

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2882**

**PETITION OF HAWTHORN DEVELOPMENT, LLC**

OPINION OF THE BOARD

(Worksession Date: December 2, 2015)

(Effective Date of Opinion: December 15, 2015)

Case No. S-2882 is an application by Hawthorn Development, LLC for a special exception under Section 59-G-2.37 of the 2004 Montgomery County Zoning Ordinance to allow a 155-bed domiciliary care facility for the elderly. The subject property is Parcel P505, located at 13716 New Hampshire Avenue, Silver Spring, Maryland, 20904 in the R-200 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on October 19, 2015, closed the record in the case on November 9, 2015, and on November 10, 2015, issued a Report and Recommendation for approval of the special exception.

Decision of the Board:                      Special Exception **Granted**, Subject  
To the Conditions Enumerated Below.

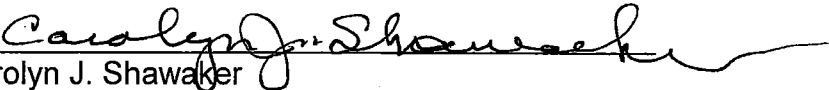
The Board of Appeals considered the Report and Recommendation at its Worksession on December 2, 2015. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and the representations of its counsel identified in this report.
2. The maximum allowable number of beds must not exceed one hundred fifty-five (155);

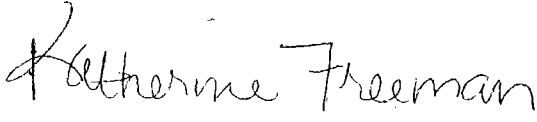
3. The maximum number of employees on-site at any one time must not exceed ten (10);
4. Trash pick-up is limited to a maximum of two times per week between the hours of 7:00 a.m. and 7:00 p.m. Food service deliveries must occur during afternoon hours.
5. The Petitioner must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code; if changes to the site plan or other plans filed in this case are required at subdivision, Petitioner must file a copy of the revised site and related plans with the Board of Appeals.
6. All use and development of the property must comply with Petitioner's site plan (Exhibits 61(a) and 59(c)), Landscape Plan (Exhibits 59(i) and (j)), and Lighting Plan (Exhibits 42(g) and (h)). The fence along the southern property shall be made of wood.
7. Petitioner must obtain a permit for the proposed sign, and a copy of the permit for the approved sign must be submitted to the Board of Appeals before the sign is posted. If required by the Department of Permitting Services, Petitioner must obtain a sign variance for the proposed sign or amend the design of the proposed sign to have it conform to all applicable regulations. If the design is amended, a diagram showing the amended design must be filed with the Board.
8. The proposed development must comply with the conditions of the Preliminary Forest Conservation Plan (Exhibit 59(g)), until approval of the Final Forest Conservation Plan by the Planning Board, after which time Petitioner must comply with the terms of the Final Forest Conservation Plan.
9. Petitioner 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 special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception 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.

On a motion by Edwin S. Rosado, seconded by John H. Pentecost, Vice-Chair, with Stanley B. Boyd, Bruce A. Goldensohn and Carolyn J. Shawaker, Chair, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

  
Carolyn J. Shawaker  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 15<sup>th</sup> day of December, 2015.

  
Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.