RE: PETITION FOR SPECIAL HEARING 6415 Mt. Vista Road, S/S Harford Rd and Mt. Vista Rd, 1550' S of c/l Harford and Mt. Vista Rd intersection, 11th Election District, 5th Councilmanic

Legal Owner: ESTATE OF AIMEE B. FOARD
Contract Purchaser: BEACHMONT
CHRISTIAN MINISTRIES

Petitioners

* BEFORE THE

* COUNTY BOARD OF APPEALS

* FOR

* BALTIMORE COUNTY

* Case No. 99-347-SPH

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

OPINION AND ORDER

OPINION

The parties to this appeal are the Estate of Aimee B. Foard and Beachmont Christian Ministries, Petitioners, and the Office of People's Counsel. This case comes to the Board of Appeals on People's Counsel's appeal of the Zoning Commissioner of Baltimore County's May 6, 1999 Order granting Beachmont Christian Ministries' ("Beachmont") Petition for Special Hearing. Beachmont's Petition for Special Hearing sought approval of a non-density transfer of a 15-acre parcel, zoned R.C.5, from the Estate of Aimee Foard ("Estate") to an adjacent R.C.5 zoned parcel owned by Beachmont. At the time of the transfer, the Estate owned a 50-acre tract of land and sought to convey the 15 acres for use in conjunction with Beachmont's existing Christian camp.

People's Counsel appealed the granting of Beachmont's Petition for Special Hearing because it permitted the Estate to retain all rights of subdivision density associated with the Estate's former 50-acre tract, despite being reduced to 35 acres in size. People's Counsel's position is that the maximum residential zoning density of this remaining parcel of the Estate, which houses an existing church, must be determined in accordance with the actual combination of uses and acreage, and subject to R.C.5 lot density.

Prior to the hearing, the parties determined to proceed with the appeal in a way which would accomplish both Beachmont's and the Estate's intended purpose for seeking a non-density transfer to

accomplish both Beachmont's and the Estate's intended purpose for seeking a non-density transfer to Beachmont, and also would satisfy People's Counsel's concerns about the retention of excessive density rights by the Estate.

Petitioners have therefore withdrawn their request that the Estate, as transferor, retain density attributable to the transferred parcel. They are accordingly amending the Petition and site plan. The Board is satisfied that this withdrawal and amendment accords with the law. It properly limits density to that allowed under BCZR 1A04.3B1, and it also takes into account that part of the acreage is occupied by a church.

At the same time, Beachmont, as transferee, does not intend to subdivide the 15 acres into residential lots. For this reason, it has asked for the parcel to be designated as a "non-density" transfer upon its acquisition. People's Counsel does not oppose this designation.

It is possible, however, that Beachmont will in the future request an expansion of its existing day camp special exception. This special exception was approved in Case No.

75-83-X. Beachmont sought to expand and extend its approval in Case No. 85-245-X, which the Board approved, in accordance with the terms of an Opinion dated November 5, 1985. But, the Court of Special Appeals reversed this approval by its Opinion dated July 6, 1987, as revised and republished by Order of Reconsideration dated August 31, 1987. A copy of the final Court of Special Appeals Opinion is an exhibit in this case.

The present special hearing does not alter or affect the current special exception use, or its conditions or limits. :Likewise, it is not intended to influence the decision on the merits of any future request to expand the special exception. The Great Mt. Vista Association, Scott Stroebinger, and other interested citizens were parties in Case No. 85-245-X and maintain an interest in zoning proceedings affecting the Beachmont property.

ORDER

The instant Order takes into account both the agreed approach of the parties and the independent review of the County Board of Appeals. It resolves all outstanding issues in this matter. The Order has been presented and explained in open hearing. Upon consideration of the record and presentations of the parties and counsel, this 1916/ 1

- 1. Beachmont's Petition for Special Hearing and accompanying plat are amended in order to eliminate any transfer of subdivision lot density in the R.C.5 zone.
- 2. Beachmont's amended plat includes an additional note stating that the density of the Estate's remaining 35-acre parcel of land will be calculated based upon the remaining acreage of property and its combination of uses following the non-density transfer, and not on the basis of the preexisting 50-acre parcel. Any additional development of the Estate's remaining 35-acre parcel is subject to all applicable zoning and development regulations.
 - 3. The Estate will incorporate the instant Order into the deed for the transfer of the 15-acre parcel.
- 4. The 15-acre non-density parcel is still subject to applicable development regulations of Baltimore County.
- 5. Any future request by Beachmont for a special exception with respect to the 15-acre parcel, or the amendment of the special exception obtained in Case No. 75-83-X, and as limited in Case No. 85-245-X, must stand on its own and is subject to applicable zoning and development regulations.

LAWRENCE M. STAHL, Panel Chairman

THOMAS P. MELVIN, Panel Member

Thomas P. Meh

LYNN BARRANGER, Ranel Member

3

IN RE: PETITION FOR SPECIAL HEARING SW/S Mt. Vista Road, 1000' SE of its Intersection w/Harford Road (Rear of 4515 Mt. Vista Road) 11th Election District 5th Councilmanic District

Estate of Aimee B. Foard Petitioners

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 99-347-SPH

*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, the Estate of Aimee B. Foard, by Ronald B. Standiford, Personal Representative, and the Contract Purchaser, Beachmont Christian Ministries, by Gilbert L. Thompson, Secretary, through their attorney, G. Scott Barhight, Esquire. The Petitioners seek approval of the non-density transfer of a 15-acre parcel, zoned R.C.5, to an adjacent parcel zoned R.C.5. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Ronald D. Standiford, Personal Representative for the Estate of Aimee B. Foard, property owners, Gilbert L. Thompson and Paul T. Twining, representatives of Beachmont Christian Ministries, Contract Purchasers, Bruce E. Doak, Registered Property Line Surveyor with Gerhold, Cross & Etzel, who prepared the site plan of this property, and G. Scott Barhight, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present; however, a letter in support of the request was received from the Great Mt. Vista Association.

Testimony and evidence presented revealed that the subject property is an irregularly shaped parcel containing approximately 15 acres in area, zoned R.C.5, located on the southwest side of Mt. Vista Road in Kingsville. Presently, the property is unimproved and is in active

agricultural use. The property is part of a larger parcel containing approximately 50 acres owned by the Estate of Aimee B. Foard. The parcel abuts property owned by Beachmont, Inc., the corporate entity for the Beachmont Christian Ministries. The property owned by Beachmont, Inc. is used as a Christian Day Camp, and is improved with several athletic fields, a swimming pool, and a basketball/multi-purpose macadam court. There are also several small structures on the property. Additionally, a larger building is now under construction.

As noted above, Beachmont, Inc. operates the property as a day camp. It is used as a day camp for children in the warmer months, and is frequently leased to churches and other religious organizations for retreats, picnics, etc. The Estate of Aimee Foard proposes conveying the 15-acre parcel under consideration to Beachmont for use in conjunction with the camp. It was indicated at the hearing that Beachmont ultimately proposes expanding its day camp facility utilizing the 15-acre parcel by way of the construction of three (3) ball fields, a small gazebo, a chapel, and a miniature golf course.

Approval for those uses is not being requested under the present Petition. Indeed, camps are permitted in the R.C.5 zone by special exception. Although special exception approval was received for the existing camp some years ago, the Petition before me does not seek an expansion of that special exception. Rather, the Petition requests only the non-density transfer of a 15-acre parcel from the Estate of Aimee Foard to Beachmont, Inc. In this regard, the Estate will retain all rights of subdivision/density associated with the former overall 50-acre tract.

A letter was received regarding the Petitioners' proposal from the Great Mt. Vista Association. That letter does not object to the transfer, per se; however, voices concerns over any proposed expansion.

The issue before me is limited. I am being requested to approve only the conveyance of the 15-acre parcel without any density rights. Thus, I am persuaded that the Petition should be granted. In the event Beachmont, Inc. decides to develop the property in the future as indicated above, Petitions for Special Hearing and/or Special Exception need be filed to approve an

expanded use. At that time, the Great Mt. Vista Association's concerns as expressed in their letter will be relevant.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the special hearing relief shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of May, 1999 that the Petition for Special Hearing seeking approval of the non-density transfer of a 15-acre parcel, zoned R.C.5, to an adjacent parcel, also zoned R.C.5, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) In the event Beachmont, Inc. decides to develop the property as set forth herein, Petitions for Special Hearing and/or Special Exception need be filed to approve an expanded use.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 6415	MT.	VISTA	ROAD,	KINGSVILLE
which is presently zoned RC-5				

This Petition shall be filed with the Department of Permits and 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 NON-DENSITY TRANSFER OF A 15 ACRE PARCEL OF RC-5 ZONED LAND FROM AN ADJACENT 50 ACRE PARCEL OF RC-5 ZONED LAND

Property is to be posted and advertised as prescribed by the zoning regulations,
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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

Zip Code

Name - Type or Print Signature BEACHMONT CHRISTIAN MINISTRIES Name - Type or Print Signature Signature WITCHIA DOLD

M.

6433 MT. VISTA ROAD 4/0-572-8768

Address

Telephone No. 48

KINGSVILLE, MD 21087

State

Attorney For Petitioner:

Contract Purchaser/Lessee:

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⊼dd	ess		.,	Telephone No.
Clly		<u> </u>	Slale	ZIp Code

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.

Legal Owner(s):

ESTATE OF AIMEE B. FOARD
Name - Type or Print
Could Munderpur, Pers. Rep.
Signature Signature
Name - Type or Print
Haine - The or time
Signature

6415 MT. VISTA ROAD 410-592-4830
Address Telephone No.

KINGSVILLE, MD 21087
City State Zip Code

Representative to be Contacted:

BRUCE DOAK
GERHOLD, CROSS & ETZEL, LTD.

Name 320 E. TOWSONTOWN BLVD.
SUITE 100 410-823-4470

Address Telephone No.
TOWSON, MD 21286
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING Zhr-3hr

UNAVAILABLE FOR HEARING N/C

Reviewed By MK Date 3/16/99

THE PRINCE

Case No. 99-347-5FH

EREN 9115198

City

BALTIMORE COUNTY, MAF AND No. 062515 OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT ACCOUNT 01-615 Straint R J. dem: 347 AMOUNT \$ 250, " OME. OFFI 13、1271 ---- 6415 MI. Wish Rd. FROM: Gerlill Coss + Fizel # 250. CT 99.347.5PH

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PINK - AGENCY

YELLOW - CUSTOMER

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CASHIER'S VALIDATION

CERTIFICATE F POSTING

	RE: Case No.: 99-347-5PH
•	Petitioner/Developer:
	BEACHMONT CHEISTIAN
	MINUSTRIES Date of Hearing/Closing:
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	•
Ladies and Gentlemen:	
This letter is to certify under the penaities of pasted conspicuously on the property lo	perjury that the necessary sign(s) required by law cated at 4515 MT. VISTA RD.
The sign(s) were posted on $6/3o/99$	(Month, Day, Year)
	Sincerely,
	(Signature of Sign Poster and Date)
	GARY FREUND
•	(Printed Name)
	(Address)
•	(City, State, Zip Code)
•	(Telephone Number)

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: #99-347-SPH 6415 Mt. Vista Road SW/S rear 1000' from Mt. Vista Road, 1000' SE of cen-terline Harford Road 11th Election District 5th Councilmanic District Legal Owner(s): Estate of Almee B Foard Contract Purchaser: Beach-mont Christian Ministries

Special Hearing: to approve a non-density transfer of a 15-acre parcel from an adjacent 50-acre parcel.
Hearing: Monday, April 26, 1999 at 2:00 p.m. in Room 407, County Courts Bidg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations
Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Of-fice at (410) 887-3391.

4/159 April 8 - C302989- -

CERTIFICATE OF PUBLICATION

TOWSON, MD.,
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 successive
weeks, the first publication appearing on $\frac{48}{9}$, 1997
THE JEFEERSONIAN,
S. Wilkinson
LEGAL ADVERTISING

RE Case No. 99-347-5PH

Petitioner/Developer BEACHMONT

CHRISTIAN MINISTRIES, ETAL

Date of Hearing/Closing 4/26/99

Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204

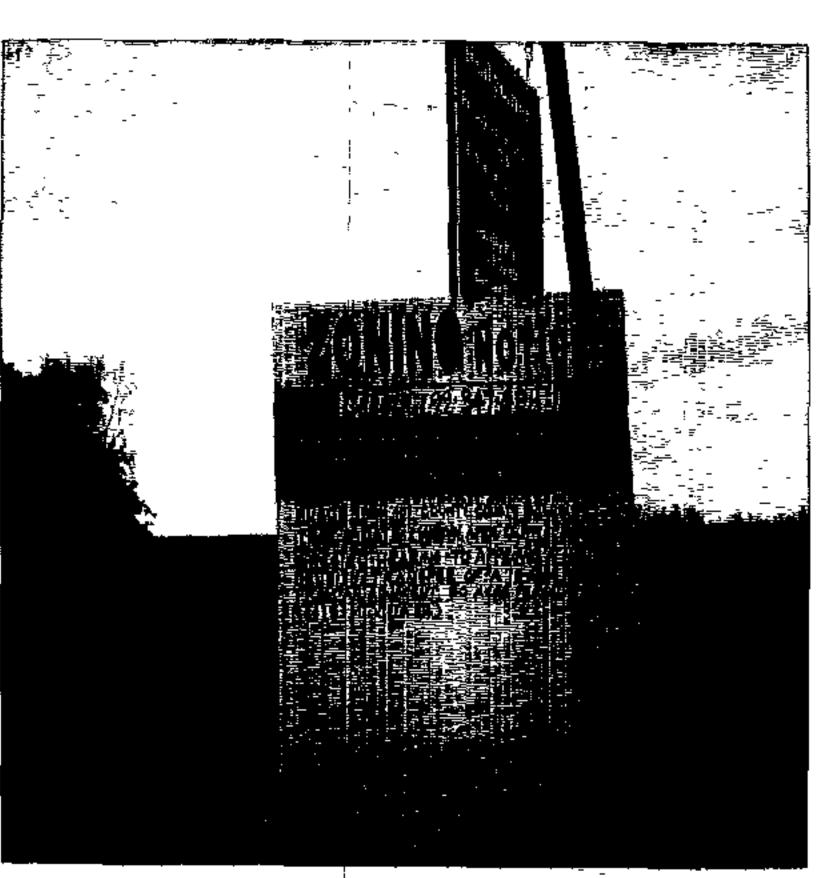
Attention Ms Gwendolyn Stephens

Ladies and Gentlemen

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 #6415 MT. VISTA RD.

The sign(s) were posted on

4/10/99 (Month, Day, Year)



6415 MT VISTA RD. 10/99 H-4/26/99

H 4/26/99

Sincerely,

(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

HUNT VALLEY, NID. 21636

(City, State, Lip Code

410-666-5366) JELL - HUNTUS 2571

(Telephone Namoer)



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

March 26, 1999

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: 99-347-SPH

6415 Mt. Vista Road

SW/S rear 1000' from Mt. Vista Road, 1000' SE of centerline Harford Road

11th Election District – 5th Councilmanic District

Legal Owner: Estate of Aimee B. Foard

Contract Purchaser: Beachmont Christian Ministries

Special Hearing to approve a non-density transfer of a 15-acre parcel from an adjacent 50-acre parcel.

HEARING: Monday, April 26, 1999 at 2:00 p.m. in Room 407, County Courts Building,

401 Bosley Avenue

Arnold Jablon

Director

c: Estate of Aimee B. Foard Beachmont Christian Ministries Gerhold, Cross & Etzel, Ltd.

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY APRIL 11, 1999.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO:

PATUXENT PUBLISHING COMPANY

April 8, 1999 Issue – Jeffersonian

Please forward billing to:

Beachmont Christian Ministries

6433 Mt. Vista Road Kingsville, MD 21087 410-592-8768

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: 99-347-SPH

6415 Mt. Vista Road

SW/S rear 1000' from Mt. Vista Road, 1000' SE of centerline Harford Road

11th Election District – 5th Councilmanic District

Legal Owner: Estate of Aimee B. Foard

Contract Purchaser: Beachmont Christian Ministries

Special Hearing to approve a non-density transfer of a 15-acre parcel from an adjacent 50-acre parcel.

Monday, April 26, 1999 at 2:00 p.m. in Room 407, County Courts Building, HEARING:

401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

> (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

#347

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

99-347-5PH For Newspaper Advertising:		
Item Number or Case Number: 347 Petitioner: BEACHMONT CHRISTIAN MINISTRIES		
Address or Location: _6433 MT, VISTA ROAD		
PLEASE FORWARD ADVERTISING BILL TO: Name: BEACHMONT CHRISTIAN MINISTRIES		
Address: 6433 MT. VISTA ROAD, KINGSVILLE, MID 21087		
Telephone Number: <u>410 - 592 - 8768</u>		

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:

#347

ZONING NOTICE

Case No.: 99-347 -SPH

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

PLACE:
DATE AND TIME:
REQUEST: Special hearing to permit a non-density
tronsfir of a 15 air pairel zoned RCS
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

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County Interoffice Correspondence

DATE:

June 5, 2000

TO:

Arnold Jablon, Director

Permits & Development Management

FROM:

Charlotte E. Radcliffe ()

Board of Appeals

SUBJECT: CLOSED FILES:

99-11-SPH -Robert F. Webbert, et ux

99-54-SPHXA -David M. Coleman-LO; Francis Honeywell-CP

99-57-A -Stamatios Papastefanou, et ux

99-73-SPHXA -Donald E. Warrener, Jr.

99-113-A - Emil A. Budnitz, Jr. -LO; Jeff Budnitz-CP

99-215-SPH – Ida A & Benjamin A. Petrilli

99-242-XA -Ernest Diegert-LO; Eller Media Co.-CP

99-279-A - Ruth Phillips & Andrew Erdman

99-291-SPH -Schoolden's Automotive Repair, Inc.

99-310-X - Eastern Boulevard Center, Inc. (Famous Pawn, Inc.)

99-318-X -Rodick Realty Partnership I-LO;

and Cloverland Farms Dairy, Inc.-CP

99-347-SPH -Estate of Aimee B. Foard-LO;

and Beachmont Christian Ministries-CP

99-359-A -Shirley & David Morrison-LO; David Waldhauser-CP

99-492-SPH -William A. and Mary H. Kraft

99-504-SPHXA -Estate of Sol Goldman-LO; Eller Media-CP

Since the above captioned cases have been finalized and no further appeals were taken, we are hereby closing the files and returning same to your office herewith.

Attachments: Case File Nos.: 99-11-SPH; 99-54-SPHXA; 99-57-A; 99-73-SPHXA w/ large exhibit box; 99-113-A; 99-215-SPH w/ large exhibit; 99-242-XA; 99-279-A; 99-291-SPH; 99-310-X; 99-318-X; 99-347-SPH; 99-359-A; 99-492-SPH; and 99-504-SPHX



Petition for Special Hearing 6415 Mt. Vista Road

SW/S rear 1000' from Mt. Vista Road, 1000' SE of centerline Harford Road

11th Election District – 5th Councilmanic District

Estate of Aimee B. Foard – Legal Owner

Beachmont Christian Ministries – Contract Purchaser

Case Number: 99-347-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting (Patrick M. O'Keefe - 4/10/99)

Certification of Publication (Jeffersonian - 4/8/99)

Entry of Appearance by People's Counsel

Petitioner(s) Sign-In Sheet

Zoning Advisory Committee Comments

Letter from Great Mt. Vista Association dated April 20, 1999

Zoning Commissioner's Order dated May 6, 1999 (Granted)

Notice of Appeal received on May 28, 1999 from People's Counsel for Baltimore County

/6/8/99 - Sophie sent Petitioner's Exhibit No. 1 - Plat to accompany Petition for SPH

c: G. Scott Barhight, Esquire, WHITEFORD, TAYLOR & PRESTON, 210 W. Pennsylvania Ave., St 400, Towson 21204

People's Counsel of Baltimore County, MS #2010

Lawrence Schmidt, Zoning Commissioner

Timothy Kotroco, Deputy Zoning Commissioner

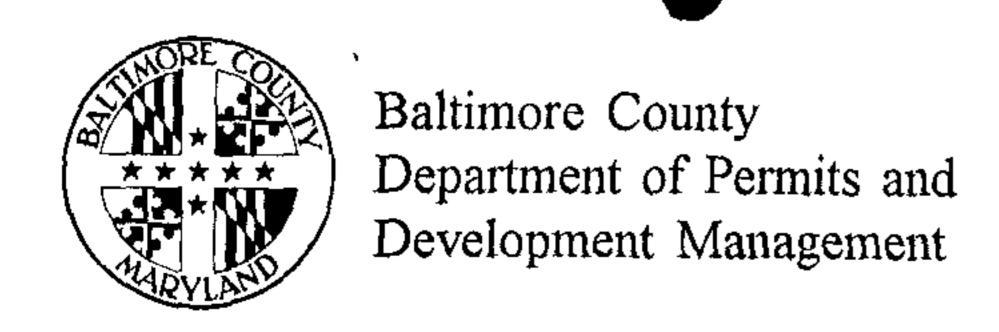
Arnold Jablon, Director of PDM

Paul T. Twining, Beachmont Christian Camp, 6433 Mt. Vista Rd., Kingsville, MD 21087 Gilbert L. Thompson, Sec., Beachmont Christian Ministries, 6433 Mt. Vista Rd., Kingsville, MD 21087 Ronald D. Standiford, P.R., Estate of Aimee B. Foard, 6415 Mt. Vista Rd., Kingsville, MD 21087 Bruce Doak, Gerhold, Cross & etzel, Ltd., 320 Towsontown Blvd, #100, Towson, MD 21286

GOUNTY BOARD OF APPEALS

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Date: April 7, 1999 TO: Arnold Jablon R. Bruce Seeley (A) FROM: Zoning Item #347 SUBJECT: Estate of Aimee Ford - 6415 Mt. Vista Road Zoning Advisory Committee Meeting of The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item. The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site. X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item: X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code). Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code). Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

April 23, 1999

Mr. Bruce Doak Gerhold, Cross & Etzel, Ltd. 320 Towsontown Boulevard, #100 Towson, MD 21286

> RE: Case No.: 99-347-SPH

> > Petitioner: Beachmont Christian

Ministies

Location: 6415 Mt. Vista Road

Dear Mr. Doak:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on March 10, 1999.

Zoning Advisory Committee (ZAC), which consists of The representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments 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.

Very truly yours,

W. Carl Juchands. Kf W. Carl Richards, Jr.

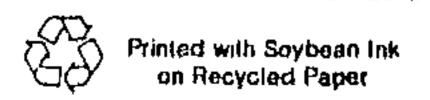
Zoning Supervisor

Zoning Review

WCR:ggs

Enclosures

Come visit the County's Website at www.co.ba.md.us





Parris N. Glendening Governor John D. Porcari Secretary Parker F. Williams Administrator

Date: 3.24.99

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

RE: Baltimore County

Item No. 347

MLK

Dear. Ms Stephens:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Michael M. Lenhart, Acting Chief

Engineering Access Permits Division

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

	NAME	ADDRESS
RUCE	E. Danc - GERHOLD, CROSS & ETZEL, LTD. 32	E. TOWSONTOWN BLVD. TOWSON, MD. 21286
	\sim	CAMP 6433 Mt. Ulstand KINGSville Md 21087
	RONALD D. STANDIFORD	6415 MT, VISTARD KINGSVICE ND 2
	Blood L Thompson	7716 Charace Rd Kunswille
	G. Soot Bahight	7716 Chapmen Rd, Kingsville 210 M. Pen. Are Town, My 213

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County Board of Appeals of Baltimore County



OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

November 19, 1999

Peter Max Zimmerman People's Counsel for Baltimore County Room 47, Old Courthouse 400 Washington Avenue Towson, MD 21204

RE: In the Matter of Estate of Aimee B. Foard
- Legal Owner; Beachmont Christian Ministries
- Contract Purchaser Case No. 99-347-SPH

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Charles E Rachelle

Kathleen C. Bianco

Administrator

encl.

C: G. Scott Barhight, Esquire
Paul T. Twining /Beachmont Christian Ministries
Gilbert L. Thompson /Beachmont Christian Ministries
Ronald D. Standiford, P.R.
Estate of Aimee B. Foard
Bruce Doak /Gerhold, Cross & Etzel, Ltd.
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /ZC
Virginia W. Barnhart /County Attorney



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 **400 WASHINGTON AVENUE** TOWSON, MARYLAND 21204

410-887-3180

Hearing Room - Room 48

FAX: 410-887-3182

Old Courthouse, 400 Washington Avenue

October 12, 1999

NOTICE OF ASSIGNMENT

CASE #: 99-347-SPH

IN THE MATTER OF: BEACHMONT CHRISTIAN MINISTRIES -Contract Purchaser; ESTATE OF AIMEE B. BOARD -Legal Owner 6415 Mt. Vista Road

11th Election District; 5th Councilmanic

(5/06/99 -Decision of the Z.C. in which Petition for Special Hearing was GRANTED with restrictions.)

ASSIGNED FOR:

WEDNESDAY, NOVEMBER 17, 1999 at 10:00 a.m.

NOTICE:

This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

> Kathleen C. Bianco Administrator

Appellant CC:

: Peter Max Zimmerman, People's Counsel for Baltimore Co Carole S. Demilio, Deputy People's Counsel

Counsel for Petitioner

: G. Scott Barhight, Esquire Petitioner /Contract Purchaser : Beachmont Christian Ministries

/Gilbert L. Thompson, Sec.

Paul T. Twining /Beachmont Christian

Camp

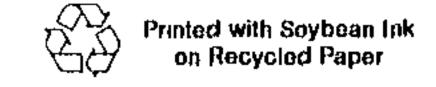
Legal Owner

: Estate of Aimee B. Foard

/Ronald D. Standiford, P.R.

Bruce Doak /Gerhold, Cross & Etzel, Ltd.

Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney



Case No. 99-347-SPH

SPH -For approval of non-density transfer of a 15-acre parcel zoned RC 5 to an adjacent parcel zoned RC 5.

5/06/99 -Z.C.'s decision in which Petition for Special Hearing was GRANTED with restrictions.

10/12/99 -Notice of Assignment for hearing scheduled for Wednesday, November 17, 1999 at 10:00 a.m. sent to following:

Peter Max Zimmerman, People's Counsel for Baltimore Co Carole S. Demilio, Deputy People's Counsel G. Scott Barhight, Esquire Beachmont Christian Ministries /Gilbert L. Thompson, Sec. Paul T. Twining /Beachmont Christian Camp Estate of Aimee B. Foard /Ronald D. Standiford, P.R. Bruce Doak /Gerhold, Cross & Etzel, Ltd. Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. Arnold Jablon, Director / PDM Virginia W. Barnhart, County Attorney

11/17/99 -Hearing concluded before Board. Deliberation immediately thereafter in which Petition for Special Hearing was APPROVED as amended, subject to conditions to be included in Board's Opinion and Order. (Stahl, Melvin, Barranger).

- Proposed Opinion and Order submitted by parties. To be issued upon review and signature by L.M.B.

Case No. 99-347-SPH

ESTATE OF AIMEE B. FOARD, L.O. BEACHMONT CHRISTIAN MINISTRIES, C.P.

SW/s rear 1000! from Mt. Vista Road, 1000! SE of c/1 Harford Road (6415 Mt. Vista Road)

11th Election District - Appealed: 5/28/99-

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

June 3, 1999

G. Scott Barhight, Esquire Whiteford, Taylor & Preston 210 West Pennsylvania Avenue Suite 400 Towson, MD 21204

Dear Mr. Barhight:

RE: Petition for Special Hearing, Case No. 99-347-SPH, 6415 Mt. Vista Road, District: 11c5; Estate of Aimee B. Foard (Legal Owner), Beachmont Christian Ministries (Contract Purchaser)

Please be advised that an appeal of the above referenced case was filed in this office on May 28, 1999 by People's Counsel for Baltimore County. 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:scj

c: Estate of Aimee B. Foard Beachmont Christian Ministries Gerhold, Cross & Etzel People's Counsel

STATE OF UNION ALINED STATE OF WIND OF WELLENDED

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel

May 27, 1999

CAROLE S. DEMILIO
Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING

4515 Mt. Vista Road (Rear), SW/S Mt. Vista Rd., 1000' SE of its intersection with Harford Rd.

11th Election Dist., 5th Councilmanic

Contract Purchaser: Beachmont Christian Ministries, Legal Owners: Estate of Aimee B. Foard, Petitioners

Case No.: 99-347-SPH

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated May 6, 1999 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: G. Scott Barhight, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Suite 400, Towson, MD 21204, Attorney for Petitioners

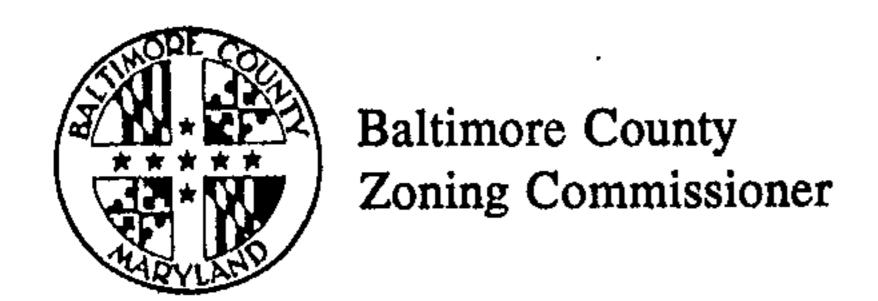
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DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT



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

Fax: 410-887-3468

May 6, 1999

G. Scott Barhight, Esquire Whiteford, Taylor & Preston 210 W. Pennsylvania Avenue Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING

SW/S Mt. Vista Road, 1000' SE of its intersection with Harford Road

(Rear of 4515 Mt. Vista Road)

11th Election District - 5th Councilmanic District

Estate of Aimee B. Foard, Owners; Beachmont Christian Ministries, Contract Pur.

Case No. 99-347-SPH

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. Ronald D. Standiford, 6415 Mt. Vista Road, Kingsville, Md. 21087

Mr. Gilbert L. Thompson, Beachmont Christian Ministries

6433 Mt. Vista Road, Kingsville, Md. 21087

Mr. Scott Striebinger, Great Mt. Vista Assoc., 18 Vista View Ct., Kingsville, Md. 21087

Mr. Bruce E. Doak, Gerhold, Cross & Etzel

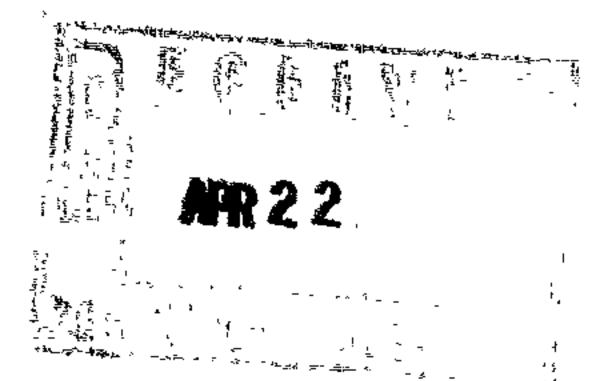
320 E. Towsontown Blvd., Suite 100, Towson, Md. 21286

People's Counsel; Case File

H/24/4

GREAT MT. VISTA ASSOCIATION 18 VISTA VIEW COURT KINGSVILLE, MD 21087

April 20, 1999



Via Facsimile (410) 887-3468 and U. S. Mail

Mr. Lawrence Schmidt Zoning Commissioner for Baltimore County 401 Bosley Avenue, Room 405 Towson, MD 21204

Re: Case Number 99-347-SPH

Dear Mr. Schmidt:

We want to be placed on the record that our association has spent considerable time and money in the past to having specific rulings and requirements placed and negotiated on Beachmont Christian Camp/Ministries due to impacts to our neighborhood.

To this end, the zoning commission has these rules and requirements that not only were issued in the past, but firmly agreed to by Beachmont and their promise to our neighborhood of no further growth would be sought in the long range planning.

Our association, therefore, based on these past obligations, both by the courts and the zoning commission and agreed to by Beachmont, do not take exception to this transfer as long as Beachmont does not attempt to change, alter, or seek any modification from the past promises and agreements they gave our association and the zoning commissioner as to their full use, development, and promises conveyed and agreed upon.

Our association compromised considerably, with Beachmont to have a clear understanding of no additional growth by Beachmont. Our current concern is, with additional acreage, Beachmont may attempt certain buildings that were not allowed previously with the amount a acreage held.

Therefore, as long as no change is later sought by Beachmont due to the additional acreage sought, and no additional special exceptions are later sought, we would have no objection to this transfer.

However, if any change would be sought either through zoning, special exception, re-visiting any past agreements, or any other change due to acquiring this proposed transfer of acreage, our association firmly opposes this subdividing of the Estate of Aimee B. Foard and any subsequent transfer.

Mr. Lawrence Schmidt April 20, 1999 Page 2 of 2

Please make sure our concerns are expressed and placed in the record.

Sincerely,

Scott Striebinger
Scott Striebinger

President

SS/kh

S:\Eastern Docs\WPDOCS\LETTERS\Zoning Commissioner (4-20-99) Ltr.wpd

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: April 6, 1999

Department of Permits & Development

Management

Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for March 29, 1999

Item Nos. 345, 346 347

351, 353, 355

and

Case #99-326 (Additional petition

for Special Hearing)

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

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: April 6, 1999

Department of Permits & Development

Management

Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting

for March 29, 1999

Item Nos. 345, 346, 347, 348, 349,

350, 351, 353, 355

and

Case #99-326 (Additional petition

for Special Hearing)

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

RWB:HJO:jrb

cc: File

A126

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

Date: March 29, 1999

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

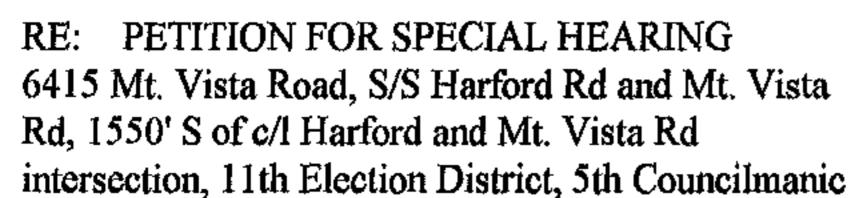
SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition (s): Item No (s): 340, 347, 348, 356, 358, 360, 361, and 364

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief: Jeffley W. Zong

AFK/JL



Legal Owners: Estate of Aimee B. Foard
Contract Purchaser: Beachmont Christian Ministries

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

* BALTIMORE COUNTY

* Case Number: 99-347-SPH

* * * * * * * * *

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 of 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

Old Courthouse, Room 47

400 Washington Avenue

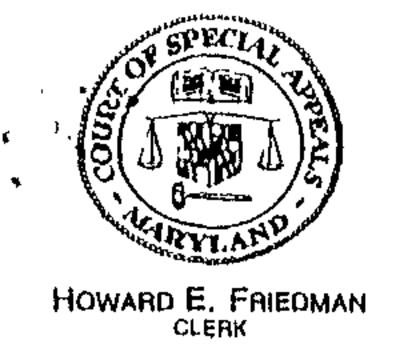
Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of March, 1999, a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontowne Blvd., Suite 100, Towson, MD 21286, representative for Petitioner(s).

PETER MAX ZIMMERMAN



Cost of Special Appres

Annapolis, Md. 21401-1699

LESLIE D. GRADET

617

(301) 974-3646 WASHINGTON AREA (301) 261-2920

September 1, 1987

J. Norris Byrnes, Esquire 300 Lafayette Building 40 W. Chesapeake Avenue Towson, MD 21204

85-245-X

Re: Scott Strienbinger et al. v. Beachmont, Inc. No. 1686, September Term, 1986

Dear Mr. Byrnes:

As a consequence of your Motion for Reconsideration in this cause, this Court by Order dated August 31, 1987, reconsidered and modified its opinion as per the attached copy.

Please note that page twelve (12) cares for the issue raised in your motion.

A copy of the mandate issued today is enclosed, and the record is being returned to the Circuit Court for Baltimore County.

Very truly yours,

Howard E. Friedman

Cherk

HEF:ms

Enclosures

cc: S. Eric DiNenna , Esquire

TTY FOR DEAF:
BALTO.-ANNAPOLIS AREA (301) 974-3646
WASHINGTON AREA (301) 565-0450

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UNREPORTED IN THE COURT OF SPECIAL APPEAL

OF MARYLAND

No. 1686

September Term, 1986

85-245-X

SCOTT STRIENBINGER, ET AL

v.

BEACHMONT, INC.

Weant
Bishop
Bell, Rosalyn B.,
JJ.

PER CURIAM

Filed: July 6, 1987

Appellee Beachmont, Inc. filed a Petition for Special Exceptions requesting that the Zoning Commissioner of Baltimore County permit appellee to expand its seasonal camp into a year-round operation by making numerous improvements on the subject property, "including but not limited to: cabins, overnight lodges, director's house, staff house, activities building, swimming pools, pavilions, and bath houses, etc." On March 7, 1985, the Zoning Commissioner granted the special exception. Appellants, who are several landowners neighboring the subject property, appealed the decision first to the County Board of Appeals and then to the Circuit Court for Baltimore County. In each instance, the Zoning Commissioner's decision was affirmed.

FACTS

Since 1974, appellee has operated a Christian camp in Baltimore County on approximately twenty acres. The land is located in an area zoned R.C.2., in which "agricultural operations" is the "[p]referred use permitted as matter of right." Baltimore County Zoning Regulation § 1A01.2.A [hereinafter referred to as BCZR]. Although this zoning classification

They are Scott and Judy Strienbinger, Walter and Dorothy Dunsmore, Robert Long, Leroy Hone, and William and Phyllis Swift.

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precludes, as a matter of right, the use of the subject property as a camp, appellee applied for and received a special exception to use the property as a camp. In granting appellee's request, the Zoning Commissioner imposed several limitations:

- 1) not more than 250 persons using the barn or proposed chapel area as indicated on the plat,
- 2) not more than 150 persons camping on the property at any one time, and
- approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Pursuant to the Commission's approval, appellee has made numerous site improvements, including the construction of a swimming pool, pavilion and other recreational facilities.

Beachmont has operated a day camp for children during the summer. Children from the ages of three to four attend daily from 10:00 a.m. to 2:00 p.m., while older children from the ages of five to twelve attend from 10:00 a.m. to 4:00 p.m. At present, approximately 160 children participate in these two-week sessions.

In addition to the summer day camp, appellee sponsors various church-related activities. The camp's season begins with an Easter Sunrise Service in the spring of each year. Throughout the summer and fall, the campgrounds are available to local churches for picnics and other outings. On the July Fourth

holiday, Beachmont also provides an all day family picnic. In 1985, about 250 to 300 people attended.

Since the camp's purpose is to promote Christian fellowship and principles, Beachmont imposes strict standards for guests using the facilities. No radios or tape players are allowed. Alcoholic beverages and drug use are strictly prohibited. Beachmont enforces a 10:00 p.m. curfew.

Desiring to expand both the size of the camp and the frequency of its use, appellee acquired an additional thirteen acres of land, contiguous to the existing campgrounds, and filed a second Petition for Special Exception on January 30, 1985. In that petition, appelled requested permission to build a multipurpose activities building containing a gymnasium and dining facility; three dormitory lodges, each housing sixty people; three primitive-style cabins, each holding twenty to thirty people; a staff house; director's house; bath houses; and various recreational improvements such as a volleyball court and horseshoe pit. In addition, the petition sought the removal of the first two limitations set out in the 1974 special exception, relating to the number of persons allowed to use the barn or proposed chapel at one time and the number of persons permitted to camp on the subject property at any one time.

Unlike the first petition, appellee encountered considerable opposition to the request to expand the camp's size and frequency of use. After receiving both expert and lay testimony concerning the effects of the proposed expansion, the Zoning Commissioner granted the petition subject to certain restrictions:

- 1) any and all outdoor activities of the camp will have a 10:00 p.m. curfew, and will be conducted so as not to disturb the guiet enjoyment of their own property by the neighbors.
- 2) the site will provide a minimum of 120 parking spaces and except for the specific occasions as set forth in Item No. 3 there may not be more vehicles on the property than those number of spaces provided.
- a camp may conduct services or activities, e.g., Easter Sunrise Services, a maximum of three (3) times per year during which the provisions of Item No. 2 are waived.
- 4) at any activity where more than 50 vehicles are present on site, the camp will provide a trained traffic professional to assist in the entry and exit of vehicles to and from the property.
- 5) the camp will submit a revised site plan, in conformance with Petitioner's Exhibit No. 4 and all improvements will be consistent thereto.

On appeal to this Court, appellants challenge the Board's action on three grounds:

- I. There was a substantial change in the facts and circumstances between the first decision, with its restrictions, and the second case justifying the decisions of the Baltimore County Board of Appeals and the circuit court.
- II. The Zoning Commissioner and the County Board of Appeals exceeded their authority in granting the special exception for the many uses contained in the petition, which are not listed among the permitted uses as a right or by special exception in the R.C.2 zone.
- III. Appellee failed to present sufficient evidence to the Board so as to render its decision granting Beachmont's petition for special exception fairly debatable.

Because the second issue is dispositive of this case, we will not address the other two issues.

The Commissioner's Authority

Before addressing the merits of the second issue, we note that appellants failed to preserve it for appeal. Specifically, they failed to argue, and neither the County Board of Appeals nor the circuit court decided, whether the Zoning Commissioner exceeded his authority under BCZR § 2A01.2.C. Since appellate rules of procedure prohibit parties from raising issues for the first time on appeal, Md. Rule 1085; C.S. Bowen v. Maryland National Bank, 36 Md. App. 26 (1977); Washington Homes, Inc. v. Bogett, 23 Md. App. 167 (1974), we normally would decline to address an unpreserved issue. An issue involving delegation of power, however, is one of such fundamental importance that a reviewing court should consider it even when the parties failed to litigate the issue at the trial level. See, e.g., Board of Trustees of Howard County Community College v. John K. Ruff, Inc., 278 Md. 580, 583 (1976) (holding that reviewing court must address sovereign immunity issue even though defendant had not raised that issue below); Smith v. Biddle, 188 Nd. 315, 318 (1947) (holding that reviewing court "will inquire into the [unpreserved] question of whether a contract sought to be specifically enforced is in the form that the law requires); Webb v. Baltimore Commercial Bank, 181 Md. 572, 577 (1943) (holding that appellate court must make a legal determination of whether plaintiff, has sufficient interest in the subject matter of the suit to sustain a bill in equity, even though no point was made in demurrer, briefs or oral argument);

Schiff v. Solomon, 57 Md. 572 (1882) (holding that since the statute did not authorize joint insolvency proceedings against several persons or partners, the Court will address this deficiency, apparent on the record, even though parties did not raise the point below); Tuxedo Cheverly Volunteer Fire Company, Inc. v. Prince George's County, 39 Md. App. 322, 327-28 (1978) (reviewing issue of validity of contract in specific performance action, even though the court below did not decide the issue).

The power of the Zoning Commissioner and the County Board of Appeals to grant the special exception is statutory and can be exercised only to the extent and in the manner directed by the enabling statute. Harbor Island Marina, Inc. v. Board of County Commissioners of Calvert County, 286 Md. 303, 309-10 (1979); Gordon v. Commissioners of St. Michaels, 270 Md. 128, 136 (1976); Hewitt v. County Commissioners of Baltimore County, 195 Md. 348, 353-54 (1949). In the case <u>sub judice</u>, the basic zoning power is delineated in BCZR § 1A01, which established a R.C.2 agricultural zone "in order to foster conditions favorable to a continued agricultural use." BCZR § 1A01.1.B. Pursuant to this zoning ordinance, the legislature identified various "preferred use[s] permitted as of right" and nonagricultural uses in which a landowner may engage by special exception. The pertinent uses permitted by special exception are "camps, including day camps" and "churches or other buildings for religious worship." BCZR § 1A01.2.C.4. and 6.

In <u>Schultz v. Pritts</u>, 291 Md. 1 (1981), the Court of Appeals explained the general significance of special exception status:

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any factor or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.2

291 Md. at 11 (emphasis in original).

(cont'd)

In the instant case, the zoning regulations provide specific guidance in assessing adverse effects of the special exception use on the surrounding area. Section C of BCZR § 1A01.A permits exceptional use only if it "would not be detrimental to the primary agricultural uses in its vicinity." Section 502.1 of the BCZR expands upon this general requirement, prohibiting the approval of a petition for special exception if any of the following adverse effects should occur:

a. Be detrimental to the health, safety, or general welfare of the locality involved;

Tend to create congestion in roads, streets or alleys therein;

Following the court's general guidelines, the Zoning Commissioner and the Board possessed the power to grant special exceptions in R.C.2. zones only for the uses that BCZR § 1A01.2.C. enumerates. This ordinance is written

2 cont'd.

- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air;
- g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
- h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

Because we hold that Beachmont's proposed uses are not covered under the special exception section of the ordinance, we find it unnecessary to address the factual issue of whether appellee complied with these requirements by presenting sufficient evidence to demonstrate that the proposed uses would not adversely affect the surrounding area.

in the affirmative; unless explicitly stated as permitted by special exception or as a matter of right, the use is prohibited. Kowalski v. Lamar, 25 Md. App. 493, 498 (1975) (ruling that "[a]ny use other than those permitted and being carried on as of right or by special exception is prohibited"); see also Town of Harvard v. Maxan, 275 N.E.2d 347, 349-50 (Mass.1971); Williams v. City of Bloomington, McLean County, 247 N.E.2d 446, 449-50 (Ill.App.1969); Samsa v. Heck, 234 N.E.2d 312, 315-16 (Ohio App. 1967); Gada v. Zoning Board of Appeals of the Town of East Lyme, 193 A. 2d 502, 503 (Conn. 1963); Gordon v. Zoning Board of the City of Stamford, 145 A. 2d 746, 750 (Conn. 1958); Silver v. Zoning Board of Adjustment, 112 A.2d 84, 86-87 (Penn. 1955); City of Warwick v. Campbell, 107 A. 2d 334, 336-37 (R.I. 1954); City of Knoxville v. Brown, 260 S.W.2d 264, 267 (Tenn. 1953); Dolan v. DeCapua, 80 A.2d 655, 659 (N.J.Super.1951); Jones v. Robertson, 180 P.2d 929, 931 (Cal.App. 1947).

Here, Beachmont proposes to construct on the subject property a multipurpose activities building containing a gymnasium and dining facility; three dormitory lodges, each housing sixty people; three primitive-style cabins, each holding twenty to thirty people; a staff house; director's house; and bath housing

and various recreational improvements such as a volleyball court and horseshoe pit. We hold that these uses do not fall within the ambit of any of the enumerated special exceptions. Clearly, these buildings are not "churches or other buildings of religious worship." BCZR § 1A01.2.C.6.

Our interpretation of BCZR § 1A01.2.C is supported by the legislative history of the zoning ordinance. The type of structures requested resemble more closely "community buildings... of a civic, social, recreational, or educational nature." Although such uses were included in the 1954 version of the zoning ordinance, see Bill No. 98-75, the legislature deleted them on October 15, 1975 pursuant to Bill No. 178-79. At present these community building uses are permitted by special exception only in R.C.3 and 4 zones. See Bill No. 98-75. Including these uses as permissible in R.C.3 and 4 zones is strong proof that the legislature intended to exclude them from the R.C.2 zone. Parish of Jefferson v. Carl, 195 So.2d 401, 402 (La.Ct.App. 1967) (holding that where a zoning ordinance expressly permits "public schools, and educational institutions having a curriculum the same as that ordinarily given in public schools in R-1 districts, and permits nursery schools in R-3 districts, by inference nursery schools are prohibited in R-1 districts).

Accordingly, we hold that the Zoning Commissioner and the Board of Appeals lacked the authority under BCZR § 1A01.2C to grant the uses that Beachmont requested. Without the necessary authority, the granting of the special exception to appellee was invalid and thus devoid of all legal effect.

contained in the grant of the original special exception, Case No. 75-83X, was intended to facilitate the implementation of the special exception which we hold was not permitted under the Baltimore County Zoning Regulations. Because under our holding, there will be no expansion of the present use, these restrictions should continue, therefore, we also reverse that part of the ruling of the circuit court which affirmed the removal of the restrictions by the Zoning Commissioner and the subsequent approval of that removal by the Board of Appeals.

JUDGMENT REVERSED;
COSTS TO BE PAID BY APPELLEE.



Court of Special Appeals

No. 1686, September Term, 1986

Scott Strienbinger et al v. Beachmont, Inc.

JUDGMENT: July 6, 1987: Per Curiam filed. Judgment reversed; costs to be paid by appellee. August 5, 1987: Appellee's Motion for Reconsideration. August 10, 1987: Answer to Motion for Reconsideration filed by appellant counsel. August 31, 1987: Motion for Reconsideration and modification of opinion granted.

September 1, 1987: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY 85CG3878

Record....... 40.00

In Court of Special Appeals:

50.00 Filing Record on Appeal........ 183.40 Printing Brief for Appellant...... Portion of Record Extract--Appellant.... 1665.60 124.80 Printing Brief for Appellee......

STATE OF MARYLAND, Sct.

I do pereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this $F^{\perp r}$ S^{\perp} day

A.D. 19 87 September

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL/AND NOT THROUGH THIS OFFICE.

GORDON T. LANGDON
EDWARD F. DEIACO-LOHR
BRUCE E. DOAK

GERHOLD, CROSS & ETZEL, LTD.

Registered Professional Land Surveyors

SUITE 100 320 EAST TOWSONTOWN BOULEVARD TOWSON, MARYLAND 21286-5318

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EMERITUS

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JOHN F. ETZEL
WILLIAM G. ULRICH

December 29, 1998

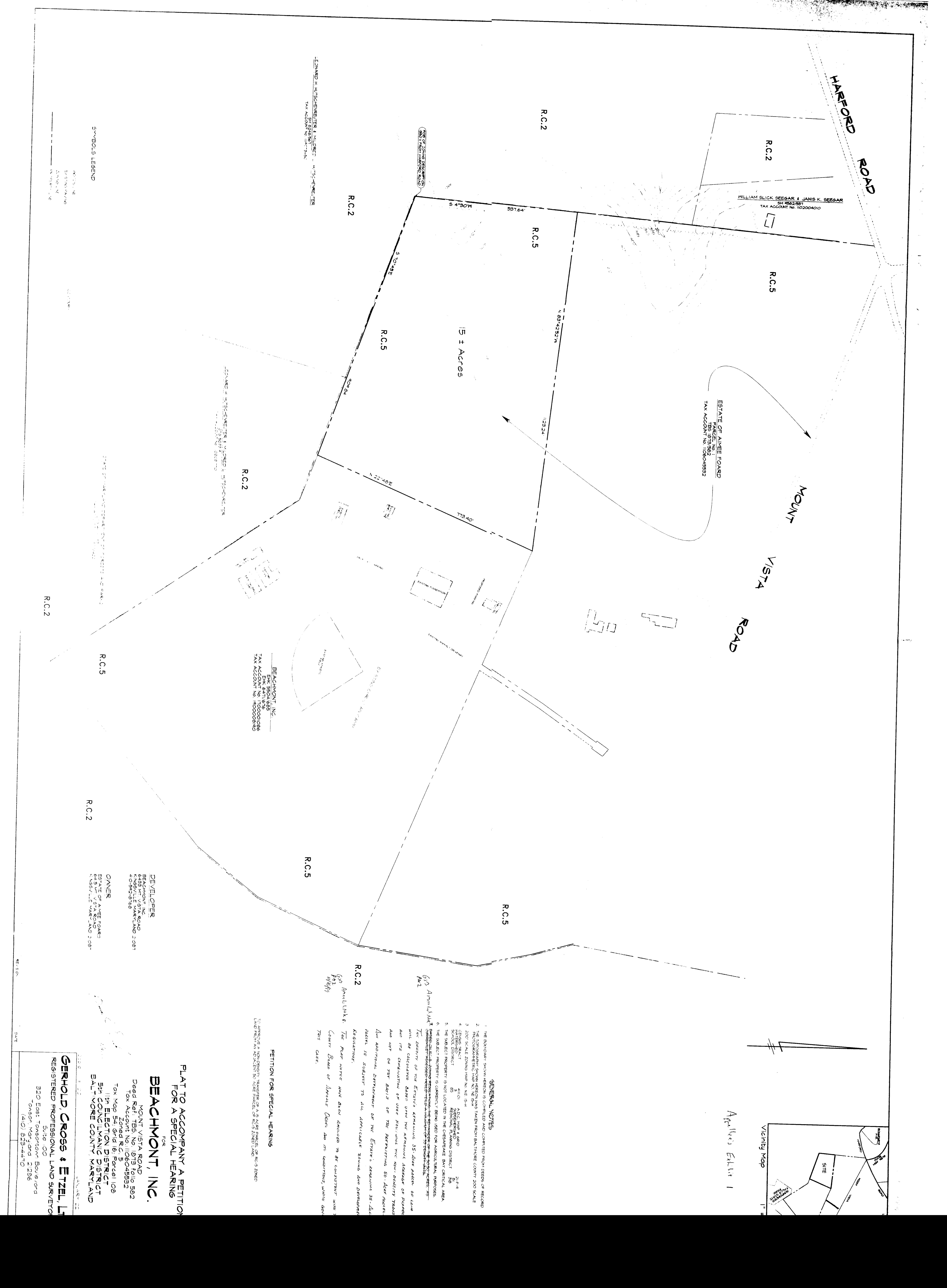
Zoning Description To Accompany a Petition for Beachmont, Inc. of A 15 Acre, More or Less Parcel to be Acquired By Beachmont, Inc.

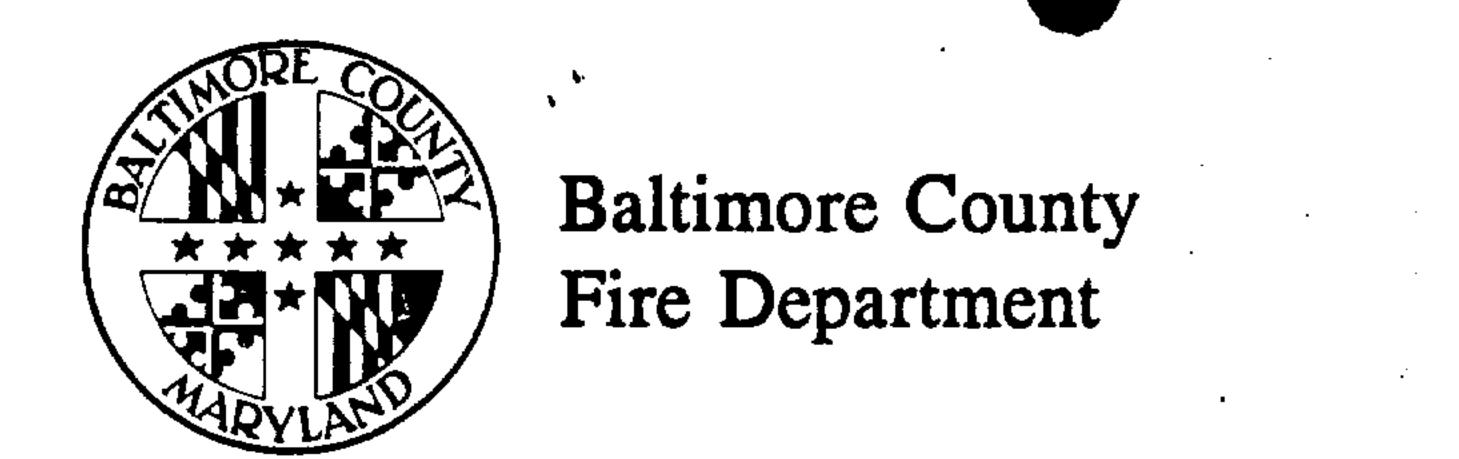
Beginning for the same at a point, measured from the intersection of Mount Vista and Harford Roads South 4 degrees 30 minutes West 1550 feet, more or less, along the R.C. 5 and R.C. 2 Zoning line as shown on the Baltimore County Zoning Map N.E. 15 H, dated October 1996, and also at the beginning of the fourteenth or South 70 degrees 45 minutes East 65 perches line of the first parcel of land conveyed by Foreman to Foard recorded in Liber T.B.S. 1873, folio 582, thence running for the four following courses and distances, viz: 1) South 70 degrees 45 minutes East 909.84 feet, 2) North 22 degrees 48 minutes East 773.40 feet, 3) North 83 degrees 42 minutes East 1123.24 feet, 4) South 4 degrees 30 minutes West 537.64 feet to the point of beginning.

Containing 15 acres, more or less.









700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

April 5, 1999

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

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF MARCH 22, 1999

Item No.: 346, 351, 352, 354, 347

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.

THE FIRE MARSHAL'S OFFICE HAS NO COMMENTS AT THIS TIME.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File