	53699.JES	5500	0.72	84

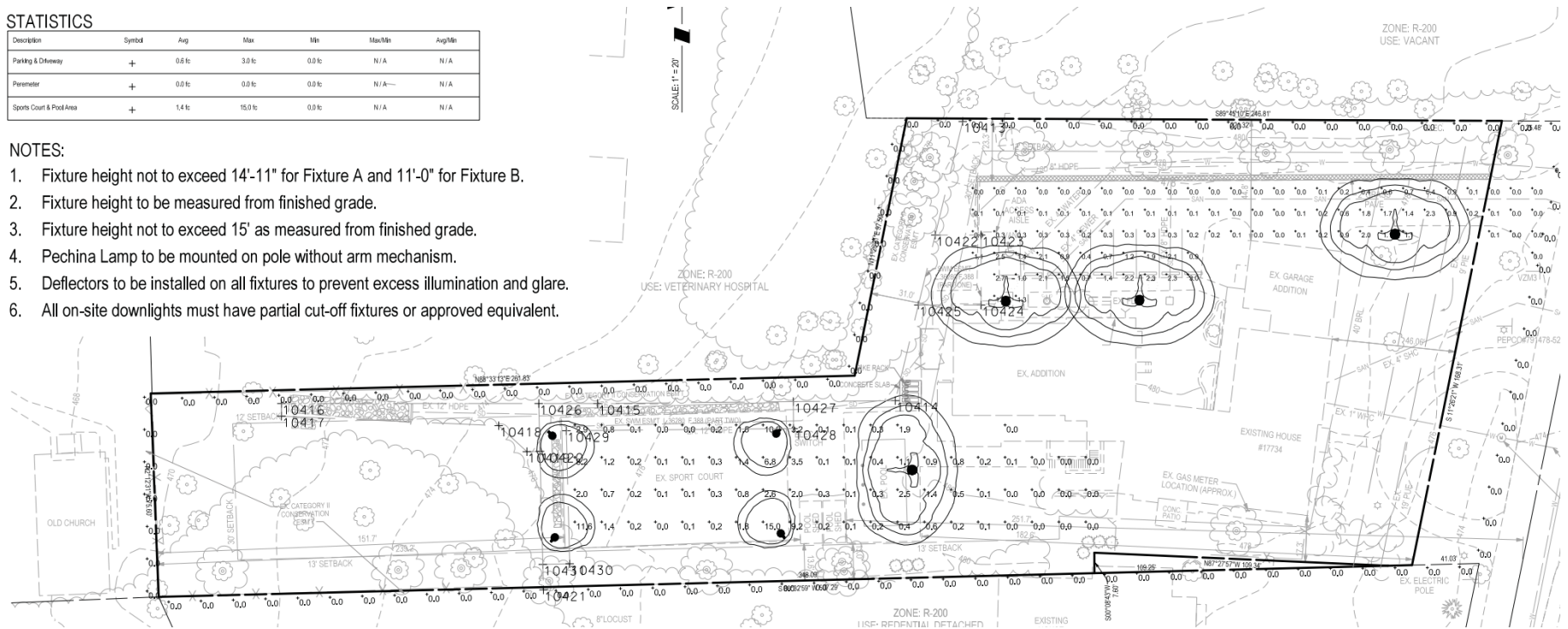
* OR APPROVED EQUIVALENT

STATISTICS

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Parking & Driveway	+	0.6 fc	3.0 fc	0.0 fc	N/A	N/A
Perimeter	+	0.0 fc	0.0 fc	0.0 fc	N/A	N/A
Sports Court & Pool Area	+	1.4 fc	15.0 fc	0.0 fc	N/A	N/A

NOTES:

1. Fixture height not to exceed 14'-11" for Fixture A and 11'-0" for Fixture B.
2. Fixture height to be measured from finished grade.
3. Fixture height not to exceed 15' as measured from finished grade.
4. Pechina Lamp to be mounted on pole without arm mechanism.
5. Deflectors to be installed on all fixtures to prevent excess illumination and glare.
6. All on-site downlights must have partial cut-off fixtures or approved equivalent.



properties will be very minimal.” T. 117. The photometric plan confirms that illumination does not extend onto adjacent properties. Exhibit 30(d).

D. Environmental Issues

Staff advises that there are no environmental issues with the application. Exhibit 33, p. 16. A Category II Forest Conservation easement currently exists on the western portion of the property and the Applicant proposes no new grading to trigger a requirement for a modified Forest Conservation Plan. The current authorized use of the property as a residential care facility for 8 students includes an approved Stormwater Plan, approved in 2008, which is not being altered or enhanced.

E. Community Response

This record contains numerous letters and emails opposing the expansion of the residential care facility. Exhibits 40(a), 40(b), 40(c), and 50(a) through 50(i). These letters and emails highlight concerns regarding intensity of use, parking, lighting, noise, character of the neighborhood, and similar matters. Four community members testified at the public hearing as to their concerns: Eric Bailey, Daryl Thorne, Basile Whitaker, and Stephen Schertler.

Mr. Bailey testified that at the time the three-story rear addition was constructed that the “Planning Board, the community, and all interested parties agreed when the property was constructed that the occupancy would it be limited to eight.” T. 126. However, the record in this case shows that while Planning staff recommended that a prior application to increase occupancy from 8 residents to 12-14 residents be denied, the Planning Board did not agree and recommended approval of the prior application for a group home for 12-13 residents. Exhibit 33, p. 5; Exhibit 7, p. 6. There is nothing in the record to explain why the applicant withdrew the application at that time, other than it was at the applicant's request. *Id.* Mr. Bailey continued to testify that his

concerns relate to potential future users of the property and their unencumbered use of the property notwithstanding the positive relationship that the current lessee, Sandy Spring Friends School, enjoys with the community. T. 127. When questioned by Hearing Examiner Robeson Hannan regarding any impacts to the community or operational concerns, Mr. Bailey indicated opposition to the expanded facility of 16 residents because of increased noise and disturbance including extended lighting, more intensive use of the property, and similar concerns. T. 134-136.

Dr. Thorne testified as to the lack of contact and transparency between the applicant, Redly, and the community, and the seeming inability of the community's voice to be heard when reviewing this conditional use application. T. 142. She also voiced fears of disruption in the neighborhood based on the types of disabilities future students may have. *Id.* She further recommended certain conditions relating to the population served by the residential care facility, excluding operators like the Department of Corrections, substance abuse facilities, etc. T. 149.

Mr. Whitaker testified as to the community's ongoing opposition to expanding the current facility beyond its current limit of 8 residents. T. 153. He expressed concerns about depreciating home values in the community as a result of the proposed facility, and the lack of transparency between the applicant and the community in their communication and their business practices. T. 154. He further testified that the community does not want a "dorm" in their community T. 155.

Mr. Schertler, the immediately adjacent property owner, testified as to his close proximity to the subject property, health concerns regarding the ongoing COVID-19 pandemic as it relates to a group home, the increase in noise and activity that would emanate from the property if the occupancy were doubled, and the general upkeep of the property including a fire that damaged the structure and potentially hazardous necessary maintenance left undone. T. 158-160. Mr. Schertler also submitted a post-hearing letter dated October 21, 2020, stating "Our community is getting

bulldozed and getting turned into a commercial zone.” Exhibit unmarked. However, the record indicates that the only other active conditional use in the surrounding neighborhood is a veterinary hospital directly to the north of the subject site; all other properties in the surrounding neighborhood appear to be permitted uses. Exhibit 33, p. 20.

Much of the community opposition, including the letters and post-hearing correspondence contained in the record, is focused on potentially unknown future tenants of the premises and the inability to communicate with the conditional use holder, Redly, if problems arose from the use. Unfortunately, much of this testimony, while no doubt sincere, is either not relevant to the granting or denial of a conditional use or is articulated in such general terms as to lack persuasive weight. First, any holder of a conditional use must comply with any approval and conditions of approval no matter the tenant or lessee that might occupy the premises. Any deviation from a conditional use approval is sanctionable if not properly modified through OZAH major/minor modification procedures contained within the Zoning Ordinance. Second, the Hearing Examiner cannot force parties to practice better neighborly habits of communication. However, provision is made in the conditions below to at least require that contact information is made available to all parties should the need arise to address ongoing concerns related to this use. Third, as to substantive concerns, these are addressed below throughout this report and decision. Lastly, OZAH is proscribed under State and Federal law from discriminating against users of a residential care facility based on the type of disability served.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A conditional use is a zoning device that authorizes certain uses provided that pre-set legislative standards are met. Pre-set legislative standards are both specific to a use (in Article 59.3 of the Zoning Ordinance) and general (*i.e.*, applicable to all conditional uses, in Division

59.7.3 of the Zoning Ordinance). The specific standards applied in this case are those for a residential care facility for nine to sixteen persons. *Montgomery County Zoning Ordinance*, §59.3.3.2.E.2.c. “The appropriate standard to be used in determining whether a requested [conditional use] would have an adverse effect and, therefore, should be denied, is whether 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 [conditional use].” *Montgomery County v. Butler*, 417 Md. 271, 275 (2010).

Weighing all the testimony and evidence of record under a preponderance of the evidence standard (*Zoning Ordinance*, §7.1.1.), the Hearing Examiner concludes that the conditional use proposed in this application, with the conditions imposed in Part IV of this Report and Decision, satisfies all of the specific and general requirements for the use and does not present any adverse effects above and beyond those inherently associated with such a use.

A. Necessary Findings (Section 59.7.3.1.E)

The general findings necessary to approve all conditional uses are found in Section 59.7.3.1.E. of the Zoning Ordinance. Standards pertinent to this approval, and the Hearing Examiner's findings for each standard, are set forth below.

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:

a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;

Staff advises that the property is currently used as a “group home” for eight children. *Exhibit 33, p. 5*. Ms. Przygocki, applicant's expert in land planning, provided a land use history of the property. Ms. Przygocki testified that the building was originally designed to house approximately 12-14 residents but even though the Planning Board approved the request to use the

property as a group home for 12-14 persons in March 2006, that application was subsequently withdrawn by the applicant in favor of a group home for up to 8 persons which is allowed by right.

T. 22. In 2007, the Planning Board approved site plan No. 820070130 to allow improvements associated with the group home. T. 23. A site plan amendment (minor modification) was granted in 2010 to make minor modifications including the replacement of sheds, landscaping, and lighting. *Id.* at 24. Mr. Ganong, testifying on behalf of lessee, Sandy Springs Friends School (“the School”), confirmed that the property is currently being used by the School as a residential care facility for up to 8 persons in conjunction with its on-campus student boarding program. T. 52.

Conclusion: The Hearing Examiner concurs that the current use of the property satisfies current approvals for this property as a by right use, subject to the increased number of residents proposed under this conditional use application.

b. satisfies the requirements of the zone, use standards under Article 59.3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59.6;

This subsection reviews the following: (1) development standards of the R-200 Zone (Article 59.4); (2) the specific use standards for a residential care facility for up to 16 persons (Article 59.3); and (3) the development standards for all uses (Article 59.6). The Hearing Examiner addresses these standards in Part III.C, D, and E of this Report.

c. substantially conforms with the recommendations of the applicable master plan;

The property is within the 1998 Sandy Spring/Ashton Master Plan (Plan or Master Plan) area and the Sandy Spring/Ashton Rural Village Overlay Zone.¹ Within that Master Plan, it is located within the Village Center Area (*See* 1998 Sandy Spring/Ashton Master Plan, p. 15). Exhibit

¹ See Figure 5 and Figure 6 reproduced from the Staff Report (Exhibit 33, p. 8) below.

33, p. 7,8, 15. The Master Plan does not make specific recommendations for this property but does emphasize “rural villages” as an important element of the rural character of Sandy Spring. The one objective of the Master Plan is to “ensure that the villages of Sandy Spring and Ashton maintain separate and distinct identities.” *Master Plan*, p. 29. The Master Plan makes several recommendations for the Sandy Spring Village Center including: flexible provisions for parking requirements, appropriate building heights, and design review to ensure that new development maintain the small scale envisioned for a village center. It further encourages the use of traditional village design, “active fronts” on new buildings, placement of off-street parking out of view, and use of the Sandy Spring Historic District as source for design. Exhibit 33, p. 8.

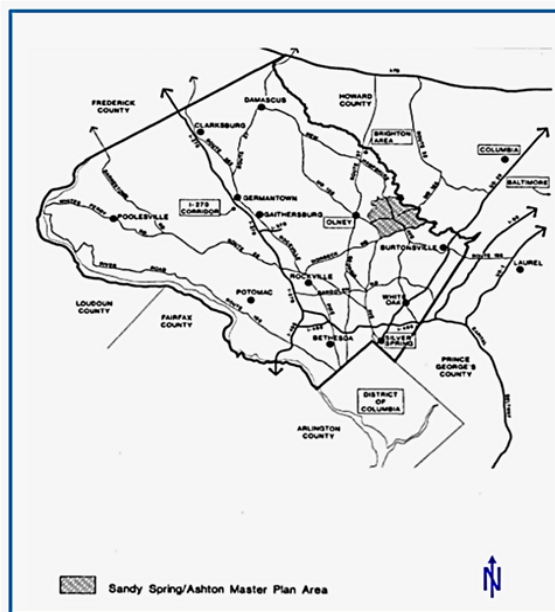


Figure 5: Sandy Spring/Ashton Regional Location

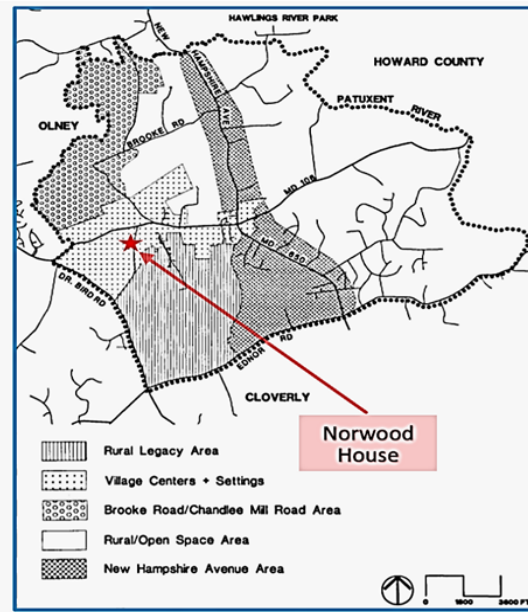


Figure 6: Master Plan Analysis Area

Exhibit 33, p. 8.

Ms. Pryzgocki agreed with Staff's evaluation of the proposed use's suitability under the Plan. The proposed residential care facility does not propose to modify the existing residential building which had been modified over 13 years ago to accommodate a group home which is a permitted use. This conditional use proposes supplemental landscaping to enhance existing

landscaping and maintains a residential use and existing residential structure. Staff states that the existing improvements on site have “gone through Preliminary Plan and Site Plan approvals in the past and are compatible with the character of the surrounding area and the goals and recommendations of the Master Plan.” Exhibit 33, p. 9. Ms. Przygocki further testified that:

...the current application is consistent with the requirements of the zone. It is consistent with the requirements and recommendations of the Master Plan. It is consistent with all of the applicable adequate public facilities requirements, and is in character with neighborhood, and the zoning overlays the standard premium overlays as well as the Sandy Spring Ashton Master Plan. T. 97.

Conclusion: The Hearing Examiner agrees with Staff that the proposed use substantially conforms to the Plan. The 1998 Sandy Spring/Ashton Master Plan does not prohibit or otherwise proscribe the use and the proposed conditional use maintains the residential character of both structure and use in compliance with the Plan.

d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the [master] plan.

Staff notes throughout their report that the proposed use is both consistent with and harmonious to the character of the surrounding neighborhood in conformance with the 1998 Sandy Spring/Ashton Master Plan. Ms. Przygocki agrees with Staff's opinion on p. 10 of their Staff Report (Exhibit 33) that, "[T]he established rural village character remains unaltered and even enhanced by added plantings." T. 82.

Several community members including Mr. Bailey, Mr. Whitaker, and Mr. Schertler testified that approval of the proposed residential care facility for up to 16 persons would, in general terms, alter the character of the surrounding neighborhood. To put their testimony in simple summary terms – 8 residents is acceptable, 16 is too many. Their testimony, while sincere,

failed to articulate with sufficient persuasion how this particular conditional use with its operational characteristics would alter the character of this residential community.

Conclusion: Both Staff (see Exhibit 33) and Ms. Przygocki, characterize the surrounding neighborhood as residential rural village and the Hearing Examiner finds the proposed use and structure is harmonious with surrounding uses and structures. T. 80. The Hearing Examiner concurs that the proposed use is both consistent with and harmonious to the character of the surrounding neighborhood in conformance with the Plan. A residential care facility, by its very nature, is a residential use. This particular residential care facility was constructed as a large rear addition to an existing residential structure and maintains a residential appearance. *See* photograph, p. 10 above. The Hearing Examiner surmises that this was done to ensure compatibility with the residential nature of this community in conformance with the Plan and the overlay. Moreover, the applicant proposes no major exterior or interior changes to the existing structure to support this use, if granted, as none are necessary. Therefore, the Hearing Examiner finds that approval of this conditional use is harmonious to and will not materially alter the character of the surrounding neighborhood. The weight of the evidence in this record supports the conclusion that approval of this conditional use does not alter the residential character of this neighborhood.

e. will 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; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

Staff notes that there is only one other active conditional use in the immediate vicinity, a veterinary hospital directly adjacent to the north of the subject property.

Conclusion: The Hearing Examiner concurs with Staff that increasing the number of conditional uses to two does not sufficiently affect the area adversely or alter the predominantly residential nature of the area.

f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or

ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and

Mr. Tim Hoffman, Redly's expert in civil engineering, testified that the property is served by public water and sewer and that existing service will continue without change from the current use. T.101. He further testified that the increased intensity of use will have no material impact on public services or utilities and that existing infrastructure is adequate to support the use. *Id.* Mr. Hoffman also testified that there were no issues with stormwater management on the site and that concept plans had been approved in 2008 and 2011 and the property remains in compliance. Ms. Pryzgocki testified that police and fire stations are within close proximity to the site. T. 96. LATR is not required under this application as the vehicular traffic generated by four staff members is well below the threshold requiring a traffic study. Exhibit 20, 33, p. 11; T. 85.

Conclusion: Based on the uncontroverted evidence that public facilities including roads, transit, utilities, and public services, will be adequate to serve the use, the Hearing Examiner finds that the application meets this standard.

g. 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 any of the following categories:

i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;

ii. traffic, noise, odors, dust, illumination, or a lack of parking; or

iii. the health, safety, or welfare of neighboring residents, visitors, or employees.

This standard requires the Hearing Examiner to identify inherent and non-inherent adverse effects of the proposed use on nearby properties and the surrounding area. Inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” *Zoning Ordinance*, §1.4.2. Inherent adverse effects, alone, are not enough to deny a conditional use. Non-inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” *Id.* A conditional use may be denied if it will have non-inherent adverse effects, alone or in combination with inherent effects, that cause “undue” harm to the surrounding neighborhood.

Staff opines that, “The inherent, generic physical and operational characteristics associated with a Residential Care Facility include (1) a building large enough to house the proposed number of residents, (2) on-site parking sufficient to meet the requirements of the use and of the Zoning Ordinance, (3) outdoor lighting consistent with residential standards and adequate for safe

vehicular and pedestrian access at night, (4) vehicular trips to and from the site by employees, visitors, residents, delivery, and trash pick-up, (5) a modest level of outdoor activities associated with use of passive recreation area, and (6) noise from ambulances in emergency situations.” Exhibit 33, p. 22. Staff concludes that, “The size, scale, and scope of the proposed Residential Care Facility will not adversely affect the residential character of the neighborhood or result in any unacceptable noise, traffic disruption, or environmental impact. Thus, there are no inherent or non-inherent adverse effects associated with this Application sufficient to warrant a denial of the proposed Conditional Use.” *Id.*

Conclusion: The Hearing Examiner finds that the proposed use will not cause undue harm to the character of the surrounding area due to any non-inherent adverse effects, alone or in combination with any inherent effects. This application and the testimony provided at the hearing did not provide any facts to cause the Hearing Examiner to conclude the residential care facility proposed would have any material adverse impact on the property. The residents will not have personal vehicles on the property and will use a shuttle from the School to go to and from the campus. Testimony from Mr. Whitaker, Mr. Schertler, and Mr. Bailey regarding noise and light was not sufficiently persuasive to cause the Hearing Examiner to conclude that these inherent aspects of the conditional use would rise to the level of non-inherent adverse effects by any feature of the property or use. The use described by applicant's witnesses both with regards to the property's characteristics, size, and proximity to neighboring lots as well as the operation of the use itself cause the Hearing Examiner to conclude that all impacts are inherent adverse impacts of a residential care facility; intensity of use at 16 residents and staff, lighting, noise, and traffic are all within the ordinary bounds of a residential care facility for up to 16 residents.

The Hearing Examiner concurs with Staff as to the inherent adverse impacts of a residential care facility for up to 16 persons and finds that no non-inherent adverse impacts accrue to this property due to any physical or operational characteristics of the proposed residential care facility not necessarily associated with this use or created by an unusual characteristic of the site.

B. Development Standards of the Zone (R-200)

In order to approve a conditional use, the Hearing Examiner must find that the application meets the development standards of the R-200 Zone, contained in Article 59.4 of the Zoning Ordinance. Table 2 below identifies the development standards applicable to this application:

Table 2: Development Standards

R-200 Zone Development Standards	Zoning Ordinance 59-4.4.7.B	Proposed
Minimum Lot Area	20,000 SF	60,984 SF (1.40 ac)
Minimum Lot width: <ul style="list-style-type: none"> ▪ at front building line ▪ at front lot line 	100 ft 25 ft	168 ft 168 ft
Maximum lot Coverage	25 percent	16.2 percent
Minimum Building Setback Principal Building: <ul style="list-style-type: none"> • front • Side <ul style="list-style-type: none"> • One side • Sum of both sides • rear yard 	40 ft 12 ft 25 ft 30 ft	71 ft 17 ft 62 ft 31 ft.
Maximum Building Height >40,000 ft lot	50 ft	35ft
Parking: 59-6.2.4.B		
Min. Vehicle Parking spaces 0.25 sp/Per Bed 0.50/Per employee (See Table 8 below under: D Parking)	4 spaces <u>2 spaces</u> <u>6 spaces</u>	9 spaces including 1 van accessible space

**In supplemental Information furnished via-email (8/18/20), the Applicant clarified that there will be a maximum of four employees including maintenance crew, cleaning crew, counselors and staff supervisor) at the facility at any given time.*

Staff Report

Exhibit 33, p. 9

Staff opines that all development standards have been met or exceeded. Exhibit 33. The

Conditional Use Site Plan confirms the calculations shown on Figure 2. Redly's land use planner, Ms. Przygocki, testified that the existing structure meets all development standards listed above.

T. 92. There are no proposed changes to the existing residential structure under this application.

Conclusion: Having no evidence to the contrary, the Hearing Examiner finds based on this record that all development standards required in the R-200 zone have been satisfied.

C. Use Standards Specific to a Residential Care Facility (59.3.3.2.E)

The specific use standards for approval of a residential care facility, generally, are set out in §§ 59.3.3.2.E.2.1 of the Zoning Ordinance:

1. Defined. In General

Residential Care Facility means a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual, in which:

- a. the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements;**
- b. resident staff necessary for operation of the facility are allowed to live on-site; and**
- c. the number of residents includes members of the staff who reside at the facility, but does not include infants younger than 2 months old.**

Redly's land use planner, Ms. Przygocki, testified that Redly can and will meet all Federal, State, and County regulatory requirements; at least one staff member will be present to supervised residents of the facility at all times but will not be a resident; and, no children under the age of 2 months will reside at the residential care facility. T. 90.

Conclusion: The Hearing Examiner finds that the proposed use as conditioned meets this definition. The proposed use consists of a residential setting for youth with group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living (group home), or for the protection of the

individual. While resident staff may reside on the premises under the definition of residential care facility, under this application the facility will not maintain permanent resident staff but will have a shift supervisor on-site at all times when residents occupy the facility. Counselors and other professionals may also visit the facility from time to time to provide customary services. A condition of approval will require that all operations and personnel must meet and maintain all Federal, State, and County certificates, licensure, and regulatory requirements. The maximum number of residents will not exceed 16 persons.

b. Residential Care Facility (9 - 16 Persons)

ii. Where a Residential Care Facility (9 - 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- (a) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.**
- (b) Height, density, coverage, and parking standards must be compatible with surrounding uses and the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.**
- (c) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.**

Ms. Przygocki testified that this large property has ample room for outdoor play and recreation including a sport court, pool, and grass lawn. T. 91. Mr. Schertler, a community member, testified as to substandard physical conditions of the pool and grounds. T. 160. Ms. Przygocki testified on rebuttal that these conditions could and would be corrected. The continued maintenance of the exterior grounds of the premises is included as a condition of approval at the conclusion of this report and recommendation.

Ms. Przygocki further testified that height, density, and coverage and parking standards

comply with Ordinance requirements and are compatible with surrounding uses. T. 92. Specifically, the residential structure is only 32 ft. where the height limitation in this zone is 35 ft; minimum lot is 20,000 sq. ft. while this lot encompasses approximately 60,000 sq. ft.; and density falls within the allowable maximum residents of 16.

Conclusion: This residential care facility will house youth and the Hearing Examiner finds that with proper conditions the facility does provide ample outdoor recreation space including a sport court and pool, and so long as properly maintained, free from hazard and appropriately equipped for residents. Height, density, coverage, and parking standards are compatible with surrounding uses and maintain the residential character of the neighborhood. This property is not in an AR zone.

D. General Development Standards (Article 59.6)

Article 59.6 sets the general requirements for site access, parking, screening, parking lot landscaping, lighting, and signs. The requirements of these sections need be satisfied only “to the extent the Hearing Examiner finds necessary to ensure compatibility.” *Zoning Ordinance*, §59.7.3.1.E.1.b.

1. Parking Standards

a. Number of On-Site Spaces

Staff advises that the proposed parking spaces exceed the minimum required by the Zoning Ordinance (Ex. 33, p. 11, shown below):

Table 3: Required Parking

Section 59.6.2.4 Parking	Required	Provided
Vehicle spaces .25 sp/bed + 0.50 sp/employee	4 X .25 = 1 + 4 X .50 = 2 sp including 1 van-accessible handicapped spaces	9 sp including 1 van- accessible Handicapped spaces

Ms. Przygocki concurred with Staff's calculation that 6 spaces are required under the

Zoning Ordinance and 9 spaces are being provided under this application satisfying the minimum requirement. T. 84.

Conclusion: Staff correctly calculates that six (6) on-site spaces are required for this conditional use. The Applicant has adequately demonstrated that the minimum standards of the Zoning Ordinance are met, as nine (9) parking spaces are being provided to support this use, three in excess of the requirements. *See* Zoning Ordinance §59.6.2.4.B.

b. Parking Lot Location, Setbacks, and Requested Waivers

59.6.2.5.K

Facilities for Conditional Uses in Residential Detached Zones

Any off-street parking facility for a conditional use that is located in a Residential Detached zone where 3 or more parking spaces are provided must satisfy the following standards:

1. Location

Each parking facility must be located to maintain a residential character and a pedestrian-friendly street.

2. Setbacks

a. The minimum rear parking setback equals the minimum rear setback required for the detached house.

b. The minimum side parking setback equals 2 times the minimum side setback required for the detached house.

c. In addition to the required setbacks for each parking facility:

i. the required side and rear parking setbacks must be increased by 5 feet for a parking facility with 150 to 199 parking spaces; and

ii. the required side and rear parking setbacks must be increased by 10 feet for a parking facility with more than 199 parking spaces.

Staff opined that the parking area does not impact the residential character of the surrounding area. Exhibit 33, p. 19, 22. Ms. Przygocki testified that, “You really don't see the

parking facility from the road so much as it's kind of tucked behind the existing residence. You do see the driveway from the road, and there is a very little impact to the visual character of the front of the house. I think it still maintains a very residential appearance from the street.” T. 85.

Redly requests a waiver of the parking drive aisle setback regulations under Zoning Ordinance, 59.6.2.10 as the drive aisle, as constructed, is several inches short of the 24 ft. requirement. T. 87.; Ex. 74, p. 2. Redly testified as to a hardship if the parking area and drive aisle were required to be moved and reinstalled several inches to the south to meet this setback. T. 87. This reinstallation would require the removal of pavement and a sidewalk that would be “disruptive to the site.” T. 88. These setbacks may be waived “if the alternative design satisfies Section 6.2.1.” *Zoning Ordinance*, 59.6.2.10. Section 59.6.2.1., the “intent” of the parking standards, states:

The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner.

Ms. Przygocki testified that the drive aisle and parking area as presently installed is “very safe and sufficient and adequate” for the use proposed. T. 88.

Conclusion: The Hearing Examiner concludes that the parking area and drive aisle maintain the residential character of the surrounding area. Based on the evidence in the record, the parking area and drive aisle are properly screened to obstruct views from Norwood Road and adjacent properties and do not disrupt the residential character of the neighborhood. The Hearing Examiner further concludes that waiver of the 24 ft. drive aisle setback is warranted at the existing distance of 23.3 ft. in lieu of the required 24 ft. setback. This waiver is granted in furtherance of the intent of Section 59.6.2.1 to maintain an adequate and safe parking drive aisle as presently constructed.

2. Site Perimeter Landscaping and Screening

Division 6.4 and 6.5 of the Zoning Ordinance set minimum standards for site landscaping, which are intended to “preserve property values, preserve and strengthen the character of communities, and improve water and air quality.” §59.6.4.1. Section 6.5.2. excludes single-family detached homes from the technical screening requirements of the Zoning Ordinance, provided that the use is compatible with the neighborhood:

In the Agricultural, Rural Residential, and Residential Detached zones, a conditional use in any building type, except a single-family detached house, must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use. All conditional uses must have screening that ensures compatibility with the surrounding neighborhood.

Section 59.6.5.3.A.1 states that:

Screening is required along a lot line shared with an abutting property that is vacant or improved with an agricultural or residential use.

Section 6.5.3.C.7 sets out specific landscape requirements (*i.e.*, landscaping width, number of plants, plant spacing and types of plants) for conditional uses in Residential Detached Zones.

Mr. Daniel Park, Redly's landscape architect, testified that the proposed conditional use complies with the forest conservation law under the approved final Forest Conservation Plan no. 820070130 currently in effect. T. 36. There is no change to that approved plan under this application and there is no land disturbance. *Id.* Mr. Park concludes that there is no impact to forests, specimen, or significant trees. *Id.* Review of the Landscape Plan shows the majority of screening is provided along the northern and southern property lines and around the parking area. Exhibit 30(c). Mr. Park testified that “the type of plant materials used are harmonious with the neighborhood; in fact, they're very similar to what you can see up and down Norwood [Road].” T. 115.

Screening on the northern property line will include various species of evergreen and deciduous trees as well as hedgerows. In total, screening on the northern property line will include 9 existing canopy trees, 11 understory and evergreen trees, 14 large shrubs, 21 medium shrubs and a 5-foot-high fence. T. 110. See Figure 7, below:

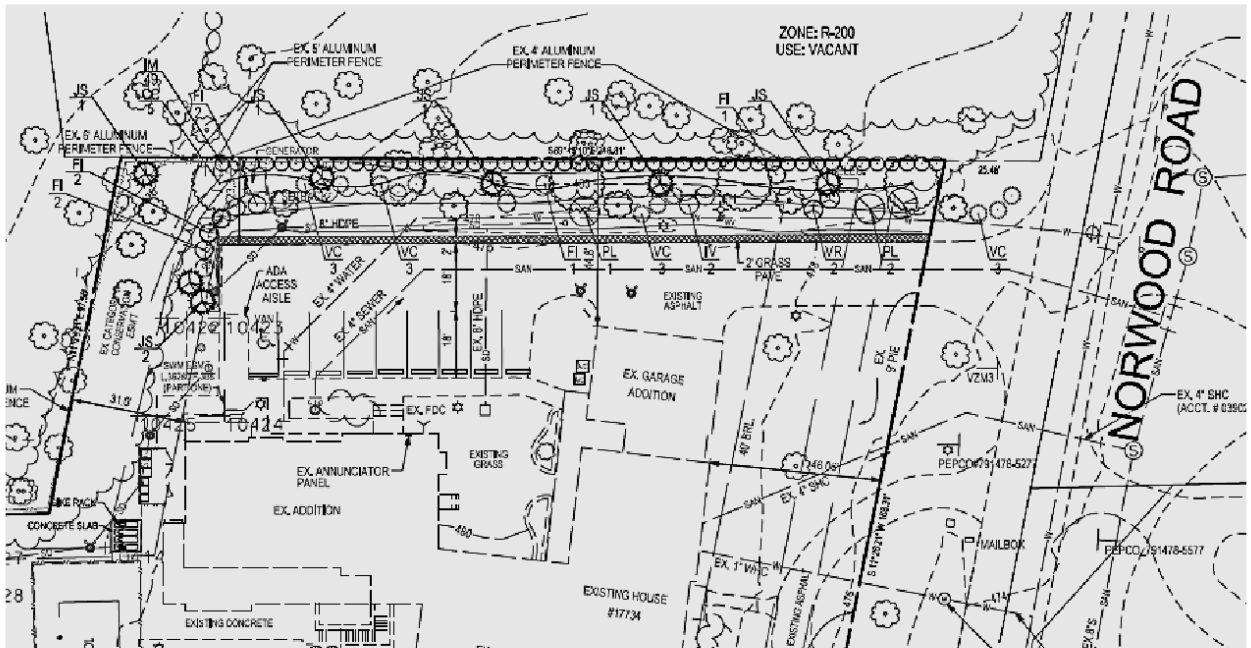


Figure 7: Landscape Buffer and Parking Spaces

Exhibit 33, p. 17

Screening along the southern property line is buttressed by an existing forest conservation easement at the far western portion of the lot. *See* Exhibit 30(c). Mr. Park testified that there is ample screening from properties to the southwest because of this forest conservation easement. T. 111. In addition, there are mature trees behind the pool area, extending to where arborvitae extends along the southern property line. *Id.* Mr. Park testified that these arborvitae are in poor condition and will be replaced as indicated on the Landscape Plan. Exhibit 30(c), T. 107. *See* figure 10 on the following page.

Conclusion: Staff advises that landscaping proposed along the northern and western property lines meet the specific landscaping requirements of Section 59.6.5.3.C.7. Based on this evidence, and having none to the contrary, the Hearing Examiner concludes that the screening along those property boundaries is compatible with the surrounding area.

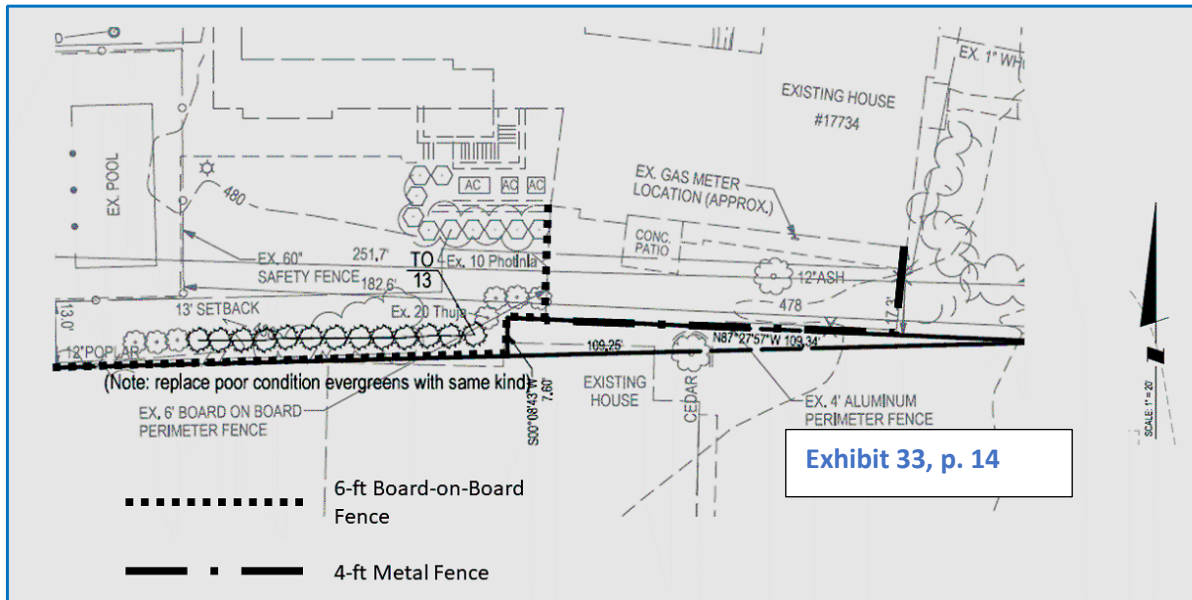


Figure 10: Screening Southern Property Line

3. Outdoor Lighting

The outdoor lighting proposed for the conditional use was discussed in Part II.C.2. of this Report and Decision. The requirements in Division 59.6.4 of the Zoning Ordinance apply only to new lighting. Because no new lighting is being installed, they do not apply to this conditional use, and the only standard is whether the lighting will be compatible with the surrounding area.

As a benchmark for compatibility, the Zoning Ordinance caps permissible levels of illumination (from new lighting) at 0.5 footcandles along the property line. For conditional uses, the permissible lighting level is reduced to 0.1 footcandles along a property line that abuts single-family detached homes (Zoning Ordinance, §6.4.4.E):

Outdoor lighting for a conditional use must be directed, shielded, or screened to ensure that the illumination is 0.1 footcandles or less at any lot line that abuts a lot with a detached house building type, not located in a Commercial/Residential or Employment zone.

Mr. Park testified that “all the light fixtures are shielded or screened to ensure illumination of .1-foot candle or less at the lot line.” T. 114. The photometric plan confirms that illumination does not extend onto adjacent properties. Exhibit 30(d). See further testimony and analysis in section 4(b) above.

Conclusion: From this evidence, the Hearing Examiner finds that the lighting on the property will be at residential levels compatible with the surrounding area and adjacent uses.

IV. Conclusion and Decision

As set forth above, the application meets all the standards for approval in Articles 59.3, 59.4, 59.6 and 59.7 of the Zoning Ordinance. While certain conditions of approval were suggested by community members including conditioning lease terms (T. 126) or restricting the use to certain types of residential care facilities by excluding certain populations (T. 149), the Hearing Examiner declines to place these conditions on this approval as the record does not support their imposition. Based on the foregoing findings and conclusions, the Hearing Examiner hereby **GRANTS** the Applicant's (1) request for a waiver of parking drive aisle setbacks along the eastern and northern property line and the (2) application for a conditional use under Section 59.3.3.2.E.2.b. of the Zoning Ordinance to operate a residential care facility for nine to sixteen persons at 17734 Norwood Road, Sandy Spring, MD, subject to the following conditions:

1. The Residential Care Facility must be limited to a maximum of 16 residents and four employees on site at any one time;
2. Physical improvements to the subject property are limited to those shown on the Conditional Use Site Plan (Exhibit 30(b)), Lighting Plan (Exhibit 30(d), and Landscape Plan (Exhibit 30(c)).

3. No sign identifying the Facility as a Residential Care Facility may be located on the property or on the building;
4. No special events may be held on the facility's premises;
5. Landscaping must be maintained in accordance with the Landscape Plan included in this record;
6. The Applicant must obtain and satisfy the requirements of all licenses including a use and occupancy permit;
7. The property must be maintained for the safety of residents and visitors at all times in full compliance with state and county regulations to include landscaping, physical structures, and sanitary conditions;
8. Residents are not permitted to park personal vehicles on-site;
9. Any material change to the operational characteristics of this use as testified to on the record are subject to the amendment provisions of Section 59.7.3.1.K of the Zoning Ordinance; and
10. Within fifteen (15) from the date of this Report & Decision, Applicant will provide contact information to include a mailing address and operable phone number for a designated contact person at: (a) Redly Capital Investments or associated entity, (b) Sandy Spring Friends School; (c) any current tenant, lessee, or operator of the residential care facility authorized under this Report, and shall maintain up-to-date contact information for these entities at all time. This contact information shall be provided to: (1) all adjoining and confronting property owners; (2) Bancroft Home Owner's Association; (3) Sandy Spring Civic Association; and
11. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

Issued this 3rd day of December 2020.



Derek J. Baumgardner
Hearing Examiner

RIGHT TO APPEAL

Any party of record may file a written request to appeal the Hearing Examiner's Decision by requesting oral argument before the Board of Appeals, within 10 days issuance of the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If

the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

Additional procedures are specified in Zoning Ordinance §59.7.3.1. f.1. Contact information for the Board of Appeals is:

Montgomery County Board of Appeals
100 Maryland Avenue, Room 217
Rockville, MD 20850
(240) 777-6600
<http://www.montgomerycountymd.gov/boa/>

PLEASE NOTE THE FOLLOWING BOARD OF APPEALS FILING REQUIREMENTS DURING THE COVID-19 PANDEMIC:

The Board of Appeals website sets forth these procedures for filing documents with the Board:

Because remote operations may not always allow us to promptly date-stamp incoming U.S. Mail, until further notice, all time-sensitive filings (administrative appeals, appeals of conditional use decisions/requests for oral argument, requests for public hearings on administrative modifications, requests for reconsideration, etc.) should be sent via email to BOA@montgomerycountymd.gov, and will be considered to have been filed on the date and time shown on your email. In addition, you also need to send a hard copy of your request, with any required filing fee, via U.S. Mail, to the Board's 100 Maryland Avenue address (above). Board staff will acknowledge receipt of your request, and will contact you regarding scheduling.

.
If you have questions about how to file a request for oral argument, please contact Staff of the Board of Appeals.

The Board of Appeals will consider your request for oral argument at a work session. Agendas for the Board's work sessions can be found on the Board's website and in the Board's office. You can also call the Board's office to see when the Board will consider your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the evidence of record before the Hearing Examiner, no new or additional evidence or witnesses will be considered. If your request for oral argument is denied, your case will likely be decided by the Board that same day, at the work session.

Parties requesting or opposing an appeal must not attempt to discuss this case with individual Board members because such *ex parte* communications are prohibited by law. If you have any

questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600 or visiting its website: <http://www.montgomerycountymd.gov/boa/>.

Notification of Decision sent to:

Jody Kline, Esquire

Attorney for the Applicant

Barbara Jay, Executive Director, Montgomery County Board of Appeals

Elsabett Tesfaye, Planning Department

Marco Fuster, Planning Department

Elsabett Tesfaye, Planning Department

Greg Nichols, Manager, Department of Permitting Services

Victor Salazar Department of Permitting Services

Michael Coveyou, Director, Finance Department

Charles Frederick, Esquire, Associate County Attorney

Basile Whitaker

Daryl Thorne

Stephen Schertler

Eric Bailey