




PLANNING COMMISSION
MEMORANDUM

TO: Planning Commission
FROM: William R. Pittman, Jr., Principal Planner
Acting Planning Commission Administrator 
DATE: Planning Commission Meeting of July 21, 2010
SUBJECT: SPR 10-03-1603, Solomons Nursing Center Addition
Category I Site Plan Review

GENERAL INFORMATION

- Located in Dowell, on Dowell Road, on a 7.31 acre parcel, zoned Solomons TC/D3 Subdistrict. A portion of the parcel (0.61 acre) is in the Critical Area/IDA and remains undisturbed within a conservation easement area.
- Existing 63,474 sq. ft. nursing home/assisted living center. Proposed addition of 16,562 sq. ft. for a new total of 80,036 sq. ft.
- Calvert County Zoning Ordinance Land Uses:
CCZO 3-2.07 and Solomons Zoning Ordinance 3-1.10, **Use #8. Nursing or Convalescent Home**, is not a currently-permitted use in Solomons D3.
- The Board of Appeals granted approval for expansion of a non-conforming use by Case #10-3614 dated 3/5/10, with three conditions. The conditions are on the site plan cover sheet. The Order is attached.
- 109 parking spaces are required at one parking space per every five clients/beds (152 residents) and one parking space per on-duty employee (78 day-shift). There are 81 existing parking spaces (of which 46 are being relocated) and 28 new parking spaces, for a total of 109 parking spaces at completion of construction.
- This application is subject to the Forest Conservation Program.

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- The site plan drawings submitted on 3/19/10 and 7/2/10 have received the following review comments, contained in the file record in the Department of Planning & Zoning:
Engineering Bureau, Mighel Jackson, 4/27/10
Transportation Bureau, Karl Deugwillo, 4/28/10
Certificate For Adequate Public Facilities, Walter Dombroski, 5/11/10
County Water & Sewerage, no comments received
Soil Conservation, Ron Babcock, 4/27/10
Fire/Rescue/EMS Division, Wayne Hardesty, 4/10/10, 7/6/10
Planning & Zoning/Principal Planner, Bill Pittman, 4/26/10, 5/3/10, 5/10/10, 7/9/10
Planning & Zoning/Environmental Planner, Paula Proctor, 10/15/09 e-mail, Dave Brownlee 4/28/10 in PRJ
Planning & Zoning/Principal Planner, Jenny Plummer-Welker, 4/27/10
Planning & Zoning/Historic Preservation Specialist, Kirsti Uunila, 4/15/10
Staff report compiled by B. Hutchison, DPZ, 7/12/10

STAFF RECOMMENDATIONS

Planning & Zoning staff reviewed the site plan drawings listed above for compliance with the Comprehensive Plan, the County Zoning Ordinance and the Solomons (TC) Zoning Ordinance. It is recommended that the referenced site plan dated 7/2/10 be approved with the following conditions:

1. Unless exempt according to Zoning Ordinance 6-10, the Planning Commission or its designee, must find prior to final site plan approval, that all applicable roads are adequate or that mitigation will be provided. A Certificate For Adequate Public Facilities has been signed 5/11/10 by Walter Dombroski, representative for the Department of Public Works, stating that, "Improvements are expected to be made to roads or intersections by any party or entity in order to provide an acceptable future road level-of-service, the development will be deemed to meet the adequacy test. Additional Comments: Calvert County plans to widen and improve Dowell Road. The applicant and all future assignees agree to the following:
 - Fee simple dedication (10-ft width) and temporary construction easement (variable width, 20-ft minimum) along the property frontage necessary for the future Dowell Road improvements project shall be granted to Calvert County on a gratis basis when requested by the County."
 - Modification of the proposed entrances will be required and performed under the Dowell Road improvements project."
2. The acting Planning Commission Administrator recommends that the Planning Commission grant a reduction in the 20-ft parking setback to a minimum of 8-ft along the northern property boundary, in accordance with the Solomons Zoning Ordinance 6-3, Table 6-1.B, foot-note #4. The reduction accommodates new parallel parking along the existing driveway. The parking has been approved by the County Public Safety Dept, and meets the remaining criteria for the setback reduction.
3. Copies of a recorded plat for Forest Retention Area will need to be submitted to Planning & Zoning prior to issuance of a grading permit.

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4. The proposed building additions and any new fencing (including walls and trash enclosure), lighting and signage are subject to review and approval by the Solomons Architectural Review Committee (SARC). The final approval of the site plan will be contingent upon the SARC review and approval of any new exterior lighting and fencing (and/or walls) so that details of the same can be placed on the site plan. Final approval and issuance of the building permits will be contingent upon SARC approval of the appearance (details) of the proposed building and the verification of the construction drawings for the maximum height requirements for structures in this zoning district.

5. The approval by the Planning Commission is conditional upon the applicant successfully addressing the remaining review agencies' comments with no major changes to the layout as presented. Any procedural questions regarding site plan revisions, or "as-built drawings" revisions, are to be resolved by the Planning Commission Administrator. The applicant is advised that revisions to site plans may have to return to the Planning Commission for review.

WRP/bh

Attachment: BOA Order #10-3614

Copy: Keith Ulrich, COA

CALVERT COUNTY BOARD OF APPEALS ORDER

Case No. 10-3614
Public Hearing: February 4, 2010

Les Breckenridge, President, Solomons Nursing Center, Inc. has applied for expansion of a non-conforming use, the Solomons Nursing Center nursing home. The property is located at 13325 Dowell Road, Dowell (Tax Map 44, Parcel 50) in the Solomons Town Center/D-3 District.

The case was presented February 4, 2010 before Board of Appeals members Mr. Michael Reber, Chairman; Mr. Patrick Nutter, Member; and Mrs. Lisa Sanders, Member; (the Board). Mr. Carlton Green, Esquire, served as the Board's counsel. Mr. Les Breckenridge and Mr. Keith Ulrich from Collinson, Oliff & Associates, Inc. were present, testified at the hearing, and were represented by Mr. Mark Davis, Esquire.

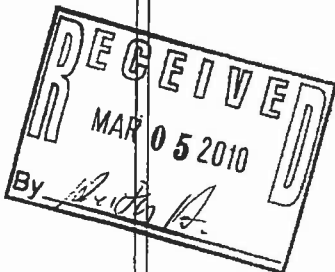
AUTHORITY OF THE BOARD OF APPEALS

The jurisdiction of the Board of Appeals is based on Article 66B of the Annotated Code of Maryland, as amended. Article 11-1.02 of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to hear and decide petitions for Special Exceptions. A Special Exception is defined as, "A grant of a specific use that would not be appropriate generally or without restriction. Approval of a Special Exception is based upon a finding that certain conditions as detailed in the Zoning Ordinance are met, that the use conforms to the Comprehensive Plan and is compatible with the existing neighborhood."

TESTIMONY & EVIDENCE PRESENTED

1. The following Applicant's Exhibits were dated and entered into the record at the February hearing:

- Exhibit No. 1 – Application
- Exhibit No. 2 – Plat Submitted With the Application
- Exhibit No. 3 – Solomons Nursing Center, Board of Appeals Layout Plan
- Exhibit No. 4 – Affidavit of Sign Posting



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2. A Staff Report prepared by the Board of Appeals Administrator was entered into the record at the February hearing and marked Staff Exhibit No. 1.
3. Public testimony was received at the February hearing from:
 - Mark Gough, 6833 Trexler Court, Lanham, MD 20706
4. The following correspondence was entered into the record at the February hearing.
 - E-Mail dated January 19, 2010 from Wayne J. Hardesty, Department of Public Safety, RE Solomons Nursing Center Expansion
 - Letter dated January 22, 2010, from Steven D. Foster, Chief, Engineering Access Permits Division, State Highway Administration to Pamela P. Helie, Clerk to the Board of Appeals, RE: Calvert County Case No. 10-3614, Solomon's Nursing Home Center Expansion, Dowell Road
 - Memorandum dated January 21, 2010 from John Knopp, Project Engineer, Department of Public Works, Engineering Bureau, RE: Solomons Nursing Center, Inc, BOA Case No. 10-3614

FINDINGS OF FACT & CONCLUSIONS

Based on the application and testimony and evidence presented at the hearing, the Board makes the following Findings of Fact & Conclusions pursuant to Article 11-1.02 of the Calvert County Zoning Ordinance:

1. The Board finds the case was properly advertised, the property was posted, and affected property owners were notified in accordance with the Board's Rules of Procedure.
2. The Board verified the general findings of fact included in the Staff Report for this case and the following staff findings are hereby included in the Board's decision:
 - The property consists of 7.28 acres and is situated on the west side of Dowell Road in the D3 subarea of the Solomons Town Center. It is developed with a combination Assisted Living facility and Nursing Home. The development was approved for construction in 1994. The property is virtually level, with no topographic or geographic constraints or special features. The front of the property along Dowell Road is landscaped. Grass areas surround the facility. The rear portion of the property is wooded.

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- The existing non-conforming use on the property is the Nursing Home facility, which became non-conforming with the adoption of the new Solomons Town Center Zoning Ordinance on September 22, 2009. The Assisted Living facility that is part of the overall Solomons Nursing Center is in conformance with the new Solomons Town Center Zoning Ordinance. The current application includes a request for an expansion that affects both the Nursing Home and the Assisted Living facilities.
- The existing facility is home to 87 residents in the Skilled Nursing section and 38 residents in Assisted Living. The proposed increase is 24 residents in Skilled Nursing and 10 residents in Assisted Living, for a total of 159 residents. The facility expansion will provide 11 new staff positions, for a total of 78 staff members. Twenty-eight additional parking spaces will be required.
- The proposed building expansions include four additions which are to be located as follows: on the north side of the facility an addition approximately 78' x 85' and an addition approximately 59' x 49' (2); on the south side of the facility an addition approximately 54' x 76' (1); and on the west side of the facility an addition approximately 66' x 50' (1). The existing square footage of the facility is 54,697 s.f. The proposed increase is 13,617 s.f., for a total of 68,314 s.f. The expansion does not exceed 50%.
- The general community is mixed-use, with low, moderate and high density residential developments along Dowell Road, and Institutional, Commercial, Marine Commercial, and Industrial developments that access Dowell Road and lie in close proximity to the subject property. The adjoining property to the immediate north of the subject property (Parcel 187) is wooded and undeveloped. The property to the north of the undeveloped property (Parcel 602) is developed with the SMECO substation that serves the Solomons Town Center and surrounding areas. Parcel 691 at the intersection of Dowell and Newtown Roads to the north is developed with the Hilton Garden Inn and Ruddy Duck restaurant. Parcel 679 to the northeast is owned by the citizens of Calvert County and is the home of the Solomons Recreation Center for active recreation. The properties to the east (Parcels 316, 566 and 540) are owned by the Koenig Private Foundation. Parcel 566 has a residence; Parcels 316 and 540 are undeveloped at this time. The 29.3-acre AnnMarie Garden property lying to the southeast of the subject property is a public park owned by the citizens of Calvert County (Parcel 389). Properties to the south and west are developed for residential use (Parcels 347, 449, 342, 81, 393, 427, 572, 106, 40, 572 and 490).
- The design proposal shows a stormwater management facility at the rear of the development. Stormwater management will be reviewed and approved during the site plan review process.

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- Proposed sediment and erosion control is standard silt fence. The sediment and erosion control plan will be reviewed and approved during the site plan review process.
 - The property is served by public water and sewer.
 - The facility provides a much-needed service to the residents of Calvert County. The Calvert County Comprehensive Plan, which identifies elder care as one of the top five priorities in Health and Social Services, advocates the construction of elderly housing in the County. Chapter II of the Comprehensive Plan includes a recommended "Action" for encouraging the development of low-maintenance, easy-access homes for the elderly and assisted living group homes for seniors. The "Action" list also promotes age-restricted (55+) housing in Town Centers and specifically encourages the establishment of additional or expanded assisted living facilities and nursing homes and related services to meet current and projected needs (Comprehensive Plan Action II-25).
 - The facility generates some traffic from staff workers and visitors; however, the 159 residents themselves do not generate traffic. The multi-family and higher-density residential developments along Dowell Road spawn considerable traffic, as does AnnMarie Garden on certain occasions. Additional vehicular congestion may also be generated by the Solomons Recreational Park, just northeast of the subject property, when it is developed.
 - Some increased noise from ambulances may occur with expansion of the subject facility. In general, however, the facility is not considered to be a noise generator or nuisance.
3. The Board finds the Zoning Ordinance and Town Center Master Plans are written to implement the goals of the Comprehensive Plan and provide for uses that are consistent with the Comprehensive Plan. The Board finds the Comprehensive Plan advocates the establishment of additional or expanded nursing homes to meet current and projected needs in the County. The proposal for expansion of the Solomons Nursing Center is consistent with the Comprehensive Plan and therefore does not adversely affect its implementation. The Board further finds the Zoning ordinance provides that non-conforming uses such as the Solomons Nursing Center may be expanded by up to 50% and that the proposed expansion does not exceed 50% of the square footage of the structure that existed at the time the use became non-conforming. Based on these findings of fact the Board concludes the proposed expansion of the non-conforming use will not adversely affect the implementation of the Comprehensive Plan for the physical development of the County.
4. The Board finds tenants of a nursing home are generally considered "residents" of the facility and that the term "nursing home residents" does not appear to conflict

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with the term "primary residential use" as it applies to the D3 subarea of Solomons. The Board finds the facility is not considered to be a noise generator or nuisance and that no objections to the facility have been received over the years. The Board further finds there is nothing to suggest this facility would be detrimental to the permissible use and enjoyment of adjacent properties. Based on these findings of fact the Board concludes the proposed expansion of the non-conforming use will not be detrimental to the permissible use and enjoyment of adjacent properties.

5. The Board finds the health and general welfare of the County are benefited by adequate and conveniently located nursing home facilities and that nursing home facilities promote safety in that they provide safe residences for those in need of nursing, custodial and/or convalescent care. The Board further finds safety factors related to on-site traffic flow, pedestrian mobility and offsite traffic will be addressed at site plan review. Based on these findings of fact the Board concludes there is no information suggesting the proposed use will have negative impacts on the health, safety or general welfare of the community or the County.
6. The Board finds: (1) there is no evidence that the facility will create congestion on roads or streets along Dowell Road or anywhere else; (2) that the facility does not create a fire hazard as it is merely a large residential facility; (3) that the facility cannot concentrate any more population or overcrowd the property beyond the minimum allowable space per resident; (4) that the facility does not coordinate events that draw crowds that would impact the concentration of population; (5) that the facility will have no impact on public schools; will pay for water and sewerage taps; will be required to meet all environmental requirements; and any usage of public transportation would be minimal; (6) that the proposed expansion will be required to meet all environmental requirements; that stormwater management, sediment and erosion control, lighting, parking, traffic flow and fire and safety code standards will be applied at time of site plan review and approval; and that there was nothing entered into evidence to suggest these standards cannot be met. Based on these findings of fact the Board concludes the proposed use will not create congestion on roads or streets, create fire hazards, tend to overcrowd land or unduly concentrate population, interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public services, or adversely interfere with the surrounding environment.
7. The Board finds the property is not a Historic District and concludes that the Special Exception criterion related to Historic Districts is not applicable.

ORDER

It is hereby ordered, by a unanimous decision that the expansion of a non-conforming use, the Solomons Nursing Center nursing home, as requested by Les Breckenridge, President

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Solomons Nursing Home, be **GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

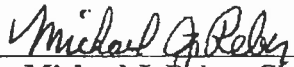
1. All permits and approvals required by the Calvert County Zoning Ordinance and the Department of Planning and Zoning and those required by any other departments, agencies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained before commencing the development activity approved by this Order.
2. The expansion of the non-conforming nursing home facility shall be limited to 50% of the square footage of the nursing home facility that existed at the time of non-conformity.
3. In accordance with Section 11-1.02.C.3 of the Calvert County Zoning Ordinance any violation of conditions imposed by the Board of Appeals shall be considered a violation of the Zoning Ordinance and subject to the enforcement provisions of Section 1-7. In addition, in accordance with Section 11-1.02.F of the Calvert County Zoning Ordinance the Board of Appeals shall have the authority to rescind approval of a Special Exception if the conditions of approval are not met.

APPEALS

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.07 of the Calvert County Zoning Ordinance, Board of Appeals decisions may be appealed to the Circuit Court of Calvert County by (1) any person aggrieved by any decision of the Board of Appeals or (2) any taxpayer, or (3) any officer, department, board or bureau of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200, as amended from time to time, within 30 days of the Board of Appeals Order.

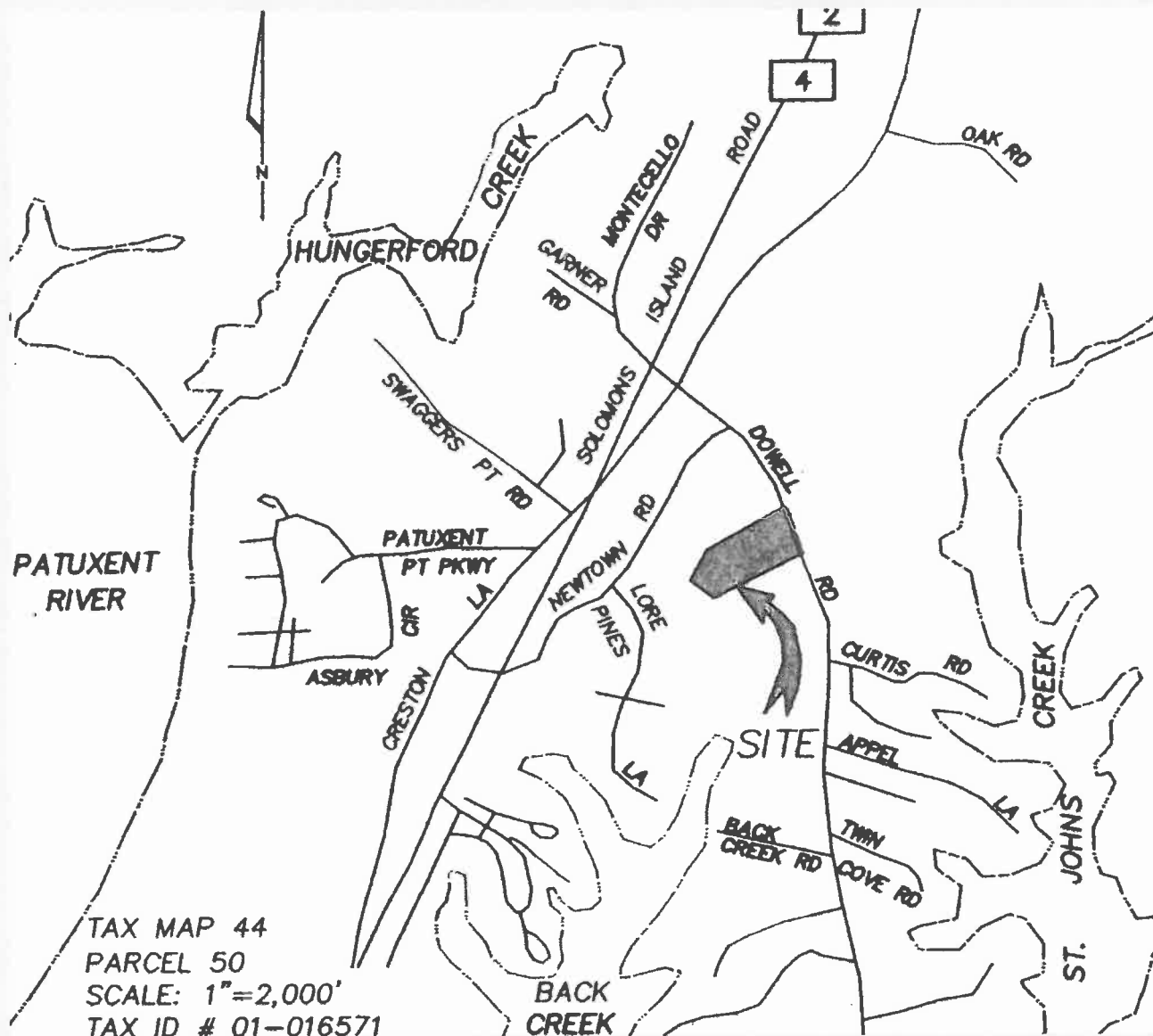
Entered: March 5 2010
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

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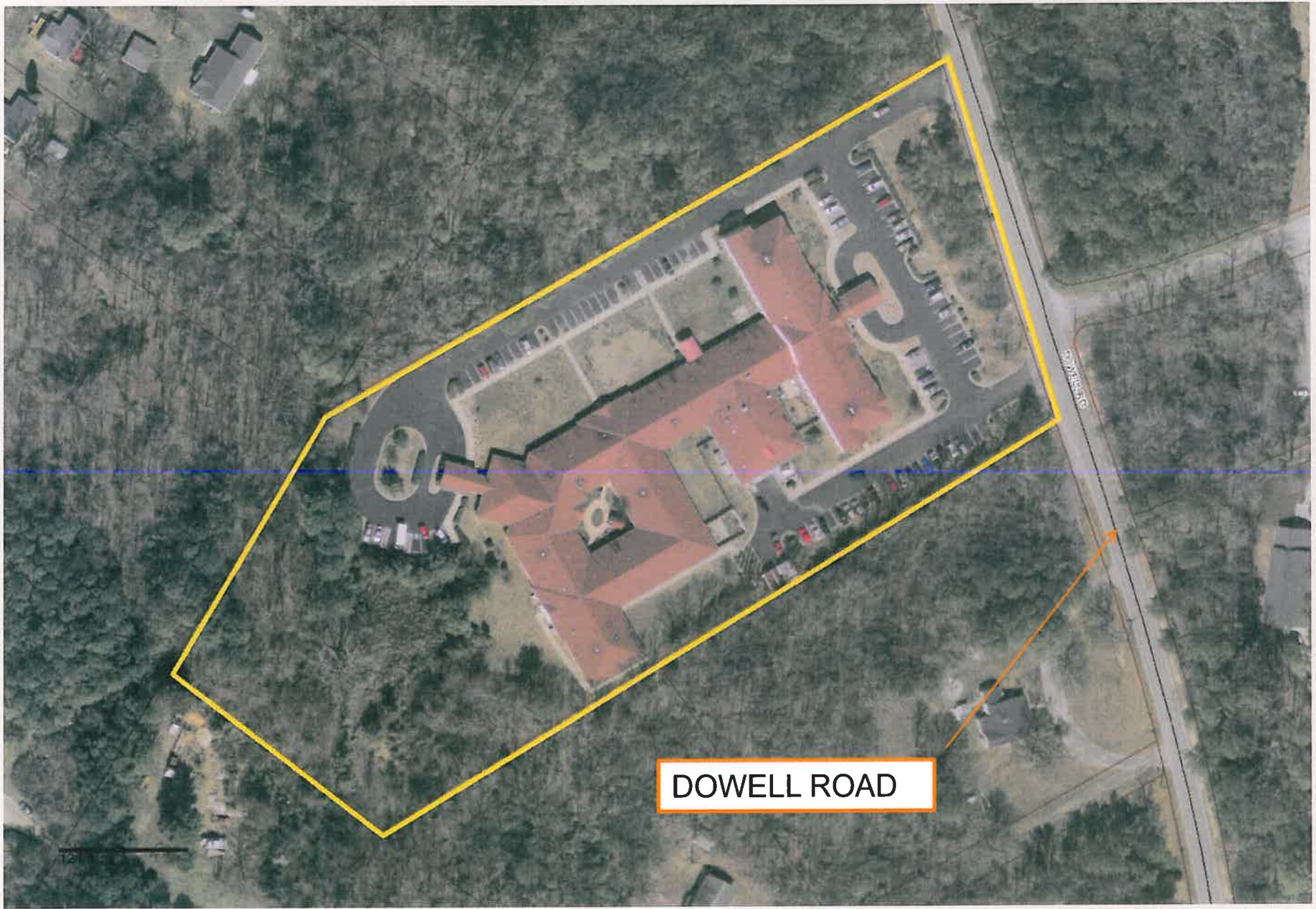
Item 6a; SPR 10-03-1603, SOLOMONS NURSING CENTER ADDITION



VICINITY MAP

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Item 6a; SPR 10-03-1603, SOLOMONS NURSING CENTER ADDITION



DOWELL ROAD

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