

IN RE: PETITION FOR SPECIAL HEARING  
 N/S Old North Point Road, 1st  
 SE of Willow Road  
 (3401 North Point Boulevard)  
 12th Election District  
 7th Councilmanic District  
 Miller Real Estate Company  
 Petitioner

BEFORE THE  
 DEPUTY ZONING COMMISSIONER  
 OF BALTIMORE COUNTY  
 Case No. 91-461-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6:00 AM to 4:00 PM and as an accessory use to an existing adjacent indoor retail business, and a determination as to whether the type of use that is being conducted would be permitted inside the building leased by the Petitioner, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, Miller Real Estate Company, was represented by Kenneth F. Spence, III, Esquire and Benjamin Bronstein, Esquire. Numerous individuals appeared and testified as Protestants in the matter and were represented by Edward L. Alderman, Jr., Esquire, and S. Eric DiNenna, Esquire.

At the onset of this hearing, various motions to dismiss were raised by Mr. Alderman and Mr. DiNenna. Any and all motions to dismiss raised by Mr. DiNenna and Mr. Alderman are hereby denied.

The first issue to be decided is whether or not the operation of an outdoor commercial flea market is a permitted use in a commercial (B.M.) zone.

Testimony indicated that the subject property, known as 2401 North Point Boulevard, consists of a gross area of 10,296 acres zoned

B.M. and is improved with a retail shopping center. Joseph Miller testified on behalf of the Petitioner. Mr. Miller testified that over the past 1 and 1/2 years, he has been a tenant at this particular location and leases the area of the retail shopping center shaded in blue dots on Petitioner's Exhibit 1. Mr. Miller stated that on Saturdays and Sundays, he sets up an additional 120 tables outside on the parking lot adjacent to the indoor retail space that he leases and allows outside vendors to sell their goods and wares to members of the general public. He then marked Petitioner's Exhibit 1 with red cross marks to indicate that area upon which these 120 tables are located. This area marked in red by Mr. Miller is used as what one might commonly refer to as a flea market. Testimony indicated that the Petitioner shares parking with adjacent retail establishments and the North Point Plaza Movie Theater. The parking arrangements for this shopping center are more particularly described in a Cross-Basement Parking Agreement entered into by all parties, a copy of which was accepted into evidence as Petitioner's Exhibit 2. Testimony indicated that the flea market operates from 6:00 AM to 3:00 PM on Saturdays and from 6:00 AM to 4:00 PM on Sundays. Upon receipt of a zoning violation notice, Mr. Miller filed the instant Petition for a determination as to whether or not the outdoor operation of such a commercial flea market is permitted in the B.M. zone.

Appearing and testifying in opposition to the relief requested was Martin Resnick, President of Martin's, Inc. Mr. Resnick testified that he has operated a catering facility in the subject shopping center since 1966. He testified that the busiest days for his establishment, known as Martin's North Point, are Fridays, Saturdays and Sundays and that the operation of the subject flea market has a tremendous adverse impact

on his business. Mr. Resnick testified that many of the patrons who attend functions at his facility cannot find adequate parking on the parking lot. He testified that prospective customers visit his facility on weekends to observe how his company might handle their own similar functions. He indicated that flea market operations have interfered with future business in that when people come to view a particular function, they become turned off by the overall operation of the flea market and the way it interferes with his catering facility. He stated that many of the patrons of the flea market cause their vehicles to block fire exits from his building and other buildings in the shopping center. He further stated that he had to hire his own security people to rope off parking for his customers thereby incurring additional expenses as a result of the operation of the flea market.

Michael Rogers, manager of the shopping center, was called to testify by Mr. DiNenna. Mr. Rogers testified that he visits the subject shopping center every two weeks and has observed the flea market in operation. He testified that the flea market has had a tremendous impact on parking and has caused increased vandalism to the shopping center and caused additional cleaning costs. Mr. Rogers testified that the flea market sets up and operates from an area that is designated for parking thereby causing parking problems elsewhere on the shopping center lot. He further testified that he has received many complaints from the Fire Department and from neighbors in the surrounding community.

The last witness to appear in opposition to the relief requested was Sue Potyraj, a resident of the adjoining community. Ms. Potyraj testified as to the adverse effects the subject flea market is having on the surrounding community. She testified that since 1990, the flea market has

really grown and that trash and traffic problems have increased tremendously. Ms. Potyraj introduced four photographs, marked Protestant's Exhibits 2A through 2D, depicting the trash scattered about the adjacent community which she testified is a result of the operation of the subject flea market. She further testified that the patrons of the flea market, not being able to find suitable parking on the parking lot which is full, then park on adjoining Old North Point Road and other residential streets in the immediate vicinity. She testified that patrons often block her driveway thus preventing her access to her own property and that there have been numerous accidents due to traffic congestion caused by the flea market.

The Baltimore County Zoning Regulations (B.C.Z.R.) do not provide a definition of "flea market". However, the regulations do state that "any word or term not defined in this section shall have the ordinary accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged." The definition of a flea market as it is contained in the Webster's Dictionary previously referred to is as follows:

"An outdoor market at which antiques and second-hand articles (as furniture, pottery or jewelry) are sold especially from parked vehicles."

Based upon the testimony and evidence presented by Mr. Miller, I find as a fact that the operation taking place outside his store on the parking lot in the area of the site plan marked with red cross marks on Petitioner's Exhibit 1, is that of a flea market as that term is defined in Webster's Dictionary.

The B.C.Z.R. do not provide for the use of a flea market in any zone and simply do not address this particular type of use. While the B.C.Z.R. do not address flea markets, the Zoning Commissioner's Policy

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

Manual does. On Page 4-1.3 of the Zoning Commissioner's Policy Manual, the following definition is provided under "Flea Markets & Sidewalk Sales":

"Flea Markets & Sidewalk Sales:

- (1) Sales by homeowners/residents on private property (see garage and yard sales).
- (2) Flea markets, craft, artist or baked goods sales as part of a temporary carnival or fair, or as a separate function, may be permitted (see Carnivals aforementioned) provided that it is a charitable function and that there are no fees being charged for the exhibition of merchandise.
- (3) Commercial flea markets in residential zones including sales for non-charitable purposes, sales where there is a fee charged to exhibit, and sales at locations other than those listed (see Carnivals aforementioned) are not permitted, unless:
  - a) in the judgement of the Zoning Commissioner, the use could be permitted as an adjunct to a principal use permitted by right or by special exception,
  - b) and that in either case, that a special hearing or special exception be petitioned for and successfully obtained prior to any zoning approvals. (see the following case: 74-36-X)
- (4) Charitable flea markets, with no exhibition fee, at locations not listed (see Carnivals aforementioned) may be approved with restrictions as part of a notated letter of intent or a special hearing before the Zoning Commissioner."

The only section of the policy manual that deals with a commercial flea market, which is the type of operation the Petitioner has, is subparagraph 3 set forth above. However, this section deals with commercial flea markets in residential zones, whereas, the Petitioner's property is zoned B.M. Therefore, this section of the policy manual is not applicable to flea markets in commercial zones.

It is clear that the B.C.Z.R. and Zoning Commissioner's Policy Manual do not permit a flea market in a B.M. zone in that a flea market is not specifically listed or in any way associated with a B.M. zone. The

Baltimore County Zoning Regulations (B.C.Z.R.) are written in the affirmative. A use that is not explicitly stated or listed as permitted by special exception, or as a matter of right, is prohibited. Kowalski v. Lamar, 25 Md. App. 491, 498 (1975) (ruling that "[a]ny use other than those permitted and being carried on as a matter of right or by special exception is prohibited"); see also Town of Harvard v. Maxon, 275 N.E. 2d 347, 349-50 (Mass. 1971); Williams v. City of Bloomington, McLean County, 247 N.E. 2d 446, 449-50 (Ill. App. 1969); Sanna v. Heck, 234 N.E. 2d 312, 315-16 (Ohio App. 1967); Gada v. Zoning Board of Appeals of the Town of East Lyme, 193 A.2d 502, 503 (Conn. 1963); Gordon v. Zoning Board of the City of Stamford, 145 A.2d 746, 750 (Conn. 1958); Silver v. Zoning Board of Adjustment, 112 A.2d 84, 86-87 (Penn. 1955).

For the foregoing reasons, I find that the operation of this particular outdoor commercial flea market in a B.M. zone is not a permitted use pursuant to the B.C.Z.R. and the Zoning Commissioner's Policy Manual.

The Petitioner also requested that a ruling be made as to whether this type of sales operation would be permitted to take place indoors in the space currently leased at the shopping center.

In accordance with the definition previously stated, a flea market must take place outdoors. Moving the sales tables completely indoors in the space leased by Petitioner will change that use from a flea market to a multiplicity of retail uses. It is the Deputy Zoning Commissioner's opinion that once the sales uses are moved entirely within an enclosed building, they will then become nothing more than a simple retail use which is permitted in the B.M. zone.

The attorneys for the Protestants, Mr. Alderman, and Mr. DiNenna, requested that I order the Petitioner to cease the operation of the outdoor

flea market immediately. While I find as a fact that the Petitioner's current operation of an outdoor flea market on the parking lot is not a permitted use in the B.M. zone, I cannot find any authority in the B.C.Z.R. which would permit me to order the immediate cessation of said outdoor flea market operation. The Petitioner merely petitioned for a Special Hearing to determine whether or not the Deputy Zoning Commissioner should approve the operation of an outdoor commercial flea market in a commercial zone and amended that request for a determination as to whether the use would be permitted indoors. I can find no authority that would allow me to exceed that which was specifically requested in the Petition.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 29<sup>th</sup> day of August, 1991 that the Petition for Special Hearing to approve the operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6:00 AM to 4:00 PM and as an accessory use to an existing adjacent indoor retail business, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petitioner's operation of an outdoor commercial flea market is not a permitted use in a B.M. zone, so long as that use is conducted outside and not within a fully enclosed building. The Petitioner is permitted to allow these retail sales within its leased building, but there shall be no outside sales taking place whatsoever, not even as an accessory or incidental use to the indoor sales.

TIMOTHY M. RUTKOW  
 Deputy Zoning Commissioner  
 BALTIMORE COUNTY

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

PETITION FOR SPECIAL HEARING  
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY 91-461-SPH

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

SEE CONTINUATION SHEET

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

Contract Purchaser: (Type or Print Name)	Miller Real Estate Company (Type or Print Name)
Signature	[Signature]
Address	Alvin Miller, President (Type or Print Name)
City and State	Signature
Atorney for Petitioner: Kenneth F. Spence, III and Gary C. Duvall (Type or Print Name)	P. O. Box 21545 Baltimore, MD 21208 City and State
Signature	[Signature]
600 Washington Avenue Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Towson, MD 21204 City and State	Alvin Miller Name P. O. Box 21545
Atorney's Telephone No.: 823-8250	Baltimore, MD 21208 611-8097 Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County this 29<sup>th</sup> day of August, 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 7<sup>th</sup> day of August, 1991, at 9 o'clock A.M.

J. Robert Harrison  
 Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING (over)  
 Date 8/29/91  
 By [Signature]

ORDER RECEIVED FOR FILING  
 Date 8/29/91  
 By [Signature]

8 440

CONTINUATION SHEET

440

The operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6 o'clock a.m. to 4 o'clock p.m., which is an accessory use to an existing adjacent indoor retail business.

91-461-SPH

440



91-461-SPH

ZONING DESCRIPTION

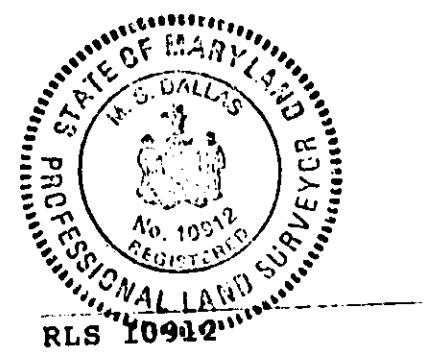
Beginning at a point on the North side of OLD NORTH POINT BOULEVARD, which is 50 feet wide at a distance of 38 feet southeast of the centerline of WILLOW ROAD which is 50 feet wide. Thence the following courses and distances:

N. 31 35' E. leaving the said Old North Point Boulevard north line and proceeding a distance of 794.96 feet to a point on line and proceeding a distance of 150' Right-Of-the-way; S. 58 05' E., along the said North Point Boulevard south line a distance of 550.00 feet; S. 31 35' W., leaving the said North Point Boulevard south line and proceeding a distance of 674.46 feet to a point on the said OLD NORTH POINT BOULEVARD north line;

Along the said OLD NORTH POINT BOULEVARD north line the following:

Along a curve to the left having a radius of 539.00 feet and a central angle of 0 52' 52", an arc length of 8.29 feet to the end of said curve; N. 80 26' W., 90.00 feet to the beginning of a curve to the right having a radius of 961.00 feet, a central angle of 17 38' 00" and an arc length of 295.75 feet to the end of said curve; N. 62 48' W., 173.24 feet to the place of beginning as recorded in Liber 8101 at Folio 712 of the deed records of Baltimore County. Containing 415,012 square feet or 9.5274 acres of land. Also known as 2401 North Point Boulevard and located in the 15th Election District.

M.S. Dallas



Civil Engineers / Land Planners / Surveyors - 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336



ZONING DESCRIPTION 91-461-SPH

Being three tracts of land for zoning use and being more particularly described as follows:

Sales Area No. 1

Being at a point S. 62 48'E, 220 feet and N. 27 12'E, 100 feet from the centerline intersection of NORTH POINT BOULEVARD, which is 50 feet wide, with WILLOW ROAD, which is 50 feet wide. Thence the following courses and distances:

N. 26 29' 36"W, 37.93 feet; N. 20 30' 00"E, 29.00 feet; N. 34 20' 00"E, 142.50 feet; S. 55 40' 00"E, 42.00 feet; S. 34 20' 00"W, 25.00 feet; S. 55 40' 00"E, 38.00 feet; N. 34 20' 00"E, 25.00 feet; S. 55 40' 00"E, 187.00 feet; S. 34 56' 04"W, 141.21 feet; N. 76 00' 00"W, 75.00 feet; N. 72 35' 00"W, 65.00 feet; N. 57 30' 00"W, 93.00 feet to the Place of Beginning and containing 45,478 square feet.

Sales Area No. 2

Beginning at a point S. 62 48'E, 220 feet and N. 27 12'E, 43 feet from the centerline intersection of NORTH POINT BOULEVARD, which is 50 feet wide, with WILLOW ROAD, which is 50 feet wide. Thence the following courses and distances:

N. 30 35' 00" E, 20.00 feet; S. 59 25' 00" E, 44.70 feet; S. 66 50' 00" E, 45.71 feet; S. 72 30' 00" E, 156.01 feet; S. 17 30' 00" W, 20.00 feet; N. 72 30' 00" W, 157.00 feet; N. 66 50' 00" W, 48.00 feet; N. 59 25' 00" W, 46.00 feet to the Place of Beginning and containing 4974 square feet.

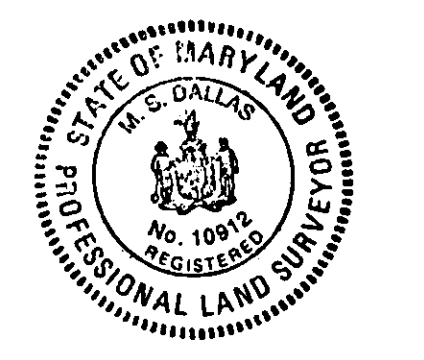
Sales Area No. 3

Beginning at a point S. 62 48'E, 462 feet and N. 27 12'E 98 feet from the centerline intersection of NORTH POINT BOULEVARD, which is 50 feet wide, with WILLOW ROAD, which is 50 feet wide. Thence the following courses and distances:

N. 38 35' 00"E, 109.00 feet; S. 51 25' 00"E, 14.00 feet; S. 38 35' 00" W, 109.00 feet, N. 51 25' 00" W 14.00 feet to the Place of Beginning and containing 1526 square feet.

Civil Engineers / Land Planners / Surveyors - 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336

In all containing 51,978 square feet and being a part of Parcel 115 as recorded in Liber 8101 at Folio 712 of the deed records of Baltimore County. Also known as 2401 North Point Boulevard and located in the 15th Election District.



M.S. Dallas

RLS 10912

91-461-SPH



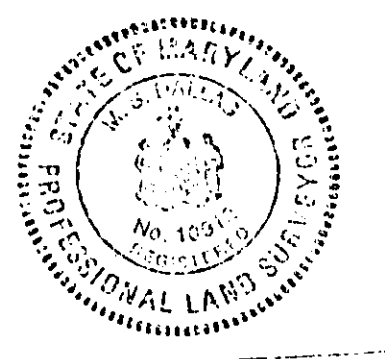
ZONING DESCRIPTION TO ACCOMPANY SPECIAL HEARING FOR PETITION 2401 NORTH POINT BOULEVARD

Beginning at a point S. 58 25'E., 176.00 feet and N. 31 35'E., 305.00 feet from the centerline intersection of Old North point Boulevard, which is 50 feet wide, with Willow Road, which is 50 feet wide. Thence the following courses and distances:

N. 34 20' 00"E, along the existing exterior wall, 170.50 feet; S. 55 40' 00"E., along an existing interior partition 136.25 feet; N. 34 20' 00"E., along an existing interior partition 75.50 feet; S. 55 40' 00"E., along an existing interior partition, 130.00 feet; S. 34 20' 00"W., along an existing interior partition, 19.75 feet; along the existing exterior walls the following courses and distances, viz: S. 34 20' 00"W., 73.50 feet; S. 27 03' 22"E., 25.06 feet; S. 34 20' 00"W., 15.00 feet; N. 55 40' 00"W., 226.00 feet to the PLACE OF BEGINNING and containing 60,018 square feet.

And being a part of Parcel 115 as recorded in Liber 8101 at Folio 712 of the deed records of Baltimore County. Also known as 2401 North Point Boulevard and located in the 15th Election District.

M.S. Dallas



RLS 10912

Civil Engineers / Land Planners / Surveyors - 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336



ZONING DESCRIPTION 2401 NORTH POINT BOULEVARD

Beginning at a point on the North side of OLD NORTH POINT BOULEVARD, which is 50 feet wide at a distance of 38 feet southeast of the centerline of WILLOW ROAD which is 50 feet wide. Thence the following courses and distances:

N. 31 35' E. leaving the said Old North Point Boulevard north line and proceeding a distance of 794.96 feet to a point on line and proceeding a distance of 150' Right-Of-the-way; S. 58 05' E., along the said North Point Boulevard south line a distance of 550.00 feet; S. 31 35' W., leaving the said North Point Boulevard south line and proceeding a distance of 674.46 feet to a point on the said OLD NORTH POINT BOULEVARD north line;

Along the said OLD NORTH POINT BOULEVARD north line the following:

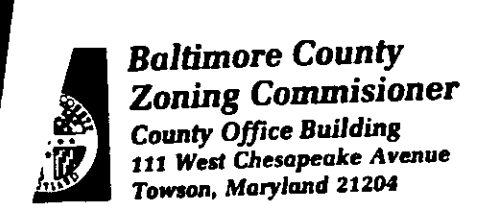
Along a curve to the left having a radius of 539.00 feet and a central angle of 0 52' 52", an arc length of 8.29 feet to the end of said curve; N. 80 26' W., 90.00 feet to the beginning of a curve to the right having a radius of 961.00 feet, a central angle of 17 38' 00" and an arc length of 295.75 feet to the end of said curve; N. 62 48' W., 173.24 feet to the place of beginning as recorded in Liber 8101 at Folio 712 of the deed records of Baltimore County. Containing 415,012 square feet or 9.5274 acres of land. Also known as 2401 North Point Boulevard and located in the 15th Election District.

M.S. Dallas



RLS 10912

Civil Engineers / Land Planners / Surveyors - 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336



receipt

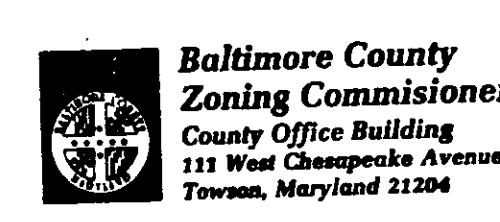
Table with columns: PUBLIC HEARING FEES, QTY, PRICE. Row 1: 040 -SPECIAL HEARING (OTHER), 1 X, \$175.00. Total: \$175.00.

LAST NAME OF OWNER: MILLER REAL

Paid per receipt hand-written on 5/17/91

Please Make Checks Payable To: Baltimore County

Cashier Validation



receipt

COMMERCIAL SPECIAL HEARING FEE, 2401 N. PT. BLVD (NORTH POINT BOULEVARD), N.S. OLD N. PT. RD., 38' SE OF WILLOW RD. 12" E.D. TOWN COUNCIL DIST. OWNER MILLER REAL ESTATE CO. J.P.P.

\$175.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

EVANS, GEORGE AND BRONSTEIN

August 1, 1991

Arnold Jablon, Esquire County Attorney Law Office Courthouse 400 Washington Avenue Towson, Maryland 21204

Re: 2401 North Point Boulevard

Dear Mr. Jablon:

As you know, a special hearing has been scheduled in Case No.: 91-461SPH on Wednesday, August 7, 1991 at 9:00 a.m. relating to the operation of a commercial flea market at 2401 Old North Point Boulevard. My client intends to cease the exterior operation no later than October 30, 1991. My client would like to process an interior alteration permit pending the final order of the Zoning Commissioner in order to complete its improvements to the interior in a timely and expeditious fashion. Please confirm that Baltimore County will permit the processing of an interior alteration permit subject to the final order of the Zoning Commissioner.

Very truly yours, EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh August 1, 1991

On behalf of Baltimore County, I hereby confirm that you are authorized to process an interior alteration permit for the property known as 2401 North Point Boulevard. However, such permit shall not be issued until the approval of an order of the Zoning Commissioner for Baltimore County in Case No.: 91-461SPH.

Arnold Jablon Baltimore County Zoning & Development

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21286

887-3554

DATE: 7-28-91

**COPY**

Miller Real Estate Company  
P.O. Box 2145  
Towson, Maryland 21286

RE: Case Number: 91-461-SPH  
8/5 Old North Point Road, 30' SE of Willow Road  
2401 Old North Point Boulevard  
12th Election District - 7th Councilmanic  
District  
Petitioner(s): Miller Real Estate Company  
HEARING: WEDNESDAY, AUGUST 7, 1991

Dear Petitioner(s):

Please be advised that \$ 25.00 is for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

*J. Robert Hines*  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: Spence and Dowell

LAW OFFICES  
**PRELLER AND PRELLER**  
SUITE 302  
102 W PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21284 4709

AREA CODE 301  
PHONE 484-4844  
FAX NO 484-1987

DAVID J. PRELLER JR.  
DAVID J. PRELLER JR.  
JANE JENSEN GERBES  
JAMES R. LUPINEA  
JANET D. C. AND NO

June 28, 1991

Mr. John D. Lewis  
Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning  
111 W. Chesapeake Avenue  
Towson, Maryland 21284

Reference: North Point Plaza Shopping Center  
2317 North Point Boulevard  
15th Election District

Dear Mr. Lewis:

As you are aware, I represent Mr. Seigel and Mr. Bond, the owners of the property adjacent to the property of Mr. Miller.

It is my understanding that Miller Real Estate Co. has petitioned this County to allow the operation of a flea market on its property for Saturdays and Sundays. (Attached is a copy of the Petition that was forwarded to me)

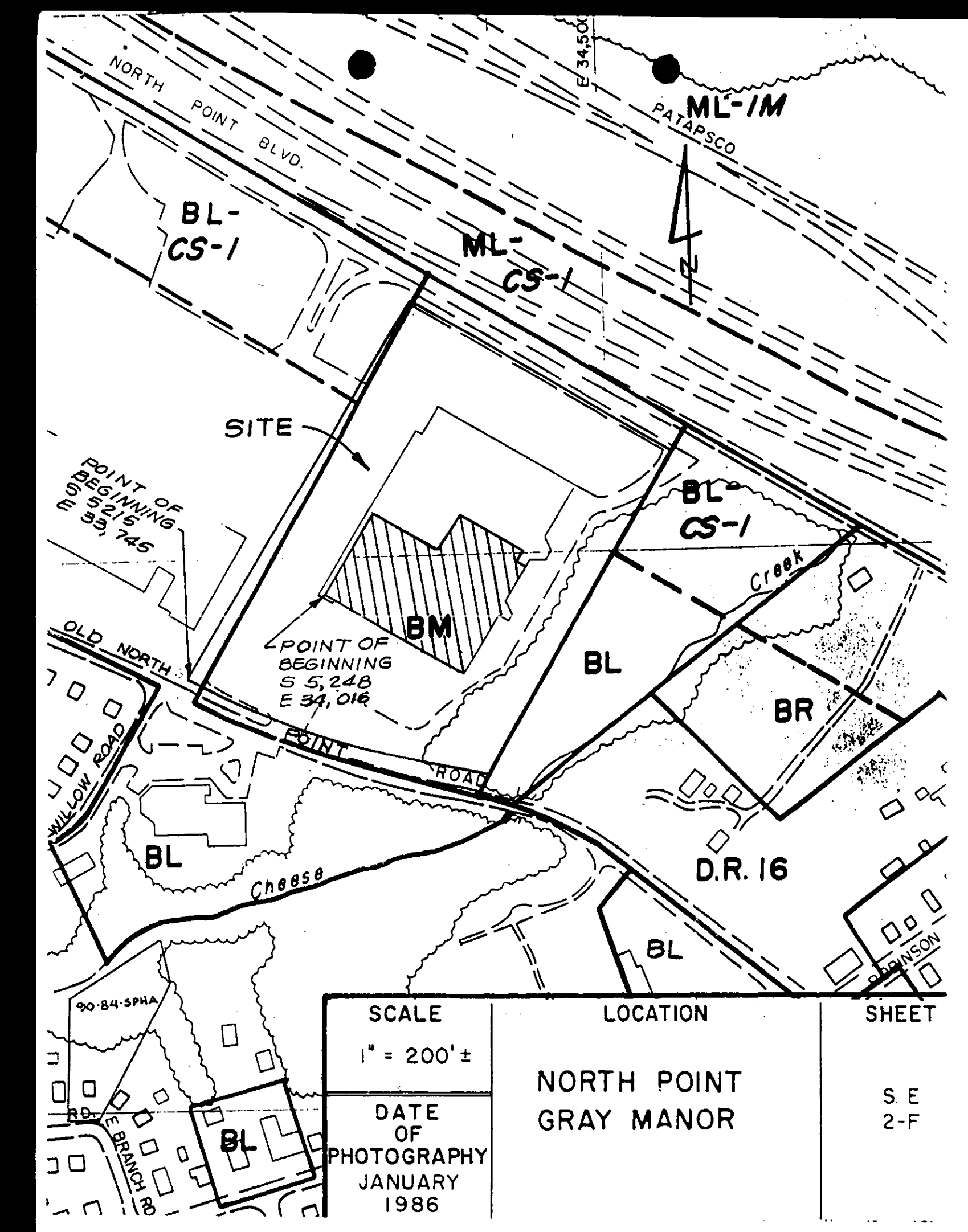
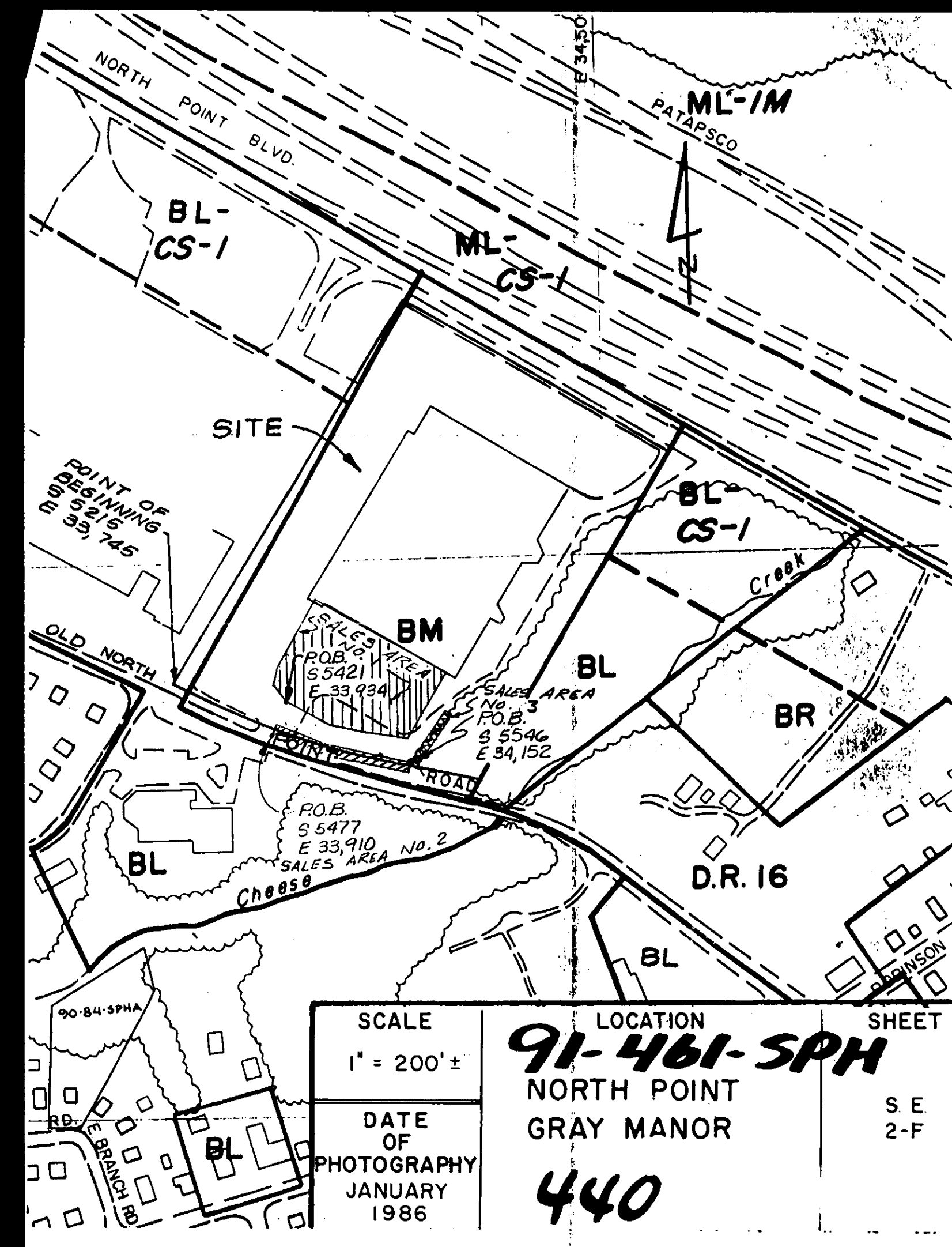
This letter is to put you on Notice that my clients oppose the operation of the flea market, and would request that this Petition be dismissed. Further, if there is any cooperation that you need from my clients regarding the termination of this flea market, please notify me immediately.

I note that in the past, Notices or letters to my clients have been sent to 300 East Joppa Road, Towson, Maryland. My clients has moved from that location, and I would ask that all further correspondence to my clients be directed through this office.

Your assistance in this matter is greatly appreciated, and I look forward to hearing from you regarding the County's position.

Very truly yours,  
*David J. Preller Jr.*  
David J. Preller Jr.

DJP, JR:bae  
Enclosure(s)



receipt

ACCOUNT NUMBER  
Number

CARRIER VALIDATION

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21286

887-3554

DATE: 7-19-91

**COPY**

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 identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21284 as follows:

Case Number: 91-461-SPH  
8/5 Old North Point Road, 30' SE of Willow Road  
2401 Old North Point Boulevard  
12th Election District - 7th Councilmanic  
District  
Petitioner(s): Miller Real Estate Company  
HEARING: WEDNESDAY, AUGUST 7, 1991

Special Hearing to approve the operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6 o'clock a.m. to 6 o'clock p.m., which is an accessory use to an existing adjacent indoor retail business.

*J. Robert Hines*  
Zoning Commissioner of  
Baltimore County

cc: Miller Real Estate Company  
Kenneth F. Spence, III, Esq.  
Gary C. Dowell, Esq.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning  
111 W. Chesapeake Avenue  
Towson, MD 21284

887-3554

NOTICE OF HEARING

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8/5 Old North Point Road, 30' SE of Willow Road  
2401 Old North Point Boulevard  
12th Election District - 7th Councilmanic  
District  
Petitioner(s): Miller Real Estate Company  
HEARING: WEDNESDAY, AUGUST 7, 1991 at 9:00 a.m.  
Special Hearing to approve the operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6 o'clock a.m. to 6 o'clock p.m., which is an accessory use to an existing adjacent indoor retail business.

**CERTIFICATE OF PUBLICATION**

OFFICE OF  
**Dundalk Eagle**

4 N. Center Place  
P.O. Box 8936  
Dundalk, Md. 21222

July 4, 19 91

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Case #91-461-SPH - Public Hearing - P.O. #0113070 - Req. #MS2890 - 66 Lines @ \$33.00 was inserted in **The Dundalk Eagle** a weekly newspaper published in Baltimore County, Maryland, once a week for One successive weeks before the 5th day of July 19 91; that is to say, the same was inserted in the issues of July 4, 1991.

**Kimbel Publication, Inc.**  
per Publisher.  
By *Kimbel Deike*

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21286

887-3554

July 31, 1991

Kenneth F. Spence, Esquire  
600 Washington Avenue  
Towson, MD 21284

RE: Item No. 440, Case No. 91-461-SPH  
Petitioner: Miller Real Estate, et al  
Petition for Special Hearing

Dear Mr. Spence:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,  
*James E. Dyer*  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw  
Enclosures

cc: Mr. Alvin Miller  
Miller Real Estate Company  
P.O. Box 21545  
Baltimore, MD 21208

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., \_\_\_\_\_, 19\_\_\_\_

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 \_\_\_\_\_, 19\_\_\_\_.

**THE JEFFERSONIAN,**  
*S. Zake Orlan*  
Publisher

\$ 37.52

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 identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21284 as follows:

Case Number: 91-461-SPH  
8/5 Old North Point Road, 30' SE of Willow Road  
2401 Old North Point Boulevard  
12th Election District - 7th Councilmanic  
District  
Petitioner(s): Miller Real Estate Company  
HEARING: WEDNESDAY, AUGUST 7, 1991 at 9:00 a.m.  
Special Hearing to approve the operation of an outdoor commercial flea market in a commercial zone on Saturdays and Sundays from 6 o'clock a.m. to 6 o'clock p.m., which is an accessory use to an existing adjacent indoor retail business.

Your petition has been received and accepted for filing this  
17th day of June, 1991.

*[Signature]*  
ARNOLD JABLON  
DIRECTOR

Received By:

*[Signature]*  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Miller Real Estate Company  
Petitioner's Attorney: Kenneth F. Spence

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management  
DATE: July 31, 1991

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

SUBJECT: Miller Real Estate Company, Item No. 440

In reference to the petitioner's request, staff offers the  
following comments:

Due to the proximity in an existing residential neighborhood,  
this office recommends the following conditions be attached should  
the applicant's request be granted.

- The hours of operation should be limited to between 8:00 A.M.  
and 6:00 P.M.
- Prior to final approval the applicant shall file a landscape  
plan with the deputy director of the Office of Planning and  
Zoning. Said plan shall include the provision of street  
trees along Old North Point Boulevard.

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  
ITEM440/2AC1

*Rec'd  
7/31/91  
jmm*

BUREAU OF TRAFFIC ENGINEERING  
DEPARTMENT OF PUBLIC WORKS  
BALTIMORE COUNTY, MARYLAND

DATE: May 30, 1991

TO: Mr. J. Robert Haines  
Zoning Commissioner

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: May 28, 1991

This office has no comments for items number 427, 433, 434, 435, 436,  
437, 438 and 440.

*[Signature]*  
Rahee J. Famili  
Traffic Engineer II

RJF/lvd

JUNE 4, 1991

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21284

RE: Property Owner: MILLER REAL ESTATE COMPANY  
Location: #2401 NORTH POINT BOULEVARD  
Item No.: 440 Zoning Agenda: MAY 28, 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: June 3, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for May 28, 1991

The Developers Engineering Division has reviewed  
the subject zoning items and we have no comments for  
Items 427, 433, 434, 435, 436, 437 and 440.

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

For Case #R-91-113, a County Review Group Meeting is  
required prior to development of this site.

For Item 438, a County Review Group Meeting is  
required.

*[Signature]*  
Robert W. Bowling, P.E., Chief,  
Developers Engineering Division

RWB:s

received  
6/14/91

LAW OFFICES  
EVANS, GEORGE AND BRONSTEIN  
SUSQUEHANNA BUILDING, SUITE 205  
28 WEST SUSQUEHANNA AVENUE  
TOWSON, MARYLAND 21284  
(301) 296-0200  
FAX (301) 296-3718

August 1, 1991

L. ROBERT EVANS  
HARRIS JAMES GEORGE  
BENJAMIN BRONSTEIN  
MICHAEL J. CHOMEL  
DOUGLAS A. STUBBS

Arnold Jablon, Esquire  
County Attorney  
Law Office  
Courthouse  
400 Washington Avenue  
Towson, Maryland 21204

Re: 2401 North Point Boulevard

Dear Mr. Jablon:

As you know, a special hearing has been scheduled in Case No.:  
91-461SPH on Wednesday, August 7, 1991 at 9:00 a.m. relating to the  
operation of a commercial flea market at 2401 Old North Point  
Boulevard. My client intends to cease the exterior operation no  
later than October 30, 1991. My client would like to process an  
interior alteration permit pending the final order of the Zoning  
Commissioner in order to complete its improvements to the interior  
in a timely and expeditious fashion. Please confirm that Baltimore  
County will permit the processing of an interior alteration permit  
subject to the final order of the Zoning Commissioner.

Very truly yours,  
EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh  
August 1, 1991

On behalf of Baltimore County, I hereby confirm that you are  
authorized to process an interior alteration permit for the  
property known as 2401 North Point Boulevard. However, such permit  
shall not be issued until the approval of an order of the Zoning  
Commissioner for Baltimore County in Case No.: 91-461SPH.

*[Signature]*  
Arnold Jablon  
Baltimore County Zoning & Development

UNDER 3001 PAGE 200

11391V

THIS INSTRUMENT made this 9th day of April, 1962 by and  
between AZTEC TRADING CORPORATION, a New York corporation  
having its principal office at 30 East 42nd Street, New York,  
N. Y., (hereinafter referred to as "Aztec"), BARCH ASSOCIATES,  
INC., a New York corporation having its principal office at  
30 East 42nd Street, New York, N. Y., (hereinafter referred  
to as "Barch") and CONDOR SHIPPING CO., INC., a New Jersey  
corporation having its principal office at 30 East 42nd Street,  
New York, N. Y., (hereinafter referred to as "Condor"),

WITNESSETH:

WHEREAS, Aztec is the owner of certain real property  
situate, lying and being in the Fifteenth Election District  
of Baltimore County, State of Maryland, hereinafter referred  
to as "Parcel A" and more fully described as follows:

BEGINNING for the same at a point in the center  
of the Old North Point Road at a distance of 1185.57  
feet measured easterly along the center of said  
road from the beginning of a parcel of land which by  
a deed dated April 21, 1874 and recorded among the  
Land Records of Baltimore County in Liber J.B. No. 86  
folio 315 was conveyed by J. Henry Snyder et al to  
William Reinicke and running thence and binding in  
the center of the Old North Point Road, as now con-  
structed, the four following courses and distances  
constructed, the four following courses and distances  
viz: South 62 degrees 20 minutes East 148.43 feet,  
South 65 degrees 45 minutes East 139 feet, South 71  
degrees 04 minutes East 100 feet and South 75 degrees  
42 minutes East 175 feet, thence leaving said road  
55 minutes East, passing over a concrete monument  
set near the northeast side of said Old North Point  
Road, 732.06 feet to a concrete monument set on the  
southeast right of way line of the Old North Point  
Road, 150 feet wide, thence binding on said south-  
west right of way line North 58 degrees 05 minutes  
West 550 feet to a point distant South 58 degrees  
05 minutes East 1096.12 feet measured along said  
right of way line from the intersection of said  
southwest right of way line with the first line of  
the aforesaid parcel of land which was conveyed by  
Snyder to Reinicke and thence leaving said Old North  
Point Road and running for a line of division South  
31 degrees 55 minutes East 837.34 feet to the place  
of beginning.

Containing 10.09% Acres of land more or less.

PEPPER'S  
LAW FIRM

Kenneth F. Spence, III, Esquire  
Miller & Stockbridge  
600 Washington Avenue, Suite 300  
Towson, Maryland 21284

Benjamin Bronstein, Esquire  
28 West Susquehanna Avenue, Suite 205  
Towson, Maryland 21284

RE: PETITION FOR SPECIAL HEARING  
N/S Old North Point Road, 30' SE of Willow Road  
(2401 North Point Boulevard)  
12th Election District - 7th Councilmanic District  
Miller Real Estate Company - Petitioner  
Case No. 91-461-SPH

Dear Messrs. Spence and Duwall:

Enclosed please find a copy of the decision rendered in the  
above-captioned matter. The Petition for Special Hearing has been denied  
in accordance with the attached Order.

In the event any party finds the decision rendered in unfavor-  
able, any party may file an appeal to the County Board of Appeals within  
thirty (30) days of the date of this Order. For further information on  
filing an appeal, please contact Ms. Charlotte Radcliffe at 887-4391.

Very truly yours,

*[Signature]*  
TIMOTHY M. ROTROCO  
Deputy Zoning Commissioner  
for Baltimore County

Gary C. Duwall, Esquire  
600 Washington Avenue, Suite 120, Towson, Md. 21284

Howard L. Alderman, Jr., Esquire  
305 W. Chesapeake Avenue, Suite 111, Towson, Md. 21201

S. Eric DiBienna, Esquire  
100 Washington Avenue, Suite 600, Towson, Md. 21204

Pepper's Council File

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
ALVIN MILLER	1829 PERSIMMON RD 21208
Ken Speece	600 WILLOW AVE 21204
Clyde Haskin	1361 Oak Marsh Rd 21221

PLEASE PRINT CLEARLY PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
MARTIN RESNICK	1111 VERDANT ROAD
Sue Potyraj	1315 North Point Road
Annmarie Powell	1346 Willow Rd.
James White	1327 N Point Rd.
Paul Potyraj	1315 North Point Rd
Jane Dixon	2217 North Point Rd
Wynne Resnick	18 Stangerwood Rd.
PROSTON GREENE	2004 S NORHURST WAY
MICHAEL RODRIGUEZ	7 TREASURE DR
Jan George	7905 Park St #24
Sally Ann Luby	2606 SPRUCE RD.
Dorothy Eckman	1317 NORTH PT RD
Arcey Tucker	206 Franklin St
Ed Long	677 Commodore Ave
Dennis Johnson	7820 ST CHARLES LN
Marie Malinsus	1934 SHANDLER RD
Mark Hiki	3919 YARDLEY DR

PROTESTANT'S Flee Market Petition EXHIBIT 1

We, the residents of the community known as Northshire in Dundall, do hereby petition to stop the outdoor flea market held at the east end of the North Point Plaza shopping center. This flea market is the cause of much consternation to the entire community. There is an abundance of trash, traffic, parking problems and general unsightliness that is directly related to the operation of said flea market.

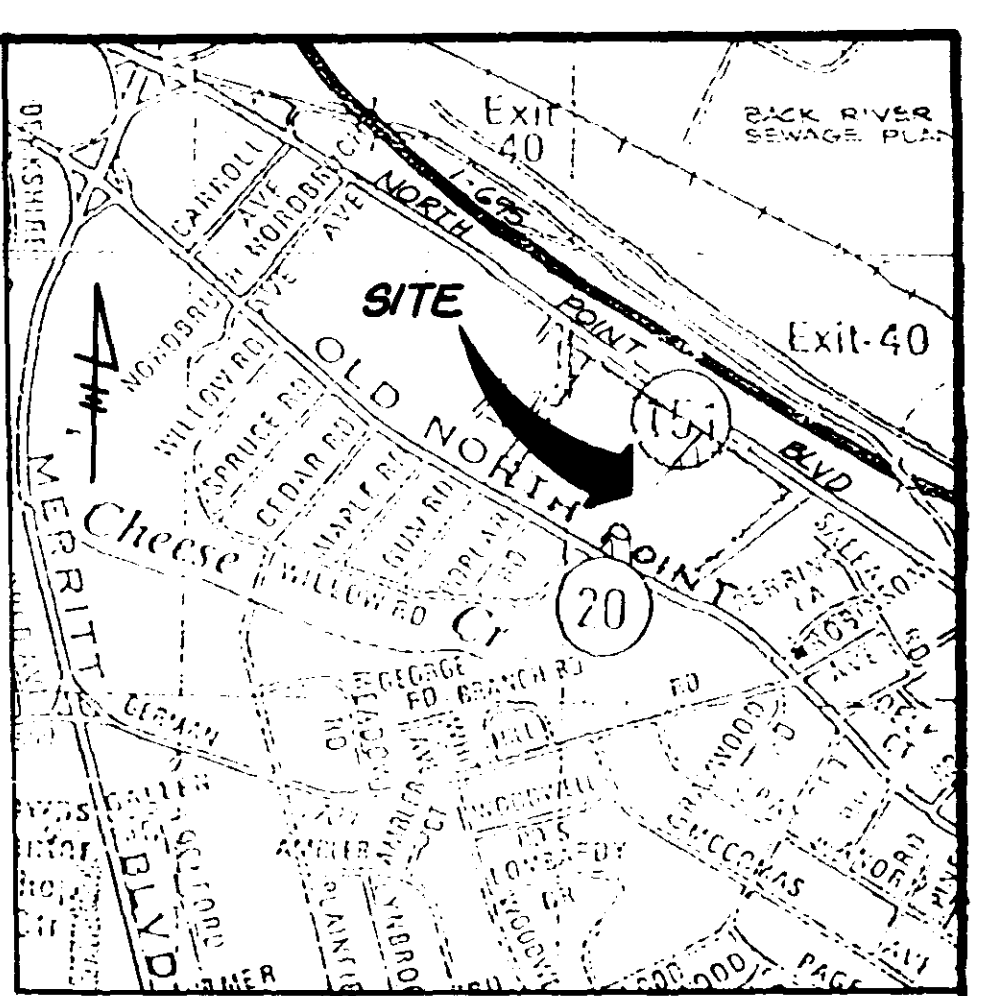
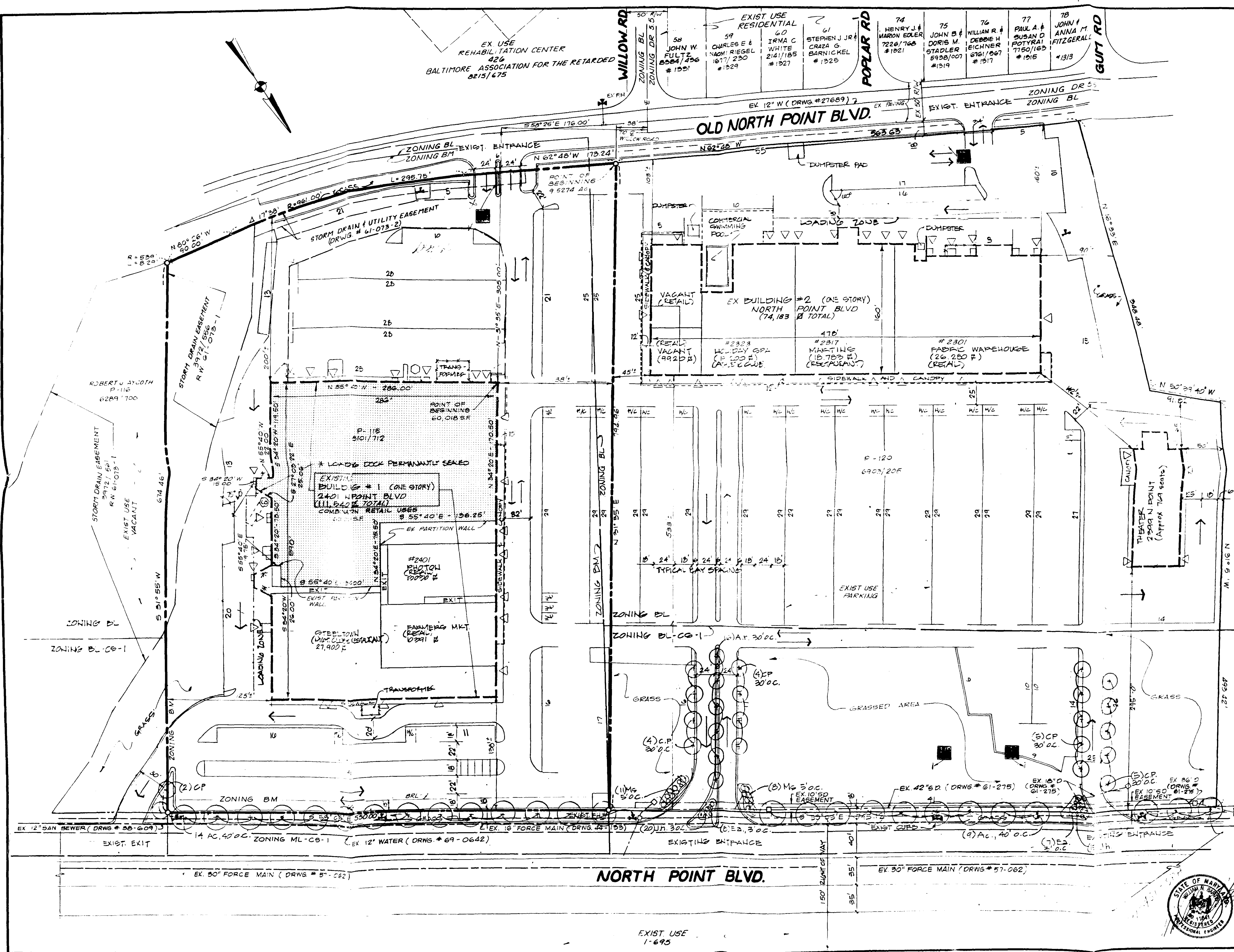
The residents of this community have dealt with these problems for years and we will not tolerate this situation any longer. We hereby petition for the outside flea market to cease immediately and indefinitely.

NAME	ADDRESS
1. Jopart B. Stadler	1319 North Point Rd 21222
2. Doris M. Stadler	1319 North Point Rd 21222
3. Doris Eckman	1317 North Point Rd 21222
4. Steve Sch.D	1325 CHESTER AVE 21221
5. William B. Eckman	1317 North Point Rd 21222
6. Charles Fenzl	1129 North Pt Rd
7. Matt	1331 North Pt Rd
8. Robert Clark	1377 Willow Rd
9. Florence Clark	1337 Willow Rd
10. Linda Gorman	1335 Willow Rd.
11. Andy Kubler	1333 Willow Rd.
12. Paul T. Hurler	1704 Oak Marsh Rd. 21221
13. Brenda J. Brester	1333 Willow Rd

Protestant's Exhibits 2A-2D Case 91-461-3PH



2A



VICINITY MAP  
 ZONING BL

F-290  
 STATE OF MARYLAND  
 3/3/82 / 193

### PETITIONER'S EXHIBIT 1

LEGEND

- LOADING DOCK (EXISTING)
- EXIST ENTRANCE OR SERVICE DOOR
- COMBINATION RETAIL USES
- PROPERTY LINE
- ZONING LINE
- FENCE (EXISTING)
- TYPICAL PARKING SPACE
- FIRE HYDRANT (EXISTING)
- NEW STRIPING
- EXISTING CURB
- FREE-STANDING SIGN & NUMBER (AS SHOWN ON SHEET 2 OF 2)

William B. Sofka, P.E.  
 Sofka & Associates, Inc.  
 Civil Engineers / Land Planners / Surveyors  
 240 Engineer Rd., Baltimore, Md. 21223

REVISED  
 PLAN TO ACCOMPANY  
 SPECIAL HEARING  
 FOR  
 PETITION  
 @  
 2401 NORTH POINT BLVD.  
 BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'  
 JOB ORDER NO.: 91014  
 DATE: JULY 19, 1991

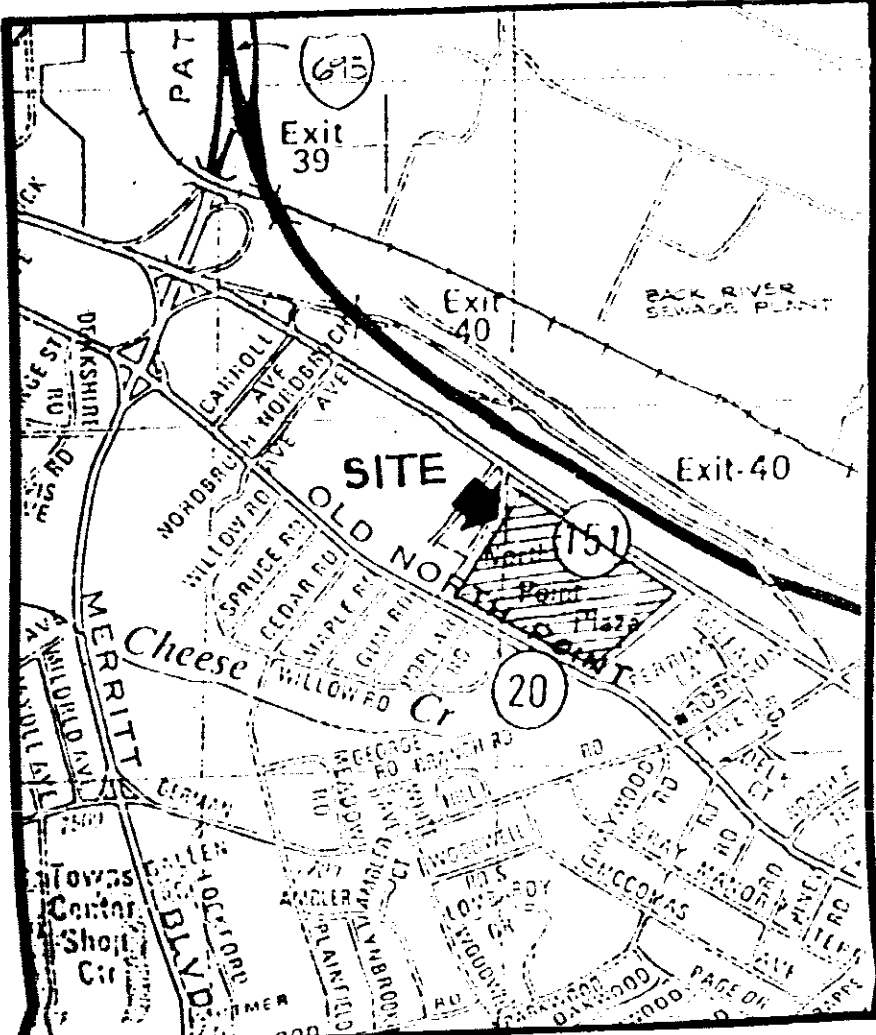
1  
 SHEET 1 OF 2

NO.	REVISIONS	DATE
		7/27/91



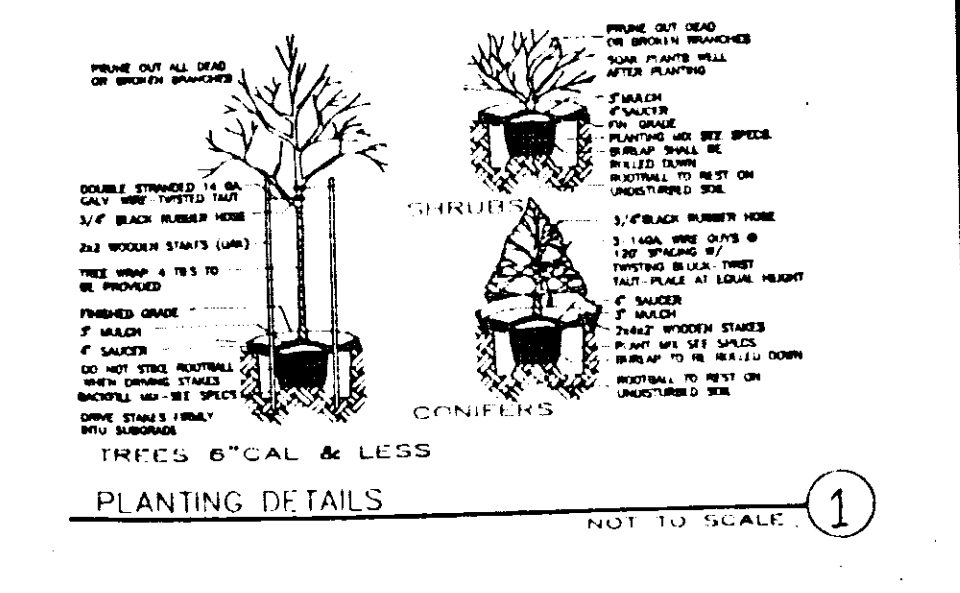
EXIST USE  
 1-695





**PLANTING NOTES**

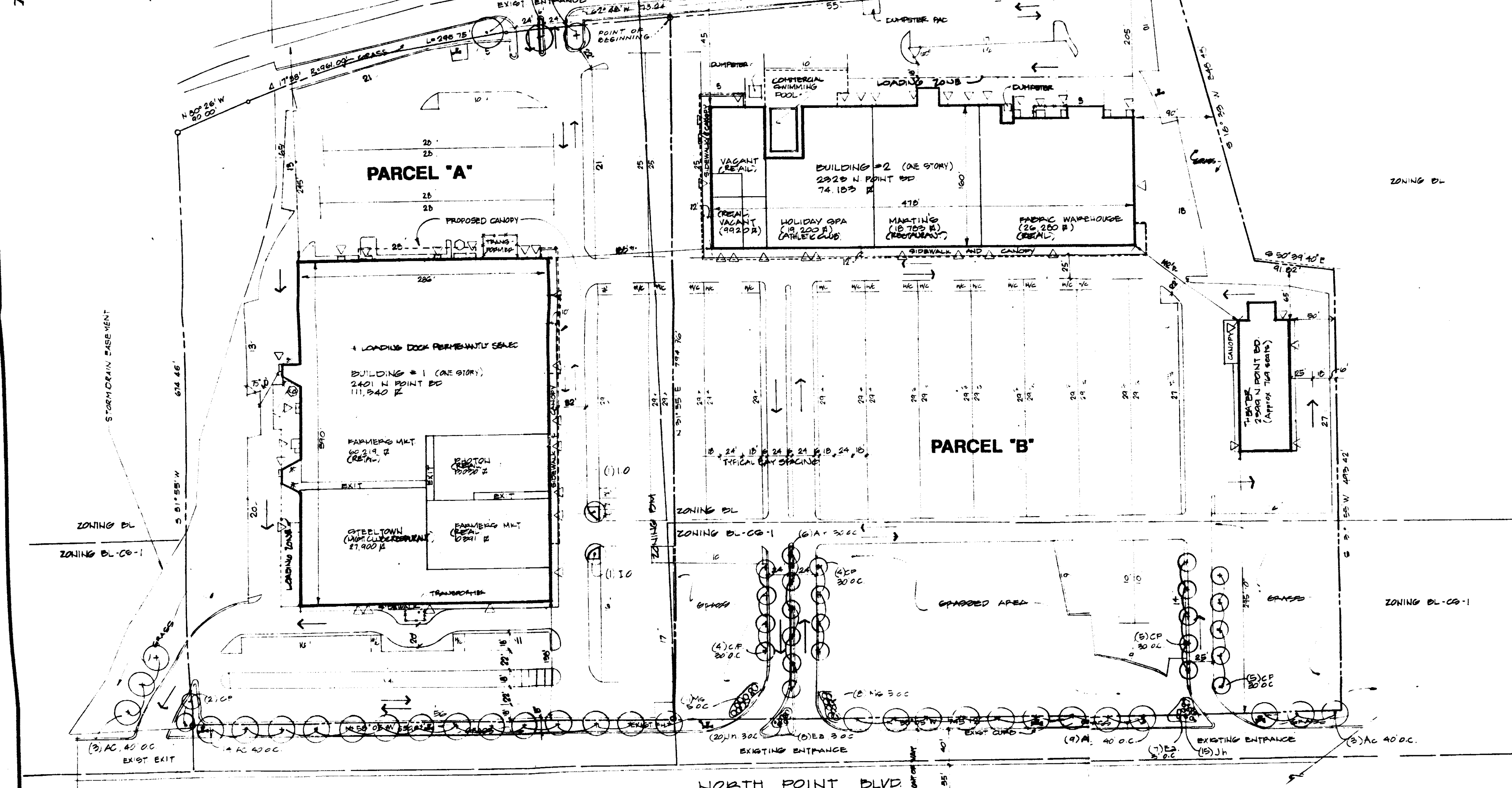
All property shall be planted to meet the minimum standards set forth in the Baltimore County Landscape Manual. The minimum standards are as follows: 1. Planting shall be done in accordance with the Baltimore County Landscape Manual. 2. Planting shall be done in accordance with the Baltimore County Landscape Manual. 3. Planting shall be done in accordance with the Baltimore County Landscape Manual.



**CUMULATIVE PLANT LIST**

KEY	BT	BUTANICAL NAME	COMMON NAME	SIZE	HEIGHT	COMMENTS
AC	24	Acer dasycarpum	Fringe Maple	10-12'	22-24'	BAR
AR	6	Aster multiflorus	Star Garden Aster	10-12'	15-20'	BAR
CP	12	Calluna vulgaris	Heather	10-12'	15-20'	BAR
EA	15	Eurythmum asperum	Winged Euonymus	10-12'	15-20'	BAR
SP	12	Sparganium angustifolium	Water Sparganium	10-12'	15-20'	BAR
MS	24	Malus baccata	Double Flowering Crabapple	10-12'	15-20'	BAR
TS	24	Taxus canadensis	Eastern White Pine	10-12'	15-20'	BAR

**VICINITY MAP**  
SCALE: 1" = 100'



LOADING CALCULATIONS	SOURCE FEET	PARKING REQUIRED	TOTAL PARKING	WEDNESDAY		WEDNESDAY	
				8 AM - 6 PM	6 PM - 10 PM	8 AM - 6 PM	6 PM - 10 PM
TRUCKS	24 STAYS	1/4 STAYS	193	78	193	155	193
HOLIDAY SPA	19,200	10/1000	192	77	192	154	192
STOCKER POOL	126	1/4 PEOPLE	32	13	32	26	32
ALL OTHER	166,523	5/1000	833	303	750	1003	750
<b>TOTAL PARKING REQUIRED</b>			<b>1100</b>	<b>468</b>	<b>1167</b>	<b>1158</b>	<b>1000</b>

1000 sq. ft. = 840 sq. ft. @ 5' deep @ 10 sq. ft./person = 84  
840 sq. ft. @ 5' deep @ 20 sq. ft./person = 42

Parking required: 1100 spaces (per Parking Calculation above)  
NC parking required: 32 spaces (per COMAN)  
Total parking required: 1130 spaces

Parking provided: 1348 spaces  
NC parking provided: 21 spaces  
Total net parking provided: 1320 spaces

Parking is calculated and designed based on Section 409 of the BCZR, Balts 26-88, 26-88, and 50-89.

Parking calculations are based on the two sites taken as a whole, in accordance with an agreement dated 9 April 1987, Liber 1981, Page 200, and in accordance with the Office of Planning and Zoning letter from Mr. Craig McVay dated June 26, 1990 and Special Exception Case #88-511-823P.

- GENERAL NOTES:**
- Election District 15
  - County Council District 7
  - Zoning: Parcel 'A' - BM  
Parcel 'B' - BL & BL-CS-1
  - Site Areas:  
Parcel 'A' = 439,695 S.F.  
Parcel 'B' = 589,890 S.F.  
Total = 1,029,585 S.F.
  - Building Areas:  
Building #1 = 111,540 S.F.  
Building #2 = 74,183 S.F.  
Theater = 9,000 S.F.  
Total = 194,723 S.F.
  - Floor Area Ratio = 194,723 / 1,029,585 = 0.189
  - General layout and landscaping is in compliance with the Office of Planning and Zoning letter from Mr. Pat Keller, Deputy Director, dated September 1990.
  - Except for paving repairs, restriping and landscaping, all information on this drawing represents existing conditions.
  - All signs comply with section 413 of the BCZR and all zoning policies.
  - All existing and new paving is either bituminous concrete or tar + chip, and is a durable surface, and is properly drained. Parking maneuvering + aisles will be paved.
  - Existing parking pre-dated setback requirements.
  - All buildings comply with height tent.
  - Property lines, building locations, zoning lines, and parking arrangements are all taken from various deeds and other sources and are not the result of a survey.
  - All parking spaces, dividers, and islands shown are or will be permanently paint-striped only, except where otherwise noted.
  - Previous commercial applications - Permit # 93212 COC 2153-86  
Permit # 99887 C2487-87  
Permit # B-037103-6  
(No COC hearings or waivers)
  - All lighting is or will be arranged to reflect lighting away from residential lots and public streets. All fixtures are protected from vehicular traffic by concrete bases.

**OWNERS' CERTIFICATION**

WE HEREBY CERTIFY THAT THE LAYOUT AND IMPROVEMENTS SHOWN ON THIS PLAN WILL BE MAINTAINED BY OURSELVES OR BY OUR RESPECTIVE SUCCESSORS AND ASSIGNS. THIS PLAN WILL ACCOMPANY ANY FUTURE BUILDING OR TENANT PERMIT APPLICATIONS. ANY MODIFICATION OF THIS PLAN REQUISITATED BY ANY CITY PERMITS MUST BE APPROVED BY THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. THIS IS AN INTEGRATED SITE WHERE PUBLIC ACCESS IS PERMITTED WITHOUT RESTRICTION AND THERE IS COMMON USAGE OF THE PARKING AREAS NOTWITHSTANDING THE SEPARATE OWNERSHIP.

OWNER PARCEL 'A' \_\_\_\_\_ DATE \_\_\_\_\_ OWNER PARCEL 'B' \_\_\_\_\_ DATE \_\_\_\_\_

1. I certify that this final plan meets all requirements shown above.

2. I certify that the information provided in this plan is true and correct to the best of my knowledge and belief.

3. I certify that the information provided in this plan is true and correct to the best of my knowledge and belief.

**SITE PLAN**  
SCALE: 1" = 60'-0"

**SYMBOL LEGEND**

⊕	LOADING DOCK (EXISTING)
⊙	EXIST. ENTRANCE OR SERVICE DOOR
⊖	OUTDOOR PEA MARKET
---	ZONING LINE
---	FENCE (EXISTING)
---	TYPICAL PARKING SPACE
---	PRE-POINT (C.S. 5-10)
---	NEW STANDING SIGNAGE CURB

**REVISIONS**

NO.	DATE	DESCRIPTION

**NORTH POINT PLAZA SHOPPING CENTER**  
2301 - 2401 North Point Blvd.  
Baltimore, Maryland 21222

**APPROVED SHOPPING CENTER PLAN**

SP-1

16 JULY 91

REVISION PER A JADSON REQUEST



CIRCUIT COURT FOR BALTIMORE COUNTY  
CIVIL CATEGORY APPEAL 92CV8596

IN RE:  
CAMERON MILL SUBDIVISION  
AT CAMERON MILL AND  
STABLER'S CHURCH AND WALKER ROADS  
3rd Councilmanic District  
CBA 91-122 - Planning Board Appeal  
CBA 91-145 - CRG Appeal  
CBA 91-462 - Variance  
Dr. Richard McQuaid,  
Mary Wallace,  
The Maryland Line Area Association, Inc.,  
et.al. Protestants/Appellants  
RUTH ANN DESOTO, PROPERTY OWNERS and  
CAMERON MILL PARTNERSHIP, A Maryland General Partnership

ATTORNEYS  
J. Carroll Holzer  
305 West Chesapeake Avenue  
Suite 105  
21204 825-6960  
  
Michael J. Moran 887-4420  
400 Washington Avenue (City for Appellee's)  
Phyllis Cole Friedman  
Peter Max Zimmerman  
Peoples Counsel Balto. Co.  
RW 47 Courthouse  
400 Washington Avenue (04)  
(410) 887-2188  
  
Lawrence A. Helfa, Esq. 401 Allegheny Ave.  
(04) 337-0900  
Newton A. Williams, sta. 700 Court Towers  
210 W. Pennsylvania Ave. (04) 823-7800

- (1) Sept. 11, 1992 - Protestants/Appellants Notice of Appeal from the Decision of the County Board of Appeals fd.  
(2) Sep 14, 1992 Certificate of notice, fd.  
(3) Oct. 5, 1992 - Appellee Peoples's Counsel Balto Co.'s Order of Appeal and Petition for Appeal with Second Certificate of Notice, fd (rec'd 9/18/92)  
(4) Oct. 5, 1992 - Appellant's Petition on Appeal with exhibits, fd (rec'd 9/18/92)  
(5) Oct. 5, 1992 - Appellants' Petition for Extension of Time to file Transcript and exhibit, fd (rec'd 9/18/92)  
(6) October 7, 1992 - App. of NEWTON A. WILLIAM AND LAWRENCE A. HELFA For the Appellees' RUTH ANN DESOTO, et al. PROPERTY OWNERS and CAMERON MILL PARTNERSHIP and same day Answer to Petition for extension of time to file transcript, fd.  
(7) October 9, 1992 - Order of Court granting the Petition for extension of time, fd. (BNH)  
(8) Oct. 16, 1992 - Appellees' Answer to Petition of Appellants, Maryland Line Association, et.al. fd.  
(9) Oct. 16, 1992 - Answer of Appelle Baltimore County, Maryland to Appellant's Peoples Counsel, Petition on Appeal fd.  
(10) Nov 17, 1992 Transcript of Record, fd. (Transcript, see 10/16/92)  
(11) Nov 17, 1992 Notice of Filing of Record, fd. Copies sent.

COSTS

- CASE NO. 92CV 8596  
(12) Nov 18, 1992 - Appellees' Answer to Petition for Extension of Time to File Transcript and Request for Dismissal with exhibits and Request for Hearing on this matter, fd (rec'd 11/12/92)  
(13) Nov 18, 1992 Appellants' Petition for Extension of Time to file transcript and Order of Court granting same, fd. (ALB, SR.)  
(14) Dec. 14, 1992 People's Counsel's Dismissal of Appeal, fd.  
(15) Dec. 14, 1992 Appellants Rule B-12 Memorandum, fd.  
PH(16) Jan 18, 1993 Appellees memorandum to Md. Rule B-12, fd.  
(17) Jan 29, 1993 - Appellee Baltimore County, Maryland's Brief Pursuant to Md Rule B12, fd (rec'd 1/25/93)  
(18) Feb. 16, 1993 The Maryland Line Area Association, Inc., Messrs. Robert Leonard, Michael Herbert, Dr. Richard McQuaid, Mary Wallace, et al.'s Reply to Cameron Mill Partnership Memorandum, fd.  
(19) Feb. 24, 1993 - Appellants' Amended Reply to Appellee's CAMERON MILL PARTNERSHIP memorandum fd.  
(20) April 5, 1993 Order of Court Affirming the County Board of Appeals in its opinion and Order of Aug. 12, 1992, fd. (CMK)  
PH(21) Apr 30, 1993 Pliffs Order for Appeal from the Court of Special Appeals of Maryland, fd (6/14/7)  
PH(22) May 27, 1993 Motion and Order from the Court of Special Appeals of Maryland setting the expedited briefing and decision schedule as specified, fd. (Judge Williams)  
JUNE 15, 1993 - ORIGINAL RECORD AND PROCEEDINGS SENT TO THE COURT OF SPECIAL APPEALS OF MARYLAND BY CERTIFIED MAIL. #43250 0002 001 71422 04:30:9.  
df (23) Nov. 16, 1993 - Original Papers & Mandate from the Court of Special Appeals Received & fd.  
DISPOSITION OF APPEAL IN COURT OF SPECIAL APPEALS:  
October 6, 1993: Opinion by Davis, J. Dissenting Opinion by Cathell, J. Judgment of the Circuit Court for Baltimore County affirmed. Costs to be paid by Appellant.  
November 5, 1993: Mandate Issued.  
s\*(24) Dec. 17, 1993 Petitioners RUTH ANN DESOTO & THE CAMERON MILL PARTNERSHIPS' Petition to Stay the Running of Baltimore County Statutory Time Limits and for the Setting of a Supersedeas Bond with Affidavit and Exhibits fd. (rec'd 12-5-93)  
df (25) Dec. 29, 1993 - Respondents Answer to Petition to Stay and Request for Hearing and Memorandum fd. (Filed 12/14/93).  
s\*(26) Jan. 7, 1994 Receipt of a petition for writ of certiorari from the Court of Appeals of Maryland, fd. (rec'd 11-24-93) (cost \$307.00)

- \*PH(27) Feb 2, 1994 Rec'd 1/21/94 Reply of Ruth Ann Desoto and the Cameron Mill Partnership to answer to Petition to stay and request for hearing, fd.  
df (28) Feb. 7, 1994 - Notice from the Court of Appeals that the Writ of Certiorari is DENIED fd. (R.C.M.). (Filed 1/24/94).  
ps (29) February 4, 1994 Order of Court EXTENDING Cameron Mill project's time for a period of 2 years and 4 months from Jan. 12, 1994 to and including May 12, 1996 and DENYING filing of Supersedeas Bond, etc., fd. (CMK)

TRANSCRIPT AS BASEMENT  
JAMES J. HANCOCK  
Clerk of the Court

Approved ZADM

10/06/93 - CSM AFFIRMED Circuit Court which AFFIRMED the Board. Dissent by Judge Cathell.  
UNREPORTED  
IN THE COURT OF SPECIAL APPEALS OF MARYLAND  
No. 584  
September Term, 1993

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OCT 7 1993  
OFFICE OF LAW

MARYLAND LINE AREA ASSOCIATION, INC.

RUTH ANN DESOTO, ET AL.  
CBA-91-122 / CBA-91-145 / 91-462-A

Wenner, Cathell, Davis, JJ.

Opinion by Davis, J. Dissenting opinion by Cathell, J.

Filed: October 6, 1993

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DOCKET 32 PAGE 307-A 92CV 8596

Docket 32 Page 307 Case 92CV 8596

This is an appeal from the Circuit Court for Baltimore County, affirming the decisions of the County Board of Zoning Appeals, which had (1) affirmed the recommendations of the Planning Board regarding preservation of structures and sites characterized as "historic," (2) affirmed the decision of the County's deputy zoning commissioner granting variances from certain county zoning restrictions, and (3) affirmed the decision of the Baltimore County Review Group (CRG), which determined that the developers' plan of development complied with the requirements of Title 26, § 26-203 of the Baltimore County Code (B.C.C.).

The appeal of Maryland Line Area Association, Inc., Robert Leonard, Michael Herbert, Dr. Richard McQuaid, and Mary Wallace (adjoining property owners) presents the following issues, which we have consolidated for clarity:

- Whether a direct appeal lies to the Board of Appeals from a decision of the Planning Board on an issue submitted to it by the CRG pursuant to Title 26, Section 26-207(a) (4).
- Whether the Board of Appeals erred by not finding the decision of the Planning Board arbitrary or capricious, procured by fraud, or illegal.
- Whether the Board of Appeals erred by not finding the action of the CRG arbitrary, capricious, procured by fraud, or illegal because the CRG did not impose the more stringent controls applicable to prime and productive soils under Bill 134-89.
- Whether the offsite or onsite contamination of individual water supplies is an issue that is within the jurisdiction of the CRG to consider.
- Whether the record supports the factual findings of the Board of Appeals that:

- the Parkton landfill is neither the source of contamination nor a potential source of contamination to the private water supply of the subdivision and
  - the design and siting of the individual septic systems do not constitute a threat of contamination to the private wells in the subdivision.
6. Whether the record establishes that the developers are entitled to a variance from the 300-foot diameter requirement.

FACTS

Appellee Cameron Mill is a developer of a proposed subdivision in northern Baltimore County, west of Interstate 83 and approximately one mile west of the Parkton Landfill. The site lies above the Pretty Boy schist geologic formation and consists of approximately 276 acres of land zoned RC4 and RC5, the majority having the RC4 designation. A subdivision of fifty-three lots was originally proposed, fifty-one of which were new lots and two were existing lots occupied by the historic Cameron Mill site and the existing home of the original owner.

The Cameron Miller's house is a two-and-one-half story stone house from the colonial era situated on the hillside with a spring house in its front yard. The stone buildings are on the northeast side of Cameron Mill Road to the northwest of its junction with Walker Road. Some mill foundations and ruins are opposite the houses across the road at the southwest corner of Walker Road and Cameron Mill Road.

The Cameron Miller's House is listed on the county's "Final Landmarks List." The Executive Secretary of the county's Landmarks Preservation Commission (the Commission), John McGrain, the author of the filings that were submitted in connection with the house, testified that the inventory "mentioned only the house as a significant element." He indicated further that the Commission was primarily interested in the house.

Because of the presence of the listed historic structure, the CRG referred the subdivision plan to the Planning Board. Subsequent to the referral, appellees proposed a minor subdivision that split the lots containing the house and mill ruins from the larger development site.

The Planning Board recommended that the lot upon which the house was situated be enlarged to 5.6 acres and that the cemetery be protected with a perpetual access easement. The Board also decreased the right-of-way of Cameron Mill/Stapler Church Road from 60 feet in width to 45 feet in width in the area of the historic lot and moved it away from the two historic buildings. The 45 foot right-of-way encroaches upon some of the mill ruins. In its meeting of March 14, 1991, the CRG incorporated the Planning Board's recommendations and approved the development plan.

The Little Falls and the Bee Tree Run are two major streams that run through the property. The topography is very steep, and there are large areas of tree cover that leave only 60 acres of the 276-acre tract available for development. Under the CRG plan, 169.4 acres, or 61.3 percent of the site, is designated as open

space. This open space includes the Department of Natural Resources (DNR) area next to the hike and bike trail (the former right-of-way of the Northern Central Railroad), the County Recreation and Parks areas, the homeowners' association areas, and County protected forest buffers areas. Of the entire site, 6.8 acres are to be placed in an impervious area.

Sixty acres of the 276 acres are presently cultivated, and another 40 acres exist as meadow and open land. Although not designated as an agricultural preservation area on the master plan, the existing meadow and open land are placed in a Resource Conservation classification.

Appellees applied for variances from the Baltimore County zoning regulations, which require that the lots be not less than 300 feet in diameter. This request was made as to thirty-two of the fifty-one new lots. The variances were granted by the Deputy Zoning Commissioner on September 9, 1991.

Appellants appealed from the recommendation of the Planning Board directly to the County Board of Appeals in CBA Case No. 91-122, appealed from the CRG approval of the subdivision to the County Board of Appeals in CBA Case No. 91-145, and appealed from the granting of the variances by the Deputy Zoning Commissioner to the County Board of Appeals in CBA Case No. 91-462. The County Board of Appeals combined and took concurrent testimony on all three cases during the course of five days of hearings between October 8, 1991 and May 1, 1992.