

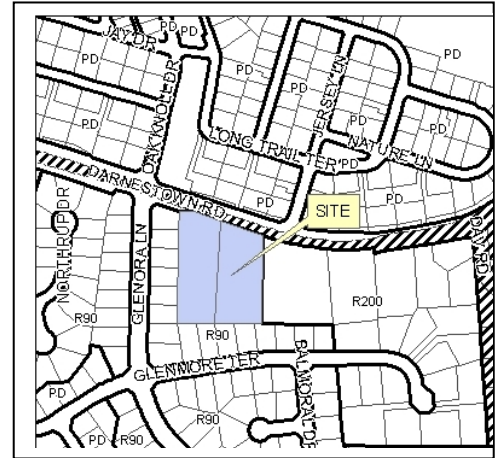
**CITY OF ROCKVILLE  
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT  
STAFF REPORT**

**TO:** Board of Appeals

**FROM:** Jim Wasilak, AICP, Chief of Planning  
Bobby Ray, AICP, Principal Planner

**PROJECT MANAGER:** Cas Chasten, Planner III

**Board of Appeals Hearing Date:** April 10, 2010



**SUBJECT:** Special Exception SPX2010-00381 – a request to develop the subject property located at 9200 Darnestown Road for use and operation of a 90 unit Assisted Living Facility for senior citizens and persons with disabilities.

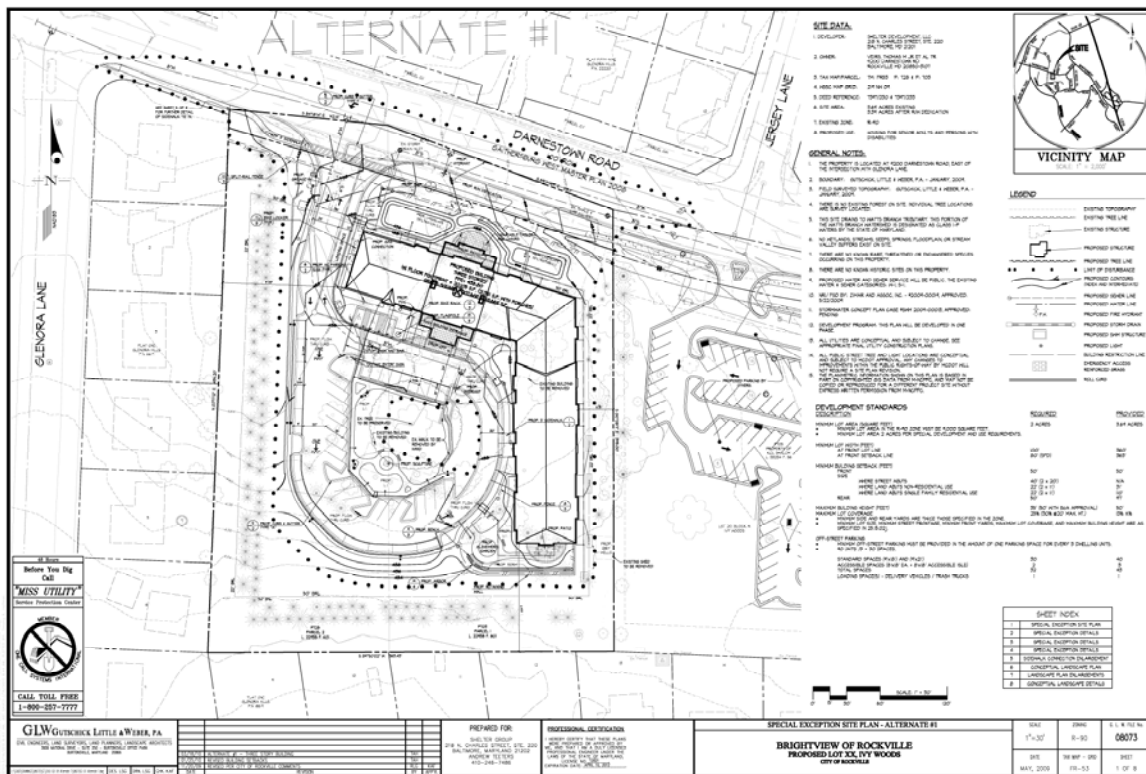
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**RECOMMENDATION:** That the Board of Appeals approve, subject to the recommended conditions, Special Exception Application SPX2010-0381, a request to develop the subject property for use and operation of a 90 unit Assisted Living Facility for senior citizens and persons with disabilities. In addition, that the Board of Appeals approve the waiver from the APFS (Adequate Public Facilities Standards) school impact test since the subject facility will not generate any school aged children.

**REQUEST:** In accordance with Section 25.15.01 (Special Exceptions) of the City of Rockville Zoning Ordinance, the applicant (Shelter Development, LLC) seeks approval to allow the establishment of a 90-unit Assisted Living Community on the 3.69-acre site located at 9200 Darnestown Road. Pursuant to Section 25.10.03, (Land Use Tables) the proposed use is classified as “Housing for Senior Adults and Persons with Disabilities” and is subject to a Special Exception within the R-90 zoning district. The additional requirements for this special exception are located in Section 25.15.02.j of the Zoning Ordinance.

At the pre-application stage, the proposed building was three stories and oriented along the southern and eastern property lines. Based on public concerns, the applicant revised the site plan. When the special exception request was submitted, the applicant reoriented the building to be along Darnestown Road and the eastern property line, and sought the following: (1) a maximum building height of 50 feet pursuant to Board

approval; (2) a waiver from the school impact analysis of the Adequate Public Facilities Standards; and, (3) a proposed freestanding monument sign pursuant to Board approval. In response to concerns raised by persons speaking at the Planning Commission's February 24, 2010 meeting regarding the land use request, the applicant has reduced the height of the proposed building to comply with the 35 foot height limit of the R-90 Zone. Therefore the applicant no longer requests the Board's approval of a maximum building height of 50 feet.



### Proposed Site Development Plan

#### PROJECT/SITE INFORMATION:

Location: 9200 Darnestown Road, Rockville, Maryland 20850  
 Applicant: Shelter Development LLC  
 Land Use: Detached Residential (Medium Density 2.5 to 4 Units Per Acre)  
 Designation: R-90, Single Unit Detached –Restricted Residential  
 Zoning District: Planning Area 14 (Rockshire and Fallsmead Neighborhoods)  
 Parcel Area: 3.69 acres (156,816 square feet)

Building Height: 3 Stories (35 feet – measured from the pre-existing grade to the mid-point of a gable roof)

Parking: 43 Spaces

<b>Surrounding Land Use and Zoning</b>			
<b>Location</b>	<b>Zoning</b>	<b>Planned Land Use</b>	<b>Existing Use</b>
North	PD-FG	Comprehensive Planned Development	Fallsgrove Development
South	R-90	Detached Residential	Single Unit Detached Dwellings
East	R-200	Detached Residential	Proposed Kol Shalom Synagogue
West	R-90	Detached Residential	Single Unit Detached Dwellings

**PROPERTY DESCRIPTION:**

The 3.69-acre property consists of two parcels located on the south side of Darnestown Road between Dav Road to the east and Glenora Lane to the west. The total frontage along Darnestown Road is 360 feet. Darnestown Road is a four (4) lane undivided County road. The property is contiguous to a proposed “Place of Worship” (Kol Shalom Synagogue) to the east, and the Glenora Hills subdivision to the west and south. The single-family detached area of the Fallsgrove mixed-use development is located across Darnestown Road to the north. The site contains a stand of trees along the west and south property lines which serve as a buffer from the adjacent single-family neighborhoods. There is a large American Elm tree being preserved located in the center of the site. This tree will serve as the focal point for the proposed courtyard garden located in the middle of the development (See Exhibit 1 & 2).

**PROPOSED SITE USE:**

The proposed use as defined by the City of Rockville Zoning Ordinance Section 25.03.02 is as follows:

*Housing for Senior Adults and Persons with Disabilities –*

A building or buildings containing dwelling units and related services and facilities for senior adults or persons with disabilities. Occupancy is restricted as provided in Section 25.15.02.j.4. The use may also include facilities for such services to residents as meal preparation and service, day care, personal care, nursing, or therapy, or any service to the senior adult or disabled population of the community that is an ancillary part of any of the above operations.

As outlined above, the proposed use is classified as a Special Exception within the R-90 zoning district. The use is subject to the findings required for special exceptions (25.15.01.a.2.) as well as the additional requirements of Section 25.15.02.j.



**Aerial View of the Site From the South**

**Project Description:**

The applicant is proposing a 90-unit assisted living facility to be known as Brightview of Rockville (See Exhibit 1). The proposed development will provide a full range of residential care services to seniors and persons with memory impairment disabilities. Twenty-four of the units will be dedicated to a secured "neighborhood" (Wellspring Program) providing care services to seniors suffering from dementia and other memory impairment including Alzheimer's disease. This area will include a secured outdoor garden area for residents.

Vehicular access to the site will be provided via a single site entrance, which will allow for right in and right out, as well as a left turn into the site from Darnestown Road. There will be no left turn egress permitted from the site. The site entrance will be located at the western end of the property.

The proposed assisted living facility will be located within a single building structure. When the special exception request was initially submitted, the proposed building facility was to range from one-story to four-stories in height. As noted, the applicant has modified the height of the building to comply with the 35 foot height limit of the R-90 Zone. The proposed building is "L" shaped with the main entrance oriented internally to the site. Although the main building entrance is oriented internally to the site, the façade fronting Darnestown Road is designed as a front façade with a small patio and access doors.

The project proposes to meet both forest conservation and minimum tree cover on site and has received approval from the City Forester to pay fee in lieu for a portion of the significant tree replacement requirement.

The project will remove 53 of the 157 significant trees on site resulting in a replacement requirement of 130 trees. The site will be landscaped with 31 shade trees (30 can count for replacement), 41 ornamental trees and 11 evergreen trees. These numbers do not include the forest conservation easement area trees and the 6 street trees. The total significant tree replacement planting proposed by the project is 82 trees. Fee in lieu was requested and granted for the remaining 48 trees that could not be planted on-site.

On-site parking facilities are located within the interior of the site, on the south and west sides of the proposed building. There will be a total of 43 vehicular parking spaces and one loading space provided to serve the assisted living facility. The site surface

parking facilities as located are intended to minimize impacts on the neighboring properties by orienting parking spaces within the interior of the site. The passenger drop-off area, as well as the main building entrance, is also internal to the site.

The applicant states that the architectural design was meant to “reflect the general community vernacular in respect to design elements, façade changes, materials and color”. The proposed materials include siding with stone veneer accents, cementitious (fibrous cement) panels and stone trim. In response to concerns raised by many of the neighboring property owners, the applicants have oriented/sited the building towards Darnestown Road and to the east of the site, away from the adjacent single-family homes to the south and west.

As indicated, the applicant is seeking a waiver from the school facilities test required by the City’s Adequate Public Facilities Standards. The City’s standards allows for waiver consideration for specific types of uses “deemed to have little or no impact on public facilities”. One of these specific uses is “Housing for the Elderly and Physically Handicapped”. As part of this special exception the applicant is requesting that the Board of Appeals waive the school impact test for this project. Given the nature of the proposed use there is no potential for impact upon the public school system.

#### **RECOMMENDED CONDITIONS:**

**Approval of the Special Exception is recommended, as well as approval of a waiver from the APFO requirements regarding school capacity. Approval is recommended subject to the following conditions:**

1. The proposed building structure must be constructed in substantial accordance with site and building plans as submitted with the subject application request, or as may be modified by the conditions herein or by the Board of Appeals.
2. To ensure compatibility with the neighboring single-family detached dwellings located to the south and west of the site, it is recommended that the ends of the southern and western wings of the proposed building should be reduced from three stories (35') to two stories (22'6") in height. Note, the extent and amount of floor space which will comprise the two story segments of the building will be determined in consultation with the project architect and applicable building code requirements.

3. The applicant will install an eight-foot (8') tall fence along the side and rear yard lot lines of the site. The fence is intended to supplement the vegetative buffers and plantings, which will be located in those areas of the site, and also serve as a security enhancement for the facility.
4. Comply with all conditions of the Stormwater Management (SWM) Concept approval letter dated February 25, 2010.
5. Comply with all conditions of the Water and Sewer Authorization letter dated February 4, 2010.
6. Dedicate right-of-way for Darnestown Road in accordance with the site plan submitted and obtain all required permits from Montgomery County Department of Permitting Services for all work done within the right-of-way. All proposed improvements within the public right-of-way are to be coordinated with the City of Rockville.
7. Provide a fire hydrant within 100 feet of the fire department connection arranged along a path that could be reasonably walked by fire department personnel. The fire hydrant cannot be closer than 40 feet to any point of the building structure.
8. In accordance with the requirements of the Forest and Tree Preservation Ordinance, the applicant shall submit for review and approval a Final Conservation Plan (FCP) and obtain a Forestry Permit (FTP) prior to the release of building permits.
  - a. The Final FCP shall be based on the Preliminary FCP and provide tree plantings consistent with the Preliminary FCP.
  - b. The Final FCP will be reviewed concurrently with the detailed engineering drawings that are submitted to the Department Public Works.
  - c. The Landscape Plan shall match the landscaping shown on the Final FCP.

## **ANALYSIS AND REQUIRED FINDINGS:**

### **Applicable Sections of the Zoning Ordinance & Staff Assessment**

As per Section 25.10.03 of the Ordinance “housing for senior adults and persons with disabilities” is permitted in the R-90 Zone by grant of special exception. In accordance with Section 25.15.01.a.2. of the Ordinance, the Board of Appeals shall not grant any petition for special exception unless it finds from a preponderance of the evidence of record that:

**(a) The proposed use will not adversely affect the City's Master Plan (the Plan), this Chapter (Zoning Ordinance), or any other applicable laws; and**

The use does not violate or adversely affect the Plan or any known laws of the City of Rockville. The land use designation of the property as assigned by the Plan, is for detached residential (medium density – 2.5 to 4 dwelling units per acre) land usage, which is also consistent with the property’s R-90 zoning classification. The land use designation is implemented by the recently adopted Zoning Ordinance that allows “Housing for Senior Adults and Persons with Disabilities” as a special exception land use.

At its February 24, 2010 meeting the Planning Commission reviewed the subject special exception request and based on the information provided determined that the use complied with the Master Plan. In its review of the request, the Commission noted in rendering its recommendation that while the use does comply with the Master Plan, the height and mass of the proposed building was of concern. It was the further determination of the Planning Commission that since the use is permitted as a special exception land use in the R-90 zone, it is inferred from the new Ordinance that such residential uses are appropriate and compatible with other uses in the zone, if it can be shown that the use will not have an adverse impact on neighboring properties.

The City of Rockville Comprehensive Master Plan has several Goals and Policies that support the development of elderly housing. The Housing Element (page 10-4) specifically references the Special Exception process for elderly housing in residentially zoned areas:

Housing for the elderly is allowed in all the residential zones through the granting of a special exception. It is permitted in the Town Center zones (with Use Permit approval). Nursing homes are permitted in some residential zones with a special

exception but are not permitted in the Town Center zones, the Rockville Pike zones, or any office / industrial zone.

### Chapter Ten - Housing

Chapter Ten on the Master Plan has a policy (#3) that encourages the development of housing for an “aging population”:

Encourage the construction of housing alternatives for an aging population – may need economic incentives or flexible zoning options for development variances for this to occur.

### Planning Area 14 – Rockshire and Fallsmead Neighborhoods

As indicated, the subject site is located within Planning Area 14 as presented in the Comprehensive Master Plan. The Master Plan doesn't speak specifically to this particular site, but does reference other institutional uses in the planning area. The planning area appears to be largely “built-out” with relatively few large developable sites. Therefore the importance of sensitive infill development is stressed. The Master Plan recognizes the possibility of the expansion of existing institutional uses within the planning area and recommends that, “adequate buffers between the institutional use and adjacent residential uses be maintained or strengthened as necessary”.

The applicant's proposal as submitted provides substantial vegetative buffers between the homes located to the south and west of the subject site. Due to concerns raised by neighboring homeowners to the south and west of the site, regarding the height and size of the proposed building, the applicant sited the building towards Darnestown Road and to the east, away from the homes as noted. It is important to note that the abutting property to the east of the site has been recently approved for the development of a religious institutional use, i.e., the Kol Shalom Synagogue.

Lastly, based on the plans as submitted, the proposal complies with applicable requirements of the Zoning Ordinance, i.e., building setbacks, vehicular parking standards, building height limits, lot coverage, etc. The site development proposal also complies (or is conditioned to comply) with other site development codes including Stormwater Management and Forestry.

**(b) The proposed use at the location selected will not:**

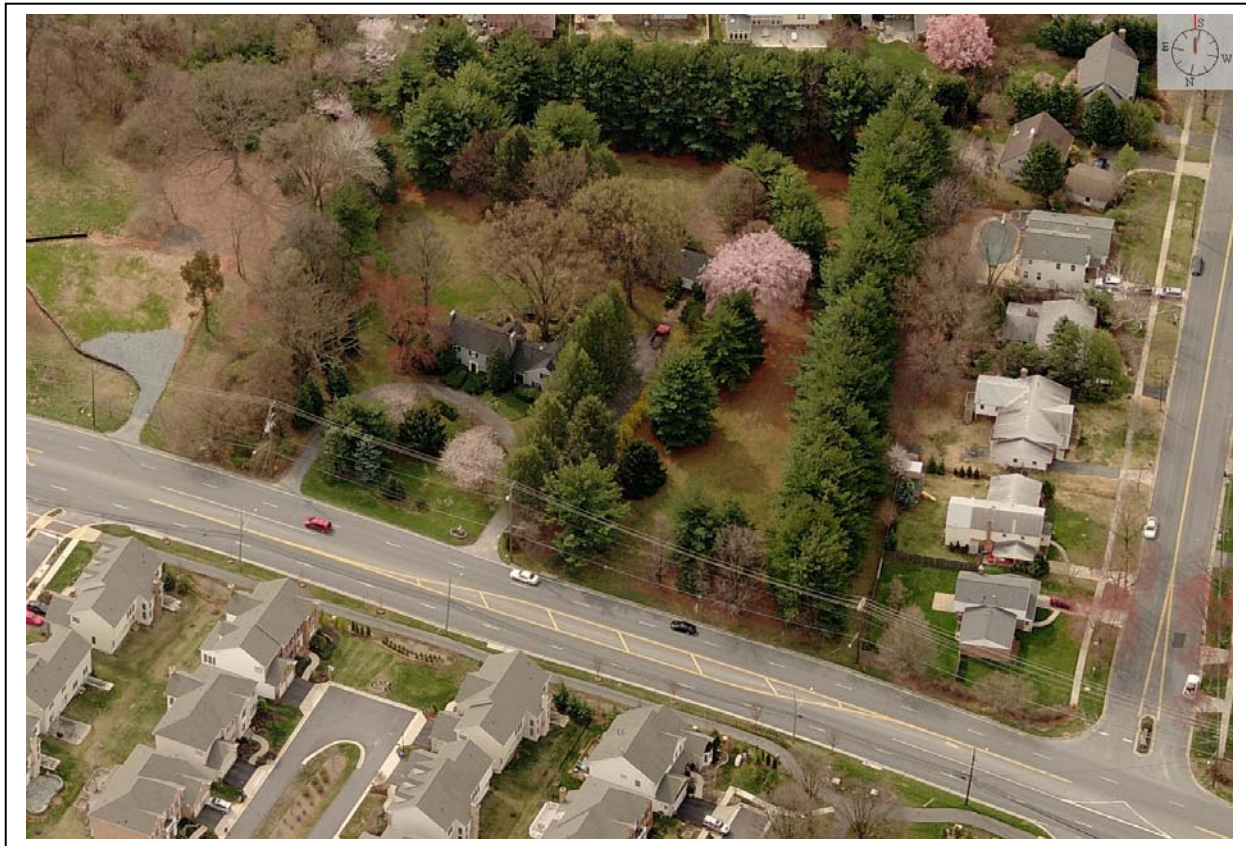
**i) Adversely affect the health and safety of residents in the area; or**

Based on characteristics of similar typical facilities, senior housing on the subject property will not adversely affect the health and safety of residents in the area. For example, based on the nature of the use, there will be no noxious odors or gases emitted from the site use, nor will the proposed building impede sunlight or block the free-flow of air in and around the site. The property is located within the Rockshire and Fallsmead Neighborhoods and located in the R-90 (Single Unit Detached Dwelling, Restricted Residential) Zone. The 3.69 acre site is currently improved with a single family detached dwelling and contains an array of mature trees and other vegetative material, ranging in species and size. As noted, the property has 360 feet of frontage on Darnestown Road ( a four lane County roadway) and is currently served by dual access onto the street. The proposed assisted living facility will be bound on two sides by single-family detached dwellings except on its eastern side, which will be developed for religious institutional use. There are single-family detached dwellings located in Fallsgrove development located on the north side of Darnestown Road, across from the subject site. Given other uses located within the site area, the proposed site use is not expected to have substantive nor adverse impacts on the health and safety of residents in the area.

Were the site not developed as proposed, based on the size of the property, it could be developed with approximately 14 single family detached dwellings, as a permitted use, via the subdivision review process. Were homes constructed, they all could be constructed 35 feet in height, within 25 feet of the property lines. Other special exception land uses which could be applied for include but are not limited to the following: adult day care, child care center, private educational institution, group home, hospital, nursing home, life care facility, public utility building and structure, wireless communication facility, etc.

Based on the Comprehensive Traffic Report (CTR) that was submitted with the special exception request, the proposed site use will not generate greater than thirty (30) peak hour vehicle trips, hence the applicant is only required to do a formal on-site analysis. Transportation staff from DPW has reviewed the applicant's report and confirms that the report complies with the City's adopted Comprehensive Transportation Review methodology.

Note, the (CTR) is referenced in the Adequate Public Facilities Ordinance (APFO) for transportation-related measures. The process outlined in the CTR ensures that each development application meets the minimum transportation standards set forth in the City's APFO.



**Aerial View of the 9200 Darnestown Road**

The applicant has affirmed that the facility would be staffed as follows: administrative and security personnel, marketing, activities and transportation, nursing, housekeeping, dining, and maintenance staff. The approximate number of employees, full time and part time, per work shift would be as follows: a) 7:00 a.m. – 3:00 p.m., 26 employees; b) 3:00 p.m. – 11:00 p.m. , 13 employees; and c) 11:00 p.m. – 7:00 a.m., 7 employees. Thus, based on expected staffing levels and the manner in which the applicant proposes to operate the facility, the proposed 43 on-site parking spaces should readily accommodate both staff and visitor parking needs.

As illustrated on the site's preliminary landscape and forest conservation plan, trees located in the southern and westernmost areas of the site will be preserved, while those

removed elsewhere on site to accommodate the site development will be replaced in accordance with the City's Forest and Tree Preservation Ordinance (See Exhibits 7 & 8) .

**ii) Overburden existing and programmed public facilities as provided in Article 20 of the Ordinance and as provided in the adopted Adequate Public Facilities Standards Manual; or**

The APFO tests the capacity of public facilities based on current and projected data available at the time of the development application. Once a development project is approved, capacity of public facilities required by that project is reserved, provided the project remains on its service commitment, as determined at the time of project approval. In the subject case, the land use request will not overburden site area roadways and streets, public schools, or water and sewer services. Certain classes of land uses are deemed to have little or no impact on some or all public facilities. As such, the deciding body (i.e., the Board of Appeals) may waive full compliance with the APFO provisions if it finds that there will be minimal adverse impact resulting from such a waiver. Such a waiver does not exclude any project from the final adequacy check for water and sewer service, if needed for the project.

In accordance with Article 20 and the APFO standards of the Zoning Ordinance, Housing for Senior Adults and Persons With Disabilities, falls in the class of uses eligible for a waiver from the APFO requirements. The applicant requests the Board of Appeals to waive any requirements pertaining to APFO with regard to public school capacity, since no children will reside at the proposed senior housing facility.

However, as noted, said site use is not exempt from the adequacy check for water and sewer services. At this initial stage in the development review process, the Department of Public Works (DPW) has determined that the applicant will be required to connect to and upgrade the water main in Jersey Lane and/or Glenora Lane. City water is available for the site through an existing 6" water main in Jersey Lane and a 12" water main located near Glenora Lane. Public sewer is available for the site in Jersey Lane.

DPW staff has determined that the City's existing public water and sewer, once expanded and improved in accordance with conditions of approval, as listed in the sewer and authorization letter dated February 4, 2010, will be adequate to provide necessary water, sewer, and fire protection for this project. Based upon adopted City standards, and with the identified improvements, the proposed use will not overburden public facilities within the area.



### Illustrative Site Plan

The applicant's traffic impact statement was submitted in accordance with the City's Comprehensive Transportation Review (CTR) analysis for new development projects. The CTR is referenced in the APFS (Resolution 27-05) for transportation-related measures. The process outlined in the CTR ensures that each development application meets the minimum transportation standards set forth in the City's APFO.

The CTR focuses on auto, transit, pedestrian, and bicycle levels of service, as well on Transportation Demand Management (TDM) programs. The purpose of the CTR process is to ensure that adequate transportation facilities exist during and after a development project.

As previously noted, the proposed use will not generate greater than thirty (30) peak hour vehicle trips and as such, will not substantively alter or change vehicular traffic flow movements in and around the site area. The use will have vehicular access onto Darnestown Road. Vehicular access to the site will be provided via a single site entrance, designed to allow for right-in, left-in, and right-out traffic flow movements.

In accordance with the plans submitted, the applicant will install a sidewalk along the site frontage, and dedicate right-of-way along Darnestown Road to accommodate future frontage improvements as determined by Montgomery County's Department of Permitting Services. At the project's site plan application stage, any improvements within the Darnestown Road right-of-way will require the applicant obtain appropriate permits from the County, in consultation with the City of Rockville.

**iii) Be detrimental to the use or development of adjacent properties or the neighborhood; or**

Based on the codes and the Master Plan, staff finds this use to be compatible with adjacent properties due to the characteristics of the use, i.e., no impact on schools, site generated traffic does not exceed 30 peak hour trips, building setbacks exceed minimum required, compliance with 35 foot height limit and other development standards of the R-90 Zone, and ample vegetative buffers provided to screen use from adjacent homes to the south and west.

The test of "detrimental" to adjacent properties goes beyond the test of compliance, consistency and compatibility that is prescribed by the City's Master Plan and codes. It is for this reason that the public hearing process exists so that the approving authority can hear testimony from anyone impacted or interested in the land use request.

Several neighboring property owners to the south and west of the site have shared their concerns about the project's possible adverse impact on property values within their community. Many of the neighbors who have contacted staff, note that they view the proposed use to be commercial in nature, which detracts from the full use and worth of their single family homes and the community. Many of those who have raised concerns about the project, cite the potential increase in site area vehicular traffic and the undesirable impact that the facility's onsite activities will have on the continued enjoyment of their homes. Public correspondence received has been included with this staff report (See Attachment A).

The applicant has attempted to mitigate both the visual and physical impact the proposed site use might have on the immediate neighbors, i.e., locating the building along Darnestown Road and the eastern property line, away from the single family detached dwellings to the south and west. The applicant also proposes to retain significant numbers of onsite mature trees and other vegetative materials. It is important to note that the proposed building as sited, meets and exceeds the minimum

building setbacks as required by the Zoning Ordinance. For example the building is setback approximately 31 feet from the east (side) yard lot line (22 feet required), 97 feet from the south (rear) lot line (50 feet required), 110 feet from the west (side) lot line (22 feet required), and 50 feet from the north (front) lot line (50 feet required). Also, the substantial number of mature evergreen trees, with an approximate height of 60 feet, and other vegetative material being retained will serve as a screen and buffer between the site and neighboring homes to the south and west. The applicant's proposed landscape and preliminary forest conservation plans denote that there will be significant replacement and replanting of trees and other vegetative materials in the remainder of the site, to ensure the site development fully complies with applicable requirements of the Forest and Tree Preservation Ordinance.

The Preliminary Forest Conservation Plan for Brightview is under review by the City Forester's office and is close to being approved. The 3.69-acre site is subject to all of the Forest and Tree Preservation Ordinance requirements including forest conservation, significant tree replacement and minimum tree cover. The project proposes to meet both forest conservation and minimum tree cover on site and has received approval from the City Forester to pay fee in lieu for a portion of the significant tree replacement requirement.

There is no forest on site; however, the property contains over 160 trees of which 55 are being removed for the development. The most noteworthy significant trees are the two mature American elm trees, 45" DBH and 52" DBH, in the center of the site behind the existing house. While preservation of the larger elm tree is not feasible due to the tree's proximity to the house, the smaller tree is being preserved and will be a focal point within a large landscaped area behind the building.

In response to citizen remarks at the February 24, 2010 Planning Commission meeting concerning the condition of the trees following the winter snow storms, the applicant's Arborist re-examined all of the significant trees. Minor damage was observed on 65 trees. Forestry staff concurs with the Arborist's opinion that preservation of the trees as shown on the Preliminary FCP is still possible. The Final FCP will prescribe mitigation measures for all trees including specific recommendations for snow-damaged trees.

Since there is no forest on site the project is required to meet the afforestation requirement of 15% or 0.55 acres (23,958 square feet.). This requirement will be met through the preservation of a double row of mature white pine trees along the western and southern property lines adjacent to the single family homes. The area between the

white pines and the two property lines will be planted with 30 native shade, ornamental and evergreen trees. The establishment of a forest conservation easement over the white pine row and the supplemental tree planting will provide a permanent buffer between the site and the surrounding single-family homes. The easement area totals 0.77 acres or 33,547 square feet.

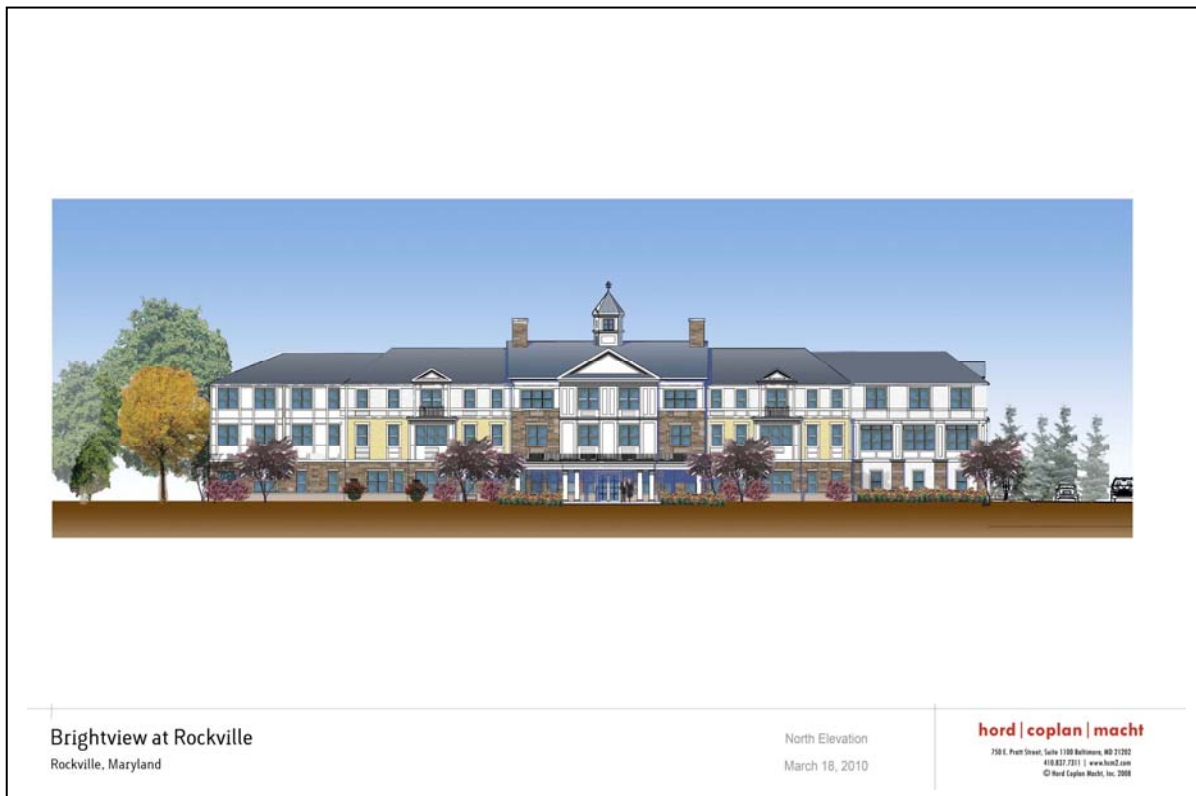
The Minimum Tree Cover requirement is the same as the site's afforestation requirement, which is 15% or 0.55 acres (23,958 square feet). The project proposes to exceed the requirement by over 32,000 square feet through the retention of the white pines as well as with the additional site landscaping provided.

**iv) Change the character of the neighborhood in which the use is proposed, considering services currently required, population density, character, and number of similar uses; and**

As noted throughout this staff report, under the applicant's special exception as initially submitted, the proposed building ranged in height from one to four stories, i.e., 49 to 50 feet in height. However, in response to neighbors' concerns, as heard at the February 24, 2010 Planning Commission meeting, regarding the scale and height of the proposed building, the applicant has modified the height of the building to comply with the 35 foot height limit of the R-90 Zone. Height of the building is measured to the mean height level, between the eaves and peak of the gable roof. Under this modified building plan, the total number of living units remains at 90, the same number as initially proposed. With the reduction in building height, the number of one-bedroom units has been reduced by 8 units and the proposed two-bedroom units have been eliminated. Also, the proposed building's gross square footage (g.s.f.) has been reduced from 67,464 to 60,281 g.s.f. (See Attachment D).

As referenced in the applicant's special exception statement, the building's exterior design reflects the residential community vernacular, through the use of materials, rooflines, facade changes, design elements, and color of materials. While it has been noted that the site is bounded to the south and west by single-family detached dwellings, most of which are two stories in height, the single family detached dwellings located in the Fallsgrove mix-use development across Darnestown Road are relatively larger and appear taller. Also, once constructed, the Kol Shalom Synagogue which will be located on the neighboring property to the east of the subject site, will be approximately 24 feet in height and institutional in design.

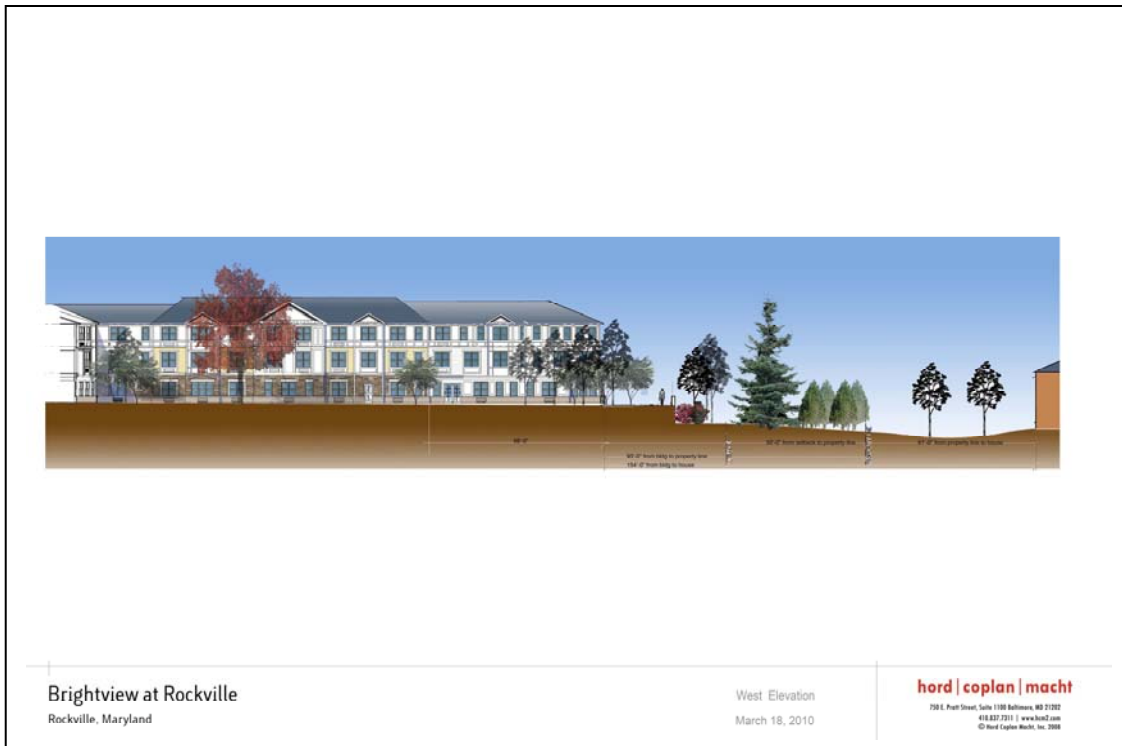
Based on the predominantly residential land use pattern of the immediate site area, it will be important for the applicant to determine whether the building can be designed, comprised of two and three story building sections. Staff has recommended as a condition of approval that the building elevation be modified to create a building that is comprised of two stories (approximately 22'6" in height) at the ends of southern and western wings of the building, with the remaining portion of the structure designed with three (3) stories. While the proposal to construct a three story (35') tall building structure complies with the height limits of the R-90 zone, the proposed structure, if it could be designed with two and three story building segments, it would more compatible with the surrounding two-story single family homes immediately adjacent to the site.



**Rendered Elevation – North Building Face**

Although such a building redesign would be physically reflective of the neighboring residential land uses, staff has found no evidence that the proposed establishment of a three story (35') tall assisted living facility would change the character of the neighborhood, with regard to the type and level of services that are currently required and/or is being provided within the site area.

As previously mentioned, the APFO analysis of this proposal shows little impact on service capacities. If the special exception is granted, the applicant will have to make all necessary infrastructure improvements to accommodate the site use. For example, DPW staff has approved the project's stormwater management concept plan, and has also analyzed the existing public water and sewer system to determine the adequacy of the system to serve the site use.



### Rendered Elevation – West Building Face

As shown on the site plans provided, the proposed assisted living facility will be located well over 130 feet from the closest residential dwelling to the south and 150 feet from the closest home to the west. While the proposed three level housing facility will be approximately 35 feet in height, said development would be approximately 10 to 12 feet (approximately one story) in excess of the two story homes located to the south and west. Such a difference in building height should be off set, due to the 130 and 150 foot separation between it and the nearest residential dwellings respectively, coupled with the substantial buffers that will be located along the southern and western areas of the site.

Based on existing residential land use patterns, current zoning classification of properties within the site area, coupled with the availability of developable land, it is unlikely that approval of the requested special exception use would bring about the proliferation of similar land uses within the subject site area. It is important to note that while the Collingswood Nursing Home located at 299 Hurley Avenue, is within driving distance of the site, that nursing home is not located within the same community as the use proposed. By allowing "housing for senior adults and persons with disabilities" in respective single unit detached dwelling, residential zones as a special exception and not permitted land uses, the proliferation of similar land uses within a given site area is unlikely. It is important to note that although the subject use will increase population densities within the neighborhood, the impact on utilities, roads and schools is of less impact than a number of other permitted or special exception uses.

**v) Constitute a nuisance because of traffic, number of people, noise or type of physical activity; and**

The use as proposed will not constitute a nuisance because of traffic or the number of people. As noted the site use will not generate greater than 30 peak hour trips. The applicant has affirmed that very few if any of the residents of the facility are likely to own, or retain a personal vehicle on-site. According to the information provided, the proposed Brightview facility will provide personalized care for senior citizens and persons with memory impairment disabilities. Residents are generally provided with the following services and amenities: concierge, security, all utilities except phone and cable television, three meals per day and snacks, housekeeping, laundry and linen service, 24-hour emergency call response systems, wellness programs, scheduled transportation, social and recreational activities, and limited personalized wellness health care management provided by on-site licensed nurses as well as visiting health care professionals. Personal care assistance with the activities of daily living such as bathing, dressing, grooming, and assistance with prescribed medications are provided to residents.

As per the information provided, it is projected that the facility will accommodate 92 residents, approximately 82 years of age, and as such, outside activities are generally limited. Most residents, due to their health and physical abilities, will be fully reliant upon staff, or family and friends for their travel needs. Under the proposal as submitted, there will be 66 assisted living units made up of studio and one bedroom living units, and there will be 24 Alzheimer's units made up solely of studio living units. Vehicular access will be via a single entrance on Darnestown Road. Site parking

facilities will be located interior to the site and designed so that vehicle headlights are oriented inward, screened with landscaping to prevent headlight glare and spillage onto neighboring residential lots. Based on all available information staff has found no evidence the proposed assisted living facility would generate excessive noise or physical activity deemed to be a nuisance or harmful to the community or surrounding land uses.

**3. The proposed use complies with the requirements of the Zoning Ordinance that are applicable thereto, including, but not limited to the special requirements contained in Section 25.15.02 and the general purposes of the Ordinance contained in Section 25.01.02.**

The subject special exception request is submitted in accordance with Section 25.13.03 of the Ordinance. The applicant's submission of the subject special exception request and development proposal reflects the applicant's attempts to comply with this fundamental requirement of the Ordinance. The proposed site use as proposed complies with applicable requirements of the Adequate Public Facilities Ordinance as well.

Lastly, in addition to the afore noted findings the Board is required to make in its consideration of this application request, **as per Section 25.15.02.j.2. of the Ordinance, the Board must make the additional finding that the proposed site use has adequate accessibility to, or provides on site, public transportation, medical services, shopping areas, recreational, and other community services frequently used by residents of such use.:**

As previously noted, the site is located within the Rockshire and Fallsmead Planning Area. As noted, scheduled transportation will be provided for residents by the facility, supplemented by family and/or friends that visit and may be active in monitoring the care being provided to their loved ones. The Brightview facility will offer the following communal amenities: living room, library, group dining room and café, activities room, beauty/barber salon, multi-purpose room, outdoor courtyards, and exercise and physical therapy room. Daily activity and entertainment programs are offered within the amenity areas to encourage social interaction within the facility.

Section 21.15.02.j.3 of the Ordinance requires the use comply with the following Special Development and Use Requirements:

(a) *Minimum Lot Size* – Development must be on a record lot of at least two (2) acres. The subject property is approximately 3.69 acres (156,816 square feet) in size.

(b) *Minimum Street Frontage* – The lot must have at least 100 feet of frontage on a public street. The subject site has in excess of 360 feet of frontage on Darnestown Road.

(c) *Setbacks* – All structures on the site must be set back at least as follows:

(i) Front Yard: 50 feet, except for projects in the MXT Zone, the setback may be the minimum required in the zone; and

Note: The proposed facility has a front yard setback of 50 feet; the minimum setback required.

(ii) Side and rear yards; Twice the minimum in the zone.

Note: The building has an east side yard setback of 31 feet; the minimum setback required is 22 feet. The building has a west side yard 110 feet; the minimum required is 22 feet. The building has a rear yard setback of 97 feet; the minimum setback required is 50 feet.

(d) Maximum Lot Coverage in the R-90 Zone is 25 Percent. Under the subject proposal, the maximum lot coverage is 15 Percent.

(e) Building Height: Maximum building height in the R-90 Zone is 35 feet; the proposed building height is 35 feet.

Based on all of the noted factors, staff finds adequate justification to recommend Special Exception SPX2010-00381 be approved subject to the conditions referenced on pages six and seven of this staff report.

#### **PUBLIC OUTREACH:**

In accordance with requirements of the Zoning Ordinance, the applicant held a pre-application area meeting on March 26, 2009 and a post-application area meeting on October 28, 2009 to provide interested parties an opportunity to hear and ask questions about the proposal. Notification letters were sent by the applicant to properties within the subject site area, per the requirements of the Zoning Ordinance.

Letters of notification were sent to abutting property owners informing them of the application request, pending Board of Appeals meeting, at which time the land use request and accompanying development proposal will be publicly heard and considered. A list of addressees, as submitted and provided by the applicant, to whom notices were sent/mailed is contained in the project's application file, available for public review. Public comments are included in Attachments A & B.

## **ATTACHMENTS**

Attachment A – Public Comment & Correspondence

Attachment B – Public Comment - Preliminary Application PAM2009-000002

Attachment C – Request Board of Appeals Defer Public Hearing

Attachment D – Applicant Email – Explanation of Height Modification

Attachment E – Sewer and Water Authorization letter dated February 4, 2010

Attachment F – Stormwater Management Concept Approval dated February 25, 2010

Attachment G – Mont. Co. Dept. of Permitting Services Review Comment Letter

Exhibit 1 – Site Plan

Exhibit 2 – Rendered Site

Exhibits 3 thru 6 Site Detail

Exhibits 7 thru 9 – Proposed Landscape Plans

Exhibits 10 thru 13 - Building Elevations

Exhibits 14 thru 16 – Proposed Floor Plans