



For DPZ Office use only:

BA CASE NO. BA-17-018C

Date Submitted 6/29/17

**CONDITIONAL USE PETITION  
TO THE HOWARD COUNTY HEARING AUTHORITY**

(This application will only be accepted after a pre-submission meeting. See attached info.)



**1. Conditional Use Request**

Conditional Use Category Age-Restricted Adult Housing

Section 131.0.N.1

Specific Use Requested Development of 238 Age-Restricted Adult Housing units, consisting of 41 elevator town homes, 172 villa style units, and 25 single-family units (all as set forth in the Supplemental Narrative attached hereto and incorporated herein by reference).

**2. Name of Petitioner** Elm Street Development

Trading as (If applicable) \_\_\_\_\_

Mailing Address 5074 Dorsey Hall Road, Suite 205, Ellicott City, Maryland 21042

Phone Number(s) 410-720-3021

E-Mail Address jvankirk@elmstreetdev.com

Name of Principal Contact (If different) Jason Van Kirk

**3. Counsel for Petitioner** William E. Erskine, Offit Kurman, PA

Mailing Address 8171 Maple Lawn Boulevard, Suite 200, Maple Lawn, MD 20759

Phone Number(s) 301-575-0363

E-Mail Address werskine@offitkurman.com

**4. Conditional Use Site Description**

Address/Street for Property 9891 Route 99, Ellicott City, Maryland

Tax Map 17 Grid 15 Parcel 34 Lot \_\_\_\_\_

Department of Assessments and Taxation Account No. 02-214806

Total Land Area of Property 68.56 ( X Acres ) ( \_\_\_\_\_ Square Feet ) Check one.

Election District 2 Zoning of Property R-20

Subdivision Name and Plat No. (If Applicable) N/A

Total Land Area of Use (If different than above) 67.31 ( X Acres ) ( \_\_\_\_\_ Square Feet )

#### 4. Petitioner's Interest in Subject Property

☐ OWNER (Including joint ownership)

☒ OTHER (Described and give name and address of owner)

Name of Owner The Estate of Ruth L. Harbin (c/o H. Mark Bobotek, Esq.)

Mailing Address P.O. Box 66, Ellicott City, Maryland 21041

If the Petitioner is not the owner, written authorization must be submitted from the owner.

#### 5. Conditional Use Plan Requirements

If the petition is approved, the Conditional Use plan will be made a part of the Decision and Order, subject to modifications and conditions required by the Hearing Authority. The Conditional Use plan must be drawn to scale and must include the items listed below:

- ☒ (a) Courses and distances of outline boundary lines and the size of the property
- ☒ (b) North arrow
- ☒ (c) Zoning of subject property and adjoining properties
- ☒ (d) Scale of plan
- ☒ (e) Existing and proposed uses, structures, natural features and landscaping
- ☒ (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces
- ☒ (g) Same as (e) and (f) above, of adjoining properties
- ☒ (h) Location of existing and/or proposed well and private septic easement area, if property is to be served by private water and septic facilities
- ☒ (i) Election District in which the subject property is located
- ☒ (j) Tax Map and Parcel Number(s) of the subject property
- ☒ (k) Name of local community in which the subject property is located or name of nearby community
- ☒ (l) Name, mailing address, telephone number (and e-mail address, if any) of the Petitioner
- ☒ (m) Name, mailing address, telephone number (and e-mail address, if any) of Counsel
- ☒ (n) Name, mailing address, telephone number of property owner
- ☒ (o) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- ☒ (p) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- ☒ (q) Ownership of abutting roads, right-of-way width, and existing pavement width
- ☒ (r) Any other information as may be necessary for full and proper consideration of the petition

#### 7. Additional Information Requirements

- a. Information regarding noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions resulting from the use.
- b. Supporting documentation, such as traffic studies, market studies, and noise studies as may be required by the Department of Planning and Zoning or by the Zoning Regulations.
- c. For expansions and enlargements, previous case number(s) and information regarding compliance with previous requirements and conditions.

## 8. Summary of Request

The following items should be answered by summary statements. If additional space is needed, please attach a Supplement to this petition.

- a. The present use of the subject property \_\_\_\_\_  
See Supplemental Narrative attached hereto.
- b. Details of the proposed use, including, **where applicable:** types of indoor and outdoor activities; hours of operation; number of employees, occupants, and/or customers; quantity and types of vehicles or equipment used; outdoor lighting to be used; quantities and capacities of materials stored; etc. \_\_\_\_\_  
See Supplemental Narrative attached hereto.
- c. Any additional information which will be useful in the evaluation of whether the Conditional Use complies with the specific criteria for the conditional use category within Section 131.0.N. 1 \_\_\_\_\_  
See Supplemental Narrative attached hereto.
- d. Will the Conditional Use generate any physical conditions such as noise, dust, fumes, odors, lighting, or vibrations which would be discernible from abutting and vicinal properties? \_\_\_\_\_  
See Supplemental Narrative attached hereto.
- e. Will the number of parking spaces be appropriate to serve the use and will the parking areas, loading areas, driveways, and trash receptacle areas be appropriately located and buffered from public roads and residential areas? \_\_\_\_\_  
See Supplemental Narrative attached hereto.

- f. Will the ingress and egress driveway(s) provide safe access with adequate sight distance? \_\_\_\_\_  
See Supplemental Narrative attached hereto.

- g. Are there any environmentally sensitive areas in the vicinity of the property and, if so, will the proposed use have any potential to affect such areas? \_\_\_\_\_  
See Supplemental Narrative attached hereto.

- h. Are there any historic sites in the vicinity of the property and, if so, will the proposed use have any potential to diminish the character and significance of such sites? \_\_\_\_\_  
See Supplemental Narrative attached hereto.

## 9. Prior Petitions

Has any petition for the same, or substantially the same, conditional use as noted above for the subject property been denied by the Hearing Examiner within twenty four (24) months of the date of this petition?  
( ) Yes (x) No

If yes, and six (6) months have elapsed since the last hearing, an affidavit must be attached which states the new and different grounds on which this re-submittal is based.

## 10. Additional Materials, Fees, Posting and Advertising Requirements

- a. Supplemental pages may be attached to the petition. **You must submit one original petition with original signatures, and one original of any other signed documents.** The following number of sets including petitions, plans and supplemental pages must be submitted:
- *If the subject property adjoins a State road- original and 20 copies (application & plans)*
  - *If the subject property adjoins a County road- original and 18 copies (application & plans)*
- b. The Petitioner signing below hereby agrees to furnish such additional plats, plans, reports or other materials as may be required by the Department of Planning and Zoning and/or the Hearing Authority in connection with this petition.
- c. The Petitioner hereby agrees to pay all costs in accordance with the current schedule of fees.
- d. The Petitioner hereby agrees to properly post the property at least thirty (30) days immediately prior to the Hearing Examiner public hearing; to maintain the public notice posters until the public hearing is concluded; and to submit an affidavit of posting at, or before the time of the initial public hearing. The Petitioner also hereby agrees to advertise the public hearing by means of legal notices as prepared and approved by the Department of Planning and Zoning to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, at least thirty (30) days prior to the Hearing Examiner public hearing, and to pay for such advertising costs; and agrees to submit two (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.

## 11. Signatures

The Petitioner hereby affirms that he/she has read the instructions on this form, filing herewith all of the required accompanying information, and affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

J V Kirk      6-28-17  
Signature of Petitioner      Date

Jason Van Kirk  
Print Name of Petitioner

William E. Erskine      6-28-17  
Signature of Attorney      Date

William E. Erskine  
Print Name of Attorney

## **General Standards for Conditional Uses**

All requests for conditional uses must meet the following general standards set forth in Section 131.0.B. of the Zoning Regulations for approval:

1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.
2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.
3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:
  - a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.
  - b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.
  - c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.
  - d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.
  - e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.
  - f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

In addition to the specific requirements of the appropriate subsection within Section 131.0.N of the Zoning Regulations, Conditional Uses within residential developments in the R-ED, R-SC, R-SA-8, R-H-ED, R-APT, R-A-15, R-MH or R-VH districts are subject to the standards enumerated in Section 131.0.C.

PETITIONER Elm Street Development

ADDRESS 9891 Route 99, Ellicott City, Maryland

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended:

The person(s) signing below hereby declare(s) that no officer or employee of Howard County, whether elected or appointed, has received prior hereto or will receive subsequent hereto, any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the attached petition to the Hearing Examiner for a conditional use as requested.

I, we, do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my, our, knowledge, information and belief.

Rita M. King  
Witness

[Signature] 6-28-17  
Signature Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature Date

\*\*\*\*\*

Application Fee: \$500.00      Poster Fee: \$25.00 per sign/poster

Make check payable to: Director of Finance.

For DPZ use only:

Hearing fee: \$ \_\_\_\_\_  
Poster fee: \$ \_\_\_\_\_  
Total: \$ \_\_\_\_\_

Receipt No. \_\_\_\_\_

County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION.

**Please access the online application process for the pre-submission meeting by using the link below:**

**[https://pdox.howardcountymd.gov/ProjectDox/workfloweforms/Anonymous Form CZ Presub.aspx](https://pdox.howardcountymd.gov/ProjectDox/workfloweforms/Anonymous_Form_C_Z_Presub.aspx)**

#### **Pre-Submission Community Meeting**

A pre-submission community meeting is required prior to the initial submittal of a petition for a Conditional Use subject to the same procedures for such meetings as specified in Section 16.128 of the Subdivision and Land Development Regulations.

Please use the following web address to access the community notification list

[http://data.howardcountymd.gov/HOA\\_Register/GCommunityView\\_new.asp](http://data.howardcountymd.gov/HOA_Register/GCommunityView_new.asp). You will be prompted to enter the three-digit sign code assigned to your development. Once your sign code has been entered, you will be provided with a list of community contacts that have requested information about your development.

T:\DPZ\Shared\Public Service and Zoning\Applications\Hearing Examiner\Conditional Use Application.doc REV 08/14

June 19, 2017

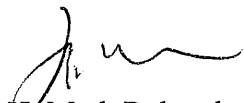
Re: Owner's Authorization to Make Submissions for the Bethany Glen development on behalf  
of The Estate of Ruth L. Harbin (Howard County Estate No. \_\_\_\_).

25810

To Whom It May Concern:

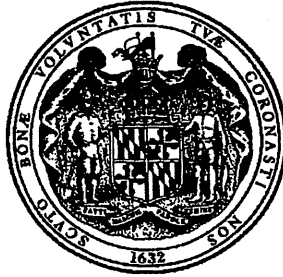
Please be advised that Elm Street Development is the contract purchaser of the real property located on Bethany Lane in Ellicott City, MD (Map 17, Parcel 34). As part of the Agreement of Sale, Elm Street Development has been granted the right to submit and obtain approval of any and all applications for residential subdivision plans, variances, conditional uses, alternative compliances, as well as any other applications for permits, waiver or variances to any federal, state and local jurisdictions or other organizations that Elm Street Development deems appropriate in order to achieve plan approvals.

Sincerely,



H. Mark Bobotek, Esq.  
Personal Representative  
The Estate of Ruth L. Harbin

Golden Oak Elder Law, P.C.  
P.O. Box 66  
Ellicott City, MD 21043



## STATE OF MARYLAND LETTERS OF ADMINISTRATION

ESTATE NO. 25810

I certify that administration of the Estate of

RUTH L. HARBIN

was granted on the 5th day of JANUARY, 2015,  
to H. MARK BOBOTEK

as personal representative(s) and the appointment is in effect  
this 5th day of JANUARY 2015,

☒ Will probated January 5, 2015  
(date)

☐ Intestate estate

BYRON E MACFARLANE

Register of Wills for

HOWARD COUNTY

VALID ONLY IF SEALED WITH THE SEAL OF THE COURT OR THE REGISTER