IN THE MATTER OF THE THE APPLICATION OF	*	BEFORE THE
S & M TAYLOR FAMILY LP -LEGAL OWNERS; DANIEL BOYD -CONTRACT PURCHASER FOR SPECIAL HEARING	*	COUNTY BOARD OF APPEALS OF
ON PROPERTY LOCATED ON THE W/S LYNDALE AVE, 320' N OF KENWOOD AVE (8 LYNDALE AVENUE)	*	BALTIMORE COUNTY
14TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	CASE NO. 98-264-SPH

* * * * * * * * *

O P I N I O N

This case comes to the Board of Appeals of Baltimore County based on an appeal from a decision of the Zoning Commissioner in which a Petition for Special Hearing was denied by Order dated March 6, 1998. A timely appeal was filed with this Board on March 16, 1998. The Appellants /Property Owners were represented by David M. Meadows, Esquire. No protesting parties appeared at the public hearing held on September 29, 1998.

After a brief opening statement by Mr. Meadows, three witnesses were offered in support of the Appellants' Petition. Harry Vick, 7 Sippel Avenue, testified concerning the nature of the subject property at 8 Lyndale Avenue. He stated that he, his wife and daughter moved into their home on August 30, 1955 and have lived there since that date.

At this time, Mr. Meadows requested that the documentation which had been submitted as evidence in the prior Zoning Commissioner's hearing be offered as evidence in this case, which was accepted by the Board as Petitioners' Exhibit No. 1.

Mr. Vick indicated that the rear of his property faces the rear of the subject property and that the subject property has always looked the same. It has been a four-bedroom apartment unit, and a photograph documenting the back of the subject property and its adjoining property was entered as Petitioners' Exhibit No. 2.

Mr. Vick advised the Board that his home was a 2-1/2 story post-Civil War dwelling built in 1895. He further confirmed that there was a road between his home and the subject property which he, himself, had closed off.

The second witness for the Appellant was Jules Blitz, who works as a home inspector for the Heyn Co. After ascertaining his prior work experiences and familiarity with the Baltimore County Construction Code, Mr. Blitz was accepted by the Board as an expert witness. He indicated that he was called by the property owner to inspect 8 Lyndale Avenue. He reported that the tax bill documents construction of the dwelling in 1951. As well, there was an appraisal dated 1994 which referenced the subject property as a 44-year-old dwelling, this being consistent with the 1951 construction date. Mr. Blitz testified that he physically inspected the rooms and different areas of the dwelling. He looked at the construction and concluded that there was no indication of any construction changes. He reported no bulges or observable changes in the brick, concrete or construction of the dwelling. He elaborated on the electrical and utility units, noting that there were two separate panel boxes, electrical meters, furnaces, circuit breakers and hot water heaters. He confirmed that all the connections appeared to have been set up separately from their inception. He noted that there was a separate outside entrance to this utility area and that there was no change in materials that would indicate a change from the original construction. He also noted that 6 Lyndale (the adjoining property) was the mirror image of 8 Lyndale (the subject property). A written report of Mr. Blitz' findings was offered and admitted as Petitioners' Exhibit No. 7. He further testified to

the different appearance of the other dwellings in the surrounding community, and photographs were offered and accepted as exhibits. In conclusion he offered that the foyer design allowing for two separate and distinct entrances indicated that the dwelling was perceived as two dwellings from its inception. As well, the separate outside cellar entrance was simply done to accommodate entry for utilities. He felt certain that this had been in place since the house was built in 1951.

The third witness was Thomas Taylor, one of the principals in the S & M Taylor Family L.P. He indicated that the property was purchased in 1982. It is in a Family Trust set up to buy rental properties. He confirmed that the previous owner lived in one apartment and rented out the other three units. He could not recall the length of time the original owner held the property. This concluded the Petitioners' case-in-chief.

People's Counsel entered an appearance, but elected not to participate in this proceeding.

A public deliberation followed the public hearing after a recess during which the Board members individually reviewed their notes and examined the evidence which was admitted at the time of the hearing. Since this was a de novo hearing, the Board is constrained to consider only the testimony and evidence produced by the Appellants /Property Owners at the time of the hearing. The property owners seek the special hearing to permit two separate apartments in the Lyndale Avenue property.

Nonconforming uses are regulated by Section 104 of the Baltimore County Zoning Regulations (BCZR) and are specifically defined in Section 101 of the same regulations as a "legal use that

does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use...." Pursuant to Section 104.1, a nonconforming use is allowed to continue even though it is not in compliance with the current zoning regulations, provided that any material change in the character of the nonconforming use, or abandonment or discontinuance thereof shall terminate the validity of such use. The use must have been legal as of 1955, and continued without material change, discontinuance or abandonment. The law does not favor continuation of nonconforming uses, but cannot declare them as illegal if it is determined to have existed at the time of ordinance passage or prior thereto. The burden rests upon the property owner to prove the character of the use as well as satisfaction of the requirements set forth in Section 104. The present D.R. 5.5 zoning permits a single-family dwelling but not an apartment. Clearly the D.R. 5.5 has been in effect since 1955, the date of passage of the comprehensive zoning regulations in Baltimore County. There were no protestants at the hearing, and the Board has determined that the weight of the evidence is sufficient to satisfy the regulations. The degree of preponderance is one which must be assessed and determined by the Board. There is no doubt on the part of the Board that 8 Lyndale Avenue has been a two-apartment dwelling based on creditable testimony given by Mr. Vick and Mr. Blitz. Mr. Blitz also testified regarding the original tax records confirming construction in 1951, as well as an appraisal note of 1994 that confirms 1951 construction.

The Board appreciated the demeanor of the witnesses which gave credibility to their testimony, and the evidence provided by the

property owners, in the face of no disputing evidence, established the existence of a nonconforming use as of 1955 which has continued without interruption or abandonment. The property does appear as a two-apartment unit that continues to operate as a two-apartment building, with no ingress/egress to the second floor except by way of the outside steps, and each unit is self-contained.

Having determined that a nonconforming use was in existence as of 1955 and has continued in an uninterrupted vein without abandonment or discontinuation, this Board finds that the present use as two apartments is legal.

O R D E R

IT IS THEREFORE this 13th day of October, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing to approve the subject property at 8 Lyndale Avenue as a legal nonconforming use for a two-apartment dwelling be and the same is hereby **GRANTED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Panel Chairman

Donna M. Felling

Margaret Worrall

IN RE: PETITION FOR SPECIAL HEARING
W/S Lyndale Avenue, 320 ft. N
of Kenwood Avenue
8 Lyndale Avenue
14th Election District
6th Councilmanic District
Legal Owner:S&M Taylor Family LP
Contract Purchaser: Daniel Boyd

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 98-264-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the property located at 8 Lyndale Avenue in Overlea. The Petition was filed by the S & M Taylor Family L.P., property owner and Daniel Boyd, Contract Purchaser. Special Hearing relief is requested to approve the subject single family dwelling as a nonconforming use, to permit two apartments therein. The subject property and requested relief is more particularly shown on the plat to accompany the Petition for Special Hearing marked into evidence as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Tom McComiskey, the realtor engaged by the property owner to market this property. There were no other persons present.

Testimony and evidence presented was that the subject property is approximately 1/10th of an acre in area, zoned D.R.5.5. The property is improved with 1/2 of a duplex unit, known as 8 Lyndale Avenue. The site plan shows that the property is approximately 39 ft. in width at the front property line, however, tapers to a width of 30 ft. along the rear property line. The property is approximately 124 ft. deep.

As noted above, the property is improved with a dwelling, which shares a common wall with No. 6 Lyndale Avenue. That unit is also owned by the Petitioner, S & M Taylor Family Partnership. It is also of note that the subject property is shown as lot No. 77 on the original subdivi-

sion plat of Overlea, and the adjacent lot on which No. 6 Lyndale Avenue is situated is known as lot No. 76. The lots are similar in size and configuration.

The Petitioner seeks nonconforming use pursuant to Sections 500.7 and 104 of the Baltimore County Zoning Regulations (BCZR). 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 located or to a special regulation applicable to such a use." Nonconforming uses are regulated by Section 104 of the BCZR.

Essentially, the nonconforming use designation is utilized to grandfather an otherwise illegal use. That is, if the owner can demonstrate that a property was utilized in a given manner prior to the enactment of the statute or regulation which prohibits that use; then such use may continue. Additionally, Section 104 of the BCZR provides that a use must be continuous and uninterrupted since its inception. . Moreover, the regulations prohibit the inappropriate expansion of nonconforming uses.

In the instant case, the relevant date under consideration is March 30, 1955. It was on that date that the present Baltimore County Zoning Regulations were adopted. In this case, those regulations and D.R.5.5 zoning of the property prohibit the use thereof as a two apartment unit. Thus, the property can continue to be used as a two apartment unit only if the nonconforming use status is conferred.

As noted above, the only witness present at the hearing was Tom McComiskey, a realtor, engaged by the property owner to market and sell the property. Mr. McComiskey indicated at the hearing that he had been retained by the Petitioner and was authorized to act on its behalf. Mr. McComiskey's personal knowledge of the property was limited. However, In support of the Petition, Mr. McComiskey offered an Affidavit signed by Harry P. Vick, a resident at 7 Sipple Avenue. Mr. Vick's property is

apparently located immediately behind the subject property. Mr. Vick's Affidavit indicates that the subject property known as 8 Lyndale Avenue has been utilized as a two apartment unit since August of 1955. His Affidavit also indicates that the apartment use has been continuous and uninterrupted since that date.

At the hearing, Mr. McComiskey indicated that he does not have personal knowledge of the history of this site and had attempted to obtain evidence confirming the nonconforming use character of the property. He indicated that he had investigated tax records, utility records and also canvassed the neighborhood to find individuals who were familiar with the historic use of the property. His only success was to locate Mr. Vick and obtain his Affidavit.

As I indicated at the hearing, the Petitioner must demonstrate that the use existed prior to the effective date of the regulation prohibiting that use in order for nonconforming use status to be conferred. Although Mr. Vick's Affidavit was persuasive as to the past 42 years and 7 months, it falls short of the requirements at law. That is, the Petitioner's evidence is deficient to show that the use predated the enactment of the March 1955 regulations. The Petitioner's evidence fails by a mere five months.

Following the hearing, I contacted Mr. Vick in order to obtain a clarification of his Affidavit. He is elderly and was unable to appear at the hearing. He indicated that he has lived in the neighborhood since August of 1955; which was when he purchased his residence, 7 Sipple Avenue. He indicated that the subject property has, indeed, been used as a two apartment dwelling since he has lived in the neighborhood. However, he forcefully admitted that he had no personal knowledge of the property prior to when he moved into his house in August of 1955. Moreover, he was

unwilling to speculate as to the particulars of the use of the subject property prior to the purchase of his home.

Nonconforming uses are not favored at law. See e.g., County Commissioners of Carroll County v. Uhler, 78 Md. App 140 (1989). Nonconforming uses are contrary to the zoning scheme and by definition, are inherently incompatible with the surrounding neighborhood. Moreover, it is the Petitioner's burden and obligation to submit persuasive factual testimony, upon which the Zoning Commissioner may base a legal determination that the use is nonconforming.

Based on the aforegoing, I am persuaded that the Petition for Special Hearing must be denied. I frankly believe that the use may predate the effective date of the regulations in that Mr. Vick's testimony was persuasive that 8 Lyndale Avenue was improved with the dwelling which presently occupies that lot in August of 1955. An inference may be drawn that the present use began sometime prior to August of 1955, however, there is no evidence as to the precise date. Whether the subject property was used as a two apartment unit prior to March of 1955 or commenced immediately thereafter cannot be determined. Thus, I reluctantly must deny the Petition for Special Hearing.

ORDER RECEIVED FOR FILING
Date 3/6/98
By M. Hammond

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 denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6th day of March 1998 that, pursuant to the Petition for Special Hearing, approval of a two apartment dwelling as a nonconforming use to permit 4 apartments, be and is hereby DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

Baltimore County
Zoning Commissioner
Office of Planning

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

March 5, 1998

Mr. Tom McComiskey
O'Conor, Piper and Flynn
1402 York Road
Lutherville, Maryland 21093

RE: Petition for Special Hearing
Case No. 98-264-SPH
Property: 8 Lyndale Avenue, Balto. Md. 21236
Legal Owner: S & M Taylor Family Ltd. Partnership
Contract Purchaser: Daniel Boyd

Dear Mr. McComiskey:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been denied, 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,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
c: Mr. Daniel Boyd
8 Lyndale Avenue
Baltimore, Maryland 21236

264

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8 Lyndale Ave Baltimore, Md 21236

which is presently zoned DR 5.5

This Petition shall be filed with the **Department of Permits & Development Management**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve A 2 APARTMENT DWELLING AS A NON CONFORMING USE.

TOM

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee

Daniel Boyd
(Type or Print Name)

Daniel Boyd
Signature

Address

8 Lyndale Ave
City State Zipcode

Office 410-265-8778
Home 410-663-3176
Baltimore, Md. 21236

Attorney for Petitioner

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s)

S & M Taylor Family Limited Partnership
(Type or Print Name)

Steven C. Taylor, Gen. Partner
Signature

Steven C Taylor Gen Partner
(Type or Print Name)

Signature

Office 908 658 56321
homr 908 236 8704

2 Deer Run
Address Phone No.

Lebanon, New Jersey 08833
City State Zipcode

Name, Address and phone number of representative to be contacted

Tom McComiskey

Name

1402 York Road office 410 823 6111
Lutherville, Md 21093 Home 410 771 6409
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 HR

unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY DDR DATE 1/15/98

98-264-SPH

Revised 9/5/95

264

ZONING DESCRIPTION

Property:

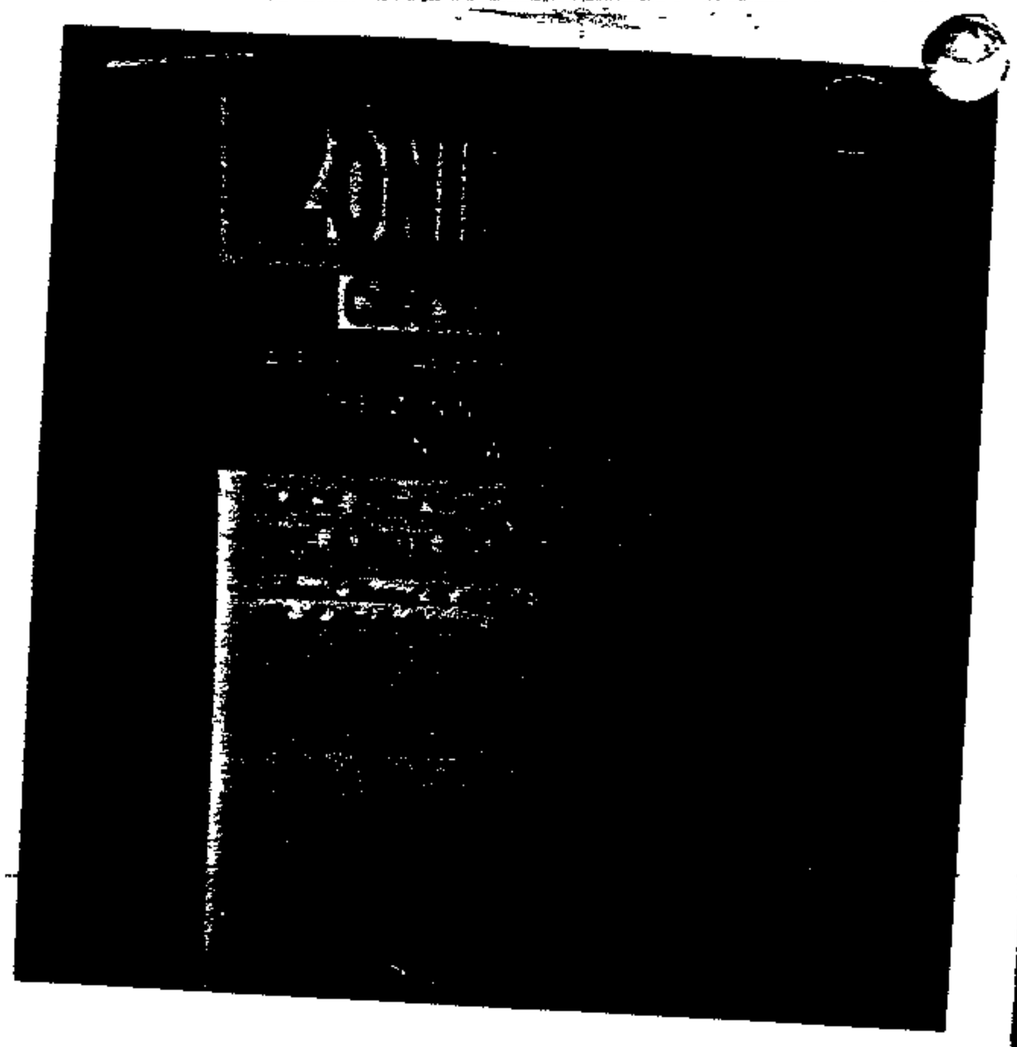
8 Lyndale Avenue
Baltimore, Md. 21236

From a point on the west side of Lyndale Avenue, which is 34 feet wide, 320 feet north of the centerline of Kenwood Avenue, which is 35 feet wide.

Lot # 77
Subdivision Overlea
Recorded in Baltimore County Plat Book# 07, Folio# 193
Lot contains 4180 square feet

The property is also known as 8 Lyndale Avenue and is in the 14th Election District and the 6th Councilmanic District.

98-264-SPH



98-264-SPH

RE: Case No. 98-264-SPH
Petitioner/Developer:
(Daniel Boyd)
Date of Hearing/Closing:
(Feb. 24, 1998)

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 8 Lyndale Ave. Baltimore, Maryland 21236

The sign(s) were posted on Feb. 7, 1998
(Month, Day, Year)

Sincerely,

2/7/98
(Signature of Sign Poster & Date)

Thomas P. Ogle, Sr.

325 Nicholson Road

Baltimore, Maryland 21221

(410)-687-8405
(Telephone Number)

BALTIMORE COUNTY, MARYLAN
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT JLL 264 **No.** 046726

DATE 1/15/98 ACCOUNT R0016150

AMOUNT $ ~~150~~ 50.00
JLL

RECEIVED FROM: Mc CONICKEY

FOR: Rec SPH

98-264-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACTUAL TIME
1/15/1998 1/15/1998 11:00:49
REG W501 CASHIER CLUK CHL DRAWER 1
5 MISCELLANOUS CASH RECEIPT
Receipt # 034990 OPLN
CR NO. 046726
50.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT **No.** 05081

DATE 3/18/98 ACCOUNT R-001-6150

AMOUNT $ 210.00

RECEIVED FROM: Moore, Carney, Ryan & Latthanzi, LLC

FOR: Appeal - Case #98-264-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

RJC

PAID RECEIPT
PROCESS ACTUAL TIME
3/20/1998 3/19/1998 14:44:49
REG W501 CASHIER CLUK CHL DRAWER 1
5 MISCELLANOUS CASH RECEIPT
Receipt # 042821 OPLN
CR NO. 050908
210.00 CHECK: PP
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #98-264-SPH
8 Lyndale Avenue
W/S Lyndale Avenue, 320' N of Kenwood Avenue
14th Election District
6th Councilmanic District
Legal Owner(s): S&M Taylor Family Limited Partnership
Contract Purchaser: Daniel Boyd

Special Hearing: to approve a 2-apartment dwelling as a non-conforming use.
Hearing: Tuesday, February 24, 1998 at 11:00 a.m., in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

2/052 Feb. 5 C205046

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2-5, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2-5, 1998.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

Baltimore County
Department of Permits and
Development Management

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

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 264

Petitioner: DANIEL BOYD

Location: 8 LYNDALE AVE BALTIMORE MD 21206

PLEASE FORWARD ADVERTISING BILL TO:

NAME: THOMAS A. MCCOMISKEY

ADDRESS: 1402 YORK RD

LUTHERVILLE MD 21093

PHONE NUMBER: 410-823-6111

98-264-SPH

AJ:ggs

(Revised 09/24/96)

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

Date to be Posted: Anytime before but no later than *_____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 98-264 -SPH

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

PLACE: *_____

DATE AND TIME: *_____

REQUEST: A SPECIAL HEARING TO APPROVE A 2 APARTMENT DWELLING AS A NON CONFORMING USE

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

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

HANDICAPPED ACCESSIBLE

9/96
post.4.doc

*UPON RECEIPT OF THE NOTICE OF HEARING, THE PETITIONER OR HIS AGENT FILLS IN THIS INFORMATION AND THEN FORWARDS THIS FORM TO THE SIGN POSTER.

TO: PATUXENT PUBLISHING COMPANY
February 5, 1998 Issue - Jeffersonian

Please forward billing to:
Thomas A. McComiskey 410-823-6111
1402 York Road
Lutherville, MD 21093

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-264-SPH
8 Lyndale Avenue
W/S Lyndale Avenue, 320' N of Kenwood Avenue
14th Election District - 6th Councilmanic District
Legal Owner: S&M Taylor Family Limited Partnership
Contract Purchaser: Daniel Boyd

SPECIAL HEARING to approve a 2-apartment dwelling as a non-conforming use.

HEARING: Tuesday, February 24, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.

Baltimore County
Department of Permits and
Development Management

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

January 23, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-264-SPH
8 Lyndale Avenue
W/S Lyndale Avenue, 320' N of Kenwood Avenue
14th Election District - 6th Councilmanic District
Legal Owner: S&M Taylor Family Limited Partnership
Contract Purchaser: Daniel Boyd

SPECIAL HEARING to approve a 2-apartment dwelling as a non-conforming use.

HEARING: Tuesday, February 24, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

c: Tom McComiskey
S&M Taylor Family Ltd. Partner.
Daniel Boyd

NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY FEBRUARY 9, 1998.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.

Baltimore County
Department of Permits and
Development Management

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

February 18, 1998

Mr. Steven C. Taylor
S & M Taylor Family Limited Partnership
2 Deer Run
Lebanon, NJ 08833

RE: Item No.: 264
Case No.: 98-264-SPH
Petitioner: Steven C. Taylor

Dear Mr. Taylor:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on January 15, 1998.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 1.23.5Y
Item No. 264 JLL

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: January 30, 1998

FROM: Robert W. Bowling, Chief
Bureau of Developer's Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for February 2, 1998
Item Nos. 260, 261, 262, 264, and 265

The Bureau of Developer's Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE0202.NOC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Dept. of Permits & Development Management

DATE: January 29, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comments on the following petition (s):

Item No. 251 and 264

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3495.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kerns

AFK/JL

C:\MSOFFICE\WINWORD\ZAC\NOCOM\251.DOC

Jeri
1/24

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Dept. of Permits & Development Management

DATE: January 27,1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comments on the following petition (s):

Item Nos. 264 and 265

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3495.

Prepared by: Jeffrey W. Long

Division Chief: Arnold Keller

AFK/JL

C:\MSOFFICE\WINWORD\ZAC\NOCOM\264.DOC

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 28, 1998

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: S&M TAYLOR FAMILY LIMITED PARTNERSHIP
Location: DISTRIBUTION MEETING OF January 26, 1998

Item No.: 264 Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F
cc: File

RECEIVED
JAN 30 1998
PDM

B A L T I M O R E C O U N T Y, M A R Y L A N D

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 1/27/98

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Jan 26, 98

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 260
261
263
264

RBS:sp

BRUCE2/DEPRM/TXTSBP

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
8 Lyndale Ave, W/S Lyndale Ave,
320' N of Kenwood Ave * ZONING COMMISSIONER
14th Election District, 6th Councilmanic
* OF BALTIMORE COUNTY
Legal Owner(s): S & M Taylor Family L.P.
Contract Purchaser(s): Daniel Boyd * CASE NO. 98-264-SPH
Petitioners

* * * * * * * * * * * * *

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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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 20th day of February, 1998, a copy of the foregoing Entry of Appearance was mailed to Tom McComiskey, 1402 York Road, Lutherville, MD 21093, representative for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

APPEAL

Petition for Special Hearing
W/S Lyndale Avenue, 320' N of Kenwood Avenue
(8 Lyndale Avenue)
14th Election District - 6th Councilmanic District
S & M Taylor Family LP - Petitioners/Legal Owners
Daniel Boyd - Contract Purchaser
Case Number: 98-264-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

No Sign-In Sheets

Petitioner's Exhibit: 1 - Plat to Accompany Petition for Special Hearing

Four Photographs not Marked as Exhibits

Affidavit for Conditional Use Permit for Two Apartments

Zoning Commissioner's Order dated March 6, 1998 (Denied)

Notice of Appeal received on March 16, 1998 from David M. Meadows, Esquire on behalf of S & M Taylor L.P. and Daniel Boyd, Contract Purchaser

c: David M. Meadows, Esquire, Moore, Carney, Ryan and Lattanzi, LLC, 4111 E. Joppa Road, Baltimore, MD 21236
Mr. Daniel Boyd, 8 Lyndale Avenue, Baltimore, MD 21236
Mr. Steven C. Taylor, S & M Taylor Family LP, 2 Deer Run, Lebanon, NJ 08833
Mr. Tom McComiskey, 1402 York Road, Lutherville, MD 21093
People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

CONDITIONAL USE PERMIT
FOR
TWO APARTMENTS

This use permit for two apartments at 8 LYNDALE AVE BALTO MD 21236
(address)

is issued entirely upon the basis of the herein affidavit, including the dates of original use and continuous use sworn to therein. The responsibility for the accuracy of said dates and uses is entirely that of the legal owner and/or agent thereof. In the event that the accuracy is challenged, our approval is automatically withdrawn; the use permit will be reinstated only after public hearing and submission of testimony that alleviates the allegations contained in the challenge and otherwise provides the proofs necessary to establish a legal non-conforming use for the number of apartments claimed. Knowingly falsifying the affidavit information on the reverse side of this permit is subject to the penalties of perjury.

DATE: _____ APPROVED BY: _____
DIRECTOR, DEPARTMENT OF PERMITS
AND DEVELOPMENT MANAGEMENT

Revised 9/5/95

AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Harry P. Vick — HARRY P. VICK

AFFIANT (Handwritten Signature) — AFFIANT (Printed Name)

7 Sipple Ave. Balto MD 21236 — 410-668-5213

ADDRESS (Printed) — TELEPHONE NUMBER

BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 8 Lyndale Ave. Balto. MD. 21236 (address) has been occupied as a 2 (2, etc.) apartment dwelling since August (month), 1955 (year)? YES (answer)

2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since August (month), 1955 (year)? YES (answer)

3. *Will you realize any gain from the sale of this property?* NO (answer) *

If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 17th day of December, 1997, before me, a Notary Public of the State of Maryland, *in and for the County aforesaid, personally appeared* Harry P. Vick, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

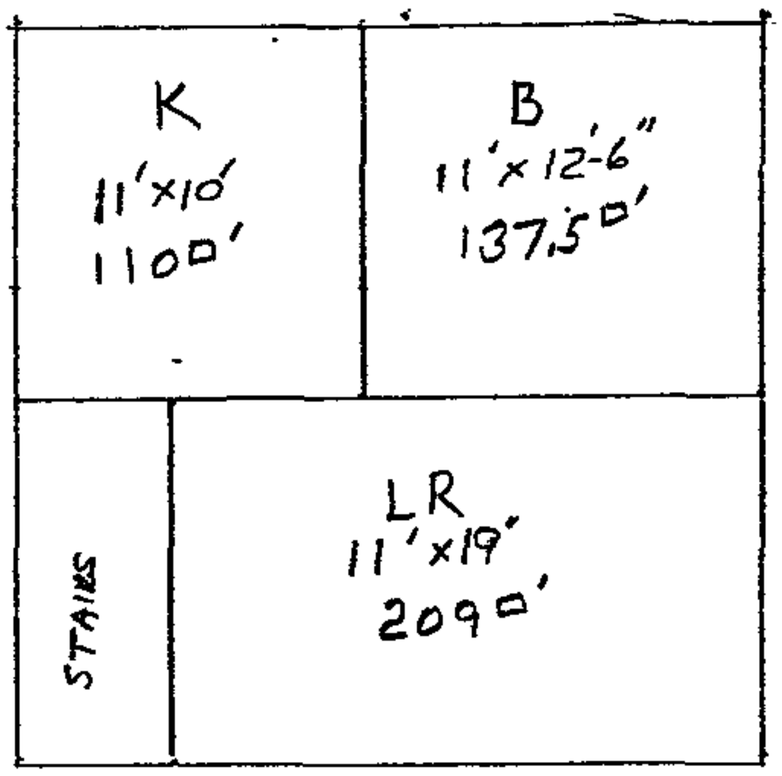
Karen L. Jackson Hamada

NOTARY PUBLIC

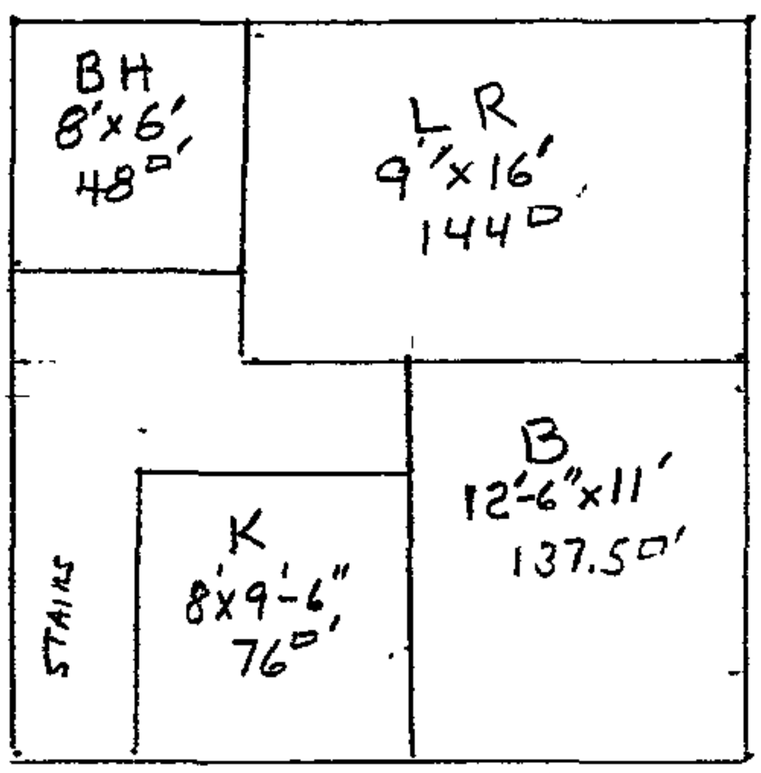
My Commission Expires 3-1-01

Revised 9/5/95

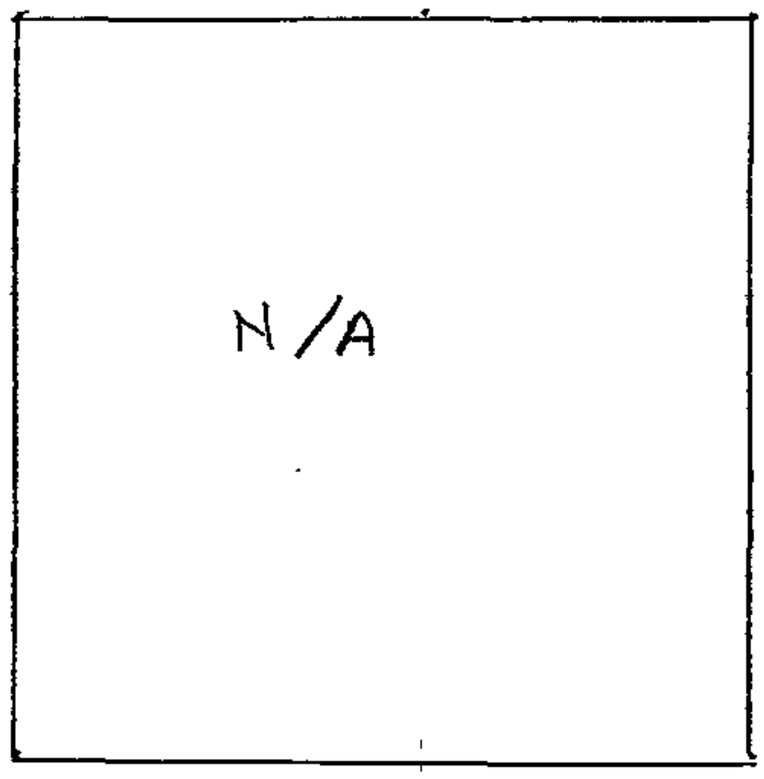
264



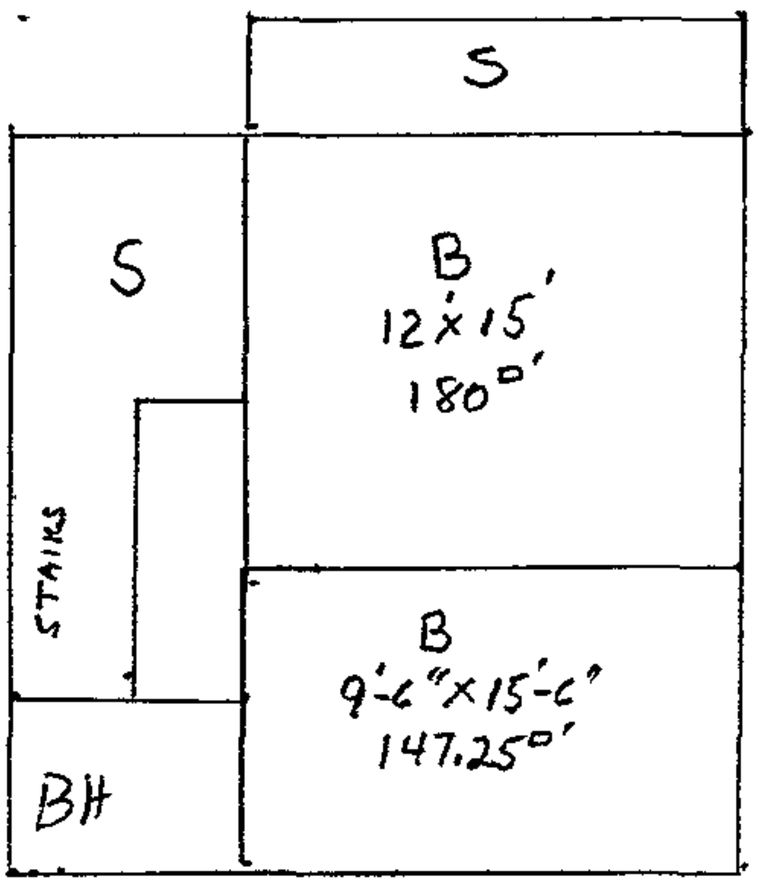
FIRST FLOOR APT #1



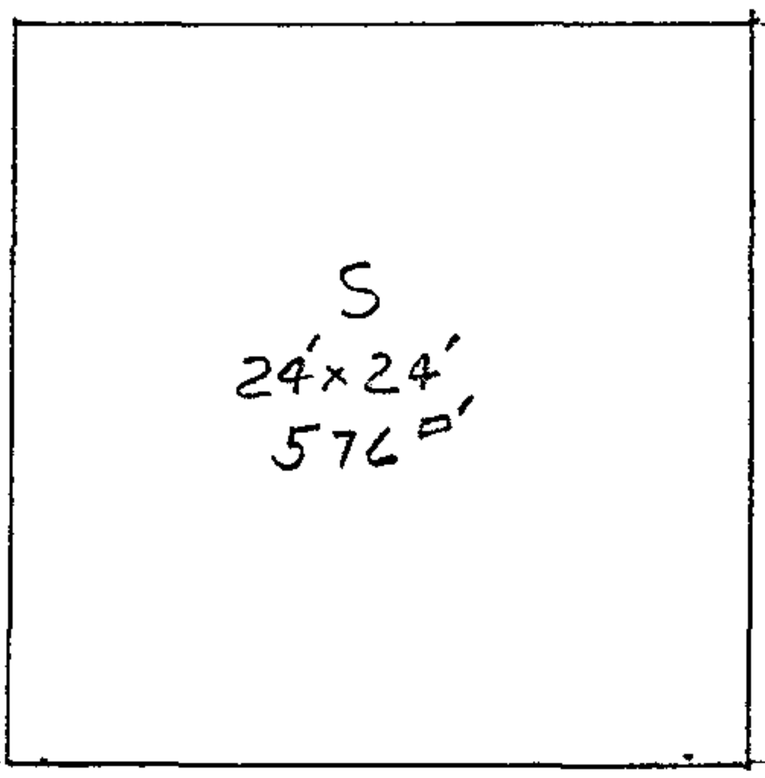
SECOND FLOOR APT #2



THIRD FLOOR



BASEMENT



ATTIC

ADDRESS 8 LYNDALE AVE.

98-264-SPH

Baltimore County
Zoning Commissioner
Office of Planning

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

March 24, 1998

David M. Meadows, Esquire
Moore, Carney, Ryan, Lattanzi
4111 E. Joppa Road
Baltimore, Maryland 21236

RE: Petition for Special Hearing
Property: 8 Lyndale Avenue
Case No. 98-264-SPH
Legal Owner: S&M Taylor Family LP
Contract Purchaser: Daniel Boyd, Petitioner

Dear Mr. Meadows:

I understand that you have entered your appearance and filed an appeal in the above captioned case from my decision dated March 6, 1998. I recently received a message from Mr. Thomas McComiskey, the realtor, regarding the Order issued in that case. Mr. McComiskey pointed out a typographical error in my Order. Specifically, he noted that the last sentence of the Order references the subject property as a two apartment dwelling seeking nonconforming use to permit four apartments. In fact, the subject property known as 8 Lyndale Avenue is a single unit seeking a nonconforming use with two apartments.

I apologize for the error and will insert a copy of this letter in the case file. The error in the Order should have no affect on the appeal, in that same will be held denovo. Please do not hesitate to contact me should you have any questions.

Very truly yours,

Lawrence E. Schmidt

LES:mmn
c: Mr. Tom McComiskey
O'Conor, Piper and Flynn
1402 York Road
Lutherville, Maryland 21093

c: Baltimore County Board of Appeals
Basement, Old Court House
400 Washington Avenue
Towson, Maryland 21204

Baltimore County
Department of Permits and
Development Management

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

March 18, 1998

Mr. Tom McComiskey
O'Conor, Piper and Flynn
1402 York Road
Lutherville, MD 21093

RE: Petition for Special Hearing
Case No.: 98-264-SPH
8 Lyndale Avenue
14c6
S & M Taylor Family LP -
Petitioners/Legal Owners
Daniel Boyd - Contract Purchaser

Dear Mr. McComiskey:

Please be advised that an appeal of the above referenced case was filed in this office on March 16, 1998 by David M. Meadows, Esquire on behalf of S & M Taylor Family L.P. and Daniel Boyd. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:rye

c: People's Counsel

To ROS 3/17
3/16/98
8
WCR

MOORE, CARNEY, RYAN AND LATTANZI, LLC
ATTORNEYS AT LAW
4111 E. JOPPA ROAD
BALTIMORE, MARYLAND 21236
(410) 529-4600
FAX (410) 529-6146

ROBERT E. CARNEY, JR.
RICHARD E. LATTANZI
JUDITH L. HARCLERODE
RONALD A. DECKER
DAVID M. MEADOWS

LISA M. L. EISEMANN

E. SCOTT MOORE
(1926-1992)

March 13, 1997

Baltimore County Office of Zoning
Administration and Development Management
Room 111
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Appeal from the Decision of the
Zoning Commissioner of Baltimore County
Case No. 98-264-SPH

Dear Sirs:

Please find enclosed our check in the amount of $175.00 (appeal fee) and $35.00 (sign fee) for the Appeal of the Decision of the Zoning Commission of Baltimore County in the Petition for Special Hearing Westside Lyndale Avenue, dated March 6, 1998, Case No. 98264-SPH. The Appeal is filed on behalf of the Petitioner, S & M Taylor Family L.P. and Daniel Boyd, Contract Purchaser.

Very truly yours,

David M. Meadows
on behalf of the Appellant

DMM:me
encl.
cc: Mr. Thomas A. Taylor
cc: Mr. Tom McComiskey
O'Conor, Piper & Flynn

H:\WP\DAVE\LETTERS\M-Z\taylapp.wpd

RECEIVED
16
98-1075

2/16/98
V
JT

S & M Taylor Family Ltd Partnership
2 Deer Run
Lebanon NJ 08833
908 236-8704

February 3, 1998

Baltimore County Dept. Permits and
Development Processing
ATT: ARNOLD JABLON
County Office Building
111 West Chesapeake Avenue
Towson MD 21204

RE: CASE NUMBER: 98-264-SPH
8 LYNDALE AVENUE

Dear Mr. Jablon:

Please be advised that regretfully I will be unable to attend this meeting because I live out of state and I have business commitments on that date. In view of this, Mr. Tom McComiskey will be attending the meeting on my behalf. He has full authority to act on my behalf at the meeting.

Yours truly,

S & M Taylor Family Ltd Partnership

Steven C Taylor
General Partner

Plat to accompany Petition for Zoning ☐ Variance ☒ Special Hearing

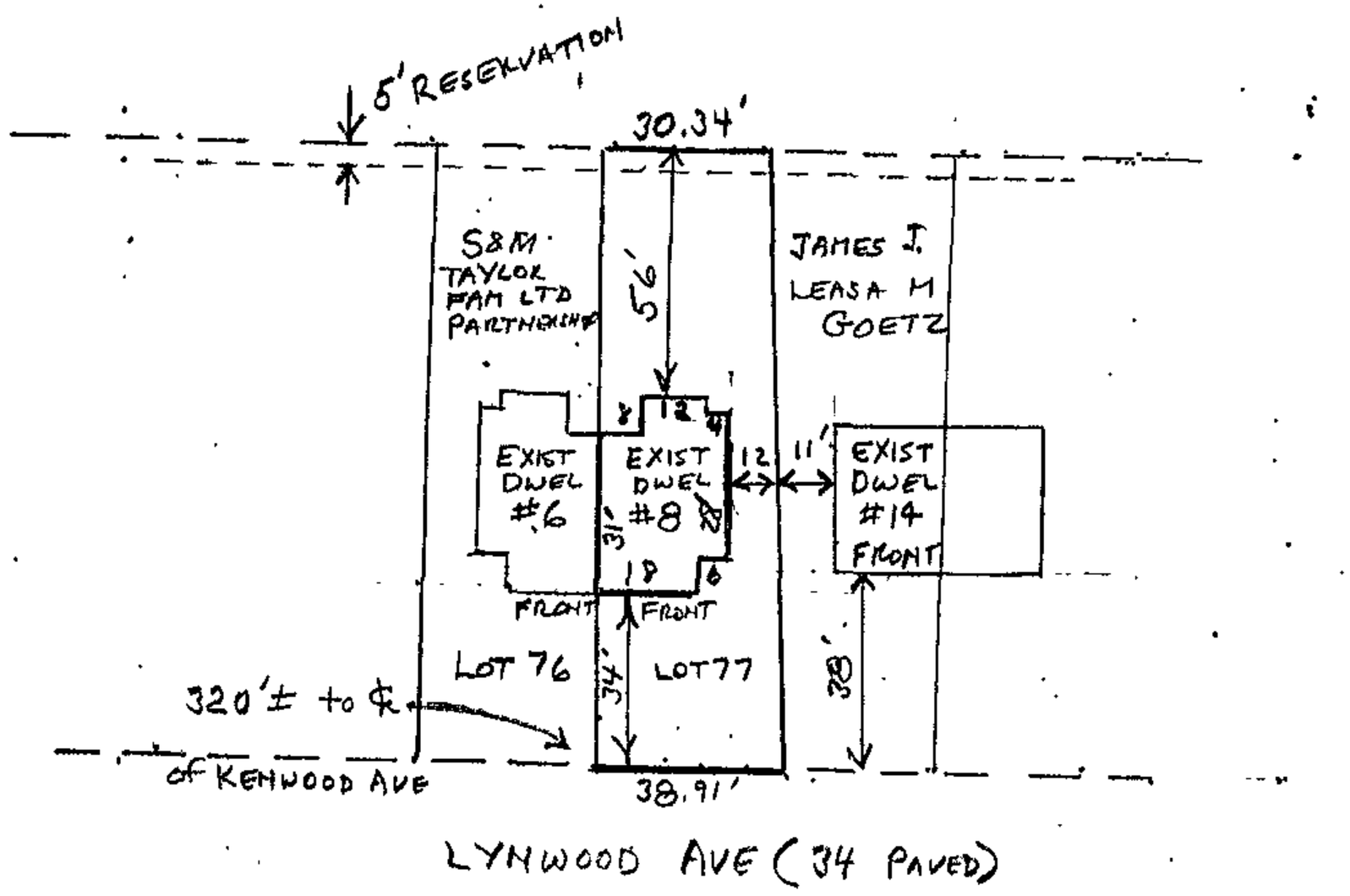
PROPERTY ADDRESS: 8 LYNDALE AVENUE

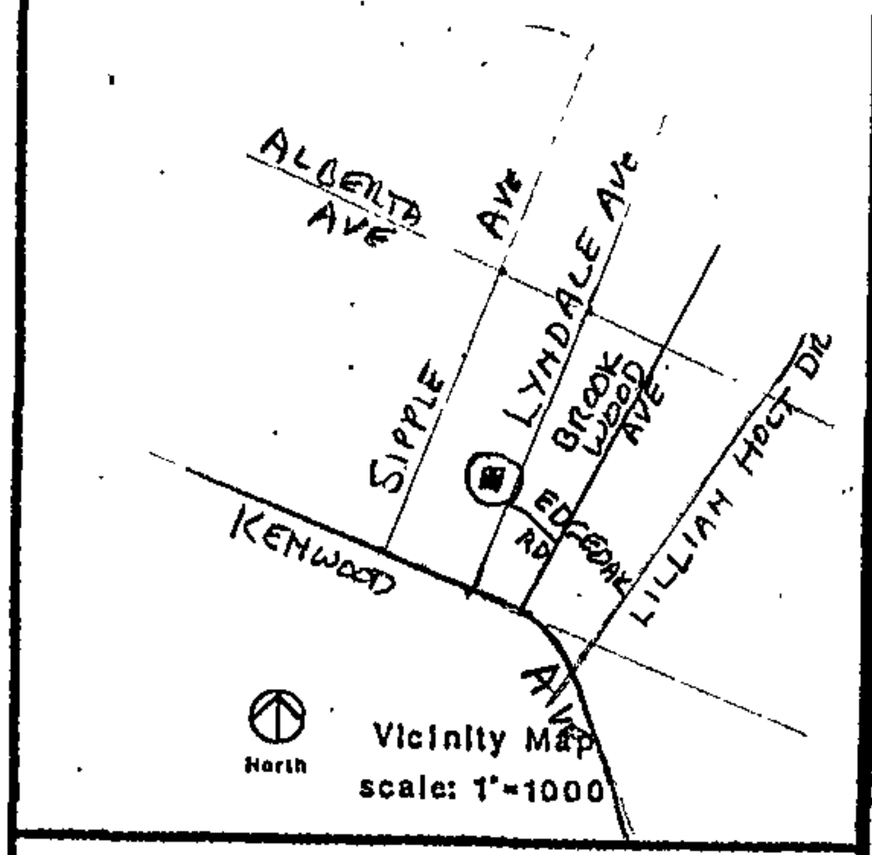
see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: OVERLEA

plat book# 07 ,folio# 192 ,lot# 77 ,section# _____

OWNER: S&M TAYLOR FAMILY LIMITED PARTNERSHIP





LOCATION INFORMATION

Election District: 14

Councilmanic District: 6

1"=200' scale map#: NE6E

Zoning: DR 5.5

Lot size: 0.0955 acreage 4160 square feet

	public	private
SEWER:	☒	☐
WATER:	☒	☐

	yes	no
Chesapeake Bay Critical Area:	☐	☒

Prior Zoning Hearings:

North

date: 1/8/98

prepared by: TAM

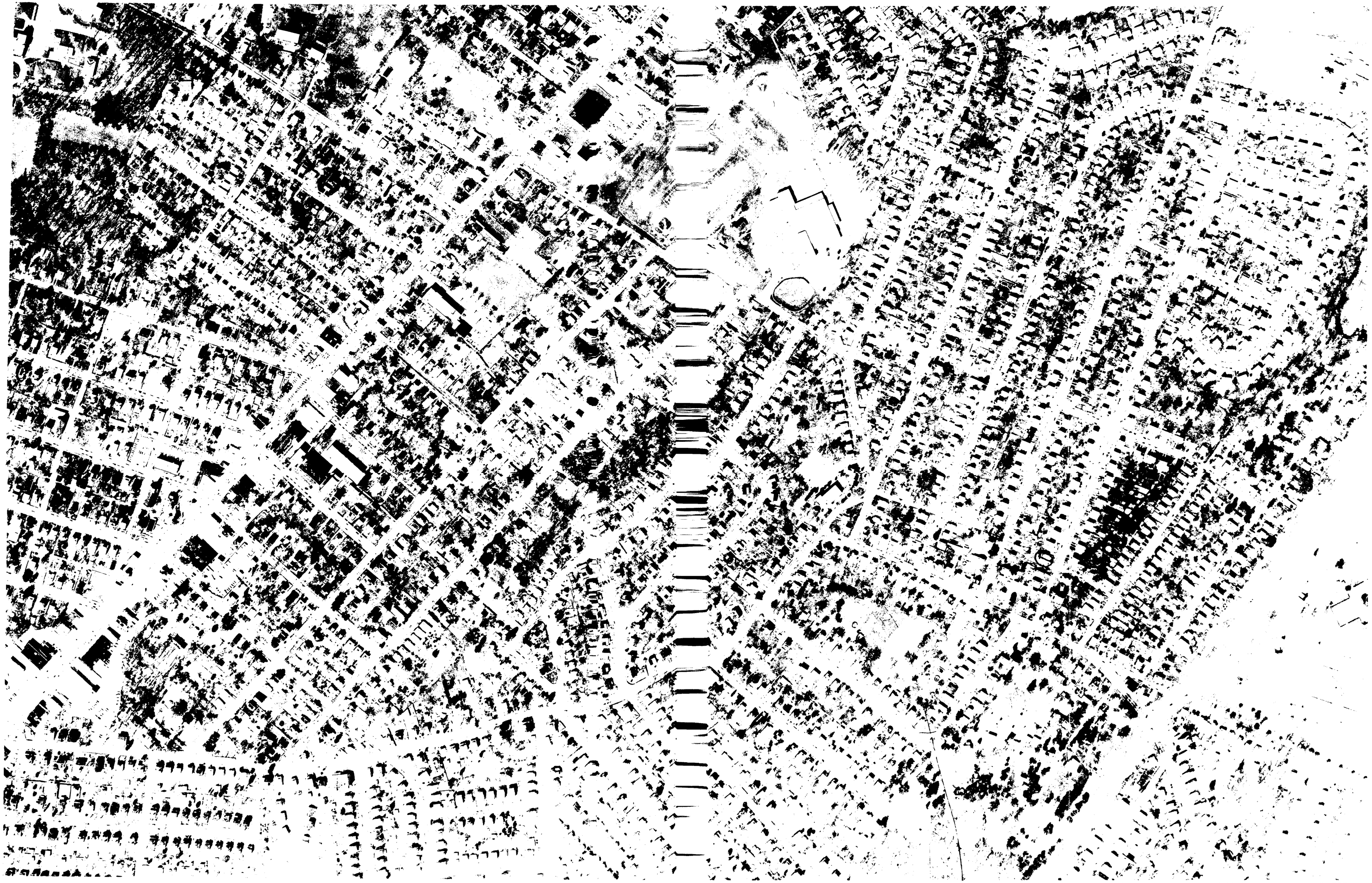
Scale of Drawing: 1"= 50'

Zoning Office USE ONLY!

reviewed by:	ITEM #:	CASE#:
JL	264	

98-264-SPH

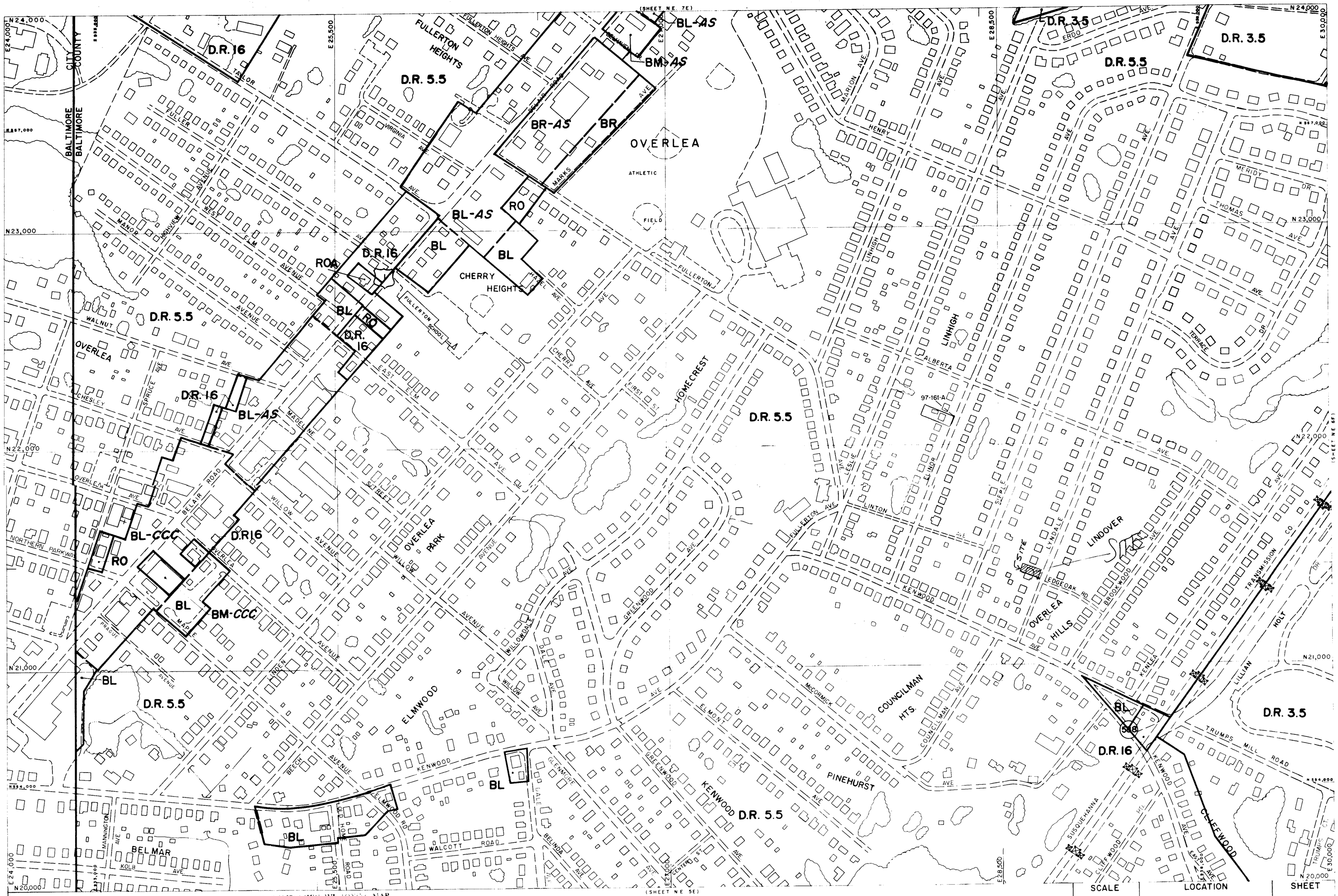
-15-



BALTIMOR E COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200'±		NE. 6-E
DATE OF PHOTOGRAPHY JANUARY 1986	OVERLEA	



N - SE M - SW
J - NE I - NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1996 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
Bill No. [illegible]

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	OVERLEA	N.E. 6-E
DATE OF PHOTOGRAPHY JANUARY 1986		

98-264-SPH