



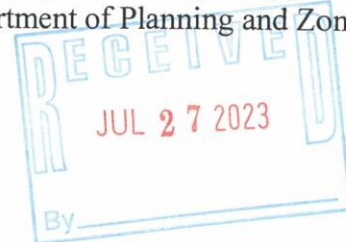
For DPZ Office use only:

BA Case No. BA-201D

Date Submitted: 7/27/23

ADMINISTRATIVE APPEAL PETITION TO THE HOWARD COUNTY HEARING AUTHORITY

A person who wishes to appeal a departmental decision must use this petition form. It is recommended that a person determine whether he/she can be acknowledged as being an aggrieved person¹. The appellant must submit the completed form to the Department of Planning and Zoning within 30 days of issuance of the departmental ruling or action.



1. APPEAL REQUEST

BRIEF DESCRIPTION OF RULING OR ACTION FROM WHICH THIS APPEAL IS TAKEN: Howard County Planning Board's Decision Letter dated June 28, 2023 approving SDP-22-042 with modifications. The Decision is attached hereto.

DATE OF RULING OR ACTION: June 28, 2023

BRIEF DESCRIPTION OF ERROR OF FACT, OR LAW, IF ANY, PRESENTED BY THIS APPEAL: See Attached Supplemental Statement

MANNER IN WHICH THE APPELLANT IS AGGRIEVED BY THE RULING OR ACTION: Appellant is an adjoining, confronting property owner and a party to covenants establishing parking rights for Appellant on the properties that are the subject of SDP-22-042. As approved, SDP-22-042 improperly infringes and diminishes Appellant's real property rights under the covenants.

OTHER FACTORS WHICH THE APPELLANT WISHES THE HEARING AUTHORITY TO CONSIDER: SDP-22-042 is the subject of active litigation in Howard County Circuit Court, where Appellant has sought a declaratory judgment establishing the rights of the Parties: Case No. C-13-CV-22-0012, and any other factors to be set forth at the hearing on this matter.

¹ As a brief explanation of this concept: Generally speaking,....a person "aggrieved"...is one whose personal or property rights are adversely affected by the decision... The decision must not only affect a matter in which the protestant has a specific interest or property right, but his interest therein must be such that he is personally and specifically affected in a way different from that suffered by the public generally. The Department of Planning and Zoning does not advise persons on whether they may or may not qualify as being aggrieved. Persons intending to file an appeal may want to obtain separate legal advice on this issue because it may have an impact on the validity of the appeal.

2. **APPELLANT'S NAME** IMH Columbia, LLC
TRADING AS (IF APPLICABLE) N/A
ADDRESS 10211 Wincopin Circle, Suite 100, Columbia, Maryland 21044
PHONE NO. (H) _____ (W) _____
EMAIL _____

3. **COUNSEL FOR APPELLANT** Jessica Haire, Esq.
COUNSEL'S ADDRESS Thompson Hine, LLP 1919 M Street, NW, Suite 700, Washington DC 20036
COUNSEL'S PHONE NO. 202-978-2778
EMAIL Jessica.Haire@ThompsonHine.com

4. **RESPONDENT** Howard County Department of Planning and Zoning
RESPONDENT'S ADDRESS 3430 Courthouse Drive, Ellicott City, Maryland 21043

5. **PROPERTY IDENTIFICATION (IF REAL PROPERTY IS INVOLVED)**
ADDRESS OF SUBJECT PROPERTY Lakefront Neighborhood - Phase 1

TOTAL ACREAGE OF PROPERTY 11.39 Acres
PROPERTY LOCATION Lakefront North (East side of Little Patuxent Pkwy, North of Wincopin Circle and South of Sterrett Place)
ELECTION DISTRICT 5 ZONING DISTRICT NT
TAX MAP # 30 GRID # 20 PARCEL/LOT # 275 (PAR A-1), 290, 373 (PAR H, D-1)

6. **APPELLANT'S INTEREST IN SUBJECT PROPERTY**
 OWNER (Including joint ownership) OTHER (Describe and give name and address of owner) Sterrett Building Holdings, LLC; Town Center East Business Trust; Town Center East Parking Lots Business Trust

7. **ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING**
A) The Appellant must submit **one (1) signed original and nine (9) copies of the signed original**, for a total of **ten (10) copies**, of this petition. If supplementary documents or other materials are included, **ten (10)** complete sets must be submitted.
B) The appellant is advised to consult the Rules of Procedure of the Board of Appeals. In accordance with Section 2.210(b) of that document, an "on the record" appeal requires that within 30 days of filing an administrative appeal, the appellant file a record transcript of the hearing being appealed. In addition, within 15 days of filing the transcript, the appellant must file a Memorandum addressing the points of law upon which the appeal is based.

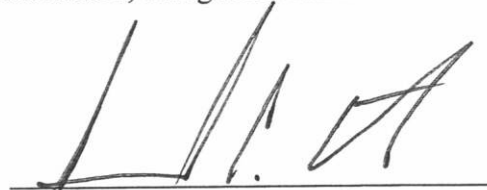
- C) The undersigned agrees in matters involving land use, except in administrative appeals from the issuance of a notice of violation of County laws or regulations, to properly post the property at least thirty (30) days immediately prior to the hearing and to maintain the posters as required and submit an affidavit of posting at, or before the time of the hearing. If the Appellant is not the owner or does not have a beneficial interest in the subject property, the posting of the property is not required; however, the Appellant must send copies of the petition and notification of the public hearing to the property owner and the adjoining property owners in accordance with Section 2.203(e) of the Rules of Procedure of the Board of Appeals.
- D) The undersigned also agrees in matters involving land use, except in administrative appeals from the issuance of a notice of violation of County laws or regulations, to insert legal notices, to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, as prepared and approved by the Department of Planning and Zoning, within at least thirty (30) days prior to the hearing, and to pay for such advertising costs; and further agrees to submit (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.
- E) The undersigned also agrees to furnish such additional plats, reports, plans, or other materials as may be required by the Department of Planning and Zoning and/or the Hearing Authority in connection with the filing of this petition.
The undersigned agrees to pay all costs in accordance with the current schedule of fees.

8. SIGNATURES

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.


Signature of Attorney


Signature of Appellant

For DPZ office use only: (Filing fee is \$250.00 plus \$25.00 per poster)

Hearing Fee: \$ _____
Poster Fee: \$ _____
TOTAL: \$ _____
Receipt No. _____

County Website: howardcountymd.gov

(Make check payable to "Director of Finance")

**PLEASE READ CAREFULLY
DATA TO ACCOMPANY PETITION**

Drawings: Where a parcel of land and/or building(s) as defined in the Zoning Regulations is involved in that which is being appealed, petition forms must be accompanied by **(10) copies of required drawings** showing the following information:

- (a) Courses and distances of outline boundary lines and the size of the property
- (b) North arrow
- (c) Existing zoning of subject property and adjoining property
- (d) Location, extent, boundary lines and area of any current use and proposed change in use
- (e) Any existing or proposed building(s), structures, signs, points of access, natural features, landscaping, parking, and other objects and/or uses on subject property which may be relevant to the petition
- (f) Same as (e) above, if any, of adjoining property which may be required in the proper examination of the petition
- (g) Location of subject property in relation, by approximate dimension, to nearest intersection of two public roads
- (h) Ownership of effected roads
- (i) Election District in which the subject property is located
- (j) Tax Map number on which the subject property is located
- (k) Name and local community in which the subject property is located or name of nearby community
- (l) Name, mailing address, telephone number (and e-mail address, if any) of the appellant
- (m) Name, mailing address, telephone number (and e-mail address, if any) of attorney, if any
- (n) Name and mailing address of property owner
- (o) Any other information as may be necessary for full and proper consideration of the appeal.

BA Case # _____

PETITIONER: IMH Columbia, LLC

ADDRESS: 10211 Wincopin Circle, Suite 100, Columbia, Maryland 20144

**SUPPLEMENTAL STATEMENT
of IMH Columbia, LLC (“Appellant”)
RE: SDP-22-042 (Lakefront North)**

This is an appeal of the Howard County Department of Planning and Zoning’s (“DPZ”) decisions noting approval on June 28, 2023, of SDP-22-042 (Lakefront North) (the “SDP”) to Applicant Howard Hughes Corporation. This decision was clearly erroneous and contrary to law.

The grounds for the appeal include, but are not limited to:

1. DPZ erred by failing to correctly consider the ongoing litigation on the subject property before the Howard County Circuit Court. As a result, the Planning Board prematurely approved The Howard Hughes Corporation's illegal development in the midst of active litigation.

2. DPZ failed to correctly consider parking for properties that have recorded covenants, including the underlying agreements that are required for the proposed parking under SDP-22-042 (which the DPZ declined to review).

3. DPZ failed to properly evaluate the Applicant’s Traffic and Parking Study.

4. DPZ failed to consider that the approval of Applicant’s SDP will restrict parking on common parking areas that Appellant and other parties have a right to utilize that parking.

5. DPZ failed to consider that the approval of Applicant’s SDP will modify and restrict Appellant’s parking areas without Appellant’s consent or permission.

Appellant reserves the right to raise additional issues at the hearing on this matter.



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

June 28, 2023

Gabriel Chung
The Howard Hughes Corporation
10960 Grantchester Way, Suite 110
Columbia, MD 21044

RE: SDP-22-042, Lakefront North, Planning Board Decision

Dear Mr. Chung:

The Howard County Planning Board, at its regularly scheduled meeting held on June 1, 2023, considered the above referenced **site development plan** for the construction of one residential building, two residential-retail buildings, and associated street network, parking and open space improvements on 11.39 ± acres of land zoned NT-DMUA in the 5th Election District of Howard County, Maryland.

Based on the testimony presented, the Planning Board:

- Approved the plan
- Approved the plan with modifications
- Denied the plan

Approval is with the recommendation that the Petitioner consults the Pedestrian Improvement Action Plan once released for pedestrian enhancements.

Please be advised, now that the Planning Board meeting has concluded, the applicant must remove the Planning Board poster erected on the property no later than fifteen (15) days after the meeting.

If you have any questions, please contact Jill Manion at (410) 313-2350 or by email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:
Edward T. Coleman
F0F5EF3262DC401...
Chairperson
Howard County Planning Board

Sincerely,

DocuSigned by:
Mary Kendall
1448BA2380DA4A6...
Executive Secretary
Howard County Planning Board

cc: DPZ Director's office (Lisa Kenny)
File: SDP-22-042
DILP, Plan Review
DPZ- Zoning Division
Dan Sweeney, GLW
Todd Brown, Shulman Rogers