



MEMORANDUM

Clarke Caton Hintz

Architecture

Planning

Landscape Architecture

To: Montgomery Township Planning Board

From: Michael Sullivan, ASLA, AICP
James Clavelli, PP, AICP
Tristan Harris, AICP

Re: **BPS Development Company, LLC**
Preliminary and Final Major Site Plan and Bulk Variances
Major Site Plan 2
Hartwick Drive & Village Drive
Block 28003, Lot 211
ARH Age Restricted Housing Zone

Date: March 23, 2023

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1.0 Project & Site Description

Project Description: The applicant is seeking preliminary and final major site plan approval and bulk variance relief to develop an assisted living and memory care facility. The site is located within the ARH Age-Restricted Housing District, adjacent to the wider planed mixed-use district/redevelopment area

The proposed development consists of a 35,404 sf. assisted living and memory care facility. Other improvements include a 42-space parking lot, two (2) driveways, an emergency access lane consisting of grass pavers, two (2) courtyards, a 5-foot wide sidewalk that wraps around the facility and stormwater facilities. Retaining walls, EV charging equipment, a sign, masonry trash enclosure and fencing are also proposed.

This report corresponds to the applicant's revised submission, received March 3, 2023. Most recent comments made by this office are shown, by section, below in bold, underlined typeface.

1.1 Existing Site Conditions: The site contains 4.43 acres (193,095 sf.) of land on a corner lot that contains frontage on Village Drive and Hartwick Drive. Development on the site consists of one (1) mobile trailer located at the southwestern corner of the site, a post and rail fence, chain-link fence, headwall and a stormwater inlet and flared end outfall leading to rip-rap and a stormwater

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basin the is partially surrounded by a concrete wall. The site is encumbered by two (2) stormwater drainage easements and a utility easement.

Trees are located on the site, though primarily clustered in the property's southern portion. Steep slopes are found on the site. No wetlands or waterbodies are located on site, nor is the property within a flood hazard area.



- 1.2 **Unit Discrepancy:** The plan indicates on sheet 4, note 10.G that there are 80 units proposed within the building. The architectural drawings contain 82 units within the proposed building (40 on the first floor, 42 on the second floor). **The applicant should confirm the number of units proposed within the building and update the plan accordingly. The Architectural Plans have been revised accordingly to clarify that 80 units are proposed.**
- 1.3 **North Arrow Discrepancy:** The north arrow is incorrectly placed on the demolition plan (sheet 3), site plan (sheet 4), drainage plan (sheet 6), utility plan (sheet 7), landscape plan (sheet 9), lighting plan (sheet 10), soil erosion and sediment control plan (sheet 11), soil management plan (sheet 12) and vehicle circulation plans (sheets 17 and 18). It appears that the north arrow should be turned approximately 90-degrees to the left, though the applicant should confirm the



appropriate direction. **This should be corrected and the plans should be updated. The plans have been revised accordingly.**

- 1.4 **Required Relief:** The plan requires 17 variances and three (3) design exceptions. A comprehensive list of the required relief can be found in section 18 at the end of this report. **The revised plan requires 13 variances and 5 design exceptions.**
- 1.5 **Site Context:** The site is located along Village Drive and Hartwick Drive. Townhomes are located to the south of the property (PMUD). The property across the street from the site to the west is a 100% affordable multifamily apartment building. To the north of the site are single-family dwellings. To the east is the site of a planned multifamily building (PMUD). To the west beyond the apartment building are commercial uses such as a dental office and yoga studio, as well as the Montgomery Montessori School. East of the site is the Hillside at Montgomery Apartment Building. Single-family townhouses are located to the south of the site.

2.0 Use & Bulk Standards



Overall view of site from Hartwick Drive

- 2.1 **Permitted Principal Use.** *More information is required.* Pursuant to §16-4.13a.1(b), assisted living facilities are permitted, provided that the gross acreage devoted to the assisted living facility shall not exceed 5 1/2 acres of land with a maximum of 120 beds are permitted. The site does not exceed 5 1/2 acres and the facility



appears to contain 82 units. The plan does not indicate the number of beds proposed within the facility. **The plan should be updated to indicate the number of proposed beds and clarify if “bed” equates to “unit”.** Note 9.A on sheet 4 of the plan indicates that the application complies with the requirement, however, the beds are not shown on the plan. The plans have been revised accordingly to indicate the number and location of proposed beds (91). The plan complies.

2.2 Permitted Accessory Uses. The application is in compliance. The ARH zone permits a number of accessory uses, including landscaping and decorative features customarily associated with permitted principal uses, fences and walls and off-street parking facilities. The applicant is proposing retaining walls, EV charging equipment, a sign, sidewalk, masonry trash enclosure and fencing, all of which are permitted.

2.3 Height. *More information is required.* Pursuant to §16-4.13c.2, assisted living buildings shall not exceed 35 feet in height and 2 1/2 stories. A provision permits the following to be developed five (5) feet above the permitted height: Penthouses or other roof structures for the housing of stairways, tanks, bulkheads, ventilating fans, air conditioning equipment and similar equipment required to operate and maintain the building; Skylights, spires, cupolas, flagpoles, and similar structures associated with the building; and Parapets used to screen the roof-mounted structures and equipment.

The site plan indicates that the proposed building is 35-feet in height. The architectural drawings do not provide an overall height for the building, only for portions of the building. **The applicant should confirm the overall height of the building and detail the height of any elements that would be permitted above the building roofline. The plans have been revised accordingly to indicate the maximum proposed height of 34 feet and 9 inches. The plan complies.**

2.4 Area & Yard Requirements. §16-4.13d.2 provides bulk standards for assisted living facilities in the ARH zone. The following table indicates the plan’s conformance with the zone requirements. The site does not border any residential lots, thus some of the standards are not applicable. A variance is required for the distance of the parking area to the lot line. More information is required regarding habitable floor area and the floor area of common spaces. The plans have been revised accordingly. This office has revised Table 1, below to reflect this information.

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Table 1: Area & Yard Requirements for Assisted Living Facilities: §16-4.13d.2				
	Required	Existing	Proposed	Conforms?
Maximum lot coverage	50%	1.3%	35.7%	Yes
Building Distances				
Min. distance to non-residential lot line (feet) (Eastern boundary with open space)	50	n/a	124.8	Yes
Min. distance to residential lot line (feet) (Eastern boundary stormwater basin)	150	n/a	141.65	No (V)
Min. distance to residential lot line (feet) (Northern boundary w/ single-family dwelling)	150	n/a	150	Yes
Min. distance to residential lot line (feet) (Western boundary to multifamily apts.)	150	n/a	100.9	No (V)
Min. distance to residential lot line (feet) (Southern boundary to Townhouses)	150	n/a	> 150 (1)	<u>Yes</u>
Parking Area Distances				
Min. distance of parking/loading area to non-residential lot line (feet) (Eastern boundary with open space)	25	n/a	> 25 (1)	Yes
Min. distance of parking/loading area to residential lot line (feet) (Eastern boundary stormwater basin)	75	n/a	> 75 (1)	<u>Yes</u>
Min. distance of parking/loading area to residential lot line (feet) (Northern boundary w/ single-family dwelling)	75	n/a	> 75 (1)	<u>Yes</u>
Min. distance of parking/loading area to residential lot line (feet) (Western boundary to multifamily apts.)	75	n/a	62.4	No (V)
Min. distance of parking/loading area to residential lot line (feet) (Southern boundary to Townhouses)	75	n/a	> 75 (1)	<u>Yes</u>
Building Interior Requirements				
Min. net habitable floor area per unit (sf.)	325	n/a	329	Yes
Min. % of gross square footage devoted to common facilities (%)	10	n/a	27.6	Yes
Notes				
(1) The exact dimension is not provided, however, utilizing the scale it is clear that it is greater than the minimum requirement. <u>Dimensions have been delineated on the plan, and our previous assumptions have been verified.</u>				

- 2.5 **Minimum Distance to Residential Lot Line (East): A variance is required.** Pursuant to §16-4.13d.2(b), no building shall be closer than 150 feet to any residential lot line. The plan does not indicate the distance of the proposed building to the residential lot line to the east which contains a stormwater basin associated with a planned multifamily building. Utilizing the provided scale, the proposed building appears to be 141.65 feet from that property line. **A variance is required,**

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and the plan should be revised to indicate the distance of the building to that residential lot. The plans have not been revised. The lot to the east containing the stormwater basin serves a planned multifamily development that, according to the applicant, is located on a separate lot. GIS data provided by the state through the NJ Geographic Information Network indicates that the neighboring lot is one (1) lot. If information can be provided that verifies what the applicant stated, a variance may not be required. Testimony or additional information is recommended to verify.

- 2.6 **Minimum Distance to Residential Lot Line (West):** *Additional information is required.* Pursuant to §16-4.13d.2(b), no building shall be closer than 150 feet to any residential lot line. The plan does not indicate the distance of the proposed building to the residential lot line across Hartwick Drive (belonging to the multifamily apartment). The plan should be updated show the residential property line associated with the multifamily apartment across Hartwick Drive and the distance of the proposed building to that property line should be dimensioned. The plans have been revised accordingly. The distance between the proposed building and existing townhomes is 100.9 feet. A variance is required.
- 2.7 **Minimum Distance of Parking/Loading Area to Residential Lot Line (West):** *Additional information is required.* Pursuant to §16-4.13d.2(b), parking and loading areas shall be permitted within the first 75 feet adjacent to any residential lot line. The parking area located along Hartwick Drive is located across the street from a multifamily apartment. The plan should be updated to indicate the distance of the parking area to the residential lot line associated with the multifamily apartment building across the street so that conformance with the ordinance can be determined. It appears to be less than 75 feet and so a variance may be required. The plans have been revised accordingly. The proposed distance is 62.4 feet. A variance is required.
- 2.8 **Minimum Net Habitable Floor Area Per Unit:** *Additional information is required.* Pursuant to §16-4.13d.2(e), the minimum net habitable floor area for each unit shall be 325 square feet. The floor area of each unit is not provided. A table indicating the unit number, unit type and floor area should be provided so that conformance with the standard can be determined. The Architectural Plans have been revised accordingly. The plan complies.
- 2.9 **Minimum Percentage of Gross Square Footage Dedicated to Common Facilities:** *Additional information is required.* Pursuant to §16-4.13d.2(f), at least 10% of the gross square footage of the assisted living facility shall be devoted to common



facilities, services and activities for the residents, including dining rooms, medical care facilities, personal and professional services such as banking and hairdressing, and communal recreational, social and cultural activities. When looking at the architectural drawings it does appear that the standard is met, however, it cannot be confirmed as floor area per room is not provided. **A table indicating the room, room type and floor area should be provided so that conformance with the standard can be determined. The Architectural Plans have been revised accordingly. The plan complies.**

3.0 General Requirements for the ARH District

§16-4.13e contains general requirements for all developments within the ARH District. Two (2) of the requirements only apply to mixed-use, age-restricted housing developments, which this proposal is not. Conformance with each standard relevant to this application is indicated below:

- 3.1. **No new development or improvements shall be permitted within 450 feet of the Route 206 right-of-way:** The plan complies. U.S. Route 206 is greater than 1,000 feet from the site.
- 3.2. **No development or improvements, other than landscaping, shall be permitted within 50 feet of any property line common with property located in the R-1 and R-2 zoning districts:** The plan complies. The site does not border the R-1 or R-2 zoning districts.
- 3.3. **No direct vehicular access from the ARH zoning district shall be permitted onto Route 206 except for the existing driveway serving the existing dwelling on site:** The plan complies. The site is not located on U.S. Route 206.
- 3.4. **Any development within the ARH zoning district shall strive to maintain the existing topographic contours on-site to the greatest extent possible.** Grading is proposed throughout much of the site, particularly in the areas to the north, west, south and southeast of the building. The largest grade change appears to be located in the area of the proposed basin "A" to the south of the building, with a grade reduction of 11.5 feet. Grade changes appear to be related to stormwater management. **The applicant should testify as to the extent of grading, and the reasoning behind grade changes on the site.**
- 3.5. **Any development within the ARH zoning district shall strive to maintain the existing vegetation on-site to the greatest extent possible.** Between 40 – 45 trees



are proposed to be removed. Most of these trees are located in the area of the proposed basin “A” to the south of the building. **The applicant should indicate the number of trees to be removed, beyond indicating by symbol which tree is slated for removal. Testimony should be provided as to whether these trees can be preserved. The Demolition Plan and Steep Slopes Analysis (Sheet 3) has been revised accordingly. Additional testimony should be provided relating to tree preservation.**

- 3.6. Any development of the lands within the ARH District shall provide for the preservation of the Bedens Brook stream corridor with public access, and off-street pathways within the stream corridor and through the ARH District shall be provided. This is not applicable as the Bedens Brook stream corridor is not located within or near the subject property.

4.0 Off-Street Parking, Loading and Circulation

§16-4.13h contains off-street parking, private garage and driveway standard in the ARH zone. Conformance with each standard is indicated below:

- 4.1. No assisted living facility building shall have driveway access to any road other than a local road developed as part of the mixed-use, age-restricted housing development. The plan complies.
- 4.2. No parking associated with the assisted living facility or professional offices shall be within 25 feet of any lot line. The plan does not comply as the proposed parking area is 12.5 from the proposed western lot line. **A variance is required.**
- 4.3. Assisted living facilities shall provide parking at the ratio of 1/3 space per unit, provided that there is adequate parking provided for staff and guests. The applicant is proposing 43 parking spaces. The facility contains 82 units, which necessitates 28 spaces ($82 / 3 = 28$ rounded up). The following table indicates the number of spaces that are being proposed and factors in the parking credit the applicant receives for providing an EV space. The applicant has provided 43 spaces, which is more than is required. The last part of the standard provides a qualifier that states this ratio is acceptable if it results in adequate parking for staff and guests. **The applicant should testify as to how the proposed parking meets the parking requirement for guests and staff. Plans have been revised to clarify that 80 units are proposed. As a result, 27 spaces are required ($80 / 3 = 27$, rounded up). Additional testimony is still requested. The following table has been revised to reflect this information.**



Table 2: Parking Requirements for Assisted Living Facilities (§16-4.13h.5) Factoring in EV Credits	
Units Proposed	80
Required Spaces (units * 1/3)	27
Non-EV Spaces Proposed	4 ¹
EV Spaces Proposed	1
Bonus Credit for EV Space(1)	1
Total Proposed including EV Credit	43
Complies?	Yes
Notes	
(1) Pursuant to §16-5.21.e.2, a parking space prepared with EVSE or make-ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement.	

- 4.4. **Electric Vehicle Parking Requirement:** The plan complies. Pursuant to §16-5.21.d2(a), applications involving a parking lot with 50 or fewer spaces not covered in the previous subsection (assisted living uses are not covered in the previous subsection) require the preparation as “make-ready” parking spaces at least 1 of the required off-street parking spaces. The applicant is proposing one (1) EVSE space. The plan complies.
- 4.5. **Parking Space Length:** The plan may qualify for a design exception. Pursuant to 16-5.8f.3, parking spaces shall be dimensioned according to their definition in §16-2.1. Parking spaces are required to be 20-feet in length. The applicant is proposing spaces that are 18-feet in length. The definition creates a provision for a reduction to 18-feet in length *subject to the approval of the Board in those instances where a two-foot overhang area exists beyond a curb and where such overhang does not interfere with any proposed and/or required landscaping*. The portions of the parking area facing away from the building do contain 6-inch Belgian Block curbing. Plantings are proposed. If the Board determines that the two-foot overhang does not conflict with the proposed plantings, then the applicant may qualify for a design exception. **A design exception is requested by the applicant.**



- 4.6. **Sidewalks:** *A design exception may be required.* §16-5.14C.1(d) requires “sidewalks shall be provided along all existing streets upon which all residential and nonresidential development abuts, unless specifically waived in certain locations by the reviewing municipal agency based upon good cause shown by the applicant” A sidewalk does exist on Hartwick Drive, however, Village Drive does not contain a sidewalk, nor is one proposed. **A design exception may be required. The site plan has been revised to indicate a sidewalk on Village Drive “To be constructed by others.” Testimony to verify this agreement and/or approval is recommended.**



- 4.7. **Loading Space:** *A variance is required.* Pursuant to §16-4.1.3i.1, each loading dock space shall be at least 15 feet in width by 40 feet in length. The plan indicates a 15-foot wide and 35-foot long loading space. **A variance is required. A 36.8-foot loading space is proposed. A variance is required.**

5.0 Landscape Design & Plantings

The following includes a review of basic dimensional and quantitative regulations; however, the technical review of plantings is deferred to the Board Landscape Architect.



- 5.1. **Buffer Requirements:** Pursuant to §16-4.13d.2(c), buffer screening of 25 feet is required along property lines that share a boundary with a residential zone. The site shares its southern, western and a small portion of its eastern boundaries with properties located in a PMUD zone. This office interprets a PMUD as being a residential zone.
- 5.2. **Buffer Should Be Delineated:** The plan should be updated such that buffers are delineated and dimensioned on the site plan and/or landscape plan. Sheet 4 (Site Plan) has been revised accordingly to show a 25-foot planting buffer around the perimeter of the site.



Some of the existing trees on site

- 5.3. **Western Buffer Width: A variance is required.** Pursuant to §16-4.13d.2(c), property lines sharing boundaries with a residential zone require a 25-foot wide buffer. The proposed buffer is approximately 13-feet wide. **A variance is required.**
- 5.4. **Western Buffer Composition: A variance is required.** Pursuant to §16-4.13d.2(c), buffers shall consist of densely planted evergreen trees at least six feet high at time of planting. The trees proposed along the western buffer are American Hornbeam (*Carpinus caroliniana*), which are deciduous, not evergreen. **A variance is required.**



- 5.5. **Western Buffer Tree Spacing:** *A variance is required.* Pursuant to §16-4.13d.2(c), trees within buffers shall be spaced no more than 10 feet apart on-center. The proposed trees are approximately 30-feet on center at their closest. **A variance is required.**
- 5.6. **Southern Buffer Width:** *A variance is required.* Pursuant to §16-4.13d.2(c), property lines sharing boundaries with a residential zone require a 25-foot wide buffer. The proposed buffer is approximately 17-feet wide between the zone line and the proposed basin at its narrowest point. **A variance is required. The plans have been revised accordingly to provide a sufficient buffer around the basin. While the edge of the basin is still within the buffer, the plantings in the edge of the basin satisfy the buffer composition requirement. The plan complies.**
- 5.7. **Southern Buffer Composition:** *A variance is required.* Pursuant to §16-4.13d.2(c), buffers shall consist of densely planted evergreen trees at least six feet high at time of planting. The trees proposed within the southern buffer are a mixture of evergreen and deciduous trees. **A variance is required. Sheet 9 (Planting Plan) has been revised accordingly to include evergreen trees of the appropriate height. The plan complies.**
- 5.8. **Southern Buffer Tree Spacing:** *A variance is required.* Pursuant to §16-4.13d.2(c), trees within buffers shall be spaced no more than 10 feet apart on-center. The proposed trees are in some instances spaced 20 feet or more apart. **A variance is required. Sheet 9 (Planting Plan) has been revised accordingly to provide a dense evergreen buffer. The plan complies.**
- 5.9. **Eastern Buffer Width:** The plan complies. Pursuant to §16-4.13d.2(c), property lines sharing boundaries with a residential zone require a 25-foot wide buffer. The proposed buffer is greater than 25-feet, though it is not dimensioned. The plan complies but the buffer should be delineated on the plan. **Sheet 4 (Site Plan) has been revised accordingly to delineate the 25-foot buffer. The plan complies.**
- 5.10. **Eastern Buffer Composition:** *A variance is required.* Pursuant to §16-4.13d.2(c), buffers shall consist of densely planted evergreen trees at least six feet high at time of planting. No trees are proposed in the required buffer in the eastern portion of the property adjacent to the PMUDA **variance is required. No trees exist in the required buffer per a site visit performed by this office. While the buffer width has been appropriately delineated, the composition does not meet the standard. A variance is still required.**



- 5.11. **Eastern Buffer Tree Spacing:** *Not relevant at this time.* Pursuant to §16-4.13d.2(c), trees within buffers shall be spaced no more than 10 feet apart on-center. Because no trees are proposed in this portion of the buffer, compliance is not relevant at this time. This may change if the Board does not grant a variance for the eastern buffer composition, in which case the applicant should comply with the spacing requirement.
- 5.12. **Plantings On Portions of Lot Not Covered by Buildings or Structures:** §16-4.13d.2(d), all portions of a lot not covered by buildings or structures shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition. In any case, no less than 50% of the area of any lot shall be so landscaped, and the landscaped area may include approved detention and/or retention basins and approved septic fields. 35.7% of the site is proposed to be covered by buildings and structures. Much of the remaining property is to be dedicated to bio-retention basins, and another significant portion to a grass paver driveway. The plan should be updated to indicate the manner in which all portions of the property not covered by buildings, structures, basins or proposed plantings will be treated, in terms of plantings and vegetative cover. Additionally, calculations should be provided to indicate the degree to which the plan complies. **A variance may be required. Sheet 4 (Site Plan) has been revised accordingly to provide a landscaping coverage calculation of 64.2%. The plan complies.**
- 5.13. **Trees.** The plan complies. §16-5.6d.3, a minimum of 14 trees per acre of gross tract shall be planted throughout the tract in the case of nonresidential or multifamily development. At 4.43 acres, this section requires a total of 62 ($4.43 \times 14 = 62$) trees to be planted on the site. The applicant is proposing 83 trees. The plan complies.

6.0 Lighting

- 6.1. **Proposed Lighting.** Two types of lighting are proposed. The first is a pole-mounted light fixture the is 14-feet in height. The second is a wall/building mounted light that is 12-feet in height. The following table provides additional details about the lights, including location and quantity. **Sheet 10 (Lighting Plan) has been revised to add an additional bollard light type proposed within the interior courtyard.**



Table 4: Proposed Lighting					
Name	Style of Light	Location	Color Temp.	Mounting Height	Quantity
A-1	Pole Mounted	Perimeter of parking area on the opposite side of building	<u>3,000K</u>	14-feet	9
W-1	Building/Wall Mounted	Around the outer perimeter of the proposed building	<u>3,000K</u>	12-feet	22
<u>B-1</u>	<u>Bollard</u>	<u>Courtyard</u>	<u>4,000K</u>	<u>3-feet</u>	<u>4</u>

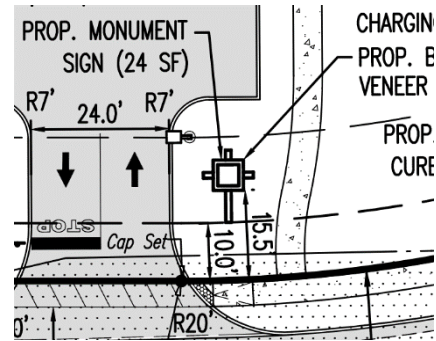
- 6.2. **Lighting Height.** The plan complies. As indicated in the above table, the lights are 12 and 14-feet in height. This is lower than the building height and the 20-foot light height maximum permitted in §16-5.4.b.2(a). The plan complies.
- 6.3. **Non-Glare Lights:** *More information is required.* Pursuant to §16-5.4.b.2(b), light fixtures are required to be non-glare. The plan provides bug-ratings but does not explain them. **The applicant should testify as to whether the proposed lighting produces any glare.**
- 6.4. **Downward Focused Lights:** Pursuant to §16-5.4.b.2(b), light fixtures are required to be downward focused. The proposed lighting is downward focused.
- 6.5. **Light Intensity at Ground Level:** *A design exception is required.* Pursuant to §16-5.4.b.2(c), light intensity at ground level shall be between 0.3 footcandles and 1 footcandle. The lighting calculation summary table provided by the applicant indicates an average lighting of 10 footcandles. It does appear that this may be a typo and that it should say 1.0, rather than 10, however the applicant should confirm. **A design exception is required. Sheet 10 (Lighting Plan) has been revised to indicate average lighting of 1.0 footcandle. The plan complies.**
- 6.6. **Light Intensity at Intersections:** *A design exception may be required.* Pursuant to §16-5.4.b.2(c), light intensity at intersections shall be between 0.5 footcandles and 1 footcandle. The plan does not differentiate between intersections and other paved areas in the calculation summary. The plan should be revised to specify the light intensity at intersections so that conformance with the ordinance can be determined. **A design exception may be required. Sheet 10 (Lighting Plan) has been revised to show intersection lighting calculations. The minimum proposed lighting intensity at intersections is 0.4. A design exception is required.**



- 6.7. **Lighting Timer:** *A design exception may be required.* Pursuant to §16-5.4.b.2(d), lighting shall be controlled by circuit timers so that lights are turned off after business hours. While a note on the plan indicates conformance with the requirement, the hours of operation are not provided. **The plan should be updated to include the hours of lighting operation. A design exception may be required. Sheet 10 (Lighting Plan) has been revised to note that lighting will be dimmed to 25% between 10 PM and 5 PM and equipped with motion sensors. The lights will be dimmed, as opposed to turned off. A design exception may be required.**
- 6.8. **Light at Property Line:** While the Lighting Ordinance does not specify light brightness at property lines, the lighting levels reach zero well before reaching property lines on the north, east and southern boundaries. Lighting levels along Hartwick drive are between 0.1 and 1.6 footcandles. **The applicant should testify as to the impact of the lighting along Hartwick Drive.**
- 6.9. **Bollard Lighting:** *More information is required.* Bollard lighting is not indicated on the lighting plan, however, a detail for bollard lighting is included on sheet 16 of the plan. **The lighting plan should be updated to include the bollard lights and the impact of the lights should be included in the calculation summary. Sheet 10 (Lighting Plan) has been revised to show four (4) proposed bollard lights in the interior courtyard.**
- 7.0 **Signs**
- 7.1. **General Sign Provisions for Freestanding Signs:** Pursuant to §16-5.13d.2, Freestanding signs shall be supported by one or more columns or uprights that are firmly imbedded in the ground; exposed guy wires, chains or other connections shall not be a permitted support of a freestanding sign. Unless otherwise noted in the subsection, the area and yard requirements for accessory structures shall not apply to permitted signs; freestanding signs may be erected in the required front yard areas. A freestanding sign is proposed near the southwestern driveway entrance to the facility. It is indicated on the site plan, however, no detail is provided, nor is there enough information to indicate whether it meets the ordinance requirements as stated above. **A sign detail should be provided that indicates the bulk and design of the sign. The sign detail is provided on Sheet 15 (Construction Details). The proposed sign area is 24 square feet and lit by two up lights. The proposed sign structure is consistent in materials with the principal building façade.**



- 7.2. **Freestanding Sign as Indicated on the Plan:** As indicated in the image to the right, the way the sign is indicated on the plan makes it difficult to understand its bulk in relation to the ARH zone bulk standards. It is not clear whether the stem protruding from the bottom of the “monument” is part of the sign. **The applicant should provide a detail of the sign so that the sign can be better understood. The sign detail is provided on Sheet 15 (Construction Details).**



- 7.3. **Freestanding Sign:** The plan complies. Pursuant to §16-4.13j.2, one ground mounted freestanding sign no larger than 30 square feet shall be permitted at the entrance of each lot containing an assisted living facility in the ARH zone. A freestanding sign is proposed that the site plan indicates is 24 square feet. The plan complies.
- 7.4. **Freestanding Sign Height:** *More information is required.* Pursuant to §16-4.13j.4, the permitted freestanding signs shall not exceed six (6) feet in height. The height of the sign is not indicated on the site plan, nor is a sign detail provided. **A sign detail should be provided that indicates the height of the sign. While the sign face is six (6) feet above the ground, the sign structure is 9'-8" off the ground. As it is one (1) unified structure intended for the sole purpose of holding the sign, it appears the entirety of the structure is beholden to the regulation. A variance is required.**
- 7.5. **Freestanding Sign Setback from Right-of-Way:** The plan complies. Pursuant to §16-4.13j.4, permitted freestanding signs shall be setback at least 10 feet from any street right-of-way line. The plan indicates that the sign is 10 feet from the street right-of-way line. The plan complies.
- 7.6. **Freestanding Sign Lighting:** *More information may be required.* It is unclear whether the sign is lit as no detail has been provided. The lighting plan seems to indicate that no light is generated from the area of the sign, however, this should be confirmed with sign details. Lighted signs are permitted in the zone if the lighting is exterior to the sign and is located at the top of the sign focused



downward pursuant to §16-4.13j.5. The proposed sign is to be lit by two external, ground-mounted up lights. A variance is required.

8.0 Fences and Walls

- 8.1. **Proposed and Existing Fencing:** The plan indicates an 8-foot high board-on-board fence attached to the northern-central portion of the principal building. A 4-foot high post and rail fence is proposed around the southern basin. There is an existing post & rail fence located in the northeastern corner of the site.
- 8.2. **Board -on -Board Fence:** The proposed board- on -board fence is proposed to be solid wood and flatboard style. It is proposed on the northern side of the building in the side yard, within which is a courtyard and walking path.
- 8.3. **Board -on - Board Fence Height:** *A variance is required.* Pursuant to §16-5.3.b, the maximum permitted height for a fence in a side yard is four (4) feet. The proposed fence is eight feet in height. *A variance is required. A design exception is required, not a variance.*
- 8.4. **Board -on -Board Fence Composition:** The plan indicates the board –on- board fence will be composed of wood. **This office recommends that the wood be specified as cedar. The fence detail has been revised accordingly to note that the fence will be composed of cedar.**
- 8.5. **Post and Rail Fence:** A four (4) foot high post and rail fence is proposed around the bioretention basin on the southern portion of the property. It is proposed to be either untreated cedar or pressure treated pine.
- 8.6. **Post and Rail Fence Height:** The plan complies. Pursuant to §16-5.3.b, the maximum permitted height for a fence in a front yard is four (4) feet. The proposed fence is four feet in height. The plan complies.
- 8.7. **Post and Rail Fence Composition:** The plan indicates that the post and rail fence will be composed of either untreated cedar or pressure treated pine. **This office recommends that the fence be composed of untreated cedar. The fence detail has been revised accordingly to note the fence will be composed of untreated cedar.**



- 8.8. **Existing Post and Rail Fence:** A wooden post and rail fence is located around the existing stormwater outlet on Hartwick Drive. Details of the fence are not provided, though it does appear to be under four (4) feet in height as observed during a site visit.



Existing headwall and fence near Hartwick Drive

- 8.9. **Proposed and Existing Walls:** The plan indicates a modular concrete wall is proposed to the east (rear) of the building. The proposed basin appears to contain a wall though the site plan does not label it as a proposed wall. An existing concrete wall is located in the rear of the site, as is an existing headwall surrounding a stormwater outfall on the site near the northern portion of the of property along Hartwick Drive.
- 8.10. **Proposed Modular Wall:** A modular concrete wall is proposed along the rear of the building on the east side of the property. It is approximately 214-feet in length and two (2) feet wide. It is four-4 feet in height. The detail provided dsimply states that the wall shall be constructed in accordance with manufacturers specifications.
- 8.11. **Modular Wall Height:** The plan complies. Pursuant to §16-5.3.b, the maximum permitted height for a wall in a rear yard is four (4) feet. The proposed wall is four (4) feet in height. The plan complies.



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- 8.12. **Modular Wall Composition:** The modular concrete wall detail does not provide detail about the walls composition. Additional information should be proposed about the composition and finish of the proposed wall. Sheet 16 (Construction Details) has been revised accordingly to note wall composition.
- 8.13. **Proposed Basin Wall:** A wall is proposed along the southern border of the proposed basin along Village Drive. It ranges in height from two (2) inches to three (3) feet. It is two (2) feet wide and approximately 240 feet in length. Sheet 5 (Grading Plan) has been revised to remove the proposed basin wall. This comment no longer applies.
- 8.14. **Basin Wall Height:** The plan complies. Pursuant to §16-5.3.b, the maximum permitted height for a wall in a front yard is four (4) feet. The proposed wall is three feet in height at its highest point. The plan complies. Sheet 5 (Grading Plan) has been revised to remove the proposed basin wall. This comment no longer applies.
- 8.15. **Basin Wall Composition:** No detail is provided for the basin wall, nor is a material for the wall specified. A detail of the basin wall should be provided that includes information about the composition and finish of the wall. Sheet 5 (Grading Plan) has been revised to remove the proposed basin wall. This comment no longer applies.
- 8.16. **Existing Concrete Wall:** An existing concrete wall is located in the rear of the site. It is approximately 220-feet in length and two (2) feet in width.



Existing wall in the rear of the property



9.0 Accessory Structures

- 9.1. **Canopy:** *Additional information is required.* A canopy is proposed in front of the main entrance on the western face of the building. It is mounted on four (4) posts containing brick veneer and appears to be attached to the building. It is 21-feet in height. **The applicant should clarify if it is attached to the building. If it is not attached to the building it is considered an accessory structure. Accessory structures are not permitted in a front yard, pursuant to §16-5.1e. If it is not connected to the principal building a variance is required. The applicant has clarified that the roof of the canopy is attached to, and therefore part of, the principal building. The structure complies with the front yard setback. The plan complies.**
- 9.2. **Hot Box:** A New Jersey American Water Hot Box is proposed in the northwest portion of the property. A standard detail from New Jersey American Water is provided, though it does not specify which model of hot box this is. The height is between 6 and 1/2 feet and 7 feet, as those are the only heights available across the different models. The applicant should specify the exact hot box so that its bulk can be determined. **Sheet 16 (Construction Details) and Sheet 9 (Planting Plan) have been revised accordingly. While the applicant notes that this is subject to change, additional plantings around the hot box are proposed. The plan complies.**
- 9.3. **Hot Box Setback:** *A variance may be required.* The proposed hot box is 30-feet from the property line. The ARH zone does not specify setbacks for accessory structures for assisted living facilities. §16-4.13d.2(b) indicates setbacks for buildings, however, pursuant to the building definition in the Montgomery Township Land Development Ordinance, a building must be habitable, which a hotbox is not. It is unclear if there is a setback requirement for a hot box. If the Board determines that all structures and buildings require a 50-foot setback from a property line, then a variance is required, as the hot box is proposed to be 30-feet from the property line. **A variance may be required.**
- 9.4. **Trash Enclosure:** A trash enclosure is proposed on the northern side of the building, approximately 15-feet from the building. It is 22-feet wide and has a depth of 12-feet. It is composed of a masonry/stone veneer and cedar posts with a vertical, wood slat gate. Mounted above the masonry frame are cedar beams and rafters that support a seam metal roof. The height of the masonry veneer is seven (7) feet and four (4) inches, mounted on top of which is the roof and roof posts



bringing it to 12 feet. The enclosure can accommodate two (2) 8-yard dumpster containers.

- 9.5. **Grass Paver Drive:** An entrance to the site in its southeastern quadrant contains a concrete apron and cross walk leading to a 20-foot wide and 135-foot long emergency access lane composed of grass pavers. A concrete path leads to the emergency lane which in turn connects to the interior pedestrian circulation network of walkways.

10.0 Architecture

- 10.1. **Floor Area of Individual Rooms:** Several standards within the ARH zone pertaining to assisted living facilities have minimum floor area standards. **The plan should include a table that lists each room with the unit number, room type and gross floor area so that compliance with each standard can be determined. The Architectural Plans have been revised accordingly. The plan complies.**

- 10.2. **Building Architecture:** The building contains brick and stone veneer and dark blue siding interspersed with rectangular windows on its front, rear and side elevations. Wood trellises are proposed along the façade in sections. Dormers are located along the sides of the buildings that are gabled and emerge from the hipped roof. Accessory structures such as the rear wall and trash enclosure are designed to match the proposed exterior of the building.

- 10.3. **Architectural Requirements for Assisted Living Facilities in the ARH Zone:** §16-4.13f.1 contains architectural standards for assisted living facilities in the ARH zone. Conformance with these standards is indicated below:

- 10.3.1. **All assisted living families shall have a dual pitched, single ridge roof (such as gable, hip, gambrel or mansard roof):** A dual pitched hipped roof is proposed. The plan complies.

- 10.3.2. **The roof shall contain a minimum pitch of one-foot vertical to eight feet horizontal: Additional information is required.** Given the complexity of the roof and the number of roof pitches proposed, the applicant should provide a roof plan that indicates the roof pitch of each sloping portion of the roof so that conformance with the standard can be determined. **Additional information is required. Sheet A2.41 (Overall Roof Plan) has been added to the Architectural Drawings set. The plan complies.**



- 10.3.3. **No flat roof shall be permitted:** No flat roofs are proposed. The plan complies.

11.0 Miscellaneous

- 11.1. **Soil Hauling. *Additional information is required.*** §16-5.6.c requires that *no soil shall be removed from or be imported to any site in excess of twenty (20) cubic yards per year without prior approval of the Board. For this purpose, a plan shall be submitted showing how the soil is to be distributed and stabilized including grading contours. If the soil is to be imported, a plan shall be submitted describing methodology and frequency of testing the soil to ensure its safe quality. The plan shall describe the size and number of vehicles that are proposed for hauling the removed or imported soil together with the hauling route.* The application should testify as to the plan for soil on site and if it is to be removed.
- 11.2. **Development Fee for Affordable Housing. *Condition of Approval.*** The applicant is required to comply with the development fee ordinance consistent with §15-24.

12.0 Consideration of the “C” Variances

- 12.1. The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts.
- 12.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:
- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
 - By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
 - By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.



Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

- 12.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

13.o Design Exceptions

The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses criteria for granting exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:

The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

14.o Relevant Policy

- 14.1. **Master Plan Goals.** The Township Master Plan includes several goals which are relevant to the Board’s consideration of this application. The following goals can be found on pages 6 through 8 of the 2017 Master Plan Reexamination Report:

4. *The Development Plan should strive to prevent the homogenous spread of suburban development throughout the municipality. Specific areas of the Township should be designated for specific types of residential and non-residential development. The rural and country atmosphere which prevails throughout most of the municipality should be maintained.*



The assisted living facility is proposed within the Age-Restricted Housing district which permits age-restricted housing and facilities for the elderly. A variety of housing is located around the proposed site including apartments, townhomes and single-family homes. This zone was designed to incorporate a variety of age-restricted housing and care, and this proposal fits the zone as designed.

15.0 Materials Reviewed

- 15.1. *Montgomery Zoning Board of Adjustment Application*, dated December 9, 2022, with attachments.
- 15.2. Certified list of adjoining properties, dated December 5, 2022.
- 15.3. *Preliminary and Final Major Site Plan*, 18 sheets, prepared by Jeffrey D. Spalt, PE and Jeffrey Haberman, PE, Dynamic Engineering, dated December 7, 2022. **Revised February 17, 2023.**
- 15.4. *Survey of BPS Development Company, LLC, Block 28003, Lot 211*, 1 sheet, prepared by Craig Black, PLS, Dynamic Survey, LLC, dated November 2, 2022.
- 15.5. *Braemar Partners Proposed Assisted Living & Memory Care Facility Architectural Drawings*, 3 sheets, prepared by Studio Architects, dated December 13, 2022. **Revised March 19, 2023.**
- 15.6. *Environmental impact Statement for BPS Development Company, LLC*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated December 2022.
- 15.7. *Stormwater Management, Groundwater Recharge and Water Quality Analysis for BPS Development Company, LLC*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated December 2022.
- 15.8. *Stormwater Management Operations and Maintenance Manual for BPS Development Company, LLC*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated December 2022. **Revised February 2023.**
- 15.9. *Water and Sanitary Sewer Engineer's Report for BPS Development Company, LLC*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated December 2022.



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- 15.10. *Traffic and Parking Assessment*, prepared by Nick Verderese, PE & Kevin Savage, PE, PTOE, Dynamic Traffic, dated December 9, 2022.
- 15.11. Outside Agency Permit List.
- 15.12. Delaware Raritan Canal Commission Application, dated December 9, 2022.
- 15.13. Application for NJDEP LOI, dated December 9, 2022.
- 15.14. Somerset County Planning Board Application, dated December 9, 2022.
- 15.15. Somerset-Union Soil Conservation District application, dated December 9, 2022.
- 15.16. PSEG Gas will serve letter, dated September 2, 2022.
- 15.17. PSEG Electric will serve letter, dated September 2, 2022.

16.0 Applicant / Owner / Professionals

- 16.1. **Applicant:** BPS Development Company, LLC, 643 Starlight Drive, Atlanta, GA 30342.
- 16.2. **Owner:** Sharbell Plainsboro, Inc. 1 Union Street, Suite 208, Robbinsville, NJ 08691.
- 16.3. **Attorney:** Frank Petrino, Esq., Princeton Pike Corporate Center, Suite 203, 2000 Lenox Drive, Lenox, NJ 08648. Telephone: 609.989.5029.
- 16.4. **Engineer:** Jeffrey Haberman, PE, PP, Dynamic Engineering, 1904 Main Street, Lake Como, NJ 07719. Telephone: 732.974.0198.
- 16.5. **Architect:** Studio Architects, 899 Howell Mill Road NW, Suite 4000, Atlanta, GA 30318. Tel: 678.705.7904.

17.0 Summary

The applicant is seeking preliminary and final major site plan approval and bulk variance relief to develop an assisted living and memory care facility. The site is located within the

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ARH Age-Restricted Housing District, and near the wider mixed-use, age-restricted housing development owned by the Sharbell company. A number of variances and design exceptions are required for the application as it has been submitted.

The following variances and design exceptions are required (additional variances and design exceptions may be identified by other Board professionals):

a) Variances

~~§16-4.13c.2 Height of proposed building~~

§16-4.13d.2(b) Min. distance of building to residential lot line (east)

§16-4.13d.2(b) Min. distance of building to residential lot line (west)

§16-4.13d.2(b) Min. distance of parking Area to non-residential lot line

§16-4.13d.2(b) Min. distance of parking area to residential lot line (west)

§16-4.13d.2(c) Western buffer width

§16-4.13d.2(c) Western buffer composition

§16-4.13d.2(c) Western buffer tree spacing

~~§16-4.13d.2(c) Southern buffer width~~

~~§16-4.13d.2(c) Southern buffer composition~~

~~§16-4.13d.2(c) Southern buffer tree spacing~~

§16-4.13d.2(c) Eastern buffer composition

~~§16-4.13d.2(d) Plantings On Portions of Lot Not Covered by Buildings or Structures~~

§16-4.13h.5 Parking within 25 feet of lot line

~~§16-4.13j.4 Freestanding sign setback from property line~~

§16-4.13j.4 Freestanding sign height

§16-4.13j.5 Freestanding sign lighting

§16-4.13d.2(b) Hot box setback

§16-4.13i.1 Loading space size

b) Design Exceptions

§16-5.3.b Board-on-Board fence height

§16-5.4.b.2(d) Lighting timer

§16-5.14c.1(d) Sidewalks

§16-5.8f.3 Parking space length

~~§16-5.4.b.2(c) Light intensity at ground level~~

§16-5.4.b.2(c) Light intensity at intersections.

Please contact this office with any questions you may have.