

IN THE MATTER OF THE APPLICATION OF ROCKY GORGE COMMUNITIES, INC., PETITIONERS (ROCKY GORGE AT GREY ROCK, L.P., FOR SPECIAL HEARING AND SPECIAL EXCEPTION ON PROPERTY LOCATED ON HILFESTON RD AT ITS INTERSECTION WITH MOUNT WILSON LANE (11 STONE CHAPEL ROAD) 3RD ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

BEFORE THE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

CASE NO. 94-293-SPHX

ORDER OF DISMISSAL

This matter comes to this Board on appeal from a decision of the Deputy Zoning Commissioner dated December 6, 1994 in which the Petition for Special Hearing was dismissed and the Petition for Special Exception denied in part and granted in part with restrictions.

WHEREAS, the Board is in receipt of a Notice of Dismissal of Appeal filed by Newton A. Williams, Esquire, on behalf of William P. Carey, Appellant /Protestant, dated March 10, 1995 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Appellant requests that the appeal filed in this matter be dismissed with prejudice as of March 10, 1995;

IT IS HEREBY ORDERED this 10th day of March, 1995 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED with prejudice.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Mackett, Chairman

Judson H. Lipowitz

Harry E. Buchheiser, Jr.

ROCKY GORGE AT GREY ROCK, L.P., et al COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 94-293-SPHX

ORDER OF DISMISSAL

Mr. Clerk:

On behalf of the Appellant/Protestant herein, Mr. William P. Carey, please dismiss the above entitled appeal "with prejudice" in the above entitled matter.

Respectfully submitted,

Newton A. Williams

Newton A. Williams  
NOLAN, PLUMBOFF & WILLIAMS, CHTD.  
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210 West Pennsylvania Avenue  
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Attorney for the Appellant/Protestant

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County Board of Appeals of Baltimore County

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March 15, 1995

Newton A. Williams, Esquire  
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RE: Case No. 94-293-SPHX  
Rocky Gorge at Grey Rock, LP

Dear Mr. Williams:

Enclosed please find a copy of the final Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Matthew C. Waldman  
Administrative Assistant

Enclosure

cc: Mr. William P. Carey  
Benjamin Bronstein, Esquire  
Christopher Dorsett, President  
Rocky Gorge Communities, Inc.  
Lisa Benjamin /Rocky Gorge  
Robert A. Hoffman, Esquire  
Daniel O'Carroll, Esquire  
Jean Tacey /Dart-McCune-Walker  
Milton Aldus  
Lillian Berger  
Rosemary Tydings  
Dick Kendall /Two Rivers Retirement Home  
Gaby Rosenberg  
Earl M. Willman  
People's Counsel for Baltimore County  
Pat Sellar  
Lawrence E. Schmaid  
W. Carl Richards, Jr. /ZADM  
Docket Clerk /ZADM  
Arnold Jablon, Director /ZADM

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MC94-07-11-04

PETITION FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING  
11 Stone Chapel Road

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO: 94-293-SPHX

PETITIONERS:  
ROCKY GORGE AT GREY ROCK, L.P.  
AND  
ROCKY GORGE COMMUNITIES, INC.

REPLY MEMORANDUM IN SUPPORT OF REQUESTED ZONING RELIEF

Rocky Gorge at Grey Rock, L.P. and Rocky Gorge Communities, Inc., Petitioners, file this Reply Memorandum to the Memorandum submitted by Protestants William P. Carey and Rosemary Tydings, and in support of the requested zoning relief in this matter, including a request for special exception for assisted living units ("ALU") and requested R.T.A. variances.

I

SECTION 26-282 OF THE BALTIMORE COUNTY CODE DOES NOT APPLY TO THE PRESENT CASE.

In support of their opposition to the petitions in this case, Protestants Carey and Tydings place heavy reliance on the provisions of Baltimore County Code, Section 26-282. Their reliance in this regard is misplaced. B.C.C., Section 26-282 applies in three situations:

- (1) cluster subdivision; or
- (2) development in the B.C.C. R-0, R-0, 0-1, 0-2, or 0-T zones or the C.R. districts or a PUD development; or
- (3) alternative site design dwellings as provided in the Comprehensive Manual of Development Policies.

None of these is involved in this case before the Zoning Commissioner. Inasmuch as the provisions of Section 26-282 do not apply to the Grey Rock project, the compatibility requirements which Protestants Carey and Tydings urge so vigorously are simply inapplicable. Indeed, the lack of any substance to these Protestants' objections of the Petitions in this case is exemplified by their misplaced reliance on clearly inapplicable provisions of the Baltimore County Code.

It is clear that the provisions of B.C.C., Section 26-282 do not apply to the Grey Rock project, and the requested relief should be granted.

II

THE EVIDENCE BEFORE THE ZONING COMMISSIONER ESTABLISHES THAT THE SPECIAL EXCEPTION SHOULD BE GRANTED.

Protestants Carey and Tydings suggest that the requirements of BCZR 502.1 have not been satisfied. In essence, however, the Protestants' argument amounts to no more than the complaint that they (and their subjective point of view) are not satisfied with the plan as submitted. Their distress, however, does not overcome the fact that the only expert testimony before the Zoning Commissioner established that all requirements of BCZR Section 502.1 are satisfied by the plan in question.

The testimony of Mr. Ed Hails, President of Dart-McCune-Walker, Inc. established that the requirements of BCZR, Section 502.1 were fully satisfied. The testimony of Mr. Hails was buttressed by that of Mr. Cornelius of the Traffic Group, Inc., who testified that there would be no adverse impact on traffic.

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THERE WAS NO EXPERT TESTIMONY INTRODUCED BY PROTESTANTS CAREY AND TYDINGS TO CONTRADICT OR REBUT THE EXPERTS WHO TESTIFIED ON BEHALF OF THE PETITIONERS.

Furthermore, Protestants Carey and Tydings failed to adduce any evidence that the requested special exception would have an adverse impact within the meaning of *Schultz v. Eritts*, 291 Md. 1, 432 A.2d 1319 (1981), or *Board of County Commissioners for Cecil County v. Holbrook*, 314 Md. 210, 550 A.2d 664 (1988).

In light of the evidence presented to the Zoning Commissioner, and the governing principles of law, the requested special exception should be granted.

III

THE REMAINING OBJECTIONS RAISED BY PROTESTANTS CAREY AND TYDINGS ARE SIMILARLY WITHOUT MERIT.

The remaining squeaks of protest raised by Carey and Tydings have no more weight than their ill-placed reliance on inapplicable sections of the Baltimore County Code. For example, they complain that the exhibits introduced at the hearing do not give them detailed architectural renderings of the proposed structure. (Memorandum of Protestants at p. 10). The short answer to this is that there is no requirement that the Petitioner submit such detailed renderings at this point in the process. Since there is no requirement to submit such renderings, it is clear that the absence of such detailed drawings poses no impediment to the granting of the relief sought by Petitioners.

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Protestants further suggest that the proposed ALU is of greater intensity than the immediately surrounding properties. This objection loses all force, however, in light of the fact that the Baltimore County Council has expressly directed that ALUs have a four-fold increase in density. Bill 188-93. The Baltimore County Council has, therefore, legislatively determined that ALUs will be more intense than the surrounding zoning designation, wherever they are placed. The fact that the ALU facility proposed by Petitioners is more intense than the use Protestants Carey and Tydings say make of their property, then, is consistent with the legislative intent of the Baltimore County Council in permitting increased density for ALU facilities and is no bar to the granting of the relief sought in the Petitions before the Zoning Commissioner.

IV  
Conclusion

In sum, the evidence establishes that:

1. The provisions of B.C.C., Section 26-282 do not apply in this case, and the reliance thereon by Protestants Carey and Tydings is misplaced.
2. The only expert testimony introduced at the hearing establishes that the requirements of BCZR, Section 502.1 have been met.
3. The remaining contentions of Protestants Carey and Tydings are contrary either to the evidence or to the governing principles, regulations and standards applicable in this case.

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Under the governing principles of law, and the facts introduced at the hearing before the Zoning Commissioner, the relief requested by Petitioners should be granted in its entirety.

Respectfully submitted,

Benjamin Bronstein  
Benjamin Bronstein  
Evans, George and Bronstein  
255 Susquehanna Building  
29 West Susquehanna Avenue  
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(410) 296-0200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 1995, a copy of the foregoing was mailed, postage pre-paid to Newton A. Williams, Esquire, Nolan, Plumhoff and Williams, Chartered, Court Towers, Suite 700, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

Benjamin Bronstein  
Benjamin Bronstein

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PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
AND SPECIAL HEARING \* ZONING COMMISSIONER  
11 Stone Chapel Road \* OF BALTIMORE COUNTY

PETITIONERS:

ROCKY GORGE AT GREY ROCK, L.P. \* CASE NO. 94-293-SPEX  
AND ROCKY GORGE COMMUNITIES, INC. \* \*\*\*\*\*

PROTESTANTS' MEMORANDUM  
IN OPPOSITION TO ZONING REQUESTS

William P. Carey, owner, and Rosemary Tydings, tenant. Protestants, by Newton A. Williams and Nolan, Plumbhoff & Williams, Chartered, file this Memorandum in Opposition to Zoning Requests, including the requested Special Hearing, and the requested Special Exception for Assisted Living Units (ALU) and the requested R.T.A. Variances in this matter.

I.

THE SPECIAL EXCEPTION FOR ALU SHOULD NOT BE GRANTED, THE REQUIREMENTS OF SECTION 502.1 OF THE REGULATIONS AND SECTION 26-282 OF THE BALTIMORE COUNTY CODE NOT HAVING BEEN MET.

The Protestants Carey and Tydings do oppose the requested Special Exception, as well as the Special Hearing and R.T.A. variances. The Commissioner is well aware, that the burden of proof is upon Rocky Gorge to prove all of the requirements of Section 502.1 of the Regulations, and since R.T.A. variances are sought, even more stringent compatibility findings are required under Section 26-282 of the Baltimore County Code. Neither the special exception requirements or the compatibility requirements were met, or can be met by a 115,000



square foot, three-story building sandwiched between individual homes on two sides.

Carey and Tydings submit that the Special Exception requirements were not proven for the following reasons:

1. The proposed very large, (115,000 square foot plus) three-story ALU unit would be detrimental to the health, safety and general welfare of the locality involved, contrary to the provisions of Section 502.1a. First of all, it should be remembered that the Carey property is immediately adjacent to the proposed very large, three story unit, sharing over 300 feet of common border on the northwest side of the Carey property and the southeast side of the Rocky Gorge property. Also, the 68 space parking area for the proposed Rock Gorge ALU shares a common boundary of just under 200 feet with the Carey property and has very little buffering, between it and the Carey gardens and pool and patio areas. In fact, the parking lot is within 15 feet of the Carey boundary, and the three-story building of as yet unspecified design is with 65 feet of Carey, and will loom over the Carey house.

The Petitioners seem to assume that the Grey Rock townhouses and apartments are the only properties affected by the proposed ALU, but in fact, the Carey property acts as a substantial buffer between the proposed ALU and the Grey Rock residential development. The Carey property is severely detrimentally impacted by the ALU Special Exception, by the parking and loading areas, by the proposed increased density, and by the requested R.T.A. variances.

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2. As for Section 502.1 b., namely "congestion in roads, streets or alleys", Mr. Cornelius of the Traffic Group conceded that 18 townhouses, for which the property has been alternatively approved, would only produce 180 trips per day, while the proposed ALU would produce at least 420 trips per day, more than 240 trips per day over the 18 approved townhouses of a more obtrusive, institutional and truck traffic. Furthermore, the driveway and loading area traffic passes directly in front of the Carey house, with daily truck traffic and deliveries. The proposed main driveway for all activity, including all deliveries, pick-ups, ambulance runs, etc., is within 35 feet of the Carey boundary, and the confrontation is to the Carey front yard and pool area side yard.

3. The proposed ALU unit is offensive to Section 502.1 d., in that it tends to "over crowd land and causes undue concentration of population." The proposed ALU sits on only 4.84 acres of D.R.3.5 land, and it is wedged between three residences along Reisterstown Road to the west, and the Carey residence to the east and southeast. In fact, the ALU due to the slope of the land is wedged into the northern portion of this D.R.3.5 property, and is only 35 feet from the residential boundaries of this D.R.3.5 property, and is only 35 feet from the residential boundaries on the west to the building, and 65 feet from the building to the Carey property on the east.

The request for 120 assisted living unit beds and 22 nursing unit beds represent a severe over crowding of this

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residentially bordered property. Whereas perhaps 36 to 40 people might occupy the townhouses for which this property was alternatively approved, (see Protestants Exhibit 1, the CRG Plat which approved 18 townhouses), the proposed ALU unit would place as many as 144 older, sicker residents, and a very large staff on this property, and the staff and visitors would come and go on a 24 hour basis, particularly the staff working round the clock.

4. The proposed three-story building, within 65 feet of the Carey property, and 35 feet of the three residential properties to the west would interfere with "adequate light and air" for all of these residential properties to the west and the east, contrary to the provisions of Section 502.1 F. On the west side, this three-story building has a total elevation length in excess of 320 feet. It is over 200 feet long on the north side along Stone Chapel Road, and it is well in excess of 200 feet in length on the Carey side, and dwarfs every building around it in height and mass, at over 115,000 square feet, 2 2/3 acres under zoning.

5. This ALU zoning Special Exception and other relief is very definitely "inconsistent" with the D.R.3.5 zoning of the Carey property, the Rock Gorge property itself, and the residential properties to the west of the proposed ALU building, all contrary to Section 502.1g. Everyone agrees that based upon the acreage of this Phase III single tract, the property would only be eligible at most for 72 ALU units, or so, far under the 144 units which are sought here by attempting

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to borrow from noncontiguous property, contrary to the Zoning Regulations. Thus, the proposal is inconsistent with the D.R. 3.5 zone in which it, Carey and other individual homes are located; as well as violative of Section 1801.12A.2., which does not allow density transfers beyond the boundaries of this "single tract".

6. The requested Special Exception would be offensive to Section 502.1b., in that the "impermeable surface" in terms of roof area, driveways and parking area for a 144 bed facility of three-stories, would be far in excess of "the roof area, and parking and streets required for the 18 townhouses for which this property is approved.

Thus, it is incorrect for the Petitioners to assert that Mr. Carey and Mrs. Tydings do not oppose the granting of the Special Exception, because both of them do for the reasons set out hereinabove.

It is also just common sense to realize that a three-story, 144 bed ALU, of 115,000 plus square feet within 65 feet of the property line will greatly devalue the Carey property, which is a beautiful 4,000 square foot, colonial mansion, with an in ground swimming pool and beautifully landscaped and appointed grounds.

Recall that at the Zoning Hearing, the Petitioners presented Petitioner's Exhibit 3, a plat or cross-section showing sight lines from the proposed ALU to the Grey Rock Community. The reason that the Grey Rock Community will not be able to see a great deal of this ALU building, except when they

enter and exit on Grey Rock Road, is that the Carey mansion, landscaping and swimming pool all buffer the proposed ALU from the Grey Rock Community. The Carey property should not have this improper burden placed upon it, particularly in view of the requested increase in units, and the major R.T.A. variances requested, which will be fully explained hereinafter.

THE PROPOSED ALU PARCEL IS "A SINGLE TRACT", IN ITSELF, AND IS NOT ELIGIBLE FOR CLUSTERING CREDIT FROM ANY OTHER SEPARATE TRACTS.

The subject 4.84 acre, Phase III tract is a "single individual tract," and is not eligible for clustering with other tracts, under the clear language of Section 1801.2A.2.

As noted at point 9. of the Petitioner's Memorandum, former Baltimore County Zoning Regulation, Section 1801.2A.2. may be applicable. In order for this section to be applicable, several items of proof would have to be shown, namely:

1. That Phase III, the proposed ALU, is a part of an approved CRG, approved prior to the changes of Bills 1, 2, 3 and 4-92.

2. That Phase III, the proposed ALU is somehow vested, and has not expired.

3. That Phase III, with the proposed ALU, of 144 beds, (now being sought for three stories with a greatly expanded parking lot) is not an amendment of the earlier approved CRG for 74 beds. If it is an amendment rather than a refinement of the CRG, or CRG Regulations, as the Commissioner knows, require a new CRG for this portion of the Grey Rock project. It is difficult to see how a three-story building with nearly

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double the number of beds can be a refinement of the earlier CRG for this Phase III area.

But, assuming for the sake of argument, but not admitting the same, that Section 1801.2A.2. applies, this Section clearly excludes the subject property from being eligible to be treated for clustering credit with other tracts forming the Grey Rock project. The Section in question provides in part, but pertinent part:

"Whenever a single tract is divided by a zoned boundary so that portions of such tract lie within D.R. zones and different classifications, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted, under Subsection 1802.2 in the zone within which that portion lies and totaling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone." (Emphasis supplied.)

Please note that the provision in question, if it applies, requires "a single tract". In this case we do not have a single tract situation. The relevant tax map in question identifies this 4.84 acre parcel as parcel 430, while other portions of Grey Rock are identified as parcels 312 and 572, and the Carey property is identified as parcel 355.

The previous owners, presumably the Trinitarian Fathers, purchased this parcel separately, paid taxes on it separately, and never merged it into their other holdings, since it has a separate parcel identification on tax maps today, and it has always had such separate identification, not to mention the four foot dividing strip.

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The term "tract" is not defined in Section 101 of the Baltimore County Zoning Regulations. Neither is the term "tract" defined in Section 26-168 of the Baltimore County Code, that is the Development Regulations.

Mr. Carey and Mrs. Tydings submit that the use of the phrase "a single tract", means precisely what it says in Section 1801.2A.2., a single, undivided piece of property. Parcel 430 of 4.84 acres is such "a single tract", and it is divided on every side by fee simple ownerships from the Grey Rock Project.

As the Commissioner is well aware, in Baltimore County we do not allow density to be transferred between separate tracts, and we no longer allow density to be transferred even within a single tract, except in the D.R.10.5 and D.R.16 zones, under Section 1 801.2A.2., as amended in 1992 as a part of the new Development Regulations.

The reasoning which the Petitioners' put forward in their Memorandum for allowing a density transfer across the four foot fee simple strip does not hold up upon examination. In the *Gruber-Coxley v. Paris Case*, 252 Md. 684 251 A2d. 598 (1969) the Court of Appeals was dealing with a completely different statute. Apparently, Section 111-7 (g)(4)(c) of the Montgomery County Code, among other things, deals with "adjoining subdivisions". The *Gruber* Court decided that subdivisions were adjoining, although they were separated by a street.

It is important to note several things about the

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Gruver Case versus the present case, namely:

1. In the Gruver Case, a plat was not challenged until two years after it had been recorded, whereas in the present case Mr. Carey and Mrs. Tydings have objected from the outset.
  2. Montgomery County allows transfer of unused density from one subdivision to another under certain circumstances, which Baltimore County does not.
  3. In the Gruver Case, the statute in question used the phrase "adjoining subdivision", while the Baltimore County Council in originally drafting and in redrafting Section 1B01.2A.2 was very clear in saying that, at the time in question, density could be transferred only over "a single tract" which is zoned in a combination of D.R. zones.
- The other cases cited by the Petitioners in their Memorandum, deal with the definition of the word "contiguous", which is not used in the relevant section here, but, rather, a more limiting phrase "a single tract" was used by the Council originally as to all the D.R. zones, and still is referring to D.R.10.5 and 16 Zones.

As noted by our previous letter Memorandum, dated March 10, 1994, the Cherkoff Case, Case No. 92-173-SPH, terminated the allowable computation of density at a point where the beltway broke the continuous, "single tract" nature of the property in question.

The fact that the four foot strip is only four feet wide, does not make it any less the separator of parcel 430 from the balance of the Grey Rock ownership with different

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parcel numbers. Furthermore, the four foot strip in question is not "nonbuildable", since it has been built upon and used for a water main, and since it forms an integral part of parcel 355, the Carey property. This four foot strip is the means by which public water reaches the Carey property from the water main in the bed of Reisterstown Road. It is not "nonbuildable", rather the strip and the balance of the Carey property have already been built upon.

**THE REQUESTED R.T.A. VARIANCES ARE OFFENSIVE TO SECTION 502.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS, AND ARE INCOMPATIBLE WITH THE CAREY PROPERTY AND THE NEIGHBORHOOD.**

The Petitioner Rocky Gorge is really asking for a Special Exception for an ALU, coupled with, or topped by a Special Exception for a waiver of the R.T.A. standards. The R.T.A. waiver requires affirmative findings under Section 502.1, as well as further compatibility findings, and rigorous compatibility requirements under Section 26-282 of the Baltimore County Code. As to both of these requirements, Section 502.1 and Section 26-282, recall, first of all, that Rocky Gorge cannot tell us who will operate this facility. Rocky Gorge cannot tell us what the building will look like, or what it will be constructed of, and did not show any building elevations at the hearing, because the building has not yet been designed.

Thus, we would respectfully submit that the case is fatally incomplete as to both Section 502.1 and Section 26-282. In order to judge what is compatible, we must know who will build and operate the ALU, and what the Building will look like, at the very least.

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Furthermore, no matter what architectural style is used, it is virtually impossible to make a building three stories in height, and having elevations as long as 340 feet in length compatible with residential houses adjoining both to the west and to the east.

The Carey house itself scales at 95 feet in length on Petitioner's Exhibit 1. The Carey house is a large, two-story estate type property, with an outdoor swimming pool. It contains in excess of 4,000 square feet of living space on several acres of beautifully landscaped and maintained grounds.

In contrast, please note that Petitioner's Exhibit 1, "Plan and Plat to Accompany Petition for Zoning Hearing Grey Rock, 11 Stone Chapel Road", does not contain any note or statement as to the amount of square footage in the three, very large linked buildings which would form this Assisted Living Unit. However, simple area computations indicate that a three-story, linked building of this size will contain on the order of 115,000 square feet. This 115,000 square feet is equal to 2.64 acres on 4.84 acres of ground. If we use for comparison the Carey residence at 4,000 plus square feet, the proposed ALU Building will be 21 times as large as the Carey house, one of the larger individual residences in the area.

Recall that in order to grant an R.T.A. variance, compatibility under Section 26-282 of the Baltimore County Code must be found. There is no possible way that a compatibility finding for an unknown, undesigned, three-story building of 115,000 square feet can be found with regard to its neighbors.

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There is no way that the proposed ALU building and site can meet the requirement of Subsection 26-282(b)(1) which requires "the arrangement and orientation of the proposed buildings and site improvements are patterned in a similar manner to those in the neighborhood".

In like manner, there is no way that a 115,000 square foot, three-story building can meet the requirement of Subsection (b)(2) which requires "the building and parking lot layouts reinforce existing building and street scene patterns and assure that the placement of buildings and parking lots have no adverse impact on the neighborhood".

Neither can this proposed ALU building, three-stories in height, meet the compatibility test of Subsection 26-282 (b)(8) which states "the scale, portions, massing and detailing of the proposed buildings are in proportion to those existing in the neighborhood". (Emphasis supplied.)

By asking for R.T.A. variances, the Petitioners have gone beyond the *Schultz v. Pritts* presumptions accorded to them under Section 502.1, even for an Assisted Living Unit building, and have subjected themselves to the affirmative, required compatibility criterion of Section 26-282. We respectfully submit that no matter who operates this ALU, and no matter which architect designs it, there is no possible way that a 115,000 square foot, three-story building, of 2 and 2/3 acres of floor area on 4.84 acres can ever satisfy these compatibility requirements.

The Protestants have never been shown, and the

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Petitioner's have not submitted a design for a 72 unit ALU, but the Protestants do not believe that even a 72 unit ALU could be designed to meet the requirements of Sections 502.1 and 26-282.

The Protestants respectfully remind the Zoning Commissioner, that we are not dealing with some type of a confiscation case here. The Petitioners specifically admitted that as an alternative proposal, the original CRG had approved this 4.84 acre tract for 18 townhouses. That design and that layout was admitted as Protestants Exhibits I and II.

**SUMMARY**

The Protestants William P. Carey and Mrs. Rosemary Tydings respectfully submit that the Zoning Commissioner should deny this case for the following reasons:

1. There is no reason to even reach the Special Exception point, since the Zoning Commissioner can decide, and we respectfully state, should decide that the subject parcel of 4.4 acres is "a single tract" in and of itself, and it is not eligible to borrow density of any kind for any purpose from any other tract connected with the Grey Rock subdivision under Section 1B01.2A.2 of the BCZR.
2. The Special Exception case should be denied for lack of sufficient information to decide the required 502.1 points; while the information that is available requires a denial of the Special Exception under Section 26-282 of the Baltimore County Code, relating to compatibility, for the reasons outlined hereinabove.
3. The Petitioners' have subjected themselves to a great

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compatibility requirement by asking for R.T.A. variances, and even with the incomplete information available, (no elevations or building plans, no operator known, no known hours or days of operation, no known number of employees, etc.), there is no possible way that a three-story, 115,000 square foot building on 4.84 acres can be made compatible with individual homes, the largest of which like Carey is only 4,000 plus square feet, particularly if the R.T.A. protections are not observed.

Respectfully submitted,

*Newton A. Williams*  
NEWTON A. WILLIAMS

*Nolan, Fleming & Williams*  
NOLAN, FLEMING & WILLIAMS, CHTD.  
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(410) 823-7800

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13th day of July, 1994, a copy of the foregoing Protestants Memorandum in Opposition to Zoning Require was mailed postage prepaid to Benjamin Bronstein, Esquire, Evans, George & Bronstein, Susquehanna Building, Suite 205, 29 W. Susquehanna Avenue, Towson, Maryland 21204 and Peter J. Zimmerman, Esquire, People's Counsel, Court House, Towson, Maryland 21204.

*Newton A. Williams*  
NEWTON A. WILLIAMS

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mc/mwh/6/16/94

PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
AND SPECIAL HEARING \* ZONING COMMISSIONER  
11 Stone Chapel Road \* OF BALTIMORE COUNTY

PETITIONERS: \*  
ROCKY GORGE AT GREY ROCK, L.P. \* CASE NO: 94-293-SPH  
and \*  
ROCKY GORGE COMMUNITIES, INC. \* \* \* \* \*

**MEMORANDUM IN SUPPORT OF PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION FOR ASSISTED LIVING UNITS AND R.T.A. VARIANCES**

Rocky Gorge at Grey Rock L.P. and Rocky Gorge Communities, Inc. (Grey Rock), Petitioner, by Benjamin Bronstein, Michael J. Chonel and Evans, George and Bronstein its attorneys, files this Memorandum in Support of the Petitions for Special Hearing and Special Exception for Assisted Living Units (ALU) and R.T.A. Variances in the above referenced case, and says:

It

**UTILIZATION OF DENSITY ACROSS THE FOUR FOOT FEE STRIP IS PERMISSIBLE**

1. The testimony and exhibits before the Zoning Commissioner established that there is a four foot fee strip running from the right-of-way of Reisterstown Road through property owned by Petitioner to property owned by protestant William P. Carey, an out-of-state nonresident property owner. The Petitioner Rosemary Tydings lives on this property.
2. Ed Halle was called as a witness by the Zoning Commissioner and was accepted as an expert witness by the Zoning Commissioner. Mr.

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Halle is the President of Daft-McCune-Walker, Inc. He is a licensed professional engineer and registered land surveyor. He has a Bachelor's degree in Engineering from Johns Hopkins University and has taken graduate courses at the University of Maryland and Towson State University. He has extensive experience and expertise in land planning and civil engineering. Mr. Halle has extensive experience in Baltimore County development processes, and, specifically, experience in site planning in DR zones. Most importantly, Mr. Halle has extensive experience in planning assisted living facilities, including Blakehurst, North Oaks, Franklin Woods and Broadmead, all of which are in Baltimore County.

3. Mr. Halle testified that the four foot fee strip was created in 1937 to provide a fee simple strip for the installation of a water line to the Carey property as required under the Baltimore City Regulations. Mr. Halle testified that in his expert opinion the four foot strip was "non-buildable."

4. In their post-hearing letter memorandum, protestants Carey and Tydings suggest that density cannot be utilized across this four foot fee strip. This contention fails to accord proper reference to the clear dictates of Maryland Law.

5. In an analogous situation, the Court of Appeals of Maryland has determined that density transfer may occur between parcels that are in close proximity though not actually abutting. In *Gruver-Conley-Jude Corporation v. Perlis*, 252 Md. 684, 251 A2d 598 (1969), the Court of Appeals found itself confronted with a

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Montgomery County Code requirement that density transfer could occur only between "adjoining subdivisions". The Court ruled that the subdivisions in question did not need to be touching one another (i.e. abutting) to be considered "adjoining" but could be "... close or near to or nearest or most accessible . . ." 252 Md. At 695. The Court quoted with approval from 2 C.J.S. Adjoin at p.2 (1936) that "adjoining may not require properties to touch but merely to be separated by no other property which can be put to private use . . ." (citations omitted).

6. Gruver - Cooley is clear authority for the proposition that density may be utilized (i.e transferred) across tract boundaries where those boundaries are not touching each other, and are separated "by no other property which can be put to private use." id. at 695. Similarly, the Court of Appeals has interpreted the word "contiguous" as found in the Baltimore County Code as meaning " . . . in close proximity; near though not in contact . . ." in a case involving a roadway which separated two parcels. Seathmore Co. v. Kaezner, 258 Md. 517, 530, 266 A2d 341 (1970). The Zoning Commissioner for Baltimore County has recognized that density in D.R. zones can be utilized (transferred) over fairly large distances. See E. Robert Chertkoff, et al., Case No. 92-173-SPH.

7. Mr. Halle gave his expert opinion that the small strip in question was non-buildable. This falls directly within the rule of Gruver-Cooley, since the parcels in question in this case are "separated by no other property which can be put to private use."

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To hold otherwise would be to exalt form over substance to the detriment of a use (ALU) which has been identified as a preferred use by the Baltimore County Council. <sup>1</sup> Protestants Carey and Tydings put on no testimony which contradicted Mr. Halle's testimony in this regard. It is of great significance to note that the predecessors in title of the Petitioners, specifically the Trinitarian Fathers, acquired and united the entire Grey Rock tract. Under this circumstance, there is no utilization of density between distant tracts, but within one tract. Such utilization is not prohibited by the BCZR.

Under these circumstances, and in light of the governing principles of law, it is clear that density can be utilized across the four foot fee strip. Under the provisions of the BCZR governing utilizing of density and DR zones which are applicable in this proceeding, the spirit and intent was to permit and facilitate utilization of density. The thrust of these regulations (which are applicable in this case) "tips the balance" toward permitting utilization of density across the de minimis fee strip in question, which, it should be noted, has not been utilized for any purpose whatsoever (other than a water line) for the Carey property. To do otherwise would encourage "spite strips", a practice not permitted in Baltimore County.

<sup>1</sup> As an example of the heightened preference which the Baltimore County Council has placed on ALU's, the County has increased the permitted density by four-fold. Additionally, the preamble to Bill 168-93 specifically provides that one of the purposes of the legislation was to exempt ALU's from residential transition and development plan requirements.

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- A) Compliance with all or part of the RTA restrictions will cause unreasonable hardship on the development, and
- B) The quality of the site design and amenities provided would justify a modification or waiver of the residential transition area restriction; and
- C) The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood.

The evidence produced on behalf of the Petitioner at the hearing clearly established each of these components.

A. The evidence established that compliance with all or part of the RTA restrictions will cause unreasonable hardship on the Grey Rock project.

The testimony of Ed Halle establishes that the requirement of Section 432.4.A had been met, in that compliance with all or part of the RTA restrictions will cause unreasonable hardship on the development. Reference to the plat of the project, Exhibit I, establishes that the southerly part of the tract on which the ALUs are proposed to be built is unbuildable because of its extremely steep slope. The northern (upper) portion of that property upon which the plan proposes the construction of the ALUs, is substantially affected by RTA requirements. Indeed, an examination of Exhibit I establishes that the buildable area is wholly impacted by RTA restrictions. Under these circumstances, no ALU facility can be erected without a modification or waiver of the RTA

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requirements. Quite simply, the "unreasonable hardship" resulting from refusal to modify the RTA restrictions means that no ALU can be constructed on this site. This clearly meets the definition of "unreasonable hardship" applicable to this proceeding.

B. The evidence establishes that the quality of the site design and amenities provided justifies a modification or waiver of the RTA restrictions.

The testimony and evidence before the Zoning Commissioner established beyond doubt that the requirements of Section 432.4.B are met in that the quality of the site design and amenities provided justify a modification or waiver of the RTA restrictions. Mr. Halle specifically testified that in his opinion the quality of the site design and amenities provided justify a modification of the RTA under Section 432.4. Moreover, liberal application of the legislation modifying the RTAs for ALUs is consistent with the thrust of the intention of the Baltimore County Council to prefer ALUs and make them work.

On behalf of Petitioner, Mr. Halle clearly established that this site is an ideal location for the development of an assisted living facility. The site has an excellent location, yet remains essentially private. The proposed plan will provide residents of the facility with a courtyard on a site that has existing vegetation (which will be supplemented). The units of the facility will be connected to a promenade along both sides of Reisterstown

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Road; this will permit residents to walk to the Festival at Woodholme Shopping Center and other facilities near by. Furthermore, the site is located near the medical offices at McDonogh Crossroads, and public transportation is available. This evidence establishes that the residents and their guests will enjoy a facility which is in close proximity to commercial and medical facilities, is easily accessible to friends, relatives and other visitors, and provides "the best of both worlds."

C. The evidence established that the development will not be detrimental to the use, peaceful enjoyment, economic value and development of the surrounding properties and the general neighborhood.

The evidence adduced before the Zoning Commissioner established that the basis for justifying an RTA variance set forth in BCZR Section 432.4.C was satisfied by the plan as proposed. Mr. Halle testified that there would be no traffic impact on the residents of the Grey Rock subdivision because the sole access to the facility will be along Reisterstown Road and not along Grey Rock Road or Stone Chapel Road. Furthermore, Mr. Halle testified without contradiction that a three-story facility would probably not be observable from the residential units in Grey Rock because of the topography and the existing vegetation. Moreover, the proposed plan also provides for additional planting and screening.

Mr. Halle reached the conclusion that the Grey Rock project

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II  
THE PROVISIONS OF THE LAW PRIOR TO  
THE ENACTMENT OF BILL 2-92 APPLY IN THIS CASE AND PERMIT  
UTILIZATION OF DENSITY THROUGHOUT THE TRACT IN QUESTION  
8. Baltimore County Code Section 26-166, reflecting amendments of Bill No. 1, 1992, Section 2, provides that any development project " . . . for which a CEG plan has been accepted for filing by the department of public works prior to the date of adoption of Bill 1-92, . . . shall be governed by the subdivision regulations in effect at the time of said approval or acceptance for filing . . ." Bill No. 1-92, then, explicitly provides that the prior regulations governing subdivisions apply to the Grey Rock project.  
9. Prior to Bill 1-92, BCZR Section 1801.2A.2 provided as follows:

"Application to Tract Divided by Zone Boundary. Wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. zones and different classifications, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under that portion lies and totalling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone."

In applying this regulation, the Zoning Commissioner of Baltimore County has determined that density may be utilized between different parcels of one tract which are zoned D.R. if the

D.R.- zoned portions are contiguous. In re: FFAN Associates LTD Partnership et al. Case No. 87-362-SPH. This is precisely what is proposed by the plan in question. The D.R. 3.5 in this case, is "adjoining" as that term is defined by the Maryland cases, since the D.R. 3.5 areas are separated only by the four foot strip. Gruver - Cooley, Supra.

Since the subdivision regulations in effect prior to Bill 1-92 govern the Grey Rock plan, and the Grey Rock plan complies with the prior regulations, the only conclusion to be reached is that the provisions of Bill 1-92 do not apply and the plans should be approved as it is presently exists. The uncontradicted testimony before the Zoning Commissioner establishes that the plan complies with those prior regulations, and the plan should therefore be affirmed.

III  
THE RTA MODIFICATIONS PROPOSED IN THE GREY ROCK  
PLAN ARE SUPPORTED BY SUBSTANTIAL, COMPETENT EVIDENCE  
AND SHOULD BE GRANTED

The ALUs proposed in the Grey Rock plan are housing facilities within the scope of the BCZR. BCZR Section 432.4 specifically authorizes the Zoning Commissioner to modify or waive RTA restrictions for this type of housing development, in cases where such a development would be severely or adversely affected by the strict applications of RTA restrictions otherwise applicable. Still the Zoning Commissioner is authorized to modify or waive the RTA requirements upon a determination that:

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satisfied the requirements of Section 432 after testifying that he is familiar with the Reisterstown Road Corridor Study and that the development of the site for an assisted living facility is consistent with that study as well as consistent with the Baltimore County Master Plan. Indeed, the evidence before the Zoning Commissioner (Exhibit 7) indicates that the Baltimore County's comprehensive affordability strategy provides an estimate that thirty-five percent (35%) of the county's elderly population require assistance with one or more daily living activities. This is a proportion which equals approximately 41,000 frail, elderly citizens. Baltimore County acknowledges a county-wide need for assisted living facility for senior citizens due to the very limited availability of this type of housing throughout Baltimore County. It is important to have a distribution of this type of facility throughout Baltimore County, so that residents of ALUs can live close to their families. Mr. Halle then testified that the RTA variances should be granted because the test requirements for a modification of variances from the RTA requirements under Section 432.4. had been satisfied.

The testimony of Mr. Halle was buttressed by that of Mickey Cornelius of The Traffic Group. Mr. Cornelius was accepted as an expert in traffic and is experienced in the planning of assisted living facilities. Mr. Cornelius testified that based on his experience he has found that assisted living facilities are low traffic generators. Mr. Cornelius further testified that he is personally familiar with the level of service at the intersections

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of Reisterstown Road and Mt. Wilson Lane and Reisterstown Road and McDonough Road. The uncontradicted testimony was that these intersections are at level of service "A" and level of service "B", respectively. Mr. Cornelius further testified without contradiction that the development of the site as a 120 unit facility will not inconvenience or adversely impact the area. Mr. Cornelius' un rebutted conclusion was that there would be no adverse impact on the general neighborhood or surrounding properties if the assisted living facility were built as proposed.

IX

THE SPECIAL EXCEPTION SHOULD BE GRANTED

In their letter memorandum protestants Carey and Tydings do not challenge or object to the grant of the special exception. Indeed, the evidence establishes beyond dispute that the special exception should be granted as requested. Ed Halle, accepted as an expert witness, opined as to BCR Section 502.1. He testified that the Grey Rock subdivision was planned under his supervision at Daft-McCune-Walker. Phases I, II and IV are currently under development with town houses and European-style villas or "flats."

The subject of the instant petition is Phase III. The property which comprises Phase III has frontage in part along Reisterstown Road, and is essentially oriented toward Reisterstown Road, consistent with sole access to the facility being through Reisterstown Road. This provides ready access to the Baltimore Beltway from the Grey Rock site for families of the residents.

Mr. Halle testified that Phase III has CRG approval for a two-

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story seventy-two unit assisted living facility. No special exception has previously been applied for, however, in connection with Phase III. The current plan consists of a three-story assisted living facility with one hundred twenty units. Mr. Halle testified (and his testimony in this regard was verified by Exhibit I) that access to the site would be through Reisterstown Road and not over Grey Rock Road. In consequence, there will be no impact on traffic in the Grey Rock subdivision as a result of the granting of the special exception requested in this case.

Mr. Halle had prepared a sight line exhibit (Exhibit 4) which demonstrates that the three-story assisted living facility will not be observable from the residential units in Grey Rock because of the topography and the existing vegetation. The evidence before the Zoning Commissioner established that regardless of whether the facility is a two-story or three-story structure, there will be no negative impact within the ambit of BCR Section 502.1. The evidence establishes that there is no adverse impact on adjoining properties within the scope of Schultz v. Parks, 291 Md. 1 432 A2d 1219 (1981). Although Ms. Tydings expressed a concern that her swimming pool might be seen from the proposed facility, this concern was rebutted by the site plan and facts put into evidence. Mr. Halle testified that part of the existing vegetation would be retained, and additional vegetation would be planted. Together with the distance between the ALU and the Carey property residents of the ALU would be unlikely to see Mrs. Tyding even if they were so disposed. There were no facts put in evidence by any of the

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protestants to rebut the clear, unequivocal testimony of Mr. Halle.

The "concerns" expressed by protestants fail to raise to the standard of adverse impact required by the Maryland cases, particularly Board of County Commissioners for Cecil County v. Holbrook, 314 Md. 210 950 A.2d 664 (1988). The house here in question is located in an urbanizing area surrounded by current development (Grey Rock) and future development (Avalon). Townhouses or detached single family houses could be erected on the subject parcel, and these will also be clearly as visible to the Carey property as the proposed ALU. There is no "adverse" impact from the ALU facility different and apart from that of those structures permitted as of right. Indeed, it is apparent that there is no impact whatsoever on the Carey/Tydings property as expressed by the protestants -- the protestants' residence is separated by 160 feet from the proposed facility and in addition to the minimalization by distance, there will be substantial foliage retained and supplemented.

Under these circumstances, there was no credible evidence before the Zoning Commissioner which would support a denial of the requested special exception for one hundred twenty units.

There was no testimony which would support a denial of the requested special exception for seventy-two units as approved by the CRG, since these units are stand alone and do not require utilization of density. Indeed, the only testimony as to the appropriateness came from Mr. Halle, who gave his expert opinion that the requirements of BCR Section 502.1 were fully satisfied by

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the proposed project.

X

CONCLUSION

The evidence produced at the hearing establishes that:

1. Utilization of density across the non-buildable four foot fee strip is permitted by the Baltimore County Zoning Laws;
2. That utilization of the density as proposed in the plan is permitted under the Baltimore County Regulations which apply to this CRG date of Bill 1-92;
3. That there is a plethora of evidence to compel a finding that the RTA restriction should be modified in this case in full conformance with the requirements of BCR 432.4;
4. That the site is an ideal one for development of an assisted living facility, including the location of the site, ease of access for visitors and utilization of nearby commercial and medical facilities by residents (and their visitors), and the secluded ambience which results from the careful design of the plan submitted in connection with this hearing.

Under the circumstances, and in the light of the governing principles of law, the Petition for Density Utilization and for RTA Variances should be GRANTED as requested by Petitioner.

Respectfully submitted,

EVANS, GEORGE AND BRONSTEIN

*Benjamin Bronstein*

Benjamin Bronstein

*Michael J. Evans*

Michael J. Evans

29 W. Susquehanna Avenue

Suite 205

Towson, Maryland 21204

(410) 296-1900

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23 day of June, 1994, a copy of the foregoing was mailed, first class, postage pre-paid to: Newton A. Williams, Esquire, Court Towers, Suite 700, 210 W. Pennsylvania Ave., Towson, Maryland 21204, attorney for Protestants.

*Benjamin Bronstein*

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14 BK: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - 06/23 \* DEPUTY ZONING COMMISSIONER  
Reisterstown Road at its \*  
intersection with Mt. Wilson Lane \*  
(1) Stone Chapel Road \* OF BALTIMORE COUNTY  
3rd Election District \*  
3rd Councilmanic District \* Case No. 94-293-SPHC  
Rocky Gorge at Grey Rock, L.P., \*  
Rocky Gorge Communities, Inc., \* Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Special Exception for that property known as 11 Stone Chapel Road, located in the vicinity of Reisterstown in northwest Baltimore County. The Petitions were filed by the owners of the property, Rocky Gorge at Grey Rock Limited Partnership, by Christopher Dorsett with Rocky Gorge Communities, Inc., a General Partner, through their attorney, Benjamin Bronstein, Esquire. The Petitioners request a special hearing to approve the utilization of density on a tract under common ownership but separated by a 4-foot unbuildable fee strip, and a special exception for an assisted living facility on the subject site and to modify or waive the RTA requirements found in Section 1801.1.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 1801.1.B.1.b permit a building height of as much as 45 feet in lieu of the maximum permitted 35 feet; from Section 1801.1.B.1.b.2 to permit a building length of as much as 360 feet in lieu of the maximum permitted 130 feet; from Section 1801.1.B.1.b.3(a) to permit a rear setback of as close as 35 feet in lieu of the required 150 feet, a side setback of as close as 65 feet in lieu of the required 75 feet, and a parking setback of as close as 15 feet in lieu of the required 75 feet; and from Section 1801.1.B.1.b.3(b) to permit a rear buffer of 35 feet in lieu of the required 75 feet, a side

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buffer of 30 feet in lieu of the required 50 feet, and a parking buffer of 15 feet in lieu of the required 75 feet. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were John Dorsett and Lisa Benjamin with Rocky Gorge Communities, Inc., Ed Halle and Jeanne Tansy with Daft-McCune-Walker, Inc., and Benjamin Bronstein, Esquire, attorney for the Petitioners. Appearing in opposition to the Petitioners' request were various concerned citizens from the surrounding community, some of whom were represented by counsel. Newton A. Williams, Esquire appeared and represented Mr. William Carey and Mrs. Rosemary Tydings. Robert A. Hoffman, Esquire, appeared and represented the Blaustein family.

It should be noted that subsequent to the hearing, I received a letter dated November 23, 1994 from Mr. Benjamin Bronstein on behalf of the Petitioner specifically requesting a withdrawal of the Petition for Special Hearing seeking approval to utilize density on a tract under common ownership but separated by a 4-foot fee simple strip. Pursuant to his letter, the special hearing request has been withdrawn and a decision will be rendered on the special exception request, only.

Testimony and evidence offered revealed that the subject property consists of a gross area of 0.943 acres, more or less, zoned D.R. 3.5 and is located on the northeast side of Reisterstown Road at its intersection with Mt. Wilson Lane, just south of Stone Chapel Road. The property, also known as Phase III of Grey Rock, is proposed for development with an assisted living/nursing care facility and has received CRG approval for a two-story building containing 95 beds, or 73 assisted living units and 22

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By *Benjamin Bronstein*

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nursing care units. Pursuant to the Petitions filed in the instant case, the Petitioner proposed to increase the size of the building to a three-story structure with an increased capacity to 144 beds, or 122 assisted living units and 22 nursing care units. Much of the testimony offered by the Petitioner's witnesses and the Protestants concerning the proposed increase in size and capacity of the facility. After the hearing, Counsel for both the Petitioner and the Protestants were given an opportunity to submit memoranda in support of and in opposition to the relief sought. As noted above, the Petitioner subsequently withdrew its special hearing request to increase the size and capacity of the proposed facility, having returned to its original plan for a 95 bed facility. The Petitioner now seeks a ruling on the special exception request, only.

As noted earlier, the Petitioners obtained CRG approval for a two-story building containing 73 assisted living units and 22 nursing care units. Inasmuch as the Petitioner has withdrawn its request for a third floor, the height of the building will be reduced to the originally approved two-story height. Therefore, the requested height variance from RTA requirements, pursuant to Section 1801.1.B.1.b.1, shall be dismissed as moot. However, the remaining variances to RTA setback requirements are still necessary.

Mr. Ed Halle, Professional Engineer with Daft-McCune-Walker, Inc., and Mr. Mickey Cornelius, Traffic Expert with the Traffic Group, appeared and testified in support of the RTA variance relief requested. Mr. Halle confirmed that Phase III of Grey Rock has already received CRG approval for a two-story assisted living facility containing 95 beds. He testified concerning the special exception requirements set forth in Section 502.1 of the B.C.Z.R. and demonstrated that the relief requested

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meets the spirit and intent of Section 307.1 of the B.C.Z.R. Mr. Cornell testified concerning what effects any traffic generated by the proposed assisted living facility might have on the surrounding locale. His testimony was that the effects of this facility on traffic will be minimal.

As stated previously, several residents from the surrounding community appeared and offered testimony in opposition to the Petitioner's request. Although the special hearing request has been withdrawn, it was clear from the testimony that these residents are opposed to any assisted living facility being located on the subject property. They argued that the property had been previously approved for townhouse dwelling units and therefore, should be developed accordingly. For traffic reasons, effects on property values, and the visibility of such a large structure, the residents were opposed to the construction of an assisted living facility on the subject property in any respect.

In addition to the concerns raised by the residents, an argument was made that the petitioner has failed to demonstrate that the proposed assisted living facility would be compatible with the surrounding community. The Protestants argued that the Petitioner has failed to meet the compatibility standards imposed by the B.C.Z.R. pursuant to Section 1801.1.B.1.C. Specifically, subsection 2 thereof states that the RTA requirements for a tract may be modified pursuant to findings made in accordance with Section 26-282 of the Baltimore County Code. Mr. Bronstein argued on behalf of his clients that Section 26-282 of the Code does not apply to this property while Mr. Williams, who represented two of the Protestants in this matter, argued that this Section is applicable.

Section 26-282 of the Code specifically requires and mandates that compatibility findings be made when a modification or variance to RTA

requirements is being requested. Therefore, I believe this matter should be reviewed by the Director of Planning and Zoning to determine whether or not the proposed facility meets the compatibility standards set forth in Section 26-282. At the time of the hearing on this matter, it was clear, and the testimony demonstrated, that the Petitioner did not have an entity who would operate the proposed assisted living facility. Nor did the Petitioner know at that time the architecture or design of the proposed facility. I understand, however, that the Petitioner now has a user for this site and that documentation can be submitted to the Director of Planning and Zoning for his review and findings of compatibility of such a facility on this site. Therefore, as a condition of my order, I shall require the Petitioner submit the appropriate information to the Director of Planning and Zoning for a determination in this regard.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 2.5 zone by special exception. However, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adjuvating testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, in respect of its location within the zone. Schultz v. Fritz, 432 A.2d 1219 (1981).

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The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purpose of the property's zoning classification, nor in any other way be incongruous with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

As to the utilization of this property for an assisted living/nursing care facility consisting of a two-story building housing 73 assisted living units and 22 nursing care beds, and the Petitioner's request for a modification of RTA requirements, I am satisfied that the Petitioner has met its burden and that the relief requested should be granted. However, the granting of this special exception is expressly contingent upon the Petitioner submitting all information deemed appropriate by the Director of Planning and Zoning to make a determination as to the compatibility of this facility with the surrounding community. In the event the Director of Planning and Zoning finds that this facility is not compatible with the surrounding community, then this matter shall be reset for another hearing before me so that the issue of compatibility may be fully litigated. In the event the Director of Planning and Zoning determines the facility is compatible, then there shall be no need for any further hearing on the matter. The information necessary for the Director to make a finding on this issue shall be submitted within thirty (30) days of the date of this Order. Furthermore, a landscape plan shall be submitted for review and approval by the Landscape Architect for Baltimore County within thirty (30) days of the date of this Order.

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Pursuant to the special exception relief sought, the Petitioner requested variances to RTA requirements applicable to the subject site. The Deputy Zoning Commissioner may, by special exception, notwithstanding Subparagraph 1801.1B.1.b.7, modify or waive the residential transition area restrictions in cases where an elderly housing facility development would be severely or adversely affected by the restrictions set forth in Paragraph 1801.1B.1.b. If the Deputy Zoning Commissioner determines that:

- A. Compliance with all or part of the residential transition area restrictions will cause unreasonable hardship on the development;
- B. The quality of the site design and amenities provided would justify a modification or waiver of the residential transition area restrictions; and,
- C. The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood. (Bill No. 36, 1988).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances, as modified herein, are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special exception and variances, as modified herein, should be granted.

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WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of December, 1994 that the Petition for Special Hearing to approve the utilization of density on a tract under common ownership but separated by a 4-foot unbuildable fee simple strip, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception for an assist-d living facility on the subject site and to modify or waive the RTA requirements set forth in the B.C.Z.R. as follows: From Section 1801.1.B.1.b.2 to permit a building length of as much as 360 feet in lieu of the maximum permitted 130 feet; from Section 1801.1.B.1.b.3(a) to permit a rear setback of as close as 35 feet in lieu of the required 150 feet, a side setback of as close as 65 feet in lieu of the required 75 feet, and a parking setback of as close as 15 feet in lieu of the required 75 feet; and from Section 1801.1.B.1.b.(b) to permit a rear buffer of 35 feet in lieu of the required 75 feet, a side buffer of 30 feet in lieu of the required 50 feet, and a parking buffer of 15 feet in lieu of the required 75 feet, be and the same is hereby GRANTED, subject to the following restrictions:

1) The relief granted herein is limited to the OIG approved two-story assisted living/nursing care facility with a maximum capacity of 96 beds, or 73 assisted living units and 22 nursing care units. Within thirty (30) days of the date of this Order, the Petitioner shall submit a revised site plan incorporating the modified relief granted herein.

2) Within thirty (30) days of the date of this Order, the petitioner shall submit all information deemed appropriate to the Director of Planning and Zoning for a determination as to the compatibility of this facility with the surrounding community. In the event the Director of Planning and Zoning finds that this facility is not compatible with the surrounding community, then the matter shall be reset before me so that the issue of compatibility may be fully litigated. In the event that the Director of Planning and Zoning deter-

mines that this facility is compatible, then there shall be no need for any further hearing.

3) A landscape plan shall be submitted for review and approval by the Landscape Architect for Baltimore County within thirty (30) days of the date of this Order.

4) When applying for any permits, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Exception to modify or waive the RTA requirements set forth in Section 1801.1.B.1.b of the B.C.Z.R. permit a building height of as much as 45 feet in lieu of the maximum permitted 35 feet, be and is hereby DENIED.

IT IS FURTHER ORDERED that any appeal of this decision must be filed within thirty (30) days of the date that the Director of Planning and Zoning issues his written determination as to the compatibility of the proposed assisted living/nursing care facility on the surrounding community, pursuant to Section 26-282 of the Baltimore County Code.

TRK:bjb

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By: [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

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December 6, 1994

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Benjamin Bronstein, Esquire  
23 East Susquehanna Avenue, Suite 205  
Towson, Maryland 21284

RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
1801.1.B.1.b.2 at its intersection with Rt. Wilson Lane  
(11 Stone Chapel Road)  
3rd Election District - 3rd Commission District  
Rocky Gorge at Grey Rock, L.P. and Rocky Gorge Communities, Inc. -  
Petitioners  
Case No. 94-293-SPHK

Dear Mr. Bronstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been dismissed and the Petition for Special Exception granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy H. Sorocco*  
TIMOTHY H. SOROCO  
Deputy Zoning Commissioner  
of Baltimore County  
cc: Newton A. Williams, Esquire, Nolan, Plumboff & Williams  
210 W. Pennsylvania Avenue, Suite 700, Towson, Md. 21284  
People's Counsel  
File

## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County 94-293 SPH

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 26.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the utilization of density on a tract under common ownership but separated by a 4 foot unbuildable fee strip.

Property to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we and the legal owner(s) of the property which is the subject of this Petition:

Contract Purchaser/Lessee:	Legal Owner(s): Rocky Gorge at Grey Rock, L.P. Rocky Gorge Communities, Inc.
(Type or Print Name)	(Type or Print Name)
Signature:	<i>Dr. Christopher Deamant</i>
Address:	Christopher Deamant, President
City and State:	(Type or Print Name)
Signature:	Signature:
Address:	P.O. Box 32545 486-2239
City and State:	Baltimore, Maryland 21208
Signature:	(Type or Print Name)
Address:	20 W. Susquehanna Ave., Ste. 205
City and State:	Towson, MD 21284
Signature:	City and State:
Address:	Name, address and phone number of legal owner, contract purchaser or representative to be contacted.
City and State:	Jonathan H.E. Thumry Dale McCanna A. Melker
Signature's Telephone No.:	(410) 296-0200 200 E. DORR/VIRGILIA AVE. 296-3333
Address:	Address Phone No.

ESTIMATED DURATION OF HEARING - 1/2 HOUR. \*HEARINGS AVAILABLE FOR FILING MON./TUES./WED. - 9:00 AM - 2:00 PM. EST. TWO MONTHS. REVIEWED BY: DATE

ORDER RECEIVED FOR FILING  
Date: 11/17/94  
By: [Signature]



PLACING HEARING ADVERTISEMENTS AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL RESULT IN ISSUANCE OF ZONING ORDER.

*Arnold Jablon*  
ARNOLD JABLON, DIRECTOR

Item newspaper advertisement:

Item No.: 294  
 Petitioner: Rocky Gorge & Grey Rock, L.P.  
 Location: 1 Stone Chapel Rd.  
 PLANS FORWARDED ADVERTISING FIRM TO:  
Ben Weinstein, Esq.  
 ADDRESS: 29 W. Susquehanna Ave Ste. 205  
Towson, Md 21286  
 PHONE NUMBER: 246-0200

TO: HYPERTYPED PUBLISHING COMPANY

Feb. 10, 1999 Issue - reference

Please forward billing to:

Benjamin Brontstein, Esq.  
29 W. Susquehanna Avenue, Suite 205  
Towson, Maryland 21286  
246-0200

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein at

Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21286

on 111, 014 Courthouse, 400 Washington Avenue, Towson, Maryland 21286 as follows:

CASE NUMBER: 94-293-SPH (Item 294)

11 Stone Chapel Road - Grey Rock  
82 1/2 Reisterstown Road at Intersection of Reisterstown Road and Hunt Wilson Lane  
3rd Conditional  
Petitioner(s): Rocky Gorge at Grey Rock, L.P. and Rocky Gorge Communities, Inc.  
HEARING: THURSDAY, MARCH 3, 1994 at 11:00 a.m. in Rm. 106, County Office Building.

Special hearing to approve utilization of density on a tract under common ownership but separated by a 4 foot non-buildable fee strip.

Special exception for an assisted living facility and to modify or waive the R2A restriction.

Special exception for an assisted living facility and to modify or waive the R2A restriction.

LAWSUITS & BONDING  
HEARING COMPLETION FOR BALTIMORE COUNTY

- NOTES: (1) HEARING IS UNANNOUNCED; FOR SPECIAL RECOMMENDATION PLEASE CALL 887-3333.  
 (2) FOR INFORMATION CONCERNING THE FILE NUMBER HEARING, CONTACT THIS OFFICE AT 887-3333.

FEBRUARY 4, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein at

Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21286

on 111, 014 Courthouse, 400 Washington Avenue, Towson, Maryland 21286 as follows:

CASE NUMBER: 94-293-SPH (Item 294)

11 Stone Chapel Road - Grey Rock  
82 1/2 Reisterstown Road at Intersection of Reisterstown Road and Hunt Wilson Lane  
3rd Conditional  
Petitioner(s): Rocky Gorge at Grey Rock, L.P. and Rocky Gorge Communities, Inc.  
HEARING: THURSDAY, MARCH 3, 1994 at 11:00 a.m. in Rm. 106, County Office Building.

Special hearing to approve utilization of density on a tract under common ownership but separated by a 4 foot non-buildable fee strip.

Special exception for an assisted living facility and to modify or waive the R2A restriction.

Special exception for an assisted living facility and to modify or waive the R2A restriction.

Arnold Jablon  
Director

cc: Rocky Gorge at Grey Rock, L.P.  
Benjamin Brontstein, Esq.  
Neil, Melissa & Walter

- NOTES: (1) HEARING IS UNANNOUNCED; FOR SPECIAL RECOMMENDATION PLEASE CALL 887-3333.  
 (2) HEARING IS UNANNOUNCED; FOR SPECIAL RECOMMENDATION PLEASE CALL 887-3333.  
 (3) FOR INFORMATION CONCERNING THE FILE NUMBER HEARING, CONTACT THIS OFFICE AT 887-3333.

February 23, 1994

Benjamin Brontstein, Esquire  
Franka George and Brontstein  
29 West Susquehanna Avenue, Suite 205  
Towson, Maryland 21286

RE: Case No. 94-293-SPH, Item No. 294  
Petitioner: Rocky Gorge at Grey Rock Limited Partnership  
Petitions for Special Hearing and Special Exception

Dear Mr. Brontstein:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on January 27, 1994, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The Director of Zoning Administration and Development Management has initiated a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Baltimore County Government  
Fire Department

700 East Joppa Road, Suite 901  
Towson, MD 21286-5009 (410) 887-4500

DATE: 02/03/94

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21286  
MAIL STOP-1105

RE: Property Owner: SEE BELOW  
LOCATION: SEE BELOW  
Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time, FOR THE FOLLOWING "ITEM NUMBERS": 285, 289, 291, 292, 293, 294 AND 298.

REVIEWER: LT. ROBERT P. SAUESWALD  
Fire Prevention, PHONE 887-4881, MS-1102F

cc: File

RECEIVED  
FEB 9 1994  
ZADM

Maryland Department of Transportation  
State Highway Administration

94-293-SPH

February 23, 1994

Ms. Charlotte Minton  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21286

Dear Ms. Minton:

This office has reviewed the plan for the referenced item and offer the following:

We have no objection to approval for the Special Hearing request to approve utilization of density on a tract of 4.4 non-buildable fee strip, or the Special Exception for an assisted living facility and to modify or waive the RTA restriction.

However, our review of the plan reveals that the proposed access to the site on MD 140 is not acceptable to the State Highway Administration (SHA). Due to the proposed nursing facilities proximity to Stone Chapel Way and the existing signalized intersection of MD 140 and Grey Rock Road, and in keeping with SHA policy to limit access onto State roadways, all access to this development should be from either Stone Chapel Way or Grey Rock Road as a condition of plan approval.

If you have any questions, please contact Bob Small at 410-333-1350. Thank you for the opportunity to review this plan.

Very truly yours,  
David Ramsey, Acting Chief  
Engineering Access Permits  
Division

BS/s

SHA  
O. James Lighthizer  
Secretary  
Hal Kittsopf  
Administrator

RECEIVED  
MAR 7 1994  
ZONING COMMISSIONER

My telephone number is 410-333-1350  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2289  
Hearing Address: P.O. Box 717 - Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street - Baltimore, Maryland 21205

MICROFILMED

of a qualified forester to work with a landscape architect to develop a best management practice.

7. A limit of disturbance line shall be required on the final development plan around those areas designated for protection. This area must be fenced prior to grading or utility construction.
8. Developers are encouraged to utilize natural features as a basis of design and to control the unnecessary destruction of this area's most valuable assets so as to enhance the ultimate design quality of the area.
9. Cluster development shall be encouraged where appropriate as a means of preserving natural features.

E. Landscaping

1. Promenade  
The Promenade is not only a primary part of the plan, but it is the element that makes this proposal unique in Baltimore County. Its purpose is to enhance the attractiveness and value of the adjoining properties as places to live and work, as well as to create an attractive gateway to Pikesville and to Owins Mills. The Promenade will vary in width from 30 to 100 feet on each side of Reisterstown Road on privately owned property in an easement for landscaping. Consistent use of planting, seating material, street furniture, lighting and signs will provide the unifying elements throughout the development along Reisterstown Road. This landscape easement will be developed and maintained by the property owners.

The design of the Promenade should include the following guidelines and standards:

- a. The primary landscape will be provided by the planting of London Plane Trees (Sycamores) along the Reisterstown Road Corridor. The London Plane Tree thrives in an urban environment, has a stately, almost regal appearance particularly when in double or triple rows parallel to the roadway.
- b. The path or sidewalk system should be at least ten feet wide and should be constructed with materials in keeping with the character of the area; e.g., brick pavers would be appropriate. Sidewalks should be aligned to meander within the promenade area.
- c. Light standards should be of uniform design throughout the entire corridor. Special design features such as stone or brick-faced retaining walls capped with slate or stone and built-in benches for pedestrians, possibly at bus stops, set into low-bermed seating areas should be built.

23

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: February 10, 1994

SUBJECT: 11 Stone Chapel Road

INFORMATION:  
Item Number: 294  
Petitioner: Rocky Gorge at Grey Rock, L.P.  
Rocky Gorge Communities, Inc.

Property Size: \_\_\_\_\_  
Zoning: D.E. 3.5  
Requested Action: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_

SUMMARY OF RECOMMENDATIONS:  
Based upon a review of the information provided, staff offers the following comment:  
Prior to the issuance of building permits for the assisted living facility, staff requests the opportunity to review and approve architectural elevation drawings.  
The Reisterstown Road Corridor Study calls for a landscaped promenade for this portion of Reisterstown Road. The plan states the purpose of the promenade is "to enhance the attractiveness and value of the adjoining properties as places to live and work, as well as to create an attractive gateway to Pikesville and to Owins Mills." Staff supports the applicant's request provided that a landscaped promenade is provided (see attached).

Prepared by: *Jeffrey M. Zary*  
Division Chief: *Patricia L. Keller*

PK/JL/s

MICROFILMED

ZAC 294/PZ006/ZAC1

Page 1



INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development ManagementFROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: March 2, 1994

SUBJECT: 11 Stone Chapel Road

## INFORMATION:

Item Number: 294  
 Petitioner: Rocky Gorge at Grey Rock  
 Property Size: \_\_\_\_\_  
 Zoning: D.R. 3.5  
 Requested Action: \_\_\_\_\_  
 Hearing Date: \_\_\_\_\_

## SUMMARY OF RECOMMENDATIONS:

## AMENDED COMMENT

Further review of the subject request raises the following questions:

- The Office of Planning and Zoning is not opposed to the proposed use for elderly assisted living on this site.
- The 9.14 acre site is zoned D.R. 3.5 which only allows a density of 18.06 dwelling units. The zoning regulations do not permit transfer of density from non-contiguous land. We are opposed to any such request. Therefore, we believe the maximum density for this assisted living special exception is (18 X 4.0) 72 density units.
- The accompanying plan indicates a maximum of three stories for the proposed building. We are opposed to any request for increased transit.

Prepared by: Pat KellerDivision Chief: Carol Kern

PKJ/LLW

JLST/BAJ/PKOR/ZA/CJ

Pg. 1

111 West Chesapeake Avenue  
Towson, MD 21201Baltimore County Government  
Office of Zoning Administration  
and Development Management

(410) 887-3333

January 5, 1995

Benjamin Bronstein, Esquire  
29 W. Susquehanna Avenue, Suite 205  
Towson, MD 21204

RE: Petition for Special Hearing and Special Exception  
 Restriction on Road Intersection with Mt. Wilson Lane  
 (11 Stone Chapel Road)  
 3rd Election District  
 3rd Councilmanic District  
 Rocky Gorge at Grey Rock, L.P., Rocky  
 Gorge Communities, Inc. - Petitioners  
 Case No. 94-293-SPHX

Dear Mr. Bronstein:

Please be advised that an appeal of the above-referenced case was filed in this office on December 16, 1994 by Newton A. Williams, Esquire on behalf of Mr. William P. Carey. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Dalia Wisniewski at 887-3329.

Sincerely,

Pat Keller  
ARNOLD JABLON  
Director

AJJ/mj

cc: Mrs. Jean Tansley  
 Mr. Milton Aldus  
 Ms. Lillian Berger  
 Ms. Rosemary Tydings  
 Mr. Dick Kendall  
 Mrs. Gaby Rosenberg  
 Mr. Earl H. Mittleman  
 People's Counsel

810 001 05-1007 55  
 1007 001 05-1007 55

Printed with Recycled Ink  
on Recycled Paper

APPEAL  
 Petition for Special Hearing and Special Exception  
 Restriction on Road at its Intersection with Mt. Wilson Lane  
 (11 Stone Chapel Road)  
 3rd Election District - 3rd Councilmanic District  
 Rocky Gorge at Grey Rock, L.P.  
 Rocky Gorge Communities, Inc. - PETITIONER  
 Case No. 94-293-SPHX

Petitioner(s) for Special Hearing and Special Exception  
 Description of Property  
 Certificate of Posting  
 Certificate of Publication  
 Entry of Appearance of People's Counsel  
 Zoning Plans Advisory Committee Consensus  
 Petitioner(s) and Citizen(s) Sign-In Sheets

- Petitioner's Exhibits: 1 - Plan to Accompany Petition for Zoning Hearing - Grey Rock  
 2 - Colored Plan to Accompany Petition for Zoning Hearing - Grey Rock  
 3 - Exhibit A to Accompany Petition for Zoning Hearing - Grey Rock Phase III  
 4 - Exhibit C to Accompany Petition for Zoning Hearing - Grey Rock Phase III  
 5 - Exhibit B to Accompany Petition for Zoning Hearing - Grey Rock Phase III  
 6 - Edmund F. Hall's Resumes  
 7 - Mickey A. Cornelius Resumes  
 8 - Letter to Mr. Benjamin Bronstein dated March 3, 1994 from Jay C. Johnson
- Protestant's Exhibits: 1 - Second Amended CNG Alternative B Grey Rock Phase III  
 2 - Second Amended CNG Alternative A Grey Rock Phase III  
 3 - Two Photographs

## Two Miscellaneous Letters

Protestants Memorandum in Opposition to Zoning Requests  
 Newly Amended in Support of Requested Zoning Relief  
 Memorandum in Support of Petition for Special Hearing and Special Exception for Assisted Living Units and R7A Variance  
 Deputy Zoning Commissioner's Order dated December 12, 1994 (Special Hearing/Dismissed, Special Exception/Dismissed)  
 Notice of Appeal received on December 16, 1994 from Newton A. Williams, Esquire on behalf of Mr. William P. Carey

- cc: Benjamin Bronstein, Esquire, Evans, George and Bronstein, 29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204  
 Mrs. Jean Tansley, Daft McKune & Walker, 200 E. Pennsylvania Avenue, Towson, MD 21286  
 Newton A. Williams, Esquire, Melan, Rimmoff & Williams, Suite 700, Court Towers, 210 West Pennsylvania Avenue, Towson, MD 21204  
 Mr. Milton Aldus, 2 John Roper Court, Baltimore, MD 21208  
 Mr. Lillian Berger, 2 Corwin Court, Baltimore, MD 21208  
 Mr. Rosemary Tydings, 17 Stone Chapel Road, Baltimore, MD 21208  
 Mr. Dick Kendall, Two Rivers Retirement Homes, Inc., Sunnyside of Towson, L.P., 8019 York Road, Towson, MD 21204  
 Mrs. Gaby Rosenberg, 31 Berry Carroll Court, Baltimore, MD 21206  
 Mr. Earl H. Mittleman, 4 Corwin Court, Baltimore, MD 21208  
 People's Counsel of Baltimore County, N.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning  
 Timothy H. Kotroco, Deputy Zoning Commissioner  
 W. Carl Richards, Jr., Zoning Supervisor  
 Docket Clerk  
 Arnold Jablon, Director of ZAM

4/1/95 T/C to M. Williams  
 re D&C Order in  
 have written comment  
 have raised by  
 Deanning?  
 the Order re 50-  
 day appeal period.

Baltimore County Government  
Office of Planning and ZoningSuite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

March 6, 1995

Benjamin Bronstein  
Evans, George and Bronstein  
29 West Susquehanna Avenue, Suite 205  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
 1118 Restriction on Road at its Intersection with Mt. Wilson Lane  
 (11 Stone Chapel Road)  
 3rd Election District - 3rd Councilmanic District  
 Rocky Gorge at Grey Rock, L.P.  
 and Rocky Gorge Communities, Inc. - Petitioners  
 Case No. 94-293-SPHX

Dear Mr. Bronstein:

I am in receipt of your letter dated February 13, 1995 in which you have requested that I defer the time required for your client to submit information to the Office of Planning and Zoning for a compatibility finding. Given the latest developments involving your client's project, I agree with you that this time requirement should be deferred.

Therefore, Restriction No. 2 of my Order dated December 6, 1994 shall be extended until such time as the appeal before the Board of Appeals has been determined or a revised plan is submitted for review.

Should you have any questions on the subject, please feel free to contact me.

Very truly yours,

Timothy H. Kotroco

TIMOTHY H. KOTROCO

Deputy Zoning Commissioner  
for Baltimore County

TKB/bjs

cc: 118

PETITION FOR SPECIAL EXCEPTION  
AND SPECIAL HEARINGBEFORE THE  
ZONING COMMISSIONER

PETITIONERS: : CASE NO. 94-293-SPHX  
 ROCKY GORGE AT GREY ROCK, L.P. and  
 ROCKY GORGE COMMUNITIES, INC. : : : : :

## ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman  
Peter Max Zimmerman  
People's Counsel for Baltimore CountyCarol S. Donello  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, Maryland 21204  
(410) 887-2188

I HEREBY CERTIFY THAT on this 27<sup>th</sup> day of February, 1994, a copy of the foregoing Entry of Appearance was mailed to Benjamin Bronstein, Esq., 29 W. Susquehanna Avenue, Suite 205, Towson, MD 21204.

Peter Max Zimmerman  
Peter Max Zimmerman

## County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

Hearing Room - Room 48

Old Courthouse, 410 Washington Avenue

January 31, 1995

NOTICE OF ASSIGNMENT  
 NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL WILL NO. 52-79-SPHX

CASE NO. 94-293-SPHX  
 ROCKY GORGE AT GREY ROCK, L.P. and  
 ROCKY GORGE COMMUNITIES, INC. - Petitioners  
 Restriction on Road at its Intersection with Mt.  
 Wilson Lane (11 Stone Chapel Road)  
 3rd Election District  
 3rd Councilmanic District

SPH -To approve utilization of density on tract under common ownership but separated by 4' unbuildable fee strip; SE -Assisted Living Facility; modify or waive R7A requirements; 100' length setbacks; parking; side, rear & parking setbacks.

12/06/94 -D.Z.C.'s Order in which Petitions for Special Hearing is DISMISSED; Petition for Special Exception is GRANTED in part and DENIED in part.

ASSIGNED FOR: TUESDAY, MAY 9, 1995 at 10:00 A.M.  
 cc: Newton A. Williams, Esquire Counsel for Applicant /Protestant  
 William P. Carey Appellant/Protestant

Milton Aldus  
 Lillian Berger  
 Rosemary Tydings  
 Dick Kendall /Sunrise of Towson  
 Gaby Rosenberg  
 Earl H. Mittleman Esquire  
 Robert A. Hoffman Esquire  
 Benjamin Bronstein, Esquire  
 Christopher Dorment, President  
 Rocky Gorge Communities, Inc.  
 Jean Tansley /Daft-McCune-Walker

Counsel for Blaustein Family  
 Counsel for Petitioners

People's Counsel for Baltimore County  
 Pat Keller  
 Lawrence E. Schaidt  
 Timothy H. Kotroco

W. Carl Richards, Jr. /ZAM  
 Docket Clerk /ZAM  
 Arnold Jablon /ZAM

Kathleen C. Weldenhaas  
 Administrative Assistant

3/31/95 -Notice of Assignment for hearing scheduled for Tuesday,  
May 9, 1995 at 10:00 a.m. sent to following:

Newton A. Williams, Esquire  
 William P. Carey  
 Milton Aldus  
 Lillian Berger  
 Rosemary Tydings  
 Dick Kendall /Sunrise of Towson  
 Gaby Rosenberg  
 Earl H. Mittleman  
 Robert A. Hoffman, Esquire  
 Benjamin Bronstein, Esquire  
 Christopher Dorment, President  
 Rocky Gorge Communities, Inc.  
 Jean Tansley /Daft-McCune-Walker  
 People's Counsel for Baltimore County  
 Pat Keller  
 Lawrence E. Schaidt  
 Timothy H. Kotroco  
 W. Carl Richards, Jr. /ZAM  
 Docket Clerk /ZAM  
 Arnold Jablon, Director /ZAM

Phase II Petition	NO	3/31/95	118
cc: BENJAMIN BRONSTEIN	cc: JESSE TRANSE		
cc: P. WILSON	cc: DWAN		
cc: 210-2714	cc: 410-887-3333		

## MEMORANDUM

TO: Ben Bronstein  
 From: Jean Tansley  
 Date: March 29, 1994  
 Re: Cayrock Ph III  
 Proj. #0208-N

As you requested, I've realigned the distribution of density between the DR 3.5 and 10.5 zones to determine from which zone the dwelling units transferred to Phase III came. The breakdown within Phase III is as follows.

**DR 3.5 Zone**

Area = 29.69 Ac. (does not include Phase III)
Density Allowed = 104 Dwelling Units
Density Proposed = 127 Dwelling Units
Deficit = 53 Dwelling Units

**DR 10.5 Zone**

Area = 18.3 Ac.
Density Allowed = 192 Dwelling Units
Density Proposed = 224 Dwelling Units
Excess = 68 Dwelling Units

Total Excess 15 Dwelling Units (transferable to Ph. III)

**Phase III**

Area = 5.16 Ac.
Density Allowed = 18 Dwelling Units
Transferred Density = 15 Dwelling Units

Total, Ph. III = 33 Dwelling Units (152 Assisted Living Units)

The developers actually used less density within the DR 10.5 portion of the property than within the DR 3.5 portion. Density zoning, of course, allows this to happen.

LAW OFFICES  
EVANS, GEORGE AND BRONSTEIN  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 286-2700  
FAX (410) 286-3710



L. ROBERT EVANS  
JAMES KATHY WEIDENHAMMER  
BENJAMIN BRONSTEIN  
MICHAEL J. CHOMEL

February 13, 1995

The Honorable Timothy Kotroco  
Deputy Zoning Commissioner for Baltimore County  
Courthouse  
400 Washington Avenue  
Towson, Maryland 21284

RE: **Rocky Gorge at Grey Rock, L.P. and  
Rocky Gorge Community, Inc., Petitioners**  
Case No. 1-94-133

Dear Mr. Kotroco:

In your Order of December 6, 1994, you imposed restrictions on the grant of the special exception. Condition No. 2 required that all information deemed necessary for a compatibility determination. An appeal was thereafter noted by Nolan, Plimhoff and Williams on behalf of William P. Carey, one of the Protestants. It is my understanding that Mr. Carey has recently divested himself of title to his adjoining property. I suggest that in all probability that the appeal will be dismissed. There is also a strong likelihood that there may be a request to amend the special exception granted under your order as well as proceed with a new special exception on the Carey property.

The subject property was approved under the former CRG Regulations. Under the CRG Regulations, no compatibility finding was required as under the current development regulations. Rocky Gorge has no existing elevations to submit for compatibility. In your order with respect to compatibility compliance be offered until such time as the appeal before the Board of Appeals is determined or a revised plan encompassing both the subject property and the Carey property is submitted.

LAW OFFICES  
EVANS, GEORGE AND BRONSTEIN  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 286-2700  
FAX (410) 286-3710



L. ROBERT EVANS  
JAMES KATHY WEIDENHAMMER  
BENJAMIN BRONSTEIN  
MICHAEL J. CHOMEL

November 23, 1994

HAND DELIVERED

The Honorable Timothy Kotroco  
Deputy Zoning Commissioner for Baltimore County  
Courthouse  
400 Washington Avenue  
Towson, Maryland 21284

RE: **Petition for Special Exception  
and Special Hearing**  
**Rocky Gorge at Grey Rock**  
Case No. 1-94-133-SPX

Dear Mr. Kotroco:

On behalf of the developer, Rocky Gorge at Grey Rock, L.P. and Rocky Gorge Community, Inc., please withdraw the Petition for Special Hearing filed in the above entitled case. I would appreciate your ruling on the Petition for Special Exception for an assisted living facility and modification of the RTA restriction.

By withdrawing the Request for Special Hearing the maximum number of units permitted under the special exception is 72 in a 3-story building in lieu of a 120 units in a 3-story building within the same building envelope.

Thank you for your kind consideration and prompt attention to this matter.

Very truly yours,  
EVANS, GEORGE AND BRONSTEIN

*Benjamin Bronstein*  
Benjamin Bronstein

BR/alj  
cc: Newton Williams, Esquire

LAW OFFICES  
EVANS, GEORGE AND BRONSTEIN  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 286-2700  
FAX (410) 286-3710



L. ROBERT EVANS  
JAMES KATHY WEIDENHAMMER  
BENJAMIN BRONSTEIN  
MICHAEL J. CHOMEL  
DOUGLAS A. STUBBS

July 13, 1994

HAND DELIVERED

The Honorable Timothy Kotroco  
Deputy Zoning Commissioner for Baltimore County  
Courthouse  
400 Washington Avenue  
Towson, Maryland 21284

RE: **Petition for Special Exception  
and Special Hearing**  
**Rocky Gorge at Grey Rock**  
Case No. 1-94-133-SPX

Dear Mr. Kotroco:

Enclosed is a Reply Memorandum in Support of Requested Zoning Relief for filling on behalf of Rocky Gorge in reference to the above entitled case.

Thank you for your kind consideration and attention to this matter.

Very truly yours,  
EVANS, GEORGE AND BRONSTEIN

*Benjamin Bronstein*  
Benjamin Bronstein

BR/alj  
Enclosure

LAW OFFICES  
EVANS, GEORGE AND BRONSTEIN  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 286-2700  
FAX (410) 286-3710



L. ROBERT EVANS  
JAMES KATHY WEIDENHAMMER  
BENJAMIN BRONSTEIN  
MICHAEL J. CHOMEL  
DOUGLAS A. STUBBS

June 23, 1994

The Honorable Timothy Kotroco  
Deputy Zoning Commissioner for Baltimore County  
Courthouse  
400 Washington Avenue  
Towson, Maryland 21284

RE: **Petition for Special Exception  
and Special Hearing**  
**Rocky Gorge at Grey Rock**  
Case No. 1-94-133-SPX

Dear Mr. Kotroco:

Enclosed is a Memorandum for filing on behalf of Rocky Gorge in reference to the above entitled case.

Thank you for your kind consideration and attention to this matter.

Very truly yours,  
EVANS, GEORGE AND BRONSTEIN

*Benjamin Bronstein*  
Benjamin Bronstein

BR/alj  
Enclosure

LAW OFFICES  
NOLAN, PLIMHOFF & WILLIAMS  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 823-7800  
TELEFAX (410) 286-2700

JAMES D. HOLLAN  
WILLIAM T. HACKETT  
J. EARLE PLIMHOFF  
ROBERT S. HANLEY, JR.  
ROBERT S. HANLEY, JR.  
STEPHEN A. SCHENBERG  
DOUGLAS A. STUBBS  
E. BRUCE JONES, III  
CHRISTINE J. HILBERT  
TOWSON DIRECT MAIL  
21284 7854

December 9, 1994

Honorable Timothy M. Kotroco, Esquire  
Deputy Zoning Commissioner for  
Baltimore County  
Suite 112, Courthouse  
400 Washington Avenue  
Towson, Maryland 21284

RE: **Rocky Gorge at Grey Rock, L.P. and  
Rocky Gorge Community, Inc., Petitioners**  
Case No. 1-94-293-SPX

Dear Mr. Kotroco:

On behalf of my client, Mr. William P. Carey, an aggrieved party owning the adjoining property at 17 Stone Chapel Road, please note an Appeal to the County Board of Appeals from your opinion and Order of December 6, 1994, and each and every part thereof.

Our check in the amount of \$460.00, representing \$250.00 to appeal the special exception, \$135.00 to appeal the special hearing, and \$35.00 for the Board of Appeals posting sign is enclosed.

If there is anything further that your office or the Board needs, please notify us immediately and it will be forwarded. Thanking you and your staff and best regards of the season.

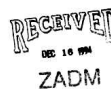
Respectfully,  
*William P. Carey*

Newton A. Williams

RAM/vrs  
cc: Mrs. Kathy Weidenhammer  
Administrative Assistant  
County Board of Appeals

Benjamin Bronstein, Esquire  
29 West Susquehanna Avenue, Suite 205  
Towson, Maryland 21284

Mr. William P. Carey



LAW OFFICES  
NOLAN, PLIMHOFF & WILLIAMS  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 823-7800  
TELEFAX (410) 286-2700

JAMES D. HOLLAN  
WILLIAM T. HACKETT  
J. EARLE PLIMHOFF  
ROBERT S. HANLEY, JR.  
ROBERT S. HANLEY, JR.  
STEPHEN A. SCHENBERG  
DOUGLAS A. STUBBS  
E. BRUCE JONES, III  
CHRISTINE J. HILBERT  
TOWSON DIRECT MAIL  
21284 7856

March 10, 1994

Honorable Timothy M. Kotroco, Esquire  
Deputy Zoning Commissioner  
Court House  
Towson, Maryland 21204

RE: **Some further thoughts regarding  
The Rocky Gorge Request for  
Density Transfer, Special Exception  
for Assisted Living Units and  
Numerous RTA Variances**  
Case No. 1-94-293-SPX

Dear Commissioner Kotroco:

As I told you at the close of the case, the shortness of time did not allow my clients and me to adequately research this matter prior to the hearing held on March 3, 1994.

As you will recall, a key issue revolves around whether the 5 acre tract proposed for this Assisted Living Unit can utilize density from other portions of the tract. We respectfully submit that the answer is clearly that it cannot under the Regulations, and it should not under common sense either.

In carefully reviewing the Daft, McCune & Walker plat, which I believe is Petitioner's Exhibit 1, please note that 120 assisted living units facility at one quarter density unit per bed requires 120 density units for it to be built. This parcel alone can at best support only 18 density units.  
Recall that Protestants' Exhibit 2, the 18 townhouse units approved by the CRG requires only 18 density units, which is equal to 3.5 the zoning times the gross acreage of 5.16. Also, the 18 townhouses could be built with 42 RTA variances according to Mr. Hille's testimony.

LAW OFFICES  
NOLAN, PLIMHOFF & WILLIAMS  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 823-7800  
TELEFAX (410) 286-2700

JAMES D. HOLLAN  
WILLIAM T. HACKETT  
J. EARLE PLIMHOFF  
ROBERT S. HANLEY, JR.  
ROBERT S. HANLEY, JR.  
STEPHEN A. SCHENBERG  
DOUGLAS A. STUBBS  
E. BRUCE JONES, III  
CHRISTINE J. HILBERT  
TOWSON DIRECT MAIL  
21284 7856

March 8, 1995

The Honorable William T. Hackett, Chairman  
County Board of Appeals  
Court House  
Towson, Maryland 21204

RE: **Rocky Gorge at Grey Rock, LP**  
Case No. 94-293-SPX,  
Scheduled for Tuesday, May 9, 1995 at 10:00 a.m.  
DISMISSAL OF APPEAL

Dear Chairman Hackett:

On behalf of my client, Mr. William P. Carey, please dismiss our earlier appeal in the above entitled matter. Enclosed herewith is a formal Order of Dismissal which I am forwarding to all parties concerned. Thanking you and your staff for your kind attention to this matter, I am

Respectfully,  
*Newton A. Williams*  
Newton A. Williams

RAM/vrs  
Enclosure

cc: Benjamin Bronstein, Esquire  
Counsel for Rocky Gorge  
Mr. William P. Carey  
W.P. Carey Co., Inc.  
Daniel O'C. Tracy, Jr., Esquire  
Venable, Baetjer and Howard  
Robert A. Hoffman, Esquire  
Venable, Baetjer and Howard  
Ms. Lisa Benjamin  
Rocky Gorge

W.P. CAREY  
SUSQUEHANNA BUILDING, SUITE 205  
29 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(410) 823-7800  
TELEFAX (410) 286-2700

March 2, 1994

Newton Williams, Esq.  
Nolan, Plimhoff & Williams  
210 West Pennsylvania Avenue  
Towson, MD 21204

Re: **17 Stone Chapel**

Dear Mr. Williams:

This letter will authorize Ms. Rosemary Tydings to act as my representative at the Zoning hearing to be held on March 3, 1994.

Very truly yours,

*William P. Carey*  
William P. Carey

Via Electronic Mail 2/26/94

62-0104 01 11/95



5/29/95 @ 10:00

94-293-SPHX

# EXHIBITS

94-293-SPHX

Redstart's  
 Exhibits 3A +  
 3B  
 94-293-SPHX



## EDMUND F. HAILE

President



Ed Haile has extensive experience in engineering administration and management in both governmental and private service. He is recognized as an expert in county policies and procedures, particularly in the public works area. He manages large development projects from inception in the office to completion in the field.

As DAFI's President, he coordinates all production activities and provides the interface with executive and administrative functions. He is most effective as corporate liaison with state and local government agencies.

### Professional Background

DAFI McCune Walker, Inc.  
 Towson, Maryland  
 1987 - Present  
 Kilde Consultants, Inc.  
 Towson, Maryland  
 1968 - 1981  
 Baltimore County  
 Towson, Maryland  
 1962 - 1968  
 Pennsylvania Railroad  
 1957 - 1960  
 U.S. Army Corps of Engineers  
 1955 - 1957

### Registrations

Professional Engineer  
 Maryland  
 Pennsylvania  
 Delaware  
 Virginia  
 Land Surveyor  
 Maryland  
 Pennsylvania  
 Delaware  
 Virginia

### Education

Bachelor of Engineering  
 Johns Hopkins University  
 Graduate Courses  
 University of Maryland and  
 Towson State University

### Associations

American Society of Civil Engineers  
 Tau Beta Pi - Honorary  
 Engineering Fraternity  
 Baltimore County  
 Engineering Association  
 Chairman, 1985 - Present

### Significant Projects

Meadows at Green Spring  
 Booklandville, Maryland  
 Grey Rock Subdivision  
 Pikesville, Maryland  
 Fairview Mill Village  
 Owings Mill, Maryland  
 John F. Kennedy Highway  
 Widening, White Marsh to  
 Susquehanna River  
 McPherson Square Station  
 WMATA  
 I-95 Connection to Harbor  
 Tunnel Throughway

### Civic Involvement

Baltimore County Chamber  
 of Commerce  
 President, 1978  
 Maryland Society of  
 Surveyors  
 Director, 1977 - 1981  
 Goucher College  
 Trustee, 1979 - Present  
 Franklin Square Hospital  
 Trustee, 1978 - Present  
 Chairman, 1986 - 1988  
 Baltimore County Industrial  
 Development Commission  
 1979 - 1987

### Metropolitan Manpower Consortium Private Industry Council

Chairman, 1979 - Present  
 Old St. Paul's Episcopal  
 Church Vestry, 1980 - Present  
 Maryland Chamber of  
 Commerce  
 Vice President & Director,  
 1981 - 1981  
 Baltimore Symphony  
 Orchestra  
 Director, 1980 - 1982  
 Johns Hopkins University  
 Engineering School Advisory  
 Committee, 1980 - 1984  
 Baltimore County Economic  
 Development Commission  
 1991 - 1992

## MICKEY A. CORNELIUS

PRINCIPAL

Mickey Cornelius is a registered Professional Engineer with over ten years experience in the Highway, Transportation and Traffic Engineering profession. He has served as a consulting traffic engineer for more than eight years. His experience in both the public and private sectors has provided Mr. Cornelius with a broad range of knowledge.

Mr. Cornelius is responsible for managing all aspects of the firm's traffic, engineering, and transportation planning studies. His experience in traffic, engineering and transportation planning includes traffic capacity analysis, traffic forecasting and associated modeling.

### JOB HISTORY

1984 - Present  
 Traffic Engineering Consultant  
 Traffic Engineering Consultant  
 S.J. Govee and Sons, Co.

### EDUCATIONAL BACKGROUND

B.S. in Civil Engineering with emphasis in Transportation —  
 The Pennsylvania State University  
 Traffic Engineering Course, Northwestern University Traffic  
 Institute, Polktechnic Institute of New York

### PLACES WHERE MR. CORNELIUS HAS QUALIFIED AS AN EXPERT WITNESS

Maryland  
 City of Annapolis City Council  
 Anne Arundel County Board of Appeals, Zoning Hearing  
 Examiners  
 City of Baltimore City Council, Planning Commission  
 Baltimore County County Review League, Zoning  
 Commission, Board of Appeals, Court Court  
 Town of Bel Air Planning Board, Town Commissioners,  
 Zoning Hearing Examiner  
 City of Bowie Planning Advisory Board, Mayor and  
 City Council  
 Cecil County Technical Advisory Committee  
 Charles County Board of Appeals  
 Dorchester County Board of Appeals  
 Howard County Planning Board, Town Commissioners  
 Kent County  
 Montgomery County Planning Board, Zoning Hearing  
 Examiners, Board of Appeals  
 Town of North East Planning Commission  
 Prince George's County Planning Board, County Council  
 Washington County Board of Appeals  
 City of Westminster Mayor and Common Council  
 Worcester County Board of Zoning Appeals

Master Plan analysis, needs analysis, development of alternatives, geometric design, operations analysis, parking and circulation, traffic signal warrant studies, traffic signal design, traffic control plans, Transportation Systems Management and Travel Demand Management evaluations.

Mr. Cornelius' educational and professional background has qualified him as an expert in the field of traffic, engineering and transportation planning before numerous County and municipal planning and zoning boards in Maryland, Pennsylvania, and New Jersey.

### AFFILIATIONS

Registered Professional Engineer (P.E.)  
 Institute of Transportation Engineers (I.T.E.)  
 National Society of Professional Engineers (N.S.P.E.)  
 Urban and Institute (U.I.)  
 Maryland Association of Engineers (M.A.E.)  
 Consulting Engineers Council of Pennsylvania (C.E.C.P.A.)

### NEW JERSEY

Camden and County Fairfield Township Zoning Board  
 PENNSYLVANIA  
 York County, Manchester Township Zoning Hearing Board,  
 Planning Commission of Shrewsbury Borough



## Baltimore County Government Department of Community Development

One Investment Place Suite 800  
 Towson, MD 21284

(410) 887-3317  
 Fax (410) 887-5406

March 1, 1994

Mr. Benjamin Bronstein  
 Evans, George and Bronstein  
 29 W. Susquehanna Avenue  
 Towson, Maryland 21289

Re: Assisted Living Facilities

Dear Mr. Bronstein:

On Friday, February 25, 1994, you and I briefly discussed the need for assisted living facilities for the elderly in Baltimore County.

As I told you, the County's Comprehensive Housing Affordability Strategy (CHAS) provides an estimate that thirty-five (35) percent of the County's elderly population requires assistance with one or more daily living activities; a proportion which would equal approximately 41,000 frail elderly citizens. The population needing assisted living is a sub-group of this population, because many frail elderly households receive assistance from family members or other support services within their existing homes. The CHAS notes a County-wide need for assisted living for senior citizens because this housing alternative is available on a very limited basis throughout Baltimore County.

Please understand that this letter pertains to the need for this type of housing County-wide and does not express support from this office or department for a specific zoning or development matter. Please call me if you have any questions.

PETITIONER'S  
 EXHIBIT NO. 7

Sincerely,  
  
 Amy C. Johnson  
 Housing Development Coordinator

BCJ:pbp  
 cc: Frank W. Welsh, Director



- LEGEND**
- WETLANDS
  - PROPOSED FOOT PATH
  - NRC BUFFER (w/ 75' STREAM & 25' WETLAND & WOODLAND BUFFER)
  - STREET LIGHT
  - VEGETATION TO REMAIN
  - VEGETATION TO BE REMOVED
  - LOCAL OPEN SPACE
  - R1-A BUFFER
  - FIRE HYDRANTS



**General Notes**

1. Check all dimensions and notes on this plan.
2. All dimensions are in feet and inches.
3. All dimensions are to the center of the line unless otherwise noted.
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**Legend**

- 1. Wetland
- 2. Proposed Foot Path
- 3. NRC Buffer (w/ 75' Stream & 25' Wetland & Woodland Buffer)
- 4. Street Light
- 5. Vegetation to Remain
- 6. Vegetation to be Removed
- 7. Local Open Space
- 8. R1-A Buffer
- 9. Fire Hydrants

DATE: 10/15/2010  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

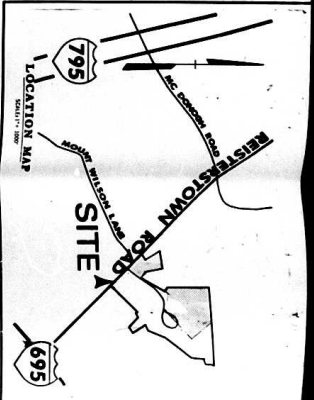
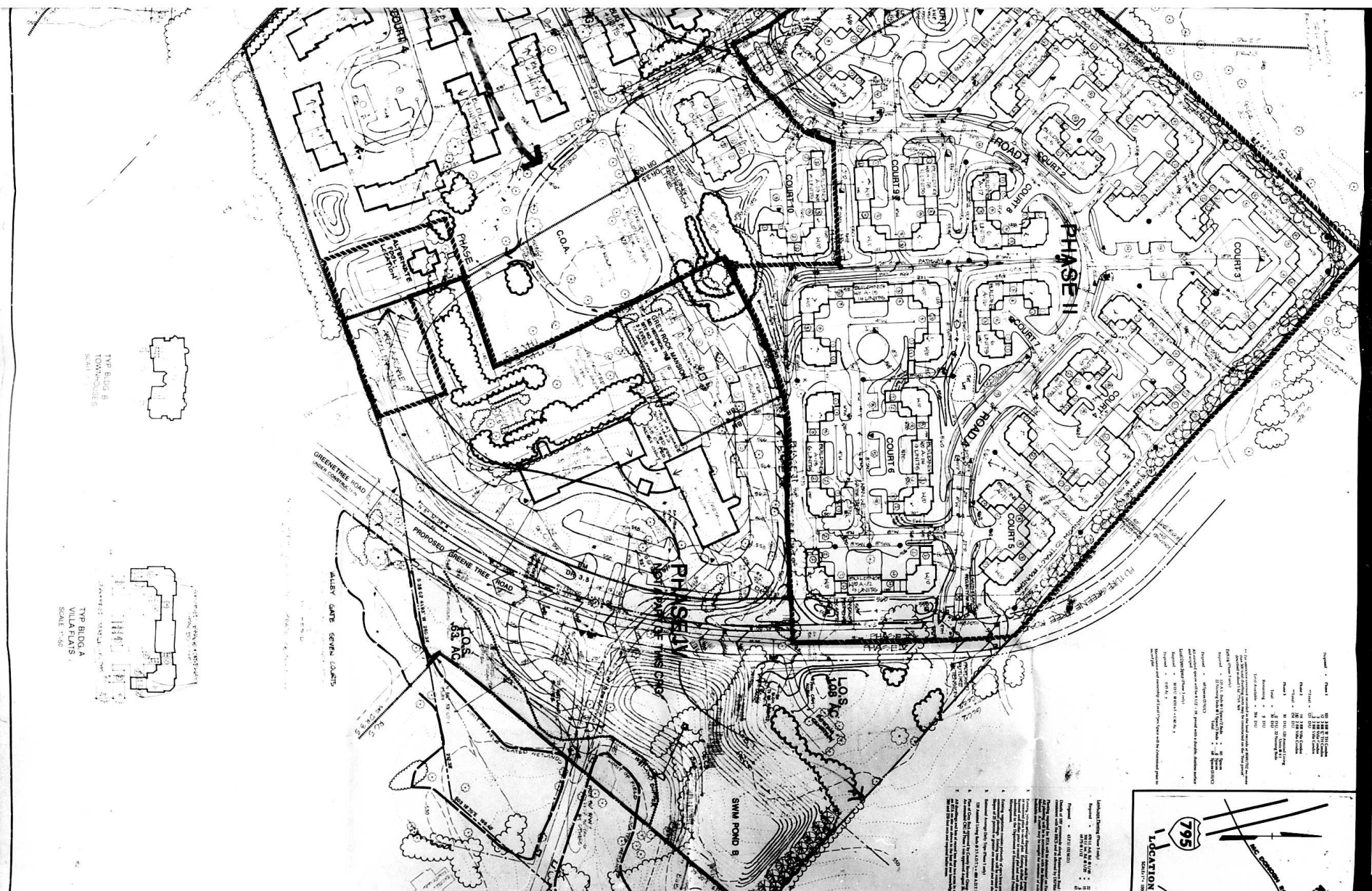
**DAFT BECUNE WALKER INC.**  
 10000 WILSON AVENUE, SUITE 100  
 LOS ANGELES, CALIFORNIA 90024  
 TEL: (310) 551-1100  
 FAX: (310) 551-1101  
 WWW.DAFTBECUNE.COM

**PLAN AND PLAT TO ACCOMPANY  
 PETITION FOR ZONING HEARING  
 GREY ROCK  
 11 STONE CHAPEL ROAD  
 3RD COUNCILMANIC DISTRICT  
 219 ELECTION DISTRICT**

DATE: 1-1-57  
 SHEET 1 OF 1

APPROVED BY: [Signature]  
 DATE: JANUARY 4, 1957

APPROVED BY: [Signature]  
 DATE: JANUARY 4, 1957



**Legend**

1. Existing Features

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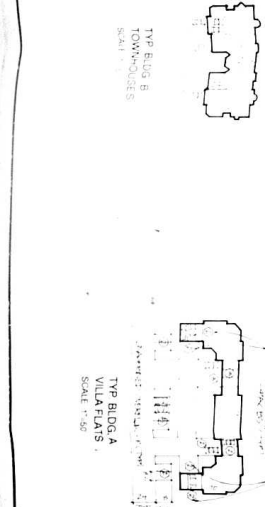
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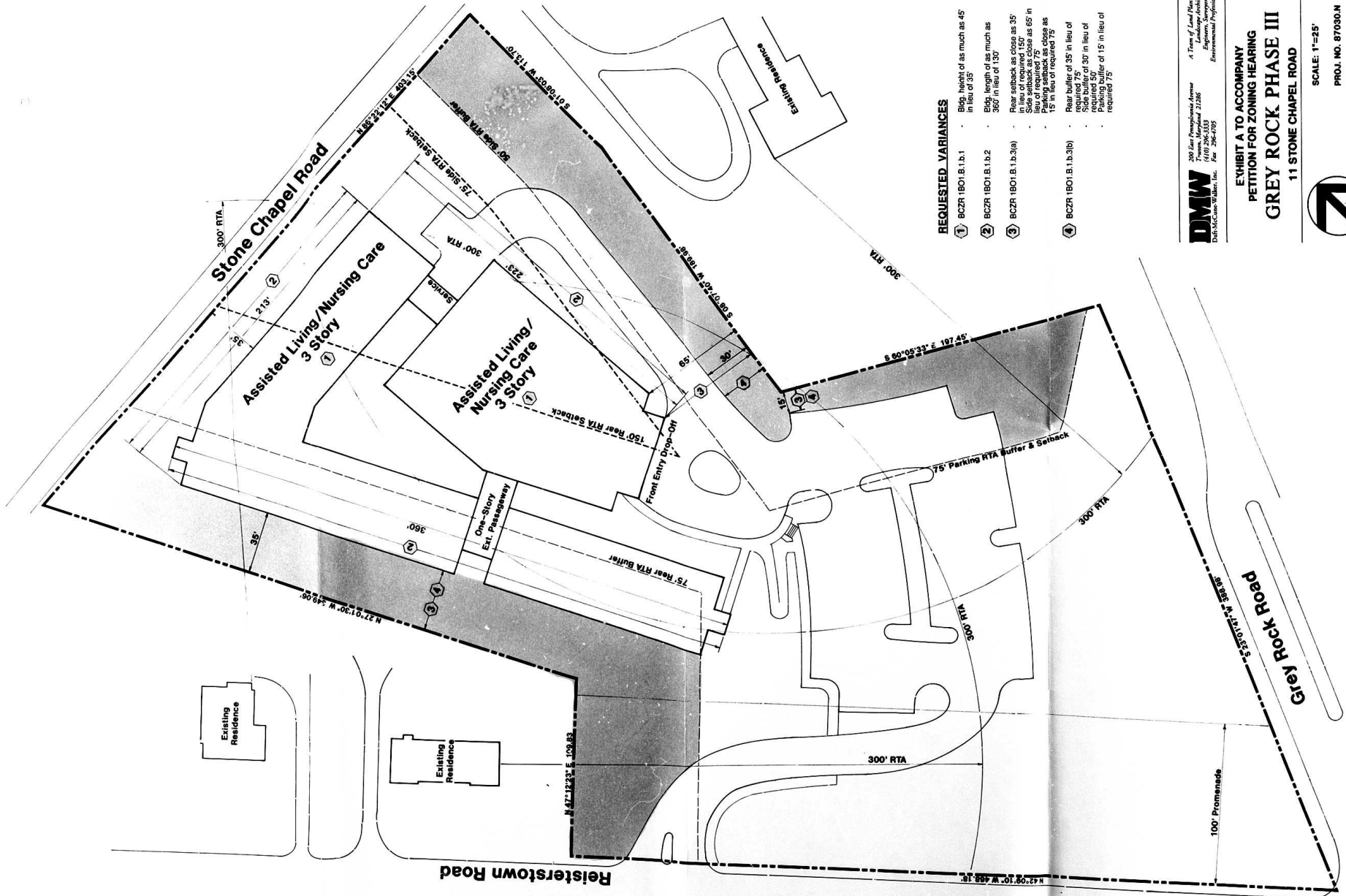
100. Proposed Features to be Deleted



11-01  
 7-25-07







**REQUESTED VARIANCES**

- ① BCZR 1B01.B.1.b.1 - Bldg. height of as much as 45' in lieu of 35'
- ② BCZR 1B01.B.1.b.2 - Bldg. length of as much as 360' in lieu of 130'
- ③ BCZR 1B01.B.1.b.3(a) - Rear setback as close as 35' in lieu of required 75' - Side setback as close as 65' in lieu of required 75' - Close as 15' in lieu of required 75'
- ④ BCZR 1B01.B.1.b.3(b) - Rear buffer of 35' in lieu of required 75' - Side buffer of 30' in lieu of required 75' - Parking buffer of 15' in lieu of required 75'

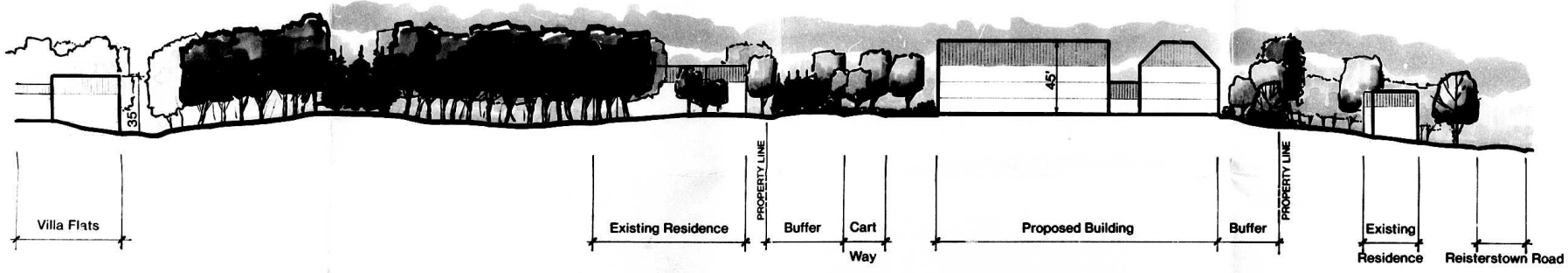
**DMW**  
 200 East Pennsylvania Avenue  
 Baltimore, MD 21202  
 (410) 296-3333  
 DNE/MAC/Case-Walker, Inc. Fax 296-8795  
*A Team of Land Planners,  
 Engineers, Surveyors &  
 Environmental Professionals*

**EXHIBIT A TO ACCOMPANY  
 PETITION FOR ZONING HEARING  
 GREY ROCK PHASE III  
 11 STONE CHAPEL ROAD**

SCALE: 1"=25'  
 PROJ. NO. 87030.N  
 DATE: MARCH 2, 1984



PETITION NO. 10  
EXHIBIT NO. 3



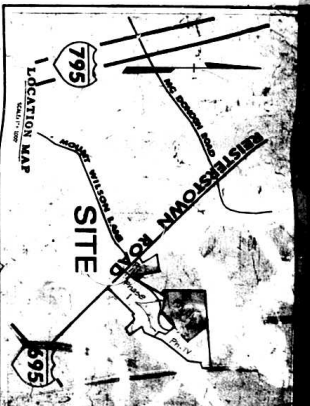
**DMW** 200 East Pennsylvania Avenue  
Towson, Maryland 21286  
(410) 296-5533  
Dell-McCune-Walker, Inc. Fax 296-4765

*A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals*

EXHIBIT C TO ACCOMPANY  
PETITION FOR ZONING HEARING  
**GREY ROCK PHASE III**  
11 STONE CHAPEL ROAD

SCALE: 1"=30'  
PROJ. NO. 87030.N  
DATE: MARCH 2, 1994





1. LOCATION MAP  
 2. NORTH ARROW  
 3. SCALE

**DAVE MCGUIRE WALKER INC.**  
 ARCHITECTS  
 1000 W. 10TH ST.  
 SUITE 100  
 DENVER, CO 80202  
 TEL: 303.733.1100  
 FAX: 303.733.1101  
 WWW.DMWARCHITECTS.COM









**2ND AMENDED**  
 ALTERNATIVE B  
**GREY ROCK**  
**PHASE III ONLY**  
 14th ELECTION DISTRICT

SHEET NO. 1 SHEET NO. 2 SHEET NO. 3 SHEET NO. 4 SHEET NO. 5 SHEET NO. 6 SHEET NO. 7 SHEET NO. 8 SHEET NO. 9 SHEET NO. 10 SHEET NO. 11 SHEET NO. 12 SHEET NO. 13 SHEET NO. 14 SHEET NO. 15 SHEET NO. 16 SHEET NO. 17 SHEET NO. 18 SHEET NO. 19 SHEET NO. 20 SHEET NO. 21 SHEET NO. 22 SHEET NO. 23 SHEET NO. 24 SHEET NO. 25 SHEET NO. 26 SHEET NO. 27 SHEET NO. 28 SHEET NO. 29 SHEET NO. 30 SHEET NO. 31 SHEET NO. 32 SHEET NO. 33 SHEET NO. 34 SHEET NO. 35 SHEET NO. 36 SHEET NO. 37 SHEET NO. 38 SHEET NO. 39 SHEET NO. 40 SHEET NO. 41 SHEET NO. 42 SHEET NO. 43 SHEET NO. 44 SHEET NO. 45 SHEET NO. 46 SHEET NO. 47 SHEET NO. 48 SHEET NO. 49 SHEET NO. 50	SHEET NO. 1 SHEET NO. 2 SHEET NO. 3 SHEET NO. 4 SHEET NO. 5 SHEET NO. 6 SHEET NO. 7 SHEET NO. 8 SHEET NO. 9 SHEET NO. 10 SHEET NO. 11 SHEET NO. 12 SHEET NO. 13 SHEET NO. 14 SHEET NO. 15 SHEET NO. 16 SHEET NO. 17 SHEET NO. 18 SHEET NO. 19 SHEET NO. 20 SHEET NO. 21 SHEET NO. 22 SHEET NO. 23 SHEET NO. 24 SHEET NO. 25 SHEET NO. 26 SHEET NO. 27 SHEET NO. 28 SHEET NO. 29 SHEET NO. 30 SHEET NO. 31 SHEET NO. 32 SHEET NO. 33 SHEET NO. 34 SHEET NO. 35 SHEET NO. 36 SHEET NO. 37 SHEET NO. 38 SHEET NO. 39 SHEET NO. 40 SHEET NO. 41 SHEET NO. 42 SHEET NO. 43 SHEET NO. 44 SHEET NO. 45 SHEET NO. 46 SHEET NO. 47 SHEET NO. 48 SHEET NO. 49 SHEET NO. 50

SHEET 2 OF 2  
 10/1/2014





- LEGEND**
-  WETLANDS
  -  NHC BUFFER (w/ 75' STREAM & 25' WETLAND SLOPE/AN BUFFER)
  -  STREET LIGHT
  -  VEGETATION TO REMAIN
  -  LOCAL OPEN SPACE
  -  R.I.A. BUFFER
  -  FIRE HYDRANTS
  -  PROPOSED FOOT PATH

