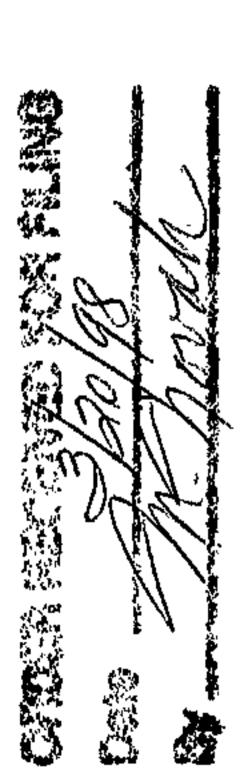
IN RE:	PETITION FOR SPECIAL HEARING S/S Linden Terrace, 500 ft.	*	BEFORE THE				
	E of c/l York Road 10 Linden Terrace	*	ZONING COMMISSIONER				
	9th Election District 4th Councilmanic District	*	OF BALTIMORE COUNTY				
	William H. Mathews Petitioner	*	Case No. 97-326-SPH				
		****	****				
IN RE:	PETITION FOR SPECIAL HEARING N/S Linden Terrace, 650 ft.	*	BEFORE THE				
	E of c/l York Road 15 Linden Terrace	*	ZONING COMMISSIONER				
	9th Election District 4th Councilmanic District	*	OF BALTIMORE COUNTY				
	William H. Mathews Petitioner	*	Case No. 97-327-SPH				
	***	****	***				
IN RE:	PETITION FOR SPECIAL HEARING	*	BEFORE THE				
	N/S Burke Avenue, 340 ft.		DDI OMB TIM				
	E of c/l York Road 10 Burke Avenue	*	ZONING COMMISSIONER				
	9th Election District 4th Councilmanic District	*	OF BALTIMORE COUNTY				
	William H. Mathews Petitioner	*	Case No. 97-328-SPH				
	***	****	*				
IN RE:	PETITION FOR SPECIAL HEARING N/S Burke Avenue, 450 ft.	*	BEFORE THE				
	E of c/l York Road 16 Burke Avenue	*	ZONING COMMISSIONER				
	9th Election District 4th Councilmanic District	*	OF BALTIMORE COUNTY				
	William H. Mathews Petitioner	*	Case No. 97-329-SPH				
	****	****	*				
IN RE:	PETITION FOR SPECIAL HEARING NW cor. Aigburth and Willow	*	BEFORE THE				
	Avenues 122 Willow Avenue	* .	ZONING COMMISSIONER				
	9th Election District 4th Councilmanic District	*	OF BALTIMORE COUNTY				
	William H. Mathews Petitioner	*	Case No. 97-330-SPH				

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Zoning Commissioner for a single public hearing to consider five separate lots of record, all owned by William H. Mathews and located in Towson. Each of the five properties is subject to



a Petition for Special Hearing filed by Mr. Hunter Rowe, a Zoning Inspector, with the Office of Permits and Development Management. Under case No. 97-326-SPH, a Petition for Special Hearing has been filed for the property known as 10 Linden Terrace, alleging the illegal conversion of a single family dwelling thereon into seven apartments; wherein the lot area does not support such a use. Under case No. 97-327-SPH, regarding 15 Linden Terrace, an illegal conversion of a single family dwelling into 7 apartments is alleged; wherein the lot area does not support such a use. In case No. 97-328-SPH, regarding 10 Burke Avenue, an illegal conversion of a single family dwelling into three apartments is alleged, wherein the lot area does not support such a use. Under case No. 97-329-SPH, regarding 16 Burke Avenue, an illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a Finally, under case No. 97-330-SPH, regarding 122 Willow Avenue, an use. illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a use.

At the public hearing held for these matters, the Petitioner, Baltimore County Department of Permits and Development Management, was represented by Lee S. Thompson, Esquire, Assistant County Attorney. The property owner was represented by Michael Tanczyn, Esquire.

Testimony was received from Hunter Rowe, a Code Enforcement Officer, employed with Baltimore County since 1987. Mr. Rowe described each of the properties in general, as well as his inspection of same and findings. He also offered a series of photographs of the properties and rendered opinions, based upon his inspections, as to the current and past uses of the properties. In addition to Mr. Rowe's testimony, testimony was also received from a number of former/current residents of one or more of the properties at issue. Among those testifying was Whitney Dance a former

and Market and the second

resident of 10 Burke Avenue; Steve Bavett, who resided at 16 E. Burke Avenue; and Keith O'Brien, who has lived in the area for many years and formerly worked in the neighborhood delivering the Baltimore Sun newspaper. Mr. O'Brien testified about his recollections as to the number of apartment units at 10 Linden Terrace and 122 Willow Avenue. Also testifying was Paul J. Wynn, who has done maintenance on the dwelling at 122 Willow Avenue and the buildings at 10 Linden Terrace and 15 Linden Terrace. Also, testimony was received from Robert Derbyshire, who lives at 118 Willow Avenue, adjacent to the property at 122 Willow Avenue. Finally, a tape of a recorded interview with Mrs. Hilda Wilson was received and considered by this Zoning Commissioner. Mrs. Wilson is elderly and was a student at the former Towson Normal School (now Towson University) in the 1920s. She resided at 10 Linden Avenue and made statements about her recollections of the use of that premises. In addition to all of the testimony from the witnesses identified above, a significant volume of documentary evidence was offered which will be more specifically referred to in discussing each property. As importantly, certain stipulations were reached by and between the parties regarding the uses of the properties.

Turning first to the matters most easily resolved, a stipulation was entered by and between the parties regarding the property known as 10 Burke Avenue. That subject property is .138 acres in area, zoned D.R.16. It is improved with a residential dwelling (duplex unit) known as 10 Burke Avenue. The parties stipulated that only one residential unit is permitted in this dwelling. Moreover, it appears that the property has been previously used for three apartments. In fact, a photograph of the site was submitted (Petitioner's Exhibit 3C) which shows that the dwelling is served by three separate utility meters. However, in view of the parties' stipulation, the future permitted use of this property is not in dispute.

Testimony regarding the history of this property was also offered by Mr. O'Brien. As noted above, he has lived in the neighborhood for many years, since approximately 1935. Prior to his retirement he delivered the Baltimore Sun newspaper for years to approximately 3,000 customers in the Towson area. He offered testimony regarding his deliveries to 6 apartments at 10 Linden Terrace while he was so employed from approximately 1935 to 1965. He indicated that he recalls putting newspapers on the porch of this building in that it was not allowed by the Sunpaper regulations to throw them into the yard.

Testimony was also offered about the history of 10 linden Terrace by Mr. Mathews. He described the condition of the property when he purchased same in 1980 and his improvements and rehabilitation of the property.

The recorded interview of Ms. Hilda Wilson also related to 10 Linden Terrace. A review of her testimony indicates that her memory is less than concise as to the use of the dwelling. Although she recalls residing at that property in an apartment therein, her testimony was not detailed as to the exact number of units in the building. Testimony was also received regarding this property from Paul Wynn who had performed maintenance on the site since the mid 1970s.

Apparently, it is the Petitioner's theory that the six apartments which presently exist at 10 Linden Terrace are permitted as a nonconforming use. This assertion is contested by Baltimore County. Through counsel, the County asserts that only four units are permitted, pursuant to Section 402 of the BCZR (conversion table). Moreover, the County asserts that a nonconforming use designation cannot attach to this property and that there is insufficient evidence to support such a finding.

A nonconforming use is defined in Section 101 of the BCZR as "A legal use that does not conform to a use regulation for the zone in which it is

that nonconforming uses may be permitted, pursuant to the requirements provided therein. Essentially, the nonconforming use designation is utilized to grandfather an otherwise illegal use. If the use existed prior to the time the property's zoning classification was adopted which prohibits the use, the use may continue.

In this case, I am not persuaded that competent evidence was offered to support a finding that 10 Linden Terrace is nonconforming for six

located or to a special regulation applicable to such a use". Nonconform-

In this case, I am not persuaded that competent evidence was offered to support a finding that 10 Linden Terrace is nonconforming for six apartments. Ms. Wilson's memory was understandably unclear and never established a precise number of apartment units. Mr. Mathews' recollection dates only to the mid 1970s; several years prior to the time he purchased the property in 1980. Likewise, Mr. Wynn has been familiar with the property only since the mid 1970s. For the nonconforming use designation to attach here, testimony need be offered as to the property's use as a 6 apartment unit since at least 1955, the date the comprehensive zoning regulations were enacted.

Mr. O'Brien's testimony must be considered, however, in the end, was rejected. Although I do not doubt the sincerity of the witness, his ability to recall a single building among 3,000 customers over a period of thirty years must be questioned. Moreover, his testimony was frequently contradictory, specifically regarding the dates he resided in the neighborhood. For all of these reasons, I decline to enter a finding that the property at 10 Linden Terrace is nonconforming. Thus, the Petition for Special Hearing in this case (No. 97-326-SPH) must be granted and the property's use must therefore be restricted to four units only.

The next property under consideration if 15 Linden Terrace (case No. 97-327-SPH). This property is .45 acres in area, zoned D.R.16. The

property is improved with a single family dwelling. Mr. Mathews acquired this property in his sole name from other family members in October of 1992. By stipulation, the parties agreed that the structure contains seven apartment units. Through counsel, the County contends that only six units are permitted, pursuant to the density/area regulations. I agree with the County's position that only six units are permitted under the density/area regulations and the conversion table (Section 402). Moreover, I do not find that the property is nonconforming or is otherwise exempt from the density/area regulations. Thus, the Petition for Special Hearing shall be granted and the property's use limited to six units.

The final case for consideration relates to the property at 122 Willow Avenue (case No. 97-330-SPH). This property is .14 acres in area zoned D.R.5.5. Mr. Mathews acquired the property on September 30, 1974. A stipulation entered into by and between the parties was that the property is used for three apartments. The County contends that only one unit is allowed. The respondent avers that three units are permitted. His argument has two basis; that the property is nonconforming use and that such a finding has already been established. Specifically, the respondent argues that the consideration of this issue, at this time, is barred by res ajudicata.

SALES COMPANY

Evidence presented was that in 1980, Mr. Mathews responded to a complaint filed with the Zoning Office of Baltimore County regarding the use of the property for three apartments. In his response to the complaint, Mr. Mathews submitted three affidavits which collectively stated that the building at 122 Willow Avenue had been used for three apartments since since 1941. Based upon the documentation, then Zoning Commissioner Hammond issued a conditional Order stating, in part, "... a rebuttable presumption has been raised indicating that a nonconforming use exists on

the subject property, subject, however, to be rebutted by testimony produced by others at a Special Hearing to determine the existence of a nonconforming use subsequent to posting and advertising the property for such purpose." Commissioner Hammond's conclusion was essentially updated by letter dated December 10, 1991 by John J. Sullivan, Jr., on behalf of Arnold Jablon, Director of Zoning Administration and Development Management. That letter affirmed that a nonconforming use had been conditionally approved for three apartments.

By its very terms, Commissioner Hammond's Order was a conditional finding only and thus not a final judgment on the matter at issue. As is well settled, res ajudicata attaches only when a final judgment has been entered. Thus, Commissioner Hammond's Order cannot be the basis for the conclusion that res ajudicata bars consideration of this issue.

However, as to the merits of the nonconforming use, I find the evidence presented by Mr. Mathews, in the case at bar, persuasive. In my judgment, the Petitioner here (i.e., Baltimore County) has failed to produce evidence sufficient to rebut the presumption of the existence of a nonconforming use found by Commissioner Hammond. Thus, the Petition for Special Hearing is denied for 122 Willow Avenue (Case No. 97-330-SPH) and the use of the property for three apartments is permitted as a nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this Aday of March, 1998 that, pursuant to the Petition for Special Hearing, under case No. 97-326-SPH, the property at 10 Linden Terrace may hereafter be used for not more than 4 apartments; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-327-SPH, the property at 15 Linden Terrace, may hereafter be used for not more than 6 apartments; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-328-SPH, the property at 10 Burke Avenue may hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special.

Hearing, under case No. 97-329-SPH, the property at 16 Burke Avenue may

hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that the Petitions for Special Hearing are, therefore, granted in cases 97-326-SPH, 97-327-SPH, 97-328-SPH and 97-329-SPH; and

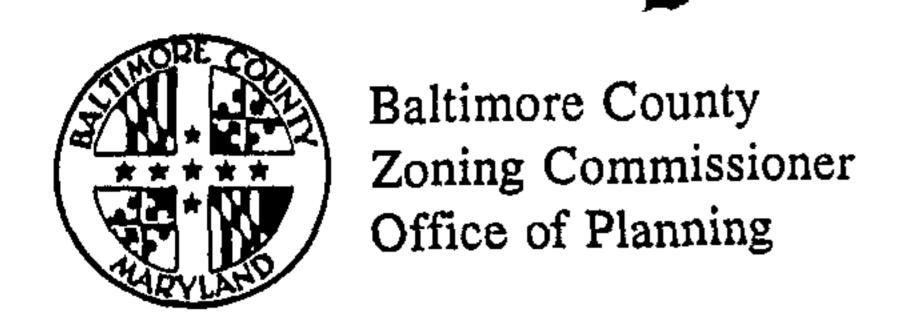
IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-330-SPH, the property at 122 Willow Avenue is nonconforming and may hereafter be used for up to 3 apartments and that, as such, the Petition for Special Hearing be and is hereby DENIED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.

LES/mmn

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LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County



Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

March 19, 1998

Michael P. Tanczyn, Esquire 606 Baltimore Avenue, Suite 106 Towson, Maryland 21204

Lee S. Thomson, Esquire Asst. County Attorney Office of Law 400 Washington Avenue Towson, Maryland 21204

RE: Petitions for Special Hearing
Case Nos. 97-326-SPH, 97-327-SPH, 97-328-SPH, 97-329-SPH &
97-330-SPH
William H. Mathews/Legal Owner

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing have been granted, in part and denied in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Zoning Commissioner

LES:mmn

att.

c: Lisa Keir, Aide to Councilman Riley

c: Mr. William H. Mathews 8 Linden Terrace Baltimore, Maryland 21286

Petition for Special Hearing

Case #: 97-329-5PH

which is presently zoned

D.R. 16

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING .

to the Zoning Commissioner of Baltimore County

16 Burke Avenue

for the property located at

This Pelition shall be filed with the Office of Zoning Administration & Development Management.

Section number(s):	101 - "Dwelling"; "Family"; 102.1; 1B01.1A; 402	"Lot, Inter	ior"; "Lot o	f Record"	i r	
Nature of violation(s):	Conversion of a single famillot area does not support s		into three	(3) apartm	ents, wherei	n, the
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mnly affirm that the content	s stated above are correct to the best of my	knowledge, inform	nation and belief.			•
1-10-	•	01 1				
7/4/_	Office	Zauina Adminia	ration Representa			•,
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		$\mathbf{1MC}$	NS	•	,	
70: William . H	Mathews					•
ss: 8 Linden Te	rrace				•	•
Baltimore,	Maryland 21286			•		-
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ear and testify in the matter of Appeals or Court.	of an alleged zoning violation or for the purpo	se of a proper inf	erpretation of the	zoning regulation Parter in the C	ounty Office	Zoning Commission a. Pari I dri no
•••	·	•	1	11 W. Ches	apeake Avent	ue, Room 106
ng Date: March 19	<u>, 1997. </u>	_xaxa / pm	Location:]	Cowson Man	vland 2120	<u>'</u>
•	•		Vanseell	C-ZMM	Tell	
• 1	•	Zering Cerrin	TOWN BALLS C.	G. Schmi	dt	<u>-</u>
		and location st	•			_

Baltimore County

Department of Permits and

Development Management

Bellimore County hereby pelitions for a Special Hearing under Sections 26-3 and 26-121(a) of the County Code and Section 500.6 of the Zoning Regulations of Ballimore

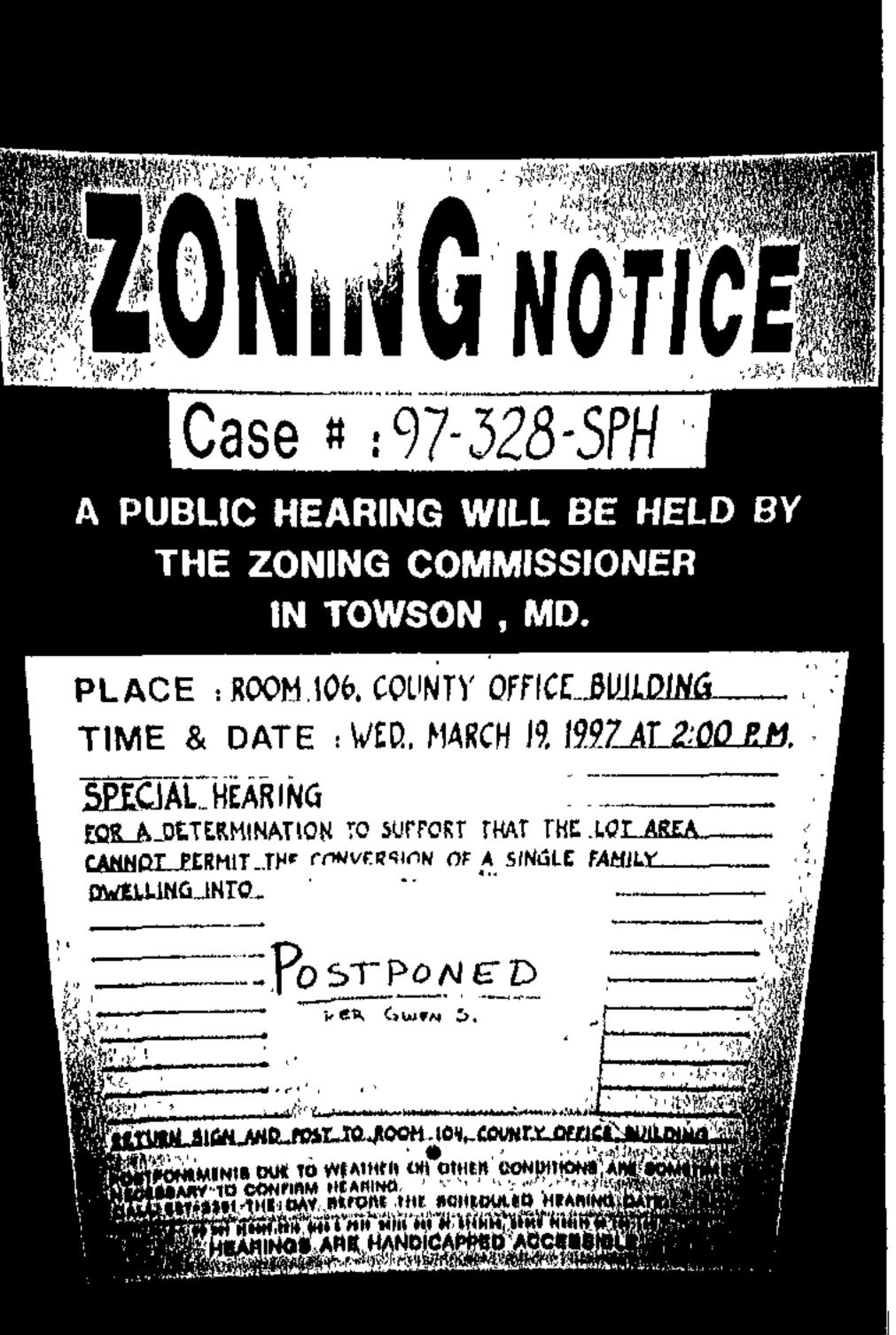
CERTIFICATE OF POSTING

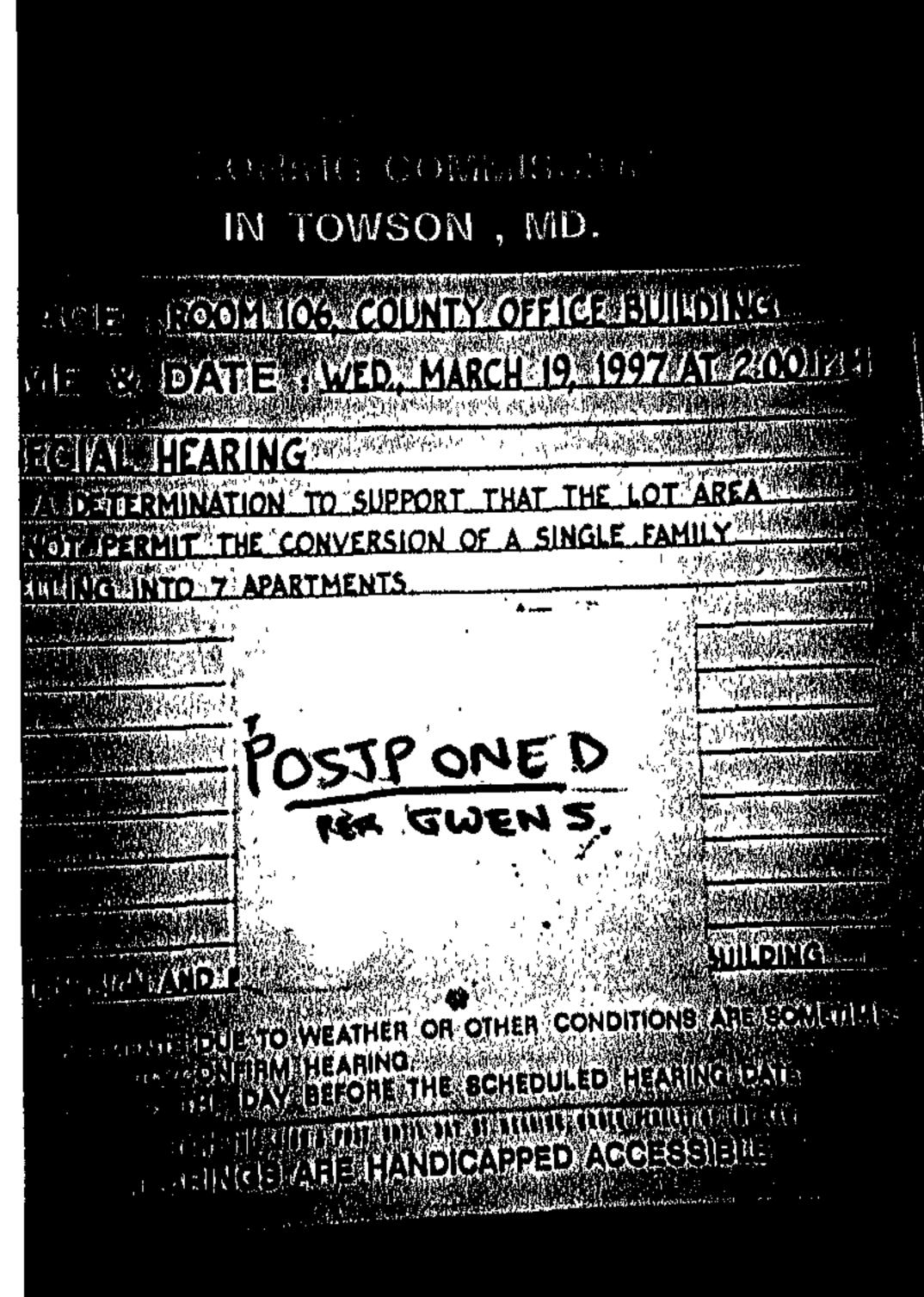
•	RE: Case No.: 97-329-SPH	<u></u>	
	Petitioner/Developer:	. 	
			3 1 1
	Date of Hearing/Closing:	March 19,	1997
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204		Wednesday	•
Attention: Ms. Gwendolyn Stephens			
Ladies and Gentlemen:		-	
were posted conspicuously on the property 1 The sign(s) were posted on February 28,	. 1997		
	(Month, Day, Year)	*** *	_
	Sincerely,		
	(Signature of Sign Post Hunter Rowe (Printed Nam (Address) Towson M (City, State, Zip Constant)	2/2082 code)	
·	(Telephone Num	ber)	

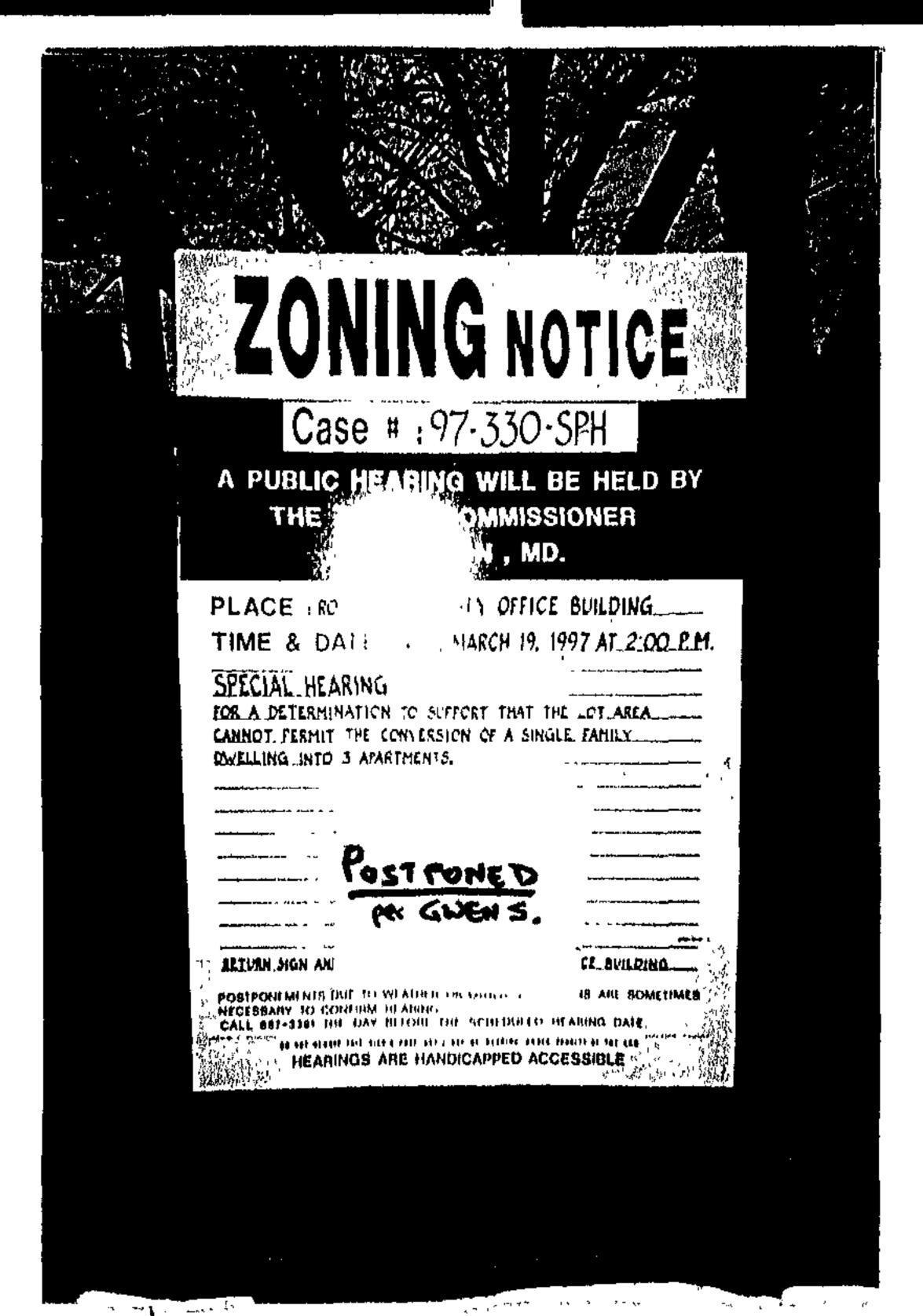
9/96 cert.doc 10: Ms. Gwen S., B.C. Z.D.

GOW SSON, TOWSON ZYZES

For Postponement of MAR. 19.97 Heaving







Request for Zoning: Variance, Special Exception, or Special Hearing

16 Burke Ave

Date to be Posted: Anytime before but no later than 3-4-97

Format for Sign Printing, Black Letters on White Background:

TEM 329

ZONING NOTICE

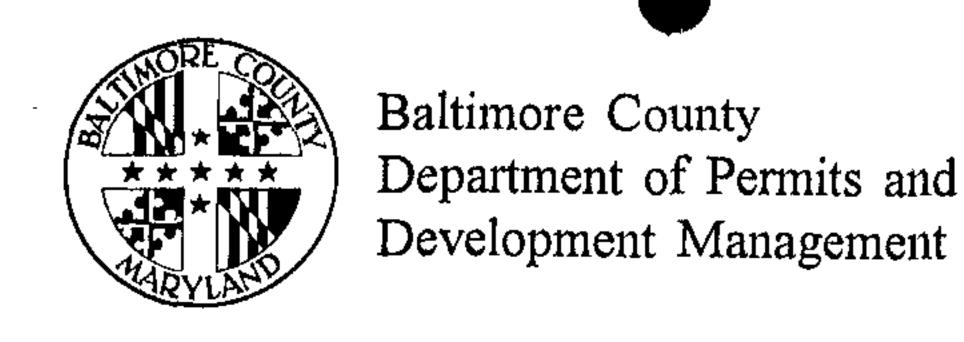
Case No.: 97-329-SPH

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE:	111 ฟ	. CHESAPE	AKE AVE,	ROOM 106	, COUNTY	DFFICE	BUILDING
DATE AND TIME	WEDNE	SDAY, MAF	CH 19, 1	997 at 2:	00 P.M.		,
REQUEST: S	PECIA	L HE	CHRIDE	FOR	A DE	TERM	INATION
TO SUPP							
PERMIT	3HT	CONU	ERSION	OF A	SING	LEF	AMILY
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POSTPONEMENT	'S DUE TO			ONDITIONS A		MES NECES	SSARY.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

May 1, 1997

NOTICE OF REASSIGNMENT

VIOLATION HEARING

CASE NUMBER: 97-329-SPH

16 Burke Avenue

Legal Owner(s): William Mathews

Petitioner: Baltimore County/Permits and Development Management/Code

Enforcement

Special Hearing involving an alleged violation or non-compliance of Sections 101, 102.1; 1801.1A; and 402 Baltimore County Zoning Regulations; specifically, the conversation of a single family dwelling into three apartments, wherein, the lot area does not support such use.

HEARING: THURSDAY, JUNE 26, 1997 at 9:00 a.m., 4th Floor Hearing Room Courts Bldg., 401 Bosley Avenue.

ARNOLD JABLON

DIRECTOR

cc: William Mathews

Michael P. Tanczyn, Esq. Code Enforcement/Law Office

PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE JUNE 11, 1997 AND CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN VENDOR USED FOR THE ORIGINAL POSTING.

RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
(VIOLATION HEARINGS) 10 Linden Terrace	*	ZONING COMMISSIONER
15 Linden Terrace 10 Burke Avenue	*	OF BALTIMORE COUNTY
16 Burke Avenue 122 Willow Avenue	*	CASE NOS. 97-326-SPH
9th Election District, 4th Councilmanic	*	97-327-SPH 97-328-SPH
Legal Owner(s): William Matthews		97-329-SPH
Petitioner: Baltimore County/Permits and Development Management/Code Enforcem	* ent	97-330-SPH
	*	<u>i</u>

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this Agreed day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to William H. Mathews, 8 Linden Terrace, Baltimore, MD 21286, Legal Owner.

Peter Max Zimmerman

Law Offices MICHAEL P. TANCZYN, P.A. Suite 106, 606 Baltimore Avenue Towson, Maryland 21204 (410) 296-8823 - (410) 296-8824 3/11/97 Fax: (410) 296-8827 Computer Fax: (410) 296-2848 March 10, 1997 trul Lawrence E. Schmidt, Zoning Commissionek Old Courthouse, Room 113 400 Washington Avenue Towson, MD 21204 Cases Numbered SPH-97-326; SPH-97-327; Re: SPH-97-328; SPH-97-329; SPH-97-330 Dear Commissioner Schmidt: I have just been retained by the property owner for the properties involved in the above cases for which the County has filed special hearing requests presently scheduled for hearing on March 19, 1997. All of these involve residential structures which were built well before Zoning Regulations were enacted for Baltimore County in 1945. One of them has been the subject of two previous zoning hearing on alleged violations in 1980 and 1990 for 122 Willow Avenue, which I am told was successfully defended as a multi-apartment residential unit antedating zoning which is again under attack for the same issue. The purpose of this letter is to request a continuance from the scheduled hearing to allow me adequate time to review the past history, assemble necessary witnesses to establish the historical usage of the properties as multi-family residential structures, and to work on several ancillary matters which may moot several of these properties if we have a little time to try to do some things. There have been no prior requests for continuance, and from the pictures shown me by my client the properties appear to be maintained in exemplary condition at present. I therefore request a continuance and ask that you advise us of your decision in that regard. Very truly yours, Michael P. Tanczyn J WELL MPT/ed Mr. William Mathews CC:

91-1061



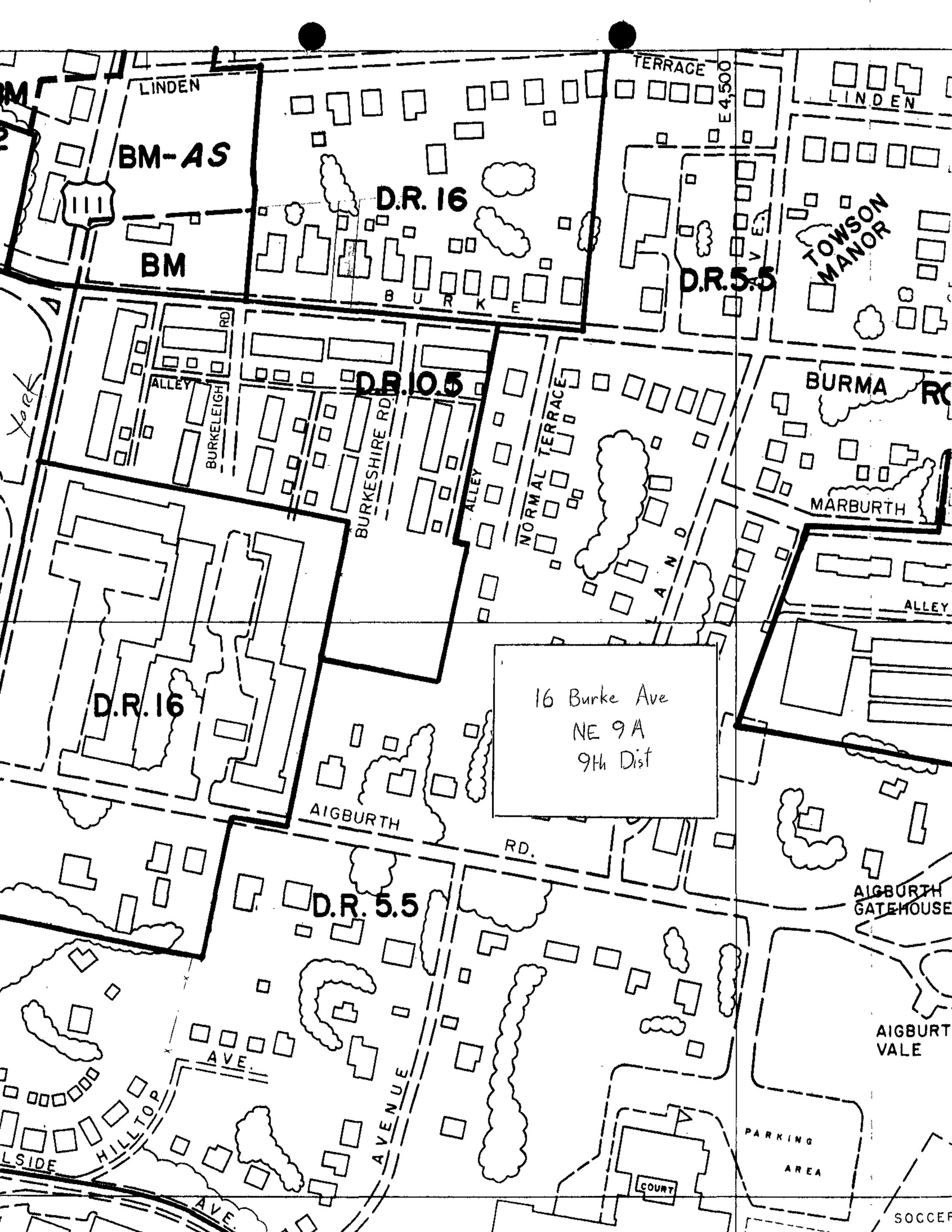
Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

Deed 6965

CODE VIOLATION NOTICE

NAME: 4/1//am MATH	ens	DATE: 9/23/46
ADDRESS: 8 Landen Ten		
CITY-ZIP: BALT Md. 21286	• • • • • • • • • • • • • • • • • • •	
RE: Case No.	LOCATION: 16 BOX DISTRICT: 9	Le Ave
Dear Mr. Mathews	· · · · · · · · · · · · · · · · · · ·	
In accordance with the <u>Baltimore C</u> the above location, zoned J. R 16 This ins	county Code, Article IV, Section 402. (spection revealed violation(s) according	d), an inspection was conducted of ng to the following code(s):
Baltimore County Zoning Regulation	ns (BCZR), Section 102.1.	301.1A;402
Building Code of Baltimore County	Maryland, Section 102.1.	
Livability Code, Baltimore County,	Section 18-68.	
Other	-	
The following correction(s) is/are re	equired:	-
Under the present ?	zoving a lot 522	e ot 10550 50FT
is required to sup		
Indicate this site		
The number of ApT		
(caclosed) on tile	ton a special he	earing wherein a
determination can		
is NON-CONTORMING		
The above violation(s) must be corrected on proceed, in which you may be subject to a confidence of the confidence of th	or before 10/25/46 ivil penalty. Should you need further	

Item No: N/A TYPE : TESIDENTIA! Contract Purchasers N/A Critical ArEA: No Election District : 9th Council manic District : Existing Zoning: DR-16 ATEA : NOTES : BALL METS : BALL MENZES Attorney à LEE S. thomson Baltimore (ount) Traposed Zoning: that the (of APEA CANNOT PRIMIT the conversion of A single Family dwelling into three (3).
Agrantments 16 BurkE N/S Burke aue. AJENUE 450' E of & york



Manuel Ma

The County's Petition for Special Hearing shall be granted and the use of the property hereafter is restricted to but a single unit. The property cannot be converted to a multi apartment use under any legal theory, either pursuant to Section 402 (conversion of dwellings) of the BCZR, as a nonconforming use (Section 101) or under any other regulation. The parties' stipulation resolves the issue for this property.

A similar result is reached as to 16 Burke Avenue. This property is immediately down the street from 10 Burke Avenue. The property is also zoned D.R.16, is .15 acres in area and is improved with a residential dwelling (duplex) structure. As was the case with 10 Burke Avenue, the parties also stipulated that only one residential unit is permitted on this property. Testimony and evidence presented was persuasive that the property has been used in the past for three apartments. A photograph was submitted (Petitioner's Exhibit 2C) indicating the existence of three electric utility meters. Pursuant to the parties' stipulation, it is found that the use of the property for anything other than a single residential unit is illegal and not permitted under any provision of the BCZR.

Turning next to the disputed cases, consideration is next given to the property at 10 Linden Terrace (Case No. 97-326-SPH). The lot known as 10 Linden Terrace is a rectangularly shaped lot, approximately .288 acres in area, zoned D.R.16. The property is improved with a 2-1/2 story frame dwelling. It was stipulated that the property presently contains six different apartment units. Photographs were submitted of the building, showing six separate utility meters (Petitioner's Exhibit 5E). Also, Mr. Rowe described the structure in some detail but indicated that he had not been inside of the property or visited same in the months immediately prior to hearing.