

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

MONTGOMERY COUNTY

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CU 20-06

REDLY CAPITAL INVESTMENTS & HOLDING CORP.

ORDER EXTENDING VALIDITY PERIOD OF CONDITIONAL USE

A. Background

On December 3, 2020, Hearing Examiner Derek Baumgardner approved the above conditional use application filed by Redly Capital Investments & Holding Corporation (Applicant or Redly) to operate a residential care facility for 9 to 16 persons under §59.3.3.2.E.2.b of the Zoning Ordinance on property located at 17734 Norwood Road, Sandy Spring, Maryland (Lot N487, Parcel A, Aunt Hattie's place subdivision). Exhibit 1.

At the public hearing, Redly presented testimony and evidence that the residential care facility would operate in conjunction with the Sandy Spring Friends School (Friends School) 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. A condition of approval required the Applicant to file a modification of the conditional use for: "Any material change to the operational characteristics of this use as testified to on the record..." *Hearing Examiner's Report and Decision*, CU 20-06, Application of Redly Capital Investments & Holding Corporation, p. 39.

On November 28, 2022, Redly submitted a request to extend the validity period of the conditional use under Section 59.7.3.1.I.2 of the Zoning Ordinance. In support of its request, Redly states that the Friends School decided not to pursue its partnership with the facility and did not enter into a long-term lease. According to Redly, it has been trying to sell the property as a residential care facility. Redly states (Exhibit 81):

...the owner received and signed a contract of sale on March 21, 2021 and the property remained off the market until the contract was terminated on June 26, 2021 due to the fact that the contract purchaser could not secure funding to finance the acquisition. On the negative side, general interest in the property in the 2021 and early 2022 periods was somewhat depressed because potential buyers were being conservative in their business planning until the Covid crisis ended and things got back to normal.

Redly also cites to the difficulty in securing commercial mortgages in the current economic climate. *Id.* Despite this, Redly states that the market is “heating up” and the property has been shown three times in November 2022 and has an additional showing scheduled. *Id.*

Finally, Redly believes that there is a “legal impossibility” in implementing the conditional use because the Friend’s School terminated the least upon which the original conditional use was granted. *Id.*

II. Analysis and Opinion

Under Section 59.7.3.1.I.1 of the Montgomery County Zoning Ordinance (2014), conditional use approvals are valid for two years after the date of issuance. That same section permits the Hearing Examiner to “extend the time limit for a conditional use to be established or obtain a building permit if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity.” *Zoning Ordinance*, Section 59.7.3.1.I.2. Extensions are limited to a term of 12 months. *Id.*

The validity period of the current conditional use approval extends to December 3, 2022, two years after it was initially approved. The record here establishes that the operations originally approved for the residential care facility (*i.e.*, in partnership with the Friend’s School) cannot be accomplished but use as a residential care facility is still possible. The Hearing Examiner finds that the circumstances described are not attributable to lack of effort by the Applicant, but to outside parties and circumstances, including actions taken by the school and financial market conditions.

For these reasons, the Hearing Examiner finds that the request to extend the validity period of the conditional use meets the requirements of the Zoning Ordinance as “other factors” that have delayed implementation of the conditional use. She hereby extends the validity period of the conditional use by one year, to **December 3, 2023**, subject to the following condition:

1. Any use of the property as a residential care facility *not* in partnership with the Sandy Springs Friends School must first obtain approval of a modification of the conditional use under Section 59.7.3.1.K of the Zoning Ordinance.

All other conditions of approval of the original conditional use remain in full force and effect.

So Ordered this 1st day of December 2022.



Lynn Robeson Hannan
Hearing Examiner

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