

IN THE MATTER OF
BOLTON HILL INVESTMENTS, LLC - LEGAL
OWNER AND PETITIONERS FOR SPECIAL
HEARING ON THE PROPERTY LOCATED AT
8 DUNMANWAY

15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 20-003-SPH

* * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by Mary DiLegge and Barbara Kenney, Protestants/Appellants, from a decision of the Administrative Law Judge dated March 10, 2020, in which the requested zoning relief was granted with conditions.

WHEREAS, the Board is in receipt of a Request to Withdraw Petition filed by John B. Gontrum, Esquire on behalf of Bolton Hill Investments, LLC, Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Petitioner requests that the Petition for Special Hearing that is the subject matter of this appeal be withdrawn and dismissed without prejudice,

IT IS THEREFORE ORDERED this 26th day of April, 2021 by the Board of Appeals of Baltimore County that, in accordance with Board of Appeals Rules of Practice and Procedure, Rule 3.b.2, the Petition for Special Hearing filed in Case No. 20-003-SPH, be and the same is hereby **WITHDRAWN AND DISMISSED without prejudice**.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Chair



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

April 26, 2021

John B. Gontrum, Esquire
Whiteford, Taylor & Preston L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, Maryland 21204-5025

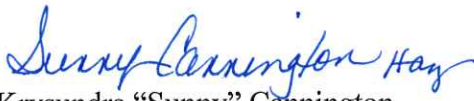
Re: In the matter of: *Bolton Hill Investments, LLC – Legal Owner*
Case No.: 20-003-SPH

Dear Mr. Gontrum:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: Raphael Cassagnol/Bolton Hill Investments, LLC
Mary DiLegge
Barbara Kenney
Office of People's Counsel
Paul Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Krysundra Cannington

From: Peter Max Zimmerman
Sent: Friday, April 16, 2021 12:45 PM
To: Krysundra Cannington; Appeals Board
Cc: Rebecca Wheatley; jgontrum@wtplaw.com; Busse, Jennifer R.; Mary DiLegge
Subject: RE: Bolton Hill Investments, Inc. , Petition for Special Hearing, Case No. 2020-003-SPH, 8 Dunmanway

Dear Ms. Cannington,

We appreciate John Gontrum's efforts to communicate with the Bankruptcy Trustee in Petitioner's bankruptcy proceeding; so this case can be wrapped up in a better way, with everyone informed.

However, our office's position is that the zoning petition should just be dismissed for lack of prosecution (not dismissed without prejudice), whatever the reason for failure to pursue the petition. Mary DiLegge and her companion-appellant have spent much time, effort and resources on this case.

In any event, whether the Board implements the dismissal one way or the other, the Board's Order should clarify and declare that the decision by the administrative law judge to approve the zoning petition is null and void.

Thank everyone for their continuing attention to this matter.

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

From: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Sent: Thursday, April 15, 2021 1:44 PM
To: Gontrum, John <JGontrum@wtplaw.com>; Busse, Jennifer R. <jbusse@wtplaw.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Bolton Hill Investments, Inc.

Thank you Mr. Gontrum.

Please file your formal request by email to the appealsboard@baltimorecountymd.gov email. It is still the best way to get things to us for the foreseeable future.

Thank you again for the head's up.

Sunny

From: Gontrum, John <JGontrum@wtplaw.com>
Sent: Thursday, April 15, 2021 1:40 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Busse, Jennifer R. <jbusse@wtplaw.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Bolton Hill Investments, Inc.

CAUTION: This message from prvs=5739fd006=jgontrum@wtplaw.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Sunny,

After months of trying I received a response last night from the Trustee in Bankruptcy that requested the zoning case be dismissed without prejudice.

I will file a formal letter asking for the dismissal of the case.

John

From: Krysundra Cannington <kcannington@baltimorecountymd.gov>

Sent: Thursday, January 07, 2021 8:44 AM

To: Gontrum, John <JGontrum@wtplaw.com>; Busse, Jennifer R. <jbusse@wtplaw.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>

Cc: Rebecca Wheatley <rwheatley@baltimorecountymd.gov>

Subject: [EXTERNAL] Bolton Hill Investments, Inc.

Good morning Counsel,

Attached please find the Notice of Postponement which was issued in Tuesday's mail.

We will hold this matter until April 15, 2021. Please advise as to the status of this matter as possible.

Thank you,

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410) 887-3182

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

DELAWARE*
DISTRICT OF COLUMBIA
KENTUCKY
MARYLAND
MICHIGAN
NEW YORK
PENNSYLVANIA
VIRGINIA

WWW.WTPLAW.COM
(800) 987-8705

April 15, 2021

VIA ELECTRONIC MAIL

Ms. Krysundra "Sunny" Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, MD 21204

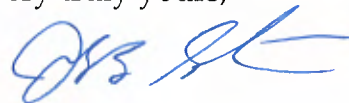
Re: 8 Dunmanway
Bolton Hill Investments, LLC
Case No. 2020-003-SPH

Dear Ms. Cannington:

As the Board is aware, Bolton Hill Investments, LLC filed for Chapter 7 bankruptcy in Case No. 20-19277-MMH. The trustee in bankruptcy Charles R. Goldstein now has requested that the zoning Petitions be withdrawn and the case dismissed without prejudice.

Thank you for your assistance. Please do not hesitate to contact me with any questions or concerns.

Very truly yours,



John B. Gontrum

JBG:tdm
cc. People's Counsel for Baltimore County
11727898



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 5, 2021

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Bolton Hill Investments, LLC – Legal Owner
8 Dunmanway
20-003-SPH 12th Election District; 7th Councilmanic District

Re: Petition for Special Hearing pursuant to §§ 230.1.A.1 and 432A.1.A of the BCZR to permit an Assisted Living Facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone.

3/10/2020 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, with conditions.

This matter was scheduled for Argument on a Motion for Summary Declaratory Judgment and Response thereto on January 21, 2021 and has been postponed. At the request of Counsel, this matter is postponed until further notice.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy and calendar, please refer to our website: www.baltimorecountymd.gov/Agencies/appeals/index.html.

Krysundra Cannington, Administrator

c. Counsel for Petitioners

Legal Owner

Protestants/Appellants *pro se*

People's Counsel for Baltimore County

: John B. Gontrum, Esquire

: Jennifer Busse, Esquire

: Bolton Hill Investments, LLC

: Mary DiLegge, Barbara Kenney

: Peter M. Zimmerman, Esquire

C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney

Paul M. Mayhew, Managing Administrative Law Judge
James R. Benjamin, Jr., County Attorney

Tammy Zahner

From: Peoples Counsel
Sent: Tuesday, December 29, 2020 12:41 PM
To: Tammy Zahner; Appeals Board
Cc: jgontrum@wtplaw.com; Carole Demilio; Mary DiLegge
Subject: RE: Bolton Hill Investments, LLC, Case no. 20-003-SPH

Dear Ms. Zahner,

Under the circumstances, our office does not object to a postponement of the County Board of Appeals hearing scheduled for January 21, 2021.

We will maintain courteous communications with Mr. Gontrum.

While I do not specialize in bankruptcy law, my impression is that it would be up to the trustee in a Chapter 7 liquidation to decide what to do with pending litigation.

I agree with Mr. Gontrum that it seems unlikely that this zoning petition will be maintained.

If the petition cannot go forward, there will come a time for its dismissal. That would include, in the order, a declaration that the administrative law judge approval is null and void. This would be consistent with the past correct practice.

While I do not know the timelines applicable to the bankruptcy trustee's determination, I hope we can have a resolution within a reasonable time. I hope we can revisit the situation by April 1, 2021, if not earlier.

Best wishes to everyone for the holidays.

We look forward to participating in board hearings still on the schedule.

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

From: Tammy Zahner <tzahner@baltimorecountymd.gov>
Sent: Monday, December 28, 2020 1:00 PM
To: Peoples Counsel peoplescounsel@baltimorecountymd.gov
Subject: FW: Bolton Hill Investments, LLC, Case no. 20-003-SPH

I neglected to copy you on the e-mail to Mr. Gontrum.

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
tzahner@baltimorecountymd.gov
(410) 887-3180
(410) 887-3182 Fax

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From: Appeals Board
Sent: Monday, December 28, 2020 12:59 PM
To: 'Gontrum, John' <JGontrum@wtplaw.com>
Subject: RE: Bolton Hill Investments, LLC, Case no. 20-003-SPH

Good Afternoon,

We are in receipt of your postponement request. We will get back to you next week when Ms. Cannington returns to the office.
Thank you.

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
tzahner@baltimorecountymd.gov
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From: Gontrum, John <JGontrum@wtplaw.com>
Sent: Monday, December 28, 2020 11:30 AM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Bolton Hill Investments, LLC, Case no. 20-003-SPH

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Mr. William McComas, Chair County Board of Appeals

Dear Mr. McComas,

Our office represented Bolton Hill Investments, LLC. Earlier this month we received the attached Proof of Claim form indicating that it had filed for Chapter 7 bankruptcy. The Case No. is 20-19277 MMH Chapter 7. The attorney for the debtor is Seth Diamond and the Trustee is Charles R. Goldstein. I only received this notice after we had sent our client a copy of the notice for hearing. We had no idea it had filed for bankruptcy in mid- October.

For the past few weeks we have been trying to reach the Trustee to determine our status and the status of the case. Unfortunately, we have had no response to date. So our status as counsel is at best uncertain.

At this point I would like to request a postponement of the case scheduled for January 21, 2021, for it seems unlikely that the bankrupt company having filed under Chapter 7 is going forward with the zoning petition and project.

At such time as we receive a response we will forward it to you.

Thank you for your consideration.

Very truly yours,

JOHN B. GONTRUM
WHITEFORD | TAYLOR | PRESTON
DIRECT: 410-832-2055
FAX: 410-339-4058

This transmission contains information from the law firm of Whiteford, Taylor & Preston LLP which may be confidential and/or privileged. The information is intended to be for the exclusive use of the planned recipient. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately.

Tammy Zahner

From: Peoples Counsel
Sent: Monday, December 28, 2020 1:32 PM
To: Tammy Zahner
Cc: jgontrum@wtplaw.com; Mary DiLegge
Subject: RE: Bolton Hill Investments, LLC, Case no. 20-003-SPH

Thank you.

I am forwarding this e-mail chain also to Mary DiLegge, lead appellant.

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

From: Tammy Zahner <tzahner@baltimorecountymd.gov>
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Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Bolton Hill Investments, LLC, Case no. 20-003-SPH

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For the past few weeks we have been trying to reach the Trustee to determine our status and the status of the case. Unfortunately, we have had no response to date. So our status as counsel is at best uncertain.

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Thank you for your consideration.

Very truly yours,

JOHN B. GONTRUM
WHITEFORD | TAYLOR | PRESTON
DIRECT: 410-832-2055
FAX: 410-339-4058

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Tammy Zahner

From: Gontrum, John <JGontrum@wtplaw.com>
Sent: Monday, December 28, 2020 11:30 AM
To: Appeals Board
Cc: Peoples Counsel
Subject: Bolton Hill Investments, LLC, Case no. 20-003-SPH
Attachments: CopitrakScan.PDF



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Information to identify the case:

Debtor

Bolton Hill Investments, LLC

EIN 83-2981498

Name

United States Bankruptcy Court District of Maryland

Date case filed for chapter 7 10/14/20

Case number: 20-19277 MMH Chapter: 7

Official Form 309C (For Corporations or Partnerships)**Notice of Chapter 7 Bankruptcy Case -- No Proof of Claim Deadline**

12/15

For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case. Visit <http://www.mdb.uscourts.gov/> and click on Filing Without An Attorney for additional resources and information.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtor's full name	Bolton Hill Investments, LLC	
2. All other names used in the last 8 years		
3. Address	211 E. Lombard Street Baltimore, MD 21202	
4. Debtor's attorney Name and address	Seth W Diamond The Diamond Law Group, LLC 12850 Middlebrook Road Suite 308 Germantown, MD 20874	Contact phone (301) 565-5258 Email: seth@thediamondlawgroup.com
5. Bankruptcy trustee Name and address	Charles R. Goldstein 111 S. Calvert Street Suite 1400 Baltimore, MD 21202	Contact phone (410) 783-6418 Email: trustee@3cubed-as.com
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.gov .	Baltimore Division 101 West Lombard Street, Ste. 8530 Baltimore, MD 21201 Clerk of the Bankruptcy Court: Mark A. Neal	Hours open: 8:45 - 4:00 PM Contact phone (410) 962-2688 Date: 10/16/20
7. Meeting of creditors The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	November 10, 2020 at 12:00 PM The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.	Location: See the included UST Notice for meeting participation details.

For more information, see page 2 >

8. Proof of claim Please do not file a proof of claim unless you receive a notice to do so.	No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.
9. Deadlines: Papers must be <i>received</i> by the bankruptcy clerk's office by the following deadlines:	Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts: Deadline to Object to Exemptions: Thirty (30) days after the <i>conclusion</i> of the meeting of creditors.
10. Creditors with a foreign address	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.
11. Debtor electronic bankruptcy noticing	The U.S. Bankruptcy Court for the District of Maryland offers all parties the ability to receive court notices and orders via email, instead of U.S. mail. To participate, debtors must complete and file a DeBN request form with the Court -- additional information is available under Programs & Services at http://www.mdb.uscourts.gov . Other parties (non-debtors) can register at ebn.uscourts.gov .

seth@thediamondlawgroup.com

From: BKECF_LiveDB@mdb.uscourts.gov
Sent: Tuesday, November 10, 2020 2:57 PM
To: courtmail@mdb.uscourts.gov
Subject: 20-19277 Statement Adjourning Meeting of Creditors - CH7 - Bolton Hill Investments, LLC

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30-page limit do not apply.

U.S. Bankruptcy Court

District of Maryland

Notice of Electronic Filing

The following transaction was received from Goldstein, Charles entered on 11/10/2020 at 2:56 PM EST and filed on 11/10/2020

Case Name: Bolton Hill Investments, LLC

Case Number: 20-19277

Document Number: 17

Docket Text:

Statement Adjourning 341(a) Meeting of Creditors. Section 341(a) Meeting Continued on 11/24/2020 at 01:00 PM virtually, by ZoomGov or conference call. Debtor appeared. (Goldstein, Charles)

The following document(s) are associated with this transaction:

20-19277 Notice will be electronically mailed to:

Seth W Diamond seth@thediamondlawgroup.com,
w.sr69548@notify.bestcase.com

Charles R. Goldstein trustee@3cubed-as.com,
MD13@ecfbis.com

Diana C. Theologou dtheologou@silvermanlegal.com

20-19277 Notice will not be electronically mailed to:

Debtor(s): Bolton Hill Investments, LLC



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 16, 2020

NOTICE OF ASSIGNMENT **ARGUMENT ONLY ON** **MOTION FOR SUMMARY JUDGMENT**

IN THE MATTER OF: Bolton Hill Investments, LLC – Legal Owner
8 Dunmanway
20-003-SPH 12th Election District; 7th Councilmanic District

Re: Petition for Special Hearing pursuant to §§ 230.1.A.1 and 432A.1.A of the BCZR to permit an Assisted Living Facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone.

3/10/2020 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, with conditions.

Having received a Motion for Summary Declaratory Judgment from People's Counsel for Baltimore County on June 26, 2020, and response from Petitioners, Argument has been

ASSIGNED FOR: JANUARY 21, 2021, AT 10:00 A.M.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Assignment – Argument only on Motion for Summary Judgment
In the matter of: Bolton Hill Investments, LLC
Case number: 20-003-SPH
November 16, 2020
Page 2

If you do not have access to a computing device, please contact our office for the call-in information the day before the scheduled deliberation.

Krysundra Cannington, Administrator

c. Counsel for Petitioners
Legal Owner

: Jennifer Busse, Esquire
: Bolton Hill Investments, LLC

Protestants/Appellants *pro se*

: Mary DiLegge, Barbara Kenney

People's Counsel for Baltimore County

: Peter M. Zimmerman, Esquire

C. Pete Gutwald, Director/Department of Planning
Paul M. Mayhew, Managing Administrative Law Judge
Michael D. Mallinoff, Director/PAI
James R. Benjamin, Jr., County Attorney
Nancy C. West, Assistant County Attorney



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 13, 2020

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Bolton Hill Investments, LLC – Legal Owner
8 Dunmanway
20-003-SPH 12th Election District; 7th Councilmanic District

Re: Petition for Special Hearing pursuant to §§ 230.1.A.1 and 432A.1.A of the BCZR to permit an Assisted Living Facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone.

3/10/2020 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, with conditions.

This matter was scheduled for Argument on a Motion for Summary Declaratory Judgment and Response thereto on August 19, 2020 and has been postponed. This matter will be rescheduled to a later date.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

For further information, including our inclement weather policy and calendar, please refer to our website: www.baltimorecountymd.gov/Agencies/appeals/index.html.

Krysundra Cannington, Administrator

c. Counsel for Petitioners
Legal Owner

: Jennifer Busse, Esquire
: Bolton Hill Investments, LLC

Protestants/Appellants *pro se*

: Mary DiLegge, Barbara Kenney

People's Counsel for Baltimore County

: Peter M. Zimmerman, Esquire

C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney

Paul M. Mayhew, Managing Administrative Law Judge
James R. Benjamin, Jr., County Attorney

WHITEFORD, TAYLOR & PRESTON L.L.P.

JENNIFER R. BUSSE
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August 11, 2020

VIA EMAIL AND HAND DELIVERY

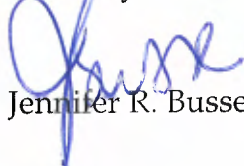
Ms. Krysundra "Sunny" Cannington, Administrator
The Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204

**Re: 8 Dunmanway
Bolton Hill Investments LLC
Case No. 2020-003-SPH**

Dear Ms. Cannington:

On behalf of our client, Bolton Hill Investments, LLC, we respectfully rescind our request that the Petition in this matter be dismissed without prejudice. Upon consultation with People's Counsel, we hereby respectfully request a postponement. People's Counsel is not opposed to this request for a postponement. We apologize for any confusion caused and appreciate your understanding.

Sincerely,



Jennifer R. Busse

cc: Peter Max Zimmerman, Esq. (via email and hand delivery)
Mary DiLegge
Barbara Kenney
John B. Gontrum, Esq.

11440890



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 11, 2020

SENT VIA EMAIL

William A. McComas Chairman
Board of Appeals of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

Re: Bolton Hill Investments
8 Dunmanway
Case No.: 2020-003-SPH

Dear Chairman McComas:

Our office has just received Petitioner Bolton Hill Investments' request for dismissal without prejudice. Respectfully, we must object to this request as untimely, tactical, and prejudicial to Appellants and to the rule of law based on settled standards discussed below.

The request comes just nine days before the scheduled hearing on our office's Motion for Summary Declaratory Judgment. The matter has been briefed by both sides and is ready for Webex argument on August 19, 2020, as scheduled. There are important legal issues of first impression: Whether an Assisted Living Facility petition, here ALF III, may bypass the new/within past 5 years enlarged building elements of the BCZR Sec. 101.1 definition; whether an ALF III is permitted in the B.L. Zone other than in the Pikesville CRD, per BCZR Sec. 432A; whether there is a parking exemption for an ALF in a historic district where the building itself is not on the National Register of Historic Places, per BCZR Sec. 409.6.A; and whether the open space requirements may be bypassed.

There is no specific County Board of Appeals rule on the withdrawal of petitions. There is Rule 3b, which allows the withdrawal of an appeal, but not a petition. There is a rule on postponements, which generally precludes them within 15 days before a hearing.

Fortunately, we have dealt with this subject of an untimely withdrawal of a zoning petition before, particularly in the case of Christopher Walters, et al. CBA No. 03-448-SPH, Circuit Court No. 03-C-04-0688. The gist of it is that the County Board of Appeals' allowance of a withdrawal without prejudice is subject to standards. It is subject to review for abuse of discretion where untimely, tactical, and prejudicial to protestants, our office and the rule of law. We attach the Walters case Board's initial opinion and order granting

the dismissal without prejudice, our Circuit Court memorandum in support of petition for judicial review, the Circuit Court Order reversing the Board, and the CBA Order on remand dismissing with prejudice in the Walters case. We successfully challenged and obtained reversal of the Board's approval of an untimely tactical dismissal without prejudice in that case.

We emphasized in our Walters memorandum the importance of procedural due process and fairness, Page 11. We addressed in detail the law on granting a dismissal without prejudice midstream, there in the middle of a trial hearing which, it could reasonably be inferred, was not going well for Petitioners. Pages 15-20. We looked at the analogous Maryland Rules and the Maryland cases of Scheve v. Schudder 328 Md. 363 (1992) and Owens-Corning FC v. Fibreboard Corp. 95 Md. App. 345 (1993). We found cases where the motion was filed both after the trial commenced as well as pretrial. We learned that Maryland follows the Federal Rules, that such dismissals are subject to review according to reasonable standards. A case in particular point is Zagano v. Fordham University 900 F.2d 12 (2d Cir. 1990). There, plaintiff moved to dismiss without prejudice less than 10 days before trial and refused to proceed after denial of the motion. Upon review of the ensuing lower court dismissal with prejudice, the appellate court affirmed, identifying these factors: "plaintiff's diligence in bringing the motion; any 'undue vexatiousness ...'; the extent to which the suit has progressed; including the defendant's effort and expense in preparation ...; the duplicative expense of relitigation; and the adequacy of plaintiff's explanation for the need to dismiss." In Minnesota Mining v. Barr Laboratories 289 F.3d 775 (8th Cir. 2002), the Court echoed the above standards and added "... whether dismissal was designed to avoid an adverse judgment." We also cited other cases, and if there is any doubt about these reasonable standards, we are prepared to file a memorandum to update the case law.

The present case is analogous in that we are in the middle of a motion process. It may reasonably be inferred that Petitioner desires to avoid an adverse judgment. There has been much effort, and some expense, endured by the citizen appellants in appearing at the ALJ level, filing and paying for an appeal, and spending their time on the case. Our office has spent much time in identifying, analyzing and briefing the important issues. The Board has been involved in processing, scheduling and reviewing the case, and preparing for the upcoming hearing.

Petitioner has not provided any explanation for the timing of the request. There is a reasonable concern that Petitioner may seek to pursue a tweaked or somewhat revised petition and perhaps argue for it to be processed and approved by county departments without public notice and hearing. They may make the same arguments to the departments which we contest here, but without our presence to present and litigate these issues and

without notice to Mary Dilegge and Barbara Kenney. This concern is highlighted by Petitioner's allegation that the PAI department does not require an ALF III to satisfy the prescribed definitional elements of the ALF III relating to the building being new or recently enlarged 25%. The Department of Planning and PAI so far have not challenged Petitioner's interpretation that the ALF III is permitted here in Dundalk because of the alleged proximity to the D.R. 16 Zone despite the explicit exclusion in BCZR Sec. 432A. The Department of Planning has been neutral on the parking exemption issue. We contest all these claims, but the departments may have different views. Even if Petitioner is required to file another zoning petition, subject to public hearing, it would be prejudicial to Appellants and to the administration of justice to have to relitigate some or all these issues from scratch.

Accordingly, we would like to argue in opposition to the issue of dismissal at the scheduled August 19 hearing, and see where we go from there. If the Board finds it helpful, we are prepared expeditiously to file a memorandum, bring the case law cited in Walters in 2004 up to date. We would abide by any reasonable time for such a memorandum.

Thank you for your consideration.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Jennifer Busse, Esquire, sent via email
John Gontrum, Esquire, sent via email
Mary Dilegge, sent via email
Barbara Kenney, sent via first class mail
Michael Mallinoff, PAI Director, sent via email
Pete Gutewald, Planning Director, sent via email
Carl Richards, Zoning Supervisor, sent via email

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>CHRISTOPHER WALTERS AND</u>	*	
<u>SUSAN GOSSLING -LEGAL OWNERS</u>	*	
/PETITIONER FOR SPECIAL HEARING ON	*	OF
PROPERTY LOCATED ON THE NE/COR	*	BALTIMORE COUNTY
OF WISEBURG RD AND PETERS AVENUE	*	
(1130-1132 WISEBURG ROAD)		
7 TH ELECTION DISTRICT	*	Case No. 03-448-SPH
3 RD COUNCILMANIC DISTRICT		
* * * * *		

ORDER OF DISMISSAL OF PETITION

This case was appealed to the Board based on a decision rendered by the Zoning Commissioner in which a Special Hearing request was approved by the Zoning Commissioner under date of June 18, 2003. A timely appeal was filed by the Office of People's Counsel for Baltimore County on July 15, 2003.

The Board held a public hearing on December 23, 2003. Howard L. Alderman, Jr., Esquire represented the Petitioners. Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that office. Additional attendees at the hearing included Christopher Walters, Susan Gossling, and E. F. Raphael for Petitioners; and Wally Lippincott, Jr., from the Department of Permits & Development Management, and Dr. Richard McQuaid, Protestant.

After opening statements, Mr. Alderman offered Eugene Raphael as his first witness. Mr. Raphael is a Maryland licensed land surveyor with 50 years of experience in land surveying and land development in Baltimore County. He prepared the plat in question (Petitioner's Exhibit #1). Mr. Alderman questioned the witness extensively on his qualifications relative to his knowledge and expertise in the R.C. zones and subdivision thereof. Likewise, Mr. Zimmerman questioned him under his *voir dire*.

The entire process consumed over one hour. The Board recognized the witness in his profession as a licensed land surveyor in Maryland and agreed to accept Mr. Raphael as an expert in the fields of R.C. zoning and land development but only to the extent the Board members determined credibility as to facts and conditions that supported his findings. Those determinations would be left to each Board member to evaluate at the time of public deliberation.

The Board noted the continuing objection of Mr. Zimmerman as to the expertise of Mr. Raphael as it pertained to knowledge of the R.C. zones and general land development. The record will speak for itself relative to the testimony of Mr. Raphael and cross-examination by Mr. Zimmerman.

At the conclusion of Mr. Zimmerman's cross, Mr. Alderman requested a brief recess, which was granted. The Board reconvened, and Mr. Alderman requested that the Petitioner be permitted to withdraw his Petition without prejudice. Mr. Zimmerman objected, indicating that he was prepared to go forward with his case. He cited the Board Rules, specifically Rule 4 which gives the Chairperson the right to regulate the course of the hearing and rule upon procedural matters, subject to the concurrence of a majority of the Board conducting the hearing. It was Mr. Zimmerman's argument that the Board had the right to dismiss the case with prejudice. Mr. Alderman argued Rule 3, "Appeals" indicates that an appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on appeal.

Having heard oral argument on both sides of the issue, the Board determined that Mr. Alderman, under the current rules of the Board, could request withdrawal of the case, without prejudice, and the Petition for Special Hearing was withdrawn and the appeal accordingly dismissed.

IT IS THEREFORE, this 7th day of January, 2003⁴, by the County Board of Appeals of Baltimore County

ORDERED that said Petition for Special Hearing filed in Case No. 03-448-SPH is **WITHDRAWN AND DISMISSED**; that the appeal filed in this matter is therefore moot; and that the Deputy Zoning Commissioner's Order of June 18, 2003, including any and all relief granted therein, is rendered null and void.

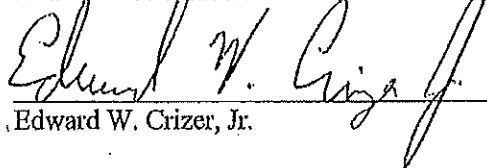
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Charles L. Marks, Chair



Lawrence S. Wescott



Edward W. Crizer, Jr.

**PETITION OF PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY**, Old Courthouse, Room 47,
400 Washington Avenue, Towson, MD 21204

*

IN THE

*

*

CIRCUIT COURT

*

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD
OF APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 47, 400 Washington
Avenue, Towson, MD 21204

*

FOR

*

IN THE MATTER OF THE APPLICATION
OF **Christopher Walters and Susan Gossling** FOR
A SPECIAL HEARING for property located on the N/E
corner of Wiseburg Road and Peters Avenue
(1130-1132 Wiseburg Road)
7th Election District, 3rd Councilmanic District

*

BALTIMORE COUNTY

*

*

Civil No. 03-C-04-0688

Case No. 03-448-SPH before the County Board of
Appeals of Baltimore County

*

* * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Statement of the Case

Petitioners filed a Petition for Special Hearing to transfer 1.29 acres between two parcels [99 and 90] they own at 1130 and 1132 Wiseburg Road. They described the request as a "lot line adjustment and accumulation of density between like zoned parcels...." The Zoning Commissioner approved the Petition on June 18, 2003.

People's Counsel appealed to the County Board of Appeals (CBA). The *de novo* evidentiary hearing on December 23, 2003, began with opening statements. Petitioners then called an expert surveyor, Eugene Raphael. People's Counsel challenged his zoning expertise. Upon cross-examination, People's Counsel exposed his lack of knowledge or

reasoning to support his opinions. Ultimately, Mr. Raphael conceded and even asserted with emphasis that he is not an expert on the zoning regulations.

Petitioners' counsel thereupon requested a recess. Upon resumption of the hearing, Petitioners stated they were dismissing their petition without prejudice. People's Counsel objected. Having proven the inadequacy of Mr. Raphael's evidence, People's Counsel was also prepared to proceed affirmatively with Wallace Lippincott, a planner and expert on Resource Conservation zones from the Department of Environmental Protection and Resource Management (DEPRM), and Dr. Richard McQuaid, a community leader, President of the North County Coalition, and interested party.

After argument, the CBA nevertheless decided it had no choice but to allow a dismissal without prejudice. Its written Opinion and Order followed on January 7, 2004. People's Counsel petitioned for judicial review.

This procedural irregularity led to our court action. Terms of dismissal are ordinarily within the discretion of the agency, subject to the standard of reasonableness. An administrative decision-maker must not act arbitrarily and capriciously. People's Counsel submits that after a trial-type hearing begins, it is arbitrary and capricious for the agency to allow a Petitioner, in effect, to test the waters with its expert witness and then dismiss without prejudice. It is especially improper where, as here, a Petitioner gives no reasons. The obvious implication is that Petitioner understands the case is not going well and has decided on a tactical retreat. The effect of such a dismissal is to allow Petitioners to go back to the starting gate, file their petition anew, and retry their case in a different way. This is contrary to basic rules of fair play and justice.

The Substantive Context

A procedural maneuver triggered the appeal, but there are also important substantive legal issues which are likely to recur. The Court should consider them both to understand the context of the dismissal and provide guidance and prevent future litigation.

The contiguous parcels are zoned R.C. 4, a Resource Conservation Zone enacted for Watershed Protection. Petitioners acquired Parcel 99 in 1992 and used it as their residence. It has 5.29 acres with frontage on Wiseburg Road. They live there. In 2002, they acquired Parcel 90, to the rear. It has a rented residence on 6.26 acres. The latter parcel has very steep slopes and substantial woods. It drops sharply in elevation back to the stream called Little Falls. Parcel 90 has access to Wiseburg Road via a driveway.

Petitioners advanced, first of all, the theory that Parcel 90 has available to it the right to develop two lots and Parcel 99 on lot, because under BCZR 1A03.4.B.1.a:

A tract to be developed in an R.C. 4 zone with a gross area of less than six acres may be not subdivided, and a tract to be developed with a gross area of at least six acres but not more than 10 acres may not be subdivided into more than two lots, each of which must be at least three acres, ... [subject to certain exceptions not applicable here].”

Having asserted a claim to lay out two lots on Parcel 90 and one on Parcel 99, Petitioners recognized nevertheless that Parcel 90’s topography and field conditions preclude development of a second lot as a practical matter. Their solution was to merge the two Parcels together, claim the right to develop a total of three lots, and then “transfer” 1.29 acres from Parcel 90 to 99. With the new configuration, Parcel 99(plus*)

being over six (6.58) and less than ten acres, and Parcel 90(minus*) being less than six acres (4.97), Petitioners proposed to subdivide the modified Parcel 90.

The zoning office, having concerns about the propriety of the scheme, required Petitioners to file the Petition for Special Hearing. People's Counsel appealed the approval because it is not legally sustainable on the merits.

People's Counsel disagrees with the premise that Petitioners have available to them the right to develop two lots on Parcel 99, and/or three lots total. They ignored BCZR 1A03.4B1.b, which states:

The maximum gross density of a tract to be developed with a gross area of more than 10 acres is 0.2 lot per acre. Any lots created hereafter, [subject to an exception not applicable here] shall be in accordance with the following standards for rural cluster development:

[Subsections (1) – (3) provide detailed standards].
Emphasis supplied.

Having assembled two parcels with a total of 11.55 acres, Petitioners have a combined “tract” with a gross area of more than 10 acres. The maximum gross density of 0.2 leaves them, at most, with two lots, the number of lots already there. In this connection, Webster's Third International Dictionary Definition states, at page 2421:

Tract *n* ... **2**: an area either large or small: as **a** (1) a region or stretch (as of land) that is usu. indefinitely described or without precise boundaries (a few large – *s* for settlement) (the wooded – *s* between two rivers) (a grat – of unexplored sea (2): a precisely defined or definable area of land (an 80 acre --) (an urban census --)

See Leiser v. City of Eureka 59 S.W. 3d 597 (Mo. App. 2001); Smith v. Clackamas

County 797 P.2d 1058 (Ore. App. 1990), *aff'd* 836 P.2d 716 (Ore. 1992); Holt v. Wichita

County Water Imp. Dist. 48 S.W. 2d 527 (Tex. App. 1932); Young v. Shriver 206 P. 99

(Cal. App. 1922), hearing denied by Supreme Court. These cases provide helpful discussions of this matter in the context of other statutes which refer to “tracts.” They support our position, as shown in Section III of the Argument below.

The 11.55 acre area assembled by Petitioners plainly meets the above definition and is, therefore, a single tract. The distinction between “tract” rather and “lot of record” or “parcel” is also reinforced by the use of the latter terms elsewhere in the BCZR. For example, the BCZR 101 definition of “Lot of Record” refers to “a parcel of land with boundaries as recorded in the land records....”

Even if Petitioners could show that Parcels 99 and 90 each were separate “tracts” to begin with, their Petition would fall with the attempt to “transfer,” or as they put it so pleasantly: “reconfigure” or “adjust.” The problem is that this manipulation necessarily eliminates the original parcel boundaries. Once those are eliminated, there is a merger of both parcels into one tract. That merger must logically precede any reconfiguration, adjustment, or transfer. Parcels 99 and 90 no longer exist. Cf. Friends of the Ridge v. BGE 352 Md. 645 (1999).

From another perspective, as the thrust of the Petition is to transfer density from Parcel 99 to Parcel 90, this runs into the objection that there is no authority in the Baltimore County Zoning Regulations to transfer density. In the absence of explicit statutory authority, it cannot be done. See West Montgomery Citizens v. MNP&P Comm’n 309 Md. 183 (1987).

Finally, given the legislative purpose to control development in watershed areas, Petitioners’ attempt to manipulate and add density subverts the statutory goal. See

Security Management v. Baltimore County 104 Md. App. 234 (1995). For all these reasons, People's Counsel challenged the Petition on the merits.

Questions Presented

1. Are administrative decisions on voluntary dismissals in quasi-judicial zoning cases subject to review for arbitrariness, capriciousness, and/or illegality?

2. Was it arbitrary, capricious, or illegal for the CBA to approve Petitioners' voluntary dismissal without prejudice after the trial testimony of Petitioner's expert witness, particularly where the dismissal was a transparent tactic to erase an inadequate presentation and where People's Counsel was prepared to complete a case of great public interest involving legal interpretation of density issues?

3. Is the R.C. 4 (Watershed Protection) Zone density of 0.2 applicable to a tract of two contiguous assembled parcels amounting to over 10 acres in area?

4. In the absence of statutory enabling authority, do the Baltimore County Zoning Regulations allow the administrative transfer of density between tracts in R.C. 4 zones?

County Board of Appeals Rules and Zoning Legislation

The Board Rules are attached as Exhibit 2. These are excerpts.

CBA Rule 4b. The Chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.

CBA Rule 3b. An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal.

CBA Rule 7d. Except as may otherwise be provided by statute or regulations, the proponent of action to be taken by the board shall have the burden of proof.

**Baltimore County Zoning Regulations
BCZR1A03.1. Findings and legislative Policy**

The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions lie within Baltimore County and that continuing development in the critical watersheds of those water supply courses is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C. 4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing the contamination through unsuitable types or levels of development in their watersheds.

BCZR 1A03.4B. Area Regulations:

1. Lot Density

a. A tract to be developed in an R.C. 4 zone with a gross area of less than six acres may not be subdivided, and a tract to be developed with a gross area of at least six acres but not more than 10 acres may not be subdivided into more than two lots, each of which must be at least three acres, except as otherwise provided in Section 103.3 or in Paragraph 4 below.

b. The maximum gross density of a tract to be developed with a gross area of more than 10 acres is 0.2 lot per acre. Any lots created hereafter, [subject to an exception not applicable here] shall be in accordance with the following standards for rural cluster development:

[Subsubsections (1) – (3) provide detailed standards].

Statement of Facts

In discussing substantive context, we described the property, its zoning classification, and the nature of the zoning petition. As noted, Petitioners called Eugene Raphel to support the proposal and discuss how it satisfies zoning law.

Early on, People's Counsel challenged Mr. Raphel's zoning expertise. T. 10-23. Mr. Raphel had attended two years of college and then gone into the army before becoming a surveyor. He stated that R.C. stands for "Rural Conservation" rather than the correct "Resource Conservation." He could not name all the resource conservation zones. T. 11-14. He gave a wrong answer as to the allowed density in the R.C. 5 zone (one acre per lot rather than the correct .667 density (BCZR 1A04.3B1). T. 12-13, 18. He could not recall the allowable density in the R.C. 4 zone. T. 15-16, 19. Upon argument, the Chairman expressed concerns about Mr. Raphel's expertise:

Well, he is here as an expert. From what I'm hearing, I'm a little suspect of it. T. 15.

I consulted with the other Board members, and we are going to permit Mr. Raphel to speak as an expert in – he is a registered land surveyor and also he prepared the plat.

And with the caveat, however, that the Court of Appeals has said in many cases that even expert has to have a reasonable basis for expressing an opinion [on] any facts in which he's talking about.

So, we're going to listen very attentively T. 23.

Mr. Raphel gave his opinions that Parcel 90 could be subdivided, that a total of three dwellings were possible on the two parcels, and that, in order to transfer 1.29 acres and "put the other lot over there", he was told by the DRC (Development Review Committee) to go to zoning. T. 29-33. He did admit the steep slope constraints were such that Parcel 90 could not actually be improved with an additional home under the present lot configuration. T. 36-37. In other words, a "transfer" would be necessary to make room available on the relatively flat lot 99, as enlarged. Mr. Raphel ended with a series of

affirmative answers to leading boilerplate questions as to the appropriateness and beneficial impact of the proposal. T. 38-40.

The ensuing cross-examination exposed the lack of any foundation for Mr. Raphael's opinions with respect to subdivision lot density and transfer. We attach in full the relevant pages T. 41-54 as Exhibit 1. In brief, Mr. Raphael was unable to identify any section of the law to support his opinion that Parcel 90 could be subdivided; had no independent knowledge of the density limits; and refused an offer to look at the zoning regulations to find the R.C. 4 zone regulations. At one point, he volunteered:

I'm saying I'm not an expert in the zoning regulations, period. T. 43.

He was also unable to point to any reference given him by anyone else. T. 44. As to transfer of density, he claimed there is a provision in the zoning law to allow it, but could not support the opinion. T. 47-48. Rather, he produced a Policy Manual provision which dealt with properties divided by zone boundaries. T. 48-49. Similarly, he could not explain the meaning of "conservancy", a key concept in the R.C. 4 zone. T. 50-51.

He acknowledged that the total acreage involved is 11.55 acres, and that the two parcels are contiguous. T. 45; that Petitioners acquired Parcel 99 in 1992 and Parcel 90 in 2002; that they live on 99 and rent 90; that there is a right of way to the house on 90 but it is not shown on the site plan. T. 44-47. He also described in more detail the steep slopes, "probably 40%", behind the house on Parcel 90, the presence of "a lot of trees" and the closeness to Little Falls. T. 52-53.

The record reflects that Mr. Raphael was able to give the property description one would expect from a surveyor, but had no basis, foundation, knowledge, or reasoning to

support his zoning opinions. It was at this point that Petitioner's counsel asked for a recess and then came back to dismiss without prejudice. T. 53-54.

People's Counsel objected. Argument followed, in which People's Counsel raised, among other things, the issues of fair play, the time and resources spent in preparing and going to trial, and Petitioner's attempt to get out of a case that was not going well. The Board decided to allow the dismissal without prejudice. T. 54-67. Its January 7, 2004 Order of Dismissal of Petition came two weeks later. After an outline of the course of proceedings and argument, the Board justified its decision with this conclusion on Page 2 of the Order:

Having heard oral argument on both sides of the issue, the Board determined that Mr. Alderman [Petitioners' counsel] under the current rules of the Board, could request withdrawal of the case, without prejudice, and the Petition for Special Hearing was withdrawn and the appeal accordingly dismissed.

ARGUMENT

The Nature of Judicial Review of Administrative Action

This petition for judicial review is authorized by statute under the Express Powers Act, Md. Ann. Code Art. 25A, Sec. 5(U), Baltimore County Charter Sec. 604, and Maryland Rules 7-201, et seq. But it also partakes of the original jurisdiction of the court to review administrative actions.

The Court exercises a form of original jurisdiction and inherent right to review the action of an administrative agency. Bucktail v. Talbot County 352 Md. 530, 542 (1999). Judge Rodowsky there cited Criminal Injuries Compensation Board v. Gould 273 Md. 486 (1975). This includes a comprehensive discussion of the function of judicial review:

....this Court, in a long line of cases, has consistently held that the Legislature cannot divest the courts of the inherent power they possess to review and correct actions by an administrative agency which are arbitrary, illegal, capricious, or unreasonable. [citations omitted]

Chief Judge Hammond, who delivered the majority opinion in Insurance Comm'r v. National Bureau of Casualty, *supra*, stated:

The courts have been alert to exercise their residual power to restrain improper exercises of administrative powers whether judicial or legislative in nature. If the legislature has not expressly provided for judicial review, a court will ordinarily utilize its inherent powers to prevent illegal, unreasonable, arbitrary, or capricious administrative action. 273 Md. At 501-02.

Procedural Due Process and Irregularities

This petition does not raise the usual kind of question presented to the court upon review of a zoning decision. Ordinarily, the Court must review the facts to determine whether there is substantial evidence to support the agency's mixed factual and legal judgment or, less frequently, to determine if there has been a clear error of law on the merits.

The present case is different because it is, as a practical matter, a case interrupted. A trial began, and then ended, abruptly. There is, therefore, added to the issue of "arbitrary and capricious" action the overlay that agencies must provide procedural due process of law to parties who appear before them. In Maryland Aggregates v. State 337 Md. 658, 686 (1995), Judge Eldridge quoted from Maryland State Police v. Ziegler 330 Md. 540 (1993):

Procedural due process, guaranteed to persons in this State by Article 24 of the Maryland Declaration of Rights, requires that administrative agencies performing adjudicatory or quasi-judicial functions observe the basic principles of fairness to parties appearing before them.

The Function of People's Counsel for Baltimore County: Defense of the Comprehensive Maps; Density Issues

The Charter

Under Baltimore County Charter Sec. 524.1(b), People's Counsel is responsible to defend the comprehensive zoning maps and master plan in land use cases on behalf of the public interest. This section states, *inter alia*:

Powers and Duties: The people's counsel shall have the following powers and duties:

A. He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, the planning board, and the courts on behalf of the interests of the public in general, to defend any duly enacted master plan and/or comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. ... He shall have in such appearance, all the rights of counsel for a party in interest," (Emphasis supplied).

The Courts have applied the broad language underlined above to approve the participation of People's Counsel in all sorts of land use cases, including reclassifications, special exceptions, variances, special hearings and cases involving the master plan. People's Counsel v. A.V. Williams 45 Md. App. 617 (1980); People's Counsel v. Webster 65 Md. App. 694 (1986); People's Counsel v. Mockard 73 Md. App. 340 (1987); People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683 (1989); People's Counsel v. Mangione 85 Md. App. 738 (1991); Red Roof Inns v. People's Counsel 96 Md. App. 219 (1993); United Parcel Service v. People's Counsel 336 Md. 569 (1994); Security Management Co. v. Baltimore

County 104 Md. App. 234 (1995), cert. denied; People's Counsel v. Beachwood 107 Md. App. 627 (1995), cert. denied; Umerley v. People's Counsel 108 Md. App. 496 (1996), cert. denied; People's Counsel v. Prosser 119 Md. App. 150 (1998); Riffin v. People's Counsel 137 Md. App. 90 (2001), cert. denied; Marzullo v. Kahl 366 Md. 158 (2001); People's Counsel v. Country Ridge Shopping Center 144 Md. App. 580 (2002); and Lucas v. People's Counsel 147 Md. App. 209 (2002). These have included reclassifications (Williams, Mockard, Beachwood, Prosser), special exceptions (Webster, Mangione, Umerley, Country Ridge, Lucas), variances (Red Roof Inns, Riffin), and the master plan or historic district identified in the plan (Webster and Lucas).

The Court of Appeals cases has often found that special hearing cases involving legal interpretation of the applicable zoning regulations and maps are of great public interest. (Maryland Marine, Harker, United Parcel Service, Marzullo) The present case involves a special hearing which raises density transfer issues. A somewhat similar issue arose in People's Counsel v. Crown Development Corp. 328 Md. 303 (1992).

There, a single question of density transfer arose in a development case. People's Counsel learned of the case when it reached the circuit court level and sought to intervene. Judge John McAuliffe wrote, at 328 Md. 317:

In any event, the circuit did not err in permitting intervention. People's Counsel has been given a broad charge to protect the public interest in zoning and related matters. See Baltimore County Charter Sec. 524.1. Density regulation is an important part of the zoning process.

I. The County Board of Appeals Decision to Approve a Voluntary Dismissal Without Prejudice Is Subject to Review for Arbitrariness, Capricious, and Illegality

Clearly, the CBA decision is subject to the inherent right of the courts to review administrative action for arbitrariness, capriciousness, and illegality. It is not immune. Because it involves a procedural issue, the court must also consider the fairness of the proceedings.

Ordinarily, the Rules of the forum provide guidance on procedural fairness. Therefore, we begin with an examination of the CBA Rules. There is no specific rule concerning voluntary dismissal of petitions. Rules 3b, 4b and 7d, however, provide helpful clues to the solution of this problem.

Rule 3b states that an appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing. It does not, however, refer to petitions. There is good reason for the distinction. The withdrawal of an appeal leaves intact the decision appealed. It leaves the prevailing party conclusively with the benefit of the earlier decision, ends the case, and thus does not cause prejudice, other than the effort to oppose the appeal. On the other hand, the withdrawal of the petition leaves open the potential to file the same petition another day, correct perceived omissions, change strategy and tactics, and cause the opposing party much more aggravation and effort. This cycle can be repeated again and again. It is also significant that Rule 3b is silent as to the terms of the withdrawal or dismissal. This reinforces the idea that it applies to appeals but not petitions. If it applied to petitions, the fundamental principles of administrative law would require the Board to exercise reasonable discretion to decide whether should be with or

without prejudice. We submit, therefore, based on plain language and the consequences for fairness, that Rule 3b does not allow a petition to be withdrawn without prejudice at any time prior to the conclusion of the hearing.

Rule 4b delegates to the Board chairman the responsibility to regulate the course of the hearing and rule upon procedural matters, subject to the concurrence of the Board majority. This responsibility is necessarily subject to the aforesaid principles that administrative action be reasonable, not arbitrary or capricious, and consistent with procedural due process of law.

Rule 7d also comes into play. It imposes the burden of proof on the proponent of any action. Once the trial begins, the Petitioner must meet its burden to prove a *prima facie* case on the merits. Petitioners' dismissal in midstream also presents the issue of failure to meet the burden of proof. This act of abandonment should be considered final.

It is only fair and logical to conclude that voluntary dismissals, like other administrative actions, are subject to these fundamental principles of administrative law. The County Board of Appeals erred, therefore, in deciding that Petitioners were entitled, as a matter of law, to dismiss without prejudice in the middle of the trial. The CBA failed to recognize that it must exercise discretion and consider the justification, if any, for the dismissal and the potential prejudice to the opposing party.

II. The CBA Abused Its Discretion in Granting a Dismissal Without Prejudice in the Middle of the Trial

To gain insight, we examined how the Maryland and Federal Courts handle voluntary dismissals. Maryland Rule 2-506(b) provides that after a defendant files an

answer or motion for summary judgment, "... a plaintiff may dismiss an action only by order of court and upon such terms and conditions as the court deems proper." The Rule dates from 1984. Its Source note cites its derivation as prior Rule 541b and the 1968 version of Federal Civil Rule 41(a)(2). The contemporary 1984 Maryland Rules Commentary states, at page 269:

Under former Rule 541, the plaintiff to a law action could dismiss an action voluntarily at any time before the introduction of evidence at trial. This often resulted in abuse, giving the plaintiff control over the court's trial docket and over the judge and jury before whom he was submitting the case. If the plaintiff was dissatisfied with the appearance of the jury panel or with the judge to whom the case was assigned, he simply filed a notice of dismissal without prejudice. The lawsuit would be filed again shortly thereafter, commencing the case once again from the beginning. This obviously operated to the prejudice of the parties and the court.

The Commentary also observes that "... the decisional law under F.R. Civ. P. 41 serves as a guide to the circumstances under which dismissal will not be allowed." Page 270. See, e.g. Owens-Corning Fiberglas Corp v. Fibreboard Corp. 95 Md. App. 345, 348-51 (1993)

Even under former Rule 541, a plaintiff could not unilaterally dismiss an action after the introduction of evidence. Under new Maryland Rule 2-506(b), Scheve v. Schudder 328 Md. 363, 376-78 (1992) and Owens-Corning, *supra*, are particularly helpful. In Scheve, a tax sale purchaser with a change of heart sought voluntary dismissal of orders of redemption which had been entered in their favor in two cases. The Circuit Court first struck the orders at their request, but then reentered them as a matter of law upon motions for judgment by defendants. Upon appeal, the Court of Appeals held that Rule 2-506(b) gave the Circuit Court discretion with respect to the dismissal and ordered

limited remand for that purpose. In Owens-Corning, a complex asbestos case, two of the cross-claimants requested dismissal without prejudice after jury selection, pretrial and evidentiary rulings, and opening statements by plaintiffs and non-settling defendants, (but before opening statements on the cross-claims). The Circuit Court rather dismissed with prejudice, and the Court of Special Appeals affirmed. Judge Rosalyn B. Bell wrote:

In the instant case, the trial judge was ready to proceed with the trial, the jury had been empanelled and sworn, and some of the parties had given their opening statements. The judge, wanting to move the case forward, offered Owings-Corning and Keene a choice of dismissing their cross-claims with prejudice or going forward with their cross-claims at trial. This was not the choice they wanted, but the trial judge made it clear that this was what was available to them. When they continued to balk, the trial judge merely did what he told them he would do, namely, grant their motion to dismiss, but with the condition of prejudice. We cannot say that he abused the discretion given to him by the rules. 95 Md. App. at 364.

The federal courts have developed standards to govern the exercise of discretion in handling pretrial voluntary dismissals. In Zagano v. Fordham University 900 F.2d 12 (2d Cir. 1990), plaintiff Zagano moved for voluntary dismissal less than ten days before trial and then refused to proceed with trial after denial of her motion. The trial judge dismissed with prejudice, and the appellate court affirmed. The Second Circuit articulated the following criteria to govern the exercise of discretion at 900 F.2d, at 14:

Factors relevant to the consideration of a motion to dismiss without prejudice include the plaintiff's diligence in bringing the motion; any 'undue vexatiousness' on plaintiff's part; the extent to which the suit has progressed, including the defendant's effort and expense in preparation for trial; the duplicative expense of relitigation; and the adequacy of plaintiff's explanation for the need to dismiss.

Minnesota Mining v. Barr Laboratories 289 F.3d 775 (8th Cir. 2002) dealt with plaintiff 3M's motion to dismiss without prejudice, which was filed after information disclosed in

discovery cast doubt on the main claim. The Court identified these “... factors to consider in exercising this discretion ... : whether the party has presented a proper explanation for its desire to dismiss; whether a dismissal would prejudice the defendant; whether a dismissal would result in a waste of judicial time and effort; whether a dismissal would prejudice the defendant; and whether the dismissal was designed to avoid an adverse judgment.” In affirming a dismissal with prejudice, the Court wrote:

The district court here considered appellant’s claimed entitlement to a dismissal without prejudice under Rule 41(a)(2), but found no legitimate justification for the appellants to dismiss the action without prejudice. The district court concluded that the appellants were seeking to avoid a judgment that would be adverse to their interest ... and that this was not a legitimate justification for their desire to dismiss without prejudice. ... Because the district court properly found that 3M had not offered a sufficient justification for a dismissal without prejudice, we hold that the district court did not abuse its discretion in denying 3M’s motion. Indeed, under the circumstances, a dismissal without prejudice might well have constituted an abuse of discretion since 3M was plainly seeking to avoid an adverse judgment.

Similarly, Phillips USA v. Allflex USA 77 F.3d 354, 358 (7th Cir. 1996), affirmed the lower court’s denial of a motion to dismiss without prejudice which was made after the opposing party filed a motion for summary judgment. The appellate court reinforced its adoption of the following factors: “the opposing party’s effort and expense in preparing for trial ...; excessive delay and lack of diligence on the part of the movant ...; and insufficient explanation of the need for dismissal ...” The court may also “... consider the present stage of litigation.” Ibid. Ultimately, the opinion concluded:

We agree with the district court that a party should not be permitted to avoid an adverse decision on a dispositive motion by dismissing a claim without prejudice.

Subsequently, in Jones v. Simek 193 F.3d 485 (7th Cir. 1999) the Seventh Circuit affirmed a refusal to dismiss without prejudice where a motion was filed thirteen days prior to trial. The Court wrote:

Similarly, there was no abuse of discretion in the court's refusal to dismiss without prejudice. ... The case was well advanced, the defendants had invested considerable time and resources in trial preparation, as had the court, and Jones' reason for the request (a scheduling conflict) was weak.

* * *

Let us apply the relevant criteria. The zoning proceeding here was more than "well advanced." It was in the middle of a *de novo* CBA trial upon appeal of a zoning commissioner decision. The Petitioner gave no reason or justification for the voluntary dismissal. The record demonstrates, however, that the motion came after an inadequate presentation by Petitioner's expert witness. Clearly, the motion was made to avoid an adverse judgment (the inevitability of which we discuss below). People's Counsel had prepared the case. DEPRM staff expert Wallace Lippincott was ready to testify. Dr. McQuaid had come in from the north county. The CBA had expended its time and resources, as had the Zoning Commissioner and various county agencies who submitted comments. Moreover, CBA Rule 7d places the burden of proof on the Petitioners. In walking away from the case, Petitioners failed to make a *prima facie* on the merits.

It is unjust to allow Petitioner to walk away without consequences and without accountability. Petitioner could then start the case anew and even repeat the tactic. Petitioner could also try to find some avenue to slip a similar proposal through the county bureaucracy and obtain approval without public notice or hearing. For example,

according to Mr. Raphael, a county official told him that Parcel 90 had two lots available to it. If that is true, then but for the transfer request, a county staff member might have approved further subdivision of Parcel 90 without a public hearing. This, in our view, would clearly be contrary to the law. The present case would have resolved the issue if taken to its conclusion on the merits. But with the dismissal without prejudice, the Petitioners may go back to county staff and try to subdivide Lot 90 without a public hearing.

The entry of a dismissal without prejudice here, therefore, is not just a tactic to avoid an adverse judgment. It may facilitate indirectly the circumvention of the zoning density limits in another way.

All the relevant factors, singly and in combination, negate any justification for dismissal without prejudice. It was arbitrary and capricious for the CBA to enter such an Order.

We also submit the dismissal without prejudice violates procedural due process of law. It subvertes basic principles of fair play in administrative proceedings. These are integral to ordered liberty in the American system of justice.

**The R.C. 4 Zone Density of 0.2 Is Applicable to an Assembled
Tract of Contiguous Parcels in Excess of Ten Acres**

We set forth the Webster's Third New International Dictionary definition of "tract" earlier. It is broad. It identifies both undefined and defined areas of land. The assembly of two contiguous parcels clearly forms a single tract. A tract of ten acres or

more is subject to a maximum density of 0.2 under BCZR 1A03.4.1.b. The Petitioners' tract of 11.55 acres, consisting of Parcels 99 and 90, has a maximum density of two lots. Moreover, the legislative purpose of the Watershed Protection Zone to protect the water supply militates against the manipulation of density standards to increase development in these sensitive areas.

We also noted the use of "tract" for the purpose of density calculation is the more meaningful because it is broader than the "lot of record" baseline used in the R.C.2 (Agricultural) Zone. The legislative history confirms the importance of this distinction. In 1992, the County Council enacted Bill 113 to amend the R.C. 4 standards. This Bill, attached as Exhibit 3, amended BCZR 1A03.4 to repeal "lot of record" and replace it with "tract" as the benchmark for calculation of zoning density. It provided for the first time the 0.2 density for lots over 10 acres.

The case law is also in accord.

Leiser v. City of Eureka 59 S.W. 2d 597 (2001) involved a statute which allowed the owner of a tract of land located within two or more municipalities to elect to belong entirely, with the assent of the receiving municipality, in one of the municipalities. The property at issue, located in Eureka and Wildwood, consisted of four separate parcels. This led to a fight between the two cities over whether Eureka could have jurisdiction over parcels located in Wildwood. The question became whether the contiguous parcels amounted to a single "tract." The Court answered in the affirmative. After examining the Webster's Dictionary definition and various prior legislative and judicial meanings given to "tract," the Court wrote:

From these definitions we conclude that the unity created by the ownership, control, or use of contiguous pieces of land may establish it as a 'tract' as that term is used in the statute. Plaintiff's real estate, which consists of four adjacent parcels, is a 'tract' of land within the purview of 72.424 RSMo (2000).

Smith v. Clackamas County 797 P.2d 1061 (Ore. App. 1990) dealt with an application to build a non-farm dwelling on part of a 54-acre parcel in an Exclusive Farm Use (EFU) zone. One of the statutory standards required a determination whether the proposed dwelling is "... situated upon generally unsuitable land for the production of livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract,". The property owner suggested that the relevant "tract" would be the part on which the proposed dwelling would be located. The Court disagreed, at 797 P.2d 1060-61:

The agricultural lands statutes were meant to be interrelated in their objectives and applications. ... We agree with LUBA [Land Use Board of Appeals] that the ORS 215.243 policy of preserving 'large blocks' of agricultural land is possibly the strongest single reason for requiring general unsuitability to be measured against an entire commonly-owned tract rather than only the part on which the proposed dwelling would be located. Petitioner's reading ... would promote the kind of balkanization that ORS 215.243 precludes.

We recognize that, if the entire tract must be generally unsuitable for any part of it to qualify as the location of a non-farm dwelling, the sites that can qualify in EFU zones will probably be few and far between. However, ORS 215.283(3) was not intended to facilitate non-farm dwellings on agricultural land. It creates 'rigorous criteria' for allowing them. Emphasis supplied.

The Oregon Supreme Court affirmed. 836 P.2d 716 (Ore. 1992). It pointed out that the various related statutory criteria all "look to the surrounding land, not just the smaller area designated by its owner for a proposed change in use. 836 P.2d, at 721. In conclusion, the Court stated:

ZDO 402.05.A.4 permissibly conditions county approval of any proposed dwelling in part on a finding that the proposed dwelling site itself, considered in relation to and as part of the larger tract of commonly owned property, is 'generally unsuitable for the production of farm crops and livestock.' Ibid. Emphasis supplied.

Holt v. Wichita County Water Improvement Dist. 48 S.W. 2d 527 (Tex. App. 1932) addressed a law which authorized the imposition of delinquent tax liens on tracts of land. The case held that a "tract" included, among other things, all contiguous lots in single ownership or control, so there was no requirement to impose a lien on a lot-by-lot basis. The court reviewed various legislative and judicial sources and dictionary definitions. They confirmed the broad definition of "tract" as any contiguous quantity of land under single ownership or, in one case, in the same subdivision. Young v. Shriver 206 P. 99 (Cal. App. 1922) gave a similar analysis of "tract" in the context of a statutory lien for mechanics and materialmen who grade, fill in, or otherwise improve property.

In the present case, the Petitioner has a single tract of 11.55 acres which consists of the contiguous Parcels 99 and 90. The maximum density of 0.2 translates to an allowance of two lots for this tract. Petitioner has proceeded on the faulty premise that the property has three lots available, and that Parcel 90 may be subdivided to add a third lot to the existing two lots.

Moreover, the proposed additional development undermines the purpose of the Watershed Protection Zone. Judge Alan Wilner described the purpose of the R.C. 4 zone in Security Management Corp. v. Baltimore County 104 Md. App. 234, 238 (1995):

The specific purpose of that zone, as set forth in the Baltimore County Zoning Regulations (BCZR Sec. 1A03.1) is to provide for the protection of water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing

contamination through unsuitable types or levels of development in their watersheds.

In this context, we also note the statement of purpose in Bill 113-92 to, among other things, "... provide standards that conserve valuable and limited natural resources, provide open space and protect the character of rural-residential development in certain Resource Conservation Areas."

The County Board of Appeals would have had to deny the Petition because it exceeded the maximum density and undermined the statutory purpose. The withdrawal of the Petition, therefore, avoided this adverse judgment. It also prejudiced People's Counsel's defense of the comprehensive zoning maps and law. The issue is of public importance and will recur in other situations. It is ripe, therefore, for review now and should not be short-circuited.

III. There Is No Legal Authority to Reconfigure or Adjust Lot Lines to Effectuate a Transfer of Density

The Petition described the proposal in various ways: as a reconfiguration of lots, a transfer of acreage, and accumulation of density between like zoned parcels. As we have shown, it proceeded upon the false premise that there exist two "tracts" for the purpose of R.C. 4 zone density calculation. But even if Parcels 99 and 90 could properly be called separate tracts, the Petition would still fail for several reasons.

In attempting to change the parcel or lot boundaries, the Petition necessarily eliminates the existing Parcel boundaries in order to create new boundaries. The erasure of the current Parcel 99/90 boundary line effectively merges the two parcels into one area

or “tract” with 11.55 acres. This further destroys Petitioners’ theory that they have two tracts of land for the purpose of density calculation.

In other words, one cannot create two new parcels without first wiping out the old parcel boundaries. Even if the 11.55 acre area were not already a tract, it would become one by virtue of manipulation of boundary lines.

* * *

There is a deeper problem. No matter what names the Petitioners give to their scheme, it seeks to accomplish a transfer of density from Parcel 90 to Parcel 99. Even if Parcel 90 had available the subdivision lot density for two lots, the Baltimore County Zoning Regulation do not delegate or provide any authority to transfer density. There is no such authority in the absence of legislation.

In West Montgomery Ass’n v. MNCP & P Comm’n 309 Md. 183 (1987), Judge John McAuliffe explained that specific legislation is a prerequisite for a charter county to provide for transfer of density under zoning law. He underlined, moreover, that there must be precise standards to govern density transfer. Among other things, the Court wrote, at 309 Md. 200:

Applying the established criteria to the facts of this case, we find the delegation of authority impermissible. No legislative determination was made to limit or define the optional densities that could or should be assigned to any property in the vast area involved.

Here, there is no legislative authority, much less standards, to allow the Zoning Commissioner, or the County Board of Appeals, to transfer density in the vast areas zoned for Watershed Protection or for other Resource Conservation purposes. In a case

involving the R.C.2 (Agricultural) Zone, Judge Barbara Howe wrote this in the Matter of Gudeman case, 89 CG 911 (1990), attached as Exhibit 4:

There is no dispute that, ordinarily, and by statute, property of this size may only be allowed two development lots. Nothing in the statute permits roads to be used as density multipliers; there is also nothing in the statutes to allow transfers of density from one parcel to another. Despite this fact, for a number of years the Zoning Commissioner, pursuant to a 'policy' has apparently been doing these things. The transfer of density is a zoning function which cannot even be accomplished by amendments to the master plan duly approved by a Planning Commissioner or Planning Board let alone by unilateral action by a zoning commissioner under the guise of 'policy.' West Montgomery Association v. MNCP & P Comm'n 309 Md. 183 (1987).

The Court of Special Appeals affirmed Judge Howe's decision in Gudeman v. People's Counsel for Baltimore County No. 396, (Sept. Term, 1990), Unreported. The appellate court did not discuss the transfer issue, having found sufficient other grounds to affirm. Judge Howe's decision remains as a key Baltimore County Circuit Court judicial decision on the issue of transfer of density in the Resource Conservation Zones.

Conclusion: Final Comment on the County Board of Appeals Opinion

In light of the law, if one returns again to the County Board of Appeals opinion, one finds a lack of understanding of the law and the principles of fair play which govern voluntary dismissals. The CBA evidently felt obligated to allow the Petitioner to control the proceedings, manipulate events to its advantage, avoid an adverse judgment, and cause the other parties, witnesses, staff, and the Board itself to endure a colossal waste of time and resources.

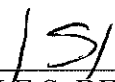
The CBA's decision was short-sighted, unfair, intolerable, and unacceptable. To say that it was arbitrary, capricious, and unreasonable is to put it mildly. This case

provides, however, an excellent opportunity for the Circuit Court to explain and apply the law which governs voluntary dismissals in the agency setting. The fundamental principles of administrative law and justice require the agency to act reasonably and to enforce fair play. That did not happen in this case.

The Court should reverse the Board's Order. It should require that the dismissal be with prejudice, and explain the law applicable to density and density transfer on tracts in the Watershed Protection Zones.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2004, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Lawrence S. Wescott, Chairman, Baltimore County Board of Appeals, 400 Washington Avenue, Room 49, Towson, MD 21204 and to Christopher Walters and Susan Gossling, 1132 Wiseburg Road, White Hall, MD 21161, Legal Owners and Zoing Petitioners.



PETER MAX ZIMMERMAN

PETITION OF PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, Old Courthouse, Room 47,
400 Washington Avenue, Towson, MD 21204

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD
OF APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 47, 400 Washington
Avenue, Towson, MD 21204

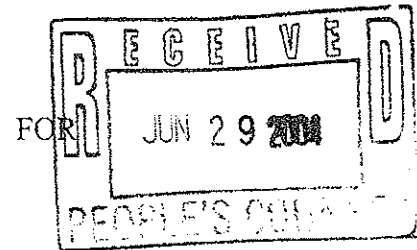
IN THE MATTER OF THE APPLICATION
OF Christopher Walters and Susan Gossling FOR
A SPECIAL HEARING for property located on the N/E
corner of Wiseburg Road and Peters Avenue
(1130-1132 Wiseburg Road)
7th Election District, 3rd Councilmanic District

Case No. 03-448-SPH before the County Board of
Appeals of Baltimore County

* * * * *

IN THE

CIRCUIT COURT



BALTIMORE COUNTY

Civil No. 03-C-04-0688

ORDER

This case came before the Court for hearing on June 18, 2004. Upon consideration of the matter, including the facts and law recited in People's Counsel for Baltimore County's Memorandum, and having heard no response or opposition from any other party, this Court rules, for reasons stated in the aforesaid Memorandum, that the County Board of Appeals for Baltimore County's January 7, 2004 Order of Dismissal of Petition without prejudice was arbitrary, capricious, and contrary to law. Accordingly, it is, this

23rd day of JUNE, 2004, ORDERED, by the Circuit Court for Baltimore County:

1. That the January 7, 2004 Order of Dismissal entered by the County Board of Appeals of Baltimore County be, and hereby is, reversed.

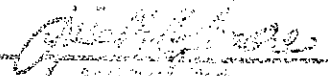
2. That the case is remanded to the County Board of Appeals for Baltimore County for the purpose of an entry by said Board of Appeals of an Order of Dismissal with Prejudice of the Petition for Special Hearing filed by Christopher Walters and Susan Gossling on property located at 1130-32 Wiseburg Road, Case No. 03-448-SPH at the Board of Appeals.



LAWRENCE R. DANIELS, Judge
Circuit Court for Baltimore County

True Copy Test

SUZANNE M. LUSH, Clerk

Per 
Suzanne M. Lush, Clerk

9/1/04
IN THE MATTER OF
THE APPLICATION OF
CHRISTOPHER WALTERS AND SUSAN
GOSSLING - LEGAL OWNERS FOR A
SPECIAL HEARING ON PROPERTY
LOCATED ON THE NE/COR OF WISEBURG
ROAD AND PETERS AVENUE
(1130-1132 WISEBURG ROAD)
7TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* ON REMAND
* FROM THE
* CIRCUIT COURT FOR
* BALTIMORE COUNTY
* Civil Action
No.: 03-C-04-0688
* * * * *

ORDER OF DISMISSAL OF PETITION WITH PREJUDICE
ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

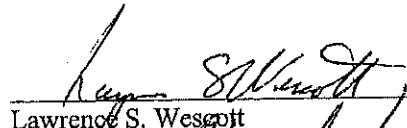
This matter comes before the Board on remand by Order of Judge Lawrence R. Daniels, Circuit Court for Baltimore County, filed June 28, 2004, in which Judge Daniels orders as follows:

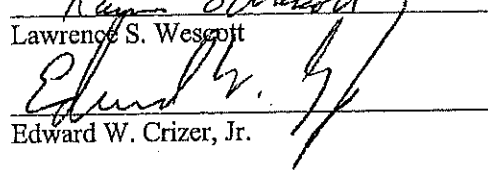
1. That the January 7, 2004 Order of Dismissal entered by the County Board of Appeals of Baltimore County be, and hereby is, reversed.
2. That the case is remanded to the County Board of Appeals for Baltimore County for the purpose of an entry by said Board of Appeals of an Order of Dismissal with Prejudice of the Petition for Special Hearing filed by Christopher Walters and Susan Gossling on property located at 1130-32 Wiseburg Road, Case No. 03-448-SPH at the Board of Appeals.

IT IS THEREFORE this 15th day of September, 2004 by the County Board of Appeals of Baltimore County

ORDERED that, consistent with the Remand Order of the Honorable Lawrence R. Daniels, Judge, Circuit Court for Baltimore County, filed June 28, 2004, the **Petition for Special Hearing** filed by Christopher Walters and Susan Gossling on property located at 1130-32 Wiseburg Road, Case No. 03-448-SPH at the Board of Appeals, be, and the same is hereby, **DISMISSED with prejudice**.

COUNTY BOARD OF APPEALS¹
OF BALTIMORE COUNTY


Lawrence S. Wescott


Edward W. Crizer, Jr.

¹ Charles L. Marks, the third Board of Appeals member comprising the panel when this matter was heard by the Board, is no longer a member of the Board of Appeals.

WHITEFORD, TAYLOR & PRESTON L.L.P.

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August 10, 2020

VIA EMAIL AND HAND DELIVERY

Ms. Krysundra "Sunny" Cannington, Administrator
The Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: 8 Dunmanway
Bolton Hill Investments LLC
Case No. 2020-003-SPH

Dear Ms. Cannington:

On behalf of our client, Bolton Hill Investments, LLC, we respectfully request this Petition be dismissed without prejudice.

Sincerely,


Jennifer R. Busse

JRB:tdm

cc: Peter Max Zimmerman, Esq. (via email and hand delivery)
Mary DiLegge
Barbara Kenney

11440890

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
8 Dunmanway; NS of Dunmanway, 115' E		
of c/line of the shipping place	*	BOARD OF
12 th Election & 7 th Councilmanic Districts		
Legal Owner(s): Bolton Hill Investments LLC	*	APPEALS FOR
Petitioner(s)		
	*	BALTIMORE COUNTY
	*	2020-003-SPH

* * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S REPLY MEMORANDUM

To facilitate and save time at the scheduled oral argument, People's Counsel for Baltimore County replies to Petitioner Bolton Hill Investments' (BHI's) response:

I. The Tale of the Fox

"Explain, please, ability to stay with hunt without glimpse of fox."
Charlie Chan's Murder Cruise (1940)

Metaphorically, BHI is on a foxhunt. The fox comes in many colors across a spectral forest. They hunt for an Assisted Living Facility (ALF) III as a permitted use in the B.L. Zone in Dundalk, outside the Pikesville Commercial Revitalization District (CRD). They hunt for an off-street parking exemption. They bypass required open space. They bypass compatibility review. It turns out also on video review their hunt had a false start because they do not meet the ALF III definition. No glimpse of fox anywhere.

This is a case of first impression. It tests the implementation and integrity of the rule of law. We encapsulate the legal reasons why BHI can't get a glimpse of the fox:

1) BCZR Sec. 432a.1.A designates the allowed zones for all ALF classifications. An ALF III is not a permitted use in the B.L. Zone, other than in the Pikesville CRD. Sec. 432A.1.A.4. The plain language, statutory scheme, and history effectively preempts the earlier general provision for B.L. Zone "Uses permitted and limited in the residential zone immediately adjoining ..." BCZR Sec. 230.1.A.1 (1955).

The Court of Appeals underlined in a zoning case, Clarksville Residents v. Donaldson Properties 453 Md. 516, 538-39 (2017):

“‘[i]t is an often repeated principle that a specific statutory provision governs over a general one. Thus where one statutory provision specifically addresses a matter, and another more general statutory provision also may arguably cover the same matter, the specific statutory provision is held to be applicable and the general provision is deemed inapplicable.’”

The Court of Special Appeals likewise recited in Len Stoler, Inc. v. Wisner 223 Md. App. 218, 234 (2015),

“Another well-established principle of statutory construction requires that a more specific enactment governs a more general statute.”

The Len Stoler court cited another relevant principle of statutory construction,

“One is the principle that when the provisions of two statutes conflict, the more recent statute takes precedence over the earlier statute.” Ibid.

Furthermore, the County Council explicitly recognized the general B.L. Zone exclusion in the Fiscal Note to Bill 32-06, which added the OR-2 Zone for ALF IIIs. The Council again recognized this exclusion in the Fiscal Note for Bill 47-19, when it added just the B.L. Zone in the Pikesville CRD.

BHI tries nevertheless to circumvent the specific later legislation which supersedes their catchall B.L./D.R. 16 premise. Their argument amounts to a back door, bootstrap play. It doesn’t get past the legal backfield.

BHI’s theory also disintegrates geographically because the nearest D.R. 16 Zone is not immediately adjoining. It is on the other side of Dunmanway and east of the Dunglow Road T-intersection. The D.R. 16 Zone does not touch 8 Dunmanway.

2) BHI suggests an exemption from the BCZR Sec. 409.6.A.1 off-street parking standard (1 useable space for 3 beds) for “residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and are located within a C.T. or B.L.-C.C.C. District.” Emphasis supplied. Although 8 Dunmanway is in a B.L.-C.C.C. District and contributes to the Dundalk Historic District, it is not itself designated on the NRHP. We attach the listing of Baltimore County locations on the National Register provided by Wikipedia.

3) BCZR Sec. 432A.1.C.3 requires at least ten percent of the lot to be useable, contiguous open space. BHI provides zero open space.

4) BCZR Sec. 432A.1.D requires a compatibility review per County Code Sec. 32-4-402. The Department of Planning, albeit supportive, has not done the review

There is a fifth threshold problem which just attracted our attention:

5) BHI says on Page 2 of their response,

“Because the building will accommodate more than fifteen (15) residents, it is classified by the Department of Permits, Approvals, and Inspections as a Class III building even though it has not been enlarged within the past five years and there are no plans to enlarge the existing building.”

They do not say who in PAI made this classification, where found, and whether there were any reasons given, oral or written. Unfortunately for BHI, any such interpretation conflicts directly with the BCZR Sec. 101.1 definition of ALF III. The definition is:

C. ASSISTED-LIVING FACILITY III — An assisted-living program which:

1. Will accommodate more than 15 resident clients; and
2. Will be in a structure which was built or enlarged by more than 25 percent of ground floor area less than five years before the date of application; or
3. Will be in a structure which will be newly constructed or enlarged by more than 25 percent of ground floor area for the assisted-living program.

Emphasis supplied.

It turns out the 1930s vintage 8 Dunmanway building --- neither new, or recently constructed or enlarged --- is disqualified *per se* for ALF III under the plain language of the definition.

As for PAI, if they say what BHI claims, it is immaterial. An agency may not bypass or usurp a legislative prescription. The Court of Special Appeals recently reiterated in Montgomery County v. Rios 244 Md. App. 629, 639 (2020)

“... the Commission's regulations ‘cannot override the plain meaning of the statute or extend its provisions beyond the clear import of the language employed.’ quoting *Vest v. Giant Food Stores, Inc.*, 329 Md. 461, 476, 620 A.2d 340 (1993)).”

Picking up where the great detective Chan left off, we see that BHI wants to stay in the hunt, but they have no glimpse of the fox in the legal forest. The law is clear.

II. Legislative Judgment

BHI argues that our statutory construction of the B.L. Zone exclusion is illogical and too restrictive and that it derogates common law. In effect, they argue the law should provide generally for ALF IIIs in the B.L. Zone, and maybe other zones as well. They also would like to erase the BCZR Sec. 101.1 definitional disqualification. As for common law, it is in the nature of zoning legislation to supersede common law. Village of Euclid v. Ambler Realty Co. 272 U.S. 365, 388-89 (1926).

As with any legislation, especially zoning legislation, there are judgments made and lines drawn. Zoning laws may allow some uses and other things which arguably could be disallowed. Correlatively, they may disallow things which might be included. Village of Euclid, 272 U.S. at 388-89. Zoning laws are not derived from mathematical theorems or sacred commandments. They involve human judgment calls.

Here, it is plausible for the County Council to place the more dense ALF IIIs in new or recently enlarged buildings. It is plausible to allocate them to the more dense or intense residential and business zones. It is plausible, moreover, to doubt whether it is consistent with public health, safety, and welfare to pack 32 elderly residents in a small building on a small lot, with no parking, no open space, and only intermittent medical and nursing care.

It is up to legislative judgment and prerogative whether to expand or contract the permitted zones or enact any other amendment. If the Council wishes to expand or contract the ALF III definition, they may do so. If the Council wishes to add to or subtract the Pikesville CRD B.L. Zone, they may do so. If they wish to broaden or narrow the off-street parking exemption, they may do so. They have not done it.

.Robert Bolt gave voice to Thomas More in Man For All Seasons (1960), the focus must be on what is legal, not what BHI happens to think is “right,” a very elusive and subjective inquiry. The legislature has wide discretion to make judgments and draw lines. Lonaconing Trap Club v. Maryland Department of Environment 410 Md. 326 (2009). The law

must be implemented as written and intended, with the legislature available to make modifications in any direction. We are dealing with legislation and the rule of law.

III. Legislative History Redux

To escape from the clear language and legislative history of current BCZR Sec.432A.1.A.4, BHI also focuses on the earlier incarnation of ALF legislation. They also cite four Zoning Commissioner or Deputy Zoning Commissioner decisions delivered under this previous regime between 1994 and 2001.

This is a diversion to shift attention from the current legislative prohibition. It functions as a smokescreen to take the CBA's eye off the ball. Let us anyway examine the earlier legislative history and cases. This will just reinforce the conclusion that the law prohibits BHI's proposed ALF III.

A. Bill 188-93 and the Previous Regime: the Basics

Bill 188-93, attached, is the source of the previous ALF legal regime, which endured until replaced by Bill 19-2004. It had a different set of ALF definitions and standards codified in then BCZR Secs. 101 and BCZR Sec. 432, also attached.

The BCZR 101 definitions set up Class A and Class B ALFs. These were divided by conversion of existing buildings not enlarged by 25% within the last 5 years (Class A) from new or recently enlarged over 25% (Class B). Bill 188-93, P. 3-4.

The Bill added Class A ALFs as uses permitted by right in the R.C. 5 and D.R. Zones. P.4. There does not appear to be any parallel addition for Class B ALFs. Subject to a density chart, Class A ALFs would generally be permitted by right, and Class B ALFs by special exception. BCZR Sec. 432.

The density chart codified in BCZR Sec. 432.5.A.1.for Class A ALFs spanned R.C. 5 (Rural-Residential) and all the D.R. (Density-Residential) Zones. P.9. The chart set minimum lot sizes based on zone and the number of residents. BCZR Sec. 432.5.A. 1. For example, in the most intense zone, D.R. 16, there was required 9,000 square feet for seven residents, with an additional 1,200 square feet for each additional resident. So, for 32 residents, as proposed by BHI, it computes to at best a minimum lot requirement of at least 39,000 square feet, or .9 acre.

For Class B special exceptions, there was a minimum lot size of 1 acre, or 2,000 square feet for resident, whichever greater. P. 10. For BHI's proposed 32 residents, there would have been required 64,000 square feet, or 1.47 acres.

Let us now analyze the statutory construction for permitted uses. The density chart for Class A ALFs did not include any Business Zones. If contested, the proper conclusion would still be that this special regulation did not permit Class A ALFs in Business Zones, notwithstanding the more general B.L. incorporation of uses permitted in immediately adjoining residential zones. We are not aware of any reported cases or litigation involving Class A ALFs processed in Business Zones.

When it came to Class B special exceptions, the law did not designate any specific zone, thus leaving some ambiguity. Perhaps the County Council deemed that special exception review, along with minimum lot size and performance standards, would be satisfactory for any zone. This issue apparently was never raised or studied in any case, so far as we can tell. We discuss below the earlier special exception cases cited by BHI.

Bill 188-93 established the requirement of 1 useable off-street parking space for each three beds. BCZR Sec. 409.6.A.1. P.6. Bill 188-93 also set performance standards for all ALFs, dealing with signs, parking, changes to the exterior, compatibility and open space, and other details. P. 10-12. Unlike the definitional, use, density, and performance provisions replaced by later legislation, this parking standard still applies.

We pause for a moment to note that BHI's proposed ALF for 32 residents would not have qualified under the previous regime. It would be in the Class A category as an existing building. The Class A chart does not permit an ALF in the B.L. Zone. Furthermore, the lot size of 5375 square feet would not satisfy the minimum square feet for any zone. It is a small fraction of the Class A requirement, which computes at most liberally to 39,000 square feet for the D.R. 16 Zone.. Alternatively, if there were a new building proposed, with a Class B scenario, the 5375 square feet lot size would have been an even tinier fraction of the 64,000 square feet necessary for a special exception.

B. Comparison of Bills 188-93 and 19-04, as Amended

We compare first the definitional structures. As explained, Bill 188-93 defined Class A and Class B ALFS. Class A were in buildings converted or less than 25% enlarged in the past five years. Class B were in new or recently enlarged buildings. Bill 19-04 still differentiated old/modestly enlarged from new/recently enlarged buildings. The older existing or modestly converted buildings could qualify for an ALF I --- less than 8 residents --- and an ALF II --- 8 to 15 residents. As noted, to qualify for an ALF III, the building would have to be new or enlarged by more than 25% in the past five years. In other words, based on the definitions, the BHI ALF would have been Class A under Bill 188-93 and would be geared to classifications I and II under the current law.

As we turn to the standards, we saw that Bill 188-93 allowed Class A ALFs in the R.C. 5 and D.R. Zones by right, subject to minimum lot sizes based on the zone and number of residents. Class B ALFs were allowed by special exception, again with specified minimum lot sizes. But there was no designation of any zone for the special exception, leaving a kind of vacuum. We also saw that Bill 188-93 established the off-street parking standard, along with performance standards.

Bill 19-04 changed the standards. There was no longer a focus on minimum lot size. Nor was there any special exception open-ended as to zone. Rather, each of the three new classifications had specifically designated permitted zones. This zone-based structure and reset performance standards set up a new tripartite scheme.

The bottom line is that Bill 19-04, along with subsequent amendments, is geared to an explicit zoning foundation. Bill 19-04 excluded ALF IIIs from the B.L. Zone entirely. Eventually, Bill 47-19 added the B.L. Zone only for the Pikesville CRD. This is where we are.

C. Zoning Commissioner/Deputy Zoning Commissioner Decisions 1994-2001

BHI submit four Zoning Commissioner or Deputy Commissioner special exception approvals between 1994 and 2001. Upon careful review, they do not help BHI.

As emphasized, there was no specific zone designation for such Class B special exceptions, leaving a vacuum. Each of the approvals involved new or expanded buildings on much larger lots. There were no parking variances needed. Three of the four had no opposition. The fourth had area citizens divided between support and opposition. None of the approvals were appealed.

We examine them in chronological order:

1) Pomona Corp., 95-51-X, 3901 Naylor's Lane (1994), Special exception in Pikesville for 72 residents in new building on 4.2 acres zoned O-1. Petitioner reached an agreement with Pine Ridge Association and other neighbors, incorporated in approval.

2) Vleck, 97-409-XA, Old Eastern Avenue (1997). Special exception and variance in Essex for up to 97 residents in a new building on 2.65 acres split zoned 1.43 D.R. 16 and 1.22 B.L. There was no opposition.

3) 639 Main Street, Inc., 98-76-SPHXA, 639 Main Street, i.e. Reisterstown Road (1997). Special exception, special hearing, and variance for existing 15 residents involving 2-story addition to second and third floors on 1.0 acre zoned R.O. Again, no opposition.

4) Gulab Shah, combined 98-238-SPHXA and 98-239-XA, 10881 and 10883 York Road (2001). Special exceptions, special hearing, and variances for two new buildings, 15 residents in each facility, on 2.5 acres combined, 1.29 R.O. and 1.2 D.R. 3.5. Some citizens supported the project and others opposed it. There was no appeal.

There is no comparison between the proposed BHI project and the projects on much larger acreages in these cases. To repeat, BHI wishes to crowd 32 residents on a postage stamp lot with a small old building. As for the partial B.L. Zone in the Vleck case, we have noted the open-ended zoning for the special exceptions then allowed, and the lack of opposition or appeal.

So, these cases are not germane here. If anything, they reflect the much larger properties typically appropriate for ALFs with substantial numbers of residents.

IV. Off-Street Parking

We have demonstrated that BHI does not qualify for an exemption because 8 Dunmanway is not itself listed on the National Register of Historic Places.

V. Open Space

Clearly, BHI fails to provide any of the open space required by the law.

VI. Compatibility

The Department of Planning has not done the compatibility review required.

Conclusion

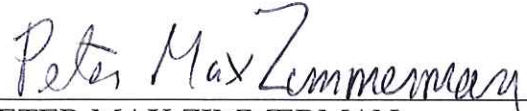
“Truth like oil --- will in time rise to surface.” Charlie Chan’s Murder Cruise (1940)

Each time we reviewed this case over the last several months, a new piece of the legal truth rose to the surface. Each legal truth requires denial of the petition.

Some cases have a single issue of statutory construction. Freeland Comm. Ass’n v. HZ Properties reviewed Agricultural Zone density on a north county parcel bisected by a BGE transmission line property. Geddes/Riffin analyzed industrial uses on a north county R.C. Zone residential property. Lion Brothers determined whether an access road off Reisterstown Road in Owings Mills was a street. MGI evaluated B.L. Zone construction company activities along with office use in Bowleys Quarters. Woodley Park reviewed, among other things, whether compatibility review was required for a Reisterstown area development plan.

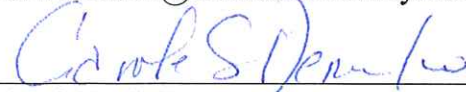
In these cases, it was helpful to have evidentiary hearings to elaborate the factual setting. This is not the situation here. There is no genuine dispute as to the material facts.

This case also differs because we have multiple statutory construction issues. The threshold question is whether the BHI project meets the ALF III definition. The next issue is whether an ALF III is a permitted use in the B.L. Zone other than the Pikesville CRD. Then comes the off-street parking exemption issue. A negative answer to any of these questions nullifies the project. We contend the right answer to each of these questions is negative as a matter of law. After that come the cut-and-dry open space and compatibility review failures.



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County
pzimmerman@baltimorecountymd.gov

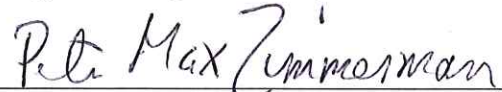


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 6th day of August, 2020, that a copy of the foregoing People's Counsel for Baltimore County's Reply Memorandum Judgment was emailed to Mary Dilegge, 3014 Dunglow Road, Baltimore, Maryland 21222, marykdilegge@gmail.com & John Gontrum, Esquire, & Jennifer Busse, Esquire, 1 W. Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, jgontrum@wtplaw.com, and jbusse@wtplaw.com, Attorney for Petitioner(s). We have mailed the memorandum to Barbara Kenney, 3020 Dunglow Road, Baltimore, Md 21222.



PETER MAX ZIMMERMAN

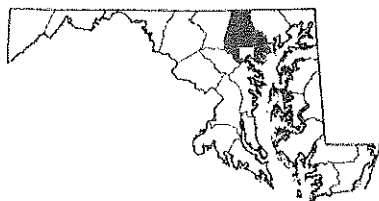
People's Counsel for Baltimore County

WIKIPEDIA

National Register of Historic Places listings in Baltimore County, Maryland

This is a list of the **National Register of Historic Places listings in Baltimore County, Maryland**.

This is intended to be a complete list of the properties and districts on the National Register of Historic Places in Baltimore County, Maryland, United States. Latitude and longitude coordinates are provided for many National Register properties and districts; these locations may be seen together in a map.^[1]



Location of Baltimore County in Maryland

There are 89 properties and districts listed on the National Register in the county, including 2 National Historic Landmarks. As an independent city, the city of Baltimore is entirely separate from Baltimore County; its National Register-listed properties and districts are listed separately.

Contents: Counties in Maryland

Allegany - Anne Arundel - Baltimore (city) - Baltimore County - Calvert - Caroline - Carroll - Cecil - Charles - Dorchester - Frederick - Garrett - Harford - Howard - Kent - Montgomery - Prince George's - Queen Anne's - Somerset - St. Mary's - Talbot - Washington - Wicomico - Worcester

This National Park Service list is complete through NPS recent listings (<https://www.nps.gov/subjects/nationalregister/weekly-list.htm>) posted July 17, 2020.^[2]

Current listings

[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
1	Anneslie Historic District		March 12, 2012 (#12000997 (https://npgallery.nps.gov/AssetDetail/NRIS/12000997))	Roughly bounded by York, Maplewood, and Windwood Rds., and Regester Ave. 39°22'33"N 76°36'16"W	Towson	
2	Auburn House		March 17, 1975 (#75000869 (https://npgallery.nps.gov/AssetDetail/NRIS/75000869))	Osler Dr. between Towsontown Boulevard and Stevenson Lane 39°23'10"N 76°36'49"W	Towson	
3	Ballestone Mansion		June 18, 1975 (#75000866 (https://npgallery.nps.gov/AssetDetail/NRIS/75000866))	East of Essex on Back River Neck Rd. in Rocky Point Park 39°15'08"N 76°25'03"W	Essex	Now known as the Ballestone-Stansbury House.
4	Baltimore County Courthouse		October 27, 1972 (#72000569 (https://npgallery.nps.gov/AssetDetail/NRIS/72000569))	Washington Ave. between Pennsylvania and Chesapeake Aves. 39°23'59"N 76°36'24"W	Towson	
5	Baltimore County Jail		August 26, 2009 (#09000844 (https://npgallery.nps.gov/AssetDetail/NRIS/09000844))	222 Courthouse Court 39°23'52"N 76°36'29"W	Towson	
6	Baltimore County School No. 7		August 31, 2000 (#00001007 (https://npgallery.nps.gov/AssetDetail/NRIS/00001007))	200 Ashland Rd. 39°29'43"N 76°38'32"W	Cockeysville	
7	Bare Hills Historic District		November 22, 2011 (#11000852 (https://npgallery.nps.gov/AssetDetail/NRIS/11000852))	Falls Rd. between Light Rail and north of Coppermine Terrace 39°23'14"N 76°39'34"W	Towson	

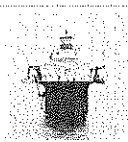
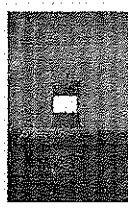
8/4/2020

National Register of Historic Places listings in Baltimore County, Maryland - Wikipedia

[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
8	Bare Hills House		August 6, 1980 (#80001793 (https://npgallery.nps.gov/AssetDetail/NRIS/80001793))	North of Baltimore at 6222 Falls Rd. 39°22'55"N 76°39'19"W	Towson	
9	Brooklandville House		November 23, 1977 (#77000682 (https://npgallery.nps.gov/AssetDetail/NRIS/77000682))	South of Brooklandville at Falls and Hillside Rds. 39°24'40"N 76°40'03"W	Brooklandville	
10	Brooklandwood		February 11, 1972 (#72000567 (https://npgallery.nps.gov/AssetDetail/NRIS/72000567))	Falls Rd. 39°25'50"N 76°40'36"W	Brooklandville	
11	Old Catonsville Historic District		December 27, 2002 (#02001573 (https://npgallery.nps.gov/AssetDetail/NRIS/02001573))	Between Edmondson, Frederick, Melvin, and Smithwood Aves. 39°18'20"N 76°44'40"W	Catonsville	
12	Caves Valley Historic District		October 20, 1988 (#88001859 (https://npgallery.nps.gov/AssetDetail/NRIS/88001859))	Caves and Garrison Forest Rds., and Park Heights Ave. 39°26'30"N 76°44'53"W	Owings Mills	
13	Central Catonsville and Summit Park Historic District		December 27, 2006 (#06001186 (https://npgallery.nps.gov/AssetDetail/NRIS/06001186))	Between Frederick Rd., S. Rolling Rd., and Mellor Ave. 39°16'00"N 76°44'15"W	Catonsville	
14	Choate House		July 20, 1989 (#89000807 (https://npgallery.nps.gov/AssetDetail/NRIS/89000807))	9600 Liberty 39°22'35"N 76°48'52"W	Randallstown	
15	The Cloisters		August 7, 1979 (#79001115 (https://npgallery.nps.gov/AssetDetail/NRIS/79001115))	West of Lutherville at 10440 Falls Rd. 39°24'39"N 76°40'17"W	Lutherville	

8/4/2020

National Register of Historic Places listings in Baltimore County, Maryland - Wikipedia

[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
16	Corbett Historic District		September 12, 1985 (#85002245 (https://npgallery.nps.gov/AssetDetail/NRIS/85002245))	1615-1827 Corbett Rd. and 16200-16225 Corbett Village Ln. 39°34'09"N 76°37'03"W	Monkton	
17	Craighill Channel Lower Range Front Light Station		December 2, 2002 (#02001420 (https://npgallery.nps.gov/AssetDetail/NRIS/02001420))	3.5 miles southeast of Fort Howard 39°11'19"N 76°23'39"W	Fort Howard	
18	Craighill Channel Lower Range Rear Light Station		December 2, 2002 (#02001418 (https://npgallery.nps.gov/AssetDetail/NRIS/02001418))	Edgemere area 39°13'45"N 76°23'40"W	Edgemere	
19	Cut-off Channel Range Front Light Station		December 2, 2002 (#02001415 (https://npgallery.nps.gov/AssetDetail/NRIS/02001415))	Southwest of Fort Howard 39°11'49"N 76°26'55"W	Fort Howard	
20	Cut-off Channel Range Rear Light Station		December 2, 2002 (#02001423 (https://npgallery.nps.gov/AssetDetail/NRIS/02001423))	Sparrows Point 39°12'58"N 76°27'47"W	Edgemere	
21	Day Village Historic District		March 27, 2020 (#100005133 (https://npgallery.nps.gov/AssetDetail/NRIS/100005133))	511 Avondale Rd. 39°14'20"N 76°30'17"W	Dundalk	

8/4/2020

National Register of Historic Places listings in Baltimore County, Maryland - Wikipedia

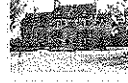
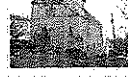
[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
22	Dumbarton Historic District		December 30, 2009 (#09001172 (https://npgallery.nps.gov/AssetDetail/NRIS/09001172))	Roughly bounded by Park Heights Ave., Slade Ave., Seven Mile La., and Old Court Rd. 39°22'37"N 76°42'37"W	Pikesville	
23	Dundalk Historic District		December 8, 1983 (#83003630 (https://npgallery.nps.gov/AssetDetail/NRIS/83003630))	Roughly bounded by Liberty Parkway, Dunman, Willow Spring and Sunship Rds., and Chesapeake and Patapsco Aves. 39°15'35"N 76°31'26"W	Dundalk	
24	Dundalk-Liberty-Cornwall Gardens		September 23, 2011 (#11000700 (https://npgallery.nps.gov/AssetDetail/NRIS/11000700))	7003 Dunmanway 39°15'27"N 76°31'06"W	Dundalk	
25	Eagle's Nest		July 25, 1974 (#74000942 (https://npgallery.nps.gov/AssetDetail/NRIS/74000942))	Jarrettsville Pike 39°28'15"N 76°34'32"W	Phoenix	
26	Ellicott's Mills Historic District		November 19, 1976 (#76000980 (https://npgallery.nps.gov/AssetDetail/NRIS/76000980))	Both sides of Maryland Route 144, south of the Patapsco River Bridge 39°16'05"N 76°47'32"W	Oella	
27	Fort Carroll		April 14, 2015 (#14000955 (https://npgallery.nps.gov/AssetDetail/NRIS/14000955))	Soller's Flats, in the Patapsco River 39°12'53"N 76°31'09"W	Curtis Bay	
28	Fort Garrison		January 25, 1971 (#71000368 (https://npgallery.nps.gov/AssetDetail/NRIS/71000368))	South of Stevenson at Garrison Farms Ct. 39°23'55"N 76°42'29"W	Stevenson	
29	Glencoe		May 9, 1983 (#83002942 (https://npgallery.nps.gov/AssetDetail/NRIS/83002942))	1314 Glencoe Rd. 39°33'04"N 76°38'06"W	Glencoe	

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[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
30	Glyndon Historic District		September 20, 1973 (#73000902 (https://npgallery.nps.gov/AssetDetail/NRIS/73000902))	Town of Glyndon and its environs along Maryland Route 128 39°28'30"N 76°48'38"W	Glyndon	
31	Goucher College		August 28, 2007 (#07000885 (https://npgallery.nps.gov/AssetDetail/NRIS/07000885))	1021 Dulaney Valley Rd. 39°24'39"N 76°38'01"W	Towson	
32	Granite Historic District		September 22, 1994 (#94001091 (https://npgallery.nps.gov/AssetDetail/NRIS/94001091))	Roughly the area surrounding Old Court Rd. and St. Paul Ave. 39°20'36"N 76°50'51"W	Granite	
33	Green Spring Valley Historic District		October 3, 1980 (#80001797 (https://npgallery.nps.gov/AssetDetail/NRIS/80001797))	Maryland Routes 25 and 140 39°24'55"N 76°42'46"W	Lutherville and Owings Mills	
34	Half-Way House		September 8, 1980 (#89000809 (https://npgallery.nps.gov/AssetDetail/NRIS/89000809))	1.3 miles south of Parkton at 18200 York Rd.; also York Rd. and Weisburg Rd 39°37'24"N 76°39'31"W	Parkton	Second address represents a boundary increase, added on July 12, 1989
35	Hampton National Historic Site		October 15, 1966 (#66000389 (https://npgallery.nps.gov/AssetDetail/NRIS/66000389))	535 Hampton Lane 39°25'02"N 76°35'17"W	Towson	
36	Hill House		March 6, 1986 (#86000415 (https://npgallery.nps.gov/AssetDetail/NRIS/86000415))	19301 York Rd. 39°39'12"N 76°39'10"W	Parkton	
37	Hilton		October 31, 1980 (#80001794 (https://npgallery.nps.gov/AssetDetail/NRIS/80001794))	800 S. Rolling Rd. 39°15'09"N 76°44'01"W	Catonsville	
38	Hull Memorial Christian Church		September 15, 1977 (#77000684 (https://npgallery.nps.gov/AssetDetail/NRIS/77000684))	101 Clyde Ave. 39°14'41"N 76°39'48"W	Lansdowne	

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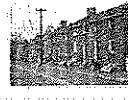
[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
39	Jericho Covered Bridge		September 13, 1978 (#78001444 (https://npgallery.nps.gov/AssetDetail/NRIS/78001444))	East of Kingsville on Franklinville Rd. 39°27'34"N 76°23'16"W	Kingsville	
40	Jericho Farm		September 7, 1984 (#84001352 (https://npgallery.nps.gov/AssetDetail/NRIS/84001352))	12230 Jericho Rd. 39°27'23"N 76°23'17"W	Kingsville	
41	James Lawrence Kernan Hospital		September 24, 1979 (#79003275 (https://npgallery.nps.gov/AssetDetail/NRIS/79003275))	Windsor Mill Rd. and Forest Park Ave. 39°18'48"N 76°42'34"W	Wethersville	
42	Lime Kiln Bottom		April 17, 2019 (#100003855 (https://npgallery.nps.gov/AssetDetail/NRIS/100003855))	2177 Cromwell Bridge Rd. 39°26'02"N 76°32'32"W	Parkville	
43	Long Green Valley Historic District		December 30, 1982 (#82001589 (https://npgallery.nps.gov/AssetDetail/NRIS/82001589))	Glen Arm, Baldwin Mill, Manor, and Hartford Rds. areas 39°28'35"N 76°29'23"W	Baldwin, Glen Arm, Hydes	
44	Long Island Farm		August 30, 2010 (#10000586 (https://npgallery.nps.gov/AssetDetail/NRIS/10000586))	220 Cromwell Bridge Rd. 39°25'05"N 76°32'33"W	Parkville	
45	Lorraine Park Cemetery Gate Lodge		July 25, 1985 (#85001613 (https://npgallery.nps.gov/AssetDetail/NRIS/85001613))	5608 Dogwood Rd. 39°18'47"N 76°43'05"W	Woodlawn	
46	Lutherville Historic District		November 9, 1972 (#72000568 (https://npgallery.nps.gov/AssetDetail/NRIS/72000568))	Roughly bounded by Interstate 695, York and Ridgely Rds., and Lutherville Dr. 39°25'19"N 76°38'41"W	Lutherville	
47	The Meadows		March 23, 1988 (#88000203 (https://npgallery.nps.gov/AssetDetail/NRIS/88000203))	302 Meadows Ln. 39°24'05"N 76°47'52"W	Owings Mills	

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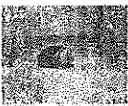
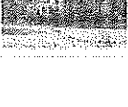
[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
48	Mettam Memorial Baptist Church		April 24, 1975 (#75000867 (https://npgallery.nps.gov/AssetDetail/NRIS/75000867))	Old Court Rd. between Sudbrook and Reisterstown Rds. 39°22'41"N 76°43'10"W	Pikesville	
49	Montrose Mansion and Chapel		March 19, 1990 (#90000354 (https://npgallery.nps.gov/AssetDetail/NRIS/90000354))	13700 Hanover Rd. 39°29'52"N 76°51'09"W	Reisterstown	
50	Mount de Sales Academy		May 30, 1986 (#86001187 (https://npgallery.nps.gov/AssetDetail/NRIS/86001187))	700 Academy Rd. 39°17'08"N 76°43'17"W	Catonsville	
51	Mt. Gilboa Chapel		October 21, 1976 (#76000978 (https://npgallery.nps.gov/AssetDetail/NRIS/76000978))	Oella and Westchester Aves. 39°16'27"N 76°46'45"W	Oella	
52	My Lady's Manor		April 15, 1978 (#78001445 (https://npgallery.nps.gov/AssetDetail/NRIS/78001445))	Maryland Route 138 39°35'15"N 76°34'16"W	Monkton	
53	Oella Historic District		November 7, 1976 (#76000979 (https://npgallery.nps.gov/AssetDetail/NRIS/76000979))	Oella Ave., Glen Rd., Hollow Rd. 39°16'49"N 76°47'09"W	Oella	
54	Old Catonsville High School		September 10, 1987 (#87001568 (https://npgallery.nps.gov/AssetDetail/NRIS/87001568))	20 Winters Ln. 39°16'22"N 76°44'10"W	Catonsville	
55	Old National Pike Milestones		November 27, 1975 (#75002107 (https://npgallery.nps.gov/AssetDetail/NRIS/75002107))	U.S. Route 40, U.S. Route 40 Alternate, and U.S. Route 40 Scenic, and Maryland Routes 144 and 165 39°16'23"N 76°43'37"W	Catonsville	
56	Old Salem Church and Cemetery		December 13, 1977 (#77000683 (https://npgallery.nps.gov/AssetDetail/NRIS/77000683))	Ingleside Ave. and Calverton St. 39°17'05"N 76°43'53"W	Catonsville	

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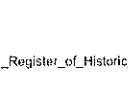
[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
57	Owings Upper Mill		September 13, 1978 (#78001446 (https://npgallery.nps.gov/AssetDetail/NRIS/78001446))	Reisterstown Rd. and Groff Ln. 39°25'19"N 76°48'59"W	Owings Mills	
58	Parkton Hotel		December 8, 1983 (#83003634 (https://npgallery.nps.gov/AssetDetail/NRIS/83003634))	18848 York Rd. (MD 45) 39°38'30"N 76°39'34"W	Parkton	
59	Patterson Viaduct Ruins		June 3, 1976 (#76002221 (https://npgallery.nps.gov/AssetDetail/NRIS/76002221))	South of Catonsville at the Patapsco River 39°15'00"N 76°45'51"W	Catonsville	
60	Perry Hall		April 23, 1980 (#80001796 (https://npgallery.nps.gov/AssetDetail/NRIS/80001796))	North of Perry Hall on Perry Hall Rd. 39°25'43"N 76°27'33"W	Perry Hall	
61	Pikesville Armory		September 25, 1985 (#85002674 (https://npgallery.nps.gov/AssetDetail/NRIS/85002674))	610 Reisterstown Rd. 39°22'08"N 76°43'18"W	Pikesville	
62	Plinlimmon Farm		May 19, 1983 (#83002943 (https://npgallery.nps.gov/AssetDetail/NRIS/83002943))	9401 Lyons Mill Rd. 39°23'35"N 76°47'59"W	Owings Mills	
63	Prospect Hill		July 26, 1973 (#73000903 (https://npgallery.nps.gov/AssetDetail/NRIS/73000903))	Northeast of Long Green on Kane's Rd. 39°28'48"N 76°30'47"W	Long Green	
64	Ravenshurst		August 14, 1978 (#78001443 (https://npgallery.nps.gov/AssetDetail/NRIS/78001443))	12915 Dulaney Valley Rd. 39°28'48"N 76°31'50"W	Glen Arm	
65	Reisterstown Historic District		November 15, 1979 (#79001118 (https://npgallery.nps.gov/AssetDetail/NRIS/79001118))	Maryland Routes 30 and 140 39°27'49"N 76°49'32"W	Reisterstown	
66	Rockland		February 2, 1983 (#83002944 (https://npgallery.nps.gov/AssetDetail/NRIS/83002944))	10214 Falls Rd. 39°24'11"N 76°40'15"W	Brooklandville	

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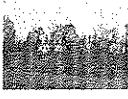
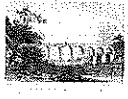
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[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
67	Rockland Historic District		April 11, 1973 (#73000899 (https://npgallery.nps.gov/AssetDetail/NRIS/73000899))	Both sides of Falls Rd. (Maryland Route 25) at its junction with Old Court Rd. (Maryland Route 133) 39°24'03"N 76°40'06"W	Brooklandville	
68	Rodgers Forge Historic District		September 24, 2009 (#09000783 (https://npgallery.nps.gov/AssetDetail/NRIS/09000783))	Roughly bounded by Stanmore Rd., Stevenson La., York Rd., Regester Ave., and Bellona Ave. 39°22'52"N 76°37'02"W	Towson	
69	Sheppard and Enoch Pratt Hospital and Gatehouse		November 11, 1971 (#71000369 (https://npgallery.nps.gov/AssetDetail/NRIS/71000369))	Charles St. 39°23'28"N 76°37'09"W	Towson	
70	St. Charles College Historic District		September 30, 1983 (#83002945 (https://npgallery.nps.gov/AssetDetail/NRIS/83002945))	711 Maiden Choice Lane 39°16'07"N 76°42'46"W	Catonsville	
71	St. James Church		September 12, 1974 (#74000941 (https://npgallery.nps.gov/AssetDetail/NRIS/74000941))	Southeast of Monkton off Manor Rd. 39°33'41"N 76°34'11"W	Monkton	
72	St. John's Church		March 15, 1982 (#82002807 (https://npgallery.nps.gov/AssetDetail/NRIS/82002807))	7538 Bellona Ave. 39°23'41"N 76°38'39"W	Ruxton	
73	St. Mary's Episcopal Church		March 14, 1985 (#85000583 (https://npgallery.nps.gov/AssetDetail/NRIS/85000583))	5610 Dogwood Rd. 39°18'47"N 76°43'16"W	Woodlawn	
74	St. Michael's Church		October 22, 1979 (#79003273 (https://npgallery.nps.gov/AssetDetail/NRIS/79003273))	Academy Lane and Reisterstown Rd. 39°27'04"N 76°49'08"W	Reisterstown	

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[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
75	St. Thomas Church		May 24, 1979 (#79001117 (https://npgallery.nps.gov/AssetDetail/NRIS/79001117))	St. Thomas Lane and Garrison Forest Rd. 39°25′19″N 76°45′43″W	Owings Mills	
76	Stone Hall		July 26, 1973 (#73000900 (https://npgallery.nps.gov/AssetDetail/NRIS/73000900))	North of Cockeysville off Maryland Route 25 on Cuba Rd. 39°30′34″N 76°41′58″W	Cockeysville	
77	Stoneleigh Historic District		November 8, 2003 (#03001113 (https://npgallery.nps.gov/AssetDetail/NRIS/03001113))	Roughly bounded by Register Ave., York Rd., Hatherleigh Rd., and Kenleigh Rd. 39°22′45″N 76°36′16″W	Towson	
78	Sudbrook Park		June 19, 1973 (#73000904 (https://npgallery.nps.gov/AssetDetail/NRIS/73000904))	South of Pikesville off U.S. Route 40 on Greenwood Rd. 39°21′58″N 76°43′49″W	Pikesville	
79	Summit		July 24, 1979 (#79001114 (https://npgallery.nps.gov/AssetDetail/NRIS/79001114))	10 Stanley Dr. 39°16′08″N 76°44′35″W	Catonsville	
80	The Wilderness		September 12, 1985 (#85002173 (https://npgallery.nps.gov/AssetDetail/NRIS/85002173))	2 Thistle Rd. 39°15′27″N 76°46′03″W	Catonsville	
81	Thomas Viaduct, Baltimore & Ohio Railroad		October 15, 1966 (#66000388 (https://npgallery.nps.gov/AssetDetail/NRIS/66000388))	Over the Patapsco River between Relay and Elkridge 39°13′19″N 76°42′49″W	Relay	
82	Todd Farmhouse		October 18, 1973 (#73000901 (https://npgallery.nps.gov/AssetDetail/NRIS/73000901))	9000 Old North Point Rd. (Maryland Route 20) 39°12′49″N 76°26′18″W	Fort Howard	

[3]	Name on the Register ^[4]	Image	Date listed ^[5]	Location	City or town	Description
83	Towson Academy		September 25, 1985 (#85002675 (https://npgallery.nps.gov/AssetDetail/NRIS/85002675))	Washington St. and Chesapeake Ave. 39°23′57″N 76°36′20″W	Towson	
84	Tyrconnell		March 14, 1985 (#85000582 (https://npgallery.nps.gov/AssetDetail/NRIS/85000582))	120 Woodbrook Lane 39°22′50″N 76°38′08″W	Towson	
85	Villa Anneslie		December 13, 1977 (#77000685 (https://npgallery.nps.gov/AssetDetail/NRIS/77000685))	529 Dunkirk Rd. 39°22′34″N 76°36′20″W	Towson	
86	Wester Ogle		January 11, 1985 (#85000058 (https://npgallery.nps.gov/AssetDetail/NRIS/85000058))	8948-8950 Reisterstown Rd. 39°23′31″N 76°45′01″W	Pikesville	
87	Western Run-Belfast Road Historic District		January 23, 1979 (#79001116 (https://npgallery.nps.gov/AssetDetail/NRIS/79001116))	Northwest of Lutherville 39°31′45″N 76°41′39″W	Lutherville	
88	Winters Lane Historic District		December 21, 2007 (#07001285 (https://npgallery.nps.gov/AssetDetail/NRIS/07001285))	Winters Ln. between Frederick Rd. and Baltimore National Pike. 39°16′45″N 76°44′31″W	Catonsville	
89	Worthington Valley Historic District		December 12, 1976 (#76000977 (https://npgallery.nps.gov/AssetDetail/NRIS/76000977))	Bounded by Falls and Shawan Rds., Tufton and Worthington Aves., and the Baltimore Gas and Electric Right-of-Way 39°29′59″N 76°45′19″W	Glyndon	

Former listing

[3]	Name on the Register	Image	Date listed	Date removed	Location	City or town	Summary
1	Belle Field		October 29, 1975 (#75000868)	May 12, 1986	Timonium Rd.	Timonium	

See also

- List of National Historic Landmarks in Maryland
- National Register of Historic Places listings in Maryland

References

- The latitude and longitude information provided in this table was derived originally from the National Register Information System, which has been found to be fairly accurate for about 99% of listings. Some locations in this table may have been corrected to current GPS standards.
- "National Register of Historic Places: Weekly List Actions" (<https://www.nps.gov/subjects/nationalregister/weekly-list.htm>). National Park Service, United States Department of the Interior. Retrieved on July 17, 2020.
- Numbers represent an ordering by significant words. Various colorings, defined [here](#), differentiate National Historic Landmarks and historic districts from other NRHP buildings, structures, sites or objects.
- "National Register Information System" (<https://npgallery.nps.gov/NRHP>). *National Register of Historic Places*. National Park Service. April 24, 2008.
- The eight-digit number below each date is the number assigned to each location in the National Register Information System database, which can be viewed by clicking the number.

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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 23

BILL NO. 188-93

MR. WILLIAM A. HOWARD, IV., COUNCILMAN

BY THE COUNTY COUNCIL, DECEMBER 20, 1993

A BILL

ENTITLED

AN ACT concerning

Assisted Living Facilities and Group Senior Assisted
Housing

FOR the purpose of providing for the establishment of various types of
housing facilities for the elderly; defining terms; authorizing
elderly housing uses in residential zones by right, use permit
and special exception; authorizing Group Senior Assisted
Housing; Assisted Living Facilities, Class A in the RC 5
zone by right; excepting Group Senior Assisted Housing;
Assisted Living Facilities, Class A from residential
transition and development plan requirements; establishing
parking requirements; establishing density requirements and
performance standards for Group Senior Assisted Housing
Assisted Living Facilities; and generally related to Assisted
Living Facilities. and Group Senior Assisted Housing

BY adding

Section 101, the definitions of "Group Senior Assisted Housing";
"Group Senior Assisted Housing; Class A" and "Group Senior
Assisted Housing; Class B"

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and reenacting, with amendments

Section 101, the definitions of "Assisted Living Facility"
and "Elderly Housing Facility" and Sections 1A04.2.A.,
1B01.1.B.1.g, 1B01.3.A.3, 409.6.A.1. (as amended by Bill
124-93), 432 and 432.1

Baltimore County Zoning Regulations, as amended

BY adding

Section 432.5

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final
report dated July 15, 1993 from the Planning Board concerning the
subject legislation and held a public hearing thereon on September 7,
1993, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND that Section 101 - Definitions, the definitions of
3. "Group Senior Assisted Housing"; "Group Senior Assisted Housing; Class
4. A" and "Group Senior Assisted Housing; Class B" be and it is hereby
5. added to the Baltimore County Zoning Regulations; as amended; to read
6. as follows:
7. Section 101 - Definitions:
8. GROUP SENIOR ASSISTED HOUSING. A RESIDENCE FOR NO MORE THAN
9. 15 PERSONS 62 YEARS OF AGE OR OLDER WHICH PROVIDES THREE DAILY MEALS IN
10. A FAMILY SETTING; HOUSEKEEPING; AND PERSONAL SERVICES SUCH AS
11. ASSISTANCE WITH BATHING; DRESSING OR LAUNDRY AND WHICH IS CERTIFIED AS
12. GROUP SENIOR ASSISTED HOUSING BY THE MARYLAND OFFICE ON AGING.
13. GROUP SENIOR ASSISTED HOUSING; CLASS A. A GROUP SENIOR
14. ASSISTED HOUSING RESIDENCE WHICH IS LOCATED IN A CONVERTED DWELLING OR

1. OTHER BUILDING THAT HAS NOT BEEN ENLARGED BY MORE THAN 25% OF GROUND
2. FLOOR AREA TO ACCOMMODATE THE FACILITY.
3. GROUP SENIOR ASSISTED HOUSING, CLASS B: A GROUP SENIOR
4. ASSISTED HOUSING RESIDENCE WHICH IS LOCATED IN A NEW BUILDING
5. CONSTRUCTED FOR THAT PURPOSE OR IN A DWELLING OR OTHER BUILDING THAT
6. HAS BEEN ENLARGED BY MORE THAN 25% OF GROUND FLOOR AREA IN ORDER TO
7. ACCOMMODATE THE FACILITY.

8. SECTION 2: AND BE IT FURTHER ENACTED, that Section 101 -
9. Definitions; the definitions of "Assisted Living Facility" and
10. "Elderly Housing Facility", and Sections 1A04.2.A., 1B01.1.B.1.g,
11. 1B01.3.A.3, 409.6.A.1., 432 and 432.1 of the Baltimore County
12. Zoning Regulations, as amended, be and they are hereby repealed and
13. reenacted to read as follows:

14. Section 101 - Definitions.

15. Assisted Living Facility: A building, or section of a
16. building, or a residence that provides: 1. a residential (living)
17. environment assisted by congregate meals, housekeeping, and personal
18. services, for persons 62 years of age or older, who have temporary or
19. periodic difficulties with one or more essential activities of daily
20. living, such as feeding, bathing, dressing or mobility, and for (any
21. person) PERSONS, regardless of age, who (has a) HAVE physical or
22. developmental (disability) DISABILITIES; OR 2. THREE DAILY MEALS IN A
23. FAMILY SETTING, HOUSEKEEPING, AND PERSONAL SERVICES SUCH AS ASSISTANCE
24. WITH BATHING, DRESSING OR LAUNDRY FOR NO MORE THAN 15 PERSONS 62 YEARS
25. OF AGE OR OLDER, AND WHICH SATISFIES AND COMPLIES WITH SECTION 432 OF
26. THESE REGULATIONS. SUCH A FACILITY MUST BE CERTIFIED OR LICENSED BY
27. THE MARYLAND OFFICE OF AGING AS IS OTHERWISE REQUIRED IN COMAR TITLE
28. 14.11.07, AND.

1. (A) WHERE SUCH SERVICES ARE LOCATED IN A CONVERTED DWELLING OR
2. OTHER BUILDING THAT HAS NOT BEEN ENLARGED TO ACCOMMODATE THE FACILITY
3. BY MORE THAN 25% OF GROUND FLOOR AREA WITHIN A PERIOD OF FIVE YEARS
4. PRIOR TO THE DATE OF APPLICATION, IT SHALL BE REFERRED TO IN THESE
5. REGULATIONS AS ASSISTED LIVING FACILITIES CLASS A.

6. (B) WHERE SUCH SERVICES ARE LOCATED IN A NEW BUILDING
7. CONSTRUCTED FOR THAT PURPOSE OR IN A DWELLING OR OTHER BUILDING THAT
8. HAS BEEN ENLARGED TO ACCOMMODATE THE FACILITY BY 25% OR MORE OF GROUND
9. FLOOR AREA WITHIN A PERIOD OF FIVE YEARS PRIOR TO THE DATE OF
10. APPLICATION, IT SHALL BE REFERRED TO IN THESE REGULATIONS AS ASSISTED
11. LIVING FACILITIES CLASS B.

12. FOR THE PURPOSES OF THESE REGULATIONS, THIS DEFINITION DOES NOT
13. INCLUDE: 1) A ROOM OR DWELLING UNIT CONTAINING A COMPLETE KITCHEN,
14. INCLUDING A STOVE, INTENDED FOR THE DAILY PREPARATION OF MEALS FOR THE
15. RESIDENT OR 2) THE PROVISION OF PERSONAL, HOUSEKEEPING AND CONGREGATE
16. MEAL SERVICES IN HOUSING FOR THE ELDERLY, IN A MULTI-FAMILY BUILDING OR
17. IN OTHER DWELLINGS DESIGNED WITH COMPLETE KITCHENS IN INDIVIDUAL
18. UNITS. Density for such facilities shall be calculated at .25 for each
19. bed. FOR THE PURPOSES OF THESE REGULATIONS, GROUP SENIOR ASSISTED
20. HOUSING, AS DEFINED IN SECTION 101, SHALL NOT BE CONSIDERED AN ASSISTED
21. LIVING FACILITY.

22. Any such facility which is not covered by another chapter of the
23. National Fire Protection Association Life Safety Code, 1991 Edition,
24. shall comply with Chapter 22 of said Code, entitled Residential Board
25. and Care Occupancies. However, a facility with less than four persons
26. who are capable of self-preservation and prompt evacuation is exempt.

27. {Elderly Housing Facility} HOUSING FACILITY FOR THE
28. ELDERLY: The term {elderly housing facility} HOUSING
29. FACILITY FOR THE ELDERLY includes an assisted living facility, a

1. continuing care facility, CLASS A OR CLASS B GROUP SENIOR ASSISTED
2. HOUSING; and Class A or Class B housing for the elderly [facility].
3. Section 1A04 - R.C.5 (Rural-Residential) Zone
4. 1A04.2 Use Regulations
5. A. Uses permitted as of right. The following uses, only, are
6. permitted as of right in R.C.5 zones:
7. 5. GROUP SENIOR ASSISTED HOUSING ASSISTED LIVING
8. FACILITIES, CLASS A.
9. Section 1B01 - Regulations With Respect to D.R. Zones in General
10. 1B01.1 - General Use Regulations in D.R. Zones.
11. B. Dwelling - Type and other supplementary use restrictions
12. based on existing subdivision and development characteristics.
13. 1. Residential Transition Areas and Uses Permitted
14. Therein.
15. g. Exceptions to residential transition.
16. (13) GROUP SENIOR ASSISTED HOUSING
17. ASSISTED LIVING FACILITIES, CLASS A.
18. 1B01.3 - Plans and Plats
19. A. Development Plans.
20. 3. Subdivision Lot Sales, Development, and Use Subject to
21. Partial Development Plan. No interest in any lot which is in a D.R.
22. zone and is hereafter created by subdivision of a record lot EXISTING
23. ON the effective date of this article or created by consolidation of
24. such lots may be sold unless a final or partial development plan
25. applicable to the lot has been approved as required under Subparagraph
26. 5, below; further, no use may be established and no construction may
27. take place on any lot so created except in accordance with such a
28. plan. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO CLASS A
29. GROUP SENIOR ASSISTED HOUSING ASSISTED LIVING FACILITIES.

1. Section 409. Offstreet Parking and Loading
2. 409.6 Required Number of Parking Spaces
3. A. General Requirements - The standards set forth below shall
4. apply in all zones unless otherwise noted. Where the required number
5. of off-street parking spaces is not set forth for a particular type of
6. use, the Director of Zoning Administration and Development Management
7. shall determine the basis of the number of spaces to be provided. When
8. the number of spaces calculated in accordance with this subsection
9. results in a number containing a fraction, the required number of
10. spaces shall be the next highest whole number.
11. 1. Residential and Lodging Uses

Type of Use	Minimum Number of Required Off-Street Parking Spaces
{Elderly Housing Facilities}-----	For housing for the elderly; Class A; at least 1 useable offstreet parking space shall be provided for each dwelling unit in a town center or for each 1 1/2 dwelling units elsewhere.
HOUSING FACILITIES FOR THE ELDERLY-----	For housing for the elderly; Class B; at least 1 useable offstreet parking space shall be provided for each dwelling unit. However; if the development is supported substantially or in part by any type of rent subsidy; the developer may petition for a hearing before the Zoning Commissioner for a decrease in the number of spaces to be provided.
-----	For continuing care facilities; at least one useable off-street parking space shall be provided for each dwelling unit and at least one useable off-street parking space shall be provided for each 2 assisted living beds and for each 3 convalescent or nursing beds.
-----	For assisted living facilities AND GROUP SENIOR ASSISTED HOUSING, at least 1 useable off-street parking space shall be provided for each {two} THREE beds. {+}; EXCEPT THAT THE DIRECTOR OF ZONING ADMINISTRATION AND DEVELOPMENT

MANAGEMENT MAY REDUCE THE REQUIREMENT TO AS FEW AS NONE UPON THE RECOMMENDATION OF THE DIRECTORS OF PLANNING AND PUBLIC WORKS THAT: 1) ADEQUATE ON-STREET PARKING IS AVAILABLE; AND 2) THE USE OF SUCH PARKING WOULD BETTER MAINTAIN RESIDENTIAL CHARACTER THAN THE PROVISION OF OFF-STREET PARKING; AND 3) THE USE OF ON-STREET PARKING WOULD NOT CAUSE TRAFFIC CONGESTION OR CREATE UNSAFE CONDITIONS OR AFFECT THE AVAILABILITY OF PARKING FOR NEARBY RESIDENTS AND THE PUBLIC.

-----In RAE 1 and RAE 2 Zones and in all business and industrial zones, all parking requirements of the underlying zone must be met for any commercial or office use which is contained within the elderly housing facility.

-----In the case of any type of elderly housing facility, the Zoning Commissioner may allow the provision of fewer parking spaces, after a public hearing at which evidence has been given regarding use of rent vouchers, certificates, or other subsidies or the availability of developer-sponsored van service or other ridesharing for the prospective residents of the housing, and after the director of planning and zoning has furnished information regarding the availability and accessibility to the elderly of public mass transportation to the site. In no case, however, may the facility provide less than 1 parking space for each 3 dwelling units.

Section 432 - {Elderly Housing Facilities} HOUSING

FACILITIES FOR THE ELDERLY in D.R. Zones.

A. {Elderly housing facilities} HOUSING FACILITIES FOR THE

ELDERLY 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} HOUSING FACILITIES FOR THE ELDERLY 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.

432.1 -- In General. The following provisions shall apply to assisted living facilities, continuing care facilities, and housing for the elderly (collectively referred to as {elderly} housing facilities FOR THE ELDERLY) in D.R. Zones, unless otherwise indicated.

A. 1. Housing for the elderly (and assisted living facilities for three or fewer) shall be permitted by right.

2. ASSISTED LIVING FACILITIES OTHER THAN CLASS A OR CLASS B FOR THREE OR FEWER SHALL BE PERMITTED BY RIGHT.

3. SUBJECT TO SUBSECTION 432.5, GROUP SENIOR ASSISTED HOUSING SHALL BE PERMITTED AS FOLLOWS:

A. CLASS A; BY USE PERMIT;

3. SUBJECT TO SUBSECTION 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.

B. CLASS B; BY SPECIAL EXCEPTION;

{2.} 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.

{3.} 5. {Elderly} Housing facilities FOR THE ELDERLY are not permitted in any Baltimore County Historic District{.},

EXCEPT FOR CLASS A GROUP SENIOR ASSISTED HOUSING ASSISTED LIVING FACILITIES.

[4.] 6. An applicant for a special exception to develop {an elderly} A housing facility FOR THE EBBERRY 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 Section 432.2, 432.3, and 432.4.

SECTION 9 2. AND BE IT FURTHER ENACTED, that Section 432.5 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

432.5 GROUP SENIOR ASSISTED HOUSING ASSISTED LIVING FACILITIES CLASS A AND CLASS B

A. DENSITY

1. GROUP SENIOR ASSISTED HOUSING 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:

SQ. FEET MIN. LOT SIZE	ZONE				
	RGS/DR1	DR2	DR3.5	DR5.5	DR10.5/16
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. GROUP SENIOR ASSISTED HOUSING 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 GROUP SENIOR ASSISTED RESIDENCES: ASSISTED LIVING FACILITIES:

A. EXCEPT FOR THE SIGNS PERMITTED BY 413.1., NO OTHER SIGNS OR DISPLAYS OF ANY KIND VISIBLE FROM THE OUTSIDE SHALL BE PERMITTED.

D. 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.

B- (1). PARKING SHALL BE AT LEAST 10 FEET FROM THE PROPERTY LINE EXCEPT THAT IF THE PROPERTY LINE ADJUTS AN ALLEY, NO SETBACK IS REQUIRED PROVIDED THAT THE ALLEY DOES NOT ADJUT 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. 175-93 188-93.

B- (2). PARKING AND DELIVERY AREAS SHALL BE LOCATED IN THE SIDE OR REAR ONLY ; UNLESS THE DIRECTOR OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT, UPON THE RECOMMENDATION OF THE DIRECTOR OF THE OFFICE OF PLANNING, DETERMINES THAT THERE WILL BE NO ADVERSE IMPACT ON ADJACENT PROPERTIES BY USING THE FRONT YARD. THIS REQUIREMENT SHALL NOT APPLY TO PARKING SPACES EXISTING BEFORE THE EFFECTIVE DATE OF BILL NO. 175-93 188-93.

E. 1. GROUP SENIOR ASSISTED HOUSING ASSISTED LIVING FACILITIES, CLASS A WHICH INVOLVES CHANGE TO THE EXTERIOR OF THE BUILDING OR RECONSTRUCTION AFTER THE BUILDING HAS BEEN DESTROYED IS

1. SUBJECT TO REVIEW FOR COMPATIBILITY OF THE PROPOSED CHANGES IN RELATION
2. TO EXISTING STRUCTURES IN THE IMMEDIATE VICINITY. (1) AT THE TIME OF
3. APPLICATION FOR A BUILDING PERMIT, PLANS OR DRAWINGS OF THE BUILDING,
4. SUFFICIENT TO DETERMINE COMPATIBILITY, AND PHOTOGRAPHS REPRESENTATIVE
5. OF THE VICINITY SHALL BE SUBMITTED TO ZONING ADMINISTRATION AND
6. DEVELOPMENT MANAGEMENT (ZADM). (2) ZADM SHALL NOTIFY THE DIRECTOR OF
7. THE OFFICE OF PLANNING AND ZONING WHO MAY MAKE, WITHIN 15 DAYS OF THE
8. REQUEST, WRITTEN RECOMMENDATIONS CONCERNING THE COMPATIBILITY OF THE
9. PROPOSED CHANGES WITH REGARD TO: MAJOR DIVISIONS OR ARCHITECTURAL
10. RHYTHM OF FACADES; ROOF DESIGN AND TREATMENT; MATERIALS AND COLORS AND
11. OTHER ASPECTS OF FACADE TEXTURE OR APPEARANCE. (3) THE DIRECTOR OF
12. ZADM MAY APPROVE, DISAPPROVE, OR MODIFY THE BUILDING PERMIT BASED ON
13. THE RECOMMENDATIONS, IF ANY, OF THE OFFICE OF PLANNING AND ZONING.

14. 2. ENCLOSURE OF THE PORCH OF A HOUSE OR THE
15. ADDITION OF AN EXTERIOR STAIRWAY TO THE SIDE OR REAR OF A BUILDING DOES
16. NOT CONSTITUTE A CHANGE TO THE EXTERIOR FOR PURPOSES OF THIS
17. SUB-SECTION.

18. F. GROUP SENIOR ASSISTED HOUSING ASSISTED
19. LIVING FACILITIES CLASS B SHALL BE SUBJECT TO A COMPATIBILITY FINDING
20. PURSUANT TO SECTION 26-282 OF THE BALTIMORE COUNTY CODE.

21. G. THE LOT SHALL PROVIDE USEABLE, CONTIGUOUS, PRIVATE
22. OPEN SPACE OF AT LEAST 500 SQUARE FEET.

23. 2. ADDITIONAL STANDARDS FOR GROUP SENIOR ASSISTED
24. HOUSING ASSISTED LIVING FACILITIES, CLASS A:

25. A. GROUP SENIOR ASSISTED HOUSING ASSISTED
26. LIVING FACILITIES, CLASS A SHALL BE EXEMPT FROM DIVISION 2, ARTICLE V,
27. TITLE 26 OF THE BALTIMORE COUNTY CODE, 1988, PROVIDED THERE WILL BE NO
28. ENLARGEMENT OF THE BUILDING IN GROUND FLOOR AREA BY 25% OR MORE WITHIN
29. A PERIOD OF FIVE YEARS PRIOR TO APPLICATION, AND THE RESIDENTIAL

1. APPEARANCE OF THE STRUCTURE AND ITS SETTING, INCLUDING ACCESSORY
2. PARKING SPACES, WILL BE MAINTAINED SO THAT THE CONVERTED DWELLING WILL
3. BE HIGHLY COMPATIBLE WITH ADJACENT RESIDENTIAL PROPERTY. THIS
4. DETERMINATION SHALL BE MADE BY THE DIRECTOR OF THE OFFICE OF PLANNING
5. AND ZONING, UPON REVIEW OF A PLAN WHICH INDICATES THE SIZE OF THE LOT,
6. SQUARE FOOTAGE OF THE BUILDING, PROPOSED PARKING AND LOADING SPACES AND
7. PROPOSED PRIVATE OPEN SPACE.

8. B. THE RECONSTRUCTION OF GROUP SENIOR ASSISTED
9. HOUSING ASSISTED LIVING FACILITIES, CLASS A WHICH IS DESTROYED BY
10. FIRE OR OTHER CASUALTY MAY NOT INCREASE THE SIZE OR GROSS FLOOR AREA OF
11. THE STRUCTURE OR ALTER ITS LOCATION WITHOUT A SPECIAL HEARING.

12. 3. ADDITIONAL STANDARDS FOR CLASS B GROUP SENIOR ASSISTED
13. HOUSING ASSISTED LIVING FACILITIES:

14. A. THE LOT SHALL MEET THE MINIMUM SETBACK, MAXIMUM HEIGHT
15. AND MAXIMUM COVERAGE FOR OTHER PRINCIPAL BUILDINGS FOR THE ZONE WHERE
16. IT IS LOCATED;

17. D. THE LOT SHALL HAVE FRONTAGE ON A PRINCIPAL ARTERIAL AS
18. DEFINED IN THESE REGULATIONS, EXCEPT IF THE FACILITY IS LOCATED IN A
19. PROPERTY WHICH IS DESIGNATED AS HISTORIC OR IS IN A HISTORIC DISTRICT,
20. AS IDENTIFIED ON THE ZONING MAPS.

21. SECTION 4 3. AND BE IT FURTHER ENACTED, that this Act
22. shall take effect forty-five days after its enactment.

B18893/BILLS93

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH SEPTEMBER 21, 1987

1987 EDITION

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND



County Executive
C. A. Dutch Ruppertsberger, III
and the
Baltimore County Council

Stephen G. Samuel Moxley, First District
Kevin Kamenetz, Second District
T. Bryan McIntire, Third District
Douglas B. Riley, Fourth District
Vincent J. Gardina, Fifth District
Joseph Bartenfelder, Sixth District
Louis L. DePazzo, Seventh District

Merreen E. Kelly, Administrative Officer

Arnold Jablon, Director
Department of Permits and Development Management

Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner

Property of: _____

Address: _____

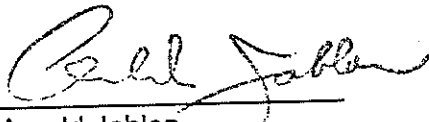
Telephone: _____

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

The following Bills amend the 1987 Edition of the Baltimore County Zoning Regulations, inclusive of any previous supplements, and are incorporated in the attached revised pages:

<u>BILL NO.</u>	<u>SUBJECT</u>
172-93	Fuel Service Stations and Car Washes
188-93	Assisted Living Facilities
47-94	Planned Unit Development
82-94	Assisted Living Facilities
85-94	After-Hours Clubs
86-94	Community Business and Business Local Restricted Zones
107-94	R.C.4 Zones
108-94	Office Zones
127-94	Overlay Districts
176-94	Honeygo Area and Overlay Districts
186-94	Office Zones
14-95	Pawn Shops
29-95	Technical Amendments
35-95	Commercial Recreational Facilities

Date: July 1, 1995


Arnold Jablon
Director

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.

432.1--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. {Bill No. 36, 1988.}

- A.
 - 1. Housing for the elderly shall be permitted by right. {Bills No. 36, 1988; 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 Subsection 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. {Bills No. 36, 1988; 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. {Bills No. 36, 1988; 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

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- 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.

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 - 1. Housing for the elderly shall be permitted by right. {Bills No. 36, 1988; 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 Subsection 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. {Bills No. 36, 1988; 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. {Bills No. 36, 1988; 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

432.5 Assisted Living Facilities, Class A and Class B.
{Bill No. 188, 1993.}

A. Density. {Bill No. 188, 1993.}

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: {Bill No. 188, 1993.}

ZONE

SQ. FEET MIN. LOT SIZE	R.C.5/D.R.1	D.R.2	D.R.3.5	D.R.5.5	D.R.10.5/16
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

{Bill No. 188, 1993.}

2. Assisted living facilities, Class B. The minimum lot area shall be one acre or 2,000 square feet per resident, whichever is greater. {Bill No. 188, 1993.}

B. Performance standards. {Bill No. 188, 1993.}

1. Standards for Class A and Class B assisted living facilities: {Bill No. 188, 1993.}
 - a. Except for the signs permitted by Section 413.1, no other signs or displays of any kind visible from the outside shall be permitted.
 - 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. {Bill No. 188, 1993.}
 - (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. 188-93. {Bill No. 188, 1993.}

f. In addition to the record keeping 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, provided 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 and zoning, 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 is 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.

- (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. 188-93. {Bill No. 188, 1993.}
- c. (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 office of zoning administration and development management (ZADM).
 - (b) ZADM shall notify the director of the office of planning and zoning, 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 ZADM may approve, disapprove, or modify the building permit based on the recommendations, if any, of the office of planning and zoning.
- (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 subsection.
- d. Assisted living facilities, Class B, shall be subject to a compatibility finding pursuant to Section 26-282 of the Baltimore County Code.
- e. The lot shall provide useable, contiguous, and private open space of at least 500 square feet.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 28, 2020

NOTICE OF ASSIGNMENT **ARGUMENT ONLY ON** **MOTION FOR SUMMARY JUDGMENT**

IN THE MATTER OF: Bolton Hill Investments, LLC – Legal Owner
8 Dunmanway
20-003-SPH 12th Election District; 7th Councilmanic District

Re: Petition for Special Hearing pursuant to §§ 230.1.A.1 and 432A.1.A of the BCZR to permit an Assisted Living Facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone.

3/10/2020 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, with conditions.

Having received a Motion for Summary Declaratory Judgment from People's Counsel for Baltimore County on June 26, 2020, and response from Petitioners, Argument has been

ASSIGNED FOR: **AUGUST 19, 2020, AT 10:00 A.M.**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least **48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Assignment – Argument only on Motion for Summary Judgment
In the matter of: Bolton Hill Investments, LLC
Case number: 20-003-SPH
July 28, 2020
Page 2

If you do not have access to a computing device, please contact our office for the call-in information the day before the scheduled deliberation.

Krysundra Cannington, Administrator

c. Counsel for Petitioners
Legal Owner

: Jennifer Busse, Esquire
: Bolton Hill Investments, LLC

Protestants/Appellants *pro se*

: Mary DiLegge, Barbara Kenney

People's Counsel for Baltimore County

: Peter M. Zimmerman, Esquire

C. Pete Gutwald, Director/Department of Planning
Paul M. Mayhew, Managing Administrative Law Judge
Michael D. Mallinoff, Director/PAI
James R. Benjamin, Jr., County Attorney
Nancy C. West, Assistant County Attorney

PETITION FOR SPECIAL HEARING	*	BEFORE THE
8 Dunmanway; NS of Dunmanway, 115' E		
Of c/line of Shipping Place	*	BOARD OF
12 th Election District		
7 th Councilmanic District	*	APPEALS FOR
Legal Owner: Bolton Hill Investments LLC		
(Petitioner)	*	BALTIMORE COUNTY
	*	Case No. 2020-003-SPH

PETITIONER'S MEMORANDUM IN RESPONSE TO BALTIMORE COUNTY
PEOPLE'S COUNSEL
MOTION FOR SUMMARY DECLARATORY JUDGMENT

STATEMENT OF CASE

Petitioner Bolton Hill Investments, LLC filed a Petition for Special Hearing to approve a use permit for an Assisted Living Facility for more than fifteen (15) residents in an existing building in a B.L. – C.C.C. zone adjacent to a D.R. 16 zone pursuant to the Baltimore County Zoning Regulations (hereinafter cited as the B.C.Z.R.) Sections 230.1.A.1 and 432A.1.A. A site plan was filed with the Petition noting that no parking spaces were required. Unfortunately, the citation to Bill 49-16 was incorrect on the Plan, for the operative language was adopted by the Council in 1988 with the adoption of Section 409 of the B.C.Z.R. This was amended at the hearing before the Administrative Law Judge.

The Department of Planning filed a comment in favor of the relief sought, and its comment stated that the site is an ideal location for an assisted living facility like the one proposed.

The Petition was heard by the Administrative Law Judge on March 3, 2020, and an Opinion and Order approving the relief sought was issued on March 10, 2020. From this Opinion and Order an appeal was taken by two of the attendees of the March 3 hearing.

On June 26, 2020 People's Counsel for Baltimore County filed a Motion for Summary Declaratory Judgment.

STATEMENT OF FACTS

Petitioner Bolton Hill Investments LLC is the owner of property improved by a building known as 8 Dunmanway in Dundalk Maryland, in the 7th Councilmanic District. This property is located in the Dundalk National Historic District. Petitioner's **Exhibit A**, attached hereto and made a part hereof, depicts the District Boundary and location of property within the District. Petitioner's **Exhibit B**, attached hereto and made a part hereof, is from the description of the National Historic District designating this building within the District as a key contributing building to the historic character of the District (pp. 3-4). Petitioner's **Exhibit C**, attached hereto and made a part hereof, is the original form nominating Dundalk's historic District to the National Register of Historic Places. On pages 11-12 is a specific reference to 8 Dunmanway and how the building contributes to the District.

The proposed use of the building is for residences for persons needing assistance. The proposed use meets the definition of an Assisted-Living Facility under the Baltimore County Zoning Regulations (hereafter cited as "BCZR"). Because the building will accommodate more than fifteen (15) residents, it is classified by the Department of Permits Approvals and Inspections as a Class III building even though it has not been enlarged within the past five years and there are no plans to enlarge the existing building.

The facts as recited by the Administrative Law Judge are incorporated herein by reference.

DISCUSSION

I. THE ASSISTED LIVING CLASS III USE MAY BE ALLOWED IN THE B.L. ZONE GENERALLY THROUGHTOUT THE COUNTY BUT DEPENDENT ON ADJACENT ZONING.

“Zoning ordinances are in derogation of the common law right so to use private property as to realize its highest utility, and while they should be liberally construed to accomplish their plain purpose and intent, they should not be extended by implication to cases not clearly within the scope of the purpose and intent manifest in their language.” *Landay v. Board of Appeals*, 173 Md. 460, 466 (1938). Although this case is over eighty (80) years old, this particular quotation has been oft cited not only in Maryland Courts but also in courts around the country. In this case the citation is particularly apt, for if the BCZR’s treatment of Assisted Living Facilities is viewed in its entirety and is to be given full meaning, it takes a tortured reading to figure a way to prohibit such use at the desired location, which is directly contrary to the construction intended by *Landay* and the cases that have followed it.

BCZR Section 230.1.A.1 permits within the B.L. zone uses permitted and as limited in the residential zone “immediately adjoining”. Nowhere in Section 230.1.A or in Section 230.1.B are Assisted-Living facilities specifically mentioned as either uses permitted by right or by special exception. They are not mentioned either in Section 1B01.1.A or in Section 1B01.1.C., which lists uses permitted by right or by special exception in the D.R. zones. There is, however, mention of an Assisted Living Facility, Class A as a limited RTA exemption in Section 1B01.1.B.1.g.15 and as an exception to development plan requirements in Section 1B01.3.A.3.

Section 432A, which pertains to Assisted Living and Elderly Housing, permits such uses in the D.R., B.M., and B.R. zones among others. There is only a mention of the B.L. zone as it

pertains to the Pikesville Commercial Revitalization District in permitting a Class III Assisted Living Facility. Does this mean that Class I or Class II facilities are totally prohibited from being in a B.L zone? People's Counsel's argument is that Class III facilities only are permitted in B.L. zones and then only in the Pikesville Commercial Revitalization Zone. This flies against all logic. It is zoning taken at its most restrictive instead of zoning looked at as restricting inherent property rights. It also is against precedent established over the past few decades in cases involving Assisted Living Facilities.

If Assisted Living Facilities are permitted in all D.R. zones, and if B.L. specifically permits uses allowed and as limited in the D.R. zones, then the Assisted Living Facility would be generally permitted in the B.L. zone. It would be available based on the limiting factor of the adjacent residential zone, except in the Pikesville Commercial Revitalization Zone where the Assisted Living Class III use would be permitted regardless of the adjoining zone.

B. L. is the only commercial zone that specifically states that all uses permitted in the adjoining residential zone are permitted. If no residential zone adjoins the B.L. zone, such uses would not be permitted. The intent of Council Bill 47-2019 was to extend a Class III Assisted Living Facility in the Pikesville Commercial Revitalization Zone not only to a site within B.L. zone that adjoined D.R. 16 zoning but also to all B.L. zoned properties regardless of the adjoining zone.

Prior to County Council Bill 19-2004 Assisted Living Facilities and Elderly Housing were treated together in Section 432 of the BCZR. See **Exhibit D**, attached hereto and made a part hereof. In this section Elderly Housing was permitted in all D.R. zones. No mention was made of any other zone. The density of an Assisted Living Facility was set forth in Section 432.5. There is mention of density in the R.C. 5 zone but the only other zones noted were D.R. zones. No

mention of such facilities existed in the B.L., OR -1, or R.O. zones at the time. However, both B.L. and R.O. permitted uses allowed in D.R. zones. Accordingly, Assisted Living Facilities were permitted in those zones. A sample of Opinions are contained in **Attachment E**, attached hereto and made a part hereof, as follows:

- Case No. 97-409-XA permitting an Assisted Living Facility in B.L. and D.R. 16 zones;
- Case No. 95-51-X allowing an Assisted Living Facility in an OR-1 zone;
- Case No. 98-76-SPHXA allowing an Assisted Living Facility in an R.O. zone, which was followed by Case No. 2008-0245-SPH modifying the previous order to allow a Class III Assisted Living Facility in a R.O. zone and C. B. zone. It is to be noted that Elderly Housing facilities were specifically allowed in Section 229.4 of the B.C.Z.R. then but not in Section 432. See **Attachment F**.
- Case No. 98-238-SPHXA allowing an Assisted Living Facility on property zoned predominantly R.O. with some B.L. and D.R.3.5 zoning. The use was expanded in Case No. 01-485-SPHX.

It also should be noted that how the B.R. zone fits within the scheme is similar to how B.L. zoning fits. For while Class III uses are permitted in various zones including the D.R. 16 and B.M. zones, B.R. zones are not so listed. On its face this would make no sense, for B.R. zones have the largest setbacks of any of the commercial zones and would seem ideal for such facilities. However, B.R. zones do permit all uses allowed in the B.M. zone. Consequently, the B.M. uses would be permitted with the B.R. setbacks. This is the only way it would make sense; otherwise, you could have only Class I and Class II Assisted Living Facilities in the commercial zone with

the largest setbacks but not Class III facilities, even though such facilities are permitted in R.O., R.O.A., and D.R. 16 zones, which have comparatively minor setbacks.

Zoning regulations are to be interpreted liberally to achieve their purpose. *Landay, supra.* County Council Bill 19-2004, which created the current classifications for Assisted Living facilities is singularly unhelpful in describing the intent of the measure. The main thrust of the stated purpose of the Bill was to amend the PUD regulations and to allow a PUD for elderly housing.

The intent of the legislation has to be construed in a way as to make the most common sense. By making Assisted Living available in all residential zones to some extent, the Council clearly wanted such use available in a wide range of residential zones. The Council clearly had no problem with larger facilities on properties where there was the availability for intense residential use (D.R. 16 and R.A.E.) and also had no problem with its use on properties zoned R.O. and R.O.A., which are transitional properties by definition going from residential to commercial office use. It makes no sense then to allow such uses in the more intense commercial zones such as B.M. and B.R., but not in B.L., and it makes no sense to allow smaller Class I and Class II facilities in the most intense commercial zone (B.R.) but not Class III facilities. Given the presumed familiarity of the Council with the zoning regulations, they would have recognized that B.L. zones specifically permitted the residential uses permitted in the adjoining D.R. zones so that whether a Class I, Class II or Class III Assisted Living Facility could be placed in a B.L. zone was dependent on the adjacent residential zone. Similarly, B.R. would allow whatever class of Assisted Living the B.M. zone permitted.

This interpretation is absolutely consistent with how the zones have been interpreted to work in the past. Nowhere in the B.L. or R.O. zones was there mention of Assisted Living

Facilities or of Elderly Housing. Nowhere in Section 432 were those zones mentioned as permitted. However, because both of the zones contained specific references to adjoining residential zones and the fact that uses permitted in those zones were permitted in the commercial and office zones, cases uniformly held that such uses were permitted in the B.L. and R.O. zone. See, for example, **Exhibit E**. When read this way the current Section 432A makes sense for it limits the size of the facility based on adjacent zoning or by specific reference.

II. THE D.R. 16 ZONE IS IMMEDIATELY ADJOINING THE B.L-C.C.C. ZONE COVERING 8 DUNMANWAY.

As noted above, Section 230.1.A.1 permits in the B.L. zone “Uses permitted and as limited in the residential zone immediately adjoining....” The term “adjoining” is not defined in Section 101 of the BCZR. Webster’s Third New International Dictionary, Unabridged defines “adjoining” to mean “touching or bounding at some point or on some line: near in space” The only issue is whether the D.R. 16 zone touches the B.L. zone at a point or on a line. The zoning site plan clearly shows the zoning lines touching. Neither the Zoning Bureau, which accepted the Petition, nor the Planning Department, nor the Administrative Law Judge had any problem with this issue.

Finally, it should be pointed out that Assisted Living Facilities are ideally situated in close proximity to services such as medical offices, pharmacies, etc. Proximity to restaurants and other food facilities is also desirable, for the residents, while restricted as to their mobility, are often capable, especially with assistance of using nearby facilities. In this case the property in the heart of Dundalk is ideally located. It is exactly where facilities such as this should be located.

III. PARKING

The property is zoned B.L. – C.C.C. In 1983 Dundalk was added to the National Register of Historic Places. See **Exhibit A**. 8 Dunmanway was specifically cited as a contributing property to the National Register of Historic Places. See **Exhibit C**, pages 11-12.

Section 409.6.A.1 includes assisted living facilities as a residential use. That section calls for specific parking requirements for various residential uses including assisted living. That section also states: “No parking spaces are required for residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and are located within a C.T. or B.L. – C.C.C. District.”

In this case the subject site is a building proposed for residential use. It is designated as contributing to the historic character of an area and is one of a number of buildings designated on the National Register of Historic Places. Consequently, there are no parking places required for the proposed residential use. It should, however, be noted that extensive public parking is in the immediate vicinity of the subject property. It must be presumed that the Council in making this exception to the residential parking requirements: first, understood that private parking in the Historic District of Dundalk is not essential to the functioning of the properties: and, second, that at least some of the commercially zoned property would be used for residential purposes.

CONCLUSION

In conclusion, Petitioner states that there should be the opportunity to present proof of the facts contained herein and that based upon such proof Petitioner is entitled to the relief it sought.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John B. Gontrum".

John B. Gontrum

Jennifer R. Busse

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July 17, 2020

VIA HAND DELIVERY

Ms. Krysundra "Sunny" Cannington, Administrator
The Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204



**Re: Petition for Special Hearing
8 Dunmanway
Bolton Hill Investments LLC
Case No. 2020-003-SPH**

Dear Ms. Cannington:

Please find enclosed for filing four (4) copies of Petitioner's Response and Answer to People's Counsel for Baltimore County's Motion for Summary Judgment and Memorandum in Response in the above-referenced matter.

Thank you for your assistance. Please do not hesitate to contact me with any questions or concerns.

Very truly yours,

John B. Gontrum

JBG:tm
Enclosures
11417223

PETITION FOR SPECIAL HEARING
8 Dunmanway; NS of Dunmanway, 115' E
Of c/line of Shipping Place
12th Election District
7th Councilmanic District
Legal Owner: Bolton Hill Investments LLC
(Petitioner)

BEFORE THE
BOARD OF
APPEALS FOR
BALTIMORE COUNTY
Case No. 2020-003-SPH



PETITIONER'S RESPONSE AND ANSWER TO
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S
MOTION FOR SUMMARY JUDGMENT

Now comes Bolton Hill Investments LLC, by and through its counsel Jennifer R. Busse, John B. Gontrum and Whiteford, Taylor & Preston, LLC and in response to People's Counsel for Baltimore County's Motion for Summary Judgment (hereinafter referred to as "People's Counsel") says as follows:

1. The Baltimore County Charter Section 603 states in pertinent part the following: "All decisions of the county board of appeals shall be made after notice and opportunity of hearing upon the issues before said board. All hearings held by the board shall be heard de novo, unless otherwise provided by legislative act of the County Council, and shall be open to the public."

2. The Baltimore County Board of Appeals Rules also require all hearings to be open to the public, and Rule 4 requires that motions only be made at the time of public hearing or in subsequent motions to reconsider (Rule 10).

3. The Motion for Summary Judgment offered by People's Counsel is contrary to both the Baltimore County Charter provisions providing for the opportunity for a de novo public hearing and the Board of Appeals Rules.

4. Petitioner agrees with People's Counsel that the location of the property at 8 Dunmanway is zoned B.L. - C.C.C.

5. Petitioner agrees with People's Counsel that it is seeking an Assisted Living Facility III.

6. Petitioner avers that an Assisted Living Facility is a residential building.

7. Petitioner agrees with People's Counsel that it is not providing on-site parking for the Assisted Living Facility III.

8. Petitioner avers that BCZR Section 409.6.A.1 states: "No parking spaces are required for residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and are located within a C.T. or B.L. - C.C.C. District.

9. Petitioner avers that 8 Dunmanway is located in the Dundalk National Historic District which is on the National Register of Historic Places.

10. Petitioner avers that 8 Dunmanway has been specifically cited as a contributing structure to the National Register of Historic Places as an historic building.

11. Petitioner avers that the B.L. zone covering 8 Dunmanway is immediately adjacent to a D.R. 16 zone.

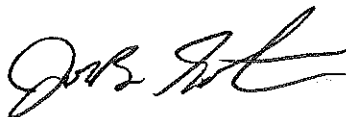
12. Petitioner avers that 8 Dunmanway is adjacent to property zoned D.R. 16.

13. Petitioner avers that the Assisted Living Facility III is permitted in a D.R. 16 zone and, therefore, is permitted in this particular B.L. zone pursuant to the Baltimore County Zoning Regulations (hereinafter cited as "BCZR") Section 230.1.A.1 and Section 432A.4.

14. Petitioner avers that prior to the enactment of Baltimore County Council Bill 47-2019, only if a B.L. zone was located adjacent to a D.R. 16 zone was an Assisted Living III permitted in the B.L. zone and that the purpose of Council Bill 47-2019 as stated was to broaden its availability to all B.L. zones in the Pikesville Commercial Revitalization District.

15. Petitioner avers the BCZR permits Assisted Living III facilities at 8 Dunmanway and requires no on-site parking.

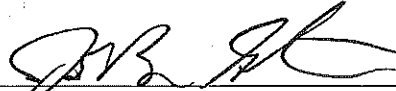
WHEREFORE, for these and for such other and further reasons to be presented at the time of hearing Petitioner requests the Motion for Summary Declaratory Judgment filed by People's Counsel be dismissed.



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Jennifer R. Busse
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
Phone: 410-832-2055
Email: jgontrum@wtplaw.com

CERTIFICATE OF SERVICE

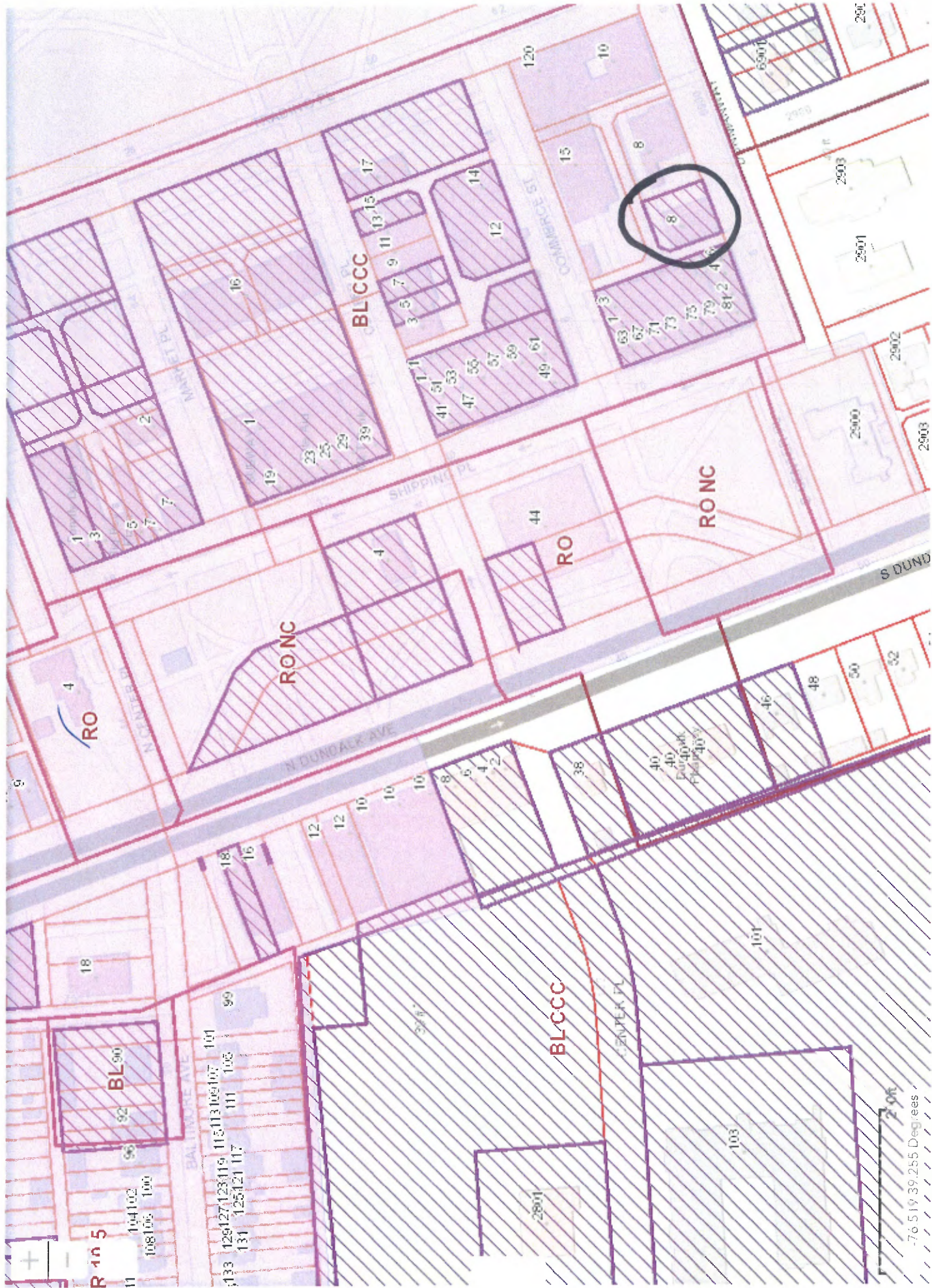
I HEREBY CERTIFY that on this 17 day of July, 2020, a copy of the PETITIONER'S RESPONSE AND ANSWER TO PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR SUMMARY JUDGMENT and PETITIONER'S MEMORANDUM IN RESPONSE TO BALTIMORE COUNTY PEOPLE'S COUNSEL MOTION FOR SUMMARY DECLARATORY JUDGMENT was mailed by first class mail, postage prepaid to the People's Counsel for Baltimore County, Jefferson Building 105 W. Chesapeake Avenue, Towson, Maryland 21204, Mary DiLesse, 3014 Dungle Road, Baltimore, Maryland 21222 and Barbara Kenney, 3020 Dungle Road, Baltimore, Maryland 21222.



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Baltimore County - My Neighborhood



Maryland's National Register Properties



Photo credit: Druscilla Null, 06/1983

Dundalk Historic District
Inventory No.: **BA-2213, B-3737**
Date Listed: **12/8/1983**
Location: **Dundalk, Baltimore City, Baltimore County**
Category: **District**
Period/Date of Construction: **1893-1941**
Architect/Builder: **Architect: Edward L. Palmer**
Resources: **120 (114 contributing, 2 non-contributing)**

[Open National Register Form](#)

[Open in Medusa...](#)

Description: Dundalk, Maryland, is an unincorporated community in Baltimore County located just southeast of Baltimore City. The Dundalk Historic District, while primarily in the County, extends slightly into the city so as to fully encompass the significant resources of the early 20th century community. Although bisected into eastern and western sections (commonly known respectively as Old Dundalk and St. Helena), the district is a cohesive unit made up of residential, commercial, and institutional buildings. Structures generally date from 1910-1940 and document all phases of the district's growth during that period. Major architectural styles represented include Period Revival (particularly Colonial Revival and Tudor Revival) and Art Deco/Art Moderne. Much of the district is laid out in a plan which is a good example of "Garden City" planning precepts. The integrity of this plan is excellent, including the retention of a variety of open space ideas. Such integrity is also seen in the buildings of the district, which have generally undergone relatively reversible alterations. This integrity of plan and architectural fabric, plus the relative lack of intrusive modern structures, makes the Dundalk Historic District a cohesive and significant source of architectural documentation. The District comprises 982 resources, of which 98% (n=962) contribute to its significance.

Significance: The Dundalk Historic District is a significant community for its historical associations and for its architecture. Historically, the district is important for encompassing the only two housing developments built by the United States Shipping Board Emergency Fleet Corporation (EFC) in Maryland during World War I. (Only 36 such projects were carried out by the EFC nationwide.) As such, Dundalk is representative of the Federal government's first venture into the field of housing. Essentially intact in terms of buildings and plan, the community is a particularly good source of documentation for the EFC projects. In addition to serving as concrete evidence of a crucial broadening of the government's role and responsibilities, Dundalk is also significant as an expression of early 20th century community planning. The plan of much of the district, with its curvilinear streets and planned community center (including parks, school, shopping center, etc.), reflects experimentation with Garden City planning ideals. Reinforcing this "model" character of the community was the early and continued influence of planners and administrators of Roland Park, an early, precedent setting model suburb of Baltimore. Another important influence upon the community's development was the Bethlehem Steel Corporation, which controlled much of the district's physical growth to a greater or lesser degree. Thus, Dundalk is also significant as an example of one type of "company town." With no respect to architecture, the district represents a significant and well-preserved collection of examples of early 20th century Period Revival and Art Deco/Art Moderne styles applied to residential, commercial, and institutional buildings. This general architectural cohesiveness, plus the overall integrity of the district, tends to produce a distinct sense of place. While many changes have occurred around the district, and to some degree within it, the community retains a distinctive visual appearance and feeling of cohesiveness.

Many of the buildings within the District represent the work of noted Baltimore architect Edward L. Palmer.

District Resources (120) (114 contributing, 2 non-contributing)

From associated listing in National Register nomination form. C = Contributing, NC = non-contributing, blank = not evaluated.

Address	Status	Resource Name and MIHP (if any)
13 Kinship Road	C	BA-2213-4 -- Kinship Road, 13
222 Saint Helena Avenue	C	BA-2213-2 -- Saint Helena Avenue, 222
121 Ventnor Terrace	C	BA-2213-3 -- Ventnore Terrace, 121
Center Place	C	BA-2213-1 -- Dundalk Post Office
117-127 Patapsco Avenue	C	Houses
64-70 Shipway Road	C	Rowhouses
36-46 Kinship Road	C	Rowhouses
3-9 Midship Road	C	Rowhouses
1-3 Kinship Road	C	Semi-detached Houses
4-6 Playfield Road	C	Semi-detached Houses
38-40 Admiral Boulevard	C	Semi-detached Houses
5 Bayship Road and 60 Kinship Road	C	Semi-detached Houses
1 Leeway Road	C	Detached House
14 Southship Road	C	Detached House
1 Friendship Circle	C	Marine Hotel
2 Friendship Circle	C	Dundalk Hotel
2540 Liberty Parkway	C	Sparks Farmhouse
19 Northship Road	C	Frame House
60 Willow Spring Road	C	House
62 Willow Spring Road	C	House
64 Willow Spring Road	C	House
88-90 Baltimore Avenue	C	Duplex
92 Baltimore Avenue	C	House
96 Baltimore Avenue	C	House
99 Baltimore Avenue	C	House
Bounded by Township Road, Northship Road, Leeway Road, and Flagship Road	C	Dundalk Company Subdivision
4 N. Center Place	C	Reier House
201-203 Willow Spring Road	C	Rowhouses
128-136 Patapsco Avenue	C	Rowhouses
St. Helena Avenue	C	First Baptist Church
2900 Dunleer Road	C	St. George's and St. Matthew's Episcopal Church
Dundalk Avenue	C	BA-1219 -- Dundalk Shopping Center/Commercial Core Historic District
Bounded by Shipping Place, Center Place, Dundalk Avenue, and Dunmanway	C	Park
4 Center Place	C	BA-3213 -- Dundalk Company Building (Dundalk Library)
Bounded by Shipping Place, N. Center Place, Dundalk Avenue, and Center Place	C	Veteran's Park
1 Shipping Place	C	BA-2640 -- Strand Theatre

3-5 Shipping Place	C	Strand Building
7 Chipping Place	C	BA-2346 -- Dundalk Police Station
19-39 Shipping Place	C	BA-2347 -- Dundalk Building
41-66 Shipping Place (41-61?)	C	BA-2349 -- Dunleer Building
63-81 Shipping Place	C	BA-2348 -- Dunkirk Building
Market Place	C	Bates Building
1 Center Place	C	Colony Grill
3 Center Place	C	Lillich's Pharmacy
5 Center Place	C	First National Bank
7 Center Place	C	Commercial Building
9 Center Place	C	Commercial Building
11 Center Place	C	Bradley's Limited
13-15 Center Place	C	Commercial Building
8 Dunmanway	C	St. Rita's Church Annex
Bounded by Trading Place, Dunmanway Road, Playfield Road, and Shipway Road	C	Dundalk Park
2717 Playfield Road	C	BA-2642 -- Dundalk Elementary School
10 Dundalk Avenue	C	Commercial Building
20-22 Dundalk Avenue	C	Commercial Building
24-30 Dundalk Avenue	C	Commercial Building
30 1/2-34 Dundalk Avenue	C	Commercial Building
60 N. Dundalk Avenue	C	Lane Theatre
13 Kinship Road	C	BA-2213-4 -- Kinship Road, 13
222 Saint Helena Avenue	C	BA-2213-2 -- Saint Helena Avenue, 222
121 Ventnor Terrace	C	BA-2213-3 -- Ventnore Terrace, 121
Center Place	C	BA-2213-1 -- Dundalk Post Office
117-127 Patapsco Avenue	C	Houses
64-70 Shipway Road	C	Rowhouses
36-46 Kinship Road	C	Rowhouses
3-9 Midship Road	C	Rowhouses
1-3 Kinship Road	C	Semi-detached Houses
4-6 Playfield Road	C	Semi-detached Houses
38-40 Admiral Boulevard	C	Semi-detached Houses
5 Bayship Road and 60 Kinship Road	C	Semi-detached Houses
1 Leeway Road	C	Detached House
14 Southship Road	C	Detached House
1 Friendship Circle	C	Marine Hotel
2 Friendship Circle	C	Dundalk Hotel
2540 Liberty Parkway	C	Sparks Farmhouse
19 Northship Road	C	Frame House
60 Willow Spring Road	C	House
62 Willow Spring Road	C	House
64 Willow Spring Road	C	House
88-90 Baltimore Avenue	C	Duplex
92 Baltimore Avenue	C	House
96 Baltimore Avenue	C	House
99 Baltimore Avenue	C	House
Bounded by Township Road, Northship Road, Leeway Road, and Flagship Road	C	Dundalk Company Subdivision
4 N. Center Place	C	Reier House

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St. Helena Avenue	C	First Baptist Church
2900 Dunleer Road	C	St. George's and St. Matthew's Episcopal Church
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1 Shipping Place	C	BA-2640 -- Strand Theatre
3-5 Shipping Place	C	Strand Building
7 Chipping Place	C	BA-2346 -- Dundalk Police Station
19-39 Shipping Place	C	BA-2347 -- Dundalk Building
41-66 Shipping Place (41-61?)	C	BA-2349 -- Dunleer Building
63-81 Shipping Place	C	BA-2348 -- Dunkirk Building
Market Place	C	Bates Building
1 Center Place	C	Colony Grill
3 Center Place	C	Lillich's Pharmacy
5 Center Place	C	First National Bank
7 Center Place	C	Commercial Building
9 Center Place	C	Commercial Building
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24-30 Dundalk Avenue	C	Commercial Building
30 1/2-34 Dundalk Avenue	C	Commercial Building
60 N. Dundalk Avenue	C	Lane Theatre
101-113 St. Helena Avenue	NC	Commercial Building
101-113 St. Helena Avenue	NC	Commercial Building
16 Center Place		BA-2374 -- Santoni's Market
7003 Dunmanway		BA-3266 -- Dundalk, Liberty, Cornwall Gardens
16 Center Place		BA-2374 -- Santoni's Market
7003 Dunmanway		BA-3266 -- Dundalk, Liberty, Cornwall Gardens

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received
date entered

See instructions in *How to Complete National Register Forms*
Type all entries—complete applicable sections

1. Name

historic Dundalk
and or common Dundalk Historic District (preferred)

2. Location

street & number Multiple Streets n/a not for publication
city, town Dundalk
Baltimore City n/a vicinity of congressional district Second and Third
state Maryland code 24 county Baltimore (independ. city) code 510

3. Classification

Category	Ownership	Status	Present Use
☒ district	☐ public	☒ occupied	☐ agriculture
☐ building(s)	☐ private	☐ unoccupied	☒ commercial
☐ structure	☒ both	☐ work in progress	☒ educational
☐ site	Public Acquisition	Accessible	☒ entertainment
☐ object	☐ in process	☐ yes: restricted	☐ government
	☐ being considered	☒ yes: unrestricted	☐ industrial
		☐ no	☐ military
			☐ museum
			☒ park
			☒ private residence
			☒ religious
			☐ scientific
			☐ transportation
			☐ other:

4. Owner of Property

name Multiple Public and Private (more than 50)

street & number

city, town vicinity of state

5. Location of Legal Description

courthouse, registry of deeds, etc. Baltimore County Courthouse
Baltimore City Courthouse

street & number

city, town Towson Maryland
Baltimore state Maryland

6. Representation in Existing Surveys

title Maryland Historical Trust
Historic Sites Inventory has this property been determined eligible? ☐ yes ☒ no
date 1963 ☐ federal ☒ state ☐ county ☐ local
depository for survey records Maryland Historical Trust, 21 State Circle
city, town Annapolis state Maryland 21401

7. Description

Ba-7713; P 1007

Condition

☒ excellent
☐ good
☐ fair

☐ deteriorated
☐ ruins
☐ unexposed

Check one

☐ unaltered
☒ altered

Check one

☒ original site
moved date _____

Describe the present and original (if known) physical appearance

SUMMARY DESCRIPTION

Dundalk, Maryland, is an unincorporated community in Baltimore County located just southeast of Baltimore City. The Dundalk Historic District, while primarily in the county, extends slightly into the city so as to fully encompass the significant resources of this early 20th century community. Although bisected into eastern and western sections (commonly known respectively as Old Dundalk and St. Helena), the district is a cohesive unit made up of residential, commercial, and institutional buildings. Structures generally date from 1910-1940 and document all phases of the district's growth during that period. Major architectural styles represented include Period Revival (particularly Colonial Revival and Tudor Revival) and Art Deco/Art Moderne. Much of the district is laid out in a plan which is a good example of "Garden City" planning precepts. The integrity of this plan is excellent, including the retention of a variety of open space areas. Such integrity is also seen in the buildings of the district, which have generally undergone relatively reversible alterations. This integrity of plan and architectural fabric, plus the relative lack of intrusive modern structures, makes the Dundalk Historic District a cohesive and significant source of architectural documentation. The District comprises 982 resources, of which 98% (962) contribute to its significance.

GENERAL DESCRIPTION

The Dundalk Historic District is bisected by Dundalk Avenue, a 6-lane, divided road, which serves to geographically, visually and psychologically separate the district into distinct eastern and western sections (photo 1/60). Although both sections are considered part of the greater Dundalk area, the eastern is commonly known as Old Dundalk, while the western section is often known as St. Helena. These names will hereafter be used to differentiate between the eastern and western sections of the district. The two areas are linked by continuities in appearance and design which mesh the district into a unified whole, however, each section also has distinct characteristics which subtly differentiate the areas. Thus, the district can be profitably considered not only in terms of its unifying themes, but also in terms of sectional specificity.

The district contains two separate residential areas. In Old Dundalk, the residential section is bounded by Shipway Road, Eastship Road, Northship Road, Admiral Boulevard, Portship Road, Sunship Road, and Dundalk Avenue. In St. Helena, the residential area includes portions of Baltimore Avenue, Patapsco Avenue, and Colgate Avenue, and includes all of St. Helena Avenue, Parnell Avenue, and Ventnor Terrace. Parnell Avenue and part of St. Helena Avenue fall within the boundary of Baltimore City.

The most significant relationship between the residential areas is their historical association: approximately 90% of the houses were constructed as two housing developments by the United States Shipping Board Emergency Fleet Corporation (EFC) in 1918-1919.¹ The architect for the development was Edward L. Palmer, who was responsible for creating the basic residential designs which are repeated throughout the district.² Thus, the vast majority of the district's houses are directly linked, both historically and visually, and tend to collectively produce the feeling and appearance of a cohesive unit.

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GENERAL DESCRIPTION (Continued)

The EFC houses are of hollow-tile construction and originally had stuccoed exterior walls and slate roofs. In designing the houses, Palmer worked with a limited stylistic vocabulary, the simplicity dictated by the government's need for expediency and low cost. Stylistically, the emphasis is on simple, picturesque Period Revival motifs. All of the houses exhibit a combination of elements, including steep roof slopes (with combinations of gable, jerkin head, shed, and flared shapes), and contrasts in materials. While the overall impression in all of the houses is of picturesque, vaguely Tudor Revival design, the basic motifs were combined to produce a variety of distinct house types.

In St. Helena, only one such design type is represented. The houses were originally "convertible houses," without kitchens, designed to house bachelor shipyard workers.³ After being sold by the federal government to a private real estate speculator, the houses were converted for family use, but still remain the smallest and least pretentious of the district's EFC houses. A typical example is 117-127 Patapsco Avenue (photo 2/60). Each house is 2 stories plus attic, 2-bays by 2-bays, and arranged in rows of 4, 6, 8, or 10 units. The end units of each row project slightly, creating a pseudo-H shape. Roofs are gabled and eye brow vents vent the attic story. Each house has a 1-story porch with hipped roof, the end houses having individual porches and the center houses sharing double porches.

The rowhouses in St. Helena are sited in straight lines on grid pattern streets, creating continuous linear streetscapes, notably on St. Helena Avenue, where EFC houses are uninterrupted by any other housing type (photo 3/60). Presently, the majority of the front facades of these houses have been altered from their original appearance, usually through expansion and enclosure of porches and/or the application of formstone or aluminum siding. In almost all cases, however, the integrity of the buildings could be restored relatively easily.

In Old Dundalk, the EFC houses were originally constructed for families rather than bachelors and therefore tend to be more substantial and variegated in design. The houses range from 1½-stories to 1½-stories plus attic and include rowhouses, semi-detached houses, and detached houses. Nine distinct designs can be identified. In all of the designs, fenestration tends to be somewhat irregular, with paired windows often used in dormers and upper stories. Ornamentation is minimal, with windows delineated only by brick lintels contrasting with the stucco wall. The focal points of visual interest are the roofs, which exhibit a picturesque juxtaposition of styles and shapes. To briefly summarize the styles, below is a list of typical examples and their key characteristics:

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GENERAL DESCRIPTION (Continued)

Rowhouses

Type 1: 64-70 Shipway Road (photo 4/60)
1½-story plus attic; each house 2-bays by 2-bays;
jerkin head roof; shed roofed dormer wall on the upper
half story; small shed roofed dormers light attic;
main roof extends down to form hipped roofs with flared
eaves on first story double porches

Type 2: 36-46 Kinship Road (photo 5/60)

Same as Type 1, except: 1½-story; no small shed roofed
dormers

Type 3: 3-9 Midship Road (photo 6/60)

Same as Type 1, except: roof does not extend down to
form porch roofs; double porches have separate hipped
roofs with flared eaves

Semi-detached Houses

Type 4: 1-3 Kinship Road (photo 7/60)

1½-story plus attic; each house 3-bays by 2-bays; jerkin
head roof; shed roofed dormer wall on upper half story;
small shed roofed dormers light attic; main roof extends
down to form hipped roof with flared eaves on first story
double porch; porch supported by large stuccoed columns;
1-story porches on side facades

Type 5: 4-6 Playfield Road (photo 8/60)

Same as Type 4, except: gable roof; roof does not extend
down to form porch; each house has separate hipped roof
porch on first story; no porches on side facades.

Type 6: 38-40 Admiral Boulevard (photo 9/60)

Same as Type 5, except: no front porches; 1-story porches
on side facades

Type 7: 5 Bayship Road and 60 Kinship Road (photo 10/60)

1½-story; each house 2-bays by 2-bays; gable roof;
4-bay shed dormer extends length of duplex on both
side facades; entrances and 1-story, hipped roof porch
on gable ends

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GENERAL DESCRIPTION (Continued)Detached Houses

Type 8: 1 Leeway Road (photo 11/60)

1½-story plus attic; 2-bays by 2-bays; jerkin head roof; shed roofed dormer wall on upper half story; 1-story, hipped roof front porch

Type 9: 14 Southship Road (photo 12/60)

1½ story; 2-bays by 2-bays; jerkin head roof; shed roofed dormer wall on upper half story, side facades; entrance and 1-story hipped roof porch on jerkin head end

In addition to houses for families, the EFC also constructed two boarding houses in Old Dundalk, both essentially identical in design.⁴ As 1 Friendship Circle (photo 13/60) shows, these boarding houses are 2½ stories tall and H-shaped with jerkin head roofs. Large shed roofed dormers break the roof of the main block and the roofs of the side blocks. There is a 3-bay, 1-story, hipped roofed front porch. After leaving government control, the buildings continued to be used as boarding houses/hotels, 1 Friendship Circle being known as the Marine Hotel, while its counterpart 2 Friendship Circle was called the Dundalk Hotel. Today, both buildings are still partially rented out to roomers.⁵

The EFC houses in Old Dundalk are intermixed in an asymmetrical street plan. Unlike the flat, traditional grid-iron streets in St. Helena, there are curved streets, streets set on a diagonal, and one circle. This attempt to depart from the grid-iron plan and to introduce a more variegated pattern is a clear reflection of the influence of Garden City ideals during the 1910's. Straight streets appear less linear because of the slope of the terrain, which falls downward from Shipway Road. (One street, Admiral Boulevard, is wide, with a streetscape characterized by a broad, sloping, curving view (photo 14/60). Most other streets, like Township Road, are narrow, creating an intimate feeling of enclosed space and interrupted vistas with numerous curves and corners (photo 15/60). A large number of trees and plantings line the streets.

The integrity of most of the EFC houses in Old Dundalk is good. To a greater degree than their counterparts in St. Helena, the houses of Old Dundalk have retained their stucco covering, with only a relatively small portion being covered by formstone or aluminum siding. Most front facades have remained relatively unaltered, except for the enclosure and extension of porches, which has altered the symmetry of many of the duplexes and rows. As in the case of St. Helena, however, most alterations are reversible.

While the houses built by the EFC represent the bulk of the residential structures in the district, other houses document the area's history both immediately before and immediately after the intervention of the federal government. Documenting the early rural character of the area is the Sparks

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GENERAL DESCRIPTION (Continued)

Farmhouse at 2540 Liberty Parkway, one of the few surviving 19th century farmhouses in the immediate region (photo 16/60). The house was originally owned by John W. Sparks, part of whose land would be subdivided to create St. Helena, while other Sparks property would be developed by the EFC in Old Dundalk.⁶

The Sparks Farmhouse is believed to have been built in 1893, the owner stating that this date is inscribed on the chimney.⁷ It is a 2½-story, frame house, now covered by asbestos shingles. T-shaped, each block of the house has a gable roof, and there are two interior chimneys. In the inner corners of the "T" are modified towers, 2 stories tall with modified cross gable roofs. A 1-story, partially enclosed porch wraps around the front of the house, while another 1-story porch decorated by simple bargeboards extends across the rear of the building. Much original material, such as mouldings, doors, staircase, etc., remains on the interior.

Sited behind the Sparks Farmhouse is 19 Northship Road, another house built by the Sparks family (photo 17/60). While the exact date that the house was built is unclear, it seems to appear on an 1898 atlas of the area.⁸ A 2½-story frame house on a raised basement, it is essentially square, being 2 bays on each side. The roof is pyramidal with a gable roofed extension on the north side, this extension being lit by a palladian window. There are large gabled dormers on the main and south facades. A 1-story enclosed porch extends the length of the main facade.

Prior to 1918, slow development had occurred in the St. Helena area, which had been subdivided by John Sparks in the early 1890's. While many of St. Helena's older houses are not included in the district (see boundary justification) several do fall within its perimeters and serve as evidence of the area's character prior to the arrival of the EFC. These houses are varied in design, but tend to be relatively simple houses, some having vaguely Colonial Revival motifs. These houses are:

-- 60 Willow Spring Road (photo 18/60)

Built 1898-1911; 2-story; frame; 2 narrow bays by 3 bays; pedimented gable roof; entrance and 1-story enclosed porch on gable end; 1st story covered by formstone; 2nd story covered by asbestos shingles⁹

-- 62 Willow Spring Road (photo 19/60)

Built 1898-1915; 2-story; brick; 2-bays by 5-bays; flat roof; main facade now completely encased in formstone; original windows with segmental arches visible on north facade¹⁰

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GENERAL DESCRIPTION (Continued)

- 64 Willow Spring Road (photo 20/60)
Built 1898-1915; 2½-story on raised basement; frame with stucco and
formstone sheathing; 2-bay front; hipped roof; 1-story enclosed porch
on main facade; 2 bay windows on 2nd story; shed roofed dormer¹¹
- 88-90 Baltimore Avenue (photo 21/60)
Built 1915; 1½-story; frame; duplex; 4-bay by 2-bay; gambrel roof;
1-story porch extends across main facade; 2 entrances, #88 with transom
and #90 with transom and sidelights; projecting bays with double
windows on 1st story; shed dormers with double windows¹²
- 92 Baltimore Avenue (photo 22/60)
Built 1916; 1-story on raised basement; frame with asbestos shingle
covering; 3-bay by 5-bay; hipped roof which extends over 1-story front
porch; overhanging eaves; entrance on gable end¹³
- 96 Baltimore Avenue (photo 23/60)
Built 1916; 1½-story on raised basement; frame with stucco covering;
3-bay by 2-bay; gable roof; shed roofed 1-story porches across front
and rear; shed roofed dormer; overhanging eaves; tongue and groove
boards on eaves and porch ceiling¹⁴
- 99 Baltimore Avenue (photo 24/60)
Built 1915-1919; 1½-story on raised basement; frame; 3-bay by 6-bay;
gable roof; large gabled dormers; entrance on gable end has sidelights
and transom; 1-story hipped roof porch extends across main facade and
west facade; porch supported by Doric columns on stone pedestals;
pseudo-palladian window lights gable of main facade¹⁵

Other houses in the district reflect the direction taken by private develop-
ment after the EFC disassociated itself from the area. The primary agent
behind new development in Old Dundalk was the Dundalk Company, a subsidiary of
Bethlehem Steel Corporation. One of the company's development priorities was
utilization of an area, bounded by Township Road, Northship Road, Leeway Road
and Flagship Road, which had been used as a sand and gravel pit by the EFC.¹⁶
In 1926, the Dundalk Company subdivided this land and in the next one to two
years constructed 36 houses.¹⁷

Because of the size of the area they were working with, the Dundalk Company
found that subdivision into standard lots still left a central part of the section
undeveloped. Their solution was to divide this center section into small lots
which were sold along with the larger house lots. Today, these small center lots
are generally used for gardens, thus producing a pocket of open space within the
residential area (photo 27/60).

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GENERAL DESCRIPTION (Continued)

More imposing than the houses built by the Dundalk Company is the Reier House at 4 North Center Place (photo 28/60). The house was built for a local physician, Dr. Adam W. Reier in 1927-1928, and the design is attributed to a Baltimore architect, William H. Emory.¹⁸ Once again, the Colonial Revival style is the primary design influence. Built of red brick laid in Flemish bond, the house is 2½ stories tall. The gable roof is broken by two pedimented gabled dormers. The house is made up of a central block (3-bays by 2-bays), a 1-story western wing (1-bay by 2-bays) and an eastern hyphen and 1½-story wing (1-bay by 3-bays). The eastern wing was added shortly after 1967 while the house was being used as offices for the Dundalk Community College. Decorative elements which reflect the Colonial Revival influence include a 1-story pedimented porch supported by simple Doric columns; central entrance with side lights and transom; louvered shutters; and lunette windows. In addition to being used by the Community College, the house was later used during the 1970's for county government offices. Presently, it serves as the office of the community's newspaper, The Dundalk Eagle.

In St. Helena, post-war development centered around the area of Ventnor Terrace. 201-203 Willow Spring Road is a typical example of the rowhouses built in the area prior to 1929¹⁹ (photo 29/60). Two stories tall and built of brown brick, the houses commonly have 3-bay fronts. The flat roofs are parapetted with tiled shed roof projections at the cornice line. One-story porches supported by square wooden columns on uncoursed stone bases cover each facade.

An interesting curiosity in St. Helena is 128-136 Patapsco Avenue (photo 30/60). Built prior to 1928, this row closely mimics the design of the neighboring EFC houses.²⁰ The design is virtually the same as the earlier EFC design except that the roof pitch is less severe and there are no roof vents. Presently the houses are sheathed in asbestos shingles and aluminum siding.

Servicing the residential areas of the district are two churches, of which the oldest is the First Baptist Church on St. Helena Avenue in St. Helena (photo 31/60). Originally known as the Community Church, the building was constructed in 1920 and also served as a social center, including within it a gym, game room, stage, etc.²¹ T-shaped, the original building now has a modern addition on the east. The original building is 2 stories and stuccoed, the stucco serving to visually link the building to the nearby EFC houses. On the main facade, 2-story entrance pavilions project slightly at each end. On the second story of the center section is a series of arcaded windows, delineated by bands of stucco. Stucco belt courses serve to define each story. The roof on the front section of the building is hipped, with each entrance pavilion having its own hipped roof. A low octagonal cupola tops the building. The rear section of the building has a gable roof and is lit by arched stained glass windows. The church is set back on a large lot, which is the largest area of open space in the St. Helena section of the district (photo 32/60).

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GENERAL DESCRIPTION (Continued)

The second church in the district is St. George's and St. Matthew's Episcopal Church at 2900 Dunleer Road(photo 33/60), built in 1928.²² The church is L-shaped, with the long side of the "L" being the nave. The building is stuccoed with random brick decoration which contributes to the overall appearance of being Tudor and Gothic Revival. The brick and stucco contrasts with the slate of the gable roof, which flares slightly at the eaves. The main facade faces Dundalk Avenue and is lit by Gothic arched windows of stained glass. To the north side of the main facade is a gable roofed porch with half-timbering, while on the south end is a round tower with conical roof. The secondary facades of the building are decorated with leaded windows, bay windows, and a square tower with pyramidal roof.

St. George's and St. Matthew's Church is located at the southern end of the commercial district in Old Dundalk. This commercial area was envisioned by the EFC planners and the later planners of the Dundalk Company as a planned community center which would offer residents all needed services and recreation. The area lies immediately south of the residential area of Old Dundalk, and is bounded by Dunmanway Road, Liberty Parkway, Shipway Road, and Dundalk Avenue. The area contains three parks, a business district (laid out in a grid-iron plan), and a school and recreational fields.

The northwest facade of St. George's and St. Matthew's Church faces onto a park, which contains both paved and dirt paths, benches, trees and other plantings (photo 34/60). At the northern end of the park, facing Center Place, is the Dundalk Post Office (photo 35/60). Dedicated in 1941, it is one of the District's newer buildings, but architecturally conforms to the Colonial Revival Style prevalent in the area.²³ A 1½-story red brick building, it has a 4-bay by 2-bay main block and a 9-bay rear wing. The roof is gabled with pedimented ends decorated with dentil trim. On the main facade, the end bays project slightly and are defined by brick pilasters. A double entranceway is capped by a blind arch decorated with a bas-relief eagle. Capping the building is a square cupola supported by columns and surmounted by a pyramidal roof and metal weathervane. Parking for post office vehicles has taken up a portion of the park behind the building.

Directly across Center Place from the Post Office is the Dundalk Library (photo 36/60). The building was constructed in 1929 and served as the offices of the Dundalk Company prior to its dedication as a library in 1954.²⁴ Once again, the style is Colonial Revival. A 1-story, red brick building it is 3-bays by two bays, and there is a slate covered hipped roof. On the main facade, the entrance is located in a central pedimented projecting pavilion. The entrance is flanked by pilasters and capped by a dentiled blind arch decorated in the center by a raised stylized "D". Windows with louvered shutters have splayed marble arches with keystones. There are also small marble panels on either side of the entrance. The rear facade is similar, except that a palladian style window arrangement takes the place of the entranceway.

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GENERAL DESCRIPTION (Continued)

The rear of the Library faces onto a second park, known as Veteran's Park (photo 37/60). Bounded by Shipping Place, North Center Place, Dundalk Avenue, and Center Place, Veteran's Park is symmetrically placed to the park behind the Post Office. The name of the park derives from a monument to Dundalk veterans located just off Shipping Place. Like its counterpart, the Veteran's Park has paved walks, benches and plantings, but also has a wooden, hipped roof pavilion with benches.

Facing Veteran's Park to the north is the Reier House (see Continuation Sheet #6), which serves as a pivotal anchor building, as does the Library, the Post Office, and St. George's. These four buildings serve to create a linear progression of structures which serves to unify and anchor the two parks, which are sometimes referred to as Dundalk's "village green."

Across Shipping Place from the parks is the business district of Old Dundalk, concentrated along Shipping Place, Market Place, Center Place, Commerce Street, and Dunmanway Road. Beginning at the northern end of Shipping Place is the Strand Theatre (38/60). Constructed 1926, the architect was John F. Eyring, who designed several theatres in the Baltimore area, with this being one of his earlier commissions.²⁵ A 2-story, rectangular building, the Strand is faced with buff brick on the second story and with pink marble and maroon glazed tiles on the first. The building is 3 wide bays by 8 wide bays. Eyring combined the Art Deco with the Classical Revival in his decorative elements for the main facade. Classical details include corner pilasters, inset panels of red brick, round arch windows, foliated cornice, and garland decoration in the roof parapet. Deco can be seen in the stylizing of the Ionic capitals of the pilasters and in the sharp angularity of the stepped parapet. The large, stylized triangular marquee dominates the facade and was added sometime during the 1940's, as was the facing on the first story. Recently, the interior has been altered by the conversion of the balcony into a second mini-theatre.

Abutting the Strand Theatre is 3-5 Shipping Place, usually known as the Strand Building (photo 39/60). A 2-story duplex building, it is faced with light tan brick. Nine bays wide on the main facade, the 1st story has been altered through the addition of modern storefronts, although on #3 part of the older pressed metal storefront is still intact. On the second story, there are two narrow, round arched windows in the center bay, while the remaining rectangular windows show signs of being partially bricked in. Above the second story windows are small, square stone panels and a stone belt course. The roof is slightly battlemented with a central stepped parapet which echoes that of its neighbor the Strand Theatre, and which suggests the influence of the Art Deco/Art Moderne Style.

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GENERAL DESCRIPTION (Continued)

Next to the Strand Building is the Dundalk Police Station (photo 40/60). As its datestone records, the building was constructed in 1920, thus making it one of the oldest non-residential buildings in the district. The architect was William Emory (to whom the Reier House is attributed) and it was originally constructed to house both police and fire stations. Of red brick, the main block of the building is 2 stories, with a 7-bay front. To the rear of the building is a 1-story wing and a 3-story tower, originally designed to store fire hoses. The main facade is trimmed by concrete quoins and an uncoursed stone raised foundation. Pilasters with quoins divide the facade into two sections, both of which have arched areas of decorative brick patterning. Each of the two sections now has an entrance, although the southern section originally had a large opening to accommodate a fire engine. Above a concrete cornice is a slightly battlemented parapet. The future of this important building is in serious doubt, since the police will be moving from the building in the immediate future.

Also facing Shipping Place, across Market Place from the Police Station, is the Dundalk Building (photo 41/60). Built in 1919 by the EFC, it is the oldest non-residential building in the district.²⁶ Designed to house stores, offices, apartments and a community hall, it is one of the state's earliest "shopping centers." Architect of the EFC houses, Edward L. Palmer, was also designer of the Dundalk Building, and his familiarity with the Roland Park Center in Baltimore no doubt influenced his design. The Roland Park Center, built 1896, is considered the earliest of its type in the nation, and as architect for the Roland Park Company, Palmer was probably influenced by the earlier design.²⁷

The Dundalk Building is stucco with brick trim and a slate roof. Pseudo H-shaped, it consists of a central block and flanking gabled ended sections (the northern section being larger than the southern). The central block is 1½ stories tall, while the end blocks are 1½ stories plus attic. Rising from the rear of the building is a 3-story, square tower with gable roof. There are shed-roofed dormer walls on the side facades, while on the central block the slope of the roof breaks at several points to sweep steeply down to the first story level. In each such section is a shed roofed dormer. Each gable end of the building is decorated with a mouse tooth brick pattern which contrasts with the stucco wall finish. This patterning plus the steep gable roofs and the juxtaposition of roof shapes gives the building the same picturesque, Period Revival appearance as the nearby EFC houses. Presently, the building is still being used for commercial and apartment use, with modern storefronts and signage having been added to the first story.

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GENERAL DESCRIPTION (Continued)

South of the Dundalk Building on Shipping Place are two other shopping center buildings, the Dunleer and Dunkirk Buildings, which mirror the former building in mass if not in style (photos 42 & 43/60). The Dunleer Building was constructed in 1929 while the Dunkirk Building was built the following year.²⁸ Both buildings have an almost identical design, which draws heavily on Colonial Revival motifs. Both are of red brick and are 2½ stories tall. Like the Dundalk Building, these buildings are pseudo H-shaped, with central blocks and gable ended flanking sections. On the central block of each building is a slightly projecting pedimented Pavilion, the pediment lit by a circular window. Gabled dormers break the roofs on the central and side blocks. The differences between the two buildings are minimal. The major difference is that the Dunkirk building is larger, having a 22-bay front versus a 14-bay front. Another difference is that the gable ends of the Dunleer Building are lit by semi-circular windows, while those of the Dunkirk Building are lit by palladian-style window arrangements. The gable ends of both buildings are parapetted, with the Dunkirk Building having fake chimneys rising from the southern end. Both buildings are still used as businesses and apartments.

The Dunkirk Building marks the southern terminus of Shipping Place. From the Strand Theatre to the north to the Dunkirk Building, the streetscape of Shipping Place is characterized by the broad street faced by the large commercial buildings to the one side and the open space and smaller buildings to the other (photo 44/60). Envisioned by the planners of the EFC and the Dundalk Company as the focal point of the commercial district of Old Dundalk, Shipping Place still contains the central services and businesses of the district and is a major traffic artery.

Several other important commercial buildings are located just off of Shipping Place on the intersecting perpendicular streets. On Market Place is the Bates Building (photo 45/60), which was constructed in 1935.²⁹ Built of brown brick, the building is two stories tall with a 3-bay front. The plan is essentially square, with additions to the rear. The central entranceway has a round arch with a concrete keystone, and is partially filled in so as to square, with additions to the rear. The central entranceway has a round arch with a concrete keystone, and is partially filled in so as to accommodate a modern door. Above the second story windows is a wooden cornice, above which is a brick parapet. Decorating the parapet are concrete panels, the center one with inset stripes, and the flanking panels with bas-relief garlanded swags. Stylistically, the building combines Colonial Revival motifs with the angularity of the Art Deco.

Lining the southern side of Center Place is a series of small commercial buildings which combine to create an undisturbed row. As is typical in the district, these buildings reflect a combination of Colonial Revival and Art Deco/Art Moderne allusions. These buildings are:

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GENERAL DESCRIPTION (Continued)

- 1 Center Place (Colony Grill) (photo 46/60)
Built by 1938; 1½ story; brick; T-shaped; 2-bay by 2-bay main block,
2-bay by 7-bay rear block; parapeted gable roofs³⁰
- 3 Center Place (Lillich's Pharmacy) (photo 47/60)
Built by 1938; 2-story; brick; 3-bay by 6-bay; parapeted gable roof
over front of building, flat roof to rear; dentiled brick cornice;
wooden storefront on first story, with arched window openings supported
by slender pilasters and with a dentiled cornice³¹
- 5 Center Place (First National Bank) (photo 48/60)
Built 1938; 2-story; stone and marble facing; 2-bay front; flat roof;
original brick facade now sheathed in stone and marble; modern plate
glass windows and double doors on first story³²
- 7 Center Place (photo 48/60)
Built 1941; 2-story; brick; 3-bay front, 1-bay recessed; flat roof;
modern storefront on first story; flat arched lintels and louvered
shutters on 2nd story; above 2nd story windows is patterned brick belt
course³³
- 9 Center Place (photo 48/60)
Built 1948; 2-story; yellow brick; 3-bay front; flat roof; first
story has modern facing in brown brick with metal shed roofs over
door and windows; 2 tripartite windows on second story with continuous
header lintel and stretcher flat arch; band of stretchers at roof line³⁴
- 11 Center Place (Bradley's Limited) (photo 49/60)
Built post 1948; 2-story; red brick; 2-bay front; modern storefront
and large sign on first story; slightly corbeled brick at roofline³⁵
- 13-15 Center Place (photo 49/60)
Built 1941; 2-story; buff brick; duplex; 4-bay front; flat roof;
modern storefronts on first story; on second story, 4 belt courses of
projecting brick; above each second story window are four bands of
projecting brick; projecting row of headers at roofline³⁶

The final important commercial structure in Old Dundalk is what is now known as the St. Rita's Church Annex at 8 Dunmanway (photo 50/60). While now used as classrooms by St. Rita's Catholic Church, the building was originally constructed in 1930-1931 to house the telephone exchange office.³⁷ A 2-story, brick building, the main facade is 3-bays wide and is divided into 3 sections separated by stepped pilasters. These pilasters and the central section rise above the flat roof, thus creating a stepped roofline suggestive of Art Deco influence. Decorative patterned brickwork surrounds the central entrance.

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GENERAL DESCRIPTION (Continued)

Immediately surrounding the door is all header bond, while above the door is a miter-arched pediment of angled brick. Flanking this surround are two small windows that have brick laid in a chevron pattern above and in a zig-zag angled pattern below.

Lying to the east behind the business area is the Dundalk Park (photo 51/60), which is bounded by Trading Place, Dunmanway Road, Playfield Road and Shipway Road. The park is criss-crossed by a series of winding paths which converge at a central walk which bisects the park. Attractively landscaped, the park has numerous large trees of various species. Designed as part of the original plan for Old Dundalk, the Dundalk Park is a larger reflection of the parks which line Shipping Place, thus flanking the business district with open space on either side. The Dundalk Park serves as a vital focal point for the community, being the site of numerous annual community events and festivals.

Facing the Dundalk Park to the east is the Dundalk Elementary School (photo 52/60). The original portion of the school was constructed in 1926 on land which had been specifically set aside by the planners for a school and athletic fields.³⁸ Of the three sections of the facade facing Playfield Road, the northern two sections represent the original building. Later, in 1930, the southern section was added to the main block, along with a rear wing which includes an auditorium and classrooms. The rear wing was then expanded in 1948.³⁹ With these additions, the building currently has an asymmetrical H-shape. A red brick building, the school is 2-stories tall. The main entrance lies in the projecting center section of the main block. The central bay is faced in stone, which surrounds the entrance and a second story set of windows. The double doors are inset in a Tudor arch, above which is an entablature decorated with relief sculpture of a seal and scrolls. An upper entablature near the roof line bears the words "Dundalk School" (photo 53/60). In the past several years, the school was threatened with closure, however, protests from community residents prevented this from occurring. Presently, the building functions as an elementary school.

Surrounding the Elementary School lie open athletic fields, which are bounded by Playfield Road, Dunmanway Road, Liberty Parkway, and Shipway Road (photo 54/60). Laid out as part of the original plan for Old Dundalk, these athletic fields are still well utilized. Facilities include tennis courts, softball diamonds, and a children's playground.

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GENERAL DESCRIPTION(Continued)

While the non-residential area of Old Dundalk was carefully planned by the planners of the EFC and the Dundalk Company, commercial growth in St. Helena was less structured. Without the context of planned open space and centralized business district, the commercial area in St. Helena grew in traditional fashion as a strip along Dundalk Avenue. The earliest of such commercial buildings, and one of the oldest non-residential buildings in the entire district, is 10 Dundalk Avenue, which was built in 1920 (photo 55/60).⁴⁰ Built by a prominent local merchant, George R. Norris, the building was for many years a garage and car dealership, but now houses various businesses, including a bowling alley.⁴¹ A 2-story, stuccoed building with hipped roof, it reflects the design motifs used in the nearby EFC houses. Eight large bays wide, the facade has been greatly altered on the first story by the filling in of original storefronts and the addition of modern signs and materials. The southern-most bay, now housing the Dundalk Liquor Store, is the only original storefront still intact. The second story is lit by a series of windows while there are eyebrow vents venting the roof.

Further north on Dundalk Avenue is a series of other significant early commercial structures, which reflect the stylistic motifs common to the district, namely the Colonial Revival and Art Deco/Art Moderne. 20-22 Dundalk Avenue strongly suggests the latter stylistic influence (photo 56/60). Probably built in the mid 1930's, it is a 1-story, rectangular building with a rounded corner entrance facade. The lower portion of the main facade has large plate glass windows, below which are panels of green marble. Above the windows and rounding the corner above the door is an inset metal belt course. The upper portion of the facade is stuccoed. The northern bay of the main facade is set off from the remainder by pilasters of buff colored marble with deep inset vertical grooves. These pilasters are interrupted just before the roof line, but then recommence to form small parapets. There is another parapet on the rounded corner of the building, this one being made of metal and bearing decorative raised circles and triangles.

Next door to the above building is 24-30 Dundalk Avenue, which also reflects the Art Deco/Art Moderne influence (photo 57/60).⁴² 1-story and built of beige brick, the building was constructed in 1937-1938. Consisting of four separate stores, the lower portion of the facade has four storefronts. The three southernmost storefronts apparently retain much of their original appearance, while the fourth has been radically altered by being filled in by aluminum siding. The southernmost storefront has a central entrance flanked by plate glass windows, while the other two original storefronts have side doors and single plate glass windows. All have black glazed tiles below, transoms above, and early metal brackets and apparatus for hanging awnings. The upper portion of the building is decorated by panels of patterned brick. Two small triangular parapets project from the southern half of the building, while the northern half has a large stepped parapet. Presently, large modern signs hang on the main facade.

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GENERAL DESCRIPTION (Continued)

Progressing north on Dundalk Avenue, across Patapsco Avenue, is 30½-34 Dundalk Avenue (photo 58/60), which was built in 1930.⁴³ Stylistically, the emphasis in this building is on Colonial Revival motifs. A 2-story, red brick building, it has a chamfered corner entrance facade at the corner of Patapsco and Dundalk Avenues. The storefront on this facade has been greatly altered and refaced in modern brick. However, the second story of the corner facade is intact, with its original window (although partially filled in) with an arched brick surround with stone corner blocks. Similar windows with the original gothic sashes can be found on the first story on the side and main facades. Each facade also has an entranceway with a similar arched opening, while the Dundalk Avenue facade also has two modern storefronts. Above the second story windows is a simple frieze and cornice, topped by a brick parapet.

Further north is the Lane Theatre, which faces Dundalk Avenue, but whose address is 60 North Dundalk Avenue (photo 59/60). Built in 1940, it was designed by John F. Eyring, the architect of the Strand Theatre (photo 38/60).⁴⁴ The proximity of the two theatres allows for an interesting comparison of stylistic change from 1926 to 1940. While the earlier Strand displays a mixture of Colonial Revival and vaguely Art Deco motifs, the Lane reflects the later popularity of the Art Moderne, with its streamlined, geometric, minimalist design. 2-stories, the main facade is faced in buff colored brick with orange brick trim. The first floor now has plate glass windows surrounded by grooved metal panels. On the southernmost bay is a large, triangular marquee. On the second story, there is a series of windows, above which is a curving, stepped parapet. The curves of this parapet are outlined in orange brick, and orange brick bands extend horizontally across the facade above the windows. Similar bands decorate the first story of the northernmost bay. After being renamed as the Abbey Lane Theatre in 1955, the theatre closed in 1961. It was converted to a Goodwill Store in 1962.⁴⁵

Finally, north of the Lane Theatre is 101-103 St. Helena Avenue (photo 60,60). A side facade of #101 faces Dundalk Avenue and a chamfered corner entrance facade faces the corner of Dundalk Avenue and St. Helena Avenue. Probably built in the mid-1930's the row consists of seven stores. Number 101 is the largest, being 2-stories, while the others are 1-story. On the Dundalk Avenue facade of #101, there is an entrance in the southernmost bay that has a transom and cornice with foliated consoles. On the northernmost bay is a plate glass window with green marble panels below. A similar window arrangement is on the St. Helena Avenue facade. Above a series of windows on the second story is a simple frieze and cornice. Above this cornice is a brick parapet. Between the first and second stories is a similar cornice, which continues to extend down the row of 1-story stores. This, plus the fact that several of these stores are built of the same kind of brick as #101, suggests that some, if not all, were built at the same time as part of a unit. Numbers 103-113 have all been modernized on the main facade, particularly #105-107 which has been completely refaced.

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GENERAL DESCRIPTION (Continued)

Although lacking the unity of design visible in the Old Dundalk planned commercial district, this strip of commercial development in St. Helena is nevertheless important. Although periodically interrupted by more modern buildings, the series of buildings outlined above nevertheless creates a streetscape which reflects the early 20th century development of the community. Stylistically, the buildings document the major styles of the district, the Period Revival and Art Deco/Art Moderne. Also they serve to visually link the St. Helena side of Dundalk Avenue to the EFC houses on the opposite side.

BOUNDARY JUSTIFICATION

The district boundaries were drawn so as to include all of the structures constructed by the United States Shipping Board Emergency Fleet Corporation (EFC) and to include the planned community center in Old Dundalk. Surrounding most of the district is housing stock of later date than that of the bulk of the district buildings or housing stock whose significance is not directly related to the themes unifying the district. Thus, many buildings in St. Helena which pre-date the EFC houses are not included; they may be significant in their own context, but are not directly related to the specific significance of the district. Commercial resources on Dundalk Avenue are included because they reflect the continuing development of the community into the 1930's.

FOOTNOTES

¹ Dundalk-Patapsco Neck Historical Society, Dundalk, Then and Now, 1894-1980. (Dundalk, MD: Dundalk-Patapsco Neck Historical Society, 1980), p. 5.

² U.S. Shipping Board Emergency Fleet Corporation, Types of Housing for Shipbuilders Constructed as a War Necessity Under the Direction of the United States Shipping Board Emergency Fleet Corporation Passenger Transportation and Housing Division (1919).

³ National Archives, Record Group 32, Records of the United States Shipping Board Emergency Fleet Corporation, Passenger Transportation and Housing Division, General Project Files, St. Helena File #262.21.

⁴ U.S. Shipping Board Emergency Fleet Corporation, Types of Housing . . .

⁵ Interview with owner of 1 Friendship Circle, June 1983.

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GENERAL DESCRIPTION (Continued) FOOTNOTES (Continued)

⁶George W. Bromley and Walter S. Bromley, Atlas of Baltimore County, Maryland (Philadelphia: George W. Bromley & Co., 1898).

⁷Interview with Ann Merritt, June 1983.

⁸Bromley and Bromley, 1898.

⁹Does not appear on Bromley and Bromley Atlas, 1898; appears in Baltimore County Tax Ledger, 1911, p. 697/

¹⁰Does not appear in Bromley and Bromley 1898 Atlas; appears in George W. Bromley and Walter S. Bromley, Atlas of Baltimore County, Maryland (Philadelphia: George W. Bromley & Co., 1915).

¹¹
Ibid.

¹²House listed as "New" in Baltimore County Tax Ledger, 1915, p. 942.

¹³House listed as "New" in Baltimore Tax Ledger, 1916.

¹⁴Ibid., 529.

¹⁵House appears as "New" in Baltimore County Tax Ledger, 1919.

¹⁶National Archives, Dundalk File 214.0.

¹⁷Subdivision of land shown in Baltimore County Plat Book 8, Folio 74, dated 15 November 1926; houses appear on Baltimore County Tax Ledger, 1928, pp.210-211.

¹⁸Maryland Historical Trust Historic Sites Inventory Form, "Reier House."

¹⁹Houses pictured in Homes and Home Sites in Dundalk (Dundalk, MD: The Dundalk Company, 1929), p. 21.

²⁰Appears in Baltimore County Tax Ledger, 1928, p. 632.

²¹"Community Church Building," The Dundalk Booster, 18 December 1920.

²²Dundalk-Patapsco Neck Historical Society, p. 46.

²³Ibid., p. 22.

²⁴First appears in Baltimore County Tax Ledgers in 1929; plaque on building gives 1954 date.

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GENERAL DESCRIPTION (Continued) FOOTNOTES (Continued)

- ²⁵ Robert Kirk Headley, Exit: A History of Movies in Baltimore (1974), p. 31.
- ²⁶ National Archives, Dundalk File 005.0
- ²⁷ The Livelier Baltimore Committee for the Citizens Planning and Housing Association, Beyond the White Marble Steps: A Look at Baltimore Neighborhoods (1979) p. 33-34.
- ²⁸ Dunleer Building appears in Baltimore County Tax Ledger as "New" in 1929, p. 217; Dunkirk Building appears in 1930, p. 218.
- ²⁹ Appears as "New" in Baltimore County Tax Ledger, 1935, p. 328-2.
- ³⁰ Dundalk-Patapsco Neck Historical Society, p. 18. Shown in photograph which other evidence shows to have been taken 1938-1941.
- ³¹ Appears as "New" in Baltimore Tax Ledger, 1938, p. 475.
- ³² Ibid.
- ³³ Appears as "New" in Baltimore County Tax Ledger, 1941, p. 876-1
- ³⁴ Appears as "New" in the Baltimore County Tax Ledger, 1948, p. 1240.
- ³⁵ Does not appear in Baltimore County Tax Ledger, 1948.
- ³⁶ Appears in Baltimore County Tax Ledger, 1941, p. 926.
- ³⁷ Appears as "New . . . Exchange Building" in Baltimore County Tax Ledger, 1931, p. 134
- ³⁸ Dundalk-Patapsco Neck Historical Society, p. 38.
- ³⁹ From caption of photograph hanging in administrative offices of school.
- ⁴⁰ Appears as "New" in Baltimore County Tax Ledger, 1920.
- ⁴¹ Dundalk-Patapsco Neck Historical Society, p. 26.
- ⁴² Part of building appears as "New" in Baltimore County Tax Ledger, 1937; other part of building appears as "New" in 1938.
- ⁴³ Appears as "New" in Baltimore County Tax Ledger, 1930.
- ⁴⁴ Headley, p. 10.
- ⁴⁵ Ibid.

8. Significance

BA-2213; E-1737

Period	Areas of Significance—Check and justify below			
prehistoric	☐ archeology-prehistoric	☒ community planning	☐ landscape architecture	☐ religion
1400-1499	☐ archeology-historic	☐ conservation	☐ law	☐ science
1500-1599	☐ agriculture	☐ economics	☐ literature	☐ sculpture
1600-1699	☒ architecture	☐ education	☐ military	☐ social
1700-1799	☐ art	☐ engineering	☐ music	☐ humanitarian
☒ 1800-1899	☐ commerce	☐ exploration settlement	☐ philosophy	☐ theater
☒ 1900-	☐ communications	☒ industry	☒ politics government	☐ transportation
		☐ invention		☐ other (specify)

Specific dates 1893-1941

Builder Architect Edward L. Palmer, architect

Statement of Significance (in one paragraph) Applicable Criteria: A, C

SIGNIFICANCE SUMMARY

The Dundalk Historic District is a significant community for its historical associations and for its architecture. Historically, the district is important for encompassing the only two housing developments built by the United States Shipping Board Emergency Fleet Corporation (EFC) in Maryland during World War I. (Only 36 such projects were carried out by the EFC nationwide.) As such, Dundalk is representative of the Federal government's first venture into the field of housing. Essentially intact in terms of buildings and plan, the community is a particularly good source of documentation for the EFC projects. In addition to serving as concrete evidence of a crucial broadening of the government's role and responsibilities, Dundalk is also significant as an expression of early 20th century community planning. The plan of much of the district, with its curvilinear streets and planned community center (including parks, school, shopping center, etc.), reflects experimentation with Garden City planning ideals. Reinforcing this "model" character of the community was the early and continued influence of planners and administrators of Roland Park, an early, precedent setting model suburb of Baltimore. Another important influence upon the community's development was the Bethlehem Steel Corporation, which controlled much of the district's physical growth to a greater or lesser degree. Thus, Dundalk is also significant as an example of one type of "company town." With respect to architecture, the district represents a significant and well-preserved collection of examples of early 20th century Period Revival and Art Deco/Art Moderne styles applied to residential, commercial, and institutional buildings. This general architectural cohesiveness, plus the overall integrity of the district, tends to produce a distinct sense of place. While many changes have occurred around the district, and to some degree within it, the community retains a distinctive visual appearance and feeling of cohesiveness. Many of the buildings within the District represent the work of noted Baltimore architect Edward L. Palmer.

HISTORY AND SUPPORT

Until the 1890's, the area now known as Dundalk was predominantly rural, the landscape dotted by scattered farmhouses, such as the Sparks Farmhouse now at 2540 Liberty Parkway. Nascent urbanization began in the 1890's, after John W. Sparks subdivided part of his farmland to create the community of St. Helena. Growth in St. Helena was slow, however, and the take-off period for the area did not begin until 1916. In that year, Bethlehem Steel Corporation took over the blast furnaces of the Maryland Steel Corporation, located on nearby Sparrows Point. Anticipating the need for worker housing, Bethlehem purchased approximately 1,000 acres and created a subsidiary, The Dundalk Company, to oversee development.⁴⁶

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HISTORY AND SUPPORT (Continued)

With United States entry into World War I, work at the Bethlehem Steel shipyards at Sparrows Point increased dramatically, leading to a parallel need for workers and worker housing. This problem was part of a larger national trend, with many industrial urban centers facing acute housing shortages as demand for labor in war industries outstripped the supplies of available housing. The severity of the situation and its potential impact on productivity forced the government into an unprecedented recognition of federal responsibility for housing. As a result, the United States Shipping Board Emergency Fleet Corporation (EFC) was given the task of administering a federal program of housing construction for industrial workers.

The EFC had been formed nearly a year previously to expedite the responsibility of the Shipping Board to build, purchase, and maintain merchant ships. However, since the housing shortages at shipyards were having a negative impact on shipbuilding, the EFC was given the additional responsibility of providing needed housing.⁴⁷ Thus, the EFC entered into a program whereby it would lend money to shipbuilding companies to fund housing construction. The EFC retained, however, a great deal of control over design and management.⁴⁸

In 1918, Bethlehem Steel created another subsidiary, the Liberty Housing Company, which entered into an agreement with the EFC to develop two projects, to be known as Dundalk and St. Helena. In the Dundalk project, 531 houses and a group of stores were constructed, while in St. Helena, 284 "convertible" houses for bachelors and a mess hall were built.⁴⁹ Today, both projects exist in their entireties, except for the St. Helena mess hall, which was razed sometime in the 1930's.

On the state level, the Dundalk Historic District is important for including the only two EFC projects built in Maryland. However, the Dundalk and St. Helena projects are also two of only 36 built throughout the entire country, thus making the district important nationally as a representative example of the work of the EFC. But, more importantly than its significance which derives from numerical scarcity, the district is important for what it reflects about the changing definition of federal responsibility. Previous to the work of the EFC, the idea of the federal government providing housing was totally alien to the American experience. Only a crisis situation, such as that created by World War I, could overcome this laissez faire tradition and push the federal government into its first venture into the field of housing. The Dundalk Historic District serves as excellent documentation of this critical expansion of the role of the federal government.⁵⁰

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HISTORY AND SUPPORT (Continued)

While representative of changing government responsibility, the Dundalk Historic District is also important as a reflection of changing concepts of urban planning. Many of the leaders of the EFC were architects, housing reformers, and planners, who saw in the EFC building program an opportunity not only to provide shelter, but also to set standards and to experiment with emerging principles of urban planning. Thus, they used the EFC as a laboratory in which to experiment with the most modern planning concepts, including that of the "Garden City."⁵¹

Ebenezer Howard's "Garden City" ideal was a major influence on the emerging planning field since the concept's introduction in 1898. Seeking an alternative to the industrial urban slums of his native England, Howard envisioned satellite cities to house industrial workers, cities limited in area and population and designed to offer attractive homes, open spaces, community services and amenities. The influence of such concepts can clearly be seen in the development of much of the Dundalk District. Typical to Garden City planning, a variety of housing types (detached, semi-detached and rowhomes) were placed on curvilinear streets. To serve residents a community center was planned which was designed to include shopping facilities, churches, a school, and other needed community services. The EFC's Dundalk Building (one of the earliest "shopping centers" in Maryland) was the original cornerstone of the community center, which would grow over the years to fulfill its function of giving the community amenities and a sense of self-sufficiency. Also typical of the Garden City ideal, open space was an integral part of the EFC's plan for Dundalk, including area reserved for parks in front of and behind the shopping district and an area for recreation near the proposed school.

The integrity of the plan for the Dundalk project is excellent. The configuration of residential streets remains unchanged. Likewise, the community center continues to serve the community and includes stores, a movie theatre, library, police station, school, church and post office. Original open spaces also remain intact, except for the park near the post office, part of which has been converted to a parking lot. Thus, the overall integrity of the Dundalk plan makes it a good example of Garden City planning. At the same time, the district also serves to provide comparison with earlier planning forms through the juxtaposition of the EFC plan with the traditional grid-iron plan of St. Helena, laid out in the 1890's.

Despite the enthusiasm and progress of the architects and planners of the EFC, they soon found that their unique opportunity for experimentation in urban planning was to be short lived. In November, 1918, the armistice was signed, coming only four months after construction began on the Dundalk and St. Helena projects. In EFC projects throughout the country, construction was ordered to be immediately curtailed, and a debate began over the future of those houses which had already been constructed. Congress was anxious to restore normalcy after the shocks of World War I, and federal intervention in the housing market

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HISTORY AND SUPPORT (Continued)

was considered an abnormality. Therefore, Congress resolved to finish those projects which, like Dundalk and St. Helena, were nearly complete and to sell the houses on the market as soon as possible.⁵²

By June 1920, the EFC houses in Dundalk and St. Helena had been sold either to private individuals or to the Dundalk Company.⁵³ The Dundalk Company, originally formed to oversee development in Dundalk, still owned a large amount of undeveloped land in the area, and with the purchase of many of the EFC buildings, replaced the federal government as the major force shaping the community's development. A charter member and the first president of the Dundalk Company was Edward H. Bouton, who brought to the company his experience as president of the Roland Park Company. Roland Park, a suburb of Baltimore, had been begun in 1890, and under Bouton's direction had developed into a precedent setting community, carefully planned to be a "model" suburb. The application in Dundalk of techniques used in Roland Park helped to assure that development continue along the lines implied by the community's Garden City plan. One important technique was the use of restrictive covenants, which gave the Company control over the uses and appearance of property.⁵⁴ Likewise, in constructing new housing, the emphasis was on building substantial detached houses, which though less pretentious than homes in Roland Park were nonetheless quality housing for the working class. The Roland Park example was also important in shaping the development of the community's shopping district, since Roland Park had pioneered in this area with the construction of what is recognized by many as the first shopping center complex in the nation.⁵⁵ Thus, the historic district is significant for drawing directly upon the example of the nation's pioneering model suburbs as the pattern for its growth during the 1920's and 1930's.

While the Dundalk Company was greatly influenced by the example of Roland Park, company policy was more fundamentally shaped by its parent company, Bethlehem Steel Corporation. Essentially Dundalk was a "company town," in which a large number of the residents worked for Bethlehem Steel and the company exercised control (through the Dundalk Company) over the community's physical development. The physical symbol of Bethlehem's control was the office of the Dundalk Company (now Dundalk Library) at the heart of the community. Bethlehem's control over the community was not rigid as in some earlier company towns where virtually every aspect of the lives of the residents was prescribed. Nevertheless, as typical in later company towns, Dundalk was influenced by a general degree of moderate, paternalistic control. As a result, Dundalk is important as an example of one direction taken in the development of "company towns" during the early 20th century.

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date entered

Continuation sheet	Dundalk Historic District Baltimore County/City, MD.	Item number	8	Page	21
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HISTORY AND SUPPORT (Continued)

Under the direction of the Dundalk Company, further development in Dundalk followed, to a great degree, the architectural precedents set by the EFC. Architect for both the St. Helena and Dundalk projects was Edward L. Palmer, a noted Baltimore architect. In later years, Palmer would go on to design several important buildings in Baltimore, including dormitories for Johns Hopkins University and many of the buildings for City Hospital. However, Palmer may well be best known as architect for the Roland Park Company. Being architect for both Dundalk and Roland Park, he was naturally one of the key individuals responsible for linking the two communities philosophically and stylistically.

As he had done in Roland Park, Palmer used Period Revival motifs in his designs for the EFC buildings, and Period Revival styles continued to be a primary influence on the area's architecture throughout the 1920's and 1930's. Several good examples reflecting the Colonial Revival Style include the Reier House, the Dunleer and Dunkirk Buildings, and the library. Likewise, St. George's and St. Matthew's Episcopal Church is a good example of Tudor Revival/Gothic Revival styles. During the 1930's and 1940's, the Art Deco/Art Moderne style was introduced to the community. Many of the businesses along Dundalk Avenue, particularly the Lane Theatre, exhibit the stylized geometrical motifs typical of this style. The ArtDeco/Art Moderne and Period Revival styles dominate the district, giving the community a distinct, unified architectural character. The architectural integrity of the district and its many good stylistic examples, make Dundalk a significant source of documentation for early 20th century architectural development.

The district has remained relatively cohesive architecturally through six decades of sometimes rapid change. Although development was slowed by a post-war recession in 1919-1920 and by the Depression of the 1930's, the population of the greater Dundalk area had risen by 1974 to be over ten times what it had been in 1920.⁵⁶ Suburban sprawl has enveloped the LFC projects of Dundalk and St. Helena; however this early core district has retained a clear sense of place and community. Approximately 90% of the district is united visually and historically by being part of the EFC projects, while the remainder of the district is architecturally cohesive and designed to adhere to the community's original plan. There are some modern buildings within the district, but they are limited in number and often not visually intrusive. But, in addition to the district's visual unity, there is also a distinct sense of community and of community vitality. The shopping district is still well used, residents recently fought a successful fight to keep the Dundalk School open, and the parks and recreation fields are used year round for a variety of community events. There is a clear feeling of community loyalty and interest in community history on the part of many residents, a loyalty and interest which frequently extends

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Dundalk Historic District
Continuation sheet Baltimore County/City, MD

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8

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22

HISTORY AND SUPPORT (Continued)

to the area's early buildings, although organized preservation activity has not yet taken place. However, with its unique historical importance and its significant cohesiveness and integrity, the Dundalk Historic District will no doubt continue to receive further recognition and increasing amounts of preservation activity.

FOOTNOTES

⁴⁶ Dundalk-Patapsco Neck Historical Society, Dundalk, Then and Now, 1894-1980 (Dundalk, MD: Dundalk-Patapsco Neck Historical Society, 1980), p. 5.

⁴⁷ Darrell Havenor Smith and Paul V. Bettner, The United States Shipping Board: Its History, Activities and Organization (Washington D. C.: The Brookings Institute), pp.13-19.

⁴⁸ Roy Lubove, "Homes and 'A Few Well Placed Fruit Trees:' An Object Lesson in Federal Housing," Social Research, XXVII (Winter, 1960), p. 475.

⁴⁹ Dundalk-Patapsco Neck Historical Society, p. 5.

⁵⁰ Kenneth T. Jackson, "Federal Subsidy and the Suburban Dream: The First Quarter-Century of Government Intervention in the Housing Market," Records of the Columbia Historical Society of Washington D. C., Vol. 50 (1980), pp. 421-422.

⁵¹ Lubove, p. 471.

⁵² Lubove, p. 484.

⁵³ National Archives, Record Group 32, Records of the United States Shipping Board Emergency Fleet Corporation, Passenger Transportation and Housing Division, General Project File, File #2020.

⁵⁴ Baltimore County Land Record, Liber 498, Folio 470.

⁵⁵ The Livelier Baltimore Committee of the Citizens Planning and Housing Association, Beyond the White Marble Steps: A Look at Baltimore Neighborhoods (1979), pp. 33-34.

⁵⁶ Dundalk-Patapsco Neck Historical Society, p. 13.

9. Major Bibliographical Reference

NA-7213; B-3737

SEE CONTINUATION SHEETS #15, 16, 17, and 23

10. Geographical Data

Acreage of nominated property Approx. 122 acresQuadrangle name Baltimore East, MarylandQuadrangle scale 1:24,000

UMT References

A

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B

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4	3	4	6	0	4	0
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D

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Verbal boundary description and justification Boundaries are delineated on the attached map;
for Boundary Description see Continuation Sheet #24.

List all states and counties for properties overlapping state or county boundaries

state Maryland code 24 county Baltimore County code 005state Maryland code 24 county Baltimore (indep. city) code 510

11. Form Prepared By

name/title Druscilla J. Nullorganization Dundalk Chamber of Commercedate July 1983street & number Shipping Placetelephone 301-285-5890city or town Dundalkstate Maryland 21222

12. State Historic Preservation Officer Certification

The evaluated significance of this property within the state is:

☐ national ☒ state ☐ local

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the Heritage Conservation and Recreation Service.

State Historic Preservation Officer signature

10-31-83title STATE HISTORIC PRESERVATION OFFICER

date

For HCPS use only

I hereby certify that this property is included in the National Register

date

Keeper of the National Register

Attest:

date

Chief of Registration

BALTIMORE EAST QUAD

BA-2213/
B-3737

DUNDALK
HISTORIC
DISTRICT

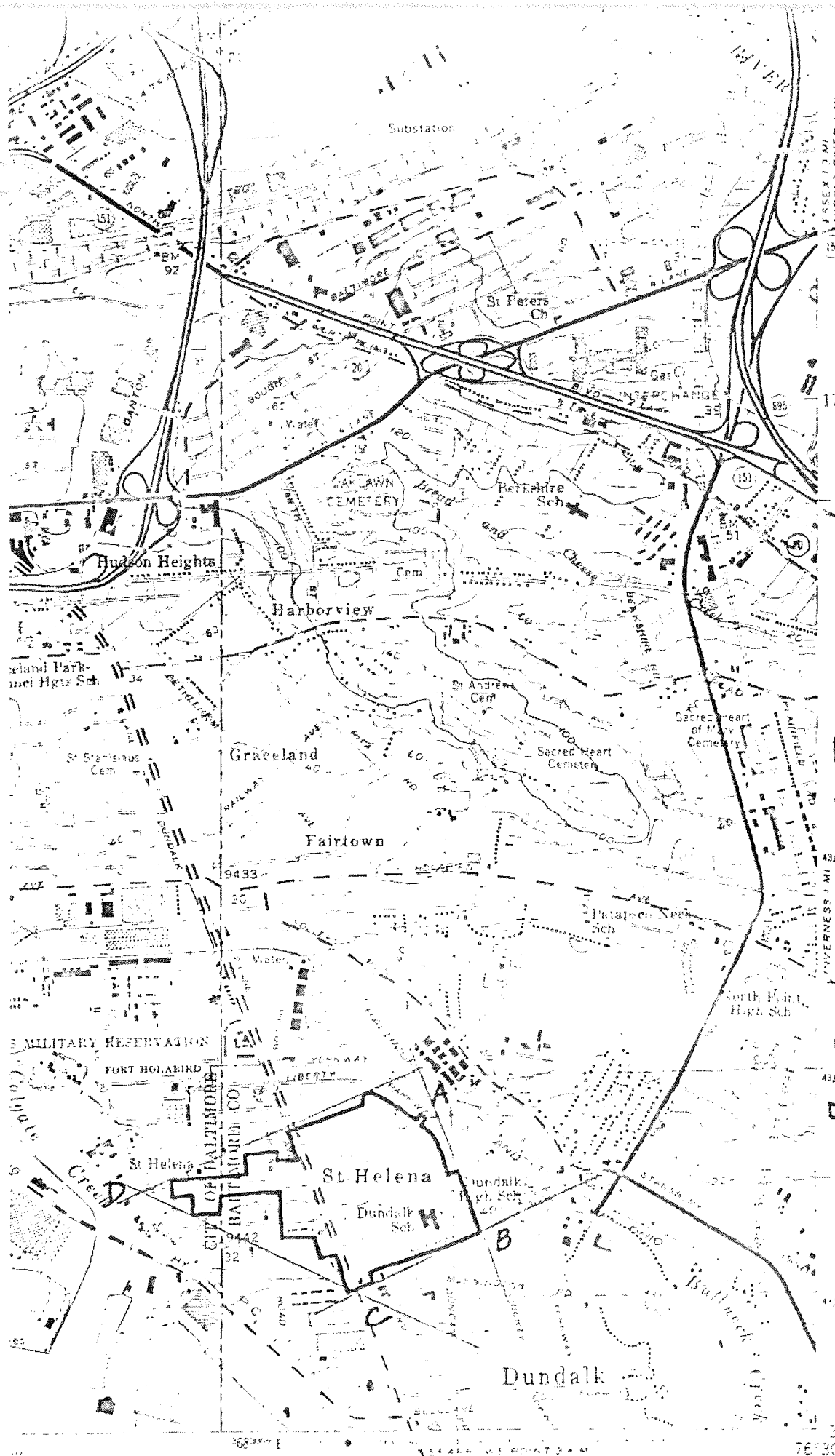
BALTIMORE
COUNTY —
BALTIMORE CITY,
MARYLAND

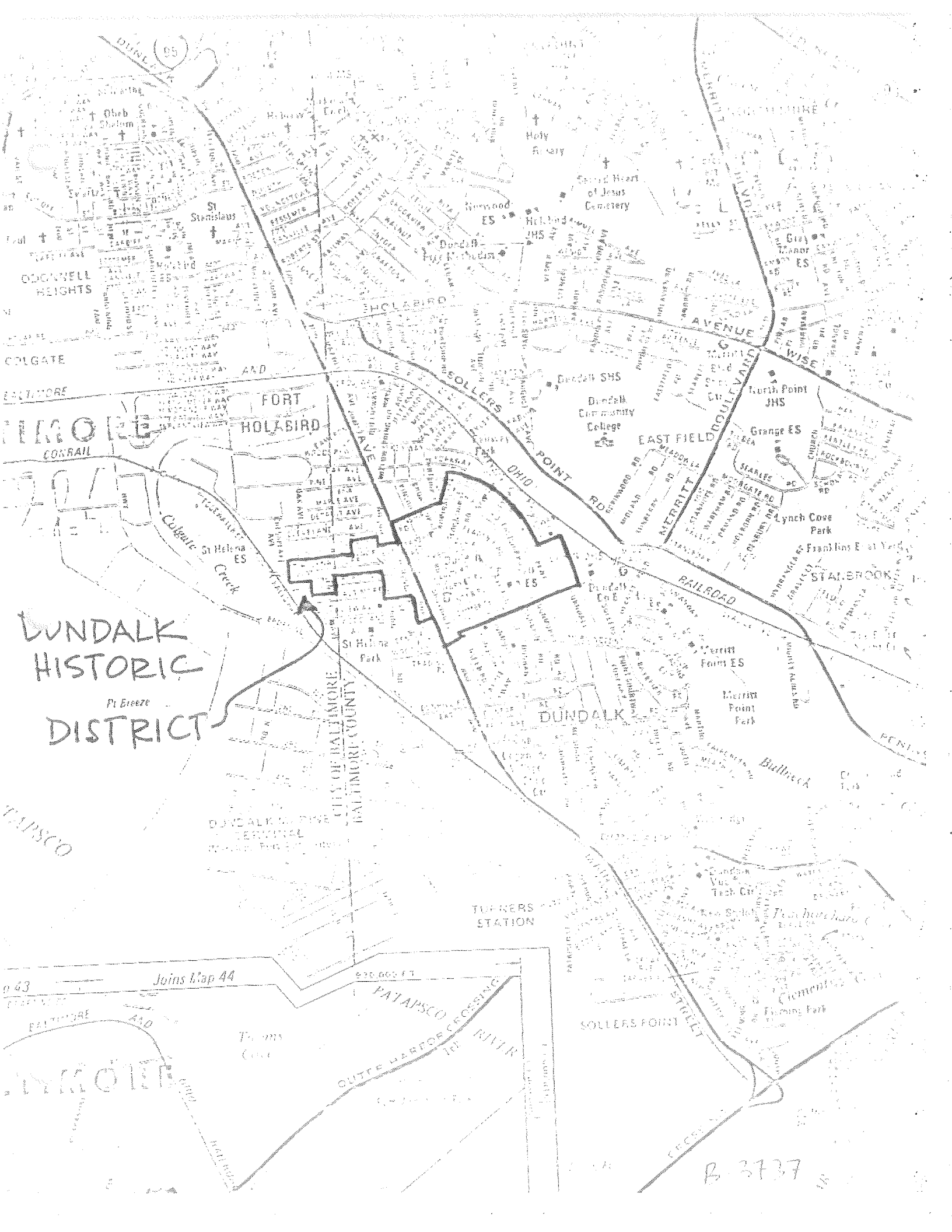
A: 18-368870-
4347040

B: 18-369120-
4346300

C: 18-368600-
4346040

D: 18-367650-
4346520





DUNDALK HISTORIC DISTRICT
Pt. Eleeze

43

Joins Map 44

670,000 FT

PATAPSCO RIVER
OUTER HARBOR CROSSING

B 3737

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.

432.1 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.¹

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.²

432.2 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).

432.3 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:

¹ Editor's Note: This provision was rendered no longer applicable as a result of Bill No. 2-1992.

² Editor's Note: This provision was rendered no longer applicable as a result of Bill No. 2-1992.

1. 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.
2. 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:
 1. The subject property is suitable for the type of development proposed.
 2. 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.

3. The development will not be detrimental to the use, peaceful enjoyment, ~~economic value or development of surrounding properties and the general~~ neighborhood.
 4. 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.
- E. 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 1 1/2 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.

432.4 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.
- B. The quality of the site design and amenities provided would justify a modification or waiver of the residential transition area restrictions.
- C. 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)²⁷

²⁷ 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.

IN RE: DEVELOPMENT PLAN HEARING and * BEFORE THE
 PETITIONS FOR SPECIAL EXCEPTION *
 AND VARIANCE - SE/S Old Eastern * DEPUTY ZONING COMMISSIONER
 Avenue, Opposite East Orville Road *
 15th Election District * OF BALTIMORE COUNTY
 5th Councilmanic District *
 * Case Nos. XV-692 and 97-409-XA
 Paul G. Vleck, et al, Owners;
 and Visions for America, Inc., Developer
 * * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer for consideration of a development plan prepared by Whitney, Bailey, Cox and Magnani, for the proposed development of the subject property by Paul G. Vleck, Mark David Vleck, Annabelle M. Vleck, and Georgeann Lynch, Owners of the property, and the Contract Purchaser/Developer, Visions for America, Inc., by Carl W. Scheffel, Jr., with a 97-unit assisted living facility, in accordance with the development plan submitted into evidence as Developer's Exhibit 1. In addition to development plan approval, a special exception is requested to permit an assisted living facility with accessory uses for more than four (4) individuals, and variance relief from Section 1B01.2.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section 504.2 of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a building length of 350 feet in lieu of the maximum permitted 300 feet, with approval of the Office of Planning. The special exception and variance relief sought are more particularly described on the site plan submitted as Petitioner's Exhibit 1. The subject property is located on the southeast side of Old Eastern Avenue, across from its intersection with East Orville Road in Essex. The property consists of a gross area of 2.650 acres, more or less, of which 1.430 acres are zoned D.R.16, and the remaining 1.220 acres, zoned B.L. The property is currently improved with a single family residence which will be removed pursuant to the proposed development.

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Date

By

Appearing at the public hearing required for this project were Carl W. Scheffel, Jr., a representative of Visions for America, Inc., the Contract Purchaser, Paul Aigner, a representative of Columbia House, LLC, Richard Barton, a representative of Marshall Craft Associates, Mark Shafer, Professional Engineer with Whitney, Bailey, Cox and Magnani, the engineering firm which prepared the development plan/site plan for this project, and John B. Gontrum, Esquire, attorney for the Owners/Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including Robert W. Bowling and Timothy Fitts, representatives of the Department of Permits and Development Management (DPDM), R. Bruce Seeley, a representative of the Department of Environmental Protection and Resource Management (DEPRM), and Ervin McDaniel and Stephanie Fuskin, with the Office of Planning. Appearing as an interested citizen was Sue Kleman, a nearby resident of the area.

As to the history of this project, the concept plan conference for this development was conducted on November 12, 1996. As required, a community input meeting was held on December 18, 1996 at the Essex Senior Center. Subsequently, a development plan was submitted and a conference held thereon on April 16, 1997. Following the submission of that plan, development plan comments were submitted by the appropriate agencies of Baltimore County and a revised development plan incorporating these comments was submitted at the hearing held before me on May 8, 1997.

As noted above, the Owner/Developer proposes to construct an assisted living facility on the subject site for up to 97 residents. The proposed facility will consist of both a north and south wing, with a central building located between the two wings. As a result of the interconnection of the two buildings, the entire structure will exceed the

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DATE 5/16/97
BY [Signature]

300-foot length limitation imposed by the B.C.Z.R. This design is typical of assisted living facilities, whereby it is a standard practice to interconnect buildings so that residents can easily move between the buildings without having to go outside. Therefore, the variance relief sought is necessary and appropriate in this instance. In order to develop the site as proposed, however, a special exception is necessary due to the zoning of the property.

Additionally, the Developer proposes as an accessory use to the assisted living facility, a "Home Health Care Outreach Program". This program will allow medical personnel from the subject facility the ability to go out into the community thereby providing necessary medical care to those individuals in need of same. This is a much-needed enterprise in this area of Baltimore County and its location at this facility is most certainly appropriate. Therefore, it shall be approved as an accessory use to this assisted living facility.

As to the development plan approval request, I am required to determine what, if any, agency comments remain unresolved at the time of the hearing. Representatives for the Developer indicated that they were aware of no outstanding issues which needed to be addressed. Furthermore, testimony and evidence received was that all issues raised within the comments submitted by the various Baltimore County reviewing agencies have been resolved and incorporated into the revised development plan. Ms. Sue Kleman, an interested citizen who attended the hearing, raised some questions concerning the proposed project, all of which were answered at the preliminary stage of the hearing. Therefore, there were no unresolved issues concerning the development plan portion of this project for which testimony needed to be taken. Thus, the development plan submitted as

ORIGINAL FILED FOR FILING

Date

By

Developer's Exhibit 1, should be approved as submitted.

As to the special exception relief sought, testimony revealed that the size of the property as well as its split zoning would permit a facility of up to 172 units. However, the Developer is proposing only a 97-unit facility. Furthermore, as noted above, due to the interconnection of the two wings with a central building, the overall length of the structure will exceed that permitted by the B.C.Z.R. Thus, the special exception and variance relief are necessary in order to proceed as proposed.

The Developer anticipates that there may be some minor architectural changes to the design and layout of the building itself. It is therefore appropriate and it shall be permitted as being within the spirit and intent of this Order, that these minor changes may be made without the need for another public hearing.

It is clear that the B.C.Z.R. permits the use proposed in the D.R.16/B.L. 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 B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone.

Schultz v. Pritts, 432 A.2d 1319 (1981).

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

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

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or struc-

ture which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be approved consistent with the comments contained herein and the the Petitions for Special Exception and Variance shall be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner and Hearing Officer for Baltimore County this 15th day of May, 1997 that the development plan for the Essex Assisted Living Facility, identified herein as Developer's Exhibit 1, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petitions for Special Exception and Variance to permit an assisted living facility with accessory uses for more than four (4) individuals, and variance relief from Section 1B01.2.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section 504.2 of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a building length of 350 feet in lieu of the maximum permitted 300 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.


TIMOTHY M. KOTROCO
Hearing Officer



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

May 15, 1997

John B. Gontrum, Esquire
Romadka, Gontrum and McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: DEVELOPMENT PLAN HEARING and
PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
SE/S Old Eastern Avenue, Opposite E. Orville Road
(Essex Assisted Living Facility)
15th Election District - 5th Councilmanic District
Paul G. Vleck, et al, Owners; and Visions for America, Inc., Developer
Case Nos. XV-692 and 97-409-XA

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Development Plan has been approved and the Petitions for Special Exception and Variance granted in accordance with the attached Order.

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

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Paul G. Vleck, 101 Punte Lane, Baltimore, Md. 21221
Mr. Carl S. Scheffel, Jr., Visions for America
146 Cornfield Road, Pasadena, Md. 21122
Mr. Mark Shafer, Whitney, Bailey, Cox & Magnani
849 Fairmount Avenue, Towson, Md. 21286

Ms. Sue Kleman, 1807 Kittyhawk Road, Baltimore, Md. 21221

Tim Fitts, Proj. Mgr., PDM; DEPRM; DPW; OP; People's Counsel;
Case File



RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
PETITION FOR VARIANCE		
SE/S Old Eastern Avenue, Opp E Orville Rd *		ZONING COMMISSIONER
15th Election District, 5th Councilmanic		
Legal Owners: Paul, Mark & Annabelle Vleck*		OF BALTIMORE COUNTY
and Georgeann Lynch		
Contract Purchaser: Visions for America *		CASE NO. 97-409-XA
Petitioners		
* * * * *		

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 1997, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esq., 814 Eastern Blvd., Baltimore, MD 21221, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

409



Petition for Special Exception

97-409-XA

to the Zoning Commissioner of Baltimore County

for the property located at South of Punte Lane, East side of Old Eastern Av
which is presently zoned B.L./D.R. 16

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

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

An assisted living facility for more than four with accessory uses.

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

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

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

Contract Purchaser/Lessee:

Visions for America
(Type or Print Name)

Carl W. Schell
Signature

146 Cornfield Road
Address

Pasadena Maryland 21122
City State Zipcode

410-437-6975

Attorney for Petitioner:

John B. Contrum
(Type or Print Name)

John B. Contrum
Signature

814 Eastern Boulevard (410) 686-8274
Address Phone No.

Essex, Md. 21221
City State Zipcode

Legal Owner(s):

Paul G. Vleck Mark David Vleck
(Type or Print Name)

Paul G. Vleck *M. David Vleck*
Signature

Annabelle M. Vleck Georgeann Lynch
(Type or Print Name)

Annabelle M. Vleck *Georgeann Lynch*
Signature 3-20-97

101 Punte Lane 687-1234
Address Phone No.

Baltimore, Maryland 21221
City State Zipcode

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

Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

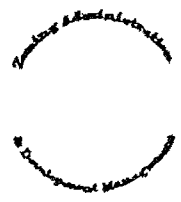
the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

ORDER RECEIVED FOR FILING
3/16/97

DROP OFF
No REVIEW
3/21/97
LCR





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

97-409-XA

South of Punte Lane, East Side of Old Eastern
Avenue
which is presently zoned B.L./D.R. 16

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

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

1B01.2B.2 and Section 504.2 and of C.M.D.P to permit a building length of 350' in lieu of permitted 300' with approval of Office of Planning. YMK

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

See Attachment

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

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

Contract Purchaser/Lessee:

Visions For America

(Type or Print Name)

Signature

146 Cornfield Road

Address

Pasadena

City

Maryland 21122

State

Zipcode

Attorney for Petitioner:

John B. Connerum

(Type or Print Name)

Signature

814 Eastern Boulevard (410) 686-8274

Address

Phone No.

Essex, Maryland 21221

City

State

Zipcode

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

Legal Owner(s):

Paul G. Vleck

(Type or Print Name)

Mark David Vleck

Signature

Annabelle M. Vleck

(Type or Print Name)

Georgeann Lynch

Signature

101 Punte Lane

Address

Phone No

Baltimore, Maryland 21221

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

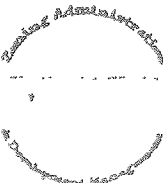
DATE

ORDER RECEIVED FOR FILING

Date

By

DROP-OFF
No REVIEW
3/21/97 WCR



Attachment

97-409-XA

As the site plan indicates, each section of building meets length requirements given nature of use joining the segments promotes a better use of structure for the residents.

Building is uniquely shaped to take advantage of its topography and unique shape of lot. Failure to grant variance will cause undue hardship to residents of facility and no concomitant benefit.

ORDER RECEIVED FOR FILING

Date

By

5/16/99

[Signature]



97-409-KA

ZONING DESCRIPTION
(Parcel 968) *

Beginning at a point on the east side of Old Eastern Avenue, which is 60 feet wide. Thence the following courses and distances: S 66° 48' 59" E, 147.18 ft., S 23° 32' 32" W 75.41 ft., N 66° 43' 14" W 146.98 ft. and N 23° 23' 30" E 75.16 ft. to the place of beginning, as recorded in Deed Liber 2154, Folio 35. Also known as 1813 Old Eastern Avenue and located in the 15th Election District of Baltimore County, Maryland.

ZONING DESCRIPTION
(Parcel 1193) *

Beginning at a point on the east side of Old Eastern Avenue, which is 60 feet wide. Thence the following courses and distances: S 66° 46' 59" W 278.28 ft., S 23° 16' 22" W 494.26 ft., N 28° 39' 38" W 353.19 ft., N 22° 56' 02" E 196.19 ft., S 66° 43' 14" E 146.98, N 23° 32' 32" E 75.41 ft., N 66° 48' 59" W 147.18 ft., and N 32° 29' 47" E 4.99 ft. to the place of beginning, as recorded in Deed Liber 8133, Folio 016. Located in the 15th District of Baltimore County, Maryland.

* NOTE: These lots will be consolidated for the planned development. A consolidation plat will be prepared and recorded.



804

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/3, 1997

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/3, 1997.

THE JEFFERSONIAN,

A. Henricson

LEGAL AD. - TOWSON

NOTICE OF HEARING
The Planning Commission of Baltimore County is hereby giving notice that a public hearing will be held on the proposed rezoning of the property located at 401 Buckley Avenue, Towson, Maryland, on the property identified herein as follows:
Case #87-409-34
SES304 Eastwell Avenue
251 Gwynn Road
Baltimore County
The hearing will be held on Thursday, May 8, 1997 at 9:00 a.m. in the 4th floor County Courts Building, 401 Buckley Avenue.
Special Exception for an assisted living facility. Variance to permit a building height of 395' +/- in lieu of the permitted 300 feet.
Hearing: Thursday, May 8, 1997 at 9:00 a.m. 4th floor County Courts Building, 401 Buckley Avenue.
LAWRENCE E. SZYMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are videotaped. Accessible for special accommodations. Please Call 887-3353.
(2) For information concerning the file and/or hearing, please call 887-3351.
4074 April 3 C132102

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

ITEM #409

No.

038605

DATE 3/24/97 ACCOUNT 001-6150

AMOUNT \$ 550.00 (WCR)

RECEIVED FROM: Romdka, Goutrun & McLaughlin

FOR: #050 -- SPECIAL EXCEPTION
#020 -- VARIANCE

SE/S Old Eastern Avenue,
opposite E. Orville Road

DROP-OFF NO REVIEW
DISTRIBUTION
TE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

038606

DATE 4/29/97 ACCOUNT 001-6150

AMOUNT \$ 100.00 (JEL)

RECEIVED FROM: Visions for America, Inc.

FOR: Case #97-409-XA (Revised Plats)
#110 -- REVISIONS

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

035864

PAID RECEIPT

DATE 4/29/97

ACCOUNT 001-6150

AMOUNT \$ 100.00 (JLL)

RECEIVED FROM: Visions for America, Inc.

FOR: Case #97-409-XA (Revised Plats)
#110 - REVISIONS

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

04/30/97 01 4 CML R 10665
Dept 5 513 ZONING VERIFICATION
CR NO. 035864
\$100.00 CK P-A-I-D
Baltimore County Maryland
Office Of Budget & Finance

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case # 97-409-XA

Petitioner/Developer:
(Visions of America)
Date of Hearing/Closing:
(May 8, 1997)

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

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

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

____ Old Eastern Ave., opposite East Orville Road, Baltimore, Maryland 21221 _____

The sign(s) were posted on _____ April 22, 1997 _____
(Month, Day, Year)

Sincerely,

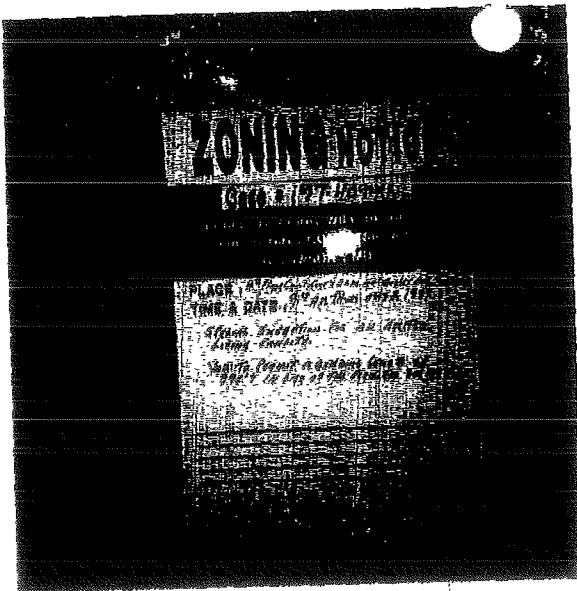

(Signature of Sign-Poster & Date)

____ Thomas P. Ogletree, Sr. _____
(Printed Name)

____ 325 Nicholson Road _____
(Address)

____ Baltimore, Maryland 21221 _____

____ (410)-687-8405 _____
(Telephone Number)



97-409-XA

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than *

Format for Sign Printing, Black Letters on White Background:

ITEM 409

ZONING NOTICE

Case No.: 97-409-XA

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: *

DATE AND TIME: *

REQUEST: SPECIAL EXCEPTION FOR AN ASSISTED LIVING
FACILITY. VARIANCE TO PERMIT A BUILDING
LENGTH OF 395 (+/-) FEET IN LIEU OF PERMITTED
300 FEET.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

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

March 24, 1997

John B. Gontrum, Esquire
814 Eastern Boulevard
Essex, MD 21221

RE: Drop-Off Petition (Item #409)
SE/S Old Eastern Avenue, opposite
East Orville Road
15th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. Once a detailed review has been completed by the staff, those comments will be forwarded to you (hopefully before the hearing).

As Baltimore County is no longer responsible for posting properties, I have enclosed the proper forms pertaining to this. There is a form indicating the posting standards required by Baltimore County, as well as a list of vendors serving the Baltimore County area. The sign must contain the wording indicated on the "Zoning Notice" form and the certificate of posting must be completed by the poster and returned to Gwendolyn Stephens.

If you have any questions regarding the sign posting, please do not hesitate to contact Gwendolyn Stephens at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", written in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

Enclosures



TO: PUTUXENT PUBLISHING COMPANY
April 4, 1997 Issue - Jeffersonian

Please forward billing to:

NOTICE OF HEARING

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

CASE NUMBER: 97-409-XA

SE/S Old Eastern Avenue, opposite East Orville Road

15th Election District - 5th Councilmanic

Legal Owners: Paul G. Vleck, Mark David Vleck, Annabelle M. Vleck, and Georgeann Lynch

Contract Purchaser: Visions of America

Special Exception for an assisted living facility.

Variance to permit a building length of 395'+/- in lieu of the permitted 300 feet.

HEARING: THURSDAY, MAY 8, 1997 at 9:00 a.m., 4th floor County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

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

March 28, 1997

NOTICE OF HEARING

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

DEVELOPMENT PLAN HEARING

Project Name: Essex Assisted Living Facility
Project Number: XV-692
Location: S of Punte Lane, E/S Old Eastern Avenue
Acres: 2.54
Developer: Visions for America, Inc.
Proposal: 97 units living facility

and

CASE NUMBER: 97-409-XA

SE/S Old Eastern Avenue, opposite East Orville Road
15th Election District - 5th Councilmanic
Legal Owners: Paul G. Vleck, Mark David Vleck, Annabelle M. Vleck, and Georgeann Lynch
Contract Purchaser: Visions of America

Special Exception for an assisted living facility.
Variance to permit a building length of 395' +/- in lieu of the permitted 300 feet.

HEARING: THURSDAY, MAY 8, 1997 at 9:00 a.m., 4th floor County Courts Building, 401 Bosley Avenue.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: John B. Gontrum, Esq.
Visions for America
Paul G. Vleck, et al

- NOTES: (1) YOU MUST HAVE THE DEVELOPMENT HEARING NOTICE SIGN POSTED BY APRIL 9, 1997.
YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY APRIL 23, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





Baltimore County
Department of Permits and
Development Management

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

May 6, 1997

John B. Gontrum, Esquire
814 Eastern Boulevard
Essex, MD 21221

RE: Item No.: 409
Case No.: 97-409-XA
Petitioner: Paul G. Vleck, et al

Dear Mr. Gontrum:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on March 21, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure 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. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)



____ Attach original petition

Due Date 4/7/97

To: Arnold L. Jablon

From: Robert A. Wirth *RAW/gp*

Subject: Zoning Item _____ #409

Essex Assisted Living Facility

Zoning Advisory Committee Meeting of _____ March 31st

____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).

____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

INTER-OFFICE CORRESPONDENCE

DATE: April 4, 1997

SUBJECT: Visions for America

Item Number: 409

Petitioner: Visions for America

Property Size:

Zoning: BL & DR-16

Requested Action:

Hearing Date: / /

This office supports the special exception provided that our concept plan comments of November 12, 1996 are addressed by the petitioner.

AFK/JL

B A L T I M O R E C O U N T Y, M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

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

Date: April 7, 1997

FROM: Robert W. Bowling, Chief
 Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
 for April 7, 1997
 Item No. 409

The Development Plans Review Division has reviewed the subject zoning item.

See development plan comments from this office for landscape review comments.

See the comments in the Essex Assisted Living Facility file from Development Plans Review Section.

RWB:HJO:cab

cc: File

ZONE407.409

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 10/07/96

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP 1105

RE: Property Owner: Stanley E. Loyd - 395
James White - 396
Exxon Corporation - 401
Paul G. Vleck & Mark David Vleck &
Annabelle M. Vleck & Berngeann Lynch 409

Location: DISTRIBUTION MEETING OF April 17, 1997

Item No.: 395, 396, 401, & 409 Zoning Agenda:

Gentlemen:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-11027

cc: File



BALTIMORE COUNTY, MARYLAND
Office of Community Conservation

Inter-Office Correspondence

Date: April 3, 1997
To: Zoning Advisory Committee
From: Office of Community Conservation
Housing Opportunities Program
Re: Item No. 409
Southeast side Old Eastern Avenue

Visions for America, a non-profit housing developer and contract purchaser of approximately 2.44 ac located on the southeast side of Old Eastern Avenue, Essex, MD, has requested funding through our office for development costs in connection with the acquisition and construction of a 97 unit, elderly, assisted living project for low to moderate income individuals. While the specific terms and conditions of our federally funded HOME Program loan have not yet been negotiated, we have proposed to provide funds for land acquisition, settlement fees and other related acquisition costs.

We support this proposed project and see no objection to the Borrower's request to the Zoning Commissioner for special exception.

Office of Community Conservation

By: 
Name: Stephanie Simcik Ruskin
Title: Management Assistant,
Special Projects



**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Parker F. Williams
Administrator

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

RE: Baltimore County 4-1-97
Item No. 409 WCR

Dear Ms. Eubanks:

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.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

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

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



Baltimore County
Department of Permits and
Development Management

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

April 7, 1997

John B. Gontrum, Esquire
814 Eastern Boulevard
Essex, MD 21221

RE: Drop-Off Petition Review (Item #409)
Essex Assisted Living Facility
E/S Old Eastern Avenue, S of Punte Lane
15th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

The site plan lacks sufficient information for an accurate zoning review. Refer to the zoning non-residential hearing checklist for minimum plan standards, revise accordingly, and resubmit 12 acceptable plans.

Staff suggests that the concept plan comments of November 12, 1996 also be addressed to resolve any zoning non-compliance issues and any necessary hearing added to the plan and petitions.

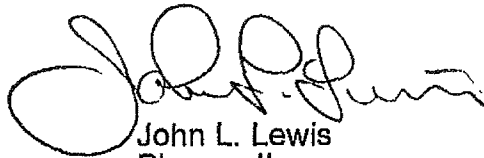


John B. Gontrum, Esquire
April 7, 1997
Page 2

The insufficient level of information currently provided on the plan will not allow the staff to support this variance (or development plan) hearing should it go forward as filed at the drop-off and without adequate revisions.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,



John L. Lewis
Planner II
Zoning Review

JLL:scj

Enclosure (receipt)

c: Zoning Commissioner

97-409-XA

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

TOWSON OFFICE:
307 W. ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 823-0711

JILL D. LOPER

* Also Admitted in the District of Columbia

March 21, 1997

DROP-OFF
OK
3/21/97
WCR

Zoning Commissioners Office
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Exception and Variance for the property
located on E/S Old Eastern Avenue South of Punte Lane
RG&M File No.: 96.3024
RG&M File Name: Visions for America

Dear Sirs:

Attached are Petition for Special Exception and Variance for the property located on E/S Old Eastern Avenue and south of Punte Lane. There are no existing violations on the property.

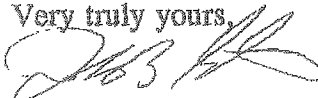
The Zoning Petition has not been reviewed by the reviewer.

The enclosed Zoning Petition and Variance are being submitted simultaneously with the Development Plan for the property. The Development plan has been reviewed in its conceptual form.

We hereby wish to request a joint hearing pursuant to the Baltimore County Code on the Development Plan and Zoning request.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



John B. Gontrum

JBG/tlc
Enclosures

Alexander Whitney, Jr., P.E.
Paul E. Cox, P.E.
Richard Wm. Magnani, P.E.
Douglas I. Sues, P.E.
Wm. Preston Davis, P.E.
Philip Dor, P.L.
David G. Mangan, P.E.
--
849 Fairmount Avenue
Suite 100
Baltimore, Maryland 21286
410-512-4500
Fax 410-324-4100

WHITNEY BAILEY

Consulting Engineers

COX MAGNANI

Associates
Brian D. Jones, P.E.
Donald W. Lister, P.E.
Burt E. Holcomb, P.E.
Levy J. Kraker, P.E.
W. Howard Garrett, A.A.
John J. Knight, P.E.
Allen M. Cope
Joseph J. Sienko, P.E.
James W. Hall, P.E.
Pamela B. Ford
Charles E. Umhoefer, P.E.

April 23, 1997

Baltimore County
Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

ATTN: Mr. John Lewis

RE: Assisted Living Facility
Old Eastern Avenue
WBCM Job No. 96245.00.1

Gentlemen:

We have reviewed your comments on the Final Development Plan for the above referenced project and offer the following responses:

1. The gross area and density computations have been corrected, and the total bed/units have been adjusted accordingly.
2. The zoning regulations governing the necessary zoning actions have been listed in accordance with the BC2R.
3. The number of parking spaces has been changed to 33, and all spaces have been moved beyond the 10 foot setback. Drive aisles and spaces have been dimensioned.
4. A note has been added to the plat stating there are no RTAs on this project.
5. The building setbacks have been modified to reflect 2-30 foot rear setbacks corresponding to the building orientation.
6. A note has been added to the plat stating accessory uses are in accordance with Section 432.1.B.
7. A floor plan and elevations, indicating building heights, have been included on a separate print.

These comments, along with those received during our meeting of Monday, April 21, 1997, have been incorporated into the special exception/final development plat. We are, therefore, transmitting twelve folded prints of this plat for your approval.

REVISIONS OK
FOR ZONING
JLL 4/24/97

WHITNEY BAILEY

COX MAGNANI

ATTN: Mr. John Lewis
April 23, 1997
Page 2

Should you have any questions, please do not hesitate to contact us.

Very truly yours,

WHITNEY, BAILEY, COX & MAGNANI



Mark W. Shafer, P.E.
Project Manager

MWS/sld
WD\9624500L.705

Enclosures

" Buffer "

Forrest Conservation Variance }

I need to take no action

Several Comments

SPX - assisted living Facility
DR 16 + BL

Assisted Living Facility
172 units allowed
97 units proposed

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

PAUL AIGNER

COLUMBIA HOUSE, LLC
10900 NE 4th St. BELLEVUE, WA. 98004

John Gontum

814 Porter Rd 21221

Carl Schaeffer, Jr

Vision, For America Inc
146 Cornfield Rd Pasadena Md 21121

RICHARD BARTON

MARSHALL CRAFT ASSOC. INC
6112 York Rd. Baltimore Md. 21212

MARK SHAFER

WHITNEY BAILOX COX & MAGNANI
849 FAIRMOUNT AVE TOWSON MD.



Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

BALTIMORE COUNTY REPRESENTATIVES
SIGN-IN SHEET

NAME

ADDRESS

Ervin McDaniel /
Stephanie Fushin
Bruce Seely
Bob Bowling
Tim Fitts

Planning
Comm Conserv.
DEPRM
PDM
PDM - Project Mgr.



PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

Sue Klemm

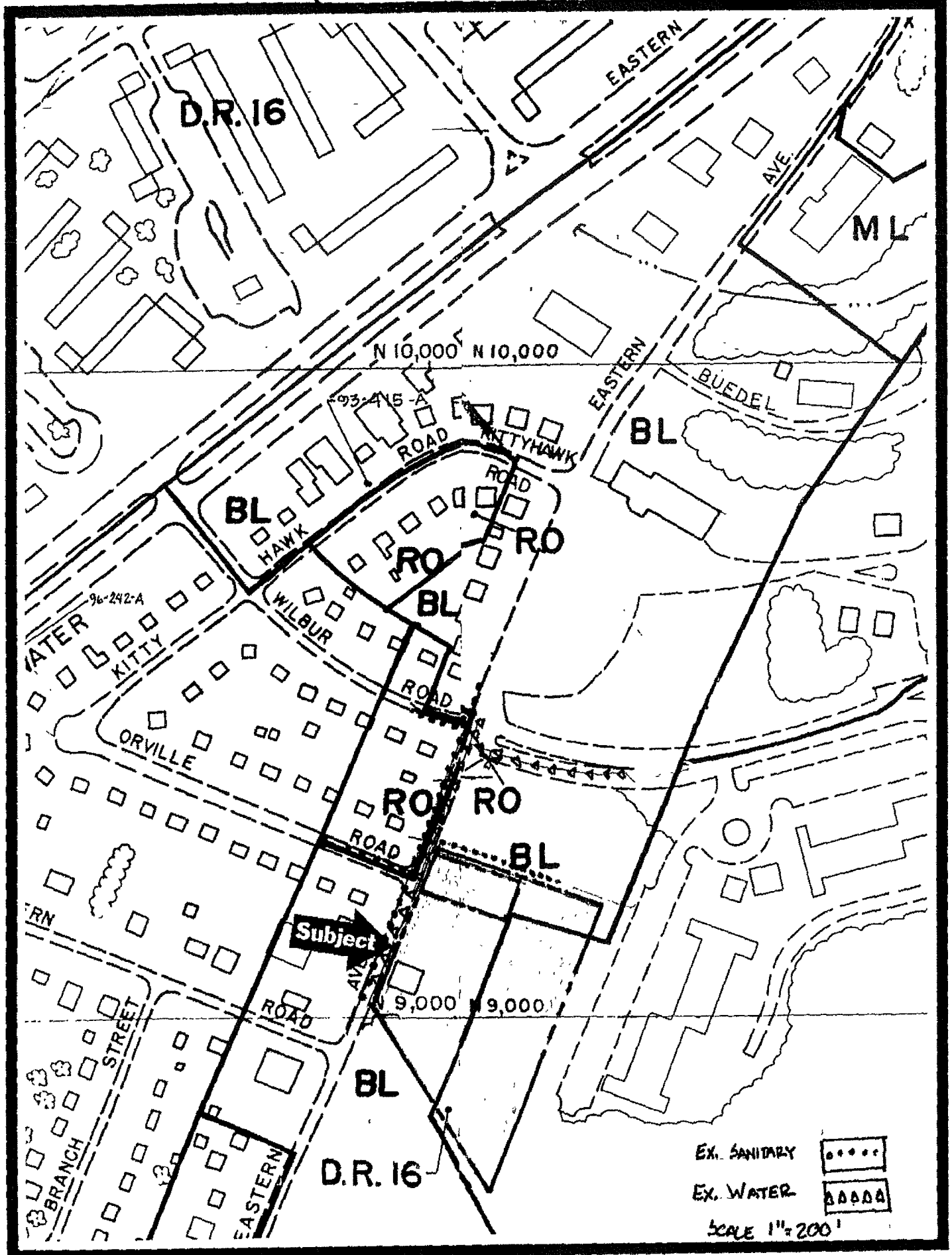
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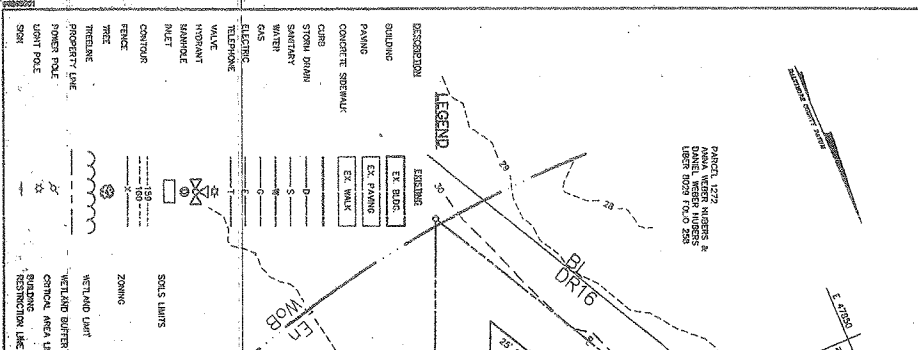
1807 Kittyhawk Rd.
21221

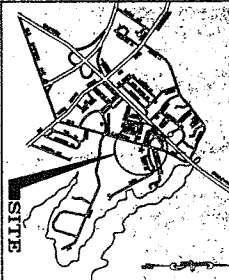
ADDRESS

Zoning Map

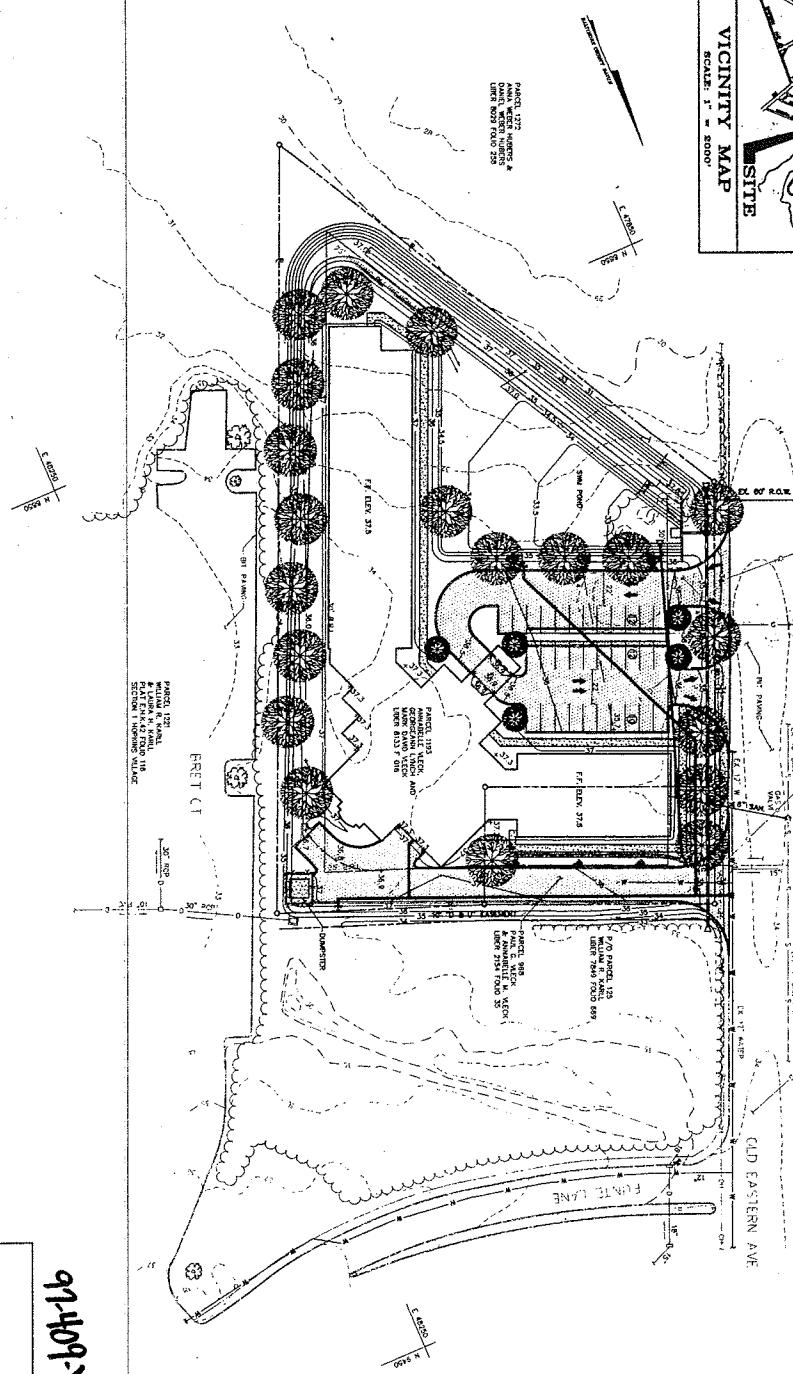
N.E. 97-409-XA







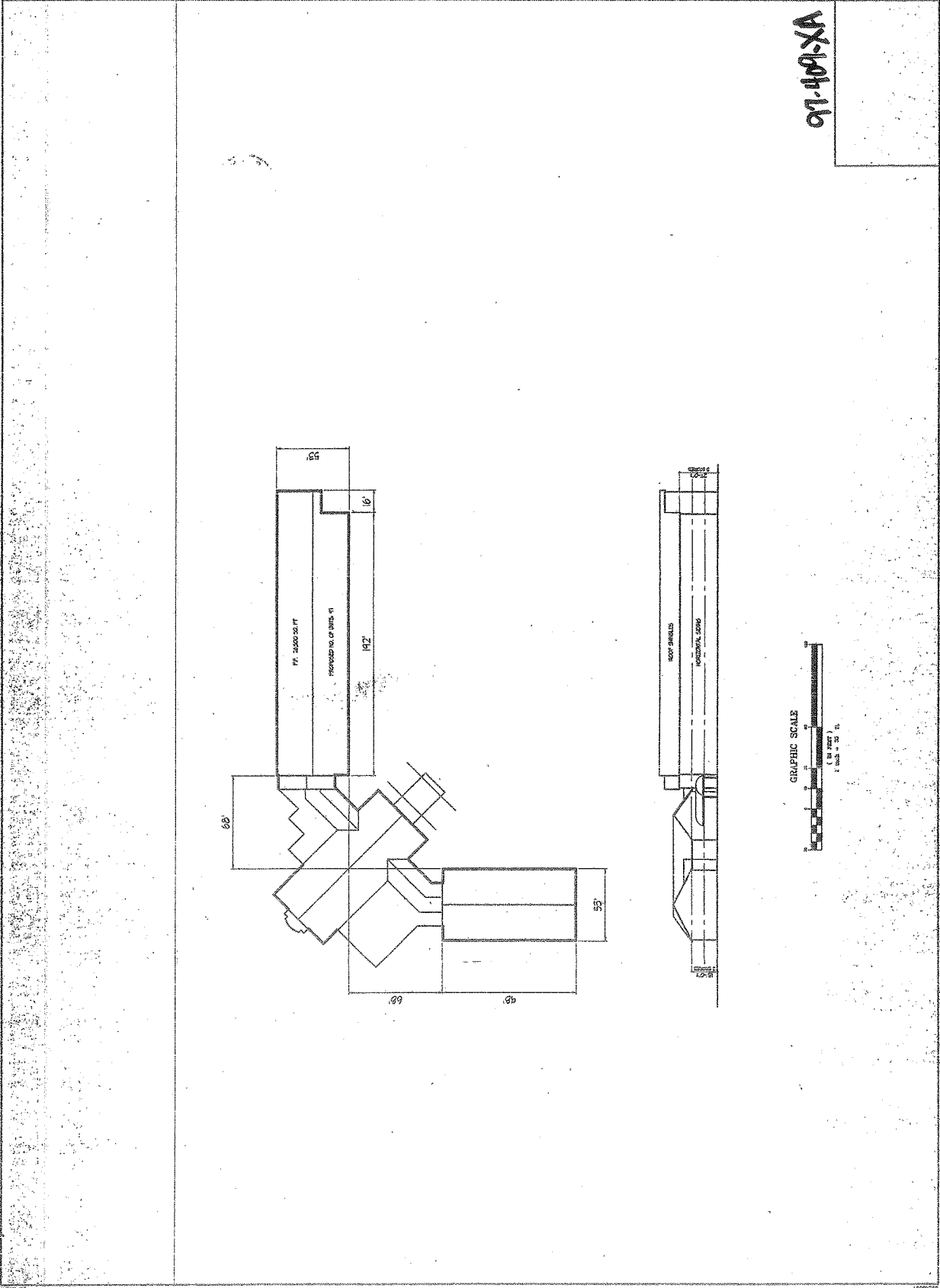
VICINITY MAP
SCALE: 1" = 500'



91409-XA

PROJECT NO. 91409-XA DATE 5/27/98	PM FILE NO. XV-692	CONCEPT PLAN LAYOUT	ESSEX ASSISTED LIVING FACILITY CONCEPT DESIGN ELECTION DISTRICT: 15 COUNCILMATIC DISTRICT: 5		DEVELOPER: VISION FOR AMERICA, INC. 100 CORTLAND RD PASADENA, MD 21122 (410) 427-6975		CONSULTING ENGINEER RAY FAIRBANK ASSOCIATES 1000 WILBUR RD (410) 512-4500
			MCA MARSHALL CRAFT ASSOCIATES, INC. 4100 W. BALTIMORE AVE. BALTIMORE, MD 21207 (410) 528-7000				

DEVELOPER VISIONS FOR AMERICA, INC. 148 CONYNGHAM RD. PYSKADELL, MD 21122 (410) 457-5575 WVA MARSHALL CRAFT INDUSTRIES, INC. 4110 BIRD BLVD. BALTIMORE, MD 21206 (410) 682-4110 FAX: (410) 682-7000		ELECTION DISTRICT: 18 CONGRESSIONAL DISTRICT: 5 CONCEPT DESIGN ESSEX ASSISTED LIVING FACILITY		CONCEPT PLAN BUILDING		PDW FILE NO. XV-662 SCALE: 1"=50' DATE: 8/23/00 0-3	
CONSULTANTS: WHITNEY BAILEY COX MAGNANI 843 FARMGROVE AVENUE BALTIMORE, MD 21286 (410) 512-6500						DATE: 8/23/00 0-3	



97-409-XA



DEVELOPER/OWNER

Name: VISIONS FOR AMERICA, INC.
Address: 148 CORNFIELD RD.
PASADENA, MD. 21122
Tax Account Number: _____

Existing	Not	Field	Field
Existing	Not	Field	Field

Topography and street grades (minimum 5 ft contour above proposed labeled)
Soils (minimum 25%
100 year floodplain)
Soils mapped according to Soil Survey,
Baltimore County, Maryland.
Streams, seeps, ponds or other water bodies
on site and within 200 ft. of site boundaries
Wetlands
Forest buffer limits including adjustments for
steep slopes and/or erodible soils
Land cover on and within 200 ft. of site.
Cans can be regulated plant or wildlife community
Soils on site and within 100 ft. of site
Wells on site and within 100 ft. of site
Underground fuel tanks on site and within
100 ft. of site
Site evaluation tests (soil tests) performed

REMARKS:

DATE _____

☒ YES ☐ NO

Existing Not
Existing

☒	Locations of existing buildings within 200 ft. of site boundaries
☒	Location of existing roads within 200 ft. of site boundaries
☒	Designated historic sites
☒	Designated archeological sites
☒	Significant views
☒	Significant features (specimen trees, buildings, streetscape, etc.)
☒	Land uses on and within 200 ft. of site
☒	Roads rights-of-way and easements

REMARKS

Existing Not In Existing Conformance

	Balto. Co. Master Plan 1989-2000	Community or Revitalization Plans(s)
Recreation and Parks Plan	☒	
Streetscape Plan:		
Greenways Plan	☒	
Other: M/M	☒	

REMARKS

SITE DATA

Existing Zoning and Maximum Density Permitted

Zone	Across Gross Area	Across Net Area	Units Allowed	Density Units	Units Proposed
DR 16	1,430	1,430	92	23	N/A
BL	1,120	1,030	72	16	N/A
Total	2,550	2,460	164	41	97

NOTE: THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1971. THE DEVELOPERS ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THIS PLAN HAS BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT OFF-SITE DWELLINGS.

SITE DEVELOPMENT PROPOSAL

Dwelling Type	Units Proposed	Parking Required	Parking Provided	Open Space Required (acres)	Open Space Proposed (acres)	Averaged Daily Trip	Phase	Development Schedule
ASSISTED LIVING FACILITY	97	32	32	0.310	0.280	32	N/A	5/97
Total	97	32	32	0.310	0.280	32	N/A	5/97

OPEN SPACE PROPOSAL

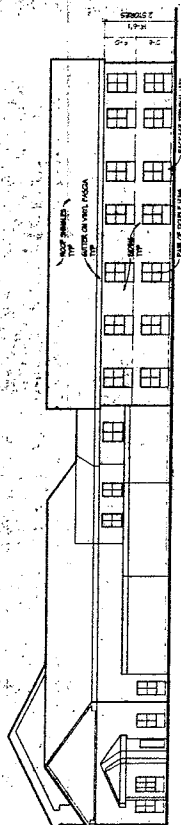
Local Open Space Type	Acres
Active Open Space	0.251
100 Year Flood Plain	N/A
Forest Buffer	0.013
Amenity Areas	0.016
Trails and Connectors	N/A
Other	N/A
Total Provided	0.280
Proposed Ownership	Equivalent

Undeveloped Areas	Acres
Storm Water Management	0.320
HRA/COA Areas	N/A
Other	N/A
Total Provided	0.320

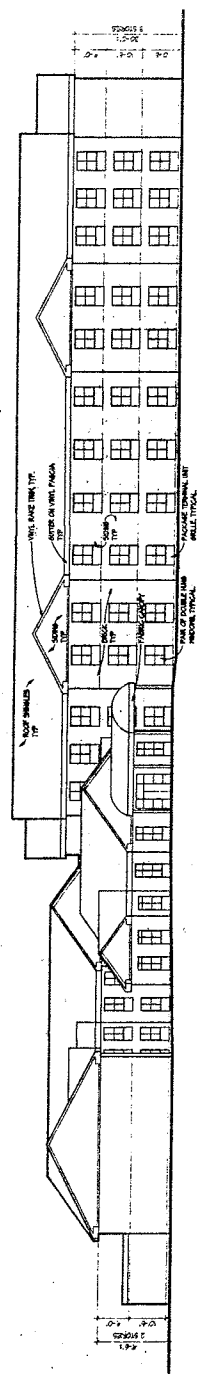
ADDITIONAL INFORMATION

Anticipated Actions:
 Variances -- FOREST BUFFER BUILDING EXCEEDS 300' MAXIMUM LENGTH
 Waivers -- N/A
 Special Exceptions -- ASSISTED LIVING IN BL AND OR 16 ZONES
 Other -- N/A
 Accessory Uses -- IN ACCORDANCE WITH SECTION 432.1.B
 Consistency with design manuals

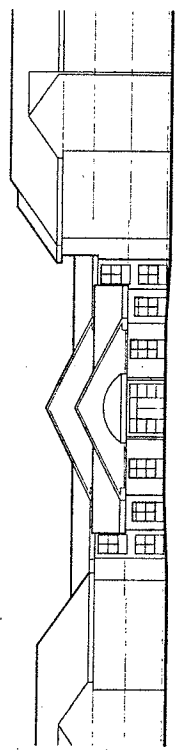
97-409-XA



SD4 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



SD-4 2 WEST ELEVATION SCALE: 1" = 1'-0"



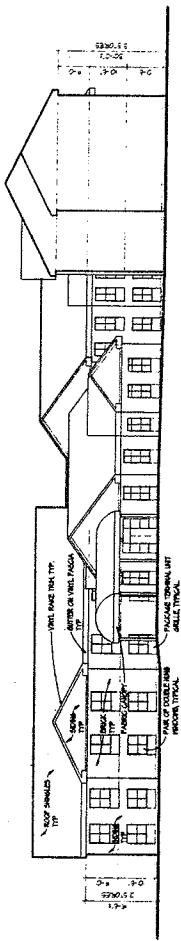
NORTH POINT

3

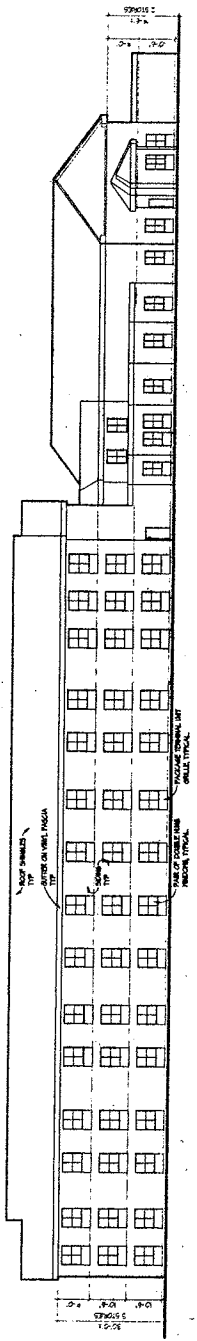
504

CORE ENTRANCE ELEVATION

SCALE 1/4" = 1'-0"



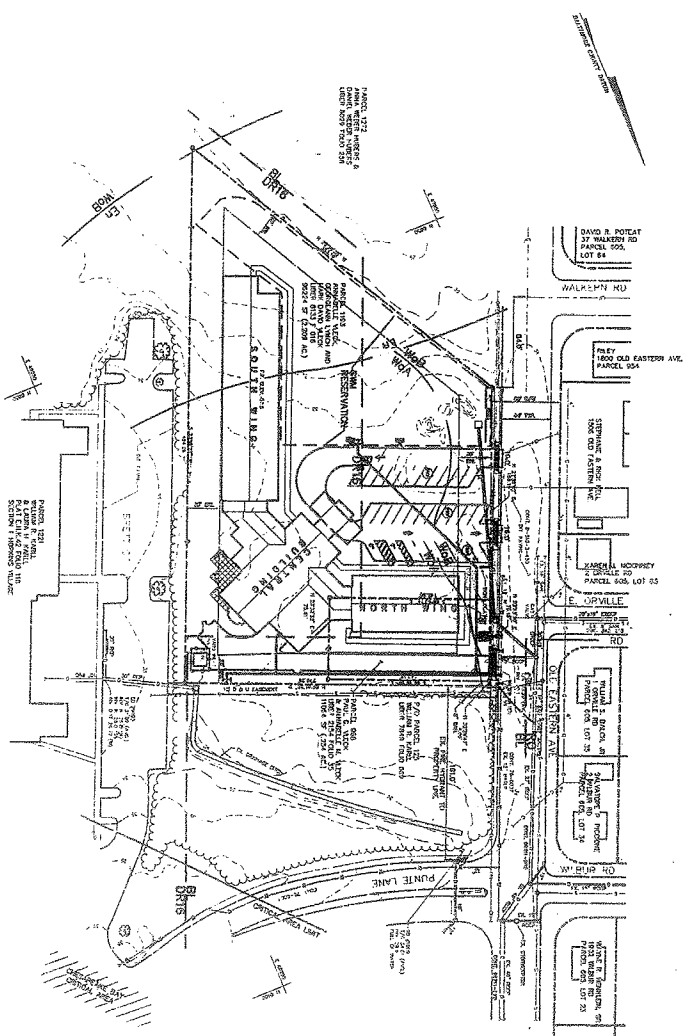
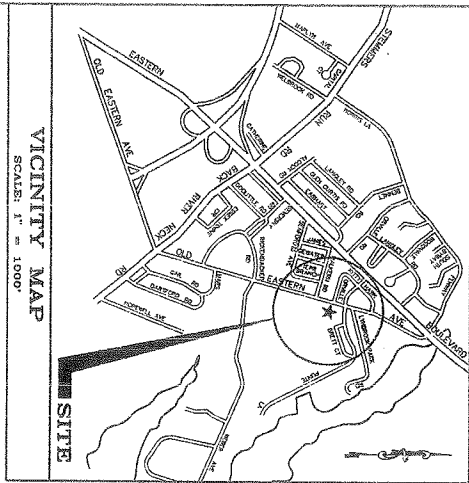
4 SOUTH ELEVATION
SDS SCALE 1/4" = 1'-0"
NORTH ARROW



5 EAST ELEVATION
SD4 SCALE 1/8" = 1'-0"

97-409-XA

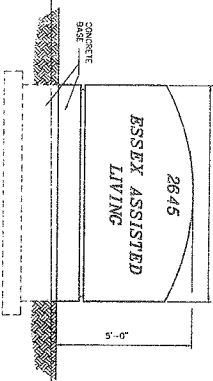
PRELIMINARY



LEGEND

DESCRIPTION	SYMBOL
EXISTING BUILDING	[Solid black rectangle]
CONCRETE SIDEWALK	[Dashed line]
CLUB	[Circle with dot]
STONE DRIVE	[Wavy line]
SAVANNY	[Stippled area]
WATER	[Blue wavy line]
ONE	[Single line]
OPENED ELECTRIC	[Double line]
WATER METER	[Circle with cross]
WINDMILL	[Windmill symbol]
WELL	[Circle with cross]
CONTOUR	[Dashed line]
TRAIL	[Dashed line]
WETLAND	[Stippled area]
PROPERTY LINE	[Solid line]
UTILITY EASEMENT	[Dashed line]
POWER POLE	[Circle with cross]
LIGHT POLE	[Circle with cross]
SCALE LIMITS	[Line with arrows]
ZONING	[Line with arrows]
WETLAND LIMIT	[Line with arrows]
WETLAND BUFFER	[Line with arrows]
CRITICAL AREA LIMIT	[Line with arrows]
BLANKING	[Line with arrows]
RESTRICTION LINE	[Line with arrows]
SWP RESERVATION	[Line with arrows]

TWO SIDED SIGN DETAIL



PREPARED BY PLAN

Name: JAMES L. BAILEY, JR. & ASSOCIATES
Address: 1000 OLD EASTERN AVE., SUITE 100
JANESVILLE, WI 53401
Date: 1/27/89

DEVELOPER/OWNER

Name: JAMES L. BAILEY, JR. & ASSOCIATES
Address: 1000 OLD EASTERN AVE., SUITE 100
JANESVILLE, WI 53401
Date: 1/27/89

EX SITE ADDRESS

Parcel 141: 1000 OLD EASTERN AVE., SUITE 100
JANESVILLE, WI 53401
Parcel 142: 1000 OLD EASTERN AVE., SUITE 100
JANESVILLE, WI 53401
Parcel 143: 1000 OLD EASTERN AVE., SUITE 100
JANESVILLE, WI 53401

PROPOSED BUILDING

Building: 2645
Type: ESSEX ASSISTED LIVING
Area: 5'-0"

FLOOR AREA RATIO

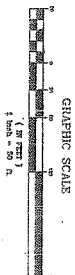
Ratio: 1.0

ADDITIONAL INFORMATION

Notes: See site plan for details.

SITE DEVELOPMENT PROPOSAL

Proposed Use	Proposed Building	Proposed Area	Proposed Ratio	Proposed Type	Proposed Notes
2645	ESSEX ASSISTED LIVING	5'-0"	1.0	1.0	See site plan for details.



Box Ex #1

ESSEX ASSISTED LIVING FACILITY

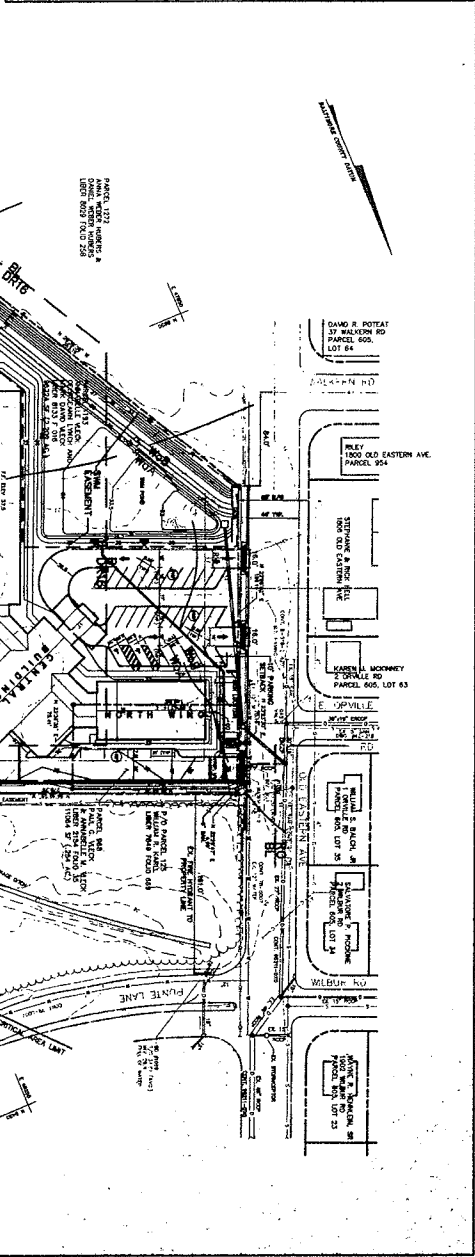
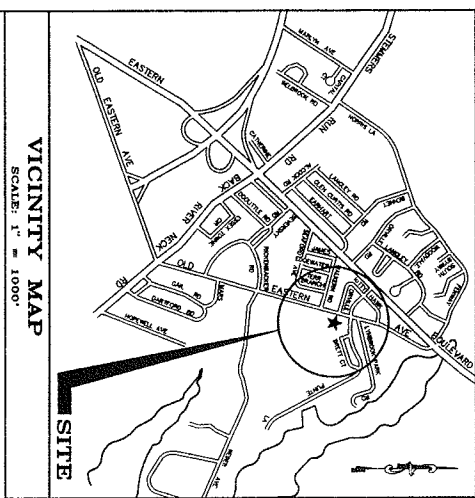
ELECTION DISTRICT: 15
COUNCILMANIC DISTRICT: 5

DEVELOPER: VISIONS FOR AMERICA, INC.
418 COMPTON BLVD. PASADENA, MD 21276
(410) 437-0975
MARSHALL, TRANT ASSOCIATES, INC.
4118 THE TRANT BUILDING PASADENA, MD 21276
410 388 2181 Fax 410 282 5856

WHITNEY BAILEY COX
CONSULTING ENGINEERS
200 PEARSON AVENUE
JANESVILLE, WI 53401
(608) 785-5800

NO.	DATE	REVISION
1	1/27/89	ISSUED FOR PERMIT

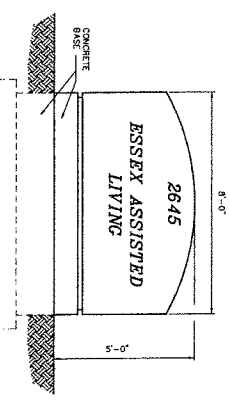
SPECIAL EXCEPTION / FINAL DEVELOPMENT PLAT
FOR FILE NO. 882



LEGEND

- EXISTING BUILDING
- EXISTING CONCRETE SIDEWALK
- EXISTING DRIVE
- EXISTING STORM DRAIN
- EXISTING SANITARY
- EXISTING WATER
- EXISTING GAS
- EXISTING OVERHEAD ELECTRIC
- EXISTING WATER METERS
- EXISTING WYTHEMANT
- EXISTING MANHOLE
- EXISTING INLET
- EXISTING CONTOUR
- EXISTING TREE
- EXISTING TREELINE
- EXISTING PROPERTY LINE
- EXISTING DRAINAGE AND UTILITY EASEMENT
- EXISTING POWER POLE
- EXISTING LIGHT POLE
- EXISTING SIGN
- EXISTING ZONING
- EXISTING WETLAND LIMIT
- EXISTING WETLAND BUFFER
- EXISTING CRITICAL AREA LIMIT
- EXISTING BUILDING FOOTPRINT
- EXISTING SIGN RESERVATION

TWO SIZED SIGN DETAIL



SITE DATA

Zone	Acres	Acres	Bed/Units	Density	Proposed
DR 16	1.450	1.450	92	23	N/A
BL	1.220	1.220	80	20	N/A
Total	2.650	2.650	172	43	97

PREPARED BY PLAN

Address: 146 CORNFIELD RD. PASADENA, MD 21223
City: PASADENA, MD 21223
State: MD
Zip: 21223

DEVELOPER/OWNER

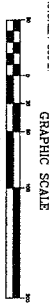
Address: 146 CORNFIELD RD.
City: PASADENA, MD 21223
State: MD
Zip: 21223

ADDITIONAL INFORMATION

1) VARIANCE FOR BLDG. EXCEEDING 300' F.T.
2) VARIANCE FOR BLDG. EXCEEDING 300' F.T.
3) VARIANCE FOR BLDG. EXCEEDING 300' F.T.

SITE DEVELOPMENT PROPOSAL

Category	Proposed	Existing	Proposed	Existing	Proposed	Existing
PERMITTED LIVING	97	32	1,220	1,220	32	32
PERMITTED LIVING	97	32	1,220	1,220	32	32



Q1-409-XA
REV 4/24/97

DEVELOPER: VISIONS FOR AMERICA, INC.
146 CORNFIELD RD. PASADENA, MD 21223
(410) 437-8976

MCA
MARSHALL, CRAFT ASSOCIATES, INC.
4015 W. BALTIMORE AVE. BALTIMORE, MD 21234
410 548 3121 FAX 410 532 9504

WHITNEY
BAILEY
COX
VAGNANI
1410 512-4500

ESSEX ASSISTED LIVING FACILITY

ELECTION DISTRICT: 15
COUNCILMANIC DISTRICT: 5

SPECIAL EXEMPTION/VARIANCE DEVELOPMENT PLAT

PDM FILE NO. XV-692

SCALE: AS NOTED
DATE: 4/22/97

10-7d-4

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Naylor's Lane, 379 ft. W of * ZONING COMMISSIONER
c/l Reisterstown Road *
3901 Naylor's Lane * OF BALTIMORE COUNTY
3rd Election District *
2nd Councilmanic District *
Legal Owner: Pomona Corp. Centre * Case No. 95-51-X
Contract Purchaser: Sunrise *
Development, Inc., Petitioners *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for the property located at 3901 Naylor's Lane in Pikesville. Relief is requested under the provisions of Section 502.1 of the Baltimore County Zoning Regulations (BCZR), to approve a Class B Assisted Living Facility on the subject site pursuant to Section 432.1.A.3 and an accessory group child care center as permitted by right by Section 424.5.B. The Petition is filed by the Pomona Corporate Centre Limited Partnership, property owner, and Sunrise Development, Inc., (hereinafter "Sunrise"), Contract Purchaser.

Appearing at the public hearing held for this case was William Shields, the Director of Engineering for Sunrise. Also appearing and testifying on behalf of the Petitioner was Whitney Wagner, an architect who prepared the site plan, and Jean Tansey, a landscape architect with Daft, McCune, Walker. The Petitioner was represented by Thomas B. Newell, General Counsel, and Howard Alderman, Esquire. Ervin McDaniel, from the Office of Planning and Zoning, also appeared in support of the Petition.

Several individuals appeared as interested persons and/or Protestants. They included Nancy Paige, Esquire who appeared individually as a property owner and representing the Pine Ridge Association. She also represented the concerns of Father Robert H. Stucky, the pastor of the adjacent St. Mark's On The Hill Episcopal Church and Gordon Sugar, a nearby property

ORDER RECEIVED FOR FILING
Date 10/24/90
By [Signature]

MICROFILMED

owner. Also appearing was Sidney M. Friedman on behalf of the Pikesville Chamber of Commerce and Melvin Berger, Protestant.

William Shields, the Director of Engineering for Sunrise, testified and described the site. The property is approximately 4.2 acres in area and is zoned O-1. It is located in Pikesville not far from Reisterstown Road (Md. Route 140). Vehicular access to the site is by way of Naylor's Lane to the north and Old Court Road to the south. The property's location, in Mr. Shields' opinion, makes same easily accessible and development of the site as proposed should not result in any traffic or parking congestion.

Mr. Shields also testified that his company operates approximately 35 retirement communities nationwide. Six of these communities are in the Baltimore-Washington area including one in Towson. He comprehensively described the proposed use of the site. Specifically, the property will be developed as an Assisted Living Facility for the Elderly. As shown on the site plan, the proposed facility will be three stories in height. Additionally, a child care center will also be operated as an accessory use.

Also testifying was Whitney Wagner, an architect, engaged by Sunrise. Mr. Wagner fully explained the proposed plan and presented a series of photographs and schematic drawings depicting the proposed improvements. These exhibits show that Sunrise has built attractive retirement community centers elsewhere and the company intends on developing this site in a conscientious and thoughtful manner. The subject site, as is the case with other Sunrise Retirement Communities will not be institutional in appearance. Rather, the property will be architecturally modeled to present a residential image. Mr. Wagner indicated that the project would be designed so as to be compatible with the surrounding locale and adjacent uses.

ORDER RECEIVED FOR FILING

DATE

BY

Mr. Wagner also that 72 units would be provided within the assisted living facility. These 72 units could house 96 elderly residents. The assisted living center will be 56,000 sq. ft. in area, significantly larger than the 4,000 sq. ft. devoted to the day care facility.

Also testifying in support of the Petition was Ervin McDaniel from the Office of Planning and Zoning. He noted that CRG approval was originally granted for the development of the property with a 90,000 sq. ft. office building. That CRG approval remains valid and has not lapsed. Recently, the Developer appeared before the Development Review Committee with the subject plans and requested that the CRG approval be extended to these plans as a refinement. Due to the fact that the proposed development is smaller than the 90,000 ft. office complex and will generate less traffic, the CRG approval was extended to this project.

Also testifying was Jean Tansey, a Landscape Architect from Daft, McCune, Walker. She corroborated Mr. McDaniel's testimony as it related to the CRG approval and process. She further addressed the requirements in Section 502.1 of the BCZR and opined that each would be satisfied by the development of the property in the manner proposed. In summary, she opined that the proposed uses would not be detrimental to the health, safety or general welfare of the locale and that the proposed development was compatible with the adjacent area and surrounding community. She also noted that the 44 parking spaces provided would be more than sufficient for the traffic which is contemplated.

Nancy Paige, Esquire, both on her own behalf and in a representative capacity, voiced tentative support for the project. In fact, subsequent to the hearing, an agreement was received and made part of the record by and between the Developer and surrounding neighbors including the Pine Ridge Association, Gordon E. Sugar, Nancy E. and David Paige and the St. Mark's

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Date

By

on the Hill Episcopal Church. This agreement evidences support for the project by these neighbors in the event certain landscaping and assurances are given by the property owners and contract purchasers. As requested, I shall incorporate that agreement within my Order as a condition precedent to the approval of the special exception. The agreement is dated October 12, 1994 and has been recorded in the Land Records of Baltimore County at Liber 10788, folio 676.

Lastly, testimony was also received from Melvin Berger, who identified himself as a nearby property owner. The property owned by Mr. Berger was not specifically identified and the basis of his standing to contest development on this site was not altogether clear. However, he expressed certain concerns over traffic congestion. It should be noted, however, that planned vehicular access to the property appears entirely proper. As noted above, access can be obtained from both Old Court Road and Naylors Lane. Moreover, the traffic generated by the proposed use is significantly less than what could be expected if a 90,000 sq. ft. office complex were constructed.

A special exception is a use which has been predetermined by the Baltimore County Council to be conditionally compatible with the uses permitted as of right in a particular zone. See Rockville Fuel and Feed Company, Inc., v. Board of Appeals of the City of Gaithersburg, 257 Md. 183, 262 A.2d 499 (1970). The Zoning Commissioner, in evaluating a special exception, must decide under the specific standards set forth in Section 502 of the BCZR whether the presumptive compatibility of the proposed special exception exists. Section 502 of the BCZR provides certain guidelines to be applied to certain issues such as traffic, impact on public improvements and utilities, pollution, etc.

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BY

The Petitioner has the burden of adducing testimony which will establish that the proposed use meets the prescribed standards and requirements. The Petitioner does not have to establish affirmatively that the proposed use would be a benefit to the community, only that said use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. A special exception must be granted unless there is a showing that the negative impacts would result in a unique fashion. See Schultz v. Pritts, 291 Md. 1, 432 A2d 1319 (1981).

Based upon the overwhelming weight of testimony and evidence offered, I am persuaded that the Petition for Special Exception should be granted. In my view, the Petitioner has clearly satisfied its burden at law. In fact, I believe that the proposed use will bring a positive impact on the surrounding locale. In this regard, it is well known that Baltimore County's increasingly large senior citizen population needs housing facilities such as the one proposed. Moreover, the architectural style and development of the site is entirely compatible with the surrounding community. I am impressed with the efforts made by the Petitioner to create a building which will be a good fit in this neighborhood. Also, the melding of the elderly living facility and day care center will foster inter-generational contact which will benefit the clientele of both facilities. For all of these reasons, I am persuaded to grant the Petition for Special Exception and will so order.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of October, 1994 that, pursuant to the Petition for Special Exception, approval for a Class B Assisted Living Facility on the

ORDER RECEIVED FOR FILING
Date 10/24/94
By Mr. [Signature]

subject site pursuant to Section 432.1.A.3 and an accessory group child care center as permitted by right by Section 424.5.B, as shown on the site plan, (Petitioner's Exhibit No. 4), be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted:

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

2. The terms, conditions, and provisions of the agreement reached by and between the Petitioners and the Pine Ridge Association, St. Marks Church and other individuals, dated 10/12/94, is hereby incorporated in this Order approving the special exception as a condition precedent thereto.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

ORDER RECEIVED FOR FILING

10/26/94
St. Marks Church

IN RE: PETITIONS FOR SPECIAL HEARING.	* BEFORE THE
SPECIAL EXCEPTION & VARIANCE	
NE/S Reisterstown Road, 330' S	* DEPUTY ZONING COMMISSIONER
of Walgrove Road	
(639 Main Street)	* OF BALTIMORE COUNTY
4th Election District	
3rd Councilmanic District	* Case No. 98-76-SPHXA
639 Main Street, LLC	*
Petitioners	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, 639 Main Street LLC, by David Farrell, Manager, through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioners seek a special exception for a Class B Assisted Living Facility and approval that the gross area of the subject property complies with the density requirements of Section 432.5.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition to the Petitions for Special Hearing and Special Exception, the Petitioners seek variance relief from Section 1B01.2.C.1.a of the B.C.Z.R. to permit a side yard setback of 13 feet in lieu of the required 20 feet and a rear yard setback of 27 feet in lieu of the required 30 feet, and from Section 204.3.C.1 of the B.C.Z.R. to permit an illuminated identification sign of 20 sq.ft. per face (40 sq.ft. total) in lieu of the maximum permitted 15 sq.ft. per face and no illumination. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were David Farrell, a representative of 639 Main Street LLC, James Patton, Professional Engineer who prepared the site plan for this property, and Howard L.

ORDER RECEIVED FOR FILING

Date 10/11/97

By [Signature]

Alderman, Jr., Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 1.02 acres, more or less, zoned R.O. and is improved with a three-story Class A Assisted Living Facility, known as the Newport Assisted Living Facility. The Petitioners are desirous of constructing a two-story addition to the second and third floors of the existing building to provide private rooms for some of its residents. Testimony revealed that the Newport Assisted Living Facility currently houses 15 residents, which number will not change by virtue of the proposed addition. The purpose of the addition is simply to add private rooms to the existing facility for those residents who wish not to share their room. As a result of the proposed addition, however, the use of the subject property becomes that of a Class B Assisted Living Facility and thus, a special exception is necessary. Furthermore, a special hearing is necessary to approve that the gross area of the property meets the density requirements of Section 432.5.A.2 of the B.C.Z.R. for a Class B Assisted Living Facility.

As to the request for variance, testimony revealed that the building has existed on the property for many years and that the Petitioners recently converted its use to a Class A Assisted Living Facility. Due to the location of the existing building and related parking area, the proposed addition will be located on the northeast side of the structure. While the proposed addition will not increase the footprint of the existing building, nor change existing setbacks on the property, the requested variance is necessary in order to proceed with the proposed improvements.

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Date 10/10/99
By [Signature]

that the sign has existed on the property since the Newport Assisted Living Facility opened several months ago and that the Petitioners merely wish to add a small light fixture at its base to illuminate same. Photographs of the property show that the sign is in keeping with other signs in the area.

It is clear that the B.C.Z.R. permits the use proposed in a R.O. 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 B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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

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

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Date

By

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variances are not granted. As noted above, the subject property has a gross area of 1.02 acres and therefore, does satisfy the minimum 1.0 acre requirement of Section 432 of the B.C.Z.R. Furthermore, it has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

ORDER RECEIVED FOR FILING

Date

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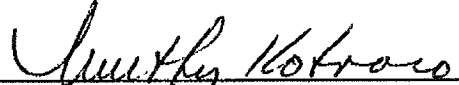
Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing, special exception and variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of October, 1997 that the Petition for Special Exception for a Class B Assisted Living Facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the subject property complies with the density requirements of Section 432.5.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and as such, the Petition for Special Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1B01.2.C.1.a of the B.C.Z.R. to permit a side yard setback of 13 feet in lieu of the required 20 feet and a rear yard setback of 27 feet in lieu of the required 30 feet, and from Section 204.3.C.1 of the B.C.Z.R. to permit an illuminated identification sign of 20 sq.ft. per face (40 sq.ft. total) in lieu of the maximum permitted 15 sq.ft. per face and no illumination, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until 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. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING

date

by

**IN RE: PETITION FOR SPECIAL
HEARING**

NE side of Main Street, 217 feet SE
c/l of Walgrove Rd.
4th Election District
2nd Councilmanic District
(639 Main Street)

Best and Daughters, LLC
Owner/Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
*
* **Case No. 2008-0245-SPH**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Exception filed by Catherine Best on behalf of the legal owner of the property, Best and Daughters, LLC (hereinafter referred to as "Petitioner"). Petitioner is requesting a use permit by way of a special hearing pursuant to Section 432.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") for an Assisted-Living Facility, Class III in a R.O. (residential, office) Zone. Petitioner also requested in its petition to be allowed two buildings on the same property as a single facility and to allow a new building with less than 15 residents as part of a facility. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.¹

The requisite public hearing originally had been scheduled for February 5, 2008 in Room 407 of the County Courts Building. Several days prior to the Hearing, Petitioner through counsel requested a continuance of the hearing. On the date of the hearing counsel for Petitioner appeared but no interested persons were present. Accordingly, the case was continued until November 6,

¹ The site plan submitted at the hearing was updated as of November 6, 2008. The prior site plan, which was dated November 20, 2007 was primarily revised to accurately reflect the change in zoning to the front part of the property from R.O. to C.B. (community business) and to reflect conditions contained in a disposition of the Design Review Panel at its meeting of July 9, 2008 as reflected in the July 16, 2008 Comments.

11-21-08
Am

2008. Appearing at the public hearing on November 6, 2008 in support of the requested relief were Catherine Best on behalf of Petitioner, Petitioner's attorney, John B. Gontrum, Esquire, and Patrick C. Richardson, Jr. of Richardson Engineering, LLC, the professional engineer who prepared the site plan. There were no Protestants or other interested persons present at the hearing, but an email was received in the file in opposition to the request by an adjoining property owner, Ms. Carole Bognanni Sacra.

The hearing proceeded by means of proffer and testimony. Testimony and evidence offered revealed that the subject property consists of 1.025 gross acres and is located on the northeast side of Main Street, Maryland Route 140, in the Reisterstown area of Baltimore County. Main Street is known as Reisterstown Road outside of the Reisterstown town center area. The property is 217 feet south of the centerline intersection of Walgrove Road. At the time of the filing of the Petition the entire site was zoned R.O. except for a very small area at the rear of the site. The site is also irregularly shaped. Although the subject site has over 126 feet of frontage on Main Street, the rear property line of the Bognanni/Sacra property, located at 635 Main Street directly to the northwest of the subject site on Main Street, actually abuts 80 feet of the subject parcel as if it were carved out of the parcel at an earlier date. In fact, this is what occurred as noted on the recorded plat cited on Petitioner's Exhibit 1 for the "Broadbent Subdivision."

Petitioner currently operates an assisted living facility at the subject location known as "BestCare Assisted Living." Catherine Best testified that she has been a registered nurse for 16 years and has been operating the facility for the last three years. As shown on the site plan, the existing building is a two-story 2,238 square foot Victorian style structure that accommodates up to 15 residents in what is described on their Website as a "Bed & Breakfast atmosphere." At this juncture, Petitioner proposes to construct a one-story 3,365 square foot building toward the rear of

11-21-08

the property in an "L" shape for up to 15 assisted living patients. Petitioner has stated that this building is intended to be for care of patients needing more advanced care, such as those with Alzheimer's disease. Presently, there are 15 residents in the existing building that fronts Main Street. According to Ms. Best, there is a difference in the care needed for treatment of the Alzheimer's patients from that accorded other assisted living residents, and a separate accommodation on one-story is best able to provide that treatment. She testified that the one-story building is better suited for the elderly residents than a two-story building with stairs and an elevator.

The proposed building and its location was reviewed by the Baltimore County Design Review Panel ("the DRP"), and its comments are in the file. Several of the elevations of the building presented to the DRP were marked and accepted into evidence as Petitioner's Exhibit 2. At the time of the DRP hearing the Willingham and Franklin families were in attendance and requested fencing along the rear and northwest side of the property, and the DRP extended the fencing along the three sides of the property. The fencing would be six feet in height and would be subject to approval by Baltimore County as part of the landscape plan. There are additional conditions attached to the DRP comments and the Office of Planning ZAC Comments dated February 4, 2008, which appear appropriate.

Petitioner's counsel, Mr. Gontrum, also proffered that as a result of discussions with the Willingham and Franklin families, several additional conditions were added to those imposed by the DRP. These include a provision that the driveway on the northwest side of the property, which runs for a portion of its length on Petitioner's property and is used by the Willingham family for access, would not be used either in the construction or in the day-to-day operation of the new building. Indeed, the fence would be between the proposed development and the driveway,

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effectively precluding access from it to Petitioner's property. In addition, Petitioner will be bringing public sewer and a storm drain across the Meier property to access its site, and at such time as it is constructed, access to the public sewer line would be afforded the Willingham family.

It should be noted that the zoning on the site changed in the 2008 Comprehensive Zoning Map Process. The front portion of the property containing the existing assisted living facility was changed from R.O. to C.B. (Community Business) Zoning. C.B. is a performance based commercial zone. It was essentially created by County Council Bill No. 180-1995. Among the uses permitted are "Elderly Housing Facilities," which at the time of the enactment of the Zone included an Assisted Living Facility, and the current facility in the converted Victorian house appears to meet the definition as it existed. Remaining on the site in the location of the proposed new Assisted Living Facility, Class III is 0.65 acres of R.O. Zoning. Along with the small portion of D.R.3.5, the total remaining density would permit 17 assisted living beds (Petitioner's Exhibit 1). In this case, a 15 bed facility is proposed.

It should also be noted that no variances are requested with respect to the proposal for the Class III facility. The testimony of Mr. Richardson was that the requirements of Section 502.1 of the B.C.Z.R. had been met, and that the current access to the site is sufficient. As Ms. Best and Mr. Richardson both noted, there would be little anticipated augmentation in commercial traffic from that which currently exists. The same delivery trucks as access the existing building could be anticipated to access the new assisted living building. Although there would be a few more employees, Ms. Best anticipated that there would be no more than 4 or 5 more employees. Fourteen parking spaces are provided, which appears to be more than adequate. Ms. Best also noted that, unfortunately, her patients generally have few visitors.

Section 432A of the B.C.Z.R. establishes the requirements for a Class III Assisted Living Facility in a R.O. Zone. A use permit is required and is subject to a compatibility finding pursuant to Section 32-4-402 of the Baltimore County Code ("B.C.C."). Although the existing facility is in a remodeled Victorian house, and the proposed building is styled to be compatible with Victorian architecture, the site is not in a County historic district. Based on the review of the DRP and the comments filed in that matter by the Office of Planning, and based on the proffer and testimony presented, I find that the proposed building is compatible under the criteria contained in Section 32-4-402 of the B.C.C. The site plan actually calls for removal of existing parking in front of the existing assisted living building and its placement on the interior of the site. The restriction of the building to one story with the fencing will not intrude upon the privacy of the neighboring residential properties to the rear. The elimination of the use of the right-of-way adjoining Ms. Sacra's property should alleviate her concern in that regard as well. The removal of the parking area, which now extends in front of her building, and its replacement with landscaping, should also assist in the elimination of the perception that the two properties are related. I also believe that the conditions attached to the DRP approval and the Office of Planning comments will assist in making sure that the landscaping is compatible. No new signs are proposed.

The change in zoning and adjustments to the site plan have rendered moot the issue pertaining to less than 15 residents in any building, although I believe that more than fifteen residents in any one facility constitutes a Class III Assisted-Living facility regardless of the number of buildings constituting the facility. I see nothing in the B.C.Z.R. which precludes the use of two buildings on a single site as part of an Assisted-Living Facility. There is no question but that the existing proposal on the site will accommodate more than 15 resident clients and that a Class III facility is what is proposed even though the existing facility would have met the test of a

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11-21-08
[Signature]

Class II facility. Based on the testimony and evidence presented, I believe that the granting of a use permit for the Class III facility will not be injurious to the health, safety or general welfare of the locality involved.² There appear to be no negative impacts to traffic. There also does not appear to be an undue concentration of population given the nature of the population involved and the fact that the Zoning Code is explicit in its determination of density for the Zone. In this case within the R.O. Zone and residential zones there is less density than otherwise permitted, and even with the density existing in the C.B. Zone, this population is not very mobile; note, for example, the need for a single-story facility, and the use is hardly one which will overcrowd the open space areas. For the aforementioned reasons I am persuaded that the relief requested for a use permit for a Class III Assisted-Living Facility should be granted in the configuration depicted by Petitioner's Exhibit 1, subject to conditions.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the proffer, testimony and evidence presented, I find that Petitioner's use permit should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 21st day of November, 2008 that Petitioner's request for a Class III Assisted-Living facility in a R.O. Zone pursuant to Section 432A be and is hereby GRANTED; and

² Section 432A of the B.C.Z.R. distinguishes between the need for a use permit for a Class III facility in a R.O. Zone and the need for a special exception in the O.R.-2 Zone. Presumably, the provisions of Section 502.1, which apply to special exceptions, do not apply to use permits as contemplated by Section 432A. However, both special exceptions and use permits pertain to uses permitted within a Zone, but allowed only after a hearing and a determination that the use at the chosen location will not impact negatively upon the health, safety and general welfare of the locality more than would otherwise be expected of the use. Consequently, it is not inappropriate to consider the criteria contained in Section 502.1 in making that determination.

IT IS FURTHER ORDERED that Petitioner's request to have the Class III facility located in two buildings on the single property with one building in the R.O. Zone and one building in the C.B. Zone be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's request to have a determination that the proposed use of a building for less than 15 residents within a Class III Assisted-Living facility is hereby declared MOOT.

Petitioner's use of the property is subject to the following restrictions, which are conditions precedent to the relief granted herein:

1. Petitioner may apply for the necessary building or use permits, as applicable, and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner shall not be allowed to use the access road along the northwestern property line as depicted on Petitioner's Exhibit 1, either for construction of the proposed building or for vehicular access to the building.
3. Petitioner shall be required to comply with conditions as stated in the Design Review Comments and Disposition and the Office of Planning ZAC Comments dated February 4, 2008 that are contained within the case file and made a part hereof.

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner

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11-21-08
107

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

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

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

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

DATE 2/28/98
 BY [Signature]

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

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

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

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

ORDERED: 2/18/98
Date: 2/18/98
By: M. Sharpe

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Petition for Special Exception in case No. 98-239-XA contains a second prong. Specifically, the Petitioner requests approval, pursuant to Section 432.4 of the BCZR, for special exception relief as to the Residential Transition Area (RTA) requirements. Specifically, Section 432.4 provides, in relevant part, that the Zoning Commissioner may, by special exception, modify or waive the residential transition area restrictions " . . . in cases where a elderly housing facility development would be severely or

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adversely affected by the restrictions set forth in paragraph 1B01.1.B.1.b.
...".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

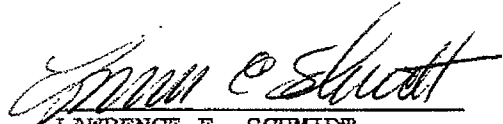
1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said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

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By: [Signature]
Clerk

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

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

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



LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

OFFICE OF PLANNING
DATE 2/18/98
BY [Signature]

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

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

01-549-SPHX
 Date 8/28/01
 By M. J. Gorman

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

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

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

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

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

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioners have shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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

ORDER RECEIVED FOR FILING
Date 8/22/01
By R. J. Gannon

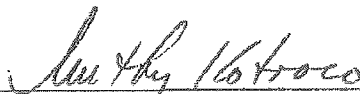
After reviewing all of the testimony and evidence presented, it appears that the special exception and special hearing should be granted.

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

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

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

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


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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Date 8/28/01
By M. P. Garrison

historically significant buildings or structures, including their settings, as identified in the Maryland Historical Trust Inventory. Any building or structure officially included on the preliminary or final list of the Landmarks Preservation Commission, or located within a county historic district, is also subject to Article 33, Title 7 of the Baltimore County Code. The Director of Planning shall determine whether a historically or an architecturally significant building has been successfully integrated into the proposed site plan. [Bill No. 137-2004]

7. Whenever possible, neighborhood access via pedestrian walkways and bike paths should be provided.
 8. All proposed projects or site developments should be in accord with the general intent of the approved community plan for the area.
 9. All signage within a commercial development shall be compatible in design, color, materials and location.
 10. Uses may be located in separate freestanding buildings, provided the style and building materials used create a uniform architectural theme.
- B. Public spaces. Commercial developments greater than two acres shall provide public spaces that include such features as shade trees, lawns and, where appropriate, benches and tables. The public space shall have a total area of no less than 500 square feet, which may be broken down into two-hundred-fifty-square-foot areas; be conveniently located; and linked to existing and future pedestrian pathways.

229.4 Uses in the C.B. Zone. [Bill No. 180-1995]

A. Uses permitted by right:

1. Commercial uses:

Arts and crafts studios
 Banks, with no drive-through lane
 Barbershops, beauty shops and similar personal service establishments
 Dry cleaner, laundromat and establishments which repair clothing or shoes
 Offices and medical offices, except bail bondsman as defined by state law
 Repair or rental of small appliances
 Restaurants, carry-out or standard only
 Retail uses, including but not limited to the sale of gifts, jewelry, hardware, drugs, groceries, baked goods, sporting equipment and antiques
 Travel agent and similar personal service establishments
 Video rental or sales

2. Residential and institutional uses:

Class A and Class B child care facilities
 Elderly housing facilities
 Nursing homes

Residences, including residences in a commercial building only above the first floor

3. Accessory uses:

Customary accessory uses associated with the uses permitted in Paragraphs 1 and 2, including signs, parking spaces and structures

B. Uses permitted by special exception:

Banks with no more than two drive-through lanes

229.5 Uses in the B.L.R. Zone. [Bill No. 180-1995]

A. Uses permitted by right:

Banks with drive-through lanes

Health and athletic clubs

Martial arts and dance studios

Restaurant, fast-food

Tavern

Uses permitted by right in the C.B. Zones

B. Uses permitted by special exception:

Arcades

Baseball batting range

Bowling alley

Miniature golf

Wireless transmitting or receiving structures 200 feet or less in height above grade level

229.6 Bulk and area regulations for Community Business Zones and Business Local Restricted Zones. [Bill No. 180-1995]

Permitted uses shall be subject to the following bulk and area regulations, except that the required setback, height and floor area restrictions do not apply to buildings that existed legally or which were approved by the county before the date of passage of Bill No. 180-1995.

A. Building size.

1. In any development plan proposed in a C.B. Zone, only one retail, restaurant or service use may have a gross floor area not to exceed 10,000 square feet. All other such uses in the proposed plan shall have a gross floor area not to exceed 5,000 square feet. No more than 25% of a commercial or office building's gross floor area may be occupied by medical office use.
2. In a B.L.R. Zone, any retail, restaurant or service establishment may have a gross floor area up to 80,000 square feet.
3. The maximum floor area ratio in the C.B. Zone and the B.L.R. Zone shall not exceed 0.33.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
8 Dunmanway; NS of Dunmanway, 115' E *
of c/line of the shipping place * BOARD OF
12th Election & 7th Councilmanic Districts
Legal Owner(s): Bolton Hill Investments LLC * APPEALS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2020-003-SPH

* * * * *

**PEOPLE’S COUNSEL FOR BALTIMORE COUNTY’S MOTION FOR SUMMARY
DECLARATORY JUDGMENT**

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APPENDIX

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County Council Bill 32-06 with Fiscal Note
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MyNeighborhood Zoning Map
MyNeighborhood Aerial Map with Zoning

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
8 Dunmanway; NS of Dunmanway, 115' E		
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	*	2020-003-SPH

* * * * *

**PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR SUMMARY
DECLARATORY JUDGMENT**

People's Counsel for Baltimore County moves to dismiss this zoning petition and/or for summary declaratory judgment, for the following reasons:

Introduction

1. Petitioner Bolton Hill Investment (BHI) filed a petition for special hearing for approval of an Assisted Living Facility (ALF) III for more than 15 residents in a Business-Local (B.L.) Zone, Community Commercial Core (C.C.C.) District stated to be adjacent to a D.R. (Density Residential) 16 Zone. Bolton Hill also requests to be excused from offstreet parking requirements on the theory that their Dunmanway property is in the Dundalk Historic District.
2. Administrative Law Judge (ALJ) Paul Mayhew held a hearing and granted the petition on March 10, 2020.
3. On April 9, 2020, Mary DiLegge and Barbara Kenney filed a timely appeal. They are nearby Dunglow Road residents who participated at the ALJ hearing. They filed the appeal by e-mail --- in view of the Covid-19 pandemic restrictions --- followed up by hard copy with a check for the filing fee, and their appeal was duly acknowledged.
4. A petition for special hearing is effectively a request for declaratory judgment. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). People's Counsel has participated actively in special hearing cases based on the responsibility to defend the comprehensive zoning maps. Baltimore County Charter Sec. 524.1. See People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316

Md. 683 (1989); Marzullo v. Kahl 366 Md. 158 (2001); People's Counsel v. Surina 400 Md. 662 (2007); Geddes v. People's Counsel unreported, 232 Md. App. 726, 2017 WL 1193781 , cert. denied 455 Md. 443 (2017); Baddock v. Baltimore County 239 Md. App. 467 (2018), cert. denied Sahbi Hookah v. Baltimore County 463 Md. 545 (2019).

5. As is our custom, we entered our appearance in the ALJ proceeding. Upon careful review, People's Counsel deems this case of public interest with significant legal issues relating to defense of said comprehensive zoning maps.

6. The Court of Appeals has explained that in declaratory judgment proceedings, the Court may issue a summary declaratory judgment to include a declaration of rights of the parties. Lovell Land Co. v. State Highway Administration 408 Md. 242, 255-56 (2009); Bontempo v. Lare 444 Md. 344, 378 (2015). This appears to be appropriate approach for analogous special hearings where judgment is appropriate as a matter of law based on material facts which are not genuinely in dispute.

7. We address the following legal issues: (1) the permissibility of the BHI facility in this B.L. Zone; (2) the applicability of the offstreet parking space and other requirements; (3) the applicability of open space requirements; and (4) the legal sufficiency of the Department of Planning's compatibility review.

The Zoning Law Governing Assisted Living Facilities

8. It is fundamental that to be permitted, a use or structure must be enumerated as permitted by right or special exception in the particular zone. BCZR Sec. 102.1 states,

"No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

See Kowalski v. Lamar 25 Md. App. 493, 496-501 (1975); People's Counsel for Baltimore County v. Surina 400 Md. 662, 688 (2007). In Kowalski, (1975), Judge Rita Davidson discussed the BCZR structure and wrote of this section:

"Any use other than those permitted and being carried on as of right or by special exception is prohibited." 25 Md. App., at 498.

9. Assisted Living Facilities are defined in Baltimore County Zoning Regulation (BZR) 101.1.¹ There are three classes of such facilities, differentiated according to the number of residents. An ALF III is allowed more than 15 residents, subject also to structural standards. BHI's request is for an ALF III with 32 residents at 8 Dunmanway.

10. Correlatively, BCZR Sec. 432A sets the standards for the various facilities. This provides, in pertinent part here, with emphasis supplied,

SECTION 432A
Assisted-Living Facility; Housing for the Elderly
[Bill Nos. 19-2004 ^[1] ; 32-2006]

§ 432A.1. - Permitted zones; conditions for use.

A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M. and OR-2 Zones as follows:

* * *

4. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A., B.L. Zone in the Pikesville Commercial Revitalization District, or B.M. Zone by use permit. An assisted-living facility III is permitted in the OR-2 Zone by special exception and is limited by the use, area and bulk regulations of the D.R.10.5 Zone. A facility located in an R.O. Zone is also subject to review by the design review panel for compatibility with surrounding uses. [Bill No. 47-2019]

* * *

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 ten 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 ten percent of the lot shall be used to provide useable, contiguous and private open space.

D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-402 of the Baltimore County Code in accordance with this paragraph. A compatibility study is required for all assisted-living facility projects located in the D.R., R.O., R.O.A., O.R.-2, or R.A.E. Zone. For assisted-living facility projects

¹ The BCZR Sec. 101.1 definitions for Assisted Living Facility and each classification are attached to this motion.

located in the B.L., B.M., or B.R. Zone, a compatibility study is required only for projects that are not otherwise subject to review by the design review panel. [Bill No. 47-2019]

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.

The BHI ALF III Is Not Permitted in this B.L. Zone

10. BCZR Sec. 432A.1.A.4 controls the permissible locations for ALF III uses. They are allowed in B.L. Zones located only in the Pikesville Commercial Revitalization District.

11. The legislative history shows BCZR Sec. 432A, along with definitions, originated in Bill 19-04. ALF III uses were not allowed in any B.L. Zones. This was explicit also in the prefatory language, which makes no mention of permission for the B.L. Zone. As amended by Bills 32-06 and 45-17, there were still no ALF uses allowed in any B.L. Zone. In 2019, Bill 47-19 did add an allowance for ALF III uses in the B.L. Zone only in the aforementioned Pikesville District. This limitation is explicit also in the Fiscal Notes accompanying Bills 45-17 and 47-19.²

12. BHI tries to back door its way in by citing the B.L. Zone allowance for “Uses permitted and as limited in the residential zone immediately adjoining” BCZR Sec. 230.1.A.1. BHI then claims a D.R. 16 Zone immediately adjoins its property, the D.R. 16 Zone being a permissible ALF III zone under BCZR Sec. 432A.1.A.4. This claim does not withstand scrutiny.

13. It is a settled canon of statutory construction that a specific section of a statutory scheme prevails over an arguably more general provision. Clarksville Residents v. Donaldson Properties 453 Md. 516, 538-39 (2017); see also Andrews & Lawrence Professional Services v. v. Mills 467 Md. 126, 155 (2020). The Court of Appeals has

² We attach Bills 19-04 (relevant excerpts), 32-06, 47-19, and 49-17, along with their Fiscal Notes. The 45-17 Note stated, “Currently, assisted living facilities are permitted in the D.R., R.O. R.O.A, R.A.E., B.R. and B.M. Zones.” The 49-17 Note explains, “The Bill provides that in the B.L. Zone, an assisted –living facility III is permitted only in the Pikesville Commercial Revitalization district.”

rejected analogous back door claims in Smith v. Miller 249 Md. 390, 393-9) (1968) and Anne Arundel Supply Co. v. Cason 265 Md. 371, 378 (1972).

14. Anyway, the closest D.R. 16 Zone does not immediately adjoin 8 Dunmanway. This is shown in the attached My Neighborhood zoning and aerial maps. The 8 Dunmanway is on the north side of Dunmanway and west of the centerline of the Dunglow Road T-intersection. The zoning map shows that there is a D.R. 5.5 Zone directly across Dunmanway. It is occupied by a church shown by Google Earth. The closest D.R.16 Zone is on the south side of Dunmanway, and on the east side of the Dunglow Road T-intersection. While we have not found any Maryland case interpreting “zone immediately adjoining,” it is reasonable to infer that it means effectively touching the subject B.L. Zone. Several other courts have likewise given this interpretation to “immediately adjacent” property, based on the Webster’s Third New International dictionary. Parsons v. Town of Wethersefield 50 A.2d 771, 773 (Conn. 1948); Heaton v. City of Charlotte 178 S.E. 2d 352, 361-65 (N.C. 1971); Banana River Properties v. City of Cocoa Beach 287 So. 2d 377, 381-82 (Fla. App. 1973). Clearly, there is no D.R. 16 Zone immediately adjoining the 8 Dunmanway B.L. Zone.

**The BHI ALF III is Subject to Offstreet Parking Requirements,
Including Usable Offstreet Parking Spaces**

15. BHI does not have any offstreet parking spaces. Their excuse is that they are in the Dundalk Historic District. This directly conflicts with applicable law.

16. The law governing Offstreet Parking and Loading is in BCZR Sec. 409. Subsection 409.6 enumerates the minimum space requirements for each use and runs from pages 4:49 to 4:57 in the current edition.

17. Under the rubric of “Residential and lodging uses,” the law provides in Sec. 409.6.A.1,

“For assisted living facilities, at least one usable offstreet parking space shall be provided for each 3 beds.” [Bill No. 188-93]

This translates to 11 spaces for a 32-bed facility. There is no exemption or exception for properties in historic districts. The law allows the ALJ to reduce the requirements for

other types of elderly housing facilities with van service, ride-sharing, along with public transit certified by DOP as readily available. But there is even here still a minimum of 1 parking space for each dwelling unit. The only exception for assisted living facilities is in the Owings Mills C.T. District for state-designated transit-oriented development, where the requirement is reduced to 1 usable space for each 4 beds. [Bill No. 16-2015].

18. BCZR Sec. 409.6 does exempt C.T. or B.L.-C.C.C. District commercial uses in contributing historic buildings designated on the National Register of Historic Places: Tourist homes, bed-and-breakfast inns, certain fast-food and standard restaurants, nightclubs, taverns, striptease businesses, catering halls, drive-in restaurants, offices, and retail. But, there is no such exception for assisted living facilities.

19. Even such commercial facility exemptions relate to designated NRHP buildings, not to any building within a designated historic district.

20. BHI suggests its residents will not have cars. Even if this were enforceable, the law applies to all ALFs. This includes residents, visitors (some likely elderly), and staff at all ALF levels. If residents do not have cars of their own, it is all the more important to have spaces for visitors.

21. Over and above the legal requirements, there is a reasonable concern that offstreet parking will overflow to the Dunglow Road residential neighborhood.

The BHI ALF III is Subject to Open Space Requirements

22. The BHI ALF III does not provide any open space. There is no mention of open space in the petition.

23. As we have seen, BCZR Sec. 432A.1.C.3 requires,

“3. At least ten percent of the lot shall be used to provide useable, contiguous and private open space.”

The site plan here lists the lot area as .123 acres, 5375 square feet. This calculates to a requirement of 537.5 square feet of usable open space.

24. The lack of open space is yet another deficiency in the zoning petition.

The Department of Planning's BHI Compatibility Review is Insufficient

25. There is also a question regarding compatibility. As also noted, BCZR Sec. 432A.1.D is subject to a compatibility finding by the Department of Planning pursuant to County Code Sec. 32-4-402. This latter section sets the following criteria:

(d) *Compatibility objectives.* Subject to subsection (c) of this section, development of property shall be designed to achieve the following compatibility objectives in accordance with the guidelines in the comprehensive manual of development policies:

(1) The arrangement and orientation of the proposed buildings and site improvements are patterned in a similar manner to those in the neighborhood;

(2) The building and parking lot layouts reinforce existing building and streetscape patterns and assure that the placement of buildings and parking lots have no adverse impact on the neighborhood;

(3) The proposed streets are connected with the existing neighborhood road network wherever possible and the proposed sidewalks are located to support the functional patterns of the neighborhood;

(4) The open spaces of the proposed development reinforce the open space patterns of the neighborhood in form and siting and complement existing open space systems;

(5) Locally significant features of the site such as distinctive buildings or vistas are integrated into the site design;

(6) The proposed landscape design complements the neighborhood's landscape patterns and reinforces its functional qualities;

(7) The exterior signs, site lighting and accessory structures support a uniform architectural theme and present a harmonious visual relationship with the surrounding neighborhood; and

(8) The scale, proportions, massing, and detailing of the proposed buildings are in proportion to those existing in the neighborhood.

26. ALJ Mayhew found DOP satisfied the compatibility predicate with its finding "... that this 'is an ideal location for an assisted living facility like the one proposed.'" ALJ Opinion Page 3.

27. But the DOP never addressed the statutory compatibility objectives at all.

28. Furthermore, it is a mystery how this location could conceivably be such an ideal location. There is no offstreet parking. There is no open space. There is also a concern about density and overcrowding. The proposed ALF III would squeeze 32 residents, bathrooms, dining facilities, kitchen, common lounge area, offices, and maintenance in a

2-story building with 3,049 square feet per floor. The state regulations require a minimum of 120 square feet per resident. It looks like BHI would place 2 residents in each room, at about the bare minimum of 120 square feet.

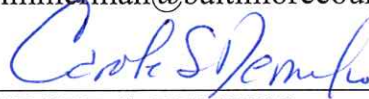
Declaration of Rights

For the foregoing reasons, People's Counsel requests the issuance of the following declaration of rights:

1. The BHI Petition for Special Hearing fails as a matter of law and must be denied because the proposed Assisted Living Facility (ALF) III is not permitted in the B.L. Zone at 8 Dunmanway.
2. The BHI Petition for Special Hearing fails as a matter of law and must be denied because the proposed ALF III does not provide the required usable offstreet parking spaces, and there is no exemption for properties in historic districts,
3. The BHI Petition for Special Hearing fails as a matter of law and must be denied because the proposed ALF III does not provide the required open space.
4. The BHI Petition for Special Hearing fails because the Department of Planning's compatibility finding is legally insufficient.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 26th day of June, 2020, that a copy of the foregoing People's Counsel for Baltimore County's Motion for Summary Declaratory Judgment was emailed to Mary Dilege, 3014 Duglow Road, Baltimore, Maryland 21222, marykdilege@gmail.com & John Gontrum, Esquire, & Jennifer Busse, Esquire, 1 W. Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, jgontrum@wtplaw.com, and jbusse@wtplaw.com, Attorney for Petitioner(s).



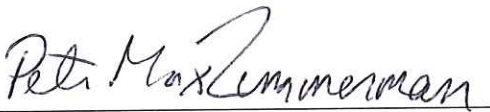
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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	*	2020-003-SPH

* * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S
REQUEST FOR HEARING ON MOTION FOR SUMMARY
DECLARATORY JUDGMENT

People's Counsel for Baltimore County requests a hearing on People's Counsel for Baltimore County's Motion for Summary Declaratory Judgment in the above-captioned case.


 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County


 CAROLE S. DEMILIO
 Deputy People's Counsel
 Jefferson Building
 105 West Chesapeake Avenue, Suite 204
 Towson, Maryland 21204
 410 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 26th day of June, 2020, that a copy of the foregoing People's Counsel for Baltimore County's Request for Hearing on Motion for Summary Declaratory Judgment was emailed to Mary Dilegge, 3014 Dunglew Road, Baltimore, Maryland 21222, marykdilegge@gmail.com & John Gontrum, Esquire, & Jennifer Busse, Esquire, 1 W. Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, jgontrum@wtplaw.com, and jbusse@wtplaw.com, Attorney for Petitioner(s).


 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

[Bill No. 149-1987]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below.

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

ACCESSORY APARTMENT — A second living quarters within a principal single-family detached dwelling or within an accessory building situated on the same lot as the principal single-family detached dwelling and in compliance with Section 400, with dedicated bathing and cooking facilities, and located on owner-occupied property, subject to the following:

[Bill No. 49-2011]

- A. The owner may occupy either the principal dwelling or the accessory apartment;
- B. The occupant(s) of the accessory apartment and the occupant(s) of the principal single-family detached dwelling shall be immediate family, related as grandparents, parents, or parents' children by blood, marriage or adoption;
- C. The accessory apartment is provided without compensation; and
- D. The accessory apartment, whether located within the principal dwelling or in the accessory building, shall comply with all laws, regulations, and codes affecting residential occupancy.

ACCESSORY BUILDING — One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE — A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use.

[Bill Nos. 100-1970; 26-1988] ^[1]

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.

[Bill Nos. 51-1993; 24-2002]

AIRPORT — Any area of land or water designed and set aside for landing or taking off of aircraft.

ALLEY — A right-of-way 20 feet or less in width, designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed, which provides service access for vehicles to the side or rear of abutting property.

AMATEUR ATHLETIC ASSOCIATION — A nonprofit association formed for the purpose of promoting and advancing amateur sports. Such use may include administrative offices; classrooms and other facilities for player, coach, and referee training; research facilities; meeting rooms and multiday conference facilities; exhibits; indoor or outdoor recreational space and fields, including accommodations for public spectators; and any similar activities related to the amateur sport.

[Bill No. 61-2012]

AMBULATORY — A roofed area, leading to but outside of the main entrance of a nonresidential building, which may be enclosed for purposes of energy conservation and which may be used only as a passageway.

[Bill No. 85-1983] ^[2]

AMENITY OPEN SPACE — The available open space on a lot minus the area used for vehicular traffic, maneuvering and parking. In addition to uncovered ground area, the term includes such usable uncovered open area of buildings suitably improved as open space and designated by the owner for the use of occupants or the public and, in enclosed malls in designated town centers, such usable covered open area of buildings, other than parking areas, suitably improved as open space and designated by the owner for the use of occupants or the public.

Covered open space includes exterior space which is open on its sides to weather, but not open above, and which is not in excess of twice the total area of the clear, open and unobstructed portions of the open and partially open sides. The areas of roofed porches, covered exterior balconies and exterior spaces covered by portions of buildings supported on columns or cantilevers, such as porticoes, loggia, arcades, breezeways or galleries, may be considered as covered open space if meeting the above-stated limitations.

Open ground area less than ten feet wide may not be designated amenity open space, except that a suitably planted area as little as seven feet wide may be so designated if that area is within a parking lot.

[Bill Nos. 111-1968; 167-1980; 115-1982]

AMENITY OPEN SPACE RATIO — The total amenity open space on a lot divided by the adjusted gross floor area of buildings on the lot.

[Bill No. 111-1968]

AMUSEMENT DEVICES — Pinball machines (with or without flippers), video games, electronic games and other similar player-operated amusement games, machines and devices, but excluding coin-operated pool tables, music boxes, children's rides and shuffleboards.

[Bill No. 29-1982]

ANIMAL BOARDING PLACE — Any building, other structure or land, or any portion thereof, that is used, intended to be used, or arranged for the boarding, breeding or other care of animals, except dogs, for profit. An animal boarding place does not include commercial agriculture, as defined in Section 101, or a pet shop, veterinarian's office or veterinarian.

[Bill Nos. 85-1967; 87-2001]

ANIMAL BOARDING PLACE, CLASS A — An animal boarding place exclusively for cats, birds or other household pets, excluding dogs.

[Bill Nos. 85-1967; 87-2001]

ANIMAL BOARDING PLACE, CLASS B — Any other animal boarding place not excluded under the general definition of "animal boarding place" above.

[Bill No. 85-1967] ^[3]

ANIMAL GROOMING FACILITY — A building used for the bathing, clipping, or grooming of household pets. No overnight care or boarding may be provided in the animal grooming facility. An animal grooming facility may be the sole use in a building or it may accompany a retail use, a veterinarian's office, a veterinarian or an animal boarding facility.

[Bill No. 93-2006]

ANTIQUÉ SHOP — A retail establishment for the sale of goods of a type that are often purchased by collectors and that may include furniture, pottery, glassware, jewelry, linens, tools, artworks and books which were manufactured at least 20 years in the past. Antique shop includes the outside display of merchandise offered for sale in front of the establishment on the same lot within five feet of the front porch or front building facade.

[Bill Nos. 73-2000; 74-2000]

ARBORIST, LICENSED — A person or business, licensed by the State of Maryland, and licensed as a tree expert in accordance with the requirements of the Natural Resources Article of the Annotated Code of Maryland, who cares for, maintains, plants, trims, or removes trees from commercial, residential, or public lands, and who keeps and maintains the commercial vehicles and equipment necessary to carry out that purpose.

[Bill No. 23-2017]

ARCADE — A building or part of a building in which five or more pinball machines, video games or other similar player-operated amusement devices are maintained.

[Bill No. 29-1982]

AREA, NET — Land area not including area of land in public streets or other fee-simple public rights-of-way.

[Bill No. 40-1967]

ARTERIAL STREET — A motorway or portion thereof which: is or is intended for travel to or from major employment centers, such as town centers; has or is intended to have, four or more lanes for moving traffic; is or is intended to be designed for traffic speeds of at least 40 miles per hour; has or is intended to have a right-of-way at least 66 feet wide; is not a freeway or an expressway; and has been designated as an arterial street (or as a boulevard or thoroughfare) by the Planning Board.

[Bill No. 40-1967]

ASSISTED-LIVING FACILITY — A building, or section of a building, that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination thereof, to meet the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living and which is licensed as an assisted-living program as defined under Title 19, Subtitle 18 of the Health-General Article, Annotated Code of Maryland. For the purposes of this definition, if a resident lives in a room or apartment providing complete kitchen facilities intended for the daily preparation of meals by or for that resident, the unit shall not be considered an assisted-living facility. Density for such facilities shall be calculated at 0.25 for each bed.

[Bill Nos. 36-1988; 188-1993; 19-2004]

A. ASSISTED-LIVING FACILITY I — An assisted-living program which:

1. Is located in a structure which was built at least five years before the date of application;
2. Was not enlarged by 25 percent or more of ground floor area within the five years before the date of application; and
3. Which accommodates fewer than eight resident clients.

B. ASSISTED-LIVING FACILITY II — An assisted-living program which:

1. Is located in a structure which was built at least five years before the date of application;
2. Was not enlarged by 25 percent or more of ground floor area within the five years before the date of application; and
3. Accommodates between eight and 15 resident clients.

C. ASSISTED-LIVING FACILITY III — An assisted-living program which:

1. Will accommodate more than 15 resident clients; and
2. Will be in a structure which was built or enlarged by more than 25 percent of ground floor area less than five years before the date of application; or
3. Will be in a structure which will be newly constructed or enlarged by more than 25 percent of ground floor area for the assisted-living program.

BALTIMORE COUNTY CODE — The Baltimore County Code of 2003, as amended.

[Bill No. 137-2004]

BANK — The term "bank" includes bank station, building and loan association, savings and loan association, credit union and similar chartered financial institutions. The term also includes automatic teller machines or banking devices and drive-through banking facilities, except as limited by the use listing in any zone where a bank is permitted.

[Bill Nos. 13-1980; 191-1990]

BASEMENT — That portion of a building below the first floor, the floor of which is less than one-half of the height of the room below the average grade of the adjoining ground. (See definitions of "cellar" and "story.") ^[4]

BED-AND-BREAKFAST INN — A tourist home that provides rooms for paying guests on an overnight basis for periods not to exceed 14 days, with breakfast being available on the premises at no additional cost. A bed-and-breakfast inn is allowable in a building originally constructed as a one-family dwelling that has historic value or significance, and may include accessory structures.

Footnotes:

--- (1) ---

1. 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.

§ 432A.1. - Permitted zones; conditions for use.

A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M. and OR-2 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. In a D.R. Zone, an assisted-living facility I or II is not permitted within 1,000 feet of another property with an existing assisted-living facility I or II or another property for which an application for a use permit has been filed for an assisted-living facility I or II.

[Bill No. 45-2017⁽²⁾]

4. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A., B.L. Zone in the Pikesville Commercial Revitalization District, or B.M. Zone by use permit. An assisted-living facility III is permitted in the OR-2 Zone by special exception and is limited by the use, area and bulk regulations of the D.R.10.5 Zone. A facility located in an R.O. Zone is also subject to review by the design review panel for compatibility with surrounding uses.

[Bill No. 47-2019]

5. 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 ten 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 ten percent of the lot shall be used to provide useable, contiguous and private open space.
- D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-402 of the Baltimore County Code in accordance with this paragraph. A compatibility study is required for all assisted-living facility projects located in the D.R., R.O., R.O.A., O.R.-2, or R.A.E. Zone. For assisted-living facility projects located in the B.L., B.M., or B.R. Zone, a compatibility study is required only for projects that are not otherwise subject to review by the design review panel.

[Bill No. 47-2019]

- 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.
- F. Assisted-living facilities and housing for the elderly are permitted by right within the boundaries of a state-designated transit-oriented development in the C.T. District of Owings Mills and not subject to any of the requirements contained in this section.

[Bill No. 16-2015]

Footnotes:

--- (2) ---

2. Editor's Note—This bill also provided for the renumbering of former Subsection A.3 and 4 as Subsection A.4 and 5, respectively.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2004, Legislative Day No. 5

Bill No. 19-04

Councilmembers Kamenetz, Moxley, McIntire, Oliver, Bartenfelder & Olszewski

By the County Council, March 1, 2004

A BILL
ENTITLED

AN ACT concerning

Planned Unit Developments

FOR the purpose of amending the Baltimore County Zoning Regulations in order to revise the procedures governing the submission, review and approval of planned unit developments; amending the regulations concerning certain types of housing for the elderly; amending certain definitions in the Zoning Regulations and in the Taxation Article; adding definitions in the Zoning Regulations; establishing a new class of residential planned unit development for senior housing (PUD-E); permitting certain uses by right; permitting certain uses by special exception; establishing guidelines and standards for a PUD-E; establishing guidelines and standards for assisted living facilities; correcting certain references; eliminating the requirements for the submission of an annual map for the PUD-C process; amending certain tax credit provisions relating to senior housing developments; eliminating the distinction between classes of residential planned unit developments; and generally relating to the regulation of certain types of housing for the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

elderly and the manner of the submission, review and approval of all planned unit developments.

BY repealing

Section 101, Definitions, the definitions of "Assisted Living Facility", and "Elderly Housing Facility"
Baltimore County Zoning Regulations, as amended

BY adding

Section 101, Definitions, the definitions of "Assisted Living Facility" and "Senior Housing"
Baltimore County Zoning Regulations, as amended

BY repealing

Sections 1B01.1.A.1.e., 1B01.1.C.25, 26, 27 and 28, 430.3B and C, 430.4B.1.b., B.2.b., B.3.b. and B.4.b., 430.10, 432, 440.6A. and 440.7C.
Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Sections 1B02.2.A., 430.1A, 430.2C, 430.3E., 430.7, 430.8, 430.9, 430.11, 440.2C., 440.2F.3, 440.3B., ~~440.4E.~~ 440.4A. and E., 440.5C., 440.6C., 440.7B. and 440.8
Baltimore County Zoning Regulations, as amended

BY adding

Sections ~~432~~ 432A and 433
Baltimore County Zoning Regulations, as amended

BY repealing

Section 32-4-241 to 32-4-245
Article 32. Planning, Zoning and Subdivision Control
Title 4 - Development
Subtitle 2 - Development Review and Approval Process
Baltimore County Code 2003

BY adding

Sections 32-4-241 to 32-4-246
Article 32. Planning, Zoning and Subdivision Control
Title 4 - Development
Subtitle 2 - Development Review and Approval Process
Baltimore County Code 2003

BY repealing

Section 32-3-204

Article 32. Planning, Zoning and Subdivision Control

Title 3 - Zoning

Subtitle 2 - Zoning Process

Baltimore County Code 2003, as amended by Bill 59-03

BY repealing and re-enacting, with amendments

Section 32-4-232(f)

Article 32. Planning, Zoning and Subdivision Control

Title 4 - Development

Subtitle 2 - Development Review and Approval Process

Baltimore County Code 2003

BY repealing and re-enacting, with amendments

Section 11-2-202(a)(4)

Article 11 - Taxation

Title 2 - Ad Valorem Taxes

Subtitle 2 - Property Tax Credits for Improvements

Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 101 - Definitions, the definitions of Assisted Living
3 Facility, and Elderly Housing Facility, of the Baltimore County Zoning Regulations, as amended,
4 be and they are hereby repealed.

5 SECTION 2. AND BE IT FURTHER ENACTED, that the definitions of Assisted Living
6 Facility and Senior Housing be and they are hereby added, alphabetically, to Section 101 -
7 Definitions, of the Baltimore County Zoning Regulations, as amended, to read as follows:

8 SECTION 101. Definitions.

9 ASSISTED LIVING FACILITY:

10 A BUILDING, OR SECTION OF A BUILDING, THAT PROVIDES HOUSING AND

1 SUPPORTIVE SERVICES, SUPERVISION, PERSONALIZED ASSISTANCE, HEALTH-
2 RELATED SERVICES, OR A COMBINATION THEREOF, TO MEET THE NEEDS OF
3 INDIVIDUALS WHO ARE UNABLE TO PERFORM OR WHO NEED ASSISTANCE IN
4 PERFORMING THE ACTIVITIES OF DAILY LIVING AND WHICH IS LICENSED AS AN
5 ASSISTED LIVING PROGRAM AS DEFINED UNDER TITLE 19, SUBTITLE 18 OF THE
6 HEALTH-GENERAL ARTICLE, ANNOTATED CODE OF MARYLAND. FOR THE
7 PURPOSES OF THIS DEFINITION, IF A RESIDENT LIVES IN A ROOM OR APARTMENT
8 PROVIDING COMPLETE KITCHEN FACILITIES INTENDED FOR THE DAILY
9 PREPARATION OF MEALS BY OR FOR THAT RESIDENT, THE UNIT SHALL NOT BE
10 CONSIDERED AN ASSISTED LIVING FACILITY. DENSITY FOR SUCH FACILITIES
11 SHALL BE CALCULATED AT 0.25 FOR EACH BED.

12 ASSISTED LIVING FACILITY I: AN ASSISTED LIVING PROGRAM WHICH:

- 13 1) IS LOCATED IN A STRUCTURE WHICH WAS BUILT AT LEAST FIVE
14 YEARS BEFORE THE DATE OF APPLICATION,
15 2) WAS NOT ENLARGED BY 25% OR MORE OF GROUND FLOOR AREA
16 WITHIN THE FIVE YEARS BEFORE THE DATE OF APPLICATION; AND
17 3) WHICH ACCOMMODATES FEWER THAN 8 RESIDENT CLIENTS.

18 ASSISTED LIVING FACILITY II: AN ASSISTED LIVING PROGRAM WHICH:

- 19 1) IS LOCATED IN A STRUCTURE WHICH WAS BUILT AT LEAST FIVE
20 YEARS BEFORE THE DATE OF APPLICATION,
21 2) WAS NOT ENLARGED BY 25% OR MORE OF GROUND FLOOR AREA
22 WITHIN THE FIVE YEARS BEFORE THE DATE OF APPLICATION; AND

1 3) WHICH ACCOMMODATES BETWEEN 8 AND 15 RESIDENT CLIENTS.
2 ASSISTED LIVING FACILITY III: AN ASSISTED LIVING PROGRAM WHICH:

3 1) WILL ACCOMMODATE MORE THAN 15 RESIDENT CLIENTS,
4 AND

5 2) WILL BE IN A STRUCTURE WHICH WAS BUILT OR ENLARGED
6 BY MORE THAN 25% OF GROUND FLOOR AREA LESS THAN FIVE YEARS BEFORE
7 THE DATE OF APPLICATION, OR

8 3) WILL BE IN A STRUCTURE WHICH WILL BE NEWLY CONSTRUCTED
9 OR ENLARGED BY MORE THAN 25% OF GROUND FLOOR AREA FOR THE ASSISTED
10 LIVING PROGRAM.

11 SENIOR HOUSING FACILITY:

12 A BUILDING, A SECTION OF A BUILDING OR A GROUP OF BUILDINGS THAT
13 CONTAINS DWELLINGS THAT RESTRICT OCCUPANCY TO PERSONS 60 YEARS OF
14 AGE OR OLDER OR TO COUPLES IF EITHER THE HUSBAND OR WIFE IS 60 YEARS
15 OF AGE OR OLDER. THE TERM INCLUDES A CONTINUING CARE FACILITY; OR A
16 NURSING HOME ~~OR AN ASSISTED LIVING FACILITY III~~. THE TERM DOES NOT
17 INCLUDE A SINGLE-FAMILY DWELLING OR A TOWNHOUSE.

18 SECTION 3. AND BE IT FURTHER ENACTED, that Sections 1B01.1.A.1.e.,
19 1B01.1.C.25, 26, 27 and 28, 430.3B AND C, 430.4B.1.b., B.2.b., B.3.b. and B.4.b., 430.10, 432,
20 440.6A. and 440.7C. of the Baltimore County Zoning Regulations, as amended, be and they are
21 hereby repealed.

1 indicated. The [hearing officer's] PLANNING BOARD'S approval of the number and types of
2 commercial vehicles, access routes and hours of delivery shall constitute a condition and may not
3 be changed except by amendment of the PUD-C.

4 440.7 Mitigation of Impact.

5 B. Such mitigation may include actual improvements or contributions towards such
6 improvements, on-site or off-site, as determined by the [hearing officer] PLANNING BOARD,
7 as long as the improvements or contribution required are directly and proportionately related to
8 the mitigation of adverse impacts of the PUD-C itself.

9 440.8 Review. Proposals for a PUD-C shall be submitted and reviewed in accordance
10 with the procedures [specified in Section 430.11.] OF SECTIONS 32-4-241 TO 32-4-246 OF
11 THE BALTIMORE COUNTY CODE.

12 SECTION 5. AND BE IT FURTHER ENACTED, that Sections ~~432~~ 432A and 433 be
13 and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as
14 follows:

15 SECTION ~~432~~ 432A. ASSISTED LIVING FACILITY: HOUSING FOR THE
16 ELDERLY.

17 A. AN ASSISTED LIVING FACILITY IS PERMITTED IN THE D.R., R.O. ~~AND~~
18 ~~R.O.A.~~ , R.O.A., R.A.E., B.R. AND B.M. ZONES AS FOLLOWS:

19 ~~1. AN ASSISTED LIVING FACILITY IS PERMITTED AS A MATTER OF~~
20 ~~RIGHT.~~

21 ~~2. AN ASSISTED LIVING FACILITY IS PERMITTED AS A MATTER OF~~

1 ~~RIGHT IF IT HAS FRONTAGE ON A PRINCIPAL ARTERIAL STREET.~~

2 ~~3. AN ASSISTED LIVING FACILITY III IS PERMITTED AS A MATTER OF~~
3 ~~RIGHT IN AN R.O. OR R.O.A. ZONE.~~

4 ~~4. AN ASSISTED LIVING FACILITY III IS PERMITTED BY SPECIAL~~
5 ~~EXCEPTION IN A D.R. ZONE IF IT HAS FRONTAGE ON A PRINCIPAL ARTERIAL~~
6 ~~STREET.~~

7 1. AN ASSISTED LIVING FACILITY I IS PERMITTED BY USE PERMIT.

8 2. AN ASSISTED LIVING FACILITY II IS PERMITTED BY USE PERMIT IF
9 IT HAS FRONTAGE ON A PRINCIPAL ARTERIAL STREET.

10 3. AN ASSISTED LIVING FACILITY III IS PERMITTED IN A D.R.16, R.A.E.,
11 R.O., R.O.A. OR B.M. ZONE BY USE PERMIT. A FACILITY LOCATED IN A R.O. ZONE
12 IS ALSO SUBJECT TO REVIEW BY THE DESIGN REVIEW PANEL FOR
13 COMPATIBILITY WITH SURROUNDING USES.

14 4. HOUSING FOR THE ELDERLY IS PERMITTED BY RIGHT IN R.A.E.
15 ZONES.

16 B. EXCEPT FOR THE SIGNS PERMITTED BY SECTION 450, NO OTHER SIGNS
17 OR DISPLAYS OF ANY KIND VISIBLE FROM THE OUTSIDE ARE PERMITTED.

18 C. OFF-STREET PARKING SHALL BE PROVIDED IN ACCORDANCE WITH
19 SECTION 409 AND SUBJECT TO THE FOLLOWING CONDITIONS, BUT NO PARKING
20 STRUCTURE IS PERMITTED EXCEPT FOR A RESIDENTIAL GARAGE AS DEFINED IN
21 SECTION 101.

22 1. PARKING SHALL BE SET BACK AT LEAST 10 FEET FROM THE

1 PROPERTY LINE, EXCEPT THAT IF THE PROPERTY LINE ABUTS AN ALLEY, NO
2 SETBACK IS REQUIRED IF THE ALLEY DOES NOT ABUT THE FRONT OR REAR
3 YARD OF A RESIDENTIALLY-USED PROPERTY.

4 2. PARKING AND DELIVERY AREAS SHALL BE LOCATED IN THE SIDE
5 OR REAR ONLY.

6 3. AT LEAST 10% OF THE LOT SHALL BE USED TO PROVIDE
7 USEABLE, CONTIGUOUS AND PRIVATE OPEN SPACE.

8 D. AN ASSISTED LIVING FACILITY IS SUBJECT TO A COMPATIBILITY
9 FINDING PURSUANT TO SECTION 32-4-402 OF THE BALTIMORE COUNTY CODE.

10 ~~E. AN ASSISTED LIVING FACILITY IS NOT PERMITTED IN ANY COUNTY OR~~
11 ~~NATIONAL REGISTER HISTORIC DISTRICT.~~

12 E. AN ASSISTED LIVING FACILITY LOCATED IN A COUNTY HISTORIC
13 DISTRICT IS ALSO SUBJECT TO REVIEW BY THE LANDMARKS PRESERVATION
14 COMMISSION IN THE SAME MANNER AS OTHER BUILDINGS LOCATED IN A
15 HISTORIC DISTRICT.

16 Section 433

17 PLANNED UNIT DEVELOPMENT - ELDERLY (PUD-E)

18 433.1 DEFINITIONS.

19 AS USED IN THIS SECTION, "PUD - E" MEANS A PLANNED UNIT
20 DEVELOPMENT COMPRISED OF SENIOR HOUSING AND PERMITTED ACCESSORY
21 USES. THE PUD-E IS NEITHER A ZONE NOR A DISTRICT. IT IS AN OPTIONAL
22 APPROVAL PROCESS THAT THE PLANNING BOARD MAY APPLY TO PROPOSED

1 Improvements, Baltimore County Code 2003, be and it is hereby repealed and re-enacted, with
2 amendments, to read as follows:

3 Section 11-2-202. Revitalization Property Tax Credit.

4 a. In this section, the following words have the meanings indicated.

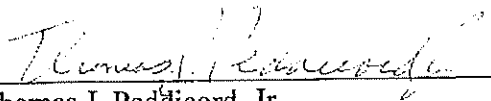
5 4. "Senior Housing Development" means a housing development restricted to
6 seniors, age [55] 60 or older, and located within an approved planned unit development as
7 provided in the Baltimore County Zoning Regulations.

8 SECTION 11. AND BE IT FURTHER ENACTED, that this Act shall take effect 45
9 days after its enactment and shall not apply to any concept plan accepted for filing prior to the
10 effective date of this Act.

AMENDED.B01904.b11

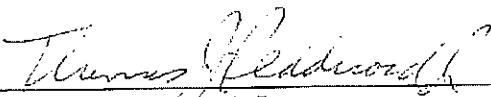
READ AND PASSED this 5th day of April, 2004.

BY ORDER



Thomas J. Peddicord, Jr.
Secretary

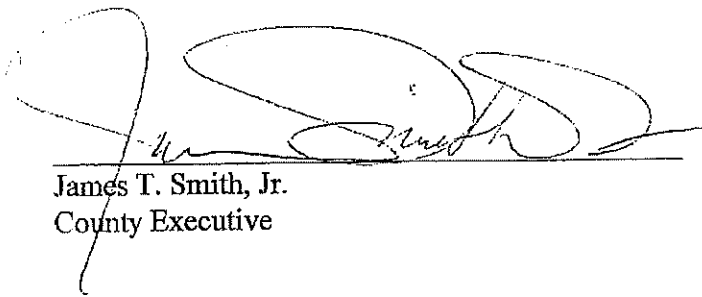
PRESENTED to the County Executive for his approval this 6th day of April, 2004.



Thomas J. Peddicord, Jr.
Secretary

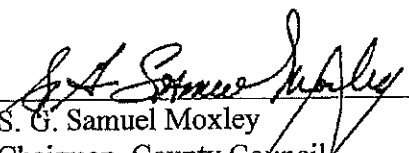
APPROVED AND ENACTED:

4-14-04



James T. Smith, Jr.
County Executive

I HEREBY CERTIFY THAT BILL NO. 19-04 IS TRUE AND CORRECT AND TOOK
EFFECT ON MAY 29, 2004.



S. G. Samuel Moxley
Chairman, County Council

Councilmembers Kamenetz, Moxley, McIntire, Oliver & Bartenfelder

Planned Unit Developments

This bill proposes to amend the County Code and the Zoning Regulations in order to revise and consolidate the review of all proposed planned unit developments. It also creates a new form of planned unit development for elderly housing.

The current process for the review and approval of residential planned unit developments (PUD-R) was created by Bill 3-92 pursuant to a Planning Board report. The process for the review of commercial PUDs (PUD-C) was created by Bill 47-94, again pursuant to a Planning Board report. Both types of PUDs require Planning Board review, and, in the case of the PUD-C, Council approval of the sites via the adoption of an annual PUD-C map.

Several years ago, the Council asked the Planning Board to review the County's laws governing housing facilities for the elderly (Res. 61-96). The Board issued two reports in 1997 that recommended, among other things, a revision of the PUD review process to include a new form of planned unit development for housing for the elderly.

Bill 19-04 creates a new PUD-E for senior housing and consolidates the review of all planned unit developments (PUD-R, PUD-C and PUD-E) under the Planning Board with a limited review of the development plan by the hearing officer following Planning Board approval. However, a PUD application is initially filed with the County Council. It is only after Council approval of the PUD site, following a public hearing and adoption of a Resolution of approval, that the concept plan may be filed with the Office of Planning for transmittal to the Planning Board.

The key elements of the bill are as follows:

- Elderly housing is divided into two types: assisted living facilities (typically, these are homes converted to accommodate small numbers of people who need help with daily living) and senior housing (structures for large groups of people age 60 and over, such as a continuing care facility, nursing home, or the largest types of assisted living facilities).

- Assisted living facilities are permitted in residential zones either as of right or by special exception depending upon the number of residents. Senior housing is permitted in any zone as a Planned Unit Development (PUD-E).
- The review of all PUDs (residential, commercial and elderly) is consolidated into a uniform process that requires County Council approval of the PUD site (by Resolution adopted after two-week notice and a work session) followed by a comprehensive review by the Planning Board and hearing officer approval. If the Council approves the site and the Planning Board approves the plan of development, the hearing officer is bound by the Planning Board's decision. The traditional role of the hearing officer is diminished in this new PUD process.
- The annual review of a PUD-C map is repealed, and there is no longer a classification of PUD-Rs by amount of acreage.
- The PUD-R is permitted in any residential zone with a minimum tract size of five acres lying within the URDL. The PUD-C is permitted in specified non-residential zones.
- After Council approval of a PUD site, a concept plan and pattern book are filed with the Office of Planning which must file its report with the Planning Board within 30 days after the CIM. The Planning Board must act within 45 days after receipt of the Office of Planning report.
- The Planning Board may waive or alter the height, area, setback, parking, open space, sign or other requirements of the underlying zone or zones, and permitted uses may be distributed throughout the PUD tract without regard to zone boundary.
- The Planning Board may increase the density of an elderly Planned Unit Development if affordable housing is provided (the eligibility basis is income below 60% of the median established by designated state and federal agencies). The size of the density bonus varies depending upon the number of affordable residential rental units provided in the PUD (the greater number of units provided, the greater the potential bonus). The density bonus is not available if the elderly PUD is in a R.A.E. zone.

- The hearing officer may deny a development plan only upon a finding that the decision of the Planning Board constituted an abuse of its discretion.
- The County Council may overrule the Planning Board decision on a PUD project.

Amendments will be offered to the Bill in order to clarify that a proposed PUD is subject to the existing development review process, including the community input meeting, agency review, etc. The only change to the process is that the Planning Board will give the public notice, post the property, and hold the public hearing on the proposed PUD, whereas the hearing officer's review is more limited than under current law.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 6

Bill No. 32-06

Mr. Kenneth N. Oliver, Councilman

By the County Council, March 20, 2006

A BILL
ENTITLED

AN ACT concerning

Assisted Living Facilities

FOR the purpose of permitting an Assisted Living Facility III in the OR-2 Zones of the County
under certain conditions; repealing an obsolete provision; and generally relating to assisted
living facilities.

BY repealing and re-enacting, with amendments

Section 432A
Baltimore County Zoning Regulations, as amended

BY repealing

Section 1A04.2A.4
Baltimore County Zoning Regulations, as amended

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 432A of the Baltimore County Zoning Regulations, be
3 and it is hereby repealed and re-enacted, with amendments, to read as follows:

EXPLANATION:	CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter stricken from existing law. Strike out indicates matter stricken from bill. <u>Underlining</u> indicates amendments to bill.
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1 Section 432A, Assisted-Living Facility; Housing for the Elderly

2 A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R., [and]
3 B.M. AND OR-2 Zones as follows:

4 1. An assisted-living facility I is permitted by use permit.

5 2. An assisted-living facility II is permitted by use permit if it has frontage on a
6 principal arterial street.

7 3. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A. or B.M.
8 Zone by use permit. AN ASSISTED LIVING FACILITY III IS PERMITTED IN THE OR-2 ZONE BY
9 SPECIAL EXCEPTION AND IS LIMITED BY THE USE, AREA AND BULK REGULATIONS OF
10 THE D.R. 10.5 ZONE. A facility located in a R.O. Zone is also subject to review by the design review
11 panel for compatibility with surrounding uses.

12 4. Housing for the elderly is permitted by right in R.A.E. Zones.

13 B. Except for the signs permitted by Section 450, no other signs or displays of any kind visible
14 from the outside are permitted.

15 C. Off-street parking shall be provided in accordance with Section 409 and subject to the
16 following conditions, but no parking structure is permitted except for a residential garage as defined in
17 Section 101.

18 1. Parking shall be set back at least 10 feet from the property line, except that if the
19 property line abuts an alley, no setback is required if the alley does not abut the front or rear yard of a
20 residentially used property.

21 2. Parking and delivery areas shall be located in the side or rear only.

22 3. At least 10% of the lot shall be used to provide useable, contiguous and private open space.

23 D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-402 of
24 the Baltimore County Code.

1 E. An assisted-living facility located in a County historic district is also subject to review by the
2 Landmarks Preservation Commission in the same manner as other buildings located in a historic district,

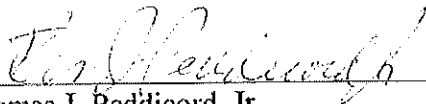
3 SECTION 2. AND BE IT FURTHER ENACTED, that Section 1A04.2A.4 of the Baltimore
4 County Zoning Regulations, as amended, be and it is hereby repealed, retroactive to May 29, 2004.

5 SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days after its
6 enactment.

b03206.wpd

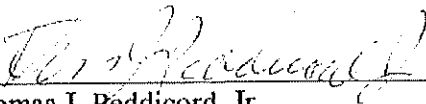
READ AND PASSED this 17TH day of APRIL, 2006.

BY ORDER



Thomas J. Peddicord, Jr.
Secretary

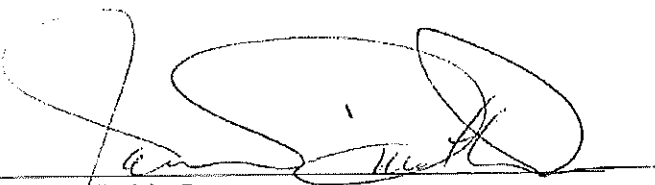
PRESENTED to the County Executive for his approval this 18TH day of APRIL, 2006.



Thomas J. Peddicord, Jr.
Secretary

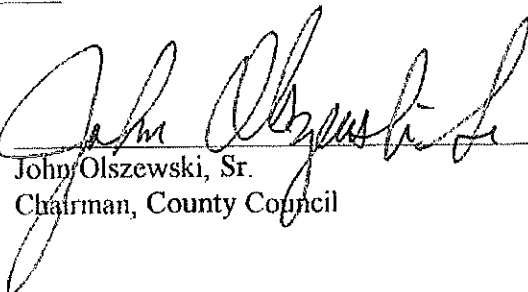
APPROVED AND ENACTED:

April 19, 2006



James T. Smith, Jr.
County Executive

I HEREBY CERTIFY THAT BILL NO. 32-06 IS TRUE AND CORRECT AND TOOK
EFFECT ON June 3, 2006.



John Olszewski, Sr.
Chairman, County Council

Bill 32-06

Council District(s) All

Mr. Oliver

Zoning Regulations - Assisted Living Facilities

Bill 32-06 amends the Zoning Regulations to permit an Assisted Living Facility III in an OR-2 Zone by special exception.

Bills 19-04 and 130-05 substantially revised the County's laws dealing with elderly housing facilities. These facilities are now divided into two types: senior housing, which is permitted in certain zones as a planned unit development, and assisted living facilities, which are permitted in residential zones and some business zones depending upon the number of residents.

An assisted living facility III is the largest of this type of facility; it is designed to accommodate more than 15 clients and is permitted in the DR 16, RAE, RO, ROA and BM Zones by use permit. The purpose of Bill 32-06 is to permit this facility in the OR-2 Zone by special exception.

The bill also repeals an obsolete reference in the Zoning Regulations.

This bill shall take effect 45 days after its enactment.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 12

Bill No. 45-17

Mrs. Cathy Bevins, Councilwoman

By the County Council, July 3, 2017

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations – Assisted-Living Facilities

FOR the purpose of limiting the proximity of assisted-living facilities I and II to other such facilities; and generally relating to the location of assisted-living facilities.

BY repealing and re-enacting, with amendments
Article 4 – Special Regulations
Section 432A.1.A
Baltimore County Zoning Regulations

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

ARTICLE 4 – Special Regulations

§ 432A. Assisted-Living Facility; Housing for the Elderly

§ 432A.1 Permitted zones; conditions for use.

A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M., and OR-2 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. IN A D.R. ZONE, AN ASSISTED-LIVING FACILITY I OR II IS NOT PERMITTED WITHIN 1,000 FEET OF ANOTHER PROPERTY WITH AN EXISTING ASSISTED-LIVING FACILITY I OR II OR ANOTHER PROPERTY FOR WHICH AN APPLICATION FOR A USE PERMIT HAS BEEN FILED FOR AN ASSISTED-LIVING FACILITY I OR II.

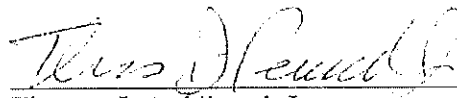
[3] 4. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A., or B.M. Zone by use permit. An assisted-living facility III is permitted in the OR-2 Zone by special exception and is limited by the use, area and bulk regulations of the D.R.10.5 Zone. A facility located in an R.O. zone is also subject to review by the design review panel for compatibility with surrounding uses.

[4] 5. Housing for the elderly is permitted by right in R.A.E. Zones.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on August 21, 2017.

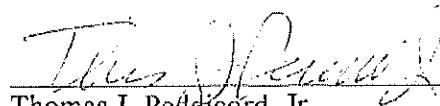
READ AND PASSED this 7th day of AUGUST, 2017.

BY ORDER



Thomas J. Peddicord, Jr.
Secretary

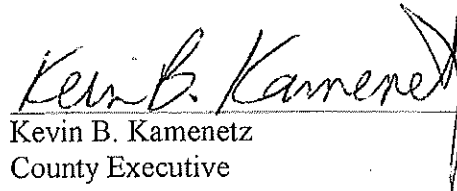
PRESENTED to the County Executive for his approval this 8th day of AUGUST, 2017.



Thomas J. Peddicord, Jr.
Secretary

APPROVED AND ENACTED:

August 9, 2017



Kevin B. Kamenetz
County Executive

I HEREBY CERTIFY THAT BILL NO. 45-17 IS TRUE AND CORRECT AND TOOK

EFFECT ON August 21, 2017



Tom Quirk
Chairman, County Council

Bill 45-17

Council District(s) All

Mrs. Bevins

Zoning Regulations – Assisted-Living Facilities

Bill 45-17 proposes to limit the proximity of assisted-living facilities I and II to other such facilities in Baltimore County.

Generally, an assisted-living facility is defined as "a building, or section of a building, that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination thereof, to meet the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living and which is licensed as an assisted-living program as defined under Title 19, Subtitle 18 of the Health-General Article, Annotated Code of Maryland. For the purposes of this definition, if a resident lives in a room or apartment providing complete kitchen facilities intended for the daily preparation of meals by or for that resident, the unit shall not be considered an assisted-living facility. Density for such facilities shall be calculated at 0.25 for each bed."

Currently, assisted-living facilities are permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M. and OR-2 Zones. In addition, there are three "levels" of assisted-living facilities (ALF's) in the County. Essentially, an ALF I allows for up to 7 residents; an ALF II allows for between 8 and 15 residents; and an ALF III allows for more than 15 residents. Whether permitted by use permit or by special exception depends on the Zone and the level of ALF proposed.

Bill 45-17 does not limit the number of facilities or the zones in which assisted-living facilities may be located. Rather, the bill limits the "clustering" of such facilities in D.R. Zones by not permitting an ALF I or II in the D.R. Zones within 1,000 feet of another property with an existing ALF I or II or another property for which an application for a use permit has been filed for an ALF I or II.

With the affirmative vote of five members of the County Council and signature by the County Executive, Bill 45-17 will take effect on August 21, 2017.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2019, Legislative Day No. 15

Bill No. 47-19

Mr. Izzy Patoka, Councilman

By the County Council, September 16, 2019

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations – Assisted-Living Facilities

FOR the purpose of allowing assisted-living facilities by right in a Business, Local (B.L.) Zone within the boundaries of the Pikesville Commercial Revitalization District; and generally relating to assisted-living facilities.

BY repealing and re-enacting, with amendments

Sections 432A.1.A and 432A.1.D.
Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:
3

4 ARTICLE 4 - SPECIAL REGULATIONS

5 SECTION 432A - Assisted-Living Facility; Housing for the Elderly

6 § 432A.1. - Permitted zones; conditions for use.

7 A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.L., B.R.,
8 B.M. and OR-2 Zones as follows:

9 1. An assisted-living facility I is permitted by use permit.

10 2. An assisted-living facility II is permitted by use permit if it has frontage on a
11 principal arterial street.

12 3. In a D.R. Zone, an assisted-living I or II is not permitted within 1,000 feet of
13 another property with an existing assisted-living facility I or II or another property for which an
14 application for a use permit has been filed for an assisted-living facility I or II.

15 4. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A., B.L.
16 ZONE IN THE PIKESVILLE COMMERCIAL REVITALIZATION DISTRICT, or B.M. Zone
17 by use permit. An assisted-living facility III is permitted in the OR-2 Zone by special exception
18 and is limited by the use, area and bulk regulations of the D.R.10.5 Zone. A facility located in an
19 R.O. Zone is also subject to review by the design review panel for compatibility with
20 surrounding uses.

21 5. Housing for the elderly is permitted by right in R.A.E. Zones.

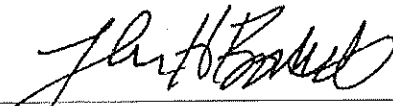
22 D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-
23 402 of the Baltimore County Code IN ACCORDANCE WITH THIS PARAGRAPH. A

1 COMPATIBILITY STUDY IS REQUIRED FOR ALL ASSISTED-LIVING FACILITY
2 PROJECTS LOCATED IN THE D.R., R.O., R.O.A., O.R.-2, OR R.A.E. ZONE. FOR
3 ASSISTED-LIVING FACILITY PROJECTS LOCATED IN THE B.L., B.M., OR B.R. ZONE,
4 A COMPATIBILITY STUDY IS REQUIRED ONLY FOR PROJECTS THAT ARE NOT
5 OTHERWISE SUBJECT TO REVIEW BY THE DESIGN REVIEW PANEL.

6
7 SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by
8 the affirmative vote of five members of the County Council, shall take effect on November 4,
9 2019.

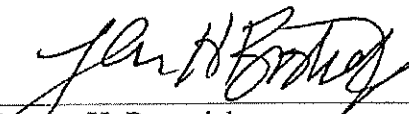
READ AND PASSED this 21st day of OCTOBER, 2019.

BY ORDER



Thomas H. Bostwick
Secretary

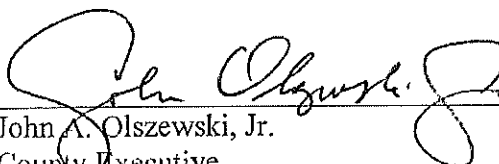
PRESENTED to the County Executive for his approval this 22nd day of OCTOBER, 2019.



Thomas H. Bostwick
Secretary

APPROVED AND ENACTED:

October 28, 2019



John A. Olszewski, Jr.
County Executive

I HEREBY CERTIFY THAT BILL NO. 47-19 IS TRUE AND CORRECT AND TOOK
EFFECT ON November 4, 2019.



Tom Quirk
Chairman, County Council

Bill 47-19

Council District(s) All

Mr. Patoka

Zoning Regulations – Assisted-Living Facilities

Bill 47-19 proposes to amend the Zoning Regulations regarding assisted-living facilities. Under current law, assisted-living facilities are permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M., and O.R.-2 Zones. The Bill adds the B.L. Zone to the list of permitted zones for assisted-living facilities. However, depending on the category of assisted-living facility (I, II, or III), additional restrictions apply. The Bill provides that in the B.L. Zone, an assisted-living facility III is permitted only in the Pikesville Commercial Revitalization District.

The Bill also modifies the requirement that some assisted-living facilities are subject to a compatibility study by the Design Review Panel. Under current law, a compatibility study is required only for assisted-living facilities within Design Review Areas. The Bill requires a compatibility study for all assisted-living facility projects located in the D.R., R.O., R.O.A., O.R.-2, or R.A.E. Zones. For assisted-living facility projects located in the B.L., B.M., or B.R. Zones, a compatibility study is required only for projects that are not otherwise subject to review by the Design Review Panel.

With the affirmative vote of five members of the County Council, Bill 47-19 will take effect November 4, 2019.

Baltimore County - My Neighborhood





APPEAL

**Petition for Special Hearing
(8 Dunman Way)
12th Election District – 7th Councilmanic District
Legal Owner: Bolton Hill Investments, LLC**

Case No. 2020-0003-SPH

Petition for Variance Hearing (January 6, 2020)

Zoning Description of Property

Certificate of Posting –

1st Posting- February 11, 2020 (Martin Ogle)

2nd Posting- Re-Certification- March 1, 2020 (Martin Ogle)

Newspaper Advertisement – February 12, 2020- The Daily Record

Notice of Zoning Hearing – January 29, 2020

People's Counsel Entry of Appearance –January 15, 2020

Zoning Advisory Committee Comments

Petitioner's Sign-in Sheets – one sheet

Citizen's Sign-in Sheets- one sheet

Petitioner(s) Exhibits –

1. Site Plan
- 1A. Site Plan-Redlined
2. Aerial Zoning Map
3. GIS Map
- 4A-D- Site Photos

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits)- SDAT: Real Property

Administrative Law Judge Order and Letter (GRANTED with Conditions March 10, 2020)

Notice of Appeal – Mary DiLegge (April 9, 2020)



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge

April 9, 2020

Jennifer Busse, Esq.
Whiteford, Taylor & Preston
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204



RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Hearing
Case No. 2020-0003-SPH
Property: 8 Dunman Way

Dear Mrs. Busse:

Please be advised that an appeal of the above-referenced case was filed in this Office on April 9, 2020. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Mayhew".

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/sln

c: Baltimore County Board of Appeals
People's Counsel
Mary DiLesse, 3014 Dunglew Road, Baltimore, Maryland 21222
Barbara Kenney, 3020 Dunglew Road, Baltimore, Maryland 21222
Mary Davidson, 7004 Belclare Road, Baltimore, Maryland 21222

No. 174854
Date: 4/9/2020

Date: 4/14/11

[illegible]

Total: 50,000

Rec: *Mom Silance*
From:

For: 200-0005-174

CK# 9322

Commonwealth

Winlock, Md. 21892

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

From: marykdilegge@gmail.com
Subject: Case No. 2020-0003-SPH
Date: Apr 9, 2020 at 10:03:03 AM
To: pmayhew@baltimorecountymd.gov
Cc: peoplescounsel@baltimorecountymd.gov,
pzimmerman@baltimorecountymd.gov,
administrativehearings@baltimorecountymd.gov,
jbusse@wtplaw.com



Dear Judge Mayhew and Office of Administrative Hearings:

Re: PETITION FOR SPECIAL HEARING

8 Dunmanway
12th Election District
7th Council District
Bolton Hill Investments, LLC

Please enter an appeal of Mary DiLegge and Barbara Kenney to the County Board of Appeals from the Opinion and Order of the Administrative Law Judge dated March 10, 2020 in the above entitled case. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Since we are unable to deliver this in person due to the extreme circumstances related to the Coronavirus including lack of access for visitors, a hard signed copy of this appeal request along with a check for the \$300 filing fee is being mailed today via USPS to Office of Administrative Hearings, 105 West Chesapeake Avenue, Suite 103, Towson, MD 21204. Please let us know if any further procedures are necessary in these difficult times.

Also, we tried contacting the Office of Administrative Hearings at the number set forth in your letter (410 887-3868) yesterday and left a message regarding this case.

Mary DiLegge
3014 Dunglow Road
Baltimore, MD 21222

443 695-7681

marykdilegge@gmail.com

Barbara Kenney

3020 Dunglow Road

Baltimore, MD. 21222

410 284-6418

A handwritten signature in blue ink, appearing to read "Barbara Kenney", with a long, sweeping flourish extending to the right.

Sent from my iPad

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(8 Dunman Way)		
12 th Election District	*	OFFICE OF
7 th Council District		
Bolton Hill Investments, LLC.	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2020-0003-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 Bolton Hill Investments, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to §§ 230.1.A.1 and 432A.1.A of the Baltimore County Zoning Regulations (“BCZR”) to approve a use permit for an Assisted Living Facility (“ALF”) for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone. A site plan and an amended site plan were marked and admitted as Petitioner’s Exhibit 1 and 1A, respectively.

Petitioner’s Case

Petitioner, Raphael Cassagnol, of Bolton Hill Investments, LLC, appeared in support of the petition. Jennifer Busse, Esq. represented Petitioner. The following Protestants/interested citizens were in attendance: Mary DiLesse, Barbara Kenney, and Mary Davidson, who are all homeowners in the immediate vicinity. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) in support of the petition.

Ms. Busse gave a general introduction and explanation of the proposed Assisted Living Facility (“ALF”). Mr. Cassagnol then testified at some length about how he identified the property

ORDER RECEIVED FOR FILING

Date 3/10/2020

By Sen

and why he believes this proposed ALF is exceptionally compatible with the neighborhood. Specifically, he noted that the property, which had formerly been a parochial elementary school, has been vacant for about ten years. He stated that he has done extensive research of the area's demographics and that there is a shortage of assisted living facilities and a great and growing demand for them in the Dundalk area. He explained that they intend to have a maximum of 32 residents and that there will be a staff of between 3 and 5 persons there 24 hours a day. He has already hired an experienced ALF professional to manage the facility. He also explained that they will be licensed by the State of Maryland, and that the State will perform regular inspections to insure they are in full compliance with all state laws. He explained that this is not going to be a nursing home. These residents will be largely self-sufficient and will only need assistance with the normal things associated with aging. He averred that none of them will have vehicles so he believes the proposed ALF will have very little impact on parking in the area. He showed the Protestants detailed architectural elevations of the floor plans and exterior. He stated that he is committed to bringing an aesthetically appropriate building to the neighborhood, and hopes that it will generate more redevelopment in this historic district. He answered numerous questions from the Protestants on a variety of issues, chief among them, parking and compatibility.

Brian Dietz, a licensed land surveyor, also testified (based on his credentials and experience, he was accepted as an expert in land use and development and in the Baltimore County Zoning Regulations. He explained that this proposed Class III ALF is permitted under BCZR § 432A.1.A.4 because it is "immediately adjoining" a DR 16 zone within the meaning of BCZR § 230.1.A.1. This was demonstrated by the introduction of Petitioner's Exhibit 2, an aerial zoning map from "My Neighborhood."

He also testified that this site in Dundalk is within the National Register of Historic Places.

ORDER RECEIVED FOR FILING

Date 3/10/2020

By sen

A Baltimore County ArcGIS map was admitted as Petitioner's Exhibit 3, and it shows that this site is on the very edge, but within, what is referred to on the exhibit as a "National Register Historic District." Mr. Dietz testified that this qualifies the site for the exemption of BCZR § 409.6, which provides that "[n]o parking spaces are required for residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and within a CT of BL-CCC District."

Finally, Dietz was of the opinion that this proposed use was compatible with the neighborhood and was generally within the spirit and intent of the BCZR.

Protestants' Case

The neighborhood witnesses explained that they have lived in the neighborhood for many years. They live in large single family homes on Dunglow and Belclare Road. They are understandably concerned about the decline of the neighborhood and they voiced concerns about this proposed use because there are already several senior housing facilities in the area. They are also concerned that the site plan does not provide any parking for the facility. The undersigned explained that this proposed ALF is a permitted use under the BCZR as long as they obtain the required use permit. They understood this but simply wish there was more commercial/retail investment being made in the area.

Findings of Fact and Conclusions of Law

The Department of Planning submitted extensive comments in favor of this proposed ALF. As required by BCZR § 432A.1.D, the DOP made a specific compatibility finding under B.C.C. § 32-4-402 that this "is an ideal location for an assisted living facility like the one proposed." Based on the testimony and exhibits that were presented I agree.

ORDER RECEIVED FOR FILING

Date 3/10/2020
By sen

Therefore, the only question remaining concerns the parking exemption they are seeking under BCZR § 409.6. As noted above, the site plan provides for zero off street parking spaces. The normal requirement for an ALF is that “at least 1 usable off-street parking space shall be provide for each 3 beds.” The Petitioner therefore must qualify for the “catch-all” National Historic exception in § 409.6 that pertains to all residential and lodging uses. As noted above, this exception states that “[n]o parking spaces are required for residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and within a CT of BL-CCC District.” In their comments the DOP stated that they “will defer to Permits Approvals and Inspections on the zoning language regarding parking.” There are, however, no comments in the file from PAI on this issue. I must, therefore, make this interpretation.

The only record evidence concerning this issue is the testimony of Mr. Dietz that the building in question meets this definition, and Petitioner’s Exhibit 3 which shows that the site lies within a “National Register Historic District.” Notably, there was no evidence submitted which affirmatively established that this particular building, i.e., “such building”, has “been designated on the National Register of Historic Places” as required by § 409.6. On the other hand, there is also no evidence to the contrary, and there is no question that it *is* in a BL-CCC District, as required. The plain language of § 409.6 suggests that the *building itself* must have been specifically “designated on the National Register of Historic Places” in order to qualify for this exemption; and further, that it “is contributing to the historic character of the neighborhood.”

In this case photos of the building (Petitioner’s Exhibit 4) show that it is a non-descript brick building probably built between 1930 and 1950; and according to the testimony it was first used as offices of C&P Telephone Company, and later as classrooms for St. Rita’s elementary

ORDER RECEIVED FOR FILING

Date 3/10/2020
By Sen

school. In short, there is nothing “historic” about the building in the normal sense of the word. The undersigned asked counsel for Petitioner whether it was their position that every building within the “National Register Historic District”¹ would meet the requirements for the § 409.6 parking exemption and counsel confirmed that this is their position.

While this seems to me to be a strained interpretation I will use it in the instant case because there is no evidence or argument to the contrary and because the DOP believes that this is “an ideal location for an assisted living facility like the one proposed.” Further, on this issue, the Petitioner confirmed that the residents of the ALF will not be permitted to have vehicles, and this will be a condition of the use permit. Moreover, this property has been vacant for ten years and the Petitioner is going to invest substantial financial resources in redeveloping the property in order to provide much needed assisted living housing. Finally, I find that this use permit can be granted within the spirit and intent of the BCZR and without harming the public health, safety and general welfare.

THEREFORE, IT IS ORDERED this 10th day of **March, 2020** by this Administrative Law Judge, that the Petition for Special Hearing to approve a use permit for an Assisted Living Facility (“ALF”) for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. No residents of this Assisted Living Facility will be permitted to have a motor vehicle at the facility.

¹ I note that the language “National Register Historic District” does not precisely match the language of § 409.6, which refers to the “National Register of Historic Places.” I further note that on Petitioner’s Exhibit 3 there are two buildings which are designated as a “National Register of Historic Places Feature,” which appears to perhaps be the sort of “designation” that is envisioned by § 409.6.

ORDER RECEIVED FOR FILING

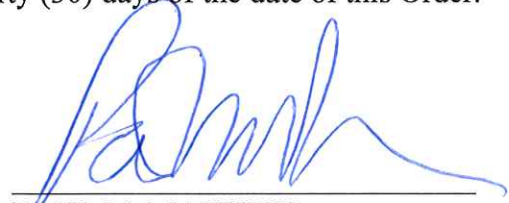
Date

3/10/2020

By

sen

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln

ORDER RECEIVED FOR FILING

Date 3/10/2020

By sen



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge

March 10, 2020

Jennifer Busse, Esq.
Whiteford, Taylor & Preston
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204

RE: Petition for Variance
Case No. 2020-0003-SPH
Property: 8 Dunman Way

Dear Mrs. Busse:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Mayhew", is written over a horizontal line.

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:slh
Enclosure

c: Mary DiLesse, 3014 Dunglew Road, Baltimore, Maryland 21222
Barbara Kenney, 3020 Dunglew Road, Baltimore, Maryland 21222
Mary Davidson, 7004 Belclare Road, Baltimore, Maryland 21222

CASE NAME 8 Dinnamary
CASE NUMBER 2020-0003 SPH
DATE 3/3/20

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

CASE NAME _____
CASE NUMBER 2020-0003-SPH
DATE 3/3/20

[illegible]

C H E C K L I S TComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment

DEVELOPMENT PLANS REVIEW

(if not received, date e-mail sent _____)

DEPS

(if not received, date e-mail sent _____)

FIRE DEPARTMENT

PLANNING

(if not received, date e-mail sent _____)

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 2/12/2020 THE Daily Record

SIGN POSTING (1st)

Date: 2/11/2020 by Ogle

SIGN POSTING (2nd)

Date: 3-1-2020 by "

PEOPLE'S COUNSEL APPEARANCE

Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes ☐ No ☐

Comments, if any: _____

2020-0003-SPH
3-3-20

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Special Tax Recapture: None		
Account Identifier: District - 12 Account Number - 1213076543		
Owner Information		
Owner Name:	BOLTON HILL INVESTMENTS LLC	Use: COMMERCIAL
Mailing Address:	#258 211 E LOMBARD ST BALTIMORE MD 21202-	Principal Residence: NO Deed Reference: /40475/ 00147
Location & Structure Information		
Premises Address:	8 DUNMANWAY DUNDALK 21222-	Legal Description: PT LT 3 DUNDALK
Map: 0103	Grid: 0016	Parcel: 0505
Neighborhood: 30000.04	Subdivision: 0000	Section: 3
Block: 3	Lot: 3	Assessment Year: 2018
		Plat No: 5 Plat Ref: 0009/ 0017
Town: None		
Primary Structure Built 1960	Above Grade Living Area 6,462 SF	Finished Basement Area 5,375 SF
		Property Land Area 06
Stories	Basement	Type CLASSROOM
		Exterior /
		Quality C3
		Full/Half Bath
		Garage
Last Notice of Major Improvements		
Value Information		
	Base Value	Value
		As of 01/01/2018
Land:	75,200	75,200
Improvements	115,000	354,000
Total:	190,200	429,200
Preferential Land:	0	0
		Phase-in Assessments
		As of 07/01/2019
		As of 07/01/2020
		349,533
		429,200
Transfer Information		
Seller: ST RITA'S ROMAN CATHOLIC	Date: 07/19/2018	Price: \$275,000
Type: NON-ARMS LENGTH OTHER	Deed1: /40475/ 00147	Deed2:
Seller:	Date: 04/11/2011	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /30704/ 00367	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	
County:	000	07/01/2019
State:	000	0.00
Municipal:	000	0.00
		0.00 0.00
Special Tax Recapture: None		
Homestead Application Information		
Homestead Application Status: No Application		
Homeowners' Tax Credit Application Information		
Homeowners' Tax Credit Application Status: No Application		
Date:		

Debra Wiley

From: Marty Ogle <mert1114@aol.com>
Sent: Monday, March 2, 2020 2:47 PM
To: Administrative Hearings
Subject: 8 Dunmanway

pm 3-3-2020
1:30 pm

RECEIVED
MAR 02 2020
OFFICE OF ADMINISTRATIVE HEARINGS

CAUTION: This message from mert1114@aol.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

2nd set of certificates, sign 2 was missing
Martin Ogle.

CERTIFICATE OF POSTING

CASE NO. 2020-0003-A

PETITIONER/DEVELOPER
Whiteford, Taylor, Preston-LLP

DATE OF HEARING/CLOSING
March 3, 2020

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:
LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

8 Dunmanway

Sign 2 Missing

THE SIGN(S) POSTED ON February 11, 2020 March 1, 2020

(MONTH, DAY, YEAR)

SINCERLEY,
Marty Ogle 3/1/2020

MARTIN OGLE
9912 MAIDBROOK RD.
PARKVILLE, MD 21234
443-629-3411

Sent from my iPhone

CERTIFICATE OF POSTING

CASE NO. 2020-0003-A

PETITIONER/DEVELOPER

Whiteford, Taylor, Preston-LLP

DATE OF HEARING/CLOSING

March 3, 2020



BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
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THE PROPERTY LOCATED AT

8 Dunmanway

Sign 1

THE SIGN(S) POSTED ON February 11, 2020 March 1, 2020

(MONTH, DAY, YEAR)

SINCERLEY,

Martin Ogle 3/1/2020

MARTIN OGLE

9912 MAIDBROOK RD.

PARKVILLE, MD 21234

443-629-3411

RECEIVED
MAR 02 2020
OFFICE OF
ADMINISTRATIVE HEARINGS



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

February 19, 2020

John B. Gontrum
1W. Pennsylvania Ave Ste 300
Towson MD 21204

RE: Case Number: 2020-0003-SPH, 8 Dunmanway

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 January 06, 2020. 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, appearing to read "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Bolton Hill Investments LLC 211 E. Lombard Street #258, Baltimore MD 21202

3-3-2020

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 2/7/2020

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 20-003



INFORMATION:

Property Address: 8 E Dunmanway
Petitioner: Bolton Hill Investments, LLC
Zoning: BL-CCC
Requested Action: Special Hearing

The Department of Planning has reviewed the petition requesting a special hearing to approve a use permit for an assisted living facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone pursuant to §230.1.A.1 and 432A.1.A of the Baltimore County Zoning Regulations (BCZR).

The site is located along Dunmanway in Dundalk's Historic District. The Property is zoned BL-CCC. The Dundalk Historic District is characterized by a variety of uses, including commercial, residential and institutional. The area is accessible and walkable. It is an ideal location for an assisted living facility like the one proposed.

The applicant is requesting a special hearing to approve a use permit for an assisted living facility for more than 15 residents in an existing building in a BL-CCC zone adjacent to a DR 16 zone pursuant to §230.1.A.1 and §432A.1.A of the BCZR.

A site visit was conducted on January 26, 2019. The site has not been in use for some time and is in generally poor shape. It used to be an elementary school associated with St. Rita's Catholic Church, which is located across the street.

The applicant states that there will be a handicapped ramp at the front entrance to the building. The building itself will consist of a commercial kitchen in the basement and eight bedrooms on the first and second floors, for a total of 16 bedrooms. An elevator will service all levels, and the facility will be staffed 24 hours.

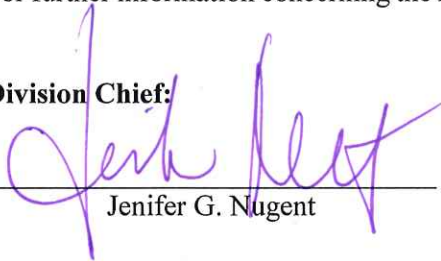
The applicant anticipates that the residents of the facility will be primarily 70 + in age and will not own vehicles. There is existing street parking along Dungalow Rd. and Dunmore Rd., as well as 2-hour parking in the angled lots in the historic district. Section 409.6 of the BCZR states that "No parking spaces are required for residential buildings contributing to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and are located within a CT or BL-CCC District."

Date: 2/7/2020
Subject: ZAC # 20-003
Page 2

The Department of Planning has no objection to the request for special hearing. The Department will defer to Permits Approvals and Inspections to interpret the zoning language regarding parking. 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.

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

Division Chief:



Jenifer G. Nugent

CPG/JGN/kma/

c: Joseph Fraker
John B. Gontrum, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: January 14, 2020

SUBJECT: DEPS Comment for Zoning Item # 2020-0003-SPH
Address 8 Dunmanway Road
(Bolton Hill Investments, LLC
Property)

Zoning Advisory Committee Meeting of **January 20, 2020.**

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

Reviewer: Steve Ford

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

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

Date: 1/15/20

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway 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. **2020-0003 - SPH**

*Special Hearing
Bolton Hill Investments LLC
B Dunman Way*

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@mdot.maryland.gov).

Sincerely,



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

WW/RAZ

The Daily Record

200 St. Paul Place Suite 2480
Baltimore, Maryland 21202
1 (443) 524-8100
www.thedailyrecord.com

Order #: 11845629
Case #: 2020-0003-SPH
Description:

CASE NUMBER: 2020-0003-SPH - NOTICE OF ZONING HEARING

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

2/12/2020



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2020-0003-SPH

8 Dunmurryway

N/8 Dunmurryway, 115 ft. east of the centerline of Shipping Place

12th Election District - 7th Councilmanic District

Legal Owners: Bolton Hill Investments, LLC

Special Hearing to approve a Use Permit for an Assisted Living Facility for more than 15 residents in an existing building an B.L. - C.C.C. zone adjacent to a DR 16 zone pursuant to BCZR section 230.1.A.1 and 432A.1.A.

Hearing: Tuesday, March 3, 2020 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Malkinoff

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.

112

CERTIFICATE OF POSTING

CASE NO. 2020-0003-SPH

PETITIONER/DEVELOPER

Whiteford,Taylor,Preston-LLP

DATE OF HEARING/CLOSING

March 3 ,2020

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION:

LADIES AND GENTLEMEN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

8 Dunmanway

Sign 1

THE SIGN(S) POSTED ON February 11, ,2020
(MONTH, DAY, YEAR)

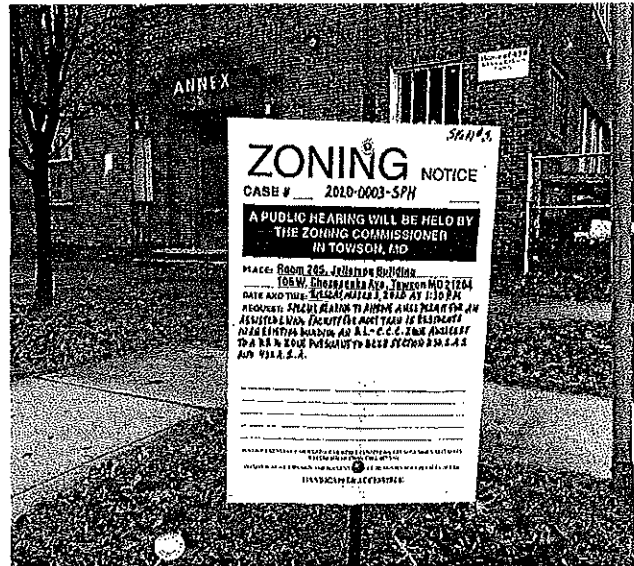
SINCERLEY ,


MARTIN OGBLE

9912 MAIDBROOK RD.

PARKVILLE,MD 21234

443-629-3411





JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

January 29, 2020

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: 2020-0003-SPH

8 Dunmanway

N/s Dunmanway, 115 ft. east of the centerline of Shipping Place

12th Election District – 7th Councilmanic District

Legal Owners: Bolton Hill Investments, LLC

Special Hearing to approve a Use Permit for an Assisted Living Facility for more than 15 residents in an existing building an B.L. – C.C.C. zone adjacent to a D.R. 16 zone pursuant to BCZR section 230.1.A.1 and 432A.1.A.

Hearing: Tuesday, March 3, 2020 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Michael Mallinoff".

Michael Mallinoff
Director

MM:kl

C: John Gontrum, 1 W. Pennsylvania Avenue, Ste. 300, Towson 21204
Raphael Cassagnol, 211 E. Lombard Street, Ste. 258, Baltimore 21202

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WED., FEBRUARY 12, 2020.**
- (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: THE DAILY RECORD
Wednesday, February 12, 2020 – Issue

Please forward billing to:

Raphael Cassagnol
Bolton Hill Investments, LLC,
211 E. Lombard Street, #258
Baltimore, MD 21202

443-997-0065

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: 2020-0003-SPH

8 Dunmanway

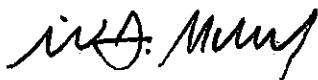
N/s Dunmanway, 115 ft. east of the centerline of Shipping Place

12th Election District – 7th Councilmanic District

Legal Owners: Bolton Hill Investments, LLC

Special Hearing to approve a Use Permit for an Assisted Living Facility for more than 15 residents in an existing building in a B.L. – C.C.C. zone adjacent to a D.R. 16 zone pursuant to BCZR section 230.1.A.1 and 432A.1.A.

Hearing: Tuesday, March 3, 2020 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Michael Mallinoff
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
 8 Dunmanway; NS of Dunmanway, 115' E *
 of c/line of the shipping place * OF ADMINISTRATIVE
 12th Election & 7th Councilmanic Districts *
 Legal Owner(s): Bolton Hill Investments LLC * HEARINGS FOR
 Petitioner(s) * BALTIMORE COUNTY
 * 2020-003-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.

RECEIVED

JAN 15 2020

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 2020, a copy of the foregoing Entry of Appearance was mailed to John Gontrum, Esquire, 1 W. Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

**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: 2020-0003-SPH
Property Address: 8 DUNMANWAY, DUNDALK MD 21222
Property Description: _____
Legal Owners (Petitioners): Bolton Hill Investments, LLC
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Raphael Cassagnol
Company/Firm (if applicable): Bolton Hill Investments LLC
Address: 211 E. Lombard Street, Suite 258
Baltimore, Md. 21202
Telephone Number: 443-997-0065



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 8 Dunmanway, Dundalk, MD 21222

which is presently zoned BL-CCC

Deed References: 40475/00147

10 Digit Tax Account # 1213076543

Property Owner(s) Printed Name(s) Bolton Hill Investments LLC

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

PLEASE SEE ATTACHED

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:

N/A

Name - Type or Print

Signature

Mailing Address

Date

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

John B. Gontrum, Esquire

Name- Type or Print

Signature

Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson MD

Mailing Address

City

State

21204 410-832-2055 jgontrum@wtplaw.com

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Bolton Hill Investments LLC

By: Raphael Cassagnol

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

211 E. Lombard Street #258, Baltimore, MD

Mailing Address

City

State

21202 443-977-0065 rcassagnol@gmail.com

Zip Code

Telephone #

Email Address

Representative to be contacted:

John B. Gontrum, Esquire

Name - Type or Print

Signature

1 W. Pennsylvania Ave., Ste. 300, Towson

MD

Mailing Address

City

State

21204 410-832-2055 jgontrum@wtplaw.com

Zip Code

Telephone #

Email Address

CASE NUMBER 2020-0003-SPH Filing Date 01/06/2020

Do Not Schedule Dates: _____

Reviewer AT

SPECIAL HEARING REQUEST:

TO APPROVE A USE PERMIT FOR AN ASSISTED LIVING FACILITY FOR MORE THAN 15 RESIDENTS IN AN EXISTING BUILDING IN A B.L.-C.C.C. ZONE ADJACENT TO A D.R. 16 ZONE PURSUANT TO B.C.Z.R. §§230.1.A.1 AND 432A.1.A.

Brian R. Dietz
Professional Land Surveyor #21080
7867 Oakdale Avenue, Baltimore, MD 21237
Phone 410-686-1198 Fax 410-682-6021

Zoning Description
For
8 Dunmanway
December 17, 2019

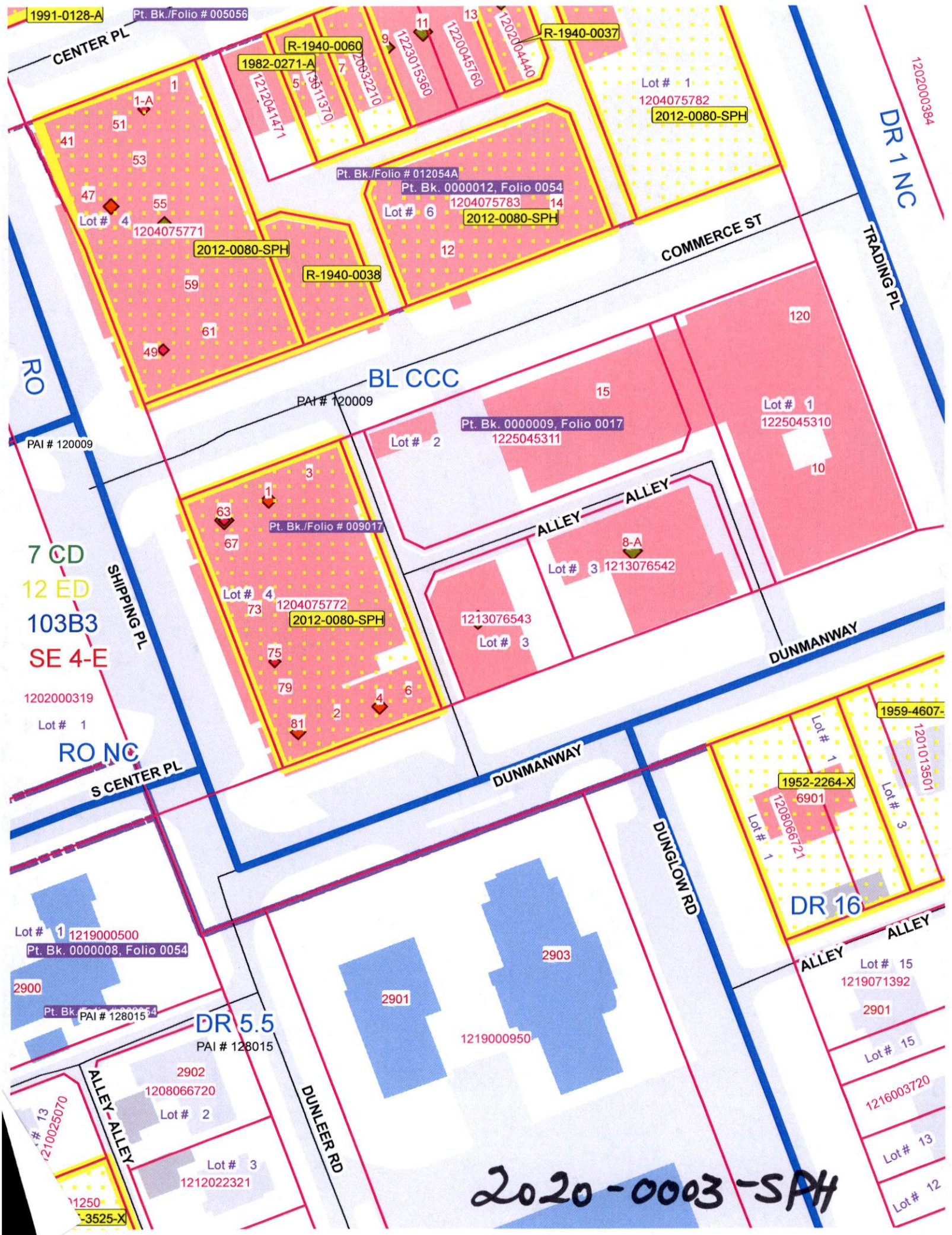
Beginning on the North side of Dunmanway (80' R/W), distant 115 feet +/- from the East side of Shipping Place (60' R/W), thence running with and binding on the North side of Dunmanway

1. North 69 degrees 38 minutes East 70.00 feet, thence leaving Dunmanway and running with and binding on the land of the herein petitioner
2. North 20 degrees 22 minutes East 77.50 feet,
3. South 69 degrees 38 minutes West 60.00 feet,
4. South 24 degrees 38 minutes West 14.14 feet, and
5. South 20 degrees 22 minutes East 67.50 feet to the place of beginning.

Containing 0.123 of an Ac. or 5,375 sq.ft. of land more or less. Being known as 8 Dunmanway and located in the 12th Election District, 7nd Councilmanic District.



Lic. Exp. 2-12-21
Brian Dietz
12-17-19



1991-0128-A

Pt. Bk./Folio # 005056

R-1940-0060

1982-0271-A

R-1940-0037

Lot # 1
1204075782
2012-0080-SPH

Pt. Bk./Folio # 012054A

Pt. Bk. 0000012, Folio 0054

1204075783

2012-0080-SPH

PAI # 120009

Pt. Bk. 0000009, Folio 0017

1225045311

Pt. Bk./Folio # 009017

1204075772

2012-0080-SPH

Lot # 3 1213076542

1213076543

Lot # 3

DUNMANWAY

1959-4607-

1952-2264-X

6901

DR 16

Lot # 15

1219071392

2901

Lot # 15

1216003720

Lot # 13

Lot # 12

2020-0003-SPH

CENTER PL

DR 1 NC

COMMERCE ST

TRADING PL

BL CCC

7 CD
12 ED
103B3
SE 4-E

SHIPPING PL

RO NC

S CENTER PL

DUNMANWAY

DUNGLOW RD

DUNLER RD

DR 5.5

PAI # 128015

2902

1208066720

Lot # 2

Lot # 3

1212022321

ALLEY-ALLEY

ALLEY

ALLEY

13
1210025070

1250

-3525-X

Case No.: 2020-0003-SPH

Exhibit Sheet

Petitioner/Developer

Sen
Protestants 3-10-2020

No. 1 1A	Site Plan Site Plan-redlined	
No. 2	Aerial Zoning map	
No. 3	GIS MAP	
No. 4 A-D	Site Photos	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Google Maps 99 Dunmanway



Image capture: Jul 2018 © 2020 Google

Dundalk, Maryland



Street View

PETITIONER'S

EXHIBIT NO. 4A

Google Maps 99 Dunmanway



Image capture: Jul 2018 © 2020 Google

Dundalk, Maryland



Street View

PETITIONER'S

EXHIBIT NO. 4B

Google Maps 1 Dunmanway

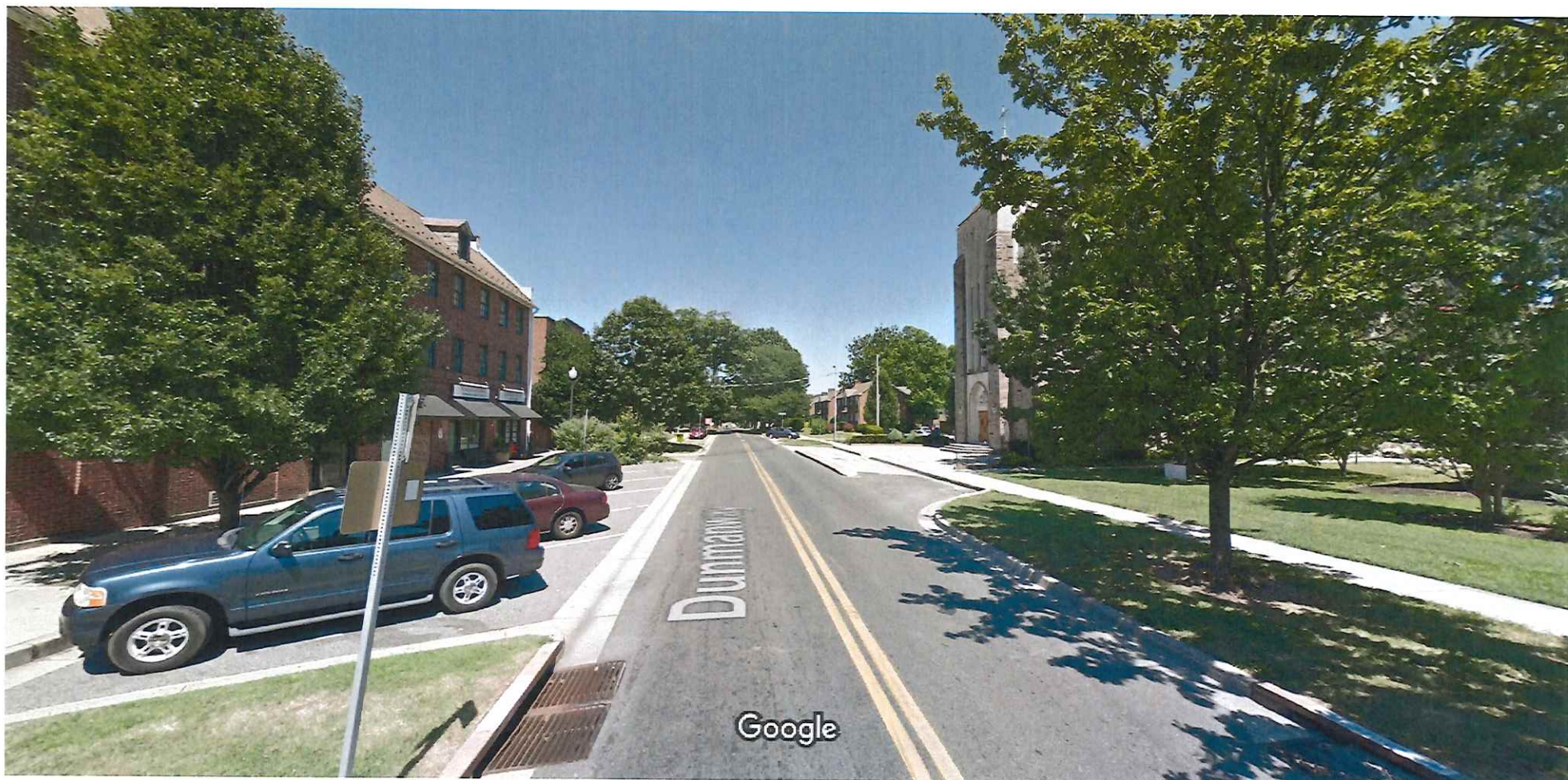


Image capture: Jul 2018 © 2020 Google

Dundalk, Maryland



Street View

PETITIONER'S

EXHIBIT NO. 4C

Admiral
Township
Flagship
Lee

Google Maps 10 Dunmanway



Image capture: Jul 2018 © 2020 Google

Dundalk, Maryland



Street View

PETITIONER'S

EXHIBIT NO.

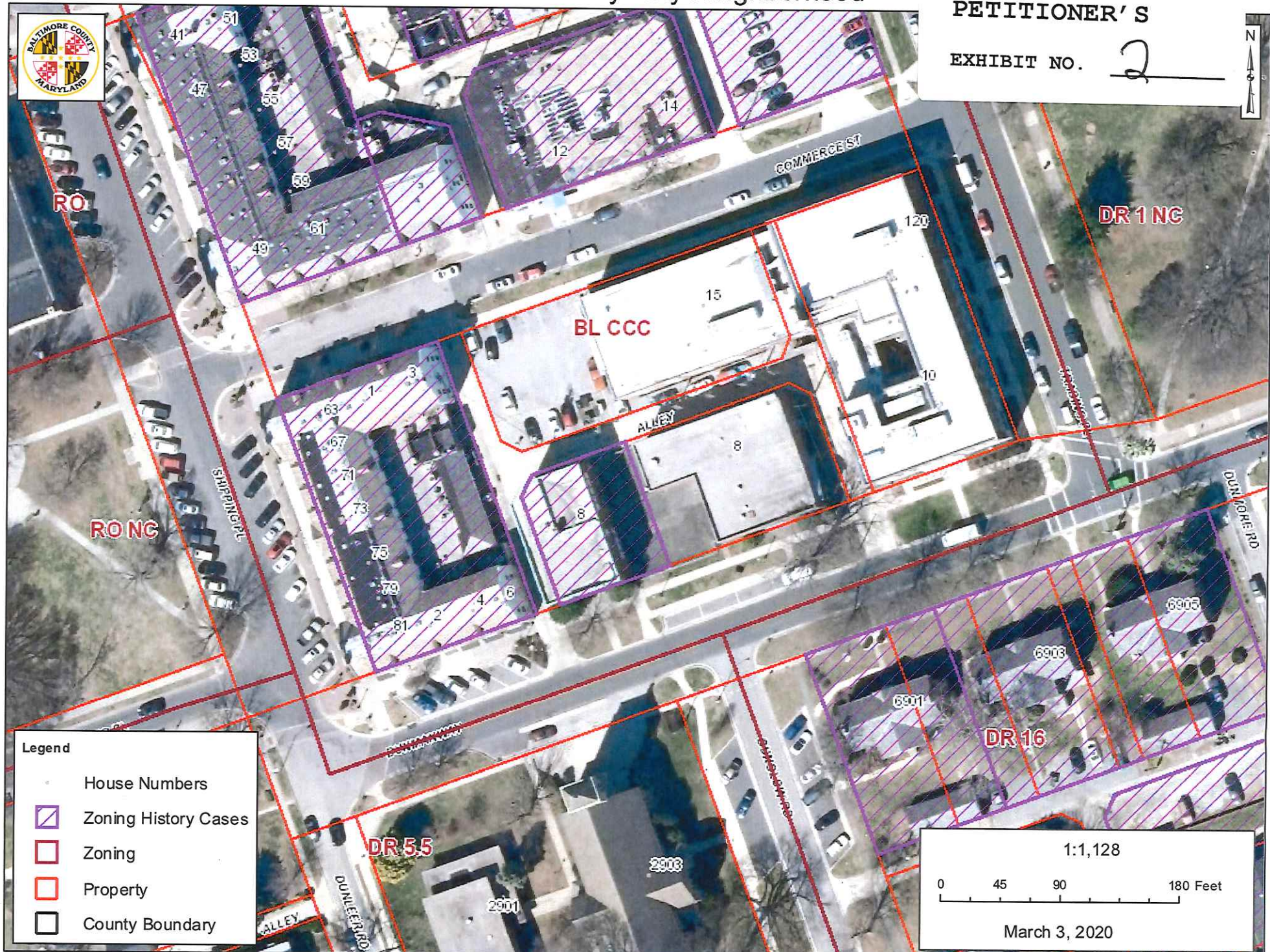
4D

Admiral
Fountain
Flagship
Lee

The seal of Baltimore County, Maryland, is a circular emblem. It features a yellow border with the words "BALTIMORE COUNTY" at the top and "MARYLAND" at the bottom. The center is divided into four quadrants by a cross. The top-left quadrant is black with a yellow diagonal stripe. The top-right quadrant is white with a red cross. The bottom-left quadrant is white with a red cross. The bottom-right quadrant is black with a yellow diagonal stripe. In the center of the cross are three yellow stars.

EXHIBIT NO.

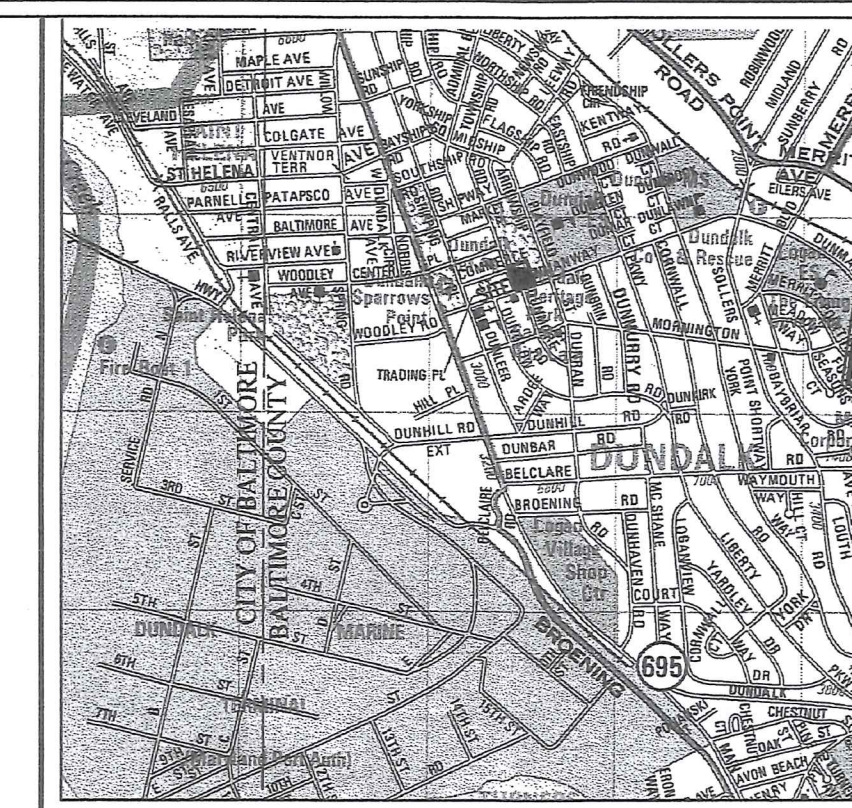
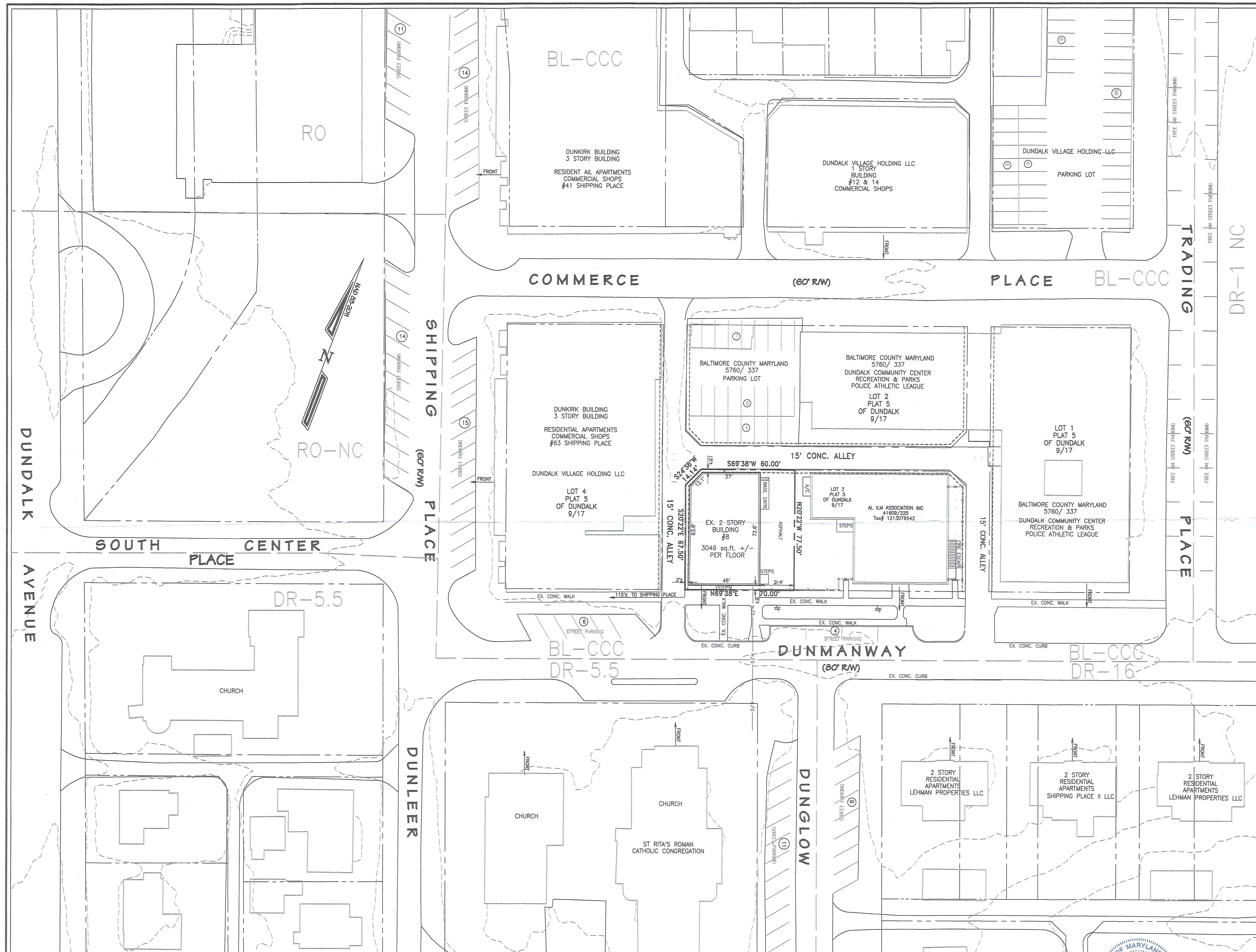
2



March 3, 2020

EXHIBIT NO. 3

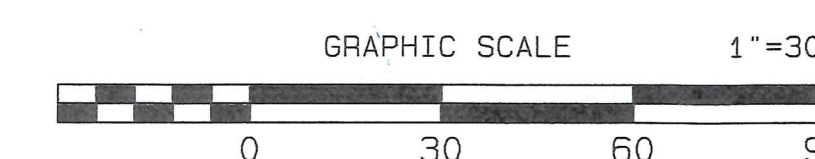




Notes

- Owner: BOLTON HILL INVESTMENTS LLC
211 E. Lombard Street
Baltimore MD 21202
- Deed: 40475/147
- Area= 5375 sq.ft. or 0.123 Ac. ±
- Tax # 1213076543
- Zoned: BL-CCC
- This site is not in the Chesapeake Bay
Critical Area or the 100 year flood plain.
- There are no known underground fuel tanks.
- This is not a historic building.
This is in the National Historic District
- This site is serviced by public water and sewer.
- No prior Zoning Hearings.
- Baltimore County Bill 49-16 allows for 0 parking
space requirement.

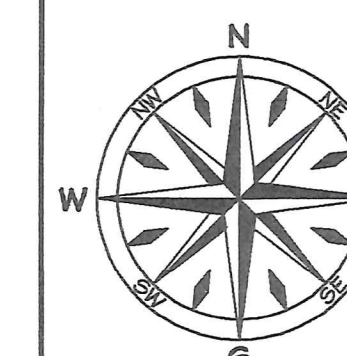
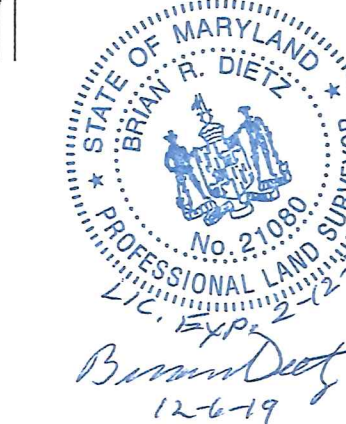
2020-0003-SPH



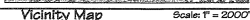
Plat to Accompany
a Zoning Petition
for a Special Hearing
of

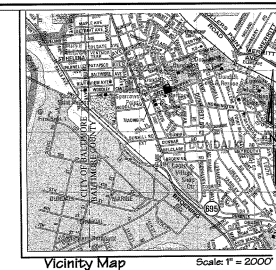
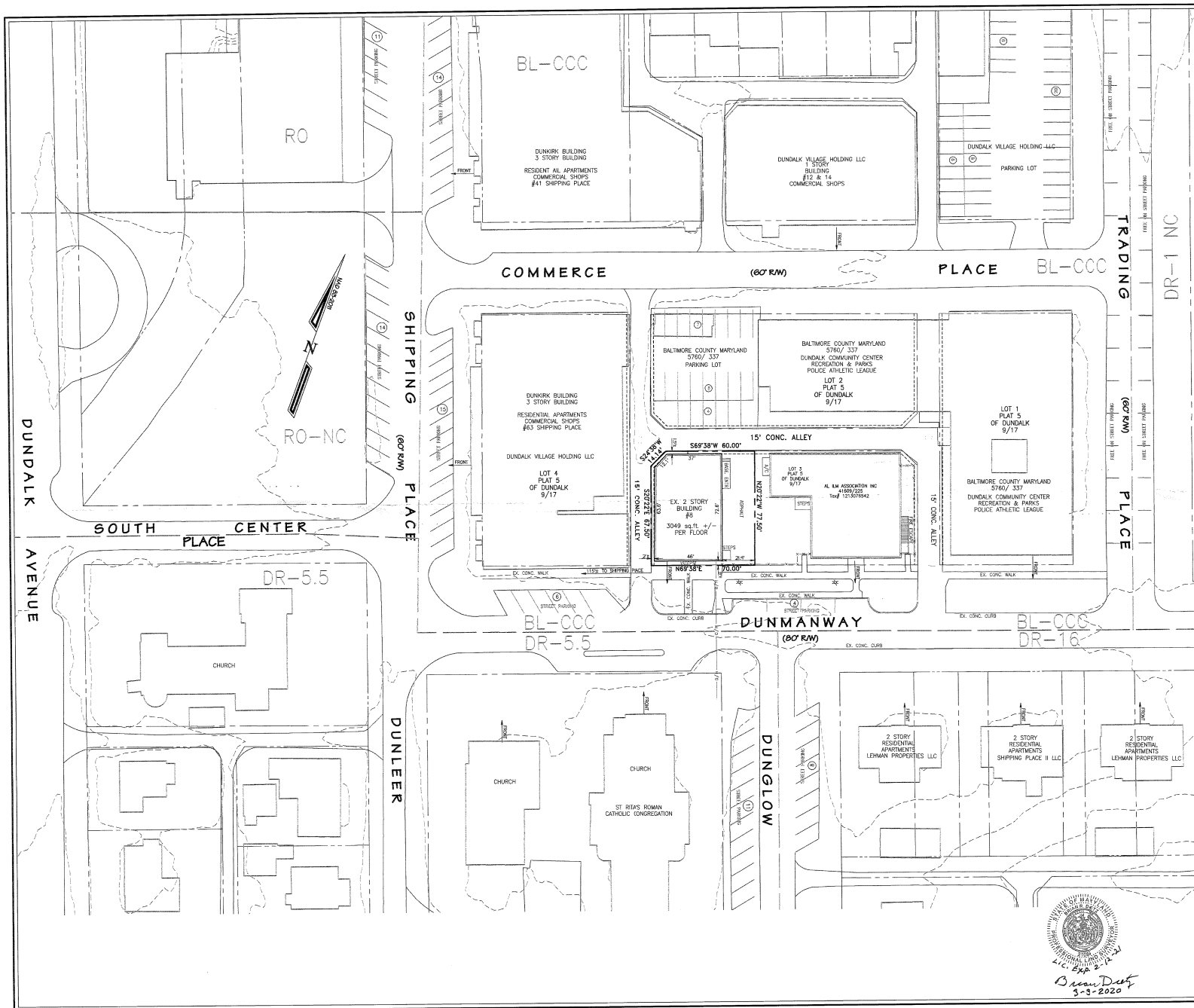
Bolton Hill Investments LLC

8 E. Dunmanway
Baltimore County, Maryland
12th Election District, 7th Councilmanic District
Scale: 1"=30' Date: December 16, 2019



Dietz Surveying Co.
Land Surveying and Land Planning
8119 Oakleigh Road Baltimore MD 21234
Ph 410-661-3160, Fax 410-661-3163
www.dietzsurveying.net
Plot Date: 12/17/2019
Job No. 18048
Party Chief: BRD

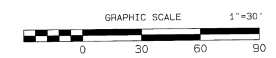
Plot Date: 12/17/2019 Job No. 18048
Route: 016-005



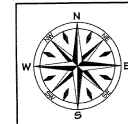
Notes

1. Owner: BOLTON HILL INVESTMENTS LLC
211 E. Lombard Street
Baltimore MD 21202
2. Deed: 40475/147
3. Area= 5375 sq.ft. or 0.123 Ac. ±
4. Tax # 1213076543
5. Zoned: BL-CCC
6. This site is not in the Chesapeake Bay Critical Area or the 100 year flood plain.
7. There are no known underground fuel tanks.
8. This is not a historic building.
This is in the National Historic District
9. This site is serviced by public water and sewer.
10. No prior Zoning Hearings.
11. Baltimore County Bill 49-16 allows for a parking space requirement.

PETITIONER'S
EXHIBIT NO. 1A



Plat to Accompany
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Job No: 16048
Party Chief: BMD

File Name: J:\Dunmanway 8\12Dunmanway Zoning.prn