

83-58
JD

LAW OFFICES
MILES & STOCKBRIDGE
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-621-6545

CABLE MILEBRIDGE

TELEX 97 SU

January 6, 1983

GARY C. DUVALL



The Honorable William T. Hackett
Chairman, County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

James E. Dyer, Zoning Supervisor
Zoning Commissioner's Office
County Office Building
Towson, Maryland 21204

RE: ^{THE} Baltimore Brick Co. #77-132-X

Gentlemen:

I have received this morning Mr. Zimmerman's letter of January 4, 1983 regarding the above-captioned matter.

The People's Counsel's office has had more than sufficient opportunity before the Zoning Commissioner, Board of Appeals, Circuit Court for Baltimore County, Court of Special Appeals and Court of Appeals to interject its position regarding implementation of the foregoing special exception.

At each stage of the foregoing proceedings over the last four years, each of the aforementioned bodies found in favor of The Baltimore Brick Company. There is nothing under Section 524.1 of the Baltimore County Charter which would permit the office of the People's Counsel to advise the Board of Appeals. That function is solely within the province of the Baltimore County Solicitor's Office. Accordingly, I would respectfully request on behalf of my client that the People's Counsel's office not be permitted to further participate in this matter since all judicial avenues have now been exhausted and their role is no longer necessary or permitted in these proceedings.

Very truly yours,

Gary C. Duvall

GCD:ld

cc: Peter Max Zimmerman, Esq.
Mr. David P. Scheffenacker

ZONING OFFICE
BUCK SLIP

FROM TO DATE: 1-5-82

CAMPAGNA, Mary
CLARK, Beverly S.
✓ COMODARI, Nicholas B.
✓ DYER, James E.
FREUND, Gary C.
HAMMOND, William E.
HENNEGAN, Eileen O.
HOOK, Mary C.
ITIER, Diana
JANUARY, Arlene
JUNG, Jean M. H.
LOWERY, Stella R.
MURPHY, Daniel
PHIPPS, Henry E.
REYNOLDS, Nettie D.
RICHARDS, W. Carl, Jr.
ROEKE, Chris
SULLIVAN, John J.
SWAN, Douglas A.
TANJULIG, Regulo P.
THOMPSON, James H.

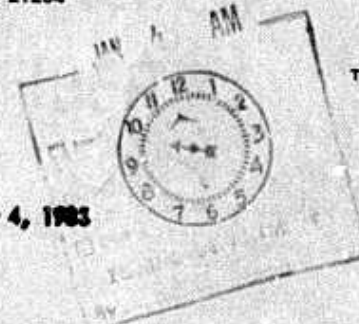
TO BE FILED
DISCUSS WITH ME
TO BE FOLLOWED UP
ARRANGE CONFERENCE
PREPARE DRAFT REPLY
FOR YOUR INFORMATION
INITIAL & RETURN



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel



TEL 494-2188

January 4, 1983

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

✓ James F. Dyer, Zoning Supervisor
Zoning Commissioner's Office
County Office Building
Towson, Maryland 21204

RE: Baltimore Brick Co. - #77-132-X

Gentlemen:

The decision of the Board of Appeals in the above-entitled case has been affirmed and concluded in the courts. Please note, however, that the Board's decision requires compliance with a number of conditions, including the review and approval of the prospective contract with Maryland Environmental Services for supervision of the facility.

Upon receipt of any application for a building or other development permit or approval, we request that this office be notified and given an opportunity to be heard on the matter of implementation of the aforesaid conditions.

Very truly yours,

Peter Max Zimmerman
Deputy People's Counsel

cc: Gary C. Duvall, Esquire

23-58
JD

LAW OFFICES
MILES & STOCKBRIDGE
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 301-621-0500

CABLE MILDREDGE

TELEX 87-581

January 6, 1983

GARY C. DUVAL



The Honorable William T. Hackett
Chairman, County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

James E. Dyer, Zoning Supervisor
Zoning Commissioner's Office
County Office Building
Towson, Maryland 21204

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Very truly yours,

Gary C. Duvall

GCD:ld

cc: Peter Max Zimmerman, Esq.
Mr. David P. Scheffenacker

ZONING OFFICE

BUCK SLIP

FROM

TO

DATE:

1-5-82

CAMPANA, Mary
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 ✓ COMMODARI, Nicholas E.
 ✓ DYER, James E.
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 HAMMOND, William E.
 HENNEGAN, Eileen O.
 HOOK, Mary C.
 ITTER, Diana
 JANUARY, Arlene
 JUNG, Jean M. H.
 LOWERY, Stella R.
 MURPHY, Daniel
 PHIPPS, Henry E.
 REYNOLDS, Nettie D.
 RICHARDS, W. Carl, Jr.
 FORKE, Chris
 SULLIVAN, John J.
 SWAN, Douglas A.
 TANGUILIG, Regulo R.
 THOMPSON, James H.

TO BE FILED

DISCUSS WITH ME

TO BE FOLLOWED UP

ARRANGE CONFERENCE

PREPARE DRAFT REPLY

FOR YOUR INFORMATION

INITIAL & RETURN

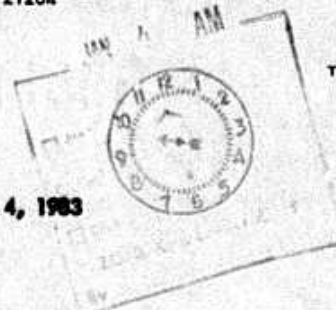


Baltimore County, Maryland

PEOPLE'S COUNSEL
 RM. 223, COURT HOUSE
 TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
 PETER MAX ZIMMERMAN
Deputy People's Counsel

January 4, 1983



TEL. 494-2188

The Honorable
 William T. Hockett, Chairman
 County Board of Appeals
 Room 200, Court House
 Towson, Maryland 21204

James E. Dyer, Zoning Supervisor
 Zoning Commissioner's Office
 County Office Building
 Towson, Maryland 21204

RE: Baltimore Brick Co. - #77-132-X

Gentlemen:

The decision of the Board of Appeals in the above-entitled case has been affirmed and concluded in the courts. Please note, however, that the Board's decision requires compliance with a number of conditions, including the review and approval of the prospective contract with Maryland Environmental Services for supervision of the facility.

Upon receipt of any application for a building or other development permit or approval, we request that this office be notified and given an opportunity to be heard on the matter of implementation of the aforesaid conditions.

Very truly yours,

Peter Max Zimmerman
 Deputy People's Counsel

cc: Gary C. Duvall, Esquire

77-132-X SEE ATTACHED COMMENTS See attached description

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, THE BALTIMORE BRICK COMPANY, 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 Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for: A Sanitary Landfill for the Disposal of Industrial Refuse.

Property is to be posted and advertised as provided by Zoning Regulations.
I, or we, agree to pay expense 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.

1 or we, agree to pay expense 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.

THE BALTIMORE BRICK COMPANY
By Nicholas B. Commodari Legal Owner
Address: 110 West Road
Townson, Maryland 21204
By George William Stephens, Jr. Petitioner's Attorney
Address: 192 W. Pennsylvania Ave., Room 710
Baltimore, Maryland 21201

ORDERED By The Zoning Commission of Baltimore County, this 27th day of January, 1977.
1977, 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 the public hearing be held before the Zoning Commission of Baltimore County in Room 106, County Office Building in Townson, Baltimore County, on the 30th day of January, 1977, at 10:00 o'clock.

Nicholas B. Commodari
Zoning Commissioner of Baltimore County.

(over)

Baltimore County
Department of Public Works
TOWSON, MARYLAND 21204
THORNTON M. MOURING, P.E.
DIRECTOR

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Townson, Maryland 21204

October 26, 1976

Re: Item #64 (1976-1977)
Property Owner: The Baltimore Brick Co.
8/58 Philadelphia Rd., 3620' N/E Roseville Blvd.
Existing Zoning: M-1 & M-1A
Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse.
Acre: 50± District: 15th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The Baltimore County Bureau of Public Services provided comments in connection with the preliminary plan for the "Roseville Industrial Site" September 24, 1966, with subsequent supplementations over the past eight years through January 9, 1976. In addition, to date, Public Works Agreements #156910 and #157601 have been executed in connection with the development of "Roseville Industrial Park - Section 1" and "Roseville Industrial Park, Section 2, Plat 1", portions of the overall property of which this approximately 60-acre site is yet another part.

Highways:

Pulaski Highway (U.S. 40) and Philadelphia Road (Md. 7) are State roads; therefore, all improvements, intersections, entrances and drainage requirements as they affect these roads come under the jurisdiction of the Maryland State Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Yellow Brick Road is proposed to be constructed through this site as a 50-foot closed section roadway on a 70-foot right-of-way; and Lemmings Lane is proposed to be constructed southeasterly from Philadelphia Road (Md. 7) to intersect the proposed Yellow Brick Road, as a 40-foot closed section roadway on a 60-foot right-of-way.

It is the responsibility of the Petitioner to ascertain and clarify rights-of-way to and within this site. The present means of ingress and egress including the railroad grade crossing are private.

Item #64 (1976-1977)
Property Owner: The Baltimore Brick Co.
Page 2, 1976
October 26, 1976

Highways: (Cont'd)

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards.

The Developer shall not convey to any railroad or utility company a right-of-way or easement which enjoys superior rights to those entitled to or to be entitled to by inference of the record plat by Baltimore County within the public road right-of-way.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings down stream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

In accordance with the drainage policy, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to erosion, grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Drainage and utility easements will be required through this property.

Water and Sanitary Sewer:

Public water supply and sanitary sewerage can be constructed to serve this property.

It is a responsibility of the Petitioner to coordinate with the Railroad as required in connection with improvements within this site.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI, P.E.
Chief, Bureau of Engineering

END:EMM:PMR:n

cc: R. Norton (Roseville Ind. Park, Project 5134)
C. Warfield

1-IN Key Sheet
17 - 19 NE 27 - 28 Pub. Sheets
WE 4 & 5 G Topo
90 Tax Map

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

THILE TUBERUS 666-6547

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

January 24, 1977

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204
Nicholas B. Commodari
Acting Chairman

MEMBERS
BUREAU OF ENGINEERING
DEPARTMENT OF
TRAFFIC ENGINEERING

STATE ROADS COMMISSION

BUREAU OF
FIRE PREVENTION

HEALTH DEPARTMENT

PROJECT PLANNING

BUILDING DEPARTMENT

BOARD OF EDUCATION

ZONING ADMINISTRATION

INDUSTRIAL
DEVELOPMENT

John E. Mudd, Esq.
102 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Special Exception Petition
Item #4
The Baltimore Brick Co. -
Petitioner

Dear Mr. Mudd:

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 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.

Located on the southeast side of Philadelphia Road, directly opposite its intersection with Lemmings Avenue, this 67 plus acre tract, zoned M-1, is currently occupied with the facilities of a brick manufacturing plant. The manufacturing activities are confined to an elevated area located to the south of this site, with the surrounding land in an excavated state. This site, as well as property to the northeast, zoned M-1, and also owned by the Baltimore Brick Company, is part of Roseville Industrial Park, and as indicated on the submitted site plan, is proposed to be developed as such upon completion of the landfill activity. Residences exist to the north and northeast of this site, while

Baltimore County Fire Department

J. Austin Deitz
Chief



Towson, Maryland 21204
833-7310

Office of Planning and Zoning
Baltimore County Office Building
Townson, Maryland 21204

January 24, 1977

Attention: Mr. Nick Commodari
Zoning Advisory Committee

Re: Property Owner: The Baltimore Brick Co.

Locations: 8/58 Philadelphia Rd - 3620' N/E Roseville Blvd.
Item No. 64
Zoning Agenda October 5, 1976

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead-end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations. The buildings and structures existing or proposed on the site shall Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.

() 5. Site plans are approved as drawn.

(*) 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: J. Austin Deitz Noted and Approved:

Planning Group
Special Inspection Division
Deputy Chief
Fire Prevention Bureau

John E. Mudd, Esq.
Re: Item #4
January 24, 1977
Page 2

vacant industrially zoned land exists to the south. To the west is the developed portion of the aforementioned Industrial Park.

Special Exception is being requested in order to permit a chrome ore refuse landfill on approximately 50 acres of this tract indicated as "outline of grading" on the submitted site plan. Access to this site exists via Philadelphia Road and Pulaski Highway, however, as indicated in the comments of the State Highway Administration, the latter is in an extremely hazardous condition.

This hearing was scheduled after much discussion over the comments of the Health Department pertaining to the request to the County Executive to amend the Solid Waste Management Plan to include this facility. In light of the fact that this is a continuing process involving public meetings, which I understand are currently being held, this hearing was scheduled in order to avoid further delay.

Your client should make note of the additional comments of the Health Department, the Bureau of Engineering, and the Project and Development Planning office concerning the ultimate proposed extension of Lemmings Lane through this site, as well as compliance with Title 13 of the Baltimore County Code.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 10, nor more than 30 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI,
Acting Chairman Zoning Plans
Advisory Committee

NBC:JD
Enclosure
cc: George William Stephens, Jr.
and Associates, Inc.
P.O. Box 6828, Towson, Md. 21204

Baltimore County
Department of Public Works
TOWSON, MARYLAND 21204
0814-5810

JOHN D. SPENTZ
DIRECTOR

October 5, 1976

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #64, Zoning Advisory Committee Meeting, October 5, 1976 are as follows:

Presently Owner: The Baltimore Brick Company
Location: 8/58 Philadelphia Rd. 3620' NE Roseville Blvd.
Existing Zoning: M-1 & M-1A
Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse.

Acre: 15
District: 15th

The items checked below are applicable:

- Operation
- (X) A. ~~Access~~ shall conform to Baltimore County Building Code (P.O.C.B.C.) 1970 Edition and the 1972 Supplement and other applicable codes. See Article 13.6
 - (X) B. A building permit shall be required before construction can begin.
 - () C. Three sets of construction drawings will be required to file an application for a building permit.
 - () D. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal will be required to file an application for a building permit.
 - () E. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 4'0" of property line.
 - () F. No comment.
 - () G. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.

Very truly yours,

Charles B. Burdick
Plans Review Chief



Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #64, Zoning Advisory Committee Meeting, October 5, 1976 are as follows:

Property Owner: The Baltimore Brick Co.
Location: SE/S Philadelphia Road 3620' NE Rossville Blvd.
Existing Zoning: M.L. and M.L.-I.M.
Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse
Acres: 15th
District: 15th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

The site plan (Tentative Site Plan for Chrome Ore Fill Area) should be revised to indicate the extension of Lennings Lane as shown on the Tentative Approved plan of Rossville Industrial Site in 1970.

The site must be in compliance with Title 13 of the Baltimore County Code.

Since all buildings shown are speculative, this office will make more detailed comments at the time plans are submitted for development.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Project and Development Planning



STEPHENE COLLINS
DIRECTOR

December 3, 1976

Mr. Eric S. DiNenna
Zoning Commissioner
2nd Floor, Courthouse
Towson, Maryland 21204

Re: Item 64 - ZAC - December 3, 1976
Property Owner: The Baltimore Brick Co.
Location: SE/S Philadelphia Road 3620' NE Rossville Blvd.
Existing Zoning: M.L. & M.L.-I.M.
Proposed Zoning: Special exception for a sanitary landfill for disposal of industrial refuse

Acres: 15th
District: 15th

Dear Mr. DiNenna:

Since both Philadelphia Road and Pulaski Highway are under the jurisdiction of the State Highway Administration and all entrances will be subject to their approval.

The proposed entrance of Yellow Brick Road will be a County Road and all entrances will be subject to County approval.

The submitted future development plan does not meet County standards and must be revised prior to any construction.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate

HSF/lmf



STEPHENE COLLINS
DIRECTOR

November 15, 1976

Mr. Eric S. DiNenna
Zoning Commissioner
2nd Floor, Courthouse
Towson, Maryland 21204

Re: Item 64 - ZAC - October 5, 1976
Property Owner: The Baltimore Brick Co.
Location: SE/S Philadelphia Rd. 3620' NE Rossville Blvd.
Existing Zoning: M.L. & M.L.-I.M.
Proposed Zoning: Special exception for a sanitary landfill for disposal of industrial refuse

Acres: 15th
District: 15th

Dear Mr. DiNenna:

No major traffic engineering problems are anticipated by the requested special exception for a sanitary landfill.

The proposed development of the site does not meet County standards and the plan must be revised prior to any development.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate

HSF/lmf



DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

October 7, 1976

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #64, Zoning Advisory Committee Meeting, October 5, 1976, are as follows:

Property Owner: The Baltimore Brick Co.
Location: SE/S Philadelphia Road, 3620' NE Rossville Blvd.
Existing Zoning: M.L. and M.L.-I.M.
Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse.

Acres: 15th
District: 15th

A written request must be made to the Baltimore County Executive for an amendment to the Solid Waste Management Plan to include the proposed facility. The request must be accompanied by all pertinent data (drawings, reports, plans, etc.) to assist the County in its evaluation of the project.

The proposed landfill must meet the requirements of the Maryland State Department of Health and Mental Hygiene, Division of Solid Waste; the Department of Natural Resources, Water Resource Administration; and the Baltimore County Department of Health.

Public water is available to the site. Toilet facilities must be provided, therefore, since public sewer is not available, a private disposal system must be provided. This will require soil percolation tests.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

TED:ELW/2:ES

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: October 5, 1976

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Re: Item 64

Z.A.C. Meeting of: October 5, 1976

Property Owner: The Baltimore Brick Company

Location: SE/S Philadelphia Rd. 3620' NE Rossville Blvd.

Present Zoning: M.L. & M.L.-I.M.

Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse.

District: 15th

No. Acres:

Dear Mr. DiNenna:

No bearing on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative.

WNP/ml

JOSEPH M. MAGUIRAN, PRESIDENT
S. EDWARD WILKINSON, JR., VICE-PRESIDENT
HRS. ROBERT A. BERKEY

MARSHALL M. BETHUNE
THOMAS H. BOWEN
MR. LORRAINE F. CHURCH

ALAN L. GORDON
ALAN L. GORDON
RICHARD W. TRACY, S.C.A.

JOSEPH M. WHEELER, REPRESENTATIVE



GARY E. BURL
DIRECTOR

November 8, 1976

Mr. S. Eric DiNenna
Zoning Commissioner, Baltimore County
County Office Building
Towson, Maryland

Dear Mr. DiNenna:

Re: Baltimore Brick Company property
Proposed sanitary landfill

This office has reviewed the plans in conjunction with the request for a special exception for the above property. It is our understanding that the proposal is to fill in industrially-zoned land as a means of reclaiming the area for industrial development.

The Industrial Development Commission concurs with these plans.

Sincerely,

J. Richard Latini
J. RICHARD LATINI
Industrial Development Assistant



Maryland Department of Transportation
State Highway Administration

Harry R. Hughes
Director
Barbara M. Evans
Assistant Director

October 8, 1976

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Re: Z.A.C. Meeting, Oct. 5, 1976
Item: 64
Property Owner: The Baltimore Brick Co.
Location: SE/S Philadelphia Rd.
(Rte. 7) 3620' NE Rossville Blvd.
Existing Zoning: M.L. & M.L.-I.M.
Proposed Zoning: Special Exception for a sanitary landfill for disposal of industrial refuse.
Acres: 15
District: 15th

Dear Mr. DiNenna:

The subject site, in addition to access from Philadelphia Rd., has access from Pulaski Hwy. Stopping sight distance at this entrance is poor due to the alignment of the highway. The resulting hazardous situation is compounded by the close proximity of the Martin Blvd. ramp. For these reasons, the hauling for the proposed grading operation should be restricted to the Philadelphia Rd. entrance.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: John E. Meyers

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

LAW OFFICES
MILES & STOCKBRIDGE
100 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 282-8800
CABLE MILESBRIDGE

February 15, 1977

Mr. Eric S. DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

RE: Petition for Special Exception
SE/S of Philadelphia Road, 3620'E
of Rossville Boulevard-15th Election
District
The Baltimore Brick Company-
Petitioner
NO. 77-132-X (Item No. 64)

Dear Mr. DiNenna:

Enclosed you will find the Notice of Appeal by the Baltimore Brick Company, Petitioner, from the Order signed by the Deputy Zoning Commissioner on February 9, 1977.

Also enclosed is our draft in the amount of \$70.00 payable to Baltimore County Maryland for the cost of this Appeal.

Very truly yours,

John E. Mudd
John E. Mudd

JEM:gar

encl.

cc: Norman R. Stone, Jr., Esquire
Mrs. Mae C. Coulter, President
John W. Hession, III, Esquire
Rev. Raymond H. Rohrs



RE: PETITION FOR SPECIAL EXCEPTION
SE/S OF Philadelphia Road, 3620' E of
Rossville Boulevard-15th Election
District
The Baltimore Brick Company
Petitioner
NO. 77-132-X (Item No. 64)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

NOTICE OF APPEAL

The Baltimore Brick Company, Petitioner, 110 West Road, Towson Maryland 21204, Appeals to the County Board of Appeals from the Order of the Deputy Zoning Commissioner of Baltimore County dated February 9, 1977, which Order denied the request for a Special Exception for a sanitary landfill for the disposal of industrial refuse.

John E. Mudd
Attorney for Petitioner

I HEREBY CERTIFY, that on this 16th day of February, 1977 a copy of the foregoing Notice of Appeal was mailed to Norman R. Stone, Jr., Esquire, 6905 Dunmanway, Dundalk, Maryland 21222, John W. Hession, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204, Mrs. Mae C. Coulter, President Nottingham Improvement Association, 9215 Nottingham Road, Baltimore, Maryland 21237 and Rev. Raymond H. Rohrs, Lamb of God Lutheran Church, 8912 Philadelphia Road, Rossville, Maryland 21237.

John E. Mudd



County Board of Appeals Room 218 - COURT HOUSE TOWSON, MARYLAND 21204

May 10, 1977

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X THE BALTIMORE BRICK COMPANY
for SE - Sanitary Landfill
SE/S Philadelphia Road 3620' E. Rossville Blvd.
15th District
2/9/77 - D.Z.C. DENIED SE

scheduled for hearing on Tuesday, June 21st; Tuesday, August 2nd and Thursday, August 4th, 1977 at 10 a.m. has been POSTPONED at the request of attorneys for the Protestants, and

REASSIGNED FOR: THURSDAY, SEPTEMBER 8, 1977 at 10 a.m.
TUESDAY, SEPTEMBER 13, 1977 at 10 a.m.
THURSDAY, SEPTEMBER 15, 1977 at 10 a.m.

cc: John E. Mudd, Esquire Counsel for Petitioners
Norman R. Stone, Jr., Esquire Counsel for Protestants
Robert J. Ryan, Esquire
John W. Hession, III, Esquire People's Counsel
The Reverend Raymond H. Rohrs Lamb of God Lutheran Church
Mrs. Mae C. Coulter, President Nottingham Improvement Assn.
Mr. William J. Burgess, President Greater Rosedale Community Council
Mr. S. E. DiNenna
Mr. G. J. Martinak
Mr. N. E. Gerber
Mr. Gary Burl
Board of Education
Mr. C. L. Perkins

494-3180

County Board of Appeals Room 218, Court House Towson, Maryland 21204 June 21, 1977

NOTICE OF ASSIGNMENT CHANGE OF HEARING DATE

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X THE BALTIMORE BRICK COMPANY
for Special Exception - Sanitary Landfill
SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.
15th District
2/9/77 - D.Z.C. DENIED SE

ASSIGNED FOR: THURSDAY, SEPTEMBER 8, 1977 at 10 a.m.
TUESDAY, SEPTEMBER 13, 1977 at 10 a.m.

CHANGE OF ASSIGNMENT DATE from Thursday, September 15, 1977 at 10 a.m.

TO: THURSDAY, SEPTEMBER 29, 1977 at 10 a.m.

cc: John E. Mudd, Esquire Counsel for Petitioners
Norman R. Stone, Jr., Esquire Counsel for Protestants
Robert J. Ryan, Esquire
John W. Hession, III, Esquire People's Counsel
The Reverend Raymond H. Rohrs Lamb of God Lutheran Church
Mrs. Mae C. Coulter, President Nottingham Improvement Assn.
Mr. William J. Burgess, President Greater Rosedale Community Council
Mr. S. E. DiNenna
Mr. G. J. Martinak
Mr. N. E. Gerber
Mr. Gary Burl
Board of Education
Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

494-3180

County Board of Appeals Room 218, Court House Towson, Maryland 21204

March 11, 1977

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X THE BALTIMORE BRICK COMPANY
for Special Exception for Sanitary Landfill for disposal of industrial refuse
SE/S of Philadelphia Rd. 3620' E. of Rossville Blvd.
15th District
2/9/77 - D.Z.C. DENIED SE

ASSIGNED FOR: TUESDAY, JUNE 21, 1977 at 10 a.m.

cc: John E. Mudd, Esquire Counsel for Petitioners
Norman R. Stone, Jr., Esquire " " Protestants
Robert J. Ryan, Esquire " " Protestants
John W. Hession, III, Esquire People's Counsel
The Reverend Raymond H. Rohrs Lamb of God Lutheran Church Protestant
Mrs. Mae C. Coulter, President Nottingham Improvement Assn. " " Protestants
Mr. William J. Burgess, President Greater Rosedale Community Council " " Protestants
Mr. S. E. DiNenna
Mr. George Martinak
Mr. Norman Gerber
Mr. Gary Burl
Board of Education
Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

494-3180

County Board of Appeals Room 218, Court House Towson, Maryland 21204

April 29, 1977

NOTICE OF ASSIGNMENT

ADDITIONAL HEARING DAYS

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X THE BALTIMORE BRICK COMPANY
for SE - Sanitary Landfill
SE/S Philadelphia Road 3620' E. Rossville Blvd.
15th District
2/9/77 - D.Z.C. DENIED SE

ASSIGNED FOR: TUESDAY, JUNE 21, 1977 at 10 a.m.
TUESDAY, AUGUST 2, 1977 at 10 a.m.
THURSDAY, AUGUST 4, 1977 at 10 a.m.

cc: John E. Mudd, Esquire Counsel for Petitioners
Norman R. Stone, Jr., Esquire " " Protestants
Robert J. Ryan, Esquire " " Protestants
John W. Hession, III, Esquire People's Counsel
The Reverend Raymond H. Rohrs Lamb of God Lutheran Church Protestant
Mrs. Mae C. Coulter, President Nottingham Improvement Assn. " " Protestants
Mr. William J. Burgess, President Greater Rosedale Community Council " " Protestants
Mr. S. E. DiNenna
Mr. G. J. Martinak
Mr. N. E. Gerber
Mr. Gary Burl
Board of Education
Mr. C. L. Perkins

494-3180

County Board of Appeals Room 218 Court House TOWSON, MARYLAND 21204 September 6, 1977

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X THE BALTIMORE BRICK COMPANY
for Special Exception for Sanitary Landfill
SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.
15th District
2/9/77 - D.Z.C. DENIED SE

The above case, scheduled for Tuesday, September 13, 1977 at 10 a.m. and Thursday, September 29, 1977 at 10 a.m. has been POSTPONED by the Board for TUESDAY, SEPTEMBER 13, 1977 at 10 a.m. and is now only

ASSIGNED FOR: THURSDAY, SEPTEMBER 29, 1977 at 10 a.m.

cc: John E. Mudd, Esquire Counsel for Petitioners
Norman R. Stone, Jr., Esquire " " Protestants
Robert J. Ryan, Esquire " " Protestants
John W. Hession, III, Esquire People's Counsel
The Rev. Raymond H. Rohrs Lamb of God Lutheran Church Protestant
Mrs. Mae C. Coulter, President Nottingham Improvement Assn. " " Protestants
Mr. William J. Burgess, President Greater Rosedale Community Council " " Protestants
Mr. S. E. DiNenna
Mr. G. J. Martinak
Mr. L. Groef
Mr. Gary Burl
Board of Education
Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

County Board of Appeals

Room 218, Court House
 Towson, Maryland 21204
 September 30, 1977

NOTICE OF ASSIGNMENT

CONTINUED HEARING

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X

THE BALTIMORE BRICK COMPANY

for Special Exception for Sanitary Landfill

SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.

15th District

2/9/77 - D.Z.C. Denied SE

ASSIGNED FOR:

THURSDAY, OCTOBER 27, 1977 at 10 a.m. *Mark - 2nd Day*
 WEDNESDAY, DECEMBER 7, 1977 at 10 a.m. *Mark - 2nd Day*
 TUESDAY, DECEMBER 27, 1977 at 10 a.m. and
 THURSDAY, DECEMBER 29, 1977 at 10 a.m.

cc: John E. Mudd, Esq.
 Norman R. Stone, Jr., Esq.
 Robert J. Ryan, Esq.
 John W. Hession, III, Esq.
 The Rev. Raymond H. Kohn
 Lamb of God Lutheran Church
 Mrs. Mae C. Coulter, President
 Nottingham Improvement Assn.
 Mr. William J. Burgess, President
 Greater Rossville Community Council
 Mr. S. E. DiNenna
 Mr. G. J. Mortinick
 Mr. L. Groef
 Mr. Gary Burl
 Board of Education
 Mr. C. L. Perkins

Counsel for Petitioners
 * * * Protestants
 * * *
 People's Counsel
 Protestant

Muriel E. Buddemeier
 County Board of Appeals

Rec'd 9/9/77
 10:30 am

Mr. Sheriff:

Please issue summons in accordance with above.

Muriel E. Buddemeier
 Muriel E. Buddemeier
 County Board of Appeals of Baltimore County

and make the same returnable to September 13, 1977 at the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204.

John E. Mudd
 John E. Mudd
 401 Washington Avenue
 Towson, Maryland 21204
 821-6565
 Attorney for Petitioner

Rec'd 8/29/77
 2:15 p.m.

Mr. Sheriff:

Please issue summons in accordance with above.

Muriel E. Buddemeier
 Muriel E. Buddemeier
 County Board of Appeals

Ellsworth N. Diver, P.E.
 Chief
 Bureau of Engineering
 Baltimore County Department
 of Public Works
 Towson, Maryland 21204

Charles E. Burham
 Plans Review Chief
 Baltimore County Department
 of Permits and Licenses
 Towson, Maryland 21204

Michael S. Flanigan
 Traffic Engineer Associate
 Baltimore County Department
 of Traffic Engineering
 Towson, Maryland 21204

Mr. M. Kelly
 Planning Group
 Special Inspection Group
 Baltimore County Fire Department
 Towson, Maryland 21204

Mr. W. Nick Petrovich
 Field Representative
 Board of Education of
 Baltimore County
 Towson, Maryland 21204

5 SUMMONED 1/20 8/31/77
 NON EST 1/20
 NON SUNT 1/20
 COPY LEFT 1/20
 SHIFF
 CHARLES W. HOPKIN, JR.
 OF BALTIMORE COUNTY

County Board of Appeals

Room 218 Court House
 Towson, Maryland 21204
 December 20, 1977

NOTICE OF POSTPONEMENT AND REASSIGNMENT

(Continued Hearing)

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X

THE BALTIMORE BRICK COMPANY

For - Special Exception for Sanitary Landfill

SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.

15th District

2/9/77 - D.Z.C. Denied SE

The above case, scheduled for hearing on Tuesday, December 27, 1977 and Thursday, December 29, 1977, at 10 a.m., HAS BEEN POSTPONED by the Board and by agreement of counsel, and

REASSIGNED FOR:

THURSDAY, JANUARY 5, 1978 at 10 a.m.

cc: John E. Mudd, Esq.
 Norman R. Stone, Jr., Esq.
 Robert J. Ryan, Esq.
 John W. Hession, III, Esq.
 The Rev. Raymond H. Kohn
 Lamb of God Lutheran Church
 Mrs. Mae C. Coulter, President
 Nottingham Improvement Assn.
 Mr. William J. Burgess, President
 Gr. Rossville Community Council
 Mr. S. E. DiNenna
 Mr. G. J. Mortinick
 Mr. Leslie Groef
 Mr. Gary Burl
 Board of Education
 Mr. C. L. Perkins

Counsel for Petitioners
 * * * Protestants
 * * *
 People's Counsel
 Protestant

Muriel E. Buddemeier
 County Board of Appeals

Rec'd 9/9/77
 10:30 am

Mr. Sheriff:

Please issue summons in accordance with above.

Muriel E. Buddemeier
 Muriel E. Buddemeier
 County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION
 SE/S of Philadelphia Rd. 3620'
 E of Rossville Blvd., 15th District
 FOR
 THE BALTIMORE BRICK COMPANY,
 Petitioner
 Case No.: 77-132-X

REQUEST FOR SUBPOENAS

Mr. Chairman:

Please issue subpoenas for the following individuals to appear as witnesses on behalf of the Petitioner in the above-captioned matter and command that they bring with them all their books, papers, records, reports and memoranda which relate to their investigations and reviews conducted on Petition for Special Exception for The Baltimore Brick Company 77-132-X:

Ellsworth N. Diver, P.E.
 Chief
 Bureau of Engineering
 Baltimore County Department
 of Public Works
 Towson, Maryland 21204

Charles E. Burham
 Plans Review Chief
 Baltimore County Department
 of Permits and Licenses
 Towson, Maryland 21204

Michael S. Flanigan
 Traffic Engineer Associate
 Baltimore County Department
 of Traffic Engineering
 Towson, Maryland 21204

Mr. H. Kelly
 Planning Group
 Special Inspection Group
 Baltimore County Fire Department
 Towson, Maryland 21204

Mr. W. Nick Petrovich
 Field Representative
 Board of Education of
 Baltimore County
 Towson, Maryland 21204

Rec'd 8/29/77
 2:15 p.m.

Mr. Sheriff:

Please issue summons in accordance with above.

Muriel E. Buddemeier
 Muriel E. Buddemeier
 County Board of Appeals

and make the same returnable to September 13, 1977 at the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204.

John E. Mudd
 John E. Mudd
 401 Washington Avenue
 Towson, Maryland 21204
 821-6565
 Attorney for Petitioner

County Board of Appeals

Room 218, Court House
 Towson, Maryland 21204

January 6, 1978

NOTICE OF ASSIGNMENT
 (Continued Hearings)

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X

THE BALTIMORE BRICK COMPANY

for Special Exception for Sanitary Landfill

SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.

15th District

2/9/77 - D.Z.C. Denied SE

ASSIGNED FOR:

cc: John E. Mudd, Esq.

Counsel for Petitioners

Norman R. Stone, Jr., Esq.

Protestors

Robert J. Ryan, Esq.

Protestors

John W. Hession, III, Esq.

People's Counsel

The Rev. Raymond H. Rohs
 Lamb of God Lutheran Church

Protestant

Mrs. Mae C. Coulter, President
 Nottingham Improvement Assn.

Protestant

Mr. William J. Burgess, President
 Greater Rosedale Community Council

Protestant

Mr. S. E. DiNanno
 Mr. G. J. Martinak
 Mr. Leslie Grof
 Mr. Gary Burt
 Board of Education
 Mr. C. L. Perkins

Muriel E. Buddemeier
 County Board of Appeals

PETITION OF
 THE BALTIMORE BRICK COMPANY
 for a Special Exception for a
 Sanitary Landfill,
 Southeast Side of Philadelphia
 Road, 3,620 Feet East of
 Rossville Boulevard,
 15th District

BEFORE THE
 COUNTY BOARD OF APPEALS
 FOR
 BALTIMORE COUNTY
 Mr. Reiter, Chairman
 Messrs. Gilliland and Davis
 #77-132-X

MEMORANDUM ON BEHALF OF
 THE PETITION OF THE BALTIMORE BRICK COMPANY

INTRODUCTION

The Petition of the Baltimore Brick Company is before the Board for a Special Exception to permit the development of the Baltimore Brick Company's clay pits by Allied Chemical Company as a sanitary landfill for the deposition of chrome ore refuse. The property in question is presently zoned M.L. (Manufacturing Light). Pursuant to Section 253.2 of the Baltimore County Zoning Regulations, the sanitary landfill is a use permitted by special exception. Section 502.1 of the Zoning Regulations sets forth the criteria which the Petitioner must meet in order to sustain the presumed validity of the use requiring the special exception.

See, *Turner v. Hammond*, 270 Md. 41, 54 (1973).

Since the testimony of Walter McGuire¹ and the comments of the Baltimore County Zoning Plans Advisory Committee virtually meet all the criteria of Section 502.1, the only issue which is before the Board is whether or not the proposed landfill use of the Baltimore Brick Company site will be detrimental to the "health, safety or general welfare of the locality involved".²

¹ Transcript pages 189-219. Hereinafter the designation "Tr" will denote "transcript" and "I" will designate the "line" of the particular page of transcript.

² Section 502.1(a) Baltimore County Zoning Regulations.

IN THE MATTER OF
 THE BALTIMORE BRICK COMPANY
 FOR SPECIAL EXCEPTION FOR
 SANITARY LANDFILL

COUNTY BOARD OF APPEALS
 Case No: 77-132-X

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a Subpoena Duces Tecum unto:

SUD
 3-2-78
 DR Robert L. Kondner
 19624 Dunes Road
 Parkton, Maryland 21120

to be and appear before the Board of Appeals of Baltimore County on Tuesday, the 7th day of March, 1978 at 10:00 a.m. and at that time produce any and all records, data, documents, source materials and any other records pertaining to his investigation and opinion in the pending matter, also to produce all correspondence between him and attorneys and any other persons and also to produce all notes compiled by him in the course of preparing his findings in regard to the subject matter.

John E. Mudd
 Attorney for Allied Chemical

Rec'd 3/1/78

Mr. Sheriff:

Please issue summons in accordance with above.

COST \$ 5.00
 SUMMONED 3-2-78 19
 RETURNED 19
 RETURNED 19
 COST 12

Muriel E. Buddemeier
 County Board of Appeals of Baltimore County

IN THE MATTER OF
 THE BALTIMORE BRICK COMPANY
 FOR SPECIAL EXCEPTION FOR
 SANITARY LANDFILL

COUNTY BOARD OF APPEALS
 Case No: 77-132-X

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a Subpoena Duces Tecum unto:

Robert L. Kondner
 Dunes Road
 Parkton, Maryland 21120

to be and appear before the Board of Appeals of Baltimore County on Tuesday, the 7th day of March, 1978 at 10:00 a.m. and at that time produce any and all records, data, documents, source materials and any other records pertaining to his investigation and opinion in the pending matter, also to produce all correspondence between him and attorneys and any other persons and also to produce all notes compiled by him in the course of preparing his findings in regard to the subject matter.

John E. Mudd
 Attorney for Allied Chemical

Rec'd 3/1/78

Mr. Sheriff:

Please issue summons in accordance with above.

Muriel E. Buddemeier
 County Board of Appeals of Baltimore County

that landfilling was the optimum way in which to deal with the chrome ore refuse.⁷ Thereafter, Allied employed Whitman, Reardon & Associates, an engineering firm, and Dr. John Foss, a soil scientist at the University of Maryland, to assist in locating a suitable landfill site. Over 60 sites were reviewed by Allied in conjunction with its independent experts and the Baltimore Brick Company site was found to be the best.⁸ The primary reasons for the suitability of the Baltimore Brick site were its relative location to Allied's chrome plant and, more importantly, the fact that the site sits on a large Arundel clay formation consisting of heavy impermeable clays.⁹ These dense clays are instrumental in the total confinement plan which Whitman, Reardon & Associates subsequently developed.

Mr. Calvin Coulbourne, a civil engineer with degrees in water resources and environmental engineering, was appointed project manager in 1975 to head up a team of experts to develop mechanics for utilizing the Baltimore Brick Company site as a landfill for the deposition of the chrome ore refuse.¹⁰ Before undertaking development of the Final Plan, which is Petitioner's Exhibits 2-A and 2-B, Mr. Coulbourne and his staff met with the Water Resources Administration and various local agencies to seek their input into the criteria which was felt necessary towards the development of an environmentally sound plan.¹¹ The refuse itself was found to be an excellent fill material.¹² which had no

⁷ Tr 11, 1 6-9; Tr 15, 1 13.

⁸ Tr 16, 1 1-5.

⁹ Petitioner's Exhibit 2-A, page 15.

¹⁰ Tr 35, 1 19-21; Tr 36, 1 9-11; Tr 38 1 17.

¹¹ Tr 38, 1 8-10.

¹² Tr 47, 1 18-20.

County Board of Appeals

Room 218, Court House
 Towson, Maryland 21204

March 29, 1978

NOTICE OF ASSIGNMENT

(Continued Hearing)

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-132-X

THE BALTIMORE BRICK COMPANY

for Special Exception for Sanitary Landfill

SE/S Philadelphia Rd. 3620' E. of Rossville Blvd.

15th District

2/9/77 - D.Z.C. Denied SE

ASSIGNED FOR:

TUESDAY, APRIL 11, 1978 at 9:00 a.m.

cc: John E. Mudd, Esq.

Counsel for Petitioners

Norman R. Stone, Jr., Esq.

Protestors

Robert J. Ryan, Esq.

Protestors

John W. Hession, III, Esq.

People's Counsel

The Reverend Raymond H. Rohs

Protestant

Mrs. Mae C. Coulter, President
 Nottingham Improvement Assn.

Protestant

Mr. William J. Burgess, President
 Gr. Rosedale Community Council

Protestant

Mr. S. E. DiNanno
 Mr. G. J. Martinak
 Mr. Leslie Grof
 Mr. Gary Burt
 Board of Education
 Mr. C. L. Perkins

Muriel E. Buddemeier
 County Board of Appeals

odor;¹³ attracted no vermin;¹⁴ would not dust;¹⁵ and had no explosive or flammable qualities.¹⁶

The philosophy behind the Plan developed by Mr. Coulbourne and his staff consists of totally confining the refuse and preventing water from coming into contact with the clay-lined cells containing the refuse.¹⁷ This is necessary in order to prevent the build-up of any hexavalent chromium leachate. Towards this goal, the Plan provides for subsurface drainage systems to divert ground waters around the site and for surface holding ponds to control runoff within the site.¹⁸

One inherent safeguard which was discovered initially in development of the Plan was the ability of the refuse itself to absorb and hold 104 free water in addition to the water content it contains when it leaves the Allied plant.¹⁹ This assures an innate ability within the refuse itself to prevent the development of any leachate from forming and moving through the cell system and clay barriers into the ground water supply. However, the Plan undertook a "belt and suspenders" approach in providing additional safeguards.

Mr. Coulbourne testified that the Plan provides for a series of monitoring wells which will detect the build-up of any potential leachate in the cells; in the underlying aquifer; or, in any downstream waters.²⁰ If any leachate is detected it will be pumped out and drained into the holding ponds provided for in the Plan.

¹³ Tr 50, 1 1.

¹⁴ Tr 50, 1 2.

¹⁵ Tr 50, 1 4-11.

¹⁶ Tr 304, 1 18-20.

¹⁷ Petitioner's Exhibit 2-A, page 7.

¹⁸ Petitioner's Exhibit 2-A, page 25-27; Tr 50-57.

¹⁹ Petitioner's Exhibit 2-A, page 3.

²⁰ Tr 72-73.

By preventing water to build up or create a "head", Mr. Coulbourne noted:

"You don't form any leachate [if] you can't build up a head, and nothing would move through the clay."²¹

Besides the engineering procedures to be undertaken, it was clearly shown by Dr. Foss' study and the team of experts employed by Whitman, Reardon & Associates that the natural materials and setting themselves form additional safeguards against the introduction of hexavalent chromium leachate into the ground water. Mr. Coulbourne testified that the aquifer that underlies the Arundel clay formation is under pressure so that it would resist the introduction of any potential leachate into the entry of the aquifer.²² Furthermore, to even reach the depth of the aquifer, the leachate would have to pass through at least a five foot barrier of heavy impermeable clay. The field permeability tests showed that it would require the leachate to be under a constant one (1) foot head of water for 335 years before it could pass through the natural clays at the base of the pit.²³ For this to occur would obviously require the failure of the drainage systems and monitoring plans as well as require the total saturation of the stacked refuse cells.

Dr. John Foss' work showed that the refuse and clay, in union, provided a unique additional safeguard against leachate movement. Dr. Foss, it will be remembered, was the only soils scientist produced during the entire seven days of hearings. As he testified, he was one of the authors of the Baltimore County Soil Survey on soil classification and genesis. When initially

²¹ Tr 57, 1 1-4.

²² Tr 61, 1 15-21.

²³ Tr 54-55.

- 5 -

in fact indicated to Mr. Burgess, President of the Greater Rosedale Community Council, that he might, in fact, agree with the Plan.³⁹ However, Dr. Kondner, "suspected" that the site may be inundated with slickensides and upon immediately arriving on the site:

"...sure enough, the first look that I had I detected slickensides, very extensive...some of the largest, pronounced large slickensides in openings that I have ever observed."⁴⁰

Dr. Kondner's open-mindedness quickly dissipated. It is worthy of note that after two years of extensive evaluation by a team of experts, including other civil engineers, geologists, soil scientists and different regulatory agencies, that no one ever raised the issue of or detected any slickensides at the Baltimore Brick Company site.

Mr. Henry James testified on behalf of the Petitioner that prior to Dr. Kondner's testimony he had conducted a test pit examination at the site. The pit was approximately 10 feet by 4 feet and 7 or 8 feet deep at the base of the 15 acre portion of the site.⁴¹ Mr. James, who has been a soils and geotechnical engineer for 24 years with Whitman, Reardon & Associates, did not observe any voids, openings, holes or slickensides in the in-place clay.⁴² Yet Dr. Kondner was able to detect the slickenside upon his immediate arrival at the site and at times was able to observe them "below the surface".⁴³ Dr. Kondner's testimony and his "interpretation of the data" are simply not credible on this issue.

Even if it was assumed that cracks or fissures existed below the surface, the Board must recall the testimony of Dr. Foss

³⁹ Tr 359, 1 2-10.

⁴⁰ Tr 361, 1 9-14.

⁴¹ Tr 606, 1 5-7.

⁴² Tr 606, 1 11-15; Tr 610, 1 15-16.

⁴³ Tr 476, 1 1-3.

- 9 -

contacted by Allied Chemical Company to undertake a study of the chrome ore refuse, he sought the assistance of the Water Resources Administration, the Environmental Protection Agency and a university mineralogist to determine the focus of his experiments on the interaction of the clays, refuse and water.²⁴ There were only three objectives to his study: to determine how fast hexavalent chromium ions were released from the refuse on contact with water; the movement of the chromium ions in the columns and the adsorption of the chromium ions on the clays, if any.²⁵

Dr. Foss' studies produced a startling discovery. He found that the sodium ions in the refuse had the effect of dispersing the clay particles; effectuating a seal; and, preventing the movement of leachate through the clay.²⁶ This finding was consistent with natural conditions reported in the soils literature reviewed by Dr. Foss.²⁷ Here is an additional safety feature, totally unanticipated, which will prevent the introduction of any potential leachate into the ground water system. Moreover, Dr. Foss' studies found that some of the chromium ions were actually adsorbed by the clays as the wetting front proceeded through the columns. Thus, a further inherent safety factor was built into the material itself.

Along with these natural safeguards, Dr. Foss' opinion was that the stratification of the clay-refuse cells on top of the Arundel clay formation provided a further backup safety feature. Dr. Foss testified that the discontinuity between clay and refuse as well as the soils underlying the clays would retard the move-

²⁴ Tr 143-144.

²⁵ Tr 144, 1 9-12.

²⁶ Tr 147-152.

²⁷ Tr 152-153.

- 6 -

with respect to the movement of water into subsurface cracks. Upon direct examination, Dr. Foss testified that if cracks existed in the clay subsurface, then, in a non-saturated situation, water would not move into the cracks, but rather around them. Water would only move into these cracks, assuming they existed, if there was a total saturation of the surface above these subsurface cracks.⁴⁴ Therefore, even assuming Dr. Kondner's testimony is believable, which it is not, before there would be any movement of leachate into these so-called "slickensides" there would have to be a total failure of the drainage systems, the monitoring wells, the ability of the chrome ore refuse itself to absorb water and a total saturation situation existing on top of the clays in order for water to move through these voids. This is simply not probable in light of the sophistication of the proposed Plan.

Slickensides were not the only area of concern to Dr. Kondner. What was more interesting was Dr. Kondner's analysis of the "rate of infiltration" of water into the undisturbed clay. Mr. Coulbourne had testified that under a constant one foot head of water it would take 335 years for any leachate to move through a 5 foot barrier of clay. This figure was determined from the field permeability tests. Mr. Coulbourne explained the purpose of the field permeability tests as follows:

"Well, the purpose of these permeability tests was to measure movement of the water through the clay...."⁴⁵

"We undertook to have field permeability tests run on the site so that we could determine the coefficient of permeability of the

⁴⁴ Tr 156-157.

⁴⁵ Tr 95, 1 7-8.

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ment of any water which may, synthetically, build up within the cells.²⁸ So the engineering techniques to be employed under the Plan provide natural, physical safeguards to prevent leachate introduction into the ground water system.

Based upon the engineering and scientific analyses run by Mr. Coulbourne's staff and Dr. Foss, these witnesses came to the conclusion that there was no danger to the surrounding locality from leachate entering the ground water system.²⁹ Furthermore, precautions were undertaken by Whitman, Reardon & Associates to prevent any contact of the refuse with the surrounding neighborhood by providing for fencing of the entire site and the washing of all vehicles transporting ore refuse.³⁰ The Final Plan is truly a "belt and suspenders" operation in every sense of the word and has been shown to be environmentally sound.

To contradict the plethora of evidence produced by the Petitioner, the Protestants produced the most interesting witness in the entire proceedings -- Dr. Robert Kondner. Dr. Kondner, it will be remembered, was an expert in everything from soils and farming to sonic boom;³¹ however, his basic background was primarily civil engineering. Dr. Kondner, who testified at great length, visited the Baltimore Brick Company site only once, in September, 1977.³² He did testify, however, that he reviewed the Final Plan (Petitioner's Exhibits 2-A and 2-B) and reviewed other materials (including the Baltimore County Soils Survey, of which Dr. Foss was an author), to determine whether or not the proposed plan

²⁸ Tr 153-156.

²⁹ Tr 133-134; Tr 158-159.

³⁰ The site is presently unfenced. Tr 66, 1 5-8; Tr 71, 1 9-16.

³¹ Tr 349-355.

³² Tr 469, 1 4-7.

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site soil, as a true measure of the penetrative capacity of the soil to pass water through it."⁴⁶

Dr. Kondner insisted that his so-called "rate of infiltration" was different than the coefficient of permeability and yet, on cross-examination, he indicated that the rate of infiltration:

"The rate of infiltration has to do with the amount of water that disappears, so to speak, through an exterior surface."⁴⁷

While the definitions appear to be identical in intent, it was at this point in his testimony that Dr. Kondner "utilized the data"⁴⁸ and gave once again his own interpretation of it. Dr. Kondner calculated his rate of infiltration of water through a 5 foot barrier of clay by referring at one point to the field permeability tests in Appendix F of the Final Plan. He specifically referred to test holes R-53 and R-54 and noted that towards the end of the testing the "rate of infiltration":

"...the rate suddenly increased considerably."

"...We are getting to the point in this test data where it was starting to get interesting. I have a considerable amount of water that is starting to move into the ground. I think this is susceptible to analysis, it is susceptible to comparison with the column test that was conducted by Dr. Foss."

I think, from this information, you can obtain data on water infiltration, and you can also obtain from that how long it would take to penetrate a 5 foot layer of clay."⁴⁹ (emphasis added)

With great deftness, Dr. Kondner calculated from the field permeability tests that it would take a little less than one year for

⁴⁶ Tr 591, 1 4-8.

⁴⁷ Tr 468, 1 8-10.

⁴⁸ Tr 468, 1 20.

⁴⁹ Tr 401-402, 1 14-21, 1 1-9.

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would fulfill its stated purpose.³³

Initially, Dr. Kondner noted that he agreed with the philosophy of containment as delineated by Whitman, Reardon & Associates.³⁴ And, when the verbiage is removed, Dr. Kondner agreed in several areas with the Plan as presented by Whitman, Reardon & Associates. He had no criticism of the way in which the boring program was carried out and felt it was a "fine boring program".³⁵ He had no complaint with the field permeability tests.³⁶ And, more importantly, he agreed with Dr. Foss' findings that the contact between any potential leachate and the clays would increase the impermeability of the clay.³⁷ Dr. Kondner's main problems with the Plan finally filtered down into nothing more than a difference of interpretation of the data.

Dr. Kondner first tried to infer that the boring log data and the cross section representations of the soil formations were not accurately depicted by Whitman, Reardon & Associates. The implication was that the Whitman, Reardon & Associates' depictions showed heavy clay materials where none, in Dr. Kondner's interpretation, existed.³⁸ In fact, as the Board members quickly pointed out to Dr. Kondner, he had simply failed to read the legend on the Boring Location Plan which would have shown that the boring log and the cross section representation were, in fact, accurate. Obviously, having been corrected Dr. Kondner's initial finding that it was a "fine boring program" must stand. His interpretation was wrong.

At the outset of his testimony, Dr. Kondner indicated that he was going to keep an open mind when reviewing this Plan and had

³³ Tr 359.

³⁴ Tr 395.

³⁵ Tr 391, 1 2-3; Tr 396, 1 17-18.

³⁶ Tr 400, 1 5-7.

³⁷ Tr 422, 1 14-21.

³⁸ Tr 375-386.

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water to move through the 5 foot thick layer of clay.⁵⁰ Then, utilizing Dr. Foss' report⁵¹ he calculated the rate of movement of potential leachate through a 5 foot barrier of clay at an identical one year time period.⁵²

However, on cross-examination, Dr. Kondner's "calculations" simply could not stand up on their own. It was clearly shown that with respect to the field permeability tests on R-53 and R-54 that during the latter intervals of the tests, there was not a "sudden increase" but rather an average daily decrease of the amount of water penetrating the clay.⁵³ Then on rebuttal, after having clearly implied that the findings of Dr. Foss and the field permeability tests in Appendix F supported his rate of infiltration hypothesis, he stated that he did not utilize Dr. Foss' data to determine a rate of infiltration for a 5 foot layer of clay, nor did he intend to imply that the field permeability tests and column tests could be used interchangeably.⁵⁴ How then did he reach his conclusion that his "interpretation" of the Plan, the field permeability tests and the data on the water columns "all agree" with respect to the rate of infiltration.⁵⁵ Could it be that Dr. Kondner examined the air-dried example used by Dr. Foss and the sample obtained during the boring, introduced by Mr. Coulbourne, and concluded that indeed water might move a little faster through the air-dried clay than through the brick-like clay. Again, Dr. Kondner's testimony is not credible on this point and is nothing

⁵² Tr 405, 1 1-21.

⁵³ Tr 449-457.

⁵⁴ Tr 614-623.

⁵⁵ Tr 418.

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Solid Waste Disposal Systems," prohibits the Board from even entertaining the thought of granting the requested Special Exception. Some definitions contained in the section are useful:

"(a) Definitions - As used in this subsection:

....

14. Solid waste means litter and all REFUSE MATERIALS (emphasis ours) other than gaseous and liquid wastes, from all public and PRIVATE ESTABLISHMENTS and residences, including shopping centers.

15. Solid waste disposal system means any system, whether publicly or PRIVATELY owned, which provides scheduled or systematic collection of solid wastes and their transportation to and treatment or other disposition at a solid waste acceptance facility. A solid waste disposal system includes all solid waste acceptance facilities used in connection with the system.

16. Solid waste acceptance facility means ANY SANITARY LANDFILL, incinerator, transfer station or other type plant the primary purpose of which is for the disposal, treatment or processing of solid wastes.

....

Thus, the Petitioner's proposal to transport REFUSE MATERIALS from its PRIVATE ESTABLISHMENT through its PRIVATELY owned solid waste disposal system to its SANITARY LANDFILL, a solid waste acceptance facility, is squarely within the definitive scope of Section 387C. We now demonstrate the problem that Petitioner must overcome before a Special Exception may be granted as a matter of law by this Board.

Sub-section (b) of Section 387C requires that the "governing body of each county" (in Baltimore County, the County Council), "...shall adopt and submit to the Department, ... a complete county plan dealing also with solid waste disposal systems and solid waste acceptance facilities no later than January 1, 1974 and that this plan deal with a systematic program for the collection and disposal of litter, refuse, or

other solid wastes; and shall from time to time submit amendments or revisions of such plan, as it deems necessary or as may be required by the Department...."

Sub-section 2 of Section 387C then provides:

"County plans shall incorporate all ... part of subsidiary plans of the ... privately owned facilities ... to the extent that such inclusion shall promote the public health, safety and welfare...."

Then, Sub-section 4 provides that above and beyond the specific legislative finding by the County Council to the effect that the project "shall promote the public health, safety and welfare," the county plan shall:

"(f) Provide for the orderly expansion and extension of ... solid waste disposal systems in a manner consistent with all applicable county and local comprehensive land use plans and siting and staging of facilities shall be consistent with these plans.

....

(iii) Provide for adequate facilities for the treatment, recovery or disposal of solid wastes in a manner that is consistent with the laws of this State relating to air pollution, water pollution and land use;

The statute then sets forth its prohibitions:

"(d) 2. The county plan, amendment, or revision thereof shall become effective immediately upon approval by the approving authority subject to revision or other appropriate action by the Secretary and no ... individual average system or solid waste acceptance facility may be installed or extended in any geographic area to which said county plan, amendment, or revision thereof relates, unless it is in accordance therewith...."

Finally, as here pertinent, sub-section (f) provides:

"Conflict with other laws - The provisions of any zoning ordinance, ... or any law, ordinance or regulation of any municipality or county of the State, establishing standards which afford greater protection to the public health, safety and welfare of the community, shall not be limited or superseded to the extent of its or their greater protection by regulations adopted pursuant to this section."

The Baltimore County Zoning Regulations establish no standards (as distinguished from discretionary authority) for the control of these projects.

"It is clear from a reading of (Sec.) 387C (f) that the General Assembly of Maryland intended that all laws, ordinances and regulations of municipalities, counties or the State itself that impose 'greater protection' than (Sec.) 387C are not limited or superseded. It logically follows that those ordinances, regulations and laws that provide less protection than (Sec.) 387C are limited or superseded." Poolsville v. County Council, 24 Md. App. 347, 352.

It would thus appear that the argument might fairly be made that the Board does in fact lack jurisdiction to presently act in this matter.

2. The undertaking, as proposed, does not adequately safeguard the health of the citizens of Baltimore County.

This case involves cancer, and the legitimacy of the Protestants' apprehension about that dreaded killer. Shorn of legal euphemisms, to grant the application, the Board must decide, on the available evidence, that Petitioner's proposed operation will not give rise to a single incidence of carcinoma affecting a man, woman, or child living in proximity to the site or in proximity to the route of transportation of the refuse. A critique of that evidence demonstrates that the Petitioner really doesn't know, in borrow from the criminal law, "beyond a reasonable doubt and to a moral certainty," that contact with the refuse in any way will not cause cancer.

Several quotes from the testimony of Dr. Regan focus Petitioner's problem (emphasis ours):

(T-254) - "A. Well, our own history at Allied, and this is a much older plant, and we have gotten, -- and I suspect what you are referring to is your concern for lung cancer, that in our history it was a very high incidence of lung cancer because the industrial world did not understand completely the exposure this hexavalent chromium (sic), but as we became aware of the problem we have instituted work practices within the plant, that have reduced, I am not quite sure how many percent, but the incidence of lung cancer has gone way, way down because of the healthier practices that we now practice in the plant."

"Part of the problem, and part of our funding research to make further determinations, is to establish exactly what it is in the chromium process and in the hexavalent chromium that is (sic) actually the causative agent. Our work already shows that the non-soluble form of chromium compounds, chromates that are not really soluble in water, are more likely to cause carcinogenic material, and that view is supported by the Federal people and in the earlier documents of research under OSHA, the Federal Register of May 7, 1976, where they have divided chromium compounds

into two categories. The first group is the non-carcinogenic.

Q (By Mr. Davis) What is the material that is in the refuse?
A That is the material we are concerned about extracting out."
Then, at T-245:

"A. In continuing along this same line of my thinking, again, going back to the Federal Register of July 11, 1977, quoting again, under the heading of chromium, on page 35770, there is this statement:

"Although inhaled hexavalent chromium may cause cancer of the respiratory tract, a working group of the International Agency for Research on Cancer concluded (?) there is no evidence that non-occupational exposure to chromium constitutes a cancer hazard. (?)"

Q (By Mr. Heslan) Did you say there was no evidence?"

From these excerpts we learn that no one really knows just which of the elements in hexavalent chromium actually causes cancer, and there is no evidence that non-occupational exposure thereto does not constitute a cancer hazard.

And, this is essentially what Dr. Crawford was trying to impress upon us. Medical Director of Franklin Square Hospital and Director of Medical Education, with a background including service as Clinical Associate in Surgery, National Cancer Institute, Bethesda, and perhaps the only witness with the qualifications to discuss the subject, Dr. Crawford demonstrated with reputable research of others and through his personal experience, that the present state of medical knowledge does not permit Petitioner's assumption that ingestion of or skin contact with hexavalent chrome ore, no matter the strength, does not cause cancer. His fear, particularly because of the demonstrated multi-year latency factor, is that we do not have sufficient data to make that assumption, and he stressed that the material that the medical profession now possess would fairly indicate that contact with or ingestion of hexavalent chrome alloy might cause cancer. (T-534, et seq.) Completely ignored, and therefore un rebutted by the Petitioner, and standing as the only evidence before the Board on the point, was Dr. Crawford's testimony concerning the allergenic effects of chromium compounds, including skin ulcerations and perforation of the nasal septum. (T-555, et seq.)

The testimony of Holt V. Bonner, of the Baltimore County Health Department (T-569) that he captured loose material containing chrome components (T-569, et seq. and see People's Counsel Exhibit No. 1) on Allied's present site of operations up to a quarter-mile from the point of burial, lies in with Dr. Crawford's concern about human contact off-route or off-site with the refuse.

We all enjoyed Dr. Kondner's use of what was to us a novel term, "slickensides" (T-359, et seq.), which led to his conclusion that the soil on the site would not react as Petitioner predicts, but in truth, and hard truth, no direct rebuttal other than a feeble suggestion that no slickensides were observed in a 5m x 1m test pit - 10 feet by 4 feet, 7 or 8 feet deep in the middle of a 50 acre site - (T-604, et seq.) was offered to the findings of this expert who had been a consultant for the boring operation on the Washington Metro Subway (T-360) in similar soils and with slickensides. Once again in this record, we have perhaps the only qualified witness on the subject of soils in the case directly contesting that Petitioner's theory of encapsulation will not work in practice with the soil conditions found on the tract.

There is another disturbing gap in Petitioner's case. There can be no question that this site, if used for the encapsulation of the material, will require "monitoring" to react to the formation of leachate, for an infinite term. The testimony of Dr. Foss illustrates (T-170):

"Q With your knowledge of the properties of leachate, in your opinion, for what period of time should this leachate be encapsulated?

A I would say forever.

....

(T-173) Q In other words, it is your opinion that so long as the total plan is implemented and followed until, well, forever, I guess, that there is no danger?

A I think that is correct, in my opinion.

Q Could there be some problem if somebody would let down and not follow through and not discover a leachate condition?

A If it wasn't followed through, I think it could develop into a problem. I think this morning, when we talked about whether you would have that for 350 years -- I, in my opinion, I would say this would probably come to a head in probably about thirty years, or probably less than thirty years."

The Petitioner recognized that some continuing program to assume and implement the responsibility for "aftercare" was necessary. Dr. Willey, of the Maryland Environmental Services was produced and at this point, we come full circle in the argument. Note our objection that he had no authority to state that his agency would undertake any responsibility until the County Plan had been amended by the County Council (T-310) and the shift thereafter by the Petitioner to the theme of what the MES would propose to do (T-311). But even this testimony, of what the service (MES) proposes to do is essentially valueless for the purposes of this case, because there is yet another hurdle embodied in our objection (T-310):

Section 3-104 (a), "Natural Resources," Annotated Code of Maryland, Subtitle 1, Maryland Environmental Services:

"Limitation of powers within municipality. - Anything in this subtitle to the contrary notwithstanding, the service does not have any power to construct or establish any new solid waste disposal project or to dispose of any solid wastes within the boundaries of any municipality without the express consent of the governing body of the municipality."

Dr. Willey's testimony, both as to his agency's proposals, and most particularly as to the continuing responsibility for this project when the time within which the MES might be responsible for the project, is purely speculative and of no probative value in this case. He has not the slightest idea of what may actually occur, and this aspect of the case certainly deserves more solid testimony before this Board could legally base a finding of fact thereon, to the effect that the health and safety of the citizens of Baltimore County will be protected by a program as yet undetermined.

3. The operation and maintenance of the landfill will depress the value of neighboring properties.

A disturbing perversion of the laws of evidence is infesting our administrative system: the concept that no matter that an expert's opinion violates and flaunts common, ordinary knowledge and sense, that opinion must prevail. The opinion of Walter McGuire to the effect that the proposed landfill will have no impact on the value and use of the surrounding homes falls squarely into that category.

The motion of counsel to strike his opinion from the record focused the issue for the Board (T-219). First, his knowledge of the potential impact is not really the result of independent research (T-218):

"Q I take it then, that as a natural consequence of your inability to locate a parallel situation, that you have no sales data to support your opinion?

A I did no evaluation work at all, Mr. Heslan, so therefore I did not evaluate the property. I was employed as a consultant, not as an appraiser.

Q Would not the actual impact, translated in terms of dollars, with regard to value, be, if available to (sic) other actual experience, be the better criteria?

A I would have to review that particular situation you make reference to. Until I know of such a situation, how could I make a judgment?

Then, at page T-209, the following colloquy occurred during which the witness literally removed himself from the case as an expert:

"Mr. Davis: Mr. McGuire: qualified by saying he was here to express an opinion on what you are saying. He said he was here without the chemical background.

Mr. Heslan: He has expressed an opinion that the Allied Chemical operation, proposed to be conducted on the Baltimore Brick Company property, would not create an adverse impact on the valuation (sic) of the homes surrounding.

Mr. Baizer: I think the gist of it, he prefaced that provided it is not a hazardous chemical.

Q (By Mr. Heslan) Do you adopt the Chairman's statement?

A Yes, I adopt that. I am not a chemist and know nothing about the chemistry of this thing.

Q In other words, your opinion is based on an assumption as to what is to be placed on the property is not a hazardous substance?

A That is correct."

Dr. Willey stated (T-317):

"It is a designated hazardous waste landfill."

Since Mr. McGuire's opinion was based on the assumption that the site was not to contain a hazardous waste, of what value is his opinion?

In the affirmative sense, common sense - ordinary awareness of the fears that beset people - needing no so-called "expert" to articulate, demands recognition of the fact that few, if any, people want to buy a home or live on a site abutting a hazardous waste landfill.

CONCLUSION

The threshold question concerns the Board's present jurisdiction: we think it presently lacks authority to grant the Special Exception. The only qualified expert has told the Board that there is not sufficient data upon which the Petitioner's witnesses could base a conclusion that the concept is in all respects safe. Finally, there is no valid evidence that the living standard of the adjacent residents would not be materially affected.

One final observation for the Board to consider: the only truly independent expert, getting no fee, with no axe to grind, not even living in the area (Glen Arm is many miles from Rossville), and who appeared as a public or community service, was Dr. Crawford.

Respectfully submitted,

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I HEREBY CERTIFY that on this 9th day of May, 1978, a copy of the foregoing Memorandum was mailed to John E. Mudd, Esquire and Gary C. Duval, Esquire, 401 Washington Avenue, Towson, Maryland 21204, Attorneys for Petitioner.

ORDER RECEIVED FOR FILING

DATE February 9, 1977
BY John P. [Signature]

RE: PETITION FOR SPECIAL EXCEPTION
SE/S of Philadelphia Road, 3620' E of
Rossville Boulevard - 15th Election
District
The Baltimore Brick Company -
Petitioner
NO. 77-132-X (Item No. 64)
BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

This matter comes before the Deputy Zoning Commissioner as a result of a Petition to permit a sanitary landfill for the disposal of industrial refuse. The subject property is located on the southeast side of Philadelphia Road, 3620' east of Rossville Boulevard, in the Fifteenth Election District of Baltimore County.

Testimony for the Petitioner indicated that the Allied Chemical Corporation proposes to establish a chrome waste disposal landfill on the subject site. The waste materials, described as "highly toxic," would be transported by covered truck. This residue would be covered with clay daily and fifteen to twenty truck loads would be hauled six days a week. The estimated life of the landfill is twelve years.

The sole witness for the Petitioner, Mr. Charles J. Ewels, a chemical engineer employed by the Allied Chemical Corporation, testified that said company produces approximately 100,000 tons of chrome waste per year at its Baltimore plant. He further indicated that about sixty sites have been considered for the proposed disposal. The unique clay structure of the Baltimore Brick Company site and the presence of ready-made excavations were described as determinate factors in its selection. A new site was said to be needed due to the present landfill, described as "Hawkins Point," having nearly reached maximum capacity. Mr. Ewels stated that the proposed type of landfill has not been tried before, but that it is considered feasible, describing it as "a new scheme."

Further testimony indicated that, upon completion of the landfill, the site would be available for industrial use. This was qualified by the Petitioner with a statement that any future use would have to include safeguards to prevent puncturing the clay encapsulation of the chemical refuse and releasing it into the soil.

Nearby residents and counsel for the Greater Rosedale Community Council, Inc., were apprehensive about the proposal's effect on underground water as a result of percolation, traffic congestion, the absence of sewerage to serve the area, dust, noise, and the general public health. Counsel for Protestants raised the question of reconciling a sewerage system for the site, with its attendant dependence upon porosity of the soil, with the problem of maintaining the degree of water impenetrability required for safe chrome waste disposal.

Comments submitted by the Acting Director of Planning, Mr. Norman E. Gerber states:

"... The waste material to be deposited here is highly toxic; if it percolates into the ground water and from there to nearby streams, its effect could be highly damaging."

Without reviewing the evidence further in detail, but based on all the evidence presented at the hearing, in the judgment of the Deputy Zoning Commissioner, the prerequisites of Section 502.1 of the Baltimore County Zoning Regulations have not been met.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 9th day of February, 1977, that the Special Exception for a sanitary landfill for the disposal of industrial refuse should be and the same is hereby DENIED.

John P. [Signature]
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE February 9, 1977
BY John P. [Signature]

RE: PETITION FOR SPECIAL EXCEPTION
for a Sanitary Landfill for
Disposal of Industrial Refuse
SE/S of Philadelphia Road 3620'
NE of Rossville Boulevard
15th District
The Baltimore Brick Company
Petitioner
Allied Chemical Company
Contract Purchaser
BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 77-132-X

OPINION

The Petitioner in this case is Allied Chemical Company, a producer of chrome alloy. It operates a plant in Baltimore City employing 350 people wherein raw chromium bearing ore is crushed, mixed with soda ash and lime, and roasted, a process which renders soluble the product chromium compound retained for further processing, but leaves chrome ore refuse, a granular material that is odorless, non-combustible, and inert. The refuse contains quantities of up to 0.2% water soluble and 1.3% acid soluble hexavalent chromium. Since reprocessing of the refuse is neither commercially viable nor chemically rewarding, disposal thereof as a waste material is required.

Petitioner has lost control of its present landfill area and must relocate that activity. As Contract Purchaser, it seeks authority to transfer its operation to the site here involved. Known as the "Baltimore Brick" property, the site contains approximately sixty-five acres of land and is situated generally on the east side of Philadelphia Road, north of Rossville Boulevard. Petitioner's Exhibit No. 2(a) is replete with maps, plans, and other matters of particular description; hence, a detailed description of the geographical aspects of the proposal within the pages of this Opinion is unnecessary. The presence of an abundant lode of clay earth on the site is salient to the site selection however, and should be noted for its relationship to Petitioner's theory of total confinement, discussed infra.

Petitioner's Exhibit 2(a) is a multi-page, bound volume with text, plans, graphs, and other supporting material, entitled, "Operating Plan and Procedures and Environmental Assessment for Total Confinement of Chrome Ore Refuse." Exhibit 2(b) is a plot which accompanies and supplements 2(a).

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2.

Petitioner proposes to dispose of its refuse on the site, a process which may require perhaps as much as twelve years, and thereafter create an industrial park thereon.

II.

The site is presently zoned "ML-1M" and this proceeding involves a request for a Special Exception to operate and maintain a sanitary landfill thereon. (Section 253.2.A.4 of the Baltimore County Zoning Regulations). A sanitary landfill is defined in said Regulations as:

"Sanitary Landfill: A planned and systematic method of disposal for garbage and other wastes whereby such waste material is placed so that it is thoroughly compacted and covered at the end of each day's operation with such depth and consisting of such types of materials as are acceptable to the Baltimore County departments of health and public works, and the Maryland State department of health. When the fill is completed a covering of such depth and consisting of such types of materials as are acceptable to the aforesaid county and State departments shall be provided." (Section 101.10 of said Regulations).

In a Special Exception proceeding, we must be governed by the provisions of Section 502.1 of said Regulations, which reads:

- "502.1-Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not: (B.C.Z.R., 1955.)
- Be detrimental to the health, safety, or general welfare of the locality involved; (B.C.Z.R., 1955.)
 - Tend to create congestion in roads, streets or alleys therein; (B.C.Z.R., 1955.)
 - Create a potential hazard from fire, panic or other dangers; (B.C.Z.R., 1955.)
 - Tend to overcrowd land and cause undue concentration of population; (B.C.Z.R., 1955.)
 - Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; (B.C.Z.R., 1955.)

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3.

F. Interfere with adequate light and air. (B.C.Z.R., 1955.)"

The legal standard to which we must adhere is best enunciated by Judge McWilliams in *Turner v. Hammond*, 270 Md. 41, 310 A.2d 543, where he said, at page 54:

"Occasionally the bar and less often the bench lose sight of the concept that the conditional use or special exception, as it is generally called, is a part of the comprehensive zoning plan showing the presumption that as such it is in the interest of the general welfare and, therefore, void. (Citations omitted). The special exception is a valid zoning mechanism that delegates to an administrative board or limited authority to permit enumerated uses the legislature has determined can be allowed, properly albeit prima facie, absent any fact or circumstance negating the presumption. (Citation omitted)."

and continuing, he said:

"While the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements he does not have the burden of showing affirmatively that his proposed use accords with the general welfare. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and use, of course, material but if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing dissonance to the functioning of the comprehensive plan, a denial of an application for a special exception is arbitrary, capricious and illegal. (Citation omitted)."

III.

To eliminate immediately questions which we do not believe loom importantly in this case, but with which we are required to treat, we will make specific findings of fact without further discussion with regard to Subsections c, d, e, and f of Section 502.1. We specifically find on the record in this case that there is evidence to support, and none to refute, the conclusion that Petitioner's proposal will not create a potential

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4.

hazard from fire, panic, or other dangers; will not tend to overcrowd land and cause undue concentration of population; interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; and will not interfere with adequate light and air.

Subsection b. of Section 502.1 deserves more attention. The evidence before the Board demonstrates that the proposed site is part of a larger area zoned for industrial uses and that industrial use has, in fact, developed immediately south of the site. Petitioner's vehicles arrive in the general area via the dual-laned Pulaski Highway and may thereafter enter the property by crossing the rail line from the east, by traversing Rossville Boulevard to Yellow Brick Road and thence to the site, or again across Rossville Boulevard to the Philadelphia Road and thence to the site. Petitioner's Exhibit 2(a), (page 48), indicates that the traffic introduced into the area by Petitioner's proposal will consist principally of twenty-three trucks per day, or forty-six trips per day. Given the area, and given the concept that any industrial usage of approximately sixty-five acres of land will generate at least this amount, if not more, truck traffic, we have no difficulty in finding that with regard to the Pulaski Highway-Rossville Boulevard-Yellow Brick Road route, no congestion will be created "in the roads, streets or alleys" of the locality. The evidence clearly shows that Philadelphia Road is a relatively narrow, twisting and hilly road running through the residential area adjacent to the west of the site, and it is our opinion that Philadelphia Road should not be burdened with these vehicles, and access to the site from the Philadelphia Road will be restricted.

IV.

Measuring Petitioner's proposal against Subsection a. of Section 502.1 is the real task in this case. The Board must determine whether the proposal is detrimental to the health, safety or general welfare of the community. We treat the concept of "general welfare" as being very much a part of this case because of the nature of the proposal being considered, and our view that the Court in *Turner v. Hammond*, *supra*,

Baltimore Brick Co. - 77-132-X

5.

hardly assumed that the theory of legislative predetermination concerning "general welfare" extended to a repository for hazardous waste.

A very real element in the protest against this application is the fear of adjacent property owners that the presence of a hazardous waste landfill in such close proximity will depreciate the value of their homes. They are also concerned that Petitioner's proposed operation, involving as it does earth moving and the operation of heavy motor vehicles, will constitute an intrusion into their residential usage. Petitioner produced some testimony from a professional witness designed to counter these fears. The site is presently zoned for industrial usage and we believe that our final Order in the case will require Petitioner to conduct its operation in such fashion that no greater intrusion into the adjacent residential uses will occur than from uses which would now be permitted on the site as a matter of right.

We may eliminate from extensive discussion certain portions of the evidence because there is little, if any, disagreement thereon, and a summary of the evidence pertinent to these specific points will suffice. Petitioner proposes to employ a concept of "Total Confinement" of the refuse, wherein the refuse would be encapsulated within a blanket of compacted clay to prevent the entry of water or the escape of hexavalent chromium into the environment. Certain safety precautions, such as monitoring wells, underground drain system, and holding pits, would be made a part of the plan. The operation would be under the supervision of the Maryland Environmental Services, a State owned corporation, formed and existing for such tasks. The Protestants produced Robert L. Kander, Ph.D., an expert in the field of soils, who disputed the findings of Petitioner's experts regarding the impermeability of the clay capsules, but under our view of the appropriate safeguards to be imposed on Petitioner's operation, we need not further investigate this dispute.

There is, however, one major point upon which there is totally diverse evidence. Petitioner presently transports, and would propose to continue to transport to this site, the refuse in open dump trucks. Petitioner will also undertake certain bulk-

dozing or other mechanical operations on the site which will create dust. Petitioner's witnesses flatly negate, as a practical matter, the possibility of there being any toxic effects inherent in the refuse while it is being transported and bulldozed. Their conclusion is based on the concept that the percentage by volume of hexavalent chromium in the residue is so low that the amount of refuse which could escape during the transportation and/or encapsulation process, even if inundated by water, could not form sufficiently toxic leachate to be harmful to plant or animal life. However, Dr. David Thomas Crawford, Medical Director of Franklin Square Hospital, which is located in close proximity to the site, presented testimony, and treatises and other data to support his thesis that not only are hexavalent chromium compounds legitimately suspected of being carcinogenic, but that allergenic problems, including skin ulcerations and ulceration and perforation of the nasal septum, may be caused by mere contact with chromium compound dust.² Dr. Crawford cites medical evidence that the average latency period between exposure and disease may be twenty-one years. Stated briefly, Petitioner feels that since there is no present evidence that ingestion of or exposure to the dust is harmful, the concern should be dismissed, while Dr. Crawford's opinion is that a period of years is necessary to assess the possibility and determine whether the concern may be so dismissed. We feel that Dr. Crawford's view that there is no credible medical evidence absolving the dust as a source of carcinogenic or allergenic problems should prevail and we shall condition our Order to reflect that concern. We also note that our Court of Appeals in Harig v. Johns-Manville Products Corporation, 1978 Term, Misc. 1, decided November 21, 1978, has recognized the concept of an extraordinary latency period, and we feel that this strengthens our resolve to be thoroughly cognizant of Dr. Crawford's views.

² Dr. Crawford's testimony begins at page 534 of the transcript.

V.

Protestants raise an objection that the Board lacks jurisdiction to entertain the petition unless and until the County Council for Baltimore County amends the solid waste disposal plan mandated by Article 43 of the Annotated Code of Maryland (Volume 46), 1977 Cumulative Supplement), Section 387C. We do not agree that amendment of the solid waste disposal plan is a condition precedent to our consideration of the case; we do concede, however, that such an amendment might be a necessary step which must be accomplished before our Order acquires vitality. We might also note that while we are limited to certain criteria in our consideration of the case, the Council will be dealing with the question of the inclusion of this facility in its "plan" on a comprehensive basis, so that our action in this proceeding is in essence on a different basis than that which will be employed by the Council in its deliberations.

VI.

Our ultimate finding, therefore, is that as it is to be restricted under our authority set forth in Section 502.2 of the Regulations, Petitioner's proposal will not be violative of Section 502.1 of said Regulations.

VII.

We intend to utilize in this case the provisions of Section 502.2 of the Regulations, which read:

"502.2 -- In granting any Special Exception, the Zoning Commissioner or the (County Board of Appeals), upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a Special Exception is granted, if required by the Zoning Commissioner, or (County Board of Appeals), upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the (County Executive and County Council) of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, i.e. same

to be recorded among the Land Records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such Special Exception. When so recorded, said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer."

It is our intention that Petitioner shall first prepare and submit to the Board for approval, a declaration suitable for recordation among the Land Records of Baltimore County, to be recorded therein at Petitioner's cost upon receipt of an Order herein, containing suitable notice that the Special Exception applicable to the site is subject to the limitations contained in said Order, and that the details of such limitations may be found in the office of the Administrative Secretary of the Board. Thereafter, we shall require that Petitioner prepare, in consultation with the Director of the Baltimore County Department of Health and the Director of the Baltimore County Department of Public Works, an instrument to be executed by Petitioner, which contains the following provisions to implement effectiveness of our requirements.

First, Petitioner must agree to abide by all of the provisions contained in its Exhibits No. 2 (a) and (b). Second, a provision restricting transportation of truck traffic to the Rossville Boulevard-Yellow Brick Road route must be included. Lastly, we are concerned by the vagueness of Petitioner's presentation relative to continued responsibility for monitoring the Petitioner's operation during the period of active use of the site and after the Petitioner's proposed operation is completed.

Petitioner's evidence clearly shows that given contemporary understanding of the properties of hexavalent chromium, the proposed encapsulation must be monitored "forever," as the statement of Petitioner's witness, John E. Fas, Ph.D., makes clear at page 170 of the transcript. Petitioner produced Cliff Willey, Ph.D., an official of Maryland Environmental Services, whose testimony implied more concern than it settled.³

³ Dr. Willey's testimony begins at page 367 of the transcript.

We shall insist that Petitioner present to us a definite contract, duly and properly executed by the parties, wherein the obligation and responsibility of Maryland Environmental Services is specifically detailed so that we may review it for adequacy in both scope and duration.

VIII.

Without detailing the testimony and evidence further in detail, but based upon all the evidence and testimony produced in the trial of this case and the transcript thereof, it is the opinion of this Board that there is compliance with the conditions specified in Section 502.1 of the Baltimore County Zoning Regulations, and the Special Exception requested should be granted. Furthermore, we do not feel that any detriment will occur to the general public health and welfare as a result of granting this Special Exception, and note that it is a necessary maxim that an industrial society creates industrial waste which must be disposed in a manner least offensive to the general public good. We feel that Petitioner's proposal is a sound one and contemplates all conceivable safeguards within the realm of reason. Further, we wish to add that additional safeguards are imposed upon this proposal in that the Petitioner must satisfy both the Department of Natural Resources and the Department of Mental Health and Hygiene in order to obtain the necessary operating permits under the Hazardous Substances Disposal Act. Additionally, restrictions will be imposed in our Order confining the Petitioner's proposal to the specifics set forth in the Petitioner's Exhibit 2 (a) and 2 (b). Secondly, the Petitioner's route of travel from his plant to the disposal site will be limited to his traversing the Rossville Boulevard to the Yellow Brick Road to the site and, thirdly, the Petitioner will be required to enter into a contract with the Maryland Environmental Services as indicated, supra, in the foregoing Opinion.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 10th day of April, 1979, by the County Board of Appeals, ORDERED that the Special Exception petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

1. Petitioner is limited to the operation and extent of his proposal as contained in Petitioner's Exhibit 2 (a) and 2 (b) which are attached hereto and made a portion of this Order.
2. Access to the disposal site shall be limited to entrance by way of Yellow Brick Road.
3. The granting of this special exception is contingent upon the execution of a contract for the operation of the subject site by the Maryland Environmental Services. Before this special exception may be utilized, the Petitioners shall submit to this Board a fully executed contract between the Petitioner and the Maryland Environmental Services which provides for such monitoring, operating and control of this disposal site.
4. The granting of this special exception is conditioned upon the approval of all other necessary Baltimore County and State of Maryland agencies required for the operation of a hazardous waste disposal site.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Miller, Jr., Chairman
Robert L. Gilland

RE: PETITION FOR SPECIAL EXCEPTION : IN THE CIRCUIT COURT
for a Sanitary Landfill for : FOR BALTIMORE COUNTY
Disposal of Industrial Refuse :
32/S Philadelphia Road 3620' : AT LAW
N/E of Rossville Boulevard :
15th District : Misc. Docket No. 11
The Baltimore Brick Company :
Petitioner : Fello No. 281
Allied Chemical Company :
Contract Purchaser : File No. 6531
Zoning File #77-132-X :

John W. Hession, III
People's Counsel for Baltimore County,
et al, Appellants

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Circuit Court for Baltimore County from the Decision and Order of the County Board of Appeals for Baltimore County under date of April 10, 1979 in the above-entitled case on behalf of John W. Hession, III, People's Counsel for Baltimore County, Appellant, and for the following individual appellants:

Reverend Raymond Rohs
8912 Philadelphia Road
Baltimore, Maryland 21237
391-0755

Chris Nozar
8921 Philadelphia Road
Baltimore, Maryland 21237
686-8655

C. Howard Dobson, Jr.
9123 Philadelphia Road
Baltimore, Maryland 21237
687-4412

Mark Tolanski
9000 Franklin Square Drive
Baltimore, Maryland 21237
391-3900

William J. Burgess
8215 Edwill Avenue
Baltimore, Maryland 21237
866-5476

John W. Hession, III
People's Counsel for Baltimore County

- 2 -

Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

Norman R. Stone, Jr.
6905 Dunmanway
Dundalk, Maryland 21222
288-5270
Attorney for Individual Appellants:
Reverend Raymond Rohs
Chris Nozar
C. Howard Dobson, Jr.
Mark Tolanski
William J. Burgess

I HEREBY CERTIFY that on this 10th day of May, 1979, a copy of the foregoing Order for Appeal was delivered to the County Board of Appeals, County Courthouse, Towson, Maryland 21204; and Robert J. Ryan, Esquire, 406 Jefferson Building, Towson, Maryland 21204; and to John E. Mudd, Esquire, 401 Washington Avenue, Towson, Maryland 21204.

John W. Hession, III

I HEREBY CERTIFY, that on this 10th day of February, 1979, a copy of the foregoing Notice of Appeal was mailed to Norman R. Stone, Jr., Esquire, 6905 Dunmanway, Dundalk, Maryland 21222, John W. Hession, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204, Mrs. Mae C. Coulter, President Nottingham Improvement Association, 9215 Nottingham Road, Baltimore, Maryland 21237 and Rev. Raymond H. Rohrs, Lamb of God Lutheran Church, 8912 Philadelphia Road, Rossville, Maryland 21237.

John E. Mudd

Rec'd 5-8-79
3 PM

May 25, 1979 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

John E. Mudd, Esq.
John E. Mudd, Esq.
County Board of Appeals of
Baltimore County

cc: John E. Mudd, Esq.
Mr. Norman R. Stone, Jr.
John W. Heslian, III, Esq.
File

PETITION FOR SPECIAL EXCEPTION
FOR A SANITARY LANDFILL
15th District
THE BALTIMORE BRICK COMPANY
ZONING FILE 77-132-X

Plaintiff : Misc. 11/28/6831

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, et al.,

MOTION FOR ADDITIONAL SUSPENSION OF OPERATION OF MARYLAND
RULE 530

The People's Counsel for Baltimore County, Appellant herein, respectfully moves for an additional suspension of the operation of Maryland Rule 530, on the following grounds:

Responding to Movant's previous Motion for Suspension of Operation of Maryland Rule 530, this Honorable Court on July 30, 1981, granted said original motion and suspended the operation of said rule for the period of 90 days, which said period expires on Thursday, October 29, 1981; that this case was in fact assigned for hearing in this Court on Monday, October 26, 1981 but because of confusion in the Assignment Office, notice of said hearing was not timely given to Appellee's present counsel, with the result that Appellee's present counsel was unprepared for said hearing and could not participate therein on the scheduled date of October 26, 1981; Movant and Appellee's counsel have discussed the necessity for an additional period of suspension of said Maryland Rule 530, and both are of the opinion, as a result of discussions with the Assignment Office, that a hearing in this proceeding can be scheduled and completed within the next 60 days. Movant is further authorized by Appellee's counsel to state to the Court that Appellee's counsel has no objection to an additional suspension of the operation and effect of said rule for a period of 60 days.

WHEREFORE, the Movant prays that the operation of Maryland Rule 530 in this case be suspended for an additional 60 days counting from October 28, 1981.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Petition for Special Exception
for a Sanitary Landfill
15 District
The Baltimore Brick Co.
Zoning File 77-132-X
Plaintiff
VS.
People's Counsel for Baltimore County, et al.
Defendant

Docket No. 11 Folio No. 281
Case No. 6831
LAW - 2000000000

NOTIFICATION TO PARTIES OF CONTEMPLATED DISMISSAL

12 No proceedings of record in the above-styled action having been taken within a period of 12 months, Counsel of record or the parties herein are hereby notified, as provided by Maryland Rule 530, that this proceeding will be "DISMISSED FOR WANT OF JURISDICTION OR PROSECUTION WITHOUT PREJUDICE", thirty (30) days after service of this notice, (computed according to Section C 3 of Rule 300), unless prior to that time a motion for the suspension of the operation of this rule is filed pursuant to section 6 of Maryland Rule 530. The motion must show "good cause" for the delay. Costs thereafter shall be assessed against the plaintiff.

Copy of notice mailed to:

Peter Max Zimmerman
Deputy People's Counsel
County Office Bldg.
Towson, Md. 21204

Norman R. Stone, Jr.
6905 Dunnamore
Dundalk, Md. 21222

Leonard Jacobson Esq.
County Solicitor's Office
Hessman - Court House
Towson, Md. 21204

John E. Mudd Esq.
Gary C. Duvall Esq.
401 Washington Ave.
Towson, Md. 21204

by regular mail, postage prepaid, this 29th day of April 1981

Direct all inquiries to:
D. McClain
494-2621

AND AS IN DUTY BOUND, etc.,

John W. Heslian, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 29th day of October, 1981, a copy of the foregoing Motion for additional suspension of Maryland Rule 530 and of the Order passed thereon was mailed to Gary C. Duvall, Esquire, Suite 701, 401 Washington Avenue, Towson, Maryland 21204.

John W. Heslian, III

RECEIVED
BALTIMORE COUNTY
Oct 28 10 22 AM '81
COUNTY CLERK
OF APPEALS

Case No. 6831

John W. Heslian, III
Peter Max Zimmerman
Norman R. Stone, Jr.
John E. Mudd
Gary C. Duvall
Ellen & Stockbridge

RE: PETITION FOR SPECIAL EXCEPTION
for a Sanitary Landfill for Disposal
for a Sanitary Landfill
SE/3 Philadelphia Rd., 3620' NE of
Rosedale Blvd.
15th District
The Baltimore Brick Company
Petitioner
Allied Chemical Company
Contract Purchaser
Zoning File 77-132-X
JOHN W. HESLIAN, III: People's Counsel
for Baltimore County and Appellants
REVEREND RAYMOND ROHRS
CHRIS NOCAR
C. HOWARD DOBSON, JR.
MARK TOLANSKI
WILLIAM J. BURGESS

ADVANCE COSTS
Plaintiff's Atty. \$5.00
Clerk \$0.00
Sheriff
Paid 10/25/81
Receipt No. 22237
ADDITIONAL COSTS
Clerk
Sheriff
Dft's Atty.
Paid Per
Receipt No.
Record

COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

- (1) May 8, 1979 - Order for Appeal from the Decision and Order of the County Board of Appeals for Baltimore County fd.
- (2) May 11, 1979 - Certificate of Notice fd.
- (3) May 17, 1979 - Petition for Appeal fd.
- (4) May 25, 1979 Answer & Transcript of Record fd.
- (5) June 4, 1979 App. of John E. Mudd & Gary C. Duvall for the Balto. Brick Co. Same day Answer fd.
- APR 29 1981 Notice of Md. Rule 530 Sent
- (6) May 29, 1981 Dft's Motion for Suspension of Rule 530 fd.
- (7) June 11, 1981 Petitioner's (Balto. Brick Co.) Answer to Motion for Suppression of Operation of Maryland Rule 530 fd.
- (8) July 30, 1981 Petitioner's Motion to Suspend Rule 530 & Order of Court granting same for a period of 90 days fd. (205)
- (9) Oct. 26, 1981 - App. of Gary C. Duvall as atty for Baltimore Brick Co. and Allied Chemical Co. and notice to strike app. of John E. Mudd fd.
- (10) Oct. 28, 1981 - Appellant's (People's Counsel for Baltimore County) Motion for Additional Suspension of Operation of Maryland Rule 530 and Order of Court that the operation and effect of Md. Rule 530 in this case be and is hereby suspended for an additional period of 60 days, accounting from Oct. 28, 1981 fd. (PBA)
- Dec. 17, 1981 Hon. John E. Raine, Jr. Hearing had. Case argued. Oral opinion affirming Order of Board of Appeals.

MISCELLANEOUS DOCKET No. 11

PETITION FOR SPECIAL EXCEPTION
FOR A SANITARY LANDFILL
15th District
THE BALTIMORE BRICK COMPANY
ZONING FILE 77-132-X
Plaintiff : Misc. 11/28/6831

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, et al.,

Defendants

ORDER

Upon the foregoing Motion, it is, this day of October, 1981, by the Circuit Court for Baltimore County,

ORDERED that the operation and effect of Maryland Rule 530 in this case be and is hereby suspended for an additional period of 60 days, accounting from October 28, 1981.

JUDGE

PETITION FOR SPECIAL EXCEPTION
FOR A SANITARY LANDFILL
15th District
THE BALTIMORE BRICK COMPANY
ZONING FILE 77-132-X
Plaintiff : Misc. 11/28/6831
VS.
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, et al.,
Defendants

ORDER

Upon the foregoing Motion, it is, this 28th day of October, 1981, by the Circuit Court for Baltimore County,

ORDERED that the operation and effect of Maryland Rule 530 in this case be and is hereby suspended for an additional period of 60 days, accounting from October 28, 1981.

Paul Edipant
JUDGE

PETITION FOR SPECIAL EXCEPTION
For a Sanitary Landfill for
Disposal of Industrial Refuse
SE/3 Philadelphia Rd., 3620' NE of
Rosedale Blvd.
15th District
The Baltimore Brick Company
Petitioner
Allied Chemical Company
Contract Purchaser
Zoning File No. 77-132-X
Plaintiff : Low Misc. 6831
VS.
JOHN W. HESLIAN, III,
People's Counsel for Balto. Co.
REVEREND RAYMOND ROHRS
CHRIS NOCAR
C. HOWARD DOBSON, JR.
MARK TOLANSKI
WILLIAM J. BURGESS
Defendants

ORDER FOR APPEAL

Mr. Clerk: to the Court of Special Appeals of Md.
Please enter an appeal on behalf of the People's Counsel for Baltimore County, Rev. Raymond Rohrs, Chris Nocar, C. Howard Dobson, Jr., Mark Tolanski, and William J. Burgess, from the judgment of the Circuit Court for Baltimore County entered December 17, 1981, in the above entitled case.

John W. Heslian, III
John W. Heslian, III, Esq.
People's Counsel for Baltimore County
223 Court House, Towson, Md. 21204
Telephone 494-2188

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Norman R. Stone, Jr.
Norman R. Stone, Jr., Esq.
6905 Dunnamore, Dundalk, Md. 21222
Attorney for Appellants

RECEIVED
BALTIMORE COUNTY
Oct 28 10 22 AM '81
COUNTY CLERK
OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was mailed postage prepaid to Gary C. Duvall, Suite 701, 401 Washington Ave., Towson, Maryland, 21204, Attorney for Petitioners, on this 14th day of January, 1982.

Peter M. Zimmerman
Peter M. Zimmerman
Deputy People's Counsel

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ET AL.

v.

THE BALTIMORE BRICK COMPANY, ET AL.

September 30, 1982 - Per Curiam filed.
Judgment affirmed. Costs to be paid
by appellants.
November 1, 1982 - Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for Baltimore County
Record
Stenographer's Costs 30.00

In Court of Special Appeals:

Filing Record on Appeal 30.00
Printing Brief for Appellant 1430.25
Reply Brief
Portion of Record Extract - Appellant
Printing Brief for Cross-Appellees

Printing Brief for Appellee 211.45
Portion of Record Extract - Appellee
Printing Brief for Cross-Appellant

STATE OF MARYLAND, Set:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this 1st day of November A.D. 1982

James E. Jordan
Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

COMMENTS

Approximate area involved for landfill: 50 plus or minus acres.
Hours of Operation: 365 days per year, daylight hours only.
Approximate number of deliveries: 13-20 per day, average 17 trucks per day.
Type of fill: Spent, chrome refuse, coarse, black and sandylike
Mode of Operation: Waste will be deposited in clay base after each day and will be covered with a layer of clay and the waste will be encapsulated in the clay.
Inspection: Daily inspection of the operation and appropriate measures for discharge of any water.

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
SE/S of Philadelphia Rd. 3620' E of
Rouville Blvd., 15th District : OF BALTIMORE COUNTY

THE BALTIMORE BRICK COMPANY,
Petitioners : Case No. 77-132-X

ORDER TO ENTER APPEARANCE

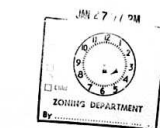
Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Charles E. Kuntz, Jr.
Charles E. Kuntz, Jr.
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-2108

I HEREBY CERTIFY that on this 27th day of January, 1977, a copy of the foregoing Order was mailed to John E. Mudd, Esquire, 102 West Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners.



THE BALTIMORE BRICK CO.

NO. 77-132-X

SE/S Philadelphia Road 3620'
E. of Rosville Boulevard

15th District

SE - Sanitary Landfill for disposal of industrial refuse

Dec. 27, 1976 Petition filed
Feb. 9, 1977 D.Z.C. DENIED PETITION
Feb. 16 Appealed to Board of Appeals by John E. Mudd, Esq.
Sept. 29 Hearing held before the Board
Oct. 27 " " " "
Dec. 7 " " " "
Jan. 5, 1978 " " " "
Mar. 7 " " " "
Apr. 9 " " " "
Apr. 11 " " " "
Apr. 10, 1979 Board GRANTED PETITION
May 8 Order for Appeal filed in the Circuit Court by Norman R. Stone, Esq. (File #6831)
" 25 Record of proceedings filed in the Circuit Court
Dec. 17, 1981 Judge John E. Raine, Jr. - hearing had. Oral opinion affirming the Order of the Board of Appeals. (1/20/82 cc sent to: Hession, Keren)
Jan. 18, 1982 Order for Appeal to the Court of Special Appeals filed by People's Counsel and Protestants
Sept. 30 Board AFFIRMED by Court of Special Appeals
Nov. 1 Mandate issued
" 10 Writ of Certiorari filed by People's Counsel in the Court of Appeals
Dec. 20 Writ of Certiorari DENIED by the Court of Appeals

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Petition for Special Exception
for a Sanitary landfill
15th District
The Baltimore Brick Co.
Zoning File 77-132-X
Plaintiff
VS.
People's Counsel for Baltco. Co. et al
Defendant

Docket No. 11 Folio No. 281
Case No. 6831
LAW - ~~EXCEPT~~

NOTIFICATION TO PARTIES OF CONTEMPLATED DISMISSAL

12. No proceedings of record in the above-styled action having been taken within a period of 12 months, Counted of record of the parties hereto are hereby notified, as provided by Maryland Rule 530, that this proceeding will be "DISMISSED FOR WANT OF JURISDICTION OR PROSECUTION WITHOUT PREJUDICE" thirty (30) days after service of this notice, (computed according to Section C 3 of Rule 306), unless prior to that time a motion for the suspension of operation of this rule is filed pursuant to section e of Maryland Rule 530. The motion must show "good cause" for the delay. Costs thereafter shall be assessed against the plaintiff.

Charles E. Kuntz, Jr.
Clerk

Copy of notice mailed to:

Peter M. Zimmerman Esq.
Deputy People's Counsel
County Office Building
Towson, Md. 21204

Direct all inquiries to:
B. McClain
494-2621

Norman R. Stone, Jr.
6905 Dumanway
Dundalk, Md. 21222

Leonard Jacobson Esq.
County Solicitor's Office
Hagerstown - Court House
Towson, Md. 21204

John E. Mudd Esq.
Gary C. Duvall Esq.
401 Washington Ave.
Towson, Md. 21204

by regular mail, postage prepaid, this 29th day of April 1982
18 APR 11 1982
BALTIMORE COUNTY

RE: PETITION FOR SPECIAL EXCEPTION
SE/S of Philadelphia Road, 3620' E of
Rosville Boulevard-15th Election
District
The Baltimore Brick Company
Petitioner
NO. 77-132-X (Item No. 64)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

NOTICE OF APPEAL

The Baltimore Brick Company, Petitioner, 110 West Road, Towson Maryland 21204 Appeals to the County Board of Appeals from the Order of the Deputy Zoning Commissioner of Baltimore County dated February 9, 1977, which Order denied the request for a Special Exception for a sanitary landfill for the disposal of industrial refuse.

John E. Mudd
John E. Mudd
Attorney for Petitioner



RE: PETITION FOR SPECIAL EXCEPTION : IN THE
for A Sanitary Landfill for : CIRCUIT COURT
Disposal of Industrial Refuse :
SE/S Philadelphia Road 3620' :
NE of Rosville Boulevard :
15th District :
The Baltimore Brick Company : BALTIMORE COUNTY
Petitioner :
Allied Chemical Company :
Contract Purchaser : AT LAW
Zoning File 77-132-X : Misc. Docket No. 11
John W. Hession, III : Folio No. 281
People's Counsel for Baltimore County, :
et al, Appellants : File No. 6831

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure; Walter A. Reiter, Jr. and Robert L. Gilland, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, John E. Mudd, Esquire, 401 Washington Avenue, Towson, Maryland 21204, Attorney for the Petitioners, and Norman R. Stone, Jr., Esquire, 6905 Dumanway, Baltimore, Maryland 21222 and Robert J. Ryan, Esquire, 406 Jefferson Building, Towson, Maryland, 21204, Attorneys for the Protestants, and John W. Hession, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, and The Reverend Raymond H. Bohn, Lamb of God Lutheran Church, 8912 Philadelphia Road, Rosville, Maryland 21237, and Mrs. Mae C. Coulter, President, Nottingham Improvement Association, 9215 Nottingham Road, Baltimore, Maryland 21237, and Mr. William J. Burgess, President, Greater Rosedale Community Council, P. O. Box 9528, Rosedale, Maryland 21237, Protestants, and Mr. Charles R. Jondo, 401 North Highland Avenue, Baltimore, Maryland 21224 and Mr. Julian Glasser, President, Chemical and Metallurgical Research, Inc., P. O. Box 11261, Chattanooga, Tennessee 37401, requested notification, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Court House, Towson, Md. - 494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to John E. Mudd, Esquire, 401 Washington Avenue, Towson, Maryland 21204, Attorney for the Petitioners, and Norman R. Stone, Jr., Esquire, 6905 Dunsmuir, Baltimore, Maryland 21222 and Robert J. Ryan, Esquire, 406 Jefferson Building, Towson, Maryland 21204, Attorneys for the Protestants, and John W. Hession, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, and The Reverend Raymond H. Rohrs, Lamb of God Lutheran Church, 8912 Philadelphia Road, Rossville, Maryland 21227, and Mrs. Mae C. Coulter, President, Nottingham Improvement Association, 9215 Nottingham Road, Baltimore, Maryland 21237, and Mr. William J. Burgess, President, Greater Rosedale Community Council, P. O. Box 9528, Rosedale, Maryland 21237, Protestants, and Mr. Charles R. Jondo, 401 North Highland Avenue, Baltimore, Maryland 21224 and Mr. Julian Glasser, President Chemical and Metallurgical Research, Inc., P. O. Box 11261, Chattanooga, Tennessee 37401, requested notification, on this 11th day of May, 1977.

Edith T. Ebenhart
Edith T. Ebenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Court House, Towson, Md. - 494-3180

March 3, 1977

John E. Mudd, Esq.
102 W. Pennsylvania Ave.
Towson, Maryland 21204

Re: The Baltimore Brick Company
File No. 77-132-X

Dear Mr. Mudd:

- Number of witnesses you anticipate calling 6
- How many of these witnesses will be "expert witnesses"? 4
- Field to be covered by experts you intend to call - please check:
 Land Planner _____
 Real Estate ☒
 Engineer ☒
 Traffic _____
 Other Chemist & Health expert
- Total time required (in hours) for presentation of your side of the case
12

John E. Mudd
Attorney for Protestants
Attorney for Petitioners ☒

*Rec'd 3-11-77
10 AM*

MOORE, HENNEGAN, CARNEY & RYAN
ATTORNEYS AT LAW
406 JEFFERSON BUILDING
100 WEST CHESTNUT AVENUE
TOWSON, MARYLAND 21204

NEW YORK
AREA CODE 212

April 14, 1977

County Board of Appeals
Court House
Towson, Maryland 21204

Re: Case Number 77-132-X
The Baltimore Brick Company
SE/S of Philadelphia Road
320 E of Rossville Blvd.
15th Election District

Gentlemen:

Please enter my appearance in this matter on behalf of
The Franklin Square Hospital, Inc., a protestant.

Very truly yours,
Robert J. Ryan
Robert J. Ryan

RJR:kat

cc: John E. Mudd, Esquire
Norman R. Stone, Jr., Esquire
John W. Hession, III, Esquire

*Rec'd 4-15-77
10 45 AM*

MOORE, HENNEGAN, CARNEY & RYAN
ATTORNEYS AT LAW
406 JEFFERSON BUILDING
100 WEST CHESTNUT AVENUE
TOWSON, MARYLAND 21204

NEW YORK
AREA CODE 212

May 6, 1977

County Board of Appeals
Room 218, Court House
Towson, Maryland 21204

Re: Case Number 77-132-X
The Baltimore Brick Company

Gentlemen:

I have just received your notice of assignment of additional
hearing days in this case. You have assigned the hearing days of
August 2 and 4, 1977.

Please be advised that I have made arrangements to be out of
State on vacation with my family during the entire first week in
August of this year. I would appreciate it if this matter could
be reassigned for dates after the first week in August.

Very truly yours,

Robert J. Ryan
Robert J. Ryan
Attorney for Franklin Square
Hospital, Protestant

RJR:kat

cc: John E. Mudd, Esquire
Norman R. Stone, Jr., Esquire
John W. Hession, III, Esquire

*Rec'd 5-9-77
9 45 AM*

3/9/78 - Per W.A.R.

Case #77-132-X - Baltimore Brick Co.

Case is continued on 4/11/78 at 9 a.m.

On April 11th, the Board will hear from a witness from the State Health Dept.,
a laboratory technician, concerning an analysis of soils at Hawkins Point.

2. Senator Stone may wish to offer a rebuttal witness to Mr. Colburn's
testimony on the sixth day, and any other rebuttal witness that he feels necessary.

3/11/77 - Notified of appeal hearing scheduled for TUESDAY, JUNE 21, 1977 at 10 am:

John E. Mudd, Esq. Counsel for Petitioners - Sent L72 & 872
Norman R. Stone, Jr., Esq. = Protestants
John W. Hession, III, Esq. People's Counsel
The Rev. Raymond H. Rohrs Protestant
Mrs. Mae C. Coulter, Pres.
Nottingham Imp. Assn.
Mr. Wm. J. Burgess Rec.
Greater Rosedale Comm. Council

4/12/77 - Copy sent to Robert J. Ryan, Esq., Counsel for Protestants, Franklin Square Hospital

4/29/77 - Scheduled ADDITIONAL HEARING DAYS - AUGUST 2, and 4, 1977 at 10 a.m.

5/10/77 - Above notified of postponement and reassignment for THURSDAY, SEPT. 8, 1977 at 10 a.m.
TUESDAY, SEPT. 13, 1977 at 10 a.m.
THURSDAY, SEPT. 15, 1977 at 10 a.m.

6/21/77 - Above notified of CHANGE OF HEARING DATE from Sept. 15, 1977 at 10 a.m. to
THURSDAY, SEPTEMBER 29, 1977 at 10 a.m.

8/25/77 - Postponed September 8th hearing date by agreement of Mr. Reiter, Mr. Hession, Mr. Mudd and
representative for Mr. Stone (Mr. Stone out of town) in Board's Office. All notified of this
postponement and advised that case is still scheduled for TUESDAY, SEPTEMBER 13, 1977 at 10 am &
THURSDAY, SEPTEMBER 29, 1977 at 10 am

9/6/77 - Above notified of Postponement of Tuesday, Sept. 13, 1977 at 10 am and assignment of THURSDAY,
SEPT. 29, 1977 at 10 a.m. date.

9/29/77 - Notified of appeal hearings scheduled for THURSDAY, OCT. 27, 1977 at 10 a.m. *5:10 PM*
WEDNESDAY, DECEMBER 7, 1977 at 10 a.m. *10:45 AM*
TUESDAY, DECEMBER 22, 1977 at 10 a.m. *Pd. 12/20 by*
THURSDAY, DECEMBER 29, 1977 at 10 a.m. *agreement of*

12/20/77 - Above notified of appeal hearing scheduled for THURSDAY, JANUARY 5, 1978 at 10 am *11:11 AM*

1/6/78 - Above notified of appeal hearings scheduled for TUESDAY, MARCH 7, 1978 at 10 am *8:40 AM*
THURSDAY, " 9, 1978 at 10 am and *10:45 AM*
THURSDAY, " 30, 1978 at 10 am

3/29/78 - Above notified of appeal hearing scheduled for TUESDAY, APRIL 11, 1978 at 9 a.m. *7:40 AM*

LOW OFFICE
MILES & STOCKBRIDGE
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 303-8000
FAX 303-8000

HAND DELIVERED

May 3, 1978

County Board of Appeals
For Baltimore County
Court House
Towson, Maryland 21204

RE: Petition of the Baltimore
Brick Company

Gentlemen:

Enclosed please find the original and three copies of the
Memorandum on Behalf of the Petition of the Baltimore Brick
Company.

Very truly yours,

Ray C. Duval
Ray C. Duval

GCD:jab

enc.

*Rec'd 5/3/78
11:10 AM*

Baltimore County, Maryland
PEOPLE'S COUNCIL
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

TEL. 494-2180

JOHN W. HESSON, III
People's Counsel
PETER MAX DIMMICKMAN
Deputy People's Counsel

June 5, 1978

John E. Mudd, Esquire
401 Washington Avenue
Towson, Maryland 21204

RE: BALTIMORE BRICK CO.
Case No. 77-132-X

Dear John:

Finally, the Memorandum. Many thanks for your courtesy.

Sincerely,

John W. Hession, III

Enclosure

cc: Norman R. Stone, Jr., Esquire
Robert J. Ryan, Esquire

*Rec'd 6/5/78 - 3:45 PM
Name: Mudd*

RECEIVED
JUNE 15 1978
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY
TOWSON, MARYLAND 21204

MILES & STOCKBRIDGE
LAW OFFICES
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE 206-8000
CABLE WIRELESS

June 15, 1978

County Board of Appeals
for Baltimore County
Court House
Towson, Maryland 21204

RE: Petition of The Baltimore
Brick Company
Case No: 77-132-X

Dear Messrs. Reiter, Davis and Gilland:

In light of the Protestants' Memorandum, we have decided not to submit a formal reply memorandum, but, would rather address the issues raised in the Protestants' Memorandum by this letter.

The issue raised by the Protestants as to the Board's legal authority to grant a special exception is the last in a long series of attempts to lead the Board astray from the real issues of this case. Section 387C, Article 43, MD. ANN. CODE (Volume 48, 1957, Cum. Supp.) does not in any way limit the authority of the County Board of Appeals to grant the requested Special Exception. This legislation simply requires counties to adopt, among other things, a comprehensive solid waste disposal plan to be approved and monitored by the State Department of Health.

The Baltimore Brick Company has already undertaken to comply with the requested State Department of Health regulations for

Cavanaugh Press
WHERE PRINTING IS A FINE ART

4402 GOLDENRING ROAD
BALTIMORE, MARYLAND 21237
Phone 866-1225

April 19, 1979

Mr. Walter A. Reiter, Jr.
Appeals Board Chairman
Board of Appeals
Towson, MD 21204

Dear Mr. Reiter:

We now have under construction a new plant in the Rossville Industrial Park in Baltimore County. After beginning construction we learned from newspaper accounts of a proposal by the Allied Chemical Co. of Baltimore City to dump waste material on the property of the Baltimore Brick Co., which is land supposed to eventually become a part of Rossville Industrial Park.

We find ourselves in a position of grave concern both for the health of our workers and those working and living nearby and also for the value of the land and buildings in the immediate area. According to the news articles, the material to be dumped is considered highly toxic and potentially cancer causing. We feel that to allow such dumping in an area already highly developed with Major Shopping Centers, a Hospital and a large Community College along with many large apartment complexes is not compatible with the existing development of the area.

Baltimore County has shown its desire to create an environment to encourage business development in an orderly and effective manner. Our building and land along with several other projects in this park are being helped by Baltimore County through the MIDPA Office and we feel that all concerned can only lose by allowing this proposed dumping. With prevailing public fear of environmental pollution, people are reluctant to live, work and shop in areas that are situated near such waste.

I would implore our local Officials to do all in their power to protect this important area of the County and not allow it to become a cesspool of toxic waste materials which could threaten our land, water and air. By allowing only non-toxic types of fill material on the Baltimore Brick Co. property, the County would be setting the stage for the further orderly development of this area by business and homeowners who want to improve the area and thereby broaden the County Tax base and create more jobs and a better living and working environment.

To allow any dumping of ANY Hazardous Waste, would be a detriment to this highly developed area of the County and a step backwards in encouraging any further expansion.

Cordially yours,
Frank Cavanaugh
Frank Cavanaugh, III, Owner
Cavanaugh Press

PCIII:he

County Board of Appeals
for Baltimore County
Page 2

MILES & STOCKBRIDGE

RECEIVED
JUN 16 1978

PRO COUNTY PLAN
ALL INFORMATION
PUBLIC DOMAIN

the issuance of a permit and County Council approval for inclusion in the Baltimore County Comprehensive Plan. No one with the State Department of Health, the County Council, the County Solicitor's Office, or otherwise, has, to our knowledge, challenged the authority of the Board of Appeals to grant the special exception petitioned for. Furthermore, the criteria of Section 502.1 of the Baltimore County Zoning Regulations are far more demanding than the requirement of Section 387C that comprehensive plans "shall promote the public health, safety and welfare". Accordingly, under Section 387C(f), the County Zoning Regulation would not, in any way, limit or conflict with the comprehensive county plan legislation. The Protestants have by this "jargon filled" argument attempted to "spoon" another in their long line of red herrings.

The other issues raised in the Protestants' Memorandum with respect to safeguarding the health of the general public and the effect of the proposed landfill on surrounding real estate values have been sufficiently answered in the Memorandum submitted on behalf of The Baltimore Brick Company's Petition. Nowhere in their Memorandum do the Protestants rebut or refute the evidence supporting the Petition of The Baltimore Brick Company with respect to these two issues.

Should the Board wish the Petitioner to address any other issues by way of memorandum, we will be happy to do the same.

Sincerely,

John E. Mudd

JEM/GCD:jab

cc: Norman R. Stone, Jr., Esq.
John W. Heslian, III, Esq.
Robert J. Ryan, Esq.

Rec'd 4/19/78
3:15 pm

Chemical and Medical Research, Inc.

P.O. BOX 11261
CHATTANOOGA, TENNESSEE 37401
615/624-0154

July 22, 1978

Baltimore County Board of Appeals
Court House
Washington Avenue
Towson, Maryland 21204

ATTENTION: Ms. Edith Eisenhart
SUBJECT: Case 77-132X

Dear Ms. Eisenhart:

You will recall my being in Towson on April 11 to attend the last day of hearings on subject case, Petition of Baltimore Brick Company, Special Exception for a Sanitary Land Fill. I called your office on July 14 and was told that a decision has not as yet been made by the Board of Appeals.

Will you please make sure that my name is on your mailing list so that I could be informed as soon as the decision is made. C & M R is undertaking an extensive study of chrome ore processing, including pollution and disposal problems, and subject case is very pertinent to our investigations.

Very truly yours,

Julian Glasser
Julian Glasser
President

JG:ca

April 10, 1979

John E. Mudd, Esquire
401 Washington Avenue
Towson, Md. 21204

Re: Case No. 77-132-X
The Baltimore Brick Co.

Dear Mr. Mudd:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart,
Administrative Secretary

Encl.

cc: Norman R. Stone, Jr., Esquire
John W. Heslian, III, Esquire
Robert J. Ryan, Esquire
The Rev. Raymond H. Eshen
Mr. Alan C. Coulter
Mr. William J. Burgess
Mr. Charles R. Jando
Mr. Julian Glasser
Mr. S. E. Dittman
Mr. L. H. Grief
Mr. J. E. Dyer
Mr. J. Hensell
Board of Education

474-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 11, 1979

John E. Mudd, Esquire
401 Washington Avenue
Towson, Md. 21204

Re: Case No. 77-132-X
The Baltimore Brick Co.

Dear Mr. Mudd:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Robert J. Ryan, Esquire
The Rev. Raymond H. Eshen
Mr. Alan C. Coulter
Mr. William J. Burgess
Mr. Charles R. Jando
Mr. Julian Glasser

May 11, 1979

BILLED TO: People's Counsel for Baltimore County

and

Norman R. Stone, Jr., Esquire
6905 Old Chesapeake
Baltimore, Maryland 21222

Cost of certified copies of documents
filed in Case No. 77-132-X \$34.00

MAKE CHECKS PAYABLE TO:

Baltimore County, Maryland

REMIT TO:

County Board of Appeals
Room 219, Court House
Towson, Md. 21204

May 11, 1979

John W. Heslian, III, Esquire
County Office Building
Towson, Maryland 21204

Re: Case No. 77-132-X
The Baltimore Brick Co.

Dear Mr. Heslian:

Edith T. Eisenhart, Adm. Secretary

cc: Norman R. Stone, Jr., Esq.

RECEIVED
BALTIMORE COUNTY
JUN 16 11 34 AM '82
COUNTY BOARD
OF AGES
Enclosure
Gay C. Duvall, Esquire

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, et al.,

IN THE COURT OF SPECIAL APPEALS

Appellants

OF MARYLAND

v.

THE BALTIMORE BRICK COMPANY,
et al.,

No. 131, September Term, 1982

Appellees

STIPULATION FOR EXTENSION OF TIME

It is hereby stipulated that the time for filing the Appellants' brief and record extract in the above-entitled case be, and hereby is, extended until Thursday, July 15, 1982.

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188
Attorneys for Appellants

Gary C. Duvall
Gary C. Duvall
Suite 701, 401 Washington Avenue
Towson, Maryland 21204
921-6565
Attorney for Appellees

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

September 20, 1982

Mr. Julius A. Romano
Clerk of the Court of Special Appeals of Maryland
Annapolis, Maryland 21404

Re: Misc. No. 6831
The Baltimore Brick Co.

Dear Mr. Romano:

Please forward to this office a copy of the opinion in the above entitled case when it is filed by the Court of Special Appeals. We would appreciate it if you would note our request in your file on this case. Thank you.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

**UNREPORTED
IN THE COURT OF SPECIAL APPEALS**

OF MARYLAND

No. 131

September Term, 1982

#77-132-X

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, ET AL.

v.

THE BALTIMORE BRICK COMPANY,
ET AL.

Mason
Meant
Bishop, JJ.

Per Curiam

Filed: September 20, 1982

This appeal is from a ruling of the Circuit Court for Baltimore County affirming the granting by the County Board of Appeals (Board) of the petition of Baltimore Brick Company, appellee, for a special exception for a sanitary landfill. Appellants, People's Counsel for Baltimore County and certain other protestants who appeared before the Board raise three questions:

1. Whether the County Board of Appeals and Circuit Court erred by failing to consider the effect of disposal of hazardous waste on the public health of the community?
2. Whether the County Board of Appeals and Circuit Court so erred for the wrong reason that the consideration of public health is exclusively a matter for state agencies?
3. Whether consideration of potential health and environmental hazards is triggered by a reasonable concern balancing the severity of the anticipated consequences against the chance of its occurrence?

I.
Because appellants have failed to comply with Maryland Rule 131 c 5, which requires that argument be set out in the brief to support their position, we decline to answer question number one. We hold that appellants have waived this issue because they have failed to comply with the procedural requirements to preserve their right of appellate review. *Van Meter v. State*, 30 Md. App. 406, 407-08 (1976); *State Roads Comm. v. Hallie*, 228 Md. 24, 31-32 (1962); *Hyde v. State*, 228 Md. 209, 218 (1962).

II.
We decline to decide the issues raised in questions two and three because neither of these issues were raised in appellants' Petition of Appeal filed in the Circuit Court. *Maryland Rules 82 and 1085*. *Gordon v. State National Bank*, 249 Md. 379, 383 (1967);

C. S. Bowen & Co. v. Maryland Nat'l Bank, 36 Md. App. 26, 32-33 (1977); *Washington Homes v. Baggett*, 23 Md. App. 167, 171 (1974); *Chertkof v. Dep't of Nat. Resources*, 43 Md. App. 10, 15 (1979). In fact, in their Petition on Appeal, appellants take the opposite position from that which they contend in question number two: "[t]hat the County Board of Appeals has no initial authority to grant a Special Exception in this case, said initial authority being vested in the County Council for Baltimore County and the State Department of Health pursuant to Section 387C of Article 43 of the Annotated Code of Maryland, (Volume 4B, 1977 Cumulative Supplement), 'County Plans for Public Water Supply, Sewerage and Solid Waste Disposal Systems.'"

Because the first question was not argued in the brief and the second and third questions were not raised as grounds for appeal from the County Board of Appeals, we have nothing before us for review.

If we were to decide the issue raised on this appeal and the ruling of the circuit court, our review of the opinion and order of the County Board of Appeals would lead us to conclude that there is no merit in any of the questions presented by the appellants.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANTS.



Baltimore County, Maryland

PEOPLE'S COUNSEL
Rm. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

TEL 494-3180

November 10, 1982

CERTIFIED MAIL

James H. Norris, Jr., Clerk
Court of Appeals of Maryland
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401

RE: People's Counsel for Baltimore County,
et al. v. The Baltimore Brick Company,
et al., Court of Special Appeals #131,
September Term, 1982

Dear Mr. Norris:

Enclosed are the original and seven copies of People's Counsel's Petition for Writ of Certiorari to the Court of Special Appeals of Maryland in the above-entitled case. Also enclosed is a check in the amount of \$20.00.

Thank you for your assistance in this matter.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosures

cc: Gary C. Duvall, Esquire

PMZsh

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, et al.,

IN THE COURT OF APPEALS

Petitioners

OF MARYLAND

v.

THE BALTIMORE BRICK
COMPANY, et al.,

Respondents

**PETITION FOR WRIT OF CERTIORARI TO
THE COURT OF SPECIAL APPEALS OF MARYLAND**

People's Counsel for Baltimore County, Petitioner, pursuant to Maryland Rules 810-11, requests this Court to issue a writ of certiorari to the Court of Special Appeals as follows:

(a) The instant case was docketed in the Circuit Court for Baltimore County as Petition for Special Exception, The Baltimore Brick Company, Law Miscellaneous case No. 6831. It constituted an appeal of the decision of the County Board of Appeals of Baltimore County, No. 77-132-X.

(b) The case was decided by the Court of Special Appeals, and its per curiam opinion in No. 131, September Term, 1982, filed September 30, 1982, is appended as Exhibit A. The mandate issued November 1, 1982 affirmed the decisions of the Circuit Court for Baltimore County and the County Board of Appeals.

(c) The judgment of the Circuit Court for Baltimore County was dated December 17, 1981. That Court's oral opinion is Exhibit B. The opinion of the County Board of Appeals dated April 10, 1979 is Exhibit C, and the Petition on Appeal, Exhibit D.

(d) The questions presented for review are:

1. Whether, in approving a zoning petition for special exception for a sanitary landfill involving hazardous waste, the County Board of Appeals failed adequately to consider the adverse effect on public health by deferring to state agencies and allocating its responsibility with regard thereto?
2. Whether the refusal of the Court of Special Appeals specifically to address the pollution issue was hypertechnical, inappropriate, and resulted in violation of this Court's holding in *Browning-Ferris, Inc. v. Anne Arundel County*, 292 Md. 136, 438 A.2d 269 (1981)?

(e) The applicable provision of the Baltimore County Zoning Regulations is Section 502.1:

Section 502 - Special Exceptions

502.1 - Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- a. Tend to create congestion in roads, streets or alleys therein;
- a. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air;
- g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these zoning

regulations nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations.

NOTE: Subsections g. and h. were added by Bill No. 45-82, April 5, 1982.

(f) Statement of Facts in Support of Petition. On April 10, 1979, the County Board of Appeals granted Respondents' petition for special exception for a landfill for chrome ore refuse on land zoned M.L.-1.M. (manufacturing light, industrial major) in the Ravensville area of eastern Baltimore County. Following a six-day hearing involving as parties the Baltimore Brick Company (then landowner), Allied Chemical Company (contract purchaser), neighboring residential property owners, and the People's Counsel, the County Board of Appeals issued its opinion and order. Turning to the public health, safety, and general welfare, the Board reviewed the expert testimony and focused on water and air pollution.

The water pollution problem centered on the future leaching and migration of hexavalent chromium into the area's ground water. The toxicity of hexavalent chromium was known to persist over an indefinite period of time.

The original Petitioners had proposed total confinement of refuse, encapsulation in clay, an underground drain and collection system, and monitoring wells, under the supervision of the Maryland Environmental Service (MES). But opponents of the landfill objected that the MES contract would expire within five years of closure of the landfill.

The air pollution concern centered on the generation of dust by transportation of refuse in open dump trucks, bulldozing, and other mechanical operations.

While approving the proposed landfill, the Board acknowledged some genuine difficulties. It recognized that the refuse would have to be encapsulated and monitored "forever." (Page 8-10) The resolution of this problem appeared to be twofold. First of all, the Board would require as a condition the suggested contract with MES, subject to further review. Secondly, the Board felt comfortable that the State Department of Natural Resources and Department of Health and Mental Hygiene would control the site by necessary operating permits under the Hazardous Substances Disposal Act.

As to the potential contamination from airborne dust, the Board found serious medical concern that contact with the dust would be carcinogenic. The Board's answer to this problem appeared to be restriction of the route of truck travel to the site and, again, the contract with MES coupled with state regulation.

Unfortunately, the Board's resolution of the problems it purported to address glossed over two points:

(1) That the water pollution problem was long term, but the suggested contract with MES was contemplated as short term, to end shortly after closure of the site.

(2) That the Board abdicated its independent responsibility to protect the public health by advertising to and relying on the prospective regulatory activity of state agencies.

The result was that the opinion of the Board of Appeals gave the appearance of addressing public health concerns, but was lacking in substance.

In the Petition on Appeal filed May 17, 1979, the water and air pollution issues were raised in Paragraphs C and D. These concerns were reinforced when, on December 15, 1981, this Court decided Browning-Ferris, Inc. v. Anne Arundel County, supra.

holding inter alia, there to be no federal or state preemption of local restrictions governing disposal of hazardous waste.

On December 17, 1981, Chief Judge Raine heard the administrative appeal. He noted the Board's consideration of the proposal and acknowledged the present concern about disposal of "chrome byproduct" and that, in order "to give some solace to the Protestants, summary restrictions were set out in the grant..." But he then ruled,

"...that the proper control of wastes that are hazardous is not the function of the County zoning authorities. That function belongs to the State agencies that have been created to deal with just such problems as the Board of Appeals in this County foresee." (Page 3)

Judge Raine's view was that the Board has "a right to assume" that the State agencies would properly control the disposition of the waste. The Board's sole function then was to decide if the place was a reasonable one for a landfill.

On appeal to the Court of Special Appeals, the Petitioner, having the Browning-Ferris case in mind, questioned the failure of the Board of Appeals to consider the public health effect of the disposal of hazardous waste by reason of referral to state agencies. These were set forth in Questions 1 and 2 in Appellants' Brief. The pertinent excerpt is attached as Exhibit E. Although divided in two, these questions were directed to the same point and put under the umbrella of a single section of argument in the brief. The Court of Special Appeals, however, instead of recognizing the intent of Section 1 of the argument to cover both related questions, chose narrowly to construe a waiver of Question 1.

Having eliminated Question 1, the Court proceeded to eliminate Question 2, on the ground that it was not raised in the Petition for Appeal to the Circuit Court. There, the

Court cited as inapplicable Petitioner's citation of state re-viability to review solid waste plans under Article 43, Section 367C of the Maryland Annotated Code. The Court made no mention of the inclusion in the Petition for Appeal of issues relating to water and air pollution. Nor did it point out the developing nature of the law under Browning-Ferris and the focus of Chief Judge Raine on the part of the Opinion of the Board of Appeals dealing with preemption and the respective roles of the County Board of Appeals and the State agencies.

The Court of Special Appeals also refused, for the same reason, to consider the related question of the level of concern of a potential health hazard necessary to trigger administrative consideration.

Finally, having concluded that it had "nothing...for review," the Special Court nevertheless volunteered that if it were to decide the issue, it would "conclude that there is no merit in any of the questions presented by the Appellants."

(g) Argument.

The Court of Appeals should define and clarify the function of local zoning agencies in environmental cases characterized by co-ordinate State regulation. Otherwise, there is muddling and confusion of roles.

Here, the County Board of Appeals paid some attention to public health concerns, but abated its analysis in the belief that State agencies were available to handle serious problems. This gave the illusion of local review and approval of the site on public health grounds, without the reality.

This leads to the additional problem that an applicant will play the agencies against each other. At the local level, the point is made that the State regulates

hazardous waste. At the State level, the County is said to have undertaken a careful review. The bureaucracies then relax and end up in a game of bureaucratic buckpassing.

Chief Judge Raine, to his credit, confronted the issue. He said that public health concerns were not the business of the County Board of Appeals. But he was wrong. The law governing special exceptions makes it a local concern, and the Browning-Ferris case confirms that the preemption doctrine does not apply.

The record before the Court of Special Appeals - including the Board's Opinion, the Petition on Appeal, and Judge Raine's Opinion - adequately identified the problems of pollution and preemption. Appellant's brief sufficiently argued the matter, concentrating on the then just decided Browning-Ferris Opinion.

There are few issues today which cause more fear and worry in the hearts of the community than the disposal of hazardous waste. Whether it be Sharpton, Hawkins Point, Monument St., Northeast, or Love Canal, this is front page material. Decisions made now will affect the health of unborn generations.

But the Court of Special Appeals ducked the real issues. Neither justice nor the rules warrant rejection of any appeal on such hypertechnical interpretation of a brief. Moreover, it allowed that Court to add to the record its unsupported and unsatisfactory statement that the appeal was without merit.

A review of Appellant's brief shows that the argument followed through on the main points decided below. More importantly, the public interest requires judicial clarification of the zoning function in major environmental cases.

Respectfully submitted,

John W. Heslion, III
John W. Heslion, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 17th day of November, 1982, a copy of the foregoing Petition for Writ of Certiorari to the Court of Special Appeals of Maryland was mailed to Gary C. Duval, Esquire, Suite 701, 401 Washington Avenue, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 131

September Term, 1982

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, ET AL.

V.

THE BALTIMORE BRICK COMPANY,
ET AL.

Mason
Weant
Bishop,
JJ.

Per Curiam

Filed: September 30, 1982

This appeal is from a ruling of the Circuit Court for Baltimore County affirming the granting by the County Board of Appeals (Board) of the petition of Baltimore Brick Company, appellee, for a special exception for a sanitary landfill. Appellants, People's Counsel for Baltimore County and certain other protestants who appeared before the Board raise three questions:

*1. Whether the County Board of Appeals and Circuit Court erred by failing to consider the effect of disposal of hazardous waste on the public health of the community?

2. Whether the County Board of Appeals and Circuit Court so erred for the wrong reason that the consideration of public health is exclusively a matter for state agencies?

3. Whether consideration of potential health and environmental hazards is triggered by a reasonable concern balancing the severity of the anticipated consequences against the chance of its occurrence?

I.

Because appellants have failed to comply with Maryland Rule 1031 c 5, which requires that argument be set out in the brief to support their position, we decline to answer question number one. We hold that appellants have waived this issue because they have failed to comply with the procedural requirements to preserve their right of appellate review. Van Meter v. State, 30 Md. App. 406, 407-08 (1976); State Roads Comm. v. Baile, 228 Md. 24, 31-32 (1962); Hyde v. State, 228 Md. 209, 218 (1962).

II.

We decline to decide the issues raised in questions two and three because neither of these issues were raised in appellants' Petition of Appeal filed in the Circuit Court. Maryland Rules 82 and 1085. Gordon v. State National Bank, 249 Md. 378, 383 (1967);

Because the first question was not argued in the brief and the second and third questions were not raised as grounds for appeal from the County Board of Appeals, we have nothing before us for review.

If we were to decide the issue raised on this appeal and the ruling of the circuit court, our review of the opinion and order of the County Board of Appeals would lead us to conclude that there is no merit in any of the questions presented by the appellants.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANTS

•	APPLICATION FOR SPECIAL RECEIPTS	•	IN THE
•	For a Statutory Affidavit for	•	CIRCUIT COURT
•	Disposal of Endangered Fur Seal	•	
•	at 600 Middleburg Road #202	•	FOR
•	W of Newville Boulevard	•	BALTIMORE COUNTY
•	18 District	•	
•	The Baltimore Brick Company	•	Law Misc. 6831
•	Petitioner		
•	Allied Chemical Company		
•	Contract Purchaser		
•	Selling Pile 677-132-X	•	December 17, 1981
•	JOHN W. HESSIAN, III	•	
•	People's Counsel For Balto. Co.	•	
•	APPEARED AND ANSWERED VERBS	•	
•	CARLOS ROCA	•	
•	C. RONALD DORSON, JR.	•	
•	HARRIS TOLANDSKI	•	
•	WILLIAM J. BURNS	•	

BEFORE THE HONORABLE JOHN E. BAINE, JR., Presiding.

APPEARANCES:

JOHN W. NESSIAN, III, ESQUIRE.

GARY C. DEVALLE, ESQUIRE.

EXHIBIT B

Reported By:

HELENA M. STANSBURY

is this a reasonable place to have a sanitary landfill. And I think their resolution of that issue is supported by the evidence.

And, so you know, I don't substitute this court's judgment for that of the board. As I indicated in an opening colloquy, the owner or contract-purchaser is confronted with a chicken and egg proposition. The Water Resources, the department or board, may well say we won't even talk to you until you get your basic zoning permission to use this property to dump clean garbage or some other material, and the same way with the Health Department. They probably wouldn't move until they know that the County Zoning will permit landfill use.

(CONCLUSION OF EXCERPT.)

Filed May 8, 1979	
IN: PETITION FOR SPECIAL EXCEPTION	REPORT
for a Sundry Landfill for	COUNTY BOARD OF APPEALS
Disposal of Industrial Sludge	OF
WPA Waterways Pollution	BALTIMORE COUNTY
MS of Sludge Backflow	No. 77-132-K
With Sludge	
The Baltimore Irish Company	
Performance Chemical Company	
Control Producer	

OPINION

The Petitioner in this case is Allied Chemical Company, a producer of dioxin alloy.

It operates a plant in Baltimore City employing 350 people wherein new dioxin bearing ore is washed, mixed with soda ash and lime, and roasted, a process which renders soluble the product aluminum compound retained for further processing, but leaves dioxins as refuse, a granular material that is odorous, non-combustible, and inert.

The refuse contains quantities of up to 0.2% water soluble and 1.2% acid soluble heavy-metal dioxins.

Since reprocessing of the refuse is neither commercially viable nor chemically recycling, disposal thereof as a waste material is required.

Patterson has lost control of its present landfill area and must relocate that activity. As Counsel previously stated, it is neither a trader in options nor is it a bank landlord. Because on the "Williams Blvd" property, the site contains approximately sixty-five acres of land and is situated generally on the east side of Philadelphia Road, north of Harrisville Road, Patterson's Exhibit No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825,

¹ Reibman's Exhibit 2(a) is a multi-page, bound volume with text, photo, graphs, and other supporting material, entitled, "Operating Plan and Procedures and Environmental Assessment for Total Containment of Chlorine Gas Refills." Exhibit 2(b) is a plan which summarizes and summarizes 2(a).

EXHIBIT C

(EXCERPT.)

THE COURT: The order of the Board of Appeals granting the special exception in this case will be affirmed. The Board thoroughly considered the case. There was a great deal of testimony, and there was some evidence in the record to support all of the factual findings.

The grant of the special exception merely gives to the land owner the right to operate a sanitary landfill, as that use is defined in the County zoning regulations.

In order to give some comfort or assurance to the people in the neighborhood, the Board did consider the proposed use of the subject property where the owners or contract-purchasers propose to dispose of some chrome byproduct, which may or may not be hazardous now or may or may not pose some latent health hazard, which may not surface for literally generations.

This is an area that has presently become one of great concern to many people. Years ago, because chrome and its processing is nothing new, at all; as long as we have had automobiles, they have had a lot of chrome on them, so somewhere, some place, people have been dumping this chrome by-product; and only in the last decade has the public become aware of potential problems.

In order to give some place to the protestants,

Spokane Bldg Co. - 677-132-X

Particular progress is shown in the value of the ratio, a process which says

II.

for a Special Exception to operate and maintain a military landfill storage. (Section 252.2.A.4 of the Baltimore County Zoning Regulations). A military landfill is defined in said Regulation as:

"Severe Landfill: A planned and systematic method of disposing of garbage and other wastes whereby such waste material is placed so that it is thoroughly compacted and covered at the end of each day's operation with such depth and consistency of such types of materials as are acceptable to the Baltimore County departments of health and public works, and the Maryland State department of health. When this fill is completed a covering of such depth and consistency of such types of materials as are acceptable to the Maryland county and State departments shall be provided." (Section 101.10 of said Resolutions)

In a Special Exemption proceeding, we must be governed by the provisions of Section 202.1 of said Regulations, which reads:

*302.1—Before any Special Exemption shall be granted, it must appear that the use for which the Special Exemption is requested will not: 30 C.F.R. 100.3.1

e. Is detrimental to the health, safety, or general welfare of the family involved (R.C.Z.R., 100.03).

5. Tend to create congestion in roads, streets or alleys thereby [B.C.T.R., 1968.]

- e. Create a potential hazard from fire, panic or other dangers [R.C.Z.B., 1908]

8. Total to overstate that the above stated concentration of population. (B.C.I.B., 1988.)

6. Interacts with adequate provision for school, police, water, sewage, transportation or other public equipment, construction, or improvement. (28 C.F.R. 1985.1)

summary restrictions were set out in the grant of the special exception. But this court rules that the proper control of wastes that are hazardous is not the function of the County zoning authorities. That function belongs to the State agencies that have been created to deal with just such problems as the Board of Appeals in this County foresees.

The mere fact that a special exception has been granted does not carry with it the right to dispose of any hazardous material, it does not carry with it the right to use the property in a manner that amounts to a nuisance. The Board has a right to assume, from a legal point of view, that the disposition of hazardous waste will be properly controlled for the benefit and protection of the public by the Department of Water Resources, by the State Health Department, by the Maryland Environmental Services, I think it's called. And it may well be that before all of these agencies have looked into the situation and made their determination, some other agency may yet be created that will have to supervise the disposition of these potentially dangerous problems.

All that the Baltimore County Zoning Board has to decide or should decide would be assuming that the use of the property will be consistent with Health Department regulations, Water Resources regulations, and all that, all the other State governmental agencies, if that is so controlled,

1-800-842-0200 • 977-120-1111

2. *Interplay with subsequent right and elev. (O.C.T.B., vol. 10)*

The legal standard to which we must adhere is best articulated by Judge Williams in Tyner v. Hammett, 379 Md. 41, 310 A.2d 348, where he said, at page 51:

"Commonly the law and law often the breach lay right at the exempt that the exempt was an equal citizen in the state, as it is generally called, in a part of the exemption, and many times during the prosecution that as such it is in the interest of the general welfare and, therefore, valid." (Charters continued). The special exemption is a valid statute mechanism that delegates to an administrative board a limited authority to permit unrestricted use of the highways but determined not to be allowed, properly after a price trade, allowing any but circumstances regarding the highway.

[illegible]

To eliminate immediately questions which we do not believe
 fairly in this case, but with which we are expected to treat, we will make up
 of her without further discussion with regard to Subsections a, b, c, and f of
 SEC. 1. We specifically find on the record in this case that there is evidence

hazard from fire, pipe, or other dangers will not tend to overcrowd land and cause undue concentration of population; interfere with adequate provision for schools, parks, water, sewerage, transportation or other public requirements, convenience, or improvement; and will not interfere with adequate light and air.

Section 8, of Article 22, § 1 shows some authority. The evidence before the Board demonstrates that the proposed site of a pier was owned for industrial use as that indicated on maps, by itself, developed immediately north of the site. Petitioner's witness agrees in the general case with the fact-finding of the Highway Commission that the property by zoning the said Blue line as such, by converting industrial Boulevard to Yellow Brick Road and thus to the site, or, again, some traffic Boulevard to the Yellow Brick Road and thence to the site. Petitioner's Exhibit 101, page 401, indicates that the traffic involved into the use by Petitioner's proposed will include, probably of twenty-five thousand a day, to forty-five thousand a day. Given the scale, and given the amount that any industrial source of approximately daily some of kind will generate at least this amount. If, of course, then, we have no difficulty in finding that with respect to the Boulevard Boulevard-Yellow Brick Road, as compared with the usual "no road, means no effect" of the locality. The evidence clearly shows that Yellow Brick is a relatively narrow, winding and hilly road running through the industrial area adjacent to the use of the site, and it is not clear that Yellow Brick Road should be so burdened with such vehicles, and seems to be able than the Yellow Brick Road will be sustained.

• **PL**

Measuring Petitioner's proposal against Subsection c. of Section 202.1 is the real task in this case. The Board must determine whether the proposal is detrimental to the health, safety or general welfare of the community. We treat the concept of "general welfare" as being very much a part of this case because of the nature of the proposed action considered, and our view that the Court in *Tennor v. Hammond*, 1992,

hardly seemed that the theory of legislative preemption concerning "general welfare" extended to a remedy for liquor taxes.

A very real element in the protest against this application is the fact of collateral property owners who state that the presence of a bathroom inside their home can greatly diminish the value of their home. They are also concerned that Partners' proposed expansion, involving as it does such moving and the operation of heavy motor vehicles, will contribute to intrusion into their residential zone. Partners' proposed cross railway has a prefunctional vehicle designed to cross these lanes. The bill is potentially meant for industrial usage and no facilities that are out of order in the home will impact Partners to conduct its operations in such fashion that no greater intrusion into the residential neighborhood will occur than than one which would now be permitted on the site as a matter of right.

We may eliminate two sentence fragments which portions of the evidence becomes thus finite, if any, disagreement thereon, and a summary I will deem pertinent to these specific points will suffice. Furthermore proposals to employ a concept of "Total Containment" of the release, whereunder the release would be compartmentalized within a blanket of compressed dry to prevent the entry of water or the escape of hazardous substances into the environment. Certain safety provisions, such as monitoring units, underground drain system, and holding pits, would be made a part of the plan. The operation would be under the supervision of the Maryland Environmental Services, a State owned corporation, bonded and bonded for such tasks. The Pretreatment produced

Robert L. Kender, Ph.D., an expert in the field of soils, who disputed the findings of Pettibone's experts regarding the impossibility of the clay samples, but under our view of the appropriate safeguards to be imposed on Pettibone's operation, we need not further investigate this dispute.

There is, however, one major point upon which there is totally diverse evidence. Baltimore properly transports, and would propose to continue to transport this also, the refuse to some other locale. Baltimore will also undertake certain ball

aching and other medical symptoms on the site which still occurs there. . . . [T]heir
 . . . because their spouses, as a procreated state, the possibility of these being any more
 . . . their children is the value added to it being transmitted and fulfilled. Their
 . . . questions is based on the assumption that the progeny will be of themselves alone.
 . . . in the table is to be kept the source of others which could suggest during the marriage
 . . . the single complete generation, even if husbandly by nature, could not have sufficiently
 . . . been considered to be harmful to affect or control this. . . . However, Dr. Bland
 . . . Corcoran, Medical Director of Public Health Service Hospital, said that he would have placed
 . . . in the air, generated variation, and variation and other state to suggest his belief that not
 . . . only are hereditary elements composed legitimately regarding the field of genetics, but
 . . . the offspring produced, including all elements and elements of production of the
 . . . most systems, may be moved by one manner with duration against that.² Dr.
 . . . Corcoran's testimony is that the average length of period between exposure and
 . . . disease may be twenty years. . . . Since fertility, perhaps, that does show is not
 . . . disease which that legation of exposure to the field is harmful, that does show may be
 . . . harmful, while Dr. Corcoran explains that a part of years is necessary to cause the
 . . . disease and determine whether the exposure may be in recovery. . . . The fact that Dr.
 . . . Corcoran's view that it was an available medical evidence showing that the act or source
 . . . of negligence or allopathic process could prevent and not just condition on the

Moreover, we also note that our Court of Appeals in North v. John
Hamville Products Corporation, 1978 Tans. Misc. 1, decided November 21, 1978, has
recognized the concept of an extraordinary joinder period, and we feel that this strengthens
our resolve to be the worthy assistant of Dr. Condon's vision.

Dr. Campbell's testimony begins on page 284 of the transcript.

Protestants raise an objection that the Board lacks jurisdiction to administer the petition under and until the County Council for the Associated Counties extends the solid waste disposal plan authorized by Article 48 of the Reformed Code of Maryland (Annotated Code, 1987 Cumulative Supplement), Section 28PC. We do not agree that extension of the solid waste disposal plan is a condition precedent to its consideration by the county. We do concede, however, that such an extension might be a necessary step which must be accomplished before our Order supersedes it. We might also state that while we are limited to certain articles in our consideration of the case, the Council will be dealing with the question of the inclusion of this facility by its "plan" as a comprehensive basis, so that our action in this proceeding is in essence on a different basis than that which will be employed by the Council in its deliberations.

49

Our alternate finding, if any, is that as it is to be restricted under our authority set forth in Section 202.2 of the Regulations, Petitioner's proposal will not be violative of Section 202.1 of said Regulations.

viii

We intend to utilize in this case the provisions of Section 502.2 of the Regulations, which read:

"**FIG. 2** — In granting any Special Exception, the Zoning Commission or the County Board of Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The same, license or license of the property for which a Special Exception is granted, if required by the Zoning Commission, or County Board of Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commission or the County Board of Appeals and County Council of Baltimore County, stipulating the same conditions, restrictions, or regulations as may be required by the Zoning Commission, or the County Board of Appeals, upon appeal, for the same."

to be recorded among the Land Records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such Special Exception. When so recorded, said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, encumbrance or other transfer."

It is further known that Parliament shall first propose and submit to the Board for approval, a resolution authorizing for reconsideration among the Land forfeiture Country, its descendant thereof at Parliament's next upon receipt of an Order thereof, containing suitable notice that the Special Commission appointed to the site is subject to the Instructions contained in said Order; and that the date of such Instructions may be fixed in the office of the Administrative Secretary of the Board. Thereafter, we shall require that Parliament propose, in consultation with the Director of the Baltimore County Department of Health and the Director of the Baltimore County Department of Public Works, an instrument to be executed by Parliament, which contains the following provisions to implement effectiveness of the amendments.

First, Petitioner must agree to abide by all of the provisions contained in its Exhibit No. 2 (a) and (b). Second, a private restricting transportation of truck traffic to the heavily Redwood-Yellow Birch Road route must be included. Lastly, we are concerned by the vagueness of Petitioner's presentation relative to continued responsibility for equipping the Petitioner's operation during the period of active use of the site and after the Petitioner's proposed operation is completed.

Feltimer's evidence clearly shows that given contemporary understanding of the properties of hazardous chemicals, the proposed conspiracy must be construed "broadly," as the statement of Feltimer's witness, John E. Felt, Ph.D., makes clear on page 176 of the transcript. Feltimer produced CHN Willey, Ph.D., an official of Maryland Environmental Services, whose testimony included more common than it settled.³

We shall insist that Performance prove to us a definite contract, duty and properly executed by the parties, wherein the obligation and responsibility of Maryland Environmental Services is specifically detailed in that we may review it for adequacy in both scope and duration.

YIN

Without dissolving the testimony and evidence before it, don't, he learned upon all the evidence & testimony produced in the trial of this case and the testimony of the witnesses, it is the opinion of the Board that they, in compliance with the conditions specified in Section 1061, of the Baltimore County Zoning Regulations, and the Special Zoning Ordinance should be granted. Furthermore, we do not find any substantial harm to the general public health and welfare as a result of granting the Special Zoning Ordinance, and note that it is necessary since an industrial facility exists adjacent to the subject property in a manner less offensive to the general public than we find that the petitioner's proposed is a sound use and constitutes all reasonable safeguards within the rules of manner. Further, we wish to add that additional safeguards are imposed upon this proposed in that the petitioner must notify both the Department of Natural Resources and the Department of Health and Hygiene in order to obtain the necessary operating permits under the Maryland Sanitary Code. Additionally, restrictions will be imposed in order to ensure that the petitioner's proposed is the specified use listed in the Petitioner's Proposed Z 360 and D 60. Secondly, the Petitioner's mode of travel from his place in the proposed site will be limited by his traversing the Route 402 and the Yellow Brick Road in the site and, thereby, the Petitioner will be required to enter into a contract with the Maryland Environmental Service as indicated, again, in the applicant's Ordinance.

QIPER

For the reasons set forth in the foregoing Opinion, it is this 10th day of April, 1979, by the County Board of Appeals, ORDERED that the Special Exception authorized by, and the same is hereby GRANTED, subject to the following restrictions:

1. Partitions is limited to the application and nature of the property as described in Partitions of Section 2 (a) and 2 (b) which are attached hereto and made a portion of this Order.
2. Access to the disposal site shall be limited to entrance by way of Yellow Brick Road.
3. The granting of this special exception is conditioned upon the execution of a statement by the applicant for the disposal site by the Maryland Environmental Service. Before this special exception may be affixed, the Partitions shall submit to this Board a fully executed contract between the Partitions and the Maryland Environmental Service which provides for such monitoring, operating and control of this disposal site.
4. The granting of this special exception is conditioned upon the approval of all other necessary Baltimore County and State of Maryland agencies required by the execution of a hazardous waste disposal site.

Any appeal from this decision must be in accordance with Rules 8-1 through 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

[Handwritten signature]

NEWSROOM FOR SPECIAL BROADCAST

To a Baltimore landfall
to Department of Industrial Relations
10-15 Philadelphia Street
P.O. Box 100000
The Baltimore Bank Company
Baltimore
Allied Chemical Company
Contract Purchaser

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Filed: _____
Date: _____
Page: _____

SECTION ON AFFAIRS

Reverend Raymond Baker, Clark Newton, C. Spencer Robinson, Jr., Mark Schmidt, William J. Higgins, and John W. Hamblin, III, People's Council for Baltimore County, Inc., appellants herein, having heretofore filed their Order for Appeal from the decision of the County Board of Appeals under date of April 18, 1977, granting a Special License for the construction, operation and maintenance of a sanitary landfill for the incineration of incinerator waste on the east side of the Baltimore City in the 15th District (Ward) of Baltimore County, in compliance with Maryland Rule S.E.A., 8th Edition, 1976, and the various orders which said appeal is pending, also

A. That the County Board of Appeals has no limited authority, to grant a Special Exception in this case, said limited authority being vested in the County Council for Baltimore County and the State Department of Health pursuant to Section 209C of Article 21 of the Annotated Code of Maryland, (Volume 49, 1977 Codebook Supplement, "County Government - Baltimore County, Government and Public Works Division Systems."

5. Was the granting of said Special Exemption by the County Board of Appeals in
violation of the provisions of Section 222.1, subsection 1, of the Wisconsin Statutes, in
that the Board conclusively determined that there is no suitable or adequate
lot area for the proposed development, and that the said lot area is not suitable or adequate

EXHIBIT D

to be hazardous waste, and, if confirmed by tests or by other, more definitive data.

C. That the granting of said Special Exception by the County Board of Appeals is directly contrary to the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

D. That the granting of said Special Exception by the County Board of Appeals is directly contrary to the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

E. That the granting of said Special Exception by the County Board of Appeals is directly contrary to the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

F. That the granting of said Special Exception by the County Board of Appeals is directly contrary to the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

G. That the granting of said Special Exception by the County Board of Appeals is directly contrary to the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

1979 AS BY DUTY SIGNED, ETC.,

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IN THE Court of Special Appeals of Maryland

SEPTEMBER TERM, 1982

NO. 131

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, ET AL.
Appellants,

THE BALTIMORE BRICK COMPANY, ET AL.
Appellees.

APPEAL FROM THE CIRCUIT COURT
FOR BALTIMORE COUNTY
JOHN E. RAINE, JR., Judge

APPELLANTS' BRIEF AND APPENDIX

STATEMENT OF THE CASE

On April 10, 1979, the County Board of Appeals for Baltimore County granted the petition of Baltimore Brick Company (downtown) and Allied Chemical Company (contract purchaser) for a special exception for a sanitary landfill under Section 552.6A of the Baltimore County Zoning Regulations (hereinafter BZCR). Upon appeal by the People's Counsel and neighboring Protestants, the Circuit Court

EXHIBIT E

for Baltimore County affirmed on December 17, 1981. From this final order an appeal was timely filed.

The purpose of this appeal is to secure a court order requiring the County Board of Appeals to reconsider the effect of hazardous waste disposal on the public health and environment and impose reasonable conditions based on that consideration. The primary concerns involve potential migration of underground water pollution and potential air pollution involving dust in the neighborhood. Appellant does not at this stage of the proceedings contest the issuance of the permit, nor, but rather seeks limitations and controls commensurate with the seriousness of the public health and environmental concerns.

This appeal, moreover, is not directed at a review of the evidence or the findings of fact made by the Board. It is directed rather to the failure of the Board, as a matter of law, to consider the public health implications of its findings based on its apparent view of preemption by state law. The Circuit Court affirmed on this point. The appeal is further addressed to the legal standard governing the type and amount of evidence sufficient to trigger legitimate consideration of a potential health or environmental hazard under the "substantial evidence" test.

Because of the limited scope of the appeal and its focus on issues of law, the Appellant proposed a record extract limited to the opinions of the Board of Appeals and Circuit Court, and relevant memoranda. At the request of Appellate, the Allied Chemical Corporation Operating Plan and Procedures and Environmental Assessment for Total Confinement of Chromes Ore Refuse and excerpts from the lengthy testimony were also included.

QUESTIONS PRESENTED

1. Whether the County Board of Appeals and Circuit Court erred by failing to consider the effect of disposal of hazardous waste on the public health of the community?
2. Whether the County Board of Appeals and Circuit Court erred for the same reason that the consideration of public health is exclusively a matter for state agencies?
3. Whether consideration of potential health and environmental hazards is triggered by a reasonable concern indicating the severity of the anticipated consequences against the chance of its occurrence?

CONSIDERATION OF POTENTIAL HEALTH AND ENVIRONMENTAL HAZARDS IS TRIGGERED BY A REASONABLE CONCERN BALANCING THE SEVERITY OF THE ANTICIPATED CONSEQUENCES AGAINST THE CHANCE OF ITS OCCURRENCE.

Consideration and regulation in a special exception case involving public health and environmental matters is mandated whenever there is a reasonable concern of a potential significant hazard. These cases typically involve future hazards and call for a burden of proof which addresses the issue of safeguarding later generations. Accordingly, a number of courts in both common law and regulatory contexts have weighed the reasonable, albeit uncertain, concern against the severity of the danger. The result is that where the evidence is not sufficient to calculate the risk in terms of probability, the courts will nevertheless apply the common law of nuisance and applicable statutory standards in appropriately serious cases. *Village of Wilmette v. JCA Services, Inc.*, 396 N.E.2d 552 (Ill. App. 1979), aff'd 426 N.E. 2d 824 (Ill. 1981) (nuisance law); *United States v. Verne Chemical Corp.*, 489 F. Supp. 870 (E.D. Ark. 1980) (RCRA); *Reserve Mining Co. v. Environmental Protection Agency*, 514 F.2d 492 (8th Cir. 1975) (Federal Water Pollution Control Act). The Maryland Court of Appeals appears to have recognized the need for relaxation of the burden of proof in *State Dept. of Health and Mental Hygiene v. Baltimore County*, 281 Md. 548, 383 A.2d 51 (1977). Addressing itself to the statutory responsibility of the state to consider the public's health hazards associated with landfills, the Court said that the Department of Health must have "an opportunity to assure itself that there is no reasonable possibility of future pollution..." 281 Md. at 560. See, e.g., *State Dept. of Health and Mental Hygiene v. Congleton Corporation*, ___ Md. App. ___, 444 A.2d 130 (1982).

The question of burden of proof is important because traditionally, in special exception cases, the matter has been addressed in terms of either "probability" which is an insufficiently rigorous standard for "substantial evidence" review, or "mere possibility," which is not sufficient. *Miller v. Kansas City, 29 Mo. App. 285, 347 A.2d 836 (1975).*

The County Board of Appeals should be directed, therefore, to consider the future supervision of the proposed facility in light of the potential waste pollution hazard as well as the potential health hazards associated with airborne dust. The

STATEMENT OF FACTS

Petitioners requested a special exception for a landfill for chrome ore refuse. The site is second M.L.-13M. (Manufacturing, Light, Industrial Major), located in a densely settled area of southeast Baltimore County, not far outside the Baltimore Beltway (I-695). It is on the southeast side of Pulaski Road (U.S. 7), northeast of Rossville Boulevard, and north of Pulaski Highway (U.S. 40). The neighborhood is characterized by a mix of non-residential, commercial (Golden Ring Mall), industrial, and institutional (East Community College, Franklin Square Hospital).

Following a six-day hearing involving as parties the Petitioners, neighboring residential property owners, and the People's Counsel, the County Board of Appeals reviewed the following matters in its Opinion and Order (E. 3):

1. Traffic congestion.
2. Intrusion into residential areas and depreciation of property value because of the presence of a hazardous waste site, earth moving and operation of heavy motor vehicles.
3. Potential future health hazards from the hexavalent chromium contained in the refuse.

In so doing, the Board purported to apply the legal standards governing special exceptions under Section 502.1 of the Baltimore County Zoning Regulations and *Turner v. Hammond*, 270 Md. 41, 310 A.2d 343 (1973). It focused attention particularly on subsection (b) (traffic congestion) and subsection (a) (health, safety, and general welfare).

The central concern is the leaching and migration of hexavalent chromium into the area's groundwater. The parties all admitted the concern that chromium would be dangerous because of its long-term toxicity.

Petitioners proposed total confinement of the refuse, encapsulation in a blanket of relatively impermeable compacted clay to prevent entry of water or seepage of the chromium. This also included an underground drain system and holding pits to divert and collect precipitation infiltrating the site, as well as a system of monitoring wells, all under the supervision of the Maryland Environmental Service (MES).

Petitioners also proposed to transport to the site refuse in open dump trucks, and presented testimony to negate, as a practical matter, the possibility of any toxic effects inherent in transportation. They similarly contended that the dust generated by bulldozing and other mechanical operations would not be dangerous.

The County Board of Appeals, while satisfied with the proposal in many particular, expressed some reservations. On the matter of continual care for the site, the Petitioner relied on pertinent provisions of the Maryland Code Nat. Res. Art. Sec. 8-1412.2(a), authorizing the right to condemn (E. 35). The Board, recognizing that the encapsulation must be monitored "forever," first appeared to suggest the need for a contract between Petitioners and MES, subject to further review (E. 10-11). Its Order was, however, vague as to this condition (E. 12). On the matter of contamination from airborne dust generated in local trucks, bulldozing, and mechanical operations, the Board found, based on testimony by Dr. Kenneth Crawford of Franklin Square Hospital, a serious medical concern that mere contact with chromium dust would be carcinogenic and/or cause allergic problems, involving skin ulceration and nasal septum ulceration and perforation (E. 7-8). Again, however, the Board's Order failed to address the problem (E. 12).

In granting the special exception, the Board appeared to take the view that its condition requiring Petitioners to satisfy the Maryland Departments of Natural Resources and Health and Mental Hygiene and obtain all necessary state and county approvals substituted for independent consideration of conditions by the Board (E. 11).

On appeal, Chief Judge Raine noted the Board's consideration of the proposal and acknowledged the present concern about disposal of "chrome by-product"; and that, in order "to give some solace to the Protestants, summary restrictions" were set out in the grant. "... But he then ruled,

"... that the proper control of wastes that are hazardous is not the function of the County zoning authorities. That function belongs to the State agencies that have been created to deal with just such problems as the Board of Appeals in this County form." (E. 16).

Judge Raine's view was that the Board has "a right to assume" that the State agencies would properly control the disposition of the waste. The Board's sole function then was to decide if the place was a reasonable one for a landfill (E. 19).

ARGUMENT

I.

THE COUNTY BOARD OF APPEALS AND CIRCUIT COURT WRONGFULLY DEFERRED CONSIDERATION OF PUBLIC HEALTH TO THE STATE.

In *Browning-Ferris, Inc. v. Anne Arundel County*, 292 Md. 136, 438 A.2d 269 (1981), Section IV, the Court of Appeals held that neither federal nor state law preempted local regulations governing disposal and siting of hazardous waste facilities. As to federal law, Congress expressed its intent in the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901(a)(4) that the collection and disposal of solid wastes should continue to be primarily the function of state, regional, and local agencies. As to the State, it has left open the field of local regulation except in the limited case of a state issued certificate of public nuisance issued by the Hazardous Waste Facilities Siting Board. Md. Ann. Code Nat. Res. Art. Sec. 3-701 to 3-713.

The decision of the County Board of Appeals and Circuit Court to abdicate responsibility for consideration of the public health resulted from an erroneous understanding of state preemption. The decision in *Browning-Ferris* requires that the case be remanded to the Board for independent review of these matters, subject only to the limitation that the Board's order not conflict incommensurately with any specific state law or regulation. See, e.g., *City of Baltimore v. Slinkin*, 254 Md. 303, 255 A.2d 376 (1969).

In this context, consideration by the Board of Appeals of public health and environmental considerations under BZCR Section 502.1 is analogous to the consideration of environmental factors, required of federal agencies under the National Environmental Policy Act and would be subject to judicial review under the "arbitrary and capricious" standard. See *Stycklen v. Maryland Neighborhood Council v. Kelen*, 444 U.S. 225, 62 L.Ed.2d 433, 100 S.Ct. 497 (1980); *Cahoon (City) v. Conn.*, 444 U.S. 225, 62 L.Ed.2d 433, 100 S.Ct. 497 (1980); *Cahoon (City) v. Conn.*, 444 U.S. 225, 62 L.Ed.2d 433, 100 S.Ct. 497 (1980). The specific concerns to which this appeal is particularly directed are the obvious need for "aftercare" of the facility to detect and manage potential water pollution, and the stated reasonable medical concern for potential contamination from ambient airborne dust.

On April 5, 1982, in MD 45-82, the County Council for Baltimore County asked advice from the Maryland Department of Health and Mental Hygiene regarding the existing review of effect on the public safety, health and welfare.

by Respondent agreeing to abide by its Plan and to restrict truck traffic at the site (E.10-12). Third, Respondent was directed to execute a contract with Maryland Environmental Services concerning the monitoring, operation, and control of the disposal site (E.10-12). This contract was to be submitted to the Board for its advance approval and was to be specifically detailed so that the Board could review it for adequacy in both scope and duration (E.11,12). Finally, the special exception was conditioned upon the approval of all other necessary Baltimore County and State of Maryland agencies required for the operation of a hazardous waste disposal site (E.11,12).

ANSWER TO PETITION

The Petition seeks review from the per curiam opinion and decision of the Court of Special Appeals of Maryland on two bases:

1. That the County Board of Appeals for Baltimore County failed to adequately consider the public health criteria of BCER 502.1 and,
 2. That the Court of Special Appeals "violated" this Court's holding in Browning-Ferris Inc. v. Anne Arundel County on "hypertechnical" and "inappropriate" grounds.
- Both of these contentions are totally without merit.

The Board of Appeals listened to seven days of testimony regarding the proposed use of the subject property as a landfill

and concluded there was "compliance with the conditions specified in Section 502.1 of the Baltimore County Zoning Regulations." (Board's Opinion, Page 9). Even so, the Board imposed what it considered "additional safeguards" to protect the public health and safety. Petitioner contends that the consideration given to the public health criteria under BCER 502.1 by the Board was inadequate.

The Petitioner's contention is based upon their interpretation of the Board's Opinion and Order that the Board abdicated its responsibilities by deferral to other County and State agencies. Nothing could be further from the truth. The Board in the exercise of its responsibility found that, in its opinion, the land use in question would not be detrimental to the public health or safety. But, to assure that such would be the case during utilization of the special exception, it imposed certain conditions upon the exercise of the special exception to assure such future compliance.

In their Brief before the Court of Special Appeals, Petitioners argued that the Board and Circuit Court had abdicated responsibility "for consideration of the public health" based upon an alleged misapplication of state preemption. (See Appellant's Brief, Page 5). The Board did consider the public health, in the land use context, as is evident from its Opinion and Order. The Circuit Court simply stated that the "control of waste", i.e.

their day-to-day handling and disposal, were the proper functions of the appropriate County, State and Federal agencies. The Board is neither authorized nor equipped to take on and implement such action.

Contrary to Petitioner's contention, this Court's decision in Browning-Ferris simply is inapplicable to the matter under consideration. There a specific county ordinance was under review vis-a-vis federal preemption. No question of preemption or abdication was ever raised in the within case until Petitioner's Brief in the Court of Special Appeals.

Finally, Respondent raised in its Brief before the Court of Special Appeals as did that Court in its decision that the issues raised by Petitioners were either not discussed in their Brief or not raised below before the Board and Circuit Court. To refuse to hear argument or to decide issues of preemption (Appellant's Brief, page 15); relaxation of the burden of proof in zoning cases (Appellant's Brief page 6); and "inadequacy" of public health considerations (Appellant's Brief page 7) hardly constitute hypertechnical and inappropriate enforcement of the Maryland Rules of Procedure. However even if it was assumed that Petitioner's argument had merit, the Court of Special Appeals stated:

If we were to decide the issue raised in this appeal and the ruling of the Circuit Court, our review of the Opinion and Order of the County Board of Appeals would lead us to conclude that there is no merit in any of the questions presented by the appellants.

Accordingly, after five years of hearings and appeals, the Respondents respectfully request the Court to dismiss the Petition for Writ of Certiorari.

RESPECTFULLY SUBMITTED

Gary C. Duval
GARY C. DUVAL
WILES & STOCKBRIDGE
401 Washington Avenue
Towson, Maryland 21204
(301) 821-6565
Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of November, 1982, a copy of the foregoing Answer to Petition for Writ of Certiorari to the Court of Special Appeals of Maryland was mailed to John W. Hessian, III, People's Counsel, Room 223, Court House Towson, Maryland 21204; to Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204; and to Norman R. Stone, Jr., Esquire, 6905 Dunmanway, Dundalk, Maryland 21222, attorney for Appellants.

Gary C. Duval
GARY C. DUVAL

LAW OFFICES
MILES & STOCKBRIDGE
401 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

TELEPHONE (301) 821-6565
CABLE MILESTOCK
TELETYPE 301

January 6, 1983

The Honorable William T. Hackett
Chairman, County Board of Appeals
Room 209, Court House
Towson, Maryland 21204

James E. Dyer, Zoning Supervisor
Zoning Commissioner's Office
County Office Building
Towson, Maryland 21204

RE: Baltimore Brick Co. 677-132-X

Gentlemen:

I have received this morning Mr. Zimmerman's letter of January 4, 1983 regarding the above-captioned matter.

The People's Counsel's office has had more than sufficient opportunity before the Zoning Commissioner, Board of Appeals, Circuit Court for Baltimore County, Court of Special Appeals and Court of Appeals to interject its position regarding implementation of the foregoing special exception.

At each stage of the foregoing proceedings over the last four years, each of the aforementioned bodies found in favor of the Baltimore Brick Company. There is nothing under Section 524.1 of the Baltimore County Charter which would permit the office of the People's Counsel to advise the Board of Appeals. That function is solely within the province of the Baltimore County Solicitor's Office. Accordingly, I would respectfully request on behalf of my client that the People's Counsel's office not be permitted to further participate in this matter since all judicial avenues have now been exhausted and their role is no longer necessary or permitted in these proceedings.

Very truly yours,

Gary C. Duval
Gary C. Duval

CC: Peter Max Zimmerman, Esq.
Mr. David P. Scheffensacker

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 666-1351
B. ENC DOWNS
ZONING COMMISSIONER

Norman R. Stone, Jr., Esq.
6905 Dunmanway
Dundalk, Maryland 21222

Re: Petition for Special Exception
SR/S of Philadelphia Road, 3600' E of
Rossville Boulevard - 15th District
No. 77-132-X (Item No. 64)

Dear Sir:

Please be advised that an appeal has been filed by John E. Hadd, Esq., attorney for petitioners, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

RM/ha
cc: The Rev. Raymond H. Roberts
Lamb of God Lutheran Church
5915 Philadelphia Road
Rossville, Maryland 21237

Mr. Max C. Coulter, President
Baltimore Improvement Association
9215 Nottingham Road
Baltimore, Md. 21237

William J. Burgess, President
Greater Rosedale Community Council, Inc.
P.O. Box 9528
Rosedale, Maryland 21237

February 18, 1977

FROM THE OFFICE OF
ALLAN STEINBERG, JR. AND ASSOCIATES, INC.
ENGINEERS
P.O. BOX 6928, TOWSON, MARYLAND 21204

Description to Accompany Zoning Petition
for Special Exception for Controlled Land 111
Including Change the Before in an Existing M1 and M1-L Zone
Part of the Property of Baltimore Brick Company

September 17, 1976

Beginning for the same on the southeast side of Philadelphia Road at a point measured 3620 feet more or less northeasterly, along the southeast side of said Road from the centerline of Rossville Boulevard, thence binding on the southeast side of Philadelphia Road the three following lines, viz: (1) North 41° 49' East 1167.35 feet, (2) northeasterly by a curve to the right having a radius of 5699.65 feet for the distance of 212.22 feet, (3) North 47° 59' East 177.08 feet, thence leaving said Philadelphia Road and running the ten following lines, viz: (4) South 41° 23' East 290.45 feet, (5) South 42° 37' East 1221.35 feet, (6) South 42° 23' West 761.77 feet, (7) South 42° 37' East 17.00 feet, (8) South 42° 23' West 910.76 feet, (9) South 50° 14' East 15.13 feet, (10) South 41° 23' West 126.80 feet, (11) North 44° 12' West 1297.68 feet, (12) North 41° 49' East 489.39 feet and (13) North 44° 12' West 101.00 feet to the place of beginning.

Containing 67.568 Acres of land, more or less.

This description is intended for the purposes of zoning only.



John E. Hadd, Esq.
102 W. Penna. Ave.
Towson, Md. 21204

NOTICE OF HEARING

Re Petition for Special Exception for the Baltimore Brick Co.
677-132-X

TIME: 10:00 A.M.

DATE: Monday, January 23, 1977

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE.

TOWSON, MARYLAND

ZONING COMMISSIONER OF
BALTIMORE COUNTY

COUNTY COUNCIL OF BALTIMORE COUNTY
OLDE COURTS BUILDING, TOWSON, MARYLAND 21204

November 26, 1976



EUGENE W. GALLAGHER
COUNCILMAN, SIXTH DISTRICT

Mr. Eric S. DiNenna
Commissioner of Zoning
Office of Planning and Zoning

Re: Special Exception Petition
The Baltimore Brick Company

Dear Mr. DiNenna:

Please be advised that a review of the above petition (dated July 28, 1976 and revised September 16, 1976) appears to be in conflict on several points with testimony forwarded by representatives of the Allied Chemical Company and the Maryland Environmental Services at a meeting with the general public held on November 17, 1976 at the Red House Run Elementary School in Rosedale.

Firstly, on said petition the contract purchaser blank states "none". At the above hearing Allied claimed that they have an option to purchase those 50 acres-which certainly is a contract.

Secondly, it was consistently indicated that the owner of the property in question was the Arundel Corporation; the petition states "The Baltimore Brick Company".

Thirdly, under hours of operation it is stated that it will be in operation 240 days per year. At the aforementioned public presentation, it was stated flatly by Allied that it would be in operation seven days a week which would be 365 days a year.

Fourthly, the "final use" of the property by the petitioners is stated as Industrial Park Warehouses & Light Manufacturing. The proposed owners, Allied Chemical, said that they would not build anything on the property, but would sell it after the fill was completed in about 10 to 12 years.

Mr. Eric S. DiNenna
November 26, 1976
page 2

Kindly consider the above comments as simply input to enlighten you about differing statements which may be important to you in your rendering a proper decision regarding the above petition.

Sincerely yours,

Eugene W. Gallagher
Eugene W. Gallagher
Councilman, Sixth District

EWG:dm

cc: The Honorable Theodore Venetoulis, County Executive
The Honorable Norman R. Stone, State Senator
The Honorable George Hefner, Delegate
The Honorable William Rush, Delegate
The Honorable John Selig, Delegate
Mr. William Burgess, Pres., Greater Rosedale Community Co.
Mr. Joseph C. Frye, Pres., Roseville Democratic Club
Mr. John Lianick, Pres., Twin Democratic Club
Mr. Jack Pickett, Pres., Greater Rosedale Dem. Club

S. DAVID METZBOWER, JR.
Attorney At Law
5718 Harford Road, Baltimore, Maryland 21214 • 426-0158

January 25, 1977

Baltimore County Zoning Commission
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance for Venus Limited Partnership
77-13-X

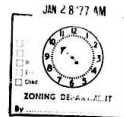
Dear Sirs:

Pursuant to my letter dated December 21, 1976, and your response dated January 5, 1977, the above captioned matter has been postponed beyond March 1, 1977. However notwithstanding my initial request and your kind cooperation in the postponement, please reschedule a hearing on the Petition for Variance as soon as possible.

Many thanks for your anticipated prompt cooperation in this matter.

Sincerely,
S. David Metzbow Jr.
S. David Metzbow, Jr.

SIM/em



PETITION FOR SPECIAL EXCEPTION

15th ELECTION

REASON: Petition for Special Exception for a Sanitary Landfill for the disposal of Industrial refuse.

LOCATION: Southwest side of Philadelphia Road 3620 Feet East of Rossville Boulevard.

DATE & TIME: MONDAY, JANUARY 31, 1977 at 10:00 A.M.

PUBLIC HEARING: Room 219, County Office Building, 111 V. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the Petition for Special Exception for a Sanitary Landfill for the disposal of Industrial refuse.

All that parcel of land in the 15th Ward District of Baltimore County

Being the property of the Baltimore Brick Company, as shown on plat plan filed with the Zoning Department.

Hearing Date: Monday, January 31, 1977 at 10:00 A.M.
Public Hearing: Room 219, County Office Building, 111 V. Chesapeake Avenue, Towson, Md.

BY ORDER OF
S. DAVID METZBOWER, JR.
ZONING COMMISSIONER OF
BALTIMORE COUNTY

March 10, 1977

The Honorable Clarence D. Long
House of Representatives
2421 Rayburn House Office Building
Washington, D. C. 20515

RE: Petition for Special Exception
SE/S of Philadelphia Road, 3620' E
of Rossville Boulevard - 15th
Election District
The Baltimore Brick Company -
Petitioner
NO. 77-132-X (Item No. 64)

Dear Congressman Long:

Thank you for your letter of March 7, 1977, in which you request information regarding the above referenced case.

This hearing was held on January 31, 1977, and a copy of my Order denying that Petition is attached. An appeal to the decision was filed on February 16, 1977. As of this date, the Board of Appeals has not scheduled the case for hearing.

Please feel free to contact me if I can be of further service to you or to Mr. & Mrs. Robinson.

Very truly yours,

George J. Martinak
GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM/mc

Attachment

cc: Mr. S. Eric DiNenna, Zoning Commissioner
Mr. James E. Dyer, Zoning Supervisor

Congress of the United States
House of Representatives
Washington, D.C. 20515



Mr. George J. Martinak, Deputy
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Martinak:

Mr. and Mrs. Kenneth Robinson, 9610 Baron Place, Baltimore, Maryland 21237, have been in touch with me regarding the request by Allied Chemical to develop a chromium landfill.

I should appreciate learning the status of Allied Chemical's request, and Baltimore County's position on the request.

Thank you for your assistance in this matter.

Warm regards,

CDL:rh
cc: Mr. and Mrs. Robinson
3/3/77 ACK

THIS STATIONERY PRINTED ON PAPER MADE WITH RECYCLED FIBER

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 424-2351

S. ERIC DINENNA
ZONING COMMISSIONER

February 9, 1977

John E. Mudd, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
SE/S of Philadelphia Road, 3620' E
of Rossville Boulevard - 15th Election
District
The Baltimore Brick Company -
Petitioner
NO. 77-132-X (Item No. 64)

Dear Mr. Mudd:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

George J. Martinak
GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM/mc

Attachments

cc: Norman R. Stone, Jr., Esquire
6905 Dunmanway
Dundalk, Maryland 21222

The Rev. Raymond H. Rohrs
Lamb of God Lutheran Church
8912 Philadelphia Road
Roseville, Maryland 21237

Mrs. Mae C. Coulter, President
Nottingham Improvement Association
9215 Nottingham Road
Baltimore, Maryland 21237

John W. Hession, III, Esquire
People's Counsel

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
April 10, 1979



Re: Case No. 77-132-X
The Baltimore Brick Co.

John E. Mudd, Esquire
401 Washington Avenue
Towson, Md. 21204

Dear Mr. Mudd:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith L. Eisenhart
Edith L. Eisenhart
Administrative Secretary

Encl.

cc: Norman R. Stone, Jr., Esquire
John W. Hession, III, Esquire
Robert J. Ryan, Esquire
The Rev. Raymond H. Rohrs
Mrs. Mae C. Coulter
Mr. William J. Burgess
Mr. Charles R. Jando
Mr. Julian Glesner
Mr. S. E. DiNenna
Mr. L. H. Groff
Mr. J. E. Dyer
Mr. J. Howell
Board of Education

401 N. Highland Ave.
Baltimore Md. 21224
April 24, 1978

Dear Sir:
I own a building
lot on Lemmings Lane near
the Philadelphia Rd. area in
Pawsville in Baltimore
County. I would like to
submit to you the results
of the zoning appeal decision
to permit the Baltimore Brick
Company to use their ground
for a brick fill.

Thank you
Yours truly,
Charles P. Jorde

P.S.:
Order # 77-132-X
Baltimore Brick Company

3rd 4/25/78
245pm

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#77-132-X

District: 15th Date of Posting: 1-13-77
Posted for: Harry Mundy, Jr. 314 1977-8-16/68 PM
Petitioner: H. Ruth, Brick Co.
Location of property: 314 S. of Phila. Rd. 314 S. of Phila. Rd.
Location of Sign: 1 Sign, Phila. Rd. between S. Phila. Rd. & S. Phila. Rd.
Remarks: Phila. Rd.
Posted by: Mel H. Heston Date of return: 1-26-77

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 42877

DATE: Jan. 30, 1977 ACCOUNT: 01-662

AMOUNT: \$55.00

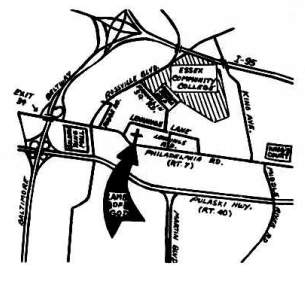
RECEIVED FROM: Messrs. Wilson & Stockbridge 102 W. Penna. Ave.
FOR: Advertising and posting of property for the Baltimore Brick Co. #77-132-X

314 6718 1 555.00

VALIDATION OR SIGNATURE OF CARRIER

LANE OF GOD LUTHERAN CHURCH
REV. RAYMOND H. ROHR, PASTOR
8912 PHILADELPHIA RD.
BALTIMORE, MARYLAND 21227

PHONE: 391-0735



WORSHIP 9:30AM
SUNDAY SCHOOL &
BIBLE STUDY 10:45AM
MISSOURI SYNOD

JESUS CHRIST PROMISED HIS DISCIPLES:

"Wherever two or three are gathered in my name, there I will be in the midst of them." (Matt. 18:20)

Lane of God Lutheran Church doesn't have an impressive church now, but we believe Jesus is in the midst of us. We are gathered together for worship each Sunday morning at 9:30, and there are more than two or three of us. About 50 worshippers come together for the sacrament of our "house-church" at 8912 Philadelphia Rd. on top of the "Beverly House". We are a conventional worship center for anyone living in Rowlesville, White Marsh, Middle River and East.

Lane of God was begun a decade ago with its first members worshipping at the VFW hall down the road. About a year later we moved into our present building which also serves as the parsonage. The harvest has been plentiful, even put in, along with an altar, pulpit and organ.

As a mission congregation, Lane of God has a certain family atmosphere. Within a short period of time, we can have everyone in the church on a first-name basis. But being small doesn't mean we don't want to grow. As a mission church, we are on a mission to preach Jesus Christ as Savior to all and all who will listen. Our plans include building a separate church within the next few years, the Lord willing.

Lane of God meets for Sunday worship at 9:30 each week. We celebrate the Lord's Supper on the 1st & 3rd Sundays. After each service, we have coffee and fellowship followed by Sunday School for the children. An Adult Bible Class meets at the same time. You are cordially invited to worship

and learn with us.
Other activities of our church include: Women's Meetings to carry on the business of the church, and monthly Senior Hours, which are an informal gathering in the parsonage to discuss a variety of religious topics. We make periodic visits to a local nursing home and have devotions with the residents. We also have a Vacation Bible School and an ongoing evangelism program. Periodically, in-lane classes are held for persons interested in learning what the Lutheran Church believes and teaches.

As a member of the Lutheran Church-Missouri Synod, Lane of God accepts the Bible and the New Testament of the Bible as God's inspired and inerrant Word. It is the sole rule and norm of our faith. We also accept the Apostles' Creed, the Nicene Creed, and the Augsburg Confession as part of our beliefs. We preach Christ as Lord and Savior from sin by grace through faith and the only way of salvation.

To be a member of Lane of God at this particular time is an exciting thing. We feel that we have a strong growth potential and are looking forward to much of what will happen in the near future. While we appreciate the traditions of liturgy and practice in the Lutheran Church, we also try to be open to new and innovative styles of worshiping our God. Lane of God offers a challenging opportunity for anyone who wants to really become involved and committed in a church. If you feel this is what you are looking for, we do not see you, and you are most welcome.

THE CONGREGATION OF
LANE OF GOD

CERTIFICATE OF PUBLICATION

TOWSON, MD. JUNE 13, 1977

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. commencing at one time on the 13th day of June, 1977, and continuing on the 13th day of June, 1977, the last publication appearing on the 13th day of June, 1977.

THE JEFFERSONIAN
A. Leach, Publisher
Manager

Cost of Advertisement, \$.....

Small vertical text on the left margin of the Jeffersonian certificate, likely containing publication rates and contact information.

Allied wins O.K. for dump at Baltimore Brick site

A Baltimore city ordinance that the city should not grant a permit for the dump of waste material in the Baltimore area... The city Board of Appeals, in a 4-3 vote, rejected the ordinance... The ordinance would have required the city to grant a permit for the dump of waste material in the Baltimore area... The city Board of Appeals, in a 4-3 vote, rejected the ordinance... The ordinance would have required the city to grant a permit for the dump of waste material in the Baltimore area...

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#77-132-X

District: 15th Date of Posting: 3-3-77
Posted for: H. Ruth, Brick Co.
Petitioner: H. Ruth, Brick Co.
Location of property: 314 S. of Phila. Rd. 314 S. of Phila. Rd.
Location of Sign: 1 Sign, Phila. Rd. between S. Phila. Rd. & S. Phila. Rd.
Remarks: Phila. Rd.
Posted by: Mel H. Heston Date of return: 3-16-77

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Item 64

Your Petition has been received and accepted for filing this 27th day of March 1976.

St. Eric Dinnel
Zoning Commissioner

Petitioner: The Baltimore Brick Co.
Petitioner's Attorney: John E. Heston
Reviewed by: Nicholas S. Commodari, Planning & Zoning Associate III

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15384

DATE: 5/78/77 ACCOUNT: 01-712

AMOUNT: \$11.00

RECEIVED FROM: Robert G. Smith
FOR: Copies of documents from 2 Hopkins Plaza File 77-132-X Baltimore Brick Co.

100.00

VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 2838

DATE: Jan. 30, 1977 ACCOUNT: 01-662

AMOUNT: \$50.00

RECEIVED FROM: Messrs. Wilson & Stockbridge 102 W. Penna. Ave.
FOR: Advertising and posting of property for the Baltimore Brick Co. #77-132-X

314 5 108 11 500.00

VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received * this 22nd day of September 1976. Filing Fee \$20.00 Received ☒ Cash ☐ Other

St. Eric Dinnel
Zoning Commissioner

Petitioner: Frank L. Smith
Petitioner's Attorney: John E. Heston
Reviewed by: D.A.S.
* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

STROMBERG PUBLICATIONS, INC.
BY: [Signature]

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15437

DATE: 5/25/79 ACCOUNT: 01-712

AMOUNT: \$24.00

RECEIVED FROM: John W. Heston, III, Esq., et al
FOR: People's Counsel

340.00

VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15409

DATE: April 24, 1978 ACCOUNT: 01-712

AMOUNT: \$1.50

RECEIVED FROM: John Mudd, Esq.
FOR: Copies of exhibits from File 77-132-X - Baltimore Brick Co. 3015 Philadelphia Rd. 3850 E. of Rossville Blvd. 15th District

150.00

VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 46412

DATE: Feb. 17, 1977 ACCOUNT: 01-662

AMOUNT: \$15.00

RECEIVED FROM: Messrs. Wilson & Stockbridge 102 W. Penna. Ave.
FOR: Advertising and posting of property for the Baltimore Brick Co. #77-132-X

314 5 108 11 750.00

VALIDATION OR SIGNATURE OF CARRIER

COPY

DEVELOPMENTS ON MARYLAND ROUTE 7 PROPERTY LINE, LAND SOLD TO
FREDERICK J. HEINKLE IN MAY 1947

IN THE LATTER PART OF 1969, IT IS REPORTED, THE QUESTION WAS RAISED WITH MR. FISCHER BY MR. HEINKLE ON THE LOCATION OF HIS LINE ON MARYLAND ROUTE 7. THE QUESTION AROSE BECAUSE OF FRED HEINKLE SEEING A PRINT PREPARED BY S. J. MARTINET & CO. DATED OCT. 8, 1958, WHICH SHOWED MARYLAND ROUTE 7 AS 60' WIDE AND CHANGED THE DEPTH OF FRED HEINKLE'S PROPERTY FROM 215' TO 201'.

WHEN THE 1 ACRE PARCEL OF LAND WAS SOLD TO MR. HEINKLE ON MAY 9, 1947, THE PRINT DATED OCT. 8, 1958, WAS OBVIOUSLY NOT AVAILABLE. AT THAT TIME IT WAS PRESUMED THAT THE DEPTH OF THE PROPERTY LINE OF OWNERS LYING TO THE NORTHWEST OF MR. HEINKLE WAS 215' AS SHOWN BY A PRINT DATED MAY 14, 1935. ON THIS PRINT, PHILADELPHIA ROAD (MARYLAND ROUTE 7) SCALES TO A DEPTH OF 40'. IT WAS ON THE BASIS OF THIS INFORMATION (OBTAINED FROM THE MAY 14, 1935, PRINT) THAT THE DESCRIPTION OF THE PROPERTY SOLD TO MR. HEINKLE WAS PREPARED AND THE DEPTH OF THE PROPERTY FIXED.

APPARENTLY IT WAS NOT NOTED WHEN THE OCT. 8, 1958, SURVEY WAS MADE THAT PHILADELPHIA ROAD (MARYLAND ROUTE 7) WAS THEN SHOWN AS 60' WIDE.

THE MATTER LAY DORMANT UNTIL SOME SURVEYING WORK BEING DONE IN THE SUMMER OF 1970 RAISED THE ISSUE AGAIN, AT WHICH TIME MR. HEINKLE CONTACTED ME. IN AN EFFORT TO TRY TO LAY THE MATTER TO REST, WE CONTACTED MR. ROBERT SUTTON OF S. J. MARTINET & CO.

WE LEARNED FROM MR. SUTTON IN THE LATTER PART OF OCTOBER 1970 THAT STATE ROAD COMMISSION RECORDS SHOWED THAT THE PHILADELPHIA TURNPIKE WAS WIDENED IN 1813 FROM 40' TO 60' FROM BALTIMORE CITY TO HAVRE DE GRACE. THUS, IN 1958, WHEN MR. HEINKLE WAS DEEDED THE 1 ACRE LOT, THE ROAD WAS THEN 60' WIDE ALTHOUGH THE 1935 PRINT SCALES ONLY 40' (WHICH WIDTH MR. ROBERT SUTTON CONFIRMS). ACTUALLY, SINCE THE DEED TO MR. HEINKLE CALLS THE DEPTH FROM THE SOUTHEASTERN BOUNDARY OF PHILADELPHIA ROAD, HIS LOT SHOULD NOT HAVE BEEN REDUCED TO 201', BUT SHOULD HAVE BEEN EXTENDED FOR A DEPTH OF 215' FROM THE PROPERLY LOCATED SOUTHWESTERN BOUNDARY OF MARYLAND ROUTE 7.

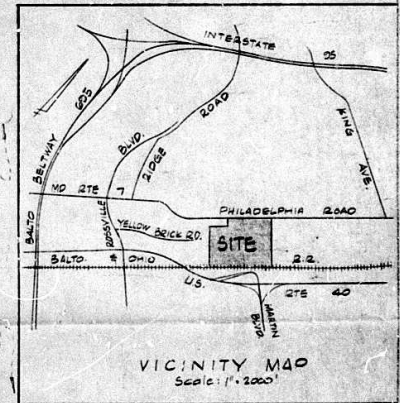
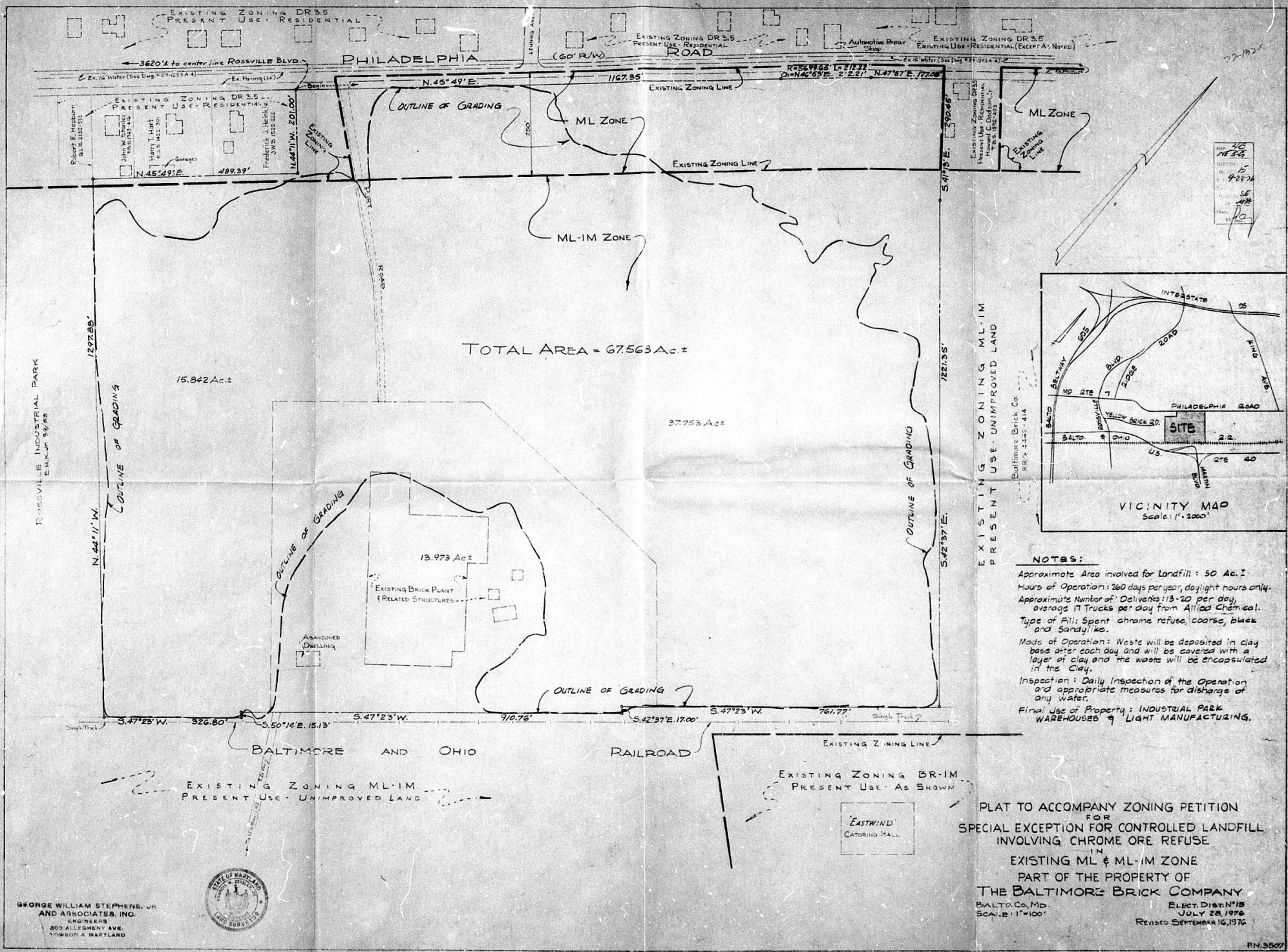
MR. HEINKLE WAS GIVEN THE INFORMATION OBTAINED FROM MR. SUTTON ABOUT THE END OF OCTOBER 1970.

IT APPEARS THAT WHEN THE OCTOBER 1958 SURVEY WAS MADE THE DEPTH OF ALL PROPERTIES, AFFECTED BY THE INCREASED WIDTH OF THE ROAD, WAS REDUCED. THAT THE ACTUAL SITUATION IS WITH RESPECT TO PROPERTIES OTHER THAN MR. HEINKLE'S IS UNCLEAR. HOWEVER, IT DOES SEEM PERFECTLY OBVIOUS THAT THE DEPTH OF MR. HEINKLE'S PROPERTY IS 215' AS WAS ORIGINALLY INTENDED AND NOT 201' AS IS PRESENTLY SHOWN BY THE MOST RECENT PRINT DATED OCT. 8, 1958.

THE INFORMATION MR. SUTTON OBTAINED ON MARYLAND ROUTE 7 CAME FROM MR. BAKER, ROOM 410, STATE ROAD COMMISSION OFFICE BUILDING, PRESTON STREET, BALTIMORE CITY. AT THE TIME MR. BAKER GAVE THIS INFORMATION TO MR. SUTTON HE INDICATED THERE WERE NO PRESENT PLANS TO WIDEN MARYLAND ROUTE 7. WHILE THIS SITUATION COULD CHANGE AT ANY TIME, AS LONG AS THE PAVED WIDTH OF THE ROAD REMAINS AS AT PRESENT, NO PRACTICAL PROBLEM ARISES.

G.C.W.

CC: TO MR. FISCHER
TO MR. HEINKLE



NOTES:

Approximate Area involved for Landfill: 50 Ac.±

Hours of Operation: 260 days per year, daylight hours only.

Approximate Number of Deliveries: 13-20 per day, average 17 Trucks per day from Allied Chemical.

Type of Fill: Spent chrome refuse, coarse, black and sandy like.

Mode of Operation: Waste will be deposited in clay base after each day and will be covered with a layer of clay and the waste will be encapsulated in the clay.

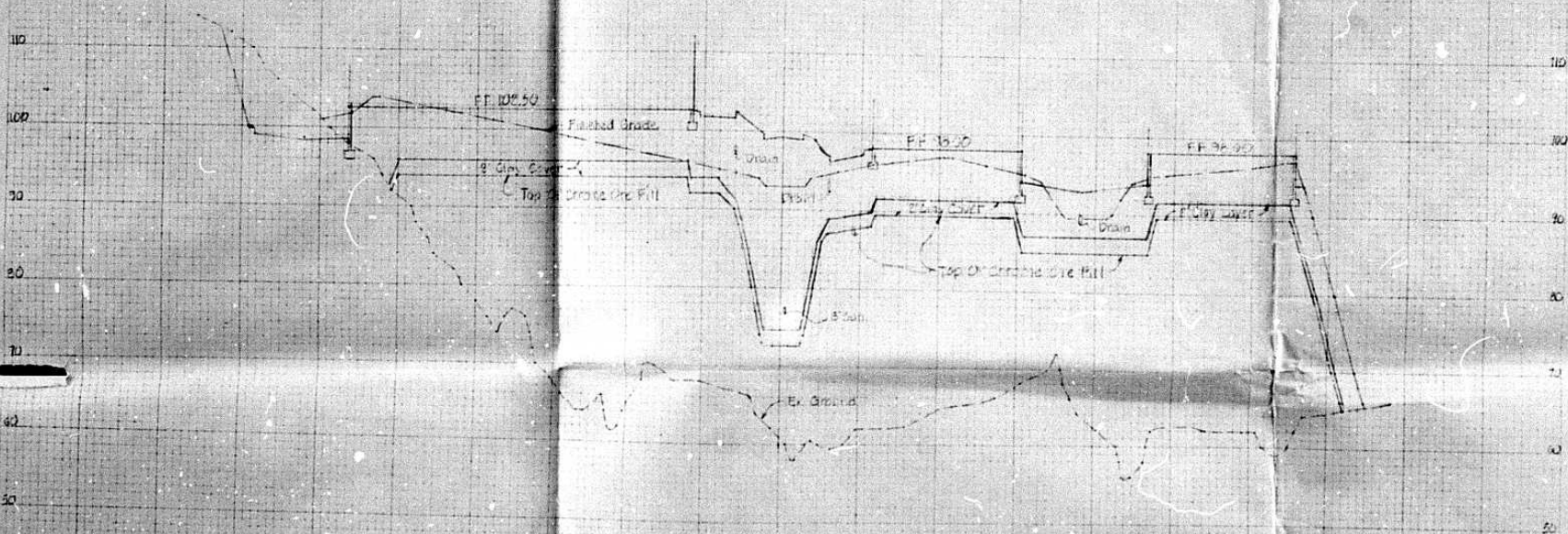
Inspection: Daily Inspection of the Operation and appropriate measures for discharge of any water.

Final Use of Property: INDUSTRIAL PARK, WAREHOUSES & LIGHT MANUFACTURING.

PLAT TO ACCOMPANY ZONING PETITION
FOR
SPECIAL EXCEPTION FOR CONTROLLED LANDFILL
INVOLVING CHROME ORE REFUSE
IN
EXISTING ML & ML-IM ZONE
PART OF THE PROPERTY OF
THE BALTIMORE BRICK COMPANY
BALTO. CO. MD.
SCALE: 1"=100'
JULY 28, 1976
REVISED SEPTEMBER 16, 1976

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
203 ALLEGHENY AVE.
PITTSBURGH 4, PENNSYLVANIA





K&E
10 X 10 TO THE INCH
K&E ENGINEERING & SURVEYING CO.
1000

GEORGE WILLIAM STEPHENS JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALYDEN AVENUE
BETHESDA, MARYLAND

ROSSVILLE INDUSTRIAL PARK
CHROME ORE FILL
SECTION A-A

SCALE 1" = 100'
VERTICAL 1" = 10' MAR. 1976

SHEET 2 OF 4

PHILADELPHIA ROAD MD. RTE. 7

YELLOW BRICK

ROAD

RAILROAD

NOTE FOR SECTION A See SHEET 3

NOTE: SEE SHEET 1 FOR 100' ELEVATION
 ELEVATION COVERING 100' TO 100' ELEVATION
 ELEVATION COVERING 100' TO 100' ELEVATION
 ELEVATION COVERING 100' TO 100' ELEVATION
 ELEVATION COVERING 100' TO 100' ELEVATION

PHASE II

ROSSVILLE INDUSTRIAL PARK

GRADING STUDY

ULTIMATE GRADE FOR CHROME ORE FILL

SCALE 1"=100'

MAR. 1976

SHEET 1 OF 4

GEORGE WILLIAM STEPHENS, JR.
 AND ASSOCIATES, INC.
 ENGINEERS
 303 ALLEGHEE AVE.
 TOWSON & MARYLAND

NOTE: FOR DITCH AND CLAY COVER DETAILS
 SEE WHITEHALL REPORT # 40000
 REPORT DRAWINGS 1 & 2

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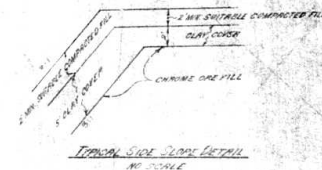
PHILADELPHIA ROAD MD. RTE. 7

YELLOW BRICK

ROAD

RAILROAD

NOTE: FOR SECTION A-A SEE SHEET



PHASE III

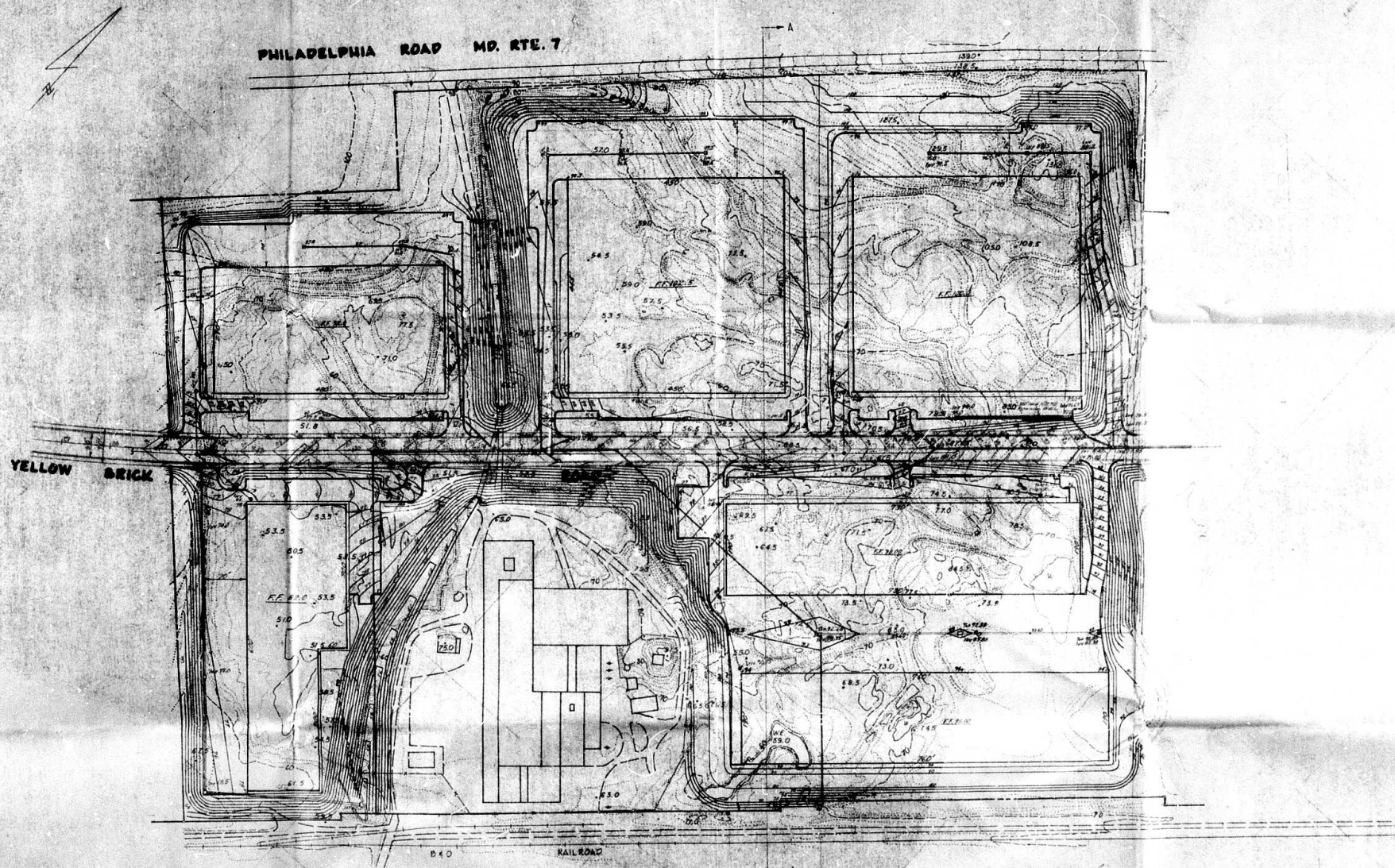
RAVENSVILLE INDUSTRIAL PARK
CHURCH ONE FILL
FINISHED GRADES

SCALE 1" = 40'

SHEET 4 OF 4

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVE.
TOWSON 4, MARYLAND

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IS BELOW MICROFILM REPRODUCTION
STANDARDS AND CANNOT BE IMPROVED UPON.



NOTE: FOR SECTION A-A See Sht. 3 of 4

PHASE IV

ROSSVILLE INDUSTRIAL PARK
LANDING SITE PLAN
FOR

OWNERS USE ONLY

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
808 ALLEGHENY AVE.
TOWSON 4, MARYLAND

3/28/64 JWS:JWS

MADE 1/74

SHEET 2 OF 4