



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

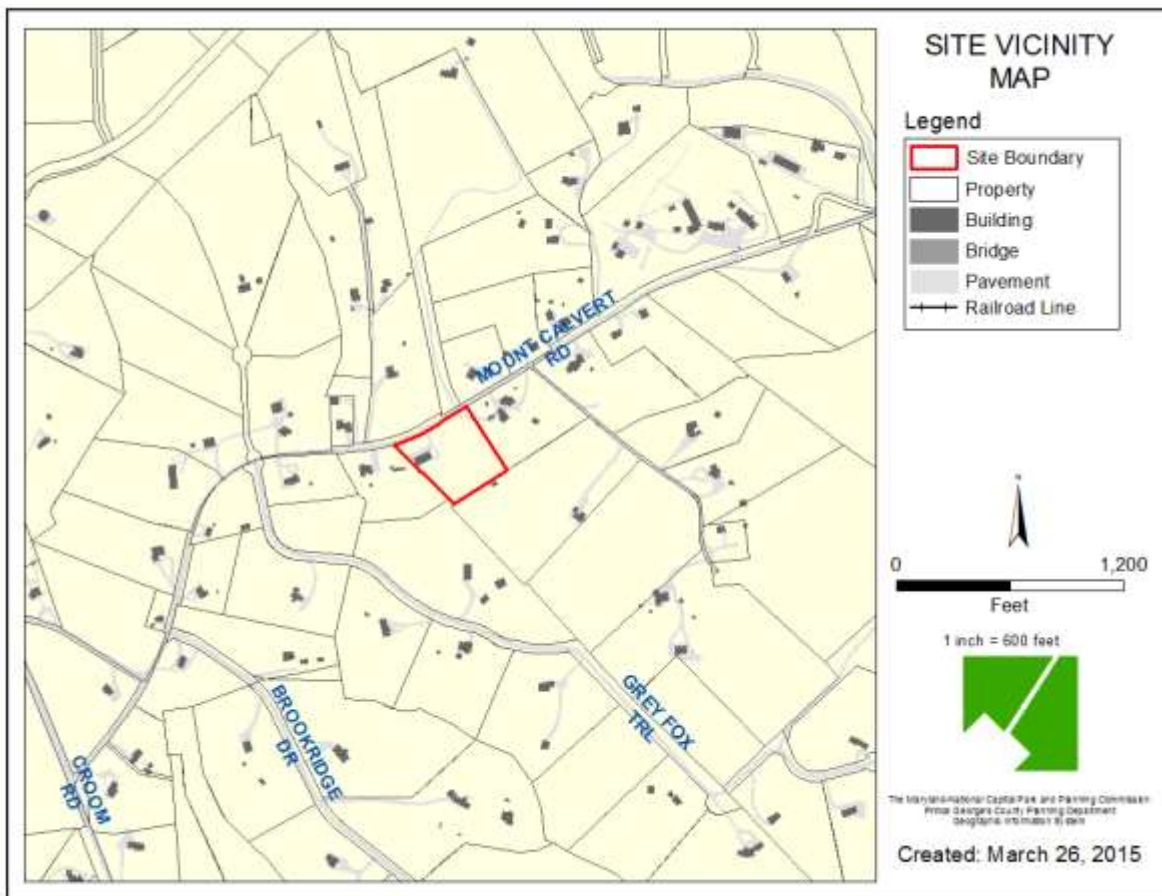
Special Exception

SE-4770

Application	General Data	
Project Name: Castles of Love Assisted Living Home, Inc. Location: South side of Mount Calvert Road, between Grey Fox Trail Road and Duvall Road Applicant/Address: Charlotte Branch 14711 Mount Calvert Road Upper Marlboro, MD 20772 Property Owner: Same as applicant	Planning Board Hearing Date:	12/01/16
	Staff Report Date:	11/01/16
	Date Accepted:	01/28/16
	Planning Board Action Limit:	06/15/16
	Plan Acreage:	3.15
	Zone:	O-S
	Gross Floor Area:	6,006 sq. ft.
	Parcels:	1
	Planning Area:	82B
	Council District:	09
	Election District	04
	Municipality:	N/A
	200-Scale Base Map:	211SE13

Purpose of Application	Notice Dates	
Special Exception for a 16-person congregate living facility (7 double-occupant units and two single-occupant units, in the O-S Zone). Variance from Section 27-442 for lot size requirement	Informational Mailing	04/17/15
	Acceptance Mailing:	12/09/15
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Ivy R. Thompson Phone Number: 301-952-4326 E-mail: Ivy.Thompson@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT

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

VIA: Jimi Jones, Supervisor, Zoning Review Section, Development Review Division

FROM: Ivy R. Thompson, Senior Planner, Zoning Review Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4770 with Variance from Section 27-442 for lot size requirement**

REQUEST: **Special Exception for a 16-person congregate living facility (7 double-occupant units and two single-occupant units, in the O-S Zone).**

RECOMMENDATION: **APPROVAL with conditions**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of December 01, 2016. 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 addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. 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 property is roughly trapezoidal in shape and consists of one parcel (P62) totaling approximately 3.15 acres located on the southern side of Mount Calvert Road in the Open-Space (O-S) Zone. Mount Calvert Road is a designated historic scenic road and a part of the Star Spangled Banner Scenic Byway and National Trail. Identified as 14711 Mount Calvert Road, between Grey Fox Trail Road and Duval Road, the property is improved with a 2,944-square-foot existing single-family detached dwelling. Access to the property is via a 12-foot-wide inverted horseshoe driveway entrance from Mount Calvert Road. The site has been used since 1996 as a congregate living facility for eight (8) persons, a permitted use in the Open-Space Residential (O-S) Zone.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	O-S	Unchanged
Use(s)	8 person congregate living facility	16-bed assisted living facility (7 double-occupant units and two single-occupant units)
Acreage	3.15	Unchanged
Parcels	1	Unchanged
Square Footage/GFA	2,944	Unchanged
Dwelling Units	1	Unchanged

- C. **History:** The applicant has operated a congregate living facility, referred to as Castles of Love Assisted Living Homes, on the premises since 1996 under Permit No. 1276-96-U for eight residents. In 1992, the property was conveyed as a result from a foreclosure proceeding pursuant to a 1988 Deed of Trust.

- D. **Master Plan Recommendation:**

General Plan: *Plan Prince George's 2035 Approved General Plan* designates this property as Rural and Agricultural and Parks and Open Space. The plan description for the Rural and Agricultural Land Use is "Low-density residential uses with areas of agricultural and forestry production. Agricultural land (cropland, pasture, farm fields), forest, and very low-density residential with a density per acre of less than 0.5."

Master Plan: The 2013 *Subregion 6 Approved Master Plan and Sectional Map Amendment* retained the subject property in the O-S Zone. The property is part of Planning Area 82B known as Mount Calvert-Nottingham the master plan land use map designates the property as rural.

- E. **Request:** The applicant is seeking approval of a Special Exception for a 16-person congregate living facility (7 double-occupant units and two single-occupant units, in the O-S Zone). The application is not proposing any additional square footage. The site plan does include a front porch and the proposed location of four parking spaces to accommodate the additional clients. According to the provisions of Section 27-441(b)(6) of the Zoning Ordinance, congregate living facilities are permitted by Special Exception in the O-S Zone. The applicant also requests a variance from Section 27-442, which stipulates lots in the O-S Zone are a minimum of five acres.

- F. **Neighborhood and Surrounding Uses:** The neighborhood is primarily residential in character and is developed with single-family detached residential homes in the O-S Zone, with the exception of the subject property. The neighborhood boundary is identified as:

North— Holly Tree Lane
East— Duvall Road
South— Croom Airport Road
West— Croom

- G. **Specific Special Exception Requirements:** The Zoning Ordinance permits a Congregate Living Facility in the Open-Space Zone by right, not to exceed eight residents. A special exception is required per 27-441(b)(7) for a congregate living facility for more than eight elderly or physically handicapped residents. Section 27-344, Congregate Living Facility, of the Zoning Ordinance states that “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;

Comment: In 2010, The Maryland-National Capital Park and Planning Commission (M-NCPPC) contracted ProMatura Group to conduct an analysis of the senior housing market in Prince George’s County. The conclusion was that as the elderly population increases in the County, so will the demand/need for senior housing. Since 1996, the applicant has provided living and sleeping facilities, meal preparation, laundry services, housekeeping, and personal observation, transportation to routine social and medical appointments, companionship and non-clinical counseling. The applicant must frequently turn away potential clients/residents due to the eight resident permit limitation. A waiting lot was provided as evidence of the deed for the facility. The applicant’s request for expansion will allow eight additional elderly residents to be served in an intimate, home-like environment, accessible to family 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

Comment: The facility will meet all the applicable requirements of the state and County Ordinances; and will operate in accordance with the licensing and other requirements as regulated. Division 7 of Subtitle 12 is reserved. Under subtitle 12 are adopted state regulations found in Division 8, Section 12-177 (COMAR 10.07.14).

(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.

Comment: The facility currently has nine bedrooms. Two, 100-square-foot, single occupancy bedrooms are located on the lower level. The remaining seven double occupancy bedrooms, range in

sizes between 160 square feet to 200 square feet. Three double occupancy bedrooms are located on the first floor and the remaining four are located in the basement.

- H. **Parking Regulations:** The proposed expanded use requires four parking spaces. Loading spaces are not required. The applicant is providing a total of four standard parking spaces. While the applicant does provide four parking spaces to fully comply with the parking requirements, the site plan must be corrected to comply with the American with Disabilities Act (ADA) regulations requiring a van-accessible parking space for the physically handicapped, dimensioned at 16 feet in width by 19 feet in in length.
- I. **Sign Regulations:** The site plan does not show any signs as part of an entrance feature. Section 27-617 of the Zoning Ordinance allows one sign per street with a maximum area of 48 square feet and the maximum height eight feet above finished grade at the base of the sign. The signs would be noted for conceptual purposes only; however, all proposed signs must be shown on the site plan. The details must be reviewed for conformance with the location, height, and area requirements of the sign regulations, prior to issuance of permits.
- J. **2010 Prince George's County Landscape Manual Requirements:** The proposed project is subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) as follows:
1. **Section 4.2, Requirements for Landscaped Strips along Streets**—The subject property only has frontage on one street, Mount Calvert Road, which is a designated historic roadway/scenic byway. Therefore, per Section 4.2(c)(1), the requirements of Section 4.6 supersede the requirements of this section.
 2. **Section 4.3, Parking Lot Requirements**—The development is proposing four parking spaces in the horseshoe. Per Section 4.3-1 of the Landscape Manual, interior plantings are not required because the parking area is less than 7,000 square feet. There is another parking area visible on aerial photos, but not noted on the site plan. This parking area will need to be shown on the site plan.
 3. **Section 4.4, Screening Requirements**—The applicant shows a six-foot-tall fence on the site plan, but it is unclear if this is proposed to meet the requirement that dumpsters and loading spaces be screened from adjacent public roads and residential properties or if this is to serve another purpose. Any proposed dumpsters and loading spaces require full enclosure. This will need to be shown on the site plan.

Section 4.4 of the Landscape Manual requires that access driveways and mechanical equipment, among other things be screened in certain instances. The access drives appear to be screened sufficiently from the surrounding residential properties by existing trees. It should be clarified whether or not a dumpster will be utilized on-site and if one is going to be utilized, the screening to be utilized should be specified. Is a six-foot-tall fence indicated in the middle of the site proposed for such screening? Additionally, photographs of the site show an air conditioning unit adjacent to the house on its left side. Screening should be indicated for this mechanical equipment so that it is not visible from the adjacent properties or the public road. Adequate screening as required by the Landscape Manual should be shown on the landscape plan.
 4. **Section 4.5, Stormwater Management Facilities**—The subject site has an approved Stormwater Management Concept plan that must be reviewed for compliance. As part of the

site plan approval, the applicant should submit the Stormwater Management Concept Plan for review.

5. **Section 4.6, Buffering Development from Streets**—Section 4.6(C)(2)(iii) states that “properties with frontage on a historic road need to provide a 40-foot-wide buffer planted with a minimum of 160/80 plant units per 100 linear feet of frontage, excluding driveway openings.” One-hundred percent of the plant units provided within the buffer shall be native species that shall be randomly spaced to mimic local forest communities. The submitted site plan does not note or provide a schedule showing conformance to these requirements. The site/landscape plan should be revised to conform to the requirements of this section prior to approval, or the applicant should apply for alternative compliance (AC) pursuant to Section 1.3(f) of the Landscape Manual. If the AC is recommended for approval, the AC application number and the approval date should be noted on the site plan, and the AC case should be brought forward as a companion to the Special Exception application.

As the subject project is within the geography previously designated as the Rural Tier and reflected on Attachment H (5) of the *Plan Prince George’s 2035 Approved General Plan*, as found in Prince George’s County Planning Board Resolution No. 14-10 (see County Council Resolution CR-26-2014, Revision No. 31), Section 4.6 requires a minimum 40-foot-wide buffer planted with a minimum of 80 plant units be planted along Mount Calvert Road, which has classified as a Special Roadway. Additionally, 100 percent of the plant units provided within the buffer must be native species that are randomly spaced to mimic local forest communities. The buffer may also meet requirements of Section 4.6 regarding using existing trees to meet the buffer requirement and the prohibition of invasive species. Note that these requirements may be reduced if it is shown that an alternative design will conserve and enhance the special roadway with regard to the natural and/or cultural features of the surrounding area. A Section 4.6 schedule should be included on the landscape plan.

6. **Section 4.7, Buffering Incompatible Uses**—Per Section 4.7(c)(E) a Type ‘B’ bufferyard is required along the property line where the congregate living facility is adjacent to single-family detached dwellings.

The subject use is categorized as a Low-Impact use, and adjoins single-family detached residential units to the northeast, the southeast and the southwest. The plans should be revised to include a Section 4.7 schedule and to provide the minimum plant unit requirements to conform to the requirements.

7. **Section 4.9, Sustainable Landscaping Requirements**—The Special Exception is subject to the requirements of Section 4.9(c)(1) for all proposed plantings. A Section 4.9 schedule should be provided on the plan demonstrating conformance to all of the requirements of Section 4.9.

Section 4.9 requires that a certain percentage of plants within each plant type (including shade trees, ornamental trees, evergreen trees, and shrubs) be native species (or the cultivars of native species). The minimum percentage of each plant type required to be native species and/or native species cultivars is specified below:

Shade trees	50%
Ornamental trees	50%
Evergreen trees	30%
Shrubs	30%

A 4.9 Schedule should be provided demonstrating conformance to the above.

K. **Referral Comments:** No major issues impeding the proposed expansion were identified in the referrals that were received for the subject application. Any outstanding issues regarding the site plan and the landscape plans are addressed as recommended conditions:

1. **Environmental Planning**—The Environmental Planning Section previously reviewed this property for a Natural Resources Inventory Equivalency Letter (NRI-221-2015) and a Letter of Exception from Woodland Conservation (S-186-15) which were issued on November 10, 2015, in order to allow the applicant to move forward with Stormwater Management Concept Review. The project is subject to the environmental regulations that came into effect on September 1, 2010 and February 12, 2012 because the application is for a new Special Exception. The project is subject to the Woodland and Wildlife Habitat Conservation Ordinance, Divisions 2 and 3, effective September 1, 2010 and February 12, 2012 because there is no previously approved Tree Conservation Plan for the site.

According to PGAtlas.com, there are no wetlands, streams or 100-year floodplain located with the limits of the current application, but a 100-foot-wide stream buffer required in the former Rural Tier, now Environmental Strategy Area 3 (ESA 3), extends onto the site along the southern boundary from an adjacent property. A simplified Forest Stand Delineation for the site identified 0.93 acres of existing woodlands on the property, along with six specimen trees. The site contains no elements of the 2005 *Approved Countywide Green Infrastructure Plan*. The site is located in the Middle Patuxent River watershed. There are no roads nearby which are classified as an arterial or higher that require evaluation as a source of traffic-generated noise. The proposed use is not expected to be a noise generator. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. According to the Web Soil Survey, the principal soils on this site are in the Marr-Dodon complex series. According to available information, Marlboro clay is not found to occur in the vicinity of this property.

Master Plan Conformance

The Master Plan for this area is the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*. In the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*, the Environmental Infrastructure Section contains Goals, Policies and Strategies. The following guidelines have been determined to be applicable to the current application. The text in **BOLD** is from the master plan and the plain text provides comments on plan conformance.

Policy 1: Protect, preserve, and restore the identified green infrastructure network and areas of local significance within Subregion 6 in order to protect critical resources and to guide development and mitigation activities.

The project site contains regulated environmental features and woodlands, but does not contain elements of the 2005 *Approved Countywide Green Infrastructure Plan*. Impacts to the regulated environmental areas have been avoided and all existing woodlands proposed to be preserved.

Policy 2: Restore and enhance water quality in degraded areas and preserve water quality in areas not degraded.

This proposal has external construction which is limited to the construction of four parking spaces. The Stormwater Management Concept (SWM) review and approval will confirm that water quality in the area is not degraded. A SWM concept approval letter for this project from the Department of Permitting, Inspections, and Enforcement (DPIE) has not been submitted. The site does contain a stream buffer that will not be affected directly or indirectly by the proposed concept.

Policy 3: Increase planning and informational data collection efforts at the watershed level, raising the profile and awareness about the importance of shared aquifers and other resources to water quality and supply.

This policy is not applicable to the current application.

Policy 4: Protect, restore, and enhance the Chesapeake Bay Critical Area (CBCA).

The subject property is not located in the Chesapeake Bay Critical Area.

Policy 5: Promote compact, walkable development patterns in appropriate locations such as the Town of Upper Marlboro, Marlton, and rural centers and communities such as Baden, Aquasco, Eagle Harbor, Cedar Haven, and Croom.

The site is located in the Environmental Strategy Area 3 (formerly the Rural Tier) and is not an appropriate location for walkable development patterns. Mount Calvert Road is a rural road, with no sidewalks.

Policy 6: Increase awareness regarding air quality and greenhouse gas (GHG) emissions and the unique role that the Developing and Rural Tiers in Subregion 6 have to play in this effort.

Air Quality is a regional issue that is currently being addressed by the Council of Governments. This policy is not applicable to the current application.

Policy 7: Encourage the use of green building techniques and community designs that reduce resource and energy consumption.

This policy is not applicable to the current application.

Policy 8: Reduce energy usage from lighting, as well as light pollution and intrusion into residential, rural, and environmentally sensitive areas.

This policy is not applicable to the current application.

Policy 9: Reduce adverse noise impacts to meet acceptable state noise standards.

The current application is not a noise generator, and will not be impacted by traffic noise above acceptable state noise standards because the adjacent roadway is not classified as an arterial or higher.

Conformance with 2005 Approved Countywide Green Infrastructure Plan

The following policies support the stated measurable objectives of the Countywide Green Infrastructure Plan (2005):

Policy 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.

The 2002 *Prince George's County Approved General Plan* has been superseded. The site is currently located within the Rural and Agricultural Areas of the Growth Policy Map and Environmental Strategy Area 3 (formerly the Rural Tier) of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*.

The subject property contains no elements of the *Countywide Green Infrastructure Plan*. No impacts to regulated environmental features are proposed within Countywide Green Infrastructure Plan areas and existing woodlands are proposed for preservation in the subject areas.

Policy 2: Preserve, protect, and enhance surface and ground water features and restore lost ecological functions.

This development proposal is limited to the construction of four parking spaces and interior renovations. There are no impacts to regulated environmental features. This subject property is not located in an aquifer recharge area.

Policy 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.

The property is partially developed and wooded and is subject to the Woodland Conservation Ordinance. The project does not propose to remove on-site woodlands and meets the woodland conservation requirement when determined with on-site preservation. Six specimen trees have been identified on-site, but no specimen trees are proposed to be removed as part of the application.

Policy 4: Promote environmental stewardship as an important element to the overall success of the Green Infrastructure Plan.

The use of environmentally sensitive building techniques and overall energy conservation should be encouraged, but is not required by Building Code.

Policy 5: Recognize the green infrastructure network as a valuable component of the county's Livable Communities Initiative.

No elements of the 2005 *Approved Green Countywide Infrastructure Plan* (Regulated, Evaluation, or Network Gap) are located on-site. The proposed Tree Conservation Plan is in conformance with the priorities of the Woodland and Wildlife Habitat Conservation Ordinance.

Conformance with 2010 Approved Water Resources Functional Master Plan

The 2010 *Approved Water Resources Functional Master Plan* contains policies and strategies related to the sustainability, protection and preservation of drinking water, stormwater, and wastewater systems within the County, on a countywide level. These policies are not intended to be implemented on individual properties or projects and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans, County

Ordinances for stormwater management, 100-year floodplain and woodland conservation, and programs implemented by the Prince George's County Department of Permitting, Inspections and Enforcement, Prince George's County Department of Health, Prince George's County Department of Environment, Prince George's Soil Conservation District, the Maryland-National Park and Planning Commission and Washington Suburban and Sewer and Sanitary Commission are also deemed to be consistent with this master plan.

Based on the review of Special Exception SE-4770 and Type 2 Tree Conservation Plan TCP2-006-2016, the regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible. The application is in conformance with the required environmental findings for a Special Exception if revised to address technical deficiencies.

2. **Subdivision**—In accordance with Section 24-107(c)(7), subdivisions by deed were allowed if recorded prior to January 1, 1982. In reviewing Tax Map 1982, the property is not in the same configuration as PGAtlas, and Parcel 62 and Parcel 134 are combined into one parcel, which is labeled as Parcel 134 (Liber 4744 folio 479). Deed Liber 4744 at folio 479 describes an 8.51 acre property. Through further deed research, staff found deed Liber 7688 at folio 873 that was recorded in 1990, which describes a line of division describing a “Part of the Edelen Property” as 5.3590 acres. The balance of the site is the area being reviewed as SE-4770 which is 3.1507 acres. Since Liber 7688 at folio 873 was recorded after January 1, 1982, the subject property appears to have been illegally subdivided. The applicant should include the entirety of the property on the SE plans, and show the limits of the SE by bearings and distances, or provide evidence that the property was a legal subdivision. The applicant provided the Trustee's Deed recorded at Liber 6295, folio 607, which indicates that sale of the property through default proceedings, is sufficient for evidence to indicate the division of the property pursuant to Section 24-107(c)(10).
3. **Urban Design**—The Special Exception is subject to the 2010 Prince George's County Landscape Manual (Landscape Manual) because a Congregate Living Facility with greater than eight persons is a commercial use as opposed to the previous congregate living facility of eight or less, which is considered a residential use. Therefore, the application is subject to Sections 4.4, 4.6, 4.7 and 4.9 of the Landscape Manual.

Site Design

The Urban Design Section is concerned with the placement of four parking spaces to be installed to serve the congregate living facility as it may create a conflict between cars entering and existing the parking spaces and cars traveling on the circular driveway.

4. **Permits**—The proposed site plan was reviewed for conformance. All noted corrections to the site plan are recommended conditions of approval.
5. **Transportation**—The site's only frontage is on Mount Calvert Road, a two-lane rural road with variable right of way width. The property is located in an area where the development policies are governed by the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment, (Planning Areas 77, 79, 82A, 82B, 85B, 86A, 86B, 87A and 87B)*. No widening of Mount Calvert Road is being recommended. Four additional parking spaces are being provided with this proposal. Access to the parking spaces and the overall site circulation are acceptable to staff.

The MPOT and area master plan designate Mount Calvert Road as a master plan bikeway (see MPOT map). This road is located directly off Croom Road (MD 382), which is a portion of the Star Spangled Banner Scenic Byway and bike route. Mount. Calvert Road provides cyclists with access to historic sites, parkland, and the trails and other park facilities at Jug Bay. The road is currently a low-volume open section roadway that functions well for cyclists. No bicycle signage is currently in place along the road and one “Share the Road with a Bike” signage assembly is recommended along the site’s frontage.

This application represents an expansion of an existing Congregate Living Facility. Specifically, the applicants wants to increase the number of patients from eight to sixteen. Based on information in the *Trip Generation, 9th Edition* (Institute of Transportation Engineers); an Assisted Living facility has a trip generation rate of 0.18 trip per occupied bed in the AM peak hour, and 0.29 trip per occupied bed in the PM peak hour. Consequently, an additional eight beds will generate two and three additional trips during the AM and PM peak hours respectively. The minor change in traffic is considered to be *de minimus* pursuant to the Planning Board’s “Guidelines.” It is important to remember that adequacy of transportation facilities is not an issue in the review of this use; review is strictly within the required findings of health, safety, and welfare. Approval of this application is not likely to have a negative impact on the health, safety, and welfare of the immediate community from a transportation perspective.

6. **Department of Permitting, Inspections and Enforcement (DPIE)**—Mount Calvert is a County-maintained road; therefore, right-of-way dedication and frontage improvement in accordance with the Prince George’s County Road Ordinance, Department of Public Works and Transportation’s Specifications and Standards and the Americans with Disabilities Act are required. The subject site has an approved Stormwater Management Concept Plan No. 51565-2015, dated December 23, 2015. DPIE has no objection to the Special Exception No. SE-4770.
7. **Prince George’s County Health Department**—The Maryland Department of the Environment requires that the on-site sewage disposal systems of assisted living facilities have a minimum wastewater design flow of 100 gallons per day per bed space. The Health Department has reviewed the property’s records on its current septic system. It was determined that the current septic tank size of 2000 gallons and drain field design specifications, are suitable to sustain the potential increase in wastewater flow. However, with the increase in occupancy, the property owner should continue proper septic system maintenance. Having a septic scavenger pump out the tank periodically would help reduce the chances of overloading the drain fields and minimize potential system failures. Ultimately, proper inspection and maintenance would prevent the release of inadequately treated household wastewater into the environment and the associated potential risks to public health.
8. **Community Planning**—The Subregion 6 Sectional Map Amendment retained the subject property in the O-S Zone P.A.82B/Mount Calvert-Nottingham The master plan land-use map (Map 27) shows the property as Rural. The proposed assisted living facility for up to 16 residents will not substantially impair the integrity of the 2013 *Subregion 6 Approved Master Plan and Sectional Map Amendment*.
9. **Special Projects/Public Facilities**—Staff reviewed the application for the following:

- a. *Police Facilities:* The proposed development is within the service area of Police District V, Clinton. There is 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department and the July 1, 2014 (U.S. Census Bureau) county population estimate is 904,430. Using the 141 square feet per 1,000 residents, it calculates to 127,524 square feet of space for police. The current amount of space 267,660 square feet is within the guideline.
- b. *Fire and Rescue Service:* The Special Projects Section has reviewed this Specific Design Plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(C) and (E) of the Subdivision Regulations. Section 24-122.01(e) (1) (E) states that "A statement by the Fire Chief that the response time for the first due station in the vicinity of the property proposed for subdivision is a maximum of seven (7) minutes travel time. The Fire Chief shall submit monthly reports chronicling actual response times for call for service during the preceding month."

The proposed project is served by Upper Marlboro Fire/EMS Co. 845, a first due response station (a maximum of seven (7) minutes travel time), is located at 7710 Croom Road. "In the Fire/EMS Department's Statement of Adequate Apparatus, as of January 15, 2016, the Department states they have developed an apparatus replacement program to meet all the service delivery needs of the County."

- c. *Capital Improvement Program (CIP):* The Capital Improvement Program for Fiscal Years 2016-2021 provides funding to complete a major renovation of the existing facility constructed in 1970. The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure."
- d. *School Facilities:* The Subdivision Review Section has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and concluded that the subdivision is exempt from a review for schools because it is a nonresidential use.
- e. *Water and Sewerage Findings:* Section 24-122.01(b)(1) states that "the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval." The 2008 *Water and Sewer Plan* placed this property in Water and Sewer Category 6, Individual System.

10. **Historic Preservation/Archology**—This proposal will not impact any historic sites, historic resources or known archeological sites.

- 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 purpose of this Subtitle (Section 27-102);**

Comment: The purposes of Subtitle 27, as set forth in Section 27-102 of the Zoning

Ordinance, are generally to protect the health, safety, and welfare of the public and promote compatible relationships between various land uses. The subject property has been used as a congregate living facility since 1996. This is an existing development and is in harmony with the purposes of this Subtitle. Therefore, staff finds that the proposed expanded use, with the recommended conditions, and accompanying site plan are in harmony with the purposes of this Subtitle.

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

Comment: The proposed use is in general compliance with the applicable requirements and regulations of the Open-Space (O-S) Zone. With the granting of the current application, the proposed increase of residents at this congregate living facility will be in conformance with all applicable requirements and regulations of the subtitle. The site and landscape plan submitted with this application will demonstrate conformance with Subtitle 27 and the 2010 *Prince George's County Landscape Manual*, if revised in accordance with the conditions recommended.

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

Comment: The proposed use will not substantially impair the integrity of any validly approved master plan or functional master plan, or in the absence of a Master Plan or Functional Master Plan, the General Plan. Thus, it can be concluded that the proposed Special Exception is in conformance with the provisions set forth in the General Plan, the area master plan, and the Green Infrastructure Plan. The proposed uses are consistent with the land use recommendations of the O-S Zone.

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

Comment: There are no adverse impacts associated with this proposal. As previously stated, the congregate living facility has operated at this site since 1996 and is well established within the neighborhood. The proposal, with the recommended conditions, will meet all regulations of the Zoning Ordinance and will not have a negative impact on the health, safety, or welfare of nearby residents or workers in the area. None of the responses from any referrals received by staff indicate that the proposed use will adversely affect the health, safety, or welfare of residents or workers in the area. The proposed addition would have a negligible impact on the adjacent transportation network and, therefore, no safety issues are anticipated. In fact, the proposed use is intended to enhance the wellbeing of the elderly or handicapped residents.

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

Comment: The proposed expanded use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The existing residential building is substantially set back and is naturally buffered from Mount Calvert Road and from the abutting single-family dwellings. The use has been in existence since 1996 and has operated without violations. There is no vehicular access from adjacent properties. The parking for

the facility is contained on-site, such that the use should not be detrimental to the use or development of adjacent properties or the general neighborhood. The surrounding properties have existing residential development. The Transportation Section has indicated that the minor change in traffic is considered to be *de minimus*. There are revisions to the site plan that are necessary in order for the site plan to be in compliance which are addressed as recommended conditions. For these reasons, staff concludes that the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

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

Comment: The proposed site plan is in conformance with the approved Type 2 Tree Conservation Plan TCP2-006-2016, if revised in accordance with the recommended conditions.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).

Comment: The applicant's proposal does not impact these areas of concern. There are no regulated environmental features in a natural state on the site to preserve/restore to the fullest extent possible.

(b) In addition to the above required findings, in a Chesapeake Bay Critical Area (CBCA) Overlay Zone, a Special Exception shall not be granted:

(1) Where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or

(2) Where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

Comment: The subject property is not located in the Chesapeake Bay Critical Area, so conformance with these required findings is not applicable

M. **Variance Analysis:** Section 27-230(a) of the Zoning Ordinance contains findings required for all variances. A variance must be obtained because the parcel does not meet the minimum five-acre size requirements for the O-S Zone. The following is an analysis of the application's conformance with these requirements.

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions or other extraordinary situations or conditions;

Comment: The subject property has exceptional conditions not ordinarily found on lots in the O-S Zone. The parcel is 3.15 acres, 1.85 acres less than the 5 acre minimum. The property was legally subdivided per 24-107(c)10 as a result of a foreclosure proceeding pursuant to a Deed of Trust in 1992. There will be no adverse environmental impact.

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

Comment: The strict application of the Zoning Ordinance would result in undue hardship upon the owner of the property. The plan, as submitted, reflects a reasonable use of the property as a congregate living facility and is in keeping with the character of the existing neighborhood. The applicant is seeking to double the capacity of the facility at the subject property. The strict application of the Zoning Ordinance would prevent the applicant from expanding needed services to the community and possibly lead the applicant to cease operations of a business that has legally operated since 1996.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Comment: The variance will not substantially impair the integrity of the General Plan, *Plan Prince George's 2035* or The 2013 *Subregion 6 Approved Master Plan and Sectional Map Amendment*. *Plan Prince George's 2035* designates this property as Rural and Agricultural and Parks and Open Space. The plan description for the Rural and Agricultural Land Use is "Low-density residential uses with areas of agricultural and forestry production. Agricultural land (cropland, pasture, farm fields), forest, and very low-density residential with a density per acre of less than 0.5." The use of the site for a congregate living facility for sixteen persons is a non-intensive residential use that is permitted in the Open Space (O-S) residential zone with a Special Exception.

Summary

Granting of the variance is appropriate because the property was legally subdivided per 24-107(c)10, there is no additional square footage being proposed to any of the existing structures, and the proposed use is permitted by right in the O-S Zone. Validation of the property in its current configuration will allow the applicant to continue pursuit of a reasonable increase of residents for a congregate living facility for a total of up to sixteen residents.

CONCLUSION

A Special Exception use is considered compatible with uses permitted by-right within the O-S Zone, as long as specific criteria are met. Unless unique adverse impacts are identified, the Special Exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, **at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the Special Exception use, regardless of its location within the zone.** The subject use, a congregated living facility, has been in operation with eight residents at this location since 1996 per permit 1276-96-4. The impacts associated with this expanded use of service, as noted in previous sections of this report, are typical and would be similar regardless of its location in the O-S Zone.

Staff believes that the applicant has met their burden of proof in this instance. Therefore, based on the preceding analysis and findings, staff recommends APPROVAL of Special Exception Application No. SE-4770 subject to the following conditions:

A. Prior to certification of the Special Exception the following alterations shall be made:

1. The site plan shall be revised to:

a. Correctly label the subject parcel as "Parcel 62" and the adjoining parcel as "Parcel 134."

- b. Show all on-site parking, including a van accessible parking space for the physically handicapped that is dimensioned at 16 feet in width by 19 feet in length.
 - c. Show the height of all buildings.
 - d. Provide the green area and lot coverage percentages on the site plan.
 - e. Provide the centerline and right-of-way widths for Mount Calvert Road.
 - f. Provide the height, type and location of all fences, as well as, the width of all gates must be clearly demonstrated on the site plan.
 - g. Show the driveway isle widths for two-way traffic, as well as the width of any gates that access the parking compound must be a minimum of 22 feet wide.
 - h. Show/Identify the proposed dumpster and loading spaces on the site plan.
2. The Landscape Plan shall be revised to show the landscape schedules in accordance with Section 2.2(c) of the 2010 *Prince George's County Landscape Manual* specifically including:
- a. The ten-foot-wide landscape strip adjacent to Mount Calvert Road.
 - b. Demonstrate conformance to the 2010 *Prince George's County Landscape Manual* Sections, 4.3, Parking Lot requirements; 4.4, Screening requirements; 4.5, Stormwater Management Facilities; 4.6, Buffering Development from Streets; 4.7, Buffering Incompatible Uses; and 4.9, Sustainable Landscape requirements of and provide plant materials that mimic local forest communities.
 - c. Demonstrate conformance to Section 4.7, Buffering Incompatible Uses of the 2010 *Prince George's County Landscape Manual*.
3. The type 2 tree conservation plan (TCP2) shall be revised to address the following technical deficiencies:
- a. Use a separate graphic to identity areas of woodlands as determined on the revised forest stand delineation (FSD).
 - b. Areas of woodland less than 5,000 square feet in area should not be counted as woodlands, and should not be graphically indicated as woodlands.
 - c. The quantity for the existing woodlands on-site shall be revised to be consistent with the FSD.
 - d. Existing areas of woodlands should be labeled by area.
 - e. A Specimen Tree table should be added to the plan sheet, and include an evaluation of tree condition and a proposed disposition. Specimen trees should be assigned an identification number and be labeled on the plan.
 - f. Delineate the critical root zone for the six specimen trees on the plan.

- g. The “100-foot buffer” shown on the rear of the property should be corrected labeled “100-foot-wide stream buffer.”
 - h. The location of tree protection fencing to protect landscape trees located within the front yard of the site with critical root zones within 50 linear feet of grading shall be delineated on the plan at the limit of disturbance (LOD).
 - i. The Tree Canopy Coverage Schedule shall be removed from the TCP2 plan, and moved to the Landscape Plan, if applicable.
 - j. Add the TCP2 number to the approval blocks of both plans and retitle both sheets TCP2.
 - k. Add applicable TCP2 notes to the plan, and include any Specimen Tree management notes to identify appropriate treatments for on-site specimen trees.
 - l. Revise the Woodland Conservation Worksheet to reflect all revisions to the plan.
 - m. Label Mount Calvert Road as a “designated scenic and historic road.”
 - n. Provide a detail for temporary tree protection signage in accordance with details of the Environmental Technical Manual.
 - o. Delineate the Primary Management Area (PMA) on the plan sheet and add the graphic element to the legend.
 - p. Have the revised TCP2 signed and dated by the Qualified Professional who prepared it.
4. The Forest Stand Delineation shall be revised to address the following technical deficiencies:
- a. Use a separate graphic to identify areas of woodlands versus tree canopy or tree line, and add to the legend.
 - b. Areas of woodland less than 5,000 square feet in area should not be counted as woodlands, and should not be graphically indicated as woodlands. The quantity for the existing woodlands on-site should be reconciled to be consistent with the TCP2.
 - c. Existing areas of woodlands should be labeled by area in acres.
 - d. A Specimen Tree table should be added to the plan sheet, and include an evaluation of tree condition(s). Specimen trees should be assigned an identification number, the ID number should be labeled on the plan, and included in the Specimen Tree table.
 - e. The “100-foot buffer” shown on the rear of the property should be corrected labeled “100-foot-wide stream buffer.”
 - f. Correct the spelling errors in the title block to correctly identify the project.
 - g. Correct Note 8 to indicate that there are six specimen trees on-site.

- h. Delineate the Primary Management Area (PMA) associated with the off-site stream on the plan sheet and add the graphic element to the legend.
 - i. Have the revised FSD signed and dated by the Qualified Professional who prepared it.
- 5. Prior to signature approval of the Special Exception, a copy of the SWM Concept Approval Letter or a waiver of requirements shall be submitted.
- 6. In conformance with the 2009 *Approved Countywide Master Plan of Transportation* and the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*, the applicant and the applicant and the applicant's heirs, successor's and/or assignees shall provide a financial contribution of \$420 to the Department of Public Works and Transportation/Department of Permitting, Inspections, and Enforcement for the placement of one "Share the Road with a Bike" sign assembly along Mount Calvert Road. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.

Therefore, based on the preceding analysis and findings, staff recommends APPROVAL of Variance from Section 27-425(c) which stipulates lots in the O-S Zone are a minimum of five acres. The property was legally subdivided per 24-107(c)10, there is no additional square footage being proposed to any of the existing structures, and the proposed use is permitted by right in the O-S Zone.