

**BEFORE THE OFFICE OF ZONING  
AND ADMINISTRATIVE HEARINGS OF  
MONTGOMERY COUNTY, MARYLAND**

**IN THE MATTER OF THE** )  
**APPLICATION OF** )  
**S.W. BLOYD PROPERTIES, LLC** )      Application No. CU 24 - \_\_\_\_\_  
**FOR A CONDITIONAL USE FOR A** )  
**RESIDENTIAL CARE FACILITY** )  
**FOR NINE (9) TO SIXTEEN (16) RESIDENTS** )

**APPLICANT’S STATEMENT OF JUSTIFICATION**

The Applicant, S.W. Boyd Properties, LLC, (“S.W. Boyd”) is a private limited liability company that operates a residential care facility through its subsidiary Cedar Creek Memory Care Homes (“Cedar Creek”) for eight (8) elderly residents with early to moderate stages of dementia at the Auxiliary House property located at 5501 Southwick Street, Bethesda (“Subject Property” or “Auxiliary House”). The Applicant seeks conditional use approval to increase the maximum residency of the Auxiliary House from eight (8) to ten (10) residents.

**I.      APPLICANT’S INFORMATION**

S.W. Boyd, through its subsidiary Cedar Creek, presently operates five (5) residential care facilities in Montgomery County for forty-six (46) residents living with memory loss. Cedar Creek has operated such facilities in Montgomery County for over twenty-five (25) years. Cedar Creek employs sixty (60) staff members who ensure that each resident receives the

individualized care they need. Auxiliary House has been a valuable feature of the neighborhood surrounding Suburban Hospital since 1995. This application seeks to increase the occupancy of Auxiliary House from eight (8) to ten (10) residents.

At the site located at 5501 Southwick Street, Bethesda, S.W. Bloyd proposes to expand the occupancy of the existing group home for the elderly from eight (8) to ten (10) residents. This modest increase in occupancy will allow the applicant to offer high quality housing for those suffering from memory loss to more members of the community, without altering the character of the surrounding neighborhood. Auxiliary House will accommodate the additional residents solely through internal changes to the building—no exterior changes to the building are proposed.

## **II. SUBJECT PROPERTY**

The facility at 5501 Southwick Street, Bethesda, currently used as a residential care facility for eight (8) residents living with memory loss under the name Auxiliary House, is well suited for its proposed increase in occupancy. The property contains 21,586 square feet of land area and is improved with a two-story residential appearing building containing approximately 8,100 square feet of floor area. Each resident has a private studio bedroom with an attached, private bathroom. The property features a half circle driveway to facilitate easy transportation of residents and deliveries.

The structure can readily accommodate the two (2) additional residents without any structural changes to the property or existing building. In addition to the existing eight (8) bedrooms occupied by residents, Auxiliary House has two already existing bedrooms with adjoining bathrooms that would be used to accommodate the additional two residents. One

bedroom is currently used as a “show room” for prospective residents to tour, and the other bedroom is currently used as a conference room. As such, no physical alterations are needed to increase the maximum occupancy from eight (8) to ten (10) residents.

### **III. ZONING AND LAND USE HISTORY**

The subject property is located in the R-60 (Residential-60 Zone, the intent of which is to provide designated areas of the County for moderate density residential uses. The predominant use in the zone is residential living in a detached house. Residential Care Facilities for up to eight (8) persons are allowed by right in the R-60 zone. Residential Care Facilities for nine (9) to sixteen (16) persons are permitted in the R-60 zone by Conditional Use. A residential care facility has operated at the subject property for at least twenty-five (25) years, predating S.W. Bloyd’s ownership of the property. At the time the 1990 Bethesda-Chevy Chase Master Plan was published, a significant amount of special exceptions had been approved in the area around the subject property to allow the conversion of houses to commercial and service uses and construction of nonresidential buildings, which is likely associated with the National Institutes of Health, Suburban Hospital, and the Bethesda Business District.

### **IV. SURROUNDING NEIGHBORHOOD**

#### *A. Neighborhood Description*

As the zoning vicinity map included with this application depicts, Auxiliary House and its surrounding area is zoned in the R-60 classification. Single family residences are located to the west of the subject property. To the north of the subject property is the Bethesda Community Store & Deli and the Call Your Mother Deli/Bethesda Lil’ Deli food truck and seating area. To the east of the subject property, immediately across Old Georgetown Road, the National

Institutes of Health is located. To the south of the subject property, across Southwick Street, is the visitor and patient parking for Suburban Hospital.

Within five hundred (500) feet of the subject property, there are a variety of uses located in the R-60 zone, including single family, and institutional uses (hospital, research institution).

## V. APPLICANT'S PROPOSAL

Auxiliary House's proposed increase in residency from eight (8) to ten (10) residents will allow Cedar Creek to provide housing and memory care to additional residents. Auxiliary House offers personalized memory care catered to residents in the early and moderate stages of Alzheimer's or other forms of dementia, with services including assistance with daily living activities, medication management, holistic memory care activities, housekeeping and laundry, and supportive technology. The proposed modest increase in residents will not change the person-centered, small home environment of the group home. No changes to the exterior of the building are proposed. The applicant will utilize already existing resident rooms in the building to accommodate the additional residents.

Auxiliary House will continue to provide 24-hour staff support to residents, comprised of three shifts (day, evening, and overnight). Individual support is provided through a typical staff-to-resident ratio of 1:4 during both the day and evening shifts and 1:8 overnight. Auxiliary House managers are on-site seven days a week. External health specialists, such as doctors, mobile dentists, and therapists, are scheduled to provide on-site care. The shift hours are noted in an attached chart for the maximum of ten (10) residents, with appropriate adjustments taken to correlate with any reduced resident numbers as occupancy in the facility fluctuates. Typically, the

staff's full time morning shift begin at 7:00 am and ends at 3:00 pm; the evening shift begins at 3:00 pm and ends at 11:00 pm; and the overnight shift begins at 11:00 pm and ends at 7:00 am.

Auxiliary House is a secure environment, and residents can only leave the building if accompanied by a staff member or a family member. As discussed in the Applicant's Traffic Statement, residents do not have their own vehicles on-site. Residents are transported by family, friends, or staff. Visitation by family and friends does not constitute a significant stream of traffic. Delivery of food stuffs and supplies for the facility and residents is anticipated to remain at the current frequency of 1-3 times per week, but may increase slightly. Accordingly, the Applicant does not anticipate a significant change in vehicular traffic associated with the increase in residency.

## VI. PLANNING CONSIDERATIONS

### A. *Master Plan*

The subject property is located within the Bethesda-Chevy Chase Master Plan ("Master Plan") planning area based on a plan which was approved and adopted in 1990. The Master Plan is silent with regard to the recommendations for the subject property. However, this proposal substantially conforms to the general recommendations of the Master Plan Old Georgetown Road and is not inconsistent with the Plan's purposes. The Plan recommends for Old Georgetown Road "to discourage further special exceptions not only along the Road but also in the adjacent communities, except for community serving uses." (Bethesda-Chevy Chase Master Plan, p. 59). Among the examples listed of community serving uses is "elderly care and housing [and] group homes." The R-60 zone does permit a Residential Care Facility for between nine (9) to sixteen (16) persons via Conditional Use review, as requested here. Accordingly, the Plan's

general recommendation against more special exceptions (now conditional uses) in the Old Georgetown Road corridor is not applicable in this case.

*B. Conformance with Necessary Findings*

The applicant satisfies all criteria outlined in Section 59-7.3.1.E (“Necessary Findings”) of the Montgomery County Zoning Ordinance as follows:

*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;*

There is no Special Exception applicable to the subject property.

*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;*

The proposed use, a residential care facility for nine to sixteen persons, is permitted by conditional use approval in the R-60 zone in which the property is located. (Section 59.3.1.6).

The following development standards are met per the requirements of Section 4.4.9 for standard development in the R-60 zone. Based on the information contained in Table 1 below, the existing structure meets all of the dimensional requirements of the R-60 zone and the proposed increase in residents will not alter the footprint of the building.

<b><u>TABLE 1</u></b>		
<b><u>R-60 DEVELOPMENT STANDARDS</u></b>		
<b><u>R-60 Development Standard</u></b>	<b><u>Required</u></b>	<b><u>Existing</u></b>
Lot Area	6,000 SF	21,586 SF
Lot Width at Front of Building Line	60'	74'
Lot Width at Front Lot Line	25'	74'

*c. Substantially conforms with the recommendations of the applicable master plan;*

As discussed above, the proposal substantially conforms to the general recommendations of the Bethesda-Chevy Chase Master Plan and is not inconsistent with the Plan's purposes.

*d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposed conditional use will continue to be in harmony with the general character of the neighborhood and will not constitute a nuisance because of traffic, noise, or physical activity in view of the size and scope of the proposed use, the lack of changes to the exterior of the existing structure, and the low level of intensity of its operation.

The subject property has been used as a residential care facility for up to eight (8) residents since 1995. The infrastructure for the proposed use is already in place and no alterations to the exterior are needed to accommodate the modest increase in residents from eight (8) to ten (10). This proposal merely seeks to increase the allowed maximum residents by two (2) persons.

The subject property is residential in appearance, in terms of design, mass and materials, and compares favorably with the single-family residences to its west and north sides. To the east of the facility, across Old Georgetown Road, is the National Institutes of Health campus. To the

south, across Southwick Street, Suburban Hospital is located. Because of the facility's residential appearance and home-like environment, it is harmonious with the surrounding area.

The applicant does not propose any alterations to the exterior of Auxiliary House and proposes only a slight increase in residents from eight (8) to ten (10). Such use will fill a significant need within the County to house and provide personalized care for those with early to moderate stages of dementia. From the outside, the property will continue to maintain the look and feel of a conventional R-60 residence. For all of these reasons, the use is and will remain harmonious with its surroundings with the approval of this residential care facility for ten persons.

*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;*

Because the proposed use is "residential" in both function and appearance, with no changes to the exterior of the existing structure and grounds of the property, the modification in use will not result in an alteration of the character of the neighborhood nor a change in the 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*

- Traffic

As set forth in the traffic statement filed herewith, the proposed use does not generate enough traffic to warrant the preparation of a full-scale traffic report. Therefore, the surrounding transportation network is deemed adequate to accommodate the low volume of traffic to be generated by the use.

- Schools

School capacity is not a consideration in this case as the residents, due to their required ages (elderly adults), will not be attending the County public school facilities.

- Fire and Rescue

Fire and Rescue service is available and close. Bethesda Fire Department Station 20 is within half a mile of the facility. And, of course, the emergency room of adjacent Suburban Hospital is readily available.

- Public Water and Sewer Service

Public water and sewer service presently serve the property and there is no evidence of any treatment or flow restrictions or water pressure problems.

For the reasons stated above, the proposed use 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.

*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 application proposes only a minor increase in the residents at the residential care facility from eight (8) to ten (10) persons and proposes no change to the exterior of the facility. Because this use is permitted via Conditional Use in the subject R-60 zone at this property and the change in use is quite minor, it will not cause a non-inherent or the combination of an inherent and a non-inherent adverse effect on the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. The property will continue to be surrounded by similar residentially zoned and developed properties; by single-family residences to the west, retail to the north, and institutional uses to the south and east. The solely internal proposed change in use of the subject property will not have any adverse effects on the use, peaceful enjoyment, economic value, or development potential of those abutting and confronting properties or the general neighborhood.

The proposed use will not have an adverse effect on traffic, noise, odors, dust, illumination, or a lack of parking. The existing use of the subject property as a residential care facility for up to eight (8) residents does not cause activity or noise beyond other typical residential uses in the area. The modest increase in residents will only slightly increase the amount of activity on the subject property but will remain within the acceptable levels of traffic and noise and will continue to have no adverse effect on the surrounding area. Auxiliary House residents have a structured schedule, spending much of their days involved in Auxiliary House

activities programming on site, including three family-style meals a day. As discussed above and in the Traffic Statement, the residents will not have cars at the subject property and are transported to and from appointments and outside activities from an Auxiliary House on-site van driven by staff or by family or friends. The usual maximum number of staff for any given shift is five (5) people during the day shift. Therefore, the Applicant does not anticipate a substantial increase in traffic to the surrounding area.

<b><u>TABLE 2</u></b>	
<b><u>DAILY SCHEDULE</u></b>	
<b>BREAKFAST</b>	<b>9:00 am</b>
<b>SCHEDULED ACTIVITY</b>	<b>11:00 am</b>
<b>LUNCH</b>	<b>1:00 pm</b>
<b>SCHEDULED ACTIVITY</b>	<b>3:00 pm</b>
<b>SUPPER</b>	<b>6:00 pm</b>

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

The applicant's Traffic Statement confirms that traffic related to the subject property will not cause an adverse effect on the surrounding transportation network. Because of the benign nature of the facility, there should be no material noise, odors, dust, glare, or inadequate parking that will cause an adverse effect on the neighborhood.

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

The residential care facility will continue to not produce any abnormal risks, activities, fumes, traffic, or conditions that would affect the health, safety, or welfare of the neighboring residents, visitors, or employees. The existing Auxiliary House facility has become a fixture in the neighborhood after more than twenty-five (25) years of operation and the slight change in use of the property will not cause a significant intensification of non-residential use of the property. The proposed use will likewise address a pressing need of Auxiliary House's neighbor, Suburban Hospital, by providing nearby housing and care to individuals with early to moderate stages of dementia. For these reasons, the proposed increase in residents from eight (8) to ten (10) should not have an adverse effect on the subject property's neighborhood.

*2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

The modest proposed changes to the use of the facility will be solely internal to the building and no changes to the exterior of the facility are proposed. Therefore, the structure's current residential appearance and character will remain compatible with the residential character of the neighborhood.

### *C. Use Standards for Group Home*

Auxiliary House's proposed use as a residential care facility with a maximum of ten (10) residents complies with the use standards in Section 59.3.3.2.E.2 as follows:

#### ***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:*

*(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.*

The subject property complies with all applicable requirements and is compatible with surrounding uses.

*D. Conformance with General Development Requirements of Article 59-6*

The proposed use complies with the site access requirements in Division 59.6. No exterior changes to the building are proposed.


**VII. CONCLUSION**

In conclusion, this Statement of Justification demonstrates that the proposed conditional use application for a Residential Care Facility for ten (10) residents at the Auxiliary House site meets the development standards for the underlying R-60 zone, satisfies the use standards for a residential care facility, meets all applicable requirements of the Zoning Ordinance, delivers a compatible land use at this site, and will provide housing and care for a population in need of such services.

Respectfully Submitted,

MILLER, MILLER & CANBY

  
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