



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

SPECIAL EXCEPTION

SE-4569

Application	General Data
Project Name: BOWIE ASSISTED LIVING, INC. Location: SOUTHEAST SIDE OF LANHAM SEVERN RD, APPROXIMATELY 550 LINEAR FEET NORTH OF DRISCOLL ROAD Applicant/Address: HOWARD & TATJANA ALDAG 120001 LANHAM SEVERN ROAD BOWIE, MARYLAND 20720	Date Accepted: 4/12/2007
	Planning Board Action Limit: N/A
	Plan Acreage: 2.26
	Zone: R-R
	Dwelling Units: N/A
	Square Footage: 5,498
	Planning Area: 71A
	Tier: Developing
	Council District: 04
	Municipality: N/A
	200-Scale Base Map: 210NE11

Purpose of Application	Notice Dates
CONGREGATE LIVING FACILITY/ INCREASE FROM 8 TO 16 PEOPLE.	Adjoining Property Owners Previous Parties of Record Registered Associations: 1/12/2007 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: N/A

Staff Recommendation		Staff Reviewer: CYNTHIA FENTON	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

October 4, 2007

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: Cynthia Fenton, Planner Coordinator

SUBJECT: **Special Exception Application No. 4569**

REQUEST: Congregate living facility for 16 residents

RECOMMENDATION: **APPROVAL**

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 southeast side of Lanham Severn Road approximately 750 feet east of the Hillmeade Road (MD 193) intersection. The site is an elongated rectangular lot, over two and a quarter acres in size. Access to the property is provided via a 30-foot-wide gravel driveway that connects to Lanham Severn Road. The site is developed with a one-story brick structure with an attached two-car garage. The garage is currently used for storage. Ten parking spaces, including one handicapped space, are provided. The house has nine bedrooms ranging in size from 128 square feet to 344 square feet and seven bathrooms. The front yard directly in front of the dwelling is largely paved; this developed area generally makes up the northwest portion of the site which is surrounded on the east and south by a large grassed area. The back of the property contains approximately 24,000 square feet of existing woodland. The only trees on the property are two mature Maples in the northeast portion of the site.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Congregate (assisted) living facility for 8 persons	Congregate (assisted) living facility for 16 persons
Acreage	2.26	2.26
Square Footage/GFA	5,498 sq. ft.	5,498 sq. ft.

- C. **History:** The 2006 *Approved Master Plan for Bowie and Vicinity Sectional Map Amendment* retained the property in the R-R Zone. The property was used as a single-family residence and then expanded to 5,598 square feet for a music recording studio prior to its current use as a congregate living facility. The site has operated as a congregate living facility since 2001.
- D. **Master Plan Recommendation:** The Bowie and Vicinity Master Plan recommends residential low density land use 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 seeks special exception approval to expand an existing congregate living facility from 8 to 16 elderly residents. The applicant has operated a congregate living facility, referred to as Bowie Assisted Living, on the premises since 2001. The Zoning Ordinance permits a congregate living facility for up to eight elderly or disabled residents by right in the R-R Zone. A special exception is required for a congregate living facility housing over eight residents. The requested use will not require an addition or expansion to the building. The applicant has indicated that the existing two-car garage may be converted to living space at an indeterminate future date; however, there are no such plans included in the current application.
- F. **Neighborhood and Surrounding Uses:** The property is surrounded to the north, east and west by single-family residential uses in the R-R Zone. Further west is the New Song Bible Fellowship

Church. To the south, the property is bordered by the Pennsylvania Railroad and further south, by Northridge townhouses and single family detached homes in the R-S Zone.

The neighborhood is defined by the following boundaries:

North—Duckettown Road

South—Pennsylvania Railroad

East—Weed Street/Brady Avenue

West—Springfield Road

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 Zoning Ordinance distinguishes a congregate living facility from an assisted living facility by the number of residents it serves. A congregate living facility houses 4 to 20 residents. An assisted living facility cares for 20 or more residents. The services they provide are the same: living and sleeping facilities; meal preparation; laundry services; housekeeping; personal observation and transportation to routine social and medical appointments, and the availability of a responsible adult for companionship and non-clinical counseling. The applicant is seeking to expand an existing use that meets the definition of a congregate living facility.

Staff finds that the applicant has demonstrated there is a 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” rather than absolutely necessary or essential. The proposal represents an expansion to an existing use that has operated successfully since 2001. The applicant has submitted sworn affidavits demonstrating that the existing facility is convenient, safe, and provides a useful service within the greater Bowie community by filling a particular need for clients who require more personal attention. Because the facility is small, it is more affordable for those with lower incomes.

In a memorandum dated September 26, 2007, the Research Section noted the applicant’s statement of justification “does not qualify as a strict needs analysis” but recognized that, according to the Prince George’s County Senior Living Market Study, “the elderly population will continue to increase for at least the next decade and so will the demand for senior housing.” The Research Section concurred with the applicant’s assessment that the proposed expansion meets the courts’ definition of need.

In addition to excerpts from the above study, the applicant submitted evidence referencing the Prince George’s County’s 2006-2010 Consolidated Plan and other data from which it can be reasonably concluded that there is a deficiency in the market for the type of facility provided by the applicant. The proposed request will permit the applicant to serve a greater number of elderly

residents in an intimate, home-like environment in a location that provides a peaceful residential setting.

- (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 has indicated that the facility will meet all of the applicable requirements of State and County Ordinances, the requirements of Subtitle 12, Division 7, of this Code, and that it will operate in accordance with the licensing and other requirements of that Subtitle. Staff notes however, that Division 7 of Subtitle 12 is reserved, and that the adopted state regulations governing assisted living facilities are found in Division 8, Section 32-177. Notwithstanding, the facility cannot be licensed by the State unless it complies with their regulations. No alterations to the exterior of the building are proposed, but the applicant indicates they intend to modify the interior floor area of the building to comply with the regulations of the Maryland Department of Health and Mental Hygiene. The facility is currently licensed by, and is in good standing with, that agency.

Bowie Assisted Living currently contains nine bedrooms, ranging in size from 128 square feet to 344 square feet. The state requires a single occupancy bedroom to contain a minimum of 80 square feet and a double occupancy room to contain a minimum of 120 square feet. By this measure the facility could house up to 18 residents as all the rooms are over 120 square feet. However, the Prince George's County Zoning Ordinance requires a single room to contain no less than 100 square feet and a double room no less than 160 square feet. This translates into three single and six double rooms in the existing space, for a total of 15 residents. Because the state regulation governing bedroom sizes is less restrictive than the county's regulation, the county standard prevails. For this reason staff can only recommend approval of the proposed special exception for up to 15 residents. The site plan notes must be revised to indicate the number of single and double occupancy bedrooms and the maximum number of residents permitted.

- H. **Parking Regulations:** The site plan complies with the parking requirements of the Zoning Ordinance. The proposed use requires five parking spaces (one space for every three residents) including one space for the handicapped. The site plan shows that 10 parking spaces, including a handicapped space, are provided.
- 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 rear yard contains 24,000 square feet of existing woodland, which provides a buffer approximately 160 feet deep from the abutting railroad line. The house is set back 242 feet from the rear property line. Attractive landscaped flower beds are provided along both sides of the driveway creating a pleasant entrance feature.

- J. **Zone Standards:** The proposed use meets the requirements of the R-R Zone for setbacks, lot coverage, and height. The site plan notes should be revised to show that the maximum lot coverage for other permitted uses (which includes congregate living facilities) in the R-R Zone is 60 percent. The existing lot coverage for the subject property, which is not proposed to be increased, is 12.75 percent.
- K. **Sign Regulations:** The site plan indicates the location of one freestanding sign at the entrance to the property is in conformance with Zoning Ordinance requirements. A sign permit may be required.
- 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 may be summarized as promoting the health, safety, and welfare of county residents by providing for orderly growth and development and promoting the most beneficial relationship between land uses and buildings. The proposed use and accompanying site plan will be in harmony with the purposes of this subtitle. The applicant is providing for orderly growth by expanding an existing use that serves the growing elderly population in a quiet, comfortable environment that allow them to remain close to their families. The use is located on a generous-sized lot, and it 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 proposed use and adjacent properties.

During the field inspection, staff noted that no shade was provided for the outdoor seating areas in either the front or rear yard of the facility. The provision of an outdoor shaded area is not a requirement for a congregate living facility; however, staff requests that the applicant consider providing some sort of shelter for the residents to further provide for their comfort when they are outside.

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

With the recommended conditions, the proposed use will meet 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 Bowie and Vicinity 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 applicant is proposing to expand a residential use in a residential zone in accordance with the recommended land use and with the General Plan's vision of the Developing Tier. The Community Planning Division, in a memorandum dated June 1, 2007, did not find the senior housing guidelines contained with the master plan to be applicable, as it would be difficult to retrofit an existing facility to meet the

requirements of the guidelines. In addition, the facility is small, serving only 15 residents. It would therefore be impractical to impose the same requirements as for a much larger complex such as a planned retirement community.

The master plan designates Lanham Severn Road (MD 564) a bikeway/trail corridor. East of MD 193, including that area along the subject site's frontage, the roadway has been improved with wide asphalt shoulders and bicycle lane pavement striping. The proposal is in compliance with master plan recommendations and guidelines.

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

The size of the facility will not be increased but is sufficient to meet the needs of 15 residents. The referral replies received by staff indicate that the expansion of services at this facility will not adversely affect the health, safety, or welfare of residents in the area. The Transportation Section indicated that the site will generate 1 AM and 2 PM peak-hour trips, which will have no discernable impact upon the transportation system.

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

In general, congregate living facilities for the elderly are compatible neighbors that generate little noise or traffic. The City of Bowie did not have any comment with regard to the application. Staff finds 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, the property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because a Type II Tree Conservation Plan, TCPII/168/91, was previously approved for the site. The Environmental Section noted, in a memorandum dated May 18, 2007, that at the time the previous TCP was approved, 20 percent (or 19,689 square feet) of woodland preservation was required. The approved TCP included 25 percent (or 24,000 square feet) of woodland preservation located on the southern portion of the site. Although the existing tree line and tree preservation area remain unchanged from the approved plan, staff determined the existing tree line may have been measured incorrectly. The Environmental Planning Section therefore recommends the special exception site plan be revised according to the following:

- a. Add a new note #10 to the Special Exception Plat to read as follows:

"This property is subject to TCPII/168/91 which shows 24,000 square feet of woodland conservation on the southern portion of the property."
- b. Reevaluate the existing tree line and show it on the Special Exception Plat to reflect the accurate location (at 162 feet from the rear property line to the residential edge).

The Environmental Planning Section did not find that noise from the abutting railroad, which is episodic, was an issue with regard to the proposed use.

CONCLUSION:

Based upon the above findings, Special Exception Application No. 4569 is recommended for **APPROVAL** subject to the following conditions:

1. No more than 15 residents shall reside at the Bowie Assisted Living congregate living facility.
2. The site plan notes shall be revised to indicate the following:
 - a. The number of single and double occupancy bedrooms and the maximum number of residents (15) permitted.
 - b. That the maximum lot coverage for other permitted uses (which includes congregate living facilities) in the R-R Zone is 60 percent.
3. The site plan notes shall be revised to state the following:

“This property is subject to TCPII/168/91 which shows 24,000 square feet of woodland conservation on the southern portion of the property.”
4. Reevaluate the existing tree line and show it on the Special Exception Plat to reflect the accurate location (at 162 feet from the rear property line to the residential edge).
5. The applicant shall consider providing a conveniently located shaded area in either the front or rear yard of the congregate living facility to further provide for the comfort of the residents when they are outdoors.