THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

November 21, 2025

RE: SE-22002 Remand (Stewart Property)
ESC 8215 Springfield, L.C., Applicant

NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed a copy of Zoning Ordinance No. 4 - 2025 setting forth the action taken by the District Council in this case on November 17, 2025.

CERTIFICATE OF SERVICE

This is to certify that on November 21, 2025, this notice and attached Council order were mailed, postage prepaid, to all persons of record.

Donna J. Brown
Clerk of the Council

Case No. S.E. 22002
Variance 22002
AC-23008
(On Remand from
Zoning Hearing
Examiner)
Stewart Property

Applicant: ESC 8215 Springfield, L.C.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 4 − 2025

AN ORDINANCE, approving with conditions, Special Exception 22002, Variance 22002, and Alternative Compliance 23008, in accordance with the disposition recommendation from the Zoning Hearing Examiner, to develop a Planned Retirement Community consisting of 41 aged-restricted single-family attached dwelling units on property zoned Rural Residential (RR), which is located approximately 390 feet southeast of the intersection of Lake Glen Drive and Springfield Road, at 8215 Springfield Road, Glenn Dale, Prince George's County, Council District 4.[1,2]

[1] The District Council maintains original jurisdiction over special exception and variance cases heard by the Examiner and is permitted to engage in its own/independent fact-finding. *Grant v. Cty. Council of Prince George's Cty*., 465 Md. 496, 533-534, 214 A.3d 1098, 1120 (2019), *City of Hyattsville v. Prince George's Cty. Council*, 254 Md. App. 1, 9, 270 A.3d 950, 954 (2022) (The District Council exercises original (rather than appellate) jurisdiction when it considers decisions to grant or deny special exceptions and variances heard by a zoning hearing examiner). For purposes of this final decision, the District Council adopts the findings and conclusions of the Examiner. *Templeton v. County Council of Prince George's County*, 23 Md. App. 596, 598, 329 A.2d 428 (1974) (explaining that the District Council may comply with the requirement of specific written findings of basic facts and conclusions of law by adopting the Zoning Hearing Examiner's findings and conclusions). When necessary, the District Council will engage in its own/independent fact-finding to address or overrule exceptions filed by Applicant and Opposition.

[2] For purposes of the District Council's final decision, citation to the Examiner's disposition recommendation of approval will be "ZHE Remand Decision at ___".

A. Introduction

After the ZHE Remand Decision, Applicant and certain persons of record filed written exceptions. Exceptions from Applicant, 8/8/2025, Exceptions from Wingate, 8/8/2025, Exceptions from Aldags, 9/29/2025.

On October 6, 2025, the District Council, using oral argument procedures, considered the ZHE Remand Decision to approve this special exception, variance and alternative compliance. The District Council also considered certain exceptions filed by Applicant and Opposition.[3] (10/6/2025, Tr.), ZHE Remand Decision, 7/10/2025, Exceptions from Applicant, 8/8/2025, Exceptions from Wingate, 8/8/2025, Exceptions from Aldags, 9/29/2025. At the conclusion of oral argument, the District Council took this matter under advisement.

On October 21, 2025, after careful consideration of the record, the District Council referred this matter to a staff attorney to prepare this Ordinance in accordance with the ZHE Remand Decision approving this special exception, variance and alternative compliance. (10/21/2025, Tr.).[4]

For the reasons to follow, exceptions filed by Applicant and Opposition are overruled. Among other things, the District Council finds that this special exception, variance and alternative compliance for the proposed use will serve the needs of the retirement-aged community, and the proposed use will not adversely affect the character of the surrounding residential community.

[3] Applicant is ESC 8215 Springfield, L.C., represented by Christopher L. Hatcher, Esquire. Opposition consists of Wingate Homeowners Association, Inc. (Wingate) represented by Sean Suhar, Esquire, and Mr. Howard and Mrs. Tanya Aldag (Aldags), represented by Michele McDaniel Rosenfeld.

[4] *Grant*, 465 Md. 496, 515-516, 214 A.3d 1098, 1110 (2019) (holding that the District Council may permissibly delegate the preparation of "findings of fact and conclusions, or other relative documents [] necessary" to its staff attorney and upon adoption the findings of facts become that of the District Council and not of its staff attorney.

PGCC § 27-395. As a basis for this final decision, the District Council adopts and incorporates the findings and conclusions contained in the ZHE Remand Decision.

B. Standard of Review

The District Council maintains original jurisdiction over special exception and variance cases heard by the Examiner. The District Council is also permitted to engage in its own/independent fact-finding based on the record developed by the Examiner. *Grant*, 465 Md. 496, 533-534, 214 A.3d 1098, 1120 (2019). Moreover, as a basis for its final decision, the District Council is permitted to adopt the findings and conclusions of the Examiner. *Templeton*, 23 Md. App. 596, 598, 329 A.2d 428 (1974) (explaining that the District Council may comply with the requirement of specific written findings of basic facts and conclusions of law by adopting the Zoning Hearing Examiner's findings and conclusions). Finally, the District Council will engage in its own/independent fact-finding if necessary to address exceptions filed by Applicant and Opposition.

C. Exceptions

As noted above, Applicant and Opposition filed written exceptions to the ZHE Remand Decision. The District Council will address exceptions seriatim or in order presented.

1. Applicant Exceptions

First, Applicant excepts to the Examiner's conclusion that the property does not contain twelve (12) contiguous acres. Exceptions at 3-5. Pursuant to PGCC § 27-395, a planned retirement community is permitted by special exception, subject to the following:

(a) A planned retirement community may be permitted, subject to the following criteria:
  (1) **Findings for approval**.
    (A) The District Council shall find that:
      (i) The proposed use will serve the needs of the retirement-aged community;

(i) The proposed use will not adversely affect the character of the surrounding residential community; and

(iii) In the R-A Zone, there shall be a demonstrated need for the facility and an existing medical facility within the defined market area of the subject property.

(2) **Site plan**.

(A) In addition to the requirements of Section 27-296(c), the site plan shall set forth the proposed traffic circulation patterns.

(3) **Regulations**.

(A) Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, density, dwelling unit types, and other requirements of the specific zone in which the use is proposed shall not apply to uses and structures provided for in this Section. The dimensions and percentages shown on the approved site plan shall constitute the regulations for a given Special Exception.

(B) **The subject property shall contain at least twelve (12) contiguous acres**.

(C) **The average number of dwelling units per acre shall not exceed eight (8) for the gross tract area**.

(D) In the R-A Zone, buildings shall not exceed three (3) stories.

(E) In the I-3 Zone, the following shall apply:

(i) The gross tract area shall be a minimum of ninety (90) acres with at least twenty-five percent (25%) of its boundary adjoining residentially-zoned land or land used for residential purposes;

(ii) The property shall have at least one hundred fifty (150) feet of frontage on, and direct vehicular access to, a public street;

(iii) All buildings shall be set back a minimum of seventy-five (75) feet from all nonresidentially-zoned boundary lines or satisfy the requirements of the Landscape Manual, whichever is greater; and

(iv) The property shall be located within two (2) miles of mass transit, regional shopping, and a hospital.

(F) In the I-3 and C-O Zones, townhouses shall comply with the design guidelines set forth in Section 27-274(a)(11) and the regulations for development set forth in Section 27-433(d).

(4) **Uses**.

(A) The planned retirement community shall include a community center or meeting area, and other recreational facilities which the District Council finds are appropriate. These recreational facilities shall only serve the retirement community. The scope of the facilities shall reflect this fact. The Council may only permit a larger facility which serves more than the retirement community if the facility is harmoniously integrated with the retirement community and the surrounding neighborhood. All recreational facilities shall be constructed prior to, or concurrent with, the construction of the residential units, or in accordance with a schedule approved by the District Council;

(B) Retail commercial uses, medical uses, health care facilities, and other uses which are related to the needs of the community may be permitted.

(5) **Residents' age**.

(A) **Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application and shall be approved by the District Council, and filed in the land records at the time the final subdivision plat is recorded**.

(6) **Recreational facilities**.

(A) Covenants guaranteeing the perpetual maintenance of recreational facilities, and the community's right to use the facilities, shall be submitted with the application. **The covenants shall be approved by the District Council, and shall be filed in the land records at the time the subdivision plat is recorded**. If the recreational facilities are to be part of a condominium development, a proposed condominium declaration showing the recreational facilities as general common elements shall be approved by the District Council, and shall be recorded (pursuant to Title II of the Real Property Article of the Annotated Code of Maryland) at the time the subplat is recorded.

PGCC § 27-395. (Emphasis added). In relevant part, § 27-395(a)(3)(B) requires that land designated for a planned retirement community "shall contain at least twelve (12) contiguous acres."

Regarding whether the Examiner considered certain information on remand that the District Council requested from SDAT and whether the Examiner was legally correct to minus or subtract a ±3,542 square feet prescriptive easement from the total contiguous area of the property, the Examiner made the following findings and conclusions:

> The District Council asked that information provided by the State Department of Assessments and Taxation in the original hearing be clarified as part of the instant remand. Applicant submitted that clarification. (Exhibits R-3 and R-4). The Applicant also submitted information explaining the acreage of land for deed references 46916 and 00567. (Exhibits R-6 and R-11). ZHE Remand Decision at 51.
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> At the original hearing, this Examiner opined that the strictures of Sections 27-395 (a)(3) (B) and (C) cannot be satisfied unless a variance to the requirement of having 12 contiguous acres is satisfied. For reasons not apparent in the record, a portion of the subject property was appropriated for public use many years ago when Springfield Road was paved and used as a public right-of-way. A public road may be created by prescription where, as in this case, there has been exclusive and

> uninterrupted use of the property as a road open to the public. *Holder v. Young*, 2023 Md. App. LEXIS 350. The County accepted the 3,542 square feet by grading it and allowing the public to use it. *Wilkinson v. Board of County Commissioners*, 255 Md. App. 213 (2022) The Zoning Ordinance defines "contiguous acres" as "abutting", and "abutting" as "touching and sharing a common point or line." (Section 27-107.01) For these reasons, I believe that the requirement for twelve contiguous acres must be read as requiring 12 full acres within the Applicant's control that all touch, and an applicant does not have 12 contiguous acres when a prescriptive easement precludes its ability to use 3,542 square feet thereof, and when the Applicant does not own/have control over the property that touches the other side of the easement area. ZHE Remand Decision at 53.

Applicant contends that because it provided significant evidence and testimony to the contrary, the Examiner was incorrect to conclude that the prescriptive easement must be excluded from the property's 12 contiguous acres. Exceptions at 4. Applicant is incorrect. Factual findings are reviewed to determine whether they are supported by substantial evidence in the record. *Md. Bd. of Pub. Works v. K. Hovnanian's Four Seasons at Kent Island*, 425 Md. 482, 514 n.15, 42 A.3d 40 (2012). The substantial evidence test does not turn on whether an aggrieved party provided substantial evidence to support its position. Instead, the substantial evidence test requires a determination of whether the agency's decision is founded upon substantial evidence in the record. *Motor Vehicle Admin. V. Shea*, 415 Md. 1, 997 A.2d 768 (2010).

Applicant has the burden of proof. PGCC § 27-142 (the burden of proof in any zoning case shall be the applicant). *See also*, *Futoryan v. City of Baltimore*, 150 Md. App. 157, 172, 819 A.2d 1074 (2003), quoting *Anderson v. Sawyer*, 23 Md. App. 612, 329 A.2d 716 (1974) (explaining that in special exception cases the applicant bears the burden of persuading the administrative board). Applicant "assumes not merely the lesser burden of generating a fairly debatable issue so as to permit a ruling in its favor but the significantly greater burden of actually dispelling fair debate by proof so clear and decisive as legally to compel a ruling in its favor." *B. P. Oil, Inc. v. Bd. of Appeals*, 42 Md. App. 576, 580, 401 A.2d 1054 (1979).

The property contains a ±3,524 square feet prescriptive easement that must be subtracted because *total contiguous* area *excludes* alleys, streets, and other public ways. PGCC § 27-107.01(a)(161). As such, the property does not contain at least 12 contiguous acres for a planned retirement community. Applicant experts reached the same conclusion. Prior to remand, Mark Ferguson, land planner for Applicant, testified that the subject property would be less than 12 acres when the prescriptive easement is dedicated or conveyed out of Parcel 131.[5] (12/12/2023, Tr., pp. 220-227). Also prior to remand, Steven Jones, land surveyor for Applicant, testified that the prescriptive easement, approximately 3,542 square-feet, was *conveyed* in one of the deeds provided in the record, which when deducted from the total acreage results in the less than 12 contiguous acres. (12/20/2023, Tr., pp. 25-26), ZHE Exhibit 107.

It was not error for the Examiner to conclude that because the Zoning Ordinance defines "contiguous acres" as "abutting", and "abutting" as "touching and sharing a common point or line," Applicant's property does not contain at least twelve (12) contiguous acres that touch since the Zoning Ordinance requires the exclusion of the ±3,542 square feet prescriptive easement from the total *contiguous* area. PGCC § 27-107.01(a)(161).

Second, Applicant excepts to the Examiner's conclusion that the age restricted covenant was not final and executed. Exceptions at 5. With respect to age for residents for a planned retirement community, § 27-395(a)(5) provides as follows:

> Residents' age.
>
> (B) Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application and **shall be approved by the District Council**, and filed in the land records at the time the final subdivision plat is recorded. (Emphasis added).

[5] On remand, Mark Ferguson incorrectly opined that the zoning ordinance does not require exclusion of the ±3,542 square feet prescriptive easement from the property's total contiguous area. ZHE Remand Decision at 30.

The Examiner found that Applicant's age restricted covenant was in draft form and not fully executed for approval by the District Council. ZHE Remand Decision at 51. After the ZHE Remand Decision, Applicant submitted written exceptions, which included the required final and executed covenant. Exceptions at 5, Exhibit B. Therefore, Applicant's exception on the age restrictive covenant is moot. In accordance with Condition 4(b) of the ZHE Remand Decision, the District Council approves the final executed age restricted covenant in Exhibit B. As a condition of approval, Applicant shall submit Exhibit B to the Examiner prior to certification of the special exception site plan.

Lastly, Applicant excepts to the Examiner's conclusion that the average number of dwelling units per acre should be 3.5 versus 4.75. Exceptions at 5-7. Pursuant to PGCC § 27-395(a)(3)(B)(C), property for a planned retirement community shall contain at least twelve (12) contiguous acres and the *average* number of dwelling units per acre shall not exceed eight (8) for the gross tract area. (Emphasis added).

On remand, Applicant mistakenly believed that the property contained at least 12 contiguous acres, but the Zoning Ordinance requires exclusion of alleys, streets, and other public ways from the property's total contiguous area. PGCC § 27-107.01(a)(161). Nonetheless, the record reflects that Applicant requested a variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) for a planned retirement community. Applicant also submitted a supplemental statement of justification in support of its variance request. ZHE Decision on Remand at 31.

In relevant part, a variance may only be granted when the Zoning Hearing Examiner or District Council finds that:

(1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);

(2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property;

(3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions; *such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the subject property*; and

(5) Such variance will not substantially impair the use and enjoyment of adjacent properties.

(6) Notwithstanding any other provision of this Section, a variance may not be granted if the practical difficulty is self-inflicted by the owner of the property. PGCC § 27-230. (Emphasis added).

A variance may also be granted from the *strict application* of the Zoning Ordinance in conjunction with special exception approval. And if the variance is granted, it is applicable only to the structure or *use* the variance was granted in conjunction with. PGCC § 27-316. (Emphasis added).

Because the record before the Examiner contained Applicant's request for a variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) for a planned retirement community, the Examiner was *required* under the Zoning Ordinance to find that the variance can be granted without *impairment* to the intent, purpose and integrity of the *general plan or any area master plan*, sector plan, or transit district development plan affecting the subject property. PGCC § 27-230 (…such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any area master plan…). *See also*, *HNS Dev., LLC v. People's Counsel*, 425 Md. 436, 457, 42 A.3d 12, 25 (2012) (holding that were statutes or

local ordinances link planning and zoning, they serve to elevate the status of comprehensive plans to the level of true regulatory devices).

The Examiner found that the 2022 Master Plan and the 2014 General Plan define density as 3.5 dwelling units per acre for residential low land use. *City of Hyattsville*, 254 Md. at 67, 270 A.3d at 989 (2022) (explaining that in the Zoning Ordinance, density is defined as the number of dwelling units per *net* acre not *gross* acre). Because the Examiner granted Applicant's request for a variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) for a planned retirement community, the Examiner was legally correct to exclude the ±3,542 square feet prescriptive easement from the total contiguous area and to calculate density in accordance with the 2022 Master Plan and the 2014 General Plan to avoid impairment of the 2022 Master Plan and the 2014 General Plan. Stated differently, the Examiner was legally correct to calculate density at 11.94 acres (minus or subtract the ±3,542 square feet prescriptive easement from total contiguous acreage) multiplied by 3.5 dwelling units (in accordance with density defined in the 2022 Master Plan and the 2014 General Plan) for a total of 41 single-family attached dwelling units. ZHE Remand Decision at 55-56.

Moreover, § 27-395(a)(3)(C) merely requires that the *average* number of dwelling units per acre shall not exceed 8 dwelling units for the gross tract area. Nothing in § 27-395(a)(3)(C) mandates approval of this special exception based on Applicant's average of 4.75 dwelling units. ZHE Remand Decision at 55-56, *HNS Dev., LLC*, 425 Md. at 439, 42 A.3d at 14 (2012) (explaining that particular provisions of a statute are interpreted in the context of the entire statutory scheme, and read together and harmonized to the extent possible, reading them so as to avoid rendering either of them, or any portion, meaningless, surplusage, superfluous or nugatory).

It was not error for Examiner to conclude that an average density of 4.75 dwelling units, or 57 single-family attached dwelling units, would impair the 2022 Master Plan and the 2014 General Plan since density for residential low land use in those Plans is defined as 3.5 dwelling units per acre. ZHE Remand Decision at 55-56. *See also*, *Malmar Associates v. Board of County Commissioners*, 260 Md. 292, 272 A. 2d 6 (1971) (holding that in Prince George's County, it is well established that zoning to regulate density is a legitimate exercise of the police power in furtherance of the public health, safety and welfare).

D. Wingate Exceptions

First, Wingate takes exception to the Examiner's grant of Applicant's request for a variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) for a planned retirement community. Exceptions at 2. Wingate is incorrect. As noted above, a variance may also be granted from the *strict* application of the Zoning Ordinance in conjunction with special exception approval. And if the variance is granted, it is applicable only to the structure or *use* the variance was granted in conjunction with. PGCC § 27-316. (Emphasis added).

A planned retirement community *use is permitted* by special exception in the RR (Rural Residential) Zone. Pursuant to PGCC § 27-316, in conjunction with an application for special exception, a variance may be granted from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) for a planned retirement community.

It was not error for the Examiner to grant Applicant's request for a variance since 1) the use is permitted in the RR Zone, 2) the variance was from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B), and 3) such variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B) is authorized in PGCC § 27-316 of the Zoning Ordinance. ZHE Remand Decision at 50-55.

Second, Wingate takes exception to the Examiner's conclusion that Applicant's request for a variance satisfied all provisions in § 27-230. Exceptions at 2-5. Wingate is incorrect. The Examiner found as follows:

> The variance would satisfy all provisions of Section 27-230. The prescriptive easement has taken a portion of the subject property making it slightly less than 12 acres in size. While five other properties may be similarly situated, only one of them is close enough to be considered a "surrounding property." The issue hinges on whether the Applicant has shown that the subject property is physically unique and unusual in a manner different from the nature of the surrounding properties, and if so, whether the 12-acre requirement would therefore result in peculiar and unusual practical difficulties to the owner of the property. I believe the existence of the small easement is sufficiently unique or unusual in that there is no explanation of how it was taken from the owner of the property as indicated in the letter from DPIE. (Exhibit 3, Backup p. 50) There are five other properties that have been similarly affected by the easement but only one is close to the subject site, and none are as large. These facts are similar to those at issue in Herr, *supra*, and that Court found it was not erroneous for the Zoning Board to have found the property to be unique. (Section 27-230(a)(1)) There is a nexus between the uniqueness of the property and the disproportionate impact of 12-acre requirement on the property, and the strict application of the law will result in unusual practical difficulty because the Applicant will not be allowed to develop the Planned Retirement Community. (*Dan's Mt. Wind Force, LLC V. Allegany County Board of Appeals*, *supra*; Section 27-230 (a)(2)). This small variance from the acreage requirement is the minimum necessary to overcome the property's physical uniqueness. (27-230(a)(3)) If the variance is granted it will not substantially impair the integrity of the General or Master Plan, nor substantially impair the use and enjoyment of adjacent properties since the variance is di minimis, there will be sufficient buffering of the uses, the density has been found to be acceptable for this use within the RR Zone, any adverse impact on traffic will be addressed at the time of subdivision review, and the use will provide much needed senior housing. (Section 27-230(a)(4) and (5)). There is no evidence in the record that the practical difficulty from the easement was self-inflicted by the owner of the property. (Section 27-230 (a)(6)).
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> The approval of the Special Exception would satisfy the test set forth in *Schultz v. Pritts*, *supra*, and its progeny. There is no evidence that the use at this location would have more of an adverse impact than it would if located elsewhere within the surrounding neighborhood and within the same zone. Moreover, if all of the suggested conditions are imposed, it will have less impact on the traffic or character of the neighborhood.
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> Finally, I have concerns that the proposed development impairs the 2022 Master Plan, and 2014 General Plan recommendations of Residential Low land use defined

> as a density of 3.5 dwelling units per acre, since it is less than the 4.75 dwelling units per acre considered in the instant request. If the District Council either agrees that the area subject to a prescriptive easement could be utilized in meeting the contiguous acreage requirement, or that the variance should be granted, the acreage not subject to the easement and the maximum density recommended in the General and Master Plans should be utilized to allow 41 dwelling units (11.94 acres multiplied by 3.5). This density conforms with the Master Plan, and the reduction is one allowed in Section 27-396, which sets the maximum number of dwelling units but otherwise provides flexibility in determining the average number of units per acre. ZHE Remand Decision at 55-56.

The Examiner made the necessary findings and conclusions that Applicant satisfied all provisions in § 27-230.

E. Aldags Exceptions

First, Aldags contend that the property does not contain the required 12 contiguous acres for a planned retirement community. Exceptions 1 and 2. While the Aldags are correct, as noted above, the Examiner granted Applicant's request for a variance from the strict application of the 12 contiguous acre requirement in § 27-395(a)(3)(B), which is authorized under PGCC § 27-316 of the Zoning Ordinance. ZHE Remand Decision at 50-55.

Second, Aldags contend that the use, a planned retirement community, is not close to or within 2 miles of public transportation, hospital, store and restaurants to serve the residents of the proposed community. Exception 3. Aldags are incorrect. There is no such requirement for a planned retirement community located in the RR Zone. PGCC § 27-395. A planned retirement community shall be located within two (2) miles of mass transit, regional shopping, and a hospital only if the property is zoned I-3. PGCC § 27-395(a)(3)(E).

Third, Aldags contend that there is no demonstrable urgent need for this type of housing in the Glenn Dale/Springfield Road marketplace because there are other senior living facilities in and around Bowie/Greenbelt. Exceptions 4. With respect to need, the District Council is only required

to find, and has found below, that the proposed planned retirement community "will serve the needs of the retirement-aged community." PGCC § 27-395(a)(1)(A)(i).

Fourth, Aldags contend that the design of the site plan is problematic and dysfunctional because, among other things, there is only one egress/ingress, which will cause a road jam and traffic delays. Exceptions 5. Among other things, the site plan for a planned retirement community must set forth the proposed traffic circulation patterns. PGCC § 27-395(a)(2). The record contains the following:

> A traffic impact statement and circulation plan, detailing the proposed traffic circulation patterns are shown on the special exception site plan. The current configuration of the site allows for one point of vehicle access, along Springfield Road. Per the approved transportation scoping agreement, traffic counts at the site access point and Springfield Road, as well as traffic counts at the intersection of Lanham-Severn Road and Springfield Road, are required to determine adequacy. Staff and the applicant agree that further analysis related to vehicular adequacy will be evaluated at the time of PPS.
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> The applicant is proposing the use of private streets. The prior Zoning Ordinance and prior Subdivision Regulations require that each lot have frontage on, and direct access to, a public street, unless permitted pursuant to Subtitle 24, of the Subdivision Regulations. The use of private streets and the specific standards will be addressed at the time of PPS as it relates to the on-site traffic circulation patterns.

Technical Staff Report at 11, Statement of Justification, Site Plan, ZHE Exhibit 101, (12/13/2023, Tr., pp. 121-137). Therefore, Applicant has complied with PGCC § 27-395(a)(2).

Lastly, Aldags contend that the proposed planned retirement community is not compatible and is detrimental to the immediate neighborhood and local area. Exception 6. A special exception, sometimes called a "conditional use," is a zoning device that provides a middle ground between permitted and prohibited uses. It allows the local legislature to set some uses as *prima facie* compatible for a given zone, subject to a case-by-case evaluation to determine whether the use would result in an adverse effect on the neighborhood (other than any adverse effect inherent in that use within the zone), such that would make the use actually incompatible. Because special

exceptions are created legislatively, they are presumed to be correct and an appropriate exercise of the police power.[6] *Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co*., 444 Md. 490, 514-515, 120 A.3d 677, 690-691 (2015).

In *Schultz v. Pritts*, 291 Md. 1, 15, 432 A.2d 1319, 1327 (1981), the Court of Appeals described the required analysis for special exceptions as follows:

> These cases establish that 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 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. Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular-use proposed at the particular-location proposed would have any adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

In subsequent cases, the Court of Appeals explained that the *Schultz* comparison for special exception does not entail a comparative geographical analysis which weighs the impact at the proposed site against the impact the proposed use would have at all other sites within the zone. *People's Counsel for Balt. Cnty. v. Loyola Coll. in Md*., 406 Md. 54, 100, 956 A.2d 166, 194 (2008). Rather, this comparison "is focused entirely on the neighborhood involved in each case." Id. at 102. Accordingly, even though a special exception use may have some adverse effects on the surrounding area, "the legislative determination necessarily is that the use conceptually [is] 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

[6] The Land Use Article defines a special exception as a specific use that 1) would not be appropriate generally or without restriction; and 2) shall be based on a finding that i) the requirements of the zoning law governing the special exception on the subject property are satisfied; and ii) the use on the subject property is consistent with the plan and is compatible with the existing neighborhood. Md. Code Ann., Land Use Article (LU), § 1-101(p) (1957, 2012 Repl. Vol., 2024 Supp.).

[zoning agency] that actual incompatibility would occur." Id. at 106.

In *Loyola*, the Court of Appeals concluded its analysis of the *Schultz* test as follows:

> With this understanding of the legislative process (the "presumptive finding") in mind, the otherwise problematic language in *Schultz* makes perfect sense. The language is a backwards-looking reference to the legislative "presumptive finding" in the first instance made when the particular use was made a special exception use in the zoning ordinance. It is not a part of the required analysis to be made in the review process for each special exception application. It is a point of reference explication only. Id. at 106-07.

More recently, the Court of Appeals explained that '"[i]f [the applicant] shows…that the proposed use would be conducted without real detriment to the neighborhood…[the applicant] has met his burden."' Once the applicant meets this threshold, the local zoning board will "ascertain in each case the adverse effects that the proposed use would have on the specific, actual surrounding area." *Montgomery County v. Butler*, 417 Md. 271, 305, 9 A.3d 824 (2010), (quoting *Schultz*, *supra*, 291 Md. at 11)). And '"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 functioning of the comprehensive plan, a denial of an application for a special exception is arbitrary, capricious and illegal.'" *Loyola*, *supra*, 406 Md. at 83 (quoting *Turner v. Hammond*, 270 Md. 41, 55, 310 A.2d 543, 551 (1973)). *See also* ZHE Remand Decision at 51-56. Among other things, the Examiner founds as follows:

> The approval of the Special Exception must satisfy Sections 27-317 and 27-395 of the prior Edition of the Zoning Ordinance, and the test in Schultz v. Pritts and its progeny, discussed above. The majority of the applicable provisions of Section 27-395 are satisfied, if the requirement for a variance is satisfied (as discussed below). The record indicates that the use will serve the needs of the retirement-aged community since the proposed homes are attractively and compactly designed, allowing the residents to access all essential living uses on the first floor and minimizing the need to worry about large lawns; and there will be opportunities to socialize with others within the compact community and to exercise and otherwise enjoy the outdoors. (Section 27-395 (a)(1)(A)(i)).
>
> While some in the neighborhood disagree, the District Council has determined that this denser use is permitted in the area by virtue of its allowing the use within the

RR Zone; it is designed to avoid impact to the environmental features; the architecture is compatible with the existing homes nearby; and the homes most visible to the homes across Springfield Road will be buffered and fenced to reduce visibility. (Section 27-395 (a)(1)(A)(ii)). The use will not be located within the R-A Zone. (Section 27-395(a)(1)(A)(iii)). The Special Exception Site Plan includes a single access and will provide private streets, and most of the development regulations for the site. (Sections 27-395 (a)(2)(A) and (a)(3)(A)). Section 27-395(a)(3)(B) will be addressed if the variance is approved. Section 27-395 (a)(3)(C) is met since Applicant does not propose more than eight (8) dwelling units per gross tract acre. Sections 27-395 (a)(3)(D)-(F) are inapplicable.

The Planned Retirement Community includes an outdoor meeting area, walking trails, and some outdoor exercise stations, with conditions to add more amenities; if approved, these facilities will be required to be constructed prior to or concurrent with the attached homes. (Section 27-395 (a)(4)(A)). Applicant is not providing any retail commercial uses, medical/health care uses, or other uses that serve the needs of the community. (Section 27-395(a)(4)(B)). Covenants addressing age restrictions for the residents and recreational facilities were submitted; however, they do not include any language in the "Attachment A." This must be included for review and approval prior to the signature approval of the Special Exception. (Sections 27-395 (a)(5)(A) and (6)(A)).

The strictures in Section 27-317 are also met (once the variance and proposed conditions are addressed). The use can be found to be in harmony with the purposes of the Zoning Ordinance since the provision of senior housing will promote the public health, safety, morals, comfort, welfare, and convenience of a growing segment of the County and those who care for them); it can be found to implement the General Plan and Master Plans for the same reason; the attached dwellings will be constructed in accordance with the applicable building codes, fire protection codes, the Landscape Manual, Subtitle 14, and Subtitle 25, thereby ensuring adequate light, air, and privacy, the protection of landowners from adverse impacts, and the orderly growth and development of the County; these laws also ensure that there will be protection against undue noise, air and water pollution, and other adverse environmental impact; and provision of homes for the senior residents of the County will help ensure the social and economic stability of the County. (Sections 27-102(a)(1),(2), (3),(5)-(7),(11)-(14); Section 27-428(a)(1)(A), (C) and (D), and 27-317 (a)(1)).

Once the variance is addressed, one can find that the use is in conformance with all the applicable requirements/regulations of the Zoning Ordinance, for the reasons noted above. (Section 27-317(a)(2)) The proposed use will not impair the integrity of the 2022 Bowie-Mitchellville & Vicinity Master Plan since the District Council's approval of this use within the zone is prima facie evidence of its compatibility with the other uses in the zone; the Master Plan included a goal to ensure that additional housing options were available in established communities; and the number of dwellings (once the conditions of approval are addressed) will

> conform with the Master Plan's recommendation of Residential Low land use, defined as up to 3.5 dwelling units per acre, for the area. (Section 27-317 (a)(3)). The proposed use must satisfy all applicable provisions of the Zoning Ordinance and the County Code, and the District Council has determined that it is one presumed compatible with the adjacent properties and the general neighborhood; therefore it will not adversely affect the health, safety, or welfare of residents/workers in the area, nor be detrimental to the use or development of adjacent properties or the generally neighborhood. (Section 27-317 (a)(4)-(5)). Once the conditions are satisfied, the Site Plan will be in conformance with an approved Type 2 Tree Conservation Plan. (Section 27-317 (a)(6)). There is an approved Natural Resource Inventory for the site (NRI-069-2022), which shows the environmental features that must be protected; the four specimen trees that are the subject of the alternative compliance request are all located outside of the regulated environmental features. (Exhibit 3; Section 27-317(a)(7)). ZHE Remand Decision at 51-56.

Based on the record, the District Council finds that Applicant has met its burden that the proposed use would be conducted without real detriment to the neighborhood. The District Council also finds that 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 functioning of the comprehensive plan. Moreover, the District Council finds that there is no evidence adduced that actual incompatibility would occur and there is no evidence that the use at this location would have more of an adverse impact than it would if located elsewhere within the surrounding neighborhood and within the same zone. *Butler*, 417 Md. 271, 305, 9 A.3d 824 (2010), ZHE Remand Decision at 55.

F. Conclusion

The District Council finds that the proposed use will serve the needs of the retirement-aged community. PGCC § 27-395(a)(1)(A)(i). The proposed planned retirement community is providing a single-family attached dwelling use that will allow for home ownership within the proposed planned retirement community. The proposal will also provide a new housing option for senior residents in Prince George's County, in close proximity to non-age-restricted dwelling units and it aligns with the County's Comprehensive Housing Strategy, which seeks to support elderly

households and provide a diverse set of housing opportunities. Moreover, the property's sole single-family use is sufficient to support the needs of the retirement-aged community. Furthermore, the proposal allows for home ownership with recreational amenities that include a community pavilion, a community garden, a sitting plaza, and trails. Technical Staff Report, Statement of Justification, Site Plan, ZHE Remand Decision, ZHE Exhibits, ZHE Remand Exhibits, (12/12/2023, Tr.), (3/12/2025, Tr.), (5/7/2025, Tr.).[7]

The District Council also finds that the proposed use will not adversely affect the character of the surrounding residential community. PGCC § 27-395(a)(1)(A)(ii). When proposed site layout is reduced to 41-age-restricted single-family attached dwelling units (as opposed to 57), it will minimize the number of rear-facing single-family attached units along Springfield Road. Such a modified proposal will ensure that adequate landscape buffering is provided on-site to reduce the visual impact of the development. Applicant has submitted a Visibility Impact Exhibit, which demonstrates end units that will have high, moderate, or low visibility. Conditions of approval will include that all end units be considered moderately visible, which will provide architectural consistency since all end units will have full brick or other masonry material at least up to the water table. Moreover, a modified site layout of 41-age-restricted single-family attached dwelling units integrates into the fabric of the existing low-to-moderate-density residential community. Technical Staff Report, Statement of Justification, Site Plan, ZHE Remand Decision, ZHE Exhibits, ZHE Remand Exhibits, (12/12/2023, Tr.), (3/12/2025, Tr.), (5/7/2025, Tr.).[8]

[7] *See also* ZHE Remand Decision at 13-14 (finding, among other things, that the 2022 Bowie-Mitchellville and Vicinity Master Plan Master Plan and the General Plan addressed the public need for such a use).

[8] *See also* ZHE Remand Decision at 14 (finding, among other things, that the characteristics of the development, which minimizes the impact on the use and development of the surrounding residential community because the proposed development is designed to preserve the woodlands along the perimeter where regulated natural features exist; be oriented inwards to avoid imposing a different development character along the perimeter road frontage on Springfield Road).

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1: As expressly authorized by the Regional District Act within Titles 22 and 25 of the Land Use Article of the Annotated Code of Maryland, and Subtitle 27 of the Prince George's County Code, Special Exception 22002, Variance 22002, and Alternative Compliance 23008, in accordance with the disposition recommendation from the Zoning Hearing Examiner, to develop a Planned Retirement Community consisting of 41 aged-restricted single-family attached dwelling units on property zoned Rural Residential (RR), which is located approximately 390 feet southeast of the intersection of Lake Glen Drive and Springfield Road, at 8215 Springfield Road, Glenn Dale, Prince George's County, Council District 4, is hereby, APPROVED, subject to the following conditions:

1. Prior to certification of the Special Exception Site Plan, Applicant shall decrease the number of attached dwellings from 57 to 41 and make any necessary revisions (changes to Notes, Tables, lots, etc.) to reflect this lower figure. Additionally, the following revisions shall be made, or information shall be provided:

(a) Provide a bicycle lane along the subject property's entire frontage of Springfield Road, in accordance with the 2009 Master Plan of Transportation and the 2022 Bowie-Mitchellville and Vicinity Master Plan and Sectional Map Amendment, unless modified by the operating agency with written correspondence.

(b) Provide dimensions for all sidewalks and trails on-site on the Special Exception Site Plan. All sidewalks shall be at least 5 feet wide, unless modified by the operating agency with written correspondence.

(c) Provide the following notes on the Special Exception Site Plan and revise the representative architectural plans to demonstrate the following:

(1) "All dwelling units shall have front façades finished with a minimum of 60 percent brick or other masonry. The first floor of all front façades shall be finished with full brick or other masonry."

(2) "All single-family attached end walls shall feature, at a minimum, four points of architectural fenestration on the first floor, three points of architectural fenestration on the second floor, roof line detail, and shutters on all windows to provide a balanced and harmonious composition."

(3) "All highly visible single-family attached end walls, as shown on the Applicant's provided 'Visibility Exhibit,' shall be finished with full brick or other masonry on the first floor."

(4) "All moderately visible single-family attached end walls, as shown on the Applicant's 'Visibility Exhibit,' shall be finished with, at a minimum, full brick or other masonry up to the water table."

(d) Comply with all related fire hydrant regulations, in accordance with the National Fire Protection Association (NFPA)1, Chapter 18 standards.

(e) Obtain approval of a preliminary plan of subdivision and reflect the approved lotting pattern of the preliminary plan on the approved Special Exception Site Plan.
(f) Revise the development standards table on the Special Exception Site Plan to include the following:

(1) Provide accessory building development standards or note that the underlying zoning standards will apply to the special exception plan.

(g) Revise the project title on the provided draft covenants to be consistent with the Special Exception Site Plan.

(h) Provide site details for the proposed dog waste stations and demonstrate the locations of these dog waste stations on the Special Exception Site Plan.

(i) Demonstrate conformance to Section 27-395(a)(4)(A) by:

(1) Providing three exercise stations along the walking path.

(2) Providing additional on-site active recreational activities within, or adjacent to, the community gathering area.

(j) The Landscape Plan shall be revised as follows:

(1) Increase the minimum size of Section 4.1 and Section 4.10 trees (close to the street) from 2.5-3-inch caliper to 3-3.5-inch caliper.

(2) Correct Schedule 4.6-1(F), which identifies the linear feet of frontage as 179.7 feet, which is inconsistent with the landscape plans that identify this segment as 140.8 feet.

(3) Confirm that each proposed street tree meets the requirements for soil surface, pursuant to Section 4.10 (c)(10), or provide details of the alternative construction techniques that will be implemented to ensure survivability.

(4) Provide a shade tree, instead of an ornamental tree, between Lots 32 and 33, Block B, and in the side yard of Lot 29, Block B.

(5) Provide a shade tree (outside of the public utility easement) between Lots 54 and 55, Block C.

(6) Provide an ornamental tree (outside of the public utility easement) between Lots 46 and 47, Block C.

(7) On Sheet 1, correct the table to identify that Lot 43, Block B, needs alternative compliance, not Lot 42.

(8) Provide labels for the private roads.

(9) Reduce the plant unit requirement in Schedule 4.7-1 (B) by 50 percent since a 6-foot-high fence is included in the bufferyard.

(10) Revise the number of plantings in all landscape schedules to correspond with the plant schedule provided on Sheet 2 of the Landscape Plan.

(11) Round all plant requirements for all landscape schedules to whole numbers.

(12) Indicate the landscape schedules where alternative compliance is being requested.

(13) Provide the following General Notes on Sheet 1 of the Landscape Plan:

(a) Landscaping in front of the residential gateway signs will change seasonally.

(b) Plantings in the raised garden beds will be installed by residents.

(14) Revise the tree canopy coverage on-site woodland conservation acres provided, and non-woodland conservation acres provided, in conformance with the provided Type 2 tree conservation plan.

(15) Provide a column stating if the proposed planting is native or non-native, on the plant schedule, on Sheet 2 of the Landscape Plan.

(16) Label the lighting fixtures and fence on Sheet 2 of the Landscape Plan. Revise the lighting fixtures to be full cut-off.

(17) Provide site details for representative on-site furniture that will be utilized within the community pavilion, on Sheet 3.

(18) In addition to the Landscape Plan, provide a photometric plan demonstrating the lighting will consist of full cut-off fixtures that reduce spill-over into the surrounding community.

2. The Type 2 tree conservation plan (TCP2-017-2023) shall be revised, as follows:

(a) Label the proposed development features on the plan (raised garden beds, sitting plaza, etc.).

(b) Provide the following note under the specimen tree table, "This plan is in accordance with the following variance from the strict requirements of Subtitle 25 approved by the Prince George's County District Council with SE-22002 for the removal of Specimen Trees ST-1, ST-3, ST-9, and ST-10."

(c) Add a footnote to the specimen tree table for ST-8, providing the methodologies proposed to protect the critical root zone at pre-construction, during construction, and post construction.

(d) Provide the symbols in the legend for the sewer and associated easement(s), and all other features on the TCP2.

(e) Provide a planting schedule for each of the reforestation areas and area for landscape credits. The schedules shall include the quantity of plant material, common name, scientific name, size of plant material, and the spacing of plants.

(f) Add the Site Statistics Table and General Information Table from the approved Natural Resources Inventory (NRI).

(g) Correct errors in the TCP2 worksheet to accurately reflect the woodland conservation requirement, and how the requirement is being met.

(h) Prior to certification of the Type 2 tree conservation plan (TCP2-017-2023) for this site, documents for the required woodland conservation easements shall be prepared and submitted to the Environmental Planning Section, for review by the Office of Law and submission to the Prince George's County Land Records office 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, and 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 the acceptance of the preliminary plan of subdivision, the applicant shall:

(a) Provide a Pedestrian and Bikeway Facilities Plan and demonstrate the following:

(i) Provide a bicycle lane along the subject property's entire frontage of Springfield Road, in accordance with the 2009 Master Plan of Transportation and the 2022 Bowie-Mitchellville and Vicinity Master Plan and Sectional Map Amendment, unless modified by the operating agency, with written correspondence.

(ii) Provide dimensions for all sidewalks and trails on-site. All sidewalks shall be at least 5 feet wide, unless modified by the operating agency, with written correspondence.

(b) Provide a geotechnical report that includes a slope stability analysis for both unmitigated and mitigated conditions.

(c) Identify archaeological resources in the project area by conducting Phase I archaeological investigations.

4. Prior to the approval of the final plat, the applicant shall:

(a) Provide a plan for evaluating the resource at the Phase II level, or avoiding and preserving the resource in place, if it is determined upon receipt of the Phase I report by the Prince George's County Planning Department that potentially significant archeological resources exist on the subject property.

(b) In accordance with Section 27-395(a) (5)(A) of the Prince George's County Zoning Ordinance, the applicant shall provide age-restricted covenants, in conformance with the Federal Fair Housing Act, and the covenants shall be approved by the Prince George's County District Council and filed in the land records of Prince George's County prior to record plat. The liber and folio of the covenants shall be reflected on the final plat prior to recordation.

5. Prior to issuance of the first permit, revise the stormwater management technical plan to match the layout of the special exception site plan and the Type 2 tree conservation plan.

6. Prior to issuance of any permit that impacts wetlands, wetland buffers, and streams, or waters of the United States, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions were complied with, and associated mitigation plans.

7. Prior to any ground disturbance or the approval of any grading permits, the applicant shall:

(a) Provide a final report detailing the Phase Il and/or Phase Ill investigations and ensure that all artifacts are curated in a proper manner if a Phase II and/or Phase III archeological evaluation or mitigation is necessary.

[NOTE: The Special Exception Site Plan and Landscape Plan are Exhibit 65; TCP 2-017-2023 is Exhibit 74].

SECTION 2: This Ordinance shall take effect on the date of its enactment.

ENACTED this 17th day of November 2025, by the following vote:

In Favor: Council Members Adams-Stafford, Blegay, Burroughs, Dernoga, Harrison, Ivey, Olson, and Watson.

Opposed:

Abstained:

Absent: Council Members Fisher, Hawkins and Oriadha.

Vote: 8-0.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND, SITTING AS THE DISTRICT COUNCIL FOR THAT PART OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY, MARYLAND

By: _____
Edward P. Burroughs, III, Chair

ATTEST:

_____
Donna J. Brown
Clerk of the Council