



# **Charles County Planning Commission Meeting of June 25, 2023**

## **Department of Planning and Growth Management Staff Report**

**Project Name: Independent Living Senior Housing Complex in the  
Watershed Conservation District (WCD) Zone**

**ZTA #22-173**

**Type of Project: Zoning Text Amendment**

**Applicant: The Master's Child Church**

**Attorney: Denis Whitley, III, Law Offices of Shipley & Horne, P.A.**

**Prepared by:**

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**For questions, contact the Planning Division at 301-645-0540**

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## BACKGROUND

§ 297-447 of the Charles County Zoning Ordinance requires the Planning Commission to first consider the proposed amendments and provide a recommendation to the Board of County Commissioners as to whether the requested Zoning Text Amendment should be granted. In your examination of the proposed Zoning Text Amendment application, which seeks to incorporate a newly defined and conditioned land use entitled 'Independent Living Senior Housing Complex and facilitate interrelated design and development alterations to the Watershed Conservation District (WCD) Zoning District of Charles County, please consider the following:

The Watershed Conservation District (WCD) Zoning District currently encompasses approximately 34,444 acres. Locations of WCD zoned property in Charles County is as illustrated on the map attached to this report as Appendix item 3. The objectives of this zone are as specified in § 297-98 A. of the Charles County Zoning Ordinance:

*“To implement the direction and intent of the Comprehensive Plan with regards to protection of the Mattawoman Creek Stream Valley and the headwaters of the Port Tobacco River and to protect the watershed area's natural resources for its long-term value to the community, the ecological, aesthetic and scenic values and its recreation and economic value as a sustainable resource. To further protect the Resource Protection Zone and limit forest fragmentation. To allow for the transfer of development rights in appropriate locations. To limit sprawl development and protect water resources and Tier II streams and wildlife habitat and implement the total maximum daily load (pollutant restrictions). To guide development away from vulnerable natural hazards, including flooding, storm surge, and shore erosion.*

As referenced above, this application seeks to define and permit a new land use classification known as Independent Living Senior Housing Complex, use code #3.04.600, as follows:

*“A residential facility providing affordable housing for individuals who are 55 years of age or older and who are able to live independently. Allowed building types include single-family attached or multifamily dwelling units. Such Independent Living facilities shall include common recreation, library, meeting space, and office space for medical and personal services. These ancillary services are intended to serve seniors who reside on the premises only and are not available to the general public unless otherwise permitted within the zone in which the use is located.”*

Within the 2016 Charles County Comprehensive Plan, the Watershed Conservation District (WCD) Zoning District was created as a new Land Use Category designed to protect the Mattawoman Stream Valley. This district “includes protected lands, steep slopes to the top of bank and wetlands. It was defined by analysis completed by the US Army Corps of Engineers and the Maryland Department of Natural Resources. This area is mostly undevelopable due to its topography and natural resources. The updated Zoning established maximum lot sizes at one unit per twenty acres.

Examination of the proposal to incorporate ‘Independent Living Senior Housing Complex’ in the Watershed Conservation District (WCD) Zoning District reveals consistency with the Comprehensive Plan as follows:

#### Chapter 10, Community Development

The proposed ZTA is consistent with the Plan’s goals for Housing as follows:

- Goal 10.4: Provide a broad range of quality housing for all County residents, including those with low and moderate income.
- Goal 10.5: Provide housing opportunities for the County's share of residents who have difficulty competing for standard, market rate dwellings.
- The Plan also identifies the development of a greater number of housing units designed for an aging population as a specific housing need in the county. (p. 10-28)

Examination of the proposal to incorporate ‘Independent Living Senior Housing Complex’ in the Watershed Conservation District (WCD) Zoning District reveals inconsistency with the Comprehensive Plan as follows:

#### Chapter 3, Land Use

The Plan’s intent for the Watershed Conservation District is to restrict density to one unit per 20 acres to protect the Mattawoman watershed for its ecological, aesthetic and scenic values, and for its recreation and economic value of a sustainable natural resource. Due to the proposed density, minimum lot area, lot coverage and impervious surface allowances for the proposed use in the WCD zone, the ZTA is inconsistent with the intent of the Watershed Conservation District to limit development in the Mattawoman watershed.

### **REQUESTED AMENDMENT**

**General Description of the Request:** A Zoning Text Amendment (ZTA) application was filed by the Law Offices of Shipley and Horne, P.A., on behalf of The Master’s Child Church for the purpose of amending certain provisions of the Zoning Ordinance of Charles County to define the use Independent Living Senior Housing Complex and designating this use as permitted with conditions in the Watershed Conservation District (WCD) zone. The proposed conditions are as follows:

- 1) The minimum area shall be three acres.
- 2) An Independent Living Senior Housing Complex shall abut a property owned by a church that is a minimum of 10 acres in size and that has direct access to a roadway of arterial or higher classification.
- 3) Allowed building types include single-family attached or multifamily dwelling units.
- 4) Independent Living facilities shall include common recreation, library, meeting space, and office space for medical and personal services. These ancillary services are intended to serve seniors who reside on the premises only and are not available to the general public unless otherwise permitted within the zone in which the use is located.
- 5) The project shall comply with the 2020 Enterprise Green Communities

requirements, as amended from time to time, or comparable nationally recognized standard approved for multifamily project use by the Maryland Department of Housing and Community Development. The Applicant shall provide documentation demonstrating compliance with this requirement prior to the issuance of a final use and occupancy permit.

- 6) All residential units shall be limited to affordable housing for individuals who are 55 years of age or older only, and who are able to live independently. The term “affordable” shall mean that the average household income in the project may not exceed 60% of the area median income as defined from time to time by the U.S. Department of Housing and Urban Development.

The Application was filed consistent with the enabling procedural requirements, as stipulated within § 297-447 of the Charles County Zoning Ordinance.

The proposed text amendments to the Charles County Zoning Ordinance, if approved by the Charles County Commissioners, would revise the following Articles, Sections, and Figures as referenced below:

- Article III, Definitions and Interpretations.
- Article IV, Permissible Uses, §297-63, Figure IV-1, Table of Permissible Uses.
- Article VI, Base Zone Regulations, §297-98, Watershed Conservation District.
- Article VI, Base Zone Regulations, Figure VI-10, Schedule of Zone Regulations: Watershed Conservation District Zone.
- Chapter 297, Attachment 2, Figure V, Residential Densities; Figure V-1, Maximum Residential Densities; Figure V-2, Residential Density Ranges
- Article XIII, Minimum Standards for Special Exceptions and Uses Permitted with Conditions, §297-212, Uses Corresponding with Table of Permissible Uses.
- Article XX, Parking Facilities, Figure XX-1, Table of Off-Street Parking Requirements

### **APPLICANT JUSTIFICATION**

A justification letter summarizing the proposed amendments has been supplied by the Law Offices of Shipley & Horne, P.A. Within this letter, the Applicant’s Attorney asserts that there is not enough affordable housing available for Charles County residents, including seniors. The county Comprehensive Plan predicted that seniors would be a major population amongst homelessness by 2020. Further Church surveys show that seniors struggle to pay market rent on a fixed income. In 2004, the County projected that the housing cost burden on Senior Citizens would triple by 2020. The skyrocketing rental prices for senior citizens and their limited income resources poses an immediate and eminent crisis for their independence and quality of life.

The Applicant asserts that the proposed amendments, if approved, would be a substantial benefit to the community by providing housing options for income-restricted seniors that are not currently available in the area.

## STAFF ANALYSIS

County staff have reviewed the proposed amendment and offer the following findings for the Planning Commission's consideration:

### General Purpose and Need for the Amendment:

The Applicant identifies that the County's Zoning Ordinance does not currently recognize or provide for an Independent Living Senior Housing Complex. As noted in the Applicant's Statement of Justification, it should be noted that there is a similar use that is currently existing in the Zoning Ordinance known as use code 3.04.500, Retirement Housing Complex.

A Retirement Housing Complex is defined as a residential institutional facility providing a graduated range of housing and services for individuals who are 55 years of age or older, ranging from single-family attached, detached or multifamily dwelling units to congregate housing facilities. For all dependent and semi-independent living units within the complex, such facilities shall include communal dining and food preparation facilities, laundry and cleaning facilities, common recreation and meeting space, and medical and personal services, provided that none of these ancillary facilities or services are available to the general public, unless otherwise permitted within the zone in which the use is located. This use is permitted by special exception in the RH, RO and CB Zones, subject to the following standards:

- A. The minimum area shall be three acres.
- B. It shall have a maximum floor area ratio (FAR) of 1.0.
- C. A minimum of 40% of the property shall be devoted to green area and outdoor recreation space.
- D. All other requirements of this chapter, including yards, parking, landscaping and protection of environmental resources, shall be met.
- E. A retirement housing complex shall be located within close proximity to and have pedestrian linkage with retail/commercial centers, restaurants and public transportation.

The proposed Independent Living Senior Housing Complex use emphasizes seniors' desire to live, remain, and age in their own housing and community for as long as possible while offering onsite tools and programs to facilitate that goal. There will be no communal dining or community laundry facilities as required for a retirement housing complex. These affordable units will focus on the people who live there. The affordability of housing in Charles County has caused many low to moderate income seniors to be priced out of the rental market. Unlike a retirement housing complex, which has no income limitations, this proposal seeks to offer housing to persons 55 years or older with income levels at or below 60% Area Medium Income (AMI), impacted when the rent at market affordable properties increases.

The Applicant asserts that the Independent Living Senior Housing Complex and Retirement Housing Complex uses are inherently different and that there is a dire need for a new use to assist in the creation of affordable housing for seniors in the County. In the Statement of Justification provided by the Applicant, they specifically highlight their property, located off of

Indian Head Highway in the Bryans Road Area as the future site of an Independent Living Senior Housing Complex. This amendment was specifically crafted to fit their property, but it should be noted that if approved, this use would be permissible on any property that is at least three (3) acres in size in the WCD zone as long as it can meet the proposed conditions.

#### Analysis of Proposed Amendments:

Given the number of figures and text associated with the proposed amendments, the following staff findings are summarized only for those items which staff concludes require further analysis and discussion.

This application is for a new use, use code 3.04.600, Independent Living Senior Housing Complex. This use is defined as, *“a residential facility providing affordable housing for individuals who are 55 years of age or older and who are able to live independently. Allowed building types include single-family attached or multi-family dwelling units. Such Independent Living Facilities shall include common recreation, library, meeting space, and office space for medical and personal services. These ancillary services are intended to serve seniors who reside on the premises only and are not available to the general public unless otherwise permitted within the zone in which the use is located.”*

The Applicant is proposing that this use be permitted with the following conditions in the Watershed Conservation District Zone:

- 1) *The minimum area shall be three acres.*
- 2) *An Independent Living Senior Housing Complex shall abut a property owned by a church that is a minimum of 10 acres in size and that has direct access to a roadway of arterial or higher classification.*
- 3) *Allowed building types include single-family attached or multifamily dwelling units.*
- 4) *Independent Living facilities shall include common recreation, library, meeting space, and office space for medical and personal services. These ancillary services are intended to serve seniors who reside on the premises only and are not available to the general public unless otherwise permitted within the zone in which the use is located.*
- 5) *The project shall comply with the 2020 Enterprise Green Communities requirements, as amended from time to time, or comparable nationally recognized standard approved for multifamily project use by the Maryland Department of Housing and Community Development. The Applicant shall provide documentation demonstrating compliance with this requirement prior to the issuance of a final use and occupancy permit.*
- 6) *All residential units shall be limited to affordable housing for individuals who are 55 years of age or older only, and who are able to live independently. The term “affordable” shall mean that the average household income in the project may not exceed 60% of the area median income as defined from time to time by the U.S. Department of Housing and Urban Development.*

The Charles County Comprehensive Plan’s intent for the Watershed Conservation District

is to restrict density to one unit per 20 acres to protect the Mattawoman watershed for its ecological, aesthetic and scenic values, and for its recreation and economic value of a sustainable natural resource. Due to the proposed density, minimum lot area, lot coverage and impervious surface allowances for the proposed use in the WCD zone, the ZTA Is inconsistent with the intent of the Watershed Conservation District to limit development in the Mattawoman watershed.

In addition to requesting an increase in the maximum density from 20 acres to 3 acres, the Applicant is also requesting that the maximum allowable impervious surface for this use in the WCD be increased from 8% to 45%. This increase in impervious surface ratios would allow anyone applying for an Independent Living Senior Housing Complex to significantly increase the allowable impervious surface on their properties. This increase would also increase the total impervious surfaces within the Mattawoman Watershed, which is already at a critical point.

The Applicant is also requesting that one of the conditions of this use be that it is located on a property that abuts a property owned by a church that is at least ten (10) acres in size and that has direct access to a roadway of arterial or higher classification. Staff has no objection to this proposed condition as it further helps to separate the proposed use from the existing Retirement Housing Complex use.

During the review process, Planning Staff worked with the Applicant to come up with an acceptable parking calculation for the proposed use. After reviewing information provided by the Applicant from other jurisdictions with similar uses in the area, it was agreed that a minimum parking calculation of 1 parking space per unit would be sufficient to provide enough parking for tenants and staff.

## **CONCLUSIONS & RECOMMENDATIONS**

In summary, County staff has reviewed the merits and rationale for ZTA #22-173 and there are certain points that bear further discussion.

Our major concern is that the proposed amendments will drastically increase the maximum density for this use in the Watershed Conservation District. The proposed amendments indicate that the use will require a minimum lot size of three (3) acres. In these 3 acres, the Applicant is proposing a maximum of 96 dwelling units, approximately 32 units per acre. For new residential lots within the WCD that are proposing development for single-family dwellings, the maximum density is one unit per twenty (20) acres. Staff finds that the proposed increase in density is in direct conflict with the goals and objectives of the Watershed Conservation District.

In conclusion, if the Applicant is able to provide sufficient justification to the Planning Commission and the Charles County Commissioners that the overall increase in the maximum density for the proposed use from 20 acres to 3 acres is in accordance with the goals and objectives of the Charles County Comprehensive Plan, then County staff does not object to the Applicant's desire to incorporate the new land use, Independent Living Senior Housing Complex, into the Charles County Zoning Ordinance.

## **Appendices**

1. Application for Zoning Text Amendment (ZTA #22-173), including the background and purpose of the proposed amendment – Submitted by the Law Offices of Shipley & Horne, P.A on behalf of The Master's Child Church.
2. Draft Zoning Text Amendment, ZTA 22-173, Independent Living Senior Housing Complex – Submitted by the Law Offices of Shipley & Horne, P.A.
3. Zoning Map – Locations of WCD Zoned Property in Charles County.