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10-280-SPH

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:

RAINBOW HALL LLC

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No.: 03-C-12-002379
*

* * * * *

**OPINION ON RAINBOW HALL LLC'S APPEAL FROM THE
COUNTY BOARD OF APPEALS' DECISION**

Question Presented for Appeal

Did the Board of Appeals err in finding that the property in question of Rainbow Hall, LLC, located at 10729 Park Heights Avenue, Baltimore, is being used for nonconforming uses in violation of the Baltimore County Zoning Regulations for zone R.C.2?

Summary

This Court finds that the Board of Appeals did not err in finding that Rainbow Hall, LLC's use of the property as rental apartments and a catering facility violates the zoning requirements of R.C.2. Accordingly, this Court affirms the Board's decision. Further, this Court finds that Valleys Planning Council, Inc. and Messrs. Mark Wilson and Harlan Zinn had standing to file the Petition for Special Hearing with the Zoning Commissioner of Baltimore County regarding uses of the Rainbow Hall property. The conclusions drawn from the facts and inferences in the record could be reached by a reasonable mind, and thus, the Board of Appeals' decision is AFFIRMED.

Statement of Facts

The present litigation arises from the use of Rainbow Hall, LLC's property (hereinafter "Rainbow Hall" or "the property") at 10729 Park Heights Avenue, Baltimore. The 19.67-acre property is currently zoned R.C.2 and 5 under Baltimore County Zoning Regulations (hereinafter "BCZR"). See BCZR §§ 1A01.1 and 1A04.1. The property's zoning and ownership history has changed numerous times and is discussed herein where relevant to this case.

In 1963, the Baptist Home of Maryland, Inc. (hereinafter "Baptist Home") purchased the property and obtained a special exception from Baltimore County to run a convalescent (nursing) home for the aged of the Baptist denomination under the zoning designation of R40. In 1976, as part of Baltimore County's Comprehensive Zoning Map Process (hereinafter "CZMP"), the property was zoned to R.C.2 and 5. The Zoning Commissioner determined that the convalescent home was a legal nonconforming use. The zoning regulations permit a nonconforming use that is approved by the Commission to continue unless there has been a change in the use or an abandonment or discontinuance of such nonconforming use for one year or more. BCZR §§ 101.1 and 104.1. Under the 1988 CZMP of Baltimore County, the property's zoning was changed from R.C.2 and 5 to R.C.3 and 5. On October 11, 1988, the Valleys Planning Council, Inc. (hereinafter "VPC"), a land use planning group, and the Baptist Home entered into a Restrictive Covenant Agreement (hereinafter "the covenant") whereby Baptist Home agreed to use the property only as a nursing home but it would bind future successors in title to uses permitted solely under the R.C.2 zone.

In February 2001, the Baptist Home closed and Mr. Henry Wright, Jr., the sole member of Rainbow Hall, LLC, purchased the property, which was conveyed by deed on April 10, 2002. The Residential Contract of Sale notes that the property is subject to the covenant. The only

BCZR special exception at the time of Mr. Wright's purchase was to use the facility as a nursing home under the 1963 Baptist Home special exception. During Mr. Wright's ownership, the November 2004 CZMP rezoned the land to R.C.2 and 5. From approximately Spring 2002 to early Winter 2004, the property went unused and was renovated by Mr. Wright. Since completion of renovation work in approximately February 2004, Mr. Wright has rented out the main building and three adjacent houses, which are not at issue in this appeal, on the property to tenants.

At various times during Mr. Wright's ownership of the property, VPC and Baltimore County warned Mr. Wright that his rental and commercial uses of the property are not permitted under the applicable BCZR. VPC sent a letter to Mr. Wright in December 2002 raising concerns about alleged commercial use of the property. Mr. Wright responded on February 21, 2003 stating his intent is to use the property for weddings, meetings and social events. VPC responded on April 25, 2003 reminding Mr. Wright of the limited uses permitted in the R.C.2 zone. On March 5, 2009, Baltimore County issued a violation notice directing Rainbow Hall to cease and desist renting the facilities to tenants as the use violated BCZR § 402 for non-permitted apartments in the R.C.2 zone. Mr. Wright did not cease and desist his use nor request a hearing to establish a legal nonconforming use of the property.

On April 16 2010, VPC filed a Petition for Special Hearing with the Zoning Commissioner of Baltimore County to determine what, if any, of Rainbow Hall's uses of the land were proper under the BCZR. The Petition presented twelve (12) questions for the Commissioner to consider addressing in sum the use of the property for rental apartments or catering and whether such uses were permitted nonconforming uses if they do violate R.C.2 requirements. The questions also asked the Commissioner to address the effect of the 1963

convalescent home exception on the current uses of the property. The People's Counsel of Baltimore County filed an entry of appearance as an interested party on April 2, 2010. Mark Wilson and Harlan Zinn, both property owners of single-family homes in the neighborhood, joined the matter as petitioners by way of an amended petition filed on November 12, 2010.

The Zoning Commissioner held a hearing on the Petition for four days in October 2010. On January 13, 2011, the Zoning Commissioner issued an opinion finding that a rental apartment facility is not a permitted use in the R.C.2 zone because under the BCZR such a use is considered a multi-family building or boarding house, which is not permitted by right or special exception. The Commissioner also held that a convalescent home is dissimilar from an apartment, multi-family dwelling or boarding house. Finally, the Commissioner stated that even if Baptist Home's use of the property could be considered a boarding house, the current use of the property as a boarding house would not be lawful as a special exception without a public hearing and application process to consider the use. Rainbow Hall, LLC filed an appeal with the Board of Appeals on February 11, 2011.

The Board of Appeals conducted three days of evidentiary hearings in November 2011 before issuing a final opinion on February 24, 2012. The opinion held that VPC had standing to file the initial Petition for a Special Hearing. The opinion also held that rental apartments are not a use by right under R.C.2 nor are rental apartments equivalent to a continuing use of the property for a convalescent house as permitted under the 1963 special exception to Baptist Home. On March 2, 2012, Rainbow Hall filed for judicial review of the Board's decision.

Standard of Review

A final decision of a county zoning board must be upheld on review if it is not premised upon an error of law and if the agency's conclusions may be based on the facts proven. The

standard of review of the action of an administrative agency is "limited to determining whether there is substantial evidence on the record as a whole to support the agency's finding of fact and whether the agency's conclusions of law were correct." Motor Vehicle Administration v. Atterbeary, 368 Md. 480, 796 A.2d 75, 81 (2002). The agency decision is presumptively correct, and the correctness of an agency's findings of fact must be reviewed under the substantial evidence test. Dept. of Human Resources v. Thompson, 103 Md. App. 175, 652 A.2d 1183 (1995); State Election Board v. Billhimer, 314 Md. 46, 548 A.2d 819 (1988). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Supervisor of Assessments v. Group Health Ass'n, Inc., 308 Md. 151, 159, 517 A.2d 1076 (1986) *quoting* Bulluck v. Pelham Wood Apts., 283 Md. 505, 512, 390 A.2d 1119 (1978). Accordingly, this Court must affirm the Board's findings if substantial evidence exists to conclude that its determinations were reasonable.

A reviewing court may, and should, examine facts found by an agency to see if there is evidence to support each fact found. If evidence exists in the record to support an agency's fact-finding, the reviewing court cannot substitute its assessment of credibility of the evidence for that of the agency, no matter how questionable or conflicting the source of evidence may be. Commissioner, Baltimore City Police Dept. v. Cason, 34 Md. App. 487, 368 A.2d 1067 (1977), *cert. denied*, 280 Md. 728 (1977). It is well settled that the reviewing court should not substitute its judgment for the expertise of the agency, as the agency has a superior ability to understand its own rules and regulations. Board of Education v. Paynter, 303 Md. 22, 35, 491 A.2d 1186 (1985); Bulluck, 283 Md. at 512. When an agency infers the existence of a fact that is not supported by direct proof from the record, the reviewing court should examine such an inference to determine if it reasonably flows from other facts that are supported by direct proof. *Id.* at 508.

The court should review the agency's conclusion to determine whether "reasoning minds could reasonably reach that conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could so be reached, then it is based upon substantial evidence, and the court has no power to reject that conclusion." Id. In Balt. St. Parking v. Baltimore, the Court of Special Appeals also noted the "considerable weight" of deference that should be given specifically to the agency's interpretation of the Baltimore County Zoning Regulations. 194 Md. App. 569, 591-592 (2010).

Discussion

Petitioner has presented three issues for appeal. First, Petitioner argues that VPC and Messrs. Wilson and Zinn did not have standing to file their original and amended petitions, respectively, for a special hearing. Second, Petitioner argues that a special hearing before the Baltimore County Zoning Commissioner was not an appropriate avenue for a non-owner of the property to contest uses of that property. Third, Petitioner argues that the Board of Appeals erred in affirming the decision of the Zoning Commissioner regarding the application of the BCZR to the use of the property for rental apartments.

This Court finds that based on the record, the applicable law and the hearing on this appeal, the Board did not err in finding that rental apartments are a nonconforming use under R.C.2 and that Rainbow Hall's use of the property for rental apartments is not equivalent to a continuance of the 1963 special exception for a convalescent house. This Court also finds that the Board did not err in finding that a catering hall is a nonconforming use under R.C.2. Further, this Court finds the Board did not err in finding that the Respondents had standing at the special hearing. This Court finds that the special hearing was an appropriate avenue for the Respondents to pursue their concerns about the property.

Standing for Special Hearing

Section 500.7 of the BCZR states that there is a "right of any interested person to petition the Zoning Commissioner for a public hearing." Maryland law has a lax standard for administrative standing that a party need only be an "interested party" and not an "aggrieved party." Chesapeake Bay Foundation v. Clickner, 192 Md. App. 172 (2010). As such, all Respondents had standing to file a Petition for Special Hearing regarding the uses of the property and all Respondents had standing to be heard at the hearings before the Zoning Commissioner, the Board of Appeals and this Court. While the only relief that may be sought by an interested party is a determination of whether a property use is legal or not, both the Commissioner and Board did not consider issues outside of this scope. BCZR § 500.7.

Petitioner argues that VPC was trying to obtain a special hearing by trick in placing its name on the "Contract Purchaser/Lessee" line on the Petition form. However, it is of no importance that VPC crossed out "Contract Purchaser/Lessee" on the Petition form and wrote in "Petitioner" as the legal owner of the property is clearly identified as Rainbow Hall, LLC on the form. The law clearly states that "any interested party" may petition for a special hearing, without mention of any requirement that the party be an owner or lessee of the property. All petitioners in this matter are interested persons. VPC addresses land use issues in Baltimore County. The Board found that VPC did have standing as an interested party. The People's Counsel of Baltimore County represents the interests of the County, which includes land use. Finally, as Messrs. Harlan and Zinn are property owners in Rainbow Hall's neighborhood, they are also interested persons. Therefore, this Court finds that there was no error in permitting the Respondents to commence a zoning review process on land pertinent to each of their individual interests even though Petitioner chose not to pursue this course of action.

Use of Special Hearing

Rainbow Hall argues that a special hearing before the Zoning Commissioner was not an appropriate avenue to consider the concerns of VPC and its co-petitioners. However, as stated above, Section 500.7 of the BCZR permits any interested person to file a petition for a special hearing to consider the use of property in Baltimore County. As such, VPC was permitted to file a Petition for Special Hearing. While Rainbow Hall could have filed a petition, and might have been wise to do so as it had received a notice of zoning violations from Baltimore County already, it has no effect on VPC's ability to use the special hearing process if Petitioner chose not to use the process. Rainbow Hall also had the opportunity to file a petition for a hearing to request a special exception under Section 502 of the BCZR for its uses of the property that do not conform to R.C.2 or R.C.5 requirements. BCZR § 500.5. Rainbow Hall did not file such a petition either. Regardless of Rainbow Hall's initiation of a Zoning Commission hearing, or lack thereof, VPC has a right under the BCZR to request a hearing. BCZR § 500.7. Therefore, this Court finds that no error was committed when the Zoning Commissioner conducted a special hearing initiated by VPC or in the Board's review of the special hearing decision.

Legal Uses of the Rainbow Hall Property

Petitioner contends on appeal that Rainbow Hall's use of the property for rental and catering purposes should be permitted. First, Petitioner contends the Board erred in finding that rental apartments or multi-family units are not permitted as a nonconforming use. In the alternative, Petitioner contends that the Board erred in finding that rental apartments on the property are not valid under the 1963 convalescent home special exception because a multi-family unit or boarding house is not the same as a nursing home. Second, Petitioner argues that the Board erred in finding that Rainbow Hall's use of the property as a catering hall is incorrect

because the property is only used for private functions, not for commercial catering. For the reasons stated below, this Court affirms the Board's decision that the property may not be used for rental or catering purposes under the regulations for the R.C.2 zone.

Further, this Court also agrees with the Board that the Board's decision does not constitute a taking of the property because the property is not now wholly useless. Pennsylvania Coal Co. v. Mahon, 260 Md. 393 (1922). Although the property cannot be used for rental or catering purposes, there remains viable economic uses for the land. The main house may be used as a single-family residence, among the many other uses permitted in the R.C.2 zone. See BCZR § 1A01.2B and C. There is no taking when the use in question is not a legal use. Chesapeake Outdoor Enters., Inc. v. Mayor & City Council of Baltimore, 89 Md. App. 54 (1991).

May the Property Be Used As Rental Units?

Each of Rainbow Hall's arguments that the property can be used in the manner Mr. Wright desires, as rental apartments, fail. This Court found sufficient evidence in the record, at the hearing and under the applicable law to support the Board's decision that rental apartments are not permitted in zone R.C.2 and that rental apartments are not equivalent to a convalescent house under the 1963 special exception to qualify as a valid nonconforming use. Therefore, Rainbow Hall is currently using the property in a manner that does not conform to the BCZR.

First, Petitioner argues that the BCZR permits use of the property for rental units. There are a number of uses permitted by right under the R.C.2 zone; however, rental apartments, multi-family dwellings, or boarding houses are not permitted in the R.C.2 zone. BCZR § 1A01.2B and C. The Board found that Rainbow Hall's use of the property is not a listed use in the BCZR. This Court agrees with the Board that use of Rainbow Hall's property for rental apartments, a multi-family dwelling or a boarding house is not an explicit use by right of the property in R.C.2.

Second, Petitioner argues that rental units should be permitted on the property as a nonconforming use under the BCZR. The Board stated in its opinion that a nonconforming use would be permitted for the property if there was a special exception already granted for the property. *See* BCZR § 101.1 and 402. The only special exception granted to the property for a nonconforming use is the 1963 special exception to Baptist Home to run a convalescent home. Therefore, Rainbow Hall's use of the property is only a legal nonconforming use if it is a convalescent home. The Board found that Rainbow Hall's use of the property is not similar to a convalescent home and this Court agrees with the Board. The BCZR recognizes a boarding home as a distinct and separately defined use that is apart from a nursing home, which was formerly titled a convalescent home under the BCZR. BCZR § 101.1. A nursing home is defined as "a facility which provides board, shelter and nursing care to chronic or convalescent patients." BCZR § 101.1. According to the record and the testimony presented to this Court, Baptist Home provided nursing services to its approximately 89 residents while Rainbow Hall does not provide any nursing care to its residents. Petitioner's argument that Rainbow Hall's use of the property for rental units qualifies under the property's 1963 convalescent home special exception is incorrect and unsubstantiated by facts. There is no evidence to support Petitioner's argument that its current use of the property is merely a continuation of the 1963 special exception. The Board also noted that in no prior hearing or rezoning consideration of the property did Baltimore County grant a special exception to the property for use as a rental property or for multi-family dwellings.

Even if Rainbow Hall now operated a nursing home on the property, the special exception terminated when Mr. Wright did not use the property as a convalescent home from approximately 2002 to 2004. The BCZR provides that when a nonconforming use is abandoned

or ceases in operation, the property may no longer be used in the nonconforming manner in the future. BCZR § 104.1. Use of the property as a convalescent home ended in 2001 when Mr. Wright purchased the property and renovated the main building to be used as rental units, not a nursing home. The record and testimony before this Court shows that the property is used for multi-family rental units with no medical services available. This Court agrees with the Board that Rainbow Hall has abandoned use of the property as a convalescent home.

Based on the record and testimony, this Court finds that the Board of Appeals did not err in deciding that use of Rainbow Hall's property for rental units is not permitted by right or special exception under the BCZR and must cease immediately.

May the Property Be Used For Catering Purposes?

The BCZR does not list "catering hall" as a legal use of property or permitted special exception in the R.C.2 zone. BCZR § 1A01.2B and C. The BCZR defines a "catering hall" as a facility or part of a facility used regularly for serving beverages and food to groups that reserve the facility for banquets or gatherings before the day of the event. BCZR § 101.1. Rainbow Hall argues that its only use of the property for catering purposes is to host private functions that are the similar to a single-family home owner inviting friends and/or family over for a meal or party. However, evidence introduced at the Board's hearing and before this Court shows Rainbow Hall is in fact used for commercial, not private functions. For example, the record shows that the property is rented for parties, weddings and bat mitzvahs. The property was also rented to host the Baltimore Symphony Decorator's Showcase. Finally, there is a photograph in evidence of a professional catering vehicle servicing the property. As such, the meals and events held at Rainbow Hall are not personal gatherings.

It is of no importance whether there is monetary consideration given to the hosting property for the event. The Board noted that the purpose of R.C.2 is for residential not commercial events, which by their nature attract a large number of persons that arrive at roughly the same time with typically escalated noise volumes. Therefore, the Board concluded that it is in the County's best interest to keep the area representative of the primarily residential zoning distinction. The events at Rainbow Hall meet the definition of a catering hall under the BCZR because they are scheduled in advance and provide food and beverage for the attendees. Accordingly, this Court finds that the Board was correct in deciding that catering events are not permitted to take place at Rainbow Hall because they violate R.C.2 zoning regulations.

CONCLUSION

If evidence exists in the record to support an agency's fact-finding, the reviewing court cannot substitute its assessment of credibility of the evidence for that of the agency, no matter how questionable or conflicting the source of evidence may be. *See supra, Commissioner, Baltimore City Police Dept. v. Cason*, 34 Md. App. 487, 368 A.2d 1067 (1977). This Court finds that the record reflects that all determinations made by the Board of Appeals are supported by the record. Further, an illegal use of the property must stop immediately. *Kowalski v. Lamar*, 25 Md. App. 493 (1975). Therefore, Petitioners' Appeal from the Board of Appeals is DENIED.

10/12/12
Date

Patrick Cavanaugh
Patrick Cavanaugh, Judge

Copies Sent To: Michael Wyatt, Esq.
404 Allegheny Avenue
Towson, Maryland 21204

Michael McCann, Esq.
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Carole, DeMilio, Esq.
105 W. Chesapeake Avenue, Room 4
Towson, Maryland 21204

5/4/12

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
RAINBOW HALL, LLC

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
NO. : 03-C-12-002379

IN THE MATTER OF:
RAINBOW HALL, LLC – LEGAL OWNER/
APPELLANT FOR SPECIAL HEARING
FOR PROPERTY LOCATED AT
E/S OF PARK HEIGHTS AVE, 170' S/OF
VELVET VALLEY WAY
(10729 PARK HEIGHTS AVENUE)

3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 10-280-SPH

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

**PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits, Approvals and Inspections and the Board of Appeals of Baltimore County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
OF BALTIMORE COUNTY**

No. 10-280-SPH

April 16, 2010

Petition for Special Hearing filed by Michael R. McCann, Esquire on behalf of Petitioners, Valleys Planning Council, Inc. to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals, and whether the property is and has been used in violation or non-compliance with the same; Petition for Special Hearing requesting the answers the following questions:

1. Are rental apartments a permitted use in the RC2 zone, BCZR § 1A01.1 et seq?
2. Is a multi-family dwelling a permitted use in RC2 zone, BCZR § 1A01.1 et seq?
3. Are rental apartments allowed at the subject property as a non-conforming use?
4. Is a multi-family dwelling allowed at the subject property as a non-conforming use?
5. Even if rental apartments or multi-family dwellings are allowed at the subject property as a non-conforming use, was that use changed, abandoned, discontinued, or otherwise terminated under BCZR § 104.1?
6. Are rental apartments allowed under the special exception previously granted for a convalescent home at the subject property?
7. Is a multi-family dwelling allowed under the special exception previously granted for a convalescent home at the subject property?
8. Is the special exception previously granted for a convalescent home null and void because the property has not been used for that purpose for many years?
9. Does the rental of one or more houses at the subject property violate the one dwelling per lot limitation in BCZR § 1A01.3.B4?
10. Is a rental house an accessory use or structure under the definition of those terms in BCZR § 101.1?
11. Pursuant to BCZR § 500.6, whether any violation or non-compliance with the BCZR or previous approvals is occurring or has occurred at the subject property, and to pass an order regarding any violation of non-compliance with the BCZR or previous approvals.
12. And any other questions or issues that may be presented at or by the evidence at the hearing.

April 27, 2010

Entry of Appearance filed by People's Counsel for Baltimore County.

September 30, 2010	Certificate of Publication in newspaper
September 26, 2010	Certificate of Sign Posting.
June 3, 2010	ZAC Comments.
October 12, 2010	Hearing held before the Zoning Commissioner
January 13, 2011	Findings of Fact and Conclusions of Law issued by the Zoning Commissioner. Petition for Special Hearing was granted and subject property may only be used in accordance with the terms set forth in the memorandum opinion.
February 7, 2011	Notice of Appeal filed by Michael T. Wyatt, Esquire on behalf of Rainbow Hall, LLC, Legal Owners of subject property.
February 11, 2011	Notice of Appeal filed by Michael R. McCann, Esquire on behalf of Petitioners, Valleys Planning Council, Inc., Mark Wilson and Harlan Zinn.
Various dates	Various Subpoenas for witnesses and documents.
October 14, 2011	Letter in lieu of attendance filed by People's Counsel for Baltimore County.
November 2, 2011	Board convened for hearing, Day 1.
November 3, 2011	Board convened for hearing, Day 2.
November 8, 2011	Board convened for hearing, Day 3. Matter concluded.

Exhibits submitted at hearings (3 days) before the Board of Appeals:

Petitioner's Exhibit No. (Valleys Planning Council, Inc, et al.)

- 1 – Articles of Organization for Rainbow Hall, LLC, dated March 13, 2002.
- 2 – Maryland Residential Contract of Sale for subject property
- 3 – Record Plat for the Baptist Home of MD/DE, Inc dated February 17, 1998
- 4 – Decorators Show house flyer from 2002
- 5 – 9th Annual Liza Byrd Gift Boutique flyer
- 6 – 11th Annual Liza Byrd Gift Boutique flyer
- 7 – Baltimore County Code Enforcement Violation regarding "For Rent" sign dated 3/17/09

- 8 – Baltimore County Code Enforcement Violation dated 3/5/09
for non permitted apartment use in RC2 zone.
- 9 – Summary of Events at Rainbow Hall
- 10 – Floor Plan of Rainbow Hall
- 11 – EXHIBIT REJECTED* – Leases and related documents
- 12 – EXHIBIT REJECTED* – Rainbow Hall payments 2009 –
2010
- 13 – EXHIBIT REJECTED* – Rainbow Hall Invoices and
Expenses 2009 – 2010
- 14 – EXHIBIT REJECTED* – Rainbow Hall Payments 1/2011 to
present
- 15a – Photograph of front of main house
- 15b – Photograph of rear next to wing
- 15c – Photograph of interior
- 15d – Photograph of interior
- 16 – Invitation response card for an event at Rainbow Hall
- 17 – Letter from Valleys Planning Council to Henry M. Wright, Jr.
owner of Rainbow Hall, LLC dated 12/20/02
- 18 – Letter from Henry Wright, Jr. of Rainbow Hall, LLC to
Valleys Planning Council dated February 21, 2003
- 19 – Letter from Henry Wright, Jr. of Rainbow Hall, LLC to
Valleys Planning Council dated 4/7/03
- 20 – Letter from Valleys Planning Council to Henry M. Wright, Jr.
owner of Rainbow Hall, LLC dated 4/25/03
- 21 – Memo dated June 6, 2003 from J. Dillon
- 22 – Letter from Henry Wright, Jr. of Rainbow Hall, LLC to
Valleys Planning Council dated 11/17/03
- 23 – Letter from Kathleen Pontone to Henry M. Wright, Jr. owner
of Rainbow Hall, LLC dated 5/19/06
- 24 – Letter from Henry Wright, Jr. of Rainbow Hall, LLC to
Valleys Planning Council dated 9/15/09
- 25 – Brochure for the Baptist Home of Maryland
- 26 – Brochure for the Baptist Home of Maryland
- 27 – Brochure for the Baptist Home of Maryland
- 28 – Affidavit and documents for Valleys Planning Council in
compliance with the Board of Appeals for Baltimore
County's Rules of Practice and Procedure Rule 8.
- 29 – Curriculum Vitae for James S. Patton
- 30 – Zoning Chronology for subject property
- 31 – Opinion and Order of Zoning Commissioner Petition for
Special Exception 63-152-X
- 32 – Excerpt of Baltimore County Zoning Regulations from 1963
- 33 – Opinion and Order of Zoning Commissioner Petition for
Special Hearing 76-089-SPH
- 34 – Plat of subject property from 1975

- 35 – Baltimore County Zoning Plans Advisory Committee dated 9/25/75
- 36 – Opinion and Order of Zoning Commissioner on Petition for Special Hearing and Special Exception in 91-166-SPHX
- 37 – 75th Anniversary Brochure for the Baptist Home of Maryland.
- 38 – Opinion and Order of Hearing Officer in Development Plan and Petition for Special Hearing in 97-230-SPH.
- 39 – Concept Plan Plat for Baptist Home of Maryland filed in 1997
- 40 – Community Input Meeting Minutes dated 8/11/94 for Baptist Home Development
- 41 – Inter-office Correspondence from Arnold Keller, III, Director of Office of Planning to Arnold Jablon, Director of Permits and Development Management dated 11/13/96
- 42 – Plan to Accompany Petition for Special Hearing filed 4/2/10 and revised 10/28/10
- 43 – Baltimore County Zoning Regulations §101.1 Definition of Multifamily Building
- 44 – Baltimore County Zoning Regulations §101.1 Definition of Boarding or Rooming House
- 45 – Baltimore County Zoning Regulations §104 Nonconforming Uses
- 46 – Photograph of Rainbow Hall, McCormick Wing
- 47 – EXHIBIT REJECTED – Rainbow Hall Receipts Summary
- 48 – Rainbow Hall – Rental Income from leases
- 49 – Excerpt of Testimony of Theodore Houk, M.D. from Baltimore County Zoning Hearing Undated
- 50 – Inter-Office Correspondence from Arnold Keller, III, Director Office of Planning to Timothy Kotroco, Director of Permits and Development Management dated 5/5/10
- 51 – Rainbow Hall Expenses and Invoices ranging in date from 3/27/09 through 7/31/11
- 52 – Photographs of Rainbow Hall
- 53 – Lease between Rainbow Hall and Aaron and Esther Tendler for Apartment 2D dated 5/15/08
- 54 – Lease between Rainbow hall and Richard Roberts, Jr. for Apartment 1D dated 5/1/10
- 55 – Baptist Home Request Form dated 9/1/00

Respondents' Exhibit No. (Rainbow Hall, LLC and Henry Wright, Jr.)

- 1 – Restrictive Covenant Agreement between The Baptist Home of Maryland and the Valleys Planning Council, Inc. dated 10/11/88

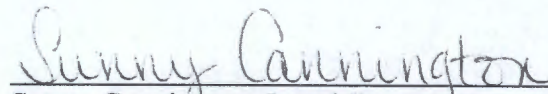
- 2 – Letter from Michael T. Wyatt, Esquire to Valleys Planning Council dated 8/3/09
- 3 – HUD-1 Settlement Statement dated 4/10/02
- 4a – Rental Housing License for 10731 Park Heights Avenue issued 7/27/09 issued for Rainbow Hall, LLC by Baltimore County Department of Permits and Development Management
- 4b – Rental Housing License for 10709 Park Heights Avenue issued 7/27/09 issued for Rainbow Hall, LLC by Baltimore County Department of Permits and Development Management
- 4c – Rental Housing License for 10733 Park Heights Avenue issued 7/27/09 issued for Rainbow Hall, LLC by Baltimore County Department of Permits and Development Management
- 5 – Baltimore County Rental Housing License Program Enforcement Citation for Violations at 10729 Park Heights Avenue dated 5/29/09
- 6 – Floor Plan for Rainbow Hall, Second Floor only
- 7 – Summary of Tenant History for Rainbow Hall
- 8a-x – Photographs of Rainbow Hall Property (24)
- 9 – Letter to Don Rascoe from Jim Thompson enclosing Zoning, Enforcement and Development documents through 2008
- 10 – Petition for Special Hearing filed 4/16/10
- 11 – Zoning Checklist
- 12 – Plan to Accompany Petition for Special Hearing dated 4/2/10 and revised 10/28/10 with marks and changes by D.S. Thaler and Associates.
- 13 – Plat Accompanying the 1975 Petition for Special Hearing.
- 14 – Plat for Baptist Home of Maryland approved in 1998
- 15 – Baltimore County Code §32-4-264 regarding Vesting of Development Plans.

December 8, 2011	Brief of Respondent Rainbow Hall, LLC, filed by Michael T. Wyatt, Esquire on behalf of Rainbow Hall, LLC.
December 8, 2011	Petitioner's Post-Hearing Memorandum filed by Michael R. McCann, Esquire on behalf of Valleys Planning Council, Inc, Mark Wilson and Harlan Zinn.
January 19, 2012	Board convened for Public deliberation.
February 24, 2012	Final Opinion and Order issued by the Board in which the Petition for Special Hearing seeking relief pursuant to §500.7 of the Baltimore County

Zoning Regulations to determine the uses of the subject property is granted; Ordered that the main house located at the property having the address of 10709 Park Heights Avenue, Baltimore, MD 21117 shall not be used as a boarding house, apartment or multi-residential use; Ordered that there is no special exception that exists for a "boarding house" for the property; Ordered that the current use by Rainbow Hall, LLC of the main house as a boarding house, apartment or multi-residential use is a zoning violation in the RC2 zone; Ordered that the current use by Rainbow Hall, LLC of the main house as a boarding house, apartment or multi-residential use is not a nonconforming use; Ordered that granting the Valleys Planning Council's relief and determining the uses permitted in RC2 does not unreasonably deprive Rainbow Hall, LLC of all use of the property; Ordered that the hosting of events by Rainbow Hall, LLC at the main house on the property is a zoning violation in the RC2 zone; and it is ordered that the 3 single family homes located on the property are nonconforming uses and may continue to be used as single family residences.

March 2, 2012	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael T. Wyatt, Esquire, on behalf of Rainbow Hall, LLC, Legal Owners/Petitioners
March 7, 2012	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
March 8, 2012	Certificate of Compliance sent to all parties and interested persons.
March 15, 2012	Response to Petition for Judicial Review filed by Office of People's Counsel for Baltimore County.
March 26, 2012	Response to Petition for Judicial Review filed by Michael R. McCann, Esquire on behalf of Valleys Planning Council, Inc., Mark Wilson and Harlan Zinn.
March 29, 2012	Amended Certificate of Service filed by Michael R. McCann, Esquire on behalf of Valleys Planning Council, Inc., Mark Wilson and Harlan Zinn.
May 4, 2012	Transcript of testimony filed.
May 4, 2012	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204
410-887-3180

c: Michael T. Wyatt, Esquire
Rainbow Hall, LLC/c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc.
Harlan Zinn
Kathleen Pontone
Emanuel Bronstein
Mark and Sue Levi
Noel Levy
Elizabeth Wilmerding
Cleon Shutt
Linda Corbin
Theodore Houk
Jean Lubke
Steven Gantermiller
David Thaler/D.S. Thaler & Associates, Inc.
Michael L. Snyder, Esquire
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Lionel VanDommelen, Chief of Code Enforcement/PAI
Vincent J. Gardina, Director /EPS
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

Michael R. McCann, Esquire
Mark Wilson
James S. Patton
Jayne Gerson
Louis Rosenthal
Cheryl Aaron
Sutbertus VanDerMeer
Paul Brickman
Ruth Goldstein
Aurelia Bolton
Beverly Pearce
Teresa Moore
Sheldon Lewis
Henry M. Wright

4/19/12

PETITION OF RAINBOW HALL, LLC FOR
JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
2nd Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

IN THE MATTER OF
RAINBOW HALL, LLC – Legal Owner / Appellant
10729 Park Heights Avenue
Owings Mills, Maryland 21117

Baltimore Co. Board of Appeals Case No: 10-280-SPH

PH2

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

* Case No: 03-C-12-002379

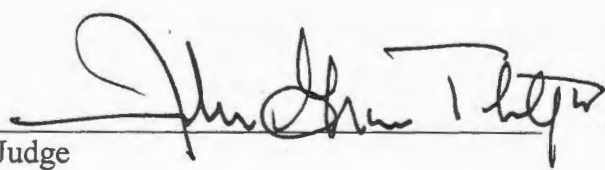
* * * * *

ORDER

Upon consideration of Appellant's Motion to Stay Action of Administrative Agency
Pending Appeal and the response(s) thereto, if any, it is this 19th day of
April, 2012 by the Circuit Court for Baltimore County

ORDERED that Appellant's Motion be, and the same hereby is, GRANTED; and it is
further

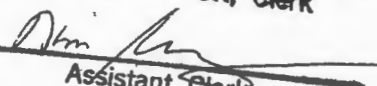
ORDERED that Baltimore County be, and the same hereby is, precluded and/or enjoined
from instituting or continuing any zoning or code enforcement proceedings against Appellant or
the property known and designated as 10729 Park Heights Avenue, Owings Mills, Maryland
21117 with respect to or arising out of the above-referenced appealed-from decision of the
County Board of Appeals of Baltimore County, pending further order of this Court.


Judge



True Copy Test

JULIE L. ENSOR, Clerk

Per 
Assistant Clerk

FILED APR 23 2012

3/29/12

PETITION OF **RAINBOW HALL, LLC** FOR
JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
2nd Floor, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204

IN THE MATTER OF
RAINBOW HALL, LLC - Legal Owner/Appellant
Case No. 10-280-SPH

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* Case No. 03-C-12-002379
*

* * * * *

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March 2012 a copy of the Response to
Petition for Judicial Review was sent via U. S. Mail, postage prepaid to:

Michael Wyatt, Esquire
Marlow and Wyatt
404 Allegheny Avenue
Towson, Maryland 21204



Michael R. McCann

RECEIVED
MAR 29 2012

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March 2012 a copy of the foregoing
Amended Certificate of Service was sent via U. S. Mail, postage prepaid to:

Peter Max Zimmerman
Carole S. Demilio
The Jefferson Building
105 W. Chesapeake Ave., Ste. 204
Towson, MD 21204

People's Counsel for Baltimore County

Michael Wyatt, Esquire
Marlow and Wyatt
404 Allegheny Avenue
Towson, Maryland 21204

County of Board of Appeals
105 W. Chesapeake Ave., Ste. 203
Towson, MD 21204



Michael R. McCann

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

March 28, 2012

Clerk, Circuit Court for Baltimore County
Civil Division
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204-0754

Re: *In the Matter of Rainbow Hall, LLC*
Case No. 03-C-12-002379

Dear Clerk:

Enclosed for filing please find an Amended Certificate of Service.

Please contact me if you have any questions. Thank you for your assistance.

Very truly yours,



Michael R. McCann



3/23/12

PETITION OF **RAINBOW HALL, LLC** FOR
JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
2nd Floor, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204

IN THE MATTER OF
RAINBOW HALL, LLC - Legal Owner/Appellant
Case No. 10-280-SPH

* IN THE
*
* CIRCUIT COURT

* FOR

* BALTIMORE COUNTY

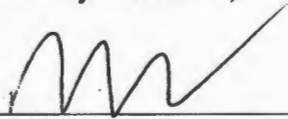
*
* Case No. 03-C-12-002379
*

* * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

The Valleys Planning Council, Inc., Mark Wilson, and Harlan Zinn, pursuant to Maryland Rule 7-204, hereby respond to the petition for judicial review filed by Rainbow Hall, LLC and state their intention to participate in this action for judicial review. The undersigned participated in the proceeding before the County Board of Appeals.

Respectfully submitted,



Michael R. McCann

Dated: March 23, 2012

RECEIVED
MAR 26 2012
BALTIMORE COUNTY
BOARD OF APPEALS

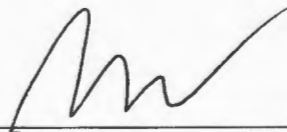
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 23rd day of March, 2012, a copy of the foregoing
Response to Petition for Judicial Review was mailed first class, postage prepaid, to:

Peter Max Zimmerman
Carole S. Demilio
The Jefferson Building
105 W. Chesapeake Ave., Ste. 204
Towson, MD 21204

People's Counsel for Baltimore County

County of Board of Appeals
105 W. Chesapeake Ave., Ste. 203
Towson, MD 21204



Michael R. McCann

3/15/12

IN THE PETITION OF RAINBOW HALL, LLC
FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE CASE OF RAINBOW HALL, LLC
LEGAL OWNERS/PETITIONERS FOR SPECIAL
HEARING ON PROPERTY LOCATED
E/S Park Heights Avenue, 170' S Velvet Valley Way
(10729 Park Heights Avenue)

12th Election District, 3rd Councilmanic District

Case No. 2010-280-SPH
Before the County Board of Appeals

* * * * *

* IN THE
*
* CIRCUIT COURT
*
* FOR
*
* BALTIMORE COUNTY
* Case No.: 03-C-12-002379

RESPONSE TO PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Petition for Judicial Review filed by RAINBOW HALL, LLC and states that they intend to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.

Pete Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
The Jefferson Building
105 W. Chesapeake Avenue, Room 204
Towson, MD 21204
(410) 887-2188

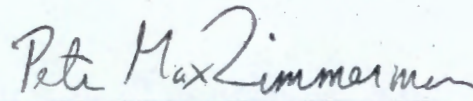
RECEIVED

MAR 15 2012

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 2012, a copy of the foregoing Response to Petition for Judicial Review was mailed to County Board of Appeals, 105 West Chesapeake Avenue, Suite 203, Towson, Maryland 21204 and Michael Wyatt, Esquire, Marlow and Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204 and Michael McCann, Esquire, 118 West Pennsylvania Avenue, Towson, Maryland 21204.

A handwritten signature in cursive script that reads "Pete Max Zimmerman". The signature is written in dark ink and is positioned above a horizontal line.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

3/8/12

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
RAINBOW HALL, LLC

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
NO. : 03-C-12-002379

IN THE MATTER OF:
RAINBOW HALL, LLC – LEGAL OWNER/
APPELLANT FOR SPECIAL HEARING
FOR PROPERTY LOCATED AT
E/S OF PARK HEIGHTS AVE, 170' S/OF
VELVET VALLEY WAY
(10729 PARK HEIGHTS AVENUE)

3RD ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 10-280-SPH

* * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Rainbow Hall, LLC
c/o Henry M. Wright, Jr., Resident Agent
4804 Benson Avenue
Baltimore, MD 21227

RECEIVED AND FILED
2012 MAR -8 PM 1:35

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Valleys Planning Council, Inc.
c/o Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Mark Wilson
10705 Park Heights Avenue
Owings Mills, MD 21117

Harlan Zinn
10628 Park Heights Avenue
Owings Mills, MD 21117

James S. Patton
7800 Elkridge Landing
Linthicum, MD 21090

Kathleen Pontone
2522 Caves Road
Owings Mills, MD 21117

Jayne Gerson
2307 Velvet Ridge Drive
Owings Mills, MD 21117

Emanuel Bronstein
5 Susan Court
Owings Mills, MD 21117

Al and Florence Shapiro
1 Susan Court
Owings Mills, MD 21117

Louis Rosenthal
4 Susan Court
Owings Mills, MD 21117

Mark and Sue Levi
15 Bucksway Road
Owings Mills, MD 21117

Cheryl Aaron
121 St. Thomas Lane
Owings Mills, MD 21117

Noel Levy
11 Windsong Court
Pikesville, MD 21208

Suitbertus VanDerMeer
3130 Golf Course Road W
Owings Mills, MD 21117

Elizabeth Wilmerding
2518 Caves Road
Owings Mills, MD 21117

Paul Brickman
2300 Velvet Valley Way
Owings Mills, MD 21117

Cleon Shutt
511 Garrison Forest Road
Owings Mills, MD 21117

Ruth Goldstein
3226 Midfield Road
Pikesville, MD 21208

Linda Corbin
6 Chittenden Lane
Owings Mills, MD 21117

Aurelia Bolton
8301 Greenspring Avenue
Brooklandville, MD 21022

Theodore Houk
1712 Kurtz Avenue
Lutherville, MD 21093

Beverly Pearce
8322 Ridgely Oak Road
Baltimore, MD 21234

Jean Lubke
10733 Park Heights Avenue
Owings Mills, MD 21117

Steven Ganzermiller
3500 Kentucky Avenue
Baltimore, MD 21213

Sheldon Lewis
7503 Brushfield Court, Apt F
Baltimore, MD 21237

Teresa Moore
Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Ste 204
105 W. Chesapeake Avenue
Towson, MD 21204

Lawrence M. Stahl, Managing
Administrative Law Judge
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold Jablon, Director
Permits, Approvals and Inspections
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

Andrea Van Aresdale, Director
Department of Planning
The Jefferson Building, Ste 100
105 W. Chesapeake Avenue
Towson, MD 21204

David Thaler
D.S. Thaler & Associates, Inc.
P.O. Box 47428
Baltimore, MD 21244

Henry M. Wright
8717 Marburg Manor Drive
Lutherville, MD 21093

Michael L. Snyder, Esquire
400 Allegheny Avenue
Towson, MD 21204

Lionel VanDommelen, Chief
Code Enforcement
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Vincent Gardina, Director
Department of Environmental Protection and
Sustainability
The Jefferson Building, Ste 400
105 W. Chesapeake Avenue
Towson, MD 21204

Nancy C. West, Assistant County Attorney
Office of Law
Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Michael Field, County Attorney
Office of Law
Historic Courthouse
400 Washington Avenue
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 8th day of March, 2012 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Sunny Cannington

Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 8, 2012

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-12-002379
In the Matter of: Rainbow Hall, LLC
Board of Appeals Case No.: 10-280-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on March 2, 2012 by Michael T. Wyatt, Esquire, on behalf of Rainbow Hall, LLC, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review filed by Michael T. Wyatt, Esquire, on behalf of Rainbow Hall, LLC within 60 days. This letter reflects that all transcripts of the record before the Board have been previously provided.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,

Sunny Cannington

Sunny Cannington
Legal Secretary

Enclosure
Duplicate Original Letter

RECEIVED

MAR 13 2012

**BALTIMORE COUNTY
BOARD OF APPEALS**

cc: Rainbow Hall, LLC/c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc.
Mark Wilson
Harlan Zinn
James S. Patton
Kathleen Pontone
Jayne Gerson
Emanuel Bronstein
Al and Florence Shapiro
Louis Rosenthal
Mark and Sue Levi
Cheryl Aaron
Noel Levy
Suitbertus VanDerMeer
Elizabeth Wilmerding
Paul Brickman
Cleon Shutt
Ruth Goldstein
Linda Corbin
Aurelia Bolton
Theodore Houk
Beverly Pearce
Jean Lubke
Teresa Moore
Steven Ganzermiller
Sheldon Lewis
David Thaler/D.S. Thaler & Associates, Inc.
Henry M. Wright
Michael L. Snyder, Esquire
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Lionel VanDommelen, Chief of Code Enforcement/PAI
Vincent J. Gardina, Director /EPS
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

3/2/12

CIRCUIT COURT FOR BALTIMORE COUNTY
Julie L. Ensor
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-12-002379

TO: BOARD OF APPEALS
Jefferson Bldg, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED

MAR 7 2012

BALTIMORE COUNTY
BOARD OF APPEALS

10729 Park Heights Avenue
Owings Mills, MD 21117

* IN THE
*
* CIRCUIT COURT
*
* FOR
*
* BALTIMORE COUNTY
*
*
*
* Case No: C-12-2379

PETITION FOR JUDICIAL REVIEW

RAINBOW HALL, LLC, Petitioner/Appellant, by its attorney, Michael T. Wyatt, pursuant to Maryland Rule 7-201, *et seq.*, hereby files this Petition for Judicial Review and seeks review of the February 24, 2012 Opinion and Order issued by the Board of Appeals of Baltimore County. Petitioner was a party to the Board of Appeals of Baltimore County proceeding from which this Petition is filed.

Respectfully submitted,

Michael T. Wyatt /
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013
Attorney for Petitioner

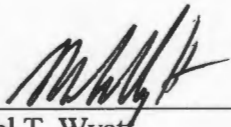
RECEIVED AND FILED
2012 MAR -2 PM 2:09
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

RECEIVED
MAR 7 2012
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of March, 2012, a copy of the foregoing was mailed first class, postage prepaid to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC., et al.



Michael T. Wyatt

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

March 2, 2012

VIA HAND DELIVERY

Clerk – Administrative Appeals
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RECEIVED
MAR 5 2012

**BALTIMORE COUNTY
BOARD OF APPEALS**

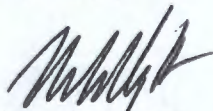
Re: In the Matter of Rainbow Hall, LLC – Legal Owner/Appellant
Case No: 10-280-SPH

Dear Clerk:

This firm represents Rainbow Hall, LLC in connection with the above-referenced matter. I am enclosing a Petition for Judicial Review for filing in the Circuit Court for Baltimore County, plus, pursuant to Maryland Rule 7-202, an extra copy of the petition for the agency. Please note this is an appeal by Rainbow Hall, LLC from the February 24, 2012 Opinion and Order of the Board of Appeals of Baltimore County. I am also enclosing this firm's check in the amount of \$145.00 to cover the filing fee associated with this appeal.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Michael R. McCann, Esquire
Theresa R. Shelton, Administrator, Board of Appeals for Baltimore County
David S. Thaler, P.E.
Mr. Henry M. Wright, Jr.
Michael L. Snyder, Esquire

3/2/12
PETITION OF RAINBOW HALL, LLC FOR
JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY
2nd Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

IN THE MATTER OF
RAINBOW HALL, LLC – Legal Owner / Appellant
Case No: 10-280-SPH

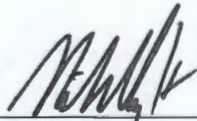
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* Case No:

* * * * *

PETITION FOR JUDICIAL REVIEW

RAINBOW HALL, LLC, Petitioner/Appellant, by its attorney, Michael T. Wyatt, pursuant to Maryland Rule 7-201, *et seq.*, hereby files this Petition for Judicial Review and seeks review of the February 24, 2012 Opinion and Order issued by the Board of Appeals of Baltimore County. Petitioner was a party to the Board of Appeals of Baltimore County proceeding from which this Petition is filed.

Respectfully submitted,



Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013
Attorney for Petitioner

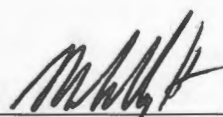
RECEIVED
MAR 5 2012

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of March, 2012, a copy of the foregoing was mailed first class, postage prepaid to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC., et al.



Michael T. Wyatt

2/24/12

IN THE MATTER OF
RAINBOW HALL, LLC – Legal Owner/Respondent
10729 Park Heights Avenue
Baltimore, MD 21117

RE: Petition for Special Hearing to Determine the
Uses of the Property pursuant to BCZR 500.7

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 10-280-SPH

* * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Zoning Commissioner of Baltimore County in which the Zoning Commissioner granted the Petitioner, Valleys Planning Council, Inc.'s, request for Special Hearing pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") §500.7, and found that the Rainbow Hall main house could not be used as a "multi-family building" or "boarding house" under B.C.Z.R., but that the two (2) ranchers and the older cottage were non-conforming uses and may be used as single family homes.

Dissatisfied with that decision, both Parties noted appeals to this Board. A public hearing was held on multiple days: November 2, 3, and 4, 2011. The Petitioner, Valleys Planning Council ("VPC"), was represented by Michael McCann, Esquire. The Respondent, Rainbow Hall, L.L.C. ("Rainbow Hall, L.L.C.") was represented by Michael T. Wyatt, Esquire and Michael L. Snyder, Esquire. A public deliberation was held on January 19, 2012.

Facts and Evidence

The subject property is a 19 acre parcel located at 10709 Park Heights Avenue in the Stevenson/Greenspring Valley area of Baltimore County (the "Property"). The zoning for the Property is RC2. The main house on the Property was built in approximately 1917 and was occupied by General Douglas MacArthur and his family during the 1920s. It was named "Rainbow Hill Estate" in honor of General MacArthur's Rainbow Division of World War I. A historical feature on the Property is a Ming tree given to General MacArthur by Japanese Emperor Hirohito in 1926. (Pet. Ex. 4).

Also located on the Property are a small cottage built in 1898 located at 10709 Park Heights Avenue (the "cottage") as well as two (2) single family homes built in the 1970s (10731 and 10733 Park Heights Avenue) (the "ranchers").

In the 1940s, the Property was sold to Henry and Ruth Rosenberg who occupied the Property as their home until 1963, when they sold it to the Baptist Home of Maryland (the "Baptist Home"). (Pet. Ex. 25). The Property was renamed "Rainbow Hall." It was purchased to "give improved facilities to a greater number of aged persons." *Id.* The Baptist Home operated the Property until 2001 when it discontinued its operation.

The Property has a long zoning history which was reflected within the Opinion of the Zoning Commissioner at p.3 entitled "Zoning Chronology." The Zoning Chronology was admitted into evidence as Petitioner's Ex. 30. That exhibits shows that beginning on November 26, 1963, the Baptist Home received a special exception for a "boarding house for the aged (40 units/persons)." The zoning in 1963 was R-40. The Order, signed by Zoning Commissioner John G. Rose, granted the special exception as follows:

...that a special exception for a boarding house for the Aged, should be and the same is hereby granted, from and after the date of this Order, subject, however, to compliance with the following restrictions:

1. That the use of the property described in the petition shall be limited to a religious, non-profit home for the aged of the Baptist denomination.
2. That the property described in the petition shall not be operated either as a nursing home or as a home for the chronically ill or as a hospital, provided, however, that a portion of the main building presently located on the property described in the petition may be used as an infirmary for the temporary treatment of aged guests.

(Pet. Ex. 31).

The 1963 BCZR defined a "Boarding House" as:

A building other than a hotel in which meals or rooms and meals are provided for compensation for four or more persons, including a "care home,"

(Pet. Ex. 32). Conversely, an apartment house was defined in 1963 as a separate use:

A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service or utilities in common.

Id. Separate from those uses, a "Convalescent Home" was defined as including:

"...rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.....

Id.

In 1969, the Baptist Home obtained an approval to build an addition to accommodate 24 additional persons/units. The addition was known as the "McCormick Wing." That year, the zoning was still R-40.

In 1975, the Baptist Home sought to obtain approval to build an infirmary wing to accommodate 25 people. (Pet. Ex. 33). Filed with that Petition was a Plat which lists the use of the main building as "a Boarding House For The Aged (64 beds)." (Pet Ex. 34). That plat also verifies that the 2 single family ranchers and the cottage existed as of 1975. In reviewing the 1975 Petition, the Zoning Plans Advisory Committee described the Property as:

The property is currently improved with a large masonry administration and boarding house for the aged, containing 64 beds, five dwellings, housing the administrators and employees of the home, and maintenance building in the rear, with the remainder of the property wooded unimproved land.

(Pet. Ex. 35). As of 1975, the zoning had changed to from R-40 to RDP. The request to build the infirmary wing was granted with restrictions. (Pet. Ex. 33).

In 1976, the zoning for the property was reclassified from RDP to RC2 and RC5 during the Comprehensive Zoning Map Process ("CZMP"). Between 1988 and 1990, the zoning for the Property was reclassified again during an Out-of Cycle Rezoning or Map Correction such that a portion of the Property zoned RC2, was changed to RC3. (See Plat attached to Pet. Ex. 36 for boundaries of RC2 and RC3 zones). RC3 zoning permitted convalescent homes by special exception.

In 1988, the Baptist Home entered into a Restrictive Covenant Agreement with VPC (the "Restrictive Covenant"). The testimony before this Board was that the VPC agreed to support the zoning change from RC2 to RC3 in exchange for the Baptist Home agreeing to limit the use of the Property to a convalescent home as contained in the Restrictive Covenant Agreement. (Resp. Ex. 1).

In 1991, the Baptist Home filed a Petition for Special Exception for an addition to the convalescent home as a use permitted by special exception in an RC3 zone and to construct two (2) additions to the existing facility. On October 16, 1991, this Board granted the Petition for Special Hearing to approve an amendment to the special exception and site plan previously granted in *Case No.: 63-152-X* (i.e. the "1963 Boarding House for the Aged Special Exception"), to construct two additions to the existing facility. (Pet. Ex. 36). Ultimately, these additions were never constructed.

This Board, in its 1991 decision noted that the use formerly identified as a "convalescent home" had been deleted from the BCZR and replaced with a "nursing home" definition. This Board found that the Baptist Home operation was indeed a "nursing home."

The Plat which accompanied the 1991 Petition shows the two (2) ranchers and cottage. It indicates that one (1) of the ranchers was occupied by "Resident Directors" and that the other rancher was "vacant." The cottage was occupied by "staff." The use of the main building was described on the plat as :

Convalescent Home
55 Living Units
12 Bed Infirmary

Kitchen & Dining
Administrative Office

In 1997, Zoning Commissioner Lawrence E. Schmidt granted a request by the Baptist Home for a five (5) lot development plan approval for three additional single family dwellings. Commissioner Schmidt noted in his opinion that Rainbow Hall had been granted the special exception for a 40-unit boarding home for the aged in 1963 and that the "elderly home" had existed on the property since that approval. (Pet. Ex. 38). At the time of that hearing, an administrator for the Baptist Home testified that Rainbow Hall was licensed to provide care for up to "64 elderly residents" although the actual population at the time was 49. The testimony was that the "average age of the residents was 89 years." *Id.*

Commissioner Schmidt found that, while the building was downzoned from R.C.3 to R.C. 2 in 1976, and RC2 prohibited an "elderly boarding house" either by right or by special exception, the use continued as a non-conforming use under BCZR, §104. *Id.* Thus, he concluded that the "elderly boarding house" became non-conforming in 1976. *Id.*

Commissioner Schmidt also found that when the zoning changed again in 1988 and the portion of the property containing the main house was contained within the RC3 zone, the operation of the elderly home was "legitimized" because RC3 zones permit convalescent homes by special exception. *Id.*

Due to financial difficulties, the Baptist Home ceased operations in February of 2001. The testimony before this Board by Sheldon Scott Lewis, former director of

environmental services for the Baptist Home, was that, by the end of February of 2001, all the residents had been moved out of the Property. From March of 2001 through April of 2002, Mr. Lewis was paid to serve as the caretaker of the main house where he resided on the first floor. He testified that he did not pay rent to live at the Property. He testified that he was the only person living in the main house during that period. He also clarified that the cottage and 1 of the ranchers were being rented to people not associated with the Baptist Home.

On December 24, 2001, Henry Wright, Jr. entered into a Contract of Sale to purchase Rainbow Hall for the purchase price of \$1,500,000.00. (Pet. Ex. 2). On March 13, 2002, Mr. Wright formed Rainbow Hall, L.L.C. as the entity which would own the Property. (Pet Ex. 1). In March of 2002, the Property was listed on the County's Final Landmarks List of Historic Places. (Pet. Ex. 4). The closing occurred on April 10, 2002, and Rainbow Hall, L.L.C. became the owner.

In 2002, the main house was renovated by decorators involved with Decorators Showhouse. An event for this organization was held between August 25 through September 21, 2002. (Pet. Ex. 4). During the renovation, the units previously occupied by the elderly were dismantled, including the removal of walls, bathrooms, handrails, and converted into individual apartments. Items used in the hospital infirmary such as IV poles, wheelchairs, hospital beds, crutches and chair lifts were removed from the Property.

Other events held at Rainbow Hall after April 2002 and through October of 2010 were on behalf of the Maryland Historical Society benefit; Baltimore Symphony Bazaar;

Baltimore Opera Company; Liza Byrd Gift Boutique (Pet. Ex. 5, 6). The Jemicy School; Ladew Gardens; a garden club; weddings; church services; a Bar Mitzvah (Pet. Ex. 15A, 15B and 15C and 16); as an overflow parking lot for events at other locations; and for an event to support University of Maryland Shock Trauma. (Pet. Ex. 9).

Beginning in 2002, VPC began corresponding with Mr. Wright in regard to the uses that were legally permitted at the Property. Copies of the Restrictive Covenant and BCZR were provided to him. VPC and surrounding community associations voiced their opposition to the uses at the Property which they deemed to be "commercial" and inconsistent with uses permitted in the RC2 zone. (Pet. Ex. 20, 22, 23, 24).

In 2004, Rainbow Hall, L.L.C. petitioned the County Council to rezone the Property in order that the commercial uses would be legal. However, during the CZMP that year, the portion of the Property containing the main house and 3 single family homes was downzoned again from RC3 to RC2 by the County Council.

Notwithstanding the downzoning, it was in 2004 that Mr. Wright began renting 3 of the apartments he had created in the main house. By 2005, he had rented 6 of the apartments. By 2006, he had all 7 apartments rented along with the rental of the "hall" inside the main house by the Church of the Resurrection for Church Services. He received monthly income for the rentals as set forth in Petitioner's Ex. 48. In addition to renting the main house, Mr. Wright rented the 2 ranchers and cottage.

On March 4, 2009, Rainbow Hall, L.L.C. was issued a Correction Notice from Baltimore County Code Inspections and Enforcement which informed Mr. Wright that he needed to obtain a permit to have a "For Rent" sign, or, remove the sign. (Pet. Ex. 7). The

following day, a second citation was issued for "Illegal conversion of dwelling" and "non-permitted apartment use in RC2 zone". (Pet. Ex. 8). The citation required Rainbow Hall, L.L.C. to cease and desist the apartment use, to seek a special exception hearing for a non-conforming use as apartment, if applicable, and to obtain proper permits, if applicable.

Prior to the Zoning Commissioner's hearing in October of 2010, the Office of Planning provided it's analysis regarding VPC's request for special hearing. The Office of Planning noted that the original special exception in 1963 provided for a non-profit, Baptist affiliated, age restricted, boarding house limited to 40 residents. The use became non-conforming after the 1976 CZMP when the Property was rezoned to RC2. In 1988, when the Property was rezoned during the CZMP to RC3, a convalescent home was a permitted use by special exception. (Pet. Ex. 50).

The Office of Planning concluded that rental apartments and multi-family dwellings are not listed in BCZR, §1A01.2 as permitted uses by right or by special exception in the RC2 zone. Further, the Office of Planning advised that neither the rental of apartments nor multi-family dwellings are non-conforming uses on the Property. Further, the prior hearings did not grant the right to use the Property for either apartment rentals or for a multi-family dwelling. Moreover, the special exception for the convalescent home was abandoned and discontinued when the Baptist Home sold the property in April of 2002. In summary, the use of the main building for apartments is a zoning violation. (Pet. Ex. 50).

Mr. Wright, Mr. Scott Lewis, and Beverly Pearce, the Property manager for Mr. Wright's rental properties testified as adverse witnesses on behalf of VPC. Other witnesses called by the VPC were Harlan Zinn, 10628 Park Heights Ave., Owings Mills, MD 21117; Mark Wilson, 10705 Park Heights Ave., Owings Mills, MD 21117; Kathleen Pontone, Esquire, Vice President of VPC, 2522 Caves Road, Owings Mills, MD 21117; Theresa Moore, Executive Director of VPC; James Patton, PE, Patton Consulting; and Theodore Hauck, MD, the former Medical Director of the Baptist Home.

Testifying for Rainbow Hall, L.L.C. were Henry Wright; Jean Lubke, Operations Manager for Mr. Wright's rental properties and tenant of the cottage; John Nearhood, the tenant of Apt. C1 in the main house; and David Thaler, PE, DS Thaler & Associates.

The Law

BCZR §500.7 provides that a special hearing will be held for any interested person to petition the Zoning Commissioner to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property:

Section 500.7 - Petitions for public hearing; notice.

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of

such person in any property in Baltimore County insofar as they are affected by these regulations.

BCZR, §101.1 defines a “nonconforming use” as:

Nonconforming Use

A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

BCZR, §104.1 provides how a nonconforming use can expire:

Continuation of nonconformance; exceptions.

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.

A “boarding house” is separately defined in BCZR, §101.1 as:

BOARDING- OR ROOMING HOUSE

[Bill Nos. 44-1982; 124-1993; 86-2001; 102-2001; 137-2004; 17-2009]

A. A building:

1. Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner; or
2. Which is not the owner's domicile and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.

A nursing home (formerly called a "convalescent home") is separately defined in BCZR, §101.1 as:

NURSING HOME (formerly "convalescent home")

A facility which provides board, shelter and nursing care to chronic or convalescent patients. This term also includes facilities which provide domiciliary care within a nursing home.
[Bill No. 37-1988]

The reasons for the creation of the RC2 zone are found in BCZR §1A01.1:

Section 1A01.1.

General provisions.

A. Legislative statement of findings.

1. Declaration of findings. It is found:

a. That Baltimore County is fortunate in that it is endowed with a variety of very productive agricultural soil types which should not be lost unnecessarily to urbanized development;

b. That the agricultural industry is an integral part of the Baltimore economy and that a continued conversion of agricultural land will continue to undermine this basic industry;

c. That scattered development is occurring in a sporadic fashion in areas of Baltimore County containing productive agricultural land;

d. That continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding area;

e. That heretofore Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas of Baltimore County;

f. That Baltimore County has certain wetlands along Chesapeake Bay and its tributaries which

serve as breeding grounds and nursery areas for the bay's biotic life; and

g. That Baltimore County possesses numerous areas which are highly suitable for urban development, including residential subdivisions which are not located in areas of productive agricultural land.

The uses permitted as of right in RC2 zone are found in BCZR, §1A01.2B.¹ The uses permitted by special exception in an RC2 zone are contained within BCZR, §1A01.2.C.²

¹ BCZR, §1A01.2B lists the uses permitted as of right in the RC2 zone.

1. Dwellings, one-family detached.
2. Farms and limited acreage wholesale flower farms
3. Open space, common.
4. Public schools.
5. Streets and ways.
6. Telephone, telegraph, electrical-power or other lines or cables, provided that any such line or cable is underground; underground gas, water or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines.
7. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of Subsection B, C, E or F of Section 415.1 and Section 415.2.A.1 or 415.3.C.1, as applicable.
8. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency.
9. Accessory uses or structures, including, but not limited to, the following:
 - a. Excavations, uncontrolled.
 - b. Farmer's roadside stand and produce stand, subject to the provisions of Section 404.4.
 - c. Home occupations (see Section 101).
 - d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident employee.
 - e. Parking space, including residential-garage space and space for recreational vehicle (Section 415A).
 - f. Piers, wharves, docks and bulkheads, subject to the provisions of Section 417.
 - g. Radio operator antennas, subject to Section 426A.
 - h. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400).
 - i. Tenant houses, including trailers used as tenant houses.
 - j. Rubble landfills, provided that the actual fill area does not exceed 3% of the total contiguous acreage of the property in the same ownership and subject to the provisions of Section 412.7 only.
 - k. Signs, subject to Section 450.
10. Commercial film production, subject to Section 435.
11. Transit facilities.
12. Equestrian centers, provided that any such equestrian center has access to two roads, one of which is a road having, within two miles from the equestrian center, an interchange with an interstate expressway; contains no permanent grandstand; and contains no lights other than those consistent with farm use. Temporary structures, such as removable tents, viewing stands and seating, are permitted, provided that they are removed within a reasonable time following the event or events which they serve.

13. Farmstead creamery, subject to the provisions of Section 404.13.

14. Domestic animal sanctuary, if located on or within property that is greater than 7.5 acres in size.

² The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses:

1. Airports.

2. Animal boarding places (regardless of class), commercial kennels, private kennels, veterinarians' offices or veterinarians (see Section 421).

3. Antique shops (see Section 402B).

4. Camps, including day camps.

5. Community care centers provided that no residential community care center, i.e., a center which serves as the residence of the persons for whom care is provided, shall provide care for more than 15 persons per site, and no day community care center shall provide care for more than 15 persons per acre nor more than 75 persons per site.

6. Churches or other buildings for religious worship.

7. Excavations, controlled.

8. Farm market, subject to the provisions of Section 404.4.

9. Fishing and shellfishing facilities, Class I and II.

10. Golf courses or country clubs.

11. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood, provided that:

a. Only three persons, including the disabled person and the members of his immediate family who are residents of the dwelling, are employed in the use on the premises; and

b. In any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home.

(1) Five years after the issuance of the permit;

(2) The death of a disabled person;

(3) The termination of the disability; or

(4) The failure of the disabled person to permanently reside at the premises.

12. Horticultural nurseries, subject to the provisions of Sections 404.1 and 404.2.

13. Hunting or fishing preserves.

14. Landscape service operations, subject to the provisions of Sections 404.1 and 404.3.

15. Offices for agriculture-related uses.

16. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons as an accessory use, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees.

17. Public utility uses not permitted as of right.

18. Rail passenger station, subject to Section 434.

19. Residential art salons (see Section 402C).

20. Standard restaurants or tearooms converted from dwellings (Section 402.2).

21. Riding stables.

Decision

After reviewing all of the testimony and evidence presented, the Board has determined that Rainbow Hall Inc.'s use of the main house as apartments and/or multi-residential living is a zoning violation. However, the Board also finds that the rental of the cottage and 2 ranchers for single family dwellings are non-conforming uses.

Rainbow Hall, L.L.C. raised seven (7) issues in its Brief filed with this Board:

1. BCZR, § 500.7 does not authorize the Zoning Commissioner or County Board of Appeals to conduct a private party code enforcement action.

22. Sanitary landfills, or rubble landfills in which the actual fill area exceeds 3% of the total contiguous acreage of the property in the same ownership. However, the fill area of a rubble landfill may not exceed 7% of the total contiguous acreage, nor may the fill area exceed a depth of 20 feet unless the Zoning Commissioner specifically finds that the landfill should be exempt from the depth limitation (see Section 412).

23. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories or colleges.

24. Shooting ranges, including archery, pistol, skeet, trap or small-bore rifle ranges, or turkey shoots.

25. Sludge disposal facility — landspreading (Section 412A.2.E).

26. Trailers, as provided in Section 415.1.D.

27. Volunteer fire company or ambulance-rescue facilities.

28. Wireless telecommunications towers, subject to Section 426.

29. The following "agricultural-support" uses as principal commercial uses:

a. Farm-machinery sales, storage or service; blacksmithing.

b. Feed or grain mills or driers.

c. Fertilizer sales or storage.

d. Sawmills.

e. Slaughterhouses or manufacture, processing or packing of fruit, vegetables, animal or meat products, or by-products.

f. Spirits manufacture, including the manufacture of alcohol to be used in gasoline/alcohol mixtures, but excluding the production of these mixtures.

g. Firewood operations.

h. Winery, including accessory retail and wholesale distribution of wine produced on-premises. Temporary promotional events, such as wine tastings or public gatherings associated with the winery, are permitted, within any limits set by the special exception.

i. Bottled water plant, if the source of the water is located on the same site as the plant, and provided that the Director of Environmental Protection and Sustainability makes a recommendation that the proposed facility will not adversely affect the quality or capacity of surface water or groundwater.

As set forth above, §500.7 permits any “interested person” to determine the existence of any purported nonconforming use on any premises or to determine any rights regarding any property in Baltimore County. The Board finds that §500.7 is not ambiguous and permits VPC to bring this action. In *Sugarloaf Citizens Ass’n v. Northeast Maryland Waste Disposal Auth.*, 323 Md. 641, 650 (1991), the Court of Appeals said:

As we have often stated, “[w]here there exists a party having standing to bring an action ... we shall not ordinarily inquire as to whether another party on the same side also has standing.” *Board v. Haberlin*, 320 Md. 399, 404, 578 A.2d 215, 217 (1990). *See also State v. Burning Tree Club, Inc.*, 315 Md. 254, 291, 554 A.2d 366, 385, *cert. denied*, 493 U.S. 816, 110 S.Ct. 66, 107 L.Ed.2d 33 (1989); *Montgomery County v. Board of Elections*, 311 Md. 512, 516 n. 3, 536 A.2d 641, 643 n. 3 (1988); *State’s Atty. v. City of Balto.*, 274 Md. 597, 602, 337 A.2d 92, 96 (1975).

Section 500.7 has a lower threshold for standing of a party in that it does not require that a party be “aggrieved” but only “interested.” Accordingly, the Petition will not be dismissed on these grounds.

2. The Petition and Plat upon which it is based must be dismissed because of numerous inaccuracies and an inherent lack of reliability as determined at the hearing in this matter.

The Board appreciates that there were errors and inaccuracies in the Plat and even in the redlined plat prepared by James Patton, PE. on behalf of VPC. However, the Board does not find that any of these errors or inaccuracies were significant. There was no prejudice shown to Rainbow Hall, LLC that any of the errors or inaccuracies

prevented it from identifying the Property or the applicable zoning. The Board finds that the errors did not deprive Rainbow Hall of due process in that it was represented by counsel before the Zoning Commissioner and before this Board and by David Thaler, PE who discussed the zoning history and attributes of the Property at the Board hearing. Rainbow Hall had the opportunity to participate in the 3 day hearing, to present evidence and to rebut adverse evidence. *Boehm v. Anne Arundel County*, 54 Md. 497 (1983). Therefore, the Petition will not be dismissed on these grounds.

3. Rainbow Hall's multi-residential uses at the Property represent a valid continuation of prior special exception approvals.

The position of Rainbow Hall, L.L.C. is that its use of the main house for apartments and/or as a multi-residential dwelling is the same as a "boarding house" use for which a special exception was granted in 1963. Indeed, Rainbow Hall, L.L.C. argues that the "boarding house use" today is less intensified than the prior use by the Baptist Home which had the capacity for 89 residents and staff coming to and from the Property. This Board disagrees that the apartment use today is the same as the "boarding home for the aged".

The zoning history clarified that the special exception originally granted in 1963 was restricted to: "a religious, non-profit home for the aged of the Baptist denomination". (Pet. Ex. 31). The 1963 Order prohibited the use of the Baptist Home as a nursing home or as a home for the chronically ill or as a hospital. *Id.* In the 1963 BCZR, the term "nursing home" was included within the definition of "convalescent home" but "apartment and "boarding house" were defined separately. As a result, this Board

concludes that if the Zoning Commissioner in 1963 intended to grant a special exception for a "boarding house," he would not have restricted it to a "Boarding House for the Aged."

Said another way, the zoning history makes clear that there was never a special exception granted for non-elderly residents to live at the Property in a manner that fits the current BCZR definition of "boarding house." The evidence produced before this Board confirms that the Baptist Home never used the main house as apartments for non-elderly tenants. The use of the main house during the Baptist Home operation was consistently for elderly people in a nursing home style setting.

This Board finds significant our Order dated October 16, 1991, wherein we said that the use of the property was found to be "somewhere between that of a nursing home and a convalescent home." (Pet. Ex. 36; Resp. Ex. 9). Testimony presented to this Board in 1991 was that the Baptist Home had operated as "a retirement facility since 1915 and that it is available to persons over 65 years of age to receive care." *Id.* After hearing the evidence in that case, we said that the Baptist Home was "nursing home":

Taking into consideration the use of the property as testified to be Reverend Fowler and the expert testimony of Mr. Gavrelis, we are persuaded that the present use of the property clearly meets the previous definition of the BCZR as to "convalescent home." In 1988, the definition of "convalescent home" was simply replaced with the "nursing home" definition. That definition reads as follows:

Nursing Home: (Formerly Convalescent Home): A facility which provides board, shelter and nursing care to chronic or convalescent patients. This term also includes

facilities which provide domiciliary care within a nursing home. [Bill No. 37, 1989].

For reasons unknown to this Board, the convalescent home definition was simply replaced with the nursing home definition. Mr. Gavrelis, on cross-examination, testified that in his opinion the definitions were interchangeable. The Board agrees with Mr. Gavrelis. Having met the requirements of Section 502.1 of the BCZR and having found that the present use on the property meets the definition of a convalescent home, the Board finds that the Petitions should be granted and that certain restrictions should be imposed.

Id.

This Board is not persuaded by Rainbow Hall's argument that the approval for the "boarding house" in 1963 survived *separately from, and exists in addition to*, an approval for a "nursing home". That argument is contrary to this Board's 1991 decision and the zoning history. It is clear from the zoning history, and this Board finds that, the "boarding house for the aged" use became a "convalescent home", which ultimately became the "nursing home". Thus, there are not 3 separate approvals but 1 approval which served to benefit elderly residents.

Even if this Board agreed with Rainbow Hall, L.L.C. that a special exception exists today for a "boarding house" (which this Board does not find) the evidence was insufficient to prove that either the main house was the "domicile" of Rainbow Hall, L.L.C. or that the tenants occupied the entire main house. The evidence was that Rainbow Hall, LLC was "domiciled" in the main house based on a photograph of Jean Lubke's laptop sitting on a table in a room in the main house. (Resp. Exh. 8U). Yet, the address for Rainbow Hall, L.L.C. is 4840 Benson Avenue. In addition, the evidence

offered to prove that the tenants occupied the entire main house was lacking in that it consisted of Mr. Wright's testimony that he allows the tenants in the main house to use a pool table and the main kitchen.

This Board also notes the existence of the Restrictive Covenant in place when Rainbow Hall, L.L.C. purchased the Property in 2002. (Resp. Exh. 1). It was recorded in the Land Records of Baltimore County at Liber 8039, page 123. That document was notice to Mr. Wright that the operation of the convalescent home by the Baptist Home was a nonconforming use in 1988. It also informed him that the VPC entered into the Restrictive Covenant to place restrictions on the Property so that future use would not adversely affect the area. In the Restrictive Covenant, the Baptist Home bound its successors and assigns, (including Rainbow Hall, L.L.C.), to the terms contained therein such that any Petition filed to rezone the Property would be limited to seeking permission for a "nonprofit or eleemosynary convalescent or nursing home..." *Id.*

The Restrictive Covenant further explained to Rainbow Hall, L.L.C. that because Rainbow Hall, L.L.C. is not "a nonprofit entity operating a convalescent or nursing home", the only use for the Property would be those uses enumerated in the BCZR for RC2 zones. *Id.*

4. Rainbow Hall, L.L.C. claims that, in the alternative, the multi-residential use at the Property is permissible as a valid non-conforming use.

Rainbow Hall, L.L.C. defends that, in the alternative, if this Board finds that there is no special exception for its apartments/multi-residential use, then the apartments/multi-residential use or boarding house is a valid non-conforming use as a "boarding house".

In order to find that Rainbow Hall, LLC has a nonconforming use for a "boarding house", this Board would have to find that the type of operation conducted by the Baptist Home (i.e. a boarding home for the aged/convalescent home/nursing home) is the same as renting individual apartments, complete with kitchens and bathrooms to non-elderly tenants such that the use should continue. The Board finds that, based on the testimony of the witnesses and documents in evidence, the current use is not same as the Baptist Home use. Having found above that the Property has never been used as apartments or for multi-residential use by the Baptist Home, and because such uses are not legal within the RC2 zone, the current use as apartments or for multi-residential, is not a nonconforming use.

In *Arundel Corp. v. Board of Zoning Appeals of Howard County*, 255 Md. 78 (1969), the Court of Appeals held that the use of the subject property as a quarry could not be regarded as a valid nonconforming use, although existing at the time of the adoption of a new comprehensive zoning, where such use prior to the adoption of the comprehensive zoning regulations was neither a permitted use nor a valid nonconforming use.

The fact that Rainbow Hall, LLC has 7 tenants living in the main house whereas the Baptist Home had the capacity for 89 residents, does not change what the law provides for in the RC2 zone. As set forth above, the permitted uses and uses permitted by special exception in the RC2 zone do not allow for apartments, multi-family or multi-residential uses. The purpose of the RC2 is to protect the agricultural nature of the area against these type of uses. The Zoning Citations issued to Mr. Wright and Rainbow Hall,

L.L.C. were notice that these uses were not legal. (Pet. Ex. 7 and 8). The citations recommended that Mr. Wright file a Petition for Special Exception and/or for non-conforming use status. When no Petition was filed by Rainbow Hall, L.L.C. or Mr. Wright, the VPC requested this relief. This Board also recognizes that previous zoning complaints were filed with Baltimore County regarding the use by Rainbow Hall, LLC but for reasons unknown to this Board, such complaints were dismissed by the County. (Resp. Ex. 9).

5. Rainbow Hall, L.L.C. further contends that granting the relief sought by the VPC would not be a proper exercise of zoning administration because it would deprive the owner of all economically viable uses of the Property.

Rainbow Hall, L.L.C. contends that a decision by this Board to grant the relief requested by VPC would constitute a 'taking' of Property.

This Board is charged with applying the zoning law to the facts of the case. Mr. Wright, the sole owner of Rainbow Hall, LLC is an experienced purchaser of historic properties as his testimony reflected. He knew or should have known that the uses that he desired for the Property were not permitted in the RC2 zone. He knew or should have known about the Restrictive Covenant which affected title to the Property. Indeed, he must have known because he requested a change in zoning which was denied by the County Council.

The Property is not 'wholly useless.' *Pennsylvania Coal Co. v. Mahon*, 260 Md. 393 (1922). To the contrary, the main house can still be used as a single family residence or for any of the enumerated uses set forth in BCZR *supra*. Rainbow Hall, L.L.C. can apply for a special exception for the uses set forth in BCZR *supra*. While such permitted

uses may not yield the amount of income that Mr. Wright desires, it does not amount to a 'taking' of Property under *Lucas v. South Carolina*, 505 US 1003 (1992) as cited by Rainbow Hall, L.L.C. Suitability and feasibility are not criteria for establishing confiscation in the constitutional sense. *Anne Arundel County v. Maryland Nat'l Bank*, 32 Md. 437, 444 (1976).

Just because the Property may have *no value to Mr. Wright* if he can not rent the apartments, does not mean that the Property is deprived of all reasonable uses. To succeed on this point, Rainbow Hall, L.L.C would have had to have proven that restrictions placed upon the property preclude its use for any purpose. *City of Baltimore v. Cohn*, 204 Md. 523, 530-31 (1954).

Moreover, the Court of Special Appeals has said that there can be no taking of Property where the use in question is not legal. *Chesapeake Outdoor Enters., Inc. v. Mayor & City Council of Baltimore*, 89 Md. App. 54 (1991). Here, as set forth above, a boarding house/multi-residential use of the Property is not legal in the RC2 zone.

6. Rainbow Hall, L.L.C. argues that hosting events at the Property does not violate BCZR.

While Mr. Wright may have equity arguments on his side for charitable events he has hosted at the main house, these events are not permitted uses nor are they uses allowed by special exception in the RC2 zone. On this point, the Board agrees with VPC that the use of the main house for parties, weddings, bar mitzvahs, etc. is contrary to the purpose of the RC2 zone. These uses fall within the definition of "catering hall" in BCZR, §101.1 which is defined as:

Catering Hall. A facility or part of a facility used regularly for serving beverages and food to groups that reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant.

Consistent with this Board's opinions *In the matter of the application of Oregon, LLC – Contract Purchaser; Baltimore County Recreation and Parks – Legal Owner, Case No: 02-461-SPHX*, and *In the matter of the application of Mark Greene (Manor Tavern) ("Manor Tavern")*, Case No: R-91-115 cases, hosting of such events constitutes "catering" which is not permitted in RC zones. As we previously explained in the *Manor Tavern* case, catering was not permitted in an R.C.C. zone:

Consideration shows that catering does properly belong only in the heavier commercial zones, namely B.M. and B.R. Wedding receptions, large parties, catered affairs, by their very nature, attract a large number of persons who primarily arrive at a party and leave a party at approximately the same time. Also, such wedding receptions and parties even when held indoors, usually involve music and loud talk.

We find, given the purposes behind the creation of the RC2 zone, that the same reasoning we used for the R.C.C. zone in *Manor Tavern* applies here. Such events are not permitted at the Property regardless of whether or not income was earned, or some other consideration was exchanged, for use of the Property to host such events.

7. The three (3) Single Family Homes on the Property are Nonconforming Uses.

Rainbow Hall, L.L.C. argues that the three (3) single family residences on the Property which include the cottage and the 2 ranchers are nonconforming uses and vested as a matter of law. This Board agrees with the Respondent on this issue.

The evidence presented to this Board was that the cottage was built in 1898 - prior to zoning. The ranchers were built in or around 1972 when the zoning was R40. The Plat which accompanied the 1975 Petition for Special Hearing wherein the Baptist Home requested the construction of a new infirmary wing, shows that both the ranchers and cottage were present. (Resp. Exh. 13).

As pointed out by David Thaler, PE, expert on behalf of Rainbow Hall, L.L.C., in the 1970s the subdivision process was not required where the ownership of all 3 buildings was with the same owner. Instead, the use of divisional lines created the separation between the dwellings. Mr. Thaler highlighted for this Board that there is a 1996 recorded plat (Liber SM 70, page 95) on which the 3 dwellings appear. (Resp. Ex. 14). As such, he argued that the single family dwellings are vested under BCC, §32-4-264(c)(2) which provides in pertinent part:

(c) Residential Development Plan.

* * * *

(2) A residential Development Plan for which a plat is recorded vests when plat recordation occurs for any lot, tract, section or parcel thereof.

This Board finds that the use of the 3 single family dwellings was lawful at the time of their construction and continues to be a lawful use today. This Board agrees that the use of those dwellings as single family residences cannot be affected by any subsequent change in zoning. It is for this reason that, notwithstanding the requirement of 1 single family dwelling per lot which current exists in the RC2 zone (BCZR §1A01.2B1), vesting under the recordation plat validates their use.

VPC argues that Rainbow Hall, L.L.C. abandoned the cottage for more than 1 year between March of 2001 through April of 2002 when Sheldon Lewis moved out of the cottage and into the main house.

The Board finds that the existence of the three dwellings constitutes the non-conforming use in an RC 2 zone. The fact that one home may have been vacant for one year or more, is not an indication of abandonment or discontinuance of the non-conforming use. The houses have traditionally been occupied as single family dwellings. The fact that the owner may be seeking another family to move into the cottage does not indicate abandonment or discontinuance. The homes were not used for office space or storage areas. They were used as single family dwellings when tenants were available. The only indication of abandonment or discontinuance would be to take down the three dwellings. In the opinion of this Board, that would be taking the owner's property right without just compensation. The Board is unwilling to do that. We find that the non-conforming use of the three single family dwellings has continued.

ORDER

THEREFORE, IT IS THIS 24th day of February, 2012 by
the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing seeking relief pursuant to §500.7 of the Baltimore County Zoning Regulations to determine the uses are the subject Property, be, and the same is hereby, **GRANTED**; and it is further,

ORDERED that main house located at the Property having the address of 10709 Park Heights Avenue, Baltimore, MD 21117 shall not be used as a boarding house, apartment or multi-residential use; and it is further,

ORDERED that there is no special exception that exists for a "boarding house" for the Property; and it is further,

ORDERED, that the current use by Rainbow Hall, L.L.C. of the main house as a boarding house, apartment or multi-residential use is a zoning violation in the RC2 zone; and it is further,

ORDERED, that the current use by Rainbow Hall, L.L.C. of the main house as a boarding house, apartment or multi-residential use is not a nonconforming use; and it is further,

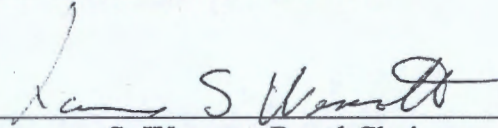
ORDERED, that granting the VPC's relief and determining the uses permitted in RC2 does not unreasonably deprive Rainbow Hall, L.L.C. of all use of the Property; and it is further,

ORDERED, that the hosting of events by Rainbow Hall, L.L.C. at the main house on the Property is a zoning violation in the RC2 zone; and it is further,

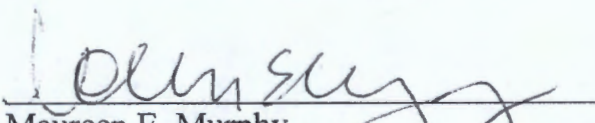
ORDERED, that the 3 single family homes located on the Property are non-conforming uses and may continue to be used as single family residences.

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

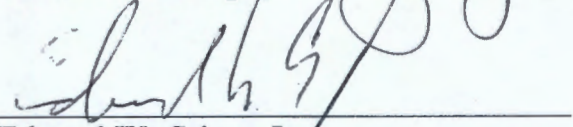
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Panel Chairman



Maureen E. Murphy



Edward W. Crizer, Jr.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 24, 2012

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Rainbow Hall, LLC – Legal Owner*
Case No.: 10-280-SPH

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c: Rainbow Hall, LLC c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc. c/o Michael R. McCann, Esquire
Mark Wilson Harlan Zinn
Jayne Gerson Emanuel Bronstein
Mark and Sue Levi Cheryl Aaron
Elizabeth Wilmerding Paul Brickman
Linda Corbin Aurelia Bolton
Jean Lubke Steven Gantermiller
Michael L. Snyder, Esquire Teresa Moore
Office of People's Counsel
Arnold Jablon, Director/PAI
Vincent J. Gardina, Director/DEPS
Nancy C. West, Assistant County Attorney

James S. Patton
Al and Florence Shapiro
Noel Levy
Cleon Shutt
Theodore Houck
Sheldon Lewis
David Thaler, D.S. Thaler & Associates, Inc.

Kathleen Pontone
Louis Rosenthal
Suitbertus VanDerMeer
Ruth Goldstein
Beverly Pearce
Henry M. Wright

Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Planning
Lionel VanDommelen, Chief of Code Enforcement
Michael E. Field, County Attorney

2/8/11
IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*

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DEC 8 2011

* * * * * BALTIMORE COUNTY*
BOARD OF APPEALS

PETITIONERS' POST-HEARING MEMORANDUM

Petitioners, Valleys Planning Council ("VPC"), Mark Wilson, and Harlan Zinn submit this post-hearing memorandum in support of their Petition for Special Hearing.

I. INTRODUCTION

Rainbow Hall, LLC ("RH") and its owner, Henry Wright, Jr. ("Mr. Wight"), purchased the property that is the subject of this case in April 2002. At that time, the property was zoned RC3, which is among the most restrictive zones in Baltimore County. The property was listed on the County's Landmarks List of Historic Places, and was subject to a Restrictive Covenant Agreement with the VPC that limited its use to only those allowed in the RC2 zone. All of this was known to Mr. Wright when he went to settlement in April 2002.

Within 20 months of his purchase, Mr. Wright had substantially remodeled the historic mansion to accommodate seven rental apartments, which he continues to lease along with the three houses on the property for \$900 to \$3,300 each per month. In all, over the past several years, Mr. Wright's use of Rainbow Hall has yielded him at least \$1.24 million in rental income.¹

¹ Within months of his purchase, Mr. Wright was also hosting an elaborate Decorator's Show House and Christmas bazaar at Rainbow Hall and, to this day, has continued to host parties, weddings, bar mitzvahs and similar events there.

As the VPC, the County, and others repeatedly warned Mr. Wright, none of this is allowed under the Baltimore County Zoning Regulations ("BCZR"). Ultimately, in March 2009, Baltimore County issued a violation notice directing Mr. Wright to immediately cease and desist the illegal rental of apartments. The County informed Mr. Wright that, if he believed his use of the property was legal, then he should file a petition for special hearing to confirm that belief. Mr. Wright did not file a petition for special hearing and did not cease and desist his illegal use of the property. As a result of Mr. Wright's continued recalcitrance, Petitioners were forced to file the instant Petition for Special Hearing and seek relief from the Zoning Commissioner and now this Board.

Mr. Wright apparently defends his conduct on the basis that his rental of the apartments and the houses is similar to the "multi-residential" use to which the property has been put for many years, and that he is merely continuing the special exception or the non-conforming use established by his predecessor, the Baptist Home of Maryland, Inc. This argument is factually and legally baseless for numerous reasons.

First, irrespective of whether the current use is similar or not, the use of Rainbow Hall for apartments squarely meets the definition of "multifamily building" under the BCZR, which is simply not permitted in the RC2 zone. For this reason alone, the relief requested by Petitioners should be granted. (Section IIIA below).

Secondly, the rental of the three houses on the property is an obvious violation of §1A01.3.B4 of the BCZR, which allows only one principal dwelling per lot in the RC2 zone. Unlike the manner in which the Baptist Home used the three houses during much of the time it owned the property, Mr. Wright has not used the houses as "accessory" structures. (Section IIIB below). They are clearly being used as "principal" structures and, therefore, violate §1A01.3.B4.

Thirdly, the zoning history of the property reflects that when the Baptist Home ceased operations in early 2001, it had a special exception for a nursing home. When he purchased the Property in April 2002, Mr. Wright did not continue to use the property as a nursing home, but rather changed that use to the rental of apartments and houses (*i.e.*, a multi-family building). Despite RH's half-hearted attempts to prove otherwise, the present use of Rainbow Hall does not remotely resemble a nursing home. (Section IIIC(1) below).

Fourthly, even if we assume *arguendo* that a "boarding house special exception" still applied to the Property when Mr. Wright purchased it in April 2002, the present use of the Property is not a "boarding house" as defined in the BCZR. - Moreover, it is clearly not a "boarding house for the aged of the Baptist denomination" which is the special exception that was granted in 1963. (Section IIIC(2), (3), (4) below).

Fifthly, there is no recognized or omnibus use under the BCZR for a "multi-residential" use as RH suggests. Thus, even assuming the current use of the Property is similar in any respect to the nursing home operated by the Baptist Home or any other prior use, any such similarity is irrelevant. (Section IIIC(5) below).

Sixthly, even if the Baptist Home was operating as a nonconforming use rather than a special exception, that nonconforming use terminated under BCZR §104.1 because Mr. Wright both (i) "changed" that use, and (ii) "abandoned" that use by not renting any apartments in the main mansion, the McCormick wing or the cottage for a period of at least thirteen (13) months between March 2001 and April 2002. (Section IIID below).

Additionally, Mr. Wright's hosting of catered affairs and other events at Rainbow Hall is not permitted in the RC2 zone. This use constitutes a "catering hall" as defined in BCZR, §101.1, which is a commercial use only permitted in the Business Major (BM) zone. Mr.

Wright's continued use of Rainbow Hall for these commercial events – several of which took place during the pendency of this case – must be stopped. (Section IIIH below). For these reasons, and those set forth below, Petitioners respectfully request that the Board of Appeals grant the Petition for Special Hearing and the relief requested.

Finally, it should be noted that the County Council rejected Mr. Wright's request in 2004 to change the zoning in order to legitimize his commercial uses. By voting to rezone the property back to RC2, the County Council reaffirmed a commitment to protecting the wall of the historic Greenspring Valley, where the property is located. Although Mr. Wright claims that his investment in this property accords him some sympathetic weight, this claim should not be a factor in determining whether these uses are permitted under the BCZR.

II. FACTUAL BACKGROUND

A. **The Early History of Rainbow Hall**

The mansion at Rainbow Hall was constructed in 1917 and, at that time, sat on 150 acres. (Pet's Ex. 37). General Douglas MacArthur and his wife lived there for several years early in his military career. (*Id.*, p. 28).²

In 1963, 42 acres of the property, including the mansion, were sold to the Baptist Home of Maryland, Inc. (the "Baptist Home"), the owner of a boarding home for the elderly previously located on Park Avenue in Baltimore City. The purchase of the property was subject to obtaining a special exception. A special exception for a "boarding house for the aged" was granted by Baltimore County with the limitation that the home be used as a religious, non-profit home for the aged of the Baptist denomination. (Pet's Ex. 31).

² "Rainbow Hill", as it was then known, is listed on the Maryland Historic Trust's Inventory of Historic Properties. It is also located within the Green Spring Valley National Register Historic District.

The Baptist Home made substantial improvements and modifications to the main building. (**Pet's Ex. 37, p. 28**). Elevators, hand-rails and "proper carpeting to provide safety in the stairways and halls" were added. A single "modern, well-equipped kitchen" was installed on the first floor of the facility; the residents did not have kitchens in their rooms. All the rooms had a private toilet, but only some of the rooms had baths. To be eligible for residency, one had to be 65 years of age or older and be a member in good standing of a Baptist church in Maryland.³ (**Pet's Ex. 38, pp. 3-5**).

In 1969, the McCormick Wing was added to the main building, which nearly doubled the capacity of the facility. (**Pet's Ex. 27, p. 3; Pet's Ex. 37, p. 31**). Also in the 1960s, two cottages on the property were remodeled so that employees could live there and "be of better service" to the Baptist Home. (**Pet's Ex. 37, p. 31**).⁴ In 1972, two additional rancher-styled houses were constructed "for the staff," which were subsequently used as residences by the Administrator of the Baptist Home and its Minister. (*Id.*, p. 32). In 1975, the Baptist Home obtained approval to have a modern infirmary at the facility with round-the-clock nursing care. (*Id.*).

B. The Restrictive Covenant Agreement With The VPC

On October 11, 1988, the Baptist Home entered into a Restrictive Covenant Agreement with the VPC. (**RH Ex. 1**). In exchange for the VPC's support of a change in zoning from RC2 to RC3, the Baptist Home agreed that the property would only be used as a nursing home and

³ These improvements and modifications are reflected in Exhibit 38 introduced before the Zoning Commissioner, at pp. 3-5.

⁴ It is unclear from the description provided in the Baptist Home's brochure (**Pet's Ex. 37, p. 31**) which houses were the "two cottages" that were remodeled. However, based on the plat accompanying the petition for special hearing filed by the Baptist Home in 1975 (**Pet's Ex. 34**), there were three houses in the area of the existing cottage. It is likely that the "two cottages" that were remodeled were among the three of these houses.

and further agreed, on behalf of its successors in title, that the property would be used in the future only for a use permitted in the RC2 zone. (*Id.*, pp. 4-5).

C. The Closing of the Baptist Home and the Purchase of the Property by Rainbow Hall, LLC

In late February 2001, the Baptist Home closed its doors. (*See* Transcript of Hearing attached hereto at Tab 2, pp. 7-8).⁵ On December 24, 2001, Mr. Wright entered into a Residential Contract of Sale for the purchase of 19.67 acres of the property, which included the former Baptist Home and the three houses presently located there (the "Property" or "Rainbow Hall"). (**Pet's Ex. 2**). The contract includes various disclosures and other provisions unique to residential property in the State of Maryland. (*See id.*). For example, the contract included the notice required to purchasers of residential real estate under Maryland's Property Disclosure Law, Md. Code Ann., Real Prop. §10-702 *et seq.* (*Id.*). The contract also disclosed to Mr. Wright that the Property was designated as historic by Baltimore County and was subject to a restrictive covenant agreement with the VPC, a copy of which was attached. (*Id.*, p. 5).

Shortly before closing on the purchase of the Property, Mr. Wright formed Rainbow Hall, LLC. (**Pet's Ex. 1**). The stated purpose of the company was to "acquire, hold, own, improve, develop, lease, manage, subdivide and otherwise deal with real property...in Maryland and Pennsylvania" (*Id.*). On April 10, 2002, the Property was conveyed by deed to Rainbow Hall, LLC. (**RH Ex. 3**). In the Land Intake Sheet accompanying the deed, the Property was described as residential rather than non-residential. (*Id.*).

⁵ The transcript of the three days of the hearing is attached at Tab 1 (Nov. 2, 2011), Tab 2 (Nov. 3, 2011), and 3 (Nov. 8, 2011).

D. The Renovation Of The Main Mansion And The Baltimore Symphony Decorator's Showcase

After he purchased the Property, Mr. Wright undertook a substantial renovation of Rainbow Hall. He took down walls, removed bathrooms, handrails, built-in cabinetry, and carpeting. (See Testimony of Mr. Wright attached at Tab 1, pp. 46-47; Tab 2, p. 139).⁶ He was assisted in this endeavor by his hosting of an event called the Decorator's Showcase from August 25 to September 21, 2002. The decorators involved in this event renovated, at their own expense, numerous rooms in the building. (Pet's Ex. 4). In the winter of that year, 2002, Mr. Wright also allowed the mansion to be used for a Christmas Bazaar. (Pet's Ex. 9).

E. Mr. Wright's Rental of Apartments and the Three Houses at Rainbow Hall

In February 2004, Mr. Wright (who does not himself live at the property), began renting apartments in the McCormick Wing at Rainbow Hall. (Pet's Ex. 48).⁷ By May 2006, he was renting seven apartments and has continued renting those units through today. (*Id.*). Five of the units are located in the southern portion of the McCormick Wing, two on the second floor, two on the first floor, and one at ground level. Each of these units contains two bedrooms, two baths, a living room, hallway, full kitchen, and a small dining room. There are also two units in the northern portion of the wing. These units have three bedrooms, three baths, a full kitchen, and a full dining room. (See Testimony of B. Pearce attached at Tab 1, pp. 53-58; see also Pet's Ex. 10).

Mr. Wright also rents the three houses located on the Property. Two of the houses are rancher style, and are located northeast of the mansion. The third house is styled as a cottage and

⁶ There is no record of Mr. Wright ever obtaining a building, electrical or plumbing permit for this work.

⁷ That the first of the apartments began to be rented in February 2004 is supported by the leases produced by RH (rejected Pet's Ex. 11), as summarized in the Rental Income chart (Pet's Ex. 48). RH's chart (RH Ex. 7) likewise supports that the rentals began in February 2004.

located southwest of the mansion, close to Park Heights Avenue. The three houses have their own street addresses. 10733 Park Heights Avenue is the ranch house closest to Park Heights Avenue. 10731 Park Heights Avenue is the ranch house to the east of Rancher 1. 10709 Park Heights Avenue is the cottage. The three houses have their own septic and well, and separate utility meters. (Tab 2, pp. 146, 147, 149).

A summary prepared by Petitioners, which was introduced as **Petitioners' Exhibit 48**, reflects the periods of time during which the seven apartments and the three houses have been rented, and the amount of rent paid by the tenants. In total, Mr. Wright has received more than \$1.24 million in rent since he purchased the Property. Mr. Wright's property management company Rugby Enterprises, LLC, manages the rental units at Rainbow Hall and his other rental properties at other locations.

F. Mr. Wright's Use of Rainbow Hall for Other Events and Affairs

In addition to the Decorator's Showcase and Christmas Bazaar in 2002, Mr. Wright has held numerous events at Rainbow Hall over the years, including several weddings, birthday parties, bar mitzvahs, and Halloween parties; affairs hosted by Ladew Gardens, University of Maryland Shock Trauma, the Baltimore Opera Company, and Jemicy School; a garden club meeting; and two boutiques over a period of seven days. (Tab 1, pp. 27-34; *see also* **Pet's Ex. 9**). He has also allowed the Property to be used for satellite parking for events occurring at other locations. (*Id.*, p. 34). In addition, Mr. Wright entered into a lease agreement with some of the congregants of a Church to conduct church meetings and activities on a weekly basis in the mansion at a cost of \$2,000 per month. (*See* **Pet's Ex. 48**; Tab 1, p. 29).

G. The VPC's Efforts To Ensure Compliance With The Restrictive Covenant Agreement And The BCZR

Kathleen Pontone, a Board member of the VPC, testified regarding the VPC's opposition to Mr. Wright's use of the Property for catered events and affairs, and other commercial uses. Since Mr. Wright first purchased the Property, the VPC repeatedly informed him of the appropriate uses of the Property under the BCZR and reminded him of the provisions of the Restrictive Covenant Agreement. In December 2002, Jack Dillon, then Executive Director of the VPC, informed Mr. Wright that residents in the area were concerned about the activities at Rainbow Hall after the Symphony Show House and the Christmas Bazaar that he hosted. (**Pet's Ex. 17**). Mr. Dillon suggested that Mr. Wright hold a meeting with representatives from the VPC and other community organizations regarding his intent to use Rainbow Hall for commercial events. Mr. Dillon reminded him of the uses permitted under the BCZR and of the Restrictive Covenant Agreement, and attached copies of same. (*Id.*).

Following that meeting, on February 21, 2003, Mr. Wright wrote to the VPC that it was his intent to "continue renovation at Rainbow Hall to retain this beautiful building that is full of history." He proposed using the Property for "upscale weddings, business meetings, and other upscale social events." (**Pet's Ex. 18**). In response to this letter, Mr. Dillon informed Mr. Wright by letter dated April 25, 2003 that he had received very strong opposition to any commercial use of the Property. (**Pet's Ex. 20**). Mr. Dillon again reminded Mr. Wright of the provisions in the Restrictive Covenant Agreement which permitted only uses allowed in the RC2 zone, adding that "[w]e are aware that the restriction is very narrow; it was intended to be. This is a rural area and any commercial use of the property is not permitted." (*Id.*).

By letter dated November 17, 2003, Mr. Wright requested the VPC's support during the 2004 CZMP for a change in zoning to BR to allow a catering facility for "weddings, business meetings, and other social events" at the Property. (**Pet's Ex. 22**). The VPC opposed Mr. Wright's request for a zoning change to BR. The County Council downzoned the Property to RC2, which was the Property's zoning before it was changed in 1988 to RC3 at the parties' request in order to accommodate the Baptist Home and any nursing home successors.

In May 2006, Ms. Pontone, on behalf of the VPC, wrote to Mr. Wright that using Rainbow Hall for a church required a special exception, which he had not obtained, and violated the Restrictive Covenant Agreement. In addition, the letter informed Mr. Wright that he could not use the Property as a parking lot for events off-site. (*See* **Pet's Ex. 23**).

H. The Code Enforcement Correction Notice

On March 5, 2009, Baltimore County cited Mr. Wright for "illegal conversion of a dwelling" in violation of § 402 of the BCZR, and for "non-permitted apartments in the RC2 zone." The County informed Mr. Wright that he must "cease and desist [this] use or seek special exception hearing for non-conforming use if applicable [and][s]eek all proper permits if applicable." (**Pet's Ex. 8**). Mr. Wright did not cease and desist, and did not seek a hearing to establish a non-conforming use.⁸

⁸ Assuming a nonconforming use existed(s), Mr. Wright's failure to file a petition for special hearing to establish the alleged nonconforming use contravened the Zoning Commissioner's Policy Manual, which states that filing such a petition is "the most appropriate method" to confirm a nonconforming use. (*See* Policy Manual, p. 1-46). The Policy Manual sets forth a procedure for confirming such status, including the requirement that a notarized affidavit be filed which states "that the use was existing prior to the applicable zoning regulations, has been in continuous use and must comply with Section 104, B.C.Z.R...."

I. This Petition For Special Hearing

In April 2010, after its efforts to persuade Mr. Wright to comply with the law were unsuccessful, the VPC filed the instant Petition for Special Hearing asking the Zoning Commissioner to address certain questions regarding Mr. Wright's use of the Property. (*See* Petition for Special Hearing). On May 5, 2010, the Planning Office issued its comments on the Petition for Special Hearing filed by Petitioners. (**Pet's Ex. 50**). The Planning Office addressed *in seriatim* each of the questions presented in the Petition and found, without exception, that the current uses of the Property violate the law. Among other findings, the Planning Office concluded that rental apartments are not permitted in the RC2 zone and are not a non-conforming use on this Property. (*Id.*, pp. 1, 2).

J. The Zoning History Of The Property

At the hearing, Petitioners offered the testimony of James Patton, who was accepted by the Zoning Commissioner as an expert in various areas, including zoning, land use, and the Baltimore County Zoning Regulations. In his testimony, Mr. Patton described the zoning history of the property, including several decisions issued by the Zoning Commissioner and the Board of Appeals. These decisions were introduced into evidence as **Petitioner Exhibits 30-36, 38-41**. In addition, Mr. Patton made certain adjustments to the Zoning History contained in Zoning Commissioner Wiseman's decision in this case (**Pet's Ex. 30**). These exhibits and Mr. Patton's testimony demonstrated the following:

1. 1963 - The Special Exception for a "Boarding House For The Aged"

In 1963, the Baptist Home filed a Petition for Special Exception to operate a "boarding house for the aged." (**Pet's Ex. 31**). The Zoning Commissioner, by order dated November 26, 1963, granted the special exception subject to two limitations, namely (1) that the use of the

property be limited to a religious, non-profit home for the aged of the Baptist denomination, and (2) that the facility not be operated as a nursing home, or as a home for the chronically ill or as a hospital except that a portion of the main building may be used as an infirmary for the temporary treatment of aged guests. (*Id.*).⁹

2. 1969 – The Addition of the McCormick Wing

In 1969, the McCormick Wing was added to the Main Building. As later observed by the Zoning Commissioner, there was no zoning hearing at that time and the addition was permitted under the 1963 special exception. (**Pet's Ex. 38**, p. 4).

3. 1975 – The Petition for Special Hearing to Approve an Infirmary Wing

In September 1975, the Baptist Home filed a Petition for Special Hearing to approve the construction of an infirmary wing to accommodate an additional 25 persons at the facility. (**Pet's Ex. 33**). The zoning of the property at that time was R.D.P. (**Pet's Ex. 34**).

The Plat accompanying the Petition for Special Hearing depicts Rancher 1, Rancher 2, and the Cottage, as well as two additional dwellings in the vicinity of the Cottage that do not exist today. (**Pet's Ex. 34**). In its written comments on the Petition, the Zoning Plans Advisory Committee indicated that these five dwellings are "housing for the administrators and employees of the home." (**Pet's Ex. 35**, p. 1). The Zoning Commissioner granted the Petition for Special Hearing and approved the construction of an infirmary wing. (*Id.*). The infirmary wing was not constructed because it was not "financially possible." (**Pet's Ex. 37**, p. 34). However, the sale of some securities allowed the Baptist Home to subsequently renovate the first floor of the McCormick wing for an infirmary. (*Id.*).

⁹ In 1963, the zoning of the Property was R40, R20, or R10, all of which permitted boarding houses by special exception.

4. 1976 – Rezoning of the Property to RC2 in the CZMP

During the 1976 Comprehensive Zoning Map Process (CZMP), the entirety of the Property was rezoned to RC2. This classification did not permit, either by right or by special exception, a boarding home for the elderly. (See **Pet's Ex. 38**, p. 4). At this point, as later determined by the Zoning Commissioner, the Baptist Home became a legal non-conforming use. (*Id.*, pp. 4-5).

5. 1988 – The Restrictive Covenant Agreement with the VPC and the Rezoning of the Property to RC3

In accordance with the Restrictive Covenant Agreement, the 15.2 acres where the Baptist Home was located were rezoned to RC3 in the 1988 CZMP, which permitted convalescent homes by special exception. As later determined by the Zoning Commissioner, the Baptist Home operation was “legitimized” by this rezoning of the Property. (**Pet.'s Ex. 37**, p. 5).

6. 1991 – The Petition for Special Hearing to Amend Special Exception

In 1991, the Baptist Home filed a petition for “special exception/special hearing” to approve “an addition to an existing convalescent home as a use permitted by special exception in an RC3 zone pursuant to BCZR 1A02.2.B16; and to approve an amendment to the special exception and site plan in Case No. 63-152-XA [the 1963 Special Exception].” (See **Pet's Ex. 36**).¹⁰ Specifically, the Baptist Home sought to construct two additions to the facility and to permit a maintenance building as an accessory use. (*Id.*). The zoning of the property at the time was RC3 in the location of the facility, and RC5 in the area of the maintenance building. (*Id.*).

The Plat filed by the Baptist Home shows Rancher 1, Rancher 2, and the Cottage. (*Id.*). The “Building Data” portion of the Plat indicates that these three buildings were being used as

¹⁰ Petitioners' Ex. 36 consists of several documents, namely the petition, the opinion of the Board of Appeals, the plat accompanying the petition, and an enlarged copy of the plat.

accessory to the Baptist Home and that it was proposed that they would continue to be used as such. Specifically, Rancher 1 was being used as a residence for the Home's directors and its proposed use was indicated to be the "same." Rancher 2 was "vacant", but was proposed to have four "units" as part of the convalescent home. The Cottage was being used as a residence for staff; its proposed use was to be the "same." (*Id.*).

The Board of Appeals held that the use of the property met the definition of "nursing home," which had replaced the previous definition of "convalescent home" in the BCZR in 1988. (**Pet's Ex. 36 at Board's Op.**, p. 3). The Board granted the Petition for Special Hearing to amend the 1963 Special Exception to allow the two proposed additions to the nursing home and the accessory maintenance building. (*Id.*, pp. 3-4). However, these two additions, like the addition approved in 1975, were never constructed.

7. 1997 – The Development Plan

In 1997, the Baptist Home filed a redlined development plan for the subdivision of the property, which at that time comprised 41.7 acres, into four lots, three of which would be used for single-family dwellings. (**Pet's Ex. 37**).¹¹ In his Opinion, the Zoning Commissioner described the historical uses of the property and the various zoning approvals over the years. He observed that it was "manifest" that the use of the property as a boarding home for the elderly since 1963 was a permitted special exception use. He further observed that the downzoning of that portion of the property containing the Baptist Home to RC2 in 1976 rendered the use a nonconforming use, but that the rezoning in 1988 to RC3 (which permitted convalescent homes by special exception) had the effect of legitimizing that use. (*Id.*, pp. 4-5). Ultimately, the Zoning Commissioner granted approval of the development plan and the property was

¹¹ The Baptist Home also sought approval to create three undersized RC5 non-density parcels and one undersized RC2 non-density parcel. (*Id.*, p. 1).

subdivided into four lots. (*Id.*, pp. 8-10; *see also* Record Plat, **Pet's Ex. 3**).¹² Lot 5, which comprises 19.67 acres and includes the mansion and the three houses, was sold to Rainbow Hall, LLC in April 2002. (*Id.*).¹³

III. ARGUMENT

A. **The Use of Rainbow Hall For The Rental Of Apartments Constitutes A "Multifamily Building" Which Is Not Permitted In The RC2 Zone**

A "multifamily building" is defined in the BCZR as "[a] structure containing three or more apartments. A multifamily building includes garden and other apartment buildings." BCZR, §101.1 (**Pet's Ex. 43**). Multifamily buildings are not permitted in the RC2 zone, either as of right or by special exception. BCZR, §§1A01.01 *et seq.*¹⁴

It cannot seriously be disputed that Mr. Wright's rental of apartments at Rainbow Hall meets this definition of "multifamily building" and is, thus, illegal. For this reason alone, the Board should grant the relief requested by Petitioners.

¹² The Zoning Commissioner "extinguished" the approval for the two additions granted by the Board in 1991 in order to prevent an over-intensification of the use on site, reasoning that it was "inappropriate to permit additional development on the site through the development plan, when the property has not been built out with prior approved improvements." (*Id.*, p. 9).

¹³ Edward Brush purchased three lots and built a home on Lot 1. Petitioner Mark Wilson purchased Lot 1, including Mr. Brush's home, and Lot 2. The remaining lot is owned by Henry Wright. This lot, along with Lot 5, is the subject of a development plan recently filed by Mr. Wright for a large church on the Property, which he intends to lease to several different denominations and for related uses.

¹⁴ The definition of "multifamily building" replaced "apartment house," which was defined as "[a] building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common." (**Pet's Ex. 43**). Notably, as discussed further *infra*, this definition of "apartment house," which is substantially the same as the definition of "multifamily building," was in effect in 1963 when the Baptist Home obtained a special exception for a boarding house.

B. The Use Of The Property For The Rental Of Three Houses Violates The One Principal Dwelling Limitation In The RC2 Zone

Section 1A01.3.B4 of the BCZR provides that "no more than one principal dwelling is permitted on any lot in an R.C.2 Zone." A "principal" use is defined as "a main use of land, as distinguished from an accessory use." §101.1. An "accessory use of structure" is defined as:

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served....

BCZR, §101.1.

Here, the two ranchers and cottage at the Property are located on a single lot, Lot 5. (*See Pet's Ex. 3*). The three houses are, indisputably, "principal" dwellings because they are occupied by separate families who have no connection to each other or to the principal structure at the Property, Rainbow Hall. The houses plainly fail to meet the definition of an "accessory use or structure" for the simple reason they do not "contribute to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served." The occupants of Rainbow Hall are tenants; the use of the houses as separate rental units does not contribute to the comfort, convenience or necessity of the tenants of Rainbow Hall, its corporate owner or its individual shareholder owner who does not live there.

In contrast, there is abundant evidence to support that the three houses were "accessory" during the time the Baptist Home owned the Property. The houses were used as residences for staff, including the Baptist Home's Administrator and Minister, and were also used as additional units of the nursing home. (*See Pet's Ex. 36* (plat accompanying petition); *Ex. 37*, pp. 31, 32; *Ex. 35*, p. 1). The two ranchers were still being used as "staff residences" as late as July 1994;

Mr. Lewis lived in the Cottage until March 2001. (See Testimony of Lewis attached at Tab 2, pp. 7-8).

It is true that, when Mr. Wright purchased the Property in April 2002, there apparently were tenants living in the two ranchers who had no affiliation with the Baptist Home. According to the leases, these two tenants (Ms. Belaga and Ms. Rubin) had been living in the ranchers since July 1994 and February 2000, respectively. (See Leases attached to Pet's Ex. 2).¹⁵ However, this simply suggests that for a period of time the Baptist Home, itself, was violating the prohibition against more than one principal dwelling on a single lot; it does not legitimize the current use.

C. The Rental Of Apartments And Houses Is Not Permitted Under The Previously Approved Special Exception For A Nursing Home, Under Any Putative Special Exception For A Boarding House, Or Otherwise

RH apparently justifies its rental of apartments and houses at the Property on the basis that this is essentially the same "multi-residential use" to which the Property was put for many years. RH's expert witness, David Thaler, testified that "the uses today are essentially the same as they were in 1963. [T]hey're apartments, living quarters for a wide variety of people." (See Testimony of Thaler attached Tab 3, pp. 105-06, 117). In the post-hearing brief submitted to the Zoning Commissioner, RH articulated the theory that the present use of the Property is allowed under the boarding house special exception that was granted in 1963. These are superficial arguments that ignore the zoning history, the actual use of the Property, and the provisions of the BCZR.

¹⁵ As discussed below, the Cottage was occupied by Sheldon Lewis, an employee of the Baptist Home, at the time Mr. Wright purchased the Property.

¹⁷ This Request for Zoning Change is attached as Tab J to Petitioners' post-hearing memorandum submitted to Zoning Commissioner Wiseman.

1. *When RH Purchased The Property In April 2002, Mr. Wright Had An Approved Special Exception For A Nursing Home*

In 1963, the Baptist Home obtained a special exception for a boarding home for the aged. (Pets.' Ex. 31). After the 1963 special exception was granted, there was change in the operations at Baptist Home. In 1975, the Home renovated the first floor of the McCormick wing for an infirmary wing for its aged residents. (Pet.'s Exs. 33, 37, p. 34). By 1988, the Baptist Home was operating a "convalescent home," not a boarding house, as evidenced by the Restrictive Covenant Agreement in which the VPC and the Baptist Home expressly acknowledged that the Home was being "used for a convalescent home" and would continue to be used as such. (RH Ex. 1, pp. 1, 3-4). During the 1988 CZMP, the Baptist Home and its attorneys filed a Request for Zoning Change that identified the existing use of the Property as "convalescent home."¹⁷ Then, in 1991, the Baptist Home filed a Petition for Special Exception/Special Hearing to approve an addition to "an existing convalescent home." (Pet's Ex. 36). At the hearing on that petition, the Board of Appeals received lay and expert testimony regarding the manner in which the Property was being used and concluded that the use "clearly meets" the definition of "nursing home." (Pet.'s 36 (Bd. opinion, p. 3)).¹⁸

Thus, when the Baptist Home closed its doors in early 2001, the only permitted use of the Property (aside from those potential uses permitted as of right) was an approved special exception for a nursing home. When RH purchased the Property in April 2002, Mr. Wright

¹⁸ Notably, in 1987, when the definition of "convalescent home" was replaced by "nursing home," an additional sentence was added to the definition:

Nursing Home: (Formerly Convalescent Home): A facility which provides board, shelter, and nursing care to chronic or convalescent patients. ***This term also includes facilities which provide domiciliary care within a nursing home.***

(Emphasis added). This definition accurately describes the operations of the Baptist Home in 1988. The Home was providing "board, shelter and nursing care" as well as "domiciliary care." A copy of this definition was attached at Tab K to Petitioners' post-hearing memorandum submitted to Zoning Commissioner Wiseman.

acquired the right to use the Property pursuant to that approved special exception. However, as is patently obvious, Mr. Wright has not used the Property as a nursing home, but rather has changed the use to the rental of apartments, *i.e.*, a "multi-family building," a distinct and separately defined use under the BCZR.¹⁹

At the hearing, RH made a half-hearted and misguided attempt to suggest that there are nursing home-like activities taking place at Rainbow Hall. RH called Mr. Nearhood who testified that his sister takes care of him at his apartment in Rainbow Hall and that he sometimes received visits from a nurse to bandage his wounds and bathe him. (Tab 3, pp. 75-79).²⁰ This testimony, from one tenant, was clearly insufficient to support that Rainbow Hall is being used as a nursing home or similar to the manner in which the Baptist Home used the Property.

2. *RH's Use Of The Property Clearly Does Not Meet The Definition Of
"Boarding House" Under The BCZR*

Even if we assume that there is a valid special exception for a boarding home at the Property, RH's use of the Property does not come close to meeting the definition of "boarding house" that was applicable in 1963 or today's definition. In 1963, "boarding house" was defined as "a building other than a hotel in which meals or rooms and meals are provided...."²¹ RH's use of the Property clearly does not meet that definition for the simple reason that neither "meals" nor "rooms and meals" are provided to the tenants.

The current definition of boarding house is as follows:

¹⁹ Importantly, Mr. Thaler admitted that he is unaware of any special exception or other approval granted since 1963 for an apartment or multi-family building at the Property. (Tab 3, pp. 118-20). He acknowledged that the decisions in 1963, 1975, and 1991 do not even mention the word apartment. (*Id.*, p. 120).

²⁰ Aside from the inadequacy of this testimony to support the argument that Rainbow Hall remains a nursing home, it was clearly not necessary to make Mr. Nearhood travel to the hearing to testify. RH could have easily called Mr. Nearhood's sister or a nurse to say the same thing.

²¹ The 1963 definition of "board house" was attached at Tab L to Petitioners' post-hearing memorandum submitted to Zoning Commissioner Wiseman.

BOARDING OR ROOMING HOUSE:

A. A building:

1. Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner;
2. Which is not the domicile of the owner and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.

B. The term does not include a hotel, motel, apartment building or a facility for foster care....

(Pets' Ex. 44).

Thus, to qualify as a "boarding or rooming house," the owner of the building must reside on site in order to have multiple units there (subsection A1) or, if he does not reside on site, then he must rent the entire building (not individual units) for use by three or more persons (subsection A2). RH's rental of Rainbow Hall does not meet this definition, both because (1) Mr. Wright (the sole member of Rainbow Hall, LLC) does not live in the mansion and yet rents units there, and (2) the building is not "occupied in its entirety" (rather, rooms are provided). The three houses, likewise, are not "boarding houses" because they are not Mr. Wright's domicile and the persons living there *are* related.

Moreover, under subsection B, a boarding or rooming house "does not include ... an "apartment building." RH's use of Rainbow Hall is clearly an apartment building. Although that term is not presently defined in the BCZR, it was previously defined in the BCZR as "a dwelling containing three or more apartments," and was replaced in 1992 by the current term "multifamily building." As discussed above, a "multifamily building" is a "structure containing

three or more apartments. A multifamily building includes garden *and other apartment buildings.*" (Pet's Ex. 43) (emphasis added).

In an obvious attempt to make it appear as if the Property is the "domicile" of Rainbow Hall, LLC, Mrs. Lubke testified that she had a "little office" in the main mansion where she meets with landscapers and tenants. (Tab 3, pp. 45-46).²² Mrs. Lubke, however, acknowledged that 4804 Benson Avenue is the office of Rugby Enterprises, which is the entity for whom she works and that manages and operates Rainbow Hall, LLC. (*Id.*, pp. 61-62). Mr. Wright likewise acknowledged that the 4804 Benson office is the address of the company for purposes of corresponding with tenants and receiving rental checks and corresponding with the company's contractors, insurance company and accountant. (*Id.*, pp. 6-8; **Pet's Ex. 51**). 4804 Benson is the address where Mrs. Lubke goes everyday to work. (*Id.*, p. 21).

In another attempt to suggest that the main house is a boarding house, Mr. Wright testified that "the doors are open [so] that [tenants] can go in and use the facilities. They can use the veranda, there's a billiard table in there that they can use."²³ He recalled that somebody used the main kitchen once to cook a couple turkeys and bake some cookies. (Tab 3, pp. 8-9). This new theory is flatly contradicted by Mr. Wright's testimony before the Zoning Commissioner wherein he stated that the tenants in the wing do *not* have access to the main part of the house and that part was closed off to them. (*Id.*, pp. 10-11). Moreover, as depicted in photographs

²² The photograph of this "office" introduced by RH at the hearing (RH Ex. 8U) suggests that this is not an office at all and, worse, suggests that the room was decorated for the purpose of making it appear to be an office. The photo depicts a chair and a small desk, but no file cabinets, phone, fax machine or other items typically associated with an office. Mrs. Lubke admitted that several of the items depicted in the photograph – the lamp, the mirror, the sconces – have been added to the room since the hearing before the Zoning Commissioner. (*Id.*, pp. 62-6).

²³ Like the items in the "office," there are pinball machines that were put in the building after the hearing before the Zoning Commissioner. (Tab 3, p. 21).

introduced by Petitioners, the tenants do not use the front door of the main house as the entrance but rather use entrances in the middle and at the end of the wing. (*Id.*, pp. 11-14; **Pet's x. 52**).

3. *RH Cannot Avail Itself Of The Boarding House Special Exception Granted In 1963 Because Rainbow Hall Is Not A Religious Non-Profit Home For The Aged Of The Baptist Denomination*

Importantly, the special exception granted to the Baptist Home in 1963 was subject to the limitation that the boarding home be (i) a religious, non-profit home, and (ii) used for the aged of the Baptist nomination. Thus, even assuming *arguendo* that RH could somehow rely upon the boarding home special exception granted in 1963, and even assuming that RH met the definition of boarding home in the BCZR, RH could only use the Property in conformity with the limitations imposed by the Zoning Commissioner. Mr. Wright has clearly not abided by those limitations. He is not operating a religious, non-profit home and his tenants are not limited to elderly Baptists. (Tab 1, p. 13; Tab 2, p. 154).

4. *Any Putative Boarding House Special Exception Was Voided In 1993 By Operation Of §502.5 Of The BCZR*

Section 502.5 of the BCZR provides that any special exception for a boarding or rooming house that was granted prior to the effective date of County Council Bill 124-1993 "shall ... be of no further force and effect" after the effective date of that bill "unless permitted pursuant to the procedure delineated in Section 408B." BCZR, §502.5. Section 408B sets forth an application and public hearing procedure for obtaining a use permit for boarding and rooming houses. Among other things, the applicant must submit a site plan and floor plan depicting the number of tenants, the location and type of structure, and the location of off-street parking. The Zoning Commissioner must then conduct a hearing, if requested by any interested party, and determine the impact of the facility on the surrounding community and apply the special exception factors.

The procedure set forth in §408.5, of course, did not take occur in the present case. Thus, even if Mr. Wright is operating a "boarding house" or a "boarding house for the aged of the Baptist denomination, the special exception granted in 1963 had no further "force or effect" after the effective date of Bill 124-1993, which was October 25, 1993.

5. *There Is No Omnibus Use Or Special Exception For "Multi-Residential" Uses*

RH's argument the present use of the Property is "essentially the same" as the manner in which the Property has been used for years is meritless. There is no broad omnibus use or special exception that would allow a "multi-residential" use of the Property. There is simply no such authority, either in the BCZR or in the common law. Rather, it is axiomatic that each use of property must be viewed against the identified and defined uses in the BCZR. If a use falls within the parameters of a defined use under the regulations, then the regulations control and dictate where that use may be located in the various zones of the BCZR and any other limitations. You cannot look at a use in the abstract and reclassify it because it may be viewed as *similar* to another. This is particularly true where, as here, there is a use in the BCZR that plainly applies – a multi-family building. The Board should reject RH's Rorschach theory of zoning.

The fact that people were living in the wing during the time the Baptist Home owned the Property is not a basis to allow that use to continue today, particularly when the use was so different. Sheldon Lewis, who was the Director of Environmental Services for the Baptist Home and was responsible for the maintenance of all buildings on site, described the rooms in the McCormick wing as "hospital rooms." Each room had only one or two beds, a toilet, a sink, and a vanity. (Tab 2, pp. 13-14). Only a few of the rooms had a full bathroom. There were no kitchens, microwaves, or small refrigerators in the wing. (*Id.*, 14). There was one main

commercial kitchen where meals were prepared and a central dining room in the mansion where the residents ate their meals. (*Id.*, pp. 14-15).

Dr. Theodore Houk confirmed Mr. Lewis's testimony. (Tab III, pp. 133-34). Dr. Houk was the medical director of the Baptist Home from 1993 until it closed in January 2001. He was there on a regular basis and had the run of the facility. (*Id.*, p. 134). He characterized the facility during that time as a nursing home. (*Id.*, p. 135). The rooms in the wing of the Baptist Home were occupied by the nursing home patients. They had no bathrooms or kitchens, no hot plates or toasters, microwaves or anything of that kind. As he put it, "I was very concerned about patient safety. There was nothing of the kind in those rooms." (*Id.*, p. 135). The only kitchen in the building was a large kitchen located in the main building adjacent to the shared dining room, which was staffed by employees of the Baptist Home. (*Id.*, p. 136).²⁴

At the hearing, RH introduced a letter from its counsel dated August 3, 2009 containing numerous allegations regarding how Rainbow Hall was used prior to the Baptist Home's acquisition of the property in 1963. (RH Ex. 2). The letter, of course, is hearsay, but is full of statements by counsel that are either unsupported by, or flatly contradicted by, the evidence in the record.

- "*At the time of Mr. Wright's purchase of the property, it was being used by the Baptist Home of Maryland Delaware, Inc. as a convalescence home for its members.*"

²⁴ Mr. Thaler attempted to testify that, in 1963, there were "servant's quarters" in the northern portion of the wing and "small apartments" on the second floor of the mansion. (Tab 3, pp. 101-02). He admitted, however, that he was speculating and that the only information he was relying upon was the Zoning Commissioner's decision from 1963 and the plat from that case, neither of which support this testimony. (102-03). The Board sustained counsel's objection and would not allow Mr. Thaler to speculate or draw any such inferences. (*Id.*, p. 104).

Mrs. Lubke likewise stated that she saw at least three "servant's quarters" in the wing that had pieces of furniture, IV drips, potties. (*Id.* p. 34). Mrs. Lubke had no basis to believe this was the use of the wing and admitted she has no personal knowledge regarding whether any portion of the wing was ever used as "servant's quarters." (pp. 70-71).

- "In fact, Rainbow Hall's use and operation as a boarding house has been recognized by Baltimore County since at least 1963. *From that time to the present, there have always been tenants located in the main house, its institutional wing, and tenant houses.*"
- "Mr. Wright's current operation of the property represents a significantly less obtrusive and intensive 'boarding house.'"
- "*Upon purchasing the property in 2002, Mr. Wright continued renting the existing apartments, on a much-reduced scale....*"

(Emphasis added).

The Board should also reject the notion that the current use of the Property is allowed because it is, allegedly, less intense than the Baptist Home's use. Again, there is no authority for such an analysis. Moreover, it is hardly an established fact that the current use is less intense than that of the Baptist Home as RH suggests. Simply because there are fewer residents living in the mansion does not mean it is less intense. The residents of the Baptist Home were elderly, probably did not have their own vehicles or travel to and from the facility very often, and did not host the type of parties that are currently being held at Rainbow Hall. In any event, the fact that there are fewer residents now is not the point. What matters is whether the use is permitted under the BCZR and, in this case, the County Council has already determined that a multifamily building (defined as containing "three or more units") is too intense a use for the RC2 zone. In fact, multifamily buildings are not permitted in any RC zone.

In sum, RH's use of the property is not authorized by (i) the special exception for a nursing home, (i) the special exception for a board house for the aged of Baptist denomination, (iii) any omnibus "multi-residential" use created by RH, or (iv) RH's Rorschach theory of zoning. RH's rental of apartments at Rainbow Hall falls squarely under the definition of "multifamily building" in the BCZR. The houses are single-family dwellings that, in addition to violating the one dwelling per lot limitation, are not encompassed by the special exception.

D. Even If The Baptist Home Was Operating A Nursing Home As A Nonconforming Use Rather Than As A Special Exception, That Use Was Changed By Mr. Wright And/Or Abandoned For More Than One Year And, Therefore, Terminated

Section 104.1 of the BCZR provides as follows:

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.

(Emphasis added). Thus, any *change* in a nonconforming use, or any *abandonment or discontinuance* of a nonconforming use for 12 months, results in its termination as a matter of law.²⁵

Mr. Thaler testified that the current use of the Property constitutes a continuation of a nonconforming use because "it's essentially the same use." "It [] started as individuals living independently, it expanded, it intensified and now its de-intensified and ...it's the essence of it, the heart of it, is essentially the same use." (Tab 3, p. 109).²⁶

²⁵ "The burden of proving a non-conforming use is on the claimant of the use," *Calhoun v. County Bd. of Appeals of Baltimore County*, 262 Md. 265, 267 (1971), because "[t]he right ... to 'continue' a non-conforming use is not a perpetual easement to make use of one's property detrimental to his neighbors and forbidden to them." *Dorman v. Mayor of Baltimore*, 187 Md. 678, 684 (1947). The claimant must "establish[] the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance," *Calhoun*, 262 Md. at 267 (quoting *Vogl v. Mayor of Baltimore*, 228 Md. 283, 288 (1962)), by showing that "the evidence conclusively establishes that before and at the time of the adoption of the original zoning ordinance, he was using substantially all of his tract of land in a *then-lawful* manner for a use which by a later legislative action became nonpermitted." *Lone v. Montgomery County*, 85 Md.App. 477, 496 (1991) (italics added).

²⁶ Counsel for RH asked Mr. Thaler to assume Petitioners' expert, Mr. Patton, was correct that a special exception expires and then asked whether the current use would constitute a legal nonconforming use. (Tab 3, p. 107). The premise of this question is false. Mr. Patton did not testify that a special exception expires, nor did he express the opinion that the proper analysis was whether RH's use of the property was a nonconforming use.

As discussed above, when the Baptist Home closed its doors in March 2001, the only permitted use of the Property was an approved special exception for a nursing home or a use permitted by right in the RC-3 zoned portion of lot 5.²⁷ However, assuming *arguendo* that a nonconforming use did exist as of that date, it is clear that any such nonconforming use terminated under §104.1 both because Mr. Wright (i) changed that use, and (ii) abandoned it for more than one year.

1. Mr. Wright Changed Any Putative Non-Conforming Use

Mr. Wright *changed* the use for the simple reason that, upon acquiring the Property, he did not use it for a nursing home, but rather used it for the rental of apartments and houses, which is an entirely separate use recognized under the BCZR. (See definitions of “nursing home” and “multifamily building” at Pet’s Ex. 43 and BCZR §101.1). The mere fact that these two uses share the common characteristic that people reside in them – which is the gravamen of Mr. Wright’s argument – is an absurd basis for allowing a change in use. By this logic, nonconforming uses could be found in almost every imaginable circumstance. A farm, for example, could be continued as an airport simply because both uses have people working at them. As the Court of Special Appeals has aptly observed, Maryland law allows the continuation of a nonconforming use, but “does not permit the transmogrification of an approved nonconforming use into a new and different use. The latter constitutes an unlawful extension, even if there is no outward change in the appearance of the facility being used.” *National Insts. of Health Fed. Credit Union v. Hawk*, 47 Md. App. 189, 200 (1980); *see also Wilson v. Mayor and Comm’rs of Town of Elkton*, 35 Md. App. 417, 425 (1977) (“The right of a landowner to

²⁷ See *Purich v. Draper Props., Inc.*, 395 Md. 694, 718 (2006) (“The change to a permitted use (i.e., the special exception) terminates the nonconforming use, which then cannot be revived or renewed. There is nothing to revive and nothing to renew.”).

) continue the same kind of use to which the property was devoted on the critical date does not confer on him the right to subsequently change or add to that use a new and different one amounting to a drastic enlargement or extension of the prior existing use.”) (citations omitted).

Here, Mr. Wright has made substantial changes to the entire interior of Rainbow Hall to accommodate a new and different use. The rooms in Rainbow Hall are not the same rooms that were there when the Baptist Home was operating. By his own account, Mr. Wright performed a “world class restoration” of Rainbow Hall. He renovated the wing, removed the numerous resident rooms, removed bathrooms, and reconfigured the entire building for apartment units, each with its own full kitchen and bathroom. As Dr. Theodore Houk testified, there was only a single kitchen in the Baptist Home where all of the residents ate. There were no kitchens or kitchenettes in the residents’ rooms, nor any other place to serve food. (Tab 3, pp. 135-36). With respect to the three houses, they were previously used as accessory buildings by the Baptist Home to house staff and employees of the Home. They are now being used as principle structures, each housing a separate family who has no relation to Rainbow Hall other than the fact that some of the residents are employed in Mr. Wright’s liquor distribution business.

Allowing Mr. Wright to continue a nonconforming use under these circumstances would be inconsistent with the purpose of recognizing nonconforming uses in the first place, which is to protect a property owner’s right to continue a use that, through no fault of his own, was rendered illegal by a change in zoning. In *Amereihn v. Kotras*, 194 Md. 591 (195), the Court of Appeals explained:

) If a property is used for a factory, and thereafter the neighborhood in which it is located is zoned residential, if such regulations applied to the factory it would cease to exist, and the zoning regulation would have the effect of confiscating such property and destroying a vested right therein of the owner. Manifestly this cannot be done, because it would amount to

a confiscation of the property, and nonconforming use is a vested right and entitled to constitutional protection.

Id. at 601. In circumstances where the nonconforming use has been changed to a completely different use, then there is no vested right and no confiscation of property occurs. This is particularly true where, as here, a new owner such as Mr. Wright acquires the property and takes only what has been passed to him, with full knowledge of the property's past use and limitations of record.

Moreover, prohibiting a change in a nonconforming use serves the "the earnest aim and ultimate purpose of zoning" which is to "reduce nonconformance to conformance as speedily as possible." *County Council of Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259, 267 (1982) (quoting *Grant v. Mayor of Baltimore*, 212 Md. 301, 307 (1957)); *see also Wilson*, 35 Md. App. at 425 ("The basic premise underlying zoning regulations is to restrict rather than expand non-conforming uses."). The reason for this rule is that "nonconforming uses pose a formidable threat to the success of zoning. They limit the effectiveness of land use controls, contribute to urban blight, imperil the success of the community plan, and injury property values.... [T]his Court has repeatedly recognized that one of the fundamental problems of zoning is the inability to eliminate nonconforming land uses" *County Council of Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259, 267 (1982). Thus, zoning regulations are "strictly construed in order to effectuate the purpose of eliminating nonconforming uses." *Id.* at 268.

For all these reasons, Maryland's appellate courts have repeatedly rejected attempts to change a nonconforming use in the guise of continuing it. *See e.g., Gardner*, 293 Md. at 261 (addition of a sand and gravel wet-processing facility to a nonconforming surface mining sand and gravel operation was an impermissible change in use); *Hawk*, 47 Md. App. at 200 (transformation of scientific society headquarters into a credit union was an unlawful extension

of nonconforming use); *Phillips*, 225 Md. at 111-12 (change in nonconforming use from a second hand furniture store and used car lot to a junk yard for junking and burning automobiles was illegal); *Wilson*, 35 Md. App. at 427 (change of nonconforming use from a two unit dwelling to a three unit dwelling was unlawful extension). The Board should, likewise, reject Mr. Wright's attempt to continue renting the apartments and the houses at Rainbow Hall under the guise of a nonconforming use.

Before the Zoning Commissioner, RH relied on two nonconforming use cases, *Trip Associates v. City of Baltimore*, 392 Md. 563 (2006) and *Lone v. Montgomery County*, 85 Md. App. 477 (1991). In *Trip*, the issue before the Court of Appeals was whether a night club's increase in the number of nights per week that it held adult entertainment (from 2 days to 5 days per week) was an unlawful extension of the owner's nonconforming night club use. The Court held that the increased frequency of the adult entertainment activities was merely an intensification of the nonconforming use and not unlawful because it did not change the fundamental nature and character of the use. 392 Md. at 582-88. Here, we do not have an intensification of a use, that is, RH has not simply increased the use to which the Baptist Home put the Property, but rather has fundamentally changed the use to another use that is not permitted in the RC2 zone.

In *Lone v. Montgomery County*, the Court of Special Appeals discussed, at some length, nonconforming uses generally, but the case did not involve a change in a use and is therefore not on point. RH cited the decision for the four factors to be considered when determining whether a particular activity is within the scope of a nonconforming use. RH's use of the Property easily fails to meet these four factors. It is a use that is entirely "different in character, nature and kind" which does not "reflect the nature and purpose of the original nonconforming use," which are the first and second factors in *Lone*. The rental of apartments and houses is not a nursing home or a boarding

house, which the County Council has already determined by virtue of the simple fact that this rental activity falls within its own defined use under the BCZR, namely a "multifamily building," and outside the separately defined uses of nursing home and boarding house. Multifamily buildings have a "substantially different effect" on the surrounding neighborhood, the third factor in *Lone*, as evidenced by the fact that are limited to the commercial zones in the County, not the RC2 zone by right or by special exception. Finally, even if rental apartments and houses could be considered an enlargement or an extension, they are certainly a "drastic" enlargement or extension.

2. Mr. Wright Abandoned Any Putative Non-Conforming Use

Even if we take the substantial leap that there was no change of use (*i.e.*, that Mr. Wright's rental of apartments is not a different use than a nursing home), then any nonconforming use nevertheless terminated because it is undisputed that Rainbow Hall was not used for rental apartments for a period of thirteen (13) months between March 2001 and April 2002.

Mr. Lewis lived on the Property and was responsible for the maintenance of all buildings, including the mansion and the three houses. (Tab 2, p. 6). He testified that the Baptist Home closed its doors in late February 2001 and shortly thereafter, in early March 2001, he moved from the Cottage to the main mansion. (*Id.*, pp. 7-8). He lived in the mansion for 13 months, from March 2001 until the end of April 2002. (*Id.*, p. 7). During that entire 13-month period, there was no one else living in either the mansion or in the wing. (*Id.*, p. 11). Thus, it is undisputed that any nonconforming use established by the Baptist Home was terminated because it had been abandoned or discontinued for more than the requisite one-year period.²⁸ This

²⁸ Mr. Lewis's own occupancy of the mansion for this 13-month period does not prevent a finding of abandonment or discontinuance. Mr. Lewis was an employee of the Baptist Home

analysis extends to the Cottage as well. Mr. Lewis testified that during the period of time he was living in the mansion, there was no one living in the Cottage. (*Id.*, pp. 11-12).

Mr. Lewis's testimony was confirmed by the testimony of Dr. Houk, who was the medical director of the Baptist Home from 1993 to January 2001. (Pet's Ex. 49, p. 4). Dr. Houk, however, recalls that the facility closed in January rather than February 2001. (*Id.*, pp. 9-12). He was attending a seminar for medical directors and learned that the facility was closing within a few weeks. His understanding was that the Baptist Home was trying to find another location and attempting to obtain investments from family members, but someone absconded with a large sum of money and the operation went bankrupt. (*Id.*, pp. 9-10). The residents were relocated to different facilities in the area and by the end of January 2001, all the residents had moved out of the Baptist Home. (*Id.*, p. 10). Dr. Houk recalls that when he left in January 2001, there were no residents living in the main building or the wing. (*Id.*, p. 11).

In sum, Mr. Wright's entire case boiled down to the argument that the apartments and three houses at Rainbow Hall were permitted because they are a continuation of a nonconforming use established by the Baptist Home and its predecessors. As the above zoning history demonstrates, the Baptist Home was not operating its nursing home as a nonconforming use but rather pursuant to a valid special exception. Mr. Wright could have attempted to continue a nursing home or, more appropriately, could have used the Property as a single family home. That was a viable option that Mr. Wright apparently has never pursued. Moreover, even if there was a nonconforming use when Mr. Wright purchased the Property (which there was not), that nonconforming use was clearly terminated by not only Mr. Wright's change of that use, but also the simple and undisputed fact that there was no one living in the mansion or the Cottage

during the time he lived in the main mansion. (*Id.*, pp. 10-11). He did not pay any rent, but rather received a 1099 in an amount equal to the rent. (*Id.*, p. 11).

for a period of thirteen months from March 2001 to April 2002. The fact that there may not have been such a lapse in the tenancy of the two ranchers does not change this result. The rental of those two houses is still illegal for the other reasons stated above, namely (1) they constitute an impermissible "change" in use under §104.1, and (2) they violate the one dwelling per lot limitation in §1A01.3.B4.

E. RH'S Chart Has Important Errors Regarding The Occupancy Of Rainbow Hall

RH introduced a chart (RH Ex. 7) in an attempt to show that the mansion and the three houses have been continuously occupied. The chart is inaccurate in two important respects. First, the chart shows the residency of Mr. Sheldon Lewis in the main house as occurring "through April 30, 2002." Mr. Lewis clearly testified that he lived in the mansion between March 2001 and April 2002, and did so as an employee of the Baptist Home in order to watch over the Property. He testified that during this 13-month period there was no one else living in the mansion. This is critical because it establishes the one-year period of abandonment required by §104.1. Mr. Lewis's residency should not even be depicted in RH's chart because he was not a tenant and did not pay rent. He was an employee of the Baptist Home and his residency was strictly accessory in nature.

Secondly, the chart does not show that the Cottage was vacant during the same period that Mr. Lewis was living in the mansion, from March 2001 to April 2002. This is critical because it establishes the one-year period of abandonment for the Cottage. The Cottage, which served as a staff residence, was a legitimate accessory use for many years and then sat idle for 13 months after Mr. Lewis's move to the mansion as caretaker of the Property in the final year of the Baptist Home's ownership.

Aside from these two discrepancies (and despite Mr. Wright's often confusing testimony about when people were living in the mansion and wing) RH's chart is entirely consistent with Petitioners' Rental Income chart (Pet's Ex. 48). These exhibits demonstrate indisputably that:

- No one was living in the mansion or the wing from February 2001 (when the Baptist Home closed) until April 2002 (except Mr. Lewis who was there from March 2001 to April 2002 as an employee of the Baptist Home)
- No one (including Mr. Lewis) was living in the mansion or the wing from April 2002 to October 2002 when Mrs. Dodd moved into the second floor
- No one was living in the wing (*i.e.*, the apartments) from February 2001 until February 1, 2004, when the first tenant moved into Apt. 2A

F. The Errors In The Plat Are Non-Substantive; RH Does Not And Cannot Claim Any Prejudice Resulting From Them

In his testimony, Mr. Thaler identified certain mistakes in the plat originally filed with petition for special hearing²⁹ and in the redlined plat submitted before the Zoning Commissioner.³⁰ (Tab 3, pp. 99-100). Relying upon the Zoning Checklist (RH's Ex. 11), which identifies the information to be included in plats filed with the County, Mr. Thaler stated that the errors "are so substantial that some of them rise to a fatal flaw." (*Id.*, p. 93).³¹

²⁹ Mr. Thaler stated that the plat identified the wrong councilmanic district and election district, the boundary lines had incorrect distances, and the north arrow and scale were missing. (Tab 3, pp. 90-92)

³⁰ Mr. Thaler stated that the redlined plat had the wrong councilmanic and election district in one location, two boundary lines were incorrect, the zoning line demarcating the RC2 and RC5 zones was missing, the redlined plat was not sealed by Mr. Patton, the plat did not reflect the Zoning Commissioner's decision in this case, one of the street addresses has a "?" next to it, and the parking lot and certain setbacks are not shown. (Tab 3, pp. 94-99).

³¹ Mr. Thaler did not identify which errors rise to a "fatal flaw."

Preliminarily, it should be noted that the Checklist, on its very first page, states that it is merely a "guide."

This checklist is a guide in preparing plans and information for ... zoning public hearing applications.

(RH Ex. 11, p. 1) (emphasis added).

Further, while it is true that the Checklist speaks in terms of what *must* be included when preparing a plat, it is clear that these requirements are merely pre-requisites to the filing and acceptance of the plat by the County's Zoning Review office. They are not pre-conditions to the plat's legality or effectiveness. Failure to comply with the Checklist does not render the plat illegal, void, or a nullity. It simply means that the plat may not be accepted. Here, it should not be forgotten, the plat was accepted for filing. This was done, as is the usual course, after a "pre-filing" meeting between Mr. Patton and a representative of the Zoning Review office. At that meeting, the plat was reviewed, discussed, and ultimately accepted by the County.

That the Checklist is procedural rather than substantive in nature is supported by the only conclusion that Mr. Thaler actually draws from the errors in the plat. At the end of his testimony on this issue, Mr. Thaler simply states that the redlined plat does not meet all of the filing requirements in the Checklist.

MR. WYATT: Does this witness have an opinion regarding Petitioner's exhibit forty-two meets the filing requirements for [a] Petition for Special Hearing in Baltimore County?

MR. THALER: I do have an opinion.

MR. WYATT: And what is that opinion.

MR. THALER: It doesn't.

MR. WYATT: For the reasons you testified to?

MR. THALER: For all the, there's a, there's a checklist, there's []
filing instructions and for all these reasons I
believe it does not.

(Tab 3, pp. 99-100). The fact that the plat may not meet all of the filing requirements in the Checklist does not have any substantive affect on the plat itself or render it illegal, null, void, or otherwise ineffective. Indeed, Mr. Thaler never said otherwise.³²

Looking to the mistakes themselves, it is clear that they are, at worst, minor errors. They pertain, for the most part, to the identification and location of the Property. There has never been any question in this case regarding which property is at issue or the location of the property. The mistakes do not relate, in any way, to the actual relief sought in the petition for special hearing. Unlike a petition for special exception or a petition for variance, the petition for special hearing in this case does not seek any affirmative zoning relief. Rather, the petition asks for a legal determination regarding the proper use of the Property.

Perhaps most importantly, RH does not claim, nor can it claim, any prejudice as a result of the errors in the plat. RH received a copy of the petition itself, which correctly identified the street address of the Property and included an accurate zoning description of the Property. RH obviously understood that its property was at issue in this case and was not fooled by the incorrect identification of the election and councilmanic districts or the incorrect dimensions in the plat.

Tellingly, when Mr. Thaler was asked why the mistakes were important, he did not articulate any prejudice that would result. Instead, Mr. Thaler stated:

³² That compliance with the Checklist is merely a pre-requisite to the filing and acceptance of the plat is also supported by the following statement on the first page:

TO AVOID TIME-CONSUMING AND COSTLY DELAYS, ALL
CHECKLIST INFORMATION MUST BE INCLUDED ON THE
PLAN AND/OR IN THE HEARING APPLICATION.

(RH Ex. 11, p. 1) (emphasis added).

Well, this case has been going on for forty-eight years. I mean, the original special exception was filed in 1963 and we're relying on what, on the plans that they did that go back forty years and a future Board and future lawyers and engineers are going to rely on what we do today. We can't have, I don't think we can have materially unreliable documents in the file. Nobody will ever figure it out.

(*Id.*, p. 93).

Obviously, this Board should be concerned with whether, 20 or 50 years from now, its decision in this case will be understood by the owner of the Property, members of the community, engineers, lawyers, and future members of the Board. However, there is nothing about the mistakes in the plat that would create any ambiguity in this regard. More to the point, Mr. Thaler's concern does not constitute a prejudice to RH.

In sum, Petitioners do not deny there were mistakes in the plat or seek to excuse them. Petitioners submit, however, that the mistakes are minor in nature and do not render the plat itself or these proceedings legally deficient. The errors have no impact whatsoever on the strictly legal issues before the Board.

G. The Filing Of The Instant Petition For Special Hearing Was Authorized By §500.7

The filing of the Petition for Special Hearing in this case was authorized under both the first and second sentences in §500.7. The Petition was authorized under the first sentence because Petitioners seeks to enforce provisions of the BCZR. The Petition was authorized under the second sentence because Petitioners are "interested persons" who seek a determination regarding both the existence of a nonconforming use at the Property and the rights of RH in the Property.³³

³³ RH makes the rather silly argument that, because the second sentence of §500.7 is written in the disjunctive, Petitioners "can only seek relief under one provision, not both", that is, they cannot ask the Zoning Commissioner to both determine a nonconforming use and determine RH's rights in the Property. RH cites no support for this strained argument, either one based on rules of grammar or the law.

RH argues that the first sentence of §500.7 is not applicable because the Zoning Commissioner did not *initiate* this proceeding, but rather Petitioners did. This is a strained and unreasonable reading of this first sentence. This provision authorizes the Zoning Commissioner to “conduct” hearings; it does not require that he initiate the proceeding, explicitly or implicitly.³⁴

RH next argues that Petitioners are not “interested persons” because they do not have standing. RH cites no support for its suggestion that the “interested person” requirement in §500.7 is a standing requirement. A petitioner may be an “interested person” but not have the legal standing that would be required in a court of law. It is well settled that standing is extremely relaxed in administrative proceedings and extends to community associations, who typically do not have standing in the Circuit Court. *See Sugarloaf v. Dept. of Env't.*, 344 Md. 271, 286-86 (1996) (“The requirements for administrative standing under Maryland law are not very strict. ... [O]ne may become a party to an administrative proceeding rather easily.”); *see also Morris v. Howard Research & Dev. Corp.*, 278 Md. 417, 423 (1976); *Dorsey v. Bethel A.M.E. Church*, 375 Md. 59, 71-75 (2003). However, even if we assume that the legal standing required in a court of law is what “interested person” language requires, Petitioners clearly have that standing. Mr. Wilson owns land adjoining the Property and Mr. Zinn owns property across the street. They are deemed *prima facie* specially harmed and thus are presumed to have standing. *120 West Fayette Street, LLP v. Mayor & City Council of Baltimore*, 407 Md. 253, 271 (2009) (a party who owns “adjoining, confronting or and neighboring” property is deemed,

³⁴ RH’s contention that the Zoning Commissioner must initiate a proceeding under 500.7 is also contrary to the established administrative practice in the County, in which petitions for special hearing are routinely filed by persons other than the Zoning Commissioner. Further, other provisions in the BCZR refute RH’s argument. For example, §408B.1 (which coincidentally addresses boarding or rooming houses) authorizes any interested person to file “a formal request for a public hearing before the Zoning Commissioner *in accordance with Section 500.7.*” *See also* §409.8 (same).

prima facie, to be “specially harmed” and to have standing to challenge his neighbors’ violations of public laws).³⁵

H. The Hosting Of Catered Events And Affairs, And Similar Commercial Uses, Are Not Permitted In The RC2 Zone

The Resource Conservation zones are the most restrictive zones in Baltimore County. They were created in order to prevent urban expansion and undesirable land use patterns in our rural areas, to protect natural and man-made resources, and to limit rural-suburban and related development to only select and suitable areas. BCZR, §§1A00.1 *et seq.* The RC2 zone, in particular, was established not only to foster agricultural uses of land, but to prevent “incompatible forms and degrees of urban uses.” §1A01.1.B.

Mr. Wright’s use of Rainbow Hall for parties, weddings, bar mitzvahs, and the like is entirely incompatible with these purposes. Indeed, these events fall squarely within the definition of “catering hall” in the BCZR, which is a recognized commercial use that is allowed only in the BM (Business Major) zone. A “catering hall” is defined as:

Catering Hall. A facility or part of a facility used regularly for serving beverages and food to groups that reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant.

BCZR, §101.1; *see also* § 233.1 (BM zone).³⁶

In two relatively high profile cases, the Zoning Commissioner and the Board of Appeals held that the types of events hosted by Mr. Wright constitute a “catering hall.” In one case, the owner of the Oregon Grille restaurant on Shawan Road in Hunt Valley sought approval to use the

³⁵ The Petition for Special Hearing is also authorized under the separate authority granted in §500.6, which grants the Zoning Commissioner power to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon.

³⁶ In the RAE1 and RAE2 zones, “catering establishments, in any apartment building of 150 or more dwelling units” are permitted. BCZR, §200.2 (RAE1 zone); §201.2 (RAE2 zone).

outdoor area of his restaurant for up to 12 weddings and similar events each year. The Zoning Commissioner (then Timothy Kotroco) agreed with the protestants that the hosting of these events constituted a "catering hall" and was not permitted in the RC4 zone. Several years later, when the owner of the Oregon again sought permission to engage in such activity, he was denied that permission. The Board of Appeals had "no difficulty" finding that the proposed events constituted a "catering hall." (*Id.*, pp. 23-25).

In another case, the proprietor of the Manor Tavern in Monkton filed a petition for special hearing to determine if the use of an outdoor area outside his restaurant for wedding receptions and parties was permitted in the RCC zone. (See Opinion in *In re Manor Tavern* attached hereto at **Tab D**). At the hearing, Carl Richards of the Zoning Review Office testified that the County had a "long-established administrative practice" of classifying catering as a "commercial recreation enterprise" that requires commercial zoning. (*Id.*, p. 10). The Board of Appeals agreed, concluding that it was "very clear" that catering was not allowed in the RCC zone. The Board explained:

Consideration shows that catering does properly belong only in the heavier commercial zones, namely, B.M. and B.R. Wedding receptions, large parties, catered affairs, by their very nature, attract a large number of persons who primarily arrive at a party and leave a party at approximately the same time. Also, such wedding receptions and parties even when held indoors, usually involve music, and loud talk.

Although the Oregon Grille and Manor Tavern matters involved the RC4 and RCC zones, the rationale of the Zoning Commissioner and the Board of Appeals applies easily to the RC2 zone, which is as restrictive as the RC4 zone and certainly more restrictive zone than the RCC zone.³⁷

Mr. Wright will no doubt argue that his use of Rainbow Hall for these events is not a catering hall because he allegedly receives no compensation for renting the hall. First, factually

³⁷ The *Oregon Grille* decisions are attached at Tabs G and H to Petitioners' post-hearing memorandum submitted to Commissioner Wiseman. The *Manor Tavern* decision is attached at Tab I.

speaking, this is not entirely true. Mr. Wright admitted at the hearing that he has received donations from those who have used Rainbow Hall and that he has used those donations to defray the costs of maintaining the building. He also received \$2000 per month from the Church to whom he rented the mansion. Moreover, the fact that Mr. Wright may not have received any income *per se* does not change his *use* of Rainbow Hall. Like the events at issue in *In re: Oregon Grille* and *In re: Manor Tavern*, the events at Rainbow Hall, by their nature, attract a large number of people who arrive and leave at the same time. Most of the events are celebratory and include loud music and talking. There is no requirement in the definition of "catering hall" that the owner must profit from his enterprise. That is not required of any commercial use recognized in the BCZR; it is Rainbow Hall's use, not its profitability, that makes it a "catering hall."

Mr. Wright also may contend that he does not "regularly" host events at Rainbow Hall, as required by the definition of "catering hall," because he has held only 15-20 events since he purchased the Property. The definition does not require a certain number of events per year, nor does the term "regularly" suggest such a requirement. "Regularly" is defined as "in a regular, orderly, lawful, or methodical way." Webster's Third New International Dictionary, p. 1913.³⁸ "Regular" is defined as: "steady or uniform in course, practice, or occurrence; not subject to unexplained or irrational variation." Since he first purchased the Property, Mr. Wright has clearly used Rainbow Hall for events in a regular, steady, and uniform manner. Indeed, before he even went to settlement on the Property in April 2002, Ms. Lubke was already in the building making arrangements for the Decorator's Show House. During the pendency of this case, Mr. Wright

³⁸ Webster's Third New International Dictionary is the dictionary recognized in the BCZR as supplying the "ordinarily accepted definition" of words when they are not defined in §101.1.

hosted events at the building. It is apparent that Mr. Wright has no intention of ceasing his use of Rainbow Hall for these events.

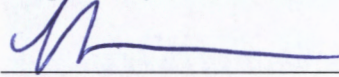
Finally, it should be noted that Petitioners do not contend that homeowners may not hold a party or other private affair at their home. However, properties that are not owner-occupied, such as Rainbow Hall, present unique problems because they tend to be used for larger and more numerous events, and are capable of being extended to the greater community. That is what is occurring at Rainbow Hall.

IV. CONCLUSION

For the reasons stated, Petitioners respectfully request that the Board of Appeals find, in response to the questions posed in their petition, that:

1. Rental apartments are not allowed at Rainbow Hall because they constitute a "multifamily building", which is not permitted in the RC2 zone either by right or special exception.
2. The rental of houses at the Property violates the one principal dwelling per lot limitation in BCZR §1A01.3.B4.
3. The rental of houses at the Property is not an "accessory use or structure" under that definition in BCZR §101.1.
4. When the Baptist Home ceased operations in March 2001, there was a valid special exception for a nursing home; it was no longer a nonconforming use.
5. Even if a nonconforming use existed as of the date the Baptist Home ceased operations, that use was "changed" under BCZR §104.1 and thus terminated.
6. Even if a nonconforming use existed as of the date the Baptist Home ceased operations, that use was "abandoned or discontinued" under BCZR §104.1 because Rainbow Hall was not used for apartments for the requisite 12 month period.
7. The hosting of catered events and affairs, and similar commercial uses, is not permitted at the Property.
8. The use of the Property for rental apartments and houses, for catered events and affairs, and for other commercial uses constitute violations of and/or noncompliance with the BCZR. BCZR, §500.6.

Respectfully Submitted,



Michael R. McCann
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 825-2150

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 9th day of December 2011, a copy of the foregoing post-hearing memorandum was sent *via* regular mail to:

Michael Wyatt, Esq.
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204



Michael R. McCann

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

December 8, 2011

Theresa R. Shelton, Administrator
County Board of Appeals
Jefferson Building
105 W. Chesapeake Avenue, Ste. 203
Towson, Maryland 21204

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**BALTIMORE COUNTY
BOARD OF APPEALS**

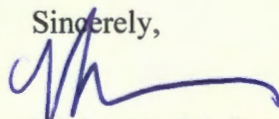
Re: In re: Rainbow Hall
Case No: 10-280-SPH

Dear Ms. Shelton:

Enclosed please find an original and three (3) copies of Petitioners' Post-Hearing Memorandum in the above referenced matter.

Thank you for your assistance. Please contact me if you have any questions.

Sincerely,



Michael R. McCann

Enclosures

12/8/11
IN THE MATTER OF:

VALLEYS PLANNING COUNCIL, INC.

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No: 10-280-SPH



* * * * *

BRIEF OF RESPONDENT RAINBOW HALL, LLC

RAINBOW HALL, LLC, Respondent, by its attorneys, Michael T. Wyatt and Michael L. Snyder, hereby submits this brief in opposition to all relief sought by the Petitioners VALLEYS PLANNING COUNCIL, INC. ("VPC")¹ *et al.* in the above-referenced zoning proceeding.

I. INTRODUCTION

Respondent's 19.67 acre property located at 10729 Park Heights Avenue is improved by a mansion house, a large institutional-style wing, and three (3) individual residential dwellings (the "Property"). The Property was named "Rainbow Hall" by General Douglas MacArthur and is of historical significance.² It also has an extensive zoning history.

Cloaked in what it perceives to be private zoning enforcement authority under § 500.7 of the Baltimore County Zoning Regulations ("BCZR"), VPC initiated this case to complain about virtually everything Respondent has ever done at the Property since purchasing it in 2002.

¹ As discussed later in Section II.A.3, this case was initiated by Petitioner VPC only. During the course of the prior zoning hearing in 2010, Petitioners MARK WILSON and HARLAN ZINN were added as parties over objection. Respondent continues to object to the participation of Mssrs. WILSON and ZINN as Petitioners, but for purposes of this brief and without waiving this objection, Petitioners may be referenced in the plural or only as VPC.

² After the famous 42nd "Rainbow" Division which met with great military success in World War I, during which the then-Brigadier General was awarded the Medal of Honor.

VPC waited many years to file this case against Respondent. During that timeframe, the uses of the Property were significantly de-intensified from the days of the Baptist Home (1963 – 2002) where there were some 40-50 employees working at the Property to care for the 80-90 fulltime residents. In this light – people complaining about a current situation which is dramatically better than at any time before – Respondent submits this case should be seen for what it really is: a stalking horse for VPC's desire to depopulate the 19.67 acre parcel and grind all human activity at the Property to a halt.

Baltimore County Department of Permits and Development Management (PADM Code Enforcement, now known as "Permits, Approvals and Inspections") previously investigated this matter at the behest of the Petitioners and on at least two occasions elected to take no action. (Respondent's (R.) Exhibit 9, pp. 32-33, 37 - PADM finding that the Property "always had apartments in building, no violation").

The extraordinary relief sought by Petitioners should be denied. First, § 500.7 of the BCZR does not authorize the private code enforcement action filed by VPC and, even if it does, the Petition and the Plat upon which it is based are so devoid of accuracy and reliability that this case should proceed no further. Second, RAINBOW HALL, LLC's multi-residential uses at the Property represent a continuation of prior, valid special exception approvals. Third, even if, *arguendo*, the prior special exceptions had lapsed or terminated, the present multi-residential uses are permissible as a valid non-conforming use under applicable law. And finally, any application of the zoning regulations to the Property must be "reasonable" in light of its prior history, the prior approvals, uses and permitted improvements. The granting in this case of any relief sought by Petitioners would not be a reasonable exercise of zoning administration, nor would it pass constitutional muster.

A. History

The 10729 Park Heights Avenue property (synonymously known as "Rainbow Hill" and "Rainbow Hall") has a rich history.³ This history is central to the longstanding multi-residential use that has existed at the Property, intermittently, for in excess of 100 years. For example, at the turn of the last century, the Property was used as the "Avalon Hotel". Later, it was sold by the Rosenberg family to a group of investors intending to operate the mansion as a private golf club with apartments and rooms available for members as well as dining and catering facilities. Mr. Henry Rosenberg later re-acquired the Property and sold it to the Baptist Home of Maryland/Delaware, Inc. ("Baptist Home") in the early 1960s. The Baptist Home built and continuously operated an institutional-style nursing home and boarding house for nearly 40 years (1963-2002) at the location. Notably included as part of the Baptist Home were several apartment-style aggregations of rooms located on the second floor of the mansion for independent living residents of Baptist Home.

The evidence in this case established that other rooms in the main structure were configured and accommodated up to as many as 80 residents, as well as providing for a main dining room, common areas, and administrative quarters. The three individual residences on the Property date back many years and have consistently been utilized for single family use contiguous to the main house. During the 40-year Baptist Home era, "each person's room [was] his home in the truest sense," according to the Baptist Home's "Rainbow Hall" promotional literature. (Petitioners' (P.) Ex. 25, p. 6).

Since 2002, the Property has continued with multi-residential use, albeit on a reduced and less intense scale. Under the direction of Mr. Henry M. Wright, Jr., 8 of the apartments or *en*

³ See P. Ex. 4, "26th Symphony Decorator Show House", as more fully restated in R. Ex. 2, Attorney Wyatt's August 3, 2009 letter.

suite units were relocated from the second floor of the main house to the institutional wing where the institutional-style rooms have been reconfigured to accommodate this relocation. The three detached residences have been renovated but continue to be used as single family residences. One of the residences, the rancher known as 10733 Park Heights Avenue, is currently occupied by Jean Lubke, an employee of Respondent, along with her family. On occasion she works in an office located in the mansion.

B. Pertinent Zoning History

The Baptist Home was granted a special exception in 1963 to permit a boarding house (up to 40 units). The 1976 zoning change from RC-3 to RC-2 had no impact on the Baptist Home's increasing operations at the Property. In 1988 the zoning of the Property was again changed from RC-2 back to RC-3. Sometime later that year, the Baptist Home entered into a Restrictive Covenant Agreement with Petitioner VPC ("RCA") (R. Ex. 1). Among other things the RCA provides that upon the sale of the Property, all uses must revert to what is "permitted" under zoning law, including valid special exceptions and non-conforming use. The RCA also unequivocally demonstrates VPC's actual knowledge and approval of the Baptist Home's intensive operation at the Property.⁴

In 1991, further special exception relief was granted (by the Zoning Commissioner) to the Baptist Home to construct two additions to an existing facility and redacting prior restrictions relating to religious use and age requirements on the 1963 boarding house approval. In affirming, the Board of Appeals in 1991 did not supplant the 1963 "boarding house" phraseology in the special exception; instead it augmented the 1963 case by specifically adding approval for the nursing home activities (P. Ex. 9, pp. 15-18). Thus the prior "boarding house" special exception

⁴ While the efficacy of the RCA is not at issue in this case, it does juxtapose interestingly with VPC's current complaints.

was "folded into" the nursing home approval and still remained applicable to the Property (a point stipulated by both sides' zoning experts).

In 1997, then-Zoning Commissioner Lawrence Schmidt observed that the Baptist Home's boarding house use since 1963 "has existed on the property since that approval". (P. Ex. 9, p. 22). The 1997 zoning case also illustrates the intensity of the Baptist Home operation, including continuing care for up to 64 residents with some 50 full- and part-time employees at the facility working 24 hours a day, 7 days a week (*Id.*). It is clear from the discussion that takes place in the 1997 zoning opinion that Baltimore County "has [in place] a longstanding policy that special exception approval survives, irrespective of the down-zoning of a given property" and that whether the Zoning Commissioner agreed with the policy or not, "apparently it was followed in this case". (P. Ex. 9, p. 26). In 1997, the Zoning Commissioner granted relief with respect to undersized non-density parcels subject to certain requirements being met. In the 1997 case, an excellent discussion takes place with respect to the prior zoning history and the longstanding policy of Baltimore County which continues to recognize a previously issued special exception use.

Petitioners' own "zoning expert" could not point to any law or policy whereby a special exception lapses or did lapse in this case. He variously recited that the special exception ceased "because the Baptist Home sold the Property" or "because the zoning changed [in 2004 from RC-5 to RC-2]". (Nov. 3 Tr., pp. 103-108). His testimony, as discussed below, is at odds with Baltimore County policy and Maryland case law.

C. Relevant Facts Adduced at Hearing

1. Testimony of VPC, ZINN and WILSON.

VPC testified through its executive director, Teresa Moore. Over objection that her "Rule 8" documentation was non-compliant, the Board permitted Ms. Moore to testify as to VPC's position with respect to this case.⁵ During Petitioner's case, it was barely established who VPC is and there is no testimony in the record as to its geographical area of interest, the number of members, or how it might have any interest in the Property. (Nov. 2 Tr., pp. 123-124)

For Mssrs. ZINN and WILSON, the issue with regard to standing is equally attenuated.⁶ Other than broad claims of driveway traffic, Mr. WILSON's concerns were purely of an abstract and speculative nature (*e.g.*, living next to an uninhabited mansion, impact on the value of his \$4.2 million mansion home, etc.).

Although Mr. ZINN is troubled by the so-called "commercial events" taking place at the Property, he escorted his son to a bat mitzvah in 2010 and even took some photographs in the interior of the Rainbow Hall mansion of some of his son's friends. Like Mr. WILSON, Mr. ZINN articulates mostly theoretical concerns. One thing that distinguishes Mr. ZINN from Mr. WILSON is the fact that Mr. WILSON moved into the area after the intense Baptist Home operations at the Property ceased, while Mr. ZINN lived there for a decade or so during the intense Baptist Home operations.

Topography, landscaping and remote proximity demonstrate that Mssrs. ZINN and WILSON (as discussed in Section II.A.3 of this Brief) are insufficiently impacted to have standing in this case. It is clear from the photographic evidence that none of the complained-about uses are discernable from either the ZINN or WILSON property. Ms. Kathleen Pontone, a

⁵ These included vague references to "commercial uses" and "dangerous" setting of precedence that pervaded Petitioners' case, although they never explained how a property as unique as Rainbow Hall could serve as precedent.

⁶ Although Mr. WILSON could point to one instance where he heard noise from a party hosted by Mr. WRIGHT, he admitted it stopped at some point after he complained. (Nov. 2 Tr., p. 103). This is hardly the stuff of County Board of Appeals zoning litigation.

non-party living some 3 miles away, expressed concerns about every aspect of the Property. (Nov. 2 Tr., pp. 135, 145-151).

Petitioners' witness, Sheldon Lewis testified about the time he was employed at the Property by the Baptist Home (1998 – 2002). He stated the second floor of the main mansion contained some 8-10 apartments, each with its own bathroom and with toaster ovens, microwaves, or other smaller kitchenette-style appliances. Mr. Lewis also lived in the mansion house from March 2001 – April 2002. Additionally, Mr. Lewis testified that some of the residents had their own refrigerators. (Nov. 3 Tr., pp. 15, 21-22). Mr. Lewis' testimony was reinforced by the testimony of Mr. Henry M. Wright, Jr. and Ms. Jean Lubke, both of whom independently visited the Property just prior to RAINBOW HALL, LLC taking ownership. Ms. Lubke testified that there were some 10 or so "apartments" on the second floor of the main house.⁷ (Nov. 8 Tr., pp. 29, 31-33, 35).

The combined testimony of Mr. Henry M. Wright, Jr., Ms. Beverly Pearce, and Ms. Jean Lubke establish a continuous and uninterrupted occupancy of all the Rainbow Hall facilities, at least from the time when Baptist Home began to wind down its operations through November 2011. (See R. Ex. 7). This evidence, coupled with the zoning history, establishes that from 1963 to present, there have always been residents located in the main house, its institutional-style wing, and the three detached residential structures.

II. DISCUSSION

⁷ Petitioner will no doubt point to the testimony of Dr. Theodore Houk in an attempt to persuade the Board that there were no apartments in the main house during the days of the Baptist Home. On this point, Petitioner's Ex. 10 is instructive. This detailed floorplan of the second floor of the main house clearly delineates multiple apartment or *en suite*-style units. Unlike Sheldon Lewis, whose job description entailed building maintenance, Dr. Houk was the medical director who dealt with patients and was perhaps not keenly aware of the physical plant like Mr. Lewis.

A. The claims of Petitioners must be dismissed based on the numerous defects in their Petition and the Plat upon which it is based.

1. The Petition filed by VPC in 2010 is factually defective – even a cursory review of this document reveals glaring omissions and factual misrepresentations.

First, the Petition (R. Ex. 10) erroneously lists "Rainbow Hall, Inc." next to the Property address. The language of the Petition recites as follows: "the undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and the plat attached hereto and made part hereof, hereby petition for a special hearing". Next, the language continues above the signature lines with the following: "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".

As stated, the Petition was prepared by VPC. Apparently VPC inserted the name of "Rainbow Hall, Inc. aka Rainbow Hall, LLC" underneath the oath and affirmation and next to its name as Petitioner. Of course, no one from RAINBOW HALL, LLC signed where required. The only signatory to the Petition is Michael McCann, who signed both as "Attorney-in-fact" (without a supporting document) and as "Attorney". Corporations typically can act only through their duly authorized officers or directors. And while Mr. McCann may be the attorney for the Petitioner, he executed a Petition which contains numerous misrepresentations.

Neither VPC nor Mr. McCann individually has any ownership interest (freehold or otherwise) in the Property. Of course, this stands in stark contrast to the oath and attestation. Then it appears someone scribbled through the pre-printed "Contract Purchaser/Lessee" language of the Petition form and inserted the word "Petitioner". Perhaps VPC intended to create the

appearance that the Petition was authorized by the legal owner of the Property. In any event, these misrepresentations alone should warrant dismissal.

2. *The Plat and related zoning description are fatally flawed and the Petition must be dismissed.*

The Plat accompanying the "Petition for Special Hearing" (P. Ex. 34), which includes the zoning description is defective. The purpose of a plat, when filed in conjunction with a petition under § 500.7, is to provide a reasonable representation of the property at issue for purposes of the zoning proceeding and historical record. It follows then that the plat and property description should be accurate for purposes of publication, notice, posting and for zoning posterity. This was reinforced by Respondent's expert, David S. Thaler, P.E. According to Mr. Thaler, the preparation of zoning petitions and plats is based on engineering science and should conform with those scientific requirements and the checklist provided by Baltimore County. (Nov. 8 Tr., pp. 97-100). If these documents are not correct, the historical record will be wrong and those in the future will be left to wonder about the earlier defects. What is so unusual about this case is the fact that Petitioners' engineer, James Patton, had over one (1) year from the original Zoning Commissioner's hearing to "get it right". Even with Mr. Patton's correction of approximately 23 errors, the "redline" Plat (P. Ex. 42) submitted during the course of the County Board of Appeals hearing is still empirically flawed.⁸

Mr. Thaler outlined why Petitioners' Plat continues to be so rife with systemic errors and obvious mistakes that it permanently impairs the Petition and this proceeding. The redline Plat contains no fewer than 10 substantive mistakes, many of which are fatal to Petitioners' case. Among them are the following are major errors: (1) Two of the five dimension lines of the property boundary are wrong and do not measure correctly; (2) the "Zoning Description for 10729 Park

⁸ Mr. Patton maintained during cross-examination that all of the changes were correct and that he double-checked everything. (Nov. 3 Tr., p. 97).

Heights Avenue" set forth on the Plat incorrectly identifies the Property "in the 12th Election District, 3rd Councilmanic District" ⁹; (3) the Zoning recites only RC-2 when it's actually RC-2 and RC-5; (4) the redline revisions are not sealed; (5) the address is uncertain; and (6) the zoning history is incomplete. (Nov. 8 Tr., pp 94-99). All of the information set forth on the Plat was the basis upon which this case was processed, publication was made, and notice given.

Considering that this is a zoning case dealing with land use, Petitioners' Plat should accurately describe the Property. Given the Plat's incorrect dimensions, it is unclear what portions of the Rainbow Hall Property are intended to be included in the Plat. Equally troubling is the issue of notice and whether people were dissuaded from attending the hearing, erroneously believing the Property is in a completely different area of Baltimore County with different zoning and a question mark next to the address.

If Petitioners' expert engineer cannot determine these things, how can the rest of the world be expected to determine them? These blunders are more than mere inadvertence and should serve as a basis to remand this case or dismiss the Petition altogether.¹⁰ The Plat submitted with the Petition, and later redlined, is so utterly lacking in reliability and accuracy that any relief granted pursuant to it creates an immediate and irreconcilable legal anomaly.

3. *Relief sought by Petitioners is not available under § 500.7 of the Baltimore County Zoning Regulations.*

⁹ These references pertain to areas located in other parts of Baltimore County. The 12th election district includes Dundalk and the 3rd councilmanic district is in Baltimore County, far north of the Property.

¹⁰ R. Ex. 11 delineates the requirements for a site plan or Plat.

At the close of Petitioner's case, Respondent made a motion to dismiss. The arguments advanced primarily addressed standing, statutory construction of BCZR § 500.7 and the patent defects in Mr. Patton's Plat.

Even if this zoning case is to be guided by the requirement that Petitioners be "interested persons" as referenced in § 500.7 of the BCZR, the evidence does not support that any of the Petitioners would have standing to pursue the relief they request under that Section which provides:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. *The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.* [Emphasis added].

It is clear the first sentence of § 500.7 is not applicable to these proceedings, as the Zoning Commissioner did not initiate these proceedings by invoking his "power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations". (Similarly, § 500.6 is not applicable to this case because it was not commenced by the Zoning Commissioner. Rather, VPC initiated this case).

In accordance with BCZR § 501.6 and Baltimore County Code § 32-3-401, zoning appeals are heard *de novo* by the County Board of Appeals. Respondent submits VPC abjectly lacks standing, leaving only Mssrs. ZINN and WILSON as possible torch-bearers. However, Mssrs. ZINN and WILSON did not initiate this matter when it was filed (see P. Ex. 10) and no effort was made to include them as Petitioners in this *de novo* appeal.

The Court of Appeals recently discussed that a "true trial *de novo* [as opposed to an essentially *de novo* trial where the lower tribunal is accorded some deference on appeal] is one in which all of the parties were put back to square one to begin again just as if the adjudication being challenged had never occurred". *Baltimore County v. Kelley*, 391 Md. 64, at footnote 4 (2006).

This rule has been held to apply to county administrative appeals. See *Boehm v. Anne Arundel County*, 54 Md. App. 497 (1983). In *Boehm*, Maryland's intermediate appellate court found that in administrative appeals, "all aspects of the case should be heard anew as if no decision had been previously rendered... [a] *de novo* hearing... purges any potential errors from the earlier decision of the Zoning Office". *Boehm*, at 599.

Mssrs. ZINN and WILSON were added as additional Petitioners, over objection, during the course of the 2010 zoning case. Since this case proceeds *de novo*, "as if [the prior zoning case] had never occurred", Mssrs. ZINN and WILSON were not parties when the County Board of Appeals hearing began. Mssrs. ZINN and WILSON did not seek to make themselves parties. Instead, they appeared as witnesses for the original Petitioner, VPC, which did not seek to add them as co-Petitioners.

At the County Board of Appeals hearing, counsel for VPC acknowledges that VPC would not have standing in the Circuit Court or that, alone, would not have standing at all in this matter. VPC hangs its standing solely on Mssrs. ZINN and WILSON's standing. (Nov. 3 Tr., p. 121). VPC overlooks that at no point during the *de novo* appeal were Mssrs. ZINN and WILSON made parties to this matter. For purposes of argument, Mssrs. ZINN and WILSON lack standing anyway under the facts of this case and established precedent.

Mssrs. ZINN and WILSON's testimony regarding the impacts of Rainbow Hall amounts to nothing more than surmise and garden-variety quibbling. Vague references to their being worried about "setting precedent for other properties" and property devaluation defy the evidence. When Mr. WILSON offers that the existence of Rainbow Hall "devalues" the very house for which he paid "\$4.2 million", he overlooks that the exact number of buildings, occupants and uses existed at Rainbow Hall when he bought his mansion in 2007. Clearly Mr. WILSON placed a premium on the value of his house when he purchased it and nothing has changed. In the context of property ownership, where the weight of the evidence demonstrates that neither sight, sound, nor smell from the complained-about uses or structures from Rainbow Hall are perceptible to Mssrs. ZINN and WILSON, their status is dubious.

Moreover, the specific standing requirements in this case are governed by BCZR § 500.7 which speaks of the right of any "interested person". Any analysis of the standing of the Petitioners would not be complete without mentioning the historical context of their grievances. It is beyond cavil that whatever uses and structures that have existed at Rainbow Hall since 2002 are dramatically less intense than the operations of an 80-bed nursing home with some 40-50 employees coming and going from the Property at all hours of the day and night. Petitioners would have rejoiced had Baptist Home unilaterally rolled back its operations to what exists today.

During the evidentiary portion of the hearing, there was absolutely no evidence indicating that VPC had any interest or "rights" whatsoever in the Property. In fact, there was very little evidence about VPC. There was no evidence adduced as to what specific property interest, if any, it maintains or how it would be uniquely impacted by the issues in this case. Moreover, there was zero testimony as to its geographic area of interest other than its name. Under the provisions of § 500.7,

the second sentence limits the ability of the Zoning Commissioner to decide cases based on "any interested person" *who petitions the Zoning Commissioner*. Only the VPC, not ZINN or WILSON, *petitioned* the Zoning Commissioner for a public hearing. Moreover, the testimony of Mssrs. ZINN and WILSON did not establish any concrete basis upon which the multi-residential uses at the Property disproportionately impact them.

Basic statutory construction mandates that the relief in this case can only relate to *either* the first clause of the second sentence of § 500.7 relating to "non-conforming uses" *or* the determination of "any rights whatsoever of [Petitioners] in any property... insofar as they are affected by these regulations". The regulation is written in the disjunctive and Petitioners can only seek relief under one provision, not both. See generally *In Re: John R.*, 41 Md. App. 22, 25 (1978) (disjunctive conjunction serves to establish a relationship of contrast or opposition) and, *Walker v. Lindsay*, 65 Md. App. 402, 406-407 (1985) (cardinal rule of statutory construction requires where statute is clear and unambiguous, courts will not look beyond language to ascertain legislative intent; the word "or" is a function word used to indicate (1) an alternate between different or unlike things, states or actions, (2) choice between alternate things, states or courses). Here the use of the word "or" plainly indicates the Baltimore County Council's intent to limit the rights of Petitioners between two alternate and contrasting actions. Respondent contends the second clause of that sentence is not relevant at all to this proceeding because none of the Petitioners have requested the County Board of Appeals "determine any rights whatsoever of such [Petitioners] in any property in Baltimore County insofar as they are affected by these regulations". As stated earlier, the evidence is undisputed that none of the Petitioners has "rights... in any property". This provision contemplates someone with property "rights" or an interest in the property at issue. Petitioners do not possess or maintain "rights" in the Property. *Evans v. Burruss*, 401 Md. 586, 595 (2007)

(county code did not create additional rights in adjacent property owners that they do not have inherently and Court of Appeals declined to address whether County could create such rights).¹¹ In accordance with § 500.7 of the BCZR, it follows that the only issue for determination is "the existence of any purported non-conforming use". Beyond that, there is nothing for the Zoning Commissioner (or, on appeal, the County Board of Appeals) to decide at all.¹²

Finally, and perhaps most importantly, it must be stated that zoning enforcement in Baltimore County is the province of Baltimore County government, not private litigants. The Department of Permits, Approvals and Inspections is empowered and authorized to enforce zoning matters. See Baltimore County Code § 32-3-102 and § 32-3-607. As proven in this case, Baltimore County has continuously declined to exercise its exclusive zoning authority and enforcement. Baltimore County's declination to act, when coupled with the various approvals given to the Property, may serve as an equitable estoppel. See generally *Maryland Reclamation Associates, Inc. v. Harford Co.*, 414 Md. 1 (2010).

B. The three (3) single family dwellings are "vested" as a matter of law.

The evidence established that all of the three single family dwellings, in addition to the main mansion and its wing, were legally constructed. The cottage which sits along and is known as 10709 Park Heights Avenue was built in 1898 and predates zoning. The ranch-style residences (10731 and 10733 Park Heights Avenue) at the north end of the Property were constructed in the early 1970s when the zoning was either R-40 or RDP. The evidence in this case established that

¹¹ Petitioners will argue *Marzullo v. Kahl*, 366 Md. 158 (2001), reversing 135 Md. App. 663 (2000), authorizes the private zoning determinations sought in this case. In that case, a neighbor initiated the complaint and the appellate decisions do not appear to indicate that the property owner specifically challenged, as in this case, standing under § 500.7. The standing issue is not explicitly addressed. Nor is it in *People's Counsel v. Surina*, 400 Md. 662 (2007) where the property owner and protestants agreed to a consolidated hearing.

¹² If, as Respondent maintains, the various special exceptions applicable to the property have not lapsed or terminated, the remainder of Petitioners' case must be dismissed because the relief sought exceeds what is available to them under §500.7 of the BCZR.

these dwellings have been used variously as housing for caretakers, administrators and staff, and later as rental units for single family occupancy. Even under the ownership of Baptist Home, these residences were rented to persons having no connection with Rainbow Hall other than as tenants. (R. Ex. 7). There does not appear to be any explicit use restriction on these single family dwellings in the zoning history of this case. Equally important is the fact that at no time were these dwellings vacant for a year or longer.

All three single family dwellings are reflected on a subdivision plat recorded among the Land Records of Baltimore County in Plat Book SM No. 70, folio 95. At the time when the two (2) ranch-style dwellings were constructed, the Property's zoning and the method in which it was applied permitted the use of "divisional lines" instead of a minor subdivision process and, according to Respondent's expert, David S. Thaler, P.E., the requirements under the zoning at the time were satisfied in terms of density and area requirements. (Nov. 3 Tr., pp 110-114).

Therefore, the three single family dwellings on the Property were in conformance with all applicable laws at the time they were constructed. All three dwellings enjoy non-conforming status not only to uses, but also buildings. The Court of Appeals in *Beyer v. Baltimore City*, 182 Md. 444, 446 (1943) recognizes the existence of both non-conforming "buildings and use".

Further, all three dwellings are clearly delineated on recorded Plats and as such are "vested" under the Baltimore County Code § 32-4-264, which provides that a Development Plan vests upon "plat recordation". In this case, there are two plats showing the three dwellings: (1) Zoning Case 76-89-SPH (R. Ex. 13), and (2) the "Vesting Plat", PDM Case No. III-393 which is recorded among the Land Records of Baltimore County in Plat Book SM No. 70, folio 95 (P. Ex. 3). Respondent has valid Rental Housing Licenses for all three dwellings issued in 2009 by Baltimore County in accordance with Baltimore County Code § 35-6-105. (R. Ex. 4). (Licenses

under Baltimore County Code § 35-6-105 are not required for the other units because the ordinance does not apply where there are seven or more units).

These three single family dwellings are also vested as a matter of Maryland constitutional and common law. *Baiza v. College Park*, 192 Md. App. 321, 334 (2010), provides that the doctrine of vested rights has a constitutional foundation and rests upon the theory that when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or zoning regulations. In this case, the evidence established that the prior owner of the Property lawfully obtained all necessary approvals for the construction of the two ranch-style dwellings in the early 1970s and, dating back to 1898, the cottage was lawfully constructed because it predates zoning laws. And under the 2008 law, the houses have valid permits.

It is anticipated Petitioners will argue the construction and existence of the buildings is not important and focus should be exclusively on their use. Petitioners never fully explained what uses would be acceptable for these vested buildings other than what they seek in this case: uninhabited buildings that cannot be used for anything. This extension of zoning theory creates an absurd result. Zoning is not an exercise in academic debate, but must embrace practical reality. The use of the vested dwellings is permitted under the RC-2 zone as single family residences predating the minor subdivision requirements and legislatively "vested" in 1996 by virtue of the recordation of the 1996 Vesting Plat. Any present use would be within the spirit and intent of an accessory use for tenant house. As Zoning Commissioner Wiseman noted below in these proceedings, "[a]ny other ruling, which would in effect forbid these homes from being used as single family dwellings 'would have the effect of confiscating such property and destroying a

vested right therein of the owner". Zoning Commissioner's Order and Opinion, p. 7, citing *Purich v. Draper Properties, Inc.*, 395 Md. 694, 708-09 (2006).

Significantly, Petitioners presented no testimony or evidence that any of the single family dwellings or their uses were not lawful at the time constructed, whether it was in the 1890s or 1970s. Quite simply, the record in this proceeding is that the structures and uses accorded them were lawful at the time created, properly licensed and are vested for future use.

C. Present use of the Property justified by prior grant of special exception.

The zoning history of this case establishes that the subject Property was granted a special exception in 1963 for a boarding house. This boarding house special exception was later ratified by subsequent zoning decisions in 1975 and 1991 (which always included the three houses on one record lot) and expanded the special exception use to include convalescence home / nursing home use.

There is no competent evidence in these proceedings to establish that any of these special exceptions lapsed. Quite the opposite, in the 1997 zoning case then-Zoning Commissioner Lawrence Schmidt confirmed the longstanding policy of Baltimore County that recognizes as valid any previously granted special exception, even in the face of an underlying zoning change. Therefore, there was never a termination of any special exception applicable to the Property in this case.¹³

Even assuming *arguendo* § 500.7 does authorize the Zoning Commissioner (or, on appeal, the County Board of Appeals) to evaluate the panoply of issues asserted by Petitioners, the evidence

¹³ Given that there is no evidence of the lapse or extinguishment of the special exceptions applicable to the Property, a "determination" under § 500.7 of the BCZR as to "any purported non-conforming use" may obviate the necessity of further inquiry regarding the Property and its uses. As stated earlier, a proceeding initiated by an "interested person" pursuant to §500.7 is limited to either "purported non-conforming use" or a determination of "[the interested person's] rights in any property... insofar as they are affected by these regulations". Respondent submits any relief sought by Petitioners is not available upon a finding that any special exception previously granted is still in force.

supports the finding that the current uses are well-within broad special exceptions applicable to the Property.¹⁴ The evidence establishes the use of residential units in the main building and three single family tenant houses. All units have "rooms", even under a changing definition of boarding house. One of the houses is occupied by Jean Lubke, who works for Mr. Wright and pays no rent. The other detached residences have a history of single family residences and that is precisely what they are used for today. These uses are well within the parameters of the original special exceptions. Curiously, had the Baptist Home been the initiator of the reduction of scope of the special exceptions, there can be no question that the Petitioners would have applauded those efforts. Why should the result be any different simply because ownership of the Property changed?

Another perspective, given that the special exceptions have not lapsed, would be that the current owner of the Property is entitled to resume use as a convalescence home / nursing home. The zoning history establishes that the boarding house use was considered a lesser included use of the subsequently broadened nursing home and convalescence home special exceptions applicable to the Property. There is simply no evidence which establishes the prior special exceptions have in any way lapsed or, in the words of Petitioner's expert, become "dormant" or non-applicable to the Property. The present use is merely a less intense utilization of the prior special exceptions. At all times, there were rooms for rent with residents living in them. Some units had multiple rooms with bathrooms and some did not. Some rooms were big and some were small. In the main house, the

¹⁴ Under the 1963 BCZR, "boarding house" is defined as: "a building other than a hotel in which meals or rooms and meals are provided for compensation for four or more persons, including a 'care home' as defined by the Maryland State Health Department". Of course that definition changed over the years, but the basic requirements that rooms "with or without meals be provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage, or adoption to the owner" is still met in this case. Considering RAINBOW HALL, LLC is an entity utilizing the synonymously-named Property as its domicile, the entire building need not be occupied in its entirety. The fact that it may also fit another definition under current BZCR is of no import. Even if, as Petitioners seem to think, the Property is not Respondent's domicile and residents are determined not to have the run of the house, the main structure can be divided into the main house and the institutional wing where full access is uncontroverted.

mere relocation of units and reconfiguration of walls, doors, bathrooms and/or kitchens does not alter the basic elements of the prior multi-residential use. With respect to the three residences, nothing has changed. An analogous situation would be if one of the nursing home or retirement communities in Baltimore County, such as Brightwood or Blakehurst, stopped providing continuing care for its residents and began only using the independent living facilities for its residents. The fact that all intensive medical and assisted living might cease does not, in and of itself, terminate a special exception applicable to the Property.¹⁵

D. Even if the prior special exceptions have terminated, the present use of the Property represents a valid non-conforming use under applicable law.

Assuming, for purposes of argument, the special exceptions have in some way become non-applicable to the Property, the rental units at Rainbow Hall, including the three residences, are permitted as a continuation of a previous non-conforming use. The evidence and zoning history show the development of the property over time to its present state. The record is clear that all of the existing improvements – including the McCormick Wing, the 2 ranch-style houses and the Farmhouse (aka "Cottage") - and their uses were lawfully approved by Baltimore County. Thus, Respondent may avail itself of non-conforming status provided it meets applicable criteria.

Section 104.1 of the BCZR provides as follows:

"A non-conforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such non-conforming use to any other use whatsoever, or any abandonment or discontinuance

¹⁵ Petitioners argue BCZR § 502.5 invalidates the boarding house special exception. Respondent's expert disagrees on the basis that (a) the boarding house special exception was "folded into" the nursing home use and thus not subject to § 502.5 and (b) the sunset provisions set forth in § 408B of the BCZR (and referenced in § 502.5) apply only to boarding houses in DR-zoned property, not RC-2. If Petitioners are correct, the analysis of a boarding house would then turn on non-conforming use.

of such non-conforming use for a period of one year or more, the right to continue or resume such non-conforming use shall terminate."

Petitioners would have delighted in the so-called "change" now being assailed had it been the Baptist Home who initiated it. In reality, there was no change at all other than to reduce the intensity of the previously existing non-conforming use, particularly with respect to the main house and the McCormick wing. The basic "boarding house" elements – residents living in rooms at the Property – remains fully intact. The only "change" has been the relocation of the 8 apartments from the second floor of the main house to the institutional wing and the installation of a modern kitchen in each unit.¹⁶ Accompanying this "change" is the restoration of the main mansion to its original grandeur and the removal of the hospital-style rooms in the institutional-style wing. The single family residences are unmodified.

Similar to a boarding house, the residents in the main structure have no separate meters for electric, heat or water. These items are all paid for by the owner. There is also a large commercial kitchen to which tenants have access for use, even though the owner no longer provides meals.

The non-conforming use of the main structure and three accessory structures also applies to the entire Property. Clearly the three detached residences on the Property were previously authorized in the extensive zoning history of the Property. As discussed below, the fact that there has been no change or interruption in their use as residences conclusively provides protection from Petitioners' claims as a vested non-conforming use. Even where one of the individual structures may have been unoccupied for a year or more for renovation work, there was no intent to abandon or discontinue the non-conforming status of all three individual structures at the Property.

¹⁶ There appears to be no prohibition under BCZR against kitchens or bathrooms in individual units in either a boarding house or a nursing home.

The same holds true for the period of time the main structure was occupied only by Sheldon Lewis. Like all residents living at the Property, Sheldon Lewis was not an owner and during his residency, at least two of the three houses were continuously occupied, preserving the viability of the entirety of the non-conforming uses applicable to the Property.

As a factual matter, Respondent's Exhibit 7, along with the testimony of Mr. Wright, Ms. Pearce, Mr. Lewis and Ms. Lubke supporting it, establishes there was no such "abandonment or discontinuance of such non-conforming use for a period of one year or more" as required by the BCZR. More importantly, there was no "intent" on the part of RAINBOW HALL, LLC to abandon or discontinue the multi-unit residential uses at the Property. RAINBOW HALL, LLC updated the facilities and scaled down the intensity of the non-conforming use. Surely, brief interruptions for renovations or resident turnover do not serve as the basis for "discontinuance" applicable to the entire Property.¹⁷ There are numerous Maryland cases which speak to intensification of a valid non-conforming use.

In *Trip Associates v. City of Baltimore*, 392 Md. 563 (2006), an adult entertainment establishment was permitted to intensify to more than two nights per week as well as increase its hours of operation. The Court of Appeals found that the non-conforming status is a vested property right safeguarded by constitutional protections. Any abandonment of the non-conforming use must be active and actual. The Court of Appeals discussed the concept of "intensification" versus expansion and found it is permissible to intensify so long as the nature

¹⁷ Of course this is not enough to stop Petitioners from arguing this point. Practical realities such as a fluctuating rental market and an owner's need to periodically update its units have no place in Petitioner's fanciful and academic world where they contend one unit's vacancy for more than one year would cause that portion of the property to lose non-conforming protection. This position, as discussed in this Section, is contrary to established case law.

and character is unchanged and substantially the same. *Id.*, 579. The holding in *Trip*, confirming a long line of Maryland cases relating to permissible intensification of a vested non-conforming use is applicable to this case. The basic fundamentals at the Property have not changed since 1963. There are residents living in various rooms in the main structure and in the three houses. Perhaps the age, religious affiliation and medical needs of each particular resident is less than what was originally required, but the nature and character of the use is unchanged and substantially the same facilities are used. *Id.*, citing *Phillips v. Zoning Commissioner*, 225 Md. 102 at 137 (1961). *Purich v. Draper Properties*, 395 Md. 694 (2006), stands for the proposition that the mere change of ownership does not destroy a non-conforming use and may be transferred to a successor owner.

Addressing legislation pertaining to non-conforming uses in Montgomery County, the Court of Special Appeals in *Lone v. Montgomery County*, 85 Md. App. 477 (1991) elucidated a test for whether a particular current activity is within the scope of a non-conforming use:

1. To what extent does the current use reflect the nature and purpose of the original non-conforming use?
2. Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature and kind?
3. Does the use have a substantially different effect on the neighborhood?
4. Is the current use a "drastic enlargement or extension" of the original non-conforming use? *Lone*, at 153.

These factors support Respondent's position with respect to continuation of a valid non-conforming use. There is nothing different about the nature and purpose of the Property. A place with rooms for rent where people can live has been a constant "purpose and nature" of the use. While the current use is somewhat different in that the age and needs of the residents have

reduced over the years, it does not constitute a different "character, nature, and kind" of use. With respect to the effect on the neighborhood, there is no evidence that the current use is substantially different, nor could there be. The photographs of the bucolic Property show that any activities on the Property remain virtually invisible to neighbors and passersby alike. Any change in the neighborhood would be related to the passage of time and the increased population density and traffic, having nothing to do with the use of the Property. And of course, the current use does not represent a "drastic enlargement or extension" but rather a de-intensification.

Petitioners will no doubt argue that Maryland law "does not permit the transmogrification of an approved non-conforming use into a new and different use". See *National Insts. of Health Fed. Credit Union v. Hawk*, 47 Md. App. 189 (1980). While a correct statement, it has no application in this case. Transmogrify means "to change or alter greatly and often with grotesque or humorous effect". *Merriam-Webster's Collegiate Dictionary*, 11th Edition. Certainly there has been no transmogrification here, but rather a de-intensification and softening of the extent and impact of the Baptist Home. The factors in the above cases support that Respondent has continued, under de-intensification, the previous non-conforming use.

To the extent that the multiple structures on the Property might currently violate density requirements, they are permitted in an RC-2 zone as a "tenant houses". The BCZR provides that tenant houses are permitted in an RC-2 zone as an accessory use to the main building comprised of 20,000-plus square feet of living area. VPC and Mssrs. ZINN and WILSON clearly know this. In fact, VPC entered into the RCA with the Baptist Home knowing full well the Property had numerous structures on it. The Petitioners cannot now seriously contend their expectation was the three single family residences would have to be uninhabited or razed at the conclusion of the Baptist Home's ownership. And for all of Mssrs. ZINN and WILSON's overblown concerns about the

Property, they cannot credibly argue these three residences are not subordinate to the principal structure.

E. Application of zoning law should allow for a reasonable use of the Property and there can be no serious debate that the multi-residential uses at Rainbow Hall are such reasonable uses.

In the final analysis of any zoning case, particularly the case initiated by Petitioners, the essence of zoning requires the owner to be afforded a reasonable use of the Property. There can be no question that Rainbow Hall, a nearly 20-acre compound comprised of an historic mansion house, an institutional building previously with as many as 80 beds serving as a nursing home, and three single family residences is unique and cannot be found anywhere else in Baltimore County.

The extensive zoning history applicable to Rainbow Hall suggests that Baltimore County intended to afford the property owner a reasonable expectation of economic viability. What is equally clear about the Property is that its use has been transformed, and this transformation has been expressly approved by Baltimore County, over many years. Its multi-residential structures and uses have been put in place by a series of administrative approvals, built up over time. It can no longer be simply considered a "single family residence".¹⁸ Petitioners' suggestion that the mansion house, institutional wing and three residences be limited to the use of one family is not reasonable and, if applied to Baltimore County, would not be constitutional as a deprivation of any "reasonable economic use of the Property". (*Lucas v. South Carolina Coastal Council*, 505 US 1003, 112 S. Ct. 2886 (1992), when owner of property is required to sacrifice and leave his property economically idle, he has suffered a "taking" within the meaning of the Fifth Amendment).

¹⁸ In a classic case of "wanting it all", VPC is also waging an all-out attack on RAINBOW HALL, LLC's recent filing for church use at the Property. *Rainbow Hall, LLC*, Zoning Case No. 2012-0091.

F. Other

Whatever complaints Petitioners might have about alleged events, affairs and "commercial uses", they are entirely overstated based on the evidence. One of these uses was the hosting of the 26th Baltimore Symphony Orchestra Showhouse, the purpose of which was to highlight the vibrant history of the Property. Petitioners never explained how these benign uses could offend anyone or how they might transgress zoning laws. From the evidence, Mr. Wright has done nothing more than host a few parties and weddings and permit the historical mansion to be showcased by a few charities, friends and a church. Considering these uses and the timeframe involved, an occasional party or fundraising function should not be the province of a private zoning proceeding in Baltimore County.

III. CONCLUSION

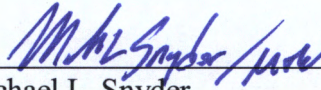
For the reason stated in the Brief, as well as those assigned at the hearing, Respondent respectfully requests that the County Board of Appeals dismiss Petitioners' Petition and deny them the relief sought in this proceeding on the basis that :

1. Section 500.7 of the BCZR does not authorize the Zoning Commissioner or County Board of Appeals to conduct a private party code enforcement action.
2. The Petition and Plat upon which it is based must be dismissed because of numerous inaccuracies and an inherent lack of reliability as determined at the hearing in this matter.
3. Respondent's multi-residential uses at the Property represent a valid continuation of prior special exception approvals.
4. That, alternatively, Respondents multi-residential uses at the Property are permissible as a valid non-conforming use.
5. That according or facilitating the relief sought by Petitioners would not be a proper exercise of zoning administration inasmuch

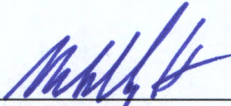
as same would amount to a deprivation of all economically viable uses of the Property.

6. Any alleged events and affairs and similar uses do not violate the BCZR.

Respectfully submitted,



Michael L. Snyder
Coady & Farley
400 Allegheny Avenue
Towson, Maryland 21204
(410) 337-0200



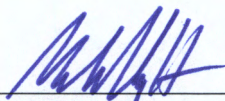
Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2011, a copy of the foregoing was sent via hand delivery, to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC.

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, Maryland 21204



Michael T. Wyatt

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

December 8, 2011

VIA HAND DELIVERY

Theresa Shelton, Administrator
County Board of Appeals of Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
DEC 08 2011

BALTIMORE COUNTY
BOARD OF APPEALS

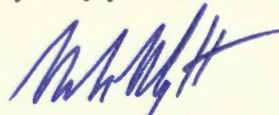
**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC
Case No: 10-280-SPH**

Dear Ms. Shelton:

This transmits one (1) original and three (3) copies of Respondent Rainbow Hall, LLC's Brief in connection with the above-referenced zoning appeal.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright, Jr.
Michael L. Snyder, Esquire
Michael R. McCann, Esquire
David S. Thaler, P.E.
Peter Max Zimmerman, Esquire

Enclosures

2/14/11
IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER

* Case No: 10-0280-SPH

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* * * * *

NOTICE OF APPEAL

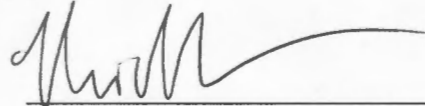
VALLEYS PLANNING COUNCIL, Mark Wilson, and Harlan Zinn, Petitioners, hereby file an appeal to the Board of Appeals of Baltimore County from the January 13, 2011 decision of the Zoning Commissioner. Pursuant to Rule 3 of the Rules of Practice and Procedure of the Board of Appeals, the address of the appellants are:

Valleys Planning Council
118 W. Pennsylvania Ave.
Towson, MD 21204

Mark Wilson
10705 Park Heights Avenue
Owings Mills, MD 21117

Harlan Zinn
10628 Park Heights Avenue
Owings Mills, Maryland 21117

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael R. McCann', written over a horizontal line.

Michael R. McCann
Michael R. McCann, P.A.
118 W. Pennsylvania Ave.
Towson, MD 21204
(410) 825-2150

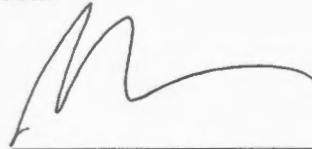
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ¹⁴~~1~~th day of February, 2011, a copy of Valley Planning Council's Notice of Appeal was mailed, postage prepaid, to:

Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Ave.
Towson, MD 21204

Attorneys for Respondent



Michael R. McCann

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

February 11, 2011

Via Hand Delivery

Baltimore County Permits, Approvals and Inspections

Attn: Zoning Appeals

County Office Building

111 W. Chesapeake Avenue, Room 111

Towson, Maryland 21204

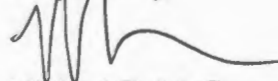
Re: *10729 Park Heights Ave., Rainbow Hall, LLC*
Case No. 2010-0280-SPH

To Whom It May Concern:

Enclosed, please find Valley Planning Council's Notice of Appeal in the above-referenced matter, as well as a check in the amount of \$265.00 to cover filing fees.

Thank you for your consideration.

Respectfully,



Michael R. McCann

cc: Board of Appeals

Enclosures

RECEIVED

FEB 11 2011



2/7/11
IN RE:

VALLEYS PLANNING COUNCIL, INC.

Petitioner

Property Owner: Rainbow Hall, LLC

10729 Park Heights Avenue

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BEFORE THE

ZONING COMMISSIONER OF

BALTIMORE COUNTY

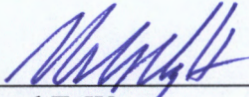
Case No: 2010-0280-SPH

* * * * *

NOTICE OF APPEAL

RAINBOW HALL, LLC, Respondent, hereby files an appeal to the Board of Appeals of
Baltimore County from the January 13, 2011 decision of the Zoning Commissioner.

Respectfully submitted,

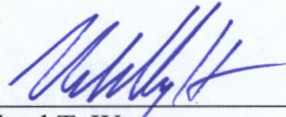


Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013
Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February, 2011, a copy of the foregoing was mailed, postage prepaid, to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Attorney for Petitioner



Michael T. Wyatt

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

February 7, 2011

VIA HAND DELIVERY

Baltimore County Permits, Approvals and Inspections
(formerly known as Department of
Permits and Development Management)
Attn: Zoning Appeals
County Office Building
111 West Chesapeake Avenue, Room 111
Towson, Maryland, 21204

Re: **Rainbow Hall, LLC**
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH

RECEIVED
FEB 07 2011
[Signature]

Dear Sir/Madam:

This firm represents Rainbow Hall, LLC. I am enclosing my client's Notice of Appeal in the above-referenced zoning matter. I am also enclosing this firm's check in the amount of \$265.00 as payment of the filing fee.

Thank you for your customary courtesies.

Very truly yours,

[Signature]
Michael T. Wyatt

MTW/sjm

cc: Michael L. Snyder, Esquire
Mr. Henry M. Wright, Jr.
Michael R. McCann, Esquire
County Board of Appeals for Baltimore County

Enclosure

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1/13/11

IN RE: PETITION FOR SPECIAL HEARING *

E/S of Park Heights Avenue,
170' S of Velvet Valley Way
(10729 Park Heights Avenue)

3rd Election District
2nd Council District

Rainbow Hall, Inc.,
Legal Owner/Respondent

Valleys Planning Council, Inc., et al
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2010-0280-SPH

* * * * *

ZONING COMMISSIONER'S ORDER AND OPINION

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Michael R. McCann, Esquire, on behalf of the Petitioners, Valleys Planning Council, Inc., (VPC) et al.¹ The Petitioners have requested the special hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to determine whether the present uses of the subject property are in conformance with the B.C.Z.R., including any activities that may be permitted as a non-conforming use.

The hearing in this case lasted four (4) days and it is perhaps an understatement to say that emotions are charged on both sides of this dispute.² More than 10 witnesses testified at the public hearing and more than 60 exhibits were received into evidence. Given the extent of the oral testimony and the voluminous nature of the documentary evidence, I will not belabor the point by

¹ The Petition was amended over Respondent's objection to allow the inclusion of Valleys Planning Council members Mark Wilson and Harlan Zinn as party Petitioners. Further attempts to amend the Petition to add Henry Rosenberg, Jr., David & Suzi Cordish, Blake & Angie Cordish, Reed & Maggie Cordish and Anne Brooks at the conclusion of Petitioners' case was denied.

² Numerous individuals appeared and/or wrote letters as interested citizens either in support or in opposition to the request. Due to limitations of time and space, a complete listing of all those individuals cannot be set out here; however, the sign-in sheets circulated at the hearing reflect their names and are contained in the case file as part of the record along with letters, e-mails and petitions received from many of the affected residents.

recapitulating such testimony and summarizing the documents, as is customary in Orders from the Zoning Commissioner. Rather, I will include in the substantive portion of this memorandum those facts that are relevant or dispositive of the legal issues under consideration. Prior to discussing the facts and issues presented, a brief overview of the property and its zoning history will help to place this dispute in the proper context.

HISTORY

The property at 10729 Park Heights Avenue, known as Rainbow Hill, is listed on the Baltimore County Final Landmarks List as Final Landmark No. 198. The property includes a main house constructed in approximately 1915, and a small home (10709 Park Heights) constructed in approximately 1898 which was known as the former Avalon Inn cottage. In addition, the property contains two (2) single family homes on the site (10731 and 10733 Park Heights), which were apparently constructed in the 1960s.

The Rainbow Hill property lies within the Greenspring Valley National Register Historic District, which was designated by the U.S. Department of the Interior, National Park Service, on October 3, 1980. The subject property is situated among a picturesque and pastoral valley, and includes rolling hills and is surrounded by late 20th century suburban residential development. The main dwelling at Rainbow Hill, located at 10729 Park Heights Avenue, was constructed between 1915 and 1917 and was designed by the architectural firm of Horace Trombauer. The main building is constructed in the Beaux-Arts style and is rectangular in form, surrounded by three (3) bays that project from the façade and rear elevation. The property contains a two-story wing, which gives the building an "L" shape. General Douglas MacArthur lived in the large Rainbow Hill mansion in the 1920s, and the subject property is dotted by mature trees, including a Ming tree given to the MacArthurs by Japanese Emperor Hirohito in the 1920s. The elegant house was

sold to Henry and Ruth Rosenberg in 1940. After his death, the house and entire estate was sold in 1963 to the Rainbow Hill Corporation and the Baptist Home of Maryland, Inc. renovated the thirty-three room mansion to meet the needs of its elderly residents.

Zoning Chronology

Date & Case No(s)	Zoning	Request / Petition Request	Action / Order
1957	R-40	Reclassification from "A" Residential to R-40	Comprehensive Rezoning by County Council
11/26/63 63-152-X	R-40	Special Exception for a "boarding house for the aged" (40 Units/Persons)	Granted by Zoning Commissioner John G. Rose
1969	R-40	Approval of the McCormick Wing addition (24 Units/Persons) to "boarding house for the aged"	
12/01/75 76-89-SPH	RDP	Special Hearing to approve the construction of a new infirmary wing on an existing boarding home for the Elderly. Proposed Infirmary Wing (25 Units/Persons)	Granted with restrictions
10/08/76	RC 2 and RC5	Reclassification from RDP to RC 2 and RC 5	Comprehensive Rezoning by County Council
Between 10/13/88 & 04/03/90	RC 2, RC 3 and RC 5	Reclassification of a portion of RC 2 to RC 3	Cycle Rezoning, Out-of-Cycle Rezoning or Map Correction
10/16/91 91-166-SPHX	RC 2, RC 3 and RC 5	Special Exception for an addition to an existing convalescent home as a use permitted by special exception in an RC 3 zone pursuant to BCZR 1A02.2.B.16. Special Hearing to approve an amendment to the special exception and site plan in Case No. 63-152-X to construct two additions to the existing facility.	Granted by Board of Appeals. While the legality of the existing convalescent home or nursing home use was not confirmed in the order itself, the legality was confirmed in the opinion of the Board that accompanied the order.
06/03/97 97-230-SPH & PDM # III-393	RC 2, RC 3 and RC 5	Five Lot Development Plan approved for three additional single family dwellings. Special Hearing to approve the creation of three undersized RC 5 non-density and one RC 2 non-density parcels, and to approve the removal of existing special exception from a portion of the tract.	Granted in Part and Dismissed as Moot in Part by Lawrence E. Schmidt as Hearing Officer
11/2004	RC 2 and RC 5	Reclass. RC 3 portion of property to RC 2	Comprehensive Rezoning by County Council
04/16/2010 2010-0280-SPH	RC 2 and RC 5	Special Hearing to determine the uses of the property that comply with the BCZR and previous approvals, and whether the property is and has been used in violation or non-compliance with same.	Decision pending

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

Although voluminous testimony and exhibits were introduced during the four-day hearing in this matter, resolution of the request for special hearing turns on only a handful of pivotal facts. Conceptually, the discussion that follows will treat individually the main Rainbow Hill structure, and the three (3) single family dwellings on the subject property. Thereafter, the Opinion will conclude with a discussion of the permissible uses for these structures.

Based on the testimony and exhibits, it would appear as if the Rainbow Hill property (which comprised approximately 43 acres) was used as a private residence from the date of its construction (1915) until 1963, when it was acquired by the Baptist Home.³ At that time, in Case No. 63-152-X, the Zoning Commissioner granted a special exception for a "boarding house for the aged", which allowed for an occupancy of 40 persons in the Rainbow Hill main house. The care home for the aged was operated by the Baptist Church, and that use continued on the property from 1963 until approximately 2001, according to the testimony of Theodore Houck, M.D., the former medical director of the facility. In 1969, the Baptist Home received approval for an additional 24 residents at the boarding house for the aged, and according to Dr. Houck, the number of residents was approximately 60 until the facility ceased operation in 2001 upon the bankruptcy of the entity managing the operation.

In 1991 (91-166-SPHX), then Zoning Commissioner J. Robert Haines granted a special exception to the Baptist Home, permitting its continued operation as a "convalescent home" or "continuing care facility". The Board of Appeals affirmed, finding that the property was being operated as a "convalescent home". The Baptist Home operation, however, faced mounting financial difficulties in the latter years of its operation. In 1997, the home sold approximately 22

³ The documents reflect that a country club may have been operated on the site in approximately 1960. This was short-lived, and really has no bearing on the outcome of this dispute.

acres of the property, and was granted approval to create three (3) additional single family building lots as reflected on the development plan approved in PDM Case No. III-393. Following the subdivision, the Baptist Home property was reduced in size to approximately 20 acres.

As noted at the outset, the property includes a historic cottage erected in 1898, and which was originally part of a hotel use. It next appears, according to witness testimony, that this historic cottage was used as a caretaker home in connection with the boarding house for the aged, although as will be discussed later, that fact is inconsequential in connection with an evaluation of this structure's legitimacy and the uses to which it might be put.

The other two (2) dwellings located in the northern portion of the lot are single family dwellings constructed in the late 1960s or early 1970s. These houses are noted on the plat that accompanied the petition in zoning Case 76-89-SPH as "housing for the administrators and employees of the home". However, according to the testimony of Sheldon Lewis, who resided on the property from 1998 through April 2002, these houses were occupied by Cheryl Beloga and Sherry Rubin, neither of which were associated with the operation of the aged home in the Rainbow Hill structure. Since the Baptist home ceased operation, these dwellings have been used as single family residences, and exhibits were admitted which reflected rental payments received by Henry M. Wright, Jr. and/or an entity with which he is affiliated. There is no evidence in the record establishing that those two (2) dwellings were ever vacant for a year or longer.

With regard to the historic cottage constructed in 1898, that construction and use of course predated the B.C.Z.R. and the creation of Baltimore County as a charter government, by more than a half century. As such, it is a non-conforming dwelling⁴ and may continue to be used as such. The cottage cannot be expanded more than 25% in area (per B.C.Z.R. Section 104.3), and though

⁴ The court of appeals recognizes both non-conforming "uses" and "buildings". *Beyer v. Balto. City*, 182 Md. 444, 446 (1943)

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it can be leased, it must be occupied by a family or no more than two (2) unrelated individuals, or else it would constitute a "boarding house" which is permitted only in a D.R. zone per B.C.Z.R. Section 408.B.1.

The two (2) single family homes located in the northern portion of the subject property were apparently used for more than 30 years as an accessory use (i.e., living quarters for staff) to the Baptist home. There are no administrative or judicial orders declaring these homes accessory structures however, and it is not clear that a single family dwelling could properly be an accessory (as opposed to principal) structure. Moreover, and unlike the scenario where an apartment superintendant will live on site, it is not readily apparent that workers at a convalescent or senior home "customarily" reside on site, as that term is used in B.C.Z.R. Section 101.1 in defining an accessory structure. Although it is clear that these homes are no longer used in that fashion, that fact is not dispositive of the present inquiry.

These dwellings are reflected on a subdivision plat recorded among the land records of Baltimore County in Plat Book S.M. 70, Folio 95 (from PDM Case No. III-393), and as such are "vested" as a matter of Maryland constitutional and common law, as well as under the Baltimore County Code. B.C.C. Section 32-4-264; *Baiza v. College Park*, 192 Md. 321, 334 (2010).

In addition, these dwellings were constructed in the late 1960s, at which time the property was zoned R-40. Under then applicable regulations, each "principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet." 1955 B.C.Z.R. Section 202.1. According to County officials, residential development at this time took place by using "divisional lines" instead of a minor subdivision process. Cf. Zoning Commissioner Policy Manual, p. 1B-26.1. While there is no evidence in the record concerning the exact method or

process by which County approval was secured, for purposes of this Opinion I will assume the "divisional line" process was used. Inasmuch as the property comprised approximately 43 acres at this time, it is beyond dispute that the lot⁵ area requirements were satisfied at the time of construction. As such, these dwellings too are non-conforming structures, and may be used in the same fashion as the cottage discussed above. Any other ruling, which would in effect forbid these homes from being used as single family dwellings, "would have the effect of confiscating such property and destroying a vested right therein of the owner". *Purich v. Draper Props., Inc.*, 395 Md. 694, 708-09 (2006) (holding non-conforming use is a vested right and entitled to constitutional protection). Petitioners contend in their Reply Memorandum that there is "insufficient density" to support the three (3) single-family dwellings on the Rainbow Hall parcel. This is demonstrably false, given that the development plan in PDM Case No. III-393 (Exhibit 45) reflects (in the "Site Data" portion) that the RC-3 portion of the property would support four (4) units.

It is irrelevant to the present analysis whether these dwellings are used in connection with the Baptist care home. Rather, given that the owner of the subject property enjoys vested legal rights with respect to these dwellings, they may be used as single family dwellings. Significantly, and this issue will be discussed shortly in connection with the main dwelling on the property, these two (2) single family dwellings (like the cottage) cannot be used as apartments or boarding houses, which are prohibited uses in the present R.C. 2 zone.

⁵ "Lot" is not a defined term in the 1955 (or current) regulations. In the 1945 zoning regulations, "lot" was defined as "[L]and occupied, or to be occupied, by a building and its accessory buildings..."

Finally, it is the main Rainbow Hill dwelling itself (aka Rainbow Hall) that has been the subject of much of the zoning history,⁶ and its use has changed greatly over the years. Again, between the years of 1963 and 2001, the structure was used as a boarding house for the aged or convalescent home. Equally clear is that such use ceased in 2001, which means that the special exception for that use has become dormant.⁷

Since that time the Rainbow Hill structure has been occupied by various numbers of non-disabled, non-elderly residents. Such use would constitute a "multi family building" or "boarding house" under the B.C.Z.R., neither of which are permitted as of right or by special exception in the R.C. 2 zone, which is the current zoning designation for the subject property. As such, to the extent the Rainbow Hill structure is being used in this regard, such use is unlawful under the B.C.Z.R. All of the prior zoning Orders explicitly restricted the special exception (or non-conforming) use of this property to a home for the aged or convalescent home, which is obviously not the same thing as an apartment, multi-family dwelling or boarding house. Even if – for sake of argument only – it was assumed a "boarding house" was at one time lawfully operated on the property, that use would not be lawful at present because, as Petitioners note in their Reply Memorandum, the B.C.Z.R. requires a public hearing and application process which has not taken place in the present case.

⁶ As noted above, none of the prior zoning cases even mentions the three (3) single family homes or the use(s) to which they were or could be put.

⁷ On this point, I part company with former Zoning Commissioner Lawrence E. Schmidt, who ruled in Case No. 97-230-SPH that the special exception granted in 1963 (and clarified and re-issued by Zoning Commissioner Haines in 1991) was lost when the property was down-zoned to RC2, which did not permit a convalescent home by special exception. Mr. Schmidt opined that the use became nonconforming. More than semantics is at stake: if the convalescent home operated as a nonconforming use, it is obvious that such use ceased several years ago, meaning the nonconforming use has terminated per B.C.Z.R. Section 104.1. I am of the opinion that the special exception, once granted, in essence attaches to and runs with the land, and is therefore potentially available, although dormant at this time. See, 3 Anderson, *American Law of Zoning* 3d pp. 631-33 (1986) (once granted, special exception attaches to and runs with land and survives despite change in ownership). If Mr. Wright desired to resuscitate the convalescent/nursing home use, he would of course need to file for a special hearing to determine whether the operation would be in the public interest.

The only arguable non-conforming use to which the property was put is for a care home for the aged or convalescent/nursing home. No evidence was presented establishing that – during the years of the Baptist Home operation – non-elderly or non-disabled tenants were leased apartments or dwelling quarters in Rainbow Hall. To the contrary, Petitioners' Exhibit 4 contains numerous residential lease agreements for "apartments" within the main Rainbow Hall addition structure and the three (3) single-family dwellings on the property, and all post-date the closing of the Baptist Home. Under Maryland law, non-conforming uses are disfavored. *Trip Assoc. v. City of Balto.*, 392 Md. 563, 578 (2006). The Court of Appeals has held that "[w]hether a non-conforming use can be changed...ordinarily is governed by the provisions of the applicable local ordinances and regulations". *Prince George's Co. v. Gardner, Inc.*, 293 Md. 259, 268 (1982). Turning to the B.C.Z.R., it is clear that "upon any change from such non-conforming use to any other use whatsoever" the non-conforming use will terminate. B.C.Z.R. Section 104.1. The Rainbow Hill house is thus restricted to the permitted uses set forth in Section 1A01.2.B of the B.C.Z.R. or its owner must seek zoning relief/reclassification for any other use.

I am aware of and am sympathetic to Mr. Wright's plight: he is preserving an historic structure and using the premises in a manner – seven (7) or so tenants – that is a much less intense use than a convalescent home with 80+ patients. Even so, I am bound by the zoning regulations and as the court of special appeals has held, any use other than those permitted as of right or by special exception is prohibited. *Kowalski v. Lamar*, 25 Md. App. 493 (1975).

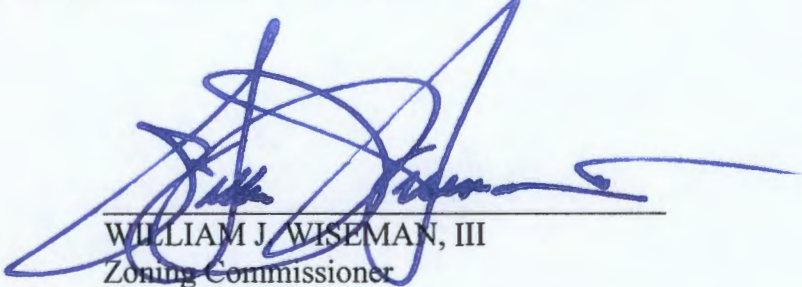
One final note is in order concerning the disposition of this case, and the "laundry list" of issues set forth in the original and amended Petition(s). I am persuaded and in agreement with many of the arguments presented in Respondent's brief concerning the impropriety of allowing a community group – in this case, VPC – to essentially prosecute a private code enforcement case under the guise of Section 500.7, after the County has repeatedly declined to do so. As an initial

matter, the *Falls Road Community Association v. Baltimore County, et al*, in Case No. 03-L-08443, recently confirmed that County code enforcement authorities possess broad discretion in determining whether or not to initiate code enforcement proceedings at the behest of community members and associations.

More to the point, Section 500.7 does not, in my opinion, grant to the Zoning Commissioner wide ranging authority to issue what are in essence "advisory opinions" concerning Baltimore County land-use and zoning matters. It is true that Maryland law provides a lax standard for administrative standing – especially where, as here, a Petitioner need only show he is an "interested party", as opposed to an "aggrieved party", *Chesapeake Bay Foundation v. Clickner*, 192 Md. App. 172, 183 (2010). Even so, the only relief which may be sought by an "interested party" under Section 500.7 is a determination of whether a nonconforming use exists on an identified parcel of land. As such, the foregoing Opinion has considered only that issue, and I do not believe that I have statutory authority – or that Petitioners have standing – to address the other requests in the Petition(s).

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 13th day of January, 2011 that the Petitioners' (Valleys Planning Council, Inc.) request for Special Hearing is granted and that the subject property may be only used in accordance with the terms set forth in the foregoing memorandum and opinion.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:pz/dlw

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Date

1-13-11

By

103



KEVIN KAMENETZ
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 13, 2011

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 West Pennsylvania Avenue
Towson, Maryland 21204

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING

E/S of Park Heights Avenue, 170' S of Velvet Valley Way
10729 Park Heights Avenue)
3rd Election District - 2nd Council District
Rainbow Hall, Inc., Legal Owner/Respondent
Valleys Planning Council, Inc., et al - *Petitioners*
Case No. 2010-0280-SPH

Dear Counsel:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

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 Department of Permits and Development Management office at 887-3391.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read "Bill Wiseman", is written over the typed name and title.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Michael L. Snyder, Esquire, Coady & Farley, 400 Allegheny Avenue, Towson, MD 21204
People's Counsel; Division of Code Inspections and Enforcement; Office of Planning;
DEPRM; File
See Attached List

James Patton
Patton Consultants
780 Elkridge Landing Road # 104
Linthicum Heights, MD 21090-2910

Teresa Moore
Valleys Planning Council
118 W. Pennsylvania Ave
Towson MD 21204

Kathleen Pontone, Esq.
Miles Stockbridge
10 Light Street
Baltimore, MD 21202-1487

Mark Wilson
12705 Park Heights Ave
Owings Mills MD 21117

Harlan Zinn
10628 Park Heights Ave
Owings Mills MD 21117

Jayne Gerson
2307 Velvet Ridge Drive
Owings Mills MD 21117

Emanuel Bronstein
5 Susan Ct
Owings Mills MD 21117

Florence and Al Shapiro
1 Susan Ct
Owings Mills MD 21117

Louis Rosenthal
4 Susan Ct
Owings Mills MD 21117

Sue and Mark Levi
15 Bucksway Road
Owings Mills MD 21117

Cheryl Aaron
121 St. Thomas Lane
Owings Mills MD 21117

Noel Levy
11 Windsong Ct
Pikesville MD 21208

Suitbertus VanDerMeer
3130 Golf Course Road W
Owings Mills MD 21117

Paul Brickman
2300 Velvet Valley Way
Owings Mills MD 21117

Cleon Shutt
511 Garrison Forest Rd
Owings Mills MD 21117

Ruth Goldstein
3226 Midfield Rd
Baltimore MD 21208

Michael L. Snyder, Esquire
400 Allegheny Avenue
Towson MD 21204

Henry Wright
8717 Marburg Manor Dr
Lutherville MD 21093

David Thaler
D. S. Thaler & Associates, Inc.
P. O. Box 47428
Baltimore, MD 21244

Sheldon Lewis
7503 Brushfield Ct Apt F
Rosedale MD 21237

Steven J. Ganzermiller
3500 Kentucky Ave
Baltimore MD 21213

Jean J. Lubke
10733 Park Heights Ave
Owings Mills MD 21117

Beverly Pearce
8322 Ridgely Oak Road
Baltimore MD 21234

Theodore Houck
1712 Kurtz Ave
Lutherville MD 21093

Linda Corbin
6 Chittenden Lane
Owings Mills MD 21117

Aurelia B Bolton
8301 Greenspring Ave
Brooklandville MD 21022

1/10/11
IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

REPLY TO PETITIONERS' POST-HEARING MEMORANDUM

Petitioners, the Valleys Planning Council, Mark Wilson, and Harlan Zinn, submit this reply to the post-hearing memorandum filed by Respondent, Rainbow Hall, LLC ("RH").

I. ARGUMENT¹

A. **The Special Exception That Existed When RH Purchased The Property In April 2002 Was For A "Nursing Home," Not A "Boarding House"**

RH argues that the "boarding house special exception" granted in 1963 is still applicable to the Property and justifies its rental of apartments at Rainbow Hall and the three houses. (RH Mem., pp. 4, 10-12). RH reasons that the 1991 decision of the Board of Appeals did not supplant the 1963 special exception but "broadened" that special exception to include nursing home activities. (*Id.*).

RH misconstrues the zoning history of the Property. It is true that, in 1963, the Baptist Home obtained approval for a "boarding home." (*Id.*). However, after the 1963 special exception was granted, it is apparent there was change in the operations at Baptist Home. In 1975, the Home renovated the first floor of the McCormick wing for an infirmary wing for its aged residents. (Pet.'s

¹ The rancor, personal animosity, and condescending tone that characterize much of RH's post-hearing memorandum is unfortunate and adds nothing to the discussion of the issues in this case. It is readily apparent that the parties fundamentally disagree, but the personal attacks and name-calling is unnecessary and irresponsible.

Exs. 36, 52, p. 34). By 1988, the Baptist Home was operating a “convalescent home”, not a boarding house, as evidenced by the Restrictive Covenant Agreement in which the VPC and the Baptist Home expressly acknowledged that the Home was being “used for a convalescent home” and would continue to be used as such. (Pet’s Ex. 21, pp. 1, 3-4). Similarly, during the 1988 CZMP, the Baptist Home and its attorneys filed a Request for Zoning Change that identified the existing use of the Property as “convalescent home.” (See Req. for Zoning Change and letter attached hereto at **Tab J**).² Then, in 1991, the Baptist Home filed a Petition for Special Exception/Special Hearing, not to amend a boarding house special exception, but to approve an addition to “an existing convalescent home as a use permitted by special exception in an RC3 zone” (See Pet’s Mem., at Tab D). At the hearing on that petition, the Board of Appeals received lay and expert testimony regarding the manner in which the Property was being used and concluded that the use “clearly meets” the definition of “nursing home.” (Pet.’s Ex. 41, p. 3).³

Thus, contrary to RH’s contention, there is not some “broadened” or hybrid special exception at the Property that allows a boarding house/nursing home. There is only a special exception for a nursing home. However, even if there is a hybrid special exception, that special exception does not and cannot include RH’s current use of the Property, which unquestionably meets the definition of “multifamily building.” At all relevant points in time – in 1963, 1988, 1991,

² Notably, in 1987, when the definition of “convalescent home” was replaced by “nursing home,” an additional sentence was added to the definition:

Nursing Home: (Formerly Convalescent Home): A facility which provides board, shelter, and nursing care to chronic or convalescent patients. ***This term also includes facilities which provide domiciliary care within a nursing home.***

(See **Tab K** attached hereto) (emphasis added). This definition accurately describes the operations of the Baptist Home in 1988. The Home was providing “board, shelter and nursing care” as well as “domiciliary care.”

³ The Board’s discussion of this issue, which was unnecessary to the relief sought by the Baptist Home, suggests that the Board understood there was a change of use.

and today – “multifamily building,” “nursing home,” and “boarding house” were/are separate, distinct, mutually exclusive, and independently defined uses under the BCZR. (See definitions attached hereto at **Tabs K, L, M**). By definition, a “nursing home” and “boarding house” do not include or encompass a “multifamily building.” The special exception granted for a boarding house in 1963, and for a nursing home in 1991, excluded as a matter of law multifamily buildings and any other permitted use not explicitly included.

B. Even If There Is A “Boarding House Special Exception,” RH’s Use Of The Property Does Not Meet Either The 1963 Definition Or The Current Definition Of “Boarding House”

Even if the special exception that exists at the Property is not a nursing home, but rather a boarding house as RH contends, its use of the Property does not come close to meeting the definition of “boarding house” in 1963 or today. In 1963, “boarding house” was defined as “a building other than a hotel in which meals or rooms and meals are provided....” (See 1963 BCZR attached at **Tab L**). RH’s use of the Property clearly does not meet that definition for the simple reason that neither “meals” nor “rooms and meals” are provided to the tenants.

The current definition of boarding house is as follows:

BOARDING OR ROOMING HOUSE:

A. A building:

1. Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner;
2. Which is not the domicile of the owner and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.

B. The term does not include a hotel, motel, apartment building or a facility for foster care....

(See **Tab M**).

Thus, to qualify as a “boarding or rooming house,” the owner of the building must reside on site in order to have multiple units there (subsection A1) or, if he does not reside on site, then he must rent the entire building (not individual units) for use by three or more persons (subsection A2). RH’s rental of Rainbow Hall does not meet this definition, both because (1) Mr. Wright (the sole member of Rainbow Hall, LLC) does not live in the mansion and yet rents units there, and (2) the building is not “occupied in its entirety” (rather, rooms are provided).⁴ The three houses, likewise, are not “boarding houses” because they are not Mr. Wright’s domicile and the persons living there *are* related.

Moreover, under subsection B, a boarding or rooming house does not include an “apartment building.” RH’s use of Rainbow Hall is clearly an apartment building. Although that term is not presently defined in the BCZR, it was previously defined in the BCZR as “a dwelling containing three or more apartments,” (*see Tab L*) and was replaced in 1992 by the current term “multifamily building.” A “multifamily dwelling” is a “structure containing three or more apartments. A multifamily building includes garden *and other apartment buildings*.” (**Tab M**) (emphasis added).

In sum, neither Rainbow Hall nor the three houses are a “boarding house” and, therefore, cannot fall within the “broadened” special exception that RH lays claim to. RH’s rental of apartments at Rainbow Hall falls squarely under the definition of “multifamily building,” a use that is not encompassed by the special exception granted to the Baptist Home and is not otherwise permitted in this RC2 zone. The houses are single-family dwellings that, in addition to violating the one dwelling per lot limitation, are not encompassed by the special exception.

⁴ Mr. Wright testified that the apartment renters do not have access to the mansion.

C. There Is No Such Thing As A “Multi-Residential” Use

Notably, RH does not address in its memorandum that its current use of Rainbow Hall meets the definition of “multi-family building” in the BCZR. Instead, RH repeatedly characterizes its use of the Property more vaguely as a “multi-residential use” or “multi-unit residential use.” RH contends this is the same use as the Baptist Home, but just a “less intense utilization.” (RH Mem., p. 11).

The Zoning Commissioner should reject RH’s superficial attempt to create a new use. There is simply no such thing as a “multi-unit residential use” or “multi-residence use” in the BCZR. It is axiomatic that each use must be viewed against the uses that are identified and authorized under the BCZR. If a use falls within the parameters of a defined use under the regulations, then the regulations control and dictate where that use may be located in the various zones of the BCZR and any other limitations. You cannot look at a use in the abstract and reclassify it because it may be viewed as similar to another use and disregard the provisions of the BCZR. This is particularly true where, as here, there is a use in the BCZR that plainly applies.

Moreover, it is hardly an established fact that the current use is less intense than that of the Baptist Home. Simply because there are fewer residents living in the mansion does not mean it is less intense. The residents of the Baptist Home were elderly, probably did not have their own vehicles or travel to and from the facility very often, and did not host the type of parties that are currently being held at Rainbow Hall. In any event, the fact that there are fewer residents now is not the point. What matters is whether the use is permitted under the BCZR and, in this case, the County Council has already determined that a multifamily building (defined as containing “three or more units”) is too intense a use for the RC2 zone.

D. Even If There Was A "Boarding House Special Exception," That Special Exception Was Voided In 1993 By Operation Of §502.5 Of The BCZR

Section 502.5 of the BCZR provides that any special exception for a boarding or rooming house that was granted prior to the effective date of County Council Bill 124-1993 "shall ... be of no further force and effect" after the effective date of that bill "unless permitted pursuant to the procedure delineated in Section 408B." BCZR, §502.5. Section 408B sets forth an application and public hearing procedure for obtaining a use permit for boarding and rooming houses. Among other things, the applicant must submit a site plan and floor plan depicting the number of tenants, the location and type of structure, and the location of off-street parking. The Zoning Commissioner must then conduct a hearing, if requested by any interested party, and determine the impact of the facility on the surrounding community and apply the special exception factors.

The process set forth in §408.5, of course, did not take place in the present case. Thus, the so-called "boarding house special exception" at Rainbow Hall, if it existed after 1991, had no further "force or effect" after the effective date of Bill 124-1993, which was October 25, 1993. For this additional reason, RH's arguments should be rejected.

E. Even If There Is A Nonconforming Use Attached To The Property, That Use Was Changed And Terminated

RH argues that its rental of apartments and the three houses is permitted as a lawful continuation of a nonconforming use and that there has been "no change at all" in that use since 1963. (RH's Mem., p. 12). RH states:

The basic 'boarding house' elements – residents living in rooms at the Property – remains fully intact. The 'rooms' are the same 'rooms' that existed at the time Baltimore County authorized their use for multi-residential purposes. The single-family residences are unmodified... The basic fundamentals at the Property have not changed since 1963. There are

residents living in various rooms in the main structure and in the three houses....

There is nothing different about the nature and purpose of the Property. A place with rooms for rent where people can live has been a constant purpose and nature of the uses.

(*Id.*, pp. 13, 15).

The use of the Property is clearly not the same as when it was owned by the Baptist Home.⁵ The Property's prior use, as the Board of Appeals determined in 1991, was a nursing home, an identified and defined use under the BCZR. The current use is a "multifamily building," also a defined use under the BCZR. RH's argument ignores the provisions of the BCZR and instead focuses on the abstract use of the property. The fact that a nursing home and a multifamily building are both places "where people can live" does not make them the same use. RH changed the use of the Property and, thus, any nonconforming use was terminated under § 104.1.

Further, contrary to RH's contention, there were substantial changes to the physical structure of Rainbow Hall. The rooms in Rainbow Hall are not the same rooms that were there when the Baptist Home was operating. In his own testimony, Mr. Wright claims he renovated the wing, removed the numerous resident rooms, removed over 60 bathrooms, and reconfigured the entire building for 6 (or 8) apartment units, each with its own full kitchen and bathroom. The three houses were previously used as accessory buildings by the Baptist Home to house staff and employees of the Home. They are now being used as principle structures, each housing a separate family who has no relation to Rainbow Hall other than the fact that some of the residents are employed in Mr. Wright's liquor distribution business.

⁵ For the reasons set forth in Petitioners' opening memorandum, there is no nonconforming use at the Property. *See also Purich v. Draper Props., Inc.*, 395 Md. 694, 718 (2006) ("The change to a permitted use (i.e., the special exception) terminates the nonconforming use, which then cannot be revived or renewed. There is nothing to revive and nothing to renew.").

RH's reliance on two nonconforming use cases, *Trip Associates v. City of Baltimore*, 392 Md. 563 (2006) and *Lone v. Montgomery County*, 85 Md. App. 477 (1991) is unavailing. In *Trip*, the issue before the Court of Appeals was whether a night club's increase in the number of nights per week that it held adult entertainment (from 2 days to 5 days per week) was an unlawful extension of the owner's nonconforming night club use. The Court held that the increased frequency of the adult entertainment activities was merely an intensification of the nonconforming use and not unlawful because it did not change the fundamental nature and character of the use. 392 Md. at 582-88. Here, we do not have an intensification of a use, that is, RH has not simply increased the use to which the Baptist Home put the Property, but rather has fundamentally changed the use to another use that is not permitted in the RC2 zone.

In *Lone v. Montgomery County*, the Court of Special Appeals discussed, at some length, nonconforming uses generally, but the case did not involve a change in a use and is therefore not on point. RH cites the decision for the four factors to be considered when determining whether a particular activity is within the scope of a nonconforming use. RH's use of the Property easily fails to meet these four factors. It is a use that is entirely "different in character, nature and kind" which does not "reflect the nature and purpose of the original nonconforming use," which are the first and second factors in *Lone*. The rental of apartments and houses is not a nursing home or a boarding house, which the County Council has already determined by virtue of the simple fact that this rental activity falls within its own defined use under the BCZR, namely a "multifamily building," and outside the separately defined uses of nursing home and boarding house. Multifamily buildings have a "substantially different effect" on the surrounding neighborhood, the third factor in *Lone*, as evidenced by the fact that are limited to the commercial zones in the County, not the RC2 zone by

right or by special exception. Finally, even if rental apartments and houses could be considered an enlargement or an extension, they are certainly a “drastic” enlargement or extension.

F. RH’S Chart Has Critical Errors Regarding The Occupancy Of Rainbow Hall

RH attaches a chart to its memorandum purporting to show that the mansion and the three houses have been continuously occupied. The chart is inaccurate in two important respects. First, the chart shows the residency of Mr. Sheldon Lewis in the main house beginning in January 2002 and ending in April 2002. This misstates the testimony of RH’s witness, Mr. Lewis, who said he lived in the mansion between March 2001 and April 2002 as an employee of the Baptist Home in order to watch over the Property. He testified that during the 13-month period there was no one else living in the mansion. This is critical because it establishes the one-year period of abandonment required by §104.1. Mr. Lewis’s residency should not even be depicted in RH’s chart because he was not a tenant and did not pay rent. He was an employee of the Baptist Home and his residency was strictly accessory in nature. RH ignores this dispositive point, which was discussed at length in Petitioners’ opening memorandum.

Secondly, the chart does not show that the Cottage (identified as the “Farmhouse” in the chart) was vacant during the same period that Mr. Lewis was living in the mansion, from March 2001 to April 2002. This is critical because it establishes the one-year period of abandonment for the Cottage.⁶ The Cottage, which served as a staff residence, was a legitimate accessory use for many years and then sat idle for 13 months after Mr. Lewis’s move to the mansion as caretaker of the Property in the final year of the Baptist Home’s ownership.

Various other statements in this section of RH’s memorandum are false. For example, RH states that “there can be no debate that all of the existing improvements” at the Property and their

⁶ It is highly suspicious that the chart misrepresents these two most important and dispositive vacancies.

use “were expressly approved by Baltimore County.” (RH’s Mem., p. 12). The County never approved the rental of apartments at Rainbow Hall or the three houses.⁷

Similarly, RH also falsely states that “clearly the three detached residences on the Property were previously authorized in the extensive zoning history of the Property.” (*Id.*). The rental of the three houses was never authorized in the zoning history of the Property. At best, the three houses were allowed to continue because they were used as accessory structures to the Baptist Home for many years. When the Baptist Home stopped using the houses as accessory structures, and began renting them, that use was illegal and continues to be illegal today. There is no evidence to suggest that the County ever knew the houses were being rented to third parties, much less authorized their illegal use.

RH also falsely states that “brief interruptions or resident turnover do not serve as the basis for ‘discontinuance’ applicable to the entire Property.” (RH’s Mem., p. 14). There were not “brief interruptions” in the use of Rainbow Hall or the Cottage, in two respects. First, there was at least a 13 month “interruption” between March 2001 (before RH purchased the Property) and April 2002, during which only Mr. Lewis lived in the mansion. There is no evidence of anyone living in Rainbow Hall until October 2002, when Margaret Dodd allegedly moved in. Second, after RH purchased the Property in April 2002, according to the leases produced at the hearing, RH did not begin renting apartments until nearly 20 months later, in February 2004.

Finally, RH falsely states that “there has been no change or interruption” in the use of the three houses. As noted above, the Cottage was vacant for 13 months and at some point when the

⁷ The County did at one point not go forward with an action to enforce a zoning complaint, based on information from RH’s then current legal representative that was directly contradicted by the testimony under oath of witnesses with personal knowledge of the facts. Indeed, the County instructed RH that if it wished to obtain approval of the apartment use, then it would have to file a Petition for Special Hearing, which RH declined to do. (Pet’s Ex. 20).

Baptist Home was scaling how, the use changed from an allowed accessory use to a non-permitted rental. The Cottage and the other houses could have been legitimized by the Baptist Home placing them on separate lots; instead, other lots (including the lots now owned by Mr. Wilson) were carved off, leaving RH's lot with unused accessory buildings and insufficient density for three additional single family dwellings. wrong

G. Attachment A To RH's Memorandum Should Be Disregarded

RH ignores the evidence at the hearing regarding the occupancy at the Property and instead relies upon the unsupported statement of its legal representative at the time that there were "always" apartments there. (RH's Mem., p. 2 and Attachment A). The Property did not "always" have apartments in the buildings. The Property was used as a nursing home with rooms for its residents. There were no separate rental apartments until Mr. Wright reconstructed Rainbow Hall and, in February 2004, began renting units there.⁸

H. The Errors In The Plat Are Immaterial; RH Does Not And Cannot Claim Any Prejudice Resulting From Them

Petitioners do not deny the mistakes in the Plat, or seek to excuse them, but RH's characterization of them is exaggerated. The mistakes are minor, at worst. They do not render the

⁸ RH states that the County's decision to take no action proves that the VPC and the "officious neighbors," Mr. Wilson and Mr. Zimm, "are the only people bothered by the Property." (RH's Mem., p. 2). The personal attacks aside, it need hardly be stated that this is false. In addition to the fact that the VPC represents its numerous members in this case, many citizens attended the hearing and have sent correspondence to the Zoning Commissioner expressing their concerns about the Property. The Zoning Commissioner commented at the hearing about the volume of correspondence the case has generated in opposition to the current uses. Additionally, due to the objections of RH, the Zoning Commissioner refused to allow other citizens to join as petitioners in the case.

Plat itself or these proceedings legally deficient. Indeed, they had no impact whatsoever on the hearing or the actual issues in the case.⁹

Importantly, RH does not claim, nor can it claim, any prejudice as a result of the errors in the Plat. RH received a copy of the Petition itself, which correctly identified the street address of the Property and included an accurate zoning description of the Property. RH obviously understood that its property was at issue in this case and was not fooled by the incorrect dimensions in the Plat or the incorrect identification of the election and councilmanic districts.

I. The Filing Of The Instant Petition For Special Hearing Was Authorized By §500.7

The filing of the Petition for Special Hearing in this case was authorized under both the first and second sentences in §500.7. The Petition was authorized under the first sentence because Petitioners seeks to enforce provisions of the BCZR. The Petition was authorized under the second sentence because Petitioners are “interested persons” who seek a determination regarding both the existence of a nonconforming use at the Property and the rights of RH in the Property.¹⁰

RH argues that the first sentence of §500.7 is not applicable because the Zoning Commissioner did not *initiate* this proceeding, but rather Petitioners did. This is a strained and unreasonable reading of this first sentence. This provision authorizes the Zoning Commissioner to “conduct” hearings; it does not require that he initiate the proceeding, explicitly or implicitly.¹¹

⁹ RH states that the errors were so egregious that Mr. Patton conceded “you got me” during cross-examination. Mr. Patton’s remark was obviously tongue in cheek and intended to convey his belief that the errors were non-substantive in nature.

¹⁰ RH makes the rather silly argument that, because the second sentence of §500.7 is written in the disjunctive, Petitioners “can only seek relief under one provision, not both”, that is, they cannot ask the Zoning Commissioner to both determine a nonconforming use and determine RH’s rights in the Property. RH cites no support for this strained argument, either one based on rules of grammar or the law.

¹¹ RH’s contention that the Zoning Commissioner must initiate a proceeding under 500.7 is also contrary to the established administrative practice in the County, in which petitions for special

standing
↓
enforce
own
rights

RH next argues that Petitioners are not “interested persons” because they do not have standing. RH cites no support for its suggestion that the “interested person” requirement in §500.7 is a standing requirement. A petitioner may be an “interested person” but not have the legal standing that would be required in a court of law. It is well settled that standing is extremely relaxed in administrative proceedings and extends to community associations, who typically do not have standing in the Circuit Court. *See Sugarloaf v. Dept. of Env't.*, 344 Md. 271, 286-86 (1996) (“The requirements for administrative standing under Maryland law are not very strict. ... [O]ne may become a party to an administrative proceeding rather easily.”); *see also Morris v. Howard Research & Dev. Corp.*, 278 Md. 417, 423 (1976); *Dorsey v. Bethel A.M.E. Church*, 375 Md. 59, 71-75 (2003). However, even if we assume that the legal standing required in a court of law is what “interested person” language requires, Petitioners clearly have that standing. Mr. Wilson owns land adjoining the Property and Mr. Zinn owns property across the street. They are deemed *prima facie* specially harmed and thus are presumed to have standing. *120 West Fayette Street, LLP v. Mayor & City Council of Baltimore*, 407 Md. 253, 271 (2009) (a party who owns “adjoining, confronting or and neighboring” property is deemed, *prima facie*, to be “specially harmed” and to have standing to challenge his neighbors’ violations of public laws).¹²

hearing are routinely filed by persons other than the Zoning Commissioner. Further, other provisions in the BCZR refute RH’s argument. For example, §408B.1 (which coincidentally addresses boarding or rooming houses) authorizes any interested person to file “a formal request for a public hearing before the Zoning Commissioner *in accordance with Section 500.7.*” *See also* §409.8 (same).

¹² The Petition for Special Hearing is also authorized under the separate authority granted in §500.6, which grants the Zoning Commissioner power to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon.

J. Requiring RH To Use The Property Consistent With The Existing RC2 Zoning Is A Far Cry From An Unconstitutional Taking

RH states that “the essence of zoning requires the owner to be afforded a reasonable use of the Property.” According to RH, Petitioners’ suggestion that the Property be used only as a single family dwelling is unreasonable and would constitute an unconstitutional deprivation of property under *Lucas v. South Carolina Coastal Council*.

The law regarding what constitutes an unconstitutional “taking” is well-settled, but bears repeating. An owner must affirmatively demonstrate that he has been deprived of *all* beneficial and productive use of his property, and that the property cannot be used for *any* of the uses permitted in the existing zoning. *City Council of Baltimore v. Borinsky*, 239 Md. 611, 622 (1965); *Mayor & Council of Rockville v. Stone*, 271 Md. 655, 663 (1974). Even a substantial loss or hardship is insufficient. *Id.* Thus, the appellate courts have rejected a wide variety of takings arguments. *See, e.g., Anne Arundel County v. Maryland Nat’l Bank*, 32 Md. App. 437 (1976) (claim that residential use had no reasonable value and was suitable only for commercial use); *Valenzia v. Zoning Board of Howard County*, 270 Md. 478 (1973) (claim that zoning is too restrictive, not desirable, and not the highest and best use); *Board of County Comm’rs for Prince George’s County v. Kay*, 240 Md. 690 (1965) (claim of economic infeasibility); *Franklin Constr. Co. v. Welch*, 251 Md. 715 (1968) (a taking is not established, even *prima facie*, where the owner’s expert did not categorically testify that it was impossible to develop land for single family dwellings).

Here, in addition to a single family dwelling, there is a whole host of uses that are permitted in the RC2, either by right or by special exception. Other than vague, self-serving complaints, RH has made no showing that the Property cannot possibly be used for these purposes. Mr. Wright’s current illegal use may be among the most profitable uses of the

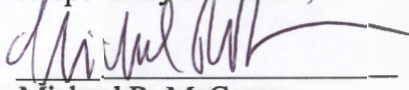
Property, but he has no constitutional right to continue his profit-making, particularly when he purchased the Property knowing it was subject to restrictive zoning, a restrictive covenant agreement, and the limitations imposed by virtue of its historical designations under County and federal law.

It is not the County's, nor the Zoning Commissioner's, responsibility to ensure that RH makes a profit or to even determine which use of the Property is the most feasible or makes the most practical sense. Zoning authority lies exclusively with the County Council, which made the determination back in 2004, in response to these very same arguments, that the uses permitted in RC2 are appropriate for this historic and environmentally significant property.

II. CONCLUSION

For these reasons, Petitioners respectfully request that the Zoning Commissioner grant the relief requested in this proceeding.

Respectfully submitted,



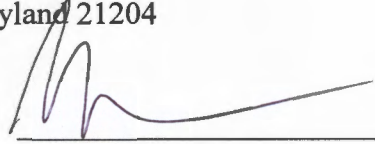
Michael R. McCann
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 825-2150

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 10th day of January 2011, a copy of the foregoing post-hearing memorandum was sent *via* hand delivery and email to:

Michael Wyatt, Esq.
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204



Michael R. McCann

it does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

88 COMPREHENSIVE ZONING Request For Change

Office of Planning and Zoning
Baltimore County, Maryland

COUNCIL DISTRICT	
ISSUE NO.	3-136
AREA	
PLANNER	
RECEIPT DATE	

- 1 APPLICANT'S NAME Baptist Home of Maryland/Delaware, Inc., c/o Charles V. Pippen
- 2 ADDRESS 2305 Pot Spring Road
- 3 CITY Timonium 4 STATE MD 5 ZIP 21093 6 PHONE 252-6430
- 7 ORGANIZATION (if any) _____
- 8 COMMUNITY ORGANIZATION INVOLVED: _____
- 9 APPLICANT STATUS: (Please Circle one)
Property Owner; Contract Purchaser; Legal Rep.
- 10 PROPERTY LOCATION Park Heights Avenue
- 11 ACREAGE OR LOT SIZE 43 AC
- 12 EXISTING ZONING BY ACRES RC2 33.34 AC RC5 - 8.40 AC
- 13 REQUESTED ZONING BY ACRES RC3 - 41.74
- 14 EXISTING USE convalescent home
- 15 PROPOSED USE (if known) convalescent home
- 16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Process: 18 Issue No. _____ 19 Year _____
(if applicable) 20(b) Cycle Zoning: 21 Case No. _____
- 22 WATER SERVICE ZONE _____
- 23 SUBSEWERSHED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) 61
- 24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
3	03	02	004580
Deed	Liber		Folio
	4250		0278

Map	Block	Parcel
59	20	270
Rec. Plat	Liber	Folio
	Block	Lot

25 APPLICANT ACKNOWLEDGEMENT:

I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.

I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.

NAME Cook, Howard, Downes & Tracy (Type or Print)
(Landowner, Contract Purchaser and/or Legal Representative)

SIGNATURE [Signature]
By: John B. Howard, Robert A. Hoffman

Application Must be Presented in Person

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517

TOWSON, MARYLAND 21204

TELEPHONE
(301) 823-4111

TELECOPIER
(301) 821-0147

October 26, 1987

JAMES H. COOK
JOHN B. HOWARD
DAVID D. DOWNES
DANIEL O'C. TRACY, JR.
JOHN H. ZINK, III
JOSEPH C. WICH, JR.
HENRY B. PECK, JR.
HERBERT R. O'CONOR, III
THOMAS L. HUDSON
C. CAREY DEELEY, JR.
M. KING HILL, III
GEORGE K. REYNOLDS, III
ROBERT A. HOFFMAN
CYNTHIA M. HAHN

JUDITH A. ARMOLD
DEBORAH C. DOPKIN
KATHLEEN GALLOGLY COX
KEVIN H. SMITH
J. MICHAEL BRENNAN
H. BARRITT PETERSON, JR.
KATHRYN L. KOTZ
REGAN J. R. SMITH
JULIE A. STEINBERG

JAMES D. C. DOWNES
(1906-1979)

Norman E. Gerber, Director
Office of Planning and Zoning
County Courts Building, 4th Floor
Towson, Maryland 21204

Re: Property of Baptist Home of Maryland/Delaware, Inc. -
41.74 acres $\pm$ on E side of Park Heights Avenue,
across from its intersection with Velvet Valley Way -
Third Councilmanic District

Dear Mr. Gerber:

As counsel for the Baptist Home of Maryland/Delaware, Inc. (the "Home"), we are filing this Request for Change in zoning from RC 2 and RC 5 to RC 3. The property consists of 41.74 acres and is located on the east side of Park Heights Avenue, north of Greenspring Valley Road and just opposite the intersection of Park Heights Avenue and Velvet Valley Way.

The property is currently zoned RC 2, except for relatively small strips along its northern and northeastern boundaries, which are zoned RC 5. It has been legally used for a convalescent home since before it obtained this zoning. Because a convalescent home is a permitted use in neither the RC 2 nor the RC 5 zone, the existing home is a non-conforming use. As such, it is subject to the restrictions set out in §104 of the Baltimore County Zoning Regulations: "No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Norman E. Gerber, Director
Page 2
October 26, 1987

The Home is understandably concerned with these restrictions. Without a change in zoning, the Home will be precluded from constructing new facilities or expanding existing facilities in excess of the 25% limitation, regardless of the fact that buildings now cover only a small percentage of the Home site.

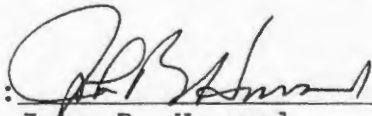
The Home is seeking a change to RC 3 zoning for the entire property. Under the requested zoning, the Home could cease to be a non-conforming use by applying for a special exception. (Nursing homes, convalescent homes, and sanitariums are permitted by special exception in the RC 3 zone.) It could also obtain amendments to the special exception thereafter, to permit expansion as it deems necessary or desirable from time to time. Under the special exception process, expansion would be permitted only if it would not be detrimental to the health, safety, or general welfare of the locality and if it satisfied the other criteria set out in §502.1 of the Zoning Regulations.

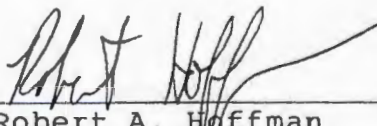
We submit that the requested rezoning would be a desirable change that would permit the continuation and necessary growth of a use that is very much in the public interest. At the same time, it would not result in harm to surrounding uses or to the County as a whole; the special exception mechanism would remain in place to assure that any expansion of the Home would not be contrary to the public interest.

For these reasons, we respectfully ask for favorable consideration of this request for a change from RC 2 and RC 5 to RC 3 zoning.

Very truly yours,

COOK, HOWARD, DOWNES & TRACY

By: 
John B. Howard


Robert A. Hoffman

JBH/pat

JAN 11 1988

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH SEPTEMBER 21, 1987

1987 EDITION

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1963

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BOOK No 601

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Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

January 10, 2011

William Wiseman
Zoning Commissioner of Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

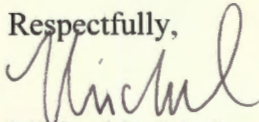
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please find Petitioners' Reply to Respondent's Post-Hearing Memorandum in the above-referenced matter.

Also enclosed is the original Respondent's Exhibit 3. If you recall, you asked that Petitioners identify which, if any, portions of this summary is not supported by evidence in the record. I have attached a second copy of the exhibit which highlights, in yellow, the portions that we believe lack evidentiary support (either in the form of testimony at the hearing, a copy of a lease agreement, or an entry of payment in the ledger book).

Thank you for your consideration.

Respectfully,

Michael R. McCann

cc: Michael Wyatt (via hand delivery)

1/6/11
IN RE:

VALLEYS PLANNING COUNCIL, INC.

*

BEFORE THE

*

ZONING COMMISSIONER OF

*

BALTIMORE COUNTY

*

Case No: 2010-0280-SPH

* * * * *

BRIEF OF RESPONDENT RAINBOW HALL, LLC

RAINBOW HALL, LLC, Respondent, by its attorneys, Michael T. Wyatt and Michael L. Snyder, hereby submits this brief in opposition to all relief sought by Petitioners VALLEYS PLANNING COUNCIL, INC. ("VPC"), *et al.* in the above-referenced zoning proceeding.

I. INTRODUCTION

At its core, this case concerns efforts by the VPC to deprive the owner of a large residential parcel, improved by a mansion house, a former 80 bed institutional nursing facility, and three (3) individual residential dwellings of any economically viable use. VPC initiated its broadside campaign in this case long after it expressly approved the more intensive operations of the prior owner and, more hypocritically, watched for many years as the present owner scaled back those residential uses of the property at 10729 Park Heights Avenue (the "Property"). Consistent with the high degree of animus exhibited by Petitioners in these proceedings against RAINBOW HALL, LLC and its principal, Mr. Henry M. Wright, Jr., Petitioners seek nothing short of depopulating the 19.67-acre parcel in its entirety and grinding all human activity at the Property to a halt.¹ Baltimore County Department of Permits and Development Management

¹ Petitioners spared no expense or tactic in this case. Respondent and its agents were continuously harassed with fishing expedition "trial subpoenas" unrelated to any material issue in this case. Incredibly, Petitioners even purport to summarize income and expenses at the Property during Wright's stewardship with the fruits of their irrelevant and time-consuming subpoenas. Petitioners' misguided efforts amount to nothing more than a desperate attempt to compile what remaining 7-9 year old records Wright was able to locate during a several day period in the Fall of 2010. Respondent submits that Petitioners' Exhibits 60-61 are purposefully misleading; do not capture the capital and maintenance expenses associated with Rainbow Hall; and add nothing constructive to the issues in this case.

(PADM Code Enforcement) previously investigated this matter at the behest of one of the Petitioners and at least on two occasions elected to take no action. (Petitioners' Exhibit 29 and 30; *see also* "Attachment A" highlighting the prior finding of PADM that the Property "always had apartments in building, no violation."). Thus, it would appear that VPC and RAINBOW HALL, LLC's officious neighbors, Mark Wilson and Harlan Zinn, are the only people bothered by the Property.

The draconian relief sought by Petitioners should be denied. First, §500.7 of the Baltimore County Zoning Regulations ("BCZR") does not authorize the private code-enforcement action filed by VPC and, even if it does, the Petition and the Plat upon which it is based are so devoid of accuracy and reliability that this case should proceed no further. Second, RAINBOW HALL, LLC's multi-residential uses at the Property represent a continuation of prior, valid special exception approvals. Third, even if, *arguendo*, the prior special exceptions had lapsed or terminated, the present multi-residential uses are permissible as a valid nonconforming use under applicable law. And finally, any application of the zoning regulations to the Property must be "reasonable" in light of its prior history, the prior approvals, uses and permitted improvements. The granting in this case of the extraordinary relief sought by Petitioners would not be a reasonable exercise of zoning administration, nor would it pass constitutional muster.

A. History

The 10729 Park Heights Avenue property (synonymously known as "Rainbow Hill" and "Rainbow Hall") has a rich and vibrant history.²

² See Respondent's (R.) Exhibit 2, "26th Symphony Decorator Show House", pp. 10-11.

Petitioners detail much of the storied history of the Property, but overlook issues central to this case, namely the longstanding multi-residential use that has existed at the Property, intermittently, for in excess of 100 years. For example, at the turn of the last century, the Property was used as the "Avalon Hotel". Later, it was sold by the Rosenberg family to a group of investors intending to operate the mansion as a private golf club with apartments and rooms available for members as well as dining and catering facilities. Mr. Henry Rosenberg later re-acquired the Property and sold it to the Baptist Home of Maryland/Delaware, Inc. ("Baptist Home") in the early 1960s. The Baptist Home built and operated an institutional-style nursing home and boarding house for nearly 40 years at the location.

The evidence in this case established that the rooms in the main structure were configured and accommodated up to as many as 80 residents, as well as providing for a main dining room, common areas, and administrative quarters. The three individual residences on the Property date back to at least the early 1970s and have consistently been utilized for single family use contiguous to the main house. During the 40-year Baptist Home era, "each person's room [was] his home in the truest sense," according to the Baptist Home's "Rainbow Hall" promotional literature. (P. Ex. 38, at p. 6).

Since 2002, the Property has continued with multi-residential use, albeit on a reduced and less intense scale. Under the direction of Henry M. Wright, Jr., many of the institutional-style rooms have been reconfigured to allow for no more than 8 residential units in the McCormick Wing of the main structure. The three detached residences have been renovated but continue to be used as single-family residences.

B. Pertinent Zoning History

The Baptist Home was granted a special exception in 1963 to permit a boarding house (up to 40 units). The 1976 zoning change from RC-3 to RC-2 had no impact on the Baptist

Home's increasing operations at the Property. Petitioner's gratuitous assertion that the Property became "non-conforming" in 1976 is without legal or factual support. VPC acknowledges, as it must, that in 1988 the zoning of the Property was again changed and "the effect of this change

was to revive the special exception approval granted in 1963" (P. Brief, p. 21). Sometime later that year, the Baptist Home entered into a Restrictive Covenant Agreement ("RCA") (P. Ex. 21).³ Among other things the RCA provides that upon the sale of the Property, all uses must revert to what is "permitted" under zoning law, including valid special exceptions and nonconforming use. The RCA also unequivocally demonstrates VPC's approval of the Baptist Home's intensive operation at the property.

In 1991, further special exception relief was granted to the Baptist Home to construct two additions to an existing facility and redacting prior restrictions relating to religious use, age requirements, and non-nursing home use. The Board of Appeals in 1991 did not supplant the 1963 "boarding house" phraseology in the special exception; instead it augmented the 1963 case by specifically adding approval for the nursing home activities (P. Ex. 41, pp. 3-4). Thus the prior "boarding house" special exception (broadened in 1991 to include the nursing home activities) still remained applicable to the Property.

In 1997, then-Zoning Commissioner Lawrence Schmidt observed that the Baptist Home's boarding house use since 1963 "has existed on the property since that approval" (P. Ex. 44). The 1997 zoning case also illustrates the intensity of the Baptist Home operation, including continuing care for up to 64 residents with some 50 full- and part-time employees at the facility working 24 hours a day, 7 days a week (Id.). It is clear from the discussion that takes place in the 1997 zoning opinion that Baltimore County "has [in place] a long-standing policy that special

³ While the efficacy and enforceability of the RCA are not at issue in this case, it is interesting to note how quickly VPC retreated from the cooperative spirit recited in the RCA when it supported the down-zoning of the Property in 2004. This is clearly in violation of the original purpose of the RCA.

exception approval survives, irrespective of the down-zoning of a given property" and that whether the Zoning Commissioner agreed with the policy or not, "apparently it was followed in this case" (P. Ex. 44, p. 7). In 1997, the Zoning Commissioner granted relief with respect to undersized non-density parcels subject to certain requirements being met. In that case, an excellent discussion takes place with respect to the prior zoning history and the longstanding policy of Baltimore County which continues to recognize a previously issued special exception use.

Petitioners' own "zoning expert" could not point to any law or policy whereby a special exception lapses or did lapse in this case. He simply recited that the special exception ceased "because the Baptist Home sold the Property." (This testimony was typical of the *ipse dixit* reasoning which pervaded Mr. Patton's opinions).

C. Relevant Facts Adduced at Hearing

Respondent submits much of the evidence adduced during the several days of testimony in this matter is immaterial to the principal zoning issues involved in this case. For example, trash cans left for pick-up; people sledding on nearby hillsides or walking their dogs; weddings, bar mitzvahs, beer cans, or Mr. Wright's fondness for entertaining, all alleged to have taken place since 2002 hardly justify the inference that Mr. Wright is operating any type of commercial enterprise at the Property.

Sheldon Lewis testified that he personally resided at the property and oversaw the moving out of the Baptist Home residents and phasing out of its operations beginning November/December 2000. Mr. Lewis then moved from the "cottage" into the main residence, where he resided in the "Octagon Room". He lived there from March 2001 through April 2002. During this time he was familiar with others living at the Property, including the 3 detached

residences. The testimony of Henry M. Wright, Jr. and Jean Lubke establishes an extensive tenant history at Rainbow Hall both before and after Respondent took title. The tenant history is more particularly chronicled on Respondent's Exhibit 3.⁴ The testimony and documentary evidence offered at the hearing proved that the multi-unit residential use at the Property which continued in the main structure and the 3 detached residential structures has been on an uninterrupted basis since April 2002 when RAINBOW HALL, LLC purchased the Property. It is undisputed that from 1963 to present, there have always been residents located in the main house, its institutional-style wing, and the 3 detached residential structures.

II. DISCUSSION

A. The claims of Petitioners must be dismissed based on the numerous defects in its Petition and the Plat upon which it is based.

1. The Plat and Related Zoning Description Are Fatally Flawed and the Petition Must Be Dismissed.

The Plat accompanying the "Petition for Special Hearing" (Petitioners' Exhibit 33), which includes the zoning description is legally defective. The purpose of a plat, when filed in conjunction with a petition under §500.7, is to provide a reasonable representation of the property at issue for purposes of the zoning proceeding. It follows then that the plat and property description should be accurate for purposes of publication, notice, posting and for zoning posterity.

Petitioners' Plat is so rife with systemic errors and obvious mistakes that it permanently impairs the Petition and this proceeding. The Plat itself contains no fewer than 20 substantive mistakes, many of which are critical to this case. The following are major errors: (1) The dimensions of the property boundary are wrong and do not scale or measure correctly; (2) The

⁴ Attachment B is a compilation by Respondent entitled "Chronology of Use and Occupancy – Rainbow Hall".

"Zoning Description for 10729 Park Heights Avenue" set forth on the Plat incorrectly identifies the Property "in the 12th Election District, 3rd Councilmanic District". The references pertain to property located in other parts of Baltimore County. The 12th election district includes Dundalk and the 3rd councilmanic district is in Baltimore County, far north of the Property. The requirements of accuracy are not met with the Plat in this case. All of the information set forth on the Plat was the basis upon which this case was processed, publication was made, and notice given.

Considering that this is a zoning case, Petitioners' Plat should accurately describe the Property. Yet here, so egregious are the deviations contained on the Plat, Petitioners' own expert, James Patton, conceded "you got me" during cross-examination when pressed about basic requirements such as councilmanic and election districts, routine directional symbols, scale, and course and distance dimensions. Given the Plat's incorrect dimensions, it is unclear what portions of the Rainbow Hall Property are intended to be included in the Plat. Equally troubling is the issue of notice and whether people were dissuaded from attending the hearing, erroneously believes the Property is in a completely different area of Baltimore County.

When Petitioners' zoning expert was requested to identify the proper scale of the Plat, he testified under oath that "one inch equals forty feet." The actual scale is 1" = 100". If Petitioners' expert cannot determine scale, how can the rest of the world be expected to determine it? These blunders are more than "mere inadvertence" and should serve as a basis to dismiss the Petition altogether.⁵

The Plat submitted with the Petition is so utterly lacking in reliability and accuracy that any relief granted pursuant to it creates an immediate and irreconcilable legal anomaly. Petitioners feebly acknowledge the problems created by their amateurish Plat by attempting to re-file a

⁵ R. Ex. 6 and 7 clearly delineate the precise requirements for a plat.

"corrected" Plat at the conclusion of the hearing. The redline revisions were, at that point, nothing more than lipstick on a corpse.

2. *Relief Sought by Petitioners Is Not Available Under § 500.7 of the Baltimore County Zoning Regulations.*

The Petition originally filed in this zoning proceeding incorrectly recites numerous legal and factual predicates which, at this juncture, are at variance with the evidence adduced at the hearing. Even the "Amended" Petition (belatedly adding Petitioners Harlan Zinn and Mark Wilson) does not correct these errors. None of the Petitioners are "owners" or "contract purchasers/lessees" as recited on the Petition. More importantly, there is no correct reference as to their status in the Petition. Even if this zoning case is to be guided by the requirement that Petitioners be "interested persons" as referenced in §500.7 of the BCZR, the evidence does not support that any of the Petitioners would have standing to pursue the relief they request under that Section which provides:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any *interested person* to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations. [Emphasis added].

It is clear the first sentence of §500.7 is not applicable to these proceedings, as the Zoning Commissioner did not initiate these proceedings by invoking his "power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper

enforcement of all zoning regulations". (Similarly, §500.6 is not applicable to this case because it was not commenced by the Zoning Commissioner.) Rather, VPC initiated this case.

During the evidentiary portion of the hearing, there was absolutely no evidence indicating that VPC had any interest or "rights" whatsoever in the Property. In fact, there was very little evidence about VPC except that it has members and that Kathleen Pontone serves on its executive committee. There was no evidence adduced as to what specific property interest, if any, it maintains or how it would be uniquely impacted by the issues in this case. Moreover, there was no proof at all as to its geographic area of interest. While VPC clearly acknowledges these evidentiary deficiencies with its bootstrap amendments, there was no testimony from either Mr. Wilson or Mr. Zinn to reclaim the issue. Under the provisions of § 500.7, the second sentence limits the ability of the Zoning Commissioner to decide cases based on "any interested person" *who petitions the Zoning Commissioner*. Neither Wilson nor Zinn petitioned the Zoning Commissioner for a public hearing. Moreover, the testimony of Mssrs. Zinn and Wilson did not establish any concrete basis upon which the multi-residential uses at the Property disproportionately impact them.

Additionally, basic statutory construction mandates that the relief in this case can only relate to *either* the first clause of the second sentence of §500.7 relating to "nonconforming uses" *or* the determination of "any rights whatsoever of [Petitioners] in any property... insofar as they are affected by these regulations". The regulation is written in the disjunctive and Petitioners can only seek relief under one provision, not both. Respondent contends the second clause of that sentence is not relevant at all to this proceeding because none of the Petitioners have requested the Zoning Commissioner "determine any rights whatsoever of such [Petitioners] in any property in Baltimore County insofar as they are affected by these regulations". As stated earlier, Petitioners misrepresented their status on the Petition but the evidence is undisputed that none of them have "rights . . . in any property." This provision obviously contemplates someone with a property

interest in the property at issue and, thus, is not applicable here. In accordance with §500.7 of the BCZR, it follows that the only issue for determination is "the existence of any purported nonconforming use". Beyond that, there is nothing for the Zoning Commissioner to decide at all.⁶

B. Present use of the Property justified by prior grant of special exception.

The zoning history of this case establishes that the subject Property was granted a special exception in 1963 for a boarding house. This boarding house special exception was later ratified by subsequent zoning decisions in 1975 and 1991 (and always included the three houses on one record lot) and expanded the special exception use to include convalescence home / nursing home use.

There is no competent evidence in these proceedings to establish that any of these special exceptions lapsed. Quite the opposite, in the 1997 zoning case, then-Zoning Commissioner Lawrence Schmidt confirmed the long-standing policy of Baltimore County that (even in the face of an underlying zoning change) recognizes as valid any previously granted special exception. Therefore, there was never a termination of any special exception applicable to the Property in this case. Given that there is no evidence of the lapse or extinguishment of the special exceptions applicable to the Property, the Zoning Commissioner is not required to address Petitioners' litany of grievances under §500.7 of the BCZR. As stated previously, a proceeding initiated by an "interested person" pursuant to §500.7 is limited to either "purported nonconforming uses" or a determination of "[the interested person's] rights in any property... insofar as they are affected by these regulations". The relief sought by Petitioners is not permitted upon a finding that any special exception previously granted is still in force.

⁶ If, as Respondent maintains, the various special exceptions applicable to the property have not lapsed or terminated, the remainder of Petitioners' case must be dismissed because the relief sought exceeds what is available to them under §500.7 of the BCZR.

) Even assuming *arguendo* §500.7 does authorize the Zoning Commissioner to grant the panoply of wishes sought by Petitioners, the evidence easily supports the finding that the current uses are well-within broad special exceptions applicable to the Property.⁷ The evidence establishes six (6) residential units with three (3) single-family tenant houses, all with "rooms", even under a changing definition of boarding house. One of the houses is occupied by Jean Lubke, who works for Mr. Wright and pays no rent. The other detached residences have a history of single family residencies and that is precisely what they are used for today. These uses are well within the parameters of the original special exceptions. Curiously, had the Baptist Home been the initiator of the reduction of scope of the special exceptions, there can be no question that the Petitioners would have applauded those efforts. Why should the result be any different simply because ownership of the Property changed?

) Another perspective, given that the special exceptions have not lapsed, would be that the current owner of the Property is entitled to resume use as a convalescence home / nursing home. The zoning history establishes that the boarding house use was considered a lesser included use of the subsequently broadened nursing home and convalescence home special exceptions applicable to the Property. There is simply no evidence which establishes the prior special exceptions have in any way lapsed or become non-applicable to the Property. The present use is merely a less intense utilization of the prior special exceptions. At all times, there were rooms for rent with residents living in them. Some rooms were big and some were small. In the main house, the mere

⁷ Under the 1963 BCZR, "boarding house" is defined as: "a building other than a hotel in which meals or rooms and meals are provided for compensation for four or more persons, including a 'care home' as defined by the Maryland State Health Department" (P. Ex. 35). Of course that definition changed over the years, but the basic requirements that rooms "with or without meals be provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage, or adoption to the owner" is still met in this case. Considering RAINBOW HALL, LLC is an entity utilizing the Property as its domicile, the entire building need not be occupied in its entirety. A site visit to the Property, establishes the main structure is, for practical purposes, two structures consisting of the institutional-style McCormick Wing and the mansion house. The fact that it may also fit another definition under current BZCR is of no import.

) reconfiguration of walls, doors, bathrooms and/or kitchens does not detract from the basic elements of the prior multi-residential use. With respect to the three (3) residences, nothing has changed. An analogous situation would be if one of the retirement communities in Baltimore County, such as Brightwood or Blakehurst, stopped providing continuing care for its residents and began only using the independent living facilities for its residents. The fact that all intensive medical and assisted living might cease does not, in and of itself, terminate a special exception applicable to the Property.⁸

C. Even if the prior special exceptions have terminated, the present use of the Property represents a valid non-conforming use under applicable law.

Assuming, for purposes of argument, the special exceptions have in some way become non-applicable to the Property, the rental units at Rainbow Hall, including the three (3) residences, are permitted as a continuation of a previous nonconforming use. The evidence and zoning history show the development of the property over time to its present state. There can be no debate that all of the existing improvements – including the McCormick Wing, the 2 Ranch-style houses and the Farmhouse (aka "Cottage") - and their use were expressly approved by Baltimore County. Thus, Respondent may avail itself of non-conforming status provided it meets applicable criteria.

Section 104.1 of the BCZR provides as follows:

⁸ The ridiculous lengths to which Petitioners go demonstrates an apparent desire to micromanage others' property rights and a disgruntled quibbling over the most minor perceived infraction. Nowhere was this more amply demonstrated than by the testimony of Mssrs. Zinn and Wilson. Mr. Zinn had no problem in letting his adolescent son attend a party hosted by a friend of Mr. Wright's for a bar mitzvah. However, Mr. Zinn felt it necessary to surreptitiously take photographs of other children while on the Property. Mr. Wilson, on the other hand, feels that his \$4,000,000.00 investment for his home should accord him absolute privacy and serenity. Apparently this tranquility (to say nothing of Mr. Wilson's eggshell sensitivity) is interrupted anytime a dog, hiker or snow-sledder transgresses the boundary between his home and that of the Property. Or when Mr. Wilson trespasses onto the Property and doesn't like the way he is received.

"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."

Petitioners would have delighted in the so-called "change" now being assailed had it been the Baptist Home who initiated it. In reality, there was no change at all other than to reduce the intensity of the previously existing nonconforming use, particularly with respect to the main house and the McCormick wing. The basic "boarding house" elements – residents living in rooms at the Property – remains fully intact. The "rooms" are the same "rooms" that existed at the time Baltimore County authorized their use for multi-residential purposes. The single-family residences are unmodified; the rooms in the main structure have been aggregated to reduce the number of residents.

Similar to a boarding house, the residents in the main structure have no separate meters for electric, heat or water. These items are all paid for by the owner. And as revealed by the site visit, there is a large commercial kitchen to which tenants have access for use, even though the owner no longer provides meals.

Another aspect of this case completely overlooked by Petitioners is that the nonconforming use of the main structure and three accessory structures also applies to density. Clearly the three detached residences on the Property were previously authorized in the extensive zoning history of the Property. The fact that there has been no change or interruption in their use as residences conclusively provides protection from Petitioners' claims as a valid nonconforming use. Even where one of the individual structures may have been unoccupied for a year or more for renovation

work, there was no intent to abandon or discontinue the nonconforming status of all 3 individual structures at the Property.

The same holds true for the period of time the main structure was occupied only by Sheldon Lewis. Like all residents living at the Property, Sheldon Lewis was not an owner and during his residency, at least two of the three houses were continuously occupied, preserving the viability of the entirety of the nonconforming uses applicable to the Property.

As a factual matter, Respondent's Exhibit 3, along with the testimony of Mr. Wright, Mr. Lewis and Ms. Lubke supporting it, establishes there was no such "abandonment or discontinuance of such nonconforming use for a period of one year or more" as required by the BCZR. More importantly, there was no "intent" on the part of RAINBOW HALL, LLC to abandon or discontinue the multi-unit residential uses at the Property. RAINBOW HALL, LLC updated the facilities and scaled down the intensity of the nonconforming use. Surely, brief interruptions for renovations or resident turnover do not serve as the basis for "discontinuance" applicable to the entire Property.⁹ There are numerous Maryland cases which speak to intensification of a valid nonconforming use.

In *Trip Associates v. City of Baltimore*, 392 Md. 563 (2006), an adult entertainment establishment was permitted to intensify to more than two nights per week as well as increase its hours of operation. The Court of Appeals found that the nonconforming status is a vested property right safeguarded by constitutional protections. Any abandonment of the nonconforming use must be active and actual. The Court of Appeals discussed the concept of "intensification" versus expansion and found it is permissible to intensify so long as the nature

⁹ Of course this does not stop Petitioners from arguing this absurd point. Practical realities such as a fluctuating rental market and an owner's need to periodically update its units have no place in Petitioner's fanciful and academic world where they contend one unit's vacancy for more than one year would cause that portion of the property to lose nonconforming protection. This position, as discussed in this section, is contrary to established case law.

and character is unchanged and substantially the same. *Id.*, 579. The holding in *Trip*, confirming a long line of Maryland cases relating to permissible intensification of a vested nonconforming use is applicable to this case. The basic fundamentals at the Property have not changed since 1963. There are residents living in various rooms in the main structure and in the three houses. Perhaps the age, religious affiliation and medical needs of each particular resident is less than what was originally required, but the nature and character of the use is unchanged and substantially the same facilities are used. *Id.*, citing *Phillips v. Zoning Commissioner*, 225 Md. 102 at 137 (1961). *Purich v. Draper Properties*, 395 Md. 694 (2006), stands for the proposition that the mere change of ownership does not destroy a nonconforming use and may be transferred to a successor owner.

Addressing legislation pertaining to nonconforming uses in Montgomery County, the Court of Special Appeals in *Lone v. Montgomery County*, 85 Md. App. 477 (1991) elucidated a test for whether a particular current activity is within the scope of a nonconforming use:

1. To what extent does the current use reflect the nature and purpose of the original nonconforming use?
2. Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature and kind?
3. Does the use have a substantially different effect on the neighborhood?
4. Is the current use a "drastic enlargement or extension" of the original nonconforming use? *Lone*, at 153.

These factors support Respondent's position with respect to continuation of a valid nonconforming use. There is nothing different about the nature and purpose of the Property. A place with rooms for rent where people can live has been a constant purpose and nature of the use. While the current use is somewhat different in that the age and needs of the residents have reduced over the years, it does not constitute a different "character, nature, and kind" of use.

With respect to the effect on the neighborhood, there is no evidence that the current use is substantially different, nor could there be. A site visit to the bucolic Property established that the activities of the Property remain virtually invisible to neighbors and passersby alike. Any change in the neighborhood would be related to the passage of time and the increased population density and traffic, having nothing to do with the use of the Property. And of course, the current use does not represent a "drastic enlargement or extension" but rather a de-intensification.

Petitioners argue that Maryland law "does not permit the transmogrification of an approved nonconforming use into a new and different use". See, *National Insts. of Health Fed. Credit Union v. Hawk*, 47 Md. App. 189 (1980). While a correct statement, it has no application in this case. Transmogrify means "to change or alter greatly and often with grotesque or humorous effect". *Merriam-Webster's Collegiate Dictionary*, 11th Edition. Certainly there has been no transmogrification here, but rather a de-intensification and softening of the extent and impact of the Baptist Home. The factors in the above cases support that Respondent has continued, under de-intensification, the previous nonconforming use.

To the extent that the multiple structures on the property might currently violate density requirements, they are permitted in an RC2 zone as a "tenant houses". The BCZR provides that tenant houses are permitted in an RC2 zone as an accessory use. The VPC and Mssrs. Zinn and Wilson clearly know this. The VPC entered into the RCA knowing full well the property had numerous structures on it. It cannot now seriously contend it was their expectation was the three single family residences would have to be uninhabited or razed at the conclusion of the Baptist Home's ownership. And for all of Mssrs. Zinn and Wilson's meddling about the property, they cannot credibly argue these residences are not subordinate to the principle structure.

D. Application of zoning law should allow for a reasonable use of the Property and there can be no serious debate that the multi-residential uses at Rainbow Hall are such reasonable uses.

In the final analysis of any zoning case, particularly the case initiated by Petitioners, the essence of zoning requires the owner to be afforded a reasonable use of the Property. There can be no question that Rainbow Hall, a nearly 20-acre compound comprised of a mansion house, an institutional building previously with as many as 80 beds serving as a nursing home, and three (3) single-family residences, is unique and cannot be found anywhere else in Baltimore County.

The extensive zoning history applicable to Rainbow Hall suggests that Baltimore County intended to afford the property owner a reasonable expectation of economic viability. What is equally clear about the Property is that its use has been transformed, and this transformation has been expressly approved by Baltimore County, over many years. Its multi-residential structures and uses have been put in place by a series of administrative approvals, built up over time. It can no longer be simply considered a "single family residence". Petitioners' suggestion that the mansion house, institutional wing and three residences be limited to the use of one family is not reasonable and, if applied to Baltimore County, would not be constitutional as a deprivation of any "reasonable economic use of the Property". (*Lucas v. South Carolina Coastal Council*, 505 US 1003, 112 S. Ct. 2886 (1992) when owner of property is required to sacrifice and leave his property economically idle, he has suffered a "taking within the meaning of the Fifth Amendment).

E. Other

Whatever complaints Petitioners might have about alleged "catered events and affairs and similar commercial uses" they are entirely contrived and overblown. It is obviously from the testimony of Mr. Wright, Ms. Lubke and even that of Petitioners, that these events, while

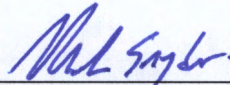
imperceptible to those not invited, have ceased. Any additional problems Petitioners might have with regard to an occasional bar mitzvah or wedding hosted by Mr. Wright is not the province of the Zoning Commissioner of Baltimore County.

III. CONCLUSION

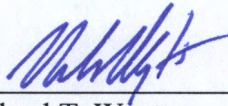
For the reason stated in the brief, as well as those assigned at the hearing, Respondent respectfully requests that the Zoning Commissioner dismiss Petitioners' Petition and deny them the relief sought in this proceeding on the basis that :

1. Section 500.7 of the BCZR does not authorize the Zoning Commissioner to conduct a private party code enforcement action.
2. The Petition and Plat upon which it is based must be dismissed because of numerous inaccuracies and an inherent lack of reliability as determined at the hearing in this matter.
3. Respondents multi-residential uses at the property represent a valid continuation of prior special exception approvals.
4. That, alternatively, Respondents multi-residential uses at the property are permissible as a valid non-conforming use.
5. That according or facilitating the relief sought by Petitioners would not be a proper exercise of zoning administration inasmuch as same would amount to a deprivation of all economically viable uses of the property.
6. Any alleged catered events and affairs and similar commercial uses has ceased prior to the institution of Petitioners petition and the issue is therefore moot.

Respectfully submitted,



Michael L. Snyder
Coady & Farley
400 Allegheny Avenue
Towson, Maryland 21204
(410) 337-0200

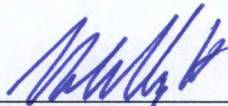


Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of January, 2011, a copy of the foregoing was
sent via hand delivery and via email, to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC.



Michael T. Wyatt

A

Case No: 04-1423

Notes: ***3/1/04 MAIN STRUCTURE W/3 GUEST HOUSES ARE ALL ON 1 LOT. & ARE NOT
OCCUPIED. CALLED COMPL. AM & PM, LEFT V-MAIL, PROP. IS ALSO POSTED, FOR REZONIN
GSIGN, 2-063, 2-065 FOR RENT SIGN, 410-382-2294. ON 3/1/04 PROPS. ARE SHOWNS ON
1953 ZONING MAP CALLED COMPL. & AGAIN LEFT V-MAIL (P.C/SS)***
***7/21/04, REOPEN - RENTING 3 APTS OUT OF 2ND STRUCTURE, RENTING OUT FARM
HOUSE, JRA/CP****
**7/23/04, SPOKE WITH ARNOLD JABLON 410-494-6298, THIS PROP IS A "NON-CONFORMIN
G USE", ALWAYS HAD APTS IN BUILDINGS, NO VIOLATION, COMPL UPDATED BY VOICE
MESSAGE, CLOSED KW/WRKD**

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3

	1963 - 1994	1994 - 1999	2000	2001	2002												2003												2004			
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr				
Main House 10729 Park Heights Avenue	Baptist Home (No less than 40 Residents)				Sheldon Lewis (2nd Fl.) Through April 30, 2002								Margaret Dodd Oct - Nov 2002		Mary McNally (2nd Floor) December 15, 2003 - December 15, 2003																	
Farmhouse 10709 Park Heights Avenue	Baptist Home				Margaret Dodd April 2002 - September 2002																											
1st Rancher 10733 Park Heights Avenue	Baptist Home				Carole Belaga July 14, 1994 - May 20, 2002								Gary and Krista Herwig June 1, 2002 - July 1, 2004																			
2nd Rancher 10731 Park Heights Avenue	Baptist Home				Shirley Rubbin February 1, 2000 - May 30, 2002								Dr. Christopher Chaput June 1, 2002 - December 30, 2004																			

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

January 6, 2011

VIA HAND DELIVERY

William J. Wiseman, III, Zoning Commissioner
Office of the Zoning Commissioner
The Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

JAN 06 2011

Re: **Rainbow Hall, LLC**
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH

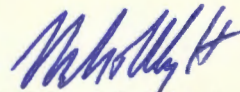
ZONING COMMISSIONER

Dear Commissioner Wiseman:

This transmits Respondent Rainbow Hall, LLC's Brief in connection with the above-referenced zoning proceeding. I will also email a copy of the Brief without exhibits.

Thank you for your continued courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright, Jr.
Michael L. Snyder, Esquire
Michael R. McCann, Esquire
David S. Thaler, P.E.

Enclosures

1/3/11
IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

PETITIONERS' POST-HEARING MEMORANDUM

Petitioners, Valleys Planning Council ("VPC"), Mark Wilson, and Harlan Zinn submit this post-hearing memorandum in support of their Petition for Special Hearing.

I. INTRODUCTION

Rainbow Hall, LLC and its owner, Henry Wright, Jr., purchased the property that is the subject of this case in April 2002. At that time, the property was zoned RC3, which is among the most restrictive zones in Baltimore County. The property was listed on the County's Landmarks List of Historic Places, and was subject to a Restrictive Covenant Agreement with the VPC that limited its use to only those allowed in the RC2 zone. All of this was known to Mr. Wright when he went to settlement in April 2002.

Within months, however, Mr. Wright was hosting an elaborate Decorator's Show House and Christmas bazaar at Rainbow Hall and, to this day, has continued to host parties, weddings, bar mitzvahs and similar events there. Within 20 months of his purchase, Mr. Wright had substantially remodeled the historic mansion to accommodate seven rental apartments, which he continues to lease along with the three houses on the property for \$900 to \$3,300 per month. In all, over the past several years, Mr. Wright's use of Rainbow Hall has yielded him nearly \$1.2 million.

As the VPC, the County, and others repeatedly warned Mr. Wright, none of this is allowed under the Baltimore County Zoning Regulations ("BCZR"). Ultimately, in March 2009, Baltimore County issued a violation notice directing Mr. Wright to immediately cease and desist the illegal rental of apartments. The County informed Mr. Wright that, if he believed his use of the property was legal, then he should file a petition for special hearing to confirm that belief. Mr. Wright did not file a petition for special hearing and did not cease and desist his illegal use of the property. As a result of Mr. Wright's continued recalcitrance, Petitioners were forced to file the instant Petition for Special Hearing and seek relief from the Zoning Commissioner.

Mr. Wright apparently defends his conduct on the basis that his rental of the apartments and the houses is no different than the multi-family use to which the property has been put for many years, and that he is merely continuing a non-conforming use established by his predecessor, the Baptist Home of Maryland, Inc. This argument is factually and legally baseless for several reasons.

Preliminarily, the use of Rainbow Hall for apartments constitutes a "multifamily building" under the BCZR, which is simply not permitted in the RC2 zone. (Section IIIA below). Moreover, the rental of the three houses on the property is an obvious violation of §1A01.3.B4 of the BCZR, which permits only one principle dwelling per lot in the RC2 zone. Unlike the manner in which the Baptist Home used the three houses during much of the time it owned the property, Mr. Wright has not used the houses as "accessory" structures. (Section IIIC below).

Secondly, Mr. Wright's argument is based on the false assumption that the Baptist Home, when it ceased operations in March 2001, had approval for a "boarding house" as a nonconforming use. To the contrary, the Baptist Home's approved use – and the only one that

Mr. Wright had the right to continue - was a special exception for a nursing home. (Section IIIC(1) below).

Thirdly, Mr. Wright did not continue to use the property as a nursing home, but rather changed that use to the rental of apartments and houses, which is a recognized separate use under the BCZR. Thus, even if the Baptist Home were operating a nursing home as a nonconforming use rather than as a special exception, that use was "changed" within the meaning of BCZR §104.1 and thus terminated as a matter of law. (Section IIIC(2) below).

Fourthly, even if we assume *arguendo* that Mr. Wright's rental of apartments is not a different use than a nursing home, then any such nonconforming use terminated under §104.1 because it is undisputed that Mr. Wright "abandoned or discontinued" that use by not renting any apartments in the main mansion, the McCormick wing or the cottage for a period of thirteen (13) months between March 2001 and April 2002. (Section IIIC(3) below). This is a critical fact that, alone, defeats Mr. Wright's argument.

Additionally, Mr. Wright's hosting of catered affairs and other events at Rainbow Hall is not permitted in the RC2 zone. This use constitutes a "catering hall" as defined in BCZR, §101.1, which is a commercial use only permitted in the Business Major (BM) zone. Mr. Wright's continued use of Rainbow Hall for these commercial events – two of which took place during the pendency of this case – must be stopped. For these reasons, and those set forth below, Petitioners respectfully request that the Zoning Commissioner grant the Petition for Special Hearing and the relief requested.

Finally, it should be noted that the County Council rejected Mr. Wright's request in 2004 to change the zoning in order to legitimize his commercial uses. By voting to rezone the property back to RC2, the County Council reaffirmed a commitment to protecting the wall of the

historic Greenspring Valley, where the property is located. Although Mr. Wright claims that his investment in this property accords him some sympathetic weight, that should not be a factor in determining whether these uses are permitted under the BCZR.

II. FACTUAL BACKGROUND

A. **The Early History of Rainbow Hall**

The mansion at Rainbow Hall was constructed in 1917 and, at that time, sat on 150 acres. (Pet's Ex. 57). The home was initially occupied by Henriette Louise Cromwell Brooks, the step-daughter of a wealthy investment banker, and her husband, Walter Brooks, until they divorced in 1919. In 1921, Ms. Brooks married General Douglas MacArthur. The couple lived in the mansion from 1925 until their divorce in 1929. The mansion stayed in Henriette's family until 1940 when it was sold to Henry Rosenberg, the owner of Crown Central Petroleum Company, who used it as a family home. In 1960, Rainbow Hill Corporation purchased the property for the purpose of developing an exclusive golf and country club. There is no evidence that zoning approval was obtained for the club or that it ever opened, but Mr. Rosenberg subsequently reacquired the property. (*Id.*).

In 1963, 42 acres of the property, including the mansion, were sold to the Baptist Home of Maryland, Inc. (the "Baptist Home"), the owner of a boarding home for the elderly on Park Avenue in Baltimore City. (Pet's Ex. 52, pp. 27-30; Ex. 41, p. 1). The Baptist Home made substantial improvements to the "entire interior" of the main building. Elevators, hand-rails and "proper carpeting to provide safety in the stairways and halls" were added. (Pet's Ex. 38, p. 3). A single "modern, well-equipped kitchen" was installed on the first floor of the facility; the

residents did not have kitchens in their rooms.¹ All the rooms had a private toilet, but only some of the rooms had baths. (*Id.*, p. 4). To be eligible for residency, one had to be 65 years of age or older and be a member in good standing of a Baptist church in Maryland. (*Id.*, p. 5).

In 1969, the McCormick Wing was added to the main building, which nearly doubled the capacity of the facility. (**Pet's Ex. 52**, pp. 31-32; *see also* **Pet's Ex. 44**, p. 4; **Pet's Ex. 38**, p. 2). Also in the 1960's, two cottages on the property were remodeled so that employees could live there and "be of better service" to the Baptist Home. (**Pet's Ex. 52**, p. 31).² In 1972, two additional rancher-styled houses were constructed "for the staff", which were subsequently used as residences by the Administrator of the Baptist Home and its Minister. (*Id.*, p. 32). In 1975, the Baptist Home obtained approval to have a modern infirmary at the facility with round-the-clock nursing care. (*Id.*).³

B. The Restrictive Covenant Agreement With The VPC

On October 11, 1988, the Baptist Home entered into a Restrictive Covenant Agreement with the VPC. (**Pet's Ex. 21**). In exchange for the VPC's support of a change in zoning from RC2 to RC3, the Baptist Home agreed that the property would only be used as a nursing home

¹ According to Sheldon Lewis, who worked at the Baptist Home, some residents had what he initially called an "efficiency kitchen or kitchenette." (*See* Transcr. of Testimony of Sheldon Lewis attached hereto as Tab A, pp. 11, 19). However, when asked on cross-examination to describe these "efficiency kitchens or kitchenettes," Mr. Lewis stated that they consisted of a microwave or a toaster oven and small refrigerator. These small appliances belonged to the resident who brought them there and were not permanently mounted. (*Id.*, pp. 19-21). The units did not have kitchen sinks, but did have bathroom sinks. (*Id.*, p. 21).

² It is unclear from the description provided in the Baptist Home's brochure (**Pet's Ex. 52**, p. 31) which houses were the "two cottages" that were remodeled. However, based on the plat accompanying the petition for special hearing filed by the Baptist Home in 1975 (**Pet's Ex. 39**), there were three houses in the area of the existing cottage. It is likely that the "two cottages" that were remodeled were among the three of these houses.

³ "Rainbow Hill", as it was then known, is listed on the Maryland Historic Trust's Inventory of Historic Properties. It is also located within the Green Spring Valley National Register Historic District.

and and further agreed, on behalf of its successors in title, that the property would be used in the future only for a use permitted in the RC2 zone. (*Id.*, pp. 4-5).

C. The Closing of the Baptist Home and the Purchase of the Property by Rainbow Hall, LLC

In late 2000, the Baptist Home was having financial problems and began moving residents to other facilities in the area. By March 2001, the last of the residents had moved out and the Baptist Home officially closed its doors. (See Transcr. of Testimony of S. Lewis attached hereto at **Tab A**, pp. 5-6, 14-15, 8, 16).

Several months later, after being placed on the Baltimore County Landmarks List, the property went to public auction, but was not sold. It was then listed for sale by Long & Foster Realtors. (**Pet's Exs. 15, 16**). The MRIS listing described the property as "most recently used as a not-for-profit nursing home" but having "the potential for restoration to its former splendor as a residence." The listing classified the property as "residential." (**Pet's Ex. 15**).

On December 24, 2001, Mr. Wright entered into a Residential Contract of Sale for the purchase of 19.67 acres of the property, which included the former Baptist Home and the three houses presently located there (the "Property" or "Rainbow Hall"). (**Pet's Ex. 8**). The contract includes various disclosures and other provisions unique to residential property in the State of Maryland. (See *id.*). For example, the contract included the notice required to purchasers of residential real estate under Maryland's Property Disclosure Law, Md. Code Ann., Real Prop. §10-702 *et seq.* (*Id.*). The contract also disclosed to Mr. Wright that the Property was designated as historic by Baltimore County and was subject to a restrictive covenant agreement with the VPC, a copy of which was attached. (*Id.*, p. 5).

Shortly before closing on the purchase of the Property, Mr. Wright formed Rainbow Hall, LLC. (**Pet's Ex. 2**). The stated purpose of the company was to "acquire, hold, own, improve,

develop, lease, manage, subdivide and otherwise deal with real property...in Maryland and Pennsylvania” (*Id.*). On April 10, 2002, the Property was conveyed by deed to Rainbow Hall, LLC. (**Pet’s Ex. 1**). In the Land Intake Sheet accompanying the deed, the Property was described as residential rather than non-residential. (*Id.*).

D. The Renovation Of The Main Mansion And The Baltimore Symphony Show House

Mr. Wright testified that he performed a “world class restoration” of Rainbow Hall after he purchased the Property. He removed over 60 bathrooms [NO SUPPORT], took down handicapped handrails, removed dropped ceilings, painted the interior, and installed carpet and cabinets. (*See* Transcr. of Testimony of H. Wright attached hereto at **Tab B**, pp. 23-24, 27-28). According to Mr. Wright, he spent “millions” of dollars to help the decorators renovate the main building for a Decorator’s Symphony Show House, which took place at Rainbow Hall from August 25 to September 21, 2002. (*Id.*, pp. 36-37; **Pet’s Ex. 9**).⁴

E. Mr. Wright’s Rental of Apartments and the Three Houses at Rainbow Hall

In February 2004, Mr. Wright (who does not himself live at the property), began renting apartments in the McCormick Wing at Rainbow Hall. (**Pet’s Ex. 4**). By May 2006, he was renting seven apartments and has continued renting those units through today. (*Id.*). Five of the units are located in the southern portion of the McCormick Wing, two on the second floor, two on the first floor, and one at ground level. (**Tab B**, p. 23). Each of these units contains two bedrooms, two baths, a living room, hallway, full kitchen, and a small dining room. (*Id.*, p. 24).

⁴ According to the invoices and receipts produced by Mr. Wright in response to a subpoena served on him, he actually spent very little on improvements to the Property prior to and after the Symphony Show House. Indeed, the invoices and receipts reflect that Mr. Wright spent, in total, only \$152,951.22 between 2001 and 2009. (*See* **Pet’s Ex. 61**).

There are also two units in the northern portion of the wing. These units have three bedrooms, three baths, a full kitchen, and a full dining room. (*Id.*, p. 25).

Mr. Wright also rents the three houses located on the Property. (*Id.*). Two of the houses are rancher style, and are located northeast of the mansion. The third house is styled as a cottage and located southwest of the mansion, close to Park Heights Avenue. The three houses have their own street addresses. 10733 Park Heights Avenue is the ranch house closest to Park Heights Avenue ("Rancher 1"). 10731 Park Heights Avenue is the ranch house to the east of Rancher 1 ("Rancher 2"). 10709 Park Heights Avenue is the cottage (the "Cottage").⁵

A summary prepared by Petitioners, which was introduced as **Petitioners' Exhibit 60**, reflects the periods of time during which the seven apartments and the three houses have been rented, and the amount of rent paid by the tenants. In total, Mr. Wright has received more than \$1.1 million in rent since he purchased the Property. (**Pet's Ex. 60**).⁶ Mr. Wright's property management company Rugby Enterprises, LLC, manages the rental units at Rainbow Hall, and his other rental properties at other locations. (Tab B, pp. 6, 21).

F. Mr. Wright's Use of Rainbow Hall for Other Events and Affairs

Mr. Wright testified that he has had only "a few" events at Rainbow Hall since the Decorator's Symphony Show House in the fall of 2002. (Tab B, p. 39). The evidence introduced at the hearing actually revealed approximately 15-20 events since the Show House, including a Christmas bazaar; affairs hosted by the Baltimore Opera Company, Ladew Gardens, Jemicy School, and the University of Maryland Shock Trauma; a garden club meeting; four to

⁵ As depicted in Petitioners' Ex. 39, there were two other houses near the Cottage as of 1975. It is unknown when those structures were removed, but they are not depicted in the plat filed in 1991 (**Pet's Ex. 42**) and are presently not on the site.

⁶ Petitioners' Exhibit 60 was prepared based on the leases produced by Mr. Wright (**Pet's Ex. 4**), the two leases attached to the Residential Contract of Sale (**Pet's Ex. 8**), and the entries of rental income in Mr. Wright's journal book (**Pet's Ex. 5**).

five weddings; at least four Halloween and birthday parties; two boutiques over a period of seven days; parking for another symphony show house in another location and a bar mitzvah. In addition, Mr. Wright entered into a lease agreement with some of the congregants of a Church to conduct church meetings and activities on a weekly basis in the Mansion at a cost of two thousand dollars per month. (*See Pet's Ex. 59; see also Exs. 17-18, 27, 28*).

G. The VPC's Efforts To Ensure Compliance With The Restrictive Covenant Agreement And The BCZR

Kathleen Pontone, a Board member of the VPC, testified that the VPC did not obtain confirmation that Mr. Wright was leasing the apartments and houses at Rainbow Hall until he posted "for rent" signs on the property, which sparked significant member complaints. She spoke at length, however, about the VPC's opposition to Mr. Wright's use of the Property for catered events and affairs, and other commercial uses. Documentary evidence introduced by Petitioners also reflects that, since Mr. Wright first purchased the Property, the VPC repeatedly informed him of the appropriate uses of the Property under the BCZR and reminded him of the provisions of the Restrictive Covenant Agreement. In December 2002, Jack Dillon, then Executive Director of the VPC, informed Mr. Wright that residents in the area were concerned about the activities at Rainbow Hall after the Symphony Show House and the Christmas Bazaar that he hosted. (*Pet's Ex. 22*). Mr. Dillon suggested that Mr. Wright hold a meeting with representatives from the VPC and other community organizations regarding his intent to use Rainbow Hall for commercial events. Mr. Dillon reminded him of the uses permitted under the BCZR and of the Restrictive Covenant Agreement, and attached copies of same. (*Id.*).

Following that meeting, on February 21, 2003, Mr. Wright wrote to the VPC that it was his intent to "continue renovation at Rainbow Hall to retain this beautiful building that is full of history." He proposed using the Property for "upscale weddings, business meetings, and other

upscale social events.” (Pet’s Ex. 19, 23; *see also* Pet’s Ex. 24). In response to this letter, Mr. Dillon informed Mr. Wright by letter dated April 25, 2003 that he had received very strong opposition to any commercial use of the Property. (Pet’s Ex. 25). Mr. Dillon again reminded Mr. Wright of the provisions in the Restrictive Covenant Agreement which permitted only uses allowed in the RC2 zone, adding that “[w]e are aware that the restriction is very narrow; it was intended to be. This is a rural area and any commercial use of the property is not permitted.” (*Id.*; *see also* Pet’s Ex. 54).

By letter dated November 17, 2003, Mr. Wright requested the VPC’s support during the 2004 CZMP for a change in zoning to BR to allow a catering facility for “weddings, business meetings, and other social events” at the Property. (Pet’s Ex. 26). In a letter to Pat Keller of the Planning Office in support of his request, Mr. Wright explained that his sole purpose in purchasing the Property was to restore and renovate the main building, and that he “did not purchase this property to make money.” (Pet’s Ex. 55). He continued, “we are not interested in having a business. We are interested in being able to provide sufficient income to afford the restoration.” (*Id.*, p. 2). Mr. Wright did not mention his intention to rent apartments at Rainbow Hall. The VPC opposed Mr. Wright’s request for a zoning change to BR. The County Council downzoned the Property to RC2, which was the Property’s zoning before it was changed in 1988 to RC3 at the parties’ request in order to accommodate the Baptist Home and any nursing home successors. (*Id.*, p. 1).

In May 2006, Ms. Pontone, on behalf of the VPC, wrote to Mr. Wright that using Rainbow Hall for a church required a special exception, which he had not obtained, and violated the Restrictive Covenant Agreement. In addition, the letter informed Mr. Wright that he could not use the Property as a parking lot for events off-site. (*See* Pet’s Ex. 56).

H. The Code Enforcement Correction Notice

On March 5, 2009, Baltimore County cited Mr. Wright for “illegal conversion of a dwelling” in violation of § 402 of the BCZR, and for “non-permitted apartments in the RC2 zone.” The County informed Mr. Wright that he must “cease and desist [this] use or seek special exception hearing for non-conforming use if applicable [and][s]eek all proper permits if applicable.” (Pet’s Ex. 20). Mr. Wright did not cease and desist, and did not seek a hearing to establish a non-conforming use.⁷

I. This Petition For Special Hearing

In April 2010, after its continuous efforts to persuade Mr. Wright to comply with law were unsuccessful, the VPC filed the instant Petition for Special Hearing asking the Zoning Commissioner to address certain questions regarding Mr. Wright’s use of the Property. (See Petition for Special Hearing). On May 5, 2010, the Planning Office issued its comments on the Petition for Special Hearing filed by Petitioners. (Pet’s Ex. 53). The Planning Office addressed *in seriatim* each of the questions presented in the Petition and found, without exception, that the current uses of the Property violate the law. Among other findings, the Planning Office concluded that rental apartments are not permitted in the RC2 zone and are not a non-conforming use on this Property. (*Id.*, pp. 1, 2).

⁷ Mr. Wright’s failure to file a petition for special hearing to establish the alleged nonconforming use contravened the Zoning Commissioner’s Policy Manual, which states that filing such a petition is “the most appropriate method” to confirm a nonconforming use. (See Policy Manual attached hereto at **Tab C**, p. 1-46). The Policy Manual sets forth a procedure for confirming such status, including the requirement that a notarized affidavit be filed which states “that the use was existing prior to the applicable zoning regulations, has been in continuous use and must comply with Section 104, B.C.Z.R....”

J. The Zoning History Of The Property

At the hearing, Petitioners offered the testimony of James Patton, who was accepted by the Zoning Commissioner as an expert in various areas, including zoning, land use, and the Baltimore County Zoning Regulations. In his testimony, Mr. Patton described the zoning history of the property, including several decisions issued by the Zoning Commissioner and the Board of Appeals. These decisions, and a chart summarizing the zoning history, were introduced into evidence as **Petitioner Exhibits 34-37, 39-49, and 51**. These exhibits and Mr. Patton's testimony demonstrated the following:

1. 1963 - The Special Exception for a "Boarding House For The Aged"

In 1963, the Baptist Home filed a Petition for Special Exception to operate a "boarding house for the aged." (**Pet's Ex. 34**). The Zoning Commissioner, by order dated November 26, 1963, granted the special exception subject to two limitations, namely (1) that the use of the property be limited to a religious, non-profit home for the aged of the Baptist denomination, and (2) that the facility not be operated as a nursing home, or as a home for the chronically ill or as a hospital except that a portion of the main building may be used as an infirmary for the temporary treatment of aged guests. (*Id.*).⁸

2. 1969 - The Addition of the McCormick Wing

In 1969, the McCormick Wing was added to the Main Building. As later observed by the Zoning Commissioner, there was no zoning hearing at that time and the addition was permitted under the 1963 special exception. (**Pet's Ex. 44**, p. 4; *see also* **Pet's Ex. 38**, p. 2).

⁸ In 1963, the zoning of the Property was R40, R20, or R10, all of which permitted boarding houses by special exception.

3. 1975 – The Petition for Special Hearing to Approve an Infirmary Wing

In September 1975, the Baptist Home filed a Petition for Special Hearing to approve the construction of an infirmary wing to accommodate an additional 25 persons at the facility. (Pet's Ex. 36). The zoning of the property at that time was R.D.P. (Pet's Ex. 39).

The Plat accompanying the Petition for Special Hearing depicts Rancher 1, Rancher 2, and the Cottage, as well as two additional dwellings in the vicinity of the Cottage that do not exist today. (Pet's Ex. 39). In its written comments on the Petition, the Zoning Plans Advisory Committee indicated that these five dwellings are "housing for the administrators and employees of the home." (Pet's Ex. 40, p. 1). The Zoning Commissioner granted the Petition for Special Hearing and approved the construction of an infirmary wing. (Id.). The infirmary wing was not constructed because it was not "financially possible." (Pet's Ex. 52, p. 34). However, the sale of some securities allowed the Baptist Home to subsequently renovate the first floor of the McCormick wing for an infirmary. (Id.).

4. 1976 – Rezoning of the Property to RC2 in the CZMP

During the 1976 Comprehensive Zoning Map Process (CZMP), the entirety of the Property was rezoned to RC2. This classification did not permit, either by right or by special exception, a boarding home for the elderly. (See Pet's Ex. 44, p. 4). At this point, as later determined by the Zoning Commissioner, the Baptist Home became a legal non-conforming use. (Id., pp. 4-5).

5. 1988 – The Restrictive Covenant Agreement with the VPC and the Rezoning of the Property to RC3

In accordance with the Restrictive Covenant Agreement, the 15.2 acres where the Baptist Home was located were rezoned to RC3 in the 1988 CZMP, which permitted convalescent

homes by special exception. As later determined by the Zoning Commissioner, the Baptist Home operation was "legitimized" by this rezoning of the Property. (Pet.'s Ex. 44, p. 5).

6. 1991 – The Petition for Special Hearing to Amend Special Exception

In 1991, the Baptist Home filed a petition for "special exception/special hearing" to approve "an addition to an existing convalescent home as a use permitted by special exception in an RC3 zone pursuant to BCZR 1A02.2.B16; and to approve an amendment to the special exception and site plan in Case No. 63-152-XA [the 1963 Special Exception]." (See Petition for Special Exception/Special Hearing attached hereto at **Tab D**). Specifically, the Baptist Home sought to construct two additions to the facility and to permit a maintenance building as an accessory use. (Pet.'s Ex. 41). The zoning of the property at the time was RC3 in the location of the facility, and RC5 in the area of the maintenance building. (*Id.*).

The Plat filed by the Baptist Home shows Rancher 1, Rancher 2, and the Cottage. (Pet.'s Ex. 42). The "Building Data" portion of the Plat indicates that these three buildings were being used as accessory to the Baptist Home and that it was proposed that they would continue to be used as such. Specifically, Rancher 1 was being used as a residence for the Home's directors and its proposed use was indicated to be the "same." Rancher 2 was "vacant", but was proposed to have four "units" as part of the convalescent home. The Cottage was being used as a residence for staff; its proposed use was to be the "same."

The Board of Appeals held that the use of the property met the definition of "nursing home", which had replaced the previous definition of "convalescent home" in the BCZR in 1988. (Pet.'s Ex. 43; see also Pet.'s Ex. 41, p. 3). The Board granted the Petition for Special Hearing to amend the 1963 Special Exception to allow the two proposed additions to the nursing home and

the accessory maintenance building. (*Id.*, pp. 3-4). However, these two additions, like the addition approved in 1975, were never constructed.

7. 1997 – The Development Plan

In 1997, the Baptist Home filed a redlined development plan for the subdivision of the property, which at that time comprised 41.7 acres, into four lots, three of which would be used for single-family dwellings. (**Pet's Ex. 44**).⁹ In his Opinion, the Zoning Commissioner described the historical uses of the property and the various zoning approvals over the years. He observed that it was “manifest” that the use of the property as a boarding home for the elderly since 1963 was a permitted special exception use. He further observed that the downzoning of that portion of the property containing the Baptist Home to RC2 in 1976 rendered the use a nonconforming use, but that the rezoning in 1988 to RC3 (which permitted convalescent homes by special exception) had the effect of legitimizing that use. (*Id.*, pp. 4-5). Ultimately, the Zoning Commissioner granted approval of the development plan and the property was subdivided into four lots. (*Id.*, pp. 8-10; *see also* Record Plat, **Pet's Ex. 3**).¹⁰ Lot 5, which comprises 19.67 acres and includes the mansion and the three houses, was sold to Rainbow Hall, LLC in April 2002. (*Id.*).¹¹

⁹ The Baptist Home also sought approval to create three undersized RC5 non-density parcels and one undersized RC2 non-density parcel. (*Id.*, p. 1).

¹⁰ The Zoning Commissioner “extinguished” the approval for the two additions granted by the Board in 1991 in order to prevent an over-intensification of the use on site, reasoning that it was “inappropriate to permit additional development on the site through the development plan, when the property has not been built out with prior approved improvements.” (*Id.*, p. 9).

¹¹ Edward Brush purchased three lots and built a home on Lot 1. Petitioner Mark Wilson purchased Lot 1, including Mr. Brush's home, and Lot 2. The remaining lot is owned by Charles Wright. This lot, along with Lot 5, is the subject of a development plan recently filed by Mr. Wright for a large church on the Property, which he intends to lease to several different denominations and for related uses.

III. ARGUMENT

A. **The Use of Rainbow Hall For The Rental Of Apartments Constitutes A "Multifamily Building" Which Is Not Permitted In The RC2 Zone**

A "multifamily building" is defined in the BCZR as "[a] structure containing three or more apartments. A multifamily building includes garden and other apartment buildings." BCZR, §101.1. Multifamily buildings are not permitted in the RC2 zone, either as of right or by special exception. BCZR, §§1A01.01 *et seq.*¹²

It cannot seriously be disputed that Mr. Wright's rental of apartments at Rainbow Hall meets this definition of "multifamily building" and is, thus, illegal. For this reason alone, the Zoning Commissioner should enter an order requiring Mr. Wright to immediately cease the rental of apartments at Rainbow Hall.

B. **The Use Of The Property For The Rental Of Three Houses Violates The One Principal Dwelling Limitation In The RC2 Zone**

Section 1A01.3.B4 of the BCZR provides that "no more than one principal dwelling is permitted on any lot in an R.C.2 Zone." A "principal" use is defined as "a main use of land, as distinguished from an accessory use." §101.1. An "accessory use of structure" is defined as:

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served....

BCZR, §101.1.

¹² The definition of "multifamily building" replaced "apartment house," which was defined as "[a] building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common." (Pet's Ex. 35). Notably, as discussed further *infra*, this definition of "apartment house," which is substantially the same as the definition of "multifamily building," was in effect in 1963 when the Baptist Home obtained a special exception for a boarding house.

Here, the two ranchers and cottage at the Property are located on a single lot, Lot 5, as reflected in the final development plan approved in 2008. (See Pet's Ex. 45). The three houses are, indisputably, "principal" dwellings because they are occupied by separate families who have no connection to each other or to the principal structure at the Property, Rainbow Hall. (Tab B, pp. 36-37). The houses plainly fail to meet the definition of an "accessory use or structure" for the simple reason they do not "contribute to the comfort, convenience or necessity of occupants, business or industry in the principle use or structure served." The occupants of Rainbow Hall are tenants; the use of the houses as separate rental units does not contribute to the comfort, convenience or necessity of the tenants of Rainbow Hall, its corporate owner Rainbow Hall LLC, or its individual shareholder owner who does not live there.

In contrast, there is abundant evidence to support that the three houses were "accessory" during the time the Baptist Home owned the Property. The houses were used as residences for staff, including the Baptist Home's Administrator and Minister, and were also used as additional units of the nursing home. (See Pet's Ex. 42; Ex. 52, pp. 31, 32; Ex. 40, p. 1). The two ranchers were still being used as "staff residences" as late as July 1994; Mr. Lewis lived in the Cottage until March 2001. (See Pet's Ex. 58, p. 1; *see also* Tab A, pp. 3-5, 14-15, 16).

It is true that, when Mr. Wright purchased the Property in April 2002, there apparently were tenants living in the two ranchers who had no affiliation with the Baptist Home. According to the leases, these two tenants (whose connection, if any, to the Baptist Home was not the subject of any testimony) had been living in the ranchers since July 1994 and February 2000, respectively. (See Leases attached to Pet's Ex. 8).¹³ However, this simply suggests that for a

¹³ As discussed below, the Cottage was occupied by Sheldon Lewis, an employee of the Baptist Home, at the time Mr. Wright purchased the Property.

period of time the Baptist Home, itself, was violating the prohibition against more than one principle dwelling on a single lot; it does not legitimize the current use.

C. The Rental Of Apartments And Houses Is Not Permitted Either As Continuation Of A Nonconforming Use Or Pursuant To The Special Exception

Section 104.1 of the BCZR provides as follows:

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.

(Emphasis added). Thus, any *change* in a nonconforming use, or any *abandonment or discontinuance* of a nonconforming use for 12 months, results in its termination as a matter of law.¹⁵

¹⁵ "The burden of proving a non-conforming use is on the claimant of the use," *Calhoun v. County Bd. of Appeals of Baltimore County*, 262 Md. 265, 267 (1971), because "[t]he right ... to 'continue' a non-conforming use is not a perpetual easement to make use of one's property detrimental to his neighbors and forbidden to them." *Dorman v. Mayor of Baltimore*, 187 Md. 678, 684 (1947). The claimant must "establish[] the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance," *Calhoun*, 262 Md. at 267 (quoting *Vogl v. Mayor of Baltimore*, 228 Md. 283, 288 (1962)), by showing that "the evidence conclusively establishes that before and at the time of the adoption of the original zoning ordinance, he was using substantially all of his tract of land in a *then-lawful* manner for a use which by a later legislative action became nonpermitted." *Lone v. Montgomery County*, 85 Md.App. 477, 496 (1991) (*italics added*).

In the present case, Mr. Wright apparently contends that his rental of apartments and the houses is allowed because he is effectively using the Property for the same multi-family use to which the Property has been put for many years. Assumedly, Mr. Wright points to the approval of the Baptist Home as a “boarding house” and the alleged availability of guest rooms and employee rooms in the mansion and wing during the ownership of the Baptist Home and its predecessors. (*See* Respondent’s Ex. 4).¹⁶ Although not articulated at the hearing, Mr. Wright’s argument is that his current use of the Property is essentially a “boarding house” and, thus, merely a continuation of that non-conforming use.

This argument misses the mark in numerous respects. First, it is based on the false assumption that the Baptist Home, when it ceased operations in March 2001, had approval for a “boarding house” as a nonconforming use. Instead, the Baptist Home’s approved use – and the

¹⁶ In the letter from Mr. Wright’s counsel dated August 3, 2009 introduced as **Respondent’s Ex. 4**, there are numerous allegations regarding how Rainbow Hall was used prior to the Baptist Home’s acquisition of the property in 1963. Aside from this letter itself, there is no evidence to support these allegations. Moreover, the letter is full of statements that are patently false and flatly contradicted by evidence in the record, including the following:

- “*At the time of Mr. Wright’s purchase of the property, it was being used by the Baptist Home of Maryland Delaware, Inc. as a convalescence home for its members.*”
- “*In fact, Rainbow Hall’s use and operation as a boarding house has been recognized by Baltimore County since at least 1963. From that time to the present, there have always been tenants located in the main house, its institutional wing, and tenant houses.*”
- “*Mr. Wright’s current operation of the property represents a significantly less obtrusive and intensive ‘boarding house.’*”
- “*Upon purchasing the property in 2002, Mr. Wright continued renting the existing apartments, on a much-reduced scale....*”

(Respondent’s Ex. 4, pp. 1, 2). Likewise, in his letter dated September 15, 2009 (**Pet’s Ex. 57**), Mr. Wright falsely stated:

- “*Rainbow Hill has always had apartments with tenants. (Id., p. 1).*
- “*Even when it was a Country Club, there were rooms available for guests and members.” (Id.).*

only one that Mr. Wright had the right to continue - was a special exception for a nursing home. (§C1 below). Second, Mr. Wright did not continue to use the Property as a nursing home, but rather changed that use to the rental of apartments and houses, which is a recognized separate use under the BCZR. Thus, even if the Baptist Home was operating a nursing home as a nonconforming use rather than as a special exception, that use was "changed" within the meaning of BCZR §104.1 and thus terminated as a matter of law. (§C2 below).

Third, even if we assume that Mr. Wright's rental of apartments is not a different use than a nursing home, then any such nonconforming use was "abandoned or discontinued" under §104.1 because it is undisputed that no one was renting the main house, the McCormick wing or the Cottage for a period of thirteen (13) months between March 2001 and April 2002. (§C3 below).

1. *When The Baptist Home Closed Its Doors In March 2001, It was Operating A Nursing Home Pursuant To An Approved Special Exception, Not A Nonconforming Use*

As a threshold matter, Mr. Wright's argument is based on two faulty assumptions regarding the status and use of the Property when he purchased it in April 2002, namely (1) that the Baptist Home was operating a "boarding house" or its equivalent, and (2) that the Baptist Home had approval for a boarding house as a nonconforming use.

As the zoning history described above demonstrates, the Baptist Home obtained a special exception in 1963 to operate a "boarding house for the elderly." (Pet's Ex. 35). In 1976, the zoning of the Property was changed to RC2, which does not permit a board house for the elderly, either as of right or by special exception. (Pet's Ex. 44, p. 4). Thus, at that point in time, the Baptist Home became a nonconforming use. (*Id.*). However, in 1988, the zoning of the Property was again changed, this time to RC3, which *does* permit convalescent homes by special

exception. As explained by Petitioners' expert, James Patton, the effect of this change was to revive the special exception approval granted in 1963. In fact, all parties, including the County, thereafter assumed that the Baptist Home was operating pursuant to a special exception, rather than a nonconforming use. For example, in 1991, three years after the zoning was changed, the Baptist Home filed a petition for "special exception/special hearing" to approve "an addition to an existing convalescent home as a use permitted by special exception in an RC3 zone pursuant to BCZR 1A02.2.B16; and to approve *an amendment to the special exception* and site plan in Case No. 63-152-XA." (See Petition for Special Exception/Special Hearing attached at Tab D (emphasis added). The Board of Appeals applied the special exception factors in §502.1 and approved the amendment. (Pet's Ex. 41). Thus, the Board recognized that, by virtue of the 1988 rezoning, the Baptist Home had a valid special exception. The Board also explicitly recognized that the Baptist Home was no longer operating a "boarding house" but rather a "nursing home." The Board stated:

[W]e are persuaded that the present use of the property clearly meets the previous definition of the BCZR as to 'convalescent home.' In 1988, the definition of a convalescent home was replaced by a 'nursing home' definition.... Having met the requirements of Section 502.1 of the BCZR and having found that the present use on the property meets the definition of a convalescent home, the Board finds that the Petitions should be granted and that certain restrictions should be imposed.

(Pet's Ex. 41, p. 3).

After the 1988 case, there were no further changes in the zoning prior to the Baptist Home ceasing operations in March 2001. Thus, when the Baptist Home closed its doors in March 2001, the only permitted use of the Property (aside from those uses permitted as of right) was an approved special exception for a nursing home/convalescent home. As of that date, there

was no legal nonconforming use of the Property, certainly not one that authorized rental apartments and houses. (See discussion below, §C2).

Moreover, Mr. Wright's attempt to characterize the Baptist Home as operating a "boarding house" (which he apparently believes is more akin to an apartment building) is simply wrong. Although initially approved in 1963 as a "boarding house for the aged," the Baptist Home was subsequently recognized by the Board of Appeals in 1991 as a "convalescent home" and "nursing home." The Baptist Home was not a "boarding house" in 1991 or in March 2001 when it closed its doors, nor does Rainbow Hall meet the definition of "boarding house" today.¹⁷

2. *Even If The Baptist Home Was Operating A Nursing Home As A Nonconforming Use Rather Than As A Special Exception, That Use Was "Changed" By Mr. Wright And Therefore Terminated*

As discussed above in section C1, when the Baptist Home closed its doors in March 2001, the only permitted use of the Property was an approved special exception for a nursing home. However, even if we assume that a nonconforming use did exist as of that date, it is clear that any such nonconforming use terminated under §104.1 because Mr. Wright either (1) changed that use, or (2) abandoned and discontinued it for the requisite 12 months.

¹⁷ "Boarding house" is defined today as follows:

- A. A building:
 - 1. Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner;
 - 2. Which is not the domicile of the owner and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.
- B. The term does not include a hotel, motel, apartment building or a facility for foster care....

BCZR, § 101.1. The rental of Rainbow Hall does not meet this definition because, *inter alia*, it is not Mr. Wright's domicile, is not "occupied in its entirety" (rather, rooms are provided), and because it is an apartment building.

Mr. Wright *changed* the use for the simple reason that, upon acquiring the Property, he did not use it for a nursing home, but rather used it for the rental of apartments and houses, which is an entirely separate use recognized under the BCZR. (See definitions of “nursing home” and “multifamily building” at Pet’s Ex. 43 and BCZR §101.1). The mere fact that these two uses share the common characteristic that people reside in them – which is the gravamen of Mr. Wright’s argument – is a ludicrous basis for allowing a change in use. By this logic, nonconforming uses could be found in almost every imaginable circumstance. A farm, for example, could be continued as an airport simply because both uses have people working at them. As the Court of Special Appeals has aptly observed, Maryland law allows the continuation of a nonconforming use, but “does not permit the transmogrification of an approved nonconforming use into a new and different use. The latter constitutes an unlawful extension, even if there is no outward change in the appearance of the facility being used.” *National Insts. of Health Fed. Credit Union v. Hawk*, 47 Md. App. 189, 200 (1980); see also *Wilson v. Mayor and Comm’rs of Town of Elkton*, 35 Md. App. 417, 425 (1977) (“The right of a landowner to continue the same kind of use to which the property was devoted on the critical date does not confer on him the right to subsequently change or add to that use a new and different one amounting to a drastic enlargement or extension of the prior existing use.”) (citations omitted).

Indeed, Mr. Wright physically changed the entire interior of the mansion and the wing to accommodate this new and different use. By his own account, he spent “millions” to perform a “world class restoration” of Rainbow Hall. (See Tab B, pp. 23-24, 36-37). Among other things, he removed the handrails throughout the facility, removed over 60 bathrooms, removed the institutional kitchen on the first floor of the mansion, and installed a full kitchen in each of the seven apartments in the wing. As Dr. Theodore Houk testified, there was only a single kitchen in

the Baptist Home where all of the residents ate. There were no kitchens or kitchenettes in the residents' rooms, nor any other place to serve food. (See Transcr. of Testimony of Dr. Houk attached at **Tab E**, pp. 7-8, 15; see also **Tab A** (Sheldon Lewis), pp. 25-26).¹⁸

Allowing Mr. Wright to continue a nonconforming use under these circumstances would be inconsistent with the purpose of recognizing nonconforming uses in the first place, which is to protect a property owner's right to continue a use that, through no fault of his own, was rendered illegal by a change in zoning. In *Amereihn v. Kotras*, 194 Md. 591 (195), the Court of Appeals explained:

If a property is used for a factory, and thereafter the neighborhood in which it is located is zoned residential, if such regulations applied to the factory it would cease to exist, and the zoning regulation would have the effect of confiscating such property and destroying a vested right therein of the owner. Manifestly this cannot be done, because it would amount to a confiscation of the property, and nonconforming use is a vested right and entitled to constitutional protection.

Id. at 601. In circumstances where the nonconforming use has been changed to a completely different use, then there is no vested right and no confiscation of property occurs. This is particularly true where, as here, a new owner such as Mr. Wright acquires the property and takes only what has been passed to him, with full knowledge of the property's past use and limitations of record.

Moreover, prohibiting a change in a nonconforming use serves the "the earnest aim and ultimate purpose of zoning" which is to "reduce nonconformance to conformance as speedily as possible." *County Council of Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259, 267 (1982) (quoting *Grant v. Mayor of Baltimore*, 212 Md. 301, 307 (1957)); see also *Wilson*, 35 Md. App. at 425 ("The basic premise underlying zoning regulations is to restrict rather than

¹⁸ At most, some residents had a microwave, toaster oven or a small refrigerator. (See **Tab A**, pp. 19-21).

expand non-conforming uses.”). The reason for this rule is that “nonconforming uses pose a formidable threat to the success of zoning. They limit the effectiveness of land use controls, contribute to urban blight, imperil the success of the community plan, and injury property values.... [T]his Court has repeatedly recognized that one of the fundamental problems of zoning is the inability to eliminate nonconforming land uses” *County Council of Prince George’s County v. E.L. Gardner, Inc.*, 293 Md. 259, 267 (1982). Thus, zoning regulations are “strictly construed in order to effectuate the purpose of eliminating nonconforming uses.” *Id.* at 268.

For all these reasons, Maryland’s appellate courts have repeatedly rejected attempts to change a nonconforming use in the guise of continuing it. *See e.g., Gardner*, 293 Md. at 261 (addition of a sand and gravel wet-processing facility to a nonconforming surface mining sand and gravel operation was an impermissible change in use); *Hawk*, 47 Md. App. at 200 (transformation of scientific society headquarters into a credit union was an unlawful extension of nonconforming use); *Phillips*, 225 Md. at 111-12 (change in nonconforming use from a second hand furniture store and used car lot to a junk yard for junking and burning automobiles was illegal); *Wilson*, 35 Md. App. at 427 (change of nonconforming use from a two unit dwelling to a three unit dwelling was unlawful extension). The Zoning Commissioner should, likewise, reject Mr. Wright’s attempt – thus far successful – to continue renting the apartments and the houses at Rainbow Hall under the guise of a nonconforming use.

3. *Even If The Rental Of Apartments And Houses Was Allowed
As A Nonconforming Use, That Use Was “Abandoned or
Discontinued” Twelve Months Later*

Even if we take the substantial leap that there was no change of use (*i.e.*, that Mr. Wright’s rental of apartments is not a different use than a nursing home), then any nonconforming use nevertheless terminated because it is undisputed that Rainbow Hall was not

used for rental apartments for a period of thirteen (13) months between March 2001 and April 2002.

Sheldon Lewis, who was the Director of Environmental Services for the Baptist Home, testified that he moved from the Cottage into the main mansion at Rainbow Hall in March 2001 when the Baptist Home closed its doors. (*See* Tab A, pp. 3-5, 14-15, 16).¹⁹ He lived in the mansion for 13 months, from March 2001 until the end of April 2002. (*Id.*, 5-6, 8, 12, 16, 21). During that entire 13-month period, there was no one else living in either the mansion or in the wing. (*Id.*, pp. 8, 16, 21). He had the entire place to himself, as he put it. Indeed, according to Mr. Lewis, the apartments in the wing of the mansion were not even constructed yet during the time he was there. (*Id.*, pp. 17-18). Thus, it is undisputed that any nonconforming use established by the Baptist Home was terminated because it was abandoned or discontinued for the requisite one-year period.²⁰ This analysis extends to the Cottage as well. Mr. Lewis testified that during the period of time he was living in the mansion, there was no one living in the Cottage. (*Id.*, pp. 14-16).

Mr. Lewis's testimony was confirmed by the testimony of Dr. Houk, who was the medical director of the Baptist Home from 1993 to January 2001. (*See* Tab E, p. 4). Dr. Houk, however, recalls that the facility closed in January rather than March 2001. (*Id.*, pp. 9-12). He was attending a seminar for medical directors and learned that the facility was closing within a few weeks. His understanding was that the Baptist Home was trying to find another location and attempting to obtain investments from family members, but someone absconded with a large sum

¹⁹ Mr. Lewis later indicated that he moved into the main mansion in February, not March, 2001. (*Id.*, p. 8).

²⁰ Mr. Lewis's own occupancy of the mansion for this 13-month period does not prevent a finding of abandonment or discontinuance. Mr. Lewis was an employee of the Baptist Home during the time he lived in the main mansion. (*Id.*, pp. 13-14). He did not pay any rent, but rather received a 1099 in an amount equal to the rent. (*Id.*, p. 13).

of money and the operation went bankrupt. (*Id.*, pp. 9-10). The residents were relocated to different facilities in the area and by the end of January 2001, all the residents had moved out of the Baptist Home. (*Id.*, p. 10). Dr. Houk recalls that when he left in January 2001, there were no residents living in the main building or the wing. (*Id.*, p. 11).²¹

In sum, Mr. Wright's entire case boiled down to the argument that the apartments and three houses at Rainbow Hall were permitted because they are a continuation of a nonconforming use established by the Baptist Home and its predecessors. As the above zoning history demonstrates, the Baptist Home was not operating its nursing home as a nonconforming use but rather pursuant to a valid special exception. Mr. Wright could have attempted to continue a nursing home or, more appropriately, could have used the Property as a single family home. That was a viable option that Mr. Wright apparently has never pursued. Moreover, even if there was a nonconforming use when Mr. Wright purchased the Property (which there was not), that nonconforming use was clearly terminated by not only Mr. Wright's change of that use, but also the simple and undisputed fact that there was no one living in the mansion or the Cottage for a period of thirteen months from March 2001 to April 2002. The fact that there may not have been such a lapse in the tenancy of Rancher 1 and Rancher 2 does not change this result. The rental of those two houses is still illegal for the other reasons stated above, namely (1) they constitute an impermissible "change" in use under §104.1, and (2) they violate the one dwelling per lot limitation in §1A01.3.B4.

²¹ Jean Lubke, the chairwoman of the Symphony Show House and currently an employee of Mr. Wright's, also confirmed the testimony of Mr. Lewis in this regard. (*See* Transcr. of Testimony of J. Lubke attached hereto at **Tab F**, pp. 68-69).

D. The Hosting Of Catered Events And Affairs, And Similar Commercial Uses, Are Not Permitted In The RC2 Zone

The Resource Conservation zones are the most restrictive zones in Baltimore County. They were created in order to prevent urban expansion and undesirable land use patterns in our rural areas, to protect natural and man-made resources, and to limit rural-suburban and related development to only select and suitable areas. BCZR, §§1A00.1 *et seq.* The RC2 zone, in particular, was established not only to foster agricultural uses of land, but to prevent “incompatible forms and degrees of urban uses.” §1A01.1.B.

Mr. Wright’s use of Rainbow Hall for parties, weddings, bar mitzvahs, and the like is entirely incompatible with these purposes. Indeed, these events fall squarely within the definition of “catering hall” in the BCZR, which is a recognized commercial use that is allowed only in the BM (Business Major) zone. A “catering hall” is defined as:

Catering Hall. A facility or part of a facility used regularly for serving beverages and food to groups that reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant.

BCZR, §101.1; *see also* § 233.1 (BM zone).²²

In two relatively high profile cases, the Zoning Commissioner and the Board of Appeals held that the types of events hosted by Mr. Wright constitute a “catering hall.” In one case, the owner of the Oregon Grille restaurant on Shawan Road in Hunt Valley sought approval to use the outdoor area of his restaurant for up to 12 weddings and similar events each year. The Zoning Commissioner (then Timothy Kotroco) agreed with the protestants that the hosting of these events constituted a “catering hall” and was not permitted in the RC4 zone. (*See* decision in *In re: Oregon*

²² In the RAE1 and RAE2 zones, “catering establishments, in any apartment building of 150 or more dwelling units” are permitted. BCZR, §200.2 (RAE1 zone); §201.2 (RAE2 zone).

Grille attached at **Tab G**, pp. 9-10). Several years later, when the owner of the Oregon again sought permission to engage in such activity, he was denied that permission. (See Opinion attached at **Tab H**). The Board of Appeals had "no difficulty" finding that the proposed events constituted a "catering hall." (*Id.*, pp. 23-25).

In another case, the proprietor of the Manor Tavern in Monkton filed a petition for special hearing to determine if the use of an outdoor area outside his restaurant for wedding receptions and parties was permitted in the RCC zone. (See Opinion in *In re Manor Tavern* attached hereto at **Tab I**). At the hearing, Carl Richards of the Zoning Review Office testified that the County had a "long-established administrative practice" of classifying catering as a "commercial recreation enterprise" that requires commercial zoning. (*Id.*, p. 10). The Board of Appeals agreed, concluding that it was "very clear" that catering was not allowed in the RCC zone. The Board explained:

Consideration shows that catering does properly belong only in the heavier commercial zones, namely, B.M. and B.R. Wedding receptions, large parties, catered affairs, by their very nature, attract a large number of persons who primarily arrive at a party and leave a party at approximately the same time. Also, such wedding receptions and parties even when held indoors, usually involve music, and loud talk.

(*Id.*). Although the Oregon Grille and Manor Tavern matters involved the RC4 and RCC zones, the rationale of the Zoning Commissioner and the Board of Appeals applies easily to the RC2 zone, which is as restrictive as the RC4 zone and certainly more restrictive zone than the RCC zone.

Mr. Wright will no doubt argue that his use of Rainbow Hall for these events is not a catering hall because he allegedly receives no compensation for renting the hall. First, factually speaking, this is not entirely true. Mr. Wright admitted at the hearing that he has received "donations" from those who have used Rainbow Hall and that he has used those donations to defray the costs of cleaning and heating the building, cutting the lawns, and planting new shrubs. (Tab B, p. 47). Moreover, the fact that Mr. Wright has not received any fees other than donations to cover

expenses does not change his *use* of Rainbow Hall. Like the events at issue in *In re: Oregon Grille* and *In re: Manor Tavern*, the events at Rainbow Hall, by their nature, attract a large number of people who arrive and leave at the same time. Most of the events are celebratory and include loud music and talking. Mr. Wilson attested to the noise disturbances and traffic problems that accompany these events.

Finally, there is no requirement in the definition of “catering hall” that the owner must profit from his enterprise. That is not required of any commercial use recognized in the BCZR; it is Rainbow Hall’s use, not its profitability, that makes it a “catering hall.”²³

Mr. Wright also may contend that he does not “regularly” host events at Rainbow Hall, as required by the definition of “catering hall,” because he has held only 15-20 events since he purchased the Property.²⁴ The definition does not require a certain number of events per year, nor does the term “regularly” suggest such a requirement. “Regularly” is defined as “in a regular, orderly, lawful, or methodical way.” Webster’s Third New International Dictionary, p. 1913.²⁵ “Regular” is defined as: “steady or uniform in course, practice, or occurrence; not subject to unexplained or irrational variation.” (*Id.*). Since he first purchased the Property, Mr. Wright has clearly used Rainbow Hall for events in a regular, steady, and uniform manner. Indeed, before he even went to settlement on the Property in April 2002, Ms. Lubke was already in the building making arrangements for the Decorator’s Show House. During the pendency of this case, Mr.

²³ Petitioners do not dispute that a homeowner is entitled to hold a party or other private affair. However, properties that are not owner-occupied, such as Rainbow Hall, present unique problems because they tend to be used for larger and more numerous events, and are capable of being extended to the greater community.

²⁴ As noted above, Mr. Wright incorrectly testified that he has had only “a few” events at Rainbow Hall.

²⁵ Webster’s Third New International Dictionary is the dictionary recognized in the BCZR as supplying the “ordinarily accepted definition” of words when they are not defined in §101.1.

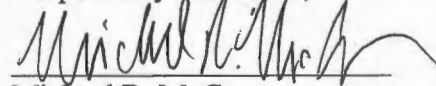
Wright hosted a bar mitzvah (Pet's Exs. 17-18) and a party. It is apparent that Mr. Wright has no intention of ceasing his use of Rainbow Hall for these events.

IV. CONCLUSION

For the reasons stated, Petitioners respectfully request that the Zoning Commissioner find, in response to the questions posed in their petition, that:

1. Rental apartments are not allowed at Rainbow Hall because they constitute a "multifamily building", which is not permitted in the RC2 zone either by right or special exception.
2. The rental of houses at the Property violates the one principal dwelling per lot limitation in BCZR §1A01.3.B4.
3. The rental of houses at the Property is not an "accessory use or structure" under that definition in BCZR §101.1.
4. When the Baptist Home ceased operations in March 2001, there was a valid special exception for a nursing home; it was no longer a nonconforming use.
5. Even if a nonconforming use existed as of the date the Baptist Home ceased operations, that use was "changed" under BCZR §104.1 and thus terminated.
6. Even if a nonconforming use existed as of the date the Baptist Home ceased operations, that use was "abandoned or discontinued" under BCZR §104.1 because Rainbow Hall was not used for apartments for the requisite 12 month period.
7. The hosting of catered events and affairs, and similar commercial uses, is not permitted at the Property.
8. The use of the Property for rental apartments and houses, for catered events and affairs, and for other commercial uses constitute violations of and/or noncompliance with the BCZR. BCZR, §500.6.

Respectfully submitted,



Michael R. McCann
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 825-2150

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 3rd day of January 2011, a copy of the foregoing post-hearing memorandum was sent *via* hand delivery and email to:

Michael Wyatt, Esq.
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204

A handwritten signature in black ink, appearing to be 'M. McCann', written over a horizontal line.

Michael R. McCann

PROCEEDINGS

COUNSEL: We're going to call then in Respondent's case, Sheldon Lewis.

HEARING EXAMINER: Give me your full name and your address, sir.

THE WITNESS: Full name is Sheldon Scott Lewis. My address is 7503 Brushfield Court, Apartment F, 21237.

HEARING EXAMINER: Go ahead, Mr. (inaudible)

EXAMINATION BY COUNSEL:

Q Mr. Lewis, what is your occupation?

A I'm a department supervisor for Home Depot.

Q And for how long have you been employed by the Home Depot?

A Eight years. A little more than eight years.

Q Let me direct your attention to the late 1990s to the early part of 2002. By whom were you employed?

1 A It will become. It is (inaudible)

2 Q The other properties that you mentioned --

3 A They're all LLCs.

4 Q In the name of the property? In other
5 words --

6 A The address is the LLC. 516 Cathedral
7 Street is 516 Cathedral Street, LLC.

8 Q Okay. Great. The best you can, Mr.
9 Wright, try to let me finish my question before you
10 start your answers because the transcript recording
11 won't be able to take both of us.

12 A Okay.

13 Q Thank you.

14 A Sure.

15 Q You mentioned Rugby Enterprises. That
16 entity is an LLC that only engages in the rental of
17 the apartments at the subject property; correct?

18 A That's correct.

19 Q And then I also saw reference in the
20 documents this morning to Rugby Fall Enterprises, is
21 that a different entity?

104 NONCONFORMING USES

104.1 Nonconforming residential uses may be approved by the following procedures:

- A. A special hearing on a petition to grant a nonconforming use status. This is the most appropriate method to establish nonconforming use status; or
- B. A conditional acceptance of a nonconforming use status may be provided by the Zoning Office.
 - 1. This conditional acceptance is subject to revocation. Conditional acceptance does not confer legal nonconforming use status on the property.
 - 2. In the event of a challenge to the nonconforming use status, the conditional acceptance is automatically revoked and the special hearing as set forth in Section A above may be required.
- C. Expansion - When two or more dwellings exist on a single lot, any application for a building addition shall be determined in a case by case review.
 - 1. Eligibility: The right to expand any of the dwellings on the lot is contingent upon the applicant receiving approval of its nonconforming use status under Sec. A or B above.
 - 2. Conditions: If the eligibility criteria above is met, the applicant may build additions to any of the dwellings, subject to the following:
 - a. all current B.C.Z.R. setback requirements are met; or
 - b. existing "nonconforming" setbacks can be matched but not extended; and
 - c. each dwelling on the lot is limited to an expansion no greater than 25% of the ground floor area.
 - 3. Interpretation: This determination may be subject to a special hearing at the discretion of the Zoning Commissioner.
- D. The following information must be submitted by the property owner or contract purchaser:
 - 1. a letter of request;
 - 2. at least one notarized affidavit stating that the use was existing prior to applicable zoning regulations, has been in continuous use and must comply with Section 104, B.C.Z.R.;
 - 3. a scaled site plan.
- E. The Zoning Office reserves the right to require additional or clearer information.
- F. See the following cases:

08-18-SPHA
 08-254-SPHA
 08-307-SPH
 09-249 SPH thru 09-261-SPH

D

93

PETITION FOR SPECIAL EXCEPTION / SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

91-166-SPHX

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 Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an addition to an existing convalescent home as a use permitted by special exception in an R.C. 3 zone pursuant to R.C.Z.R. 1A02.2.B.16; and to approve an amendment to the special exception and site plan in Case No. 63-152-XA

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

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

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

Contract Purchaser:

Legal Owner(s):

(Type or Print Name)

Baptist Home of Maryland/Delaware, Inc.

Signature

(Type or Print Name)

Signature Charles V. Phippen, President

Address

(Type or Print Name)

City and State

Signature

Attorney for Petitioner:

Robert A. Hoffman

10729 Bark Heights Avenue

(Type or Print Name)

Address

Signature

Owings Mills, Maryland 21117

City and State

210 Allegheny Avenue

Name and telephone number of legal owner, contract purchaser or representative to be contacted

Address

Robert A. Hoffman

Towson, Maryland 21204

Name
210 Allegheny Avenue

City and State

Towson, Maryland 21204 823-4111

Attorney's Telephone No.: 823-4111

Telephone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of Sept, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 11 day of Dec, 1990, at 10 o'clock A.M.

J. Robert Hiney
Zoning Commissioner of Baltimore County

S.C.O.—No. 1

(over)

ORDER RECEIVED

Date

By

7MK- 9/6/90
avail anytime
est time .45 minute to 1 hr.

1 Q Did you at one point in time work at the
2 Baptist Home of Maryland on Park Heights Avenue?

3 A Yes. I became aware of Baptist in 1993
4 and started a client basis there. And I became the
5 medical director there a couple years later when that
6 director left.

7 Q So you were employed as the medical
8 director of that facility for what period of time?

9 A Since -- between 1993 and the end of
10 January, 2001.

11 HEARING EXAMINER: You said the end of
12 1993?

13 A Well, I went into practice in July of
14 1992, so that was probably a year later in the summer
15 of 1993.

16 Q Until the end of January, 2001; correct?

17 A Yes.

18 Q Okay.

19 HEARING EXAMINER: January or December?
20 January of 2001?

21 A January, 2001.

1 A You have to be more specific.

2 Q I think it's fair to characterize Mr.
3 Lewis' testimony as being that from March, 2001 to
4 April, 2002, he was the sole person living anywhere in
5 this entire main building structure, the McCormick
6 wing, hospital wing, the mansion house, anything you
7 want to call it. You don't disagree with that, do
8 you?

9 A No. I told Rainbow --

10 Q Yes or no?

11 A Do I disagree with that? I toured the
12 property. There were doors that were shut. I don't
13 know if people were there or not.

14 Q You don't disagree with that, do you?

15 COUNSEL: I'm going to object to that.
16 That's not really --

17 MR. WISEMAN: I think a yes or no answer
18 should be given to his question. Mr. Lewis testified
19 for 13 months he was the sole occupant there. Do you
20 have any reason to doubt that he was the sole occupant
21 of that large footprint?

9
5/18

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
 SPECIAL EXCEPTION AND VARIANCE - *
 SW/Corner Shawan Road and * DEPUTY ZONING COMMISSIONER
 Beaver Dam Road *
 (1201 Shawan Road) * OF BALTIMORE COUNTY
 8th Election District *
 3rd Councilmanic District * Case No. 94-348-SPHXA

 Baltimore County, Maryland *
 Petitioners *

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance for that property known as 1201 Shawan Road in the Cockeysville area of northern Baltimore County. The Petitions were filed by the owner of the property, Baltimore County, Maryland, through the Department of Recreation and Parks, by Wayne R. Harman, Director. The Petitioner seeks a special hearing to approve or confirm that the subject property and improvements thereon are exempt from the Baltimore County Zoning Regulations (B.C.Z.R.), and alternatively, to approve an existing restored commercial store building and its conversion to a tea room/restaurant as being consistent with its preservation; a special exception to approve the conversion of the existing building to a restaurant as being consistent with the preserved general store building, subject to Section 1A03.3.B.4 (Section 402.3) of the B.C.Z.R.; and variance relief from Section 409.6.A.2 of the B.C.Z.R., if required, to permit 44 parking spaces in lieu of the required 92 spaces. The subject property and relief sought are more particularly described on the plan submitted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Ted Bauer, Restaurateur, Ed Haile with Daft-McCune-Walker, Inc., Mickey Cornelius with The Traffic Group, Frederick Baukhauer with Chesapeake Design

H

IN THE MATTER OF
THE APPLICATION OF
OREGON, LLC -C.P.: BALTIMORE COUNTY
RECREATION & PARKS - LEGAL OWNER
FOR SPECIAL HEARING, SPECIAL EXCEPTION*
AND VARIANCE ON PROPERTY LOCATED
ON THE SW/S KURTZ LANE AND BEAVER
DAM ROAD (1201 SHAWAN ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No.: 02-461-SPHXA

* * * * *

OPINION

This case comes to the Board of Appeals based on a timely appeal from the Zoning Commissioner of Baltimore County.

The Petitioner, Oregon, LLC ("Oregon") was represented by Robert A. Hoffman, Esquire, and David H. Karceski, Esquire, and VENABLE, LLP. The Protestants were represented by G. Macy Nelson, Esquire, and Michael McCann, Esquire. The Board conducted public hearings over a 5-day period on November 4, 2003, March 24, 2004, March 25, 2004, March 31, 2004 and April 13, 2004. At the conclusion of the evidentiary proceedings on April 13, 2004, counsel was directed to file simultaneous written briefs in lieu of oral argument. These were submitted on May 24, 2004. The Petitioner made available a complete copy of the Transcript along with their Brief. A public deliberation was conducted by the Board on June 9, 2004.

At the initial onset of the case on November 4, 2003, the Protestants attempted to enlarge the scope of the proceedings by requesting the Board "to revisit the entire special exception because it's a change of the prior use." [T 11/04/03, p 4] To accomplish that request would require the Board to treat the present special exception as if it were a fresh application. The Petitioner objected indicating that they were not prepared to "retry the 1995 case" [p 5] because "there is an existing

IN THE MATTER OF THE
THE APPLICATION OF
MARK GREENE (MANOR TAVERN)
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK RD.,
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)

10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. R-91-115
* Item #9, CYCLE IV
* 1990-1991
* (Documented Site Plan)
* * * * *

* * * * *

O P I N I O N

Petitioner, Manor Tavern, Inc., contends that the Baltimore County Council in 1988 erred in imposing R.C. 2 zoning on at least 1.316 acres of the Petitioner's property instead of rezoning the property to the newly created Rural Conservation Commercial (R.C.C.) zone. Second, the Petitioner seeks two variances pursuant to Section 2-58.1(p) Baltimore County Code to permit 168 parking spaces in lieu of the required 224 parking spaces and that a number of these parking spaces be located off of the proposed R.C.C. zone which would otherwise be required to be located within the R.C.C. zone pursuant to Section 1A06.2.C.4 Baltimore County Zoning Regulations (hereinafter "BCZR"). Finally, the Petitioner filed a request for a Special Hearing to determine if the R.C.C. zoning classification permits the proposed use of a seasonal reception garden.

The Manor Tavern property consists of 5.64 acres located on the northeast side of Manor Road, at Manor Road's intersection with Old York Road and Monkton Road, in the Tenth Election District and Third Councilmanic District of Baltimore County. As shown on Petitioner's Exhibit 1, the Monk Site Plan, revised April 3, 1991, the subject property is zoned B.L.-C.R. as to 2.12 acres along the

MICROFILMED

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

January 3, 2011

William Wiseman
Zoning Commissioner of Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

JAN 03 2011

ZONING COMMISSIONER

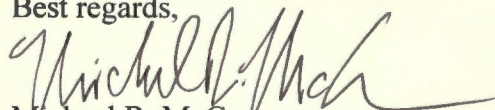
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please Petitioners' Post-Hearing Memorandum in the above-referenced matter.

Thank you for your consideration.

Best regards,


Michael R. McCann

cc: Michael Wyatt (via hand delivery and email)

11/18/10

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
* BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

MOTION NE RECIPIATUR AND/OR TO STRIKE

HENRY M. WRIGHT, JR. ("WRIGHT"), Respondent, by his attorneys, Michael T. Wyatt and Michael L. Snyder, hereby files this motion *ne recipiatur* (that a certain thing or document not be received) and/or to strike. The grounds for the Motion are as follows:

1. This Petition for Special Hearing filed by Petitioner, VALLEYS PLANNING COUNCIL, INC. ("VPC") has consumed two-and-a-half (2 ½) days of hearing time and is scheduled to resume on November 23 and 30, 2010.

2. Petitioner rested its case on the last day of the hearing (*i.e.*, October 15, 2010).

3. That despite the fact that its case in chief has concluded, Petitioner recently filed a "redlined" plat, along with an amendment to the Petition attempting to add Mark Wilson and Harlan Zinn as party Petitioners. Basically, Petitioner is seeking to amend its case after presenting it.

4. It goes without saying that Petitioner had ample time and opportunity prior to the hearing to correct its plat and/or amend its Petition.

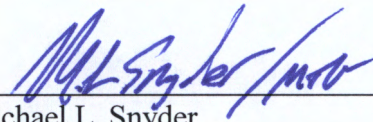
5. Additionally, Petitioner gave no indication during its case that it would later enlist two of its witnesses as Petitioners. This type of tactic is blatantly improper and prejudicial.

6. Petitioner's entire case was based upon the plat *as filed* and *its* status as Petitioner. It is simply wrong to allow it, at this late juncture, to modify the very nature of the case which it filed many months ago, has already presented, and upon which Respondent based its defense.

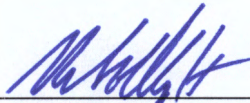
7. Zoning proceedings are to be guided by the requirements of State Government Article, Sections 10-201, *et seq.* (The Administrative Procedure Act or "APA"). Under any reading of the APA, the retroactive revisions to the evidence and the parties-in-interest Petitioner seeks to make should not be permitted.

WHEREFORE, Respondent requests that its motion *ne recipiatur* be GRANTED and that the proposed plat and amendment purporting to add new parties-in-interest not be received and/or that same be stricken from the record in these proceedings.

Respectfully submitted,



Michael L. Snyder
Coady & Farley
400 Allegheny Avenue
Towson, Maryland 21204
(410) 337-0200

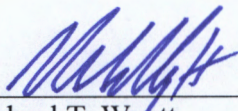


Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18 day of November, 2010, a copy of the foregoing was sent via first class mail, postage pre-paid, to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC.



Michael T. Wyatt

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

November 18, 2010

VIA HAND DELIVERY

William J. Wiseman, III, Zoning Commissioner
Office of the Zoning Commissioner
The Jefferson Building, Suite 101
105 West Chesapeake Avenue
Towson, Maryland 21204

**Re: Rainbow Hall, LLC
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH**

RECEIVED
NOV 18 2010
ZONING COMMISSIONER

Dear Mr. Wiseman:

I am enclosing a Motion *Ne Recipiatur* and/or To Strike for filing in the above-referenced zoning matter.

Thank you for your anticipated prompt attention to this Motion. In the event you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright, Jr.
Michael L. Snyder, Esquire
Michael R. McCann, Esquire

Enclosures

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

May 17, 2010

Via Hand Delivery

Post-it Fax Note 7671	
To: <i>Tim Krysters</i>	Date: <i>5-17</i>
Co./Dept.:	From: <i>Bill Wiseman</i>
Phone #: <i>P. Rainbows</i>	Co.: <i>(410) 825-2150</i>
Fax #:	Phone #: <i>same</i>
	Fax #:
	# of pages: <i>2</i>

William Wiseman
 Zoning Commissioner of Baltimore County
 County Office Building
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

RECEIVED

MAY 17 2010

ZONING COMMISSIONER

Re: Rainbow Hall, LLC
 Case No. 2010-0280-SPH

Dear Mr. Wiseman:

I write in response to the Motion for Postponement filed by Rainbow Hall, LLC.

Putting aside the merits of the threatened motion to dismiss, the Valleys Planning Council (VPC) does not oppose a postponement of the June 8, 2010 hearing on the grounds that co-counsel may have a conflict on that date. The VPC also is not opposed to the scheduling of a hearing on any motion to dismiss prior to the rescheduled hearing date. One reasonable option would be to use the existing June 8th date for that purpose since it would not appear necessary for all counsel to attend that hearing.

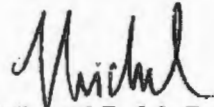
However, we do believe a continuance of 90 days or more, as requested, is unnecessary and not warranted. The issues giving rise to this case have been going on for many years, and actually date back to a Restrictive Covenant Agreement entered in 1988. Over this period of time, the VPC has had numerous meetings and discussions with the property owner regarding the proper use of the property. In fact, when the VPC met with Mr. Wyatt and his client back in May of 2009, they attended that meeting armed with documents and reasons why they believe the current uses are permitted. Earlier this year, when it became apparent that a resolution could not be reached, the VPC informed Rainbow Hall, LLC that it would be initiating these proceedings. The suggestion that this has been sprung upon the property owner is simply not true.

*To Krysters
 OK to postpone and to Motion
 Keep June 8th for a
 to dismiss... if then
 want it.
 Tim*

We believe a continuance of no more than 30 days is reasonable. If you grant a continuance, we request that the hearing on the motion to dismiss be scheduled on the current date of June 8th.

Thank you for your consideration.

Best regards,



Michael R. McCann

cc: Michael T. Wyatt, Esq. (via facsimile & U.S. Mail)

5/12/10

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
* BALTIMORE COUNTY
* Case No: 2010-0280-SPH
* * * * *

MOTION FOR POSTPONEMENT

RAINBOW HALL, LLC, owner of the real property known and designated as 10729 Park Heights Avenue, hereby requests that the hearing date of June 8, 2010 in the above-referenced zoning matter be postponed. The grounds for the Motion are as follows:

1. RAINBOW HALL, LLC did not initiate this proceeding. Rather, this matter was filed by VALLEYS PLANNING COUNCIL, INC. To date, RAINBOW HALL, LLC has received no formal notice whatsoever of the filing by VALLEYS PLANNING COUNCIL, INC. Despite this lack of formal knowledge, the undersigned recently learned that the matter has already been scheduled for Tuesday, June 8, 2010 at 9:00 A.M., a little more than three weeks from today's date.

2. Co-counsel for RAINBOW HALL, LLC, Michael L. Snyder, has a scheduling conflict and cannot participate in the June 8, 2010 hearing on behalf of his client, RAINBOW HALL, LLC. As reflected in the attached, Mr. Snyder is under a subpoena issued by the Circuit Court for Talbot County to appear as an expert witness in the matter of *Gail F. Scott v. Douglas M. Stewart*, Case No: 20-C-08-6513 on June 7, 2010 and his appearance is expected to continue into June 8, 2010. Based on this scheduling conflict alone, a postponement should be granted.

(Attached hereto as Exhibit 1 is a true and correct copy of the trial subpoena issued attorney Snyder).

3. Moreover, any proper defense of the broad-ranging charges levied by VALLEYS PLANNING COUNCIL, INC. in this zoning case will require a substantial amount of preparation. The storied history on the subject 10729 Park Heights Avenue property goes back to the early part of the last century, when General Douglas MacArthur owned it, to the operation of a Baptist Home residential boarding house, to RAINBOW HALL, LLC's ownership of the past 8-9 years. Accordingly, preparation for this case will take more than several weeks. Adequate preparation, including locating prior owner documentation and eyewitnesses, will likely take several months. For this reason, a postponement is necessary.

4. Additionally, it is RAINBOW HALL, LLC's intention to file a preliminary Motion to Dismiss this matter based on the following:

a. That VALLEYS PLANNING COUNCIL, INC. lacks standing to pursue this matter.

b. That Baltimore County's historical and continuous approval of the residential uses of the property operates as a bar to VALLEYS PLANNING COUNCIL, INC.'s ability to pursue this matter.

c. That various technical defects preclude VALLEYS PLANNING COUNCIL, INC.'s ability to pursue this matter.

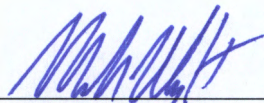
It is expected the undersigned will have a preliminary Motion to Dismiss filed in the next week or so, along with a request that a hearing on that Motion be held and decided prior to the scheduling of any hearing on the merits.

5. A postponement of this matter of no less than ninety (90) days will not work any prejudice on VALLEYS PLANNING COUNCIL, INC.

6. It is in the interest of justice and administrative efficiency that this matter be postponed for no less than ninety (90) days and that a hearing be scheduled on a mutually agreeable date, including a motions hearing to decide preliminary issues.

WHEREFORE, RAINBOW HALL, LLC respectfully requests that its Motion for Postponement be GRANTED.

Respectfully submitted,



Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 day of May, 2010, a copy of the foregoing was mailed first class, postage prepaid to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC.



Michael T. Wyatt

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

*Kristin:
OK to postpone this
Hearing on the SPH Petition.
However, leave this date on the
books for a Hearing on a Motion
to Dismiss.
TMK*

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

May 12, 2010

VIA HAND DELIVERY

William J. Wiseman, III, Zoning Commissioner
Office of the Zoning Commissioner
The Jefferson Building, Suite 101
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

MAY 12 2010

ZONING COMMISSIONER

Re: Rainbow Hall, LLC
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH

Dear Mr. Wiseman:

This firm represents Rainbow Hall, LLC, owner of the property which appears to be the subject of the above-referenced zoning petition filed by Valleys Planning Council, Inc.

I am enclosing a Motion for Postponement of the hearing date currently scheduled for June 8, 2010. The Motion details various reasons for a postponement. Moreover, it is our intention to file a preliminary Motion to Dismiss, which I believe should be heard prior to the scheduling of any hearing on the merits. It is quite possible such a hearing on the merits would not be necessary or substantially pared back based on the ruling of our to-be-filed Motion.

Thank you for your anticipated prompt attention to this Motion. In the event you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Michael T. Wyatt

*Tom to
handle w/Tim
on Thurs.
5-13.
deb*

Mr. William J. Wiseman, III, Zoning Commissioner
May 12, 2010
Page 2

MTW/sjm

cc: Mr. W. Carl Richards, Jr.
Mr. Mike Mohler
Mr. Henry M. Wright, Jr.
Michael L. Snyder, Esquire
Mr. David S. Thaler, P.E.
Timothy Kotroco, Director-PADM
Michael R. McCann, Esquire



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10729 Park Heights Avenue (Rainbow Hall, Inc.)
which is presently zoned RC2

(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 Attachment

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.

Petitioner

Contract Purchaser/Lessee:

Valleys Planning Council, Inc.

Name - Type or Print

Michael R. McCann, Attorney-in-fact

Signature

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Attorney For Petitioner:

Michael R. McCann

Name - Type or Print

Michael R. McCann

Signature

Michael R. McCann, P.A.

Company

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Date

1-13-11

By

MC

ESTIMATED LENGTH OF HEARING

Case No.

2010-0280-SPH

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By

JNP

Date

4/16/2010

Legal Owner(s):

Rainbow Hall, Inc. aka Rainbow Hall, LLC

Name - Type or Print

Signature

Name - Type or Print

Signature

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

Representative to be Contacted:

Henry M. Wright, Jr., Resident Agent

Name

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

OFFICE USE ONLY

Attachment to Petition for Special Hearing
10729 Park Heights Avenue

1. Are rental apartments a permitted use in the RC2 zone, BCZR §§1A01.1 *et seq.*?
2. Is a multi-family dwelling a permitted use in RC2 zone, BCZR §§1A01.1 *et seq.*?
3. Are rental apartments allowed at the subject property as a non-conforming use?
4. Is a multi-family dwelling allowed at the subject property as a non-conforming use?
5. Even if rental apartments or multi-family dwellings are allowed at the subject property as a non-conforming use, was that use changed, abandoned, discontinued, or otherwise terminated under BCZR §104.1?
6. Are rental apartments allowed under the special exception previously granted for a convalescent home at the subject property?
7. Is a multi-family dwelling allowed under the special exception previously granted for a convalescent home at the subject property?
8. Is the special exception previously granted for a convalescent home null and void because the property has not been used for that purpose for many years?
9. Does the rental of one or more houses at the subject property violate the one dwelling per lot limitation in BCZR §1A01.3.B4?
10. Is a rental house an accessory use or structure under the definition of those terms in BCZR §101.1?
11. Pursuant to BCZR § 500.6, whether any violation or non-compliance with the BCZR or previous approvals is occurring or has occurred at the subject property, and to pass an order regarding any violation of non-compliance with the BCZR or previous approvals.
12. And any other questions or issues that may be presented at or by the evidence at the hearing.

WORDING FOR SIGN POSTING AND ADVERTISING ONLY! (NOT PETITION WORDING)

Petition for Special Hearing
10729 Park Heights Avenue

To determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals, and whether the property is and has been used in violation or non-compliance with same.

2010-0280-SPH

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

November 17, 2010

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

NOV 17 2010

ZONING COMMISSIONER

Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed is an amended petition for special hearing adding the following individuals as petitioners in this matter:

Henry Rosenberg, Jr.
One N. Charles St., 22nd floor
Baltimore, MD 21201

David & Suzi Cordish
1526 Greenspring Valley Road
Lutherville, MD 21093

Penelope Cordish
2 Chetwick Court
Owings Mills, MD 21117

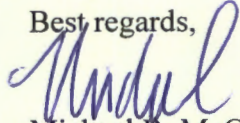
Blake & Angie Cordish
1760 Greenspring Valley Road
Lutherville, MD 21093

Reed & Maggie Cordish
2008 Greenspring Valley Road
Stevenson, MD 21153

Anne Brooks
10625 Park Heights Ave.
Owings Mills, MD 21117

Thank you for your cooperation.

Best regards,



Michael R. McCann

cc: Michael Wyatt, Esq. w/ enclosures

List of Petitioners:

Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Mark & Carrie Wilson
10705 Park Heights Avenue
Owings Mills, Maryland 21117

Harlan Zinn
10628 Park Heights Avenue
Owings Mills, Maryland 21117

Henry Rosenberg, Jr.
One N. Charles Street, 22nd Floor
Baltimore, Maryland 21201

David & Suzi Cordish
1526 Greenspring Valley Road
Lutherville, MD 21093

Penelope Cordish
2 Chetwick Court
Owings Mills, MD 21117

Blake & Angie Cordish
1760 Greenspring Valley Road
Lutherville, MD 21093

Reed & Maggie Cordish
2008 Greenspring Valley Road
Stevenson, MD 21153

Anne Brooks
10625 Park Heights Avenue
Owings Mills, Maryland 21117

ZONING DESCRIPTION FOR 10729 PARK HEIGHTS AVENUE

Beginning at a point on the east side of Park Heights Avenue which is thirty (30) feet wide at the distance of 170 feet +/- south of the centerline of the nearest improved intersecting street, Velvet Valley Way, which is fifty (50) feet wide.

Being Lot #5 in the subdivision (Record Plat) of "Baptist Home of MD/DE, Inc." as recorded in Baltimore County Plat Book #70, Folio #95, containing 19.6742 acres. Also known as 10729 Park Heights Avenue and located in the 12th Election District, 3rd Councilmanic District.

Prepared by Patton Consultants, Ltd. April 6, 2010



2010-0280-SPH

CERTIFICATE OF POSTING

RE: Case No 2010-0280-SPH

Petitioner/Developer VALLEY'S
PLANNING COUNCIL, INC.
MICHAEL R. McCANN P.A.

Date Of Hearing/Closing: 6/8/10

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

Attention:

Ladies and Gentlemen

This letter is to certify under penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 10729 PARK HEIGHTS AVENUE

This sign(s) were posted on May 22, 2010
Month, Day, Year

Sincerely,

Martin Ogle 5/22/10
Signature of Sign Poster and Date

Martin Ogle
60 Chelmsford Court
Baltimore, Md, 21220
443-629-3411

ZONING NOTICE
CASE # 2010-0280-SPH

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

**ROOM: 207 TRAILWAY BUILDING
NEAR CHESAPEAKE AVE AND TOWSON
RD 3 3RD
TUESDAY, JUNE 8, 2010
AT 9:00 AM**

PLACE:

DATE AND TIME:

REQUEST: SPECIAL HEARING TO DETERMINE THE
APPLICABILITY OF THE PROPERTY'S ZONING CLASS
AND THE CITY OF BALTIMORE COUNTY ZONING REGULATIONS
AND THE CITY OF BALTIMORE AND THE PROPERTY
IN AND AROUND THE PROPERTY TO DETERMINE IF
THE PROPERTY IS IN THE ZONING CLASS.

APPROVED FOR THE TOWSON ZONING COMMISSIONER AND TOWSON ZONING COMMISSIONER
TOWSON ZONING COMMISSIONER (TOWSON ZONING COMMISSIONER)

FOR MORE INFORMATION, THE TOWSON ZONING COMMISSIONER AND TOWSON ZONING COMMISSIONER
TOWSON ZONING COMMISSIONER (TOWSON ZONING COMMISSIONER)

05/22/20
M. J. 5/22/10

CERTIFICATE OF POSTING

RE: Case No 2010-0280-SPH

Petitioner/Developer MICHAEL McCANN

Date Of Hearing/Closing: 10/12, 10/13
10/15 2010

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

Attention:

Ladies and Gentlemen

This letter is to certify under penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 10729 PARK HEIGHTS AVE

This sign(s) were posted on September 26, 2010

Month, Day, Year
Sincerely,

Martin Ogle 9/26/10
Signature of Sign Poster and Date
Martin Ogle
60 Chelmsford Court
Baltimore, Md, 21220
443-629-3411



Martin Ogle 9/26/10

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: #2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

12th Election District-3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing: to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Tuesday, June 8, 2010 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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 Office at (410) 887-3391.

5/334 May 20

240729

CERTIFICATE OF PUBLICATION

5/21, 2010

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/20, 2010.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

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: #2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

12th Election District - 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing: to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Thursday, September 23, 2010 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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 Office at (410) 887-3391.

JT 9/26 September 7

253515

CERTIFICATE OF PUBLICATION

9/9/2010

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/7/2010.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

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: # 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

12th Election District — 3rd Councilmanic District

Legal Owner(s): Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing: to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: October 12, October 13 and October 15, 2010 at 9:00 a.m. in Room 104, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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 Office at (410) 887-3391.

JT 9/8/66 September 28

255832

CERTIFICATE OF PUBLICATION

9/30, 20 10

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/28, 20 10.

- ☒ The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **53220**

Date: **4/15/2010**

PAID RECEIPT

BUSINESS ACCOUNT TITLE DRN
 4/15/2010 4/15/2010 09:07:05 5

REG #003 MALCOLM RHOADS
 RECEIPT # 453023 4/15/2010 DEPT

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				325.00

DEPT 5 520 200000 INFORMATION
 053220
 Recpt Tot 1335.00
 4325.00 00 4.00 00
 Baltimore County, Maryland

Total: **325.00**

Rec From: Valleys Planning Council, Inc.
 For: Special Meeting - 10724 Park Heights Avenue
2010-0280 - SPH (Valleys Planning Council, Inc.)

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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 Advertising:

Item Number or Case Number: 2016-0280-SPH
Petitioner: Valleys Planning Council, Inc.
Address or Location: 10729 Park Heights Avenue (Rainbow Hall, Inc.)

PLEASE FORWARD ADVERTISING BILL TO:

Name: Michael McGinn
Address: 118 W. Pennsylvania
Towson, MD 21204
Telephone Number: 410 829-2150

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 20, 2010 Issue - Jeffersonian

Please forward billing to:
Michael McCann
118 West Pennsylvania Avenue
Towson, MD 21204

410-825-2150

NOTICE OF ZONING HEARING

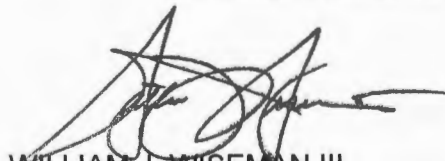
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2010-0280-SPH

10729 Park Heights Avenue
E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way
12th Election District – 3rd Councilmanic District
Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC
Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Tuesday, June 8, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake 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.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
May 4, 2010

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: 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

12th Election District – 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Tuesday, June 8, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: Michael McCann, 118 W Pennsylvania Avenue, Towson 21204
Henry Wright, Jr., Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore 21227

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 22, 2010.**
- (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, September 7, 2010 Issue - Jeffersonian

Please forward billing to:

Michael McCann
118 West Pennsylvania Avenue
Towson, MD 21204

410-825-2150

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: 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

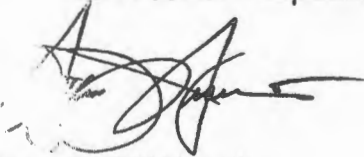
12th Election District – 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Thursday, September 23, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake 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.



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

August 23, 2010

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: 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

12th Election District – 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: Thursday, September 23, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: Michael McCann, 118 W Pennsylvania Avenue, Towson 21204
Henry Wright, Jr., Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore 21227
Michael Wyatt, 404 Allegheny Avenue, Towson 21204

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPT. 8, 2010.**
- (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.



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 21, 2010

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: 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

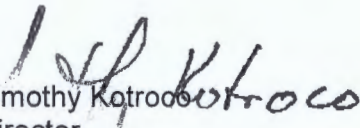
12th Election District – 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: October 12th, October 13th, and October 15, 2010 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204


Timothy Kotroco
Director

TK:kl

C: Michael McCann, 118 W Pennsylvania Avenue, Towson 21204
Henry Wright, Jr., Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore 21227
Michael Wyatt, 404 Allegheny Avenue, Towson 21204

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 27, 2010**
- (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, September 28, 2010 Issue - Jeffersonian

Please forward billing to:
Michael McCann
118 West Pennsylvania Avenue
Towson, MD 21204

410-825-2150

NOTICE OF ZONING HEARING

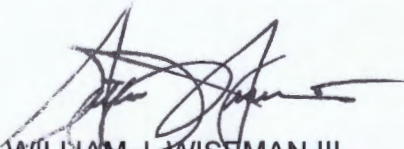
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2010-0280-SPH

10729 Park Heights Avenue
E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way
12th Election District – 3rd Councilmanic District
Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC
Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: October 12th, October 13th, and October 15, 2010 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake 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.

From: Theresa Shelton
To: McCann', 'Michael R.; Wyatt, Michael T.
CC: msnyder@coadyandfarley.com
Date: 7/20/2011 11:56 AM
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Mr. Wyatt:

Good Morning. Thank you for letting me know about the recent proposed dates. I have removed the temporary hold on all tentative dates provided so far. In keeping with your request, the following dates are open for scheduling this matter:

~~Tuesday, October 11, 2011 @ 10 am;~~
~~Wednesday, October 12, 2011 @ 10 am;~~
Tuesday, October 18, 2011 @ 10 am;
~~Wednesday, October 19, 2011 @ 10 am;~~
Thursday, October 20, 2011 @ 10 am;
Tuesday, November 1, 2011 @ 10 am;
Wednesday, November 2, 2011 @ 10 am; and
Thursday, November 3, 2011 @ 10 am.

Please advise when confirmed with your clients. As soon as the agreed dates are established by Counsel, I will verify/confirm the Board (a panel of three) that will be available for the multiples dates established.

Thank you.

Theresa
Semper Fi

>>> "Michael T. Wyatt" <mwyatt@marlowwyatt.com> 7/20/2011 9:54 AM >>>
These dates do not work on our end. We need to get some dates from mid-October on, but not 10/21-31.

Thanks,

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, MD 21204

Phone: (410) 821-1013

Fax: (410) 821-5432

-----Original Message-----

From: Theresa Shelton [<mailto:tshelton@baltimorecountymd.gov>]

How many dates?

Sent: Friday, July 15, 2011 9:24 AM
To: Michael R. McCann
Cc: mwyatt@marlowwyatt.com
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Michael:

Thank you for your email. According to your office, September 14, 15 and 22, 2011 were not available on your calendar. The new dates were in addition to September 20 and 21, that were originally provided.

Clarification of current dates available:

9/20
9/21
9/28
9/29
10/4
10/5
10/6

Thank you for your responses. Understood that the hearing will require four (4) days. Please advise if you need additional dates after checking with your respective clients.

Theresa
Semper Fi

>>> "Michael R. McCann" <michael@mmccannlaw.net> 7/15/2011 8:58 AM >>>
Thank you Theresa. Are these dates in addition to those already provided or are they new dates?

Also, I think Michael would agree that we should schedule 4, rather than 3 days.

Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

E-mail Confidentiality: The information contained in this message may be confidential, proprietary and/or protected by the attorney-client privilege

or work product doctrine. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please delete/destroy any copy of this message and notify Michael R. McCann at 410 825-2150.

-----Original Message-----

From: Theresa Shelton [<mailto:tshelton@baltimorecountymd.gov>]
Sent: Thursday, July 14, 2011 8:27 AM
To: mwyatt@marlowwyatt.com
Cc: Peter Zimmerman; michael@mmccannlaw.net
Subject: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Mr. Wyatt:

Good Morning.

Yesterday I received a telephone call from Mr. McCann's office indicating that September 14, 15 and 22, 2011 were not available in the scheduling of the above captioned matter.

This email is to advise that I have provided additional dates open on the Board's docket for review and consideration. The additional dates are as follows:

Wednesday, September 28, 2011
Thursday, September 29, 2011
Tuesday, October 4, 2011 @ 10
Wednesday, October 5, 2011 @ 10
Thursday, October 6, 2011 @ 10

In addition, my letter to Counsel dated July 5, 2011 referenced an incorrect the case number. The correct number is 10-280-A, not 11-280-A. I apologize for any confusion this error may have caused.

Thank you for your time in this matter.

Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

I took the Green @ Work Energy Challenge Pledge.

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6297 (20110715) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 8, 2011

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: In the Matter of: RAINBOW HALL, INC. / 10729 PARK HEIGHTS AVENUE
Case No.: 10-280-A

Dear Counsel:

Several emails have been sent with proposed dates regarding the scheduling of this matter, to establish an agreeable date. The email dated July 26, 2011 to Counsel provided dates in November 2011, namely:

Tuesday, November 1, 2011 at 10:00;
Wednesday, November 2, 2011 at 10:00;
Thursday, November 3, 2011 at 10:00;
Tuesday, November 8, 2011 at 10:00; and
Wednesday, November 9, 2011 at 10:00;

This office has received confirmation from Mr. Wyatt that these dates are available on his calendar. The purpose of this letter is to request confirmation from Counsel for Valleys Planning, et. al., in order for this office to issue the Assignment Notice for dates in November, 2011, or clear the current holds in place on the Board's docket, for the scheduling of other matters before this Board.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script, reading "Theresa R. Shelton".

Theresa R. Shelton
Administrator

Duplicate Original

cc: Rainbow Hall, LLC
c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc.
c/o Michael R. McCann, Esquire

Mark Wilson
Harlan Zinn
Office of People's Counsel

From: Theresa Shelton
To: McCann, Michael R.
CC: Wyatt, 'Michael T.'
Date: 7/26/2011 9:05 AM
Subject: Re: Rainbow Hall

Michael:

Thank you for your email.

I am currently holding November 1, 2 and 3, 2011 and will add November 8 and 9, 2011.

Dates currently on hold:

~~10/18~~

~~10/20~~

11/1

11/2

11/3

11/8 and

11/9

> pulled by Board

all dates good w/ Wyatt

Thank you.

Theresa
Semper Fi

>>> "Michael R. McCann" <michael@mmccannlaw.net> 7/25/2011 2:59 PM >>>

Theresa: The only dates good for us are Oct. 18 and 20. Can we obtain some more potential dates in early November? Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
<<mailto:michael@mmccannlaw.net>> michael@mmccannlaw.net

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Rainbow Hall

From: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
To: "Theresa Shelton" <tshelton@baltimorecountymd.gov>, "Michael R. McCan...
CC: <msnyder@coadyandfarley.com>, <atlantic.wine@verizon.net>, "David Thale...
Date: 7/27/2011 1:35 PM
Subject: RE: Rainbow Hall

We are good all November dates.

Thanks,

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, MD 21204

Phone: (410) 821-1013

Fax: (410) 821-5432

-----Original Message-----

From: Theresa Shelton [mailto:tshelton@baltimorecountymd.gov]
Sent: Tuesday, July 26, 2011 9:05 AM
To: Michael R. McCann
Cc: 'Michael T. Wyatt'
Subject: Re: Rainbow Hall

Michael:

Thank you for your email.

I am currently holding November 1, 2 and 3, 2011 and will add November 8 and 9, 2011.

Dates currently on hold:

10/18
10/20
11/1
11/2
11/3
11/8 and
11/9

Thank you.

Theresa
Semper Fi

>>> "Michael R. McCann" <michael@mmccannlaw.net> 7/25/2011 2:59 PM >>>
Theresa: The only dates good for us are Oct. 18 and 20. Can we obtain some more potential dates in early November? Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
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_____ Information from ESET NOD32 Antivirus, version of virus signature database 6326 (20110726) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

From: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
To: "Theresa Shelton" <tshelton@baltimorecountymd.gov>, "Michael R. McCan...
CC: <msnyder@coadyandfarley.com>
Date: 7/20/2011 9:54 AM
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

These dates do not work on our end. We need to get some dates from mid-October on, but not 10/21-31.

Thanks,

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, MD 21204

Phone: (410) 821-1013

Fax: (410) 821-5432

-----Original Message-----

From: Theresa Shelton [mailto:tshelton@baltimorecountymd.gov]
Sent: Friday, July 15, 2011 9:24 AM
To: Michael R. McCann
Cc: mwyatt@marlowwyatt.com
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Michael:

Thank you for your email. According to your office, September 14, 15 and 22, 2011 were not available on your calendar. The new dates were in addition to September 20 and 21, that were originally provided.

Clarification of current dates available:

9/20
9/21
9/28
9/29
10/4
10/5
10/6

Thank you for your responses. Understood that the hearing will require four (4) days. Please advise if you need additional dates after checking with your respective clients.

Theresa
Semper Fi

>>> "Michael R. McCann" <michael@mmccannlaw.net> 7/15/2011 8:58 AM >>>
Thank you Theresa. Are these dates in addition to those already provided or
are they new dates?

Also, I think Michael would agree that we should schedule 4, rather than 3
days.

Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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-----Original Message-----

From: Theresa Shelton [mailto:tshelton@baltimorecountymd.gov]
Sent: Thursday, July 14, 2011 8:27 AM
To: mwyatt@marlowwyatt.com
Cc: Peter Zimmerman; michael@mmccannlaw.net
Subject: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Mr. Wyatt:

Good Morning.

Yesterday I received a telephone call from Mr. McCann's office indicating that September 14, 15 and 22, 2011 were not available in the scheduling of the above captioned matter.

This email is to advise that I have provided additional dates open on the

Board's docket for review and consideration. The additional dates are as follows:

Wednesday, September 28, 2011
Thursday, September 29, 2011
Tuesday, October 4, 2011 @ 10
Wednesday, October 5, 2011 @ 10
Thursday, October 6, 2011 @ 10

In addition, my letter to Counsel dated July 5, 2011 referenced an incorrect the case number. The correct number is 10-280-A, not 11-280-A. I apologize for any confusion this error may have caused.

Thank you for your time in this matter.

Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

I took the Green @ Work Energy Challenge Pledge.

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_____ Information from ESET NOD32 Antivirus, version of virus signature database 6297 (20110715) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

RAINBOW HALL

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: In the Matter of: RAINBOW HALL, INC. / 10729 PARK HEIGHTS AVENUE
Case No.: 11-280-A

Dear Counsel:

It is my understanding that this matter may need several days before the Board. In order to schedule a hearing without conflict; I am providing dates available on the Board's docket. The Board sits on Tuesday, Wednesday and Thursday of each week.. The docket is currently scheduled through the end of August 2011. The following dates are open on the Board's docket for assignment:

As of 7/13/11

Tuesday, September 20, 2011 at 10:00;
McCann OK
Wednesday, September 21, 2011 at 10:00; and
McCann OK

Additional dates given:

Wednesday, September 28, 2011
Thursday, September 29, 2011
Tuesday, October 4, 2011 @ 10
Wednesday, October 5, 2011 @ 10
Thursday, October 6, 2011 @ 10

From: Theresa Shelton
To: McCann, Michael R.
CC: mwyatt@marlowwyatt.com
Date: 7/15/2011 9:24 AM
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Michael:

Thank you for your email. According to your office, September 14, 15 and 22, 2011 were not available on your calendar. The new dates were in addition to September 20 and 21, that were originally provided.

Clarification of current dates available:

9/20
9/21
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9/29
10/4
10/5
10/6

Thank you for your responses. Understood that the hearing will require four (4) days. Please advise if you need additional dates after checking with your respective clients.

Theresa
Semper Fi

>>> "Michael R. McCann" <michael@mmccannlaw.net> 7/15/2011 8:58 AM >>>

Thank you Theresa. Are these dates in addition to those already provided or are they new dates?

Also, I think Michael would agree that we should schedule 4, rather than 3 days.

Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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-----Original Message-----

From: Theresa Shelton [<mailto:tshelton@baltimorecountymd.gov>]

Sent: Thursday, July 14, 2011 8:27 AM

To: mwyatt@marlowwyatt.com

Cc: Peter Zimmerman; michael@mmccannlaw.net

Subject: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Mr. Wyatt:

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Thank you for your time in this matter.

Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

I took the Green @ Work Energy Challenge Pledge.

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the contents of this electronic mail transmission is strictly prohibited.
If you have received this electronic mail transmission in error, please
immediately notify the sender.

PC - Pete 11:35am
7/14
FRITZ - NOT IN

RAINBOW HALL -
MAY WRITE LTR
BUT DON'T THINK
WILL BE AT HRG

From: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
To: "Michael R. McCann" <michael@mmccannlaw.net>, "Theresa Shelton" <tsh...
CC: "Peter Zimmerman" <pzimmerman@baltimorecountymd.gov>, <msnyder@coadyan...
Date: 7/15/2011 9:09 AM
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Yes, I do agree with the time estimate. I am trying to find out availability from my client and various witnesses.

I expect to provide some dates shortly.

Thank you.

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, MD 21204

Phone: (410) 821-1013

Fax: (410) 821-5432

-----Original Message-----

From: Michael R. McCann [mailto:michael@mmccannlaw.net]
Sent: Friday, July 15, 2011 8:58 AM
To: 'Theresa Shelton'; mwyatt@marlowwyatt.com
Cc: 'Peter Zimmerman'
Subject: RE: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Thank you Theresa. Are these dates in addition to those already provided or are they new dates?

Also, I think Michael would agree that we should schedule 4, rather than 3 days.

Thank you.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149

michael@mmccannlaw.net

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Sent: Thursday, July 14, 2011 8:27 AM
To: mwyatt@marlowwyatt.com
Cc: Peter Zimmerman; michael@mmccannlaw.net
Subject: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

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Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
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<http://www.eset.com>

From: Theresa Shelton
To: mwyatt@marlowwyatt.com
CC: Zimmerman, Peter; michael@mmccannlaw.net
Date: 7/14/2011 8:27 AM
Subject: Rainbow Hall, LLC / 10729 Park Heights Avenue / Case No.: 10-280-A

Mr. Wyatt:

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Theresa
Semper Fi

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Suite 203, The Jefferson Building
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Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 5, 2011

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: In the Matter of: RAINBOW HALL, INC. / 10729 PARK HEIGHTS AVENUE
Case No.: 11-280-A

Dear Counsel:

It is my understanding that this matter may need several days before the Board. In order to schedule a hearing without conflict; I am providing dates available on the Board's docket. The Board sits on Tuesday, Wednesday and Thursday of each week.. The docket is currently scheduled through the end of August 2011. The following dates are open on the Board's docket for assignment:

~~Wednesday, September 14, 2011 at 10:00;~~
~~Thursday, September 15, 2011 at 10:00;~~
Tuesday, September 20, 2011 at 10:00;
Wednesday, September 21, 2011 at 10:00; and
~~Thursday, September 22, 2011 at 10:00.~~

9/28
9/29
10/4
10/5
10/6

This office requests that the parties in the above referenced matter, contact the Board of Appeals upon receipt of this letter to confirm availability

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Theresa R. Shelton
Theresa R. Shelton
Administrator

Duplicate Original

cc: Rainbow Hall, LLC
c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc.
c/o Michael R. McCann, Esquire

Mark Wilson
Harlan Zinn
Office of People's Counsel



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 5, 2011

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: In the Matter of: RAINBOW HALL, INC. / 10729 PARK HEIGHTS AVENUE
Case No.: 11-280-A

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Thursday, September 15, 2011 at 10:00;
Tuesday, September 20, 2011 at 10:00;
Wednesday, September 21, 2011 at 10:00; and
Thursday, September 22, 2011 at 10:00.

This office requests that the parties in the above referenced matter, contact the Board of Appeals upon receipt of this letter to confirm availability

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

cc: Rainbow Hall, LLC
c/o Henry M. Wright, Jr., Resident Agent
Valleys Planning Council, Inc.
c/o Michael R. McCann, Esquire

Mark Wilson
Harlan Zinn
Office of People's Counsel



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

August 29, 2011

NOTICE OF ASSIGNMENT

CASE #: 10-280-SPH

IN THE MATTER OF: RAINBOW HALL, LLC – LEGAL OWNER
VALLEYS PLANNING COUNCIL, INC;
MARK WILSON, AND HARLAN ZINN -
PETITIONERS
10729 PARK HEIGHTS AVENUE

3RD E; 2ND C

Re: Petition for Special Hearing – to determine the uses of the property that comply with the BCZR and previous approvals and whether the property is and has been used in violation or non-compliance with same.

1/13/11 Opinion and Order issued by Zoning Commissioner wherein the request for Special Hearing was granted.

ASSIGNED FOR: **WEDNESDAY, NOVEMBER 2, 2011 AT 10:00 A.M. / Day #1**
THURSDAY, NOVEMBER 3, 2011 AT 10:11 A.M. / Day #2
TUESDAY, NOVEMBER 8, 2011 AT 10:11 A.M. / Day #3 and
WEDNESDAY, NOVEMBER 9, 2011 AT 10:00 A.M. / Day #4

No postponements will be granted in this matter, for any reason; for any party, except under extreme/extraordinary circumstances and upon review by the Board.

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 B, Baltimore County Code.

IMPORTANT: 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

Page 2

NOTICE OF ASSIGNMENT (CONTINUED)

CASE #: 10-280-SPH

IN THE MATTER OF: RAINBOW HALL, LLC – LEGAL OWNER
VALLEYS PLANNING COUNCIL, INC;
MARK WILSON, AND HARLAN ZINN -
PETITIONERS
10729 PARK HEIGHTS AVENUE

3RD E; 2ND C

c:	Counsel for Legal Owner /Appellant	:	Michael T. Wyatt, Esquire Marlow & Wyatt
	Legal Owner /Appellant	:	Rainbow Hall, LLC c/o Henry M. Wright, Jr., Resident Agent
	Counsel for Petitioner / Appellant	:	Michael R. McCann, Esquire
	Petitioner / Appellant	:	Valleys Planning Council, Inc. c/o Michael R. McCann, Esquire : Mark Wilson : Harlan Zinn

James S. Patton
Emanuel Bronstein
Mark and Sue Levi
Suitbertus VanDerMeer
Cleon Shutt
Aurelia Bolton
Jean Lubke
Henry M. Wright

Kathleen Pontone
Al and Florence Shapiro
Cheryl Aaron
Elizabeth Wilmerding
Ruth Goldstein
Theodore Houck
Steven Ganzermiller
Michael L. Snyder, Esquire

Jayne Gerson
Louis Rosenthal
Noel Levy
Paul Brickman
Linda Corbin
Beverly Pearce
Sheldon Lewis
Teresa Moore

David Thaler, D.S. Thaler & Associates, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Planning
LIONEL VANDOMMELEN, CHIEF OF CODE ENFORCEMENT
VINCENT J. GARDINA, DIRECTOR /DEPS
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

From: Theresa Shelton
To: Crizer, Ed; lewescott@comcast.net;
maureen@murphyslaw.bz
Date: 11/8/2011 2:20 PM
Subject: Public Delib on Rainbow Hall - checking on date

Good Afternoon:

I was looking to schedule the Public Deliberation on Rainbow Hall for
Thursday, January 19, 2012.
The Memos are due 12/8.

Is this date okay? I wanted to check before I scheduled so there would be
no conflict.

Please let me know as soon as you can if this date is open.

Thank you.

T
Semper Fi

Ed - okay
Larry - okay
Maureen - okay



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

November 16, 2011

NOTICE OF DELIBERATION

CASE #: 10-280-SPH

IN THE MATTER OF: RAINBOW HALL, LLC – LEGAL OWNER
VALLEYS PLANNING COUNCIL, INC;
MARK WILSON, AND HARLAN ZINN -
PETITIONERS
10729 PARK HEIGHTS AVENUE

3RD E; 2ND C

Re: Petition for Special Hearing – to determine the uses of the property that comply with the BCZR and previous approvals and whether the property is and has been used in violation or non-compliance with same.

1/13/11 Opinion and Order issued by Zoning Commissioner wherein the request for Special Hearing was granted.

This matter was heard on November 2, 2011 (Day #1) and continued to November 3, 2011 (Day #2) and continued and concluded on November 8, 2011; a public deliberation has been scheduled for the following:

DATE AND TIME : **THURSDAY, JANUARY 19, 2012 at 9:15 a.m.**

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on:
Thursday, December 8, 2011 by 4:00 p.m.
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

NOTICE OF DELIBERATION (CONTINUED)

CASE #: 10-280-SPH

IN THE MATTER OF: RAINBOW HALL, LLC – LEGAL OWNER
VALLEYS PLANNING COUNCIL, INC;
MARK WILSON, AND HARLAN ZINN -
PETITIONERS
10729 PARK HEIGHTS AVENUE

3RD E; 2ND C

c:	Counsel for Legal Owner /Appellant	: Michael T. Wyatt, Esquire Marlow & Wyatt
	Legal Owner /Appellant	: Rainbow Hall, LLC c/o Henry M. Wright, Jr., Resident Agent
	Counsel for Petitioner / Appellant	: Michael R. McCann, Esquire
	Petitioner / Appellant	: Valleys Planning Council, Inc. c/o Michael R. McCann, Esquire : Mark Wilson : Harlan Zinn

James S. Patton
Emanuel Bronstein
Mark and Sue Levi
Suitbertus VanDerMeer
Cleon Shutt
Aurelia Bolton
Jean Lubke
Henry M. Wright

Kathleen Pontone
Al and Florence Shapiro
Cheryl Aaron
Elizabeth Wilmerding
Ruth Goldstein
Theodore Houck
Steven Ganzermiller
Michael L. Snyder, Esquire

Jayne Gerson
Louis Rosenthal
Noel Levy
Paul Brickman
Linda Corbin
Beverly Pearce
Sheldon Lewis
Teresa Moore

David Thaler, D.S. Thaler & Associates, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Planning
LIONEL VANDOMMELEN, CHIEF OF CODE ENFORCEMENT
VINCENT J. GARDINA, DIRECTOR /DEPS
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney



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

June 3, 2010

Michael R. McCann
Michael McCann, P.A.
118 W. Pennsylvania Ave.
Towson, MD 21204

Dear: Michael R. McCann

RE: Case Number 2010-0280-SPH, 10729 Park Heights Ave

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 16, 2010. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Henry Wright: Rainbow Hall, Inc.; 4804 Benson Ave.; Baltimore, MD 21227



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

State Highway
Administration

Beverley K. Swain-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: May 4, 2010

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

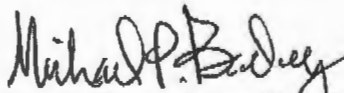
RE: Baltimore County
Item No. 2010-0280-SPH
MD 129
10729 PARK HEIGHTS AVE
RAINBOW HALL, INC.
SPECIAL HEARING

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 4/23/2010. A field inspection and internal review reveals that an entrance onto MD 129 is consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for RAINBOW HALL, INC.; Case Number 2010-0280-SPH.

Should you have any questions regarding this matter feel free to contact Michael Bailey at 410-545-5593 or 1-800-876-4742 extension 5593. Also, you may email him at (mbailey@sha.state.md.us). Thank you for your attention.

Very truly yours,


Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2254. Nationwide Toll Free

Street Address: 707 North Calvert Street - Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 23, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For May 3, 2010
Item Nos. 2010- 273, 274, 276, 277,
278, 279, 280 and 281

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

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-05032010 -NO COMMENTS.doc



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

March 28, 2011

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

ATTENTION: Zoning Review

Distribution Meeting of: **March 28, 2011**

Item No.:

Administrative Variance: 2011-0272A, 2011-0275A, 2011-0277A-0278A, 2011-0281A

Special Hearing: 2011-0274-SPH, 2011-0279-SPHX, 2011-0280-SPHA, 2011-0282-SPHX

Special Exception: 2011-0279-SPHX, 2011-0282-SPHX

Variance: 2011-0276A, 2011-0280-SPHA

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File

BW 10/12
to 8-10
9 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 5, 2010

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

RECEIVED

SUBJECT: 10729 Park Heights Avenue
INFORMATION: 2nd Councilmanic District
Item Number: 10-280
Petitioner: Valley's Planning Council, Inc.
Zoning: RC 2
Requested Action: Special Hearing

MAY 14 2010

ZONING COMMISSIONER

The subject special hearing requests that the Zoning Commissioner determine if the uses of the property located at 10729 Park Heights Avenue comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

SUMMARY OF RECOMMENDATIONS:

The original special exception approved in case 63-152XA for a non-profit Baptist affiliated age restricted boarding house limited to 40 residents. Case 76-89SPH granted approval for a new infirmary wing. The use became non-conforming after the 1976 CZMP when the property was rezoned to RC2. Subsequently 1988 CZMP rezoned the property to RC3, which permitted convalescent home use by special exception. A subsequent hearing, 91-166SPHX granted a special exception for convalescent home and amended the site plan to allow the construction of two additions, which were never constructed. The final case was a combined hearing III-393 and 97-230SPH, which approved one RC2 non-density parcel. The approval of such quashed the approval for additions granted in case 91-166SPHX that were not built.

The petitioner asked twelve questions of the Zoning Commissioner in the subject petition. The Office of Planning's response is as follows:

1. Rental apartments are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
2. Multi-family dwellings are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
3. The Office of Planning is of the opinion that rental apartments are not a non-conforming use on this property. It is the opinion of the Office of Planning that the Special

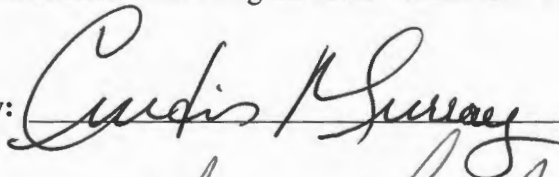
Exception for convalescent home was abandoned when the Baptist Home sold the property in April 2002.

4. The property was never legally considered to be a multi-family dwelling. The legal use was originally boarding house for the elderly and then convalescent home.
5. The property did not enjoy a non-conforming use for rental apartments or multi-family dwellings therefore Section 104.1 is not applicable.
6. The prior hearings did not grant the right to use the property for rental apartments.
7. A multi-family dwelling is not allowed under the prior special exception case.
8. The special exception was abandoned when nursing home was discontinued and the Baptist Home property was sold to Henry Wright.
9. There are three dwellings on the property, which do not appear to be mentioned in prior zoning hearings. The RC 2 zone permits no more than one dwelling per lot with an exception made for a tenant house.
10. Rental status does not obviate the one dwelling per lot provision.
11. There have been several zoning violation complaints involving the subject property; however it does not appear that a hearing has occurred.
12. No comment at this time to questions the petitioner's attorney may ask at the hearing.

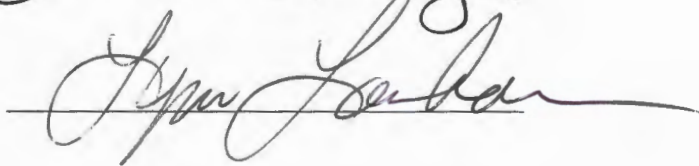
In summary, the Office of Planning is of the opinion that apartments are not a permitted use in the RC2 zone and that prior zoning cases did not involve rental apartments. It appears that the use as rental apartments is a zoning violation.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:



Division Chief:
AFK/LL: CM



BW
6-8-10

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUN 09 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 9, 2010

SUBJECT: Zoning Item # 10-280-SPH
Address 10729 Park Heights Avenue
(Rainbow Hall, Inc. Property)

Zoning Advisory Committee Meeting of April 19, 2010

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

If any new development &/or bldg. permits are submitted, the Groundwater Mgmt. Section will review all such plans and permits. – *Dan Esser; Groundwater Management*

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING

Memorandum

TO: Bill Wiseman

DATE: December 8, 2010

VIA: Karin Brown

FROM: Teri Rising

PROJECT NAME: 10729 Park Heights Avenue

CASE #: 2010-0280-SPH

The property at 10729 Park Heights Avenue, known as Rainbow Hill (MIHP # BA-391), is listed on the Baltimore County Final Landmarks List as Final Landmark # 198. The property in question includes the ca. 1915 main house and the ca. 1898 former Avalon Inn cottage. Two ca. 1960's tenant houses are also located on the site.

In addition to the Baltimore County designation, the property that includes the ca. 1915 main house and ca. 1898 cottage are also considered contributing to the Greenspring Valley National Register Historic District (MIHP # BA-2216) which was designated by the U. S. Department of the Interior, National Park Service, on October 3, 1980.

TD:vkn

2nd
RE: PETITION FOR SPECIAL HEARING * BEFORE THE
10729 Park Heights Avenue; E/S Park *
Heights Avenue, 170' S Velvet Valley Way * ZONING COMMISSIONER
12th Election & 3rd Councilmanic Districts *
Legal Owner(s): Rainbow Hall, Inc * FOR
Petitioner(s): Valleys Planning Council, Inc. * BALTIMORE COUNTY
* 10-280-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

APR 21 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 2010, a copy of the foregoing Entry of Appearance was mailed to Henry M. Wright, Jr. Resident Agent, 4804 Benson Avenue, Baltimore, MD 21227 and Michael McCann, Esquire, 118 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

RECEIVED
JUN 20 2011
BALTIMORE COUNTY
BOARD OF APPEALS

Michael McCann, Esq.
118 W. Pennsylvania Avenue
Towson, MD 21204

Michael Wyatt, Esq.
404 Allegheny Avenue
Towson, MD 21204

Dear Messrs. McCann and Wyatt:

RE: Case: 2011-0280-A, 10729 Park Heights Avenue, Rainbow Hall

Please be advised that an appeal of the above-referenced case was filed in this office from Michael Wyatt on February 7, 2011 and by Michael McCann on February 11, 2011. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

c: Administrative Hearings Office
Arnold Jablon, Director of PAI
People's Counsel
See Attached List

APPEAL
Petition for Special Hearing
10729 Park Heights Avenue
E/s of Park Heights Avenue, 170' S/of Velvet Valley Way
3rd Election District – 2nd Councilmanic District
Legal Owners: Rainbow Hall, Inc.
Petitioners: Valleys Planning Council, Inc.
Case No.: 2010-0280-SPH

RECEIVED

JUN 20 2011

BALTIMORE COUNTY
BOARD OF APPEALS

- ✓ Petition for Special Hearing (April 16, 2010)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (September 21, 2010)
- ✓ Certification of Publication (The Jeffersonian – September 28, 2010)
- ✓ Certificate of Posting (September 26, 2010) by Martin Ogle
- ✓ Entry of Appearance by People's Counsel (April 27, 2010)
- ✓ Petitioner(s) Sign-In Sheet – 2 Sheets
- ✓ Citizen(s)/ Respondents Sign-In Sheet – One Sheet
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibits – Please see attached Exhibit Sheet (1 thru 61)
- Protestants' Exhibits: None
- ✓ Respondents Exhibits: Please see attached Exhibit Sheet (1 thru 9)
- Miscellaneous (Not Marked as Exhibit)
 - ✓ 1. Letter dated May 3, 2010 from Michael Wyatt
 - ✓ 2. Letter dated May 12, 2010 from Michael Wyatt
 - ✓ 3. Email correspondence between Arlene Friedman and Carl Richards
- ✓ Zoning Commissioner's Order (GRANTED – January 13, 2011)
- ✓ Notice of Appeal received on February 7, 2011 from Michael Wyatt and additional appeal received from Michael McCann on February 11, 2011

c: People's Counsel of Baltimore County, MS #2010
Administrative Hearings Office
Arnold Jablon, Director of PAI
See Attached List

date sent June 20, 2011, kll

Meg Ferguson - Rainbow Hall LLC - located at 10729 Parks Heights Avenue

From: Patricia Zook
To: Ferguson, Meg
Date: 5/4/2010 1:05 PM
Subject: Rainbow Hall LLC - located at 10729 Parks Heights Avenue
CC: Wiley, Debra; Wiseman, Bill

Good afternoon -

Bill Wiseman asked that I contact you regarding the above-referenced matter. We are in receipt of a letter dated May 3, 2010 from Michael T. Wyatt, the attorney for Rainbow Hall LLC. In the letter Mr. Wyatt refers to "... subject of numerous code enforcement complaints brought about by the Valleys Planning Council, Inc."

We are requesting copies of these complaints as well as any Orders issued by your Office in anticipation of a special hearing before our Office.

Thank you for your assistance.

FA0053810

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

Rainbow Hall, LLC
4804 Benson Ave.
Baltimore, MD 21227

A Brief History of Rainbow Hill

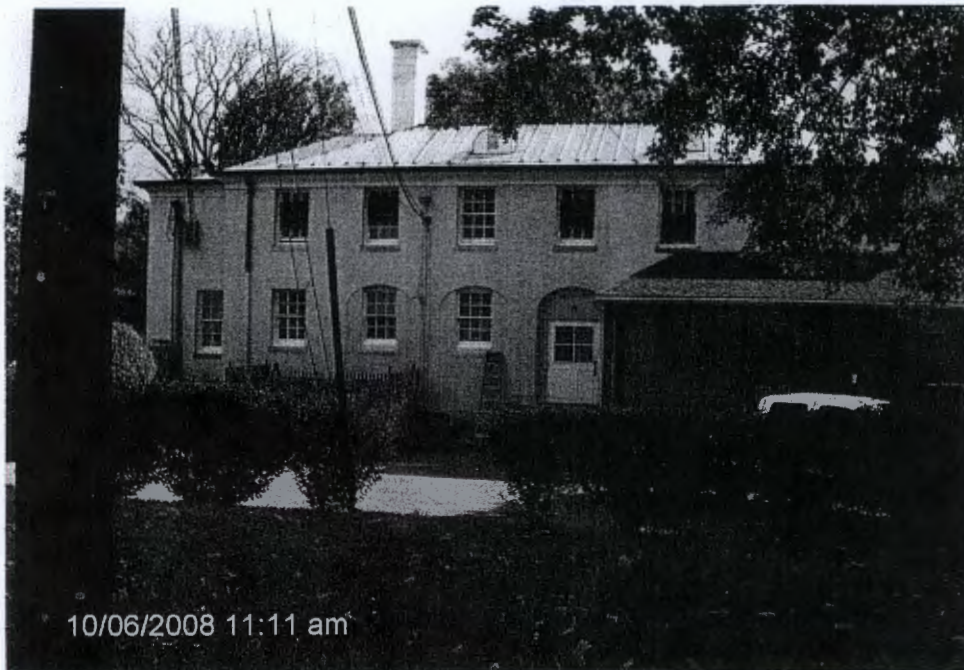
The Avalon Hotel was originally located on the property which offered apartments and rooms for rent to the public but it burned down around 1905. Edward Stotesbury of Philadelphia purchased 250 acres in Greenspring Valley, Maryland in 1912 as a wedding gift for his stepdaughter, Henriette Louise Cromwell. The home was built between 1915 and 1917. The famous architect, Horace Trumbauer, designed the mansion. Henriette and her first husband, Walter Brooks, entertained regularly and 9 of the bedrooms in the home were used as guest rooms and guest apartments. There were then three guest homes on the property as well. Henriette married General Douglas MacArthur in 1921 and they entertained many famous guests such as Mamie and Dwight Eisenhower. In the 1950's the next owners, the Rosenberg family, sold the property to a group of investors who opened the mansion as a private golf club with apartments and rooms for members and dining and catering facilities. The venture did not succeed and Mrs. Rosenberg regained ownership of the property and sold it to The Baptist Home of Maryland. All of the bedrooms in the mansion were divided to accommodate as many residents as possible and there were three shifts of caregivers/workers arriving in a 24 hour period. The Baptist Home offered dining and catering to their residents. In the early 1970's a wing was added to the mansion for residents who needed full time hospital care. At capacity, there were 64 beds in the mansion and hospital wing. I purchased the mansion at auction in 2001 and have continued renting the existing apartments to help defray the enormous costs associated with maintaining a structure of this size. In most cases, there are one to two tenants per apartment. All of the apartments have been inspected and there are no safety violations. The entire mansion and the hospital wing addition, built around 1970, have a fire sprinkler system that was inspected as a nursing home system, which has the highest standards for safety. The hospital wing was built as a totally fireproof annex and it exceeds all county requirements for safety.

5/5/09
Met w/ Mike Snyder
+ Mike Wyatt + discussed
case. They will meet w/
VBO to discuss the matter
+ will get back to us.
Tim K
Mike M.

Case No. FA 0053810

Photographs 10/6/08

10729 PARK HEIGHTS AVE



10/06/2008 11:11 am

2

I CERTIFY that I took the (number of photos) photographs set out above, and that these photographs accurately depict the condition of the property that is the subject of the above-referenced case number on the date set out above.

FISHER

Enforcement Officer

CASE CLOSED



03.05.2009 10:01



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

Date: April 16, 2009

*******CORRECTION NOTICE*******
RENTAL HOUSING LICENSE

All buildings or a portion of a building that contain one to six dwelling units intended or designated as rental units, must register and be licensed with Baltimore County on or before January 1, 2009.

YOU ARE IN VIOLATION AND YOUR APPLICATION MUST BE FILED BY 05/17/09

YOUR PROPERTY HAS NOT BEEN LICENSED

OWNER NAME: RAINBOW HALL, INC

OWNER ADDRESS: 8717 MARBURG MANOR DR, LUTHERVILLE TIMONIUM 21093

RENTAL PROPERTY ADDRESS: 10729 PARK HEIGHTS AVE, OWINGS MILLS 21117

TAX I.D.: 2300003036

CASE NUMBER: CO0056827

FACILITY: FA0053810

BCC 35-6-112. CIVIL PENALTIES.

(a) *Penalty for failure to be licensed.* A person who rents a dwelling unit or portion of a dwelling for living purposes unit without a license of subject to a civil penalty of \$1,000.

(b) *Separate Offense.* Each day of a violation constitutes a separate offense.

Questions may be directed to:

Kathy O'Donnell, Rental Registration Administrator

Code Inspections & Enforcement | Baltimore County Rental Registration Department
County Office Building, 111 West Chesapeake Avenue, Room 213, Towson, Maryland 21204
410-887-6060 | Fax 410-887-2824
www.baltimorecountymd.gov

7/28

CODE ENFORCEMENT REPORT

(2125109)

APP SENT. Ko.

DATE: 2/25/09 INTAKE BY: UHT CASE #: _____ INSPEC: _____

COMPLAINT LOCATION: RC2 zoning 10729 Park Heights Ave

3 Houses. ZIP CODE: 21117 DIST: 3rd

COMPLAINANT NAME: TERESA MOORE - Valleys Planning Council PHONE #: (H) _____ (W) 410-337-68

ADDRESS: P.O. Box 5402 ZIP CODE: 21285

PROBLEM: RAINBOW HALL converted to apartments. More than likely one of three existing residence being rented without a rental license. Sign on

IS THIS A RENTAL UNIT? YES _____ NO _____ property 2 bedroom apt. For

IF YES, IS THIS SECTION 8? YES _____ NO _____ RENT - 443-465-2906

OWNER/TENANT INFORMATION: RAINBOW HALL, INC.

8717 Marburg Manor DR. Lutherville, MD. 21093

TAX ACCOUNT #: 23-00-003036 ZONING: RC-2

INSPECTION: Note: Resident Agent
Henry M. Wright, Jr
4804 Benson Ave
Balto. MD. 21227

REINSPECTION: Someone with the first name of Beverly is listing 35 properties on Craigslist using the phone # 443-465-2906. A small sign with this # is advertising a 2

REINSPECTION: bedroom apt. 4, rent. this is an outdoor advertising sign & must be removed from the property.

INSPECTION: _____
Rainbow Hall, Inc.
10729 Park Hgts. Ave
2300003036



CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 56730	PROPERTY TAX ID 2280003036	DATE ISSUED 3.15.19
NAME(S) RAINBOW Hall Inc		
MAILING ADDRESS 847 Marburg Manor Dr		
CITY Lutherville-Timonium, MD	STATE MD	ZIP CODE 21093
VIOLATION ADDRESS 10729 Park Heights Ave		
CITY BALTIMORE	STATE MARYLAND	ZIP CODE 21217

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

- RESIDENTIAL ZONE CLASSIFICATION: ☒ DR1 ☐ DR2 ☐ DR3 ☐ DR4 ☐ DR5 ☐ DR10.5 ☐ DR16 ☐ BL (230) ☐ BR (236) ☐ BM (233)
- ☒ RC2 (IA01) ☐ RC4 (IA03) ☐ RC20 & 50 (IA05) ☐ RC6 (IA07) ☐ MR (240) ☐ ML (253) ☐ MH (256)
- ☐ RC3 (IA02) ☐ RC5 (IA04) ☐ RCC (IA06) ☐ RC7 (IA08)
- OTHER: ☐ OTHER:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|--|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip; storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1: ZCPM: On-site service garage activities | ☐ 102.5: Residential site line violation/ obstruction |
| ☒ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9.BCZR; ZCPM: |

Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed/ other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc. | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s)/ window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls/ vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof/ foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair/ remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

BC 20: 500.9
Non permitted apartment use in RC 2 zone
See Cease and desist use or seek special exception hearing for non conforming use as apartment use if applicable. Seek all proper permits if applicable.

NOTICE POSTED AND MAILED

POTENTIAL FINE: ☐ \$200 ☐ \$500 ☒ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE:

4.5.19

INSPECTOR NAME:

Fisher, Ryan

PRINT NAME (R# 9/05)

VIOLATION SITE

Permits and Development Management
Code Inspections and Enforcement
County Office Building 213
111 West Chesapeake
Towson, Maryland 21204



Code Enforcement 410-887-3351
Building Inspection 410-887-3953
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Signs/Fences 410-887-3896

CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 56730	PROPERTY TAX ID 220000 3036	DATE ISSUED 3/5/19
NAME(S) Rainbow Hall Inc		
MAILING ADDRESS RA: Henry M. Wright Jr		
CITY Balt STATE MD ZIP CODE 21227		
VIOLATION ADDRESS 10729 Park Heights Ave		
CITY BALTIMORE STATE MARYLAND ZIP CODE 21117		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION NON-RESIDENTIAL CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16 ☐ BL (230) ☐ BR (236) ☐ BM (233)
☒ RC1(A01) ☐ RC4(A03) ☐ RC2B & 50(A05) ☐ RC6(A07) ☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ RC3(A02) ☐ RC5(A04) ☐ RCC(A06) ☐ RC7(A08)
☐ OTHER: ☐ OTHER:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|--|---|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/Remove all untagged/inoperative or damaged/disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 2400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1: 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1: ZCPM: Cease commercial garage activities | ☐ 102.5: Residential site line violation/obstruction |
| ☒ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/boarding house |
| ☐ 101; 102.1: ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: |

Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/fence/sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed/other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ 1BC 115; BCBC 115: Remove/Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|--|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc. | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/roof/foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair/remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

BCZR: 500.9
- Non Permitted apartment use in RC2 zone
- Cease + desist use or seek special exception hearing for non conforming use as apartment use if applicable. Seek all proper permits if applicable

☒ NOTICE POSTED AND MAILED

POTENTIAL FINE: ☐ \$200 ☐ \$500 ☒ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE: **4.5.19**

INSPECTOR NAME: **Fisher, Ryan**
PRINT NAME (Rev 985)

VIOLATION SITE



CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROPERTY TAX ID	DATE ISSUED
10-56730	2300 003 036	3/4/09
NAME(S): RAINBOW HALL INC		
MAILING ADDRESS: 8717 MARBURG MANOR DR		
CITY	STATE	ZIP CODE
LUTHERVILLE	MARYLAND	21093
VIOLATION ADDRESS: 10729 PARK HEIGHTS AVE		
CITY	STATE	ZIP CODE
BALTIMORE	MARYLAND	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2(1A01) ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|--|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☐ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM:
Violation of commercial site plan and/or zoning order |

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☒ 13-7-112: Cease all nuisance activity | ☒ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 13-2-001: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease _____ infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|--|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof /foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(1)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

OBTAIN PERMIT
FOR SIGN ("FOR RENT")
OR REMOVE SIGN

NOTICE POSTED AND MAILED

POTENTIAL FINE: \$200 ☐ \$500 ☐ \$1000 ☒ per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE:

3.17.09

INSPECTOR NAME:

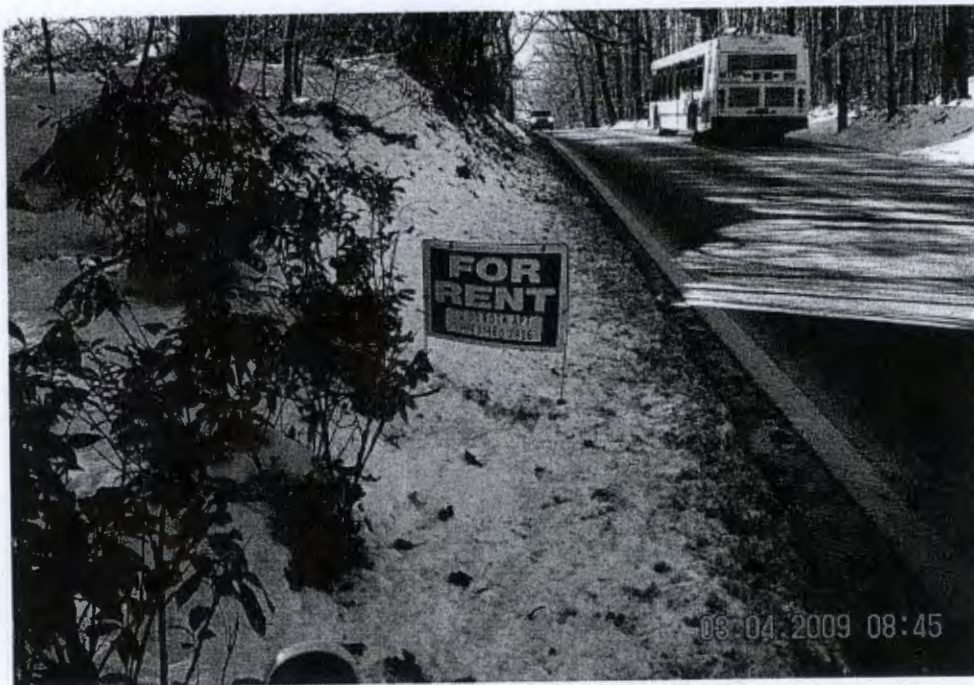
FISHAR
PRINT NAME (Rev. 9/05)

AGENCY

PHOTOGRAPHIC RECORD

on/Case No. FA 0053810
 of Photographs: 3/4/09

10729 PARK HEIGHTS AVE



I HEREBY CERTIFY that I took the 1 (number of photos) photographs set out above, and that these photographs
 and accurately depict the condition of the property that is the subject of the above-referenced
 on/case number on the date set out above.

FISHER

Enforcement Officer

10733

NW 12-F

19840170

2 CD

RC2

BAPTIST HOME
OF MARYLAND

PDM # 030393

Pt. Bk. 70, Folio 95

2300003036

BAPTIST HOME OF MARYLAND (PDM File/Project # 3-393)

059A3

Flood Zone X

NW 11-F

PARK HEIGHTS AVE

10709





IT IS CERTIFIED THAT THIS PLAN OR PLAT IS IN COMPLIANCE WITH ALL
THE LOCAL REGULATIONS & APPROVED BY THE COUNTY AND BALTIMORE COUNTY

FA - 0053810

AS/400: ***3/1/04 MAIN STRUCTURE W/3 GUEST HOUSES ARE ALL ON 1 LOT. & ARE NOT OCCUPIED. CALLED COMPL. AM & PM, LEFT V-MAIL, PROP. IS ALSO POSTED, FOR REZONINGSIGN, 2-063, 2-065 FOR RENT SIGN, 410-382-2294. ON 3/1/04 PROPS. ARE SHOWN ON 1953 ZONING MAP CALLED COMPL. & AGAIN LEFT V-MAIL (P.C/SS)***
****7/21/04, REOPEN - RENTING 3 APTS OUT OF 2ND STRUCTURE, RENTING OUT FARM HOUSE, JRA/CP**** **7/23/04, SPOKE WITH ARNOLD JABLON 410-494-6298, THIS PROP IS A "NON-CONFORMING USE", ALWAYS HAD APTS IN BUILDINGS, NO VIOLATION, COMPL UPDATED BY VOICE MESSAGE, CLOSED KW/WRKD**

AS/400: ***11/8/06, NO ACTIVITY OF A BUSINESS FROM A RESIDENCE, P/U 11/16/06 TO REINSPECT, RT/CP*** **11/17/06, PERMIT ON FILE TO SELL CLOTHING FROM THIS HOUSE FOR 3 DAYS ONLY, CLOSE, RT/CP***

10/6/08 SPOKE TO REPRESENTATIVE OF OWNER. THIS PROPERTY HAS BEEN APTS FOR YEARS NOW. IT WAS ONCE A MEDICAL FACILITY WHICH HAD AROUND 110 ROOMS EACH WITH ITS OWN BATHROOM. IT HAS SINCE BEEN CONVERTED TO 7-10 APT UNITS. WORK THAT IS CURRENTLY BEING DONE INCLUDES FIXING PLUMBING, REFLOORING/TILING, AND GENERAL CLEANUP. NO VIOLATION AS FACILITY IS EQUIPPED AND SPECIFICALLY DESIGNED FOR MULTI-UNIT USE. CASE CLOSED. /RF

3/4/09 OBSERVED 'FOR RENT' SIGN ON PARK HTS AVE OUTSIDE OF THE ENTRANCE TO 10729. PHOTOS TAKEN. THERE IS NO SIDEWALK, AND I WAS UNSURE IF THE SIGN WAS ON PUBLIC OR PRIVATE PROPERTY SO A NOTICE WAS ISSUED BY MAIL. P/U 3/17 /RF

3/17/09 LETTER FROM REPRESENTATIVE OF OWNER (ATTORNEY MICHAEL WYATT) HAS BEEN ADDED TO THE FILE. THE LETTER STATES THE INTENTIONS OF THE OWNER TO SEEK A SPECIAL ZONING HEARING TO ACQUIRE PERMISSION FOR NON-CONFORMING USE. /RF

04/16/09 CORRECTION NOTICE ISSUED KO
05/29/09 CITATION ISSUED. HEARING 7/28/09 KO

06/25/09 SEE LETTER IN FILE.. K.O.

[baltimore craigslist](#) > [apts/housing for rent](#)

[email this posting to a friend](#)

Stating a discriminatory preference in a housing post is illegal - please flag discriminatory posts as prohibited

Avoid scams and fraud by dealing locally! Beware any arrangement involving Western Union, Moneygram, wire transfer, or a landlord/owner who is out of the country or cannot meet you in person. [More info](#)

please [flag](#) with care:

[miscategorized](#)

[prohibited](#)

[spam/overpost](#)

[best of craigslist](#)

\$2500 / 4br - Rancher On Private Est. (10729 Park Hgts Ave) (map)

Reply to: hous-1040671865@craigslist.org ^[2]

Date: 2009-02-18, 8:23PM EST

Large Kitchen, LR-DR Combined, 4 Brs, 2 1/2 Baths, Also has Fireplace and Washer & Dryer and 2 Car Garage. Heat is Baseboard Heat. For More Information Please Call Beverly at 443-465-2906

Park Heights Ave at Greenspring Valley RD [google map](#) [yahoo map](#)

- Location: 10729 Park Hgts Ave
- it's NOT ok to contact this poster with services or other commercial interests

PostingID: 1040671865

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*Loralee Moore
Valley Planning Council*



Account Identifier: District - 03 Account Number - 2300003036

Owner Information

Owner Name: RAINBOW HALL, INC Use: COMMERCIAL
Mailing Address: 8717 MARBURG MANOR DR Principal Residence: NO
LUTHERVILLE TIMONIUM MD 21093-4779 Deed Reference: 1) /16318/ 35
2)

Location & Structure Information

Premises Address Legal Description
10729 PARK HEIGHTS AVE 19.6742 AC
10729 PARK HGHTS AVE ES

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
59	20	270					5	1	Plat Ref: 70/ 95

Special Tax Areas Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000	28,837 SF	19.67 AC	06

Stories	Basement	Type	Exterior
---------	----------	------	----------

Value Information

	Base Value	Value As Of 01/01/2007	Phase-in Assessments As Of 07/01/2008	As Of 07/01/2009
Land	369,200	403,900		
Improvements:	630,800	596,100		
Total:	1,000,000	1,000,000	1,000,000	1,000,000
Preferential Land:	0	0	0	0

Transfer Information

Seller: BAPTIST HOME OF MD INC	Date: 04/15/2002	Price: \$1,500,000
Type: IMPROVED ARMS-LENGTH	Deed1: /16318/ 35	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

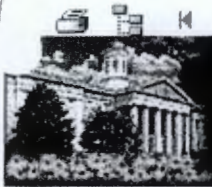
Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO

Exempt Class:

Special Tax Recapture:

* NONE *



welcome to

Baltimore County, Maryland

Baltimore County Property Information Report

Account Number

2300003036

Election District

3

Owner Information

Owner Name(s) RAINBOW HALL, INC
 Address 8717 MARBURG MANOR DR
 LUTHERVILLE TIMONIUM, MD 21093 4779

Locational Information

Address 10729 PARK HEIGHTS AVE
 LUTHERVILLE TIMONIUM, MD

Occupancy NOT OWNER OCCUPIED

Land Use Code COMMERCIAL

Id Class Code COMMERCIAL

Land Area 19.67 ACRES

Lot Width

Lot Depth

Year Structure Built 0

Structure Size 28,837 SQ'

Legal Information

Map	Grid	Parcel	Lot	Section	Block	Subdivision	Plat Reference
0059	20	270	5				70 /95

Description	Deed Reference(s)
IMPS19.6742 AC 10729 PARK HGHTS AVE ES	16318 /35

Value Information

Transfer Information

	Prior Value	Proposed Value		
Land Value	\$ 369,200	\$ 403,900	Date	04/15/2002
Improved Value	\$ 630,800	\$ 596,100	Former Owner	BAPTIST HOME OF MD INC
Total Value	\$ 1,000,000	\$ 1,000,000	Purchase Price	\$ 1,500,000
Assessment Date	09/01/2003	9/2006	Ground Rent	

Exemption Information

Exempt Status FULLY TAXABLE

Exempt Class TAXABLE PROPERTIES

COADY & FARLEY

ATTORNEYS AND COUNSELLORS AT LAW

400 ALLEGHENY AVENUE

TOWSON, MARYLAND 21204

(410) 337-0200

FACSIMILE (410) 337-0164

EMAIL: general@coadyandfarley.com

MICHAEL L. SNYDER
PATRICIA O'C.B. FARLEY
THOMAS J. RYAN
KELLIE M. GOMBESKI

JOHN T. COADY, EMERITUS

CHARLES P. COADY (1868-1934)
JOHN A. FARLEY (1893-1958)
CHARLES P. COADY, JR. (1901-1983)
JOHN A. FARLEY, JR. (1921-2005)

THOMAS J. CARACUZZO (1914-1994)

June 19, 2009

Kathy O'Donnell,
Baltimore County Rental Housing Program
Code Inspection & Enforcement/Rental Registration
County Office Building, Room 212
111 West Chesapeake Avenue
Towson, MD 21204

Re: Enforcement Citation issued 5/29/09 entitled
Baltimore County vs. Rainbow Hall LLC

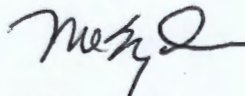
Dear Kathy:

This letter is a follow up to our telephone conversation of June 18, 2009 regarding this Citation. I represent Rainbow Hall, LLC, the owner of this property.

In that conversation I explained to you that there are 8 rental units in this building at 10729 Park Heights Avenue, Owings Mills, Maryland. Therefore, this building is exempt from the Rental Housing Licensing Program, because it has more than 6 units.

It is my understanding from you that as a result of this letter you will cancel this Citation and close this matter. Please be kind enough to send me confirmation of this at your earliest convenience. Thank you.

Very truly yours,



Michael L. Snyder

MLS/ap
cc: Rainbow Hall, LLC



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Est. 1894

FAX

410-331-0167



From Henry Wright

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

BALTIMORE COUNTY RENTAL HOUSING LICENSE PROGRAM ENFORCEMENT CITATION

BALTIMORE COUNTY vs. RAINBOW HALL LLC

OWNER ADDRESS: 8717 MARBURG MANOR DR, LUTH-TIMONIUM MD 21093

VIOLATION ADDRESS: 10729 PARK HEIGHTS AVE, OWINGS MILLS MD 21117

TAX ID: 2300003036

VIOLATION DATES: 02/03/08 – PRESENT

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON (S) DID UNLAWFULLY VIOLATE SECTION 35-6-105 OF THE BALTIMORE COUNTY CODE, 2003:

☒ A property owner may not rent a dwelling unit of a portion of a dwelling unit unless the property owner has been issued a license as provided for in Article 35, Title 6 of the Baltimore County Code, 2003.

☐ A tenant may not rent a dwelling unit or portion of a dwelling unit to another tenant or a sub-tenant unless the tenant has been issued a license as provided for in Article 35, Title 6 of the Baltimore County Code, 2003.

IN ACCORDANCE WITH SECTION 35-6-112 OF THE BALTIMORE COUNTY CODE, 2003, A CIVIL PENALTY HAS BEEN ASSESSED AS A RESULT OF THE VIOLATION CITED HEREIN, IN THE AMOUNT OF: \$1000.00

A hearing has been prescheduled for:

Date: JULY 28, 2009

Time: 9:00 A.M.

Location: Baltimore County Office Building
111 W. Chesapeake Avenue, Room 106
Towson, MD 21204

Hearings are held on Tuesday and Wednesday mornings beginning at 9:00 a.m. If you cannot attend on the prescheduled date, please call 410-887-6060 to reschedule. Failure to appear will result in a \$1,000.00 fine being imposed on your property.

05/29/2009
Date Issued

Kathy O'Donnell
Baltimore County Rental Housing Program

Code Inspection & Enforcement/Rental Registration
County Office Building
111 West Chesapeake Avenue, Room 213, Towson, Maryland 21204
Phone: 410-887-6060 / Fax: 410-887-2824
www.baltimorecountymd.gov

76 units



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

June 25, 2009

Michael L. Snyder
COADY & FARLEY
Attorneys and Counsellors At Law
400 Allegheny Avenue
Towson, MD 21204

Re: Baltimore County vs. Rainbow Hall LLC
10729 Park Heights Avenue
Owings Mills, MD 21117

Dear Mr. Snyder:

This letter confirms that I have closed Case CO0056827, Baltimore County vs.. Rainbow Hall LLC, today June 25, 2009. It is my understanding from your letter dated June 19, 2009, that there are 8 rental units at this property exempting the owner from Baltimore County's Rental Registration Program.

Thank you for your assistance in this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kathy O'Donnell".

Kathy O'Donnell
Baltimore County Rental Housing Program
410-887-6060

C: Rainbow Hall LLC
8717 Marburg Manor Dr.
Luth-Timonium, MD 21093

March 4, 2009

To: Donald Rascoe

From: Jim Thompson

Re: Valleys Planning Council Complaint
10729 Park Heights Avenue

Bill Wiseman
Rainbow
Hall

Teresa Moore, Executive Director of the ~~Valleys~~ Valleys Planning Council sent an e-mail concerning the use of Rainbow Hall for Apartments. In response to that correspondence, I performed a drive-thru of the property (19.6 acres) noting possible violations and forwarding my findings onto Code Enforcement.

Surprisingly, this building gave the appearance of in fact being vacant. Research was performed to learn the zoning history of this land. Enclosed are the public hearing decisions in case 63-152-X; 76-76-89-SPH; 91-166-SPHX and III-393/97-230-SPH. Further, per the ASA 400 notes this site has had enforcement complaints since November 2003 case 03-9092; 04-1423; and 06-9342. (Enclosed)

Most recently, as of October 6, 2008, an inspection was made pertaining to apartments and closed because "the facility is equipped and specifically designed for mulit-unit use." (Case c-00051910/Enclosed)

The building known as Rainbow Hall was once a boarding house for the aged. Special Exception case number 63-152-x established this use on November 26, 1963. Over time, this operation was interpreted per the zoning regulations as a convalescent home. Today, the current code views it as a nursing home.

In case 04-1423, inspector Kim Wood, closed out the multiple dwelling units complaint. This action was taken because of input from Arnold Jablon, Esquire that the site is a non-conforming use because apartments have always been in the building. Inspector Ryan Fischer appears to have applied the same logic in closing out his case on October 6, 2008. Baltimore County should consider requiring the property owner Rainbow Hall, Inc. to file for a special hearing petition to legally establish a non-conforming use. Otherwise, this building should have the apartments removed since an RC-2 zoning only permits one-family detached dwellings.

Don, if you agree please share your thoughts with Mike Mohler and myself. Teresa Moore just contacted me and wants an answer for her group.

CC: Tim Kotroco



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 03 Account Number - 2300003036

Owner Information

Owner Name:	RAINBOW HALL, INC	Use:	COMMERCIAL
Mailing Address:	8717 MARBURG MANOR DR LUTHERVILLE TIMONIUM MD 21093-4779	Principal Residence:	NO
		Deed Reference:	1) /16318/ 35 2)

Location & Structure Information

Premises Address	Legal Description
10729 PARK HEIGHTS AVE	19.6742 AC
	10729 PARK HGHTS AVE ES

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
59	20	270					5	1	Plat Ref: 70/ 95

Special Tax Areas

Town	
Ad Valorem	
Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000	28,837 SF	19.67 AC	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2008	07/01/2009
Land	369,200	403,900		
Improvements:	630,800	596,100		
Total:	1,000,000	1,000,000	1,000,000	1,000,000
Preferential Land:	0	0	0	0

Transfer Information

Seller: BAPTIST HOME OF MD INC	Date: 04/15/2002	Price: \$1,500,000
Type: IMPROVED ARMS-LENGTH	Deed1: /16318/ 35	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street W Baltimore, MD 21201 (2007 vw3.1)

[Main Menu](#) | [Security Interest Filings \(UCC\)](#) | [Business Entity Information](#)
([Charter/Personal Property](#)) [New Search](#) | [Rate Stabilization Notices](#) | [Get Forms](#) | [Certificate of Status](#) | [SDAT Home](#)

Taxpayer Services Division

Entity Name: RAINBOW HALL, LLC
Dept ID #: W06710321

General Information **Amendments** **Personal Property** **Certificate of Status**

Principal Office 4804 BENSON AVENUE
(Current): BALTIMORE, MD 21227

Resident Agent HENRY M. WRIGHT, JR.
(Current): 4804 BENSON AVENUE
BALTIMORE, MD 21227

Status: ACTIVE

Good Standing: No

Business Code: Other

Date of
Formation or 03/15/2002
Registration:

State of
Formation: MD

Stock/Nonstock: N/A

Close/Not Close: Unknown

Link Definition

General Information	General information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

I, ~~WIDOW~~ RUTH B. ROSENBERG, legal owner, 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 (1) ~~that the zoning of said property be re-classified from~~
~~the Zoning Law of Baltimore County, Book 11~~
~~to the Zoning Law of Baltimore County, Book 11~~

See Attached Description

~~XXXX~~ for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for a boarding house for the aged
(10 Units)

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

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

BAPTIST HOME OF MARYLAND, INC.

Ruth B. Rosenberg
Ruth B. Rosenberg

Legal Owner

Address

Address

Kenneth C. Proctor
Campbell Bldg., Towson, Md.

Proctor & Proctor

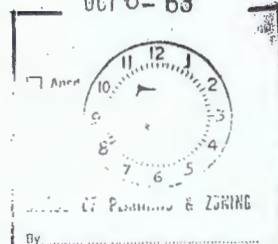
Address

10 Keating Bowie
Baltimore, Md. - Petitioner's Attorneys

ORDERED By The Zoning Commissioner of Baltimore County, this 8th day of October, 1963, that the subject matter of this petition be advertised, as

required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 26th day of November, 1963, at 10:00 o'clock

A.M.



Zoning Commissioner of Baltimore County.

(over)

10:10 A
11/26/63
201170

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Baptist Home of Md. legal owner 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 and/or Deputy Zoning Commissioner should approve the construction of a new infirmary wing on an existing Boarding Home for the Elderly. Original approval - 1963 --- 40 persons Addition approved - 1969 -- 24 persons - Proposed Infirmary Wing - 25 persons

See attached description

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

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

Contract Purchaser

Baptist Home of Maryland
G.B. Shubert, Pres.
Legal Owner

Address

Address 10729 Park Heights Avenue
Owings Mills, Maryland 21117

Petitioner's Attorney

Protestant's Attorney

Address 1213 Fidelity Building
Baltimore, Maryland 21201
539-0515

ORDERED By the Zoning Commissioner of Baltimore County, this 17th day of September, 1967, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22nd day of October, 1967, at 10:00 o'clock A.M.

SEP 17 75 PM

Kevin C. Hanna
Zoning Commissioner of Baltimore County

(over)

ORDER RECEIVED FOR FILING

OFFICE OF THE ZONING COMMISSIONER
By _____

10:00A
10/22/75

6-89-SPH

IN RE: PETITIONS FOR SPECIAL HEARING
AND SPECIAL EXCEPTION - E/S
Park Heights Avenue, 30' S of
the c/l of Velvet Valley Way
3rd Election District
3rd Councilmanic District

Baptist Home of Maryland/
Delaware, Inc.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-166-SPHX
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amendment to the special exception and site plan previously approved in Case No. 63-152-X to construct two additions to an existing facility, in accordance with Petitioner's Exhibit 1, and a special exception to approve that such expansion is a use permitted by special exception in an R.C. 3 zone, pursuant to Section 1.A02.2.B.16 of the Baltimore County Zoning Regulations (B.C.Z.R.). Petitioner also requests a special hearing to approve a five (5) year period in which to utilize the special exception, if granted, and that the restrictions set forth in previous Case No. 63-152-X relative to the alienability of, and services provided on, the subject property under the special exception granted therein, be removed. Petitioner further requested a special hearing to approve that the existing maintenance building on the R.C. 5 zoned portion of the property, in accordance with Petitioner's Exhibit 1, is an accessory structure to the subject facility.

The Petitioner, by Charles V. Pippen, Trustee and former President, and Reverend Randal N. Fowler, current Administrator, appeared, testified and was represented by James R. Anderson, Esquire. Also appearing on behalf of the Petitions was Brian D. Jones, Engineer. Jean

ORDER RECEIVED FOR FILING

Date

By

on

ORDER RECEIVED FOR FILING

IN THE MATTER OF THE
THE APPLICATION OF
BAPTIST HOME OF MARYLAND/
DELAWARE, INC.
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE PARK HEIGHTS AVENUE,
30' SOUTH OF CENTERLINE OF
VELVET VALLEY ROAD
3RD ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 91-166-SPHX

* * * * *
O P I N I O N
* * * * *

This is an appeal from the decision of the Zoning Commissioner, dated February 1, 1991, wherein Petitioner's request for a special hearing to approve an amendment to the special exception and site plan previously granted in Case No. 63-152-X to construct two additions to the existing facility in an R.C. 3 zone was granted, and wherein a Petition for Special Hearing to permit a maintenance building in the R.C. 5 zone as an accessory use to the existing facility was granted.

Petitioner appeared represented by Counsel, Robert A. Hoffman and John J. Gessner. Phyllis C. Friedman, People's Counsel for Baltimore County, appeared and participated in the proceedings.

The Petitioner offered the testimony of Reverend Randall M. Fowler, the Administrator of the Baptist Home. He informed the Board that the subject property is located on the east side of Park Heights Avenue, north of Greenspring Valley Road. The property was purchased by the Baptist Home in 1963. In 1969, additions were made to the property, and at present the Home proposes two more additions to the existing facility. The first addition will be on the east side of the main facility and will consist of 18 rooms, and the second addition will be on the west side and will consist of 11 additional rooms. He informed the Board that the Baptist

IN RE: DEVELOPMENT PLAN HEARING and
PETITION FOR SPECIAL HEARING for
Baptist Home of MD/DE, Inc.
(10729 Park Heights Avenue)
3rd Election District
3rd Councilmanic District

Baptist Home of MD/DE, Inc.
Owner/Developer

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. III-393 and 97-230-SPH
*

* * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer as a combined hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). That Section allows an applicant seeking development plan approval and special hearing relief, to combine the public hearings required for such approvals into one single hearing. In this case, the applicant seeks approval of a red-lined development plan prepared by LPJ Inc., for the proposed development of the subject property by Baptist Home of Maryland, Inc., Owner/Developer, with three (3) single family dwellings. The Owner/Developer also seeks approval, pursuant to the Petition for Special Hearing filed in companion Case 97-230-SPH, to create three (3) undersized R.C.5 non-density parcels and one (1) R.C.2 non-density parcel, and the removal of an existing special exception from a portion of the tract. The subject property and requested relief are more particularly described on the development plan and driveway profile drawings submitted into evidence as Developer's Exhibits 1A and 1B.

Appearing at the public hearing required for this project were Keith R. Bryan, the Assistant Administrator of the Baptist Home facility, George E. Gavrelis, Land Planner and former Deputy Director of the Baltimore County Office of Planning, Frederick R. Thompson, Professional Engineer who prepared the development plan for this project, and numerous

6/3/97
6/3/97
6/3/97

Case No: 03-9092Address: 10729 PARK HEIGHTS AVE 21117Insp Area: 010 Dist: 000 Date Rcv: 11/24/2003 Grp: ENF Intk: MSKInspec: _____ Inspec2: _____ Date Inspec: 11/25/2003Close: 11/26/2003 Activity: _____ Delete: XProblem: ILLEGAL COMM. ACTIVITY, ZONE RC 5;

_____CL Name: ZINN HARLINCL Address: 10628 PARK HEIGHTS AVE
_____ 21117CL Home Phone: 410-486-2899 CL Work Phone: _____ Tax Acct. 2300003036Owner: _____

Enter=Continue F12=Cancel

Case No: 03-9092

Notes: 11/26/03 MR.ZINN IS THE PRESIDENT OF THE NEIGHBORHOOD ASSOC. & THE OWNE
WR OF THE MANSION ACCASIONALLY RUNS AUCTIONS, FUNDRAISERS, ETC. FROM THE PROP. I
M GOING TO POST THE PROPERTY AS A WARNING, LETTING HIM KNOW THAT HE NEEDS PROPER
PERMITS FOR ANY ACTIVITY. COMPL .UPDATED (J.S/SS)***

Enter=Continue F12=Cancel

Case No: 04-1423Address: 10729 PARK HEIGHTS AVE 21117Insp Area: 003 Dist: 000 Date Rcv: 2/26/2004 Grp: ENF Intk: LSInspec: Inspec2: Date Inspec: 7/21/2004Close: 7/27/2004 Activity: Delete: X

Problem: MULTIPLE DWELLING UNITS; **SEE LAVETTE PRIOR TO INSPECTION**REOPEN -
RENTING 3 APTS OUT OF 2ND STRUCTURE, RENTING OUT FARM HOUSE, SAME COMPL

CL Name: ZENN HARLONCL Address: 00000 CL Home Phone: 410-486-2899 CL Work Phone: Tax Acct. 2300003036Owner: RAINBOW HALL INC, 8717 MARBURG MANOR DR, LUTHERVILLE TIMONIUM, MD 21093

Enter=Continue F12=Cancel

Case No: 04-1423

Notes: ***3/1/04 MAIN STRUCTURE W/3 GUEST HOUSES ARE ALL ON 1 LOT. & ARE NOT
OCCUPIED. CALLED COMPL. AM & PM, LEFT V-MAIL, PROP. IS ALSO POSTED, FOR REZONIN
GSIGN, 2-063, 2-065 FOR RENT SIGN, 410-382-2294. ON 3/1/04 PROPS. ARE SHOWN ON
1953 ZONING MAP CALLED COMPL. & AGAIN LEFT V-MAIL (P.C/SS)***
****7/21/04, REOPEN - RENTING 3 APTS OUT OF 2ND STRUCTURE, RENTING OUT FARM
HOUSE, JRA/CP****
**7/23/04, SPOKE WITH ARNOLD JABLON 410-494-6298, THIS PROP IS A "NON-CONFORMIN
G USE", ALWAYS HAD APTS IN BUILDINGS, NO VIOLATION, COMPL UPDATED BY VOICE
MESSAGE, CLOSED KW/WRKD**

Enter=Continue

F12=Cancel

Case No: 06-9342Address: 10729 PARK HEIGHTS AVE 21117Insp Area: 003 Dist: 000 Date Rcv: 11/03/2006 Grp: ENF Intk: MGInspec: TURNER Inspec2: Date Inspec: 11/15/2006Close: 11/17/2006 Activity: Delete: X

Problem: HOLDING A SALE BY A PRIVATE CO FOR 3 DAYS ON NOV 16,17,18 FOR CLOTH
ING SALES FROM A RES ZONED PROP, RC5

CL Name: ZINN HARLINCL Address: 10628 PARK HEIGHTS AVEOWINGS MILLS MD 21117CL Home Phone: 410-486-2899 CL Work Phone: Tax Acct. 2300003036Owner: RAINBOW HALL, INC, 8717 MARBURG MANOR DR, LUTH-TIMONIUM MD 21093-4779

Enter=Continue F12=Cancel

Case No: 06-9342

Notes: ***11/8/06, NO ACTIVITY OF A BUSINESS FROM A RESIDENCE, P/U 11/16/06 TO
REINSPECT, RT/CP***

***11/17/06, PERMIT ON FILE TO SELL CLOTHING FROM THIS HOUSE FOR 3 DAYS ONLY,
CLOSE, RT/CP***

Enter=Continue F12=Cancel

Thursday, Feb 26, 2009 11:32 AM

Bill Wiseman - RE: Thaler File

From: "Michael R. McCann" <Michael@MMcCannLaw.net>
To: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
Date: 10/19/2010 8:58 AM
Subject: RE: Thaler File
CC: <msnyder@coadyandfarley.com>, <atlantic.wine@verizon.net>, <wwiseman@baltimorecountymd.gov>

Michael: Thank you. We are planning on reviewing the records at 10 a.m. (assuming Ms. Pontone is finished her morning meeting by then). Mike Snyder indicated it would be ok if we reviewed the records at my office here.

With respect to Mr. Thaler's file, we would like to review it as well. I thought it was given to Mr. Wiseman on Friday and that we would be able to review it today as well. If that is not the case, and if you have the file, maybe the person from Mike Snyder's office could bring it over when she comes. I understand you have removed some items, and don't necessarily dispute that, but I think I will need some type of log/identification of those documents.

Thanks.

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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From: Michael T. Wyatt [mailto:mwyatt@marlowwyatt.com]
Sent: Tuesday, October 19, 2010 8:37 AM
To: 'Michael R. McCann'
Cc: msnyder@coadyandfarley.com; atlantic.wine@verizon.net; wwiseman@baltimorecountymd.gov
Subject: Thaler File

Mike: I understand you have separately worked out with Mike Snyder the issue of reviewing documents from Rainbow Hall under subpoena.

We also have the issue of Mr. Thaler's file. As you know, we maintain that a portion of that file is protected from disclosure. I handed that portion, along with the balance of Mr. Thaler's file, to Commissioner Wiseman at the conclusion of day 3 of the hearing and he is to conduct an *in camera* review. If you want to look at the rest of the file, please let me know and we can coordinate so that I can be present.

Thank you.

Michael

Bill Wiseman - RE: Rainbow Hall

From: "Michael R. McCann" <Michael@MMcCannLaw.net>
To: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
Date: 10/20/2010 12:22 PM
Subject: RE: Rainbow Hall
CC: <msnyder@coadyandfarley.com>, <atlantic.wine@verizon.net>, <wwiseman@baltimorecountymd.gov>

Michael: We completed the review before noon and left the documents to be copied with Mike Snyder. A representative of PostNet is going to Mike's office at 9 a.m. tomorrow to pick up the documents and give Mike an idea of how long it might take.

Thank you.

Regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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From: Michael T. Wyatt [mailto:mwyatt@marlowwyatt.com]
Sent: Wednesday, October 20, 2010 9:38 AM
To: 'Michael R. McCann'
Cc: msnyder@coadyandfarley.com; atlantic.wine@verizon.net; 'David Thaler'; wwiseman@baltimorecountymd.gov
Subject: Rainbow Hall

Mike:

I did not hear yesterday afternoon whether you had completed review of the documentation furnished by my client and our expert, David Thaler. I recall Commissioner Wiseman specifically imposing a deadline with respect to the review of these documents and that if you were not completed by the close of business Tuesday October 19th, all rights of inspection and/or copying, in the limited context of a hearing subpoena *duces tecum* issued under the Zoning Commissioner's rules, would come to an end. This has become a tremendous burden on Mr. Wright and is unnecessarily increasing our time and expense of dealing with this matter.

The documents are now in the possession of Mike Snyder.

Bill Wiseman - RE: Rainbow Hall

From: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
To: "Michael R. McCann" <Michael@MMcCannLaw.net>
Date: 10/20/2010 1:59 PM
Subject: RE: Rainbow Hall
CC: <msnyder@coadyandfarley.com>, <atlantic.wine@verizon.net>, <wwiseman@baltimorecountymd.gov>, "David Thaler" <dsthaler@dsthaler.com>

Understood. Thanks Mike.

I should have the Thaler copies to you by early part of next week. We have to send out for the plats.

Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204
Phone: (410) 821-1013
Fax: (410) 821-5432

From: Michael R. McCann [mailto:Michael@MMcCannLaw.net]
Sent: Wednesday, October 20, 2010 12:22 PM
To: 'Michael T. Wyatt'
Cc: msnyder@coadyandfarley.com; atlantic.wine@verizon.net; wwiseman@baltimorecountymd.gov
Subject: RE: Rainbow Hall

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Thank you.

Regards,

Michael

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From: Michael T. Wyatt [mailto:mwyatt@marlowwyatt.com]
Sent: Wednesday, October 20, 2010 9:38 AM

file://C:\Documents and Settings\wwiseman\Local Settings\Temp\GW\00002.HTM

10/20/10

To: 'Michael R. McCann'

Cc: msnyder@coadyandfarley.com; atlantic.wine@verizon.net; 'David Thaler';
wwiseman@baltimorecountymd.gov

Subject: Rainbow Hall

Mike:

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Thank you.

Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204
Phone: (410) 821-1013
Fax: (410) 821-5432

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Information from ESET NOD32 Antivirus, version of virus signature database 5549
(20101020)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Bill Wiseman - Rainbow Hall

From: "Michael R. McCann" <Michael@MMcCannLaw.net>
To: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>
Date: 11/24/10 3:51 PM
Subject: Rainbow Hall
CC: <wwiseman@baltimorecountymd.gov>

Michael:

Sorry for the delay in getting back to you on this.

My clients do not intend to call any additional witnesses and will close our rebuttal case, but we do intend to introduce several additional documents. The documents are either letters between the parties or are public records.

Also, we intend to introduce three summaries into evidence. One of these is a summary of the documents produced by the Respondent in response to our subpoena. We do not intend to introduce the thousands of underlying invoices, receipts, and other documents that were produced by the Respondent, but that would be Mr. Wiseman's call whether he would require their introduction as an exhibit.

The introduction of these documents should not take long, but it probably makes sense for us to appear on the 30th and take care of these matters on the record.

Please give me a call when you get a moment to discuss the filing of briefs.

Have a nice thanksgiving.

Best regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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Bill Wiseman - Rainbow Hall

From: "Michael R. McCann" <Michael@MMcCannLaw.net>
To: <wwiseman@baltimorecountymd.gov>
Date: 12/13/10 8:51 AM
Subject: Rainbow Hall
CC: "Michael T. Wyatt" <mwyatt@marlowwyatt.com>

Bill: My clients are ok with proceeding as you indicated last week. Thank you for your time and effort in the case.

Regards,

Michael

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
phone: 410.825.2150
facsimile: 410.825.2149
michael@mmccannlaw.net

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From: Theresa Shelton
To: michael@mmccannlaw.net
CC: Zimmerman, Peter; msnyder@coadyandfarley.com; mwyatt@marlowwyatt.com
Date: 8/23/2011 12:29 PM
Subject: Rainbow Hall Scheduling

Michael:

Good Afternoon.

As you are aware, the parties have been attempting to schedule a mutually agreeable date to convene this matter since the appeal was received at the Board on June 20, 2011.

In my letter to you on August 8, 2011, I requested confirmation of the dates that are being held on the Board's docket in November for the scheduling of Case No.: 10-280-A.

As indicated in the above referenced correspondence, these dates are available on Mr. Wyatt's calendar.

In addition, a Board Panel has been established for the five (5) days.

Please be advised that this matter will be scheduled on the November dates, with no future postponements; unless a written objection is received at the Board of Appeals, no later than Friday, August 26, 2011, from your office.

Thank you for your prompt attention to this matter.

Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

"I took the Green @ Work Energy Challenge Pledge."

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From: "Michael R. McCann" <michael@mmccannlaw.net>
To: "Theresa Shelton" <tshelton@baltimorecountymd.gov>
CC: "Peter Zimmerman" <pzimmerman@baltimorecountymd.gov>, <msnyder@coadyan...>
Date: 8/24/2011 2:00 PM
Subject: RE: Rainbow Hall Scheduling

Theresa: Thanks for your patience. I would like to keep those dates and was hoping to hear from the Court of Special Appeals to confirm that my oral argument in an appeal was not going to coincide with the Board's proposed dates. As you may know, the Court of Special Appeals makes you block off 7+ days several months in advance. We have called the Clerk's office and they assure me that I should be ok, but I have not heard definitively yet. All that said, I understand you will schedule the hearing for November 1, 2, 3, 8 and 9 if you do not hear from me.

Thanks.

-----Original Message-----

From: Theresa Shelton [mailto:tshelton@baltimorecountymd.gov]
Sent: Tuesday, August 23, 2011 12:29 PM
To: michael@mmccannlaw.net
Cc: Peter Zimmerman; msnyder@coadyandfarley.com; mwyatt@marlowwyatt.com
Subject: Rainbow Hall Scheduling

Michael:

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As indicated in the above referenced correspondence, these dates are available on Mr. Wyatt's calendar.

In addition, a Board Panel has been established for the five (5) days.

Please be advised that this matter will be scheduled on the November dates, with no future postponements; unless a written objection is received at the Board of Appeals, no later than Friday, August 26, 2011, from your office.

Thank you for your prompt attention to this matter.

Theresa
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue

11/14/11 Stephanie @ Marlow & Wyatt
Voicemail received Want transcript for Rainbow Hall 10-280-SP
410-821-1013

11/14/11 Helke @ McCann's ofc
Wants transcript in Rainbow Hall
~ I let her know Wyatt also requested
& suggested they work together to pay.

11/15 Chris Leary (typist) to pick up
~ advised of approx length & memo due
date.

Carl Richards - Re: Lack of Zoning for Rainbow Hall

From: Carl Richards
To: Friedman, Arlene
Date: 9/1/2010 11:36 AM
Subject: Re: Lack of Zoning for Rainbow Hall
Attachments: Carl Richards.vcf

Mrs. Friedman,

I can only too well understand your interest and concern about your neighborhood since I have property on Caves Road adjoining the Caves Valley Club and everyone is affected by illegal commercial functions and conversions. Even legitimate private residential parties can disrupt the peaceful Caves valley and I'm sure in your area also. The key to maintaining our rural personality is good communication, documentation, organization and enforcement. This office is mostly an inform and assist function of zoning dealing with all general information, permits, zoning reclassifications, variances, special exceptions and all development proposals. We can provide technical and code information and assistance, but if it is clear that a violation exists we usually involve code inspection and enforcement which is a separate section of this department. According to the records available to us, it appears that there were 4 complaints in 2009, and one in 2010 (see file C56827). For more detailed information on the outcome of the complaints, you should contact enforcement at 410-887-8099. You can click on after my name to our web page and all zoning general information available in this office.

W. Carl Richards, Jr.
Zoning Review, Baltimore County
Permits and Development Management
Room 111, County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
410-887-3391; 410-887-3048 (fax)
http://www.baltimorecountymd.gov/agencies/permits/pdm_zoning/index.html

>>> "Arlene Friedman" <Arlene@cordish.com> 8/31/2010 4:57 PM >>>
Mr. Richards,

I was referred to you, as a point of contact, by Michael Batza and Jack Cannella of Heritage Properties in Towson, MD.

I am a resident of Baltimore County and live near Rainball Hall, 10729 Park Heights Avenue, Owings Mills, MD 21117. Attached please find a recent Neighborhood Bulletin about the owner of the property who has been using the estate for various purposes without approved zoning from Baltimore County, and his current plans for conversion into rental apartments.

There is a special hearing scheduled for September 2010. What, if anything, can be done by the Zoning Review Bureau to prevent illegal uses of the property? Thank you for your review and consideration of this information.

Arlene Friedman
7 Rainbow Court
Owings Mills, MD 21117
P: 410-356-4422
EM: arlene@cordish.com

From: Kristen Lewis
To: Wiley, Debra
Date: 6/3/2010 2:09 PM
Subject: Re: Case 10-0280-SPH - 6/8 @ 9 AM

Hi Debbie,

Tim had that file, apparently, there was a request for postponement made by the owners of Rainbow Hall. Then after he received a follow up to the motion for a postponement, the attorney for the Petitioners wants to still keep this open for the 8th as motion to dismiss. With all that said, Im assuming, Ill bring that over shortly.

>>> Debra Wiley 6/3/2010 1:53 PM >>>

Hi Kristen,

Bill brought back next week's files and his only case was missing? What's the status?

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

6/8

From: Thomas Bostwick
To: Wiley, Debra; Wiseman, Bill; Zook, Patricia
Date: 5/14/2010 11:03 AM
Subject: Rainbow Hall, LLC

FYI,

We received the May 3, 2010 letter to Tim Kotroco from attorney Mike Wyatt regarding his client Henry Wright and Rainbow Hall, LLC and his strenuous objection to the filing of a Special Hearing on the 10729 Park Heights Avenue property. He indicated that he would be filing a motion to dismiss in the near future.

Subsequently, on May 12, 2010, we received a letter from Mr. Wyatt accompanied with a Motion for Postponement of the currently scheduled June 8, 2010 hearing date at 9:00 AM. Since it is significantly beyond the five days within which we would rule on the postponement request, I walked the letter over to Tim this morning and talked with him briefly about it. The reason for the postponement request is because one of the lawyers has a previously scheduled case elsewhere, and so they can have adequate time to prepare.

I suggested to Tim that he should contact Mr. Wyatt and see if he is going to file a Motion to Dismiss. If so, then perhaps the case can be kept in as scheduled on June 8, 2010 for a "motions hearing." Depending on that outcome, then the case could be scheduled for a hearing on the merits. Tim liked that idea, so it's now back in his court. I just wanted you all to know the latest development on the matter.

Thanks. Tom.

Patricia Zook - Rainbow Hall Chronology

From: Patricia Zook
To: Perlow, Jeffrey
Date: 12/16/2010 1:12 PM
Subject: Rainbow Hall Chronology

Good afternoon Jeff -

You were kind enough to prepare a Rainbow Hall Chronology for Bill Wiseman. Would it be possible to get an electronic version of this from you?

Bill and John have given me a tape so that I can start working on preparing an Order and they want to incorporate the chronology into the Order.

Thanks for your help, Jeff!

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

From: "Teresa Moore" <moorevpc@comcast.net>
To: <jthompson@baltimorecountymd.gov>
Date: 2/9/2009 3:33 PM
Subject: Rainbow Hall

Dear Jim,

Can you shed some light on a situation at Rainbow Hall, 10729 Park Heights Avenue?

I had received some complaints about the building there being used for apartments. I believe the zoning is RC2, which only permits single-family dwellings. I filed a complaint last fall and only followed up on it recently. I see that someone from code enforcement contacted a representative of the owner and the following notation was made:

10/6/98 - Spoke to representative of owner. This property has been apartments for years now. It was once a medical facility which had around 100 rooms each with its own bathroom. It has since been converted to 7-10 apt units. Work that is currently being done includes fixing plumbing, reflooring/tiling, and general cleanup. No violation as facility is equipped and specifically designed for multi-unit use. Case closed.

I don't believe any apartments there have been in existence long and also don't believe they allowed under the regulations. Can you clarify the situation for me? I am getting another round of inquiries.

Teresa Moore

Executive Director

Valleys Planning Council

410-337-6877 (phone)

410-296-5409 (fax)



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 15, 2011

Via Facsimile and Regular Mail

Michael T. Wyatt, Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204
Via Facsimile to: 410-821-5432

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204
Via Facsimile to: 410-825-2149

Re: In the Matter of: Rainbow Hall, LLC
Case No: 10-280-SPH

Dear Counsel:

I am in receipt of your request for transcript in the above referenced matter. Please be advised that we have sent the recording to the typist listed below.

The typist has been instructed to contact you by phone upon receipt of the recording. She will be able to provide you with the estimated cost, required deposit, and projected completion date.

I have advised her of the due date for the Memoranda.

Please direct all payments and questions regarding the transcript to the typist listed below.

Very truly yours,

Sunny Cannington
Sunny Cannington

Typist: Christine Leary
Telephone #: 443-622-4898
Mailing Address: 9529 Fox Farm Road, Baltimore, MD 21236

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County

Phone: 410-887-3180

Fax: 410-887-3182

To: Chris

From: Sunny Cannington, Legal Secretary

Date: November 15, 2011

Re: Transcripts

Hi Chris,

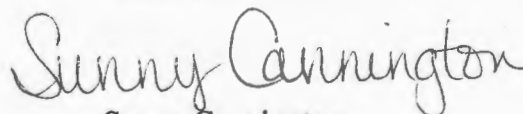
The attached is the recording from Case Number 10-280-SPH. The Board members who sat on this case are Lawrence S. Wescott, as Chairman (Middle), Maureen E. Murphy sat to the left and Edward W. Crizer, Jr., sat to the right.

I have prepared a letter to the attorneys requesting the transcript, which is attached hereto. Below are the attorneys telephone numbers so you may contact them directly.

Please be advised that the transcript is being requested for closing memoranda, which are due to the Board on December 8, 2011. This means they will require the transcript in enough time to prepare their memos.

Should you have any questions or problems, please do not hesitate to contact me.

Thank you.


Sunny Cannington

Attorney Information:

Michael Wyatt, Esquire 410-821-1013
Michael McCann, Esquire 410-825-2150

1 | BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

2 IN THE MATTER OF:

*

3 RAINBOW HALL, LLC

*

Case No. 10-280-SPH

4 *****

5 November 2, 2011

Pursuant to Notice, the above-entitled hearing was held before Chairman Wescott at Jefferson Building, 2nd Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, there being present on behalf of the respective parties:

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11

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13

14 ON BEHALF OF THE APPELLEES/PETITIONERS:

15	Michael McCann, Esquire
----	-------------------------

16

17 ON BEHALF OF THE APPELLANTS/PROTESTANTS:

18 Michael Wyatt, Esquire

19 Michael L. Snyder, Esquire

20

21

22

23

24

25 Christine R. Leary, Transcriber

1. BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

2 IN THE MATTER OF:

*

3 RAINBOW HALL, LLC

*

Case No. 10-280-SPH

4 *****

5 November 8, 2011

Pursuant to Notice, the above-entitled hearing was held before Chairman Wescott at Jefferson Building, 2nd Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204, there being present on behalf of the respective parties:

10

11

12

13

14 ON BEHALF OF THE APPELLEES/PETITIONERS:

15 Michael McCann, Esquire

16

17 ON BEHALF OF THE APPELLANTS/PROTESTANTS:

18 Michael Wyatt, Esquire

19 Michael L. Snyder, Esquire

20

21

22

23

24

25 Christine R. Leary, Transcriber



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

October 14, 2011

Lawrence S. Wescott, Chairman
County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204



Re: Rainbow Hall, Inc. – Legal Owner(s)
10729 Park Heights Avenue
Case No.: 2010-280-SPH

Dear Chairman Wescott:

Our office has reviewed the aforementioned decision of Zoning Commissioner (ZC), William J. Wiseman, III dated January 13, 2011. This case was initiated with a Petition for Special Hearing filed under BCZR 500.7 by Valleys Planning Council, Inc. The Petition requested a decision on several legal issues pertaining to the use of Rainbow Hall, a residential historic structure located within the Greenspring Valley National Register Historic District, and to the use of other structures on the site.

The current owner of Rainbow Hall, seeks to maintain the structure as an apartment building. The site is zoned Resource Conservation (R.C.) 2, which prohibits multifamily dwellings. The owner contends the prior use as a convalescent home, which discontinued in 2001, extends the use to a multi-family building.

The current owner also maintains that three single-family dwellings on the site are a valid, vested non-conforming use.

ZC Wiseman ordered that the use of Rainbow Hall as an apartment building is prohibited and that the residential dwellings on the site are non-conforming and could continue as separate residences. In light of the "split decision," both parties appealed to the CBA.

Our office entered its appearance on April 27, 2010. Having reviewed the record and Mr. Wiseman's decision, we offer these comments.

We disagree with ZC Wiseman that BCZR Section 500.7 is not available for "advisory opinions" for citizens and community groups to determine the legality of current and proposed uses on the site. (Opinion p. 9-10) This is contrary to appellate cases on this issue. The purpose of BCZR Section 500.7 is to allow determinations involving matters of zoning law, akin to a declaratory judgment, and it is available to any interested party. Antwerpen v. Baltimore County 163 Md. 194, 209 (2005).

In Marzullo v. Kahl 366 Md. 158, 165 (2001), the neighbors filed a Petition for Special hearing to determine if the use conducted on an adjoining property pursuant to a building permit was lawful. The Court of Appeals stated: "The petition stated that it was filed to determine "whether or not the Zoning Commissioner should approve in an RC 4 Zone, the use of the site for breeding, raising and selling of reptiles." The Court determined: "*The power given hereunder [BCZR Section 500.7] shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations. [Emphasis added.]*"

Likewise in Antwerpen, *supra* the Court of Special Appeals held the property owner may file a petition for Special Hearing. But there is no requirement the Petitioner must be the property owner. BCZR 500.7 clearly permits "any interested person" to apply for relief. Otherwise, property owners could act with impunity and the citizens would have no forum to seek redress.

In the Rainbow Hall case here, the citizens seek a determination of the legality of the purported nonconforming use on the premises and whether an apartment use is a legal extension of a convalescent home. Clearly, the appellate courts have recognized that the special hearing process is available to resolve a legal dispute. As, the Court stated in Antwerpen, at p. 209: "**A request for special hearing is, in legal effect, a request for a declaratory judgment.**" See also People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491, 496-97 (1989). Board of Child Care v. Harker 316 Md. 683 (1989). It is our position, therefore, that the Board has the authority to rule on the issues raised by the Petitioner in this matter.

Regarding the nonconforming use issues, the Board has addressed this in other cases. We point out the limited authority for such uses in BCZR Section 104. A leading appellate case is County Council for Prince George's Co. v. Gardner, 293 Md. 259 (1992). Purich v. Draper Properties 395 Md. 694 (2006) follows Gardner and provides a helpful examination and application of the law.

In Purich, Shell Oil Company, the lessee, applied in 1997 for a special exception to "renovate" or "modernize" an existing nonconforming fuel service station. The County Board of Appeals for Montgomery County approved the special exception, with various improvements itemized as conditions. The station continued to operate, but Shell never made the improvements. Subsequently, in 2003, a new lessee decided to go in a different direction and asked the CBA to

revoke the special exception and reinstate the nonconforming use. The CBA, over objection by a neighboring property owner, granted the request, and the Circuit Court affirmed.

Upon review in the Court of Appeals, Judge Cathell held that the approval of the special exception, together with operation of the station for six months, constituted an abandonment and termination of the nonconforming use as a matter of law. By electing to apply for and obtain a special exception, a type of permitted use, the applicant took the use out of the category of nonconforming uses and obtained the benefits of a permitted special exception use. Given the essential purpose of nonconforming use law to eliminate nonconforming uses and bring the property into conformity with permitted uses, the choice to apply for, obtain, and leave the special exception in effect for the statutory abandonment/discontinuity period terminated the nonconforming use as a matter of law. See e.g., Canada Tavern, Inc v. Town of Glen Echo 260 Md. 206 (1970).

In the present situation, there is even less of an argument for a nonconforming use. The convalescent home was permitted by special exception in the R.C. 3 (Rural Deferred Planning) Zone. It received this approval in 1991 (modifying previous zoning approvals for a boarding home for the elderly in the R.40 and R.D. P. Zones). There appears to be no dispute that the convalescent home was abandoned or was discontinued in 2001. Although it might have been revived as a special exception so long as the property was zoned R.C. 3, the County Council legislatively rezoned the R.C. 3 portion of the property to R.C. 2 (Agricultural) in 2004. A convalescent home is not a permitted use in the R.C. 2 Zone. Whether permitted by right or special exception, a use becomes nonconforming where the new zoning classification does not allow it. The BCZR Section 101.1 Definition of Nonconforming Use states:

“Nonconforming Use - A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]”

In this context, the grant of a special exception does not confer a privilege to survive or supersede nonconforming use law. It is treated like any other nonconforming use. So, upon the 2004 rezoning, there was no longer any right to have a convalescent home. Indeed, as the use had been discontinued in 2001, there was actually not even a nonconforming convalescent home use in existence in 2004. Had it been in existence, any subsequent discontinuance (for a year) would anyway have terminated the use under BCZR Section 104.1. The fact is that the convalescent home use has not existed for about 10 years, well before the rezoning.

As there is no dispute that the convalescent home was abandoned or discontinued, even before the rezoning, there is not a shadow of an argument for its resumption as a permitted use or for the establishment there of any other use prohibited in the R.C. 2 Zone. Any new use must be a use listed as permitted in the zone. Kowaski v. Lamar 25 Md. App. 493, 496-501 (1975); People's Counsel for Baltimore County v. Surina 400 Md. 662, 687-88 (2007). Therefore, Rainbow Hall may not be used or converted to apartment use.

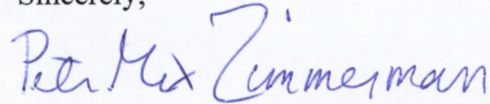
Lawrence S. Wescott, Chairman

October 14, 2011

Page 4

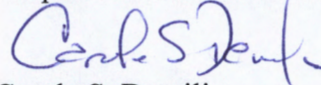
Meanwhile, there is the more complicated question of whether the three cottages on the property may be viewed separately as nonconforming uses and if so, whether they satisfy the test of continuity. We reserve our view on these matters, pending further proceedings.

Sincerely,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S. Demilio

Deputy People's Counsel

cc: Michael McCann, Attorney for Petitioners
Michael Wyatt, Attorney for Rainbow Hall

FA 0053810

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

August 3, 2009

*Person
pls. fill
if not already
in file*

Ms. Teresa Moore
Executive Director
The Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Kathleen Pontone, Esquire
Miles & Stockbridge, P.C.
10 Light Street
Baltimore, Maryland 21202

Re: Rainbow Hall

Dear Ms. Moore and Ms. Pontone:

I am writing to follow up on our meeting in late May 2009 relating to Mr. Henry Wright and the property located at 10729 Park Heights Avenue known as Rainbow Hall. The purpose of this letter is to address some of the concerns raised by The Valleys Planning Council, Inc. and to, hopefully, provide an acceptable explanation relating to some of the activities which have taken place at Rainbow Hall during Mr. Wright's ownership.

During our meeting, you expressed concerns about the apartments located within Rainbow Hall as well as activities or "events" that have taken place in the past.

As you may know, the property was purchased by Rainbow Hall, LLC in 2002. It is improved by a large mansion house, with an adjoining institutional-style wing and three (3) separate and detached tenant houses. At the time of Mr. Wright's purchase of the property, it was being used by the Baptist Home of Maryland/Delaware, Inc. as a convalescence home for its members. At that time, there were some 80 or 90 residents that called Rainbow Hall their home. This use had been in existence for quite some time and is the subject of a rather extensive zoning history. In fact, Rainbow Hall's use and operation as a boarding house has been recognized by Baltimore County since at least 1963. From that time to present, there have always been tenants located in the main house, its institutional-style wing, and tenant houses. As we explained, Mr. Wright's current operation of the property represents a significantly less obtrusive and intensive "boarding house". Currently, there are eight (8) apartments of which only seven (7) are occupied. The residents in these apartments are adults, some of whom have physical handicap limitations. It has been and will continue Mr. Wright's goal to properly maintain the historical and aesthetic values of Rainbow Hall and I am sure you have witnessed this the times you visited the property. It goes without saying that the maintenance and upkeep of Rainbow Hall is a

substantial expense and underwriting the operation of this property has been and will continue to be at a monetary loss to Mr. Wright. Mr. Wright's proven track record of restoring and maintaining historic properties in the Baltimore area virtually speaks for itself and Rainbow Hall is no exception.

At our meeting, you also indicated that The Valleys Planning Council, Inc. supported the down-zoning of the property during the 2002 quadrennial comprehensive rezoning. This put the property back to an RC2 zoning. In any event, we believe Mr. Wright continues to operate the property in the spirit and intent of applicable zoning laws and the 1988 restrictive covenant agreement, to the extent applicable.

Over the past several years, events taking place at Rainbow Hall have consisted of the weddings of close friends of Mr. Wright, a Halloween party, and an annual holiday craft specialty show for which permits were obtained (and which benefitted a charitable organization). I note these uses have been on a gratuitous basis, consistent with its designated zoning. Additionally, the Church of the Resurrection, a Christian congregation of approximately 60-75 people, utilizes Rainbow Hall for a Sunday morning prayer service. There are typically no more than 50 parishioners in attendance. I have spoken to Mr. Patrick Cunningham, the senior warden of the Church of the Resurrection, and he informs me that Rainbow Hall is an ideal location for the Church to conduct its weekly prayer sessions, particularly since many of the parishioners live in the area. I am unaware of any licensing or violations arising out of these intermittent uses.

All of this follows the rich, vibrant history of this property dating back to its use as the Avalon Hotel at the turn of the last century. Then when the property was purchased in 1912 by Edward Stotesbury as a gift for his stepdaughter, Henriette Louise Cromwell, a home was built on the property by the famous architect, Horace Trumbauer. Ms. Cromwell and her first husband, Walter Brooks, regularly entertained and used nine (9) of the bedrooms as guest rooms and guest apartments. At that time, there were three (3) guest houses on the property as well. Later, Henriette married Gen. Douglas MacArthur in 1921 and they continued to entertain many famous guests, such as Gen. and Mrs. Dwight Eisenhower.

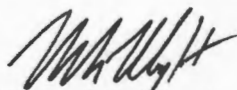
The 1950s witnessed the next owners, the Rosenberg family, sell the property to a group of investors who operated the mansion as a private golf club with apartments and rooms available for members as well as dining and catering facilities. When this club did not succeed, Mr. Henry Rosenberg reacquired ownership of the property and sold it to the Baptist Home of Maryland. At that point, the rooms in the main structure were divided to accommodate as many residents as possible, as well as providing employment for numerous caregivers working at the facility. In addition, the Baptist Home offered dining and catering to the residents and the institutional-style wing was later added in the 1970s. Upon purchasing the property in 2002, Mr. Wright continued renting the existing apartments, on a much-reduced scale, in order to defray the enormous cost associated with maintaining the history and integrity of Rainbow Hall. All of the apartments have been inspected for code and life safety matters. Please understand Mr. Wright has no intention of expanding the current use of the property.

Ms. Teresa Moore
Kathleen Pontone, Esquire
August 3, 2009
Page 3

We sincerely hope you will consider the above in the context of any perceived misgivings The Valleys Planning Council, Inc. may have with respect to Mr. Wright's ownership and use of the property. It has always been Mr. Wright's practice and mission to be a good steward of historical properties.

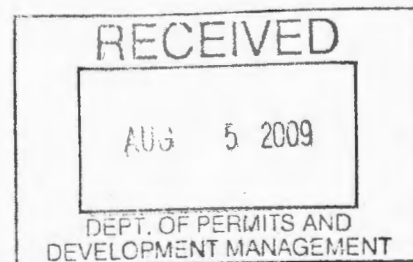
Again, thank you for the opportunity to meet with you and address these concerns.

Very truly yours,


Michael T. Wyatt

MTW/sjm

cc: Michael L. Snyder, Esquire
Mr. Henry Wright
David S. Thaler, P.E.
Timothy Kotroco, Director-PADM



Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

October 5, 2010

RECEIVED

OCT 05 2010

ZONING COMMISSIONER

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

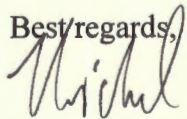
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please find additional subpoenas for issuance in the above matter.

Thank you for your cooperation.

Best regards,



Michael R. McCann

5/17 11:29

Confirmed w/ Truly

Tim rec'd fax.

We didn't
receive fax
confirmation.

Deb

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

May 17, 2010

Via Hand Delivery

William Wiseman
Zoning Commissioner of Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

MAY 17 2010

ZONING COMMISSIONER

Re: Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

I write in response to the Motion for Postponement filed by Rainbow Hall, LLC.

Putting aside the merits of the threatened motion to dismiss, the Valleys Planning Council (VPC) does not oppose a postponement of the June 8, 2010 hearing on the grounds that co-counsel may have a conflict on that date. The VPC also is not opposed to the scheduling of a hearing on any motion to dismiss prior to the rescheduled hearing date. One reasonable option would be to use the existing June 8th date for that purpose since it would not appear necessary for all counsel to attend that hearing.

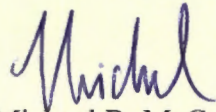
However, we do believe a continuance of 90 days or more, as requested, is unnecessary and not warranted. The issues giving rise to this case have been going on for many years, and actually date back to a Restrictive Covenant Agreement entered in 1988. Over this period of time, the VPC has had numerous meetings and discussions with the property owner regarding the proper use of the property. In fact, when the VPC met with Mr. Wyatt and his client back in May of 2009, they attended that meeting armed with documents and reasons why they believe the current uses are permitted. Earlier this year, when it became apparent that a resolution could not be reached, the VPC informed Rainbow Hall, LLC that it would be initiating these proceedings. The suggestion that this has been sprung upon the property owner is simply not true.

Post-it® Fax Note	7671	Date	5-17	# of pages	2
To	Tim Wiseman	From	Bill Wiseman		
Co./Dept.		Co.	(6-8 days)		
Phone #	Re: Rainbow Hall	Phone #			
Fax #		Fax #			

We believe a continuance of no more than 30 days is reasonable. If you grant a continuance, we request that the hearing on the motion to dismiss be scheduled on the current date of June 8th.

Thank you for your consideration.

Best regards,

A handwritten signature in blue ink, appearing to read "Michael", with a stylized flourish at the end.

Michael R. McCann

cc: Michael T. Wyatt, Esq. (*via* facsimile & U.S. Mail)

BW
10/12 } 9am
10/13 }
10/15 }
Rm. 104

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

RECEIVED

AUG 26 2010

ZONING COMMISSIONER

August 24, 2010

William Wiseman
Zoning Commissioner of Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

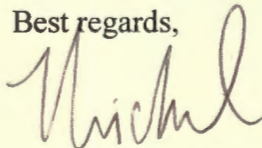
On behalf of the Valleys Planning Council and other members of the community, I filed a Petition for Special Hearing in the above matter on April 15, 2010. For the past several weeks, the parties have been attempting to schedule two to three hearing dates, but with great difficulty.

Thus far, we have only been able to obtain one date, September 23rd. I was informed by the Zoning Review Office that they are not able to schedule any subsequent days because the October calendar is not yet available.

I know that hearings are not typically scheduled directly through your office, but I was hoping we could obtain dates from you in early October since the hearing has already been scheduled for one day. Please let me know if that is possible.

Thank you for your cooperation. I appreciate it.

Best regards,



Michael R. McCann

cc: Michael T. Wyatt, Esq. (counsel for Respondent)

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

October 1, 2010

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

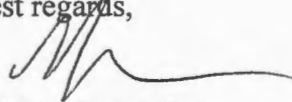
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please find thirteen (13) subpoenas for issuance in the above matter.

Thank you for your cooperation.

Best regards,



Michael R. McCann

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

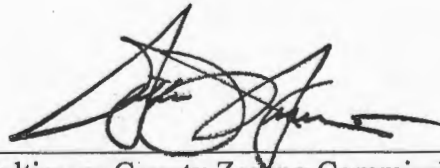
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Jean Lubke**
17209 Park Heights Ave.
Owings Mills, Maryland 21117

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.



Baltimore County Zoning Commissioner

Dated: 10-1-10

SCHEDULE OF DOCUMENTS

1. All documents concerning, referring to, or relating to your lease of an apartment or unit at the property located at 10729 Park Heights Avenue.
2. All documents concerning, referring to, or relating to your marketing and/or advertising for lease or sale all or any portion of the property located at 10729 Park Heights Avenue.
3. All bills, invoices, contracts, agreements and other documents concerning, referring to, or relating to the lease or use of the property located at 10729 Park Heights Avenue for weddings, parties, shows, meetings, and other events or affairs.
4. All documents concerning, referring to, relating to, or reflecting the income generated from the lease or use of the property at 10729 Park Heights Avenue for weddings, parties, shows, meetings, and other events or affairs.
5. All documents concerning, referring to, or relating to your employment by Rainbow Hall, LLC and/or Henry Wright.
6. All other documents concerning, referring to, or relating to the property located at 10729 Park Heights Avenue.

*The term "documents" include, without limitation, all papers, writings, drawings, graphs, charts, photographs, recordings, emails, and other data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form.

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

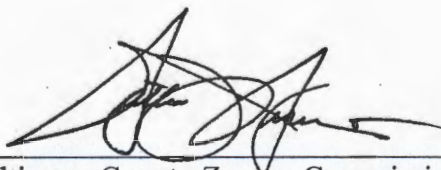
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Evan Hulting**
10729 Park Heights Ave.
Apt. 2B
Owings Mills, MD 21117

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

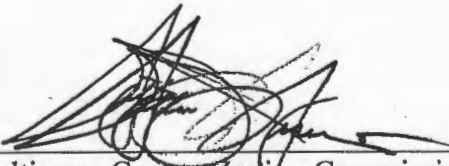
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Mark Wilson**
10705 Park Heights Avenue
Owings Mills, MD 21117

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-11-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

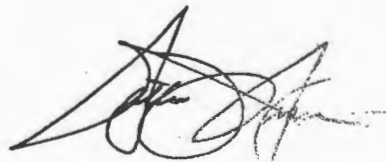
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Custodian of Records**
Allfirst/M&T Bank
110 Wehrly Dr., 2nd Floor
Attn: Legal Doc. Processing
Williamsville, NY 14221

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.



Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

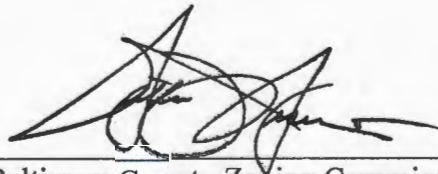
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Keith Bryan**
Fahrney-Keedy Home and Village
8507 Mapleville Rd.
Boonsboro, MD 21713

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.



Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

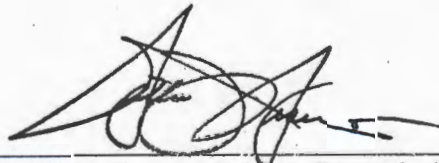
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Ted Houk**
7402 York Rd. # 301
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.



Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

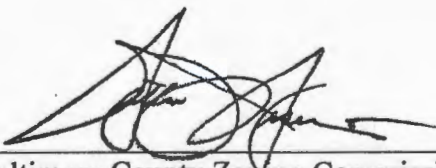
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Custodian of Records**
Attn: Janice Joki
Long & Foster Real Estate
14501 George Carter Way
Chantilly, Virginia 20151

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

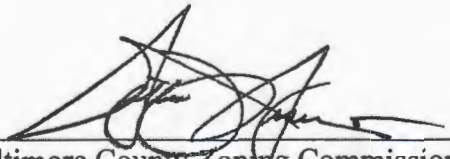
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Marc Witman**
Yerman Witman Gaines & Conklin Realty
1425 Clarkview Rd.
Baltimore, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

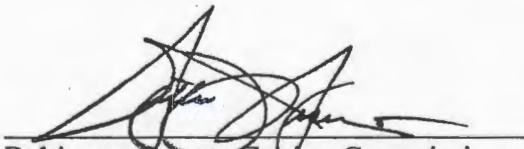
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Mark Burton**
Mister, Burton, Palmisano & French
307 International Circle # 570
Hunt Valley, MD 21030

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Paul Cooper**
Alex Cooper Auctioneers
908 York Rd.
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

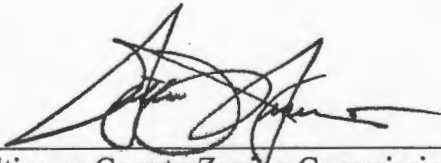
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Libby Berman
Long & Foster Real Estate
10801 Tony Drive
Lutherville, MD 21093

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-11-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

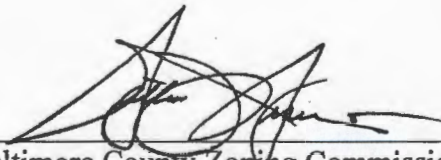
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Charles Carroll**
Long & Foster Real Estate
10801 Tony Drive
Lutherville, MD 21093

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.



Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

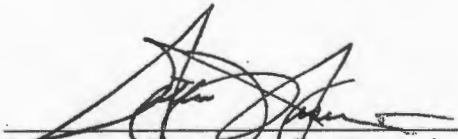
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Cindy A. Gower**
Gower Thompson Inc.
429 East Lake Ave.
Baltimore, MD 21212

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-1-10

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

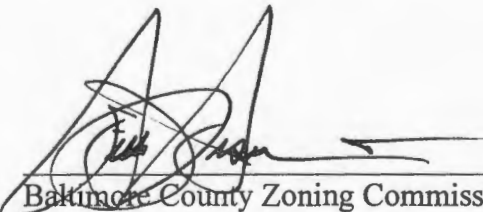
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Henry M. Wright, Jr.
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: *October 5, 2010*

SCHEDULE OF DOCUMENTS

1. The contract of sale (including any drafts, amendments, addenda thereto) and all other documents concerning, referring or relating to your purchase of the Property (*see* definition below).
2. All documents concerning, referring or relating to, constituting or reflecting the marketing, listing, or advertising of the sale and/or auction of the Property prior to your purchase of the Property.
3. All lease agreements and other documents concerning, referring or relating to the lease of any apartment in the main building at the Property.
4. All advertisements, marketing materials, brochures, notices, correspondence and other documents concerning, referring or relating to your lease or attempted lease of any apartment in the main building at the Property.
5. All lease agreements and other documents concerning, referring or relating to the lease or attempted lease of one or more of the buildings at the Property, either prior to or since your purchase of the Property.
6. All advertisements, marketing materials, brochures, notices, correspondence and other documents concerning, referring or relating to your lease or attempted lease of the Property, either prior to or since your purchase of the Property.
7. All contracts, invoices, bills, correspondence and other documents concerning, referring or relating to your rental or lease of the main building at the Property to any person or entity for any event, activity, program, show, meeting or other use.

8. All advertisements, brochures, notices, invitations, correspondence and other documents concerning, referring or relating to any event, activity, program, show, meeting, or other use of the main building at the Property.

9. All documents concerning, referring or relating to the use of the Property prior to your purchase of the Property in April 2002.

10. All documents concerning, referring or relating to, reflecting or constituting complaints received by you regarding the Property or your use thereof.

11. All correspondence and other documents sent to or received from one or more of the following persons or entity(ies) regarding the Property:

- (a). the Baptist Home of MD/DE, Inc.;
- (b). Long & Foster Realty (including but not limited to Charles Carroll, Marc Witman, Michael Yerman and/or Libby Berman);
- (c). M&T Bank and/or Allfirst Bank;
- (d). Alex Cooper Auctioneers (including but not limited to Paul Cooper);
- (d). Baltimore County (including but not limited to documents sent to or received from the Office of Planning, the Department of Permits and Development Management, the Zoning Review Office and/or the Office of Code Enforcement);
- (e). Any person or entity to whom you have rented or leased all or any portion of the Property;
- (f). Any person or entity who has used all or any portion of the Property for any event, activity, program, show, meeting, or other use;
- (g). Any contractor who performed work or provided services at the Property;
- (h). any person or entity who has used the Property.

12. All documents filed with Baltimore County regarding the Property, including but not limited to any application or request for a permit or other approval.

13. All documents concerning, referring or relating to your request for a change in the zoning of the Property during Baltimore County's Comprehensive Zoning Map Process.

14. All contracts, invoices, bills, and other documents concerning, referring or relating to any improvements made to the Property since your purchase in April 2002.

15. All photographs, videotape, drawings, plans, plats, floor plans, layouts, and other depictions of the Property or the buildings thereon.

DEFINITIONS

1. The term "Property" refers to the property which is the subject of this proceeding and is known as 10729 Park Heights Avenue, Owings Mills, Maryland 21117, including all buildings and other improvements thereon.

2. The term "documents" include, without limitation, all papers, writings, drawings, graphs, charts, photographs, recordings, emails, and other data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form.

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

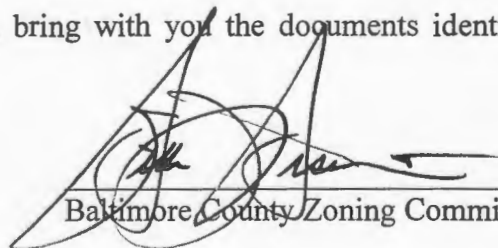
* * * * *

SUBPOENA DUCES TECUM

To: Rainbow Hall, LLC
Custodian of Records
4804 Benson Avenue
Baltimore, Maryland 21227

Serve on:
Henry M. Wright, Jr.
Resident Agent
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: *October 5, 2010*

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
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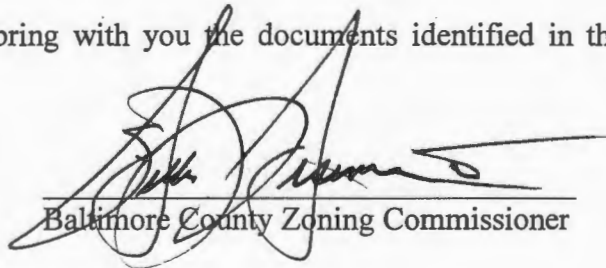
* * * * *

SUBPOENA DUCES TECUM

To: Baptist Conventional of Maryland/Delaware, Inc.
Custodian of Records
10255 Old Columbia Road
Columbia, Maryland 21046

Serve on: Resident Agent
David H. Lee
785 Pine Valley Drive
Arnold, MD 21012

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated:

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

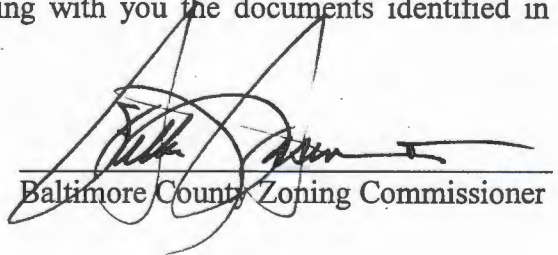
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Carol Moore
Baptist Conventional of Maryland/Delaware, Inc.
10255 Old Columbia Road
Columbia, Maryland 21046

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated:

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

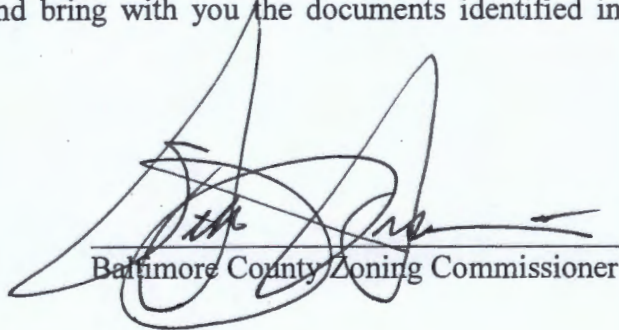
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **D.S. Thaler & Assocs., Inc.**
Custodian of Records
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: 10-5-10

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

RECEIVED

OCT 12 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

October 11, 2011

Theresa R. Shelton, Administrator
County Board of Appeals
Jefferson Building
105 W. Chesapeake Avenue, Ste. 203
Towson, Maryland 21204

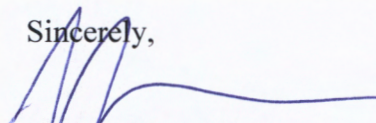
Re: In re: Rainbow Hall
Case No: 10-280-SPH

Dear Ms. Shelton:

Enclosed please find two (2) subpoenas for issuance in the above referenced matter. The purpose of these subpoenas is to, *inter alia*, obtain information regarding respondent's use of the subject property.

Thank you for your assistance. Please contact me if you have any questions.

Sincerely,



Michael R. McCann

Enclosures

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No: 10-0280-SPH
*
*

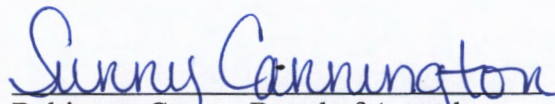
* * * * *

SUBPOENA DUCES TECUM

To: Rainbow Hall, LLC
Custodian of Records
4804 Benson Avenue
Baltimore, Maryland 21227

Serve on:
Henry M. Wright, Jr.
Resident Agent
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 12 2011

BALTIMORE COUNTY
BOARD OF APPEALS

SCHEDULE OF DOCUMENTS

1. The contract of sale (including any drafts, amendments, addenda thereto) and all other documents concerning, referring or relating to your purchase of the Property (*see* definition below).
2. All documents concerning, referring or relating to, constituting or reflecting the marketing, listing, or advertising of the sale and/or auction of the Property prior to your purchase of the Property.
3. All lease agreements and other documents concerning, referring or relating to the lease of any apartment in the main building at the Property.
4. All advertisements, marketing materials, brochures, notices, correspondence and other documents concerning, referring or relating to your lease or attempted lease of any apartment in the main building at the Property.
5. All lease agreements and other documents concerning, referring or relating to the lease or attempted lease of one or more of the buildings at the Property, either prior to or since your purchase of the Property.
6. All advertisements, marketing materials, brochures, notices, correspondence and other documents concerning, referring or relating to your lease or attempted lease of the Property, either prior to or since your purchase of the Property.
7. All contracts, invoices, bills, correspondence and other documents concerning, referring or relating to your rental or lease of the main building at the Property to any person or entity for any event, activity, program, show, meeting or other use.

8. All advertisements, brochures, notices, invitations, correspondence and other documents concerning, referring or relating to any event, activity, program, show, meeting, or other use of the main building at the Property.

9. All documents concerning, referring or relating to the use of the Property prior to your purchase of the Property in April 2002.

10. All documents concerning, referring or relating to, reflecting or constituting complaints received by you regarding the Property or your use thereof.

11. All correspondence and other documents sent to or received from one or more of the following persons or entity(ies) regarding the Property:

- (a). the Baptist Home of MD/DE, Inc.;
- (b). Long & Foster Realty (including but not limited to Charles Carroll, Marc Witman, Michael Yerman and/or Libby Berman);
- (c). M&T Bank and/or Allfirst Bank;
- (d). Alex Cooper Auctioneers (including but not limited to Paul Cooper);
- (d). Baltimore County (including but not limited to documents sent to or received from the Office of Planning, the Department of Permits and Development Management, the Zoning Review Office and/or the Office of Code Enforcement);
- (e). Any person or entity to whom you have rented or leased all or any portion of the Property;
- (f). Any person or entity who has used all or any portion of the Property for any event, activity, program, show, meeting, or other use;
- (g). Any contractor who performed work or provided services at the Property;
- (h). any person or entity who has used the Property.

12. All documents filed with Baltimore County regarding the Property, including but not limited to any application or request for a permit or other approval.

13. All documents concerning, referring or relating to your request for a change in the zoning of the Property during Baltimore County's Comprehensive Zoning Map Process.

14. All contracts, invoices, bills, and other documents concerning, referring or relating to any improvements made to the Property since your purchase in April 2002.

15. All photographs, videotape, drawings, plans, plats, floor plans, layouts, and other depictions of the Property or the buildings thereon.

DEFINITIONS

1. The term "Property" refers to the property which is the subject of this proceeding and is known as 10729 Park Heights Avenue, Owings Mills, Maryland 21117, including all buildings and other improvements thereon.

2. The term "documents" include, without limitation, all papers, writings, drawings, graphs, charts, photographs, recordings, emails, and other data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form.

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

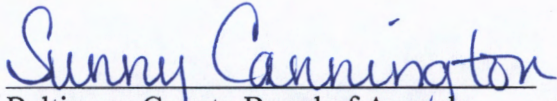
* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Henry M. Wright, Jr.
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:



CIRCUIT COURT FOR TALBOT COUNTY

MARY ANN SHORTALL, Clerk
11 North Washington St, Ste. 16
Easton, Maryland 21601
Telephone : (410) 822-2611

Gail Flaherty Scott

Case Number 20-C-08-6513

Plaintiff

Vs.

☒ Civil

☐ Criminal

Douglas Michael Stewart

Defendant

STATE OF MARYLAND, TALBOT COUNTY TO WIT:

SUBPOENA

To (Name, Address and County): Michael L. Snyder, Esq.
Coady & Farley
400 Allegheny Ave.
Towson, MD 21204

YOU ARE HEREBY COMMANDED to attend and testify at a:

☒ Court Proceeding ☐ Deposition
Circuit Court for Talbot County
11 N. Washington St., Ste. 16
at Easton, MD 21601
(Place of attendance)

on 7th day of June, 2010 at 9:00 a.m./p.m.

To continue day to day until conclusion of said trial.

☐ and to produce the following documents and objects:

Subpoena requested by ☒ Plaintiff; ☐ Defendant; and any questions should be referred to: _____

Charles L. Scott, Jr., Esq.
Scott & Scott, 109 E. Main St., Elkton, MD 21921 (410) 398-0611

(Name of party or Attorney, Address and Phone Number)

Date Issued 4-19-10

CLERK

(Signature and Seal)

NOTICE:

- (1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.
- (2) This subpoena shall remain in effect until you are granted leave to depart by the Court or by an officer acting on behalf of the Court.
- (3) If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

SHERIFF'S RETURN

☐ Served and copy delivered on date indicated below.

☐ Unserved, by reason of _____

Date: _____ Fee: \$ _____

SHERIFF

10/12/18

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
10729 Park Heights Avenue * BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

MOTION TO QUASH SUBPOENAS DUCES TECUM

RAINBOW HALL, LLC and HENRY M. WRIGHT, JR. ("WRIGHT"), Movants, by their attorneys, Michael T. Wyatt and Michael L. Snyder, hereby move to quash the subpoenas *duces tecum* served on them in the above-referenced zoning proceeding, and for other relief. The grounds for the Motion are as follows:

1. The facts relating to the above-referenced zoning proceeding date back many years. VALLEYS PLANNING COUNCIL, INC. ("VPC") recently renewed its decades-old challenge to the multi-residential unit use of the Rainbow Hall facility when it instituted the above-referenced "special hearing" proceeding.¹

2. On October 6, 2010, just several days prior to the commencement of the scheduled hearing date, counsel for VPC served on RAINBOW HALL, LLC and WRIGHT, respectively, subpoenas *duces tecum* requesting a broad array of documents. Attached hereto, incorporated by reference herein, and labeled collectively as "Exhibit 1" are true and correct copies of the subpoenas *duces tecum* served on Movants.

¹ In view of the fact that counsel for VPC is deploying a broad-brush subpoena *duces tecum* campaign, it could well be the case that VPC filed the Petition without any factual support.

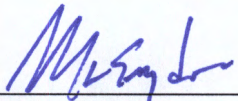
3. That it is clear from even a cursory review of the "Schedule of Documents" sought from RAINBOW HALL, LLC and WRIGHT that the information sought to be elicited through a hearing subpoena is or would more properly be classified as discovery in the guise of a hearing subpoena. Many of these documents go back some 8 to 9 years, when the property was marketed and sold to its current owner. Additionally, many of the documents sought are clearly outside the scope of any reasonable relevance to these proceedings. For example, correspondence by and between Movants and/or realtors, banking institutions, auctioneers, and/or Baltimore County, without any guidance as to time periods or subject matter, is so overly broad and unduly burdensome as to make it virtually impossible for Movants to comply with the subpoena. Without question, the incredible breadth of the subpoena would have Movants searching for many hours and days for the documentation.

4. The tactic employed by VPC should not be countenanced by the Zoning Commissioner.

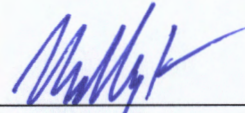
WHEREFORE, RAINBOW HALL, LLC and WRIGHT request the following:

- a. That the subpoenas *duces tecum* issued against each of them be quashed;
- b. That each of them be awarded their costs, including reasonable attorney's fees, occasioned by their having to respond and file the within Motion in an amount to be determined by the Zoning Commissioner.
- c. For such other and further relief as the nature of their cause and justice so require.

Respectfully submitted,



Michael L. Snyder
Coady & Farley
400 Allegheny Avenue
Towson, Maryland 21204
(410) 337-0200

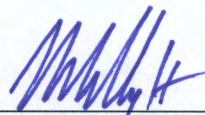


Michael T. Wyatt
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of October, 2010, a copy of the foregoing was
hand-delivered to:

Michael R. McCann, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204
Baltimore, Maryland 21203
Attorney for VALLEYS PLANNING COUNCIL, INC.



Michael T. Wyatt

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

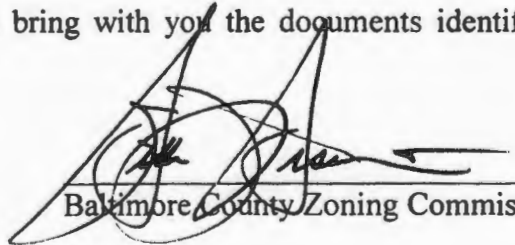
* * * * *

SUBPOENA DUCES TECUM

To: Rainbow Hall, LLC
Custodian of Records
4804 Benson Avenue
Baltimore, Maryland 21227

Serve on:
Henry M. Wright, Jr.
Resident Agent
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: October 5, 2010

" Ex. 1 "

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER

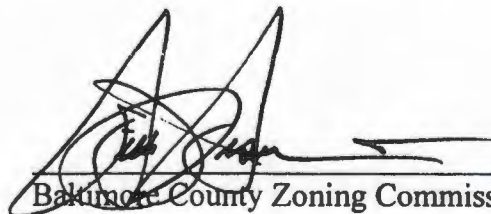
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Henry M. Wright, Jr.
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 12th day of October, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: *October 5, 2010*

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

RECEIVED
OCT 24 2011

BALTIMORE COUNTY
BOARD OF APPEALS

October 24, 2011

Theresa R. Shelton, Administrator
County Board of Appeals
Jefferson Building
105 W. Chesapeake Avenue, Ste. 203
Towson, Maryland 21204

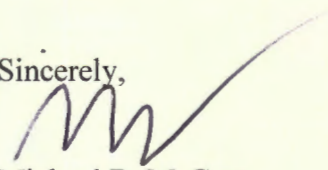
Re: In re: Rainbow Hall
Case No: 10-280-SPH

Dear Ms. Shelton:

Enclosed please find six (6) subpoenas for issuance in the above referenced matter.

Thank you for your assistance. Please contact me if you have any questions.

Sincerely,



Michael R. McCann

Enclosures

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA

To: Kim Wood
Department of Permits and Development Management
Code Inspection and Enforcement
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd and 30th day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioners.

Baltimore County Zoning Commissioner

Dated:

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA

To: Paul Cohen
Department of Permits and Development Management
Code Inspection and Enforcement
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd and 30th day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioners.

Baltimore County Zoning Commissioner

Dated:

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Timothy Kotroco
Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd and 30th day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.

Baltimore County Zoning Commissioner

Dated:

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
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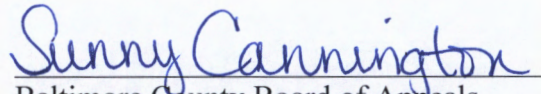
* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Beverly Pearce
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 24 2011

BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
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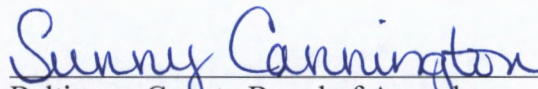
* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Jean Lubke**
17029 Park Heights Ave.
Owings Mills, Maryland 21117

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 24 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
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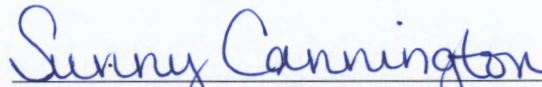
* BEFORE THE
*
* BALTIMORE COUNTY
*
* BOARD OF APPEALS
*
* Case No: 10-0280-SPH
*
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **D.S. Thaler & Assocs., Inc.**
Custodian of Records
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 24 2011

BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall I.J.C
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

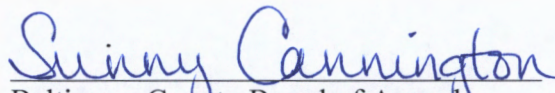
* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*
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* * * * *

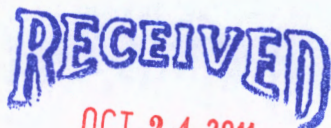
SUBPOENA DUCES TECUM

To: **Sheldon Lewis**
7503 Brushfield Ct.,
Aptartment F
Baltimore, MD 21237

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:


OCT 24 2011
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

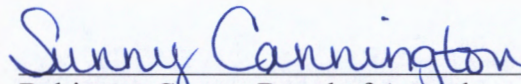
* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: **Ted Houk**
7402 York Rd. # 301
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 24 2011

BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Carol Moore
Baptist Conventional of Maryland/Delaware, Inc.
10255 Old Columbia Road
Columbia, Maryland 21046

You are hereby summoned and commanded to appear personally before the Board of Appeals of Baltimore County, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland, 21204 on the 2nd day of November, 2011 at 10:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.

Sunny Cannington
Baltimore County Board of Appeals

Dated:

RECEIVED
OCT 24 2011

BALTIMORE COUNTY
BOARD OF APPEALS

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

November 10, 2010

RECEIVED

NOV 10 2010

ZONING COMMISSIONER

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

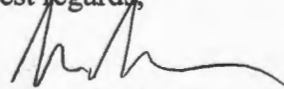
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please find one subpoena for issuance in the above matter.

Thank you for your cooperation.

Best regards,



Michael R. McCann

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
* BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

SUBPOENA

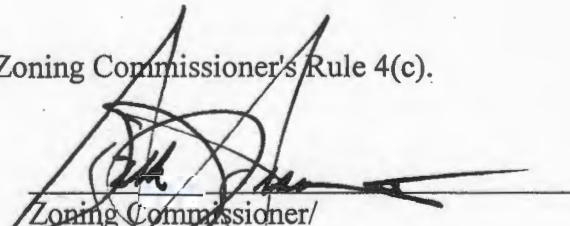
To: Custodian of Records
Valleys Planning Council, Inc. ("VPC")

Serve on: Peter Fenwick
2315 Geist Road
Glyndon, Maryland 21071

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 23rd and 30th days of November, 2010, at 9:00 A.M., in Room 104 of the Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, and to bring with you all documents referred to in Schedule A, for the purpose of testifying in the above-captioned matter at the request of Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: November 12, 2010

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
* BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

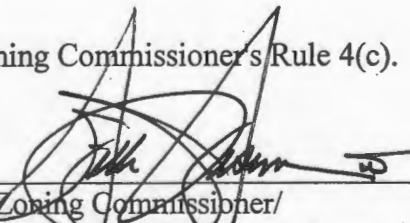
SUBPOENA

To: Kathy Roth
10729 Park Heights Avenue, Apt. D
Owings Mills, Maryland 21117

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 23rd and 30th days of November, 2010, at 9:00 A.M., in Room 104 of the Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, and to bring with you any documents referred to in Schedule A, for the purpose of testifying in the above-captioned matter at the request of Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: November 12, 2010

RECEIVED

MAY 07 2010

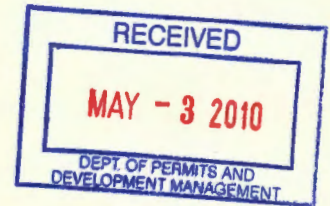
ZONING COMMISSIONER

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com



WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

May 3, 2010

VIA HAND DELIVERY

Mr. Timothy M. Kotroco, Director,
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

**Re: Rainbow Hall, LLC
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPM**

*To Bill Wiseman:
I discussed this w/ Mr. Wyatt.
I believe he is going to
file a motion to dismiss with
your office.
T.M. K.*

Dear Mr. Kotroco:

As you may recall, attorney Mike Snyder and I represent Rainbow Hall, LLC, owner of the property known and designated as 10729 Park Heights Avenue. It is my understanding that a "Petition for Special Hearing" on this property was recently filed with the Office of Zoning Review. Although the owner has received no formal notice of the Petition, the purpose of this letter is to express strenuous objection to its filing.

The Petition, from what I understand, was filed by Michael R. McCann both as "Attorney in Fact for Valleys Planning Council, Inc." and Attorney for "Petitioner". I understand that my client's name and contact information were also included on the Petition thus giving the erroneous impression that it consented to the filing. In no uncertain terms, Rainbow Hall, LLC objects to the Petition and requests that your office administratively close out this matter. Please consider the following:

1. Rainbow Hall, LLC is the owner of the property known and designated as 10729 Park Heights Avenue.

2. Rainbow Hall, LLC did not authorize either Mr. McCann or the Valleys Planning Council, Inc. to file the subject Petition for Special Hearing.

3. Neither Mr. McCann nor the Valleys Planning Council, Inc. are the "contract purchaser/lessee" of the property.

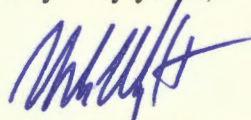
4. Neither Mr. McCann nor Valleys Planning Council, Inc. have any interest or rights in the property and are not otherwise authorized to file the Petition.

5. Rainbow Hall, LLC does not agree "to pay expenses of above Special Hearing, advertising, posting, etc." In fact, Rainbow Hall, LLC specifically states that it does not authorize the subject property to be posted in any manner by any agency, person or entity in connection with this Petition.

As you can see, it is obvious Mr. McCann and/or the Valleys Planning Council, Inc. filed the subject Petition with the intention of creating the appearance that Rainbow Hall, LLC authorized its filing. This is not the case.

Finally, I would point out that over the years, this matter has been the subject of numerous code enforcement complaints brought about by the Valleys Planning Council, Inc. On each occasion, and as recently as November 2009, your office ("PADM") declined to take any action with respect to the property and deemed without merit the same complaints now being channeled in the Petition for Special Hearing. Given Baltimore County's stated position that the residential uses of property do not violate the Baltimore County Zoning Regulations, further action on this Petition is not warranted.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: William J. Wiseman, III, Zoning Commissioner
Mr. W. Carl Richards, Jr.
Mr. Mike Mohler
Mr. Henry M. Wright, Jr.
Michael Snyder, Esquire
Mr. David S. Thaler, P.E.
Michael R. McCann, Esquire

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

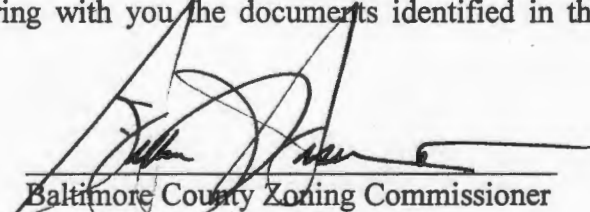
* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Beverly Pearce
4804 Benson Avenue
Baltimore, Maryland 21227

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.


Baltimore County Zoning Commissioner

Dated: *November 12, 2010*

SCHEDULE OF DOCUMENTS

1. All lease agreements and other documents concerning, referring or relating to the lease or attempted lease of any apartment or home at the Property.
2. All documents concerning, referring, or relating to any use of the Property for apartments or rental homes.
3. All contracts, invoices, bills, correspondence and other documents concerning, referring or relating to the rental or lease of the Property to any person or entity for any event, activity, program, show, party, affair, meeting or other use.
4. All advertisements, brochures, notices, invitations, correspondence and other documents concerning, referring or relating to any event, activity, program, show, party, affair, meeting, or other use of the Property.

DEFINITIONS

1. The term "Property" refers to the property which is the subject of this proceeding and is known as 10729 Park Heights Avenue, Owings Mills, Maryland 21117, including all buildings and other improvements thereon.
2. The term "documents" include, without limitation, all papers, writings, drawings, graphs, charts, photographs, recordings, emails, and other data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form.

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

November 12, 2010

RECEIVED

NOV 12 2010

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

ZONING COMMISSIONER

Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

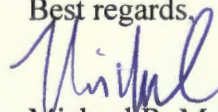
Dear Mr. Wiseman:

Enclosed please find a redlined plat to accompany the petition for special hearing in the above matter. This plat incorporates changes identified during Mr. Patton's testimony. When the hearing reconvenes, I will ask that the plat be introduced as an exhibit, but I am sending it to you in advance so that counsel may have the opportunity to review it before then.

Also enclosed is an amended petition for special hearing which adds Mark Wilson and Harlan Zinn as petitioners in this case.

Thank you for your cooperation.

Best regards,



Michael R. McCann

cc: Michael Wyatt, Esq. w/ enclosures

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

November 16, 2010

RECEIVED

NOV 16 2010

ZONING COMMISSIONER

William Wiseman
Zoning Commissioner of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

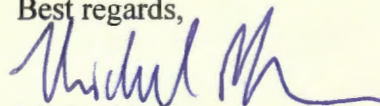
Re: 10729 Park Heights Ave, Rainbow Hall, LLC
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

Enclosed please find two subpoenas for issuance in the above matter.

Thank you for your cooperation.

Best regards,



Michael R. McCann

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: Ryan Fisher
Department of Permits and Development Management
Code Inspections and Enforcement
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.

Baltimore County Zoning Commissioner

Dated:

SCHEDULE OF DOCUMENTS

1. The file for the property at 10729 Park Heights Avenue, Owings Mills, Maryland 21117, known as Rainbow Hall.

IN RE: RAINBOW HALL
Legal Owners – Rainbow Hall Inc.,
Rainbow Hall LLC
Petitioner - Valleys Planning Council, Inc.

10729 Park Heights Ave.
12th Election District
3rd Councilmanic District

* BEFORE THE
* BALTIMORE COUNTY
* ZONING COMMISSSIONER
* Case No: 10-0280-SPH
*
*

* * * * *

SUBPOENA DUCES TECUM

To: James Thompson
Department of Permits and Development Management
Code Inspections and Enforcement
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to appear personally before the Baltimore County Zoning Commissioner, Jefferson Building, 105 W. Chesapeake Avenue, Room 104, Towson, Maryland, 21204 on the 23rd day of November, 2010 at 9:00 a.m., for the purpose of testifying at the hearing in the above-captioned case, at the request of Michael R. McCann, Michael R. McCann, P.A., 118 West Pennsylvania Avenue, Towson, Maryland 21204, 410-825-2150, on behalf of the Petitioner, and bring with you the documents identified in the below Schedule of Documents.

Baltimore County Zoning Commissioner

Dated:

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

RECEIVED

DEC 15 2010

ZONING COMMISSIONER

December 15, 2010

Via Hand-Delivery

William J. Wiseman, III, Zoning Commissioner
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Rainbow Hall – 10729 Park Heights Avenue
Case No. 2010-0280-SPH

Dear Mr. Wiseman:

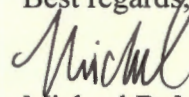
I received a copy of Mr. Wyatt's letter dated December 13, 2010. In light of the position taken by Mr. Wyatt's client, I thought it necessary to clarify our position on this issue.

As indicated in my email, my clients are not opposed to Mr. Beverungen listening to the tapes of the proceedings and rendering a decision based on the evidence in the record. We took that position understanding the practical difficulties created by the change in Administration and, frankly, to avoid any further delay in the resolution of this case, which has been pending for many months. Moreover, we believe Mr. Beverungen is certainly capable and would render a fair decision, as are you.

However, we are concerned by Mr. Wyatt's letter because it is apparent that his client intends to challenge on appeal any decision to have Mr. Beverungen, or anyone other than you, decide this case. If Mr. Wright prevails in such an appeal, the matter would likely be remanded, which would only add further delay as a new person would need to be brought in at that point. We believe it is in everyone's best interest, the County included, to avoid unnecessary appeals and resolve the important issues in this case as soon as possible. For these reasons, we urge the County to reconsider its determination and allow you to review the briefs and render a decision on this matter as scheduled.

Thank you for your consideration. Please contact me if you have any questions.

Best regards,

A handwritten signature in dark ink, appearing to read "Michael", with a stylized flourish at the end.

Michael R. McCann

cc: Kevin Kamenetz, County Executive
Michael E. Field, Acting County Attorney
Vicki Almond, County Council
John Beverungen, Esq.
Fred Homan, Administrative Officer for Baltimore County
George Klunk, Interim Director, Permits and Dev. Mgmt.
Michael Wyatt, Esq.

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

November 12, 2010

VIA HAND DELIVERY

Office of the Zoning Commissioner
The Jefferson Building, Suite 101
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

NOV 12 2010

Re: **Rainbow Hall, LLC**
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH

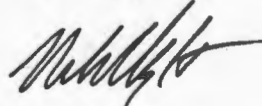
ZONING COMMISSIONER

Dear Sir/Madam:

This transmits blank subpoenas for witnesses in the above-referenced zoning proceeding which is scheduled to begin on November 23, 2010 at 9:00 A.M. I would appreciate your letting me know when these subpoenas are ready and I will send someone from my office to pick them up for service.

Thank you for your anticipated prompt attention to this matter.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright
Michael L. Snyder, Esquire

Enclosures

IN RE:

VALLEYS PLANNING COUNCIL, INC.

BEFORE THE

ZONING COMMISSIONER OF

BALTIMORE COUNTY

Case No: 2010-0280-SPH

* * * * *

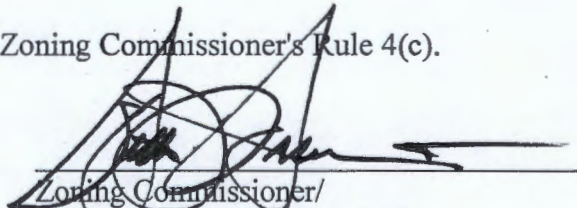
SUBPOENA

To: Teresa Moore, Executive Director
Valleys Planning Council, Inc. ("VPC")
118 West Pennsylvania Avenue
Towson, Maryland 21204

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 23rd and 30th days of November, 2010, at 9:00 A.M., in Room 104 of the Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, and to bring with you all documents referred to in Schedule A, for the purpose of testifying in the above-captioned matter at the request of Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: NOVEMBER 12, 2010

SCHEDULE A

1. Any and all documents, correspondence, communications, internal minutes, records and/or information which reflects, refers or in any way relates to any zoning proceeding, code complaint or petition for special hearing filed or initiated by VPC relating to unauthorized dwellings, apartments, boarding houses, or any other alleged violation of the Baltimore County Zoning Regulations from January 1, 2000 to present.

2. Any and all documents, correspondence, communications, internal minutes, records and/or information which reflect, refer or in any way relate to any zoning proceeding, code complaint or petition for special hearing contemplated, evaluated and/or filed by VPC from January 1, 2000 to present relating to the following properties:

- a. Helmore Farm – 901 Greenspring Valley Road.
- b. Lystra Farm – 1424-1430 Hillside Road.
- c. Burnside Farm – 10515 Burnside Farm Road.
- d. 1809 Hillside Road.
- e. Koinonia Property – 1400 Greenspring Valley Road.
- f. Halcyon Farm – 11219 Greenspring Avenue.
- g. Cashman Property – 10901 Greenspring Avenue.
- h. Baetjer Property – 2315 Greenspring Avenue.
- i. Levi Property – 10801 Greenspring Avenue.
- j. Smith Property – 1800 Greenspring Valley Road.
- k. Beall Property – 1814-1842 Hillside Road.

MARLOW & WYATT

**Attorneys-At-Law
404 Allegheny Avenue
Baltimore, Maryland 21204
(410) 821-1013
Telefax (410) 821-5432
www.marlowwyatt.com**

**William F.C. Marlow, Jr.
Michael T. Wyatt**

**Washington D.C. Address
Suite 300
6935 Wisconsin Avenue
Washington, D.C. 20815**

**Admitted in Maryland and
The District of Columbia**

June 4, 2010

VIA E-MAIL

Mr. Timothy M. Kotroco, Director,
Baltimore County Department of Permits
and Development Management
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, Maryland 21204

**Re: Rainbow Hall, LLC
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPM**

Dear Mr. Kotroco:

This is to confirm that the hearing scheduled for June 8, 2010 in the above-referenced special hearing has been postponed. As I have indicated to Michael R. McCann, Esquire, attorney for Petitioner, Rainbow Hall, LLC no longer requests a separate hearing date to decide preliminary matters. We believe all preliminary matters can be raised during one hearing date.

It is my understanding you directed this matter be rescheduled to a date mutually agreeable to both Valleys Planning Council, Inc. and Rainbow Hall, LLC. In speaking with Kristen of the Zoning Office, she will provide additional dates sometime next week and hopefully this matter will be set in sometime in August or early September 2010.

Thank you for your continued courtesies.

Mr. Timothy M. Kotroco
June 4, 2010
Page 2

Very truly yours,

/S/ Michael T. Wyatt

Michael T. Wyatt

MTW/sjm

cc: Michael R. McCann, Esquire (*via telefax*)
Michael Snyder, Esquire (*via e-mail*)
Mr. David S. Thaler, P.E. (*via e-mail*)
William J. Wiseman, III, Zoning Commissioner (*via e-mail*)

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

October 5, 2010

VIA HAND DELIVERY

Office of the Zoning Commissioner
The Jefferson Building, Suite 101
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

OCT 05 2010

**Re: Rainbow Hall, LLC
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH**

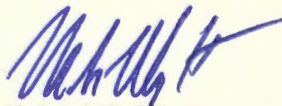
ZONING COMMISSIONER

Dear Sir/Madam:

This transmits blank subpoenas for witnesses in the above-referenced zoning proceeding which is scheduled to begin on October 12, 2010 at 9:00 A.M. I would appreciate your letting me know when these subpoenas are ready and I will send someone from my office to pick them up for service.

Thank you for your anticipated prompt attention to this matter.

Very truly yours,



Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright
Michael L. Snyder, Esquire
Enclosures

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
10729 Park Heights Avenue * BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

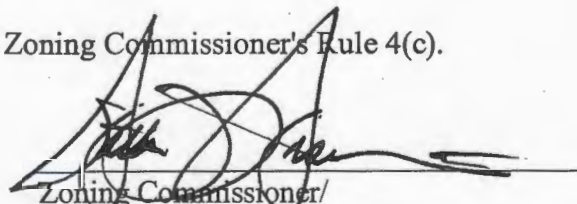
SUBPOENA

To: Libby Berman
Long & Foster
10801 Tony Drive
Lutherville, Maryland 21093

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 12th day of October, 2010, at 9:00 A.M., in Room 104 of the Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, to continue from day to day, and to bring with you any documents relating to the above-referenced property known and designated as 10709, 10731, 10733 and 10729 Park Heights Avenue, Owings Mills, Maryland 21117, for the purpose of testifying in the above-captioned matter at the request of Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).


Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: October 5, 2010

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
10729 Park Heights Avenue * BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

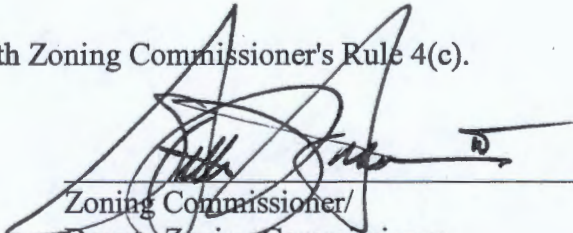
SUBPOENA

To: Timothy Kotroco
Director of Permits and Development Management
County Office Building, Suite 105
111 West Chesapeake Avenue
Towson, Maryland 21204

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 12th day of October, 2010, at 9:00 A.M., in Room 104 of the Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, to continue from day to day, and to bring with you any documents relating to the above-referenced property known and designated as 10709, 10731, 10733 and 10729 Park Heights Avenue, Owings Mills, Maryland 21117, for the purpose of testifying in the above-captioned matter at the request of Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: October 5, 2010

IN RE: * BEFORE THE
VALLEYS PLANNING COUNCIL, INC. * ZONING COMMISSIONER OF
10729 Park Heights Avenue * BALTIMORE COUNTY
* Case No: 2010-0280-SPH

* * * * *

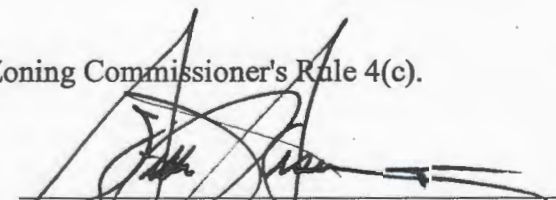
SUBPOENA

To: Sheldon Lewis
7503 Brushfield Court, Apartment F
Rosedale, Maryland 21237

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 12th day of **October, 2010**, at **9:00 A.M.**, in Room **104** of the **Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204**, to continue from day to day, and to bring with you **any documents relating to the above-referenced property known and designated as 10709, 10731, 10733 and 10729 Park Heights Avenue, Owings Mills, Maryland 21117**, for the purpose of testifying in the above-captioned matter at the request of **Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013.**

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: October 5, 2010

IN RE: * BEFORE THE
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10729 Park Heights Avenue * BALTIMORE COUNTY
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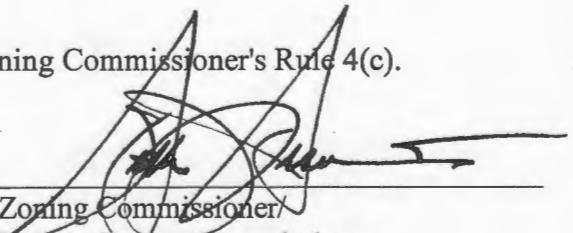
SUBPOENA

To: Kathleen Pontone
10 Light Street
Baltimore, Maryland 21202

You are hereby summoned and commanded to be and appear personally before the Zoning Commission / Deputy Zoning Commissioner of Baltimore County on the 12th day of **October, 2010**, at **9:00 A.M.**, in Room **104** of the **Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204**, to continue from day to day, and to bring with you **any documents relating to the above-referenced property known and designated as 10709, 10731, 10733 and 10729 Park Heights Avenue, Owings Mills, Maryland 21117**, for the purpose of testifying in the above-captioned matter at the request of **Michael T. Wyatt, Marlow & Wyatt, 404 Allegheny Avenue, Towson, Maryland 21204, (410) 821-1013**.

Mr. Sheriff / Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 4(c).



Zoning Commissioner/
Deputy Zoning Commissioner
for Baltimore County

Issued: October 5, 2010

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

October 21, 2011

VIA FED EX

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: Ms. Theresa Shelton

**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC
Case No: 10-280-SPH**

RECEIVED
OCT 24 2011

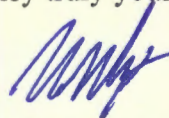
BALTIMORE COUNTY
BOARD OF APPEALS

Dear Ms. Shelton:

In connection with the above-referenced matter, I am enclosing three (3) copies of a Subpoena for Valleys Planning Council, Inc. Once the Subpoena has been authorized by the Board of Appeals, I would appreciate your returning to me for service by private process.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

IN THE MATTER OF:

*

BEFORE THE

VALLEYS PLANNING COUNCIL, INC.

*

BOARD OF APPEALS

*

OF

*

BALTIMORE COUNTY

*

Case No: 10-280-SPH

* * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Custodian of Records

Valleys Planning Council, Inc.

118 W. Pennsylvania Avenue

Towson, Maryland 21204 (Baltimore Co.)

YOU ARE HEREBY COMMANDED TO: () Personally appear; (X) Produce documents and/or objects only; () Personally appear and produce documents or objects; in **Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204 on November 2, 3, 8 and 9, 2011, at 10:00 A.M.**

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

See attached "Schedule A".

SUBPOENA REQUESTED BY:

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, Maryland 21204

The witness named above is hereby **ORDERED** to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (x) Private Process Server, to issue the summons set forth herein.

RECEIVED

OCT 24 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

Sunny Cannington
Board of Appeals for Baltimore County

SCHEDULE A

1. Any and all documents, correspondence, communications, internal minutes, records and/or information which reflects, refers or in any way relates to any zoning proceeding, code complaint or petition for special hearing filed or initiated by VPC relating to unauthorized dwellings, apartments, boarding houses, or any other alleged violation of the Baltimore County Zoning Regulations from January 1, 2000 to present.

2. Any and all documents, correspondence, communications, internal minutes, records and/or information which reflect, refer or in any way relate to any zoning proceeding, code complaint or petition for special hearing contemplated, discussed, evaluated and/or filed by VPC from January 1, 2000 to present relating to the following properties:

- a. Helmore Farm – 901 Greenspring Valley Road.
- b. Lystra Farm – 1424-1430 Hillside Road.
- c. Burnside Farm – 10515 Burnside Farm Road.
- d. 1809 Hillside Road.
- e. Koinonia Property – 1400 Greenspring Valley Road.
- f. Halcyon Farm – 11219 Greenspring Avenue.
- g. Cashman Property – 10901 Greenspring Avenue.
- h. Baetjer Property – 2315 Greenspring Avenue.
- i. Levi Property – 10801 Greenspring Avenue.
- j. Smith Property – 1800 Greenspring Valley Road.
- k. Beall Property – 1814-1842 Hillside Road.
- l. Baetjer Property – 2217 Greenspring Valley Road.
- m. Baetjer Property – 2315 Greenspring Valley Road.

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
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WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT
ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

October 21, 2011

VIA FED EX

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: Ms. Theresa Shelton

**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC
Case No: 10-280-SPH**

RECEIVED
OCT 24 2011

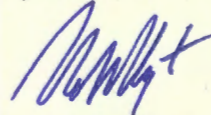
**BALTIMORE COUNTY
BOARD OF APPEALS**

Dear Ms. Shelton:

In connection with the above-referenced matter, I am enclosing three (3) copies of a Subpoena for the Theresa Moore. Once the Subpoena has been authorized by the Board of Appeals, I would appreciate your returning to me for service by private process.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

IN THE MATTER OF:

*

BEFORE THE

VALLEYS PLANNING COUNCIL, INC.

*

BOARD OF APPEALS

*

OF

*

BALTIMORE COUNTY

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Case No: 10-280-SPH

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SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

**Theresa Moore, Executive Director
Valleys Planning Council, Inc.
118 W. Pennsylvania Avenue
Towson, Maryland 21204 (Baltimore Co.)**

YOU ARE HEREBY COMMANDED TO: () Personally appear; (X) Produce documents and/or objects only; () Personally appear and produce documents or objects; in **Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204** on **November 2, 3, 8 and 9, 2011, at 10:00 A.M.**

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

See attached "Schedule A".

SUBPOENA REQUESTED BY:

Michael T. Wyatt

Marlow & Wyatt

404 Allegheny Avenue

Towson, Maryland 21204

The witness named above is hereby **ORDERED** to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (x) Private Process Server, to issue the summons set forth herein.

RECEIVED
OCT 24 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

Sunny Canington
Board of Appeals for Baltimore County

SCHEDULE A

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MARLOW & WYATT

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ADMITTED IN MARYLAND AND
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WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

October 21, 2011

VIA FED EX

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: Ms. Theresa Shelton

RECEIVED
OCT 24 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

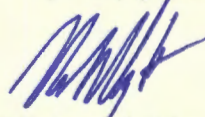
**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC
Case No: 10-280-SPH**

Dear Ms. Shelton:

In connection with the above-referenced matter, I am enclosing three (3) copies of a Subpoena for John Nearhood. Once the Subpoena has been authorized by the Board of Appeals, I would appreciate your returning to me for service by private process.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

IN THE MATTER OF:

VALLEYS PLANNING COUNCIL, INC.

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No: 10-280-A

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above-captioned matter currently scheduled on **November 2, 3, 8 and 9, 2011, at 10:00 A.M.** in Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: John Nearhood
Address: 10729 Park Heights Avenue
Owings Mills, Maryland 21117

Requested by:

Name: Michael T. Wyatt
Firm: Marlow & Wyatt
Address: 404 Allegheny Avenue
Towson, Maryland 21204

The witness named above is hereby **ORDERED** to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (x) Private Process Server, to issue the summons set forth herein.

RECEIVED
OCT 24 2011

CLERK OF
BOARD OF APPEALS

Sunny Cannington
Board of Appeals for Baltimore County

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

October 12, 2011

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: Ms. Theresa Shelton

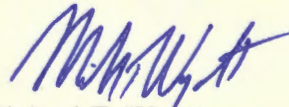
**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC**

Dear Ms. Shelton:

In connection with the above-referenced matter, I am enclosing a Subpoena for Sheldon Lewis. Once the Subpoena has been authorized by the Board of Appeals, I would appreciate your returning to me for service by private process.

Thank you for your customary courtesies.

Very truly yours,



Michael T. Wyatt

MTW/sjm

RECEIVED
OCT 14 2011

IN THE MATTER OF:

VALLEYS PLANNING COUNCIL, INC.

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No: 10-280-A

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above-captioned matter currently scheduled on November 2, 3, 8 and 9, 2011, at 10:00 A.M. in Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Sheldon Lewis
Address: 7503 Brushfield Court, Apt. F
Rosedale, Maryland 21237

Requested by:

Name: Michael T. Wyatt
Firm: Marlow & Wyatt
Address: 404 Allegheny Avenue
Towson, Maryland 21204

The witness named above is hereby **ORDERED** to so appear before the Board of Appeals of Baltimore County. The Board requests (☐) the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.

RECEIVED
OCT 14 2011

BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
Board of Appeals for Baltimore County

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

RECEIVED
NOV 9 2011

**BALTIMORE COUNTY
BOARD OF APPEALS**

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

November 9, 2011

VIA HAND DELIVERY

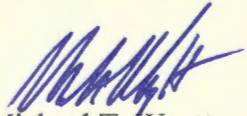
Theresa Shelton, Administrator
County Board of Appeals of Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

**Re: The Valleys Planning Council, Inc., et al.
v. Rainbow Hall, LLC
Case No: 10-280-SPH**

Dear Ms. Shelton:

I am returning Petitioner's Exhibit 49, which inadvertently got mixed up with all of my other papers and exhibits after the hearing concluded yesterday.

Very truly yours,


Michael T. Wyatt

MTW/sjm

cc: Michael R. McCann, Esquire
Enclosure

MARLOW & WYATT

Attorneys-At-Law
404 Allegheny Avenue
Baltimore, Maryland 21204
(410) 821-1013
Telefax (410) 821-5432
www.marlowwyatt.com

William F.C. Marlow, Jr.
Michael T. Wyatt

Washington D.C. Address
Suite 300
6935 Wisconsin Avenue
Washington, D.C. 20815

Admitted in Maryland and
The District of Columbia

December 13, 2010

VIA E-MAIL

William J. Wiseman, III, Zoning Commissioner
Office of the Zoning Commissioner
The Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson, Maryland 21204

Re: **Rainbow Hall, LLC**
10729 Park Heights Avenue,
Owings Mills, Maryland 21117
Case No: 2010-0280-SPH

Dear Commissioner Wiseman:

I am following up on our telephone conversation last week regarding the Valleys Planning Council ("VPC") / Rainbow Hall zoning matter. You indicated there were administrative changes being made to the Zoning Commissioner's office which will, unfortunately, precipitate your departure as the Zoning Commissioner for Baltimore County. Under proposed legislation, there will be an Office of Administrative Hearings and three already named individuals will assume the title of "Administrative Law Judge". One of the individuals nominated for the position of Administrative Law Judge is John Beverungen. References in the Baltimore County Code to "Zoning Commissioner" are to be supplanted by the Administrative Law Judges' authority, all on a prospective basis. At least that is my understanding of the proposed legislation.

It is our understanding that John Beverungen is willing to substitute your authority in order to decide the VPC / Rainbow Hall zoning case on the basis of his listening to the tapes of the transcripts of the testimony, reviewing the exhibits, and reading the memoranda to be filed in January 2011.

Mike Snyder and I have spoken with Henry Wright about this proposal.

Rainbow Hall, LLC is unwilling to consent to the substitution of the trier of fact (*i.e.*, Zoning Commissioner William Wiseman for a to-be-invested Administrative Law Judge) for purposes of rendering a decision in the VPC / Rainbow Hall zoning case. The reasons for this are myriad and while we appreciate Mr. Beverungen's willingness specifically to step into this matter, he did not preside over the many days of hearings and would lack the concomitant ability to first-hand observe the evidence (including the demeanor and credibility of witnesses), assess the relative merits or lack thereof of points and arguments raised during the hearing, and otherwise is deprived of all prior interactions during these proceedings. Additionally, there is no question that the parties comported themselves based, in part, on how the actual hearing unfolded and Zoning Commissioner William Wiseman's participation in it.

In light of the above, Rainbow Hall, LLC objects to the substitution of Zoning Commissioner William Wiseman for a to-be-appointed Administrative Law Judge as the decision maker in the VPC / Rainbow Hall zoning matter.

Thank you.

Very truly yours,

/S/ Michael T. Wyatt

Michael T. Wyatt

MTW/sjm

cc: Mr. Henry M. Wright, Jr. (*via e-mail*)
Michael L. Snyder, Esquire (*via e-mail*)
Michael R. McCann, Esquire (*via e-mail*)

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Rainbow Hall, LLC – Legal Owners/Respondents 10-280-SPH
Valleys Planning Council, et al – Petitioners

DATE: January 19, 2012

BOARD/PANEL: Lawrence S. Wescott
Maureen E. Murphy
Edward W. Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to determine the uses of the subject property that comply with the Baltimore County Zoning Regulations, previous approvals and if property use is in violation or non-compliance, including a non-conforming use.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed that the Petition was filed by the Valleys Planning Council and later amended to add two neighbors, Mr. Zinn and Mr. Wilson.
- The Respondents presented 7 issues for the Board based on the Petition.
- Issue 1: The Petition is defective as it was not filed by an interested party. The Board determined that the Courts have been pretty clear that almost anyone can be an interested party. The Board determined that the Petitioners are interested parties and do have standing in this matter.
- Issue 2: The Plat is flawed. The Board discussed that a witness for the Respondent indicated that there were numerous errors to the plat even after the redline was completed. The Board determined that there were errors but the errors don't change the issues and weren't prejudicial.
- Issue 3: The relief sought is not available under § 500.7 of the BCZR. The Board discussed that the Respondents are arguing that since the Petitioners are not interested parties in this matter, no relief is available to the Petitioners. The Board determined again that the Petitioners are interested parties and the relief sought is available.
- Issue 4: The 3 single family dwellings are vested as non-conforming uses. The Board discussed that the cottage was built in 1898 and the 2 ranchers were built in the 1970's. The Respondents contend that these dwellings were used as accessory structures to the main house when the main house was used as a nursing home. These dwellings have been used as rentals in the recent past. The Board determined that the dwellings are valid as non-conforming uses. The dwellings have been consistently rented all along. Originally the dwellings were rented to employees of the nursing home. The Board

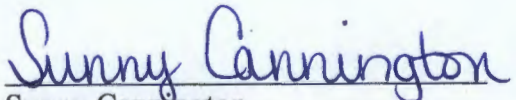
determined that there was no intention to abandon the use of the cottage as a dwelling. The Board determined that the Respondents can continue to rent these three dwellings as long as they are rented by a single family.

- Issue 5: The Respondents use of the main house as 8 rental units is allowable due to the previously granted Special Exception. Issue 6: The Respondents contend that the present use of the main house as 8 rental units is a valid non-conforming use. The Board discussed that this property was previously granted a Special Exception to allow a boarding house for the aged. The Respondents contend that the use of the house as 8 rental units is still a type of boarding house and complies. They also contend that when the property was used as a boarding house for the aged, it had apartments in the main house. The Respondents argue that there were hot plates and such items in the rooms and the presence of these items constituted an apartment. The Board determined that there is no evidence that the nursing home had apartments. The Board also cited that § 101.1 of the BCZR excludes apartments from a nursing home use and the evidence indicates that the apartments were added to the main house later. The Board discussed that the boarding house for the aged provided meals and medical services for the aged residents. The Baptist church owners had strict rules about to whom they would provide these services. The Board determined that the present use of the main house as 8 rental units does not meet the non-conforming use standards and was not previously granted by the Special Exception.
- Issue 7: Application of the zoning requires reasonable use of the subject property. The Board determined that they are bound by the laws and regulations. The present owner purchased the property knowing the restrictions of the RC2 zone. The Board determined that the Respondents are allowed to use the property for their own private parties but they are not allowed to use the property for catering, rent the property to a church, or rent the parking lot and transport people to other locations. The BCZR with regard to what is allowable in the RC2 is very clear and very strict.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously determined that the 3 single family dwellings located on the property are allowed to be rented as a non-conforming use in compliance with the rental requirements of Baltimore County and the main house is not to be used for rental purposes, catering, or anything else not allowed in the RC2 zone.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

William J. Wiseman
Zoning Commissioner
Baltimore County Government
400 Washington Avenue, Courthouse
Towson, MD 21204

RECEIVED

JAN 19 2011

ZONING COMMISSIONER

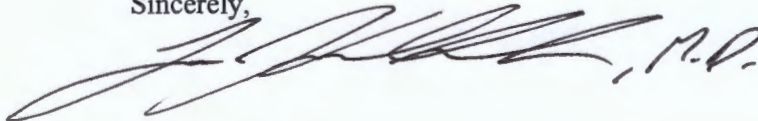
RE: **Case Number 2010-0280-SPH**
10729 Park Heights Avenue

Dear Mr. Wiseman:

We, the undersigned, are vehemently opposed to the **rental units in the form of apartments, ranchers and a cottage** at Rainbow Hall, located at 10729 Park Heights Avenue in Owings Mills. It is our understanding that such uses are prohibited in all rural conservation zones.

Furthermore, we are aware that the property has been used by the current owner (who does not reside there) for a variety of uses including social receptions, meetings of a church and other commercial enterprises including boutiques and craft fairs, and various fund-raisers. Such commercial uses are clearly not permitted under the County's zoning regulations and the RC2 zoning on this property. We are concerned that permitting this continued illegal use will set a detrimental precedent for other rural properties in the scenic valleys of Baltimore County. These continued uses threaten and compromise the quality of life in our community.

Sincerely,

 M.D.

1-10-11

(Date)

LEE HASELMANN, M.D.

(Printed name)

10630 PARK HEIGHTS AVE

OWINGS MILLS, MD 21117

(Address)

1-19 Please
place in file
Case NO.
2010-0280-SPH
File ref'd
1-19-11

William J. Wiseman
Zoning Commissioner
Baltimore County Government
400 Washington Avenue, Courthouse
Towson, MD 21204

RECEIVED

JAN 19 2011

ZONING COMMISSIONER

RE: **Case Number 2010-0280-SPH**
10729 Park Heights Avenue

Dear Mr. Wiseman:

We, the undersigned, are vehemently opposed to the rental units in the form of apartments, ranchers and a cottage at Rainbow Hall, located at 10729 Park Heights Avenue in Owings Mills. It is our understanding that such uses are prohibited in all rural conservation zones.

Furthermore, we are aware that the property has been used by the current owner (who does not reside there) for a variety of uses including social receptions, meetings of a church and other commercial enterprises including boutiques and craft fairs, and various fund-raisers. Such commercial uses are clearly not permitted under the County's zoning regulations and the RC2 zoning on this property. We are concerned that permitting this continued illegal use will set a detrimental precedent for other rural properties in the scenic valleys of Baltimore County. These continued uses threaten and compromise the quality of life in our community.

Sincerely,

Taryn Haselkorn

1/18/11

(Date)

Taryn Haselkorn

(Printed name)

10630 Park Heights Ave

Owings Mills, MD 21117

(Address)

CASE NUMBER: 2010-0280-SPH**10729 Park Heights Avenue**

Location: E Side of Park Heights Avenue, 170' S of Velvet Valley Way
12th Election District, 3rd Councilmanic District

Legal Owner: **Rainbow Hall, Inc.**

Petitioner: Valleys Planning Council, Inc.)

OPPOSE	FAVOR
Michael D. Grimes 13 St. Thomas Lane Owings Mills, MD 21117	
Bonnie S. Farber 210 Golf Course Road Owings Mills, MD 21117	
Jonathan E. Farber 210 Golf Course Road Owings Mills, MD 21117	
Barbara P. St. Ours 119 St. Thomas Lane Owings Mills, MD 21117	
Samuel M. Wichner 3330 Carroll Avenue Owings Mills, MD 21117	
Jon Aaron 121 St. Thomas Lane Owings Mills, MD 21117	
Judith M. Shutt 511 Garrison Forest Road Owings Mills, MD 21117	
Cleon M. Shutt, Jr. 511 Garrison Forest Road Owings Mills, MD 21117	
C. Ashton Newhall 3111 Golf Course Road – West Owings Mills, MD 21117	
Frances Horich Fvhorich@aol.com	
Amy L. Newhall 2803 Caves Road Owings Mills, MD 21117	
Lisa K. Levin 6 Celadon Road Owings Mills, MD 21117	
Claudio A. Levin 6 Celadon Road Owings Mills, MD 21117	

Mark Levi 15 Bucksway Road Owings Mills, MD 21117	
Susan Levi 15 Bucksway Road Owings Mills, MD 21117	
Jonathan P. Myers – (Rec'd 2 letters) 2415 Velvet Valley Way Owings Mills, MD 21117	
Beverly S. Myers – (Rec'd 2 letters) 2415 Velvet Valley Way Owings Mills, MD 21117	
Cheryl Aaron 121 St. Thomas Lane Owings Mills, MD	
Louis J. & Estelle Rosenthal 4 Susan Court Owings Mills, MD 21117	
Albert M. Shapiro 1 Susan Court Owings Mills, MD 21117	
Mitch Shapiro 1 Susan Court Owings Mills, MD 21117	
Florence Shapiro 1 Susan Court Owings Mills, MD 21117	
Sandy Shapiro 1 Susan Court Owings Mills, MD 21117	
Bernard D. Fish – (Rec'd 2 letters) 6 Cliffside Court Owings Mills, MD 21117	
Titsa Bronstein 5 Susan Court Owings Mills, MD 21117	
Emanuel Bronstein 5 Susan Court Owings Mills, MD 21117	
Dan & Shelley Morhaim danmorhaim@gmail.com	
William W. Baker 535 Garrison Forest Road Owings Mills, MD 21117	

Robin J. Siegal, Esq. & David I. Butter 517 Garrison Forest Road Owings Mills, MD 21117	
Ann Carter Stonesifer 3107 Golf Course Road – W Owings Mills, MD 21117	
Linda C. Corbin, President Greater Greenspring Association LCCWahoo@aol.com	
John (Chip) Guinee GUINEEGSV@aol.com	
Anne Bear Powell 3110 Caves Road Owings Mills, MD 21117	
Antoinette Vreeland 324 Garrison Forest Road Owings Mills, MD 21117	
Warwick Plant 313 Chattolanee Hill Road Owings Mills, MD 21117	
Anne Reder 10532 Burnside Farm Road Stevenson, MD 21153	
Olivia Welbourn owelbourn@comcast.net	
Edward H. Welbourn, III nwelbourn@comcast.net	
John Heyn sjheyn@hotmail.com	
Jeffrey & Rebecca Flynn 333 Golf Course Road Owings Mills, MD 21117	
Greg & Sally Merz 301 Garrison Forest Road Owings Mills, MD 21117	
Sarah Eastman eastmanathome@comcast.net	
Suitbertus & Annamaria van der Meer 3130 Golf Course Road West Owings Mills, MD 21117	

094 - SP17

Rainbow Hall Special Project

Rainbow Hall, or Rainbow Hill as many locals know it, is the subject of a current special project by the VPC. The VPC has filed a petition with the county for a special hearing on the allowed use of this property. Residents of the Velvet Valley Community and a number of VPC members have voiced growing concerns about apartment rentals and the use of the house for commercial activities and catered events. VPC representatives discussed concerns with county officials and directly with the property owner, Henry Wright. A satisfactory resolution could not be reached, so the matter will now be decided by a hearing officer who will review the history of the property and current uses and compare those findings to the zoning regulations.



VPC contends that rental apartments are not an allowed use in the RC2 zone, which is the zoning for this property. Although the property has a long history that includes a variety of uses, those uses ceased long ago and any special exceptions associated with those uses have expired. The zoning, which was changed for a period to accommodate the use of the building as a nursing home, was restored to RC2 in the 2004 comprehensive rezoning cycle. The RC2 zone allows single-family dwellings and a number of special exception uses; however, apartments, commercial activities, and catering are not permitted uses either by right or special exception. The VPC is requesting contributions for expert and legal fees.

Calling All Shutter Bugs

VPC is revamping its website. In this age of increasing reliance on technology, we plan to better utilize our website and make frequent updates. We are asking your help in keeping the photo gallery fresh. We need an ongoing supply of nice pictures and are thus asking our members to submit high-resolution digital photos on a continuing basis. If you have pictures of your property or of the VPC area and would like to submit them for possible use on the VPC website, please email the photos to Alice Noplos (alicevpc@comcast.net). Please include your name, the date the photo was taken, and the location. Additional descriptive information can also be included but is not required.



We are primarily interested in scenic photos at this time, however, we would also be interested in any photos that illustrate environmental or other concerns as well as any video clips relevant to our issues. While we appreciate all submissions, the VPC executive director, working with our web consultants, will make the ultimate decision about what actually gets posted to the site. Please note that submission of any photos constitutes permission for the VPC to publish your photo on the VPC website or for use in other educational or promotional materials designed for the organization, such as brochures, newsletters and powerpoint presentations. (Photo credits will be given.) We are also interested in photos or scans of original landscape paintings.

We invite our members to be an ongoing source of fresh ideas and photographs for the VPC website. Your help will be greatly appreciated. Our current website is www.thevpc.org. Ideas for the upgrade are encouraged.

2010 McHarg Award Presented to Councilman Kevin Kamenetz

At the VPC annual meeting in May, board member Doug Carroll announced this year's recipient of the McHarg Award: Kevin Kamenetz.



Doug was on the committee that chose Councilman Kamenetz and explained that District 2 is a difficult area to represent because there is so much pressure. It straddles the Urban Rural Demarcation Line and includes the Pikesville area as well as the Greenspring Valley — areas with divergent interests and issues. Kamenetz was lauded for his recent actions to downzone key areas in the valleys during the 2008 CZMP as well as his changes to the RC5 zone that increased the minimum lot size. In his remarks, Kamenetz noted that he may be the only elected official to have downzoned his own property.

Congratulations Kevin.

Rainbow Hall Special Project Information

Special Hearing On Apartment Rentals (a prohibited use in RC2)

Earlier this year, the Valleys Planning Council (VPC) filed a petition requesting a special hearing to challenge the use of a property zoned RC2 for apartment rentals. The property, Rainbow Hall (aka Rainbow Hill), is located at 10729 Park Heights Ave., in Owings Mills. The site features a historic 1917 mansion, two ranchers, and a cottage. The mansion has a non-historic wing that was added when the property was used as a nursing home.



The present owner, Henry Wright, has converted the wing into six apartments. He rents those along with the three houses. It is estimated that 15-20 individuals currently reside in rental units on this property. In addition, the mansion is used for catered affairs or other meeting space for which the owner receives a fee.

The VPC is concerned about the use of the property for apartments, which is a prohibited use in all RC zones, and the precedent this could set for other rural properties. There have been a growing number of complaints from adjacent property owners and others in the community who are concerned about trespassing, noise, and other nuisances associated with the current uses of the property.

After years of attempting to explain the importance of finding a use that was permitted in an RC zone without success, the VPC filed a complaint with Baltimore County Code Enforcement. Before hearing all the evidence, the county's Permit and Development Management director concluded that the apartments and home rentals could be viewed as a continuation of a non-conforming use. VPC's only recourse was to challenge this in a special hearing. Several days of hearings have been completed, and we are awaiting the zoning commissioner's decision.

Proposed Addition of a 1,000-seat Sanctuary at Rainbow Hall

In the meantime, the owner has filed a concept plan for a 1,000-seat church. Under this plan, a large sanctuary would be built adjacent to the mansion and additional parking added to the site. A community input meeting is scheduled for December 8, 2010, at the Chestnut Ridge Volunteer Fire Company. This is the first step in a multi-step development plan review process. Anyone interested in reviewing the plans for this facility should attend.

What you can do to help:

- Send a contribution to the VPC's special project on Rainbow Hall to help cover legal and expert fees associated with the Special Hearing case explained above.
 - Please write "Rainbow Hall" in the check memo line.
- Attend the Community Input Meeting on December 8:

Chestnut Ridge Volunteer Fire Company
12020 Greenspring Avenue
Owings Mills
Doors open at 6:30; meeting begins at 7:00 p.m.

PLEASE PRINT CLEARLY

CASE NAME Rainbow Hall
CASE NUMBER 2010-0280-SPH
DATE 10/12/2010

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
JAMES S. PATTON	780 BURGESS LANE	LINTHICUM MD 21110	jspc.pattson@comcast.net
TERESA MOORE	118 W. Pennsylvania Ave	Towson 21204	moorecup@comcast.net
Kathleen Pontore	2522 Carys Rd	Owings Mills MD 21117	K.Pontore@milestockbridge
MARK WILSON	10705 PARK HEIGHTS AVE	OWINGS MILLS, MD 21117	mwwilson@comcast.net
HARLAN ZINN	10628 PARK HTS AVE	OWINGS MILLS, MD 21117	zinnhk@comcast.net
Jayne Gerson	2307 Velvet Ridge Drive	Owings Mills, MD 21117	jgerson33@hotmail.com
Emmanuel Bronstein	5 SUSAN CT.	Owings Mills MD 21117	tm.Bronstein@ComCastNet
FLORENCE SHAPIRO	1 SUSAN CT.	O.M, MD 21117	alshop68@comcast.net
AL SHAPIRO	1 SUSAN CT.	O.M, MD 21117	same
LOUIS ROTATTA	4 SUSAN COURT	O.M, MD 21117	LJR604@AOL
SUE LEVI	15 BUCKSWAY RD	OM MD 21117	—
MARK LEVI	15 BUCKSWAY RD	OM MD 21117	MAL@COMCAST.NET
CHERYL AARON-GGA	121 ST. THOMAS LA.	OM MD 21117	jaaron@medonagh.org
Noel Levy	11 WINDSONG CT.	PIKESVILLE MD 21208	megamapster@verizon.net
JOHANN VAN DER MEER	3130 GOLF COURSE RD W	OWINGS MILLS 21117	gmlevudm@aol.com
Elizabeth G. Wilmerding	2518 Carys Rd	Owings Mills 21117	bwilmerding@verizon.net
HARLAN ZINN	10628 PARK HTS AVE	OWINGS MILLS, MD 21117	zinnhk@comcast.net
PAUL BRICKMAN	2300 Velvet Valley Way	Owings Mills MD 21117	pabrckman@aol.com
Clean Shultz	571 GARRISON FORD RD	Owings Mills 21117	Cheryl Arnerka@Herman
Ruth Goldstein	3226 Midfield Rd.	Balto. MD 21208	Ruthgoldstein@comcast.net

PLEASE PRINT CLEARLY

CASE NAME Rainbow Halls
CASE NUMBER 2010-0280-SP4
DATE _____

PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NAME Rainbow Hall
CASE NUMBER 2010-0280-SP4
DATE _____

(RESPONDENTS)

[illegible]

Mr. McLane
No Sept. / No Jan

week of 6th
would
have
Rainbow Hall

Helki @ Mr. McCann

410.825.2150

or
410-440-7833

August 23-27

Hold for Rainbow Hall

Michael Wyatt

410-821-1013

Not 7th September

IMPORTANT MESSAGE

FOR Tim/Kristen
DATE 5/21 TIME 1015 A.M.
P.M.

M. Michael Wyatt

OF _____

PHONE 410 821-1013
AREA CODE NUMBER EXTENSION

☐ FAX

☐ MOBILE
AREA CODE NUMBER TIME TO CALL

TELEPHONED		PLEASE CALL	☒
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		WILL FAX TO YOU	

MESSAGE Vallejo Planning Council
Case - Rainbow Hall case #2010-0280SPH
Both sides agreed to postponement
need dates

mid July Sept.
go ahead and postpone!

SIGNED



FORM 4009
MADE IN U.S.A.

Maryland Department of Assessments and Taxation
Real Property Data Search (vw4.3)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier:

District - 03 Account Number - 2300003036

Owner Information

Owner Name: RAINBOW HALL, INC Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 4804 BENSON AVE Deed Reference: 1) /16318/ 35
BALTIMORE MD 21227-1501 2)

Location & Structure Information

Premises Address Legal Description
10729 PARK HEIGHTS AVE 19.6742 AC
10729 PARK HGHTS AVE ES

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
59	20	270					5	1	70/ 95

Special Tax Areas Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1917	15,337 SF	19.67 AC	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2010	Phase-in Assessments As Of 07/01/2010	As Of 07/01/2011
Land	403,900	785,600		
Improvements:	596,100	467,100		
Total:	1,000,000	1,252,700	1,084,233	1,168,466
Preferential Land:	0	0	0	0

Transfer Information

Seller:	BAPTIST HOME OF MD INC	Date:	04/15/2002	Price:	\$1,500,000
Type:	IMPROVED ARMS-LENGTH	Deed1:	/16318/ 35	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	

Rainbow Hall, Inc. 2010-0280-SPH

No hearing date assigned as of 5-7-10
Per. files 4-16-10

Microsoft Access

File Edit View Insert Format Records Tools Window Help



GenInputFrm_View : Form

ZONING CASE HISTORY DATABASE (1939 - PRESENT)

GIS Attribute Table ID
[SEARCH ON THIS FIELD]:

20100280

Case Type Prefix: Case Year: Case Number: Case Type Suffix:

2010 0280 SPH

Existing Use:

Commercial

Legal Owners/Petitioner

[SEARCH ON THIS FIELD]: Rainbow Hall, Inc. (Petitioner: Valleys Planning Council, Inc.)

House/St. Number: House/Street Number Range: House/St. No. Suffix: Prefix Dir.: Pre. Type: Street Name [SEARCH ON THIS FIELD]: Suf. Type: Dir.: Suffix Suite/Apt./Unit Number:

10729 10729-10729 10729 Park Heights Ave

Property Description [SEARCH ON THIS FIELD]:

east side of Park heights Avenue; 170 feet south of Velvet Valley Way.

Existing Zoning Classification: R.C. - 2 Area: 19.6742 Acres Election District: 12th Councilmanic District: 3rd

Critical Area: NO Floodplain: NO Historic Area: YES Prior Zoning Cases: 63-152-XA; 76-89-SPH; 91-166-SPHX; 97-230-SPH

Violation Cases: Concurrent Cases:

Tax Account ID: Deed Liber #: Deed Folio #: Miscellaneous Notes:

Find Record

Next Record

Previous Record

Preview ZAC
Agenda Report

Open MS Word

Exit Access

Scanned Image

Record: 25968 of 25981

Street Name

NUM

start

Novell ...

wjwOr...

Micros...

Micros...

Micros...

NUM

12:13 PM



SITE

2010-0280-SPH

David Duvall - Fwd: Zoning Cases

From: Carl Richards
To: Duvall, David
Date: 10/4/2010 1:18 PM
Subject: Fwd: Zoning Cases

David, Can you do this with copies of orders, Thanks Carl

>>> Mike Mohler 10/4/2010 1:06 PM >>>

Carl, can you have someone put together the history of the zoning cases for:

Rainbow Hall
10729 Park Heights Ave.

Tim or I will have to testify at the hearing next week.

Please go back to day 1 if possible- it would be helpful to have by Wednesday if possible.
Thanks

19760089

19630152

19910166 ✓

19970230 ✓

20100280

059A3

NW 12 F / 10 F

**TIM - FOR YOUR
MEETING -
ALL OF THE ZONING CASES
FOR RAINBOW HALL**

Case No. 2010-0280-SPH
(Rainbow Hall, Inc.)

63-152-X Operate a boarding house for the Aged (Baptist Home of Md., Inc.) limited to 40 units/residents - (GRANTED w/restrictions 11/26/63 -John G. Rose, Commissioner)

76-89-SPH Construction of new infirmary wing on existing boarding home for the elderly (Baptist Home of Md., Inc.). Proposed infirmary wing - 25 persons. - (GRANTED subject to approval of site plans by SHA, DPW, OP & Zoning - 12/1/75 -Eric Ninna, Commissioner)

Use became non-conforming after the 1976 CZMP when the property was rezoned to R.C.2. Subsequently, 1988 CZMP rezoned the property to R.C.3, which permitted convalescent home use by special exception.

91-166-SPHX Approval of Amendment to Special Exception & site plan previously approved in Case No. 63-152-X to construct of two (2) additions to an existing facility, which were never constructed. (Baptist Home of Md., Inc.) - SPH for determination that maintenance bldg. in R.C.5 zone is an accessory use to existing facility - (GRANTED, and approval of five (5) year period in which to utilize the special exception granted - DISMISSED, and SPH to remove Restrictions 1 & 2 relative to the alienability of, and services provided on, the subject property under the special exception previously granted in Case No. 63-152-X - GRANTED with restrictions - 2/1/91 - J. Robert Haines, Commissioner)

Board of Appeals Opinion - 10/16/91 - Michael B. Sauer, Acting Chairman - SPH to approve amendment to special exception & site plan previously granted in Case No. 63-152-X to construct 2 additions to existing facility GRANTED, and SPH to permit maintenance building as accessory use to existing facility in R.C.5 zone GRANTED, and restrictions imposed & conditions precedent to relief granted ...

III-393 & 97-230-SPH HOH - Proposed Development & three (3) single-family dwellings & to create three (3) undersized R.C.5 non-density parcels & one (1) R.C.2 non-density parcel & and removal of an existing special exception from a portion of the tract. (Baptist Home of MD/DE, Inc.) Development Plan - APPROVED; SPH creation of one (1) R.C.2 non-density parcel & removal of an existing special exception from a portion of the tract - (GRANTED, and SPH seeking approval to create three (3) undersized R.C.5 non-density parcels; - DISMISSED AS MOOT. 6-3-97 - Lawrence E. Schmidt - Hearing Officer)

Approval of one (1) R.C.3 non-density parcel. Approval of such quashed the approval for additions granted in Case 91-166-SPHX that were not built.

RAINBOW HALL CHRONOLOGY

<u>DATE</u>	<u>CASE #</u>	<u>ZONING</u>	<u>REQUEST / PETITION REQUEST</u>	<u>ACTION / ORDER</u>
1957		R-40	Reclass. from "A" Residential to R-40	Comprehensive Rezoning by County Council
11/26/1963	63-152-X	R-40	Special Exception for a boarding house for the aged (40 Units/Persons).	Granted with restrictions (see attached order)
1969	Possible Spirit & Intent Letter or Administrative Decision	R-40	Approval of addition (24 Units/Persons).	Granted by possible Spirit & Intent Letter or Administrative Decision.
12/1/1975	76-89-SPH	RDP	Special Hearing to approve the construction of a new infirmary wing on an existing Boarding Home for the Elderly. Proposed Infirmary Wing (25 Units/Persons).	Granted with restrictions (see attached order)
10/8/1976		RC 2 and RC 5	Reclass. from RDP to RC 2 and RC 5	Comprehensive Rezoning by County Council
Between 10/13/1988 and 4/3/1990		RC 2, RC 3 and RC 5	Reclassification of a portion of RC 2 to RC 3.	Cycle Rezoning, Out-Of-Cycle Rezoning or Map Correction.
10/16/1991	91-166-SPHX	RC 2, RC 3 and RC 5	Special Exception for an addition to an existing convalescent home as a use permitted by special exception in an RC 3 zone pursuant to BCZR 1A02.2.B.16. Special Hearing to approve an amendment to the special exception and site plan in Case No. 63-152-X to construct two additions to the existing facility.	Granted by Board of Appeals. However, the legality of the existing convalescent home or nursing home use (in direct conflict with the restrictions in Case # 63-152-X which prohibit a nursing home, a home for the chronically ill or a hospital) has not been confirmed,

6/3/1997	97-230-SPH (Also PDM # III-393)	RC 2, RC 3 and RC 5	Special Hearing to approve the creation of three undersized RC 5 non-density and one RC 2 non-density parcels, and to approve the removal of Existing special exception from a portion of the Tract.	Granted in Part and Dismissed as Moot in Part.
11/2004		RC 2 and RC 5	Reclass. RC 3 portion of property to RC 2.	Comprehensive Rezoning by County Council
4/16/2010	2010-0280-SPH	RC 2 and RC 5	Special Hearing to determine the uses of the property that comply with the BCZR and previous approvals, and whether the property is and has been used in violation or non-compliance with same.	Hearing held on 10/12/2010. No decision has been made.

Maryland Historical Trust

Maryland Inventory of Historic Properties Form

Inventory No. BA-0381

1. Name of Property

(indicate preferred name)

historic Rainbow Hill

other

2. Location

street and number 10729 Park Heights Avenue

not for publication

city, town Owings Mills

vicinity

county Baltimore County

3. Owner of Property

(give names and mailing addresses of all owners)

name Baptist Home of Maryland, Inc.

street and number 10729 Park Heights Avenue

telephone 410/484-3324

city, town Owings Mills

state MD

zip code 21117-3012

4. Location of Legal Description

courthouse, registry of deeds, etc. Baltimore County Courthouse

tax map and parcel 59/270

city, town Towson

liber 4250 folio 278

5. Primary Location of Additional Data

- ☒ Contributing Resource in National Register District
☐ Contributing Resource in Local Historic District
☐ Determined Eligible for the National Register/Maryland Register
☐ Determined Ineligible for the National Register/Maryland Register
☐ Recorded by HABS/HAER
☐ Historic Structure Report or Research Report at MHT
☐ Other:

6. Classification

Category	Ownership	Current Function	Resource Count
☐ district	☐ public	☐ agriculture	Contributing
☒ building(s)	☒ private	☐ commerce/trade	Noncontributing
☐ structure	☐ both	☐ defense	2
☐ site		☐ domestic	2
☐ object		☐ education	2
		☐ funerary	2
		☐ government	2
		☐ health care	2
		☐ industry	2
		☐ landscape	2
		☐ recreation/culture	2
		☐ religion	2
		☐ social	2
		☐ transportation	2
		☐ work in progress	2
		☐ unknown	2
		☒ vacant/not in use	2
		☐ other:	2
			2

Number of Contributing Resources
previously listed in the Inventory

2

BA 381

Painbow Hill

10729 Park Heights Avenue

Owings Mills, Md. 21117

private

Painbow Hill is an early twentieth century house carefully designed to recall an elegant house of the late eighteenth century England. General Douglas MacArthur lived there and named the house Painbow Hill in honor of the Rainbow Division he had led during World War I. Lionel Atwill, the actor lived at Painbow Hill. Henry Posenberg, president of Crown Central Petroleum, owned the house in the 1940's.

MARYLAND HISTORICAL TRUST

BA 381
x-876.660
y-577.420

MAI # 0303811704

INVENTORY FORM FOR STATE HISTORIC SITES SURVEY

1 NAME

HISTORIC RAINBOW HILL

AND/OR COMMON

2 LOCATION

STREET & NUMBER

10729 Park Heights Avenue

Second

CITY, TOWN

Owings Mills

VICINITY OF

CONGRESSIONAL DISTRICT

Baltimore

STATE

Maryland

COUNTY

3 CLASSIFICATION

CATEGORY

☐ DISTRICT
☒ BUILDING(S)
☐ STRUCTURE
☐ SITE
☐ OBJECT

OWNERSHIP

☐ PUBLIC
☒ PRIVATE
☐ BOTH
PUBLIC ACQUISITION
☐ IN PROCESS
☐ BEING CONSIDERED

STATUS

☒ OCCUPIED
☐ UNOCCUPIED
☐ WORK IN PROGRESS
ACCESSIBLE
☐ YES: RESTRICTED
☐ YES: UNRESTRICTED
☒ NO

PRESENT USE

☐ AGRICULTURE ☐ MUSEUM
☐ COMMERCIAL ☐ PARK
☐ EDUCATIONAL ☐ PRIVATE RESIDENCE
☐ ENTERTAINMENT ☐ RELIGIOUS
☐ GOVERNMENT ☐ SCIENTIFIC
☐ INDUSTRIAL ☐ TRANSPORTATION
☒ OTHER:

4 OWNER OF PROPERTY

NAME

Baptist Home of Maryland

Telephone #: 484-3324

STREET & NUMBER

10729 Park Heights Avenue

CITY, TOWN

Owings Mills

VICINITY OF

STATE, zip code
Md. 21117**5 LOCATION OF LEGAL DESCRIPTION**

COURTHOUSE,

REGISTRY OF DEEDS, ETC.

Baltimore
County Courts Building

Liber #: 3758

Folio #: 29

STREET & NUMBER

401 Bosley Avenue

CITY, TOWN

Towson

STATE

Maryland

6 REPRESENTATION IN EXISTING SURVEYS

TITLE

DATE

☐ FEDERAL ☐ STATE ☐ COUNTY ☐ LOCALDEPOSITORY FOR
SURVEY RECORDS

CITY, TOWN

STATE

7 DESCRIPTION

BA-381

CONDITION		CHECK ONE	CHECK ONE
☒ EXCELLENT	☐ DETERIORATED	☒ UNALTERED	☒ ORIGINAL SITE
☐ GOOD	☐ RUINS	☐ ALTERED	☐ MOVED DATE _____
☐ FAIR	☐ UNEXPOSED		

DESCRIBE THE PRESENT AND ORIGINAL (IF KNOWN) PHYSICAL APPEARANCE

RAINBOW HILL is a large formal mansion completed in 1917, its style recalling that of the late eighteenth century English Georgian. The principal entrance is centered in the north facade and the south overlooks a broad view of the valley. Two storeys in height, exterior walls are finished in smooth white stucco with white marble entrance surrounds, window sills and jack arches. The center block is five bays in length and short wings project north and south at each end, terminated by semi-octagonal bays extending the full two storeys in height. A modillioned cornice surrounds the entire mansion and a low-pitched copper roof rises above it. A large sun porch extends across the east end, its east wall slightly bowed. A two storey stuccoed service wing is perpendicular to the mansion's axis at the west end, recently extended to the south to enlarge the mansion's capacity in its present function -- a home for the elderly.

The central entrances north and south have marble surrounds, the northerly with a pediment, the southerly with a flat cornice. 12/12 windows are in the first storey of the central block, north facade, while tall casements are in the second, opening to small wrought-iron balconies at each window. All windows of the south facade are casements. The central windows of the semi-octagonal bays have arched heads trimmed with marble. All other openings have rusticated jack arches. French doors all around the sun porch have alternating square and semi-circular transoms.

The north entrance opens beneath the principal stair and a great hall extends across the south front, five bays in length. The stair hall is screened from the great hall by a Tuscan colonnade consisting of fluted wooden columns painted in imitation of green marble. The columns support an order which extends around the hall. The stair rail is of ornamental wrought-iron. Floors are paved with black-and-white marble tiles and a fireplace with a highly ornamental green and white marble mantel is at either end of the great hall.

A dining room extends across the east end the full depth of the house and each end is terminated with semi-octagonal bays. It has been subdivided into several small rooms without damaging original architectural features including the highly carved mantel

- 1 -

CONTINUE ON SEPARATE SHEET IF NECESSARY

of white marble and gold onyx. The sun porch is east of the dining room and its large fireplace has a carved limestone architrave surround supporting a plain frieze and cornice shelf.

The principal drawing room is at the west end of the great hall and its south end opens into the semi-octagonal bay there. The mantel on its north wall is of carved white and gray marble. A smaller library is to its north, opening into that semi-octagonal bay, its carved mantel of white and gold onyx.

The second storey is simpler but the hall and principal rooms retain all their original ornamentation. The master bedroom was above the drawing room and it has been subdivided into smaller rooms. A suite of rooms is across the south front and several more small rooms are above the dining room.

Two small frame cottages stand at the west edge of the south lawn, probably guest cottages from the Avalon Hotel which once occupied this site. They date from the first decade of the twentieth century. Both are nearly identical, one and one-half storeys in height, a porch extending across the east front, a high gambrel roof rising above house and porch, a steep gable centered in the roof rising nearly to the ridge. The cottages are two bays in length: a door in the north bay, a 6/6 window in the south. A pair of 6/6 windows is in the gable above.

8 SIGNIFICANCE

BA-381

PERIOD	AREAS OF SIGNIFICANCE -- CHECK AND JUSTIFY BELOW			
PREHISTORIC	☐ ARCHEOLOGY-PREHISTORIC	☐ COMMUNITY PLANNING	☐ LANDSCAPE ARCHITECTURE	☐ RELIGION
☒ 400-1499	☐ ARCHEOLOGY-HISTORIC	☐ CONSERVATION	☐ LAW	☐ SCIENCE
☐ 1500-1599	☐ AGRICULTURE	☐ ECONOMICS	☐ LITERATURE	☐ SCULPTURE
☐ 1600-1699	☒ ARCHITECTURE	☐ EDUCATION	☐ MILITARY	☐ SOCIAL/HUMANITARIAN
☐ 1700-1799	☐ ART	☐ ENGINEERING	☐ MUSIC	☐ THEATER
☐ 1800-1899	☐ COMMERCE	☐ EXPLORATION/SETTLEMENT	☐ PHILOSOPHY	☐ TRANSPORTATION
☒ 1900-	☐ COMMUNICATIONS	☐ INDUSTRY	☐ POLITICS/GOVERNMENT	☐ OTHER (SPECIFY)
		☐ INVENTION		

SPECIFIC DATES

BUILDER/ARCHITECT

STATEMENT OF SIGNIFICANCE

RAINBOW HILL is an early twentieth century house carefully designed to recall an elegant house of late eighteenth century England. Two cottages remain from the earlier hotel which occupied the site.

CONTINUE ON SEPARATE SHEET IF NECESSARY

Rainbow Hill

Rainbow Hill sits appropriately on a hill high above the Green Spring Valley, immediately adjacent to Park Heights Avenue. Known today as the Baptist Home of Maryland, Incorporated, it serves as a retirement and nursing home for the elderly. But at various times in its history, this huge mansion was also home to several distinguished and well-known figures.

The house stands on the site of the old Avalon Inn, a popular resort hotel during the early twentieth century. The three-story structure was destroyed by fire in 1912. 1/ Thereafter the property was sold by the inn's owner and proprietress Sarah F. Wright to Eva Roberts Stotesbury of Philadelphia.2/

Mrs. Stotesbury's daughter, Louise Cromwell, had married Walter B. Brooks, Jr., a Valley resident, and Rainbow Hill was built for them on the hotel land in 1917 at a cost of \$1,000,000. The white stucco marble house measured 77 x 75 feet and contained a reception hall, dining room, drawing room, breakfast room, nine bedrooms, and six baths. Quarters for servants included ten rooms and three baths. A short distance away was a ten-car garage, with four servants' rooms on the second floor.3/

Mrs. Brooks remarried several times; her second husband was Major General Douglas MacArthur, who named the house Rainbow Hill in honor of the Rainbow Division he had led during World War I; her third husband was Lionel Atwill, the actor, and it was during their marriage that the house was sold in 1940 to Henry and Ruth (Blaustein) Rosenberg.4/

Mr. Rosenberg was the president of the Crown Central Petroleum Company. After his death, his widow sold the house and estate of some 90 acres to the Rainbow Hill Corporation. Since 1964 it has been owned by the Baptist Home of Maryland, Incorporated, who renovated the thirty-three room mansion to meet the needs of their elderly residents.5/

Rainbow Hill
Footnotes

1/"Avalon Inn is Destroyed by Morning Fire," Baltimore American, 3 October 1912.

2/Baltimore County Land Records (BCLR), Liber W. P. C. no. 406, fol. 326, Towson Court House, Towson, Maryland.

3/"Hospital Planned for Valley Estate," Sun, 29 April 1924; "Some Palatial Homes in Baltimore Environs," Sun, 10 April, 1932; "'Rainbow Hill' Sold by Atwills," Sun, 4 August 1940; Seymour Kopf, "Man About Town," Baltimore American, 30 and 31 March 1971; BCLR, Liber C. W. B., Jr. no. 1117, fol. 546, Towson.

4/"Baptists Purchase Rainbow Hill," Sun, 9 January 1964; "Rainbow Hill, Former MacArthur Home, To Be Aged Baptist Residence," Sun, 19 May 1967; BCLR, Liber W. J. R., no. 3758, fol. 29, Towson.

Bibliography

5/Thomas, Dawn F. and Robert W. Barnes. The Green Spring Valley: Its History and Heritage, 2 vols. Baltimore: Maryland Historical Society, 1978.





Attachment to Petition for Special Hearing
10729 Park Heights Avenue

1. Are rental apartments a permitted use in the RC2 zone, BCZR §§1A01.1 *et seq.*?
2. Is a multi-family dwelling a permitted use in RC2 zone, BCZR §§1A01.1 *et seq.*?
3. Are rental apartments allowed at the subject property as a non-conforming use?
4. Is a multi-family dwelling allowed at the subject property as a non-conforming use?
5. Even if rental apartments or multi-family dwellings are allowed at the subject property as a non-conforming use, was that use changed, abandoned, discontinued, or otherwise terminated under BCZR §104.1?
6. Are rental apartments allowed under the special exception previously granted for a convalescent home at the subject property?
7. Is a multi-family dwelling allowed under the special exception previously granted for a convalescent home at the subject property?
8. Is the special exception previously granted for a convalescent home null and void because the property has not been used for that purpose for many years?
9. Does the rental of one or more houses at the subject property violate the one dwelling per lot limitation in BCZR §1A01.3.B4?
10. Is a rental house an accessory use or structure under the definition of those terms in BCZR §101.1?
11. Pursuant to BCZR § 500.6, whether any violation or non-compliance with the BCZR or previous approvals is occurring or has occurred at the subject property, and to pass an order regarding any violation of non-compliance with the BCZR or previous approvals.
12. And any other questions or issues that may be presented at or by the evidence at the hearing.

① add § about a ~~all~~ l. petitioners satisfying standard,
but still concerned @ SPH filed against an unwilling
prop. owner - Petition asks ~~for~~ 12-13 Qs - rephrased
as just the one . . .

ZONING HISTORY

CASE NO 63-152-XA SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED. GRANTED NOVEMBER 28, 1963 WITH THE FOLLOWING RESTRICTIONS

- 1 THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION
- 2 THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ON THE PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.

THIS REQUEST WAS UTILIZED:

CASE NO. 78-89-SPH SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY (ORIGINAL APPROVAL - 1963 - 40 UNITS, ADDITIONAL APPROVED - 1969 - 24 PERSONS, PROPOSED INFIRMARY WING - 25 PERSONS) GRANTED DECEMBER 1, 1975 SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICES OF PLANNING AND ZONING.
PROPOSED ADDITION WAS NOT CONSTRUCTED

CASE NO 91-166-SPHX SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 63-152-XA TO CONSTRUCT TWO ADDITIONS TO AN EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDING IN THE RES ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. GRANTED FEBRUARY 1, 1981 WITH THE FOLLOWING RESTRICTIONS:

1. THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON RECEIPT OF THIS ORDER, HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT HIS OWN RISK UNTIL SUCH TIME AS THE 30-DAY APPELLATE PROCESS FORM THIS ORDER HAS EXPIRED. IF, FOR ANY REASON, THIS ORDER IS REVERSED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION
2. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS
3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.

PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE

CASE NO. 91-166-SPHX WAS APPEALED AND ON OCTOBER 16 1981 THE BOARD OF APPEALS GRANTED APPROVAL TO THE REQUESTED SPECIAL HEARINGS.

CASE NO 97-236-SPH. SPECIAL HEARING TO CREATE THREE (3) UNDERSIZED R.C. 5 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT

GRANTED ON JUNE 3, 1987. THE SPECIAL HEARING SEEKING APPROVAL TO CREATE ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF

THE TRACT, IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 1A AND 1B, BE AND IS HEREBY GRANTED, SUBJECT TO THE FOLLOWING RESTRICTIONS.

- 1 THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
- 2 THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1981, BE AND IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTEMPLATED IMPROVEMENTS TO THE BAPTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING SEEKING APPROVAL TO CREATE THREE (3) UNDERSIZED R.C. 5 NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.

#63-152X
SURVEYORS

OPPA ROAD MAP
#3
SEC 2-C
"X"
11/11/63
number 19, 1960
3758 folio 29

#63-152X

MAP
#3
SEC 2-C
XA

RE: PETITION FOR SPECIAL EXCEPTION
FOR A BOARDING HOUSE FOR THE
AGED, R. S. Park Heights Ave.,
2300' N. Green Spring Valley Road
3rd Dist., Ruth B. Rosenberg,
Petitioner - Baptist Home of
Maryland, Inc., Con. Pur.
BEFORE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 63-152-X

The petitioner in the above entitled matter has requested a special exception to operate a Boarding House for the Aged on the east side of Park Heights Avenue 2300 feet north of the Green Spring Valley Road in the Third District of Baltimore County.

From the testimony presented at the hearing the petitioner has met all the requirements of the Baltimore County Zoning Regulations for a special exception as set forth in Section 502.1, therefore, the special exception should be granted.

It is this 20th day of November, 1963, by the Zoning Commissioner of Baltimore County, ORDERED that a special exception for a Boarding House for the Aged, should be and the same is hereby granted, from and after the date of this Order, subject, however, to compliance with the following restrictions:

1. That the use of the property described in the petition shall be limited to a religious, non-profit home for the aged of the Baptist denomination.
2. That the property described in the petition shall not be operated either as a nursing home, or as a home for the chronically ill or as a hospital, provided, however, that a portion of the main building presently located on the property described in the petition may be used as an infirmary for the temporary treatment of aged guests.

[Signature]
Zoning Commissioner of
Baltimore County

BALTIMORE COUNTY FIRE PREVENTION

INSPECTION REPORT

LOCATION Park Heights Ave. & Valley Rd.

DISTRICT 4

MAILING ADDRESS Stowesset, Md.

ZONE #

OWNER Baptist Home of Md.

ZONE #

ADDRESS

PHONE

#63-152X

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Baptist Home of Md., Inc. legal owner 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 and/or Deputy Zoning

Commissioner should approve the construction of a new infirmary wing on an existing Boarding Home for the Elderly. Original approval - 1963 --- 40 persons

Addition approved - 1969 --- 24 persons - Proposed Infirmary Wing - 25 persons

See attached description

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

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

Contract Purchaser

Baptist Home of Maryland, Inc.
A. B. Shultz, Pres.
Legal Owner

Address

Address 10729 Park Heights Avenue
Owings Mills, Maryland 21117

Petitioner's Attorney
ALAN H. STOCKSDALE

Protestant's Attorney

Address 1213 Fidelity Building
Baltimore, Maryland 21201

ORDERED By the Zoning Commissioner of Baltimore County, this 17th

day of September, 1975, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22nd day of October, 1975, at 10:00 o'clock A. M.

SEP 17 75 PM

Wm. C. Hanna
Zoning Commissioner of Baltimore County

(over)

BAPTIST HOME OF MD., INC. 7/16-89-SPH
S/S of Park Heights Ave. 2200 ft of
Exempting Vol.

76-89-SPH

76-89-SPH
#53

ORDERED BY THE ZONING COMMISSIONER

DATE December 1, 1975
Wm. C. Hanna

OFFICE OF THE ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND
By _____

10:00 A
10/22/75

76-89-SPH

IN THE MATTER OF THE
THE APPLICATION OF
BAPTIST HOME OF MARYLAND/
DELAWARE, INC.
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE PARK HEIGHTS AVENUE,
30' SOUTH OF CENTERLINE OF
VELVET VALLEY ROAD
3RD ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 91-166-SPHX

* * * * *

O P I N I O N

This is an appeal from the decision of the Zoning Commissioner, dated February 1, 1991, wherein Petitioner's request for a special hearing to approve an amendment to the special exception and site plan previously granted in Case No. 63-152-X to construct two additions to the existing facility in an R.C. 3 zone was granted, and wherein a Petition for Special Hearing to permit a maintenance building in the R.C. 5 zone as an accessory use to the existing facility was granted.

Petitioner appeared represented by Counsel, Robert A. Hoffman and John J. Gessner. Phyllis C. Friedman, People's Counsel for Baltimore County, appeared and participated in the proceedings.

The Petitioner offered the testimony of Reverend Randall M. Fowler, the Administrator of the Baptist Home. He informed the Board that the subject property is located on the east side of Park Heights Avenue, north of Greenspring Valley Road. The property was purchased by the Baptist Home in 1963. In 1969, additions were made to the property, and at present the Home proposes two more additions to the existing facility. The first addition will be on the east side of the main facility and will consist of 18 rooms, and the second addition will be on the west side and will consist of 11 additional rooms. He informed the Board that the Baptist

IN RE: DEVELOPMENT PLAN HEARING and
PETITION FOR SPECIAL HEARING for
Baptist Home of MD/DE, Inc.
(10729 Park Heights Avenue)
3rd Election District
3rd Councilmanic District

Baptist Home of MD/DE, Inc.
Owner/Developer

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. III-393 and 97-230-SPH
*

* * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer as a combined hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). That Section allows an applicant seeking development plan approval and special hearing relief, to combine the public hearings required for such approvals into one single hearing. In this case, the applicant seeks approval of a red-lined development plan prepared by LPJ Inc., for the proposed development of the subject property by Baptist Home of Maryland, Inc., Owner/Developer, with three (3) single family dwellings. The Owner/Developer also seeks approval, pursuant to the Petition for Special Hearing filed in companion Case 97-230-SPH, to create three (3) undersized R.C.5 non-density parcels and one (1) R.C.2 non-density parcel, and the removal of an existing special exception from a portion of the tract. The subject property and requested relief are more particularly described on the development plan and driveway profile drawings submitted into evidence as Developer's Exhibits 1A and 1B.

Appearing at the public hearing required for this project were Keith R. Bryan, the Assistant Administrator of the Baptist Home facility, George E. Gavrelis, Land Planner and former Deputy Director of the Baltimore County Office of Planning, Frederick R. Thompson, Professional Engineer who prepared the development plan for this project, and numerous

MICROFILMED

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ZONING CASE HISTORY DATABASE (1939 - PRESENT)

Day of Week:	Hearing Date:	Hearing Time:	Hearing Location:
Tuesday	10/12/2010	9:00 AM	Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson, MD 21204
Closing Date:	Commissioner Hearing Continued From:	Commissioner Hearing Rescheduled From:	Formal Request For Hearing:
		09/23/2010	

Case Number:

2010 0280 SPH

Petition Type # 1: SPECIAL HEARING

Petition Request # 1: To determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals, and whether the property is and has been used in violation or non-compliance with same.

Petition Type # 2:

Petition Request # 2:

Petition Type # 3:

Petition Request # 3:

Petition Type # 4:

Petition Request # 4:

Find Record
Next Record
Previous Record
Preview ZAC Agenda Report
Open MS Word
Exit Access
Scanned Image

Record: 278 of 26249

Form View

start ZoningParcel_Editor4 ... Microsoft Access 1:15 PM



19990165
Pt. Bk. 22, Folio 131

Pt. Bk./Folio # 031060

19880317
Pt. Bk. 31, Folio 60
Lot # 1

Pt. Bk. 2, Folio 138
Lot # 2
PDM # 030075

Lot # 5
0312034630
Pt. Bk./Folio # 024073

Pt. B. PDM # 030211

2203

0301035550

195030809024
10815

2211

Pt. Bk. 1, Folio 138
Lot # 1
PDM # 030428

2300009265
Lot # 2

0301013970
10812

20010152

2300009266
Lot # 2

10810

0311018970

0311018971

1080

0307061980

RC 5

1900012134

RC 5

2300003035

Lot # 4

RC 5

NW 12-F

10733
RC 2

10731

RC 2

19760089

RC 2

2300003034 Lot # 2

19970230
19910166

Pt. Bk./Folio # 070005
PDM # 030393

BAPTIST HOME OF MARYLAND (PDM File/Project # 3-393)

RC 2

059B3

059A3

Pt. Bk. 48, Folio 1
PDM # 030231

Lot # 1
1900002822

2 CD

3 ED

Lot # 5
2300003036 Pt. Bk. 70, Folio 95

20100280

Pt. Bk./Folio # 078427

Lot # 1

Pt. Bk. 78, Folio 427
10705 2300003033

19630152

RC 2

10709

19840170

0306001800

PDM # 030310

20070029

19970230
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19910166

Pt. Bk. 5, Folio 70
Pt. Bk./Folio # 055070A
2000005051

NW 11-F

Lot # 3

1900012135

Lot # 3 Pt. Bk./Folio # 029092
Pt. PDM # 030109 92

2000005050

1600012113
Lot # 1

0301050290
Lot # A

0314010575



RC 5

RC 5

RC 2

NW 12-F

059A3

3 ED

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059B3

NW 11-F

RC 2

RC 5
RC 2

11253 - 19880317

PDM # 030428
2300009267

11254 - 20010152

11257 - 19970230
11257 - 19910166
11257 - 19760089
11257 - 19630152

59046 - 20100280

55369 - 20110129

11258 - 19840170

57068 - 20070029

HOUSE OF WORTH (LAW)

Lot # 4

Lot # 5

Lot # 1

Lot # 3

Lot # 4

Lot # 2

Lot # 1

Lot # 1

Lot # 2

Lot # 2

Lot # 1

Lot # 3

Lot # 3

Lot # 1

Lot # 4

1900012135

2000005050

0305044020

0311003840

0307061980

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

Appellant

vs.

LAVERNE F. REIFSNIDER, et ux

Appellees

CASE NO. R-87-99-X

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

Appellant

vs.

HARBOR REALTY PARTNERSHIP

Appellee

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 87-CG-469

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 87-CG-470

MEMORANDUM OPINION AND ORDER

This case comes before the Court on appeal from the Board of Appeals, ordering the reclassification of two contiguous tracts of land and granting special exception to each of the subject properties. Appellant (People's Counsel for Baltimore County) appeals from a finding that the Baltimore County Council erroneously retained the purely residential zoning classification of the subject parcels during the 1984 county-wide comprehensive zoning process. The Court, having reviewed the entire record below, together with memoranda and argument of counsel, renders the following opinion.

The subject properties are two contiguous tracts of land in eastern Baltimore County, fronting on the presently dead-ending Blakely Avenue. The present zoning of the property at issue is Density Residential (D.R.).

1987 OCT 16 A 10:49

RECEIVED
COUNTY BOARD OF APPEALS

FILED OCT 14 1987

Laverne F. Reifsnider (Appellee) and Harbor Realty Partnership

(Appellee), owners of the respective parcels, filed requests for reclassification from Density Residential (D.R.) to Residential Office (R.O.). Additionally, the Appellees filed requests for special exceptions to permit the construction of Class B office buildings on their respective properties.

Appeal was taken to the Board of Appeals which on October 28, 1986 ordered the reclassification and granted the special exceptions. The Board found the Baltimore County Council in error in retaining the subject parcels as purely residential zoning during the 1984 county-wide comprehensive zoning process. Appellants claim that the law of comprehensive zoning reserves the right to make important land use decisions in Baltimore County to the County Council. Appellants further assert that the Board of Appeals may not substitute its thinking for that of the County Council's and may only reclassify property where strong evidence of error exists. Appellant's claim such strong evidence of error is lacking in this case and have therefore brought an appeal before this Court.

In reviewing the decision of the Board of Appeals, this Court can not substitute its judgment in a zoning case as to the wisdom or soundness of the action of the Board of Appeals if its decision is supported by substantial evidence and the issue is fairly debatable. Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 706, 376 A. 2d 483 (1977), cert. den. 434 U.S. 1067, 98 S. Ct. 1245, S.S. L. Ed. 2d 769.

Based on its narrow scope of review, this Court can not say that the decision of the Board of Appeals in this case was not fairly debatable or

that the decision was not supported by substantial evidence. In reaching its decision, this Court notes the testimony of Mr. Howard Brown, an experienced builder and developer; Mr. George Gavrelis, former director of the Baltimore County Office of Planning and Zoning; Appellant's own expert, Mr. James Hoswell and the report from the Baltimore County Planning Board in favor of the request.

Mr. Brown testified to several factors including the use of the utility parking lot across the street by shift workers, coming and going at all times between 7:00 A.M. and 5:00 P.M., the use of a nearby residentially zoned parcel as a "junkyard", the adjoining and nearby commercial uses, the widening of Blakely Avenue and the fact that the Silver Spring subdivision will result in increased traffic on what is now a dead-end road. Mr. Brown testified that because of these and other factors the use of the subject sites for permitted residential uses was not possible.

Mr. George Gavrelis testified that in his opinion the transition zone requirements preclude the development of this site with townhouses, leaving from a zoning viewpoint, single family detached units as the only practical way to develop these sites. Mr. Gavrelis went on to say that "the combination of the unscreened parking lots, the power--the high voltage transmission lines, are such that an adverse relationship indeed is created and that the subject properties are really not suited for development in single family detached dwellings." (Tr. 116). Additionally, Mr. Gavrelis concluded that these sites were not reclassified in the 1984 Comprehensive Zoning process, but rather, were "simply affirmed by regulative action" and were "not considered in any recorded way" by the County Council.

Additionally, Appellant's own expert, Mr. Hoswell, testified that it was his opinion the "R.O. zone would be an appropriate zone in an area such as this." (Tr. 138).

When the entire record is considered, including the expert testimony referred to above, it is this Court's opinion that the Board of Appeals was presented with overwhelming evidence from which to conclude that the County Council erred in 1984 by failing to consider conditions then in existence which justified the rezoning of these parcels. With all the evidence taken in view, it can in no way be said that the Board's action was arbitrary and capricious.

Appellant's claim that the Board of Appeals can not substitute its judgment for that of the County Council, however, Section 2.58(j) of the Baltimore County Code gives the Board power to reclassify property if error is found in the last classification of the subject property and that the "prospective reclassification is warranted by that change or error."

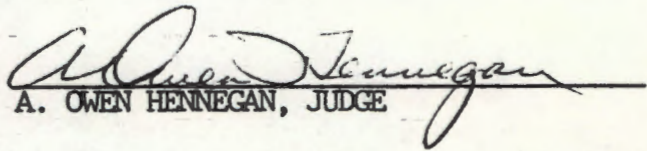
Appellant further claims that the Board of Appeals erred in granting special exceptions for construction of proposed buildings on the subject properties. Specifically, Appellant charges that the Board did not consider the "compatibility" of the proposed buildings as required under the Baltimore County zoning regulations, Section 203.2. From the transcript, it is clear, however, that evidence of compatibility was presented to the Board in the form of expert testimony from Mr. Gavrelis.

Since this Court is restricted to a determination of whether the Board's decision to reclassify the subject properties, as well as grant a special exception to each was based on substantial evidence and was fairly debatable,

it can not substitute its judgment for that of the Board. Rather, using this standard, the Court finds that the Board's action was based on substantial evidence and was fairly debatable.

In light of the above, it is this 13th day of October, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Baltimore County Board of Appeals be and is hereby AFFIRMED.


A. OWEN HENNEGAN, JUDGE

COPIES SENT:

Peter Max Zimmerman, Esquire
Julius W. Lichter, Esquire

**CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL**

DOCKET 35 PAGE 239 CASE NO. 87CG469 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

V.

LAVERNE M. REIFSNIDER

J. MITCHELL ADOLPH, D.C.

Phyllis Cole Friedman
Peter Max Zimmerman
Room 223, Court House (04)
494-2188

Julius W. Lichter
113 Chesapeake Bldg.
305 W. Chesapeake Ave. (04)
321-0600

CENTRAL ASSIGNMENT

COSTS

- (1) Feb. 10, 1987 = Appellant's Order for appeal from the decision of the County Board of appeals and Petition for Appeal fd.
- (2) Feb. 11, 1987 - Certificate of Notice fd.
- (3) Mar 9, 1987 - Pltff's Petition for Extension of Time to File Transcript of Proceedings and Order of Court Granting Same fd. (EAD,Jr) Copies sent.
- (4) March 10, 1987 - App. of Julius W. Lichter for the Deft & Same Day Response to Petition for Extension of Time to File Transcript of Proceedings fd.
- (5) Apr. 8, 1987 = Transcript of Record fd.
- (6) Apr. 8, 1987 = Notice of filing of record fd.
- (7) May 8, 1987 - Pltff's Motion to Consolidate the above case with case #87-CG-470 fd.
- (8) June 2, 1987 - Order of Court that the above case is hereby Consolidated with Case #87-CG-470 fd.(WMN)
- (9) June 9, 1987 = Correspondence fd.
- (10) June 12, 1987 - Appellee's Reply Memorandum fd.
- Sept. 10, 1987 Hon. A. Owen Hennegan. Hearing had. Ruling held sub-curia. Ruling to be filed.
- (11) Oct 14, 1987 - Opinion and Order of Court that the decision of the Baltimore County Board of Appeal be and is hereby AFFIRMED. (AOH)

Case No.: 2010-0280-SPH @ 10729 Park Heights Avenue
Aka "Rainbow Hall, LLC."

Exhibit Sheet

Petitioner/Developer

Respondent

No. 1	Deed 4-10-2002 10729 Park Heights	Posting photos of property
No. 2	Articles of Organization Rainbow Hall, LLC	Show Case Book
No. 3	Record Plat – Baptist Home of Maryland	Summary of Tenant History at <u>I</u> Rainbow Hall
No. 4	31 folders – lease documents	<i>Letter - 8/3/09 from Henry WRIGHT's ATT to VPC Executive Director</i>
No. 5	Journal Records	<i>Petition for Special Hearing filed in Case NO. 2010-0280-SPH</i>
No. 6	Rainbow Hall Receipts – Payments Received	<i>Zoning Review - CHECKLIST RESIDENTIAL LOT</i>
No. 7	Rainbow Hall Expenses Payments/Invoices	<i>Zoning Review - CHECKLIST NON-RESIDENTIAL PROPERTY</i>
No. 8	Contract of Sale with Attached Leases (2)	<i>County - What's my ZONING DISTRICT - WEB SITE</i>
No. 9	Add for Symphony Decorator Show House 4/02 to 8/02 decorators worked	<i>NOTICE OF ZONING HEARING.</i>
No. 10	Settlement Sheet 4-10-02	
No. 11	Lease for Apt. 2B - Evan T. Hul	
No. 12	Aerial Photo depicting Wilson's Home	

ZONING NOTICE

CASE # 2010-0280-SPH

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

ROOM 106 COUNTY OFFICE BUILDING 111 WEST
PLACE: CHESAPEAKE AVENUE, TOWSON 21204

DATE AND TIME: OCTOBER 12, OCTOBER 13, AND OCTOBER
15, 2010 AT 9:00 A.M.

REQUEST: SPECIAL HEARING TO DETERMINE THE USES
OF THE PROPERTY THAT COMPLY WITH THE
BALTIMORE COUNTY ZONING REGULATIONS AND PREVIOUS
APPROVALS AND WHETHER THE PROPERTY IS AND HAS
BEEN USED IN VIOLATION OR NON-COMPLIANCE WITH
SAME

RESPONDENT' S

EXHIBIT NO. 1

3 Photos of Posting

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

ZONING NOTICE

CASE # 2010-0230-274

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

FROM THE ZONING COMMISSION

PLACE: 14000 BAYVIEW BLVD, #100
TOWSON, MD 21204

DATE AND TIME: 6:00 PM TO 7:00 PM
ON THURSDAY, OCTOBER 14, 2010

REQUEST: A ZONING VARIANCE TO
ALLOW THE CONSTRUCTION OF A
SINGLE-FAMILY RESIDENTIAL HOME

PLEASE ATTEND THE HEARING TO
ADVISE THE COMMISSION OF YOUR
OPINION ON THE REQUEST

FOR MORE INFORMATION, CONTACT
THE ZONING COMMISSION AT
(410) 551-1234

FOR A COMPLETE LIST OF
ZONING ORDINANCES, VISIT
WWW.TOWSONMD.GOV

FOR A COMPLETE LIST OF
ZONING ORDINANCES, VISIT
WWW.TOWSONMD.GOV

FOR A COMPLETE LIST OF
ZONING ORDINANCES, VISIT
WWW.TOWSONMD.GOV

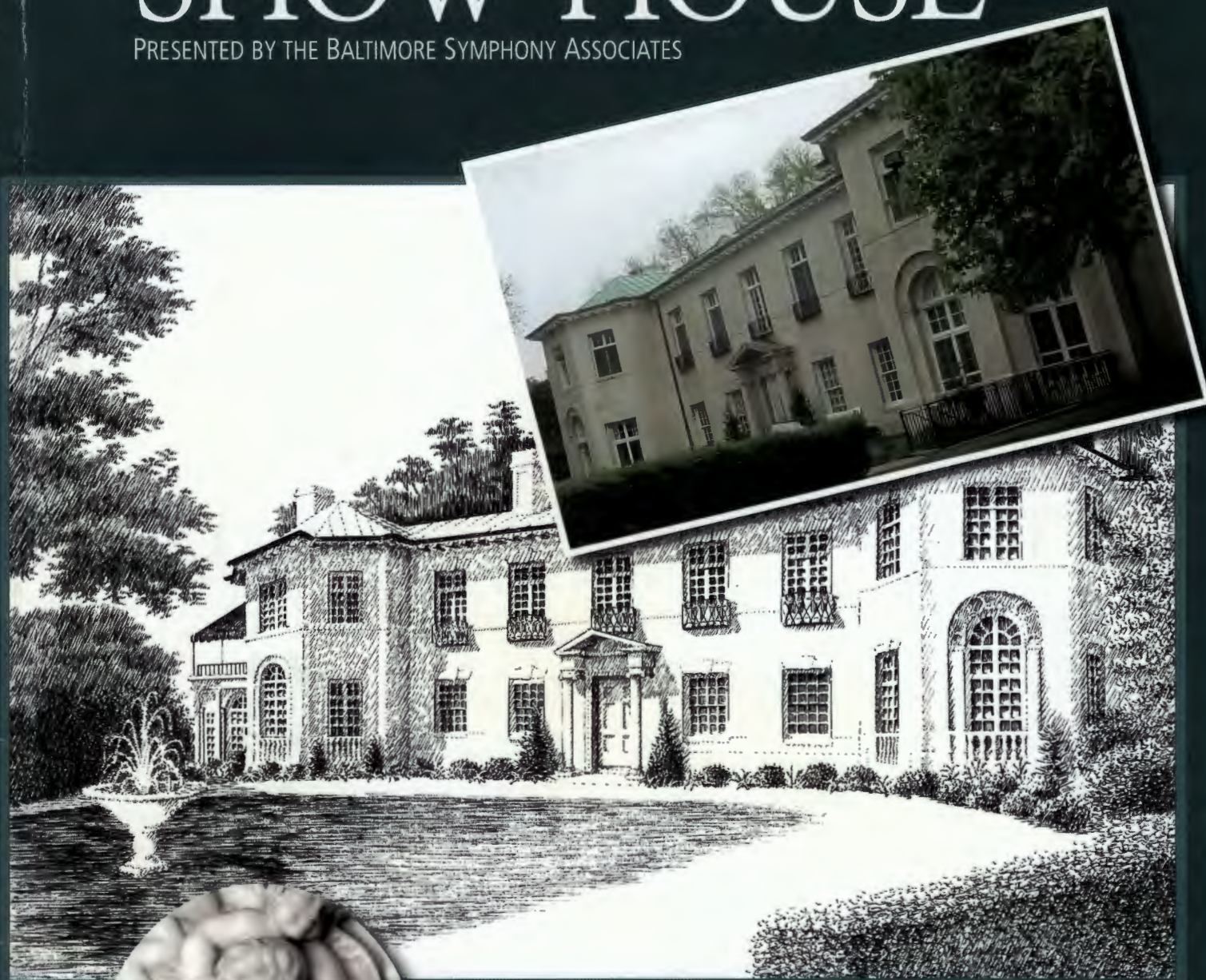
FOR A COMPLETE LIST OF
ZONING ORDINANCES, VISIT
WWW.TOWSONMD.GOV

FOR A COMPLETE LIST OF
ZONING ORDINANCES, VISIT
WWW.TOWSONMD.GOV



26th Symphony Decorators' SHOW HOUSE

PRESENTED BY THE BALTIMORE SYMPHONY ASSOCIATES



RAINBOW HILL

AUGUST 25 - SEPTEMBER 21

RESPONDENT'S

EXHIBIT NO.

2

2002

TENANT HISTORY – RAINBOW HALL

TENANT HOUSE – 10709 Park Heights Avenue (Farmhouse)

April 2002 – September 2002	Margaret Dodd
July 1, 2004 – March 8, 2008	Edgar and Elise Wilson
May 1, 2008 – present	Dr. Thorsten Fleiter and Artemis Herber

TENANT HOUSE – 10733 Park Heights Avenue (1st rancher)

July 14, 1994 – May 20, 2002	Carole Belaga was tenant when Wright bought the property
June 1, 2002 – July 1, 2004	Gary and Krista Herwig
August 1, 2004 – December 1, 2007	Barry and Anna Greenberg
March 15, 2008 – present	Henry and Jean Lubke

(no evidence except payments thru September 2003)

TENANT HOUSE – 10731 Park Heights Avenue (2nd rancher)

February 1, 2000– May 30, 2002	Shirley Rubbin was tenant when Wright bought the property
June 1, 2002 – December 30, 2004	Dr. Christopher Chaput
February 5, 2005 – May 1, 2006	Peter Stanley
June 1, 2006 – May 30, 2007	Richard Goldstone
June 1, 2007 – November 27, 2008	Brent and Laura Burkhart
May 15, 2010 – present	Elaine Witman

(no evidence from April to May 2002)
(no evidence except payments June 2002 to June 2003)

RESPONDENT' S

EXHIBIT NO.

3

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

337-0200

August 3, 2009

Ms. Teresa Moore
Executive Director
The Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Kathleen Pontone, Esquire
Miles & Stockbridge, P.C.
10 Light Street
Baltimore, Maryland 21202

Re: Rainbow Hall

Dear Ms. Moore and Ms. Pontone:

I am writing to follow up on our meeting in late May 2009 relating to Mr. Henry Wright and the property located at 10729 Park Heights Avenue known as Rainbow Hall. The purpose of this letter is to address some of the concerns raised by The Valleys Planning Council, Inc. and to, hopefully, provide an acceptable explanation relating to some of the activities which have taken place at Rainbow Hall during Mr. Wright's ownership.

During our meeting, you expressed concerns about the apartments located within Rainbow Hall as well as activities or "events" that have taken place in the past.

As you may know, the property was purchased by Rainbow Hall, LLC in 2002. It is improved by a large mansion house, with an adjoining institutional-style wing and three (3) separate and detached tenant houses. At the time of Mr. Wright's purchase of the property, it was being used by the Baptist Home of Maryland/Delaware, Inc. as a convalescence home for its members. At that time, there were some 80 or 90 residents that called Rainbow Hall their home. This use had been in existence for quite some time and is the subject of a rather extensive zoning history. In fact, Rainbow Hall's use and operation as a boarding house has been recognized by Baltimore County since at least 1963. From that time to present, there have always been tenants located in the main house, its institutional-style wing, and tenant houses. As we explained, Mr. Wright's current operation of the property represents a significantly less obtrusive and intensive "boarding house". Currently, there are eight (8) apartments of which only seven (7) are occupied. The residents in these apartments are adults, some of whom have physical handicap limitations. It has been and will continue Mr. Wright's goal to properly maintain the historical and aesthetic values of Rainbow Hall and I am sure you have witnessed this the times you visited the property. It goes without saying that the maintenance and upkeep of Rainbow Hall is a

RESPONDENT' S

EXHIBIT NO.

4



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10729 Park Heights Avenue (Rainbow Hall, Inc.)
which is presently zoned RC2

(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 Attachment

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 bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Petitioner

~~Contract Purchaser/Leasee:~~

Valleys Planning Council, Inc.

Name - Type or Print

Michael R. McCann, Attorney-in-fact

Signature

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Attorney For Petitioner:

Michael R. McCann

Name - Type or Print

Michael R. McCann

Signature

Michael R. McCann, P.A.

Company

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Legal Owner(s):

Rainbow Hall, Inc. aka Rainbow Hall, LLC

Name - Type or Print

Signature

Name - Type or Print

Signature

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

Representative to be Contacted:

Henry M. Wright, Jr., Resident Agent

Name

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2010-0280-SPH

UNAVAILABLE FOR HEARING

Reviewed By JNP Date 4/16/2010

RESPONDENT'S

EXHIBIT NO. 5

ZONING REVIEW

HEARING CHECKLIST

REVISED 08/30/01

This checklist is provided to you, for your information only, and **is not to be considered legal advice.**

First, and most importantly: You must understand that the relief you have requested is a quasi-judicial decision and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (BCZR). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence, and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that if a hearing is required, you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the BCZR.

Fourth: No employee of the Department of Permits and Development Management (PDM) may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Zoning Commissioner/Deputy Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the BCZR.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:



Zoning Review
Department of Permits and Development Management
111 West Chesapeake Avenue
Room 111
Towson, MD 21204
Telephone: 410-887-3391

INDIVIDUAL RESIDENTIAL LOTS

Variances
Administrative Variances
Special Hearings
Posting & Waivers

RESPONDENT' S

EXHIBIT NO. 6

BALTIMORE COUNTY, MARYLAND

www.baltimorecountymd.gov



What Is My District?

Where Do I Vote?

What's My District?

Who's My Representative?

Search with Another Street Address

Search Address:

10729 PARK HEIGHTS AVE 21117

Your Districts:



County Councilmanic District: 2

Legislative District: 11 - Maryland State Senate and House of Delegates

Congressional District: 3 - US House of Representatives



Election District: 3

Election Precinct: 13

Print

Done

Need help? Call 410-887-5700.

400 Washington Avenue • Courthouse • Towson, MD 21204



RESPONDENT' S

EXHIBIT NO. 8



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

September 21, 2010

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: 2010-0280-SPH

10729 Park Heights Avenue

E/side of Park Heights Avenue, 170 feet south of Velvet Valley Way

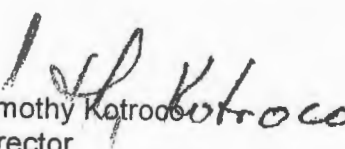
12th Election District – 3rd Councilmanic District

Legal Owners: Rainbow Hall Inc., aka Rainbow Hall, LLC

Petitioner: Valleys Planning Council, Inc.

Special Hearing to determine the uses of the property that comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

Hearing: October 12th, October 13th, and October 15, 2010 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204


Timothy M. Kotroco
Director

TK:kl

C: Michael McCann, 118 W Pennsylvania Avenue, Towson 21204

Henry Wright, Jr., Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore 21227

Michael Wyatt, 404 Allegheny Avenue, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 27, 2010**
- (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.

RESPONDENT' S

EXHIBIT NO. 9

Case No.: 2010-0280-SPH @ 10729 Park Heights Avenue
Aka "Rainbow Hall, LLC."

Exhibit Sheet

	Petitioner/Developer	Respondent
No. 1 ✓	Deed 4-10-2002 10729 Park Heights	Posting photos of property
No. 2 ✓	Articles of Organization Rainbow Hall, LLC	Show Case Book
No. 3 ✓	Record Plat – Baptist Home of Maryland	Summary of Tenant History at <u>I</u> Rainbow Hall
No. 4 ✓	31 folders – lease documents	Letter – 8/3/09 from Henry WRIGHT'S ATTY to VPC Executive Director
No. 5 ✓	Journal Records <i>75 pages</i>	Petition for Special Hearing filed in Case NO. 2010-0280-SPH
No. 6 ✓	Rainbow Hall Receipts – Payments Received <i>170 pages</i>	Zoning Review – CHECKLIST RESIDENTIAL LOT
No. 7 ✓	Rainbow Hall Expenses Payments/Invoices <i>357 pages</i>	Zoning Review – CHECKLIST NON-RESIDENTIAL PROPERTY
No. 8 ✓	Contract of Sale with Attached Leases (2) <i>49 pages</i>	County – What's my ZONING DISTRICT – WEB SITE
No. 9 ✓	Add for Symphony Decorator Show House 4/02 to 8/02 decorators worked	NOTICE OF ZONING HEARING.
No. 10 ✓	Settlement Sheet 4-10-02 <i>2 pg</i>	
No. 11 ✓	Lease for Apt. 2B - Evan T. Hulstine <i>5 pg</i>	
No. 12 ✓	Aerial Photo depicting Wilson's Home	

Case No.: 2010 - 0280 - SPH RAINBOW HALL LLC

Exhibit Sheet - Continued

Petitioner/Developer

Respondent

No. 13 ✓	Photo of TRASH CANS AT NORTH ENTRANCE TO RAINBOW	
No. 14 ✓ _I	LISTING OF EVENTS 2pg	
No. 15 ✓	LISTING FOR BAPTIST HOME SALE	
No. 16 ✓	BROCHURE PROVIDED by M's Berman "RAINBOW HALL"	
No. 17 ✓	INVITATION 6/5/10	
No. 18 ✓	Collectively - Photos of Rainbow Hall on 6/5 4 photos	
No. 19 ✓	2/21/03 LETTER FROM MR. WRIGHT	
No. 20 ✓	3/5/09 Correction Notice from Ryan Fisher	
No. 21 ✓	Restrictive Covenant 10pg Agreement - Baptist to Valleys Baptist Church	
No. 22 ✓	LETTER - December 20, 2002 to Henry M. Wright Jr. 5pg	
No. 23 ✓	Letter February 21, 2003 to Valleys from Wright	
No. 24 ✓	Letter to Anne Jones at Valleys from Wright 4-17-03	

Case No.: 2010-0280-SPH

RAINBOW HALL LLC

Exhibit Sheet - Continued

Petitioner/Developer

Respondent

No. 25 ✓	Letter 4/25/03 from VPC Director Jack Dillon to Henry Wright	
No. 26 ✓	Letter 11/17/03 from Henry Wright to VPC Executive Committee	
No. 27 ✓	Brochure announcing 11th Liza Byrd Gift Boutique	
No. 28 ✓	Brochure announcing 9th Liza Byrd Gift Boutique	
No. 29 ✓	Code Enforcement Report 2/25/09 - Number of residence ADVERTISING SIGNAGE	
No. 30 ✓	Code Enforcement Correction Notices - remove sign or obtain permit	
No. 31 ✓	ZONING MAP - NOTING PRIOR RC3 zoning before 2004 CZMP Request	
No. 32 ✓	Resume - James S. Patton Spent in <u> </u>	
No. 33 ✓	SITE PLAN FILED WITH Petition	
No. 34 ✓	63-152-X - Boarding House Aged Baptist - infirmary	
No. 35 ✓	Zoning Regulations 1955 - Book 601	
No. 36 ✓	76-89 - SPH NEW Infirmary Wing - 25 persons	

Case No.: 2010-0280-SPH RAINBOW HALL

Exhibit Sheet - Continued

Petitioner/Developer

Respondent

No. 37 ✓	Baltimore County Regulations - Convalescent Home Definition	
No. 38 ✓	Baptist Home of MD Booklet - Defining who may 1974	
No. 39 ✓	Site Plan - for special hearing - denotes 6 accessory buildings - 5 shown as dwellings	
No. 40 ✓	ZAC Comment 9/25/75 - discusses how property used.	
No. 41 ✓	Convalescent Home use 91-166-SPHX - Board of Appeals Decision	
No. 42 ✓	Plat accompanying 91-166-SPHX Petition - depicts improvement	
No. 43 IN effect for 1991 Case	Zoning Regulations - 1987 Page 43 - Nursing Home Definition (formally Convalescent Home)	
No. 44 ✓	III - 393 & 97-230-SPH 1997 Decision	
No. 45 ✓	Final Development Plan from III-393 Case	
No. 46 ✓	Page 1 of 25 - Balto County Zoning Regulations - Definition	
No. 47 ✓	BCZR - Definition of SFD	
No. 48 ✓	BCZR - RC2 - Area Regulations ① Principle Dwelling Per Lot	

Case No.: 2010-0280-SPH Rainbow Hall

Exhibit Sheet - Continued

	Petitioner/Developer	Respondent
No. 49 ✓	BCZR Definitions Principal use/accessory use	
No. 50 ✓	Dept of ASSESSEMENT & TAXATION DATA SHEET (6pg)	
No. 51 ✓	Chronology written on back of Site Plan by Patton	
No. 52 ✓	Ken Amersy Baptist Home - Convention Booklet	
No. 53 ✓	Office of Planning Comments 5/5/10	
No. 54 ✓	Memo 6/6/03 FROM HENRY WRIGHT TO J. DILLON	
No. 55 ✓	UN-SIGNED AND UN-DOCUMENTED LETTER FROM "OWNER" RAINBOW HILL TO PAT KELLER - DIRECTOR OF PLANNING	
No. 56 ✓	5-19-06 LETTER OF KATHLEEN PONTONE TO HENRY WRIGHT	
No. 57 ✓	9-15-09 LETTER OF HENRY WRIGHT TO VALLEYS PLANNING COUNCIL	
No. 58 ✓	CIM - MINUTES 8/11/94 FILE NO. III - 393 Para #3 USE OF SFD ON SITE	
No. 59 ✓	EVENT SUMMARY @ RAINBOW HALL (2002 thru - 6/2010)	
No. 60 ✓	Rental Income @ Rainbow Hall	

NO. 61 IMPROVEMENT COSTS
BASED ON RECEIPTS PRODUCED (15 pg)

CORPORATE DEED - Coady & Farley, Attorneys-At-Law, 400 Allegheny Avenue,
Towson, MD 21204, (410) 337-0200

THIS DEED, Made this 10th day of April in the year two thousand two by and between BAPTIST HOME OF MARYLAND/DELAWARE, INC., a body corporate of the State of Maryland, of the first part, Grantor, and RAINBOW HALL, LLC, a Maryland limited liability company, of the State of Maryland, of the second part, Grantees, **WITNESSETH**: that in consideration of the sum of \$1,500,000.00, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto RAINBOW HALL, LLC, a Maryland limited liability company, its successors and assigns, in fee simple, all that lot(s) of ground situate in Baltimore County, in the State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 5, as shown on the plat entitled, "Record Plat for Baptist Home of MD/DE, Inc.", which plat is recorded among the Land Records of Baltimore County in Liber SM No. 70, folio 95. The improvements thereon being known as No. 10729 Park Heights Avenue.

BEING part of the property described in a Deed from Ruth B. Rosenberg to Baptist Home of Maryland, Inc., dated December 27, 1963 and recorded among the Land Records of Baltimore County in Liber RRG No. 4250, folio 278. The Baptist Home of Maryland, Inc. having since changed its name to Baptist Home of Maryland/Delaware, Inc.

TOGETHER with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot(s) of ground and premises, unto and to the use of the said RAINBOW HALL, LLC, a Maryland limited liability company, its successors and assigns, forever in fee simple.

AND the said Grantor covenants to warrant specially the property hereby granted and conveyed; and to execute such further assurances of said land as may be requisite.

PETITIONER'S

EXHIBIT NO.

RAINBOW HALL, LLC

ARTICLES OF ORGANIZATION

RAINBOW HALL, LLC (the "Company") hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: The name of the Company is:

RAINBOW HALL, LLC

SECOND: The address of the principal office of the Company in the State of Maryland is 4804 Benson Avenue, Baltimore, Maryland, 21227; and the name and address of its registered agent for service of process is Henry M. Wright, Jr., an individual, whose address is 4804 Benson Avenue, Baltimore, Maryland, 21227.

THIRD: The Company shall continue until December 31, 2040, unless sooner dissolved as provided by the operating agreement of the Company or by operation of law.

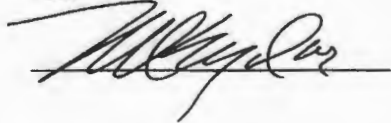
FOURTH: The purposes for which the Company is formed are as follows: (a) to acquire, hold, own, improve, develop, lease, manage, subdivide and otherwise deal with real property in Pennsylvania and Maryland; and (b) to engage in, promote, conduct and carry on any lawful acts or activities for which limited liability companies may be organized under the Maryland Limited Liability Company Act.

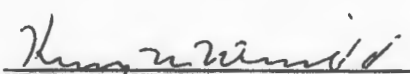
FIFTH: The affairs of the Company and the conduct of its business shall be governed by the provisions of an operating agreement and any amendments thereto, all of which shall be in writing and which shall initially be agreed to by all members.

SIXTH: The authority of any member of the Company to act for or on behalf of the Company, solely by virtue of such member's status as a member, is limited as set forth in the operating agreement of the Company.

IN WITNESS WHEREOF, Henry M. Wright, Jr. acknowledges that these Articles of Organization are his act, and further acknowledges, under penalties of perjury, to the best of his knowledge, information and belief that he has been authorized by the persons forming the Company to execute these Articles and that the matters and facts set forth herein are true in all material respects, and that he has executed these Articles of Organization as of this 13 day of MARCH, 2002.

WITNESS:



 (SEAL)
HENRY M. WRIGHT, JR.

PETITIONER'S

EXHIBIT NO. 2

LEAD Insp. #

Rent
\$1000.00

Moved in
March 1, 2006
moved out
April 12, 2006
moved acrossed the hall
to 2A
with
Brian Hopper

Mike S. Blum
10729 Park Heights Avenue
Apt 2B
Owings Mills, MD 21117

PETITIONER'S

EXHIBIT NO. 4

Rent
\$1150.00

Lead Insp. # 2674

Merrick Schoenfeld
10729 Park Heights Avenue
Apt 1C
Owings Mills, MD 21117

moved in
March 1, 2005
moved out
May 31, 2006

Rent
\$1300.00

Lead Insp. # 267

Sabrina Goll
Justin Lerin
Apt 1C
10729 Park Heights Avenue
Owings Mills, MD 21117

moved in
June 1, 2006
moved out
Jan. 1, 2008

Rent
\$3300.00
Farm House
Roundwood

Lead Insp. # 267

Dr. Thorsten Fleiter
10709 Park Heights Avenue
Owings Mills, MD 21117

DATE

RED AND BLACK JOURNAL.

JOURNAL

JOURNAL

PETITIONER'S

EXHIBIT NO.

5

Product
of
son Jones

356 24/4
780 800

828 0815

on M266

3

REBOCCA J ROLL

862500 DEPOSIT 11000 SEPTEMBER 17

7/1/97	DEPOSIT	11000	JULY	11000	11000
8/1/97	AUG			625	625
9/1/97	SEPT	SUPPLEMENT		374 00	6
10/1/97	OCT			625 00	625 00
	- NO DEPOSIT -				
	LORRAINE SCHIEDKNECHT				
12/1/97	DEC 11			650 00	650 00
1/1/98	JAN			650 00	650 00
2/1/98	FEB	CASHED	MARCH	650 00	650 00
MARCH 01	MARCH - STILL NO GOOD AS FOR REU				
	MARCH	CASHED		650 00	650 00
	APRIL - 1997	REU	5/25/98		
	JUNE	REU	5/25/98		
	CASH - 400 PRICE				
JULY 7/1/98	JULY			650 00	650 00
	AUG				
	SEPT				
	3 WEEKS LATE				
NOV 198	OCT				
	NOV				
	1300 00				

CHURCH OF THE RESURRECTION 08/05

P.O. Box 4305
Lutherville, MD 21094-4305
443 921-9437

THE COLUMBIA BANK
FAIRGROUNDS PLAZA OFFICE
TIMONIUM, MD 21093
65-233/550

1670

2/25/2009

PAY TO THE ORDER OF **RainBow Hall, LLC**

\$ **2,500.00

Two Thousand Five Hundred and 00/100***** DOLLARS

Rainbow Hall, LLC
4804 Benson Ave.
Baltimore, MD 21227

Mr. M. G. Whitaker

⑈001670⑈ ⑆055002338⑆ ⑈21 027838 01⑈

Elisa Ellin 06-06
10729 Park Heights Ave. Apt. 2b
Owings Mills, MD 21117-3012

816

7-163/520 MD
8110

3/3/09 Date

Pay to the Order of Rainbow Hall LLC \$ 1650.00
one thousand six hundred fifty
Bank of America

ACH R/T 052001633

For March rent Elisa Ellin

⑆052001633⑆ 004469626160⑈0816

Harland Clarke

ISLAND BREEZES

Rainbow
PNC BANK

040
GREEN SPRING (409)
10801 FALLS ROAD
LUTHERVILLE MD 21093
Cashbox 01 AM

IC Deposit Multi/Mix
17 MAR 5 2009

Account Number XXXXXX0735
Amount \$4,150.00
Amount \$0.00

ID WWSB4091 Sequence Number 00107
sh 301

PETITIONER'S

EXHIBIT NO. 6

deposit or payment is
ication and to the r
bank. Deposits may
iate withdrawal. Rec
verified with your

For the period 05/01/2009 to 05/29/2009

RAINBOW HALL LLC
C/O ATLANTIC WINE & SPIRITS
4804 BENSON AVE
BALTIMORE MD 21227

Primary account number: 55-5648-0735

Page 1 of 3

Number of enclosures: 0

 For 24-hour banking sign on to
 PNC Bank Online Banking on pnc.com
FREE Online Bill Pay

For customer service call 1-877-BUS-BNKG
between the hours of 6 AM and Midnight ET.

Para servicio en español, 1-877-BUS-BNKG

Moving? Please contact your local branch.

☒ Write to: Customer Service
PO Box 609
Pittsburgh, PA 15230-9738

 Visit us at pnc.com/mybusiness/

 TDD terminal: 1-800-531-1648
For hearing impaired clients only

duy 6/9/09
ok

Important Account Information

Effective April 17, 2009

Due to consolidation within the Federal Reserve Processing Centers, the following routing numbers will be considered local for funds availability: 0110, 0111, 0112, 0113, 0114, 0115, 0116, 0117, 0118, 0119, 0210, 0211, 0212, 0213, 0214, 0215, 0216, 0219, 0260, 0280, 0310, 0311, 0312, 0313, 0319, 0360, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2219, 2260, 2280, 2310, 2311, 2312, 2313, 2319, 2360. This means that funds from these checks will be available sooner in most cases. The complete listing of local routing numbers appears below.

Amendment to the Consumer, Business and Analysis Business Funds Availability Policies for the PNC Bank Washington D.C., Maryland and Virginia markets.

The information stated below amends certain information in our Consumer and Business Funds Availability Policies ("Policies"). All other information in our Policies continues to apply to your account. Please review the following information and retain it with your records.

Identification of Market

Washington D.C., Maryland, Virginia: All Branches

Local Routing Numbers for Above Markets

0110, 0111, 0112, 0113, 0114, 0115, 0116, 0117, 0118, 0119, 0210, 0211, 0212, 0213, 0214, 0215, 0216, 0219, 0260, 0280, 0310, 0311, 0312, 0313, 0319, 0360, 0510, 0514, 0520, 0521, 0522, 0540, 0550, 0560, 0570, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2219, 2260, 2280, 2310, 2311, 2312, 2313, 2319, 2360, 2510, 2514, 2520, 2521, 2522, 2540, 2550, 2560, 2570

PETITIONER'S

EXHIBIT NO. 7

If you have any further questions about our Funds Availability Policies, please contact your local branch office or call our toll-free customer service line for Consumer Customers at 1-888-PNC-BANK or for Business Customers at 1-877-BUS-BNKG between the hours of 6 am - 12 midnight Eastern Time, 7 days a week.

Effective April 17, 2009, authorized/approved restaurant check card transactions will no longer be considered in determining the balance available in your account to pay checks and other withdrawals until the merchant has submitted a final transaction amount.

Buyer: HENRY M. WRIGHT, JR.
Baltimore County, MD 21117

Property: 10729 PARK HEIGHTS AVENUE, OWINGS MILLS.



583 5700



MARYLAND RESIDENTIAL CONTRACT OF SALE

This is a Legally Binding Contract. If Not Understood, Seek Competent Legal Advice.

THIS FORM IS DESIGNED AND INTENDED FOR THE SALE AND PURCHASE OF IMPROVED SINGLE FAMILY RESIDENTIAL REAL ESTATE LOCATED IN MARYLAND ONLY. FOR OTHER TYPES OF PROPERTY INCLUDE APPROPRIATE ADDENDA.

BROKER: O'Connor, Piper and Flynn ERA BRANCH OFFICE: Towson-Lutherville
OFFICE PHONE: (410) 888-8111 FAX: (410) 821-0375 BROKER/AGENT ID NO. OPF 17
SALES ASSOCIATE: Charles Carroll/Kelle Savers E-MAIL: _____ PHONE: (410) 828-8117

ACTING AS ☐ SELLER'S AGENT (WHETHER "COOPERATING AGENT" OR "SELLING AGENT"); OR
☒ EXCLUSIVE BUYER AGENT; OR
☐ INTRA-COMPANY AGENT WITH BROKER AS DUAL AGENT

BROKER: LONG and FOSTER BRANCH OFFICE: GREENSPRING
OFFICE PHONE: (410) 583-5700 FAX: (410) 583-1303 BROKER/AGENT ID: ING 124
SALES ASSOCIATE: MARC WHITMAN (LIBBY) E-MAIL: _____ PHONE: (410) 486-5544

ACTING AS ☒ LISTING BROKER AND SELLER AGENT; OR
☐ INTRA-COMPANY AGENT WITH BROKER AS DUAL AGENT

TIME IS OF THE ESSENCE UNLESS BOTH BUYER AND SELLER INITIAL HERE

BUYER BUYER SELLER SELLER

1. DATE OF OFFER: 12-21-2001

2. SELLER: NAME: Baptist Home of M.D. DE INC ✓
ADDRESS: 10729 Park Heights Ave Owings Mills, MD ZIP: 21117
AND

3. BUYER: NAME: HENRY M. WRIGHT, JR. ✓
ADDRESS: 1100 W. SEMINARY AVENUE, LUTHERVILLE, MD ZIP: 21093

4. PROPERTY DESCRIPTION: Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property") known as 10729 PARK HEIGHTS AVENUE ✓ located in OWINGS MILLS / Baltimore County City/County, Maryland, Zip 21117 together with the improvements thereon, and all rights and appurtenances thereto belonging.

5. ESTATE: The Property is being conveyed: X in fee simple or _____ subject to an annual ground rent, now existing or to be created, in the amount of _____ Dollars (\$ _____)

_____ payable semiannually, as now or to be recorded among the Land Records of OWINGS MILLS / Baltimore County City/County, Maryland. If the Property is subject to a ground rent and the ground rent is not timely paid, the owner of the reversionary interest (i.e., the person to whom the ground rent is payable) may bring an action of ejectment against the leasehold owner pursuant to Section 8-402.2 of the Real Property Article, Annotated Code of Maryland (as amended). As a result of this action, the owner of the reversionary interest may obtain title to the Property in fee, discharged from the lease.

6. PURCHASE PRICE: The purchase price is ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND 00 CENTS as
Dollars (\$ 1,500,000.00) ✓

THE PARTIES ACKNOWLEDGE PAGES 1 THROUGH 8 OF THIS CONTRACT OF SALE

BUYER BUYER SELLER SELLER



R. E. Comm.
Seller
Lea...

PETITIONER'S
EXHIBIT NO. 8

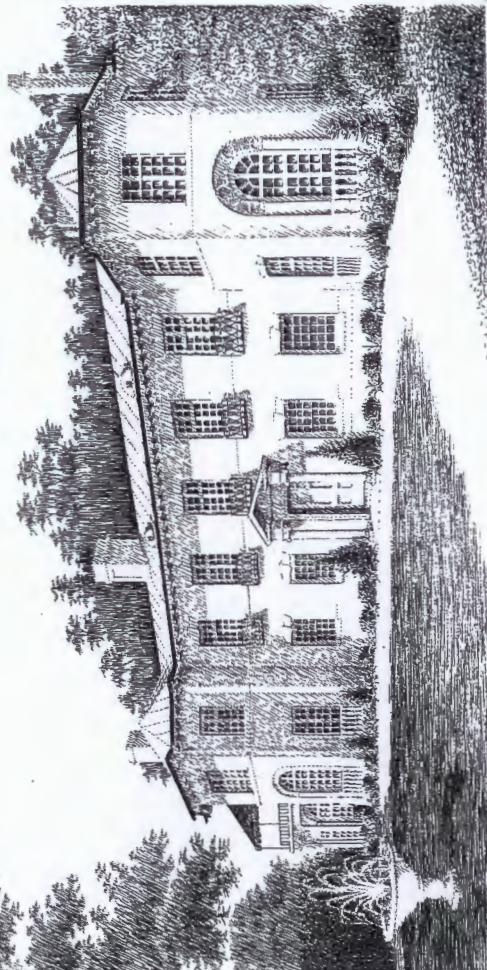
The movie site of DreamWorks Productions
"HEAD OF STATE"

THE BALTIMORE SYMPHONY
ASSOCIATES PRESENTS THE

26th *Symphony*
Decorators'
SHOW HOUSE

RAINBOW HILL
10729 PARK HEIGHTS AVE.
GREENSPRING VALLEY, MD

AUGUST 25 - SEPTEMBER 21, 2002



History

Rainbow Hill was built in 1917 as financier Edward T. Stotesbury's gift to his stepdaughter Henriette Louise Cromwell Brooks. The noted Philadelphia architect, Horace Trumbauer, designed Rainbow Hill. His firm is famous for many fine residences including the "Elms" estate of Newport, RI. His firm designed two residences for James B. Duke, which subsequently led the firm to design portions of the Duke University Campus. Julian Abele, the first African-American student of Architecture from the University of Pennsylvania, was the chief designer.

Henriette Brooks married General Douglas MacArthur in 1921. In 1925, Major General MacArthur and his wife and family settled back at Rainbow Hill after a post in the Philippines. It was at this point it was named Rainbow Hill in honor of MacArthur's Rainbow Division of World War I. MacArthur's memory remains in the form of a Japanese Ming Tree that was a gift to him from Emperor Hirohito in 1926 and still thrives along the terrace in the rear of the property.

In 1940, the property was purchased by a local family who sold it in 1963 to the Baptist Home of Maryland/Delaware, Inc., changing the name to Rainbow Hall. In June, 2001, the house was designated a landmark by the Baltimore County Landmarks Preservation Commission. Since March, 2002, the property is privately owned.

Dates and Show House Hours

August 25 - September 21, 2002

Hours:

Mondays: **Closed**

Tuesdays, Thursdays: **10 a.m. - 8 p.m.**

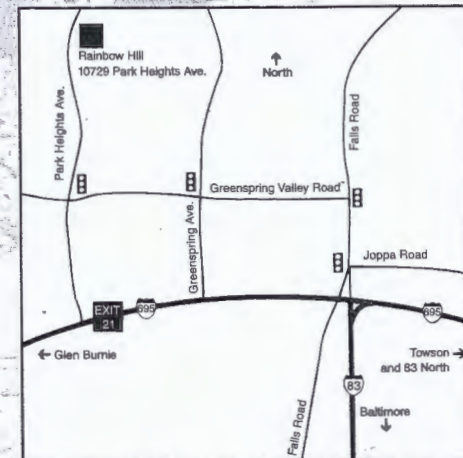
Wednesdays, Fridays, Sats: **10 a.m. - 5 p.m.**

Sundays: **12 noon - 5 p.m.**

Directions

Baltimore Beltway 695 to exit 21, Park Heights Avenue, North. Cross over Greenspring Valley Road, the house will be .6 of a mile on your right.

On-Site Parking • Handicapped Accessible



The Baltimore Symphony
Associates

Celebrating its 60th year of service and support to the Baltimore Symphony Orchestra, the Baltimore Symphony Associates continues its tradition of financial support to the Education Programs of the BSO. The proceeds of the Symphony Decorators' Show House, Rainbow Hill, will enable 80,000 students to enjoy the magic of music at The Meyerhoff. Over the years, more than \$5,000,000 has been donated to the BSO through various fund-raising efforts.

To learn more about The Associates and BSO's sparkling 2002-2003 season, call 410.783.8023 or go to the web site:
<http://www.baltimoresymphony.com>

PETITIONER'S

EXHIBIT NO.

9

A. SETTLEMENT STATEMENT

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

OMB NO. 2502-0265



B. TYPE OF LOAN				6. FILE NUMBER		7. LOAN NUMBER		8. MORTGAGE INS CASE NUMBER	
1. ☐ FHA 2. ☐ FmHA 3. ☐ Conv. Unis.				35867-A-RAI					
4. ☐ VA 5. ☐ Conv. Ins.									
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "[POC]" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.									
5.0 10-96 (13/35867-A-RAI)									
D. NAME AND ADDRESS OF BORROWER				E. NAME AND ADDRESS OF SELLER				F. NAME AND ADDRESS OF LENDER	
RAINBOW HALL, LLC 8717 Marburg Manor Drive Lutherville, MD 21093				BAPTIST HOME OF MARYLAND/ DELAWARE, INC. <i>11416 Reisterstown Rd. Crownsville Md. 21117</i>				Mercantile-Safe Deposit & Trust Company	
G. PROPERTY LOCATION				H. SETTLEMENT AGENT				I. SETTLEMENT DATE	
10729 Park Heights Avenue Owings Mills, MD 21117 Baltimore County, Maryland				Coady & Farley				52-0275220	
				PLACE OF SETTLEMENT				April 10, 2002	
400 Allegheny Avenue Towson, Maryland 21204									
J. SUMMARY OF BORROWER'S TRANSACTION					K. SUMMARY OF SELLER'S TRANSACTION				
100. GROSS AMOUNT DUE FROM BORROWER					400. GROSS AMOUNT DUE TO SELLER				
101. Contract Sales Price 1,500,000.00					401. Contract Sales Price 1,500,000.00				
102. Personal Property					402. Personal Property				
103. Settlement Charges to Borrower line 1400 40,569.00					403.				
104.					404.				
105.					405.				
Adjustments for items paid by Seller in advance					Adjustments for items paid by Seller in advance				
106. City/town Taxes to					406. City/town Taxes to				
107. County Taxes 04-10-02 to 06-30-02 5,240.00					407. County Taxes 04-10-02 to 06-30-02 5,240.00				
108. Assessments to					408. Assessments to				
109.					409.				
110.					410.				
111.					411.				
112.					412.				
120. GROSS AMOUNT DUE FROM BORROWER 1,545,809.00					420. GROSS AMOUNT DUE TO SELLER 1,505,240.00				
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER					500. REDUCTIONS IN AMOUNT DUE TO SELLER				
201. Deposit or earnest money 100,000.00					501. Excess Deposit (see instructions) 65,000.00				
202. Principal Amount of New Loan(s) 1,500,000.00					502. Settlement Charges to Seller line 1400 54,145.00				
203. Existing Loan(s) Taken Subject to					503. Existing Loans taken subject to				
204.					504. Payoff 1st Mtg to *				
205.					505. Payoff of second mortgage loan				
206.					506. Deposit retained by broker 35,000.00				
207.					507.				
208. Rent 4/10-4/30 1,730.00					508. Rent 4/10-4/30 1,730.00				
209.					509.				
Adjustments for items unpaid by Seller					Adjustments for items unpaid by Seller				
210. City/town Taxes to					510. City/town Taxes to				
211. County Taxes to					511. County Taxes to				
212. Assessments to					512. Assessments to				
213.					513.				
214.					514.				
215.					515. Line 501 from Long & Foster				
216.					516. to Allfirst for Loan Payoff				
217.					517. Proceeds for Loan Payoff to Allfirst 1,349,365.00				
218.					518.				
219.					519.				
220. TOTAL PAID BY/FOR BORROWER 1,601,730.00					520. TOTAL REDUCTION AMOUNT DUE SELLER 1,505,240.00				
300. CASH AT SETTLEMENT FROM/TO BORROWER					600. CASH AT SETTLEMENT TO/FROM SELLER				
301. Gross Amt Due from Borrower (line 120) 1,545,809.00					601. Gross Amount Due to Seller (line 420) 1,505,240.00				
302. Less Amt Paid by/for Borrower (line 220) (1,601,730.00)					602. Less Reductions Due Seller (line 520) (1,505,240.00)				
303. CASH ☐ FROM ☒ TO BORROWER 55,921.00					603. CASH ☐ TO ☐ FROM SELLER 0.00				

The undersigned hereby acknowledge receipt of a completed copy of pages 1&2 of this statement & any attachments referred to herein. I HAVE CAREFULLY REVIEWED THE HUD-1 SETTLEMENT STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS A TRUE AND ACCURATE STATEMENT OF ALL RECEIPTS AND DISBURSEMENTS MADE ON MY ACCOUNT OR BY ME IN THIS TRANSACTION. I FURTHER CERTIFY THAT I HAVE RECEIVED A COPY OF THE HUD-1 SETTLEMENT STATEMENT.

BORROWER RAINBOW HALL, LLC

BORROWER BY: *[Signature]*

SELLER BAPTIST HOME OF MARYLAND/DELAWARE, INC.

SELLER BY: *[Signature]* President

TO THE BEST OF MY KNOWLEDGE, THE HUD-1 SETTLEMENT STATEMENT WHICH I HAVE PREPARED IS A TRUE AND ACCURATE ACCOUNT OF THE FUNDS WHICH WERE RECEIVED AND HAVE BEEN OR WILL BE DISBURSED BY THE UNDERSIGNED AS PART OF THE SETTLEMENT OF THIS TRANSACTION.

Coady & Farley

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON CONVICTION CAN INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE: TITLE 18 U.S. CODE SE

PETITIONER'S

EXHIBIT NO. 10

Paid
8-29-08
\$1000.00

Henry M. Wright Jr.
8717 MARBURG MANOR DR
LUTHERVILLE, MD 21093

Residential Lease

APARTMENT - CONDOMINIUM - HOUSE

BY THIS AGREEMENT made and entered into on September 1, 2008,
between Henry Wright Jr herein referred to as Lessor, and Evan T. Hultins
herein referred to as Lessee. Lessor leases to Lessee the premises situated at 10729 PARK HEIGHTS
Avenue, Apt 2B, in the City of Baltimore
County of Baltimore, State of Maryland 21117
and more particularly described as follows: 1 Bd. Rm, 1 1/2 BATH Rms, Kitchen,
LARGE ROOM USED AS LIVING Rm & Dining Rm.

together with all appurtenances, for a term of 1 years, to commence on September 1, 2008, and to end on
September 1, 2009, at 12 o'clock P. m.

Paid
8-29-08
\$1000.00

1. Rent. Lessee agrees to pay, without demand, to Lessor as rent for the demised premises the sum of One Thousand
Dollars (\$ 1000.00) per month in advance on the 1st day of each calendar month
beginning September 1, 2008, at 10729 Park Heights Ave.
Apt 2B, City of Baltimore, State of Maryland 21117
or at such other place as Lessor may designate.

2. Form of Payment. Lessee agrees to pay rent each month in the form of one personal check, OR one cashier's check, OR
one money order made out to Henry M. Wright, 8717 MARBURG MANOR DR.
LUTHERVILLE, MD 21093

3. Late Payments. For any rent payment not paid by the date due, Lessee shall pay a late fee in the amount of FIFTY
Dollars (\$ 50.00). 50% of Rent \$1000

4. Returned Checks. If, for any reason, a check used by Lessee to pay Lessor is returned without having been paid, Lessee
will pay a charge of Sixty Dollars (\$ 60.00) as additional
rent AND take whatever other consequences there might be in making a late payment. After the second time a Lessee's check is
returned, Lessee must thereafter secure a cashier's check or money order for payment of rent.

Paid
8-29-08
\$1000.00

5. Security Deposit. On execution of this lease, Lessee deposits with Lessor One Thousand
Dollars (\$ 1000.00), receipt of which is acknowledged by Lessor, as security for the faith-
ful performance by Lessee of the terms hereof, to be returned to Lessee, without interest, except where required by law, on the
full and faithful performance by him of the provisions hereof.

6. Quiet Enjoyment. Lessor covenants that on paying the rent and performing the covenants herein contained, Lessee shall
peacefully and quietly have, hold, and enjoy the demised premises for the agreed term. Rainbow is Private
Property - Not an Apartment complex - No Loud Parties inside or out

7. Use of Premises. The demised premises shall be used and occupied by Lessee exclusively as a private single family resi-
dence, and neither the premises nor any part thereof shall be used at any time during the term of this lease by Lessee for the
purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single family
residence. Lessee shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities
affecting the cleanliness, occupancy, and preservation of the demised premises, and the sidewalks connected thereto, during the
term of this lease.

8. Number of Occupants. Lessee agrees that the demised premises shall be occupied by no more than 1 persons,
consisting of 1 adults and — children under the age of — years, without the written consent of Lessor.

PETITIONER'S
EXHIBIT NO. 11



PETITIONER' S

EXHIBIT NO. 12



PETITIONER'S 13
EXHIBIT NO. 12

Rainbow Hill **(Here's What We're Playin')**

SET 1

- 423a A Day in the Life of a Fool
- 160 Tuxedo Junction
- 195 Trolley Song
- XX LEAD SHEET FAKE** Over the Rainbow
- 552 The Lady is a Tramp (JILL vocal)
- 557 Love is Here to Stay (JILL vocal)
- 344 Moondance (repeat solo section)
- 222c Sentimental Journey
- 562 Paper Moon (MATT vocal)
- 579 Come Fly With Me (MATT vocal)
- XX** Feliz Navidad
- 819 Jumpin' at the Woodside

SET 2

- 124 In the Mood
- 237 Misty
- 574 They Can't Take That Away (JILL vocal)
- 587 How About You? (JILL vocal)
- 193 S' Wonderful
- 426 Oye Como Va (open for solos)
- 578 Ain't That a Kick (MATT vocal)
- 580 Sway (MATT vocal)
- 800 This Can't Be Love

SET 3

- 145 PA 6-5000
- 428 Girl From Ipanema
- 209 Come in From the Rain
- 566 Too Close For Comfort (JILL vocal)
- 567 Summertime (JILL vocal)
- 154 String of Pearls
- 345 Watermelon Man-solos?
- XX LEAD SHEET FAKE WALTZ?**
- xxx** Zoot Suit Riot ((MATT vocal)
- 806 All the Things You Are
- 180 Alexander's Ragtime Band

SET 4

Directions to Rainbow Hill **Baltimore County**

Baltimore Beltway (695), exit 21.
At end of ramp turn LEFT
Go 2.2 miles and turn right into
Rainbow Hill

Heavy equipment: Drop off at front
of house, then park on the
right side of the house. All others
please just park on the right side of
the house
after you enter the driveway.

Don't Forget

Where:

Rainbow Hill
(above Valley Road in Baltimore County)
10729 Park Heights Avenue
Owings Mills, MD 21117
Phone: (410) 440-2548 (Jean Lubke - our
contact at Rainbow Hill)

Please bring a good music stand -
because of size, we will only use
our stands
for the front row. If you have an
extra black stand please bring it.

**YOU WILL NEED STAND
LIGHTS - DO NOT FORGET**
(extension cords are a good idea to
bring)

Bob is in charge of logistics and
contact with the host
Mike will count off each tune
Jodi will give the cut offs and any
other music directions

Date:

Saturday, November 19, 2009

PETITIONER'S

EXHIBIT NO.

1314

MLS#: BC4098680

Short Listing

10729 PARK HEIGHTS AVE, OWINGS MILLS, MD 21117

STATUS: ACTIVE

Ownership: Fee Simple, Sale

Legal Sub:

Adv Sub: GREENSPRING VALLEY Oth Fee: /mo pd

Lot-SF: 856825

Lot/Block/Square: 5

Lot-Acres: 19.67

Style: Other

#Lvs: 2 #Fpls: 9

Type: Detached

Main Entrance: Center Hall

THType:

Tax Map:

Parcel: 270

TOTAL

MAIN

UPR1

UPR2

LWR1

LWR2

SCHOOLS

BR: 15

BR: 0

BR: 15

BR: 0

BR: 0

BR: 0

ES: FORT GARRISON

FB: 16

FB: 1

FB: 15

FB: 0

FB: 0

FB: 0

MS: PIKESVILLE

HB: 4

HB: 4

HB:

HB:

HB:

HB:

HS: PIKESVILLE

Main: Living Room, 61 X 26

Main: Dining Room, 35 X 26

Main: Kitchen, 36 X 16

Main: Other Room 1, 34 X 23

Main: Foyer, 47 X 34

Basement: YES, Unfinished

Parking: Drwy/Off Str

Heat: Baseboard, Forced Air, Radiator, Oil

Cool: Central A/C, Wall Unit, Electric

TV/Cable/Comm: CATV/Dwelling

INTERIOR: , Built-in Bookcases, Drapery Rods, Drapes/Curtains, Elevator, FP Mantels, FP Screen, Wood Floors, W/W Carpeting, Spkler
 Sys-indoor, Den/Stdy/Lib, Family Room, Florida/Sun Rm, Maids Rm/Quart, Kit-Table Space, Sep Dining Rm, Cathedral Ceilings, Plaster
 Walls, 9'+ Ceilings, French Doors, Palladian Windows, Screens, Storm Windows

EXTERIOR: StuccoStucco, Other, Copper, Other, Patio, Terrace, Backs to Trees, Landscaping

REMARKS: HIST. "RAINBOW HALL" MANSION DESIGNED BY TRUMBAUER & FORMER HOME OF GENERAL DOUGLAS
 MACARTHUR. IT IS ONE OF BALTIMORE'S GRAND HISTORIC RESIDENCES, MAGNIFICENTLY SITED ON 19+ ACRES WITH 3 ADDL
 HOMES ON THE GROUNDS. MOST RECENTLY USED AS A NOT-FOR-PROFIT NURSING HOME, IT HAS THE POTENTIAL FOR
 RESTORATION TO ITS FORMER SPLENDOR AS A RESIDENCE. BROCHURE AVAIL. RMS LISTED IN ORIG. MANSION ONLY
 DIRECTIONS: N OF GREENSPRING VALLEY RD, BUYER PAYS ALL DOC STAMPS & TRANS. TAXES

Broker: LONG & FOSTER REAL ESTATE, INC.

Brkr Code: LNG124

Brkr Office: (410)583-5700

Listing Agent: MARC WITMAN

Agt Office: (410)583-5700

Brkr Fax: (410)583-1303

Pager:

Home: (410)486-5544

Home: (410)484-3441

Cell: (443)463-6100

Alt Listing Agent: LIBBY BERMAN, CRS

Show Instructions: LA Must Accom, 24 Hour Notice

Owner: XXX XXX

Showing Contact: MARC WITMAN & LIBBY BERMAN

List Date: 17-DEC-2001

Orig Price: \$1,750,000

Update Date: 22-DEC-2001

Prior Price:

Update Type: Other

Disclosures: Prop Disclaimer

Documents:

Cur Finance Type:

New Finance Types:

WATER

Water Oriented: N

Water Access: N

Water View: N

Waterfront: N

Phys Dock Conveys: N

Nav Water:

Vacation Prop: NO

LIST PRICE: \$1,750,000

Classification: Residential

List Type: Excl. Right

Old Map: 25E3

TBM Map: 710A3

Area: N/A

Age: 84

Year Built: 1917

Finished SF: 0

Folio: 95

HOA FEE: \$0.00 /mo pd None

GROUND RENT:

TAXES: \$23,154

Tax Year: 2001

Tax ID#: 04032300003036

Model:

Liber: 70

Yerman, Berman & Witman

THE POWER OF SUCCESS

Presenting

"Rainbow Hall"



*10729 Park Heights Avenue
Owings Mills, MD 21117*



PETITIONER'S

EXHIBIT NO.

Ex. 16

Contact:
Michael Yerman,
Libby Berman
or Marc Witman
410-583-5700

*Join us for an evening of fun
and celebration in Jamie's honor*

*Rainbow Hill Mansion
10729 Park Heights Avenue
Owings Mills, Maryland 21117*

Saturday, June 5th 7-11 pm

Cocktail Attire

Please RSVP at JHBparty2010@gmail.com

PETITIONER'S

EXHIBIT NO.

17



PETITIONER'S

EXHIBIT NO. 18

**Rainbow Hall LLC
8717 Marburg Manor Dr.
Lutherville, MD 21093**

February 21, 2003

Velvet Valley Asso.
Dr. Harlan K. Zinn
10628 Park Heights Ave.
Owings Mills, MD 21117

Dear Dr. Zinn:

Thanks for meeting with us at Rainbow Hill to see the building and to understand our intentions.

By way of review I have saved eight building in Maryland and I still own all of these buildings. As a matter of personal interest I enjoy older building. It is my intent to continue renovation at Rainbow Hill to retain this beautiful building that is full of history.

It was my understanding that Rainbow Hill was about to be demolished by the wrecking ball and I needed to move very quickly to save the building. Therefore, I did not do a detailed search of the records. This special historic building has been saved.

We are looking for your cooperation to join with us to find a way to continue to preserve Rainbow Hill. We do not plan to build any additional houses on the site. We do believe the building lends itself well for site for upscale weddings, business meetings, and other upscale social events. Our desire would be to take the income from the events to pay for the maintenance and upkeep on the property.

Please join with us in this worthwhile project.

Sincerely,



Henry Wright

PETITIONER' S

EXHIBIT NO. 19



CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 56730	PROPERTY TAX ID 220000 3036	DATE ISSUED 3/15/19
NAME(S): Rainbow Hall Inc		
MAILING ADDRESS RA: Henry M. Wright Jr		
4804 Benson Ave		
CITY Balt	STATE MD	ZIP CODE 21227
VIOLATION ADDRESS 10729 Park Heights Ave		
CITY BALTIMORE	STATE MARYLAND	ZIP CODE 21117

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☒ **RC2(1A01)** ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER:

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|--|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement. |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1: ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☒ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1: ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: |

Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof/ foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

BCZR: 500.9
- Non Permitted apartment use in RC2 zone
- Cease + desist use or seek special exception hearing for non conforming use as apartment use if applicable. Seek all proper permits if applicable

☒ NOTICE POSTED AND MAILED

POTENTIAL FINE: ☐ \$200 ☐ \$500 ☒ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

PETITIONER'S

COMPLIANCE DATE:

4.5.19

INSPECTOR NAME:

Risher, Ryan

PRINT NAME (Rev 9/05)
AGENCY

EXHIBIT NO.

20

VFC
Fair
Deal

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per Jay B. Goo
Authorized Signatory
Date 11-27-88 Sec. 11-25 AGR

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT is entered into, as of the 11th day of October, 1988, by and between THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. (the "Baptist Home" or the "Home") and THE VALLEYS PLANNING COUNCIL, INC. ("VPC"), both Maryland nonprofit corporations.

RECITALS:

A. The Baptist Home is the owner of a tract of land containing approximately 41.74 acres (the "Land"), which is located on the east side of Park Heights Avenue, across from its intersection with Velvet Valley Way, in the Third Councilmanic District of Baltimore County. The Land is more particularly described in a deed recorded among the Land Records of Baltimore County at Liber 4250, folio 0278.

B. At the present time, the Land is zoned RC 2 and RC 5, and it is used for a convalescent home. Although the Baltimore County Zoning Regulations ("BCZR") do not currently permit a convalescent or nursing home in an RC 2 or an RC 5 zone, the Home was lawfully established before the Land obtained its current zoning, and the Home is therefore nonconforming use.

C. The Home desires to validate its nonconforming use by obtaining a zoning reclassification of the Land and a subsequent special exception. To this end, the Home has submitted a request for change in zoning for the Land as a part of the 1988 Baltimore County Comprehensive Zoning Map process.

D R/F 42-106

AGENT
SM CLERK
#58769

PETITIONER'S

EXHIBIT NO.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

RECEIVED FOR TRAI
State Department of
Assessments & Taxation
for Baltimore County

29.48

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

December 20, 2002

*Don
Rainbow Hall*

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Lutherville, MD 21093

Dear Mr. Wright:

Thank you for speaking with me Fri., Dec. 6, 2002, regarding your plans for Rainbow Hill. As I mentioned I have had a number of calls from area residents who expressed concerns about what is legally permitted on the property as the Baptist Home is no longer the owner. I have assured them that the flurry of activity, including the Designer Show House activities, have all been not for profit charitable events that culminated on December 9, 2002.

Following up on our conversation about the long-term future use of Rainbow Hall is the next step. Because you have invested a substantial amount of money in the purchase of this Landmark property, and you do not plan to use it as your principal residence, you obviously are looking for a use that can justify such expenditure. You mentioned several uses that you thought might be possible, some of which may be problematic to the community. I suggested that in a spirit of cooperation you hold a meeting with representatives of the VPC and the other community associations in the area after the New Year. I will provide you with a list of Associations and contacts for this meeting.

As promised, I have enclosed a copy of the pertinent Baltimore County Zoning Regulations that identify permitted and special exception uses. Additionally enclosed is a copy of the VPC restrictive Covenant agreement on the property. I am also enclosing a copy of the current zoning of the property.

If you would consult your calendar and choose two or three dates that we could work from, including a snow date, we can proceed with scheduling the meeting.

I look forward to meeting and working with you on what I hope will be a positive, successful solution for this property.

Very Truly Yours,

Jack Dillon
Jack Dillon
Executive Director

PETITIONER'S

EXHIBIT NO.

22

Henry Wright

**Rainbow Hall LLC
8717 Marburg Manor Dr.
Lutherville, MD 21093**

February 21, 2003

Valley Planning Council
Kathie Pontone
P.O. Box 5402
Towson, MD 21285-5402

Dear Ms. Pontone:

Thanks for meeting with us at Rainbow Hill to see the building and to understand our intentions.

By way of review I have saved eight building in Maryland and I still own all of these buildings. As a matter of personal interest I enjoy older building. It is my intent to continue renovation at Rainbow Hill to retain this beautiful building that is full of history.

It was my understanding that Rainbow Hill was about to be demolished by the wrecking ball and I needed to move very quickly to save the building. Therefore, I did not do a detailed search of the records. This special historic building has been saved.

We are looking for your cooperation to join with us to find a way to continue to preserve Rainbow Hill. We do not plan to build any additional houses on the site. We do believe the building lends itself well for site for upscale weddings, business meetings, and other upscale social events. Our desire would be to take the income from the events to pay for the maintenance and upkeep on the property.

Please join with us in this worthwhile project.

Sincerely,

Henry Wright
Henry Wright

PETITIONER' S

EXHIBIT NO. 23

with 9 intro
CIT
sent 4/17/03
4/17/03

Rainbow Hall, LLC
8717 Marburg Manor Drive
Lutherville, MD 21093

Ms. Ann Jones
Valleys Planning Council
P.O. Box 5402
Towson, MD 21285-5402

Dear Ms. Jones:

Per your request we address the following questions:

Lighting
Parking
Events
Noise (Music)

For your convenience I have included a copy of an aerial photo of Rainbow Hill.

As to lighting there has been lighting on the building, in the parking areas, and along the roads at Rainbow Hill for years. We do not see a need to add additional lights but we are repairing the lights that are in place but not working.

As you can see from the attached aerial photo there is parking to the Northeast of the main building and also to the West. It is my understanding that additional parking has been approved by zoning to the West of the West parking lot. This parking area is not visible from the Park Heights as a large hedge is growing along the western edge of the property.

In regard to events that we would propose for Rainbow Hill we visualize upscale weddings, corporate meetings and upscale social events. We do not see a "Martins West" banquet hall. Considering the monthly cost to operate and maintain Rainbow Hill we will need to keep the building busy.

With respects to noise we will be happy to work with you to put your mind at ease that Rainbow Hill will not be a burden to the neighbors.

We are ready to meet with you to move this project along.

Sincerely,

Henry Wright

PETITIONER' S

EXHIBIT NO.

24

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

April 25, 2003

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Lutherville, MD 21093

Dear Mr. Wright:

Following your last correspondence and a subsequent request through Jim Widman to allow another "not for profit" event at Rainbow Hall, I have had very strong expressions of opposition to any "commercial use" of the property.

The restrictive covenant agreement under item #3 states, " That, if all or any part of the Rezoned Portion is conveyed to an owner other than the Home or any successor nonprofit entity, **the conveyed part will not be used for any use other than a use permitted by the BCZR then applicable to the RC 2 zone**, unless its zoning is further amended from RC 3 to another classification in public proceedings." For you to proceed with another event would force VPC and the community to proceed along a path that neither of us would like. We are aware that the restriction is very narrow; it was intended to be. This is a rural area and any commercial use of the property is not permitted.

If you have any other options or ideas we would be happy to review them.

Sincerely,

Jack Dillon
Executive Director

cc: Bill Stewart
Tim Naylor
James Cox
Ted Reynolds
✓ Mitch Kolkin
Kathie Pontone
Dr. Harlan K. Zinn

Caves Valley Land Trust
Green Spring Valley Association
Caveswood Association
Velvet Valley Association

PETITIONER'S

EXHIBIT NO. 25

November 17, 2003

To: Executive Committee
Valleys Planning Council

Henry Wright and Jim Widman want to find a way to preserve and maintain Rainbow Hill. We believe the best method will be to offer the facilities for weddings, business meetings, and other social events. We are asking for the Valleys Planning Council to support our efforts by agreeing to the attached new zoning category, Historic Inn (attached).

Rainbow Hill at 10729 Park Heights has had many lives over its 90-year history. The original building structure was built as a grand home with all the supporting out-buildings (garage, barn, various sheds, and a corn crib). Over the years the main building has been used as a country club, a nursing home, and at various times the building was vacant. During the Baptist Home tenure a three-story addition was added to the west side of the building. Furthermore, over the years various owners have sold off some of the grounds to reduce the site to about 20 acres today. Henry Wright purchased the property on April 15, 2002.

Henry has made the property available at no cost to various non-profit organizations for their fundraisers. Rainbow Hill has even been used as the emergency evacuation site for the Jernicy School during a gas leak. During the last year and a half over \$1,000,000 has been spent to bring the property back to its proper grandeur. But there are hundreds of thousands of dollars that still need to be spent on the facility.

It is important that you know how we will use the facility. First we do not want to operate a restaurant for the public at Rainbow Hill. We would agree to a written prohibition to the use of the buildings as restaurant for the public. We are very aware that Rainbow Hill sits in a residential area. We believe that all music should be performed inside the building to control "noise" in the neighborhood. We would agree to a written prohibition to music outside the building. A few people have asked about parking and traffic. We have onsite parking lots both to the northeast and west of the main building, which should be adequate for any parking needs screened from any neighbors. Studies

PETITIONER'S

EXHIBIT NO.

26

November 19-21



It's Back
November 19-21

Just in Time for the Holidays

PETITIONER'S

EXHIBIT NO.

27

11th Annual
Liza Byrd Gift Boutique

*****AUTOMATED DIGIT 2117
MRS. KATHLEEN PONTONE
2522 CAVES RD
OWINGS MILLS MD 21117-2354
T7 P2

Presorted
U.S. Postage
PAID
Trenton, NJ
Permit No. 40

7 Chacton Lane Hill Rd • Owings Mills, MD 21117
www.lizabyrd.com

Liza Byrd
BOUTIQUE

Don't Miss the 11th Annual Liza Byrd Gift Boutique

Rainbow Hill

10729 Park Heights Ave | Owings Mills, MD

Thursday, Nov 19th, 6-9, Ladies Night

Friday, Nov 20th, 9-5

Sat, Nov 21st, 9-4



You are cordially invited
to join us at the
**9th Annual
Liza Byrd
Gift Boutique**

November 15, 16, 17

Rainbow Hill
10729 Park Heights Ave.
Owings Mills, MD 21117

- ☉ Thursday, November 15th "Ladies Night"
6:00pm to 9:00pm
- ☉ Friday, November 16th
9:00am to 5:00pm
- ☉ Saturday, November 17th
9:00am to 5:00pm



7 Chattanooga Hill Rd. • Owings Mills, MD 21117
www.lizabyrd.com

For a unique online shopping experience, visit...
www.LizaByrd.com

five VPC Carillon Hrs
**Just in time for
the Holidays!**

PETITIONER'S
EXHIBIT NO. 28



CITY OF BALTIMORE ENFORCEMENT REPORT

FA0053810

DATE: 2/25/09 INTAKE BY: VHT CASE #: _____ INSPEC: _____

COMPLAINT
LOCATION:

10729 Park Heights Ave

ZIP CODE: 21117 DIST: 3rd

COMPLAINANT
NAME:

TERESA MOORE - Valleys Planning Council

PHONE #: (H) _____

(W) 410-337-6877

ADDRESS:

P.O. Box 5402

ZIP CODE: 21285

PROBLEM:

Rainbow Hall converted to apartments.

More than likely one of three existing residences
being rented without a rental license. Sign on

IS THIS A RENTAL UNIT?

YES _____

NO _____

IF YES, IS THIS SECTION 8?

YES _____

NO _____

OWNER/TENANT
INFORMATION:

Rainbow Hall, Inc.

8717 Marburg Manor Dr. Lutherville, MD. 21093

TAX ACCOUNT #:

23-00-003036

ZONING:

RC-2

INSPECTION:

Note: Resident Agent

Henry M. Wright, Jr

4804 Benson Ave

Balto. MD. 21227

REINSPECTION:

Someone with the first name

of Beverly is listing 35 properties on
Craigslist using the phone # 443-465-2906.

A small sign with this # is advertising a 2

REINSPECTION:

bedroom apt. 2, rent. this is an

outdoor advertising sign & must be removed
from the property.

REINSPECTION:

PETITIONER'S

EXHIBIT NO.

29



CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROPERTY TAX ID	DATE ISSUED
10-56730	2300 003 036	5/4/09
NAME(S): RAINBOW HALL INC		
MAILING ADDRESS: 8717 MARBURG MANOR DR		
CITY	STATE	ZIP CODE
LUTHERVILLE	MARYLAND	21093
VIOLATION ADDRESS: 10729 PARK HEIGHTS AVE		
CITY	STATE	ZIP CODE
BALTIMORE	MARYLAND	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2(1A01) ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
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NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
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- | | |
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| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
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| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☐ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM:
Violation of commercial site plan and/or zoning order |

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- | | |
|--|--|
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| ☒ 13-7-115: County to abate nuisance & lien costs | ☐ 10-2-001: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
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OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
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| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof/foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

OBTAIN PERMIT
FOR SIGN ("FOR RENT")
OR REMOVE SIGN

NOTICE POSTED AND MAILED

POTENTIAL FINE: ☒ \$200 ☐ \$500 ☐ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE:

3.17.09

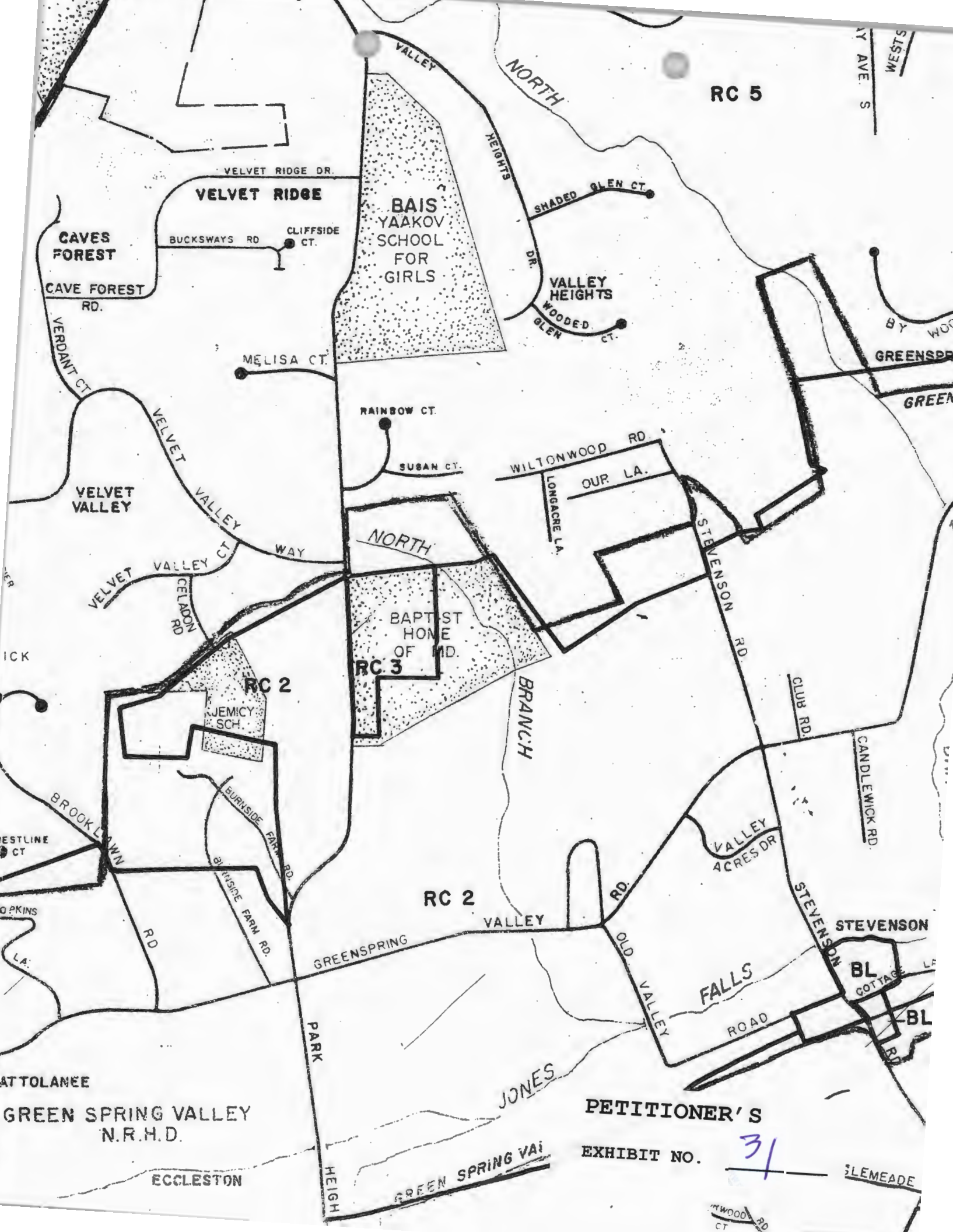
INSPECTOR NAME:

FISHER
PRINT NAME (Rev. 9/05)

PETITIONER'S

EXHIBIT NO.

30



RC 5

VELVET RIDGE

BAIS
YAAKOV
SCHOOL
FOR
GIRLS

CAVES
FOREST

BUCKSWAYS RD

CLIFFSIDE
CT.

SHADED GLEN CT.

VALLEY
HEIGHTS

WOODED
GLEN CT.

MELISA CT.

RAINBOW CT.

SUSAN CT.

WILTONWOOD RD.
OUR LA.
LONGACRE LA.

VELVET
VALLEY

NORTH

BAPTIST
HOME
OF MD.

RC 3

RC 2

JEMICY
SCH.

BRANCH

RC 2

VALLEY

GREENSPRING

VALLEY
ACRES DR

CLUB RD.

CANDLEWICK RD.

STEVENSON
RD.

STEVENSON

BL

BL

FALLS

ROAD

PETITIONER'S

EXHIBIT NO.

31

MELEADE

GREEN SPRING VALLEY

ECCLESTON

GREEN SPRING VALLEY
N.R.H.D.

ATTOLANEE

ESTLINE
CT

OPKINS

LA.

ICK

ER

BY WOOD

GREENSDR

GREEN

WESTS

AY AVE. S

WOODS RD
CT

RESUME

JAMES S. PATTON, P.E.,

PRESIDENT - PATTON CONSULTANTS, LTD.

Mr. Patton has over forty (40) years' experience in site engineering and site planning, site development services, and project management for a wide variety of public and private clients. His experience in the private sector has been in residential, commercial, and industrial site development and construction. His public works experience is very broad, as he served as an officer in the U. S. Navy Civil Engineer Corps and as City Engineer for Washington, PA. In addition, he has provided site engineering and planning services to many local school boards, hospitals, colleges, and institutions in their development and construction programs, either as a consultant or as a board member.

He has been responsible for projects ranging in size and scope from a few thousand square feet to areas of more than a thousand acres. These projects have included storm water management, water distribution, sanitary sewer, streets, roads, parking areas, grading, building construction, wetlands and critical areas, and erosion control. His background includes new development, expansion, restoration, renewal and revitalization.

Plan approvals and obtaining permits for site development and construction is a major focus. The ability to overview the various elements of site development and building construction such as zoning, environmental concerns, and utilities has been and is an important function performed by Mr. Patton in obtaining approvals and expediting the development of a site or project.

EDUCATION:

SWARTHMORE COLLEGE
UNIVERSITY OF PENNSYLVANIA

Bachelor of Science, Civil Engineering
Master of City Planning

LICENSES & CERTIFICATIONS:

PROFESSIONAL ENGINEER

Maryland #9493
Pennsylvania, West Virginia (inactive)

EXPERT WITNESS

Baltimore County Circuit Court;
Baltimore County District Court;
Board of Appeals and Zoning
Commissioner; Anne Arundel County, MD,
Harford County, MD, and
Baltimore County, MD
Zoning Commission-City of Baltimore
Circuit Court, Washington Countv. PA.

PETITIONER' S

EXHIBIT NO. 32

63-152-X

MAP

#3

SEC 2-C

XA

RE: PETITION FOR SPECIAL EXCEPTION
FOR A BOARDING HOUSE FOR THE
AGED, E. S. Park Heights Ave.,
2300 N. Green Spring Valley Road
3rd Dist., Ruth B. Rosenberg,
Petitioner, A Baptist Home of
Maryland, Inc., Gen. Pur.

BEFORE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 63-152-X

The petitioner in the above entitled matter has requested a special exception to operate a Boarding House for the Aged on the east side of Park Heights Avenue 2300 feet north of the Green Spring Valley Road in the Third District of Baltimore County.

From the testimony presented at the hearing the petitioner has met all the requirements of the Baltimore County Zoning Regulations for a special exception as set forth in Section 502.1, therefore, the special exception should be granted.

It is this 20th day of November, 1963, by the Zoning Commissioner of Baltimore County, ORDERED that a special exception for a Boarding House for the Aged, should be and the same is hereby granted, from and after the date of this Order, subject, however, to compliance with the following restrictions:

1. That the use of the property described in the petition shall be limited to a religious, non-profit home for the aged of the Baptist denomination.
2. That the property described in the petition shall not be operated either as a nursing home, or as a home for the chronically ill or as a hospital, provided, however, that a portion of the main building presently located on the property described in the petition may be used as an infirmary for the temporary treatment of aged guests.

Zoning Commissioner of
Baltimore County

PETITIONER'S

EXHIBIT NO.

34

Superseded - no longer valid

BALTIMORE COUNTY
ZONING REGULATIONS

1963

BOOK No 601

RECEIVED

FEB 03 1998

This is the property of:

BALTIMORE COUNTY CIRCUIT
COURT LAW LIBRARY

Name _____

Address _____

Phone _____

BALTIMORE COUNTY
ZONING REGULATIONS

Adopted

March 30, 1955

in accordance with Title 30, Section 532(c) of the
Code of Public Local Laws of Baltimore County, (1955
Edition), with subsequent amendments through De-
cember, 1963.

First edition 1955
Second edition 1964

PETITIONER'S

EXHIBIT NO.

38

76-89-SPH
76-89-SPH

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Baptist Home of Md., Inc. legal owner 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 and/or Deputy Zoning Commissioner should approve the construction of a new infirmary wing on an existing Boarding Home for the Elderly. Original approval - 1963 --- 40 persons Addition approved - 1969 --- 24 persons - Proposed Infirmary Wing - 25 persons

See attached description

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

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

Contract Purchaser

Baptist Home of Maryland, Inc.
C. E. Sharbly, Jr.
Legal Owner

Address

Address 10729 Park Heights Avenue
Owings Mills, Maryland 21117

ALAN H. STOCKSDALE
Petitioner's Attorney

Protestant's Attorney

Address 1213 Fidelity Building
Baltimore, Maryland 21201
539-0515

ORDERED By the Zoning Commissioner of Baltimore County, this 17th day of September, 1967, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22nd day of October, 1967, at 10:00 o'clock A. M.

[Signature]
Zoning Commissioner of Baltimore County

PETITIONER'S

EXHIBIT NO. 36

(over)

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH OCTOBER 10, 1974

1975 EDITION

PETITIONER'S

EXHIBIT NO.

37

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

TOWSON, MARYLAND



Rainbow Hall

THE BAPTIST HOME OF MARYLAND

PETITIONER'S

EXHIBIT NO.

38

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 25, 1975

COUNTY OFFICE BUILDING
111 W. Chesapeake Avenue
Towson, Maryland 21204

Franklin T. Hogans
XXXXXXXXXXXXXXXXXXXX
Chairman Jr.

Alan H. Stocksdales, Esq.
1213 Fidelity Building
Baltimore, Maryland 21201

RE: Special Hearing Petition
Item 53
Baptist Home of Md., Inc. -
Petitioners

MEMBERS

ZONING ADMINISTRATION

HEALTH DEPARTMENT

BUREAU OF
FIRE PREVENTION

DEPARTMENT OF
TRAFFIC ENGINEERING

STATE HIGHWAY
ADMINISTRATION

BUREAU OF
ENGINEERING

PROJECT AND
DEVELOPMENT PLANNING

INDUSTRIAL
DEVELOPMENT
COMMISSION

BOARD OF EDUCATION

OFFICE OF THE
BUILDINGS ENGINEER

Dear Mr. Stocksdales:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

The subject property, currently zoned R.D.P. and containing 43 acres, is located on the east side of Park Heights Avenue, approximately 2300 feet north of the center line of Greenspring Valley Road, in the 3rd Election District of the County.

The property is currently improved with a large masonry administration and boarding house for the aged, containing 64 beds, five dwellings, housing the administrators and employees of the home, and maintenance building in the rear, with the remainder of the property wooded unimproved land. Adjacent properties surrounding the subject site are zoned R.D.P. and consist of wooded unimproved property. To the west of the subject site are two dwellings which are not visible from the road due to the existing foliage.

PETITIONER'S

EXHIBIT NO. 40

IN THE MATTER OF THE
THE APPLICATION OF
BAPTIST HOME OF MARYLAND/
DELAWARE, INC.
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE PARK HEIGHTS AVENUE,
101 SOUTH OF CENTERLINE OF
VELVET VALLEY ROAD
3RD ELECTION DISTRICT
3RD COUNDEMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 91-156-SPHX

OPINION

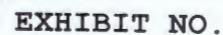
This is an appeal from the decision of the Zoning Commissioner dated February 11, 1991, wherein Petitioner's request for a special hearing to approve an amendment to the special exception and site plan previously granted in Case No. 63-152-1 to construct two additions to the existing facility in an R-C-3 zone was granted, and wherein a Petition for Special Hearing to permit a maintenance building in the R-C-3 zone as an accessory use to the existing facility was granted.

Petitioner appeared represented by Counsel, Robert A. Hoffman and John J. Cassner. Phyllis C. Friedman, People's Counsel for Baltimore County, appeared and participated in the proceedings.

The Petitioner offered the testimony of Reverend Randall M. Fowler, the Administrator of the Baptist Home. He informed the Board that the subject property is located on the east side of Park Heights Avenue, north of Greenspring Valley Road. The property was purchased by the Baptist Home in 1953. In 1969, additions were made to the property, and at present the Home proposes two more additions to the existing facility. The first addition will be on the east side of the main facility and will consist of 18 rooms, and the second addition will be on the west side and will consist of 11 additional rooms. He informed the Board that the Baptist

PETITIONER'S

EXHIBIT NO. 41



JAN 11 1988

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH SEPTEMBER 21, 1987

1987 EDITION

**PROPERTY OF
LAW LIBRARY
CIRCUIT COURT FOR
BALTO. COUNTY**

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND

i

PETITIONER'S
EXHIBIT NO. 43

IN RE: DEVELOPMENT PLAN HEARING and	* BEFORE THE
PETITION FOR SPECIAL HEARING for	
Baptist Home of MD/DE, Inc.	* ZONING COMMISSIONER
(10729 Park Heights Avenue)	
3rd Election District	* OF BALTIMORE COUNTY
3rd Councilmanic District	
	* Case Nos. III-393 and 97-230-SPH
Baptist Home of MD/DE, Inc.	
Owner/Developer	*

* * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer as a combined hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). That Section allows an applicant seeking development plan approval and special hearing relief, to combine the public hearings required for such approvals into one single hearing. In this case, the applicant seeks approval of a red-lined development plan prepared by LPJ Inc., for the proposed development of the subject property by Baptist Home of Maryland, Inc., Owner/Developer, with three (3) single family dwellings. The Owner/Developer also seeks approval, pursuant to the Petition for Special Hearing filed in companion Case 97-230-SPH, to create three (3) undersized R.C.5 non-density parcels and one (1) R.C.2 non-density parcel, and the removal of an existing special exception from a portion of the tract. The subject property and requested relief are more particularly described on the development plan and driveway profile drawings submitted into evidence as Developer's Exhibits 1A and 1B.

Appearing at the public hearing required for this project were Keith R. Bryan, the Assistant Administrator of the Baptist Home facility, George E. Gavrelis, Land Planner and former Deputy Director of the Baltimore County Office of Planning, Frederick R. Thompson, Professional Engineer who prepared the development plan for this project, and numerous

PETITIONER'S

EXHIBIT NO. 44

6/3/97
1/16/98

- B. A physician, dentist, optometrist, chiropractor, podiatrist, psychologist, physical therapist, nurse, massage therapist or other similar health professional licensed or certified by the state.²⁹

MULTIFAMILY BUILDING — A structure containing three or more apartments. A multifamily building includes garden and other apartment buildings. [Bill No. 2-1992]³⁰

MUSEUM — A building or buildings serving as a repository for a collection of natural, scientific, historic, artistic, or literary objects designed to be viewed by members of the public, which collection has an appraised value in excess of \$20,000,000. The following activities are included in the definition of a museum: acquisition, conservation, documentation, study, exhibition, and educational interpretation of such objects. [Bill No. 6-2008]

NEIGHBORHOOD CAR RENTAL AGENCY — The principal use of land for the rental of motor vehicles weighing 7,000 pounds (GVW) or less, including the parking of no more than 25 such vehicles on the premises. The term does not include a business that rents or leases motor vehicles as an accessory use, or rents or leases trailers, or trucks weighing over 7,000 pounds (GVW), or supplies limousines for hire, or that is a taxicab service. (See also "garage, service.") [Bill No. 122-2005]

NIGHTCLUB — A tavern or other commercial establishment which provides live or recorded entertainment, with or without a dance floor, and which is categorized as a nightclub by the Building Code of Baltimore County. [Bill No. 110-1993]

NONCONFORMING USE — A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

NONINDUSTRIAL USE — Any use other than an industrial, quasi-industrial or industry-related use. [Bill No. 178-1979]

NUDITY — A state of dress in which a human buttock, anus, genitalia or female breast is completely bared. [Bill No. 137-1990]

NUDITY, PARTIAL — A state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices. [Bill No. 137-1990]

NURSERY, HORTICULTURAL — An agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants. The plant materials may be produced on the premises and may be purchased elsewhere at any stage of maturity for further production. Horticultural nurseries may engage in accessory uses such as storage of plant materials, sale of products necessary for the health of the nursery stock, and provision of limited landscape services. A nursery which sells plant materials grown exclusively on-site and which does not

29. Editor's Note: Section 9 of Bill No. 9-1999 provided that this definition shall take effect at that time when the definition as provided in Subsection A shall no longer have any force or effect.

30. Editor's Note: The former definition of "neighborhood" which followed this definition was repealed by Bill No. 3-1993.

DWELLING, ALTERNATIVE SITE DESIGN — A dwelling sited on a zero lot line or zipper lot, patio house or neo-traditional dwelling as prescribed in the Comprehensive Manual of Development Policies.¹⁶ [Bill No. 2-1992]

DWELLING, SINGLE-FAMILY DETACHED — A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. [Bill No. 2-1992]

DWELLING, TWO-FAMILY — A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. [Bill No. 2-1992]¹⁷

ENCLOSED MALL — A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29-1982]

ENVIRONMENTAL IMPACT STATEMENT — A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;

Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;

Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and

Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98-1975]

EQUESTRIAN CENTER — Two hundred or more contiguous acres of land, and any improvements thereon, which is owned and operated by an organization qualified as a nonprofit under Section 501(C)(3) of Title 26 of the United States Code (for the purpose of

16. Editor's Note: Information on the Manual may be obtained from the Department of Permits and Development Management.

17. Editor's Note: The former definition of "elderly housing facility," which immediately followed, was repealed by Bill No. 19-2004.

PETITIONER'S

B. Area regulations. [Bill No. 178-1979]

1. **Subdivision lot density.** No lot of record lying within an R.C.2 Zone and having a gross area of less than two acres may be subdivided. No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area. In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right-of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record. [Bill Nos. 199-1990; 125-2005]
2. **Lot size.** A lot having an area less than one acre may not be created in an R.C.2 Zone.
3. **Setback requirements.** No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of any street or within 35 feet of any lot line other than a street line.
4. **Principal dwellings per lot.** No more than one principal dwelling is permitted on any lot in an R.C.2 Zone.

§ 1A01.4. Maryland Agricultural Land Preservation Program. [Bill Nos. 178-1979; 137-2004]

The use or development of land in an agricultural district established in accordance with Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to § 2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations.

§ 1A01.5. Inconveniences arising from agricultural operations. [Bill No. 34-2009]

Any dwelling, business or use in or near an R.C. 2 Zone may be subject to inconveniences or discomforts arising from agricultural operations, including but not limited to noise, odors, fumes, dust, the operations of machinery of any kind during any twenty-four-hour period (including aircraft), the storage and disposal of manure and the application, by spraying or otherwise, of chemical fertilizers, soil amendments, herbicides and pesticides. The County shall not consider an agricultural operation to be a public or private nuisance if the operation complies with these regulations and all federal, state or County health or environmental requirements.

PETITIONER'S

EXHIBIT NO.

98

PRINCIPAL ARTERIAL — A motorway, or portion thereof which:

- A. Is or is intended for travel to or from major activity centers; and
- B. Which is designated as such on the most recently approved federal highway functional classification map for the Baltimore urbanized area. [Bill No. 151-1988]

PRINCIPAL USE — A main use of land, as distinguished from an accessory use. [Bill No. 100-1970]

PRIVATE KENNEL — Any building, structure, or land, or any portion thereof, including a dwelling, that is used, intended to be used, or arranged for the housing of more than three dogs, not including puppies less than four months old, for the purposes of show, hunting, practice tracking, field or obedience trials, or as pets. A private kennel does not include a pet shop or dogs accessory to a farm use. [Bill No. 87-2001]

PRODUCE STAND — An accessory structure or a vehicle temporarily placed on a farm property for the sale of indigenous produce, all of which has been grown or produced on that property or on adjacent land, or on properties farmed by the same agricultural producer. [Bill No. 41-1992]

RADIO OPERATOR ANTENNA — A wireless antenna used in conjunction with radio transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission. [Bill No. 30-1998]

RAIL PASSENGER STATION — A facility designed as a place for boarding and alighting from rail passenger vehicles. A rail passenger station may include such facilities as bus bays, parking areas or taxicab stands as accessory uses. [Bill No. 91-1990]

RECORD LOT — A lot or parcel of land that has been created in accordance with the provisions of Article 32, Title 4, Subtitle 2 of the Baltimore County Code and recorded among the land records of Baltimore County on or before the effective date of these regulations. [Bill Nos. 98-1975; 137-2004]

RECREATIONAL VEHICLE AND BOAT — A vehicular type unit which is primarily designed for recreation, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which, except for a boat kept in water, is not more than 35 feet in length and which, in general, is of such size and weight as not to require special highway movement permits when driven or drawn by a passenger automobile or pickup truck. The following shall be considered recreational vehicles: [Bill No. 54-1993]

- A. **BOAT** — A recreational boat with or without a trailer. If in combination with a trailer, a boat is normally towed by a vehicle. [Bill Nos. 29-1974; 54-1993]
- B. **CAMPING TRAILER** — A vehicular portable unit mounted on wheels and constructed with collapsible side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters.

PETITIONER'S

EXHIBIT NO.

49

Maryland Department of Assessments and Taxation
Real Property Data Search (vw4.3)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier:

District - 03 Account Number - 2300003036

Owner Information

Owner Name: RAINBOW HALL, INC **Use:** COMMERCIAL
Mailing Address: 4804 BENSON AVE **Principal Residence:** NO
BALTIMORE MD 21227-1501 **Deed Reference:** 1)/16318/ 35
2)

Location & Structure Information

Premises Address **Legal Description**
10729 PARK HEIGHTS AVE 19.6742 AC
10729 PARK HIGHTS AVE ES

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:	70/ 95
59	20	270					5	1		

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1917	15,337 SF	19.67 AC	06

Stories **Basement** **Type** **Exterior**

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2010	07/01/2010	07/01/2011
Land	403,900	785,600		
Improvements:	596,100	467,100		
Total:	1,000,000	1,252,700	1,084,233	1,168,466
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
BAPTIST HOME OF MD INC	04/15/2002	\$1,500,000
Type:	Deed1:	Deed2:
IMPROVED ARMS-LENGTH	/16318/ 35	
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2010	07/01/2011
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PETITIONER'S

EXHIBIT NO.

50



Baptist Home
OF MARYLAND/DELAWARE, INC.

PETITIONER'S

EXHIBIT NO.

52

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 5, 2010

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

SUBJECT: 10729 Park Heights Avenue

INFORMATION: 2nd Councilmanic District

Item Number: 10-280

Petitioner: Valley's Planning Council, Inc.

Zoning: RC 2

Requested Action: **Special Hearing**

The subject special hearing requests that the Zoning Commissioner determine if the uses of the property located at 10729 Park Heights Avenue comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

SUMMARY OF RECOMMENDATIONS:

The original special exception approved in case 63-152XA for a non-profit Baptist affiliated age restricted boarding house limited to 40 residents. Case 76-89SPH granted approval for a new infirmary wing. The use became non-conforming after the 1976 CZMP when the property was rezoned to RC2. Subsequently 1988 CZMP rezoned the property to RC3, which permitted convalescent home use by special exception. A subsequent hearing, 91-166SPHX granted a special exception for convalescent home and amended the site plan to allow the construction of two additions, which were never constructed. The final case was a combined hearing III-393 and 97-230SPH, which approved one RC2 non-density parcel. The approval of such quashed the approval for additions granted in case 91-166SPHX that were not built.

The petitioner asked twelve questions of the Zoning Commissioner in the subject petition. The Office of Planning's response is as follows:

1. Rental apartments are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
2. Multi-family dwellings are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
3. The Office of Planning is of the opinion that rental apartments are not a non-conforming use on this property. It is the opinion of the Office of Planning that the Special

PETITIONER' S

Post-it® Fax Note		7671	ate	# of pages ▶ /
To	Jim Wiedman		From	J. Dillon
Co./Dept.			Co.	
Phone #	410-285-3071		Phone #	
Fax #			Fax #	

MEMO: June 6, 2003

As requested I have reviewed the Baltimore County Zoning Regulations regarding the potential use of Rainbow Hall as a commercial catering establishment. The VPC restrictive covenant not withstanding:

1. The property is zoned RC3 (Deferral of Planning and Development)
2. The zoning regulations under Sec. 101 defines Catering Hall as "A facility or part of a facility used regularly for serving beverages and food to groups which reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant". [Bill No. 110-1993]
3. There is no definition for Community Building.
4. The RC 3 zone lists 12 uses as a matter of right and 26 uses permitted by Special Exception. Special exceptions use #6. "Community buildings, swimming pools or other uses of a civic, social, recreational or educational nature, including tennis facilities, provided that no tennis facility shall comprise more than four courts." This provision has been used by Volunteer Fire Companies, VFW's, Knights of Columbus, and other civic, social and fraternal organizations to hold catered events such as bull roasts, wedding receptions, anniversary parties etc. as fundraising events for their not for profit organizations. To my knowledge a private commercial catering facility has always been required to be located in a Business Major or Business Roadside zone. One example is Grey Rock Mansion, which was required to have the BM zone to legitimize its operation.
5. Also, use #23. "Standard restaurants or tearooms converted from dwellings or other buildings as provided in section 402.3" is a listed special exception in RC 3. This use would allow a full standard restaurant in the same fashion that Oregon Grille was allowed to open. The definition of "Restaurant" cited above makes a distinction between a restaurant use and a catering use. This is what our current case with Oregon Grille is about.

Under the current agreement on this property, the zoning use is actually controlled by RC 2 zoning and its permitted uses. Under the special exception provisions of the RC 2 zone "Community buildings..." are NOT LISTED. However, "Standard restaurants for tearooms converted from dwellings" is listed. Same issues as discussed above.

I also discussed this with Mr. Carl Richards the Zoning Supervisor for Baltimore County and he agrees with the above assessment.

As I see this, the only way Mr. Wright could possibly have a catering use at this location would be by a rezoning from RC 3 to a BM zone or have a legitimate non-profit organization establish its residence at Rainbow Hall and file for a special exception. This however will require an amendment to our current agreement whichever course he would take.

PETITIONER'S

EXHIBIT NO.

54

Mr. Arnold F. "Pat" Keller, III
Director, Office of Planning
Baltimore County
New Courts Bldg
401 Bosley Ave
Towson, Maryland 21204

Re: Rainbow Hill

Dear Mr. Keller:

I am writing to you as the owner of the property known as Rainbow Hill, located at 10729 Parks Heights Ave, in Baltimore County. It has just come to my attention that our property has been raised as an issue for rezoning during the comprehensive map process.

Our property is presently zoned RC 3, and, as I understand the issue, the request would change this to RC 2.

The purpose of this letter is to express our opposition to this request and to express our strong conviction that to change the current zoning to a more restrictive zoning is both unwarranted and unjustified. This property was purchased with a historic structure, known as "Rainbow Hall", which was in need of major repair, renovation and restoration. Indeed, this structure and its need for renovation and restoration was the sole purpose for our decision to purchase this property. We believe in the restoration of historic structures. This is what we do. We did not purchase this property to make money, but rather to carry out what we believed to be a worthwhile endeavor—to restore a valued and once beautiful historic home. We knew the house's history and we believed then and continue to believe that its value is in its viability. Indeed, if the County Executive's stated initiative were to "renaissance" our older communities to insure their viability, the existence of Rainbow Hall and its surrounding land would be a strong additional statement in support of his initiative. What better way to insure the reinvigoration of older communities than to preserve our historic structures no matter where they are located. What better message to send to our citizens than to support the "rebirth" of our older communities as well as the rebirth of our historic buildings.

Changing the zoning already in place on our property, in our opinion, will severely and negatively impact our ability to economically maintain Rainbow Hall in the restored condition we have strived, both financially and emotionally, to reach. It is not, however, simply a matter of maintenance. It is a matter of restoration, much more than maintenance. The viability of Rainbow Hall depends on its restoration. We are restoring it to the condition it once knew. We have not renovated it or maintained it; we are restoring it at great expense.

We did not initiate the request to change the zoning of our property. It was not our intent to move in this direction. We thought that with the existing zoning, our goal would be to work with the community and the county to find uses for Rainbow Hall that would

PETITIONER'S

EXHIBIT NO. 55

**10 LIGHT STREET
BALTIMORE, MARYLAND 21202**

May 19, 2006

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Towson, Maryland 21204

Dear Mr. Wright:

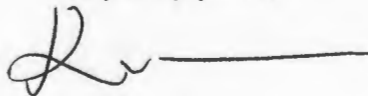
This is to follow up on our conversation regarding the use of the Rainbow Hall property for a church and to provide off site parking to the Symphony Show House.

We have done some investigation, discussed this at the VPC and solicited comments from the Velvet Valley Association. Our information currently is that you have allowed a religious group, which has broken off from a local church, to temporarily use the property for one worship service a week in exchange for a small fee. A member of this Church has assured us that this will only be on a very temporary basis until they find a new home, which they intend to do shortly. As you know, you would need a Special Exception to use the property as a Church and no request has been filed. We also believe that this violates our covenant. Because we understand that this will end very shortly, we will wait a few months to see what develops; however, you should know that the Community opposes this use. Hopefully this will not become an issue.

As to the parking, we have not been able to find that permits have been filed to allow that use. Providing off site parking to another use is not allowed in RC 2 and also violates our covenant. In addition, the signs which have been placed on Park Heights Avenue are illegal and unsightly. The site distances at the location for entrance and exit are very short and not suitable for parking cars for all the people who attend the show house. Since, however, the parking was heavily advertised and the use is almost over, it does not make sense to require you to cease this use immediately. You should know that we believe that this was improper and will take action if the site is used for off site parking in the future.

We appreciate your concern for the property and the Community and hope that you will be able to find uses which comply with RC 2 and our covenants in the future.

Very truly yours,



Kathleen Pontone

PETITIONER' S

EXHIBIT NO.

56

Henry M. Wright, Jr.
Selsed Vineyards
8717 Marburg Manor Drive
Lutherville, MD 21093
410-382-2294

The Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, MD 21204

September 15, 2009

Dear Members of the Valleys Planning Council,

I would like to introduce some information to you that you might not be aware of regarding my property, Rainbow Hill. I have attached the history of the mansion that was written by the members of the Baltimore Symphony Associates for their Show House program book in 2002. Several things not mentioned in the history are the fact that Dwight and Mamie Eisenhower were frequent guests at Rainbow as well as many other diplomats and dignitaries. Rainbow Hill started out as the Avalon Hotel, then after it burned, E.T. Stotesbury purchased the land as a wedding present for his stepdaughter, Henriette, and he built the mansion that you see today. The Baptist Home of Maryland, who last owned the property before me, added the "hospital wing" in the early 1970's.

In Christmas of 2001, I heard that the property was going to go up for auction and that a prospective owner was going to bulldoze the mansion, permit or not. I immediately tried to buy the property and succeeded in the spring of 2002. My sole purpose in purchasing Rainbow Hill was to preserve and protect it from demolition and for future generations.

Rainbow Hill has raised hundreds of thousands of dollars for charities since I acquired it. The Baltimore Symphony Orchestra, the Maryland Historical Society, University of Maryland's Shock Trauma and Ladew Topiary Gardens are just a few organizations that I have let use Rainbow Hill. I have even offered it to the Valleys Planning Council to use as their office at no cost. I have also allowed family and friend's weddings to take place at Rainbow Hill at no benefit to me.

Rainbow Hill has always had apartments with tenants and help living in the wings of the mansion and the outbuildings. Even when it was a Country Club, there were rooms available for guests and members. As the Baptist Home of Maryland, there were approximately 90 full time residents with approximately 150 doctors, nurses and other employees coming and going at all hours of the day and night. Today, there are seven apartments rented to professional individuals including a shock trauma doctor, a law student and a handicapped individual who needs to live at Rainbow because it offers accessibility for the handicapped. We allow the Episcopal Church of the Resurrection to use the mansion on Sundays.

PETITIONER' S

EXHIBIT NO. 57

COMMUNITY INPUT MEETING MINUTES

Development Name: Baptist Home
Location: 10729 Park Heights Avenue
District: Election -- 3rd, Councilmatic -- 3rd

Date: August 11, 1994
ZADM File No. III-393
Meeting Date: July 12, 1994

The Community Input Meeting (CIM) was held in the Baptist Home, 10729 Park Heights Avenue. David Flowers, Project Manager, representing Baltimore County, Department of Zoning Administration and Development Management (ZADM), explained the Development Regulations relating to the CIM, Concept Plan, Development Plan and the public hearing before the Hearing Officer.

Mr. Fred Thompson of LPJ Inc. Consulting Engineers was introduced. Mr. Thompson explained the development proposal to the community by describing the following:

1. Site Constraints Plan

This is a plan that outlines the subject property and indicates the existing features of the property. The plan shows features such as:

- buildings
- trees
- road ways
- parking areas
- streams
- property lines
- etc.

2. Concept Plan

This is a plan that outlines how the proposed development will be constructed on the subject property. The plan shows:

- residential lots
- buildings
- landscaping
- existing features
- etc.

3. Also on display was an aerial photograph of the site.

A Trustee for the Baptist Home described the existing situation that is facing the Home. The property does have a Special Exception for a convalescent home. This will allow the Home to have a total of 85 beds. Fifty-five (55) convalescent living units and a 12 bed infirmary are located in the main facility. Three staff residences also exist on the site. A study was done for the Baptist Home concerning the feasibility of the entire operation. The facility would need 150 beds before this project to be viable. The septic tank is designed for 100 beds; therefore, the expansion can not occur. It is very difficult to continue; our funds are limited.

PETITIONER'S

EXHIBIT NO.

58

Summary of Events At Rainbow Hall

<u>Date of Event</u>	<u>Event</u>	<u>Evidentiary support</u>
2002	Maryland Historical Society	Letter from H. Wright letter to P. Keller (Petitioners' Exhibit 55)
August 25-Sept. 21, 2002	Symphony Show House	Testimony of H. Wright, J. Lubke
2002 (Christmas)	Symphony Bazaar	Testimony of H. Wright, J. Lubke Petitioners' Exhibit 55
Pre-2004	Baltimore Opera Company	Letter from H. Wright letter to P. Keller (Petitioners' Exhibit 55)
Pre-2004	Jemicy School	Letter from H. Wright to P. Keller (Petitioners' Exhibit 55)
Pre-2004	Ladew Gardens	Testimony of H. Wright
Pre-2004	Garden Club	Testimony of H. Wright
Pre-2004	Weddings (3 or 4)	Testimony of H. Wright Letter from H. Wright to P. Keller (Petitioners' Exhibit 55)
April 23-May 15, 2006	Parking for Decorator Show House	Testimony of H. Wright

PETITIONER' S

EXHIBIT NO.

59

Rainbow Hall - Rental Income

Lease - Exhibit 4
Journal Exhibit 5

	cottage 10709	rancher 10731	rancher 10733	apt D	apt 1C	apt 1D	apt 2A	apt 2B	apt 2C	apt 2D	Hall
2001											
Jan	0.00	1,400.00	1,000.00								
Feb	0.00	1,400.00	1,000.00								
Mar	0.00	1,400.00	1,000.00								
Apr		1,400.00	1,000.00								
May		1,400.00	1,000.00								
June		1,400.00	1,000.00								
July		1,400.00	1,000.00								
Aug		1,400.00	1,000.00								
Sep		1,400.00	1,000.00								
Oct		1,400.00	1,000.00								
Nov		1,400.00	1,000.00								
Dec		1,400.00	1,000.00								
TOTAL	0.00	16,800.00	12,000.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00
2002											
Jan		1,400.00	1,000.00								
Feb		1,400.00	1,000.00								
Mar		1,400.00	1,155.38								
Apr	500.00		2,500.00								
May	500.00		1,195.00								
June	0.00	2,100.00	2,500.00								
July	0.00	2,100.00	2,500.00								
Aug	0.00	2,100.00	2,100.00								
Sep	0.00	2,100.00	2,500.00								
Oct		2,100.00	2,500.00								
Nov		2,100.00	2,500.00								
Dec		2,100.00	2,500.00								
TOTAL	1,000.00	18,900.00	23,950.38		0.00	0.00	0.00	0.00	0.00	0.00	0.00

28,800.00

PETITIONER'S

EXHIBIT NO. 60

43,850.38

Respondent did not produce a lease for the tenancy of Dr. Christopher Chaput but the Journal Book (Petitioners Ex 5) reflects payments from Dr. Chaput in the amount of \$2,100 from June 2002 to June 2003

Rainbow Home Repairs Improvements (based on receipts and invoices)

Date	Amount	Store
12/1/2001	87.65	Home Depot
12/4/2001	31.87	Duron paints
12/7/2001	71.96	Lowes
12/11/2001	324.45	Allied Bldg Prod
12/11/2001	121.79	Home Depot
12/11/2001	144.59	Lowes
12/12/2001	31.40	Home Depot
12/15/2001	31.87	Duron paints
12/16/2001	99.26	Restoration Hardware
12/19/2001	69.05	Lowes
1/15/2002	90.09	Duron paints
1/16/2002	10.11	Lowes
1/29/2002	16.52	bond lumber
2/1/2004	281.96	Budeke's Paints
4/13/2004	166.40	Home Depot
6/25/2004	609.85	RE Michel Co Inc
11/15/2004	321.30	Lowes
11/15/2004	592.16	Lowes
11/18/2004	87.28	Home Depot
12/3/2004	161.47	Budeke's Paints
12/6/2004	52.15	Walmart
12/11/2004	84.76	Home Depot
1/5/2005	21.47	Home Depot
1/7/2005	46.00	Home Depot
1/8/2005	360.60	Lowes
1/11/2005	124.95	Lowes
1/16/2005	34.65	Restoration Hardware
2/1/2005	10.92	McArdle & Walsh
2/1/2005	34.63	Schumacher & Seiler
2/8/2005	20.03	Schumacher & Seiler
2/9/2005	44.00	Capital Lighting
2/21/2005	735.37	Home Depot
2/23/2005	180.77	Home Depot
2/23/2005	180.77	Home Depot
2/24/2005	786.90	RE Michel Co Inc
2/25/2005	666.53	Home Depot
2/26/2005	1,117.59	Home Depot
2/28/2005	73.06	Home Depot
2/28/2005	58.62	Home Depot
2/28/2005	30.19	Schumacher & Seiler
3/1/2005	511.80	Home Depot
3/1/2005	364.80	Home Depot
3/1/2005	303.45	Home Depot
3/2/2005	120.44	Duron paints
3/2/2005	571.62	Home Depot
3/2/2005	87.79	Home Depot

PETITIONER' S

EXHIBIT NO.

61

Case No: 10-280-SPH Case Name: Rainbow Hall

Henny Wright. Exhibit List

Party: Respondents

Date: 11/2/11

Day # 2 11/3/11

Exhibit No:	Description:
1	Bay 1st Home + Valley Plan Council Restrictive Covenant 10/1988
2	8/3/09 Wyatt to VPC.
3	HUD 1 4/10/2002 for RH
4A	Rental Housing License - 10731
4B	" " " - 10709
4C	" " " - 10733
4A-D	
5	Baltimore County Rental Citation
6	Floor Plan Rtl 2nd Floor.
7	Summary of Tenants RH.
8A-8X	24 Photos.
9	Zoning File
10	Petition for Sp. Hearing
11	Zoning Checklist
	VERIFIED BY <u>Jus</u> DATE: <u>11/2/11</u> Day #1

VERIFIED BY

DATE:

11/2/11 Day #1

11/3/11 Day #2

CBA 10-280-SPH
11/3/11 Resp. Ex: 1

8039 MAR 123

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY MARYLAND
Per [Signature]
Authorized Signature
Date 11-29-88 Sec. 11-85 ACR

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT is entered into, as of the 11th day of October, 1988, by and between THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. (the "Baptist Home" or the "Home") and THE VALLEYS PLANNING COUNCIL, INC. ("VPC"), both Maryland nonprofit corporations.

RECITALS:

A. The Baptist Home is the owner of a tract of land containing approximately 41.74 acres (the "Land"), which is located on the east side of Park Heights Avenue, across from its intersection with Velvet Valley Way, in the Third Councilmanic District of Baltimore County. The Land is more particularly described in a deed recorded among the Land Records of Baltimore County at Liber 4250, folio 0278.

B. At the present time, the Land is zoned RC 2 and RC 5, and it is used for a convalescent home. Although the Baltimore County Zoning Regulations ("BCZR") do not currently permit a convalescent or nursing home in an RC 2 or an RC 5 zone, the Home was lawfully established before the Land obtained its current zoning, and the Home is therefore nonconforming use.

C. The Home desires to validate its nonconforming use by obtaining a zoning reclassification of the Land and a subsequent special exception. To this end, the Home has submitted a request for change in zoning for the Land as a part of the 1988 Baltimore County Comprehensive Zoning Map process.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE [Signature] DATE 11-29-88

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

[Signature] 11-29-88
By Date

B RC/F 42.00
RCMT 01
SH CLERK 42.00
880769 CR02 R02 71341
11/29/88

MARLOW & WYATT

ATTORNEYS-AT-LAW
404 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432
www.marlowwyatt.com

WILLIAM F. C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 300
6935 WISCONSIN AVENUE
WASHINGTON, D.C. 20815

August 3, 2009

Ms. Teresa Moore
Executive Director
The Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Kathleen Pontone, Esquire
Miles & Stockbridge, P.C.
10 Light Street
Baltimore, Maryland 21202

Re: Rainbow Hall

Dear Ms. Moore and Ms. Pontone:

I am writing to follow up on our meeting in late May 2009 relating to Mr. Henry Wright and the property located at 10729 Park Heights Avenue known as Rainbow Hall. The purpose of this letter is to address some of the concerns raised by The Valleys Planning Council, Inc. and to, hopefully, provide an acceptable explanation relating to some of the activities which have taken place at Rainbow Hall during Mr. Wright's ownership.

During our meeting, you expressed concerns about the apartments located within Rainbow Hall as well as activities or "events" that have taken place in the past.

As you may know, the property was purchased by Rainbow Hall, LLC in 2002. It is improved by a large mansion house, with an adjoining institutional-style wing and three (3) separate and detached tenant houses. At the time of Mr. Wright's purchase of the property, it was being used by the Baptist Home of Maryland/Delaware, Inc. as a convalescence home for its members. At that time, there were some 80 or 90 residents that called Rainbow Hall their home. This use had been in existence for quite some time and is the subject of a rather extensive zoning history. In fact, Rainbow Hall's use and operation as a boarding house has been recognized by Baltimore County since at least 1963. From that time to present, there have always been tenants located in the main house, its institutional-style wing, and tenant houses. As we explained, Mr. Wright's current operation of the property represents a significantly less obtrusive and intensive "boarding house". Currently, there are eight (8) apartments of which only seven (7) are occupied. The residents in these apartments are adults, some of whom have physical handicap limitations. It has been and will continue Mr. Wright's goal to properly maintain the historical and aesthetic values of Rainbow Hall and I am sure you have witnessed this the times you visited the property. It goes without saying that the maintenance and upkeep of Rainbow Hall is a

CBA 10-280-SP14
Regardents Ex: 2
11/2/2011

A. SETTLEMENT STATEMENT

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

OMB NO. 2502-0265



B. TYPE OF LOAN				6. FILE NUMBER 35867-A.RA1		7. LOAN NUMBER		8. MORTGAGE INS CASE NUMBER	
1. ☐ FHA		2. ☐ FmHA		3. ☐ Conv. Unis.		4. ☐ VA		5. ☐ Conv. Ins.	
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "[POC]" were paid outside the closing; they are shown here for informational purposes and are not included in the totals. 5.0 10-96 (13/35867-A.RA1)									
D. NAME AND ADDRESS OF BORROWER RAINBOW HALL, LLC 8717 Marburg Manor Drive Lutherville, MD 21093				E. NAME AND ADDRESS OF SELLER BAPTIST HOME OF MARYLAND/ DELAWARE, INC. 11416 LEBANON RD. GAINES MILLS MD 21117			F. NAME AND ADDRESS OF LENDER Mercantile-Safe Deposit & Trust Company		
G. PROPERTY LOCATION 10729 Park Heights Avenue Owings Mills, MD 21117 Baltimore County, Maryland				H. SETTLEMENT AGENT Coady & Farley PLACE OF SETTLEMENT 400 Allegheny Avenue Towson, Maryland 21204			I. SETTLEMENT DATE April 10, 2002		
J. SUMMARY OF BORROWER'S TRANSACTION					K. SUMMARY OF SELLER'S TRANSACTION				
100. GROSS AMOUNT DUE FROM BORROWER					400. GROSS AMOUNT DUE TO SELLER				
101. Contract Sales Price 1,500,000.00					401. Contract Sales Price 1,500,000.00				
102. Personal Property					402. Personal Property				
103. Settlement Charges to Borrower line 1400 40,569.00					403.				
104.					404.				
105.					405.				
Adjustments for items paid by Seller in advance					Adjustments for items paid by Seller in advance				
106. City/town Taxes to					406. City/town Taxes to				
107. County Taxes 04-10-02 to 06-30-02 5,240.00					407. County Taxes 04-10-02 to 06-30-02 5,240.00				
108. Assessments to					408. Assessments to				
109.					409.				
110.					410.				
111.					411.				
112.					412.				
120. GROSS AMOUNT DUE FROM BORROWER 1,545,809.00					420. GROSS AMOUNT DUE TO SELLER 1,505,240.00				
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER					500. REDUCTIONS IN AMOUNT DUE TO SELLER				
201. Deposit or earnest money 100,000.00					501. Excess Deposit (see instructions) 65,000.00				
202. Principal Amount of New Loan(s) 1,500,000.00					502. Settlement Charges to Seller line 1400 54,145.00				
203. Existing Loan(s) Taken Subject to					503. Existing Loans taken subject to				
204.					504. Payoff 1st Mtg to *				
205.					505. Payoff of second mortgage loan				
206.					506. Deposit retained by broker 35,000.00				
207.					507.				
208. Rent 4/10-4/30 1,730.00					508. Rent 4/10-4/30 1,730.00				
209.					509.				
Adjustments for items unpaid by Seller					Adjustments for items unpaid by Seller				
210. City/town Taxes to					510. City/town Taxes to				
211. County Taxes to					511. County Taxes to				
212. Assessments to					512. Assessments to				
213.					513.				
214.					514.				
215.					515. Line 501 from Long & Foster				
216.					516. to Allfirst for Loan Payoff				
217.					517. Proceeds for Loan Payoff to Allfirst 1,349,365.00				
218.					518.				
219.					519.				
220. TOTAL PAID BY/FOR BORROWER 1,601,730.00					520. TOTAL REDUCTION AMOUNT DUE SELLER 1,505,240.00				
300. CASH AT SETTLEMENT FROM/TO BORROWER					600. CASH AT SETTLEMENT TO/FROM SELLER				
301. Gross Amt Due from Borrower (line 120) 1,545,809.00					601. Gross Amount Due to Seller (line 420) 1,505,240.00				
302. Less Amt Paid by/for Borrower (line 220) (1,601,730.00)					602. Less Reductions Due Seller (line 520) (1,505,240.00)				
303. CASH ☐ FROM ☒ TO BORROWER 55,921.00					603. CASH ☐ TO ☐ FROM SELLER 0.00				

The undersigned hereby acknowledge receipt of a completed copy of pages 1&2 of this statement & any attachments referred to herein. I HAVE CAREFULLY REVIEWED THE HUD-1 SETTLEMENT STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS A TRUE AND ACCURATE STATEMENT OF ALL RECEIPTS AND DISBURSEMENTS MADE ON MY ACCOUNT OR BY ME IN THIS TRANSACTION. I FURTHER CERTIFY THAT I HAVE RECEIVED A COPY OF THE HUD-1 SETTLEMENT STATEMENT.

BORROWER RAINBOW HALL, LLC

BORROWER BY: [Signature]

SELLER BAPTIST HOME OF MARYLAND/DELAWARE, INC.

SELLER BY: [Signature] President

TO THE BEST OF MY KNOWLEDGE, THE HUD-1 SETTLEMENT STATEMENT WHICH I HAVE PREPARED IS A TRUE AND ACCURATE ACCOUNT OF THE FUNDS WHICH WERE RECEIVED AND HAVE BEEN OR WILL BE DISBURSED BY THE UNDERSIGNED AS PART OF THE SETTLEMENT OF THIS TRANSACTION.

Coady & Farley

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON THIS OR ANY SIMILAR FORM. PENALTIES UPON CONVICTION CAN INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE: TITLE 18 U.S. CODE SECTION 1001 & SECTION 1010.

11/3/2011

Respondents Ex: 3
10-280-SPH

23



RENTAL HOUSING LICENSE

Baltimore County
Department of Permits and Development Management
County Office Building, Room 101
111 West Chesapeake Avenue
Towson, MD 21204

License No.: 09-01561
Date Issued: 07/27/09
Expiration Date: 07/27/12 9:54:13

Name and Address for Mailing:

RAINBOW HALL LLC
C/O HENRY M WRIGHT
8717 MARBURG MANOR DR

TIMONIUM, MD 21093

Property Owner Name and Address:

(If different than mailing name and address)

Rental Property Address:

10731 PARK HEIGHTS AVE
OWINGS MILLS, MD 21117

Number of Dwelling Units:

1

Property Account:

23-00-003036

In accordance with Baltimore County Code, 2003, Article 35, Title 6, the above property owner is granted permission to rent the dwelling unit(s) described above.

Jeffery Kotrocc

Director, Department of Permits and Development Management

This license is purely governmental in nature, and may not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the tenant or the public, or that the premise is in compliance with all applicable county, state and federal laws and regulations.

11/3/2001
Respondents
4A
Case No 10-28584



RENTAL HOUSING LICENSE

Baltimore County
Department of Permits and Development Management
County Office Building, Room 101
111 West Chesapeake Avenue
Towson, MD 21204

License No.: 09-01560
Date Issued: 07/27/09
Expiration Date: 07/27/12 9:46:35

Name and Address for Mailing:

RAINBOW HALL LLC
C/O HENRY M WRIGHT
87817 MARBURG MANOR DR

TIMONIUM, MD 21093

Property Owner Name and Address:

(If different than mailing name and address)

Rental Property Address:

10709 PARK HEIGHTS AVE
OWINGS MILLS, MD 21117

Number of Dwelling Units: 1

Property Account: 23-00-003036

In accordance with Baltimore County Code, 2003, Article 35, Title 6, the above property owner is granted permission to rent the dwelling unit(s) described above.

Anthony Kotroco

Director, Department of Permits and Development Management

This license is purely governmental in nature, and may not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the tenant or the public, or that the premise is in compliance with all applicable county, state and federal laws and regulations.

11/3/2001
Respondents 4B
Case No 16-280 SP14



RENTAL HOUSING LICENSE

Baltimore County
Department of Permits and Development Management
County Office Building, Room 101
111 West Chesapeake Avenue
Towson, MD 21204

License No.: 09-01562
Date Issued: 07/27/09
Expiration Date: 07/27/12 10:11:26

Name and Address for Mailing:

RAINBOW HALL LLC
C/O HENRY M WRIGHT
8717 MARBURG MANOR DR

TIMONIUM, MD 21093

Property Owner Name and Address:

(If different than mailing name and address)

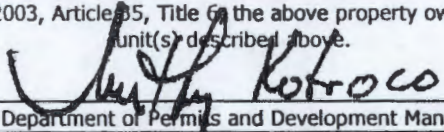
Rental Property Address:

10733 PARK HEIGHTS AVE
OWINGS MILLS, MD 21117

Number of Dwelling Units: 1

Property Account: 23-00-003036

In accordance with Baltimore County Code, 2003, Article 65, Title 6, the above property owner is granted permission to rent the dwelling unit(s) described above.


Director, Department of Permits and Development Management

This license is purely governmental in nature, and may not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the tenant or the public, or that the premise is in compliance with all applicable county, state and federal laws and regulations.

Dependents Ex 4e
11/3/2001
Case 10-2805PH

PHX



From Henry Wright

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

BALTIMORE COUNTY RENTAL HOUSING LICENSE PROGRAM ENFORCEMENT CITATION

BALTIMORE COUNTY vs. RAINBOW HALL LLC

OWNER ADDRESS: 8717 MARBURG MANOR DR, LUTH-TIMONIUM MD 21093

VIOLATION ADDRESS: 10729 PARK HEIGHTS AVE, OWINGS MILLS MD 21117

TAX ID: 2300003036

VIOLATION DATES: 02/03/08 – PRESENT

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON (S) DID UNLAWFULLY VIOLATE SECTION 35-6-105 OF THE BALTIMORE COUNTY CODE, 2003:

☒ A property owner may not rent a dwelling unit of a portion of a dwelling unit unless the property owner has been issued a license as provided for in Article 35, Title 6 of the Baltimore County Code, 2003.

☐ A tenant may not rent a dwelling unit or portion of a dwelling unit to another tenant or a sub-tenant unless the tenant has been issued a license as provided for in Article 35, Title 6 of the Baltimore County Code, 2003.

IN ACCORDANCE WITH SECTION 35-6-112 OF THE BALTIMORE COUNTY CODE, 2003, A CIVIL PENALTY HAS BEEN ASSESSED AS A RESULT OF THE VIOLATION CITED HEREIN, IN THE AMOUNT OF: \$1000.00

A hearing has been prescheduled for:

Date: JULY 28, 2009

Time: 9:00 A.M.

Location: Baltimore County Office Building
111 W. Chesapeake Avenue, Room 106
Towson, MD 21204

Hearings are held on Tuesday and Wednesday mornings beginning at 9:00 a.m. If you cannot attend on the prescheduled date, please call 410-887-6060 to reschedule. Failure to appear will result in a \$1,000.00 fine being imposed on your property.

05/29/2009
Date Issued

Kathy O'Donnell

Baltimore County Rental Housing Program

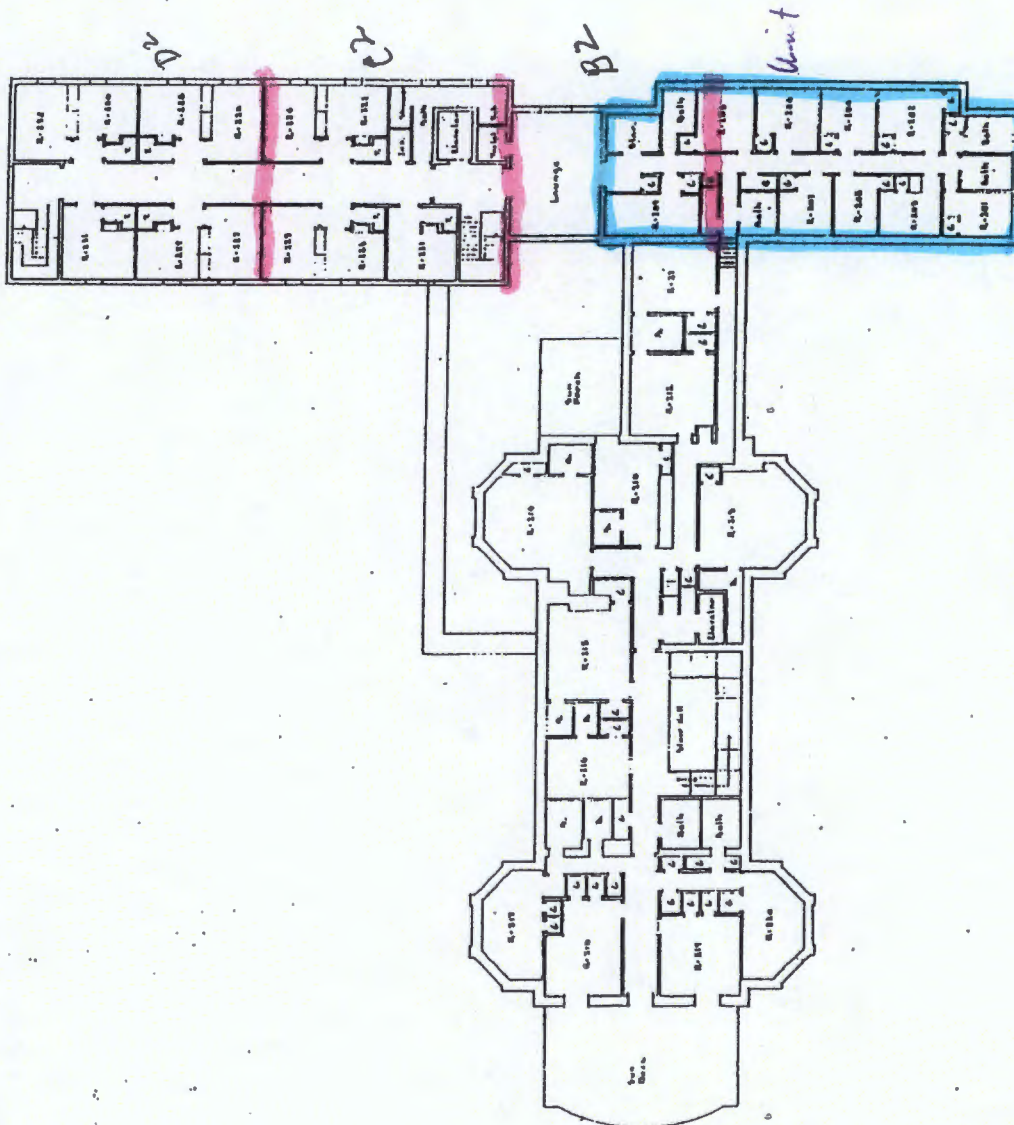
Code Inspection & Enforcement/Rental Registration
County Office Building
111 West Chesapeake Avenue, Room 213, Towson, Maryland 21204
Phone: 410-887-6060 / Fax: 410-887-2824
www.baltimorecountymd.gov

Resp Ex: 5
10-280-SPH
11/8/11

6/10/09 MS to call + advise registered.

DESCRIPTION

Floor Plan



2nd Floor

Resp. Ex: 6
10-280-SPH
11/8/11

TENANT HISTORY – RAINBOW HALL

TENANT HOUSE – 10709 Park Heights Avenue (Cottage)

April 2002 – September 2002	Margaret Dodd
July 1, 2004 – March 8, 2008	Edgar and Elise Wilson
May 1, 2008 – present	Dr. Thorsten Fleiter and Artemis Herber

TENANT HOUSE – 10733 Park Heights Avenue (1st rancher)

July 14, 1994 – May 20, 2002	Carole Belaga was tenant when Wright bought the property
June 1, 2002 – July 1, 2004	Gary and Krista Herwig
August 1, 2004 – December 1, 2007	Barry and Anna Greenberg
March 15, 2008 – present	Henry and Jean Lubke

TENANT HOUSE – 10731 Park Heights Avenue (2nd rancher)

February 1, 2000– May 30, 2002	Sherry Rubin was tenant when Wright bought the property
June 1, 2002 – December 30, 2004	Dr. Christopher Chaput
February 5, 2005 – May 1, 2006	Peter Stanley
June 1, 2006 – May 30, 2007	Richard Goldstone
June 1, 2007 – November 27, 2008	Brent and Laura Burkhart
May 15, 2010 – present	Elaine Witman

Respo Ex: 7
10-280-SPH
11/8/11 9



Resp EX! 8A ~~0000~~ 11/8/11 10-280-SPH



11 | 8 | 11

10-280-SPH

Resp 8B



11/8/11

10-280-SPH

resp 8C

e



11 | 8 | 11 10-280-SP H Resp 8D



RESP 8E

10-280-SPH

11/8/11

e



10-280-SP11 Resp. Ex: 8F 11/8/11 f.



10-280-SPH

2000 Ex: 86

11/8/11

9



10-280-SPH

11/8/11

Aesp. 8 + 1

h



10-286-SPH

Resp 81

11/8/11

i



10-280-SPH

Resp 85.

11/8/11

i



10-280 SPH

RESP ~ Ex: 8K

11/8/11

K



10-280-SPH

Resp. Ex 8L

11 / 8 / 11



10-280 SP4

Region Ex 8m 11/8/11 m



10-280-SPH

RESP 8N 11/8/11

n



10-280-SPH Resp EX: 80 11/8/11 0



11/8/11

RESP. EX. 8P 10-280-SPH

8



NO SMOKING

11/8/11

Resp 8Q

10-280-SPH

9.



11/8/11 10-280-SPH Resp 8T



11/8/11 10-280-SPH DBP Exit 84

U



11/8/11 10-280-SPH Resp 8V

V



11/8/11 10-280-SPH Resp. 8W

W



11/8/11 10-280-SP4

Resp 8X

x

March 4, 2009

To: Donald Rascoe

From: Jim Thompson

Re: Valleys Planning Council Complaint
10729 Park Heights Avenue

Teresa Moore, Executive Director of the Valleys Planning Council sent an e-mail concerning the use of Rainbow Hall for Apartments. In response to that correspondence, I performed a drive-thru of the property (19.6 acres) noting possible violations and forwarding my findings onto Code Enforcement.

Surprisingly, this building gave the appearance of in fact being vacant. Research was performed to learn the zoning history of this land. Enclosed are the public hearing decisions in case 63-152-X; 76-76-89-SPH; 91-166-SPHX and III-393/97-230-SPH. Further, per the ASA 400 notes this site has had enforcement complaints since November 2003 case 03-9092; 04-1423; and 06-9342. (Enclosed)

Most recently, as of October 6, 2008, an inspection was made pertaining to apartments and closed because "the facility is equipped and specifically designed for multi-unit use." (Case c-00051910/Enclosed)

The building known as Rainbow Hall was once a boarding house for the aged. Special Exception case number 63-152-x established this use on November 26, 1963. Over time, this operation was interpreted per the zoning regulations as a convalescent home. Today, the current code views it as a nursing home.

In case 04-1423, inspector Kim Wood, closed out the multiple dwelling units complaint. This action was taken because of input from Arnold Jablon, Esquire that the site is a non-conforming use because apartments have always been in the building. Inspector Ryan Fischer appears to have applied the same logic in closing out his case on October 6, 2008. Baltimore County should consider requiring the property owner Rainbow Hall, Inc. to file for a special hearing petition to legally establish a non-conforming use. Otherwise, this building should have the apartments removed since an RC-2 zoning only permits one-family detached dwellings.

Don, if you agree please share your thoughts with Mike Mohler and myself. Teresa Moore just contacted me and wants an answer for her group.

CC: Tim Kotroco

11/8/11
Respo Ex. 9
10-280-SPH



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10729 Park Heights Avenue (Rainbow Hall, Inc.)
which is presently zoned RC2

(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 Attachment

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.

Petitioner

~~Contract Purchaser/lessee:~~

Valleys Planning Council, Inc.

Name - Type or Print

Michael R. McCann, Attorney-in-fact

Signature

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Attorney For Petitioner:

Michael R. McCann

Name - Type or Print

Michael R. McCann

Signature

Michael R. McCann, P.A.

Company

118 W. Pennsylvania Avenue 410 825-2150

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Legal Owner(s):

Rainbow Hall, Inc. aka Rainbow Hall, LLC

Name - Type or Print

Signature

Name - Type or Print

Signature

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

Representative to be Contacted:

Henry M. Wright, Jr., Resident Agent

Name

4804 Benson Avenue

Address

Telephone No.

Baltimore

Maryland

21227

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No.

2010-0280-SPH

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By *JNP*

Date *4/16/2010*

Resp Ex: 10 11/8/11
10-280-SPH



Zoning Review
Department of Permits, Approvals and Inspections
Baltimore County Office Building
Towson, MD 21204

ZONING CHECKLIST

PART I: NON-RESIDENTIAL BUILDING PERMITS AND/OR PART II: ZONING PUBLIC HEARING APPLICATIONS

Please be aware that this checklist is for your information only and
it is not intended to offer, or to be considered, legal advice.

Revised 6/20/11

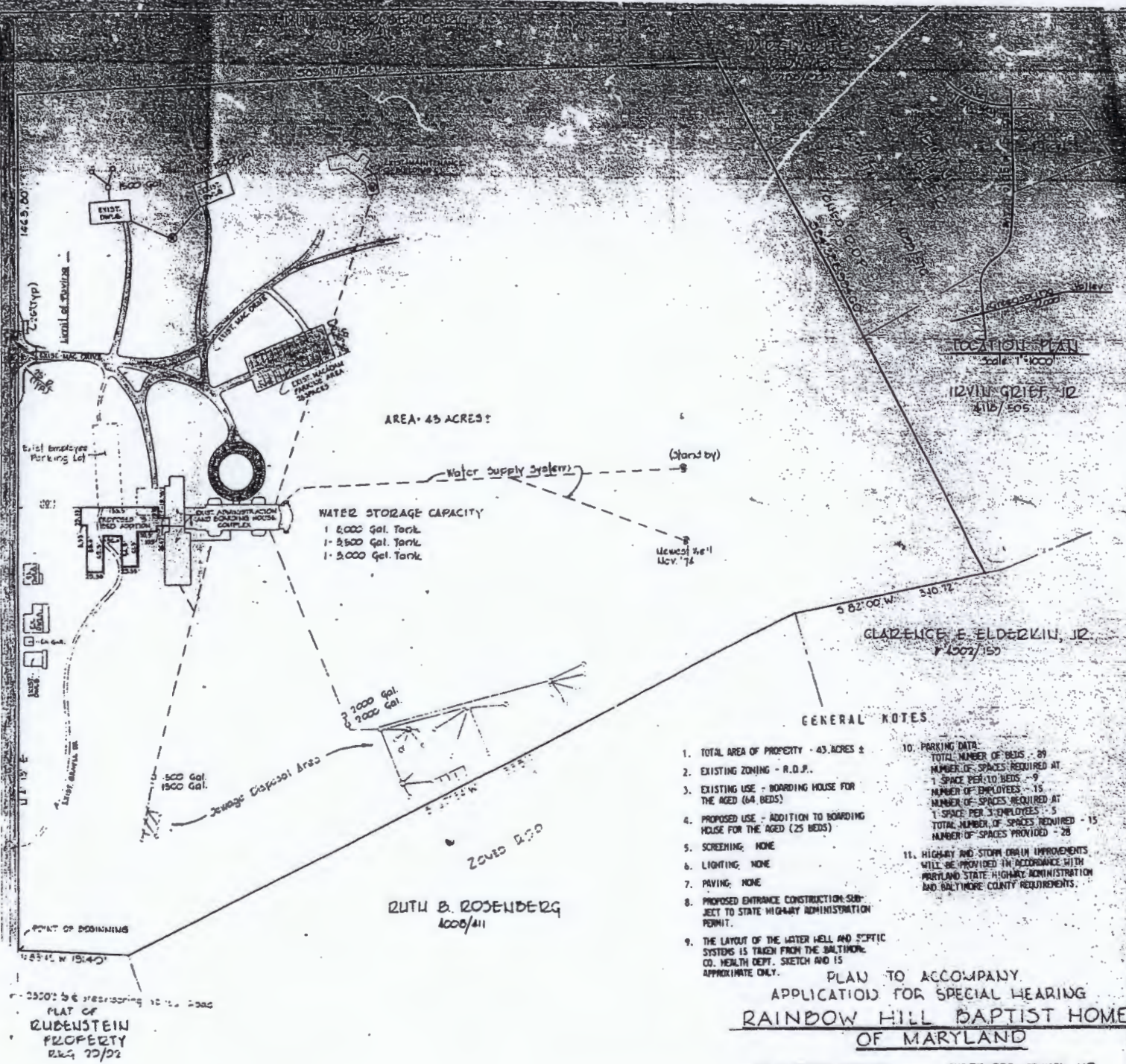
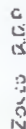
This checklist is a guide in preparing plans and information for building permit (PART I) and/or zoning public hearing (PARTS I and II) applications. Ten (10) copies of the site plan must accompany an application for a building permit, while for zoning hearings twelve (12), or fourteen (14) if in or near a floodplain, are needed. TO AVOID TIME-CONSUMING AND COSTLY DELAYS, ALL CHECKLIST INFORMATION MUST BE INCLUDED ON THE PLAN AND/OR IN THE HEARING APPLICATION.

1. _____ NORTH ARROW, ELECTION DISTRICT, COUNTY COUNCIL DISTRICT, ZONING MAP NUMBER(S) AND TITLE PLAN "PLAN TO ACCOMPANY _____ PERMIT", (OR HEARING TYPE(S) AS APPLICABLE) AND THE DATE. Zoning Hearing Plans and Descriptions must be sealed by a MD registered Professional Engineer, Surveyor or Landscape Architect.
2. _____ SCALE OF DRAWING: Use Engineers Scale of 1" = 10', 1" = 20', 1" = 30', 1" = 40', 1" = 50', or 1" = 60'. If acreage exceeds 40 acres, use 1" = 100' scale.
3. _____ OUTLINE OF PROPERTY: Indicated by a **heavy bold line** and bearings, distances, gross and net area (acres and square feet) of parcel(s). This also applies to zoning hearing areas on the site with the POB and intersecting street name and distance shown and matching the sealed zoning description(s) required for all zoning hearing applications.
4. _____ VICINITY MAP: A vicinity map must be included on all site plans with the scales of 1" = 200', 1" = 500', or 1" = 1,000' WITH THE SITE AND HEARING LOCATIONS CLEARLY AND ACCURATELY OUTLINED AND LABELED.
5. _____ PREVIOUS COMMERCIAL PERMIT: Number(s) and the work on the same property and the approximate date of the last improvement listed on the plan or if very old, age of building and parking spaces.
6. _____ ZONING HEARINGS, CRG, DRC, WAIVERS: The case number(s), date of the order(s), what was granted or denied, and any restrictions must be listed and addressed in detail on the plan. List any CRG, DRC, or waiver approval dates and file numbers and dates on the plan, along with the type granted. Also reference any authorized changes on a previously approved plan. State if or not the property is under active zoning violation(s), state the reason for citation, and add the case number and the inspectors name.

Resp. Ex: 11
11 / 8 / 11
10-280-SP+1

$$11/8/11$$

Res. Ex. 13



PLAN TO ACCOMPANY
APPLICATION FOR SPECIAL HEARING
RAINBOW HILL BAPTIST HOME
OF MARYLAND

3RD ELECTION DISTRICT
JULY 25, 1975
Revised - CCJ. 2C 1975

BALTIMORE COUNTY, MD.
SCALE 1"=100'

REVISED PLANS

OCT 21 '75 PM

§ 32-4-264. VESTING OF DEVELOPMENT PLANS.

(a) *In general.* A Development Plan vests in accordance with the provisions of this section.

(b) *Non-residential Plan.*

(1) A non-residential Plan for which a plat is not recorded vests when substantial construction occurs with respect to any portion of the Plan.

(2) A non-residential Plan for which a plat is recorded vests when plat recordation occurs for any portion of the Plan.

(c) *Residential Development Plan.*

(1) A residential Development Plan for which a plat is not recorded vests when substantial construction occurs with respect to any portion of the Plan.

(2) A residential Development Plan for which a plat is recorded vests when plat recordation occurs for any lot, tract, section or parcel thereof.

(d) *Limitation on vesting.* Unless an extension has been granted under § 32-4-274, construction relating to a vested residential Development Plan that occurs more than 9 years after the Plan was granted final, non-appealable approval shall comply with all laws in effect at the time permits are issued.

(e) *Reclamation Plan.* An approved Reclamation Plan vests when substantial construction occurs with respect to any portion of the Plan.

(Bill No. 58-09, § 3, 8-17-2009)

Resp. Ex: 15
16-280-SP14
11/8/11

Case No: 10-280-SPH Case Name: Rainbow Hall

Exhibit List

Party: Valley Planning Council Day#

Petitioners Date: 11/2/11

Exhibit No:	Description:
1	Arts Org Rainbow Hall, LLC.
2	Contract Sale Rainbow Hall
3	^{Record} Plat 2/17/1998 Baptist Home of MD
4	Decorators Showhouse Flyer 2002
5	9th Annual Liza Byrd Gift Boutique
6	11th " " " " " "
7	Citation 3/4/09 For Rent Sign
8	Citation NEU. 3/5/09. No apartments
9	Summary of Events @ Rainbow Hall
10	Floor Plan Rainbow Hall 3 pages.
11	Leases and Related Documents
12	Rainbow Payments 2009-2010
13	Rainbow Invoices + Expenses 2009-2010
14	Rainbow Payments 1/2011 to present.

VERIFIED BY tro DATE: 11/2/11

Case No: 10-280 SPH Case Name: Rainbow Hall

Petitioners.

Exhibit List

Day # 1

Party: Valleys Planning Council Date: 11/2/2011

Exhibit No:	Description:
15A	Photo Front house
15B	Photo Rear next to wing
15C	Photo Interior
15D	Photo Interior Room.
16	Invitation. - ^{Bat mitzvah} Response Card
17	12/20/02 letter VPC to Wright
18.	2/21/03 letter from Wright to VPC
19	4/20/03 letter from Wright to VPC ^{Wright to VPC}
20	4/25/03 letter from Wright to VPC ^{VPC} to Wright
21	6/6/03 Memo from Wright to VPC ^{Dark Dillon}
22	11/17/03 letter from Wright to VPC
23	5/19/06 letter from Wright to VPC ^{Pantone} to Wright
24	9/15/09 letter Wright to VPC
25	Baptist Home Brochure
VERIFIED BY <u>trs</u> DATE: <u>11/2/11</u>	

trs

11/3/11

trs

11/8/11

1 Day # 2

Case No: 10-280-SPH Case Name: Rainbow Hall

Exhibit List

Any # 2

Party: Petitioners VPC

Date: 11/3/2011

Exhibit No:	Description:
✓✓ 25	Baptist Home Brochure (4 pages)
✓✓ 26	" " " (12 pages)
✓✓ 27	" " " (12 pages)
✓✓ 28	Affidavit Rule 8 VPC
✓✓ 29	James Paxton CV
✓✓ 30	p.3 Zoning Commissioner - Zoning History
✓✓ 31	Pet for SE - 1963
✓✓ 32	BCZR 1955 Excerpt.
✓✓ 33	Pet for SE - 1975
✓✓ 34	Plat 1975
✓✓ 35	BCZ Advisory Committee 1975
✓✓ 36	1991 Petition for SE
✓✓ 37	Baptist Home 75 th Anniv Brochure
✓✓ 38	1997 Hearing Officer Opinion
VERIFIED BY <u>tro</u> DATE: <u>11/3/11</u>	

Day # 2

tro 11/8/11

Day #2

Case No: 10-280-SPH Case Name: Rainbow Hall

Exhibit List

Day # 2

Party: Petitioners U P C

Date: 11/3/2011

Exhibit No:	Description:
39	^{concept} Develop Plan 1997. filed by Bay St Home
40	Cim August 1994
41	Inter Office Correspondence 9/13/1996
42	Patton Petition to Accompany Spec Hearing
43	BCZR Multi Family Bldg. Def
44	BCZR Boarding Rooming House Def.
45	BCZR NCU Definition
46	Photo of Rainbow Hall / McCormick Wing
47	Rainbow Hall Receipts Summary
48	Rainbow Hall Rental Income from Leases
**49	Testimony Theodore Houck
50	Planning Office Comments 5/5/2010
	VERIFIED BY <u>two</u> DATE: <u>11/3/11</u>

* 49 - missing on 11/8/11 - trs
recovered 11/9/11
trs 11/8/11 to all others

CBA Petitioners Ex: 1

10-280-SPH

11/2/2011

RAINBOW HALL, LLC

ARTICLES OF ORGANIZATION

RAINBOW HALL, LLC (the "Company") hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: The name of the Company is:

RAINBOW HALL, LLC

SECOND: The address of the principal office of the Company in the State of Maryland is 4804 Benson Avenue, Baltimore, Maryland, 21227; and the name and address of its registered agent for service of process is Henry M. Wright, Jr., an individual, whose address is 4804 Benson Avenue, Baltimore, Maryland, 21227.

THIRD: The Company shall continue until December 31, 2040, unless sooner dissolved as provided by the operating agreement of the Company or by operation of law.

FOURTH: The purposes for which the Company is formed are as follows: (a) to acquire, hold, own, improve, develop, lease, manage, subdivide and otherwise deal with real property in Pennsylvania and Maryland; and (b) to engage in, promote, conduct and carry on any lawful acts or activities for which limited liability companies may be organized under the Maryland Limited Liability Company Act.

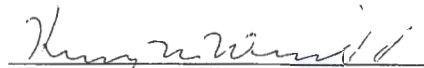
FIFTH: The affairs of the Company and the conduct of its business shall be governed by the provisions of an operating agreement and any amendments thereto, all of which shall be in writing and which shall initially be agreed to by all members.

SIXTH: The authority of any member of the Company to act for or on behalf of the Company, solely by virtue of such member's status as a member, is limited as set forth in the operating agreement of the Company.

IN WITNESS WHEREOF, Henry M. Wright, Jr. acknowledges that these Articles of Organization are his act, and further acknowledges, under penalties of perjury, to the best of his knowledge, information and belief that he has been authorized by the persons forming the Company to execute these Articles and that the matters and facts set forth herein are true in all material respects, and that he has executed these Articles of Organization as of this 13 day of MARCH, 2002.

WITNESS:



 (SEAL)
HENRY M. WRIGHT, JR.

Buyer: HENRY M. WRIGHT, JR.
Baltimore County, MD 21117

Property: 10729 PARK HEIGHTS AVENUE, OWINGS MILLS.



583 5700

O'CONOR
PIPER & FLYNN



MARYLAND RESIDENTIAL CONTRACT OF SALE

This is a Legally Binding Contract. If Not Understood, Seek Competent Legal Advice.

THIS FORM IS DESIGNED AND INTENDED FOR THE SALE AND PURCHASE OF IMPROVED SINGLE FAMILY RESIDENTIAL REAL ESTATE LOCATED IN MARYLAND ONLY. FOR OTHER TYPES OF PROPERTY INCLUDE APPROPRIATE ADDENDA.

✓ BROKER: O'Conor, Piper and Flynn ERA BRANCH OFFICE: Towson-Lutherville
OFFICE PHONE: (410) 822-5711 FAX: (410) 821-0375 BROKER/AGENT ID NO. OPF 17
SALES ASSOCIATE: Charles Carroll/Kelle Sowers E-MAIL: _____ PHONE: (410) 825-8117
ACTING AS ☐ SELLER'S AGENT (WHETHER "COOPERATING AGENT" OR "SELLING AGENT"); OR
☒ EXCLUSIVE BUYER AGENT; OR
☐ INTRA-COMPANY AGENT WITH BROKER AS DUAL AGENT

✓ BROKER: LONG and FOSTER BRANCH OFFICE: GREENSPRING
OFFICE PHONE: (410) 583-5700 FAX: (410) 583-1303 BROKER/AGENT ID: ENG 174
SALES ASSOCIATE: MARC WHITMAN (L1987) E-MAIL: _____ PHONE: (410) 486-5544
ACTING AS ☒ LISTING BROKER AND SELLER AGENT; OR
☐ INTRA-COMPANY AGENT WITH BROKER AS DUAL AGENT

TIME IS OF THE ESSENCE UNLESS BOTH BUYER AND SELLER INITIAL HERE

BUYER BUYER SELLER SELLER

1. DATE OF OFFER: 12-21-2001

2. SELLER: NAME: Baptist Home of MDIDE INC ✓
ADDRESS: 10729 Park Heights Ave Owings Mills, MD ZIP: 21117
AND

3. BUYER: NAME: HENRY M. WRIGHT, JR. ✓
ADDRESS: 1100 W. SEMINARY AVENUE, LUTHERVILLE, MD ZIP: 21093

4. PROPERTY DESCRIPTION: Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property") known as 10729 PARK HEIGHTS AVENUE ✓ located in OWINGS MILLS / Baltimore County City/County, Maryland, Zip 21117 together with the improvements thereon, and all rights and appurtenances thereto belonging.

5. ESTATE: The Property is being conveyed: X In fee simple or _____ subject to an annual ground rent, now existing or to be created, in the amount of _____ Dollars (\$ _____)

_____ payable semiannually, as now or to be recorded among the Land Records of OWINGS MILLS / Baltimore County City/County, Maryland. If the Property is subject to a ground rent and the ground rent is not timely paid, the owner of the reversionary interest (i.e., the person to whom the ground rent is payable) may bring an action of ejectment against the leasehold owner pursuant to Section 8-402.2 of the Real Property Article, Annotated Code of Maryland (as amended). As a result of this action, the owner of the reversionary interest may obtain title to the Property in fee, discharged from the lease.

6. PURCHASE PRICE: The purchase price is ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND 00 CENTS 20
Dollars (\$ 1,500,000.00) ✓

THE PARTIES ACKNOWLEDGE PAGES 1 THROUGH 9 OF THIS CONTRACT OF SALE

BUYER BUYER

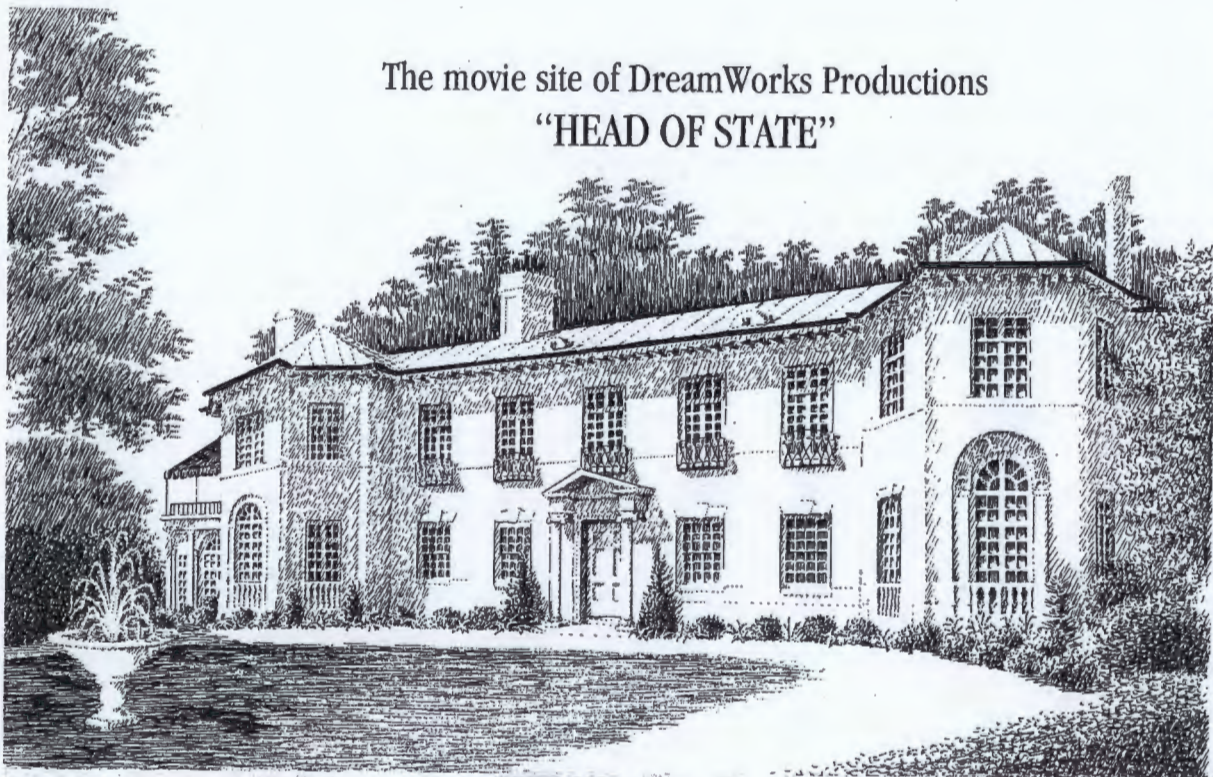
SELLER SELLER



PETITIONER'S

EXHIBIT NO. 8

R. E. Comm
Seller
Lester



The movie site of DreamWorks Productions
 "HEAD OF STATE"

Symphony Decorators' Show House
 P.O. Box 9057
 Lutherville, Maryland 21094-9057



THE BALTIMORE SYMPHONY
 ASSOCIATES PRESENTS THE

26th Symphony
Decorators'
SHOW HOUSE

RAINBOW HILL

10729 PARK HEIGHTS AVE.
 GREENSPRING VALLEY, MD

AUGUST 25 - SEPTEMBER 21, 2002

CBA Postcard Ex: 4
 10-280-SOH
 11/2/2011

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Liza Byrd
BOUTIQUE

7 Chattanooga Hill Rd @ Owings Mills, MD 21117
www.lizabyrd.com

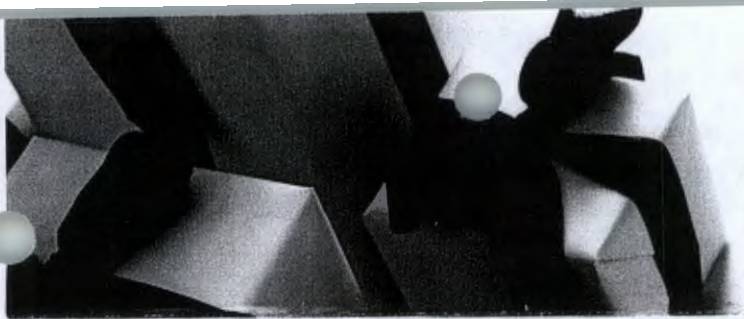
For a unique online shopping experience, visit...
www.LizaByrd.com

five VPC Quarter Hour
Just in time for
the Holidays!

Q2



Petitions
EX 5
CB4
10-286 SR41
11/2/2011



11th Annual
Liza Byrd Gift Boutique

*****5-DIGIT 2117
MRS. KATHLEEN PONTONE
2522 CAVES RD
OWINGS MILLS MD 21117-2354
T7 P2

Presorted
U.S. Postage
PAID
Trenton, NJ
Permit No. 40

Liza Byrd
BOUTIQUE
7 Chantelane Hill Rd • Owings Mills, MD 21117
www.lizabyrd.com

Don't Miss the 11th Annual Liza Byrd Gift Boutique

Rainbow Hill
10729 Park Heights Ave | Owings Mills, MD

Thursday, Nov 19th, 6-9, Ladies Night
Friday, Nov 20th, 9-5
Sat, Nov 21st, 9-4



11/2/2011
CBA - 10-286-SP4
Petitioner's Ex: 6

CBA Petitioner's Ex 7
10-280-SPH
11/2/2011

Permits and Development Manager
Code Inspections and Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement 410-887-3351
Building Inspection 410-887-3953
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Signs/Fences 410-887-3896

CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROPERTY TAX ID	DATE ISSUED
10-56730	2300 003 036	5/4/09
NAME(S): RAINBOW HALL INC		
MAILING ADDRESS: 8717 MARBURG MANOR DR		
CITY: LUTHERVILLE	STATE: TIMONIUM	ZIP CODE: 21093
VIOLATION ADDRESS: 10729 PARK HEIGHTS AVE		
CITY: BALTIMORE	STATE: MARYLAND	ZIP CODE:

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2(1A01) ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER:

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER:

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|---|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☐ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: Violation of commercial site plan and/or zoning order |

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☒ 13-7-112: Cease all nuisance activity | ☒ 35-2-301: Obtain building/ fence/ sign permit |
| ☒ 13-7-115: County to abate nuisance & lien costs | ☐ 13-2-001: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(i)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(i)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(i)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(i)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(i)(vi): Waterproof walls/ roof /foundations |
| ☐ 35-2-404(a)(i)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(i)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

OBTAIN PERMIT
FOR SIGN ("FOR RENT")
OR REMOVE
SIGN

NOTICE POSTED AND MAILED

POTENTIAL FINE: ☒ \$200 ☐ \$500 ☐ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE:

3.17.09

INSPECTOR NAME:

FISHER
PRINT NAME (Rev. 9/05)

ENCY

PETITIONER'S

EXHIBIT NO.

30

CBA Petitioners E-8

10-280-SPH

11/2/2011

Permits and Development Management
Code Inspections and Enforcement
County Office Building, Room 111
111 West Chesapeake Ave
Towson, Maryland 21204



Code Enforcement 410-887-3351
Building Inspection 410-887-3953
Electrical Insp. 410-887-3960
Plumbing Insp. 410-887-3620
Signs/Fences 410-887-3896

CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 56730	PROPERTY TAX ID 220000 3036	DATE ISSUED 3/15/19
NAME(S): Rainbow Hall Inc		
RA: Henry M. Wright Jr		
MAILING ADDRESS 4804 Benson Ave		
CITY Balt	STATE MD	ZIP CODE 21227
VIOLATION ADDRESS 10729 Park Heights Ave		
CITY BALTIMORE	STATE MARYLAND	ZIP CODE 21117

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☒ **RC7(1A01)** ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|--|
| ☐ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☐ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☒ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: |

Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
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| ☐ 35-5-302(a)(3): Cease infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof/foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

BCZR: 500.9
 - Non Permitted apartment use in RC2 zone
 - Cease + desist use or seek
 special exception hearing for non
 conforming use as apartment use
 if applicable. Seek all proper permits
 if applicable

NOTICE POSTED AND MAILED

POTENTIAL FINE: ☐ \$200 ☐ \$500 ☒ \$1000 per day, per violation and to be placed as a lien upon your tax bill.COMPLIANCE DATE: **4.5.19**INSPECTOR NAME: **Risher, Ryan**

PRINT NAME (Rev 4/6)

AGENCY

PETITIONER'S

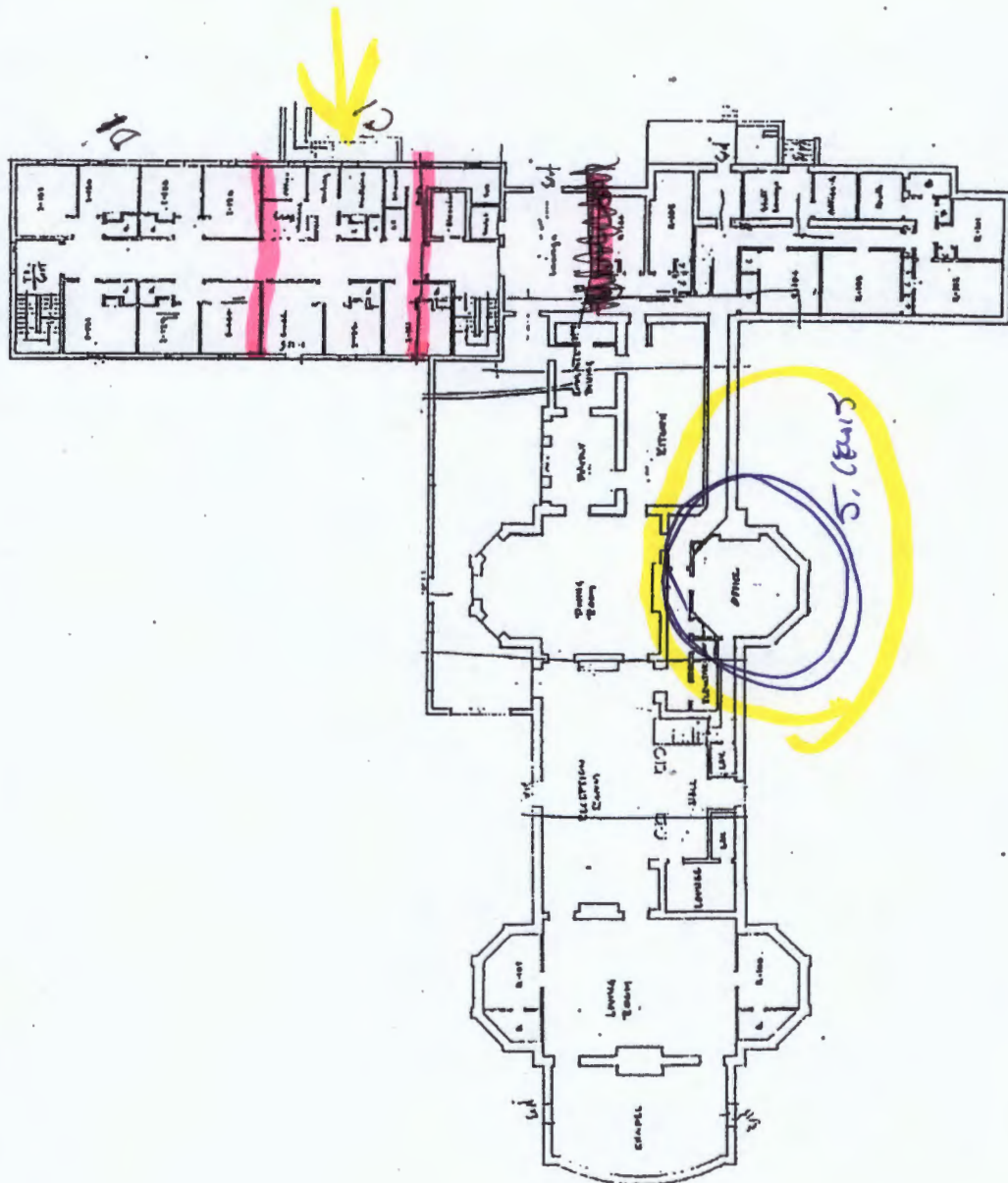
EXHIBIT NO. **20**

Summary of Events At Rainbow Hall

<u>Date of Event</u>	<u>Event</u>	<u>Evidentiary support</u>
2002	Maryland Historical Society	Letter from H. Wright letter to P. Keller (Petitioners' Exhibit 56)
August 25-Sept. 21, 2002	Symphony Show House	Testimony of H. Wright, J. Lubke
2002 (Christmas)	Symphony Bazaar	Testimony of H. Wright, J. Lubke Petitioners' Exhibit 56
Pre-2004	Baltimore Opera Company	Letter from H. Wright letter to P. Keller (Petitioners' Exhibit 56)
Pre-2004	Jemicy School	Letter from H. Wright to P. Keller (Petitioners' Exhibit 56)
Pre-2004	Ladew Gardens	Testimony of H. Wright
Pre-2004	Garden Club	Testimony of H. Wright
Pre-2004	Weddings (3 or 4)	Testimony of H. Wright Letter from H. Wright to P. Keller (Petitioners' Exhibit 56)
April 23-May 15, 2006	Parking for Decorator Show House	Testimony of H. Wright

eBA Petitioners EX-9
 Case No: 10-280-SF#
 11/2/2011

Floor Plan



1st Floor

Reed
#1450-52

moving DATE
moving 1.18.
April 10

Lead Insp. #47060

Richard Roberts, Jr.
10729 Brook Heights Avenue
Apt 1D
Covings Mills, MD 21117

Rejected Exhibits

PeA EX: 11
CASE NO 10-280-SPH
11/3/2011

RAINBOW
PAYMENTS

2009-2010

Rejected Documents

Pet: Ex: 12

Case No 10-280-SPH

11/3/2011

● RAINBOW
INVOICES ETC.

2009-2010

~~Rejected Documents~~

Pet Exp: 13

Case No 10-280-SPH

11/3/2011

RAINBOW
INVOICES PAID
1/11 - current

Rejected Documents
Pet Ex 13 con't
Case # 10-280-SPH

RAINBOW
PAYMENTS

2011 to current

~~Rejected Exhibit~~

Pet: Ex: 14
10-2805PH
11/2/2011



11/2/2011 Case No 10-280-SPH CBA Petitioners Ex 15A ~~11~~



11/2/2011

Case No: 10-280-SPH

CBA Petitioner 15B



11/2/2011 Case No: 10-280-SPH

CBA Petitioner Ex: 15C



11/2/2011 Case No: 10-288-SPH CBA Petitioners Ex: 15D

*Join us for an evening of fun
and celebration in Jamie's honor*

*Rainbow Hill Mansion
10729 Park Heights Avenue
Owings Mills, Maryland 21117
Saturday, June 5th 7-11 pm*

Cocktail Attire

Please RSVP at JHBparty2010@gmail.com

11/2/11 10-280-SPH

~~EX-17~~

CBA Detention's Ex-16

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

December 20, 2002

*Robin
Rainbow Hall*

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Lutherville, MD 21093

Dear Mr. Wright:

Thank you for speaking with me Fri., Dec. 6, 2002, regarding your plans for Rainbow Hill. As I mentioned I have had a number of calls from area residents who expressed concerns about what is legally permitted on the property as the Baptist Home is no longer the owner. I have assured them that the flurry of activity, including the Designer Show House activities, have all been not for profit charitable events that culminated on December 9, 2002.

Following up on our conversation about the long-term future use of Rainbow Hall is the next step. Because you have invested a substantial amount of money in the purchase of this Landmark property, and you do not plan to use it as your principal residence, you obviously are looking for a use that can justify such expenditure. You mentioned several uses that you thought might be possible, some of which may be problematic to the community. I suggested that in a spirit of cooperation you hold a meeting with representatives of the VPC and the other community associations in the area after the New Year. I will provide you with a list of Associations and contacts for this meeting.

As promised, I have enclosed a copy of the pertinent Baltimore County Zoning Regulations that identify permitted and special exception uses. Additionally enclosed is a copy of the VPC restrictive Covenant agreement on the property. I am also enclosing a copy of the current zoning of the property.

If you would consult your calendar and choose two or three dates that we could work from, including a snow date, we can proceed with scheduling the meeting.

I look forward to meeting and working with you on what I hope will be a positive, successful solution for this property.

Very Truly Yours,

Jack Dillon
Jack Dillon
Executive Director

PETITIONER'S

EXHIBIT NO.

Petitioners Ex: 17

11/2/2011

CBA

10-280-SPH

**Rainbow Hall LLC
8717 Marburg Manor Dr.
Lutherville, MD 21093**

February 21, 2003

Valley Planning Council
Kathie Pontone
P.O. Box 5402
Towson, MD 21285-5402

Dear Ms. Pontone:

Thanks for meeting with us at Rainbow Hill to see the building and to understand our intentions.

By way of review I have saved eight building in Maryland and I still own all of these buildings. As a matter of personal interest I enjoy older building. It is my intent to continue renovation at Rainbow Hill to retain this beautiful building that is full of history.

It was my understanding that Rainbow Hill was about to be demolished by the wrecking ball and I needed to move very quickly to save the building. Therefore, I did not do a detailed search of the records. This special historic building has been saved.

We are looking for your cooperation to join with us to find a way to continue to preserve Rainbow Hill. We do not plan to build any additional houses on the site. We do believe the building lends itself well for site for upscale weddings, business meetings, and other upscale social events. Our desire would be to take the income from the events to pay for the maintenance and upkeep on the property.

Please join with us in this worthwhile project.

Sincerely,

Henry Wright
Henry Wright

CBA-Petitioner's Ex: 18
10-280-SPH 11/2/2011

PETITIONER'S

EXHIBIT NO.

Jan. 15 1999 01:13AM P2

FAX NO. : 4102965409

FROM : UPC

04/10/2003 14:58 FAX 410 808 3071
Katherine
SPAT
4/17/03

Rainbow Hall, LLC
8717 Marburg Manor Drive
Lutherville, MD 21093

Ms. Ann Jones
Valleys Planning Council
P.O. Box 5402
Towson, MD 21285-5402

Dear Ms. Jones:

Per your request we address the following questions:

Lighting
Parking
Events
Noise (Music)

For your convenience I have included a copy of an aerial photo of Rainbow Hill.

As to lighting there has been lighting on the building, in the parking areas, and along the roads at Rainbow Hill for years. We do not see a need to add additional lights but we are repairing the lights that are in place but not working.

As you can see from the attached aerial photo there is parking to the Northeast of the main building and also to the West. It is my understanding that additional parking has been approved by zoning to the West of the West parking lot. This parking area is not visible from the Park Heights as a large hedge is growing along the western edge of the property.

In regard to events that we would propose for Rainbow Hill we visualize upscale weddings, corporate meetings and upscale social events. We do not see a "Martins West" banquet hall. Considering the monthly cost to operate and maintain Rainbow Hill we will need to keep the building busy.

With respects to noise we will be happy to work with you to put your mind at ease that Rainbow Hill will not be a burden to the neighbors.

We are ready to meet with you to move this project along.

Sincerely,

Henry Wright

PETITIONER'S
EXHIBIT NO. 124

CBA 10-280 SPH
Petitioner's Ex: 19

11/2/2011

The Valleys Planning Council, Inc.

207 Courtland Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

April 25, 2003

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Lutherville, MD 21093

Dear Mr. Wright:

Following your last correspondence and a subsequent request through Jim Widman to allow another "not for profit" event at Rainbow Hall, I have had very strong expressions of opposition to any "commercial use" of the property.

The restrictive covenant agreement under item #3 states, "That, if all or any part of the Rezoned Portion is conveyed to an owner other than the Home or any successor nonprofit entity, **the conveyed part will not be used for any use other than a use permitted by the BCZR then applicable to the RC 2 zone**, unless its zoning is further amended from RC 3 to another classification in public proceedings." For you to proceed with another event would force VPC and the community to proceed along a path that neither of us would like. We are aware that the restriction is very narrow; it was intended to be. This is a rural area and any commercial use of the property is not permitted.

If you have any other options or ideas we would be happy to review them.

Sincerely,

Jack Dillon
Executive Director

cc: Bill Stewart
Tim Naylor
James Cox
Ted Reynolds
✓ Mitch Kolkin
✓ Kathie Pontone
Dr. Harlan K. Zinn

Caves Valley Land Trust
Green Spring Valley Association
Caveswood Association
Velvet Valley Association

PETITIONER'S

EXHIBIT NO. 25

CBA-10-280-SPH

Petitioner's Ex: 20

11/2/2011

Post-it® Fax Note		7671	Date	# of pages ▶ /
To	Jim W. Redman		From	J. Dillon
Co./Dept.			Co.	
Phone #	410-685-3071		Phone #	
Fax #			Fax #	

MEMO: June 6, 2003

As requested I have reviewed the Baltimore County Zoning Regulations regarding the potential use of Rainbow Hall as a commercial catering establishment. The VPC restrictive covenant not withstanding:

1. The property is zoned RC3 (Deferral of Planning and Development)
2. The zoning regulations under Sec. 101 defines Catering Hall as " A facility or part of a facility used regularly for serving beverages and food to groups which reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant". [Bill No. 110-1993]
3. There is no definition for Community Building.
4. The RC 3 zone lists 12 uses as a matter of right and 26 uses permitted by Special Exception. Special exceptions use #6. " Community buildings, swimming pools or other uses of a civic, social, recreational or educational nature, including tennis facilities, provided that no tennis facility shall comprise more than four courts." This provision has been used by Volunteer Fire Companies, VFW's, Knights of Columbus, and other civic, social and fraternal organizations to hold catered events such as bull roasts, wedding receptions, anniversary parties etc. as fundraising events for their not for profit organizations. To my knowledge a private commercial catering facility has always been required to be located in a Business Major or Business Roadside zone. One example is Grey Rock Mansion, which was required to have the BM zone to legitimize its operation.
5. Also, use #23. " Standard restaurants or tearooms converted from dwellings or other buildings as provided in section 402.3" is a listed special exception in RC 3. This use would allow a full standard restaurant in the same fashion that Oregon Grille was allowed to open. The definition of "Restaurant" cited above makes a distinction between a restaurant use and a catering use. This is what our current case with Oregon Grille is about.

Under the current agreement on this property, the zoning use is actually controlled by RC 2 zoning and its permitted uses. Under the special exception provisions of the RC 2 zone " Community buildings..." are NOT LISTED. However, "Standard restaurants for tearooms converted from dwellings" is listed. Same issues as discussed above.

I also discussed this with Mr. Carl Richards the Zoning Supervisor for Baltimore County and he agrees with the above assessment.

As I see this, the only way Mr. Wright could possibly have a catering use at this location would be by a rezoning from RC 3 to a BM zone or have a legitimate non-profit organization establish its residence at Rainbow Hall and file for a special exception. This however will require an amendment to our current agreement whichever course he would take.

CBA Petitioners Ex: 21

11/2/2011

10-280-SPH

PETITIONER'S

EXHIBIT NO.

November 17, 2003

To: Executive Committee
Valleys Planning Council

Henry Wright and Jim Widman want to find a way to preserve and maintain Rainbow Hill. We believe the best method will be to offer the facilities for weddings, business meetings, and other social events. We are asking for the Valleys Planning Council to support our efforts by agreeing to the attached new zoning category, Historic Inn (attached).

Rainbow Hill at 10729 Park Heights has had many lives over its 90-year history. The original building structure was built as a grand home with all the supporting out-buildings (garage, barn, various sheds, and a corn crib). Over the years the main building has been used as a country club, a nursing home, and at various times the building was vacant. During the Baptist Home tenure a three-story addition was added to the west side of the building. Furthermore, over the years various owners have sold off some of the grounds to reduce the site to about 20 acres today. Henry Wright purchased the property on April 15, 2002.

Henry has made the property available at no cost to various non-profit organizations for their fundraisers. Rainbow Hill has even been used as the emergency evacuation site for the Jemicy School during a gas leak. During the last year and a half over \$1,000,000 has been spent to bring the property back to its proper grandeur. But there are hundreds of thousands of dollars that still need to be spent on the facility.

It is important that you know how we will use the facility. First we do not want to operate a restaurant for the public at Rainbow Hill. We would agree to a written prohibition to the use of the buildings as restaurant for the public. We are very aware that Rainbow Hill sits in a residential area. We believe that all music should be performed inside the building to control "noise" in the neighborhood. We would agree to a written prohibition to music outside the building. A few people have asked about parking and traffic. We have onsite parking lots both to the northeast and west of the main building, which should be adequate for any parking needs screened from any neighbors. Studies

CBA- 10-280 SPH
Petitioners Ex: 27

11/2/2011

Ex: 26

have shown that on average there are 62 cars per 100 guests at a wedding. These cars do not come at rush hour and are much less than the number of cars during the Baptist Home days when there were 90 residents and over 200 employees with deliveries during 24/7 operation.

The issue is that for Henry or any owner, this is an expensive building to maintain. The monthly cost to own Rainbow Hill exceeds \$25,000. It is our desire to use the revenue that comes from using Rainbow Hill as a catering facility to maintain the building for the future. As members of the executive committee, we would like your support on the passage of the new zoning definition, which is attached. Note that this new definition is written to benefit Rainbow Hill but does not set a precedent for other catering facilities.

Henry Wright

CBA - 10-280-SPH

Petitioners Ex 22

11/2/2011

**10 LIGHT STREET
BALTIMORE, MARYLAND 21202**

May 19, 2006

Mr. Henry M. Wright, Jr.
1100 W. Seminary Avenue
Towson, Maryland 21204

Dear Mr. Wright:

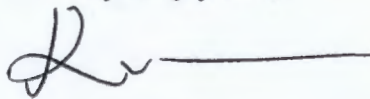
This is to follow up on our conversation regarding the use of the Rainbow Hall property for a church and to provide off site parking to the Symphony Show House.

We have done some investigation, discussed this at the VPC and solicited comments from the Velvet Valley Association. Our information currently is that you have allowed a religious group, which has broken off from a local church, to temporarily use the property for one worship service a week in exchange for a small fee. A member of this Church has assured us that this will only be on a very temporary basis until they find a new home, which they intend to do shortly. As you know, you would need a Special Exception to use the property as a Church and no request has been filed. We also believe that this violates our covenant. Because we understand that this will end very shortly, we will wait a few months to see what develops; however, you should know that the Community opposes this use. Hopefully this will not become an issue.

As to the parking, we have not been able to find that permits have been filed to allow that use. Providing off site parking to another use is not allowed in RC 2 and also violates our covenant. In addition, the signs which have been placed on Park Heights Avenue are illegal and unsightly. The site distances at the location for entrance and exit are very short and not suitable for parking cars for all the people who attend the show house. Since, however, the parking was heavily advertised and the use is almost over, it does not make sense to require you to cease this use immediately. You should know that we believe that this was improper and will take action if the site is used for off site parking in the future.

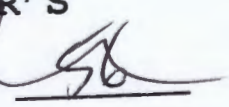
We appreciate your concern for the property and the Community and hope that you will be able to find uses which comply with RC 2 and our covenants in the future.

Very truly yours,



Kathleen Pontone

PETITIONER'S

EXHIBIT NO. 

CBA 10-280-SP14

Petitioner's Ex: 23 11/2/2011

Henry M. Wright, Jr.
Selsed Vineyards
8717 Marburg Manor Drive
Lutherville, MD 21093
410-382-2294

The Valleys Planning Council
118 W. Pennsylvania Avenue
Towson, MD 21204

September 15, 2009

Dear Members of the Valleys Planning Council,

I would like to introduce some information to you that you might not be aware of regarding my property, Rainbow Hill. I have attached the history of the mansion that was written by the members of the Baltimore Symphony Associates for their Show House program book in 2002. Several things not mentioned in the history are the fact that Dwight and Mamie Eisenhower were frequent guests at Rainbow as well as many other diplomats and dignitaries. Rainbow Hill started out as the Avalon Hotel, then after it burned, E.T. Stotesbury purchased the land as a wedding present for his stepdaughter, Henriette, and she built the mansion that you see today. The Baptist Home of Maryland, who last owned the property before me, added the "hospital wing" in the early 1970's.

In Christmas of 2001, I heard that the property was going to go up for auction and that a prospective owner was going to bulldoze the mansion, permit or not. I immediately tried to buy the property and succeeded in the spring of 2002. My sole purpose in purchasing Rainbow Hill was to preserve and protect it from demolition and for future generations.

Rainbow Hill has raised hundreds of thousands of dollars for charities since I acquired it. The Baltimore Symphony Orchestra, the Maryland Historical Society, University of Maryland's Shock Trauma and Ladew Topiary Gardens are just a few organizations that I have let use Rainbow Hill. I have even offered it to the Valleys Planning Council to use as their office at no cost. I have also allowed family and friend's weddings to take place at Rainbow Hill at no benefit to me.

Rainbow Hill has always had apartments with tenants and help living in the wings of the mansion and the outbuildings. Even when it was a Country Club, there were rooms available for guests and members. As the Baptist Home of Maryland, there were approximately 90 full time residents with approximately 150 doctors, nurses and other employees coming and going at all hours of the day and night. Today, there are seven apartments rented to professional individuals including a shock trauma doctor, a law student and a handicapped individual who needs to live at Rainbow because it offers accessibility for the handicapped. We allow the Episcopal Church of the Resurrection to use the mansion on Sundays.

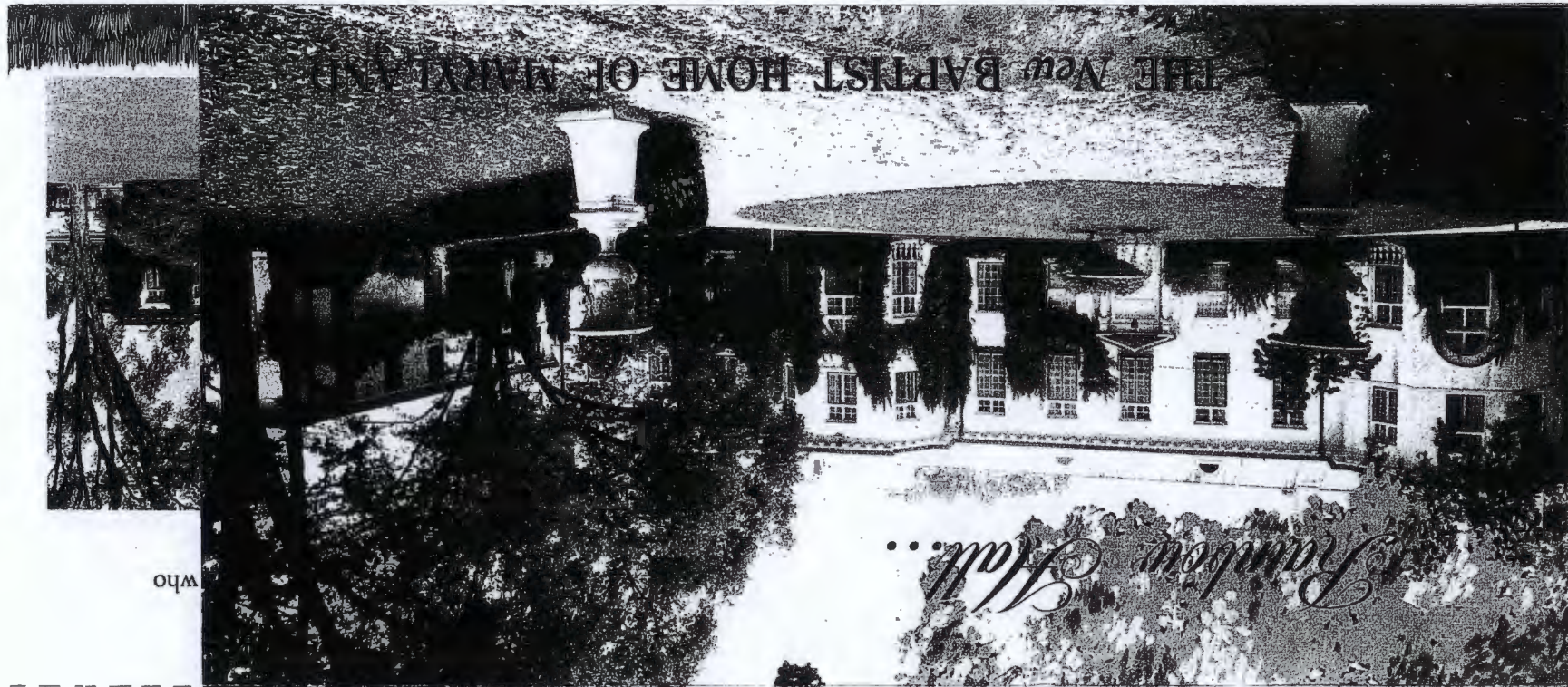
PETITIONER'S

EXHIBIT NO.

CBA Petitioners Ex: 24

10-280-SPH

11/2/2011



The new Baptist Home of Maryland, located in the beautiful and peaceful Stevenson Section of Baltimore County, is now a reality. This new home is the fulfillment of a long and cherished dream, and is an answer to countless prayers. It is a source of everlasting satisfaction to its guests and a place of pride for all Baptists of Maryland.

As is now generally known, this property was bought by the Trustees of the Baptist Home at a cost of \$270,000 to give improved facilities to a greater number of aged persons. This was the former Rainbow Hill Estate, once the home of General Douglas MacArthur, and is now to be known as "Rainbow Hall". To further adapt it for our uses an additional \$180,000 has been spent for renovation and equipment, resulting in an outstanding home for approximately 40 guests.

Most of the financing of the operating expense will come, as in the past, from the endowment fund which has been built through the years from the generosity of friends. For the remodeling and future expansion of the property, however, greater cooperation from our denomination will be required. This brochure, therefore, is presented by the Memorial Gifts Committee of the Baptist Home of Maryland to tell how you can join in this very worthwhile effort and bring to yourself unlimited satisfaction.



Pet Ex: 25
CBA 10-280-SPH
11/3/2011

Introducing

RAINBOW HALL



The Baptist Home of Maryland

Det Ex: 26
CBA 10-280-SP14
11/3/2011

RAINBOW HALL

THE BAPTIST HOME OF MARYLAND, INC.

Pet Ex. 27

CBA 10-280-SPH

11/3/2011

The Valleys Planning Council, Inc.

118 W. Pennsylvania Avenue, Towson, Maryland 21204
Mailing Address: P.O. Box 5402, Towson, Maryland 21285-5402
Phone: 410 337-6877, Fax: 410 296-5409

AFFIDAVIT

**STATE OF MARYLAND
BALTIMORE COUNTY, SS:**

TO WIT:

I hereby swear upon penalty of perjury that Teresa Moore is currently the Executive Director of the Valleys Planning Council, Inc.

ATTEST:

The Valleys Planning Council, Inc.

John Beckley
John Beckley, Secretary

Peter Fenwick
Peter Fenwick, President

Date: 11/2/11

Case No: 10-280-SP4
Ref Ex: 28
11/3/2011

RESUME

JAMES S. PATTON, P.E., MCP

PRINCIPAL - PATTON CONSULTANTS, LTD.

Mr. Patton has forty five (45) years' experience in site engineering, site planning, land development consulting, and development project management for a wide variety of public and private clients. His experience in the private sector has been in residential, commercial, and industrial site development and construction while providing services to corporations, developers, and private individuals. His public sector experience is very broad, as he served as an officer in the U. S. Navy Civil Engineer Corps, as City Engineer and Planner for Washington, PA, and as consultant, either as consulting planner or consulting engineer, to a number of municipalities and governmental agencies including Pittsburgh, PA; Wilmington, DE; New Castle County, DE; Bradford, PA; Fredonia, NY; Wheeling, WV; Wirt and Doddridge Counties, WV; Canonsburg, PA; South Hills Regional Planning Commission, PA; Mt. Lebanon Township, PA; Baltimore County, MD, and the U.S. Fish and Wildlife Service. In addition, he has provided site engineering and planning services to many local school boards, hospitals, colleges, and institutions in their development and construction programs, either as a consultant or as a board member.

He has been responsible for projects ranging in size and scope from a few thousand square feet to areas of more than a thousand acres. These projects have included storm water management, water distribution, sanitary sewer, streets, roads, parking areas, grading, building construction, wetlands and critical areas, and erosion control. His background includes involvement with projects or consultations relative to new development, expansion, restoration, renewal and revitalization.

Planning, detail design and plan preparation, approvals and obtaining permits for site development and construction is a major focus. The ability to overview the various elements of site development and building construction such as zoning, environmental concerns, and utilities has been and is an important function performed by Mr. Patton in obtaining approvals and expediting the development of a site or project through completion.

EDUCATION:

SWARTHMORE COLLEGE
UNIVERSITY OF PENNSYLVANIA

*Bachelor of Science, Civil Engineering
Master of City Planning*

LICENSES & CERTIFICATIONS:

PROFESSIONAL ENGINEER

*Maryland - #9493
Pennsylvania & West Virginia (inactive)*

EXPERT WITNESS

*Baltimore County Circuit Court;
Baltimore County District Court;
Board of Appeals and Zoning*

*CBA 10-280-SPH
Pet. 29
11/3/2011*

sold to Henry and Ruth Rosenberg in 1940. After his death, the house and entire estate was sold in 1963 to the Rainbow Hill Corporation and the Baptist Home of Maryland, Inc. renovated the thirty-three room mansion to meet the needs of its elderly residents.

Zoning Chronology

Date & Case No(s)	Zoning	Request / Petition Request	Action / Order
1957	R-40	Reclassification from "A" Residential to R-40	Comprehensive Rezoning by County Council
11/26/63 63-152-X	R-40	Special Exception for a "boarding house for the aged" (40 Units/Persons)	Granted by Zoning Commissioner John G. Rose
1969	R-40	Approval of the McCormick Wing addition (24 Units/Persons) to "boarding house for the aged"	
12/01/75 76-89-SPH	RDP	Special Hearing to approve the construction of a new infirmary wing on an existing boarding home for the Elderly. Proposed Infirmary Wing (25 Units/Persons)	Granted with restrictions
10/08/76	RC 2 and RC 5	Reclassification from RDP to RC 2 and RC 5	Comprehensive Rezoning by County Council
Between 10/13/88 & 04/03/90	RC 2, RC 3 and RC 5	Reclassification of a portion of RC 2 to RC 3	Cycle Rezoning, Out-of-Cycle Rezoning or Map Correction
10/16/91 91-166-SPHX	RC 2, RC 3 and RC 5	Special Exception for an addition to an existing convalescent home as a use permitted by special exception in an RC 3 zone pursuant to BCZR 1A02.2.B.16. Special Hearing to approve an amendment to the special exception and site plan in Case No. 63-152-X to construct two additions to the existing facility.	Granted by Board of Appeals. While the legality of the existing convalescent home or nursing home use was not confirmed in the order itself, the legality was confirmed in the opinion of the Board that accompanied the order.
06/03/97 97-230-SPH & PDM # III-393	RC 2, RC 3 and RC 5	Five Lot Development Plan approved for three additional single family dwellings. Special Hearing to approve the creation of three undersized RC 5 non-density and one RC 2 non-density parcels, and to approve the removal of existing special exception from a portion of the tract.	Granted in Part and Dismissed as Moot in Part by Lawrence E. Schmidt as Hearing Officer
11/2004	RC 2 and RC 5	Reclass. RC 3 portion of property to RC 2	Comprehensive Rezoning by County Council
04/16/2010 2010-0280-SPH	RC 2 and RC 5	Special Hearing to determine the uses of the property that comply with the BCZR and previous approvals, and whether the property is and has been used in violation or non-compliance with same.	Decision pending

Pet Ex: 30
CBA 10-280-SPH
11/3/2011

#63-152-X

MPP
#3
SEC 2-C
X/A

RE: PETITION FOR SPECIAL EXCEPTION
FOR A BOARDING HOUSE FOR THE
AGED, E. S. Park Heights Ave.,
2300 N. Green Spring Valley Road,
3rd Dist., Ruth B. Rosenberg,
Petitioner, Baptist Home of
Maryland, Inc., Con. Pur.

BEFORE
ZONING COMMISSIONER

OF
BALTIMORE COUNTY

No. 63-152-X

63-152-X

The petitioner in the above entitled matter has requested
a special exception to operate a Boarding House for the Aged on the
east side of Park Heights Avenue 2300 feet north of the Green Spring
Valley Road in the Third District of Baltimore County.

From the testimony presented at the hearing the petitioner
has met all the requirements of the Baltimore County Zoning Regulations
for a special exception as set forth in Section 102.1, therefore, the
special exception should be granted.

It is this 20th day of November, 1963, by the
Zoning Commissioner of Baltimore County, ORDERED that a special
exception for a Boarding House for the Aged, should be and the same
is hereby granted, from and after the date of this Order, subject,
however, to compliance with the following restrictions:

1. That the use of the property described in the
petition shall be limited to a religious, non-
profit home for the aged of the Baptist denom-
ination.
2. That the property described in the petition
shall not be operated either as a nursing home,
or as a home for the chronically ill or as a
hospital, provided, however, that a portion
of the main building presently located on the
property described in the petition may be used
as an infirmary for the temporary treatment of
aged guests.


Zoning Commissioner of
Baltimore County

Pet Ex: 31

10-280-SPH

11/3/11

Superseded - no longer valid

BALTIMORE COUNTY
ZONING REGULATIONS
1963

BOOK No 601

RECEIVED

FEB 03 1998

This is the property of:

BALTIMORE COUNTY CIRCUIT
COURT LAW LIBRARY

Name _____

Address _____

Phone _____

BALTIMORE COUNTY
ZONING REGULATIONS

Adopted

March 30, 1955

in accordance with Title 30, Section 532(c) of the
Code of Public Local Laws of Baltimore County, (1955
Edition), with subsequent amendments through De-
cember, 1963.

First edition 1955

Second edition 1964

Pet. Ex. 32
10-280-SPH
11/3/2011

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Baptist Home of Md., Inc. legal owner 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 and/or Deputy Zoning Commissioner should approve the construction of a new infirmiry wing on an existing Boarding Home for the Elderly. Original approval - 1963 --- 40 persons
Addition approved - 1969 --- 24 persons - Proposed Infirmiry Wing - 25 persons

See attached description

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

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

Contract Purchaser Baptist Home of Maryland, Inc.
Legal Owner A. B. Stark & Sons
Address 10729 Park Heights Avenue
Owings Mills, Maryland 21117
Petitioner's Attorney ALAN H. STOCKSDALE
Protestant's Attorney 1213 Fidelity Building
Address Baltimore, Maryland 21201
539-0515

ORDERED By the Zoning Commissioner of Baltimore County, this 17th day of September, 1967, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22nd day of October, 1967, at 10:00 o'clock A. M.

Zoning Commissioner of Baltimore County

(over)

Pet Ex: 33
10-280-SPH
11/3/11

76-89-SPH
H-53

76-89-SPH

MAP 26
10-280-SPH
3
SH
AH

10-280-SPH
H-53

SEP 17 75 PM

Off. A. W. 10

By

VELVET VALLEY WAY

RUTH B. ROSENBERG

ZONED R.D.D.

60801161411

MARGARET J. O'DWYER

2100/100

VELVET VALLEY WAY

NEWLY DELIVERED

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LOCATION PLAN

Scale: 1"=1000'

IRVIN GRUBER, JR.

4110/105

CLARENCE E. ELDERKIN, JR.

1002/150

GENERAL NOTES

1. TOTAL AREA OF PROPERTY - 43 ACRES ±
2. EXISTING ZONING - R.D.D.
3. EXISTING USE - BOARDING HOUSE FOR THE AGED (64 BEDS)
4. PROPOSED USE - ADDITION TO BOARDING HOUSE FOR THE AGED (23 BEDS)
5. SCREENING: NONE
6. LIGHTING: NONE
7. PAVING: NONE
8. PROPOSED ENTRANCE CONSTRUCTION SUBJECT TO STATE HIGHWAY ADMINISTRATION PERMIT.
9. THE LAYOUT OF THE WATER TREATMENT AND SEPTIC SYSTEMS IS TAKEN FROM THE BALTIMORE CO. HEALTH DEPT. SKETCH AND IS APPROXIMATE ONLY.
10. PARKING DATA:
TOTAL NUMBER OF BEDS - 87
NUMBER OF SPACES REQUIRED AT 1 SPACE PER 10 BEDS - 9
NUMBER OF EMPLOYEES - 15
NUMBER OF SPACES REQUIRED AT 1 SPACE PER 3 EMPLOYEES - 5
TOTAL NUMBER OF SPACES REQUIRED - 15
NUMBER OF SPACES PROVIDED - 28
11. HIGHWAY AND STORM DRAIN IMPROVEMENTS WILL BE PROVIDED IN ACCORDANCE WITH MARYLAND STATE HIGHWAY ADMINISTRATION AND BALTIMORE COUNTY REQUIREMENTS.

PLAN TO ACCOMPANY
APPLICATION FOR SPECIAL HEARING
RAINBOW HILL BAPTIST HOME
OF MARYLAND

3RD ELECTION DISTRICT
JULY 25, 1975
Revised - Oct. 20, 1975

BALTIMORE COUNTY, MD

SCALE 1"=100'

REVISED PLANS

OCT 21 1975 PM

AREA - 43 ACRES ±

WATER STORAGE CAPACITY

- 1 - 6,000 Gal. Tank
- 1 - 2,500 Gal. Tank
- 1 - 3,000 Gal. Tank

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2,000 gal.

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RUTH B. ROSENBERG

4008/411

ZONED R.D.D.

POINT OF BEGINNING

2520' to Green Spring Valley Road

PLAT OF

RUBENSTEIN

PROPERTY

REG. 72/21

DUDMAN & SCHWABE
CONSULTING ENGINEERS &
LAND SURVEYORS
2254 CALVERT STREET
BALTIMORE, MARYLAND 21202

Ref. Ex 34 11/3/2011 10-080-SPH

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 25, 1975

COUNTY OFFICE BUILDING
111 W. Chesapeake Avenue
Baltimore, Maryland 21204

Franklin T. Hogans,
XXXXXXXXXXXXXXXXXXXX
Chairman Jr.

Alan H. Stocksdales, Esq.
1213 Fidelity Building
Baltimore, Maryland 21201

RE: Special Hearing Petition
Item 53
Baptist Home of Md., Inc. -
Petitioners

Dear Mr. Stocksdales:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

The subject property, currently zoned R.D.P. and containing 43 acres, is located on the east side of Park Heights Avenue, approximately 2300 feet north of the center line of Greenspring Valley Road, in the 3rd Election District of the County.

The property is currently improved with a large masonry administration and boarding house for the aged, containing 64 beds, five dwellings, housing the administrators and employees of the home, and maintenance building in the rear, with the remainder of the property wooded unimproved land. Adjacent properties surrounding the subject site are zoned R.D.P. and consist of wooded unimproved property. To the west of the subject site are two dwellings which are not visible from the road due to the existing foliage.

Pet Exp. 35

10-280-SPH

11/3/2011

40

MEMBERS
ZONING ADMINISTRATION
HEALTH DEPARTMENT
BUREAU OF
FIRE PREVENTION
DEPARTMENT OF
TRAFFIC ENGINEERING
STATE HIGHWAY
ADMINISTRATION
BUREAU OF
ENGINEERING
PROJECT AND
DEVELOPMENT PLANNING
INDUSTRIAL
DEVELOPMENT
COMMISSION
BOARD OF EDUCATION
OFFICE OF THE
BUILDINGS ENGINEER

PETITION FOR SPECIAL EXCEPTION / SPECIAL HEARING

#93

91-166-SPHX

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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 Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an addition to an existing convalescent home as a use permitted by special exception in an R.C. 3 zone pursuant to R.C.Z.R 1A02.2.B.16; and to approve an amendment to the special exception and site plan in Case No. 83-152-XA

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

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

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

Contract Purchaser:

Legal Owner(s):

(Type or Print Name)

Baptist Home of Maryland/Delaware, Inc.

Signature

(Type or Print Name)

Signature Charles V. Phippen, President

Address

(Type or Print Name)

City and State

Signature

Attorney for Petitioner:

Robert A. Hoffman

10729 Bark Heights Avenue

(Type or Print Name)

Address

Signature

Owings Mills, Maryland 21117

City and State

210 Allegheny Avenue

Name and telephone number of legal owner, contract purchaser or representative to be contacted

Address

Robert A. Hoffman

Towson, Maryland 21204

Name
210 Allegheny Avenue

City and State

Towson, Maryland 21204 823-4111

Attorney's Telephone No.: 823-4111

Telephone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of Sept, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 11 day of Dec, 1990, at 10 o'clock A.M.

J. Robert Hoffman
Zoning Commissioner of Baltimore County

S.C.O.-No. 1

(over)

ORDER RECEIVED

Date 9/16/90
By [Signature]

MRK- 9/16/90
avail any-time
est time .45 minute to 1 hr.

Pol EX: 36
CBA 10-280 SPH
11/3/2011



Baptist Home
OF MARYLAND/DELAWARE, INC.

Pet Ex: 37
Case No 10-280 SPH
11/3/2011

IN RE: DEVELOPMENT PLAN HEARING and
PETITION FOR SPECIAL HEARING for
Baptist Home of MD/DE, Inc.
(10729 Park Heights Avenue)
3rd Election District
3rd Councilmanic District

Baptist Home of MD/DE, Inc.
Owner/Developer

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. III-393 and 97-230-SPH
*

* * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer as a combined hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). That Section allows an applicant seeking development plan approval and special hearing relief, to combine the public hearings required for such approvals into one single hearing. In this case, the applicant seeks approval of a red-lined development plan prepared by LPJ Inc., for the proposed development of the subject property by Baptist Home of Maryland, Inc., Owner/Developer, with three (3) single family dwellings. The Owner/Developer also seeks approval, pursuant to the Petition for Special Hearing filed in companion Case 97-230-SPH, to create three (3) undersized R.C.5 non-density parcels and one (1) R.C.2 non-density parcel, and the removal of an existing special exception from a portion of the tract. The subject property and requested relief are more particularly described on the development plan and driveway profile drawings submitted into evidence as Developer's Exhibits 1A and 1B.

Appearing at the public hearing required for this project were Keith R. Bryan, the Assistant Administrator of the Baptist Home facility, George E. Gavrelis, Land Planner and former Deputy Director of the Baltimore County Office of Planning, Frederick R. Thompson, Professional Engineer who prepared the development plan for this project, and numerous

Pet Ex: 38
10-280-SPH 44
11/3/2011

6/3/97
1/3/97
1/3/97

COMMUNITY INPUT MEETING MINUTES

Development Name: Baptist Home
Location: 10729 Park Heights Avenue
District: Election - 3rd, Councilmatic - 3rd

Date: August 11, 1994
ZADM File No. III-393
Meeting Date: July 12, 1994

The Community Input Meeting (CIM) was held in the Baptist Home, 10729 Park Heights Avenue. David Flowers, Project Manager, representing Baltimore County, Department of Zoning Administration and Development Management (ZADM), explained the Development Regulations relating to the CIM, Concept Plan, Development Plan and the public hearing before the Hearing Officer.

Mr. Fred Thompson of LPJ Inc. Consulting Engineers was introduced. Mr. Thompson explained the development proposal to the community by describing the following:

1. Site Constraints Plan

This is a plan that outlines the subject property and indicates the existing features of the property. The plan shows features such as:

- buildings
- trees
- road ways
- parking areas
- streams
- property lines
- etc.

2. Concept Plan

This is a plan that outlines how the proposed development will be constructed on the subject property. The plan shows:

- residential lots
- buildings
- landscaping
- existing features
- etc.

3. Also on display was an aerial photograph of the site.

A Trustee for the Baptist Home described the existing situation that is facing the Home. The property does have a Special Exception for a convalescent home. This will allow the Home to have a total of 85 beds. Fifty-five (55) convalescent living units and a 12 bed infirmary are located in the main facility. Three staff residences also exist on the site. A study was done for the Baptist Home concerning the feasibility of the entire operation. The facility would need 150 beds before this project to be viable. The septic tank is designed for 100 beds; therefore, the expansion can not occur. It is very difficult to continue; our funds are limited.

PETITIONER'S

EXHIBIT NO.

Ref Ex: 40

Case NO 10-280SPH

11/3/2011

PD19

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEVELOPMENT PLAN CONFERENCE

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

FROM: Arnold F. (Pat) Keller, III, Director - Office of Planning

DATE: November 13, 1996

PROJECT NAME: Baptist Home of MD/DE, Inc.

PROJECT NUMBER: III-393

PROJECT PLANNER: Carol McEvoy

GENERAL INFORMATION:

Applicant Name: Baptist Home of MD/DE, Inc.

10729 Park Heights Avenue

Owings Mills MD

Location: E/S Park Heights Avenue oppo Velvet Valley Way

Councilmanic District: 3rd

Growth Management Area: Agricultural Preservation Area

Zoning: RC 2, RC 3, and RC 5

Acres: 41.772± acres

Surrounding Zoning and Land Use:

North:	RC 5	Rural Residential
South:	RC 2	Rural Residential/Agriculture
East:	RC 2	Rural Residential
West:	RC 2	Rural Residential

Project Proposal:

The Applicant proposes four additional single-family dwellings on the property of the Baptist Home. Fifty-five (55) convalescent living units and a 12 bed infirmary are located in the main facility, "Rainbow Hill Mansion". Three staff residences exist on the site. The property consists of 41.772± acres of land zoned RC 2 (18.18 acres), RC 3 (15.20 acres), and RC 5 (8.4 acres).

Project History:

A Special Exception for a boarding house for the elderly was granted on November 26, 1963 (63-152-XA). A Special Exception to allow an addition of an infirmary wing was granted on December 1, 1975.

10-360-6011 11/3/2011



Rainbow Hall Receipts

Pet 47

Case No

10-280-SP4

11/3/2011

Rejected

Exhibit

Date	Amount	Store	Comments
1/16/2001	6.12	Home Depot	receipt says "henry"
5/10/2001	1.85	Lowe's	
9/13/2001	132.00	Dufrane Contracting	
9/20/2001	19.38	Duron paints	
10/4/2001	8.34	Home Depot	
10/6/2001	107.44	Home Depot	
10/8/2001	125.31	Home Depot	
10/8/2001	105.57	Home Depot	
10/20/2001	493.00	payroll	?? Baltyon
10/23/2001	62.67	Lowe's	
10/24/2001	37.48	Home Depot	
10/27/2001	457.67	Lowe's	receipt says "henry"
10/28/2001	591.72	Home Depot	receipt says "henry"
10/31/2001	102.63	Home Depot	
11/3/2001	217.13	Home Depot	receipt says "henry"
11/7/2001	39.50	Home Depot	
11/10/2001	162.24	Home Depot	siding, trim
11/11/2001	73.06	Home Depot	receipt says "henry"
11/13/2001	336.35	Home Depot	receipt says "henry"
11/14/2001	33.54	Home Depot	receipt says "henry"
11/14/2001	697.00	Dufrane Contracting	
11/15/2001	12.68	Lowe's	
11/17/2001	451.00	payroll	Henry's Baltstarz
11/17/2001	67.87	Home Depot	receipt says "henry"
11/17/2001	160.15	Allied Bldg Prod	
11/17/2001	122.07	Lowe's	
11/17/2001	167.47	Lowe's	
11/17/2001	26.22	lowes	
11/18/2001	11.53	Home Depot	receipt says "henry"
11/18/2001	81.31	Home Depot	receipt says "henry"
11/18/2001	65.04	Lowe's	receipt says "henry"
11/19/2001	3.61	Lowe's	
11/20/2001	40.95	Home Depot	
11/20/2001	87.76	Lowe's	
11/21/2001	7.86	Lowe's	
11/23/2001	97.19	Home Depot	
11/23/2001	248.40	Lowe's	
11/23/2001	35.64	Lowe's	
11/24/2001	31.94	Home Depot	
11/24/2001	387.28	Home Depot	
11/24/2001	-123.12	Home Depot	
11/25/2001	52.00	Home Depot	
11/25/2001	75.42	Home Depot	
11/25/2001	136.62	Lowe's	
11/25/2001	82.56	Restoration Hardware	
11/28/2001	31.03	Lowe's	

Rainbow Hall - Rental Income

	cottage 10709	rancher 10731	rancher 10733	apt D	apt 1C	apt 1D	apt 2A	apt 2B	apt 2C	apt 2D	Hall
2001											
Jan	0.00	1,400.00	1,000.00								
Feb	0.00	1,400.00	1,000.00								
Mar	0.00	1,400.00	1,000.00								
Apr		1,400.00	1,000.00								
May		1,400.00	1,000.00								
June		1,400.00	1,000.00								
July		1,400.00	1,000.00								
Aug		1,400.00	1,000.00								
Sep		1,400.00	1,000.00								
Oct		1,400.00	1,000.00								
Nov		1,400.00	1,000.00								
Dec		1,400.00	1,000.00								
TOTAL	0.00	16,800.00	12,000.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00
2002											
Jan		1,400.00	1,000.00								
Feb		1,400.00	1,000.00								
Mar		1,400.00	1,155.38								
Apr	500.00		2,500.00								
May	500.00		1,195.00								
June	0.00	2,100.00	2,500.00								
July	0.00	2,100.00	2,500.00								
Aug	0.00	2,100.00	2,100.00								
Sep	0.00	2,100.00	2,500.00								
Oct		2,100.00	2,500.00								
Nov		2,100.00	2,500.00								
Dec		2,100.00	2,500.00								
TOTAL	1,000.00	18,900.00	23,950.38		0.00	0.00	0.00	0.00	0.00	0.00	0.00

28,800.00

43,850.38

Revised 11/3/2001

Ret. 48
Case No: 10-280-
SPH
11/3/2001

Respondent did not produce a lease for the tenancy of Dr. Christopher Chaput but the Journal Book (Petitioners Ex 5) reflects payments from Dr. Chaput in the amount of \$2,100 from June 2002 to June 2003

BALTIMORE COUNTY ZONING HEARING

IN RE:
10729 PARK HEIGHTS
10-280

The following is the testimony of THEODORE
C. HOUK, M.D. was taken in reference to the
above-entitled matter.

TRANSCRIBED BY: Paula J. Eliopoulos

PROCEEDINGS

1
2
3 HEARING EXAMINER: You were here when I
4 swore people in, were you not? I think there was only
5 one or two people that weren't. Go ahead, sir.
6 State your full name and your address.
7 THE WITNESS: I'm Theodore C. Houk, M.D.
8 1712 Curtis Avenue, Lutherville.
9 HEARING EXAMINER: For the record, how do
10 you spell your last name, sir?
11 THE WITNESS: H-o-u-k.
12 Q And what is your occupation?
13 A I'm an internal medicine physician in
14 Towson.
15 Q And what facility is that?
16 A I've been solo since 1992.
17 Q Okay. And what kind of practice do you
18 have presently?
19 A Internal medicine is adult medicine, but I
20 have some teenagers and a lot of people from different
21 decades of life.

1 INDEX
2 Baltimore County Zoning Hearing
3 Testimony of Theodore C. Houk, M.D.
4
5

6 THEODORE C. HOUK, M.D.

7 Examination By: Page
8 Mr. McCann 15
9 Counsel 12

1 Q Did you at one point in time work at the
2 Baptist Home of Maryland on Park Heights Avenue?
3 A Yes. I became aware of Baptist in 1993
4 and started a client basis there. And I became the
5 medical director there a couple years later when that
6 director left.
7 Q So you were employed as the medical
8 director of that facility for what period of time?
9 A Since -- between 1993 and the end of
10 January, 2001.
11 HEARING EXAMINER: You said the end of
12 1993?
13 A Well, I went into practice in July of
14 1992, so that was probably a year later in the summer
15 of 1993.
16 Q Until the end of January, 2001; correct?
17 A Yes.
18 Q Okay.
19 HEARING EXAMINER: January or December?
20 January of 2001?
21 A January, 2001.

1 (Pages 1 to 4)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 5, 2010

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

SUBJECT: 10729 Park Heights Avenue
INFORMATION: 2nd Councilmanic District
Item Number: 10-280
Petitioner: Valley's Planning Council, Inc.
Zoning: RC 2
Requested Action: Special Hearing

The subject special hearing requests that the Zoning Commissioner determine if the uses of the property located at 10729 Park Heights Avenue comply with the Baltimore County Zoning Regulations and previous approvals and whether the property is and has been used in violation or non-compliance with same.

SUMMARY OF RECOMMENDATIONS:

The original special exception approved in case 63-152XA for a non-profit Baptist affiliated age restricted boarding house limited to 40 residents. Case 76-89SPH granted approval for a new infirmary wing. The use became non-conforming after the 1976 CZMP when the property was rezoned to RC2. Subsequently 1988 CZMP rezoned the property to RC3, which permitted convalescent home use by special exception. A subsequent hearing, 91-166SPHX granted a special exception for convalescent home and amended the site plan to allow the construction of two additions, which were never constructed. The final case was a combined hearing III-393 and 97-230SPH, which approved one RC2 non-density parcel. The approval of such quashed the approval for additions granted in case 91-166SPHX that were not built.

The petitioner asked twelve questions of the Zoning Commissioner in the subject petition. The Office of Planning's response is as follows:

1. Rental apartments are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
2. Multi-family dwellings are not listed in Section 1AO1.2 as a permitted use by right or by special exception in the RC2 zone.
3. The Office of Planning is of the opinion that rental apartments are not a non-conforming use on this property. It is the opinion of the Office of Planning that the Special

W:\DEVREVZACZACs 2010\10-280.doc

Pet. 50 11/3/2011
Case No 10-280-SPH

PETITIONER'S

EXHIBIT NO. 53



Westminster American Insurance Company

7/30/10

249 East Main Street
Westminster MD 21157

BUSINESS OWNERS INVOICE

Policy Number: 191001672
Invoice Date: 7/30/2010
Insured:

Agent: 2038

RAINBOW HALL LLC
C/O HENRY WRIGHT
4804 BENSON AVENUE
BALTIMORE MD 21227

MAURY DONNELLY & PARR INC
24 COMMERCE STREET
BALTIMORE MARYLAND 21202
Phone: 410-685-4625

Property Located At:

10729 PARK HEIGHTS AVENUE, BALTIMORE, MARYLAND, 21239

THIS IS FOR YOUR BUSINESS OWNERS POLICY EFF 7/22/2010 TO 7/22/2011.

TRANSACTION

AMOUNT

OVERPAYMENT CREDIT

4,008.30-

Refunded Overpayment

\$4,008.30-

If not paid by the Date Due, the Outstanding Balance WILL be required.

Policies NOT wanted must be returned by the Effective Date or the Premium will be charged.

INSURED COPY



Policy Number: 191001672

Agent: 2038

Insured: RAINBOW HALL LLC
C/O HENRY WRIGHT

Refunded Overpayment: \$4,008.30-

11/8/11

Ref Ex: 51
10-280 -SPH

DSC02070



11/8/11

Pet Ex. 52

10-280-SPH

Rent \$1500.00

Rainbow Hall - Henry M. Wright
4804 Benson Avenue
Baltimore, MD 21227

Residential Lease

APARTMENT - CONDOMINIUM - HOUSE

BY THIS AGREEMENT made and entered into on May 15, 2008,
between Rainbow Hall, Henry Wright herein referred to as Lessor, and ARON AND ESTHER
Tendler herein referred to as Lessee. Lessor leases to Lessee the premises situated at 10729 PARK
Heights Avenue, Apt 20 - Rainbow Hall, in the City of Owings Mills
County of Baltimore, State of Maryland 21117
and more particularly described as follows: 1 Kitchen, Dining Rm, Living Rm, 2 Bed Rooms
and 1 BATH Rm & 1/2 BATH.

together with all appurtenances, for a term of 1 years, to commence on May 15, 2008, and to end on
May 7, 2009, at 12 o'clock p. m.

1. Rent. Lessee agrees to pay, without demand, to Lessor as rent for the demised premises the sum of FIFTEEN
Hundred Dollars (\$ 1500.00) per month in advance on the 1st day of each calendar month
beginning June 1, 2008, at 10729 PARK Heights
Avenue, Apt 20, City of Owings Mills, State of Maryland 21117
or at such other place as Lessor may designate. Pro-RATED Rent for 15 days = \$950.00
in May

2. Form of Payment. Lessee agrees to pay rent each month in the form of one personal check, OR one cashier's check, OR
one money order made out to Henry M. Wright, 8717 MARBURG Manor Dr.
LUTHERVILLE MD 21073

3. Late Payments. For any rent payment not paid by the date due, Lessee shall pay a late fee in the amount of Seventy-
Five Dollars (\$ 75.00). 5% of Rent

4. Returned Checks. If for any reason, a check used by Lessee to pay Lessor is returned without having been paid, Lessee
will pay a charge of Forty Dollars (\$ 40.00) as additional
rent AND take whatever other consequences there might be in making a late payment. After the second time a Lessee's check is
returned, Lessee must thereafter secure a cashier's check or money order for payment of rent.

5. Security Deposit. On execution of this lease, Lessee deposits with Lessor FIFTEEN Hundred
Dollars (\$ 1500.00), receipt of which is acknowledged by Lessor, as security for the faith-
ful performance by Lessee of the terms hereof, to be returned to Lessee, without interest, except where required by law, on the
full and faithful performance by him of the provisions hereof.

6. Quiet Enjoyment. Lessor covenants that on paying the rent and performing the covenants herein contained, Lessee shall
peacefully and quietly have, hold, and enjoy the demised premises for the agreed term.

7. Use of Premises. The demised premises shall be used and occupied by Lessee exclusively as a private single family resi-
dence, and neither the premises nor any part thereof shall be used at any time during the term of this lease by Lessee for the
purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single family
residence. Lessee shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities
affecting the cleanliness, occupancy, and preservation of the demised premises, and the sidewalks connected thereto, during the
term of this lease.

8. Number of Occupants. Lessee agrees that the demised premises shall be occupied by no more than 2 persons,
consisting of 2 adults and — children under the age of — years, without the written consent of Lessor.

Ret ex: 53 10-280-SP14
11/8/11

2nd
Apr. 12, 2008
K# 386
BSP.

Lease is month to month

Rainbow Hall, LLC
4804 Benson Ave
Baltimore, MD 21227

Rent \$1450.00

LEASE

THIS LEASE, made this 7 day of April, 2010, for property known as _____

Rainbow Hall, LLC

by and between Rainbow Hall, LLC, Landlord or Owner, Owner's Address: _____

4804 Benson Ave, Baltimore, MD 21227

Phone 410-247-2600 Manager's Name BEVERLY PEARCE Manager's Address (if applicable) 4804 Benson Avenue, Baltimore, MD 21227

Phone 443-465-2906, and RICHARD ROBERTS, JR.

Tenant, Tenant's Present Address Rainbow Hall, 10729 Rock Heights Ave. Apt 1D

Owings Mills, MD 21117 Phone 717-576-0812

WITNESSETH, that Owner hereby leases to Tenant and Tenant hereby leases from Owner the premises known as Rainbow Hall, LLC, Apt 1D Owings Mills MD 21117 (the "Premises")

for the term of LEASE IS A MONTH TO MONTH LEASE years/months beginning on the 9 day of April, 2010, and

ending on the N/A day of N/A, at — o'clock — .m. (the "Term"), at a

total rental of Seventeen Thousand Four Hundred Dollars (\$17,400.00) for 1 year term,

payable in equal monthly installments of Fourteen Hundred Fifty

Dollars (\$1450.00) in advance on or before the 1 day of each calendar month beginning

on the 1 day of MAY, 2010. In the event that Tenant's occupancy begins on

a date which is other than the first day of the month, Tenant shall pay Owner, upon demand, the pro

rata rent for the number of days beginning on the date of occupancy until the end of that month. The

date of occupancy shall be determined by the Owner. The Premises will be made available in a condition

permitting habitation, with reasonable safety. Pro-Rated Rent For April 23 days @ \$48.34 a day = \$1111.82

1. PAYMENT OF RENT. Tenant agrees to pay promptly the rent as herein provided without any

deduction or offset whatsoever and to pay the rent when due without demand. Rental payments shall be

made to the following address: 4804 Benson Avenue, Baltimore, MD 21227

, or at such other place as Owner may designate. Tenant shall pay the rent when

due in the form of one personal check, or one cashier's check, or one money order payable to _____

Rainbow Hall, LLC. If a

monthly installment of rent is paid more than 5 calendar days after the date when due, Tenant will

pay, as additional rent, a sum equal to 5% of the amount of delinquent rent due. If a check is

accepted by Owner from Tenant for rent, it is purely as an accommodation to Tenant. If, for any

reason, a check used by Tenant to pay Owner is returned without having been paid, Tenant agrees to pay

a \$40.00 charge to Owner as additional rent to offset administrative costs of Owner. This

charge is in addition to any other penalties provided under this Lease, including, but not limited to,

a late payment charge. After the second time Tenant's check has been returned, Tenant must thereafter

LATE FEE 5% of Rent \$1450.00 = \$72.50

Pet Ex: 54
10-280-SP14
11/8/11



REQUEST FORM

09/800G

3 Copies of the Plan as Required/ Folded 8 1/2 x 11

FEE: \$40⁰⁰

(payable to Baltimore County and is non-refundable)

Tax No(s): 03 02 00 4580

Applicant & Engineer Name: FRED THOMPSON

Filing Date: 9-1-2000

Address: GOWEN THOMPSON INC.
429 E. LAKE AVE

Phone #: (410) 532-0101

BALTIMORE MD 21212

Acreage: 42

Project Name: BAPTIST HOME

PDM File #: 111-393

Project Address: 10729 PARK HEIGHTS

Zip Code 21117

ADC Map #: 25 (F-3)

Councilmanic District: 3

Election District: 3

Building Permit #: _____

Is this an Antenna? ☐ Yes ☒ No If "Yes" check one of the following: ☐ Cellular (CAC) ☐ Water Tower (WTC) ☐ MonoPole (CFC)

Request: ☐ Refinement ☐ Limited Exemption ☐ Waiver

DRC DEVELOPMENT PLAN AMENDMENT CLARIFICATION
SEE LETTER

(Attach letter if necessary)

SEP - 1. 2000

DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

DO NOT WRITE BELOW THIS LINE!

TO BE FILLED OUT BY COUNTY

COMMITTEE ACTION:

DRC #: _____

- () Denied
- () Limited Exemption under Section 26-171 () ()
- () Material Amendment to the plan (new CRG or HOH must be scheduled)
- () Plan Refinement (submit enough plans for the agencies checked off below)
- () Waiver recommendation forwarded to Planning Board for determination
- () Waiver of Standards referred to _____
(Department)
- () Requires a zoning () Special Hearing; () Special Exception; () Variance
- () Other _____

Table to Zoning

COMMITTEE COMMENTS:

Agencies to Review and Return Comments to Committee:

() DPR () PO () Zoning () DEPRM () EIR () SWM () Rec & Parks () Fire () SHA

Signature of Coordinator _____

Meeting Date: _____

Pet Ex: 55
10-280-SPH
11/8/11

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

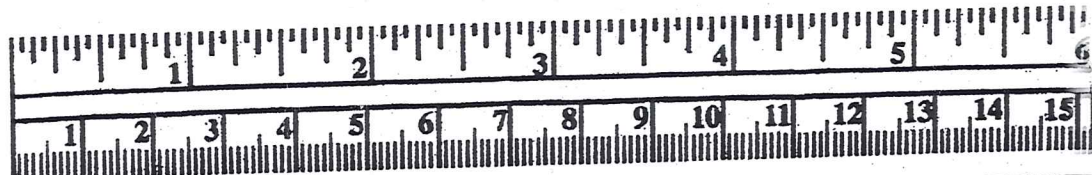
DATE: April 23, 2010

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For May 3, 2010
Item Nos. 2010- 273, 274, 276, 277,
278, 279, 280 and 281

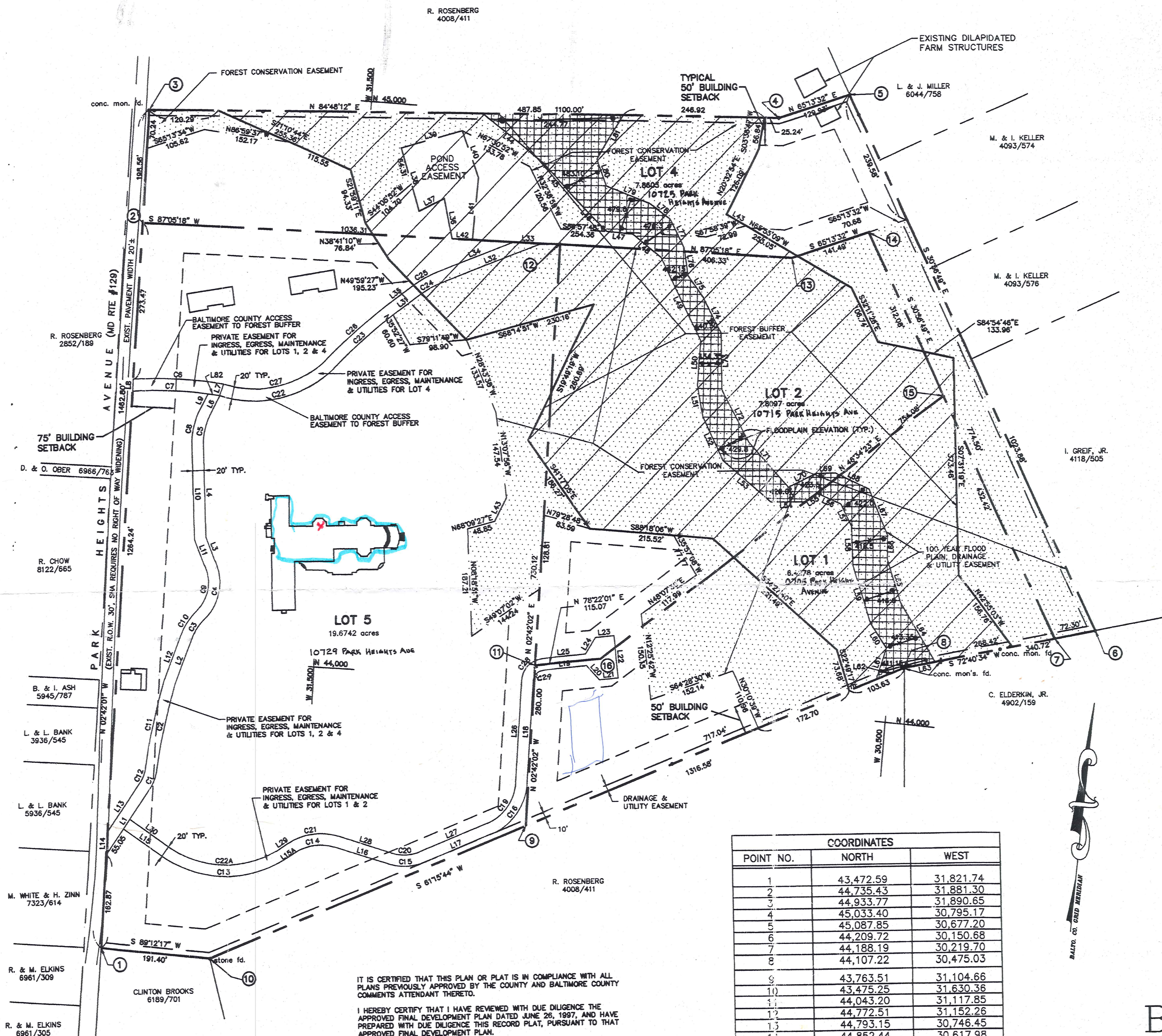
The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN:elm
cc: File
G:\DevPlanRev\ZAC -No Comments\ZAC-05032010 -NO COMMENTS.doc



LINE TABLE		
LINE	LENGTH	BEARING
L1	132.23	S27°21'23"W
L2	84.59	S14°48'50"W
L3	40.86	S27°10'47"E
L4	154.23	S07°24'49"E
L5	38.63	N20°39'19"E
L6	20.02	N13°47'05"E
L7	20.12	S02°42'01"E
L8	31.59	N20°39'19"E
L9	157.11	S07°24'49"E
L10	45.46	S27°10'47"E
L11	85.50	S14°48'50"W
L12	58.72	S27°10'47"E
L13	39.93	S02°42'01"E
L14	17.10	S50°25'22"W
L15	82.83	N60°39'40"W
L16	97.36	S74°15'50"E
L17	127.34	N61°15'44"E
L18	178.44	N02°42'02"W
L19	75.49	S78°22'01"W
L20	33.60	N48°09'43"W
L21	33.01	S78°22'01"W
L22	74.00	N11°37'59"W
L23	33.01	N78°22'01"W
L24	33.60	N48°09'43"W
L25	75.49	S78°22'01"W
L26	178.44	N02°42'02"W
L27	127.34	N61°15'44"E
L28	97.36	S74°15'50"E
L29	127.34	N61°15'44"E
L30	83.53	N60°39'40"W
L31	53.23	S47°08'22"W
L32	185.32	S62°28'20"W
L33	48.05	S87°05'18"W
L34	141.63	S62°28'20"W
L35	53.82	S47°08'22"W
L36	71.27	S121°34'51"E
L37	48.75	N58°01'28"E
L38	112.60	S21°32'19"E
L39	110.86	S67°36'03"W
L40	87.37	N24°32'22"W
L41	107.86	N00°22'17"W
L42	35.61	N87°05'18"E
L43	46.47	N20°39'19"E
L44	136.16	S58°10'42"E
L45	78.63	S48°12'28"E
L46	85.36	S50°03'02"E
L47	45.59	N89°43'18"E
L48	63.45	S58°34'58"E
L49	162.02	S31°34'47"E
L50	75.93	S01°44'13"E
L51	55.21	S161°33'58"E
L52	82.67	S30°35'30"E
L53	111.08	S62°28'20"W
L54	56.10	N82°26'30"E
L55	26.86	N51°22'05"E
L56	44.87	S71°31'40"E
L57	42.50	S31°31'52"E
L58	46.83	S87°05'18"E
L59	107.07	S22°32'14"E
L60	51.42	S38°51'06"E
L61	56.78	S122°24'24"W
L62	52.44	N61°15'44"E
L63	55.42	N72°40'34"E
L64	118.61	N36°27'16"W
L65	75.05	N23°07'38"W
L66	41.64	N61°15'44"E
L67	86.78	N27°55'00"W
L68	65.01	N71°29'08"W
L69	32.98	S82°56'30"W
L70	64.08	S67°13'47"W
L71	101.99	N48°11'06"W
L72	104.78	N33°21'18"W
L73	96.21	N06°54'31"W
L74	70.29	N32°42'43"W
L75	46.42	N41°10'14"W
L76	47.81	N13°51'22"W
L77	57.17	N31°37'28"W
L78	43.65	N52°13'48"E
L79	82.37	N74°31'05"W
L80	49.00	N25°52'53"W
L81	91.04	N24°19'53"E
L82	21.20	S88°44'21"E

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	43.35	74.54
C2	150.74	1164.07
C3	40.58	95.52
C4	114.49	89.20
C5	57.93	104.34
C6	158.29	749.87
C7	131.37	729.87
C8	68.03	124.31
C9	90.15	69.20
C10	49.51	115.52
C11	154.74	1164.07
C12	33.03	54.54
C13	232.14	193.00
C14	72.72	82.00
C15	64.88	93.00
C16	113.87	102.00
C17	91.54	82.00
C18	50.93	73.00
C19	90.46	102.00
C20	214.84	203.33
C21	208.09	173.00
C22	139.20	1217.34
C23	50.47	188.00
C24	55.84	208.00
C25	141.38	1237.34
C26	192.49	183.33
C27	56.60	40.00
C28	28.30	20.00



IT IS CERTIFIED THAT THIS PLAN OR PLAT IS IN COMPLIANCE WITH ALL PLANS PREVIOUSLY APPROVED BY THE COUNTY AND BALTIMORE COUNTY COMMENTS ATTENDANT THERETO.

I HEREBY CERTIFY THAT I HAVE REVIEWED WITH DUE DILIGENCE THE APPROVED FINAL DEVELOPMENT PLAN DATED JUNE 26, 1997, AND HAVE PREPARED WITH DUE DILIGENCE THIS RECORD PLAT, PURSUANT TO THAT APPROVED FINAL DEVELOPMENT PLAN.

COORDINATES		
POINT NO.	NORTH	WEST
1	43,472.59	31,821.74
2	44,735.43	31,881.30
3	44,933.77	31,890.65
4	45,033.40	30,795.17
5	45,087.85	30,677.20
6	44,209.72	30,150.68
7	44,188.19	30,219.70
8	44,107.22	30,475.03
9	43,763.51	31,104.66
10	43,475.25	31,630.38
11	44,043.20	31,117.85
12	44,772.51	31,152.26
13	44,793.15	30,746.45
14	44,852.44	30,617.98
15	44,584.78	30,457.49
16	44,066.40	31,005.15

SITE DATA

- 1) EXISTING ZONING: RC-2, RC-3 & RC-5
- 2) USE: CONVALESCENT FACILITY & RESIDENCE
- 3) CENSUS TRACT: 4038.01
- 4) COUNCILMANIC DISTRICT: 3
- 5) ELECTION DISTRICT: 12
- 6) GROSS AREA: 41,743.33 ACRES
- 7) NO. LOTS ALLOWED: 22
- 8) NO. PROPOSED LOTS: 4
- 9) SITE ADDRESSES:
LOT 5 - 10729 PARK HEIGHTS AVENUE
LOT 1 - 10705 PARK HEIGHTS AVENUE
LOT 2 - 10715 PARK HEIGHTS AVENUE
LOT 4 - 10725 PARK HEIGHTS AVENUE

VICINITY MAP

GENERAL NOTES

- 1) HIGHWAY AND HIGHWAY WIDENING, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST CONSERVATION EASEMENTS, FOREST BUFFER AREAS IN FEE OR EASEMENT, GREENWAY AREAS IN FEE OR EASEMENT, AND STORM WATER MANAGEMENT AREAS NO MATTER HOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND, BY THE OWNER, HIS REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND, AT NO COST. UNTIL SUCH TIME AS SAID CONVEYANCE IS EFFECTED BY BALTIMORE COUNTY, THE OWNER AUTHORIZES BALTIMORE COUNTY, ITS AGENTS AND ASSIGNS, THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROADS, UTILITY LINES AND FACILITIES, AND STORMWATER MANAGEMENT PONDS AND FACILITIES.
- 2) STREETS AND/OR ROADS SHOWN HEREON AND MENTIONED THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO THE PUBLIC USE. THE FEE SIMPLE TITLE TO THE BIDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED VOUCHER THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.
- 3) THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISION OF BALTIMORE COUNTY CODE SECTION 22-68.
- 4) THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
- 5) THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.
- 6) ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.
- 7) THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY BALTIMORE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THIS PLAT.
- 8) THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES CONTAINED IN THE WATER QUALITY MANAGEMENT POLICY.
- 9) THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION AREA OR THE FOREST BUFFER EASEMENT EXCEPT AS PERMITTED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
- 10) ANY FOREST CONSERVATION EASEMENTS AND FOREST BUFFER EASEMENTS SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
- 11) EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON, HAVE BEEN PLACED AS OF THE RESULT OF AN INTERPRETATION ONLY OF THE CURRENT APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY.
- 12) THE COMMON DRIVEWAYS SHOWN HEREON SHALL BE MAINTAINED BY ALL PARTIES HAVING RIGHTS TO ITS USE.
- 13) THE AREA DESIGNATED AS FLOODPLAIN INCLUDES THE AREA INUNDATED BY THE 100-YEAR FREQUENCY STORM AND A MINIMUM OF 1 FOOT VERTICAL FREEBOARD. THE ELEVATIONS SHOWN ON THE FLOODPLAIN SECTIONS ARE THE 100-YEAR DESIGN FREQUENCY SURFACE ELEVATIONS.
- 14) SOIL PERCOLATION TESTS WILL BE VALID FOR A PERIOD OF FIVE YEARS FROM THE DATE OF RECORD PLAT IS SIGNED BY THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT. AT THE EXPIRATION OF THIS PERIOD, NEW TESTS MAY BE REQUIRED.
- 15) ALL REQUIREMENTS OF THE MARYLAND STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERTAINING TO PRIVATE WATER AND/OR SEWAGE SYSTEMS MUST BE COMPLIED WITH PRIOR TO APPROVAL OF BUILDING APPLICATIONS.
- 16) TRASH COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE JUNCTION OF THE PARKWAY AND STREET RIGHT OF WAY.
- 17) THE DEVELOPMENT PLAN FOR THIS PROPERTY SHOWN ON THIS PLAT WAS APPROVED ON JUNE 26, 1997.
- 18) THE DEVELOPER HAS THE LEGAL RIGHT TO ENFORCE EASEMENT RIGHTS.

FINAL PLAT
TOTAL
RECORD NO. 70-95
DATE MAY 19 1998

S.M. 70-95

Filed for record

70 FOLIO 95

Date MAY 19 1998

Test: *Signature*

Clerk

PWA COMPLETED 5/19/98
FINAL PLAT
2949 PDM
STREETS NUMBERING
PLAN REVIEW
ENGINEER
DATE
RECORD NO. 70-95
DATE MAY 19 1998

RECORD PLAT FOR BAPTIST HOME OF MD/DE, INC. ELECTION DISTRICT 3 BALTIMORE COUNTY, MARYLAND SCALE: 1" = 100' FEBRUARY 17, 1998

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(c), BALTIMORE COUNTY CODE

5-18-98 *David Flowers*
DATE DIRECTOR OF PERMITS & DEVELOPMENT MANAGEMENT

APPROVED: *Signature*
4-30-98
DATE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

SURVEYOR'S CERTIFICATE

THE UNDERSIGNED, A REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT, AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INsofar AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.

Kenneth J. Wells
KENNETH J. WELLS, PROPERTY LINE SURVEYOR
236-B
REGISTRATION NO. 9/13/97
DATE

OWNER'S CERTIFICATE

THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT HEREBY CERTIFIES THAT, TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INsofar AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.

Carolyn Jackson
CAROLYN JACKSON
PRESIDENT - BOARD OF TRUSTEES
2/17/98
DATE

OWNER/DEVELOPER

BAPTIST HOME OF MARYLAND, INC.
10729 PARK HEIGHTS AVENUE
BALTIMORE, MARYLAND 21117
(410) 484-3324

DEED REF: R.R.G. 4250/278
TAX ACCT. NOS: 03-02-004580

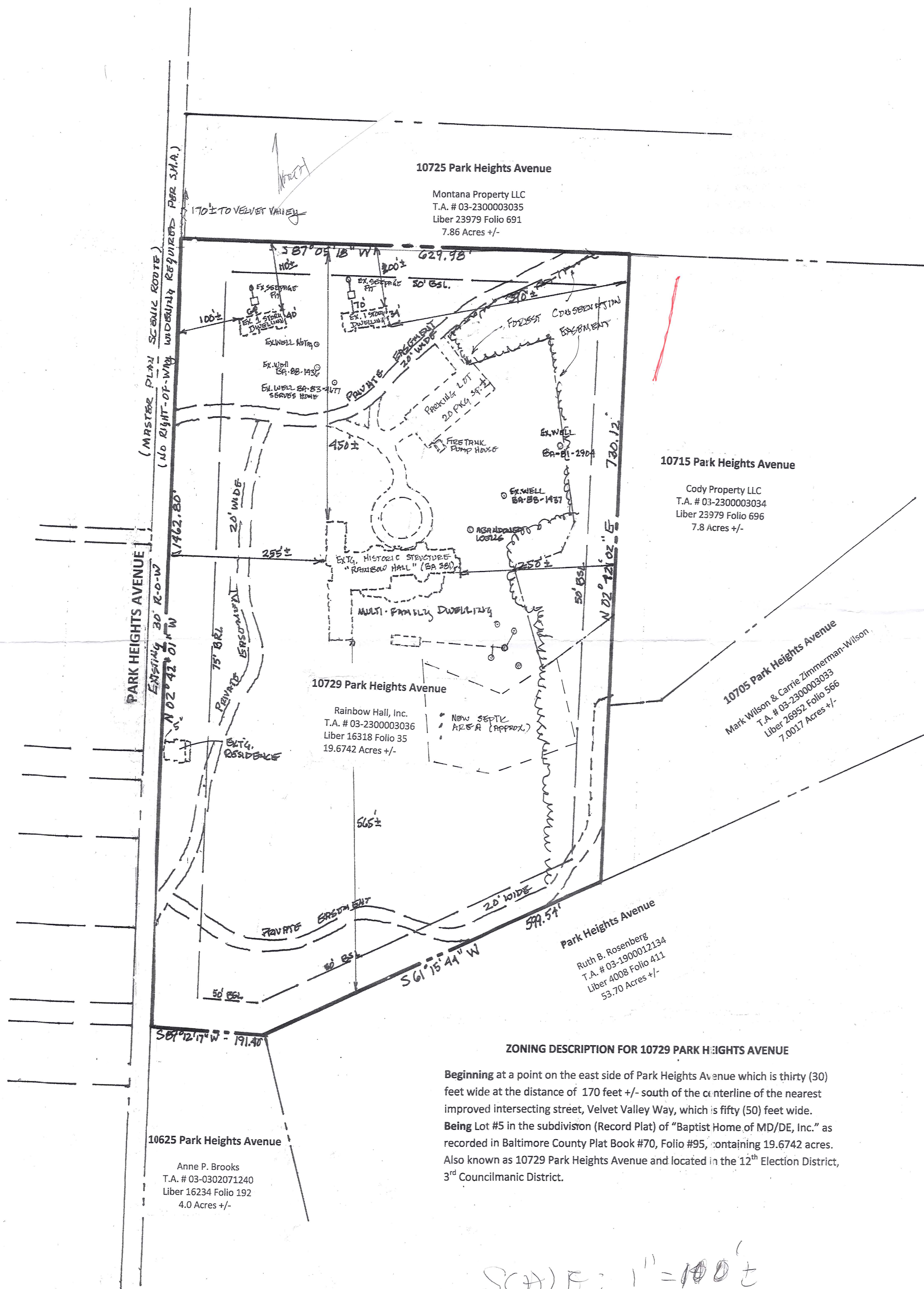
COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT BASED ON THE FOLLOWING STATION:		
HUB # 13111 # 13112	NORTH 41,529.41 41,386.96	WEST 31,814.55 32,333.28

PETITIONER'S
EXHIBIT NO. 3

Kenneth J. Wells, Inc.
429 E. Leno Avenue
Baltimore, Maryland 21212
Phone 410-532-0101
Fax 410-532-0104

7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

MSA 55A 1236 - 5647
70-95



ZONING DESCRIPTION FOR 10729 PARK HEIGHTS AVENUE

Beginning at a point on the east side of Park Heights Avenue which is thirty (30) feet wide at the distance of 170 feet +/- south of the centerline of the nearest improved intersecting street, Velvet Valley Way, which is fifty (50) feet wide. Being Lot #5 in the subdivision (Record Plat) of "Baptist Home of MD/DE, Inc." as recorded in Baltimore County Plat Book #70, Folio #95, containing 19.6742 acres. Also known as 10729 Park Heights Avenue and located in the 12th Election District, 3rd Councilmanic District.

NOTES:

PROPERTY ADDRESS: 10729 Park Heights Avenue, Baltimore, MD

OWNER: Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore, MD, 21227-1501

DEED: Liber 16318, Folio 35

TAX ACCOUNT: 03-2300003036

TAX MAP: Map 59, Grid 20, Parcel 270, Lot 5

AREA: 19.6742 acres

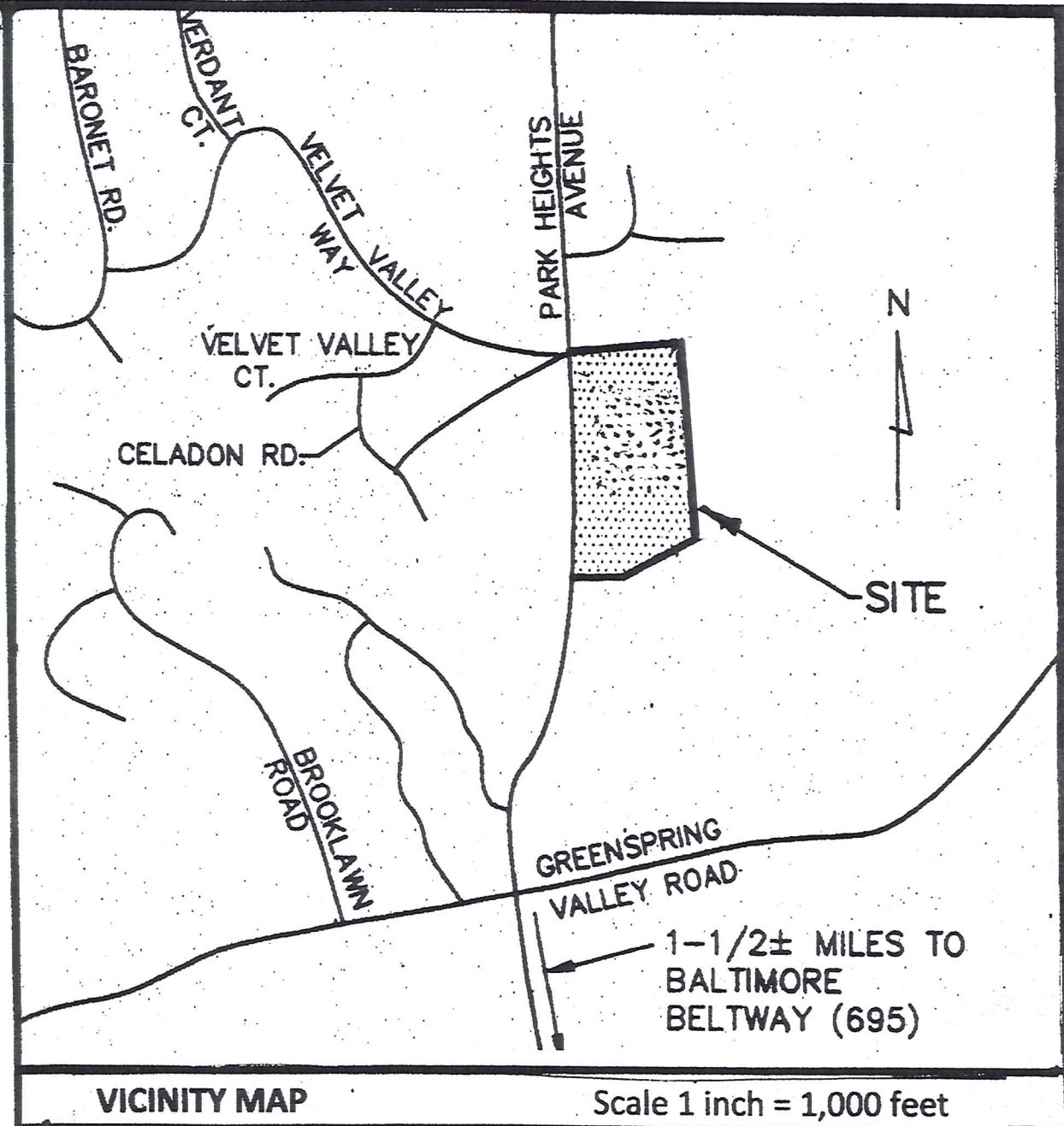
WATER AND SEWERAGE: Private on-site wells and septic system

FEATURES: The property is within the Greenspring Valley National Register of Historic Districts. The principal structure is listed on the Baltimore County Landmarks list as "Rainbow Hall" (BA 381).

Park Heights Avenue is a Master Plan designated scenic route.

Forest Buffer and Forest Conservation Easements exist on the site.

No 100 year flood plains or non-tidal wetland exist on the site.



ZONING HISTORY

CASE NO. 83-152-34: SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED. GRANTED NOVEMBER 26, 1983 WITH THE FOLLOWING RESTRICTIONS:

- THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION.
- THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ON THE PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.

THIS SPECIAL EXCEPTION WAS GRANTED AND WAS UTILIZED.

CASE NO. 76-82-5291: SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY. (ORIGINAL APPROVAL - 1963 - 40 UNITS, ADDITIONAL APPROVAL 1969 - 24 PERSONS, PROPOSED INFIRMARY WING-25 PERSONS. GRANTED DECEMBER 1, 1975. SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICES OF PLANNING AND ZONING. PROPOSED ADDITION WAS NOT CONSTRUCTED.

1978 CZMP: THE ZONING OF THE PORTION WHICH CONTAINED THE "BOARDING HOUSE" WAS CHANGED TO R.C. 2. AS AN ELDERLY BOARDING HOME IS NOT PERMITTED BY RIGHT OR SPECIAL EXCEPTION IN THE R.C.2 ZONE THE USE BECAME NON-CONFORMING.

1988 CZMP (1988 ISSUE 2-1362): WHAT BECAME THE LOT CONTAINING THE "BOARDING HOUSE" WAS REZONED TO R.C. 3. THE R.C.3 ZONE PERMITTED "CONVALESCENT HOMES" BY SPECIAL EXCEPTION.

OCTOBER 11, 1988, RESTRICTIVE COVENANT AGREEMENT: RELATED TO THE 1988 CZMP ISSUE 2-1362, A RESTRICTIVE COVENANT AGREEMENT WAS ENTERED INTO BETWEEN THE BAPTIST HOME OF MARYLAND (LAWARD, INC.) AND THE VALLEYS PLANNING COUNCIL, INC. THIS AGREEMENT IS RECORDED IN BALTIMORE COUNTY PLAT BOOK 110 RECORDS LIBER 8255 FOLIO 123 AND DOES NOT TERMINATE UNTIL OCTOBER 11, 2023. AN ELEMENT, IN PART, OF THIS AGREEMENT WAS TO VALIDATE THE NON-CONFORMING USE OF THE PROPERTY AS A CONVALESCENT OR NURSING HOME.

CASE NO. 91-166-5902: SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 83-152-34 TO CONSTRUCT TWO ADDITIONS TO AN EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDING IN THE R.C.3 ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. THIS PETITION WAS GRANTED FEBRUARY 1, 1991 WITH THE FOLLOWING RESTRICTIONS:

- THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON THE RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT HIS OWN RISK UNTIL SUCH TIME AS THE 30 DAY APPEAL PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR ANY REASON, THIS ORDER IS REVOKED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
- PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS.
- PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.

FURTHER THE RESTRICTIONS AS TO "LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION" AND SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL... WERE REMOVED "RELATIVE TO THE ALIENABILITY OF, AND SERVICES PROVIDED ON..."

PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE.

CASE NO. 91-166-5902 WAS APPEALED. ON OCTOBER 16, 1991, THE BOARD OF APPEALS GRANTED APPROVAL OF THE REQUESTED SPECIAL HEARINGS.

CASE NO. 97-280-594: SPECIAL HEARING TO CREATE THREE (3) UNDERSIZED R.C. 5 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT. THE REQUEST WAS GRANTED ON JUNE 3, 1997 TO CREATE ONE (1) R.C. 2 NON-DENSITY PARCEL. AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 1A AND 1B SUBJECT TO THE FOLLOWING RESTRICTIONS:

- THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
- THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1991, IS AND IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTINGENT IMPROVEMENTS TO THE BAPTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARINGS SEEKING APPROVAL TO CREATE THREE (3) UNDERSIZED R.C.5 NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.

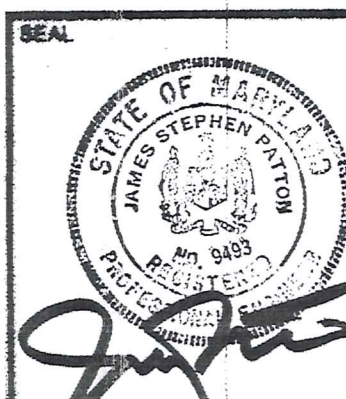
2002 - THE PROPERTY WAS SOLD APRIL 15, 2002 BY THE BAPTIST HOME OF MARYLAND, INC. AND HENCE NO LONGER BEING USED AND OPERATED AS A "BOARDING" OR "CONVALESCENT" HOME FOR THE AGED, THUS CEASING AS A NON-CONFORMING USE.

2004 - CZMP (ISSUE 2-065) ZONING CHANGED TO R.C. 2.

CURRENT ZONING OF THE LOT IS R.C. 2.

PETITIONER'S
EXHIBIT NO. 33

DRAWN BY:	DATE:	REVISIONS:	BY:
DESIGN BY:			
CHECKED BY:			



PATTON 780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090, jsp@pattonconsultants.net 410-691-0205 410-691-0207	
PROJECT/DEVELOPMENT 10729 PARK HEIGHTS AVENUE	
DRAWING TITLE: PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING	
COUNTY: BALTIMORE	ELECTION DIST: 12 C 3
PROJECT #: 20066	SCALE: AS SHOWN
DATE: 4/2/10	SHEET 1 OF 1

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:	10/22/10	RED LINES CHANGE	JSP
CHECKED BY:			

Anne P. Brooks
T.A. # 03-0302071240
Liber 16234 Folio 192
4.0 Acres +/-

ZONING DESCRIPTION FOR 10729 PARK HEIGHTS AVENUE
Beginning at a point on the east side of Park Heights Avenue which is thirty (30) feet wide at the distance of 170 feet +/- south of the centerline of the nearest improved intersecting street, Velvet Valley Way, which is fifty (50) feet wide. Being Lot #5 in the subdivision (Record Plat) of "Baptist Home of MD/DE, Inc." as recorded in Baltimore County Plat Book #70, Folio #35, containing 19.6742 acres. Also known as 10729 Park Heights Avenue and located in the 12th Election District, 3rd Councilmanic District.

SCALE: 1"=100'

Ruth B. Rosenberg
T.A. # 03-1900012134
Liber 4008 Folio 411
53.70 Acres +/-

10705 Park Heights Avenue
(VACANT)
Cody Property LLC
T.A. # 03-2300003034
Liber 23979 Folio 696
7.8 Acres +/-
LOT 2
BAPTIST HOME OF MD/DE, INC.

10729 Park Heights Avenue
Rainbow Hall, Inc.
T.A. # 03-2300003036
Liber 16318 Folio 35
19.6742 Acres +/-
LOT 5
BAPTIST HOME OF MD/DE, INC.

10715 Park Heights Avenue
(VACANT)
Cody Property LLC
T.A. # 03-2300003034
Liber 23979 Folio 696
7.8 Acres +/-
LOT 2
BAPTIST HOME OF MD/DE, INC.

10725 Park Heights Avenue
(VACANT)
Montana Property LLC
T.A. # 03-2300003035
Liber 23979 Folio 691
7.86 Acres +/-
LOT 4
BAPTIST HOME OF MD/DE, INC.

NOTES:

PROPERTY ADDRESS: 10729 Park Heights Avenue, Baltimore, MD 21153-REAR?
OWNER: ~~NOTE: 21153-REAR? IS STEVENSON CARE OVER FROM BAPTIST~~
Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore, MD, 21227-1501
DEED: Liber 16318, Folio 35
TAX ACCOUNT: 03-2300003036
TAX MAP: Map 59, Grid 20, Parcel 270, Lot 5
AREA: 19.6742 acres = 851,008.54 sq. ft. (NET); 20,109.5 ACRES = 875,971.8 sq. ft. (GROSS)
WATER AND SEWERAGE: Private on-site wells and septic system
FEATURES: The property is within the Greenspring Valley National Register of Historic Districts. The principal structure is listed on the Baltimore County Landmarks list as "Rainbow Hall" (BA 381).
Park Heights Avenue is a Master Plan designated scenic route.
Forest Buffer and Forest Conservation Easements exist on the site.
No 100 year flood plains or non-tidal wetlands exist on the site.
COUNCIL DISTRICT: 2; ELECTION DISTRICT: 3; ELECTION PRECINCT: 13
CENSUS TRACT: 4033.01 (CONTRACT MAP SHOWS 4033.01; INDEX SHOWS 4033.01)

ZONING HISTORY

CASE NO. 83-152-306: SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED. GRANTED NOVEMBER 26, 1983 WITH THE FOLLOWING RESTRICTIONS:
1. THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION.
2. THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ON THE PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.
THIS SPECIAL EXCEPTION WAS GRANTED AND WAS UTILIZED.

CASE NO. 76-82-591: SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY. (ORIGINAL APPROVAL - 1969 - 40 UNITS; ADDITIONAL APPROVAL 1969 - 24 PERSONS, PROPOSED INFIRMARY WING 25 PERSONS. GRANTED DECEMBER 1, 1975. SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICES OF PLANNING AND ZONING. PROPOSED ADDITION WAS NOT CONSTRUCTED.

1976 CASE, THE ZONING OF THE PORTION WHICH CONTAINED THE "BOARDING HOUSE" WAS CHANGED TO R.C. 2. AS AN ELDERLY BOARDING HOME IS NOT PERMITTED BY RIGHT OR SPECIAL EXCEPTION IN THE R.C.2 ZONE THE USE BECAME NON-CONFORMING.

1988 CASE (1988 ISSUE 3-338): WHAT BECAME THE LOT CONTAINING THE "BOARDING HOUSE" WAS REZONED TO R.C.3. THE R.C.3 ZONE PERMITTED "CONVALESCENT HOMES" BY SPECIAL EXCEPTION.

OCTOBER 11, 1988 RESTRICTIVE COVENANT AGREEMENT: RELATED TO THE 1988 Z-AP ISSUE 3-236, A RESTRICTIVE COVENANT AGREEMENT WAS ENTERED INTO BETWEEN THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. AND THE VALLEYS PLANNING COUNCIL, INC. THIS AGREEMENT IS RECORDED IN BALTIMORE COUNTY LAND RECORDS LIBER 8039 FOLIO 123 AND DOES NOT TERMINATE UNTIL OCTOBER 11, 2023. AN ELEMENT, IN PART, OF THIS AGREEMENT WAS TO VALIDATE THE NON-CONFORMING USE OF THE PROPERTY AS A CONVALESCENT OR NURSING HOME.

CASE NO. 81-156-590X: SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 83-152-306 TO CONSTRUCT TWO ADDITIONAL EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDING IN THE R.C.3 ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. THIS PETITION WAS GRANTED FEBRUARY 1, 1991 WITH THE FOLLOWING RESTRICTIONS:

1. THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON THE RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT HIS OWN RISK UNTIL SUCH TIME AS THE 30 DAY APPEAL PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR ANY REASON, THIS ORDER IS REVERSED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
2. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS.
3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.

FURTHER THE RESTRICTIONS AS TO "LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION" AND SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL... WERE REMOVED "RELATIVE TO THE ALTERNATE USE, AND SERVICES PROVIDED ON..."
PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE.

CASE NO. 91-166-590X WAS APPEALED. ON OCTOBER 16, 1991, THE BOARD OF APPEALS GRANTED APPROVAL OF THE REQUESTED SPECIAL HEARINGS.

CASE NO. 97-230-591: SPECIAL HEARING TO CREATE THREE (3) UNDERZONED R.C. 5 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT. THE REQUEST WAS GRANTED ON JUNE 3, 1997 TO CREATE ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 1A AND 1B SUBJECT TO THE FOLLOWING RESTRICTIONS:

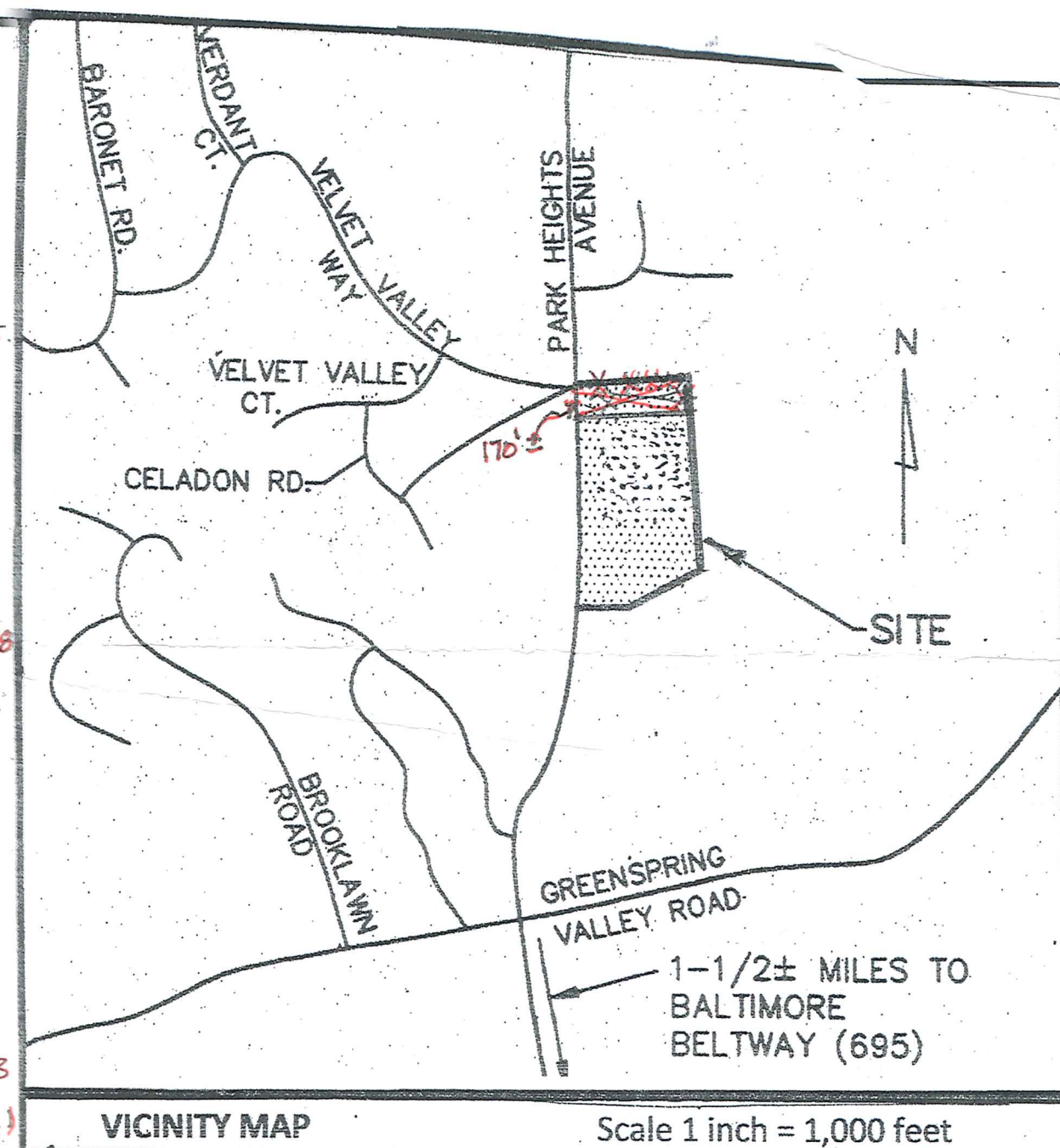
1. THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
2. THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1991, BE AND IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTINGENT IMPROVEMENTS TO THE BAPTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING SEEKING APPROVAL TO CREATE THREE (3) UNDERZONED R.C.5 NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.

2002 - THE PROPERTY WAS SOLD APRIL 15, 2002 BY THE BAPTIST HOME OF MARYLAND, INC. AND HENCE NO LONGER BEING USED AND OPERATED AS A "BOARDING" OR "CONVALESCENT" HOME FOR THE AGED, THUS CEASING AS A NON-CONFORMING USE.

2004 - CDAP (ISSUE 2-065) ZONING CHANGED TO R.C.-2.

CURRENT ZONING OF THE LOT IS R.C.-2. MAPS 111 & 127



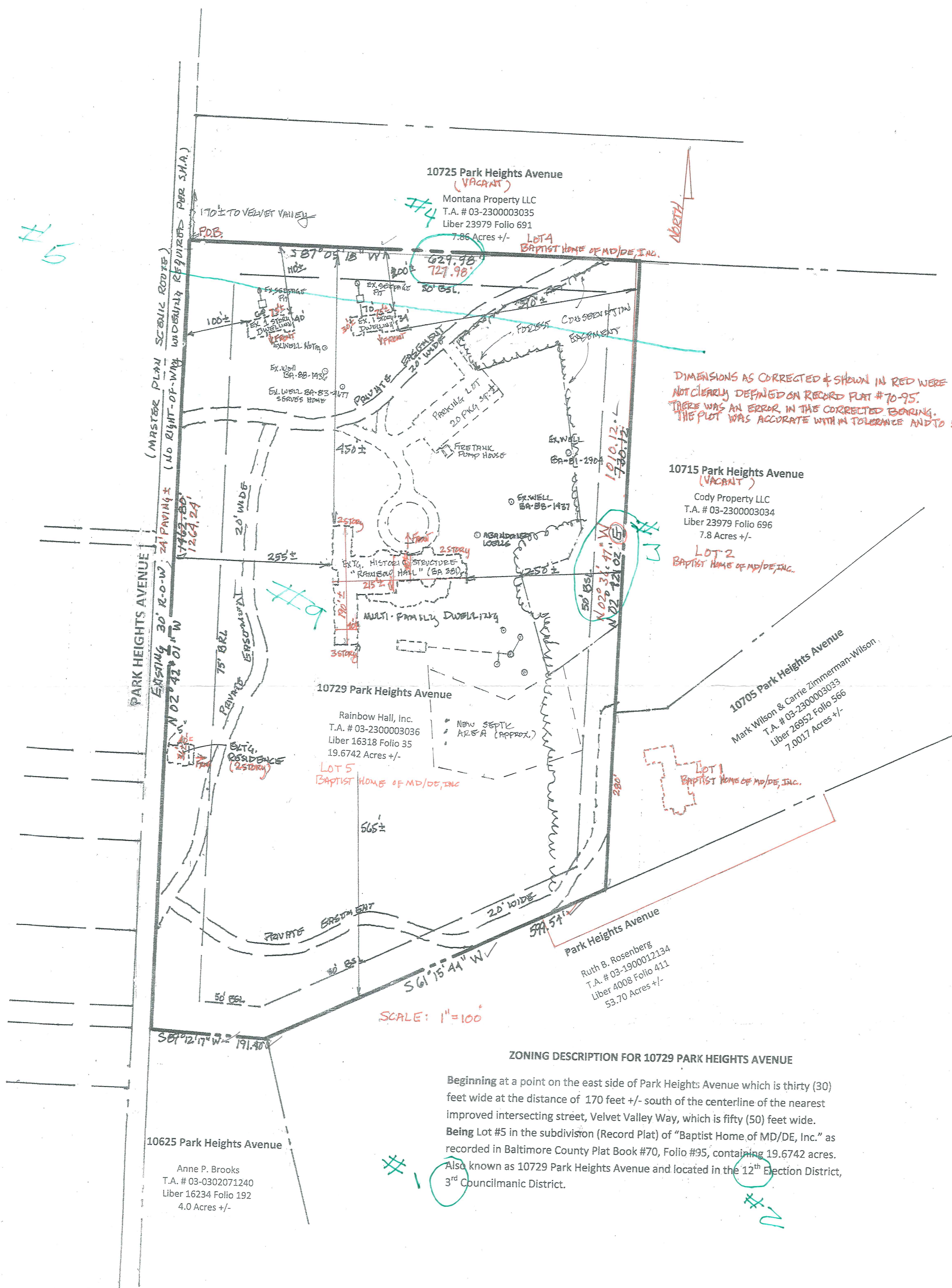
PATTON

780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090, jsp@pattonconsultants.net 410-691-0205 410-691-0207

PROJECT/DEVELOPMENT		10729 PARK HEIGHTS AVENUE	
DRAWING TITLE:		PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING	
COUNTY: BALTIMORE	ELECTION DIST: 12	PROJECT #:	21066
COUNCIL DIST: 3	DATE: 9/2/10	SCALE: AS INDICATED	SHEET 1 OF 1

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:	10/22/10	RED LINED CHANGE	JSP
CHECKED BY:			

031100



ZONING DESCRIPTION FOR 10729 PARK HEIGHTS AVENUE

Beginning at a point on the east side of Park Heights Avenue which is thirty (30) feet wide at the distance of 170 feet +/- south of the centerline of the nearest improved intersecting street, Velvet Valley Way, which is fifty (50) feet wide. Being Lot #5 in the subdivision (Record Plat) of "Baptist Home of MD/DE, Inc." as recorded in Baltimore County Plat Book #70, Folio #35, containing 19.6742 acres. Also known as 10729 Park Heights Avenue and located in the 12th Election District, 3rd Councilmanic District.

NOTES:

PROPERTY ADDRESS: 10729 Park Heights Avenue, Baltimore, MD 21153-REAR?
 OWNER: NOTE: 2153 ZIP CODE IS STEVENSON CHERRY OVER FARM. Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore, MD, 21227-1501
 DEED: Liber 16318, Folio 35
 TAX ACCOUNT: 03-2300003036
 TAX MAP: Map 59, Grid 20, Parcel 270, Lot 5
 AREA: 19.6742 acres; 857,008.54 FT. (NET); 2,010,915 ACRES=875,911.8 54 FT. (GROSS)
 WATER AND SEWERAGE: Private on-site wells and septic system
 FEATURES: The property is within the Greenspring Valley National Register of Historic Districts. The principal structure is listed on the Baltimore County Landmarks list as "Rainbow Hall" (BA 381).
 Park Heights Avenue is a Master Plan designated scenic route.
 Forest Buffer and Forest Conservation Easements exist on the site.
 No 100 year flood plains or non-tidal wetlands exist on the site.

COUNCIL DISTRICT: 3; ELECTION DISTRICT: 13
 CENSUS TRACT: 4083.01 (COMPUTER MAP SHOWS 4083.01; INDEX SHOWS 4083.01)

ZONING HISTORY

CASE NO. 83-352-20: SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED. GRANTED NOVEMBER 26, 1983 WITH THE FOLLOWING RESTRICTIONS:
 1. THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION.
 2. THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ON THE PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.
 THIS SPECIAL EXCEPTION WAS GRANTED AND WAS UTILIZED.
 CASE NO. 78-80-SP18: SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY. (ORIGINAL APPROVAL - 1968 - 40 UNITS). ADDITIONAL APPROVAL 1969 - 24 PERSONS. PROPOSED INFIRMARY WING-25 PERSONS. GRANTED DECEMBER 1, 1975. SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICE OF PLANNING AND ZONING. PROPOSED ADDITION WAS NOT CONSTRUCTED.
 1975 CZMP: THE ZONING OF THE PORTION WHICH CONTAINED THE "BOARDING HOUSE" WAS CHANGED TO R.C. 2. AS AN ELDERLY BOARDING HOME IS NOT PERMITTED BY RIGHT OR SPECIAL EXCEPTION IN THE R.C.2 ZONE THE USE BECAME NON-CONFORMING.
 1988 CZMP (ISSUE 3-130): WHAT BECAME THE LOT CONTAINING THE "BOARDING HOUSE" WAS REZONED TO R.C. 3. THE R.C.3 ZONE PERMITTED "CONVALESCENT HOMES" BY SPECIAL EXCEPTION.
 OCTOBER 11, 1988 RESTRICTIVE COVENANT AGREEMENT: RELATED TO THE 1988 CZMP ISSUE 3-130, A RESTRICTIVE COVENANT AGREEMENT WAS ENTERED INTO BETWEEN THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. AND THE VALLEYS PLANNING COUNCIL, INC. THIS AGREEMENT IS RECORDED IN BALTIMORE COUNTY LAND RECORDS LIBER 8039 FOLIO 323 AND DOES NOT TERMINATE UNTIL OCTOBER 11, 2023. AN ELEMENT, IN PART, OF THIS AGREEMENT WAS TO VALIDATE THE NON-CONFORMING USE OF THE PROPERTY AS A CONVALESCENT OR "NURSING HOME."

CASE NO. 93-166-SP02: SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 83-352-20 TO CONSTRUCT TWO ADDITIONS TO AN EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDINGS IN THE R.C.3 ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. THIS PETITION WAS GRANTED FEBRUARY 1, 1991 WITH THE FOLLOWING RESTRICTIONS:
 1. THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON THE RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT HIS OWN RISK UNTIL SUCH TIME AS THE 30 DAY APPEAL PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR ANY REASON, THIS ORDER IS REVERSED, THE PETITIONER WOULD BE REQUIRED TO RETURN AND BE RESPONSIBLE FOR RETURNING, AND PROPERTY TO ITS ORIGINAL CONDITION.
 2. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONERS OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS.
 3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.

FURTHER THE RESTRICTIONS AS TO "LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION" AND SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL... WERE REMOVED RELATIVE TO THE ALIENABILITY OF, AND SERVICES PROVIDED ON...
 PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE.

CASE NO. 93-166-SP04 WAS APPEALED. ON OCTOBER 16, 1991, THE BOARD OF APPEALS GRANTED APPROVAL OF THE REQUESTED SPECIAL HEARINGS.

CASE NO. 97-230-SP01: SPECIAL HEARING TO CREATE THREE (3) UNDERSIZED R.C. 5 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT. THE REQUEST WAS GRANTED ON JUNE 3, 1997 TO CREATE ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 1A AND 1B SUBJECT TO THE FOLLOWING RESTRICTIONS:

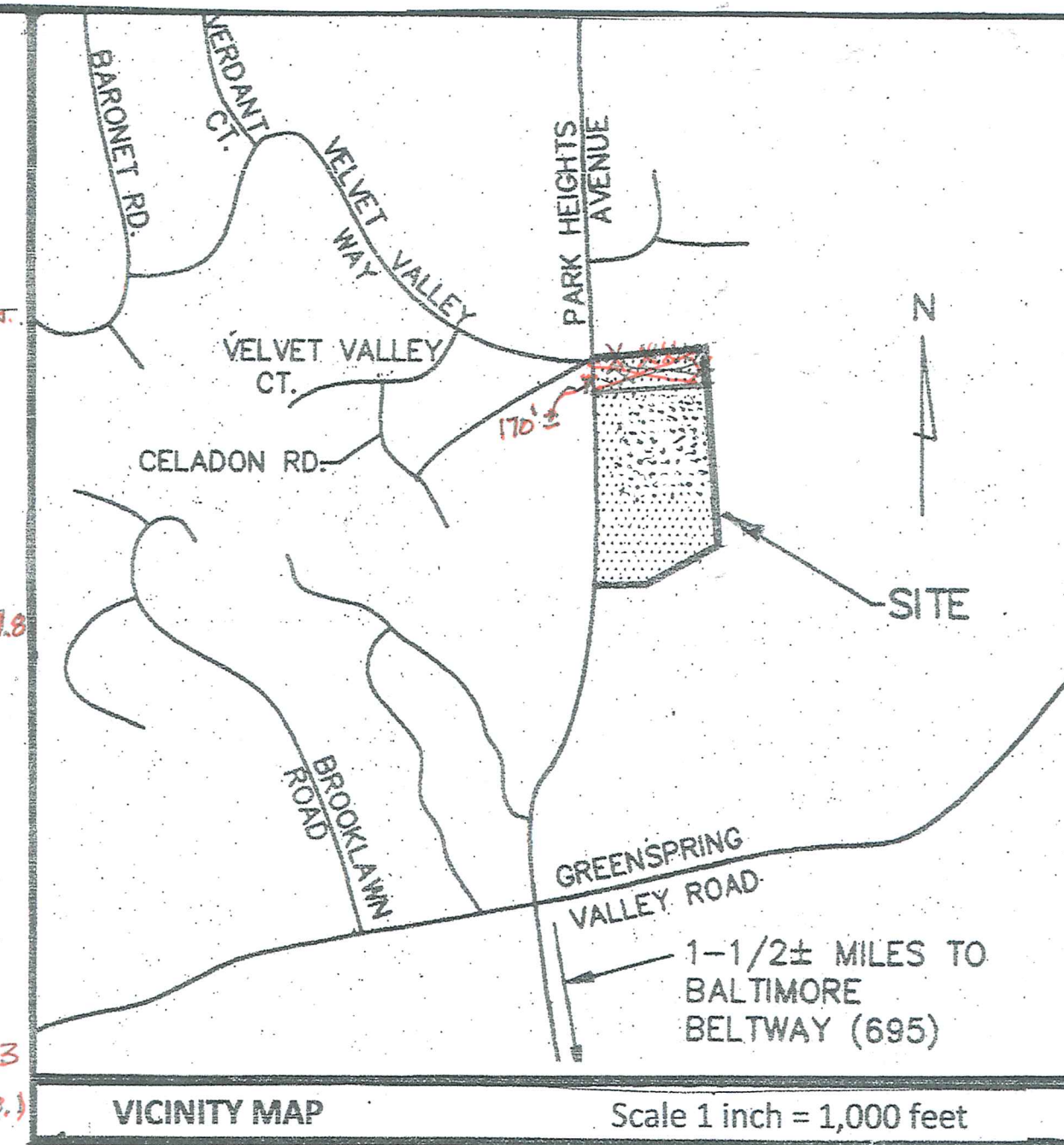
1. THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
2. THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1991, BE AND IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTEMPLATED IMPROVEMENTS TO THE BAPTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING SEEKING APPROVAL TO CREATE THREE (3) UNDERSIZED R.C.5 NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.

2002 - THE PROPERTY WAS SOLD APRIL 15, 2002 BY THE BAPTIST HOME OF MARYLAND, INC. AND HENCE NO LONGER BEING USED AND OPERATED AS A "BOARDING" OR "CONVALESCENT" HOME FOR THE AGED, THUS CEASING AS A NON-CONFORMING USE.

2004 - CZMP (ISSUE 2-065) ZONING CHANGED TO R.C.2.

CURRENT ZONING OF THE LOT (R.C.2). MAPS NW 11-F-12-F



PATTON

780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090; jsp@pattonconsultants.net 410-691-0205 410-691-0207

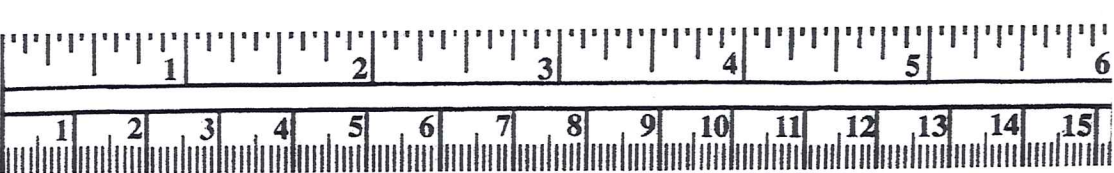
10729 PARK HEIGHTS AVENUE

PLAN TO ACCOMPANY
 PETITION FOR SPECIAL HEARING

DRAWING TITLE:

COUNTY: BALTIMORE ELECTION DIST: 13 PROJECT #: 2006-01 SCALE: AS INDICATED 1 OF 1

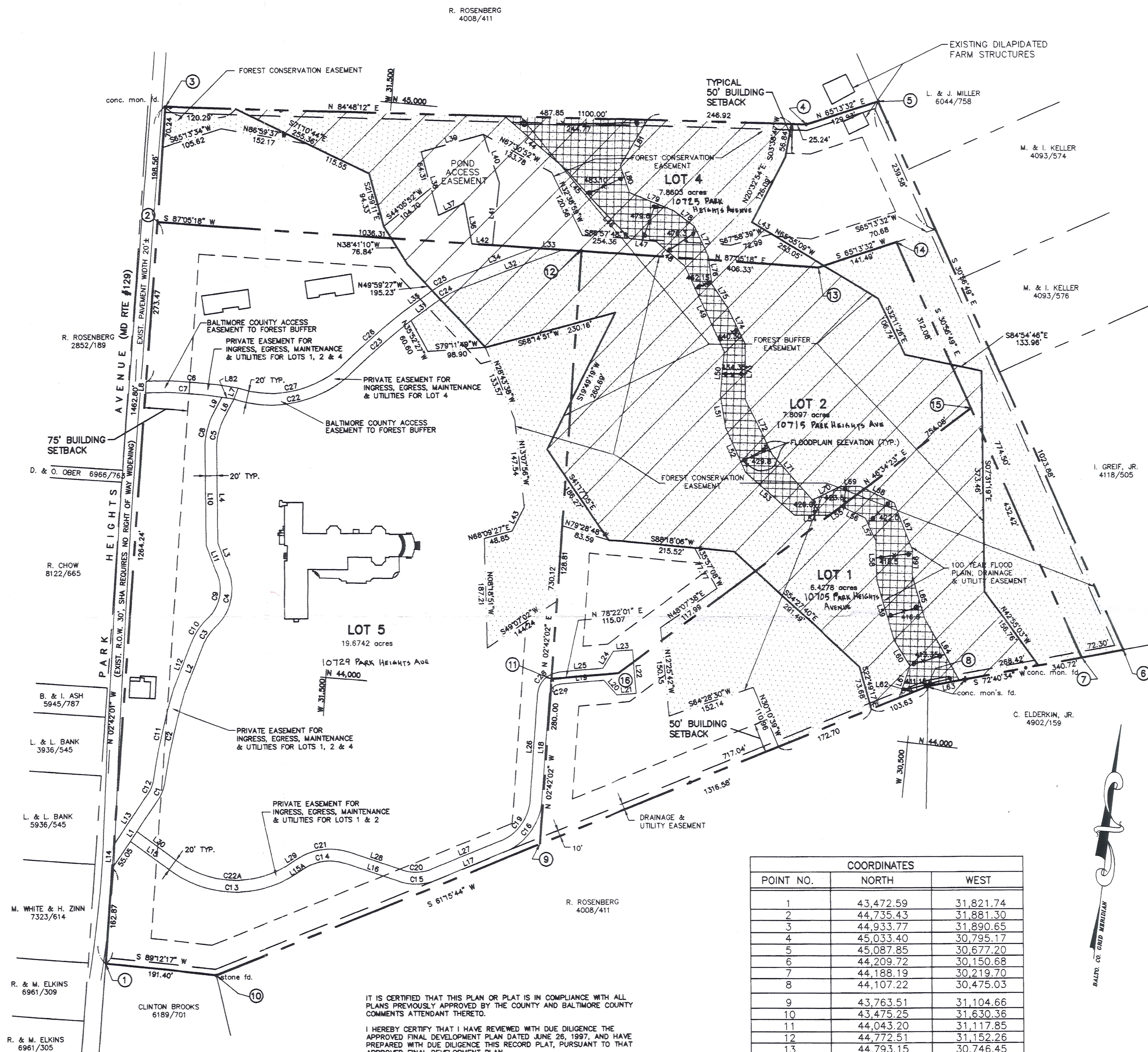
Resp Ev. 12 11/8/11 10-280-SPH



Petitioner's Ex: #3
CBA-10-280-SPH
11/2/2001

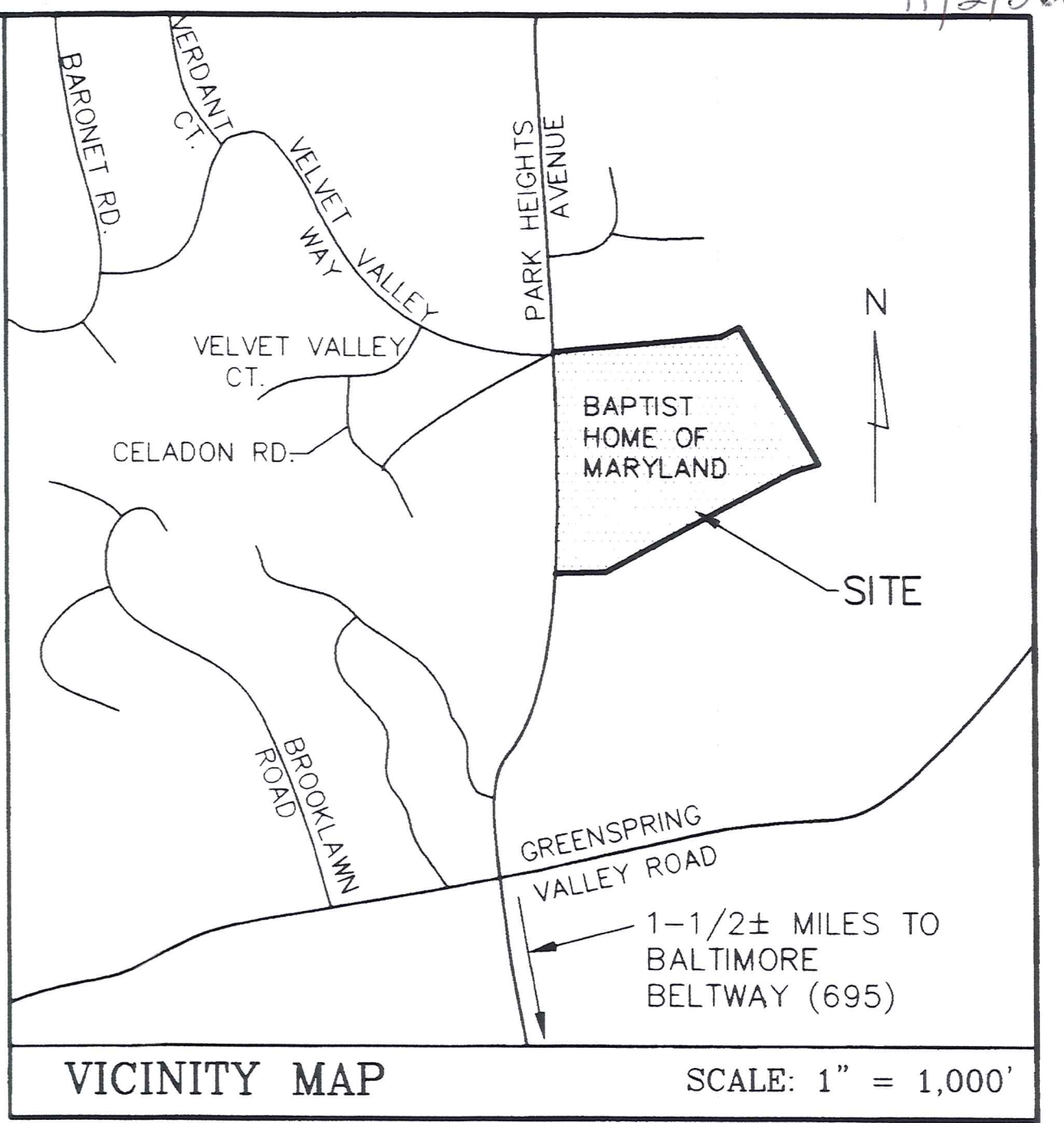
LINE TABLE		
LINE	LENGTH	BEARING
L1	132.23	S27°21'23"W
L2	84.59	S14°48'50"W
L3	40.86	S27°04'27"E
L4	154.23	S07°24'49"E
L5	38.63	N20°39'19"E
L6	20.02	N13°47'05"E
L7	20.12	S02°42'01"E
L8	31.58	N20°39'19"E
L9	157.11	S07°24'49"E
L10	45.46	S27°10'47"E
L11	85.50	S14°48'50"W
L12	98.72	S27°21'23"W
L13	39.93	S02°42'01"E
L14	17.10	S50°25'22"W
L15	82.83	N60°39'40"W
L16	127.34	S78°45'50"E
L17	178.44	N02°42'02"W
L18	75.49	S78°22'01"W
L19	33.60	N48°09'43"W
L20	33.01	S78°22'01"W
L21	74.00	N11°37'58"W
L22	33.01	N78°22'01"E
L23	33.60	N24°53'45"E
L24	75.49	S78°22'01"W
L25	178.44	N02°42'02"W
L26	127.34	N61°15'44"E
L27	97.36	S78°45'50"E
L28	17.10	S50°25'22"W
L29	83.53	N60°39'40"W
L30	53.23	S47°08'02"W
L31	185.32	S62°29'20"W
L32	48.05	S87°05'18"W
L33	141.63	S62°29'20"W
L34	53.62	S77°06'22"E
L35	71.27	S71°13'49"E
L36	48.75	N58°01'26"E
L37	112.60	S21°32'19"E
L38	110.86	S67°38'03"W
L39	87.37	N24°52'22"W
L40	107.86	N00°22'17"W
L41	35.61	N87°05'18"E
L42	46.47	N20°35'13"E
L43	136.16	S56°01'20"E
L44	78.63	S48°12'28"E
L45	85.36	S50°03'02"E
L46	45.59	N88°43'18"E
L47	63.45	S56°54'58"E
L48	162.02	S31°34'47"E
L49	75.93	S01°44'13"E
L50	55.21	S16°13'58"E
L51	82.67	S30°55'30"E
L52	111.08	S56°35'34"E
L53	98.10	N82°56'30"E
L54	26.86	N51°22'05"E
L55	44.87	S71°31'40"E
L56	42.50	S31°31'50"E
L57	66.63	S08°27'08"E
L58	107.07	S22°52'14"E
L59	51.42	S38°51'06"E
L60	56.78	S12°28'24"W
L61	52.44	N61°15'44"E
L62	85.42	N72°40'34"E
L63	118.61	N38°22'18"W
L64	79.05	N23°07'39"W
L65	41.64	N05°37'27"W
L66	86.78	N27°55'00"W
L67	65.01	N71°29'08"W
L68	32.98	S20°56'30"W
L69	54.08	S57°33'47"W
L70	101.99	N48°11'06"W
L71	104.78	N53°21'18"W
L72	96.21	N08°54'31"W
L73	70.29	N32°48'43"W
L74	46.42	N41°10'14"W
L75	47.81	N13°51'22"W
L76	57.17	N31°37'28"W
L77	43.65	N50°13'48"W
L78	82.37	N74°31'05"W
L79	49.00	N25°52'53"W
L80	91.04	N24°19'53"E
L81	21.20	S88°44'21"E

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	43.35	74.54
C2	150.74	1164.07
C3	40.38	95.52
C4	114.49	89.20
C5	57.63	104.31
C6	158.29	749.87
C7	131.37	729.87
C8	68.03	124.31
C9	90.15	69.20
C10	49.51	115.52
C11	154.74	1184.07
C12	33.03	54.54
C13	232.14	193.00
C14	72.72	82.00
C15	64.88	93.00
C16	113.87	102.00
C17	91.54	82.00
C18	50.93	73.00
C19	90.46	102.00
C20	214.84	203.33
C21	208.09	173.00
C22	139.20	1217.34
C23	50.47	168.00
C24	55.84	208.00
C25	141.38	1237.34
C26	192.49	183.33
C27	56.60	40.00
C28	28.30	20.00



SITE DATA

- EXISTING ZONING: RC-2, RC-3 & RC-5
- USE: CONVALESCENT FACILITY & RESIDENCE
- CENSUS TRACT: 4038.01
- COUNCILMANIC DISTRICT: 3
- ELECTION DISTRICT: 12
- GROSS AREA: 41,743.33 ACRES
- NO. LOTS ALLOWED: 22
- NO. PROPOSED LOTS: 4
- SITE ADDRESSES:
LOT 5 - 10729 PARK HEIGHTS AVENUE
LOT 1 - 10705 PARK HEIGHTS AVENUE
LOT 2 - 10715 PARK HEIGHTS AVENUE
LOT 4 - 10785 PARK HEIGHTS AVENUE



GENERAL NOTES

- HIGHWAY AND HIGHWAY WIDENING, SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS, ACCESS EASEMENTS, FOREST CONSERVATION EASEMENTS, FOREST BUFFER AREAS, IN FEE OR EASEMENT, GREENWAY AREAS IN FEE OR EASEMENT AND STORM WATER MANAGEMENT AREAS NO MATTER HOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND, THE OWNER, HIS REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND, AT NO COST UNTIL SUCH TIME AS SAID CONVEYANCE IS EXPECTED BY BALTIMORE COUNTY, THE OWNER AUTHORIZES BALTIMORE COUNTY, ITS AGENTS AND ASSIGNS, THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROADS, UTILITY LINES AND FACILITIES, AND STORMWATER MANAGEMENT PONDS AND FACILITIES.
- STREETS AND/OR ROADS SHOWN HEREON AND MENTIONED THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO THE PUBLIC USE; THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED WHICH THIS PLAN IS ATTACHED, THEIR HEIRS AND ASSIGNS.
- THIS PLAN MAY EXPIRE IN ACCORDANCE WITH THE PROVISION OF BALTIMORE COUNTY CODE SECTION 22-68.
- THE RECORDING OF THIS PLAN DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
- THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAN.
- ADDITIONAL INFORMATION CONCERNING THIS PLAN MAY BE OBTAINED FROM THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.
- THE RECORDING OF THIS PLAN DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY BALTIMORE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THIS PLAN.
- THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES CONTAINED IN THE WATER QUALITY MANAGEMENT POLICY.
- THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION AREA OR THE FOREST BUFFER EASEMENT EXCEPT AS PERMITTED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
- ANY FOREST CONSERVATION EASEMENTS AND FOREST BUFFER EASEMENTS SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
- EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON, HAVE BEEN PLACED AS OF THE RESULT OF AN INTERPRETATION ONLY OF THE CURRENT APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY.
- THE COMMON DRIVEWAYS SHOWN HEREON SHALL BE MAINTAINED BY ALL PARTIES HAVING RIGHTS TO ITS USE.
- THE AREA DESIGNATED AS FLOODPLAIN INCLUDES THE AREA INUNDATED BY THE 100-YEAR FREQUENCY STORM AND A MINIMUM OF 1 FOOT VERTICAL FREEBOARD. THE ELEVATIONS SHOWN ON THE FLOODPLAIN SECTIONS ARE THE 100-YEAR DESIGN FREQUENCY SURFACE ELEVATIONS.
- SOIL PERCOLATION TESTS WILL BE VALID FOR A PERIOD OF FIVE YEARS FROM THE DATE OF RECORD PLAT IS SIGNED BY THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT. AT THE EXPIRATION OF THIS PERIOD, NEW TESTS MAY BE REQUIRED.
- ALL REQUIREMENTS OF THE MARYLAND STATE DEPARTMENT OF THE ENVIRONMENT AND BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERTAINING TO PRIVATE WATER AND/OR SEWAGE SYSTEMS MUST BE COMPLIED WITH PRIOR TO APPROVAL OF BUILDING APPLICATIONS.
- TRASH COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE JUNCTION OF THE PANHANDLE AND STREET RIGHT OF WAY.
- THE DEVELOPMENT PLAN FOR THIS PROPERTY SHOWN ON THIS PLAN WAS APPROVED ON JUNE 26, 1997.
- THE DEVELOPER HAS THE LEGAL RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING AND REPAIRING ROADS, UTILITY LINES AND FACILITIES, AND STORMWATER MANAGEMENT PONDS AND FACILITIES.

S.M. 70-95
Filed for record
70 FOLIO 95
Date MAY 19 1998
Test:
Clerk

PWA COMPLETED 11/17/98
FINAL PLAT:
240M PDM
STREETS, NUMBERING
PLAN REVIEW
ENGINEER
RECEIVED
REC. & PARKS

COORDINATES		
POINT NO.	NORTH	WEST
1	43,472.59	31,821.74
2	44,735.43	31,881.30
3	44,933.77	31,890.65
4	45,033.40	30,795.17
5	45,087.85	30,677.20
6	44,209.72	30,150.68
7	44,188.19	30,219.70
8	44,107.22	30,475.03
9	43,763.51	31,104.66
10	43,475.25	31,630.36
11	44,043.20	31,117.85
12	44,772.51	31,152.26
13	44,793.15	30,746.45
14	44,852.44	30,617.98
15	44,584.78	30,457.49
16	44,066.40	31,005.15

RECORD PLAT FOR BAPTIST HOME OF MD/DE, INC. ELECTION DISTRICT 3 BALTIMORE COUNTY, MARYLAND SCALE: 1" = 100' FEBRUARY 17, 1998

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(c), BALTIMORE COUNTY CODE
5-18-98 David Flowers
DATE DIRECTOR OF PERMITS & DEVELOPMENT MANAGEMENT
APPROVED:
4-30-98
DATE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

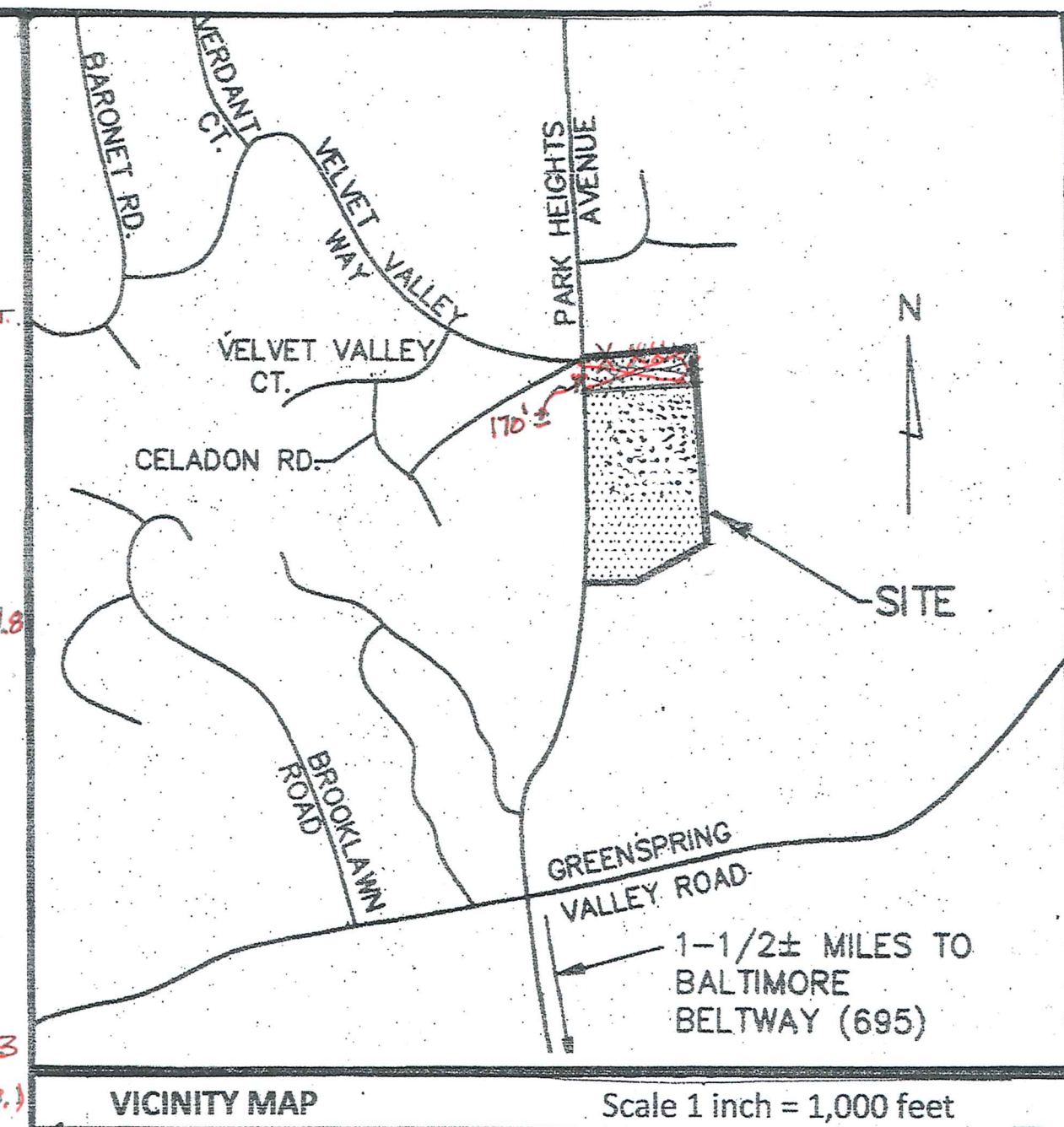
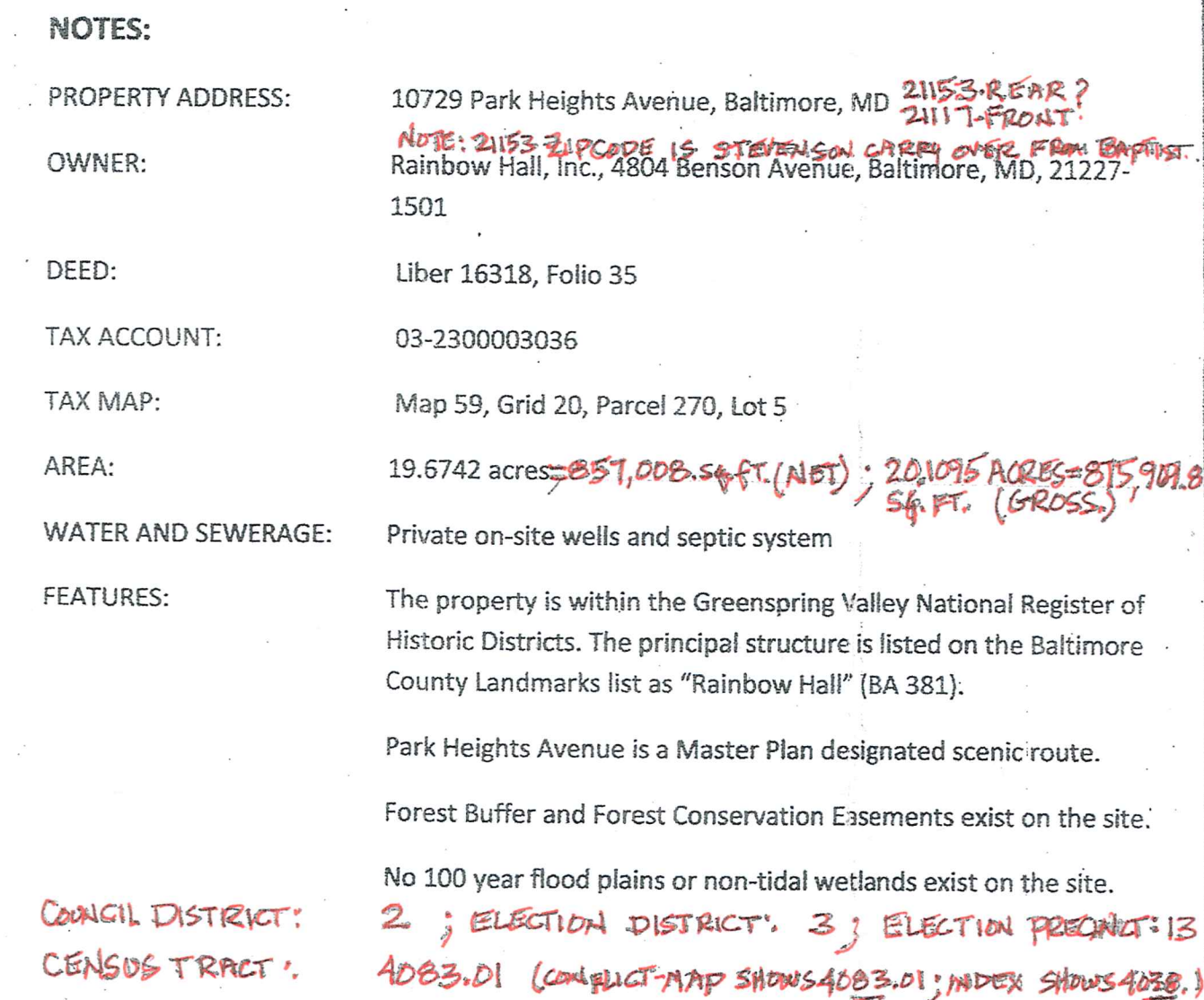
SURVEYOR'S CERTIFICATE
THE UNDERSIGNED, A REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT, AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INsofar AS SAME CONCERN THE MAKING OF THE PLAT AND THE SETTING OF MARKERS.
Kenneth J. Wells
KENNETH J. WELLS, PROPERTY LINE SURVEYOR
236-B
REGISTRATION NO.
9/13/97
DATE

OWNER'S CERTIFICATE
THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT HEREBY CERTIFIES THAT, TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INsofar AS SAME CONCERN THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.
Carolyn Jackson
CAROLYN JACKSON
PRESIDENT - BOARD OF TRUSTEES
1/17/98
DATE

OWNER/DEVELOPER
BAPTIST HOME OF MARYLAND, INC.
10729 PARK HEIGHTS AVENUE
BALTIMORE, MARYLAND 21117
(410) 484-3324
DEED REF: R.R.G. 4250/278
TAX ACCT. NOS: 03-02-004580

COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT BASED ON THE FOLLOWING STATION:
HUB
13111
13112
NORTH
41,529.41
41,386.96
WEST
31,814.55
32,333.28

Kenneth J. Wells, Inc.
7403 NEW CUT ROAD
KINGSTOWN, MARYLAND 21087
(410) 592-8800
MSA 33A 1236 - 56 47
70-95



ZONING HISTORY

CASE NO. 63-132-34; SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED, GRANTED NOVEMBER 25, 1953 WITH THE FOLLOWING RESTRICTIONS:

1. THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAUPTIST DENOMINATION.
2. THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ONTH PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.

THIS SPECIAL EXCEPTION WAS GRANTED AND WAS UTILIZED.

CASE NO. 76-89-SPH: SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY. (ORIGINAL APPROVAL - 1963 - 40 UNITS), ADDITIONAL APPROVAL 1969 - 24 PERSONS, PROPOSED INFIRMARY WING-25 PERSONS. GRANTED DECEMBER 1, 1975. SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICES OF PLANNING AND ZONING.

PROPOSED ADDITION WAS NOT CONSTRUCTED.

1976 ZMP: THE ZONING OF THE PORTION WHICH CONTAINED THE "BOARDING HOUSE" WAS CHANGED TO R.C. 2. AS AN ELDERLY BOARDING HOME IS NOT PERMITTED BY RIGHT OR SPECIAL EXCEPTION IN THE R.C.2 ZONE THE USE BECAME NON-CONFORMING.

1988 CZMP (1988 ISSUE 3-136): WHAT BECAME THE LOT CONTAINING THE "BOARDING HOUSE" WAS REZONED TO R.C. 3. THE R.C.3 ZONE PERMITTED "CONVALESCENT HOMES" BY SPECIAL EXCEPTION.

OCTOBER 11, 1968 RESTRICTIVE COVENANT AGREEMENT: RELATED TO THE 1968 C-4P ISSUE 3-136, A RESTRICTIVE COVENANT AGREEMENT WAS ENTERED INTO BETWEEN THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. AND THE VALLEYS PLANNING COUNCIL, INC. THIS AGREEMENT IS RECORDED IN BALTIMORE COUNTY LAND RECORDS LIBER 8039 FOLIO 123 AND DOESNOT TERMINATE UNTIL OCTOBER 11, 2023. AN ELEMENT, IN PART, OF THIS AGREEMENT WAS TO VALIDATE THE NON-CONFORMING USE OF THE PROPERTY AS A CONVALESCENT OR LIVING HOME.

CASE NO. 91-166-SPHY: SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 63-152-X TO CONSTRUCT TWO ADDITIONS TO AN EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDING IN THE RC-S ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. THIS PETITION WAS GRANTED FEBRUARY 1, 1991 WITH THE FOLLOWING RESTRICTIONS:

1. THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON THE RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCEEDING AT THIS TIME IS AT HIS OWN RISK. IF THE ORDER IS REVERSED, PETITIONER WILL BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
2. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL OF THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS.
3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.

FURTHER THE RESTRICTIONS AS TO "LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION" AND SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL...." WERE REMOVED "RELATIVE TO THE ALIENABILITY OF AND SERVICES PROVIDED ON."

PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE.

CASE NO. 91-166-SPHX WAS APPEALED. ON OCTOBER 16, 1991, THE BOARD OF APPEALS GRANTED APPROVAL OF THE REQUESTED SPECIAL HEARINGS.

CASE NO. 97-230-SPH. SPECIAL HEARING TO CREATE THREE (3) UNDERSIZED R.C. 5 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT. THE REQUEST WAS GRANTED ON JUNE 3, 1997 TO CREATE ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 1A AND 1B SUBJECT TO THE FOLLOWING RESTRICTIONS:

1. THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
2. THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1991, BE AND IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTEMPLATED IMPROVEMENTS TO THE BAFTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS.

IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING SEEKING APPROVAL TO CREATE THREE (3) UNDERSIZED R.C.S NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.

2002 - THE PROPERTY WAS SOLD APRIL 15, 2002 BY THE BAPTIST HOME OF MARYLAND, INC, AND HENCE NO LONGER BEING USED AND OPERATED AS A "BOARDING" OR "CONVALESCENT" HOME FOR THE AGED, THUS CEASING AS A NON-CONFORMING USE.

2004 - CZMAP (ISSUE 2-065) ZONING CHANGED TO R.C.-2.

CURRENT ZONING OF THE LOT IS R.C.-2. MAPS¹¹ NW 11-F&12-F

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:	10/23/00	RED LINED CHANGE	JSP
CHECKED BY:			



PATTON

780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090, isp@pattonconsultants.net 410-691-0205 410-691-0207

PROJECT/DEVELOPMENT

10729 PARK HEIGHTS AVENUE

DRAWING TITLE:

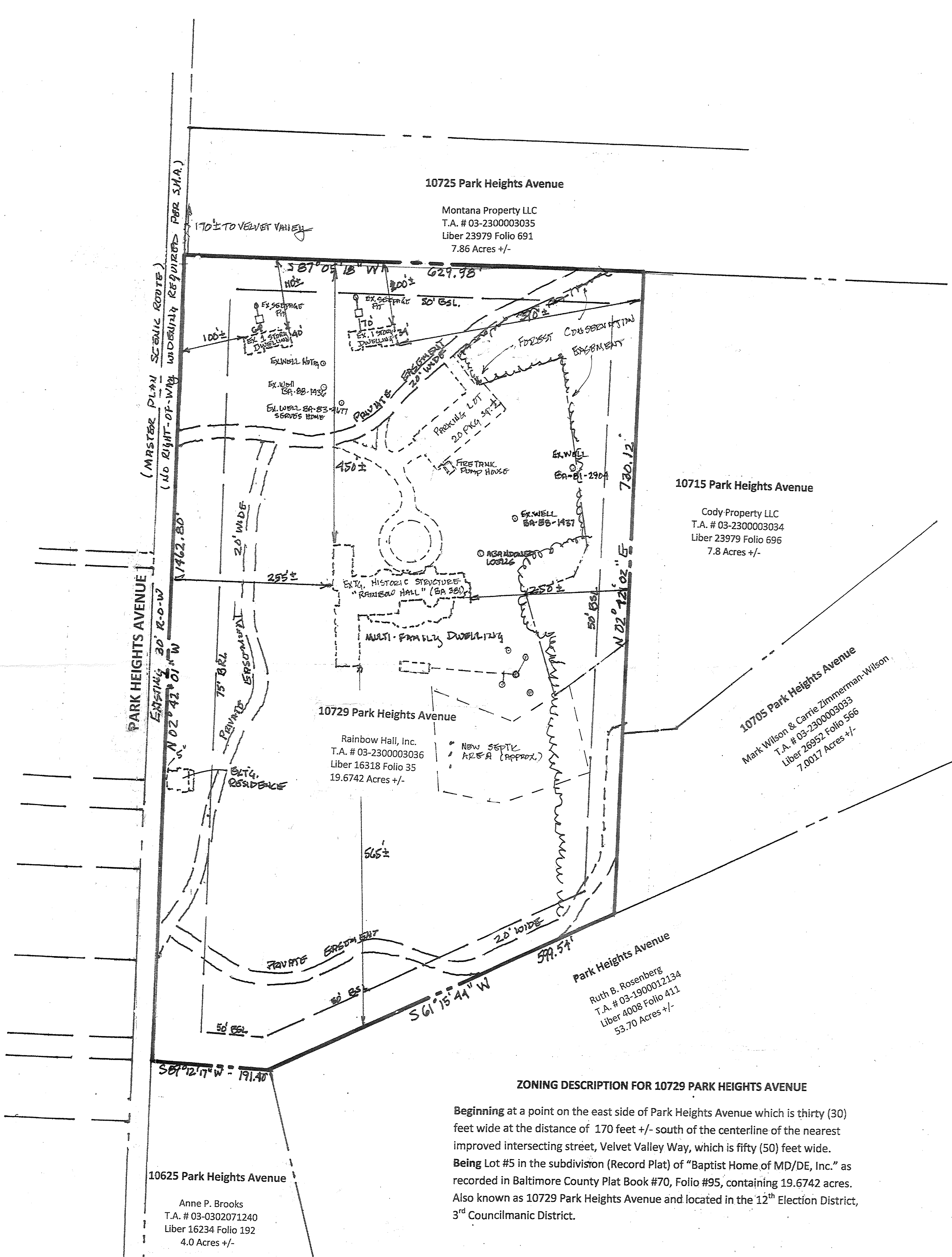
PLAN TO ACCOMPANY
PETITION FOR SPECIAL HEARING

DATE: REV. 10/28/10
4/2/10
SHEET

COUNTY: COCONINO ELECTION DIST.: 123 PROJECT #: 70000 SCALE: AS INDICATED 1 OF 1

11/3/2011 Pet Ex: 42
Case 10-280-SP11

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:			
CHECKED BY:			



10725 Park Heights Avenue
Montana Property LLC
T.A. # 03-2300003035
Liber 23979 Folio 691
7.86 Acres +/-

10715 Park Heights Avenue
Cody Property LLC
T.A. # 03-2300003034
Liber 23979 Folio 696
7.8 Acres +/-

10729 Park Heights Avenue
Rainbow Hall, Inc.
T.A. # 03-2300003036
Liber 16318 Folio 35
19.6742 Acres +/-

10705 Park Heights Avenue
Mark Wilson & Carrie Zimmerman-Wilson
T.A. # 03-2300003053
Liber 26952 Folio 566
7.0017 Acres +/-

Park Heights Avenue
Ruth B. Rosenberg
T.A. # 03-1900012134
Liber 4008 Folio 411
53.70 Acres +/-

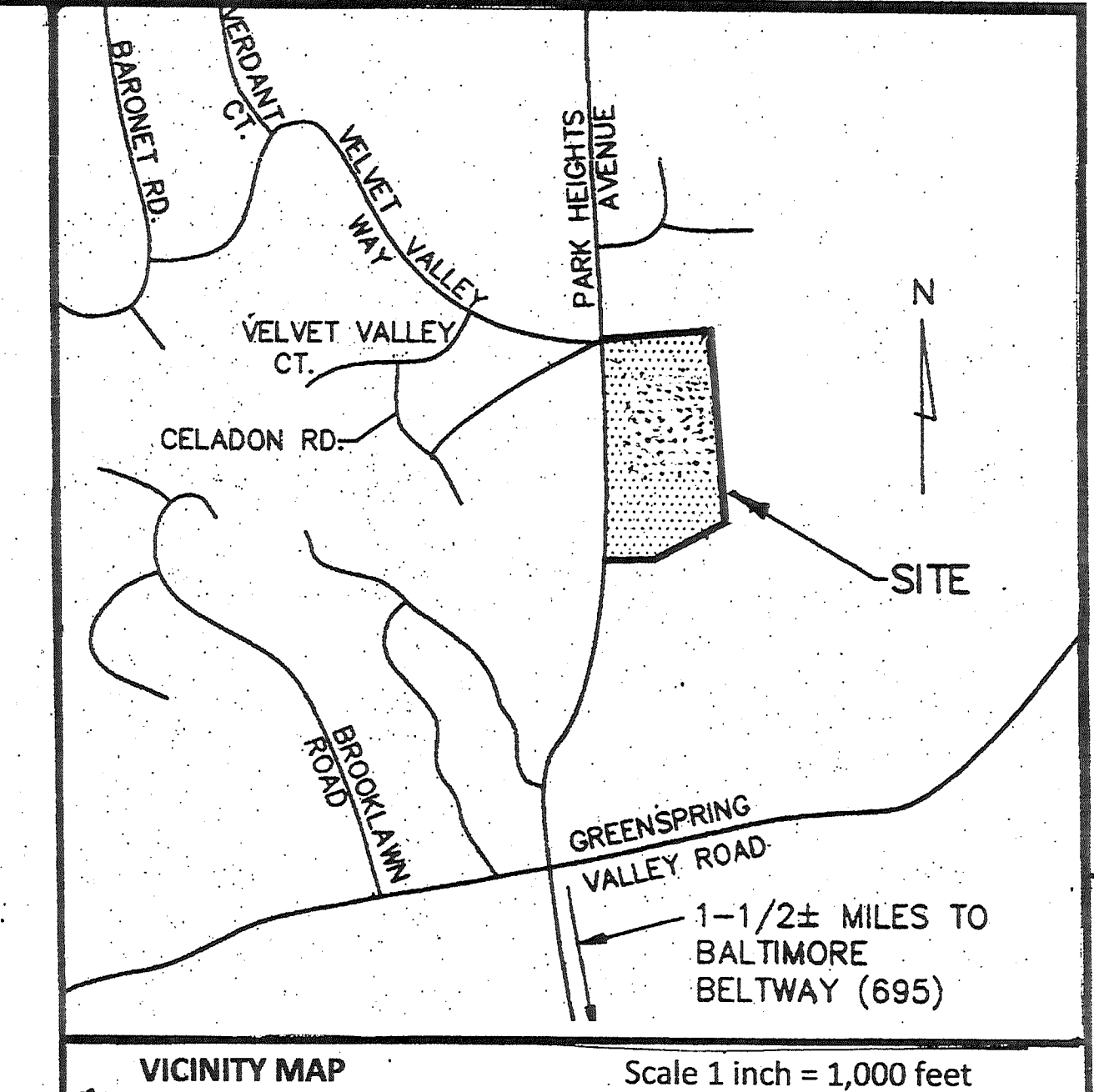
10625 Park Heights Avenue
Anne P. Brooks
T.A. # 03-0302071240
Liber 16234 Folio 192
4.0 Acres +/-

ZONING DESCRIPTION FOR 10729 PARK HEIGHTS AVENUE
Beginning at a point on the east side of Park Heights Avenue which is thirty (30) feet wide at the distance of 170 feet +/- south of the centerline of the nearest improved intersecting street, Velvet Valley Way, which is fifty (50) feet wide. Being Lot #5 in the subdivision (Record Plat) of "Baptist Home of MD/DE, Inc." as recorded in Baltimore County Plat Book #70, Folio #95, containing 19.6742 acres. Also known as 10729 Park Heights Avenue and located in the 12th Election District, 3rd Councilmanic District.

NOTES:
PROPERTY ADDRESS: 10729 Park Heights Avenue, Baltimore, MD
OWNER: Rainbow Hall, Inc., 4804 Benson Avenue, Baltimore, MD, 21227-1501
DEED: Liber 16318, Folio 35
TAX ACCOUNT: 03-2300003036
TAX MAP: Map 59, Grid 20, Parcel 270, Lot 5
AREA: 19.6742 acres
WATER AND SEWERAGE: Private on-site wells and septic system
FEATURES: The property is within the Greenspring Valley National Register of Historic Districts. The principal structure is listed on the Baltimore County Landmarks list as "Rainbow Hall" (BA 381).
Park Heights Avenue is a Master Plan designated scenic route.
Forest Buffer and Forest Conservation Easements exist on the site.
No 100 year flood plains or non-tidal wetlands exist on the site.

ZONING HISTORY
CASE NO. 88-152-SPE: SPECIAL EXCEPTION TO PERMIT A BOARDING HOME (40 UNITS) FOR THE AGED. GRANTED NOVEMBER 26, 1983 WITH THE FOLLOWING RESTRICTIONS:
1. THAT THE USE OF THE PROPERTY DESCRIBED IN THE PETITION SHALL BE LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION.
2. THAT THE PROPERTY DESCRIBED IN THE PETITION SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL. PROVIDED, HOWEVER, THAT A PORTION OF THE MAIN BUILDING PRESENTLY LOCATED ON THE PROPERTY DESCRIBED IN THE PETITION MAY BE USED AS AN INFIRMARY FOR THE TEMPORARY TREATMENT OF AGED GUESTS.
THIS SPECIAL EXCEPTION WAS GRANTED AND WAS UTILIZED.
CASE NO. 76-80-SPE: SPECIAL HEARING TO PERMIT THE CONSTRUCTION OF A NEW INFIRMARY WING ON AN EXISTING BOARDING HOME FOR THE ELDERLY. (ORIGINAL APPROVAL - 1963 - 40 UNITS), ADDITIONAL APPROVAL 1969 - 24 PERSONS, PROPOSED INFIRMARY WING-25 PERSONS. GRANTED DECEMBER 1, 1975. SUBJECT TO APPROVAL OF A SITE PLAN BY THE STATE HIGHWAY ADMINISTRATION, THE DEPARTMENT OF PUBLIC WORKS, AND THE OFFICES OF PLANNING AND ZONING. PROPOSED ADDITION WAS NOT CONSTRUCTED.
1978 CZMP: THE ZONING OF THE PORTION WHICH CONTAINED THE "BOARDING HOUSE" WAS CHANGED TO R.C. 2. AS AN ELDERLY BOARDING HOME IS NOT PERMITTED BY RIGHT OR SPECIAL EXCEPTION IN THE R.C.2 ZONE THE USE BECAME NON-CONFORMING.
1988 CZMP (1988 ISSUE 3-136): WHAT BECAME THE LOT CONTAINING THE "BOARDING HOUSE" WAS REZONED TO R.C. 3. THE R.C.3 ZONE PERMITTED "CONVALESCENT HOMES" BY SPECIAL EXCEPTION.
OCTOBER 11, 1990 RESTRICTIVE COVENANT AGREEMENT: RELATED TO THE 1988 CZMP ISSUE 3-136, A RESTRICTIVE COVENANT AGREEMENT WAS ENTERED INTO BETWEEN THE BAPTIST HOME OF MARYLAND/DELAWARE, INC. AND THE VALLEYS PLANNING COUNCIL, INC. THE AGREEMENT IS RECORDED IN BALTIMORE COUNTY LAND RECORDS UNDER BOOK FOLIO 123 AND DOES NOT TERMINATE UNTIL OCTOBER 21, 2023. AN ELEMENT, IN PART, OF THE AGREEMENT WAS TO VALIDATE THE NON-CONFORMING USE OF THE PROPERTY AS A CONVALESCENT OR NURSING HOME.
CASE NO. 91-166-SPE: SPECIAL HEARING TO APPROVE AN AMENDMENT TO THE SPECIAL EXCEPTION AND SITE PLAN PREVIOUSLY APPROVED IN CASE NO. 88-152-SPE TO CONSTRUCT TWO ADDITIONS TO AN EXISTING FACILITY AND A SPECIAL HEARING FOR A DETERMINATION THAT THE MAINTENANCE BUILDING IN THE R.C.3 ZONE IS AN ACCESSORY TO THE EXISTING FACILITY. THIS PETITION WAS GRANTED FEBRUARY 1, 1993 WITH THE FOLLOWING RESTRICTIONS:
1. THE PETITIONER MAY APPLY FOR HIS BUILDING PERMIT AND BE GRANTED SAME UPON THE RECEIPT OF THIS ORDER; HOWEVER, PETITIONER IS HEREBY MADE AWARE THAT PROCESSING AT THE TIME IS AT HIS OWN RISK UNTIL SUCH TIME AS THE 30 DAY APPEAL PROCESS FROM THIS ORDER HAS EXPIRED. IF, FOR ANY REASON, THIS ORDER IS REVOKED, THE PETITIONER WOULD BE REQUIRED TO RETURN, AND BE RESPONSIBLE FOR RETURNING, SAID PROPERTY TO ITS ORIGINAL CONDITION.
2. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL SUBMIT A SCHEMATIC LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE DEPUTY DIRECTOR OF PLANNING. A COPY OF THE APPROVED PLAN SHALL BE SUBMITTED TO THE ZONING COMMISSIONER'S OFFICE FOR INCLUSION IN THE CASE FILE PRIOR TO THE ISSUANCE OF ANY PERMITS.
3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS, PETITIONER SHALL COMPLY WITH OR SATISFY ALL OF THE ZONING PLANS ADVISORY COMMITTEE COMMENTS SUBMITTED FOR INCLUSION INTO THE CASE FILE.
FURTHER THE RESTRICTIONS AS TO "LIMITED TO A RELIGIOUS, NON-PROFIT HOME FOR THE AGED OF THE BAPTIST DENOMINATION" AND SHALL NOT BE OPERATED EITHER AS A NURSING HOME, OR AS A HOME FOR THE CHRONICALLY ILL OR AS A HOSPITAL... WERE REMOVED "RELATIVE TO THE ALIENABILITY OF, AND SERVICES PROVIDED ON..."
PROPOSED ADDITIONS WERE NOT CONSTRUCTED. THE MAINTENANCE BUILDING REMAINS IN USE.
CASE NO. 91-166-SPE WAS APPEALED. ON OCTOBER 16, 1991, THE BOARD OF APPEALS GRANTED APPROVAL OF THE REQUESTED SPECIAL HEARINGS.
CASE NO. 97-280-SPE: SPECIAL HEARING TO CREATE THREE (3) UNDERSIZED R.C. 3 NON-DENSITY PARCELS AND ONE (1) R.C. 2 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT. THE REQUEST WAS GRANTED ON JUNE 3, 1997 TO CREATE ONE (1) R.C. 3 NON-DENSITY PARCEL AND THE REMOVAL OF AN EXISTING SPECIAL EXCEPTION FROM A PORTION OF THE TRACT IN ACCORDANCE WITH DEVELOPER'S EXHIBITS 2A AND 2B SUBJECT TO THE FOLLOWING RESTRICTIONS:
1. THE OWNER/DEVELOPER SHALL SUBMIT WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER, A REVISED DEVELOPMENT PLAN INCORPORATING THE CONDITIONS AND RESTRICTIONS OF THIS ORDER.
2. THE ORDER ISSUED BY THE COUNTY BOARD OF APPEALS, DATED OCTOBER 16, 1991, IS HEREBY EXPRESSLY EXTINGUISHED SO THAT ANY CONTINGENT IMPROVEMENTS TO THE BAPTIST HOME FACILITY MUST BE APPROVED THROUGH A SUBSEQUENT PETITION FOR SPECIAL HEARING PROCESS.
IT IS FURTHER ORDERED THAT THE PETITION FOR SPECIAL HEARING SEEKING APPROVAL TO CREATE THREE (3) UNDERSIZED R.C.3 NON-DENSITY PARCELS, BE AND IS HEREBY DISMISSED.
2002 - THE PROPERTY WAS SOLD APRIL 15, 2002 BY THE BAPTIST HOME OF MARYLAND, INC. AND HENCE NO LONGER BEING USED AND OPERATED AS A "BOARDING" OR "CONVALESCENT" HOME FOR THE AGED, THUS CEASING AS A NON-CONFORMING USE.
2004 - CZMP (ISSUE 2-965) ZONING CHANGED TO R.C. 2.

CURRENT ZONING OF THE LOT IS R.C. 2.



PATTON 780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090, jsp@pattonconsultants.net 410-691-0205 410-691-0207	
PROJECT/DEVELOPMENT 10729 PARK HEIGHTS AVENUE	
DRAWING TITLE: PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING	DATE: 4/2/10
COUNTY: Baltimore ELECTION DIST: 12 C 3 PROJECT #: 200606 SCALE: AS SHOWN	SHEET 1 OF 1