IN RE: PETITION FOR SPECIAL HEARING

N/S of East Padonia Road, 360 ft. E

of Greenside Drive

8th Election District

3rd Councilmanic District

(N/S of East Padonia Road, 360 ft. E)

of Greenside Drive (Lorien Padonia)

BEFORE THE

DEPUTY ZONING COMMISSIONER *

OF BALTIMORE COUNTY *

CASE NO. 05-689-SPH *

John Mangione Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

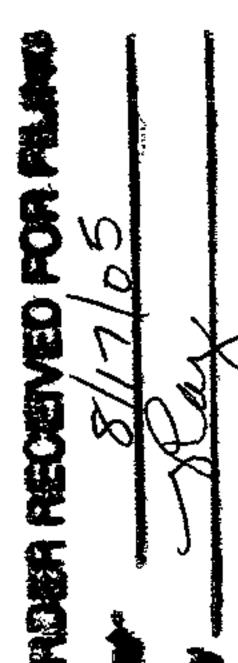
This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owner of the subject property, John Mangione. The Petitioner is requesting special hearing relief for property located at the north side of East Padonia Road, 360 ft. east of Greenside Drive (Lorien Padonia) in the Timonium area of Baltimore County. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a fee in lieu for a waiver of a portion of the open space requirements.

The property was posted with Notice of Hearing on August 1, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 2, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of



any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the special hearing request was Mitch Kellman of Daft, McCune & Walker, the engineering firm that prepared the site plan of the property, Mark Buda and Fritz Behlen on behalf of the Petitioner. G. Scott Barhight, Esquire represented the Petitioner. Jan Cook, from the Department of Recreation and Parks, attended the hearing. No Protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

MUNICIPAL FOR THE SECTION OF THE SEC

Mr. Barhight proffered that this property was the subject of an earlier proposal to build a six-story continuing care facility on the property which was approved in Case No. 01-283-X. This plan engendered substantial community opposition and is presently on appeal. Apparently in response to community opposition, the Petitioner hired Keelty Realty who in turn revised the plan by replacing the community care facility with 26 townhouses. See Petitioner's Exhibit 1. The new plan was granted a limited exemption from the full development process as shown by the letter from PDM dated January 27, 2005 and entered as Exhibit 2. However, the new plan has to address the issue of providing local open space.

The Developer proposes to waive providing 20,535 sq. feet of active local open space and pay a fee in lieu thereof instead. Mr. Barhight proffered that in all likelihood this development will attract older residents and few young families. Consequently, there is little need to provide

THE SOLLES

active open space on the project. The Department of Recreation & Parks has approved this request as shown in a letter dated July 25, 2005 which has been counter-signed by the Department Director and entered as Exhibit 3. Mr. Cook of that Department appeared at the hearing to indicate the Department's agreement with this request and respond to questions. Finally, the Petitioner presented a letter of support from Stephen Weber, representing the County Home Park Community Association.

Mr. Kellman, zoning consultant, opined that the size, scope and nature of the proposed development do not justify compliance with the regulations, given the circumstances. He further noted that the waiver would be within the scope purpose, and intent of the regulations. Finally, he indicated that all other County laws have been complied with and that strict compliance with the regulations would cause unnecessary hardship on the Petitioner.

.Findings of Fact and Conclusions of Law

The Department of Recreation and Parks has consistently interpreted the Local Open Space Manual to grant the Department itself jurisdiction to grant waivers of local open space for development below 20 units. However, above those 20 dwelling units the Department simply recommends to the Zoning Commissioner under Section 32-4-107 of the Baltimore County Code.

I find that the Department has "requested" (agreed to) this waiver as shown by the Director's signature on Exhibit 3. I further find that the size, scope and nature of the proposed development does not justify compliance with the regulations. In addition, I find that the waiver would be within the scope purpose, and intent of the regulations. Finally, I find that all other County laws have been complied with and that strict compliance with the regulations would cause unnecessary hardship on the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's special hearing request should be granted.

THEREFORE, IT IS ORDERED, this <u>1</u> day of August, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a fee in lieu for a waiver of a portion of the open space requirements, be and is hereby GRANTED.

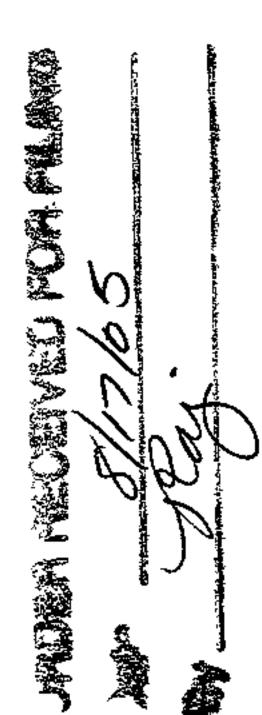
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

August 17, 2005

G. Scott Barhight, Esquire Whiteford, Taylor & Preston, L.L.P. 210 W. Pennsylvania Avenue Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 05-689-SPH
Property: N/S of East Padonia Road, 360 ft. E
of Greenside Drive (Lorien Padonia)

Dear Mr. Barhight:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has 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 Department 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,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Mitch Kellman & Fritz Behlen, Daft, McCune & Walker, 200 E. Pennsylvania Ave., Towson, MD 21286 Mark Buda, 61 E. Padonia Road, Timonium, MD 21093 Jan Cook, Department of Recreation & Parks



Visit the County's Website at www.baltimorecountyonline.info

2741U 666 8806

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Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

North Side of East Padonia Road,

360 Feet East of Greenside Drive

for the property located at (Locien Padonia)

which is presently zoned BL/BR/DR 3.5/DR 16

IWe do solemnly declare and affirm, under the penalties of

is the subject of this Petition.

perjury, that I/we are the legal owner(s) of the property which

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

a fee in lieu for a Waiver of a portion of the Open Space Requirements.

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

Contract Purchaser/Lessee:	Legal Owner(s):
LOUNDWOOD RIDGE TO LLC	JOHN MANGIONE - REPRESENTA-
Name - Type or Print : Mark E. Bua	La Name - Type or Print
Signature	Signature Mangione
Address 928 410 151 3	600_
TIMONIUM MO 21094	The state of the s
City State Zip Code	
Attorney For Petitioner:	1205 york Rd 410-825-8400
G. Scott Burhight	Address Telephone No.
Name - Tape of Fring	
	Representative to be Contacted:
Signature /	Metchell T. V. House DMW, Inc.
Whitefork, Taylor, and Areston, LLP Company 410-	-832 Name Det J. Kellman DMW, Inc.
ZXOW. FERNSYlvania Au, Suit 400 207	27 Loo East Pennsylvania Ave 3333
Telephone No.	Address Telephone No.
City State Zip Code	Towson MD 21286 City State Zip Code
No 05-690 201	OFFICE USE ONLY
	ESTIMATED LENGTH OF HEARING
Case No. <u>05-689</u> -5PM	UNAVAILABLE FOR HEARING
REV 9/15/98	Reviewed By LTM Date 4/27/05
	- · · · · · · · · · · · · · · · · · · ·

Description

To Accompany Petition For Special Hearing

5.306 Acre Parcel

Lorien Padonia

Northeast side of Padonia Road, Southeast of Greenside Road Eighth Election District, Baltimore County, Maryland



Daft•McCune•Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
http://www.dmw.com
410 296 3333
Fax 410 296 4705

A Team of Land Planners,

Landscape Architects,

Golf Course Architects,

Engineers, Surveyors &

Environmental Professionals

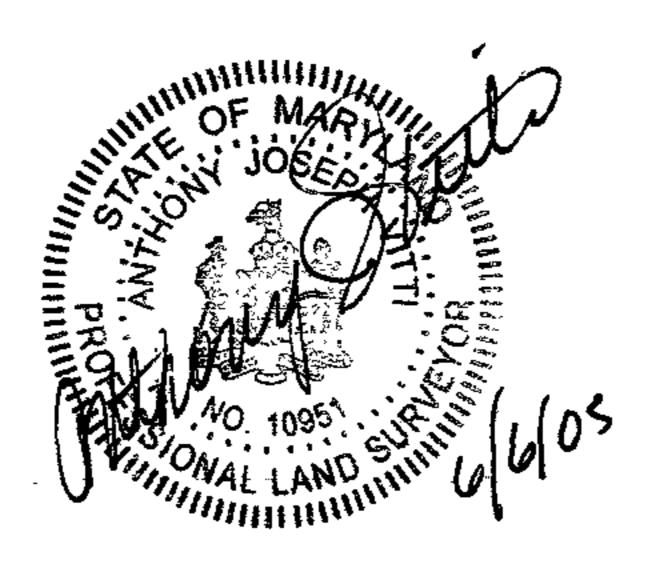
Beginning for the same on the northeast side of Padonia Road (80' wide) at the end of the second of the two following courses and distances measured from the point formed by the intersection of the centerline of Padonia Road with the centerline of Greenside Road (70' wide), (1) Southeasterly along said centerline of Padonia Road, 360 feet, more or less, and thence, (2) Northeasterly 40 feet to the point of beginning, thence leaving said beginning point and said road for the eight following courses and distances, viz: (1) North 25 degrees 12 minutes 54 seconds East 225.03 feet, thence (2) South 64 degrees 47 minutes 06 seconds East 140.00 feet, thence (3) North 08 degrees 26 minutes 21 seconds East 345.68 feet, thence (4) South 31 degrees 48 minutes 54 seconds East 80.95 feet, thence (5) South 83 degrees 29 minutes 02 seconds East 404.94 feet, thence (6) South 06 degrees 57 minutes 58 seconds West 346.90 feet, thence (7) North 84 degrees 00 minutes 29 seconds West 319.11 feet, and thence (8) South 05 degrees 56 minutes 43 seconds West 219.21 feet to the northeast side of Padonia Road, thence binding on said road the two following courses and distances, viz: (9) Northwesterly, by a line curving to the right with a radius of 1760.00 feet for a distance of 33.61 feet (the arc of said curve being subtended by a chord bearing North 65 degrees 19 minutes 55 seconds West

33.61 feet) and thence (10) North 64 degrees 47 minutes 06 seconds West 337.77 feet to the point of beginning; containing 5.306 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

June 6, 2005

Project No. 97114.B (L97114.B)



NOTICE OF ZOMING 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: #05-689-SPH
N/side of East Padonia Road,
360 feet east Greenside Drive
8th Election District
3rd Councilmanic District
Legal Owner(s):

John Mangione - Owner
Representative
Contract Purchaser:

Roundwood Ridge V, LLC **Special Hearing:** to allow a fee in lieu for a waiver of a portion of the Open Space Requirements.

Hearing: Tuesday, August 16, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III 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/8/602 Aug. 2 61150

CERTIFICATE OF PUBLICATION

<u>8 3 ,2005</u>
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 8/2,20 <u>05.</u>
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. Wilkings

LEGAL ADVERTISING

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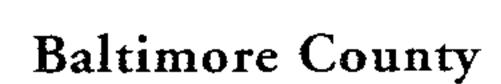
CERTIFICATE OF POSTING

	RE: Case No.: 05-689-594
4	Petitioner/Developer: Ray MUD (1907)
	RIDGE IV, LLC
	Date of Hearing/Closing: 台() Gー/6-200.
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Kristen Matthews {(410) 887-3394}	
Ladies and Gentlemen:	t
This letter is to certify under the penalties of perjoosted conspicuously on the property located at:	ury that the necessary sign(s) required by law were
N/SIDE OF FAST PADO	WIA RDIBLO FEET EAST
GREENSIDE DRIVE	
The sign(s) were posted on	AUG 1, 2005
	Month, Day, Year)
S	Sincerely,
	- 4
	Robert Black 8-3-05.
	(Signature of Sign Poster) (Date)
	SSG Robert Black
·	(Print Name)
	1508 Leslie Road
Lead of the state	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)

Department of Permits a Development Management

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





James T Smith, Jr., County Executive
Timothy M Kotroco Director

June 29, 2005

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: 05-689-SPH

N/side of East Padonia Road, 360 feet east Greenside Drive

8th Election District – 3rd Councilmanic District

Legal Owner: John Mangione – Owner Representative

Contract Purchaser: Roundwood Ridge IV, LLC

Special Hearing to allow a fee in lieu for a waiver of a portion of the Open Space Requirements.

Hearing: Tuesday, August 16, 2005 at 11:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: G. Scott Barhight, 210 W. Pennsylvania Avenue, Ste. 400, Towson 21204 John Mangione, 1205 York Road, Lutherville 21093 Mark Buda, Roundwood Ridge IV, P.O. Box 528, Timonium 21094 Mitchell J. Kellman, 200 E. Pennsylvania Avenue, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 1, 2005.

- (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.



Visit the County's Website at www.baltimorecountyonline.info

TO: PATUXENT PUBLISHING COMPANY

Tuesday, August 2, 2005 Issue - Jeffersonian

Please forward billing to:

Mitchell J. Kellman

DMW, Inc.

200 E. Pennsylvania Avenue

Towson, MD 21286

410-296-3333

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: 05-689-SPH

N/side of East Padonia Road, 360 feet east Greenside Drive

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401 Bosley Avenue, Towson 21204

WILLIAM J WISEMAN III

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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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: 05-639-5PLL
Petitioner: Roundwood Ridge V, LLC
Petitioner: Roundwood Ridge V, LLC North Side of East Padonia Roal, 360 F+ East Address or Location: of Greenside Drive (Lorien Padonia)
PLEASE FORWARD ADVERTISING BILL TO:
Name: Mitchell J. Kellman DMW, Inc.
Address: 200 East Pennsylvania Ave
Touson MD 21286
Telephone Number: 410-296-3333

Department of Permits and Development Management

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



Baltimore County

James T Smith, Jr, County Executive
Timothy M Kotroco, Director

August 8, 2005

G. Scott Barhight Whiteford, Taylor & Preston, LLP. 210 W. Pennsylvania Avenue, Ste. 400 Towson, Maryland 21204

Dear Mr. Barhight:

RE: Case Number: 05-689-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 27, 2005.

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.

U. Carl Richall

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
John Manginone 1205 York Road Lutherville 21093
Roundwood Ridge V P.O. Box 528 Timonium 21094
Mitchell Kellman 200 E. Pennsylvania Avenue Towson 21286



Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO:

Timothy M. Kotroco

FROM:

R. Bruce Seeley

DATE:

September 7, 2005

SUBJECT:

Zoning Item # See List Below

Zoning Advisory Committee Meeting of July 11, 2005

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-680

05-681

05-682

05-684

05-687

05-688 05-689

05-692

Reviewer:

Sue Farinetti, Dave Lykens

Date: July 6, 2005

S:\Devcoord\ZACNOCOMMENT9-05 doc



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 7.11.05

Item Nø.

Baltimore County

689

RE:

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

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration 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,

Steven D. Foster, Chief

J. J. Stelle

Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 8, 2005

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

Zoning Advisory Petition(s): Case(s) 5-689-Special Hearing

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 Bill Hughey in the Office of Planning at 410-887-3480.

Division Chief:

CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 15, 2005

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for July 18, 2005

Items Nos. 684, 686, 687, 688 & 689

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

DAK:CEN:cab

cc: File

Baltimore County Government Fire Department



700 East Joppa Road Towson, MD 21286-5500 Office of the Fire Marshal (410) 887-4880

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 July 5, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: July 11, 2005

Item No.: 680-693

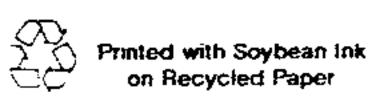
Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

Comments:

1. The fire marshal's office has no comments at this time

Insp. Mezick
Fire Marshal's Office
410-887-4880
MS-1102F

cc: File



RE:	PETITION FOR SPECIAL HEARING North side of East Padonia Road, 360 feet	*	BEFORE THE
	East of Greenside Drive	*	ZONING COMMISSIONER
	8 th Election & 3 rd Councilmanic Districts Legal Owner(s): John Mangione	*	FOR
	Contract Purchasers: Roundwood Ridge V,	LLC	
	by Mark E. Buda	*	BALTIMORE COUNTY
	Petitioner(s)		
		*	05-689-SPH

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and 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 July, 2005, a copy of the foregoing Entry of Appearance was mailed to Mitchell Kellman, DMW, Inc, 200 East Pennsylvania Avenue, Towson, MD 21286 and to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

JUL 07205

Per W

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

RECE/VED COUNTY HOME PARK COMMUNITY ASSN., INC. 120 GIBBONS BOULEVARD

COCKEYSVILLE, MD 21030

August 10, 2005

Mr. William J. Wiseman, III Baltimore County Zoning Commissioner 401 Bosley Avenue Towson, MD 21204

AUG 1 5 2005 ZONING COMMISSIONER

Special Exception Hearing 8/16/05, Case # 05-689-SPH - Lorien Padonia RE:

Dear Mr. Wiseman:

After consultation with David Jordan, President of the County Home Park Community Association, I have been authorized to send you a letter providing our support to the request of the petitioners to be allowed a fee in lieu for a waiver of a portion of the Open Space requirement. We have been working closely with James Keelty and Company as they have taken over the development of this parcel of ground for this townhouse development. The previous development proposal of a 6-story high Continuing Care Facility on this site by the Mangione family had been vigorously opposed by this community. We find the current proposal to be a significant improvement over the continuing care facility and we wish to see the current proposal succeed to completion.

We further understand that while this is requesting a waiver of a portion of the Open Space requirement, this does not in any way affect the continued presence and development of the area noted as a 0.47 Acre Forest Conservation Area at the north end of the site which directly abuts our community association's members' properties. We have been assured by Mr. Mark Buda, of James Keelty and Company, that they will continue to work with our community and specifically Arnold & Theresa Land and Gary & Tricia Lay on the development of an acceptable landscape plan for this area as it continues through the development review process of the County. It is hoped that a plan can be developed which will provide a sufficient vegetative buffer at the rear of these properties and help preserve the "closed-in" and protected feel these residents currently enjoy.

Therefore, we ask for your consideration in granting the petitioner's request for relief of the Open Space requirements. We will be unable to attend the hearing due to previous commitments and hope that this letter of support can serve in our absence.

Sincerely,

Stephen E. Weber, Treasurer

County Home Park Community Assoc., Inc.

Mark Buda, James Keelty & Company, Inc., 61 E. Padonia Rd, 21093 cc: David Jordan, President, County Home Park Community Assoc., Inc. Arnold & Theresa Land Gary & Tricia Lay

PLEASE PRINT CLEARLY

CASE NAME N/S 6- Babonia Rd. E Greensia CASE NUMBER 05-689-SPH DATE 8/16/65

PETITIONER'S SIGN-IN SHEET

E- MAIL.	nkellman e DMW. com			
CITY, STATE, ZIP TOWN MIS 21286 TOWN, MIN 21286				
210 W. 14m. ALL OIE PODULIO RO- 2002 MAN AVE	2002			
GLON GALIN MANE MARK BUDD FRITZ BEHLEN MIN	Kellmin			

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 05-689 SFH
DATE Assur 16, 2005

COUNTY REPRESENTATIVE'S

E- MAIL									
CITY, STATE, ZIP									
ADDRESS RAZ. & FRAX.									
NAME									

Baltimore County Government
Department of Permits and
Development Management





111 West Chesapeake Avenue Towson, MD 21204

410-887-3335

January 27, 2005

DMW, Inc. 200 East Pennsylvania Avenue Towson, MD 21286

> RE: Lorien Padonia Padonia Village PDM Number VIII-401 DRC Number 011005C, Dist. 8C3

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Sections 32-1-101, 32-3-401, and 32-3-517 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 32-4-106 and Section 32-4-262 of the <u>Baltimore County Code</u> and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on January 10, 2005, and made the following recommendations:

The DRC has determined that your project meets the requirements of refinement to the development plan, under Section 32-4-262. It is necessary to submit a plan to the Department of Environmental Protection and Resource Management, the Office of Planning, PDM's Office of Zoning, Development Plans Review, and Recreation and Parks for further review. Please forward the plans, along with five copies of this DRC letter, to Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204.

With 2





ROUNDWOOD RIDGE V LLC P.O.BOX 528 TIMONIUM, MD 21094

July 25, 2005

Mr. Robert J. Barrett, Director Baltimore County Department of Recreation and Parks 301 Washington Avenue Towson, MD 21204

Re:

Lorien Padonia

Waiver of Local Open Space DMW Project No. 97114.F

Dear Mr. Barrett:

Roundwood Ridge V LLC is requesting a waiver and fee-in-lieu of local open space for our proposed development of 26 garage town homes to be located approximately 700-feet east of Greenside Road on the north side of Padonia Road.

We agree to provide 5,455 square feet of passive local open space containing a gazebo and landscape amenities and are requesting a waiver of 20,535 square feet of LOS for a waiver fee of \$56,928.64. In addition, Keelty proposes to provide a donation of \$13,071.36 for improvements to local parks, amounting to a total of \$70,000 for both waiver and donation.

This agreement is based on obtaining approval for the above waiver at our August 16, 2005 Special Hearing and the project proceeding forward.

If this request is acceptable, please acknowledge with your signature in the space provided.

Sincerely,

Mark Buda

James Keelty and Company, Inc.

Acceptance:

žgnature

Date

DMW, Inc. Lorien Padonia Padonia Village January 27, 2005 Page 2

After resolution of any outstanding issues, please submit a copy of this letter, and ten copies of the plan to this office, Room 123, for signature.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 27th day of January 2005, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Timothy Ketroco

Director

TK:DTR:dak

c: Kristin Weis File IN RE: PETITION FOR SPECIAL EXCEPTION *

N/S East Padonia Road, 360' E

of Greenside Drive (Lorien Padonia) * ZONING COMMISSIONER

8th Election District

4th Councilmanic District * OF BALTIMORE COUNTY

(N/S E. Padonia Road, 360' E Greenside Dr.)

*

Louis Mangione, John Mangione,

Nicholas B. & Mary C. Mangione *

Petitioners

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Louis Mangione, John Mangione, Nicholas B. & Mary C. Mangione, requesting a special exception to approve a continuing care facility in a BR zone. The special exception petition involves property located on the north side of East Padonia Road, 360 ft. east of Greenside Drive.

Appearing at the hearing on behalf of the special exception request were John Seefried, a representative of Daft, McCune & Walker, the engineering firm who prepared the site plan of the property, John Mangione, appearing on behalf of the owners of the property and Scott Barhight, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, namely Stephen Weber, Tricia Lay, David McCubbin and David Jordan.

Testimony and evidence indicated that the property, which is the subject of this special exception request, contains 5.562 acres, more or less, split-zoned BL/BR/DR 3.5 & DR 16. The majority of the property consisting of 4.74 acres is zoned BR. The Petitioners propose to build and construct a six-story continuing care facility on the property in accordance with the site plan submitted into evidence as Petitioners' Exhibit No. 1. The subject property is located on the

north side of East Padonia Road, adjacent to the Padonia Village Apartments. The Mangione family owns and operates several continuing care and nursing home facilities in and around the Baltimore metropolitan area. They are interested in constructing a 56 bed nursing home in conjunction with an assisted living facility containing 139 units. Their family would own and operate the facility. The building itself would be six stories high on the south façade and only five stories to the rear of the site, as a result of the topography of the property. In order to proceed with the construction of this continuing care facility, the special exception request is necessary.

As stated previously, several residents from the surrounding community appeared in opposition to the Petitioners' request. Mr. Stephen Weber, a nearby resident, represented the County Home Park Association. Mr. Weber and members of his association are concerned over the loss of screening between their homes and the proposed facility. These residents understand that as a result of grading and clearing, the subject building will be seen from their properties. Therefore, they are very much concerned over the height of the building and its appearance.

Also testifying in opposition to the Petitioners' request was Ms. Tricia Lay. Ms. Lay will perhaps be the most affected neighbor to the property, given that her house and property abuts the proposed development on the northeast corner of the site. Ms. Lay is concerned over the use of retaining walls on the property and the visual impact that the building will have on her property. She, as well as others in attendance, asked that the building be reduced in height and appropriate screening placed along the borders of the property.

The Baltimore County Zoning Regulations specifically allows for a building of this type to be a height of 50 ft. That is what is proposed by the Petitioners. Therefore, I believe the height of the building is appropriate so long as appropriate screening is installed on the property

and that the facades of the building are architecturally pleasing. Therefore, I shall require the Petitioners to submit elevation drawings to the Office of Planning for their review and approval prior to any building permit being issued for this project. These elevation drawings shall also be provided to the citizens who attended the hearing, so that they may see what the building is proposed to look like. The citizens shall be permitted to communicate with the Office of Planning and give their input as to the design of the building. However, it shall be the decision of the Office of Planning as to the ultimate approval of the elevation drawings.

It is clear that the B.C.Z.R. permits the use proposed in a BR zone 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 should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this _____ day of March, 2001, that the special exception relief to approve a continuing care facility in a BR zone for property located on the north side of East Padonia Road, 360 ft. east of Greenside Drive, be and is hereby APPROVED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, 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 same property to its original condition.
- 2. The Petitioners shall be required to submit elevation drawings of the building to the Office of Planning and the citizens who attended the hearing. The citizens shall have an opportunity to comment on those drawings and discuss them with the representatives of the Office of Planning. However, it shall be the final decision of the Office of Planning as to the approval of these elevation drawings
- 3. The Petitioners shall be required to submit a lighting plan to Avery Harden, Landscape Architect for Baltimore County, for approval. In addition, the Petitioners shall submit a landscape plan to Mr. Harden for his review and approval which shall include landscaping both on the Petitioners' property, as well as on the property of Gary and Tricia Lay, in the event the Lays give permission for such landscaping to be installed on their property. Screening placed on the property owned by Mr. & Mrs. Lay will be more effective than any screening or landscaping that will be placed on the Petitioners' property, given the change in elevation between the two sites. Therefore, only if the Lays give permission shall the Petitioners be required to install landscaping on their property. In any event, the landscaping plan approved by Mr. Harden shall take into consideration both landscaping on the Petitioners' property, as well as landscaping on adjacent property.
- 4. The Petitioners shall be required to install appropriate safety fencing around the retaining walls to be used on the property. The design and location of this safety fencing shall be reviewed by Mr. Avery Harden, Landscape Architect for Baltimore County.

- 5. The Petitioners shall be required to minimize the amount of mechanical equipment to be installed on the roof of the building. In the event any mechanical equipment is actually placed on the roof of the building, it shall be shielded so that the sound of the equipment itself will not cause a nuisance to surrounding residents.
- 6. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

