

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for

MONTGOMERY COUNTY
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

<https://www.montgomerycountymd.gov/ozah/index.html>

Phone: (240) 777-6660; Fax (240) 777-6665

CASE NO. CU 20-06

APPLICATION OF REDLY CAPITAL INVESTMENTS & HOLDING CORP.

ORDER DENYING REQUEST FOR POSTPONEMENT

From September 17, 2020 to September 23, 2020 the Office of Zoning and Administrative Hearings (OZAH) received requests from community members Harold Lowe, Basile Whitaker, Stephen Shertler, Joy Turner, Kathy Virkus, Douglas Farquar, Richard Paugh, Sandy Spring Civic Association, *et. al.* requesting a postponement of CU20-06, an application requesting permission to use the premises located at 17734 Norwood Road, Sandy Spring, Maryland 20854 as a residential care facility for up to 16 persons, currently scheduled for public hearing on **October 2, 2020**. Exhibits 50(a), (b), (c), (d), (e), (f), and (g), *et. al.* OZAH reviewed these requests along with Applicant's response received on September 25, 2020 and does not find good cause to postpone the previously scheduled proceedings.

Pursuant to Rule 3.9(a) of the Rules of Procedure of the Office of Zoning & Administrative hearings, and upon review of these requests and response thereto, the Hearing Examiner hereby *denies* the request to postpone the public hearing.

A review of the record reveals that the notice of the hearing was correctly captioned. The "mistaken" hearing case number was contained in the body of the notice and was merely a typographical error that was clarified immediately and fully after this was brought to OZAH's attention on September 8, 2020. This typographical error is the mistake asserted as justification for the requested postponement. Further, the Applicant has demonstrated that the public sign posting has been posted continuously and conspicuously on the property with the correct case number since shortly after the case was filed with OZAH, over four months ago. *See* Exhibit 63. The time and date of the hearing has been posted on OZAH's website under "Hearing Schedule" and the materials submitted by the applicant have been made available on OZAH's website for review by the public. Given the length of time the sign has been properly posted, the fact that the hearing notice is correctly captioned, the availability of publicly accessible information and documents, and the time that has elapsed between the "mistaken" case number and subsequent clarification and present, the Hearing Examiner finds that notice of the hearing has been adequate to the community and facts have not been presented to justify a 45-day postponement.

PLEASE TAKE NOTICE that this public hearing will take place on its previously scheduled date of Friday, October 2, 2020 at 9:30 a.m.

Due to the COVID-19 pandemic, this hearing will be held remotely via Microsoft Teams. You do not need to sign up in advance to testify or view the hearing. You do not need a subscription to Microsoft Teams to join the hearing. Instructions to access the public hearing may be found on OZAH's website (above) under the link "Public Hearing Remote Access and Exhibits".

All exhibits filed in the case will be available to view via the same link on OZAH's website at least two days before the public hearing. Exhibits are removed the day after the public hearing so that staff can prepare for the next hearing. If you wish to download any of the exhibits, you should do so no later than 5:00 p.m. of the day of the public hearing.

OZAH is now operating remotely to the extent possible. You may review the application online at <https://montgomeryplanning.org/development> under the application number CU202006. If you wish to review the full file (all submission in the case) before it is published on the website or have other questions, please contact Nana Johnson at (240) 777-6663 or nana.johnson@montgomerycountymd.gov. Those wishing to review the file in person *must* wear masks when entering OZAH's temporary office at 751 Twinbrook Parkway, Rockville, Maryland 20851.

Persons or associations that are (1) represented by counsel, (2) intending to appear in organized opposition, **or** (3) intending to introduce expert evidence or testimony must file a pre-hearing statement containing the information required by Rules 3.4 and 3.5 of OZAH's Rules of Procedure for Zoning, Conditional Use and Board of Appeals Referral Cases (OZAH Rules). These Rules may be found on OZAH's website listed above (*See* OZAH's Amended Land Use Rules of Procedure). Filings must include an electronic copy of the statement and all attachments. The Applicant must submit its pre-hearing statement at least 30 days before the public hearing. Persons in opposition that are required to file a pre-hearing statement must do so no less than 20 days before the public hearing.

If you need services to participate in a public hearing, please contact this Office no later than seven (7) days in advance of the public hearing by calling 240-777-6660 (TTY 240-777-7914) or emailing us at ozah@montgomerycountymd.gov. OZAH cannot guarantee that an interpreter can be made available if notified of the request less than seven (7) days in advance of the public hearing. This document is available in alternative format such as large print upon request, via the same phone numbers and email address.

So Ordered and Notices forwarded this 29th day of September, 2020, to:

Jody Kline, Esq., Attorney for Applicant
Sean Hughes, Esq., Attorney for Applicant
Harold Lowe,
Basile Whitaker
Stephen Shertler

Joy Turner
Kathy Virkus
Douglas Farquar
Richard Paugh
Elsabett Tesfaye, MNCPPC
Charles Frederick, Esquire, Associate County Attorney
Department of Permitting Services Greg Nichols, Manager, SPES at DPS
Michael Coveyou, Director, Finance Department
Washington Suburban Sanitary Commission
Abutting and Confronting Property Owners
(or a condominium's council of unit owners or renters, if applicable) Civic, Renters' and
Homeowners' Associations within a half mile of the site and Any Municipality within a half mile
of the site.

Office of Zoning and Administrative Hearings



Derek J. Baumgardner
Hearing Examiner