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For DPZ office use only:
BA CASE NO. <u>BA 05-046</u>
Date Submitted _____

**CONDITIONAL USE PETITION
TO THE HOWARD COUNTY BOARD OF APPEALS**

Robert B. Williams, Joanna K. Benedict, et al

1. **Name of Petitioner:** _____
Trading as (If applicable): _____
Mailing Address: c/o Mildenberg, Boender & Assoc., Inc. 5072 Dorsey Hall Drive, Suite 202 Ellicott City, MD 21042
Phone Number(s): 410-997-0296
Name of Principal Contact (If different): _____

2. **Counsel for Petitioner:** Howard L. Alderman, Jr., Esquire; Levin & Gann, PA
Mailing Address: 502 Washington Avenue, Suite 800 Towson, Maryland 21204
Phone Number(s): 410-321-0600 (o) 410-296-2801 (fax) 410-456-8501 (cell)
Secondary Contact with Counsel (If any): halderman@LevinGann.com

3. **Conditional Use Site Description:**
Address/Street for Property: 13110 Greenberry Lane, Clarksville, MD 21029
Tax Map: 28 **Grid:** 9 **Parcel:** p/o 48 **Lot:** n/a
Department of Assessments and Taxation Account No.: p/o 05 372216
Total Land Area of Property: 127.26 +/- (Acres) (Square Feet)
Election District: 05 **Zoning of Property:** RR
Subdivision Name and Plat No. (If applicable): _____
Total Land Area of Use (If different than above): 50.0 Net (Acres) (Square Feet)

4. **Conditional Use Request:**
Conditional Use Category: Age-restricted Adult Housing
Section 131.N.1
Specific Use Requested: Conditional Use for 50 condominium, age-restricted, single-family detached, adult homes, together with a community center facility, walking trail, tennis court and other, related amenities.

5. Petitioner's Interest in Subject Property:

OWNER (including joint ownership)

OTHER (describe and give name and address of owner):

Name of Owner: _____

Mailing Address: _____

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

6. Conditional Use Plan Requirements:

If the petition is approved, the conditional use plan will be made a part of the Board of Appeals Decision and Order, subject to modifications and conditions required by the Board. 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: a single-family home and outbuildings. These will remain on the portion of the property that is outside of the conditional use area.

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.:

Within the 50.0 net acre area of the proposed conditional use, 50 new, single-family detached, homes which are age-restricted (adults only). The age restrictions will be a material inclusion of the Condominium Declaration. In addition to the individual homes, there will be a community center, swimming pool, tennis courts and walking path as related amenities, all of which will be maintained by the condominium association. The homes will be served by a community well and septic area. Extensive vegetative buffers, including areas of permanent forest conservation will form the perimeter, buffering adjacent residential properties. The required 25 acres of open space is provided on-site and in addition to the two off-street parking spaces required, two additional spaces are provided in the garage of each home, together with 23 spaces located in the immediate vicinity of the community center. The single-family homes will be compatible in scale and character with the residential development in the area. At least 10% of the homes will be provided as moderate income housing and all of the homes will meet and incorporate universal design principles to be accessible to or adaptable for residents with limited mobility and other age related functional limitations. Specific floor plans meeting these requirements will be submitted at time of building permit application.

d. 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.N.:

The proposed conditional use meets or exceeds all minimum requirements for approval of such use. The amenities provided, together with the open space and community facilities will be limited to use by residents and their guests and will be managed and maintained by the condominium association. The improvements, other than the perimeter, paved exercise trail are clustered in the interior of the conditional use area, preserving and protective of natural features. Even if the homes are phased, all community amenities will be provided as part of Phase 1.

e. 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? No. The proposed uses are residential in character, use, style and location and, therefore, are no different than the other residential uses in the area.

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 Board of Appeals 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, and 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:

- One original plus 28 copies if the subject property adjoins a State road.
One original plus 24 copies if the subject property adjoins a County Road

b. The Petitioner signing below hereby agrees to furnish such additional plats, plans, reports or other material as may be required by the Department of Planning and Zoning and/or the Board of Appeals 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 Planning Board meeting and the Board of Appeals 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 Board of Appeals 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.

Handwritten signatures and printed names of Robert B. Williams, Joanna K. Benedict, Barbara B. Cusack, and William I. Slade, Jr. with corresponding signature and date lines.

Levin & Gann, P.A.

By: [Signature] Howard L. Alderman, Jr.
Signature of Attorney

12. Requested Hearing Date Process:

The Petitioner must indicate below which scheduling process is requested for this petition:

XXX

- _____ I request to have a hearing date set by the Board of Appeals as soon as possible. I understand that the scheduled hearing date may be several months from now. I also understand that once a hearing date has been set, a request for a postponement or continuance may only be granted by the Board of Appeals if the Board finds there are grounds for a postponement or continuance.
- _____ I request to have the Board of Appeals wait until after receiving the Planning Board Recommendation before scheduling a hearing date for my case. By so doing, I may be allowed a continuance of the Planning Board meeting in order to amend and resubmit my petition if the Planning Board intends to issue an unfavorable recommendation for the original petition. This resubmission would be made to the Department of Planning and Zoning prior to the date of the continued Planning Board meeting. Petitions that are significantly amended may have to be routed through the reviewing agencies for new comments, and may necessitate an amended or new Technical Staff Report.

13. General Standards for Conditional Uses:

All requests for conditional uses must meet the following general standards set forth in Section 131.B. of the Zoning Regulations for approval:

1. The proposed conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located. In evaluating the plan under this standard, the Board shall consider:
 - 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; and
 - If a conditional use is combined with other conditional uses or permitted uses on a site, the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.
2. 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 plan under this standard, the Board of Appeals shall consider whether:

The impact of adverse effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally elsewhere in the zone or applicable other zones.

The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.

Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

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.

In addition to the specific requirements of the appropriate subsection within Section 131.N of the Zoning Regulations, conditional uses within residential developments in the R-ED R-SC, R-SA-8, R-A-15, R-MH or R-VH districts are subject to the standards enumerated in Section 131.C.

PETITIONER Robert B. Williams, Joanna K. Benedict, et al
 ADDRESS c/o Mildenberg, Boender & Assoc., Inc., 5072 Dorsey Hall Drive, Suite 202 Ellicott City, Maryland 21042

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 Board of Appeals 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.

<p><u>Linda Collins</u> Witness</p> <p><u>Linda Collins</u> Witness</p> <p><u>Linda Collins</u> Witness</p> <p><u>Linda Collins</u> Witness</p>	<p><u>Robert B. Williams</u> 11-1-05 Signature Date</p> <p><u>Joanna Benedict</u> 11-1-05 Signature Date</p> <p><u>Stephen Blum</u> 11-1-05 Signature Date</p> <p><u>William D. Dade</u> 11-1-05 Signature Date</p>
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The Conditional Use Hearing Fee is \$500.00. The Poster fee is \$15.00 per poster. The department of Planning and Zoning will determine the number of posters that are required.

For DPZ use only:		
	Hearing fee:	\$ _____
	Poster fee:	\$ _____
	TOTAL:	\$ _____
Receipt No. _____	(Make checks payable to "Director of Finance")	