IN RE: PETITION FOR SPECIAL HEARING
E side of Oregon Avenue, 510 feet S of
Sulphur Spring Road
13<sup>th</sup> Election District
1<sup>st</sup> Councilmanic District
(5525 Oregon Avenue)

Kyle 'O'Haro

Petitioner

- \* BEFORE THE
- \* DEPUTY ZONING
- \* COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* CASE NO. 07-435-SPH

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 5525 Oregon Avenue. The Petition was filed by Kyle O'Haro, legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a non-conforming use for a single family dwelling as three (3) apartments (prior 1945 regulations) or, alternatively, two (2) apartments (prior 1955 regulations).

Appearing at the requested Special Hearing was Kyle O'Haro, Petitioner. Representing Petitioner was Donna B. King, Esquire. Also appearing as a witness in support of the relief requested was Ms. Sharon Morgan of 1225 Stevens Avenue, Halethorpe, MD 21227. In addition, the following interested citizens appeared in opposition to the relief requested: Ms. Paula Wolfe, P.O. Box 18223, Halethorpe, MD 21227, former President of the Greater Arbutus Community Alliance, and Mr. Joseph P. Kinsey, P.O. Box 7306, Halethorpe, MD 21227, in his individual capacity and as Zoning Chairman on behalf of the Halethorpe Improvement Association, Inc.

I note at the outset that the property is currently the subject of an active violation case (Case No. 07-0761) in the Division of Code Inspections and Enforcement. The Code

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Enforcement Department issued Correction Notice 07-0761 on February 15, 2007, citing illegal conversion of the single family dwelling to a rooming/boarding house. On March 28, 2007, Petitioner filed the instant Petition requesting approval of the non-conforming use of the dwelling to the three, or in the alternative, two apartments.

The fact that a zoning violation is issued is simply not relevant to the decision on this Petition. On the one hand, Petitioner cannot use the fact that a structure is being used in a certain manner presently to set a precedent in order to allow that use to continue. Nor does the fact that the discontinued use may result in a financial disadvantage to Petitioner come into consideration of the zoning case, since this condition is clearly self-imposed. Conversely, the fact that a use may be occurring, which on its face could violate the law and is the subject of an active Code Enforcement case but for the non-conforming use, is not held against Petitioner as some sort of an additional punishment and is not taken into consideration in deciding this case.

The subject property is more particularly described on the site plan marked and accepted into evidence as Petitioner's Exhibit 1. The subject property is a rectangular-shaped parcel approximately 50 feet wide and approximately 173 feet ± deep and contains a gross area of 8,675 square feet, .20 acres more or less, and is zoned DR 5.5. The property contains an existing two-story frame dwelling, approximately 30 feet by 30 feet in size, built in 1933.

Testimony and evidence revealed that Petitioner, Mr. O'Haro, purchased the property in December 1999 from Ms. Doris Peach. Petitioner purchased the dwelling as a three-apartment dwelling and has used the structure for that purpose during his period of ownership. The basement is finished and contains an efficiency-style kitchen. The first and second floors are also set up as apartments, each with its own kitchen.

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During the first month of Petitioner's ownership, he obtained Affidavits from several individuals living at the subject property, as well as several adjacent neighbors concerning the past use of the subject property as apartments. Petitioner presented the originals of those Affidavits collectively as Petitioner's Exhibit 4. Those Affidavits are summarized as follows:

William T. Archer, 5525 Oregon Avenue – indicated on January 14, 2000 that the subject property has been occupied as an apartment dwelling since June 1975 and that renters have occupied the apartments every year since 1971.

Allie D. Helms, 5525 Oregon Avenue – indicated on January 14, 2000 that the subject property has been occupied by renters every year as a three-apartment dwelling since 1971.

Margaret Wolf and Lillian Wolf, 5527 Oregon Avenue – indicated on December 17, 1999 that the subject property has been occupied as a three-apartment dwelling since 1975, and as a two-apartment dwelling since 1958. They also indicated the subject property has been occupied by renters every year since approximately 1975.

Stephanie Foard, 5523 Oregon Avenue – indicated on January 17, 2000 that the subject property has been occupied by renters every year as a three-apartment dwelling since 1979.

Joseph B. Dukes, 5117 South Street – indicated on December 30, 1999 that the subject property has been occupied by renters every year as a three-apartment dwelling since 1979.

Petitioner also offered the Affidavit of Ms. Sharon Thomas (aka Sharon Morgan), which was marked and accepted into evidence as Petitioner's Exhibit 5. The Affidavit dated February 2, 2000 indicated that the subject property has been occupied by renters every year as a three-apartment dwelling since 1945. Ms. Morgan also appeared as a witness. Her testimony revealed she grew up in the Halethorpe area and that since 1986, she has lived at 1225 Stevens Avenue about ½ to ¾ of a mile from the subject property; that in approximately 1976, she lived at 1006 Elm Road, about six blocks from the subject property; that in approximately 1964, she lived at 1239½ Birch Avenue, also about six blocks from the subject property; and that in approximately

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1961, she lived at another Birch Avenue address. Prior to that, she grew up at 4606 Leeds Avenue, about one mile from the subject property.

Ms. Morgan stated that she was born in 1942 and was familiar with the subject property since she was about 3-4 years old because she used to play with Nancy Peach, the daughter of the Peach's, who were the original owners of the improved subject property. According to her testimony, a family lived on the second floor there, also with a young girl with whom Ms. Morgan played. She also recalled that a man lived in the basement during that time. In sum, she recalled that to her knowledge the dwelling being configured as three apartments during that time period, though she did not recall being inside the dwelling and did not offer any specifics about the interior. In addition, in response to a question from Ms. Paula Wolf, one of the Protestants, Ms. Morgan could not confirm whether the use of the dwelling as apartments went uninterrupted every year.

In opposition to Petitioner's request for non-conforming use, Ms. Wolf also testified. Ms. Wolf indicated that she has lived on Selma Avenue to the east and directly behind the subject property since 1960. She indicated her aunts, Lillian and Margaret Wolf, purchased the property next door at 5527 Oregon Avenue in 1958. She also indicated that Mr. Peach, the original owner of 5525 Oregon Avenue, died in 1975 and that at approximately that time, the Peach's son added the basement apartment. Finally, Ms. Wolf indicated that Ms. Helms, one of the Affiants in Petitioner's Exhibit 4, moved from a home on Selma Avenue to the second floor of the subject property in 1964 or 1965 and that Ms. Helms was the first tenant at the subject property to her knowledge.

Also in opposition to Petitioner's request for non-conforming use was Mr. Joseph Kinsey. Mr. Kinsey indicated that he has been active in the community since 1963 and has been active

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with the Halethorpe Improvement Association, Inc., as also evidenced by a letter from the Association's President, marked and accepted into evidence as Protestant's Exhibit 3. Mr. Kinsey indicated he was very concerned and did not believe it was appropriate to allow a property such as Petitioner's to continue as multiple apartments in what is mostly an area with single-family homes. He also testified as to problems encountered with Petitioner concerning the continued use of the property as apartments. These difficulties appeared to be more in the realm of the Division of Code Enforcement and Inspection.

A nonconforming use is defined in Section 101 of the Baltimore County Zoning Regulations ("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 use." In addition, Section 104.1 of the BCZR states that "[a] nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate." It is also well settled that nonconforming uses are not favored under the law. Nonconforming uses are contrary to the zoning scheme established by the zoning regulations. See, McKemy v. Baltimore County, 39 Md. App. 257 (1978). Moreover, it is the burden of Petitioner to conclusively prove the nonconforming use during the period of time at issue.

Based upon all of the testimony and evidence offered, I am not persuaded that Petitioners have met their burden in this case for three apartments prior to 1945 or, alternatively, two apartments prior to 1955. Even in viewing the documentary evidence favorably to Petitioner, the

Affidavits contained in Petitioner's Exhibit 4 indicate at most that the dwelling contained two apartments since 1958 and three apartments since the early to mid-1970's.

In my view, the case turns on the testimony and recollections of Ms. Morgan and Ms. Wolf. And with all due respect to Ms. Morgan, her testimony concerning her recollections as a 3-4 year old do not convince me that the subject property was utilized as three apartments prior to 1945. In addition, I am not convinced the subject property was utilized as two apartments during the period prior to 1955. Though I found Ms. Morgan to be credible, her general recollections that the property was used as such are not persuasive enough to continue the nonconforming use of two apartments. Especially when viewed with the testimony of Ms. Wolf, which I found to be very credible and reliable. Ms. Wolf lived directly behind the subject property since 1960 and testified that the first tenant on the second floor was Ms. Helms in 1964 or 1965. She also recalled that the basement apartment was added in approximately 1975, after the death of the original homeowner, Mr. Peach. There was no evidence offered to rebut this testimony. As such, the Petition must be denied and the three-apartment use and/or the twoapartment use discontinued. This decision is not a reflection upon Petitioner in this case. In fact, he appeared to take reasonable steps to investigate the use of the property just after his purchase. However, I am not convinced based on the evidence presented that Petitioner has met his burden to continue the nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence, and for the reasons set forth above, the Petition shall be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this \_\_\_\_\_\_ day of July, 2007, that Petitioner's Special Hearing relief requested

pursuant to Section 500.7 of the Baltimore County Zoning Regulations to approve a non-conforming use for the subject single family dwelling as three apartments (prior 1945 regulations) or, alternatively, two apartments (prior 1955 regulations) be, and is hereby DENIED.

IT IS FURTHER ORDERED that the nonconforming use of the property must cease within one hundred twenty (120) days of the date of this Order.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

THOMAS H. BOSTWICK Deputy Zoning Commissioner

for Baltimore County

THB:pz

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JAMES T. SMITH, JR. County Executive

July 18, 2007

WILLIAM J. WISEMAN III

Zoning Commissioner

DONNA B. KING, ESQUIRE 309 WEST PENNSYLVANIA AVENUE TOWSON MD 21204

> Re: Petition for Special Hearing Case No. 07-435-SPH Property: 5525 Oregon Avenue

Dear Ms. King:

Enclosed please find the decision rendered in the above-captioned case.

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 from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK

Deputy Zoning Commissioner

for Baltimore County

THB:pz

Enclosure

c: Kyle O'Haro, 1965 Andrew Court, Marriottsville MD 21104 Sharon Morgan, 1225 Stevens Avenue, Halethorpe MD 21227 Paula Wolfe, PO Box 18223, Halethorpe MD 21227 Joseph P. Kinsey, PO Box 7306, Halethorpe MD 21227



## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

which is presently zoned 5.5

for the property located at 5525 OZECON AVE

|   | non-conforming use for   |
|---|--|
| a single family dwelling as three   | (3) apartments (prior 1945 regs)   |
| or, alternatively, two (2) aparto   | (3) apartments (prior 1945 regs) nents-(prior 1955)  |
|   |  |
|   |  |
| Property is to be posted and advertised as prescribed by the I, or we, agree to pay expenses of above Special Hearing, advertised zoning regulations and restrictions of Baltimore County adopted put | sing posting etc. and further agree to and are to be bounded by the  |
|   | 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:  | Legal Owner(s):  |
| · · · · · · · · · · · · · · · · · · ·   | Ly TOHAND  |
| Name - Type or Print  | Name - Type or Print   |
| Signature   | Signature  |
| Address Telephone No.   | Name - Type or Print   |
| City State Zip Code   | Signature 443-39 6-250   |
| Attorney For Petitioner:  | 1965 ANDREW OT   |
| DONNA KING  | Address Telephone No.  MARICETTSULUE, MD 21104   |
| Name - Type or Print  | City State Zip Code  |
| Signature   | Representative to be Contacted:  |
| Company   | SAME AS ABOVE  |
| 309 W. PEMNSYLVANIS AUE   | Name   |
| Address Telephone No.   | Address Telephone No.  |
| City State Zip Code   | City State Zip Code  |
|   | OFFICE USE ONLY  |
|   | ESTIMATED LENGTH OF HEARING  |
| Case No. 07-435-SPH   | UNAVAILABLE FOR HEARING  |
| REV 9/15/98 Revi  | ewed By DD/AKT Date 03/28/07   |
| REV 9/15/98   | •  |
| m. m.   | -  |

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

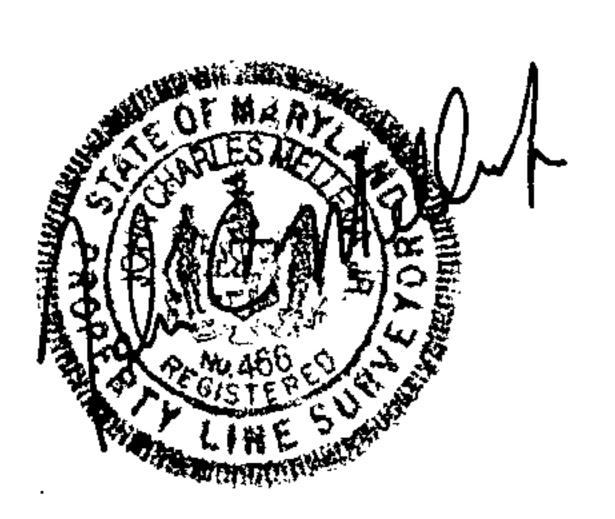
County, to determine whether or not the Zoning Commissioner should approve

JOHN C. MELLEMA SR., INC. LAND SURVEYORS 5409 EAST DR. BALTO., MD. 21227 PHONE: 410-247-7488 FAX: 410-247-2507

ZONING DESCRIPTION FOR #5525 OREGON AVE.

BEGINNING FOR THE SAME AT A POINT ON THE EAST SIDE OF OREGON AVE. AT A DISTANCE OF 510 FEET MORE OR LESS FROM THE CENTERLINE OF SULPHER SPRING ROAD. BEING LOT 37 AS SHOWN ON A PLAT ENTITLED NORTH HALETHORPE AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN PLAT BOOK 9 FOLIO 31, CONTAINING 8,675 SQUARE FEET OF LAND MORE OR LESS.

ALSO KNOWN AS #5525 OREGON AVENUE LOCATED IN THE 13<sup>TH</sup> ELECTION DISTRICT, 1<sup>ST</sup> COUNCILMANIC DISTRICT OF BALTIMORE COUNTY, MARYLAND.



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| to the second | ND No. 25 (1) (1) (2) (1) (1) (1) (1) (1) (1) (1) (1) (1) (1   |  |
|   | BALTIMORE COUNTY, MARYLA OFFICE OF BUDGET & FINANCE MISCELLANEQUS RECEIPT.  DATE OFFICE OF BUDGET & FINANCE AMOUNT OF FROM:  FOR THE OFFICE OF THE OFFICE OF |  |

# OTICE OF ZONING HEARING NEW K

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

Eside of Oregon Avenue, 510 feet south of Sulphur Spring Road

Spring Road

Spring Road

Legal Owner(s): Kyle O'Haro

Legal Owner(s): Kyle O'Haro

Legal Owner(s): Kyle O'Haro

Legal Owner(s): Kyle O'Haro

Legal Owner(s): Cyle O'Haro

Legal Owner(

WILLIAM J. WISEMAN, III Zoning Commissioner for Baltimore County Zoning Commissioner for Baltimore County NOTES: (1) Hearings are Handlcapped Accessible, for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

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

JT 6/745 June 26.

\_, 20DJ

that the annexed advertisement was published successive weeks, the first publication appearing in the following weekly newspaper published in Baltimore County, Md., THIS IS TO CERTIFY, each of once in

₩ The Jeffersonian

Arbutus Times

Catonsville Times

Towson Times

Owings Mills Times

Reporter ☐ North County News UNE Booster/

Mulmer

LEGAL ADVERTISING

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#### CERTIFICATE OF POSTING

RE: Case No.: 07-435-SPH

Petitioner/Developer: KYLE O'NARO

Date of Hearing/Closing: July 10, 2007

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

Attention: Christen Matthews

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 propery located at

# 5525 DEGGON AVENUE

The sign(s) were posted on UNE 22, 2007

(Month, Day, Year)

ZONING NOTICE

CASE # 07-435- SPH

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

ROOM 407, COUNTY COURTS BUILDING

TUESDAY, JULY 10, 2007

REQUEST: SPECIAL HEARING TO APPROVE

HOW-CONFORMING USE FORA SINGLE FAMILY

DWELLING AS THREE (S) AMERTMENTS (PRIOR

1945 REGULATIONS) OR ALTERNATIVELY, TWO (2)

AMARIMENTS (PRIOR 1955 REGULATIONS)

Sincerely,

(Signature of Sign Poster and Date)

CJARLAGED E, MOORE (Printed Name)

3225 RYERSON CIRCLE (Address)

BALTIMORE, MD, 21227 (City, State, Zip Code)

(410) 242-4263 (Telephone Number)



#### CERTIFICATE OF POSTING

Petitioner/Developer: KYLE O'HARO

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: Christen Matthews

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 propery located at

# 5525 DREGON AVENUE

(Month, Day, Year)

Sincerely,

Signature of Sign Poster and Date)

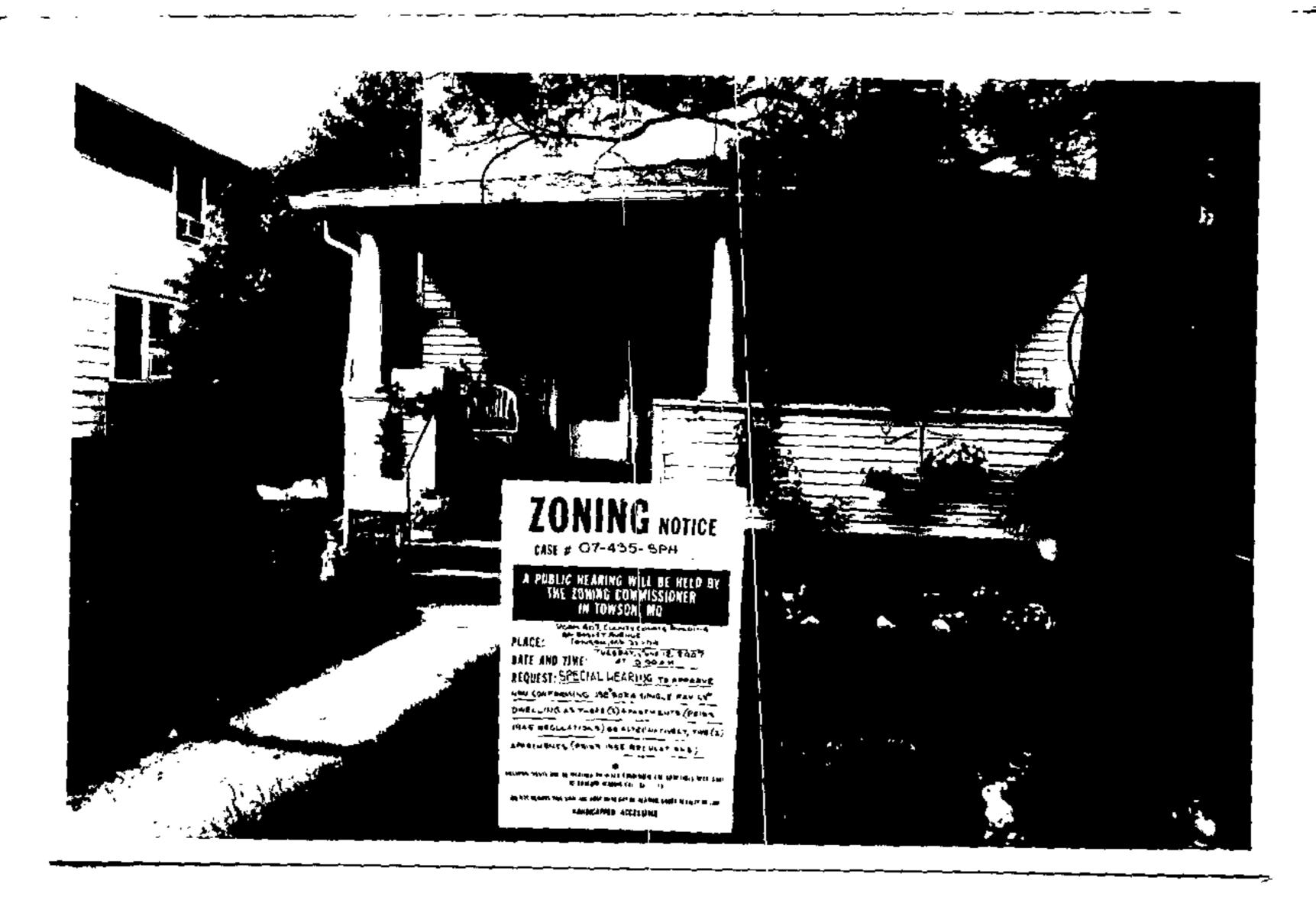
CJADLANDE, MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BAUTIMO12E, MD, 217.27
(City, State, Zip Code)

(Telephone Number)

ZONING NOTICE CASE # 07-435- SPH A PUBLIC HEARING WILL BE HELD BY \* THE ZONING COMMISSIONER IN TOWSON, MD ROOM 407, COUNTY COURTS BUILDING TOWSON, MD. 21204 TUESDAY, JUNE 12, 2007 AT 10100 A.M. REQUEST: SPECIAL HEARING TO APPROVE NON-CONFORMING USE FORA SINGLE FAMILY DWELLING AS THREE (3) APARTMENTS (PRIOR 1945 REGULATIONS) OR ALTERNATIVELY, TWO (2) APARTMENTS (PRIOR 1955 REGULATIONS) POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL \$87-3393 DO NOT REMOVE THIS SIGN AND POST LINTIL DAY OF HEARING, UNDER PENALTY OF LAW HANDICAPPED ACCESSIBLE





JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director Department of Permits and Development Management

July 5, 2007

Donna King 309 W. Pennsylvania Avenue Towson, MD 21204

Dear Ms. King:

RE: Case Number: 07-435-SPH, 5525 Oregon Avenue

The above referenced petition was accepted for processing ONLY by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 28, 2007. This letter is not an approval, but only a NOTIFICATION.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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, please do not hesitate to contact the commenting agency.

Very truly yours,

u. Callibal) W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:amf

Enclosures

People's Counsel C: Kyle O'Haro 1965 Andrew Court Marriottsville 21104

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** April 4, 2007

Department of Permits & Development Management

OBY

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For April 9, 2007

Item Nos. 07-427, 429, 430, 431, 433,

434, (435,)436, and 437

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

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-03042007.doc

#### Fire Department

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



#### **Baltimore County**

James T. Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 April 5, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: April 2, 2007

Item Number: 427-through 438

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 MS-1102F

cc: File



### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE:

April 10, 2007

TO:

Carl Richards, Supervisor

Zoning Review

FROM:

James Thompson, Supervisor

Code Enforcement

RE:

Case No. 07-435-SPH

5525 Oregon Avenue

Kyle C. O'Haro - Petitioner

Please be advised that the above-referenced petition has an active violation case, number 07-0761.

When the public hearing is scheduled please notify the following individuals:

- 1. Councilman S.G. Moxley
- 2. Halethorpe Improvement Association 1519 Woodside Avenue Baltimore, MD 21227
- 3. Christina Sylvester 5527 Oregon Avenue Baltimore, MD 21227

JHT/lmh



Martin O'Malley, Governor Anthony Brown, Lt. Governor

John D. Potcasi, Secretary Designate Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: April 3,2007

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE:

**Baltimore County** 

Item No. 7-435-SP H

5525 OREGON AVENUE

O'HARO PROPERTY

SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-435-SPH.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB



### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

**DATE:** April 17, 2007

Zoning Advisory Petition(s): Case(s) 07-435- Special Hearing

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Dennis Wertz in the Office of Planning at 410-887-3480.

**Division Chief:** 

CM/LL

IN RE: Case No. 07-0435-SPH

\* DEPARTMENT OF

5525 OREGON AVENUE

\* PERMITS AND

KYLE O'HARO, LEGAL OWNER

\* DEVELOPMENT

Petitioner.

\* MANAGEMENT

#### REQUEST FOR POSTPONEMENT OF HEARING

Petitioner Kyle O'Haro requests a postponement of the hearing scheduled in this matter, and states as follows:

- 1. The Department of Permits and Development Management set a hearing in the above-captioned matter for June 12, 2007 at 10:00 a.m.
- 2. Petitioner Kyle O'Haro is scheduled to be Norfolk, Virginia on that date, pursuant to his duties in the United States Coast Guard Reserve. A letter from Mr. O'Haro with attached schedule information is attached hereto as Exhibit A.

WHEREFORE, Petitioner Kyle O'Haro respectfully requests that the Department of Permits and Development Management reschedule the hearing in this matter for a date after June 12, 2007.

RECEIVED

MON 1:5 2007

Per. Pm

Donna M.B. King

Law Office of Donna M.B. King, LLO

309 West Pennsylvania Avenue

Towson, Maryland 21204

(410) 494-1005

Attorney for Respondents

Kyle O'Haro 1965 Andrew Court Marriottsville, Maryland 21104 Phone: 410-552-9340

May 8, 2007

Zoning Commissioner Of Baltimore County 111 West Chesapeake Avenue Room 105 Towson, Maryland 21204

RE: Case Number: 07-435-SPH

To Whom It May Concern:

I respectfully request a postponement for the above referenced special hearing scheduled for June 12, 2007 at 10:00 AM.

I am a Lieutenant Commander in the U.S. Coast Guard Reserves and have been assigned to perform routine drills at Norfolk, VA during the weeks of May 15, and June 12, 2007.

Attached is the only proof of my scheduled drills, which is an automated, self-serve system known as Peoplesoft.

Thank you in advance for this consideration.

Sincerely,

Kyle O'Haro

RE: PETITION FOR SPECIAL HEARING
5525 Oregon Avenue; E/S Oregon Avenue,
510' S Sulpher Spring Road
13th Election & 1st Councilmanic Districts
Legal Owner(s): Kyle O'Haro
Petitioner(s)

BEFORE THE

**ZONING COMMISSIONER** 

FOR

\* BALTIMORE COUNTY

\* 07-435-SPH

#### ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

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 5<sup>th</sup> day of April, 2007, a copy of the foregoing Entry of Appearance was mailed to, Donna Kino, 309 W Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

APR 0 5 2007

Per....

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



JAMES T. SMITH, JR. County Executive

May 17, 2007
TIMOTHY M. KOTROCO, Director

Department of Permits and

RING

Development Management

#### **NEW 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: 07-435-SPH

5525 Oregon Avenue

E/side of Oregon Avenue, 510 feet south of Sulphur Spring Road

13<sup>th</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owner: Kyle O'Haro

Special Hearing to approve non-conforming use for a single family dwelling as three (3) apartments (prior 1945 regulations) or alternatively, two (2) apartments (prior 1955 regulations).

Hearing: Tuesday, July 10, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: Donna King, 309 W. Pennsylvania Avenue, Towson 21204 Kyle O'haro, 1965 Andrew Court, Marriottsville 21104

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JUNE 25, 2007.

- (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

Tuesday, June 26, 2007 Issue - Jeffersonian

Please forward billing to:

Kyle O'Haro P.O. Box 964

Eldersburg, MD 21784

443-398-5025

#### **NEW 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: 07-435-SPH

5525 Oregon Avenue

E/side of Oregon Avenue, 510 feet south of Sulphur Spring Road

13<sup>th</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owner: Kyle O'Haro

Special Hearing to approve non-conforming use for a single family dwelling as three (3) apartments (prior 1945 regulations) or alternatively, two (2) apartments (prior 1955 regulations).

Hearing: Tuesday, July 10, 2007 at 11:00 a.m. in Room 407, County Courts Building,

421 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III

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.



JAMES T. SMITH, JR. County Executive

TIMOTIH2/3M.2007ROCO, Director Department of Permits and Development Management

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13th Election District – 1st Councilmanic District

Legal Owner: Kyle O'Haro

Special Hearing to approve non-conforming use for a single family dwelling as three (3) apartments (prior 1945 regulations) or alternatively, two (2) apartments (prior 1955 regulations).

Hearing: Tuesday, June 12, 2007 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

: TK:klm

C: Donna King, 309 W. Pennsylvania Avenue, Towson 21204 Kyle O'haro, 1965 Andrew Court, Marriottsville 21104

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MAY 28, 2007.

- (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

Tuesday, May 29, 2007 Issue - Jeffersonian

Please forward billing to:

Kyle O'Haro P.O. Box 964

Eldersburg, MD 21784

443-398-5025

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### 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

| For Newspaper Adve   | rtisina:                         |
|----------------------|----------------------------------|
| i.                   | 17-1/225 <54                     |
| Item Number or Case  | Number                           |
| Petitioner Kyce      | CHARO                            |
| Address or Location. | SSZS OREGON AVE, BALTO, MD 21327 |
| •                    | ,                                |
| PLEASE FORWARD A     | ADVERTISING BILL TO              |
| Name. Lyc            | O'HARO                           |
| Address <u>P.o.</u>  |                                  |
| Eros                 | 21784                            |
| •                    |                                  |
| Telephone Number _   | 443.398-5025                     |

### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE:

March 28, 2007

TO:

Carl Richards, Supervisor

Zoning Review

FROM:

James Thompson, Supervisor

Code Enforcement

RE:

Case No. 07-424-SPH

5225 Oregon Avenue

Kyle C. O'Haro - Petitioner

Please be advised that the above-referenced petition has an active violation case, number 07-0761.

When the public hearing is scheduled please notify the following individuals:

- 1. Councilman S.G. Moxley
- Halethorpe Improvement Association 1519 Woodside Avenue Baltimore, MD 21227
- 3. Christina Sylvester 5527 Oregon Avenue Baltimore, MD 21227

JHT/lmh

#### **MEMO**

From: Aaron Tsui, Planner II

March 28, 2007

To: Zoning Commissioner/File

Re: Special Hearing Case no. 07-435-SPH

Three (3) Apartments

5525 Oregon Avenue, 13th Election District

The Petitioner, during his first interview with David Duval stated that the subject property has been used prior to 1955 as three (3) apartments and he would like to file a special hearing for non-conforming uses as three (3) apartments.

In the 3/28/07 petition meeting, the Petitioner stated that he would like to file variance to keep the current non-conforming uses as three (3) apartments, or alternatively, uses as two (2) apartments. This was not the understanding from David Duval during the first petition meeting. The Petitioner also stated that he has proof of the three apartments prior to 1955 but not prior to 1945.

The Petitioner was made aware that the lot area of the subject property would not even meet the current regulations (Section 402) for two apartments not to mention the parking requirements. Parking layout is not shown in the submitted site plan.

Code Enforcement Department has advised that there is an active violation issued to the subject property for illegal use as rooming/boarding house. (Correction Notice no.07-0761 issued 2/15/07). The Petitioner did not mention such violation during both petition meetings.

#### **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 competer thereto. | information here nt to testify there  | ein given is within eto in the event the                                    | the personal kr<br>at a public hear          | nowledge of the Ating is scheduled in      | flant and the A the | Affiant is<br>n regard |
|----------------------------|---------------------------------------|---|--|--|---|------------------------|
| AFFIANT                    | Angerrel<br>(Handwritten Si           | ignature)   | AFFIANT                                      | MARGARE<br>(Printed Name)                  | 7   | <u> </u>               |
|                            | OREGON<br>S (Printed)                 | AVENCLE   |  | 242-635<br>ONE NUMBER                      | 39  |                        |
|                            |                                       | ERSONAL KNOWL   |  |  | OLLOWING:   |                        |
| -<br>-                     | :<br>:-                               |   |  |  |   | . <b>.</b>             |
| ٠.                         | you verify by the                     | is affidavit and/or t   |  | •  |   |                        |
| 1                          | elling since                          | (address)   | 1975 ?                                       | s been occupied as                         | aapaπ<br>(2, etc.)                                      | ment                   |
| •                          | • • • • • • • • • • • • • • • • • • • | (month)   | (year)<br>1958                               | $\frac{\sqrt{ES}}{\sqrt{ES}}$              | _ 2_ A  | 242                    |
| 2. Car                     | you also verify                       | and testify, if neces   | ssary, that said a                           | apartments have be                         | en occupied b   | y                      |
| rent                       | ers every year s                      | ince(month  | ) (year)                                     | _? <u> </u>                                | ver)  |                        |
| 3. Will                    | you realize any                       | gain from the sale  | of this property?                            | NO   | *   |                        |
| ·                          |                                       |   | *If the                                      | (answer)<br>e answer is <u>yes,</u> this t | form cannot be a  | pproved.               |
|                            | ,                                     | 17  | to wit:                                      | 00   |   |                        |
| Maryland, in herein, pers  | sonally known or s                    | ty aforesaid, personally atisfactorily identified to set forth are true and | y appeared <u>YM A</u><br>to me as such Affi | ant, and ∕made oath ir                     | بر ل<br>n due form of law                               | ne Affiant             |
| AS V                       | VITNESS my hand a                     | and Notarial Seal.  |  |  |   |                        |
|                            |                                       |   | Mario Carriera                               | VNOTARY PUL                                | SLIC/OO   |                        |
|                            |                                       |   | PICACAGO VIVI                                | ssion Expires   フノィ                        |   |                        |

PETITIONER'S

THE THE PARTY OF T

Revised 9/5/95

Permits and Development Management (PDM), as follows:

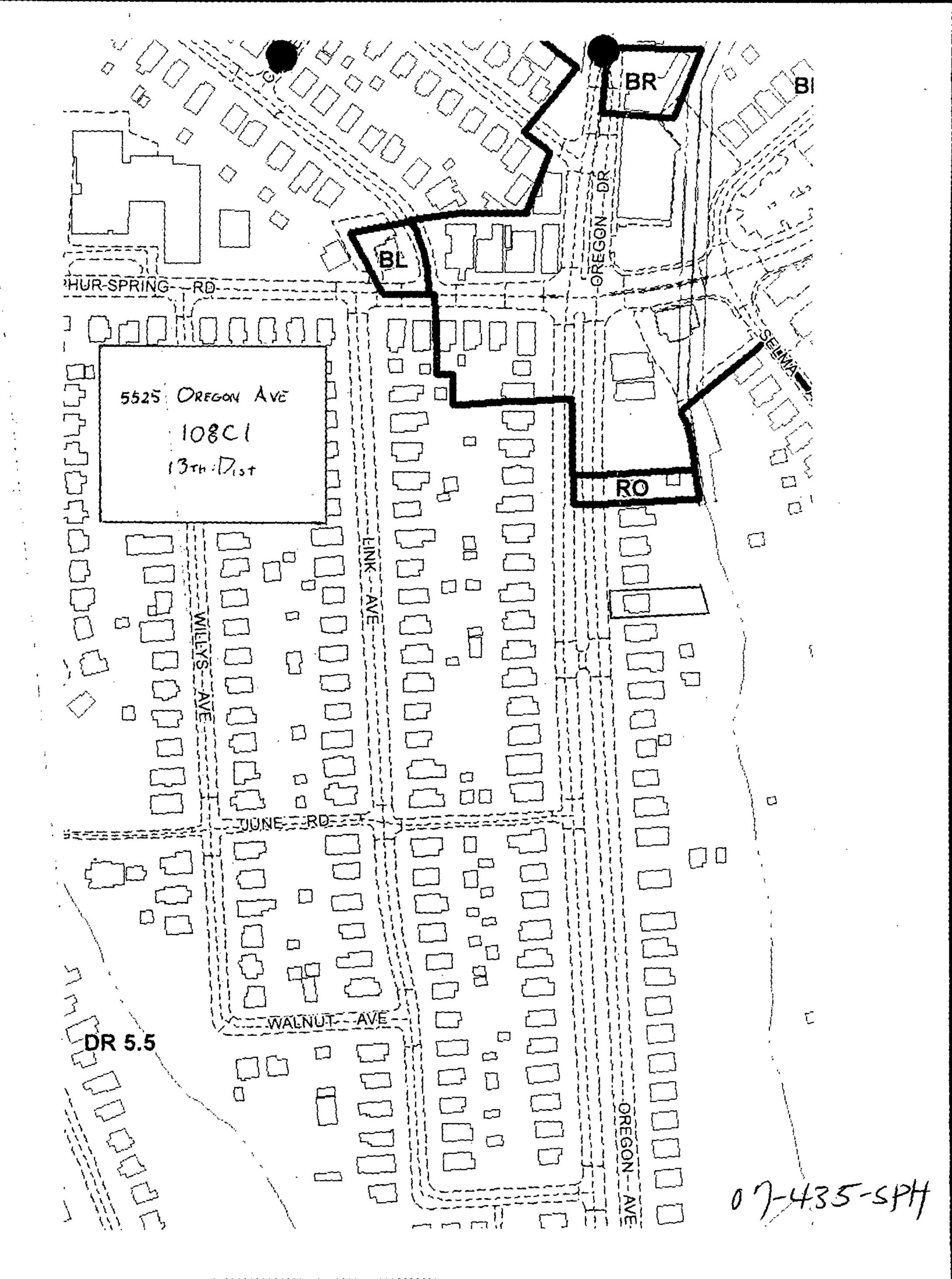
P.02/03 202 267 4022

PETITIONER'S

EXHIBIT NO.

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. SHARON L. THOMAS (omas AFFIANT (Handwritten Signature) AFFIANT (Printed Name) 1225 STEVENS NUE 410-242-6447 TELEPHONE NUMBER ADDRESS (Printed) 21227 BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING: Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 3525 OREGOU AUE has been occupied as a 3 apartment dwelling since. (month) (answer) (year) 2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since \_ Will you realize any gain from the sale of this property? 3. "If the answer is yes, this form cannot be approved. STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit: I HEREBY CERTIFY this 2 nd day of February \_, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared thusan A 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. SUSAN J. BENDER NOTARY PUBLIC STATE OF MARYLAND NOTARY PUBLIC County of Baltimore My Commission Expires July 10, 2000 My Commission Expires Revised 9/5/95

The undersigned hereby affirms under the penalties of perjury to the Director of Department of



PETITI 5 87°33°4 V 176.00°7 5 87°33'33" W 171,00' 

| TAX MAP 108 GRID 5 PARCEL #5525 OREGON AVENUE BALTIMORE COUNTY, MARYLAN SCALE: 1"=30' DATE: MARCH, :   | 2507  | JOHN C. MELLEMA SR., INC.  LAND SURVEYORS  5409 EAST DR. BALTO. MD. 21227  PHONE: 410-24-7488 FAX: 410-247- |
|--|---|---|
| PLAT TO ACCOMPANY PETITI<br>A SPECIAL HEARING FOR NONC   |   | PREPARED BY:  |
| DD/AKT   | CARVILLE AVE.   |   |
| DATE: MARCH, TRIOR ZONING O  | MEDIAN (  |   |
| DEED REFERENCE OWNER: KYLE CONNERS FLDERS  | EXISTING PAVING OREGON AVE.   |   |
| LOCATION  COUNCILMANIC DE ELECTION DISTRI ZONING: D.R.5.5  1"=200 SCALE   LOT SIZE: 8,678  PUBLIC SEWER  PUBLIC WATER  CHESAPEAKE BA CRITICAL AREA  SUBDIVISION NA NORTH   | SULPH®S SPRING ROAD  507 34  507 35  508 407 32 307 W 171.  508 505 507 30 507 | BC-CC LOT 33  |
|  | 08.05.05 €<br>ê<br>8675 SQ. FT±<br>0.20 ACRES±  |   |
| SCALTING SAV NOTED SAVE TO SAV | 50.25   |   |
|  | ACCOMPANY PETITION FOR ZONING   VARIANCE   SPECIAL HEARING  | PLAT TO   |