

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660

IN THE MATTER OF:

**Redly Capital Investments & Holding
Corporation**

Owner

Amir D. Gibbs, Esquire

Attorney for the Owner/Conditional
Use Holder

OZAH Case No. CU 20-06

Montgomery County

Department of Permitting Services (DPS)

Department of Housing & Community

Affairs (DHCA)

Before: Khandikile Mvunga Sokoni, Hearing Examiner

**HEARING EXAMINER’S REPORT, DECISION
AND RESOLUTION**

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I. STATEMENT OF THE CASE

On June 12, 2025 the Hearing Examiner concluded the third public show cause hearing in this matter. In attendance were Amir D. Gibbs, Esquire¹, on behalf of Redly Capital Investments & Holding Corporation; Shanrong Li, resident agent for Redly Capital Investments & Holding Corporation; Shamika Murray, Director of Enrollment Management, Sandy Spring Friends School; Mr. Greg Nichols, Montgomery County Department of Permitting Services (DPS); and Mr. James O. Galbreth, Department of Housing and Community Affairs (DHCA).

The Hearing Examiner ruled on June 12th at the hearing that the conditional use would be revoked for abandonment. However, a formal written decision would be issued following the closure of the record which was kept open for ten business days to allow for receipt of the Court Reporter's transcript.

Below is a chronological overview of the events leading up to this show cause hearing:

Date	Details
12/3/2020	The Hearing Examiner issued a Report and Decision granting the Applicant, Redly Capital Investments, Inc., a conditional use subject to 11 conditions to operate a Residential Care Facility for 9 to 16 persons at 17734 Norwood Road, Silver Spring, Maryland zoned R-200. (SC ² Exhibit 1.)
12/01/2022	Hearing Examiner granted a request for extension of the conditional use until 12/03/2023.

¹ Mr. Gibbs entered appearance in person at the June 12th hearing. Ms. Li was not represented and did not appear at the prior two hearings.

² In this decision and resolution, the Exhibits are pre-fixed with SC to denote Show Cause exhibits to distinguish the exhibit number references from the ones in the underlying Conditional Use case in 2020.

01/17/2024	By Order dated January 17, 2024, the Hearing Examiner issued a second extension of the Conditional Use, <i>nunc pro tunc</i> , until 06/03/2024.
07/10/2024	Via a memorandum dated July 10, 2024, DPS informed OZAH that the use granted by the Hearing Examiner had not been implemented and requested that OZAH revoke CU 20-06. (SC Exhibit 2). ³
12/12/2024	<p>Email from OZAH Director Kathleen Byrne to DPS:</p> <p><i>“Greg and Jennyffer,</i></p> <p><i>Today, Sara Behanna in our office spoke with Tom Howley and they discussed the status of the conditional use at 17734 Norwood Road. After the conversation Tom forwarded to Sara the attached memo from Jennyffer to Derek Baumgardner dated July 10, 2024. Derek left OZAH in 2021 and I couldn't find a copy of this memo anywhere in the OZAH inbox or file. Today was the first time that anyone in the office heard of the memo or violation.</i></p> <p><i>With that said, we will move forward with the request. The Code doesn't just allow us to "revoke" without first holding Show Cause hearing. See Code Section 59.7.3.1.L.7 below. We will get started on the show cause process, but if you could send us any contact information you have for the current owner of the property and/or the holder of the conditional use - mail, phone numbers, emails, etc. I would greatly appreciate it. We have to personally serve the owner/holder with a copy of the show cause hearing notice/order. We will also reach out to the attorney who handled the case in 2020 and asked for the extension in 2023 for the same info.”</i></p> <p>(SC Exhibit 3)</p>
12/18/2024	<p>Notice of the Show Cause Hearing was sent to Owner, Board of Appeals, Planning, DPS, DHCA and opponents of the original Conditional Use.</p> <p>Notice Included the following clauses:</p> <p><i>a) the Show Cause is being issued for the Conditional Use Holder's failure to implement the conditional use within the validity time period;</i></p>

³ It is not clear how this memo was sent to OZAH but current OZAH staff were unaware of this communication until December, 2024.

	<p><i>b) for operation of a use at the Property not consistent with the terms and conditions set forth in the Hearing Examiner's Report and Decision; and</i></p> <p><i>c) failure of the CU 20-06 Conditional Use Holder to attend and participate in the hearing may result in revocation of the conditional use.</i></p> <p>(SC Exhibit 4)</p>
02/05/2025	<p>OZAH received an email from Owner's realtor, Pamela DuBois, stating:</p> <p><i>"I wanted to reach out and let you know this property is currently being sold and will settle at the end of March. The owners will be using it as an assisted living and will contact you directly once it closes to apply for the license.</i></p> <p><i>Please let me know if there's anything we need to do meanwhile."</i></p>
02/07/2025	<p>OZAH Director, Kathleen Byrne, responded to Ms. DuBois as follows:</p> <p><i>" Attached please find the Show Cause Order issued by the Hearing Examiner and served on Ms. Shanrong Li, Resident Agent for Redly Capital Investments. Whether or not the property is to be sold in March does not matter. The Show Cause Hearing will go forward on February 25, 2025 and Ms. Li must attend and respond to the allegations made in the Show Cause. If she fails to attend the Hearing Examiner may revoke the Conditional Use."</i></p> <p>(SC Exhibit 7)</p>

A total of three Show Cause hearings were held. Prior to the June 12th hearing, the Hearing Examiner had convened a show cause hearing on February 25, 2025⁴ following the mailing of a

notice of hearing sent on December 18, 2024 pursuant to §59.7.3.1.L of the Zoning Ordinance. (SC Exhibit 4), and on May 8, 2025⁵, pursuant to a Notice of Hearing dated March 4, 2025.

At the first show cause hearing on February 25, 2025, due to non-attendance by any representative of the Conditional Use Holder, or by the Department of Permitting Services (DPS) the Hearing Examiner was unable to make findings of fact required to make a decision as required by §59.7.3.1.L. The Hearing Examiner closed the hearing and announced that the Record would remain open for 10 business days to allow for receipt of the Court Reporter's transcript.

On February 27, 2025, the Hearing Examiner Ordered the Record reopened beyond the 10 business days until further notice, pursuant to Rule 4.10 of the OZAH Rules of Procedure to obtain additional evidence, receive further evaluation by the appropriate government agencies, including for purposes of sending out new notices of hearing and convening an additional show cause hearing to be attended by DPS. (SC Exhibit 10).

On March 4, 2025, the Hearing Examiner then issued a Second Notice of Hearing scheduling a second Show Cause hearing for May 8, 2025. (SC Exhibit 11). No one appeared on behalf of Redly Capital. T.6. The collection of United States Postal Service (USPS) mailing receipts that show that notices of all hearings were sent to and received by the Owner was entered into the record as SC Exhibit 12. Thomas Howley appeared on behalf of DHCA and Jennyfer Vargas appeared and testified on behalf of DPS. Ms. Vargas testified that DPS had not received any communications, letters or phone calls from Redly Capital regarding the inspections or this hearing

⁵ During the May 8th hearing the Hearing Examiner announced the reconvening of the hearing on June 12, 2025, therefore, no separate notice of hearing was mailed to the parties.

Susan R. Groesbeck of the Sandy Spring Friends School testified that at the May 8th hearing that despite the complaints that were expressed in a letter submitted to OZAH (SC Exhibit 5(d)) they would support renewal of the Conditional Use if it was expressly conditioned on being for the sole purpose of housing students at bona fide educational institutions. T. 19. Ms. Groesbeck further testified about the school meeting with Ms. Li in March and entering an agreement for the housing of students from the school at these premises. However, the Hearing Examiner deems that testimony to be outside the scope of the narrow issue of whether the Conditional Use was abandoned as of June 3, 2024.

The Hearing Examiner decided to adjourn the hearing to a subsequent date scheduled for June 12, 2025, to try and explore ways to secure attendance or some form of response from the Owner. T. 30-32, 34. DPS offered to conduct a follow-up inspection to ascertain the current status of the premises and to try and make one last effort to connect with the Owner who had until this point not communicated with DPS, DHCA or OZAH or appeared for any of the hearings. T. 32.

DPS submitted a Report dated May 22, 2025 confirming that the Conditional Use had not as of that date been implemented. (SC Exhibit 14).

On June 12, 2025 Ms. Li appeared for the first time in connection with this proceeding. She was represented by Counsel, Mr. Amir Gibbs. Mr. Gibbs clarified for the record that there are two separate entities: Sandy Spring Civic Association is the entity that submitted the letter (Exhibit 5(d)) and Sandy Springs Friends School is the one that appeared and presented testimony at the May 8 hearing regarding the provision of residential services by Redly. T. 10. Mr. Gibbs conceded on the record that his client's conditional use essentially lapsed. T. 12. Ms. Li testified that after the Conditional Use was approved in 2020, she applied for and secured the permits required to conduct the improvements but that the premises were never utilized for the purpose for which the

conditional use was granted. T. 20. She did not contest the allegation of abandonment of the Conditional Use.⁶ Mr. Nichols from DPS confirmed this. T. 18.

For reasons more fully outlined in this Decision and Resolution, the Conditional Use Number CU 20-06 dated December 3, 2020, and extended from time to time stands revoked for abandonment.

II. FACTUAL BACKGROUND

A. SUBJECT PROPERTY

Details regarding the Subject property are discussed in detail in the original Hearing Examiner's Report and Decision dated December 3, 2020 granting the Conditional Use with conditions. (SC Exhibit 1).

B. PROPOSED USE

Details regarding the proposed use are discussed in detail in the original Hearing Examiner's Report and Decision dated December 3, 2020 granting the Conditional Use with conditions, as well as in subsequent Orders extending validity of the Conditional Use.

C. COMMUNITY CONCERNS

A total of 5⁷ letters were received by OZAH in connection with this show cause proceeding. (SC Exhibit 5). The letters overwhelmingly expressed concerns about the way the Owner has been using the premises, and either supported revocation of the conditional use or opposed the granting of an extension of the conditional use.

⁶ On June 13, 2025, after the hearing was closed, and the record was closed to any additional evidence except for the transcript, Redly's real estate broker sent the Hearing Examiner an email stating that the loan application of the contract buyer was denied and asking if there is a possibility of "having the conditional use of the home continue so the owner can work with the school."

⁷ Two of the letters were submitted by the same individual. Exhibit 5a and 5b.

Mr. Galbraith testified that DHCA had received complaints that the property was being trashed and that there was a lot of trash in the yard and yet each time DHCA went to inspect the premises there was no trash. T. 24.

As more fully outlined in Part III below, while the Hearing Examiner took the community letters into consideration, they are not the basis for the revocation since the revocation is ordered for abandonment of the use rather than violation of the use.

III. RESOLUTION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

The outline in the Statement of the Case in I above is restated here.

On this record the Hearing Examiner finds that that the Conditional Use dated December 3, 2020 has to date not been implemented. The Conditional Use was extended twice with the last extension having expired on June 3, 2024. (SC Exhibit 14). The Owner has not applied for any further extension. The uncontroverted evidence on this record is that the Conditional Use has lapsed. Consequently, the Conditional Use was abandoned effective June 3, 2024.

According to §59.3.1.I.1 a conditional use that is not established or has not obtained a building permit within 24 months from the date of the issuance of the decision or resolution expires, unless a longer period is established by the decision or resolution.

The Zoning Ordinance details procedures for the enforcement of conditional uses by the Hearing Examiner. Zoning Ordinance §§59.7.3.1.L.4.and 5. provide:

“4. If the Board of Appeals or the Hearing Examiner receives a written notice from DPS that the conditional use holder is violating the terms or conditions of a conditional use or the terms, conditions, or restrictions attached to the grant of any permit issued under the conditional use approval, the Board of Appeals or the Hearing Examiner must order the conditional use holder and the property owner to appear before the Board of Appeals or the Hearing Examiner to show cause why the conditional use should not be revoked.

“5. The notice of a show cause hearing must be issued to the conditional use holder and the property owner by certified mail, return receipt requested. Notification must also be sent to DPS, and to any party who submitted a written complaint concerning the conditional use, and must:

- a. include the nature of the alleged violations;*
- b. state that the hearing is limited to a consideration and a determination of the validity of the allegations; and*
- c. advise the conditional use holder and the property owner that failure to attend and participate in the hearing may result in revocation of the conditional use.”*

Zoning Ordinance §59.7.3.1.L.7 provides:

“7.⁸ If DPS finds that a conditional use has been abandoned, DPS must forward written notice of its findings to the last recorded holder of the conditional use and to the property owner. The conditional use holder and property owner, within 60 days after the date of sending notice, must submit a written statement confirming the abandonment or challenging it and requesting that the use be continued.

c. If neither the conditional use holder nor the property owner responds, DPS must notify the Board of Appeals or Hearing Examiner of its findings, and the Board of Appeals or Hearing Examiner, as appropriate must issue to the conditional use holder and the property owner an order to appear before them to show cause why the conditional use should not be revoked.

d. If neither the conditional use holder nor the property owner appears before the Board of Appeals or Hearing Examiner, as appropriate, to show cause why the conditional use should not be revoked, the deciding body must revoke the conditional use approval.”

Having received written notice from DPS *that the conditional use holder is violating the terms or conditions of a conditional use*, the Hearing Examiner issued an Order to Show Cause and Notice of Show Cause hearing dated December 18, 2024, scheduling the Show Cause Hearing for February 25, 2025. Under Rule 8.1 of OZAH’s Zoning Rules of Procedure, a Notice of a Show cause hearing “must be posted on OZAH’s website at least 30 days before the show cause hearing to provide public notice.”

⁸ Subsection 6 is omitted.

The Hearing Examiner convened a show cause hearing on February 25, 2025 following the mailing of a notice of hearing sent on December 18, 2024 pursuant to §59.7.3.1.L of the Zoning Ordinance. Despite due notice of the hearing there was no attendance by any representative of the Conditional Use Holder. Three representatives of the Department of Housing and Community Affairs (DHCA) attended the Hearing on February 25, 2025.

By Order dated February 27, 2025, the Hearing Examiner reopened the Record pursuant to Rule 4.10 of the OZAH Rules of Procedure to obtain additional evidence, receive further evaluation by the appropriate government agencies.

The record owner of Conditional Use 20-06, despite receiving notice of all three hearings, did not attend the first two hearings and offered no explanation for non-attendance. Ms. Li appeared with Counsel at the third hearing on June 12, 2025. The Conditional Use holder has submitted neither any written request for a further extension of the Conditional Use beyond June 3, 2024, nor disputing the allegations by DPS or DHCA.

IV. CONCLUSION, DECISION AND RESOLUTION

Based on the foregoing findings and conclusions and a thorough review of the record including having heard testimony in this matter, IT IS HEREBY RESOLVED by the Hearing Examiner that pursuant to §59.7.3.1.L. of the Montgomery County Zoning Ordinance the Conditional Use Number CU20-06 is ORDERED REVOKED.

Pursuant to §59.7.3.1.L.8 the Planning Director must note the revocation of any conditional use in the official zoning maps.

RESOLVED AND ORDERED this 9th day of July, 2025.

Office of Zoning and Administrative Hearings



Khandikile Mvunga Sokoni
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Any party of record may file a written request to appeal the Hearing Examiner's Decision by requesting oral argument before the Board of Appeals within 10 days issuance of the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

Additional procedures are specified in Zoning Ordinance §59.7.3.1.f.1. Contact information for the Board of Appeals is:

Montgomery County Board of Appeals
100 Maryland Avenue, Room 217
Rockville, MD 20850
(240) 777-6600
<http://www.montgomerycountymd.gov/boa/>

Any party wishing to appeal this decision should visit the Board of Appeals' website, review the Notice of Re-Opening or contact Board of Appeals Staff for office hours and filing instructions, as these may change.

The Board of Appeals will consider your request for oral argument at a work session. Agendas for the Board's work sessions can be found on the Board's website and in the Board's office. You can also call the Board's office to see when the Board will consider your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the evidence of record before the Hearing Examiner, no new or additional evidence or witnesses will be considered. If

your request for oral argument is denied, your case will likely be decided by the Board that same day, at the work session.

Parties requesting or opposing an appeal must not attempt to discuss this case with individual Board members because such *ex-parte* communications are prohibited by law. If you have any questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600 or visiting its website.

NOTIFICATIONS SENT TO:

Shanrong Li, Resident Agent for Redly Capital Investment and Holding Corporation

(by certified mail, return receipt requested)

Amir D. Gibbs, Esquire, Attorney for the Owner/Conditional Use Holder

Susan R. Groesbeck, Sandy Spring Friends School

Shamika Murray, Sandy Spring Friends School

Barbara Jay, Executive Director, Montgomery County Board of Appeals

Emily J. Vaia, Principal Counsel, Planning

Patrick Butler, Planning

Jennyffer Vargas, Permit & Code Enforcement Inspector, DPS

Greg Nichols, Manager, SPES, Zoning & Site Plan Enforcement, DPS

Victor Salazar, Program Manager II, Zoning & Site Plan Enforcement, DPS

Elana Robinson, Assistant County Attorney, Office of the County Attorney

Thomas, Howley, Program Manager II, DHCA

Michael Coveyou, Director, Montgomery County Finance Dept.

Kevin and Patricia Kelly, Opponent

Opponents of original Conditional Use Application:

Basile Whitaker

Eric Bailey

Stephen Schertler

Harold Lowe

Lauren Cronise

Rosanna Chan