IN RE: PETITIONS FOR SPECIAL HEARING, & SPECIAL EXCEPTION E/S of Old Court Road, 304 ft. S centerline of Church Lane 2nd Election District 4th Councilmanic District (5107 & 5109 Old Court Road)

> Kim Yamasaki, Executive Director Cooperative Services, Inc., Rev. Sheli McCurdy & Richard R. Stanfield

and
Cheryl Ross, Contract Purchaser
Petitioners

Legal Owners

BEFORE THE

\* DEPUTY ZONING COMMISSIONER

FOR

\* BALTIMORE COUNTY

CASE NO. 06-019-SPHX

\*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Special Exception filed by the legal owners of the property, and Kim Yamasaki, Executive Director of Cooperative Services, Inc., Rev. Sheli McCurdy & Richard R. Stanfield and the contract purchaser, Cheryl Ross. The property, which is the subject of this request, is located at 5107 and 5109 Old Court Road in Baltimore County. The Petitioners are requesting a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Zoning Commissioner should amend the site plan approved in Case No. 01-178-X, pursuant to parking and stormwater management integration with the accompanying Special Exception and to approve the minor density calculation changes from the approved 8.6 density units/acres to 8.98 density units/acres where Lot 2 parking is located on part of Lot 3, and to amend the Final Development Plan for "Randallstown Cooperative Housing". In addition, the Petitioners are requesting a special exception to use the herein described property for an increase in density from DR-5.5 to 12.95 density units per acre

(DR-12.95), to permit construction of 75 one-bedroom and one two-bedroom independent clderly housing units pursuant to Section 432.3.A.1 of the B.C.Z.R.

The property was posted with Notice of Hearing on July 15, 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 July 15, 2005, to notify any interested persons of the scheduled hearing date.

#### Applicable Law

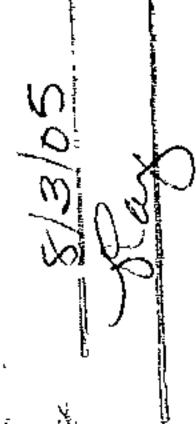
Section 502.1 of the B.C.Z.R. - Special Exceptions

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 danger;
- 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; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- 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. [Bill No. 74-2000]

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.



#### **Amended Petition**

The Petitioner listed several minor changes to the requested relief as shown on the redline Plan to Accompany, Exhibit 2. These changes include changing the requested density for the new apartment complex from 12.95 to 12.84 and changing the density of the existing complex from 8.98 to 9.01.

#### **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 and special exception requests were Robert Rosenfeld and Judith Floam, from the engineering firm of Colbert Matz and Rosenfelt, Rev. Laura Lee Wilson and Cheryl Ross, Petitioners. Jeffrey Scherr, Esquire represented the Petitioners at the hearing. No protestants or citizens attended the hearing. People's Counsel entered their appearance in the case.

#### Testimony and Evidence

Mr. Scherr proffered that the Mt. Olivet Methodist Church owns the subject 23+ acre property. The Church itself and a 74-unit apartment complex for the elderly improve the site, which was approved by this Commission in Case No. 01-178-X. The property is proposed to be divided into three lots. See Petitioner's Redline Plan to Accompany, Exhibit 2. Lot 1 contains approximately 13 acres and is improved by the Church and its associated facilities. Lot 3 contains approximately 6.4 acres and is improved by the existing 74-unit apartment. Lot 2 then would contain 4.2 acres where the Petitioners propose to erect a 76-unit apartment complex, which is the subject of this Petition. Parking for the proposed apartment of 56 spaces will be

provided on Lot 2 and by easement on Lot 3 as shown on Exhibit 2 outlined in bold black lines. The Petitioners are proceeding under the old Section 432 of the B.C.Z.R. as concurred by the Zoning Office. See letter from the Zoning Office dated July 15, 2004, Exhibit 5.

Mr. Scherr explained that the proposed use as housing for the elderly will be operated as a cooperative by the non-profit Cooperative Services Inc. that presently has eight such locations in Maryland of which the existing 74-unit complex is one successful example. Opening a facility for 76 units as proposed will not satisfy all the demand, because this facility at present has a waiting list of 100. These complexes have boards of advisors composed of members of the Church and residents who govern the facilities for the residents. Ms. Ross indicated that the proposed project has had wide community support, including support from all local government officials as shown by Petitioner' Exhibit 6.

Mr. Scherr indicated that under old Section 432 density for housing for the elderly could be increased from 5.5 dwelling units per acre (DR 5.5), up to DR 16 density by Special Exception. However, in this case, the Petitioners propose a density of 12.84 units per acre for Lot 2. Mr. Rosenfelt indicated that this request met each criteria under section 502.1 of the B.C.Z.R. As one example, 56 parking spaces would be provided for the new complex. Ms. Ross indicated that this was more than adequate, considering that fewer elderly residents drive and the fact that 50 spaces work well at the existing facility which is a similar sized complex. Parking for the new complex will be provided primarily at the front of the new building, but also on the side as shown on the Plan to Accompany by easement which burdens Lot 3. Each witness opined that there would be no adverse impact on the community, again as shown by widespread community support.

Mr. Scherr also proffered that in actually constructing the existing complex on Lot 3, wider drive aisles than previously planned were installed to meet the fire department requirements. In addition, some parking and storm water management facilities for the new complex on Lot 2 will be located on Lot 2. Consequently, the density of Lot 3 had to be adjusted slightly to amend the Final Development Plan approved in Case No. 01-178-X such that the approved density of 8.6 units per acre have to increase to 9.01 units per acre and the site plan updated accordingly.

#### Findings of Fact and Conclusions of Law

#### Applicable Law

I agree with the Zoning Office that the proposed apartment complex may proceed under old Section 432 rather than the new PUD regulations that replaced them. This proposal is another phase in this ongoing development within the 23 acres tract boundary. As such, it becomes a refinement to the plan and can proceed under the old regulations.

#### Special Exception

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As the Deputy Commissioner found in Case No. 01-178-X, I find that this tract qualifies for increased density as housing for the elderly in that the property involves an institutional site, a church, and contains more than 10 acres. I further find that the subject property is suitable for the type of development proposed, as shown by the success of the adjacent cooperative apartment complex for the elderly. I further find that the balance of the tract outside the Church and previously approved apartment complex will be used for open space and recreational uses, and that the development will not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding neighborhood.

I find that the proposed plan meets each criteria of Section 502.1 of the B.C.Z.R. and so I will grant the Petitioners' request to increase the density of lot 2 from 5.5 dwelling units per acre to 12.84 dwelling units per acre. This request is below the maximum density of old Section 432 density for housing for the elderly of DR 16 density. Fifty-six parking spaces would be provided for the new complex. I agree with Ms. Ross who indicated that this was more than adequate parking considering that fewer elderly residents drive and the experience from the existing facility where 50 parking spaces work well for a similar size complex. I find that there would be no adverse impact on the community as shown by widespread community support. Finally, I find that the board of advisors who will operate this cooperative provides for participation by members of surrounding communities.

#### **Special Hearing**

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I will also approve the Petitioners' request to amend the site plan approved in Case No. 01-178-X, pursuant to parking and stormwater management integration with the accompanying Special Exception and to approve the minor density calculation changes from the approved 8.6 density units/acres to 9.01 density units/acres, where Lot 2 parking is located on part of Lot 3, and to amend the Final Development Plan for "Randallstown Cooperative Housing" for the reasons given above.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this \_\_\_\_\_\_ day of August, 2005, that the Petitioners' request for special hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Zoning Commissioner should amend the site plan approved in Case No. 01-

178-X, pursuant to parking and stormwater management integration with the accompanying Special Exception and to approve the amended minor density calculation changes from the approved 8.6 density units/acres to 9.01 density units/acres where Lot 2 parking is located on part of Lot 3, and to amend the Final Development Plan for "Randallstown Cooperative Housing", be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioners' amended request for special exception to use the herein described property for an increase in density from DR-5.5 to 12.84 density units per acre (DR-12.84), to permit construction of 75 one-bedroom and one two-bedroom independent elderly housing units pursuant to Section 432.3.A.1 of the B.C.Z.R., be and is hereby GRANTED, subject, however, to the following restriction which is condition precedent to the relief granted herein:

1. The Petitioners may apply for any necessary permits and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded;

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

SISION STATES

### 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 4, 2005

Jeffrey Scherr, Esquire Kramon & Graham, P.A. One South Street, Suite 2600 Baltimore, Maryland 21202

Re: Petitions for Special Exception & Special Hearing Case No. 06-019-SPHX
Property: 5107 & 5109 Old Court Road

Dear Mr. Scherr:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special hearing and special exception 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 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

John J- Thurston

JVM:raj Enclosure

Robert Rosenfeld & Judith Floam, Colbert Matz & Rosenfelt, 2835 Smith Avenue, Suite G, Baltimore, MD 21209
Rev. Laura Lee Wilson, 5113 Old Court Road, Randallstown, MD 21133
Cheryl Ross, 1001 North Point Blvd., #505, Baltimore, MD 21224



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



# Petition for Special Hearing

# to the Zoning Commissioner of Baltimore County

for the property located at: 5107 Old Court Road
which is presently zoned <u>D.R5.5</u>

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 of thereof, hereby petition for a Special Hearing under 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commission should approve

To amend the site plan approved in Case No. 01-178-X, pursuant to parking and stormwater management integration with the accompanying Special Exception and to approve the minor density calculation changes where Lot 2 parking is located on part of Lot 3. And to amend the Final Development Plan for Randallstown Cooperative Housing.

# FROM THE APPROVED 8.6 DENSITY UNITS/ACRE TO 8.48 DENSITY UNITS/ACRE.

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.

Contract Purchaser/Lessee: Name - Type or Print Signature Address. Telephone No. City Zip Code State Attorney For Petitioner: Jeffrey Scherr, Esq. Name → Type or Print Signature Kkapion & Graham, P.A. Company 410-752-6030 One South Street, Suite 2600 Telephone No. Address MD 21202 Baltimore Zip Code City State

Case No. 06 019 5PHX

I/We do s	solemnly	declare and	affirm,	under th	e penaltie	s of
perjury, t	hat I/we a	are the legal	owner	(s) of the	property	which
Is the sul	bject of th	nis Petition.				

#### Legal Owner(s):

Corporation Fxccutive  Name - Type or Pfint	at we se	-rvice
Signature	,, <u> </u>	
Name - Type or Print		
Signature		
1001 North Point Blvd., Suite 505	410-2	88-9624
Address.	Teleph	one No.
Baltimore	MD	21224
City	State	Zip Code
Representative to be Contacted:		

Robert S Rosenfelt, P.E.			
COLBERT MATZ ROSENFELT, INC	C (eve)	410-3	58-8262
2835 Smith Avenue, Suite G	(day)	410-6	53-3838
Address		Teleph	one No.
Baltimore		MD	21209
City		State	Zip Code

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# Petition for Special Exception

# to the Zoning Commissioner of Baltimore County

for the property lea	ated at: <b>5109</b> 'Cated at: <b>5115</b> Old Court Road
<b>-</b> •	rich is presently zoned D.R5.5
This Petition shall be filed with the Department of Pernowner(s) of the property situate in Baltimore County and who made a part of hereof, hereby petition for a Special Exception herein described property for  AN INCREASE INCREASE INCREASE COR-18.9  Construction of 75 one-bedroom and one two-bedroom	nits and Development Management. The undersigned, legalich is described in the description and plat attached hereto and under the Zoning Regulations of Baltimore County, to use the DENSTRY FROM DR-5.5 TO 12.95
432.3.A.1, BCZR.	
Property is to be posted and advertised as prescribed by the zoning I, or we, agree to pay expenses of above Special Exception, advertise zoning regulations and restrictions of Baltimore County adopted pure	sing, posting, etc and further agree to and are to be bounded by the
	Is the subject of this Petition.
Contract Purchaser/Lessee:	<u>Legal Owner(s):</u>
Cheryl Ross, Randallstown II Nonprofit Housing Corp.  Name - Type or Print  Signature  1001 North Point Blvd., Suite 505  Address  Baltimore  MD 21224  City  State Zip Code	Rev She is McCowdy Mt. Olive United Methodist Church  Name - Type or Print  Signature  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Name - Type or Print  Rev She is McCowdy Mt. Olive United Methodist Church  Signature  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United Methodist Church  Rev She is McCowdy Mt. Olive United McCowdy
Attorney For Petitioner:	5113 Old Court Road
Jeffrey Scherr, Esq.  Name – Type or Print  Signature	Address. Telephone No.  Randallstown MD 21133  City State Zip Code  Representative to be Contacted:
Kramon & Graham, P.A.	Robert S Rosenfelt, P.E.
Company	COLBERT MATZ ROSENFELT, INC (eve) 410-358-8262
One South Street, Suite 2600 410-752-6030	2835 Smith Avenue, Suite G (day) 410-653-3838
Address Telephone No.	Address Telephone No.
Baltimore MD 21202 State Zip Code	Baltimore MD 21209 City State Zip Code
Case No. 06 019 SPHX	OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING 7/26-2/28 Reviewed By Date

# Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

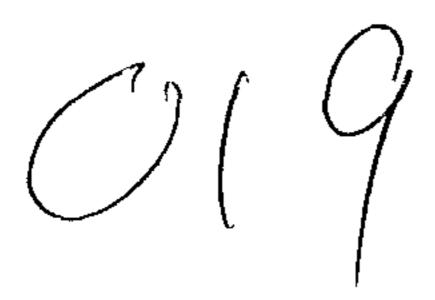


# ZONING DESCRIPTION FOR SPECIAL EXCEPTION 5109 OLD COURT ROAD

Beginning at a point South 45°35'02" East, 715.52 feet from a point on the east side of Old Court Road, which is 70 feet wide, at a distance of \$75 feet, more or less, south of the centerline of the nearest improved intersecting street which is Church Lane, 60 feet wide. Thence the following courses and distances:

S 45°35'02" E 20.06 ft.; S 81°28'55" E 41.81 ft.; N 71°31'23" E 93.89 ft.; S 52°05'09" W 390.97 ft.; S 32°26'48" W 361.95 ft.; N 53°28'43" W 11.10 ft.; N 58°56'21" W 445.89 ft.; N 31°09'45" E 201.81 ft.; N 35°28'07" W 70.15 ft., thence N 44°28'58" E, 97.48 ft. to the Point of Beginning.

Being proposed Lot 2 on the plat of Randallstown Cooperative Housing as recorded in Baltimore County Plat Book 74, Page 21. Containing 181,507 square feet (4.17 acres). Also known as 5109 Old Court Road and located in the 2<sup>nd</sup> Election District.





# Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

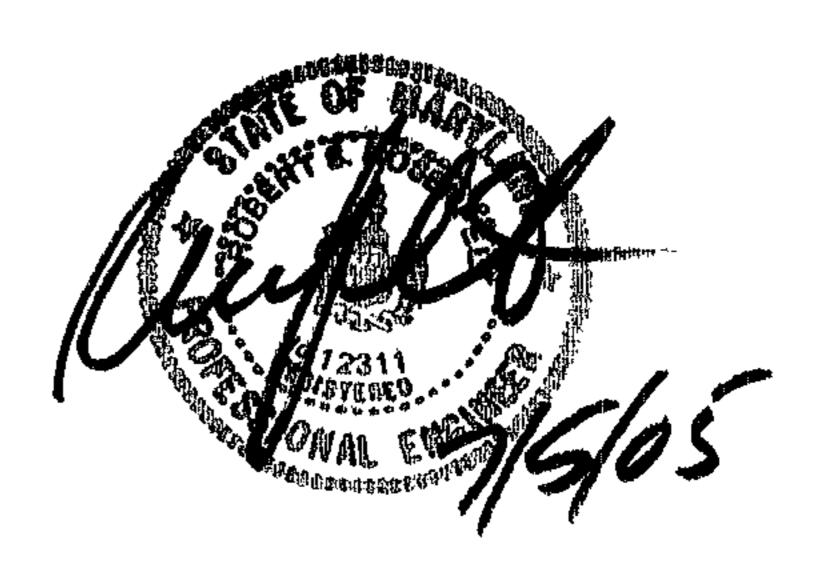


# ZONING DESCRIPTION FOR SPECIAL HEARING 5107 OLD COURT ROAD

Beginning at a point on the east side of Old Court Road, which is 70 feet wide, at a distance of 304 feet south of the centerline of the nearest improved intersecting street which is Church Lane, 60 feet wide.

Being Lot 3 on the plat of Randallstown Cooperative Housing, as recorded in Baltimore County Plat Book 74, page 21. Containing 280,665 square feet (6.44 acres). Also known as 5107 Old Court Road and located in the 2<sup>nd</sup> Election District.

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#### **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: # 06-019-SPHXA

5107 & 5109 Old Court Road

E/side of Old Court Road, 304 feet south of Church Lane 2nd Election District — 4th Councilmanic District Legal Owner(s): Mt. Olive United Methodist Church Contract Purchaser. Randalistown II-Nonprofit Housing Corp

Special Exception to permit an increase in density from D.R. 5.5 to 12.95 density units per acre (D.R. 12.95) to per construction of 75 one-bedroom and one two-bedroom independent elderly housing units. Special Hearing to amend the site plan approved in Case No. 01-178-X, pursuant to parking and stormwater from the approved 8.6 density units/acres to 8.98 density/acres where Lot 2 parking is located on part of Lot 3. To amend the Final Development Plan for Randallstown Cooperative Housing

Hearing: Monday, August 1, 2005 at 9:00 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 Com-

missioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391. \_59585 JT 7/708 July 15

# CERTIFICATE OF PUBLICATION

$\frac{7}{20}$ , 2005
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,2005.
The Jeffersonian  Arbutus Times  Catonsville Times  Towson Times  Owings Mills Times  NE Booster/Reporter  North County News
S. Wilking

LEGAL ADVERTISING

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# CER FICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

Date July 18, 2005

RE: Case Number 06-019-SPHXA

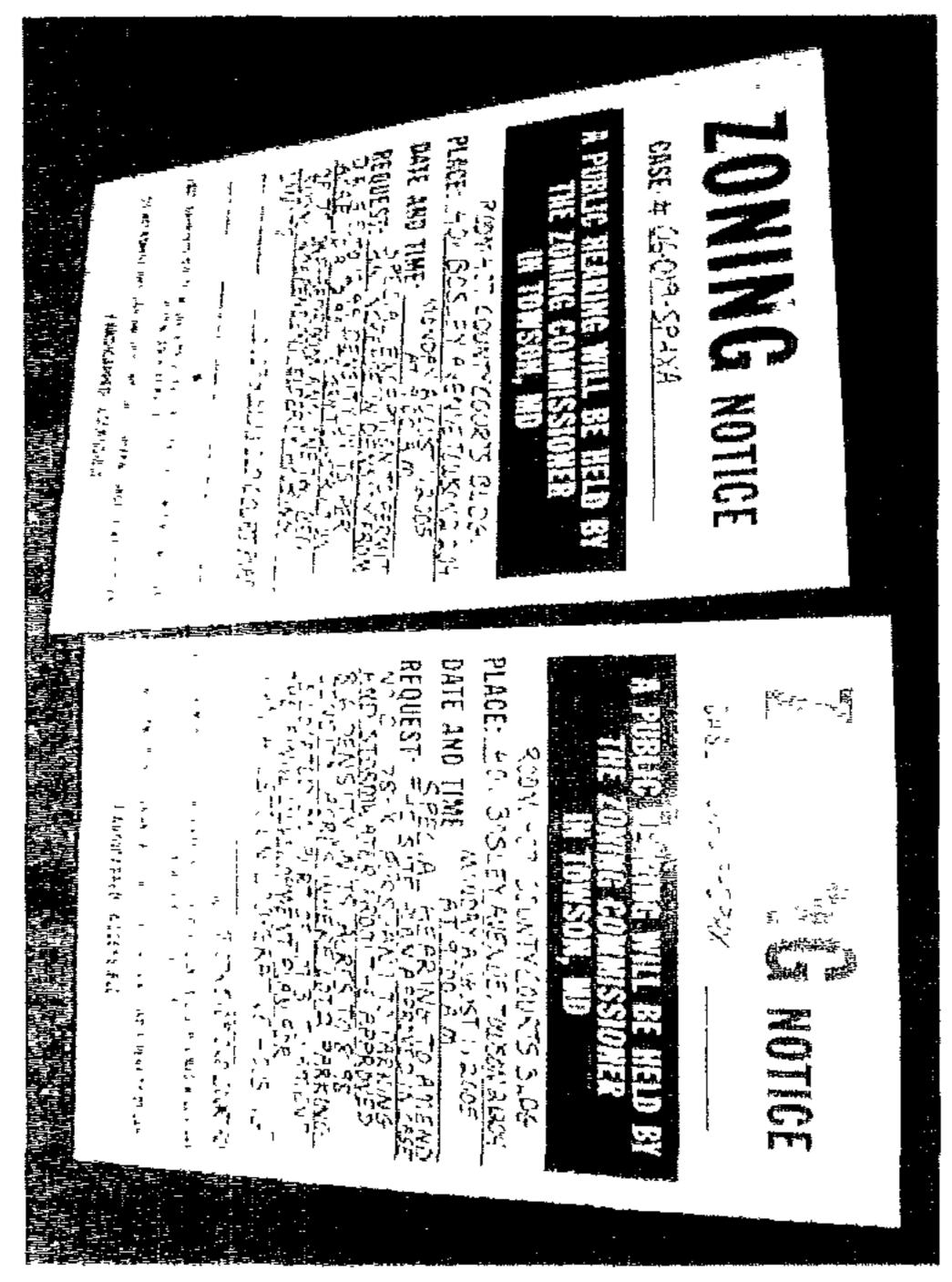
Petitioner/Developer JEFFREY SCHERR/REV. SHEILA MCCURDY/CHERYL ROSS

Positioner/Developer ROBERT S. ROSENFELT

Date of (Hearing) Closing AUGUST 1, 2005

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 5107 + 5109 OLDCOURT ROAD

The sign(s) were posted on



(Signature of Sign Poster)

Linda O'Keefe (Printed Name of Sign Poster)

523 Penny Lane (Street Address of Sign Poster)

Hunt Valley Maryland 21030 (City, State, Zip Code of Sign Poster)

410-666-5366 (Telephone Number of Sign Poster)

BEFORE THE PETITION FOR SPECIAL HEARING RE: AND SPECIAL EXCEPTION ZONING COMMISSIONER 5107 and 5109 Old Court Road; E/side Old \* Court Rd, 304' S of Church Lane 2<sup>nd</sup> Election & 4<sup>th</sup> Councilmanic Districts FOR Legal Owner(s): Kim Yamaski Exe. Director BALTIMORE COUNTY Coopertive Services, Rev. Sheli McCurdy & Richard R. Stanfield 06-19-SPHX Contract Purchaser(s): Cheryl Ross Petitioner(s) \*

### 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 18<sup>th</sup> day of July, 2005, a copy of the foregoing Entry of Appearance was mailed to Robert S. Rosenfelt, P.E., Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209, and Jeffrey Scherr, Esquire, Kramon & Graham, P.A., One South Street, Suite 2600, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per....

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 19, 2005 Issue - Jeffersonian

Please forward billing to:

Cooperative Services, Inc. 1001 North Point Blvd., Ste. 505 Baltimore, MD 21224

410-288-9624

## **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: 06-019-SPHXA

5107 & 5109 Old Court Road

E/side of Old Court Road, 304 feet south of Church Lane

2<sup>nd</sup> Election District – 4<sup>th</sup> Election District

Legal Owners: Mt. Olive United Methodist Church

Contract Purchaser: Randalistown II Nonprofit Housing Corp.

Special Exception to permit an increase in density form D.R. 5.5 to 12.95 density units per acre (D.R. 12.95) to per construction of 75 one-bedroom and one two-bedroom independent elderly housing units. Special Hearing to amend the site plan approved in Case No. 01-178-X, pursuant to parking and stormwater from the approved 8.6 density units/acres to 8.98 density/acres where Lot 2 parking is located on part of Lot 3. To amend the Final Development Plan for Randallstown Cooperative Housing.

Hearing: Monday, August 1, 2005 at 9:0 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 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

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



## **Baltimore County**

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

July 13, 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: 06-019-SPHXA

5107 & 5109 Old Court Road

E/side of Old Court Road, 304 feet south of Church Lane

2<sup>nd</sup> Election District – 4<sup>th</sup> Election District

Legal Owners: Mt. Olive United Methodist Church

Contract Purchaser: Randallstown II Nonprofit Housing Corp.

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Hearing: Monday, August 1, 2005 at 9:0 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

Timothy Kotroco

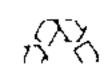
Muthy Kotroco

Director

TK:klm

C: Jeffrey Scherr, One South Street, Ste. 2600, Baltimore 21202 Rev. Sheila McCurdy, Richard Stanfield, 5113 Old Court Road, Randallstown 21133 Cheryl Ross, 1001 North Point Blvd., Ste. 505, Baltimore 21224 Robert S. Rosenfelt, 2835 Smith Avenue, Ste. G., Baltimore 21209

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JULY 16, 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.



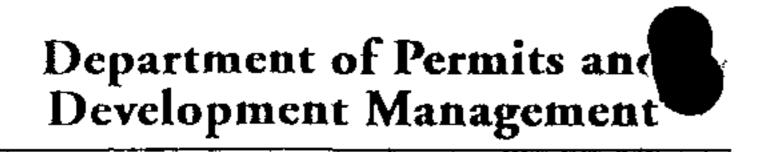
# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

## 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.

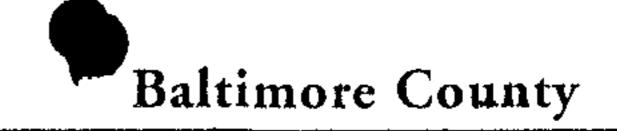
Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted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

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



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





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

July 25, 2005

Jeffrey Scherr, Esquire Kramon & Graham, P.A. One South Street, Ste. 2600 Baltimore, Maryland 21202

Dear Mr. Scherr:

RE: Case Number: 06-019-SPHX, 5109 Old Court Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 6, 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 D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Rev. Sheila McCudy Mt. Olive United Methodist Church 2835 Smith Avenue Ste. G Baltimore 21209
Robert S. Rosenfelt 2835 Smith Avenue Ste. G. Baltimore 21209
Cheryl Ross 1001 North Point Blvd, Ste. 305 Baltimore 21224



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

### Fire Department

THE CONTRACTOR OF THE CONTRACT



James T. Smith, Jr, County Executive John J. Hohman, Chief

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

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

July 14,2005

ATTENTION: Zoning Review planners

Distribution Meeting of: July 18,, 2005

Item No.: 001,003,006,007,008,011,013,014,015,016,017,018,019

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.

1. The Fire Marshal's Office has no comments at this time.

Acting Lieutenant David S. Heath Fire Marshal's Office (0)410-887-4881 MS-1102F

cc: File



#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director

**DATE:** July 25, 2005 Department of Permits & Development

Management

FROM: Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

Zoning Advisory Committee Meeting SUBJECT:

For July 25, 2005

Item Nos. 001, 003, 006, 008, 011, 012, 013, 014, 016, 017, 018, and 019

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

DAK:CEN:clw cc: File

ZAC-NO COMMENTS-07252005.doc

79/1

# BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: July 20, 2005

JUL 2 9 2005

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Z

Zoning Advisory Petition(s): Case(s) 6-019- 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 Dave Green in the Office of Planning at 410-887-3480.

Prepared By:

**Division Chief:** 

CM/LL



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

#### Maryland Department of Transportation

Date: 7.15.05

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

RE:

Baltimore County
Item No. (27/9)

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

1. J. Gred L

Engineering Access Permits Division

# Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners



Kriston:
OK to Set quick
OK to late mik
heaven

06-09-SDHO

June 29, 2005

Mr. Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, Md. 21204

Re: Randallstown Cooperative Housing

PDM No. II-615

Dear Mr. Kotroco,

We are writing to request an early hearing date for this project. The project is a 76-unit elderly housing apartment building to be developed by Cooperative Service, Inc. The project will receive HUD funding and the developer needs to have a hearing by August 2<sup>nd</sup> in order to meet the deadlines for securing the funding.

Our original petition filing meeting was on June 9<sup>th</sup> but due to the complexity of the request and John Lewis' schedule constraints, we will not be completing the filing until next Wednesday, July 6<sup>th</sup>. We have spoken to Kristin Matthews, who suggested writing this letter so you could authorize her to hold a hearing date open for us prior to assigning a case number.

Thank you for your assistance in this matter.

Yours truly,

Robert S Rosenfelt, P

Vice-President

COLBERT MATZ ROSENFELT, INC.

RECEIAED

MAC SEMI

par XIM

cc: Kristin Matthews

# partment of Permits and Oevelopment Management

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



July 15, 2004



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

EXHIBIT

Kramon & Graham P.A Mr. Jeffrey H. Scherr One South Street Suite 2600 Baltimore, Maryland 21202-3201

Re: Mount Olive U.M. Church AKA Randallstown
Cooperative Housing
4th Election District

Dear Mr. Scherr:

This is a response to your zoning and development process verification request dated June 30, 2004 addressed to Mt. Timothy Kotroco, Director, Permits Development Management, that has been forwarded to me for reply.

Mr. Kotroco has confirmed that as long as the proposed 3.56 acre, phase II development is located within the tract boundary of the approved (23+ acres) development plan titled Randallstown Cooperative House, it will be considered to be a refinement to the plan. Please contact Mr. Donald Rascoe of the Development Management Office at 410-887-3335 for information regarding the actions necessary for approval of said refinement.

You propose to construct 76 one-bedroom independent elderly housing units pursuant to section 432.3.A.1 BCZR. That section produces the new elderly housing PUD-E regulations. This special exception hearing for a density increase is available to you based on the approval of the vested refinement plan. Your calculations indicate that 3.56 acres of land using DR-16 zoning density (to be requested by the special exception) will allow the proposed 76 one-bedroom units. My calculations indicate that 75.946 units would be allowed. Please increase your acreage to obtain the 76-unit figure.

Final approvals of your proposal are subject to the refinement approval and the outcome of the requested zoning hearing(s).

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



July 14, 2004 Jeffrey H. Scherr Page 2

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions please do not hesitate to contact me at 410-887-3391.

Very truly yours,

John L. Lewis

Planner II

Zoning Review

# "

C: Don Rascoe

00/02/2000 IG.IO LWV #T07008041

CSI SUPPORT & DEU

## 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

July 15, 2004

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July 14, 2004 Jeffrey H. Scherr Page 2

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Very truly yours,

John L. Lewis

Planner II

Zoning Review

C: Don Rascoe
JLL/rjc



# COUNTY COUNCIL OF BALTIMORE COUNTY COURT HOUSE, TOWSON, MARYLAND 21204

KENNETH N. OLIVER COUNCILMAN, FOURTH DISTRICT

COUNCIL OFFICE: 410-887-9196 FACSIMILE: 410-887-5791

June 15, 2004

Ms. Cheryl Ross, Regional Manager Cooperative Services, Incorporated 1001 North Point Boulevard, Suite 505 Baltimore, Maryland 21224

Dear Ms. Ross:

This communication comes in support of Cooperative Services, Incorporated, as they apply for Supportive Housing for the Elderly funds through the United States Department of Housing and Urban Development (HUD), Section 202 Program.

As we may know, Cooperative Services has been managing and developing quality and affordable housing for the elderly for over four decades. With this type of track record, I am confident that the proposed project in Randallstown, Maryland will be managed and developed in a manner that exceeds the needs and expectations of our senior population. The Randallstown site provides convenient access for shopping, banking, medical care, recreation and places of worship, all in the immediate area.

It is for these reasons that I wholeheartedly support this project, and would be willing to initiate a County payment in lieu of taxes (PILOT) agreement to reduce the County property taxes at the site.

If I can be of any other assistance to you in this endeavor, please do not hesitate to contact me at (410) 887-3389.

Kenneth N. Oliver

Councilman, Fourth District

KNO:elp

ce: Arnold Eppel, Director

Baltimore County Department of Aging

OD WILL



# COUNTY COUNCIL OF BALTIMORE COUNTY COURT HOUSE, TOWSON, MARYLAND 21204

KENNETH N. OLIVER
COUNCILMAN, FOURTH DISTRICT

COUNCIL OFFICE: 410-887-3196 FACSIMILE: 410-887-5791

June 15, 2004

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It is for these reasons that I wholeheartedly support this project, and would strongly encourage others to do same.

If I can be of any other assistance to you in this endeavor, please do not hesitate to contact me at (410) 887-3389.

- Jan ( )

Sincerely,

Kenneth N. Oliver

Councilman, Fourth District

KNO:clp

ce: Arnold Eppel, Director

Baltimore County Department of Aging

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#### James T. Smith, Jr. Baltimore County Executive

Executive Office 400 Washington Avenue, Towson, Maryland 21204 Tel. 410-887-2450 • Fax. 410-887-4049



## Baltimore County

One of the Best-Managed Counties in America

June 17, 2004

Ms. Rashida Coulter Cooperative Services, Inc. 1001 North Point Blvd., Suite 505 Baltimore, MD 21224

Dear Ms. Coulter:

Thank you for providing information about your proposal to apply to Housing and Urban Development (HUD) under their Supportive Housing for the Elderly Program (HUD Section 202) to build 76 senior independent living apartments in the Randallstown area of Baltimore County. This project will greatly benefit the Randallstown Community by providing affordable senior housing for the community and the elderly.

The proposed development site, adjacent to the Mt. Olive United Methodist Church, is located in an area among the highest concentration of elderly in the region. There are over 2,500 seniors on waiting lists for affordable independent housing in Baltimore, and the Randallstown portion of the county has a very high concentration of this population.

Cooperative Services has seven apartment buildings for seniors in the Baltimore area. This development would be the second of a two-phase concept in Randallstown. The first phase of this project opened in May 2003 and was completely filled by June 2003. The wait list for the second phase was closed by July 2003.

I support Cooperative Services' efforts for this project to meet the growing needs of the elderly in Baltimore County.

James T. Smith, Jr.

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

SEC.11 1119 1 1 5004

June 9 2004

Ms. Cheryl Ross
Regional Manager
Cooperative Services, Inc.
East Pointe Office Park
1001 North Point Boulevard, #505
Baltimore, MD, 21224

Dear Ms Ross.

At our Courtman Association meeting on April 14, 2004, a motion was made and passed to approve the building of the senior apartments on property on Old Court Road, Randallstown, MD 21133 by Cooperative Services with the following conditions:

- Submit a schematic of the proposed fences adjacent to the residential properties.
- A landscape plan showing elevations from adjacent properties.
- The residents of the adjacent residential properties are very concerned about what type of fence and the landscaping around the fences.
- When the above has been established please mail to the adjacent residential property owners.

Sincerely,

Vivian Noonan, President
Courtmar Association
3674 Clifmar Road
Baltimore, MD 21244

410 922 8122

January 20, 1999

Mr. Dean K. Reger Regional Manager Cooperative Services, Inc. 1001 North Point Boulevard Suite 505 Baltimore, Maryland 21224

Dear Mr. Reger:

At the Liberty Road Community Council general meeting held on December 8, 1998, the following motion was seconded and passed:

Liberty Road Community Council supports the establishment of senior apartments on the grounds of Mt. Olive Church under the following conditions: It will be written into the legal closing documents that these apartments will remain senior housing permanently. The 72 one bedroom units will now be in a two story building; the buffer zone will be a berm landscaped with trees (buffer is between the Mt. Olive property and private homes); needed outdoor lighting will be focused on the ground rather than spread light; and the entrance/exits will be on Old Court Road (none on Church Lane).

Sincerely,

Vivian Noonan

President

Liberty Road Community Council

The country to

3674 Clifmar Road Baltimore, MD 21244

410 521 5977

410 922 8122

ccop



#### RANDALLSTOWN CO-OP

BALTIMORE, MARYLAND

- 74 Units for Seniors 62 and over
- 2 Stories
- Structure: Wood Frame with Brick and Siding Facade
- Area: 65,655 SF
- Funding Sources: HUD Section 202 Capital Advance

Harry and Jeanette Weinberg Foundation Grant

Maryland Affordable Housing Trust Grant

Occupied: May 9, 2003

This project is built on a parcel acquired from the Mount Olive Methodist Church in Randallstown, Maryland. Randallstown is in the Liberty Road Corridor just northwest of Baltimore City. This area of Baltimore County has a very large elderly population, but has never had an elderly project with rental assistance. The site is part of a beautiful, gently sloping 23-acre church campus, which sits between a well-maintained neighborhood and two shopping centers.

COOPERATIVE SERVICES

000

- 3. Program of fee disbursements.
- 4. Monitoring system.
- 430.13 Regulations. The Office of Planning and the Department of Public Works may promulgate such rules and regulations not inconsistent herewith as are necessary to implement the provisions of this section. [Bill No. 29-1995]

# Section 431 Parking of Commercial Vehicles on Residential Property [Bill No. 70-1988]

- A. A commercial vehicle exceeding 10,000 pounds gross vehicle weight or gross combination weight may not be parked on a residential lot for a period exceeding the time essential to the immediate use of the vehicle.
- B. One commercial vehicle per dwelling unit may be parked on a residential lot for a period exceeding the time essential to the immediate use of the vehicle subject to the following conditions:
  - 1. The gross vehicle weight or gross combination weight shall not exceed 10,000 pounds.
  - 2. The owner or operator of the vehicle shall reside on the lot.
  - 3. The vehicle shall be parked within a fully enclosed structure or, alternatively, if not within a fully enclosed structure:
    - a. No materials, products, freight or equipment shall be visible
    - b. The vehicle shall display no advertising other than lettering, figures or designs located on the driver's door or front seat passenger's door.
    - c. The vehicle shall be parked in a side or rear yard.

# Section 432 | Elderly Housing Facilities in D.R. Zones [Bill No. 36-1988]

- A. Elderly housing facilities are permitted in all D.R. Zones under the conditions set forth below. Such uses shall also comply with the requirements of the zones in which they are located and with all other applicable provisions of the zoning regulations, except as herein modified.
- B. Development of elderly housing facilities is especially encouraged on property containing existing institutional uses; to promote such facilities on these properties, maximum residential density, maximum building height standards and residential transition area restrictions may be altered, as set forth below. For the purposes of this section, institutional uses shall be convents, orphanages, schools, seminaries, officially designated historic buildings, hospital campuses and churches on sites containing at least 10 acres.



In general. The following provisions shall apply to assisted-living facilities, continuing care facilities and housing for the elderly (collectively referred to as "housing facilities") in D.R. Zones, unless otherwise indicated.

## A. Permitted uses.

- 1. Housing for the elderly shall be permitted by right. [Bill No. 188-1993]
- 2. Assisted-living facilities other than Class A or Class B for three or fewer shall be permitted by right. [Bill No. 188-1993]
- 3. Subject to Section 432.5, assisted-living facilities, Class A, shall be permitted by use permit and assisted-living facilities Class B shall be permitted by special exception. [Bill No. 188-1993]
- 4. Continuing care facilities shall be permitted by special exception. Assisted-living facilities other than Class A or Class B of four or more and assisted-living facilities developed in conjunction with a nursing home shall be permitted by special exception. [Bill No. 188-1993]
- 5. Elderly housing facilities for the elderly are not permitted in any Baltimore County Historic District, except for Class A assisted-living facilities. [Bill No. 188-1993]
- 6. An applicant for a special exception to develop a housing facility may combine in the same special exception petition a request for modification or waiver of the maximum residential density standard or building height standard as set forth in Section 432.2 or a request for modification or waiver of residential transition area restrictions, or all as set forth in Sections 432.2, 432.3 and 432.4. [Bill No. 188-1993]
- B. The following uses shall be permitted as accessory uses:
  - 1. Accessory uses which are normally and customarily associated with multiple-family dwelling developments in D.R. and R.A.E. Zones.
  - 2. Common dining facilities.
  - 3. Accessory uses which are customarily associated with elderly housing facilities and assisted-living facilities of four or more (except assisted-living facilities developed in conjunction with a nursing home), such as personal and recreational services, small gift or necessities shops and a small bank branch or automated bank teller machines, provided that the accessory use is for the sole use of the elderly housing community, and provided that there is no exterior announcement or other exterior evidence of the accessory use.
  - 4. Guest rooms for residents, family members and guests of residents and potential residents. Guest rooms may not exceed two for each 100 dwelling units provided.

- 5. Any uses not listed above which, in the judgment of the Zoning Commissioner after a public hearing, would be in accordance with the definition of accessory use or structure contained in Section 101 and would not be detrimental to the locality involved.
- C. Width of elevation of detached dwellings.
  - 1. Notwithstanding the provisions of Section 1B01.2.B.1, and for the sole purposes of determining the width of any elevation of a detached building, any buildings within the development that are connected by exterior passageways shall be considered as detached buildings. Such passageway, whether or not completely enclosed, shall not be included when determining the width of any elevation of a detached building.
  - 2. The development shall not be subject to the restriction contained in Section 1B01.1.B.1.b.(2) concerning the maximum width or length of any elevation of a detached building or group of attached buildings when located in a residential transition area.
- D. Notwithstanding the provisions of Section 1B01.2.C.2.b., the minimum distance between centers of facing windows of different dwelling units on the same subdivision tract shall be 20 feet for elderly housing facilities.
- Provisions for approving an increase in residential density or building height for elderly housing facilities on hospital campuses. If an elderly housing facility is established in conjunction with a hospital and is located on a hospital campus, the Zoning Commissioner, by special exception, may approve an increase in residential density or building height above the maximum residential density or maximum building height specified for the zone in which the facility is located if:
  - A. The height of any new building does not exceed the height of the existing hospital building.
  - B. The density approved is specified and does not exceed the maximum gross residential density permitted in the R.A.E.1 Zone (40 density units per acre).
- Provisions for modifying or waiving maximum residential density standards for elderly housing facilities on property containing institutional or historic buildings. If a person seeks to develop an elderly housing facility on a property that contains one or more existing institutional or historic buildings, the Zoning Commissioner may, by special exception, modify or waive the maximum residential density standard specified for the zoning in which the development is located, but only in accordance with the conditions set forth below.
  - A.) Before granting a density increase hereunder, the Zoning Commissioner shall determine that the proposed development falls into one of the following categories:



The development involves an institutional site, where the existing institutional use will be continued on a portion of the site and an elderly housing facility will be developed on the remainder. If the development falls into this category, the Zoning Commissioner may grant a density increase that takes into account the density and use by the existing institution.



The development involves property where no existing institutional use will be continued. If the development falls into this category, adaptive reuse of existing institutional or historic buildings is encouraged. The Zoning Commissioner may grant a density increase only if existing institutional or historic buildings are incorporated in the plat accompanying the petition or unless, for any such existing buildings that are not incorporated in the plat, the petitioner establishes that the buildings are unsuitable for adaptive reuse.

In determining whether a petition has established that existing buildings are unsuitable for adaptive reuse, the Zoning Commissioner shall consider, historical, architectural, structural, functional, economic and other pertinent factors. The Zoning Commissioner shall also consider whether the existing buildings may be adapted for use, architecturally, from institutional to residential use.

- (B) As a condition of granting a density increase for proposed development that falls into the category described in Section 432.3.A.2., the Zoning Commissioner shall comply with the requirements herein with respect to each existing institutional or historic building that is suitable for adaptive reuse.
  - 1. If the building is not on the final historic landmarks list of the Landmarks Preservation Commission but the Zoning Commissioner determines that the building has historic or architectural significance, the Commissioner shall find that adequate guarantees have been made for the exterior preservation or restoration of the building, or that any exterior alterations or repairs and any new exterior construction will be architecturally compatible with the original building.
  - 2. If the building is on the final historic landmarks list of the Landmarks Preservation Commission, the Zoning Commissioner shall incorporate all pertinent requirements of the Commission as conditions of the special exception.
- (C.) Before granting any density increase under this Section 432.3, the Zoning Commissioner shall determine that:



The subject property is suitable for the type of development proposed.



The balance of the tract outside of the building envelope will be used only for such open space and recreational uses as are permitted by right or by special exception in D.R. Zones.



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



The density increase will satisfy all other criteria stated in Section 502.1 of these regulations.

- D. Upon establishing a hearing date for any petition for a special exception hereunder, the Zoning Commission shall promptly forward a copy of the petition to the County Landmark Preservation Commission for review and comment with regard to historic preservation factors. At the hearing, the Zoning Commissioner shall consider in evidence without testimony thereto, absent objection by any party to the case, any comments from the Director of Planning or the County Landmarks Preservation Commission or any duly submitted relevant report or comments from any other county department or agency. If an objection is made by any party, the item shall be entered by testimony of a proper witness, who shall be notified by the Zoning Commissioner.
- In approving a density increase hereunder, the Zoning Commissioner shall specify the density approved, which may not exceed the maximum gross residential density permitted in the D.R.16 Zone.
- (F.) The Zoning Commissioner shall require an elderly housing facility which has been developed in accordance with the provisions of this subsection to attempt to provide for a system of community participation in the following manner:

The petition for special exception shall include a statement that a board of advisors to the facility has been established composed of members selected by the board of directors of the communities surrounding the facility. If at the time of the filing of the petition for special exception, no such board exists, the developer shall seek to establish such a board by soliciting membership by means of advertisement. Such advertisement shall be placed in a weekly newspaper serving the community and shall be at least 1½ inches in width and 2 inches in length. Such advisory board shall consist of at least five members selected in the manner provided herein and shall be convened at least four times per year. The failure of the elderly housing facility to successfully establish the board of advisors shall not invalidate the granting of the special exception or prevent the granting of the special exception, if such failure results from the refusal of the community members to participate.

G. If a petitioner has been granted an increase in density for a property under the provisions of this subsection, and if a financial failure of the elderly housing facility subsequently occurs, in order to determine an appropriate reuse the owner of the property shall file a petition for special hearing, pursuant to Section 500.7. If the proposed use requires a special exception from the density allowed by the base zone designation, a petition for special exception may be filed and heard simultaneously with the petition for special hearing. The financial records of the failed facility shall accompany the petition.

- H. Neither the use of the property for an elderly housing facility nor the increased density granted under this section may be considered as evidence of "substantial change in the character of the neighborhood" for the purpose of interim rezoning classifications of other property in the neighborhood.
- Provisions for modifying or waiving the residential transition area restrictions for elderly housing facility developments. The Zoning Commissioner may, by special exception, notwithstanding Section 1B01.1.B.1.e, 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. if the Zoning Commissioner determines that:
  - (A) Compliance with all or part of the residential transition area restrictions will cause unreasonable hardship on the development.
  - The quality of the site design and amenities provided would justify a modification or waiver of the residential transition area restrictions.
  - The development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood.

## 432.5 Assisted-living facilities, Class A and Class B. [Bill No. 188-1993]

### A. Density.

1. Assisted-living facilities, Class A. The residence shall be located on a lot that will meet all of the density requirements for its size and zone, except that if there will be more than six residents, the following table shall apply:

	Minimum Lot Size (square feet)											
	R.C.5/D.R.1 Zones	D.R.2 Zone	D.R.3.5 Zone	D.R.5.5 Zone	D.R.10.5/16 Zones							
Seven residents	50,000	25,000	12,500	10,000	9,000							
Each additional resident	5,000	3,800	2,000	1,500	1,200							

2. Assisted-living facilities, Class B. The minimum lot area shall be one acre or 2,000 square feet per resident, whichever is greater.

### B. Performance standards.

- 1. Standards for Class A and Class B assisted-living facilities.
  - a. Signs are permitted, subject to Section 450. [Bill No. 89-1997]
  - b. Off-street parking shall be provided in accordance with Section 409 and subject to the following conditions, but no parking structure shall be permitted, except for a residential garage, as defined in Section 101.

- (1) Parking shall be at least 10 feet from the property line, except that, if the property line abuts an alley, no setback is required, provided that the alley does not abut the front or rear yard of a residentially used property. This requirement shall not apply to spaces existing before the effective date of Bill No. 188-1993.
- (2) Parking and delivery areas shall be located in the side or rear only. This requirement shall not apply to parking spaces existing before the effective date of Bill No. 188-1993.

## c. Changes to exterior.

- (1) Assisted-living facilities, Class A, which involves change to the exterior of the building or reconstruction after the building has been destroyed, is subject to review for compatibility of the proposed changes in relation to existing structures in the immediate vicinity.
  - (a) At the time of application for a building permit, plans or drawings of the building, sufficient to determine compatibility, and photographs representative of the vicinity shall be submitted to the Department of Permits and Development Management (PDM).
  - (b) PDM shall notify the Director of the Office of Planning, who may make, within 15 days of the request, written recommendations concerning the compatibility of the proposed changes with regard to: major divisions or architectural rhythm of facades; roof design and treatment; and materials and colors and other aspects of facade texture or appearance.
  - (c) The Director of PDM may approve, disapprove or modify the building permit based on the recommendations, if any, of the Office of Planning.
- (2) Enclosure of the porch of a house or the addition of an exterior stairway to the side or rear of a building does not constitute a change to the exterior for purposes of this paragraph.
- d. Assisted-living facilities, Class B, shall be subject to a compatibility finding pursuant to Section 26-282 of the Baltimore County Code, 1988 Edition, as revised.
- e. The lot shall provide usable, contiguous and private open space of at least 500 square feet.
- f. In addition to the recordkeeping requirements of COMAR, Title 14.11.07., the owner or manager of an assisted-living facility shall maintain a complete and accurate personnel file for each employee of the facility. Personnel files shall be maintained for a period of at least five years. Any disciplinary action taken against an employee shall be

documented in the personnel file. Personnel files shall be available for inspection by the Maryland or Baltimore County Office of Aging. Unless disclosure is required by law, the owner or manager may not disclose information contained in an employee's personnel file to any person or agency other than the employee, the employee's agent or the Maryland or Baltimore County Office of Aging and their respective agents. [Bill No. 82-1994]

- 2. Additional standards for assisted-living facilities, Class A.
  - a. Assisted-living facilities, Class A, shall be exempt from Division 2, Article V, Title 26, of the Baltimore County Code, 1988 Edition, as revised, provided that there will be no enlargement of the building in ground floor area by 25% or more within a period of five years prior to application, and the residential appearance of the structure and its setting, including accessory parking spaces, will be maintained so that the converted dwelling will be highly compatible with adjacent residential property. This determination shall be made by the Director of the Office of Planning, upon review of a plan which indicates the size of the lot, square footage of the building, proposed parking and loading spaces and proposed private open space.
  - b. The reconstruction of assisted-living facilities, Class A, which are destroyed by fire or other casualty, may not increase the size or gross floor area of the structure or alter its location without a special hearing.
- 3. Additional standards for assisted-living facilities, Class B.
  - a. The lot shall meet the minimum setback, maximum height and maximum coverage for other principal buildings for the zone where it is located.
  - b. The lot shall have frontage on a principal arterial, as defined in these regulations, except if the facility is located in a property which is designated as historic or is in a historic district, as identified on the Zoning Maps.

Section 433 (Reserved)<sup>27</sup>

Editor's Note: The provisions of former Section 433, Temporary Moratorium on Infectious Waste Incinerators, originally enacted by Bill No. 87-1987, expired on January 1, 1988, and they have been removed from the Regulations.

- 3. The vehicle shall be parked within a fully enclosed structure or, alternatively, if not within a fully enclosed structure:
  - a. No materials, products, freight or equipment shall be visible
  - b. The vehicle shall display no advertising other than lettering, figures or designs located on the driver's door or front seat passenger's door.
  - c. The vehicle shall be parked in a side or rear yard.

## Section 432 (Reserved)<sup>26</sup>

## Section 432A Assisted-Living Facility; Housing for the Elderly [Bill No. 19-2004<sup>27</sup>]

- A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R. and B.M., Zones as follows:
  - 1. An assisted-living facility I is permitted by use permit.
  - 2. An assisted-living facility II is permitted by use permit if it has frontage on a principal arterial street.
  - 3. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A. or B.M. Zone by use permit. A facility located in a R.O. Zone is also subject to review by the design review panel for compatibility with surrounding uses.
  - 4. Housing for the elderly is permitted by right in R.A.E. Zones.
- B. Except for the signs permitted by Section 450, no other signs or displays of any kind visible from the outside are permitted.
- C. Off-street parking shall be provided in accordance with Section 409 and subject to the following conditions, but no parking structure is permitted except for a residential garage as defined in Section 101.
  - 1. Parking shall be set back at least 10 feet from the property line, except that if the property line abuts an alley, no setback is required if the alley does not abut the front or rear yard of a residentially used property.
  - 2. Parking and delivery areas shall be located in the side or rear only.
  - 3. At least 10% of the lot shall be used to provide useable, contiguous and private open space.

4-117 04-15-2005

Editor's Note: Former Section 432, Elderly Housing Facilities in D.R. Zones, as amended, was repealed by Bill No. 199-2004.

Editor's Note: This bill also stated that it would not apply to any concept plan accepted for filing prior to the effective date of this bill. Said effective date is 45 days after its 3-1-2004 enactment.

- D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-402 of the Baltimore County Code.
- E. An assisted-living facility located in a County historic district is also subject to review by the Landmarks Preservation Commission in the same manner as other buildings located in a historic district.

# Section 433<sup>28</sup> Planned Unit Development – Elderly (PUD-E) [Bill No. 19-2004<sup>29</sup>]

Definitions. As used in this section, "PUD-E" means a planned unit development comprised of senior housing and permitted accessory uses. The PUD-E is neither a zone nor a district, it is an optional approval process that the Planning Board may apply to proposed planned unit developments for senior housing.

#### 433.2 PUD-E.

- A. Location. A senior housing facility is permitted as a PUD-E in any zone, except D.R.1, D.R.2 and D.R. 3.5, if it meets the requirements of this section.
- B. Density.
  - 1. Zone requirements. Permitted uses may be distributed throughout the tract.
  - 2. Density bonus. The density of a PUD-E may be increased by the Planning Board if:
    - a. The PUD-E meets the requirements of this section and Section 32-4-402 of the Baltimore County Code; and
    - b. Affordable residential rental units are available and are provided on site. Affordable units shall be:
      - (1) Distributed throughout the PUD-E;
      - (2) Appropriate for the elderly; and
      - (3) Available to those with incomes below 60% of the median as established by the United States Department of Housing and Urban Development and the Maryland Community Development Administration.
  - 3. Calculation of density bonus. The Planning Board may not grant a density bonus for a PUD-E in a R.A.E. Zone. In all other zones, the permitted density bonus is calculated as follows:

4-118 04-15-2005

Editor's Note: The provisions of former Section 433, Temporary Moratorium on Infectious Waste Incinerators, originally enacted by Bill No. 87-1987, expired on January 1, 1988, and they have been removed from the Regulations.

<sup>&</sup>lt;sup>29</sup> Editor's Note: This bill also stated that it would not apply to any concept plan accepted for filing prior to the effective date of this bill. Said effective date is 45 days after its 3-1-2004 enactment.

business and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, the uses listed as special exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals.

In granting any special exception, the Zoning Commissioner and the County Board of Appeals, upon appeal, shall be governed by the following principles and conditions.

- 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 danger;
  - 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; [Bill No. 45-1982]
  - 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; nor [Bill No. 45-1982]
  - H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45-1982]
- In granting any special exception, the Zoning Commissioner or the Board of 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 Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, 18 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.
- A special exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning

Editor's Note: Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state."

Ink 1/5/01

IN RE: PETITION FOR SPECIAL EXCEPTION

E/S Old Court Road, 304' S centerline of Church Lane

3rd Election District

2nd Councilmanic District

(5113 Old Court Road)

Trustees of Mt. Olive Methodist Church Legal Owners

and

Cooperative Services, Inc.

Contract Purchaser Petitioners

\* \* \* \* \* \* \*

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 01-178-X

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

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\*

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, The Trustees of the Mt. Olive Methodist Church and the contract purchasers/lessee Cooperative Services, Inc. The special exception request is for property located at 5113 Old Court Road. The subject property is zoned DR 5.5. Specifically, the Petitioners are requesting permission to increase the density from the currently allowed 47 density units to 74 density units of elderly housing on an institutional site at a density of 8.6 units per acre, in accordance with Section 432.3.A.1 of the Baltimore County Zoning Regulations.

Appearing at the hearing on behalf of the special exception request were Jeffrey Scherr, attorney at law, representing the Petitioners, Bob Rosenfelt, professional engineer who prepared the site plan of the property, and Reverend Shirley McCurdy and Richard Stanfield, appearing on behalf of the Mt. Olive Methodist Church. Also attending the hearing were Cheryl Ross, Ed Hord and Kim Yamasaki. There were no protestants in attendance.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 24.551 acres, more or less, zoned DR 3.5. The subject property is improved with and is the home of the Mt. Olive Methodist Church. The subject property is situated

on the south side of Old Court Road, near its intersection with Church Lane. The Petitioners are requesting approval to construct a proposed two-story elderly housing facility on the property. The details of the development are more particularly shown on Petitioners' Exhibit No. 1, the site plan submitted into evidence. In order to proceed with their plans to construct this facility, the special exception request is necessary to increase the density units permitted from the currently allowed 47 to a total of 74. This request is filed pursuant to Section 432.3.A.1 of the Baltimore County Zoning Regulations.

The testimony and evidence offered at the hearing clearly demonstrated that the development involves an institutional use, that being the Mt. Olive Methodist Church. Testimony demonstrated that the church will continue its operation from the subject property. Furthermore, the subject property is suitable for this type of elderly housing and the balance of the tract outside the building envelope, as shown on the site plan, will be used only for such open space and recreational uses as permitted by right or by special exception in the DR zones. The proposed development will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties in the general neighborhood. In addition, the density increase will satisfy all other criteria as stated in Section 502.1 of the Baltimore County Zoning Regulations.

It is clear the Baltimore County Zoning Regulations (B.C.Z.R.) permits the use proposed in an DR 5.5 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 Petitioner 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 Baltimore County Zoning Regulations. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public

interest. The facts and circumstances do not show that the proposed use at the particular location

described by Petitioner's Exhibit No. 1 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.

Pursuant to the advertising, posting of the property, and public hearing on this Petition held,

and for the reasons given above, the relief request in the special exception shall be granted.

THEREFORE, IT IS ORDERED this 17 day of January, 2001, by this Deputy Zoning

Commissioner, that the Petitioners' Special Exception Request, pursuant to Section 432.3.A.1 of the

Baltimore County Zoning Regulations (B.C.Z.R.), to increase the density from the currently

allowed 47 density units to 74 density units of elderly housing on an institutional site at a density of

8.6 units per acre, be and is hereby APPROVED, subject, however, to the following restriction

which is a condition precedent to the relief granted herein:

The Petitioners may apply for their building permit upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this

Order is reversed, the relief granted herein shall be rescinded.

TIMOTHY M. KOTROCC

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj

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PLEASE PRINT CLEARLY

CASE NAME SOCIALITY OF SILLING SILL RA

PETITIONER'S SIGN-IN SHEET

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