

M E M O R A N D U M

DATE: November 13, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-0063-SPH – Appeal Period Expired

The appeal period for the above-referenced case expired on November 9, 2017. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

IN RE: **PETITION FOR SPECIAL HEARING** *
 (4 Marbledale Court)
 4th Election District *
 4th Council District *
 Michael Gitagia & Shareba Kerriem *
 Legal Owners
 Petitioners *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2018-0063-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Michael Gitagia & Shareba Kerriem, legal owners ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to approve an increase in the number of beds for an existing Assisted Living Facility I to 7 beds in lieu of the maximum allowed 4 beds.

Michael Gitagia and Shareba Kerriem appeared in support of the petition. Several neighbors opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency opined the proposed use would not be compatible with the pattern of the community. A site plan was marked and admitted as Petitioners' Exhibit 1.

According to the site plan the subject property is approximately 10,846 sq. ft. in size and zoned DR 3.5, although the state tax record reflects the property is 11,700 sq. ft. in size. The property is improved with a single family dwelling which at the time of Petitioners' purchase in 2013 had four bedrooms. Petitioners indicated the home now has five bedrooms. Petitioners are licensed by the State of Maryland to care for elderly adults in their home, and currently have four

ORDER RECEIVED FOR FILING

Date 10/10/17

By Sen

Assisted Living Facility (ALF) residents. They would like to care for three additional residents, for a total of seven ALF patients.

An ALF I is defined under the B.C.Z.R. as one which “accommodates fewer than eight resident clients.” B.C.Z.R. §101.1. As such, the request is acceptable from that standpoint and the ALF I use is permitted by right in the DR 3.5 zone. B.C.Z.R. §432A.1.A.1. The decisive issue in this case concerns density.

The Regulations provide that density for ALFs “shall be calculated at 0.25 for each bed.” B.C.Z.R. §101.1. As such, I believe the correct density calculation is as follows:

$$\begin{aligned} 11,700 \text{ sq. ft. (lot size)} / 43,560 \text{ (acre)} &= .27 \text{ acre} \\ \text{DR 3.5 (max zone density per acre)} \times .27 \text{ acre} &= .945 \text{ density units.} \end{aligned}$$

Seven ALF beds would generate 1.75 density units (i.e., 7×0.25) while Petitioners’ lot (.27 acre) yields only .945 density units. The Department of Permits, Approvals and Inspections publishes a “Zoning Use Permit Checklist” which addresses this issue. Under “Filing Requirements,” that document indicates that for “more than four beds density/area calculations must be shown on the plan.” *Id.* at ¶6. The document contains a density chart at the bottom of the page which indicates that for “5-8 beds...2 density lots required.” As such, I do not believe Petitioners have sufficient density at the site to accommodate seven ALF residents.

If I had discretion in this matter it may be that I would approve the request. Petitioners are obviously caring and responsible individuals, and I have no doubt the seniors in their home are well-treated. But I am not permitted to approve a use that conflicts with the Zoning Regulations, and the petition must therefore be denied.

THEREFORE, IT IS ORDERED this 10th day of **October, 2017** by this Administrative Law Judge, that the Petition for Special Hearing to approve an increase in the number of beds for

ORDER RECEIVED FOR FILING

Date

10/10/17

By

Sen

an existing Assisted Living Facility I to 7 beds in lieu of the maximum allowed 4 beds, be and is hereby DENIED.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 10/10/17
By slh



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 4 Marbledale Ct Reisterstown MD 21136 which is presently zoned DR3.5
 Deed References: 33707/00051 10 Digit Tax Account # 0416003330
 Property Owner(s) Printed Name(s) Shareba Kerriem / Gitagia, Michael

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

To approve the increase in the amount of beds for an existing Assisted Living Facility I to 7 beds, in lieu of the maximum allowed 4 beds.

2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☐ a Variance from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

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

I, or we, agree to pay expenses of above petition(s), 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.

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Gitagia, Michael / Shareba Kerriem
 Name #1 - Type or Print Name #2 - Type or Print

[Signature] [Signature]
 Signature #1 Signature #2

4 Marbledale Ct Reisterstown MD
 Mailing Address City State

21136 / 443-857-5230 / sakpara@aol.com
 Zip Code Telephone # Email Address

Representative to be contacted:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2018-0063-SPH Filing Date 8/24/17 Do Not Schedule Dates: Reviewer JS

THE ZONING PETITION PROPERTY DESCRIPTION

PART A

Zoning property description for 4 Marbledale Ct Beginning at a point on the NORTHWEST side of MARBLEDALE..... which is 50 feet wide at a distance of 98 feet SOUTHWEST of the centerline of the nearest improved intersecting street W. CHESTNUT HILL LN. which is 50 feet wide.

PART B

Being lot# 6, Block C, Section# N/A in the subdivision of Hathaway as recorded in Baltimore County Plat Book# 30, Folio# 148, containing 10,846 square feet. Located in the 4 Election District and Council District.

2018-0063-SPH



501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5180985

Sold To:

Shareba Kerriem - CU00618377
4 Marbledale Ct
Reisterstown, MD 21136-3210

Bill To:

Shareba Kerriem - CU00618377
4 Marbledale Ct
Reisterstown, MD 21136-3210

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Sep 14, 2017

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: # 2018-0063-SPH
4 Marbledale Court
NW/s Marbledale Court, 98 ft. SW of centerline of W. Chestnut Hill Lane
4th Election District - 4th Councilmanic District
Legal Owner(s) Michael Giraglia & Shareba Kerriem

Special Hearing to determine whether or not the Administrative Law Judge should approve the increase in the amount of beds for an existing Assisted Living Facility 1 to 7 beds in lieu of the maximum allowed 4 beds.

Hearing: Friday, October 6, 2017 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

9/044 September 14 5180985

The Baltimore Sun Media Group

By *S. Wilkinson*
Legal Advertising

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 9/14/2017

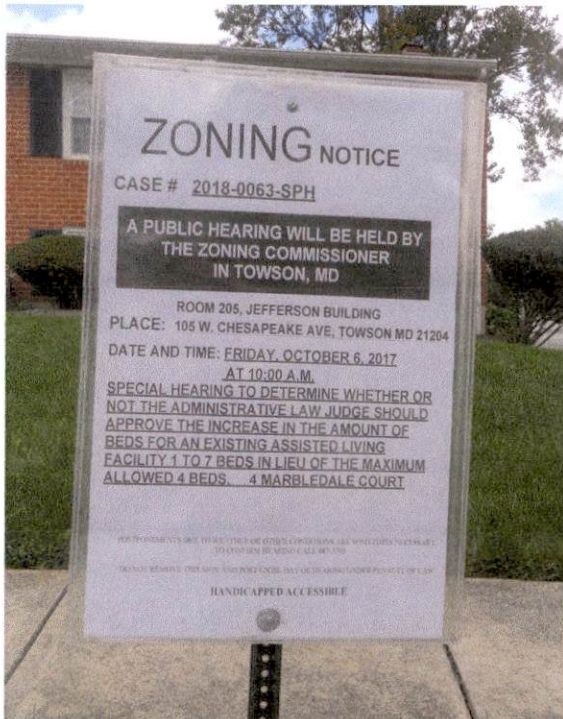
Case Number: 2018-0063-SPH

Petitioner / Developer: MICHAEL GIRAGIA ~ SHAREBA KERRIEM

Date of Hearing (Closing): OCTOBER 6, 2017

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:
4 MARBLEDALE COURT

The sign(s) were posted on: SEPTEMBER 14, 2017



Linda O'Keefe
(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 of Sign Poster)

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



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 7, 2017

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 201-0063-SPH

4 Marbledale Court

NW/s Marbledale Court, 98 ft. SW of centerline of W. Chestnut Hill Lane

4th Election District – 4th Councilmanic District

Legal Owners: Michael Giragia & Shareba Kerriem

Special Hearing to determine whether or not the Administrative Law Judge should approve the increase in the amount of beds for an existing Assisted Living Facility 1 to 7 beds in lieu of the maximum allowed 4 beds.

Hearing: Friday, October 6, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Michael Giragia, Shareba Kerriem, 4 Marbledale Court, Reisterstown 21136

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SAT., SEPTEMBER 16, 2017.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, September 14, 2017 Issue - Jeffersonian

Please forward billing to:
Shareba Kerriem
4 Marbledale Court
Reisterstown, MD 21136

443-857-5230

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2018-0063-SPH

4 Marbledale Court

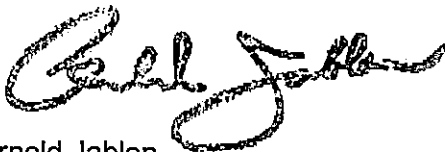
NW/s Marbledale Court, 98 ft. SW of centerline of W. Chestnut Hill Lane

4th Election District – 4th Councilmanic District

Legal Owners: Michael Giragia & Shareba Kerriem

Special Hearing to determine whether or not the Administrative Law Judge should approve the increase in the amount of beds for an existing Assisted Living Facility 1 to 7 beds in lieu of the maximum allowed 4 beds.

Hearing: Friday, October 6, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
4 Marbledale Court; NW/S Marbledale Court, * OF ADMINISTRATIVE
98' SW of W. Chestnut Hill Lane * HEARINGS FOR
4th Election & 4th Councilmanic Districts *
Legal Owner(s): Michael Giragia *
& Shareba Kerriem *
Petitioner(s) * BALTIMORE COUNTY
* 2018-063-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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 and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

AUG 28 2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2017, a copy of the foregoing Entry of Appearance was mailed to Michael Giragia & Shareba Kerriem, 4 Marbledale Court, Reisterstown, Maryland 21136, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Note to Hearing Officer:

4 Marbledale Court, 21136

Mr. Beverungen,

The petitioner in this case runs/owns an existing 4 bed ALF-I and wants to increase the total amount of beds to 7. This property does not meet the density required to allow 7 beds and the petitioner was advised of this. She was told by Carl that she could ask for it via Special Hearing so she insisted that we take in her petition.

Jason Seidelman

Zoning Review

Baltimore County, MD

410-87-3391

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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:

Case Number: 2018-0063-SPH

Property Address: 4 MARLBOROUGH CT, 21136

+ Property Description: _____

Legal Owners (Petitioners): GARAGIA + KERRIEM

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: SHARBA KERRIEM

Company/Firm (if applicable): _____

Address: 4 MARLBOROUGH CT.

REISTERSTOWN, MD 21136

Telephone Number: 443-857-5230

Revised 7/9/2015

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT**

NO 157180

Date: 8/24/17

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
001	806	0000		650					\$ 500.00

Total: \$ 500.00

Rec From: C. RALPH WALKIN

For: 2018-0063-SP4

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRD

8/23/2017 8/24/2017 12:06:52 3

REG W503 WALKIN CAM

>>RECEIPT # 740284 8/24/2017 OFL

Dept. S 528 ZONING VERIFICATION

CR NO. 157180

Recpt Tot \$500.00

\$1.00 CK \$500.00 CA

Baltimore County, Maryland

**CASHIER'S
VALIDATION**



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 28, 2017

Michael Giragia
Shareba Kerriem
4 Marbledale Court
Reisterstown MD 21136

RE: Case Number: 2018-0063 SPH, Address: 4 Marbledale Court

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on August 24, 2017. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: August 30, 2017

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

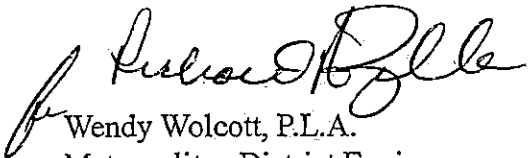
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number 20180063
referenced below. We have determined that the subject property does not access a State roadway 6PH
and is not affected by any State Highway Administration projects. Therefore, based upon
available information this office has no objection to Baltimore County Zoning Advisory
Committee approval of Case No. 20180063 3PH

Special Hearing
Michael Grogan & Sherebaker Row
& Marblegate Court.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-
229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at
(rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor

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Lt. Governor

Pete K. Rahn
Secretary

Gregory Slater
Administrator

Date: August 30, 2017

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

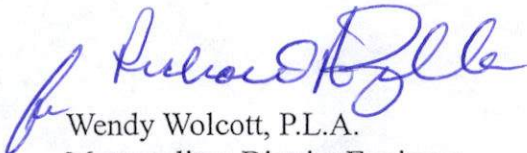
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Committee approval of Case No. 20180063 SPH

Special Hearing
Michael Graglia & Shorebaker Han
& Marble Lake Court.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-
229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at
(rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-063



INFORMATION:

Property Address: 4 Marbledale Court
Petitioner: Michael Giragia, Shareba Kerriem
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should permit an increase in the amount of beds for an existing Assisted Living Facility I to 7 beds in lieu of the maximum allowed 4 beds.

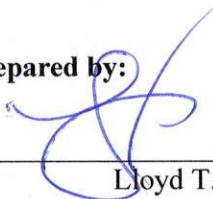
A site visit was conducted on August 31, 2017. The site plan submitted in support of the petition is not to a measurable scale.

No surrounding property now has a parking surface large enough to accommodate 5 or more vehicles and extending into the side and rear yards as is proposed by the Petitioners. The Department recommends the proposed site improvements are not similarly patterned to those in the neighborhood and therefore is not compatible to its surroundings pursuant to the requirements of Baltimore County Code §32-4-402.

The petitioners must demonstrate to the satisfaction of the Administrative Law Judge that the site is of sufficient area to generate density enough to support 7 beds. This Department will concur with the total number of beds as determined by the Administrative Law Judge through the public hearing.

For further information concerning the matters stated herein, please contact Bill Skibinski at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Deputy Director:



Jeff Mayhew

AVA/KS/LTM/ka

c: Bill Skibinski
Michael Giragia
Office of the Administrative Hearings
People's Counsel for Baltimore County

10-6

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: August 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0063-SPH
Address 4 Marbledale Court
(Giragia & Kerriem Property)

Zoning Advisory Committee Meeting of **September 4, 2017**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

Date: 8-29-2017

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 9/20/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-063

INFORMATION:

Property Address: 4 Marbledale Court
Petitioner: Michael Giragia, Shareba Kerriem
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should permit an increase in the amount of beds for an existing Assisted Living Facility I to 7 beds in lieu of the maximum allowed 4 beds.

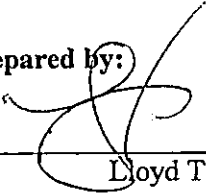
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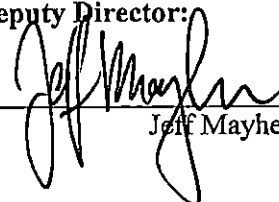
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For further information concerning the matters stated herein, please contact Bill Skibinski at 410-887-3480.

Prepared by:


Lloyd T. Moxley

Deputy Director:


Jeff Mayhew

AVA/KS/LTM/ka

c: Bill Skibinski
Michael Giragia
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: August 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0063-SPH
Address 4 Marbledale Court
(Giragia & Kerriem Property)

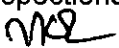
Zoning Advisory Committee Meeting of **September 4, 2017**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford Date: 8-29-2017

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review
SUBJECT: Zoning Advisory Committee Meeting
For September 4, 2017
Item No. 2018-0063-SPHA

DATE: September 7, 2017

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

The submitted plans shows an existing shed located in an existing 10' Drainage & Utility Easement. Permanent structures are not permitted within a Drainage & Utility Easement. Shed shall be removed and placed a minimum of 11 feet away from the west property line.

* * * * *

VKD: CEN
cc: file

CASE NAME 2018-0063
CASE NUMBER _____
DATE 10/06/2017

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
------	---------	------------------	----------

[illegible]

CASE NAME 2018-0063
CASE NUMBER _____
DATE 10-6-2017

[illegible]

Carl Richards Jr

From: Jason Seidelman
Sent: Tuesday, September 05, 2017 12:20 PM
To: Peter Max Zimmerman; Kathy Schlabach; Lloyd Moxley; Carl Richards Jr
Subject: RE: Zoning Case No. 2018-063-SPH, 4 Marbledale Court, M. Gitagia and S. Kerriem, Petitioners

Hi Peter,

The petitioner was strongly urged not to file this petition (or the other one, 9101 Bengal Road, 2018-0066-SPH). She was told that the density does not permit it, but she INSISTED that she be allowed to file.

Jason Seidelman
Zoning Review
Baltimore County, MD
410-887-3391

From: Peter Max Zimmerman
Sent: Friday, September 01, 2017 11:53 AM
To: Kathy Schlabach <kschlabach@baltimorecountymd.gov>; Lloyd Moxley <lmoxley@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Jason Seidelman <jseidelman@baltimorecountymd.gov>
Subject: Zoning Case No. 2018-063-SPH, 4 Marbledale Court, M. Gitagia and S. Kerriem, Petitioners

Dear Colleagues,

This special hearing requests a determination to increase the amount of permitted beds for an assisted living facility (ALF) from 4 to 7.

Upon review, I cannot at this moment recall a similar request to exceed the number of ALF beds.

A threshold question is whether this amounts to a density variance. BCZR Sec. 307.1 explicitly disallows residential density variances.

In this context, BCZR Sec. 101.1 assigns .25 acre density for each ALF bed. The number of permitted beds is based on density. Therefore, my preliminary view is that this special hearing request conflicts with the law and is disallowed.

Incidentally, when I did the math, the calculation produced a limit of 3 beds:

$10,846\text{SF (site plan)} / 43560\text{SF (acre)} = .25 \text{ acre}$
 $3.5 \text{ (maximum zone density per acre)} \times .25 \text{ acres} = .875$
 $.875 \times 4 \text{ (beds per acre at .25 density per bed)} = 3.5$

I also undertook to look at the state regulations for assisted living facilities. So far as I can tell, they leave the physical facility up to local regulation. COMAR Sec. 10.05.01.11. I could not find any regulation specifically addressing minimum floor area or other such measure.

I hope you find this helpful and would be pleased to have any comments, thoughts, additions, or corrections.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

Carl Richards Jr

From: Carl Richards Jr
Sent: Tuesday, September 05, 2017 10:11 AM
To: Peter Max Zimmerman; Kathy Schlabach; Lloyd Moxley; Jason Seidelman
Subject: RE: Zoning Case No. 2018-063-SPH, 4 Marbledale Court, M. Gitagia and S. Kerriem, Petitioners

Pete,

Incidentally, This office has always preceded on the presumption of correctness that the density of one is legitimately existing if there was an existing dwelling on the property. If the previous or existing dwelling can be challenged is the only reason that we would not automatically approve 4 beds as not exceeding the allowed density. Once you go further than 4 beds, density could be a factor for consideration. Your memo and our response is included in the file.

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Sent: Friday, September 01, 2017 11:53 AM
To: Kathy Schlabach <kschlabach@baltimorecountymd.gov>; Lloyd Moxley <lmoxley@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Jason Seidelman <jseidelman@baltimorecountymd.gov>
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Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
<u>8/29</u>	DEPS (if not received, date e-mail sent _____)	<u>No Comment</u>
_____	FIRE DEPARTMENT	_____
<u>9/21</u>	PLANNING (if not received, date e-mail sent _____)	<u>Comment</u>
<u>8/30</u>	STATE HIGHWAY ADMINISTRATION	<u>no obj</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: <u>9/14/17</u>	
SIGN POSTING	Date: <u>9/14/17</u> by <u>O'Keefe</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 04 Account Number - 0416002330			
Owner Information					
Owner Name:	GITAGIA MICHAEL K KERRIEM SHAREBA A		Use:	RESIDENTIAL	
Mailing Address:	4 MARBLEDALE CT REISTERSTOWN MD 21136		Principal Residence:	YES	
			Deed Reference:	/33707/ 00051	
Location & Structure Information					
Premises Address:		4 MARBLEDALE CT 0-0000		Legal Description:	
HATHAWAY					
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0057	0006	0329		0000	
					Block:
					C
					Lot:
					6
					Assessment Year:
					2016
					Plat No:
					2
					Plat Ref:
					0030/0148
Special Tax Areas:			Town:		
			NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use	
1966	1,080 SF	750 SF	11,700 SF	04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
Split Foyer	YES	SPLIT FOYER	ASBESTOS SHINGLE	2 full	Last Major Renovation
Value Information					
	Base Value	Value	Phase-in Assessments		
		As of	As of	As of	
		01/01/2016	07/01/2017	07/01/2018	
Land:	60,300	60,300			
Improvements	120,500	160,100			
Total:	180,800	220,400	207,200	220,400	
Preferential Land:	0			0	
Transfer Information					
Seller: PAFFENBACK R WILLIAM, TRUSTEE		Date: 05/31/2013		Price: \$225,000	
Type: ARMS LENGTH IMPROVED		Deed1: /33707/ 00051		Deed2:	
Seller: PAFFENBACK R WILLIAM		Date: 02/23/2011		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /30540/ 00036		Deed2:	
Seller: HATHAWAY HOMES INC		Date: 07/21/1967		Price: \$21,140	
Type: ARMS LENGTH IMPROVED		Deed1: /04784/ 00029		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2017		07/01/2018	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00		0.00 0.00	
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		NONE			
Homestead Application Information					
Homestead Application Status: Denied					
Homeowners' Tax Credit Application Information					

Case No.: 2018-0063-SPH

Exhibit Sheet

Petitioner/Developer

pd
11-13-17

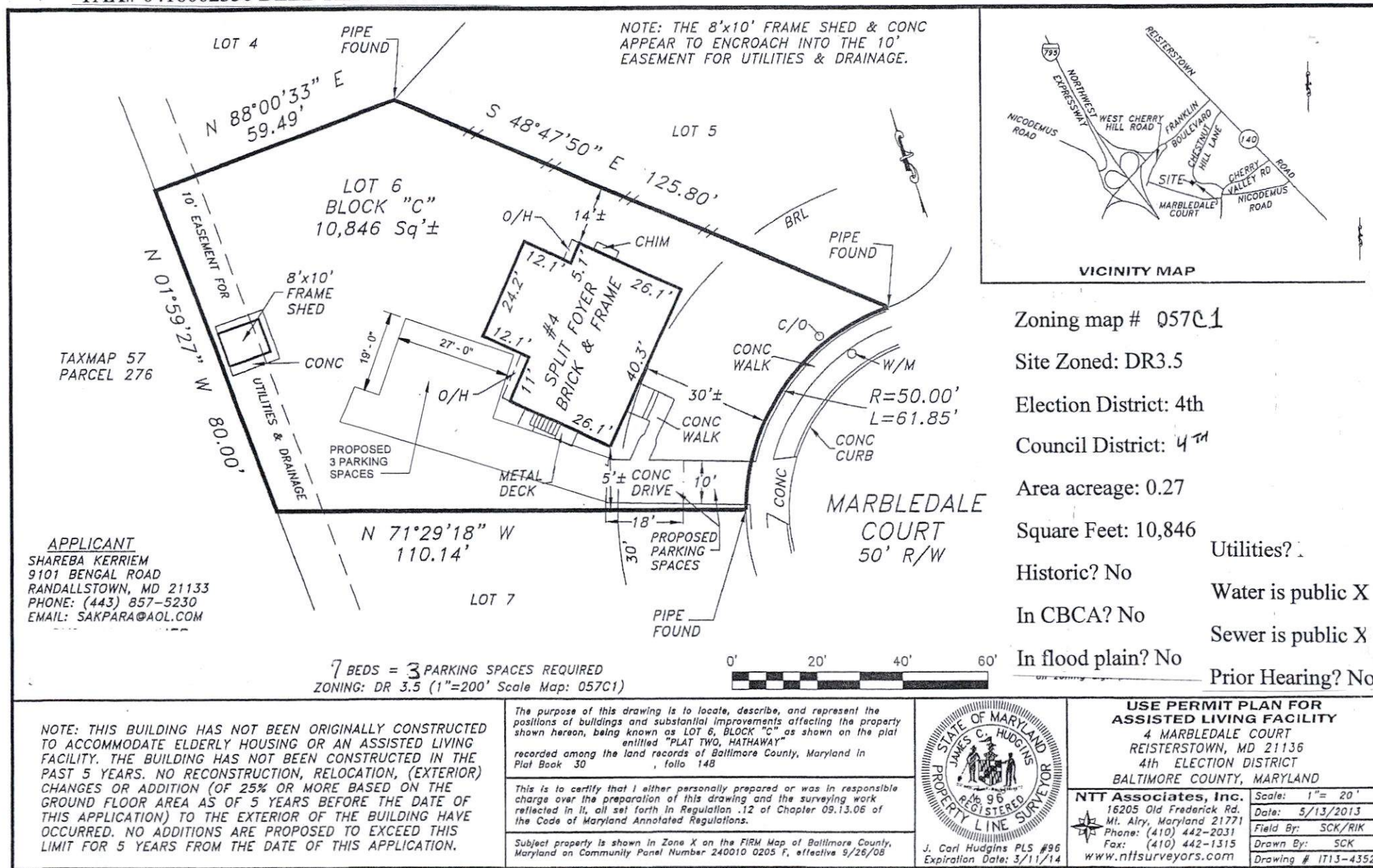
Protestant

sen
10-10-17

No. 1	Plan	statement of opposition
No. 2	Photos	restrictive covenant
No. 3	Letter of support	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING....

ADDRESS 4 MARBLEDALE CT OWNERS NAMES GITAGIA, MICHAEL/ SHAREBA KERRIEM SUBDIVISION
NAME HATHAWAY PLAT 2 LOT# 6 BLOCK# C SECTION# N/A PLAT BOOK# 30 FOLIO# 148
TAX# 0416002330 DEED REF.# 33707/00051



2018-0063-SPH

Pet. No. 1

Ayo Akinoni
130 West Chestnut Hill Lane
Reisterstown, MD 21136
September 27, 2017

Office of the Administrative Hearing
105 West Chesapeake Avenue

Dear Administrative Law Judge:

I am neighbors with the petitioner. We share the same adjacent lots. I am aware that an assisted living is operating on her property. We have never had a problem with parking or any other disturbances. She is doing a good service to the community. I believe that this property is compatible with other homes although it has additional parking. My family is not in opposition to this request. Please grant the Comforts of Home Assisted Living request for additional beds.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Ayo Akinoni', with a stylized, cursive script.

Ayo Akinoni

Pet. No. 3

Chairman Zoning Committee considering Case # 2018-0063-SPH in respect of 4 Marbledale Ct Reisterstown MD 21136

My Wife Elsie Georgina Page and I, Derek Page live at 3 Marbledale Ct. on a development known as Hathaway and opposite the house under consideration. Marbledale Court is a small "banjo" shaped court of 5 houses with restricted parking and limited manoevrability for vehicles, especially large ones.

We wish to express our concern with the current owners of 4 Marbledale Ct., who plan to commercialize this desirable area with an Assisted Living Accommodation housing up to 7 presumably elderly and partially incapacitated residents.

We bought his house in 1982 primarily because of its' location in a court where traffic is almost entirely limited to the occupants of the 5 houses. We believe we paid a premium equivalent to \$10,000 in today's money compared to an identical house on a "through" road such as Chestnut Hill or Cherry Valley, where traffic frequently exceeds the speed limit. Additionally we are concerned with the potential general lowering of property values due to this level of commercialization.

The limited traffic provides exceptional safety and a refuge to neighbors' children who play in this area as well as relative quietness for adults.

My Wife and I are 75 and 81 years old respectively and are very aware of our potential future need for Ambulance Services. Our local services are exceptionally enthusiastic, sometimes sending 2, 3 or even 4 vehicles to those in need. We are not objecting to their enthusiasm during such a single occasional event, but we are concerned for the potential "invasion" multiplied by up to seven times, if such a re-zoning application is approved.

The limited parking causes visitors to park where ever there is a space. We see the potential for substantial loss of parking space by us and other residents, especially during snow days.

When purchasing this property we were presented with a Covenant (**registered in Maryland Land Records under LIBER 4713**) imposed on all residents of "Hathaway". Among its' provisions was **Clause 1b on pages 2,3** requiring any potential Dentist or Physician using such a dwelling as an office, that he/she **"resides in the same dwelling in which such office is located"**. We would presume this was a method to restrict, (not prevent), "commercialization" to the extent proposed by case # 2018-0063-SPH. We would ask that you apply the same restrictions to the owners of 4 Marbledale Ct. We think this would be a fair and equitable solution to our concerns.

We thank you for your kind attention.

 
Derek and Georgina Page

3, Marbledale Ct,

Reisterstown MD 21136

Prot. No. 1

herein contained, and other good and valuable considerations, the receipt whereof is hereby acknowledged, for themselves, their successors and assigns, do hereby covenant and agree each with the other that all of those lots of ground and property hereinbefore described, shall be subject to the following conditions, agreements and restrictions, and shall run with the said land.

1. The land in said tract and any lot or lots now or hereafter laid out thereon shall be used for residential purposes only and no building shall be erected, altered, placed or permitted to remain on any lot other than a detached, single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two automobiles, except and provided as follows:

(a) Real estate sales, construction offices and signs may be erected, maintained and operated on any part of said land and in any building or structure now or hereafter erected thereon, during the combined construction and sales period.

(b) Any part of any dwelling now or hereafter erected on said land may be used as a physician's office or dentist's office without hospital facilities, for the treatment of patients

and for the practice of said professions, provided that the physician or dentist using such office resides in the same dwelling in which such office is located.

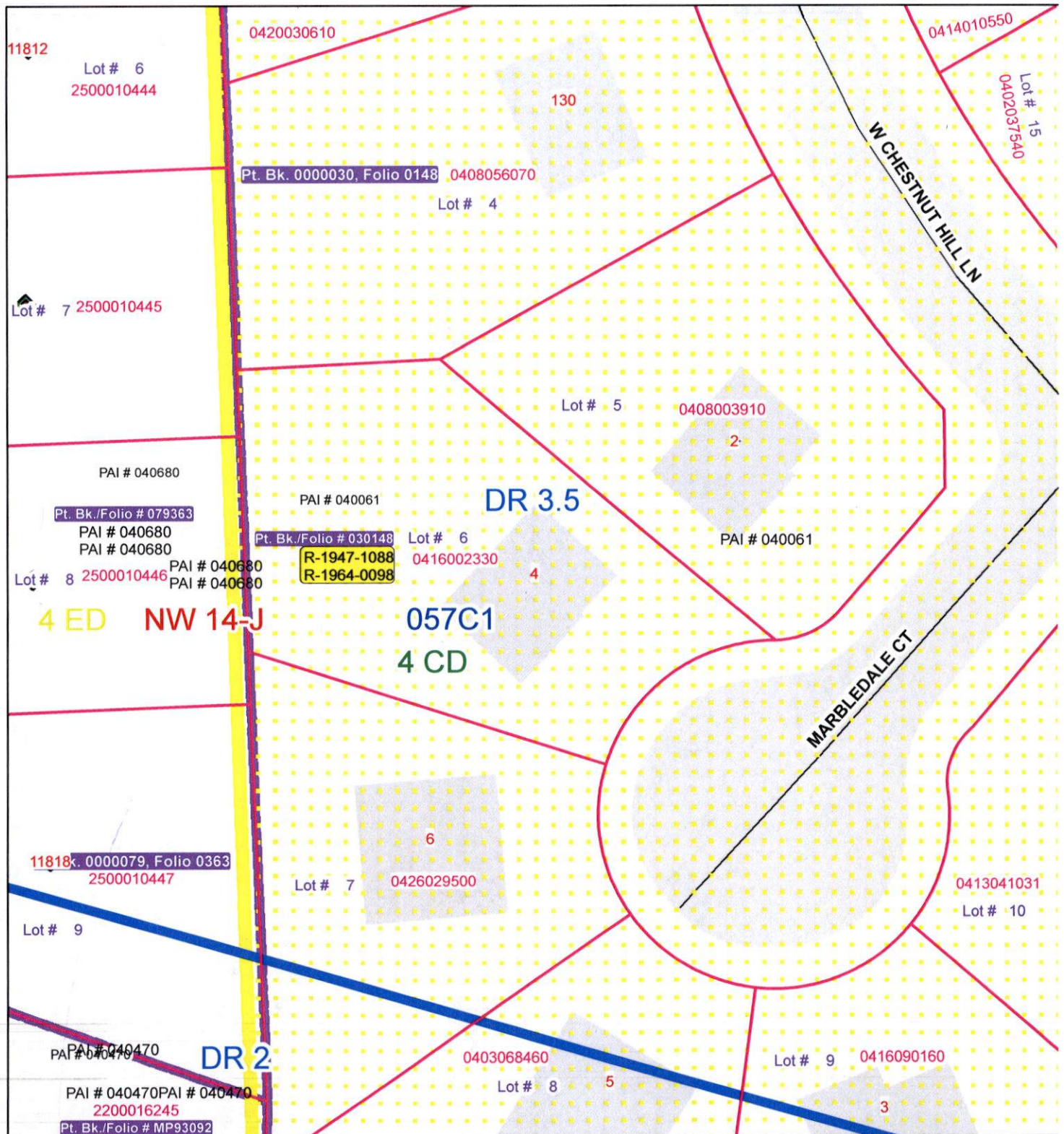
(c) Any part of said land and any improvements now or hereafter erected thereon may be used for the purposes of a church, school, library, playground, park, place of public assembly, community-owned, non-commercial swimming pool.

No part of said land nor any improvements now or hereafter erected shall be used for any of the purposes set forth in subparagraphs (a), (b) or (c) hereof without the written consent and approval of the Architectural Control Committee as provided in paragraph 10 below.

2. No dwelling shall be permitted on any lot at a cost of less than Twelve Thousand Dollars (\$12,000.00) based upon cost levels prevailing on the date these covenants are recorded for the minimum permitted dwelling size. The ground floor area of the main structure exclusive of one-story open porches and garages shall not be less than eight hundred (800) square feet for a one-story dwelling, nor less than four hundred fifty (450) square feet for a dwelling of more than one story. For split level dwellings not containing an integral garage, the ground cover area shall not be less than six hundred (600) square feet and for split level dwellings containing an integral garage the ground cover area shall not be less than eight hundred (800) square feet, exclusive of the area covered by the garage.

3. (a) No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat or any

4 Marbledale Court



Publication Date: 7/19/2017

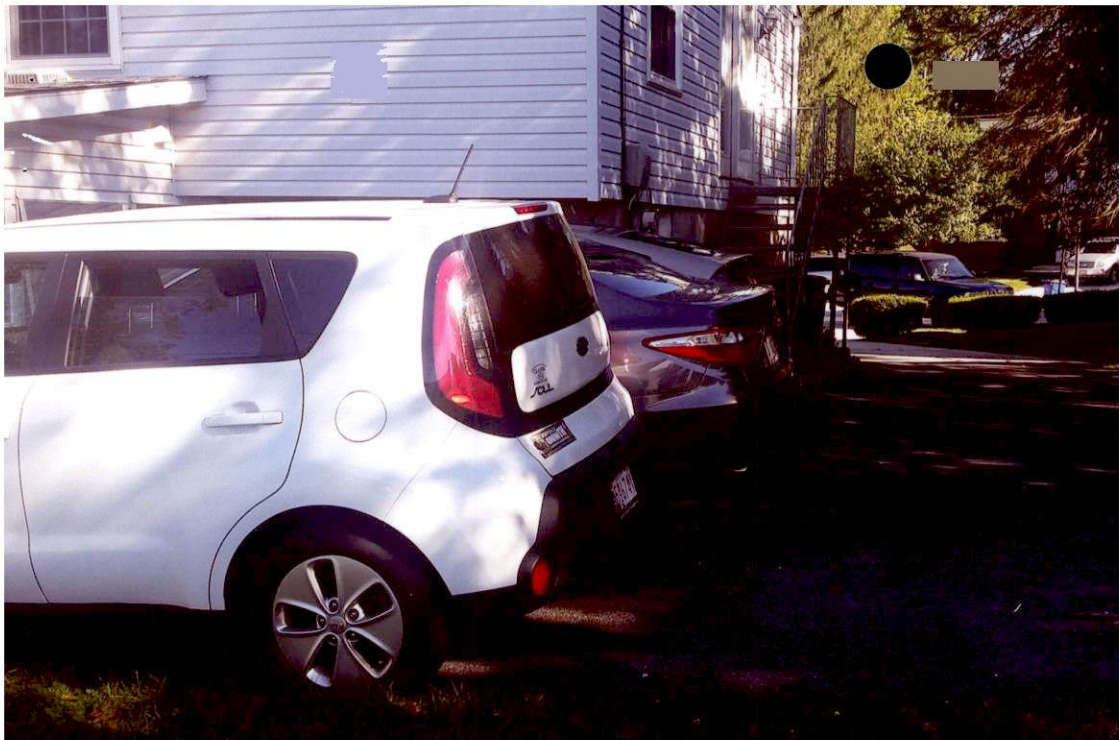


Publication Agency: Permits, Approvals & Inspections
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 10 20 40 60 80 Feet

1 inch = 40 feet



Pet. No. 2



