

IN THE CIRCUIT COURT OF MARYLAND FOR HOWARD COUNTY

PETITION OF

MARC AND MELINDA JORDAN
13025 Twelve Hills Road
Clarksville, Maryland 21029

THU NGUYEN AND RUY GARCIA-ZAMOR
12960 Linden Church Road
Clarksville, Maryland 21029

TAY AND REBECCA YOSHITANI
13031 Twelve Hills Road
Clarksville, Maryland 21029

BARRY AND SANDY AUGUST
12805 Linden Church Road
Clarksville, Maryland 21029

DAVID BARLOW
14010 Twelve Oaks Court Apt. #12
Clarksville, Maryland 21029

VERRON AND ANGELA BRADE
13001 Twelve Hills Road
Clarksville, Maryland 21029

SETH AND MAGGIE BRONY
13064 Twelve Hills Road
Clarksville, Maryland 21029

MINDY BURSTEIN
5601 Foxview Court
Clarksville, Maryland 21029

KIM COOKE
6404 Reedy Song Knoll
Clarksville, Maryland 21029

ALLEN AND BARBARA CURRANO
13025 Linden Church Road
Clarksville, Maryland 21029

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CIRCUIT COURT
FOR
HOWARD COUNTY

Civil Action No.: _____

KIM CURRANO
7326 Little Bird Path
Columbia, Maryland 21046

GENE AND SHERRY CYPRYCH
5654 Chamblis Drive
Clarksville, Maryland 21029

KRISTIN DELANEY
5475 Broadwater Lane
Clarksville, Maryland 21029

KENNETH AND KATHY DEIBLER
12730 Chapel Chase Drive
Clarksville, Maryland 21029

ESTATE OF HUGH HILL
1599 Homeland Drive Unit 1A
Eldersburg, Maryland 21784

JEROME AND ROSEMARIE FLEGG
13037 Twelve Hills Road
Clarksville, Maryland 21029

MICHAEL AND LESLIE GERWIG
12865 Linden Church Road
Clarksville, Maryland 21029

AL AND SHARON GLEESON
13006 Twelve Hills Road
Clarksville, Maryland 21029

KATHY KABERLE
12796 Linden Church Road
Clarksville, Maryland 21029

KATHLEEN KLEIN
5385 Broadwater Lane
Clarksville, Maryland 21029

STEVE LEE
13015 Twelve Trees Court
Clarksville, Maryland 21029

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**CIRCUIT COURT
FOR
HOWARD COUNTY**

STEVEN AND REBECCA LIGHT

5619 Foxview Court
Clarksville, Maryland 21029

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MIKE MANTUA

13002 Twelve Trees Court
Clarksville, Maryland 21029

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PAUL AND JEANNE MARTEIN

12985 Linden Church Road
Clarksville, Maryland 21029

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PETER AND LISA MASCONI

5337 Broadwater Lane
Clarksville, Maryland 21029

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KEVIN MCLAUGHLIN

13014 Twelve Trees Court
Clarksville, Maryland 21029

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ROB AND DAVINA MENTLE

5333 Broadwater Lane
Clarksville, Maryland 21029

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WAYNE AND KRISTIN MILES

12994 Linden Church Road
Clarksville, Maryland 21029

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STEVEN AND KATHERINE MURPHY

5561 Broadwater Lane
Clarksville, Maryland 21029

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GEORGE AND BETH MURROW

12905 Linden Church Road
Clarksville, Maryland 21029

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SHARON OEHRLEIN

14004 Twelve Oaks Court
Clarksville, Maryland 21029

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JEFF OUSBORNE

5606 Foxview Court
Clarksville, Maryland 21029

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CIRCUIT COURT
FOR
HOWARD COUNTY

ALAN H. PLUMLEY
5601 Broadwater Lane
Clarksville, Maryland 21029

ROBERT & CHERYL POST
13085 Twelve Hills Road
Clarksville, Maryland 21029

ERIC & RENEE PRIPSTEIN
5646 Chamblis Drive
Clarksville, Maryland 21029

HARRY AND LIBBY REID
13020 Twelve Trees Court
Clarksville, Maryland 21029

MARIE ROBINSON
12960 Linden Church Road
Clarksville, Maryland 21029

MATT AND JENNA RODELL
14021 Twelve Oaks Court
Clarksville, Maryland 21029

JEFF ROGERS
12625 Chapel Chase Drive
Clarksville, Maryland 21029

HUSSEIN SALLAM
5553 Broadwater Lane
Clarksville, Maryland 21029

BALDEV SINGH
13007 Twelve Hills Road
Clarksville, Maryland 21029

WILL SLADE, SR.
13200 Greenberry Lane
Clarksville, Maryland 21029

ROBERT AND BEVERLEY SMOOT
13082 Twelve Hills Road
Clarksville, Maryland 21029

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CIRCUIT COURT
FOR
HOWARD COUNTY

PETITION FOR JUDICIAL REVIEW

Petitioners, as listed in the above caption, by G. Randall Whittenberger and Miles & Stockbridge P.C., their attorneys, request judicial review of the *Decision and Order* of the County Board of Appeals of Howard County, in County Board Of Appeals Case Number 05-046C, a copy of which is attached hereto. The Petitioners were parties to the proceedings before the County Board of Appeals, own neighboring properties in the vicinity of the conditional use project, are taxpayers of Howard County, and/or are aggrieved by the Board of Appeals decision in their relation to the *conditional use plan* including their ownership of neighboring properties in the vicinity being effected.



G. Randall Whittenberger
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301-662-5155

Attorneys for Petitioners

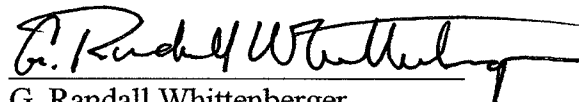
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CIRCUIT COURT
FOR
HOWARD COUNTY

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this 1st day of March, 2007, a copy of the foregoing *Petition for Judicial Review* was sent, via first class mail, postage prepaid, to:

Howard L. Alderman, Jr., Esq.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, MD 21204

Barry M. Sanders. Esq.
Howard County Board of Appeals
George Howard Building
3430 Courthouse Drive
Ellicott City, Maryland 21043


G. Randall Whittenberger

**IN THE MATTER OF
ROBERT B. WILLIAMS, et al.**

Petitioners

: BEFORE THE
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: HOWARD COUNTY
:
: BOARD OF APPEALS
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: BA Case No. 05-046C
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DECISION AND ORDER

The Howard County Board of Appeals (the "Board") convened on July 11, July 25, August 22, September 21, and October 11, 2006 to hear and deliberate the petition of Robert B. Williams, Joanna K. Benedict, Barbara B. Cusack, and William I. Slade, Jr., Petitioners, for a conditional use for age-restricted adult housing in an RR-DEO (Rural Residential- Density Exchange Option Overlay) Zoning District, filed pursuant to Section 131.N. 1 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioners provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. The Board members indicated that they had viewed the property as required by the Zoning Regulations. Barry M. Sanders, Assistant County Solicitor, served as legal advisor to the Board.

This case was conducted in accordance with Section 2.209 of the Board's Rules of Procedure. The Howard County Code, the Howard County Charter, the Howard County Zoning Regulations, the Department of Planning and Zoning Technical Staff Report dated February 22, 2006 recommending approval, the General Plan for Howard County, the General Plan of Highways, and the Petition and plat submitted by the Petitioners were incorporated into the record by reference. This case comes before the Board on a *de novo* appeal filed by the

Petitioners from the April 20, 2006 Decision and Order of the Howard County Hearing Examiner.

The Petitioners were represented by Howard L. Alderman, Jr., Esquire. The following persons testified on behalf of the Petitioners: Jacob Hikmat, Robert Sheesley, Joseph Caloggero, and Robert Williams.

The Opponents to the Petition were represented by their spokespersons, Marc Jordan, Ruy Garcia-Zamor and Rebecca Yoshitani. The following individuals testified in opposition to the petition: William Taylor, Murray Snyder, Steve Murphy, Robert Stephens, Matt Rodell, Allen Currano, Wayne Miles, Hugh Hill, Mindy Burstein, Renee Pripstein, Gene Cyprych, Katherine Murphy, Nina Stedman, and Robert Mentle.

As a preliminary matter, on July 11, 2006, the Petitioner submitted an amended petition and plan to the Board shown as Petitioner's Exhibit #1 (Greenberry- Conditional Use Petition- 3 pages). In accordance with Board Rules of Procedure 2.202 (b) and (c), the Board considered whether or not the amendments made to the petition and plan were substantive in nature. The Board found that the amendments were not substantive in nature and continued with the hearing.

FINDINGS OF FACT

Based upon the testimony and exhibits presented at the hearings, the Board makes the following Findings of Fact:

1. The Petitioners are the owners of the subject property, known as 13110 Greenberry Lane, which is located in the 5th Election District on the east side of Greenberry Lane, northeast of Linden Church Road and east of Maryland Route 32 in Clarksville (the "Property"). The Property is referenced on Tax Map 28, Grid 9 as part of Parcel 48.

2. The Property is roughly pentagonal in shape and consists of about 50 acres. The Property is currently unimproved open crop land with some narrow perimeter vegetation and wooded areas in the westernmost portion. The Property is moderately sloped with the highest area in the east-central portion and the lowest in the west. A 50' wide Columbia Gas easement runs from south to northeast through the site. The Property has about 1,200 feet of frontage on Linden Church Road on the south and southeast sides, and about 700 feet of frontage on Greenberry Lane on the southwest side. Greenberry Lane bisects the Property on the west side where it turns and runs north.

3. All vicinal properties are similarly zoned RR-DEO and include the following:

(a) To the north is the remainder of Parcel 48, an area of 77 acres improved with a dwelling and farm buildings.

(b) To the northeast is Parcel 414, which contains an existing single-family detached dwelling accessed by a driveway that runs from Linden Church Road along the east boundary of the Property. To the east of the Property is the Twelve Hills subdivision of 3-acre lots improved with various sizes of single-family detached homes. These homes back to the Property and are accessed from Twelve Hills Road. Adjoining the site to the southeast is Parcel 162, a triangular shaped 2.2 acre lot that is improved with a one-story single-family detached dwelling and detached two-car garage fronting on Linden Church road. To the southeast across Linden Church Road is Parcel 189, an unimproved 5-acre lot.

(c) To the south across Linden Church Road are Parcels 175 and 176, two 5 acre lots containing single-family detached dwellings fronting on Linden Church Road. West of Parcel 175 is Broadwater Lane.

(d) To the west of the Site are Greenberry Lane and Maryland Route 32. To the northwest are Parcels 78 and 79 which contain a gas pipeline transmission facility, an electric utility facility, and a communications tower.

4. The Petitioner requests a conditional use for an age-restricted adult housing development on the Property. The proposed development will be constructed under a condominium regime without individual lots. The proposal is for 50 single-family detached dwelling units with attached garages. The proposed units will be located on both sides of an elongated U-shaped internal road. The western portion of the road extends about 1,150 square feet and ends at a cul-de-sac about 200 feet from the east lot line and 400 feet from the north lot line; the eastern portion of the road is about 1,100 feet long and ends in a cul-de-sac about 275 feet from the north lot line. The proposed elongated U-shaped pattern will keep the proposed dwelling units to the west and east of a 50 foot wide gas easement which runs diagonally through the Site.

The dwellings proposed on the subject property will be single and double-story and will range in size from 1,800 square feet to 6,000 square feet. Schematic footprints and elevations of four types of dwellings ranging in size from 1,800 square feet are depicted on sheet 3 of 3 of Petitioners' Exhibit No. 1. The units will stand approximately 30 feet in height (measured to the peak of the roof) and will be approximately 20 feet apart. Each unit will include a driveway with parking space for two vehicles. The units will contain universal design features as well as optional features associated with the age-restricted homes proposed (see Petitioners' Exhibit No. 1 Note 17, and page 3; and Petitioners' Exhibit No. 3). Five of the units would be Moderate Income Housing Units. The development is to occur in a single phase and without the necessity

of any variances being requested under the Zoning Regulations. Trash removal will be by private contractors using standard household containers at each unit.

A 1,000 square foot community building will be located on the west side of the western road. A swimming pool will be situated adjacent to the northwest corner of the community center and tennis courts will be installed southwest of the community center. A 6 foot wide paved path/exercise trail will extend from the community center and run around much of the perimeter of the site.

The parking for the development would be provided with two garage parking spaces and two driveway parking spaces for each dwelling unit for a total of 200 parking spaces. The development will provide a 23-space parking lot in front of the community center. Access to the Property will be gained via a wide entrance road with an optional gate from Greenberry Road in the southwest portion of the Property. A 4.5 acre septic easement is reserved for the northwest portion of the Property. A stormwater management facility will be located in the western portion of the site. Much of the perimeter of the site is designated as a forest conservation easement. A Type "C" (heavy buffer) will also be planted along the perimeter in those areas not designated forest conservation easements (see Petitioners' Exhibit No. 1). The Petitioners conditional use plan provides that 34 acres or 68% of the Property will be open space.

5. The 2000 General Plan designates the Property as a "Rural Residential Area" land use. The Property will be served by private community water and septic facilities. Greenberry Lane is a local road with two travel lanes and wide paved shoulders within a variable width right-of-way. Visibility from the proposed entrance road is about 500 feet to the south and 300 feet to the north. Linden Church Road is also a local road with two travel lanes and 22 foot wide

pavement width within a variable width right-of-way. The speed limit on Linden Church Road is 25 mph.

6. Jacob Hikmat, a professional engineer, testified in detail that the proposed conditional use will comply in all respects with the general standards required for approval set forth in the Zoning Regulations section 131.B. and the specific criteria set forth in section 131.N.1. of the Zoning Regulations for approval of an age-restricted adult housing project. Mr. Hikmat testified that the number of bedrooms proposed for each unit will be 2 to 4, however, the maximum number of bedrooms will be based upon the Health Department's determination of septic capacity. Mr. Hikmat stated that market conditions would determine the actual sizes of the proposed dwellings.

Mr. Hikmat testified in detail regarding the safe ingress and egress the proposed use would have with only one single point of access which would go directly to Maryland Route 32. Mr. Hikmat concluded that the proposed use at this location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with age-restricted adult housing. Mr. Hikmat stated that the RR zoning district essentially follows the Maryland Route 32 corridor. Mr. Hikmat acknowledged that there will be additional approvals, designs and permits which must be obtained in the future for this proposed conditional use if it is approved. The Petitioners have not submitted a detailed lighting plan with their conditional use proposal, however, Mr. Hikmat testified that any outdoor lighting such as future street lighting would comply with Howard County regulations. (See note 12 on Petitioners' Exhibit No. 1.)

7. Robert Sheesley, an environmental consultant and analyst, testified in detail regarding the methods employed in soil evaluation and analysis in the area of the proposed septic reserve area on the conditional use plan. A total of fifty soil evaluation tests were conducted

