

IN RE: PETITION FOR SPECIAL HEARING AND ZONING VARIANCE
3W/S Reisterstown Road, 166 ft. NW of c/l of Clovelly Road
1504 Reisterstown Road
3rd Election District
2nd Councilmanic District
Joseph L. Soley
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 91-424-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests, pursuant to the Petition for Special Hearing, approval of an amendment to the site plan previously approved in Case No. 70-73-A and, pursuant to a Petition for Zoning Variance, a variance from Section 409.6 to permit 18 parking spaces in lieu of the required 60 parking spaces, as more particularly described on Petitioner's Exhibit No. 1.

The Petitioner, by Stuart D. Kaplow, Esquire, appeared and testified. Also appearing on behalf of the Petition were Evelyn Burns on behalf of the Pikesville Community Group, Inc., Sharon Rossman and Lee Sachs. There were no Protestants.

Testimony indicated that the subject property known as 1504 Reisterstown Road consists of .44 acres +/- zoned B.L.-C.T. and is currently improved with a Dunkin' Donuts, Bessler Cleaners and Mike's Pizza Restaurant.

Proffered testimony indicated that the subject property has been used for many years to support various retail establishments.

Testimony indicated that the current mix of retailers provides for staggered peak time traffic on the site.

Evelyn Burns appeared in her capacity as the Executive Director of the Pikesville Community Growth, Inc. and voiced the Association's support of the Petitioner's request.

Testimony clearly indicated that although parking on the subject site is at a premium, it is sufficient to accommodate the existing retail uses.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the requested special hearing relief and variance were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety and general welfare.

ORDER RECEIVED FOR FILING
Date 7/18/91
By [Signature]

After reviewing all of the testimony and evidence presented, it appears that the special hearing and zoning variance relief should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 18 day of July, 1991, that the Petition for Special Hearing for approval of an amendment to the site plan previously approved in Case No. 70-73-A is hereby GRANTED; and,

IT IS FURTHER ORDERED that, pursuant to a Petition for Zoning Variance, a variance from Section 409.6 to permit 18 parking spaces in lieu of the required 60 parking spaces, in accordance with Petitioner's Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the foregoing relief:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. There shall be no additional food vendors of any type added to the subject site without prior zoning approval.

[Signature]
J. ROBERT HAINES
Zoning Commissioner for Baltimore County

JRH:mmm
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 7/18/91
By [Signature]

July 18, 1991

Stuart H. Kaplow, Esquire
Frank, Bernstein, Conaway and Goldman
Suite 630
Towson, Maryland 21204

RE: Petitions for Special Hearing and Zoning Variance
Case No. 91-424-SPHA
Joseph L. Soley
Petitioner

Dear Mr. Kaplow:

Enclosed please find the decision rendered on the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
[Signature]
J. ROBERT HAINES
Zoning Commissioner

JRH:mmm
att.
cc: Peoples Counsel
Evelyn Burns
Sharon L. Rossman
Lee Sachs, Esquire

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-424-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6 to permit 18 parking spaces in lieu of the required 60 parking spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

That strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose and render conformance unnecessarily burdensome; that the grant would do substantial injustice to petitioner as well as other property owners in district and a lesser relaxation than that applied for would not give substantial relief; and, that relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Stuart D. Kaplow
Legal Owner(s): Joseph L. Soley
Signature: [Signature]
Address: 210 W. Pennsylvania Ave. Towson, MD 21204
City and State: Towson, MD 21204
P.O. Box 367, One Exchange Street (207) 773-3228
Portland, Maine 04102
City and State: (04102)
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Stuart D. Kaplow, Suite 630, 210 W. Pennsylvania Ave., Towson, MD 21204, (301) 821-3103
Attorney's Telephone No.: (301) 821-3103

ORDERED By The Zoning Commissioner of Baltimore County, this 18 day of July, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 26 day of June, 1991, at 2:30 o'clock P.M.

[Signature]
J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 7/18/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/18/91
By [Signature]

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-424-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an amendment to the existing site plan previously approved in Case No. 70-73-A.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Stuart D. Kaplow
Legal Owner(s): Joseph L. Soley
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Address: 210 W. Pennsylvania Ave. Towson, MD 21204
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[Signature]
J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 7/18/91
By [Signature]

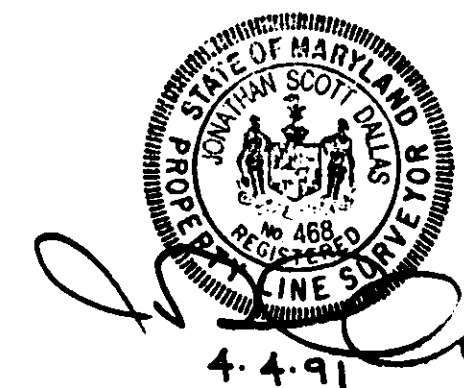
WJK - 4/18/91
avail anytime
ext. time - 1 hr.

ZONING DESCRIPTION (Property of Joseph L. Soley)

BEGINNING at a point on the Southwest side of Reisterstown Road (66' wide) at the distance of 166 feet northwest of the centerline of Clovelly Road (now closed) thence South 41 degrees 37 minutes 30 seconds East 118.40 feet thence southwesterly by a curve to the right with a radius of 25 feet for a distance of 52.42 feet thence southwesterly by a curve to the right with a radius of 180 feet for a distance of 31.99 feet thence North 89 degrees 00 minutes 30 seconds West 40.54 feet thence southwesterly by a curve to the left with a radius of 220 feet for a distance of 48.79 feet thence North 41 degrees 37 minutes 30 seconds West 50.23 feet thence North 45 degrees 22 minutes 30 seconds East 147.55 feet to the place of beginning.

The improvements thereon being known and designated as No. 1504 Reisterstown Road.

The above description was developed from plats and public access drawings, is not the result of a boundary survey, and is for zoning purposes only.



#403

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: [Blank]
Date of Posting: [Blank]
Posted for: [Blank]
Petitioner: [Blank]
Location of property: [Blank]
Location of Sign: [Blank]
Remarks: [Blank]
Posted by: [Blank] Date of return: [Blank]
Number of Signs: [Blank]

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described herein at the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 at 2:30 p.m.

Case Number: 91-424-SPHA
1504 Reisterstown Road, 166' NW of Clovelly Road
1504 Reisterstown Road
3rd Election District
2nd Councilmanic District
Petitioner: Joseph L. Soley
Hearing Date: Wednesday, July 18, 1991 at 2:30 p.m.
Special Hearing: Amendment to the existing site plan previously approved in Case #70-73-A. Motions: to permit 18 parking spaces in lieu of the required 60 parking spaces.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
5:35 May 30

THE JEFFERSONIAN,

[Signature]
S. Zabe Orlan
Publisher

5:35 \$5.18



MAY 1, 1991

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

RE: Property Owner: JOSEPH L. SOLEY
Location: #1504 REISTERSTOWN ROAD
Item No.: 403 Zoning Agenda: APRIL 30, 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: *[Signature]* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 26, 1991
FROM: Dennis A. Kennedy, P.E.

RE: Zoning Advisory Committee Meeting
for April 30, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 385, 392, 393, 396, 399, 400, 401, 402, 403 and 404.

For Items 347 (Case #91-374-A), 394 and 395, the previous County Review Group Meeting comments are still applicable.

For Item 397, a revised County Review Group Meeting is required.

For Item 398, a County Review Group Meeting is required.

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

DAK:sa

received
6/19/91

ZONING ENFORCEMENT Baltimore County
Zoning Office
Towson, Maryland 21284

INTER-OFFICE CORRESPONDENCE

TO: James F. Dyer DATE: May 2, 1991
Zoning Supervisor

FROM: James H. Thompson
Zoning Enforcement Coordinator

RE: Item No. 403
Petitioner: Joseph L. Soley

VIOLATION CASE # 88-381-CV

LOCATION OF VIOLATION 1504 Reisterstown Road

DEFENDANT Joseph L. Soley

ADDRESS P.O. Box 367, P.T.S. Portland, ME 04112

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
✓ Lee N. Sachs, Esquire	341 North Calvert Street Baltimore, Maryland 21202
✓ Gabriel W. Rosenbush, Jr.	P.O. Box 22122 Baltimore, Maryland 21208
✓ Pikesville Community Growth Corp.	3655A Old Court Road, Suite 15 Baltimore, Maryland 21208

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

JHT:ijs

cc: Lee N. Sachs, Esquire
Gabriel W. Rosenbush, Jr.
Pikesville Community Growth Corporation

Notes mailed 5/29/91

INTER-OFFICE CORRESPONDENCE

DATE: June 24, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Stephen E. Weber, P.E.
Bureau of Traffic Engineering *[Signature]*

SUBJECT: Z.A.C. Comments
ITEM No. 403

MAC Meeting Date: April 30, 1991

REVISED COMMENTS

There is on-street parking permitted in this area and our observations indicate that the number of parking spaces will not always meet the existing demand. However, a conversation we had with the management of Staples, the adjacent business, indicated that any such overflow which does occur has not caused any problems with them and that to date they have not really had any parking problems due to the subject site.

It should be noted that the parking layout as shown on the plan does not reflect what exists on the site. As marked, there are currently 19 on-site spaces.

SEW:lad

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: June 12, 1991
Zoning Commissioner

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

SUBJECT: Joseph L. Soley, Item No. 403

This site is located in the Pikesville Revitalization area and lies with the area of the Pikesville streetscape program. After meeting with the Economic Development Commission and, considering the information provided, the Office of Planning and Zoning supports the granting of the petitioner's request provided the property owner participate in the streetscape program for Pikesville.

To ensure that the applicant's involvement in the Pikesville streetscape program, a landscape plan shall be submitted for approval to Ervin McDaniel, Senior Planner, prior to the issuance of any permits.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEM403/ZAC1

received
6/19/91

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: June 20, 1991
Zoning Commissioner

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

SUBJECT: Joseph L. Soley, Item No. 403

Should the petitioner's request be granted, the applicant shall agree to the following conditions:

- Mr. Joseph L. Soley's share in the Pikesville Streetscape Program is \$11,547. This sum should be invested as additional improvements to his building, i.e., window treatment, signage, and redesign of the existing lot.

- In order for Baltimore County to make streetscape improvements, Mr. Soley will need to sign the streetscape agreement. The County will be responsible for specific improvements involving the sidewalks, curbs, and landscape element. An attached map clearly indicates these improvements (parking shown on the plan is for illustrative purposes only).

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEM403.REV/ZAC1

Rec'd 6/24/91



ZONING OFFICE
June 25, 1991

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

Re: Variance Request: Item Number 403 *(91-424-5PH)*

Dear Mr. Haines:

The Baltimore County Economic Development Commission wishes to express its support of the above referenced petition for a parking variance concerning the property of Joseph L. Soley. The request is of concern to us because of the property's location within the Pikesville Revitalization District.

The long-term tenants of the subject property include a pizza shop, dry cleaner and Dunkin' Donuts. These uses are complementary in that their busiest traffic occurs at different times of the day, reducing the demand for parking at any one time. In addition, their business primarily consists of quick stops by customers, creating a constant turnover of parking spaces. These businesses have coexisted for some time without conflict over parking. After hearing of potential concerns of the Bureau of Traffic Engineering, Economic Development Commission staff spoke with the management of the adjacent property and found they had no complaints with the past or current parking situation. This office supply business has experienced little or no overflow parking on their lot during business hours and has no customer complaints. We then communicated these findings to Traffic Engineering.

The Economic Development Commission is fully committed to assisting in building and maintaining the health of Pikesville's commercial district. We are currently nearing completion of plans for extensive beautification of the core of Pikesville. Mr. Soley's participation in this project and its planned reconstruction of the street frontage of this property will also improve traffic circulation and create additional parking spaces. We have been working closely with the Pikesville Community Growth Corporation on the comprehensive revitalization of the area; they are aware of our assessment of this situation and concur with our support of this variance.

Mr. J. Robert Haines, Zoning Commissioner
Page Two
June 25, 1991

Property improvements and the continued existence of the long-term Pikesville businesses which are tenants of the subject property have a significant role in the revitalization of the district. Please accept this letter as firm support for granting the petitioner's request for a parking variance.

Sincerely,
[Signature]
Anthony J. Heley
Acting Director

AJH:bb

STREETSCAPE AGREEMENT
(Private Property Improvements)

RW 91-001
Item 13 (M)

THIS AGREEMENT, Made this 19th day of JUNE, in the year 1991, by and between JOSEPH L. SOLEY, party/parties of the first part; and BALTIMORE COUNTY, MARYLAND, a body corporate and politic, hereinafter referred to as "County", party of the second part.

WHEREAS, Baltimore County, Maryland desires to undertake sidewalk and landscape improvements, hereinafter referred to as "Streetscape Improvements" along Reisterstown Road; and

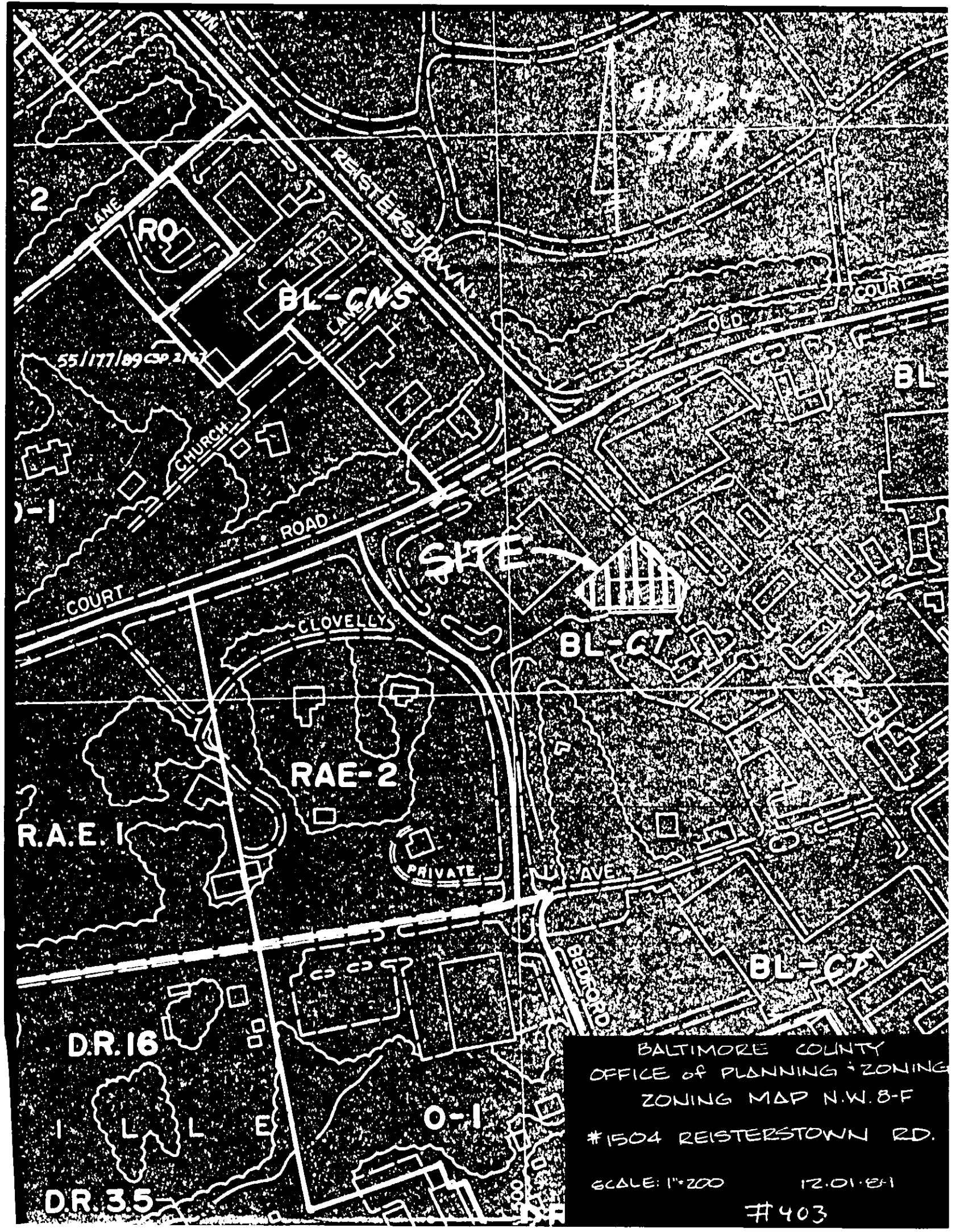
WHEREAS, the County has funds to undertake streetscape improvements on public and private property to accomplish commercial revitalization objectives; and

WHEREAS, the party/parties of the first part has been made aware of its/their option to do additional improvements to its/their private property itself/themselves and desire to exercise this option.

WHEREAS, the parties desire to establish terms and conditions relating to the completion of the private improvements by the party/parties of the first part and the improvements in the streetscape area.

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
STANLEY D. KARWAN	210 W. Penna. hwy 2104
Don Alamo	819 Red Oak Rd. 21234
Evelyn Burns (P.O.C.)	3638 Old Court Rd. 21205
Jack Kossman	1504 Reisterstown Rd.
Kelly Green	1504 Reisterstown Rd.
Joe Smith	341 N. Wilson

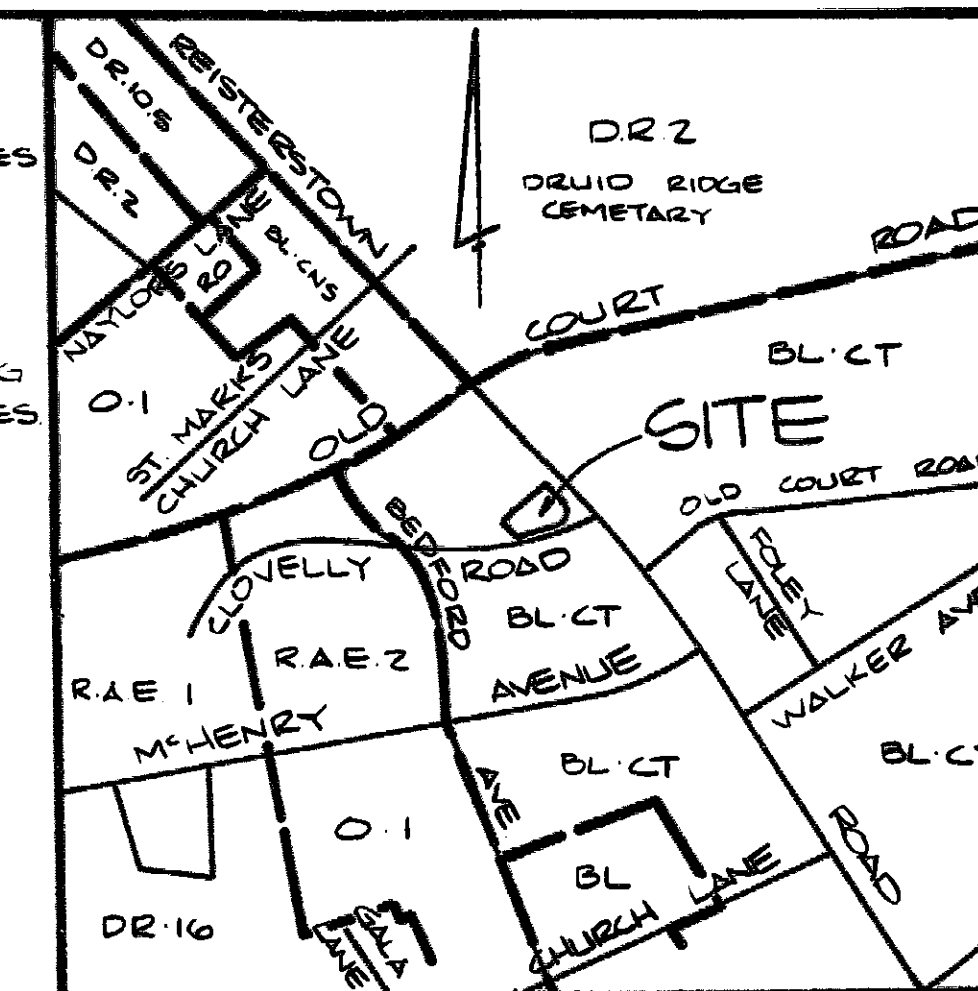


GENERAL NOTES

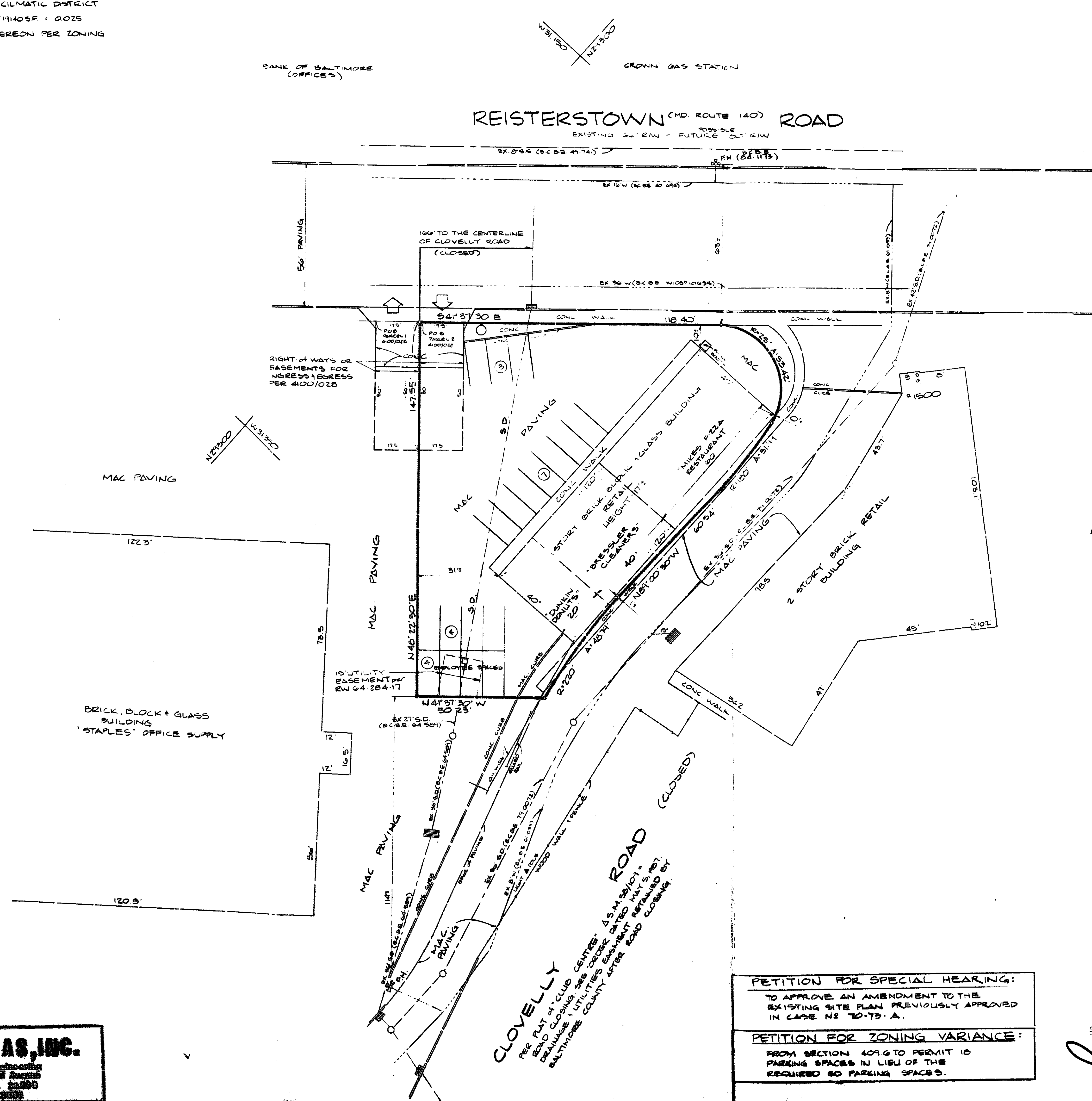
1. SITE AREA: GROSS = 0.44 AC., NET = 0.36 AC.
2. SITE + SURROUNDING AREAS ZONED BL-CT.
3. SITE LIES IN THE 2ND COUNCILMATIC DISTRICT.
4. FLOOR AREA RATIO - 400 SF / 11400 SF = 0.035
5. PARKING LAYOUT SHOWN HEREON PER ZONING CASE 70-75-A.

PRIOR ZONING CASES:

1. CASE 70-75-A - A VARIANCE TO PERMIT 10 PARKING SPACES IN LIEU OF REQUIRED 24 PARKING SPACES - 10' FRONT YARD SETBACK IN LIEU OF REQUIRED 55' AND A SIDE YARD SETBACK OF 0' IN LIEU OF REQUIRED 10'. GRANTED BY AMENDED ORDER 11-28-64.
2. CASE 71-89-A - A VARIANCE TO PERMIT 10 PARKING SPACES IN LIEU OF REQUIRED 40 PARKING SPACES. VARIANCE PETITIONED FOR DENIED ON REMAND FROM CIRCUIT COURT 2-25-61.



LOCATION MAP
SCALE: 1"=100'



PARKING CALCULATIONS

1. RETAIL (GENERAL) - 5/1000 x 2400 S.F. = 12
2. RESTAURANT (SEATING) - 20/1000 x 2400 S.F. = 48

SPACES REQUIRED - 60
SPACES PROVIDED - 18 (SEE ZONING CASE TO 75-A)

PARKING LAYOUT SHOWN HEREON PER 10 SPACE LAYOUT DATED 9-11-69 BY WILLIAM G. JURICH, JR. AND TITLED "FOR THE PURPOSES OF ZONING ONLY". ZONING CASE TO 75-A.
PROPERTY LAYOUT SHOWN HEREON PER BUILDING LOCATION PLAT DATED 6-14-70 BY WILLIAM G. JURICH, JR.

PETITIONER'S EXHIBIT 1

NOTE: PROPERTY INFORMATION AND IMPROVEMENT LOCATIONS SHOWN HEREON DEVELOPED FROM PLATS + PUBLIC ACCESS DRAWINGS + ARE NOT THE RESULT OF A BOUNDARY SURVEY. THIS PLAT IS FOR ZONING VARIANCE PURPOSES ONLY.

91-424-SPHA

403

PETITION FOR SPECIAL HEARING:
TO APPROVE AN AMENDMENT TO THE EXISTING SITE PLAN PREVIOUSLY APPROVED IN CASE N2 70-75-A.

PETITION FOR ZONING VARIANCE:
FROM SECTION 409.6 TO PERMIT 10 PARKING SPACES IN LIEU OF THE REQUIRED 60 PARKING SPACES.

PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING + ZONING VARIANCE
PROPERTY of JOSEPH L. SOLEY #

#1504 REISTERSTOWN ROAD
DEED REFERENCE: 0064/167
3RD ELECTION DISTRICT BALTIMORE COUNTY, MD
SCALE: 1"=20' DECEMBER 1, 1981
APRIL 4, 1991

J.S. DALLAS, INC.
Surveying & Engineering
4000 Reservoir Avenue
Baltimore, Md. 21286
(410) 528-2222

CLOVELLY ROAD
PER PLAT OF CLUID CENTER, 4.5 AC. 5/10/71.
ROAD CLOSING SEE CASE 70-75-A. ORDER DATED MAY 5, 1971.
SEWER + UTILITIES DEPARTMENT RETAINED BY BALTIMORE COUNTY AFTER ROAD CLOSING.