93-93-SPH /Long Green Valley Assn etal
CCt AFFIRMS CBA; except
estoppel issue REVERSED
(James T. Smith, Jr., J.) 3/7/96

PETITION OF SHARON RORBAUGH, CHARLOTTE PINE, KATHY TYLER And LONG GREEN VALLEY ASSOC. FOR JUDICIAL REVIEW OF THE DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY IN THE CASE OF ORVILLE JONES, HIGHS OF BALTIMORE, INC. PETITION FOR SPECIAL HEARING	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 94-CV-10257

OPINION and ORDER

Hearing was held on appeals from a decision of the Board of Appeals (hereinafter referred to as "Board") dated October 26, 1994 filed by Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, Appellants (hereinafter sometimes referred to as "Individual Appellants") and by Long Green Valley Association, Appellant (hereinafter sometimes referred to as "Association Appellant") and on behalf of People's Counsel for Baltimore County, Appellant (hereinafter referred to as "People's Counsel") and Answer

thereto filed on behalf of Orville Jones, Appellee (hereinafter referred to as "Appellee") on May 15, 1995. Thereafter, pursuant to Order of this Court, re-hearing and oral argument was held on October 24, 1995. Counsel for Baltimore County appeared at both hearings and adopted and supported Appellee's position in this appeal. The Court reviewed the various Memoranda submitted by counsel for all parties and the transcript of the proceedings before the Board.

The Individual Appellants, Association Appellant and People's Counsel all posit two questions in their appeals, namely:

1) Whether a septic system connected to a commercially zoned convenience store is a legal use in the agricultural zones; and

2) Whether the estoppel doctrine may excuse or allow the continuation of such an illegal use.

The Individual Appellants and the Association Appellant filed their Petition for Judicial Review on November 9, 1994 pursuant to Rule 7-202 of the Maryland Rules and identified the issues described above in their appeal Memoranda. The Board, in its Opinion affirming the Zoning Commissioner, found that Baltimore County, through its actions, and the Association Appellant, through its inaction, were estopped and denied the Petition for Special Hearing. The Zoning Commissioner likewise had denied Petitioner's (some of the Appellants) request for special hearing, refused to order cessation of what the Zoning Commissioner determined was an illegal use, and, on the contrary, granted approval of Appellee's illegal use of adjoining RC2 property to support a waste disposal system on Appellee's adjacent commercial property known as 13523 Long Green Pike.

On November 17, 1994, People's Counsel, consistent with and pursuant to Rule 7-203(b) filed a Petition for Judicial Review of the Board's decision, which filing was within ten days of the filing of the original Petition for Judicial Review by the Individual and Association Appellants.

Appellee, on the other hand, did not file a Petition for Judicial Review, but, pursuant to Maryland Rule 7-204, filed an answer to the Petitions for Judicial Review filed by Appellants, indicating his intention to continue to participate in the case. On April 6, 1995, Appellee filed a Memorandum raising five issues, namely:

> 1) Was this case to declare the existing septic system serving the Jones' property improperly brought under the Special Hearing Procedure of Sec. 500.7 of the Baltimore County Zoning Regulations (BCZR)?; and
>
> 2) Did the Zoning Commissioner and the Board properly apply estoppel considerations to the case?; and
>
> 3) Are septic drainage field uses properly regulated as zoning uses under the Baltimore County Zoning Code?; and
>
> 4) Are septic draining fields "conduits" or "sewer mains" permitted as of right in the RC2 zones?; and
>
> 5) Is a septic drainage field an accessory use or can it be considered an accessory use permitted in an RC2 zone even though it serves a commercial building?

Appellee's first issue seems to be a challenge to the standing of Appellants to request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations. Since Appellee did not file a Petition for Judicial Review, and since this issue was in no way raised by Appellants in their Petition, the issue of Appellants' standing is not before this Court in this appeal. In the exercise of caution, however, it may be that Appellee is contending that this issue presents a question of

jurisdiction. It will be addressed, therefore, but only briefly in this Opinion.

Section 500.7 of the Baltimore County Zoning Regulations provides that:

> "the said Zoning Commissioner shall have the power to conduct such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person and any property in Baltimore County insofar as they are affected by these regulations."

Although "interested persons" can request a special hearing, it is not the exclusive method of using Sec. 500.7 of the Baltimore County Zoning Regulations. The Zoning Commissioner has the power in his discretion to conduct special hearings pursuant to the very regulation itself. As stated by the Zoinng Commissioner on page 6 of his opinion:

> "The Petition brought in the instant case is properly before me pursuant to the language as set forth in Sec. 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Therein, a broad and sweeping statement of authority is provided to the Zoning Commissioner. It is specifically provided that he 'shall have the power to conduct such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations ...'. Further on, the section provides that such authority 'shall include the right of any interested party to petition the Zoning Commissioner for a public hearing... to determine any rights whatsoever of such persons and any property in Baltimore County insofar as they are affected by these regulations.' As it relates to my jurisdiction under this Section, the timing of the Petitioner's request is meaningless... . The authority conferred in Sec. 500.7 of the B.C. Z. R. is broad indeed. The case is properly before me under the proposed Petition for Special Hearing from a pure jurisdictional standpoint."

The Zoning Commissioner has broad discretion to grant a special hearing pursuant to Sec. 500.7 of the BCZR, and the Board, on Appellants' appeal from the Zoning Commissioner's decision, was correct in denying Appellee's Motion to Dismiss that appeal.

Appellee refers the Court to Baltimore County Code Sections 26-121 and following, which sections deal with penalties for zoning violations and injunctive proceedings. There is nothing in the Baltimore County Code, however, which indicates any preemption which would preclude the Zoning Commissioner from conducting a special hearing pursuant to Section 500.7 of the BCZR.

It should be noted that both the Zoning Commissioner and the Board in rendering their decisions, indicated respectively that the "Petition for Special Hearing is hereby DENIED." What the Zoning Commissioner explained, and the Board obviously meant, and counsel for all parties agreed at the rehearing on October 24, 1995, was that the respective decisions denied any zoning order to stop Appellee's illegal land use, not that the request for special hearing was denied.

Both the Zoning Commissioner and the Board conducted the special hearing and, in fact, both decided the substantive issue presented to them as Appellants contend the issue should have been decided. Appellants' complaint is not with the decision of the Zoning Commissioner and the Board that a septic system connected to a commercially zoned use of an adjacent property is not a legal use allowed in an RC2 zone. Appellants' complaint relates to the finding by the Zoning Commissioner, affirmed by the Board, that Appellants are estopped from obtaining the relief through the Baltimore

County's zoning authority of an order directing Appellee to cease and desist his illegal use of the RC2 land.

This brings the Court to the next problem with this appeal, namely, that the first issue raised by Appellants in their Memoranda is not really an issue for Appellants on appeal, as both the Zoning Commissioner and the Board found in favor of Appellants' position, namely, that a septic system in an agricultural zone which is connected to an adjacent commercially zoned convenience store is an illegal land use . Both the Zoning Commissioner and the Board so found. Appellants have nothing about which to complain on appeal as to their first issue and their appeals as to this issue should be dismissed.

Since Appellants raised this issue, however, Appellee, in its answer to Appellants' Petition for Judicial Review, has raised three issues of his own which are related to this issue, namely, Appellee's Issues No. 3, 4 and 5 described above. Because Appellee may have been misled by Appellants' raising of the issue of illegal land use in an RC2 zone and, as a result, Appellee may not have filed his own Petition for Judicial Review and/or because once an issue is raised, even if raised by the party who prevailed below, such issue may be subject to review as to complaints of the other party to the appeal, this Court will address Appellees' third, fourth and fifth issues presented.

As to Appellees third and fifth issues, it is undisputed that the term "use" is not defined in the Definitions Section 101 of the Baltimore County Zoning Regulations. If not specifically defined, Sec. 101 BCZR provides that the definition set forth in the most recent edition of Webster's Third New

International Dictionary shall be utilized. The "Use" definitions in Webster's include "...the legal enjoyment of property that consists in its employment, occupation, exercise ..." and "the benefit in law of one or more persons, specifically the benefit of or the profit arising from lands and tenements to which legal title is held by a person or the act or practice of using something."

The Board, in affirming the decision of the Zoning Commissioner, followed the requirements of the BCZR and determined that Appellee's installed septic system was a "use" of the RC2 land. This determination was consistent with the definitions in Webster's Third New International Dictionary and was supported in the record by the expert testimony of Norman Gerber and Paul Solomon. As a "use" of property, Appellee's proposed use is subject to the Baltimore County Zoning Regulations, and the BCZR makes no provision for Appellee's proposed use by right or special exception, or as an accessory use by right or special exception.

As held in Kowalski vs. Lamar, 25 Md.App. 493, 498 (1975). "any use other than those permitted and being carried on as of right or by special exception is prohibited." Section 102.1 of the Baltimore County Zoning Regulations provides that "no land shall be used except in conformity with these regulations..." Section 1A01.2B identifies uses permitted as of right in the RC2 Zone. Private septic systems are not so permitted as primary uses.

Accessory use is defined in Section 101 of the BCZR as "a use... which...c) is located on the same lot as the principal use or structure served..." It is undisputed that the septic system in this case was installed on an RC-2 property adjacent to Appellee's commercial site over which Appellee had

acquired an easement for the commercial site's septic drainage field. By definition, Appellee's septic system cannot qualify as an "accessory use."

Appellee also fails with regard to his fourth contention. Septic drainage fields are just not "conduits" or "sewer mains" which are permitted as of right in RC2 zones. Section 1A01.2B5 of the BCZR does provide for the following uses permitted as of right in all RC2 zones, namely: "Telephone, telegraph, electrical power or other lines with cables, provided that any such line or cable is underground; underground gas, water or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines." The Board determined that Appellee's septic system failed to fall within the definitions "underground conduits" or "sewer main". This determination is supported by expert testimony in the record, is not clearly erroneous, and is not erroneous as a matter of law.

The Court will now get to the real issue raised in this appeal, Appellants' Issue No. 2 and Issue No. 2 raised in Appellee's Answer. Appellee's subject property is a 1.056 acre tract improved by a building occupied by a convenience store, dentist office and laundry mat with associated parking . It is located at 13523 Long Green Pike. Prior to the new construction, Appellee razed an existing structure. In light of site constraints and environmental concerns related to a nearby stream, Appellee originally agreed to install a sand mound sewer disposal system on his commercial property. Due to heavy equipment traffic on the construction site, the ground where the sand mound system was to have been installed was severely compacted, leaving the area unusable for such purpose. As a result, Baltimore County issued a Stop Work Order on Appellee's new construction on March

29,1991 until such time as a suitable alternative could be found to replace the planned sand mound sewer disposal system. (Board's Opinion pp. 3-4)

In its Opinion, the Board noted the interest of Individual Appellants and the Association Appellant in the septic system installation related to Appellee's construction on his commercial site. The Board found that Appellants were aware of all matters regarding Appellee's septic system installation as evidenced by a letter dated November 20, 1991 from Rocky Powell, Division Chief of the Environmental Impact Review Division of the Department of Environmental Protection and Resource Management (Property Owner's Exhibit No. 1), a letter dated November 25, 1991 from R. Bayly Buck, Vice-President of the Association Appellant (Property Owner's Exhibit No. 2), and a letter dated January 2, 1992 to R. Bayly Buck, Vice-President of the Association Appellant from Robert J. Aschenbrenner, Director of the Division of Groundwater Management (Property Owner's Exhibit No. 4). This last correspondence advised the Association Appellant that the Stop Work Order issued on March 29, 1991 would be rescinded upon Appellee's compliance with all the requirements set forth in a certain letter dated August 26, 1991 to Appellee from Rocky O. Powell, Chief of the Environmental Impact Review Division (Property Owner's Exhibit No. 10) and recordation of the necessary sewage disposal area easements among the land records of Baltimore County. Mr. Aschenbrenner's letter (Property Owner's Exhibit No. 4) concludes with the statement "when the aforementioned requirements are met, a new sewage disposal system design will be issued by this Division, the Stop Work Order rescinded, and the construction work allowed to proceed as per the approved building permit."

The letter to R. Bayly Buck, Vice-President of the Association Appellant dated January 2, 1992 (Property Owner's Exhibit No. 4) advised in paragraph (3) that "3) Conversations with representatives of the Office of Planning and Zoning revealed that use of a separate RC2 zoned property for waste disposal property via a deeded easement would be permitted for this site " and in paragraph (5) stated as follows, namely "(5) Your concerns regarding the location of the force main and the absorption field in relationship to the stream and wetlands were addressed in a letter dated November 20,1991 to Ms. Charlotte Pine (attached)."

On page nine of its Opinion, the Board summarized its finding in support of its determination that Appellants are estopped. The Board found that Appellee had made certain that appropriate government authorities were represented in the review of all possible alternatives to construction of a septic system on his property, that Robert Powell of the Department of Environmental Protection and Resource Management and the Office of Planning and Zoning had been contacted and had approved the septic system installation, all of which information had been timely made known to Appellants, that Appellants had been kept apprised of all developments from as early as the fall of 1991, that Appellant Association raised no official complaint until nine months after the letter dated January 2, 1992 (Property Owner's Exhibit No. 4) and not until over ninety days passed from the rescinding of the Stop Work Order and resumption of construction by Appellee, all after Appellee had spent literally hundreds of thousands of dollars to obtain an easement, construct the septic field and finish his building. The Board concluded that Association Appellant had ample notice and opportunity to pursue any concerns it had over an extensive period of time but that Association Appellant did nothing until September of 1992 when it filed its Petition for Special Hearing.

Although sounding in "laches", the Board concluded that the Association Appellant, through its inaction, was "estopped" and, as to all Appellants denied the Petition for Special Hearing, which was actually a denial of any zoning relief to Appellants. Strangely, the Board made no mention of the Individual Appellants in its Opinion, although the Board's Opinion was captioned "In the Matter of the Application of Long Green Valley Association, et al. for a Special Hearing...."

The record before the Zoning Commissioner indicates that the Petition was filed on behalf of the Long Green Valley Association and various individuals incorporated in the attached Petitioner's list, which list included the names of Charlotte Pine and Sharon Rohrbaugh, both of whom, along with Kathy Tyler, appealed to the Board and ultimately to this Court. The Board made no factual findings to support estoppel of the Individual Appellants, and as to Sharon Rohrbaugh, would have been hard pressed to hold her accountable for any inaction during the summer of 1992 when she was at the beach. (Vol. 1,T11)

The Board's finding of estoppel against the Individual Appellants and the Association Appellant is not supported by substantial evidence in the record and is clearly erroneous. Although the Board had the legal authority to consider the issue of equitable estoppel, see Relay vs. Sycamore, 105 Md.App. 701, the Board erred as a matter of law in finding equitable estoppel against the Appellants.

As explained in Fitch vs. Double "U" Sales Corporation, 212 Md. 324, at 338,

> Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which may have otherwise existed, either of property,

> of contract or of remedy against another person who has in good faith relied upon such conduct and has been led thereby to change his position for the worse, and who on his part acquired some corresponding right, either of property, of contract or of remedy. Whatever may be the real intention of the parties making the representation, it is absolutely essential that this representation, whether consisting of words, acts or silence, should be believed and relied upon as the inducement or action by the party who claims the benefit of the estoppel and that, so relying upon it and induced by it, he should have taken some action. The cases all agree that there can be no estoppel unless the party who alleges it relied upon the representation and was induced to act by it and thus relying and induced took some action on that representation.... Unless the party against whom the doctrine has been invoked has been guilty of some unconscientious, inequitable or fraudulent act of commission or omission upon which another has relied, and has been misled to his injury, the doctrine will not be applied. "

The Board, in its Opinion , made no findings as to any representations of the Individual Appellants or the Association Appellant, whether words, acts or silence, nor any findings as to Appellee's reliance nor as to any right in Appellee to rely. The Board merely concluded that Appellants had been kept apprised of what was going on with the property and the septic problem, and had delayed taking any action to request a special hearing until approximately ninety days after the lifting of the Stop Work Order and Appellee's resumption of construction. Although sounding more like laches, this inaction is the basis of the Board's determination that Appellants are equitably estopped. This basis is insufficient as a matter of law, especially in light of Appellee's own right to file a Petition for Special Hearing to determine whether he had the legal right to install a septic drainage field on the adjacent RC2 land for his commercial building prior to easement acquisition and the expenditure of his financial resources.

There is nothing in the record that Appellee in any way relied upon or was induced to proceed with construction by any inaction on the part of Appellants. Appellee immediately resumed construction upon the lifting of the Stop Work Order, obviously in response to the lifting of the Order by Baltimore County. The 90 day delay about which the Board speaks, had not yet even occurred. The easement had been acquired even before the lifting of the Stop Work Order and was in part the basis for lifting that Order. The Board made no findings of fact as to any reliance or inducement of Appellee by reason of Appellants' failure to take action until September of 1992, and the record is devoid of any such evidence. Appellants could not be equitably estopped.

As to the estoppel found against Baltimore County, however, the evidence is significantly different. As the Board mentions on page three of its Opinion, Baltimore County was intimately involved in resolving the septic problem related to Appellee's commercial site. The Board references Property Owner's Exhibit No. 3, wherein the Director of the Division of Groundwater Management in effect approves the sewage disposal system about which Appellants complain. Property Owner's Exhibit No. 4 goes on to make clear that, when Appellee complies with all the requirements of a prior letter dated August 26, 1991, and records the necessary sewage disposal easement in the land records of Baltimore County, a new sewage disposal system design will be issued, the Stop Work Order rescinded and construction allowed to proceed as per the approved building permit. The Board further found that Appellee moved forward with the project on the conditions required by Baltimore County, and procured an easement from an adjoining property owner at an expense to Appellee of $25,000. In addition, Appellee installed the system pursuant to the new sewage disposal system design issued by the Division of Ground Water Management of Baltimore County (Property Owner's

Exhibit No. 4). Having complied with all the County requirements, the Stop Work Order was lifted by Baltimore County, the approved septic system installed, and construction completed on Appellee's commercial building. (Board's Opinion p. 4)

As already mentioned, the Board had the lawful authority to consider the issue of zoning estoppel against Baltimore County. In fact, at oral argument, counsel for Baltimore County joined in Appellee's position on the estoppel issue. In Fitch vs. Double "U" Sales Corporation, supra, 339, the Court of Appeals said "equitable estoppel operates to prevent a party from asserting his rights under a general technical rule of law, when that party has so conducted himself that it would be contrary to equity and good conscience to allow him to do so."

In discussing when equitable estoppel is available against a municipal corporation, the Court of Appeals in Permanent Finance Corporation vs. Montgomery County, 308 Md. 239, quoted from Lipsitz vs. Parr, 164 Md. 222 at 227, "a municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law."

Appellants contend that Baltimore County cannot be estopped because, based on the Board's determination that the septic drainage field is a use not permitted by right or special exception in an RC2 zone, allowing said use would be allowing an act in violation of the law. People's Counsel cites Cromwell vs. Ward, 102 Md.App. 691, in support of its contention that equitable estoppel is not available against the County because of the illegal use which would thereby be allowed to Appellee.

People's Counsel overlooks the factual distinctions between Cromwell and the instant case, which distinctions were obviously important to the Court of Appeals which quoted in the Cromwell opinion from Lipsitz vs. Parr, 164 Md. 222, at p. 724, "so, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act... it is not estopped by the unauthorized or wrongful act of its officer... in issuing a permit that is forbidden by the explicit terms of the ordinance ... (additional citations)". (Emphasis supplied) As already noted, the Board made reference to many actions of Baltimore County which ratified and sanctioned Appellee's acts.

As is clear from the decision in Permanent Finance Corporation vs. Montgomery County, supra, which is cited with approval in Relay vs. Sycamore, supra, whether equitable estoppel is available against the government depends upon the nature of the government's involvement , the nature of the reliance, and the nature of the law being violated.

In Permanent Financial Corporation v. Montgomery County, supra, a developer undertook construction of an office building pursuant to the authority of a building permit issued by Montgomery County. Eight and one-half months and more than $2,000,000 later, when the building was under roof, the county suspended the building permit and issued a Stop Work Order on the grounds that the building violated statutory height limitations. One of the height limitation issues concerned the interpretation of "habitable space". Although the Court of Appeals affirmed the Board's determination of the definition of "habitable space', which determination resulted in the construction being in violation of the height restrictions, the Court of Appeals reversed the Board and

determined that the County was estopped from contending that the fourth floor of the building violated the height limitations of the Montgomery County Code.

In support of its action, the Court of Appeals observed that the definitional section was not clear and unambiguous within the meaning of the Montgomery County Code and was open to at least two reasonable and debatable interpretations. The Court of Appeals further pointed out at p. 251 of its Opinion, "we further conclude that the County shared the interpretation given this Section by Permanent at the time of the issuance of the building permit, and the County had consistently applied that interpretation for a significant period of time prior thereto." The Court of Appeals pointed out that when Montgomery County issued the Stop Work Order against Permanent, even after being asked for the specifics of the violations alleged by the County, the County never suggested that the building through its fourth floor violated any height restrictions. The Court also observed that, at the initial hearing, the Assistant County Attorney informed the Board that the County's interpretation of "non-inhabitable structures" varied from that of the Planning Commission and interested neighbor.

The appellate court in Permanent Financial Corporation, supra, found that Permanent had clearly relied upon the interpretation that the County had given to the height limitation in its design of the building, that the measurement of the building as shown on the plans submitted with the application was 43 feet to the top of the fourth floor, that Permanent designed and built its building to a height of 43 feet through the 4th floor in reliance upon the long-standing interpretation of the County and that this interpretation, while subsequently found by the Board of Appeals to be incorrect, was nevertheless reasonable and debatable. The Court concluded on pages 252-253 of its Opinion, "this

being the case, and Permanent having expended substantial funds in reliance upon the permit, it would be inequitable to now permit the County to require the removal of the fourth floor."

In Offen vs. County Council, 96 Md. App. 526, the Court of Special Appeals remanded the case for determination whether Prince George's County was estopped from applying the down zoning of a particular property in connection with validly enacted comprehensive rezoning of the County, which rezoning served as the basis for denial of the issuance of a building permit for the subject property. The Court of Special Appeals ignored the circumstance, that, in the event on remand an estoppel of the County was found by reason of egregious actions of public officials in stalling the issuance of permits prior to the comprehensive rezoning, the post comprehensive rezoning issuance of permits for development of the subject property would be in violation of the zoning classification then applicable to the subject property.

Throughout its Opinion, the Board made reference to Exhibits which fully supported Baltimore County's involvement in both the design and approval of the septic drainage field installed by Appellee on the adjacent RC2 property. Baltimore County conditioned the lifting of the Stop Work Order on Appellee's compliance with these requirements, namely, acquisition of the easement and installation of the septic drainage field in accordance with Baltimore County's approved design.

Prior to authorizing Appellee to proceed with the work necessary to acquire the easement and build the functioning septic system, Rocky Powell, Representative of the Department of Environmental Protection and Resource Management consulted with the Office of Planning and Zoning .(Vol.

2T,81-82; Property Owner's Exhibit 4 and 23) Carl Richards, Supervisor of Zoning Administration and Development Management, approved the drainage field on the adjacent RC2 property. (Vol. 2T,98-99) Mr. Richards' responsibility included the review of plans and applications for development that are submitted for determination of compliance with zoning regulations. The Board had the testimony of Carl Richards that request for approval of Appellee's septic field was similar to previously approved facilities in other earlier zoning hearings and was not a matter regulated by zoning. (Vol. 2T,100-103)

The observation of the Court of Appeals in Permanent Financial Corporation, supra, at p. 252 is just as applicable to Appellees' permit, where the Court stated "...it is at least clear that ... the decision to issue the permit was not the result of oversight by the County, but rather was consistent with its practice." Carl Richards' testimony supports the Board's determination that Appellee acted fairly and openly with Baltimore County and the County, through its actions, is estopped to take action against him for doing precisely what Baltimore County required him to do.

For the reasons stated herein, the decision of the Board of Appeals is hereby AFFIRMED, excepting as to the issue of estoppel of the Appellants to seek relief independently of Baltimore County's zoning enforcement powers, as to which determination the Board is hereby REVERSED . The right of the Individual Appellants, the Association Appellant and/or People's Counsel for Baltimore County to seek injunctive relief as suggested in Judge Cathell's footnote on page 83 in his dissent in United Parcel vs. People's Counsel, 93 Md. App. 59, is left to another day and another balancing of equities by another court. Baltimore County, however, is estopped to undertake any zoning enforcement

proceedings against Appellee in connection with Appellee's septic drainage field use of his easement in the RC2 zone. The court costs of this appeal shall be paid by Appellee.

JAMES T. SMITH, JR., JUDGE

March 7, 1996
DATE

JTS/ss
Copy: J. Carroll Holzer, Esq.
Nancy West, Esq.
Peter Max Zimmerman, Esq.
John B. Gontrum, Esq.

IN THE MATTER OF THE THE APPLICATION OF LONG GREEN VALLEY ASSN.,ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTHEAST SIDE LONG GREEN PIKE, 170' SOUTHWEST OF C/L OF FORK ROAD (13523 LONG GREEN PIKE) 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 93-93-SPH

* * * * * * * * *

O P I N I O N

This matter comes before the Board of Appeals on an appeal of the Zoning Commissioner's decision to deny the Petition for Special Hearing brought by the Long Green Valley Association, et al. The issue before the Zoning Commissioner was to determine whether or not to allow the use of R.C.-2 zoned property for a sewage disposal system of an adjacent commercially zoned property. While the Zoning Commissioner determined the use to be illegal, he denied the special hearing on the basis of the doctrine of equitable estoppel, ruling that the Petitioner and the County were well aware of the property owner's intentions and processes and were therefore precluded from terminating the then already implemented use. Hence, the Petitioner brought the appeal to the Zoning Commissioner's ruling.

This case was heard de novo in an open hearing in two days, in which testimony and evidence were presented. Long Green Valley Association, et al, Petitioners, were represented by J. Carroll Holzer, Esquire; Orville Jones, property owner, was represented by John Gontrum, Esquire; and, People's Counsel for Baltimore County participated in the proceedings. At the conclusion of the hearings, counsel submitted memoranda in support of their positions, in lieu of closing arguments.

Before discussing the facts of this case, the issue of whether the County Board of Appeals has proper authority to hear the case should be addressed. During opening statements and again at the start of presentation of the property owner's case, Mr. Gontrum moved for dismissal on the grounds that the Petitioners have no interest in the property. The motion was denied from the bench, indicating that the Petitioners, while successful in the legal interpretation provided by the Zoning Commissioner, are an agrieved party by virtue of the denial of the Petition for Special Hearing. Thus, the motion was properly denied and the case was brought.

The facts in this case are relatively simple and, for the most part, not in dispute. Mr. Orville Jones owns the subject property, 13523 Long Green Pike, near Baldwin, Maryland. Mr. Jones, purchasing the property at public auction, has owned the property since April of 1987. The subject property and several adjacent and nearby properties along Long Green Pike and Fork Road are zoned for business/commercial use in a cluster of such properties near the intersection of those roads. The surrounding area is largely agricultural uses in the R.C.-2 zone. The property is 1.056 acres, nearly square-shaped and improved with a building which is occupied by a convenience store, a dentist's office and a laundromat, along with associated parking area.

A building known as the Long Green Hotel existed on the property at the time Mr. Jones acquired it. After acquisition of the property, Mr. Jones decided to raze the existing structure and replace it after first attempting to alter the structure, as shown in evidence of the permits issued beginning in 1989 forward to the

Certificates of Occupancy obtained in 1992. The then-existing hotel was ultimately razed and a new building constructed by Mr. Jones. Throughout the entire process and, as it most concerns this case, during the several months preceding new construction, the Petitioners were made aware of all progress as shown in letters introduced as Property Owner's Exhibits 1, 2, 3 and 4 under Petitioner's witness Mr. Edward R. Blanton, an attorney and area resident and member of the community association. From January of 1992 until after October 1, 1992, the Petitioners did not correspond with Mr. Jones concerning the project. In Property Owner's Exhibit 4, the Department of Environmental Protection and Resource Management (DEPRM) indicated clearly to the Petitioners, the stop-work order "will be rescinded upon compliance with all requirements set forth --- and recordation of the necessary sewage disposal area easements in the Land Records of Baltimore." (emphasis added). It is clear to this Board that Long Green Valley Association and its members were well aware that the County and State had approved and, in fact, provided input to the options available to Mr. Jones and the conditions for his moving forward. Thus, Mr. Jones proceeded to procure easements from the adjoining property owner, Executive Auto Paint and Repair, Inc., for $25,000; said easements would cease upon the connection of Mr. Jones' property to public sewer when provided by the County. The Executive Auto Paint and Repair, Inc. site is zoned R.C.-2 and is unimproved.

The crux of this case concerns the need for the aforementioned easements to handle the subject site's septic requirements. Mr.

Jones' property does not have public sewer service. Due to site constraints and environmental concerns as related to a nearby stream, Mr. Jones originally agreed to install a septic system using innovative technology in constructing a sand mound sewage disposal system. Due to heavy equipment traffic on the construction site, the ground where the sand mound system was to have gone was severely compacted, leaving the area unusable to such purpose. Thus, the County issued a stop-work order on March 29, 1991 until such time as a suitable alternative could be found to replace the planned sand mound system.

Mr. Jones reached an agreement with Baltimore County and the State of Maryland Department of Natural Resources to allow Mr. Jones to continue work on-site pursuant to his procurement of the aforementioned easements from Executive Auto Paint and Repair, Inc. Since Mr. Jones had acted in good faith in corresponding with the Long Green Valley Association prior to said agreement and because Mr. Jones intended to comply with any and all requirements of the County and State authorities, he naturally proceeded to close the agreement with Executive Auto in order to effect the work. In the absence of such easements as to allow for off-site sewage disposal, this Board recognizes the probability that the subject site would be useless as currently zoned until such time as public sewer service is brought to the property. By virtue of his having obtained the easements and DEPRM approved, Mr. Jones constructed the septic system and finished the new building, which is occupied.

All three counsel presented lengthy, well-written memoranda to support their respective positions. Their writings raise several

issues to be addressed here.

First, does the Board of Appeals have jurisdiction in this case. As discussed earlier, the Board ruled from the bench that by virtue of the Zoning Commissioner's denial of the Petition for Special Hearing, the Petitioner is an agrieved party with rights of appeal to this Board pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Second, is the now-installed septic system a "use" of the land? The term "use" is not defined in Section 101 the B.C.Z.R. As such, we are required by Section 101 of the B.C.Z.R. to accept the definition contained in Webster's Third New-International Dictionary. The definitions include "...the legal enjoyment of property that consists in its employment, occupation, exercise, or practice..." and "the benefit in law of one or more persons, specifically, the benefit of or the profit arising from lands and tenements to which legal title is held by a person, or the act or practice of using something." Expert testimony from Norman Gerber includes his opinion that septic is a land use. Further, planning and zoning expert Paul Solomon, the former Director of Agricultural Preservation Programs for Baltimore County, pointed to COMAR 26.4.03.G in defining septic as having a single user within the property. Mr. Jones argues that the system is entirely underground, thus not having an impact on the possible R.C.-2 uses already enjoyed. As Mr. Gerber opined, this Board finds it unlikely that heavy farm machinery should travel over the septic field. Further, he indicated that the easement obtained by Mr. Jones is a right of use, not tantamount to ownership. Therefore,

clearly the now-installed septic system is a use of the land.

Third, is the septic system use permitted in the R.C.-2 zone? Mr. Jones' position is that the use is permitted either by right, special exception or as an accessory use by right or special exception or as an accessory use by right or special exception. The property owner's opinion is flawed. The B.C.Z.R., Section 1A01.2C, identifies uses permitted in an R.C.-2 zone by special exception. In neither section do the B.C.Z.R. identify private septic systems as a permitted use.

Mr. Jones asserts that if a septic field qualifies as a regulated use, then it is permitted as of right in an R.C.-2 zone, asserting that the septic system falls under the term "underground conduits" found in Section 1A02.2B.5 of the B.C.Z.R. However, as expert witness Paul Solomon pointed-out in testimony, the application of the term "conduits" is to public facilities and that a septic system for an allowed use under R.C.-2 would be allowable, but that a septic system for a commercially zoned site is considered a private "extension" of the commercial site. Expert witness Norman Gerber opined that the septic field in this case is a principal use in the R.C.-2 zone and is therefore not allowed; as a principal use the field is not in the realm of public facilities as he interprets the term "underground conduits" to mean. This Board is persuaded by expert witnesses in this issue.

Mr. Jones also asserts that the septic field is an acceptable accessory use. B.C.Z.R., Section 101, defines "accessory use" as, "A use or structure which: a) is customarily incident, subordinate to and serves a principal use and structure; b) is subordinate in

area, extent or purpose to the principal use or structure; c) is located on the same lot as the principal use or structure served; and d) contributes to the comfort, convenience, and necessity of occupants, business or industry in the principal use or structure served." On the face, the septic field appears to meet subsections (a), (b) and (d) of the definition. However, as indicated by Mr. Gerber, by virtue of its existence in an area granted by easement and that easements are provided as a right of use, this septic field may be considered a principal use, thereby disqualifying the system under subsection (a). Regarding the applicability of subsection (c), clearly the septic system is not within the same lot as the structure it serves. By virtue of the procurement of easements for the purpose of constructing his septic system, Mr. Jones attempts to assert that his rights of ownership of said easement are similar to those he would have if he held the easement area in fee. As a fact, he does not own the area in fee; therefore, he does not have rights of ownership. As expressed by Mr. Gerber, the easement is a granted right of use, not tantamount to ownership and that ownership is required to assert rights under zoning regulations. The cases to which Mr. Jones refers to draw parallels to this issue are cases where a Petitioner owned a commercial property and an adjacent residential tract. By virtue of dissimilar ownership of the site and easement area, Mr. Jones' argument cannot be applied here. In the case in Re: Helix Health System, Case No. 92-186-SPH, where common ownership of non-abutting properties was used as the basis for construction of an incinerator to serve both properties, the lot on which the incinerator rested

could not be used as an accessory to the principle use on the other property. As such, the same standard applies here regardless of ownership.

Finally, Mr. Jones asserts that the septic field is an uncontrolled excavation in the R.C.-2 zone and is therefore allowable. There is ample, overwhelming evidence and testimony, as well as discussion herein, which persuades this Board to find that the septic system is a structure, which, for the purposes of regulation and construction, is engineered to be anything but uncontrolled excavation and consider his point moot. The septic system in the R.C.-2 zone to support a commercially-zoned property is simply not allowed.

The fourth, and final issue, is the question of estoppel. The evidence presented in this case clearly indicates that Mr. Jones intended to construct his septic system on his property, if that option was feasible. As a result of site difficulties, Mr. Jones sought reasonable alternatives to working on-site. The record is clear: Mr. Jones made certain that appropriate Government authorities were represented in review of possible alternatives, to the best of his knowledge and abilities. As indicated by Robert Powell (DEPRM), the Office Planning and Zoning (OPZ) was contacted and apprised of the planned work; the OPZ response was to rescind the stop-work order then in place. During cross-examination, Mr. Gerber testified that OPZ routinely makes comments on development plans and that, in fact, comments are solicited. When asked by the Board if there exists any requirement for septic approval by OPZ, Mr. Gerber answered no, the septic projects are approved by DEPRM.

Mr. Jones also made certain that the Petitioner's concerns

were addressed, even going so far as to write to the Long Green Valley Association (LGVA) in response to letters written by LGVA to the County. The record is replete with letters between LGVA and the County, as well as letters between Mr. Jones, LGVA and the County. Clearly, LGVA had ample notice to pursue any concerns it had over a long period; yet LGVA did nothing after receiving a letter dated January 2, 1992 from DEPRM, which outlined the intent of DEPRM to rescind the stop-work order under certain conditions. Not until nine months later did LGVA raise an issue, after Mr. Jones had spent literally hundreds of thousands of dollars to obtain the easement, construct the septic field and finish the building.

The doctrine of equitable estoppel in zoning cases is recognized in Maryland. This case is an issue of timeliness and fundamental fairness. This Board is persuaded by Mr. Jones' argument that the LGVA, led by attorneys Charlotte Pine and Edward Blanton, was well aware of the then-proposed site to be used for the septic system, as well as the conditions necessary for lifting the stop-work order. LGVA did not respond to Mr. Jones' letter of December 17, 1991, nor to the DEPRM letter of January 2, 1992. Over ninety days elapsed between Mr. Jones's resumption of construction and the filing of the Petition for Special Hearing. The LGVA and the County are therefore estopped from pursuing the Petition.

Despite the Board's findings that the implemented use of adjacent R.C.-2 zoned property to support a septic system for commercially-zoned property is illegal, the Board finds that Mr. Jones acted fairly and openly with all concerned parties and that

the County, through its actions, and the LGVA, through its inaction, are estopped. Therefore this Board shall deny the Petition for Special Hearing.

O R D E R

IT IS THEREFORE this 26th day of October, 1994 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing be and is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett

William T. Hackett, Chairman

C. William Clark

Robert O. Schuetz

Robert O. Schuetz

IN THE MATTER OF * BEFORE THE

ORVILLE JONES * ZONING COMMISSIONER
13523 Long Green Pike

Property Owner * FOR

v. * BALTIMORE COUNTY

LONG GREEN VALLEY * Case No.: 93-93 SPH
ASSOCIATION, et al.

Petitioners *

* * * * * * * * * * * * * * *

PETITION FOR SPECIAL HEARING

Facts

The Petitioners: Long Green Valley Association, The Greater Kingsville Civic Association and the individuals listed by name in the Petition for Special Hearing, questioned whether or not the Zoning Commissioner pursuant to Section 500.7 of the Baltimore County Zoning Regulations could approve the use of property zoned R.C. 2 and owned by Executive Auto Paint and Repair, Inc., to support a waste disposal system for a commercially zoned property, B.L.C.R. known as 13523 Long Green Pike owned by Orville Jones.

The property subject hereto contained what was historically known as "Long Green Hotel." However that building was completely razed with a new building constructed on basically the footprint of the former Long Green Hotel. The new building will contain a number of businesses including a "High's" store

ZONING COMMISSIONER

on the premises. Evidence established before the Zoning Commissioner that because of the activities of the property owner, the existing septic tank could not be used and an alternative "mound system" which could have been utilized by the property owner was destroyed as a result of compaction of the soil by agents of the property owner.

Petitioners presented Petitioner's Exhibit 1, the vicinity map which locates a septic field and septic reserve area on property owned by Executive Auto Paint and Repair, Inc. Exhibit 1 shows a two inch PCV pipe will be used to convey the pumped wastewater and sewage from the proposed septic tank upgrade to the septic reserve area on the R.C. 2 property. The pipe will cross not only the property owned by Orville Jones, but will cross a separate parcel of property owned by Executive Auto Paint and Repair, Inc. and finally utilize the R.C. 2 property of Executive.

Petitioners submitted the zoning maps for the two (2) properties in question, as well as a Deed dated May 12, 1992 between Executive Auto Paint and Repair, Inc. and Orville Jones. The Deed required Jones to pay the sum of $25,000.00 for an easement area from Executive to Jones described on the Plat, with the agreement terminating six (6) months after the services of 13523 Long Green Pike with public sewer.

Issues

The Petitioners raised the issues attached as Exhibit A to the Petition for Special Hearing raising the following:

1. That Section 1A01.2(b) B.C.Z.R. does not permit a waste disposal system not accessory to a structure on an R.C. zoned property as a use permitted as of right.

2. That Section 1A01.2(c) B.C.Z.R. does not provide for uses being granted by Special Exception for waste disposal systems not accessory to an existing building on an R.C. zoned property.

3. R.C. 2 zones do not permit utilization of such zones for, and in support of, commercial operations and that such uses are violations of Section 1A00.1; further it is in violation of the spirit and intent of such R.C. zones.

4. That such use of a waste disposal system is in violation of Section 1A00.2(a), (c).

5. That such approval by the County in this case is in violation of Kowalski v. Lamar, 25 Md. App. 493 (1975), wherein the Court interpreting the Baltimore County Zoning Regulations stated "any use other than those permitted and being carried on as a right or by Special Exception is prohibited."

6. That the waste disposal system on R.C. zoned property owned by Executive Auto is a "use" and that it is not accessory, in that "an accessory use must be customarily incidental to the principal use, serving no other principal use." In the instant case, the waste disposal system on Executive Auto property is not accessory to any principal use on that property.

Argument

The Petitioners presented the unrebutted testimony of Norman Gerber who testified as follows:

Gerber, after qualifying as an expert in Urban Planning and the Baltimore County Zoning Regulations, and as a former Baltimore County Planning Director indicated that he had reviewed all of the Plats and reports filed with the County including the Planning Office, the Department of Public Works and DEPRM. He reviewed all the comments by the County officials and re-examined the Baltimore County Zoning Regulations. Mr. Gerber reviewed the Master Plan, inspected the site and analyzed other zoning cases to determine the customary use and policy of Baltimore County.

Finally, he discussed these issues with County staff in the Office of Zoning Administration and DEPRM. Gerber then opined that the use of the septic system serving the commercial building was not permitted and in conflict with the Baltimore

County Zoning Regulations. He opined that the septic system is not located on the same lot as the business zone. By definition, the septic system cannot be an accessory use for this building by the Baltimore County Zoning Regulations. It can only be considered a principal use, not permitted in the R.C. Zone.

Further, that Baltimore County Zoning Regulations are of inclusive construction. Therefore, a use must be permitted by right or by Special Exception. Gerber testified that the Baltimore County Zoning Regulations do not permit a septic system as a principal use in the R.C. 2 Zone either as of right or by Special Exception.

Gerber further opined that a septic system is a land use and referred to the definition from the "Illustrated Book of Definitions" by Moskowitz and Lindbloom which defined land use as "land as occupied or utilized." He testified that this handbook and these definitions have been used by the Baltimore County Planning Office.

Gerber further testified that the definition of "use" contained in Zoning Regulations for Harford, Anne Arundel Counties and Fairfax County, Virginia have all been interpreted essentially that "use is the way the land is being used." This section of the R.C. 2 farm property is being dedicated to a septic system to support a commercial use in a business zone. Gerber referred again to the case of Kowalski v. Lamar to support his conclusion.

Gerber further opined that in his review of the previous County decisions dealing with the use of R.C. property or residentially zoned property, to support business activities such as parking, stormwater management pond and septic or sewerage disposal areas that in all of those cases, a Petition for Special Hearing was held to determine the appropriateness of that use. Petitioners point out that in the instant case this present dilemma was occasioned by the fact that the property owner did not petition for a Special Hearing to determine his rights to use R.C. 2 property to support his commercial use on B.L.C.R. property.

Gerber further responded to a series of four (4) alleged cases offered by the property owner to establish legitimacy and precedent for his position. Gerber analyzed the four (4) initial examples submitted by Jones to support his claim:

1. The Ridge Country Store.
2. Hereford Plaza.
3. Chestnut Ridge Country Store.
4. Parker Building.

Gerber concluded that all of those situations were dissimilar to the Long Green Hotel property owned by Orville Jones in that in all cases the commercial use and the septic system are located on property under the same ownership. Whereas, in the instant case, it is clear that the commercial use and the septic system are on properties owned by different entities and zoned for different uses.

Finally, he concluded that none of the septic systems in the four (4) above examples were located on properties zoned R.C. 2. They were in R.C. 5 zoned property or other residential zones which is a significant factor in and of itself. The legislative intent of R.C. 2 differs from that of R.C. 5.

In rebuttal, Gerber was also presented by the Property Owner with four (4) additional examples of alleged precedent cases. They are:

1. The Manor Shopping Center.
2. Kentucky Fried Chicken.
3. 9721 Belair Road.
4. Harford Road Building.

(Case references are contained in the Record for all four (4) of these cases).

In reviewing all of these properties, Gerber concluded again, that they did not affect his opinion in this case and that they were all distinguishable in that none of them were on R.C. 2 Zone property. They also were on the same lot under one ownership.

Finally, Gerber referred to the Helix Health Systems case, Case No.: 92-186 SPH, previously authored by the Zoning Commissioner in which he analyzed the definition of accessory

use or structure within Section 101 of the Baltimore County Zoning Regulations. In that case, the Zoning Commissioner concluded that an incinerator located on the same lot at Franklin Square Hospital could not serve as an accessory use of Union Memorial Hospital because the hospitals were two (2) separate and different entities. An accessory use for Franklin Square Hospital had to be on the Franklin Square Hospital site.

The Zoning Commissioner concluded, "clearly, the geographical differences preclude such a determination for such an accessory use to exist, it must, by definition be located within the same property as the principal use." This opinion was upheld by the Baltimore County Board of Appeals in the above case in a subsequent order dated July 29, 1992 by the CBA.

In summary, then, for all the above reasons, the Zoning Commissioner should find this sewerage disposal area to be in violation of the aforesaid Baltimore County Zoning Regulations.

Response

During the course of the hearing, the property owner, Orville Jones, endeavored to make the following arguments:

First, he argued that Section 1A01.2.B.5 permits this private septic system (which is clearly depicted as a private septic system in the Deed of May 12, 1992) as being a "sewer main" and thereby permitted as of right. Petitioners

respectfully suggest that under no reasonable interpretation can this private septic system be considered as a matter of right on the basis that it is a sewer main. Certainly, this private sysyem is not "a main." The remaining arguments by the Petitioner made on this point are contained in the record.

Second, the property owner raised the timeliness of this matter. The Zoning Commissioner, during the course of this portion of the argument accurately analyzed there is no triggering mechanism in the Code to initiate this matter before the Zoning Commissioner. Factually, the Petitioners indicated that until the Deed was recorded on May 12, 1992, that they were not aware of this avoidance of the zoning laws of Baltimore County.

In fact, the alleged expenses incurred by the property owner would not have been expended had he followed the proper procedure of petitioning for a Special Hearing. Furthermore, the Petitioners should not be penalized because the property owner did not follow the appropriate and proper method for resolving this issue.

Third, the property owner argued that equitably this matter of land use should not be raised by the Petitioners at this point. As the Court of Special Appeals pointed out in United Parcel Service, Inc., et al. v. People's Counsel for Baltimore County, 93 Md. App. 59 (1992) Jones is not an

appropriate defense for an illegal use. Baltimore County and the Petitioners cannot be estopped from enforcing the Baltimore County Zoning Regulations if there is a violation.

Fourth, the property owner raised the issue of whether pursuant to Section 500.7 of Baltimore County Zoning Regulations, the Zoning Commissioner has jurisdiction in this matter. The Petitioners' cited numerous cases to support the proposition that Section 500.7 is a broad Section providing the Zoning Commissioner the right to enforce the Baltimore County Zoning Regulations.

In a review of Section 500.7, the Zoning Commissioner shall

> "have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all Zoning Regulations... The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported any non-conforming use on any premise or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these Regulations."

The Zoning Commissioner in Case No.: 92-357 SPH, a Petition for Special Hearing, Cromwell Bridge Road, Brookview Estates, previously determined that such language provided broad and sweeping authority to conduct such a hearing and

found that he had authority pursuant to this Section to entertain the merits of a Petition necessary for the proper enforcement of the Zoning Regulations.

Finally, Jones presented no evidence for support of his point on other than Property Owner Exhibits 3-10.

Petitioners would submit that all of these alleged prior cases of precedent are easily distinguishable and of no significant importance to the issue presented by the Petitioners herein.

WHEREFORE, Petitioners respectfully request the Zoning Commissioner to enforce the Baltimore County Zoning Regulations; to deny permission to utilize R.C. 2 zoned property owned by Executive Auto to serve as a waste disposal area for property owned by Oliver Jones and zoned B.L.C.R. as an impermissible use of the property owned by Executive Auto; and to further require compliance with the Baltimore County Zoning Regulations by the legal owner, Oliver Jones as it relates to the store currently being operated on the B.L.C.R. zone property.

J. CARROLL HOLZER, Esquire
Holzer, Maher, Demilio & Lee
305 West Chesapeake Avenue
Suite 105
Towson, Maryland 21204
410-825-6960

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of July, 1993, a copy of the aforegoing Petition for Special Hearing was mailed, postage pre-paid to: John Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, Maryland 21221 and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, Court House, 400 Washington Avenue, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

c:\wp\memo-5\jones.pet

RECEIVED
ZONING COMMISSIONER

IN RE: PETITION FOR SPECIAL HEARING
13523 LONG GREEN PIKE
ORVILLE M. JONES

LONG GREEN VALLEY ASSOC.
et al, PETITIONERS

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 93-93 SPH

* * * * * * * * * * * * *

MEMORANDUM OF ORVILLE M. JONES, PROPERTY OWNER

STATEMENT OF FACTS

Orville M. Jones is the owner of the property and improvements located at 13523 Long Green Pike. The subject property is zoned for commercial use, and at the time of the purchase of the site by Mr. Jones in the 1980's the site was improved by a structure known as the Long Green Hotel. Mr. Jones applied for and received a permit to remodel the structure. Percolation tests were conducted on the site, and permission was given to construct a mound system to handle the sewage generated by the remodeled building. The property is located in a rural area not served by public water or sewer.

In the course of conducting the improvements to the building heavy equipment was used in the area of the proposed mound septic system thereby rendering the area unusable in the opinion of the Baltimore County Department of Environmental Protection and Resource Management. A stop work order was issued for continuance of the work on the site on March 29, 1991, until a suitable alternative could be found to replace the system. The file indicates that at the time of the stop work order representatives of the Protestant Long Green Valley Association

were in contact with Baltimore County. By November of 1991, an agreement was reached between the property owner and Baltimore County to construct a private septic system on adjacent property pursuant to a recorded Deed of Easement reserving the property for that one use. The Long Green Valley Association was aware at that time of the proposal and questioned its approval. Correspondence to the Association contained in the County's file indicates that the Association was aware of the fact that the Baltimore County Office of Planning and Zoning had been consulted and had approved of the project as of December, 1991. The file contains several pieces of correspondence from November, 1991, through January, 1992, pertaining directly to the issue before the Zoning Commissioner.

The Deed of Easement costing the property owner Twenty-five Thousand Dollars ($25,000.00) was recorded on May 12, 1992, and the stop work order after fourteen months of study and work on the septic system was lifted. The septic system was constructed, and the remodeling work was substantially completed. Only in September, 1992, over nine (9) months after the Association was notified of the County's decision was the instant case filed.

The Zoning Petition as filed states that the property owner is in violation of the Baltimore County Zoning Regulations and seeks enforcement of the regulations. At no time was it ever indicated in the proceeding that the property owner had failed to obtain necessary permits or that the Community was unaware of the County's action. It also was clear that the zoning office had

reviewed and approved the location of the site in the R.C. 2 zoned area.

ISSUES

1. IS THIS CASE PROPERLY BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY?

The Baltimore County Zoning Regulations (hereinafter referred to as the "BCZR") Section 503.6 and 503.7 grant the Zoning Commissioner the power to conduct special hearings in his discretion on topics that he deems are necessary for the proper enforcement of the Zoning Regulations. At the time of the enactment of Section 500.6 in 1955, which pertains to violation hearings, the Zoning Commissioner was the authority which determined violations and established penalties. Since that time the authority to determine zoning violations has been granted to the District Court of Maryland, and it may issue civil penalties or injunctions according to the circumstances of the cases presented (Baltimore County Code, Sections 26-120, 26-121). This particular case alleges violations and seeks remediation of wrongs committed in the past. It has been put forward in the Petition for Special Hearing as a violation case.

This case has not been properly put before the Zoning Commissioner for adjudication. Had the petition asked for a special hearing to determine policy or interpretation of the

Zoning Regulations prospectively, it would have been a case properly before the Zoning Commissioner for adjudication. This case asks for essentially injunctive relief by seeking that the property owner cease his conduct. Such relief is what the County usually seeks in District Court.

Broad discretion is granted the Zoning Commissioner in Section 500.7 of the BCZR to determine what issues he wishes to adjudicate and to formulate the issues in a way most effective for the furtherance of the BCZR. A basic issue of fundamental fairness must be addressed, however, in cases such as this where Petitioners seek that a new policy determination be applied retroactively. In a very real sense the County is estopped from applying a new interpretation retroactively.

This case does not present the same issues as found in United Parcel Service, Inc. v. People's Counsel for Baltimore County et al., 93 Md. App. 59, 611 A.2d 993 (1992), cert granted. In that case the community was not really a participant in the process whereby the Appellant was granted a building permit. It had no knowledge of the decision until the permits were issued and the building was under construction. Moreover, the issue in that case was very well defined in the zoning regulations: "Was the facility a warehouse or a trucking facility?" In this case there is no question but what the Petitioners were aware of the County's decisions and actions as they were taken. The correspondence in the file indicates this awareness, yet the Petitioners chose to wait until the property owner had expended

being the case, and Permanent having expended substantial funds in reliance upon the permit, it would be inequitable to now permit the County to require the removal of the fourth floor."

In Offen vs. County Council 96 Md. App. 525, the Court of Special Appeals remanded the case for determination whether Prince George's County was estopped from applying the down zoning of a particular property in connection with validly enacted comprehensive rezoning of the County, which rezoning served as the basis for denial of the issuance of a building permit for the subject property. The Court of Special Appeals ignored the circumstance that, in the event on remand an estoppel of the County was found by reason of egregious actions of public officials in stalling the issuance of permits prior to the comprehensive rezoning, the post comprehensive rezoning issuance of permits for development of the subject property would be in violation of the zoning classification then applicable to the subject property.

Throughout its Opinion, the Board made reference to Exhibits which fully supported Baltimore County's involvement in both the design and approval of the septic drainage field installed by Appellee on the adjacent RC2 property. Baltimore County conditioned the lifting of the Stop Work Order on Appellee's compliance with these requirements, further installation of the easement and installation of the septic drainage field in accordance with Baltimore County's approved design.

Prior to authorizing Appellee to proceed with the work necessary to restore the easement and build the functioning septic system, Rocky Powell, Representative of the Department of Environmental Protection and Resource Management, consulted with the Office of Planning and Zoning (Vol.

2T.81-82, Property Owner's Exhibit 4 and 23). Carl Richards, Supervisor of Zoning Administration and Development Management, approved the drainage field on the adjacent RC2 property. (Vol. 2T.98-99) Mr. Richards' responsibility included the review of plans and applications for development that are submitted for determination of compliance with zoning regulations. The Board had the testimony of Carl Richards that request for approval of Appellee's septic field was similar to previously approved facilities in other earlier zoning hearings and was not a matter regulated by zoning. (Vol. 2T.100-103)

The observation of the Court of Appeals in Permanent Financial Corporation, supra, at p. 252 is just as applicable to Appellees' permit, where the Court stated "... it is at least clear that ... the decision to issue the permit was not the result of oversight by the County, but rather was consistent with its practice." Carl Richards' testimony supports the Board's determination that Appellee acted fairly and openly with Baltimore County and the County, through its actions, is estopped to take action against him for doing precisely what Baltimore County required him to do.

For the reasons stated herein, the decision of the Board of Appeals is hereby AFFIRMED, excepting as to the issue of estoppel of the Appellants to seek relief independently of Baltimore County's zoning enforcement powers, as to which determination the Board is hereby REVERSED. The right of the Individual Appellants, the Association Appellant and/or People's Counsel for Baltimore County to seek injunctive relief as suggested in Judge Cathell's footnote on page 83 in his dissent in Chester Pierce vs. People's Counsel, 93 Md. App. 59, is left to another day and another balancing of equities by another court. Baltimore County, however, is estopped to undertake any zoning enforcement

proceedings against Appellee in connection with Appellee's septic drainage field use of his easement in the RC2 zone. The court costs of this appeal shall be paid by Appellee.

JAMES T. SMITH, JR., JUDGE

March 7, 1996
DATE

JTS/ss
Copy: J. Carroll Holzer, Esq.
Nancy West, Esq.
Peter Max Zimmerman, Esq.
John B. Gontrum, Esq.

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF SHARON ROHRBAUGH, *
CHARLOTTE PINE, KATHY TYLER, *
AND LONG GREEN VALLEY ASSOCIATION *
c/o J. CARROLL HOLZER, ESQUIRE *
HOLZER AND LEE *
SUITE 502, 305 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204 *
AND *
PETITION OF PEOPLE'S COUNSEL *
FOR BALTIMORE COUNTY *
400 WASHINGTON AVENUE, ROOM 47 *
TOWSON, MARYLAND 21204 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY * No. 94-CV-10257
Room 49, Old Courthouse, 400 Washing- * /95/341
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
LONG GREEN VALLEY ASSN., ET AL. *
FOR A SPECIAL HEARING FOR PROPERTY *
LOCATED ON THE SOUTHEAST SIDE LONG *
GREEN PIKE, 170' SOUTHWEST OF CENTER *
LINE OF FORK ROAD *
(13523 LONG GREEN PIKE *
5TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
CASE NO.: 93-93-SPH *

* * * * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, C. William Clark, and Robert O. Schuetz, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of Zoning Administration and Development Management and the Board

of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No.: 93-93-SPH

September 11, 1992	Petition for Special Hearing & Exhibit A filed by J. Carroll Holzer, Esquire on behalf of Long Green Valley Assn., The Greater Kingsville Civic Assn. and various individuals and Oliver Jones as Legal Owner of Long Green Hotel to determine what if any is allow the use of property zoned RC2 & owned by Executive Auto Paint & Repair Inc. located behind 13523 Long Green Pike to support a waste disposal system for commercially zoned property (BL, BM).
October 2	Certificate of Posting of property.
October 2	Publication in newspapers.
October 22	Hearing held on Petition by the Zoning Commissioner.
July 23, 1993	Memorandum of Orville M. Jones. Property Owner Statement of Facts filed by Gontrum on behalf of Mr. Jones.
July 23	Petition for Special Hearing Memorandum filed by Holzer on behalf of Petitioners.
August 24	Order of the Zoning Commissioner in which Petition for Special Hearing was DENIED.
September 10	Notice of Appeal filed by People's Counsel for Baltimore County.
September 16	Notice of Appeal filed by J. Carroll Holzer, Esquire, on behalf of Long Green Valley Association, et al.
March 31, 1994	Hearing before the Board of Appeals.
May 17	Deliberation held.
October 12	Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.

November 9	Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, & Long Green Valley Association.
November 17	Second Petition for Judicial Review filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
November 21	Copy of both Petitions for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
November 21	Certificates of Notice sent to interested parties.
January 18, 1995	Transcript of testimony filed.

Petitioner's Exhibits No.
1 -Deed on Plat
2 -Plat -Long Green Hotel
3 -CRG comments 3A, 3B, 3C
4 -Resume - Norman Gerber
5 - 6/3/93 Review of Property Owners Exhibit #3
6 - Summary of Building Permits
7 -Photographs of Highs Store

People's Counsel Exhibits No.
1 -Plat (Site Plan)
2 -Bill No. 98-75
3 -Bill No. 178-79
4 -1,000 scale zoning map

Protestant's Exhibit No.
1 -11/20/91 letter to Pine from Rocky Powell/DEPRM
2 -11/25/91 letter from Long Green Valley to DEPRM
3 -12/17/91 letter from Jones to Dieter/DEPRM
4 -1/2/92 letter from DEPRM (Aschenbrenner) to Long Green Valley
5 -11/25/91 Declaration of Protective Covenants
6 -CRG -Harford Road Plaza
7 -CRG -Manor Shopping Center
8 -CRG -Kentucky Fried Chicken
9 -CRG -Belair Road
10 -8/26/91 letter from Powell to Orville Jones

11A Memo to File 3/27/91
11B Letter to Aschenbrenner from Jones 3/26/91
12 5/3/91 memos from DEPRM file
13 5/17/91 Aschenbrenner letter to Pine
14 6/5/91 memo Shaffer to Powell
15 6/10/91 letter Deford to Councilman Howard
16 6/27/91 letter Jones to Shaffer
17 8/14/91 letter to Pine from Aschenbrenner
18 8/20/91 letter from Pine to Shaffer
19 8/26/91 letter to Jones from Dieter
20 Powell memo to file 9/26/91
21 Plat stamped 11/5/91
22A-D letters from Powell file
23 Memo from Powell
24 Sunnybrook
25 Lankford 85-321-SPH
26 Windsor 85-326-SPH
27 Ridge Country Store
28 Chestnut Ridge
29 Hereford Plaza
30 Harker Plaza

January 18, 1995 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: J. Carroll Holzer, Esquire
John B. Gontrum, Esquire
People's Counsel for Baltimore County

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF SHARON ROHRBAUGH, *
CHARLOTTE PINE, KATHY TYLER, *
AND LONG GREEN VALLEY ASSOCIATION *
c/o J. CARROLL HOLZER, ESQUIRE *
HOLZER AND LEE *
SUITE 502, 305 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204 *
AND *
PETITION OF PEOPLE'S COUNSEL *
FOR BALTIMORE COUNTY *
400 WASHINGTON AVENUE, ROOM 47 *
TOWSON, MARYLAND 21204 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY * No. 94-CV-10257
Room 49, Old Courthouse, 400 Washing- * /95/341
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
LONG GREEN VALLEY ASSN., ET AL. *
FOR A SPECIAL HEARING FOR PROPERTY *
LOCATED ON THE SOUTHEAST SIDE LONG *
GREEN PIKE, 170' SOUTHWEST OF CENTER *
LINE OF FORK ROAD *
(13523 LONG GREEN PIKE) *
5TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
CASE NO.: 93-93-SPH *

* * * * * * * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett, C. William Clark, Robert O. Schuetz, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, J. Carroll Holzer, Esquire, HOLZER AND LEE, Suite 502, 305 Washington Avenue, Towson, MD 21204, Counsel for Petitioners; Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, and Long Green Valley Association, c/o J. Carroll Holzer, Esquire, HOLZER AND LEE, Suite 502, 305 Washington Avenue, Towson, MD 21204, Petitioners; PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Old Courthouse, 400 Washington Avenue, Towson, MD 21204,

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN., ET AL	*	BOARD OF APPEALS
	*	CASE NO.:
Appellant	*	93-93-SPH
	*	

* * * * * * * * * * * *

COUNTY BOARD OF APPEALS
94 JAN 20 PM 1:35

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for Arnold Jablon, Director of the Department of Zoning Administration and Development Management, in the above captioned case to appear at a hearing on the 27th day of January, 1994 @ 10:00 a.m. and bring with him any and all records pertaining to the following cases:

[illegible]

John B. Gontrum, Esquire
RONALKA, GONTRUM & McLAUGHLIN
814 Eastern Blvd.
Essex, Maryland 21221
(410) 686-8274

SERVED ON THIS _____ DAY OF _____ 1994

[illegible]

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN., ET AL	*	BOARD OF APPEALS
	*	CASE NO.:
Appellant	*	93-93-SPH
	*	

* * * * * * * * * * * *

COUNTY BOARD OF APPEALS
RECEIVED
94 JAN 20 PM 1:36

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for Arnold Jablon, Director of the Department of Zoning Administration and Development Management, in the above captioned case, to appear at a hearing on the 27th day of January, 1994 @ 10:00 a.m., and bring with him any and all records pertaining to the following cases:

Document NO: IX - 411
XII - 200
XI - 615
XI - 451
I - 120

Zoning Case NO: 85-321-SPH - MD Co. Office X-224
93-93-SPH

John B. Gontrum, Esquire
RONALKA, GONTRUM & McLAUGHLIN
814 Eastern Blvd.
Essex, Maryland 21221
(410) 686-8274

93-93 SPH - Petitioners Long Green Valley Assoc by J. Carroll Holzer + Property Owner Orville Jones by John Gontrum — 13523 Long Green Pike - Long Green Hotel/Gen Store Septic System in RC-2 to support Commercial Bldgs in BL..... Decision that unless the system is necessary on same lot it is illegal - However can petition Board for use granted on estoppel 8/24/93 - LES.

UCR Notes

MICROFILMED

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204
(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 12, 1994

Mr. William T. Hackett, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Re: Long Green Valley Association
(13523 Long Green Pike)
Petition for Special Hearing
Case No. 93-93-SPH

Dear Chairman Hackett:

The memorandum of Orville M. Jones cites the Court of Special Appeals decision in Offen v. County Council of Prince George's County, 96 Md.App. 526 (1993) as its basis of the argument for application of the estoppel doctrine.

Please be advised, however, that the Court of Appeals has recently reversed this decision, by opinion dated April 18, 1994, so that the earlier decision is not a basis for argument. A slip copy of the Court of Appeals decision is enclosed.

Very truly yours,

Peter Max Zimmerman

PMZ/caf
Enclosure

cc: John Gontrum, Esquire
J. Carroll Holzer, Esquire

94 MAY 13 AM 10:58

Citation: Slip Copy (CITE AS: 1994 WL 131233 (MD.))
Rank(R): R 1 OF 8
Database: MD-CS
Mode: Page
PAGE 1

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION IN THE PERMANENT LAW REPORTS. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, Maryland
v.
J. Allan OFFEN.
No. 96, September Term, 1993.
Court of Appeals of Maryland.
April 18, 1994.

Murphy, C.J. Eldridge Rodowsky Chasanow Karwacki Bell Raker JJ.

Opinion by Karwacki, J.

*1 This case presents a challenge to the adoption by the Prince George's County Council, sitting as the District Council (the District Council), of a comprehensive rezoning plan known as a Sectional Map Amendment (SMA). The SMA, among other things, downzoned a piece of property owned by Dr. J. Allan OFFEN. OFFEN desired to develop the property, proposing to build a 118,000 square foot "medical mall" facility. When his property was downzoned pursuant to the comprehensive plan, OFFEN sought judicial review of the District Council's action. The Circuit Court for Prince George's County affirmed the District Council's adoption of the SMA, but the Court of Special Appeals remanded the case to the circuit court for further consideration. We granted Prince George's County's petition for certiorari to review the decision of the intermediate appellate court.

I

The facts giving rise to the present controversy date back almost three decades. In 1966, Dr. J. Allan OFFEN purchased approximately 17.1 acres of undeveloped land in Prince George's County (the subject property). At the time, the property was zoned R-R (Rural Residential), but in 1969, OFFEN asked that the land be rezoned for commercial use. On December 30 of that year, the District Council approved his piecemeal zoning request. Approximately half of the subject property was rezoned C-O (Commercial Office) and half was rezoned C-2 (General Commercial- Existing) (the then-equivalent of the present C-S-C Commercial Shopping Center zone, Prince George's County Code (1991, 1992 Supp.), § 27-454). The rezoning was expressly conditioned, however, on the District Council's review and approval of any proposed development or site plan prior to construction.

Shortly after the property was rezoned, the Department of Health and Mental Hygiene in 1970 imposed a sewer moratorium in Prince George's County, prohibiting any expansion of the publicly- provided sewerage system. The State-imposed sewer moratorium was limited to developments utilizing the public sewerage system; it did not affect a landowner's ability to develop property using private wells and septic systems. The moratorium was lifted in May, 1978.

Ten years after the sewer moratorium was lifted, OFFEN submitted a conceptual site plan for the subject property which envisioned a 118,000 square foot medical complex. The plan was approved by the District Council on April 11,

Copr.(C) West 1994 No claim to orig. U.S. Govt. works.

APR 27 1994

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: W. Hackett /B. Clark /R. Schuetz DATE: May 5, 1994

FROM: kathi

SUBJECT: Scheduled Deliberation --
Long Green Valley Assn., et al -Petitioner
Case No. 93-93-SPH

Regarding the subject matter, this will confirm the public deliberation which has been scheduled for Tuesday, May 17, 1994 at 9:00 a.m. Attached for your review are copies of the following:

1) Memorandum In lieu of Final Argument filed by J. Carroll Holzer, Esquire, on behalf of Long Green Valley Assn., et al.

2) People's Counsel's Memorandum.

3) Memorandum of Orville M. Jones, Property Owner, filed by John B. Gontrum, Esquire, on behalf of Mr. Jones.

Should you have any questions regarding the above, please call me.

Attachments

BALTIMORE COUNTY, MARYLAND

Interoffice Correspondence

TO : W. Hackett
H. Buchheister, Jr.
C. W. Clark

DATE: May 13, 1994

FROM: Kathi

RE : Attached letter from People's Counsel regarding Long Green Valley Assn., et al /Case No. 93-93-SPH

Attached for your information and review is a copy of a letter received this date from Peter Zimmerman regarding the subject matter, which is scheduled for deliberation on Tuesday, May 17, 1994 at 9:00 a.m.

kathi

Attachment

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Long Green Valley Assn., et al
Case No. 93-93-SPH

DATE : May 17, 1994 @ 9:00 a.m.

BOARD /PANEL : William T. Hackett (WTH)
C. William Clark (CWC)
Robert O. Schuetz (ROS)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Among those present at the deliberation were J. Carroll Holzer, Esquire, on behalf of Long Green Valley Assn., et al, Petitioners; Peter Max Zimmerman, People's Counsel for Baltimore County; and John B. Gontrum, Esquire, on behalf of Orville Jones, Property Owner.

PURPOSE --to deliberate issues and matter of petition for special hearing presented to the Board; testimony and evidence taken at hearing on March 29 and March 31, 1994. Written Opinion and Order to be issued by the Board.

Opening comments by Chairman Hackett as to matter before Board, case number, case name, etc.

WTH: Reviewed history of case which resulted in its arrival by way of appeal to this Board; Petition for Special Hearing filed by Long Green, denied at Zoning Commissioner's level, and appealed to this Board. His opinion that this is a troublesome case and especially so in that case has not been discussed among Board members prior to today, although many legalities are involved. Discussed background of matter, issues involved, and what led to the location of sewer system; also reviewed evidence and testimony received; involvement by DEPRM and that agency's okay to Mr. Jones to go ahead. Problem with "mound system" planned; inspection by DEPRM and decision that mound system no longer viable. Further reviewed testimony and evidence as to Mr. Jones' purchase of easement, agreement by County agencies, etc. Final observation in light of circumstance, testimony and evidence that to deny use of pipe and drainage system after easement has been purchased and recorded and agreed to by Baltimore County agencies would be arbitrary decision on the part of Board; will affirm Zoning Commissioner's findings; will deny special hearing and permit sewer system as now installed to continue.

Petition for Special Hearing should be denied.

Deliberation /Long Green Valley Assn et al 93-93-SPH

ROS: Also indicated that case was difficult from number of standpoints; all three counsel provided excellent closing memorandums; also commented on Mr. Gontrum's Memorandum as related to the open deliberation (to be discussed upon conclusion of deliberation); believes facts in this case are clear; chronology agreed to by both sides; BCZR silent on issue of commercial uses in RC 2 zone; however, Mr. Jones relied upon County in making substantial business decisions; Petitioners represented by counsel early on; are not now in position to indicate that they were not equipped to address these issues; correspondence exists on these issues in file right up to time where DEPRM indicated to Mr. Jones that he could proceed; notification that Mr. Jones would be able to proceed given certain circumstances was their cue for action; also discussed point of estoppel; County agency actions; and ultimate dependency by Mr. Jones on the County. Petition should be denied.

Petition for Special Hearing should be denied.

CWC: Discussed four issues of case as it appears to him; briefly, authority of CBA or ZC; is proposed system use of land; is said use permitted as accessory use; and are protestants equitably estopped from making claims; indicated that prior comments by WTH and ROS make is unnecessary to consider first three issues for very long; briefly reviewed memorandums filed by counsel; Mr. Jones has acted with good faith and reasonable diligence; has communicated to government his request and the government, through Mr. Richards and the like, reviewed it and found it to be in conformity with zoning regulations. Also touched upon statement of Court of Appeals /parties ask courts to undue what they have done by their own negligence; coincides with view of members that this has occurred; would find that zoning allows it.

Would deny Petition for Special Hearing.

Closing statement by Chairman Hackett: Board will issue written Opinion, and Order reflecting that Opinion. Note: appellate period runs from date of written Opinion and Order and not from today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** November 20, 1997
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: 93-93-SPH
LONG GREEN VALLEY ASSN. ET AL
11th E; 6th C

As no further appeals have been taken from the Circuit Court's March 7, 1996 opinion, we are hereby closing the Board's file in this matter. The original file and exhibits were returned to your office earlier this year by John Almond. Records Manager /CCt.

Attachment (Board Case File No. 93-93-SPH

93-93-SPH

INQ DATE 12/04/92 OFFICE OF ASSESSMENTS INQUIRY (1) TIME 15:45:09

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	AREA	CARD-NO	DEL	F/M DATE
17-00-005108	11	1 PH1	06	NC		00834P		12/12/91

[redacted] PRIMARY DESC... [redacted]
13580 FORK RD SUPPLEMENTAL DESC..
BALDWIN MD 21013 IMPRV ADDRESS 13580 FORK RD SS
NEAREST INTER.... 0400 E PLEASANTVILLE RD
STRUCTURE.... STATE CODE..

LOT.... MAP..... 045 FRONT. .00 TRANSFER DATE..... 06/15/79
BLOCK.... BLOCK..... 14 BACK.. .00 TRANSFER NO..... 022654
SECTION... PARCEL.. 00242 SIDE1. .00 PURCHASE PRICE 0
PLAT..... LIBER.. [redacted] SIDE2. .00 GROUND RENT.... 0
BOOK..... FOLIO... [redacted] FORMER OWNER. CLAYTON STANLEY LEE
FOLIO.... CONST YR SQ FT LOT..... .000 (A)

FULL VALUE	LAND	IMPRV	PREF-LAND	CURTILAGE	EX LAND	EX IMPRV	BLIND
CURRENT	95,980	0	0	0			
PROPOSED	112,940	0	0	0	0	0	0

****BASIS****	YRNO	TAX LAND	TAX IMPRV	ADVAL	EX LAND	EX IMPRV	EX ADVAL
92/93 ASSESSMT	9110	0	40,650	40,650	0	0	0
91/92 ASSESSMT	9011	0	38,390				
90/91 ASSESSMT	8911	0	34,550				

INQ DATE 12/04/92 OFFICE OF ASSESSMENTS INQUIRY (1) TIME 15:45:09
PROPERTY NO. DIST GROUP CLASS OCC. AREA CARD-NO DEL F/M DATE
17-00-005108 11 1 PH1 06 NC 00834P 12/12/91
EXECUTIVE AUTO PAINT & REPAIR INC PRIMARY DESC... A 2.547 AC SS FORK RD
13580 FORK RD SUPPLEMENTAL DESC..
BALDWIN MD 21013 IMPRV ADDRESS 13580 FORK RD SS
NEAREST INTER.... 0400 E PLEASANTVILLE RD
STRUCTURE.... STATE CODE..

LOT.... MAP..... 045 FRONT. .00 TRANSFER DATE..... 06/15/79
BLOCK.... BLOCK..... 14 BACK.. .00 TRANSFER NO..... 022654
SECTION... PARCEL.. 00242 SIDE1. .00 PURCHASE PRICE 0
PLAT..... LIBER.. 6034 SIDE2. .00 GROUND RENT.... 0
BOOK..... FOLIO... 0575 FORMER OWNER. CLAYTON STANLEY LEE
FOLIO.... CONST YR SQ FT LOT..... .000 (A)

FULL VALUE	LAND	IMPRV	PREF-LAND	CURTILAGE	EX LAND	EX IMPRV	BLIND
CURRENT	95,980	0	0	0			
PROPOSED	112,940	0	0	0	0	0	0

****BASIS****	YRNO	TAX LAND	TAX IMPRV	ADVAL	EX LAND	EX IMPRV	EX ADVAL
92/93 ASSESSMT	9110	0	40,650	40,650	0	0	0
91/92 ASSESSMT	9011	0	38,390				
90/91 ASSESSMT	8911	0	34,550				

With [illegible] to
[illegible] Section
Actually only relief to
direct [illegible] parking
1) is denied - ruling
2) is made for use
3) is not permitted??

TIME: 11:04:59 AUTOMATED PERMIT TRACKING SYSTEM PANEL BP1003M
DATE: 12/04/91 GENERAL PERMIT APPLICATION DATA LAST UPDATE 03/05/91 PLM 12:55:35

PERMIT #: B034702 PROPERTY ADDRESS
OWNERSHIP: 1 - EXISTING USE: VACANT STORE
RESIDENTIAL CAT:
DEPT: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
PANEL BP1005M

TIME: 11:06:45 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/13/90
DATE: 12/04/91 BUILDING DETAIL 2 PLP 10:16:24

PERMIT #: B052397

BUILDING SIZE		LOT SIZE AND SETBACKS	
FLOOR:	0	SIZE:	207/274X155/227
WIDTH:		FRONT STREET:	
DEPTH:		SIDE STREET:	
HEIGHT:		FRONT SETB:	NC
STORIES:		SIDE SETB:	NC/NC
KITCHENS:		SIDE STR SETB:	
LOT NOS:		REAR SETB:	NC
CORNER LOT:			

ZONING INFORMATION		ASSESSMENTS	
DISTRICT:		LAND	0073920.00
PETITION:	BLOCK:	IMPROVEMENTS	0008570.00
DATE:	SECTION:	TOTAL ASS.	
MAP:	LIBER:		
	FOLIO:		
	CLASS: 06		

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
PANEL BP1018M

TIME: 11:07:03 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/13/90
DATE: 12/04/91 APPROVALS DETAIL SCREEN PLP 10:21:34

PERMIT #: B052397 PASSWORD

AGENCY	DATE	CODE	COMMENTS
BLD PLAN	04/13/90	01	FK/SAS
FIRE	04/13/90	01	DS/SAS
ZONING	04/13/90	01	MK/SAS
ENVIRNMT	04/13/90	01	WW/SAS
PERMITS	04/13/90	01	DA P

FILE County
93-93-SPH

C-12-10-92
C-10-3-93

01 THRU 09 INDICATE [illegible] ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - NEXT APPROVAL PF4 - ISSUE PERMIT PF9 - SAVE
CLEAR - MENU
PANEL BP1003M

TIME: 11:07:28 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/05/91
DATE: 12/04/91 GENERAL PERMIT APPLICATION DATA PLM 12:51:37

PERMIT #: B084088 PROPERTY ADDRESS
RECEIPT #: [redacted] 13523 LONG GREEN PIKE
CONTROL #: 0-362-91 SUBDIV 1.056 AC SES
XREF #: B084088 TAX ACCOUNT #: 1106050830 DISTRICT/PRECINCT 11 06
OWNERS INFORMATION (LAST, FIRST)
FEE: 39.00 NAME: JONES, ORVILLE
PAID: 39.00 ADDR: 9533 BELAIR RD, 21236

Baltimore County
Department of Environmental Protection
& Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
(301) 887-3733

Robert W. Sheesley
Director

October 5, 1989

Dennis F. Rasmussen
County Executive

Mr. Orville M. Jones
9533 Belair Road
Baltimore, MD 21236

Subject: Long Green Hotel, 13523 Long Green Pike
Election District 11 - Tax Account #11-06-058830

Dear Mr. Jones:

This Department has reviewed your request to utilize and/or rebuild the existing well and sewage disposal system as outlined in your letter of September 5, 1989, providing you do not change the "footprint of the building."

An inspection of the site was conducted by Mr. J. Robert Powell, a representative of this office, on April 15, 1987. Mr. Powell's report indicates the water supply consisted of a drilled well in a pit which was in poor physical condition, being subject to surface water infiltration. The sewage disposal facilities appeared to consist of several steel drums in series and a tile line of unknown length and design. The sewage system was within 100 ft. of the stream abutting the northern property line and from the location of the system, the tile lines appeared to be directed toward the stream.

Soil percolation tests were conducted on April 15, 1987 and again on March 29, 1988, the results of which indicated that a conventional sewage disposal system could not be installed while maintaining a minimum separation distance of 100 ft. between the stream and the sewage disposal area as required by Maryland Department of the Environment regulations, COMAR 26.04.02.04.J.(8). Soil evaluations did however identify a limited area located behind the existing building which could be utilized for sewage disposal if Innovative and Alternative Technology were employed to design and install a sand mound system. Approval of any useage onsite and/or reoccupancy of the building is predicated on installation of the aforementioned sand mound system.

The location of the sewage disposal area interferes with the well location, necessitating that the well be abandoned and backfilled; a new well to be drilled in the rear of the site in a location to be approved by this Department.

MICROFILMED

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

August 26, 1991

Mr. Orville M. Jones
9533 Belair Road
Baltimore, Maryland 21236

Re: Long Green Hote

Dear Mr. Jones:

Your request and justification for the installation of a private sewage disp[illegible] system partially within the Forest Buffer [illegible] was received and reviewed on June 21, 1991 by the Environmental Impact Review Division (EIRD) of this Department. As a result of [illegible] evaluation of May 22, 1991, you are hereby permitted to install a disposal system within a portion of the Forest Buffer in accordance with Article IA, Section 14-334(a)(1) of the Baltimore County Code, contingent upon implementation of the following mitigative measures:

1. The amount of Forest Buffer disturbance shall be minimized as much as possible, and in no case shall encroach on the modified Forest Buffer by more than 5,000 square feet (see Exhibit A).

2. Temporary access to the installation areas shall be obtained as agreed upon by you and Environmental Impact Review Division (EIRD) representative Glenn Shaffer on May 22, 1991. Please be advised that State and Federal approval may be required for this temporary access. Therefore, you should contact Ms. Beth Bachur at 631-3609 to determine what, if any, permits are necessary. After abandonment of the stream crossing, the stream shall be restored to its original condition.

3. An EIRD representative shall be present at the commencement of the proposed activity to inform the equipment operator(s) of all necessary precautions to avoid or minimize disturbance of Forest Buffer areas.

4. A Forest Buffer shall be established by metes and bounds along the stream system on both parcels of your land as shown on Exhibit A and B. This Forest Buffer shall be permanently fenced where current, unfenced and posted as a Forest Buffer not to be disturbed along its entire limits.

5. The record plat, or right-of-way plat, for the property (including that property shown in Exhibit A) shall be re-recorded to show the Forest Buffer limits by metes and bounds and a Declaration of Protective Covenants restricting use and disturbance of the Forest Buffer recorded in the Land Records of Baltimore County.

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

November 20, 1991

Mrs. Charlotte Pine
607 Baltimore Avenue
Towson, Maryland 21204

Dear Mrs. Pine:

The Environmental Impact Review Division (EIRD) of the Department of Environmental Protection and Resource Management (DEPRM) received your August 20, 1991 letter to Glenn Shaffer requesting an investigation to determine the presence and extent of any wetlands at the referenced property.

Mr. Shaffer initially investigated the site on May 22, 1991 in response to a request made by the Ground Water Management Division of DEPRM. During this investigation, the following findings were made:

1. A Use III perennial tributary to Long Green Creek flows along the northeastern property line with an intermittent tributary originating from an old breached pond located near the property's eastern boundary.

2. The wetlands adjacent to both tributaries lie within 50 feet of either channel. No wetlands were impacted by either the construction activities or perc testing.

3. The old hotel building which is being restored exists 75 feet from the perennial tributary with its limit of disturbance 35 feet from that stream.

4. There is no proposed increase in the foot print of the building being restored.

5. No sedimentation of the stream due to the building renovation was evident.

6. Currently there is no Baltimore County approved septic reserve area on the parcel of land containing the hotel. Therefore, the out-parcel shown enclosed as Exhibit A was investigate: as an alternative site for the installation of conventional absorption trenches with the septic tank and ejector pumps located near the rehabilitated building.

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

January 2, 1992

COPY

Mr. R. Bayly Buck, Vice President
Long Green Valley Association
P.O. Box 91
Baldwin, MD 21013

RE: 13523 Long Green Pike

Dear Mr. Buck:

The Division of Ground Water Management has reviewed the concerns referenced in your letter of November 25, 1991. In response I offer the following:

1) The new sewage disposal system currently proposed to serve the aforementioned facility is not "innovative" as your letter suggests. It is a conventionally designed waste disposal system consisting of septic tank, effluent pumping chamber and soil absorption waste disposal fields.

2) There are no Maryland State Department of Environment regulations or Baltimore County Plumbing Code sections that restrict or prohibit use of effluent pumps for sewage disposal systems nor is there any restriction on distance between the sewage disposal area and the building it serves.

3) Conversations with representatives of the Office of Planning and Zoning reveal that use of a separate RC-2 zoned property for waste disposal via a deeded easement would be permitted for this site.

4) The effluent force main will be installed a minimum distance of 10 feet from the well and will be sleeved with a larger diameter pipe for a minimum distance of 50 feet from the well in both directions, in accordance with Baltimore County Plumbing Code. Both ends of the pipe sleeve shall be sealed with bentonite clay to further protect the water supply in the unlikely event of pipe failure.

5) Your concerns regarding the location of the effluent force main and the soil absorption field in relationship to the stream and wetlands were addressed in a letter dated November 20, 1991 to Ms. Charlotte Pine (attached).

The Building Permit stop work order issued by the Buildings Engineer at this Department's request on March 29, 1991 is currently still in effect. Said stop work order will be rescinded upon compliance with all requirements set forth in a letter to Mr. Jones dated August 26, 1991 and recordation of the necessary sewage disposal area easements in Land Records of Baltimore County.

MICROFILMED

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

William Donald Schaefer
Governor

Maryland Department of Natural Resources
Water Resources Administration
Tawes State Office Building
Annapolis, Maryland 21401
TTY 974-3683

Torrey C. Brown, M.D.
Secretary

Catherine P. Stevenson
Director

"A Commitment to Excellence in Managing Maryland's Water Resources"

November 27, 1991

Mr. Orville Jones
9533 Belair Road
Baltimore, MD 21236

Application Tracking Number:199166339
Nontidal Wetlands Number:91-WT-0966
Project: Mr. Orville Jones
2" pipeline to septic drainfield
Baltimore County
Contact Person: John Hurt
(301) 974-3841

Dear Mr. Jones:

The Nontidal Wetlands Division of the Water Resources Administration has reviewed your application for an activity in a nontidal wetland or buffer and is pleased to inform you that your application is complete and your delineation is correct. The Division has determined that your activity qualifies for a Letter of Exemption.

The Corps of Engineers evaluation has determined that the proposed work is authorized by Nationwide Permit(s) for purposes of Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act as published in the 13 November 1986 issue of the Federal Register [33-CFR-330.5(a)(12)]. If any of the information contained in the application and/or plan(s) is later found to be in error, this authorization may be subject to modification, suspension, or revocation.

A list of conditions which must be followed for purposes of the Nationwide Permit(s) and the management practices which must be followed in performing the work will be included with the letter of exemption.

The Maryland Department of the Environment has also conducted a review of your project to ensure that water quality concerns are addressed. MDE has determined your project qualifies for authorization through a general water quality

Telephone: (301) 974-3841
DNR TTY for the Deaf: 301-974-3683

STATE OF MARYLAND

William Donald Schaefer
Governor

Maryland Department of Natural Resources
Water Resources Administration
Tawes State Office Building
Annapolis, Maryland 21401

Torrey C. Brown, M.D.
Secretary

Catherine P. Stevenson
Director

"A Commitment to Excellence in Managing Maryland's Water Resources"

December 24, 1991

Mr. Orville Jones
9533 Belair Road
Baltimore, MD 21236

Tracking #[illegible]
L.O.E. #91-[illegible]

Dear Mr. Jones:

This Letter of Exemption, authorized pursuant to COMAR 08.05.04.09(B)(3), is hereby issued to Mr. Orville Jones to install a 2" diameter pipeline to convey sewerage to a septic drainfield, resulting in 100 square feet of temporary impacts to emergent nontidal wetland and 25 square feet of buffer area impact, draining to an un-named tributary of Long Green Creek. The work authorized herein will be conducted 230 feet southeast of the intersection of Long Green Pike and Baldwin Mill Road and will be conducted within the deeded right-of-way in Baldwin in Baltimore County. All work is to be done in accordance with the attached plans dated October 29, 1991, and prepared by J.S. Dallas, Inc. and the attached conditions and best management practices.

This Letter of Exemption shall expire on December 24, 1994.

David G. Burke, Chief
Nontidal Wetlands Division

cc: Webster Macomber, U.S. Army Corps of Engineers
Andrew Der, Maryland Department of the Environment
RAMS file
Enforcement Division (including plans)

Telephone [illegible]
DNR TTY for the Deaf [illegible]

STV GROUP
ENGINEERS ARCHITECTS PLANNERS
21 GOVERNOR'S COURT, BALTIMORE, MD 21207-2722
410/944-9112, FAX 410/298-2794

4363-52

March 26, 1992
92-475

Baltimore County
Office of Zoning Administration
and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RECEIVED
MAR 27 1992
ZONING OFFICE

Attention: Mr. Donald T. Rascoe
Development Manager

Reference: Safeway, Manor Shopping Center

Our Job No.: 61-8922

Dear Mr. Rascoe:

Pursuant to our Concept Plan Conference on Tuesday, March 24, 1992, I would like to offer the following clarification for several of the outstanding issues on that project.

A. Immediately after our Concept Plan Conference, we met with Mr. James Olge of ZADM to review the Manor Shopping Center Development file. A review of that file indicated that the permit was filed in 1977 which consisted of 92,520 square feet of retail space to include the food store. Based on this finding, we are exempt from the new development process because our proposed expansion is less than 25% of the total shopping center square footage:

Existing Center - 92,520 SF, 25% = 23,130 SF
Proposed Addition - 8,658 SF

B. Parking within the RC-5 Zone, Zoning Case 73-37-SPA (copy of plat and order attached herewith). A special hearing to allow commercial parking on a residentially zoned two-acre parcel. The two-acre parcel was never fully utilized for parking. The additional spaces being proposed under this development would not conflict with the previously granted order.

C. Zoning Regulations - In order to minimize disturbance to the existing center, parking ad landscape requirements will be calculated using the new regulations for just the building square footage shown for the expansion of the Safeway Store. All other parking requirements will be calculated using the regulations in effect at the time of construction for 92,520 square foot center.

D. Zoning line location BM-CR/RC-5 - This zoning line was clearly tied down to the property lines in Zoning Case 73-37-SPA. When this line is plotted on the existing site plan of Manor Shopping Center, it falls at the far southwest corner of the existing building keeping the building within the BM-CR zone.

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

October 19, 1992
#6660

RECEIVED
OCT 19 1992
ZONING COMMISSIONER

Mr. Lawrence Schmidt
Zoning Commissioner for
Baltimore County
Old Courthouse
Towson, Maryland 21204

RE: 93-93-SPH
13523 Long Green Pike

Dear Commissioner Schmidt:

The purpose of this letter is to officially request a postponement of the hearing in this matter scheduled for Thursday, October 22, 1992 at 2:00 p.m.

Last week I spoke with John Gontrum, Esquire, who represent Orville Jones, the property owner, who indicated to me that he would be requesting a continuance because he had only recently been retained by Mr. Jones. Mr. Leese, of my office, spoke with Mr. Gontrum on Thursday, October 15th, and said that he would be writing to the Zoning Commissioner to request a postponement.

As of the date of this letter, neither the Zoning Office nor I have received Mrs. Gontrum's letter requesting a postponement from Thursday's hearing. Because the hour is drawing late, I am herewith requesting that the matter of the Long Green Hotel be postponed to a time convenient to the Zoning Commissioner.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: John Gontrum, Esquire
Ms. Gwen Stevens, Zoning Office

MICROFILMED

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

December 4, 1992
#6660

RECEIVED
DEC 4 1992
ZONING COMMISSIONER

HAND DELIVERED

The Honorable Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
First Floor
County Office Building
Towson, Maryland 21204

RE: Case No.: 93-93-SPH (Item No.: 101)
13523 Long Green Pike
Owner: Orville Jones

Dear Commissioner Schmidt:

After conferring with John Gontrum's office today to clear dates for a hearing in the above case, it was mutually agreed among counsel this date to set a hearing on the morning of Tuesday, January 26, 1993.

It is my understanding from talking to the Zoning Office that the date of Tuesday, January 26, 1993 is available on the Zoning Commissioner's calendar.

If you have any questions, please give me a call.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: John Gontrum, Esquire
Ms. Gwen Stephens, Docket Clerk

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

December 17, 1992

RECEIVED
DEC 18 1992
ZONING COMMISSIONER

Mr. Ted Zaleski, Jr.
Director
Baltimore County Department of
Permits and Licenses
111 West Chesapeake Ave.
Towson, Maryland 21204

Re: 13523 Long Green Pike
Sign Permit Numbers B145142
B145143
Case No.: 93-93-SPH

Dear Mr. Zaleski:

On behalf of my clients the Long Green Valley Association, the Greater Kingsville Civic Association along with various individuals and officers, this letter is to formally note an appeal to the County Board of Appeals of the issuance of sign permits as cited above for the property located at 13523 Long Green Pike. Appellants submit that the issuance of the said permits was unlawfully and illegally issued for a use at issue presently before the Zoning Commissioner, Case No. 93-93-SPH and scheduled to be heard on January 26, 1993.

On behalf of my clients, I am submitting a check herein to cover the costs of the appeal. Copies of this letter of appeal this day are being submitted to the below listed counsel and agencies.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Baltimore County Board of Appeals
Zoning Commissioner for Baltimore County
John Gontrum, Esquire

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

February 17, 1993
#6660

HAND DELIVERED

Ms. Gwen Stephens
Zoning Office
County Office Building
Towson, Maryland 21204

RE: 13523 Long Green Pike
Case No.: 93-93 SPH

Dear Gwen:

After discussing available hearing dates with John Gontrum's office, Counsel for property owner Orville Jones, the following dates are available by both counsel:

# Monday	- March 15, 1993
# Tuesday	- March 16, 1993
Thursday	- April 1, 1993
Friday	- April 2, 1993
Monday	- April 5, 1993
Thursday	- April 8, 1993
Friday	- April 9, 1993
Monday	- April 12, 1993

Please check the Zoning Commissioner's calendar and confirm whether the Special Hearing on the above matter can be scheduled on any of the above dates.

Very truly yours,

Sterling Leese

SL:mlg

cc: John Gontrum, Esquire

Dates + times confirmed with Eileen of Gontrum's office + Sterling of Holzer's office 2-18-93 MS.

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

93-2206

March 8, 1993
#6660

HAND DELIVERED

Arnold Jablon, Esquire
Office of Zoning Administration
County Office Building
and Development Management
Office of Planning & Zoning
County Office Building
111 Chesapeake Avenue
Towson, Maryland 21204

RE: Case No.: 93-93 SPH
13523 Long Green Pike
Orville Jones Property

Dear Mr. Jablon:

It has come to my attention from my clients in the above case, that due to the spring break at some of the schools in the area commencing at the conclusion of this week the following parties, officers and Board members of the two (2) Community Associations in this case, all of whom are necessary witnesses, will be unavailable on Monday and Tuesday, March 15th and 16, 1993:

1. Kathy Harkless
2. Bart Regan
3. Kathy Tyler
4. Charlotte Pine
5. Sharon Rohrbaugh
6. Jack Peterson
7. Dorothy Foos
8. Bob Rigger
9. Helen Mitchell
10. Paul Plowman

MICROFILMED

RONALD L. MAHER
J. CARROLL HOLZER
CAROLE S. DEMILIO
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

LAW OFFICES
HOLZER, MAHER, DEMILIO & LEE
305 W. CHESAPEAKE AVENUE
SUITE 103
TOWSON, MARYLAND 21204
(410) 825-6960
FAX (410) 825-4964

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8556
FAX (410) 795-5535

SUITE 700
1725 DeSALES STREET, N.W.
WASHINGTON, D.C. 20036

93-2617

March 12, 1993
#6660

Lawrence Schmidt, Esquire
Zoning Commissioner for
Baltimore County
400 Washington Avenue
Towson, Maryland 21204

RE: 93-93 SPH
Long Green Hotel

Dear Commissioner Schmidt:

After you were kind enough to grant a postponement in the above matter due to the unavailability of many of our witnesses, I contacted John Gontrum's office to get mutually agreed dates wherein the hearing could be continued. The dates are as follows:

Monday	- April 5, 1993
Thursday	- April 8, 1993
Wednesday	- April 14, 1993
Thursday	- April 15, 1993
Monday	- April 26, 1993
Tuesday	- April 27, 1993

Thank you for your consideration.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: John Gontrum, Esquire

MICROFILMED

RECEIVED
MAR 15 1993
ZONING OFFICE

RONALD L. MAHER
T. CARROLL HOLZER
CARLETA DEMILIO
THOMAS LEE

E. HOWARD HOLZER
1907-1989

HOLZER, MAHER, DEMILIO & LEE

CATONSVILLE OFFICE
1350 LIBERTY ROAD
ELDERSBURG, MARYLAND 21784
(410) 795-8550
FAX (410) 795-5535

SUITE 700
1725 I STREET, N.W.
WASHINGTON, D.C. 20006

April 29, 1993
#6660

HAND DELIVERED

Ms. Gwen Stephens
Office of Zoning Administration
County Office Building
Towson, Maryland 21204

RE: ~~93-83~~ 93 SPH
Orville Jones Property

Dear Gwen:

I spoke with Mr. Gontrum's office on Wednesday, April 27, 1993 and he indicates that **Monday and Tuesday, June 7th and 8, 1993 are available** to continue the Special Hearing in the above case. By way of this letter, I am informing both Mr. Gontrum's office as well as my clients that we are attempting to get a hearing on those two days.

If you have any questions, please call me or Sterling at 825-6961.

Very truly yours,

T. Carroll Holzer

JCH:mlg

cc: John Gontrum, Esquire
Baltimore County Board of Appeals
Charlotte Pine, Esquire
Mr. Bartlett Regan
Ms. Cathy Harkless
Mr. Doug Behr
Ms. Dorothy Foos

LAW FIRM
Romadka, Gontrum & McLaughlin, P.A.
814 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE: (410) 686-8274
FAX # 686-8115

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

DONALD H. SHEFFY
NANCY E. DWYER**
ELIZABETH A. VANNI
MARY H. BUCHANAN
SHARON R. GAMBLE
*Also admitted in District of Columbia
**Also admitted in Florida

RECEIVED
2 i 1992
ZONING COMMISSIONER

October 21, 1992

Mr. Lawrence E. Schmidt
Zoning Commissioner
for Baltimore County
400 Washington Avenue
Towson, Maryland 21204

Re: Long Green Hotel - Special Hearing

Dear Mr. Schmidt:

Please be advised that this office has been retained by Mr. Orville M. Jones with respect to a Special Hearing, which it is our understanding, was filed in the herein above mentioned matter. Unfortunately, my client has never formally received papers with respect to this matter, but we understand that a Hearing has been scheduled for Thursday, October 22, 1992. Also, it is our understanding that a request for postponement has been filed by the Petitioners, and that we do not have to attend said Hearing.

Please forward to me any correspondence with respect to this matter and enter my appearance in this case.

Very truly yours,

John B. Gontrum

JBG/ej

cc: Mr. Orville M. Jones

Postponement requested & granted

Orville M. Jones Inc.
9533 BELAIR ROAD - BALTIMORE, MARYLAND 21236
(301) 256 6630

DEC 19 1991

17 December, 1991

Mr. James Dieter, Director
Ground Water Management Division
Department of Environmental Protection
401 Bosley Avenue
Towson, Maryland 21204

Re: LONG GREEN HOTEL
13523 Long Green Pike
Baldwin, Maryland 21013

Mr.Dieter:

I am replying to the letter dated 11/25/91 from the Long Green Valley Association.

I bought this property in April of 1987 at public auction for $131,000.00. The building was built in 1904 on the site of a similar building that had burned down in the 1890's, both of which were used as a hotel and general store until shortly before the auction.

Since the purchase, I have gone through all of the processes to develop the property into a first class commercial site. I have satisfied all of the County departments and the State of Maryland concerning the wetlands. I have given up in excess of 35% of the property for a new Forest Buffer. The buffer must be planted as directed by DEPRM, fenced in and not used for any other purpose.

In answer to the issues raised in the letter:

1. This is not an innovative septic system. This is a standard deep ditch drain field.
2. The use of separate RC2 zoned property for the drainage field by virtue of an easement? I fail to see the connection since there would be no visable use. If the easement becomes a problem, I will buy the property from Mr. Webber.
3. The drainage field being 847 feet up hill from the pump means that we will have 2 pumps that are each capable of pumping the effluent to the distribution box.
4. The pipe connecting the pump pit to the distribution box

GENERAL CONTRACTORS

LONG GREEN VALLEY ASSOCIATION
P.O. Box 91 Baldwin, Maryland 21013

November 25, 1991

Mr. J. James Dieter
Director
Ground Water Management Division
Department of Environmental Protection
401 Bosley Avenue
Towson, MD 21204

Re: 13523 Long Green Pike

Dear Mr. Dieter:

It has come to the attention of the Long Green Valley Association that a new "innovative" septic system is presently under study for the Orville Jones property in Baldwin. We are of course very concerned about the present condition of the property. Besides being in disrepair, the structure is increasingly becoming a hazard.

As a representative of Long Green property owners, we now must question the new septic plan. Specifically we are concerned because the plan suggests:

- The use of separate RC2 zoned property for the drainage field by virtue of an easement.
- The drainage field is 847 feet up hill from the holding tank.
- The pipe connecting the holding tank and drainage field passes within 10 feet of an existing well.
- The pipe follows closely the course of an existing stream which is a tributary of Long Green Creek, a class III trout stream.
- The pipe appears to pass through wet lands and the drain field is directly above an existing swamp (wetland)

The members of Long Green valley are deeply concerned about this property. We would like to see the property's septic problems resolved, however, the above mentioned plan poses so many problems that we must oppose its approval.

We also understand that the county is committed to helping existing commercial properties work out their septic problems, but would point out that the owner of this site destroyed his approved

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL
Post Office Box 98
Sparks, Maryland 21152

March 2 1993

Mr. Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Old Court House
Towson, Maryland 21204

Re: Case 93-93 SPH (13523 Long Green Pike Oliver Jones

Dear Mr. Schmidt,

This case before the zoning commissioner has sparked interest in many communities that have rural R.C. 2 zoned land in their areas. The use of R.C. 2 zoned land to support commercial development in BL, BR or BM (with and without CR overlays seems to be in conflict with the intent of Resource Conservation land use zoning. The intended use of the above R.C. 2 land is for a septic disposal area that supports commercial retail business having a different land use zone. The zoning regulations in section 1A01.2.B (Uses permitted as of right) and 1A01.2.C (Uses permitted by Special Exception) states "The following, only....." can occur in R.C.2 zones. These listings do not cover this use as a principle use allowable on R.C. 2 zoned land or as an accessory to a use that is not located on the R.C. 2 land.

Changes in interpretation of R.C. 2 zoning to allow out of zone use would be detrimental to many parts of the county. Please consider these points in your deliberations concerning this case.

Sincerely,

Paul A. Hupfer
President

MICROFILMED

RECEIVED
MAR 2 - 1993
ZONING COMMISSIONER

PLEASE PRINT CLEARLY — **PETITIONER(S) SIGN-IN SHEET**

NAME	ADDRESS
J. Carroll Holzer	305 W. Chesapeake Ave.
Betty Shea Miller	14500 Bottom Rd. Hydes, Md. 21082
Robert J. Riggin	4511 Long Green Rd. 21092
Ingrid J. Petrasun	Church Lane Hydes Md 21082
Jack Petrasun	14200 Baldwin Rd 21013
Jane Hydesboro	~~Eggs Patterson Rd Baldwin~~
Mark Steindler	5 Fork Springs Ct Baldwin, Md 21013
Doug Behr	7451 Bradshaw Rd Hydes, Md
Margaret Worrall	Valley Rd Cromwell Towson Md 21204
Elizabeth Hankin	5930 Robson Rd. Hydes MD 21082
Dorothy E. Shea	6403 Jarrus Rd - Baldwin Md 21013
Betty Hellemann	13009 Bottom Rd Hydes 21082
Norman F. Gerber	35 Richard Ct. Catonsville MD 21228
Lee Button	7419 Gaettner Rd
Sharon Rothaug	13558 York Rd - Baldwin 21013
Cathy Harkless	12815 Kanes Rd. Glenelg 21057
Charlotte Pine	13310 York Road Baldwin 21013

MICROFILMED

PLEASE PRINT CLEARLY — **PETITIONER(S) SIGN-IN SHEET**

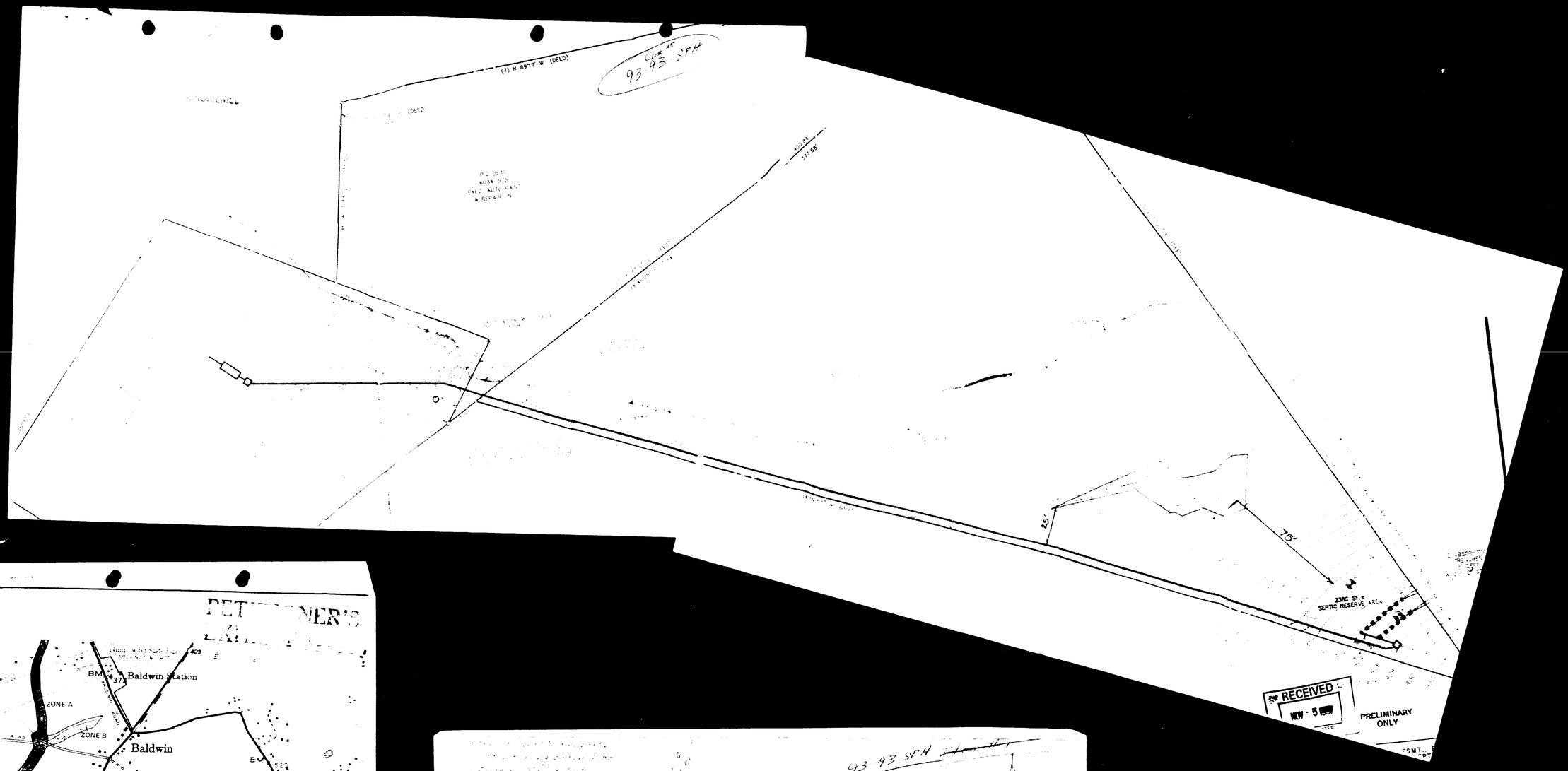
NAME	ADDRESS
BARTLETT C REGAN	6037 CHURCH LANE
ELIZABETH W. MILLER	HYDES, MD 21082
[illegible]	[illegible]
CAROL T. TRELLA	5433 PATTERSON ROAD
ALICE STAMPER MATHIASEN	3553 Ferri Ln
CYNTHIA NIELD	7 FORK SPRINGS CT BALDWIN 21013
Cindy Gretzinger	6016 Falls Woods Ln Baldwin 21013
Edward Nield	7 Fork Springs Ct 21013
Cecelia Steindler	5 FORK SPRINGS CT
MARK I. STEINDLER	[illegible]
Charlotte Pine	13316 Fork Road Baldwin 21013

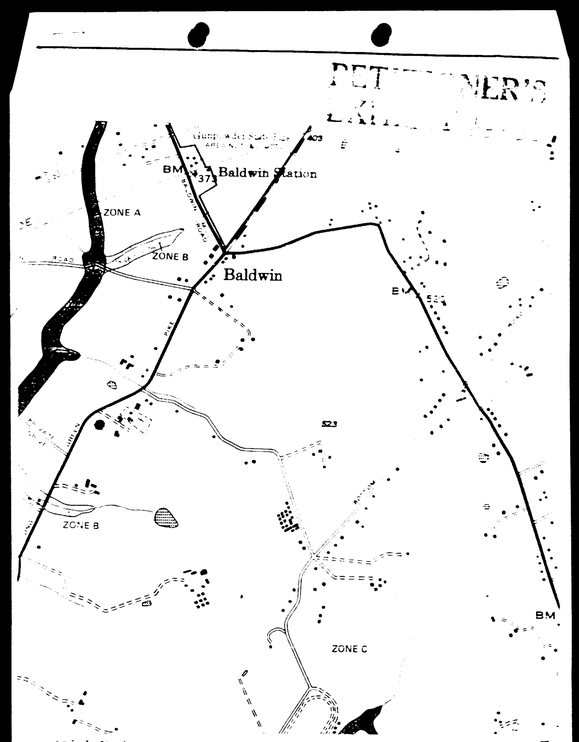
MICROFILMED

PLEASE PRINT CLEARLY — **PROTESTANT(S) SIGN-IN SHEET**

NAME	ADDRESS
ORVILLE M JONES	9533 BELAIR RD 21236

MICROFILMED

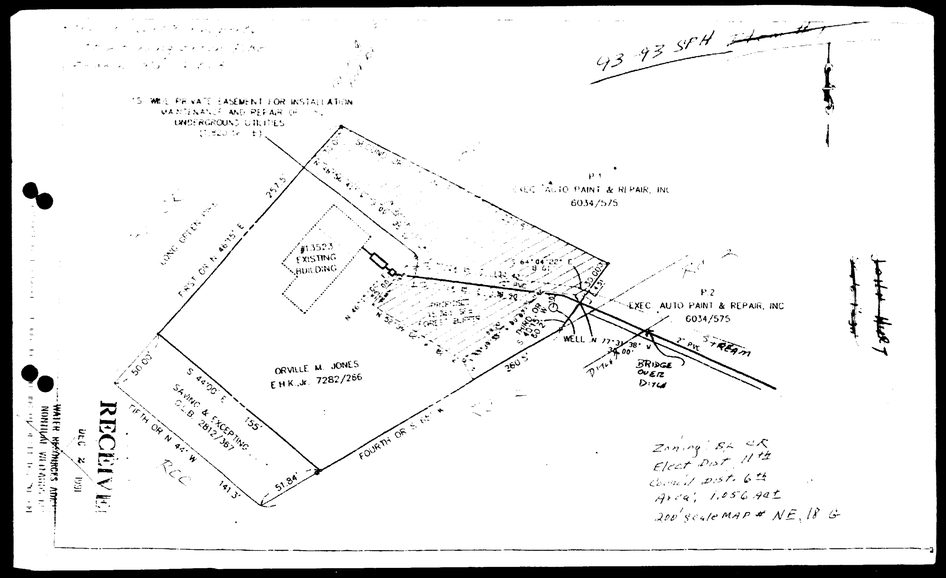


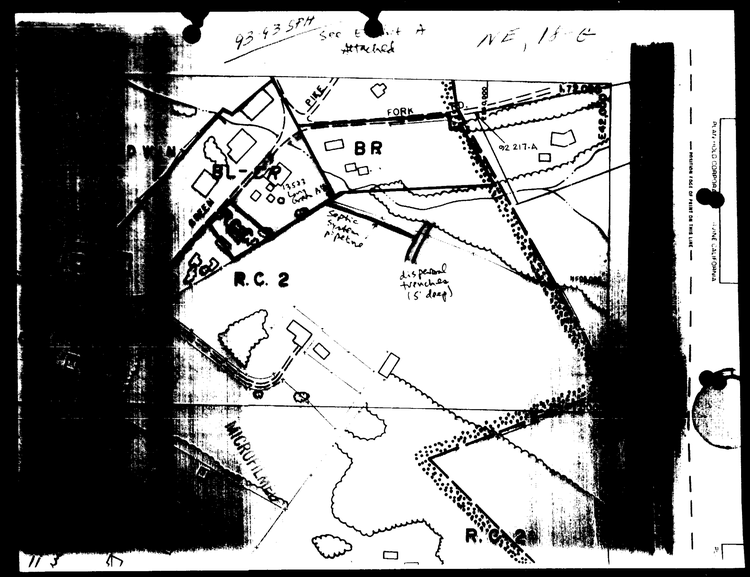


and left in good conditions; and it is further agreed that no buildings or similar structures of any kind shall be erected on, on or over the said easement by the Party of the First Part, its successors and assigns; nor shall the existing grade be changed without prior approval of Baltimore County Bureau of Engineering.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
JM 5-12-92
DATE

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE JM DATE 5/12/92
93A03W010DTLTRTX
BA C002:37PM05-12-92
$400.00





ORD'D ✓ & FILED ORIGINAL IN FILE

CHESTNUT RIDGE COMM STORE - P.O. EX 28

1 7-15-91 LTR T. ELBRICK FROM MSHA/GREENBRIAR
2 9-19-91 LTR R. HANES FROM ELDERSBURG
3 5-13-9 LTR R ELDERSBURG FROM DYER
✓PLAN A 4 PROF AMD R EL ELDERSBURG STORE

HERREFORD PLAZA - P.C. EX 39
5 BUILDING PERMIT - 2 PGS (1 PG)
ATTACHED TO PLAN B 6 12-30-91 LTR R MSHA FROM STAFFORD (5 PGS)
PLAN B ✓ 7 SITE PLAN - HEREFORD PLAZA
8

SUNNYBROOK PACE CENTER - P.C. EX 24
8 1-21-88 MEMO R PARKER FROM [illegible] (2 PGS)
9 12-4-87 LTR R WEBER FROM [illegible]
PLAN C ✓ 10 SUNNYBROOK [illegible]

HARFORD ROAD PLAZA - P.C. EX # 6
PLAN D ✓ 11 - HARFORD ROAD - SITE PLAN
12 - CRG [illegible]
13 - CRG COMMENTS
14 - CRG COMMENTS

THE MANOR SHOPPING CENTER - P.C. EX # 7
15 7-23-92 LTR R PARKER FROM [illegible] (3 PGS.)
16 3-26-92 LTR R SMITH FROM [illegible] (2 PGS.)
17 9-27-82 LTR R REMIS FROM LEE (2 PGS.)
18 12-2-75 MEMO R PARKER FROM HARKINS (2 PGS.)
19 10-23-75 MEMO R PARKER FROM HARKINS (2 PGS.)
20 3-8-82 LTR R PARKER FROM [illegible] (11 PGS.)
PLAN E ✓ 21 MINOR PLAT R. MSHA FOR EXCESS AREA
PLAN F ✓ 22 SAFEWAY ADDITION - P.C.

KENTUCKY FRIED CHICKEN - P.O. EX # 8
23 - CRG MEETING MINUTES - 1-24-85 (2 PGS.)
PLAN G ✓ 24 - CRG PLAN - KENTUCKY F.C.
PLAN H ✓ 25 - SUBDIV PLAN - NOBEEF, INC.

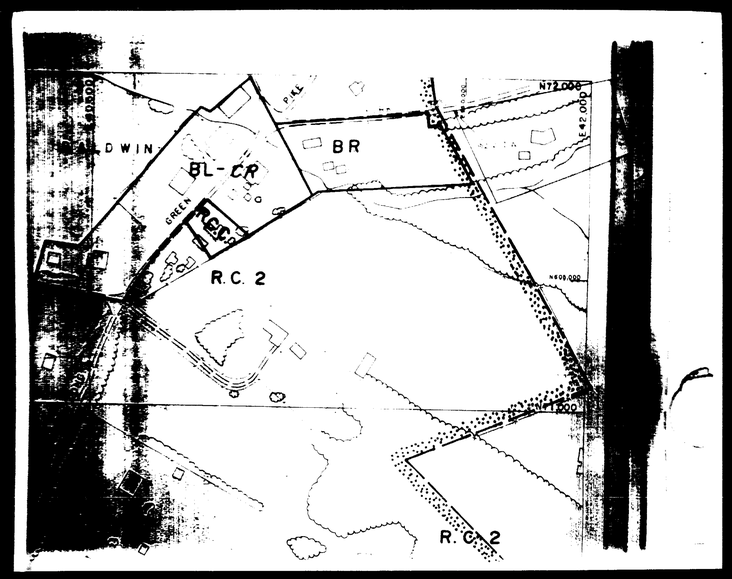
BELAIR ROAD - P.O. EX # 9
PLAN I ✓ 26 - CRG SITE PLAN
27 - 6/16/88 LTR TO D'AVELLA FROM CARUSO (6 PGS)
28 - SWM COMMENTS 7-25-91 (3 PGS)
29 - CRG MEETING SUMMARY 7-25-91 (2 PGS)

NORRIS B LANGFORD - P.O. EX # 25 (85-321-SPH)
30 - ENTRY OF APPEARANCE - P.C. (LANGFORD) (1 PG)
31 - ORDER OF Z.C. [redacted] (LANGFORD) (3 PGS)
32 - AGREEMENT OF HARNEY / P ORDER OF DISMISSAL - BOA (LANGFORD) (3 PGS)
33 - PET. FOR SPH

WALTER WINDSOR - P.C. EX # 26 (85-32-SPH)
34 - ORDER OF DISMISSAL - BOA (WINDSOR)
35 - MOTION TO DISMISS APPEAL - (WINDSOR)
36 - AMENDED PETITION ZC (WINDSOR) (2 PGS.)
37 - ORDER OF ZC (WINDSOR) (6 PGS.)
38 - P/A RUETEN CROSSING (5 PGS.)
39 - 3-6-85 LTR TO RUETEN CO. FROM SMITH (2 PGS.)
40 - CRG COMMENTS 3-6-85
PLAN J ✓ 41 - CRG PLAN - WINDSOR CT

HARKER BUILDING - P.C. EX # 30
ATTACHED TO PLAN K 42 - APPL FOR PERMIT B 77257 (2 PGS.)
PLAN K ✓ 43 - REV SITE PLAN - HARKER
PLAN L ✓ 44 - REV SITE PLAN - HARKER

→



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 3, 1994

J. Carroll Holzer, Esquire
HOLZER AND LEE
305 Washington Avenue
Suite 502
Towson, MD 21204

Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 47, Old Courthouse
Towson, MD 21204

Re: Case No. 93-93-SPH
Long Green Valley Assn., et al

Dear Counsel:

Enclosed for your review is a listing of those documents which have been entered as certain of Property Owner's exhibits in the subject case. This listing indicates each County file from which the documents were extracted at the request of Mr. Gontrum, and also the appropriate exhibit number.

If you have any questions regarding these particular exhibits, please contact me on Wednesday, May 11, 1994. The actual files from which these copies were made will be held in this office until that date, at which time the files will be returned to the appropriate County agencies.

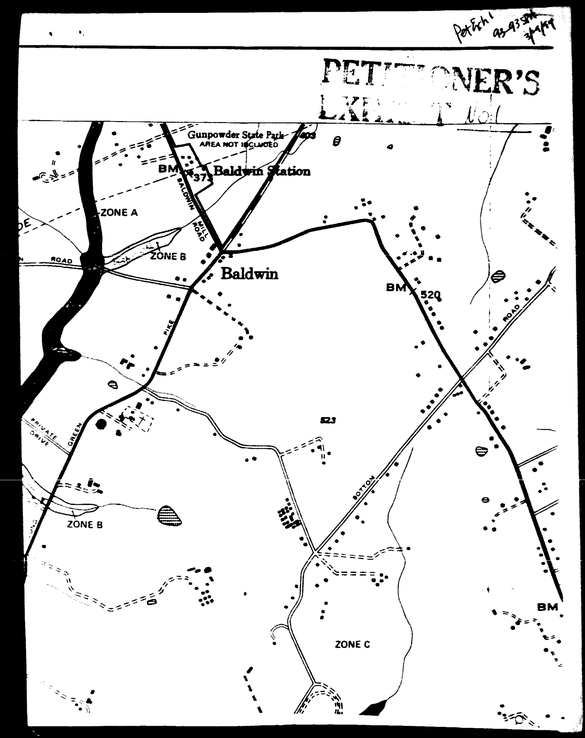
Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: John B. Gontrum, Esquire

Printed with Soybean Ink on Recycled Paper

Petition 93-93-SPH #499



LIBER 9171 FOLIO 356

THIS DEED AND AGREEMENT made this 7th day of May, in the year Nineteen Hundred and Ninety-one between EXECUTIVE AUTO PAINT AND REPAIR, INC., Party of the First Part; STANLEY RUSSELL CLAYTON, Party of the Second Part; WALTER GRIMMELL and GEORGE GRIMMELL, T/A GRIMMELL BROS., Party of the Third Part; and ORVILLE M. JONES, Party of the Fourth Part.

WHEREAS, the Party of the Fourth Part desires to construct and maintain a private septic system in, on, through and across the land hereinafter described, and the Party of the First Part is willing to grant such right.

NOW, THEREFORE, in consideration of the sum of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS ($25,000.00), the receipt whereof is hereby acknowledged, the said Party of the First Part hereby grants and conveys unto ORVILLE M. JONES, his personal representatives and assigns, the right to lay, construct and maintain a private septic system, in, on, through and across the land of the Party of the First Part, situate in Baltimore County, State of Maryland, said private septic system to be laid in the easement which is described as follows:

ALL THAT easement area described in Exhibit "A" attached hereto and made a part hereof and as shown on Exhibit "B" attached hereto and made a part hereof.

For Title, see Deed dated June 15, 1979 and recorded among the Land Records of Baltimore County in Liber EHKJr. No. 6034, folio 575 from Stanley Lee Clayton, et al, to the Party of the First Part.

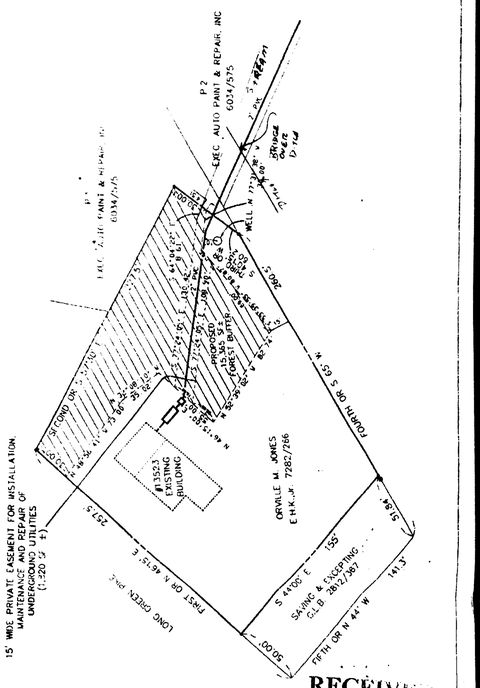
AND the Party of the First Part does hereby agree that ORVILLE M. JONES, his personal representatives and assigns, shall have the right and privilege of entering upon the aforesaid land, whenever it may be necessary, to make openings and excavations, and to lay, construct and maintain said septic system and appurtenances, provided, however, that the ground shall be restored and left in good conditions; and it is further agreed that no buildings or similar structures of any kind shall be erected in, on or over the said easement by the Party of the First Part, its successors and assigns; nor shall the existing grade be changed without prior approval of Baltimore County Bureau of Engineering.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
5-12-92
By — Date

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE DATE

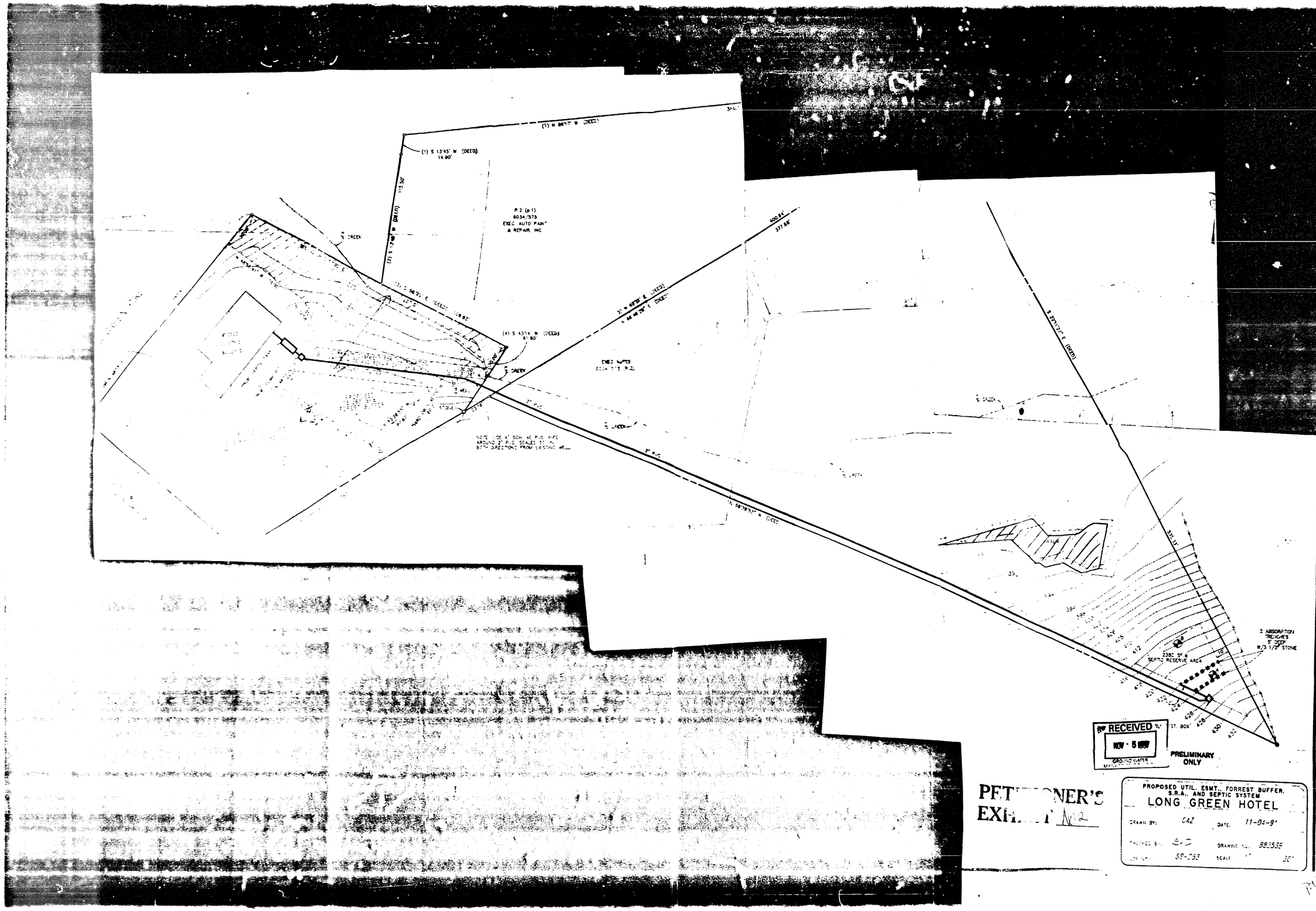
D3AO3W01OOTLTRTX $400.00
BA C002:37PM05-12-92

JOHN HURT
Scale 1"=30'



RECEIVED
DEC 2 1991
WATER RESOURCES ADMIN.
NONTIDAL WETLANDS

DEC 02 '91 11:46 TO ITE WATER RESOURCES FROM O P HUMPHREYS P.01



PETITIONER'S
EXHIBIT No 2

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: 4/23/87

FROM: ZONING OFFICE

PROJECT NAME: Monkton Center PLAN: 12/15/86 no plan received

LOCATION: NW/Cor. York Road & Everett Avenue REV: _____ REV: _____

DISTRICT: 7 C3

REVISED PLAN KEY ..... /√/ COMPLIANCE /0/ NON-COMP

/BA/ BE ADVISED NOT NECESSARY FOR CRG APPROVAL, BUT MUST BE ADDRESSED PRIOR TO FINAL ZONING APPROVAL

ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

1) A special hearing would be required before the Zoning Commissioner to permit business parking in the RC-5 zone as shown on the plans. Final zoning approval would be contingent upon the outcome of the hearing. As of this writing, a special hearing has not been filed in the office.

2) Note that all proposed signs will comply with Section 413 (BCZR) and all Zoning sign policies.

3) Show offsite zoning, zoning divisions, and uses on adjoining property.

4) Include and address Section 409.4 notes on the plan. It is important to note that the RC-5 area can only be used for passenger auto parking and traffic. Trucks, loading, water and toilet facilities to support the commercial use are not permitted in the RC-5 zone.

5) Break down the parking requirements by floor.

W. CARL RICHARDS, JR.
Zoning Coordinator

WCR,JR:bjs

PETITIONER'S EXHIBIT 3A

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING

DATE: April 21, 1987

PROJECT NAME: Monkton Centre
COUNCIL & ELECTION DISTRICT VII-200

PLAN XXXXXXXXXXXXXXXXXX
PLAN EXTENSION
REVISED PLAN
PLAT

This is a proposal to build a 2-story retail and office building of 17,000 square feet on a 0.48 acre site zoned B.M. on York Road at Everett Avenue. 60 parking spaces are required; 67 have been provided. Of these, 15 only are provided in the B.M. zone. The remainder are shown on the adjacent lot, zoned R.C. 5. The Sewage Disposal Area is also shown in the RC-5 zone.

The Office of Planning and Zoning has reviewed the plan dated April 1987, and has the following comments:

1. An 8' planting strip is required with screening, where parking abuts a public street or residential building or zone. Planting in the public right of way is not acceptable.

2. A special hearing would be required before the Zoning Commissioner to permit parking and a Sewage Disposal Area in a RC-5 zone as shown on this plan.

3. This office will oppose the request for parking in the RC-5 zone. The development as proposed constitutes an attempt to rezone the total site area RC-5 and B.M. to B.M. The proposed building, servicing, and parking should be fully self-contained on the B.M. parcel. This would ensure a building in keeping with the intent of the zoning and with the scale and historic nature of the Village.

4. Note #7 is incorrect. There are two buildings on the site which are on the Maryland Historic Trust Inventory; The Miller Store (BA 2035) and The Miller House (BA 2035). Although this office does not have the authority to prevent demolition of these buildings, the developer should consider their retention and rehabilition as part of a retail/office development.

5. A schematic landscape plan which meets all requirements of the Baltimore County Landscape Manual must be part of the CRG submission. A final landscape Plan must be approved by this office prior to issuance of a building permit.

6. The CRG plan should not be approved at this time. A continued meeting should be held only after the hearing before the Zoning Commissioner.

PETITIONER'S EXHIBIT 3B

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: 4/23/87

FROM: ZONING OFFICE

PROJECT NAME: Monkton Center PLAN: 12/15/86

LOCATION: NW/Cor. York Road & Everett Avenue REV: _____ REV: _____

DISTRICT: 7 C3

REVISED PLAN KEY ..... /√/ COMPLIANCE /0/ NON-COMP

/BA/ BE ADVISED (NOT NECESSARY FOR CRG APPROVAL, BUT MUST BE ADDRESSED PRIOR TO FINAL ZONING APPROVAL.

ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

1) A special hearing would be required before the Zoning Commissioner to permit business parking in the RC-5 zone as shown on the plans. Final Zoning approval would be contingent upon the outcome of the hearing. As of this writing, a special hearing has not been filed in the Zoning Office.

2) Note that all proposed signs will comply with Section 413 (BCZR) and all Zoning sign policies.

3) Show offsite zoning, zoning divisions, and uses on adjoining property.

4) Include and address Section 409.4 notes on the plan. It is important to note that the RC-5 area can only be used for passenger auto parking and traffic. Trucks and loading are not permitted in the RC-5 zone.

5) Break down the parking requirements by floor.

W. CARL RICHARDS, JR.
Zoning Coordinator

WCR,JR:bjs

PETITIONER'S EXHIBIT 3C

Pet Exh 4
93-537PH
3/9/93

CURRICULUM VITAE

NORMAN E. GERBER, AICP

35 Pickburn Court
Cockeysville, MD 21030

Business
(410)667-4543

Home
(410)667-4232

PROFESSIONAL EXPERIENCE

Preparation of Master Plans and Land Use Regulations

Prepared comprehensive policy, small-area, facility and revitalization plans, capital programs and capital budgets.

Prepared zoning and development ordinances, agricultural land preservation and historic district regulations and growth management programs.

Conducted demographic, transportation, economic and market studies.

Implementation of Plans and Programs

Reviewed and approved new development.

Enforced zoning, agricultural and historic preservation regulations.

Negotiated plan and facilities projects with community groups, local and state legislative bodies and private sector business.

Other

Testified before local, state and national boards, commissions and legislatures on the behalf of plans and programs.

Testified before boards of appeals, circuit courts and the U. S. Tax Court of Appeals on land use issues.

Prepared RFP's, grant applications, selected consultants and administered contracts.

WORK EXPERIENCE

2/88 to present — NORMAN E. GERBER, AICP, Cockeysville, MD
Principal
Private practice as planning consultant specializing in land planning, preparation of land use regulations, property evaluation for potential use and expert testimony in zoning and development issues.

2/89 to 10/90 — The City of Laurel, Laurel, MD
The Office of Planning and Zoning
Director
Administered the planning program and enforced the zoning code.

REVIEW OF PROPERTY OWNER'S EXHIBIT #3

Name: (New) Ridge Country Store
Location: 11950 Falls Road
Zoning of Commercial Use: RC-5 (Non-Conforming Use)
Zoning of Septic System: RC-5
Owner of Commercial Use: Karl E Dold, (deceased) Nancy Dold
Owner of Septic System: Karl E. Dold (deceased) Nancy Dold
Comments: Original store dates to 1917. Second building 1962
Reason for new Septic System: Failing septic system

Name: Hereford Plaza
Location: Southwest Corner of York & Mt. Carmel Roads
Zoning of Commercial Use: BM CR
Zoning of Septic System: RC-5
Owner of Commercial Use: Harford Joint Venture
Owner of Septic System: Harford Joint Venture
Comments: Site Plan approved in 1980, before CRG review

Name: Chestnut Ridge Country Store
Location: 12124 Green Spring Avenue
Zoning of Commercial Use: RC-5 (Non-Conforming Use area determined by Board of Appeals)
Zoning of Septic System: RC-5
Owner of Commercial Use: Douglass Elsrode
Owner of Septic System: Douglass Elsrode
Comments: Original store built in 1931
Reason for new Septic System: Small expansion of the store & a failing septic system.

Name: Harker Building
Location: Northwest Corner of Liberty & Wards Chapel Roads
Zoning of Commercial Use: BL
Zoning of Septic System: RC-4
Owner of Commercial Use: Hubert H. Harker, Jr. & Florence
Owner of Septic System: Hubert H. Harker, Jr. & Florence
Comments: Final Plat approved in 1979 for a small shopping center

Conclusions: 1. All of the above examples are not similar to the Long Green Hotel property.

2. In all cases, the commercial use and the septic system are located on property in the same ownership.

3. None of the septic systems are located on property zoned RC-2

Pet Exh 5
93-537PH
3/9/93

6 3 93

Norman E. Gerber, AICP

Discrepencies, Inaccuracies and Inconsistencies in regard to Applications for Building Permits submitted by Orville M. Jones from 10/10/89 through 11/19/92 on property located at 13523 Long Green Pike, Glen Arm, Maryland

	10/10/89	4/13/90	3/5/91	7/29/92	11/19/92
Prop. Use:	**Retail store Office & Add. & Alt.**	**Retail & Tank removal**	**Retail Store & Office & Repair**	**Convenience Store & Alt.**	**High's Dairy Store**
Exist. Use:	**Retail store**	**Vacant Store**	**Retail Store**	**Convenience Store (under Constuction)**	**High's Dairy Store**
Type of improv:	**Addition**	**Other**	**New Building Constr.**	**Alteration**	**New Building Construction**
Sewage:	**Private Proposed**	**----------** **----------**	**Private Exists**	**Private Proposed**	**Public Exists**
Water:	**Private Exists**	**----------** **----------**	**Private Exists**	**Private Exists**	**Public Exists**

Pet Exh 6
93-537PH

APPLICATION FOR BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-1965-89 DIST 11 PREC 06

LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES
TAX ASSESSMENT #: 1106050030

OWNERS INFORMATION
NAME: JONES ORVILLE M
ADDR: 9533 BELAIR RD BALTIMORE, MARYLAND 21236

APPLICANT INFORMATION
NAME: ORVILLE M JONES
COMPANY:
ADDR1: 9533 BELAIR ROAD
ADDR2: BALTIMORE, MARYLAND 21236
PHONE #: LICENSE #:

NOTES

3/5/91 - CANCELLED....SEE B084088, C-362-91.. $39.00 REV. FEE..DLS
CHANGE IN CONSTR. ONLY.
TRACT: 4112 BLOCK: 310
PLANS: CONST 03 PLOT R PLAT DATA ELEC YES PLUM YES
TENANT:
CONTR: ORVILLE M JONES INC
ENGNR: SILVERMAN AND ASSOCIATES
SELLR:
WORK: INSTALL N/FOOTING & FOUNDATION MOVE 1ST FLR
JOIST & FLR & PORT N/CONCRETE FLR OVER COMPACT
FILL INSTALL N/STAIR TO 2ND FLR PLACE ALL ROTTE
LUMBER & TREAT FOR TERMITES BRICK VENEER 2 SIDE
& FRONT & INSTALL VINYL SIDE ON REAR MOVE
REBUILD EX FRONT PORCH LOWER BLDG APPROX 3'

PROPOSED USE: RETAIL STORE & OFFICE & ADD & ALT
EXISTING USE: RETAIL STORE

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED
ESTIMATED COST OF MATERIAL AND LABOR: 35,000.00

TYPE OF IMPRV: ADDITION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: BASEMENT: NONE
SEWAGE: PRIV. PROPOSED WATER: PRIV. EXISTS
CONSTRUCTION: WOOD FRAME FUEL: ELECTRICITY
CENTRAL AIR: NO

SINGLE FAMILY UNITS
TOTAL 1 FAMILY BEDROOMS
MULTI FAMILY UNITS
EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:
NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:
TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

Pet Exh 6A

PERMIT # B034702

DIMENSIONS - INSTALL FIXTURES
BUILDING SIZE
GARBAGE DISP: FLOOR: 2353
POWDER ROOMS: WIDTH: 75'
BATHROOMS DEPTH: 38'
KITCHENS: HEIGHT: 24'
STORIES: 2
LOT NOS:
CORNER LOT: N

LOT SIZE AND SETBACKS
SIZE: 207/274X155/227
FRONT STREET:
SIDE STREET:
FRONT SETB: 30'
SIDE SETB: NC/NC
SIDE STR SETB:
REAR SETB: NC

ZONING INFORMATION
DISTRICT: BL/BR/RC BLOCK:
PETITION: SECTION:
DATE: LIBER:
MAP: FOLIO:
CLASS: 06

ASSESSMENTS
LAND: 0073920.00
IMPROVEMENTS: 0008570.00
TOTAL ASS.:

PLANNING INFORMATION
MASTER PLAN AREA: 6 SUBSEWERSHED: 81 CRITICAL AREA: F

DATE APPLIED: 10/18/89 INSPECTOR INITIALS: HR
FEE: $159.00 PAID: $159.00 RECEIPT #: A79602
PAID BY:

(I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE. AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS)

COMPANY OR OWNER DATE

ADDRESS

AGENT __
OWNER __

SIGNATURE OF APPLICANT PHONE

Pet Exh 6B

BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-362-91 DIST: 11 PREC: 06
DATE ISSUED: 08/22/91 TAX ACCOUNT #: 1106058030 CLASS: 06

PLANS: CONST 03 FLOT 0 R PLAT DATA ELEC YES PLUM YES
LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES

OWNERS INFORMATION
NAME: JONES ORVILLE M
ADDR: 9533 BELAIR RD BALTIMORE, MARYLAND 21236

TENANT:
CONTR: ORVILLE M JONES INC
ENGNR: SILVERMAN AND ASSOCIATES
SELLR:
WORK: INSTALL NEFOOTING & FOUNDATION MOVE 1ST FLR
JOIST & FLR & PORCH CONCRETE FLR OVER CRAWL
FILL INSTALL W/STAIR TO 2ND FLR PLACE ALL STATE
LUMBER & TRUSS FOR TERRITES BRICK VENEER 2 SIDES
& FRONT & INSTALL VINYL SIDE ON REAR SIDE
REBUILD EX FRONT PORCH LOWER BLDG APPROX 3

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: RETAIL STORE & OFFICE & REPAIR
35,000.00 EXISTING USE: RETAIL STORE

TYPE OF IMPRV: ADDITION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: BASEMENT: NONE
SEWAGE: PRIV. PROPOSED WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

SIZE: 207/274X155/227
FRONT STREET:
SIDE STREET: 30'
FRONT SETB: NC/NC
SIDE SETB: NC/NC
SIDE STR SETB:
REAR SETB: NC

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

APPLICATION FOR BUILDING PERMIT

PERMIT #: B052397 CONTROL #: TAC-709-90 DIST: 11 PREC: 06

LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES
TAX ASSESSMENT #: 1106058030

OWNERS INFORMATION
NAME: ORVILLE M. JONES
ADDR: 9533 BELAIR RD. 21236

APPLICANT INFORMATION
NAME: GARY JONES
COMPANY: ORVILLE M. JONES INC.
ADDR1: 9533 BELAIR RD.
ADDR2: 21236
PHONE #: 256-6630 LICENSE #:

NOTES
NAL/SAS

TRACT: BLOCK:
PLANS: CONST 0 PLOT 0 R PLAT DATA 0 ELEC NO PLUM NO
TENANT:
CONTR: ORVILLE M. JONES
ENGNR:
SELLR:
WORK: REMOVE 2- 550 GALL. GASOLINE TANKS
UNDERGROUND IN FRONT OF PROP., WILL
COMPLY W/ NFPA 30 AND COMAR 26.10.01.

PROPOSED USE: RETAIL + TANK REMOVAL
EXISTING USE: VACANT STORE

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED
ESTIMATED COST OF MATERIAL AND LABOR: 100.00

TYPE OF IMPRV: OTHER
USE: TANK, TOWER
FOUNDATION: BASEMENT:
SEWAGE: WATER:
CONSTRUCTION: FUEL:
CENTRAL AIR:

SINGLE FAMILY UNITS
TOTAL # FAMILY BEDROOMS
MULTI FAMILY UNITS
EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:
NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:
TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

PERMIT #: B052397

DIMENSIONS - INSTALL FIXTURES

GARBAGE DISP:	BUILDING SIZE		LOT SIZE AND SETBACKS
POWDER ROOMS:	FLOOR: 0		SIZE: 207/274X155/227
BATHROOMS:	WIDTH:		FRONT STREET:
KITCHENS:	DEPTH:		SIDE STREET:
	HEIGHT:		FRONT SETB: NC
LOT NOS:	STORIES:		SIDE SETB: NC/NC
CORNER LOT:			SIDE STR SETB:
			REAR SETB: NC

ZONING INFORMATION

DISTRICT:	BLOCK:	ASSESSMENTS	
PETITION:	SECTION:	LAND:	0073420.00
DATE:	LIBER:	IMPROVEMENTS	0008576.00
MAP:	FOLIO:	TOTAL ASS.	
	CLASS: 06		

PLANNING INFORMATION
MASTER PLAN AREA: SUBSEWERSHED: CRITICAL AREA

DATE APPLIED: 04/13/90 INSPECTOR INITIALS: HR
FEE: $40.00 PAID: $40.00 RECEIPT #: A44
PAID BY: APPL

(I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE. AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

COMPANY OR OWNER DATE

ADDRESS

AGENT __
OWNER __

SIGNATURE OF APPLICANT PHONE

BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B052397 CONTROL #: TAC-709-90 DIST: 11 PREC: 02
DATE ISSUED: 04/13/90 TAX ACCOUNT #: 1106058030 CLASS: 06

PLANS: CONST 0 FLOT 0 R PLAT DATA 0 ELEC NO PLUM NO
LOCATION: 13523 LONG GREEN PK
SUBDIVISION: 1.056 AC SES

OWNERS INFORMATION
NAME: ORVILLE M. JONES
ADDR: 9533 BELAIR RD. 21236

TENANT:
CONTR: ORVILLE M. JONES
ENGNR:
SELLR:
WORK: REMOVE 2- 550 GALL. GASOLINE TANKS
UNDERGROUND IN FRONT OF PROP., WILL
COMPLY W/ NFPA 30 AND COMAR 26.10.01.

BLDG. CODE: 01 BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: RETAIL + TANK REMOVAL
100.00 EXISTING USE: VACANT STORE

TYPE OF IMPRV: OTHER
USE: TANK, TOWER
FOUNDATION: BASEMENT:
SEWAGE: WATER:

LOT SIZE AND SETBACKS

SIZE: 207/274X155/227
FRONT STREET:
SIDE STREET:
FRONT SETB:
SIDE SETB:
SIDE STR SETB:
REAR SETB:

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-362-91 DIST: 11 PREC: 06
DATE ISSUED: 08/22/91 TAX ACCOUNT #: 1106058030 CLASS: 06

PLANS: CONST 03 FLOT 0 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES

OWNERS INFORMATION
NAME: ORVILLE M. JONES
ADDR: 9533 BELAIR RD. 21236

TENANT:
CONTR: ORVILLE M. JONES
ENGNR:
SELLR:
WORK: REMOVE 2- 550 GALL. GASOLINE TANKS
(UNDERGROUND) IN FRONT OF PROP., WILL
COMPLY W/NFPA 30 AND COMAR 26.10.01.

BLDG. CODE: 01 BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: RETAIL + TANK REMOVAL
100.00 EXISTING USE: VACANT STORE

TYPE OF IMPRV: OTHER
USE: TANK, TOWER
FOUNDATION: BASEMENT:
SEWAGE: WATER:

LOT SIZE AND SETBACKS

SIZE: 207/274X155/227
FRONT STREET:
SIDE STREET:
FRONT SETB:
SIDE SETB:
SIDE STR SETB:
REAR SETB:

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

APPLICATION FOR BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-362-91 DIST: 11 PREC: 06

LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES
TAX ASSESSMENT #: 1106058030

OWNERS INFORMATION
NAME: JONES ORVILLE
ADDR: 9533 BELAIR RD. 21236

APPLICANT INFORMATION
NAME: ORVILLE M JONES
COMPANY:
ADDR: 9533 BELAIR ROAD
ADDR2: BALTIMORE, MARYLAND 21236
PHONE #: 256-6630 LICENSE #:

NOTES
256-6630

TRACT: 4102 BLOCK: 310
PLANS: CONST 03 PLOT 0 R PLAT 0 DATA 5 ELEC YES PLUM YES
TENANT:
CONTR: OWNER
ENGNR
SELLR
WORK:
RECONSTRUCT BLDG. EXTENSIVELY DAMAGED BY FIRE, TERMITE & ROT. SAME SIZE & LOCATION. THIS PERMIT REPLACES B034702. REFER BACK FOR SITE PLANS. CHANGE IN CONSTRUCTION ONLY. 25% FIRE DAMAGE.EXPIRES 8/22/91;2353

PROPOSED USE: RETAIL STORE & OFFICE & REPAIR
EXISTING USE: RETAIL STORE

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED
ESTIMATED COST OF MATERIAL AND LABOR: 80,000.00

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: SLAB BASEMENT: NONE
SEWAGE: PRIV. EXISTS WATER: PRIV. EXISTS
CONSTRUCTION: WOOD FRAME FUEL: ELECTRICITY
CENTRAL AIR: NO

SINGLE FAMILY UNITS
TOTAL # FAMILY BEDROOMS
MULTI FAMILY UNITS
EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:
NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:
TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

PERMIT #: B034702

DIMENSIONS - INSTALL FIXTURES

GARBAGE DISP:	BUILDING SIZE		LOT SIZE AND SETBACKS
POWDER ROOMS:	FLOOR: 2554		SIZE: 207/274X155/227
BATHROOMS:	WIDTH: 25'		FRONT STREET:
KITCHENS:	DEPTH: 86'		SIDE STREET:
	HEIGHT: 24'		FRONT SETB: NC
LOT NOS:	STORIES: 2		SIDE SETB: NC/NC
CORNER LOT: N			SIDE STR SETB:
			REAR SETB: NC

ZONING INFORMATION

DISTRICT: BL/BR/RC	BLOCK:	ASSESSMENTS	
PETITION:	SECTION	LAND:	0073420.00
DATE:	LIBER:	IMPROVEMENTS	0008576.00
MAP:	FOLIO:	TOTAL ASS.	
	CLASS: 06		

PLANNING INFORMATION
MASTER PLAN AREA: 6 SUBSEWERSHED: B5 CRITICAL AREA: N

DATE APPLIED: 03/05/91 INSPECTOR INITIALS: MK
FEE: $39.00 PAID: $39.00 RECEIPT #: A15620
PAID BY: OWNER

(I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE. AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

COMPANY OR OWNER DATE

ADDRESS

AGENT __
OWNER __

SIGNATURE OF APPLICANT PHONE

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-362-91 DIST: 11 PREC: 06
DATE ISSUED: 03/13/91 TAX ACCOUNT #: 1106058030 CLASS: 06

PLANS: CONST 03 FLOT 0 R PLAT 0 DATA 5 ELEC YES PLUM YES
LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION: 1.056 AC SES

OWNERS INFORMATION
NAME: JONES ORVILLE
ADDR: 9533 BELAIR RD. 21236

TENANT:
CONTR: OWNER
ENGNR:
SELLR:
WORK:
RECONSTRUCT BLDG. EXTENSIVELY DAMAGED BY FIRE, TERMITE & ROT. SAME SIZE & LOCATION. THIS PERMIT REPLACES B034702. REFER BACK FOR SITE PLANS. CHANGE IN CONSTRUCTION ONLY. 25% FIRE DAMAGE.EXPIRES 8/22/91;2353

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: RETAIL STORE & OFFICE & REPAIR
80,000.00 EXISTING USE: RETAIL STORE

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: SLAB BASEMENT: NONE
SEWAGE: PRIV. EXISTS WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

SIZE: 207/274X155/227
FRONT STREET:
SIDE STREET:
FRONT SETB: 30'
SIDE SETB: NC/NC
SIDE STR SETB:
REAR SETB: NC

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

APPLICATION FOR B[illegible] PERMIT

[illegible] 2 CONTROL $ [illegible] PREC 06

[illegible] 523 LONG GREEN [illegible]
[illegible] 56 AC SES
[illegible]: 1100058930

[illegible] ION
[illegible] VILLE M.
[illegible] R RD. 2123[illegible]

[illegible] MATION
[illegible] M. JONES
[illegible] M. JONES, INC
[illegible] LAIR RD.
[illegible] ORE, MARYLAND [illegible]
[illegible] 0 LIBER: [illegible]

[illegible]

BLOCK
PLOT 0 [illegible]
OF BALTIMORE
M. JONES, INC

[illegible] ALTERATIONS [illegible]
[illegible] APPED RESTROOM [illegible]
[illegible], HEATING A[illegible]
[illegible] C 362.71 FOR [illegible]
[illegible]. PLANS WAIVED [illegible]
REQUIRED FOR AP[illegible]

[illegible] CONVENIENCE STORE [illegible]
CONVENIENCE STORE [illegible]

A CODE
[illegible]GORY
OF MATERIAL AND [illegible]

ALTERATION
[illegible]LANTILE, RESTAURA[illegible]

[illegible]
PROPOSED

[illegible]
[illegible]NITS
[illegible]BEDROOMS
[illegible]ITS
[illegible]SEPARATE BEDR[illegible]
[illegible]MS: NO. OF [illegible]
[illegible]BROOMS

PERMIT $: B138722

DIMENSIONS - INSTALL FIXTURES

	BUILDING SIZE	LOT SI[illegible]
GARBAGE DISP:	FLOOR: 1813	SIZE:
POWDER ROOMS:	WIDTH:	FRONT
BATHROOMS:	DEPTH:	SIDE
KITCHENS:	HEIGHT:	FRONT [illegible]
	STORIES:	SIDE
LOT NOS:		SIDE S[illegible]
CORNER LOT:		REAR

ZONING INFORMATION

DISTRICT:	BLOCK:	ASSESS[illegible]
PETITION:	SECTION:	LAND
DATE:	LIBER:	IMPROV[illegible]
MAP:	FOLIO:	TOTAL
	CLASS: 06	

PLANNING INFORMATION
MASTER PLAN AREA: SUBSEWERSHED: CRITI[illegible]

DATE APPLIED: 07/29/92 INSPECTOR INITIALS: HR
FEE: $105.00 PAID: $105.00 RECI[illegible]
PAID BY: APPL

(I HAVE CAREFULLY READ THIS APPLICATION AND KNOW [illegible]
TRUE. AND THAT IN DOING THIS WORK ALL PROVISION[illegible]
CODE AND APPROPRIATE STATE REGULATIONS WILL BE [illegible]
HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REV[illegible]

COMPANY OR OWNER

ADDRESS

AGENT [illegible]
OWNER [illegible]

SIGNATURE OF APPLICANT

APPLICATION FOR BUILDING PERMIT

PERMIT $: B149143 CONTROL $: 91-8771 DIST: 11 PREC: 02

LOCATION: 13523 LONG GREEN PIKE
SUBDIVISION:
TAX ASSESSMENT $:

OWNERS INFORMATION
NAME: JONES, ORVILLE
ADDR: 9533 BELAIR RD BALTIMORE, MARYLAND 21236

APPLICANT INFORMATION
NAME: BRIAN DARNELL
COMPANY: HIGH'S OF BALTIMORE INC.
ADDR1: 2700 SISSON ST
ADDR2: BALTIMORE, MARYLAND 21211
PHONE $: 889-7766 LICENSE $:

NOTES
JP/JAB

TRACT: BLOCK:
PLANS: CONST 2 PLOT 2 R PLAT 0 DATA 0 ELEC YES PLUM NO
TENANT:
CONTR: ART DISPLAY CO
ENGNR:
SELLR:
WORK: ERECT ONE DOUBLE FACED FREE STANDING SIGN ON FRONT OF PROPERTY. REFER TO ELECTRICAL PERMIT #E143902. LICENSE TAG MUST BE AFFIXED TO SIGN. (8'X 5'2"X 18') 41 SQ. FT.

PROPOSED USE: HIGH'S DAIRY STORE AND SIGN
EXISTING USE: HIGH'S DAIRY STORE

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED
ESTIMATED COST OF MATERIAL AND LABOR: 1,000.00

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: SIGN
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST
CONSTRUCTION: FUEL:
CENTRAL AIR:

SINGLE FAMILY UNITS
TOTAL 1 FAMILY BEDROOMS
MULTI FAMILY UNITS
EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:
NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE
TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

PERMIT $: B149143

DIMENSIONS - INSTALL FIXTURES

	BUILDING SIZE	[illegible] SIZE AND [illegible]
GARBAGE DISP:	FLOOR: 41	SIZE
POWDER ROOMS:	WIDTH: 8'	FRONT [illegible]
BATHROOMS:	DEPTH: 5'2"	SIDE [illegible]
KITCHENS:	HEIGHT: 18'	FRONT [illegible]
	STORIES:	SIDE [illegible]
LOT NOS:		SIDE [illegible]
CORNER LOT: N		REAR [illegible]

ZONING INFORMATION

DISTRICT:	BLOCK:	[illegible]
PETITION:	SECTION:	[illegible]
DATE:	LIBER:	[illegible]
MAP:	FOLIO:	[illegible]
	CLASS:	

PLANNING INFORMATION
MASTER PLAN AREA: SUBSEWERSHED [illegible]

DATE APPLIED: 11/19/92 INSPECTOR IN[illegible]
FEE: $7.00 PAID: $[illegible]
PAID BY: APPLICANT

(I HAVE CAREFULLY READ THIS APPLICAT[illegible]
TRUE. AND THAT IN DOING THIS WORK [illegible]
CODE AND APPROPRIATE STATE REGULATI[illegible]
HEREIN SPECIFIED OR NOT AND WILL RE[illegible]

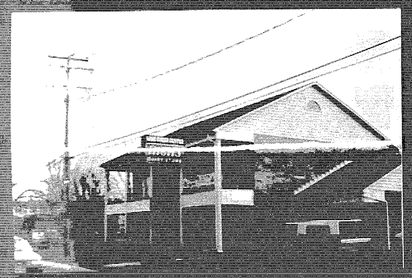
COMPANY OR OWNER

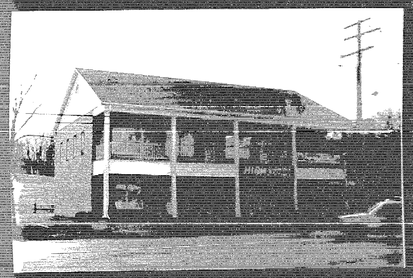
ADDRESS

AGE[illegible]
OWN[illegible]

SIGNATURE OF APPLICANT











County Council of Baltimore County
Maryland

Legislative Session 1978, Legislative Day No. 20

BILL NO. 178-78

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL

ENTITLED

AN ACT to implement various elements of the County's ~~Comprehensive~~ Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay districts, zone and regulations and requirements pertaining thereto, to provide for a master plan consistency determination~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; and to provide for monitoring of development activity; by adding new Article 4A — GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, 1A03.5 and new definitions "Facilities impact use, Class A", "Facilities impact use, Class B", "Housing for the elderly", "Industrial, quasi-industrial or industry-related use"; and "Nonindustrial use" to Section 101, all of the Baltimore County Zoning Regulations, as repealing and re-enacting with amendments, Subsections 1A01.2.B.2



County Council of Baltimore County
Maryland

Legislative Session 1975, Legislative Day No. 27

BILL NO. 98-75

Introduced by Mr. Hudkins, Councilman

By the County Council, October 6, 1975

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to establish four new zoning classifications intended to promote the preservation of Baltimore County's Natural Resources by repealing subparagraph 100.1.A.2 of Section 100 of the Zoning Regulations of Baltimore County and enacting a new subparagraph 100.1.A.2 in lieu thereof; by adding certain new definitions to Section 101 of said regulations; by adding new subsection 103.3 to Section 103 of said regulations; and by repealing Article 1A and Sections 1A01 and 1A01 thereunder, of said regulations and enacting new sections 1A00 through 1A01, under new Article 1A entitled "Resource Conservation Zones", in lieu thereof.

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED THE FINAL REPORT OF THE PLANNING BOARD, ENTITLED *PROPOSED ZONING AMENDMENTS: ZONING CLASSIFICATIONS FOR RESOURCE CONSERVATION*, IN ACCORDANCE WITH SECTIONS 22-20 AND 22-21 OF THE BALTIMORE COUNTY CODE (1974 SUPPLEMENT); AND,

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED TESTIMONY AT THE PUBLIC HEARING HELD IN ACCORDANCE WITH SECTION 22-21 OF THE BALTIMORE COUNTY CODE (1974 SUPPLEMENT); AND,

WHEREAS, THE COUNTY COUNCIL HAS REVIEWED IN WORK SESSION AND LEGISLATIVE SESSION THE PLANNING BASIS OF THE FINAL REPORT AS ELABORATED BY THE STAFF OF THE OFFICE OF PLANNING AND ZONING OF BALTIMORE COUNTY; AND,

WHEREAS, THE COUNTY COUNCIL HAS CONSIDERED THE COMPREHENSIVE PLAN FOR BALTIMORE COUNTY APPROVED BY THE PLANNING BOARD OCTOBER 13, 1976.

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

887-3733

November 20, 1991

Mrs. Charlotte Pine
607 Baltimore Avenue
Towson, Maryland 21204

Dear Mrs. Pine:

The Environmental Impact Review Division (EIPD) of the Department of Environmental Protection and Resource Management (DEPRM) received your August 20, 1991 letter to Glen Shaffer requesting an investigation to determine the presence and extent of any wetlands at the referenced property.

Mr. Shaffer initially investigated the site on May 22, 1991 in response to a request made by the Ground Water Management Division of DEPRM. During this investigation, the following findings were made:

1. A Use III perennial tributary to Long Green Creek flows along the northeastern property line with an intermittent tributary originating from an unpermitted pond located near the property's eastern boundary.

2. The wetlands adjacent to both tributaries lie within 50 feet of either stream. No wetlands were impacted by either the construction activities or perc testing.

3. The old hotel building which is being restored exists 75 feet from the perennial tributary with its limits of disturbance 25 feet from that stream.

4. There is no proposed increase in the foot print of the building being restored.

5. No sedimentation of the stream due to the building renovation was evident.

6. Currently there is no Baltimore County approved septic reserve area on the parcel of land containing the hotel. Therefore, the outparcel shown enclosed as Exhibit A was investigated as an alternative site for the installation of conventional absorption trenches with the septic tank and ejector pumps located near the renovated building.

Sincerely,

Orville M. Jones Inc.
[illegible] ROAD, BALTIMORE, MARYLAND 21236
301 256-9600

17 December 1991

Mr. James Dieter, Director
Ground Water Management Division
Department of Environmental Protection
401 Bosley Avenue
Towson, Maryland 21204

Re: LONG GREEN HOTEL
13523 Long Green Pike
Baldwin, Maryland 21013

Mr. Dieter:

I am responding to the letter dated 11/25/91 from the Long Green Valley Association.

I bought the property in April of 1987 at public auction for $131,000.00. The building was built in 1904 on the site of a similar building that had burned down in the 1890's, both of which were used as a hotel and general store until shortly before the auction.

Since the purchase, I have gone through all of the processes to develop the property into a first class commercial site. I have satisfied all of the County departments and the State of Maryland concerning the setbacks. I have given up in excess of 35% of the property for a new Forest Buffer. The buffer must be planted as directed by DEPRM, fenced in and not used for any other purpose.

In answer to the issues raised in the letter:

1. This is not an innovative septic system. This is a standard deep ditch drain field.

2. The use of separate RC2 zoned property for the drainage field by virtue of an easement? I fail to see the connection since there would be no visable use. If the easement becomes a problem, I will buy the property from Mr. Webber.

3. The drainage field being 847 feet up hill from the pump means that we will have 2 pumps that are each capable of pumping the effluent to the distribution box.

4. The pipe connecting the pump pit to the distribution box

GENERAL CONTRACTORS

Jones 1A

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

John R. Ritz
BUILDINGS ENGINEER

PERMIT #: B034702 CONTROL #: C-1965'89 DIST: 11 SHEET: 32
DATE ISSUED: 08/22/90 TAX ACCOUNT #: 1100058836 CLASS: 15

PLANS: CONST 03 PLOT R PLAT DATA ELEC YES PLUM YES
LOCATION: 4523 LONG GREEN PIKE
SUBDIVISION: 1,056 AC SES

OWNERS INFORMATION
NAME: JONES, ORVILLE M
ADDR: 9535 BELAIR RD BALTIMORE, MARYLAND 21236

TENANT:
CONTR: ORVILLE M JONES INC
ENGNR: SILVERMAN AND ASSOCIATES
SELLER:
WORK: INSTALL W/FOOTING & FOUNDATION MOVE 1ST FLR
JOIST & FLR & PORT W/CONCRETE FLR OVER CRAWLSPACE
FILL INSTALL W/STAIR TO BASEMENT PLACE ALL NEW
LUMBER & TREAT FOR TERMITES BRICK VENEER & SIDE
& FRONT & INSTALL VINYL SIDE ON REAR MOVE
REBUILD EX FRONT PORCH & LOWER DECK APPROX

BLDG. CODE: BOCA CODE:
RESIDENTIAL CATEGORY: OWNERSHIP:

ESTIMATED $ PROPOSED USE: RETAIL STORE & OFFICE & STORAGE
$5,000.00 EXISTING USE: RETAIL STORE

TYPE OF IMPRV: ADDITION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: BASEMENT: YES
SEWAGE: PRIV. PROPOSED WATER: PRIV. EXISTING

LOT SIZE AND SETBACKS
SIZE: 207X274X151X277
FRONT STREET:
SIDE STREET:
FRONT SETB.: 30'
SIDE SETB.: NC/NC
SIDE SIDE SETB.:
REAR SETB.: NC

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

Jones 1B

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

John R. Ritz
BUILDINGS ENGINEER

BUILDING PERMIT

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

Jones 1C

BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

John R. Ritz
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B034702 CONTROL #: C-1965'89 DIST: 11 SHEET: 32
DATE ISSUED: 08/22/90 TAX ACCOUNT #: 1100058836 CLASS: 15

PLANS: CONST 03 PLOT R PLAT DATA ELEC YES PLUM YES
LOCATION: 4523 LONG GREEN PIKE
SUBDIVISION: 1,056 AC SES

OWNERS INFORMATION
NAME: JONES ORVILLE M
ADDR: 9535 BELAIR RD BALTIMORE, MARYLAND 21236

TENANT:
CONTR: ORVILLE M JONES INC
ENGNR: SILVERMAN AND ASSOCIATES
SELLER:
WORK: INSTALL W/FOOTING & FOUNDATION MOVE 1ST FLR
JOIST & FLR & PORT W/CONCRETE FLR OVER CRAWLSPACE
FILL INSTALL W/STAIR TO BASEMENT PLACE ALL NEW
LUMBER & TREAT FOR TERMITES BRICK VENEER & SIDE
& FRONT & INSTALL VINYL SIDE ON REAR MOVE
REBUILD EX FRONT PORCH & LOWER DECK APPROX

BLDG. CODE: BOCA CODE:
RESIDENTIAL CATEGORY: OWNERSHIP:

ESTIMATED $ PROPOSED USE: RETAIL STORE & OFFICE & STORAGE
$5,000.00 EXISTING USE: RETAIL STORE

TYPE OF IMPRV: ADDITION
USE: OFFICE, BANK, PROFESSIONAL
FOUNDATION: BASEMENT: YES
SEWAGE: PRIV. PROPOSED WATER: PRIV. EXISTING

LOT SIZE AND SETBACKS
SIZE: 207X274X151X277
FRONT STREET:
SIDE STREET:
FRONT SETB.: 30'
SIDE SETB.: NC/NC
SIDE SIDE SETB.:
REAR SETB.: NC

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

LIBER 8984 PAGE 770

Jones 5A

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 25th day of November, 1991, by Orville M. Jones ARE of Baltimore County, Maryland (the "Declarant").

WHEREAS, the Declarant is the owner in fee simple of all that land in Baltimore County, Maryland, which is described in a deed recorded in the Land Records of Baltimore County in Liber 7492, folio 266, (the "Property"); and

WHEREAS, in order to protect the environmental quality of the areas of the Property designated on the attached Exhibit "A" as "Forest Buffer" areas (the "Forest Buffer") the Declarant desires to protect said Forest Buffer by imposing covenants, conditions and restrictions which will bind the Lots and the present and future owners thereof.

NOW, THEREFORE, in consideration of the benefits derived by the Declarant and their successors in interest, the said Declarant, for themselves, their successors and assigns, does hereby agree as follows:

1. a. Existing vegetation within the Forest Buffer shall not be disturbed except as provided pursuant to Baltimore County Code, 1988, as amended (hereafter referred to as "the Code"), 14-342. This includes, but is not limited to, disturbance by tree removal, shrub removal, clearing, mowing, burning, spraying, and grazing;

b. Soil disturbance shall not take place within the Forest Buffer by grading, stripping of topsoil, plowing, cultivating, or other practices;

c. Filling or dumping shall not occur within the Forest Buffer;

d. Except as permitted by the Baltimore County Department of Environmental Protection and Resource Management ("DEPRM"), the Forest Buffer shall not be drained by ditching, underdrains or other drainage systems;

e. Pesticides shall not be stored, used, or applied within the Forest Buffer, except for the spot spraying of noxious weeds consistent with the recommendations of the University of Maryland Cooperative Extension Service;

f. Animals shall not be housed, grazed, or otherwise maintained within the Forest Buffer;

g. Motorized vehicles shall not be stored or operated within the Forest Buffer, except for maintenance and emergency use approved by DEPRM;

h. Materials shall not be stored within the Forest Buffer.

2. Waiver by DEPRM. The aforementioned covenants, conditions and restrictions may be waived or modified by variance only by the Baltimore County Department of Environmental Protection and Resource Management as provided in 14-334 of the Code.

AGRICULTURAL TRANSFER TAX NOT APPLICABLE

SIGNATURE ____ DATE ____

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
By Date

TRANSFER TAX NOT REQUIRED
UNDER PROVISIONS OF
BALTIMORE COUNTY, MARYLAND
REAL PROPERTY ARTICLE
SECTION 11-102.1(b)(1)(i)(ii)
SIGNED

AND INTENDED TO BE RECORDED FORTHWITH AMONG THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

BALTIMORE COUNTY — DEPARTMENT OF PUBLIC WORKS — BUREAU OF LAND ACQUISITION

DISTRICT NO. | POSITION SHT. NO. | CONSTRUCTION PLAN NO. | FEDERAL PROJECT NO. | MARYLAND PROJECT NO.

APPROVED: DIRECTOR OF PUBLIC WORKS

DATE:

AREA TO BE ACQUIRED; EXISTING COUNTY R/W; REVERTIBLE SLOPE EASEMENT; AREA TO BE RELEASED; TEMPORARY CONSTRUCTION AREA; TEMPORARY SLOPE EASEMENT

Date 11-13-91 PRS no. 466

SHEET 1 OF 1 SHTS. REVISIONS

APPROVED: CHIEF, BUREAU OF LAND ACQUISITION

DATE:

ITEM NO. | DESCRIPTION | DATE

APPROVED: SUPERINTENDENT, DIVISION OF DRAFTING

DATE:

SCALE 1"= 50'

B.C. JOB ORDER NO.

AREA CHECKED

TITLE R/W - -

State of Maryland

DEPARTMENT OF THE ENVIRONMENT
201 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201
AREA CODE 301 • 225-

William Donald Schaefer
Governor

Martin M. Walsh, Jr.
Secretary

July 28, 1988

Mr. Robert Sheesley, Director
Department of Environmental Protection &
Resource Management
401 Bosley Avenue
Towson, Maryland 21204

Re: Long Green Water
Orville Jones Property

Dear Mr. Sheesley:

The results of our site evaluation and review of the topographic study performed at the referenced property indicate the site is suitable for installation of an innovative alternative sand mound sewage disposal system. The sewage disposal area delineated on the enclosed survey is restricted by the irrigation well location, the approximate location of the neighbors well, the approximate location of the swale and the counties requirement for a 100 foot set back to the stream. The exact location of the wells and the swale must be located on the final plans. In addition, sewage disposal systems on neighboring properties must be located as they may impact the location of the proposed well.

The area delineated on the enclosed survey as initial installation is sufficient for an experimental sand mound with a design flow of 275 gallons per day. Should Mr. Jones decide to pursue this project we would need to know the exact use of the building in order to estimate the volume and nature of the septic tank effluent; and verify the exact locations of the swale, wells, and proposed buildings prior to releasing design specifications for the property.

RECEIVED
AUG 1 1988
WATER AND SEWER

1"=30'

COUNTY REVIEW GROUP MEETING
Wednesday, October 19, 1983

HARFORD ROAD PLAZA

COUNTY REVIEW GROUP - THOSE PRESENT*

Benson, Chairman - Dept. of Public Works
- Office of Current Planning
Jones - Traffic Engineering
- Health Dept.
- Bureau of Public Services
George Wittman - State Highway Administration
Mel Herzberger - Harford Road Plaza
J. Strong Smith - G. W. Stephens, Jr. & Assocs., Inc.

* Attachment - List of interested citizens

The meeting was called to order by Mr. Benson, Chairman of the County Review Group, at 10:00 a.m. Mr. Benson introduced the members of the Committee and stated the purpose of the meeting.

Mr. John Smith, developer's engineer, presented the plan. They propose an office and retail building on the site with one means of access from Harford Road, 98 parking spaces, screening around the perimeter of the property, and storm water management within this site.

Mr. Eugene Bober, co-chairman of the CRG, summarized the written comments submitted from the State Highway Administration, the Baltimore County Departments of Health, Traffic Engineering, and Recreation & Parks, and the Baltimore County Offices of Planning, Zoning, and Developers Engineering Division. Mr. Bober's summary is as follows:

The Health Department finds the plan satisfactory and recommends approval subject to the conditions set forth by that office.

Developers Engineering Division advises the entrance width should be increased to a minimum of 24', and sidewalks and storm drain improvements are required.

State Highway Administration finds that the storm drain system for this site must be reviewed by that agency along with data to be submitted for review, and concrete curb should be constructed in lieu of bituminous curb.

Traffic Engineering advises that the plan could be approved, but a concrete raised curb should be placed along the edge of the parking lot along Harford Road.

Office of Planning reports that the soils have certain limitations and adequate measures are to be taken which would mitigate the effects of the limitations prior to issuance of the building permits. A pedestrian walkway is to be provided from the rear of the parking lot to the building. A landscape plan is required prior to or along with the building

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS
FROM: OFFICE OF PLANNING AND ZONING
DATE: October 17, 1983

PROJECT NAME: Harford Road Plaza
COUNCIL & ELECTION DISTRICT IX-11

PLAN XXXXXXXXXXXXXXXXXX
PLAN EXTENSION
REVISED PLAN
PLAT

The Office of Planning and Zoning has reviewed the subject plan and has the following comments:

As shown on the plan, the soils which exist on this site have moderate to severe limitations for development due to slope. Adequate measures which would mitigate the effects of this limitation will be required prior to issuance of building permits.

It is strongly recommended that a pedestrian walkway be provided from the rear parking lot to the building. This will provide a safe alternate for pedestrians who would otherwise walk in the driveway area.

A landscape plan must be submitted with the building permit application, in accordance with Restriction Number 5 of the Deputy Zoning Commissioner's Order in Case No. 81-204-SPH.

The property is located in a traffic area controlled by a "D level intersection", Joppa Road and Harford Road, and it is possible that as conditions change traffic capacity may become more lmited. The Basic Services areas which determine traffic deficiency will be re-evaluated by the Planning Board in October, 1983, and new maps will be adopted by the County Council in December, 1983. The Basic Services Areas are re-evaluated annually. Issuance of building permits in the future may be determined by the constraints of re-evaluation of deficient areas.

Susan Carrell
Susan Carrell

BALTIMORE COUNTY, MARYLAND

TO: Mr. Robert Morton
FROM: C. Richard Moore
DATE October 18, 1983
SUBJECT: C.R.G. COMMENTS

PROJECT NAME Harford Road Plaza
PROJECT NUMBER & DISTRICT
LOCATION Harford Road and Sixth Avenue

C.R.G. PLAN X
DEVELOPMENT PLAN
RECORD PLAT

The edge of the parking lot along Harford Road needs to have a raised curb, of concrete.

C. Richard Moore
Acting Deputy Director

CRM/GMJ/ccm

93-93-SPH, LONG GREEN VALLEY ASSN., ET AL 2
File No. 95/341/94-CV-10257

Petitioners; Orville Jones, 9533 Belair Road, Baltimore, MD 21236; John B. Gontrum, Esquire, ROMADKA, GONTRUM AND MCLAUGHLIN, P.A., 814 Eastern Boulevard, Essex, MD 21221, Counsel for Mr. Jones, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe
Legal Secretary, County Board of Appeals, Room 49, Basement - Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to J. Carroll Holzer, Esquire, HOLZER AND LEE, Suite 502, 305 Washington Avenue, Towson, MD 21204, Counsel for Petitioners; Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, and Long Green Valley Association, c/o J. Carroll Holzer, Esquire, HOLZER AND LEE, Suite 502, 305 Washington Avenue, Towson, MD 21204, Petitioners; PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, Petitioners; Orville Jones, 9533 Belair Road, Baltimore, MD 21236; John B. Gontrum, Esquire, ROMADKA, GONTRUM AND MCLAUGHLIN, P.A., 814 Eastern Boulevard, Essex, MD 21221, Counsel for Mr. Jones, on this 21st day of November, 1994.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 21, 1994

J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Civil Action No. 94-CV-10257
LONG GREEN VALLEY ASSN. ET AL

Dear Mr. Holzer:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on November 17, 1994, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 95-341-94-CV-10257.

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

Very truly yours,
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Long Green Valley Assn., et al
John B. Gontrum, Esquire
Orville Jones
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 21, 1994

J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 302
Towson, MD 21204

RE: CIVIL ACTION NO. 94-CV-10257
LONG GREEN VALLEY ASSN., ET AL

Dear Mr. Holzer:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty 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 the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Long Green Valley Association, et al

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 21, 1994

John B. Gontrum, Esquire
ROMADKA, GONTRUM & MCLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221

RE: Civil Action No. 94-CV-10257
LONG GREEN VALLEY ASSN. ET AL

Dear Mr. Gontrum:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on November 9, 1994, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 95/341/94-CV-10257.

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

Very truly yours,
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Orville Jones
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 21, 1994

Peter Max Zimmerman
People's Counsel for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Civil Action No. 94-CV-10257
LONG GREEN VALLEY ASSN. ET AL

Dear Mr. Zimmerman:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty 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 the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

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

Very truly yours,
Charlotte E. Radcliffe
Legal Secretary

Enclosure

PETITION OF SHARON ROHRBAUGH, CHARLOTTE PINE, KATHY TYLER, & LONG GREEN VALLEY ASSOCIATION
FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, 400 WASHINGTON AVENUE, ROOM 49, OLD COURTHOUSE, TOWSON, MARYLAND 21204
IN THE CASE OF:
Orville Jones, High's of Baltimore, Inc.
13523 Long Green Pike
Petition for Special Hearing
Case No. 93-93 SPH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL ACTION
Case No. 95134-1

PETITION FOR JUDICIAL REVIEW

Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, and the Long Green Valley Association, through their attorney J. Carroll Holzer adn Holzer and Lee, hereby petition for Judicial Review by the Circuit Court for Baltimore County pursuant to Rule 7-202, from the Decision of the County Board of Appeals (CBA) denying a Petitioners' Request for Special Hearing to find use of RC-2 land to support a commercial septic system as illegal and ceasing said use. The decision by the CBA was rendered on October 26, 1994.

Petitioners were all parties to the proceedings before the Board of Appeals.

J. Carroll Holzer
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
(410) 825-6961
Attorney for Petitioners

RECEIVED AND FILED

cc: 11/4 copy to all & Agency

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 9th day of November 1994, a copy of the foregoing Petition for Judicial Review was mailed, postage pre-paid, to: John Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland, 21221.

J. Carroll Holzer

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	•	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	•	CIRCUIT COURT
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF LONG GREEN VALLEY ASSN., et al. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTHEAST SIDE LONG GREEN PIKE, 170' SOUTHWEST OF CENTER LINE OF FORK ROAD (13523 LONG GREEN PIKE) 8TH ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	•	FOR BALTIMORE COUNTY
	•	Civil Action No. 95/341/94-CV-10257
IN THE BALTIMORE COUNTY BOARD OF APPEALS, CASE NO.: 93-93-SPH	•	

PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY hereby requests judicial review of the decision of the County Board of Appeals dated October 26, 1994 in the case of: In the Matter of the Application of Long Green Valley Assn., et al. for a Special Hearing on Property Located on the Southeast Side Long Green Pike, 170' Southwest of Center Line of Fork Road (13523 Long Green Pike), Case No. 93-93-SPH. PEOPLE'S COUNSEL was a party to the proceeding before the County Board of Appeals of Baltimore County in this matter.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

considerable sums to obtain the property rights to construct the septic system, to construct the system and to build the building before bringing this case. At no time during the review process did the community suggest, much less bring, a special hearing case. The petitioners waited until the event had occurred to bring essentially a violation case to have a determination applied retroactively after the property owner had relied on the County to determine his status and approve his plans.

In addition, it is clear from years of case law that the position which petitioners are urging the Zoning Commissioner to adopt is a new one from a policy point of view. This is not a case of applying past determinations to the instant case. This case has never been adjudicated in the manner which the Petitioners are now seeking. To apply a new policy prospectively is one thing. To apply a new policy to a case where one has relied on previous, long-standing interpretations in his course of action is completely unfair and inappropriate. The Court of Appeals has undertaken a review of the United Parcel Service case on similar issues of timing of the complaint but this case is far more clear that the property owner acted properly within the scope of accepted interpretation. Closure of the issue as far as this property is concerned is appropriate regardless of future policy.

The doctrine of estoppel is applied infrequently in cases involving government. There is a public policy favoring the prevention of illegal acts, and an illegal act can not be made

legal because of oversight. That policy, however, is not applicable where the law either is not clear or where a new policy in contravention to previous interpretations is developed. In this case the property owner did all that the law required of him, and there is no question but that the County followed its longstanding policies in the evaluation and approval of the permits in this case. It also can not be questioned that the property owner relied strongly on the County's approvals. If this property owner has the law applied retroactively to his case then every business supported by storm water management or septic systems in residential or rural conservation areas would be equally susceptible of retroactive enforcement of any new policy. There would be no closure when new policies could be applied retroactively and no security in zoning or permit approval. The argument of Petitioners that this case is properly brought would work to contravene the certainty and integrity of the zoning and development process.

2. IS A SEPTIC SYSTEM A USE UNDER THE ZONING REGULATIONS?

Nowhere in the BCZR are septic systems listed as a use either in residential or in commercial zones. Storm water management facilities similarly are not listed. In Case No. 85-326-SPH In Re: Walter Windsor the Zoning Commissioner raised the issue of whether the storm water management pond located on residentially zoned property serving the property owner's office

building was an "uncontrolled excavation" or even a use. The Commissioner found without deciding the issue that in that case the storm water management area was permitted. Interestingly, however, the case indicated perhaps inadvertently that zoning has allowed offsite improvements in residential zones to serve commercial improvements. The issue raised by the neighbors pertained to the storm water management pond. The outfall for the pond, however, including drains and pipes ran through the adjacent Ruxton Crossing residential community by way of an easement. The propriety of that occurring was never even questioned. The location of the outfall and the need for the easement were mentioned in the development comments and noted on the plan.

A case right on point is Silitschanu v. Groesbeck, 12 Conn. App. 57, 529 A.2d 732 (1987). In that case an action was brought to enjoin the construction of an office building and a septic system on adjoining residential property. The argument was that by allowing the septic system on the residential property a larger building than otherwise permitted by the septic system constraint would be built on the commercially zoned property. Like Baltimore County there was nothing in the local jurisdiction's zoning regulations pertaining to subsurface sewage disposal systems. The Court noted that as far as the system itself was concerned that there was nothing in its construction which differentiated between a residential system or a commercial system. The Court found that the system did not qualify as a

structure like a parking lot. As the system of drainage ditches is located underground, there is nothing on the surface which identifies the system.

The issues identified by the Court are applicable in this case. Neither a septic system nor a storm water management pond can exist independent of an actual use while parking lots or buildings of any kind can indeed be a primary use in certain circumstances. A storm water management pond consists of pipes or ditches and grading of land. A septic system is essentially the same. Neither a storm water management pond nor a septic system change in character whether they serve a commercial, residential, or manufacturing use. By themselves neither a storm water management pond nor a septic system constitute uses as contemplated by the zoning regulations.

The long history of Baltimore County's review of developments indicates concurrence with this conclusion. One of the best examples is the Manor Shopping Center property at the southeast corner of Jarrettsville Pike and Sweet Air Road. In County development Case No. X-120 both the septic system and the storm water management system are located in rural zoned areas. There is even the notation of the need for a drainage and utility easement for storm water outfall on adjacent properties. There was even a zoning hearing to permit parking in the R.C. zone. James Dyer, then Deputy Zoning Commissioner, in his Opinion noted it was not known where the sewer line was going to be in relation to the parking, and the storm water easements as indicated on the

site plan in the residential areas were not even discussed. Clearly, they were not thought to be "uses" in the same manner as the parking area. As recently as November, 1991 the plans were reviewed by the County, and adjustments approved to the Center.

Another similar case was the recently approved office building at 9722 Belair Road, Case No. XI-619. A storm water facility consisting of an underground storage tank was approved on adjacent property owned by Baltimore Gas and Electric Company and zoned D.R. 16 to support the office building. There was not even a comment about the propriety of the location of the facility, and it was clear that an easement was obtained to permit the location of the tank. Other cases include the Harford Road Plaza development, Case No. IX-411, Zoning Case No. 81-244SPH, where parking was permitted in the adjacent residential zone, but the location of the storm water management facility also in the zone as indicated on the plans was not even discussed, and the Kentucky Fried Chicken location in Perry Hall, development Case No. XI-451, where the storm water management pipe line extends from the commercial property all the way through a small townhouse subdivision to a storm water management pond in a residential zone.

In Zoning Case 85-321-SPH, a storm water management facility had been permitted in the development process to be located in the residentially zoned portion of the site to support office buildings. Diane Itter, then a zoning technician stated in her comments that a storm water management facility as proposed would

be permitted if no hearing was requested. The Office of Planning and Zoning did not request a hearing, but the community did. The Zoning Commissioner found the storm water management system to be appropriate, and the case was settled after appeal to the Board of Appeals without comment. A Memorandum submitted by counsel for the property owner gave excellent reasoning to support the conclusions that storm water management and septic systems are clearly present in all developments to benefit not just the property owner but also the general public. It is in the public interest that properly functioning facilities be constructed. The paramount issue is that they work. By their proper function they serve others, not just the individual property owner. That rational clearly was a consideration in this case. The file that DEPRM built in this case was a factor of that Department's concern that a properly functioning system be built.

The Petitioners' expert, Norman Gerber, was the Planning Director at the time many of these cases were being reviewed for Development. His Department's position was consistent throughout that public hearings were not necessary to legitimize storm water management systems or any portion of them in residential areas whether portions were on the same lot of record or not. Similarly, his Department never took a position during his tenure against the location of septic systems on residential properties. Petitioners submitted three (3) pages from the development project known as the Monkton Center, development case No. VII-200 indicating through Diane Itter that a special hearing might be

required to put the sewage disposal system in the RC-5 zone. Ms. Itter was the reviewer in both Cases 85-321SPH and 85-326XSPH and indicated in both that special hearings were not necessary. The full Monkton Center file needs to be reviewed to place her comments in context. Both parking and the septic area were proposed in the rural conservation zone, and the plans were not brought to fruition. No formal adjudication was ever held unlike the other cases cited.

3. IF THE SEPTIC SYSTEM QUALIFIES AS A USE, IS IT A PROPER ACCESSORY USE?

Petitioners stress in the definition of an accessory use contained in Section 101 that the accessory use must be on the same lot of ground. They concede that the septic system is subordinate and serves a primary use. Mr. Gerber even testified that the use would be accessory if it were located on the same lot even though it was zoned R.C. and the primary use was commercial. That was the entire thrust of his testimony to discredit the cases presented by the property owner where DEPRM and the Department of Health had permitted septic systems in R.C. zones.

In this case there is no question but that the septic tank and pump are located on commercial property and on the same site as the structure. There is a recorded deed of easement across

contiguous property for a pipe and drainage system. A deed of easement conveys a legal title. It burdens a tract of land with a condition subordinate to another tract. Zoning and Baltimore County have frequently granted easements the same status of ownership. For example, it is not infrequent that access to a commercial piece of property lies across another's land, which is zoned residential. The law and Baltimore County does not favor landlocking a property. It certainly is not unusual as was demonstrated in both the Windsor Court and Manor Shopping Center cases for storm drain and utility easements to be granted to support an adjacent commercial property. These pipes and lines, if regarded as accessory, clearly were across the properties owned in fee by others but subjected to an easement. Even more frequent than either of these easements are utility easements for overhead wires and cables. The BCZR specifically provide in R.C. 2 zones that underground wires and cables are permitted as of right, but make no mention of above-ground wires and cables, but they exist everywhere not in fee but in easements, yet without their location over R.C. 2 zoned property few businesses in outlying areas could exist. None of these facilities are permitted by reference in the zoning code, but we take them for granted. Wires and poles above ground are far more obtrusive than underground pipes and wires, but are so commonplace that no one even considers them as serving business uses across rural zones. Are they uses? Are they accessory uses? If Petitioners' argument is accepted then they qualify as uses but are not

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towsonn, MD 21204

August 28, 1991

887-3733

Mr. Orville M. Jones
9533 Belair Road
Baltimore, Maryland 21236

Re: Long Green Hotel

Dear Mr. Jones:

Your request and justification for the installation of a private sewage disposal system partially within the Forest Buffer (see enclosed Exhibit A) was received and reviewed on June 27, 1991 by the Environmental Impact Review Division (EIRD) of this Department. As a result of this review and the on-site evaluation of May 22, 1991, you are hereby permitted to install the sewage disposal system within a portion of the Forest Buffer in accordance with Article IX, Section 14-324 (a)(2) of the Baltimore County Code, contingent upon implementation of the following mitigative measures:

1. The amount of Forest Buffer disturbance shall be minimized as much as possible, and in no case shall encroach on the modified Forest Buffer or exceed 5,000 square feet (see Exhibit A).

2. Temporary access to the installation areas shall be obtained as agreed upon by you and Environmental Impact Review Division (EIRD) representative Glenn Shaffer on May 22, 1991. You are advised that State and Federal approval may be required for this temporary access. Therefore, you should contact Mr. Beau Bacnik at 631-3609 to determine what, if any, permits are necessary. After abandonment of the stream crossing, the stream shall be restored to its original condition.

3. An EIRD representative shall be present at the commencement of the proposed activity to inform the equipment operators of all necessary precautions to avoid or minimize disturbance of Forest Buffer areas.

4. A Forest Buffer shall be established by metes and bounds, along the stream system on both parcels of your property as shown on Exhibit A and B. This Forest Buffer shall be permanently forest where currently unforested and posted as a Forest Buffer not to be disturbed along its entire limits.

5. The record plat, or right-of-way plat for the property (including that property shown in Exhibit A) shall be referenced to show the Forest Buffer limits by metes and bounds and a Declarat ion of Protective Covenants restricting use and disturbance of the Forest Buffer recorded in the Land Records of Baltimore County.

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

March 27, 1991

TO: File

FROM: Mr. Robert Powell
Soil Evaluation Section
Division of Ground Water Management

SUBJECT: Long Green Center

On Monday, March 25, 1991, a meeting was held regarding the status of the sewage disposal repair and installation area for the above referenced facility under construction. In attendance were Orville Jones (owner), Robert J. Aschenbrenner and myself. The meeting focused on the major damage inflicted on the installation and repair area for the sand mound system resulting from heavy equipment traffic. The findings as outlined in Ron Pinkley's letter of March 16, 1991 were discussed. Mr. Jones was advised that it was both our opinion and MDE's that the sewage disposal area has been rendered unusable. Therefore MDE has rescined it's approval of the I & A system and we have been advised that revocation of the Building Permit may be in order unless another suitable septic area is found.

Mr. Jones was asked the status of negotiations with the neighboring property owners, Mr. and Mrs. Grewenig, regarding obtaining the proposed sewage disposal easement. He replied that the issue has not been settled yet but the outlook is hopeful. We advised Mr. Jones that unless he can obtain the easement, he will have to stop work and the permit will be revoked. Mr. Jones then requested to have the time (approximately 2-3 weeks) to put the building under roof to protect the existing framing from being damaged by the weather, thus necessitating it's being torn down and discarded at a later time. He voluntarily agreed to stop all work on site after the building is under roof until such time as the sewage easement is procured. Mr. Aschenbrenner asked that a letter to that effect be sent to him immediately including in it, a projected timetable for getting the building under roof.

We offered assistance in the design of the septic disposal system and determining the size of the area to be obtained from the Grewenig's.

On March 27, 1991, after a conversation with Robert J. Aschenbrenner and upon direction of Mr. Donald C. Outen a stop work order will be issued on the site by Monday, April 1, 1991, unless another suitable area is obtained by a signed easement. Mr. Jones was notified by phone on the same day.

RRP:rmk
cc: Mr. Robert J. Aschenbrenner

ORVILLE M. JONES
9533 BELAIR ROAD
BALTIMORE, MARYLAND 21236
256-6630

26 MARCH, 1991

ROBERT J. ASCHENBRENNER
BALTIMORE COUNTY DEPRM
401 BOSLEY AVE.
TOWSON, MARYLAND 21204

RE: LONG GREEN HOTEL
13523 LONG GREEN PIKE

CONFIRMING OUR CONVERSATION CONCERNING THE SUBJECT PROPERTY. I WILL PUT THE BUILDING UNDER ROOF AND STOP WORK UNTIL A SUITABLE SOLUTION HAS BEEN WORKED OUT FOR THE SEPTIC SYSTEM.

VERY TRULY YOURS,

ORVILLE M. JONES

5/6/91 Bob Powell
Bob Aschenbrenner
I think I sent that to you.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: The Honorable Vincent Gardina DATE: May 3, 1991

FROM: P. David Fields, Director
Office of Planning and Zoning

SUBJECT: Letter from Robert DeFord re. Septic System Effluence

I received your memo asking for comments on Mr. DeFord's request for legislation regarding the above. Please note that I have forwarded your memo with the attached letter to Jim Dieter as this is an issue which should be addressed by DEPRM.

PDF:pat

cc: Jim Dieter

GARDINA/TXTPAT

RECEIVED
MAY 6 1991
DEPRM
ADMIN.

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

887-3733

May 17, 1991

Mrs. Charlotte W. Pine
607 Baltimore Avenue
Towson, Maryland 21204

Re: Long Green Hotel
13523 Long Green Pike

Dear Mrs. Pine:

Thank you for your recent inquiry regarding the above-referenced property. The current permit which has been issued for this site is for a building of the same size as the original structure which is worn replaced. The building and the proposed wastewater disposal system are not located in wetland soils. The sewage disposal system, which was to have been innovative in design, was reviewed and approved jointly by both this Department and the Maryland State Department of the Environment.

This Department's position, generally, on matters of this nature which involve improved properties is to make every effort to work with the property owner to bring the property into compliance with applicable environmental codes. I believe that this was the case for this property in that no approval was granted to increase the size of the building, a substandard water supply was replaced with an approved supply, and a previously failing sewage disposal system was to be replaced with one which would meet current code requirements. On balance, the approvals granted by this Department for this site, while not necessarily in concert with the wishes of all residents of the community, were consistent with applicable sections of State and County Codes and would result in an environmental benefit compared with the previous condition of the property.

If you have any additional questions regarding this matter, please feel free to call me at 887-2762.

Sincerely,

Robert J. Aschenbrenner
Director
Ground Water Management Division

RJA:pj

cc: The Honorable Roger B. Hayden
The Honorable Vincent Gardina
The Honorable William Howard, IV
Mr. J. James Dieter
Mr. Donald C. Outen

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Robert Powell
Groundwater Management
Division

DATE: June 5, 1991

FROM: Mr. Glenn Shaffer
Environmental Impact Review
Division

SUBJECT: Long Green Hotel
Orville Jones Property

A steep/erodible slope analysis of the portion of the above referenced property proposed for a private sewage disposal system was performed by this writer of June 4, 1991 using the site plan of 5/31/91 showing field run topography, Baltimore County photogrammetric topography maps, and SCS Soil Survey of Baltimore County. No field delineated wetland limit was provided, so the toe of the steep slope was used as an approximate wetland limit. Also, no 100 year floodplain data was available. However, due to the small drainage area above this site, it was assumed that the 100 year floodplain limits were narrow or non-existent. The portion of the area under consideration which may be disturbed for the sewage disposal system is shaded on the 5/31/91 plan.

No encroachment into the forest buffer (indicated as the 5/31/91 plan) may be permitted for this disposal system unless an alternatives analysis proving no other feasible alternative is approved by this Department and it is determined that minimal adverse impact will be incurred by the stream system (which includes the adjacent wetlands).

If the applicant disagrees with the results of the steep slope analysis, Mr. Jones may hire a private consultant to perform another analysis which must be submitted to EIRD for review. If the applicant wishes to discuss these findings and requirements, he may contact this writer at 887-3980.

GS:sp

cc: Ms. Patricia Farr

Long Green Valley Association
Robert Deford, President
12820 Long Green Pike
Hydes, Maryland 21092
June 10, 1991

The Honorable William A. Howard, IV
Baltimore County Council
Court House - Second Floor
Towson, Maryland 21204

Dear Mr. Howard:

In response to the interoffice correspondence of J. James Dieter, Department of Environmental Protection and Resource Management, there seems to be no distinction made as regards sewerage systems for existing commercial businesses and those to be built as new construction in rural communities.

When commercial usage has not been in place for many years, as is the case with "Long Green Hotel" and the "Garman Building," and then allow said properties to use RC2 lands for leachfields is not in conformance with sound environmental planning.

These two properties have had various ownership changes including sales at auction with no warranties and no occupancy permits.

Please consider legislation to address the issue of new construction in rural areas, requiring said construction to have all water and sewer requirements on site.

Thank you for your continued support of our community efforts.

Very truly yours,

Robert Deford
President

RD/vg

cc: The Honorable Roger B. Hayden
The Honorable Vincent Gardina
Mr. P. David Fields
Mr. Donald C. Outen
Mr. Robert J. Aschenbrenner

ORVILLE M. JONES
9533 BELAIR ROAD
BALTIMORE, MARYLAND 21236

301-256-6630

27 JUNE, 1991

MR. GLENN SHAFFER
BALTIMORE COUNTY DEPRM
ENVIRONMENTAL IMPACT REVIEW DIVISION
NEW COURTS BUILDING
TOWSON, MARYLAND 21204

RE:13523 LONG GREEN PIKE
LONG GREEN HOTEL

I HAVE A COPY OF YOUR LETTER TO BOB POWELL CONCERNING YOUR INSPECTION OF THE SUBJECT SITE USING A SITE PLAN DATED 5/31/91.

YOUR LETTER STATES THAT NO ENCROACHMENT INTO THE FOREST BUFFER MAY BE PERMITTED FOR THIS DISPOSAL SYSTEM UNLESS THERE ARE NO OTHER FEASABLE ALTERNATIVES. THERE ARE NONE!

THE ONLY SUITABLE AREA THAT I HAVE ACCESS TO AND CAN EITHER BUY OR OBTAIN AN EASEMENT FOR IS ON THE PROPERTY OF EXECUTIVE AUTO AT THE TOP OF THE HILL BEHIND MY PROPERTY.

I PROPOSE TO INSTALL A SYSTEM LIKE THE ONE THAT I INSTALL AT 2102-12 FALLSTON ROAD FOR A SMALL STRIP CENTER WITH 8700 SF OF RETAIL SPACE THAT INCLUDED A HIGH'S STORE, A SEAFOOD AND DELI STORE, A CHIROPRACTOR'S OFFICE, A DENTIST OFFICE, VIDEO STORE AND A DRY CLEANING PICK UP STATION. I MONITERED THE WATER USAGE WITH A WATER METER AND THE USAGE WAS BETWEEN 900 AND 1000 PER DAY WHILE THE CHIROPRACTOR WAS THERE. WHEN HE LEFT IT DROPPED TO 700 GALLONS A DAY.

THE SYSTEM WAS INSTALLED IN A WOODED AREA ON A GRADE OF ABOUT 15% WITH THE EFFLUENT BEING PUMPED ABOUT 300 FEET UP THE HILL INTO A DRAIN FIELD OF 250 LFT THAT WOUND AMONG THE TREES. WE TOOK DOWN SEVERAL SMALL TREES BUT NO LARGE ONES. THE EXCAVATED EARTH WAS LOADED ONTO THE DUMP TRUCK AND HAULED TO ANOTHER SITE SO THAT A MINIMUM AREA WAS DISTURBED. AND THERE WERE NO REMAINING TREES THAT DIED. WITHIN A MONTH OR SO AFTER COMPLETION, THERE WAS NO VISIBLE EVIDENCE THAT WORK WAS DONE THERE AND THERE WAS NO EROSION.

I HAVE A CONSTRUCTION MORTGAGE WITH ROSEDALE FEDERAL SAVINGS BANK

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

887-3733

August 14, 1991

Ms. Charlotte W. Pine
607 Baltimore Avenue
Towson, MD 21204

RE: 13523 Long Green Pike

Dear Ms. Pine:

Thank you for your recent letter requesting further explanation regarding the above referenced site. Hopefully the following information will help to clear the matter for you:

1) The soils on-site were tested and approved for use with an innovative and alternative sewage mound waste disposal system by both this Department and the Maryland Department of the Environment (MDE) on August, 1990. On March 5, 1991, approval of the said mound system was rescinded by MDE due to poor results and/or compaction of surface soils in the soil grated waste disposal area. Subsequent to the MDE order, the Baltimore County Building Engineer, at our request, issued a stop work order on construction work at the site effective March 29, 1991.

2) All soil evaluations and perc test results are available for your review. One (1) set of test results are available upon request. However, if a significant number of copies are desired at the owner's request, you may contact Mr. Robert Powell at 887-3733 to arrange for such additional copies to be supplied.

3) Questions regarding overlot grading plans to determine the presence and limits of wet areas, if any, should be directed to the Office of Environmental Impact Review, Mr. Glenn Shaffer, 887-3980.

Very truly yours,

Robert J. Aschenbrenner, Chief
Groundwater Management

RJA:rlp

cc: Mr. Glenn Shaffer

RP
8/22

Glenn
Please prepare a response
Courtesy copy to Councilman
Charlotte Pine

JAMES A. PINE
ATTORNEY AT LAW
607 BALTIMORE AVENUE
TOWSON, MARYLAND 21204
PHONE (301) 823-5200

August 20, 1991

Mr. Glenn Shaffer
Department of Environmental Impact
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Dear Mr. Shaffer:

The Board of Directors of the Long Green Valley Association would like to request that you investigate the site at 13523 Long Green Pike as regards presence and limits of wetlands.

There is a stream on site, and the property does not meet Baltimore County requirements for septic system.

Thank you in advance for your help inthis matter.

Very truly yours,

Charlotte W. Pine

CWP/vg

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

August 26, 1991

887-3733

Mr. Orville M. Jones
9533 Belair Road
Baltimore, Maryland 21236

Re: Long Green Hotel

Dear Mr. Jones:

Your request and justification for the installation of a private sewage disposal system partially within the Forest Buffer (see enclosed Exhibit A) was received and reviewed on June 27, 1991 by the Environmental Impact Review Division (EIRD) of this Department. As a result of this review and the on-site evaluation of May 22, 1991, you are hereby permitted to install the sewage disposal system within a portion of the Forest Buffer in accordance with Article IX, Section 14-334(a)(1) of the Baltimore County Code, contingent upon implementation of the following mitigative measures.

1. The amount of Forest Buffer disturbance shall be minimized as much as possible, and in no case shall encroach on the modified Forest Buffer or exceed 5,000 square feet (see Exhibit A).

2. Temporary access to the installation areas shall be obtained as agreed upon by you and Environmental Impact Review Division (EIRD) representative Glenn Shaffer on May 22, 1991. Please be advised that State and Federal approval may be required for this temporary access. Therefore, you should contact Ms. Beth Bachur at 631-3609 to determine what, if any, permits are necessary. After abandonment of the stream crossing, the stream shall be restored to its original condition.

3. An EIRD representative shall be present at the commencement of the proposed activity to inform the equipment operator(s) of all necessary precautions to avoid or minimize disturbance of Forest Buffer areas.

4. A Forest Buffer shall be established by metes and bounds, along the stream system on both parcels of your land as shown on Exhibit A and B. This Forest Buffer shall be permanently fenced where currently unforested and posted as a Forest Buffer not to be disturbed along its entire limits.

5. The record plat, or right-of-way plat, for the property (including that property shown in Exhibit A) shall be re-recorded to show the Forest Buffer limits by metes and bounds and a Declaration of Protective Covenants restricting use and disturbance of the Forest Buffer recorded in the Land Records of Baltimore County.

Memo to File
From: Bob Powell
Subject: Long Green Hotel

On Friday Sept. 6 1991 I discussed the contents of Becky Powell's 8/26/91 letter with Bob Aschenbrenner. Review of the plan attached with said letter indicates sufficient potential SDA (2500#) to attempt soil tests. It is doubtful that this limited SDA, even if found to posses favorable soil conditions, will be sufficient to accomodate any more waste flow than its originally approved design flow of 275 GPD (approx.)

It was decided to permit soil testing subject to the restrictions outlined in the aforementioned 8/26/91 letter.

Mr. Jones was informed of this decision on 9/9/91

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

November 20, 1991

Mrs. Charlotte Pine
607 Baltimore Avenue
Towson, Maryland 21204

Dear Mrs. Pine:

The Environmental Impact Review Division (EIRD) of the Department of Environmental Protection and Resource Management (DEPRM) received your August 20, 1991 letter to Glenn Shaffer requesting an investigation to determine the presence and extent of any wetlands at the referenced property.

Mr. Shaffer initially investigated the site on May 22, 1991 in response to a request made by the Ground Water Management Division of DEPRM. During this investigation, the following findings were made:

1. A Use III perennial tributary to Long Green Creek flows along the northeastern property line with an intermittent tributary originating from an old breached pond located near the property's eastern boundary.

2. The wetlands adjacent to both tributaries lie within 50 feet of either channel. No wetlands were impacted by either the construction activities or perc testing.

3. The old hotel building which is being restored exists 75 feet from the perennial tributary with its limit of disturbance 25 feet from that stream.

4. There is no proposed increase in the foot print of the building being restored.

5. No sedimentation of the stream due to the building renovation was evident.

6. Currently there is no Baltimore County approved septic reserve area on the parcel of land containing the hotel. Therefore, the out-parcel shown enclosed as Exhibit A was investigated as an alternative site for the installation of conventional absorption trenches with the septic tank and ejector pumps located near the rehabilitated building.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Robert Aschenbrenner, Chief
Groundwater Management, D.E.P.R.M.

FROM: William A. Howard, IV
Councilman, Sixth District

SUBJECT: Orville Jones Property

DATE: November 26, 1991

Enclosed please find a copy of a letter that I received from Mrs. Charlotte Pine concerning various issues surrounding the redevelopment of the Orville Jones property on Long Green Pike.

I would appreciate if you would address all of Mrs. Pine's questions and forward a copy of your response to my office.

I look forward to your prompt reply.

WAH:clh

cc: Mrs. Charlotte Pine

Spoke with Pat at the Councilman's office 9/13 RR

LONG GREEN VALLEY ASSOCIATION
P.O. Box 91 Baldwin, Maryland 21013

November 25, 1991

Mr. J. James Dieter
Director
Ground Water Management Division
Department of Environmental Protection
401 Bosley Avenue
Towson, MD 21204

Re: 13523 Long Green Pike

Dear Mr. Dieter:

It has come to the attention of the Long Green Valley Association that a new "innovative" septic system is presently under study for the Orville Jones property in Baldwin. We are of course very concerned about the present condition of the property. Besides being in disrepair, the structure is increasingly becoming a hazard.

As a representative of Long Green property owners, we now must question the new septic plan. Specifically we are concerned because the plan suggests:

- The use of separate RC2 zoned property for the drainage field by virtue of an easement.
- The drainage field is 847 feet up hill from the holding tank.
- The pipe connecting the holding tank and drainage field passes within 10 feet of an existing well.
- The pipe follows closely the course of an existing stream which is a tributary of Long Green Creek, a class III trout stream.
- The pipe appears to pass through wet lands and the drain field is directly above an existing swamp (wetland).

The members of Long Green valley are deeply concerned about this property. We would like to see the property's septic problems resolved, however, the above mentioned plan poses so many problems that we must oppose its approval.

We also understand that the county is committed to helping existing commercial properties work out their septic problems, but would point out that the owner of this site destroyed his approved

JAMES A. PINE
ATTORNEY AT LAW
607 BALTIMORE AVENUE
TOWSON, MARYLAND 21204
PHONE (301) 823-5200

CHARLOTTE W. PINE
ASSOCIATE

November 20, 1991

Mr. Robert J. Aschenbrenner
Director
Division of Ground Water Management

Mr. Glenn Shaffer
Environmental Impact Review

The Honorable William A. Howard IV
Councilman, Sixth District

The Honorable Roger B. Hayden
County Executive

Re: 13523 Long Green Pike
Orville Jones Property

Gentlemen:

It is with alarm and deep concern that we have recently been informed of the "innovative procedure and method of construction" of septic system on the Orville Jones property at Baldwin. A copy of the plan is attached which shows the effluent is pumped 847 feet uphill on to the adjacent R.C. 2 property owned by Paul Weber.

The Long Green Valley Association as well as the Greater Kingsville Association voted to require all commercial properties to be self-sustaining as regards to water, and septic systems. The Kingsville Association also voted to have all storm water drain off to be on site. The Orville Jones plan is in direct opposition to the desires of the communities. We do not want leachfields on adjacent properties.

The Jones' property is new construction on land that does not perc and should not be permitted a permit for new construction. The permit shows dimensions of the old building, which was razed, and inaccurately states that the property was 25% fire damaged.

This property is zoned Business Local Commercial Rural, and as such should be reviewed by the Office of Planning and Zoning. This was not done. When will the community have input on this commercial development? What inspection has been made of the wetlands on the Jones' property, and the adjacent R.C.2 property, where the leachfield will be located?

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of November, 1994, a copy of the foregoing Petition for Judicial Review was mailed to John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for property owner Orville Jones, and to J. Carroll Holzer, Esquire, Holzer and Lee, 305 Washington Avenue, Suite 502, Towson, MD 21204, attorney for Long Green Valley Association, et al.

PETER MAX ZIMMERMAN

IN THE MATTER OF THE APPLICATION OF LONG GREEN VALLEY ASSN., ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTHEAST SIDE LONG GREEN PIKE, 170' SOUTHWEST OF C/L OF FORK ROAD (13523 LONG GREEN PIKE) 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 93-93-SPH

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals on an appeal of the Zoning Commissioner's decision to deny the Petition for Special Hearing brought by the Long Green Valley Association, et al. The issue before the Zoning Commissioner was to determine whether or not to allow the use of R.C.-2 zoned property for a sewage disposal system of an adjacent commercially zoned property. While the Zoning Commissioner determined the use to be illegal, he denied the special hearing on the basis of the doctrine of equitable estoppel, ruling that the Petitioner and the County were well aware of the property owner's intentions and processes and were therefore precluded from terminating the then already implemented use. Hence, the Petitioner brought the appeal to the Zoning Commissioner's ruling.

This case was heard de novo in an open hearing of two days, in which testimony and evidence were presented. Long Green Valley Association, et al, Petitioners, were represented by J. Carroll Holzer, Esquire; Orville Jones, property owner, was represented by John Gontrum, Esquire; and, People's Counsel for Baltimore County participated in the proceedings. At the conclusion of the hearings, counsel submitted memoranda in support of their positions, in lieu of closing arguments.

Before discussing the facts of this case, the issue of whether the County Board of Appeals has proper authority to hear the case should be addressed. During opening statements and again at the start of presentation of the property owner's case, Mr. Gontrum moved for dismissal on the grounds that the Petitioners have no interest in the property. The motion was denied from the bench, indicating that the Petitioners, while successful in the legal interpretation provided by the Zoning Commissioner, are an agrieved party by virtue of the denial of the Petition for Special Hearing. Thus, the motion was properly denied and the case was brought.

The facts in this case are relatively simple and, for the most part, not in dispute. Mr. Orville Jones owns the subject property, 13523 Long Green Pike, near Baldwin, Maryland. Mr. Jones, purchasing the property at public auction, has owned the property since April of 1987. The subject property and several adjacent and nearby properties along Long Green Pike and Fork Road are zoned for business/commercial use in a cluster of such properties near the intersection of those roads. The surrounding area is largely agricultural uses in the R.C.-2 zone. The property is 1.056 acres, nearly square shaped and improved with a building which is occupied by a convenience store, a dentist's office and a laundromat, along with associated parking area.

A building known as the Long Green Hotel existed on the property at the time Mr. Jones acquired it. After acquisition of the property, Mr. Jones decided to raze the existing structure and replace it after first attempting to alter the structure, as shown in evidence of the permits issued beginning in 1989 forward to the

Certificates of Occupancy obtained in 1992. The then-existing hotel was ultimately razed and a new building constructed by Mr. Jones. Throughout the entire process and, as it most concerns this case, during the several months preceding new construction, the Petitioners were made aware of all progress as shown in letters introduced as Property Owner's Exhibits 1, 2, 3 and 4 under Petitioner's witness Mr. Edward R. Blanton, an attorney and area resident and member of the community association. From January of 1992 until after October 1, 1992, the Petitioners did not correspond with Mr. Jones concerning the project. In Property Owner's Exhibit 4, the Department of Environmental Protection and Resource Management (DEPRM) indicated clearly to the Petitioners, the stop-work order "will be rescinded upon compliance with all requirements set forth --- and recordation of the necessary sewage disposal area easements in the Land Records of Baltimore." (emphasis added). It is clear to this Board that Long Green Valley Association and its members were well aware that the County and State had approved and, in fact, provided input to the options available to Mr. Jones and the conditions for his moving forward. Thus, Mr. Jones proceeded to procure easements from the adjoining property owner, Executive Auto Paint and Repair, Inc., for $25,000; said easements would cease upon the connection of Mr. Jones' property to public sewer when provided by the County. The Executive Auto Paint and Repair, Inc. site is zoned R.C.-2 and is unimproved.

The crux of this case concerns the need for the aforementioned easements to handle the subject site's septic requirements. Mr.

Jones' property does not have public sewer service. Due to site constraints and environmental concerns as related to a nearby stream, Mr. Jones originally agreed to install a septic system using innovative technology in constructing a sand mound sewage disposal system. Due to heavy equipment traffic in the construction site, the ground where the sand mound system was to have gone was severely compacted, leaving the area unusable to such purpose. Thus, the County issued a stop-work order on March 29, 1991 until such time as a suitable alternative could be found to replace the planned sand mound system.

Mr. Jones reached an agreement with Baltimore County and the State of Maryland Department of Natural Resources to allow Mr. Jones to continue work on-site pursuant to his procurement of the aforementioned easements from Executive Auto Paint and Repair, Inc. Since Mr. Jones had acted in good faith in corresponding with the Long Green Valley Association prior to said agreement and because Mr. Jones intended to comply with any and all requirements of the County and State authorities, he naturally proceeded to close the agreement with Executive Auto in order to effect the work. In the absence of such easements as to allow for off-site sewage disposal, this Board recognizes the probability that the subject site would be useless as currently zoned until such time as public sewer service is brought to the property. By virtue of his having obtained the easements and DEPRM approved, Mr. Jones constructed the septic system and finished the new building, which is occupied.

All three counsel presented lengthy, well-written memoranda to support their respective positions. Their writings raise several

issues to be addressed here.

First, does the Board of Appeals have jurisdiction in this case. As discussed earlier, the Board ruled from the bench that by virtue of the Zoning Commissioner's denial of the Petition for Special Hearing, the Petitioner is an agrieved party with rights of appeal to this Board pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Second, is the now-installed septic system a "use' of the land? The term "use" is not defined in Section 101 the B.C.Z.R. As such, we are required by Section 101 of the B.C.Z.R. to accept the definition contained in Webster's Third New-International Dictionary. The definitions include "...the legal enjoyment of property that consists in its employment, occupation, exercise, or practice..." and "the benefit in law of one or more persons, specifically, the benefit of or the profit arising from lands and tenements to which legal title is held by a person, or the act or practice of using something." Expert testimony from Norman Gerber includes his opinion that septic is a land use. Further, planning and zoning expert Paul Solomon, the former Director of Agricultural Preservation Programs for Baltimore County, pointed to COMAR 26.4.03.G in defining septic as having a single user within the property. Mr. Jones argues that the system is entirely underground, thus not having an impact on the possible R.C.-2 uses already enjoyed. As Mr. Gerber opined, this Board finds it unlikely that heavy farm machinery should travel over the septic field. Further, he indicated that the easement obtained by Mr. Jones is a right of use, not tantamount to ownership. Therefore,

clearly the now installed septic system is a use of the land.

Third, is the septic system use permitted in the R.C.-2 zone? Mr. Jones' position is that the use is permitted either by right, special exception or as an accessory use by right or special exception. The property owner's opinion is flawed. The B.C.Z.R., Section 1A01.2C, identifies uses permitted in an R.C.-2 zone by special exception. In neither section do the B.C.Z.R. identify private septic systems as a permitted use.

Mr. Jones asserts that if a septic field qualifies as a regulated use, then it is permitted as of right in an R.C.-2 zone, asserting that the septic system falls under the term "underground conduits" found in Section 1A02.2B.5 of the B.C.Z.R. However, as expert witness Paul Solomon pointed-out in testimony, the application of the term "conduits" is to public facilities and that a septic system for an allowed use under R.C.-2 would be allowable, but that a septic system for a commercially zoned site is considered a private "extension" of the commercial site. Expert witness Norman Gerber opined that the septic field in this case is a principal use in the R.C.-2 zone and is therefore not allowed; as a principal use the field is not in the realm of public facilities as he interprets the term "underground conduits" to mean. This Board is persuaded by expert witnesses in this issue.

Mr. Jones also asserts that the septic field is an acceptable accessory use. B.C.Z.R., Section 101, defines "accessory use" as, "A use or structure which: a) is customarily incident, subordinate to and serves a principal use and structure; b) is subordinate in

area, extent or purpose to the principal use or structure; c) is located on the same lot as the principal use or structure served; and d) contributes to the comfort, convenience, and necessity of occupants, business or industry in the principal use or structure served." On the face, the septic field appears to meet subsections (a), (b) and (d) of the definition. However, as indicated by Mr. Gerber, by virtue of its existence in an area granted by easement and that easements are provided as a right of use, this septic field may be considered a principal use, thereby disqualifying the system under subsection (a). Regarding the applicability of subsection (c), clearly the septic system is not within the same lot as the structure it serves. By virtue of the procurement of easements for the purpose of constructing his septic system, Mr. Jones attempts to assert that his rights of ownership of said easement are similar to those he would have if he held the easement area in fee. As a fact, he does not own the area in fee; therefore, he does not have rights of ownership. As expressed by Mr. Gerber, the easement is a granted right of use, not tantamount to ownership and that ownership is required to assert rights under zoning regulations. The cases to which Mr. Jones refers to draw parallels to this issue are cases where a Petitioner owned a commercial property and an adjacent residential tract. By virtue of dissimilar ownership of the site and easement area, Mr. Jones' argument cannot be applied here. In the case in Re: Helix Health System, Case No. 92-186-SPH, where common ownership of non-abutting properties was used as the basis for construction of an incinerator to serve both properties, the lot on which the incinerator rested

29,1991 until such time as a suitable alternative could be found to replace the planned sand mound sewer disposal system. (Board's Opinion pp. 3-4).

In its Opinion, the Board noted the interest of Individual Appellants and the Association Appellant in the septic system installation related to Appellee's construction on his commercial site. The Board found that Appellants were aware of all matters regarding Appellee's septic system installation as evidenced by a letter dated November 21, 1991 from Ricky Powell, Division Chief of the Environmental Impact Review Division of the Department of Environmental Protection and Resource Management (Property Owner's Exhibit No. 1), a letter dated November 25, 1991 from R. Bayly Buck, Vice President of the Association Appellant (Property Owner's Exhibit No. 2), and a letter dated January 2, 1992 to R. Bayly Buck, Vice President of the Association Appellant from Robert J. Aschenbrenner, Director of the Division of Groundwater Management (Property Owner's Exhibit No. 4). This last correspondence advised the Association Appellant that the Stop Work Order issued on March 29, 1991 would be rescinded upon Appellee's compliance with all the requirements set forth in a certain letter dated August 26, 1991 to Appellee from Ricky O. Powell, Chief of the Environmental Impact Review Division (Property Owner's Exhibit No. 3) and recordation of the necessary sewage disposal area easement among the land records of Baltimore County. Mr. Aschenbrenner's letter (Property Owner's Exhibit No. 4) concludes with the statement "when the aforementioned requirements are met, a new sewage disposal system design will be issued by this Division, the Stop Work Order rescinded, and the construction work allowed to proceed as per the approved building permit."

The letter to R. Bayly Buck, Vice-President of the Association Appellant dated January 2, 1992 (Property Owner's Exhibit No. 4) advised in paragraph (3) that "3) Conversations with representatives of the Office of Planning and Zoning revealed that use of a separate RC2 zoned property for waste disposal property via a deeded easement would be permitted for this site." and in paragraph (5) stated as follows, namely "(5) Your concerns regarding the location of the force main and the absorption field in relationship to the stream and wetlands were addressed in a letter dated November 20,1991 to Ms. Charlotte Pine (attached)."

On page nine of its Opinion, the Board summarized its finding in support of its determination that Appellants are estopped. The Board found that Appellee had made certain that appropriate government authorities were represented in the review of all possible alternatives to construction of a septic system on his property, that Robert Powell of the Department of Environmental Protection and Resource Management and the Office of Planning and Zoning had been contacted and had approved the septic system installation, all of which information had been timely made known to Appellants, that Appellants had been kept apprised of all developments from as early as the fall of 1991, that Appellant Association raised no official complaint until nine months after the letter dated January 2, 1992 (Property Owner's Exhibit No. 4) and not until over ninety days passed from the rescinding of the Stop Work Order and resumption of construction by Appellee, all after Appellee had spent literally hundreds of thousands of dollars to obtain an easement, construct the septic field and finish his building. The Board concluded that Association Appellant had ample notice and opportunity to pursue any concerns it had over an extensive period of time but that Association Appellant did nothing until September of 1992 when it filed its Petition for Special Hearing.

Although sounding in "laches", the Board concluded that the Association Appellant, through its inaction, was "estopped" and, as to all Appellants denied the Petition for Special Hearing, which was actually a denial of any zoning relief to Appellants. Strangely, the Board made no mention of the Individual Appellants in its Opinion, although the Board's Opinion was captioned "In the Matter of the Application of Long Green Valley Association, et al. for a Special Hearing."

The record before the Zoning Commissioner indicates that the Petition was filed on behalf of the Long Green Valley Association and various individuals incorporated in the attached Petitioner's list, which list included the names of Charlotte Pine and Sharon Rohrbaugh, both of whom, along with Kathy Tyler, appealed to the Board and ultimately to this Court. The Board made no factual findings to support estoppel of the Individual Appellants, and as to Sharon Rohrbaugh, would have been hard pressed to hold her accountable for any inaction during the summer of 1992 when she was at the beach. (Vol. 1,T11)

The Board's finding of estoppel against the Individual Appellants and the Association Appellant is not supported by substantial evidence in the record and is clearly erroneous. Although the Board had the legal authority to consider the issue of equitable estoppel, see Relay vs. Sycamore, 308 Md. App. 701, the Board erred as a matter of law in finding equitable estoppel against the Appellants.

As explained in Fitch vs. Double "U" Sales Corporation, 212 Md. 324, at 338,

> Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which may have otherwise existed, either of property,

> of contract or of remedy against another person who has in good faith relied upon such conduct and has been led thereby to change his position for the worse, and who on his part acquired some corresponding right, either of property, of contract or of remedy. Whatever may be the real intention of the parties making the representation, it is absolutely essential that this representation, whether consisting of words, acts or silence, should be believed and relied upon as the inducement or action by the party who claims the benefit of the estoppel and that, so relying upon it and induced by it, he should have taken some action. The cases all agree that there can be no estoppel unless the party who alleges it relied upon the representation and was induced to act by it and thus relying and induced took some action on that representation. Unless the party against whom the doctrine has been invoked has been guilty of some unconscientious, inequitable or fraudulent act of commission or omission upon which another has relied, and has been misled to his injury, the doctrine will not be applied."

The Board, in its Opinion, made no findings as to any representations of the Individual Appellants or the Association Appellant, whether words, acts or silence, nor any findings as to Appellee's reliance nor as to any right in Appellee to rely. The Board merely concluded that Appellants had been kept apprised of what was going on with the property and the septic problem, and had delayed taking any action to request a special hearing until approximately ninety days after the lifting of the Stop Work Order and Appellee's resumption of construction. Although sounding more like laches, this inaction is the basis of the Board's determination that Appellants are equitably estopped. This basis is insufficient as a matter of law, especially in light of Appellee's own right to file a Petition for Special Hearing to determine whether he had the legal right to install a septic drainage field on the adjacent RC2 land for his commercial building prior to easement acquisition and the expenditure of his financial resources.

There is nothing in the record that Appellee in any way relied upon or was induced to proceed with construction by any inaction on the part of Appellants. Appellee immediately resumed construction upon the lifting of the Stop Work Order, obviously in response to the lifting of the Order by Baltimore County. The 90 day delay about which the Board speaks had not yet even occurred. The easement had been acquired even before the lifting of the Stop Work Order and was in part the basis for lifting that Order. The Board made no findings of fact as to any reliance or inducement of Appellee by reason of Appellants' failure to take action until September of 1992 and the record is devoid of any such evidence. Appellants could not be equitably estopped.

As to the estoppel found against Baltimore County, however, the evidence is significantly different. As the Board mentions on page three of its Opinion, Baltimore County was intimately involved in resolving the septic problem related to Appellee's commercial site. The Board references Property Owner's Exhibit No. 3, wherein the Director of the Division of Groundwater Management in effect approves the sewage disposal system about which Appellants complain. Property Owner's Exhibit No. 4 goes on to make clear that, when Appellee complies with all the requirements of a prior letter dated August 26, 1991, and records the necessary sewage disposal easement in the land records of Baltimore County, a new sewage disposal system design will be issued, the Stop Work Order rescinded and construction allowed to proceed as per the approved building permit. The Board further found that Appellee moved forward with the project on the conditions required by Baltimore County, and procured an easement from an adjoining property owner at an expense to Appellee of $25,000. In addition, Appellee installed the system pursuant to the new sewage disposal system design issued by the Division of Ground Water Management of Baltimore County (Property Owner's

Exhibit No. 4). Having complied with all the County requirements, the Stop Work Order was lifted by Baltimore County, the approved septic system installed, and construction completed on Appellee's commercial building. (Board's Opinion p. 4)

As already mentioned, the Board had the lawful authority to consider the issue of zoning estoppel against Baltimore County. In fact, at oral argument, counsel for Baltimore County cited in Appellee's position on the estoppel issue. In Fitch vs. Double "U" Sales Corporation, supra, 338, the Court of Appeals said "equitable estoppel operates to prevent a party from asserting his rights under a general technical rule of law, when that party has so conducted himself that it would be contrary to equity and good conscience to allow him to do so."

In discussing when equitable estoppel is available against a municipal corporation, the Court of Appeals in Permanent Finance Corporation vs. Montgomery County, 308 Md. 239, quotes from Lipsitz vs. Parr, 164 Md. 222 at 227, "a municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law."

Appellants contend that Baltimore County cannot be estopped because, based on the Board's determination that the septic drainage field is a use not permitted by right or special exception in an RC2 zone, allowing said use would be allowing an act in violation of the law. People's Counsel cites Cromwell vs. Ward, 102 Md.App. 691, in support of its contention that equitable estoppel is not available against the County because of the illegal use which would thereby be allowed to Appellee.

People's Counsel overlooks the factual distinctions between Cromwell and the instant case, which distinctions were obviously important to the Court of Appeals which quoted in the Cromwell opinion from Lipsitz vs. Parr, 164 Md. 222, at p. 724, "so, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act, it is not estopped by the unauthorized or wrongful act of its officer in issuing a permit that is forbidden by the explicit terms of the ordinance ...(additional citations)" (Emphasis supplied) As already noted, the Board made reference to many actions of Baltimore County which ratified and sanctioned Appellee's acts.

As is clear from the decision in Permanent Finance Corporation vs. Montgomery County, supra, which is cited with approval in Relay vs. Sycamore, supra, whether equitable estoppel is available against the government depends upon the nature of the government's involvement, the nature of the reliance, and the nature of the law being violated.

In Permanent Financial Corporation v. Montgomery County, supra, a developer undertook construction of an office building pursuant to the authority of a building permit issued by Montgomery County. Eight and one-half months and more than $2,000,000 later, when the building was under roof, the county suspended the building permit and issued a Stop Work Order on the grounds that the building violated statutory height limitations. One of the height limitation issues concerned the interpretation of "habitable space". Although the Court of Appeals affirmed the Board's determination of the definition of "habitable space", which determination resulted in the construction being in violation of the height restrictions, the Court of Appeals reversed the Board and

determined that the County was estopped from contending that the fourth floor of the building violated the height limitations of the Montgomery County Code.

In support of its action, the Court of Appeals observed that the definitional section was not clear and unambiguous within the meaning of the Montgomery County Code and was open to at least two reasonable and debatable interpretations. The Court of Appeals further pointed out at p. 251 of its Opinion, "we further conclude that the County shared the interpretation given this Section by Permanent at the time of the issuance of the building permit, and the County had consistently applied that interpretation for a significant period of time prior thereto." The Court of Appeals pointed out that when Montgomery County issued the Stop Work Order against Permanent, even after being asked for the specifics of the violations alleged by the County, the County never suggested that the building through its fourth floor violated any height restrictions. The Court also observed that, at the initial hearing, the Assistant County Attorney informed the Board that the County's interpretation of "non-inhabitable structures" varied from that of the Planning Commission and interested neighbor.

The appellate court in Permanent Financial Corporation, supra, found that Permanent had clearly relied upon the interpretation that the County had given to the height limitation in its design of the building, that the measurement of the building as shown on the plans submitted with the application was 43 feet to the top of the fourth floor, that Permanent designed and built its building to a height of 43 feet through the 4th floor in reliance upon the long-standing interpretation of the County and that this interpretation, while subsequently found by the Board of Appeals to be incorrect, was nevertheless reasonable and debatable. The Court concluded on pages 252-253 of its Opinion, "this

WALTER WINDSOR
P.O. EX #20

34-40 CEDAR

41- PLAN

	:	BEFORE
ICIAL	:	COUNTY BOARD OF APPEALS
N FOR	:	OF
D ON	:	BALTIMORE COUNTY
BELLONA	:	
E CENTER-	:	No. 85-326-XSPH
E	:	

: : : : : : : : : : : : : : : : :

ORDER OF DISMISSAL

Petition of Walter Windsor for Special Hearing and Special Exception on property located on the north side of Bellona Avenue, 405 feet west of the centerline of Bellona Lane, in the 9th District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Motion to Dismiss Appeal filed July 9, 1985 (a copy of which is attached hereto and made a part hereof) from the People's Counsel for Baltimore County.

WHEREAS, the said People's Counsel for Baltimore County request that the appeal filed in their behalf be dismissed as of July 9, 1985.

IT IS HEREBY ORDERED this 10th day of July, 1985, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

[illegible], Acting Chairman

[illegible]

[illegible]

MICROFILMED

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD OF APPEALS
PETITION FOR SPECIAL HEARING
N/S of Bellona Ave., 405' W of the Centerline of Bellona Lane, 9th District : OF BALTIMORE COUNTY

WALTER WINDSOR, Petitioner : Zoning Case No. 85-326-XSPH

: : : : : : :

MOTION TO DISMISS APPEAL

People's Counsel for Baltimore County, Appellant, moves to dismiss the appeal in the above-captioned matter, on the following grounds:

1. The only reason for the appeal taken was the treatment of the height.

2. Inasmuch as the Zoning Commissioner has now recognized the need for a height variance, People's Counsel herewith withdraws their appeal.

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

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

RECEIVED
JUL 10 1985
COUNTY BOARD OF APPEALS

I HEREBY CERTIFY that on this 9th day of July, 1985, a copy of the foregoing Motion to Dismiss Appeal was mailed to R. Bruce Alderman, Esquire, 29 W. Susquehanna Ave., Towson, MD 21204.

Phyllis Cole Friedman
Phyllis Cole Friedman

MICROFILMED

IN RE: PETITION SPECIAL EXCEPTION * BEFORE THE
AND SPECIAL HEARING
N/S of Bellona Avenue, 405' W * ZONING COMMISSIONER
of the centerline of Bellona
Lane - 9th Election District * OF BALTIMORE COUNTY

Walter Windsor, * Case No. 85-326-XSPH

Petitioner *

* * * * * * * * * * * *

AMENDED ORDER

Upon uncontested Motion to Reopen the above-entitled matter filed by the Petitioner herein and after a public hearing being held with notice given to all interested parties, including but not limited to People's Counsel for Baltimore County, said Motion is hereby GRANTED the 8th day of July, 1985.

Further, upon uncontested Motion to Amend the original Petitions to request a variance to allow a building height of 39 feet instead of the permitted 35 feet for the proposed Class B office building in a R-O Zone, in addition to the relief prayed for and previously granted by Order dated May 27, 1985, and after a public hearing being held, said Motion is hereby GRANTED the 8th day of July, 1985.

Upon consideration of the testimony, evidence, and expert witnesses presented, it is clear that the burden of proof required by Section 307, Baltimore County Zoning Regulations (BCZR), has been met.

An area variance may be granted where strict application of the zoning regulation 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

ORDER RECEIVED FOR FILING
DATE [illegible]
BY [illegible]

MICROFILMED

IN RE: PETITIONS SPECIAL EXCEPTION * BEFORE THE
AND SPECIAL HEARING
N/S of Bellona Avenue, 405' W * ZONING COMMISSIONER
of the centerline of Bellona
Lane - 9th Election District * OF BALTIMORE COUNTY

Walter Windsor, * Case No. 85-326-XSPH

Petitioner *

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for a Class B office building in a R-O Zone and a use permit for off-street parking in a residential zone incidental to a commercial use, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by his Contract Purchaser, Windsor Court Limited Partnership (Windsor Court), appeared and testified and was represented by Counsel. Gary T. Gill, President of MacKenzie & Associates, Inc., principal partner in Windsor Court; John Smith, a registered civil engineer; Donald Smith, a registered architect; and Wes Guckert, a traffic engineer, all appeared on behalf of the Petitioner. There were no Protestants.

Testimony indicated that the subject property, zoned R.O. and D.R.5.5, is located adjacent to Bellona Avenue. The Petitioner proposes to construct a three-story Class B office building, consisting of approximately 28,000 square feet, on approximately two acres zoned R.O and fronting on Bellona Avenue. The building will consist of three wings, each containing three stories. The rear portion of the property, zoned D.R.5.5, will be landscaped and contain additional parking spaces and the storm water management pond for the office building.

The Petitioner has entered into and executed an agreement containing restrictive covenants with the Ruxton-Riderwood-Lake Roland Improvement Association, Inc. and the Ruxton Crossing Homeowner's Association, which will be recorded among the Land Records of Baltimore County. See Petitioner's Exhibit 3.

ORDER RECEIVED FOR FILING
DATE [illegible]
BY [illegible]

MICROFILMED

THIS DEED and AGREEMENT, Made this [illegible] day of [illegible] in the year [illegible], between Ruxton Crossing Homeowners Association, Inc., a body corporate of the State of Maryland.

party of the first part; and Walter E. Windsor, Jr., party of the second part.

WHEREAS, the party of the second part desires to construct and maintain sewers, drains, water pipes and other municipal utilities and services in, on, through and across the land hereinafter described, and the party of the first part is willing to grant such right.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar, the receipt whereof is hereby acknowledged, the said party of the first part hereby grants and conveys unto Walter E. Windsor, Jr., his successors and assigns, the right to lay, construct and maintain sewers, drains, water pipes and other municipal utilities and services in, on, through and across the land of the party of the first part, situate in Baltimore County, State of Maryland, said sewers, drains, water pipes and other municipal utilities and services to be laid in the easement which is described as follows:

Situate in the Ninth Election District of Baltimore County.

BEING an easement 15 feet wide across the property of the party of the first part, said easement containing .052 acres, more or less (2,267 sq. ft., more or less as shown shaded and indicated "UTILITY EASEMENT" on the attached Baltimore County Bureau of Land Acquisition Drawing which is made a part hereof.

TOGETHER with temporary easements for construction purposes over the property of the party of the first part, containing a total of .083 acres, more or less (3,616 sq. ft., more or less), as shown indicated "TEMPORARY CONSTRUCTION AREA" on the attached Baltimore County Bureau of Land Acquisition Drawing which is made a part hereof; said temporary easements shall become null and void upon the completion of the installation of utility facilities in the easement hereinabove described, and the party of the first part herein shall hold the property over which the said temporary easements run free and clear of said temporary easements.

TOGETHER ALSO with the right of Walter E. Windsor, Jr., his successors or assigns, employees or agents, to remove any tree having a butt diameter of 3" or less which may be in the aforesaid temporary construction areas.

FOR TITLE: See a Deed dated March 29, 1979, and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 6004, folio 670 from Ruxton Crossing, Ltd. to Ruxton Crossing Homeowners Association, Inc.

MICROFILMED

FILE NUMBER:	ITEM NO.	JOB ORDER	SHEET 1 OF 4
RECORDS MANAGEMENT SECTION		JANUARY 1, 1985	FORM RE-208

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS

TOWSON

OWINGS MILLS

March 6, 1985

Ruxton Crossing
Homeowners Association, Inc.
Ruxton
Towson, Maryland 21204

Attention: Dr. Larry Block, President

Re: Windsor Property
Storm Drain Easement to Existing
System Serving Ruxton Crossing

Dear Dr. Block,

We are engineers for the developer of the Windsor Property. We will prepare grading, storm water management and utility plans for the Williamsburg type office building to be constructed on the property.

We have considered several alternative methods of handling storm water runoff including the following:

1. Infiltration or seepage into the ground.
2. Discharge through a perforated pipe located along a contour near the property lines.
3. Conventional pond with a discharge pipe system to be connected to the existing storm drainage system in Ruxton Crossing.

Factors to be considered in selecting one of these alternatives are approvability, safety and cost. We have received Soil Reports prepared by the Balter Company in which some of these methods are discussed. The Balter Company and our office do not recommend infiltration since leakage could contribute to deterioration of the slopes at the north and west boundaries of the Windsor property. Perforated discharge pipes covered with No. 2 stone could be used to spread the discharge (from a conventional storm water management pond) over a large area and thus minimize erosive effects.

We believe that the most efficient proposal (though the most expensive) includes a conventional storm water management pond to which storm water runoff from proposed impervious areas would be channeled. The pond would provide for storage and discharge at a prescribed rate into the existing drainage system serving Ruxton Crossing. In

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. Gene Bober, Chief
Current Planning & Development Division Date 3/4/85

FROM Community Planning Division

SUBJECT County Review Group Comments On WINDSOR COURT

GENERAL COMMENTS:

ENVIRONMENTAL COMMENTS: Alternate swm may be needed if storm easement cannot be acquired (see New comment at site)

ZONING COMMENTS: I don't believe enforcement allows to clear parking can penetrate the 75' buffer established by Transition.
Special Exception & special hearing required for Class B building & parking in a residential zone.

TRANSPORTATION COMMENTS:

MASTER PLAN CONSISTENCY:

BASIC SERVICES DEFICIENCIES:

MICROFILMED

MASTER WATER AND SEWER PLAN: WATER _____
SEWER _____

RIDGE COUNTY STORE
PO BOX # 27

45 - CLERK #

4C - PLAT

Ridge Country Store
5/14

E COUNTY, MARYLAND

FFICE CORRESPONDENCE

Date May 4, 1987

On May [illegible] 1987 at 10 A.M., at the request of attorney, Pat Gill, a meeting was held in my office to discuss conditions under which the referenced facility would be permitted to operate a limited food service facility operation. The following individuals were present:

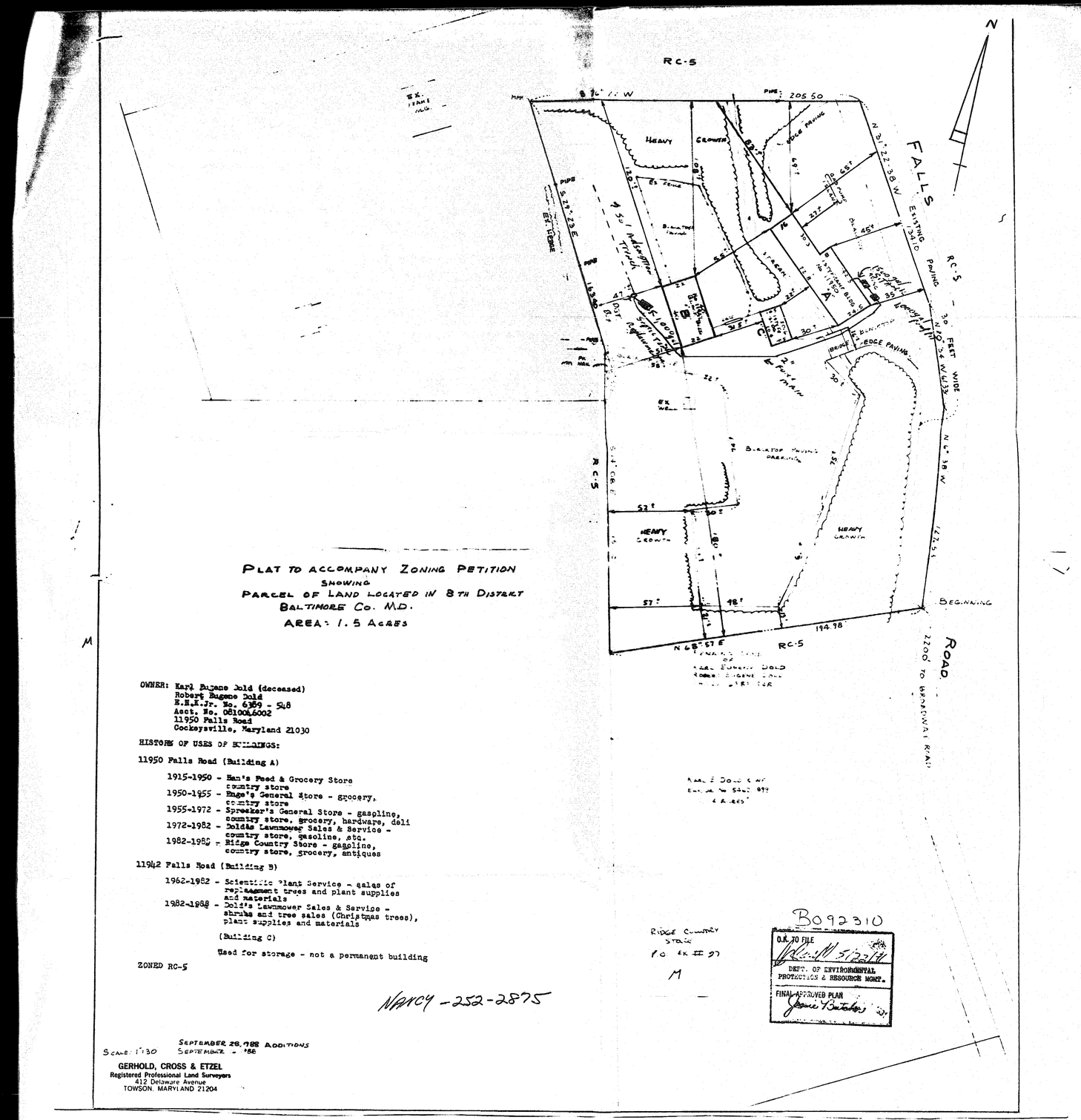
Mr. Jack Ashbaugh and Ms. Nancy Dile
(owners and operators of the establishment.)
Mr. Pat Gill
Mr. Richard Ernst
(Chief, Environmental Health Engineering, Northwestern Region.)
Mr. Thomas E. Ernst
Mrs. Sylvia M. Harvey

The stipulations listed in Mr. Ernst's April 29, 1987 memo to the file were discussed. Mr. Gill indicated that his clients wished to install a maximum 1000 gallon holding tank, and upgrade their facilities so that they would not be limited in their scope of food preparation. Mr. Ernst advised Mr. Gill that due to the limited lot size, high [illegible] conditions, underground fuel storage tanks and proximity to a stream, his Department could not recommend any expansion of increased water usage. Mr. Ernst and I agreed with him.

Other stipulations to the stipulations voiced by Mr. Gill were - 1) tying the two properties together by a deed and 2) use of a portable chemical toilet for aesthetic reasons. After discussion, it was determined that we would consider a usage easement if Mr. Gill wished to prepare the [illegible] to submit to the Law Office for review and approval. A suggestion was made by Mr. Ernst that the owners consider an [illegible] composting biological toilet such as the Clivus Multrum unit if they objected to the portable chemical toilet.

The owners indicated that they were currently only selling tasty cakes and tagged items but as stated at this time. The meeting concludes at this point.

KMM:fth



could not be used as an accessory to the principle use on the other property. As such, the same standard applies here regardless of ownership.

Finally, Mr. Jones asserts that the septic field is an uncontrolled excavation in the R.C.-2 zone and is therefore allowable. There is ample, overwhelming evidence and testimony, as well as discussion herein, which persuades this Board to find that the septic system is a structure, which, for the purposes of regulation and construction, is engineered to be anything but uncontrolled excavation and consider his point moot. The septic system in the R.C.-2 zone to support a commercially-zoned property is simply not allowed.

The fourth, and final, issue is the question of estoppel. The evidence presented in this case clearly indicates that Mr. Jones intended to construct his septic system in this property, if that option was feasible. As a result of site difficulties, Mr. Jones sought reasonable alternatives to working in site. The record is clear: Mr. Jones made certain that appropriate Government authorities were represented in review of possible alternatives, to the best of his knowledge and abilities. As indicated by Robert Powell (DEPRM), the Office Planning and Zoning (OPZ) was contacted and apprised of the planned work. The OPZ response was to rescind the stop-work order then in place. During cross examination, Mr. Gerber testified that OPZ routinely makes comments on development plans and that, in fact, comments are solicited when asked by the Board if there exists any requirement for septic approval by OPZ, Mr. Gerber answered that the septic plans are approved by DEPRM.

Mr. Jones also made certain that the Petitioner's concerns

were addressed, even going so far as to write to the Long Green Valley Association (LGVA) in response to letters written by LGVA to the County. The record is replete with letters between LGVA and the County, as well as letters between Mr. Jones, LGVA and the County. Clearly, LGVA had ample notice to pursue any concerns it had over a long period; yet LGVA did nothing after receiving a letter dated January 2, 1992 from DEPRM, which outlined the intent of DEPRM to rescind the stop-work order under certain conditions. Not until nine months later did LGVA raise an issue, after Mr. Jones had spent literally hundreds of thousands of dollars to obtain the easement, construct the septic field and finish the building.

The doctrine of equitable estoppel in zoning cases is recognized in Maryland. This case is an issue of timeliness and fundamental fairness. This Board is persuaded by Mr. Jones' argument that the LGVA, led by attorneys Charlotte Pine and Edward Blanton, was well aware of the then proposed site to be used for the septic system, as well as the conditions necessary for lifting the stop work order. LGVA did not respond to Mr. Jones' letter of December 17, 1991, nor to the DEPRM letter of January 2, 1992. Over ninety days elapsed between Mr. Jones's resumption of construction and the filing of the Petition for Special Hearing. The LGVA and the County are therefore estopped from pursuing the Petition.

Despite the Board's findings that the implemented use of adjacent R.C. 2 zoned property to support a septic system for commercially zoned property is illegal, the Board finds that Mr. Jones acted fairly and openly with all concerned parties and that

the County, through its actions, and the LGVA, through its inaction, are estopped. Therefore this Board shall deny the Petition for Special Hearing.

O R D E R

IT IS THEREFORE this 26th day of October, 1994 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing be and is hereby **DENIED.**

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

C. William Clark

Robert O. Schuetz

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

October 26, 1994

J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Case No. 93-93-SPH
Long Green Valley Assn., et al

Dear Mr. Holzer:

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.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

encl.

cc: Charlotte Pine, President
Long Green Valley Assn.
John B. Gontrum, Esquire
Orville Jones
Joseph P. Katrick, Esquire
Sharon Rohrbaugh
People's Counsel for Baltimore County
Pat Keller
Jackie Macmillan /Planning
Lawrence E. Schmidt
W. Carl Richards, Jr., /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

IN RE: PETITION FOR SPECIAL HEARING
15825 LONG GREEN PIKE
ORVILLE M. JONES

LONG GREEN VALLEY ASSOC. et al, PETITIONERS

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* CASE NO. 93-93-SPH

MEMORANDUM OF ORVILLE M. JONES, PROPERTY OWNER

STATEMENT OF THE CASE

This case arose from a Petition for Special Hearing filed by the Long Green Valley Association, the Greater Kingsville Civic Association, and various individuals to determine whether property, owned by Executive Auto and Paint Repair, Inc., and zoned R.C.2, can be used under a recorded easement agreement as a drainage field for a septic system located on adjoining property zoned R.C.2 and owned by Orville M. Jones. At the hearing before the Zoning Commissioner of Baltimore County the Greater Kingsville Civic Association withdrew as a petitioner. After a hearing was held and testimony and exhibits received a Findings of Fact and Conclusions of Law was issued by the Zoning Commissioner of Baltimore County on August 24, 1993.

An appeal was noted on behalf of the Long Green Valley Association et al. on September 16, 1993, and on behalf of People's Counsel for Baltimore County on September 20, 1993 to the County Board of Appeals of Baltimore County (hereinafter cited as the "Board").

PROCEDURAL ISSUES

At the end of the Board's hearing on this matter an issue was raised pertaining to the application of the open meetings law to this case. The open meetings law is codified in the Annotated Code of Maryland, State Government Article, Sec. 10-501 et seq. Section 10-503 of the Article states:

> a) *Not applicable.* — Except as provided in subsection (b) of this section, this subtitle does not apply to:
> (1) a public body when it is carrying out
> (i) an executive function;
> (ii) a judicial function; or
> (iii) a quasi-judicial function; or
> (2) a chance encounter, social gathering, or other occasion that is not intended to circumvent this subtitle.
>
> b) *Applicable.* — The provisions of this subtitle apply to a public body when it is meeting to consider:
> (1) granting a license or permit; or
> (2) a special exception, variance, conditional use, zoning classification, the enforcement of any zoning law or regulation, or any other zoning matter.

The Board is a public body as it is a multimember board created by the County Charter. Annotated Code of Maryland, State Government Section 10-502 (h). The functions of the Board, however, usually would fall within the ambit of a quasi-judicial function and thereby not subject to open meetings. Annotated Code of Maryland State Government, Section 10-502 (i). Section 10-503(b), however clearly states that zoning matters are within the strictures of the open meetings law. This would apply to Special Hearings.

A question arises, however, over when a meeting takes place. Section 10-502(g) defines the term meet as follows: " 'Meet' means to convene a quorum of a public body for the consideration or

transaction of public business." The term quorum is defined as "(1) a majority of the members of the public body or (2) any different number that the law requires." The Charter of Baltimore County, Section 601, specifies that the Board shall consist of seven (7) members. A quorum, therefore, normally would consist of four (4) members. The Rules of Practice and Procedure of the Board, however, are given the effect of law and call for three (3) member panels. Two (2) members may hear a case only if Counsel agree. Rule 1c. of the Rules of Practice and Procedure of County Board of Appeals. Consequently, a quorum of three (3) has been established by County law in order to conduct business. A majority of the quorum must decide an issue unless only two (2) members are sitting by agreement, in which case unanimity is required.

The Circuit Court in Case No. 93 CV 5697, Valleys Planning Council, et al. v. Baltimore County, et al., stated that a quorum consisted of two (2) members, but this finding failed to distinguish between a majority of a quorum and a quorum itself. It is wrong to forbid Board members, especially in groups of two (2) of three (3) to discuss aspects of a case or testimony of a case. Two (2) board members do not constitute a quorum for the transaction of business unless approved by the parties to the case; consequently, no action on the case can be taken, and there is no meeting of the Board.

The open meetings law was not intended to discourage the frank exchange of opinion, but rather to ensure that deliberations and decisions be conducted in a public forum. City of New Carrolton

v. Rogers, 287 Md. 56, 410 A.2d 1070 (1980). The Court in New Carrolton stated: "In this regard, it is clear that the Act applies, not only to final decisions made by the public body exercising its legislative functions at a public meeting, but as well as to all deliberations which precede the actual legislative act or decision...." New Carrolton, 287 Md. 56, 410 A.2d 1070 at 1078 (1980). It is clear, however, that not all mention of a case or of an issue of a case is a deliberation. An example of this may be seen elsewhere in County government. The Baltimore County Council consists also of seven (7) members, and few would contest that it is a public body serving a legislative function subject to open meetings. Consequently, whenever a quorum of four (4) members meet to consider or transact public business they are subject to the open meetings law. A majority of the Council is required to pass legislation. Charter of Baltimore County, Section 308; therefore, a quorum is equivalent to the amount of members necessary to approve legislation. No one would question, however, the right of council members to discuss legislation privately among themselves, especially in groups of two (2) or three (3). This is something which happens routinely. There also is a public meetings requirement in the Charter, which states that "all meetings of the county council or any committee thereof shall be open to the public". Charter of Baltimore County, Section 308(a). Does this mean that Council members can not discuss any legislation proposed or introduced among themselves without giving the required public notice? Does this mean that efforts to reach compromises must be

conducted in public?

It is incorrect to assume that no mention of the case among the Board itself can be made without a public forum. The issue is what constitutes "consideration" of public business or "deliberations" preceding a decision. The term deliberation is defined in Black's Law Dictionary, 4th ed., as follows: "The act or process of deliberating. The act of weighing and examining the reasons for and against a contemplated act or course of conduct or a choice of acts or means." The term consideration within the context before the Board is defined by Black's Law Dictionary, 4th ed., as follows: "A technical term indicating that a tribunal has heard and judicially determined matters submitted to it." In meetings of the Board on a case there is a distinction between the act of weighing and judging the evidence and applying the law and the act of discussing what the evidence was or what law pertained to the case. The former is deliberation, the latter is discussion. Decisions, however, must be reached in public and announced by each Board member with each member stating his or her opinion, just as in the county courts.

In summary, on the application of the Open Meetings Law it appears that the Board must conduct and decide the case in a public forum as dictated by the statute. This requirement, however, does not preclude any discussion or communication of the case between two (2) Board members and even discussion among the members of the Board if the purpose was not to deliberate, weighing and judging of evidence or deciding the case.

particular use as designed would have little or no impact on area zoned for agricultural use, he felt that this use should not be a "domino effect" and permit overdevelopment of commercial uses from that originally contemplated. He also did not believe that the use fit within the scope of permitted utility uses within an R.C. 2 zone or that it met the intent of the wording of an "unrestricted excavation". He saw no distinction between an easement on the land for a drainage field and ownership of the land and acknowledged that recent legislation in 1992 further limited development in B.L.-C.R. zones.

Former Director of the Office of Planning and Zoning Norman Gerber was called as a witness by Petitioners. He had reviewed the file and had testified in this case before the Zoning Commissioner. He did not believe that a septic system could ever be a primary use, and as it did not serve a primary use in an R.C. 2 zone that it could be a proper accessory use. He felt that if Mr. Jones purchased the property on which the drainage field was located and combined the properties into one description it would be easier to qualify the property as an accessory use. He also stated that there was a meaningful distinction between residential and agricultural zones with respect to permissible accessory uses. Although commercial accessory uses might be permissible in residential zones that did not translate into their acceptance in agricultural zones. In this way he distinguished two (2) zoning decisions Norris B. Lankford, 85-321-SPH and In Re Walter Windsor 88-326-SPH (Prop. Own. Ex. 25, 26). These cases had also involved

STATEMENT OF FACTS

Orville M. Jones is the owner of the property and improvements located at 13523 Long Green Pike. This property is zoned B.L.-C.R., and contains approximately 1.1 acres (P.C. Ex. 1; Pet. Ex. 2). At the time of the purchase of the site by Mr. Jones in 1987 the site was improved by a two-story frame structure known as the Long Green Hotel. Mr. Jones applied for and received a permit to remodel the structure. Percolation tests were conducted on the site, and permission was given to construct a mound system to handle the sewage generated by the remodeled building. The property is located in a rural area not served by public water or sewer, and the septic system on the old building was failing.

In the course of conducting the improvements to the building heavy equipment was used in the area of the proposed mound septic system thereby rendering the area unusable in the opinion of the Baltimore County Department of Environmental Protection and Resource Management (hereinafter referred to as "DEPRM"). A stop work order was issued for continuance of the work on the site on March 29, 1991, until a suitable alternative could be found to replace the system (Prop. Own. Ex. 11a, 11b). At the time of the stop work order representatives of the Petitioner Long Green Valley Association were in contact with Baltimore County (Prop. Own. Ex. 12-15). By November of 1991, an agreement was reached between the property owner and Baltimore County to construct a private septic drainage field and reserve area on adjacent property pursuant to a

level proof plans his office had reviewed and approved while he was there. He felt that such a use in the R.C. 2 zone was inconsistent with its purpose as set forth in the Baltimore County Zoning Regulations (hereinafter cited as the "BCZR"), Section 1A01.1B.

Mr. Weber had also reviewed four (4) cases presented in the property owner to the Zoning Commissioner and included as part of the file. Although in those cases septic systems and drainage fields had been permitted in R.C. 2 zones supporting commercial uses, he distinguished these cases because the agricultural zones were not R.C. 2. He also reiterated his opinion that R.C. 2 zoning was not a residential zone and that the reference to sewer mains in the BCZR, Sec. 1A01.2B.5 was a reference to public systems.

The next witness called by Petitioners was Ed Blanton, an attorney and a former President of the Long Green Valley Association. He lives about two (2) miles from the subject property. He indicated that it was his understanding that there was always going to be a public hearing, and he was upset that one was not held prior to construction of the current building. He reviewed the permit history of the project according to his research. He did not feel that the letter from DEPRM to the Long Green Valley Association in January, 1992 indicated a final decision.

Carol Trela a resident of the Baldwin area approximately one (1) mile from the property felt that the old building had been in bad shape but that little if any of it was used in the existing

recorded Deed of Easement reserving the property for that one use (Prop. Own. Ex. 19-21). The Long Green Valley Association was aware at that time of the proposal and questioned its approval (Prop. Own. Ex. 1-4). Correspondence to the Association contained in the County's file indicates that the Association was aware of the fact that the Baltimore County Office of Planning and Zoning had been consulted and had approved of the project as of December, 1991 (Prop. Own. Ex. 4).

After the County had approved the concept of using the 13,500 square foot area on the adjacent R.C. 2 zoned property for a conventional septic reserve area and drainage field, a Declaration of Protective Covenants, Conditions and Restrictions was recorded by Mr. Jones subjecting a portion of his property to restrictions for preservation of a forest buffer (Prop. Own. Ex. 5). Next a Deed of Easement costing the property owner Twenty-five Thousand Dollars ($25,000.00) was recorded on May 12, 1992 (Pet. Ex. 1) and the stop work order after fourteen months of study and work on the septic system was lifted (Prop. Own. Ex. 20-23). The septic system was constructed, and the remodeling work was substantially completed in the summer of 1992. Only in September, 1992, over nine (9) months after the Association was notified of the County's decision was the instant case filed.

The Zoning Petition as filed states that the property owner is in violation of the Baltimore County Zoning Regulations and seeks enforcement of the regulations. At no time was it ever indicated in the proceeding that the property owner had failed to obtain

necessary permits or that the community was unaware of the County's action. Vague allegations were made that the permits had been improperly obtained, but the record indicates that every permit was reviewed by the Office of Planning and Zoning including the remodeling and alteration permits. There was no allegation that inspections were not regularly made of the site. Indeed, through inspections it was determined that the mound system no longer was feasible. When portions of the building fell down as Mr. Jones testified, he had to go through the procedure of applying for a new permit. It also was clear that the zoning office had reviewed and approved the location of the drainage site in the R.C. 2 zoned area and that the community was aware of this at the time in 1991. Members of the community were closely monitoring every step of the project. No violation case has been filed against the property owner by any entity.

SUMMARY OF TESTIMONY

People's Counsel for Baltimore County called Paul Solomon, a former planner for Baltimore County, who had assisted in the drafting of the legislation for the rural zones during the 1970's. He had visited the subject property and reviewed the file as well as consulted with Norman Gerber, a witness for Petitioners and former director of the Office of Planning and Zoning. He testified as to the history of the R.C. zones. It was his opinion that use of the R.C. 2 zone for any commercial support use was inconsistent with the stated purposes of the zone. While he believed that this

building. She confirmed that there was nothing done on the site for about a year, during which time the property was in poor appearance, then suddenly the building was completed in the summer of 1992.

Kathy Tyler, also a member of the Long Green Valley Association, who lives about two (2) miles from the site had been interested in renting space from Mr. Jones and was acquainted with the old structure. She felt that the community had not been given adequate notice of what was happening. She is concerned about preserving the rural aspects of the community. She had spoken with employees at DEPRM, and had kept informed about the progress on the septic system and reserve area. She had been aware of the DEPRM and zoning decisions about the property at the time they had been made.

Sharon Rohrbaugh, a neighbor of the site, testified as to her concern over pollution to the nearby stream even though it has been tested and is not impacted by the system. She felt that the location of the drainage field creates a bad precedent. She was aware of the approvals of the site at the time it was under review, and she had tried to talk Mr. Weber out of giving the easement and felt that he would not do so. She was unaware of any limitation on use of the B.L.-C.R. property due to restrictions on sewage flow.

The final witness for the Petitioners was Mark Steindler, another neighbor of the site. He did not know the location of the site but testified that it was his understanding that there would be a public hearing at some point.

The first witness for the Property Owner was Robert Powell of DEPRM. He had been familiar with the site since reconstruction of the existing building was first proposed. He had participated along with State employees in the design of the mound system and was aware of the fact that the ground had been compacted and that the area designated for the mound system was no longer usable. He had tested the area now occupied by the drainage field and had found it to be acceptable. The same restrictions on sewage flow in terms of gallons per day that had been imposed on the mound system were applied to the system now in use. He testified that he had indeed consulted with zoning and had been assured that the current location of the septic field in the R.C. 2 area under easement was acceptable. He also confirmed that the Community had been informed of the decision and that they had been active in seeking information and updates as to the progress of the facility. He established that the stop work order was issued in March of 1991 and was not lifted until the forest buffer covenants and the septic area easement deed had been recorded in May of 1992.

Mr. Powell also indicated that alternatives had been examined for location of the system and had been rejected. The old building had a system, but it was unacceptable. A holding tank also was unacceptable to Baltimore County. No other site was suitable due to stream crossings.

The next witness testifying in the case was Carl Richards, the co-ordinator of the development control section of the Zoning Administration and Development Management Office. Mr. Richards

permitted.

By the terms of the easement in this case the area occupied by the septic system is closely defined and inextricably bound to the site of the building. It serves the lot in every respect. It can not be built upon, and although livestock may graze upon it, it can not be regraded or covered. In every respect important to the BCZR the easement serves the same purpose as a fee conveyance, and the history of the County's use of easements and treatment of them with respect to dominant lots confirms this fact. [1]

4. ARE SEPTIC SYSTEMS IN R.C. 2 ZONES SUPPORTING COMMERCIAL USES CONTRARY TO THE POLICY OF THE ZONING REGULATIONS?

There is nothing in the legislative purpose in the R.C. 2 zone as articulated in Section 1A01.1B or indeed in the legislative purpose of the entire R.C. section which conflicts with the use in this case. The use of the R.C. property without question allows development of the B.L. zoned property but not to densities not permitted by zoning. No one questioned throughout the hearing that the development of the B.L. zoned land was inappropriate or was more than had existed on the site. Indeed, the record indicated that the improvements made conformed to the

[1]Baltimore County and the Office of Planning and Zoning have even accepted long term leases of land for uses such as parking to satisfy parking requirements for adjacent tracts. The use of land for parking may frequently be an accessory use and the interpretations over the years have reasonably interpreted the "same lot" provisions to include long term leases as well as easements. The controlling principle has been whether the user of the land actually will have control of it to support the primary use.

footprint of structures which had existed on the site for many years. The question was simply one of substituting a septic system which worked for one which did not work. Given the proximity of the site to a valued stream one would expect the County and the residents to be concerned that the system worked.

The system as located does nothing to preclude farming of the land. Livestock may graze on the land occupied by the underground facility, and in no respect could one tell what the use of the land is by walking across it. The surface use is open space, and that surely conforms to the purpose of the R.C. zone. In no respect is the system different than a residential system, and that too is permitted, albeit not by specific reference, in the R.C. 2 zone. No greater density or development will occur in the R.C. zones as a result of the system. If anything the purposes of environmental protection are served.

5. DOES THE R. C. 2 ZONE SPECIFICALLY PERMIT UTILITY RELATED USES AS A MATTER OF RIGHT?

Section 1A01.2B.5 states that the following uses are permitted as a matter of right:

Telephone, telegraph, electrical power, or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines.

This section appears in the same form in the other R.C. zones and is noted as an "Institutional, Public and Quasi-Public Use" in the critical area resource conservation zones (BCZR Section 1A05.2C). The uses may be interpreted as strictly public utility

or publicly owned uses, but such limitation is not contained in the language. Even if such language is read into the wording, however, it clearly indicates that such intense public utility uses as those contemplated, presumably being, therefore, major conduits are not antithetical to the purpose of the R.C. zones. Surely, then individual facilities and conduits are not antithetical to the zone as they serve the same public related function as the larger facilities. It would appear, therefore, that underground utility conduits such as pipes and ditches are permitted or accepted in the R.C. zones.

The section also distinguishes between underground conduits and utility facilities not discernable from the surface and above-ground uses or uses that are discernable from the surface. The septic system in question in this case complies with the intent that the above-ground "look" of the facility in no way changes the above-ground use or appearance of the land.

CONCLUSION

This Petition should not have been brought in this forum in this manner. After permitting the landowner to go forward the Petitioners should not be allowed at this time to come forward and turn back the clock. For decades Baltimore County has not considered septic systems to be "uses" as regulated by the BCZR. Either by accepting them as uncontrolled excavations covered by grading permits or simply as movements of earth not once has the placement of a septic system in a residential zone serving a

commercial business or office been forbidden. Septic systems like storm water management systems serve a public purpose, and their effective construction and use should be promoted, not discouraged. Regardless, however, of how the facility is perceived either as a use or as an accessory shaping of ground, it clearly is permitted by the BCZR and should be permitted in this case.

Respectfully submitted,

John B. Gontrum
Attorney for Orville M. Jones

P:\wpdata\jbg\jones.mem

IN RE: PETITION FOR SPECIAL HEARING
13523 LONG GREEN PIKE
ORVILLE M. JONES
LONG GREEN VALLEY ASSOC., et al
PETITIONERS

* BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
* CASE NO. 93-93-SPH

* * * * * * * * * * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of June, 1993, a copy of the foregoing Memorandum of Orville M. Jones, Property Owner, was mailed postage prepaid, to J. Carroll Holzer, HOLZER, MAHER, DEMILIO & LEE, 305 W. Chesapeake Avenue, Suite 105, Towson, Maryland 21204; and to People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington, Ave., Towson, Maryland 21204.

JOHN B. GONTRUM, Esquire
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Blvd.
Essex, Maryland 21221
(410)686-8274

Attorney for
Orville M. Jones

MICROFILMED

6/28/93
S

5B6.93
ZADM

RE: PETITION FOR SPECIAL HEARING REGARDING USE OF PROPERTY ZONED RC 2&OWNED BY EXECUTIVE AUTO PAINT & REPAIR, INC. LOCATED BEHIND 13523 LONG GREEN PIKE TO SUPPORT A WASTE DISPOSAL SYSTEM FOR COMMERCIALLY ZONED PROPERTY (BL, BM) KNOWN AS 13523 LONG GREEN PIKE, OWNED BY ORVILLE JONES.
LONG GREEN VALLEY ASSN., et al., Petitioners

: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: CASE NO. 93-93-SPH

RECEIVED
JUN 25 1993
ZADM

: : : : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

RECEIVED
- 7 1993
ZONING COMMISSIONER

Peter Max Zimmerman
People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 28th day of June, 1993, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esquire, 305 W. Chesapeake Ave., #105, Towson, MD 21204, Attorney for Petitioners; and Mr. Orville Jones, 13523 Long Green Pike, Baldwin, MD 21013, Property Owner.

Peter Max Zimmerman

101.

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 93-93-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 the use of property zones RC 2 & owned by Executive Auto Paint & Repair, Inc. located behind 13523 Long Green Pike to support a waste disposal system for commercially zoned property (BL, BM) known as 13523 Long Green Pike, owned by Orville Jones, in violation of: (See Exh. 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.

Petitioners:

Long Green Valley Assn.
The Greater Kingsville Civic Assn.
and various individuals incorporated in attached Petitioners' list

Legal Owner(s):

Oliver Jones
(Type or Print Name)

Dorothy Foos, president, Greater Kingsville Civic Assn.

Long Green Hotel

Charlotte Pine, president, Long Green Valley Assn.

(Type or Print Name)

Signature

Attorney for Petitioner:
J. Carroll Holzer
(Type or Print Name)

13523 Long Green Pike
Address Phone No.

Signature

Baldwin, Md. 21013
City and State

305 W. Chesapeake Ave. #105
Address

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Towson, Md. 21204
City and State

Name

Attorney's Telephone No.: 825-6961

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

9-11-92
NO REVIEW
WCR

93-93 SPH 10

PETITIONERS' LIST

Emory Norris
Cynthia Norris
7 Fork Springs Court
Baldwin, Maryland 21013

Bartlet C. Regan
6037 Church Lane
Hydes, Maryland 21082

Cynthia Goetzinger
Henry Goetzinger
6014 Fork Woods Road
Baldwin, Maryland 21013

Paul Plowman
13105 Fork Road
Baldwin, Maryland 21013

Elizabeth Miller
12800 Bottom Road
Hydes, Maryland 21082

John T. Vance
Kathleen Vance
1333 Long Green Pike
Baldwin, Maryland 21013

Paula Waire
Douglas Waire
12 Fork Springs Court
Baldwin, Maryland 21013

Pattie L. Griffith
Daryl H. Griffith
13546 Fork Road
Baldwin, Maryland 21013

Alice S. Rohrbaugh
13558 Fork Road
Baldwin, Maryland 21013

Charlotte Pine
President
Long Green Valley Association
P.O. Box 91
Baldwin, Maryland 21013

c:\wp\env\lgva.lst

MICROFILMED

remembered discussing the case in 1991 with Mr. Powell and remembered reviewing a site plan calling for the drainage field in the R.C. 2 area. In his opinion allowing this use in the R.C. 2 area was consistent with zoning decisions, zoning policy and with the BCZR. It is part of his job description to review development projects such as this for consistency with the law, and he testified that his office believes that approval of the use in this case is appropriate. He saw no distinction between the R.C. zones and the D.R. zones and pointed out that Section 101 of the BCZR defined R.C. zones as residential.

The final witness was the Property Owner Orville Jones who testified as to how he came to own the property, the problems he incurred with the septic system, the [illegible] expended on the project. He testified that the expenses were $20,000, not including engineering expenses. In addition, substantial funds were expended on the [illegible] after the stop work order was lifted and prior to the special hearing hearing. The building was substantially completed [illegible]. He relied on the County permits, reviews and notices [illegible]. There were no contacts between the community and himself and the correspondence in November and [illegible]. He was told that in January, 1992, correspondence from [illegible] Long Green Valley Association, but no action [illegible] from the community on that correspondence.

who testified at the hearing stated that [illegible] to the correspondence. The property owner's correspondence to [illegible] 17, 1991, (Property Owner's Ex. 5) in response to a letter from the Long Green Valley Association clearly indicates the [illegible]. The Community and the County were given notice [illegible] 1992, (Prop. Owner Ex 4) letter to the Association was [illegible] in its approval. As the entity which had issued the stop work order, DEPRM was the only authority which could lift it. As the Association was led by such prominent attorneys [illegible] Pine and Edward Blanton, it is incredible that the Association and its members were unaware that permission had been granted.

Mr. Jones relied on the action of the County as interpreted in the correspondence in paying for the deed of easement and in going forward with construction. He also relied on the inaction of the community. There was no response either to his December 17 letter nor to the January 2 letter. There was no response when construction started in June, 1992. For over ninety (90) days from the restart of construction there was no action from the community until the filing of the Special Hearing. Thousands of dollars had been spent by Mr. Jones at that point.

Not to be overlooked is the fact that in addition to the correspondence members of the community had access to the County file. As the testimony indicated, the community witnesses were well aware of the internal memoranda in the County's file on the subject. See Property Owners' Exhibits 12-23. As the Zoning Commissioner noted in his opinion "Long Green Hotel is not UFS".

ISSUES

I. WAS THIS CASE PROPERLY RAISED AS A SPECIAL HEARING CASE?

This is a case for special hearing raised by a community association and residents of Baltimore County alleging violations of the BCZR. Section 500.7 of the BCKR permits the zoning commissioner to conduct such hearings as he may determine on issues he raises or on issues raised by persons to determine their rights in a particular piece of property. The section states in pertinent part:

> **The power given hereunder shall include the right of any interested person to petition the zoning commissioner for a public hearing after advertisement and notice to** determine the existence of any purported [illegible] use on any premises or to determine any rights whatsoever of such person (emphasis added) in any property in Baltimore County insofar as they are affected by these regulations.

In this case the parties seeking the special hearing sought to determine the rights of others, not themselves, in property in which they had no interest. This is not a permitted purpose under Section 500.7.

Section 500.7 gives the zoning commissioner broad powers to conduct hearings. It permits him to review petitions and to determine the legality of particular uses. It allows [illegible] to seek determinations on whether they have non-conforming uses or to determine whether a desired use is a permitted use. It also allows for the amendment of development plans and the expansion of non-conforming uses. Nowhere, however, does that Section allow for

[illegible] Service, Inc., v. People's Counsel for Baltimore County, 77 Md. App. [illegible] 548 A.2d 878 (1988), cert. granted 315 Md. [illegible] (1988) for an appeal from correspondence of the Zoning Commissioner affirming his issuance of a building permit during recess. The Court found that the correspondence from the Commissioner was the first notice the community had of the action. In this case, the community had notice of all County action and in the community's inaction and that of its members it acquiesced in the decision of DEPRM and the zoning office.

Unlike UFS the property owner in this case was proceeding under established precedent where in similar circumstances similar decisions had been made going back almost two (2) decades. (Property Owner's Exhibit 6-9, 24-38, 30).

One of the real issues in this case assuming for argument that the uses of the R.C.2 zone is improper, is whether the other cases in which similar permission of use was granted may be opened in similar fashion to this case. Even though permits were issued and projects were built, some like the Manor Shopping Center never had an adjudication on the issue of storm water management on an off-site R.C. property even though parking in an R.C. zone was adjudicated. Some cases like the Sunnybrook Profession Center had a C.R.G. but not on the amendments leading to enlargement of sewage and storm water management areas in R.C.4. Can these properties be made the subject of similar proceedings?

The timing of this case is of major significance. This is not

the determination of the rights of third parties in property they do not own. More pertinent, the section does not permit a determination of violation in a property when the persons bringing the case admittedly have no right or interest in the property.

Section 500.6 of the BCZR applies to violation cases. At the time of the enactment of Section 500.6 in 1955, the zoning commissioner was the authority which determined violations and established penalties. Since that time the authority to determine zoning violations has been granted to the District Court system, and it may adjudicate violations or issue injunctions according to the circumstances of the cases presented (Baltimore County Code, Sections 26-120, 26-121). This case seeks to subvert this process, for although it alleges violations and seeks injunctive relief it does so in a context not called for in the regulations.

This case alleges that the property owner is impermissibly using land contrary to the BCZR. It, therefore, should have been brought as a violation case before the District Court. It seeks a determination that the use be stopped. Accordingly, it should have been presented to the District Court in the form of an injunction. Had the case been timely presented upon receipt of the letter from DEPRM in January, 1992, to the effect that the project could go forward it might have been the proper subject of an appeal. Consequently, having failed to bring a timely case, having failed to ask the zoning office to bring a violation or request a mandamus that they do so, having failed to request an injunction the Petitioners seek to use this process to determine not their own

a case where the Petitioners did not know what was happening. To one degree or another all of the witnesses had notice of the site development by before the petitions was filed. This is not a case where the County officials committed [illegible] they relied on precedents of many years. To file a proceeding at this juncture to take away what was given under color of law with notice to interested persons, after expenditure of funds and reliance of the property owner works a clear injustice. The Petitioners and the County should be estopped from any further action against the property owner on this issue. The Zoning Commissioner was correct; it is an issue of fundamental fairness.

III. IS A SEWAGE DRAINAGE FIELD A USE WITHIN THE SCOPE OF THE BALTIMORE COUNTY ZONING REGULATIONS?

Then Zoning Commissioner Arnold Jablon in In Re Walter Windsor, Case No.85-326XSPH, (Prop. Own. Ex. 2) suggested that certain uses such as storm water management areas may not be regulated within the scope of the zoning regulations as a zoning use. In that case he found that the storm water management pond area may more properly be considered an uncontrolled excavation and, therefore, was permitted as an accessory use in a D.R. zone supporting an office building. As the site plan indicates in that case, what was involved was a piping system both to and from the pond, and an easement over adjacent property owned Ruxton Crossing Homeowner's Association for outfall and piping systems. A letter is in the file seeking permission for use of their property along

rights but the rights of someone else in a piece of property. This is simply an improper procedure.

II. SHOULD THE PETITIONERS AND THE COUNTY BE ESTOPPED FROM PROCEEDING WITH THIS CASE AT THIS TIME?

The doctrine of equitable estoppel in zoning cases is recognized in Maryland. Offen v. County Council for Prince George's County, 96 Md. App. 526, 625 A.2d 424 (1993). Equitable estoppel is a defense available to a property owner who has relied on actions either by a person or by a government entity on whom he had the right to rely and has changed his position thereby. The defense is raised when the persons and governmental entity tries to deny or take back what was previously granted. Offen, 96 Md. App. 526, 625 A.2d 446-455 (1993).

In this case there is an issue of timeliness. In March of 1991 the property owner was issued a stop work order on permits he had been issued. The Long Green Valley Association and various members were active in review of this project. Correspondence in DEPRM's file over the next year as well as internal memoranda indicate that the community and the County were well aware of the property owner's attempts to seek an alternative resolution to the sewage disposal system. By November of 1991 the community was aware through the Long Green Valley Association that location of the drainage field in the R.C. 2 area was contemplated. There was correspondence to and from the property owner and the County with copies to the community association. Residents of the community

with an easement agreement. As Mr. Jablon noted, the pond was simply an excavation of land and was not a zoning use in and of itself. It could have been considered a formation of land rather than a zoning use. People's Counsel asked that their appeal in the case be dismissed and the Board dismissed the Appeal.

There are several uses of land and specific structures not considered regulated zoning uses. The Baltimore County Zoning Policy Manual, now enacted into law (County Council Bill No. 88-401, contains several examples of accessory structures or uses, that are permissible in any zone without regard to setbacks or zoning regulations because they are not considered uses. Handicapped access ramps and air conditioning/heating units are included among them. Zoning Commissioner's Policy Manual, Sec. 400.1.f.

This is the first case in this County pertaining to the legality of a septic drainage field serving a commercial use in a residential zone. This is not the first case, however, in which a residential zoned area has served as the location of a septic drainage field. There have even been hearings where other issues have been raised such as parking areas in residential areas, but neither the opinions nor the comments suggest that the location of an underground drainage area even raised an issue. Very likely this was because such use of property was not considered to be a zoning use.

A septic drainage field is not apparent on the surface of the land. In this case even some of the neighbors were not sure where

on the site it was. The drainage field does not prohibit the use of the property for pasture or similar agricultural uses. There are even cases where the surface has been used as a parking area and is, therefore, regulated, while the underground drainage area is not. How also is the underground area defined? Is it the precise envelope of the pipes? Is it the entire area through which any effluent may flow? How can one tell from the surface what area is included?

The Property Owner introduced into the record numerous cases considered by Baltimore County in which off site storm water management and septic facilities were located in residential and rural zones without question. Most prominent among them is the Manor Shopping Center located at Ferrerstville Pike and Sweet Air Road. In this case there was a two hearing held by the Deputy Zoning Commissioner as well as several development reviews on issues such as parking in total to support a shopping center. It was prominently noted that an easement would have to be obtained to locate the storm water management facility off site on Baltimore County Board of Education property. The septic field is located behind the center, partially in R.C. 5 zoned area. The Deputy Zoning Commissioner in his opinion noted that it was not known where the sewer line was going to be because of the parking. As recently as November, 1992, the plans were again reviewed and approved by the County when adjustments were made to the sewage disposal system. (Pet. Ex. 3).

Similar approval also was given to the Nicholas and the Sunnybrook Professional Center (Case No. [illegible]) where [illegible]

of the office building. There are several letters in the file seeking use of the R.C. 4 zone for expansion in the B.C. zone (Prop. Own. Ex. 24).

Other cases in which facilities in residential zones were used to support new or existing uses in commercial zones were introduced by the Property Owner. In none of these cases after development hearing or zoning hearing was the issue of storm water management or sewer drainage fields in residential zones even raised as a problem, but in all cases it is quite evident that such activity was going to occur. Parking and underground storm water management was permitted under a power line zoned D.R. 16 and under ownership of the military to support a commercial strip center on commercially zoned land at 9722 Belair Road, Case No. XI 615 (Prop. Own. Ex. 9). A copy of the easement agreement is in the file. Off site storm water management also was permitted under an easement agreement in Case XI 451 (Prop. Own. Ex.8). Property Owner's Exhibit 6 is a case from over ten (10) years ago permitting residential zones to support a storm water management facility for a commercial use. In the Chestnut Ridge Store case (Prop. Own. Ex. 28) there is correspondence as recently as 1991 allowing expansion of a building addition through use of an off site R.C. 5 area and the Harker Building case allows R.C. 4 area for a septic system to support a commercial building (Prop. Own. Ex. 30). No issue is raised over the use of the areas for septic systems. Rather the focus is on the safety of the systems permitted.

These cases and exhibits point out a pattern of not just one

or two cases recently decided but of many cases over many years of permitting this sort of use. In only one other case, Morris Lankford, Case No. 85-321SPH, was a special hearing requested to locate a storm water management area in a residential zone to serve an office building. That hearing was requested during the permitting process due to concerns of run-off from the site onto adjacent property. In that case an adjacent property owner wanted his rights adjudicated due to run-off. The zoning commissioner found for the developer, and an appeal was settled. People's Counsel was a party. In Re Norris B. Lankford, Case No. 85-321SPH (Prop. Own. Ex. 25). It was pointed out in that case that under the development regulations storm water management and septic systems are clearly present in all developments to benefit not just the property owner but the general public. It is to the benefit of all that such systems function properly. Baltimore County Code, Sec. 26-166(b)(4). That reasoning was clearly a consideration in this case given DEPRM's concern that a properly functioning system be built. As properly functioning systems have a public benefit, DEPRM was the lead department in review of the system.

The Petitioner's expert, Norman Gerber, was the Director of the Office of Planning and Zoning at the time many of these cases were being reviewed for Development. Virtually every one of these cases but for the most recent was reviewed by his personnel during his tenure. His Office's position was consistent throughout that such uses were permitted in residential areas whether on the same lot or under easement. Petitioners submitted three (3) pages from

the development project known as Monkton Center, Case No. VII-200, indicating through reviewer Diane Itter that a special hearing might be required to put the sewage disposal system in the R.C. 5 zone (Pet. Ex. 3). Ms. Itter was the reviewer in both In Re Walter Windsor and In Re Norris Lankford, and indicated in both that special hearings were not necessary unless the adjacent property owners brought a case. The full Monkton Center file should be reviewed to put the remarks in context. No hearing was ever had as the plans were not pursued.

These cases clearly indicate that septic reserve areas were not considered objectionable uses within either R.C. or D.R. zones. In this case the septic tank is located on the commercially zoned property. It is only the drainage field and reserve area that is located within the R.C. zone. Obviously, this field can not exist independent of another use. Like an air conditioning unit it does not exist in a vacuum. Precedent indicates that this use is permitted within all zones.

People's Counsel has raised the case of Silitschanu v. Groesbeck, 208 Conn. 312, 543 A.2d 737 (1988), as applicable to this case. It is not. In that case the statutes defined a septic system as a structure. As a structure it was found to be regulated by the zoning code which specifically forbid commercial structures in residential zones. That is not the case here where a septic system or sewage disposal system is not defined as a structure. The Code of Maryland Regulations, Section 26.04.02.01 (11) defines the system as follows:

"Conventional on-site sewage disposal system" means [illegible] systems in use which meet current regulations and consist of a septic tank or similar treatment unit attached trench or deep trench subsurface effluent [illegible] pit on-site disposal or sand mound system.

The location of the system is predicated on the ultimate duty to serve its public function, that the public interest for the disposal of waste. Regulated as such it is not a facility that is specifically within the purview of the zoning regulations.

IV. IF THE SEPTIC DRAINAGE FIELD QUALIFIES AS A REGULATED ZONING USE, IS IT A PERMITTED USE IN A R.C. 2 ZONE?

If a septic drainage field is a use then it is a permitted use as of right within the R.C. 2 zone. Section 1A01.2B.5 of the BCZR states that permitted as of right in R.C. 2 zones are:

> Telephone, telegraph, electrical power or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains or other underground conduits, except interstate or international pipelines.

Contrary to the assertions of counsel and of Norman Gerber no distinction is made in this section between public and private facilities, nor sensibly could there be. An underground phone line may cross zone lines yet serve only one business or residence. A storm drain may serve one or multiple uses. What is important here is not only are sewer mains specifically approved but also approved are all "underground conduits". A septic drainage field, if anything, is an underground conduit. It serves only as a conduit for subsurface irrigation.

The BCZR Section 101 defines a "Sewerage System, Public" as a specific use. That limitation is not contained in Section 1A01.2B.5 of the BCZR. If that section is limited to public facilities as the Petitioners suggest then the opportunity existed to limit uses to public uses as they were defined in the BCZR. The intent was to permit underground uses such as sewage drainage areas.

The zoning commissioner in his opinion focused on the wording "sewer mains" to construe the section as applying only to public facilities. As a practical matter, however, there are probably no public sewer mains in an R.C. 2 zone as the zone by definition exists beyond the urban - rural demarcation line, and such public facilities are not available. The focus more properly should be on the term "underground conduits" to get the true intent of the section.

The interpretation that the use of sewer facilities are permitted by right in the R.C. 2 zone is consistent with the previous interpretations by the various department cases referred to above.

V. IF THE SEPTIC DRAINAGE FIELD QUALIFIES AS A REGULATED ZONING USE, IS IT AN ACCEPTABLE ACCESSORY USE?

For many years the use of storm water management areas and septic systems either on the same lot as the commercial use or on adjacent properties under easement have been held to be permitted. In the Windsor case, in particular, it was recognized that the

storm water management pond qualified as an uncontrolled excavation, and, therefore as an accessory use even though it was admitted that the use was located in part on the adjacent Ruxton Crossing Property. Petitioner's expert Norman Gerber could not deny the fact that such a use had been recognized under an easement on adjacent property. His distinction between allowing accessory uses in residential D.R. zones and residential R.C. zones simply does not hold up under the wording of the BCZR.

Carl Richards of the zoning office pointed out that under Section 101 of the BCZR a Residential Zone is defined as follows: "A zone classified as R.C., D.R., R.O.A. or R.A.E. 'zoned for residential purposes'". The BCZR contains precisely the same wording for permitted accessory uses for all the R.C. and D.R. zones. Given that the wording of permitted uses is the same for accessory uncontrolled excavations in the D.R. and R.C. zones, there can be no assumption of a distinction. This is especially true given the long history of allowing storm water management areas in R.C. areas. How Mr. Gerber reached the conclusion that there could be a distinction between R.C. 2 and other R.C. zones where such uses had been routinely permitted is a mystery given the wording of the zoning regulations.

Mr. Solomon's theory that the R.C. zones simply were not intended to support commercial accessory uses does not hold up either under the clear regulatory wording of the regulations or under the Manor Shopping Center case, adopted while the R.C. zones were under consideration. Mr. Solomon's concern along with that of

some of the witnesses of Petitioners that there might be some unwarranted expansion of a use in a rural commercial zone simply does not recognize the most recent changes to the BCZR in 1992 when district overlays were applied to restrict over-commercialization of the rural commercial areas. BCZR, Sec. 259.3. Bulk and area regulations are far more effective in achieving a certain rural aesthete than relying on the chance location of safe septic reserve areas. The latter is zoning by chance; the former is zoning by plan. Obviously, the latter interpretation espoused by the People's Counsel is not only contrary to the wording of the regulations but also contrary to any acceptable theory of planning. Even Mr. Solomon recognized, under cross-examination, that there were now bulk regulations in place that had not been in place when the R.C. zones were adopted.

Mr. Solomon also acknowledged that the use in this case had relatively no impact on the farming use normally associated with the legislative intent of R.C. 2 zones. There is nothing associated with the drainage field that interferes with agricultural use or presents a hazard. There is nothing, in fact, that distinguishes the configuration of the drainage field because it serves a commercial premises. It is designed as Mr. Powell acknowledged exactly the same as a residential use and is treated under the state law as a domestic sewage system. Code of Maryland Regulations, Sec. 26.04.02.01(14). In this case, however, it is limited in its size to achieve no larger usage than that permitted under the mound system. There is no distinction between a

93-93-SPH 101

EXHIBIT A

The Baltimore County Zoning Regulations Section 1A01-R.C. 2 Agricultural Zones. The following are specific sections and reasons for Petitioners believing the BC2R are **not** being complied with:

1. Section 1A01.2(B) Uses permitted as of right - Uses 1 through 7J **do not** permit a waste disposal system, not accessory to a structure on an R.C. Zone as a use permitted as of right.

2. Section 1A01.2(C) Uses permitted by Special Exception - 1 through 24F **do not** provide for uses being granted by Special Exception for waste disposal systems, not accessory to an existing building on an R.C. Zone.

3. R.C. 2 Zones do not permit utilization of such a Zone for, and in support of, commercial operations; such use is in fact, a violation of Section 1A01.1, the general provisions for all R.C. Zoned property and is in fact in violation of the spirit and intent of such zones.

4. Such use is in violation of Section 1A00.2a, c.

5. Such approval by the County is in violation of Kowalski v. Lemar, 25 Md. App. 481 (1975) where the Court interpreting the Baltimore County Zoning Regulation s stated: "Any use other than those permitted and being carried on as of

93-93-SPH 101

right or by special Exception is prohibited." Carroll County Commissioners v. Zent, 86 Md. App. 745 (1991) confirming that "an accessory use must be customarily incidental to the principle use, serving no other principle use..." Here, the waste disposal system is not accessorty to any principle use on the property.

6. Such use is not an appropriate accessory use to be permitted by Baltimore County, See Carroll County Commissioners v. Zent. Petitioners rights are also based upon a very recent case published by the Court of Special Appeals in United Parcel Service, Inc., et al. v. People's Counsel for Baltimore County, Maryland, No. 315, September Term, 1991.

c:\wp\memo-3\long-gr.mem

2

Zoning Description
13523 Long Green Pike

Case no. #93-93

Beginning at a point on the SES of Long Green Pike 190 ft SW of the centerline of Fork Rd. thence S 46°15'E 30 ft thence S 46°15'W 257.5 ft. thence S 44°00'E 155 ft thence N 45°W 260.5 ft thence N 64°04'22"30 R thence N 57°30'E 227.5 ft. to the point of beginning Containing 1.056 Ac. ±. Also known as 13523 Long Green Pike & located in the 11th Election District.

MICROFILMED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 93-93-SPH
Towson, Maryland

District 11th Date of Posting 10/1/92
Posted for: Special Hearing
Petitioner: Long Green Valley Assn. & Oliver Jones
Location of property: 13523 Long Green Pike
Location of Signs: Facing roadway on property of Petitioner
Remarks:
Posted by [signature] Date of return: 10/9/92
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/2, 19 92

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 1 successive weeks, the first publication appearing on 10/1, 19 92

THE JEFFERSONIAN,

S. Zeke Orlow
Publisher

MICROFILMED 66.07

receipt

Date

93-93

MICROFILMED

Please Make Checks Payable To: Baltimore County $66.07

Cashier Validation

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

111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3353

DATE: 10.6.92

J. Carroll Holmer, Esq.
305 W. Chesapeake Avenue #105
Towson, Maryland 21204

RE:
CASE NUMBER: 93-93-SPH (Item 101)
13523 Long Green Pike
11th Election District - 4th Councilmanic
Legal Owner(s): Oliver Jones/Long Green Hotel
Petitioner(s): Long Green Valley Association and The Greater Kingsville Civic Association, et al
HEARING: TUESDAY, OCTOBER 27, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that $ 66.07 is due for advertising and posting of the above captioned property and hearing date.

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 forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR

Printed on Recycled Paper

PETITION OF: LONG GREEN VALLEY ASSOC., ET AL & PEOPLE'S COUNSEL FOR ...
CIVIL ACTION # 94-CV-10257 /95/341
IN THE MATTER OF LONG GREEN VALLEY ASSN., ETAL

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

Clerk's Office
Date:

MICROFILMED

MICROFILMED

RECEIVED
COUNTY BOARD OF APPEALS
93 SEP 24 PM 5:11

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 93-93-SPH
Towson, Maryland

District 11th Date of Posting 9/22/93
Posted for: Appeal
Petitioner: Long Green Valley Assoc. et al
Location of property: 13523 Long Green Pike, SWly, 170' +/- from Fork Rd.
Location of Signs: On property being appealed, facing road way
Remarks:
Posted by [signature] Date of return: 9/24/93
Number of Signs: 1

020 - SPECIAL HEARING (IRL) 1 X $50.00
LAST NAME OF OWNER: O'CONNELL

TOTAL: $100.00

101

Please Make Checks Payable To Baltimore County

Cashier Validation

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account: R 001 6150

PUBLIC HEARING FEES

LAST NAME OF OWNER: O'CONNELL

93-93-SPH

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

receipt

101

Date

Account R 001 6150

9/11/92

PETITION FOR SPECIAL HEARING

Legal Owner: Long Green Hotel
Petitioner: Long Green Valley Association
various individuals
Attorney: J. Carroll Holzer

93-93-SPH

PETITION WAS NOT REVIEWED

Cashier Validation

Please Make Checks Payable To Baltimore County

---

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MAY 6, 1993

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CONFIRMATION - NO FURTHER POSTPONEMENT

CASE NUMBER: 93-93-SPH (Item 101)
13523 Long Green Pike
11th Election District - 6th Councilmanic
Legal Owner(s): Orville Jones
Petitioners: Long Green Valley Association, et al
HEARING: MONDAY, JUNE 7, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.
TUESDAY, JUNE 8, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve the use of property (zoned B.C.-2) to support a waste disposal system for commercially zoned property (B.L. & B.M.).

Arnold Jablon
Director

cc: J. Carroll Holzer, Esq.
John Gontrum, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

Notice of Continued Public Hearing

Case #: 93-93-SPH

Re: Zoning Commissioner's Hearing on the property known as Long Green Hotel
Orville Jones

A Continued Hearing has been scheduled for Mon. Tues.
3-15-93 at 10:30 a.m. in Rm. 118 - Courthouse
3-16-93 at 9:00 a.m. in Rm. 118 - Courthouse

For information, please call the Office of Zoning Administration & Development Management at 887-3391

02/19/93 - Copies of the postcard pictured above mailed to the following:

DOROTHY E. FOOS
MARK STEINDLER/MILDRED PETERSON
JOHN B. GONTRUM ESQ
J. CARROLL HOLZER, ESQ.
JOHN WENDROTH
JACK PETERSON/ROBERT J. RIGGER
BETTY SHEA MILLER
SALLY KILLEWANN
NORMAN GERBER/BILL BUTTON
SHARON ROHEBALICH
CATHY HARKLESS
CHARLOTTE PINE
DOUG BUHR
ELIZABETH A. HOLL

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

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEP. 23 1992

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-93-SPH (Item 101)
13523 Long Green Pike
11th Election District - 6th Councilmanic
Legal Owner(s): Oliver Jones/Long Green Hotel
Petitioner(s): Long Green Valley Association and The Greater Kingsville Civic Association, et al
HEARING: THURSDAY, OCTOBER 22, 1992 at 2:00 p.m. in Rm. 118, Old Courthouse.

Special Hearing to approve the use of property (zoned B.C.-2) to support a waste disposal system for commercially zoned property (B.L. & B.M.).

Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

cc: Oliver Jones
Petitioners
J. Carroll Holzer, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 21, 1992

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 93-93-SPH
LEGAL OWNER Orville Jones
LOCATION: 13523 Long Green Pike

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

TUESDAY, JANUARY 26, 1993 at 9:00 a.m.

IN THE BALTIMORE COUNTY COURTHOUSE, ROOM 118, 400 WASHINGTON AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt
ZONING COMMISSIONER
BALTIMORE COUNTY

cc: J. Carroll Holzer, Esq.
John Gontrum, Esq.

Printed on Recycled Paper

MICROFILMED

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

December 13, 1993

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. 93-93-SPH — LONG GREEN VALLEY ASSN., ET AL /Petitioners
(Orville Jones /Property Owner of 13523 Long Green Pike) SE/s Long Green Pike, 170' SW of c/l of Fork Road (13523 Long Green Pike)
11th Election District
6th Councilmanic District

SPH -Determination as to use of adjoining property to support waste disposal system for subject commercial property.

8/24/93 -Z.C.'s Order in which Petition for Special Hearing was DENIED.

ASSIGNED FOR: THURSDAY, JANUARY 27, 1994 at 10:00 a.m.

cc: J. Carroll Holzer, Esquire — Counsel for Petitioners /Appellants
Charlotte Pine, President
Long Green Valley Assn. — Petitioners /Appellants

John B. Gontrum, Esquire — Counsel for Property Owner
Orville Jones — Property Owner

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

RECEIVED
DEC 16 1993
ZADM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

December 13, 1993

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. 93-93-SPH — LONG GREEN VALLEY ASSN., ET AL /Petitioners
(Orville Jones /Property Owner of 13523 Long Green Pike) SE/s Long Green Pike, 170' SW of c/l of Fork Road (13523 Long Green Pike)
11th Election District
6th Councilmanic District

SPH -Determination as to use of adjoining property to support waste disposal system for subject commercial property.

8/24/93 -Z.C.'s Order in which Petition for Special Hearing was DENIED.

ppd by Cpl
Joint request
of Counsel 1/26/94
to 3/4 & 3/8/94
to allow drafting
of petition

ASSIGNED FOR: THURSDAY, JANUARY 27, 1994 at 10:00 a.m.

cc: J. Carroll Holzer, Esquire — Counsel for Petitioners /Appellants
Charlotte Pine, President
Long Green Valley Assn. — Petitioners /Appellants

John B. Gontrum, Esquire — Counsel for Property Owner
Orville Jones — Property Owner

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

January 27, 1994

NOTICE OF POSTPONEMENT & REASSIGNMENT

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. 93-93-SPH — LONG GREEN VALLEY ASSN., ET AL /Petitioners
(Orville Jones /Property Owner of 13523 Long Green Pike) SE/s Long Green Pike, 170' SW of c/l of Fork Road (13523 Long Green Pike)
11th Election District
6th Councilmanic District

SPH -Determination as to use of adjoining property to support waste disposal system for subject commercial property.

8/24/93 -Z.C.'s Order in which Petition for Special Hearing was DENIED.

which was scheduled for hearing on January 27, 1994 has been POSTPONED by joint request of Counsel to the following confirmed dates; and has been

REASSIGNED FOR: TUESDAY, MARCH 29, 1994 at 10:00 a.m. /Day #1 and
THURSDAY, MARCH 31, 1994 at 10:00 a.m. /Day #2

cc: J. Carroll Holzer, Esquire — Counsel for Petitioners /Appellants
Charlotte Pine, President
Long Green Valley Assn. — Petitioners /Appellants

John B. Gontrum, Esquire — Counsel for Property Owner
Orville Jones — Property Owner

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 27, 1994

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

NOTICE OF POSTPONEMENT & REASSIGNMENT

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. 93-93-SPH — LONG GREEN VALLEY ASSN., ET AL /Petitioners
(Orville Jones Property Owner of 13523 Long Green Pike; SE s Long Green Pike, 170' SW of c/l of Fork Road (13523 Long Green Pike)
11th Election District
6th Councilmanic District

SPH -Determination as to use of adjoining property to support waste disposal system for subject commercial property.

8/24/93 -Z.C. s Order in which Petition for Special Hearing was DENIED.

which was scheduled for hearing on January 27, 1994 has been **POSTPONED** by joint request of Counsel to the following mentioned dates; and has been

REASSIGNED FOR: TUESDAY, MARCH 29, 1994 at 10:00 a.m. /Day #1 and
THURSDAY, MARCH 31, 1994 at 10:00 a.m. /Day #2

cc: J. Carroll Holzer, Esquire — Counsel for Petitioners /Appellants
Charlotte Pine, President
Long Green Valley Assn. — Petitioners /Appellants

John B. Gontrum, Esquire — Counsel for Property Owner
Orville Jones — Property Owner

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

RECEIVED
JAN 31 1994
ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 5, 1994

NOTICE OF DELIBERATION

With all Post-Hearing Memoranda having been filed, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

LONG GREEN VALLEY ASSN., ET AL
CASE NO. 93-93-SPH

DATE AND TIME : Tuesday, May 17, 1994 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: **J. Carroll Holzer, Esquire** — Counsel for Petitioners /Appellants
Charlotte Pine, President
Long Green Valley Assn. — Petitioners /Appellants

John B. Gontrum, Esquire — Counsel for Property Owner
Orville Jones — Property Owner

Sharon Rorhbaugh

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

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

111 West Chesapeake Avenue
Towson, MD 21204 — (410) 887-3353

October 21, 1992

J. Carroll Holzer, Esquire
305 West Chesapeake Avenue
Suite 105
Towson, MD 21204

RE: Preliminary Petition Review (Item #101)
Petitioners: Long Green Valley Association, The Greater Kingsville Civic Association, and various individuals incorporated in attached Petitioners' list
Legal Owner: Oliver Jones/Long Green Hotel
13523 Long Green Pike

Dear Mr. Holzer:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The petition was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary) to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the $100.00 revision fee.

1. Petition forms are not signed by the Petitioners.

2. Is the legal owner Oliver or Orville Jones?

Printed on Recycled Paper

J. Carroll Holzer, Esquire
October 21, 1992
Page 2

3. A minimum amount of information is required to properly process, advertise and post the subject property. Therefore, a vicinity map, highlighted tax map, description of the property, etc. must be provided.

If you need further information or have any questions, please do not hesitate to contact Joseph Merrey at 887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator

By: Joseph C. Merrey

JCM:scj

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47 Old Courthouse
400 Washington Ave
Towson, MD 21204
410 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 26, 1993

RECEIVED
JUL 26 1993
ZONING COMM. OFFICE

Lawrence E. Schmidt, Zoning Commissioner
Room 113, 400 Washington Avenue
Towson, Maryland 21204

RE: Long Green Valley Assn., et al.
Petitioners: Orville Jones
Legal Owner: Applicant

Dear Mr. Schmidt:

In this case, the developer intends to use agriculturally zoned land for a septic pipe and system to serve a separate commercially zoned lot in Long Green Pike in northern Baltimore County. This presents a significant legal issue. Accordingly, we have undertaken some research.

In Montgomery County, a similar case arose. It culminated in an unreported decision of the Court of Special Appeals in G. I. P. Development v. Maryland National Capital Park and Planning Commission, enclosed. While such an unreported decision is not precedent, its reasoning may be persuasive.

There, property under the same ownership was zoned C-1 (commercial and Rural Cluster (residential - agricultural). Although the R.C. zone allowed pipelines, the Planning Board disallowed the use of such property for a private septic system serving a commercial use.

Both the Circuit Court for Montgomery County and the Court of Special Appeals affirmed. The appellate court observed that there were no Maryland cases dealing with precisely the same issue. Nevertheless, in Leimbach Constr. Co. v. City of Baltimore, 257 Md. 635 (1970), the Court of Appeals held it impermissible to construct a driveway over residential land to serve commercial land under the same ownership. It was simply illegal to use residentially zoned land for a business purpose in the absence of specific statutory authority. Moreover, the Supreme Court of Connecticut had addressed the issue of septic system use on residential property to serve a commercial use and determined it to be unauthorized. Sillitschan v. Groesbeck, 208 Conn. 312, 543 A.2d 737, 739 (Conn. 1988).

In this context, in the absence of explicit statutory provision permitting a private septic system serving a commercial use to be placed on

- 2 -

Lawrence E. Schmidt, Zoning Commissioner — July 26, 1993

agriculturally zoned property, it would appear that it is not allowed.

While some other legal issues have been raised and argued by the parties, the issue reviewed herein appears determinative. Indeed, if such use of agriculturally zoned land is not allowed where the entire property is split-zoned under the same ownership, it surely appears prohibited where the agricultural and commercial parcels are owned separately.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosure

cc: John B. Gontrum, Esquire
J. Carroll Holzer, Esquire

PMZ:sh

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 — (410) 887-3353

September 10, 1993

J. Carroll Holzer, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Petition for Special Hearing
SE/S Long Green Pike, 170' SW of the c/l of Fork Road
(13523 Long Green Pike)
11th Election District
6th Councilmanic District
Long Green Valley Assoc., et al-Petitioners
Case No. 93-93-SPH

Dear Mr. Holzer :

Please be advised that an appeal of the above-referenced case was filed in this office on September 10, 1993 by Peter Max Zimmerman. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

ARNOLD JABLON
Director

AJ:jaw

cc: John B. Gontrum, Esquire
Mr. Orville Jones
Ms. Charlotte Pine
People's Counsel

Printed with Soybean Ink on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21201 — (410) 887-3353

September 20, 1993

John B. Gontrum, Esquire
809 Eastern Blvd
Baltimore, MD 21221

RE: Petition for Special Hearing
S/E Long Green Pike, 170' SW of the c/l of Fork road
(13523 Long Green Pike)
11th Election District
6th Councilmanic District
Long Green Valley Assn., et al-Petitioner
Case No. 93-93-SPH

Dear Mr. Gontrum:

Please be advised that an appeal of the above-referenced case was filed in this office on ~~July~~ (Sept) 16, 1993 by J. Carroll Holzer on behalf of Long Green Valley Association, et al. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

ARNOLD JABLON
Director

AJ:jaw

c: Mr. Orville Jones
Ms. Charlotte Pine
People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
93 SEP 21 AM 10:05

Printed with Soybean Ink on Recycled Paper

APPEAL

Petition for Special Hearing
SE/S Long Green Pike, 175' SW of the c/l of Fork Road
(13523 Long Green Pike) 11th
Election District - 6th Councilmanic District
Long Green Valley Assn., et al-PETITIONER
Case No. 93-93-SPH

Petition(s) for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Petitioner(s) and Protestants' Sign-in Sheets

Petitioner's Exhibits: 1 - Plat and Deed

2 - Photographs (2) - East Forrest Buffer Area

3 - Photographs

4 - Three Building Permits

5A - Declaration of Protective Covenants

5B - Long Green Motel Plat

6 - Letter to Robert Wheatley from Jay Prager

Petition for Special Hearing Memorandum

Letter to Orville M. Jones from Robert [illegible] Acknowledgement dated October 5, 1992

Letter Orville M. Jones from [illegible] dated November 17, 1992

Letter to Orville M. Jones from [illegible] dated August 26, 1992.

Letter to J. James Dieter from R. Bayly Buck [illegible] Valley Association dated November 17, 1992

Letter to J. James Dieter from [illegible] dated December 17, 1992

Letter to R. Bayly Buck from Robert [illegible] Acknowledgement dated January 7, 1993

Zoning Commissioner's Order dated August 24, 1993 (Denied)

Notice of Appeal received September 10, 1993 from John B. Gontrum, Esquire, on behalf of [illegible]

cc: J. Carroll Holzer, Esquire [illegible] Suite 302, Towson, MD 21204
John B. Gontrum, Esquire [illegible] Essex, MD 21221
Mr. Orville Jones, [illegible] Long Green Pike, Baldwin, MD 21013
Ms. Charlotte Pine, President, Long Green Valley Assn., [illegible] Fork Road, Baldwin, MD
People's Counsel for Baltimore County
Rm. 304, County Office Bldg., Towson, MD 21204

Request Notification: [illegible] Director of Planning & Zoning
[illegible] Director of Zoning Administration & Development Management
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration & Development Management

12/13/93 -Following parties notified of hearing set for Thursday, January 27, 1994 at 10:00 a.m.:

J. Carroll Holzer, Esquire
Charlotte Pine, President
Long Green Valley Assn.
John B. Gontrum, Esquire
Orville Jones
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

1/26/94 -Joint request of counsel for postponement of hearing scheduled for 1/27/94 due to inclement weather conditions; confirmed availability of all parties for March 29 and March 31, 1994 (request also made for additional day). Board members and court reporter notified. Case to be postponed and reassigned to confirmed dates.

1/27/94 -Notice of PP and Reassignment sent to all parties; case postponed per joint request of Counsel to Tuesday, March 29, 1994 and Thursday, March 31, 1994 at 10:00 a.m.

3/31/94 -Hearing concluded before Board; Memos due from parties 4/25/94; Deliberation to be scheduled (if necessary) upon receipt of said memos. (H.C.R. Extension - 4/29/94

Memos filed: 4-28-94 People's Counsel for Baltimore County

[illegible] Counsel for Mr. Jones (John B. Gontrum

4-28-94 Counsel for Appellants (J. Carroll Holzer

5/06/94 -Notice of Deliberation sent to parties; matter scheduled for Tuesday, May 17, 1994 at 9:00 a.m.; Board also notified of date (confirmed) and sent copies of deliberation notice, and all memorandums filed.

5/13/94 -Letter from P. Zimmerman; copies to counsel. Also forwarded copies to Board members for review prior to and in conjunction with deliberation on 5/17/94.

Long Green Valley Assn., [illegible] 93-9[illegible]
13523 Long Green Pike 5th District

RE: Petition for Special Hearing

September 11, 1992	Petition for Special Hearing (& Exhibit A) filed by J. Carroll Holzer, Esquire, on behalf of Long Green Valley Assn., The Greater Kingsville Civic Assn. and various individuals and Oliver Jones as Legal Owner of Long Green Motel to determine where or not to allow the use of property zoned BC-2 & owned by Executive Auto Paint & Repair, Inc. located behind 13523 Long Green Pike to support a waste disposal system for commercially zoned property (BL, BM).
October 22	Hearing held on Petition by the Zoning Commissioner.
July 23, 1993	Memorandum of Orville M. Jones, Property Owner Statement of Facts filed by Gontrum on behalf of Mr. Jones.
July 23	Petition for Special Hearing Memorandum filed by Holzer on behalf of Petitioners.
August 24	Order of the Zoning Commissioner in which Petition for Special Hearing was DENIED.
September 10	Notice of Appeal filed by People's Counsel for Baltimore County.
September 16	Notice of Appeal filed by J. Carroll Holzer, Esquire, on behalf of Long Green Valley Association, et al.
March 31, 1994	Hearing before the Board of Appeals.
May 17	Deliberation held.
October 12	Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.
November 9	Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, & Long Green Valley Association.
November 17	Second Petition for Judicial Review filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
November 21	Copy of both Petitions for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
November 21	Certificates of Notice sent to interested parties.
January 18, 1995 ✓	Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County.
March 7, 1996 ✓E	Order issued by the CCt for Balto. Co.: CBA decision AFFIRMED except estoppel issue REVERSED (James T.Smith, Jr., J.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN.,	*	BOARD OF APPEALS
et al	*	CASE NO.:
Appellant	*	93-93-SPH

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for J. Robert Powell, of the Department of the Environmental Protection and Resource Management, in the above captioned case, to appear at a hearing on the 31st day of March, 1994 @ 10:00 a.m., and bring with him any and all records pertaining to Orville M. Jones property at 13523 Long Green Pike.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Blvd.
Essex, Maryland 21221
(410)686-8274

Attorney for Appellant

SERVED ON THIS ____ DAY OF _____, 1994.

County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
94 MAR 24 AM 11:39

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN.,	*	BOARD OF APPEALS
et al	*	CASE NO.:
Appellant	*	93-93-SPH

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for Arnold Jablon, Director of the Department of Zoning Administration and Development Management Office, in the above captioned case, to appear at a hearing on the 31st day of March, 1994 @ 10:00 a.m., and bring with him any and all records pertaining to Zoning Case No.: CRG X-204, Sunnybrook Professional Center.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Blvd.
Essex, Maryland 21221
(410)686-8274

Attorney for Appellant

SERVED ON THIS ____ DAY OF _____, 1994.

County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
94 MAR 29 PM 3:09

RE: ORVILLE M. JONES * BEFORE THE
13523 Long Green Pike * BALTIMORE COUNTY
* ZONING
* COMMISSIONER
* Case No: 93-93 SPH

**** **** **** *** *** *** *** *** *** *** *** *** *** *** *** ***

REQUEST FOR SUBPOENA DUCES TECUM

Clerk:

You are requested to issue a Subpoena Duces Tecum to:

J. James Dieter, Director, or his agent
Department of Environmental Protection and
Resource Management
Courts Building
401 Bosley Avenue
Towson, Maryland 21204

to be present and testify at a hearing beginning at 9:00 a.m. on January 26, 1993, in the Baltimore County Courthouse, Room 118, 400 Washington Avenue, Towson, Maryland 21204, and to bring with you, your complete file on Long Green Motel (Center), Long Green Pike South of Fork Road, your complete file on Chestnut Ridge County Store, 12124 Greenspring Avenue, your complete file on Hereford Plaza, Mt. Carmel Road and York Road, your complete file on Ridge County Store, 11450 Falls Road and your complete file on Harker Building, Wards Chapel and Liberty Roads.

John B. Gontrum
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Petitioner

LAW FIRM
ROMADKA, GONTRUM & McLAUGHLIN, P.A.
ESSEX, MARYLAND

MR: SHERIFF/PRIVATE PROCESS SERVER:
Please process in accordance with Zoning Commissioner's Rule IV(C)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN., ET AL	*	BOARD OF APPEALS
	*	CASE NO.:
Appellant	*	93-93-SPH

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for Robert Powell, of the Department of Environmental Protection and Resource Management, in the above captioned case, to appear at a hearing on the 27th day of January, 1994 @ 10:00 a.m., and bring with him any and all records pertaining to Orville M. Jones property at 13523 Long Green Pike.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Blvd.
Essex, Maryland 21221
(410)686-8274

SERVED ON THIS 20 DAY OF January, 1994.

County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
94 JAN 20 PM 1:36

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

LONG GREEN VALLEY ASSN., ET AL	*	BOARD OF APPEALS
	*	CASE NO.:
Appellant	*	93-93-SPH

* * * * * * * * * * * * *

SUBPOENA DUCES TECUM

William T. Hackett, Chairman:

Please issue a subpoena duces tecum for Arnold Jablon, Director of the Department of Zoning Administration and Development Management, in the above captioned case, to appear at a hearing on the 27th day of January, 1994 @ 10:00 a.m., and bring with him any and all records pertaining to the following cases:

Development NO: IX -411
XII -200
XI -619
XI -451
X -120

Zoning Case NO: 85-321-SPH
85-326-SPH

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Blvd.
Essex, Maryland 21221
(410)686-8274

SERVED ON THIS ____ DAY OF _____, 1994.

County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
94 JAN 20 PM 1:36

THE MANOR SHOPPING CENTER

P.O. Ex# 7

15 & 20 - Posted

21 & 22 - Posted

111 West C
Towson, M

July 23, 1982

(410) 887-3353

Re: Safeway Food Store Addition
Manor Shopping Center

Dear Mr. Farley:

This letter is in response to our meeting of July 16, 1982, concerning issues with the Manor Shopping Center and the proposed addition to the existing Safeway Food Store located within the shopping center.

During the meeting, we reviewed the following two files:

1. Zoning Case No. 72-87RX: Special hearing for off-street parking in a residential zone; and

2. The development site plan for the Manor Shopping Center, file No. X-120.

The zoning petition was granted on October 13, 1972, with the following conditions:

A) A four (4) foot high link fence with redwood slats or inserts must be installed along the easternmost boundary adjacent to the residential premises. The fence is to be located along the northern side of the six (6) foot planting strip and or drainage and utility easement. The four (4) foot high compacted screen planting is to be replaced with evergreen type landscaping that will soften the effect of the fence.

B) The formal comments dated June 14, 1972, furnished Marks and Cooke (Architects and Planners) in connection with the commercial preliminary plan for the Manor Shopping Center, must be complied with. The comments of the Zoning Advisory Committee regarding the Petition dated August 1, 1972 and addressed to C. W. Auwater, Esquire, 401 North Charles Street, Baltimore, MD 21201 must be complied with.

C) The hours of operation shall permit at 11:00 a.m. and shall not extend pass 12:00 p.m. with the exception of parking for patrons attending the movie theatre.

Printed on Recycled Paper

Maryland Department of Transportation
State Highway Administration

Harry R. Hughes
Secretary
Bernard M. Evans
Administrator

July 27, 1976

X-120

Mr. Donald H. Ready
The Manor Shopping Center
1830 York Road
Timonium, Md. 21093

Re: Manor Shopping Center
Jarrettsville Pike (Rte. 146)

Dear Mr. Ready:

We are in receipt of your letter of July 12, 1976, in which you state that Manor Associates is the owner of an option to purchase a property adjacent to the west side of Route 146, upon which the existing storm water outfall is located. You also request to be made exempt from detaining the difference in "Q" of storm water between existing conditions and proposed based on a 100 year storm, and you agree to save harmless, the State Highway Administration from any and all damage, claims, suits, etc. that may arise.

Considering the above and the fact that the proposed storm drain system will have no adverse effect on the highway, your proposal has been approved.

We wish to take this opportunity to advise you that an open cut will be permitted in Jarrettsville Pike. The proposed 18" drain will have to be tunneled under the highway.

Upon our receipt of satisfactory plans, application for entrance permit, performance bond to guarantee construction of curbing, paving, and storm drain structures, and engineering fee, we will be in a position to process the entrance permit and to approve your building permit

- 1 -

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO FILES Date December 2, 1975

FROM JOSEPH A. MARTELEY

SUBJECT MANOR SHOPPING CENTER
Jarrettsville Pike and Sweet Air Road
District 10

A meeting was held in the Bureau of Public Services on November 21, 1975 at 3:00 P. M. to discuss various problems anticipated with the development of the subject site. Those attending were:

P. Pierce Linaweaver, Consulting Engineer
James C. Spamer, Consulting Engineer
Donald Ready, Owner-Partner
Donald Radcliffe, Architect
Richard Unbarger, Soil Conservation Service
Gerald F. Talbert, Soil Conservation District
Lee Minchart, Board of Education
Robert W. Cowley, Bureau of Engineering
John K. Myers, State Highway Administration
John L. Wissing, Project Planning
The Writer, Bureau of Public Services

The main items of concern relative to the development of this site centered around the disposition of the storm water runoff and the methods of obtaining conformance to the Storm Water Management Policy. The site basically drains in two directions: one part of the property drains to the Board of Education lands where a proposed school is currently under construction; the other portion of the site drains to Jarrettsville Pike.

Lee Minchart indicated that the retention pond already constructed on the school site was sized for the contributing portion of the proposed shopping center site. He indicated that he was concerned about the backwater problems that would be realized, basically because of trash and debris that would be generated by the shopping complex.

Mr. Minchart also indicated that his office had just received an evaluation from the County Fire Bureau indicating a need for a 125,000 gallon storage facility for fire protection. He indicated that a portion of this requirement had not been completed but indications are that any public quite possibly route the drainage from the shopping center through the retention pond.

The developers were advised that they should meet with the Board of Education in an attempt to resolve this matter and if there be room enough for retention on the school site, then retention should not have to be provided for on the shopping center site.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO FILES Date December 22, 1975

FROM JOSEPH A. MARTELEY

SUBJECT MANOR SHOPPING CENTER
District 10

A meeting was held on December 19, 1975 in the Bureau of Public Services to further discuss the various problems anticipated with the development of the subject site. Those attending were:

Donald Ready, Developer
Donald Ratcliffe, Architect
John Howard, Attorney
John Farley, Attorney
Pierce Linaweaver, Consultant
James Spamer, Consultant
T. H. Mouring, Public Works
George Neier, Bureau of Public Services
Edward McDonough, Bureau of Engineering
Edward Teichmeier, Fire Bureau
Jack Berger, Permits and Licenses
Darwin Grice, Bureau of Engineering
Robert Cowley, Bureau of Engineering
William Hammond, Office of Law
Harvey Krawsury, Board of Education
Lee Minchart, Board of Education
John Meyers, State Highway Administration

This meeting was held to hopefully arrive at solutions to the storm water retention and storm drain outfall problems that were discussed at the previous meeting of November 21, 1975. As indicated in the previous meeting, there are two basic problem areas: The Board of Education Area and the Jarrettsville Pike Area.

BOARD OF EDUCATION AREA

The Board of Education representatives advised that the retention pond on the school site will not be utilized for fire protection and will function for retention as designed. They again offered their concern for maintenance problems that may arise because of the development of the shopping center complex.

A suggestion was made that an agreement be developed establishing a method of maintenance responsibility distribution. It was felt that this agreement may involve three parties: the Board of Education; the Developer of the shopping complex; and Baltimore County, Maryland. Baltimore County's involvement arises because of its ownership of the land whereon the pond lies.

Baltimore County Department Of Public Works

COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau Of Public Services

March 2, 1976

Gilbert S. Benson, P.E.
Assistant Chief

Mr. Donald Ready
1830 York Road
Timonium, Maryland 21093

Re: Manor Shopping Center
Project No. 8-61
District 10-C

Dear Sir:

The referenced proposal has been reviewed and the following comments are enclosed:

1. Bureau of Engineering, dated March 1, 1976
2. Project & Development Planning, dated February 11, 1976
3. State Highway Administration, dated February 3, 1976
4. Fire Prevention Bureau, dated January 27, 1976
5. Traffic Engineering, dated January 29, 1976

In accordance with the enclosed comments, certain matters must be resolved before the Public Works Agreement can be processed. 1) The disposition of the storm water going into the Board of Education property 2) the disposition of the storm water from Sweet Air Road to Jarrettsville Pike and the resultant outfall. At such time that these items are satisfied, the following schedule shall apply:

a. The site plan must be revised according to the requirements of the various agencies.

b. A certified or cashiers check in the amount of $3,666.00, payable to "Baltimore County, Maryland" must be submitted to this office to allow processing of the Public Works Agreement and processing of construction and right-of-way drawings up to the contract phase.

c. The aforementioned certified or cashiers check is to be accompanied by a quantity and cost estimate for preparation of the Public Works Agreement, together with a copy of the development plan or site plan on which the Public Works Agreement quantities have been clearly defined by grid code. Also to be indicated on the marked-up plan is the name, or names, in which the property title is held, the deed reference recordation number, and the date of deed recordation. The Agreement package will be prepared and forwarded to the Owner for execution.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Sunnybrook Prof. Center
P.O. Box #34
B & S Corner
N/C(C) Plan

To: Zoning Services Date: January 21, 1986

Subject: Professional Center - Amended CRG Plan

The above has been expanded. Since it is located in the RC-4 zone and more than 25% of the natural vegetation will now be removed, it would be in violation of Section 1A03.4-B of the Zoning Regulations. The Zoning office should review this plan to ensure compliance with this coverage requirement.

93-93-SPH
Sunnybrook
Prof. Ctr.
Plan

Gary Kerns
Current Planning and Development

SPEED LETTER

IN THE INTEREST OF SPEED AND ECONOMY, WE ARE REPLYING TO YOUR LETTER WITH MARGINAL NOTES.

IF YOU NEED MORE INFORMATION, DO NOT HESITATE TO CALL OR WRITE. THANK YOU FOR YOUR INTEREST.

BALTIMORE COUNTY

DAFT-McCUNE-WALKER, INC.

530 East Joppa Road
Towson, Md. 21204
Telephone: 301—296-3333

Land Planning Consultants
Landscape Architects
Engineers

SSC - OK?

X-204

O.K., but where — see attached letter, we have not changed the use as yet. Gary Kerns 12/6/84

RECEIVED
DEC 5 1984
ZONING OFFICE

December 4, 1984

Mr. Eugene Bober, Chief
Division of Current Planning
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Sunnybrook Professional Center
Our File No. 84116

Dear Gene:

This will confirm my conversation with Susan Carrell on December 3, 1984.

Subsequent to the CRG approval on the above project, we sought approval of an interim stormwater management scheme. We are now informed by Tom Vidmar that we must fully comply with the recently enacted regulations and that no short cuts will be possible.

In view of this, and in view of the fact that another enlargement of approximately 6,200 square feet of space is anticipated on the property; it would seem reasonable to design the management facility for the ultimate development now anticipated.

Corollary to this will be the amendment of the CRG plan to reflect the additional construction. Since the initial meeting appeared to address the substantial issues involved and was not controversial, we would hope that this could be done without the necessity of an additional meeting.

We have discussed this with Mrs. Warfield and she has no objection to amending the plan to show the additional footage.

A plan showing the proposed changes in red is attached. Please call us if you have any questions regarding this request.

Very truly yours,

DAFT-McCUNE-WALKER, INC.

Edmund F. Haile
Partner

EFH:cm

Enclosure

cc: Mr. George Deusch
Mrs. Catherine Warfield

85-321-SPH
Norris P. Lankford
P.O. Box # 25

30-33 Concrete
(No Plans)

93-93SPH
Sunnybrook Prof. Ctr.
Plan

BEFORE
AL : COUNTY BOARD OF APPEALS
OF
L : BALTIMORE COUNTY
NO. 85-321-SPH
and
NO. CBA-85-138

AGREEMENT OF PARTIES
AND
ORDER OF DISMISSAL

This matter came before the Board of Appeals following an appeal from the County Review Group's (CRG) approval of the development plan on the subject property and on a petition for a special hearing.

On the day of the hearing the parties indicated that a resolution of the matters in dispute was likely to take place and, in fact, the Board has received an Agreement between all parties, the substance of which is incorporated in this Order.

The County Board of Appeals, therefore, ORDERS that:

PFAM Associates Limited Partnership (PFAM) hereby agrees to the following:

1. That the drainage areas as shown on the approved CRG plan for the project and submitted to the County shall be adjusted so that the following will occur:

   a. The amount of peak water runoff in a 100 year storm from the 1 acre of land immediately to the north of, and contiguous to, the subject site, or the amount of peak water runoff in the 100 year storm displaced by one-half of the footprint of the building, whichever is greater, shall be diverted from said one acre parcel to the north of the subject site, or from the site itself, to a facility other than storm water management facility No. 1 (as shown on the approved CRG plan.)

MICROFILMED

IN RE: PETITION SPECIAL HEARING
NE/S of Joppa Road, 270' E of the centerline of Falls Road - 8th Election District
Norris B. Lankford, et al,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-321-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request that the Zoning Commissioner rule against the placement of a storm water management (SWM) pond on the D.R.2-zoned portion of the property owned by Mr. and Mrs. Frank L. Invernizzi, which would serve an office building proposed to be constructed on an adjacent portion zoned O-1, as more particularly described on Protestants' Exhibit 1.

This Petition is filed pursuant to Section 500.7, Baltimore County Zoning Regulations (BCZR), which permits any interested person to petition the Zoning Commissioner for a public hearing to determine any rights whatsoever of such person in any property insofar as those rights are affected by the BCZR. The Petitioners herein, Norris B. Lankford, et al, own property adjacent to the Invernizzi property. The subject site consists of approximately 9.3 acres, of which 7.3 acres are zoned O-1 and two acres are zoned D.R.2. PFAM Associates, the Contract Purchaser, proposes to construct a Class O office building on the portion zoned O-1. It further proposes to place the necessary SWM pond, which will satisfy all County requirements, on that portion of the property zoned D.R.2, which borders the Lankford property.

Mr. Lankford objects to the placement of the pond in the D.R.2-zoned portion because he is convinced it will cause flooding on his property and believes it will adversely impact on his ability to develop his property as he so desires in the future. Simply, Mr. Lankford believes the pond should not be permitted

ORDER RECEIVED FOR FILING
DATE 4/24/85
BY Arnold F. Kraft

MICROFILMED

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
NE/S Joppa Rd., 270' E of the Centerline of Falls Rd., 8th District : OF BALTIMORE COUNTY
NORRIS B. LANKFORD, et al, Petitioners : Case No. 85-321-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
People's Counsel for Baltimore County

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

I HEREBY CERTIFY that on this 24th day of April, 1985, a copy of the foregoing Entry of Appearance was mailed to Norris B. and Ellen M. Lankford, 2310 W. Joppa Rd., Brooklandville, MD 21022, Petitioners; and Mr. and Mrs. Frank L. Invernizzi, 617 Morris Ave., Lutherville, MD 21093, Property Owners.

Peter Max Zimmerman

MICROFILMED

24

PETITION FOR SPECIAL HEARING 85-321-SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
adjacent property

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

a storm water management facility for office buildings as a legal use in a D.R. zone pursuant to B.C.Z.R., §1A01.1.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 an ~~authorized~~ legal owner(s) of the property which is the subject of this Petition.

ADJACENT PROPERTY OWNER/PETITIONER

NORRIS B. LANKFORD
(Type or Print Name)

Norris B. Lankford
Signature

2310 West Joppa Road
Address

Brooklandville, Maryland 21022
City and State

ADJACENT PROPERTY OWNER/PETITIONER

ELLEN M. LANKFORD
(Type or Print Name)

Ellen M. Lankford
Signature

2310 West Joppa Road
Address

Brooklandville, Maryland 21022
City and State

Telephone No.: 823-6884

Legal Owner(s):

FRANK L. and SARA JANE INVERNIZZI
(Type or Print Name)

n/a
Signature

(Type or Print Name)

Signature

617 Morris Avenue
Address

Lutherville, MD 21093
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Norris B. Lankford
Name

2310 W. Joppa Rd, Brooklandville, MD 21022
Address

Phone No. 823-6884

ORDERED By The Zoning Commissioner of Baltimore County, this 10th day of April, 19 85, 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 17th day of May, 19 85, at 1:30 o'clock P.M.

Zoning Commissioner of Baltimore County.

(over)

ORDER RECEIVED FOR FILING
Date 4/10/85
By Arnold F. Kraft
Administrative Assistant

Zoning No. 1

MICROFILMED

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MARYLAND 21203-1715

REPLY TO ATTENTION OF:

16 June 1988

Real Estate Division
Management & Disposal Branch

Mr. Victor J. D'Avella
Attorney at Law
44 East Broadway
Bel Air, Maryland 21014

Dear Mr. D'Avella:

Enclosed is a fully executed copy of Consent No. DACA-31-3-88-380 at Aberdeen Proving Ground, Maryland.

Your cooperation is appreciated.

Sincerely,

David A. Earnest
Chief, Management & Disposal Branch
Real Estate Division

Enclosure

BELAIR ROAD
PG EXH 9
DA ROW
2/2/22 [illegible]

DEPARTMENT OF THE ARMY

CONSENT [redacted] FOR ROAD OR STREET DACA-31-3-88-380

PORTION OF ABERDEEN PROVING GROUND
ON EDGEWOOD - TRANSMISSION LINE - 1942

THE SECRETARY OF THE ARMY, under and by virtue of the authority vested in him by Title 10, United States Code, Section 2668 hereby grants [redacted] the consent of the United States to Franco Marcantoni and Louise Marcantoni, his wife, to construct and maintain a small parking lot, hereinafter referred to as "said road or street", across the Government's Edgewood Arsenal Transmission Line - 1942, totaling 0.28 of an acre, being a portion of Tract 75E, as substantially shown in red on Exhibit "A" (R.E. Dwg. No. MAD 36, Sheet 3 of 8) and further described in Exhibit "B", all

[redacted]

exhibits being attached hereto and by this reference made a part hereof.

[redacted]

CONSENT

THIS [redacted] *is granted subject to the following provisions and conditions.*

1. The construction, use, and maintenance of said road or street, including culverts and other drainage facilities, shall be performed without cost or expense to the United States, under the general supervision and subject to the approval of the officer having immediate jurisdiction over said premises.

2. The grantee shall at all times maintain said road or street in good condition and shall promptly make all repairs thereto needed to preserve a smooth-surface highway.

3. Any property of the United States damaged or destroyed by the grantee incident to the use and occupation of the said premises shall be promptly repaired or replaced by the grantee to the satisfaction of the said officer, or in lieu of such repair or replacement the grantee shall, if so required by said officer, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damages to or destruction of Government property.

4. The use and occupation of said lands of the United States for the purposes authorized by this instrument shall be subject to such rules and regulations as the said officer may prescribe from time to time in order to properly protect the interests of the United States.

5. The United States shall in no case be liable for any damages or injuries to the said road or street which may be caused by or result from any operations undertaken by the Government, and no claim or right to compensation shall accrue from such damages or injuries.

FORM ENG 1 NOV 58 547 PREVIOUS EDITIONS ARE OBSOLETE

9722 BELAIR ROAD

CRG - July 25, 1991 at 10:00 AM PRE-CRG - July 15, 1991 at 10:30 AM

STORM WATER MANAGEMENT COMMENTS:

1. The Storm Water Management Act:

   a. The Developer is responsible to address the requirements of Bill No. 105-84 presented on pages III-5 and III-5 (a) through (k) of the Development Procedures and Policy Manual.

   b. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before CRG approval is given.

   c. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The Developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.

2. General Engineering Requirements:

   a. Peak management of the 2 and 10-year storm events is normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, 100-year peak management may also be required.

   b. Please refer to the Storm Water Management Section of the Baltimore County Design Manual for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.

   c. Water quality measures are required to some degree on all projects not exempt from SWM. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands.

   d. SWM Facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

   e. SWM Facilities which either outfall to a Baltimore County storm drain system or for which a public road fill serves as a SWM pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.

RECEIVED
AUG 01 1991
OFFICE OF PLANNING AND ZONING
BALTIMORE COUNTY, MARYLAND

COUNTY REVIEW GROUP MEETING SUMMARY

Thursday, July 25, 1991

9722 BELAIR ROAD XI-619

District 11 C5

COUNTY REVIEW GROUP - THOSE PRESENT

David L. Thomas, Chairman - Dept. of Public Works
Francis Morsey, Co-Chairman- Office of Current Planning

AGENCY REPRESENTATIVES

James R. Logan - Developers Engineering Division
Larry Pilson - DEPRM
Bryce Savage - DEPRM

DEVELOPER AND/OR REPRESENTATIVES

George Lambros - Paul Lee Engineering
Paul Lee - Paul Lee Engineering

INTERESTED CITIZENS

George & Edna Wilson, 4517 Forge Road, 21128
Dorothy McMann, 9513 Dawnvale Road, 21236
Robert L. Lowdermilk, 4027 Schroeder Ave., 21128
Angelo M. Napoli, 4025 Schroeder Avenue, 21128
Mr. & Mrs. Maurice Raab, 4202 Raab Ave., 21236

Mr. Thomas, Chairman, opened the meeting at 10:10 a.m., introduced the staff, and explained the purpose of the meeting. Mr. Lee presented the plan.

Mr. Morsey summarized the staff comments submitted from Developers Engineering Division, Storm Water Management, Department of Environmental Protection and Resource Management (DEPRM), Board of Education, State Highway Administration, Office of Planning and Zoning, Bureau of Traffic Engineering, Bureau of Sanitation, Bureau of Land Acquisition. These comments have been made a part of this summary, and a copy was also given to the developer and developer's engineer.

Staff comments to be addressed:

State Highway Administration - Show 110-foot right-of-way for Belair Road as "proposed", not "future".

Planning - Provide landscape plantings as required.

Zoning - Confirm setback calculations. Provide turnaround area on parking lot.

DPL 70 - Revised 11/79

BALTIMORE COUNTY, MARYLAND

BEFC
OR E
UNDI

...IT OF PERMITS AND LICENSES
...UNTY OFFICE BUILDING
...ASON, MARYLAND 21204

PLUMBING PERMIT

PERMIT NO. D 80373

DAT

TYPI

PERI

OWN

LOC

LOT

TOW

GAS PERMIT: RANGE

WATER HEATER

FURNACE

OTHERS

SIZE OF PIPE

BTU

CAUTION — PLASTIC WATER SERVICE LINES WILL REQUIRE A REVIEW OF THE ELECTRICAL SYSTEM TO ASSURE PROPER GROUND. CONTACT AN ELECTRICAL CONTRACTOR.

CHECK HERE	WORK BEING PERFORMED	PLUMBERS	NO. OF FIXTURES	TYPE OF FIXTURES	NO.	●	TOTAL
	CONNECT TO SEWER			LAVATORY			
	CONNECT ( ) EXISTING FIXTURES			BATH TUB			
	INSTALL ( ) NEW FIXTURES			WATER CLOSET			
	RECONSTRUCT ( ) FIXTURES			KITCHEN SINK			
	INSTALL SUB-SOIL DRAIN			SHOWER STALL			
	CONNECT TO STORM DRAIN			LAUNDRY TRAYS			
	INSTALL PRIVATE DISPOSAL SYSTEM			WASHING MACHINE			
	RECONSTRUCT PRIVATE DISPOSAL SYSTEM			DISH WASHER			
	INSTALL GAS PIPING ( ) BOTTLE ( )			SINK - SOIL OR WASTE			
	INSTALL WATER SERVICE			DRINKING FOUNTAIN			
	SEWER SERVICE CHARGE			GREASE SINK			
	SEWER SYSTEMS CHARGE			SLOP SINK			
	INSTALL BUILDING SEWER			FLOOR SINK			
	HOT WATER HEATER OIL ELECTRIC			FLOOR DRAIN			
	ON SITE SEWER-WATER-STORM DRAIN						
	[illegible] Septic	2	2				
	TOTALS	150.00		TOTALS			

REMARKS

SANITARY SEWER LOCATION IS — DEPTH — LINEAL FEET OF HOUSE CONNECTION

Y BRANCH IS — DEPTH

PRIVATE DISPOSAL — (IF CONNECTION IS NOT AVAILABLE WITHIN 300 FEET OF BUILDING)

and one 1,000 gal. [illegible] to be sold all deep by manhole (1) 4" [illegible] and [illegible] to surface.

NOTE: This permit will be good for one year.
This work must be executed within the specified time or permit expires. This permit must be posted on the premises where work is being executed.
All work must be done in accordance with the current Baltimore County Plumbing Code.
All work must be left open for inspection. Final inspection must be called for immediately upon completion.
Any measurements given by this department for house connections are approximate.
The first owner of business which connecting to the sanitary drainage system is responsible for the necessary excavation to determine the location and elevation, before any work is started.
PARTICULAR ATTENTION IS CALLED TO THAT PORTION OF THIS STREET SECTION LYING BETWEEN THE PROPERTIES BELOW THE GRADE OF THE STREET SECTION, AT THE TIME OF REQUEST FOR INSPECTION MUST BE MADE TO THE SUPERVISOR OF PLUMBING CODE INSPECTIONS.

DEPARTMENT OF PERMITS AND LICENSES
OFFICE OF THE BUILDINGS ENGINEER

BY

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

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

December 30, 1980

Thomas J. Hoff
Development Design Group, Ltd.
216 Washington Avenue
Towson, Maryland 21204

Dear Mr. Hoff:

Reference is made to your Building Application 30564 for a shopping center to be located at Southwest corner of Mt. Carmel Road and York Road, District 7.

Based on the soil evaluation study, approval is granted for a private sewage disposal system consisting of the following:

1500 gallon septic tank, distribution box and Two 8 ft. by 24 ft. seepage pits (Minimum 10 ft. below inlet) as per plot plan. Top of septic tank shall not be deeper than 18 inches below grade.

Environmental Support Services must be contacted if any alteration or relocation is made in the following:

(a) The above recommended sewage disposal.
(b) The plot plan submitted showing the dwelling, sewage disposal system, and water well.

Under Section 16.2, Baltimore County Plumbing Code, a plumbing permit is required for the installation.

Where water wells are involved, the well must comply with all requirements of the Baltimore County Department of Health.

Prior to occupancy of any new building served by a water well, bacteriological and chemical samples will be collected for analysis. In order to avoid unnecessary delays, it is suggested that the water supply system be connected to the building and disinfected as soon as possible, so that the necessary sampling can be accomplished. Please call 494-3768 for the Health Department's occupancy inspection and sample collection.

Very truly yours,

Brooke H. Stafford, M.S.C.
Director
ENVIRONMENTAL SUPPORT SERVICES

BHS/MEC:bw

cc: S. Bell

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

HARKEE BLDG.
P.O. BX # 30
92 - COUNTY
(ATTACH TO PLAN K)

PER WORK REVISED

OWNER

T. AND FLORENCE L. HARKEE
OWN. RANDALLSTOWN, MD. 21133

25257

ES 54-22-78

43 & 44 - PARKER
92 - [illegible]

PET. LICEI SE 03326-A
P. O. BOX 258, OWINGS MILLS, MD. 21117 S.1-2367

TRANSFER DESCRIPTION: N/S LIBERTY ROAD N/W COR. WINDS CHAPEL ROAD

A. TYPE OF IMPROVEMENT
1 [X] NEW BUILDING CONSTRUCTION
2 [ ] ADDITION
3 [ ] ALTERATION
4 [ ] REPAIR
5 [ ] WRECKING (ENTER NO. UNITS DEDUCTED ___)
6 [ ] MOVING
7 [ ] OTHER ___
DESCRIBE PROPOSED WORK:

RESIDENTIAL
(a) [ ] ONE FAMILY
(b) [ ] TWO FAMILY
(c) [ ] THREE AND FOUR FAMILY
(d) [ ] FIVE OR MORE FAMILY (ENTER NO. UNITS ___)
(e) [ ] SWIMMING POOL
(f) [ ] GARAGE
(g) [ ] OTHER ___

CONSTRUCT RETAIL AND OFFICE BUILDING. NEED TO CONTROLLED POINT 7 PERMIT E-078 79 FOR CONSTRUCTION ACTIVITIES. CHANGE IN BUILDING LOCATION ONLY. See letter dated 4/30/79

C. TYPE OF USE
NON-RESIDENTIAL
[ ] PLACE OF RELIGIOUS ASSEMBLY
[ ] CHURCH OR OTHER RELIGIOUS BUILDING
[ ] INDUSTRIAL BUILDING
[ ] PARKING GARAGE
[ ] SERVICE STATION
[ ] HOSPITAL, INSTITUTIONAL, PHILANTHROPIC BUILDING
[ ] NURSING HOME, HOME FOR THE AGED, CONVALESCENT HOME
[ ] PUBLIC BUILDING
[ ] SCHOOL, COLLEGE OR OTHER EDUCATIONAL BUILDING
[ ] TANK
[X] MERCANTILE [ ] RESTAURANT
[ ] OTHER (SPECIFY)
[ ] TRAILER PARK (NO. SPACES FOR RENT ___)
[ ] TRANSIENT (NO. UNITS ___)

B. OWNERSHIP
1 [X] PRIVATELY OWNED 2 [ ] PUBLICLY OWNED
ESTIMATED COST OF BUILDING & LAND: $ 200,000.00
ESTIMATED DATE OF COMPLETION: 6-1-80

D. TYPE OF CONSTRUCTION
1 [ ] MASONRY 3 [ ] STRUCTURAL STEEL
2 [X] WOOD FRAME 4 [ ] REINF. CONCRETE
TYPE OF HEATING FUEL
1 [ ] GAS 3 [X] ELECTRICITY
2 [ ] OIL 4 [ ] COAL
TYPE OF SEWAGE DISPOSAL
1 [ ] PUBLIC SEWER 3 [ ] COMMUNITY
2 [X] PRIVATE SYSTEM 4 [ ] HOLDING TANK

TYPE OF WATER SUPPLY
1 [ ] PUBLIC SYSTEM 3 [ ] WELL
2 [X] PRIVATE SYSTEM 4 [ ] HOLDING TANK
IS THERE GENERAL AIR CONDITIONING? [X] YES [ ] NO
IS THERE AN INCINERATOR? [ ] YES [X] NO
NUMBER OF DWELLING UNITS ___
NUMBER OF COMMERCIAL UNITS ___

E. RESIDENTIAL ONLY
SINGLE FAMILY UNITS
NUMBER OF SINGLE FAMILY UNITS ___
MULTI FAMILY UNITS
HOW MANY APARTMENTS HAVE
1 BEDROOM ___
2 BEDROOMS ___
3 BEDROOMS ___
TOTAL NO. OF APARTMENTS ___

F. DIMENSIONS
BASEMENT [illegible] X 12
FLOOR AREA 10675 1251 LC 10 2
FOUNDATION 22.41 SC 116
1ST STORY 71
2ND STORY
3RD STORY
ZONING INFORMATION B-C
ASSESSMENT INFORMATION
GROSS 10705
NET 17400
20105 06 LIBER 05530

G. [illegible]
[illegible] 21-80
[illegible] 4-11
[illegible] 52-4541
[illegible] 11-2 4-30-80

APR 2 4 1980

DEPARTMENT OF HEALTH

ORIGINAL

IN THE MATTER OF THE APPLICATION OF LONG GREEN VALLEY ASSN. et al. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE S/W SIDE LONG GREEN PIKE (13523 Long Green Pike

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 93-93-SPH
* March 29, 1994

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland at 10 o'clock a.m., March 29, 1994.

* * * * *

Reported by:
C.E. Peatt

ORIGINAL

IN THE MATTER OF THE APPLICATION OF LONG GREEN VALLEY ASSN. et al, FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE S/w SIDE LONG GREEN PIKE (13523 Long Green Pike)

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 93-93-SPH
* March 31, 1994

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland at 10 o'clock a.m., March 31, 1994.

* * * * *

Reported by:
C.E. Peatt

THE COURT: All right. Now, in connection with that case, the petition for judicial review, I don't have a great deal of familiarity with the special hearing process, but it appears to this court that the zoning commissioner as well as the Board of Appeals in considering the appeal there the action of the zoning commissioner, although the order read request for special hearing was dismissed, actually had a hearing on the issue that was presented; namely, whether the sewage field in the R C two was allowed as a use in R C two to support the commercial property adjacent thereto. So, even though the language indicates that a special hearing request was denied, that is not true, that, in fact, the special hearing was granted and the determination was made that the sewage field was a use under the zoning laws and that as a use it could not or was not permitted in the R C two zone, but as a result of the estoppel, even though the determination which the applicants requested was made and it was actually made in their favor, the relief that is the Baltimore County to undertake enforcement proceedings against the property owner was, in fact, barred. Now, is that a correct assessment of the operative [illegible] Mr. Zimmerman.

MR. ZIMMERMAN: That appears to be the [illegible] read it.

THE COURT: Does anyone disagree [illegible]

					Comments
Leimbach 257Md635	MdCtApp 1970	Commercial Access Road	Residential	Illegal	Business use of land in residential district.
Kowalski 25MdA491	MdCtSpec App 1975	Commercial fishing	Residential	Illegal	BaltCo;BCZR102.1;Not Specifically Allowed.
Silitschanu	ConnSupCt 1988	Septic System	Residential	Illegal	Serves adjacent business use
GLP Dev	MdCtSpec App 1989T	Septic System	Rural Residential	Illegal	Serves adjacent business use; affms PHbd denial.
Lipsitz164 Md 222	MdCtApp 1933	Ice Factory	Comm'l	Illegal	Estoppel cannot justify use; no laches
Gontrum 182 Md370	MdCtApp 1943	PubSewerRt WayGranted	----------	City NoDuty toOpenStreet	Estoppel not applicable against City
Hagerstwn 264 Md481	MdCtApp 1972	Shopping CtrTheater	Commun ShopCtr	Illegal	No estoppel; City policy contrary to law
Inlet 313 Md 413	MdCtApp 1988	Right Way& RiparianRts. Hotel Marina	----------	Illegal; Lack of Ordinance	No estoppel based on City Resolution; no laches against city and citizens;Developer's plans change during process

Summary: 1. A use is allowed only when explicitly permitted by the zoning ordinance
2. The law is settled that it is impermissible to place in residential and agricultural zones roads, septic systems and similar private transportation or utility uses which serve adjacent or nearby commercial land uses (unless explicitly authorized, such as parking under BCZR 409). These are not justified as "accessory uses."
3. Reliance on county "policy" or practice which is contrary to law (and thus a usurpation of legislative authority) cannot form the basis of an "estoppel."
4. Laches does not apply where the relevant time period is measured in months.
5. None of these defenses constitutes justification where the citizens and People's Counsel are excluded from the crucial zoning approval phase, and where the developer's plans change.

Conclusion: **The commercial septic system in the RC2 zone is unlawful. The Zoning Commissioner's decision to allow it in this particular case should be reversed.**

Respectfully Submitted, **People's Counsel for Baltimore County**

208 Conn. 312

Boris SILITSCHANU et al.
v.
Frederick GROESBECK, Jr.
No. 13265.
Supreme Court of Connecticut.
Argued April 12, 1988.
Decided July 19, 1988.

Owners of property in close proximity to developer's property brought action to enjoin developer from constructing commercial building and septic system for that building on adjoining residential property. Upon recommendation of John Keogh, Jr., state referee, the Superior Court, Judicial District of Stamford-Norwalk, Lewis, J., rendered judgment for developer, and owners appealed. The Appellate Court, 12 Conn.App. 57, 529 A.2d 732, found no error, and appeal was taken. The Supreme Court, Covello, J., held that: (1) septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations, and (2) owners failed to establish type of irreparable injury which would warrant injunction.

Affirmed.

1. Zoning and Planning ⇐278

Septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations; in order to fulfill its purpose, septic system would have to be attached to building it served, and state public health code defined leaching system, into which liquid contents of septic tank would be discharged, as structure.

See publication Words and Phrases for other judicial constructions and definitions.

2. Zoning and Planning ⇐775

Owners of property in close proximity to developer's property were not entitled to injunction preventing developer from constructing office building on commercially zoned land even though developer's proposal to place septic system on adjoining residential zoned lot would violate zoning regulations; although building would be substantially smaller if septic system was located on commercially zoned property, most of the owners' complaints related to problems created by even permissible commercial structure, and marginally diminished view of nearby woodlot caused by increased height of commercial building did not rise to level of irreparable injury.

John Timbers, Stamford, for appellants (plaintiffs).

James E. O'Donnell, Bridgeport, for appellee (defendant).

Before PETERS, C.J., and ARTHUR H. HEALEY, SHEA, CALLAHAN and COVELLO, JJ.

COVELLO, Associate Justice.

The first issue in this appeal is whether a septic system constructed on a residential lot to serve a commercial building situated on an adjacent commercial lot constitutes a violation of the Stamford zoning regulations. If so, the further issue remains as to whether the plaintiff neighbors are entitled to injunctive relief restraining the construction of the commercial building.

The plaintiffs have appealed from a decision of the Appellate Court concluding that the Stamford zoning regulations do not apply to septic systems. We granted certification, limited to these issues: (1) whether the Appellate Court correctly determined that the Stamford zoning regulations do not forbid a commercial building from locating its septic system on residentially zoned property; and (2) whether the Appellate Court correctly determined that the plaintiffs would not be injured by the defendant's alleged violation of the Stamford zoning regulations.

The plaintiffs, Boris Silitschanu, Fred Mantel, Joanna Page, Newcome Barger

SILITSCHANU v. GROESBECK Conn. 737
Cite as 543 A.2d 737 (Conn. 1988)

208 Conn. 312

Boris SILITSCHANU et al.
v.
Frederick GROESBECK, Jr.
No. 13265.
Supreme Court of Connecticut.
Argued April 12, 1988.
Decided July 19, 1988.

Owners of property in close proximity to developer's property brought action to enjoin developer from constructing commercial building and septic system for that building on adjoining residential property. Upon recommendation of John Keogh, Jr., state referee, the Superior Court, Judicial District of Stamford-Norwalk, Lewis, J., rendered judgment for developer, and owners appealed. The Appellate Court, 12 Conn.App. 57, 529 A.2d 732, found no error, and appeal was taken. The Supreme Court, Covello, J., held that: (1) septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations, and (2) owners failed to establish type of irreparable injury which would warrant injunction.

Affirmed.

1. Zoning and Planning ⇐278

Septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations; in order to fulfill its purpose, septic system would have to be attached to building it served, and state public health code defined leaching system, into which liquid contents of septic tank would be discharged, as structure.

See publication Words and Phrases for other judicial constructions and definitions.

2. Zoning and Planning ⇐775

Owners of property in close proximity to developer's property were not entitled to injunction preventing developer from constructing office building on commercially zoned land even though developer's proposal to place septic system on adjoining residential zoned lot would violate zoning regulations; although building would be substantially smaller if septic system was located on commercially zoned property, most of the owners' complaints related to problems created by even permissible commercial structure, and marginally diminished view of nearby woodlot caused by increased height of commercial building did not rise to level of irreparable injury.

John Timbers, Stamford, for appellants (plaintiffs).

James E. O'Donnell, Bridgeport, for appellee (defendant).

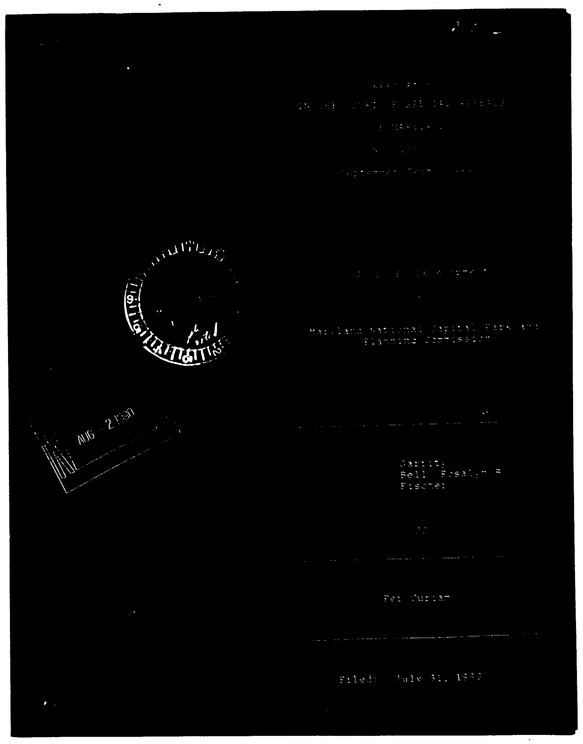
Before PETERS, C.J., and ARTHUR H. HEALEY, SHEA, CALLAHAN and COVELLO, JJ.

COVELLO, Associate Justice.

The first issue in this appeal is whether a septic system constructed on a residential lot to serve a commercial building situated on an adjacent commercial lot constitutes a violation of the Stamford zoning regulations. If so, the further issue remains as to whether the plaintiff neighbors are entitled to injunctive relief restraining the construction of the commercial building.

The plaintiffs have appealed from a decision of the Appellate Court concluding that the Stamford zoning regulations do not apply to septic systems. We granted certification, limited to these issues: (1) whether the Appellate Court correctly determined that the Stamford zoning regulations do not forbid a commercial building from locating its septic system on residentially zoned property; and (2) whether the Appellate Court correctly determined that the plaintiffs would not be injured by the defendant's alleged violation of the Stamford zoning regulations.

The plaintiffs, Boris Silitschanu, Fred Mantel, Joanna Page, Newcome Barger



PEOPLES COUNSEL EX. 1
3/29/93



Long Green Center
13523 Long Green Pike
B-084088

O.K. TO FILE
5/21/92
DEPT. OF ENVIRONMENTAL PROTECTION & RESOURCE MGMT.

FINAL APPROVED PLAN
5/21/92

Jones Ex 5B

J.S. DALLAS, INC.
Surveying & Engineering
4932 Hazelwood Avenue
Baltimore, Maryland 21206
Telephone: (301) 866-2001
Facsimile: (301) 866-2003

PROPOSED UTIL. ESMT., FORREST BUFFER S.R.A., AND SEPTIC SYSTEM
LONG GREEN HOTEL

DRAWN BY:	CAZ	DATE:	05-19-92
CHECKED BY:		DRAWING NO.:	882539
JOB NO.:	88-253	SCALE:	1" = 30'

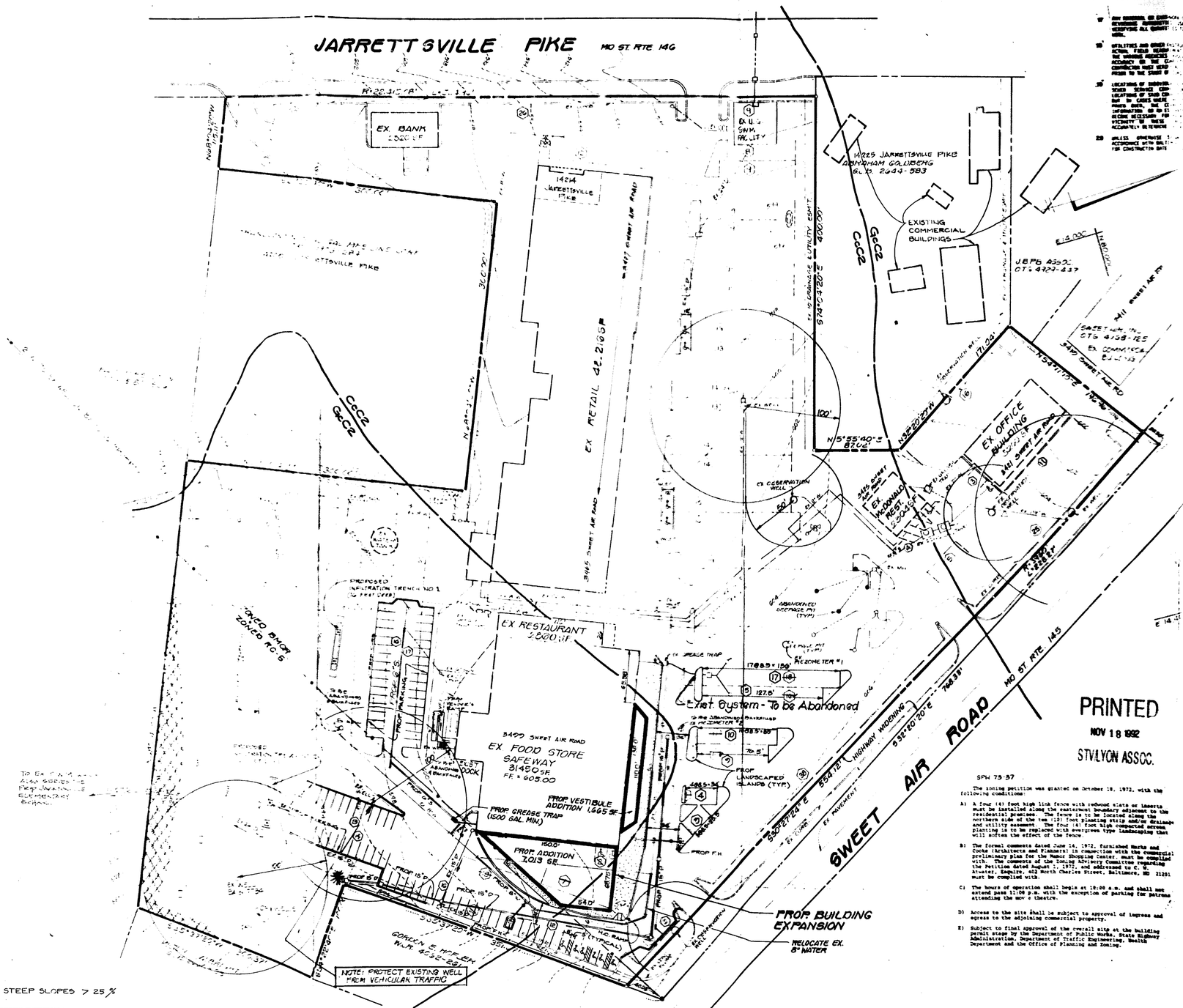
LIGHT STANDARD DETAIL

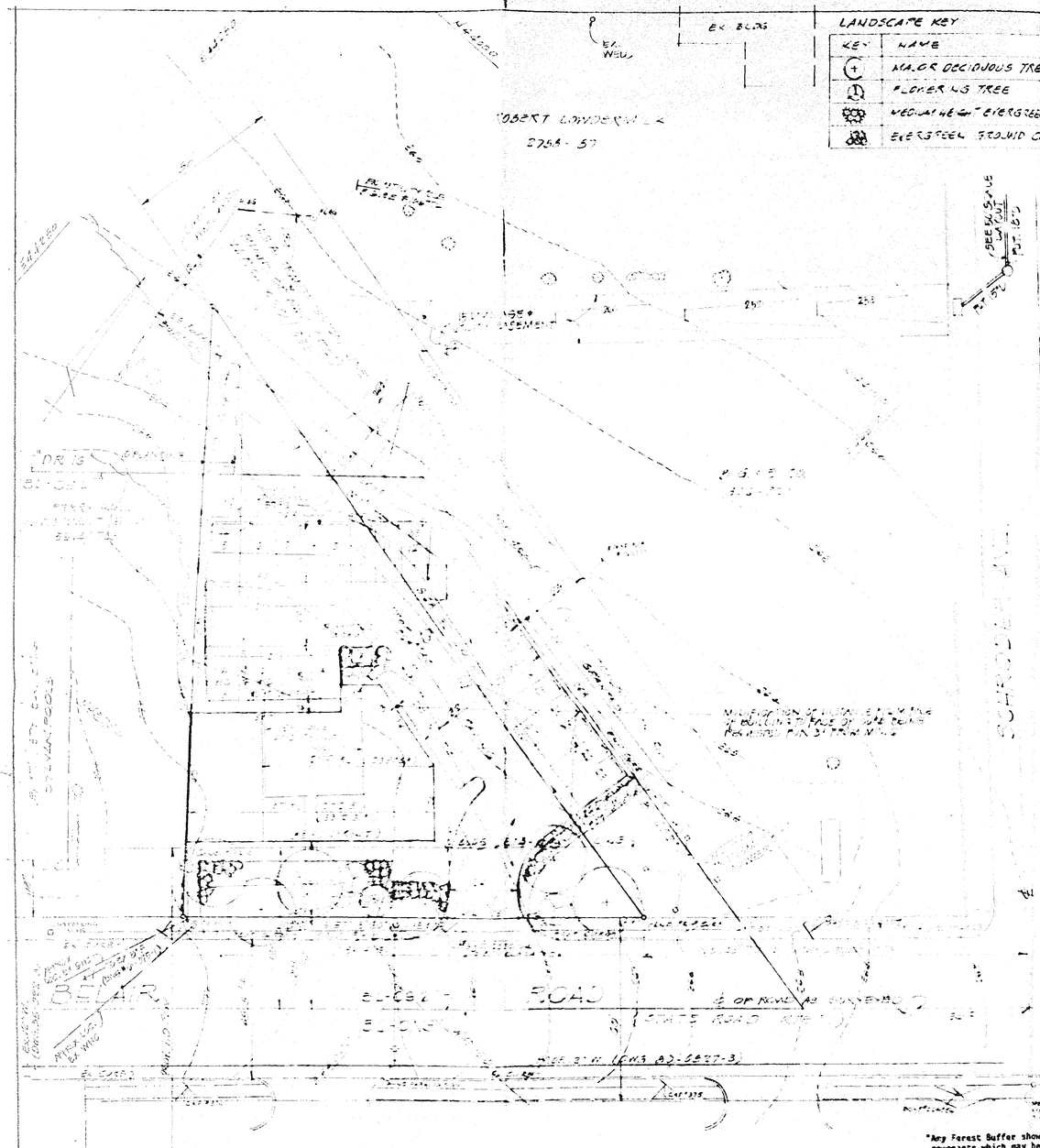
marks and cooke
architects planners
219 west joppa road
baltimore, maryland 21204
(301) 823-8744

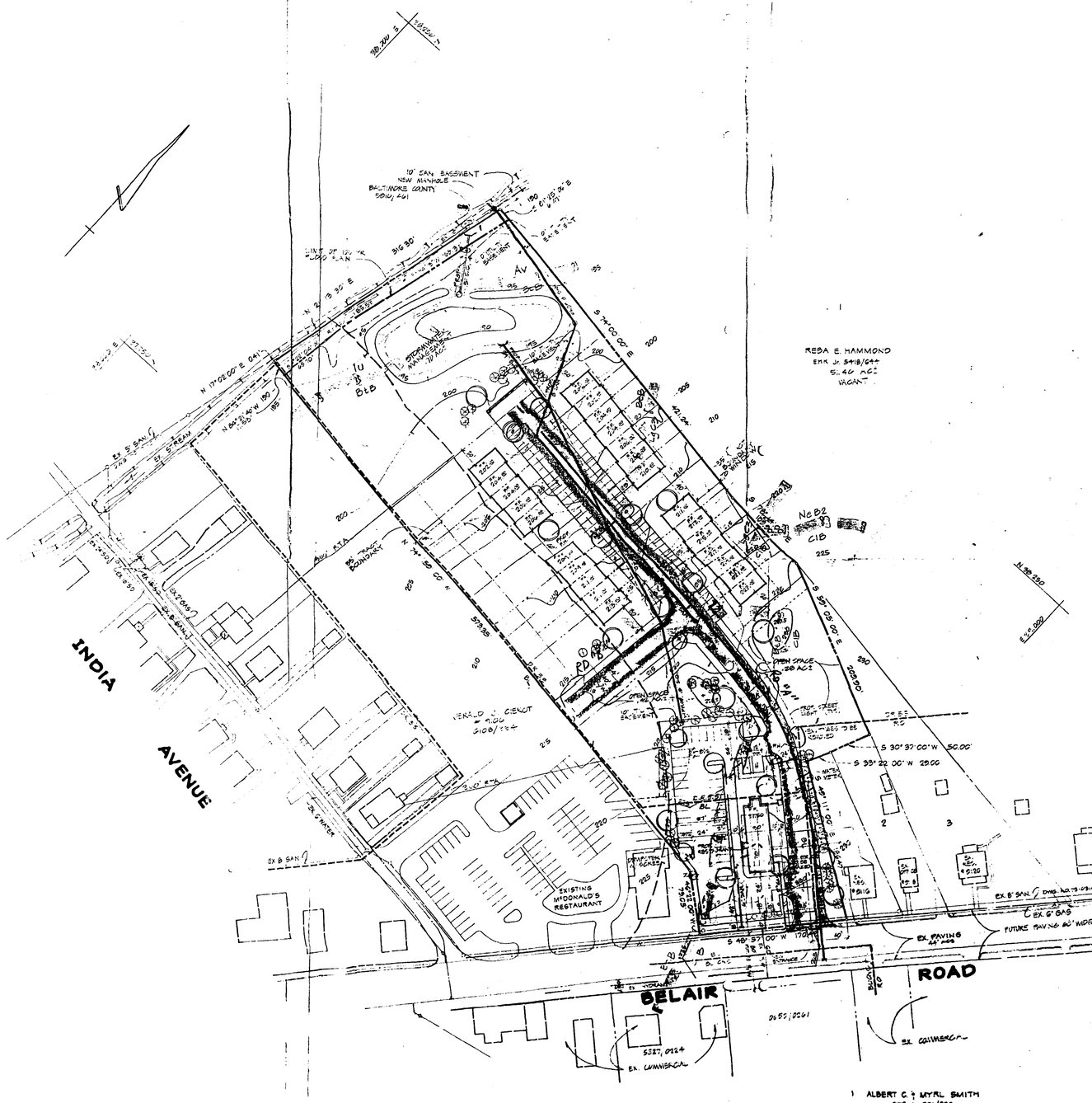
DAFT McCUNE WALKER INC

PLANS APPROVED

Ex. #1


JARRETTSVILLE PIKE MD ST RTE 146
EX BANK 2,000 S.F.
14214 JARRETTSVILLE PIKE
EX RETAIL 42,206 SF
EX RESTAURANT 2800 SF
3499 SWEET AIR ROAD
EX FOOD STORE SAFEWAY 31,480 SF FF = 605.00
PROP VESTIBULE ADDITION (665 SF)
PROP GREASE TRAP (1500 GAL MIN.)
PROP ADDITION 7,013 SF
PROP BUILDING EXPANSION
RELOCATE EX. 8" WATER
Exist System - To be Abandoned
PROPOSED INFILTRATION TRENCH NO 1
EX GREASE TRAP
EX OFFICE BUILDING 5,000 SF
EX MCDONALD'S REST. 4,500 SF
EXISTING COMMERCIAL BUILDINGS
14225 JARRETTSVILLE PIKE
ABRAHAM GOLUBERG
EL. D. 2434-583
JBFB ASSOC. LTD. 3722-437
EX 10' DRAINAGE & UTILITY EASEMENT
EX 16' WATER & UTILITY EASEMENT
EX 12" WATER
EX 8" SEWER
EX 15" SEWER
EX 6" SEWER
EX 8" GAS
EX 12" GAS
EX 6" GAS
EX 8" WATER
EX 6" WATER
EX 4" WATER
EX 2" WATER
EX 1" WATER
EX 3/4" WATER
EX 1 1/2" WATER
EX 2" GAS
EX 4" GAS
EX 3" GAS
EX 1" GAS
EX 3/4" GAS
EX 1 1/2" GAS
EX 2" SEWER
EX 4" SEWER
EX 3" SEWER
EX 1" SEWER
EX 3/4" SEWER
EX 1 1/2" SEWER
EX 2" WATER
EX 4" WATER
EX 3


EX. BLDG
EX. WELL
ROBERT LOWDERMILK
2758 - 57
EX. GAS & ELEC. EASEMENT
SEE PLAN SHEET #2
DRIVE
EX. BLDG
EX. BLDG
EX. BLDG



1 ALBERT C. & MYRL SMITH
CKB Jr. 861/926

2 LEONARD & DOROTHY M. STEG

3 EMANUEL K. & FAN DIAKOULAS
EHK Jr. 5550/646

General Notes

1. Applicant/Contract Purchaser: Knut Aarsand & Assigns
Rugby Hall
Arnold, MD 21012
(301) 647-6300

2. Election District 11; Councilmanic District 5; Census Tract 4116.03

3. Watershed 4; Subsewersheds 25.

4. Current Zoning: BL 0.79 Acres +/- ; RO 0.13 Acres +/-;
DR 5.5 4.50 Acres +/-.

Acreage: Gross = 5.54 Acres +/- (includes 70' of Belair Road R/W along front property line)
Net= 5.41 Acres +/-

Density: Allowable= 4.49 Acres +/- @ DR 5.5 = 24.69 units
Proposed = 24 units
All units will be for sale.

Floor Area Ratio:
Allowable = 3.0
Proposed = 2,486 S.F. Building = .1
4,375 S.F. BL

Open Space: Required = 650 S.F./unit @ 24 units = .70 Acres +/-
There is no open space required in the BL or RO zones.

Provided = .70 Acres +/- (Open Space will be owned and maintained by a Homeowner Association.)

Parking: Required
(BL) = 1 space / 50 S.F. @ 2,486 S.F. = 50 spaces
(DR 5.5) = 1.75 spaces/ unit @ 24 units = 42 spaces
Total 92 spaces

A Special Hearing petition has been filed to permit parking for the restaurant in the D.R. 5.5 zone.

Provided
(BL) = 50 spaces (including 2 handicapped)
(DR 5.5) = 56 spaces
Total 106 spaces

Landscaping: Required
(BL) = 350' +/- Frontage = 1/4" C.F. = 9
(50% Major Deciduous = 5)
50 parking spaces @ 1/12 spaces = 5
Total Trees 14
(DR 5.5) = 1 tree/unit @ 24 unit =24
(50% major deciduous 12)
(50% evergreen 8)
Total Trees 24

Note: A 5' high evergreen screen will be provided around the dumpster and in an 8' wide planted area along the front property line. An 8' planted area will also be provided along the north eastern most property line.

5. There are no known existing or proposed well or septic areas on the site.

6. Soils:

Series	Limitations w/basement	w/o basements	streets and roads
Alluvial Av	Severe: high water table, flood hazard	Severe: high water table, flood hazard	Severe: high water table, flood hazard
Beltsville BeB	Moderate: seasonably perched water table	Slight	Moderate: seasonably perched water table
Chillum ClB	Slight	Slight	Moderate: slope
Iuka Iu	Severe: flooding	Severe: flooding	Severe: flooding
Legore LfC3	Moderate: slope	Moderate: slope	Severe: slope

7. There are no areas of 25% or greater slope on the site.

8. Existing trees as shown on the plan will be removed. Planting will be in accordance with Baltimore County Landscape Manual requirements, prior to building permits.

9. There will be no proposed development in the R.T.A..

10. Current Ownership: Howard S. Harple
9114 Belair Road
Perry Hall, MD 21236

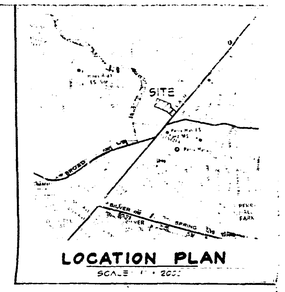
Deed Reference: 1390/404, Property Number: 11-1180001500

11. Estimated Average Daily Trips (ADT'S):
(BL) 553 ADT'S/1000 SF = 1,365 ADT'S
(DR 5.5) 8.5 ADT'S/Unit @ 24 Units = 204 ADT'S
Total 1,569 ADT'S

12. Stormwater will be managed by a detention pond with an extended detention of one inch of rainfall. Infiltration is not possible because of the soils on site are of hydrologic types C and D.

13. There is area of wetlands in the northwest corner of the site (see area of Av soils on plan). There is no proposed development in this area.

14. There are no known critical areas, archeological sites, endangered species habitats, or hazardous materials on the site.



8" SAN: 235, 135, 162, 582 | MH: 5 | HC: 24
Water: 10" 8" C" 4" F.H. 450 125 55 130 2
S.D: 15" 115 | 18" 120 | 21" 145 | 24" 90
Inlets: 4 | End Walls: 1
Roads: 115' x 36' 4440 SY | 600' x 24' 1600 SY | 170' x 24' 1600 SY | 30' x 30' 100 SY | 23,520 SF = 2600 SY
Sidewalk: C&G 30, 70, 130, 130, 70, 40, 40, 70, 70, 40, 40, 140, 140, 1180 LF
SL: 4

DAFT · McCUNE · WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS
Kentucky Fried Chicken
P.O. Ex. #9
G

Kentucky Fri
9114 Belair Road

CRG PLAN

XI 451

BALTIMORE COUNTY MD.
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On
With The Following Action Noted:
PLAN APPROVED
Plan Approved DPW
Plan Approved DPZ
Approval Expiration Date
Plan Disapproved
Continued Mtg. Required
Plan Referred To Bd.

DATE	REVISIONS
1/5/88	ADD STORM DRAINS
1/28/88	ADD SWM, ADD'L GRADING
2/8/88	ADD SWM, ADD'L GRADING
5/4/88	ADD'L GRADING, L.S.; EXTENDED C&G

SCALE 1" = 50'
ZONING ORDER NO. 84-198
ISSUE DATE 12/12/87

P.O. EX # 8

23 - COLLEGE

24 & 25

93-338M
Page Over Sht 8

COUNTY REVIEW GROUP MEETING MINUTES

Thursday January 24, 1985

KENTUCKY FRIED CHICKEN

9114 Belair Road
District 11 C5

COUNTY REVIEW GROUP - THOSE PRESENT*

...rine Warfield, Chairman - Dept. of Public Works
...e A. Bober, Co-Chairman - Office of Planning

Agency Representatives

Ken Amrein	- Bureau of Sanitation
Paul Koch	- Developers Engineering Division
George Wittman	- State Highway Administration

Developer and/or Representatives

Knut J. Aarsand	- Developer
Kurt R. Aarsand	- Developer
Ed Haile	- Daft-McCune-Walker, Inc.
Stacy Fisher	- Daft - McCune-Walker, Inc.
Gary C. Duvall	- Niles & Stockbridge

*Attachment - List of Interested Citizens

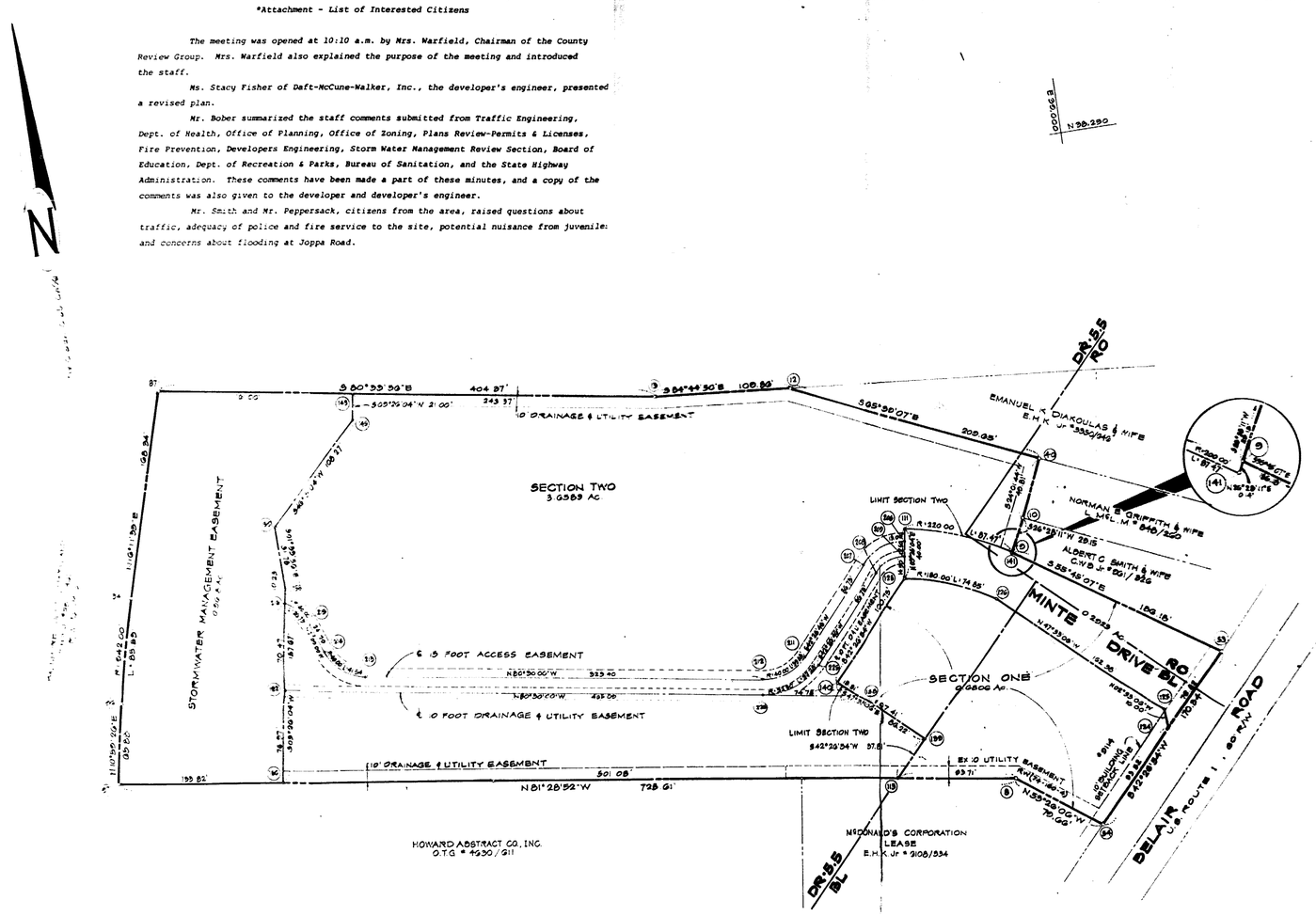
The meeting was opened at 10:10 a.m. by Mrs. Warfield, Chairman of the County Review Group. Mrs. Warfield also explained the purpose of the meeting and introduced the staff.

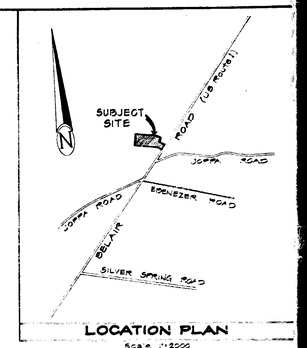
Ms. Stacy Fisher of Daft-McCune-Walker, Inc., the developer's engineer, presented a revised plan.

Mr. Bober summarized the staff comments submitted from Traffic Engineering, Dept. of Health, Office of Planning, Office of Zoning, Plans Review-Permits & Licenses, Fire Prevention, Developers Engineering, Storm Water Management Review Section, Board of Education, Dept. of Recreation & Parks, Bureau of Sanitation, and the State Highway Administration. These comments have been made a part of these minutes, and a copy of the comments was also given to the developer and developer's engineer.

Mr. Smith and Mr. Peppersack, citizens from the area, raised questions about traffic, adequacy of police and fire service to the site, potential nuisance from juvenile: and concerns about flooding at Joppa Road.

RAE BALTIMORE 19 1253 HERCULENE





LOCATION PLAN
Scale 1"=2000

NOTES

HIGHWAY AND HIGHWAY WIDENING, SLOPE, DRAINAGE AND UTILITY EASEMENTS SHOWN HEREON ARE RESERVED UNTO THE DEVELOPER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND, THE DEVELOPER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND, AT NO COST.

2 STREETS AND/OR ROADS SHOWN HEREON AND MENTION THEREOF IN DEEDS ARE FOR PURPOSES OF DESCRIPTION ONLY, AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE; THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS

3 THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF BALTIMORE COUNTY BILL 56-82, SECTION 22-98

4 THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.

5 THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.

6 ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.

7 RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREETS, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT.

8 C.R.G. PLAN APPROVED 1-24-85

COORDINATES

	NORTH	EAST		NORTH	EAST
5	37,738.75	38,384.25	54	37,911.30	38,176.04
8	37,921.[illegible]	38,555.[illegible]	57	37,846.23	38,169.47
10	37,941.80	38,522.05	15	37,782.58	38,791.87
11	38,575.74	38,[illegible]5.87	124	37,760.25	39,011.15
13	38,285.75	38,241.57	125	37,779.23	39,010.44
42	37,553.30	38,542.38	126	37,886.59	38,890.47
53	37,8[illegible]9.23	38,[illegible]95.00	128	37,[illegible]9.21	38,821.26
54	37,[illegible]5.14	38,545.23	13	37,912.21	38,822.75
57	38,36.23	38,249.27	35	37,780.45	38,816.89
54	37,554.4[illegible]	38,[illegible]23.13	40	37,838.37	38,758.27
[illegible]	37,592.47	38,627.82	41	37,821.58	38,608.04
43	36,[illegible]5.00	38,40[illegible].50	209	37,927.31	38,833.64
45	36,[illegible]08.57	38,358.45	211	37,863.10	38,791.87
46	37,582.34	38,321.53	212	37,850.69	38,675.45
95	36,534.[illegible]	38,320.23	213	37,804.02	38,379.40
90	37,829.81	38,295.81	214	37,929.14	38,345.78
85	37,902.74	38,308.45	215	37,952.20	38,336.50
206	37,[illegible]35.24	38,[illegible]25.69	216	37,972.22	38,310.08
207	37,527.10	38,700.11	225	37,864.67	38,740.80
208	37,[illegible]18.67	38,[illegible]99.35	226	37,[illegible]36.32	38,693.39
88	37,825.38	38,767.15			

CURVE DATA

From	To	Δ	Radius	Length	Tan	Chord
50	54	05°12'09"	542.00'	85.55'	42.80'	N 3°39'30"E 85.46'
206	207	56°19'31"	40.00'	39.29'	21.39'	S 30°38'01"W 37.78'
128	126	23°46'26"	180.00'	74.85'	37.97'	S 68°39'12"E 74.31'
111	141	22°49'47"	220.00'	87.47'	44.32'	S 65°10'32.5" E 86.89'
209	208	55°57'04"	27.50'	26.85'	14.64'	S 70°29'15"W 25.80'
211	212	57°03'14"	40.00'	39.86'	21.74'	S 70°56'25"W 38.21'
213	214	50°50'00"	40.00'	41.54'	22.62'	N 50°48'00"W 40.20'
215	216	38°17'29"	40.00'	26.73'	13.86'	N 40°08'45"W 26.24'
225	226	57°03'14"	52.50'	52.25'	28.54'	S 70°56'25"W 50.15'

KENTUCKY FRIED CHICKEN
P.O. EX # 8
H

Filed for record
Date DEC 20 1985
Test

Clerk

E.H.K., JR. 54 FOLIO 21

SUBDIVISION PLAN
SECTION ONE

NOBEEF, INC.

ELECTION DISTRICT 11
SCALE: 1"=50'
BALTIMORE, COUNTY, MD
AUG. 14, 1985

DEED REFERENCE
R.J.S. 5390/404

—OWNER—
NOBEEF, INC.
P.O. BOX 155
RIDERWOOD, MD 21139

XI-451

FINAL PLAT

APPROVED

11-1-85
DATE: DEPUTY STATE & COUNTY HEALTH OFFICER

11/1/85
DATE: DIRECTOR OF PUBLIC WORKS

11/1/85
DATE: DIRECTOR OF PLANNING & ZONING

NOTE:
COORDINATES and BEARINGS shown on this plat are referred to the system of coordinates established in The Baltimore County Metropolitan District and are based on the following traverse stations:

X10645 - N 37668.85 - E 39006.23
X10645 - N 38229.50 - E 39815.51

OWNER'S CERTIFICATE

The undersigned, owner of the land shown on this plat, hereby certifies that, to the best of its knowledge, the requirements of Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland have been complied with, insofar as same concerns the making of the plat and setting of the markers.

FOR NOBEEF, INC.

By: KNUT AARSAND PRES. 10/10/85
Date

SURVEYOR'S CERTIFICATE

The undersigned, a Registered Land Surveyor of the State of Maryland, does hereby certify that he is the surveyor who prepared this plat and that the land shown on this plat has been laid out, and the plat thereof has been prepared, in compliance with Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland, particularly insofar as same concerns the making of the plat and setting the markers.

Registered Land Surveyor No. 10742 10-16-85 Date:

DAFT · McCUNE · WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS
200 E. PENNSYLVANIA AVENUE
TOWSON, MD 21204 · (301) 296-3333

COMPUTED: H.G.W. DRAWN: J.D.C. CHECKED: K.R.K. J.O.# 84136

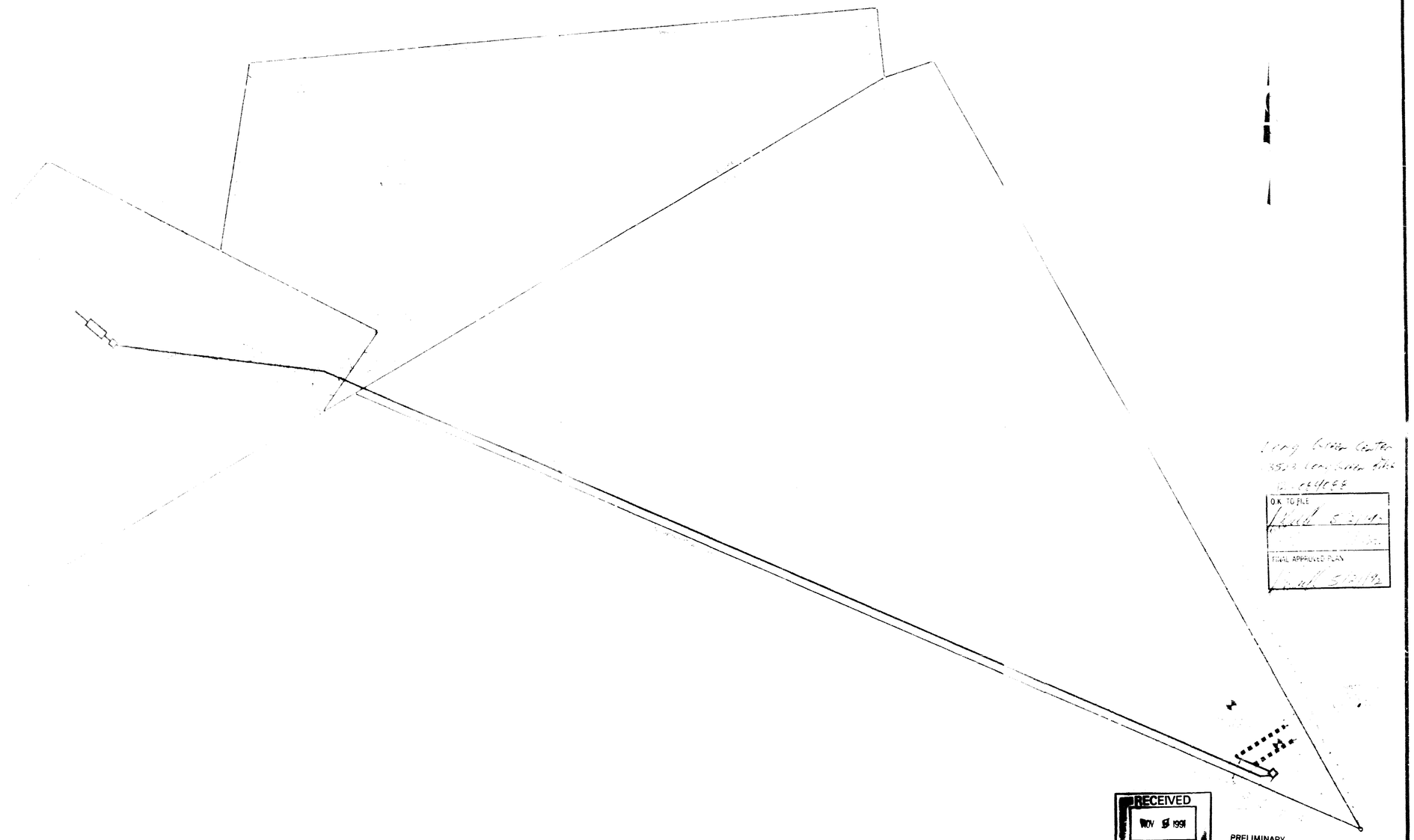
54-3

ADJOINING OWNERS:

(A) CHARLES BUMAS 6875/471
(B) JAMES J. BEAVER 2933/479
(C) DAVID ROUNDS 227/102
(D) RUSSELL ADX 5008/172
(E) ROBERT KUTZER 2668/190
(F) DAVID LEE 4008/01
(G) SAMUEL GARBER 2827/61
(H) SIGMUND BEHARD 6965/036
(I) LOUISE KRAUSE 5870/087
(J) LOUISE KRAUSE 5870/087
(K) PAUL KRAUSE / 5599/089
(L) LOUISE KRAUSE 5870/087
(M) LOUISE KRAUSE 5870/087
(N) LOUISE KRAUSE 5870/087

SYMBOL	TYPE	BLDG B STYD OR LESS NO BASEMENT	STREETS AND PARKING LOTS	AREA
CtB	CHILLUM-URBAN LAND COMPLEX 0-3% SLOPES	SLIGHT	MODERATE SLOPE	0.04 ACSI
JJD	JOPPA URBAN LAND COMPLEX 5-15% SLOPES	SLIGHT TO MODERATE SLOPE	SEVERE SLOPE	1.1 ACSI
BuC	BELTSVILLE URBAN LAND COMPLEX 0-5% SLOPES	SLIGHT	SEVERE SLOPE	0.71 ACSI





Long Green Center
8503 Lee Highway
Fairfax, VA 22031

O.K. TO FILE
Rick Sipe 12-5-91

FINAL APPROVED PLAN
Rick Sipe 12-5-91

RECEIVED
NOV 5 1991
GROUND WATER MANAGEMENT DIVISION

PRELIMINARY ONLY

Dept Pam Tech 11
9-24-92 SPA
3/19/93

J.S. DALLAS INC.

PROPOSED UTIL. ESMT. FORREST BUFFER
S.R.A. AND SEPTIC SYSTEM
LONG GREEN HOTEL

DRAWN BY: DAZ DATE: 11-04-91
CHECKED BY: JSD DRAWING NO.: 88-253
JOB NO.: 88-253 SCALE: 1" = 50'

A 2.20

General Notes

1. Applicant: George T. Tamsen, IV c/o Decatur Road Structures, Inc. 114 Water Street Baltimore, MD 21202 (301) 837-4212

2. Election District 13th Council Manic district 3; Census tract 4101.

3. Watershed: Jones Falls Subwatershed

4. Site Data

   Acreage:
   Gross = 2.15 ac. ±
   Net = 2.15 ac. ±

   Current Zoning:
   BL-CR = 1.57 ac. ±
   RC 4 = 0.58 ac. ±

   Use: Existing T.V. Studio = 3,248 S.F.
   Storage = 527 S.F.
   Warehouse = 1,152 S.F.
   Total Existing = 4,927 S.F.

   Proposed: Addition Dept. Headquarters = 5,440 S.F.
   Total Proposed = 10,367 S.F.

   Parking:
   Required Spaces
   Proposed Office Use (Dept. Headquarters) = 5,440 S.F. ÷ 100 = 55 spaces
   Net Floor 5,527 S.F. ÷ 100 = 55 spaces
   Proposed Addition 2440 S.F. ÷ 200 = 13 spaces
   Total Required = 68 spaces
   Proposed Spaces (including 4 handicap) = 70 spaces

5. Soils:

Soil Series Symbol	Soil Characteristics	Erosion Hazard	Drainage & Texture
GvmB2 (0-5%)	Glenelg Friable	Slight	Moderate; Slow
GvmC2 (5-10%)	Glenelg Friable	Moderate	Moderate; Slow
NorA (0-3%)	Northern Silt Loam	Moderate	Somewhat Poor; Slow

6. There are no wooded areas on the site.

7. There are no existing structures (houses or sheds) on the site.

8. All existing buildings on site shall remain. No existing buildings are historic.

9. Current Ownership: John D. and Dorothy A. Hinkle
   1400 Old Court Road
   Baltimore, MD 21208

   Deed Reference: 5604/312

   Property Number: 2nd Election District
   13-04-010700

10. Estimated Average Daily Trips:
    72nd S.F. Office at 15.38 trips per 1,000 S.F. = 111 trips
    2440 S.F. Retail at 0.1 trips per S.F. = 244 trips
    Total trips = 355 trips

11. Streetlights shall be in accordance with Baltimore County standards and located where indicated on the plat (typ.).

12. Stormwater will be managed through the operation of an internal pond in the area delineated on the plat.

13. There are no known wetlands, drainage areas, floodplains, rare, endangered species habitats or historical structures on the site.

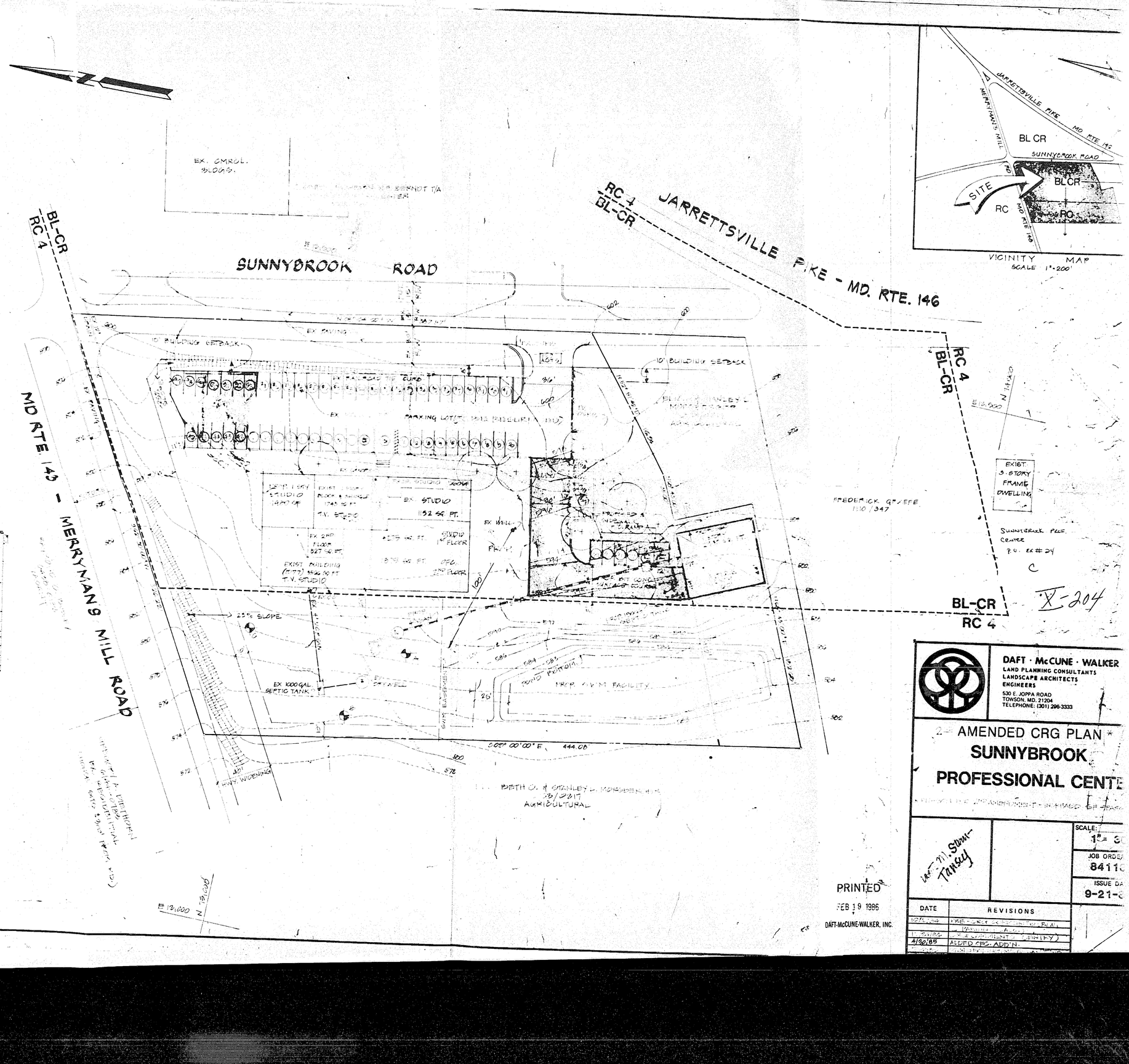
14. Landscaping Requirements:
    1250 L.F. Perimeter Road at 1 Tree per 35 L.F. = 36 Trees
    16 Parking Spaces at 1 Tree per 10 Spaces = 2 Trees

15. Property surveyed by Roesch and Associates, Inc. on July 20, 1984.

16. Existing zoning as per the revised 1984 Baltimore County Zoning Maps.

BALTIMORE COUNTY, MD.
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 25 OCT 84 With The Following Action Taken
AMENDED PLAN APPROVED 2 JAN 85
Plan Approved DPW Robert F. Sonne
Plan Approved OPZ [illegible]
Approval Expiration Date 25 OCT 87
Plan Disapproved
Continued Mtg. Required
Item Deferred To Plan. Bd.

KEY
- MAJOR DECIDUOUS TREE
- SMALL FLOWERING TREE



X-204

DAFT · McCUNE · WALKER
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS
530 E. JOPPA ROAD
TOWSON, MD. 21204
TELEPHONE: (301) 296-3333

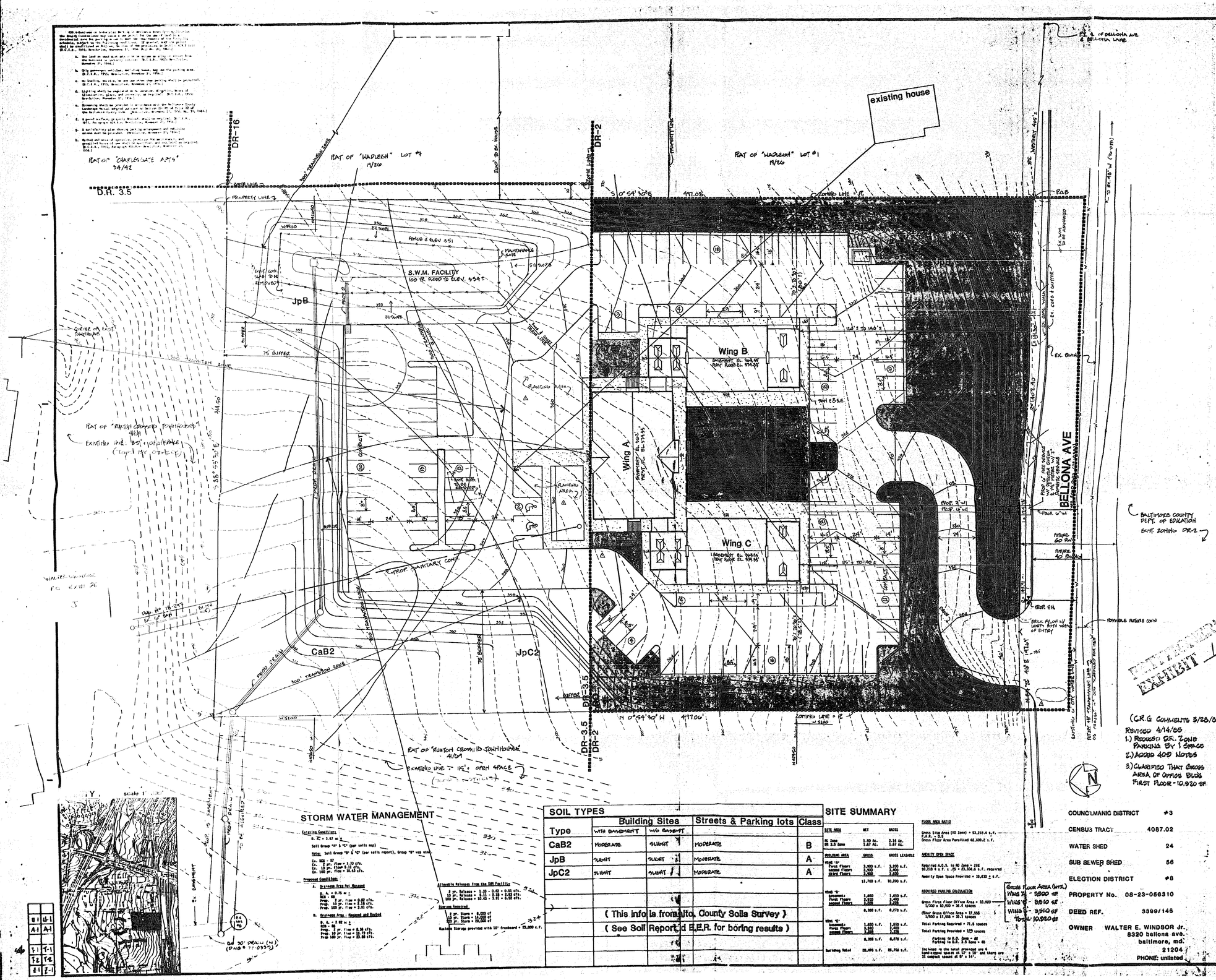
2nd AMENDED CRG PLAN *
SUNNYBROOK PROFESSIONAL CENTE

* INCLUDES 1st AMENDMENT - IN LIEU OF FINAL

Law Offices of Tamsen

SCALE: 1" = 3
JOB ORDER 8411
ISSUE DATE 9-21-

DATE	REVISIONS
10/25/84	PRE-CRG SUBMISSION PLAN
12/7/84	PUBLIC AGENCY COMMENTS
1/2/85	1st AMENDMENT (ENTITY)
4/30/85	ADDED CRG ADD'N.



GENERAL NOTES

1. Building designs as shown are preliminary in nature and will be adjusted during final design phase.

2. All exterior signage is to be in accordance with the zoning regulations (i.e. not to exceed 2 S.F. maximum area) with a maximum strips of 9' maximum projection, no top than 15' above grade.

3. The estimated maximum number of employees is 200.

4. The anticipated hours of operation for office use are 8 AM - 5 PM Monday through Friday and 8 AM - 5 PM Saturday.

5. Significant parking spaces are indicated on the plan (Sec On.) any arrangements will be addressed in detail when individual building site plan is submitted.

6. All parking lighting fixtures in the vicinity of adjacent residential property will be arranged to reflect light away from the residential lots and to not impede traffic flow by glare. Height of proposed lighting is approximately 15 feet.

7. The subject site has transit service available via Metro bus line No. 28 & 88 on Bellona Avenue.

8. On this site there are no wetlands, no critical areas, no archaeological sites, no endangered species, no hazardous materials, and no historic buildings.

9. On this site there are no significant geological formations or other unusual natural formations.

10. On this site there are no existing streams, springs, or flood plains.

11. The estimated average daily trips (ADT) generated by this office development is 687. This assumes half of the space is medical use at 36/1000 trips and half is general office at 17.7/1000 trips.

12. Proposed grading is preliminary in nature and subject to adjustment during the development plan process and will be done in accordance with the Baltimore County Grading and Sediment Control Regulations.

13. There are no proposed heating facilities.

14. Proposed landscaping is on drawings.

15. Building character is to be "Colonial Williamsburg" or "Federal Period" style. Preliminary building elevations and materials are indicated on Drawings.

16. Proposed use is Class 'B' Office Building by special exception see BCZR Section 253.2E.2.

17. Existing use is Residential.

18. Maximum average height is 35 feet.

19. On this site there are no natural slopes exceeding 25%.

LEGEND

tract boundary
zoning line
building setback
existing contours
proposed contours
existing trees to be removed
existing buildings/drives to be removed
proposed fire hydrant
amenity open space

STORM WATER MANAGEMENT

Existing Conditions:

A. T_c = 3.67 min.

Soil Group "A" & "C" (see soils map)

Note: Soil Group "B" & "C" (see soils report), Group "B" was used.

C= .50 - .57
I= 2 yr. Flow = 3.73 cfs.
I= 10 yr. Flow = 5.11 cfs.
I= 100 yr. Flow = 10.43 cfs.

Proposed Conditions

A. Drainage Area Not Managed

A = 0.25 ac ±
RCN = 98
Prop.: 2 yr. Flow = 0.88 cfs.
Prop.: 10 yr. Flow = 1.18 cfs.
Prop.: 100 yr. Flow = 2.33 cfs.

B. Drainage Area Managed and Routed

A = 7.82 ac ±
RCN = 98
Prop.: 2 yr. Flow = 0.98 cfs.
Prop.: 10 yr. Flow = 10.78 cfs.
Prop.100 yr. Flow = 23.88 cfs.

Allowable Release from the SWM Facility

2 yr. Release = 1.33 - 0.88 = 0.45 cfs.
10 yr. Release = 2.11 - 1.18 = 0.93 cfs.
100 yr. Release = 10.43 - 2.33 = 8.10 cfs.

Storage Required

2 yr. Storm = 8,000 cf
10 yr. Storm = 15,000 cf
100 yr. Storm = 30,000 cf

Routing Storage provided with 15" freeboard = 25,000 c.f.

SOIL TYPES

Type	Building Sites: with basement	Building Sites: w/o basement	Streets & Parking lots	Class
CaB2	MODERATE	SLIGHT	MODERATE	B
JpB	SLIGHT	SLIGHT	MODERATE	A
JpC2	SLIGHT	SLIGHT	MODERATE	A

(This info is from Balto. County Soils Survey)
(See Soil Report for E.E.R. for boring results)

SITE SUMMARY

SITE AREA	NET	GROSS
RC Zone	1.90 Ac.	2.16 Ac.
DR 3.5 Zone	1.87 Ac.	1.87 Ac.

BUILDING AREA	GROSS	GROSS LEASABLE
Wing "A"		
Third Floor	3,900 S.F.	3,000 S.F.
second Floors	3,900	3,900
third Floor	3,900	3,600
	11,700 S.F.	10,500 S.F.
Wing "B"		
basement	1,650	1,650 S.F.
First Floors	2,510	2,400
second Floors	2,288	2,220
	6,388 S.F.	6,270 S.F.
Wing "C"		
basement	1,650	1,650 S.F.
First Floor	2,388	2,220
second Floors	2,388	2,220
	6,388 S.F.	6,270 S.F.
Building Total	30,476 S.F.	29,756 S.F.

FLOOR AREA RATIO

Gross Site area (RC Zone) = 93,218.4 s.f.
F.A.R. = 0.5
Gross Floor Area Permitted 46,609.2 s.f.

AMENITY OPEN SPACE

Required A.O.S. in RC Zone = 25%
93,218 s.f. x .25 = 23,304.6 s.f. required
Amenity Open Space Provided = 30,630 ± s.f.

REVISED PARKING CALCULATION

Gross First Floor Office Area = 32,400
1/250 x 32,400 = 36.6 spaces
Gross Gross Office Area = 17,166
1/100 x 17,166 = 38.3 spaces
Total Parking Required = 71.6 spaces
Total Parking Provided = 123 spaces
Parking in R.C. Zone = 68
Parking in D.R. 3.5 Zone = 45
Included in the total provided are 6 handicapped spaces at 12' x 18' and there are 31 compact spaces at 8' x 16'.

Gross Floor Area (s.f.)

Wing A	3900 sf	
Wing B	3810 sf	
Wing C	3,910 sf	
Total	10,920 sf	

COUNCILMANIC DISTRICT	#3
CENSUS TRACT	4087.02
WATER SHED	24
SUB SEWER SHED	56
ELECTION DISTRICT	#8
PROPERTY No.	08-23-056310
DEED REF.	3399/145
OWNER	WALTER E. WINDSOR Jr. 8320 bellona ave. baltimore, md. 21204
PHONE:	unlisted

(C.R.G. COMMENTS 3/28/85)
REVISED 4/14/85
1.) REDUCED DR. ZONE PARKING BY 1 SPACE
2.) ADDED 400 NOTES
3.) CLARIFIED THAT GROSS AREA OF OFFICE BLDG FIRST FLOOR - 10,920 SF.

EXHIBIT

WILLIAM E. KIRWIN INC.
landscape architect
28 e. susquehanna avenue suite 2
towson, maryland
21204
301-337-0075

G. W. STEPHENS & ASSOCIATES, INC.
civil engineers
303 allegheny avenue
towson, maryland
21204
301-828-8120

l/sa
lapicki/smith associates, p.a.
211 w. fayette street
baltimore, maryland
21201
(301) 685-4900

l/sa project number 83.18

mackenzie & associates, inc.
developer applicant
2324 w. joppa road, suite 630
lutherville, maryland 21093
301-821-6...

CRG PLAN
and
a plat plan to accompany a Special Exception for a Class 'B' Office Building in an R.O. Zone and a Special Hearing to permit Commercial Parking in a D.R. 3.5 Zone

WINDSOR COURT

drawing title
SITE PLAN
scale 1"=20'

4-3-85 REVISED 4-14-85

date
MICROFILMED
22 FEBRUARY 1988

drawing number
1 OF 3

20 MARCH 1985

CHESTNUT RIDGE FARM STORE PU EX #25

1-3 LETTER
4 (4) PLAN ✓

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

887-3353

May 13, 1991

Mr. Douglas N. Elseroad
12124 Greenspring Avenue
Owings Mills, MD 21117

RE: Proposed addition to existing
non-conforming grocery store
12124 Greenspring Avenue
Case #: 86-10-SPH
4th Election District

Dear Mr. Elseroad:

The purpose of this letter is to inform you that the Zoning Commissioner has discussed your April 24, 1991 letter with me. As a result of this discussion, we are of the opinion that the reserve area containing an additional 20,000 sq. ft. will not conflict with the above referenced hearing and decision that delineates the nonconforming area that was approved as a result of the aforesaid hearing. As stated in your letter, it will be necessary to record this additional area as an easement for use only as a reserve area for the septic system.

If you have any questions concerning the above or you desire additional information, please do not hesitate to contact this office.

Very truly yours,

James E. Dyer
Zoning Supervisor

JED/cer

cc: Jessie Butcher - Department of Environmental Protection

RECEIVED
MAY 15 1991
DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTES:
1. EXISTING ZONING — RC-5
2. EXISTING USE — DWELLING & GROCERY
3. BUILDING SIZE FOR GROCERY

EXISTING	PROPOSED	SIZE OF ADDITION ALLOWED
1882 S.F.	860 S.F.	880 S.F.

4. PARKING DATA REQUIRED
   - DWELLING 2 PER DWLG UNIT = 2 SPACES
   - GROCERY 2742 S.F./200 = 14 SPACES
   - TOTAL REQUIRED 16 SPACES
   - TOTAL PROVIDED 17 SPACES (INCLUDES 2 H.C. SPACES)
5. DWELLING CONSTRUCTED IN 1933
   GROCERY CONSTRUCTED IN 1931
6. GROSS AREA THIS PARCEL = 30,720 S.F. ± 0.7 AC±
   MR. ELSEROD OWNS PROPERTY AROUND THIS PROJECT.

EASEMENT FOR SEPTIC RESERVE AREA
18,199 S.F.

ZONED RC-5

OTHER LANDS OF ELSEROAD WR 90/56

Block off + Post

N36°00'W 185.00

EASEMENT FOR SEPTIC RESERVE AREA

Existing Septic

PROP DUMPSTER SCREENED WITH 6' WOOD ENCLOSURE

NO PARKING

SEWER CO.

Proposed 6' gate

PROPOSED ONE STORY ADDITION 860 S.F.

PROP MAC PAVING

ZONED RC-5

160.10'

S60°00'W

Remove previously part of Chestnut Ridge Farm Market sign

1882 S.F. ONE STORY BLOCK BUILDING "CHESTNUT RIDGE FARM MARKET"

ONE STORY FRAME DWLG

EX. CONC. AREA

EX. WHEEL STOPS

EX. PAVING

EX. WELL FOR #12124

END FUTURE BITUM BERM R/W

FUTURE MAC. PAVING

FUT. T.B. 668.0

END FUTURE BIT BERM

FUTURE WIDENING LINE

TREES

END FUTURE BIT BERM

FUTURE BIT BERM (BALTO CO PLATE R-2)

FUTURE PLOW LINE

FUTURE SLOPE 1/4":1'

Ex Grass Area

FEET EXISTING ZONING FOR GRADE

S30°00'E 200.00'

GREEN SPRING AVE.
(70' ULTIMATE R/W)
50' ROAD SECTION.

FUTURE AREA UNDER BALTO CO. SPECS PLATE R-2

BENCH MARK

CHESTNUT RIDGE IMP. ASSOC.
ZONED RC-5

EX COMMUNITY BLDG.

RIDGE RD.

VICINITY MAP
SCALE: 1" = 2000'

OTHER LANDS OF ELSEROAD
CAVES RD.
GREEN SPRING AVE.
SITE
RIDGE RD.
POWER RD.
HILLSLEY DRIVE

LEGEND
1. PROP. ON-SITE PAVING SHOWN THUS
2. BALTO. CO. SPEC. PAVING " "
3. FUTURE BIT. BERM " "
4. FUT. SPOT ELEVATION " " x T.B. 668.5
5. EXIST. FIELD ELEVATION " " 672.29+ SHOT (ELEV.)
6. EXIST. MAC. PAVING
7. FUTURE CONTOURS 668

RESIDENCE
WILHELM
1043/328, 6502/472

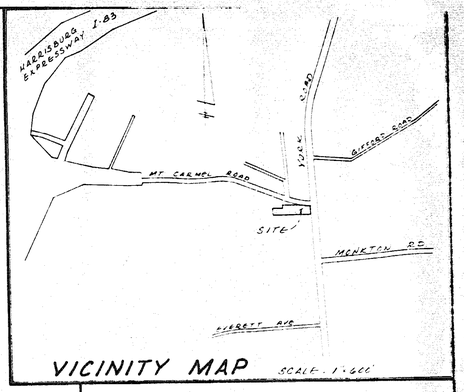
PU EX #25
CHESTNUT RIDGE
A

O.K. TO FILE
DEPT. OF ENVIRONMENTAL PROTECTION & RESOURCE MGMT.
FINAL APPROVAL MAY 22 1991
James E. Dyer

Rec'd 5/28/91 GWM
BLDG PERM # B0 87750, C-56991
ZONING CASE # 86-10 SPH

PROPOSED ADDITION TO EXISTING GROCERY STORE
12124 GREEN SPRING AVE.
4TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.
SCALE: 1" = 20'
APR. 5, 1991
REVISED 4/9/1991
REVISED 4/11/1991
#91-7151

A



GENERAL NOTES:

1) EXISTING ZONING - BM-CR AND RC-5 AS SHOWN HEREON.
2) PROPOSED USE - RETAIL STORES.
3) PAVING - PROPOSED BITUMINOUS PAVING SHALL BE LAID IN 2 LAYERS WITH A MINIMUM 6" CRUSHER RUN BASE (CR-6 OR CR-1). CURB AND GUTTER ALONG STATE ROADS ARE TO BE CONSTRUCTED IN CONFORMANCE WITH STATE HIGHWAY ADMINISTRATION SPECIFICATIONS. INTERIOR CURBS TO BE CONCRETE.
4) UTILITIES - PROPOSED SEPTIC SYSTEM AS SHOWN HEREON. EXISTING WELL SHOWN HEREON TO BE RELOCATED OUTSIDE OF PAVING LIMITS TO BE A MINIMUM OF ONE FOOT ABOVE FINISHED GRADE.
5) STORMWATER MANAGEMENT PROVISIONS AND SEDIMENT CONTROL - SEE SHEET 2 OF 2.
6) LIGHTING - FIXTURES TO BE SHOE BOX TYPE WITH A MAXIMUM HEIGHT OF 25 FEET AND SO DIRECTED AS NOT TO REFLECT RAYS ONTO ADJACENT RESIDENTIAL AREAS.
7) SCREENING - TO BE DENSE ARBORVITAE A MINIMUM HEIGHT 4 FEET.
8) LANDSCAPING - TO BE ASSORTMENT OF DECIDUOUS SHRUBS, WHITE FLOWERING DOGWOODS, SPREADING ENGLISH YEWS, AND [illegible].
9) [illegible] SOUTH OF MT. CARMEL ROAD ONLY USE GENERATING EXPLOSIVE MIXTURES OF WATER IS PERMITTED.
10) METES AND BOUNDS AND TOPOGRAPHY SHOWN HEREON ARE BASED ON BALTIMORE COUNTY DATUM.
11) THIS SITE IS IN THE GUNPOWDER FALLS DRAINAGE AREA.

NOTE:
EXISTING GRADES SHOWN THUS ----- 658
PROPOSED GRADES SHOWN THUS ——— 658

NOTE: 40 FT. MINIMUM DISTANCE BETWEEN WATER WELL AND BUILDING STRUCTURES

FINAL APPROVED PLAN
BALTO. CO. HEALTH DEPT.
SIGNATURE: Bonnie E. Cline
DATE: OCT 2 1980

OK by Kim A.S. Miller 9/17/80

THE TRUSTEES OF THE BAPTIST CHURCH IN THE VILLAGE OF HEREFORD IN BALTIMORE COUNTY
DTG. 4036 / 372

PARKING TABULATION:
PROPOSED RETAIL SALES STORES
9855 SQ FT ÷ 200 = 50 SPACES REQUIRED
PARKING PROPOSED:
55 + 6 = 61 (INCLUDING 2 FOR THE PHYSICALLY HANDICAPPED)
61 TOTAL SPACES PROPOSED

OWNER
HEREFORD JOINT VENTURE
53 YORK ROAD
TOWSON, MD. 21204

DEED REFERENCE:
E.H.K. JR. 5A: 354
E.H.K. JR. 5A: 132

SITE PLAN
HEREFORD PLAZA

BALTIMORE CO., MD
SCALE 1" = 20'
ELECTION DISTRICT Nº 7
DATE: AUGUST 8, 1980
REVISED: AUGUST 22, 1980

SHEET 1 OF 2

DEVELOPMENT DESIGN GROUP, LTD.
216 WASHINGTON AVE.; TOWSON, MD 21204

PN 793-4

HARKER BUILDING
P.U. EX # 30

K

Existing Frame Shed

20,000 sq. ft. Septic Disposal Area

Hubert M. Harker Jr. Zoning RC-4

Addition to Septic

MC-2

S82°02'51"E 233.83'

330.01'

LIMIT OF B-L ZONING

SIDE LF. STAKE

BALE DIKE (S.B.D.)

Proposed Screening

(To be razed)

Existing Gravel Parking

Prop. Gravel Parking Area

PROP. NEW PAVING

Prop. Gravel Parking Area

PROPOSED TWO STORY BUILDING

Existing Concrete Block Building (Use & Occupancy upon completion of Item 2 only)

Remove Existing Paving

Existing One Story Frame & Brick Building

Prop. Gravel Parking Area

Prop. Water

Proposed Water & Sewerage Lines to be S.H.A. Standards

LIBERT ROAD (MD RTE 2)

Existing Contours

Proposed Contours

Existing Drainage Structures

Proposed Evergreen Screening

Proposed Deciduous Planting

NOTE: 40 FT. MINIMUM DISTANCE BETWEEN WATER WELL AND BUILDING STRUCTURES

FINAL APPROVED PLAN
BALTO. CO. HEALTH DEPT.
SIGNATURE
DATE 4/19/79

REVISION	BY	DATE
Sewerage Note	W&L	Feb 27 1979
Parking	W.A.	Mar. 12, 1979
Relocate well	W&L	Mar 26, 1979

D.K. TO FILE
G.B. MILLER
1979

Hubert M. Harker, Jr.
1116 Liberty Road
Owings Mills, Md. 21133
922-1141

PROJECT NO. 78022

SNYDER AND LAW, INC.
SURVEYING-ENGINEERING-PLANNING
1911 Hanover Pike
Hampstead, Maryland 21074
(301) 239-7744

Date: February 16, 1979 Job No. 78022
Scale: 1" = 20' Dwg No. 2

VICINITY MAP

Reservoir
Site
Liberty Road
Liberty Road

Notes:

1. Deed Ref: Hubert M. Harker, Jr., and E.M.C. Jr. 5432/316
August 27, 1974

2. Zoning: B-L

3. Existing Use: Vacant

4. Proposed Use: Contractor's Office

5. Area of Site: 1.0 Acre

6. Proposed Parking: 10 Spaces

7. Proposed Water: Well

8. Proposed Sewerage: Septic

9. Proposed Screening: Evergreen Trees

10. Proposed Planting: Deciduous Trees

11. Existing Contours: 2'

12. Proposed Contours: 2'

13. Existing Drainage Structures: None

14. Proposed Drainage Structures: None

15. Proposed Lighting: None

16. Proposed Signs: None

17. Proposed Fencing: None

18. Proposed Outside Storage: None

19. Proposed Trash Disposal: Private

20. Proposed Loading Space: None

21. Proposed Buffer Yard: None

22. Proposed Open Space: None

23. Proposed Recreation Area: None

24. Proposed Dwelling Units: None

25. Proposed Density: None

26. Proposed Building Coverage: 2,500 S.F.

27. Proposed Impervious Surface: 10,000 S.F.

28. Proposed Building Height: 20'

29. Proposed Building Area: 2,500 S.F.

30. Proposed Number of Stories: 1

31. Proposed Number of Employees: 5

32. Proposed Hours of Operation: 8:00 A.M. to 5:00 P.M.

33. Proposed Number of Trucks: 2

34. Proposed Number of Vehicles: 5

35. Proposed Number of Trailers: None

36. Proposed Number of Boats: None

37. Proposed Number of Campers: None

38. Proposed Number of Mobile Homes: None

39. Proposed Number of Modular Homes: None

40. Proposed Number of Manufactured Homes: None

41. Proposed Number of Recreational Vehicles: None

42. Proposed Number of Other Vehicles: None

43. Proposed Number of Other Equipment: None

44. Proposed Number of Other Structures: None

45. Proposed Number of Other Uses: None

46. Proposed Number of Other Buildings: None

47. Proposed Number of Other Lots: None

48. Proposed Number of Other Parcels: None

49. Proposed Number of Other Tracts: None

50. Proposed Number of Other Areas: None

51. Proposed Number of Other Zones: None

52. Proposed Number of Other Districts: None

53. Proposed Number of Other Regions: None

54. Proposed Number of Other Areas: None

55. Proposed Number of Other Zones: None

56. Proposed Number of Other Districts: None

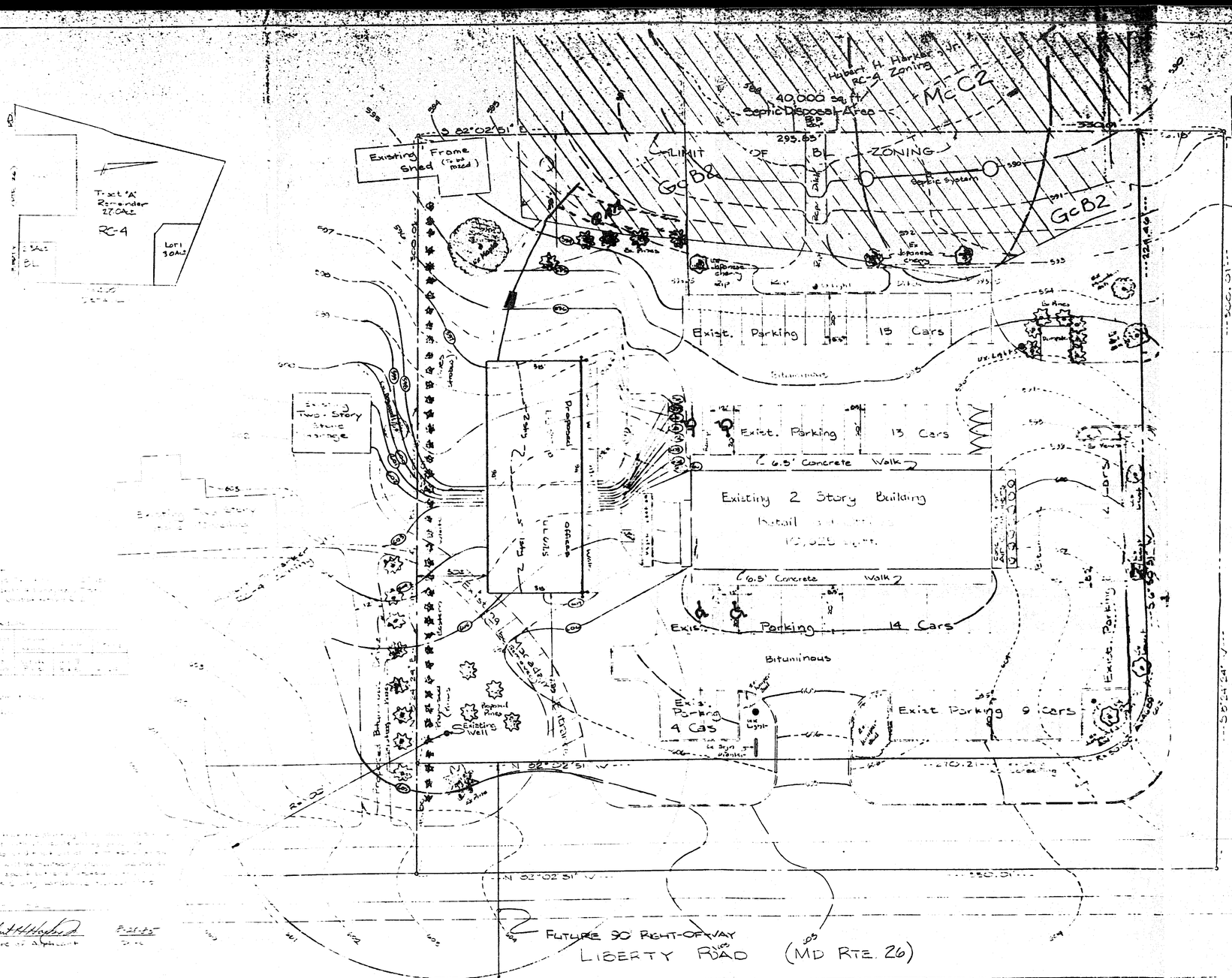
57. Proposed Number of Other Regions: None

58. Proposed Number of Other Areas: None

59. Proposed Number of Other Zones: None

60. Proposed Number of Other Districts: None

61. Proposed Number of Other Regions: None


Hubert H. Harker Jr.
RC-4 Zoning
MC C2
40,000 sq. ft. Septic Disposal Area
295.65'
BL
ZONING
LIMIT OF
GC B2
Existing Shed (to be razed)
Tract 'A' Remainder 27.0Ac±
RC-4
Lot 1 30Ac±
Existing Frame Shed (to be razed)
Existing Two-Story Stone Garage
Exist. Parking 15 Cars
Existing 2 Story Building
Retail
10,025 sq. ft.
6.5' Concrete Walk
Exist. Parking 13 Cars
Proposed 2 Story Building
Office
Exist. Parking 14 Cars
Bituminous
Exist. Parking 9 Cars
Existing Well
Existing Septic System
Existing Leaching Pits
Existing Sand Mound
Existing Septic Tank
Existing Dry Well
Existing Trench
Existing Pump Chamber
Existing Dosing Chamber
Existing Sump Pump
Existing Drywell
Existing Manhole
Existing Inlet
Existing Gas Meter
Existing Gas Line
Existing Water Line
Existing Sewer Line
Existing Electric Line
Existing Telephone Line
Existing Overhead Wires
Existing Utility Pole
Existing Guy Wire
Existing Fire Hydrant
Existing Light
Existing Sign
Existing Trees
Existing Shrubs
Existing Rock Outcrop
Existing Stone Wall
Existing Fence
Existing Curb
Existing Edge of Pavement
Existing Contours
Existing Drainage Flow
Existing Right-of-Way
Existing Property Line
Existing Building Restriction Line
Proposed Building
Proposed Contours
Proposed Drainage Flow
Proposed Spot Elevation
Proposed Deciduous Tree
Proposed Evergreen Tree
Proposed Shrubs
Proposed Sign
Proposed Light
Proposed Fence
Proposed Curb
Proposed Edge of Pavement
Proposed Sidewalk
Proposed Handicapped Ramp
Proposed Handicapped Parking Sign
Proposed Handicapped Parking Space
Proposed Entrance
Proposed Property Line
Proposed Building Restriction Line
Proposed Soil Erosion Control Line
Proposed Soil Division Line
Proposed Silt Fence
Proposed Stone Check Dam
Proposed Inlet Protection
Proposed Temporary Diversion
Proposed Temporary Sediment Trap
Proposed Temporary Sediment Basin
Proposed Temporary Stockpile
Proposed Temporary Construction Entrance
Proposed Temporary Construction Fence
Proposed Temporary Seeding
Proposed Permanent Seeding
Proposed Sodding
Proposed Mulching
Proposed Rip-Rap
Proposed Stone Filter Outlet
Proposed Stone Filter Inlet
Proposed Stone Filter Trench
Proposed Stone Filter Dike
Proposed Stone Filter Berm
Proposed Stone Filter Swale
Proposed Stone Filter Ditch
Proposed Stone Filter Channel
Proposed Stone Filter Culvert
Proposed Stone Filter Pipe
Proposed Stone Filter Manhole
Proposed Stone Filter Inlet
Proposed Stone Filter Out