

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN
MICHAEL G. DEHAVEN
RAY M. SHEPARD

LAUREN M. DODRILL
MICHAEL J. LIPPENHOLZ
CHARLES B. MAREK, III
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

JAMES T. SMITH, JR.

July 7, 2011

Sent via Hand Delivery

W. Carl Richards, Jr.
Zoning Review Supervisor
Department of Permits, Approvals, and Inspections
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204

**Re: Manor Tavern/15819 Old York Road
Zoning Verification Letter**

Dear Mr. Richards:

This is to follow up our recent meeting regarding the above property and uses permitted thereon.

As we discussed, I represent a potential purchaser of the above referenced property. The subject property is approximately 5.64 acres in area, located on the northeast side of Manor Road near the intersection of Old York Road and Monkton Road in the Monkton community of northern Baltimore County. The property is improved with a commercial structure and associated parking which accommodates the restaurant use known as the Manor Tavern. This use has occupied this property for many years.

A significant portion of the property including the building and much of the parking lot, is zoned BL-CR. As you know, a standard restaurant is a use permitted by right in the BL zone pursuant to BCZR Section 230.1.A.4.

The nature of the business of the Manor Tavern is that of a standard restaurant; to wit a facility used primarily for serving meals and beverages to persons seated at tables on the premises of the establishment. In addition to the restaurant use, the Manor Tavern frequently hosts prescheduled banquet type events. These events would fall within the definition of a catering hall, as set forth in BCZR Section 101.1.

In the case of the Manor Tavern, it is important to note that this catering component is clearly accessory to the primary restaurant activity. In terms of percentage of business (on a

W. Carl Richards, Jr.

July 7, 2011

Page 2

monetary basis), as well as, percentage of customers, etc., the primary nature of the Manor Tavern's business is of a standard restaurant. The banquet type events are more typically on the weekends and around the traditional holidays. I believe that the longstanding interpretation by the Zoning Office has been the banquets are permitted as an accessory use within a standard restaurant for so long as they are conducted in an accessory manner and are not the primary focus of the business. The Catering Hall definition is more properly applied to facilities such as Martin's West and other similar business which do not provide daily meals, rather, the primary focus of the business is hosting prescheduled events. The purpose of this letter is to confirm that the Manor Tavern may continue to host banquets and similar events, within the confines of the restaurant building, as has been done in the past for many years. Indeed, I believe that this accessory use is not only permitted as of right under the BCZR and is also nonconforming.

I understand that there is some concern by your Office over the impact of a written decision by the County Board of Appeals in Case No. R-91-115. That case dealt with the Manor Tavern property and came before the Board on a Petition for Reclassification and for associated zoning variances. I have reviewed that decision thoroughly and do not believe that it impacts this request. There are two reasons which distinguish that case from the present request. First, the case clearly dealt with a proposed "wedding garden" which the then owners of the Manor Tavern were requesting. That is, the matter came before the Board on a request by the Manor Tavern for a rezoning of a portion of the acreage *outside* the building. The Board's Opinion makes clear that "the proposed use is a formal garden improved by an open air gazebo, a circular gravel driveway, two small changing rooms and restrooms" (pg. 3). Thus, the request had nothing to do with the activity within the Manor Tavern building and in fact recognized that the restaurant use was an active business at that time. Specially, the owner of the Manor Tavern testified that the restaurant at that time featured 90% standard restaurant business and 10% "banquet trade" (see pg. 5).

As importantly, the BCZR has been amended in this respect since that time. At the time the matter came before the Board there was no definition of catering hall. This definition was added through Bill No. 110-1993, several years later. For all of these reasons, I do not believe that the Board's prior Opinion which dealt with a proposed outdoor use at the time prior to the current adoption of the law, impacts the Manor Tavern activities within the building. I would appreciate confirmation that this banquet use within the building, for so long as it remains accessory in character may continue. I have confirmed with the Division of Code Inspection and Enforcement that there are no current or outstanding code violations on the subject property as it is currently used at the present. If the accessory/nonconforming status of the banquet use is challenged by any interested neighbor in the future, the then owners will address this issue through public hearing before the Office of the Administrative Hearings.

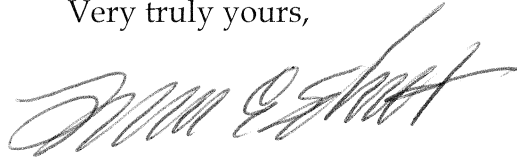
W. Carl Richards, Jr.

July 7, 2011

Page 3

Your signature confirming the contents of this letter is appreciated.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt

LES: jkl

CC: David S. Sellman, Esquire

Ronald Drescher, Esquire

ACCEPTED & APPROVED

A handwritten signature in cursive script, appearing to read "W. Carl Richards, Jr.", followed by the date "7/7/11".

W. Carl Richards, Zoning Review Supervisor

Department of Permits, Approvals, and Inspections

SELLMAN HOFF, LLC

201 NORTH CHARLES STREET, SUITE 1331, BALTIMORE, MARYLAND 21201, PHONE: (410) 332-4151

June 27, 2011

FAX: (410) 332-1746

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

Re: Zoning Certificate
15819 Old York Road
Property Tax I.D. # 1600002086

Dear Mr. Jablon:

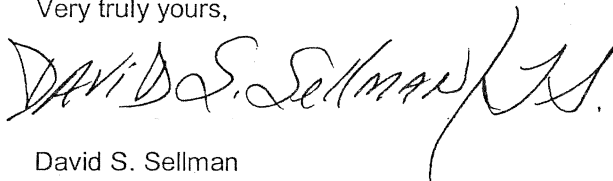
Our office represents the contract purchaser of the above referenced property. Currently, the property trades as "The Manor Tavern" and operates as a restaurant and catering facility. In addition, there is a separate building that is used as a residence. Our client intends to utilize the property for the same purpose.

Please prepare and forward a zoning certificate to our office indicating that the property is zoned properly to do the business that it is doing and if there are any current/open violations against the property. A check for this request is enclosed in the amount of \$50.00 payable to Baltimore County, Maryland.

As we are planning to close upon this purchase at the end of this week, we would appreciate your expedited consideration of this request. If possible, please let us know when the letter is available, and we will have it picked up.

Thank you in advance for your courtesies.

Very truly yours,

A handwritten signature in black ink, appearing to read "David S. Sellman". The signature is fluid and cursive, with a large, stylized "S" and "H" at the end.

David S. Sellman

Enclosure

R-91-115
Item #9

15819 Old York Road
(Manor Tavern)
NW/S Old York Road, opposite Monkton Road

10th E.D.
3rd C.D.

8/31/91

Legal Owner: Mark Green

Reclassification from R.C.-2 to B.L.-C.R.

9/25/91

Hearing scheduled for May 8, 1991 at 10:00 a.m.

7/31/91

ORDERED BY THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY that the Petition for Reclassification from R.C.-2 to R.C.C. be and is hereby DENIED.

IT IS FURTHER ORDERED that Petitioner's request for Variances and request for Special Hearing are DISMISSED as moot.

8/29/91

Appeal taken to the Circuit Court for Baltimore County.

4/3/92

Pursuant to an Order of Dismissal filed and accepted on the record in the Circuit Court, and no further appeals have been taken regarding the subject case, we have closed the file and are returning same to you herewith along with four large exhibits which were not requested by the Circuit Court.

IN THE MATTER OF THE APPLICATION OF
MARK GREENE & MANOR TAVERN, INC. FOR
A ZONING RECLASSIFICATION ON PROPERTY
LOCATED ON THE NORTHWEST SIDE OLD
YORK ROAD, OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD) FROM R.C.2 TO
RCC, 10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

MARK GREENE (MANOR TAVERN),
PLAINTIFF
CASE NO. R-91-115

ANSWER TO PETITION OF APPELLANT

The People's Counsel for Baltimore County, Protestant below and Appellee
herein, answers the Petition on Appeal heretofore filed by the Appellant, viz:

1. That the Appellee admits the allegation made and contained in
Paragraph No. 1. of said Petition.
2. That the Appellee denies the allegations made and contained
in Paragraphs No. 2. through 11. of said Petition.
3. That the decision of the Board of Appeals herein was proper
and justified by the evidence before it and that the decision of the Board
should therefore be sustained as being properly and legally made.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

CO-5 NY 1-10016

MICROFILMED

I HEREBY CERTIFY that on this 1st day of October, 1991, a copy of
the foregoing Answer to Petition of Appellant was delivered to the Admin-
istrative Secretary, County Board of Appeals, Rm. 315, County Office Bldg.,
111 W. Chesapeake Ave., Towson, MD 21204; and a copy mailed to Stephen C.
Winter, Esquire, and Gary A. Duvall, Esquire, Miles & Stockbridge, 600
Washington Ave., Suite 300, Towson, MD 21204, Counsel for Plaintiff; Newton
A. Williams, Esquire, Nolan, Plumhoff & Williams, Chtd., Suite 700, Court
Towers, 210 W. Pennsylvania Ave., Towson, MD 21204, Counsel for Protestants;
and Francis N. Iglehart, Esquire, et al., Iglehart & McLaughlin, 307 W.
Allegheny Ave., Towson, MD 21204, Counsel for Protestants.

Phyllis Cole Friedman
Phyllis Cole Friedman

IN THE MATTER OF THE
APPLICATION OF
MARK GREENE & MANOR TAVERN, INC.
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK ROAD,
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. 91CG3726/98/157

STIPULATION OF EXTENSION OF TIME

Manor Tavern, Inc., Appellant, by Stephen C. Winter and Gary
C. Duvall, its attorneys, Mr. and Mrs. George Constable, et al.,
Protestants, by Newton Williams, Esquire, their attorney, and
Phyllis C. Friedman, People's Counsel, hereby stipulate to the
extension of time within which the certified copy of the
recordings of the Baltimore County Board of Appeals required to
be transmitted to this Court pursuant to Maryland Rule of
Procedure B(7) be and the same are hereby extended for a period
of thirty (30) days from the date of approval by the Circuit
Court for Baltimore County. Said extension shall not exceed
ninety (90) days as provided in Maryland Rule of Procedure
B(7)(b).

Gary C. Duvall
Gary C. Duvall
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(301) 821-6565

RECEIVED AND FILED
91 OCT 23 PM 4:16
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

91 OCT 23 PM 4:16

STEWART & LLOYD ALINGCO
BALTIMORE

MICROFILMED

SO ORDERED this 23rd day of October, 1991, by the Circuit
Court for Baltimore County.

John H. Winter
Circuit Court Judge

Phyllis Cole Friedman
Phyllis Cole Friedman

A-10204001-571
October 18, 1991

2

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IN THE MATTER OF THE
APPLICATION OF
MARK GREENE & MANOR TAVERN, INC.
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK ROAD,
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
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* IN THE
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Manor Tavern, Inc., Appellant, by Stephen C. Winter and Gary
C. Duvall, its attorneys, Mr. and Mrs. George Constable, et al.,
Protestants, by Newton Williams, Esquire, their attorney, and
Phyllis C. Friedman, People's Counsel, hereby stipulate to the
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of thirty (30) days from the date of approval by the Circuit
Court for Baltimore County. Said extension shall not exceed
ninety (90) days as provided in Maryland Rule of Procedure
B(7)(b).

Gary C. Duvall
Gary C. Duvall
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(301) 821-6565

SEP 26 1991

Newton Williams
Newton Williams
Nolan, Plumhoff & Williams
700 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

Phyllis C. Friedman
Phyllis C. Friedman
People's Counsel
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

SO ORDERED this 26th day of Sept, 1991, by the Circuit
Court for Baltimore County.

John H. Winter
Circuit Court Judge

GCD:tal/vanor.stp

True Copy Test
SUSANNE MENSCH, Clerk
Per *S. Saunders*
Deputy Clerk

2

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-6565
FAX 301-821-6183

30 LIGHT STREET
BALTIMORE, MARYLAND 21202

301 RAY STREET
ZARTON, MARYLAND 21204

1120 RANDOLPH HILLS ROAD
FAIRFAX, VIRGINIA 22030

GARY C. DUVALL
301-821-6183

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701

30 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

1004 1ST STREET, N.W.
WASHINGTON, D.C. 20007

September 27, 1991

Newton A. Williams, Esquire
Nolan, Plumhoff & Williams
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson, MD 21204-5340

Phyllis C. Friedman, Esquire
People's Counsel
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Manor Tavern, Inc.

Dear Newton and Phyllis:

Enclosed please find true test copies of the Stipulation of
Extension of Time in the above-captioned matter.

If you have any questions, please do not hesitate to contact
me.

Very truly yours,

Gary C. Duvall
Gary C. Duvall

GCD:ld

cc: Ms. Carolyn Peat, Baltimore County Board of Appeals
Mr. Mark Greene

82:11:14 30 SEP 30 1991

STEWART & LLOYD ALINGCO
BALTIMORE

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IN THE MATTER OF THE
APPLICATION OF
MARK GREENE & MANOR TAVERN, INC.
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK ROAD,
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case #91CG3726/98/157

PETITION OF APPELLANT, MANOR TAVERN, INC.

Manor Tavern, Inc., Appellant, by Stephen C. Winter and
Gary C. Duvall, its attorneys, pursuant to Maryland Rule of
Procedure B2(e), hereby submits the following Petition setting
forth the action appealed from, the error committed by the
agency taking such action and the relief sought as follows:

1. The Appellant appeals from the denial by the Board of
Appeals for Baltimore County of the petition of Manor Tavern,
Inc. for a zoning reclassification (with a documented site
plan) and the dismissal of the variances and special hearing
requested in conjunction with the foregoing petition. The
zoning reclassification petition requested a reclassification
of a portion of the Appellant's property from R.C.2 to R.C.C.,
said property being located on the northwest side of Old York
Road opposite Monkton Road and designated as 15819 Old York
Road. Said property is located in the Tenth Election District
and the Third Councilmanic District.

2. The Appellant contends that the County Board of

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etc. that would be generated by catering for large groups would be detrimental to the agricultural nature of the surrounding community.

Therefore, based on the comments above, this office recommends "DENIAL" of the request.

CYC2NR91.115/CYCLE

CAMPBELL BUILDING
100 W. PENNSYLVANIA AVENUE
Suite 303
TOWSON, MD 21204
301-494-8931

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

**ENVIRONMENTAL IMPACT STATEMENT
TO ACCOMPANY THE MANOR TAVERN
REZONING APPLICATION**

15819 OLD YORK ROAD
BALTIMORE COUNTY, MARYLAND

I. INTRODUCTION

This report is in support of the rezoning application for 15819 Old York Road (Manor Tavern). The intent of this rezoning application is to permit the creation of a reception garden in the rear of the existing restaurant building. The property is located at the intersection of Old York Road, Monkton Road, and Manor Road in northern Baltimore County (See Site Plan).

This report will show through an assessment of the existing site conditions, the proposed development activity, and an environmental impact assessment, that the proposed rezoning of the property and subsequent development activity will not adversely impact the environment on-site or that of the adjacent properties. In addition, this report will show that the proposed development activity will not result in cumulative or long-term impacts resulting in an irreversible or irretrievable commitment of resources.

II. EXISTING SITE CONDITIONS

The property is improved by the existing Manor Tavern Restaurant and an existing dwelling. A large area of the site surrounding the restaurant building has been paved, and is currently utilized for parking area. In the eastern most corner of the property initial site preparation has begun for the construction of the reception garden, which consists of a brick patio and a gravel turn-around area. The remainder of the site, consisting of the majority of the northern half of the property, has been planted in grass and surrounded by white pine trees which effectively buffers the surrounding properties from the current restaurant use.

The land directly across from our site on the west side of Monkton/Manor Road is currently farmed and is improved by a large, country dwelling. The land to the southeast of the site is improved by an abandoned single-family dwelling and a storage and road maintenance building located on a parcel of

land owned by Baltimore County. The land to the east and north of the site is currently being used for pasture land.

The site topography is characterized by gentle to rolling terrain with elevations ranging from 574 feet in the west center of the property to 560 feet in the northernmost corner of the property. The site drainage is divided between the Carroll Branch Watershed and the Little Gunpowder Falls Watershed. The southeastern half of the site drains to Ladies Manor Branch, which is a tributary to Carroll Branch. The northeastern half of the property drains to Nelson Branch, a tributary to Little Gunpowder Falls. Based upon an environmental site investigation conducted by this office, this site does not contain any springs, seed areas, wetlands or flood plains. (Exhibit I: National Wetland Inventory Map).

The study area is located entirely within an area of mapped Chester Silt Loam (Csb2), according to The Baltimore County Soil Survey (Exhibit II: Soil Survey Map). Chester soils consist of deep, well-drained, nearly level to moderately sloping soils on uplands of the Piedmont Plateau. This soil type provides good drainage and wetness does not limit the suitability for use. The Chester soil series has been assigned a hydrologic soil classification of "B". Soils having this classification are characterized as having moderate infiltration rates.

The property as previously mentioned is partially developed with approximately half of the site being covered by impervious surfaces with the remaining portion of the property being planted in common fescue. There are a few, scattered, large deciduous trees located in the vicinity of the existing dwelling, along with a ring of white pines around the perimeter of the property. Based upon a review of the Baltimore County aerial photos for 1982 and 1986, the property has remained, for the most part, in its current condition, except for the expansion of the existing parking facility and a small addition (Exhibit III: Aerial Photograph).

The property is currently utilizing a private well and septic system. The septic system consists of the following:

- 1,000 gallon grease interceptor
- four 2,000 gallon septic tanks connected in a series
- three distribution boxes
- ten seepage pits 10 feet in diameter and 12 feet deep (10 feet below inlet)
- an 80,000 square foot reserve area

The existing septic system and reserve area is very large and was designed initially to handle the septic requirements for the existing restaurant and any substantial expansions of the use in the future. At the present time, according to the

owner, several maintenance improvements are being made to the septic system such as, replacement of the distribution lines and boxes, etc. to ensure that the system functions properly and is adequate to serve the existing restaurant and proposed reception garden. Once these improvements have been made, an official from the Baltimore County Health Department will inspect the system for compliance with Health Department regulation. Based upon the soil types mapped in the area, percolation tests conducted on site (see Health Department records) and the size of the system, it can be anticipated that the existing septic facility will be adequate to serve the restaurant and proposed reception garden with limited modifications to the system. In addition, the current system requires approximately 12,000 sq. ft. of the existing 80,000 sq. ft. reserve allowing substantial area for expansion of the system and three replacement systems in the future, if necessary.

The property is currently served by two existing wells. The southern most well on the property services the existing dwelling. The northern most well services the existing restaurant and proposed reception garden. This well was recently deepened from 90 feet to 300 feet. Based upon information contained within the Baltimore County Health Department records, water tests were conducted after the well was deepened which verify the water is suitable for drinking and restaurant use. The well capacity according to the owner exceeds the needs of the existing restaurant use and is adequate to serve the proposed reception garden. Water usage is being monitored by the owner to ensure that at the time of permit application sufficient water capacity is available.

III. PROPOSED DEVELOPMENT ACTIVITY

Based upon the rezoning of this property, the site is proposed to be used for a reception garden. The reception garden consists of a 38 by 78 foot canvas tent, a 32 by 15 foot gazebo, two 10 by 10 foot dressing rooms, and two 10 by 10 foot restroom facilities. The remainder of the garden area will be utilized for common open space and will be heavily landscaped. In addition, a gravel road is provided for limited access into the garden. Landscape buffers shall be established around the perimeter of the entire garden consisting of a combination of trees, shrubs and perennials. The proposed reception garden is to be used during daytime hours for approximately nine months of the year consisting of the spring, summer and fall months.

IV. ENVIRONMENTAL IMPACT ASSESSMENT

In order to assess the environmental impact as a result of the proposed development activity, a brief functional assessment of six environmental characteristics has been conducted as follows:

1. **Flood conveyance** refers to the ability a site has to convey stormwater from the property to a downstream location. This function is not typically adversely impacted unless the flow of water becomes blocked or impounded. This property currently drains to Old York Road at which time enters an existing drainage swale. Due to the pervious nature of the reception garden, no increase in stormwater runoff is anticipated. The stormwater that is generated from the tent canopy, gazebo and dressing rooms will drain into the grass areas of the reception garden and will infiltrate into the ground. As previously mentioned, the soils in this area have been identified as being suitable for infiltration purposes. The proposed development of this property will have no negative impacts upon this function.
2. **Flood storage** refers to the ability of the site to store and slowly release flood waters. Due to the topographical conditions in the vicinity of the proposed reception garden and the existing soil conditions, the majority of the stormwater received by the site during a rainfall event infiltrates into the groundwater system. The proposed reception garden will have no negative impact upon this function.
3. **Sediment and pollution control** refers to the ability that this site has to retain suspended sediment and nutrient laden flood waters. Due to the fact that this site is located in a small upland drainage area and does not present a sediment control problem nor receive any substantial off-site stormwater, the property in its existing and proposed condition does not provide a significant function for retaining suspended sediments. In addition, the proposed development will not require any ground disturbance and, consequently, will not present a sediment control problem during the construction phase of the reception garden. No negative impact will occur to this function.
4. **Wildlife habitat** refers to the ability of this site to provide the basic necessities (food, water and shelter) required for animal survival. This site is currently planted in grass and has limited value in providing food, water and/or shelter for wildlife habitat. The landscaping that will occur as part of the development of the reception garden will marginally increase the wildlife habitat value of the area by providing some food and cover. This development shall have no negative impact upon this function.
5. **Aquifer recharge** refers to the ability a site has to return water to the groundwater system. Based upon the soil types mapped in the vicinity of this property and the existing vegetative characteristics, the rainwater

currently received by this area of the site infiltrates into the groundwater system. Once the reception garden has been completed the runoff from the reception tent and accessory structures will drain into the grass area of the garden and will be permitted to infiltrate. In addition the on-site septic system serves to filter the septic effluent and recharge local ground water system. There will be no negative impact to this function.

6. **Air quality and noise mitigation** refers to the ability of a site and associated use to minimize and maintain adequate air quality standards and noise levels. Due to the fact that the creation of the proposed reception garden will not require any land disturbance or substantial construction equipment there is no concern over fugitive dust or adverse noise impacts during the construction phase of the project. The proposed reception garden is only intended to be used several times a week and will be limited to day time use only. This will ensure that the reception garden will not increase noise during evening hours. In addition, no outdoor amplified music will be used in conjunction with the reception garden. No negative impact to this function is anticipated.

V. FINDINGS & CONCLUSION

Based upon the outcome of our site investigation and subsequent research, the proposed reception garden will have no significant environmental impacts either on-site or upon the adjacent properties. The existing evergreens surrounding the perimeter of the property provide a visual screen from the adjacent properties. The fact that the proposed reception garden will not result in a significant increase in stormwater runoff and the soil conditions will permit infiltration, water quality will be maintained.

The proposed activity will have no cumulative or long term effects upon the environment due to the fact that there is no substantial change in land use. Currently, the area proposed for the reception garden serves as an open space for passive enjoyment. The proposed reception garden will not require the use of additional fertilizers or pest controls and will be maintained similarly to the current maintenance practices. Finally, the proposed development will not result in the irreversible or irretrievable commitment of resources due to the limited environmental value of the existing site conditions and the minimal change in land use.

A(BFB-3):WP51\MANORTAV.STM

EXHIBIT 1: NATIONAL WETLANDS INVENTORY MAP

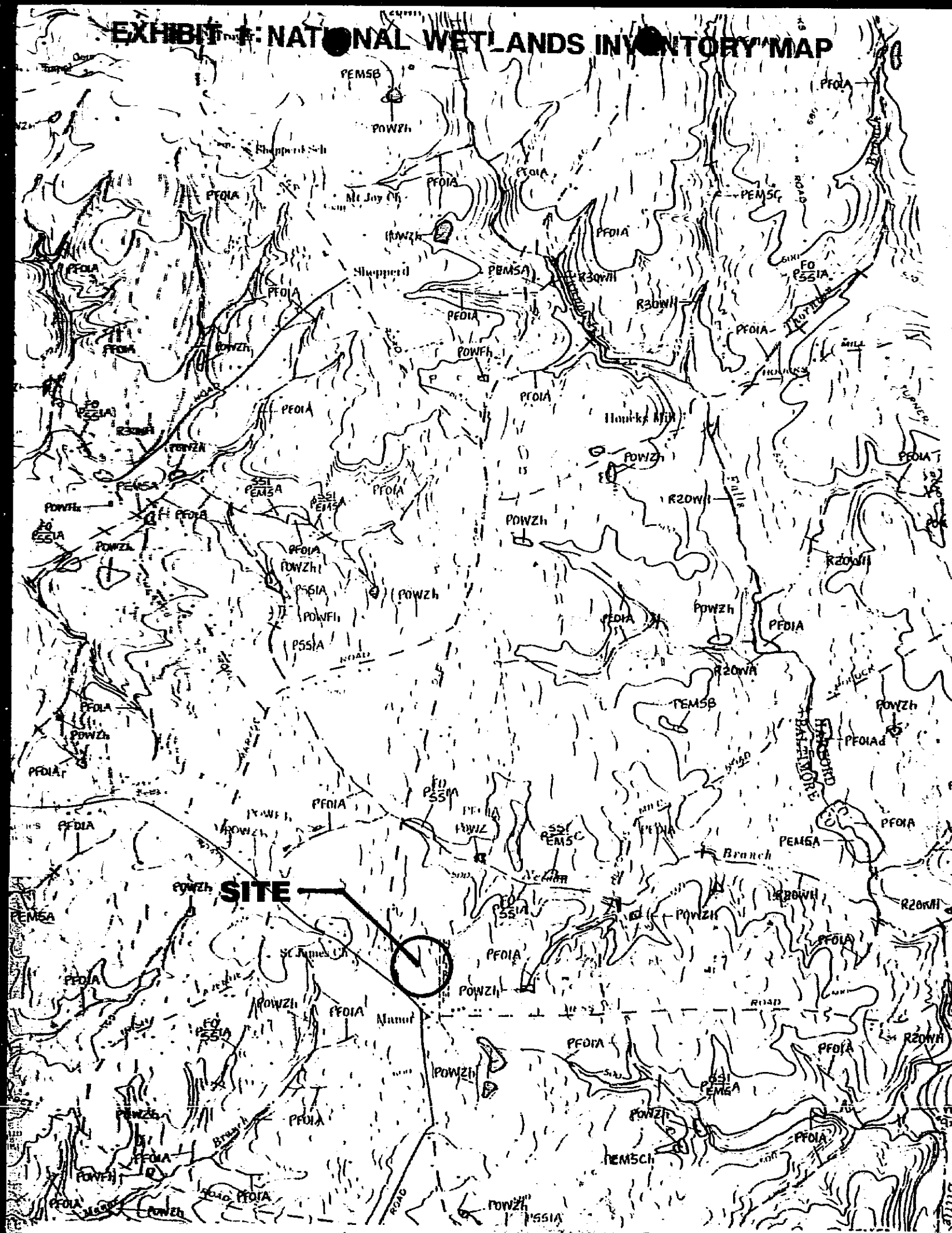
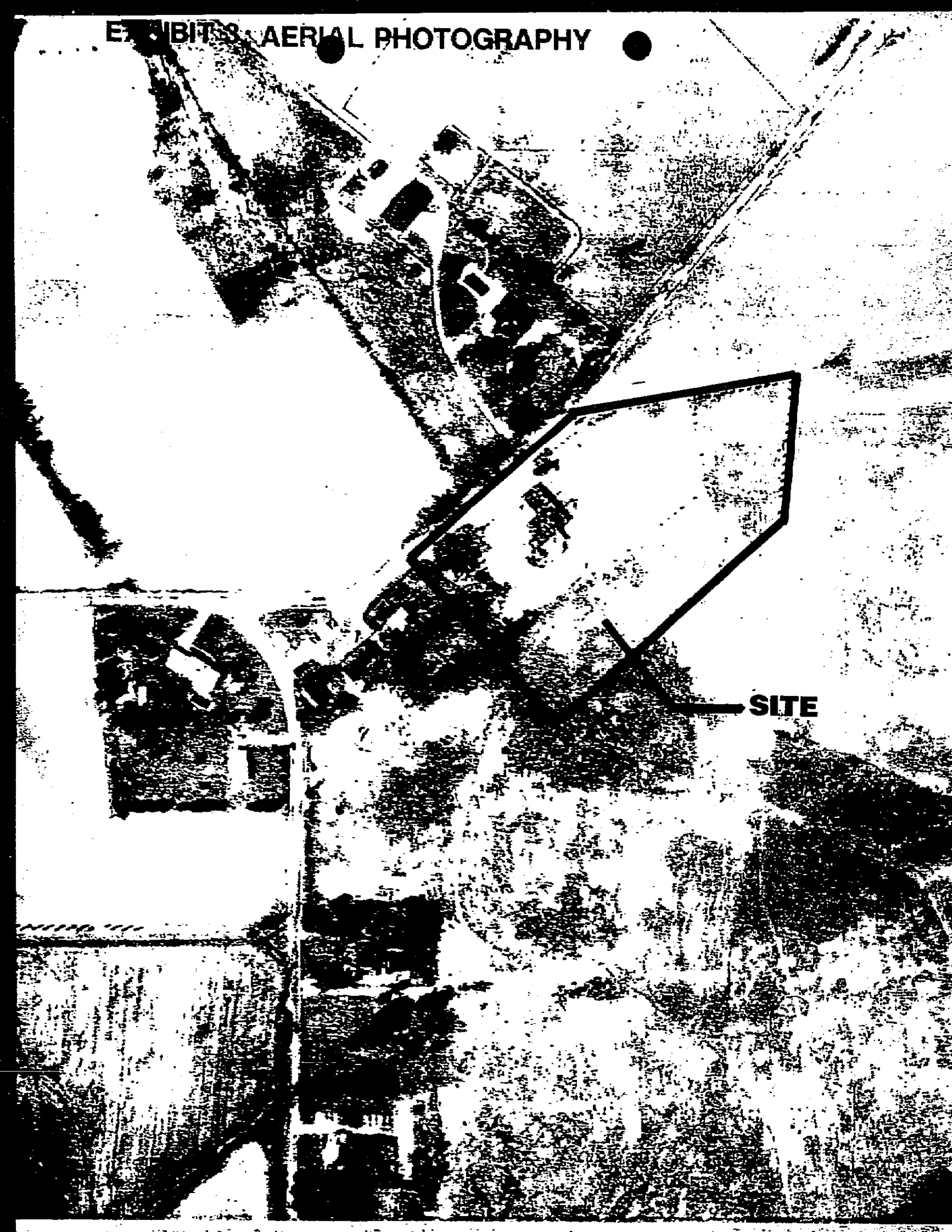


EXHIBIT 2: SOIL SURVEY MAP





DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

5 ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGESINO, JR.

October 9, 1990

ZONING OFFICE

RE: My Client: Manor Tavern, Inc.
Location: 15819 Old York Road
Your Case No.: C-91-776

Dear Mr. Haines:

Please be advised that I represent the property owners concerning the above-captioned matter.

Prior to your instituting any further proceedings, I would like to have a meeting with you and the Inspector and any other member of your staff to discuss this matter further.

Accordingly, would you be so kind as to contact me upon receipt of this letter to set up a time to meet.

I appreciate your cooperation.

Very truly yours,
Eric Dinenna
S. ERIC DINENNA

SED:cjc
cc: Mr. Leonard Wasilewski
Mr. Mark Greene

RECEIVED NOV 21 1990

MILES & STOCKBRIDGE
LAW OFFICES

10 LIGHT STREET
BALTIMORE, MARYLAND 21202
101 BAY STREET
EASTON, MARYLAND 21601
11300 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-0505
FAX 301-823-0123

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
20 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

February 14, 1991

Ms. Cathy Weidenheimer
Baltimore County Board of Appeals
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Reclassification Petition
Item #9, Case #91-115
Petitioner: Mark Green/Manor Tavern, Inc.

Dear Ms. Weidenheimer:

I would appreciate it if you would schedule a hearing before the Board of Appeals at the earliest available date for me to appear on behalf of my client, Mark Green/Manor Tavern, Inc., to amend the Petition for Reclassification to entail the submission of a documented site plan and a request that the reclassification be revised for an RCC zone on a portion of the Petitioner's property to be designated on the documented site plan.

I will present for filing at the time of the hearing the documented site plan and a brief memorandum in support of the requested reclassification.

Thank you for your kind attention and assistance in this matter.

Very truly yours,
Gary C. Duvall
Gary C. Duvall

GCD:ld
cc: Mr. Mark Green
Mr. William Monk

9 FEB 15 AM 10:29
COUNTY CLERK'S OFFICE

MILES & STOCKBRIDGE
LAW OFFICES

10 LIGHT STREET
BALTIMORE, MARYLAND 21202
101 BAY STREET
EASTON, MARYLAND 21601
11300 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-0505
FAX 301-823-0123

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
20 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

March 20, 1991

Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Manor Tavern, Inc./Mark Greene
Case No. 91-115, Cycle IV, Item 9

Gentlemen:

Enclosed please find a Petition for Special Hearing which should be transmitted forthwith to the Board of Appeals to be consolidated with the above-referenced Petition for Reclassification now pending before the Board of Appeals as amended. The current Amended Reclassification Petition is accompanied by a documented site plan and the Petition for Special Hearing is filed herein for a decision by the Board of Appeals that the use contemplated in the documented site plan is a permitted use under Section 1306 Baltimore County Zoning Regulations.

If you have any questions regarding the enclosed, please do not hesitate to contact me.

Very truly yours,
Gary C. Duvall
Gary C. Duvall

GCD:ld

MILES & STOCKBRIDGE
LAW OFFICES

10 LIGHT STREET
BALTIMORE, MARYLAND 21202
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ROCKVILLE, MARYLAND 20850
1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

April 3, 1991

HAND DELIVERY

Mr. W. Carl Richards, Jr.
Zoning Coordinator
Office of Planning and Zoning
Baltimore County
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Reclassification Petition
Item #9, (Cycle IV) Case #R-91-115
Petitioner: Mark Greene/Manor Tavern, Inc.

Dear Mr. Richards:

Enclosed please find for filing at this time an Amendment by Interlineation to the Amended Petition for Reclassification and Variance filed in the above-captioned matter. This amplifies the variances being requested so that the same can be properly advertised as requested by Ms. Stephens in her letter of April 2, 1991.

The items set forth in Mr. John Lewis' letter of March 22, 1991 have been addressed by Mr. William Monk with Mr. Lewis, and a revised documented site plan will be filed before the time limitation imposed in your letter of April 2, 1991. I note from Mr. Lewis' letter that your offices are processing the use special hearing petition regarding the proposed use in the requested R.C.C. zone. I had requested in my cover letter that the matter be forwarded to the Board of Appeals for hearing, since the County Attorney's Office informed me that the Board of Appeals does have authority to hear special hearings with reclassification petitions. Accordingly, I would appreciate confirmation that the Petition for Special Hearing is being forwarded to the Board of Appeals for consideration at the May 8, 1991 hearing.

If there are any other issues which must be resolved before the close of business today, I would appreciate your contacting

MILES & STOCKBRIDGE
LAW OFFICES

10 LIGHT STREET
BALTIMORE, MARYLAND 21202
101 BAY STREET
EASTON, MARYLAND 21601
11300 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

600 WASHINGTON AVENUE
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20 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

July 26, 1991

HAND DELIVER

Mr. William Hackett, Chairman
Baltimore County Board of Appeals
County Office Building
111 W. Chesapeake Ave.
Towson, Maryland 21204

Case No.: R-91-115
Manor Tavern, Inc.

Dear Mr. Hackett:

Enclosed please find the cancelled check of Manor Tavern, Inc. evidencing the payment of advertising and postage charges of the above reclassification. If you have any questions regarding the enclosed, please do not hesitate to contact me.

Very truly yours,
Gary C. Duvall
Gary C. Duvall

GCD/mh
Enclosure
HACKETT-LTR

GREATER SPARKS-GLENCoe COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

AFFIDAVIT

State of Maryland
Baltimore County, SS;

TO WIT:
I hereby swear under penalty of perjury that I am a currently duly appointed member of the Zoning Committee for the Greater Sparks-Glencoe Community Council Inc.

Attest:
Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
Paul A. Hupfer
President

GREATER SPARKS-GLENCoe COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

AFFIDAVIT

State of Maryland
Baltimore County, SS;

TO WIT:
I hereby swear under penalty of perjury that I am a currently duly appointed member of the Zoning Committee for the Greater Sparks-Glencoe Community Council Inc.

Attest:
Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
Paul A. Hupfer
President

11-08-91 3-2-16

Appeals committed error by determining the proposed use for the reclassified property to be "catering" and not a "restaurant" use as enumerated in the Baltimore County Zoning Regulations for the proposed RCC zone.

3. The Appellant contends that the County Board of Appeals committed error by failing to grant the requested reclassification on the basis that the proposed use under the documented site plan was not "accessory" to the existing restaurant use on the property, but rather that any proposed use must be "free standing."

4. The Appellant contends that the County Board of Appeals committed error in denying the petition for reclassification in that it failed to correctly apply the law as set forth in Bovce v. Sembly, 25 Md. App. 43 (1975); Ronnie View Club v. Glass, 242 Md. 46 (1965); and Johar Corp. v. Rodgers Forge, 236 Md. 106 (1963) wherein if the petitioner shows that physical facts not readily visible or discernable at the time of a comprehensive zoning may affect the zoning of property during the comprehensive map process, that error can be established through those means which requires reclassification. As the Board notes in its Opinion, the subject property was stripped of all topsoil earlier in its history and as testified to by the Petitioner and by Mr. Wallace Lippincott (a planner for Baltimore County) the subject property as currently zoned RC2 has no use except as a visual amenity (a garden) or open space. Additionally, the

-2-

MICROFILMED

County Board of Appeals committed error in denying the reclassification based upon the testimony before the Board that the RC2 classification currently placed on the Petitioner's property only serves to benefit the adjoining properties as a buffer from the remaining commercially zoned portion of the Appellant's property. Accordingly, the Board failed to adhere to the law in Maryland that imposition of a buffer or benefit for adjoining properties and the rendering of the subject property useless has been rejected by the Court of Appeals of Maryland as unconstitutional. See Kracke v. Weinberg, 197 Md. 339 (1950).

5. The Appellant contends that the County Board of Appeals committed error in denying the reclassification by not considering the fact that the subject property is bifurcated by a significant septic field which again was a physical fact not readily visible or discernable at the time of the comprehensive zoning which impacts the use of the RC2 property as a contiguous piece of property for any purpose permitted for RC2 zones.

6. The Appellant contends that the County Board of Appeals committed error in not imposing RCC zoning on the subject property as requested since the County Council, during the 1988 Comprehensive Map Process where issues of BL zoning with abutting RC2 zoning were brought to its attention, rezoned the RC2 property to RCC and did not utilize the zoning as the County Board of Appeals determined "as a free-standing,

-3-

MICROFILMED

low intensity, rural commercial zone." Such application is not reflected by the County Council's actions during the 1988 comprehensive map process as was testified to by Mr. William Monk and corroborated by Mr. Wallace Lippincott. Based upon its action in other similar situations, it is clear that the County Council erred by failing to extend a readily foreseeable trend of utilizing the RCC zones with adjoining BL zoning in rural areas. Further, the Board's conclusion that the proposed use is not appropriate in either an RCC zone nor the locale of the subject property clearly ignored the testimony by the Protestants that the structures and uses are clearly similar to those maintained by even the Protestants on their properties and used as proposed by the Appellant.

8. The Appellant contends that the County Board of Appeals committed error in misapplying the Baltimore County Zoning Regulations and Maryland case law as to the facts of the within action.

9. The Appellant contends that the County Board of Appeals committed error in its findings of facts, including but not limited to, that the only example cited by the Petitioner of outdoor reception tents being used in conjunction with restaurants in Baltimore County being the allegedly "illegal" one used by Peerce's Plantation. The Petitioner also provided ample evidence that Friendly Farms, the Milton Inn, and other rural restaurants were identified as providing permitted tented affairs incident to its restaurant

-4-

MICROFILMED

operation which did not constitute catering nor located in zones designated by the Zoning Commissioner as appropriate for catering.

10. The Appellant contends that the County Board of Appeals committed error by finding that an RCC zone is only intended on a "free-standing" basis.

11. The Appellant contends that the County Board of Appeals committed error by requiring that the Director of Planning and the County Review Group make a finding of compatibility prior to the reclassification of property to RCC.

12. The Appellant requests the Circuit Court for Baltimore County to determine that all of the foregoing actions of the County Board of Appeals of Baltimore County were arbitrary, capricious and discriminatory and to grant the requested reclassification, variances, and special hearing determining that the proposed use is permitted in an RCC zone; that the Petitioner has a practical difficulty and hardship necessitating the variances requested; and that the County Council erred in not granting RCC zoning on that portion of the Petitioner's property as requested in its reclassification petition.

13. The Appellant reserves the right to raise any other issue disclosed in the transcript upon review of the same as error and reserves the right to submit other issues on appeal not otherwise delineated herein and specifically reserves the

-5-

MICROFILMED

right to contest the dismissal of the variances and request for special hearing as being moot.

AND, for such other and further relief as may be necessary to afford complete relief to the Appellant as requested below before the County Board of Appeals.

RESPECTFULLY SUBMITTED/

Stephen C. Winter
Stephen C. Winter

Gary C. Duvall
Gary C. Duvall
MILES & STOCKBRIDGE
Suite 300
600 Washington Avenue
Towson, MD 21204
(301) 823-8155

Attorneys for Appellant

-6-

MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of September, 1991, a copy of the foregoing PETITION OF APPELLANT, MANOR TAVERN, INC. was mailed to Phyllis Cole Friedman, Esquire, Peoples' Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; and to Newton A. Williams, Esquire, Nolan, Plumhoff & Williams, Chartered, 700 Court Towers, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorneys for Protestants.

A:\GCM\MBT.PET

Gary C. Duvall
Gary C. Duvall

-7-

MICROFILMED

IN THE MATTER OF THE APPLICATION OF MARK GREENE & MANOR TAVERN, INC. FOR A ZONING RECLASSIFICATION FROM R.C. 2 TO R.C.C. ON PROPERTY LOCATED ON THE NORTHWEST SIDE OLD YORK ROAD, OPPOSITE MONKTON ROAD (15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case #91CG3726/98/157

I HEREBY CERTIFY that on the 5 day of September, 1991, a copy of the Petition of the Appellant, Manor Tavern, Inc. was served upon the County Board of Appeals for Baltimore County in conformity with Maryland Rule of Procedure B-2.

Gary C. Duvall
Gary C. Duvall
MILES & STOCKBRIDGE
Suite 300
600 Washington Avenue
Towson, MD 21204
(301) 823-8155
Attorneys for Appellant

MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of September, 1991, a copy of the foregoing CERTIFICATE OF COMPLIANCE was mailed to Phyllis Cole Friedman, Esquire, Peoples' Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; and to Newton A. Williams, Esquire, Nolan, Plumhoff & Williams, Chartered, 700 Court Towers, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorneys for Protestants.

A:\GCM\MBT1.CER

Gary C. Duvall
Gary C. Duvall

-8-

MICROFILMED

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

AFFIDAVIT

State of Maryland
Baltimore County, SS:

TO WIT:
I hereby swear under penalty of perjury that I am a currently
duly appointed member of the Zoning Committee for the Greater
Sparks-Glencoe Community Council Inc.

Attest:

Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
President

11-MAY-91 8-AM '91

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

Greater Sparks-Glencoe Community Council Inc.

Resolved: That the position of the Greater Sparks-Glencoe
Community Council Inc. as adopted by the Zoning Committee on the
zoning matter known as:

R-91-115 Item 9 Cycle 4 Mark Greene (Manor Tavern)

is that:
The GSGCC is in opposition to the reclassification of RC2
zoned property to RCC for operation of a Wedding Garden" (catering)
facility.

Attest:

Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
President

11-MAY-91 8-AM '91

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

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zoned property to RCC for operation of a Wedding Garden" (catering)
facility.

Attest:

Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
President

11-MAY-91 8-AM '91

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

RESOLVED: That at the annual-Officers election meeting of the
Greater Sparks-Glencoe Community Council Inc. held on March 13,
1991, it was decided by the community council that the
responsibility for the review and action on all zoning matters for
the period of one year be placed in the Zoning Committee. This
committee consisting of the following members:

Mr. Jack Leonard Chairman
Mrs. Sandy Shortall
Mrs. Barbara Burke
Mrs. Wendy McIVER
Mrs. Laura Brect
Mr. Paul Hupfer

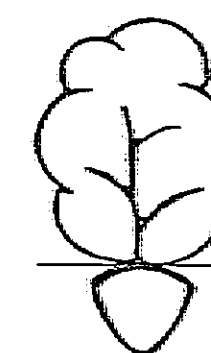
AS WITNESS OUR HANDS AND SEAL THIS 4 DAY OF MAY 1991

Attest:

Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
President

11-MAY-91 8-AM '91



BROADVIEW MANOR, INC.

LANDSCAPE DESIGN / BUILD COMPANY
301-657-6010

4530 NORRISVILLE ROAD
WHITE HALL, MARYLAND 21161

May 7, 1991

Mr. William Hackett, Chairman
Baltimore County Board of Appeals
111 Chesapeake Avenue
Towson, Maryland 21204

RE: ITEM 9, CASE 91-115

Dear Mr. Hackett:

I reside at 3301 Hess Road, Monkton, Maryland and have been a resident of Monkton
for 41 years. I am, also, the landscape architect of the Manor Tavern Wedding Garden. I
would hope that you will not discount my testimony due to this fact, but rather regard me as
a well-informed expert on agricultural practices as well as a member of long standing in the
community. Five generations of Pattersons have lived and produced agricultural products on
the farm adjacent to the Manor Tavern. I have also been involved in many projects of
beautification in the community: St. James Church, St. James Academy, St. James Rectory,
Ladew Gardens, Sparks Bank and Bradford Federal. Many prominent members of the
community have also commissioned me to design and install their landscaping.

For years the Manor Tavern has had quite a notorious reputation, but only since its new
owner, Mark Greene, purchased the restaurant in 1986 has the establishment given the
community a place that we can be proud of: a family restaurant, a business meeting ground,
a romantic spot in the heart of hunt country, and a place that some of us can drive or walk
to without driving into town. In short, it is a place in the country that we have needed for
years and a place where neighboring students have enjoyed part-time or summer employment.

As a result of Ladew Gardens ceasing to offer outdoor receptions and the Tavern's close
proximity to St. James and surrounding rural churches, requests for small wedding parties on
the garden terrace and in the garden room at the Tavern became popular. So popular that
after three years of service, the idea of a country garden (formal with a tent in the true Ladew
style) was commissioned. Plans were drawn and the closest community members were
presented the concept for criticism or praise. Only praise was heard at that time.

Now there are over 200 trees, small- to being 14 to 16 feet tall; others over 40 feet tall.
20 to 25 foot tall evergreens surround the garden as well as parking areas (with more slated
in years to come) to act as a visual as well as a sound barrier. What a wonderful buffer for
the community and what a great use of agricultural ground! For an area that has spawned one

of the world's most unique topiary gardens and has survived the buses, traffic, concerts and
notoriety, it would seem that another garden would be equally received.

I have observed that all it takes is one person, usually the last one to enter a
community, to stir up controversy. The Gebharts, who have just recently moved into the area,
bought the property not only with the knowledge of the Tavern's existing business, but its past
reputation as well; i.e., rock groups, biker bar, and truck stop. Gebhart's statement that
the garden facility doesn't support the rural nature of the community seems in direct conflict with
his own plans to subdivide his own farm and build another house.

My question to you and to the Board of Appeals is where else but at a private
establishment like the Manor Tavern can one enjoy a reception or party with no restriction
as to member status, religious beliefs, race or former marital status? Also, where, unless you
are fortunate to be a landowner, can one enjoy the beautiful open countryside garden setting
than in a location similar to that offered at the Manor Tavern? I think, if you consider these
thoughts, you can't help but agree with the Wedding Garden's compatibility with the RCC
zoning and its positive enhancement to the community.

Respectfully,

Michael H. Patterson
President
BROADVIEW MANOR, INC.

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

RESOLVED: That at the annual-Officers election meeting of the
Greater Sparks-Glencoe Community Council Inc. held on March 13,
1991, it was decided by the community council that the
responsibility for the review and action on all zoning matters for
the period of one year be placed in the Zoning Committee. This
committee consisting of the following members:

Mr. Jack Leonard Chairman
Mrs. Sandy Shortall
Mrs. Barbara Burke
Mrs. Wendy McIVER
Mrs. Laura Brect
Mr. Paul Hupfer

AS WITNESS OUR HANDS AND SEAL THIS 4 DAY OF MAY 1991

Attest:

Wendy McIVER
Mrs. Wendy McIVER
Secretary

Paul A. Hupfer
President

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 396
Sparks, Maryland 21152

May 4, 1991

County Board of Appeals
County Office Building, Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

Attn: Kathleen C. Weidenhammer
Administrative Assistant

Reference:
Case No. R-91-115 Item 9 Cycle 4 Mark Greene (Manor Tavern)

The Greater Sparks-Glencoe Community Council would like to
notify the board of its intent to appear before the board
concerning the reference case. Please add the GSGCC to the
correspondence notification list for this case.

Paul A. Hupfer
President

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
301/337-6877

April 18, 1991

William T. Hackett, Chairman
Baltimore County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Amendment to zoning
reclassification - Mark
Green (Manor Tavern)
property (Case No.
R-91-115)

Dear Mr. Hackett:

On behalf of The Valleys Planning Council, I would like to
support the recommendation for denial by the Baltimore County
Office of Planning and Zoning pertaining to the Manor Tavern
property as referenced above.

The property in question is currently zoned RC2, a
classification created to prevent land uses incompatible to
agricultural uses. We agree with the planning office that the
required reclassification of this open field for a "wedding
garden" with BL-CR zoning is not appropriate to the surrounding
area.

This is precisely the type of spot zoning which causes such
conflict in our commitment to preserve the agricultural
community.

Furthermore, the granting of such reclassification of RC2
land would set a devastating precedent for the rest of Baltimore
County's agricultural preservation (RC2) lands.

For these reasons, The Valleys Planning Council hopes that
the Board of Appeals will support the recommendation for denial
of this reclassification.

Sincerely,

Margaret Vortell
Executive Director

cc: David Fields
Jeffrey Long

15925 Old York Road
Monkton, MD 21111
May 3, 1991

Mr. William Hackett
Chairman, Board of Appeals
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Hackett,

I'm writing in regard to the proposed re-classification of the Manor Tavern property at 15819 Old York Road in Monkton.

My husband and I own the property adjacent to the Tavern property along Old York Road. We're part of a group of several neighbors who are very concerned about this proposed zoning change.

Our concerns involve several issues:

1. Changes in the community that would occur if this party pavilion were allowed to operate
2. Noise/Public Nuisance
3. Traffic/Parking
4. Alcohol consumption in a party atmosphere, patrons will leave the Tavern and many will be driving on unfamiliar narrow country roads

I'm including several letters that members of our group wrote to either the planning staff or the planning board in regard to these issues. Please take a few minutes to read through our concerns.

We hope you will reject the rezoning application.

Thank you for your consideration.

Sincerely,

Rebecca Gebhard

92-11111 9-11111

August 23, 1990

Mr. Mark Green
c/o Manor Tavern Restaurant
15819 Old York Road
Monkton, Maryland 21111

Dear Mr. Green:

We are residents of properties in the area around the Manor Tavern.

We have learned that you are building, or planning to build an outdoor pavilion on the Tavern property, where weddings and other functions will be held.

We have received mixed and ambiguous signals about whether you plan to have out-door music played on the property. Experience has established that such music, whether amplified or not, carries a long distance in this area because of the open-ness and formation of the land. It would cause serious harm to our right of peaceful enjoyment of our homes and constitute a highly undesirable invasion of our privacy; in short, it would be an intolerable nuisance.

The purpose of this letter is to state our concern, to express our hope that you do not intend to allow outdoor music, and to explain to you, in fairness before things have proceeded too far, that we and other interested neighbors will be united

CADS USA, INC.

September 6, 1990

Mr. Mark Green
Manor Tavern

Dear Mark,

Last night I added my signature to a letter expressing neighborhood concern over the possibility of outdoor music in your wedding garden. Because of my admiration for your hard work and achievements at the Tavern, I feel I owe you a clear explanation of my thinking on the issue.

Prior to your involvement with the Tavern, there was experimentation with outdoor music on occasion. My driveway is one mile north of you. Invariably, I could hear every word and note. I used to complain, first to the Tavern, and then to the police. I was relieved with its (I assumed) permanent cessation.

I suppose that to a lot of people, this would look like a suitable area for loud outdoor music. You see open rolling fields, and not many houses.

A closer examination would show that the character of the land is result of sacrifice for a purpose. Typically, people here commute two hours a day and put in a hard week in part to support large unproductive investments in the land. This is so life might have certain esthetic qualities. These are people who have given up proximity to work, schools, and amenities in the interest of peace and quiet. For most, the real reward is a few hours of peaceful enjoyment on the weekends.

In fact, much of the appeal and success of your restaurant is due to the setting your neighbors have created and now maintain for it.

It would be logical that a community that has exhibited such a pattern of commitment to this rural and peaceful life would mount a strong collective effort to oppose deleterious changes. I want to see you flourish here in continuing harmony, and so I write to urge you to reconsider any outdoor music. Let's stop the fight before it starts. I am at 771-4222. Give me a ring if you would like to talk about this. I hope this is all a misapprehension.

Sincerely,

Walter Dandy III

12 East Dover Drive, Baltimore MD 21222 (410) 765-1822 * Suite 100, 2121 North Potomac Road, Vaill CO (303) 437-2233 FAX-433

15925 Old York Road
Monkton, MD 21111
September 11, 1990

Mr. J. Robert Haines
Baltimore County Zoning Commission
County Office Building
111 W. Chesapeake Avenue #109
Towson, Maryland 21204

Dear Mr. Haines:

I'm writing in regard to the new expansion at the Manor Tavern at 15819 Old York Road in Monkton.

The new expansion is being called a "Wedding Garden", available for large weddings and parties. This outdoor pavilion will have a tent top. I understand Baltimore County zoning laws state that a tent structure is a non-permanent structure so no building permit is needed.

However, this structure is anything but non-permanent.

It is much different from an individual or business that raises a tent for a special party or event. Bulldozers worked for two weeks to clear and grade this large area. It has brick walkways and a brick foundation for the pavilion building. This structure is designed to hold 400 people... and is being advertised as such by the Manor Tavern.

This outdoor pavilion is actually a community service hall for social and civic use...and should require a special exception.

This is a permanent structure that will adversely affect the Monkton community. However, because it has a tent top, the entire public hearing process has been circumvented.

Many neighboring residents have signed the enclosed letter to Manor Tavern owner Mark Green to protest this expansion. Others have written or spoken to him privately.

111 West Chesapeake Avenue
Towson, MD 21204

887-3553

December 5, 1990

S. Eric DiNenna, Esquire
DiNenna, Mann & Breschi
Suite 600, Mercantile-Towson Building
409 Washington Avenue
Towson, Maryland 21204

RE: Case No. C-91-776
15819 Old York Road
10th Election District

Dear Mr. DiNenna:

On November 30, 1990, Mrs. Rebecca Gebhard, on behalf of the area residents, came into this office to discuss the above referenced case.

Noting the findings of Inspector Leonard Wasilewski on November 21, 1990, I went to the extent to explain to her that this office feels that the site is in compliance with the Baltimore County Zoning Regulations.

However, she brought to my attention that on weekends, alleged customers of the Manor Tavern are parking on the R.C.2 zoned land.

This alleged activity would constitute a zoning violation since no record of a use permit per Section 409.3.B.1 does exist.

I am requesting that you notify your client of this fact and take whatever action is necessary to resolve this matter so that this office does not have to resort to corrective measures.

If further questions exist, please contact this office at 887-3351.

Sincerely,

JAMES H. THOMPSON
Zoning Enforcement Coordinator

JHT:ljs

cc: Mrs. Rebecca Gebhard
Inspector Leonard Wasilewski

FROM

01.17.1991 11:04

P. 1

January 17, 1991

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Bldg., Suite 405
Towson, Md. 21204

Attn: Michael Flanigan

Re: CASE NO. R91-115

Dear Sir,

I am a twelve year property owner and resident of Monkton, Md. I would like to express my concern and ultimate request that the County deny the owner of The Manor Tavern, Mark Green's request for a zoning change slated for review by the County Planning Board on January 17, 1991.

I am very concerned about the increased noise and the preservation of our rural community. More importantly, I am concerned about the increased traffic. These back roads are no place to have drivers, who are unfamiliar with the area and usually under the influence of, at best, "a festive attitude" trying to navigate their way home.

Therefore, this letter stands as my vote against the RC-2 zoning change request.

Sincerely,

John Bell

NOTE: PLEASE FORWARD TO THE APPROPRIATE OFFICIAL FOR JAN. 17TH MEETING.

WRIGHT, CONSTABLE & SKEEN

ATTORNEYS AT LAW
250 WEST PRATT STREET, 13TH FLOOR
BALTIMORE, MARYLAND 21201-8423
TELEPHONE (301) 559-5541
TELEX (70) 234-2483 CALDAS
FAX (301) 559-1350

READ A. WEAFFRY
C. GORDON HANES
THOMAS F. EDWARDS, JR.
P. HENRY CROWELL
JOHN A. BELLARA
JOHN BRINTON POWELL, JR.
S. MARVIN PETER
MICHAEL A. ARONOWITZ
JAMES W. CONNOR
DAVID W. SKEEN
MICHAEL E. WARDEN
JAMES D. SKEEN
KENNETH F. JAMES
STEFEN F. WHITE
BRIAN S. GOODMAN
SHARON L. DUGA
STEPHEN L. HARTMAN

WRITER'S STREET MAIL NUMBER
(301) 659-1312

January 17, 1991

Harold Reid, Esq., Chairman
Baltimore County Planning & Zoning Board
Towson, Maryland 21204

Re: Manor Tavern - Mark Green
Cycle IV, Item 9

Dear Mr. Reid:

My wife, Elizabeth Constable, and I, and Mr. & Mrs. Frank Weller, all of whom are land owning residents living in the vicinity of the Manor Tavern, join with the many others who oppose the proposed re-zoning and who support the reasoning and recommendations of the Office of Planning and Zoning.

The Tavern itself is in effect, if not law, a spot zone arising out of a situation predating the zoning laws. All the surrounding area is farming and residential, plus St. James Church and School.

The application for re-zoning rose out of an attempt to set up a wedding reception pavilion in an RC2 zone. This would involve up to 400 guests, traffic hazards and congestion, litter, noise, and worst of all, outdoor amplified music. Such music has been proven by unhappy experience to be an intolerable nuisance to those living up to at least a mile away in our direction. It greatly harmed our right to the quiet and peaceful enjoyment of our homes.

FREDERICK L. KORB
DOUGLAS N. SEITZ
PAUL F. CULUS
ROBERT L. KLINE III
WENDY A. KRONMILLER

OF COUNSEL
GEORGE W. CONSTABLE
DANA S. ROBERTSON
WILLIAM A. SKEEN
WM. PEPPER CONSTABLE
188-1976
JOHN D. WRIGHT
1903-1976

*ADMITTED IN D.C. AND MARYLAND
**ADMITTED IN PA. AND MARYLAND

16001 Old York Road
Monkton, Maryland 21111
April 13, 1991

Baltimore County Planning Board
401 Sealey Avenue
County Courts Building
Suite 406
Towson, Maryland 21204

Attention: Harold G. Reid, Chairman

Dear Mr. Reid:

As a resident of My Lady's Manor and in close proximity to the Manor Tavern, I am not in favor of the proposed rezoning of the Manor Tavern property which would permit its proprietor, Mark Green, to operate outdoor facilities for wedding parties and possibly other private parties.

By permitting the rezoning of the Manor Tavern, the Historical District of My Lady's Manor would be in jeopardy. The neighborhood would suffer by the noise, litter, possibly other potential dangers and traffic congestion.

Further, an outdoor catering service in the spring, summer and fall would greatly interfere with the peaceful atmosphere when our home are more open and we are spending more time outdoors enjoying our gardens.

If the Manor Tavern is rezoned to allow it to operate an outdoor catering service whether it be in the open or under a tent, what would prevent other commercial establishments from being built on the property?

Let us not forget that My Lady's Manor is a rural residential and agricultural area.

I hope the Board will reject the rezoning of the Manor Tavern.

Sincerely,

Jean P. Schlerer

RECEIVED
APR 16 1991
OFFICE OF
PLANNING & ZONING



FREE

Lutherville/Timonian • Cockeysville/Hunt Valley
Sparks-Glencoe • Monkton • Phoenix • Parkton • Butler
Fallston • Jarrettsville • White Hall • Glen Arm • Hydes
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THE NEWS-ADVERTISER

SEPTEMBER 1990 VOLUME 2 No. 1

*Travel Editor: The Baltimore Business Journal • Baltimore
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North County News

September 1990 Serving Northern Baltimore County and Harford County Volume 2, No. 9

New Office Building Slated for Jacksonville New Safeway to Follow

By Michael Ruby

A longtime Jacksonville property owner is proposing to add an office complex to the town's northeastern Baltimore County community.

Ken Hampshire, whose family has owned land in the area for more than 20 years, is teaming up with developer Louis Crumack and proposed \$3 million office project located on Jarrettsville Pike, just north of Sweet Air Road.

According to preliminary plans presented recently to Baltimore County development officials, the so-called Four Corners Professional Office Center will include four two-story buildings totaling nearly 25,000 square feet of space on the 3.3 acre site, just opposite the Phoenix branch post office.

Because of the site's sloping topography, the buildings are being designed to "fit into the land," said architect Albert W. Rubeling, Jr., president of Rubeling & Associates in Towson.

From the road, the project will appear to be one-story country-type buildings. But on the other side, there will be a full two stories.

A large swale in the middle of the site limits the design options available for the office complex, added Rubeling.

Plans presented to H&B show two of the proposed buildings located on either side of the swale, which is a large depression in the landscape.

At the northern end of the site are two structures, housing 4,500 square feet each, and 100 parking spaces. On the other side of the swale, the

Better Access and more Music to Highlight Baltimore County's Fall Festival

Baltimore County's annual fall festival, a full day of fun, food, and family entertainment, is scheduled for Sunday, September 23, at Oregon Ridge Park.

Hosted by County Executive Dennis P. Rasmussen and the Baltimore County Council, "Sunday in the Park" sets underway at 11 a.m. and runs until 6 p.m. Admission is free. The main date is September 30.

The event is an effort to provide better access to the park and to provide more music to the community. The event is the first of its kind in the county.

From infants to grandparents, Sunday in the Park is a day for everyone.

PARTY CONT 9

The Choice Issue Countdown Begins

Candidates struggle for multi-issue image

Try as they will, Janice Piccinini (Peschini) and Frank Kelly are having a hard time making their names multi-issue one.

Piccinini is trying to show her long-time involvement with community affairs makes her much more than a pro-choice candidate.

Kelly is trying to show that people think well of his abilities and are willing to overlook his stand on women's rights.

Senator Francis Kelly Governor W. Donald Schaefer Janice Piccinini

clear that in order to grant a reclassification either error by the Council in the adoption of the most recent zoning maps or changes in the neighborhood since the adoption of the maps must be shown to support the reclassification. Furthermore, Subsection 2 of that same section states that the petitioner must show:

"...that the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error or any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the Zoning Regulations and Maps, including..." (Emphasis supplied.)

Everyone who testified in the case agreed that the area around the Manor Tavern had changed little, if any, over the years, and Mr. Monk, the Petitioner's planner, specifically stated that they were not relying upon change as a justification, and that there had been none. If anything, the area has become more agricultural and residential in nature.

If they are not relying upon change, then the petitioner must prove that the 1988 Zoning Maps were erroneous, namely, that it was erroneous for the Council to once again adopt R.C.2 Zoning, a long existent buffer. Recall that the testimony clearly showed that only the frontage between Old York Road and Hess Road along Manor Road had been zoned BL over the years, and, thus, the County Commissioners and subsequently the County Council on a number of occasions, including the 1971, 1976, 1980, 1984, and 1988 maps, had decided each time to surround the BL Zoning with a protective buffer and transition to the

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& WILLIAMS,
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8

former residential zoning, and subsequently agricultural zoning, when the R.C. 2 zone became available with the 1976 Zoning Maps. Recall also, that neither Mr. Green nor any other principal of Manor Tavern, Inc., asked for any change on the 1988 Zoning Maps.

The petitioners argue that it was a mistake for the Council not to divide the tavern property between R.C.2 and BL-CR, and not to provide a transition from the BL-CR to a lesser R.C.C. Zone. The neighbors submit that it was not a mistake to continue the long established R.C.2 on the side and rear while placing the CR district on the front for the following reasons:

(a) The burden is on the petitioners to show mistake. Had an application for change been made to the Council, there is no showing on the merits that the Council should have anticipated the wedding reception use and granted a rezone to R.C.C., quite the contrary.

(b) As the Regulations show, and as Mr. Lippincott testified, the R.C.C. Zone is not designed as a wraparound transitional zone, but rather as a free standing, low intensity, rural commercial zone for the benefit of agricultural uses and tourism.

(c) Such a rezoning would be incompatible with the policy of the R.C.2 Zone to preserve agricultural use. It would be contrary to the Master Plan. The Manor Tavern area is not designated for development as a Rural Village Commercial Center on the Master Plan.

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9

(d) It would not in fact constitute a transition (if the wedding reception use is allowable in R.C.C., which protestants deny) from a heavier to a lesser commercial use. It would not be a transition to a lesser use to permit an outdoor use involving noise, traffic, litter, etc. as a separate catering business on a new spot; a business involving 200 or more guests for about 6 months per year.

(e) It would be incompatible with the maintenance of the My Lady's Manor Historic District.

(f) It would be harmful to the neighbors' peaceful enjoyment of their properties. The evidence is clear about the noise and traffic of wedding parties. A property owner has a right to the quiet enjoyment of all of his property right up to the boundary with the Tavern.

In this connection, it should be noted that the so-called concessions that the petitioners have made to the neighbors are totally inadequate to eliminate the nuisance.

1. The use in daylight only, and mostly on weekends, would continue to do harm at the very time the neighbors would want to be outdoors on their own properties.

2. The seasonal character is no concession at all, but simply a howling to the weather factor.

3. The elimination of amplified music while helpful to the more distant neighbors does not eliminate the nuisance to them, and particularly to the nearby neighbors. A band, with its drums, trumpets and other instruments is loud with or

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10

without amplification. Moreover, there would still be amplified toasts, crowd noises and traffic noises.

It is good planning to continue the small buffer zone on the Tavern property, and to confine the Tavern to its present location, especially as the BL Zone is really a spot zone arising because the Tavern pre-existed the zoning laws.

In fact, the Council over the years has actually diminished the commercial zoning. It was testified that this land was zoned "E" Commercial, a very broad zone, from 1945 to 1955; BL from 1955 to 1988, when the CR District was added (1988). The CR District, of course, further restricts the BL. Bill 103-88 is an exhibit in this case, and it clearly shows that the CR District was not available until 1988. Thus, for the Manor Tavern frontage to have a BL-CR zoning clearly indicates that it was considered as an issue by the Council, and the imposition of the CR District is actually a restriction and a constriction and a constriction of the former unfettered BL Zoning.

The 3 cases cited by Mr. Monk in his testimony are not applicable to the facts in our case. In this case the Council chose, on the 1988 maps, rather than to grant an open ended BL Zone, to grant a more restrictive R.C.C. Zone adjacent to, or around, in some cases, several rural commercial uses, including, in at least two cases, taverns. In neither case was it shown that this rezoning was granted to allow an expansion

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11

of an indoor tavern or restaurant use into an outdoor use. Rather, the inference is that the R.C.C. zoning in these other cases would allow a gradual stepping down from the BL zoning to a less intensive, and more restrictive zone around these two more rural taverns, not located in historic districts. In any event, every case stands on its own merits, and for the various arguments above given there are no merits for allowing an R.C.C. Zone for the sole purpose of permitting a new, outdoor wedding reception business.

Mr. Monk and Mr. Green are saying, in effect, that despite the fact that Mr. Green did not make any request for change in 1988, nevertheless the County Council should have, on its own reversed the actions of at least 5 previous Councils on the 1971 to 1988 zoning maps, as well as the pre-1971 maps, and placed a R.C.C. Zone on the rear of the Manor Tavern property, which would allow an intensive and disturbing use on this buffer area.

For all these reasons, the neighbors believe that the Manor Tavern has not made, and cannot make a case for this outdoor catering use, or for a mistake in the existing zoning.

While the Manor Tavern has served a community purpose as a restaurant (which has been upgraded over the years), it has always been somewhat beffered by the R.C.2 zoning on the bulk of the property along Old York Road, and by the R.C.2 zoning in the rear, while the highway maintenance yard serves as a buffer to the east and southeast.

The protestants trust that the Board will not see fit to

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12

destroy such buffers which have stood the test of time.

II. THE PROPOSED OUTDOOR RECEPTION GARDEN CONSTITUTES "CATERING" AND AS SUCH REQUIRES EITHER BM OR BR ZONING, AND NOT THE REQUESTED R.C.C. ZONE.

The testimony in this case, primarily by Mr. Carl Richards of the Zoning Commissioner's office is very clear that catering is not allowed in the BL or the R.C.C. Zone.

Mr. Richards testified at length that the long established administrative practice by the Zoning Commissioner's Office is to class catering as a "commercial recreation enterprise", and to require it to be placed in the BM or the BR Zone, which permits such uses as a matter of right. In this regard the Board's attention is respectfully directed to People's Counsel Exhibit 2, Mr. Richards' letter of February 28, 1991, in reply to Mr. Duvall's letter of January 31, 1991.

A moments consideration will show that catering does properly belong only in the heavier commercial zones namely, BM and BR. Wedding receptions, large parties, catered affairs, by their very nature attract a large number of persons who primarily arrive at a party and leave a party at approximately the same time. Also, such wedding receptions and parties even when held indoors, usually involve music, loud talk, etc., all of which are inappropriate in a BL Zoned restaurant setting, much less an R.C.C. Zoned restaurant. These factors become even more compelling when the proposal is to move a noisy and large crowd producing use, from indoors to outdoors.

As has been brought out in greater detail, the R.C.C. Zone

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is basically a lighter, lessor zone than BL or even BL-CR. It is intended for agricultural and tourist uses, on a free-standing, non-intensive basis. It would be clearly wrong to allow the 8,000 square foot Manor Tavern to use the R.C.C. Zone to add another 1.32 acres, over 56,000 square feet outdoors for catering to its already large indoor restaurant use, thus, in effect, having an outdoor catering hall and a large restaurant, with a large parking area in between the two. The R.C.C. Zone was never meant to be so used, and we submit it would be wrong to so use it, and contrary to its legislative intent.

III. THE PROPOSED OUTDOOR RECEPTION GARDEN IS NOT ACCESSORY TO THE PERMITTED RESTAURANT USE, AND IS NOT PERMITTED, BUT RATHER IT IS A CATERING USE, A PRINCIPAL USE IN ITS OWN RIGHT.

Even a casual glance at Petitioner's Exhibit 1, the site plan will show that the proposal in this case involves the introduction of a large, new principal use on a previously unutilized, R.C.2 buffering area of the subject property. The proposed outdoor reception garden does not meet the test of accessory uses as contained in Section 101 of the Baltimore County Zoning Regulations.

First of all, the proposed outdoor reception garden is not "customarily incident" to restaurants in Baltimore County or anywhere in this region. The only example cited by Mr. Green in his case was the example of Pearce's Plantation, which occasionally, apparently illegally, erects a tent on an R.C.4 Zoned area and holds a Preakness Party, or perhaps a wedding

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14

reception. Pearce's is a very unique case, since it appears to be an illegal use located on R.C.4 land. Further, Pearce's has no close residential neighbors, and holds these affairs only occasionally not six months of the year, every weekend or more in a dedicated outdoor reception garden. Also, apparently, noise has not been a problem at Pearce's.

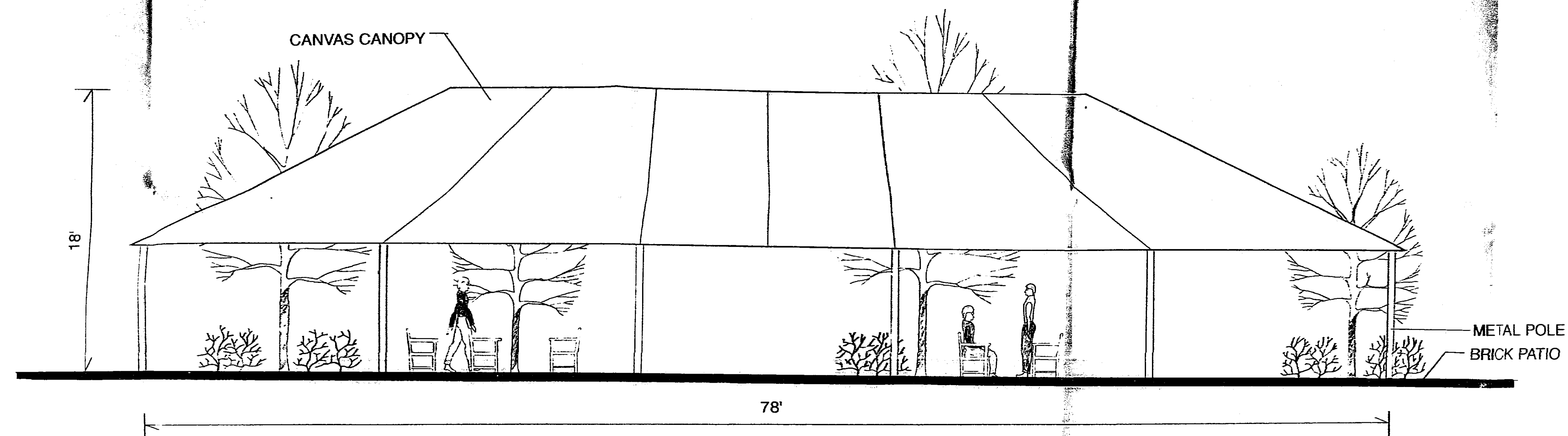
The vast majority of restaurants in Baltimore County either have no party room, or have a small party or banquet room which is located indoors and which clearly serves as an adjunct to the restaurant. This is not the case here, and no restaurant with which the Protestants are familiar have an outdoor reception garden as a part of its operation. Certainly a new outdoor operation in a totally separate area involving up to 200 or more guests can hardly be considered accessory to the restaurant business. This is particularly so when done on a regular basis, and is advertised as a wedding and party catering business.

In like manner, Section 1A06.2.C. relating to accessory uses or structures allowed in the R.C.C. Zones, states that only certain accessory use categories are permitted, and it does not name a proposed outdoor reception garden or any other like garden of any sort. The listed categories are agriculturally related uses, amusement uses, home occupations and parking. Thus, in Subsection 1A06.2.C.4., parking is listed as a use, restricted to the R.C.C., and, thus, should not be allowed outside the R.C.C. Zone.

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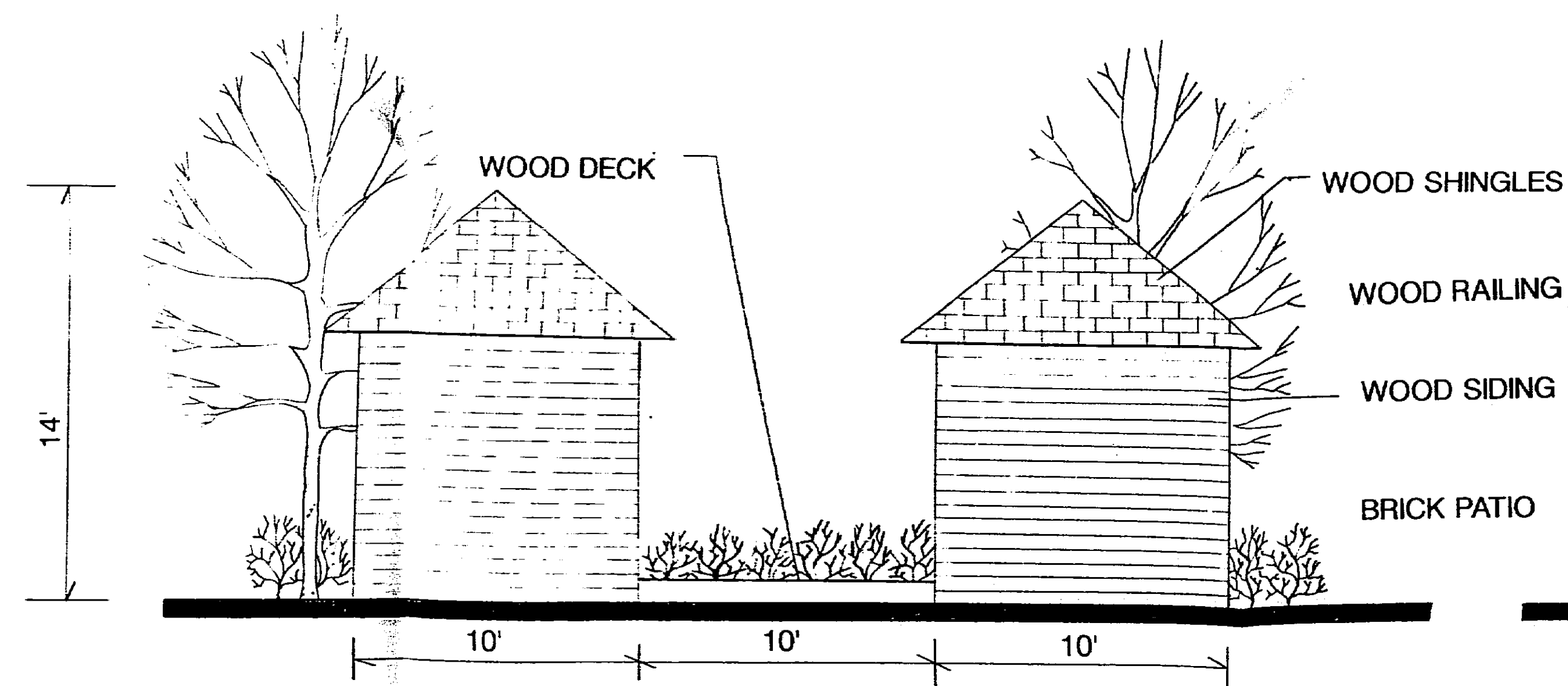
RECEPTION TENT



FRONT ELEVATION

SCALE: 1/4" = 1'

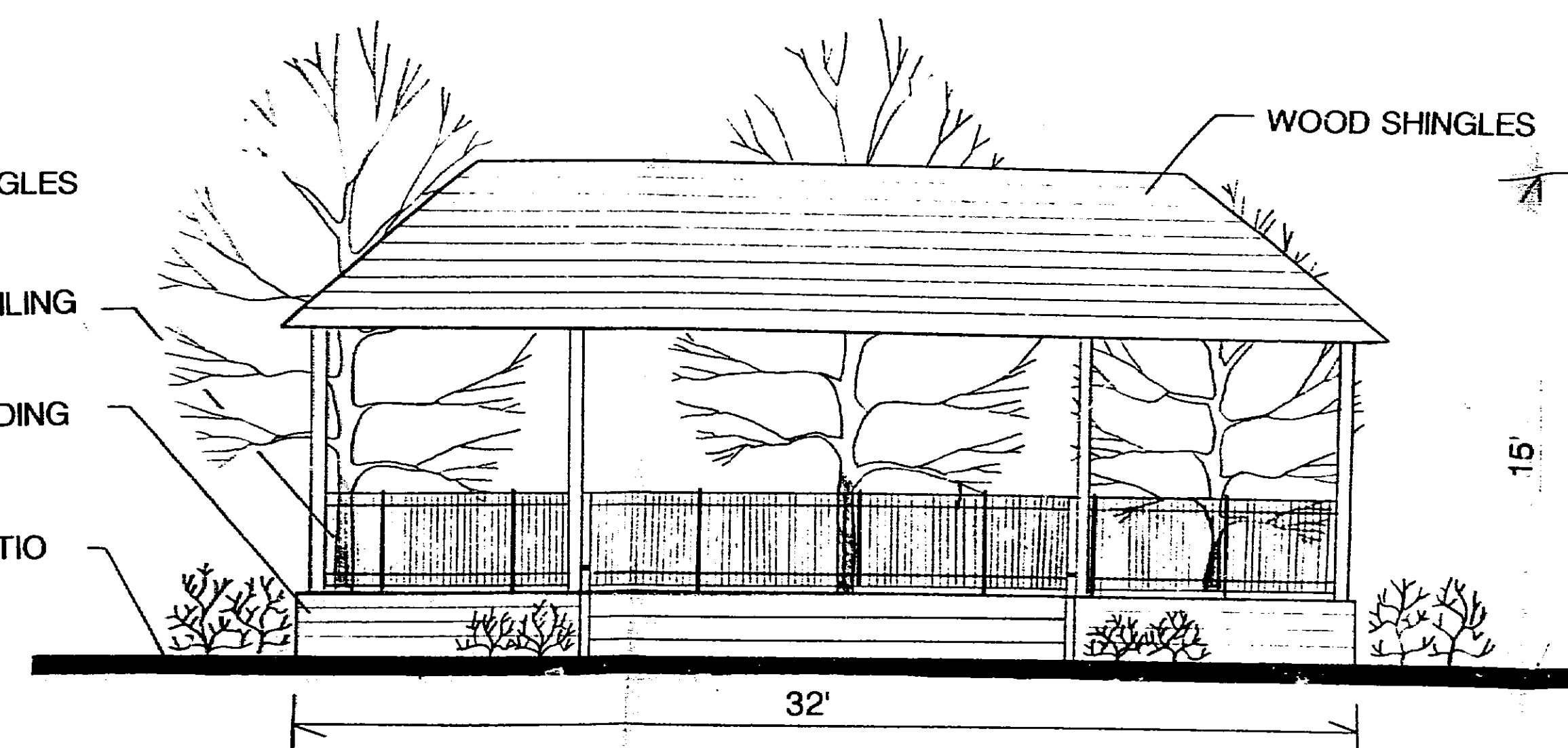
DRESSING ROOMS/ RESTROOMS



FRONT ELEVATION

SCALE: 1/4" = 1'

GAZEBO



FRONT ELEVATION

SCALE: 1/4" = 1'

MANOR TAVERN RECEPTION GARDEN

15819 OLD YORK ROAD
BALTIMORE COUNTY, MARYLAND

WILLIAM MONK, INC.
LAND USE PLANNING • ENVIRONMENTAL • ZONING
CAMPBELL BUILDING, SUITE 305
100 W. PENNSYLVANIA AVE
TOWSON, MARYLAND 21204

SHEET 2 OF 2

Per Housers 64 #22
(one sheet only)



BB NE
FF-SE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988

Del. F. V. [Signature]
Chairman, County Council

BALTIMORE COUNTY

OFFICE OF PLANNING AND ZONING

OFFICIAL ZONING MAP

SCALE 1" = 200' ±	LOCATION ARCADIA	SHEET NW 25-K
DATE OF PHOTOGRAPHY JANUARY 1986		

*Ref. to sheet
#13*

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-6565
FAX 301-823-6123

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
32 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1064 91ST STREET, N.W.
WASHINGTON, D.C. 20007

GARY C. DUVALL
301-823-6123

September 3, 1991

HAND DELIVERY

Mr. William Hackett, Chairman
Baltimore County Board of Appeals
111 W. Chesapeake Avenue
Towson, MD 21204

RE: IN THE MATTER OF THE APPLICATION OF
MARK GREENE & MANOR TAVERN, INC.
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK ROAD
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

Dear Mr. Hackett:

Enclosed please find a copy of the Petition of the
Appellant, Manor Tavern, Inc. pursuant to Maryland Rule of
Procedure B2.

If you have any questions, please do not hesitate to contact
me.

Very truly yours,
Gary C. Duvall

GCD:ld
Encl.

cc: Phyllis Cole Friedman, Esquire
Newton Williams, Esquire
Mr. Mark Greene

COUNTY BOARD OF APPEALS
91 SEP -5 PM 4:23

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-6565
FAX 301-823-6123

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
32 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1064 91ST STREET, N.W.
WASHINGTON, D.C. 20007

GARY C. DUVALL
301-823-6123

September 3, 1991

Clerk
Circuit Court for Baltimore County
County Courts Building
Towson, MD 21204

RE: IN THE MATTER OF THE APPLICATION OF
MARK GREENE & MANOR TAVERN, INC.
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
Case No. 91CG3726/98/157

Mr. Clerk:

Enclosed for filing please find the Petition of the
Appellant, Manor Tavern, Inc. and Mark Greene, in the above-
captioned zoning appeal from the County Board of Appeals for
Baltimore County. Also enclosed please find a Certificate of
Compliance with Maryland Rule of Procedure B2.

If you have any questions, please do not hesitate to contact
me.

Very truly yours,
Gary C. Duvall

GCD:ld
Encl.

cc: Phyllis Cole Friedman, Esquire
Newton Williams, Esquire
Mr. Mark Greene

MICROFILMED

IN THE MATTER OF THE APPLICATION
OF MARK GREENE (MANOR TAVERN)
FOR A ZONING RECLASSIFICATION FROM
R. C. 2 TO R. C. C. ON PROPERTY
LOCATED ON THE NORTHWEST SIDE OF
OLD YORK ROAD OPPOSITE MONKTON
ROAD (15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY

91-CG-3726
98/157

ORDER FOR APPEAL

Mr. Clerk: Please enter an appeal to the Circuit Court for
Baltimore County on behalf of Manor Tavern, Inc., a Maryland
corporation, Petitioner, from the Order of the County Board of
Appeals of Baltimore County dated July 31, 1991 in the above
matter.

Attached to this Order of Appeal is a Certificate of
Compliance with Maryland Rule B-2.

Stephen C. Winter
Gary A. Duvall
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(301) 821-6565

30C:\tal\order.app

MICROFILMED

CERTIFICATE OF SERVICE
I HEREBY CERTIFY that on this 28 day of August, 1991, a
copy of the foregoing Order for Appeal was mailed first class,
postage prepaid to:

County Board of Appeals
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, MD 21204

Baltimore County Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Phyllis Cole Friedman, Esquire
Counsel for Baltimore County
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Newton A. Williams, Esquire
700 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204
Attorneys for Protestants

Stephen C. Winter

2

MICROFILMED

CERTIFICATE OF COMPLIANCE

I hereby certify that on August 28, 1991, a copy of the
Order for Appeal was served, by hand delivery, on the County
Board of Appeals for Baltimore County.

Gary A. Duvall
Gary C. Duvall

Stephen C. Winter
MILES & STOCKBRIDGE
600 Washington Avenue
Suite 300
Towson, Maryland 21204
(301) 821-6565

Attorney for Manor Tavern,
Inc.

LAW OFFICES
MILES & STOCKBRIDGE
600 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-821-6565
FAX 301-823-6123

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
32 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1064 91ST STREET, N.W.
WASHINGTON, D.C. 20007

STEPHEN C. WINTER
301-823-6123

August 28, 1991

VIA HAND DELIVERY

County Board of Appeals
of Baltimore County
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, MD 21204

RE: In the Matter of the Application of Mark Greene (Manor
Tavern) for Zoning Reclassification from R.C. 2 to R.C.C.
on Property Located on the Northwest Side of Old York
Road Opposite Monkton Road (15819 Old York Road)
Tenth Election District
Third Councilmanic District

Gentlemen:

Enclosed is an Order of Appeal to the Circuit Court for
Baltimore County filed by Manor Tavern, Inc., Petitioner in the
above matter.

Sincerely,
Stephen C. Winter

SCW:tal
Enclosure
cc: Phyllis Cole Friedman, Esquire
Newton A. Williams, Esquire
Mr. Mark Greene
SCW:tal\county.ltr

16 AUG 28 PM 3:58
COUNTY BOARD OF APPEALS

MICROFILMED

IN THE MATTER OF THE APPLICATION * IN THE
OF MARK GREENE (MANOR TAVERN) * CIRCUIT COURT
FOR A ZONING RECLASSIFICATION *
ON PROPERTY LOCATED ON THE *
NORTHWEST SIDE OLD YORK ROAD, * FOR
OPPOSITE MONKTON ROAD (15819 OLD * BALTIMORE COUNTY
YORK ROAD) FROM RC-2 TO RCC *
10TH ELECTION DISTRICT * CG Doc. No. 98
3RD COUNCILMANIC DISTRICT * Folio No. 157
MARK GREENE (MANOR TAVERN), *
PLAINTIFF * File No. 91-CG-3726
CASE NO. R-91-115 *
* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland
Rules of Procedure, William T. Hackett, Arnold G. Foreman, and C.
William Clark, 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, Stephen C. Winter, Esquire, and Gary A. Duvall,
Esquire, Miles & Stockbridge, 600 Washington Avenue, Suite 300,
Towson, Maryland 21204, Counsel for Plaintiff; Mr. Mark Greene
(Manor Tavern), 15819 Old York Road, Monkton, Maryland 21111,
Plaintiff; Newton A. Williams, Esquire, Nolan, Plumhoff & Williams,
Chtd., Suite 700, Court Towers, 210 W. Pennsylvania Avenue, Towson,
Maryland 21204, Counsel for Protestants; Francis N. Iglehart,
Esquire, et al, Iglehart & McLaughlin, 307 W. Allegheny Avenue,
Towson, Maryland 21204, Protestants; Greater Sparks-Glencoe
Community Council, P.O. Box 396, Sparks, Maryland 21152,
Protestant; Phyllis C. Friedman, Esquire, People's Counsel for
Baltimore County 111 W. Chesapeake Avenue, Room 304, Towson,
Maryland 21204; and Michael B. Sauer, Esquire, c/o County Board of

MICROFILMED

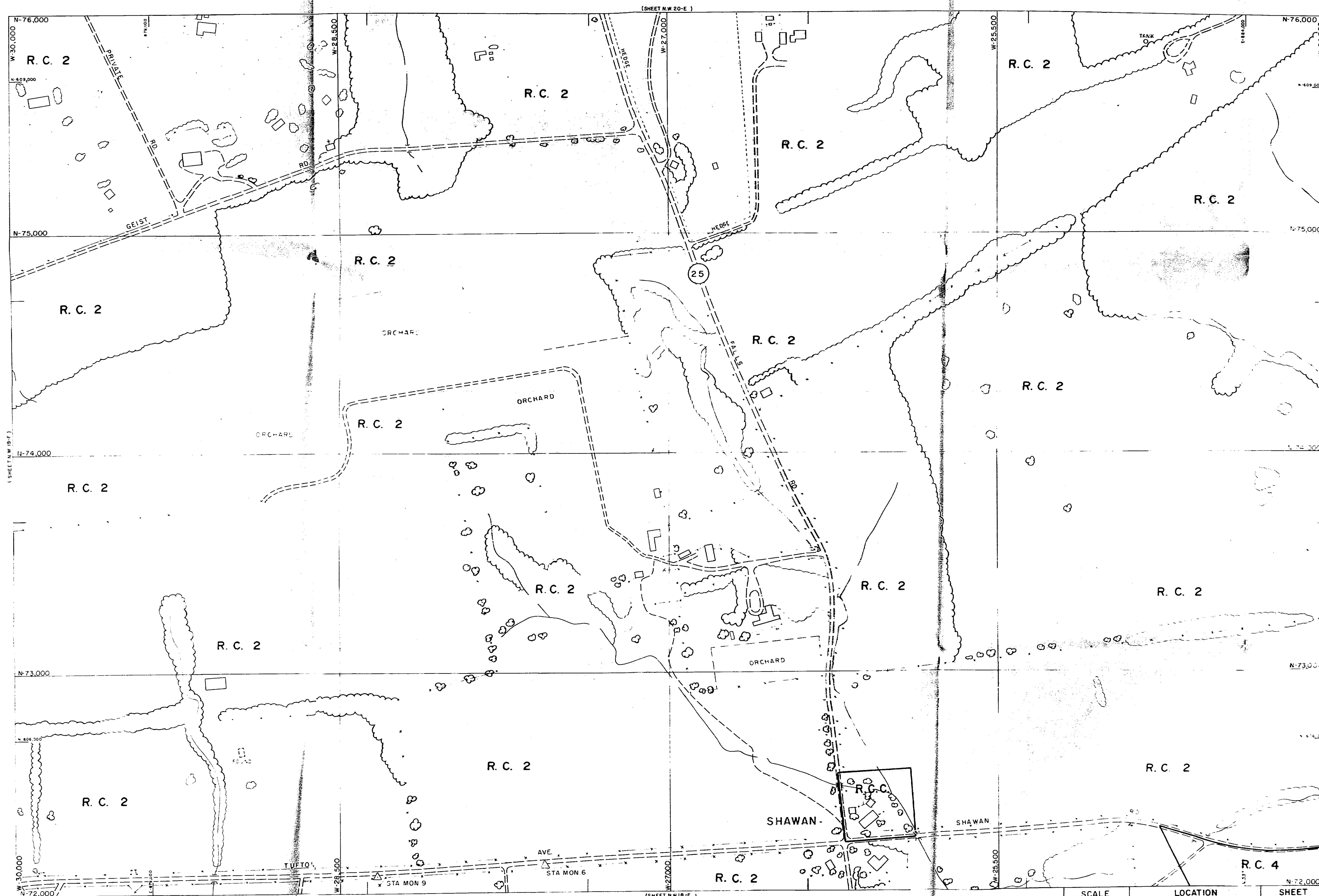
Case No. 91-CG-3726 (R-91-115) Mark Greene/Manor Tavern 2
Appeals, Room 315, County Office Building, 111 W. Chesapeake
Avenue, Towson, MD 21204, a copy of which Notice is attached
hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul,
Legal Secretary
County Board of Appeals, Room 315, County
Office Building, 111 W. Chesapeake Ave.,
Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of
Notice has been mailed to Stephen C. Winter, Esquire, and Gary A.
Duvall, Esquire, Miles & Stockbridge, 600 Washington Avenue, Suite
300, Towson, Maryland 21204, Counsel for Plaintiff; Mr. Mark
Greene (Manor Tavern), 15819 Old York Road, Monkton, Maryland
21111, Plaintiff; Newton A. Williams, Esquire, Nolan, Plumhoff &
Williams, Chtd., Suite 700, Court Towers, 210 W. Pennsylvania
Avenue, Towson, Maryland 21204, Counsel for Protestants; Francis
N. Iglehart, Esquire, et al, Iglehart & McLaughlin, 307 W.
Allegheny Avenue, Towson, Maryland 21204, Protestants; Greater
Sparks-Glencoe Community Council, P.O. Box 396, Sparks, Maryland
21152, Protestant; Phyllis C. Friedman, Esquire, People's Counsel
for Baltimore County 111 W. Chesapeake Avenue, Room 304, Towson,
Maryland 21204; and Michael B. Sauer, Esquire, c/o County Board of
Appeals, Room 315, County Office Building, 111 W. Chesapeake
Avenue, Towson, MD 21204, on this 29th day of August, 1991.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul,
Legal Secretary
County Board of Appeals, Room 315, County
Office Building, 111 W. Chesapeake Ave.,
Towson, Maryland 21204 (301) 887-3180

MICROFILMED



V-NW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Ord. Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

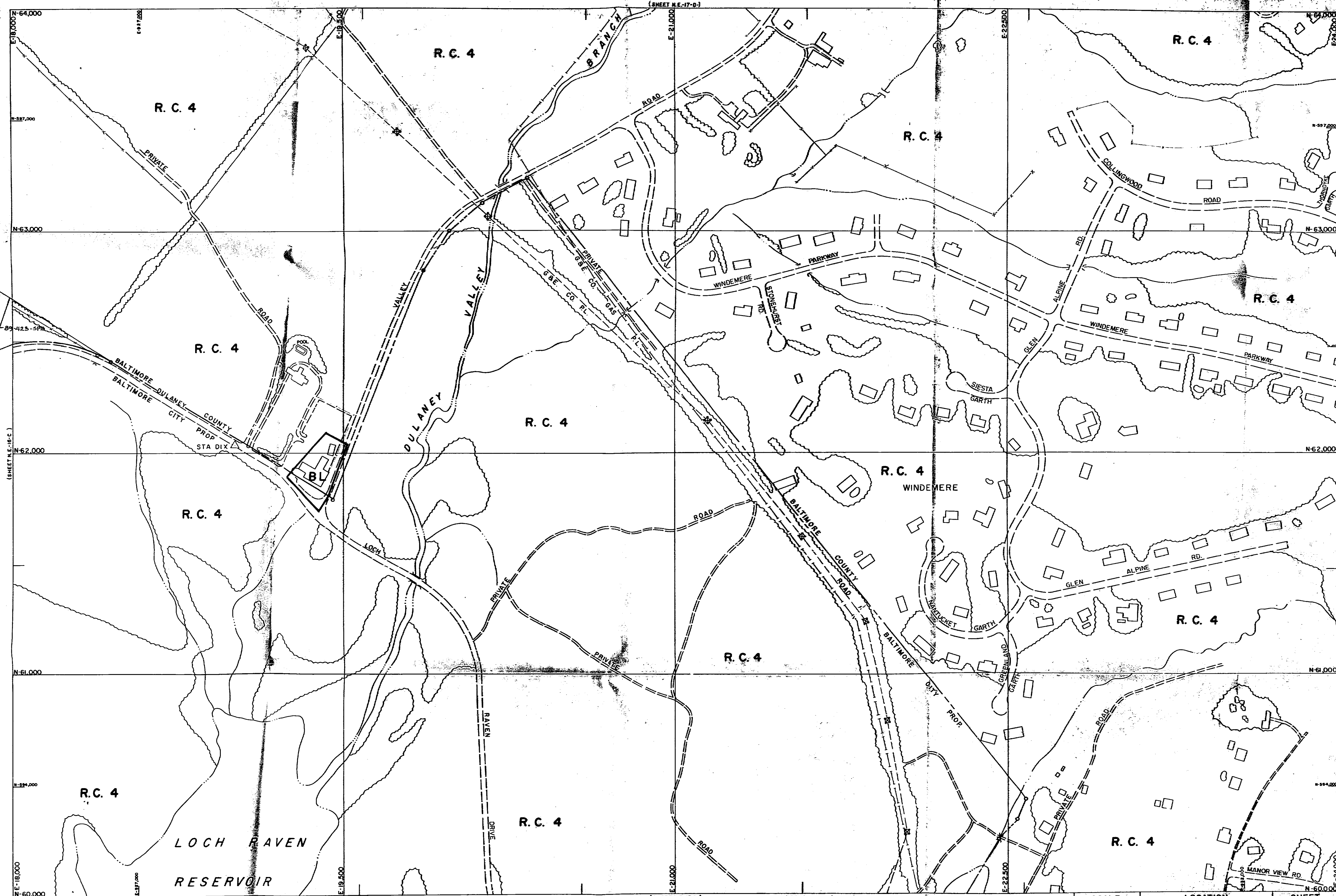
THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'	SHAWAN	N.W.
DATE OF PHOTOGRAPHY JANUARY 1986		19-E

*Ref. to map
Ex. #15*



U-SE
R-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88
Dea. T. V.
Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE
1" = 200' ±

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION

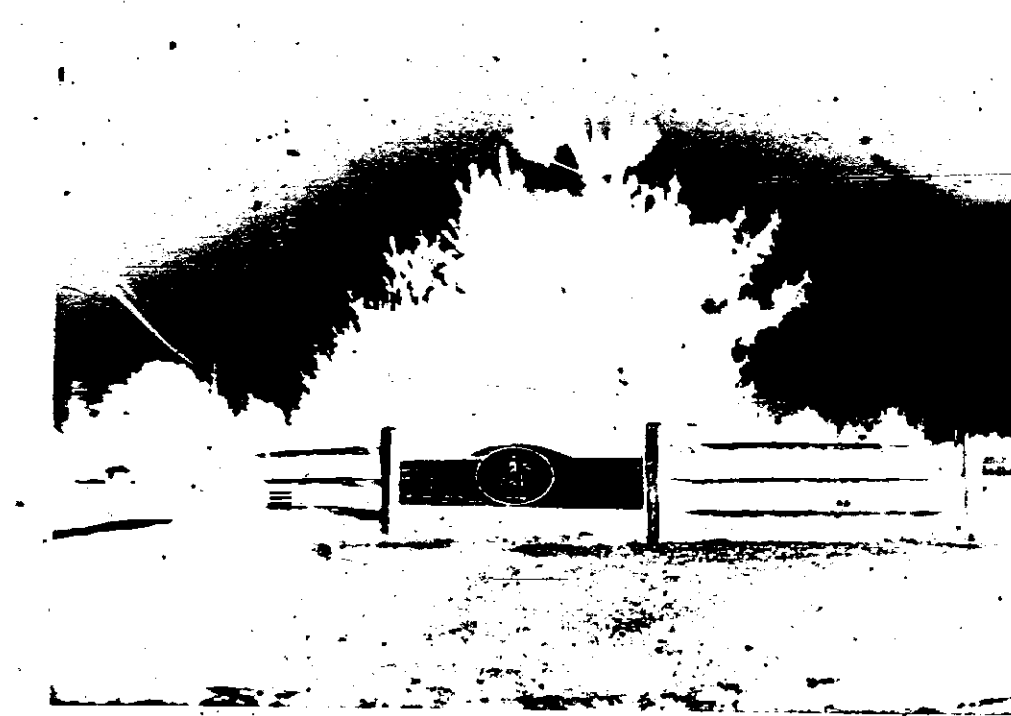
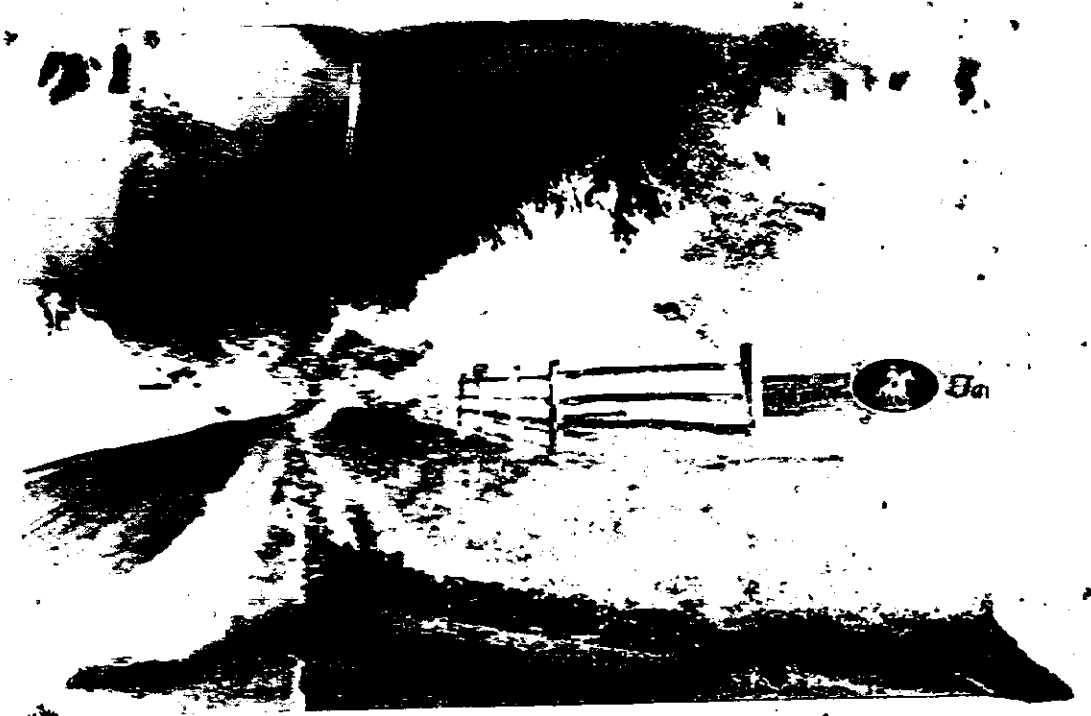
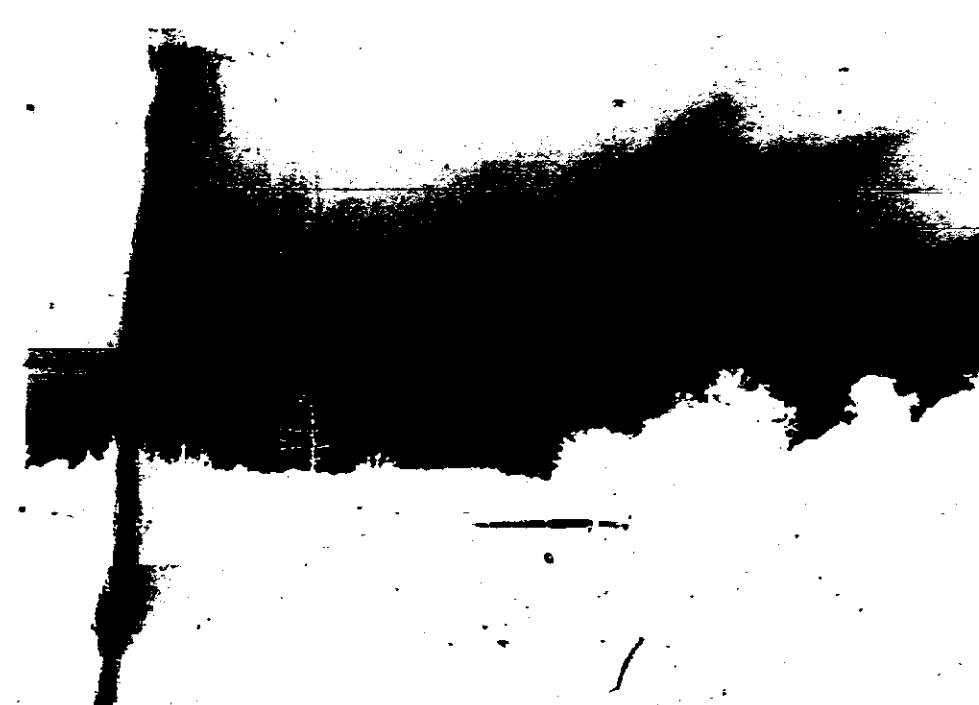
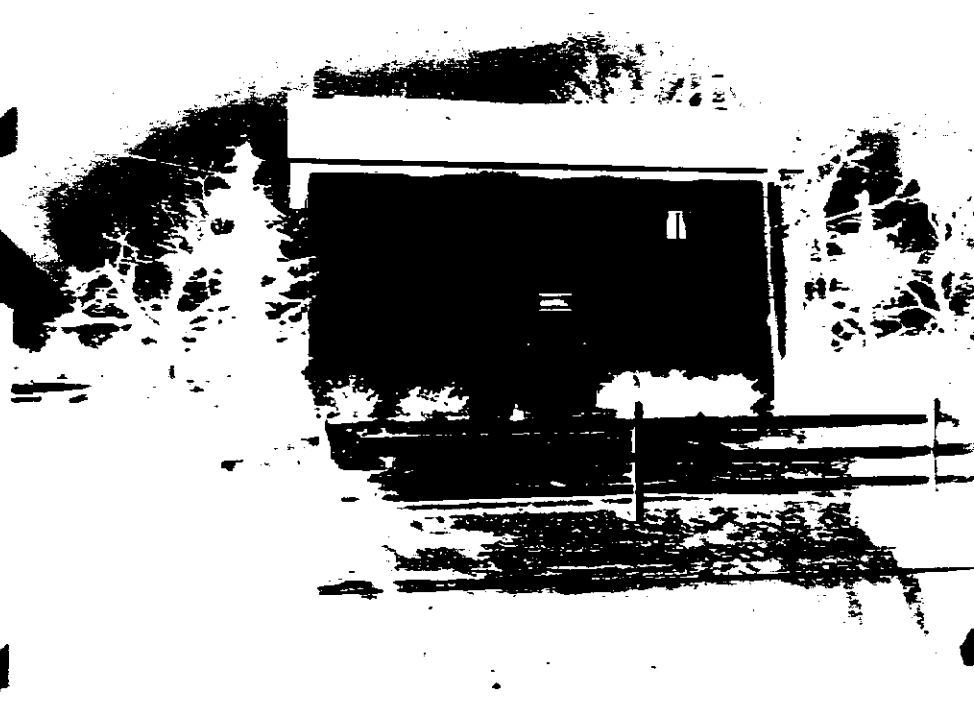
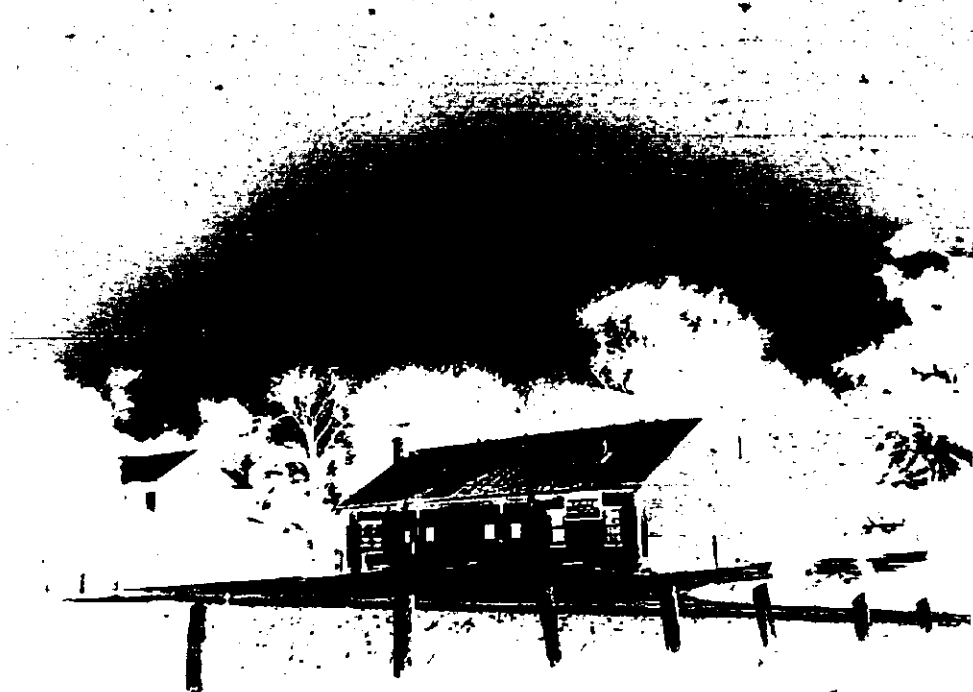
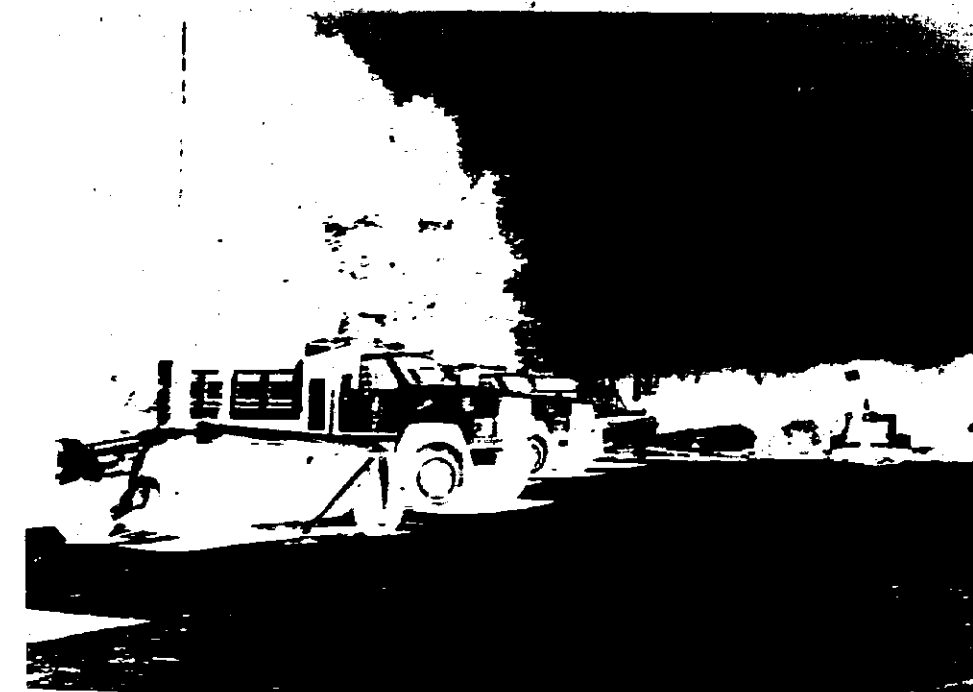
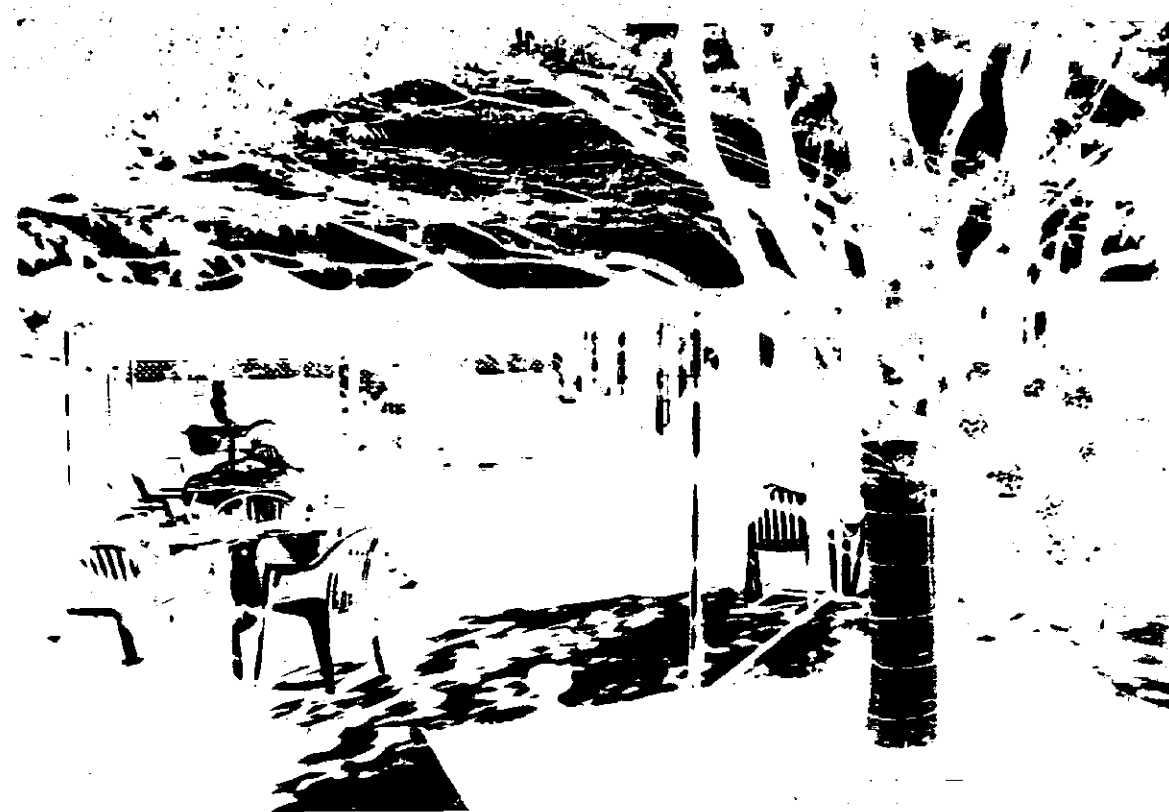
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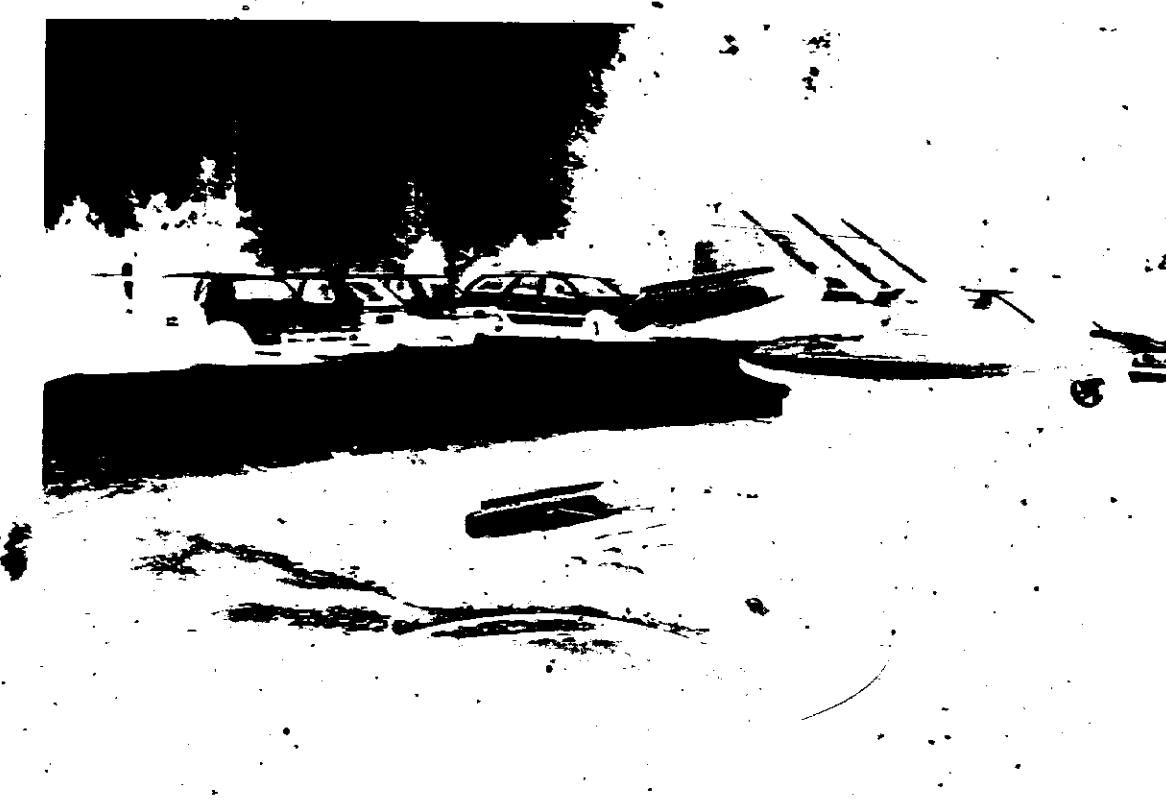
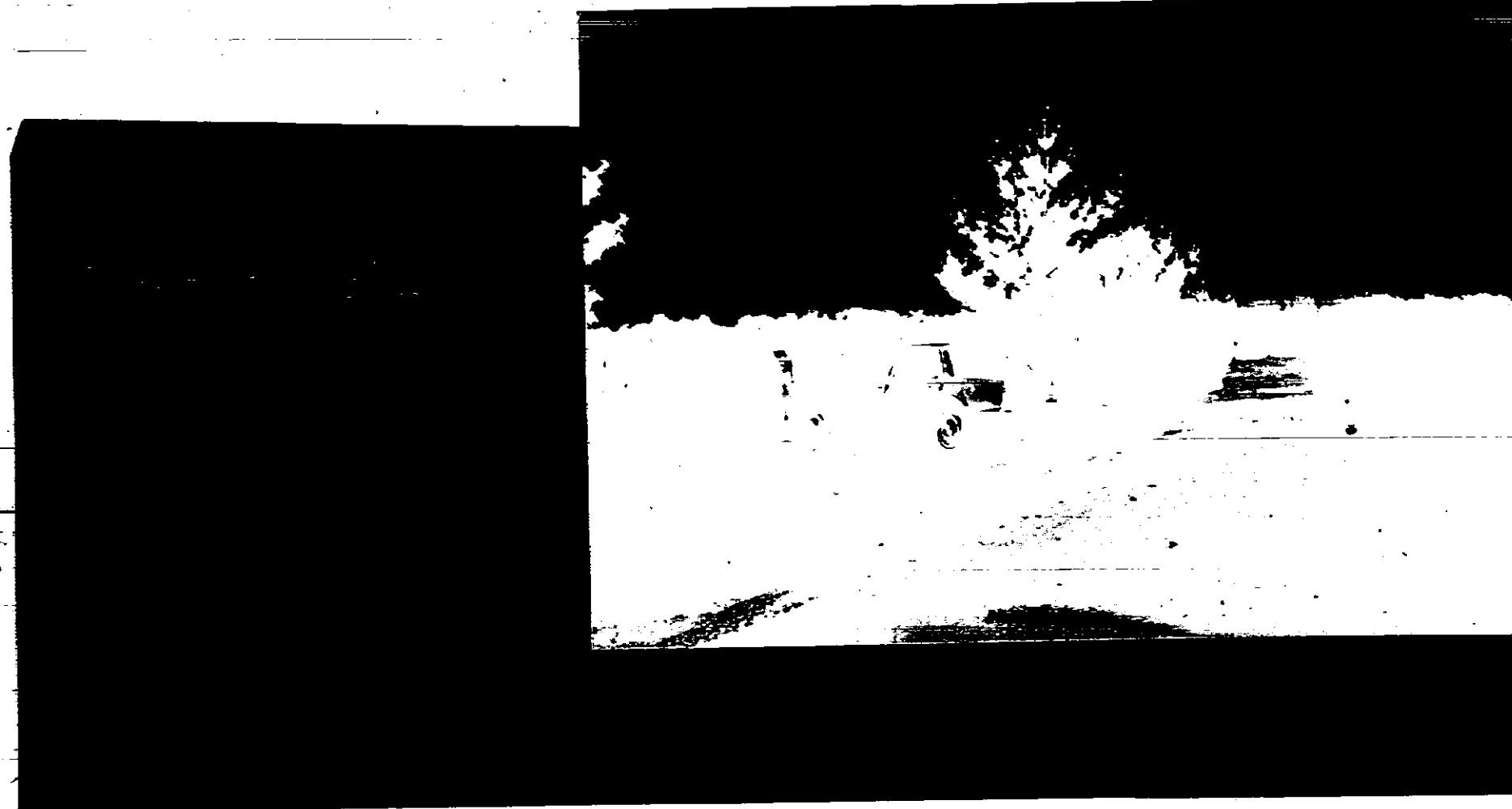
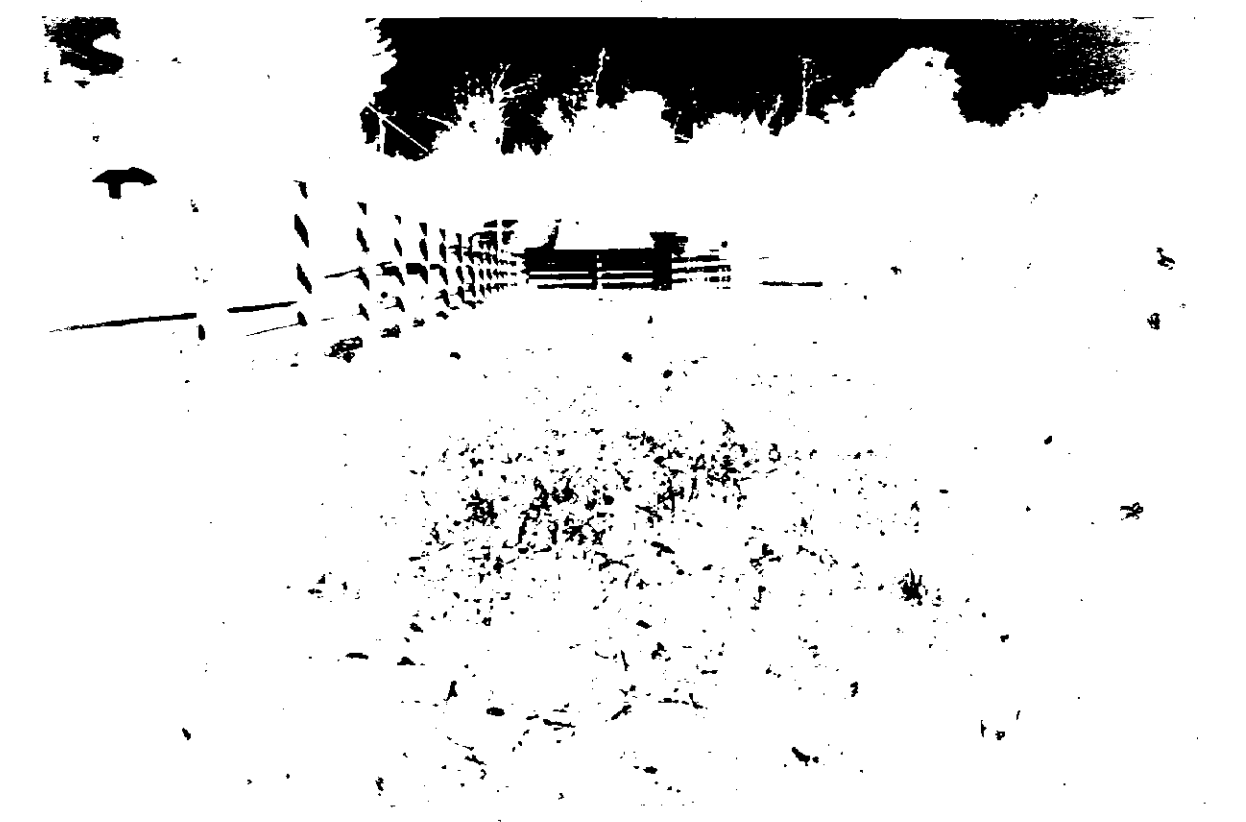
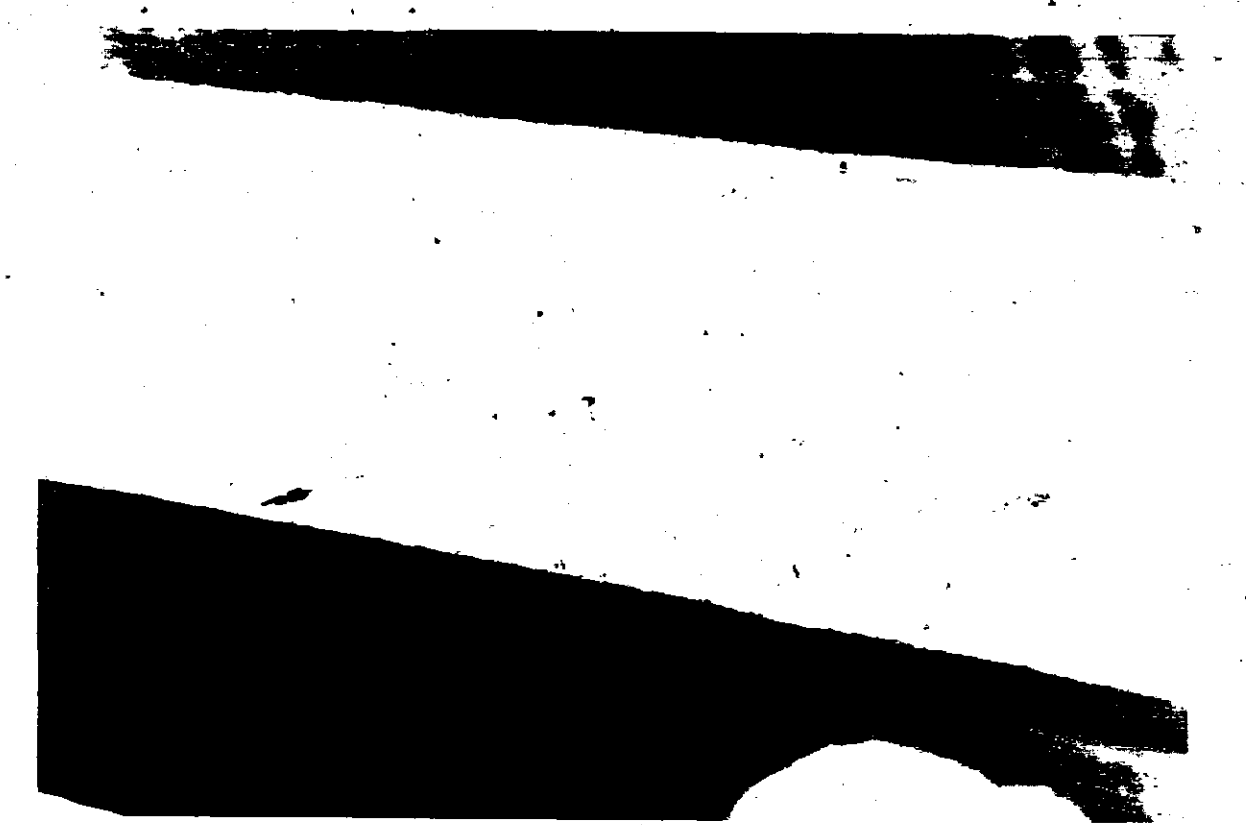
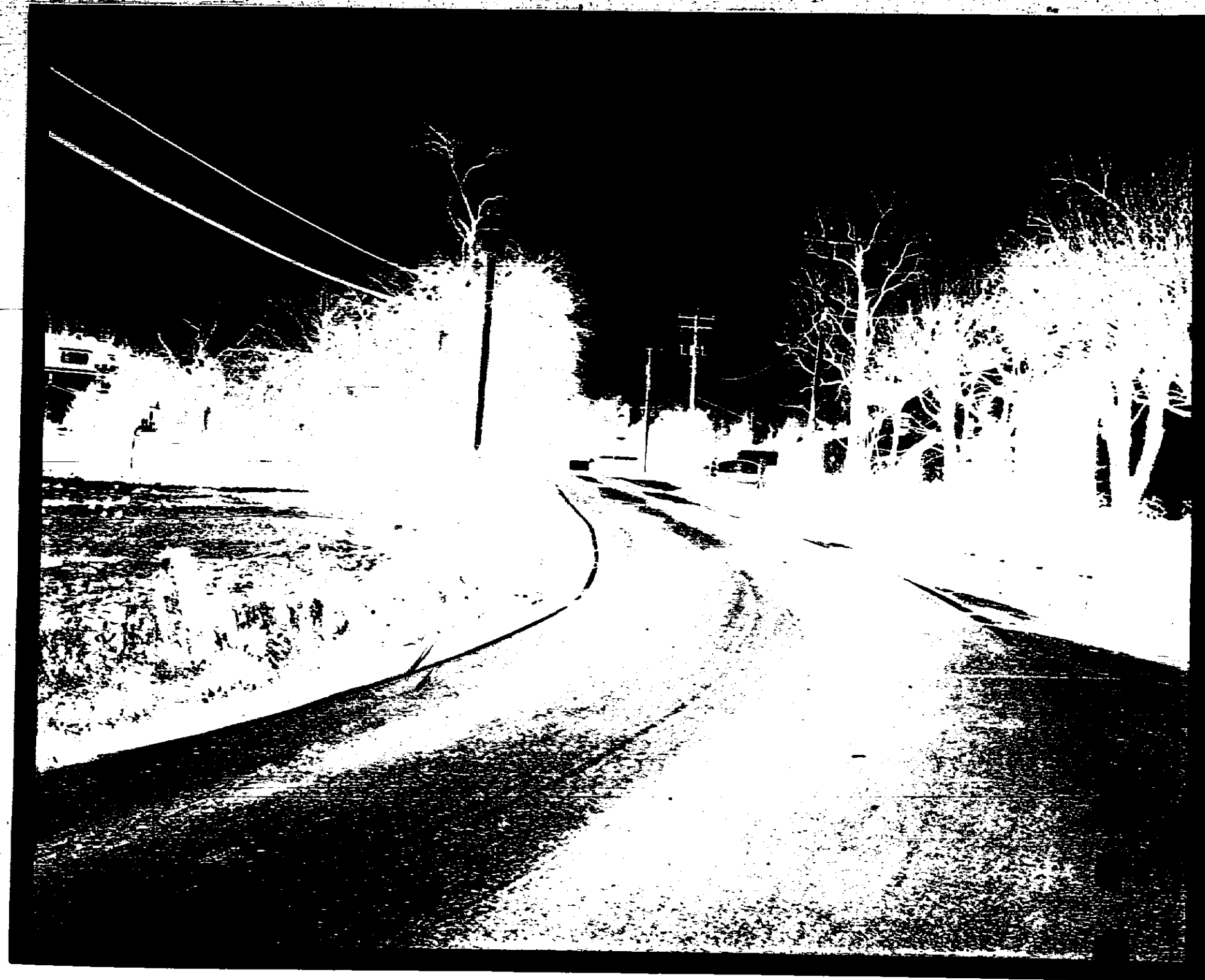
*Petitioners
#18*

R-91-115
PET # 1



AUTO "CIRCLE"
CRUSHER RUN BASE WITH
(PERVIOUS) CHIP ROCK TOP COAT





VIEW LOOKING EAST
FROM OLD YORK ROAD



VIEW LOOKING EAST
FROM ST JAMES



PLAN TO ACCOMPANY ZONING RECLASSIFICATION PETITION & VARIANCE APPLICATION

FIELD

PROPOSED OUTDOOR RECEPTION GARDEN

PROPOSED ZONING LINE

PROPOSED RECEPTION TENT
(3,000 SQ. FT.)

ZONED R.C. 2
(EXISTING)

PROPOSED ZONING LINE

PROPOSED GAZEBO

BALTO. CO. RD
6380-122
1 AL-1

PROPOSED LANDSCAPING (TYP.)

EX. 4" B/B WOOD FENCE

PROPOSED LANDSCAPING (TYP.)

EX. 4" B/B WOOD FENCE

PROPOSED LANDSCAPING (TYP.)

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EX. 4" B/B WOOD FENCE

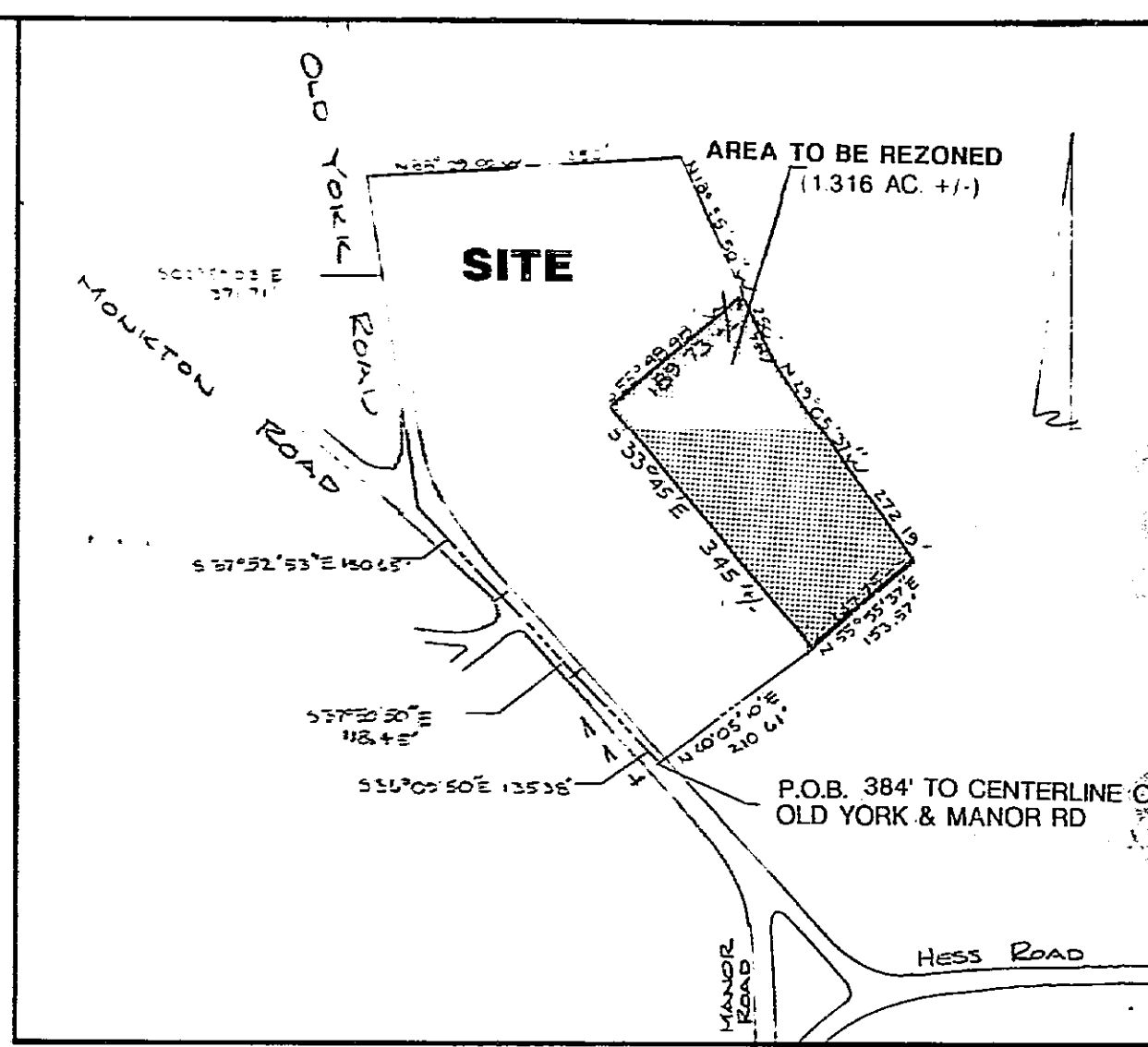
PROPOSED LANDSCAPING (TYP.)

EX. 4" B/B WOOD FENCE

PROPOSED LANDSCAPING (TYP.)

EX. 4" B/B WOOD FENCE

PROPOSED LANDSCAPING (TYP.)



VICINITY MAP &
ZONING DESCRIPTION DETAIL
SCALE: 1" = 200'

- NOTES:**
1. Zoning: See zoning description details.
 2. Proposed: See zoning description details.
 3. Existing: See zoning description details.
 4. Proposed: See zoning description details.
 5. Existing: See zoning description details.
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 99. Existing: See zoning description details.
 100. Proposed: See zoning description details.

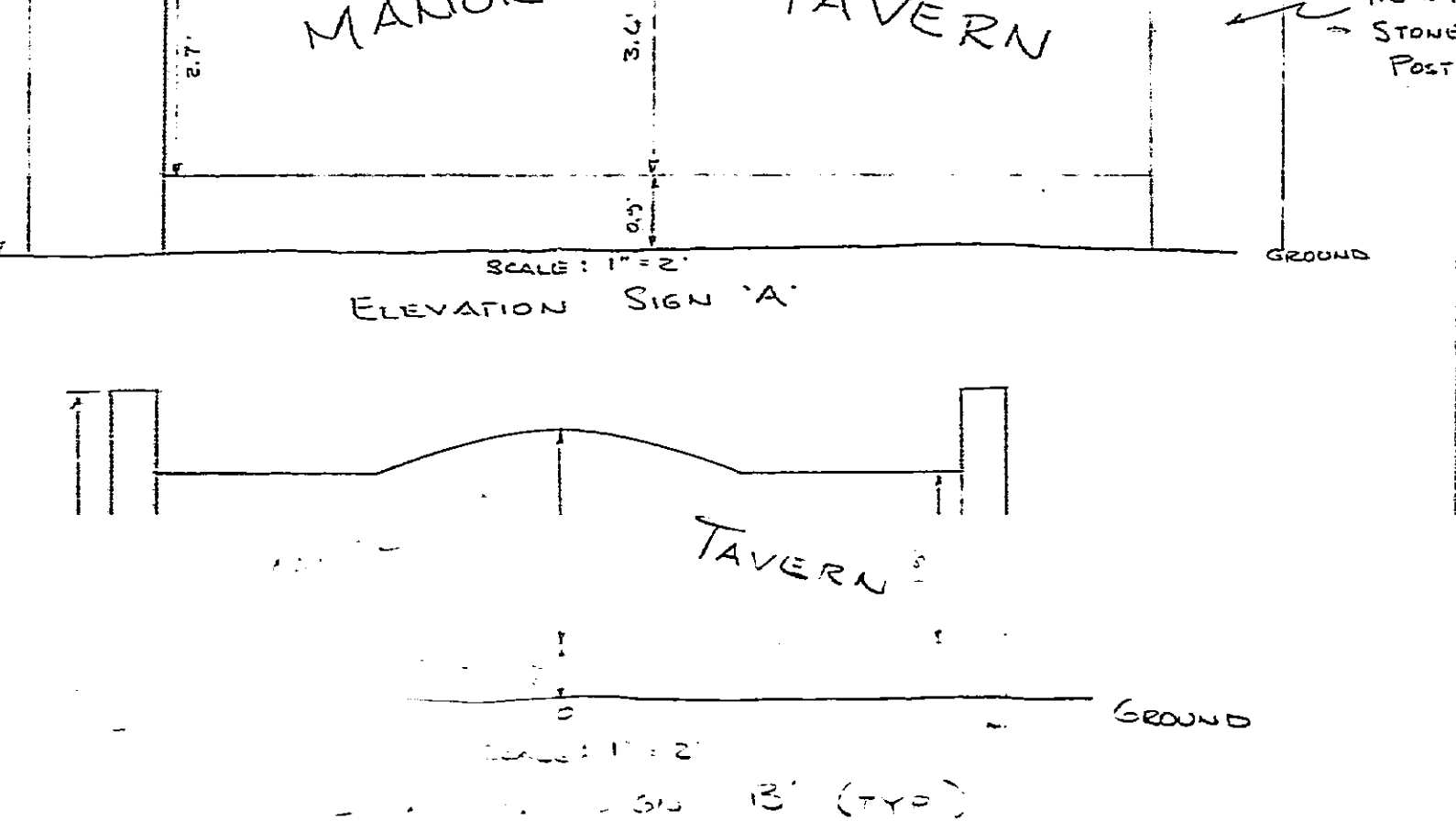
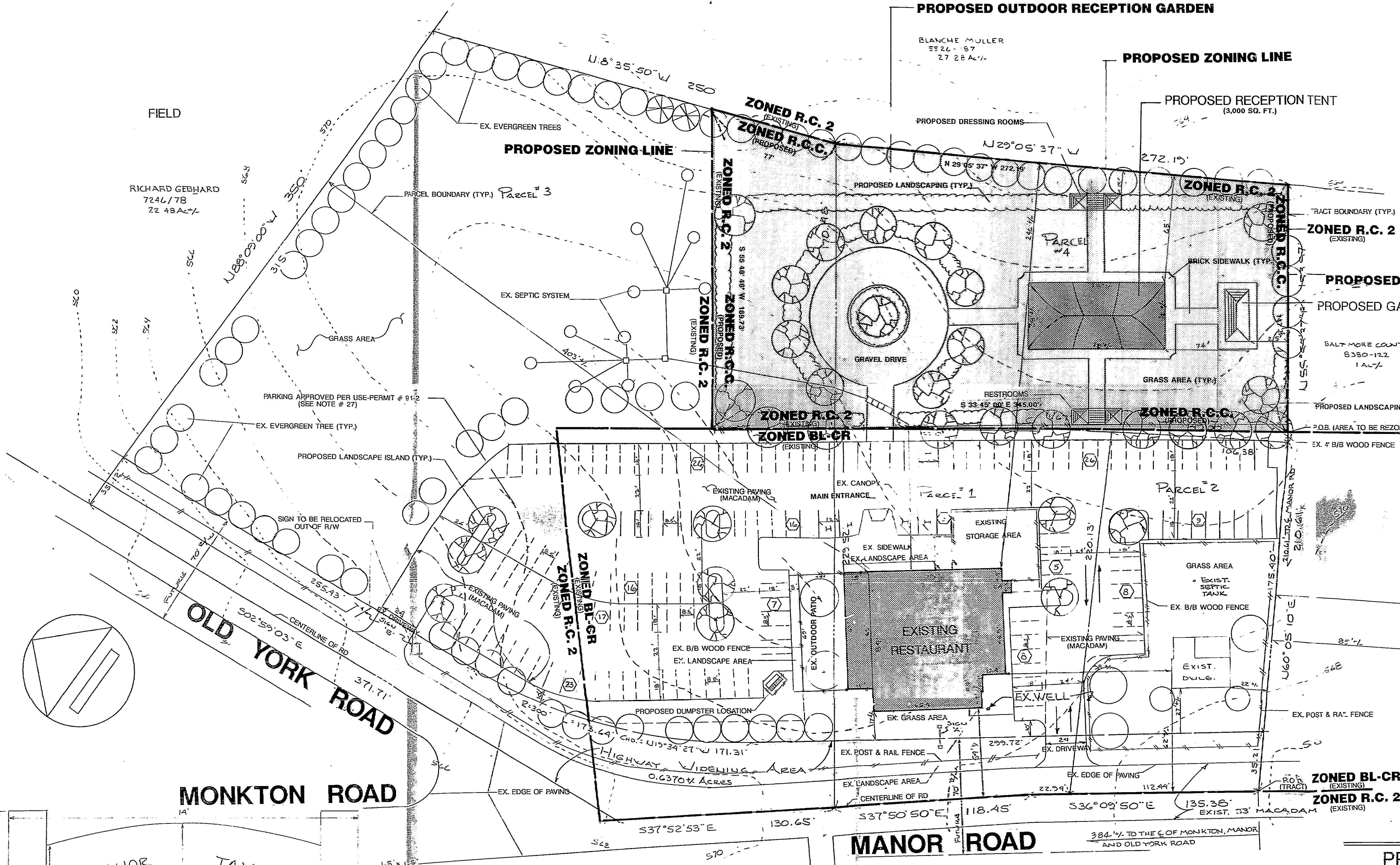
MANOR TAVERN PRELIMINARY SITE PLAN

15819 OLD YORK ROAD
BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 30' DATE: 2/14/1991

PREPARED BY:
WILLIAM MONK, INC.
LAND USE PLANNING-ENVIRONMENTAL-ZONING
THE CAMPBELL BUILDING, SUITE 305
100 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301)-494-8931

PREPARED FOR:
MR MARK GREEN
MANOR TAVERN, INC.
15819 OLD YORK ROAD
MONKTON, MARYLAND 21111
(301)-771-8155



LANDSCAPE LEGEND

- EX. EVERGREEN TREE
- EX. DECIDUOUS TREE
- PROPOSED TREE
- PROPOSED SHRUBS/ HEDGE

NOTE: LOCATION OF EXISTING IMPROVEMENTS, BOUNDARY AND TOPOGRAPHY BASED UPON A PLAN PREPARED BY J.S.T. ENGINEERING CO. ON 6/6/1989

The R.C.C. regulations specifically provide that parking as an accessory use is to be restricted to the R.C.C. Zone. The effect of allowing parking outside the R.C.C. Zone is to allow up to a 2 acre use with associated parking, in effect a much larger use than originally contemplated under the regulations by the Council. Again, parking has proven to be a prolem at times at the Manor Tavern. There was testimony of cars parked on the road and on the grass at times, and if the restaurant and wedding garden are successful, this could be the rule rather than the exception.

In Section 1A06.1A the legislative statement of findings for the R.C.C. Zone, it is stated that the intent of the zone is to "provide small areas of commercial development for a limited range of rural, residential and tourist related needs." This same Subsection, in Part B, goes on to state that the intensity and scale are to be appropriate to the rural area involved.

The neighbors respectfully submit that if this 1.32 acre parcel is reclassified to R.C.C., the net effect will be directly contrary to the intent of the zone. First of all, it is neither a tourist related, rural residential, or agricultural related facility. Furthermore, its outdoor nature and intensity are obviously out of scale and inharmonious with the R.C.2 properties around it, as witness the testimony of the disturbance of noise by virtually every neighbor to the north within one-half mile.

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NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

16

Also, Mr. Lippincott in his testimony stated that the R.C.C. Zone was seen, and should be seen as a very light, free standing, rural commercial zone. Thus, to wed this R.C.C. Zone to an existing BL-CR Zone will be to increase a very large 8,000 square foot restaurant with 168 parking spaces, to that same large restaurant with the same number of parking spaces and a noisy, six months of the year, outdoor commercial catering use. A glance through Section 1A06.2.A.1. and 2. shows a variety of agriculturally related uses, and a very limited number of commercial and service uses needed by the residents of the agricultural area in question. All of the uses are smaller, every day commercial enterprises such as gift stores, hardware stores, drug stores, groceries, sporting equipment, antiques, barber shops and beauty shops, banks, offices and medical offices, small appliance repair, and finally, restaurants and bars. If one goes over this list, it is clear that the Council never intended to permit a BL-CR restaurant of the size of the Manor Tavern to graft on to it a noisy outdoor use by means of a claimed accessory use utilizing the R.C.C. Zone. In fact, if the Manor Tavern property itself were zoned R.C.C., the main restaurant would be restricted to no more than 3,000 square feet. To give some idea of the scale of the Manor Tavern, a typical fast food restaurant is usually on the order of 2,000 to 2,500 square feet, and thus an 8,000 square foot restaurant is the equivalent of three fast foods of an ordinary size.

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& WILLIAMS
CHARTERED

17

Mr. Green did not make any argument as a part of his case that this outdoor reception area was needed to keep his business afloat, and, in fact, testified that approximately ninety per cent of the revenues came from the restaurant and only ten per cent from the wedding reception and party business. Certainly Mr. Green can continue to realize this ten per cent on a minor scale, if he will keep parties and receptions primarily indoors, and not try to invade the outdoors as he has done in the present case.

Finally, there is another R.C.C. point which should be kept in mind. The R.C.C. regulations specifically require in Section 1A06.3.D. that a compatibility finding pursuant to Section 22-104C. of the Development Regulations be made by the CRG Group and the Director of Planning as to the proposed use. While no CRG Group has had an opportunity to review this wedding garden, since no permits of any kind were applied for, the Director of Planning and the Planning Board have both found the proposed use to be incompatible, and, in fact, have recommended against this zone being granted by the Board.

CONCLUSION

For all of these reasons, and based upon the entire record, the neighbors submit that neither error nor change have been shown, nor can they be shown, and that the Council purposely adopted, and readopted a R.C.2 Zone to surround the BL-CR, and that this buffering zone should not be disturbed. Thus, it is not necessary to grant the requested parking variance, and the

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NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

18

long established practice of the zoning office to require catering to be held in the BM or CR zone as a principal use should be continued. Finally, parking should not be allowed outside of the R.C.C. Zone, and in no case should this proposed outdoor reception garden be found accessory to the restaurant use.

Respectfully submitted,

Newton A. Williams
Newton A. Williams
and
Nolan, Plumhoff & Williams
Nolan, Plumhoff & Williams, Chdt.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301)823-7800
Attorney for the
Neighbors/Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 1991, a copy of the foregoing Protestants' Post Hearing Memorandum was mailed postage prepaid to Gary A. Duvall, Esquire, Miles and Stockbridge, Legg Mason Building, 600 Washington Avenue, Towson, Maryland 21204.

Newton A. Williams
NEWTON A. WILLIAMS

72772

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

19

RECLASSIFICATION AND
VARIANCE PETITION OF
MANOR TAVERN, INC./
MARK GREEN
Petitioner *
OF BALTIMORE COUNTY

MEMORANDUM IN SUPPORT OF RECLASSIFICATION AND VARIANCE

1. PROPERTY LOCATION. The subject property is located in the Third Councilmanic District, Tenth Election District and is part of a larger tract owned by the Petitioner. The property is located on the northwest side of Old York Road, opposite Monkton Road, at 15819 Old York Road. The site upon which the requested rezoning is petitioned for is approximately 1.316 acres.

2. SURROUNDING ZONE AND LAND USE. The subject property is bounded on the north by RC2 property. To the south, the property is bordered by BL-CR zoning currently occupied by the Manor Tavern Restaurant. To the east, the property has additional BL-CR property (owned by Baltimore County, Maryland) and RC2 zoned property. To the west, the property abuts RC2 zoned property. The Petitioner's property is currently bifurcated in two zones, namely BL-CR and RC2 zoning. The BL-CR zoning is currently occupied by the restaurant operation of the Manor Tavern with adjacent required parking. Parking is also provided in the RC2 zone pursuant to a use permit issued by the Office of Planning and Zoning.

3. PROPOSED USES. The Petitioner proposes to use the

subject property for a reception garden consisting of an area to be used by a temporary tent for receptions during daylight seasonal hours of operation as set forth in the Documented Site Plan to accompany this Amended Petition for Reclassification. As is evident from the site plan, the bulk of the property will be open and landscaped and have provision for the tent area. In addition, a small gazebo, changing room, and restroom will be provided on the site. The proposed use is similar to other uses of rural restaurant operations in the Baltimore County area.

4. RATIONALE FOR REZONING REQUEST. The Petitioner contends that a mistake was made by the Baltimore County Council in zoning that portion of its property which abuts the BL-CR zone in that the County Council failed to consider the incompatibility of an RC2 zone with a BL-CR in Petitioner's bifurcated property zone and failed to provide for a transition zone between the existing BL-CR zone and surrounding RC2 zone.

The RCC (commercial) zone was established because the County Council had determined that there was "1. a demand for commercial development in the rural areas of Baltimore County to serve the needs of rural residential and agricultural communities, as well as tourists; and 2. the existing business zoning designations (BL, BM, BR) permit uses that are not desirable in the rural parts of the County and the height, bulk, floor area and setback requirements of these zones permit an intensity of development

-2-

that is not appropriate in scale or appearance with the character of a rural setting." The County Council further found that RCC zoning was to provide "small areas of commercial development" and would "permit such facilities, but only at an intensity and scale appropriate to rural area." The County Council was aware of the existing and foreseeable future conditions in the subject location and failed to take into account facts, projects and trends which were reasonably foreseeable and which were addressed by the RCC zoning approved by the County Council in 1988. The County Council knew or should have known that RC2 zoning abutting a BL-CR zone for property in a single ownership did not provide for commercial development and transition between virtually mutually exclusive zones.

As is indicated by the documented site plan, the Petitioner also requests a variance from Section 409.6(a)(2) for the required parking for this accessory use inasmuch as the hours of operations for the proposed reception garden use are to be only daylight hours and during those daylight hours, the business parking for the Manor Tavern generates lower patronage with attendant excess parking spaces which would be available to meet the parking requirements of the proposed reception garden. Furthermore, the variance would provide for no additional incursion into the remaining RC2 zones surrounding the Petitioner's property as is the preference of the surrounding

-3-

property owners.

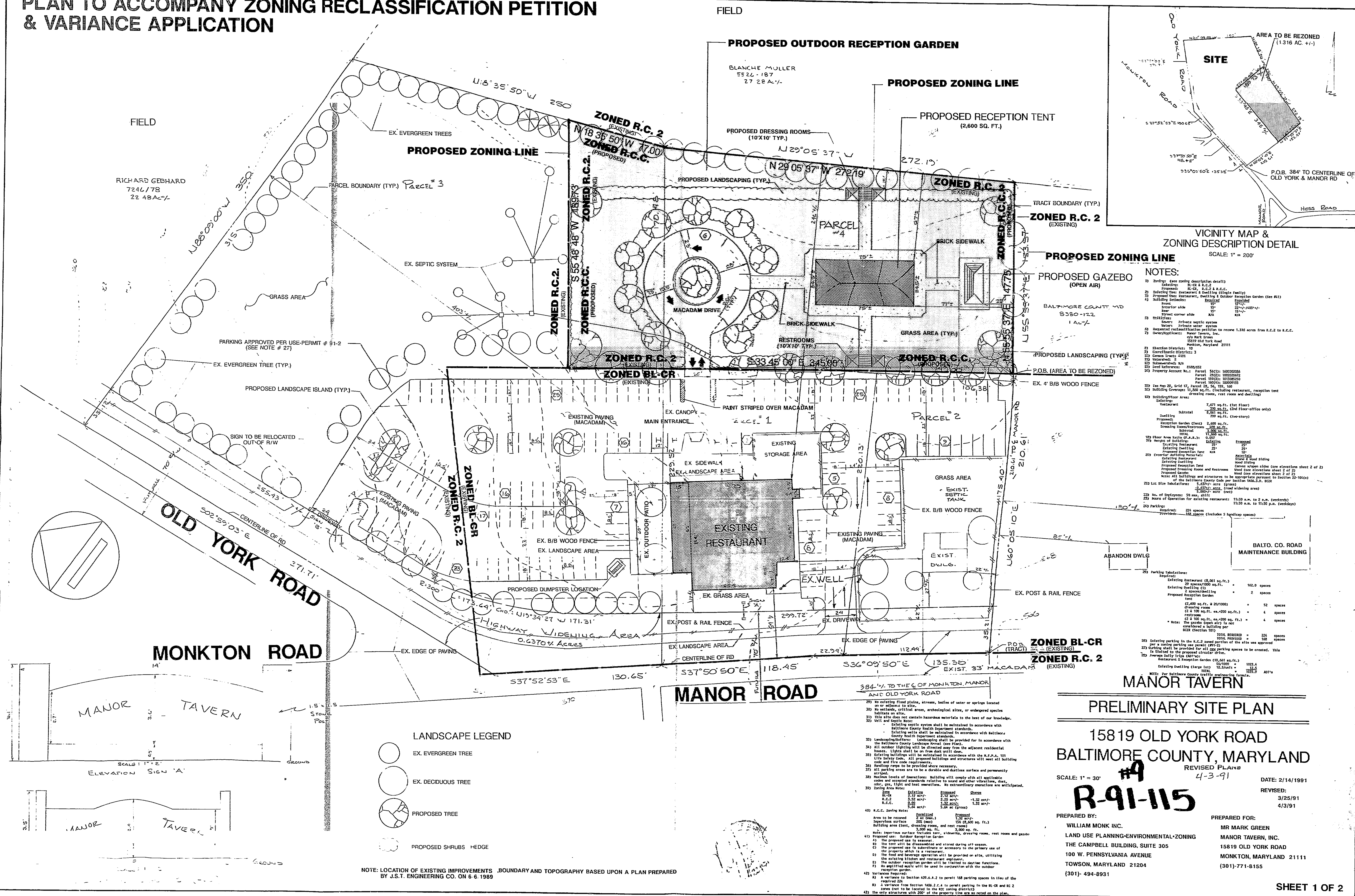
For the foregoing reasons, the Petitioner respectfully requests the Board of Appeals to grant its Petition for Reclassification and to grant its Request for Variance.

RESPECTFULLY SUBMITTED:

Gary A. Duvall
Gary A. Duvall
MILES & STOCKBRIDGE
Suite 300
600 Washington Avenue
Towson, MD 21204
(301) 823-8155
Attorneys for Petitioner

-4-

PLAN TO ACCOMPANY ZONING RECLASSIFICATION PETITION & VARIANCE APPLICATION



PLAN TO ACCOMPANY ZONING RECLASSIFICATION PETITION & VARIANCE APPLICATION

FIELD

PROPOSED OUTDOOR RECEPTION GARDEN

PROPOSED ZONING LINE

PROPOSED RECEPTION TENT
(2,600 SQ. FT.)

ZONED R.C. 2
(EXISTING)

PROPOSED ZONING LINE

PROPOSED GAZEBO
(OPEN AIR)

BALTIMORE COUNTY, MD
S380-122
1 AC +/-

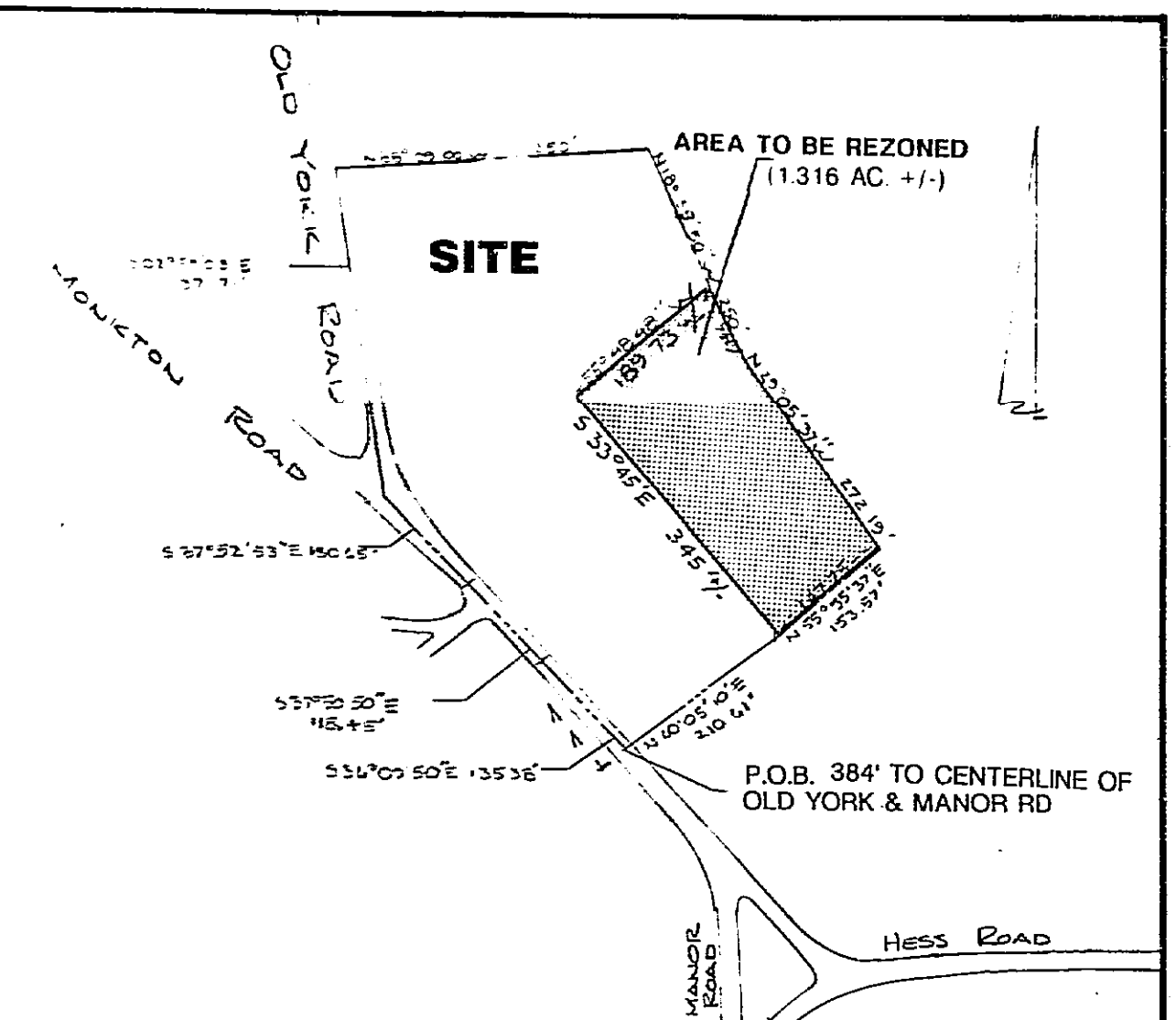
PROPOSED LANDSCAPING (TYP.)

P.O.B. (AREA TO BE REZONED)

EX. 4" B/B WOOD FENCE

ZONED BL-CR
(EXISTING)

ZONED R.C. 2
(EXISTING)



VICINITY MAP &
ZONING DESCRIPTION DETAIL

SCALE: 1" = 200'

NOTES:

- 1) See zoning map for zoning details.
- 2) Existing: R.C. 2 & R.C. 2.
- 3) Proposed: R.C. 2 & R.C. 2.
- 4) Building: 1,000 sq. ft. (see note 1).
- 5) Building: 1,000 sq. ft. (see note 1).
- 6) Building: 1,000 sq. ft. (see note 1).
- 7) Building: 1,000 sq. ft. (see note 1).
- 8) Building: 1,000 sq. ft. (see note 1).
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MANOR TAVERN

PRELIMINARY SITE PLAN

15819 OLD YORK ROAD
BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 30'

DATE: 2/14/1991

REVISED:

3/25/91

4/3/91

PREPARED BY:

WILLIAM MONK INC.

LAND USE PLANNING-ENVIRONMENTAL-ZONING

THE CAMPBELL BUILDING, SUITE 305

100 W. PENNSYLVANIA AVENUE

TOWSON, MARYLAND 21204

(301)-494-8931

PREPARED FOR:

MR MARK GREEN

MANOR TAVERN, INC.

15819 OLD YORK ROAD

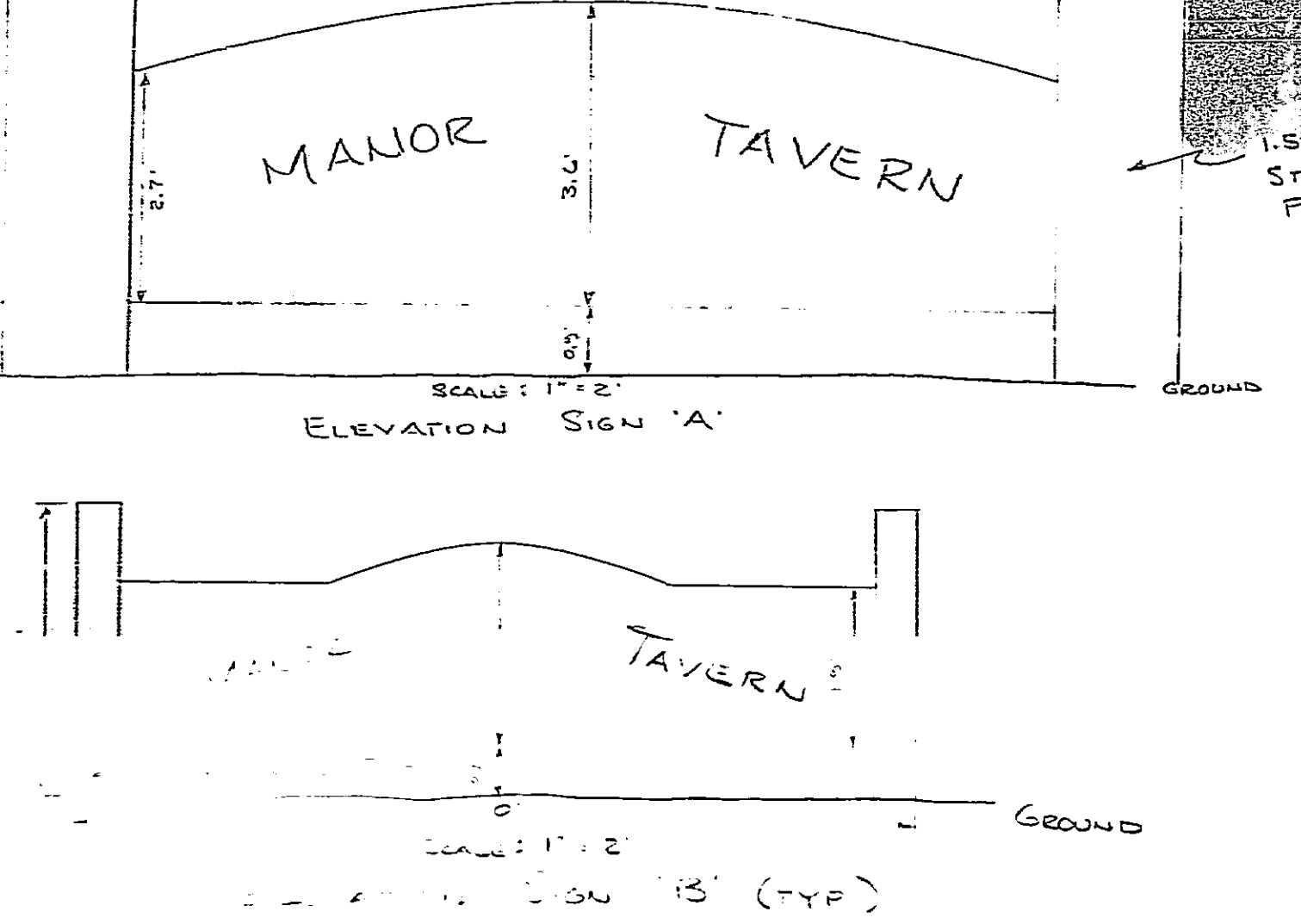
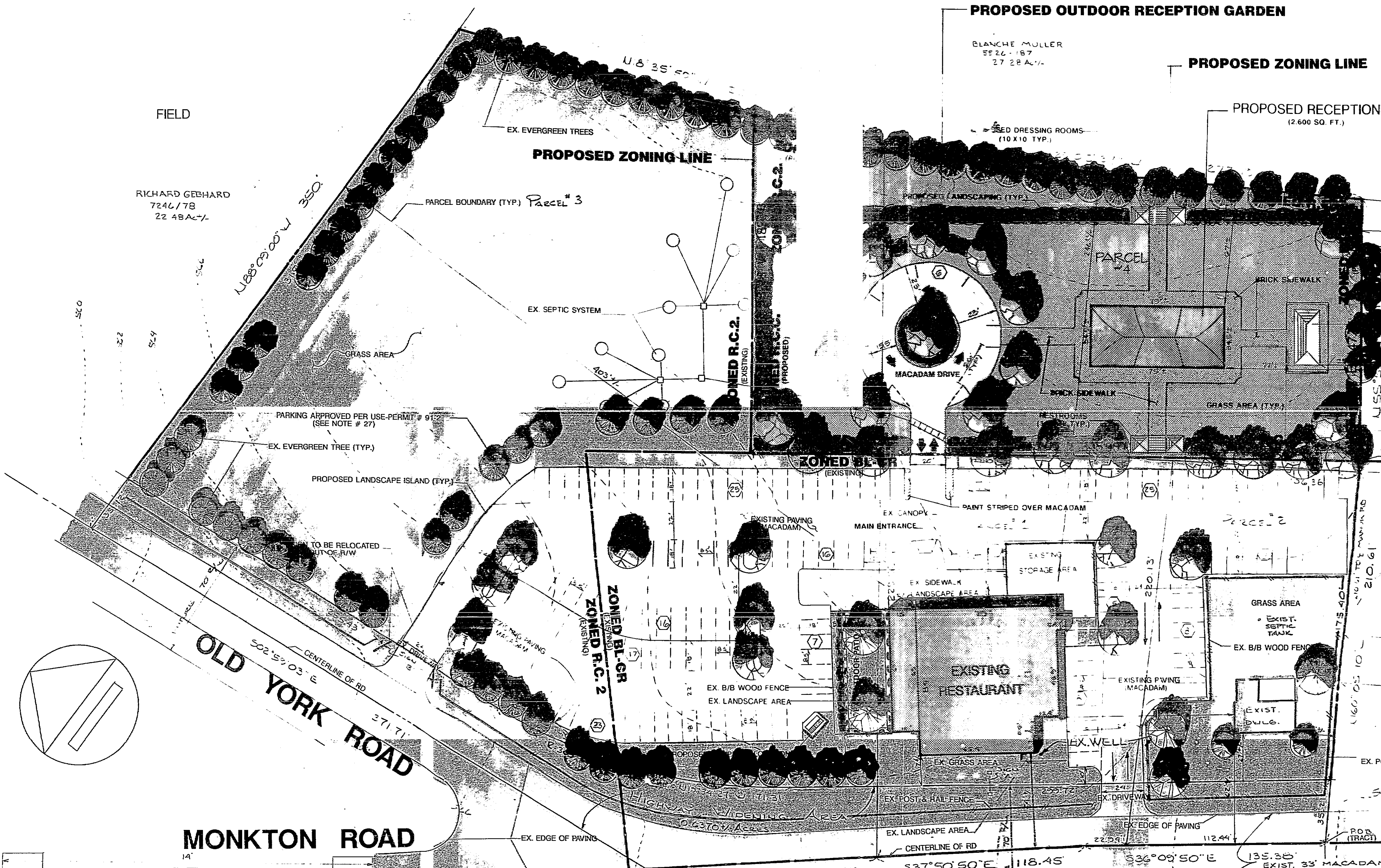
MONKTON, MARYLAND 21111

(301)-771-8155

MICROFILMED

SHEET 1 OF 2

R-91-115
PET. #1



LANDSCAPE LEGEND

EX. EVERGREEN TREE

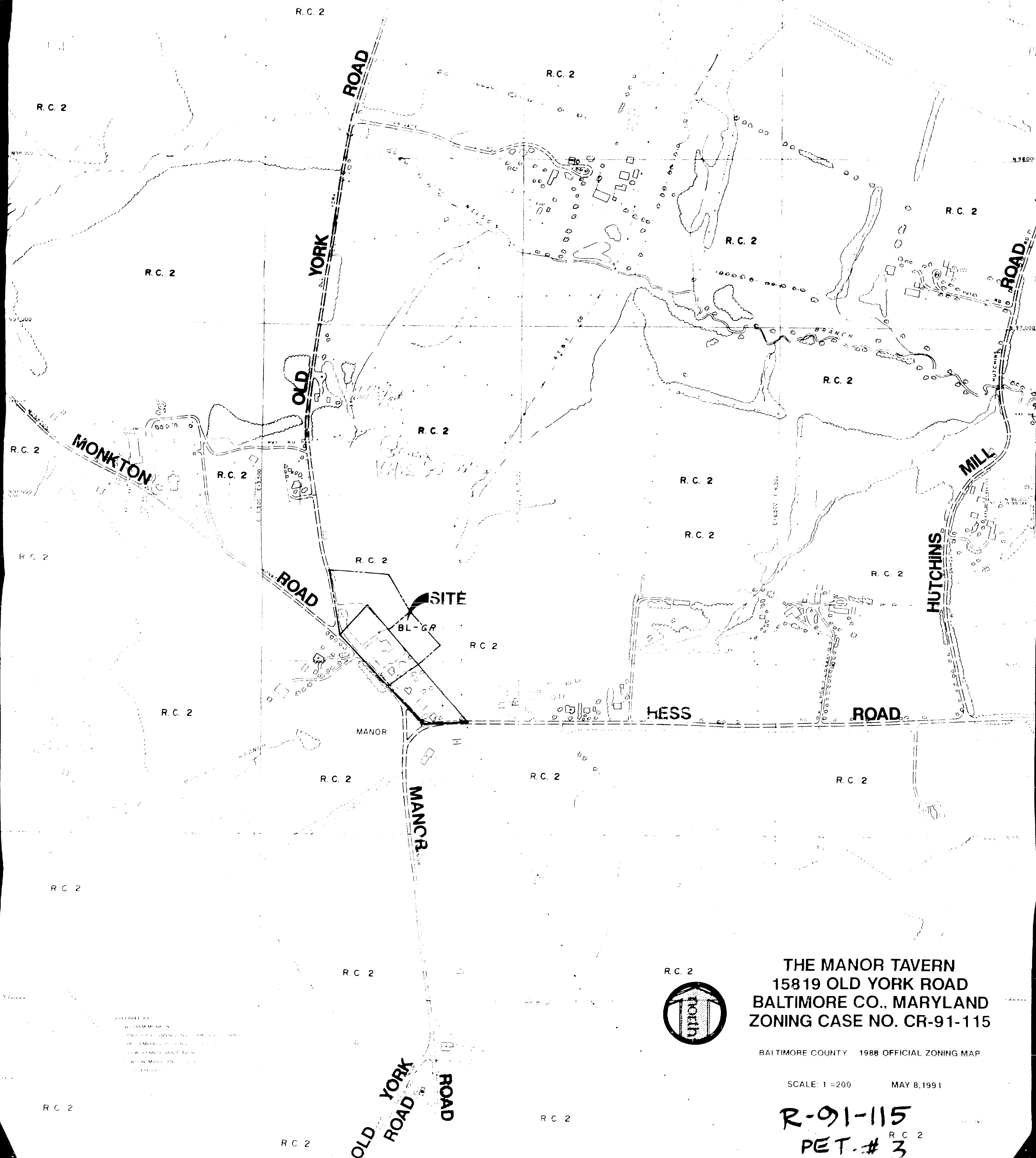
EX. DECIDUOUS TREE

PROPOSED TREE

PROPOSED SHRUBS - HEDGE

NOTE: LOCATION OF EXISTING IMPROVEMENTS, BOUNDARY AND TOPOGRAPHY BASED UPON A PLAN PREPARED BY J.S.T. ENGINEERING CO. ON 6/6/1989

- 1) No existing flood plains, streams, bodies of water or springs located on or adjacent to the site.
- 2) No wetlands, critical areas, archaeological sites, or endangered species habitat on the site.
- 3) This site does not contain hazardous materials to the best of our knowledge.
- 4) Well and septic area.
- 5) Existing septic system shall be maintained in accordance with Baltimore County Health Department standards.
- 6) Existing well shall be maintained in accordance with Baltimore County Health Department standards.
- 7) Landscaping/Buffering: Landscaping shall be provided for in accordance with the Baltimore County Landscaping Manual (see plan).
- 8) All outdoor lighting shall be directed away from the adjacent residential areas. Lights shall be on from dusk until dawn.
- 9) Existing buildings shall be maintained in accordance with the R.C. 2, 103 fire safety code. All fire escape buildings and structures shall meet all building code and fire code requirements and shall be maintained in accordance with the R.C. 2, 103 fire safety code.
- 10) Existing buildings shall be maintained in accordance with the R.C. 2, 103 fire safety code.
- 11) All parking areas shall be durable and suitable for use and permanently striped.
- 12) Maximum levels of pavement: Building shall comply with all applicable codes and accepted standards relative to sound and other vibrations, dust, odor, air, light and heat emissions. No extraordinary emissions are anticipated.
- 13) Zoning area here.
- 14) R.C. 2, 103 fire safety code.
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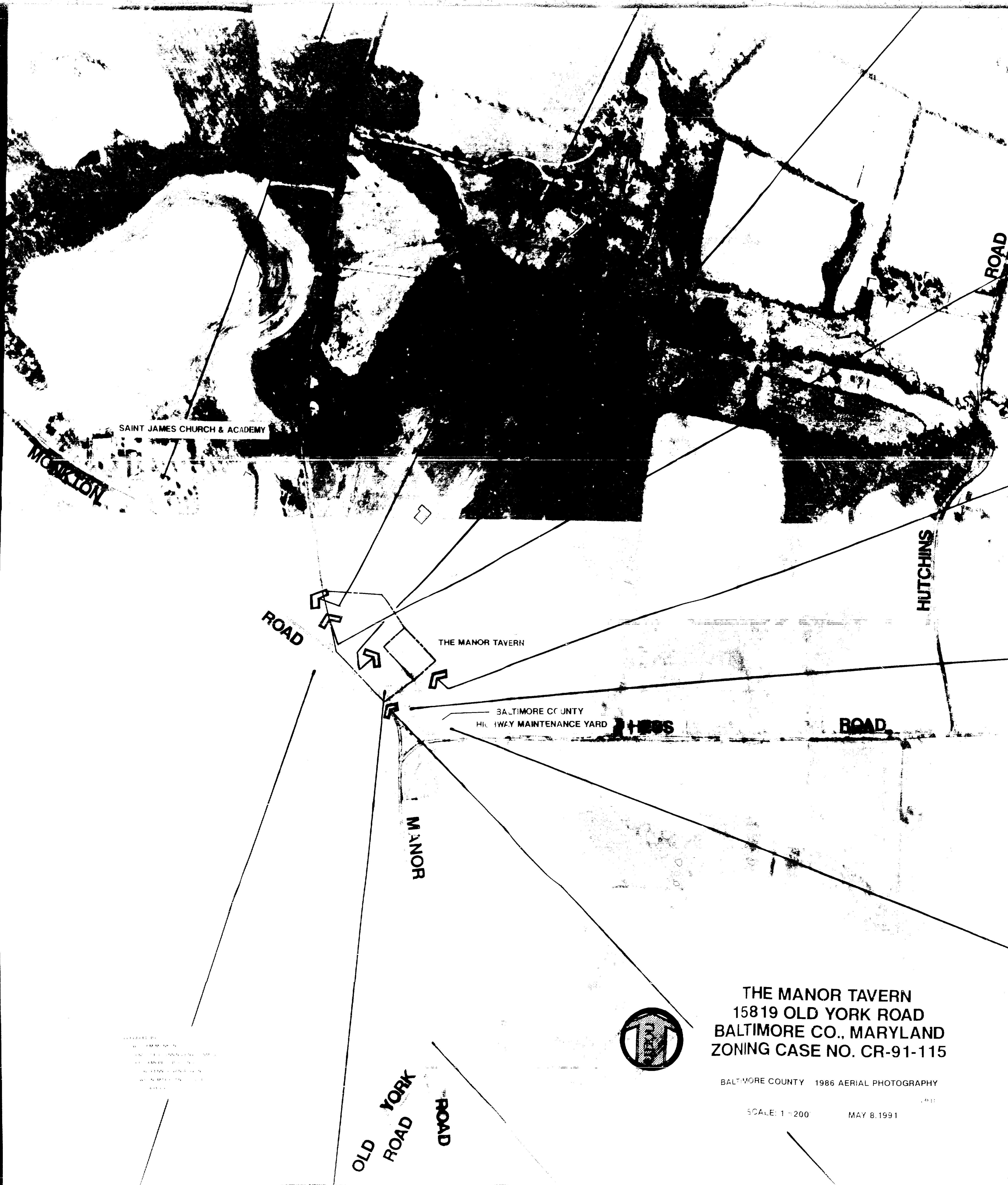


THE MANOR TAVERN
15819 OLD YORK ROAD
BALTIMORE CO., MARYLAND
ZONING CASE NO. CR-91-115

BALTIMORE COUNTY 1988 OFFICIAL ZONING MAP

SCALE: 1 = 200 MAY 8, 1991

R-91-115
PET. # 3





County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

August 29, 1991

Newton A. Williams, Esquire
Nolan, Plumbhoff & Williams, Chtd.
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Case No. R-91-115 (Mark Greene/Manor Tavern)

Dear Mr. Williams:

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,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Francis N. Iglehart, Esquire
Greater Sparks-Glencoe Community Council
People's Counsel for Baltimore County
Mr. James Earl Kraft
P. David Fields
Patrick Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Tablon, Director of
Zoning Administration

ENCLOSURE



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

August 29, 1991

Stephen Winter, Esquire
Miles & Stockbridge
600 Washington Avenue
Suite 300
Towson, Maryland 21204

Re: Case No. R-91-115 (Mark Greene/Manor Tavern)

Dear Mr. Winter:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Gary A. Duvall, Esquire
Mr. Mark Greene/Manor Tavern

ENCLOSURE

IN THE MATTER OF THE
THE APPLICATION OF
MARK GREENE (MANOR TAVERN)
FOR A ZONING RECLASSIFICATION
FROM R.C. 2 TO R.C.C.
ON PROPERTY LOCATED ON THE
NORTHWEST SIDE OLD YORK RD.,
OPPOSITE MONKTON ROAD
(15819 OLD YORK ROAD)
10TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY

* CASE NO. R-91-115
* Item #9, CYCLE IV
* 1990-1991
* (Documented Site Plan)

OPINION

Petitioner, Manor Tavern, Inc., contends that the Baltimore County Council in 1988 erred in imposing R.C. 2 zoning on at least 1.316 acres of the Petitioner's property instead of rezoning the property to the newly created Rural Conservation Commercial (R.C.C.) zone. Second, the Petitioner seeks two variances pursuant to Section 2-58.1(p) Baltimore County Code to permit 168 parking spaces in lieu of the required 224 parking spaces and that a number of these parking spaces be located off of the proposed R.C.C. zone which would otherwise be required to be located within the R.C.C. zone pursuant to Section 1A06.2.C.4 Baltimore County Zoning Regulations (hereinafter "BCZR"). Finally, the Petitioner filed a request for a Special Hearing to determine if the R.C.C. zoning classification permits the proposed use of a seasonal reception garden.

The Manor Tavern property consists of 5.64 acres located on the northeast side of Manor Road, at Manor Road's intersection with Old York Road and Monkton Road, in the Tenth Election District and Third Councilmanic District of Baltimore County. As shown on Petitioner's Exhibit 1, the Monk Site Plan, revised April 3, 1991, the subject property is zoned B.L.-C.R. as to 2.12 acres along the

Case No. R-91-115 Mark Greene /Manor Tavern, Inc. 2

Manor Road frontage, with the remainder of the total 5.64 acres, that is 3.52 acres of R.C. zoning, located in a belt to the rear of and to the northwest of the B.L.-C.R. zoning along Old York Road.

The Manor Tavern is a long existent, northern Baltimore County institution. At the present time, it contains slightly in excess of 8,000 square feet, with the bulk of its parking located in the rear of, and on both sides of, the tavern/restaurant and a small portion in the R.C. 2 zoning fronting on Old York Road. Apparently a use permit for parking for this small area was obtained in Case Number 91-2.

The testimony before this Board showed that the subject site has been zoned as commercial property long before the earliest zoning maps in Baltimore County (i.e., 1945). The testimony showed that the Manor Tavern property has had a "checked" past. However, Mr. Mark Greene during his testimony stated that he presently is the active owner and the manager, and is on the premises virtually every day that it is open.

It was beyond dispute that, since Mr. Greene's family acquired the Manor Tavern in 1986, they have greatly improved the property. In fact, Mr. Greene testified that Manor Tavern, Inc., spent over \$400,000 in alterations and improvements to the property, including \$70,000 expended by Mr. Greene for improvements (including mature landscaping and trees) for the proposed reception garden. In the Fall of 1990, he learned for the first time that it was a violation of the BCZR to erect a garden on the rear portion of his property.

To the north of the Manor Tavern, the neighboring uses all zoned R.C. 2 are as follows:

1. Immediately to the north is the 22.5 acre, R.C. 2 horse

Case No. R-91-115 Mark Greene /Manor Tavern, Inc. 3

farm and residence of Mr. and Mrs. Richard Gebhard, Protestants herein;

2. Immediately adjoining the Gebhard property to the north is the Sehlhorst property of approximately 5 to 6 acres, another Protestant;
3. Immediately to the north of the Sehlhorst property are the Constable and Weller properties which aggregate in excess of 100 acres;
4. Immediately to the north of the Constable properties are the Maher properties, including 34.8 acres owned by Ronald L. Maher, another Protestant herein.

Immediately to the southeast of the Manor Tavern property is a Baltimore County highway yard which, like the tavern property, is zoned in part B.L.-C.R., as to the frontage, and R.C. 2 in the rear. Also, to the east and southeast are the Schapiro and Griswold properties. Several large agricultural properties, also zoned R.C. 2, lie opposite the Manor Tavern property on the southwest side of Manor Road. St. James Church, a historic episcopal church, sits to the west and northwest of the Manor Tavern property. A substantial portion of the church property is farmed.

This entire area, designated as the My Lady's Manor Historic District, nationally recognized, includes a number of historic structures, including the St. James Church and other homes and landmarks.

As the documented site plan shows, the proposed use is a formal garden improved by an open air gazebo, a circular gravel driveway, two small changing rooms, and restrooms. During fair weather seasons, Petitioner proposes to erect a tent over a porous brick area to be utilized for receptions. The proposed development is well within the setback requirements for an R.C.C. zone and more

Case No. R-91-115 Mark Greene /Manor Tavern, Inc. 4

than adequate sewer and water is provided as was testified to by Mr. Greene and as indicated in the environmental impact statement. Further, as testified to by Mr. Michael Patterson, a longtime resident of the neighborhood and the landscape contractor for Mr. Greene, the brick sidewalks are all set in sand and porous throughout which permits drainage and minimizes storm water runoff. In addition, both Mr. Greene and Mr. Patterson testified that the gravel used for the circular drive in the proposed garden area is dustless as is required by the Baltimore County development regulations. The total impervious area of the proposed site would be approximately 15% as was testified to by Mr. Monk; however, if macadam is used for the circular drive, Mr. Monk clearly testified that the brick sidewalk areas can be reduced in size to meet the 20% impervious surface area limitations set forth for R.C.C. zone uses.

The documented site plan provides several self-imposed restrictions, including a requirement that the reception garden would be utilized only during daylight hours. As Mr. Greene testified, this would be the most reasonable time when the garden would be utilized by his customers. By limiting the operation to daylight hours, Mr. Greene testified that the use of the reception garden would not conflict with the dinner business of the Manor Tavern which usually commences between 7:00 and 7:30 p.m.

Mr. Greene testified that 90% of his business is what is known as "a la carte trade" and 10% is "banquet trade." He contends that the banquet portion of his business is similar to other restaurants in Baltimore County, many of whom he named, including Peerce's Plantation, Friendly Farms, the Milton Inn, and other rural

Case No. R-91-115 Mark Greene /Manor Tavern, Inc. 5

restaurants. Mr. Greene stated that if the R.C.C. parcel is rezoned, he wishes to move his banquet business to the proposed reception garden.

Mr. Greene testified that his idea for creating the reception garden was in response to the closing of Ladew Gardens to wedding receptions, which hosted many receptions and utilized the same type of arrangement proposed by Mr. Greene. Furthermore, since the clubs in the Monkton area (Hunt Valley Golf Club, Elkridge Hunt Club, etc.) were available only to members and since the St. James Church was available only to Episcopalians, he believes a genuine need exists for this type of facility within the community as evidenced by the bookings he received prior to the zoning violation notice.

As testified to by Mr. Greene, the subject property was stripped of all topsoil by Egypt Farms prior to his acquisition of the property. The Staff comments submitted into evidence also acknowledge that the property has no residential development potential.

People's Counsel offered as a witness Mr. W. Carl Richards, the Zoning Coordinator from the Baltimore County Zoning Office. Mr. Richards testified that counsel for Manor Tavern, Mr. Monk and Mr. Greene met with Mr. Richards on January 30, 1991 to discuss the proposed use. This meeting occurred prior to the amendment of the reclassification petition requesting the R.C.C. zoning. Mr. Richards testified that initially, after Mr. Monk had described the use in detail and his being shown a site plan with the reception garden similar to the documented site plan, he opined that the use was in the nature of a restaurant use which would be permitted in

Case No. R-91-115 Mark Greene /Manor Tavern, Inc. 6

the R.C.C. zone. Mr. Richards further testified that he took the matter before the Zoning Commissioner who determined that the proposed use constituted "catering" and would require B.M. (Business Major) zoning. Mr. Richards admitted, however, that the BCZR have no definition for either "catering" or "restaurant," nor is the use "catering" delineated in any of the zones imposed upon property in Baltimore County. When explaining which types of facilities had been characterized as catering by either the Zoning Office or the Zoning Commissioner, the answers were obvious: Overlea Hall, Eastwind Hall, Martin's West, Martin's Budwood, and others. Mr. Richards acknowledged that, to the best of his knowledge, these facilities did not provide any a la carte service, but were strictly 100% set menu contract facilities. He further indicated that many restaurants which provide large party receptions are not located in B.M. zones.

The evidence shows that the Office of Planning & Zoning staff was aware of the creation of the Resource Conservation Commercial zone in 1988, since it prepared the report sent to the Baltimore County Planning Board and ultimately to the County Council for adoption prior to the adoption of the 1988 comprehensive maps.

William Monk, accepted as an expert in land use planning, reviewed the 1988 Final Log of Issues, as well as specific items referenced therein. Mr. Monk testified that in Baltimore County eighteen issues arose where the Council imposed R.C.C. zoning on property which previously had been classified as R.C. 2, R.C. 4 or R.C. 5. In all cases, the Planning staff did not recommend at any time for the R.C.C. zoning classification. In particular, Issues Nos. 3-301 and 3-092 specifically were tavern/restaurant uses. The

existing tavern/restaurant operations were zoned B.L. and the surrounding property had been zoned R.C. 2. The property owners requested additional B.L. zoning. The County Council imposed R.C.C. zoning on the expansion areas. Similarly, a retail and package goods store located on Shawan Road in an R.C. 2 zone was likewise zoned R.C.C. instead of B.L. as requested. Mr. Monk rendered his opinion that the Council erred in not imposing the now requested zoning by not recognizing the trend toward using R.C.C. as a transition or buffer zone around spots of B.L. zoning in rural areas as in Issues Nos. 3-301 and 3-092.

Mr. Greene and Mr. Monk also both admitted that no request for change had been made during the 1988 Zoning Maps for the Manor Tavern property, by Mr. Greene or anyone else on his behalf.

Protestants presented several neighbors as witnesses. Due to the topography of the area, and very likely the strength of the instruments and amplifications involved, the Protestants found previous wedding receptions very disturbing to the peace and quiet enjoyment of their properties. Mrs. Gebhard, Mrs. Sehlhorst, Mr. Constable, Mr. Dandy, and Mr. Maher all testified that the music could be very clearly heard, as well as announcements and other party activities. The continual noise and disturbance means that the music and other sounds carry for more than one-half mile or more in a northward direction, due to their strength and the peculiar acoustics of the area. Several neighbors made unsuccessful requests to Mr. Greene and the Manor Tavern to lower the noise level of the music.

Baltimore County Code, Section 258.1(j) states that in order to grant a reclassification either error by the Council in the

adoption of the most recent zoning maps or changes in the neighborhood since the adoption of the maps must be shown to support the reclassification. Error can be established by showing that at the time of the comprehensive zoning, the County Council failed to take into account then-existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on misapprehension. *Boyce v. Sembly*, 25 Md App 43 (1975)

Everyone who testified in the case agreed that the area around the Manor Tavern had changed little, if any, over the years, and Mr. Monk, the Petitioner's planner, specifically stated that they were not relying upon change as a justification, and that there had been none. If anything, the area has become more agricultural and residential in nature.

Not relying upon change, the Petitioner must prove that the 1988 Zoning Maps were erroneous, namely, that it was erroneous for the Council to once again adopt R.C. 2 zoning. The testimony showed that only the frontage between Old York Road and Hess Road along Manor Road had been zoned B.L. over the years, and, thus, the County Commissioners and subsequently the County Council on a number of occasions, including the 1971, 1976, 1980, 1984, and 1988 maps, decided each time to surround the B.L. zoning with a protective buffer and transition to the former residential zoning, and subsequently agricultural zoning, when the R.C. 2 zone became available with the 1976 Zoning Maps.

The burden is on the Petitioner to show error. Had an application for change been made to the Council, there is no showing on the merits that the Council should have anticipated the

wedding reception use and granted a rezoning to R.C.C., quite the contrary.

As the Regulations show, and as Mr. Walter Lippincott, accepted as an expert in planning, testified, the R.C.C. zone is not designed as a wraparound transitional zone, but rather as a free standing, low intensity, rural commercial zone for the benefit of agricultural uses and tourism.

Such a rezoning from R.C. 2 to R.C.C. would be incompatible with the stated policy of the R.C. 2 zone, to preserve agricultural use. It would be contrary to the Master Plan. The Manor Tavern area is not designated for development as a Rural Village Commercial Center on the Master Plan.

The two cases cited by Mr. Monk regarding taverns and restaurants in his testimony do not persuade us that Petitioner met the test enunciated in *Boyce v. Sembly* (supra). In the issues cited, the Council chose, on the 1988 maps, rather than to grant an open ended B.L. zone, to grant a more restrictive R.C.C. zone adjacent to, or around in some cases, several rural commercial uses, including, in at least two cases, taverns. In neither issue is it clear that this rezoning was granted to allow an expansion of an indoor tavern or restaurant use into an outdoor use. Rather, one can infer that the R.C.C. zoning in these other cases would allow a gradual stepping down from the B.L. zoning to a less intensive, and more restrictive, zone around these two more rural taverns, not located in historic districts. In any event, every case stands on its own merits, and despite the various arguments given, no persuasive argument exists for allowing an R.C.C. zone for the sole purpose of permitting a new, outdoor wedding reception

use.

Even if the Board found that the Council erred in not granting the R.C.C. zoning despite no request to do so, in order to grant the rezoning requested we must determine that the zoning requested is appropriate. Petitioner suggests R.C.C. would be an appropriate transitional or buffer zone. However, the proposed use would not in fact constitute a transition (assuming the wedding reception use is allowable in R.C.C.) from a heavier to a lesser commercial use. It would not be a transition to a lesser use to permit an outdoor use (a business accommodating 200 or more guests at intermittent times for about 6 months per year) involving noise, traffic, litter, etc., as a separate catering business on a new spot.

The testimony in this case, primarily by Mr. Carl Richards of the Zoning Commissioner's office, is very clear that catering is not allowed in the B.L. or the R.C.C. zone. Mr. Richards testified at length that the long-established administrative practice by the Zoning Commissioner's office classifies catering as a "commercial recreation enterprise," and requires that it be placed in the B.M. or the B.R. zone, which permits such uses as a matter of right, as shown in People's Counsel Exhibit No. 2, Mr. Richards' letter of February 28, 1991, in reply to Mr. Duvall's letter of January 31, 1991. Consideration shows that catering does properly belong only in the heavier commercial zones, namely, B.M. and B.R. Wedding receptions, large parties, catered affairs, by their very nature, attract a large number of persons who primarily arrive at a party and leave a party at approximately the same time. Also, such wedding receptions and parties even when held indoors, usually involve music, and loud talk. The R.C.C. zone is basically a

lighter, lesser zone than B.L. or even B.L.-C.R. It is intended for agricultural and tourist uses, on a free-standing, non-intensive basis. It would be inappropriate to allow the 8,000 square foot Manor Tavern to use the R.C.C. zone to add another 1.32 acres, over 56,000 square feet, outdoors for catering to its already large indoor restaurant use, thus, in effect, having an outdoor catering hall and a large restaurant, with a large parking area in between the two. The R.C.C. zone was never meant to be so used, and we believe it would be wrong to so use it, and contrary to its legislative intent.

Further, Petitioner's Exhibit No. 1, the site plan, shows that the proposal in this case involves the introduction of a large, new principal use on a previously unutilized, R.C. 2 buffering area of the subject property. The proposed outdoor reception garden does not meet the test of accessory uses as contained in Section 101 of the BCZR. First of all, the proposed outdoor reception garden is not "customarily incident" to restaurants in Baltimore County or anywhere in this region. The only example cited by Mr. Greene in his case was the example of Peerce's Plantation, which occasionally, apparently illegally, erects a tent on an R.C. 4 zoned area and holds a Preakness Party, or perhaps a wedding reception. A new outdoor operation in a totally separate area involving up to 200 or more guests can hardly be considered accessory to the restaurant business, particularly when done on a regular basis, advertised as a wedding and party catering business. In like manner, Section 1A06.2.C, relating to accessory uses or structures allowed in the R.C.C. zones, permits only certain accessory use categories. It does not name a proposed outdoor

reception garden or any other like garden of any sort. The listed categories include agriculturally related uses, amusement uses, home occupations and parking. Subsection 1A06.2.C.4 lists parking as a use, restricted to the R.C.C. zone, and, thus, it should not be allowed outside the R.C.C. zone.

The R.C.C. regulations specifically restrict parking to an accessory use. The effect of allowing parking outside the R.C.C. zone, as proposed, allows up to a 2-acre use with associated parking, in effect a much larger use than originally contemplated under the regulations by the Council.

Section 1A06.1A, the legislative statement of findings for the R.C.C. zone, states that the intent of the zone is to "provide small areas of commercial development for a limited range of rural, residential and tourist related needs." This same Subsection, in Part B, goes on to state that the intensity and scale are to be appropriate to the rural area involved.

The R.C.C. regulations specifically require in Section 1A06.3.D that a compatibility finding pursuant to Section 22-104C of the Development Regulations be made by the County Review Group and the Director of Planning as to the proposed use. While the CRG has not had an opportunity to review this wedding garden, since no permits of any kind were applied for, the Director of Planning and the Planning Board have both found the proposed use to be incompatible, and, in fact, have recommended against this zone being granted by the Board.

ORDER

IT IS THEREFORE this 31st day of July, 1991 by the County Board of Appeals of Baltimore County ORDERED that the

Petition for Reclassification from R.C. 2 to R.C.C. be and is hereby DENIED; and

IT IS FURTHER ORDERED that Petitioner's request for Variances and request for Special Hearing are DISMISSED as moot.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Arnold G. Foreman
Arnold G. Foreman

C. William Clark
C. William Clark



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

July 31, 1991

Gary Duvall, Esquire
600 Washington Avenue
Towson, MD 21204

RE: Case No. R-91-115
Mark Greene (Manor Tavern, Inc.)

Dear Mr. Duvall:

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

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Steven Winter, Esquire
Newton A. Williams, Esquire
Mr. Mark Greene /Manor Tavern, Inc.
Mr. Francis N. Inglehart
Greater Sparks-Glencoe Community Council
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD
FROM R.C. 2 TO R.C.C. ZONE
NW/S Old York Rd., opposite : OF APPEALS
Monkton Rd., 10th Election
District, 3rd Councilmanic : OF BALTIMORE COUNTY
District : Case No. R-91-115
MARK GREENE (MANOR TAVERN),
Petitioner :

PEOPLE'S COUNSEL'S MEMORANDUM

Petitioners own 5.84 acres known as 15819 Old York Road which is currently split zoned B.L.-C.R. for 2.12 acres and R.C. 2 for 3.52 acres. The surrounding area is entirely zoned R.C. 2.

Currently, Petitioners operate a restaurant on the B.L.-C.R. portion of the property, which also contains a house and parking; the R.C. 2 portion has the septic field for the property and additional parking for the restaurant granted in Case No. 91-2.

Petitioners are desirous of expanding their current restaurant business to accommodate large functions. To do this, they wish to split the zoning of the property still further by having 1.32 acres of the R.C. 2 portion zoned R.C.C. subject to a documented site plan.

The proposal suffers from a number of fatal flaws:

1. The present R.C. 2 zoning is not an error. Petitioner claims this small corner is worthless in its present zone. However, Petitioner has demonstrated ample and productive use of the property in its entirety. While the small corner that is the subject of this petition may not have any intensive use, there was testimony by Wally Lippincott, the area planner, that as a garden area, it is still an amenity to the existing rural restaurant. Moreover, as a matter of law, it is not necessary

for every individual part of a piece of property to have a use. See Penn Central Transp. Co. v. City of New York, 98 S. Ct. 2846 at 2865 (1978); Bureau of Mines v. George's Creek, 272 Md. 143 at 177. It is sufficient that in its totality, there is a reasonable use of the property, which it certainly is here.

Petitioners' witness, William Monk, also testified that the Council committed error because it had used the R.C.C. zone as a transition zone to R.C. 2 to permit expansion in other cases and had failed to do so here. This theory does not meet any existing legal test for error. In addition, as Wally Lippincott testified, every property is unique.

2. The proposal is not consistent with the stated purposes of the R.C.C. zone.

Despite the focus on only 1.32 of the existing acres, the fact remains that the proposal would permit a use that according to Carl Richards, has only been permitted in B.M. zones. Richards stated that as far as the zoning regulations are concerned, the type of use would be considered "catering" and there is a long standing administrative practice that requires B.M. zoning.

The proposed use therefore is contrary to the legislative findings that "the existing business zoning designation (B.L., B.M., B.R.) permit uses that are not desirable in rural parts of the county." BCZR 1A06.1.A.1.(b).

2

3. The proposed use is not listed as a permitted use in the R.C.C. zone. Under the Baltimore County Zoning Regulations, only listed permitted uses are permitted.

4. The proposal does not meet the use limitations of the R.C.C. zone, in that a) the parking is not located within the R.C.C. zone (1A06.2.C.4); and b) the impervious surface is more than 20% (1A06.4.A.6).

5. Finally, if some convoluted reasoning attempts to make the proposed use accessory to the restaurant itself, then to meet the definition of accessory, it must be on the same lot as the restaurant, thereby violating the R.C.C. bulk regulations limiting lot size to two acres. (BCZR 1A06.4.A.6).

Respectfully submitted,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 1991, a copy of the foregoing People's Counsel's Memorandum was mailed to Gary C. Duvall, Esquire, Suite 300, 800 Washington Ave., Towson, MD 21204; and Newton A. Williams, Esquire, 700 Court Towers, 210 W. Pennsylvania Ave., Towson, MD 21204.

Phyllis Cole Friedman
Phyllis Cole Friedman

4

10 LIGHT STREET
BALTIMORE, MARYLAND 21202
101 BAY STREET
EASTON, MARYLAND 21821
11350 RANDOM HILLS ROAD
FAIRFAX, VIRGINIA 22030

LAW OFFICES
MILES & STOCKBRIDGE
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 301-851-0505
FAX 301-852-0120

30 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
22 WEST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850
1064 GUST STREET, N.W.
WASHINGTON, D.C. 20007

GARY C. DUVALL
301-833-8155

May 28, 1991

HAND DELIVERY

Mr. William Hackett, Chairman
Baltimore County Board of Appeals
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Reclassification Petition
Item #9, Case #R-91-115, Cycle IV
Petitioner: Mark Greene/Manor Tavern, Inc.

Dear Mr. Hackett:

Enclosed please find the Memorandum on behalf of Manor Tavern, Inc. as requested by the Board at the conclusion of the hearing on May 8, 1991. It is my understanding that none of the parties will be entitled to reply or oppose any memorandum.

Thank you for your kind attention and courtesy throughout the proceeding.

Very truly yours,

Gary C. Duvall
Gary C. Duvall

GCD:ld

Encl.

cc: Mr. Mark Greene

RECLASSIFICATION AND
VARIANCE PETITION OF
MANOR TAVERN, INC./
MARK GREENE

* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. R-91-115
* Item No. 9, Cycle IV

* * * * *

MEMORANDUM OF MANOR TAVERN, INC.
IN SUPPORT OF RECLASSIFICATION, VARIANCE & SPECIAL HEARING

The proceedings now pending before the Board involve three separate requests for relief, all of which are integral to the documented site plan which accompanied the Petition for Reclassification. Petitioner, Manor Tavern, Inc., requests that the Board determine that the Baltimore County Council in 1988 erred in imposing RC2 zoning on at least 1.316 acres of the Petitioner's property instead of rezoning the property to the newly created Rural Conservation Commercial (RCC) zone. Second, the Petitioner seeks two variances pursuant to Section 2-58.1(p) Baltimore County Code to permit 168 parking spaces in lieu of the required 224 parking spaces and that a number of these parking spaces be located off of the proposed RCC zone which would otherwise be required to be located within the RCC zone pursuant to Section 1A06.2.C.4 Baltimore County Zoning Regulations. Finally, the Petitioner has filed in conjunction with this reclassification and variance request a request for a Special Hearing to determine if the proposed use of a seasonal reception garden is a permitted use under the RCC zoning classification.

In compliance with Section 2-58.1(e), the within

petitions were reviewed by the Baltimore County Planning Board prior to transmittal to the Board for review. While it is true as stated in opening statement by People's Counsel that the Planning Board recommended denial of the reclassification, what was not transmitted to the Board was the fact that the vote was a closely split vote and, therefore, no clear mandate was evident from the Planning Board recommendation. Nevertheless, the Board of Appeals is not bound nor is it to give any additional weight to the Planning Board recommendations.

The testimony before this Board showed that the subject site which is located in the Tenth Election District, Third Councilmanic District, has been zoned as commercial property long before the earliest zoning maps in Baltimore County (i.e. 1945). The testimony of both Francis Iglehart, Esquire for the Protestants and Mr. Ralph Rigger for the Petitioner clearly showed that the Manor Tavern property has had a "checkered" past. As Mr. Rigger described the property's prior uses, the Tavern was a bar with some retail sales for as long as he has lived in the neighborhood (i.e. 35 years). At one point in its history, the property was referred to by local residents as "Charley's Biker Bar" because of the predominance of motorcycle groups patronizing the bar. In fact, Mr. Rigger testified that on Sundays the old bar had been quite popular with Pennsylvania residents since liquor could be sold in Maryland on Sundays when it was not otherwise

-2-

available in Pennsylvania.

It was beyond dispute that since Mr. Greene's family acquired the Manor Tavern in 1986, the property has been greatly improved. In fact, Mr. Greene testified that Manor Tavern, Inc. has spent over \$400,000 in alterations and improvements to the property. Included in that sum is \$70,000 expended by Mr. Greene for improvements (including mature landscaping and trees) for the proposed reception garden in the Fall of 1990 when he learned for the first time that it was a violation of the Baltimore County Zoning Regulations to erect a garden on the rear portion of his property.

At the time the zoning violation was reported by his adjoining neighbors, Mr. and Mrs. Richard Gebhard, Mr. Greene learned that his property was bifurcated into two zones, RC2 and BL-CR. As the documented site plan (Exhibit No. 1) clearly shows, this 5.637 acre parcel is split into two zones. A portion of the restaurant operation sits on approximately 2.12 acres zoned BL-CR with an additional area of parking located in the remaining 3.52 acres of RC2 zoning. The RC2 zoning is itself split by the location of the large septic system which currently services the existing restaurant facility.

As the documented site plan shows, the proposed use is an attractive formal garden improved by an open air gazebo, a circular gravel driveway, two small changing rooms, and restrooms. During fair weather seasons, a tent is proposed to

-3-

be erected over a porous brick area to be utilized for receptions. The proposed development is well within the setback requirements for an RCC zone and more than adequate sewer and water is provided as was testified to by Mr. Greene and as indicated in the environmental impact statement. Further, as testified to by Mr. Michael Patterson, a longtime resident of the neighborhood and the landscape contractor for Mr. Greene, the brick sidewalks are all set in sand and porous throughout which permits drainage and minimizes storm water runoff. In addition, both Mr. Greene and Mr. Patterson testified that the gravel used for the circular drive in the proposed garden area is dustless as is required by the Baltimore County development regulations. If the Board concurs with this testimony and permits the use of the gravel on the circular drive in lieu of the macadam required by the Office of Planning and Zoning, the total impervious area of the proposed site would be approximately 15% as was testified to by Mr. Monk. However, should the Board of Appeals require macadam to be used for the circular drive, Mr. Monk clearly testified that the brick sidewalk areas can be reduced in size to meet the 20% impervious surface area limitations set forth for RCC zone uses.

The documented site plan provides several self-imposed restrictions, including a requirement that the reception garden would be utilized only during daylight hours. As Mr. Greene testified, this would be the most reasonable time when

the garden would be utilized by his customers. By limiting the operation to daylight hours, Mr. Greene testified that the use of the reception garden would not conflict with the dinner business of the Manor Tavern which usually commences between 7:00 to 7:30 p.m. In response to this restriction on the documented site plan, Mr. William Monk (who was accepted as an expert in the area of land planning and zoning), testified that his company performed a car count at the subject site on two consecutive weekends. On one of those weekends, a wedding reception was being held inside the existing Manor Tavern for approximately 175 guests. Mr. Monk testified, and as his car counts clearly shows, the parking lot at its peak use was only three-quarters utilized.

As the documented site plan shows, there are six (6) parking spaces provided for in the circular driveway on the proposed RCC parcel. The RCC zone requires parking to be located on-site. However, it is abundantly clear that there is no need to locate additional parking on this site, given the restrictions contained in the documented site plan and the off-peak nature of the use as evidenced by the car counts. It is difficult to understand why the County would want additional parking on the RCC site when adequate parking already exists on the BL-CR portion of the Manor Tavern lot. To add more parking only creates additional impervious surface areas than are needed.

To locate additional parking on-site would have required

the Petitioner to request the full two acres permitted for an RCC zone which would have created an undue hardship for the Petitioner and based upon the car counts and testimony of Mr. Monk is not warranted. The documented site plan's objective is clearly to reduce the intensity and scale of land use activities in the proposed RCC zone so as to act as a transition use between the rural residential and rural business activities as intended by the RCC legislation.

As Mr. Monk testified, had the requested RCC zone been extended for an additional .7 acres, the location of the existing septic system forms a barrier to any development in that portion of the RC2 property occupied by the septic system. Mr. Monk testified that Baltimore County does not permit building on a septic field. This has the effect of splitting the RC2 portions of the property into two parcels which are of such a reduced scale that they are useless as RC2 property and certainly severely curtailed a useable area.

Finally, the issues of the use for proposed RCC zone was explored through Mr. Greene and W. Carl Richards of the Zoning Office. Mr. Greene testified that 90% of his business is what is known as "a la carte trade" and 10% is "banquet trade." The banquet portion of his business is similar to other restaurants in Baltimore County, many of whom he named, including Pearce's Plantation, Friendly Farms, the Milton Inn, and other rural restaurants. It is important to note that banqueting is a portion of the restaurant business in almost

every instance. Mr. Greene testified that if the RCC parcel is rezoned, he wishes to move his banquet business to the proposed reception garden. He testified as to the demand for this facility in that when it was advertised prior to the zoning violation, he was heavily booked for wedding receptions. That business has now been moved to the inside of the restaurant, but causes many problems between the a la carte patrons and the reception patrons as to the utilization of the "Sunroom," adjacent "Silk Room" and terrace.

Mr. Greene testified that his idea for creating the reception garden was in response to the closing of Ladew Gardens to wedding receptions. Mr. Greene testified that Ladew hosted many receptions and utilized the same type of arrangement proposed by Mr. Greene. In addition, Mr. Greene testified that since the clubs in the Monkton area (Hunt Valley Golf Club, Elkridge Hunt Club, etc.) were available only to members and since the St. James Church was available only to Episcopalians, there was a genuine need for this type of facility within the community as evidenced by the bookings he received prior to the zoning violation notice.

People's Counsel offered as a witness Mr. W. Carl Richards, the Zoning Coordinator from the Baltimore County Office of Zoning. Mr. Richards testified that counsel for Manor Tavern, Mr. Monk and Mr. Greene met with Mr. Richards on January 30, 1991 to discuss the proposed use. This meeting was prior to the amendment of the reclassification petition

requesting the RCC zoning. Mr. Richards testified that his initial opinion, after Mr. Monk had described the use in detail and his being shown a site plan with the reception garden similar to the documented site plan, was that the use was in the nature of a restaurant use which would be permitted in the RCC zone. Mr. Richards further testified that he took the matter before the Zoning Commissioner who determined that the proposed use constituted "catering" and would require BM (Business Major) zoning.

Mr. Richards admitted, however, that the Baltimore County Zoning Regulations have no definition for either "catering" or "restaurant," nor is the use "catering" delineated in any of the zones imposed upon property in Baltimore County. When explaining which types of facilities had been characterized as catering by either the Zoning Office or the Zoning Commissioner, the answers were obvious: Overlea Hall, Eastwind Hall, Martin's West, Martin's Eudowood, and others. Mr. Richards acknowledged that, to the best of his knowledge, these facilities did not provide any a la carte service, but were strictly 100% set menu contract facilities. He further indicated that many restaurants which provide large party receptions are not located in BM zones.

In an attempt to bolster a failing argument, People's Counsel attempted to use Mr. Wallace Lippincott (a Baltimore County community planner) for the proposition that the proposed portion of the Manor Tavern property to be rezoned

RCC must have in and of itself its own principal use. This is due to the fact that the People's Counsel and the Protestants attempted to solely limit the use on the RCC portion of the Manor Tavern property as an accessory use which requires by definition in the Baltimore County Zoning Regulations that the use be subordinate in area, located on the same lot as the principal use, contribute to the comfort, convenience or necessity of the occupant's business or industry in the principal use or structure served, and is customarily incident and subordinate to and serves a principal use or structure. See Section 101, Baltimore County Zoning Regulations. What the Protestants and People's Counsel seem to overlook is that the Manor Tavern property is one parcel split by inconsistent zones. Where property is split by various zones, there is no requirement that each zone have a principal use, only that the parcel itself have a principal use.

Under either scenario, the principal use is a restaurant use. Assuming arguendo that the Protestants and People's Counsel's position is accepted, then what is the principal use of the RCC zoned property during the course of any given year? Since the reception operation is only seasonal, then one can only presume that the remainder and the primary use during the course of any given year is as a garden which Mr. Lippincott testified would be an appropriate visual amenity to a restaurant operation with a seasonal accessory use for restaurant receptions. Under any scenario, the use is clearly

permitted since the RCC zone permits "restaurants" and "bars" and such accessory uses including "picnic groves" which are not otherwise defined. Clearly, since the unrebutted testimony was that banqueting is a portion of the restaurant business (10%), the proposed use of the RCC property clearly falls within the spirit and intent of the RCC use regulations.

As the Board well knows, a zoning reclassification request can be granted by showing mistake or error on the part of the County Council in imposing the existing zoning during the last Comprehensive Map process. Error can be established by showing that at the time of the comprehensive zoning, the County Council failed to take into account then-existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. Boyce v. Sembly, 25 Md. App. 43 (1975). In this regard, the Petitioner can show error by establishing physical facts not readily visible or discernable at the time of the comprehensive zoning. See Bonnie View Club v. Glass, 242 Md. 46 (1965). See also Jobar Corp. v. Rodgers Forge, 236 Md. 106 (1963).

The testimony before the Board clearly shows that an error was made by the Baltimore County Council in imposing RC2 zoning on the Petitioner's property. As Mr. William Monk testified, the RC2 zone and the BL-CR zone are two mutually exclusive zones. The uses are entirely incompatible. Further, the RC2 property has absolutely no use or value as

currently zoned. While Mr. Lippincott felt that there was "value" in imposing the RC2 zoning to create a buffer for the adjoining Gebhard and Muller properties, restrictions cannot be imposed under the County's police power for individual private benefit. This principle has been consistently applied by Maryland courts since the Court of Appeals decision in Kracke v. Weinberg, 197 Md. 339 (1950).

In Kracke the Court of Appeals held that the City of Baltimore could not use its zoning power to create a protective "no man's land" around a residential neighborhood which had the effect of depriving the property owner of the rightful use of his property for any purpose without compensation through an eminent domain proceeding. Such action was clearly unconstitutional.

The Court of Appeals decision was reaffirmed in the case of Anne Arundel County v. Maragusa, 268 Md. 131 (1973) where the court held that a rezoning of property could not deprive the owner of any reasonable use of his property without compensation. Otherwise, such action would amount to an unconstitutional taking. 268 Md. at 134.

As testified to by Mr. Greene, the subject property was stripped of all topsoil by Egypt Farms prior to his acquisition of the property. Accordingly, the property has absolutely no value for any of the agricultural purposes permitted under an RC2 zone. The Staff comments submitted into evidence also acknowledge that the property has no

residential development potential. Obviously, these facts were not known to the Baltimore County Council at the time it adopted the 1988 Comprehensive Map. These hidden problems are identical in impact to the use of the Manor Tavern property as were the mineshafts in the Bonnie View case.

Further, Mr. Greene as president of the property owner, testified that in his opinion the 1.316 acres separated by the septic field from the remaining RC2 property had no value or use as zoned. This opinion was corroborated without objection by Mr. Monk. The only possible use that the property had, in Mr. Lippincott's opinion, was as "open space" which as indicated above cannot be imposed for the benefit of adjoining property owners without compensation to Manor Tavern, Inc.

The evidence clearly shows that the Office of Planning and Zoning staff was well aware of the creation of the Resource Conservation Commercial zone in 1988 since it prepared the report sent to the Baltimore County Planning Board and ultimately to the County Council for adoption prior to the adoption of the 1988 comprehensive maps. Mr. Lippincott, who in 1988 had just joined the Office of Planning and Zoning, stated that he did not believe that his office could make recommendations to the County Council prior to its actual adoption of the regulations. However, as Mr. Monk pointed out in his testimony, it was only when a property owner or the staff brought issues to the attention of the County Council that they normally were considered during the

-12-

Comprehensive Map process. Inasmuch as Mr. Greene testified that he was unaware of the zoning bifurcation until the Fall of 1990, the staff clearly was or should have been aware of the Manor Tavern problem in 1988. Interestingly enough, People's Counsel's Exhibit No. 1, the report of the Office of Planning and Zoning entitled "Rural Business Zones" stated that:

"The RCC zoning classification could be placed on any land included in the 1988 log of issues if the County Council enacts the proposed RCC zone in time for the 1988 comprehensive rezoning." (emphasis added)

The report went on to state that:

"The proposed zone includes a range of retail and personal service uses designed to serve agricultural needs, residential communities and tourists." (emphasis added)

Compatibility in an agricultural area was to be achieved by the "provision of setbacks and landscaped buffers."

Mr. Monk reviewed the 1988 Final Log of Issues, as well as specific items referenced therein. Mr. Monk testified that in Baltimore County there were eighteen issues where RCC zoning was imposed by the County Council on property which previously had been classified as RC2, RC4 or RC5. In all cases, the Planning staff did not recommend at any time for

1 It is difficult to see how the proposed use does not meet a personal service use for residents in Baltimore County's rural communities and it is equally difficult to see how the proposed use cannot constitute in and of itself a buffer, since it more than meets the setback and landscaping requirements.

-13-

the RCC zoning classification. In particular, Issues Nos. 3-301 and 3-092 specifically were tavern/restaurant uses which sought expansion into adjoining RC2 property. The existing tavern/restaurant operations were zoned BL and the surrounding property had been zoned RC2. The property owners requested additional BL zoning. The County Council imposed RCC zoning on the expansion areas as an appropriate transition zone. Similarly, a retail and package goods store located on Shawan Road in an RC2 zone was likewise zoned RCC instead of BL as requested. Each of these issues, as well as the other fifteen issues, clearly shows that the County Council was aware of the need for RCC zoning where a property owner's lot was bifurcated between a commercial and an agricultural zone. But, without the issue having been brought to its attention by the Planning Office staff, the Manor Tavern property was simply not addressed. Further, the County Council could not have known of the fact that the property had been stripped of all topsoil and, therefore, not possibly usable for agricultural purposes. Nor could it have been aware of the fact that the septic system itself split the RC2 property to prohibit any meaningful use of the RC2 land. The County Council was obviously aware of the trend to utilize the RCC zoning as a buffer around existing spot zones of BL zoning in rural settings. It failed, however, to take this foreseeable trend into consideration in addressing the zoning needs of Manor Tavern, Inc. This fact was testified to by Mr. Monk and

-14-

unrefuted by any witness on behalf of either the Protestants or People's Council. By not reclassifying the property to RCC the County Council rendered Manor Tavern, Inc.'s property useless, thus subjecting Baltimore County to a requirement that it compensate Mr. Greene for his land. This fact, the unconstitutional imposition of a restriction, clearly, in and of itself, supports a finding that the County Council erred in not imposing RCC zoning on the balance of the Manor Tavern, Inc. property at least to the extent of a full two (2) acres. Here, however, the Petitioner is only requesting 1.316 acres to be rezoned RCC in part to minimize any perceived impact of the proposed use on the rural "fabric" of the area and due to the fact that the Petitioner is confined by the septic field from any meaningful additional development to the maximum permitted extent of two acres.

The evidence presented by the Petitioner before the Board clearly shows that the proposed use under the documented site plan will not effect the existing water and sewerage facilities, nor will it have any effect on existing traffic patterns in the surrounding locale. The proposed development was evidenced to be compatible with uses generally allowable and in keeping with the character of the surrounding area. Protestant George Constable, Esquire testified that the proposed gazebo is in keeping with others in the neighborhood such as the one located on his property; that the changing rooms are similar to the cabana house which Mr. Constable has

-15-

on his own property; and, that formal gardens are clearly appropriate as Mr. Constable testified he maintains such gardens and more extensive gardens are maintained by Ladew Gardens.

Finally, and most importantly, outdoor tents are quite frequently utilized in My Lady's Manor. Mr. Constable testified that Ladew Gardens provided wedding receptions with tented facilities, the Elkridge Club had tent receptions, St. James Church used tents for not only wedding receptions, but also pony shows, and Mr. Constable himself, in raising five daughters, had utilized tents on his own property for weddings. Mr. Rigger corroborated the widespread use of tents throughout the neighborhood. As Mr. Monk and Mr. Greene testified, tents are frequently used with rural restaurants in their operations. Mr. Greene testified that Friendly Farms in Upperco, Maryland provides tented affairs and Mr. Monk introduced photographs taken of a "Kentucky Derby" party hosted by Pearce's Plantation under two tented facilities on its RC4 zoned property. Clearly this type of use is customary and incident to a rural setting and particularly rural restaurant operations.

CONCLUSION

It is clear that the Baltimore County Council erred in not imposing RCC zoning on the balance of the Manor Tavern's property. At the time of the 1988 maps, the County Council clearly evidenced its awareness of the need for RCC zoning for

-16-

tavern/restaurant operations bifurcated by BL and RC2 zoning. This was clearly a foreseeable trend which was not addressed with the Manor Tavern property. Similarly, the County Council could not readily discern that the subject property was stripped of all topsoil and, therefore, not suitable for agricultural purposes listed as permitted uses in the RC2 zone. In addition, the County Council could not readily discern that the septic field for the Manor Tavern restaurant effectively split the RC2 property into two noncontiguous parcels minimizing their utility. Since the parcel zoned RC2 could have no possible use other than as a buffer for adjoining property owners, the County Council erred in that it could not have intended to have created an unconstitutional taking of the Manor Tavern's property without compensating the property owner. Further, this creation of a buffer for the benefit of Mr. and Mrs. Gebhard² who wish to subdivide their

2 It was interesting to learn that the Gebhards, who initiated the violation against The Manor Tavern, are the operators of a commercial animal boarding operation which, pursuant to Baltimore County Zoning Regulation 1A01.2.C.2 requires a special exception which Mrs. Gebhard testified she and her husband do not have. In addition, Mrs. Gebhard testified that her property is improved with a dwelling incorporated into her barn which is occupied by a veterinarian. Inasmuch as the other structure on the property is Mr. and Mrs. Gebhard's own private residence, the dwelling located in the barn and occupied by the veterinarian cannot possibly constitute an accessory use and, therefore, must be in violation of the RC2 regulations. With two dwellings onsite already, it is improbable that Mr. and Mrs. Gebhard will be able to further subdivide their property for purposes of building an additional dwelling onsite as contemplated, since the same would violate Baltimore County Zoning Regulation 1A01.3.B. However, these issues are not necessary to resolve the within petitions.

-17-

property and build an additional dwelling closer to the Manor Tavern clearly underscores the unconstitutional nature of the County Council's action in imposing a buffer zone on the Manor Tavern's property without compensation to the Petitioner.

The petition signed by over 50 neighbors of the Manor Tavern clearly shows that the proposed use and structures are felt to meet a demand for personal services in the My Lady's Manor neighborhood and are in keeping with neighborhood's structures and uses. The problems testified to by the 4 protesting property owners regarding amplified music is cured by the restrictions placed on the documented site plan. The granting of the variances cures the hardship created by the splitting of the RC2 property by the septic field and reduces the need to create any additional impervious surface areas on the property site.

The question of use was totally un rebutted by the Protestants or People's Counsel. Mr. Greene was the only witness with experience and expertise in restaurant operation and he clearly testified that the nature of the proposed use is in keeping with a restaurant banqueting operation and does not constitute catering. Given the fact that the County Office of Zoning has never sought a regulation from the County Council defining a restaurant or catering facility, nor identifying a catering facility in any zone in the Baltimore County Zoning Regulations underscores the fact that with the examples given by Mr. Richards as to what his office has

-18-

concluded to be "catering" in the past, clearly the proposed reception garden does not fall in that category.

Accordingly, for the reasons set forth in this Memorandum and as adduced at the hearing, the Petitioner respectfully requests the Board of Appeals to grant the reclassification of the 1.316 acres to an RCC zone; grant the parking variances; and, determine that the proposed use is a permitted use within the RCC zone.

RESPECTFULLY SUBMITTED

Gary C. Puwall
Gary C. Puwall
MILES & STOCKBRIDGE
Suite 300
600 Washington Avenue
Towson, MD 21204
(301) 823-8155

Attorneys for Petitioner

-19-

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of May, 1991, a copy of the foregoing MEMORANDUM OF MANOR TAVERN, INC. IN SUPPORT OF RECLASSIFICATION, VARIANCE AND SPECIAL HEARING was mailed to Phyllis Cole Friedman, Esquire, Peoples' Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; and to Newton A. Williams, Esquire, Nolan, Plumhoff & Williams, Chartered, 700 Court Towers, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorneys for Protestants.

Gary C. Puvall
Gary C. Puvall

GDMA01.MIS

-20-

MANOR TAVERN, INC. * BEFORE THE
(Mark Green) * COUNTY BOARD OF APPEALS
151819 Old York Road *
NW/5 Old York Road * FOR
Opposite Monkton Road *
Case No. R 91-115 * BALTIMORE COUNTY
* * * * *

PROTESTANTS' POST HEARING MEMORANDUM

The Protestants in this matter including Mr. and Mrs. George Constable, Mr. and Mrs. Richard Gebhard, Mr. Walter Dandy, Mr. Ronald Maher, Francis N. Iglehart, Jr., Esquire and Mrs. Jean Sehlhorst, Mr. and Mrs. John Schapiro, Mr. and Mrs. Benjamin H. Griswold, III, and Mr. and Mrs. Frank Weller, by Newton A. Williams and Nolan, Plumhoff & Williams, Chartered, their attorneys, offer this Memorandum for the consideration of the Board, in support of their request that the requested reclassification and allied relief not be granted.

STATEMENT OF THE CASE

This case involves a request by Manor Tavern, Inc., and the Green family, for a reclassification of 1.32 acres of R.C.2 land to R.C.C., in the rear of the Manor Tavern property. Also requested is a parking variance to permit 168 spaces in lieu of the required 224 spaces, and a special hearing to determine that the proposed "outdoor reception garden" is accessory to the existing restaurant use.

In addition to these requests, there is a request for a variance from Section 1A06.2C.4. of the Baltimore County Zoning

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& WILLIAMS,
CHARTERED

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Regulations, which provides that parking for an R.C.C. use must be "located within the R.C.C. Zone."

STATEMENT OF THE FACTS

The Manor Tavern property consists of 5.64 acres located on the northeast side of Manor Road, at Manor Road's intersection with Old York Road and Monkton Road, in the 10th Election District of Baltimore County. As shown on Petitioner's Exhibit 1, the Monk Site Plan, as revised April 3, 1991, the subject property is zoned BL-CR as to 2.12 acres along the Manor Road frontage, with the remainder of the total 5.64 acres, that is 3.52 acres of R.C.2 Zoning, located in a belt to the rear of and to the northwest of the BL-CR Zoning along Old York Road.

The Manor Tavern is a long existent, northern Baltimore County institution. At the present time, it contains slightly in excess of 8,000 square feet, with the bulk of its parking located in the rear of, and on both sides of the tavern/restaurant and a small portion in the R.C.2 Zoning fronting on Old York Road. Apparently a use permit for parking for this small area was obtained in Case Number 91-2.

Both the proponents and the opponents of this request agree that the basic restaurant, both interior and exterior, as well as the grounds have been improved and upgraded since Mr. Green and his family took over management, and, subsequently, ownership in the late 1980's.

Mr. Mark Green during his testimony stated that he is the active owner and the manager, and is on the premises virtually

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2

every day that it is open. Despite his familiarity with the restaurant business, according to his own testimony he was not familiar with the long existent zoning of the property when he bought the property, nor did he check it. He testified that when his family purchased the property, that they had not checked the zoning, despite a substantial investment for the property and in excess of \$400,000.00 for improvements to the restaurant and parking lot, and later, perhaps, \$75,000.00 for the outdoor reception garden in question.

In fact, as is shown in the Planning Staff and Planning Board Report, which is a part of the file, which report recommends that the R.C.2 Zone be retained, a zoning violation case was filed in the late summer and early fall of 1990, after Mr. Green built, and began to utilize the outdoor reception garden for wedding receptions and other catered affairs. Mr. Green and his contractor(s) did not obtain permits for this work. Had they obtained permits, the R.C.2 zoning in the rear of the property would have been disclosed.

According to the Planning Board Report, as well as the testimony of a number of witnesses, including Mr. Lippincott, and Mr. Monk, the property has always been divided between BL zoning on the frontage and residential zoning, and, subsequently, agricultural zoning on the Old York Road side and in the rear. This zoning has been consistent since the 1940's and through all the Comprehensive Maps from 1971 to 1988.

It is also conceded by all parties concerned that the

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3

property lies in an agricultural area, and is so identified on the Master Plan. The basic agricultural nature of the area is borne out very strongly in one of the Petitioner's own exhibits, namely Petitioner's Exhibit 7, the 1986 aerial photograph of the area.

Further, the area is not even designated for development as a rural village service center.

To the north of the Manor Tavern, the neighboring uses all zoned R.C.2 are as follows:

1. Immediately to the north is the 22.5 acre, R.C.2 horse farm and residence of Mr. and Mrs. Richard Gebhard, Protestants herein;
2. Immediately adjoining the Gebhard property to the north is the Sehlhorst property of approximately 5 to 6 acres, another Protestant;
3. Immediately to the north of the Sehlhorst property are the Constable and Weller properties which aggregate in excess of 100 acres;
4. Immediately to the north of the Constable properties are the Maher properties, including 34.8 acres owned by Ronald L. Maher, Esquire, another Protestant herein.

Immediately to the southeast of the Manor Tavern property is a Baltimore County highway yard which, like the tavern property, is zoned in part BL-CR, as to the frontage, and R.C.2 in the rear (and of course a public use does not require zoning). Also, to the east and southeast are the Schapiro and

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4

Griswold properties. Opposite the Manor Tavern property on the southwest side of Manor Road are several large agricultural properties, also zoned R.C.2. To the west and northwest of the Manor Tavern property is a large property owned and occupied by St. James Church, a historic episcopal church. A substantial portion of the church property is farmed.

This area is designated as the My Lady's Manor Historic District, nationally recognized, and includes a number of historic structures, including the St. James Church and other homes and landmarks.

As the Protestants understand Mr. Green's plans, basically Mr. Green wishes to conduct a wedding reception and party business, outdoors from April through October on the R.C.C. area proposed for the property. In order to do this, at the very least, he must eradicate the long established R.C.2 buffer between his property and the Gebhard property; and, actually, the neighbors believe he must do much more, namely obtain BM or BR Zoning to hold such catered affairs.

As previously noted, this wedding reception garden construction was done without checking zoning, and was done without obtaining permits or an approved, modified site plan for this work.

As can be seen on Petitioners' Exhibit 1, the proposed outdoor reception garden includes a circular drive, a number of brick sidewalks, a proposed gazebo, changing rooms, several small restrooms and some pine tree screening and landscaping.

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5

Parties of up to 200 or more guests would be accommodated during day light hours, and the primary reception activities would take place within a 2600 square foot, open sided tent, which would remain standing during the entire 6 month season. According to site plan note 41.F, no amplified music would be used in conjunction with the outdoor reception garden, but this would not include a prohibition against microphones and amplified voices for the purposes of toasts, announcements, etc.

Due to the topography of the area, and very likely the strength of the instruments and amplification involved, the Protestants have found previous wedding receptions very disturbing to the peace and quiet enjoyment of their properties. Mrs. Gebhard, Mrs. Sehlhorst, Mr. Constable, Mr. Dandy, and Mr. Maher all testified that the music could be very clearly heard, as well as announcements and other party activities. This testimony of continual noise and disturbance, which was not contradicted, and which is very credible, means that the music and other sounds carry for more than one-half mile or more in a northward direction, due to their strength and the peculiar acoustics of the area. Requests to Mr. Green and the Manor Tavern to lower the noise level of the music were not successful in the past, according to several neighbors.

Further, Mr. Green stated in his direct testimony that he did not wish to have the wedding receptions interfere with his existing restaurant trade, since without the use of the wedding

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6

garden area for such parties, restaurant patrons would be required to use the "fine dining room", while a wedding reception or other party is in progress. That is, rather than using what he termed the "day light room" on the northwest end of the bar, and the existing outdoor patio area, which is also objectionable, he wishes to move the wedding receptions to the outdoor reception garden for his own convenience and profit and his patrons convenience to the detriment of his neighbors, and without consideration of its injurious effects upon the neighbors. It was clear to counsel and to the Protestants, that this proposed movement, while perhaps convenient for Mr. Green and his patrons, would be very intrusive and very disturbing for the neighbors.

Mr. Green and Mr. Monk also both admitted that no request for change had been made during the 1988 Zoning Maps for the Manor Tavern property, by Mr. Green or anyone else on his behalf. Had Mr. Green checked his zoning, hopefully he would not have constructed the outdoor reception garden without obtaining the proper zoning and permits. In any case, he could have checked, and he did not request any change on the maps.

DISCUSSION

I. THE PETITIONERS HAVE NOT SHOWN ERROR BY THE COUNCIL IN 1988, AND HAVE ADMITTED THAT THERE HAS BEEN NO CHANGE IN THE AREA, AND, HENCE, THIS RECLASSIFICATION SHOULD NOT BE GRANTED.

The Baltimore County Code, Section 258.1(j) is very

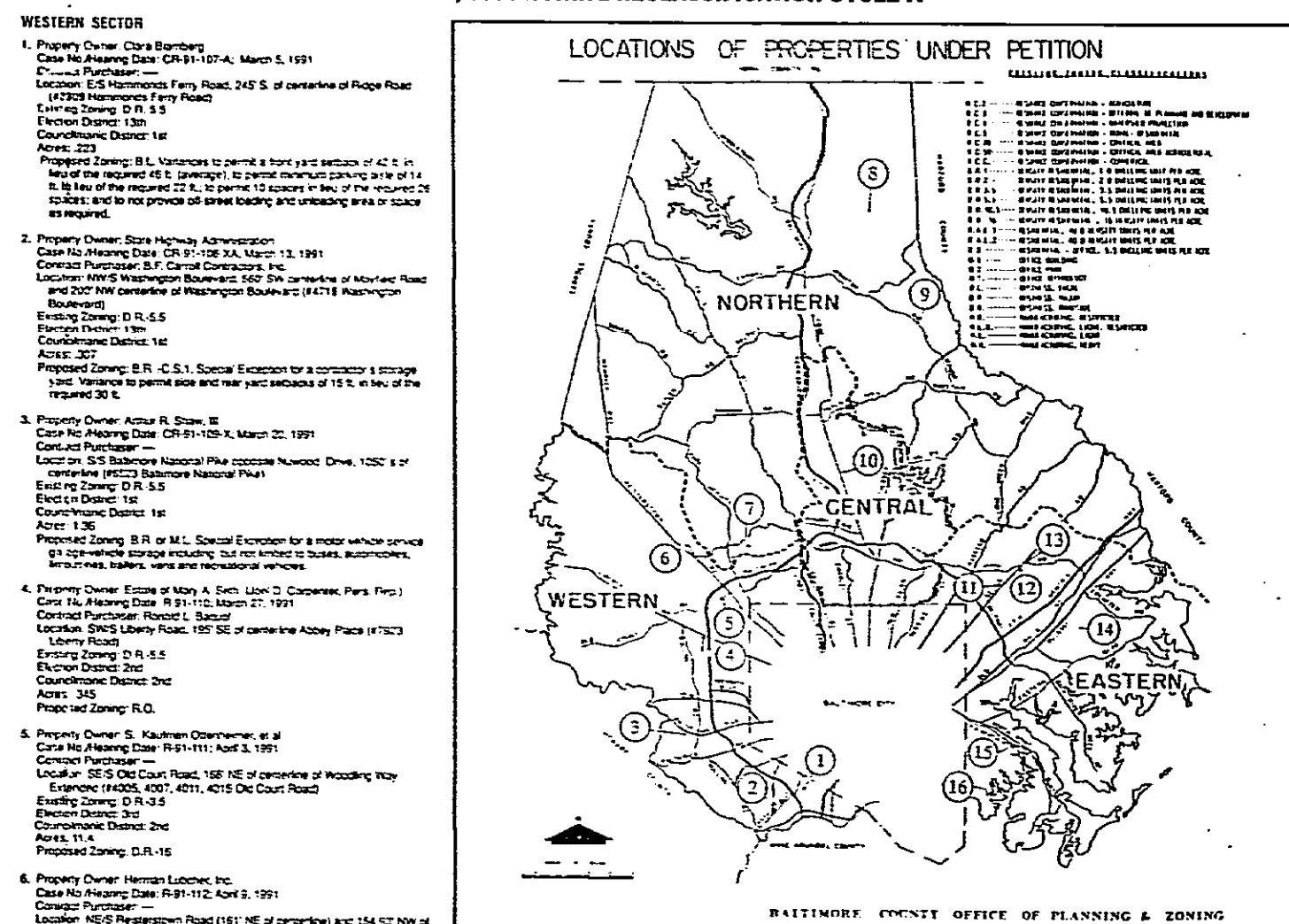
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& WILLIAMS,
CHARTERED

7

BY ORDER OF
WILLIAM HACKETT,
CHAIRMAN, COUNTY BOARD OF APPEALS AND
P. DAVID FIELDS,
DIRECTOR OF PLANNING AND ZONING

BALTIMORE COUNTY, MARYLAND PUBLIC NOTICE

RECLASSIFICATION AND REDISTRICTING PETITIONS ACCEPTED FOR
FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE OCTOBER, 1990 -
APRIL, 1991 ZONING RECLASSIFICATION CYCLE IV



- WESTERN SECTION**
1. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 2. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 3. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 4. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 5. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 6. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 7. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 8. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 9. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 10. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
- CENTRAL SECTION**
11. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 12. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 13. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 14. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 15. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 16. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 17. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 18. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 19. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 20. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
- EASTERN SECTION**
21. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 22. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 23. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 24. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 25. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 26. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 27. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 28. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 29. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]
 30. Property Owner: [Name], [Address], [City, State, Zip].
Petition for [Type of Petition].
[Additional details]

LISTING OF PETITIONS: Numbers in the listings are keyed to the map above.

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

Hearing Room -
Room 301, County Office Bldg. February 21, 1991

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c). COUNTY COUNCIL BILL NO. 59-79.

CASE NO. R-91-115 MARK GREEN (MANOR TAVERN)
Item #9, IV, 1990-91 NW/s Old York Rd., opposite Monkton Road (15819 Old York Rd.)
10th Election District
3rd Councilmanic District

(Documented Site Plan to be submitted)

Reclassification: from R.C. 2 to to B.L.-C.R.

ASSIGNED FOR: TUESDAY, MARCH 5, 1991 at 9:00 a.m.

*NOTE - This case will be heard as scheduled on May 8, 1991 at 10:00 a.m.

cc: Steven Winter, Esquire Counsel for Petitioner
Mr. Mark Green Petitioner

Francis M. Iglehart
James Earl Keefe
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
Account: R-001-6150
Number: 3496

Date: 9/24/90 H9100128
PUBLIC HEARING FEES QTY PRICE
060 -RECLASSIFICATION 1 X \$175.00
TOTAL: \$175.00
LAST NAME OF OWNER: GREEN

PAID PER HAND WRITTEN
RECEIPT DATED
8/31/90

Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
Account: R-001-6150
Number: #16

Reclass Petition
Mark Green
Manor Tavern
15819 Old York Rd.
RC-2 To BL-CR

0600480057NICHRC \$175.00
0600480057NICHRC \$175.00
NEXT BUSINESS DAY

MANOR TAVERN, INC.
15819 OLD YORK ROAD
MONKTON, MARYLAND 21111

7-11/90
12449

DATE: 7/11/90
AMOUNT: \$124.49
CHECK AMOUNT: \$124.49

PAID TO: [Name]
DATE: 8/31/90

0600480057NICHRC \$175.00
0600480057NICHRC \$175.00

DIRECTOR OF
PROPERTY
BALTIMORE
COUNTY MD

76/62/04/08/28/03
0600480057NICHRC

APR 30 1991

RECEIVED
BALTIMORE COUNTY
ZONING DEPARTMENT

811 - 126
04 31
TO 16 AM

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

DATE: 4/23/91

Mark Green
15819 Old York Road
Monkton, Maryland 21111

Re: Petition for Zoning Reclassification
CASE NUMBER: R-91-115
NW/s Old York Road, opposite Monkton Road
15819 Old York Road
10th Election District - 3rd Councilmanic
Petitioner(s): Mark Green
HEARING: WEDNESDAY, MAY 8, 1991 at 10:00 a.m.

Dear Petitioner(s):

This is to advise you that \$548.76 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE ON THE DAY OF THE BOARD OF APPEALS' HEARING OR THE ORDER WILL NOT BE ISSUED.

Please make your check payable to "Baltimore County, Maryland" and remit it to Mr. G. Stephens, Zoning Office, Room 113, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, before the hearing.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

cc: Steven Winter, Esq.

IGLEHART & McLAUGHLIN
ATTORNEYS AT LAW
307 W. ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

February 26, 1991

FRANCIS M. IGLEHART
J. ROBERT HAINES
ANN M. NASTAROWICZ
PAT KELLER
J. ROBERT HAINES
ANN M. NASTAROWICZ
JAMES E. DYER
W. CARL RICHARDS, JR.
DOCKET CLERK - ZONING
ARNOLD JABLON, COUNTY ATTORNEY

County Board of Appeals of Baltimore County
County Office Building, Room 315
111 W. Chesapeake Ave.
Towson MD 21204

Attention: LindaLee M. Kuszmaul
Legal Secretary

Re: Mark Green (Manor Tavern)
NW/s Old York Rd., opposite Monkton Road (15819 Old York Rd.)
10th Election District
Third Councilmanic District

Dear Ms. Kuszmaul:

The Notice of Assignment of the above case for hearing on May 8, 1991, lists my name as if I were acting as counsel in the case. Though I am an interested property owner in the area I am not acting as counsel for any party and should not be listed as such.

Yours very truly,
Francis M. Iglehart
Francis N. Iglehart

FNI:mwf
cc: Steven Winter, Esquire

October 17, 1990

NOTICE OF HEARING

Petition for Zoning Reclassification
CASE NUMBER: R-91-115
NW/s Old York Road, opposite Monkton Road
15819 Old York Road
10th Election District - 3rd Councilmanic
Petitioner(s): Mark Green

PROPERTY DESCRIPTION

Beginning for the same at the centerline intersection of Manor Road and Old York Road. Running thence binding on the centerline of Old York Road,
1) North 02 degrees 59 minutes 03 seconds West 371.71 feet. Thence leaving Old York Road and running,
2) South 88 degrees 09 minutes East 350 feet,
3) South 18 degrees 35 minutes 50 seconds East 250 feet,
4) South 29 degrees 05 minutes 37 seconds East 272.19 feet,
5) South 55 degrees 55 minutes 37 seconds West 153.57 feet, and
6) South 60 degrees 05 minutes 10 seconds West 210.61 feet to the centerline of Manor Road. Thence binding thereon,
7) North 36 degrees 09 minutes 50 seconds West 135.30 feet, and
8) North 37 degrees 50 minutes 50 seconds West 118.45 feet, and
9) North 37 degrees 52 minutes 53 seconds West 130.65 feet to the place of beginning. Saving and excepting that portion of land already zoned BL - CR.

RECLASSIFICATION: Petition to reclassify the property from R.C.-2 zoning to B.L.-C.R. zoning.

TIME: 10:00 a.m.
DATE: WEDNESDAY, MAY 8, 1991

LOCATION: County Office Building, Room 301
111 W. Chesapeake Avenue
Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN
County Board of Appeals

cc: Mark Green
Steven Winter and Gary Duval

NOTICE OF HEARING

Petition for Zoning Reclassification, Special Hearing and Zoning Variance
CASE NUMBER: R-91-115-SPM
NW/s Old York Road, opposite Monkton Road
15819 Old York Road
10th Election District - 3rd Councilmanic
Petitioner(s): Mark Green

PROPERTY DESCRIPTION

Beginning for the same at the centerline intersection of Manor Road and Old York Road. Running thence binding on the centerline of Old York Road,
1) North 02 degrees 59 minutes 03 seconds West 371.71 feet. Thence leaving Old York Road and running,
2) South 88 degrees 09 minutes East 350 feet,
3) South 18 degrees 35 minutes 50 seconds East 250 feet,
4) South 29 degrees 05 minutes 37 seconds East 272.19 feet,
5) South 55 degrees 55 minutes 37 seconds West 153.57 feet, and
6) South 60 degrees 05 minutes 10 seconds West 210.61 feet to the centerline of Manor Road. Thence binding thereon,
7) North 36 degrees 09 minutes 50 seconds West 135.30 feet, and
8) North 37 degrees 50 minutes 50 seconds West 118.45 feet, and
9) North 37 degrees 52 minutes 53 seconds West 130.65 feet to the place of beginning. Saving and excepting that portion of land already zoned BL - CR.

RECLASSIFICATION: Petition to reclassify the property from R.C.-2 zoning to B.L.-C.R. zoning.

SPECIAL HEARING: To approve the use set forth in the documented site plan and petition for reclassification and, that said use is permitted as of right.

VARIANCE: To permit parking in the BL-CR and BCL zones in lieu of the requirement for parking in the BCL zone and to permit 168 parking spaces in lieu of the required 224 parking spaces.

TIME: 10:00 a.m.
DATE: WEDNESDAY, MAY 8, 1991

LOCATION: County Office Building, Room 301
111 W. Chesapeake Avenue
Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN
County Board of Appeals



111 West Chesapeake Avenue
Towson, MD 21204

April 23, 1991

887-3353

Steven Winter, Esquire
6000 Washington Avenue
Towson, MD 21204

RE: Item No. 9
Case No. R91-115
Petitioner: Mark Green
Reclassification Petition

Dear Mr. Winter:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle IV). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office on or before May 8, 1991. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.

R91-115
Steven Winter
Page 2

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Mark Green
H. David Brooks, III



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this
31st day of August, 1991.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Mark Green

Petitioner's Attorney: Steven Winter

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

November 23, 1990



Dennis F. Rasmussen
County Executive

Mr. William Hackett
Chairman, Board of Appeals
County Office Building
Towson, Maryland 21204

Zoning Classification Cycle IV	October 1990 - April 1991
Property Owner:	Mark Green
Case No./Hearing Date:	R-91-115, May 8, 1991
Location:	Old York Road opposite Monkton Road
Existing Zoning:	R.C.-2
Election District:	10th
Councilmanic District:	3rd
Acres:	2.8
Proposed Zoning:	B.L.-C.R.

Dear Mr. Hackett:

The existing R.C. zoning for this site can be expected to generate approximately 12 vehicle trips per day. The proposed B.L.-C.R. zoning for this site can be expected to generate approximately 1,400 vehicle trips per day.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lw

RECEIVED
NOV 28 1990
ZONING OFFICE

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Retzke
Chief

OCTOBER 11, 1990



J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: MARK GREEN

Location: #15619 OLD YORK ROAD

Item No.: R-91-115 Zoning Agenda: OCTOBER, 1990 - APRIL, 1991
Gentlemen:

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

F. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John J. Kelly* Noted and Approved *Captain W. J. Brady Jr.*
Special Inspection Division Fire Prevention Bureau

JK/YEK



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

APRIL 12, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Location: REVISED RECLASSIFICATION AND VARIANCE PETITIONS, DESCRIPTIONS, AND PLANS WERE RECEIVED FOR ITEM #9, CYCLE IV (CASE NUMBER R-91-115) ON APRIL 4, 1991.

Item No.: 9 Zoning Agenda: APRIL 16, 1991

Gentlemen:

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

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

REVIEWER: *John J. Kelly* Noted and Approved *Captain W. J. Brady Jr.*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 17, 1991

FROM: Dennis A. Kennedy, P.E.

RE: Zoning Advisory Committee Meeting
for April 16, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 9-Cycle IV-Case No. R-91-115, 357, 371, 374, 375, 376, 378, 380, 381 and 383.

For Item 10-Cycle IV-Case No. R-91-116, County Review Group Meeting may be required.

For Item 198-Case No. 91-254-A, the previous minor subdivision comments still apply.

For Item 372, this site must be submitted through the minor subdivision process for review and comments.

Dennis A. Kennedy
Dennis A. Kennedy, P.E., Acting Chief,
Developers Engineering Division

DAK:s



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 28, 1991

Gary C. Duvall, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, MD 21204

RE: Reclassification Petition
Item #9 (Cycle IV), Case #R-91-115
Petitioner: Mark Green/Manor Tavern, Inc.
Accessory Seasonal, Outdoor Catering in
R.C.C.
Old York Road and Monkton Road

Dear Mr. Duvall:

Reference is made to your letter of January 31, 1991, at my suggestion, as a follow-up on our meeting of January 29, 1991 concerning possible future uses at the Manor Tavern.

You stated that your client, Mark Green, intends to amend the above referenced reclassification petition before the Board of Appeals to request R.C.C. zoning adjoining the rear of the current B.L. zoned Manor Tavern. It is your client's intention to locate an outdoor reception catering area with a tent as an adjunct to the existing restaurant. It is clear that R.C.C. zone permits restaurants, but a reception garden is not listed as a permitted use. You have asked for a formal interpretation that the reception garden would be permitted in the R.C.C. zone.

I have consulted with the Zoning Commissioner and the staff and it has been determined that the reception garden would not be a permitted use within the R.C.C. zone. The staff concedes that occasionally other restaurants may host daily or weekend events and a limited amount of catering on-site; however, even if the receptions would only be seasonal, the continuing operation would not be permitted within the R.C.C. zone. Many outdoor uses are only utilized seasonally, but must be clearly permitted within the zone that they are located. It is the interpretation of the Zoning Office that a catering use would require B.M. (Business Major) zoning.

Gary C. Duval, Esquire
February 28, 1991
Page 2

The above staff comments, although they relate to the petition filed and property, they are not to be construed as a final zoning decision as rendered after a public hearing nor do they indicate the appropriateness of any public hearing requests. If during the preliminary or final development process you need any additional clarification regarding compliance with the B.C.Z.R., please contact me in this office at 887-3391.

If you have any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

WCR:scj

cc: J. Robert Haines
James E. Dyer
Pat Keller
File

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

March 22, 1991

887-3353

Gary C. Duval, Esquire
Miles & Stockbridge
600 Washington Avenue
Towson, MD 21204

RE: Zoning Review Comments of Revised
Reclass Site Plan for Manor Tavern
Reclassification Petition, Item #9,
Cycle IV, Case #CR-91-115

Dear Duval:

The following zoning issues must be addressed in the amended petition and plan submitted to this office for review:

1. The descriptions of the reclass area do not match the plan.
2. The number of parking spaces being variances is not stated on the plan or the petition form. This should be stated to read a variance from "SECTION 409.6.A.2 (the small case a on the petition is incorrect) TO PERMIT # PARKING SPACES IN LIEU OF THE REQUIRED # PARKING SPACES". Also the proposed gravel drive requires a variance from 409.8.A.2 and 409.4.A, which required a 20 foot wide two-way driveway not blocked by parking as shown on the plan. Correct the parking calculations to include all square feet of all uses on the site at 20 parking spaces per each 1,000 square feet of each use. Note compliance with curbing requirement under reclass checklist note #10.
3. Additional Variance Hearings:

S.1A06.2.C.4 to permit parking not to be located in the R.C.C. zone.

S.1A06.4.A.4 to permit the gross floor area on the lot to exceed 3,000 square feet.

With this last referenced variance, the question of the status concerning the gazebo and tent as far as having a F.A.R. or even being buildings as defined in S.101 (B.C.Z.R.) comes into question. Additionally this ties in with S.1A06.3.D, which requires in part that new buildings or additions shall be appropriate pursuant to S.22-104(c) of the Baltimore County Code while all bulk regulations under S.1A06.4 (B.C.Z.R.) reference "buildings". Be aware that note 20 of the reclass checklist requires building code compliance and state how these structures comply. Also show compliance with .6 of this latter section concerning no more than 20% coverage by impervious surfaces.

Gary C. Duval, Esquire
March 22, 1991
Page 2

4. USE - This banquet facility does not appear to be a permitted use in the R.C.C. zone. See the attached letter dated from 2/28/91 from Mr. W. Carl Richards, Jr. (Zoning Coordinator) to Mr. Gary Duval, Esquire. The special use hearing (amended, revised petition) is being processed in this office at this writing.
5. Comply with note #10 of the reclass checklist concerning noting location and use of all principal buildings within 200 feet from each joint side property line.

Zoning acceptance of the revised documented plan is contingent upon all zoning issues being addressed on the plan and petition.

If you have any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

John L. Lewis
John L. Lewis
Planner II

JLL:scj

cc: Kathi Weidenhamer, Board of Appeals;
Pat Keller, Planning Office
J. Robert Haines, Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 2, 1991

HAND DELIVERED

Gary C. Duval, Esquire
Miles and Stockbridge
600 Washington Avenue
Towson, MD 21204

RE: Compliance with Section 258.1(d)(1), B.C.C.
and Board of Appeals Rules of Practice and
Procedure - Rule #9
Revised Reclassification Petition
Item #9 (Cycle IV), Case #CR-91-115
Petitioner: Mark Green/Manor Tavern, Inc.
Old York Road and Monkton Road

Dear Mr. Duval:

Reference is made to the above sections of the Baltimore County Code that includes a requirement that this office review cycle reclassification petitions for the Board of Appeals for compliance with the applicable statutes and regulations. As you are aware, this office has interpreted that the use documented is not permitted in the R.C.C. zone. A revised petition was filed addressing the use interpretation; however, the technical comments made on March 22, 1991 have not been addressed as of this date.

In order to comply with the required advertising time frames in the zoning law, these comments must be addressed by 4:00 p.m. on April 3, 1991 to be in compliance with the above section. See the attached letter from Wendolyn Stephens regarding the hearing schedule.

Very truly yours,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

WCR:scj

cc: Bill Mack - HAND DELIVERED
Kathi Weidenhamer, Board of Appeals
Pat Keller, Planning Office
J. Robert Haines, Zoning Commissioner
James E. Dyer, Zoning Supervisor

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 2, 1991

File Copy

Gary C. Duval, Esq.
Miles and Stockbridge
600 Washington Avenue
Towson, Maryland 21204

Re: Cycle IV Reclass, Case Number: CR-91-115 (SPHA)
15819 Old York Road
Mark Green/Manor Tavern

Dear Mr. Duval:

Today the above file was pulled in order to prepare signs to be posted and the final newspaper advertising. In doing so, I noted the following:

- 1) An amended Petition for Reclassification.
- 2) A new Petition for Special Hearing.
- 3) Your Memorandum in Support of Reclassification and Variance.
- 4) A letter from Carl Richards requesting revisions to clarify the relief petitioned, and have such relief reflected on both the site plans and Petitions.

Although, there is mention of requested variances in your Memorandum and on the revised site plan, same are not clear thereon and, they have not been petitioned. Please be advised that the wording for the sign posted and newspaper advertising is taken directly from the Petitions filed. As such, at the scheduled hearing on May 8, 1991, you may proceed only on the relief posted and advertised. Of course, you may petition at some later date for the variances mentioned in the file.

If however, you can comply with Mr. Richards' letter of March 25, 1991, it will be possible to post and advertise the variances, provided this office is in receipt of the proper paperwork by 4:00 p.m. on Wednesday, April 3, 1991.

Very truly yours,

G. G. Stephens
G. G. Stephens
(301) 887-3391

Baltimore County Government
Office of Planning and Zoning



401 Bosley Avenue
Towson, MD 21204

887-3211
Fax 887-5862

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Members of the Baltimore County Planning Board DATE: April 19, 1991

FROM: Arnold F. "Pat" Keller, III, Deputy Director
Office of Planning and Zoning

SUBJECT: Documented Site Plan
Case #91-115, Cycle IV, Item 9

Pursuant to Section 2-58-1(m) of the Baltimore County Code, a documented site plan was referred by the Board of Appeals to the director of the Office of Planning and Zoning. Following consideration of this office and the Planning Board, a recommendation regarding the above-mentioned case is offered herewith.

Arnold F. "Pat" Keller, III
Arnold F. "Pat" Keller, III
Deputy Director

AFKIII/JL/cmm
CYCLTR2/CYCLE
Attachment

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: P. David Fields, Director
Office of Planning & Zoning Date: March 5, 1991

FROM: William T. Hackett, Chairman
County Board of Appeals

SUBJECT: Amended (Documented) Site Plan Submitted /
Case No. R-91-115, Mark Greene (Manor Tavern)

Pursuant to the appropriate sections of the Baltimore County Code, we are transmitting to you copies of the documented plan submitted to the County Board of Appeals at a public hearing on March 5, 1991. These are being forwarded to you for processing with the Baltimore County Planning Board. This matter is set in for hearing before the Board on May 8, 1991, which permits the appropriate 45 days for the required review and comments.

By copy of this memorandum, we are also forwarding a copy of this amended plan to the Zoning Office.

William T. Hackett
William T. Hackett

Attachment (10 copies of Amended Plan)

cc: Pat Keller
W. Carl Richards, Jr. w/copy of Amended Plan

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Office of the Zoning Director DATE: April 3, 1992

FROM: LindaLee M. Kuszmaul
County Board of Appeals

SUBJECT: Closed File
Case No. R-91-115 (Mark Greene/Manor Tavern)

Pursuant to an Order of Dismissal filed and accepted on the record in the Circuit Court, and as no further appeals have been taken regarding the subject case, we have closed the file and are returning same to you herewith along with four large exhibits which were not requested by the Circuit Court.

Linda

Attachment

cc: Lawrence E. Schmidt
P. David Fields
People's Counsel for Baltimore County
Gary C. Duval, Esquire
Newton A. Williams, Esquire

MICROFILMED

RECEIVED OCT 24 1990

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: October 12, 1990
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: MANOR TAVERN

As you know, the Manor Tavern has filed for a zoning reclassification in Cycle IV from RC 2 to BL-CR (Case #R-91-115). This office shares many of the concerns expressed by the community, particularly increased noise and traffic impact. At this time, this office is not inclined to support this petition.

If I can provide any additional information, feel free to contact me.

PK:lf

PKMANOR/TEXTLE

RECEIVED
OCT 26 1990
ZONING OFFICE

BALTIMORE COUNTY BOARD OF APPEALS
GUIDE FOR PREPARATION OF RECLASSIFICATION PETITIONS

Each petition request should include:

(1) Three completed typewritten petition forms, indicating the existing and requested zoning; the special exception use, if applicable; and if applicable, the section number of the Baltimore County Zoning Regulations from which a variance is requested, as well as the extent of the variance requested. All forms must be signed by the petitioner or his legally authorized representative.

(2) Seven copies of the property description, prepared by a surveyor or civil engineer.

(3) Three copies of an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the county authorities required to review the petition, of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail and as further required by Article V, Section 2-40.1.J. of the Baltimore County Code.

(4) Three xerox copies each of that part of the appropriate official 1" = 200' and 1" = 1,000' scale zoning maps, with the outline of the property to be reclassified indicated thereon.

(5) The appropriate filing fee should accompany the petition request. However, the advertising and posting cost should be paid at the Zoning Commissioner's office as soon after billing as possible. Opinions may not be issued until all such costs are paid. (Checks should be made payable to Baltimore, County, Maryland).

(6) Twelve copies of a site plan, the boundaries and location of which have been certified by a registered surveyor or professional (civil) engineer. Said site plan shall include all applicable items on the checklist for reclassification petitions, as required below:

(7) If said petition includes documentation relating to the proposed use and development of the property, that documentation must include the following information:

(a) An environmental impact statement, as defined in Section 101 of the Baltimore County Zoning Regulations (see page 3, Bill No. 98-75), that concerns the proposed use of the property under petition and that has been competently prepared by a professional engineer or planner of appropriate qualifications.

(b) All information on the following checklist.

BABC - Form 2
Page 1 of 4

(c) If a precise building envelope is used in lieu of the exact positioning of the building(s) on the site plan, the proposed buildings' floor plan and elevation, including character and exterior materials must be shown elsewhere on the site plan or on attached plans, together with other documentation required in the aforementioned checklist. Said envelope may be larger than the actual proposed building, but must be precise enough in size and location to allow for a complete functional site layout, including but not limited to: entrances, driveways, parking and loading facilities, paved areas, proposed landscaping, screening, and major vegetation to be retained, etc.

(d) No such petition may be accepted for filing unless it complies with these rules of practice and procedure, and all other pertinent zoning laws and regulations, except that the petitioner may choose to submit plans that do not show any proposed use of the property under petition, regardless of any requirement in these rules to the contrary. If an intended use is not indicated, the site plans must indicate only the first eight (8) items on the following checklist.

BABC - Form 2
Page 2 of 4

CHECKLIST FOR INFORMATION TO BE SHOWN ON SITE PLANS FOR RECLASSIFICATION PETITIONS

- North arrow (indicating the direction of north).
- Scale of drawing (engineer's scale).
- Election District and Councilmanic District.
- Dimensions of property (including bearings). Parcel under petition should be in bold outline.
- Relation of tract in question to additional property owned and ownership of all adjacent properties.
- Area of property in question (acres or square feet).
- Distance from property line (corner) to nearest intersecting street or County road.
- Present and proposed zoning of property under petition and adjoining properties.
- Use, locations, coverage, floor areas, heights (including elevation drawings), dimensions, character and exterior materials of all proposed and existing structures to be retained. Also, all existing structures to be removed must be indicated.
- Location and size of all principal building(s) within a distance of 200 feet from each joint side property line. Distance from said buildings to centerline of street must be shown in order to determine front setback line of proposed building(s) on subject site.
- Course of operation, maximum number of employees, and maximum levels of emissions (including sound and other vibrations, dust, odors, gases, and light and heat). In cases where method of operation is not obvious, an explanation of same must be provided (i.e. proposed nursery school should include days and hours of operation, maximum number of teachers and students, method of transportation, etc.).
- Existing and proposed public and quasi-public facilities on and adjacent to the site, including storm-drain systems, water lines, sewerage, streets and drives, and railroad sidings. In the event public water and/or sewer do not exist, location of private system must be indicated.
- Existing ponds, streams, natural drainage courses and other bodies of water, watercourses, 100-year flood plains, major vegetation, unusual natural formation, and proposed changes with respect to any of these.
- Dimensions of existing and proposed right-of-way and types of paving of any street adjacent to site.

BABC - Form 2
Page 3 of 4

- Location and width of proposed ingress and egress, and all interior circulation of traffic.
- Parking and loading facilities: All parking facilities must be a minimum of 8' x 20' and must be paved with tar and chip, macadam, bituminous concrete, or similar durable and dustless surface. A curb not less than 8" wide and 6" high, railroad ties or concrete bumper blocks must be provided around the entire parking lot. All spaces must be setback a minimum of 8' from the street right-of-way.
- Screening (minimum 4' high) of on-site parking facilities, including drives, by a wall, slatted fence, or compact planting when adjoining or facing the side or rear lot line of residential or institutional premises, or when they are across the street from such premises. Landscaping, as required by the Office of Current Planning (494-3335), must also be provided.
- Existing topography and proposed major changes in grade.
- Dimension and content of all signs visible outdoors. Location of signs.
- Buildings must meet building code as well as fire code requirements with regard to type of construction, windows, etc.
- Location of all existing and proposed fire hydrants.
- A sealed location plan, inserted on the site plan, must reflect the outline of the parcel in question.
- All site plans must be folded to an approximate size of 8-1/2" x 11" with clear distinct lettering.

In order to alleviate any future delays, prior to preparing the required plan, the petitioner or his engineer should contact the Zoning Office and the following agencies and/or State agency, if located on a State road, for pertinent information that may be required:

Bureau of Engineering	494-3754
Bureau of Traffic Engineering	494-3554
Health Department	494-2762
Office of Current Planning	494-3335
State Highway Administration	659 - 1350
Department of Permits & Licenses	494-3987
Fire Department	494-3985

BABC - Form 2
Page 4 of 4

2/21/91 - Following parties notified of hearing set for March 5, 1991 at 9:00 a.m. for the purpose of submitting a documented site plan only. No testimony or evidence will be taken. This case will be heard on May 8, 1991 at 10:00 a.m. as previously scheduled.

Steven Winter, Esquire
Mr. Mark Green
Francis N. Igart, Esquire
James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney
Public Services

5/28/91 - Completed; memo due 5/28/91.

5/28/91 - Memo received from N. Williams, G. Duvall, and P.C.

7-2-91

G. Duvall contacted re non-payment of advertising fee -- he has spoken w/his client - has been paid per his client. Client to check with bookkeeper for cancelled check - Duvall will get back to me as soon as he has something to get to me verifying payment.

Received copy of cancelled check receipted by Baltimore County. Arrived Guy Stephens 7/30/91.

MAJOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

BEFORE THE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Paul Solomon, Agricultural Planner Technician
Department of Environmental Protection
and Resource Management
Courts Building
Towson, Maryland 21204

500
4/30/91
7:00 PM

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plunhoff & Williams, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.
Linda Ruzmaul
Linda Ruzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUNHOFF
& WILLIAMS
CHARTERED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 1991, a copy of the foregoing Request for Summons was mailed postage prepaid to Gary C. Duvall, Esquire, Miles and Stockbridge, 600 Washington Avenue, Towson, Maryland 21204 and Phyllis Friedman, Esquire, Peoples Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

Newton A. Williams
NEWTON A. WILLIAMS

7047B

LAW OFFICES
NOLAN, PLUNHOFF
& WILLIAMS
CHARTERED

MANOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Arnold F. "Pat" Keller, III Deputy Director
Office of Planning and Zoning
Courts Building
Towson, Maryland 21204

SUD
4/30/91
fee \$15

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.

Linda Kuzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

MANOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Jeffrey Long, Assistant to the Deputy Director
Office of Planning and Zoning
Courts Building
Towson, Maryland 21204

SUD
4/30/91
fee \$15

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.

Linda Kuzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

MANOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Jack Dillon, Rural Area Planner
Office of Planning and Zoning
Courts Building
Towson, Maryland 21204

SUD
4/30/91
fee \$15

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.

Linda Kuzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

MANOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Wally Lippincott, Rural Area Planner
Office of Planning and Zoning
Courts Building
Towson, Maryland 21204

YOLBsky
SUD
4/30/91
fee \$15

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.

Linda Kuzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

MANOR TAVERN, INC.
(Mark Green)
151819 Old York Road
NW/S Old York Road
Opposite Monkton Road
Case No. R 91-115

REQUEST FOR SUMMONS

Mr. Clerk:

On behalf of GEORGE CONSTABLE, Esquire, Mr. and Mrs. Richard B. Gebhard, and other concerned neighbors, please issue a summons for the following persons, to appear for testimony before the Board on Wednesday, May 8, 1991, at 10:00 a.m., and to have and bring with them their own and/or their Departments' file concerning the above entitled case, as follows:

Mr. Carl Richards, Zoning Technician
Zoning Commissioner's Office
County Office Building
Towson, Maryland 21204

SUD
4/30/91
fee \$15

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Mr. Sheriff:
Please serve the above Summons.

Linda Kuzmaul, Board of Appeals

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
CHARTERED

PETITIONER: Mark Green
CASE NO. R91-115

REQUESTED ACTION:

Reclassification to R.C.C. (Resource Conservation-Commercial)

EXISTING ZONING:

R.C.2 (Rural Conservation)

LOCATION:

151819 Old York Road - NW/S Old York Road, opposite Monkton Road.

AREA OF SITE:

2.8 acres

ZONING OF ADJACENT PROPERTY/USE:

North - R.C.2, Agricultural
South - B.L.-C.R., Commercial - Manor Tavern
East - R.C.2, Agricultural
West - R.C.2, Agricultural

SITE DESCRIPTION:

The site is a relatively flat field, that slopes very slightly. The property has been landscaped and has a paved turnaround. A tent has been erected on the site. The Petitioner has advertised this property as a "wedding garden," intending it to be used for large parties.

PROPERTIES IN THE VICINITY:

The property is located behind the parking lot for the existing Manor Tavern. All other properties in the area are in agricultural use.

WATER AND SEWERAGE:

The Petitioner's property is not served by public water and sewer. Private well water and a septic system would have to be provided on the site.

Mark Green
Case No. R91-115
Page 2

TRAFFIC AND ROADS:

This property lies at the intersection of four roads: Old York Road; Hess Road; Manor Road; and Monkton Road, with direct access from Old York Road.

ZONING HISTORY:

In 1971, subject property was zoned R.P.D., and the Manor Tavern area zoned B.L.-C.R. In 1976, the subject property was zoned R.C.2, and the Manor Tavern area zoned B.L.-C.R. It has remained the same since 1976.

A zoning violation correction notice was sent to the petitioner on October 1, 1990, requiring that the tent in the R.C.2 zone be removed and all commercial activities in the R.C.2 zone must cease and desist.

MASTER PLAN/COMMUNITY PLANS:

This property lies within the area designated as Agricultural Preservation by the Master Plan. The Master Plan states, "The proposed Land Use Map in this Master Plan designates several very large portions of the Northern Sector as Agricultural Preservation areas for the specific purpose of assuring these areas will be preserved for continuing use now and as a legacy for the future."

Also, the Master Plan says, "It is important to reassert the policy discouraging 'strip' commercial zoning in rural areas..."

The Master Plan states furthermore that, "...the Northern Sector identifies two locations, Hereford and Jacksonville, for implementing the concept of rural centers, and ten other existing rural villages to serve as smaller scale nodes for commercial services." This property is not located within any of these areas.

PROPOSED VS. EXISTING ZONING:

The regulations for R.C.C. zones may be found in Section 1A06.1 of the Baltimore County Zoning Regulations. Section 1A06.2 outlines the limited range of commercial, rural residential and tourist-related uses permitted in the R.C.C. zone. In the R.C.C. zone gross floor area of all buildings on the lot shall not exceed 3000 sq. ft. Building height is limited to 30 ft. Setbacks include front yards not less than 15 ft. from right-of-way lines and not more than the setback of adjacent lots. The rear and side yard setbacks shall not be less than 15 ft.

The R.C.2 zone was created to prevent land uses incompatible to agricultural use. Subdivision of R.C.2 zoned land for

Mark Green
Case No. R91-115
Page 3

residential purposes is restricted so that a tract having a gross area of between two and 100 acres, may be divided into no more than two lots; and lots over 100 acres may be divided at a rate of one lot per 50 acres of gross area. A minimum lot size of one acre is required. Because this lot was one of three lots created from a 20 acre tract, it has no remaining residential density available.

OFFICE OF PLANNING AND ZONING AND PLANNING BOARD RECOMMENDATIONS:

The documented site plan reveals a significantly smaller area subject to the reclassification request. Originally, the requested action involved 2.8 acres. The latest plan requests rezoning on a 1.316 acre tract. The documented site plan itself indicates a 3000 sq. ft. reception tent area, gazebo, landscaped entrance court, and rest room facilities. In combination with an existing restaurant, the proposed use requires 224 parking spaces. The plan reveals only 164 spaces will be provided, which necessitates a variance from Section 409.6.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). The site is extensively landscaped, and the applicant proposes additional landscaping. The plan further indicates that the outdoor reception garden will be limited to daytime functions. The elevation plan depicts a canvas canopy reception tent and associated brick patio. Dressing rooms, restrooms and a gazebo, to be constructed of wood, are also indicated on the plan.

The Manor Tavern has existed at this location for a long time. In its past history, it has not been an asset to the community. Area residents remember unpleasant uses such as cockfighting. More recently, the tavern specialized in Country and Western Music on the weekends. Residents remember loud music, large crowds, heavy traffic, unruly patrons, and parking along the rural roads. Under the current ownership, the building has been upgraded and the business has been more compatible with the neighborhood.

However, the extension of commercial use to the adjacent R.C.2 zoned property is not appropriate. Several area residents wrote letters to the zoning commissioner objecting to the expansion of the commercial business of a "wedding garden" into this R.C.2 zoned parcel. More residents signed a petition objecting to this use. These letters and the petition led to the current violation correction notice.

The existing commercial business has been part of the community for many years and under its current ownership has been a benefit to the community. However, extension of this use into the adjacent R.C.2 zoned property is inappropriate. This area has been designated as part of the agricultural preservation district. It is not within one of the rural village areas planned to provide services for the rural area. The large amounts of traffic, noise, lights,