


# COUNTY OF YORK

## MEMORANDUM

**DATE:** October 24, 2019 (BOS Mtg. 11/19/19)

**TO:** York County Board of Supervisors

**FROM:** Neil A. Morgan, County Administrator 

**SUBJECT:** Application No. UP-941-19, Surber Development and Consulting LLC

### ISSUE

This application requests a minor modification of a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a two-year extension of the deadline for establishing a senior housing-independent living facility on a 10.2-acre parcel of land located at 6300 Old Mooretown Road (Route 1408) and further identified as Assessor's Parcel No. 2-29. The parcel, located on the east side of Old Mooretown Road south of Route 199, is zoned EO (Economic Opportunity) and designated Economic Opportunity in the Comprehensive Plan.

### BACKGROUND

On December 15, 2015, the Board unanimously approved Application No. UP-868-15 to authorize the establishment of a senior housing-independent living facility on a 10.2-acre parcel of land located at 6300 Old Mooretown Road (Route 1408). The applicant intends to construct an age-restricted, income-restricted multifamily development consisting of up to 148 rental apartment units to be built in two phases with tax credit financing through the federal Low-Income Housing Tax Credit (LIHTC) program. This program is sponsored by the U.S. Treasury Department and administered in Virginia by the Virginia Housing Development Authority (VHDA). It was established by Congress to encourage construction and rehabilitation of rental housing for low-income households and to increase the amount of affordable rental housing for households with incomes at or below specified income levels. Under this program, states allocate tax credits to qualifying housing projects through a competitive application process in which development projects are scored based on a series of evaluation criteria. The developers typically sell the credits to private investors who use the tax credits to offset taxes otherwise owed on their tax returns. The money private investors pay for the credits is paid into the projects as equity financing. This equity financing is used to fill the gap between the development costs for a project and the nontax credit financing sources, such as mortgages, that could be expected to be repaid from rental income. Once projects have been placed in service, state agencies are responsible for monitoring the projects for compliance with federal requirements concerning household income, rents, and project habitability.

Following approval of the use permit application in December 2015, the developer of the Old Mooretown Road project applied for tax credits under the LIHTC program in the 2016, 2017, 2018, and 2019 application cycles. All four times the project scored well but fell short of being awarded tax credits.

Pursuant to Section 24.1-115(c)(1) of the Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established. (A use is considered to be *established* if all necessary foundation work has been completed and construction work is pursued under a valid building permit.) Since the use permit resolution stipulates that approval of the use permit is contingent on approval of tax credit financing by the VHDA, the applicant was not able to establish the use within the two-year term of the use permit. However, by virtue of a bill passed by the Virginia General Assembly that established a deadline of July 1, 2020 for any Special Use Permit outstanding as of January 1, 2017 and related to new residential or commercial development, the use permit remains valid through the middle of next year.

The applicant has been taking steps to improve her project score for the next application cycle, for which the application deadline is in March 2020. If she is successful in obtaining the tax credits, she will proceed with submittal of a site plan for the project with the goal of having the project under construction in spring of 2021, by which time the use permit will have expired unless the deadline is extended, either by the Board or by the General Assembly. Accordingly, the applicant has submitted this application requesting a two-year extension of the term of the use permit.

Section 24.1-115(d)(2) of the Zoning Ordinance states that the Board can approve minor modifications to the conditions of an approved and currently valid special use without a public hearing provided that the following four criteria are met:

- There will be less than a 25% increase in either total lot coverage or floor area;
- There will be no detrimental impact on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;
- Nothing in the currently valid special use permit precludes or limits such expansion or enlargement;
- The proposal is consistent with the Zoning Ordinance and the Comprehensive Plan.

This request meets these criteria and therefore is being processed as a minor amendment. Such amendments do not require a public hearing or Planning Commission review.

### **RECOMMENDATION**

The proposed housing development would provide housing for an under-served segment of York County's housing market and, in so doing, help to accomplish Comprehensive Plan objectives with regard to both senior housing and affordable housing. Age-restricted housing is a relatively non-intensive use and is not likely to adversely affect nearby

homes. Indeed, there was no public opposition to the original use permit application when it was considered by the Planning Commission and Board in 2015.

If this time extension is denied, the applicant will be required to apply for a new Special Use Permit, including public hearings and Planning Commission review, in order to continue to pursue this project. Since the factors contributing to the approval of the original use permit application have not changed, I see no reason to deny this request, and I therefore recommend that this application be approved through the adoption of proposed Resolution R19-139.

Cross/3496

Attachments:

- Zoning Map
- Applicant Letter
- Sketch Plan
- Building Rendering
- Proposed Resolution R19-139