

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 E/S Back River Neck Road * ZONING COMMISSIONER
 S/S Williams Avenue * OF BALTIMORE COUNTY
 149 Back River Neck Road *
 15th Election District *
 5th Councilmanic District *
 Texaco Refining and Marketing, Inc. * Case No.: 93-317-SPHA
 Inc. *
 Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner, Texaco Refining and Marketing, Inc., requested a special hearing to approve an extension of the time period for utilization of the Amended Special Exception approvals granted in Case No. 91-348-SPHA.

The Petitioner was represented by Julius W. Lichter, Esquire. Also appearing on behalf of the Petitioner was James Wagner, Petitioner's agent, and Nick Commodari, Zoning Consultant. There were no Protestants.

The proffered testimony indicated that the Subject Property, known as 149 Back River Neck Road, is currently improved with a gasoline service station and accessory structures. The Subject Property received zoning approval for a gas station in 1954 pursuant to Case No. 2955-RS. In 1985, a special exception was granted, pursuant to Case No. 85-160-X for a food store with less than 5,000 square feet of retail sales area in combination with a service station. In 1991, pursuant to Case No. 91-348-SPHA, the Zoning Commissioner approved certain variances, an amendment to the site plans in Case No. 2955-RS and No. 85-160-X and restriction No. 3 in the latter case to allow the existing food store as a use in combination with a gasoline service station to sell all types of

food and convenience items in lieu of only certain items as previously restricted.

The proffered testimony indicated that the zoning approvals sought and granted in 1991 pursuant to Case No. 91-348-SPHA were in conjunction with the Petitioner's desire to upgrade the site to bring it into conformity with corporate standards. Further, it was proffered that since the approvals in Case No. 91-348-SPHA were granted pursuant to the Zoning Commissioner's Order dated June 5, 1991, the Petitioner has obtained a building permit, obtained County approval of its landscape plan, and has an approved site plan prepared by a professional engineer.

However, it was proffered that the recent state of the economy has impacted Petitioner such that funds for development have not been readily available. It was proffered that for these reasons, the Petitioner will be unable to fully utilize and/or implement by June 5, 1993 the zoning approvals granted in Case No. 91-348-SPHA, but that Petitioner is pursuing its intent to upgrade the service station in accordance with said approvals and anticipates completing the planned improvements by June 5, 1996.

Petitioner is seeking a three year extension of time in which to utilize the zoning approvals granted in Case No. 91-348-SPHA. After considering the proffered testimony and evidence presented, it is the opinion of the Deputy Zoning Commissioner that period of time in which to utilize the previously granted special exception, as amended pursuant to Case No. 91-348-SPHA, should be extended for three years as so permitted by B.C.Z.R. §502.3. It is also the

opinion of the Deputy Zoning Commissioner that said zoning approvals shall be implemented in accordance with the B.C.Z.R. in effect on June 5, 1991 and subject to the restrictions set forth in the Zoning Commissioner's Order in Case No. 91-348-SPHA dated June 5, 1991.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of May, 1993 that the Petition for Special Hearing to extend the time period in which to utilize the special exception zoning approvals granted in Case No. 91-348-SPHA until June 5, 1996 be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioner shall comply with the restrictions set forth in the Zoning Commissioner's Order dated June 5, 1991 in Case No. 91-348-SPHA.

Timothy Kotrbco
 Timothy Kotrbco
 Deputy Zoning Commissioner

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

Suite 113 Courthouse
 400 Washington Avenue
 Towson, MD 21204

May 6, 1993

(410) 887-4386

Julius W. Lichter, Esquire
 305 W. Chesapeake Avenue, Suite 113
 Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
 S/S Back River Neck Road, S/S Williams Avenue
 (149 Back River Neck Road)
 15th Election District - 5th Councilmanic District
 Texaco Refining & Marketing, Inc. - Petitioners
 Case No. 93-317-SPHA

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-3391.

Very truly yours,

Timothy M. Kotrbco
 TIMOTHY M. KOTRBCO
 Deputy Zoning Commissioner
 for Baltimore County

TWK:bjs

cc: Mr. Nicholas B. Commodari
 3410 Woodstock Avenue, Baltimore, Md. 21213

Mr. James G. Wagner, c/o Texaco Refining & Marketing, Inc.
 3800 Pickett Road, Fairfax, Virginia 22031

People's Counsel

File

ORDER RECEIVED FOR FILING
 Date 5/14/93
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 5/14/93
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 5/14/93
 By [Signature]

Petition for Special Hearing
 to the Zoning Commissioner of Baltimore County

for the property located at 149 Back River Neck Road
 which is presently zoned B.L.-CNS 6
 D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. 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 Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

an extension of time for utilization of the requests granted in Case #91-348-SPHA.

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

I, or we, agree to pay expenses of 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.

Contact Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

Who is attorney, broker and agent, under the purview of realty, and then use the legal records of the property which is the subject of this Petition.

Legal Owner(s):

Texaco Refining & Marketing, Inc.

(Type or Print Name)

James B. Wagner, agent

Signature

3800 Pickett Road 703-425-4046

Address

Fairfax, Virginia 22031

City, State, Address and phone number of representative to be contacted.

Signature

Nicholas B. Commodari

(Type or Print Name)

3410 Woodstock Avenue 21213 235-681

Address

City, State, Address and phone number of representative to be contacted.

Signature

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING (minutes) _____

By including date _____ Read Two Sheets

ALL OTHER _____

REVIEWED BY: _____ DATE _____

RECEIVED MAR 5

DESCRIPTION FOR ZONING PURPOSES ONLY

Located at the southeast corner of Back River Neck Road and Williams Avenue and running the following courses and distances: South 09° 16' 31" East 27.17' thence with a radius to the right with a chord of 64.58' thence South 34° 50' 05" East 72.45' thence North 29° 47' 00" East 190.93' thence North 33° 23' 00" West 155.52' thence South 29° 47' 00" West 177.16' to the place of beginning. Also known as No. 149 Back River Neck Road and containing 0.829 acres. Saving and excepting that portion of the above property zoned DR 5.5.

93-317-SPH



John P. McGowan
 322

CERTIFICATE OF PUBLICATION
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 12th Date of Posting: 4/1/93
 Posted for: Special Hearing
 Petitioner: Texaco Refining & Marketing, Inc.
 Location of property: SE corner (149) Back River Neck Rd & Williams Ave
 Location of Sign: Along roadway on property of petitioner
 Remarks:
 Posted by: *[Signature]* Date of return: 4/8/93
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

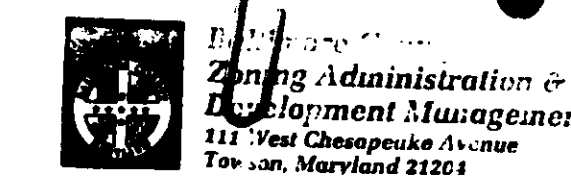
TOWSON, MD. 411, 1993

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 411, 1993

THE JEFFERSONIAN,

S. Zeke Orlov
 Publisher

\$72.63



93-317-SPH

receipt

Date _____ Account R 001-6150
 Number _____

PUBLIC HEARING FILE # _____
 DATE OF HEARING: _____
 LAST PRINT OF SIGNATURE: _____

Cashier Validation

Please Make Checks Payable To: Baltimore County

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

DATE: 5-11-93 ACCOUNT: R001-6150

AMOUNT: 72.63

RECEIVED FROM: Star-Enterprise (11/14/2013)

FOR: CRC 93-317-SPH

VALIDATION OR SIGNATURE OF CASHIER

ORDER RECEIVED FOR FILING
 Date 5/14/93
 By [Signature]



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MARCH 25, 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:

CASE NUMBER: 93-317-SPH (Item 322)
SEC Back River Neck Road and Williams Avenue
149 Back River Neck Road
15th Election District - 5th Councilmanic
Petitioner(s): Texaco Refining & Marketing, Inc.
HEARING: WEDNESDAY, APRIL 28, 1993 at 2:00 p.m. in Rm. 118, Courthouse.

Special Hearing to approve an extension of time for utilization of the requests granted in case 93-346-SPH2.

Arnold Jablon
Arnold Jablon
Director

cc: Texaco Refining & Marketing, Inc.
Nicholas B. Commodari

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 20, 1993

Mr. Nicholas B. Commodari
3410 Woodstock Avenue
Baltimore, MD 21213

RE: Case No. 93-317-SPH, Item No. 322
Petitioner: Texaco Refining & Marketing, Co.
Petition for Special Hearing

Dear Mr. Commodari:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 19, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- 1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.



Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: April 5, 1993
Zoning Administration and Development Management

FROM: Robert W. Bowling, Senior Engineer *RWB/DAR*
Development Plan Review

RE: Zoning Advisory Committee Meeting
for April 5, 1993
Item No. 322

The Development Plan Review Division has reviewed the subject zoning item. Before an extension of time is granted, the site should be made to comply with the Landscape Manual requirement of providing a landscape screen and space for it along Back River Neck Road.

RWB:DAR:s



3-25-93

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 4322 (WCR)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: April 1, 1993
Zoning Administration and
Development Management

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

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item No. 308, 314, 317, 322 and 324.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey M. Long*
Division Chief: *Carly L. Kerns*

PK/JL:lw

308.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF RECREATION & PARKS

Zoning Advisory Committee Comments
relating to agenda of 3/29/93

The Department of Recreation and Parks submits a reply of "NO COMMENT" for the following item numbers:
* 314, * 315, * 316, * 317, * 319, * 320, * 321, * 322,
* 324

There are no other items on the agenda aside from the above.

Patrick J. McDougall
Master Plan Coordinator



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 12, 1993

Nicholas B. Commodari
3410 Woodstock Avenue
Baltimore, MD 21213

RE: Preliminary Petition Review (Item #322)
Legal Owner: Texaco Refining &
Marketing, Inc.
149 Back River Neck Road
15th Election District

Dear Mr. Commodari:

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. An extension of time is being requested. How much time?
2. Since Texaco Refining and Marketing is incorporated, there should be an attorney representing them.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Charles A. Milton
By: Charles A. Milton
Planner I

CM:scj

Enclosure (Receipt)



Printed on Recycled Paper

93-317-SPH

2955-RS

PAID
[Faded text and stamp]

10/11/54
[Faded text]

2955
[Faded text]

[Faded text]

Certificate of Publication
[Faded text]

10/11/54
[Faded text]

85-160-X

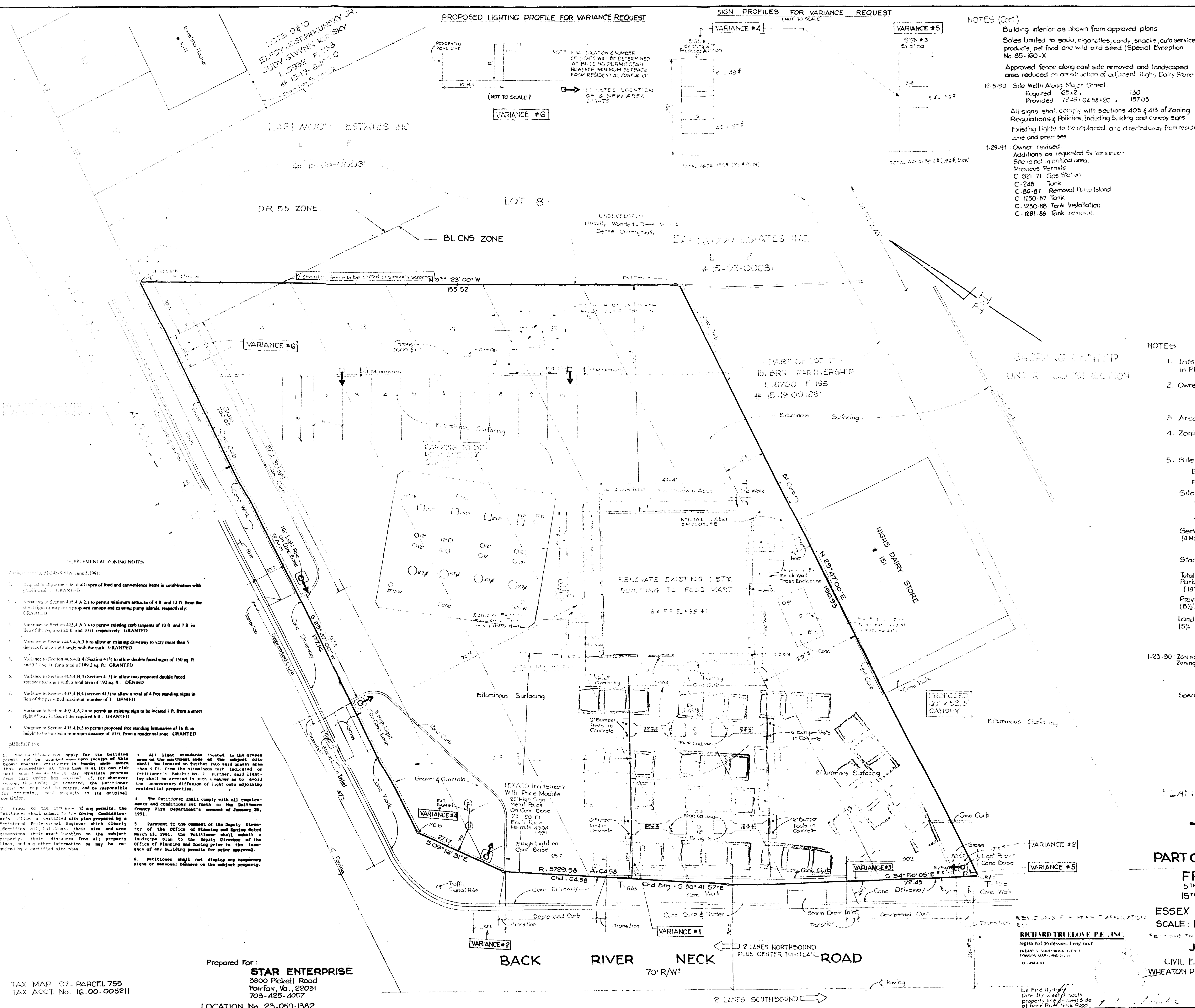
PETITION FOR SPECIAL EXCEPTION
[Faded text]

BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE
[Faded text]

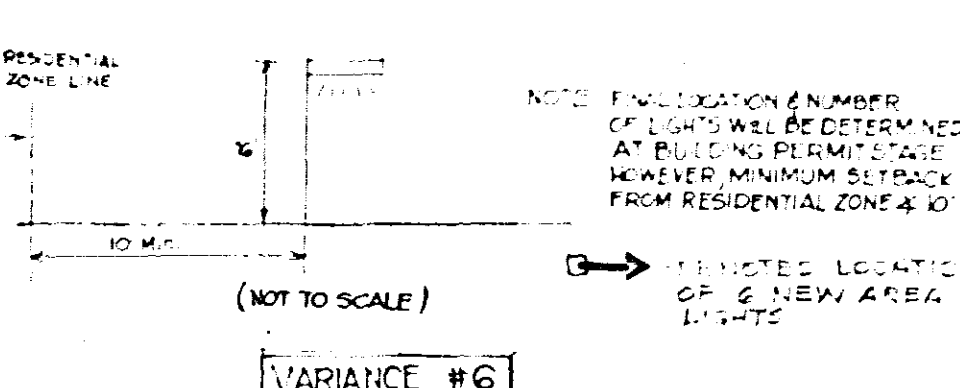
BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE
[Faded text]

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
[Faded text]

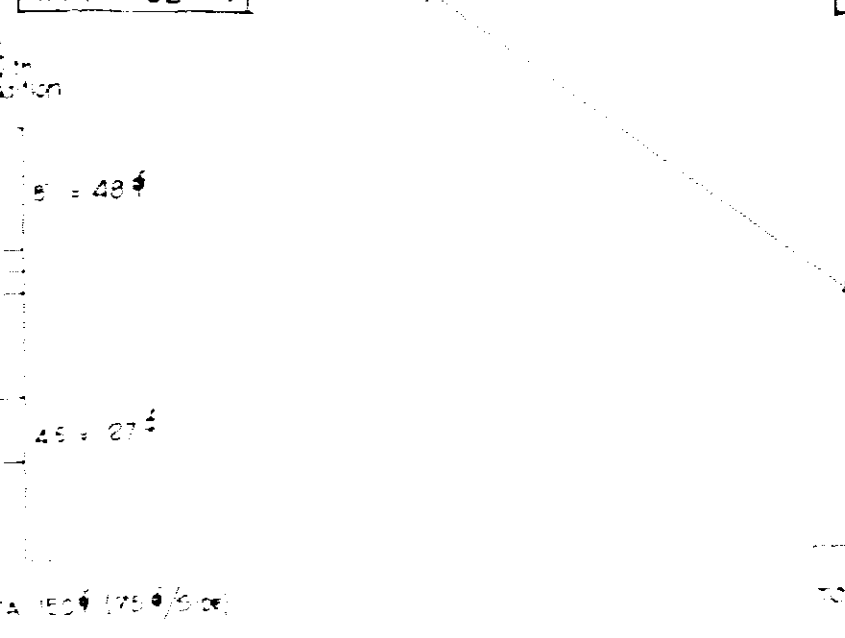
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PROPOSED LIGHTING PROFILE FOR VARIANCE REQUEST

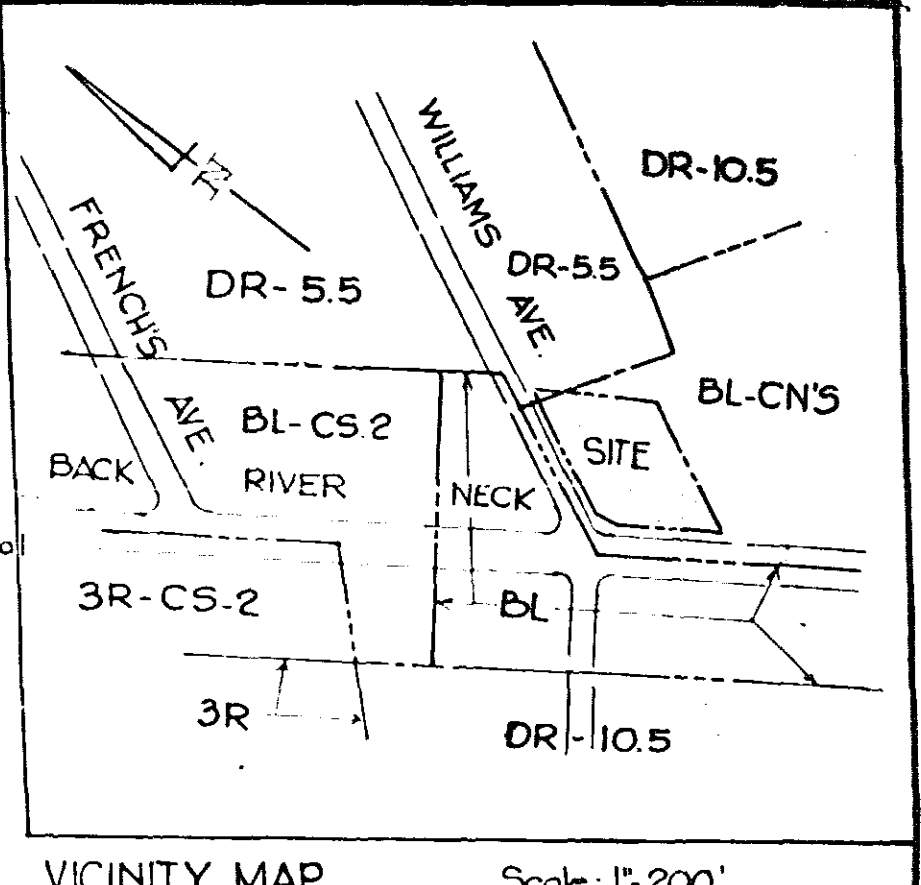


SIGN PROFILES FOR VARIANCE REQUEST



NOTES (Cont.)

- Building interior as shown from approved plans
- Sales limited to soda, candy, snacks, auto service products, pet food and wild bird seed (Special Exception No. 85-160-X)
- Approved fence along east side removed and landscaped area reduced on construction of adjacent High Dairy Store
- 12-5-90 Site Width Along Major Street
Required: 65'±, 130
Provided: 72'±-64'±±±±±, 197'±
- All signs shall comply with sections 405 & 413 of Zoning Regulations & Policies, including building and canopy signs
- Existing lights to be replaced, and directed away from residential zone and premises
- 1-29-91 Owner Revised
Additions as requested by Variance
Site is not in critical area.
Previous Permits:
C-821-71 Gas Station
C-245 Tank
C-86-87 Removal Pump Island
C-1250-87 Tank
C-1290-88 Tank Installation
C-1281-88 Tank removal



SUPPLEMENTAL ZONING NOTES

- Request to allow the sale of all types of food and convenience items in combination with gasoline sales: GRANTED
- Variance to Section 405.4 A.2.a to permit minimum setbacks of 4 ft. and 12 ft. from the street right-of-way for a proposed canopy and existing pump island, respectively: GRANTED
- Variance to Section 405.4 A.3.a to permit existing curb tangents of 10 ft. and 7 ft. in lieu of the required 20 ft. and 10 ft. respectively: GRANTED
- Variance to Section 405.4 A.3.b to allow an existing driveway to vary more than 5 degrees from a right angle with the curb: GRANTED
- Variance to Section 405.4 H.4 (Section 413) to allow double faced signs of 150 sq. ft. and 39.2 sq. ft. for a total of 189.2 sq. ft.: GRANTED
- Variance to Section 405.4 H.4 (Section 413) to allow two proposed double faced speaker bus signs with a total area of 192 sq. ft.: DENIED
- Variance to Section 405.4 A.2.a to allow a total of 4 free standing signs in lieu of the permitted maximum number of 3: DENIED
- Variance to Section 405.4 H.5 to permit proposed free standing luminaires of 16 ft. in height to be located a minimum distance of 10 ft. from a residential zone: GRANTED

SUBJECTS:

- The petitioner may apply for its building permit and the general use permit of this subject property, provided the petitioner understands that proceeding at this time is at its own risk and will not constitute an approval of the proposed plan. If, for whatever reason, the petitioner is required to remove the signs, it shall be responsible for returning said property to its original condition.
- Prior to the issuance of any permits, the petitioner shall submit to the Zoning Commission's office a certified site plan prepared by a Registered Professional Engineer which clearly identifies all buildings, their size and location, their exact location on the subject property, their distance from all property lines, and any other information as may be required by a certified site plan.
- All light standards located to the west side of the subject site shall be located on the subject site and shall be located on the subject site and shall be located on the subject site and shall be located on the subject site.
- The petitioner shall comply with all requirements and conditions set forth in the Baltimore County Fire Department's comment of January 28, 1991.
- Pursuant to the comment of the Deputy Director of the Office of Planning and Zoning dated March 13, 1991, the petitioner shall submit a landscape plan to the Deputy Director of the Office of Planning and Zoning prior to the issuance of any building permits for prior approval.
- Petitioner shall not display any temporary signs or seasonal banners on the subject property.

NOTES:

- Lots as shown from Plat of French's Park as recorded in Plat Book WPC No. C Plat 138.
- Owner: TEXACO REFINING & MARKETING INC.
- Area: Gross 0.829 Acres
Net 26,458 Sq. Ft. or 0.6074 Ac.
- Zoning: Previous # 2955 RS E
Existing BL CN5 - 26,133 Sq. Ft. ±
DR 55 325 Sq. Ft. ±
- Site Data:
Existing Use: Gas & Go Station with Food Store
Proposed Use: Gas & Go Station with Food Store
Site Area Required:
Service Station 15,000 sq. ft.
Food Store (18'x14') 7,480 sq. ft.
Total 22,480 sq. ft.
Service Spaces Required: 8 Spaces
(4 Multiproduct Dispensers servicing 4 cars)
Provided: 8 Spaces
Stacking Spaces Required: 8 Spaces
Total Bays Provided: 8 Spaces
Parking Required (18'x20' x 1/200) 335 spaces
Provided (8 1/2 x 18) 11 spaces
Landscaping Required: 1806 Sq. Ft.
(5% 0.829 Acres)
Approved: 4682 Sq. Ft.
Existing: 4300 Sq. Ft.
Additional Landscaping to be provided as required.
- 1-23-90 ZONING AND SPECIAL EXCEPTION HISTORY
Zoning and Special Exception # 2955 RS - A Residential Zone to E Commercial and Gas Station
Granted: April 15, 1954
Conditions: Meet setbacks and subject to Zoning Department Approval
Special Exception # 85-160-X Food Store Less than 3000 Sq. Ft. with Service Station
Granted: December 14, 1984
Conditions: 1. Compliance with Z.P.A.C. comments
2. Landscape Manual
3. Limited sales
Zoning File Note 7-20-88
Substantial Compliance

93-317-SPH

PLAN TO ACCOMPANY PERMIT APPLICATION

TEXACO

PART OF LOTS 1 TO 6 BLOCK D

FRENCH'S PARK
5TH COUNCILMANIC DISTRICT
15TH ELECTION DISTRICT

322

ESSEX SCALE: 1"=10'
MARYLAND MARCH, 1989 REV. FEB. 12, 1992 (TRASH ENCL.)

REGISTERED PROFESSIONAL ENGINEER
PREPARED BY:
JOHN H. Mc GOVERN
CIVIL ENGINEER AND LAND SURVEYOR
WHEATON PLAZA NORTH OFFICE BLDG., WHEATON, MD. 20902
933-6558

TAX MAP 97, PARCEL 755
TAX ACCT No. 16-00-005211
Prepared For: STAR ENTERPRISE
3800 Pickett Road
Fairfax, Va., 22031
703-425-4057

LOCATION No. 23-059-1382

86-0152