

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

SPECIAL EXCEPTION

4667

and

TCP2 -003-14

DECISION

Application:	Adult Day Care and Assisted Living
Applicant:	Presidential Care, LLC/Stoddard Baptist Home
Opposition:	The Willow Grove Citizens Association, et. al.
Hearing Date:	July 2, 2014
Hearing Examiner:	Maurene Epps McNeil
Disposition:	Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 4667 is a request for permission to use approximately 7.91 acres of R-R (Rural Residential) zoned land locate on the east side of Lottsford Vista Road, across from its intersection with Cleary Lane, also identified as 3911 Lottsford Vista Road, Bowie, Maryland for an Adult Day Care for 15 persons and a 63-unit Assistant Living Facility for 78 persons. (Exhibit 19)
- (2) The Technical Staff recommended Approval with conditions. (Exhibit 17) The Planning Board chose not to conduct a public hearing on the request and accepted the Technical Staff's recommendation as its own. (Exhibit 21)
- (3) The Willow Grove Citizens Association and several persons appeared in opposition to the request.
- (4) At the conclusion of the hearing the record was left open to allow Applicant, staff and the opposition an opportunity to submit additional items. The last of these items was submitted on August 27, 2014 and the record was closed at that time. (Exhibit 43)

FINDINGS OF FACT

Subject Property

(1) The subject property is an irregularly shaped parcel improved with a vacant structure formerly used as a dwelling and as a Congregate Living Facility for 12 elderly or physically disabled residents. (Exhibits 3(b) and (17)) The property slopes from a high elevation of 190± feet to the northwest to an elevation of 140± feet along its southern property line. This elevation change requires extensive grading of the building and parking areas, while leaving the remainder of the site with steep slopes. Applicant will construct a stormwater management pond along the southern portion of the site that abuts Lottsford Vista Road.

(2) A preliminary Plan of Subdivision was approved in 2013, as well as a variance to Section 25-122(b)(1)(G) of the Woodland and Wildlife Habitat Conservation Ordinance and a Tree Conservation Plan (TCP1-010-10). A Natural Resources Inventory has also been approved for the site.

Zoning History

(3) In 1997, SE-4256 was approved, permitting a 160-Child Day Care Center, 40-person Adult Day Care Center, and expansion of an existing 12-person Congregate Living Facility to a 72-person congregate living facility.

(4) All of the uses were never implemented due to the cost and technical issues associated with developing the site. (Exhibit 17, pp. 4-5; Exhibit 32, p.3)

Neighborhood and Surrounding Uses

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

North:	Single-family detached dwellings in the R-R zoned Vista Estates East (Vista Glen) Subdivision
South and East:	Public parkland in the Folly Branch Stream Valley Park
West:	Lottsford Vista Road

(6) The neighborhood has the following boundaries:

North:	John Hanson Highway (US 50)
South:	The Enterprise Farm
East:	Folly Branch
West:	Bald Hill Branch

Master Plan, Sectional Map Amendment and General Plan

(7) The subject property was rezoned from the R-E Zone to the R-R Zone upon adoption of the 1990 Largo-Lottsford Master Plan and Sectional Map Amendment (Zoning Change E-3). The Master Plan recommended residential uses for the property.

(8) The 2002 General Plan places the property in the Developing Tier. The 2014 General Plan ("Plan 2035") places the property within the Established Communities Policy Area.

Applicant's Request

(9) Applicant, Presidential Care, LLC, is affiliated with Stoddard Baptist Home Foundation. (T. 5-7) Applicant requests approval to operate a 78-bed assisted living facility with 63 bedrooms for individuals generally 60 years old and older in need of physical and general medical assistance and an Adult Day Care Facility for fifteen (15) elderly or disabled persons. (T. 77-79) Both uses will operate in the same 65,608 square foot building, in separate "villages". The 78 residents in the Assisted Living Facility will be housed in 15 double-occupant units and 48 single-occupant units. The Adult Day Care facility will share an entrance with the assisted living facility but will then be housed within its own area. (Exhibits 17 and 41)

(10) Both uses are permitted by Special Exception in the R-R Zone. However, Section 27-441(b)(2), fn. 77 places a further limitation on assisted living facilities:

Up to seventy-five (75) dwelling units are permitted only if adjoining and operated by the same organization as an adult day care use, approved by Special Exception. All assisted living facilities standards and requirements in Part 6, Division 5, must be met, including Detailed Site Plan approval under Part 3, Division 9.

(11) Applicant intends to raze the existing 6,378 square foot vacant, one-story congregate living facility shown in Exhibit 17(p. 26), and replace it with a 65,608 square foot 2-story building with a full basement, and 49 parking spaces and one loading space to accommodate both uses. Applicant submitted architectural elevations for the two-story building, and floor plans. (Exhibits 6(b) and 41(a)-b))

(12) Applicant submitted its program descriptions for both uses. Applicant intends to provide a host of services, including, but not limited to:

- Specialized Alzheimer's /dementia care
- 24-hour nursing care
- Housekeeping and linen service
- A Beauty/Barber shop
- A community room for social gatherings, meetings, event and activities

- Library and reading rooms
- Dining rooms and a computer room

The residents and clients will also be able to enjoy a covered pavilion near the entrance for picnics and other outdoor activities. There will be trellises, walkways and patios. An aquatic exercise program will also be provided.

(13) This information was provided in the Applicant's Statement of Justification as well as its combined program statement (for the Adult Day Care Center) and recreational facilities plan (for the Assisted Living Facility), required pursuant to Sections 27-332 and 27-464.04 of the Zoning Ordinance. (Exhibits 4 and 6(a))

(14) Applicant explained the differences between what is proposed and what was approved in S.E. 4256:

Going back into the history we purchased the property from [the prior owners] When we started to actually talk to people, construction companies and other development experts, we found out that it would be very, very difficult and very intrusive to the land and to the neighborhood in terms of how to build that property, it would have taken about 4 or 5 million dollars just to move the land around. There are a lot of retaining walls that were going to be needed, the property would have been very congested with all these variety of different buildings....

We feel the new proposal meets the needs of the many, the consumers that may use it or just drive by it every day. We feel that it's a building that fits neatly into the topography of the land and reflects the character of the neighborhood. It is broken up into several villages under one roof, the previous one had several buildings that were spread all over the campus.... It has very attractive common spaces that will increase the community connection and these spaces will also be available for public use and community use if the community chooses. The units will be far more spacious, they'll be larger and there will be more space for internal and external recreation ... and we also feel over time, the building will ... blend totally into the community when the landscaping plan matures....

(T. 8-10)

(15) Applicant expects to employ approximately 100 employees – 45 full time and 55 part time. (T. 12-13) The employees will be spread over three shifts, and “will be specifically trained for dementia related programs.” (T-13) Applicant noted that its goal for the Adult Day Care is to promote “independence, dignity and quality of life” by offering “the right combination of social, creative, fitness and health activities to keep its residents/clients physically active and socially engaged” (Exhibit 6(a), p. 16) The occupants/clients at the site are the aged who are unable to live independently. A driver will be available for those Adult Day Care clients that are not dropped off at the facility, and for those residents in need of chauffeuring to and from medical, and other, appointments. (T. 14-15)

(16) Nicole White, accepted as an expert in transportation planning, collected traffic/data at two intersections that would potentially be impacted by the request - Vista Road/Cleary

Lane and Lottsford Vista Road/Forbes Boulevard. (Exhibit 7(a)) The A.M. peak hour study was 7:30 AM to 8:30 AM and for both intersections. The PM peak hour study for Lottsford Vista Road/Forbes Boulevard was 5:00 PM to 6:30 PM. Ms. White testified that she agreed with staff's transportation conclusions, and also reiterated that the approved subdivision cap of 18 vehicular trips during the AM peak hours and 27 trips during the PM peak hours would not be exceeded. (T. 100-101)

(17) John Markovich, accepted as an expert in the area of forestry, explained that the actual acreage of woodland conservation provided in both the TCP1 and TCP2 is 2.03 acres, not the 2.22 acres noted in Condition 6(d) of the Technical Staff Report. (T. 90). The witness also explained how the Application satisfies both the Tree Preservation Ordinance and the Green Infrastructure Plan.

Basically what's being proposed is there was going to be a combination of some woodland preservation along this area, which is primarily the PMA. There is also going to be afforestation throughout this area up into here and then some additional preservation and afforestation over in [the north end].... The Green Infrastructure Plan for this property is based on the fact that you have stream valleys and those are the area and the regulated areas, regulated areas being the streams, the stream buffer, wetlands, wetland buffers, floodplains, and then areas of abutting steep slopes. And so those were mapped and shown on the Green Infrastructure Plan. And for the Green Infrastructure Plan it shows the regulated areas as coming through the southern portion of the site and then the evaluation areas which are adjacent to that which often include the slopes and everything coming through this portion of the site. And then just a little bit of the area what's called a network gap area and in the northern portion of the site is not part of the green infrastructure. ...

(T. 85)

(18) Reggie Baxter, accepted as an expert in the area of land use planning, provided the following testimony:

I would say that the 1990 Master Plan which is the pertinent Master Plan for this area and this property envisions a variety of residential housing types, to accommodate a variety of lifestyles including retired and elderly folks and changing life styles and care needs. So certainly this development responds to that purpose of the Master Plan....

I also went back and looked at the new General Plan 2035 and it's designated as part of an established community within that new General Plan as recently adopted on a spread policy map meaning that the site is sensitive for context sensitive infill and a low to medium density development which this is. It's also consistent with their land use policy 9, which generally seeks to maintain stable residential neighborhoods. I feel this use approved would add to the stability of the existing neighborhood as defined for the special exception. Sensitive environmental features have all been preserved....

[T]his facility in particular promotes the health, safety and welfare of ... our more fragile citizens by providing a range of housing options, healthcare and recreational opportunities and what I would deem a very serene setting. The facilities themselves are going to be professionally managed, by trained

human service and health care professionals and provide basically a very wholesome environment for those residents, occupants of the facility....

The majority of the adjacent properties and the overall neighborhood is largely developed with the existing single family dwelling units, I don't expect much change to take place in that area. They will not be disturbed by the subject residential type uses because of the surrounding parkland to the east and to the south as a natural buffer, kind of the topographical differences between the subject property and the properties along Vista Grande Drive, additional landscape and buffering is provided as required by the Landscape Manual. Traffic has been shown to not be an issue in this case. Adequate public facilities have been met. So sensitive site features are all preserved and added to, or enhanced rather and site disturbance and the range of uses is greatly reduced from the potential development that was allowed under a previous Special Exception 4256, you know with the lot coverage in the current proposal being 34.8 percent with one building and its associated parking area, compared to what, I don't have the figure offhand but with the five individual buildings that were approved under the existing special exception there would have been a whole lot more lot coverage and of course site disturbance....

(T. 126-130)

(19) Applicant is in agreement with all of the conditions recommended by staff, with the exception of condition 3 concerning the proposed entrance sign. (Exhibit 32, p. 3)

Oppositions Comment

(20) Representatives of the Willow Grove Citizen's Association appeared, on behalf of the association and on their own behalf, in opposition to the request. The Association believed that "the main roadway for this project creates an unsafe environment [since] ... Lottsford-Vista Road at Cleary Lane is already congested and poses a safety hazard because of ever increasing volume and outdated design...." (Exhibit 33)

(21) Some in opposition submitted a document prepared by a consultant, John A. Seitz, concerning vehicular trip caps for the proposed use. (Exhibit 36(a)) No one requested that an additional hearing be held to address the information in the document. I cannot accept Mr. Seitz as an expert witness because he did not appear before me, and cannot give much weight to the document.

(22) Some were opposed to the size of the facility in a neighborhood of predominantly single family homes. There was also a belief that the application was unnecessary since there are other senior facilities in the area – Villa Rosa and Collington. (T. 153-154)

(23) Ms. Bowles noted that many school buses utilize Cleary Lane and experience difficulty accessing Lottsford Vista Road under current traffic conditions. (T. 171) She is concerned that traffic will be exacerbated if the request is approved. (T. 175)

Agency Comment

(24) The Technical Staff recommended approval, with conditions, reasoning as follows:

According to the provisions of the Zoning Ordinance, both the adult day care and assisted living facilities are permitted by special exception in the R-R Zone. However, pursuant to Section 27-441(b)(2) ... (Footnote 77), assisted living facilities are allowed to have up to 75 dwelling units 'only if adjoining and operated by the same organization as an adult day care use, approved by Special Exception ... [and upon] Detailed Site Plan approval....' Thus, the applicant is required to obtain detailed site plan ... approval for the proposed facility as both uses will be operated within one building by the same organization as the adult day care use....

[T]he subject property was previously approved [to operate an Adult Day Care Center and Congregate Living Facility.] At that time, the use was determined to be suitable and compatible for the character of the surrounding properties and the general neighborhood.... With the current proposal, the applicant is proposing to consolidate the two uses into one building as opposed to five separate buildings to maximize service efficiencies and to create a healthier manageable living environment for its residents. This will also help preserve the residential character of the community....

[T]he proposed lot coverage is only 35 percent, or approximately half of the 60 percent allowed by the Zoning Ordinance. The site has an elevation change of 46 feet across the property, necessitating expansive grading of the building and parking areas, leaving the rest of the property with steep slopes. However, the applicant was able to create usable outdoor recreational areas....

The proposed uses are not expected to generate significant traffic because it will provide van service to transport its residents to the facility and back. The Transportation Planning Section stated that the proposed uses will generate only 18 AM peak-hour trips and 27 PM peak-hour trips, which are 121 fewer AM ... and 119 fewer PM peak-hour trips than the previously approved uses at this site....

The Transportation Planning Section found that vehicular access to the site is adequate and consistent with the requirements of Section 27-464.04 of the Zoning Ordinance. The access takes into account the scope of the facility and the amount of traffic expected to be generated....

The purposes of the Zoning Ordinance are many and varied. However, they can best be summed up as to protect and promote the public health, safety, morals, comfort, convenience, and welfare of present and future inhabitants of the county; to promote the most beneficial relationship between the uses of land and buildings; and to protect landowners from adverse impacts of adjoining development. The applicant is suggesting orderly growth by providing alternative housing and care opportunities for a broad spectrum of elderly and handicapped residents in a quiet comfortable environment not otherwise readily available. The proposal will also allow opportunities for elderly residents to remain near their families in a residential setting as well as provide convenient adult day care to a developing area of the county. The use is located on a generous-sized lot, and will have no adverse impact upon the surrounding community. State requirements will ensure that the facility is safe and sanitary. The technical staff report conditions will ensure a continued compatible relationship between the projected use and adjacent properties. The use and site plan proposed in this application, with the recommended conditions in place, are in harmony with the purposes of Subtitle 27....

The proposed use will not substantially impair the integrity of the approved master plan and sectional map amendment. The proposed special exception is in conformance with the environmental provisions of the General Plan, the area master plan, and the Green Infrastructure Plan. The proposed uses are consistent with the land use recommendations of the R-R Zone, which permits a maximum density of 2.17 dwelling units per net acre....

The proposed assisted living and adult day care facilities will not adversely affect the health, safety, and welfare of the workers in the area. In fact, the proposed use is intended to enhance the wellbeing of the elderly or handicapped residents by providing a full range of on-site activities, programs, and recreational amenities for the assisted living occupants and day care users that will be managed by trained administrators, human services, and health care professionals....

Furthermore, the Prince George's County Health Department (PGCHD), Division of Environmental Health, in a memorandum dated August 30, 2010, stated that per COMAR 10.07.14 governing assisted living programs, "an assisted living program with a licensed capacity of 17 or more beds shall comply with the food service regulations in COMAR 10.15.03." The proposed occupancy of 78 beds/residents will require that the facility be equipped with a commercial grade kitchen. A complete set of plans for the kitchen, along with the required review fee, must be submitted to PGCHD for review/approval....

In general, an adult day care and assisted living facility generate very little noise or traffic. In addition, the proposed single building will be located near the center of the site that is substantially set back and buffered from Lottsford Vista Road and from the single-family dwellings adjacent to the north. The public parkland, which adjoins the site to the east and south, provides both privacy and open space to the residents of the facility and helps buffer the site from adjacent residential neighborhoods. The proposed low-scale development, along with the proposed significant landscaping around the perimeter of the site, will keep the site invisible from the surrounding neighborhood. For these reasons, staff concludes that the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood....

The impacts related to stormwater management are considered necessary for the orderly development of the subject property. The impacts cannot be avoided because they are required by other provisions of the County Code. The development is providing water quality and quantity controls and the impacts have been designed to minimize, to the fullest extent possible, the impacts to the PMA....

The regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of grading shown on the special exception site plan submitted for review. The impacts approved are for the construction of a vegetated stormwater drainage swale in the stream buffer because of this impact cannot be avoided....

(Exhibit 17, pp. 5-8, 14-15, 17)

(25) Staff reviewed Applicant's revised Tree Conservation Plan and recommended additional conditions. (Exhibit 43)

(26) The Maryland Department of Health and Mental Hygiene reviewed the Application and noted that it had “no comments”. (Exhibit 17, p. 121)

(27) The Maryland State Highway Administration noted that all proposed work within its right-of-way will require further review and a State access permit. (Exhibit 17, pp. 125-126)

(28) The Department of Permitting, Inspections and Enforcement noted it has no objection to the instant request. (Exhibit 17, p. 128)

APPLICABLE LAW

(1) An Adult Day Care Center and an Assisted Living Facility are permitted in the R-R zone upon approval of a Special Exception in accordance with Sections 27-317, 27-332 and 27-464.04 of the Zoning Ordinance. These Sections provide as follows:

Sec. 27-317. Required findings.

(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) 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.

Sec. 27-332. Adult day care center.

- (a) An adult day care center may be permitted, subject to the following:
- (1) The subject property shall be suitable for the type of facility proposed, taking into account the character of surrounding properties and the general neighborhood, and any other uses on the subject property;
 - (2) The subject property shall be of sufficient size to accommodate a facility of the scope proposed;
 - (3) Vehicular access to the subject property shall be adequate, taking into account the scope of the facility, the type and amount of traffic expected to be generated, and the type, service level, and capacity of the streets along which the subject property has frontage; and
 - (4) A statement shall be submitted explaining:
 - (A) The policies and goals of the center;
 - (B) The characteristics and number of occupants to be served;
 - (C) The type of care and activities proposed;
 - (D) Operating methods and procedures proposed;
 - (E) The type and amount of traffic expected to be generated; and
 - (F) Other appropriate aspects of the center's operation.

Sec. 27-464.04. Assisted living facilities.

- (a) An assisted living facility permitted (P) in the Table of Uses shall be subject to the following:
- (1) Guidelines for development.
 - (A) The following guidelines shall be considered:
 - (i) If more than one (1) building is proposed, residential units should be clustered together in small to medium size groups to give a more residential character to the site.
 - (ii) The entry to the assisted housing site should provide easy recognition of the facility and a safe and unambiguous vehicular route to the building entry and passenger drop-off area.
 - (iii) The radius and width of the entry drive should allow cars and vans to maneuver easily.
 - (iv) The drop-off area should be close and convenient to the building entry, but should be spacious enough to accommodate wheelchairs, open car doors, and passing cars.
 - (v) A canopy or cover offering protection from the weather should normally be provided over the building entry and passenger drop-off area.
 - (B) Requirements.
 - (A) A recreational facilities plan shall be submitted demonstrating that sufficient recreational facilities or opportunities are provided to serve the prospective resident population. Facilities may be provided on site or within adjoining development. In any case, but particularly if

on adjoining property, there shall be a staging plan for the facilities constructed. Recreational areas should be clustered together to increase levels of activity, use of amenities, and the sense of vitality of the community.

(B) The facility shall not be more than four (4) stories.

(C) The facility shall be located on a minimum of three and one-half (3.5) acres of land.

(D) The subject property shall be adjoining residentially zoned land.

(E) A Detailed Site Plan shall be approved for the facility in accordance with Part 3, Division 9, of this Subtitle.

(2) The requested uses should also comport with the following purposes of the R-R Zone found in Section 27-428 of the Zoning Ordinance:

(a) **Purposes.**

(1) 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.

(b) **Uses.**

(1) The uses allowed in the R-R Zone are as provided for in the Table of Uses (Division 3 of this Part).

(c) **Regulations.**

(1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the R-R Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), and the Landscape Manual.

Special Exceptions (Common Law)

(3) As noted in the seminal case concerning the grant or denial of a special exception, Schultz v. Pritts, 291 Md. 1,11, 15, 432 A.2d 1319 (1981):

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible *absent any fact or circumstance negating the presumption*. [A] special exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested special exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would

otherwise result from the development of such a special exception use located anywhere within the zone.

CONCLUSIONS OF LAW

(1) The general purposes of the Zoning Ordinance are listed in Section 27-102. The purposes furthered by this request to provide an Assisted Living Facility and an Adult Day Care Center are as follows:

To protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County

To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents

The provision of an Assisted Living Facility with medical, social and recreational amenities for the residents thereof furthers these purposes. The provision of a safe, supervised Adult Day Care Center also furthers the first purpose since it ensures that those in need of such care are allowed to take advantage of it, and families with members in need of such care will have access to it, thereby promoting health, comfort and convenience.

To implement the General Plan, Area Master Plans, and Functional Master Plans

The Master Plan recognized the need for mixed uses, including residential uses in the area, as well as the need to provide a broad range of housing types. Thus, the instant request implements the Master Plan.

To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions

The elderly housing will minimally impact the transportation facilities in the area, thereby meeting this requirement. Both uses reduce the number of vehicular trips that would be generated if the property was developed in the manner approved in SE-4256.

For the same reasons the uses meet the purposes of the R-R Zone, in which they are located.

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

(2) The uses are in conformance with all applicable provisions of the Zoning Ordinance and require no variances or variations. (Section 27-317(a)(2)) The uses are not incompatible with the Master Plan since it recommended residential uses of the site and this is most akin to such uses, and supports such uses. (Section 27-317(a)(3)) A revised Tree Conservation Plan was submitted with the instant Application that will satisfy all applicable provisions of law once the recommended conditions are addressed. (Section 27-317 (a)(6)).

(3) The uses will not adversely affect the health, safety, or welfare of residents or workers in the area since it is reducing the number of structures which were originally approved for the site; retaining some of the woodlands; limiting impact to the adjacent stream; providing landscaping and buffering; and providing a housing option, health care and recreational opportunities for a segment of population in our area in need of aid. (Sections 27-317(a)(4) and (5))

(4) The site will be developed in a manner that demonstrates the preservation and/or restoration of the regulated environmental features since there will be a minimal impact to the Primary Management Area ("PMA") in order to install a vegetative stormwater management area. (Section 27-317(a)(7))

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

(6) The use satisfies the requirements for Adult Day Care Centers found in Section 27-332 of the Zoning Ordinance. The site is suitable since the use is setback from the general neighborhood and will be sufficiently screened; there is sufficient space (7.9053 acreage); approximately 65% of the site will be preserved as green area; and the District Council has already approved similar, but much more impactful use of the site (160-child day care center, 40-person adult day care center, and a 72-person congregate living facility spread out in several buildings). (Section 27-332(a)(1) and (2)) Staff has determined that the use is consistent with the approved Preliminary Plan's trip cap, and that it will not generate much traffic due to the use of a van service and the relative immobility of the residents/clients. (Section 27-332(a)(3). Applicant submitted a statement indicating its goals, the types of care and activity proposed; and a Statement of Justification explaining that there will be a maximum of 15 clients, the use will have a separate entrance and area from the assisted living facility, and most will be transported there via Applicant's van service. (Section 27-332(4))

(7) The Assisted Living Facility meets the requirements found in Section 27-464.04 of the Zoning Ordinance. Only one building is proposed for the use. (Section 27-464.04(a)(1)(A)(i)) The drop-off area is conveniently located at the entrance and is covered by a canopy. (Section 27-464.04(a)(1)(A)(iv) and (v)) The entry area is easily recognizable and the drop off area is 24 feet wide and, therefore, sufficient to allow cars and vans to maneuver easily. (Sections 27-464.04 (a)(1)(A)(ii) and (iii)). Sufficient recreational facilities or opportunities are provided for the residents since walking trails, aquatic therapy, a community room, a library, a computer room, horse shoe pit and a putting green area provided, and all amenities are conveniently located. (Section 27-464.04(a)(2)(A). The facility will have two stories and a basement. (Section 27-464.04(a)(2)(B)) The facility will be located on 7+ acres of land that adjoins residentially zoned property. (Section 27-

464.04(a)(2)(C) and (D)) Finally, Applicant will have to go through Detailed Site Plan approval. 1 (Section 27-464.04(a)(2)(E))

(8) As noted above, Applicant generally agreed to all conditions proposed by Staff, with the exception of the condition concerning the entrance sign. I would adopt this condition concerning the entrance sign since one of the findings I must make is that the use not be detrimental to the use or development of adjacent properties, and I cannot make this finding without having some idea about the size, location and architecture of the proposed sign.

DISPOSITION

Special Exception 4667 and TCP2-003-14 are Approved, subject to the following conditions:

- (1) A raze permit must be obtained through the Prince George's County Department of Permitting, Inspections and Enforcement prior to removal of any existing buildings. Any hazardous materials located in any structures on-site must be removed and properly stored or discarded prior to the structure being razed.
- (2) Prior to approval of any building/grading permit:
 - (a) A detailed site plan shall be reviewed and approved for the Assisted Living Facility for the subject development.
 - (b) A complete set of plans for the kitchen, along with the required fee must be submitted to the Prince George's County Health Department, Division of Environmental Health, for review and approval.
 - (c) Conformance to the sign regulations shall be reviewed at the time of detailed site plan approval.
- (3) At the time of detailed site plan review, the proposed architecture and entrance sign shall be revised according to the Urban Design Section memorandum dated April 3, 2014, on pages 92-97 of the Technical Staff Report.
- (4) The Applicant must comply with any outstanding preliminary plan conditions and apply for any needed access permits from the Prince George's County Department of Permitting, Inspections and Enforcement.

¹ Pursuant to Section 27-271 of the Zoning Ordinance, the Detailed Site Plan shall only be approved if it is in accordance with this Special Exception approval.

- (5) Prior to the issuance of permits, the Special Exception Site Plan shall be revised as follows, and submitted to the Office of the Zoning Hearing Examiner for review and inclusion in the record:
- a. A Note shall be added to show how all of the applicable regulations of the R-R Zone (set forth in Section 27-442 of the Zoning Ordinance) are being met.
 - b. The 2010 Prince George's County Landscape Manual Section 4.2 schedules shall be removed from the plan and a Section 4.6 schedule and notes shall be added to the plan demonstrating the project's conformance to its requirements. If such demonstration cannot be made, the Applicant shall apply for, and bring forward a companion case, an alternative compliance (AC) application at the time of detailed site plan review.
 - c. A 2010 Prince George's County Landscape Manual Section 4.9 schedule shall be provided on the plan demonstrating conformance to all of its requirements.
 - d. The amount of on-site woodland conservation claimed for tree canopy coverage credit shall be verified against the amount shown on the Type 2 tree conservation plan.
 - e. The correct stormwater management concept plan number, 46822-2005-03, and its approval date shall be added to General Note 21 on the plan.
 - f. The existing sign shown on the left of the driveway, along Lottsford Vista Road, shall be removed and a detail for the new sign that shows its size and location shall be provided.
 - g. The preliminary plan number and its approval date shall be added to the Site Plan.
 - h. The right-of-way and center line of Lottsford Vista Road shall be provided on the site plan to ensure that the landscape strip does not fall within the proposed right-of-way.
 - i. The hours of operation for the Adult Day Care Center (Monday-Friday from 7:30 a.m. - 8:00 p.m., and Saturday from 9:00 a.m. – 8:00 p.m.) with aftercare shall be added.
- (6) Prior to the issuance of permits, the TCP2 shall be revised as followed, and submitted to the Office of the Zoning Hearing Examiner for review and inclusion in the record:
- a. The steep slopes must be removed from the plan and the legend for plan

clarity. This information has been adequately shown on the Natural Resources Inventory (NRI) for the site.

- b. Permanent Tree Protection fence and signs must be shown along all vulnerable edges of the reforestation area; specifically, the permanent fence and signs must be added along the public utility easement and below the stormwater management pond.
 - c. A specimen tree sign must be shown on the plan adjacent to preserved specimen tree 4; this symbol must be added to the plan.
 - d. The assigned plan number must be typed into the approval block (TCP2-003-14).
 - e. TCP2 general note 7 must be revised to indicate that the site fronts on Lottsford Vista Road, which is a designated historic road.
 - f. Planting Specification Note 16 must be revised to indicate that the source of seedlings is "to be determined."
 - g. The planting schedule must be revised to show the planting of seedlings at a density with a minimum of 700 seedlings/ acre and not to exceed 1,000 seedlings/ acre.
 - h. The following standard details must be added to the plan in accordance with the Environmental Technical Manual:
 1. Reforestation sign detail (DET-2)
 2. Specimen tree sign detail (DET-3)
 3. Tree pruning detail (DET-11)
 4. Planting months detail (DET-13)
 5. Handling bare root stock (DET-15 and 16)
 6. Seedling/ whip planting detail (DET-17)
 - i. If any land containing woodland conservation is to be dedicated to a county agency, the applicant shall provide written correspondence from that county agency stating that the agency agrees to the area of woodland conservation on the dedicated land.
- (7) After the Detailed Site Plan is approved, a copy shall be submitted to the Office of the Zoning Hearing Examiner for inclusion in the record.

[Note: The Special Exception Site Plan and Landscape Plan are Exhibits 14(a)-(e). The

Tree Conservation Plan is Exhibit 15 (a)-(c).]