

DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER

SPECIAL EXCEPTION

24003

And

ALTERNATIVE COMPLIANCE

25008

DECISION

Application:	Nursing or Care Home and Alternative Compliance
Applicant:	Hillhaven SNF Realty, LLC (d/b/a Sterling Care Hillhaven)
Opposition:	None
Hearing Date:	August 27, 2025
Decision Date:	December 9, 2025
Hearing Examiner:	Maurene Epps McNeil
Disposition:	Approval with Conditions

NATURE OF PROCEEDINGS

(1) Special Exception 24003 is a request for permission to use approximately 8.34 acres of RR (Residential, Rural) zoned land located at the primary address of 3210 Powder Mill Road, Adelphi, Maryland, for a Nursing or Care Home. The property is developed with an existing Nursing or Care Home, permitted by Special Exceptions 713, 1757, 3505, and 4197(with three revisions thereto). The Applicant seeks to expand the existing 96,347-square-foot nursing home and construct a 23,745-square-foot addition to house 36 additional skilled care beds. Alternative Compliance 25008 is a request by Applicant for relief from Sections 4.7 (Buffering Incompatible Uses) and 4.9 (Sustainable Landscape Requirements) of the 2010 Prince George's County Landscape Manual. Applicant also seeks a variance from Subtitle 25 of the Prince George's County Code to permit the removal of two specimen trees.

- (2) Applicant has elected to have the Application reviewed under the Edition of the Zoning Ordinance in effect prior to April 2022, in accordance with Sections 27-1903 and 1904 of the current Edition of the Zoning Ordinance.
- (3) No one appeared in opposition to the Application.
- (4) The Technical Staff recommended approval with conditions. (Exhibit 19 (b))
- (5) The record was closed at the conclusion of the hearing. (T. 97)¹

FINDINGS OF FACT

Subject Property

- (1) The 8.34-acre subject property consists of two lots and three parcels known as Lot 1, Lot 2, Parcel 23, Parcel 24, and Parcel 108. The existing Nursing or Care Home facility has access from Powder Mill Road via two entrance points, and a driveway serves the dwelling on Parcel 108, looping between Pleasant Acres Drive and Powder Mill Road. It is located approximately 200 feet south of the intersection of Powder Mill Road (MD 212) and Pleasant Acres Drive.
- (2) Parcel 23 is near a Historic Site (the Gallant House). However, no further review was required by the Historic Preservation Commission since the properties are not adjacent, and the MNCPPC Historic Preservation Section believes “the probability of archeological sites within the subject property is low.” (Exhibit 19(b), Backup pp. 77-78)
- (3) The site is not exempt from the requirements of the Woodland Conservation and Wildlife Preservation Ordinance, and a Type 2 Tree Conservation was submitted with the Special Exception (TCP 2-007-2025). (Exhibit 38) The minimum woodland conservation of the RR (formerly R-R) Zone is 20 percent of the net tract area or 1.53 acres.
- (4) The site has already gone through Preliminary Plan of Subdivision (“PPS”) review and has been granted a Certificate of Adequacy. (Exhibits 29 and 30)

Surrounding Property

- (5) The property is surrounded by the following uses:

¹ The record consists of 49 Exhibits and one transcript of hearing.

- On the North by a Federal installation and open space in the ROS (formerly R-O-S) Zone
- On the East by single-family detached residential dwellings in the RR (formerly R-R) Zone
- On the West by single-family detached residential lots in the RR and ROS (formerly R-R and R-O-S) Zones
- On the South by Powder Mill Road, and beyond, a place of worship and open space in the RR (previously R-R) Zone

Neighborhood

(6) The neighborhood primarily consists of single-family dwellings and is similar to the neighborhoods used in the review of the prior Special Exceptions. It is bounded on the north by Coffman Road (U.S. Army Research Laboratory Access Road, on the east by Cherry Hill Road and I-95 to the southeast, on the south by Paint Branch and the southern boundary of Subregion 1, and on the west by the Prince George's County/Montgomery County border.

Master Plan/General Plan/Zoning

(7) The subject property is in an area covered by the 2010 Subregion 1 Master Plan ("Master Plan") and Sectional Map Amendment. The Master Plan recommends low-density residential land uses for the site. This Plan predated the most recent General Plan. The prior General Plan placed the property in the Developing Tier and the Master Plan references that Tier. The Master Plan included a policy to preserve suburban neighborhood character and encourage the contiguous expansion of development, where public facilities and services can be provided more efficiently. It also urged the improvement of vehicular and pedestrian circulation and safety, including the installation of clearly marked crosswalks and paved pedestrian paths. (Master Plan, pp. 9-10) Additionally, there were policies to protect, preserve, and enhance the identified green infrastructure network, as well as to restore and enhance water quality in degraded areas and maintain water quality in non-degraded areas. The use of green building techniques to reduce energy

(8) The 2014 "Plan Prince George's 2035" General Plan placed the property within the Established Communities growth tier as shown on the Growth Policy Map. This area encourages context-sensitive infill development, and the future land uses of residential-low-density.

(9) In 1961, the District Council approved SE-713, allowing a five-bed Nursing or Care Home on the subject property. In 1968, SE-1757 was approved, thereby allowing an

expansion to 18 patients. In 1984, SE-3505 was approved, allowing for an expansion of 42 additional beds and an expansion of the structure. In 1997, SE-4197 was approved, allowing an increase in size by adding 1.3 acres, an increase in the number of beds from 60 to 126 beds, an expansion of 54,536 square feet within a two-story structure adjacent to the one-story facility, a relocation of parking spaces, and a freestanding sign along Powder Mill Road. SE-4197/01 was a minor revision that permitted an 11,559-square-foot expansion, increasing the size to 96,347 square feet. SE-4197/02 was a minor revision approved in 2000 that permitted alternative compliance to the Landscape Manual, revisions to provide fire access, ramps, and handicap spaces; removal of part of a canopy; revisions to a deck, gazebo, and arbor structure; and elimination of part of a walkway. (Exhibit 19(b), Backup pp. 83-137)

Applicant's Proposal

(10) The Applicant is authorized to conduct business within the State of Maryland, having received a certificate from the State Department of Assessments and Taxation. (Exhibit 32)

(11) The subject property is approximately 8.46 acres in size, consisting of two lots and three parcels. (Exhibit 19(b), Backup pp. 3-4) Applicant requests approval of the Special Exception to expand the existing nursing or care home by building a 24,873-square-foot addition, raising the square footage to 118,027 and allowing an additional 36 skilled nursing beds, raising the total to 162. Approval will also allow the Applicant to provide additional parking, a concrete sidewalk connection for circulation, perimeter fencing and retaining walls, concrete staircases (where necessary), and associated site/stormwater management features. The existing gravel driveway will be replaced with an asphalt driveway to provide adequate access for emergency vehicles. Applicant intends to raze a 1,128-square-foot single-family detached residential brick building on Parcels 23 and 24 and retain a 1,306-square-foot dwelling on Parcel 108. (Exhibit 20) There is also a 613-square-foot garage and a 146-square-foot shed on site.

(12) Applicant provided architectural detail plans with photos of the existing structures on site, drawings of the proposed addition, and architectural elevations of the finished one-story with basement building. (Exhibits 9 and 18) A nursing home is required to provide one parking space for every three beds; thus, the instant request requires that 54 spaces be allocated. The proposed project includes 61 parking spaces. The site complies with all of the regulations for "other allowed uses" in the R-R Zone found in Section 27-442: the minimum net lot area is 20,000-square-feet, and the property has 342,382 square feet; maximum lot coverage is 60%, and there will be 38% lot coverage; minimum lot width at the street frontage is 100 feet, and the project has approximately 750 feet of lot width at Maryland 212 and approximately 290 feet of frontage on Pleasant Acres Drive; the minimum front yard depth is 25 feet and the site has 33 feet front yard depth; the minimum rear yard depth is 25 feet and this site has a 47 foot rear yard depth;

and the maximum building height is 35 feet and the project will have a maximum height of 26.83 feet. (Exhibit 19(b), pp. 12-13) The request satisfies the criteria in Section 27-364 (a)(6). The subject property is required to have a total area of 1/2 acre plus 1000 contiguous square feet for each person cared for or 363,290 square feet, and the site area is 363,290 square feet; it is required to have 150 feet of street frontage, and it has 770 feet of street frontage on Maryland 212; and, a 25-foot setback is required from all boundary lines, and the building is set back a minimum of 25 feet from all boundary lines. (Exhibits 15(b) and 19(b), pp.10-11)

(13) Applicant also seeks approval of Alternative Compliance from Sections 4.7 (Buffering Incompatible Uses) and 4.9 (Sustainable Landscape Requirements) of the 2010 Prince George's County Landscape Manual. A nursing or care home is required to be set back a minimum of 30 feet from the property line if adjacent to a single-family detached home and must have a minimum 20-foot-wide buffer provided on the subject property per Section 4.7. Proposed trees are required to be planted on steep slopes less than 3:1, per Section 4.9 The proposed addition's setback will be 25 feet at its narrowest point and gradually increases. Applicant has exceeded the required planting units in this area and is providing a fence along the southwestern property line to ensure an effective buffer. Applicant asks that one shade tree be allowed on a greater slope due to the shape of the property and the hardness of the shade tree.

(14) Applicant submitted a Tree Conservation Plan (TCP 2-007-2025) in accordance with the Woodland Preservation and Wildlife Conservation Ordinance. The TCP shows 2 specimen trees marked for removal. Specimen trees are defined as trees having a diameter of 30-inches or more at breast height, and such trees must be preserved unless a variance is granted in accordance with Subtitle 25 of the Prince George's County Code. (Prince George's County Code, Section 25-118, 25-119(d), and 25-122(b)(1)(G)). Applicant has requested a variance to allow the removal of 2 specimen trees (T2 and T18). The trees were examined by a registered landscape architect employed by A. Morton Thomas and Associates, Inc. ("AMT"), a landscape architecture firm hired by Applicant. The architect supplied the following support for its request that a variance to Section 25-119(d) to allow the removal of the two specimen trees be approved:

Remedial arboriculture practices would not be practicable or sufficient to prevent the trees from experiencing intolerable levels of stress due to adjacent earthwork and proposed paving, which would lead to their immediate decline and ultimate death....

The site features specimen trees surrounding the existing structures, making any expansion likely to impact surrounding specimen trees. In order to preserve the two specimen trees, the proposed building and corresponding parking lot, and access road would need to be relocated. The location proposed ... was chosen based on existing structures marked for demolition. This would minimize the land area for new development. The location of the access driveway is also based on the location of an existing access road and allows for fire truck access on site. Enforcement such that we would be required

to retain those two specimen trees would mean that there is no location for building expansion and no viable access ... into the site.

(Exhibit 13)

(15) Mr. Jeff Kagan, the managing member of the corporation, was authorized to testify on Applicant's behalf. (Exhibit 3, T. 41) He provided the following support for the request:

The total property for this application contains an existing nursing and care home, as well as two separate single-family detached dwellings. The existing nursing and care home contains a total of 126 beds. Sixty-six are nursing beds, and sixty are care home beds, and the total size is approximately 96,347 square feet.

The two single-family homes are part of our land holdings. The home on Parcel 24 will be razed for our planned nursing home expansion. That home is currently used solely for storage, and then the home on Parcel 108 will remain to be in use. It's being used for a rental house for some of our staff....

So the application for the expanded nursing and care home is requesting an additional 24,873 square feet to add 36 new skilled nursing beds, most of which are going to be in private rooms. So the total square footage will be 120,092 square feet, with a total of 162 beds. And the reason why we requested the special exception is due to the growth in the elderly population, [and their] need for care, both locally and regionally. Since.. the best practice is... to really have a lot of private rooms, especially since the COVID-19 pandemic. The use of private rooms, single occupancy rooms has been very much desired and preferred and this expansion the majority of the skilled nursing beds will be in single occupancy rooms and equipped with brand new... state-of-the-art equipment, as well as the whole brand new expansion

Our current nursing and care home facility has a long history, as you mentioned before, and numerous special exceptions as the facility expanded over time period and the current facility is the highest star rating facility under capital CMS, enjoys an excellent reputation for care, and i think this proposed expansion will result in the continuation of the highest quality of care for all of our residents.

(T. 41-43)

(16) Mr. Phil Rhodes, accepted as an expert in civil engineering, prepared the Special Exception Site Plan (Exhibit 23) and testified on Applicant's behalf. He explained the proposed changes to the site:

The ... proposed addition is [shown on] the lower left area of the [special exception site] plan. It is 24,873 square feet. This location was strategically chosen. There's some

environmental features in the back - the floodplain and the stream buffer that we're trying to avoid....[T]his was the area of the site that would work best for the addition.... Between the existing building and the proposed addition is a small courtyard area that will serve as an amenity for residents and staff. There are 10 new compact parking spaces associated with the development [shown in the] ... lower left dark grey area just south of the new building addition. These ...will bring the total on the site to 61, which exceeds the 54-space requirement.

There are also utilities associated with the proposed addition and... there are stormwater management facilities as well. We went above and beyond with stormwater management design. It actually treats runoff from the ... existing development as well as the new addition....[T]hese treat the new addition and about half of an acre of existing impervious surfaces towards the east side of the site. And we purposely designed and located these new stormwater management facilities to treat... this existing parking lot and drive aisle, which was previously untreated, since they see vehicular traffic, [and] generally more pollutants than the roofs....

The vehicular patterns generally may remain the same, as per the existing condition....[The] dark gray along the bottom [of the plan depicts]... three curb cuts ... to Powder Mill Road that will remain. Two of them are for site access, the two on the left, and these entrances are all widened to 30 feet to allow for easier turning movements for vehicles into the lot. There is,... a new parking and drive aisle associated with the building addition... along the ... SHA right of way along Powder Mill Road. Again, ... there are these wider vehicular entrances. We've added concrete aprons, we're showing new... crosswalks, and there is a sidewalk along the portion of the frontage that... [is] feasible, where the slopes were.

We also proposed an ADA- accessible path from the site frontage to the building entrance. It ... goes along the... dark gray area on the right side, which is the new fire access lane. The new pedestrian ADA path follows that alignment. And then there's a few switchbacks that lead to the main building entrance. And this is a significant improvement. We've never had this pedestrian ADA path before....

There are three connections to Powder Mill Road. Only the two on the left will be used to access the facility. The third one on the right, which kind of goes through to Pleasant Acres Drive, is to be used for fire access for the facility. And that is not an access point for the parking lot itself....

There's a TCP 2 that's included with this special exception package, and it requests the removal of two specimen trees... One of [the trees], the T18 ..., there's kind of a magenta circle that was right ... in the middle of the proposed parking lot and close enough to the building addition that we're requesting removal. And then the second one is over on the east side of the site, which we needed to remove to comply with the fire access requirements....

There [are environmental features on site, including an impact to the primary management area] [T]here's an existing stream behind the building, in the rear of the site.... There are some... very minor impacts to the primary management area. These impacts include buffer planting, a new sanitary sewer associated with... the proposed building addition, an

outfall for the new stormwater management facility, which you can see on the lower left of the screen.... And there is actually an existing stormwater management facility on the right-hand side. You can see that keynote that says, 'existing underground stormwater management facility to remain'. And that is within the... PMA as well. The total impacts of... all of these is 13,301 square feet, which is about three hundredths of an acre...

[Exhibit 46 is a better exhibit to see the PMA impact areas.] Again, on the far left, there is some buffer planting, ...[specifically] 327 square feet, right up against the property line. There is a proposed outfall. It was... the best location for it, from our stormwater management facility, which has an 82-square-foot permanent impact and a 237-foot temporary impact.

And then the new sanitary sewer line... [is] just where the existing line is, [which] is where we needed to connect to, has a 655 square foot impact. On the next sheet, it shows where the existing stormwater infrastructure is. We are not touching this one, but it is in the PMA. And again, all of these impacts total about 1300 square feet....

[A new landscape plan was prepared under my supervision.] [It] includes a statement of justification supporting two alternative compliance requests. The first one is from Section 4.7 [of the Landscape Manual] and is for buffering incompatible uses. Alternative compliance is requested [for] a proposed building offset from 30 feet to a distance ranging from 26 feet, 4 inches to 27 feet, 11 inches. This is where the existing building was and where the proposed addition is. The required buffer width is met and our proposed planting exceeds the required planting requirements. The landscape architect, under my direction, selected plantings that are aesthetically pleasing and diverse. And there's also a six-foot-high fence that's being added in areas where the buildings encroach upon the 30-foot offset from the property line... There's one more ...[alternative compliance request]. This is outlined in Section 4.9, Sustainable Landscape Requirements. It's for planting trees on a slope greater than [3:1]. This request is due to the unique shape and topography of the lot. There's a very large hill right in front of the lot around Powder Mill Road. And there's also an existing storm easement in this area, which caused us to shift some plantings around on the slope to avoid the easement. The same planting quantities are shown as per the requirements. But ... there's one tree that is on a slope greater than three to one. Again, our landscape architect looked at this closely, provided a planting detail for the slope for this one tree, and researched the species, it's a black gum tree, to ensure it was suitable to plant it here....

(Exhibits 23,46, and 49; T. 20-30)

(17) Mr. Rhodes explained the differences between the original Special Exception Site and Landscape Plans and the revised ones, and the changes to the Tree Conservation Plan (Exhibits 36(a)and (b), 37(a)and (b), and). (T. 31- 38) Finally, the witness opined that these plans satisfied all applicable criteria for approval found in Section 27-3604 (a) of the current Edition of the Zoning Ordinance, and that he agreed with the findings and recommended conditions provided in the Technical Staff Report. (T. 38-39)

(18) Vilpal Talwar, accepted as an expert in architecture, prepared the architectural plans for the instant request, reviewed all exhibits, and offered the following testimony:

[T]he addition to the existing facility has been thoughtfully designed to support the operational and resident needs of a skilled nursing environment, accommodating up to thirty-six [additional] beds across thirty-four resident rooms....

I would draw your attention to [Exhibit 18]...to the top left of the page. That is an aerial image that depicts the existing facility.... [T]he image [at the] bottom of that aerial... is an image of a house...that will be removed from the facility. And the other two images are images of a home that is located ... to the left of the aerial image....

[T]he existing facility [is]...a nice low-rise residential-looking facility with the use of brick and punched openings.... [T]he expansion ensures seamless integration with the existing structure through two connection points....These connections... facilitate efficient circulation for staff and residents while maintaining continuity in care and services....

[A] partially below-grade low level has been incorporated to house essential infrastructure, including storage and mechanical, electrical, and plumbing systems, which help us optimize the usable space on the upper floor....

(T. 52-54)

(19) The witness explained that the addition will allow the construction of a centralized common area and nursing station to serve an existing wing of rooms as well as the new wing. A new parking area will be created, and the loading area will be between the existing building and the addition. The materials used will complement that which exists:

[A]ll facades ...have a balanced mix of materials. Including brick veneer that harmonize with the original masonry storefront glazing for transparency, and metal canopies for weather protection, and the use of texture and durability, with punched openings with vinyl windows...that complement the existing fenestration.

We've used sloped roofs and flat roofs, very judiciously sloped roofs to complement two existing constructions and flat roofs are located in such a way that the rooftop equipment is not only hidden from...streets,... but from the facility as well....

So architecturally, the addition has been carefully designed to harmonize with [the] existing facility, ensuring a seamless visual and functional integration.

The use of brick veneer complements the original masonry, reinforcing continuing in materiality and texture. Fenestration patterns, including window proportions, placement, and styles, are complementary to the existing facades, contributing to a unified architectural language across both structures.

We've used cementitious siding judiciously to give it a contemporary look. The whole addition is rooted in a complementary architecture to the existing facility with certain elements that give it a contemporary feel...

(T.55-59)

(20) Mr. Micheal Lenhart, accepted as an expert in the area of traffic engineering and transportation planning, prepared a traffic analysis and testified in support of the instant request. (Exhibit 39) The following is a synopsis of his findings:

The addition of the ... 36 new nursing home beds would only add three morning and four evening peak hour trips. The ... existing approved use is 24 morning peak hour [trips] and 27 evening peak hour [trips]....

The increase of three in the morning and four in the evening is considered a de minimis impact, based upon the Transportation Review Guidelines, which defines a ... de minimis impact as five or fewer peak hour trips.

The... March 3rd, 2025, traffic brief update...was updated at staff's request to include new traffic counts at the study intersections. And we conducted those counts in early 2025 and included those in the update. The date ...[was] actually February 27, 2025.

The traffic brief also was updated to reflect the existing one single-family dwelling unit that is on the site.... [It] was not reflected in the original study....

The findings of the study showed that the... only study intersection was Maryland 212 at Cherry Hill Road, along with the two site access points. And the findings of the study are that all of the intersections operated [at] acceptable levels of service and [[met the] adequacy requirements of [the] County's transportation review guidelines.

(T.67-69)

(21) Mr. Lenhart noted that the site has already gone through preliminary plan of subdivision review and has been issued a certificate of adequacy. (Exhibits 29 and 30; T.71) The trip cap is 27 AM peak hour trips and 31 evening PM peak hour trips. Finally, the witness agreed with all of the Technical Staff's recommended conditions of approval related to transportation improvements, as they match the results of the traffic study and address comments from the Maryland State Highway Administration ("SHA"). (T.70-71)

(22) Mr. Mark Ferguson, accepted as an expert in land use planning, provided a Land Planning Analysis (Exhibit 44) and testified in support of the request. He provided extensive justification for his opinion that the Application satisfied the requirements found

in Section 27-317 of the prior Edition of the Zoning Ordinance. I adopt his findings, and highlight portions (pertaining to the purposes of the Ordinance) below:

The fifteen purposes found in Section 27-102 (a) [are furthered] as follows:

The proposed expansion... will be developed in accordance with modern development regulations ...[including] landscaping and tree preservation..., forest conservation and tree canopy coverage requirements, ... the construction of a retaining structure around the proposed parking area, and [the protection of] much of the substantial visual buffer to the facility and from Powder Mill Road and ... the neighboring dwellings to the southwest, [thereby promoting] ... the comfort and welfare of the present and future inhabitants of the County....

The relevant plans which apply to this site are the 2014 general plan, the 2010 approved master plan..., and the [applicable functional master plans]....

The General Plan classified the subject site in its Growth Policy Map in the Established Communities category. The printed Generalized Future Land use map designated it for residential low land use. Next paragraph

established communities are described by the general plan as 'the County's heart - it's established neighborhoods... outside designated centers, and recommends that they are most appropriate for context-sensitive infill and low- to medium-density development....

It is this planner's opinion that the approval of the subject application would be context-sensitive infill development by virtue of... the architectural and site design and landscaping of the proposed addition; and... by virtue of the long existence of this use on the subject property...

The Master Plan contains a number of more specific goals, policies, and strategies, ... relevant to the proposed development [such as having] new development [be] ... compatible with the current character of the neighborhood [,and] ... maintenance and preservation of housing and streetscapes.... The proposed expansion will implement these strategies by proposing a building scale and character which is harmonious with both the existing and surrounding development, and by preserving most of the wooded steep slope between the proposed addition and... Powder Mill Road, thereby preserving the existing streetscape.

The first policy of the environmental infrastructure section... is to 'protect, preserve, and enhance the identified green infrastructure network within the Subregion 1 plan area.' The third strategy proposed to implement this policy is 'preserve or restore regulated areas....' This policy and strategy will be implemented by the preservation of the regulated stream which runs through the property and its associated buffers in its current natural, wooded state....

The special exception area contains areas regulated areas of the County's Green Infrastructure Network. They're proposed to be preserved intact, with the exception of a

small temporary area of stream buffer disturbance....The stormwater management proposed ... as well as the preservation of the stream buffer and the wooded areas to the west will implement the ...policy of the Green Infrastructure Plan to 'improve water quality through stream restoration, stormwater management, water resource protection, and strategic conservation of natural lands....

The 2009 Countywide Master Plan of Transportation... classifies Powder Mill Road as a collector roadway... with two lanes in an 80-foot right of way. This configuration is shown on the... Site Plan. The Master Plan of Transportation also proposes a bike lane on Powder Mill Road.

In conclusion, because the proposed nursing home is in keeping with the General Plan's land use policies..., actively implements the Master Plan's many applicable recommendations, and is in harmony with the applicable Functional Master Plans, approval of the subject application will be in harmony with the Ordinance's purpose of implementing those plans....

Approval of the subject nursing home would provide for the orderly growth and development of the County by providing for a needed addition to a use which serves a special population in conformance with the County's planning policies and zoning regulations....

The proposed nursing home will ... be developed in conformance with the regulation to govern height, lot coverage, frontage, and setbacks to ensure the provision of adequate light, air, and privacy, both for the occupants of the subject site and for its neighbors. It will preserve much of existing character of the property, and its modest building height will both fit with the character of the surrounding development and will have the additional benefits of preserving access to light and air for its neighbors....

The Special Exception Site Plan will also conform to the provisions of the Landscape Manual which require landscaped bufferyards to provide additional light, air and privacy to its neighbors....

This proposed nursing home ... will be developed in accordance with the various principles that have been codified in the prior zoning ordinance to promote the beneficial relationships between land and buildings..., providing modern stormwater management, by conformance with the provisions of the Landscape Manual which provide for buffering of its neighbors, and by the provision of woodland conservation areas along the existing stream and the areas to the west to both enhance the required buffering and protect regulated environmental features....

The Approval of the subject application ... will be developed in conformance with regulations established in the ...prior zoning ordinance, as well as other County Ordinances, which are intended to protect from fire, flood, panic and other dangers....

While strictly an institutional use rather than a residential use, the proposed nursing home will create a suitable and healthy living environment for its residents through its lower, wider architecture, and the preservation of large amounts of the natural areas of the subject property....

Because the subject use will continue to provide employment opportunities to its health care, administrative and maintenance workers, the approval of the instant application will be in harmony with this Purpose of the prior zoning ordinance....

Because the subject use will continue to provide employment opportunities to its health care, administrative and maintenance workers, the approval of the instant application will [encourage economic development and a broad tax base]....

The approval of the subject nursing home ... will conform to the provisions of the prior zoning ordinance which were codified to ensure the prevention of overcrowding, including setback requirements, lot coverage limits, and building height limits, and further through the extensive preservation of wooded natural areas on the subject property....

The approval of the subject nursing home ... will also be governed by the recent approval of the preliminary plan of subdivision which ensured the adequacy of the public roads. And, the proposed nursing home will be developed in accordance with the regulations established in the body of the prior zoning ordinance (and other County ordinances) which are intended to lessen the danger and congestion of traffic on roads, such as the requirements for the provision of adequate off-street parking....

As a zoning ordinance is the principal tool for the implementation of the planning process by enacting legal requirements which implement the planning goals that strive to maintain the stability of the County, this planner believes that conformance with the requirements and regulations of the prior zoning ordinance will be prima facie evidence of the Application's [furtherance of the County's social and economic stability]....

Beyond that, however, the approval of the subject nursing home would promote the social stability of the County by providing for needed care for elderly and other citizens requiring special care outside of the hospital.... [T]he approval of the subject nursing home would promote the social stability of the County by providing for needed care for the elderly and other citizens requiring [such] care....

The subject application will generate no new air or water pollution, and will disturb no stream valleys, lands of natural beauty, large areas of dense forest, scenic vistas and other similar features, and will in fact actively preserve stream valleys and steep slopes.
....

The approval of the proposed nursing home would be in harmony with the Purpose ... [requiring preservation of] regulated natural features ... to the fullest extent possible....

Because the subject property is not located in an agricultural area, [Section 27-102(a)(15)] ... is not applicable to the approval of this Application.

(Exhibit 44, pp. 6-11)

Agency Comment

(23) The Office of the Fire Marshal asked that the Site Plan provide at least 22-foot-wide drive aisles in accordance with Section 11-276 of the Prince George's County Code, noting that the southern entrance appears to only provide a width of 19.8 feet. (Exhibit 19(b), Backup p. 80)

(24) The Department of Permitting, Inspections and Enforcement (“DPIE”) noted it had no objection to the request, that it is consistent with the Site Development Concept 43689-2024-SDC (approved on November 26, 2024), it will have to provide right-of-way frontage during the fine grading permitting stage, and per FPS 850148, a floodplain easement will be required. (Exhibit 19(b) Backup pp. 81-82).

(25) The Prince George’s County Planning Department’s (“Planning Department”) Historic Preservation Section recommended approval with no conditions. In doing so, it noted that although Parcel 23 of the subject site is adjacent to Gallant House, a Historic Site, a search of all relevant information “indicates the probability of archeological sites within the subject property is low.” (Exhibit 19(b), Backup p. 22)

(26) The Planning Department Transportation Planning Section noted that the prior approvals included no conditions relevant to this application. It recommended that a bicycle lane and signage be provided along the site’s frontage on Powder Mill Road. It also verified that the application should only add 3 AM and 4 PM peak hour trips and all intersections will operate within the adequacy standards. (Exhibit 19(b), Backup pp. 58-61)

(27) The Planning Board Environmental Planning Section (“EPS”) reviewed the request for compliance with the applicable Plans, Woodland and Wildlife Conservation Ordinance, environmental regulations contained in prior Editions of Subtitles 24 and 27, and Subtitle 25, and the conditions imposed in the prior approvals for the existing Nursing or Care Home. The various regulations and policies are satisfied since: the proposal directs new development towards the front of the site in Evaluation Areas and away from Regulated Areas, and almost all of the Regulated Area will be preserved; there will be a limited amount of woodland clearing (0.03 acre), which will improve the green infrastructure network; the site does not contain the potential for forest interior dwelling species (FIDS), but all areas within the PMA (outside of approved impacts) and all woodland conservation will be protected by easements; the stormwater management concept plan indicates that currently untreated stormwater volume and new volume from the additions will be handled via micro bioretention, four planter boxes, and one stormwater management facility; the use of green building and energy conservation techniques will be evaluated by the Development Review Division; most of the wooded stream buffer will be preserved and staff agrees that the areas of unforested stream buffer are not suitable for the establishment of new planting materials since these areas have existing utilities and stormwater management facilities; Applicant will be required to retain existing woodlands and plant native species on site; Applicant will provide 2.01 acres of woodland outside of the floodplain, which exceeds the minimum conservation threshold for the prior R-R Zone (20 percent of the net track area or 1.53 acres).

It also agreed that Applicant’s request for a variance from Section 25-122(b)(1)(G) meets the requirements for approval found in Section 25-119(d):

[S]pecial conditions peculiar to the subject property would cause an unwarranted hardship if the applicant were required to retain the specimen trees. Those 'special conditions' relate to the specimen trees themselves, such as their size, condition, species, and on-site location....

[T]he expansion of the existing facility is limited due to the location of steep slopes and REF in the rear of the property, leaving limited areas for additional development at the front of the site when considering requirements for parking and stormwater management....[T]wo specimen trees are proposed to be removed due to impact to their CRZ [(critical root zone)] exceeding 30 percent.

T2 is an American sycamore which is a species with medium construction tolerance and is already impacted due to an existing driveway. This existing access point is required to be widened due to fire access regulations.... This access point was requested to be relocated southerly from its current location to comply with the buffering requirements of the Landscape Manual, which requires screening for incompatible uses adjacent to residential areas. Due to these requirements, the driveway improvements will require the removal of T2.

T18 is a Silver Maple species with poor construction tolerance that is limited by physical injury and root zone impacts and is proposed to be impacted by the building addition and associate parking.

Alternative designs, such as the expansion of development in the rear property would also require removal of specimen trees and additional impacts to REF. Under this proposal, the majority of the specimen trees are retained in the rear of the lot and are proposed to be included in areas of woodland preservation....

[Section 25-119(d)(1)(A)]

All variance applications ... are evaluated in accordance with the [same] requirements.... Specimen trees grow to such a large size because they have been left undisturbed on a site for sufficient time to grow; however, the species, size, construction tolerance, and location on a site are all somewhat unique for each site.

When other development proposals encounter trees in a similar condition and in a similar location on a site, the same considerations were provided during the review of the required variance applications....

[Section 25-119(d)(1)(B)]

Not granting the variance would prevent the project from being developed in a functional and efficient manner like other developments of similar size and use. This is not a special privilege that would be denied to other applicants. When other properties contained specimen trees of this species in a similar condition ..., the same considerations were provided....

[Section 25-119(d)(1)(C)]

The existing site conditions or circumstances ... are not the result of actions by the applicant.... The request to remove the trees is solely based on the location on the site, the species, and the condition of the trees with respect to the location of the improvements.

[Section 25-119(d)(1)(D)]

There are no existing conditions on the neighboring properties or existing building uses that have any impact on the location on the site, the species, and the condition of the trees with respect to the location of the improvement....

[Section 25-119(d)(1)(E)]

Granting this variance will not violate State water quality standards nor cause measurable degradation in water quality.... Both SWM and sediment and erosion control requirements are to be met in conformance with State and local laws to ensure that the quality of water leaving the site meets the State's standards....

[Section 25-119(d)(1)(F)]

(Exhibit 19(b), Backup pp. 72-73)

Finally, EPS addressed the requirement in Section 27-317 of the Zoning Ordinance that this Examiner determine whether the Special Exception Site Plan demonstrates the preservation and/or restoration of any regulated environmental features in a natural state in accordance with the requirements of Subtitle 24, Section 24-130 (b)(5). There are two minimal impacts proposed, and one is temporary for site access during construction. Staff opined that these impacts associated with the site's stormwater management are necessary impacts. (Exhibit 19(b), Backup p. 74)

(28) The Community Planning Division opined that the request will not substantially impair the Master Plan, nor substantially change the character of the neighborhood, reasoning, in part, as follows:

The 2014 ...General Plan places this application in the Established Communities... [an area] most appropriate for context-sensitive infill and low- to medium-density development.... [The General Plan] recommends maintaining and enhancing existing public services ..., public facilities..., and infrastructure in these areas... to ensure that the needs of existing residents are met....

The proposed site expansion...is consistent with [the General Plan's] designation as it represents context-sensitive infill of an existing institutional site and the creation of additional service capacity for seniors. This conforms to the Housing and Neighborhoods policy [on page 190 of the Plan] which states "Increase the supply of housing types that are suitable for, and attractive to, the County's growing vulnerable populations... [which includes] the elderly...and residents with special needs... [and] [e]xpand housing options by eliminating regulatory barriers to the construction of elderly accessible housing"

(Exhibit 19(b), Backup p. 56) The Community Planning Section concluded that Applicant should satisfy other Master Plan policies by using environmentally conscious building practices in addition to the retention ponds and other centralized stormwater facilities that it has proffered, noted the site is not within the Military Installation Overlay Zone, and concluded it had no Master Plan substantial impairment issues. (Exhibit 19(b), Backup p. 57)

(29) After reviewing the comments from the various MNCPPC divisions, information provided by the applicant, and the applicable provisions of law, the Technical Staff recommended approval of the instant request (Special Exception, Landscape Plan, Alternative Compliance, and variance to Subtitle 25), and provided the following reasoning, redacted for brevity:

Staff find that the proposed use is in harmony with the purposes of [the Zoning Ordinance] ..., and will not negatively impact the health, safety, and welfare of the public. The proposed nursing or care home expansion will be adequately buffered from surrounding residential uses in accordance with the requirements of the 2010 Prince George's County Landscape Manual (Landscape Manual), which is evaluated further below. The proposed use will provide elder care for the surrounding areas and increase this service without substantial impact to public facilities, given it is an expansion to an existing facility. The project also promotes orderly development by expanding the existing facility in adherence with the regulations of the prior Zoning Ordinance, as outlined in this technical staff report. This proposal will also be subject to a preliminary plan of subdivision (PPS) and required to obtain a certificate of adequacy (ADQ) of public facilities....

The master plan recommends a low-density residential land use on the subject property (Map 13, Approved Future Land Use for Subregion 1, page 160), but does not provide a definition for low-density residential land uses. The existing facility is two stories in height, and the proposed addition will maintain this low scale while adding 36 beds. The addition is designed to extend along the western property line, oriented toward MD 212, and will not significantly alter the building's overall footprint or massing. Its placement and scale minimize visual and physical impacts on the surrounding area, preserving the low-density residential character envisioned in the master plan. As such, the proposed addition is compatible with the surrounding land uses and will not substantially impair the integrity of the master plan or its recommendations. The subject property is located within the Calverton Living Area as designated by the master plan (Map 13, Approved Future Land Use for Subregion 1, page 160, Living Areas). The master plan identifies demographic characteristics by living area and identifies a substantial population of senior singles or couples in the Calverton Living Area (page 115). The master plan recommends incorporating "a diversity of housing types ... to accommodate all income levels" (page 79). While a senior care home does not constitute a traditional residential dwelling, this housing type responds to a demographic need within the master plan area. The expanded care home capacity would create a greater diversity of residential opportunities for aging residents. The master plan also recommends establishing "guidelines that ensure that new development is compatible with the current character of the neighborhood." (page 117) While the current Zoning Ordinance features such standards, this analysis is based on dimensional standards in Section 27-442 of the prior Zoning Ordinance and the Landscape Manual, and find compliance with the standards set by these documents....

As previously discussed, this application is an expansion of an existing nursing or care home use. The site has hosted the nursing home for 60 years. Required setbacks and plantings on Parcel 108 will buffer the use from surrounding residences. Aside from a new

emergency access point on Parcel 108, vehicular access points will remain from those existing on MD 212. Access driveways and drive aisles meet the minimum requirement of 22 feet wide. The Maryland State Highway Administration (SHA) requires the commercial access driveways along MD 212 to meet the minimum 25-foot width, which is reflected on the plan. The easternmost driveway connects Pleasant Acres Drive to MD 212 and can support two-way vehicular traffic. A sidewalk and crosswalk provide a direct pedestrian route along this driveway to the primary building entrance. These improvements will provide safe access to the site....

The general neighborhood is residential and, with the exception of the subject property, developed primarily at a low density.... The proposed expansion is not of a magnitude great enough to substantially impact roadway service, and the use will not negatively impact the adjacent place of worship, as personal vehicle use by residents ... is low and will remain low. The use, with its proposed expansion, is adequately buffered from bordering residential lots....

TCP2-007-2025 was submitted with this SE application and is recommended for approval with conditions herein. Minor revisions...are required for conformance and are included in the Recommendation section of this report....

Two primary management area (PMA) impacts are proposed with this application. Both impacts are associated with the site's stormwater management (SWM) and are considered necessary impacts. The applicant submitted an approved SWM concept plan incorporating micro-bioretenion devices, planter boxes, and filtration devices, which was approved in November of 2024. Staff find that impacts to regulated environmental features (REF) have been avoided and/or mitigated to the fullest extent possible.

Impact 1 - 0.03 acres (1,301 square feet):] This impact is for the colocation of a proposed SWM outfall and utility line. The impact is proposed at the place of least impact and is considered necessary per the 2018 Environmental Technical Manual (ETM). Two hundred thirty-seven square feet of this impact is temporary for site access. Staff ... support ... Impact 1 as proposed, as shown on the approved SWM plan.

Impact 2 - 270 square feet:] This impact is for an existing SWM facility that was constructed with TCPII-098-96. This feature is shown on the approved SWM plan, and it is proposed to remain. The ETM generally considers impacts for SWM facilities avoidable; however, this is an existing facility. Relocating this existing feature outside of the PMA would require additional impacts to the PMA, to remove the feature, and would result in increased SWM requirements. Staff are in support of Impact 2 as proposed and shown on the approved SWM plan....

[The request meets all provisions set forth in section 27-364(a)(6)]

The proposed fence does not exceed 6 feet in height, will feature inward-facing structural support, and will be permitted as required. The fence's location and detail are not shown on the landscape plan and the condition has been added herein to show conformance of location and standards....

The proposed project has frontage on and direct vehicular access to MD 212.

Parcel 108 contains an existing single-family detached dwelling which is proposed to remain and be used for staff housing. The parcel is part of the subject site and considered a single zoning lot. It is, therefore, an accessory use as part of the principal special exception use for nursing or care home....

The minimum net lot area for other allowed uses in the R -R Zone is 20,000 square feet. The proposed project meets this requirement, having... 342,382 square feet of net lot area.

The maximum lot coverage percentage for other allowed uses in the R-R Zone is 60 percent. The proposed project meets this with 38 percent lot coverage.

The minimum lot width at the street frontage for other allowed uses in the R-R Zone is 100 feet. The proposed project meets this requirement with approximately 750 feet of the lot width at [the] street frontage of Maryland 212.

The minimum front yard depth for other allowed uses is 25 feet. The proposed project meets this with a 33-foot front yard depth.

The minimum side yard depth is 25 feet. The project proposes a minimum 25-foot side yard depth.

The minimum rear yard depth is 25 feet. The proposed project meets this with a 47-foot rear yard depth....

The maximum allowed building height for all uses in the R-R Zone is 35 feet. The proposed project will have a maximum height of 26.83 feet....

A nursing home use requires one parking space for every three beds,... [and the] 162 proposed beds will, therefore, require 54 parking spaces. The proposed project includes 61 parking spaces.

Loading spaces are not required for a nursing or care home, and no signage is proposed as part of this application. One sign exists on site, as shown and approved with prior site plans for the site.

Staff find that the proposed project meets the requirements of the prior Zoning Ordinance pertaining to the R-R Zone....

The proposed development is subject to the requirements of the... Landscape Manual. Specifically, conformance is required to Section 4.1, Residential Requirements; Section 4.2, Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.5, Stormwater Management Facilities; Section 4.7, Buffering Incompatible Uses, and Section 4.9, Sustainable Landscaping Requirements....

With 173,387 square feet of green space provided, 109 shade trees are required.... There are 233 existing shade trees in the provided green space not proposed to be disturbed....

The proposed landscape strips along MD 212 do not satisfy requirements for landscape strips along streets, as [outlined] in Section 4.2 of the Landscape Manual, as an insufficient number of shade trees are provided. A condition of approval is included... to ensure compliance with the planting requirement....

The proposed new parking lot is less than 7000 square feet and, therefore, exempt from section 4.3 of the Landscape Manual.... The existing parking lot is required to conform

with these requirements for previous approvals, and the applicant is required to document these previous Landscape Manual compliance approvals in a certificate of landscape maintenance, included on the new landscape plan. The applicant has not provided a certificate of landscape maintenance, so a condition of approval is included....

The proposed screening for the loading area between the existing building and the additional building satisfies requirements for screening loading spaces, as specified in Section 4.4 of the Landscape Manual....

[DPIE] has approved the applicant's submitted [stormwater management] concept plan, which satisfies [Section 4.5] of the Landscape Manual....

This site is bordered on its north side and part of its west side by a federal installation. The nursing home is buffered from this installation by an extensive wooded area, significantly exceeding setback requirements and occupying a large portion of the property, including a floodplain as well as a landscape bufferyard of the required width.

Both sides of the property abut single-family residential lots. The bufferyard provided on part of the western boundary of this site falls 5 feet short of the requirement. The applicant submitted an AC for bufferyard 4.7-A, proposing a fence and additional plantings for screening....

Proposed trees and shrubs to be planted satisfy requirements for percentages of native species in all categories, with no invasive species existing or proposed for the site. One tree is proposed to be planted on a slope greater than 3:1, for which the applicant has requested AC....

The applicant requests AC from Section 4.7, Buffering Incompatible Uses, along the western border of the property, for what has been named Bufferyard A, and Section 4.9, Sustainable Landscaping Requirements, for planting a tree on a steep slope. The applicant submitted an additional AC request from Section 4.7 for Bufferyard D. The Planning Director states that, prior to certification, the applicant shall remove the AC request from Section 4.7 for Bufferyard D from the Landscape Plan, as the request was withdrawn because the change to the SE site plan eliminated this need. The applicant submitted a revised Landscape Plan on June 10th, 2025, which removed the request for Bufferyard D....

The proposed building setback is reduced to 25 feet at its narrowest point and gradually increases along the southwestern property line. To maintain an effective buffer, the applicant has exceeded the required number of planting units in this area. In addition, a fence is proposed along the portion of the property line where the building setback is reduced, to further enhance the visual barrier between the developments.

Given that the proposed building addition encroaches only 5 feet into the required setback, the full landscaped yard width is provided, and the required number of plant units is exceeded, in addition to including a fence, the Planning Director finds the proposal to be equally effective as normal compliance with Section 4.7 of the Landscape Manual....

The applicant also requests AC from Section 4.9(c)(5), Sustainable Landscape Requirements, which prohibits trees planted in fulfillment of Landscape Manual requirements from being located on slopes steeper than 3:1. Only one proposed shade

tree is to be planted on a steeper slope. The applicant notes that the proposed tree species is not intolerant of sloped conditions and provides the tree planting detail demonstrating how the tree will be planted on the slope to ensure survivability. Given the applicant only proposes 1 shade tree to be planted on a slope steeper than 3:1 and provides the detail for specialized planting, the Planning Director finds the applicant's proposal equally effective as normal compliance with Section 4.9 of the Landscape Manual. The Planning Director also states that, prior to certification, the applicant shall label the tree that is to be planted on the slope greater than 3:1 on the Landscape Plan. The applicant submitted a revised Landscape Plan on June 10th, 2025, which labeled the one tree planted on a slope greater than 3:1.... The Planning Director recommends approval of AC-25008....

This property is subject to the provisions of the 2024 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the application was accepted after June 30, 2024. Pursuant to Section 25-119(a)(2) of the WCO, TCP 2 was submitted for review with this [special exception] since the [special exception] plan will be used for grading and permitting. The minimum woodland conservation threshold for the R-R Zone is 20% of the net tract area or 1.53 acres.

During the natural resources inventory review ..., the Maryland Department of Natural Resources Natural Heritage Program provided the applicant with protective measures for aquatic habitats supporting potential rare, threatened, and endangered species. The draft TCP 2 is in accordance with recommendations to address [stormwater management] runoff through methods such as bioretention, and to minimize clearing and retain forest. The applicant proposes clearing 0.03 acre for the installation of a [stormwater management] outfall near the northwest corner of the existing care facility building. The total woodland conservation requirement for this project is 1.56 acres, which is proposed to be met and exceeded with the preservation of all remaining 2.01 acres of woodland outside of the floodplain.

Per Section 25-121... of the WCO, after meeting all other requirements, all remaining unforested riparian buffers on-site shall be afforested and reforested or provide a ... SOJ justifying the reasons for not meeting this requirement. The applicant has submitted an SOJ for not reforesting a total of 0.2 acres of an unforested stream buffer, and staff is in agreement that the areas of an unforested stream buffer are not suitable for the establishment of new planting material, as these areas have existing utilities and SWM facilities. An existing SWM facility was constructed with TCP11-098-96. This feature is shown on the approved SWM plan, and it is proposed to remain. Relocating this existing feature outside of the PMA would require additional impacts to the PMA, to remove the feature, and would result in increased SWM requirements.

Two specimen trees are proposed to be removed with this application. The applicant will be required to either replace the specimen trees with a total of 18 inches of diameter at breast height... or a fee in lieu of \$250 per inch of replacement requirement....

The required findings of Section 25-119(d) of the WCO have been adequately addressed for the removal of the two specimen trees, identified as T2 and T18 on the TCP2. Staff recommend approval of the requested variance for the removal of two specimen trees for

the construction and addition to an existing nursing and care facility with associated site improvements , as shown on TCP2-007-2025.... 2

The Tree Canopy Coverage Ordinance, requires a minimum percentage of the site to be covered by tree canopy for any development projects that propose more than 2,500 square feet of GFA, or disturbance, and requires a grading permit.... The Tree Canopy Coverage Ordinance is not subject to the current Zoning Ordinance grandfathering provisions and does not contain any grandfathering provision for using the prior zoning except [under certain circumstances inapplicable here].... Therefore, this application was reviewed for conformance.... Staff find that the proposed project is in conformance with the applicable provisions of the Prince George's County Tree Canopy Coverage Ordinance for the R-R Zone, which [requires] ... a minimum tree canopy coverage of 20%... [since it] proposes 2.01 acres of coverage on site, exceeding the required acreage

....

(Exhibit 19(b), pp. 7-20)

Staff noted that it did not receive any comments from the surrounding community prior to the writing of its report. It concluded by recommending approval with a few conditions.

(Exhibit 19(b), pp. 22-23)

LAW APPLICABLE

(1) “Nursing Home” is defined in Section 27-107.01(168) of the Prince George’s County Zoning Ordinance as follows: a “licensed institution which provides comprehensive medical and nursing services for chronically ill, disabled, or convalescent patients who require supervised care on a twenty-four (24) hour basis. Services are rendered by or under the supervision of a registered nurse. The term includes facilities providing subacute level nursing care and restorative care. “ A Nursing or Care Home is permitted by special exception in the R-55 Zone by Section 27-441(b)(2) of the Zoning Ordinance, in accordance with Sections 27-317 and 27-364.

(2) Section 27-317(a) and (b) provide as follows:

(a) A Special Exception may be approved if:

(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;

2 Staff’s justification for the grant of the variances for two specimen trees, similar to Applicant’s, is found on pp. 17-20 of the Staff Report.

- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
 - (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;
 - (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
 - (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
 - (6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and
 - (7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle [24-130\(b\)\(5\)](#).
- (b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:
- (1) where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or
 - (2) where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.
- (3) Section 27-364(a)(6) permits a Nursing or Care home, for 11 or more persons, subject to the following:

(6) Nursing or care home in all other zones where this use is permitted by Special Exception, where eleven (11) or more persons are cared for:

- (A) Total area - 1/2 acre, plus 1,000 contiguous square feet for each person cared for above 10;
- (B) Street frontage - 150 feet;
- (C) Setback - 25 feet from all boundary lines of the Special Exception.

- (4) The Court of Appeals provided the standard to be applied in the review of a special exception application in Schultz v. Pritts, 291 Md 1, 432 A2d 1319, 1325 (1981):

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of

the [administrative body] that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. . . . But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal.

(5) The test in Schultz has been applied over the decades, but there has been clarification as to what was meant by “the neighborhood,” as noted in Attar v. DMS Tollgate, LLC, 451 Md. 272, 280 (2017):

[Under the County’s law], a special exception use is prohibited if it is ‘detrimental to the health, safety or general welfare of the locality involved.’ In *Schultz v. Pritts*, we held that an applicant for a special exception ‘does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood ... he has met his burden.’ 291 Md. 1, 11, 432 A. 2d 1319, 1325 (1981).

We further held in *Montgomery County v. Butler*, “the phrase ‘detriment to the neighborhood’ implies necessarily that the Board’s task is to determine if there is or likely will be a detriment to the *surrounding properties*.” 417 Md. 271, 305, 9 A. 3d 824, 844 (2010) (emphasis added). Thus, we held that, within the context of a special exception, the ‘neighborhood’ means ‘the surrounding properties’

(6) Finally, absent language in the Code to the contrary, the special exception use is “conceptually ... compatible in the particular zone with otherwise permitted uses and with surrounding zones and uses already in place, provided that, at a given location, adduced evidence does not convince the body to whom the power to grant or deny individual applications is given that actual incompatibility would occur.” People’s Counsel for

Variance to Subtitle 25

(7) The request to remove specimen trees must satisfy the strictures of Section 25-119(d) of the Prince George’s County Code, which provides as follows:

(d) Variances

- (1) An applicant may request a variance from this Division as part of the review of a TCP where owing to special features of the site or other circumstances, implementation of this Division would result in unwarranted hardship to an applicant.
- (2) An applicant shall request a variance from Section 25-122(b)(1)(G) and (H) as part of the review of the TCP when:
 - (A) Specimen trees, champion trees and trees that are part of a historic site or are associated with a historic structure are impacted or removed; or
 - (B) Trees, plants, and vegetation identified on the national or state list of rare, threatened, and endangered lists are impacted or removed.
- (3) To approve a variance, the approving authority shall find that:
 - (A) Special conditions peculiar to the property have caused the unwarranted hardship;
 - (B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
 - (C) Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants;
 - (D) The request is not based on conditions or circumstances which are the result of actions by the applicant;
 - (E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
 - (F) Granting of the variance will not adversely affect water quality.
- (4) Notice of a request for a variance shall be given to the State of Maryland Department of Natural Resources within 15 days of receipt of a request for a variance.
- (5) Variances shall be approved by the Planning Board, Zoning Hearing Examiner, and/or the District Council for all TCPs that are associated with DRD applications heard by them. The Planning Director may approve variances for TCPs that are not associated with DRD applications heard by the Planning Board, Zoning Hearing Examiner and/or the District Council. The Planning Director's decisions are appealable to the Planning Board.
- (6) Variances under this Subtitle are not considered zoning variances.
- (7) Replacement for the removal of specimen or historic trees
 - (A) If the applicant is granted a variance to remove trees identified as a priority for retention in 25-119 (d)(5), the removal of a specimen tree or historic trees shall be subject to replacement requirements identified in the Technical Manual.
 - (B) The replacement requirements of a Specimen or Historic Tree shall be separate and apart from any other planting requirements. If the applicant has demonstrated that it cannot meet the replacement requirement pursuant to Section 25-119(d)(7)(A) and the Technical Manual, the applicant shall pay a fee-in-lieu into the Specimen and Historic Tree Fund based upon the tree replacement requirement determined by the diameter of the Specimen or Historic Tree(s) subject to removal.

Alternative Compliance

(8) The request for Alternative Compliance must satisfy Section 1.3a of the Landscape Manual. This Section provides as follows:

Requests for alternative compliance may be approved for any application to which the requirements of this manual apply, when one or more of the following conditions are present:

“(1) Topography, soil, vegetation, or other site conditions are such that full compliance with the requirements of this manual is impossible or impractical; or improved environmental quality would result from the alternative compliance.

“(2) Space limitations, unusually shaped lots, prevailing practices in the surrounding neighborhood, in-fill sites, and for improvements and redevelopment in older communities. “(3) Change of use on an existing site increases the buffer required by Section 4.7, Buffering Incompatible Uses, of this manual, more than it is feasible to provide.

“(4) Safety considerations make alternative compliance necessary.

“(5) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the design criteria in Section 3, Landscape Elements and Design Criteria, of this manual.”

Section 1.3b further notes that, “[a] *proposed alternative compliance measure must be equally effective than normal compliance in terms of quality, durability, hardiness, and ability to fulfill the design criteria in Section 3.*”

CONCLUSIONS OF LAW

(1) The purposes of the Zoning Ordinance are listed in Section 27-102. The following purposes are applicable to, and furthered by, the instant application:

- (1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The request meets this purpose since it is an expansion of an existing successful nursing home that will comply with modern development regulations, will be properly landscaped, will preserve trees in accordance with the Landscape Manual, and will preserve the character of the neighborhood.

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

The General Plan places this property within the Established Communities, an area described as most appropriate for context-sensitive infill and low-to medium-density development. The design, massing, and materials used for the addition of 36 beds at a nursing home that has been at the site for decades meets the vision for the Established Communities.

The Master Plan policies are implemented by the preservation of the regulated stream which runs through the property, and its associated buffers; the implementation of modern stormwater measurements; maintenance of the portion of Powder Mill Road (C-107) on which the site fronts; and preserving the character of the neighborhood.

The applicable Functional Master Plan policies supported by the request are the County Green Infrastructure Network and the Historic Sites and Districts Plan. The protection of the regulated areas on site, which will be preserved intact (with the exception of a small temporary impact to the stream buffer for the installation of a building sewer and the preservation of the stream buffer and wooded areas to the west), implements policies of the first Plan. The landscaping, building setback, topography, and compatible scale/architecture of the site minimize any impact on the historic Gallant House environmental setting.³

- (3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

The applicant has already received the approval of a preliminary plan of subdivision, which has addressed the adequacy of public facilities and services.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

Approval of the request will provide for the orderly growth and development of the County as there will be an addition to a successful, decades-old use which serves those in need of assistance, in conformance with the County's planning policies and zoning laws.

- (5) *To provide adequate light, air, and privacy;*

The nursing home will be developed in conformance with the regulations pertaining to height, lot coverage, frontage, and setbacks to ensure the provision of adequate light, air, and privacy.

³ The Historic Site is located 25 feet to the southwest of the subject property, and the request is, therefore, not required to provide a historic landscaped buffer.

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The use will be developed in accordance with the various regulations to ensure a beneficial relationship between the uses of land and buildings on the site. Additionally, development in accordance with the Landscape Manual and other requirements will provide modern stormwater management, landscaping that buffers any effect of the use on adjoining properties, and the preservation of trees.

- (7) *To protect the County from fire, flood, panic, and other dangers;*

Development and conformance with the various regulations of the County ordinances intended to protect from fire, flood, panic, and other dangers will ensure that this purpose is satisfied.

- (8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all county residents;*

While this is an institutional use, the reality is it is a home to the residents, and it will be developed with lower, wider architecture, and it will preserve large amounts of the natural areas of the property, thereby providing sound housing in a suitable and healthy living environment.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

The skilled nursing and other health care provided will require several employees, as will the construction proposed in the Application, thereby fulfilling this purpose.

- (10) *To prevent the overcrowding of land;*

As an infill development, the use will satisfy all setback requirements, lot coverage limits, building height limits, and will preserve the natural areas on the property, thereby fulfilling this purpose.

- (11) *To lessen the danger and congestion of traffic on the streets, and to [ensure] the continued usefulness of all elements of the transportation system for their planned functions;*

The application has an approved preliminary plan of subdivision which ensures the adequacy of the public roads, and the provision of adequate off-street parking and development in accordance with the applicable regulations will lessen the danger of traffic on the streets.

- (12) *To [ensure] the social and economic stability of all parts of the County;*

The use will require employment of several individuals and taxes will be paid thereby promoting the economic stability of the County. Moreover, if approved, the resulting ability to expand and provide much-needed services to more individuals also promotes the social and economic stability of the County.

- (13) *To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;*

This request will not generate any additional air or water pollution, will not disturb stream valleys/lands of natural beauty/ areas of dense forest/ scenic vistas, or other similar features. It will preserve steep slopes. Accordingly, this purpose is met.

- (14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space;*

The proposal preserves regulated natural features to the fullest extent possible thereby addressing this purpose.

- (15) *To protect and conserve the agricultural industry and natural resources.*

This purpose is not applicable to the instant request.

- (2) Section 27-428(a)(1) sets forth the following purposes for the RR Zone:

The purposes of the R-R Zone are:

(A) To provide for and encourage variation in the size, shape, and width of one-family detached residential subdivision lots, in order to better utilize the natural terrain;

(B) To facilitate the planning of one-family residential developments with moderately large lots and dwellings of various sizes and styles;

(C) To encourage the preservation of trees and open spaces; and

(D) To prevent soil erosion and stream valley flooding.

The request satisfies subsections (C) and (D) once the Tree Conservation Plan is approved and the variance for removal of the specimen trees, since it will preserve the

large area of woodland around the stream valley, the Applicant will be providing 100-year stormwater management, and there is an approved Sediment and Erosion Control Plan.

(Section 27-317 (a)(1))

(3) Once the variance from Subtitle 25 is addressed and AC-25008 is approved the use will be in conformance with all applicable requirements and regulations of the Zoning Ordinance. (Section 27-317(a)(2))

(4) The use proposed in no way impairs the integrity of the Master Plan or the applicable Functional Master Plans, for the reasons noted, *supra*. (Section 27-317(a)(3))

(5) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area because it will allow the care of additional residents but will not impact others in the area in any manner different from the existing Nursing Home. (Section 27-317(a)(4))

(6) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood since the exterior of the existing and new building will be aesthetically similar, the use is a relatively low traffic generator, and the area will be attractively landscaped with much of the existing woodlands preserved. Moreover, the use will be substantially the same as that which exists and should not impact adjacent properties in a different manner than the existing use. (Section 27-317(a)(5))

(7) A Tree Conservation Plan is to be approved in conjunction with the Special Exception request. TCP2 -007-2025 was determined by the expert Technical Staff to have met all applicable requirements once the conditions below are addressed. (Section 27-317(a)(6))

(8) The proposal protects the area of regulated environmental features (a stream and its associated buffer and 100-year floodplain). A small, temporary disturbance of the Primary Management Area is expected to occur during construction, as noted above. The permanent impact to the Primary Management Area is for outfall stabilization from a microbiretention facility. The purpose of the permanent impact is to ultimately protect the Primary Management Area and the stream from erosion and sediment deposition. Accordingly, the Special Exception Site Plan demonstrates the preservation and or restoration of the regulated environmental features to the fullest extent possible. (Section 27-317(a)(7))

(9) The property does not lie within a Chesapeake Bay Critical Area Overlay Zone. (Section 27-317(b))

(10) The request satisfies the provisions of Section 27-364(a)(6) for the following reasons: the gross tract area is 8.3447 acres and the proposed expansion will bring the

capacity of the existing nursing home up to 162 persons requiring a total area of 173,780 square feet or 3.9894 acres; the total street frontage on Powder Mill Road and Pleasant Acres Drive is 1118.46 feet exceeding the requirement of 150 feet; and, the closest point of any part of the perimeter of the nursing home will be 25.4 feet from the boundary of the special exception, meeting the requirement of 25 feet as a minimum setback.

(11) Alternative Compliance AC-25008 from Section 4.7-3 of the prior landscape Manual's requirement of a 30-foot building setback from the lot line of the abutting single family residence to the southwest, and from the requirement of Section 4.9(b)(7) of the prior Landscape Manual's finding that slopes greater than 3:1 are not conducive to tree growth and should not be planted to fulfill the requirements, meets the criteria for approval for reasons noted above by the Planning Director. To recap - Section 4.7-3 will be satisfied since Applicant will exceed the total planting requirement across the entire buffer's width, add a fence, provide denser planting to compensate for the reduced building setback, provide a lower building height that lessens the impact of the reduced building setback; and Section 4.9 (b)(7) is not prescriptive, the species of tree will thrive on a steeper slope, and its placement is due to not impede existing easements.

(12) The variance requested from Subtitle 25 concerning the removal of specimen trees may also be granted. The two specimen trees (T2 and T18) have medium construction tolerance, meaning they probably would not thrive in their current locations. One tree must also be moved because the existing access on the eastern property boundary is required to be widened, due to fire access requirements, and the access location had to be changed due to other requirements of the Landscape Manual (concerning screening of adjacent residential areas. The other is located along the site's frontage in the preferred location for the addition, an area where it will not further impact regulated environmental features, nor require the removal of more specimen trees. Granting the request will not confer a special privilege upon the applicant since requests under similar circumstances would be granted, but denying the request would deny the Applicant the right to add much needed rooms to the existing Nursing or Care Home. The location of T2 and T18 was not a result of actions taken by the Applicant. The request is not due to any condition on neighboring lands. Finally, granting the request will not adversely affect water quality for reasons noted by staff and Applicant's expert witnesses. (Section 25-119 (d))

(13) This use has successfully operated at the site for many years. The request will provide an additional housing option for seniors and others in need of assistance in their daily activities, qualifies as infill development, preserves the residential character of the neighborhood, and generated no opposition. It meets the test for approval of a Special Exception, outlined in Schultz, and its progeny as the use will not have an adverse impact greater than the same use would have upon the surrounding properties and in the same zone. The accompanying requests for Alternative Compliance (AC-25008), and variance from the provisions of Section 25-122(b)(1)(G) meet all requirements for approval, as does TCP2-007-2025.

DISPOSITION

Special Exception 24003, Alternative Compliance 25008, TCP2-007-2025 and the variance to Section 25-122(b)(1)(G) concerning specimen trees T2 and T18 are APPROVED, subject to the following conditions:

1. Prior to certification of the Special Exception Site Plan, the following revisions shall be made, or information shall be provided:
 - a. Provide a sufficient number of shade trees to satisfy Section 4.2 of the *2010 Prince George's County Landscape Manual* and demonstrate this conformance on the Landscape Plan.
 - b. Provide a certificate of landscape maintenance for parking lot plantings, in accordance with the previous landscape plan approvals for the site. All existing trees shall be shown on the current landscape plan, and any missing trees shall be shown to be replaced.
 - c. Revise the Type 2 tree conservation plan to identify the location of proposed specimen tree replacement planting, per the Section 25-119(d)(7)(A) Tree Removal Worksheet.
 - d. Revise the site development table notes to remove the single-family detached dwelling use and instead, indicate that the existing building is to remain as accessory to the nursing or care home facility.
 - e. Show setbacks from all existing structures to property lines for conformance to development standards.
2. In accordance with Section 25-122(d) of the 2024 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance, prior to certification of the Type 2 tree conservation plan (TCP2) for this site, the Applicant shall prepare documents for the required woodland conservation easements and submit them to the Environmental Planning Section for review by the Office of Law, and

submission to the Office of Land Records for recordation. The following note shall be added to the standard TCP2 notes on the plan as follows:

"Woodlands preserved, planted, or regenerated in fulfillment of woodland conservation requirements on-site have been placed in a woodland and wildlife habitat conservation easement recorded in the Prince George's County Land Records at Liber_ Folio_. Revisions to this TCP2 may require a revision to the recorded easement."

3. Prior to certification of the Type 2 Tree Conservation Plan (TCP2), the Applicant shall submit a copy of the draft erosion and sediment control technical plan, so that the ultimate limits of disturbance for the project can be verified and shown on the TCP2.

[NOTE: The Special Exception Site Plan is Exhibit 19(b)].