

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 HARFORD COUNTY COUNCIL
 JAN 28 2020
 ZONING BOARD OF APPEALS
 HARFORD COUNTY, MD

Case No. 5923
 Date Filed _____
 Hearing Date _____
 Receipt _____
 Fee \$ 650
 Type Modification + Var

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5923 MAP 56 TYPE Modification & Variance
ELECTION DISTRICT 03 TAX ID 03053814, 03230848
LOCATION 2 Patterson Mill Road, Bel Air 21015 &
1703 Emmorton Road, Bel Air 21015
BY 3231 - 3233 St. Paul Street, LLC 16A Bel Air South
Parkway, Bel Air 21015
Appealed because a modification of the Hearing
Examiner's Decision In Case No. 5900 to modify the
approved site plan and a Variance from a Natural
Resource District buffer pursuant to Sec. 267-62B(2)
of the Harford County Code in the RO District requires
approval by the Board.

Owner (please print or type)

Name 3231-3233 St. Paul Street, LLC Phone Number call attorney

Address 16A Bel Air South Parkway, Bel Air, Maryland 21015
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Bradley R. Stover
Shaffer, McLaughlin & Stover, LLC Phone Number 410-420-7992

Address 836 S. Main Street, Suite 102, Bel Air, Maryland 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2 Parcels: 1703 Emmorton Road Bel Air, Maryland 21014 2 Patterson Mill Road Bel Air, Maryland 21015

Subdivision Lands of W. Milway / N. of Emmorton Lot Number 1 (1703 Emmorton Rd.)

Acreage/Lot Size 6.22 AC/ 1.47 AC Election District 3rd Zoning RO Tax ID # 03-230848 / 03-053814

Tax Map No. 56 Grid No. 1D Parcel 377 Water/Sewer: Private Public

List ALL structures on property and current use: 1703 Emmorton Road parcel is unimproved; 2 Patterson Mill Road parcel is improved by a single-family dwelling with 1 attached garage and 1 detached garage.

Estimated time required to present case: 1 hour

If this Appeal is in reference to a Building Permit, state number

Would approval of this petition violate the covenants and restrictions for your property? Yes No

Is this property located within the County's Chesapeake Bay Critical Area? Yes No

If so, what is the Critical Area Land Use designations:

Is this request the result of a zoning enforcement investigation? Yes No

Is this request within one (1) mile of any incorporated town limits? Yes No

Request

Modification of Board of Appeals Case No. 5900; special exception approval to operate Health Services and Medical Clinic in the R1 District. See §267-88(H)(11).
Variance from 75' NRD Buffer. See §267-62(B)(2).

Justification

See attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

REQUEST AND JUSTIFICATION FOR A MODIFICATION OF A SPECIAL EXCEPTION
AND NATURAL RESOURCE DISTRICT BUFFER VARIANCE
HARFORD COUNTY BOARD OF APPEALS STANDARD APPLICATION

Applicant

3231-3233 St. Paul Street, LLC.

Requests:

1. To modify an existing special exception approval to operate a Health Service and/or Medical Clinic use in the RO District, pursuant to §267-88(H)(11) of the Harford County Zoning Code.
2. For a variance from a Natural Resource District (“NRD”) buffer, pursuant to §267-62(B)(2) of the Harford County Zoning Code.

Special Exception Modification Justification

The subject property consists of two parcels: (1) 2 Patterson Mill Road, Bel Air, Maryland 21015, consisting of 1.186 Acres and being designated on Harford County Tax Map 56 as Parcel 298; and (2) 1703 Emmorton Road, Bel Air, Maryland 21014, consisting of 6.525 Acres and being designated on Harford County Tax Map 56 as Parcel 377 (collectively, the “Subject Property”). The Subject Property is currently split zoned residential-office (RO) and low intensity residential (R-1) as defined in the Harford County Zoning Code. The Applicant intends to subdivide the Subject Property into a 3.222 acre parcel along RO/R1 zoning line, such that Applicant’s intended use will be located solely on property zoned RO. The Subject Property is currently improved by a single family dwelling that Applicant intends to raze.

Applicant obtained approval, with conditions, from the Harford County Board of Appeals to operate a Health Service and/or Medical Clinic use at the Subject Property, pursuant to a special exception approval with conditions issued by the Harford County Board of Appeals, Case No. 5900 on July 17, 2019. Applicant desires to modify the site plan for the proposed Health Service and/or Medical Clinic use, as shown on the modified site plan attached hereto. The revised site plan reconfigures the location of proposed buildings and parking area on the Subject Property, without changing the proposed use thereof. The use of the Subject Property would not otherwise change, and the Applicant does not seek to modify any of the remaining conditions of approval in Case No. 5900.

NRD Buffer Variance Justification

Since the time Applicant obtained special exception approval in Board of Appeals Case No. 5900, Applicant has determined that isolated non-tidal wetlands have developed on the northeast portion of the Subject Property, as shown on the modified site plan. The modification of the site plan is the direct result of the discovery of the isolated non-tidal wetland areas.

Applicant seeks a variance from the NRD Buffer yard requirements set forth §267-62(B)(2) of the Harford County Zoning Code, in order that Applicant can accommodate parking for its special exception use thereon. Applicant further contemplates storm water management within the NRD Buffer; however, that use is permitted.

Applicant's experts will testify at the Board of Appeals hearing that the isolated non-tidal wetlands have been created by a combination of excessive rain during the year 2018 and by water discharge onto the Subject Property as a result of road improvements made to Maryland Route 924. Due to these circumstances, strict implementation of Section 267-62(B)(2) of the Code would pose an unwanted hardship on the Applicant, insofar as the Properties would be rendered unusable in the areas in the NRD buffer, do to no fault to the Applicant. As justification for a variance, Applicant offers as follows:

a. Special conditions or circumstances exist that are peculiar to the Subject Property such that literal enforcement of the NRD Buffer yard requirements would result in practical difficulty and an unwarranted hardship. The subject isolated non-tidal wetlands were created due to no fault of the Applicant, but the Subject Properties would be rendered partially unusable by literal interpretation and enforcement.

b. The variance requested is not based upon conditions or circumstances which are the result of actions by the Applicant. Moreover, the variance requested does not arise from any condition relating to land or building use on any neighboring property.

c. As will be testified to the Applicant's experts, the Applicant's proposed development of the Properties is designed to minimize the effects on other NRD areas on the Properties and neighboring properties. In fact, the modified site plan reduces the impervious surfaces permitted in Board of Appeals Case No. 5900, created less of an impact.

d. The variance will not substantially be detrimental to adjacent properties or the public interest. Applicant is proposing mitigation in the form of equal area replantings of trees more appropriate for non-tidal area wetlands. The trees and shrubs currently in the area of the recently created non-tidal wetlands are dying, as the existing trees and shrubs are not appropriate for wetland areas. Applicant will replant wetland-appropriate trees and shrubs.

Justification – Limitations, Guidelines and Standards

The proposed uses, even with the change in the site plan, will continue to fall within the applicable limitations guidelines and standards to be adhered to by the Board of Appeals as set forth in Section 267-9(i):

1. The Subject Property and use thereon should not have an impact on the number of persons living or working in the immediate area, which consists of a mix of residential and office buildings.

2. The proposed use should not have any negative impact on traffic conditions. It is anticipated that the number of trips generated by the proposed use will not be significant, especially

in light of the total of vehicle trips on Maryland Route 924 on any given day. The Applicant's traffic study was accepted as an exhibit in Board of Appeals Case No. 5900.

3. The proposed use should not affect the orderly growth of the neighborhood and community, given the existence of mix of residential and office uses in the nearby area.

4. There will be no effect as the result of any odors, dust, gas, smoke, fumes, vibration, glare, noise as a result of having a Health Service or Medical Clinic use at the Subject Property. All services will be provided within the improvements to be constructed on the Subject Property and will be self-contained therein.

5. The proposed use shall not have any adverse impact on facilities, fire protection, sewage, water, trash and garbage collection or the like. The Subject Property shall be served by public water and sewer. The owner of the Subject Property will provide for trash and garbage collection.

6. The requested use is consistent with generally accepted engineering and planning principles and practices.

7. There will be no additional impact on structures in the vicinity, such as schools, houses of worship, theaters, or hospitals, none of which are in close proximity with the Subject Property.

8. The proposed use is consistent with the purposes of the Code, the Master Plan and related studies for land use and the like, insofar as the use is a special exception use in the RO district.

9. Except as set forth above, the proposed use shall not have any environmental impact on any nearby sensitive features. The Applicant will mitigate the NRD Buffer variance with wetland-appropriate replantings. There are no applicable opportunities for recreation or open space.

10. The proposed use shall not have any negative impacts on any cultural or historic landmarks, which none are known on the Subject Property.

List of LLC Members:

3231-3233 ST. PAUL STREET, LLC

Maryland SDAT Department ID No.: W07030893

Principal Office: 7708 Harford Road
Baltimore, Maryland 21234

Resident Agent: William G. Frankis
7708 Harford Road
Baltimore, Maryland 21234

Members: Robert Frankis 50%
16A Bel Air South Parkway
Bel Air, Maryland 21015

William Frankis 50%
16A Bel Air South Parkway
Bel Air, Maryland 21015

Zoning Code Requirements

Appeal from Administrative Decision/Interpretation Requirements (Article 267-7A)

- (6) Render a final written determination, within 45 calendar days of the written request, of whether a proposed use is permitted in a particular zoning district, or whether a proposed use is a legal nonconforming use upon written request of any person. The Director of Planning may determine a materially similar use exists, based on the North American Industrial Classification System (NAICS). The final written determination of the Director of Planning shall be subject to appeal to the Board by the applicant within 20 calendar days of the date of the decision.

Variance Requirements (Article 267-11)

- (A) Variances from the provisions or requirements of this Code may be granted if the Board finds that:
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and
 - (2) The variance will not be substantially detrimental to adjacent properties, or will not materially impair the purpose of this Code or the public interest.

(The Board may impose such conditions as it deems necessary in each particular case. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Code.)

Special Overlay District Requirements (Article 267-62)

(E) Natural Resources District

Variances. The Board may grant a variance to Subsection C or D upon a finding by the Board that the proposed development has been designed to minimize adverse impacts to the Natural Resources District to the greatest extent possible. Prior to rendering approval, the Board shall request advisory comments from the Director of Planning, the Soil Conservation District and the Maryland Department of the Environment.

Chesapeake Bay Critical Area Overlay District (Article 267-63)

- (1) Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship to an applicant.
- (2) All applications for variances shall be reviewed by the Director of Planning for conformance with applicable provisions of this section, and a written report shall be provided to the Board of Appeals.
- (3) In granting a variance, the Board shall issue written findings demonstrating that the requested approval complies with each of the following conditions:

- (a) That special conditions or circumstances exist that are peculiar to the land or structure within the County's Critical Area, and a literal enforcement of the Critical Area Program would result in an unwarranted hardship.
 - (b) That a literal interpretation of the provisions of this section will deprive the applicant of rights commonly enjoyed by other properties in similar geographic and land use management areas within the Critical Area.
 - (c) That the granting of a variance will not confer upon the applicant any special privilege that would be denied by this section to other lands or structures within the Critical Area.
 - (d) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (e) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the purpose and intent of this section.
 - (f) That all identified habitat protection areas on or adjacent to the site have been protected by the proposed development and implementation of either on-site or off-site programs.
 - (g) That the growth allocation for the County will not be exceeded by the granting of the variance.
 - (h) That the variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.
- I. Special exceptions. All projects requiring approval as special exceptions within the Critical Area must meet the standards of this section. The Director of Planning may require such additional information, studies or documentation deemed necessary to ensure that applicable requirements of this district are met. Applications will not be considered complete for processing until all information as required by the Director of Planning has been received.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

- (b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.
- (c) Extension of any use or activity permitted as a special exception shall require further Board approval.
- (d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- (e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. (See Article 267-88 for specific requirements of Special Exception uses.)

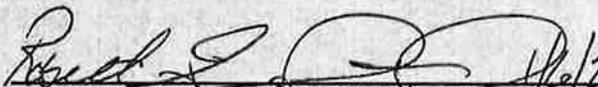
I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.

I/We do hereby declare that no officer or employee of Harford County, whether elected or appointed, has received prior hereto or will receive subsequent hereto any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or aware of the within application or petition.

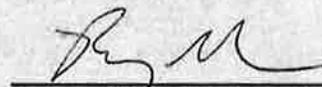
I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.

I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.



 Signature of Owner Date 1/13/20



 Witness Date 1/6/20

 Signature of Co-Applicant Date

 Witness Date



 Signature of Attorney/Representative Date 1/13/20



 Witness Date 1/13/20

 Director of Planning and Zoning Date



 Zoning Staff Date 1-28-20



COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

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NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: July 17, 2019

HEARING EXAMINER: Robert F. Kahoe, Jr.

RE: Zoning Appeal Case No. 5900

APPLICANT: 3231-3233 St. Paul Street, LLC

LOCATION: 2 Patterson Mill Road & 1703 Emmorton Road, Bel Air

REQUEST: Special exception to permit a Health Service and/or Medical Clinic Use in the RO Residential Office and R1 Urban Residential Districts

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final **AUGUST 6, 2019**.

This decision shall be considered a recommended opinion to the Harford County Council, sitting as The Board of Appeals, if a written request for Final Argument before the Harford County Council is filed by the close of business on above date by the Applicant, Applicant's Attorney, Opponents, People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Council Administrator, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

Mylia A. Dixon
Council Administrator

Enclosure

cc: Applicant/Attorney; People's Counsel; Department of Planning and Zoning



APPLICANT: 3231-3233 St. Paul Street, LLC

BEFORE THE

REQUEST: Special exception to permit a Health Service and/or Medical Clinic Use in the RO Residential Office and R1 Urban Residential Districts

ZONING HEARING EXAMINER

FOR HARFORD COUNTY

BOARD OF APPEALS

HEARING DATE: May 15, 2019

Case No. 5900

ZONING HEARING EXAMINER'S DECISION

APPLICANT: 3231-3233 St. Paul Street, LLC

LOCATION: 2 Patterson Mill Road, Bel Air, MD 21015
Tax Map: 56 / Grid: 1D / Parcel: 0298
Third (3rd) Election District

ZONING: Split Zoning
RO/Residential Office, 2 Patterson Mill Road
RO/Residential Office on subject parcel at 1703 Emmorton
R1/Urban Residential on remainder of parcel at 1703 Emmorton

REQUEST: A special exception, pursuant to Section 267-88H(11) of the Harford County Code, to operate a health service and/or medical clinic use in the RO Residential Office and R1 Urban Residential Districts.

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is located at the intersection of MD Route 924 (Emmorton Road) and Patterson Mill Road. Presently it consists of parts of two parcels, a 1.816 acre zoned-RO/Residential Office and a 6.22 acre parcel split zoned between RO/Residential Office and R1/Urban Residential. The Applicant intends to re-subdivide the parcels to create a 3.22 acre parcel which will be zoned solely RO/Residential Office, upon which the Applicant, if the special exception is granted, intends to construct a building to house health service use and/or medical clinic. As such a use in the RO/Residential Office district requires Board of Appeals approval, this application is filed.

First for the Applicant testified David Taylor, who was offered and accepted as an expert in land planning and land use and is a professional engineer. Mr. Taylor explained that the proposed facility would be located entirely on the RO/Residential Office portion of the parcel, at the intersection of Emmorton and Patterson Mill Roads. Relying upon Applicant's Exhibit No. 2, which is a preliminary site plan for the proposed use, Mr. Taylor explained that there will be two access points, one approximately in the middle of the property on Emmorton Road and the other at the far eastern edge of the property on Patterson Mill Road.

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One hundred thirty-two (132) parking spaces are planned, based on 6 spaces per doctor. At the request of Harford County the Applicant had prepared a traffic study, which was offered into evidence as Exhibit No. 3. That study concluded:

“The Harford County Adequate Public Facilities Ordinance (APFO) requires developments located within the development envelope to meet the following intersection level of service standards: All key signalized intersections must operate at a level of service “D” or better and all unsignalized intersections must operate with a side road minor approach level of service of “D” or better. As required by the *Harford County Traffic Impact Studies Guidelines*, the intersection level of service is determined with the Highway Capacity Manual (HCM) software.

The study finds that the key intersections would continue to operate with adequate levels of service with the build out of the proposed medical office development.”

Mr. Taylor stated that while storm management facilities (hereinafter “SWM facilities”) are shown on the proposed site plan, they have not been fully finalized and storm water volumes have not been fully calculated. However, SWM facilities will be designed for and will service the subject property only. They will not be shared facilities. Furthermore, they will not be designed to catch and treat state highway runoff as that is not the responsibility of the property owner.

The site plan shows extensive wetlands to the east of the property. These wetlands will be buffered and protected. No wetlands will be disturbed except by utility lines, again as shown on the site plan. No impact, including parking, will be allowed on the wetland buffers except SWM facilities.

The site plan also shows the construction of a Type A vegetative buffer along the side opposite Emmorton Road, being the east side of the parcel. That Type A buffer extends from Patterson Mill Road for approximately 100 feet, and from the northerly property line about 130 feet. Testimony was that the portion of the property not buffered by that Type A buffer contains adequate natural screening for buffering purposes.

All parking associated with the proposed medical offices will be on-site. Mr. Taylor explained that to the east of the property is a natural resource district and associated buffer; across Patterson Mill Road is a substation for the Bel Air Volunteer Fire Company; just north of the property are located two buildings being constructed and/or improved for commercial purposes.

In reviewing the architectural renderings (Exhibit No. 5) Taylor described that, in his opinion, the proposed construction will be compatible with the surrounding neighborhood. There should be no adverse impact on that neighborhood, and the proposed use is similar to other surrounding uses. There are no sensitive environmental areas on-site, other than the wetland buffer which will not be disturbed except for utility easements and SWM facilities. The use as a whole has no particular adverse impact at the proposed location.

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In reviewing the suggested conditions of the Department of Planning and Zoning, Mr. Taylor explained that the owner has no objection to any condition except condition no. 4. Mr. Taylor does not believe that an area for a future cross access easement should be set aside on the northern portion of the property. He does not feel that traffic should be allowed to access the parcel from the north, nor should users of the subject parcel be allowed to exit the property to the north. Such a use, particularly as it would increase present traffic levels, would have an adverse impact on the residents of the Glengate subdivision which shares the northerly access with the commercial parcels between it and the subject parcel. Furthermore, the traffic study was done without the additional traffic flow which a cross easement of the two parcels would allow.

Mr. Taylor expressed confidence in his preliminary SWM facility design, which will evenly disperse excess water across the property to the rear. He feels it will be a much better facility than, for instance, existing facilities across Patterson Mill Road which service the school parcel.

Next for the Applicant testified Paul Thompson, who was offered and admitted as an expert land planner and architectural design consultant. Mr. Thompson's firm did the conceptual design work of the proposed improvements, which are intended to be architecturally and visually compatible with the surrounding neighborhood. He believes that the conceptual design, which will form the basis of the final design, will achieve that goal. Mr. Thompson has attempted to break up the façade of the structure so as to appear as separate buildings along the street front, giving it somewhat of a "Main Street" look.

Next for the Applicant testified Robert Frankis, one of the members of the Applicant, a limited liability company. Mr. Frankis explained that the existing single family home will be taken down. He has met with neighbors to discuss their issues with the proposed use. Concerns expressed during those meetings included potential erosion of the stream bed to the east of the subject property. He also had discussions with the Glengate Board, who objected vehemently to the suggested cross easement. Mr. Frankis also explained that he has no plans to allow the sale of mephedrone or similar stimulants, or to allow a drug clinic or the sale of medical or legalized marijuana.

Next for the Harford County Department of Planning and Zoning testified David Culver. The Department recommends approval of the requested special exception, with conditions. Mr. Culver expressed the Department's concern that there be a walkway between the subject parcel and the commercial parcel just to its north to allow patients who may be visiting clinics on both parcels to pass back and forth between the two. The Department is also concerned that recommended condition no. 4 be maintained, which would require a cross easement to be available for future access between the two parcels in the future. Mr. Culver believes that an improved cross easement would help traffic avoid the intersection of MD Route 924 and Patterson Mill Road.

Next in opposition testified John Gessner, a resident and member of the Board of Directors of Sable Woods, the subdivision which is located to the northeast of the subject parcel. Mr. Gessner explained that Sable Woods' members are very concerned about impacts on Sable Woods' SWM facility. Sable Woods shares its facility with both Parsons Ridge and the Glengate subdivision. Any impact on their shared SWM facility could potentially have a financial impact on the residents of those subdivisions. As a result, he and his Board are worried about runoff from the proposed use into the shared facility. Any such runoff could cause additional expense and require maintenance of the facility.

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As a result, Mr. Gessner, on behalf of the subdivisions involved, requests a condition that there be no impact on the SWM facility shared by Glengate, Parsons Ridge and Sable Woods. Generally speaking, the Sable Woods residents are in favor of the proposed special exception and believe it is an appropriate use for the site. They believe it is a good project, but insist that there be no impact on their shared SWM facility.

Next in opposition testified Laurence C. Markle, a resident of Parsons Ridge. Mr. Markle agrees with the SWM points raised by Mr. Gessner. Parsons Ridge is a 54% owner of the shared SWM facility and is concerned about impact on that facility by the proposed project.

Next testified Robert Williams from the Glenwood subdivision, located to the north of the subject parcel. Mr. Williams feels that the proposed building will not be compatible to the neighborhood. It is to be a large commercial building; another commercial building which is moving up the MD Route 924 corridor. He feels the ambiance of the area is being ruined by these large commercial buildings. The area is changing; there is nothing like the proposed building within the neighborhood. He believes that the creeping up MD Route 924 of commercialization is to be avoided.

Next testified Karen Kukurin, a resident of the Barrington subdivision, across the MD Route 924/Patterson Mill Road intersection from the subject parcel. Ms. Kukurin also believes there is too much commercialization in the neighborhood. MD Routes 924/24 are becoming a long strip mall. She believes there should be more trees in the area and less commercialization. She believes the area needs to maintain and improve its residential character.

Next testified Gary Ambridge, a resident of the Parsons Ridge subdivision. Mr. Ambridge expressed concerns about traffic impact.

Next testified the president of the Glengate community, who expressed the opposition of its residents to a connection between the proposed development and the commercial buildings to its north, which utilize the Glengate common entranceway.

Next testified Cynthia Kollner who expressed concerns about creeping commercial development up the MD Route 924 corridor. She is also worried about impact on the large number of school buses which utilize Patterson Mill Road. She believes that the proposed entrance on Patterson Mill Road is too close to the fire house and will cause friction with traffic in and out of the firehouse.

Next in opposition testified Steven Link, a resident of Parsons Ridge. Mr. Link believes that the additional traffic to be generated by the proposed use will have a negative impact on the safety of the 1,500 students who are enrolled at the Patterson Mill schools. Many of the students walk to and from school and there are many vehicles which utilize Patterson Mill on a daily basis.

Next testified Larry Kramer who owns and resides at the parcel about 400 feet from the northeast side of the subject property. Mr. Kramer is concerned about the impact of storm water runoff from the subject parcel onto his parcel and, particularly, on the drainage ditch which runs along his parcel.

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Next testified Laura Barcena, a resident of Parsons Ridge. Ms. Barcena is concerned about the quality and quantity of storm water that moves from the subject parcel onto the adjoining parcels and believes that the access/egress of the subject parcel to and from MD Route 24 should be right in and right out. She is most concerned about traffic safety.

Post Hearing, counsel for the Applicant and the neighbors agreed upon the following conditions in the event of a favorable decision:

1. The Subject Property shall not be used for sale or on-site administration of drugs for medical treatment for dependency on psychoactive substances such as alcohol, prescription drugs, or illicit drugs such as cocaine, heroin or amphetamines and/or for the sale of any cannabis or cannabis related products.
2. Prior to submission of plans to the Development Advisory Committee, Applicant will provide to People's Counsel a proposed storm water management plan, which will include the projected impact thereon as a result of Applicant's development of the Property.

APPLICABLE LAW:

Section 267-88H(11) of the Harford County Code provides:

(11) Health services and medical clinics. These uses may be granted in the RO District, provided that:

- (a) The structure shall be of a size, scale and facade compatible with the surrounding residential neighborhood.*
- (b) All parking shall be accommodated on the site in a manner compatible with the surrounding roads and uses.*
- (c) A Type "A" buffer yard, pursuant to § 267-30 (Buffer yards), shall be provided between the parking area and any adjacent residential lot."*

Harford County Code Section 267-9I, Limitations, Guides and Standards, is also applicable to this request and will be reviewed below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant seeks permission to construct a commercial building at the busy intersection of Patterson Mill Road and MD Route 924 for the provision of health services to the general public. The building, as proposed, will have two levels above ground, with 36,800 square feet of office space. Parking will be provided on-site, with a total of 132 parking spaces proposed. The structure will be designed in such a fashion so as to have a mixed façade with the goal, according to the designer, to provide a "Main Street" look to the structure. All storm water management will be on-site and none of those facilities will be shared. There will be access to and from Patterson Mill Road and MD Route 924.

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While there was a significant amount of testimony to the effect that approval of the structure would only increase the commercialization of MD Route 924, in truth that process had begun well before now, and will no doubt continue long after this building has been constructed and is in operation. Diagonally across MD Route 924 is an existing commercial building. Directly across Patterson Mill Road are the important and busy institutional uses of a fire department substation and Patterson Mill public schools, and south of that is a large assisted living facility. Directly to the north are two commercial buildings and the Glengate subdivision. Farther north is the institutional use of a church.

In fact, this area of MD Route 924, and extending farther south, has been developed for mixed commercial/residential and institutional uses for many years, with no real end in sight. While not perhaps to everyone's liking, the existing use, as found by the Department of Planning and Zoning "...generally conform[s] to the overall intent of the 2016 Master Plan."

No evidence was presented that the potential impact of this proposed use would be any greater at the Patterson Mill Road/MD Route 924 intersection than it would be at any other particular location within the zone. There will no doubt be some impact from the use, primarily on traffic. However, no testimony or evidence was presented that the traffic impact will be somehow more severe at this location than at another location. Indeed, the intersection is controlled by a traffic light, significant traffic manages to flow through that intersection on a daily basis, and the additional traffic load at the proposed use will be acceptable, as is demonstrated by the traffic report produced without objection, the conclusion of which was satisfactory to the Department of Planning and Zoning.

The concern of the neighbors that runoff may impact the shared SWM facility and the drainage ditch on Mr. Kramer's property is noted. However, Harford County storm water management regulations require that the SWM facilities be designed so that there is no increased or accelerated impact. The developer and builder must assure Harford County that those regulations are adhered to before permits will be issued. While no credible evidence was presented that would lead to the conclusion that storm water management generated as a result of the building of the project will impact any adjoining property, a condition will nevertheless be appended to the decision that will hopefully serve to guarantee such a result.

It is accordingly found that the proposed use will not result in an unusual nor abnormal use of the subject parcel which, as it is zoned RO/Residential Office, could support as principal permitted uses many different types of retail and residential uses.

It is further found that the use does comply with all specific special exception requirements as follows:

Section 267-88H(11). Health services and medical clinics. These uses may be granted in the RO District, provided that:

The district is zoned RO Residential Office.

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- (a) *The structure shall be of a size, scale and facade compatible with the surrounding residential neighborhood.*

It is found that this requirement has been met. Uncontradicted testimony was of the effect that the building will match in scale and appearance to the surrounding neighborhood.

- (b) *All parking shall be accommodated on the site in a manner compatible with the surrounding roads and uses.*

This requirement has been addressed and has been met.

- (c) *A Type "A" buffer yard, pursuant to § 267-30 (Buffer yards), shall be provided between the parking area and any adjacent residential lot."*

The Applicant has proposed to construct a Type A buffer along the east property line of the parcel. It will be a condition of this decision that that Type A buffer be constructed along the entire length of the east property line.

The Applicant has shown compliance with specific applicable regulations. However, the Applicant must also show compliance with the more generalized considerations of Harford County Code Section 267-9I, Limitations, Guides and Standards. The proposed use demonstrates compliance as follows:

- 1) *The number of persons living or working in the immediate area.*

The area is intensely utilized, with multiple residential subdivisions, hundreds of homes, and a variety of institutional and commercial uses along MD Routes 924 and 24. There is a significant traffic load at virtually all times on the surrounding roads. Nevertheless, while the proposed use will certainly bring additional traffic to the area, the impact should not be particularly noticeable. These findings are supported by the conclusion of the traffic report, which finds that the level of service will not diminish to an unacceptable level. Accordingly, there should be no adverse impact to the number of people living or working in the area.

- 2) *Traffic conditions, including facilities for pedestrians and cyclists, such as sidewalks and parking facilities; the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

As stated above, traffic conditions should not be adversely impacted. Pedestrian walkways now exist both along Patterson Mill Road and along MD Route 924.

It is noted that the Harford County Department of Planning and Zoning has recommended there be an area designated for a "future cross access easement" across the property's northern border. This could connect the property to the proposed 6,000 square foot office building and parking just to its north, which in turn is connected to an office building located immediately to its north. Both of those northerly buildings have used or will in the future use the shared entrance of the Glengate subdivision. In fact, that shared access is the only means of ingress or egress to those two commercial buildings. Recently, an application was heard for the 6,000 square foot buildings to the north of the subject parcel. That decision, filed in Case No. 5888, is incorporated herein.

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The concerns of the Glengate subdivision expressed in that case were that traffic coming from the southern commercial properties would impact the use of, create potential safety problems, and would potentially lead to congestion over the shared access. Those concerns were well stated and were accepted as being credible.

To their credit, the parties in that case were subsequently able to agree to certain restrictions on the joint use of that shared access point. Those conditions were made a part of that decision. Given that history, and with the concerns of the Glengate residents in mind, it would be adverse to their interests to now provide for future expansion of traffic through that shared access point. Accordingly, the suggestion of the Department of Planning and Zoning of a future cross access easement is rejected. It is found that the two access points now shown on the subject property, one on Patterson Mill Road, and one on MD Route 924, will be sufficient for the proposed use.

3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

As found by the Harford County Department of Planning and Zoning, the request is consistent with orderly growth in the neighborhood and its low intensity designation.

4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

No such conditions should be generated by the proposed use.

5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sherriff and Maryland State Police will provide police protection. Bel Air Volunteer Fire Company will provide fire protection.

6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

As found by the Harford County Department of Planning and Zoning, the request is consistent with generally accepted planning principles.

7) *The structures, in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

As noted, there are many such structures in the area. However, for reasons stated, there should be no particular adverse impact on any of these institutional uses.

8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The request is consistent with the County's 2016 Master Plan.

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9) The environmental impact, the effect on sensitive features and opportunities for recreation and open space.

Testimony was given that the proposed use should not have any impact on any sensitive environmental feature. It was noted that there is a fairly extensive natural resource district to the east of the property. That district is protected by mandated buffers. Testimony is that there will be no environmental impact on those features.

10) The preservation of cultural and historic landmarks

No cultural or historic landmarks have been identified.

Accordingly, the Application complies with all conditions of Section 267-9I of the Harford County Code.

The Applicant must further show that it meets the standard for review provided by the Maryland appellate case of Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981). Briefly stated, Schultz v. Pritts determined that a special exception use must be denied if it has an impact at the proposed location greater than it would at some other location within the zone.

For reasons set forth in detail above, it is found that the proposed use will have no greater adverse impact at the proposed site than it would at any other location within the zone.

CONCLUSION:

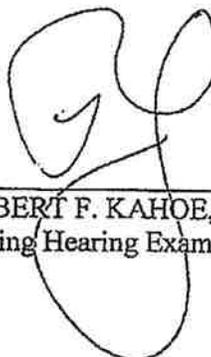
It is accordingly recommended that the requested special exception be approved, subject to the following conditions:

1. A site plan be submitted for review and approval through the Development Advisory Committee (DAC).
2. The Applicant shall obtain all necessary approvals, permits and inspections for the project.
3. Any lighting that may be needed for the project be shielded from the adjacent residential use.
4. That the architecture be substantially consistent with the architectural renderings submitted with the Applicant's application.
5. That a Type "A" buffer be constructed along the entire eastern property line.
6. The Subject Property shall not be used for sale or on-site administration of drugs for medical treatment for dependency on psychoactive substances such as alcohol, prescription drugs, or illicit drugs such as cocaine, heroin or amphetamines and/or for the sale of any cannabis or cannabis related products.

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7. Prior to submission of plans to the Development Advisory Committee, Applicant will provide to People's Counsel a proposed storm water management plan, which will include the projected impact on the storm water management facility shared by the neighboring subdivision as a result of Applicant's development of the Property. A further condition of this approval is that any such impact be *de minimis*, i.e. too trivial or minor to merit consideration.

Date: JULY 17, 2019



ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on AUGUST 6, 2019.