

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Cedar Knoll Road, 160' N *
centerline of Sherwood Road) * ZONING COMMISSIONER
8th Election District *
3rd Councilmanic District * OF BALTIMORE COUNTY
(10881 York Road) *
* CASE NO. 01-485-SPHX
10881 York Road, LLC *
c/o The Catered Living Group *
Petitioners

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Cedar Knoll Road, 333' N *
centerline of Sherwood Road) * ZONING COMMISSIONER
8th Election District *
3rd Councilmanic District * OF BALTIMORE COUNTY
(10883 York Road) *
* CASE NO. 01-549-SPHX
10883 York Road, LLC *
c/o The Catered Living Group *
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner as a combined public hearing on Petitions for Special Hearing and Special Exception filed by the legal owners of the subject property, 10883 York Road, LLC and 10881 York Road, LLC.

Appearing at the hearing on behalf of the Petitioners were David Farrell, who represents The Catered Living Group. Howard Alderman, Jr., attorney at law, appeared as counsel for the Petitioners. Mr. James Patton, the professional engineer who prepared the site plans of the property was also in attendance. Larry Townsend, a representative of The Greater Timonium Community Council (GTCC) was also in attendance.

Testimony and evidence indicated that the two properties involved in these petitions are located on the east side of York Road, just north of its intersection with Sherwood Road, in the

ORDER RECEIVED FOR FILING

Date 8/28/01

By R. Johnson

Cockeysville area of Baltimore County. These two separate parcels of property are each improved with a one-story assisted living facility operated by the Catered Living Group. The two properties share a common parking area as shown on Petitioners' Exhibit No. 1, the site plan submitted into evidence. The name of the facility is Newport Assisted Living. The property was developed pursuant to an Order issued by Zoning Commissioner Lawrence E. Schmidt, granting to the Petitioners the right to construct these facilities on the property. Mr. Schmidt's decision was dated the 14th day of July, 1998. In that case, Mr. Schmidt granted to the Petitioners the right to operate a Class B Assisted Living Facility on each of these two properties. Pursuant to that Order, the Petitioners constructed these buildings and have been operating their assisted living facility since that time.

The operation on the property has been successful and has met with the approval of the adjacent surrounding communities. This was evidenced by Mr. Townsend's appearance at the hearing before me, who indicated that his association is very happy with the manner in which these businesses operate in their community. The special hearing and special exception request before me at this time is to reclassify the designation of these two assisted living facilities from a "Class B" designation as previously approved by Commissioner Schmidt into a General Assisted Living Facility. This will enable the Petitioners to house more than the 15 residents that are the maximum permitted under a Class B designation. The Catered Living Group would like the flexibility to house up to 18 residents in each facility. The size of the buildings on each property are sufficient to accommodate up to 18 individuals. However, by virtue of the previously imposed designation, the Petitioners are unable to exceed the maximum permitted 15. They, therefore, ask for special hearing and special exception relief to allow them to house 3 additional residents. There will be no modifications to either of the buildings or physical changes to the

Date 8/28/01
By J. P. Jamison

site. Mr. Townsend again, representing the GTCC, indicated that his association would not object to this request so long as the maximum amount of residents would be capped at 18. The Petitioners agreed with that request.

After considering the testimony and evidence offered at the hearing and the manner in which this business has operated in this community, I find that the special hearing and special exception requests to remove the "Class B" designation for this assisted living facility should be granted and that these two properties be characterized as a General Assisted Living Facility. This will enable the Petitioners to house up to no more than 18 residents in each facility.

It is clear that the Baltimore County Zoning Regulations (B.C.Z.R.) permits the use proposed on this property by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioners had the burden of adducing 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 Petitioners have 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 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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 purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

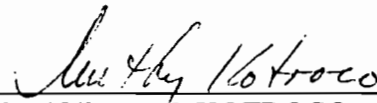
After reviewing all of the testimony and evidence presented, it appears that the special exception and special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 26th day of August, 2001, that the special hearing request to modify the special exception relief granted in Case No. 98-239-XA, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that special exception relief for approval of an Assisted Living Facility in accordance with Baltimore County Zoning Regulations, Sections 101, 1B01.1.C.26 and 432.1.A.4, be and is hereby APPROVED, subject, however, to the following restriction:

1. The Petitioners shall be permitted to house up to 18 residents in each of these facilities. At no time shall the Petitioners be permitted to exceed 18 residents in either location.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
Date 8/28/01
By R. Jensen



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

August 28, 2001

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

RE: Petitions for Special Hearing and Special Exception
Case Nos. 01-485-SPHX & 01-549-SPHX
Property: 10881 & 10883 York Road

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned cases. The Petitions for Special Exception and Special Hearing have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Office of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10883 York Road
which is presently zoned RO & DR 3.5, and 13L

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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 are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Howard L. Alderman, Jr. City _____
Name - Type or Print _____
Signature _____
Levin & Gann, P.A.
Company Nottingham Centre, 8th Floor
502 Washington Avenue 410-321-0600
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

10883 York Road, LLC
Name - Type or Print _____
By: _____
Signature _____
Name - Type or Print _____
Signature c/o The Catered Living Group
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 21030
City _____ State _____ Zip Code _____

Representative to be Contacted:

Mr. David Farrell
Name _____
The Catered Living Group
Name _____
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 21030
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By AK Date 6/29/01

Case No. 01-549-SPHX

COPIES RECEIVED FOR FILING

Date 8/28/01

By [Signature]
REV 9/15/98

Attachment 1

PETITION FOR SPECIAL HEARING

CASE NO: _____

Address: 10883 York Road

Legal Owners: 10883 York Road, LLC

Present Zoning: RO & DR 3.5

REQUESTED RELIEF:

"why the Zoning Commissioner should approve": [1] a modification of the Special Exception relief granted in Case No. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and [2] an amendment to the plans approved in Case No. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 10883 York Road

which is presently zoned RO & DR 3.5, and BL

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded 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 are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Howard L. Alderman, Jr.
Name - Type or Print _____ City _____
Signature _____
Levin & Gann, P.A.
Company Nottingham Centre, 8th Floor
502 Washington Avenue 410-321-0600
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

10883 York Road, LLC
Name - Type or Print _____
By: _____
Signature _____
Name - Type or Print _____
Signature c/o The Catered Living Group
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 21030
City _____ State _____ Zip Code _____

Representative to be Contacted:

Mr. David Farrell
c/o The Catered Living Group
Name _____
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 21030
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BH Date 6/29/01

Case No. 01-549-SPH X

RECEIVED 09/15/98

ORDER RECEIVED FOR FILING

Date 8/28/01

By R. Gannon

Attachment 1

PETITION FOR SPECIAL EXCEPTION

CASE NO: _____

Address: 10883 York Road

Legal Owners: 10883 York Road, LLC

Present Zoning: RO & DR 3.5

REQUESTED RELIEF:

Approval of a Special Exception for an Assisted Living Facility in accordance with BCZR §§ 101, 1B01.1.C.26 and 432.1.A.4 and in accordance with the specific detail shown on the Plats to accompany this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

PATTON

Patton
Consultants
Ltd.
Engineering
& Site
Planning

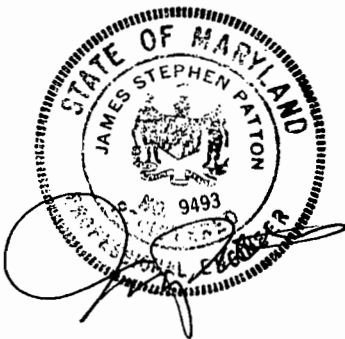
ZONING DESCRIPTION

10883 York Road (MD. Rte. 45)
(Formerly 10 Cedar Knoll Road)
Cockeysville, Maryland

Beginning at a point on the west side of Cedar Knoll Road which has no defined width at a distance of three hundred thirty two and eighty two hundredths feet (332.82') north of the centerline of Sherwood Road which is fifty feet (50') wide. Thence the following courses and distance.

1.	N 07° 44' 00" W -	194.36'
2.	S 68° 08' 00" W -	90.14'
3.	S 79° 50' 00" W -	195.58'
4.	S 13° 22' 00" W -	31.31'
5.	S 28° 38' 00" W -	50.40'
6.	S 18° 21' 00" E -	96.00'
7.	N 71° 39' 00" E -	145.50' ±
8.	S 60° 51' 00" E -	54.00' ±
9.	S 85° 51' 00" E -	27.00' ±
10.	N 74° 09' 00" E -	97.00' ±

To the place of beginning as recorded in deed Liber 6692 Folio 367. As being subdivided for the two Class "B" Assisted Living Facilities.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

3343

PAID RECEIPT

DATE

6/29/01

ACCOUNT

R001-006-6150

AMOUNT \$

550.00

RECEIVED
FROM:

Catered Living of Cockeysville

FOR:

special hearing & special exception

10883 York Rd.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Item # 549

PAYMENT ACTUAL TIME
6/29/2001 6/29/2001 13:44:12
REL US06 CASHIER KNCH KKM DRAWER 4
>>RECEIPT # 029644 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 003343

Receipt Tot 550.00
550.00 CK .00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #01-549-SPHX

10883 York Road

W/S Cedar Knoll Road, 333' N centerline Sherwood Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): The Catered Living Group, David Farrell

Special Hearing: to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. **Special Exception:** to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

Hearing: Monday, August 20, 2001 at 2:00 p.m. In Room 407, County Courts Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/7/806 July 31

C484814

CERTIFICATE OF PUBLICATION

8/2, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/31, 2001.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 01-549-SPHX

Petitioner/Developer: _____

DAVID FARRELL
THE CATERED LIVING GROUP

Date of Hearing/Closing: 8/20/01

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at _____

10883 YORK RD.

The sign(s) were posted on _____

7/30/01

(Month, Day, Year)

Sincerely,

Richard E. Hoffman 7/30/01
(Signature of Sign Poster and Date)

RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)



10883 YORK RD.

POSTED 7/30/01

Richard E. Hoffman 7/30/01

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 31, 2001 Issue – Jeffersonian

Please forward billing to:

Howard L Alderman Jr.

410 321-0600

Levin & Gann PA

502 Washington Avenue, 8th Floor

Towson MD 21204

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-549-SPHX

10883 York Road

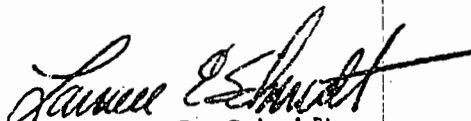
W/S Cedar Knoll Road, 333' N centerline Sherwood Road

8th Election District – 3rd Councilmanic District

Legal Owner: The Catered Living Group, David Farrell

Special Hearing to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. Special Exception to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT 602
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 20, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-549-SPHX
10883 York Road
W/S Cedar Knoll Road, 333' N centerline Sherwood Road
8th Election District – 3rd Councilmanic District
Legal Owner: The Catered Living Group, David Farrell

Special Hearing to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. Special Exception to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

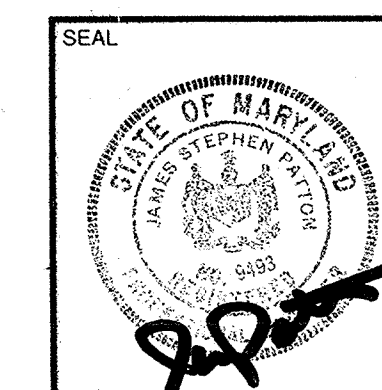
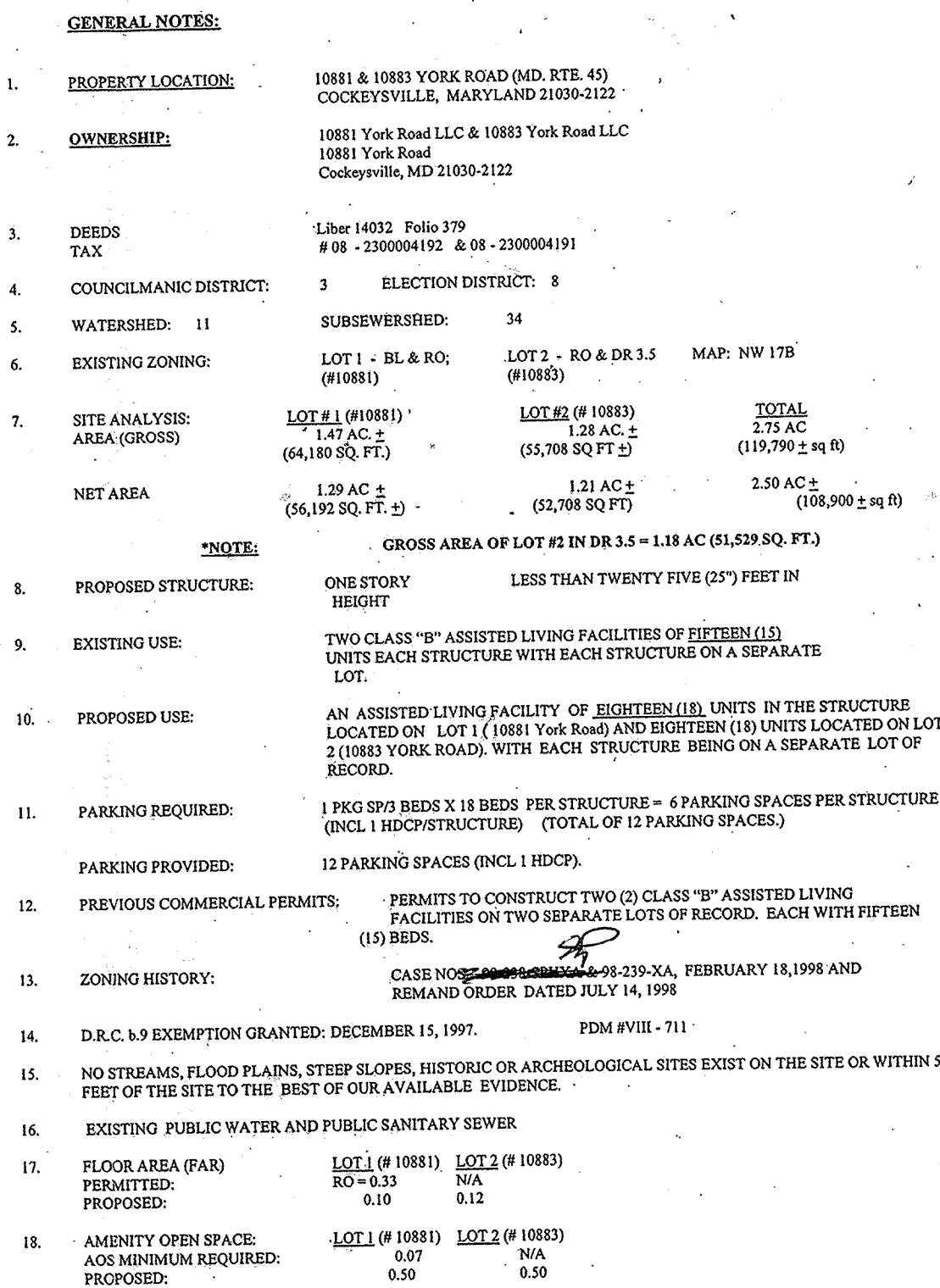
HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon GJZ
Director

C: Howard L Alderman Jr, Levin & Gann PA, Nottingham Centre, 8th Floor,
502 Washington Avenue, Towson 21204
David Farrell, The Catered Living Group, 10883 York Road LLC,
10881 York Road, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 30, 2001.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Beginning at a point on the west side of Cedar Knoll Road which has no defined width at a distance of one hundred and sixty feet (160') north of the centerline of Sherwood Road which is fifty feet (50') wide. Thence the following courses and distance.

1.	N	02°	39'	00"	W -	172.82'
2.	S	74°	09'	00"	E -	97.00' ±
3.	N	85°	51'	06"	W -	27.00' ±
4.	N	60°	51'	00"	E -	54.00' ±
5.	S	71°	39'	00"	W -	146.50' ±
6.	S	18°	21'	00"	E -	26.00' ±
7.	S	18°	51'	00"	E -	45.92'
8.	S	17°	51'	00"	E -	29.02'
9.	S	15°	58'	00"	E -	125.28'
10.	S	44°	37'	00"	E -	44.04'
11.	S	71°	54'	00"	E -	16.29'
12.	N	21°	46'	00"	E -	116.00'
13.	N	81°	58'	00"	E -	178.93'

To the place of beginning as recorded in deed Liber 6692 Folio 367. As being subdivided for the two Class "B" Assisted Living Facilities.

ZONING DESCRIPTION

10883 York Road (MD. Rte. 45)
(Formerly 10 Cedar Knoll Road)
Cockeysville, Maryland

P.O.B.#10
(160' NORTH OF ROAD)

Beginning at a point on the west side of Cedar Knoll Road which has no defined width at a distance of three hundred thirty two feet and eighty two hundredths feet (332.82') north of the centerline of Sherwood Road which is fifty feet (50') wide. Thence the following courses and distance.

1.	N	07°	44'	00"	W -	194.36'
2.	S	68°	08'	00"	E -	90.14'
3.	S	79°	50'	00"	W -	195.58'
4.	S	13°	22'	00"	E -	31.31'
5.	S	28°	38'	00"	W -	50.40'
6.	S	18°	21'	00"	E -	96.00'
7.	N	74°	39'	00"	E -	145.50' ±
8.	S	60°	51'	00"	E -	54.00' ±
9.	S	85°	51'	00"	E -	27.00' ±
10.	N	74°	09'	00"	E -	97.00' ±

To the place of beginning as recorded in deed Liber 6692 Folio 367. As being subdivided for the two Class "B" Assisted Living Facilities.

DRAWN BY:	DATE	REVISIONS	BY
E.P.J.			
DESIGN BY:			
E.P.J.			
CHECKED BY:			



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 17, 2001

Howard L. Alderman Jr
Levin & Gann
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson MD 21204

Dear Mr. Alderman:

RE: Case Number: 01-549-A, 10883 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 29, 2001.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: David Farrell, The Catered Living Group, 10881 York Road, Cockeysville 21030
People's Counsel

John Alexander

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: August 2, 2001

FROM: *Pub* Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 23, 2001
Item Nos. 485, 527, 528, 529, 530, 532,
534, 536, 537, 540, 541, 542, 543, 544,
546, 547, 548, 549, and 550

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 24, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF July 16, 2001

Item No.: 485, 526, 530, 532, 537, 544, 546, 547, 549

Dear Ms. Stephens:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: July 26, 2001

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01-491 & 01-549

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Mark A. Cunningham

Section Chief:

Jeffrey W. Long

AFK/JL:MAC



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 7-23-01

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 549 BR

Dear Ms. Jackson:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 45 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

10 Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR SPECIAL HEARING
PETITION FOR SPECIAL EXCEPTION
10883 York Road, W/S Cedar Knoll Rd,
333' N of c/l Sherwood Rd
8th Election District, 3rd Councilmanic

Legal Owner: 10883 York Road LLC,
The Catered Living Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-549-SPHX

* * * * *

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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

AUG 29

CASE NAME 10881 & 10883 York Land
CASE NUMBER 01-485-SPHX & 01-549-SPHX
DATE 20 August 2001
ET #01-485-SPHX
#01-549-SPHX

E-MAIL

[illegible]

Case Number 01-549 SPHX

PROTESTANT'S SIGN-IN SHEET

[illegible]

111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

Phone: 410 887-3391

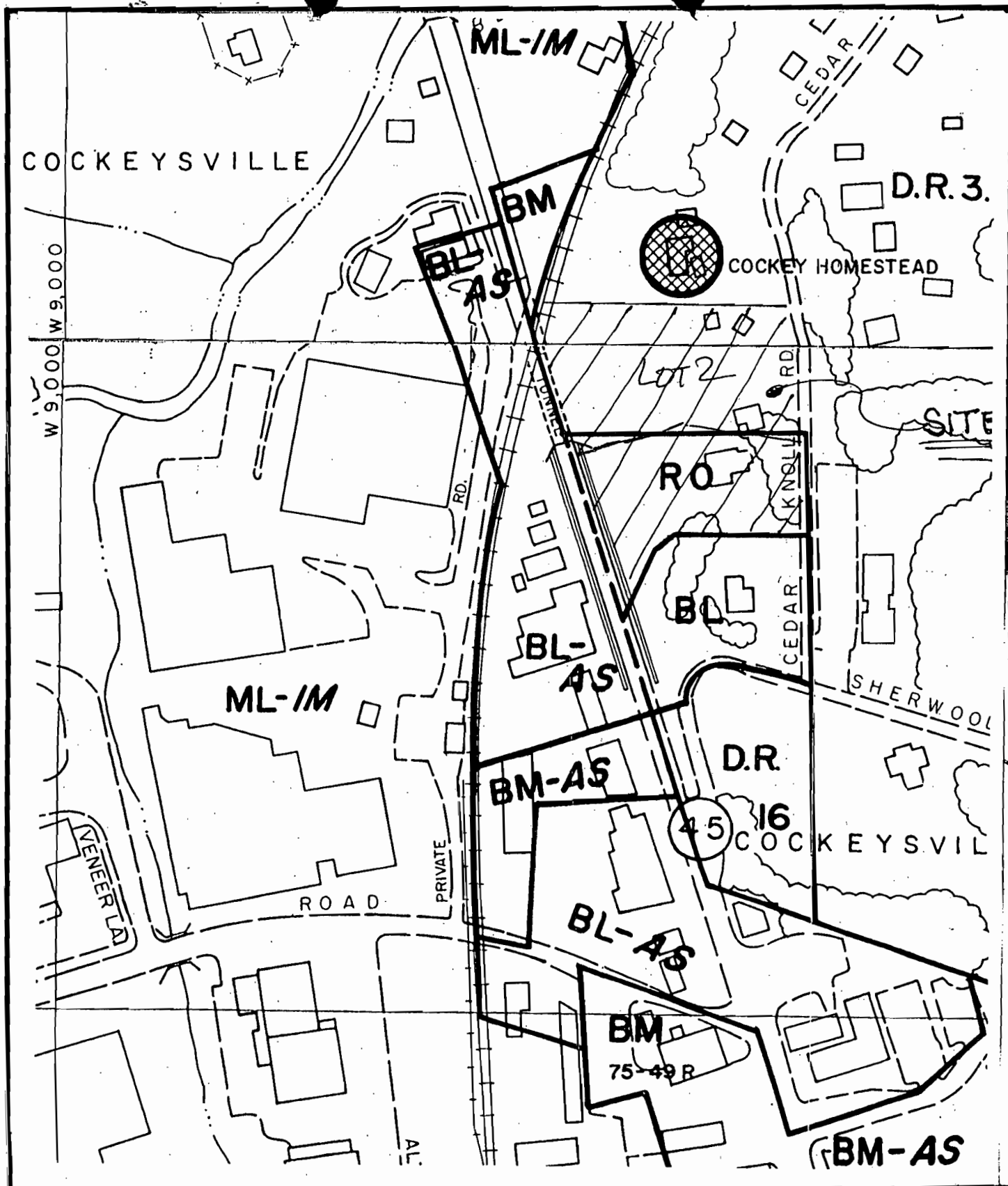
facsimile transmittal

To: JOE KAGAN From: GEORGE D ZAHNER
Fax: 301 621 3331 Date: 9-4
Phone: _____ Pages: 4 + COVER
Re: _____ CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Notes: _____

301 621
3331
Joe Kagan



PATTON

Patton Consultants Ltd., Engineering & Site Planning
 305 West Chesapeake Avenue, Suite 206
 Towson, Maryland 21204
 410-296-2140 Fax: 410-296-0419

CATERED LIVING / COCKEYSVILLE

10883 YORK
 ZONING MAP NW-17#18B

DRAWN:

CHECKED:

JOB#

SCALE:

1"=700' SIT. 1/1

#549

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Cedar Knoll Road, 160' N
centerline of Sherwood Road) * ZONING COMMISSIONER
8th Election District *
3rd Councilmanic District * OF BALTIMORE COUNTY
(10881 York Road) *
CASE NO. 01-485-SPHX
10881 York Road, LLC
c/o The Catered Living Group *
Petitioners

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Cedar Knoll Road, 333' N
centerline of Sherwood Road) * ZONING COMMISSIONER
8th Election District *
3rd Councilmanic District * OF BALTIMORE COUNTY
(10883 York Road) *
CASE NO. 01-549-SPHX
10883 York Road, LLC
c/o The Catered Living Group *
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner as a combined public hearing on Petitions for Special Hearing and Special Exception filed by the legal owners of the subject property, 10883 York Road, LLC and 10881 York Road, LLC.

Appearing at the hearing on behalf of the Petitioners were David Farrell, who represents The Catered Living Group. Howard Alderman, Jr., attorney at law, appeared as counsel for the Petitioners. Mr. James Patton, the professional engineer who prepared the site plans of the property was also in attendance. Larry Townsend, a representative of The Greater Timonium Community Council (GTCC) was also in attendance.

Testimony and evidence indicated that the two properties involved in these petitions are located on the east side of York Road, just north of its intersection with Sherwood Road, in the

ORDER RECORDED FOR FILING

Date 8/28/01
By R. Jameson

Cockeysville area of Baltimore County. These two separate parcels of property are each improved with a one-story assisted living facility operated by the Catered Living Group. The two properties share a common parking area as shown on Petitioners' Exhibit No. 1, the site plan submitted into evidence. The name of the facility is Newport Assisted Living. The property was developed pursuant to an Order issued by Zoning Commissioner Lawrence E. Schmidt, granting to the Petitioners the right to construct these facilities on the property. Mr. Schmidt's decision was dated the 14th day of July, 1998. In that case, Mr. Schmidt granted to the Petitioners the right to operate a Class B Assisted Living Facility on each of these two properties. Pursuant to that Order, the Petitioners constructed these buildings and have been operating their assisted living facility since that time.

The operation on the property has been successful and has met with the approval of the adjacent surrounding communities. This was evidenced by Mr. Townsend's appearance at the hearing before me, who indicated that his association is very happy with the manner in which these businesses operate in their community. The special hearing and special exception request before me at this time is to reclassify the designation of these two assisted living facilities from a "Class B" designation as previously approved by Commissioner Schmidt into a General Assisted Living Facility. This will enable the Petitioners to house more than the 15 residents that are the maximum permitted under a Class B designation. The Catered Living Group would like the flexibility to house up to 18 residents in each facility. The size of the buildings on each property are sufficient to accommodate up to 18 individuals. However, by virtue of the previously imposed designation, the Petitioners are unable to exceed the maximum permitted 15. They, therefore, ask for special hearing and special exception relief to allow them to house 3 additional residents. There will be no modifications to either of the buildings or physical changes to the

COPIES RECEIVED FOR FILING
Date 8/28/01
By R. Johnson

site. Mr. Townsend again, representing the GTCC, indicated that his association would not object to this request so long as the maximum amount of residents would be capped at 18. The Petitioners agreed with that request.

After considering the testimony and evidence offered at the hearing and the manner in which this business has operated in this community, I find that the special hearing and special exception requests to remove the "Class B" designation for this assisted living facility should be granted and that these two properties be characterized as a General Assisted Living Facility. This will enable the Petitioners to house up to no more than 18 residents in each facility.

It is clear that the Baltimore County Zoning Regulations (B.C.Z.R.) permits the use proposed on this property by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioners had the burden of adducing 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 Petitioners have 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 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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 purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

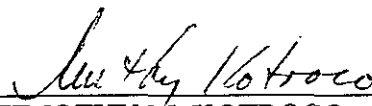
After reviewing all of the testimony and evidence presented, it appears that the special exception and special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of August, 2001, that the special hearing request to modify the special exception relief granted in Case No. 98-239-XA, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that special exception relief for approval of an Assisted Living Facility in accordance with Baltimore County Zoning Regulations, Sections 101, 1B01.1.C.26 and 432.1.A.4, be and is hereby APPROVED, subject, however, to the following restriction:

1. The Petitioners shall be permitted to house up to 18 residents in each of these facilities. At no time shall the Petitioners be permitted to exceed 18 residents in either location.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDERED FOR FILING
Date 8/28/01
By [Signature]



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

August 28, 2001

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

RE: Petitions for Special Hearing and Special Exception
Case Nos. 01-485-SPHX & 01-549-SPHX
Property: 10881 & 10883 York Road

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned cases. The Petitions for Special Exception and Special Hearing have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Office of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure



Census 2000



For You, For Baltimore County



Census 2000



Printed with Soybean Ink
on Recycled Paper

Come visit the County's Website at www.co.ba.md.us

Copies to:

Mr. David Farrell
The Catered Living Group
10881 York Road
Cockeysville, MD 21030

James Patton, P. E.
Patton Consultants Ltd.
305 W. Chesapeake Avenue, Suite 118
Towson, MD 21204

Mr. Larry Townsend
c/o Greater Timonium Community Council
1111 Longbrook Road
Lutherville, MD 21093



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10883 York Road
which is presently zoned RO & DR 3.5, and 13L

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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 are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Howard L. Alderman, Jr. _____ City _____
Name - Type or Print
Signature Howard L. Alderman, Jr.
Levin & Cann, P.A. _____
Company Nottingham Centre, 8th Floor
502 Washington Avenue 410-321-0600
Address Telephone No.
Towson MD 21204
City State Zip Code

Legal Owner(s):

10883 York Road, LLC _____
Name - Type or Print
By: David Farrell
Signature
Name - Type or Print
Signature o The Catered Living Group
10881 York Road 410-683-1600
Address Telephone No.
Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

Mr. David Farrell
The Catered Living Group
Name
10881 York Road 410-683-1600
Address Telephone No.
Cockeysville MD 21030
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By AK Date 6/29/01

Case No. 01-549-SPHX

REV 9/15/98

Attachment 1

PETITION FOR SPECIAL HEARING

CASE NO: _____

Address: 10883 York Road

Legal Owners: 10883 York Road, LLC

Present Zoning: RO & DR 3.5

REQUESTED RELIEF:

“why the Zoning Commissioner should approve”: [1] a modification of the Special Exception relief granted in Case No. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and [2] an amendment to the plans approved in Case No. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

Attachment 1

PETITION FOR SPECIAL EXCEPTION

CASE NO: _____

Address: 10883 York Road

Legal Owners: 10883 York Road, LLC

Present Zoning: RO & DR 3.5

REQUESTED RELIEF:

Approval of a Special Exception for an Assisted Living Facility in accordance with BCZR §§ 101, 1B01.1.C.26 and 432.1.A.4 and in accordance with the specific detail shown on the Plats to accompany this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

PATTON

Patton
Consultants
Ltd.
Engineering
& Site
Planning

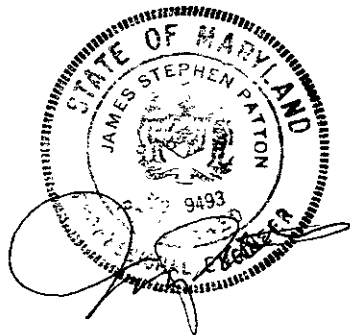
ZONING DESCRIPTION

10883 York Road (MD. Rte. 45)
(Formerly 10 Cedar Knoll Road)
Cockeysville, Maryland

Beginning at a point on the west side of Cedar Knoll Road which has no defined width at a distance of three hundred thirty two and eighty two hundredths feet (332.82') north of the centerline of Sherwood Road which is fifty feet (50') wide. Thence the following courses and distance.

1.	N 07° 44' 00" W -	194.36'
2.	S 68° 08' 00" W -	90.14'
3.	S 79° 50' 00" W -	195.58'
4.	S 13° 22' 00" W -	31.31'
5.	S 28° 38' 00" W -	50.40'
6.	S 18° 21' 00" E -	96.00'
7.	N 71° 39' 00" E -	145.50' ±
8.	S 60° 51' 00" E -	54.00' ±
9.	S 85° 51' 00" E -	27.00' ±
10.	N 74° 09' 00" E -	97.00' ±

To the place of beginning as recorded in deed Liber 6692 Folio 367. As being subdivided for the two Class "B" Assisted Living Facilities.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

3343

DATE 6/29/01 ACCOUNT R001-006-6150

AMOUNT \$ 550.00

RECEIVED FROM: Catered Living of Cockeysville

FOR: special hearing & special exception
10823 York Rd.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Item # 549

PAID RECEIPT

PAYMENT ACTUAL TIME
6/29/2001 6/29/2001 13:44:12

REC MS06 CASHIER KNCM KCM DRAWER 4

>>RECEIPT # 029644

Dept 5 528 ZONING VERIFICATION

CR NO. 003343

Receipt Tot 550.00

550.00 CK .00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #01-549-SPHX

10883 York Road

W/S Cedar Knoll Road, 333' N centerline Sherwood Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): The Catered Living Group, David Farrell

Special Hearing: to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. **Special Exception:** to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

Hearing: Monday, August 20, 2001 at 2:00 p.m. in Room 207, County Courts Building, 401 Rosley Avenue

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT77/806 July 31

C484814

CERTIFICATE OF PUBLICATION

8/2, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/31, 2001.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 01-549-SPHX

Petitioner/Developer: _____

DAVID FARRELL
THE CATERED LIVING GROUP

Date of Hearing/Closing: 8/20/01

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

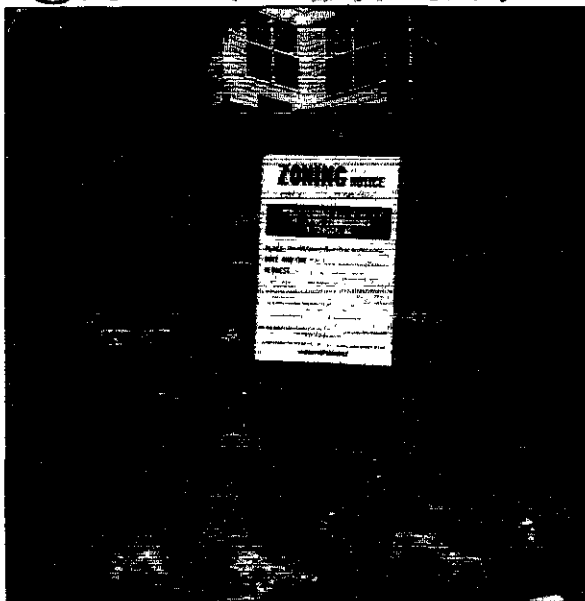
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at _____

10883 YORK RD.

The sign(s) were posted on 7/30/01
(Month, Day, Year)

CASE # 01-549-SPHX



Sincerely,

Richard E. Hoffman 7/30/01
(Signature of Sign Poster and Date)

RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)

10883 YORK RD.

POSTED 7/30/01

Richard E. Hoffman 7/30/01

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 31, 2001 Issue – Jeffersonian

Please forward billing to:

Howard L Alderman Jr.

410 321-0600

Levin & Gann PA

502 Washington Avenue, 8th Floor

Towson MD 21204

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-549-SPHX

10883 York Road

W/S Cedar Knoll Road, 333' N centerline Sherwood Road

8th Election District – 3rd Councilmanic District

Legal Owner: The Catered Living Group, David Farrell

Special Hearing to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. Special Exception to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT G D Z
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 20, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-549-SPHX
10883 York Road
W/S Cedar Knoll Road, 333' N centerline Sherwood Road
8th Election District – 3rd Councilmanic District
Legal Owner: The Catered Living Group, David Farrell

Special Hearing to permit a modification of the Special Exception relief granted in case no. 98-239-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and an amendment to the plans approved in case no. 98-239-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require. Special Exception to permit approval of a Special Exception for an Assisted Living Facility, and in accordance with the specific detail shown on the plats to accompany this petition.

HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon GJZ
Director

C: Howard L Alderman Jr, Levin & Gann PA, Nottingham Centre, 8th Floor,
502 Washington Avenue, Towson 21204
David Farrell, The Catered Living Group, 10883 York Road LLC,
10881 York Road, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 30, 2001.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 17, 2001

Howard L Alderman Jr
Levin & Gann
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson MD 21204

Dear Mr. Alderman:

RE: Case Number: 01-549-A, 10883 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 29, 2001.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: David Farrell, The Catered Living Group, 10881 York Road, Cockeysville 21030
People's Counsel



John Alexander

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: August 2, 2001

FROM: *RWB* Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 23, 2001
Item Nos. 485, 527, 528, 529, 530, 532,
534, 536, 537, 540, 541, 542, 543, 544,
546, 547, 548, ~~549~~ and 550

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 24, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF July 16, 2001

Item No.: 485, 526, 530, 532, 537, 544, 546, 547, 549

Dear Ms. Stephens:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: July 26, 2001

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01-491 & 01-549

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A. Cunningham

Section Chief: Jeffrey W. L...

AFK/JL:MAC



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 7.23-01

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 549 BR

Dear Ms. Jackson:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 45 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

10

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR SPECIAL HEARING
PETITION FOR SPECIAL EXCEPTION
10883 York Road, W/S Cedar Knoll Rd,
333' N of c/l Sherwood Rd
8th Election District, 3rd Councilmanic

Legal Owner: 10883 York Road LLC,
The Catered Living Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-549-SPHX

* * * * *

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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).


PETER MAX ZIMMERMAN

CASE NUMBER 01-495-SPHX & 01-549-SPHX
DATE 26 August 2001

#01-485-SHX
#01-549-SHX

[illegible]

Case Number 01-549 SPHX

PROTESTANT'S SIGN-IN SHEET

[illegible]

111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

Phone 410 887-3391

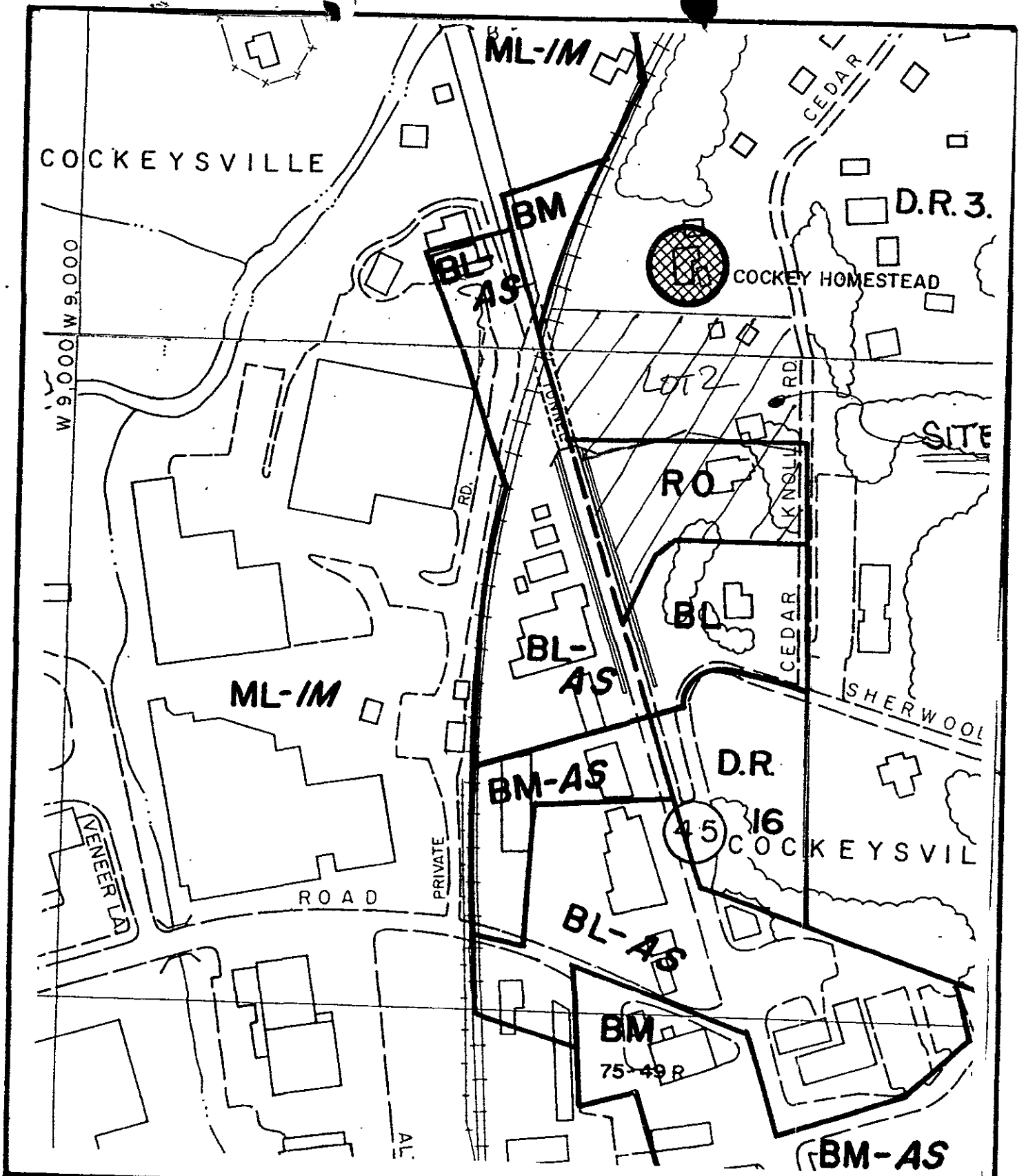
facsimile transmittal

To: JOE KAGAN From: GEORGE D ZAHNER
Fax: 301 621 3331 Date: 9-4
Phone: _____ Pages: 4 + COVER
Re: _____ CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Notes: _____

301 621
3331
Joe Kagan



PATTON

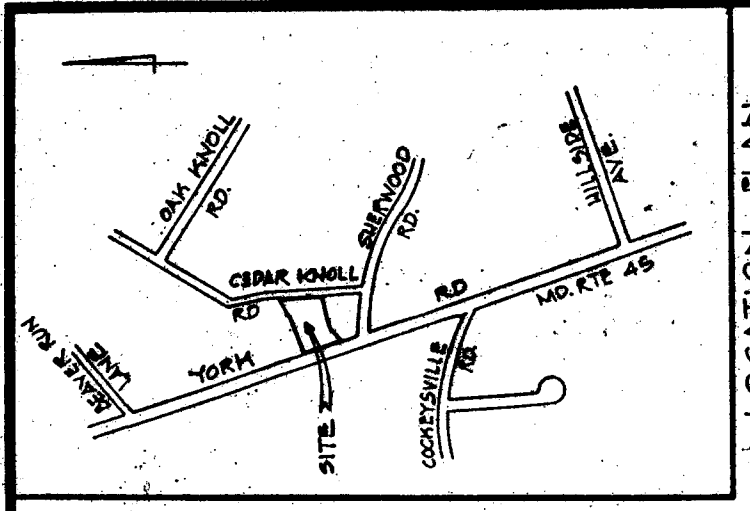
Patton Consultants Ltd., Engineering & Site Planning
 305 West Chesapeake Avenue, Suite 206
 Towson, Maryland 21204
 410-296-2140 Fax: 410-296-0419

CATERED LIVING / COCKEYSVILLE

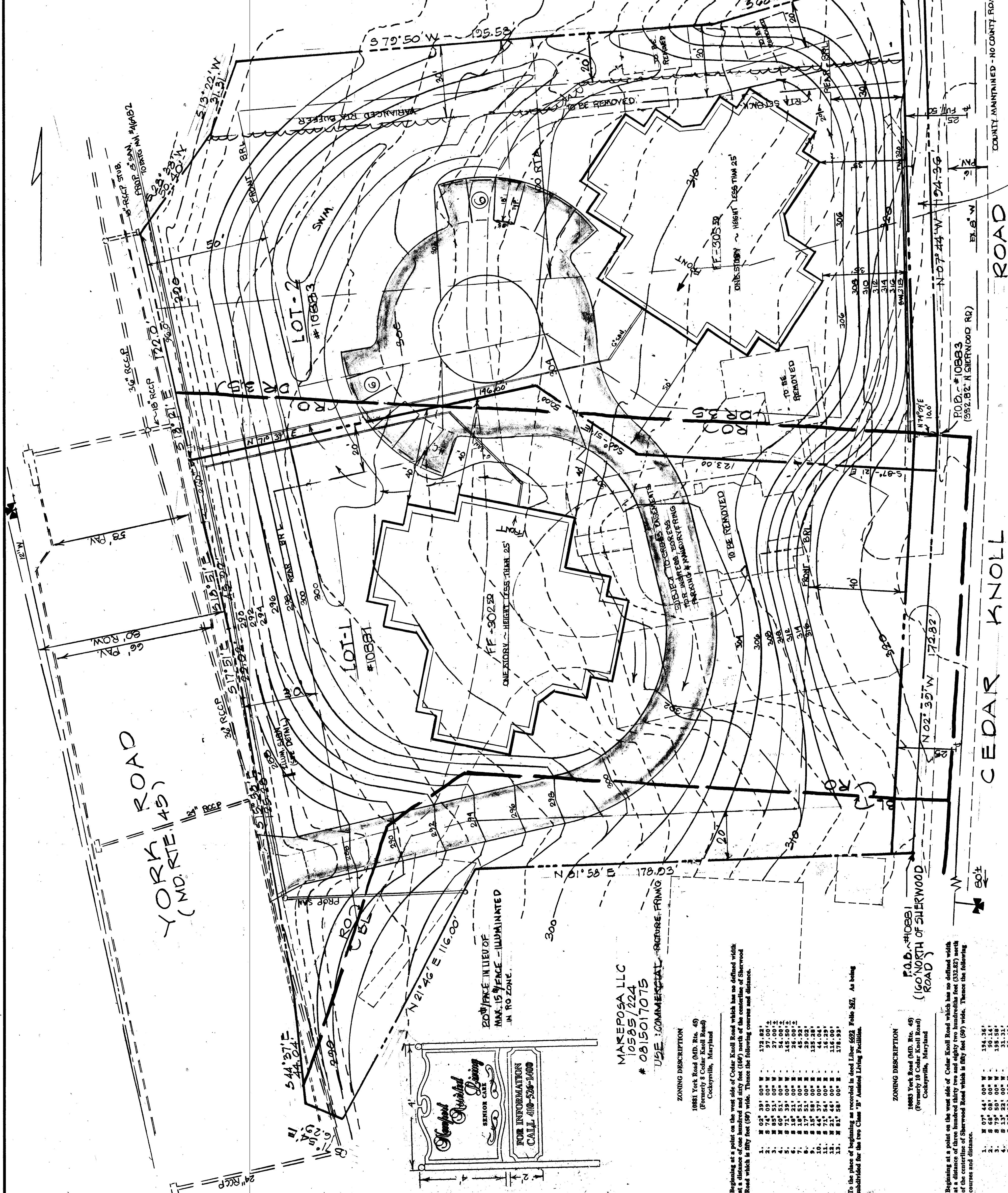
10883 JOB
 ZONING MAP NW-77#18B

DRAWN:	CHECKED:	JOB#	SCALE: 1"=70'	SHT. 11
--------	----------	------	---------------	---------

#549



- GENERAL NOTES:**
1. PROPERTY LOCATION: 1081 York Road (MD. Rte. 45) Cockeysville, Maryland 21033-1122
 2. OWNER: 1081 York Road LLC & 1083 York Road LLC, Cockeysville, Maryland 21033-1122
 3. DEEDS: Line 1083, Folio 379, 1083 York Road LLC & 1083 York Road LLC, Cockeysville, Maryland 21033-1122
 4. COUNCILMANIC DISTRICT: 3, RELOCATION DISTRICT: 8
 5. WATERSHED: 11
 6. EXISTING ZONING: LOT 1: B.L. & R.D. (1081) LOT 2: B.L. & R.D. (1083)
 7. SITE ANALYSIS: LOT 1: 1.1 AC. (1081) LOT 2: 1.1 AC. (1083) TOTAL: 2.2 AC. (1081 & 1083)
 8. NET AREA: 1.1 AC. (1081) 1.1 AC. (1083) TOTAL: 2.2 AC. (1081 & 1083)
 9. PROPOSED STRUCTURE: ONE STORY, LESS THAN TWENTY FEET HIGH
 10. EXISTING USE: LOT 1: B.L. & R.D. (1081) LOT 2: B.L. & R.D. (1083)
 11. PROPOSED USE: LOT 1: B.L. & R.D. (1081) LOT 2: B.L. & R.D. (1083)
 12. PARKING PROVIDED: 12 PARKING SPACES (INCL. 1081)
 13. PREVIOUS COMMERCIAL PERMIT: 1081
 14. ZONING HISTORY: 1081
 15. D.E.C. NO. 1081/1083, GRANTED: DECEMBER 14, 1997, FOR 1081 & 1083
 16. EXISTING PUBLIC WATER AND PUBLIC SANITARY SEWER: 1081
 17. FLOOD HAZARD: 1081
 18. AIRSIGHT OPEN SPACE: 1081



REVIEWED 11/10/11 - CHANGES

PATTON

CATERED LIVING OF COCKEYSVILLE

305 West Chesapeake Avenue, Suite 118, Towson, Maryland 21204
410-296-2100 Fax 410-296-0419

PROJECT DEVELOPMENT

PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION & SPECIAL HEARING

DATE: 12/97

DRAWING TITLE: 1081 & 1083 YORK ROAD

COUNTY: BALTO. PROJECT # 97-008 SCALE: 1"=20' 1 of 1



NO RTA THIS SIDE - NO ONELLING
OR VACANT LOT WITHIN 150' OF PROP.

CEDAR KNOLL ROAD

YORK ROAD (MD. Rte. 45)

LOT 1: 1.1 AC. (1081)

LOT 2: 1.1 AC. (1083)

TOTAL: 2.2 AC. (1081 & 1083)

ONE STORY, LESS THAN TWENTY FEET HIGH

12 PARKING SPACES (INCL. 1081)

1081

1083

1081 & 1083

1081

1083

1081 & 1083

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
W/S Cedar Knoll Road, 160' N		
centerline of Sherwood Road)	*	ZONING COMMISSIONER
8th Election District		
3rd Councilmanic District	*	OF BALTIMORE COUNTY
(10881 York Road)		
	*	CASE NO. 01-485-SPHX
10881 York Road, LLC		
c/o The Catered Living Group	*	
<i>Petitioners</i>		

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
W/S Cedar Knoll Road, 333' N		
centerline of Sherwood Road)	*	ZONING COMMISSIONER
8th Election District		
3rd Councilmanic District	*	OF BALTIMORE COUNTY
(10883 York Road)		
	*	CASE NO. 01-549-SPHX
10883 York Road, LLC		
c/o The Catered Living Group	*	
<i>Petitioners</i>		

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner as a combined public hearing on Petitions for Special Hearing and Special Exception filed by the legal owners of the subject property, 10883 York Road, LLC and 10881 York Road, LLC.

Appearing at the hearing on behalf of the Petitioners were David Farrell, who represents The Catered Living Group. Howard Alderman, Jr., attorney at law, appeared as counsel for the Petitioners. Mr. James Patton, the professional engineer who prepared the site plans of the property was also in attendance. Larry Townsend, a representative of The Greater Timonium Community Council (GTCC) was also in attendance.

Testimony and evidence indicated that the two properties involved in these petitions are located on the east side of York Road, just north of its intersection with Sherwood Road, in the

01-485-SPHX FOR FILING
 01-549-SPHX
 By: *[Signature]*

Cockeysville area of Baltimore County. These two separate parcels of property are each improved with a one-story assisted living facility operated by the Catered Living Group. The two properties share a common parking area as shown on Petitioners' Exhibit No. 1, the site plan submitted into evidence. The name of the facility is Newport Assisted Living. The property was developed pursuant to an Order issued by Zoning Commissioner Lawrence E. Schmidt, granting to the Petitioners the right to construct these facilities on the property. Mr. Schmidt's decision was dated the 14th day of July, 1998. In that case, Mr. Schmidt granted to the Petitioners the right to operate a Class B Assisted Living Facility on each of these two properties. Pursuant to that Order, the Petitioners constructed these buildings and have been operating their assisted living facility since that time.

The operation on the property has been successful and has met with the approval of the adjacent surrounding communities. This was evidenced by Mr. Townsend's appearance at the hearing before me, who indicated that his association is very happy with the manner in which these businesses operate in their community. The special hearing and special exception request before me at this time is to reclassify the designation of these two assisted living facilities from a "Class B" designation as previously approved by Commissioner Schmidt into a General Assisted Living Facility. This will enable the Petitioners to house more than the 15 residents that are the maximum permitted under a Class B designation. The Catered Living Group would like the flexibility to house up to 18 residents in each facility. The size of the buildings on each property are sufficient to accommodate up to 18 individuals. However, by virtue of the previously imposed designation, the Petitioners are unable to exceed the maximum permitted 15. They, therefore, ask for special hearing and special exception relief to allow them to house 3 additional residents. There will be no modifications to either of the buildings or physical changes to the

site. Mr. Townsend again, representing the GTCC, indicated that his association would not object to this request so long as the maximum amount of residents would be capped at 18. The Petitioners agreed with that request.

After considering the testimony and evidence offered at the hearing and the manner in which this business has operated in this community, I find that the special hearing and special exception requests to remove the "Class B" designation for this assisted living facility should be granted and that these two properties be characterized as a General Assisted Living Facility. This will enable the Petitioners to house up to no more than 18 residents in each facility.

It is clear that the Baltimore County Zoning Regulations (B.C.Z.R.) permits the use proposed on this property by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioners had the burden of adducing 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 Petitioners have 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 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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 purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

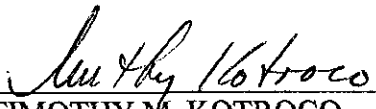
After reviewing all of the testimony and evidence presented, it appears that the special exception and special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of August, 2001, that the special hearing request to modify the special exception relief granted in Case No. 98-239-XA, be and is hereby APPROVED.

IT IS FURTHER ORDERED, that special exception relief for approval of an Assisted Living Facility in accordance with Baltimore County Zoning Regulations, Sections 101, 1B01.1.C.26 and 432.1.A.4, be and is hereby APPROVED, subject, however, to the following restriction:

1. The Petitioners shall be permitted to house up to 18 residents in each of these facilities. At no time shall the Petitioners be permitted to exceed 18 residents in either location.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
Date 8/28/01
By R. Johnson



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

August 28, 2001

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

RE: Petitions for Special Hearing and Special Exception
Case Nos. 01-485-SPHX & 01-549-SPHX
Property: 10881 & 10883 York Road

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above-captioned cases. The Petitions for Special Exception and Special Hearing have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Office of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure



Copies to:

Mr. David Farrell
The Catered Living Group
10881 York Road
Cockeysville, MD 21030

James Patton, P. E.
Patton Consultants Ltd.
305 W. Chesapeake Avenue, Suite 118
Towson, MD 21204

Mr. Larry Townsend
c/o Greater Timonium Community Council
1111 Longbrook Road
Lutherville, MD 21093



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10881 York Road
which is presently zoned BL, RO & D, R, -3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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 are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Howard L. Alderman, Jr.
Name - Type or Print _____ City _____
Signature _____
Levin & Gann, P.A.
Company Nottingham Centre, 8th Floor
502 Washington Avenue 410-321-0600
Address _____ Telephone No. _____
Baltimore MD 21204
City State Zip Code

Legal Owner(s):

10881 York Road, LLC
Name - Type or Print _____
By: [Signature]
Signature _____
Name - Type or Print David Farrell

Signature c/o The Catered Living Group
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 410-683-1600
City State Zip Code

Representative to be Contacted:

Mr. David Farrell
c/o The Catered Living Group
Name _____
10881 York Road 410-683-1600
Address _____ Telephone No. _____
Cockeysville MD 21030
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By AM Date 6/29/01

ORDER RECEIVED FOR FILING

Date 8/28/01

Case No. 01-485-SPHX

REV 9/15/98

Attachment 1

PETITION FOR SPECIAL HEARING

CASE NO: _____

Address: 10881 York Road

Legal Owners: 10881 York Road, LLC

Present Zoning: BL, RO & DR 3.5

REQUESTED RELIEF:

"why the Zoning Commissioner should approve": [1] a modification of the Special Exception relief granted in Case No. 98-238-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and [2] an amendment to the plans approved in Case No. 98-238-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition and for such further relief as the nature of this case may require.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

485



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 10881 York Road

which is presently zoned BL, RO & D.R.-3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded 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 are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr.

Name - Type or Print

Signature

Levin & Gann, P.A.

Company Nottingham Centre, 8th Floor

502 Washington Avenue 410-321-0600

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

10881 York Road, LLC

Name - Type or Print

By:

Signature

Name - Type or Print

Signature c/o The Catered Living Group

10881 York Road

410-683-1600

Address

Telephone No.

Cockeysville

MD

21030

State

Zip Code

Representative to be Contacted:

Mr. David Farrell

c/o The Catered Living Group

Name

10881 York Road

410-683-1600

Address

Telephone No.

Cockeysville

MD

21030

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By sh

Date 6/29/01

Case No. 01-485-SPHX

REV 09/13/98

COPIES RECEIVED FOR FILING
Date 8/28/01
By R. P. [Signature]

Attachment 1

PETITION FOR SPECIAL EXCEPTION

CASE NO: _____

Address: 10881 York Road

Legal Owners: 10881 York Road, LLC

Present Zoning: BL, RO & DR 3.5

REQUESTED RELIEF:

Approval of a Special Exception for an Assisted Living Facility in accordance with BCZR §§ 101, 1B01.1.C.26 and 432.1.A.4 and in accordance with the specific detail shown on the Plats to accompany this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

PATTON

Patton
Consultants
Ltd.
Engineering
& Site
Planning

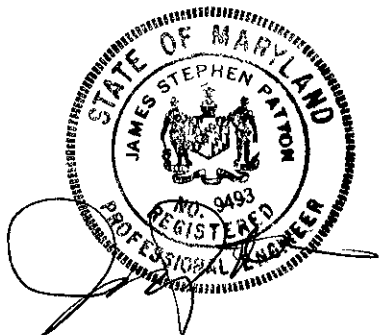
ZONING DESCRIPTION

10881 York Road (MD. Rte. 45)
(Formerly 8 Cedar Knoll Road)
Cockeysville, Maryland

Beginning at a point on the west side of Cedar Knoll Road which has no defined width at a distance of one hundred and sixty feet (160') north of the centerline of Sherwood Road which is fifty feet (50') wide. Thence the following courses and distance.

1.	N 02° 39' 00" W -	172.82'
2.	S 74° 09' 00" W -	97.00' ±
3.	N 85° 51' 00" W -	27.00' ±
4.	N 60° 51' 00" W -	54.00' ±
5.	S 71° 39' 00" W -	145.50' ±
6.	S 18° 21' 00" E -	26.00' ±
7.	S 18° 51' 00" E -	45.92'
8.	S 17° 51' 00" E -	29.02'
9.	S 15° 58' 00" E -	125.28'
10.	S 44° 37' 00" E -	44.04'
11.	S 71° 54' 00" E -	16.29'
12.	N 21° 46' 00" E -	116.00'
13.	N 81° 58' 00" E -	178.93'

To the place of beginning as recorded in deed Liber 6692 Folio 367. As being subdivided for the two Class "B" Assisted Living Facilities.



NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #01-485-SPHX

10881 York Road

W/S Cedar Knoll Road, 160' N centerline Sherwood Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): The Catered Living Group

Special Hearing: to permit a modification of the Special Exception relief granted in Case No. 98-238-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and (2) an amendment to the plans approved in Case No. 98-238-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition & for such further relief as the nature of this case may require. **Special Exception:** to approve Assisted Living Facility in accordance with Baltimore County Zoning Regulations 101.1B01.1.C.26 and 432.1.A.1 in accordance with the specific detail shown on the Plats to accompany this Petition.

Hearing: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/7/779 July 31

C484534

CERTIFICATE OF PUBLICATION

8/2, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/31, 2001.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 01-485-SPHX

Petitioner/Developer: _____

DAVID FARRELL

THE CATERED LIVING GROUP

Date of Hearing/Closing: 8/20/01

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at _____

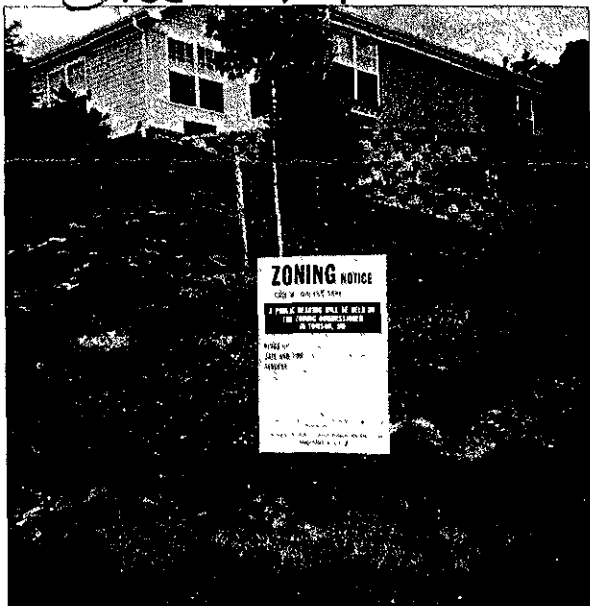
10881 YORK RD

The sign(s) were posted on _____

7/30/01

(Month, Day, Year)

CASE # 01-485-SPHX



10881 YORK RD.

POSTED 7/30/01

Richard E. Hoffman 7/30/01

Sincerely,

Richard E. Hoffman 7/30/01
(Signature of Sign Poster and Date)

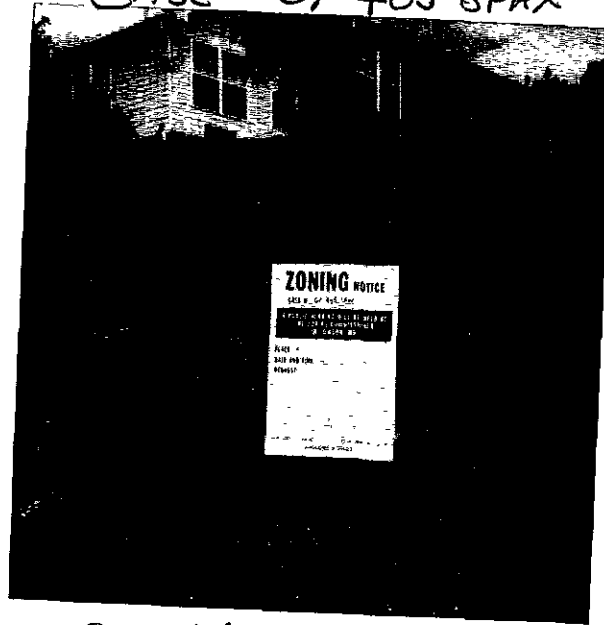
RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)

CASE # 01-485-SPHX



10881 YORK RD.

POSTED 7/30/01

Robert E. Hall 7/30/01

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners 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 (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 01-485-SPHX

Petitioner: 10881 York Road ^{LLC} and 10883 York Road LLC

Address or Location: 10881 York Road, Cockeysville, Maryland 21030 &
10883 York Road, Cockeysville, MD 21030

PLEASE FORWARD ADVERTISING BILL TO:

Name: Mr. David Farrell, c/o The Catered Living Group

Address: 10881 York Road
Cockeysville, Maryland 21030

Telephone Number: 410-683-1600

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 31, 2001 Issue – Jeffersonian

Please forward billing to:

David Farrell
The Catered Living Group
10881 York Road
Cockeysville MD 21030

410 683-1600

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-485-SPHX

10881 York Road

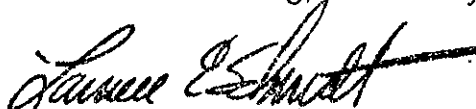
W/S Cedar Knoll Road, 160' N centerline Sherwood Road

8th Election District – 3rd Councilmanic District

Legal Owner: The Catered Living Group

Special Hearing to permit a modification of the Special Exception relief granted in Case No. 98-238-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and (2) an amendment to the plans approved in Case No. 98-238-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition & for such further relief as the nature of this case may require: Special Exception to approve Assisted Living Facility in accordance with Baltimore County Zoning Regulations 101.1B01.1.C.26 and 432.1.A.1 in accordance with the specific detail shown on the Plats to accompany this Petition.

HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt

LAWRENCE E. SCHMIDT G.D.Z.
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

July 19, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-485-SPHX
10881 York Road
W/S Cedar Knoll Road, 160' N centerline Sherwood Road
8th Election District – 3rd Councilmanic District
Legal Owner: The Catered Living Group

Special Hearing to permit a modification of the Special Exception relief granted in Case No. 98-238-XA, consistent with the Petition for Special Exception for Assisted Living Facility on the subject property; and (2) an amendment to the plans approved in Case No. 98-238-XA in accordance with the relief requested herein and for the proposed uses in accordance with the detail shown on the Plats to accompany this Petition & for such further relief as the nature of this case may require: Special Exception to approve Assisted Living Facility in accordance with Baltimore County Zoning Regulations 101.1B01.1.C.26 and 432.1.A.1 in accordance with the specific detail shown on the Plats to accompany this Petition.

HEARING: Monday, August 20, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue



Arnold Jablon 672
Director

C: Howard L Alderman, Jr, Levin & Gann, Nottingham Centre, 8th Floor,
502 Washington Avenue, Towson 21204
David Farrell, The Catered Living Group, 10881 York Road, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 30, 2001.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 17, 2001

Howard L Alderman Jr
Levin & Gann
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson MD 21204

Dear Mr. Alderman:

RE: Case Number: 01-485-SPHX, 10881 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 29, 2001.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: David Farrell, The Catered Living Group, 10881 York Road, Cockeysville 21030
People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: July 23, 2001

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 01-485, 01- 529, 01-536, 01-534,**
and 01- 549

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A. Cunningham

Section Chief: Jeffrey W. Long

AFK/JL.MAC



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 24, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF July 16, 2001

Item No.: 485, 526, 530, 532, 537, 544, 546, 547, 549

Dear Ms. Stephens:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



John Alexander

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: August 2, 2001

FROM: *RWB* Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 23, 2001
Item Nos. 485, 527, 528, 529, 530, 532,
534, 536, 537, 540, 541, 542, 543, 544,
546, 547, 548, 549, and 550

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 7.23.01

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 485

BR

Dear Ms. Jackson:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 45, are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR
10881 York Road, W/S Cedar Knoll Rd,
160' N of c/l Sherwood Rd
8th Election District, 3rd Councilmanic

Legal Owner: 10881 York Road LLC
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-485-SPHX

* * * * *

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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



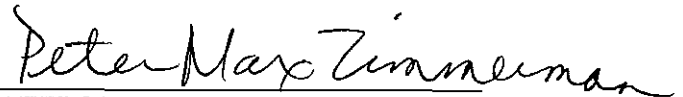
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).



PETER MAX ZIMMERMAN

RE: PETITION FOR SPECIAL HEARING
PETITION FOR SPECIAL EXCEPTION
10881 York Road, W/S Cedar Knoll Rd, 160' N of c/l
Sherwood Rd
8th Election District, 3rd Councilmanic

Legal Owner: 10881 York Road LLC
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-485-SPHX

* * * * *

AMENDED 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. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioner(s).


PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: August 2, 2001

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 485 (01-485SPHX)
Legal Owner/Petitioner: The Catered Living Group
10881 York Road LLC, 10883 York Road LLC
Property Address: 10881 York Road
Location Description: W/S Cedar Knoll Road, 160' N centerline Sherwood Road

COPY OF
N.O.Z.H
MAILED
8-6-01

VIOLATION INFORMATION: Case No.: 01-2157
Defendants: 10881 York Road LLC
10883 York Road LLC

Please be advised that the aforementioned petition is the subject of an active violation case.
When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME	ADDRESS
Michael W. Cook	Department of Aging – M.S. 1102P

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Code Enforcement Intake Form
Correction Notice
Petition for Special Exception, dated 12/18/97
Findings of Facts and Conclusions of Law, dated 2/18/98
Letter from Bruce S. Raffell, President of Catered Living of Cockeysville to James H. Thompson, dated 5/8/2001.
Letter from Howard L. Alderman, Jr. of Levin & Gann to James H. Thompson, dated 5/11/01.
Memo from James H. Thompson to Michael W. Cook, Department of Aging, dated 5/18/01
Update Message Form, dated 5/18/01

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/hek
C: James H. Thompson

CODE ENFORCEMENT REPORT

DATE: 5/12/01 INTAKE BY: JHT CASE #: 01-2157 INSPEC: _____

COMPLAINT LOCATION: 10883 York Road

ZIP CODE: 21030 DIST: _____

COMPLAINANT NAME: MIKE COOK - Aging DEPARTMENT PHONE #: (H) 410-890-0434 PAGER (W) 4632 OFFICE

ADDRESS: _____ ZIP CODE: _____

PROBLEM: ASSISTED living Facility has 16 RESIDENTS AND SPECIAL EXCEPTION CASE No. 98-238-SPHXA only allows 15.

IS THIS A RENTAL UNIT? YES _____ NO ✓
IF YES, IS THIS SECTION 8? YES _____ NO ✓

OWNER/TENANT INFORMATION: 10881 York Road L.L.C & 10883 York Road L.L.C.

TAX ACCOUNT #: 23-00-004192 ZONING: DR3.5/R0

INSPECTION: NOTE: CORRECTION NOTICE ISSUED PER MIKE COOK. AFTER 5-10-01 COMPLIANCE DATE, RE-CHECK WITH MIKE FOR CURRENT STATUS! JHV

REINSPECTION: _____

REINSPECTION: _____

REINSPECTION: _____



Baltimore County
Department of Permits and
Development Management

Code Inspection and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning
01-2157	23-00-004192	DR-3.5/R0
Name(s):	10881 York Road LLC	
	10883 York Road LLC	
Address:	10881 York Rd. Cockeysville, Md.	
Violation Location:	10883 York Road 21030	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

101, 102.1, 1301.1C 26, 500.6 B.C.Z.R

IN CASE No. 98-238-SPHXA,
ZONING COMMISSIONER LAWRENCE C.
Schmidt granted approval for an
Assisted Living Facility, CLASS B for
15 RESIDENTS.

PER HOUSING COORDINATOR MICHAEL
W. COOK, your facility currently
houses 16 RESIDENTS.

By the compliance date
the number of residents
must be reduced to 15.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
5-10-01	5-3-01

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: JAMES H. THOMPSON

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:

CC: MICHAEL W. COOK

INSPECTOR:

AGENCY

238



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at (Formerly 8-10 Cedar Knoll Rd.)
10881 York Rd. (MD. Rte 45) Cockeysville,
which is presently zoned RO, BL & DR 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

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

I, or we, agree to pay expenses of above Special Exception 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

10881 York Rd. LLC

Contract Purchaser/Lessee

David Farrell, Executive Vice President

(Type or Print Name)

Signature

c/o 64 Main Street

Address

Reisterstown, Maryland 21136

City

State

Zip Code

Attorney for Petitioner

Howard L. Alderman

(Type or Print Name)

Signature

305 W. Chesapeake Ave., #113 (410) 321-0600

Towson, Maryland 21204

City

State

Zip Code

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

Legal Owner(s)

Dr. Gulab Shah

(Type or Print Name)

Signature

Dr. Rekha Shah

D. G. Parekh

(Type or Print Name)

Signature

Nirulata D. Parekh

9 Westspring Way

Address

410-269-7100

Phone No

Lutherville, Maryland 21093

City

State

Zip Code

Name Address and phone number of legal owner, contract purchaser or representative to be contacted

James S. Patton, P.E.

Name

305 W. Chesapeake Ave., #206 (410) 296-2140

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

12/18/97

98-238-SPHXA

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION
10881 YORK ROAD
COCKEYSVILLE, MARYLAND

An Assisted Living Facility, Class "B" of fifteen (15) residents to be permitted in that area of the tract to be known as 10881 York Road which is presently zoned predominantly RO with small areas of BL and DR-3.5. This request is in accordance with Section 432.1A3 (BCZR).

IN RE: PETITIONS FOR SPECIAL HEARING. * BEFORE THE
SPECIAL EXCEPTION & ZONING VARIANCE
W/S Cedar Knoll Drive, 160 ft. N * ZONING COMMISSIONER
of Sherwood Road
10881 York Road * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 98-238-SPHXA
Legal Owners: Dr. Gulab Shah, et al
Contract Purchaser: 10881 York Rd., LLC
Petitioners *

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
& ZONING VARIANCE
W/S Cedar Knoll Drive, 333 ft. * ZONING COMMISSIONER
+/- N of Sherwood Road
10883 York Road * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 98-239-XA
Legal Owners: Dr. Gulab Shah, et al
Contract Purchaser: 10881 York Rd., LLC
Petitioners *

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

These matters come before the Zoning Commissioner as a combined public hearing, on Petitions for Special Hearing, Special Exception and Zoning Variance. In case No. 98-238-SPHXA, consideration is given to a Petition for Special Exception; seeking approval of an Assisted Living Facility, Class B. of 15 residents on the subject property to be known as 10881 York Road (presently known as 8 Cedar Knoll Road) predominantly zoned R.O., with small areas zoned B.L. and B.R.3.5. Additionally, within that case, special hearing relief is requested to permit the location of parking for the proposed Assisted Living Facility to be on the adjacent lot, (10883 York Road) and that such arrangement complies with the provisions of Section 409.7, 409.8B and 409.12 of the of the Baltimore County Zoning Regulations (BCZR). Lastly, a Petition for Variance has been filed, seeking relief from Section 450.4 of the BCZR to permit a sign 20 sq. ft. per face on the subject property. in lieu of the maximum 15 sq. ft. per face, with direct illumination of the sign.

DATE: 7/8/98
BY: [Signature]

Somewhat similar relief is requested in case No. 98-239-XA. That case pertains to the property to be known as 10883 York Road (formerly known as 8-10 Cedar Knoll Road). In case No. 98-239-XA, special exception relief is requested to approve an assisted living facility, Class B, of 15 residents to be permitted on that lot, predominantly zoned D.R.3.5, with a small area zoned R.O. This Special Exception relief is requested in accordance with Section 432.1.A.3.

Additionally, as an alternative to a variance of the RTA restrictions contained in Sections 1B01.1.B.1.c.d.e, special exception relief is requested to waive the RTA restrictions applicable to the subject property, pursuant to Section 432.4. In addition, variance relief is sought, in the alternative to the special exception, from Section 1B01.1.B.1.c.,d., and e., all to permit a minimum 20 ft. buffer and 35 ft. setback area, in lieu of the required 50 ft. buffer and 75 ft. setback for R.T.A. requirements. A second variance is also requested, from Section 1B01.2.C.1.a, to permit a rear yard of 30 ft. in lieu of a front yard setback requirement of 50 ft. for a double frontage lot, and also to approve a modified parking plan. Both of the subject properties and requested relief therefore is more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petitions.

As noted above, the two cases at issue relate to adjoining properties identified as 10881 York Road (also known as lot No. 1 or 8 Cedar Knoll Road) and 10883 York Road (also known as lot No. 2 or 10 Cedar Knoll Road). To promote ease in discussion and clarity, the properties will be referred to hereinafter as 10881 York Road and 10883 York Road.

In that both the properties are proposed for development in accordance with one scheme, the public hearing for all of the Petitions was combined. Therefore, this single written decision will be entered, although all of the various issues presented shall be addressed.

The zoning Petitions were filed by the owners of the subject property, Dr. Gulab Shah, Dr. Rekha Shah, D.G. Parekh and Nirulata D. Parekh, as well as the contract purchaser of same, 10881 York Road, LLC through David Farrell, Executive Vice President.

Appearing at the requisite public hearing on behalf of the Petitions was Mr. David Farrell. The company which will acquire title to the subject properties (10881 York Road, LLC) is a limited liability corporation established solely for that purpose. Mr. Farrell also represents the entity which will operate the proposed assisted living facilities for the elderly, Newport Assisted Living, Inc. Also appearing on behalf of the Petitions was James S. Patton, a professional engineer and land planner. The Petitioners were represented by Howard L. Alderman, Jr., Esquire.

The proposed zoning relief generated significant public interest and participation. A number of individuals appeared from the surrounding locale in conditional support of the proposal. These individuals support the proposal for so long as certain restrictions and limitations are imposed. (e.g. landscaping) These individuals included Michael and Judy D'Anna, Edward J. Conif, Chris Supik, Audrey Cyphers-Crush and Richard Evans. Additionally, several individuals appeared who are opposed to the requested relief, irrespective of the Petitioners' attempts to mitigate the anticipated impacts of same. These protestants included Kate Masterton, who appeared on her own behalf as well as her husband (Jay Herqenroeder), Chris Dern and Chris Harvey.

Testimony and evidence presented was that the entire property at issue is approximately 2.50 acres in net area. The property has frontage on York Road (Md. Rt. 45), a major north-south arterial road in central Baltimore County. In fact, it can be argued that York Road is the predominant arterial road in central Baltimore County. York Road begins in Baltimore City to

the south, runs through the County seat in Towson, pass the interchange with the Baltimore Beltway (I-695) and thence northbound to the Pennsylvania line. At its southern extremity, York Road is an urban roadway adjacent to numerous retail, commercial and business uses. Ultimately, the road becomes more rural in character.

At this location, the roadway is suburban in character. The subject site is near the former location of the Cockeysville underpass. In a major repair project, several years ago, the underpass was eliminated and York Road rebuilt. At this locale, most of the properties which front York Road are retail/business in character. However, the side streets which intersect York Road lead to a number of residential communities to the interior.

In addition to the frontage on York Road on the property's west side, the property also abuts Cedar Knoll Road on the east. This is a residential type road which serves the adjacent residential community. Abutting the property's southern boundary is a commercial site owned by Mareposa, LLC. This business is a picture frame shop. On the north side, the property abuts land owned by Mr. and Mrs. D'Anna, which is used residentially.

Presently, the site is improved with a large building which was formerly used as a single family dwelling. The house is a large structure which was, no doubt, originally constructed and used as a country home when the locale was rural. In addition to this dwelling, the property contains several outbuildings. All of the structures which presently exist on the site will be razed if this project moves forward.

The Petitioners propose a substantial redevelopment of the site. The property has been subdivided so as to create two lots, shown on the plan as lots 1 and 2. Lot 1 contains the southern portion of the tract, is to be known as 10881 York Road and contains 1.29 acres in net area. It is split zoned B.L. and R.O., with the predominant zoning being R.O. As shown on the

site plan, the zone line transects lot 1 near its southern border so as to create a small B.L. strip along the property line. The Petitioner proposes constructing a single story 15 person assisted living facility for the elderly on lot No. 1. Assisted living facilities are defined in Section 101 of the BCZR. Summarized, that definition states that an assisted living facility is a building which provides a residential environment for persons 62 years of age or older, who have temporary or periodic difficulties with one or more of the essential activities of daily living. Assisted living facilities are not nursing homes and do not provide intensive care for their residents. Instead, they are designed to create a residential environment while nonetheless providing assistance for individuals who need limited help. Where assisted living services are located in the new building, such as proposed, the regulations identify the facility as a Class B facility.

A second identical building is proposed on lot No. 2. Lot 2 is 1.21 acres in net area and is to be known as 10883 York Road. Essentially, lot 2 occupies the northern portion of the overall tract. Lot 2 is also split zoned with the R.O. and D.R.3.5 designation. The predominant zoning of the tract is D.R.3.5, including that section where the proposed building is to be located.

Mr. Patton offered substantial expert testimony, from an engineering, development and planning perspective, regarding the subject property and its proposed use. He detailed the proposed improvements as more fully described in Petitioners' Exhibit No. 1. As noted above, two buildings will be built, each housing 15 residents. Each building will be one story in height and designed to capture a residential character. Importantly, vehicular access to the site will be by way of York Road only. Such a design is envisioned to eliminate traffic to the subject property from Cedar Knoll Road. In fact, the property's frontage along Cedar Knoll Road will be bermed and/or

landscaped, in an effort to mitigate the view and impact of the proposed use to the residences which are located on the other side of that road.

Apparently, the subdivision of the property into two lots has already been approved by Baltimore County. In this regard, Mr. Patton indicated that the Development Review Committee had approved same and had granted the project an exemption from the development regulations as a minor subdivision on December 15, 1997. In addition to the site plan, Mr. Patton also offered a number of photographs of the property and surrounding locale. In addition, he testified as to the proposals' compliance with the various requirements and standards contained within the BCZR. In his judgment, the project complies with the applicable provisions of the BCZR and should be approved.

Testimony was also received from Ms. Supik, Mrs. D'Anna and Mr. Farrell. These witnesses all appeared in support of the project, contingent upon the Petitioner developing the site in the manner shown on the site plan. Specifically, these witnesses support the proposal; assuming that landscaping will be installed as promised, with the buildings to be of the character described and that vehicular access will be only from York Road. Mr. Coniff, in particular, testified that the proposal is an improvement on present conditions and believes it appropriate.

Lastly, limited testimony was also taken from Mr. Farrell. He addressed some of the Protestants' concerns regarding fencing and trash removal.

Oral testimony was also received from the three Protestants who appeared. Some of their testimony was summarized in written statements which were also received into the record. Essentially, the Protestants believe that the proposal presents an unwarranted intrusion on their residential community. They believe that the proposed use is out of character with the

neighborhood and will detrimentally impact their properties and community. The specifics of their opposition are set forth in their written comments.

The above summary is not intended as a full recitation of the testimony and evidence offered by both sides. The hearing which was conducted occupied nearly one full day and for the sake of brevity, all of the comments and testimony cannot be repeated herein. Suffice it to say, however, that I considered all of the testimony and evidence offered, both oral and documentary. Additionally, I visited the site and am familiar with the area.

Turning first to the issues presented in case No. 98-238-SPHXA (10881 York Road), it is again to be noted that three petitions are at issue, Petitions for Special Exception, Special Hearing and Variance. The Petition for Special Exception requests approval of a Class B Assisted Living Facility in an R.O. zone, pursuant to Section 432.1.A.3 of the BCZR.

In this regard, it is to be noted that the BCZR essentially divides the uses of land into three categories. The first are uses which are permitted by right. For example, in residential (D.R.) zones, a dwelling is a permitted use by right. Zoning approval is not required for the construction of a dwelling in a residential zone, assuming compliance with all building codes and similar standards. Uses permitted by right are exactly that; they are automatically allowed despite any potential impact of same.

The second category contains prohibited uses. In a residential zone, for example, manufacturing uses are not allowed. No matter how slight its impact, a prohibited use is not permitted.

The third type of use are special exceptions. In other jurisdictions, special exception uses are known as conditional uses. In effect, these uses are a middle ground, between uses permitted by right and those prohibited. Special exception/conditional uses are permitted only after the property owner obtains approval from the zoning authority. In order to obtain such

approval, a Petition for Special Exception must be filed and public hearing thereon conducted. The Petitioner must produce evidence to meet the requirements of Section 502.1 of the BCZR. In essence, that section sets out the standard which must be applied in order to make a determination if the use adversely impacts the health, safety or general welfare of the locale.

Special exceptions have frequently been considered by the appellate courts of this State. In the seminal case of Schultz v. Pritts, 291 Md.1 (1981) the Court of Appeals of Maryland comprehensively discussed the law of special exceptions and the considerations which must be applied in the evaluation of same. The Court stated that "The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any factor or circumstance negating that presumption". (emphasis in original pg. 11) Thus, the Court opined that special exception uses are presumptively valid and should not be permitted only if circumstances exist in that particular case which negates this presumptive permissibility.

The Schultz case also set out the standard to be applied in considering special exceptions. Specifically, the Court stated that it must be determined if the proposed use has an adverse effect upon the surrounding properties unique and different from the effect that would, otherwise, result from the development of such a special exception elsewhere in the zone. To deny a special exception, the zoning authority must make a finding of facts and circumstances demonstrating that the particular use proposed at the particular location proposed would have adverse effects above and beyond those inherently associated with the use.

Cases issued by the appellate courts of this State since Schultz have expanded upon that holding. One recent case is Mossberg v. Montgomery

County, 107 Md. App. 1 (1995). Therein, the Court explained, ". . . it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are applied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency." (pgs. 8-9)

Thus, in the instant case, the issue is not whether the proposed assisted living facility will have impacts in the neighborhood. It, no doubt, will. (e.g. traffic will be generated, buildings will be visible, etc.) Moreover, it is not significant if those effects are adverse upon the community. The adverse nature of same are implied by making the use permitted by special exception, rather than by right. The test is whether the adverse impact would be different and more flagrant here than elsewhere in the R.O. zone.

Based upon the testimony and evidence presented, I find that the Petition for Special Exception should be granted. In reaching this judgment, I place great weight upon the fact that the subject property is adjacent to and access will be provided from York Road. This is not an instance of an assisted living facility located in the midst of a residential community. To the contrary, this site is immediately adjacent to a primary arterial road in north central Baltimore County. If such a use is not to be located adjacent to an arterial road, it might be asked, where should it be? Moreover, I believe that the Petitioners have made appropriate efforts to mitigate the impact of the use from the adjacent residential community (e.g., landscaping, berming, etc.). These factors are sufficient to support the conclusion that the property complies with the requirements set forth in

Section 502.1 of the BCZR. Thus, the Petition for Special Exception, in case No. 98-238-SPHXA, should be approved.

The second item for consideration in that case is the Petition for Special Hearing, which essentially seeks approval of the modified parking arrangement. As shown on the site plan, there will be but one curb cut on York Road for means of access to both lots. That access from York Road will lead to a cul-de-sac which terminates in the interior of the property. The roadway and cul-de-sac are bisected by the lot line. Thus, much of the traffic destined to lot 1 (10881 York Road) will park on the cul-de-sac which is located on lot 2 (10883 York Road). In my judgment, the Petition for Special Hearing should be approved. Although there are two lots at issue, the parking scheme is integrated to accommodate both buildings. The existence of the lot lines are an artificial consideration, to the extent that the property will have but a single purpose. I believe that the proposed modified parking plan is appropriate and satisfies the criteria under law. Thus, the Petition for Special Hearing shall be granted.

The third item under consideration relates to signage. Specifically, the Petitioners propose the erection of a sign on York Road, which would be 20 sq. ft. per face and visible to both northbound and southbound traffic. Also, the sign will be illuminated by way of "soft lighting".

Unlike special exceptions, variances are a different zoning tool. Variances are governed by Section 307 of the BCZR. In Baltimore County, the Zoning Commissioner has the authority to grant variance relief from area requirements, sign regulations, and parking requirements. The variance under consideration in this case is not a use variance, which is not permitted in Baltimore County.

The variance process in Baltimore County has also undergone review by the appellate courts of this State. The leading and most recent case is

FILED
7/15/98
In York

Cromwell v. Ward, 102 Md. App. 691 (1995). Therein, the court set out a three part test which must be applied. First, the Petitioner must demonstrate that the property at issue is unique. If such testimony is offered, the second step is then considered. whether the Petitioner would suffer a practical difficulty or unreasonable hardship if relief were not granted. Third, variance relief can only be approved if there would be no adverse impact on the surrounding locale.

In this case, the Petitioner argued several factors which it alleges makes the property unique. First, is the property's location adjacent to York Road, a highly traveled arterial roadway, as noted above. Moreover, the Petitioner noted the unusual grade of the subject property. Specifically, it was argued that the grade of the property rises rapidly from York Road. This distinguishing characteristic supports the variance relief, according to the Petitioner.

From a more practical standpoint, it is to be noted that the Petitioner could, by right, erect two signs on the property at large; one on each lot. Most of the interested persons present, including some of the Protestants, acknowledge that a single sign, as proposed, would be more appropriate, than two signs which would be permitted by right.

I am persuaded that the Petitioner has satisfied the variance requirements. As to the first test, I find that the grade of the site and the configuration of the property are factors which justify a finding of uniqueness. Moreover, I believe that a practical difficulty or unreasonable hardship would be sustained if relief were denied. In this regard, it is vital that the Petitioner properly advertise its location, so as to enable emergency vehicles to find the site. Additionally, a sign of sufficient size will be helpful in directing routine visitor traffic and deliveries to the property. These considerations are sufficient and serve a public safety

goal, to prevent unsafe traffic movements and reserve the orderly flow of vehicular traffic on York Road. For these reasons, I find that a practical difficulty would be suffered if relief were denied.

Lastly, there will be no detrimental impact on surrounding properties. It is doubtful that the sign will not be visible from the residential community to the rear. Although it will be visible from other properties along York Road, many of those properties are commercial in character and I find no detrimental impact.

Turning next to the Petitions at issue in case No. 98-239-XA, special exception relief is requested for the second assisted living facility building (Class B) on the lot known as 10883 York Road. This lot is zoned D.R.3.5 and the special exception request is requested pursuant to Section 432.1.A.3. Again, the standards enunciated above and as set forth in Schultz and Mossberg are relevant. The question to be determined is not whether the impact of the proposed use will have an inherent effect on the community; rather, whether there is a unique detriment associated with the proposal at this location. For many of the same reasons as set forth above, I will grant the Petition for Special Exception in this case. In my judgment, the Petitioner has presented sufficient testimony to support the granting of the requested relief. I believe that the proposal complies with the requirements set forth in Section 502.1 of the BCZR.

The Petition for Special Exception in case No. 98-239-XA contains a second prong. Specifically, the Petitioner requests approval, pursuant to Section 432.4 of the BCZR, for special exception relief as to the Residential Transition Area (RTA) requirements. Specifically, Section 432.4 provides, in relevant part, that the Zoning Commissioner may, by special exception, 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 1B01.1.B.1.b. . . .".

The RTA regulations are set forth in Article 1B of the Baltimore County Zoning Regulations. By definition, the RTA is a 100 ft. area including any public right of way extending from a D.R. zone tract boundary into the site to be developed. The purpose of the RTA requirements is to assure that similar housing types are built adjacent to one another or that adequate buffers and screenings are provided between dissimilar housing types.

In this case, the R.T.A. is generated by the adjacent residential community. The Petitioner seeks a variance from the RTA buffer and setback requirements or, in the alternative, special exception relief as aforesaid. The Zoning Commissioner may grant special exception relief if three findings are made; (a) That compliance with all or part of the RTA restrictions would cause unreasonable hardship on the development; and, (b) if the quality of the site design and amenities provided would justify a modification or waiver of the RTA restrictions; and, (c) that the development will not be detrimental to the use and peaceful enjoyment, economic value or development of surrounding properties in the general neighborhood.

These issues were the subject of significant expert testimony from Mr. Patton and commented on both for and against by the community members who appeared. It is to be noted that the RTA does not absolutely prohibit dissimilar housing styles but requires either a compatibility of same, or an appropriate screening or buffering of the similar types. In this regard, the Petitioner has made significant efforts to provide a reasonable screening and buffering, and to mitigate the impacts of the different uses.

The building elevation drawings, which were submitted, show that the proposed buildings have been designed to cast a residential character. The buildings are not similar to office building architecture, for example.

Instead, they appear to be more in character with large country style dwellings. Additionally, a significant amount of landscaping/berming is proposed. As shown on the site plan and described at the hearing, the Petitioner will install landscaping along the northern and eastern boundary so as to buffer the proposed use.

Testimony and evidence was offered by the Protestants suggesting the relocation of the building. However, I am satisfied that the proposed location is appropriate and most practical. Relocation of the building closer to York Road would be difficult in view of the grade of the property as well as the proposed location of the storm water management facility. For all of these reasons, I shall grant that prong of the special exception relief required, to waive/modify the RTA requirements consistent with the development as shown on the site plan.

The second consideration in case No. 98-239-XA is the Petition for Variance. Based upon the finding as to the Petition for Special Exception, a portion of the variance is now moot; specifically, the relief requested from Section 1B01.1.B.1.c, d and e. Variance relief from the RTA buffers and setbacks is not required in view of the grant of the special exception.

However, variance relief is requested for the proposed building on lot 2 (10883 York Road). As shown on the site plan, the rear wall of the building is located 30 ft. from the right of way line and variance relief is, therefore, requested from a front yard setback of 50 ft.

This unusual request is generated by the fact that the property abuts two public roads. As noted above, the primary frontage is on York Road, however, the rear of the property is adjacent to the right of way for Cedar Knoll Road. An examination of the site plan shows that the building under consideration is oriented towards York Road. Moreover, vehicular access is by way of same.

In my judgment, a variance from the front yard setback requirements is not needed. I find that his property does not have two front yards, but a front yard between the structure and York Road and a rear yard between the structure and Cedar Knoll Road. Thus, the front yard setback regulations do not have to be met as to the distance between the building and the right of way to Cedar Knoll Road. For so long as the property maintains an adequate rear yard setback in that location, a front yard setback variance relief is not necessary. Thus, this request shall be dismissed, as moot.

Lastly, it is to be noted that the plan approved and relief granted is conditioned, in accordance with comments made at the hearing. The property shall be landscaped and bermed as more particularly shown on the site plan. Moreover, the buildings must be constructed in substantial accordance with the building elevation drawings presented. All development of the site must be in accordance with the site plan submitted, in terms of vehicular access, architecture/size of buildings, etc.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 18th day of February 1998, that, pursuant to the Petition for Special Exception, approval to allow a Class B Assisted Living Facility, of 15 residents on the subject property to be known as 10881 York Road (presently known as 8 Cedar Knoll Road) predominantly zoned R.O., with small areas zoned B.L. and D.R.3.5, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, approval to permit the location of parking for the proposed use on the property to be known as 10881 York Road to be on the adjacent lot, (10883 York Road) and a finding that such arrangement complies with the provisions

of Section 409.7, 409.8B and 409.12 of the of the Baltimore County Zoning Regulations (BCZR), be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 450.4 of the BCZR to permit a sign 20 sq. ft. per face on the subject property, in lieu of the maximum 15 sq. ft. per face, with direct illumination of the sign, be and is hereby GRANTED; and.

IT IS FURTHER ORDERED that in case no. 98-239-XA special exception relief pursuant to Section 432.1.A.3 of the BCZR approval for an assisted living facility, Class B, of 15 residents to be permitted on the subject property, predominantly zoned D.R.3.5, with a small area zoned R.O., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that as an alternative to a variance of the RTA restrictions contained in Section 1B01.1.B.1.C, D & E, special exception relief is requested to waive the RTA restrictions applicable to the subject property, pursuant to Section 432.4, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1B01.1.B.1.c., d., and e., all to permit a minimum 20 ft. buffer and 35 ft. setback area, in lieu of the required 50 ft. and 75 ft. setback for R.T.A. requirements, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.1.a, to permit a rear yard of 30 ft. in lieu of a front yard setback requirement of 50 ft. for a double frontage lot, and also to approve a modified parking plan, be and are hereby DISMISSED AS MOOT, all subject, however to the following restrictions:

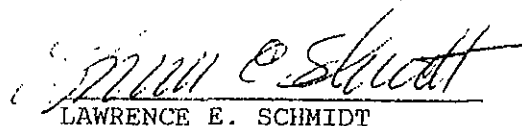
1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The proposed assisted living facility buildings shall be contributed in substantial accordance with the building elevation drawings submitted as Exhibit 3A, 3B and 3C.

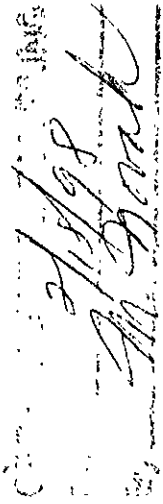
3. The property shall be landscaped and/or bermed across the rear (east) property line in accordance with the site plan (Exhibit 1) and comments offered at the hearing; so as to adequately screen the property from the residential community across Cedar Knoll Road, subject to the review and approval of the Office of Planning and the County's Landscape Architect.

3. The lighting of the proposed sign shall be "soft", so as to not reflect, shine or cause glare onto adjoining properties, nor interfere with vehicular traffic.

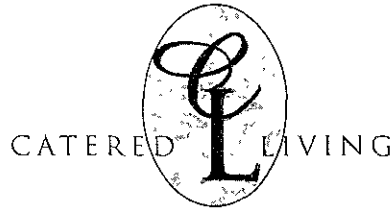
LES:mmn



LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County



Vertical stamp and handwritten notes on the left margin, including a date stamp "8/6/88" and a signature.



5/14/01
JT
V

of Cockeysville
DEVELOPERS, OWNERS AND OPERATORS OF ASSISTED LIVING

May 8, 2001

Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Attn.: Mr. James H. Thompson

Re: Citation/Case No. 01-2157
Property No. 23-00-004192 (10883 York Road 21030)

Dear Mr. Thompson:

I received the above mentioned Baltimore County Uniform Code Enforcement Correction Notice on May 7, 2001. It lists a correction date on or before May 10, 2001. Due to the fact that this is an assisted living residence for the elderly, we are unable to move a resident out that quickly. One of our residents is being discharged as of May 14, 2001. In the event that we are unable to discharge him earlier to comply with the May 10th date, I request that no fine or penalty be imposed due to this four day delay.

I can be reached at the above number to discuss this further, if necessary. I thank you, in advance for your cooperation in this matter.

Sincerely,

Bruce S. Raffel
President

cc: Michael W. Cook

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE, 8TH FLOOR
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4525
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

5/14/01
JT
b

C1-425-31-1

May 11, 2001

Mr. James Thompson, Chief
Baltimore County Department of
Permits and Development Management
Code Enforcement Division
111 W. Chesapeake Avenue, Suite 109
Towson, Maryland 21204

Re: 10881 and 10883 York Road
Citation/Case No.: 01-2157

Dear Mr. Thompson:

In furtherance of our recent discussion, I am writing to you to describe the specific actions that are being taken on behalf of my clients, the owners of the above-referenced property. Specifically, 10881 York Road, LLC and 10883 York Road, LLC, whom I represent collectively, have authorized me to prepare and file a Petition for Special Exception and Petition for Special Hearing regarding the occupancy of the referenced properties. The necessity of filing these Petitions results from ambiguous zoning regulations pertaining to Assisted Living facilities in the County. Your Department has taken the position that an Assisted Living facility approved as a Class B facility can only be occupied by a maximum of fifteen residents. While I do not agree with that interpretation, I am filing the above-referenced Petitions on behalf of the referenced property owners to have each building at the referenced locations declared an "Assisted Living Facility" (neither Class A nor Class B) housing a maximum of eighteen residents each.

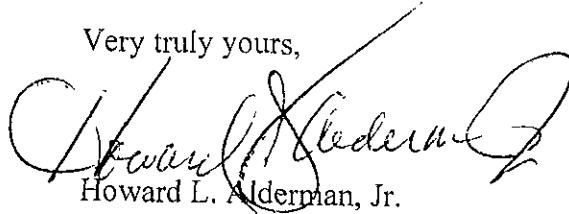
The package necessary for filing, including without limitation, all drawings, descriptions, filing fees and Petitions have been prepared and are in my office and are scheduled to be filed with your Department on Tuesday, May 15, 2001 at 3:00 in the afternoon.

Therefore, I would request that any compliance date established by the above-referenced citation be extended until such time as the Zoning Commissioner has had an opportunity to rule on the administrative petitions filed by my clients.

May 11, 2001
Page 2

Upon your receipt and review of this letter should you have any questions or need additional information, as always, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Howard L. Alderman, Jr.", written over a horizontal line.

Howard L. Alderman, Jr.

HLA/pal

cc: 10881 York Road, LLC

10883 York Road, LLC

G:\Clients\CateredLvngGrp\thompson-j, ltr-9845-1.wpd

BALTIMORE COUNTY, MARYLAND
Interoffice Memorandum

DATE: May 18, 2001

TO: Michael W. Cook
Department of Aging

FROM: James H. Thompson
Code Enforcement

SUBJECT: Case Number 01-2157
10881 York Road

Please be advised that as a result of the correction notice issued May 3, 2001, Howard L. Alderman, Jr., Esquire filed both a petition for special exception and special hearing relative to the subject property on May 15, 2001.

These petitions will be processed under case number 01-485-SPHX and subsequently, your department's complaint will be made part of those records. At present, we are looking at a public hearing date within the next sixty days.

If additional questions remain, please contact me at 8094.

JHT:scj

c: Howard L. Alderman, Jr., Esquire, Levin and Gann, Nottingham Centre, 8th Floor,
502 Washington Avenue, Towson, MD 21204-4525
Zoning Case Number 01-485-SPHX

UPDATE/MESSAGE FORM

Date: 5-18-01

Time: a.m. / p.m.

Inspector: JAMES H. THOMPSON

Case Number: 01-2157

Address: 10883 York Rd.

Comments: Extension granted to
July 18, 2001. ~~By this time~~
~~A hearing date will be~~

By this time a public hearing
date will be established
for case No. 01-485 SPHX.

... Complainant has been updated
of this fact.

OK

**IN RE: PETITIONS FOR SPECIAL EXCEPTION
AND VARIANCE
W/S Cedar Knoll Drive, 333' ± N of Sherwood
Road
10883 York Road
8th Election District
3rd Councilmanic District**

**Dr. Gulab Shah, *et al*,
Legal Owners**

**10881 York Rd., LLC,
Contract Purchaser,**

Petitioners

**BEFORE THE
ZONING
COMMISSIONER
FOR
BALTIMORE COUNTY**

Case No.: 98-239-XA

ORDER ON REMAND

This matter comes back before the Zoning Commissioner on remand from the County Board of Appeals for Baltimore County (the "Board"). Separate appeals of my original Order in this matter, dated February 18, 1998 were noted to the Board by two of the neighbors who appeared and testified at the original, combined hearing held by me in consideration of the relief requested by the Petitioners for the subject property.

While the appeals were pending before the Board, the Appellants and the Petitioners reached agreement on certain issues in resolution of the appeals filed. A joint request was filed with the Board by the Appellants and the Petitioners requesting that this matter be remanded to me for further consideration to incorporate the provisions of the agreements reached by the parties. The Board of Appeals, by Order dated June 16, 1998 remanded this case to me for such further consideration.

On the remand from the Board, the parties, through legal counsel, submitted into evidence a jointly approved, revised Plat to Accompany Zoning Petitions in the above-referenced case (the "Revised Plat"), which depicts certain modifications to the original Plat introduced as Petitioners'

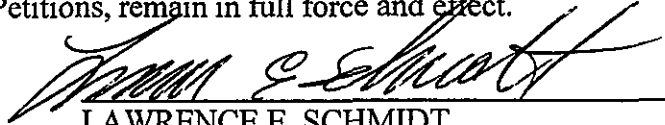
Exhibit No. 1. Additionally, the Appellants and the Petitioners submitted a copy of the written Agreement among them which requests that certain conditions contained in my original Order be modified and that certain other conditions be added on remand. No other requests or conditions were requested.

Therefore, in order to incorporate the terms and conditions of the agreements reached among the Appellants and the Petitioners and pursuant to the remand from the County Board of Appeals for Baltimore County, after consideration of the jointly approved site plan on remand and for the purposes and reasons described above, my original order in the above-referenced cases should be amended.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 14th day of July, 1998, that pursuant to the Order of Remand from the County Board of Appeals for Baltimore County, my Order dated February 18, 1998 in the above-referenced case which is incorporated in its entirety by reference, is hereby AMENDED as follows:

1. The Plat to Accompany Zoning Petitions, accepted into evidence as Petitioners' Exhibit No. 1 in the above-referenced case is hereby STRICKEN and the Revised Plat to Accompany Zoning Petitions, marked as Revised Petitioners' Exhibit No. 1 during the hearing on remand from the County Board of Appeals for Baltimore County, is hereby adopted in lieu thereof.
2. Restriction No. 3 in my original Order is hereby STRICKEN in its entirety and the following restriction is imposed in its place: Within the landscape buffer areas noted on Revised Petitioners' Exhibit No. 1, along the delineated portions of the side of Cedar Knoll Road, Developer shall plant and maintain spruce and/or leyland cypress trees, on the north and the northeast sides of the Property, six to seven feet tall, in a staggered row, not less than 10 feet apart. The planting in the landscape buffer areas shall be installed as soon as possible after commencement of demolition and/or site preparation, weather and growing conditions permitting.
3. The fourth restriction in my original Order (erroneously identified as the second restriction number 3) shall be renumbered as Restriction number 4.

4. A new restriction number 5. is hereby added as follows: "The access to the Property from Cedar Knoll Road will be permanently eliminated as quickly as is reasonably possible after commencement of demolition or site preparation and in no event later than thirty (30) days after commencement of demolition or site preparation and, thereafter, there will be no vehicular access whatsoever, including but not limited to access for the purpose of trash removal, dumpster or food removal, from Cedar Knoll Road to or from the Property."
5. A new restriction number 6. is hereby added as follows: "10881 York Rd., LLC was identified by the Appellants and the Petitioners as the Developer of the Property. The Developer will not use the Property for any purpose other than assisted living for the elderly for so long as the Developer as an ownership interest in the Property."
6. In all other respects, the findings of fact, conclusions of law, relief granted and restrictions imposed in my original Order, to the extent that they are not inconsistent with the terms of this Order on Remand and/or the Revised Plat to Accompany Zoning Petitions, remain in full force and effect.



LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

ASS-700 210116
FAC 117122

IN THE MATTER OF
THE APPLICATION OF
SOMERFORD CORPORATION FOR SPECIAL
HEARING AND SPECIAL EXCEPTION ON
PROPERTY LOCATED ON THE N/S OF E JOPPA
ROAD, E OF MAGLEDT ROAD AND
DEVELOPMENT PLAN APPROVAL
(SOMERFORD PLACE /PDM XI-808 /
3402 EAST JOPPA ROAD)

11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE ① CLAS A
② CLAS B F
③ > 15 Bk
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 00-523-SPHX AND
CASE NO. CBA-00-160

* * * * *

MAJORITY OPINION

This case comes to the Baltimore County Board of Appeals based on a decision of the Hearing Officer that involved three cases consolidated as permitted under Title 26, § 26 -206.1 of the *Baltimore County Code*. Case No. CBA-00-160 (File No. XI-808) involves a plan submitted by the Developer to permit development of a 6.717-acre parcel of property zoned DR 5.5 on which a sixty-four (64) bed assisted living facility (ALF) known as "Somerford Place" would be constructed. The site address is 3412 Joppa Road. This plan was approved by the Hearing Officer with restrictions.

The Developer has appealed the restriction only. Case No. 00-523-SPHX contains two matters: (1) the special exception request for an ALF in a D.R. zone; and (2) the special hearing request allowing a Residential Transition Area (RTA) to be partly located in an adjacent private yard. The special hearing request and the special exception were denied by the Hearing Officer and were heard by the Board *de novo*. This matter was heard over a five-day period, with a public deliberation held by the Board members on January 23, 2001. The Petitioners, Raymond G. Burton, David L. Chatman, Barbara A. Chatman, Lloyd G. Eyler, and Somerford Corporation, formerly known as Chesapeake Healthcare Corporation, were represented by Robert A. Hoffman,

Esquire; the Protestants appeared *pro se*; and Peter M. Zimmerman, People's Counsel for Baltimore County, participated in these proceedings.

The Board will first consider the Development case. It is noted, in accordance with the letter to the Board dated January 5, 2001, that People's Counsel elected not to participate and present argument in the Development Plan of the proceeding, reserving their right to appear in development plan cases generally and in future development cases. *People's Counsel v. Crown Development Corp.*, 328 Md.303, 317 (1992).

As testified to, the Petitioners requested a waiver of the Department of Public Works (DPW) request to make certain road improvements along the south side of Magledt Road (the "Request for Waiver"). The improvements included road widening and the installation of curbs, gutters, and sidewalks along Magledt Road (the "Magledt Road Improvements"). The Petitioners requested the waiver of the Magledt Road Improvements because: (1) they are not related to the development; and (2) implementing them would destroy the vegetative screening which the community did not want removed. Testimony by Ms. Ruth Baisden, Protestant, reiterated the community's preference on this matter to the dense vegetative screening along Magledt Road versus curbs, gutters, and sidewalks.

In BCC § 26-209(d), the Board of Appeals has the authority to reverse or modify a decision of the Hearing Officer only if a finding, conclusion, or decision of the Hearing Officer:

- a. Exceeds the statutory authority or jurisdiction of the Hearing Officer;
- b. Results from an unlawful procedure;
- c. Is affected by any other error of law;

- d. Is unsupported by competent, material and substantial evidence in light of the entire record as submitted; or
- e. Is arbitrary or capricious.

The Board has reviewed the Hearing Officer's decision to determine whether the factual findings made by the Hearing Officer are supported by evidence contained in the record or whether the Hearing Officer's decision is premised upon an erroneous conclusion of law. *Monkton Preservation Association v. Gaylord Brooks Realty Corp.*, 107 Md. App. at 581-582; *Mortimer v. Howard Research & Development Corp.*, 83 Md. App. at 442-443. The testimony regarding a concept plan with seven (7) single family lots on Magledt Road being the supportive factor in the DPW's decision to require the Magledt Road Improvements by the Petitioners was clear to the Board. Testimony was also presented that the DPW knew of the removal of the seven (7) lots on Magledt Road due to community meetings. Even so, the DPW still insisted on the Magledt Road Improvements, and this is the only evidence upon which the Hearing Officer based his decision. Once the Petitioners eliminated the seven single-family dwellings from their proposal, the DPW did not change its position.

The Board acknowledges that, if the DPW had no longer required the Magledt Road Improvements, the Hearing Officer's decision would have been arbitrary. Based on the fact that there was no new evidence or testimony, he was not arbitrary or capricious in his decision based on what he heard and the information he had. The Board feels, however, that we do not have sufficient grounds for overturning the Hearing Officer's decision on this matter, although the need for the Magledt Road Improvements appears unclear.

Prior to hearing Case No. 00-523-SPHX on the special exception, the Petitioners made a motion for a legal determination of the zoning classification for the proposed ALF. The Board, after hearing argument from both sides, held a deliberation from the bench on the matter of whether or not there is only a Class A or Class B ALF; or are there actually three (3) types, being ALF Class A, ALF Class B, and ALF other than Class A/B.

The Board ruled that the ALF falls under ALF other than Class A/B, and therefore the performance standards as set out in BCZR § 432.1 do not apply.

The case then proceeded under BCZR § 502.1 for special exception. The proposed use is permitted in this zone by special exception pursuant to § 423.1.A.4 of the BCZR. Special exceptions are approved in accordance with BCZR § 502.1. At this point in the proceedings, People's Counsel filed a **Motion for Reconsideration of Ruling as to Class B Assisted Living Facility and BCZR 432.5 Performance Standards Generally**, which was deliberated as part of the scheduled public deliberation. The Board determined and ruled unanimously to stand as originally decided.

With respect to the request for Special Exception, the Board is bound by BCZR § Section 502, specifically Sections 502.1 and 502.2, that read:

502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

- A. Be detrimental to the health, safety, or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other dangers;

- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 zone.

502.2-- In granting any special exception, the zoning commissioner or the board of zoning appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the zoning commissioner, or board of zoning appeals, upon appeal, shall enter into an agreement in writing with said zoning commissioner and/or the county commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

In reaching a decision, the Board reviewed where the burden lay (or which party must assume the burden of proof). The Petitioners must show that they meet all of the requirements of BCZR § 502.1; if the Protestant raises an issue on not meeting requirements, the burden then shifts and the Protestant must then show definitive evidence as to how it fails. It is also evident

that the Protestants must present strong and substantial evidence that an adverse effect will result above and beyond those effects normally associated with such a special exception use regardless of its location within the zone. *Schultz v. Pritts*, 291 Md. 1 (1981)

The Board will also apply principles established by the Courts of this State relative to the conditional use, or special exception as it is generally called.

The leading case authority in Maryland is *Schultz v. Pritts*, 291 Md. 1 (1981). In that case, Judge Davidson stated:

When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses.

* * *

The duties given to the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

* * *

If [the applicant] shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide.

Petitioners' witness Merle Wexler, an expert on ALF's and the National Director for Alzheimer's Services, testified that the proposed facility would not have an adverse impact on

the health, safety, and general welfare of the community. She also added that the residents would not own automobiles. In her expert opinion she did not feel the facility would negatively affect property values in the community. She concluded that the facility would pose no danger to the neighborhood; it would be a safe, peaceful and secure facility. On the issue of undue concentration of population, she testified that visitation to the facility would be sporadic, and during peak morning and afternoon operating hours, the maximum number of employees at the facility would be eighteen (18).

Ms. Eve Landino, an expert in the field of transportation planning, testified that she had conducted both a traffic analysis of the impact of proposed use at the proposed location and a general study of the amount of traffic generated by ALF's. Ms. Landino testified that the proposed use is a low generator of traffic, based on the analysis, and it would not adversely impact the levels of service of any surrounding intersections. It was her expert opinion that the proposed facility would not adversely impact any of the roads, streets, or alleys that surround the site.

Mr. Dean Hoover, an expert in the area of land planning, testified that there was not an undue concentration of these types of facilities within a five-(5) mile radius of the site. To support Mr. Hoover's testimony, an expert in the area of health planning, Ms. Krysta O'Hara, also concluded that there is an outstanding demand in the community for the proposed facility. Mr. Hoover stated that D.R. zones are the designated and proper locations for ALF's, and it is not unusual to find ALF's in proximity to single-family homes in Baltimore County.

Mr. Thomas Kramer, a certified landscaper and an expert in land planning, testified that

Somerford Place is a good transitional use between Joppa Road and the residential uses on Magledt Road. Mr. Hoover stated that the proposed facility would be significantly larger than any one single-family home in the area. However, it would be located on a substantially larger parcel of land. Also the density for the lot, under the zoning regulations, would allow for 36.94 density units. The proposed 64-bed facility would only utilize 17 of these units. Mr. Hoover testified that the proposed use is an unintensified use of the land and will not overcrowd the land. Mr. Kramer added the fact that the facility would be a one (1) story structure surrounded by a year-round landscape screen, and that the addition of the proposed facility would not adversely impact the neighborhood. Mr. Hoover testified the facility would be constructed in accordance with BOCA and Life Safety Codes. He concluded it would not create any hazards or dangers to the neighborhood. Testimony also supported the fact that, since facility is for elderly populations afflicted with Alzheimer's disease, it would in no way interfere with the adequate provisions for schools and parks in the community. Due to the facility's one-story construction and its location in respect to neighboring homes, Mr. Hoover concluded that the proposed facility would not interfere with adequate light and air. According to Mr. Hoover, there are no impermeable surface or vegetation retention provisions in the zoning regulations that apply to this site, other than the RTA requirements. In conclusion, Mr. Hoover stated his opinion that the proposed use is consistent not only with the D.R. zone, but with the zoning regulations as a whole.

Based upon the evidence and testimony submitted, the Board finds that the Petitioners have met the requirements of BCZR § 502.1.

Protestants' witness Mr. Ted Gunter testified that he sees the facility as an obstruction, an

overcrowding of the area.

Mr. Robert Eck thinks the facility is too large and barracks-like in appearance; that the area will be a mess; and that he was not sure if property values would change. He also stated that he is not opposed to ALF's in general; just this one. He testified that it should be located in an area with more commercial zoning.

Ms. Mary Eck sees the facility as a large commercial building. She stated that she thinks water supply in the area is insufficient to support the facility, and she feels property values will go down.

Ms. Alice Baker testified that she "just doesn't like it."

Ms. Ann Briggerman testified as to her concerns which were: the proposed facility is out of character with area, will create an increase in traffic, and will open the door for commercial development and constitutes Baltimore County point zoning.

Ms. Ruth Baisden testified about her concerns with this type of facility. She stated that, in her opinion, it is in the wrong location. It is out of character with neighborhood. It looks commercial and it promotes no neighborly type atmosphere, which conflicts with the objectives of the Master Plan.

Mr. Ray Lewis, who lives closest to the site, testified that he is opposed to anything being done on the site, but he would prefer an ALF to additional single-family homes on the site. He also believed the proposed use would have the least intrusive effect on the surrounding area.

The Board does not take any testimony lightly. It deeply appreciates community input in these cases. However, the Board finds that the Protestants presented no hard evidence to show

that the inherent negative impacts of this use would be greater here than in any other D.R. 5.5 zone.

The Board considered the Petition for Special Hearing on a *de novo* basis. The Petitioners have requested by way of a Petition for Special Hearing, a determination that a portion of the proposed facility's RTA be located in a private yard. Mr. Jay Hicks, Vice President of Somerford Corporation, testified that Somerford would retain an easement across that separate lot of record located on the southeast corner of the site to provide for and maintain the RTA. He also testified that a deed restriction would be placed on that property to prevent any new disturbance in the RTA.

Protestants claim that uniformity of ownership is required to comply with the RTA. BCZR § 1B01.A.1 provides that an RTA extends from the tract boundary into the site to be developed. Petitioners claim that regulations make no mention of ownership of land. It is therefore of no consequence under the BCZR that a portion of the RTA falls within a private yard. RTA buffers are created to provide adequate buffer areas between different housing types.

The Board has ruled by majority to grant the Petition for Special Hearing with certain restrictions. These restrictions are as follows: (1) an easement in perpetuity is to be recorded in the Land Records of Baltimore County; (2) the concrete pad and shed are to be removed from the RTA buffer area; and (3) the Developer will be solely responsible for landscaping and maintaining the RTA buffer area in question for so long as the special exception use exists.

ORDER

IT IS THEREFORE this 7th day of February, 2001 by the County Board of Appeals of Baltimore County

ORDERED that the decision of the Hearing Officer dated October 6, 2000 in which the subject Development Plan was approved with restrictions, including the Magledt Road Improvements, be and the same is hereby **AFFIRMED**; and it is further

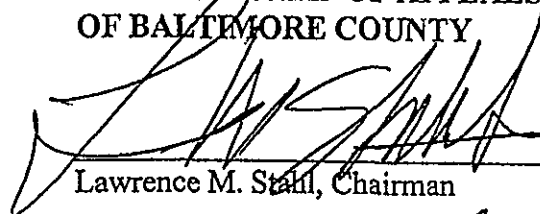
ORDERED that the Petition for Special Exception for an assisted living facility in a D.R. zone be and is hereby **GRANTED**; and it is further

ORDERED that the Petition for Special Hearing to allow a portion of the RTA buffer to be located within a private yard area be and is hereby **GRANTED**, subject to the following conditions:

1. The easement is to be recorded in the Land Records for Baltimore County;
2. The existing concrete pad and shed are to removed from RTA buffer area; and
3. The Developer shall be responsible for landscaping and maintaining the area in question; and this condition of granting shall remain in force for so long as the special exception use exists.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence M. Stahl, Chairman


Richard K. Irish

IN THE MATTER OF
THE APPLICATION OF
SOMERFORD CORPORATION FOR SPECIAL
HEARING AND SPECIAL EXCEPTION ON
PROPERTY LOCATED ON THE N/S OF E JOPPA
ROAD, E OF MAGLEDT ROAD AND
DEVELOPMENT PLAN APPROVAL
(SOMERFORD PLACE /PDM XI-808 /
3402 EAST JOPPA ROAD)

11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
*
* BALTIMORE COUNTY
* CASE NO. 00-523-SPHX AND
CASE NO. CBA-00-160

* * * * *

CONCURRING /DISSENTING OPINION

This Board member is in concurrence with the majority of the Board in its Opinion and Order in this matter, but will respectfully dissent from their finding relative to the Petitioner's request to use a portion of an adjoining property, separately owned from the subject site, to meet the RTA (Residential Transition Area) buffer requirement. In his Order and Opinion dated October 6, 2000, Deputy Zoning Commissioner Timothy Kotroco denied this request in Case No. 00-523-SPHX.

The subject site is located at 3412 Joppa Road and consists of 6.717 acres zoned D.R. 5.5. The Petitioner's proposal calls for a 64-bed Assisted Living Facility dedicated to the care of Alzheimer's patients. The majority of the Board affirmed the Hearing Officer's approval of the Development Plan and granted the special exception for the Assisted Living Facility use. I agree with these opinions. The majority also granted the special request for the RTA buffer. On this matter alone, I do not agree for the following reasons.

The Petitioner, Somerford Corporation, has requested to use the rear yard of an adjoining residential lot, separately owned by the Chatman family, to meet the requirements of the RTA buffer. The Assisted Living Facility generates a residential transition area under *Baltimore County Zoning Regulations* (BCZR) 1B01.1B.1 because it is a use dissimilar to a single-family dwelling within 150 feet of the tract boundary. The required buffer must remain an "upgraded, uncleared, landscaped area unless otherwise directed by the hearing officer, based upon the recommendation

of the county." BCZR 1B01.1B.1.e.(3).

The purpose of the RTA is to establish an adequate buffer between different housing types. Evidence and testimony are uncontradicted that the 28,000-square-foot ALF is a different use from that of the single-family dwelling on the Chatman lot. BCZR 1B01.B.1.a, "Definitions and purpose," provides that:

(1) The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed. [Emphasis added.]

(2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

Absent a definition of the term "tract boundary" in the regulations, I have referenced the words in *Webster's Collegiate Dictionary* as follows: "tract" is defined as "an area either large or small"; "boundary" is defined as "something that indicates or fixes a limit or extent; specifically a bounding or separating line." From this I conclude that a "tract boundary" means a line which separates an area either large or small. Common sense tells me that the regulation would not contemplate that the RTA buffer extend from the "tract boundary," i.e., the "separating line," of the subject property onto an adjacent property owned by another party. If this were the case, the responsibility for an RTA buffer would fall on the adjoining property owners rather than the developer of the subject property. Such a conclusion does not make sense.

The Petitioner argues that there is no requirement under the BCZR that the Petitioner own the land to be used as an RTA buffer and, indeed, this Petitioner argues that Somerford will obtain an easement which will be properly recorded that will restrict the rear yard as necessary to serve as

the required RTA buffer. The Petitioner will remove an existing shed and concrete pad. The Petitioner will also landscape and maintain this portion of the Chatman lot, not owned by them, so long as Somerford Corporation is in existence, as part of a recorded easement. The easement and the agreement are not in effect at this time.

The Protestants argue that the Petitioner's request is in direct conflict with the zoning regulations. They cite BCZR § 102.2 which states:

No yard space or minimum area required for a building or use shall be considered as any part of a yard space or minimum area for another building or use.

To add further complication to this specific issue before us, the Chatman lot already contains a residence which violates current setback requirements and exists as a nonconforming use. The Petitioner's request to render in perpetuity the nonconforming use of this undersized lot even smaller also appears to conflict with common zoning practice to eliminate, not expand, nonconforming uses.

It is my opinion that a transition area between two disparate uses must be buffered by the subject property introducing the disparate use. The buffer must extend into the site to be developed so that the neighboring use is not closer to the dissimilar use than it was before. The RTA is to serve as a buffer. BCZR 1B01.1.a.(1)

In this case the Petitioner wishes to use the very land which is to be buffered /protected as the transition area, and further the Petitioner would not own this land, but hold it in an easement which does not currently exist. The Petitioner's primary argument is that "ownership is blind when it comes to an RTA that is generated by a dissimilar use." (T 1/01/01, p 86) In other words the

regulations do not state explicitly that the Petitioner cannot use someone else's property to meet the regulations. Therefore, they argue, they can. I find that BCZR 102.2 negates this argument.

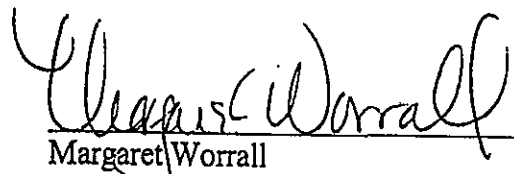
It is my opinion that the granting of such a request would set a poor precedent wherein an adjoining property owner who is not able to meet a requirement for setbacks of whatever kind may be permitted to "borrow" a neighbor's property to satisfy the regulations, in theory if not in fact.

Although the regulations properly do not address the issue of need, I further find that there is no substantive need or evidence presented by the Petitioner that creates sympathy for their request or shows that they would be hurt in any way by the denial of such a request.

The subject property of more than 6 acres has ample land area to meet the RTA requirements on property which the Petitioner owns outright. The solution seems to be one of design changes which would not be detrimental to the successful development of the ALF in any major way.

In my opinion, the Petitioner has not met his burden of proof with regard to this request. As a matter of convenience, the Petitioner simply wishes to use an adjoining property, which the Petitioner does not own, to satisfy the buffer requirement for his development.

Therefore, for the reasons set forth, I respectfully dissent from the majority opinion on the request to use adjoining property to satisfy the RTA buffer requirement.


Margaret Worrall

DATE: February 7, 2001

Case Number 01-549 SPHX

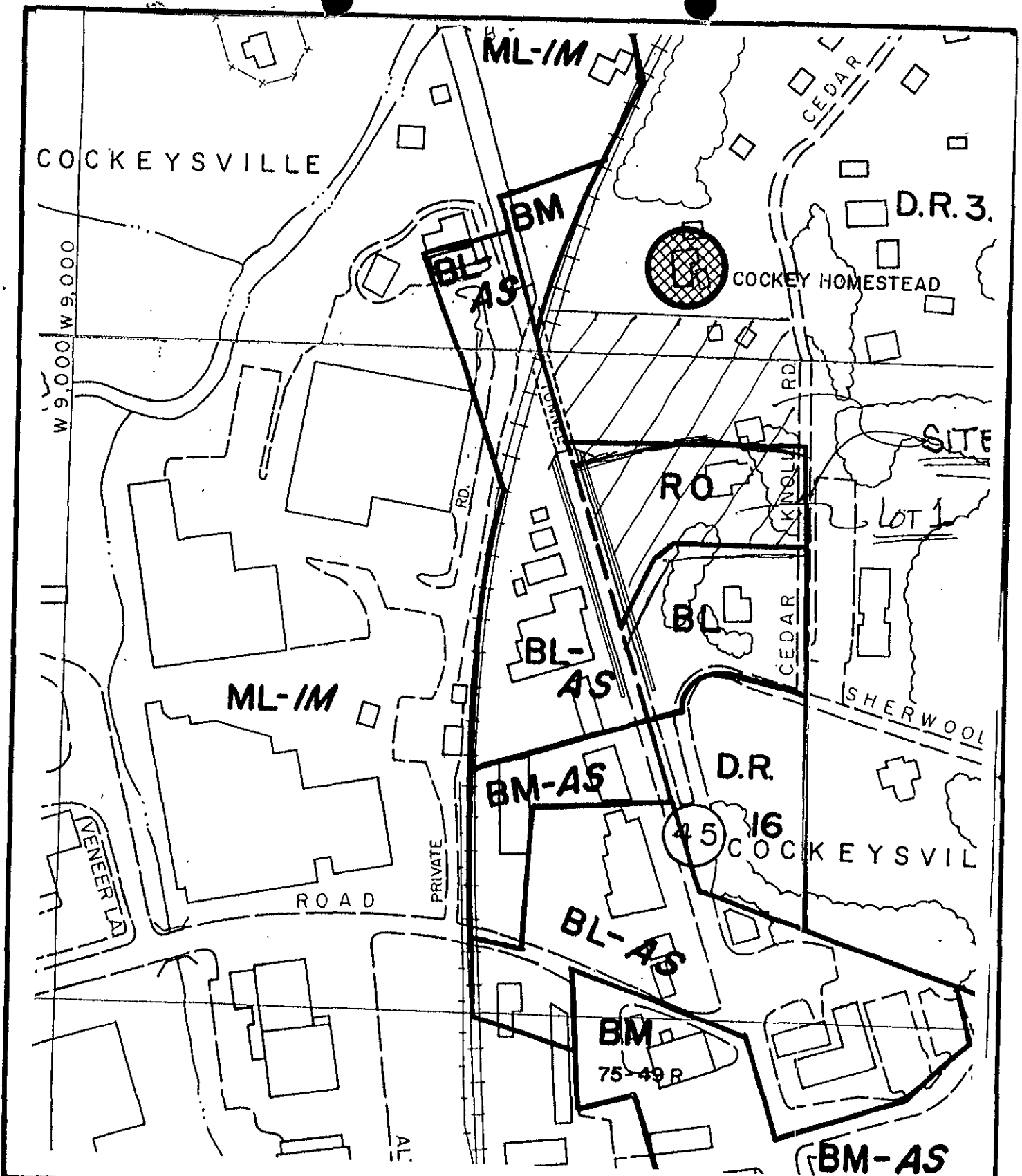
PROTESTANT'S SIGN-IN SHEET

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CASE NAME 10881 & 10883 York Road
CASE NUMBER 01-485-SPHX & 01-549-SPHX
DATE 20 August 2001

#01-485-SPHX
#01-549-SPHX

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CATERED LIVING / COCKEYSVILLE

10881 YORK RD
 ZONING MAP NW-17#18B

DRAWN: CHECKED: JOB# SCALE: 1"=200' SHT. 11

#485

