



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Special Exception Application No. 4489

Application	General Data
Project Name: Angel Assisted Living Location: South side of Hickory Hill Avenue, approximately 1,200 feet west of Cipriano Road, known as 8919 Hickory Hill Avenue. Applicant/Address: Angel Assisted Living 8919 Hickory Hill Avenue Lanham, Maryland 20706	Date Accepted: 3/24/04
	Planning Board Action Limit: N/A
	Plan Acreage: 0.74
	Zone: R-80
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 70
	Tier: Developing
	Council District: 03
	Municipality: N/A
	200-Scale Base Map: 208NE07

Purpose of Application	Notice Dates
Congregate Living Facility	Adjoining Property Owners Previous Parties of Record Registered Associations: 1/8/04 (CB-12-2003)
	Sign(s) Posted on Site: N/A

Staff Recommendation		Staff Reviewer: Catherine H. Wallace	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

May 31, 2005

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Special Exception Application No. 4489**

REQUEST: Congregate living facility for 16 residents

RECOMMENDATION: **DENIAL**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. **Location and Field Inspection:** The subject site is located on the south side of Hickory Hill Avenue, approximately 1,200 feet west of Cipriano Road. The site is an elongated rectangular lot, 3/4 of an acre in size. It is developed with a 1-1/2-story brick house with a basement. The front yard is largely paved with a circular driveway and space for four parking spaces. The driveway continues along the west property line to a parking pad to the rear of the house. A number of shade trees are located in the back yard and the rear of the lot is wooded. Several holly trees and an oak tree are located in the front yard. Two deciduous trees and an evergreen tree are located near the street; however, these are within the ultimate right-of-way for Hickory Hill Avenue. Stone planters are located directly in front of the house.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-80	R-80
Use(s)	Congregate (assisted) living facility for 8 persons	Congregate (assisted) living facility for up to 16 persons
Acreage	.75	.75
Square Footage/GFA	4,295 sq. ft.	4,295 sq. ft.

- C. **History:** The property has been in the R-80 Zone since prior to the 1993 Glenn Dale-Seabrook-Lanham sectional map amendment. The property was used as a single-family residence and was also used as a church prior to its current use as a congregate living facility for the elderly for up to eight persons.
- D. **Master Plan Recommendation:** The Glenn Dale-Seabrook-Lanham master plan recommends suburban residential uses at 2.7 to 3.5 dwelling units per acre for the subject property. The 2002 General Plan places the site in the Developing Tier. The General Plan vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.
- E. **Request:** The applicant requests permission to expand congregate living facility services to up to 16 elderly residents. The applicant has operated a congregate (assisted) living facility on the site since 1999. The site is currently home to up to eight elderly residents. The Zoning Ordinance permits a congregate living facility for up to eight elderly or disabled residents by right in the R-80 Zone. The facility is licensed by the Maryland Department of Health and Mental Hygiene. The Zoning Ordinance requires a special exception for a facility for over eight residents. The requested use will not require the addition of living space to the building. A slight increase in the driveway width is proposed near the street.
- F. **Neighborhood and Surrounding Uses:** The property is surrounded by single-family residential uses in the R-80 and R-55 Zones.
- G. **Specific Special Exception Requirements:**

Sec. 27-344. Congregate living facility.

- (a) **A congregate living facility for more than eight (8) elderly or physically handicapped residents, as defined by Section 12-168(a) of this Code, may be permitted, subject to the following:**

- (1) **There is a demonstrated need for the facility;**

The term “need” in the context of special exceptions has been interpreted by the Maryland courts to mean “expedient, reasonably convenient and useful to the public.” It does not mean absolutely necessary, and a great deal of discretion is given to the local governing body in applying the facts of each case to this requirement.

The applicant has submitted data showing the increase in elderly residents in Prince George's County. The following April 28, 2005, referral reply from the M-NCPPC Information Center indicates the difficulty in establishing a need for the facility:

I have reviewed the need analysis for the proposed expansion of the Angel Assisted Living Facility from 8 to 16 residents, SE-4489. This memorandum summarizes the major concerns staff has identified in the applicant's need analysis. The applicant concludes that there is an unmet demand for low-income assisted living beds in Prince George's County. The need analysis is primarily based on unsubstantiated statements and observations from the applicant and 2000 census data showing an increase in the 55+ population in Prince George's County.

In the applicant's first submission dated March 24, 2004, an attempt was made to demonstrate a need by noting a Washington Post article dated April 27, 2000. The article is approximately five years old and mentions nothing about elderly housing in Prince George's County. The counties discussed in the article consist of Charles, Calvert and St. Mary's. Furthermore, the only mention of an assisted living facility involves the Southwinds Retirement Housing Complex project in Charles County where “The rent in the assisted living building, which includes full services and meals, will be roughly \$2,500 to \$3,000 a month.” Such a facility would not be affordable to the low/moderate-income elderly that the applicant is proposing to serve. Not only is the article dated, it does not contain any information regarding need in Prince George's County for affordable assisted living facilities.

The applicant states “every week the applicant receives calls from the Maryland Department of Aging and the Prince George's County Department of Family Services with inquiries regarding vacancies.” However, no documentation such as a phone log or letters from the above-mentioned agencies confirming their repeated inquiries were presented. Documentation of such requests for services would be appropriate in proving a need.

Another indication of need cited by the applicant is, “The need for this facility is further demonstrated by the 1999 Report on Senior Citizens Housing & Services in Prince George's County.” The applicant included the title page and table of contents for the document that contained no specific mention of an additional need for low/moderate-income assisted living facilities. If the report does contain such information, it is incumbent upon the applicant to submit the corresponding pages on which such a need is demonstrated. It should also be noted that this report is over six years old.

In response to a request for additional documented data proving a need, the applicant submitted a supplemental statement of justification dated December 14, 2004, addressing the need requirement. The supplemental statement says, "In 1990, HUD determined that an estimated 2,478 low-income senior citizen units were needed in Prince George's County. Over the past 10 years, only 210 such units have been added to the market. Consequently, the applicant's expansion of the subject property would fulfill the currently unmet need for additional affordable housing opportunities." No source is cited for the 210 units that were built within the past 10 years, and the HUD study does not apparently differentiate what type of units are included in the 2,478 units. There are at least four types of lower-income senior facilities including active adult, independent living, assisted living (applicant's facility), and skilled nursing facilities. Staff would need to know how many of the 2,478 units cited by HUD fall into the assisted living category to accurately assess need. Furthermore, the source for the 210 units built during the last 10 years needs to be cited so it can be verified.

Once again the applicant cites the numerous referrals for vacancies she receives from the Maryland Department of Aging and the Department of Social Services (originally identified as the Prince George's County Department of Family Services) but offers no documentation of said referrals. Another justification offered is that the additional beds are needed to provide services to the developmentally disabled. It is unclear in the justification if developmentally disabled persons in this context refer to only elderly developmentally disabled. No figures on the developmentally disabled population in the county are offered. The argument is then made that "The applicant's services are particularly needed by the lower income aged population and the developmentally disabled population." The applicant does not provide any data on the total population of lower-income aged or developmentally disabled persons and the number of beds currently being provided for such individuals.

On March 21, 2005, the applicant submitted another supplemental statement of justification providing a need analysis that expands on some of the previous justifications and provides additional census data. This supplemental statement provides additional 2000 census data showing the growth in the 55 and over and 65 and over populations in Prince George's County. No effort is made to determine what percentage of the elderly population is low/moderate income and requires an assisted living facility. The applicant states, "The significant increase in the aged population in the county must be met with an increase in high quality senior housing." Simply implying that since the 55+ population in Prince George's County has increased and therefore additional assisted living units are required ignores a number of variables that could have an impact on the actual number of elderly persons in need of low/moderate-income assisted living facilities and completely ignores the supply of units available for persons requiring low/moderate-income assisted living facilities.

In the second paragraph on page 4 of the need analysis, the applicant states, "Of further import, twelve of the thirteen licensed assisted living facilities in Prince George's County have eight or fewer residents, and serve a total of 72 elderly residents." Staff has found approximately 141 licensed assisted living facilities in Prince George's County with eight or fewer beds (similar to applicant's facility). There are an additional 14 licensed assisted living facilities with nine or more residents in Prince George's County. There are an additional 112 unlicensed facilities in Prince George's County.

Provided below is a summary of staff's major findings regarding the applicant's need

analysis:

- No documentation of referral requests from the Maryland Department of Aging and Prince George's County Department of Family Services.
- Washington Post article dated April 27, 2000, discusses senior housing in Charles, Calvert, and St. Mary's Counties, not Prince George's County.
- Applicant states, "The need for this facility is further demonstrated by the 1999 Report on Senior Citizens Housing & Services in Prince George's County," but only supplies the title page and table of contents of the report.
- 2000 census data is supplied showing an increase in the county's 55+ population, however, no analysis is provided to substantiate the demand and supply for assisted living beds.

Based on these findings, while accepting all of the other assumptions (some of which are also unsupported) presented by the applicant, staff does not believe that the applicant has successfully demonstrated a need for the proposed expansion.

It should be noted that staff would readily consider documentation of referral requests from the Maryland Department of Aging and Prince George's County Department of Family Services and a written statement from either agency documenting an excess demand for low/moderate-income assisted living facilities in Prince George's County relative to supply. An indication of the level of this shortage should be included in this statement.

To further support a determination of need, the applicant may submit a need analysis for assisted living beds in the Lanham-Seabrook area that utilizes typical market analysis methodology. A need analysis for assisted living facility should follow the basic outline provided below:

- Define and justify a reasonable market area (a primary and secondary market area may be designated) for the facility from which the majority of potential clients will be drawn.
- Quantify the elderly population by age cohort for the market area.
- Estimate the number of elderly in each age cohort who meet low/moderate-income requirements.
- Calculate the percent/number of low/moderate-income elderly in each age cohort that are likely to need assistance with activities of daily living (ADLs).
- Out of the number of low/moderate-income elderly needing assistance with ADLs, estimate the potential demand for assisted living beds.
- Compare potential demand for assisted living beds with the existing number of beds available in the defined market area.
- If the potential demand is higher than the existing number of beds available in the

defined market area this result indicates a need for additional beds.

Staff discussed these issues with the applicant and suggested additional methods of determining need. Essentially, to show need, the applicant needs to demonstrate how many elderly residents have needs that require assisted living services and how those needs are currently not met. One way to do this would be to survey similar facilities in the area and determine the vacancy rate. This analysis would not include larger facilities that are often financially out of reach for many clients. The applicant has carried out a telephone survey of nine assisted living facilities in the zip code area. The resulting data indicates, however, that there is up to a 20 percent vacancy rate for these facilities. Given this information, it is difficult for staff to determine that there is currently a need to expand the services at the subject site. Should additional information become available, staff would be in a position to recommend approval of this application.

- (2) **The facility is in compliance with the physical requirements of Subtitle 12, Division 7, of this Code, and shall be operated in accordance with the licensing and other requirements of that Subtitle; and**
- (3) **There shall be a separate bedroom of a minimum of one hundred (100) square feet for each resident, or a separate bedroom of a minimum of one hundred and sixty (160) square feet for every two residents, or any combination of the above, so as to satisfy the accommodations requirements of the "Regulations for Congregate Living Facilities" (required by Section 12-173(d) of this Code), for the maximum number of permitted residents.**

The applicant does not intend any alterations to the exterior of the building but proposes to modify the interior floor area of the building to comply with the regulations of the Maryland Department of Health and Mental Hygiene. The floor plans show that the facility will comply with the minimum bedroom sizes.

- H. **Parking Regulations:** The site plan was revised in May 2004 to address the comments of the Permit Review Section. The revised plan meets the parking regulations of the Zoning Ordinance. The proposed use requires four parking spaces including one space for the handicapped.
- I. **Landscape Manual Requirements:** The proposed use is considered exempt from the landscaping, screening, and buffering requirements of the Landscape Manual per Section 27-328.01 of the Zoning Ordinance because no additional square footage is proposed. The District Council may, however, require additional landscaping to assure compatibility with the surrounding uses. The front yard has relatively little opportunity for landscaping due to the circular driveway and parking areas already in place. With the exception of a minor widening of the entranceways, the front yard will not change as a result of this special exception approval.

A landscape strip with an evergreen tree and two shade trees is currently located between the circular driveway and the street. These trees, combined with the downward slope of the property from the street line, soften the impact of the driveway and parking area on the visual appearance of the property. However, it is noted that these trees are located in an area that is within the ultimate right-of-way for Hickory Hill Avenue. This block of Hickory Hill Avenue, like other parts of the neighborhood, combines old rural sections of roadway with urban sections, including curbs and gutters. Should the section adjoining the subject property be upgraded to urban standards or any

widening occur, the trees in the landscape strip should be relocated or replaced in that part of the landscape strip outside the right-of-way.

- J. **Zone Standards:** The proposed use meets the requirements of the R-80 Zone for setbacks, lot coverage, and height. The site plan legend must be corrected to show that the permitted lot coverage for nonresidential uses is 60 percent. (The lot coverage for the proposed use is 19 percent.)
- K. **Sign Regulations:** The site plan does not indicate the location of any freestanding sign.
- L. **Required Findings:**

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

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

The purposes of the Zoning Ordinance are many and varied; however, they can best be summed up as promoting the health, safety, and welfare of county residents by providing for the orderly growth and development of the county and promoting the most beneficial relationship between the uses of land and buildings. The proposed use and site plan will provide for the orderly growth of the county by providing opportunities for elderly residents to remain near their families in a residential setting, but only if the need for this facility can be documented.

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.

The proposed use meets the requirements of the Zoning Ordinance as indicated above.

(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 Map Plan, the General Plan.

The proposed use will not substantially impair the integrity of the Glenn Dale-Seabrook-Lanham master plan. The master plan presumes the compatibility of special exception uses in the zones in which they are permitted, absent specific findings to the contrary. The Community Planning Division provides the following comments:

“The master plan includes a guideline (page 63) that is applicable to this application. It states, ‘Living Areas should include appropriate sites for senior citizen housing and related facilities in locations which can provide a human scale through adequate outdoor space, and can be serviced by social and welfare programs. Ideally they should be located at sites that can provide convenient connections to shops, public transportation and other needs of the elderly. The best options are in the immediate vicinity of recommended activity center shopping areas.’ The proposed use is not at an activity center location but is in the middle of a single-family detached neighborhood. Despite this apparent contrast to the master plan’s suggested location, it appears to be functioning adequately in that there is a demand for its expansion.”

The proposed request will permit the applicant to serve more elderly residents in a location that can provide a human scale and opportunities to enjoy a peaceful residential setting. The size of the

facility will not be increased but is sufficient to meet the needs of 16 residents. If the need for this facility can be established, this would seem to conform to the master plan guideline for facilities related to the needs of area seniors.

(4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.

The referral replies from the M-NCPPC Historic Preservation and Public Facilities Planning and the Transportation Planning Sections, the Prince George's County Department of Public Works and Transportation and the Fire/EMS Department indicate that the expansion of services at this facility to 16 residents can be accomplished without adversely affecting the health, safety, or welfare of residents in the area.

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

The Community Planning Division referral reply notes that:

“The master plan includes a recommendation (page 60) that infill development shall be in keeping with the prevalent neighborhood character. While the subject application is not proposing infill development; the intent of this recommendation is appropriate to apply to an application where the site design is altered to accommodate the use. This is particularly true when the site is located in a single-family detached neighborhood.”

The comments go on to note some concern about the extensive paved surfaces in the front yard, which may not be in keeping with the prevailing residential character of the neighborhood of front lawns and driveways. At the time of the staff field inspection, it was noted that the front yard is already paved with a circular driveway and the space for four parking spaces. The slope of the land away from the street and the presence of two mature shade trees and a smaller evergreen tree along the street soften the impact of the paving. However, these trees are within the right-of-way for Hickory Hill Avenue and they should be relocated or replaced if this section of Hickory Hill Avenue is upgraded to include curb, gutter and sidewalks.

In general, congregate living facilities for the elderly are compatible neighbors that generate little noise or traffic to impact upon a residential neighborhood. Staff thinks the proposed use can be accommodated on the site with little change to its existing character and will not be detrimental to the use of adjacent properties or the general neighborhood.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

According to the M-NCPPC Environmental Planning Section, this property is not subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site contains less than 40,000 square feet of woodland and does not have a previously approved Tree Conservation Plan, per a February 9, 2004, letter of exemption.

CONCLUSION:

Based upon the above findings, Special Exception Application No. 4489 is recommended for **DENIAL**.

