

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

IN THE MATTER OF:
VESTA SENIOR LIVING, LLC

Applicant

For the Application:
Jody Kline, Esquire
(Attorney for the Applicant)

OZAH Case No. 18-05

* * * * *

Opposed to the Application:
William Chen, Esq.,
on behalf of David Hilbert
and Jan Casadei

* * * * *

Before: Derek J. Baumgardner, Hearing Examiner

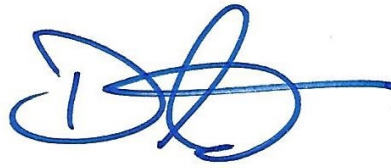
ORDER OF DISMISSAL

1. On February 13, 2018, this matter was filed with the Montgomery County Office of Zoning and Administrative Appeals (OZAH). Exhibit 1.
2. On June 11, 2018, OZAH received correspondence on behalf of the Applicant requesting an indefinite postponement of this matter. Exhibit 38. This postponement request was granted.
3. On September 12, 2019, OZAH received correspondence from counsel on behalf of neighboring property owners describing issues with the application. Exhibit 43.
4. On September 24, 2019, OZAH received correspondence from counsel on behalf of neighboring property owners opposing the application. Exhibit 41.

5. On December 6, 2019, OZAH received correspondence on behalf of the Applicant that that the application was put on hold while issues regarding the application were being addressed. Exhibit 46.
6. Since no action had been taken to prosecute the matter since December 2019, a Notice of Contemplated Dismissal was issued by OZAH on April 20, 2021, instructing the parties to respond in writing within thirty (30) days as to why this matter should not be administratively dismissed pursuant to MCPR, Appendix D, Administrative Procedures Act, §§ 2A-8-H(10) and 2A-8(j).
7. OZAH received correspondence dated May 20, 2021 from Applicant's counsel requesting additional time to respond. The Applicant was given an additional thirteen (13) days or until June 4, 2021, to respond to the Notice of Contemplated Dismissal.
8. OZAH received correspondence from Applicant's counsel dated June 4, 2021, stating that counsel had no further information with regard to the scheduling of the underlying application.
9. OZAH received correspondence from counsel for the opposition dated June 7, 2021, requesting dismissal of this action.
10. No further correspondence has been received at this time.

The Hearing Examiner finds that this matter has been pending for 3 years, 4 months, and 17 seventeen days and reasonable grounds for delay have not been presented. For this reason, and pursuant to MCPR, Appendix D, Administrative Procedures Act, §§ 2A-8-H(10) and 2A-8(j), it is hereby **ORDERED** that this matter is **DISMISSED** for failure to prosecute this matter in a timely manner.

Issued this 6th day of July 2021.



Derek J. Baumgardner
Hearing Examiner

COPIES TO:

Jody Kline, Esq., on behalf of Vesta Senior Living

William Chen, Esq., on behalf of David Hilbert and Jan Casadei

Gregory Rapisarda, on behalf of American Tower, L.P.:

Robert Kronenberg, Deputy Director, Planning Department

Patrick Butler, Planning Department

Adjoining and Confronting Landowners

Civic, Homeowners, Renters and Condominium Associations

Within ½ mile of the property

Municipalities within ½ mile of the site