



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

June 4, 2024

Carol A. Martin – garyandcarol3@verizon.net
Area Director
Springlake Community Association

Christopher DeCarlo, Esquire – cdecarlo@whitefordlaw.com
John Gontrum, Esquire – jgontrum@whitefordlaw.com
Whiteford
One West Pennsylvania Avenue, Suite 300
Towson, MD 21204

RE: Order – Motion for Reconsideration
Case No. 2024-0047-X
Property: 200 E. Padonia Road

Dear Ms. Martin, Mr. DeCarlo and Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 blue ink signature of Andrew M. Belt, written in a cursive style.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm
Enclosure
c: See Next Page

c:

John O. Mitchell II – jack@mwfunderalhome.com

John Mitchell, III – jmitchelliii@cs.com

Matt Bishop – matt.bishop@kimley-horn.com

Dulaney Valley Memorial Gardens – 200 E. Padonia Road, Lutherville, MD 21093

Jack jjgraz2@verizon.net

Lauren Kucharski - noodles004@gmail.com

Listening Only -katie.dillon@kimley-horn.com

Max Pfeiler - pfeilerjoseph@gmail.com

S Galletti - suzigalletti@gmail.com

Tim Coulson - tim.coulson@verizon.net

Kate kate.collier1974@gmail.com

T Couldson tim.coulson@verizon.net

Eric Rockel – ericrockel@rockel@carthlink.net

Dhammika DeSilva – kddesilva@gmail.com

Carol Martin – garyandcarol3@verizon.net

Gary Martin – garyj52@verizon.ent

Meredith Durmowicz – durmowicz@verizon.net

Jonathan Peiffer – jon.peiffer@verizon.net

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION		
(200 E. Padonia Road)	*	OFFICE OF ADMINISTRATIVE
8 th Election District		
3 rd Council District	*	HEARINGS FOR
Dulaney Valley Memorial Gardens		
	*	BALTIMORE COUNTY
Legal Owner/Petitioner	*	Case No. 2024-0047-X
* * * * *		

ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Reconsideration filed by Carol Martin of Springlake Community Association on May 20, 2024 and the response filed by the Petitioner’s attorney, John Gontrum, Esquire on May 28, 2024.

As noted by the Petitioner’s response to Motion for Reconsideration, a Motion for Reconsideration does not allow for the re-litigation of a case’s merits. During a hearing on the merits, it is the duty of the Administrative Law Judge (“ALJ”) to consider the testimony of witnesses and make a determination as to the persuasiveness and credibility of these witnesses when contradictory evidence is presented. The purpose of a Motion for Reconsideration does not allow for the rehashing of previously presented testimony in the hopes the fact finder will come to an alternate conclusion.

The Motion contends that the Petitioner’s Request for Special Exception should be denied because (1) the Petitioners have allegedly described uses and facilities for their funeral establishment that are incompatible with a Special Exception in a D.R. zone (“living funerals”) (2) Requirements of BCZR, §502.1 have not been satisfied; (3) Consideration of Basic Services Maps is required; (4) the Impact on the Master Plan and Adopted Community Plans must be considered;

and (5) the proposed use does not conform with the requirements of *Schultz v. Pritts*.

(1) Living Funerals

Petitioner, John Mitchell, testified that “living funerals” involve a celebration of life for terminally-ill individuals who wish to gather with friends and family before they die. He explained such events sometimes may involve the availability of food and drink. He further explained that such a concept was new to the funeral industry and such services were not performed at the current Mitchell-Wiedefeld location. He clarified that such events would only be considered in the future if County regulations allowed. At no time was there any testimony given regarding a “catering hall” or “bar” as noted in the Protestants’ motion. To allege that there was would require one to ignore the extensive testimony that was given regarding the present and future operation of the Petitioner’s funeral establishment.

Protestants have attached an exhibit to their motion in the form of a Baltimore Business Journal article that was not presented as evidence during the hearing in this matter and that will not be considered in adjudicating this motion. However, the article was alluded to during the hearing at which time the Petitioner again reiterated his intentions outlined above. The evidence produced by the Petitioner during the hearing clearly established their intentions for the proposed site has been incorporated in the Opinion and Order for this matter. Any deviation from normal practices of a funeral establishment at the proposed site in the future will be subject to County approval as alluded to by the Petitioner.

For these reasons, the Motion for Reconsideration on the issue of “Living Funerals” will be denied.

(2) Requirements of BCZR, §502.1

Protestants argue that the requirements of BCZR, §502.1 have not been met. Protestants again raise the issue of “living funerals” as the source of their concern. As outlined in the Opinion and Order on this matter, evidence was heard from Mr. Mitchell and Petitioner’s experts regarding these factors. After hearing the testimony in this case, it was determined that the requirements of §502.1 had been met. No new evidence that could not have been presented at the time of the hearing on the merits has been produced that alters that fact finding determination. For these reasons, the Motion for Reconsideration regarding the allegation that the requirements BCZR, §502.1 have not been met will be denied.

(3) Consideration of Basic Service Maps.

Protestants argue that the ALJ was required to consider the County’s Basic Services Maps and failed to do so. As noted by the Petitioner, no such requirement exists in the adjudication of a Special Exception request. Protestants now allege that the intersection of Ridgely Road and York Road has a “F” rating on the Basic Services Maps. Even if this allegation were proven to be true and was provided through expert testimony during the hearing, the expert testimony in evidence involved the intersection of Padonia Road and York Road, which is in close proximity to the proposed site. The unrefuted expert testimony provided in the hearing came from Petitioner’s traffic expert, David Nelson. Mr. Nelson testified that based on the traffic counts he conducted the anticipated generated traffic would not cause congestion on the surrounding roadways. The Protestants now challenge the results and methodology of these counts and conclusions, but failed to produce expert testimony at the hearing to refute these numbers. The same is true for Protestants’ assertion that further consideration of the issue of acceleration and deceleration lanes must be conducted. As noted by the Petitioner, traffic studies are not required

in a request for Special Exception, though may be required during the development approval process.

Protestants include BCC, §32-6-102(b) in their argument that Adequate Public Facilities must be considered in this matter. This section reads as follows:

(b) Purpose. The purpose of this title is to provide a predictable planning environment for the provision of adequate infrastructure, roads, public school facilities and recreational space by requiring residential and nonresidential projects to pass certain tests as a condition of development approval. (emphasis added)

It is important to clarify the difference between zoning and “development approval” as noted in this section. The focus of the instant case is the zoning approval of a Petition for Special Exception governed by BCZR, §502.1. The ultimate development approval and permitting process for the construction of the proposed funeral establishment is separate and apart from the issues in the case at bar. Issues such as acceleration and deceleration lanes and further traffic studies may come into play during that phase of the development process.

Additionally, Protestants argue that Mr. Nelson’s traffic counts and communication with County Officials are not available in the “ALJ folder for this case.” It is important to note that the adjudication of a Special Exception request is based on evidence presented during the hearing, including expert testimony; not on what is contained in the case file. Again, Protestants were permitted to cross-examine Petitioner’s expert during the hearing, and were free to produce their own expert to challenge his findings or methodologies. There is no requirement that any such expert findings regarding traffic counts or County correspondence concerning such an issue be included in the case file.

For these reasons, the Motion for Reconsideration on the issue of the Basic Services Maps

will be denied.

(4) County's Master Plan

Protestants argue that the Department of Planning was required to comment on how the proposed Special Exception conforms with the Baltimore County Master Plan. Although not entered into evidence, the Department of Planning noted:

The Department of Planning has no objection to the requested Special Exception. The use is in keeping with how the property has been used for the past 68 years and will allow Dulaney Valley Memorial Gardens to expand their offerings.

While Department comments are not binding on the ALJ when adjudicating a request for Special Exception, such comments are contained in the case file for this matter. If the Protestants wished to question the Department of Planning regarding their comments, they, again, were free to subpoena a representative from the Department to testify during the hearing, but failed to do so.

(5) *Schultz v. Pritts*

Protestants contend that the standard set forth for the granting of Special Exceptions has not been met. Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

The Protestants, again, raise the issue of “living funerals” being conducted at the proposed site in the future. Protestants, again, cite the Baltimore Business Journal article that is not in the evidentiary record and contend that the Petitioner has proposed a “catering” operation for the proposed site. This contention is contrary to the testimony received from the Petitioner, John Mitchell, which I, as the finder of fact and assessor of witness credibility, have found to be persuasive. Additionally, as noted in the Opinion and Order on this matter, in a DR zone, a funeral home establishment is permitted by Special Exception. Consequently, it is presumed that it was foreseeable that such impacts as traffic for funeral visitations and the formation of funeral processions would be associated with such use when the corresponding legislation was enacted. It is logical to assume that such impacts were even greater in the past in a time when cremations were less frequent and visitations often took place for several days. Notably, the Petitioner currently operates a funeral home in a residential rowhouse community and has done so since 1967. In considering the testimony presented regarding the present and future operation of the Mitchell-Wiedefeld Funeral Home and Dulaney Valley Memorial Gardens, as well as the unrefuted expert testimony regarding traffic impacts, I find that the *Shultz* standard has been met.

For all these reasons, the Motion for Reconsideration will be denied.

THEREFORE, IT IS ORDERED this 4th day of **June 2024**, by this Administrative Law Judge that the Motion for Reconsideration is hereby **DENIED**.

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



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

April 18, 2024

Christopher DeCarlo, Esquire – cdecarlo@whitefordlaw.com
John Gontrum, Esquire – jgontrum@whitefordlaw.com
Whiteford
One West Pennsylvania Avenue, Suite 300
Towson, MD 21204

RE: Petition for Special Exception
Case No. 2024-0047-X
Property: 200 E. Padonia Road

Dear Counsel:

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Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Belt", is written over a horizontal line.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm
Enclosure
c: *See Next Page*

C:

John O. Mitchell II – jack@mwfunderalhome.com

John Mitchell, III – jmitchelliii@cs.com

Matt Bishop – matt.bishop@kimley-horn.com

Dulaney Valley Memorial Gardens – 200 E. Padonia Road, Lutherville, MD 21093

Jack jjgraz2@verizon.net

Lauren Kucharski - noodles004@gmail.com

Listening Only -katie.dillon@kimley-horn.com

Max Pfeiler - pfeilerjoseph@gmail.com

S Galletti - suzigalletti@gmail.com

Tim Coulson - tim.coulson@verizon.net

Kate kate.collier1974@gmail.com

T Couldson tim.coulson@verizon.net

Eric Rockel – ericrockel@rockel@carthlink.net

Dhammika DeSilva – kddesilva@gmail.com

Carol Martin – garyandcarol3@verizon.net

Gary Martin – garyj52@verizon.ent

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**IN RE: PETITION FOR SPECIAL
EXCEPTION
(200 E. Padonia Road)
8th Election District
3rd Council District
Dulaney Valley Memorial Gardens**

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **Case No. 2024-0047-X**

Legal Owner/Petitioner

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petitioner for Special Exception filed by Dulaney Valley Memorial Gardens, legal owner (“Petitioner”). The Special Exception request is for a funeral establishment pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 1B01.1(C)(9).

A public, in-person, hybrid Webex hearing was conducted on April 2, 2024. The Petition was properly advertised and posted. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Development Plans Review (“DPR”), and Department of Public Works and Traffic (“DPW&T”). They did not oppose the requested relief, subject to certain conditions which will be incorporated into this Order.

Dhammika DeSilva, Gary Martin, Carol Martin, Meredith Durmowicz, Gerard Durmowicz and Jonathan Peiffer, residents of the area surrounding the subject property appeared in person in opposition to the proposed Special Exception. Surrounding residents, Tim Coulson and Susan Galletti testified via Webex. Eric Rockel assisted the Protestants in the presentation of their case and cross-examined Petitioner’s witnesses.

The Petitioner, John O. Mitchell, III, President of Dulaney Valley Memorial Gardens, appeared along with John B. Gontrum, Esquire and Christopher DeCarlo, Esquire of Whiteford,

Taylor and Preston who represented the Petitioner. Matthew Bishop of Kimley-Horn was also present and prepared the Site Plan and is marked as Petitioner's Exhibit 1. Expert Traffic Engineer, David A. Nelson, of Street Traffic Studies, LTD, also testified on behalf of the Petitioner.

PETITIONER'S WITNESSES

John O. Mitchell, III testified that his family has been in the funeral business since 1837 (187 years) and that he has been personally involved in the business for 30 years. He is currently President of Mitchell-Wiedefeld Funeral Home and of Dulaney Valley Memorial Gardens and the past president of both of Maryland and National Funeral Director Associations. The family has operated a funeral home at its current location 6500 York Road on the border of Rogers Forge, a residential rowhouse community. The business has been at this location since 1967. Mr. Mitchell is a licensed mortician and crematoria operator.

Mr. Mitchell explained that National Association of Funeral Home Directors conducts annual consumer surveys to assess consumer trends. Judging from these surveys, Mr. Mitchell explained there has been a substantial increase in cremations, in lieu of traditional burials.

Mr. Mitchell testified that the Petitioner purchased the Dulaney Valley Memorial Gardens in 2007 and hope to construct a funeral home on the property. Dulaney Valley Memorial Gardens opened in 1958. Mr. Mitchell noted that the former owner had set aside a location on the property for the construction of such an operation but the plan never came to fruition during his period of ownership. Mr. Mitchell described the cemetery as being 69 acres, which includes in-ground burials, cremations, mausoleum entombments, column burials for cremated remains, and a pet cemetery. Presently a small chapel is located in the mausoleum. He noted that the cemetery performs approximately 800 human and 100 pet burials annually. Of the burials performed, approximately 400 involve processions, of which 235 are from funeral homes and the balance from

churches. The processions occur approximately 8 times per week, involving on the average, 12 to 15 cars. The cemetery also performs Fallen Hero Ceremonies for First Responders killed in the line of duty which generate greater attendance. Mr. Mitchell described such events occurring only a few times a year.

Mr. Mitchell testified that the proposed funeral home will employ 4 full time employees and approximately 9 part time. As for their current operation, Mr. Mitchell explained that Mitchell-Wiedefeld now serves approximately 227 families per year, with 60% of those services involving cremation. Services involving actual visitation on the premises occur 2 to 3 times a week, with those visitations usually occurring from 2 to 4 pm and 7 to 9 pm, lasting for a single day. Approximately 130 such visitations took place last year at the Petitioner's current location. Of these services, less than 100 resulted in traditional burials. Mr. Mitchell explained that viewings typically involve 50 to 75 persons. He noted that current funeral home staff arrives between 8 to 9 am and leaves between 4 to 5 pm. Approximately, 2 to 4 deliveries occur a day, while up to 6 flower deliveries may occur during a visitation day. It is the Petitioner's intention to close their current location if the Special Exception is granted.

Mr. Mitchell testified that approximately 235 processions originating from funeral homes at Dulaney Valley Memorial Gardens last year, approximately 40 to 50 came from Mitchell Wiedefeld, with the largest amount of funeral home originated processions coming from Ruck Funeral Homes. Mr. Mitchell explained that industry models illustrate that having a funeral home on the site of the cemetery will ultimately reduce the number of funeral processions to 100 within 5 years, and 80 within 10 years. He attributed this to the fact that once consumers are aware of the funeral home and chapel being available on the cemetery grounds, they will utilize the on-site funeral home services as a matter of convenience. When questioned about the use of the facility

for “Celebration of Life” ceremonies which may involve catered events, Mr. Mitchell testified that it will be considered if deemed to be legally permissible. Mr. Mitchell explained that he foresaw that it would take some time to operate the proposed location at current levels, but hoped to double the funeral home’s current business within 20 years.

Next to testify for the Petitioner was Matthew Bishop, who was accepted as an expert Landscape Architect. (Pet Ex. 4) Mr. Bishop prepared the site plan for the Petitioner’s request for Special Exception. (Pet. Ex. 1) Mr. Bishop offered two aerial photos of the site from 1996 and 2021 which reflect that the site has not changed significantly in the past 25 years. (Pet. Exs. 5a-5b) He described the surrounding area as including single family and detached residential dwellings, Fox Hollow Golf Course, Pot Spring Elementary School, Dulaney High School, recreational fields, with the nearest residential property being approximately 150 feet away from the proposed site. The proposed Special Exception consists of a 16,223 square foot funeral establishment with associated parking. The entire Special Exception area is approximately 2 acres. Mr. Bishop explained that the proposed funeral home will be located within the grounds of the cemetery and in compliance with County setback requirements from Padonia Road. He provided an illustrative preliminary landscape plan which shows the proposed buffering of the proposed funeral home from Padonia Road. (Pet. Ex. 6) This plan identifies a new streetscape which includes major shade trees and street trees and scrubs in between parking aisles. He also explained that the existing evergreen hedgerow along the Pet Cemetery will be retained to further buffer the site. In addition to the proposed landscape buffer, Mr. Bishop explained that the proposed building will sit 20 to 30 feet lower than street level due to the downward sloping of the property. This topographical feature will further screen the proposed building from view along Padonia Road. (Pet. Ex. 3) While it will take some time for the proposed planting to reach maturity, Mr. Bishop

testified that he anticipated that the landscape buffer will be immediately effective due to the property's sloping feature. Mr. Bishop identified the area in the northeast corner of the subject property that has a stream, pond and wetlands which require a forest buffer. He confirmed that no development is proposed for this area and that all buffers will be maintained. Additionally, storm water management is proposed to regulate the quantity and quality of water leaving the site, and will ensure that current levels of water leaving the property will be maintained as well.

Both Mr. Mitchell and Mr. Bishop testified regarding the conditions determining the granting of a special exception pursuant to BCZR §502.1 when applied to the proposed funeral home. Both opined that the proposed Special Exception will not be detrimental to the health, safety and general welfare of the locality. Mr. Bishop noted that the closing of the entrance to the north off Padonia Road, and use of the current entrance closest to Hartfell Road as both an entrance and exit, will improve site distance and safety for vehicles turning, entering and exiting the site. Both Mr. Mitchell and Mr. Bishop testified that the proposed development will not tend to create congestion in the roads, streets and alleys in that it is foreseen that the number of processions entering the cemetery will decrease, and that 111 parking spaces will be provided, with overflow parking being available through the cemetery. Mr. Bishop testified that the proposed development will not create potential hazard from fire, panic or other danger in that the proposed structure will be built to current fire code and will be connected to public water. He further testified that the proposed development will not tend to overcrowd land and cause undue concentration of population in that no residential development is proposed and only 2 acres of the 69 acres cemetery will be used out of the total Dulaney Valley Memorial Gardens property. He further clarified that the proposed development will not interfere with adequate provisions of schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements in that the

subject site will be subject to storm water management requirements and will not add any additional students to neighboring schools. He explained that the proposed development will not interfere with adequate light and air in that the proposed structure is one-story and will be constructed at a lower grade than the neighboring community and will be located approximately 150 feet from the closest residential property. He confirmed that the proposed use was permitted by Special Exception in the Zoning Regulations, thus is not inconsistent with the property's zoning classification nor in any other way inconsistent with the spirit and intent of those regulations. Mr. Bishop clarified that the proposed development will not be inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations and that a stormwater management plan will be submitted during the development phase. Finally, he opined that the proposed development will not be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains.

Next to testify on behalf of the Petitioner was David A. Nelson, who was accepted as an expert traffic engineer. (Pet. Ex. 7). Mr. Nelson explained that in conjunction with conversations with Baltimore County, two traffic counts were conducted involving the road network surrounding the proposed site. One count was conducted in May of 2023 while a second was conducted in October of 2023. Mr. Nelson explained that the results of these two counts were consistent. He testified that the data collected reflected that most traffic from the subject site were outside the peak hours of 7 to 8 am and 5 to 6 pm, and that the subject site did not generate 50 trips within peak hours. He commented further that the modifications to the entrance of the cemetery will improve site distance by 80 feet. He explained that a traffic study was not required for the Special Exception, but may be required during the development phase. He discussed the possible use of acceleration and deceleration lanes near the site entrance by deferred this determination to the

development phase. He noted that Padonia Road at the proposed cemetery entrance was 48 feet wide and could accommodate such lanes if necessary. Upon cross-examination, he commented that the use of Padonia Road for parking during athletic events at the nearby recreational fields would only need to be interrupted directly near the site entrance.

Mr. Nelson further opined that the proposed development will not create congestion on Padonia Road. While noting that the cemetery and proposed funeral home will not usually operate during peak hours, he analyzed the effect of 111 trips in and out of the location during peak hours and found that the intersection still operated at level service "A". Mr. Nelson clarified that the traffic counts were conducted with both manual counts and video recorders, gathering data on Thursday, Friday and Saturday. He explained that traffic counts were actually highest on Saturday from 10 am to 2 pm. It was also determined that through a traffic speed study that the average speed from York Road was 40 miles an hour and 38 miles an hour coming in the opposite direction.

PROTESTANTS' TESTIMONY

Dhammika DeSilva, a resident who lives 4 doors down from the subject site on Padonia Road testified in opposition of the requested Special Exception. Mr. DeSilva opined that based on the proposed 111 parking spaces, the proposed funeral home would generate over 200,000 additional vehicles a year and bring an estimated 364,000 people to the site per year. He expressed his concerns regarding safety in that there are no crosswalks near the cemetery entrance and the added cars will increase traffic, cause a greater carbon footprint and negatively affect air quality. Lastly, Mr. DeSilva testified that he believed that the increase in amount of people being brought to the area would spike crime and may decrease property values.

Next to testify was neighboring resident Jonathan Peiffer. Mr. Peiffer lives across the Elementary School Ball fields from the subject site. Mr. Peiffer explained that he is concerned for his future quality of life if the funeral home were to be built. He notes that from his front windows he would see the delivery area and back of the proposed structure. He is concerned with possible noise from funeral home patrons, and excessive lighting from cars and the proposed parking area. Mr. Peiffer does not believe that the number of processions into the cemetery will decrease due to the fact that is the Petitioner's ultimate goal to grow their business and bring more people to the subject site.

Next to testify was past president of the Spring Lake Community Association and nearby resident, Gary Martin. Mr. Martin explained that the original plan for the Dulaney Valley Memorial Gardens was that it be a low impact, garden-like site that blended into the community. Mr. Martin is concerned that the 2 acres of additional impervious surface proposed in the development will cause additional run-off into the neighboring stream, pond, and park. Additionally, the resulting increased noise and light pollution will impede resident's quiet enjoyment of their property. Finally, Mr. Martin opined that the proposed development will conflict with after school recreational activities occurring near the subject site. He noted that the area is heavily traveled by pedestrians, including children and that he foresaw patrons using the surrounding community to access the site.

Carol Martin testified as a resident of the Spring Lake Community. Ms. Martin offered into evidence a Petition from neighboring residents in opposition of the proposed Special Exception. (Prot. Ex 1). Ms. Martin personally witnesses students walking from the neighboring schools in the afternoon and has witnessed the high traffic volume associated with parents dropping off and picking up students from school and recreational activities. She expressed further

concern that funeral home patrons using GPS for navigation may be routed through the surrounding community. Ultimately, she believes that a commercial business should not be allowed to operate in a residential community.

Gerard Durmowicz, a 24-year resident of the surrounding community, and direct neighbor to the cemetery's current business office was next to testify. He explained that the cemetery currently operates from dusk to dawn and that the gates are secured in the evening hours. He fears that the proposed funeral home will be a 24-7 business, in that funeral related deliveries may occur at all hours of the night, creating additional security concerns. He also anticipates that evening viewings will ultimately increase traffic volume in the evening hours. As he has personally witnessed traffic accidents in front of the present entrance on Padonia Road, he is not convinced that the reconfigured entrance/exit will have a positive impact on traffic safety. He noted that burial plots located near the present entrance result in family members parking in that area which further narrows the width for vehicles entering and exiting the property. Mr. Durmowicz has no complaints with the current operation of the cemetery office near his home, but fears that the site may be abandoned due to the new funeral home building, leaving the current space available for other commercial development.

Tim Coulson testified via Webex. He lives in the surrounding community and inquired whether the Petitioner had considered relocating entrance to where Eastridge Road dead-ends into Padonia Road where there is an existing traffic light.

Next to testify via Webex was Suzanne Galletti who lives within a half mile of the subject site. Ms. Galletti is a registered architect, has a background in civil engineering and has reviewed the traffic studies. Ms. Galletti opined that the actual future traffic impact of the proposed development is being downplayed by the Petitioner. She testified that while the Petitioner's traffic

study dealt with present traffic conditions on Padonia Road, it failed to address the future impact of the proposed funeral home that is likely to increase over time. She also questioned the Petitioner's business model, which she alleges to include a full capacity of 482 seats, in contrast to the 111 parking spaces required by County regulations. She cited an on-line article where the Petitioner mentioned including "Living Funerals" into a future business plan, that she opines will further utilize the proposed structure as an event space that will also increase traffic volumes. Finally, she noted that the "stopping" of traffic at York and Padonia Roads creates problems in that it is already a "broken intersection."

REBUTTAL TESTIMONY

In rebuttal, and in response to questions posed by community members, Mr. Mitchell returned to the witness stand. He clarified that the cemetery will be secured after the day's last visitation and that employees making deliveries after hours will be provided with a key or access code to enter the funeral home property. Additionally, Mr. Mitchell clarified that he plans for the current office near Mr. Durmowicz's home to remain open indefinitely. Regarding the possible entrance at the lighted intersection at Eastridge Road and Padonia Road, Mr. Mitchell explained that this had not been considered due to the amount of distance that cars would be required to travel through the cemetery to reach the funeral home. He explained that the proposed location was considered due to its immediate proximity to Padonia Road for easy patron access. As for the allegation that the proposed operation would seat 483 people, Mr. Mitchell clarified that in order to achieve such capacity they would have run several visitations, funerals and receptions at the same time. He clarified that this is never done. Regarding Living Funerals, he explained that such events will be considered if permitted by County regulations. As to parking attendants for visitations, Mr. Mitchell testified that the current operation at the York Road location always has

parking attendants on-site during visitations and that this practice will continue at the proposed site.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

In a DR zone, a funeral home establishment is permitted by Special Exception. Consequently, it is presumed that it was foreseeable that such impacts as traffic for funeral visitations and the formation of funeral processions would be associated with such use when the corresponding legislation was enacted. It is logical to assume that such impacts were even greater in the past in a time when cremations were less frequent and visitations often took place for several days. The Petitioner currently operates a funeral home in a residential rowhouse community and has done so since 1967. As noted above, Mitchell-Wiedefeld now serves approximately 227 families per year, with 60% of those services involving cremation. Services involving actual visitation on the premises occur 2 to 3 times a week with visitation usually occurring from 2 to 4 pm and 7 to 9 pm, for a single day. Approximately 130 such visitations took place at the Petitioner's current location last year. Of these services, less than 100 resulted in traditional burials. Mr. Mitchell explained that these viewings typically involve 50 to 75 persons. Mr. Mitchell, with his 30 years of experience in the funeral home industry and as a past president of the State and National Board of Funeral Directors,

opined that the replication of these numbers will take some time to achieve at the new location, and it could take up to 10 years to experience significant growth. Through his expertise, he also opined that the number of current processions into the Dulaney Valley Memorial Gardens will actually decrease by having a funeral home on-site. These assumptions were not contradicted by expert testimony. Additionally, Petitioner's traffic expert opined that the proposed development would not adversely affect the traffic conditions on Padonia Road, even if such traffic occurred at peak hours. No expert testimony, or alternative traffic data was offered by Protestants to contradict this finding.

While the concerns from the community regarding light, noise and traffic are well-founded, I find that the Petitioner has met their burden in satisfying the requirements of BCZR § 502.1. As noted by the Petitioner, there will continue to be input from Baltimore County regarding such issues as traffic, landscaping, lighting, and stormwater management in the development phase of the approval and permitting process.

THEREFORE, IT IS ORDERED this **18th day of April 2024**, by this Administrative Law Judge that the Petition for Special Exception from BCZR § 1B01.1(C)(9), to allow a funeral establishment in the DR zone, be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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.
- Petitioner will secure the cemetery grounds after the completion of each day's last visitation and employees making late evening deliveries will be provided with either keys or access codes so they may enter the cemetery grounds if necessary.
- Petitioner will provide parking attendants for all visitations and have an attendant stationed at the Padonia Road entrance to help direct traffic in and out of the cemetery grounds for larger processions and visitations.

- Petitioner must comply with the DPR and DPW&T ZAC comment, a copy of which is attached hereto and made a part hereof.

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

A handwritten signature in black ink, appearing to read 'Andrew M. Belt', is written over a horizontal line.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 21, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0047-X

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

DPR: No comment

DPW-T: DPWT requires the proposed funeral establishment to connect to the public sewer system. The applicant is not required to extend the sewer main to upstream properties because DPWT records show that the upstream properties are already connected. DPWT feels the Special Exception can be approved with the required sewer connection placed as a condition to be completed at a later date and before any permits can be issued. The applicant is encouraged to contact the Department of Permits, Approvals and Inspections Bureau of Development Plans Review for public drawing requirements for sewer main extension and connection.

Landscaping: If Special Exception and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

Recreations & Parks: No Greenways affected.



PETITION FOR ZONING HEARING(S)

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

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

Address 200 E. Padonia Road which is presently zoned D.R. 3.5

Deed References: 25938/00115 133 10 Digit Tax Account #1600008599

Property Owner(s) Printed Name(s) Dulaney Valley Memorial Gardens, Inc.

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

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

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

2. X a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
a funeral establishment in a D.R. Zone

3. a **Variance** from Section(s)

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

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

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name – Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

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):

Dulaney Valley Memorial Gardens

Name #1

Name #2 – Type or Print

John O. Mitchell - PRESIDENT

Signature #1

Signature # 2

200 E. Padonia Road Lutherville MD

Mailing Address

City

State

21093

Zip Code

Telephone #

Email Address

Representative to be contacted:

Name — Type or Print

CASE NUMBER 2024-0047-X Filing Date 2/15/24

Do Not Schedule Dates: _____

Reviewer MTV

Zoning Property Description for Special Exception Petition
200 East Padonia Road

Beginning at a point located on the west side of Padonia Road, which has a right of way width of ± 80 feet, the special exception area is at a distance of $\pm 150'$ from the centerline of the nearest improved intersecting street, Hartfell Road, which has a right of way width of ± 60 feet. **Thence** the following courses and distances, referred to the Maryland Coordinate System (NAD '83/91):

1. North 81 degrees 15 minutes 06 seconds West, 20.38' to a point;
2. South 47 degrees 53 minutes 31 seconds West, 242.15' to a point;
3. South 24 degrees 29 minutes 32 seconds West, 112.77' to a point;
4. South 6 degrees 29 minutes 42 seconds West, 214.46' to a point;
5. South 6 degrees 15 minutes 48 seconds West, 116.31' to a point;
6. South 46 degrees 44 minutes 46 seconds East, 21.76' to a point;
7. South 72 degrees 35 minutes 38 seconds East, 47.33' to a point;
8. A curve with Chord Bearing North 49 degrees 41 minutes 48 seconds East, Chord Length 84.95', radius 104.09' to a point;
9. A curve with Chord Bearing North 19 degrees 38 minutes 45 seconds East, Chord Length 200.87', radius 343.74' to a point;
10. North 40 degrees 13 minutes 52 seconds East, 65.93' to a point;
11. A curve with Chord Bearing North 2 degrees 32 minutes 08 seconds West, Chord Length 48.56', radius 49.56' to a point;
12. A curve with Chord Bearing North 3 degrees 43 minutes 28 seconds West, Chord Length 118.72', radius 148.21' to a point;
13. North 21 degrees 18 minutes 04 seconds East, 170.93' to a point;
14. A curve with Chord Bearing North 3 degrees 13 minutes 15 seconds East, Chord Length 60.07', radius 65.92' to a point and place of beginning.

Containing an area of 92,745.89 square feet or 2.1292 acres of land, more or less and being located in the 8th Election District and 3rd Council District of Baltimore County Maryland.



2024-0047-X

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

No. 229526

Date: 2/15/2024

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
601	806	0000		6150					\$ 500

Total: \$ 500

Rec

From:

Whitefish Taylor Preston LLP

For:

Special Exception Request
260 East Patuxent Road
2024-0047-X

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

MSK

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: 2024-0047-X
Property Address: 200 East Padonia Road
Legal Owners (Petitioners): Dulaney Valley Memorial Gardens
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Whiteford, Taylor, Preston C/o John Gontrom
Address: 1 Pennsylvania Ave, Ste 300
Towson, MD 21204
Telephone Number: 410-832-2055

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 08 Account Number - 1600008599

Owner Information

Owner Name: DULANEY VALLEY MEMORIAL GARDENS INC Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 200 E PADONIA RD Deed Reference: /25938/ 00115
LUTHERVILLE TIMONIUM MD 21093-1240

Location & Structure Information

Premises Address: 200 PADONIA RD Legal Description: 68.605AC NWS PADONIA
LUTHERVILLE TIMONIUM 21093-1240 200 PADONIA RD
1 MILE E OF YORK

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0051	0018	0114	20000.04	0000				2023	
									Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1962	13,618 SF		68.6100 AC	06

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
	OFFICE BUILDING /		C3		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2023	07/01/2024
Land:	1,463,300	1,463,300		
Improvements	3,160,200	2,657,300		
Total:	4,623,500	4,120,600	4,120,600	4,120,600
Preferential Land:	0	0		

Transfer Information

Seller: DULANEY VALLEY MEMORIAL PARK INC	Date: 03/31/2010	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /25938/ 00115	Deed2:
Seller: DULANEY VALLEY MEMORIAL PARK, INC	Date: 07/19/2007	Price: \$1,846,000
Type: ARMS LENGTH MULTIPLE	Deed1: /25938/ 00115	Deed2:
Seller: DULANEY VALLEY MEMORIAL GARDENS	Date: 07/18/2007	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /00000/ 00000	Deed2:

Exemption Information

Partial Exempt Assessments: Class		07/01/2023	07/01/2024
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

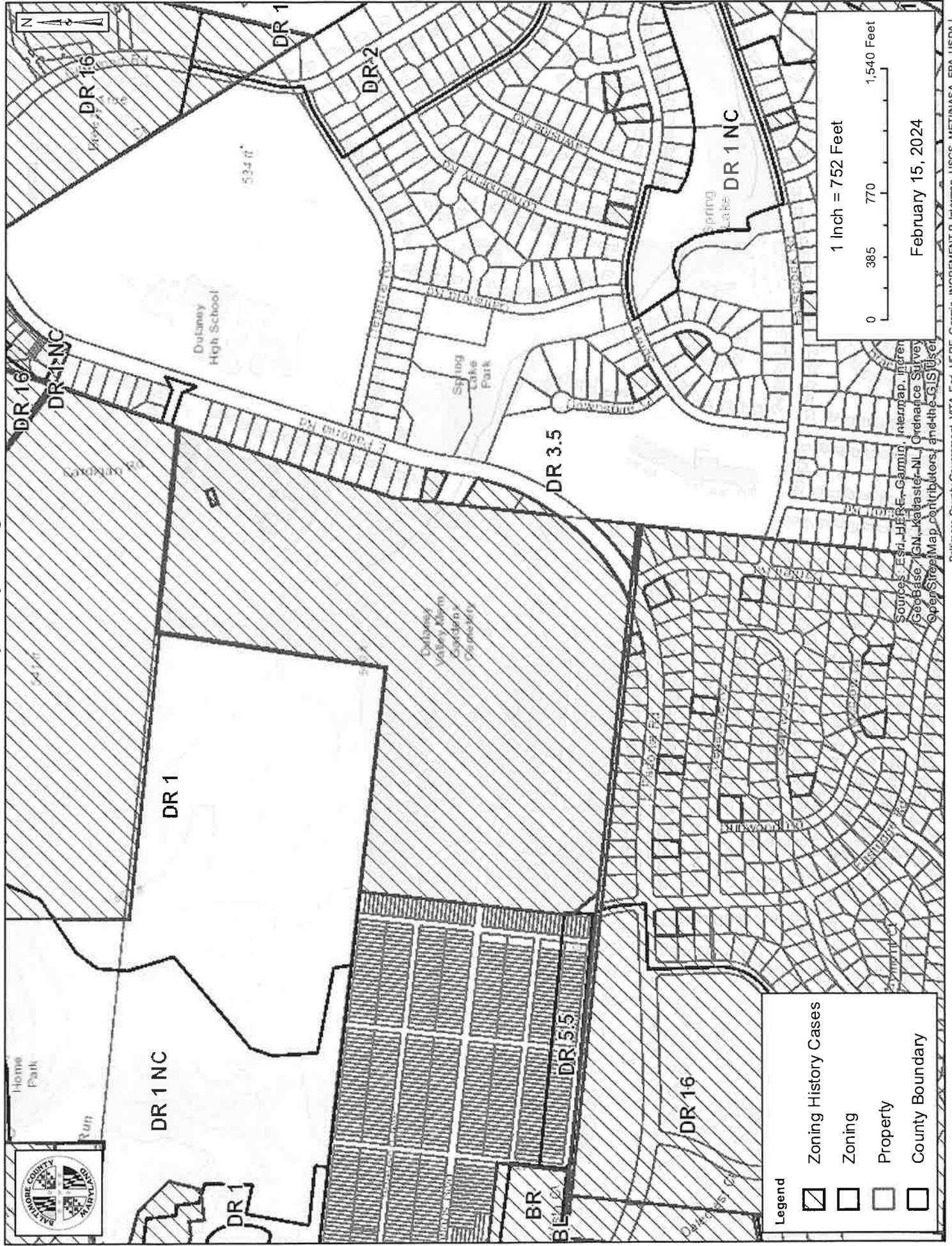
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application	Date:
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2024-0047-X

Baltimore County - My Neighborhood

2024-0047-X



**In Re: Petition for Special Exception
200 E. Padonia Road
Dulaney Valley Memorial Gardens
CASE No. 2024-0047-X**

June 3, 2024

To the Honorable Judge Andrew Belt:

I am in receipt of the Petitioner's "Response to Motion for Reconsideration." As the Petitioner and his counsel have felt the need to intervene with their own response, I am compelled to respond to you with notice that the Petitioner is incorrect in their conclusions.

The purpose of our Motion for Reconsideration (5/20/2024) was to ask you, the Administrative Law Judge, to consider errors in law or fact and to reconsider the determination based on the zoning regulations, interpretation of law, and the reliability of the information before him.

It is understood that a Special Exception is neither an exception nor special. It is a use that is specifically listed as allowed within a zoning district. It is permission to do something that the BCZR permits under certain circumstances. It is important that the Petitioner's intended operation of the property is related to the Special Exception otherwise the spirit and intent of the BCZR cannot be met. Mr. Mitchell has stated in testimony and in published reports¹ that his venture in "living funerals" is intended to provide a larger venue to the existing and conventional services now provided by his funeral establishment in Towson. That facility is located in Towson and has a Commercial Business (CB) zoning.

We respectfully question whether the standard of Proof has been met for the ALJ's determination and if the permitted use for the Special Exception condition the Petitioner seeks has been satisfied, for the following reasons:

1. There is no evidence provided to the ALJ and to the Community that the conditions granting of a Special Exception pursuant to BCZR §502.1 have been satisfied in light of the Petitioner's plan presented at the hearing.
2. We find that §502.1B,E, and G cannot be met with the Petitioner's plan.

¹Simmons, Melody. Baltimore Business Journal, April 5, 2023

<https://www.bizjournals.com/baltimore/news/2023/04/05/living-funeral-center-planned-baltimore-county.html>

"A new facility for so-called "living funerals" complete with a catering hall and bar is being developed at Dulaney Valley Memorial Gardens...the center will reflect an emerging national trend in the funeral industry for holding celebrations of life rather than religious or memorial services. The 12,000-square-foot Mitchell Funeral, Cremation, and Life Celebration Home will break ground next year with live streaming technology, a social gathering space, a food hall and a bar. It will also host so-called "living funerals," or parties held by terminally ill or elderly persons to gather their family and friends and raise a glass before they draw their final breath."

3. The use of the Special Exception for a “living funeral” or “celebration of life” center is inconsistent with the provisions of BCZR §1B01.1(C)(9). A conclusive determination as to what a “living funeral” facility is could be made through the Attorney General’s program for local governments for questions of law.
4. The Motion for Reconsideration has been limited to the Order and to newly discovered information.
5. Uses permitted by Special Exception BCZR §1B01.1(C)(9) do not require a traffic study. However, according to BCZR §502.1B, the proposed use shall not “Tend to create congestion in roads, streets or alleys therein.” The Petitioner voluntarily presented an expert who has not presented any documents or data for analysis or review which prove traffic in the future as aligned with the Petitioner’s stated growth and use(s) will not cause congestion. This expert has stated that they have communicated with Baltimore County. The Petitioner has not provided this proof. Does the Community have a right to review the data the expert claims he has produced and shared with the County agencies *and* the data he has created to support the Petitioner’s claim that §502 has been satisfied? Basic Services Maps are required by the Zoning Review. The Petitioner attested to the Review in one of their submitted Exhibits.
6. Padonia Road is 47’6” across. Designated parking and bicycle lanes extend from the signalized intersection of Eastridge and Padonia for the safety of residents, drivers, and cyclists. These conditions exist at the site of the Petitioner’s entrance and beyond. The Petitioners did not submit any documentation of the actual road conditions. This is troubling and not helpful. Therefore, we submit an attached Exhibit [DVMG_Entrance_Road]. The proposal to add acceleration or deceleration would not be possible and unreasonable at the site. It would require removal of existing off-street parking and bicycle lanes that Baltimore County has installed for safety.
7. Mr. Mitchell indicates that he is unsure if current laws would allow food service and catered events at the proposed site. It seems that Mr. Mitchell is aware that his plan does not fit with existing laws related to the Special Exception. [ALJ Hearing Recording, WebEx 38:00 - 40:00, approx] Should the failure of the Petitioner to have knowledge of the laws that would allow him to establish a “living funeral establishment” or have catering at a funeral establishment allow him to change the conditions of BCZR § 1B01.1(C)(9) which is established as a use and defined in COMAR?
8. Whether granting the Special Exception for the Petitioner’s use be unlawful “spot zoning” considering the Petitioner’s testimony?

We have responded to the ALJ’s Order with our Motion of Reconsideration on May 20, 2024 and the Conditions we request in that motion as stipulations on the Order are the same. This letter reiterates our concerns following the Petitioner's “Response to Motion for Reconsideration.”

Respectfully,
Carol Martin
Springlake Community Area Director
June 2, 2024

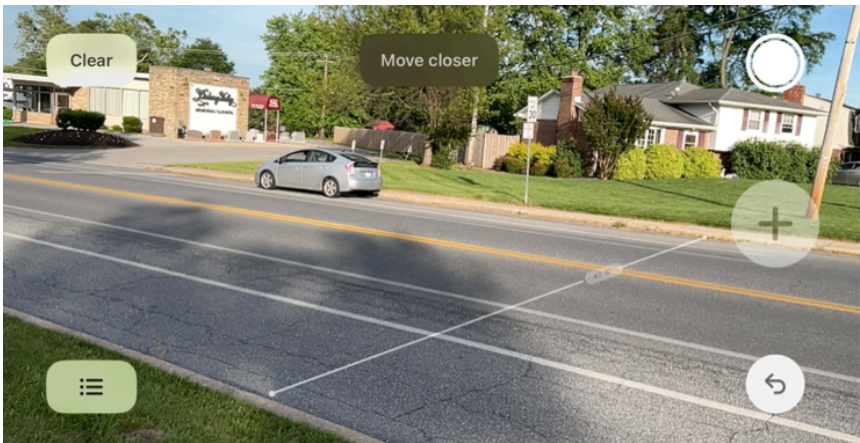
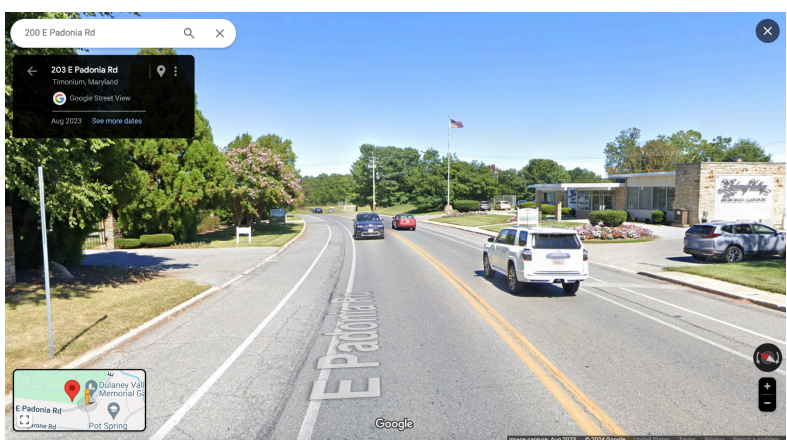
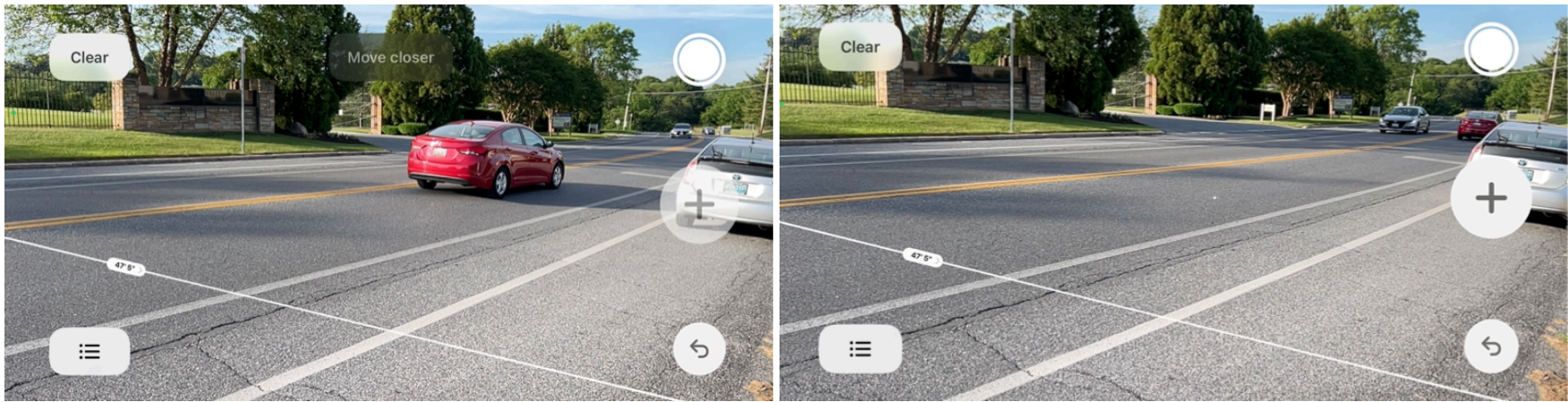
Prepared as a collaboration by concerned neighbors of the Springlake Community

Cc. This letter to the Honorable Judge Andrew Belt has been sent to the following persons via email
June 3, 2024:

John O. Mitchell II - jack@mwfuneralhome.com <jack@mwfuneralhome.com>,
John Mitchell, III - jmittchelliii@cs.com <jmittchelliii@cs.com>,
Bishop, Matt <Matt.Bishop@kimley-horn.com>,
Jack - jjgraz2@verizon.net <jjgraz2@verizon.net>,
Lauren Kucharski - noodles004@gmail.com <noodles004@gmail.com>,
Listening Only - katie.dillon@kimley-horn.com <katie.dillon@kimley-horn.com>,
Max Pfeiler - pfeilerjoseph@gmail.com <pfeilerjoseph@gmail.com>,
Suzanne Galletti - suzigalletti@gmail.com <suzigalletti@gmail.com>,
Tim Coulson - tim.coulson@verizon.net <tim.coulson@verizon.net>,
Kate Collier kate.collier1974@gmail.com <kate.collier1974@gmail.com>,
Eric Rockel - erockelearthlink.net <erockel@earthlink.net>,
Dhammika DeSilva - kddesilva@gmail.com <kddesilva@gmail.com>,
Carol Martin - garyandcarol3@verizon.net <garyandcarol3@verizon.net>,
Gary Martin - garyj52@verizon.net <garyj52@verizon.net>,
Meredith Durmowicz - durmowicz@verizon.net <durmowicz@verizon.net>,
Jonathan Peiffer - jon.peiffer@verizon.net <jon.peiffer@verizon.net>,
Debra Wiley <dwiley@baltimorecountymd.gov>,
County Council <countycouncil@baltimorecountymd.gov>,
Henry Ayakwah <hayakwah@baltimorecountymd.gov>,
PAI Zoning Advisory Committee <paizac@baltimorecountymd.gov>,
Peoples Counsel <peoplescounsel@baltimorecountymd.gov>,
Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>,
Rebecca Wheatley <rwheatley@baltimorecountymd.gov>,
Taylor Bensley <tbensley@baltimorecountymd.gov>,
Vishnubhai K Desai <vdesai@baltimorecountymd.gov>
Christopher DeCarlo, Esquire - cdecarlo@whitefordlaw.com
John Gontrum, Esquire - jgontrum@whitfordlaw.com

DVMG_Entrance_Road: Dulaney Valley Memorial Gardens: Entrance, Safety, and Road Conditions

Vehicles may park outside the entrance. Parking and cyclist lanes are clearly marked.



The following is a request for a Motion of Reconsideration of the Honorable Andrew M. Belt's Opinion and Order in Case No. 2024-0047-X.

This document references testimony from the April, 2, 2024 in-person and online hearing. This request is being made on the grounds that allowing the facility that the Petitioner is planning as stated in both testimony and in a published article describing the project would violate conditions of Baltimore County Zoning Regulation §502.1, specifically provisions:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations

as follows:

Unclear Purpose and Faulty Testimony

The Special Exception request is for building a funeral establishment pursuant to the Baltimore County Zoning Regulations ("BCZR") § 1B01.1(C)(9). The Petitioner has described uses and facilities for their funeral establishment that are incompatible with a Special Exception in a D.R. zone.

The Petitioner has stated that his desired facility would hold catered "Living Funeral" events if allowed by County regulations (ALJ Order, p. 4; p.10). A "funeral establishment" is defined as a building, structure, or premises that prepares and holds a *dead human body* for the viewing of remains and funeral services. COMAR 10.29.03.02B(4) emphasis added. Funeral services generally include viewing, visitation, formal service, burial, entombment, or cremation of the human body - after the person is dead. A dead human body. The petitioner wishes to build a funeral home at its property, the Dulaney Valley Memorial Gardens at 200 East Padonia

Road in Timonium, MD so it can also provide "Living Funerals" that celebrate the person before they have died. That provision would not align with the legal definition of a funeral establishment and would therefore not be allowed in a D.R. 3 zone. Funeral establishments are allowed by Special Exception in a D.R. zone, however, conference centers, catering halls and bars are not allowed in D.R. zones.

The Petitioner has not articulated its plan for the Special Exception with sufficient precision. Granting the Special Exception without requiring the Petitioner to fully articulate their business plan to the Community and to the county agencies allows the Petitioner to take an unduly broad and unspecified approach as to how it believes the business will operate in the future. Allowing the Petitioner to be unclear is inherently counter to the spirit and intent of the BCZR, specifically 502.1.G, and remarkably unfair to the Community. While the Petitioner's counsel, John Gontrum has led the petitioner to present its request as a funeral establishment, the actual operation would be something described as a facility for "living funerals" which is not defined in the BCZR and by all accounts from Mr. Mitchell's testimony at the hearing, may be a catering hall or auditorium.

In a published article in the Baltimore Business Journal profiling the Mitchell family's plans for the Dulaney Valley Memorial Gardens, John Mitchell, III describes their plan as part funeral home and part catered hall venue that may even contain a bar. (Baltimore Business Journal, April 5, 2023) Spaces that could support these functions are evident in the floor plan of the 12,000 square foot facility that is provided in the article. The proposed structure and site plan, entered at the hearing, and the floor plan, in the attached EXHIBIT, with restroom facilities suggesting an occupancy of up to 375 people, is assumedly derived from a supporting business plan which would necessitate restroom facilities for this significant number of people at any given time. No testimony was given by the Petitioner that would explain providing space and facilities for this many people.

Although Mr. Mitchell's testimony at the hearing focused on traditional funeral home functions, Mr. Mitchell states in the article that the proposed facility is actually a new venture for the family. This is an acknowledged change from the model funeral establishment to a facility that will follow a national trend in the funeral business - a venue for "celebrations of life" that will include "live streaming technology, a social gathering space, a food hall and a bar." [EXHIBIT, attached pdf]

The testimony of Matthew Bishop, landscape architect, is not reliable when he fails to consider the vision of the Petitioner may include a venue that can hold living funerals. The ALJ states that Bishop testifies that "the proposed use was permitted by Special Exception in the Zoning Regulations, thus is not inconsistent with the property's zoning classification nor in any other way inconsistent with the spirit and intent of those regulations." (ALJ Orders, p.6) A funeral establishment is not inconsistent. However, a catering hall, conference center, auditorium, or bar related to a living funeral establishment as described by the Petitioner are inconsistent with the Special Exception. The expert Bishop has testified to a concept that the Petitioner has not yet defined, therefore the ALJ must reconsider this testimony in light of what is allowed in the D.R. zone. The Petitioner is seeking more than just a funeral establishment as that term is defined in Maryland law.

Requirements of BCZR § 502.1 are not satisfied

The ALJ finds that the Petitioner has met his burden in satisfying the requirements of BCZR § 502.1. The Special Exception cannot be granted based on the Petitioner's "funeral establishment" request which, as the ALJ acknowledges, could include catering or some other operation not found in BCZR § 1B01.1(C)(9). Therefore, the matter to which the elements of BCZR § 502.1 must satisfy, have not been clarified. The matter here is what kind of "funeral

establishment” is the Petitioner seeking - one that exists presently in the Zoning regulations and by the laws defining “funeral establishment” or a future version of a funeral establishment that includes “living funerals”, catering, auditorium, and bar access which does not exist in the BCZR as a permitted use in the zone. BCZR § 502.1 G requires that the Special Exception not “be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations.

Consideration of Basic Services Maps is Required

Basic Services Maps were not considered and must be. As required by Zoning the Petitioner has stated that the site is not in a failed Basic Services Map area. The Petitioner's Special Exception Petition states, “19. This site does not lie within a deficient water, sewerage, or transportation area per the 2023 Basic Services Maps.” (Pet. Ex. 1) However, the Petitioner's Special Exception is in a failed traffic area. The traffic shed includes an F level LOS area at York Road and Ridgely Road. BCZR § 4A02.2. - states that if there are any conflicts between Article 4A “and any other provisions of these Zoning Regulations, the provisions of this article shall govern.” Additionally, the Administrative Law Judge should consider Baltimore County Code (“BCC”) § 32-6-102 - Adequate Public Facilities which reads:

- (a) Intent. It is intended by the county that this title is adopted independently of the Baltimore County Zoning Regulations and the development regulations of the county so that, to the extent necessary for achieving its intent, purposes, and requirements, this title supersedes and abrogates the rights to development which otherwise would accrue from the zoning or development regulations or other county laws.
- (b) Purpose. The purpose of this title is to provide a predictable planning environment for the provision of adequate infrastructure, roads, public school facilities, and recreational space by requiring residential and nonresidential projects to pass certain tests as a condition of development approval.

The Petitioner's traffic expert, David Nelson, stated that there may be use of an acceleration and deceleration lane near the site entrance. (ALJ Order, p.7) Considering the congestion and alteration of the entrance that has been discussed, the potential for strings of vehicles entering the facility to back up on Padonia Road, and the close proximity to the entrance to parking on Padonia Road for athletic events, the Petitioner should supply the County and Community this plan to review.

The Protestants have made it clear in their factual testimony that the issue of traffic and its associated congestion are serious and grave concerns for safety. The traffic shed is already challenged and will include more processions traveling as a string of cars and greater traffic generated from volumes of vehicles moving individually to and from the Petitioner's site.

Two county public schools, Dulaney High School and Pot Spring Elementary School, rely on the section of Padonia road most impacted by the proposed facility for bus access. The buses to both schools have peak travel hours from 2 - 4pm, precisely when Mr. Mitchell testified afternoon visitations typically occur. Mr. Nelson did not indicate any conversation occurred with the county school system nor with county engineering to understand the impact to safety, and, given the issues of vehicle processions and increased volume, the impact on timely bus arrival egress to and from these schools. Such a study should be provided to the county and to the community. It is clear that oral testimony provided by Mr. Nelson that the conditions for the granting of a Special Exception pursuant to § 502.1 B and E have not been met. He has provided no evidence that the Special Exception *will not* "tend to create congestion in roads, streets or alleys therein," nor has he shown that the Special Exception *will not* "Interfere with adequate provisions for schools."

The Petitioner's Special Exception impacts roads, recreational facilities, and potentially hinders the County's own planning for the proposed new Dulaney High School, as the exact entrances for buses and teacher/student parking have not fully been determined due to

discussions of roads, access to the school and the impacts on the Community's roads. The County has deemed it necessary for there to be a new Dulaney High School. This vitally important Capital Project should be able to proceed without any further impact and congestion on the local, community roads.

The Petitioner's expert traffic expert David A. Nelson states there have been conversations with Baltimore County and that two traffic counts were conducted examining Padonia Road at the site and that the counts are consistent. (ALJ Order, p.6) He stated that there was a LOS A at the site. That is not a real or reliable measure as there is no intersection as identified by Baltimore County at the site. Hartfell and Padonia is an unsignalized intersection. Eastridge and Padonia is a signalized intersection. Baltimore County Department of Public Works and Transportation does not measure unsignalized intersections. (see <https://www.baltimorecountymd.gov/departments/public-works/traffic/los-ratings>) Where are these counts from the studies that the traffic expert conducted? Where are the communications with Baltimore County? These documents are not available in the ALJ folder for this case. Documentation, data, written communications with the county agencies should be available to the Community for review.

Impact on the Master Plan and adopted Community Plans

A Master Plan is a comprehensive plan for orderly development. The Hunt Valley/Timonium Master Plan ("HVTMP"1998) is an adopted Baltimore County plan for the area. Although a funeral establishment Special Exception in a D.R. zone is permissible, the Department of Planning did not comment on the Developer's proposal and the Master Plan or the Hunt Valley/Timonium Master Plan. The Community would request that the Department of Planning comment on the petition and the Master Plan.

Schultz Standard is not met

The *Schultz* standard is not met as the Petitioner has not articulated the plan sufficiently. A "living funeral" establishment is not a defined "funeral establishment". In his testimony, the Petitioner mentioned catering opportunities if allowed by law. The facts and circumstances are that the Petitioner is looking toward the future, but the existing funeral establishment model has changed according to him. A catering hall is not allowed. The proposed facilities that Mr. Mitchell has made in a published article about the plans show that the plan is more than a "funeral establishment" and could even include a bar.

The Administrative Law Judge Can Impose Further Conditions

The regulations allow the ALJ to impose "conditions, restrictions, or regulations as he deems necessary or advisable for the protection of surrounding and neighboring properties." The Community asks that the ALJ stay the Order granting the Special Exception until (1) the Petitioner has articulated his business plan in such a way that it is cognizable under the definition of a "funeral establishment" in a Special Exception D.R.; (2) the petition's expert in traffic has provided documentation and data in written form for both studies of current conditions as well as future projections that model the growth in the petitioner's near-term and long-term business plan; (3) agencies provide information - Development Plans Review ("DPR") regarding traffic issues; opinions from Department of Public Works and Traffic ("DPW&T"); and opinions from the Department of Planning ("DOP") regarding the Master Plan are available for the Community. There was no substantive information or opinions in the ALJ folder (on a May 15 visit and review of the folder at the ALJ Offices there were very few comments and nothing on traffic or the HVTMP); (4) Conduct a Community Input Meeting with County Agencies and with the Community; and (5) require the Petitioner to request a new Special Exception hearing.

Respectfully Submitted,

Carol Martin
Springlake Community Area Director
May 20, 2024

Prepared as a collaboration by concerned neighbors of the Springlake Community

cc. This Motion for Reconsideration has been sent to the following persons via email May 20, 2024.

Cc:

John O. Mitchell II - jack@mwfuneralhome.com <jack@mwfuneralhome.com>,
John Mitchell, III - jmittchelliii@cs.com <jmittchelliii@cs.com>,
Bishop, Matt <Matt.Bishop@kimley-horn.com>,
Jack - jjgraz2@verizon.net <jjgraz2@verizon.net>,
Lauren Kucharski - noodles004@gmail.com <noodles004@gmail.com>,
Listening Only - katie.dillon@kimley-horn.com <katie.dillon@kimley-horn.com>,
Max Pfeiler - pfeilerjoseph@gmail.com <pfeilerjoseph@gmail.com>,
Suzanne Galletti - suzigalletti@gmail.com <suzigalletti@gmail.com>,
Tim Coulson - tim.coulson@verizon.net <tim.coulson@verizon.net>,
Kate Collier kate.collier1974@gmail.com <kate.collier1974@gmail.com>,
Eric Rockel - erockel@earthlink.net <erockel@earthlink.net>,
Dhammika DeSilva - kddesilva@gmail.com <kddesilva@gmail.com>,
Carol Martin - garyandcarol3@verizon.net <garyandcarol3@verizon.net>,
Gary Martin - garyj52@verizon.net <garyj52@verizon.net>,
Meredith Durmowicz - durmowicz@verizon.net <durmowicz@verizon.net>,
Jonathan Peiffer - jon.peiffer@verizon.net <jon.peiffer@verizon.net>,
Debra Wiley <dwiley@baltimorecountymd.gov>,
County Council <countycouncil@baltimorecountymd.gov>,
Henry Ayakwah <hayakwah@baltimorecountymd.gov>,
PAI Zoning Advisory Committee <paizac@baltimorecountymd.gov>,
Peoples Counsel <peoplescounsel@baltimorecountymd.gov>,
Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>,
Rebecca Wheatley <rwheatley@baltimorecountymd.gov>,
Taylor Bensley <tbensley@baltimorecountymd.gov>,
Vishnubhai K Desai <vdesai@baltimorecountymd.gov>
Christopher DeCarlo, Esquire - cdecarlo@whitefordlaw.com
John Gontrum, Esquire - jgontrum@whitfordlaw.com

- [Commercial Real Estate](#)

'Living funeral' center planned at Dulaney Valley Memorial Gardens



Image: Melody Simmons/BBJ

The suburban Baltimore cemetery is developing a new "living funeral" center in response to a new trend to celebrate life — before death.

MELODY SIMMONS



By [Melody Simmons](#) – Senior Reporter, Baltimore Business Journal

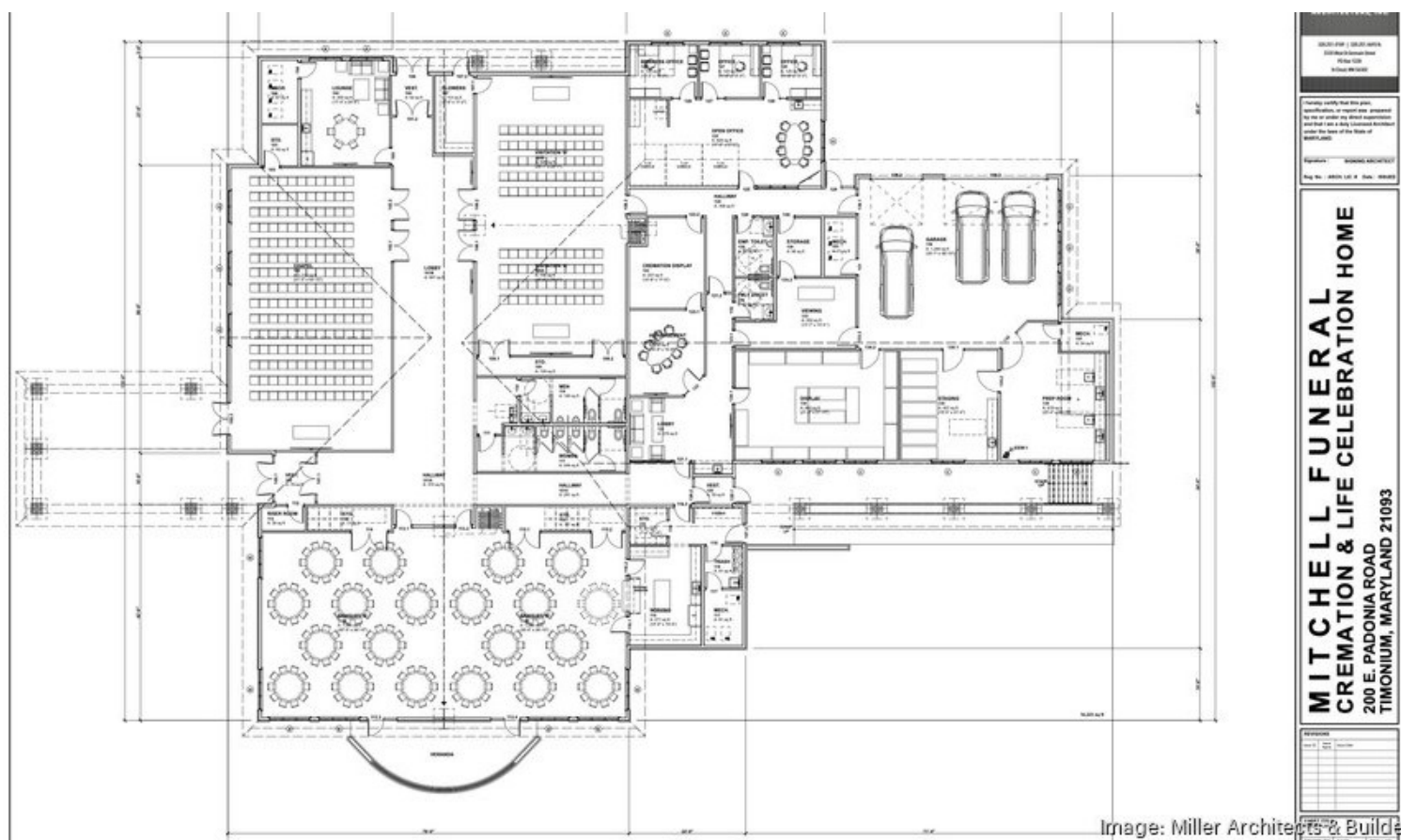
Apr 5, 2023

A new facility for so-called "living funerals" complete with a catering hall and bar is being developed at Dulaney Valley Memorial Gardens as the ageless task of mourning adapts for the 21st century.

The funeral home is in the works for a corner of the 70-acre cemetery at 200 E. Padonia Road in Timonium, said John O. "Jack" Mitchell IV, president of the Mitchell-Wiedefeld Funeral Home, which has owned the site that also has a pet cemetery and cremation center since 2008.

The Mitchell Funeral, Cremation and Life Celebration Home represents a new venture for the family business that first opened in 1837 off Broadway near Johns Hopkins Hospital. The center will reflect an emerging national trend in the funeral industry for holding celebrations of life rather than religious or memorial services.

"Families want to have a burial and throw some sort of celebration afterwards," Mitchell said. "By building your facility to accommodate those celebrations, your facilities will be the ones the families use. If you don't, they will go somewhere else."



A rendering of the planned Mitchell Funeral, Cremation, and Life Celebration Home for a portion of Dulaney Valley Memorial Gardens cemetery.
MILLER ARCHITECTS & BUILDERS

The 12,000-square-foot Mitchell Funeral, Cremation, and Life Celebration Home will break ground next year with live streaming technology, a social gathering space, a food hall and a bar. It will also host so-called "living funerals," or parties held by terminally ill or elderly persons to gather their family and friends and raise a glass before they draw their final breath.

"Living funerals are an interesting concept. They will put on a big funeral but instead of you laying in the casket, you're there — and you can tell them how much you love them and friends can tell you how much they love you," Mitchell said. "It may be sad because cancer is going to take you soon but this is one last chance to say goodbye."

Mitchell, 51, is also president of the National Funeral Directors Association, which has 11,000 funeral home members. He said the local expansion at Dulaney Valley mirrors other funeral home renovations and developments across the U.S. and internationally as death and dying issues evolve.



John O. "Jack" Mitchell IV is president of the Mitchell-Wiedefeld Funeral Home.
MITCHELL-WIEDEFELD

The changes are being driven in part by funeral and burial costs and declining religious beliefs, he said. There has been an uptick in cremations and a decrease in funeral visitation hours. Live streaming funerals have gained popularity. Published death notices are nearly extinct.

The average cost of a funeral "soup to nuts," he said, is about \$12,000, while a cremation without a viewing is about \$4,500. To date, Mitchell-Wiedefeld has not held any living funerals, but the trend has kicked off in other cities.

Mitchell said he recently attended a funeral in Houston where the deceased was laid out in one room and dozens of mourners gathered in other rooms to lend tributes as servers passed trays of hors d'oeuvres and drinks.

"What people want now is changing," Mitchell said. "I've had so many friends say they don't want a viewing and don't want people looking at me as a dead person. For people who like the traditional funeral, they appreciate so much how we made Mom or Dad look, but for my generation and younger they don't think of that at all. It's a change in perception."

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

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

DATE: February 23, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0047-X
Address: 200 E. PADONIA RD
Legal Owner: Dulaney Valley Memorial Gardens

Zoning Advisory Committee Meeting of February 23, 2024.

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

Additional Comments:

Reviewer: Earl D Wrenn

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 21, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0047-X

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

DPR: No comment

DPW-T: DPWT requires the proposed funeral establishment to connect to the public sewer system. The applicant is not required to extend the sewer main to upstream properties because DPWT records show that the upstream properties are already connected. DPWT feels the Special Exception can be approved with the required sewer connection placed as a condition to be completed at a later date and before any permits can be issued. The applicant is encouraged to contact the Department of Permits, Approvals and Inspections Bureau of Development Plans Review for public drawing requirements for sewer main extension and connection.

Landscaping: If Special Exception and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

Recreations & Parks: No Greenways affected.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 2/22/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0047-X

INFORMATION:

Property Address: 200 East Padonia Road
Petitioner: Dulaney Valley Memorial Gardens
Zoning: DR 3.5
Requested Action: Special Exception

The Department of Planning has reviewed the petition for the following:

Special Exception -

1. To use the herein described property for a funeral establishment in a DR Zone.

The subject site is the Dulaney Valley Memorial Gardens in Cockeysville. The property is split into two parcels: one approximately 1.11 acre parcel on the south side of East Padonia Road, which has office space; and one approximately 68.61 acre parcel on the north side of East Padonia Road, which is the cemetery and memorial grounds.

The use of 200 East Padonia Road as a cemetery was granted in 1956 following Zoning Case 1956-3826-X, which sought a Special Exception for a cemetery use. Since then, Dulaney Valley Memorials Gardens has continued to expand, including with the construction of a pet crematorium following Zoning Case 2014-176-SPH, and the construction of a human crematorium following Zoning Case 2018-112-SPH.

The Petitioners now wish to construct a one-story, 16,223 square foot funeral establishment with associated parking on the larger parcel. The proposed location for the facility and parking is near East Padonia Road and utilizes an existing ingress/egress point on East Padonia Road for the memorial gardens. Based on a floor plan provided to the Department of Planning, the proposed funeral establishment will have a chapel, visitation rooms, a lounge, restrooms, multi-purpose spaces, preparation rooms, and a garage for the funeral establishment vehicles.

Uses surrounding the subject site vary and include single family detached residential dwellings, an apartment complex, Fox Hollow Golf Course, Pot Spring Elementary School, and Dulaney High School. The majority of the surrounding land is zoned residential.

The Department of Planning contacted the representative for the petition via email on February 21st, 2024 requesting architectural drawings of the proposed funeral establishment. In a same day reply, the

representative provided the Department with the following renderings of the proposed funeral establishment:



Above: View of the funeral establishment from the northeast.



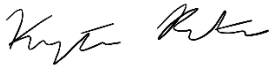
Above: View of the funeral establishment from the northwest.

The Department of Planning finds the proposed architectural renderings to be visually appealing, interesting, and well done. Further, the illustrative Landscape Plan included with the petition shows that landscaping will be provided along East Padonia Road and around the perimeter of the associated parking lots. This appears to screen the new development while maintaining a portion of the open green space you currently see while traveling East Padonia Road past the subject site.

The Department of Planning has no objections to the requested Special Exception. The use is in keeping with how the property has been used for the past 68 years and will allow Dulaney Valley Memorial Gardens to expand their offerings.

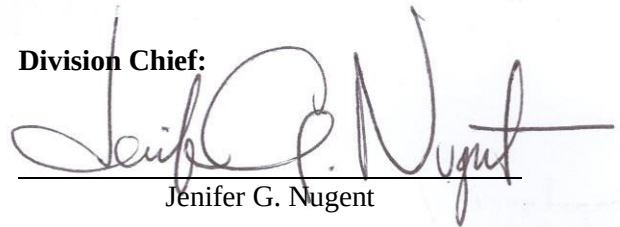
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: John B. Gontrum, Esquire
David Birkenthal, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County



Certificate of Posting

Case# 2024-0047-X

Petitioner/Developer

Whiteford Law

Chris Decarlo

Date of Hearing/Closing

April 2, 2024

Baltimore County Department of Permits and Management

County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204

Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the [property located at

200 E. Padonia Road on March 11, 2024. Signs 1A & 1B

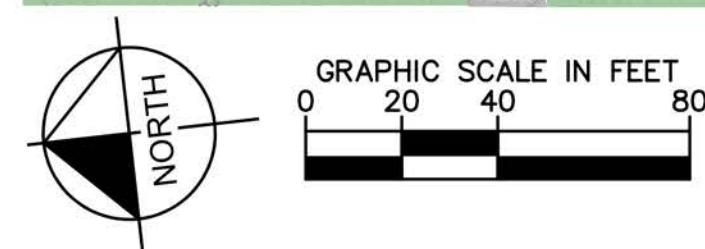
Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

443-629-3411



SITE PLAN

SCALE: 1" = 40'



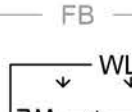
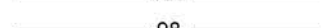
 **VICINITY MAP**
SCALE: 1" = 1000'

PROPERTY OWNER
DULANEY VALLEY MEMORIAL GARDENS, LLC
200 EAST PADONIA ROAD
LUTHERVILLE-TIMONIUM, MD 21093

**LANDSCAPE ARCHITECT/
CIVIL ENGINEER**

KIMLEY-HORN & ASSOCIATES, INC.
215 WASHINGTON AVE., SUITE 500
TOWSON, MD 21204
ATTN: MATT BISHOP, PLA
PHONE: 443-792-9995
EMAIL: MATT.BISHOP@KIMLEY-HORN.COM

LEGEND

- | | |
|---|-------------------------------|
|  | PROPERTY LINE |
|  | BUILDING SETBACK |
|  | EX. ADJACENT PROPERTY LINE |
|  | LIMIT OF DISTURBANCE |
|  | EX. CONTOUR |
|  | EX. BUILDING |
|  | EX. CURB |
|  | EX. FENCE |
|  | EX. SANITARY SEWER |
|  | EX. STORM DRAIN |
|  | EX. WATER |
|  | EX. UNDERGROUND COMMUNICATION |
|  | EX. UNDERGROUND ELECTRIC |
|  | EX. GAS |
|  | EX. OVERHEAD ELECTRIC |
|  | EX. SEWER MANHOLE |
|  | EX. STORM DRAIN MANHOLE |
|  | EX. FIRE HYDRANT |
|  | EX. WATER VALVE |
|  | EX. UTILITY POLE |
|  | EX. SIGN |
|  | EX. SHRUB |
|  | EX. TREE |
|  | EX. WETLAND BUFFER |
|  | EX. FOREST BUFFER |
|  | EX. WETLAND |
|  | PROP. BUILDING |
|  | PROP. CURB |
|  | PROP. RETAINING WALL |
|  | PROP. MAJOR CONTOUR |
|  | PROP. MINOR CONTOUR |
|  | PROP. PARKING SPACES |

[illegible]

Kimley»»Horn

© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
215 WASHINGTON AVE., SUITE 500, TOWSON, MD 21204
PHONE: 443-792-9995
WWW.KIMLEY-HORN.COM

KHA PROJECT	
114161000	
DATE	
01/08/2024	
SCALE	
DESIGNED BY	KMD
DRAWN BY	KMD
CHECKED BY	MAB

SITE PLAN RENDERING

**DULANEY VALLEY
MEMORIAL GARDENS**
PREPARED FOR
JOHN O. MITCHELL IV

BALTIMORE COUNTY
MARYLAND

SHEET NUMBER
C-200

CALL 48 HOURS
BEFORE YOU DIG

IT'S THE LAW
DIAL 811



Know what's below.
Call before you dig.

This document, together with the concepts and design presented herein, is an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of any integrated elements of this document without written authorization and collaboration by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

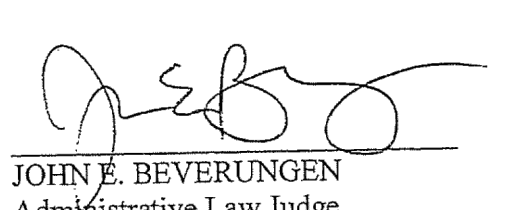
CASE NO. 2018-0112-SPH

THEREFORE, IT IS ORDERED this 29th day of December, 2017 by this Administrative Law Judge, that the Petition for Special Hearing: (1) to permit a human crematorium as an accessory use to an underlying cemetery; (2) to permit two (2) accessory parking spaces for a human crematorium; and (3) to amend an underlying special exception for cemetery use (in accordance with the relief granted herein and as shown on the site plan marked as Petitioner's Exhibit No.1), 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. Petitioner shall maintain all existing vegetative buffers and trees on site and shall replace promptly any plants, trees or shrubs which die or are damaged.

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


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB: sln

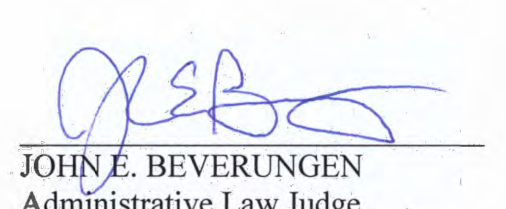
CASE NO. 2014-0176-SPH

THEREFORE, IT IS ORDERED this 9th day of June 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to permit a pet crematorium as accessory to an underlying cemetery and pet cemetery use; (2) to permit three (3) accessory parking spaces for the pet crematorium; and (3) to amend the underlying special exception for cemetery use (Case No. 1956-3826-X, as amended in Case No. 66-40-X), in accordance with the terms of this Order and the site plan marked as Exhibit 1, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits 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.

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

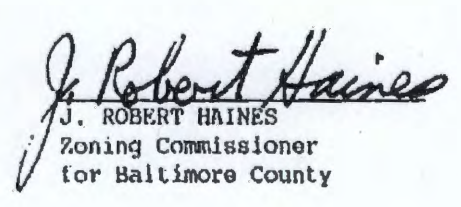

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

CASE NO. 91-413-A

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 1st day of June, 1991 that the Petition for a Zoning Variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 1804.1.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a principal building to set line setback of 18 ft. in lieu of the 50 ft. required, in accordance with Petitioners' Exhibit Nos. 1 and 3, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.


J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH/mm
on: Peoples Counsel

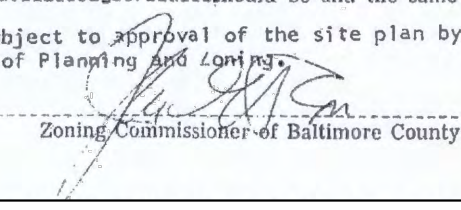
ORDER RECEIVED FOR FILING
Date 6/9/91
By [Signature]

CASE NO. 66-40-X

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of location and the petitioner having complied with the requirements of Section 502.1.1 of the Baltimore County Zoning Regulations:

the above described property should be rezoned and a special exception should be granted to the same.

It is ORDERED by the Zoning Commissioner of Baltimore County this 1st day of August, 1966 that the above described property be rezoned from R-10 Zone to Special Exception for a human crematorium and the same is granted from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services and the Office of Planning and Design.


J. ROBERT HAINES
Zoning Commissioner of Baltimore County

CASE NO. 1962-5614-V

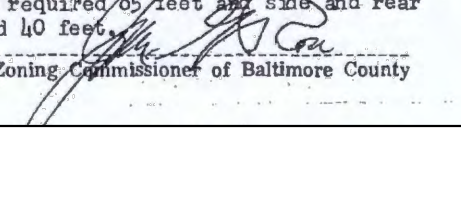
Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the following finding of facts that the granting of the variance will grant relief to the petitioner without substantial injury to the public health, safety and the general welfare of the locality involved:

the above Variance should be had, and it further appearing that by reason of location:

variance as follows should be granted:

Permit a front yard of 30 feet from the front lot line instead of the required 60 feet. To include 10 feet from the rear lot line of the subject property instead of the required 35 feet and side and rear yards of 20 feet instead of the required 30 feet and 40 feet.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 29th day of April, 1962, that the above Petition for a Variance should be not the same as granted from and after the date of this order, which permit a front yard of 30 feet from the front lot line instead of the required 60 feet and side and rear yards of 20 feet instead of the required 30 feet and 40 feet.

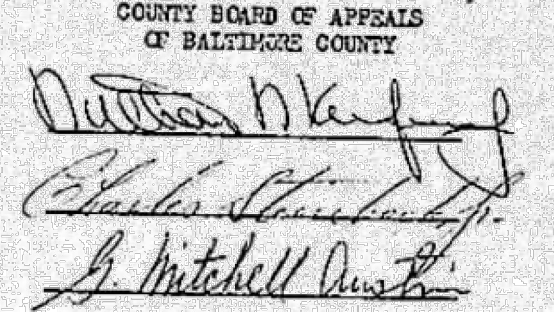

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

CASE NO. 1959-4821

ORDER

For reasons set forth in the foregoing opinion, it is this 13th day of April, 1961, by the County Board of Appeals, ORDERED that the aforesaid reclassification should be and the same is hereby granted from an "R-20" Zone to an "R-30" Zone.

Any appeal from this decision must be in accordance with Rule 1301 (c) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

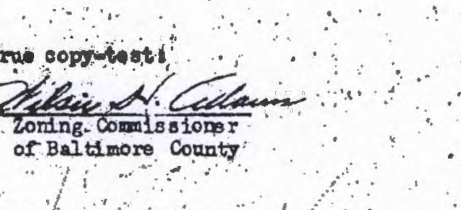

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

#4821-2
MAP #8
SEC. 2-D
R10

CASE NO. 1956-3826-X

It is this 1st day of September, 1956, by the Zoning Commissioner of Baltimore County, ORDERED that the aforesaid petition for a special exception for a cemetery, be and the same is hereby granted in accordance with plan submitted and agreement entered into, which plan and agreement are made a part of this Order.


Winton H. Adams
Zoning Commissioner
of Baltimore County

True and correct:

J. ROBERT HAINES
Zoning Commissioner
of Baltimore County