

Nardineers seek rezoning of site for apartments

(Continued from page 1A)

Most projects that are for the elderly are low income housing here. We're talking about \$18 a month for rent. That isn't low income," he said.

The project would be non-discriminatory, Robinson added.

The project is an attempt by the seniors to reach out of themselves and be a part of the community," Rev. Mosbauer said. "They're saying, we're here, we're old folk, we're able to pay-paying consumers. We should utilize their talent and wisdom in the community."

The apartment complex would be an alternative to their homes, he explained. It would appeal to persons who are unable to perform the tasks necessary to keep up a private home, but who don't bring in a considerable rent.

The complex would feature nature paths, vegetable gardens, picnic areas, tennis courts, meeting rooms and recreation area, Robinson said.

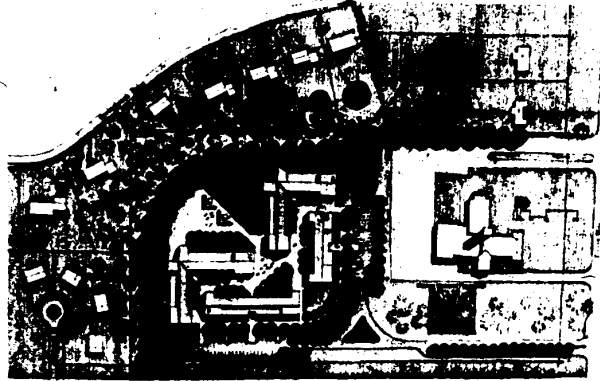
The three buildings, with 50 apartments in each structure, would be two stories high. One side of the buildings would be one story high, for a split level effect.

The project, which would be open to persons 65 or older, would be financed by selling shares in the complex, builder Hugh Garner explained.

He estimated that Village would cost \$3 million to build. Shares in the project would cost \$5,000 each and would accrue interest.

Rents would be based on the premise that the complex will charge seniors about 20 cents per square foot in the apartment. The rent would cover maintenance, electricity, and heat.

Although the Nardineers are fighting for the rezoning change, they haven't finished negotiations with the church for the land. They do have an option to purchase the property.



Nardineer Village's site plan includes a greenbelt of trees which will screen the complex from the surrounding subdivision, a picnic site, tennis court and areas for vegetable gardens and nature trails. The one- and two-bedroom apartments will be open to seniors over 65-years-old and will cost about \$185 per month. The areas of buildings filled in with lines will be two stories tall, white the solid colored area will be one-story complexes. (Staff photo)

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Child custody problems Court fight is battle few can win

By JACKIE KLEIN

Domestic relations in divorce cases are tricky for the spectators by judges who can't see why problems can't be resolved and settled.

That's the observation of Madison Heights attorney Leslie Kutinsky who spoke about child custody at a seminar in Southfield's Michigan Inn July 8 on "Michigan Family Law: The Contested Divorce Case."

"The client is nervous and the courts divorce themselves from the problem," he said. "Newer judges are more receptive. Take the hypothetical case of a 12-year-old woman with three kids whose husband makes \$15,000 a year and has liabilities exceeding his assets. She wants a divorce not for the money but the aggression. She has trouble getting her day in court."

"THE NEW JUDGE smiles and says, 'I know you two splendid attorneys will resolve your clients' problems. The check-out for each visit garbage is thrown around and each party hopes his or her lawyer is tougher than the other."

The trial judge, Kutinsky claimed, has final discretion and what he wants done will be done. The attorney tells his client to settle the case because "the judge couldn't care less if the custody is maintained."

In child custody cases, Kutinsky said, the judge can exercise his discretion although laws have changed. The child custody act of 1970 considers the best interest of the youngster and some significant factors lawyers can sink their teeth into are:

- "Stability" in the address.
- The length of time the child has lived in a stable, satisfactory environment as a consideration of the law.
- Kutinsky pointed out "Stability" in like an incumbent seeking a second term unless he didn't want the office in the first place."

IT'S IMPORTANT for attorneys to find out what judge will hear the case, he said (the Oakland County Circuit Court judge awarded custody of two children, seven and four years old, to a wife who had committed adultery with two different men. Moral fitness is one of 10 factors in the child custody act, he pointed out.)

Another judge didn't give custody to a wife because of her alleged transgressions, Kutinsky said. "The amount of the settlement was more important than the mother's faithfulness, the judge said."

her attitude and he denied the kids shouldn't live with her.

The appeals court ruled the custody decision was based on the feelings of the judge instead of being focused on the rights of the mother and the best interest of the kids.

ANOTHER PROVISION in the 1970 act to be considered is the mental and physical health of competing parties, Kutinsky said. "If a man says his wife is nuts, that's no basis for his getting custody of the children. Most of us are nuts. It's a different story if a parent has severe emotional problems and can't cope with herself or the child."

Another factor is the reasonable preference of the child, Kutinsky said, assuming the child is old enough to express his preference.

The question is do the kids want to go with the parents? Kutinsky observed. "Even in happy marriages you can't keep 16-year-olds where you want them to be."

A four-year-old Kutinsky said, in a 1975 court case was considered too young to interfere about his choice of custodial parent. The mother was awarded custody and the father appealed. The court of appeals sent the case back for a hearing on the lower court judge could talk to the child.

"THAT CASE is an important tool and ammunition for an attorney when a four-year-old wants to go with his father," Kutinsky said. "Winning isn't always in the best interest of the child."

The role of the Friend of the Court in a child custody case is abundant and serves no function in proceedings although it's included in the 1970 act, Kutinsky contended.

The Friend of the Court's recommendations are inadequate unless both parties agree to be maintained. "A cursory investigation is all that can be accomplished and reports are inadmissible in court."

Use of experts such as psychiatrists in a game people are forced to play in child custody cases, Kutinsky claims. The 1970 act provides for experts to determine emotional instability of the divorced couple and children.

VISITATION IS a problem because there's nothing in the books or case law that deals with individual experiences. Children are often used as weapons for parents to let out their vindictiveness, he said.

"When an infant is involved, the father can visit," he said. "He made a mistake and the penalty is divorce, disruption and loss of the baby. It's no fun to visit little Tommy from 11 to 3 p.m. and he can't come in his ex-wife's house, especially when his former spouse hates daddy's guts. But you can't visit a child under two years old out of the house."

But daddy better visit little Tommy to lay the groundwork for possible future adoption if the wife remarries and it's in the best interest of the child.

"IF DADMY marries again and has a

new kid, he won't be upset about the adoption and he can stop paying \$30 a week for child support. The question is whose best interest is it—his or the kids'?"

The worst problem is with children from five to 12 years old, Kutinsky maintains. Mother has custody, but father loves the child and wants visitation rights. If Mother is unhappy and used to take it out on her husband, she can force the child to reject his father.

"It's up to the man to create an atmosphere so his kids will want to go with him on visits," Kutinsky said. "The judge can't stop child support, change custody or lock Mom up."

Teenagers from 13 to 18 want to be with their peers, Kutinsky said. The law says about non visitation. "As the kids—Custodial mothers have problems. Kutinsky said, time is settling the child down after a visit with his father. Another is an overindulgent dad."

"MOTHERS COMPLAIN if junior is brought home two hours late," Kutinsky said. "Things aren't whole and time must be divided. Mother says with the message support the attorney got for her, she can't afford a babe for Johnny and pay her lawyer. She insists I had hidden assets and it's Disneyland each time he takes the kid."

Mother is filled with rancor and bitterness and if she had a boyfriend she'd have her own Disneyland instead of taking it out on old Dad.

A father who fails to show up for a visit affects the child crucially, Kutinsky claims. It's important for attorneys to tell male clients to be cooperative because for every action there's a reaction, he said.

"It's sad for the kid and the father, but rejection by dad has a more detrimental effect on the memories of children than the divorce. More adults are on psychiatrist's couches because they were rejected as kids. Mother shouldn't use the kids to do her dirty work because that just pushes them to that couch."

KUTINSKY SAID attorneys should point out divorce in some cases may be in the best interest of minor children in some instances, it could be better to split custody to avoid sibling rivalry, he said.

Kids should be with their mother unless she's unfit, he maintained. "We win the battle and lose the war when the child is on the couch. That child is more important than the client."

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Dillon gets econ. degree

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Elected to Phi Beta Kappa, the national scholastic society, he was also elected president of the W. T. Allen Jr. prize for the best honors thesis in the economics department.

At Amherst, he has consistently been named to the Dean's List for outstanding academic achievement, been a contributing editor to the student course review magazine, earned varsity letters in soccer, and was active in his fraternity, Delta Upsilon.

He will work with an economics research firm in the fall and expects to continue graduate study in economics or business in the future.

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