

IN RE: PETITION FOR SPECIAL HEARING *	BEFORE THE
N/S West Chesapeake Avenue,	
480' W c/line of Dixie Drive *	ZONING COMMISSIONER
(600 West Chesapeake Avenue)	
9 th Election District *	OF
5 th Council District *	
	BALTIMORE COUNTY
YMCA of Central Maryland *	
<i>Petitioner</i> *	Case No. 2010-0039-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 John K. Hoey, President and CEO of YMCA of Central Maryland, by and through its attorney, John B. Gontrum, Esquire, of Whiteford, Taylor & Preston, LLP. The Petitioner requests a special hearing pursuant to the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) from Section 502.3 for an amendment to the site plan and Order in Case No. 94-198-SPHA and to allow up to five (5) years to utilize the amendment to the special exception; (2) from Section 409.6A to determine parking requirements; (3) from Section 1B01.1B.1.g(9) and/or (10) to grant an exception to residential transition area (RTA) requirements for the parking area, and (4) from Section 1B01.2B.2 and Section 504.2 and Page 29 of the Residential Standards of the Comprehensive Manual of Development Policies (CMDP) to permit a maximum building length of up to 300 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 7.

Appearing at the requisite public hearing in support of the requests were David C. Schuetz and A. Eugene Oaksmith, on behalf of YMCA, Matthew T. Allen, P.E. with Bohler Engineering, and John B. Gontrum, Esquire, the Petitioner's attorney. Appearing as interested

persons were Richard Parsons, Abigail S. Knauff, Marian Stern, Darwin Holder, Katrina C. Kamantauskas-Holder, and Jane Roger, Vice President, Chesapeake Stone Manor. No one wished to be recognized as protesting the proposed requests, and the hearing was conducted based on a proffer by Petitioner's counsel.

Petitioner's Exhibit 1 is an aerial photograph depicting the subject site and how it relates to the residential community of west Towson and the Towson business area. The neighborhood surrounding the YMCA site is clearly residential in character. The property is zoned D.R.3.5. Petitioner's Exhibit 2, a Boundary and Topographic Survey, depicts the site's existing conditions. The site contains approximately 16.754 acres and is improved by several buildings containing 52,235 square feet. There are approximately 206 parking spaces provided. Most of the development is on the eastern portion of the site. The site plan shows that the parking areas on the eastern portion of the site and along Chesapeake Avenue intrude into the 75 foot RTA setback requirements of the current parking regulations supporting non-residential structures. See Section 1B01.1B.1.e(5). On the western side of the property is a stream valley and buffer area. There is also a ball field depicted with a backstop and a wood frame pavilion. A building on the Baltimore County Final Landmarks List, *the McIntosh Law Office*, was placed on the site in the late 1960's and is centrally located.

The site has been utilized by the YMCA for well over 40 years. Petitioner's Exhibit 3 is the Zoning Commissioner Order issued January 16, 1967 in Case No. 67-136-X granting a special exception for "a gymnasium building for civic, social, recreational and educational activities". Petitioner's Exhibit 4 is the Zoning Commissioner's Order issued June 27, 1968 granting a special exception for a nursery school on the site. Petitioner's Exhibit 5 is a site plan approved by the Office of Planning and Zoning in October, 1969 showing the principal

buildings. At that time, the site plan indicated that 135 parking spaces were required, and 186 parking spaces were provided. Petitioner's Exhibit 6 is this Zoning Commission's Order and dismissal of the appeal to the Board of Appeals in Case No. 94-198-SPHA, which approved an expansion to the buildings conforming to the current building area and required 206 parking spaces.

The RTA requirements were initially enacted by County Council Bill No. 100-1970 and did not exist at the time the special exception(s) and site plan(s) for the site were approved. The 1969 site plan (Petitioner's Exhibit 5) depicts parking in the same locations as shown on the Boundary and Topographic Survey (Petitioner's Exhibit 2), well within the current required setbacks of the RTA. It is also noted that no mention of the RTA regulations was made in the Findings of Fact and Conclusions of Law in Case No. 94-198-SPH.

Petitioner's Exhibit 4 is the proposed special hearing site plan. It is an amended site plan from that initially filed. The amendments respond to the Zoning Advisory Committee (ZAC) comments of the Department of Environmental Protection and Resource Management (DEPRM) and also to changes requested by the Department of Recreation and Parks for their facilities. The site plan illustrates a major redevelopment of the site. In this regard, over 11 acres of the 16.754 acres is to be conveyed to Baltimore County including the existing ball field. The County will also build a proposed pavilion. It is the understanding of the YMCA that the County will reconstruct the ball field with natural turf to make it a full sized soccer field. The County will not light the ball field for night use. As of this fall, the County is already planning to use the YMCA site and existing buildings for joint programming activities.

The existing buildings will remain until a new YMCA facility is constructed, hopefully well within the five (5) year special exception period requested by the Petitioner. The new

building will contain approximately 45,000 square feet and will be located within the building envelope depicted on Exhibit 4, which is in the approximate location of the existing tennis courts. In all, there will be approximately 48,440 square feet of total building area.

In Zoning Case 94-198-SPHA (Exhibit 6), the Petitioner was granted relief from the CMDP to permit a building in excess of 200 feet up to 270 feet. Although the configuration of the proposed building is not known, the Petitioner believes that the inclusion of a swimming pool, basketball courts, meeting and programs rooms and health facilities will involve a building shape that would be up to 300 feet in length. The building envelope depicted on the amended site plan would encompass such a building.

The existing landmark structure, the McIntosh Law Office, will be moved from its current location north on the site to sit along the western side of the proposed new building. A letter has been received from the Planning Board dated September 21, 2009 approving the move of the building based on the findings of the Landmarks Preservation Commission.

There will be parking for 284 vehicles. The parking lot will continue to be owned by the YMCA, but the County will have the right to use it in connection with its property including the renovated ball field. The parking lot arrangement is also proposed in a slightly different configuration from the current arrangement. The parking along Chesapeake Avenue will be set back further from the right-of-way, but will still be within the RTA setback area. The parking area along the eastern boundary also will be slightly pulled back from its current location according to Petitioner's Exhibit 8, but it will be extended southerly within the RTA setback.

A number of community residents expressed interest in the proposed landscaping, and the Petitioner offered Petitioner's Exhibit 9, a landscape plan which is being reviewed by Baltimore County's landscape architect and has been preliminarily approved. The landscape plan includes,

in addition to other plantings, the planting of 153 shade trees, 65 ornamental trees and 111 evergreen trees. The vast majority of the plantings will be placed along the Chesapeake Avenue and eastern boundaries of the property. This represents a significant augmentation to the existing plantings and should represent a major upgrade in the buffer and appearance of the landscaping and property.

A couple of the neighbors also expressed concern over security on the premises, which also is a concern of Petitioner. There are issues with gating the premises and allowing the County full access to its property as well as with allowing maintenance personnel and police access to the site. Because the parking lot will be regraded and reconfigured, there will be new lighting installed which will comply with the current lighting requirements under the development regulations and will be directed onto the site and not onto adjoining properties. There will also be security lighting on the building.

The Petitioner's special hearing requests outlined above will be discussed in reverse order. The request to have a building length up to 300 feet has been reviewed by the Office of Planning in the development plan review as well as in this zoning case, and the building envelope has been approved by Planning. A similar request by the YMCA has also been approved in the past for its existing building. I find that the request for a building length up to 300 feet should be granted. At the time the building permit is requested by Petitioner for the new YMCA building, it will be required to be reviewed by the Office of Planning for conformance with the guidelines in the C.M.D.P.

The Petitioner also is requesting relief from the RTA setbacks for its parking. The Petitioner is seeking relief under both Sections 1B01.1B.1.g(9) and/or 1B01.1B.1.g(10) of the B.C.Z.R. The latter regulation pertains to new buildings and the former regulation pertains to

additions to existing buildings. The B.C.Z.R. refers in (10) to new special exceptions and also to new buildings. The YMCA is presenting a new building in an old special exception setting. Despite the fact that the special exceptions covering the property were granted over forty (40) years ago, I believe that it is the new building, as proposed by the YMCA, which controls the applicable section. The parking configuration for which relief is sought is also modifying the existing parking, but there is no question that it does intrude into current setback requirements.

Although the YMCA is proposing to situate its parking further from the property line than currently exists, the most important consideration presented was the augmentation of the landscaping. The additional landscaping will have a greater buffering impact on the adjoining properties than simply moving the parking out of the RTA setback. The fact that the YMCA has existed for so many years with the current parking configuration is persuasive. Clearly, the undisputed evidence demonstrates that the existing parking has been accepted as part of the community. The site will be improved not only for the members of the YMCA and the people using the County park but also for adjoining residents given the new landscaping and appearance. The proposed building complies with the RTA. I find that compliance, to the extent possible, with the RTA use requirements will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

The undersigned has also been asked to determine the parking requirements for the site. In this case, the combined usage of the parking by both the YMCA and by the County for its property is not listed. The YMCA has been operating under the Order issued in Case 94-198-SPHA, which required 206 parking spaces for the current uses and buildings on the site. Petitioner's Exhibit 4, Note 17, details some of the current uses of the YMCA on the site and the

parking requirements listed in the B.C.Z.R. for those uses and indicates that 239 spaces would be required under the current regulations just for the YMCA.

It was proffered that the YMCA peak hours of usage and the peak hours of usage of the County ball field would not frequently overlap, and that proffer seems reasonably based. One would anticipate that the County ball fields would be used primarily in the spring and summer on weekends and in the early evenings after work, especially since the ball field will not be lit for evening use and will use natural grass. The YMCA's peak usage is after school opens in the fall and after the New Year's resolutions. Its peak usage at those times is in the evenings and in the mornings after school begins. This timing would not overlap the peak usage demands that would be anticipated for the ball fields. Consequently, I find that the provision of 284 spaces, an increase of 78 spaces over the existing parking, is reasonable. The current parking has been sufficient over the years to handle the existing uses. Even the attraction of a new facility, albeit on a smaller platform than currently exists, will be amply handled by the proposed parking, and the use-in-common with the County should not overburden the proposal. It should be noted that if children are using the ball fields, many parents will opt to drop them off rather than park and attend the activity. The proposed parking will allow for 45 cars over the maximum required for the YMCA, and that should be more than ample. Requiring more parking on the site would create an undue hardship, and no one has suggested that more parking than that proposed is necessary or desirable.

Finally, Petitioner requests an amendment to this Commission's Order and site plan approval in Case 94-198 SPHA and to adjust the amended site plan filed as Petitioner's Exhibit 7, to allow the full five (5) years permitted for utilization of the special exception as amended pursuant to Section 502.3 of the B.C.Z.R. Petitioner's Exhibit 7 indicates that the entrances will

be reconfigured to meet current design standards. The site will have less impervious area than now exists. As noted above, the landscaping will be significantly augmented. More important, this use at this location has been an important resource to the Towson community for over forty (40) years. Doubtless it needs modernization. The addition of a County owned and maintained recreation facility at this site benefits not only the YMCA but the Towson community and local neighborhood as well. For all of the reasons stated above, I find that the proposed modification to the granted special exception(s) would not be injurious to the public health, safety or general welfare and is in compliance with the requirements of Section 502.1 of the B.C.Z.R.

I also find that permitting the YMCA the full five (5) years to utilize the amendment to the Special Exceptions granted here is reasonable. The YMCA must do substantial fund-raising and financing for its proposed building, and in the current financial climate such tasks are formidable. It is hoped that the building can be completed, let alone commenced within the five (5) year period, but there was no objection to the request, and it certainly is not detrimental to the public welfare to grant the YMCA the time necessary to bring this project to fruition.

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

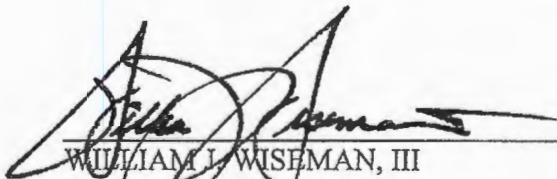
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of September 2009 that the Petition for Special Hearing seeking relief pursuant to the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) from Section 502.3 for an amendment to a site plan and Order in Case No. 94-198-SPHA and to allow up to five (5) years to utilize the amendment to a special exception; (2) from Section 409.6A to determine parking requirements; (3) from Section 1B01.1B.1.g(10) to grant an exception to the residential transition area (RTA) requirements for the parking area(s), and (4) from Section

1B01.2B.2 and Section 504.2 and Page 29 of the Residential Standards of the CMDP to permit a maximum building length of up to 300 feet, in accordance with Petitioner's Exhibit 7, be and is hereby GRANTED; subject to the following restrictions:

1. The Petitioner shall submit its plans for a new building as part of the building permit process to the Office of Planning for review with particular attention to the guidelines enunciated in the CMDP for non-residential principal buildings in the residential zones.
2. The Petitioner shall have its landscape plans for the site approved by the Baltimore County Landscape Architect prior to receiving its building permit for its proposed new building.
3. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at its 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.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw



WILLIAM L. WISEMAN, III
Zoning Commissioner
for Baltimore County



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 600 W. Chesapeake Avenue

which is presently zoned D.R. 3.5

(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)

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

(This box to be completed by planner)

See attached.

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 perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

John B. Gontrum

Name - Type or Print _____

Signature _____

Whiteford, Taylor & Preston, L.L.P.

Company _____

One W. Pennsylvania Ave., St. 300 410-832-2055

Address _____ Telephone No. _____

Towson, Maryland 21204-5025

City _____ State _____ Zip Code _____

Legal Owner(s):

YMCA of Central Maryland

Name - Type or Print _____

Signature _____

Name - Type or Print _____

Signature _____

20 S. Charles Street, St. 600 410-837-9622

Address _____ Telephone No. _____

Baltimore, Maryland 21201

City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____

Address _____

City _____

Telephone No. _____

State _____

Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____

Date _____

Case No. 2010-0039-SPH

REV 9/15/98

8/3/09

SPECIAL HEARING REQUEST:

1. An amendment to site plan and order in Case No. 94-198-SPHA and to allow up to five (5) year to utilize the amendment to the special exception pursuant to BCZR Section 502.3;
2. To determine parking requirements pursuant to BCZR Section 409.6A;
3. Grant an Exception to residential transition area requirements for the parking area pursuant to BCZR Section 1B01.1B.1.g (9) and/or(10).
4. Allow a maximum building length up to 300' for BCZR Section 1B01.2B.2 and Section 504.2 and page 29 of the Residential Standard of the C.M.D.P.



BOHLER
ENGINEERING

810 Gleneagles Court, Suite 300
Towson, MD 21286
PHONE 410.821.7900
FAX 410.821.7987

July 14, 2009



**ZONING DESCRIPTION
OF PART OF THE LANDS KNOWN AS
PARCEL 251, TAX MAP 70 GRID 7 WITH DEED REFERENCE 344/656,
WEST OF THE INTERSECTION OF
CHESAPEAKE AVENUE AND DIXIE DRIVE
AS RECORDED IN THE DATABASE OF
BALTIMORE COUNTY, MARYLAND
9TH DISTRICT**

BEGINNING AT A POINT ON THE NORTH SIDE OF CHESAPEAKE AVE, WHICH IS 60-FOOT WIDE AT A DISTANCE OF 480-FEET WEST OF THE CENTERLINE OF THE NEAREST IMPROVED INTERSECTING STREET DIXIE DRIVE. THENCE THE FOLLOWING COURSES AND DISTANCES:

1. SOUTH 76 DEGREES 29 MINUTES 40 SECONDS WEST; 40.95 FEET TO A POINT,
2. SOUTH 64 DEGREES 22 MINUTES 44 SECONDS WEST; 160.00 FEET TO A POINT,
3. SOUTH 62 DEGREES 07 MINUTES 44 SECONDS WEST; 203.00 FEET TO A POINT,
4. SOUTH 70 DEGREES 07 MINUTES 44 SECONDS WEST; 70.00 FEET TO A POINT,
5. SOUTH 78 DEGREES 52 MINUTES 44 SECONDS WEST; 80.00 FEET TO A POINT,
6. NORTH 89 DEGREES 22 MINUTES 16 SECONDS WEST; 140.00 FEET TO A POINT,
7. SOUTH 84 DEGREES 07 MINUTES 44 SECONDS WEST; 40.00 FEET TO POINT,
8. SOUTH 65 DEGREES 55 MINUTES 33 SECONDS WEST; 365.90 FEET TO A POINT,
9. SOUTH 88 DEGREES 20 MINUTES 10 SECONDS WEST; 76.29 FEET TO A POINT,
10. NORTH 00 DEGREES 26 MINUTES 50 SECONDS WEST; 83.57 FEET TO POINT,
11. NORTH 14 DEGREES 02 MINUTES 10 SECONDS EAST; 177.00 FEET TO A POINT,
12. NORTH 37 DEGREES 50 MINUTES 10 SECONDS EAST; 88.00 FEET TO A POINT,
13. NORTH 31 DEGREES 35 MINUTES 10 SECONDS EAST; 52.00 FEET TO A POINT,
14. NORTH 12 DEGREES 26 MINUTES 38 SECONDS EAST; 90.60 FEET TO A POINT,
15. NORTH 21 DEGREES 36 MINUTES 34 SECONDS EAST; 85.71 FEET TO A POINT,
16. NORTH 46 DEGREES 37 MINUTES 19 SECONDS EAST; 111.59 FEET TO A POINT,
17. NORTH 48 DEGREES 58 MINUTES 29 SECONDS EAST; 398.00 FEET TO A POINT,
18. NORTH 70 DEGREES 10 MINUTES 05 SECONDS EAST; 117.69 FEET TO A POINT,
19. NORTH 81 DEGREES 50 MINUTES 34 SECONDS EAST; 149.60 FEET TO A POINT,
20. SOUTH 84 DEGREES 30 MINUTES 02 SECONDS EAST; 201.93 FEET TO A POINT,
21. NORTH 19 DEGREES 51 MINUTES 48 SECONDS EAST; 321.92 FEET TO A POINT,
22. SOUTH 71 DEGREES 28 MINUTES 12 SECONDS EAST; 126.47 FEET TO A POINT,
23. SOUTH 18 DEGREES 59 MINUTES 47 SECONDS WEST; 290.63 FEET TO A POINT,
24. SOUTH 85 DEGREES 04 MINUTES 53 SECONDS EAST; 122.40 FEET TO A POINT,
25. SOUTH 19 DEGREES 10 MINUTES 48 SECONDS WEST; 100.26 FEET TO A POINT,
26. SOUTH 18 DEGREES 36 MINUTES 03 SECONDS WEST; 222.34 FEET TO A POINT,
27. SOUTH 18 DEGREES 29 MINUTES 23 SECONDS WEST; 235.25 FEET TO THE PLACE OF BEGINNING AS RECORDED IN DEED LIBER 344, FOLIO 656.

BEING ALSO KNOWN AS PARCELS 251 AS RECORDED IN BALTIMORE COUNTY LIBER 344 FOLIO 656, CONTAINING IN ALL 15.849 ACRES OF LAND MORE OR LESS.

• Southborough, MA 508.480.9900	• Albany, NY 518.438.9900	• White Plains, NY 914.286.2700	• Ronkonkoma, NY 631.738.1200	• Warren, NJ 908.668.8300	• Center Valley, PA 610.709.9971
• Chalfont, PA 215.996.9100	• Philadelphia, PA 267.402.3400	• Sterling, VA 703.709.9500	• Warrenton, VA 540.349.4500	• Bowie, MD 301.809.4500	• Fort Lauderdale, FL 954.202.7000

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2010-0039 SPH



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

September 10, 2009

John B. Gontrum
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Ave. Ste. 300
Towson, MD 21204

Dear: John B. Gontrum

RE: Case Number 2010-0039-SPH, 600 W. Chesapeake Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 3, 2009. 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
YMCA of Central Maryland; 20 S. Charles St. Ste. 600; Baltimore, MD 21201

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: August 13, 2009

FROM: Dennis A. Kennedy, ^{DAK}Supervisor
Bureau of Development Plans
Review

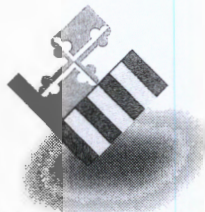
SUBJECT: Zoning Advisory Committee Meeting
For August 10, 2009
Item Nos. 2009-0326, 2010-032, 034, 036, 037,
038, 039 and 040

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08132009 (2) -NO COMMENTS.doc



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

August 21, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: August 10, 2009

Item Numbers 0039

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

cc: File

