

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: June 18, 1999
Permits & Development Management

FROM: Charlotte E. Radcliffe *CR*
County Board of Appeals

SUBJECT: Closed File:
Case No. 94-452-XA / Baltimore Gas & Electric Co.

Since no appeal was taken from Board's Order (on remand from the Circuit Court) issued April 22, 1999, in the above captioned case, we are hereby closing our file and returning same to you herewith.

Attachment (Case No. 94-452-XA - contained in box)

4-2-99

IN THE MATTER OF
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST CORNER OF
RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
COUNTY LINE, INC. -PETITIONER

ZONING CASE NO. 94-452-XA

* ON REMAND
* FROM THE
* CIRCUIT COURT FOR
* BALTIMORE COUNTY
* Civil Action
* No. 95-CV-5315
*
*

* * * * *

ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY
PURSUANT TO REMAND ORDER OF THE MARYLAND COURT OF APPEALS

This matter comes before the Board on remand by Order of the Circuit Court for Baltimore County dated March 24, 1999 pursuant to the March 15, 1999 Disposition of the Maryland Court of Appeals.

The Court of Appeals, in its Opinion filed February 11, 1999, states: "We shall direct that this case be remanded to the Baltimore County Board of Appeals (Board) with instructions to enter an order that no variance was needed in the case sub judice." That Court remanded this case with the following directive:

JUDGMENT OF THE COURT OF SPECIAL APPEALS AFFIRMED IN PART AND VACATED IN PART; THAT PORTION OF THE COURT OF SPECIAL APPEALS' JUDGMENT RELATING TO THE VARIANCE IS VACATED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO VACATE THAT PORTION OF THE JUDGMENT OF THE CIRCUIT COURT RELATING TO THE VARIANCE AND REMAND THE CASE TO THE CIRCUIT COURT WITH INSTRUCTIONS TO REMAND THE CASE TO THE BOARD OF APPEALS FOR A DECISION CONSISTENT WITH THIS OPINION...."

IT IS THEREFORE this 2nd day of April, 1999, by the County Board of Appeals of Baltimore County

ORDERED that, consistent with the decision of the Court of Appeals, no variance was needed in this case; and, therefore, the decision of the Board relating to the variance relief in Case No. 94-452-XA be and the same is hereby VACATED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Charles L. Marks, Chairman



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

April 2, 1999

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

RE: Circuit Case #95-CV-5315 /In the Matter of
BG&E /Ivy Hill Substation (Friends of the
Ridge, et al) Zoning Case No. 94-452-XA

Dear Mr. Holzer:

Enclosed please find a copy of the Board's Order on Remand issued this date in response to the Remand Order of the Circuit Court pursuant to the March 15, 1999 Disposition of the Maryland Court of Appeals.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

Enclosure

cc: Friends of the Ridge, et al c/o J. C. Holzer
Robert A. Hoffman, Esquire
Kathleen Gallogly Cox, Esquire
John H. Zink, Esquire
Martha A. Delea, Esquire
Mr. and Mrs. Frederick Vinup
Mr. and Mrs. Raymond Fischer
Mrs. Dorothy Marsden
The Honorable T. Bryan McIntire
Baltimore County Council
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
The Honorable Lawrence R. Daniels, Judge
Circuit Court for Baltimore County
Clerk of the Court /Case No. 95-CV-5315-
Virginia W. Barnhart, County Attorney

FILE RETURNED / HAND-DELIVERED
w/ CLERK COPY 4-2-99

FILED APR - 2 1999

3-15-99

94-452-XA -BG&E (Ivy Hill Sub.
Cct REMANDS to CBA pursuant
to Court of Appeals Disposition
3/17/99 (Cathell, J.)
3/24/99 -Lawrence Daniels, J

PETITION OF FRIENDS OF
THE RIDGE, et al FOR
JUDICIAL REVIEW

* IN THE
* CIRCUIT COURT

IN THE MATTER OF
BALTIMORE GAS & ELECTRIC
COMPANY (IVY HILL SUBSTATION) *
FOR SPECIAL EXCEPTION AND
VARIANCE

* FOR
* BALTIMORE COUNTY
* Case No. 95 CV 5315

ZONING CASE: 94-452-XA

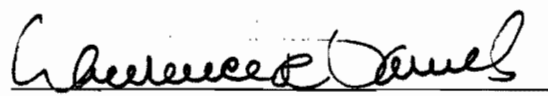
* * * * *

ORDER

The Court of Appeals of Maryland having issued its Disposition on
March 15, 1999, it is this 24th day of March, 1999

ORDERED that the above-captioned case is hereby remanded to the
Board of Appeals for a decision consistent with the decision of the Court of
Appeals.

SO ORDERED.


LAWRENCE R. DANIELS
JUDGE

cc: County Board of Appeals ✓
J. Carroll Holzer, Esquire
John H. Zink, III, Esquire

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COUNTY BOARD OF APPEALS
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95-CV-5315

May 10, 1994 Petitions filed by Martha A. Delea, Esquire, and Robert A. Hoffman, Esquire; on behalf of BG&E and Frederick and Ann Vinup, for: Special Exception to use property for an outdoor electric public utility service center (electric substation); and Variance to permit structures as close as 0' from an interior lot line in lieu of required 50' building setback.

June 21 Hearing held on Petition by the Zoning Commissioner.

June 24 Order of the Zoning Commissioner in which Petitions for Special Exception and Variance were GRANTED.

July 21 Notice of Appeal filed by J. Carroll Holzer, Esquire, on behalf of residents and Friends of the Ridge.

September 13 Request to withdraw appearance filed by Cohen.

October 4 Hearing before the Board of Appeals (Day #1)

January 10, 1995 Hearing before the Board of Appeals (Day #2)

January 12 Hearing before the Board of Appeals (Day #3)

January 17 Hearing before the Board of Appeals (Day #4)

January 19 Hearing before the Board of Appeals (Day #5)

February 6 Memorandum in Lieu of Final Argument filed Holzer.
Petitioner's Memorandum filed by Hoffman.

February 22 Deliberation completed.

May 31 Order of the Board wherein Petitions were GRANTED.

June 7 Amendment to Board's opinion to indicate that People's Counsel did not participate in proceedings.

June 16 Petition for Judicial Review filed in the CCT by Holzer, on behalf of Friends.

June 26 Certificate of Notice sent to interested parties.

July 7 T/C to counsel for Petitioner: confirmed that record transmittal date for recording expedited per Judge DeWaters' order due to early hearing scheduled in CCT.

July 17 Transcript of testimony filed; Record of Proceedings filed in the CCT.

December 30, 1996 ✓ Order issued by the Circuit Court; decision of CBA AFFIRMED (Lawrence R. Daniels, J.)

April 1, 1998 ✓ Order of the Court of Special Appeals; decision of the Circuit Court is AFFIRMED (Harrell, Bloom and Alpert, JJ.)

February 11, 1999 ✓ Mandate issued by the Court of Appeals; Judgment of the Court of Special Appeals is AFFIRMED in part and VACATED in part; portion of CSA judgment relating to the variance is vacated; case REMANDED to the CCT with instructions to REMAND to the CBA for a decision consistent with this opinion.

Court of Appeals of Maryland

No. ⁷⁶....., SEPTEMBER TERM, 19 ⁹⁸.....

FRIENDS OF THE RIDGE et al.

v.

BALTIMORE GAS AND ELECTRIC COMPANY

DISPOSITION OF APPEAL IN COURT OF APPEALS:

February 11, 1999 - Judgment of the Court of Special Appeals affirmed in part and vacated in part; that portion of the Court of Special Appeals' judgment relating to the variance is vacated; case remanded to that Court with instructions to vacate that portion of the judgment of the Circuit Court relating to the variance and remand the case to the Circuit Court with instructions to remand the case to the Board of Appeals for a decision consistent with this opinion; costs in this Court and in the Court of TRANSCRIPT Special Appeals to be paid by petitioners. Opinion by Cathell, J.

RETURNED TO CIRCUIT COURT FOR BALTIMORE COUNTY

Date ³⁻¹⁵⁻⁹⁹.....

BY

Gregory L. Cunningham

REMARKS:

Three-vol. record and box)

No. 474 - 1997 T. - CSA

No. 03-C-95-005315 - CC for Baltimore Co.

FILED MAR 17 1999

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M A N D A T E

Court of Appeals of Maryland

No. 76 , September Term, 19 98

FRIENDS OF THE RIDGE et al.

v.

BALTIMORE GAS AND ELECTRIC COMPANY

Certiorari to the Court of Special Appeals (Circuit Court for Baltimore County)
February 11, 1999 - Judgment of the Court of Special Appeals affirmed in part and vacated in part; that portion of the Court of Special Appeals' judgment relating to the variance is vacated; case remanded to that Court with instructions to vacate that portion of the judgment of the Circuit Court relating to the variance and remand the case to the Circuit Court with instructions to remand the case to the Board of Appeals for a decision consistent with this opinion; costs in this Court and in the Court of Special Appeals to be paid by petitioners.
Opinion by Cathell, J.

STATEMENT OF COSTS:

In Circuit Court:

Record
Stenographer's Costs

In Court of Appeals:

Petition Filing Fee	\$ 336.00
Printing Brief for Appellant	
Portion of Record Extract — Appellant	124.50
Reply Brief	10.00
Appearance Fee — Appellant	50.00
Filing Fee on Appeal (Court of Special Appeals)	
Printing Brief for Appellee	244.80
Portion of Record Extract — Appellee	10.00
Appearance Fee — Appellee	
	<u>\$ 775.30</u>

STATE OF MARYLAND, ss:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals this fifteenth day of March , 19 99.



Clerk of the Court of Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

2-11-99

Circuit Court for Baltimore County
Case # 95 CV 5315

94-452-XA /BG&E (Ivy Hill Sub)
COA AFFIRMED in part and VACA-
TED in part the CSA Judgment
Case REMANDED to the CCT w/
instructions to REMAND to CBA
for decision consistent with
opinion relating to VARIANCE

IN THE COURT OF APPEALS OF

MARYLAND

No. 76

September Term, 1998

FRIENDS OF THE RIDGE *et al.*

v.

BALTIMORE GAS AND ELECTRIC
COMPANY

Eldridge
Chasanow
Raker
Wilner
Cathell,
Karwacki, Robert L.
(retired, specially assigned),
Murphy, Joseph F. Jr.
(specially assigned)

JJ.

Opinion by Cathell, J.

Filed: February 11, 1999

In this case, Pamela and Carl Follo and Friends of the Ridge *et al.*, petitioners, appeal the affirmance by the Court of Special Appeals¹ of the decision of the Circuit Court for Baltimore County, which upheld the granting of a variance from side yard setback requirements to Baltimore Gas and Electric Company, respondent. Petitioners present three issues for our review, which we rearrange:

[1]. Whether the Court of Special Appeals' preference given to utility companies in this zoning case conflicts with this Court's decision in *Kahl vs. Consolidated Gas and Electric*, 191 Md. 249 (1949)[.]

[2]. Whether in the absence of statutory authority, an electric utility company's status, *vel non*, as a utility, may be used to justify a zoning variance, generally, and the prerequisite of "uniqueness" specifically[.]

3. Whether the evidence relied on by the Court of Special Appeals in the instant case was sufficient to support a variance, both as to the uniqueness and practical difficulty, and whether its decision conflicts with the Court of Special Appeals' decision in *Cromwell vs. Ward*, 102 Md. App. 691 (1995)[.]

We shall not directly address the questions presented.² We shall direct that this case be remanded to the Baltimore County Board of Appeals (Board) with instructions to enter an

¹ *Friends of the Ridge v. Baltimore Gas & Elec. Co.*, 120 Md. App. 444, 707 A.2d 866 (1998).

² We note that Respondent argues that the provisions of the ordinance applicable to variances ("where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request") should be read to indicate that a structure intended to be built once a variance is granted could itself be so unusual as to satisfy the uniqueness requirement of the statute. Under this argument, respondent contends that, given the characteristics of the equipment respondent proposes to erect and for which it seeks a variance, combined with the necessity that the equipment be within a certain distance of each other, its situation creates "peculiar or unusual circumstances relating to the substation *structures* which are the subject of the variance." Our failure to address this issue should not be construed as our approval or acceptance of that approach. We are reluctant to say that a proposition we are not resolving is wrong. Accordingly, we shall instead describe it as of doubtful logical force.

order that no variance was needed in the case *sub judice*.³

Under the ordinance at issue here, and indeed in most ordinances of which we are aware, unless the ordinance's language specifically and clearly prohibits it, an owner of contiguous parcels of real property, such as respondent, is free to combine them into larger and fewer parcels without violating the *zoning* code. In this case we are concerned only with the zoning ordinance. We first shall recite the facts and conclude by furnishing the reasons for holding that no variance was necessary in the present case.

FACTS

Respondent, at all times pertinent to the case at bar has operated a facility called the "Ivy Hill Substation," which is situated on one of the parcels it owns near the intersection of Falls and Ridge Roads in Baltimore County, Maryland. The site, and all of the relevant surrounding area, is zoned RC-5. Under that classification, public utility facilities are permitted as special exceptions if they comply with the requirements of the Baltimore County zoning ordinance. Respondent, anticipating a need for additional capacity in the region, proposed to increase the capacity at the Ivy Hill Substation. In order to do so, respondent was required to apply for a special exception to operate an enlarged facility. Respondent applied for and obtained a special exception. In their petition for certiorari, petitioners did not challenge the granting of the special exception. Accordingly, the granting

³ This is consistent with the Board's initial finding that no variance was necessary. The Board apparently felt it was required to address the variance issue because respondent filed a variance petition. Respondent may have filed the variance request because opponents to the project asserted that a variance was necessary.

of the special exception is no longer at issue.

The new, enlarged substation was planned to extend onto a contiguous parcel from the original site of the existing substation. The original substation was situated on a 0.4 acre parcel. Subsequently, respondents acquired an adjacent 1.5 acre parcel and, during the proceedings at the administrative level, acquired another 0.9 acre adjoining parcel. The record reflects that all three parcels are contiguous with each other. Petitioners assert in their brief that because the parcels never were "legally combined," the Baltimore County ordinance required respondent to obtain a variance to use the three parcels as one parcel. Respondent asserts that it since has caused the three lots to be combined by a resubdivision. Petitioner alleges that this was done improperly. If, in fact, it was done improperly, that is a matter for another day.⁴ We are concerned here only with the applicability of the zoning ordinance's variance provisions and not Baltimore County subdivision regulations.

RESOLUTION

We again note that in this case we are concerned only with the issue of the variance.

⁴ We often have held that subdivision is not zoning. In most jurisdictions, including Baltimore County, subdivision regulations are enacted and codified separately. We did state in our recent case of *Wesley Chapel Bluemount Ass'n v. Baltimore County*, 347 Md. 125, 699 A.2d 434 (1997), that planning and subdivision matters were in the nature of zoning for the purposes of the State Open Meetings Act. That opinion was based on our perception that the Legislature intended planning and subdivision processes to be considered as zoning *under that Act*. See generally *id.* Our opinion on that matter in that case was meant to apply only to Open Meetings Act concerns, and was not meant to be of general application changing, as Judge Eldridge discussed in his dissent, the holdings of "numerous opinions of this Court which have drawn a sharp distinction between 'planning' and 'zoning.'" The approval or disapproval of a development plan is simply not a 'zoning matter.'" *Id.* at 151, 699 A.2d at 447. The holding in *Wesley Chapel* is limited to the context of the Open Meetings Act.

The primary concern of the Board, however, was the simultaneously considered special exception request. The grant of that special exception is not before us. The Board originally found that the variance provisions, section 307.1, did not apply to respondent's request. The Board, for reasons we shall discuss, was correct in that finding.⁵ Nonetheless, apparently assuming it was required to address the variance issue because respondent filed a petition requesting a variance, the Board granted the petition. Because no variance was required, we direct the Court of Special Appeals to remand this matter to the circuit court for it to remand to the Board. The Board shall render a finding, consistent with its initial finding, that no variance is required for respondent to utilize the entire parcel for its proposal, so long as setback requirements are met from the exterior property lines of respondent's combined parcel.

DISCUSSION

⁵ The Board discussed the variance request, stating, in relevant part:

[Respondent] finally must meet the tests under Section 307.1 in pursuing variance from lot line setbacks, said lot lines existing between tracts owned by [respondent]. George Gavrelis clearly points out in his testimony that Section 306 of the BCZR speaks to lot area regulations for erecting substations. [Respondent] seeks a variance under 307.1 from BCZR 1A04.3B.3 which requires a 50-foot setback from any lot line other than a street line. *The Board finds as a fact that Section 306 applies in this case and that the application for a variance under 307.1 may be treated as moot.* [Respondent] recognizes that its placement of electric utility structures on the subject site, straddling interior lot lines and certainly within otherwise required setbacks, *may be construed* under 1A04.3B.3 as a principal building, and is therefore requesting such variance. The Board is *compelled* to address the issue of 307.1 pursuant to the Petition. [Emphasis added.]

Zoning ordinances, including Baltimore County's ordinances, **do not create lots.**

Zoning does not create parcels of real property. What zoning ordinances normally do, with respect to residential districts, is establish dimensional minimums, such as minimal lot, parcel or tract size, yard sizes (the distance between buildings and property lines), and the height of structures. In addition, such ordinances specify the number of residential units that may be placed upon the area of a tract or parcel (density), ancillary requirements such as parking minimums, bathroom minimums, and square footage minimums of buildings. Additionally, zoning ordinances can, to some extent, regulate uses of property, as distinct from dimensional requirements.⁶

Baltimore County's ordinance, like most zoning ordinances, does not define lots to include only lots delineated on plats in approved subdivisions. Section 101 defines "corner

⁶ When variance issues are involved, some cases regarding setbacks or height restrictions refer to them as "dimensional" variances, *see Bressman v. Gash*, 131 N.J. 517, 523-26, 621 A.2d 476, 479-81 (1993), and some as "deviational" variances. *See Sako v. Delsesto*, 688 A.2d 1296, 1298 (R.I. 1997). In Maryland, they are commonly referred to as "yard" variances, distinguishing them from "use" variances, but on occasion have been referred to as "dimensional" variances. *See Easter v. Mayor of Baltimore*, 195 Md. 395, 401, 73 A.2d 491, 493 (1950) ("Use variances are doubtless more serious than dimensional changes, but that is only a matter of degree."). The proof required, however, assuming the uniqueness of a subject property, can be much greater with respect to use variances when the terms "practical difficulties" and "unwarranted [undue, unusual or unreasonable] hardship" are framed in the disjunctive, "practical difficulties *or* unwarranted hardship." We noted in *Zengerle v. Board of County Commissioners*, 262 Md. 1, 21, 276 A.2d 646, 656 (1971): "a use variance is customarily concerned with unusual [unwarranted] hardship where the land cannot yield a reasonable return without a variance whereas an area variance is primarily concerned with practical difficulties." Although the phrase "reasonable return" has all but disappeared from the vocabulary of zoning, except to the extent the term "reasonable investment backed expectations," has crept into "takings" jurisprudence, *see Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978) and its progeny, the distinction between yard and use variances consistently has been applied through the selective application of the practical difficulty/unwarranted hardship terminology.

lot,” “lot depth,” “through lot” and then defines “interior lot” simply as “[a] lot other than a corner or through lot.” It generically defines “lot of record,” as “[a] *parcel of land* with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof.” *Id.* (emphasis added). The term “lots” as used in ordinances generally means parcels or tracts of land. In other words, when setbacks in respective districts are established, they generally apply to all tracts, parcels or pieces of land within the district, as indicated in the Baltimore County ordinance’s definition of “setback.” *See id.*

Generally, and in Baltimore County, the title or purpose clauses of zoning ordinances express concern with undersized parcels or lots, not with parcels that exceed the minimum dimensional requirements of the ordinances. The ordinance at issue here, in section 1A04.1(A)(1), which deals with Resource Conservation Zones (in the case *sub judice*, an “R.C.5 ” (Rural-Residential Zone)), states in its “legislative findings” clause:

It is found that:

....

c. In some cases *lot sizes are inadequate* to assure long-term adequacy of on-lot sewer and water systems;

d. That unless measures are implemented to assure more rational growth patterns, *including adequate lot size*, undue financial hardships will be placed on Baltimore County and the life, safety and general welfare of the citizens of the county will be adversely affected. [Emphasis added.]

The “purpose” clause provides, in relevant part:

B. Purpose. The R.C.5 zoning classification is established, pursuant to the legislative findings above, in order to:

.....

4. *Provide a minimum lot size* which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.^[7]

Id. (emphasis added).

Efforts throughout the country, including Baltimore County, have been to restrict undersize parcels, not oversized parcels. These efforts have resulted in the creation and evolution in zoning of the doctrine of merger, which, in zoning cases, generally prohibits the use of individual substandard parcels if contiguous parcels have been, at any relevant time, in the same ownership and at the time of that ownership, the combined parcel was not substandard.⁸ In other words, if several contiguous parcels, each of which do not comply with present zoning, are in single ownership and, as combined, the single parcel is usable without violating zoning provisions, one of the separate, nonconforming parcels may not then *or thereafter* be considered nonconforming, nor may a variance be granted for that separate parcel. Some cases discuss automatic merger, but most require that the intent of the owner to merge the parcels be expressed, though little evidence of that intent is required. As far as we can discern, the zoning doctrine of lot merger has never been applied in any

⁷ We will address the combining of three smaller parcels into one larger parcel by respondent, *infra*. That the purpose of this section is to require adequately sized lots or parcels of land will prove especially relevant in that context.

⁸ We are unaware of any Maryland cases adopting the zoning doctrine of merger.

jurisdiction to limit the creation of parcels that exceed minimum dimensional requirements; merger has been applied only to prohibit the later creation of undersized parcels. This, perhaps, is due to the general lack of objection to large parcels.⁹ A discussion, however, of how the doctrine of merger applies conversely to the present case may help emphasize that, in the context described above, merger occurs without the need for official subdivision or conveyancing. It is accepted automatically in some jurisdictions or, most often, with minimum proof of the owner's intent in other jurisdictions and always without the necessity of official action. We see no reason why a doctrine that seeks to prevent the proliferation or use of nonconforming, undersized lots by holding that they have been combined or merged into a larger parcel should not, as far as zoning is concerned, be applied properly to permit the creation, through the combining by use of a larger parcel from already conforming smaller parcels, without the necessity of official action or conveyancing.

One of the seminal cases discussing the doctrine of merger with respect to zoning is the New Jersey case of *Loechner v. Campoli*, 49 N.J. 504, 231 A.2d 553 (1967). In 1936, Mrs. Loechner and her late husband acquired lots numbered 186 through 188 on a surveyor's map or plat. Each lot was twenty-five feet wide by one hundred feet in depth. Prior to 1952, the Loechners erected a single house on the three lots. In 1952, Rudolph Loechner acquired two adjoining lots, numbered 189 and 190. These new lots remained

⁹ There are social concerns that raising minimum parcel or lot size or raising minimum square footage requirements can result in exclusionary zoning that may, in some circumstances, be invalid. Exclusionary zoning issues have not been raised in the case at bar.

vacant. When Rudolph Loechner died, he devised lots 189 and 190 to his wife. Accordingly, upon his death, his wife owned all five lots, 186 through 190, and the house that had been erected on lots 186, 187, and 188.

Mrs. Loechner subsequently contracted to sell lots 189 and 190 to Anthony Villani. Villani applied for a variance to build on his two lots, neglecting to mention that he had purchased the lots from an owner who had owned all five lots at one time. Although he obtained a variance, he was denied a building permit on grounds that subdivision approval was required because the five lots, when in common ownership, had merged into one parcel and the subsequent off-conveyance of the two lots to Villani was, in fact, a resubdivision of more parcels from a lesser number of parcels (one tract composed of the five lots). Mrs. Loechner took the position that resubdivision was unnecessary because all five lots were shown on the map or plat when she and her husband acquired the lots.

The Supreme Court of New Jersey noted that “[t]he acquisition of title by plaintiff to Lots 189 and 190 which were contiguous to Lots 186-188 created one parcel or tract of land consisting of five separate lots.” *Id.* at 508, 231 A.2d at 555. Explaining that a state statute defined subdivision as “division of a lot, tract, or parcel of land into two or more lots,” *id.* at 509, 231 A.2d at 555, the court discussed the meaning of the word “lot” in that context, noting that it retained its traditional meaning as a parcel or tract of land:

The word “lot” as used in the Subdivision Act must be read in context with the words “tract or parcel of land” in order to ascertain its meaning. Consistent with recognized principles of statutory construction “lot” takes its meaning from the other two words with which it is associated. *Martell v.*

Lane, 22 N.J. 110, 123 A.2d 541 (1956); *Salz v. State House Commission*, 18 N.J. 106, 112 A.2d 716 (1955); *State v. Murzda*, 116 N.J.L. 219, 183 A. 305 (E. & A. 1936); 2 *Sutherland, Statutory Construction* § 4908 (3d ed. 1443). Thus considered “lot” is synonymous with “tract or parcel.” The phrase “lot, tract or parcel of land” has traditionally been used to connote any portion or piece of realty. N.J.S.A. 40:55— 1.2 contemplates supervision of the division of a large tract or parcel of land into two or more smaller tracts or parcels. The Subdivision Act is not concerned with the manner in which land is described for conveyancing purposes but rather with what use is made thereof.

Id. at 510-11, 231 A.2d at 556-57.

Much the same can be said for zoning. Zoning is concerned with dimensions and uses of land or structures, not with any particular description “lot,” “parcel,” or “tract” applicable to or necessary for conveyancing. Conveyancing is a separate area of law involving the transfer of property between buyers and sellers that generally is not directly connected with government regulations and restrictions on the use of property through the zoning power. In zoning, the term lot normally is generic and used interchangeably to describe parcels, tracts, pieces or sections of land.¹⁰

After *Loechner*, the doctrine of merger continued to evolve. It was described more concisely in *Somel v. Board of Adjustment*, 277 N.J. Super. 220, 228, 649 A.2d 422, 426 (1994): “[S]eparate *undersized* but contiguous lots fronting on the same street in single

¹⁰ In an earlier case, *Hutzler v. Mayor of Baltimore*, 207 Md. 424, 429, 114 A.2d 608, 611 (1955), which involved a parcel of land 200 feet by 380 feet, we noted that the statute at issue defined a “lot as ‘... a parcel of land now or hereafter laid out and occupied by one building and the accessory buildings or uses customarily or necessarily incident to it, including such open spaces as are required by this ordinance.’” (Omission in original.) In *Hertelendy v. Montgomery County Bd. of Appeals*, 245 Md. 554, 568-69, 226 A.2d 672, 681 (1967), we noted, without comment, that an ordinance’s variance provisions addressed “parcels of property” and then, without making any distinction, described the parcel of property as “Lot 23-B.”

ownership ordinarily merge into one lot and conveyance of a portion will require subdivision and variance approval.” (Emphasis added.) As is evident, the doctrine is designed to limit the creation of undersized parcels by *presuming* that merger can occur when contiguous lots exist in common ownership. As we have indicated, some jurisdictions presume merger automatically; in most jurisdictions, however, there must be some evidence of the owner’s intent to merge. In the present case, respondent asserts a right to combine the contiguous parcels and to use them as a single parcel. Therefore, to the extent the doctrine is held to apply in this State under these converse circumstances, the existence of merger is admitted in the case *sub judice*.

In *Iannucci v. Zoning Board of Appeals*, 25 Conn. App. 85, 592 A.2d 970 (1991), the applicant submitted a variance application to reposition a house entirely on one lot. At the time of the application, the house was built on two lots, with the attached porch on one lot and the main body of the house on the other. The purpose of the variance was to allow the property owner to build a new house on the vacated lot. The zoning body denied the variance, finding that “‘when a portion of the dwelling on lot two was constructed over the property line, lots one and two were effectively combined.’” *Id.* at 87, 592 A.2d at 971. The Connecticut Appellate Court held:

Contiguous land owned by the same person does not necessarily constitute a single lot. A merger can occur, however, if the owner of contiguous parcels of land intends to form one tract. The owner’s intent “may be inferred from his conduct with respect to the land and the use which he makes of it.” Intent is an inference of fact and “is not reviewable unless it was one which the trier could not reasonably make.”

... [B]oth lots were purchased by the plaintiff's parents. A portion of the dwelling was later constructed over the property line It was reasonable for the [administrative agency] to infer that the actions of the plaintiff's parents effectively merged the lots. Once these lots were merged, they could not thereafter be redivided into two separate lots [without complying with the subdivision process].

The plaintiff's assertion that the lots remain separate because they appear separately on the original subdivision plan is not persuasive. A reference to multiple lots "from a map filed in the land records does not compel a finding of an absence of merger. . . . Such a conclusion conflicts with the basic proposition that in a determination of the factual issue of merger, the intent of the property owners must be ascertained and that no single factor is dispositive."

Id. at 89-90, 592 A.2d at 972-73 (citations omitted) (some quotations marks omitted). In *Appeal of Gregor*, 156 Pa. Commw. 418, 423-24, 627 A.2d 308, 310-11 (1993), the Pennsylvania Commonwealth Court said:

Under the doctrine of merger of estate[s] in land, a lesser estate is merged into a greater estate whenever both estates meet in the same person. This doctrine has no application, however, to zoning law and the construction of a zoning ordinance where, as here, the term "merger" is used to describe the effect of a zoning ordinance on lots held in common ownership and is related to the issue of the physical merger of adjoining lots. . . .

... The burden is placed upon the party who asserts a physical merger to establish the landowner's intent to integrate the adjoining lots into one large parcel. [Citations omitted.]

See also Skelley v. Zoning Bd. of Review, 569 A.2d 1054, 1056 (R.I. 1990) ("The concept of merger of contiguous nonconforming lots in common ownership as an appropriate method to combine nonconforming lots is gaining increased recognition.").

We shall hold that a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so. One way he or she may do so is to integrate or utilize the contiguous lots in the service of a single structure or project, as respondent proposes in the instant case.¹¹ Although this is not the general application of the doctrine of merger as it relates to zoning, we perceive no rational objection to applying the same principles to the circumstances of this case, resulting in a larger parcel. For title purposes, the platted lot lines may remain, but by operation of law a single parcel emerges for zoning purposes. At least three of our sister jurisdictions appear to have moved in the same direction. For example, the New Jersey Superior Court in *Bridge v. Neptune Township Zoning Board*, 233 N.J. Super. 587, 592-93, 595, 559 A.2d 855, 858, 859 (1989), discussed merger where a house had been constructed so it extended across the property lines of two parcels in common ownership:

The pivotal question is whether lot 686 retained its identity as a separate and distinct parcel for land use regulation purposes. Integral to that issue is the distinction, for land subdivision regulation purposes, between (1) the assembling in common ownership of two contiguous non-conforming lots both of which front on existing streets where the owner constructs a single-family residential dwelling so as to cover all or part of both lots, and (2) such similarly assembled lots where one or both of the lots remains entirely vacant. In the latter instance, the lots *may* retain their identity, but in the former instance, the lots lose their identity and merge into a single parcel.

¹¹ An owner of contiguous parcels who erects a structure in what would ordinarily be a setback of one of the individual parcels might, under this doctrine, although we do not now decide it, also cause a combination of lots thus restricting the future alienability of the unbuilt upon parcel because the conveyance of that parcel would cause the property upon which the structure is built to be in violation of the ordinance. Such an owner would also risk being forced to bring that parcel into conformity by removing the structure from the setback.

....

When a person acquires ownership of contiguous non-conforming lots that are delineated as separate tracts on any map, and then builds a single-family structure so that it overlaps both lots, the lots merge into a single tract and are subject to the [Municipal Land Use Law] and its restrictions for future subdivision purposes as long as the structure remains on any part of both lots. Lot 686 cannot recover its separate identity so long as a portion of the house remains where it is. . . .

In *Molic v. Zoning Board of Appeals*, 18 Conn. App. 159, 163-65, 556 A.2d 1049, 1051-52 (1989), which did not involve the zoning doctrine of merger, the court, upholding an agency's finding that no merger had occurred where a swimming pool had been constructed across two parcels of land, nonetheless stated:

The plaintiffs claimed that all of the property . . . had been merged by use and intent into one parcel, and that the 1984 map that showed three lots was an unapproved subdivision. . . .

An owner of contiguous parcels of land *may merge those parcels to form one tract if he desires to do so*. An intent on the part of the owner to do so may be inferred from his conduct with respect to the land and the use which he makes of it. . . . Intent is a question of fact.

The plaintiffs have cited no authority . . . for the proposition that an owner *must* be deemed to have merged contiguous lots. The one exception we have found . . . is that . . . some zoning regulations . . . may require, either expressly or implicitly, that under certain conditions a nonconforming lot merges with contiguous land owned by the same owner [the zoning concept of the doctrine of merger]. This is an understandable requirement because it furthers the general zoning purpose of eliminating nonconforming lots. . . .

....

... Contiguous land all owned by the same person does not *necessarily* constitute a single lot. [Emphasis added.] [Citations omitted.] [Footnote omitted.]

Although *Molic* describes the general merger of parcels as being fact-based by not recognizing automatic merger, it appears to accept that the owner may combine contiguous tracts if he or she intends to do so.

The Pennsylvania Commonwealth Court, although addressing the doctrine of merger in a case involving zoning nonconformity, stated, without objection to the construction of structures across parcel boundaries, that:

This is not to say, however, that once two adjoining lots are shown to be in "single and separate ownership" at the time of the relevant zoning ordinance, these lots must *always* be developed as two separate parcels. For example, a landowner who has acquired two adjoining lots after the passage of a zoning ordinance which rendered one or both of the lots undersized may *use* both lots in such a manner so as to integrate both lots into one large tract (explicitly demonstrated by building a house which straddles the common border).

Township of Middletown v. Middletown Township Zoning Hearing Bd., 120 Pa. Commw. 238, 245, 548 A.2d 1297, 1300 (1988).

We are especially cognizant that in those jurisdictions that have expressly or impliedly recognized the doctrine of merger in zoning cases, none has required a formal re-subdivision as an element of merger. In fact, they generally reject both attempts to resubdivide into substandard parcels after a merger into a larger parcel has occurred and attempts to obtain variances from the nonconformity of the original parcels after a merger has created a larger conforming parcel. In those cases in which the erection of structures across borders have raised merger issues, none of the cases we have examined ever question

the right of property owners of multiple contiguous parcels to treat them as one parcel. These courts generally assume that it is permissible and not in violation of zoning principles. Moreover, the construction of structures extending over more than one parcel or lot would not, in our view, affect the boundary lines (or lot lines) of the two parcels. They remain in place until a deed of conveyance or a new subdivision (generally defined as the creation of more parcels from fewer parcels) is created.¹² Perhaps even more important is the implication of the definition of "setback" contained in Baltimore County Zoning Regulations, section 101:

¹² The Baltimore County Zoning Regulations in its general definitions section defines subdivision as:

The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land *for the purpose, whether immediate or future, of building development for rental or sale*, and including all changes in street or lot [parcel, tract] lines; provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes. [Emphasis added.]

The Baltimore County *Planning, Zoning and Subdivision Control* statute, in Article I, Section 26-1 defines subdivision as:

Subdivision means the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development Subdivision also includes resubdivision and, where appropriate to the context, relates to the process and subdividing or to the lands or territory divided.

Clearly, respondent was combining, not dividing, parcels and not combining them for purposes of rental or sale. It was not creating more parcels from less parcels, at least until pressured to seek subdivision, an issue not before us, or was it seeking to make any "dimensional" changes, or to change parcel or "lot" lines. Nor has it changed the boundaries of its total parcel. As we have said, unless otherwise indicated, "lot" as used in zoning or subdivision definition is the equivalent of "parcel" or "tract."

The required minimum horizontal distance between the building line (as defined in Section 101) and the related front, side or rear *property line*. [Emphasis added.]

Building line is defined as “[t]he line established by law beyond which a building shall not extend.” *Id.* When the ordinance refers to “lot” lines with respect to setbacks, it refers to lot lines generically, *i.e.*, property lines. The ordinance’s setback provisions are met when the various “yard” requirements exist between buildings and property lines.

There is no claim that any structures in the case at bar extend, or will extend, into any required “yards” or setbacks from the exterior property lines of the entire parcel now owned by respondent. It thus does not need a variance. As a result, we remand to the Court of Special Appeals and order it to remand this case to the trial court so it may return this matter to the Baltimore County Board of Appeals with instructions to render a finding, consistent with its initial finding, that no setback variance from “interior lot lines” is required in the case *sub judice*. The appropriate method created by Baltimore County to address the enlargement of this substation was by way of the special exception provisions. As we have noted, the grant of the special exception was not presented as a question in the certiorari petition.

Respondent, insofar as the variance issues raised in this appeal are concerned, is entitled by right to construct the enlargement of the Ivy Hill Substation on its entire parcel without regard to the original “lot lines” that initially separated the three individual parcels, which now make up the larger combined parcel.

JUDGMENT OF THE COURT OF SPECIAL APPEALS AFFIRMED IN PART AND VACATED IN PART; THAT PORTION OF THE COURT OF SPECIAL APPEALS' JUDGMENT RELATING TO THE VARIANCE IS VACATED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO VACATE THAT PORTION OF THE JUDGMENT OF THE CIRCUIT COURT RELATING TO THE VARIANCE AND REMAND THE CASE TO THE CIRCUIT COURT WITH INSTRUCTIONS TO REMAND THE CASE TO THE BOARD OF APPEALS FOR A DECISION CONSISTENT WITH THIS OPINION; COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY PETITIONERS.

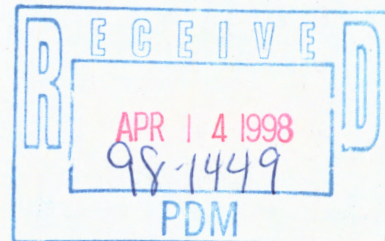
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A. JABLON

94-452-SPH /BGE
CSA AFFIRMS CCE who
affirmed CBA decision
4/1/98 (Harrell, Bloom
and Alpert, JJ.)

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Topic: #239, 1998 Cases
Subject: case309/97T



REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 309

September Term, 1997

FRIENDS OF THE RIDGE, et al.

v.

BALTIMORE GAS AND ELECTRIC COMPANY

Harrell,
Bloom, Theodore G. (retired,
specially assigned),
Alpert, Paul E. (retired,
specially assigned),

JJ.

Opinion by Harrell, J.

"Power to the People"

Baltimore Gas And Electric Company (BGE), appellee and cross-appellant, seeking to replace and expand an existing electrical transformer substation (the Ivy Hill substation) located on the south side of Ridge Road, at its intersection with Gent Road, in northern Baltimore County, filed with the Zoning Commissioner of Baltimore County (Zoning Commissioner) a petition for special exception, joined with a petition for a variance of internal lot line setback requirements, to accomplish that objective. After public hearings, the Zoning Commissioner, and thereafter the Baltimore County Board of Appeals (Board), granted BGE's petitions for both the special exception and variance over the vigorous opposition of appellants and cross-appellees, and other neighbors or organizations of neighbors in the vicinity of the BGE property (we will most often hereafter refer to appellants/cross-appellees as "the neighbors").

Appellants/cross-appellees appealed the grant of the petitions to the Circuit Court for Baltimore County. In the preliminary skirmishing, BGE moved to dismiss the appeal as to the variance, contending the neighbors lacked standing. The circuit court (Daniels, J.) ultimately denied the motion to dismiss and affirmed the Board's grant of both the special exception and the variance.

Appellants filed a timely appeal to this Court regarding the circuit court's affirmance of the Board's decision. BGE cross-appealed the circuit court's denial of its motion to dismiss the neighbors' appeal as to the variance.

ISSUES

Because its resolution may affect the contours of our discussion of the neighbors' issues, we shall first consider BGE's cross-appeal contention, which is, as slightly rephrased by us:

I. As appellants/cross-appellees were not aggrieved parties as to the variance request, the circuit court erred in not dismissing their appeal of its approval for lack of standing.

Depending on our disposition of the foregoing proposition, we may proceed to consider the following appellate questions propounded by the neighbors, which we also have slightly rephrased as:

II. Did the Board err, as a matter of law under the Baltimore County Zoning Regulations (BCZR), in concluding that BGE's proposed replacement and enlargement of the Ivy Hill substation, at least as it implicated that part of the BGE property described as Tract "A," did not also require an amendment to the Final Development Plan for the Fox Ridge Estates community?

III. Did the Board err, as a matter of law, in granting the variance?

IV. Did the Board err, as a matter of law

under the BCZR, in finding that there was a need for the augmented electric substation?

V. Did the circuit court err in denying appellants' Motion to Alter or Amend Judgment which was based upon new evidence as to the alleged deleterious effect on the neighbors' property values due to BGE's land use proposal?

THE FACTS

In March 1956, the Zoning Commissioner approved BGE's petition for a special exception to erect and operate a 16.6 megawatt, single transformer electrical substation occupying approximately 1200 square feet of the surface of a trapezoid-shaped, 0.40 acre parcel (Tract C) owned by BGE, abutting the south side of Ridge Road, opposite its intersection with Gent Road, and approximately 625 feet west of Falls Road, in Baltimore County. Upon its construction and placement into service later in 1956, this transformer was known as the Ivy Hill substation. The initial service area of the Ivy Hill substation was established as an 18 square mile portion of northern Baltimore County roughly bounded by Butler Road on the north, Sagamore Forest Road on the west, Broadway Road and Caves Road on the south, and Oregon Ridge Park on the east.

Anticipating that the 16.6 megawatt facility some day would become obsolete due to, among other reasons, increased demand for electricity, BGE appears to have begun laying the foundation for an expansion of the Ivy Hill substation no later than 1988 when it contracted to acquire a 1.5 acre parcel (Tract A) abutting Tract C on its eastern and southern boundaries. BGE acquired Tract C in 1989 from Mr. George V. Palmer, the principal owner-developer of the abutting property, who, in 1988, had obtained approval of a Final Development Plan for the entirety of his property, referred to then as the Forwood Property (later to be known as the Fox Ridge Estates development). On the approved 1988 Final Development Plan (the Plan), the heavily-wooded Tract A, unlike the other proposed parcels shown on the Plan, was not assigned any specific development proposal or information; instead, arrows drew attention to the fact that Tract A was labeled as to be "conveyed to adjoining property owner BGE Co." The Plan also indicated that BGE owned the abutting Tract C. The Plan depicted the remaining property as lots for 24 single-family-detached, residential dwellings, and showed such development information for each proposed lot as house location, building envelope, septic field location, and subdivision street pattern. Thus, at the time of conveyance of Tract A to BGE in 1989, the 16.6 megawatt Ivy Hill substation on Tract C was in existence and operating, but none of the proposed residential building lots on the Forwood/Fox Ridge Estates property had been developed or sold to anyone, let alone appellants/cross-appellees here.

Rounding out its land assemblage for the planned expansion of the Ivy Hill substation, BGE contracted in 1994, prior to filing the instant petitions, with a Mr. & Mrs. Vinup to acquire their 0.922 acre tract abutting Tract C on the west. The Vinups' property, referred to as Tract B, was improved at the time by a residence and a swimming pool, both of which BGE planned to raze in order to make the property suitable for the planned substation expansion.

Over the period from 1989 until BGE contracted with the Vinups in 1994, and while BGE apparently was engaged in its internal planning efforts with regard to the Ivy Hill substation, the

Forwood Property/Fox Ridge Estates lots were developed, and homes were built on them and sold by Mr. Palmer's successor, JCS Corporation. The owners of those homes, together with a few other neighbors in the surrounding area, understandably became the moving forces opposing BGE's expansion plans. The neighbors residing in Fox Ridge Estates claimed that, at the time they purchased their homes, they had no idea that BGE might expand the Ivy Hill substation beyond Tract C. This belief was fostered either by representations made to them by the builder/developer (or its representatives) prior to or at the time of their closings or by opinions they formed from their scrutiny of some or all of the available public documents regarding the development planned for the Forwood Property, i.e., approved subdivision plat and/or the Plan. Even those who carefully perused the Plan concluded that Tract A could not be developed without an amendment to the Plan because the Plan did not propose any specific development on Tract A.

On 10 May 1994, BGE filed with the Zoning Commissioner a petition for special exception for "an outdoor electric public utility service center (electric substation) in an R.C.-5 Zone [as allowed by special exception in BCZR 1.A.0.4.2.B.11] and to amend the Fox Ridge Estates (formerly Forwood Property) Final Development Plan if necessary." In addition, BGE concurrently filed a petition for variance requesting permission essentially to ignore the interior lot lines of Tracts A, B, and C for purposes of the otherwise required 50 foot building setback in the R.C.-5 Zone. The subject property of the petitions was essentially the assembled 2.8933 acres of Tracts A, B, and C, although only Tract A was implicated technically in the precautionary request to amend the Plan as to the Forwood Property/Fox Ridge Estates. The petitions were assigned Case No. 94-452-XA.

BGE's proposal involved removing the 16.6 megawatt transformer existing on Tract C and, in two phases, constructing an expanded, 64 megawatt substation. Phase I, a 32 megawatt transformer and supporting equipment, would be constructed as soon as possible. According to BGE's electrical service needs forecasting, the Ivy Hill service area (which would include reabsorbing a portion of the original Ivy Hill service area in its southwest corner that had been transferred temporarily to the Delight substation during a power crisis in the winter of 1994) would need this level of service capability by the year 2001. The forecasts were premised on the following information relevant to the original Ivy Hill service area: (a) current demand from the largely residential existing development (approximately 1750 dwelling units - up from 1000 homes existing in 1985); (b) projected growth of 75 new dwelling units per year, predominantly in the southern part of the service area, based on an analysis of zoning yields and other data obtained from the County government; and (c) an assumed annual electric consumption by 75 dwelling units of .7 megawatt.

BGE projected that Phase II, the addition of a second 32 megawatt transformer and supporting equipment, would be needed to meet service demand and other contingencies beyond the year 2001 because the service area would not have achieved maximum growth by then and because of the general need to be assured of adequate future capacity to be called upon to respond to unforeseen demands and/or a higher degree of efficiency in providing electrical service in the Ivy Hill area. BGE proposed to increase the service area by the addition of a 4 square mile area - Hickory Meadow - bordering on the southeast corner of the original Ivy Hill service area. BGE's projections for the need for and longevity of Phase II's power level, however, were less precise and more open-ended than those for Phase I.

BGE grounded its decision to seek expansion of the existing Ivy Hill substation location, rather than the possible alternatives of establishing a new substation elsewhere or upgrading another existing substation, on the centrality of the Ivy Hill substation with regard to the electrical load concentrations (existing and projected) within the service area. Moreover, existing connective infrastructure (major supply lines) to and from the Ivy Hill substation would reduce the need to acquire additional rights of way or construct additional capital projects.

The siting of the Phase I and II improvements on the 2.8933 acres, explained by BGE in terms of balancing the goal of achieving maximum screening of views from adjacent properties against the necessity of the functional interrelationships and spacing of the equipment, created the need for the setback variance requested. Although the bulk of the physical installations was to be on Tracts B and C, the bulk of a storm water management area (a potential pond) and a relatively small portion of the vertical structures would be located on Tract A. Thus, the straddling of the interior lot lines of Tracts A, B, and C by the proposed facility necessitated the variance request.

The developmental summary of the BGE proposal disclosed that of the 2.8933 acre site, a storm water management facility would occupy one-quarter acre and the electrical substation structures would occupy less than an additional one-half acre. A total of three-quarters of an acre of the 1.5977 acres of existing woods on the total site would be removed to make possible the installation of all of the proposed structures. BGE's plan also contained supplemental plantings designed to screen, to some degree, the substation from exterior views.

On 21 June 1994, the Zoning Commissioner conducted a hearing on BGE's petitions and on 24 June issued an order granting them. The neighbors noted a timely appeal of that order to the Board on 21 July. The Board conducted de novo evidentiary hearings on 4 October 1994 and 10, 12, 17, and 19 January 1995.

At the Board's hearings, BGE explained that the overarching force driving the need to expand the Ivy Hill substation flowed from its legal obligation as a regulated Maryland public utility to supply its customers with adequate electric service including a reasonable reserve for emergencies. BGE's evidentiary presentation included, among other things, expert witnesses regarding electrical substation construction, electrical demand forecasting, the effect of EMF's (electro-magnetic fields), storm water management, tree planting and forest management, land planning and zoning in Baltimore County, and real estate appraising, together with physical evidence consisting of various photographs, plats, and plans.

Before the Board, the neighbors' evidence aimed to demonstrate that (a) the proposed expansion of the Ivy Hill Substation in both number of square feet of surface area to be occupied by the physical installations (from 1200 to 22,000) and in electrical service capacity (by 400% over the existing 16.6 megawatt transformer) exceeded the legitimate existing and future needs of the original service area (without conceding that such increased capacity was needed even with the proposed augmented service area) and was out of character with the surrounding residential community; (b) the proposed expansion would have a deleterious effect on the property values of the surrounding community; (c) BGE's proposal, insofar as it proposed development on Parcel A, failed to follow the procedures prescribed by the BCZR for amending the approved Plan for the Fox Ridge Estates subdivision; and (d) BGE had failed to produce adequate evidence to justify the grant of the variance from the interior lot line setback

requirements. The neighbors themselves provided the bulk of the testimonial and documentary evidence regarding these points, but also marshaled an expert real estate appraiser, Mr. Ernest Kern, who opined generally that the existence of the enlarged substation would diminish the value of the surrounding properties and homes. Moreover, the neighbors produced an expert urban planner, Mr. Norman E. Gerber, a former Director of Planning for the County, who testified in support of their opposition. Mr. Gerber opined: (a) the BCZR provisions for amending the Plan for the Fox Ridge Estates subdivision had not been followed; (b) even if the proper procedures had been followed, the BGE proposal as to Tract A could not be approved under the criteria for a Plan amendment; (c) BGE's overall proposal would be detrimental to the welfare of the neighborhood, overcrowd the surface area of Tracts A, B, and C, and would be inconsistent with the purpose of the R.C.-5 zone as it exists in this community, all contrary to the required findings that must be made, as provided in the BCZR, before a special exception can be approved; and, (d) as to the variance request, in addition to characterizing BGE's proposal as overcrowding its property, there was nothing unique or unusual about the physical characteristics of the BGE parcels when compared to the surrounding residential properties.

The Board issued its written opinion on 31 May 1995, granting both the special exception and the variance. In reaching these decisions, the Board explained, in pertinent part:

Protestants [the neighbors] allege that, due to the ... parcel known as Tract A, the plan which is the subject of this hearing should have gone to the Planning Board for advice on the appropriateness of the instant case in relation to the final development plan [for Forest Ridge Estates]. ...the Board agrees with the Petitioner [BGE] that the subject case is not a deviation from the final development plan, and, in fact, that the transfer of title of Tract A to the Baltimore Gas & Electric Company (hereinafter "BGE") occurred prior to the sale of other lots within the development. Therefore, this case is properly before the Board.

The facts in the case are essentially undisputed... The issues before this Board are whether (a) BGE is able to meet the tests under Section 411 of the Baltimore County Zoning Regulations (hereinafter "BCZR") for public utility uses; (b) whether, due to the nature of the proposed development, the tests pursuant to Section 502.1, Special Exceptions, are met; and (c) whether the Petitioner is due variances from interior lot lines between Tracts A, B and C, pursuant to Section 307, Variances, of the BCZR.

* * * *

The first issue to be decided by this Board, therefore, is the question of need pursuant to Section 411 of the BCZR regarding distribution of electric power. Petitioner brought evidence and testimony by an expert in forecasting electric demand, James F. Ryan. Protestants offered the testimony of Ronald P. Hanley, an employee for a waste collection and

recycling company, and one who had three courses in statistics at Pennsylvania State University, and who prepared various graphs which were introduced into evidence. According to the testimony of Charles S. Taylor, an engineer and expert in the area of electrical system planning, the BGE franchise with the Public Services [sic] Commission in the State of Maryland is required to supply power at all times and satisfy all demands. In short, the obligation of the Petitioner is to serve the demand at peak periods. The Protestants allege that the peak demand experienced on one day in the winter of 1994 was, admittedly by the Petitioner's witness, a one-time occurrence; however, that one-time occurrence established the new demand.

It was well established during the course of evidence and testimony that existing demand, prior to the single-day occurrence in 1994, is not met by the existing substation capacity; therefore, need for enlargement of the substation given current demand is justified. As indicated by Petitioner's experts, future demand is forecasted and is the basis for establishing future demand in designing facilities such as the Ivy Hill Substation. The analysis of the need comparison versus capacity presented by Protestants' witness, Mr. Hanley, points to a future need for increased capacity from this substation. Protestants would have the petitioner increase the capacity of the substation in increments which stay just ahead of demand. The Board notes that such alteration of the substation places unreasonable engineering constraints and unnecessary additional cost to the ultimate development of this site. Such costs would be unnecessarily borne by all electric consumers for the benefit of those in the surrounding community. The Public Services [sic] Commission dictates that BGE must provide sufficient power to exceed demand. Petitioner has obviously met its burden of proof to Section 411 as buttressed by the evidence presented by Protestants in their graphic analysis of need versus capacity.

The Protestants further allege that the Ivy Hill Substation should not be used to supply power to areas outside of their own locale. Again, BGE was able to demonstrate that, because of its requirement to provide power, it was forced into the position of switching power distribution away from the Ivy Hill Substation as a result of the peak demands in 1994, creating a similar condition at the nearby Delight Substation in Owings Mills, an area growing even faster than the area surrounding Ivy Hill.

The Board therefore finds as a fact that not only has need been demonstrated but that in further reviewing the requirements of 502.1

the health, safety and welfare of the general public is suspect when required power is not delivered to the homes served by the substations as mandated.

* * * * *

Regarding [BCZR]502.1G, the Board agrees with the testimony of Mr. [George] Gavrelis [BGE's expert with regard to land planning and zoning] when he states that the R.C. 5 zone permits some public utility uses as a matter of right and others as special exceptions which are presumed to be valid uses. The mere existence of homes in the R.C. 5 zone points to their need for power transmission; therefore, the reasoning follows that facilities to provide the transmission of power as a natural consequence of the existence of those homes dictates that not only are electric substations consistent with the purposes of the property's zoning classification but are a need to be fulfilled, in the allowance of development in the R.C. 5 zone.

Regarding [BCZR] 502.1H, the Board heard testimony from Mr. Gavrelis and Monica McGrady, BGE project engineer and an expert in site planning, that because of the intent to raze the existing structures which include a residence and swimming pool, coupled with the planned siting of equipment within the cleared area and the additional landscaping, the impermeable surface and vegetative retention provisions are met by the subject Petition. Concerning 502.1A, the Board did hear testimony from experts in property values from both the Petitioner and Protestants; the Board recognizes that one of the concerns in regard to property values is the visual impact that an enlarged substation presents. The Board is not compelled by the argument that property values will be negatively impacted; however, the Board recognizes that the residents have come to be familiar and comfortable with what has been termed the pastoral setting of the neighborhood. In recognizing that BGE is meeting the requirements for vegetative retention provisions of the regulations, the Board is compelled to require as part of any improvements pursuant to this Petition to include landscaping which serves to provide a visual buffer between the subject site and surrounding properties, in deference to the adjoining property owners. Therefore, the Board will grant the special exception, subject to restrictions.

The Petitioner finally must meet the tests under [BCZR] Section 307.1 in pursuing variance from lot line setbacks, said lot lines existing between tracts owned by the Petitioner. George Gavrelis clearly points out in his testimony that Section 306 of the

BCZR speaks to lot area regulations for erecting substations. The Petitioner seeks a variance under 307.1 from BCZR 1A04.3B.3 which requires a 50-foot setback from any lot line other than a street line. The Board finds as a fact that Section 306 applies in this case and that the application for a variance under 307.1 may be treated as moot. The Petitioner recognizes that its placement of electric utility structures on the subject site, straddling interior lot lines and certainly within otherwise required setbacks, may be construed under 1A04.3B.3 as a principal building, and is therefore requesting such variance. The Board is compelled to address the issue of 307.1 pursuant to the Petition. As stated by Mr. Gavrelis in his testimony, the Board finds that the application of Section 306 points to the fact that public utilities are unique in their requirements. Therefore, the spirit and intent of the BCZR in height, area, off-street parking and sign regulations are met by the subject Petitioner. Since the Petitioner seeks relief from 1A04.3B.3, the Petitioner must meet the tests in trying to prove that special circumstance or conditions exist that are peculiar to this land or structure that is the subject of the variance request. In *David Cromwell v. Arthur Thomas Ward, III*, [102 Md App. 691 (1995)]... the Court of Special Appeals [of Maryland] states that the conditions which are peculiar to the land or structure must be met before the tests for strict application of the BCZR and any resulting practical difficulty or unreasonable hardship are reviewed. The Board finds as a fact that the existing electrical substation is a substation which is far undersized in capacity for the required demand in the existing locale. An immediate need in increased capacity has been adequately demonstrated to address the issue of an unusual condition which exists with the existing structure. BGE is mandated to increase the capacity of any substation in order to stay ahead of demand. The conditions which exist in the existing substation are unique in that BGE has been unable to even meet existing demand. The Board finds that the existing conditions and insufficient capacity force BGE to increase capacity; furthermore, in order to accommodate existing and increasing demand, in accordance with its requirements under its Public Services franchise, as well as nationally recognized and accepted building codes and standards, a condition exists which requires sufficient area to accommodate the needs of an enlarged substation. The Board therefore finds that the first test under 307.1 has been met. The land on which the substation will sit is divided by interior lot lines.

The second test under 307.1, assuming the

first has been met, is that strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. In order to require BGE to comply strictly with the setback requirements, the Board would be asking BGE to deviate from the aforementioned nationally recognized building and electrical codes, as well as sound engineering practices, on consolidating all substation equipment to the extent possible under this Petition. That deviation creates a practical difficulty in causing BGE to design a facility which would not conform to those standards. Furthermore, the Board finds as a fact that BGE's proposal, in consolidating the substation equipment to a central location within the three tracts, provides for the maximum setback from adjoining property owners, allowing for the greatest opportunity from visual and other alleged impacts. Because the Board finds that strict compliance would result in practical difficulty, the Board is not required to address the issue of unreasonable hardship.

The neighbors, on 16 June 1995, sought judicial review in the Circuit Court for Baltimore County of the Board's action. When they realized that BGE had initiated the local permitting process, intending to commence construction in reliance on the recently granted special exception and variance, the neighbors sought and obtained from the circuit court (DeWaters, J.) on 30 June 1995 a stay of the Board's decision. This stay stymied BGE's ability to proceed through the permitting process until the merits of the judicial review petition could be heard and decided.

On 28 July 1995, BGE filed a motion to dismiss the neighbors' appeal of the variance approval. BGE premised its theory of the neighbors' lack of standing to challenge the interior lot line setback variance on the neighbors' alleged lack of demonstrable and special aggrievement, inasmuch as the BGE proposal would meet or exceed the setback requirement from any of the neighbors' properties vis ... vis the external lot lines of the assembled BGE parcels. Consequently, BGE reasoned, no neighbor had demonstrated that a particularized adverse effect would result if BGE were allowed to ignore the internal lot lines for purposes of clustering the substation equipment in the center of its assembled parcels. Rather, BGE asserted that the clustering design enabled it to better meet or exceed the setbacks and landscape screening of the installation from the neighbors properties.

After considering the parties' memoranda of law, the court filed on 30 December 1996 its well reasoned and written 24 December 1996 opinion and order denying the neighbors' petition for judicial review and effectively affirmed the Board's decision.

Prior to noting their appeal to us on 6 January 1997, the neighbors sought from the circuit court a further stay of BGE's ability to complete the local permitting process based on the approved (and now affirmed) special exception and variance. That request was denied by written order dated 31 January 1997.

At the same time they filed their motion for further stay, the neighbors also filed a Rule 2-534 motion to alter or amend judgment. The motion requested that the court allow them to offer additional evidence, which purportedly they did not become aware of until after oral argument on the merits in the circuit court but before the court's 24 December 1996 opinion and order; the evidence

concerned revised real property tax valuations made by the Maryland Department of Assessments & Taxation the properties owned by the Hanleys, the O'Haras, the Follos, the Rytters, the Browns, and the Howses. The revised valuations reflected for the levy year 1996-97 reduced "full cash value" from those proposed in December 1995 assessments. The written notices of the revised, reduced values were dated 23 August 1996 and the affected neighbors acknowledged that they received the notices shortly thereafter (except in the case of the O'Haras, whose notice was dated 27 September 1996 and received the same date). On the face of the notices, each adjustment in full cash value was explained as "for proximity to Baltimore Gas and Electric substation and economic obsolescence." Further, this explanation was reached apparently after a State assessor had visited the neighborhood on 20 May 1996. The circuit court denied the motion to alter or amend by written order dated 3 February 1997.

In addition to the neighbors' appeal, BGE cross-appealed the circuit court's denial of its motion to dismiss the neighbors' petition for judicial review as to the variance.

Standard of Review

As Judge Eyler recently stated for us:

[T]here are two general standards of review of a decision of a zoning board:

In regard to findings of fact, the trial court cannot substitute its judgment for that of the agency and must accept the agency's conclusions if they are based on substantial evidence and if reasoning minds could reach the same conclusion based on the record; when reviewing findings of law, however, no such deference is given the agency's conclusion.

(quoting *Columbia Road Citizens' Assoc. v. Montgomery County*, 98 Md. App. 695 (1994)). See also *Liberty Nursing v. Department*, 330 Md. 433, 442-43 (1993) (discussing administrative review generally); *Caucus v. Maryland Securities*, 320 Md. 313, 323-24 (1990) (same).

People's Counsel v. Prosser Co., 119 Md. App. 150, 704 A.2d 483, 492 (1998) (citing *Colao v. Prince George's County*, 109 Md. App. 431, 458, aff'd, 346 Md. 342 (1997)). On this score, only a little more need be said.

With regard to Charter counties particularly, such as Baltimore County, Md. Code, art. 25A, 5(U) (1996 Repl. Vol., 1997 Supp.), courts may reverse or modify decisions of the Board "if...not in accordance with law." See Baltimore County Code, Charter 604.

The substantial evidence standard applicable to the Board's findings of fact and resolution of mixed questions of law and fact, sometimes referred to as the "fairly debatable" test, is implicated by our assessment of whether the record before the Board contained at least "a little more than a scintilla of evidence" to support the Board's scrutinized action. See *Anne Arundel County v. A-PAC, Ltd.*, 67 Md. App. 122, 126 (1986) (quoting *Floyd v. County Council*, 55 Md. App. 246, 258 (1983)). If such substantial evidence exists, even if we would not have reached the same conclusions as the Board

based on all of the evidence, we must affirm. Stated another way, substantial evidence pushes the Board's decision into the unassailable realm of a judgment call, one for which we may not substitute our own exercise of discretion. Of course, on pure questions of law, we extend no deference to the Board (or the circuit court for that matter) beyond the weight merited by the persuasive force of the reasoning employed.

I.

BGE asserts initially that the record fails to demonstrate that the neighbors possess the necessary aggrievement to establish standing to obtain judicial review of the Board's grant of the variance. In support of this contention, BGE essentially maintains that, because the variance pertains to lot line setback requirements internal to its assembled lots and BGE's development proposal for those lots otherwise meets the external lot line setback requirements relative to the neighbors' properties, the neighbors did not, indeed cannot, demonstrate the special damage or adverse effect necessary to support aggrievement. BGE's dexterous argument will not prevail.

The recent opinion of the Court of Appeals in *Sugarloaf v. Dept. of the Environment*, 344 Md. 271 (1996), although involving questions of judicial review of a decision by a State administrative agency, is very instructive regarding BGE's standing challenge here. In its discussion of the common law definition of "aggrieved" as applicable to judicial review of the actions of administrative bodies generally, inclusive of the Board's in the instant case, the Court observed that

in order to be "aggrieved" for purposes of judicial review, a person ordinarily must have an interest "such that he is personally and specifically affected in a way different from ... the public generally." See *Maryland-Nat'l v. Smith*, supra, 333 Md. at 11, 633 A.2d at 859; *Abramson v. Montgomery County*, 328 Md. 721, 733, 616 A.2d 894, 900 (1992); *DeBay v. Crane*, 240 Md. 180, 185, 213 A.2d 894, 900 (1992); *DeBay v. Crane*, 240 Md. 180, 185, 213 A.2d 487, 489-490 (1965) ("the [administrative] decision must not only affect a matter in which the protestant has a specific interest or property right but his interest therein must be such that he is personally and specially affected in a way different from ... the public generally").

Sugarloaf, 344 Md. at 288 (some internal citations omitted). With respect to the question of judicial standing in an administrative law context, the Court cautioned:

In cases involving challenges to administrative land use decisions, there is a distinction between standing in court to obtain review of the governmental action and the merits of the challenger's position. Thus, in *Bryniarski v. Montgomery Co.*, 247 Md. at 145-146, 230 A.2d at 295, involving the administrative grant of a special exception permitting the construction and operation of an apartment hotel, this Court stated:

"The status of a person to [obtain judicial review] as a 'person aggrieved' is to be distinguished from the result on the merits of the case itself If, on the merits,

the board acted properly in approving the application, the protesting property owner is not damaged in law, however much he may be damaged in fact. His damage is then *damnum absque injuria*. Because the result on the merits might be adverse, however, does not mean the protestant would not have status to challenge the board's action."

Id. at 294-95 (some internal citations omitted) (emphasis in original).

Courts consider challenges to a litigant's standing on a case-by-case basis. Guidance for these *ad hoc* determinations in land use cases also is available in *Sugarloaf*.

In actions for judicial review of administrative land use decisions, "[a]n adjoining, confronting or nearby property owner is deemed, *prima facie*, ... a person aggrieved. The person challenging the fact of aggrievement has the burden of denying such damage in his answer to the petition for [judicial review] and of coming forward with evidence to establish that the petitioner is not, in fact, aggrieved." *Bryniarski v. Montgomery Co.*, *supra*, 247 Md. at 1145, 230 A.2d at 294. See, e.g., *Md.-Nat'l Cap. P. & P. v. Rockville*, 269 Md. 240, 248, 305 A.2d 122, 127 (1973) (indicating that one who "owns any property located within sight or sound of the subject property" is aggrieved); *Wier v. Witney Land Co.*, 257 Md. 600, 612-613, 263 A.2d 833, 839 (1970) ("At least three of the protestants ... are in sight distance of the property forming the subject of the petition These protestants were ... nearby property owners and are deemed, *prima facie*, to be specially damaged and, consequently, persons aggrieved"); *Chatham Corp. v. Beltram*, 252 Md. 578, 251 A.2d 1, 4 (1969) ("In light of the testimony of Mr. Beltram and Mrs. Hahn with reference to the proximity of their homes within the same subdivision to the reclassified area ... there was no error in the ruling that [they] had standing to sue"); *Aubinoe v. Lewis*, 250 Md. 645, 650-652, 244 A.2d 879, 882-883 (1968); *The Chatham Corp. v. Beltram*, *supra*, 243 Md. at 148, 220 A.2d at 595 ("Since Beltram's evidence was that he owned property, in which he lived, in close proximity to the reclassified land ..., there was no error in ruling that Beltram had standing to sue"); *Toomey v. Gomeringer*, 235 Md. 456, 460, 201 A.2d 842, 844 (1964) (although "the protestants' properties were more than two city blocks away from the property for which rezoning was sought," they were accorded standing); *Bd. of Zoning Appeals v. Bailey*, 216 Md. 536, 539, 141 A.2d 502, 503 (1958) (standing accorded to zoning reclassification protestants who lived "three-fourths of a mile by road and between one-third and one-half a mile as the crow flies" from the subject property).

Id. at 297-98 (Emphasis in original.)

Considering the case at hand, we observe initially that BGE offered no additional evidence to the circuit court, bearing on the issue of the neighbors' standing, than was otherwise part of the record before the Board. As we noted supra at n.4, virtually all of the neighbors own and reside on property situated to the south and east of the southerly boundary of Tract A of the BGE property, separated only by a 24 foot wide, paved residential subdivision road (Joel Court). Certain neighbors (the Folloos and the Howses) testified expressly that their homes were within 300 feet of the BGE property. We are unwilling to conclude that the neighbors, or at least some of them, did not demonstrate that their properties were in close proximity to the subject properties of BGE's variance application. Moreover, many of the neighbors complained, at a minimum, of perceived visual objections to BGE's proposed, clustered improvements and of anticipated adverse effects flowing therefrom as to the value of their homes and realty. We are satisfied, as was the circuit court, that the neighbors presented an adequate prima facie case of their standing to challenge the grant of the variance, which BGE failed to rebut persuasively.

The variance would enable BGE to cluster or mass its improvements in the center of the assembled parcels, heedless of the internal lot line setback requirement. Though debatable that such site design leads to beneficial impacts on the surrounding community (and is otherwise justifiable on electrical engineering bases), such an assertion arguably opens the door also to balancing considerations of the potentially adverse visual effects of the massing of the equipment. Thus, the variance request, for purposes of establishing judicial standing to challenge its grant, bears an articulable and rational connection to the neighbors' concerns, even though the focus of the request is internal to BGE's property.

II.

A flagship issue of this appeal appears to be the neighbors' two-fold assertion that (1) BGE's development proposal as to Tract A was required to, but did not, receive Planning Board review and approval, as required at the time for an amendment to the previously approved Final Development Plan for the Forwood Property/Fox Ridge Estates subdivision; and, (2) regardless of which governmental entity properly may review and approve amendment proposals to an approved Plan under the circumstances, BGE's proposal as to Tract A could not satisfy the BCZR requirement that such amendment be found "consistent with the spirit and intent of the original plan." BCZR 1 BOL. 3(A)(4).

The threshold question that must be answered before launching into any close analysis of the neighbors' two arguments is whether BGE's proposed uses on Tract A triggered a formal Plan amendatory process at all. Indeed, as the Board explained as its primary reason for concluding that no amendment was required, BGE's proposal was "not a deviation from the final development plan."

The pertinent BCZR provisions with regard to final development plans generally, and amendments thereto specifically, are as follows:

1B01.3 Plans and Plats.

A. Development Plans.

1. Purpose. This paragraph is intended:

a. to provide for the disclosure of development plans to prospective residents and to protect those who

have made decisions based on such :
plans from inappropriate changes
therein; and

b. to provide for review of
residential development plans to
determine whether they comply with
these regulations and with standards
and policies adopted pursuant to the
authority of Section 504.

* * * *

5. Forms and Content of Plans.

* * * *

b. Content. Each partial and final
development plan must show: the
locations, types, and exterior
dimensions of all proposed
structures and all existing
structures to be retained;
generalized floor plans to scale;
layout of parking facilities;
streets and drives giving access to
and lying within the tract; existing
topography and major vegetation;
proposed grading; common amenity
open space (including local open
space); all additional information
that may be required under
procedures adopted pursuant to the
authority of Section 504; and all
additional information which is
necessary, as determined by the
zoning commissioner and the director
of Planning, to ascertain whether
the project will comply with the
zoning and subdivision requirements
of Baltimore County. The plan shall
contain the note that landscaping
and screening shall conform to the
standards contained in the Baltimore
County Landscape Manual adopted
pursuant to Section 22-105 of Title
22 of the Baltimore County Code.

* * * *

7. Amendment of Approved
Development Plans. After partial or
final development plans have been
approved as provided under
Subparagraph 6, preceding, they may
be amended only as provided below.

a. Amendment Prior to Sale of
Interest in Nearby Property. The
development plans may be amended by
simple resubmission, or by the
submission of appropriate documents
of revision, subject to the same

requirements as are applied to original plans, if there is no change with respect to any lot, structure, or use within 300 feet or a lot or structure which has been sold since the original plans were filed.

b. Amendment After Sale of Interest in Nearby Property or Upon Demand for Hearing. In the case of an amendment not allowed under Sub-subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:

(1) The amendment must first be approved by the Planning Board as being in accord with provisions adopted under the authority of Section 504.

(2) The amendment must be in accord with the specific standards and requirements of this article, as determined by the Office of Planning and Zoning.

(3) Only an owner of a lot abutting or lying directly across a street or other right of way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing.

(4) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this

article.[]

As noted previously, the Zoning Commissioner approved the Plan for the Forwood Property/Fox Ridge Estates subdivision on 27 May 1988. The Plan depicted a development of twenty-four single family, detached residences on numbered lots, plus Tract A. For each of the numbered lots, house locations and orientations, building envelopes, typical off-streeting layouts, well locations, soil types, topographic data, and other development information were provided graphically and statistically. In contrast, however, stood Tract A. The Plan provided no statistical or graphic

development proposal for Tract A, except for the notation that it was "to be conveyed to adjoining property owner BGE Co." Further, arrows indicating the relationship of Tract A to the existing BGE property (Tract C) were superimposed across the common boundary line of the two tracts. As we know from other evidence in the record, the 16.6 megawatt electrical transformer had been in existence on Tract C since 1956. The subdivision plan for the Forwood Property/Fox Ridge Estates, recorded on 23 August 1988, also depicted no development on Tract A, contrasted with the homes shown on the twenty-four numbered lots. Tract A was conveyed to BGE before any of the residentially-denominated lots in the Plan were marketed or conveyed.

Clearly, the Plan did not propose residential development on Tract A. That being the case, much of the specific informational requirements of BCZR 1B01.3A for inclusion on a final development plan appear inapplicable to Tract A. That no more explicit development plan for Tract A was itemized on the Plan is, of course, what powers the instant controversy. The neighbors cry foul, asserting that they were surprised when they learned of BGE's plans for Tract A following the variance and special exception filing in May 1994. BGE impliedly decries as disingenuous the neighbors' claims of surprise. BGE points to presumably mandatory inferences that a reasonable person would draw from the facts that the Plan, in substance, alerted any reader that Tract A would become the property of BGE and, in all likelihood, given the existence of the existing 16.6 megawatt substation on the abutting Tract C and the absence of a contrary development proposal for Tract A, would become subject to at least some public utility use that implicated the principal, if not sole, activity engaged in by the prospective owner, i.e., providing electrical service to its customers.

Mr. Gavrelis, BGE's expert witness regarding zoning and land planning in Baltimore County, testified, among other things, that BGE's plans for Tract A were "in absolute accord with [the Plan] for Tract A." He based this opinion on the Plan's notations as to Tract A's prospective conveyance to BGE and the arrows linking it to Tract C, upon which the existing substation was located. He further expressed his opinion that the Plan notes predicted BGE's future use to such an extent that subsequent purchasers of the residential lots within the remainder of the Forwood Property/Fox Ridge Estates subdivision were on notice of the likely future use of Tract A, consonant with the purpose articulated in BCZR 1B01.3(A) (1) (a).

We conclude that the Board had before it an adequate factual record to support its conclusion that no amendment to the Plan was required under the circumstances of this case. Moreover, the Board correctly interpreted BCZR 1B01.3(A) and applied it to the facts as the Board found them to be. Because we agree with the Board's and circuit court's disposition of this issue, we need not address the neighbors' two-fold argument, because both of its elements necessarily assume that an amendment to the Plan was required.

III.

BCZR 307.1 provides as follows with regard to variances:

The zoning commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance

with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the zoning commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the zoning commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

(Emphasis added.)

BGE sought a variance in this case from BCZR 1A04.3(B)(3)'s area regulation in the R.C.-5 zone that required that "[a]ny principal building ... constructed ... shall be situated ... at least 50 feet from any lot line other than a street line." The aspect of BGE's special exception application that, in the exercise of caution, dictated the need for such a variance was the clustering of the expanded Ivy Hill substation equipment in the center of the assembled Tracts A, B, and C. That siting arguably would not be possible if the equipment (if treated as a "principal building") had to be set back 50 feet from the internal lot lines of the 3 tracts.

As noted previously, the Board explained, in pertinent part, its grant of the variance:

Section 306 points to the fact that public utilities are unique in their requirements. Therefore, the spirit and intent of the BCZR in height, area, off-street parking and sign regulations are met by the subject Petitioner.

* * * * *

The Board finds as a fact that the existing electrical substation is a substation which is far undersized in capacity for the required demand in the existing locale. An immediate need in increased capacity has been adequately demonstrated to address the issue of an unusual condition which exists with the existing structure. BGE is mandated to increase the capacity of any substation in order to stay ahead of demand. The conditions which exist in the existing substation are unique in that BGE has been unable to even meet existing demand. The Board finds that the existing conditions and insufficient capacity force BGE to increase capacity;

further, in order to accommodate existing and increasing demand. The Board finds that the existing conditions and insufficient capacity force BGE to increase capacity; furthermore in order to accommodate existing and increasing demand, in accordance with its requirements under its Public Services franchise, as well as nationally recognized and accepted building codes and standards, a condition exists which requires sufficient area to accommodate the needs of an enlarged substation. The Board therefore finds that the first test under 307.1 has been met.

* * * * *

The second test under 307.1, assuming the first has been met, is that strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. In order to require BGE to comply strictly with the setback requirements, the Board would be asking BGE to deviate from the aforementioned nationally recognized building and electrical codes, as well as sound engineering practices, on consolidating all substation equipment to the extent possible under this Petition. That deviation creates a practical difficulty in causing BGE to design a facility which would not conform to those standards. Furthermore, the Board finds as a fact that BGE's proposal, in consolidating the substation equipment to a central location within the three tracts, provides for the maximum setback from adjoining property owners, allowing for the greatest opportunity from visual and other alleged impacts. Because the Board finds that strict compliance would result in practical difficulty, the Board is not required to address the issue of unreasonable hardship.

The neighbors argue that the Board's decision is erroneous because BGE produced no or insufficient evidence of the uniqueness of its site, relative to the surrounding neighborhood, to support the Board's conclusion "that the first test under 307.1 ['special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request'] has been met." In support of this contention, the neighbors offer us snippets of the cross-examination testimony before the Board of BGE's expert on zoning and land planner (Mr. Gavrelis) and compare that to a summary of the relevant testimony of their dueling expert (Mr. Gerber). They summarize Mr. Gerber's testimony in this regard as reflecting "that the subject site consisting of three separate parcels [was] no different than any other parcel in the neighborhood in that it is flat, moderately forested, with no unusual physical features." Turning to bits of Mr. Gavrelis's testimony excerpted from his cross-examination, the neighbors proclaim them the sole support for the Board's conclusions. In one of these extractions set forth in the neighbors' brief, Mr. Gavrelis responds to some follow-on questions from appellants' counsel as to what he believes may be different (only inferentially relative to the other land in the neighborhood) about the combined

3 tracts, other than their tree cover:

A. There's a substation already there.

Q. Exactly. And other than that?

A. It has existing infrastructure.

Q. It has lines serving it in and out?

A. Exactly.

Q. Other than that?

A. I think that's enough.

Additionally, the neighbors point out, with regard to BGE's acquisition of Tracts A and B, that BGE knew or should have known at those times that it would be expected to meet the setback requirements as to the internal lot lines created by the land assemblage and, therefore, that the present request for a variance was generated solely by an impermissibly self-inflicted practical difficulty or unreasonable hardship.

BGE naturally takes a more expansive view of the evidence (and relevant law and regulations) before the Board. Parsing out the individual variance requirements of the BCZR, it directs our attention first to evidence of special circumstances with respect to the structures for which the variance was sought. BGE first notes its general legal mandate to supply adequate electric service to its customers, even in emergencies. See Md. Code (1957, 1995 Repl. Vol.), Art. 78, 28(c) (Public Service Commission Law); Md. Code (1957, 1995 Repl. Vol.), Art. 78, 75(a); COMAR 20.50.02.03. Moving from the general to the specific, BGE alludes to the evidence with regard to the Fall 1994 power crisis at the existing 16.6 megawatt Ivy Hill substation, the future energy needs of the Ivy Hill service area (as originally defined and as proposed to be augmented) as forecasted by its experts, and the civil and electrical engineering testimony of other of its experts with regard to why the proposed equipment for the enlarged substation, based on both national code standards and specific electrical/civil engineering requirements, needed to be massed in the fashion proposed. Moreover, BGE asserted that the needed expansion could not be accommodated on any one of the 3 tracts and still meet the lot line setback requirements in any event. Collaterally, and of no direct bearing on fulfillment of this criterion for the grant of a variance, the massing of the new equipment enabled BGE to screen more effectively the facility from the surrounding properties.

As to the practical difficulty prong of the criteria for grant of a variance, BGE essentially repeats references to the evidence itemized in this opinion, supra, to demonstrate why strict adherence to internal lot line setbacks would harm its ability to meet its general legal mandate and the demonstrated present and future needs of the Ivy Hill service area, and would in fact impair, if not prevent, its ability to screen the needed improvements from views from surrounding properties. Highlighting its reasoning, BGE argues that the

lot lines between the adjoining [BGE] tracts are essentially unimportant except in terms of their legal effect because the purpose of a setback requirement is to protect neighboring property owners from encroachment. Because BGE is its own "neighbor" with respect to these interior lot lines, though, this requirement is irrelevant under the circumstances.

Requiring BGE to strictly comply with the setback requirements would not serve the purposes behind the ordinance as BGE does not need to be protected from itself.

Therefore, as Mr. Gavrelis testified, allowing BGE to build across these lot lines, when the practical effect is to maximize the distance to the exterior lot lines, is consistent with the spirit and intent of Section 1A04.3.B.3. As Mr. Gavrelis further testified, the zoning regulations have recognized that public utility companies must be permitted to provide service to their customers, even in rural residential areas.

We are not unmindful of the admonition in many Maryland appellate decisions that variances should be "granted sparingly," cf. *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995), and, when granted and appellate scrutiny sought, affirmances are "exceedingly rare." *Id.* at 708. The instant case, we believe, is such a "rare" case.

BGE, albeit since 1956 and only on Tract C, has operated a 16.6 megawatt electrical transformer substation, with attendant overhead distribution/supply lines at this location apparently well before any of the homes in the Fox Ridge subdivision were even a gleam in a developer's eye. BGE's business, supplying electrical power, is a State regulated franchise. The need for its product and the growth of that need are not "self-inflicted" or exclusively within BGE's control. If one concludes (as the Board did) for the sake of this particular argument that the size of the expansion of the Ivy Hill substation equipment is "needed" (at least within the broad mandate that makes BGE responsible for providing adequate service), that the existing 16.6 megawatt station is inadequate to meet present (let alone future) demand, and that Tract C (or Tracts A or B standing alone) could not accommodate the necessary expansion within the dictates of reasonable engineering and zoning requirements, the reasonableness of acquiring additional land adjacent to Tract C upon which to site the required new substation becomes manifest. There are special circumstances that are peculiar to BGE's assembled properties in the context of this neighborhood and the structures BGE proposes to locate on its property.

We can find nothing in either *Cromwell v. Ward*, 102 Md. App. 691 (1995) or *North v. St. Mary's County*, 99 Md. App. 502 (1994), both heavily relied on by the neighbors, that undercuts the Board's decision in the instant case. The Board expressly acknowledged in its decision an awareness of *Cromwell* (involving a building height variance purportedly granted under BCZR 307.1 for a building that the applicant's contractor had already constructed in violation of the applicable requirement), and then correctly employed, in the proper order, the two-step analysis underscored in *Cromwell*. *Id.* at 694-95. We are satisfied that the Board's finding as to the "special circumstances or conditions" existing with regard to the structures that were the subject of the variance application were unique and not shared by other properties or property owners in the area. We are satisfied further that the practical difficulties that BGE would experience if forced to comply strictly with internal lot line setback requirements within its properties, were fairly debatable and consonant with Maryland variance case law.,
IV.

Among the findings BCZR 411.1 required the Board to make in order to grant any public utility use permitted only by special exception is:

Section 411 PUBLIC UTILITY USES

For public utility uses permitted only by

Special Exceptions in addition to the provisions of Section 502, the following regulations shall apply.

411.1 The use must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of neighboring property.

With regard to this required finding, we repeat again what the Board's written decision stated:

The first issue to be decided by this Board, therefore, is the question of need pursuant to Section 411 of the BCZR regarding distribution of electric power. Petitioner brought evidence and testimony by an expert in forecasting electric demand, James F. Ryan. Protestants offered the testimony of Ronald P. Hanley, an employee for a waste collection and recycling company, and one who had three courses in statistics at Pennsylvania State University, and who prepared various graphs which were introduced into evidence. According to the testimony of Charles S. Taylor, an engineer and expert in the area of electric system planning, the BGE franchise with the Public Services Commission in the State of Maryland is required to supply power at all times and satisfy all demands. In short, the obligation of the Petitioner is to serve the demand at peak periods. The Protestants allege that the peak demand experience on one day in the winter of 1994 was, admittedly by the Petitioner's witness, a one-time occurrence; however, that one-time occurrence established the new demand.

It was well-established during the course of evidence and testimony that existing demand, prior to the single-day occurrence in 1994, is not met by the existing substation capacity; therefore, need for enlargement of the substation given current demand is justified. As indicated by Petitioner's experts, future demand is forecasted and is the basis for establishing future demand in designing facilities such as the Ivy Hill Substation. The analysis of the need comparison versus capacity presented by Protestants' witness, Mr. Hanley, points to a future need for increased capacity from this substation. Protestants would have the petitioner increase the capacity of the substation in increments which stay just ahead of demand. The Board notes that such alteration of the substation places unreasonable engineering constraints and unnecessary additional cost to the ultimate development of this site. Such costs would be unnecessarily borne by all electric consumers for the benefit of those in the surrounding community. The Public Services Commission dictates that BGE must provide sufficient power to exceed demand. Petitioner has

obviously met its burden of proof to Section 411 as buttressed by the evidence presented by Protestants in their graphic analysis of need versus capacity.

The Protestants further allege that the Ivy Hill Substation should not be used to supply power to areas outside of their own locale. Again, BGE was able to demonstrate that, because of its requirement to provide power, it was forced into the position of switching power distribution away from the Ivy Hill Substation as a result of the peak demands in 1994, creating a similar condition at the nearby Delight Substation in Owings Mills, an area growing even faster than the area surrounding Ivy Hill.

The Board therefore finds as a fact that not only has need been demonstrated but that in further reviewing the requirements of 502.1 the health, safety and welfare of the general public is suspect when required power is not delivered to the homes served by the substations as mandated.

In their brief, the neighbors state they "are not opposed to BGE's need to upgrade their equipment and its capacity appropriately." Ascertaining more precisely where the neighbors contend BGE's proposal crossed the line into inappropriateness, based on the evidence, is somewhat difficult. As we comprehend it, however, that line seems to be the difference between BGE's Phase I expansion (from 16.6 to 32 megawatts) and its Phase II proposal (from 32 to 64 megawatts). We infer this distinction from that portion of the neighbors' brief, introducing the above quoted passage, where it is asserted that under the most generous interpretation of the testimony of BGE's expert electrical needs forecaster, James Ryan, the existing (using the winter of 1994 peak load on one day of 20.1 megawatts) and projected future demands for service in the existing Ivy Hill substation service area (excluding the Hickory Hill addition) through the year 2015 (multiplying Mr. Ryan's assumed per household fractional megawatt usage by the annual housing growth rates obtained from local government sources) require only 29.9 megawatts of capacity. Hence, the Phase I expansion arguably would accommodate additional development through the year 2018 using similar straight line projections. Even adding Hickory Hill's existing seven hundred or so dwelling units, plus the growth assumption of approximately ten homes per year, the neighbors contend, does not justify approval at this time of Phase II's doubling of the proposed expansion. From this conclusion, they appear to hint at BGE's true motive, which they imagine to be that BGE intends to provide service to undisclosed areas beyond the Ivy Hill and Hickory Hill service areas.

While the neighbors' skepticism is not unfounded totally, the Board was persuaded that 64 megawatts of capacity was "needed for the proper rendition of the public utility's service." Although BGE's evidence justifying approval now of Phase II may have been as thin as workhouse gruel (even supplemented "with an onion twice a week and half a roll on Sundays"), it was nourishing enough to support the Board's decision. The evidence also comports with our understanding of the meaning of "need" in this context.

The judicial gloss given to the definition of the "need" requirement in Maryland special exception lore has been that it means "expedient, reasonably convenient and useful to the public."

Neuman v. City of Baltimore, 251 Md. 91, 99 (1968) (citations omitted); accord Lucky Stores v. Board of Appeals, 270 Md. 513, 527-28 (1973) (citing Neuman). "Need" does not mean absolute necessity. Id. The term is elastic and relative, infusing the designated local government decision-maker with a degree of discretion, not unfettered or to be arbitrarily exercised, in interpreting and applying the facts of each case to this requirement. Id.

Without question, BGE adduced substantial evidence to support the Board's approval of the Phase I expansion. The need for that expansion within a relatively near term horizon, whether it be BGE's 2001-2005 or the neighbors' 2015-2018, was properly for the Board, both in mathematical and in legal terms, to sort out as it did.

As to the Phase II expansion, the Board appears to have considered how often it would be reasonable to require BGE to shlep special exception applications back and forth for expansions of this electrical transformer facility. We view it as essentially an administrative judgment call as to the relative maturity or prematurity of the applicant's request. The applicant's implied willingness to commit to the capital expenditures necessary to effectuate its request, if approved, is a factor to be considered. The effect on the rate payers is also a consideration. The ability of a public utility to plan concretely for the future, but to also have the flexibility to respond quickly to unforeseen demands or emergencies, likewise may be, and was, considered in the equation. For the Board to view BGE's evidence as to Phase II, although of much less definiteness than the Phase I evidence, through the prism of BGE's somewhat open-ended legal obligation to provide adequate electric service, even under emergency circumstances, was not arbitrary or capricious.

V.

Based on the evidence before the Board relative to the effect of the BGE proposal on the value of surrounding properties, the Board found, in pertinent part:

Much of the five days of testimony surrounded the requirements of Section 502.1. The first test under 502.1 is that the proposed use for which the special exception is required will not be detrimental to the health, safety or general welfare of the locality involved....

* * * * *

Pursuant to the issue of general welfare under this subsection, the Protestants allege that property values will be negatively impacted on the expansion of the proposed substation. The Board finds as a fact that the Ivy Hill Substation has existed since 1958; the Board also finds as a fact that all property owners prior to the purchase of their properties were apprised of the ownership of Tract A and the ultimate disposition of that property being with BGE, and that any effect on property values in relation to the existence of the substation were already felt in the purchase of their respective properties. Furthermore, as indicated above, the health, safety and general welfare of other localities served by the Ivy Hill Substation continues to be suspect so long as the substation sits unaltered, as most homes

in the area served by the Ivy Hill Substation rely on uninterrupted transmission of electric power as the sole source of energy for the heating of their homes.

As we recounted earlier, the neighbors filed a motion to alter or amend judgment, under Rule 2-534, asking the circuit court either to receive additional evidence and amend/reverse its 24 December 1996 written memorandum and order based thereon or remand the matter to the Board so that the Board impliedly may receive and consider the additional evidence. The additional evidence referred to in the motion and appended to it (together with affidavits of the affected neighbors) consisted of revised real property tax valuations of certain of the neighbors' properties received in late August and September of 1996 from the State Department of Assessments and Taxation (SDAT). The potential relevance of the proffered additional evidence was patent. Each notice included a statement that the valuations had been revised downward from earlier proposed valuations received in December 1995, and were premised in some part on the "proximity to Baltimore Gas and Electric substation." The court denied the motion, without elaboration, by written order of 3 February 1997.

We review the court's action on an abuse of discretion standard. *Blitz v. Beth Isaac*, 115 Md. App. 460, 469 n.4, cert. granted, 347 Md. 155 (1997). Appellate courts define the term "abuse of discretion" in many different ways:

[Abuse of discretion] has been said to occur "where no reasonable person would take the view adopted by the [trial] court," or when the court acts "without reference to any guiding rules or principles." It has also been said to exist when the ruling under consideration "appears to have been made on untenable grounds," when the ruling is "clearly against the logic and effect of facts and inferences before the court," when the ruling is "clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result," when the ruling is "violative of fact and logic," or when it constitutes an "untenable judicial act that defies reason and works an injustice."

North v. North, 102 Md. App. 1, 13-14 (1994) (citations omitted). This Court has noted that "[t]here is a certain commonality in all of these definitions, to the extent that they express the notion that a ruling reviewed under an abuse of discretion standard will not be reversed simply because the appellate court would not have made the same ruling." *Id.* at 14.

We must evaluate the circuit court action "from the standpoint of the soundness of the exercise of discretion." *Thodos v. Bland*, 75 Md. App. 700, 712 (1988) (quoting *Ogburn v. State*, 71 Md. App. 496, 509 (1987)). This means that

when the consequences of a particular exercise of discretion are clear, i.e., one result is clearly unjust and the other, clearly not, the limits of the exercise of discretion are narrow. On the other hand, when the consequences are not so clear, i.e., no result is clearly just or unjust, the limits of the exercise of discretion are considerably broader. Indeed, in the latter situation, we will not find an abuse of discretion whichever

way the trial court may choose to exercise discretion.

Id. at 712 (citing Ogburn, 71 Md. App. at 510). With this standard of review in mind, we turn to the matter at hand.

Viewing the continuum that was the process of this litigation, we note that, although the affected neighbors received the relevant revised notices of valuation in all but one of the instances on or about 24 August 1996 (the exception being the Follos who received their notice on 27 September 1996), the existence or content of the revised notices was not brought to the court's attention until after the court had filed on 30 December 1996 its written memorandum opinion and order on the merits. As the neighbors observed in their revisory motion, these revised notices arrived after the circuit court held oral argument on the merits (apparently oral argument took place on 20 July 1995, although that fact is not apparent from the joint record extract filed with this Court). Yet, the neighbors' motion made no effort to explain why the neighbors failed to bring the revised notices to the court's attention in the almost four months that followed their receipt of them prior to the court's ruling on the merits of the case. If the existence of the revised notices was as consequential as the neighbors contended in their motion, a view they renew on appeal, one is left to wonder what occasioned the delay in advancing them? There is no answer to this question that we can find in the joint record extract, nor has one been offered in the neighbors' brief. A lack of diligence could be inferred; perhaps, even a knowing decision to wait and see what the outcome on the merits would otherwise be and to hold the revised notices in reserve as grounds for a possible revisory motion.

Short of bringing such an analytical exercise in inferred blameworthiness to a conclusion, we detect other possible explanations for the court's denial of the motion. The facts of the revised notices explain that they pertain to "Levy Year 96-97," which we interpret to mean the real property tax year commencing 1 July, 1996 and ending on 30 June 1997. The December 1995 proposed property valuations that were altered by the August-September 1996 revised notices presumably addressed the same levy year. Even for that levy year, which followed the Board's decision to grant BGE the special exception and variance but overlapped the pendency of this case in the circuit court, the SDAT notices and the hearsay supplementation of those notices by the neighbors' affidavits raised no new issue that had not been advanced before the Board by the neighbors and their expert appraiser, Mr. Kern. To that extent, the proffered additional evidence was cumulative. To the extent that the evidence arguably bolstered the neighbors' contention of adverse effect on surrounding real property values as a result of the proposed substation expansion, the evidence did not render the neighbors' contention irrefutably so as a matter of law, thus removing the matter from the realm of the fairly debatable. The court did not abuse its discretion, therefore, in declining to receive the evidence and change its decision or to remand the case to the Board.

JUDGMENT AFFIRMED;
COSTS TO BE PAID
ONE-FIFTH (1/5) BY
BGE AND FOUR-FIFTHS
(4/5) BY FRIENDS OF
THE RIDGE, ET AL.

12-31-96

CIRCUIT COURT FOR BALTIMORE COUNTY
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Clerk of the Circuit Court
County Courts Building
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P.O. Box 6754
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12/31/96

Case Number: 03-C-95-005315 AA

Date Filed: 06/16/95

Status: Closed/Active

Previous Case ID:

Reference Number:

Judge Assigned: To Be Assigned,

Friends Of The Ridge, et al vs Baltimore Gas & Electric Company

CASE HISTORY

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title) / Dispo	Entered
PLT 001	Friends Of The Ridge Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT 002	Howse, Nigel, Mr Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT 003	Howse, Nigel, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT 004	O Hara, Robert, Mr Attorney: 0012186 Holzer, J Carroll	CT DO 12/30/96 06/16/95

97 JAN -3 11:11:55

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PLT 007	Hanley, Ron, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT 008	Follo, Carl, Mr Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT 009	Follo, Carl, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
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PLT	018	Pitcher, Bruce, Mr Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT	019	Pitcher, Bruce, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT	020	Czajkowski, Joe, Mr Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT	021	Czajkowski, Joe, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT	022	Rytter, Robert, Mr Attorney: 0012186 Holzer, J Carroll Holzer And Lee 305 Washington Ave Suite 502 Towson, MD 21204 (410)825-6961	CT DO 12/30/96 06/16/95
PLT	023	Rytter, Robert, Mrs Attorney: 0012186 Holzer, J Carroll Holzer And Lee	CT DO 12/30/96 06/19/95

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Type Num Name(Last,First,Mid,Title) / Dispo

Entered

DEF 001 Baltimore Gas & Electric Company

CT DO 12/30/96 06/16/95

Capacity : Ivy Hill Substation

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CALENDAR EVENTS

Date Time Dur Cer Evnt Jdg L Day Of Rslt By ResultDt Jdg T Notice Rec

05/01/96 09:30A 006 yes CIVI TBA 01 /01 CON C 12/30/96 P

JUDGE HISTORY

JUDGE ASSIGNED

Type Assign Date Removal RSN

TBA To Be Assigned, J 06/16/95

DOCUMENT TRACKING

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID
001000	Petition for Judicial Review jg #1 Petition of Friends of the Ridge for Judicial Review of the Decision of the County Board of Appeals for Balto. Co. in the Matter of: The Application of Balto. Gas & Elec. Co.(Ivy Hill Substation) for special exception and variance on property located on the Southwest corner of ridge road and Joel Court 8th Election District 3rd Councilmanic District Case # 94-452-XA. Copy sent to agency.	06/16/95	06/16/95		TBA	PLT000		M 12/30/96	JMG PS
002000	ex parte injunction to stay operation	06/23/95	06/23/95		TBA	PLT001		06/23/95	PH PH

PH# 2

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID
002001	Answer df (5) Appellee, Baltimore Gas and Electric Company, Response to Motion for Injunctive Relief and/or to Stay and Exhibits fd.	07/11/95	07/11/95		TBA	DEF001		M 01/17/96	DFF RG
002002	Answer lg#7.	07/12/95	07/12/95		TBA	DEF001		M 01/17/96	LG RG
003000	Amended ex-Parte Injunction to Stay kjm (3) Operation of permits with exhibits.f.d.	06/29/95	06/29/95		TBA	000		M 12/30/96	KM PS
004000	open court porceedings June 30, 1995 - Hon. Edward A. DeWaters, Jr. Hearing had. Plaintiff's Motion to Stay - Granted. Case to be set in for a hearing on the Merits.	06/30/95			TBA	000		M 12/30/96	EA PS
004001	Answer df (4) Response to Petition for Judicial Review and Exhibits fd. (Filed 6/22/95).	07/11/95	07/11/95		TBA	DEF001		M 12/30/96	DFF PS
005000	Certificate of Notice jc 6 (rec'd 6/26/95)	07/12/95	07/12/95		TBA	000		M 12/30/96	GC PS
006000	Misc. Document (Response) lg#8	07/26/95	07/26/95		TBA	PLT001		M 12/30/96	LG PS
007000	Motion to Dismiss (preliminary) *9. CG variance appeal. (rec'd 7/17/95)	07/28/95		08/22/95	TBA	DEF001		M 12/30/96	CG PS
007001	Answer We just Received this pleading on 4/5/96, from Judge Cicone	04/05/96	04/05/96		TBA	PLT001		M 12/30/96	JMG PS
008000	Transcript of Record from Adm Agency *df (10) fd. (Filed 7/17/95).	08/01/95	08/01/95		TBA	000		M 12/30/96	DFF PS
009000	Notice -- Recpt of Record of Proceedings *df (11) fd. Copies Sent. (Filed 7/17/95).	08/01/95	08/01/95		TBA	000		M 12/30/96	DFF PS
010000	Notice - Recpt of Record of Proceedings	08/01/95	08/01/95		TBA	PLT001	08/01/95	M 08/01/95	DFF DFF
011000	Notice - Recpt of Record of Proceedings	08/01/95	08/01/95		TBA	DEF001	08/01/95	M 08/01/95	DFF DFF
012000	Scheduling Order *(BKH)	02/06/96	02/02/96		TBA	000		M 12/30/96	KDC PS
013000	Memorandum	12/30/96	07/17/95		TBA	DEF001		M 12/30/96	PS PS
014000	Rule 7-207 Memorandum (with individuals)	12/30/96	07/17/95		TBA	PLT001		M 12/30/96	PS PS

03-C-95-005315 Date: 12/31/96 Time: 16:16

Page: 7

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID
015000	Opinion and Order of the Court DENYING Petition for Judicial Review, etc., fd.	12/30/96	12/30/96		LRD	000		G 12/30/96	PS PS
016000	Invoice #4859 sent to J. Carroll Holzer	12/31/96			TBA	000			AS AS
017000	case history and opinion sent to Baltimore County Bd. of Appeals, aa	12/31/96			TBA	000			ATA ATA

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type
EXPU	Exhibit Pickup Notic	OPEN	02/28/97	30	no			no

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp	Dt	Dis	By
Offered By: PLT-001 Friends Of The Ridge,										
001	BOX 312	0	WHOLE BOX EXHIBITS							C

DIFFERENTIATED CASE MANAGEMENT TRACKS AND MILESTONES

Track : N3 Description: CIVIL EXPEDITED TRACK Custom: Yes
Assign Date: 01/30/96 Order Date : 01/30/96
Start Date : 01/30/96 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322	02/14/96	12/30/96	CLOSED	
Discovery must by completed by	03/20/96	12/30/96	CLOSED	
All Motions (excluding Motions in Limine	03/30/96	12/30/96	CLOSED	
Settlement Conference is	04/14/96	12/30/96	CLOSED	
TRIAL DATE is	05/01/96	04/29/96	12/30/96	CLOSED

12-24-96
PETITION OF FRIENDS OF
THE RIDGE, et al FOR
JUDICIAL REVIEW

* IN THE
* CIRCUIT COURT

IN THE MATTER OF
BALTIMORE GAS & ELECTRIC
COMPANY (IVY HILL SUBSTATION) *
FOR SPECIAL EXCEPTION AND
VARIANCE

* FOR
* BALTIMORE COUNTY
* Case No. 95 CV 5315

ZONING CASE: 94-452-XA

*

* * * * *

OPINION

This matter comes before the Circuit Court on appeal from the County Board of Appeals' (hereinafter, CBA) decision affirming the Zoning Commissioner's Order of June 24, 1994*, in which Appellee BGE's Petition for Variance and Petition for Special Exception for the subject properties was granted. The Zoning Commissioner's Order granted BGE's request for approval of a special exception to construct a local electrical distribution substation on the subject property and for approval of a variance permitting a lot line setback distance of less than the 50 feet required by Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (hereinafter BCZR). The property in question is made up of three adjoining tracts located in an RC-5 zone. These tracts, delineated tracts A, B, and C, on the Site Plan, are all owned by BGE. The combined area of the three tracts is approximately 2.9 acres. On March 28, 1956, BGE was granted a special

*Noting the importance of this case to each of the parties, this Court found it appropriate to attempt to foster an out-of-court settlement between the parties. Accordingly, this Court referred the case to the Honorable Frank E. Cicone, presiding judge of the Baltimore County Settlement Court, noting that Judge Cicone had extensive experience with zoning matters prior to his investiture as a Circuit Court Judge. Judge Cicone held three lengthy negotiation sessions over a six-month period without definitive results.

FILED DEC 30 1996

exception for the operation of a local electrical distribution substation, known as the Ivy Hill Substation on Tract C. This local distribution substation accepts higher voltage electricity from a master substation and lowers the voltage of that electricity to a level usable by its customers in the area. BGE's purpose in requesting the special exception and variance, *sub judice*, is to permit the replacement and expansion of the equipment at the Ivy Hill Substation in order to accommodate an increased demand for electricity caused by continued development and other changes in the area. The improvement of the Ivy Hill Substation as envisioned by BGE would locate the expanded substation equipment in the geographical center of the three tracts. This equipment configuration will result in BGE's equipment straddling interior lot lines within Tracts A, B, and C.

ISSUES PRESENTED

The Appellants present the following issues on Page 5 of their Memorandum:

- "A. Need to Amend Final Development Plan - The CBA erred as a matter of law in failing to require compliance with the B.C.Z.R.
- B. Failure to Meet Burden of Proof on Variances - The CBA erred as a matter of law in granting the variance.
- C. Lack of Need - BGE's failure to establish need by evidence to support the CBA's finding.
- D. The CBA factual finding that "all property owners prior to the purchase of their properties were apprised of the ownership of Tract A and the ultimate disposition of that property..." is without any factual basis in the entire transcript of the case.
- E. Failure to Comply with 605.1 Criteria - CBA erred by failing to require compliance with B.C.Z.R., Section 502.1."

STANDARD OF REVIEW

One of the enumerated powers conferred on chartered counties in Maryland is the authority to establish a County Board of Appeals in accordance with Article 25A, Section 5 of the Maryland Code Annotated. The standard of review for a County Board of Appeals is set out therein:

Any person aggrieved by the decision of the Board and a party to the proceeding before it may appeal to the Circuit Court for the county which shall have power to affirm the decision of the Board, or if such decision is not in accordance with the law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Article 25A, Section 5(U).

This Article 25A, Section 5 language is incorporated verbatim in Section 604 of the Baltimore County Charter:

Within thirty days after any decision by the County Board of Appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the Circuit Court for Baltimore County, which shall have power to affirm the decision of the Board, or, if such decision is not in accordance with the law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require.

Accordingly, the appellate process for those aggrieved by decisions of the Baltimore County Board of Appeals is appropriately derived from the grant of powers in Article 25A and is coextensive with that authority.

A plenitude of cases have defined and refined the meaning of the phrase "is not in accordance with the law", and the function of a court such as this one in the appellate process. The role of a reviewing court is limited.

That court may set aside, as not in accordance with the law, action of the district council which is arbitrary, illegal or discriminatory. It may thus set aside action of the district council which is not founded upon any substantial evidence, but the court may not substitute its own judgment on the facts for that of the district council. *Montgomery County v. Retter*, 233 Md. 414 (1963) at 419.

“Substantial evidence” sufficient to sustain the decision of the Board of Appeals on an issue exists if the Board considered sufficient facts and conclusions which would allow a reviewing court to find that the issue was “fairly debatable” as presented to the Board.

Mortimer v. Howard Research, 83 Md. App. 432 (1990).

An issue is fairly debatable if reasonable persons could have reached a different conclusion on the evidence, and, if so, a reviewing court may not substitute its judgment for that of the administrative agency. *Eger v. Stone*, 253 Md. 533, 542, 253 A 2d, 372 (1969).

The fairly debatable test is analogous to the clearly erroneous standard under Rule 8-131c and a decision is fairly debatable if it is supported by substantial¹ evidence on the record taken as a whole. (Citation omitted). *Mortimer, supra*, at 441.

DISCUSSION

A. NEED TO AMEND FINAL DEVELOPMENT PLAN AND D. THE CBA FACTUAL FINDING THAT “ALL PROPERTY OWNERS PRIOR TO THE PURCHASE OF THE PROPERTIES WERE APPRISED OF THE OWNERSHIP OF TRACT A AND THE ULTIMATE DISPOSITION OF THAT PROPERTY...” IS WITHOUT ANY FACTUAL BASIS IN THE ENTIRE TRANSCRIPT OF THE CASE.

The Protestants contend that the Board of Appeals committed error in failing to find that the Baltimore County Zoning Regulations (hereinafter BCZR) require BGE to amend the final development plan for Fox Ridge Estates, considering BGE’s requests for

¹The term “substantial evidence” has fallen victim to appellate erosion and now, means “a little more than a ‘scintilla of evidence’”. *Anne Arundel County v. A-PAC, Ltd.*, 67 Md. App. 122, 126 (1986); *Red Roof Inns v. People’s Counsel*, 96 Md. App. 219, 227 (1993).

a special exception and variance. The Board of Appeals addressed the Appellants' argument on Pages 1 and 2 of its Opinion:

Protestants allege that, due to the presence of a note on the final development plan indicating disposition of the parcel known as Tract A, the plan which is the subject of this hearing should have gone to the planning board for advice on the appropriateness of the instant case in relation to the final development plan.

The Board rejected this position and found:

Having heard the testimony of expert witnesses Norman Goerber, for the Protestants, and George Gavrelis, for the Petitioner, the Board agrees with the Petitioner that the subject case is not a deviation from the final development plan, and, in fact, that the transfer of title of Tract A to the Baltimore Gas & Electric Company (hereinafter "BGE") occurred prior to the sale of other lots within the development.

Though this Court must grant appropriate deference to the findings of fact made by the Board of Appeals, it is, "... under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law." People's Counsel v. Maryland Marine, 316 Md. 491 (1989), 497. Whether, vel non, the final development plan for the Fox Ridge subdivision should have been amended prior to the Board of Appeals consideration of BGE's request for special exception and variance is, perforce, a matter of law; consequently, this court must provide its own independent analysis of the property of the Board's finding in that regard. People's Counsel v. Maryland Marine, supra.

The use of plans and plats in the development process serves the following purpose:

To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; B.C.Z.R. 1B01.3A.1.a.

The final development plan for Fox Ridge contained in the record below, identifies Tract

A as having been “conveyed to adjoining property owner BG&E Co.” An arrow on the Plan clearly depicts the association of Tract A with the lot on which the Ivy Hill Substation is situate. As represented on the Plan, Tract A does not contain a building envelope, septic disposal system, well or any other indicia of residential development. Given this description, the reasonable prospective resident of the Fox Ridge subdivision would have no basis for concluding that Tract A had a use apart from that of the BGE substation on the abutting lot.² Accordingly, this Court finds that the Final Development Plan sufficiently discloses BGE’s development plans for Tract A, i.e., that it be developed as part of the Ivy Hill substation.

Having so ruled, the Court also disposes of Protestants’ “Issue D” by implication. In “Issue D” the Protestants’ challenge the factual finding that “... all property owners prior to the purchase of their properties were apprised of the ownership of Tract A and the ultimate disposition of that property...”. As noted, *supra*, the purpose served by plans like the final development plan for Fox Ridge is “to provide for the disclosure of development...” BCZR 1B01.3A.1.a. “Disclosure” is defined by the American Heritage College Dictionary as “the act or process of revealing or uncovering.” The writing contained on the final development planned for Fox Ridge which identifies Tract A as

²It is significant that the Final Development Plan was approved by the appropriate County authorities prior to the sale of any of the twenty-four residential lots in the Fox Ridge subdivision. Had any lot been sold prior to that approval, section 1B01.3 Par. A.7. of the BCZR would have required an amendment to the Final Development Plan before BGE could develop Tract A as part of the substation. *Quare*: Whether the end result would be altered, even if BGE were required to undergo the amendment process set out in 1B01.3, *supra*, since “...the plans may be amended through special exception procedures, in the manner provided under Section 502...” BCZR Section 1B01.3.A.7; with the exception of obtaining approval of the Planning Board, Section 502 criteria are the equivalent of those considered by the Board in this case.

having been “conveyed to adjoining property owner BG & E Company” and the arrow on the plan indicating the association of Tract A with the lot on which the Ivy Hill Substation is situated do, in this Court’s opinion, “reveal” or “uncover” the use of this property as an electrical substation.³ The word “apprise”, as used by the CBA in making its finding, is defined by the same dictionary as “to give notice to; inform”. The definitions of disclose and apprise are not synonymous with one another. However, the connotation of these two words is roughly the same. The use of the word “disclosure” in the Zoning Regulations and “apprise” in the Findings of the Board of Appeals present the Protestants with a linguistic Hobson’s Choice. If the definition of “disclose” is the rough equivalent of “apprise”, then the notations on the Final Development Plan for Fox Ridge do substantiate the factual finding of the CBA that “all property owners prior to the purchase of their properties were apprised of the ownership of Tract A and the ultimate disposition of that property...”. On the other hand, if the Protestants adhere to a strict definition of these two words then the factual finding that “all property owners... were apprised...” is irrelevant: the Zoning Regulations call for “disclosure” and not “appraisal”.

B. FAILURE TO MEET BURDEN OF PROOF ON VARIANCES - THE CBA ERRED AS A MATTER OF LAW IN GRANTING THE VARIANCE.

BGE filed for a variance from the height and area regulations contained in Section 1A.04.3 of the BCZR to accommodate the location of the substation equipment which is at the heart of this controversy. BGE is a public service utility which is required by State

³None of the Protestants’ witnesses testified to having personally reviewed the Final Development Plan for Fox Ridge, let alone to having been misled in some fashion by the notations thereon.

law to provide electrical generating capacity “sufficiently large enough to meet all normal demands for service and provide a reasonable reserve for emergencies.” MD. Regs. Code Tit. 20, §50.02.03(1981); see also MD. Code Ann. Article 78, §§28(c), 75(a)(1994).

BGE argues that, in order to meet these regulatory requirements, it must install and position new substation equipment in a configuration which will perforce result in the equipment’s crossing the interior lot lines on the subject Tract of land.⁴

The CBA found as a matter of fact that Section 306 of the BCZR entitled BGE to a variance as a matter of law.

Section 306 Minor Public Utility Structures. Minimum lot area regulations in any Zone shall not apply to repeater, booster, or transformer stations, or small community dial offices.

Having so found, the CBA should have found that BGE’s request for a variance from lot line setback requirements was moot. Simply put, because BGE intended to install transformer equipment on the three-lot site, minimum lot area restrictions such as the 50 foot setback mandated by BCZR 1A04.3B.3 simply do not apply. Nevertheless, “the Board is compelled to address the issue of 307.1 pursuant to the Petition.” (Op. 10)

Though this Court disagrees with the necessity found by the Board to apply the test for variances found in BCZR 307.1, the Court, nevertheless, finds that the Board’s analysis approving the variance was correct.

The first step in the application of Section 307.1 is to determine whether or not the subject property is in some way unique or peculiar.

⁴Building setbacks. Any principal building hereafter constructed in an R.C. 5 Zone shall be situated at least 75 feet from the central line of any street and at least 50 feet from any lot line other than a street line,... 1A04.3.B.3.

A property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the Ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. Cromwell v. Ward, 102 MD App. 691 (1995), page 721.

The Board found as a matter of fact that unusual circumstances existed with regard to the extent electrical substation. It found that:

“...the existing electrical substation is a substation which is far undersized in capacity for the required demand in the existing locale. An immediate (*sic*) need in increased capacity has been adequately demonstrated to address the issue of an unusual condition which exists with the existing structure. BGE is mandated to increase the capacity of any substation in order to stay ahead of demand. The conditions which exist in the existing substation are unique in that BGE has been unable to even meet existing demand. The Board finds that the existing conditions and insufficient capacity force BGE to increase capacity; (Op. 11)

The transcript of the proceeding before the Board of Appeals indicates that the existing Ivy Hill Substation is almost 40 years old. It has a single transformer with the capacity of 16.6 megawatts. (T. 1/10/95, p. 19). During the length of its service, the number of customers served by the Ivy Hill Substation has grown to approximately 1750 to 1800 customers over a 15 to 20 square mile area without any increase in its capacity to generate electricity. (T. 10/4/94, pp. 124-125, 132) (T. 1/10/95, pp. 54, 57). A further strain on the substation's capacity to generate electricity comes from an average increase of 75 new customers per year added to the substation's service area. (T. 10/4/94, p. 103) (T. 1/10/95, pp. 25-28). In the winter of 1994, the substation's 16.6 megawatt capacity was exceeded by almost 20% when it was required to generate 20.1 megawatts of power. (T. 10/4/94, pp. 103-104). This above-capacity demand for electricity caused an overload and interruption in electrical power to the service area. The Board heard testimony that

no other distribution station is available to relieve the demand from Ivy Hill. (T. 10/4/94, pp. 120-124). Based upon its statutory mandate, BGE is required to supply its customers with adequate electric service to have a generating capacity, "sufficiently large enough to meet all normal demands for service and provide a reasonable reserve for emergencies." COMAR Tit. 20, §50.02.03 (1981). Given this mandate, and the increased demands on its generating capacity, the Board heard testimony that BGE's only option was to expand the Ivy Hill substation. (T. 10/4/94, pp. 106-107).

Having found BGE's obligation to expand the Ivy Hill substation to be "special circumstances" in terms of BCZR §307.1, the CBA then went on to consider whether strict compliance with the Zoning Regulations would result in "practical difficulty or unreasonable hardship". The CBA reached the appropriate legal conclusion with regard to the character of the variance requested by BGE. The CBA determined that BGE's Petition for Relief from setback requirements implicated an area variance, the requirement for which is "practical difficulty" rather than a use variance which would have required a showing of "unreasonable hardship". Red Roof Inns v. People's Counsel, 96 MD. App. 219 (1993) p. 224.

In order to require BGE to comply strictly with the setback requirements, the Board would be asking BGE to deviate from the aforementioned nationally recognized building and electrical codes, as well as sound engineering practices, on consolidating all substation equipment to the extent possible under this Petition. That deviation creates a practical difficulty in causing BGE to design a facility which would not conform to those standards. (Op. 12).

The record supports the CBA's finding. BGE developed a two-stage plan for the upgrading of the Ivy Hill Substation and its equipment. In the first stage, the current

transformer would be removed and replaced by a 32 megawatt capacity transformer. (T. 10/4/94, p. 104) (T. 1/10/95, pp. 28, 65). BGE intends to install a second transformer at Ivy Hill to meet anticipated demands for electrical power in the future. (T. 10/4/94, p. 105)(T. 1/10/95, pp. 28, 65). The existing equipment and that proposed in the two-stage development program must, necessarily, operate in close proximity. (T. 10/4/94, p. 39). In order to situate and operate the transformer equipment in accord with nationally recognized engineering codes, the only configuration in which the equipment can be situate on the three-acre tract will necessitate the equipment's straddling interior lot lines. (T. 10/4/94, pp. 39, 104-105, 109-110)(T. 1/10/95, pp. 21-23, 28-30, 63-65, 69-70).

In summary, the CBA found that unusual circumstances were inherent in the Ivy Hill Substation site. Coupling this finding with an additional finding that interior lot line setback requirements would result in practical difficulty in the proper location of power generating equipment on the site, the CBA properly granted a variance from those lot setback requirements. The record contains substantial evidence to support those findings and, therefore, the Court will not substitute its judgment for that of the CBA.

C. LACK OF NEED - "BGE'S FAILURE TO ESTABLISH NEED BY EVIDENCE TO SUPPORT THE CBA'S FINDING"

Protestants note that the grant of a special exception for the Ivy Hill Substation would require BGE to meet the requirements of Section 411.1 of the BCZR: "the use must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of neighboring property" as well as those requirements set out in Section 502.1 BCZR. The Protestants assert that BGE failed to demonstrate the "need" for the upgrade of the Ivy Hill Substation. This Court disagrees.

Prior judicial decisions indicate that the requirement to show “need” is not a very stringent one in the context in which it presents itself in this case. In the case of Neuman v. City of Baltimore, 92 MD 251 (1967), the Court of Appeals considered the propriety of the grant of a special exception which permitted a physician to practice in a residential apartment building. The Protestants in that case, Neuman, argued the lack of need for this special exception and offered evidence to the affect that there were numerous doctors’ offices already in the area. In considering this argument, the court stated: “Need for the services of a physician likewise must be considered as elastic and relative.” Clearly it does not mean absolute necessity. Need has been judicially held to mean “expedient, reasonably convenient, and useful to the public... .” Neuman v. City of Baltimore, supra, at page 99. (See also, Baltimore City v. C & P Telephone Company, 92 MD 692 (1901), in which the court found that the term “necessary”, “for the purpose of making distribution and forming connections”, as contained in a City Ordinance, should have been interpreted to allow the C & P Telephone Company to leave standing those telephone poles “reasonably” necessary to achieve the purpose of the Ordinance.) Having defined “need” as such, the Neuman court upheld the granting of the special exception based upon countervailing evidence to the effect that 95% of the patients of the subject physician were in the “immediate area”. Neuman v. Baltimore City, supra, page 94.

Expert witness testimony presented by BGE to the CBA amounted to more than a mere scintilla of evidence upon which the CBA could find need for the upgrade of the Ivy Hill Substation. The CBA received competent evidence that the capacity of the Ivy Hill

Substation was exceeded by nearly 20% during the winter of 1994. (T. 10/4/94, pp. 103-104). This power overload resulted in an interruption in service which necessitated that a portion of the load served by the Ivy Hill Substation be temporarily transferred to the Delight Substation. (T. 10/4/94, pp. 103-105). However, because of rapid growth in the area served by the Delight Substation, the transferred energy generation potential would necessarily be returned to the Ivy Hill Substation. (T. 10/4/94, pp. 104-105, 122-123). Further, the necessary energy generation potential to supply the needs of the residents served by the Ivy Hill Substation were not available from any other distribution substation in the area. (T. 10/4/94, pp. 120-124). The CBA also heard testimony that the demand on the Ivy Hill Substation for the production of electric power will increase arithmetically in years to come. That the CBA found this testimony probative and compelling is obvious from its Opinion:

It was well established during the course of evidence and testimony that existing demand, prior to the single-day occurrence in 1994, is not met by the existing substation capacity; therefore, need for enlargement of the substation giving current demand is justified. As indicated by Petitioners' experts, future demand is forecasted and is the basis for establishing future demand in designing facilities such as the Ivy Hill substation. (Opinion pp.4-5)

The CBA made its finding of "need" in the face of testimony presented by the Protestants' witnesses. Pam Budeshein, and employee of the Baltimore County Office of Planning and Zoning prepared a projection of population increase in the subject area upon which the Protestants argued that an increase in generating power to only 17.7 megawatts would meet any increase need for generating capacity to the Ivy Hill service area. The Protestants also offered the testimony of one Ron Hanley who interpreted the factual evidence presented by BGE's witnesses in such a manner to show that no need existed

for an increase in the substation's capacity to the extent requested by BGE.

The case of *Snowden v. Mayor and City Council of Baltimore*, 224 Md. 443 (1961) is apposite to disputes, like the one before this court, in which each side argues that different inferences should be drawn from the same set of facts.

The heart of the fact-finding process often is the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence. *Snowden*, *supra*, p. 448.

Accordingly, it is not for this court to determine whether or not the CBA was "right" in finding a need to expand the Ivy Hill Substation. Though this court might well find the evidence presented by the Protestants to be logical and commanding, that finding is not a basis for the court to substitute its opinion for that of the CBA as long as the opinion of the CBA is a reasonable one.

E. DID THE CBA ERR BY FAILING TO REQUIRE COMPLIANCE WITH BCZR SECTIONS 502.1 AND 411.1?

The BCZR's specifically addressed Public Utility uses in Section 411.

For Public Utility uses permitted only by special exceptions in addition to the provisions of Section 502, the following regulations shall apply.

411.1 The use must be needed for the proper rendition of the Public Utility's service and the location thereof shall not seriously impair the use of the neighborhood.

The Protestants heatedly debate the CBA's finding: "... that any effect on property values in relation to the existence of the substation were already felt in the purchase of their respective properties." At the hearing before the CBA, the Protestants presented testimonial and documentary evidence probative of the negative effect the mere proposal to upgrade the substation had on properties bordering the Ivy Hill Substation. BGE

opposed that evidence with the testimony of Walter A. Reiter, Jr., an appraiser, who testified that the plan for enlarging the substation would not seriously impair the use of the surrounding properties because the plan provided for adequate screening by extant woodlands and additional landscaping and planting.

The Court of Appeals was presented with strikingly similar arguments based upon parallel facts in *Deen v. Baltimore Gas & Electric*, 240 Md. 317 (1965). The issue presented in *Deen* was whether or not the Baltimore Gas & Electric Company would be allowed to place its 115,000 volt transmission line above ground throughout its right-of-way from Summerfield to an East Towson substation in Baltimore County. In considering the effect that high tension wires would have on property values in the residential areas affected, the Court stated:

Besides Mr. Gavrelis, other witnesses, including Hugh E. Gelston, a real estate expert, testified before the Board that in their opinion high tension wires in this area would adversely affect property values. To rebut this, the Company produced Mr. Magee and Mr. Heinmuller, both expert real estate appraisers, who testified that in their opinions overhead lines do not have an adverse affect on property values. Because of the evidence as to safety, coupled with the conclusions which reasonable men could have gleaned from the conflicting testimony as to the effect of high tension wires on nearby property values, we conclude that under the test used in *Meltzer*, the Board was not clearly erroneous when, pursuant to the authority given the Board under Section 411.3, it ordered these high tension wires underground. For that reason, this portion of the Board's findings we consider to be supported by competent, material and substantial evidence upon the whole record, and therefore, was not arbitrary and capricious. *Deen* p. 326.

That the CBA found that the erection of high tension lines would deflate residential property values in the *Deen* case, and that the improvement of the Ivy Hill substation would not deflate residential property values in the case *sub judice* is unimportant. What is significant is that the quality of analysis by the CBA is the same in both cases. The

Board made its findings only after considering competent, material and substantial evidence. Accordingly, the CBA's finding relative to the effect on residential real estate prices in the area caused by the improvement of the Ivy Hill Substation is neither arbitrary nor capricious. Protestants presented expert testimony from Pete Kern, an appraiser, who concluded that the improvement of the substation would result in lower property values because of the negative impact the substation would have on the esthetics of the area and because a perception of risks to human health from electromagnetic fields generated by the substation. The CBA also heard testimony from BGE's experts, Bonnie L. Johansen, an expert in industrial hygiene specializing in electric and magnetic fields, and Dr. Linda S. Erdreich, who was qualified as an environmental scientist and epidemiologist, who concluded that the substation improvements did not pose a health risk to area residents. Having heard five days testimony on the subject, the Board found:

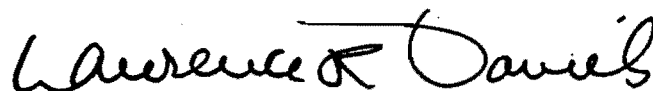
As there is no legal standard by which this Board is compelled to judge the effects of EMFs pursuant to Section 502.1, coupled with the fact that aging equipment will be replaced by new, and from an engineering standpoint, a technologically superior brand of equipment, and the testimony indicating the expected levels of exposures to EMFs, the Board can find no probative value to the evidence presented in opposition to the Petition on the basis of the argument of the presence of EMFs.

Given the blizzard of testimony presented to the CBA, the ineluctable conclusion is that the issue was "fairly debatable" Montgomery County v. G.R. Colesville Citizens Association, 70 Md. App. 374, 382 (1987), and that the record would have supported a finding by the Board in favor of either party by substantial evidence.

In distilling this case down to its essence: the evidence presented to the CBA supports each and every relevant, dispositive finding of fact made by the CBA and having so decided, this Court should not presume to substitute its judgment for that of the CBA.

Accordingly, it is

ORDERED, this 24TH of December, 1996, that the Petition of Friends of the Ridge for Judicial Review be, and it is hereby, **DENIED**.



LAWRENCE R. DANIELS
JUDGE

DATE: DEC 24, 1996

cc: J. Carroll Holzer, Esquire
John H. Zink, III, Esquire

7-17-95

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF FRIENDS OF THE RIDGE,
INDIVIDUALS MR. & MRS. NIGEL HOWSE,
MR. & MRS. ROBERT O'HARA, MR. & MRS.
RON HANLEY, MR. & MRS. CARL FOLLO,
MR. & MRS. ROBERT RYTTER, MR.
& MRS. IRA BROWN, MR. & MRS. DIETER
LANGENDORF, MR. & MRS. ANDREW LANSMAN,
MR. & MRS. JEFFREY BOZEL, MR. & MRS.
BRUCE PITCHER, AND MR. & MRS. JOE
CZAJKOWSKI AT 305 WASHINGTON AVENUE,
SUITE 502, TOWSON, MARYLAND 21204

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.

(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND VARIANCE
ON PROPERTY LOCATED ON THE SOUTHWEST
CORNER OF RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

CASE NO. 94-452-XA

* * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski and S. Diane Levero,
constituting the County Board of Appeals of Baltimore County, and
in answer to the Petition for Judicial Review directed against the
Board 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 Permits and
Development Management and the Board of Appeals of Baltimore

RECEIVED AND FILED
95 JUL 17 PM 2:50
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF PERMITS AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY**

No. 94-452-XA

May 10, 1994	Petitions filed by Martha A. Delea, Esquire, and Robert A. Hoffman, Esquire, on behalf of BG&E and Frederick and Ann Vinup, for: Special Exception to use property for an outdoor electric public utility service center (electric substation); and Variance to permit structures as close as 0' from an interior lot line in lieu of required 50' building setback.
May 26	Publication in newspapers.
June 3	Certificate of Posting of property.
June 10	Zoning Advisory Committee (ZAC) comments.
June 21	Hearing held on Petition by the Zoning Commissioner.
June 24, 1994	Order of the Zoning Commissioner in which Petitions for Special Exception and Variance were GRANTED.
July 21	Notice of Appeal filed by J. Carroll Holzer, Esquire, on behalf of Nigel Howse, Robert O'Hara, Ron Hanley, Carl Follo, Robert Rytter, Ira Brown, Dieter Langendorf, Andrew Lansman, Jeffrey Bozell, Bruce Pitcher, Joe Czajkowski, and Friends of the Ridge.
September 13	Request to withdraw appearance filed by Marc K. Cohen, Esquire (Holzer representing client).
October 4	Hearing before the Board of Appeals (Day #1)
January 10, 1995	Hearing before the Board of Appeals (Day #2)
January 12	Hearing before the Board of Appeals (Day #3)
January 17	Hearing before the Board of Appeals (Day #4)
January 19	Hearing before the Board of Appeals (Day #5)

February 6, 1995 Memorandum in Lieu of Final Argument filed by J. Carroll Holzer, Esquire on behalf the Friends of the Ridge, et al.

February 6 Petitioner's Memorandum in Support of Petition for Special Exception and Variance filed by Robert A. Hoffman, Esquire, on behalf of BGE.

February 22 Deliberation completed.

May 31 Opinion and Order of the Board in which the Petition for Variance was GRANTED and the Petition for Special Exception was GRANTED with restrictions.

June 7 Amendment to Opinion of the Board to indicate that People's Counsel did not participate in the proceedings.

June 16 Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire, on behalf of Friends of the Ridge, et al.

June 23 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.

June 26 Certificate of Notice sent to interested parties.

July 17 Transcript of testimony filed.

Petitioner's Exhibits No. 1 -Curriculum vitae - Monica P. McGrady

 2 -Plat for proposed substation

 3 -Plat of site plan shows company's proposed landscaping plan

 4 -Existing special exception for substation currently on Tract B

 ✓ 5 -Aerial photo - March, 1994 - black & white lines - external

 6a-Photo -Circuit switches -12' high, Transformer

 7 -Location Chart for photos

 7a-1- thru 7-K-11- Joel Court

 8 -Final Development Plan for Forwood

 9 -Curriculum vitae - Lawrence S. Taylor

- 10 -Chart: "How Does Electricity Get to Your House?"
 - 11 -Map of Service area for Proposed Ivy Hill Substation Expansion
 - 12 -Curriculum Vitae - James F. Ryan, Jr.
 - 13 -Portion of Pet. Ex. 11 - Current Development Map
 - 14 -Curriculum Vitae - Linda Erdreich
 - 15 -Curriculum Vitae - Paul Taylor
 - 16 -Breakdown of coverage areas 1/5/95
 - 17 -Chart showing projected growth rate of trees
 - 18 -Resume -George E. Gavrelis
 - 19 -200-scale zoning map
 - 20 -Aerial photographic map
 - 21 -Map from Dept. of Public Works - Metropolitan District Map 12/15/92
 - 22 -Planning Board Policies & Resolutions: Final Development Plans
 - 23 -Inter-Office Correspondence to Jablon from Keller 6/2/94
 - 24 -Qualifications: Walter A. Reiter
 - 25 -Revised CRG Plan for Forwood property Approved 1/21/88
 - 26 -Revised CRG Plan for Forwood property Approved
 - 27 -Packet of letters -top letter to Clare Miller 1/18/95
- Protestant's Exhibits:
- 1 -Press release: "President Clinton Asks EPA to address EMF Issue" 5/3/94
 - 2 -Letters from neighbors - For I.D. Only
 - 3 -Underlying site drawing with green tract overlays (IN CLOSET - LARGE EXHIBIT)
 - 4 -Overlay on western side to show property line (overlays Pet. Ex. 3)
 - 5 -Chart showing Community Associations that will testify - For I.D. Only.
 - 6A-Map of transportation zones and attachments.

- 6B-Revised population figures
- 7 -Comparison of Transportation zone growth figures with BGE growth figures
- 8 -Unit Growth Comparison
- 9 -Need Comparison vs. Capacity
- 10 -Need Comparison vs. Capacity (includes Hickory Meadow)
- 11 -Packett of letters -top letter to Martha Delea, BGE 12/8/94
- 12 -Curriculum Vitae, Ernest J. Kern
- 13 -Consultation Report for Friends of the Ridge 9/30/94
- 14 -Contract of sale (copy) for 11 Forwood Court
- 15 -Copy of photo of proposed site
- ✓ 16 -Map -Subtransmission map showing 13 KV to 34 KV feeders (IN CLOSET - LARGE EXHIBIT)
- 17 -Photos - 9 photos of substations (IN CLOSET - LARGE EXHIBIT)
- 18 -Photos - 9 photos of substations (IN CLOSET - LARGE EXHIBIT)
- 19 -Photo Album - substation site in county (Large Album)
- 20 -Small photo album of Ivy Hill substation from Ridge Road & property of Mr. & Mrs. Follo, also Hanley property, etc. in summer & fall
- ✓ 21 -Poster: Alternate location - Oregon Ridge Park (IN CLOSET - LARGE EXHIBIT)
- 22 -Curriculum Vitae - Zory Glaser
- 23 -Chart: The electromagnetic Spectrum
- 24 -Brochure on Fox Ridge Estates
- 25 -Fox Ridge Estate plan
- 26 -Graph: Baltimore County population
- 27 -Curriculum Vitae, Norman Gerber
- 28 -For I.D. - Planning Board report 6/25/91
- 29 -Rule 8 Document 1/1/95
- 30 -Packet of Letters from parents and staff of Chestnut Grace Preschool
- 31 -Rule 8 Documents for Shawan Valley
- 32 -Rule 8 Documents for Hunt Cup

- Hill Community Association
33 -Heather Hill Assoc. letter - no
date
34 -Mr. Pappas letter 1/18/95
35 -National EMR Alliance 1/18/95
36 -Subpoena to BGE from Holzer -
Quashed by William Hackett,
Chairman

July 17, 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.
However, all tangible material or evidence of an unwieldy or bulky
nature will be retained in the Board of Appeals office and upon
request of the parties or the Court will be transmitted to the
Court by whomever institutes the request.

Respectfully submitted,

Charlotte E. Radcliffe

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
Friends of the Ridge, et al
Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
People's Counsel for Baltimore County

4-26-95
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF FRIENDS OF THE RIDGE,
INDIVIDUALS MR. & MRS. NIGEL HOWSE,
MR. & MRS. ROBERT O'HARA, MR. & MRS.
RON HANLEY, MR. & MRS. CARL FOLLO,
MR. & MRS. ROBERT RYTTER, MR.
& MRS. IRA BROWN, MR. & MRS. DIETER
LANGENDORF, MR. & MRS. ANDREW LANSMAN,
MR. & MRS. JEFFREY BOZEL, MR. & MRS.
BRUCE PITCHER, AND MR. & MRS. JOE
CZAJKOWSKI AT 305 WASHINGTON AVENUE,
SUITE 502, TOWSON, MARYLAND 21204

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

CIVIL
ACTION
No. 3-C-95-5315

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND VARIANCE
ON PROPERTY LOCATED ON THE SOUTHWEST
CORNER OF RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

CASE NO. 94-452-XA

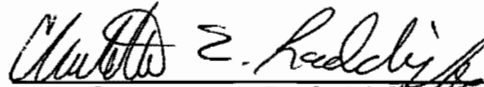
CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Robert O. Schuetz and S. Diane Levero, 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, P.A., HOLZER AND LEE, 305 Washington Avenue, Suite 502, Towson, MD 21204, Counsel for Friends of the Ridge, et al, Petitioners, at 305 Washington Avenue, Suite 502, Towson, Maryland 21204; Martha A. Delea, Esquire, Baltimore Gas & Electric Company, P.O. Box 1475, Charles Center, Baltimore, MD 21203-1475; Mr. and Mrs. Frederick Vinup, 1821 Ridge Road, Reisterstown, MD 21136; Robert A. Hoffman, Esquire, VENABLE, BAETJER AND HOWARD, 210 West Allegheny Avenue, Towson, MD 21204,

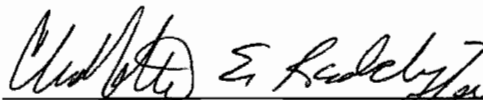
RECEIVED AND FILED
JUN 26 PM 3:49
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Counsel for BG&E and Mr. and Mrs. Vinup; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204; 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 foregoing Certificate of Notice has been mailed to J. Carroll Holzer, P.A., HOLZER AND LEE, 305 Washington Avenue, Suite 502, Towson, MD 21204, Counsel for Friends of the Ridge, et al, Petitioners, at 305 Washington Avenue, Suite 502, Towson, Maryland 21204; Martha A. Delea, Esquire, Baltimore Gas & Electric Company, P.O. Box 1475, Charles Center, Baltimore, MD 21203-1475; Mr. and Mrs. Frederick Vinup, 1821 Ridge Road, Reisterstown, MD 21136; Robert A. Hoffman, Esquire, VENABLE, BAETJER AND HOWARD, 210 West Allegheny Avenue, Towson, MD 21204, Counsel for BG&E and Mr. and Mrs. Vinup; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204, this 26th day of June, 1995.



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



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 26, 1995

Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Civil Action No. 3-C-95-5315
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)

Dear Mr. Hoffman:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on June 16, 1995, 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. 3-C-95-5315.

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
Mr. & Mrs. Frederick Vinup
Pat Keller /Planning
Joseph V. Maranto /ZADM
Lawrence E. Schmidt /ZADM
Arnold Jablon /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Virginia W. Barnhart, County Attorney
People's Counsel for Baltimore County





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 26, 1995

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

RE: Civil Action No. 3-C-95-5315
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)

Dear Mr. Holzer:

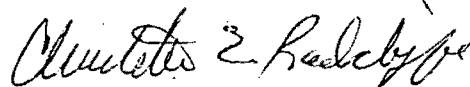
In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

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

c: Friends of the Ridge, et al



6-18-95

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

RECEIVED
COUNTY BOARD OF APPEALS

95 JUN 23 PM 3:55

PETITION OF Friends of the Ridge,
individuals Mr. & Mrs. Nigel
Howse, Mr. & Mrs. Robert
O'Hara, Mr. & Mrs. Ron Hanley,
Mr. & Mrs. Carl Follo, Mr. & Mrs.
Robert Rytter, Mr. & Mrs. Ira
Brown, Mr. & Mrs. Dieter
Langendorf, Mr. & Mrs. Andrew
Lansman, Mr. & Mrs. Jeffrey
Bozel, Mr. & Mrs. Bruce Pitcher,
and Mr. & Mrs. Joe Czajkowski at
305 Washington Avenue, Suite 502,
Towson, Maryland 21204

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS FOR BALTIMORE COUNTY
400 Washington Avenue, Room 49
Old Courthouse
Towson, Maryland 21204

Civil Action

Case No.: 3C-95-5315

IN THE MATTER OF:
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST CORNER OF
RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
Case No.: 94-452-XA

RECEIVED AND FILED
95 JUN 16 PM 2:41
CLERK OF COURT

PETITION FOR JUDICIAL REVIEW

Petitioners, Friends of the Ridge and individuals

Mr. & Mrs. Nigel Howse, Mr. & Mrs. Robert O'Hara, Mr. & Mrs. Ron
Hanley, Mr. & Mrs. Carl Follo, Mr. & Mrs. Robert Rytter, Mr. & Mrs.
Ira Brown, Mr. & Mrs. Dieter Langendorf, Mr. & Mrs. Andrew Lansman,
Mr. & Mrs. Jeffrey Bozel, Mr. & Mrs. Bruce Pitcher, and Mr. &
Mrs. Joe Czajkowski by and through their attorney, J. Carroll
Holzer and Holzer and Lee, hereby Petition for Judicial Review by

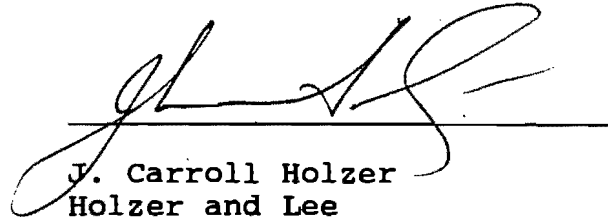
LAW OFFICE

HOLZER AND LEE
35 WASHINGTON AVENUE
SUITE 502
TOWSON, MARYLAND
21204

(410) 825-6961
FAX: (410) 825-4923

① JK
Copy sent to
agency
+
J.C. Holzer
+
R. Hoffman

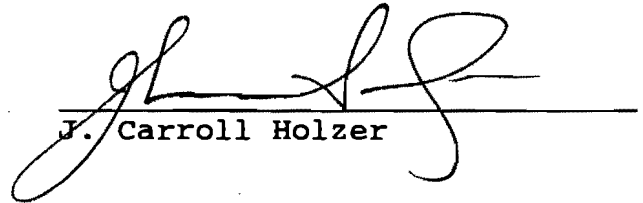
the Circuit Court for Baltimore County pursuant to Rule 7-207 of Civil Procedure from the opinion of the County Board of Appeals dated May 31, 1995.



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 16th day of June 1995, a copy of the foregoing Petition for Judicial Review was mailed, postage pre-paid, to Robert Hoffman, Esquire, Venable Baetjer and Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21204



6-7-95

IN THE MATTER OF THE
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST CORNER OF
RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 94-452-XA

* * * * *

AMENDMENT TO OPINION

On May 31, 1995, this Board issued an Opinion and Order in the above-captioned matter. The Board, on its own initiative, pursuant to Rule 10, has reviewed its Opinion issued in the proceedings and finds that an error exists within that Opinion. Specifically, the last sentence of the first paragraph on page 1 of the Board's Opinion is hereby deleted, inasmuch as the Office of People's Counsel did not participate in these proceedings.

No other changes having been made, any Petition for Judicial Review shall be filed from the date of the Board's final Opinion and Order as issued on May 31, 1995.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Robert O. Schuetz, Chairman


Harry E. Buchheister, Jr.

DATE: June 7, 1995



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 7, 1995

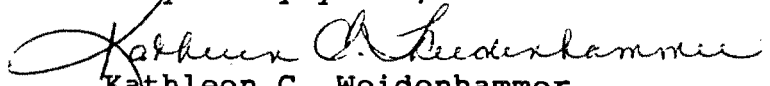
J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Case No. 94-452-XA
Baltimore Gas & Electric Co. /Ivy Hill
Substation -- Amended Opinion

Dear Mr. Holzer:

Enclosed please find a copy of the Amended Opinion issued this date by the County Board of Appeals of Baltimore County in the subject matter to correct an error in the Board's original Opinion issued May 31, 1995.

Very truly yours,


Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Andrew Lansman, et al
Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
Mr. & Mrs. Frederick Vinup
Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden
The Honorable Paula C. Hollinger
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Joseph V. Maranto /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
Virginia W. Barnhart, County Attorney

bcc: The Hon. Bryan T. McIntire



5-31-95
IN THE MATTER
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST CORNER OF
RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 94-452-XA

* * * * *

O P I N I O N

This case comes on appeal to this Board from the Zoning Commissioner's Order dated June 24, 1994 in which a Petition for Special Exception and Petition for Variance for the subject properties were granted. The case was heard in five days of testimony: October 4, 1994; January 10, 1995; January 12, 1995; January 17, 1995; and January 19, 1995. It should be noted that one Board member was replaced, prior to commencing Day #2, with no objection from either Counsel. Petitioner was represented by Robert A. Hoffman, Esquire, and C. Carey Deeley, Jr., Esquire, VENABLE, BAETJER, HOWARD, LLP; and Martha A. Delea, Esquire, of Baltimore Gas & Electric Company. Protestants were represented by J. Carroll Holzer, Esquire, HOLZER & LEE. People's Counsel for Baltimore County also participated in these proceedings.

Due to the length of the case, transcripts were prepared for use by the Board in preparing for deliberation in this matter; said deliberation being in open meeting on February 22, 1995. Because of the presence of the transcripts, the evidence and testimony will not be recounted herein.

Argument was made on the part of the Protestants regarding the jurisdiction of this case before the Board. Protestants allege

that, due to the presence of a note on the final development plan indicating disposition of the parcel known as Tract A, the plan which is the subject of this hearing should have gone to the Planning Board for advice on the appropriateness of the instant case in relation to the final development plan. Having heard the testimony of expert witnesses Norman Gerber, for the Protestants, and George Gavrelis, for the Petitioner, the Board agrees with the Petitioner that the subject case is not a deviation from the final development plan, and, in fact, that the transfer of title of Tract A to the Baltimore Gas & Electric Company (hereinafter "BGE") occurred prior to the sale of other lots within the development. Therefore, this case is properly before the Board.

The facts in the case are essentially undisputed. The subject property is located in the R.C. 5 zone and is made up of three adjoining tracts. The combined area of all three tracts is approximately 2.9 acres. The area known as Tract C on Petitioner's Exhibit 2 is the subject of an existing special exception granted on March 28, 1956, for the operation of a local electric distribution substation known as Ivy Hill Substation. BGE proposes to replace existing equipment within the substation, enlarge the area for placement of electrical equipment, and increase the capacity of the Ivy Hill Substation. The issues before this Board are whether (a) BGE is able to meet the tests under Section 411 of the Baltimore County Zoning Regulations (hereinafter "BCZR") for public utility uses; (b) whether, due to the nature of the proposed development, the tests pursuant to Section 502.1, Special

Exceptions, are met; and (c) whether the Petitioner is due variances from interior lot lines between Tracts A, B and C, pursuant to Section 307, Variances, of the BCZR.

The Protestants attempted to illustrate for the Board that (a) need can be maintained by placement of similar substation equipment in other areas outside the area served by the Ivy Hill Substation; (b) the tests prescribed under Section 502 concerning special exceptions could not be met by the subject Petition; and (c) the Petitioner is not entitled to a variance subject to Section 307 of the BCZR, attempting to prove that no special conditions exist on the site.

Over the five days of testimony, much was discussed regarding various unresolved issues as they relate to this Board; namely, the effects of electromagnetic fields (hereinafter EMF's) and what standing those forces may have in regard to Section 502.1. In response to a question from the bench, the Protestants' expert witness, Zory Raphael Glaser, revealed that no legal standard for exposure to EMF's exists in the State of Maryland; further, the collection of data by the Petitioner's field personnel and witness, Bonnie L. Johansen, reveals that levels of EMF readings in and around the community, and more specifically around the subject site, are, and are expected to be, at levels below those which are commonly found in the average American household. As there is no legal standard by which this Board is compelled to judge the effects of EMF's pursuant to Section 502.1, coupled with the fact that aging equipment will be replaced by new and, from an

engineering standpoint, a technologically superior brand of equipment, and the testimony indicating the expected levels of exposure to EMF's, the Board can find no probative value to the evidence presented in opposition to the Petition on the basis of the argument of the presence of EMF's.

The first issue to be decided by this Board, therefore, is the question of need pursuant to Section 411 of the BCZR regarding distribution of electric power. Petitioner brought evidence and testimony by an expert in forecasting electric demand, James F. Ryan. Protestants offered the testimony of Ronald P. Hanley, an employee for a waste collection and recycling company, and one who had three courses in statistics at Pennsylvania State University, and who prepared various graphs which were introduced into evidence. According to the testimony of Charles S. Taylor, an engineer and expert in the area of electrical system planning, the BGE franchise with the Public Services Commission in the State of Maryland is required to supply power at all times and satisfy all demands. In short, the obligation of the Petitioner is to serve the demand at peak periods. The Protestants allege that the peak demand experienced on one day in the winter of 1994 was, admittedly by the Petitioner's witness, a one-time occurrence; however, that one-time occurrence established the new demand.

It was well established during the course of evidence and testimony that existing demand, prior to the single-day occurrence in 1994, is not met by the existing substation capacity; therefore, need for enlargement of the substation given current demand is

justified. As indicated by Petitioner's experts, future demand is forecasted and is the basis for establishing future demand in designing facilities such as the Ivy Hill Substation. The analysis of the need comparison versus capacity presented by Protestants' witness, Mr. Hanley, points to a future need for increased capacity from this substation. Protestants would have the Petitioner increase the capacity of the substation in increments which stay just ahead of demand. The Board notes that such alteration of the substation places unreasonable engineering constraints and unnecessary additional cost to the ultimate development of this site. Such costs would be unnecessarily borne by all electric consumers for the benefit of those in the surrounding community. The Public Services Commission dictates that BGE must provide sufficient power to exceed demand. Petitioner has obviously met its burden of proof pursuant to Section 411 as buttressed by the evidence presented by Protestants in their graphic analysis of need versus capacity.

The Protestants further allege that the Ivy Hill Substation should not be used to supply power to areas outside of their own locale. Again, BGE was able to demonstrate that, because of its requirement to provide power, it was forced into the position of switching power distribution away from the Ivy Hill Substation as a result of the peak demands in 1994, creating a similar condition at the nearby Delight Substation in Owings Mills, an area growing even faster than the area surrounding Ivy Hill.

The Board therefore finds as a fact that not only has need

been demonstrated but that in further reviewing the requirements of 502.1 the health, safety and welfare of the general public is suspect when required power is not delivered to the homes served by the substations as mandated.

Much of the five days of testimony surrounded the requirements of Section 502.1. The first test under 502.1 is that the proposed use for which the special exception is required will not be detrimental to the health, safety or general welfare of the locality involved. The Board has already commented on the issue of EMF's; the Board can find no reason to believe that the presence of the proposed enlarged substation would have any impact on the health, safety or general welfare of the locality as a result of the presence of EMF's. Concerning the presence of the requisite stormwater management pond as part of the development of the site, the Protestants allege that said pond presents a breach of the safety to be enjoyed by the residents of the neighborhood and their children. Evidence and testimony by the Petitioner point to the fact that legal design standards for the pond will be maintained; therefore, the Board finds that no safety concerns are generated by the presence of a well-designed and well-constructed stormwater management pond.

Pursuant to the issue of general welfare under this subsection, the Protestants allege that property values will be negatively impacted on the expansion of the proposed substation. The Board finds as a fact that the Ivy Hill Substation has existed since 1958; the Board also finds as a fact that all property owners

prior to the purchase of their properties were apprised of the ownership of Tract A and the ultimate disposition of that property being with BGE, and that any effect on property values in relation to the existence of the substation were already felt in the purchase of their respective properties. Furthermore, as indicated above, the health, safety and general welfare of other localities served by the Ivy Hill Substation continues to be suspect so long as the substation sits unaltered, as most homes in the area served by the Ivy Hill Substation rely on uninterrupted transmission of electric power as the sole source of energy for the heating of their homes.

Regarding 502.1B, the subject proposal obviously does not tend to create congestion in roads, streets or alleys in the community; testimony was presented that the subject substation would be only periodically visited for maintenance of equipment.

The Protestants commented on the potential hazard from fire or other dangers, namely explosions, emitting from the expanded substation. The Board recognizes that the existence of electric equipment on the site presents an inherent danger. Nonetheless, design standards are established both locally and nationwide for the siting and construction of such facilities, in addition to design and construction standards of the equipment to be placed thereon. BGE obviously agrees to adhere to any and all building and electric codes and standards in the construction of the proposed enlarged substation. Therefore, the potential for fire or explosion at this particular substation is no greater than would

exist at any other substation; further, the existing conditions, already being beyond capacity of the existing substation, present a greater danger from fire or explosion than a substantially enlarged substation equipped to handle ever-increasing demand. There were no facts or circumstances presented to indicate that the particular use proposed at the particular location proposed would have any adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981)

The case presented here is one in which the Petitioner plans to expand an existing substation, accommodate existing and future demand with a reasonable buffer for same, and to do so on a part of the combined three tracts which allows for the greatest amount of space between the proposed expanded substation and nearby properties. The Board finds as a fact that not only has BGE met the standard in Schultz v. Pritts, but in fact has worked diligently to mitigate such ordinary hazards from the subject property to a degree that those hazards are below the standard normally found at similar sites. Therefore, the requirements of 502.1C have been easily met.

Section 502.1D speaks to the overcrowding of the land and concentration of population. The subject Petition includes evidence and testimony which indicates that BGE intends to raze an existing home on Tract B; the Board finds as a fact that the Petition will actually reduce the concentration of population and

the intensity of overcrowding on the land. Section 502.1E is similarly unaffected by the subject Petition as is 502.1F. Schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements, and adequate light and air all are unaffected by the proposed expanded substation.

Regarding 502.1G, the Board agrees with the testimony of Mr. Gavrelis when he states that the R.C. 5 zone permits some public utility uses as a matter of right and others as special exceptions which are presumed to be valid uses. The mere existence of homes in the R.C. 5 zone points to their need for power transmission; therefore, the reasoning follows that facilities to provide the transmission of power as a natural consequence of the existence of those homes dictates that not only are electric substations consistent with the purposes of the property's zoning classification but are a need to be fulfilled, in the allowance of development in the R.C. 5 zone.

Regarding 502.1H, the Board heard testimony from Mr. Gavrelis and Monica McGrady, BGE project engineer and an expert in site planning, that because of the intent to raze the existing structures which include a residence and swimming pool, coupled with the planned siting of equipment within the cleared area and the additional landscaping, the impermeable surface and vegetative retention provisions are met by the subject Petition. Concerning 502.1A, the Board did hear testimony from experts in property values from both the Petitioner and Protestants; the Board recognizes that one of the concerns in regard to property values is

the visual impact that an enlarged substation presents. The Board is not compelled by the argument that property values will be negatively impacted; however, the Board recognizes that the residents have come to be familiar and comfortable with what has been termed the pastoral setting of the neighborhood. In recognizing that BGE is meeting the requirements for vegetative retention provisions of the regulations, the Board is compelled to require as part of any improvements pursuant to this Petition to include landscaping which serves to provide a visual buffer between the subject site and surrounding properties, in deference to the adjoining property owners. Therefore, the Board will grant the special exception, subject to restrictions.

The Petitioner finally must meet the tests under Section 307.1 in pursuing variance from lot line setbacks, said lot lines existing between tracts owned by the Petitioner. George Gavrelis clearly points out in his testimony that Section 306 of the BCZR speaks to lot area regulations for erecting substations. The Petitioner seeks a variance under 307.1 from BCZR 1A04.3B.3 which requires a 50-foot setback from any lot line other than a street line. The Board finds as a fact that Section 306 applies in this case and that the application for a variance under 307.1 may be treated as moot. The Petitioner recognizes that its placement of electric utility structures on the subject site, straddling interior lot lines and certainly within otherwise required setbacks, may be construed under 1A04.3B.3 as a principal building, and is therefore requesting such variance. The Board is compelled

to address the issue of 307.1 pursuant to the Petition. As stated by Mr. Gavrelis in his testimony, the Board finds that the application of Section 306 points to the fact that public utilities are unique in their requirements. Therefore, the spirit and intent of the BCZR in height, area, off-street parking and sign regulations are met by the subject Petition. Since the Petitioner seeks relief from 1A04.3B.3, the Petitioner must meet the tests in trying to prove that special circumstances or conditions exist that are peculiar to this land or structure that is the subject of the variance request. In David Cromwell v. Arthur Thomas Ward, III, CSA No. 94-617, filed January 4, 1995, Judge Cathell, the Court of Special Appeals, states that the conditions which are peculiar to the land or structure must be met before the tests for strict application of the BCZR and any resulting practical difficulty or unreasonable hardship are reviewed. The Board finds as a fact that the existing electrical substation is a substation which is far undersized in capacity for the required demand in the existing locale. An immediate need in increased capacity has been adequately demonstrated to address the issue of an unusual condition which exists with the existing structure. BGE is mandated to increase the capacity of any substation in order to stay ahead of demand. The conditions which exist in the existing substation are unique in that BGE has been unable to even meet existing demand. The Board finds that the existing conditions and insufficient capacity force BGE to increase capacity; furthermore, in order to accommodate existing and increasing demand, in

accordance with its requirements under its Public Services franchise, as well as nationally recognized and accepted building codes and standards, a condition exists which requires sufficient area to accommodate the needs of an enlarged substation. The Board therefore finds that the first test under 307.1 has been met. The land on which the substation will sit is divided by interior lot lines.

The second test under 307.1, assuming the first has been met, is that strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. In order to require BGE to comply strictly with the setback requirements, the Board would be asking BGE to deviate from the aforementioned nationally recognized building and electrical codes, as well as sound engineering practices, on consolidating all substation equipment to the extent possible under this Petition. That deviation creates a practical difficulty in causing BGE to design a facility which would not conform to those standards. Furthermore, the Board finds as a fact that BGE's proposal, in consolidating the substation equipment to a central location within the three tracts, provides for the maximum setback from adjoining property owners, allowing for the greatest opportunity from visual and other alleged impacts. Because the Board finds that strict compliance would result in practical difficulty, the Board is not required to address the issue of unreasonable hardship.

O R D E R

IT IS THEREFORE this 31st day of May, 1995 by the

County Board of Appeals of Baltimore County

ORDERED that Petition for Variance from Section 1A04.3B.3 is hereby GRANTED; and it is further

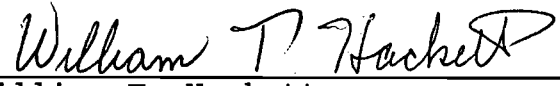
ORDERED that the Petition for Special Exception for an electrical substation in R.C. 5 zone is hereby GRANTED subject to the following restrictions:

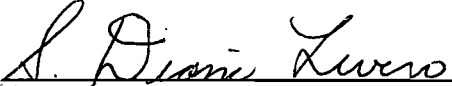
1. To the extent possible due to site conditions, the Board will require, as a condition of the special exception, that landscaping around the proposed substation and stormwater management pond shall be double that shown on the Landscape Plan, and that the height of the specimen trees to be planted shall be increased from 8'-10' to 10'-12'; and
2. The screening shall be strictly maintained; any specimens which are planted pursuant to this Order which do not survive shall be immediately replaced, and that understory vegetation will be encouraged to increase in density. Failure of the Petitioner to maintain the screening shall result in the forfeiture of the special exception.

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


Robert O. Schuetz, Chairman


William T. Hackett


S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 31, 1995

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

RE: Case No. 94-452-XA
Baltimore Gas & Electric Co.
/Ivy Hill Substation

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.

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 and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Andrew Lansman, et al
Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
Mr. & Mrs. Frederick Vinup
Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden
The Honorable Paula C. Hollinger
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Joseph V. Maranto /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
Virginia W. Barnhart, County Attorney
The Honorable T. Bryan McIntire



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Baltimore Gas & Electric Co. -Petitioner
Case No. 94-452-XA

DATE : February 22, 1995 @ 9:10 a.m.

BOARD /PANEL : William T. Hackett, Chairman (WTH)
Robert O. Schuetz (ROS)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present included Robert A. Hoffman, Venable, Baetjer and Howard, LLP, and Martha A. Delea, BGE, on behalf of Petitioner; and J. Carroll Holzer, Holzer and Lee, on behalf of Protestants. (No participation by People's Counsel in this case.)

PURPOSE --to deliberate issues and matter of petitions for special exception and variance presented to the Board; testimony and evidence taken October 4, 1994; January 10, January 12, January 17 and January 19, 1995. Opinion and Order to be issued by Board setting forth written findings of fact.

WTH: As requested by law, Board is here for purpose of deliberation of Case No. 94-452-XA, Ivy Hill Substation property. Wished to indicate that very competent memorandums were received from both parties; Board has carefully gone over these memos.

ROS: Always start these things with little bit of preamble; these deliberations can be somewhat emotional experience for folks; liken it to being on a jury and then being asked to deliberate whatever is found as fact; how those facts are countered with other facts; how each sees things; those present will hear things they won't want to hear; can be a rather uncomfortable situation for anyone; requested that all present refrain from comments during course of deliberation; difficult situation being here for everyone.

Where variances are concerned, generally one who takes a rather difficult position for developer to achieve; views variance as part of the law which allows developer to say "the law does not apply to me." Believes the Court of Special Appeals of Maryland generally agrees with that position; only granted three variances in 70 years. But that's not to say

Minutes of Deliberation /Baltimore Gas & Electric 94-452-XA

that that should never happen; just means that three of cases which have gone that far have had sufficient question in content which would case that Court to find thusly. Position is still one that assumes that whatever it is that is proposed is not something that will be on landscape for 5, 10 or 20 years; assumption that what is being discussed is going to remain on landscape forever; maybe will undergo alteration over time in part; but will still be there; questioned relief granted over years; architecture along strips like Reisterstown Road, Liberty Road, Belair Road, etc. Be that as it may, does not abide the "not in my back yard" thinking; genuine need to be sitting in hearing room with the use of artificial lighting to read and see each other; situation where everyone in room, including BGE, employees, attorneys, etc. would like to have own power source running underground encased in lead and concrete through middle of earth to center of home; not going to happen; emotional thinking must be thrown out; real issues considered.

Utility companies have rather tenuous future; does not take a Jules Verne imagination to realize we are depleting fossil fuel; technology associated with nuclear power forcing utility companies around country and world to rethink distribution. Conditions exist to which we are all subjected; utility companies are mandated in this State to provide power; and to provide power uninterrupted; reality where we do have occasions where we do not have power; one day, who knows when, either children or possibly grandchildren, will see alternate power generated in back yard; going to be a certain amount of ugliness going along with that; what can we do to minimize that part of the consequence associated with the need for power? Do substations belong in residential areas? Believes counsel for protestants raised it as an issue in closing memorandum; answer is resounding "yes, absolutely." Practical issue; what can Board do, what can society do, to minimize effects of existence of that need. EMFs as it stands now in this State is an emotional issue; utility companies like BGE have lot of risk; if one day the Courts or the legislature or even the Federal Government decides that EMFs are in fact tangible issue which must be addressed, then utility companies like BGE are going to be forced to alter their systems to accommodate necessary changes. Putting emotional issues aside, Board must get down to real issues: need, special exception, and issues surrounding variance and what Board is empowered to do.

Absolutely clear that there is a need; evidence and testimony on both sides which points to a genuine need; protestants' analysis has actually helped in coming to conclusion since capacity is something which must exceed demand. As

Minutes of Deliberation /Baltimore Gas & Electric 94-452-XA

engineering practice, BGE is not expected to increase its capacity year by year, or month by month, or day by day in order to just barely accommodate demand; that's bad engineering practice and issue which is impractical; would cause additional costs to citizens. Believes that Section 411 of BCZR has been met and met resoundingly. 502.1, dealing with special exceptions - issues of health, safety and general welfare, roads, overcrowding, schools, transportation, etc., also have been met; can be argued that Baltimore/Washington real estate market is overpriced; however, fact remains that folks bought homes and have certain expected return on investment; not here to help retain expected return; but here to protect from acts of others which would negatively impact property. Visual impact is one area under 502.1 which is even in question at this point; evidence and testimony from protestants which indicates that BGE does not have solid history of providing landscaping at other facilities. BGE has submitted landscaping plan which goes long way toward meeting that goal; because it's a visual issue, will discuss conditions later in deliberation; regarding design standards and codes, potential for fire and other panic, we have building codes, national electrical code, design standards -- BGE expected to meet and must meet by law. Issue of whether child will climb over fence -- at what point is developer expected to exceed standard or exceed level of care; circuit breaker in home is secured with four screws; does not take a lot to dismantle that; far more dangers here that if child should transverse BGE property. Regarding stormwater management pond, electrical dangers, all go away because of design standards which will be met.

Again, that leaves visual issue; consistent with zoning classification; what is practical way of distributing electrical power; facilities do belong in residential areas. Only question is where; would even say that issue of health, safety and general welfare would be negatively impacted if BGE were not allowed to place this facility there because of need to provide electricity to homes; regarding cold weather last winter, testimony surrounded issue of meeting demand; we had one day; that one day established new standard; that was peak day; BGE did not meet it; that is standard by their mandate; at this point in time, health, safety and welfare of others outside of this community is at question because of the fact that they were not able to meet that demand.

Concerning variances, most difficult issue. Again, does not take variances lightly; variances are very serious part of code; spent overwhelming majority of time thinking about this; variance language is very strong; law says that there must be conditions which are peculiar to the land; and further where

following the code in its strictest sense would cause the property owner practical difficulty or unreasonable hardship; not in the additive / "or undue hardship." And again, that language is taken and construed as meaning forever; go afield here from just what is seen in testimony and evidence; have to look deeply into what is meant by what is presented. What BGE has done in past is not necessarily what BGE will always do in future; great deal of hue and cry over what BGE does now relative to commercial enterprise and competing with mechanical contractors; so I look at that type of situation and wonder what happens if variance is granted and BGE alters what they have proposed at some point in future. They have a 0' setback variance from interior lot lines, and then they sell off a piece of property; will that then overcrowd the land? Will they then do things contrary to spirit and intent of BCZR? And are they then moving away from issues which are peculiar to the land given their initial proposed development?

Great deal of concern that the variance must be considered only within the constraints that have been placed as a part of this request; from equitable standpoint, variance is granted given set of circumstances prescribed in presentation of case; fair to assume that if variance is granted and those conditions change, the variance is lost; reason for that position is a special exception speaks to the use but a variance speaks to the land; from fairness standpoint would say that in granting variance would place rather unusual restrictions on BGE; equitable standpoint is intent of law; mere fact that BGE is mandated to provide power; is constrained to build in a certain fashion; they are constrained to do work in a certain manner and therefore to deny them the ability to construct this facility centrally within the three parcels would create a practical difficulty and an undue hardship; again, that's because of proposed development; with that, would say that variance can only stay with BGE's proposed development, and if proposed development changes in configuration or location, then variance would be lost.

Will find as a fact that they do have conditions peculiar to the land; that the denial of the variance would be practical difficulty and undue hardship. Now to conditions with which BGE would have to deal; lot of discussion in both attorney's presentations and closing memos regarding Schultz v. Pritts. Again, effects of this are largely visual; until law determines that EMFs or other conditions associated with these facilities determine otherwise. Therefore, one of conditions which would be imposed on BGE is to double the number of trees surrounding the facility, making it four rows of trees; would also increase the height of the trees from 8-10' to 10-12';

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going to require BGE to absorb much more cost related to the protection of the surrounding residents from visual effects of facility; that has been most compelling argument presented by protestants, including real estate expert. Believe this will alleviate these concerns.

Therefore, will find in favor of BGE for the special exceptions and variance from the interior lot line setback on all three properties; and will further place conditions on the variance that the development go forward as proposed; any reduction will result in the loss of the variance; and also require the doubling of the landscaping surrounding the facility to alleviate visual concerns of residents.

SDL: This Board listened to five days of intensive testimony regarding whether BGE substation complies with certain specific Baltimore County zoning regulations; in addition, Board received and studied lengthy memorandums. Not going to outline or summarize all evidence and arguments included in testimony and memos; will cite most important evidence and state opinion. Want to emphasize that points are not only factors considered in arriving at decision; just the major ones.

Section 411.1 - requires proof that proposed substation is needed; was convinced by testimony of BGE witnesses that proposed expansion is necessary due to increased demand; did not find rebuttal testimony convincing. 411.1 also requires that proposed substation will not impact use of neighboring properties; covers some of same areas of concern as 502.1; agrees with Petitioner's memorandum that while protestants addressed negative impacts /stormwater management pond and potential fires, chief concerns are harm from EMFs and whether proposed substation would lower property values. Expert testimony on EMF issue given by BGE; measurements taken at similar existing substations; concluded that exposure at property line would be same or less as exists at existing substation; equal to or less than average American exposed to in home. Based on these measurements, no risk to neighborhood residents. Protestants' expert on EMF's did not offer testimony refuting that testimony; could not cite standard at which there is a health risk. Cannot find, under 502.1, that proposed substation would pose threat to health, safety or general welfare based on EMF at property line equal to that in American household; will also say that EMF issue is emotional one; attempt made at hearing to relate this to use of tobacco and asbestos, which could not be proven until recently. Without belaboring this issue, alarms have been raised concerning other products /factors; later proved to be false alarms. Wrong to expect this Board to deal in possibilities

and maybe's; must be based upon solid evidence.

Regarding effect on property values - conflicting evidence from two real estate appraisers; Mr. Reiter testified to no effect because of proposed substation; would be screened and buffered; Kern based his conclusion that there would be detrimental effect on study of literature on subject and discussions with developers; did not discuss issue on whether area with existing substation would suffer if station expanded. Homes in area have substantial dollar value despite existing substation; whatever effect there is in this neighborhood due to EMF issue has already been incorporated in existing property values; would they still be affected because of bigger, more visible facility? Photographs showed that other substations are screened little or not at all; BGE plans have taken area into account; have made substantial effort to buffer accordingly. Confident that community spirit exhibited in these hearings will see to it that BGE complies with plans; visual intrusion kept to minimum. BGE has complied with 502.1 and 411.1; should be granted special exception.

As to variance, 307.1 is basically two-step process: (1) subject property has special or unique characteristics; and (2) this would create practical difficulty or unreasonable hardship. Fact that this property is made up of three tracts with internal lot lines is what is creating special circumstances; would create practical difficulty. Mr. Gavrelis testified to zoning regulation requirement of 50-foot setback from tract A, B and C; in order to place substation in this site, require 130' x 130'. Could not do that on any one tract; compliance would create difficulty; by centrally locating substation, existing woodlands could be preserved; substation screened from surrounding neighborhood. Mr. Gavrelis concluded that granting variance would be in spirit and intent of BCZR; agrees; existing requirements for internal lot lines when using for one purpose makes no sense; would grant variance.

Regarding question - would final plan have to be amended for Tract A under site plan; concluded that the use of Tract A does not constitute an amendment to the final development plan.

WTH: Sees little or no reason to redundantly go through what other members have gone through; thought amendment would not be addressed; Ms. Levero covered that; will agree in general principle that the proposal by BGE indicates potential need for a much bigger substation, especially with addition of Hickory Meadows, extra houses, and extra current each house will demand; from reviewing testimony and evidence, convinced

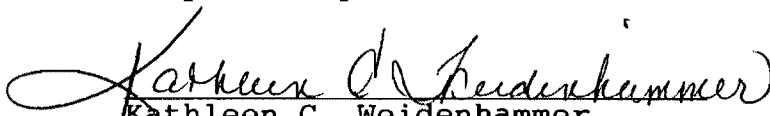
Minutes of Deliberation /Baltimore Gas & Electric 94-452-XA

they have complied with 411.1 in that they have demonstrated the need for the substation; no point in arguing or discussing special exception and 502; been handled very well by other Board members; would only add, as far as the landscaping consideration, the photographs presented were graphic; however, this is operating under special exception; Board is authorized to demand that it be done and that it not only be constructed but maintained; if not, special exception is lost; if they lose special exception, they lose substation. Screening as proposed is absolutely vital; cannot emphasize that strongly enough; if they neglect screening and maintenance of screening, they stand a very good chance of coming back before the Board; will remove the special exception.

Therefore, will agree with colleagues and will grant special exception; will grant from 411 and will grant variance; no need to discuss variance; practical difficulty met; if they had gone, prior to hearing, and consolidated parcels, internal lines would not exist. BGE owns properties, and variance on internal lot lines should be granted.

Summary: Petitions to be granted; Board will issue a written Opinion and Order. Appellate period will run from the date of the Order and not from today's date.

Respectfully submitted,


Kathleen C. Weidenhammer
Administrative Assistant



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

February 23, 1995

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

Re: Case No. 94-452-XA
Baltimore Gas & Electric Co. -
Ivy Hill Substation

Dear Carroll:

As you've requested, enclosed is a copy of the minutes taken at the Board's public deliberation of the subject case on February 22, 1995.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kathy", is written over the typed name.

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure



9/02/94 -Notice of Assignment for hearing scheduled for Tuesday, October 4, 1994 at 10:30 a.m. (Day #1) and Thursday, October 6, 1994 at 10:30 a.m. (Day #2) sent to the following:

J. Carroll Holzer, Esquire
Andrew Lansman, et al
Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Mr. & Mrs. Frederick Vinup
Mark K. Cohen, Esquire
Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM

9/14/94 -Letter from Mark Cohen, Esquire -withdrawing appearance as counsel for R. Hanley, Protestant.

9/23/94 -Rule 8 papers filed by Falls Road Community Association.

10/04/94 -Day #1 completed before the Board; continued to Thursday, October 6, 1994 for Day #2. With agreement of all counsel and Board, holding January 10, January 11 and January 12, 1995 for Days #3, 4 and 5.

4:15 p.m. T/C from Carroll Holzer; has continued ZC case in Upper Marlboro on Wednesday, January 11, 1995. Available two remaining dates and all of following week as well. Requested that this be brought to attention of Board before start of Day #2 on 10/06/94.

10/06/94 -Postponed on the record at request of Counsel for Petitioner without objection by Counsel for Protestants /Appellants; case reassigned for Day #2 to January 10, 1995; remainder of dates scheduled as follows: Day #3 - January 12; Day #4 -January 17; Day #5 -January 19. Also holding Friday, January 20, 1995 as possible Day #6 if needed for completion of case.

10/07/94 -Notice of Assignment sent to parties reflecting above dates; case to resume on Tuesday, January 10, 1995 at 10:00 a.m.

1/12/95 -Hearings held on Days 2 (1/10/95) and 3 (1/12/95); due to resignation of Mr. Clark from the Board effective 1/16/95, Mr. Schuetz, with the agreement of counsel, has replaced him as the third member of the panel (H.R.M.).

- With the agreement of parties, prior to hearing of 1/12/95, the starting time for 1/17/95 and 1/19/95 was changed to 9:00 a.m.; Friday, 1/20/95 is no longer available for the Board. This change was announced in hearing room.

- Amended Notice of Assignment sent to parties advising of (1) change in start time on 1/17/95 and 1/19/95 and (2) that these are last two dates scheduled for this matter on the Board's docket at this time.

Case No. 94-452-XA
BG&E

Page 2

1/19/95 -Hearing concluded before the Board; Memorandums due February 6, 1995.
Public Deliberation to be scheduled and notices sent. (H.R.M.)

Memos filed: Hoffman /BG&E 2-6-95 (+ TRANSCRIPT 15 DAYS)
Holzer 2-6-95

2/10/95 -Notice of Deliberation sent to parties (copies to 3 Board members);
deliberation scheduled for Wednesday, February 22, 1995 at 9:00 a.m.

2-6-95

IN THE MATTER OF BALTIMORE
GAS & ELECTRIC COMPANY

PETITION FOR SPECIAL
EXCEPTION AND VARIANCE
FOR PROPERTY LOCATED AT
SOUTHWEST CORNER OF
INTERSECTION OF RIDGE ROAD
AND JOEL COURT

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

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

Case No. 94-452-XA

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**PETITIONER'S MEMORANDUM IN SUPPORT OF PETITION
FOR SPECIAL EXCEPTION AND VARIANCE**

Baltimore Gas and Electric Company ("BGE"), Petitioner, by Robert A. Hoffman with Venable, Baetjer and Howard, LLP, and Martha A. Delea with BGE, its attorneys, respectfully submits this Memorandum in support of its Petition for Special Exception and Variance, as follows:

INTRODUCTION

BGE has requested a special exception and variance for property located at the southwest corner of the intersection of Ridge Road and Joel Court in north central Baltimore County. The subject property, which is located in an RC-5 zone, is made up of three adjoining tracts. See Petitioner's Exhibit 2. Tracts A, B, and C, as delineated on the Site Plan, are owned by BGE. The combined area of the three tracts is approximately 2.9 acres.

A portion of the property, Tract C, is the subject of an existing special exception, granted on March 28, 1956, for the operation of a local electric distribution substation, known as the Ivy Hill substation. See Petitioner's Exhibit 4. A local distribution substation,

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such as that located at Ivy Hill, accepts higher voltage electricity from a master substation and lowers the voltage of that electricity to a usable level for its customers in the area. This use is permitted in an RC-5 zone by special exception. Section 1A04.2.B.11 of the Baltimore County Zoning Regulations ("B.C.Z.R.").

BGE now proposes, in requesting the present special exception and variance, to replace and expand the Ivy Hill substation in order to accommodate the increased demand for electricity that has been placed on its facility by continued development and changes in the area. Without this much needed expansion, the electrical capacity of the existing substation will be overloaded by the Winter of 1995. Realizing it would eventually have to expand the substation to meet the increased demand, in 1989, BGE purchased the adjoining Tract A. Tract A is currently unimproved and is heavily wooded. Similarly, in 1994, BGE purchased Tract B. Tract B is improved with a residence and a pool, which will be razed under the proposed plan to allow for placement of the new substation.

Under the plan submitted to the Board, BGE proposes to replace the existing equipment and to expand the capacity of the Ivy Hill substation in two distinct phases based on existing and predicted need. In order to ensure adequate and reliable service, the Phase One expansion must be implemented immediately. According to predictions, the electrical capacity provided by Phase One, though, will also be exceeded, necessitating the Phase Two expansion.

Because of the configuration and natural features of the three tracts and because of BGE's desire to preserve the maximum amount of wooded areas to serve as a buffer between the substation and the surrounding neighborhood, BGE has planned to centrally locate the

new equipment on the three tracts. Centrally locating this equipment is also important because the different pieces of equipment for the substation work in concert and necessarily must be placed close together, making placement on any one tract impossible.

This placement, though, will result in the structures straddling the interior lot lines of Tracts A, B, and C and, consequently, will violate the setback distance required by B.C.Z.R. Section 1A04.3.B.3. While this placement will violate the interior lot lines, necessitating a variance, such placement will maximize the distance of the equipment from the exterior lot lines and, in fact, this distance to the exterior lot lines will meet or exceed that required by the zoning regulations. As a further barrier between the substation and the surrounding locale, BGE further proposes to enclose all equipment in a seven foot fenced area, topped with one foot of barbed wire. The proposed plan also provides for substantial landscaping and planting to provide increased year-round screening.

In appearing before the Board of Appeals on October 4, 1994, January 10, 1995, January 12, 1995, January 17, 1995, and January 19, 1995, BGE had the burden of proving its entitlement to the requested special exception and variance by demonstrating that the requirements of the following sections of the Baltimore County Zoning Regulations have been met: Section 502.1 (Special Exceptions); Section 411.1 (Public Utility Uses); and Section 307.1 (Variances). As outlined below, BGE produced strong and substantial evidence on each of these requirements. The Board of Appeals, therefore, should grant the requested relief, enabling BGE to fulfill its responsibility to provide adequate and reliable service to its customers.

ARGUMENT

I. Based on the Evidence Presented before the Board of Appeals, BGE is Entitled to the Requested Special Exception.

BGE has requested a special exception so that it may expand the Ivy Hill electric substation. Such a use is permitted in an RC-5 zone by special exception pursuant to B.C.Z.R. Section 1A04.2.B.11. According to the well-developed law of Maryland, such a special exception use is *presumed* to be valid and is *presumed* to be consistent with the general welfare. Schultz v. Pritts, 291 Md. 1, 11, 432 A.2d 1319 (1981). Therefore, once a petitioner demonstrates that the proposed use satisfies the specific requirements of the applicable ordinances, *i.e.*, Section 411.1 and Section 502.1, the special exception must be granted unless a protestant produces strong and substantial evidence that placement in this particular location will have adverse effects *above and beyond* those inherently associated with such a special exception use regardless of where it may be located within the zone. Schultz, 291 Md. at 14, 22-23. In other words, a protestant must do more than show that the use may have adverse effects that are common to the use generally. Id. See also Sharp v. Howard County Board of Appeals, 98 Md. App. 57, 632 A.2d 248 (1993).

As outlined below, BGE produced sufficient evidence at the hearings before the Board to prove that no adverse impact would result from the proposed use and that the requirements of Section 411.1 and Section 502.1 have, in fact, been met. The Protestants were unable to produce any credible evidence to show otherwise.

A. The Evidence Confirms that the Proposed Plan Complies with B.C.Z.R. Section 411.1.

In order to prove its entitlement to the requested special exception, BGE first must demonstrate that the requirements of Section 411.1 have been met. According to Section 411.1, BGE has the burden of proving that: (1) the proposed substation is needed for the proper rendition of electric service to its customers; and (2) the proposed substation will not seriously impair the use of the neighboring properties. In the hearings before the Board of Appeals, BGE produced substantial evidence, by way of numerous exhibits and expert witnesses, to prove that these requirements have, in fact, been met.

To prove that the improvements to the Ivy Hill substation are necessary, at the hearings before the Board, BGE produced the testimony of Lawrence S. Taylor, an engineer, who was qualified as an expert in the area of electrical system planning, and the testimony of James F. Ryan, Jr., a registered professional engineer, who was qualified as an expert in power station engineering and in forecasting electrical demand. As these experts testified, both phases of the proposed expansion are necessary to allow BGE to properly render electric service to its customers.

The existing Ivy Hill substation, which is almost forty years old, has a single transformer with a capacity of 16.6 megawatts. (T. 1/10/95, p. 19) Although the demand placed on the substation has increased over the years, its capacity, unfortunately, has remained unchanged. The Ivy Hill substation presently serves approximately 1750-1800 customers over a 15-20 square mile area. (T. 10/04/94, pp. 124-125, 132) (T. 1/10/95, pp. 54, 57) See Petitioner's Exhibit 11. In addition to those customers, an average of 75 new customers are being added to this service area every year. (T. 10/04/94, p. 103) (T. 1/10/95,

pp. 25-28) These new customers equate to approximately seven-tenths of a megawatt per year in additional demand for electricity from the Ivy Hill location. (T. 1/10/95, p. 27)

During the Winter of 1994, the capacity of the Ivy Hill substation (16.6 megawatts) was exceeded by close to 20% (20.1 megawatts). (T. 10/04/94, pp. 103-104) (T. 1/10/95, pp. 19, 32-33)^{1/} As a result of this overload, there was an interruption in service, and a portion of the load served by the Ivy Hill substation had to be temporarily transferred to the Delight substation. (T. 10/04/94, pp. 103-105) (T. 1/10/95, p. 22) This transfer brought the load at the Ivy Hill substation back to under 16.6 megawatts. The demand from Ivy Hill's total service area with the transferred portion included, though, still exceeds its capacity.

Because the Delight substation is experiencing even more rapid growth than the Ivy Hill substation, the transferred load must be returned to Ivy Hill. (T. 10/04/94, pp. 104-105, 122-123) (T. 1/10/95, pp. 29, 49-50) No other distribution substation is available to relieve the demand from Ivy Hill. (T. 10/04/94, p. 120-124) As both Mr. Taylor and Mr. Ryan testified, with the added demand from new customers, the load for the Ivy Hill substation is again expected to exceed 16.6 megawatts in the Winter of 1995. (T. 10/04/94, pp. 103-105, 108-109, 159) (T. 1/10/95, pp. 21-23, 27-28) The substation's capacity will be exceeded this year even if the transferred area were not returned to Ivy Hill. (T. 10/04/94, pp. 103-105, 108-109, 159)

^{1/} While this load is considered a "peak usage," because BGE is required to supply adequate power at all times, BGE must plan for and be able to supply its customers with electricity even during a peak usage period.

Because the infrastructure already exists at the Ivy Hill site and because this site is a good load center, the only reasonable option is to expand the existing substation. (T. 10/04/94, pp. 106-108) As Mr. Taylor noted, the term "load center" refers to the proximity to the bulk of demand, not the strict geographic center of the service area. (T. 10/04/94, pp. 106-108) Because most of the demand in the area serviced by the Ivy Hill substation comes from the southern end of the service area, the location at Ivy Hill is optimal. (T. 10/04/94, pp. 74, 106-108) Being close to the demand ensures that BGE will be able to provide its customers with an adequate and reliable supply of power. (T. 10/04/94, pp. 107-108) Therefore, as BGE has proved through the testimony of its expert witnesses, in order to properly serve its customers, BGE must expand the Ivy Hill substation.

BGE proposes to expand the substation in two phases. In Phase One, the existing transformer would be replaced with a 32 megawatt capacity transformer. (T. 10/04/94, p. 104) (T. 1/10/95, pp., 28, 65) This new transformer would allow BGE to supply the existing demand, which will again exceed 16.6 megawatts when the transferred portion of the service area is returned to the Ivy Hill substation, and the added demand expected by the Winter of 1995. (T. 10/04/94, p. 104) (T. 1/10/95, pp. 21-23, 28-29) Because of anticipated continued growth and changes within the service area, however, the capacity of the single 32 megawatt transformer will likewise be exceeded by the year 2001, necessitating the Phase Two expansion. (T. 10/04/94, p. 109-110) (T. 1/10/95, pp. 28-30, 63-65, 69-70)^{2/} In Phase Two,

^{2/} As Mr. Ryan explained, an additional area of service, called Hickory Meadow, must be added to the southeast portion of the Ivy Hill service territory due to a transmission project, which will eliminate the means of supplying this area from the Texas substation. (T. 1/10/95, pp. 29-30, 37-41, 47-49) Hickory Meadow contains approximately 700 units presently, and this area is expected to grow at a pace of 10 units per year. (T. 1/10/95, pp. 29-30, 37-41, 47-49)

BGE proposes to add a second transformer to the substation to meet the additional expected demand. (T. 10/04/94, p. 105) (T. 1/10/95, pp. 28, 65)

In considering the issue of necessity, the Board must keep an important point in mind. As a public utility company, BGE is required, under its franchise agreement with the State of Maryland, to supply its customers with adequate and reliable electric service regardless of the circumstances. (T. 10/04/94, pp. 108-110, 157-158) BGE must be prepared to meet whatever demand occurs, even if that demand actually happens to be *higher* than expected. (T. 10/04/94, p. 108-110) (T. 1/10/95, p. 75) Therefore, BGE is acting reasonably and responsibly in preparing to meet future demand and is asking the Board to approve both phases of this special exception. Based on all the evidence and testimony presented during the hearings, this Board should find that, in accordance with Section 411.1, BGE has proved that both the Phase One expansion and the Phase Two expansion are necessary for the proper rendition of electric service to its customers.^{3/}

As further required by Section 411.1, BGE produced substantial evidence through its expert witnesses that the proposed use will not seriously impair the use of neighboring properties. As Walter A. Reiter, Jr., expert appraiser, testified, because the plan provides for adequate screening by the surrounding woods and additional landscaping and planting, the

^{3/} The evidence and testimony presented by BGE was not rebutted by any credible evidence presented by the Protestants. To rebut "necessity," the Protestants offered only the testimony of Mr. Ronald P. Hanley, who admittedly has no experience or training in estimating the demands that are placed on public utility companies. Further, Mr. Hanley based his lay opinion that expansion of the substation is not necessary on the County's transportation zone maps. However, the representative from the Office of Planning, Pam Budesheim, openly admitted that this map has no correlation to the number of people or units contained in Ivy Hill's service area. (T. 1/17/95, Part One, p. 46) Further, Mr. Hanley calculated need based upon 16.6 megawatts, rather than actual current demand for the service area, which is 20.1 megawatts. Therefore, it is obvious that the very basis for Mr. Hanley's opinion is fundamentally flawed.

proposed use will not seriously impair the use of the surrounding properties. (T. 1/12/95, p. 138)

Mr. George S. Gavrelis, expert land planner and former Director of the Office of Planning and Zoning, also concluded that, because the proposed expansion of the substation would not have an adverse impact on the health, safety, and general welfare of the locality or on any other aspect of residential life, the proposed use will not seriously impair the use of the neighboring properties as residential properties. (T. 1/12/95, pp. 89-101) This conclusion was further supported by Monica McGrady, the engineer who designed the proposed substation. (T. 10/04/95, p. 44)

That the community prefers not to have a substation in their neighborhood is not a sufficient reason to overcome the solid and rational evidence presented by BGE. Their preference not to have a substation in their neighborhood is, in fact, ironic given that, while these neighbors are recent arrivals, the substation has been operating in this location for close to forty years. As the Zoning Commissioner found below,

[t]his matter appears to be a case of the most recent residents of the community objecting to a use which has been in the locale for many years....Clearly, the Protestants were aware of the long history of this use when their homes were built and on legal notice of BG&E's intentions.

Findings of Fact and Conclusions of Law of Zoning Commissioner, dated June 24, 1994.

Because BGE presented sufficient evidence demonstrating that the proposed use would not seriously impair the use of the neighboring properties, this Board should find that no such impairment will occur.

**B. The Evidence Confirms that the Proposed Plan Complies with
B.C.Z.R. Section 502.1.**

In addition to proving that the proposed use is needed for the proper rendition of electricity to BGE's customers, BGE also proved that the proposed use complies with Section 502.1.

Health, Safety, and General Welfare of the Locality

The Protestants expressed concern over two primary issues, which fall under the ambit of health, safety, and general welfare of the locality. These two issues can be stated as a concern over the potential harm from electromagnetic fields ("EMFs") and a concern that the proposed use would lower property values in the neighborhood.

1. Electromagnetic Fields

Although the Protestants raised much speculation about the possible effect on the neighborhood, in terms of exposure to EMFs, from the proposed expansion of the substation, the expert testimony presented by BGE on the issue of EMFs was clear that the proposed plan would have *no* adverse impact because there would be *no* exposure at any of the surrounding homes to EMFs as a result of the expansion of the substation.

As Bonnie L. Johansen, an expert in industrial hygiene who specializes in electric and magnetic fields, testified, the average home has an EMF measurement in the range of .5 to 10 milligauss. (T. 1/10/95, pp. 90, 118) From the measurements she took of the existing substation and of substations similar in design and capacity to the proposed substation, Ms. Johansen concluded that any exposure at the property line of the proposed substation would be the same or less as the existing substation (between .5 and 2 milligauss depending on the distance from the equipment). (T. 1/10/95, pp. 92-97) This "exposure" is equal to or less

than that to which the average American is exposed in their home. (T. 1/10/95, pp. 90, 118) Ms. Johansen further noted that no federal, state, or local exposure limits to EMFs have been established. (T. 1/10/94. p. 91)

Taking into consideration Ms. Johansen's measurements, Dr. Linda S. Erdreich, environmental scientist and expert epidemiologist, concluded that no risk to health would result from the proposed substation. (T. 1/10/95, pp. 146-148, 150-151) (T. 1/12/95, p. 30) The EMF levels would be so low as to be considered no exposure at all. (T. 1/10/95, pp. 146-151) (T. 1/12/95, p. 30) In further explaining the findings with respect to EMFs generally, Dr. Erdreich further testified that there are no known health effects even from exposure to levels of EMFs up to 1000 milligauss. (T. 1/10/95, pp. 177-181) Nor are there any cumulative effects from exposure to low levels of EMFs. (T. 1/10/95, p. 172)

It is interesting to note that the Protestant's own expert on EMFs, Dr. Zory R. Glaser, did not testify contrary to the findings of no adverse effects under the circumstances of this case. In fact, when asked directly by one of the Board members, Mr. Schuetz, Dr. Glaser was unable to provide even an estimate for a threshold at which there is an increased health risk associated with EMFs. (T. 1/19/95, pp. 89-94).

2. Property Values

The Protestants were also very vocal at the hearings about their fears that expansion of the Ivy Hill substation would have a negative impact of their property values. As with the EMFs, the only credible evidence in this case as to property values, that of BGE's expert, Walter A. Reiter, Jr., certified appraiser, proves that these fears are unfounded.

According to his analysis of the effect of the proposed substation, Mr. Reiter concluded that the proposed use would have no adverse effect on property values in the neighborhood. (T. 1/12/95, pp. 137-139, 140) Mr. Reiter further concluded that the proposed use would not impair the use of the neighboring properties. (T. 1/12/95, p. 138) Mr. Reiter based his conclusions on the improvements being centered on the three tracts and the wooded areas being preserved to the greatest extent possible, which, in combination with the additional landscaping and planting, would provide a substantial screen and buffer from the rest of the neighborhood. (T. 1/12/95, pp. 138-139) Mr. Reiter also noted that the neighborhood might actually benefit from the proposed use because, under the plan, the overhead electric lines will be buried underground from Falls Road to the proposed substation, improving the general appearance of the neighborhood. (T. 1/12/95, pp. 138-139)

3. Summary of Health, Safety, and General Welfare

Ultimately, BGE produced overwhelming evidence from credible expert witnesses to demonstrate that the proposed use would not have any adverse impact on the health, safety, and general welfare of the community. George S. Gavrelis, expert land planner, wholly concurred with this conclusion, citing the large site, the plan's retention of much of the surrounding woods, the excellent screening of the equipment, and the many safety components of the plan. (T. 1/12/95, pp. 89-91)

Traffic Congestion

Monica McGrady, an expert in electrical substation engineering and construction and the engineer responsible for the design of the proposed expansion of the Ivy Hill substation, testified that the proposed use would not result in increased traffic or congestion in the roads.

(T. 10/04/94, pp. 106-108) The substation is designed to operate automatically and is unmanned with the exception of weekly visits by a single employee. (T. 10/04/94, pp. 40, 90)

Mr. Gavrelis also concluded that, because the proposed use would not generate traffic, the proposed use would not result in additional traffic or congestion in the roads. (T. 1/12/95, p. 94) This conclusion was further confirmed by the Protestant's own expert land planner, Norman E. Gerber. (T. 1/19/95, p. 169)

Potential Hazard from Fire, Panic, or Other Dangers

Ms. McGrady, the engineer responsible for the design of the proposed expansion of the Ivy Hill substation, testified as to the safety features of the substation, and it was her expert opinion, based upon her experience, that the proposed use will not present a potential hazard from fire, panic, or other dangers. (T. 10/04/94, pp. 40-41, 70-73) Mr. Gavrelis similarly testified that, due to the safety equipment built into the substation, in his opinion there is no danger of fire or other dangers. (T. 1/12/95, pp. 93-94)

The Protestants' fear that the proposed substation will create a potential for fires amounts to pure conjecture and speculation, wholly unsupported by any valid evidence of an increased risk. (T. 1/17/95, Part Two, p. 77, 102-105)

Overcrowding of Land or Undue Concentration of Population

Mr. Gavrelis testified, in his expert opinion, that the proposed substation would not overcrowd the land or cause undue concentration of population. (T. 1/12/95, p. 95) In stating this conclusion, Mr. Gavrelis noted that the total site is approximately 2.9 acres and that the area of actual improvements (.45 acres) is minimal in comparison. (T. 1/12/95, p.

95) Additionally, Mr. Gavrelis noted that, according to B.C.Z.R. Section 306, there is no minimum lot requirement for transformer stations. (T. 1/12/95, pp. 106-108) Even so, the property's size exceeds the minimum lot size required in an RC-5 zone by a factor of three. Therefore, the proposed use is an unintensive use of the land. (T. 1/12/95, p. 95) Mr. Gavrelis further recognized that population is not an issue in that the station is unmanned. (T. 1/12/95, p. 95)

Adequate Provisions for Schools, Parks, Etc.

Mr. Gavrelis concluded that, because BGE is not a consumer of these services, the proposed use would not interfere with the adequate provision of these services. (T. 1/12/95, pp. 95-96) Mr. Gerber, Protestant's expert, testified in agreement with this conclusion of no impact. (T. 1/19/95, p. 171)

Interference with Adequate Light and Air

Mr. Gavrelis likewise testified that the proposed Ivy Hill substation would not interfere with adequate light and air. (T. 1/12/95, pp. 96-97) His conclusion was based on the fact that the use will be unintensive in terms of height of equipment and use of the land. (T. 1/12/95, pp. 95-96) Mr. Gerber, Protestant's expert, likewise testified that the proposed use would not interfere with adequate light and air. (T. 1/19/95, p. 171)

Inconsistency with Zoning Regulations

Mr. Gavrelis testified that the plan to expand the Ivy Hill substation is not inconsistent with the property's RC-5 classification, nor is the plan inconsistent with the spirit and intent of the zoning regulations generally. (T. 1/12/95, pp. 97-98) In stating this opinion, Mr. Gavrelis took into consideration that RC-5 zones permit some public utility uses

as a matter of right, and others, such as this use, by special exception, which are presumed to be valid uses. (T. 1/12/95, p. 98) Mr. Gavrelis took this as proof that the drafters of the zoning regulations recognized that there has to be some way for utilities, such as BGE, to provide the residences located in these rural residential zones with services. (T. 1/12/95, p. 98) Ms. McGrady also stated her opinion that the proposed substation would be consistent with the zoning regulations. (T. 10/04/95, p. 42)

Inconsistent with Impermeable Surface/Vegetation

According to Mr. Gavrelis, the proposed use will not be inconsistent with any impermeable surface, building coverage, or vegetation retention requirements of the zoning regulations. (T. 1/12/95, pp. 98-99) See Petitioner's Exhibit 16, which shows the total area covered by buildings, both existing and proposed.

Ms. McGrady agreed that there would be no inconsistency and further testified that, because there is already clearing on the property, due to the residence and pool, clustering the equipment within this cleared area will preserve as much of the forest resources as possible. (T. 10/04/94, p. 42) With the additional landscaping, as testified to by Danny L. Davis, an expert forester, the condition of the property in terms of vegetation will actually be improved. (T. 1/12/95, pp. 51-53, 69)

Because the Site Plan includes a stormwater management area, any increase in impervious area will not result in a drainage problem for the neighboring property owners. See Petitioner's Exhibit 2. On behalf of BGE, Paul Taylor, registered professional engineer and expert in stormwater management facilities, testified concerning the stormwater management area shown on the Site Plan and stated that the proposed use would have no

adverse impact in terms of impervious area and drainage. (T. 1/12/95, pp. 33-35, 37-38, 41, 45-46). The Protestants offered no proof to the contrary on this issue.

II. Based on the Substantial Evidence Presented to the Board of Appeals, BGE is entitled to the Requested Variance.

In addition to the requested special exception, BGE also requested that a variance be granted from B.C.Z.R. Section 1A04.3.B.3 to permit the structures comprising the substation to be placed across the interior lot lines of Tracts A, B, and C in lieu of the required fifty foot building setback. Variances, such as the one requested by BGE, are permitted under B.C.Z.R. Section 307.1. At the hearings before the Board, BGE produced substantial evidence, through numerous expert witnesses, that the requirements for granting a variance under B.C.Z.R. 307.1 had been met: (1) that special circumstances exist that are peculiar to Ivy Hill; and (2) that requiring BGE to strictly comply with B.C.Z.R. Section 1A04.3.B.3 would result in practical difficulty.

A. The Evidence Confirms that Special Circumstances or Conditions Exist that are Peculiar to Ivy Hill.

BGE produced sufficient evidence to prove that the subject property is unique and that special circumstances exist peculiar to the Ivy Hill site that create a practical difficulty for BGE under the proposed plan in terms of strictly complying with the setback requirements of Section 1A04.3.B.3. The subject property is unique in that, as shown on the Site Plan, it is comprised of three adjoining tracts: Tract A, Tract B, and Tract C. See Petitioner's Exhibit 2 (T. 10/04/94, pp. 20-24) (T. 1/12/95, pp. 39-40, 101-106) BGE owns all three tracts. (T. 10/04/94, pp. 54, 58) (T. 1/12/95, pp. 39-40) These tracts are located in a residential neighborhood.

As the various photographs of the vicinity that were introduced into evidence indicate, and as the testimony of numerous witnesses demonstrates, a majority of the subject property is densely wooded. See Petitioner's Exhibits 5, 7, and 7a (T. 10/04/94, pp. 36-37) (T. 1/12/95, pp. 105-106) A portion of Tract B, though, is cleared. This clearing is improved with a residence and a pool. (T. 10/04/94, pp. 23, 58-59) Further, a portion of Tract C is cleared. The existing substation is located in the cleared area of Tract C. (T. 10/04/94, pp. 23-24) This combination of wooded and cleared areas and where these areas fall, in terms of the lot lines, make this property unique. (T. 1/12/95, pp. 129-131)

According to the proposed plan to expand the substation, in order to preserve as much of the existing woods as possible and to make use of the already cleared areas, BGE proposes to centrally locate the equipment on the three tracts. Petitioner's Exhibits 2 and 3. (T. 1/12/95, pp. 89-91, 99-106) Because the pieces of equipment, which work in concert, must be placed in close proximity to each other, centrally locating the substation also serves BGE's purposes. (T. 10/04/94, p. 39) This placement achieves the goals of utilizing the cleared spaces, preserving the natural resources, and providing the community with adequate screening. However, because the property is made up of three separate tracts, such placement violates the setback requirements for the interior lot lines of Section 1A04.3.B.3. (T. 1/12/95, pp. 99-106) Section 1A04.3.B.3 requires that the structures be set at least 50 feet back from any lot lines. While the setback requirement as to the interior lot lines will be violated, the central location of the equipment will, in fact, preserve the greatest distance from the equipment to the exterior lot lines. (T. 1/12/95, pp. 101-106) This distance will meet or exceed that required by the zoning regulations. (T. 1/12/95, pp. 101-106)

Based on the substantial evidence presented by BGE, the Board should find that this property has peculiar characteristics or unusual circumstances, which relate uniquely to this property, in that this property is made up of three tracts, all owned by BGE, and that this property has a unique distribution, in terms of lots lines and for building purposes, of cleared areas and heavily wooded areas. The Board should further find, based on these factors, that the setback ordinance has a more severe impact on this property as a result of this uniqueness.

B. The Evidence Confirms that Strict Compliance with the Baltimore County Zoning Regulations would Result in Practical Difficulty for BGE.

At the hearings before the Board, BGE produced sufficient evidence, demonstrating that requiring BGE to strictly comply with Section 1A04.3.B.3 would result in a practical difficulty for BGE.^{4/} In deciding whether BGE has, in fact, proved that a “practical difficulty” exists, the Board should consider the following criteria: whether conformity with the applicable zoning regulation would be unnecessarily burdensome; whether granting the variance would do substantial justice; and whether the requested variance would be consistent with the spirit of the ordinance and would preserve the public safety and welfare. B.C.Z.R. § 307.1; McLean v. Solely, 270 Md. 208, 214-215, 310 A.2d 783 (1973). BGE

^{4/} Because this type of variance is an area variance, BGE is required to meet only the lesser standard of proof of “practical difficulty” rather than the stricter standard of “unreasonable hardship,” which applies to use variances. McLean v. Solely, 270 Md. 208, 213-214, 310 A.2d 783 (1973); Loyola Fed. Sav. & Loan Ass’n v. Buschman, 227 Md. 243, 248-249, 176 A.2d 355 (1961); Red Roof Inns, Inc. v. People’s Counsel, 96 Md. App. 219, 223-224, 624 A.2d 1281 (1993); Anderson v. Board of Appeals, 22 Md. App. 28, 38-40, 322 A.2d 220 (1974).

presented sufficient evidence to permit the Board to make factual findings with respect to each of these criteria.

As described in the section above, the subject property is actually made up of three individual tracts, all of which are effectively owned by BGE. Being owned by one party, the lot lines between the adjoining tracts are essentially unimportant except in terms of their legal effect. The purpose of a setback requirement is to protect neighboring property owners from encroachment. However, because BGE is its own "neighbor" with respect to these interior lot lines, this requirement becomes irrelevant under the circumstances. Requiring BGE to strictly comply with the setback requirements would serve no purpose as BGE does not need to be protected from itself. Therefore, requiring BGE to strictly comply with Section 1A04.3.B.3 would be unnecessarily burdensome. (T. 1/12/95, pp. 101-106) Because of the necessity to place the pieces of equipment close together, BGE cannot place the substation entirely on any one lot and still comply with the setback requirements. (T. 10/04/94, pp. 39) (T. 1/12/95, pp. 101-103, 106-108)

As presented in Section I.A. of this Memorandum, during the hearings before the Board, BGE presented convincing evidence as to the need to expand the substation. BGE is under its franchise agreement with the State of Maryland to provide adequate and reliable service to its customers. (T. 10/04/94, pp. 108-110, 157-158) (T. 1/10/95, p. 75) BGE has recognized that, without the expansion of the Ivy Hill substation, it will be unable to provide such quality service because of the ever-increasing demand for electricity for the service area. (T. 10/04/94, pp. 103-105, 108-110, 159) (T. 1/10/95, pp. 21-23, 27-30, 63-65, 69-70)

This evidence of need must be considered along with the strong evidence presented by BGE that granting the requested variance will not harm the neighboring property owners. Central placement of the substation will actually preserve the wooded areas as a buffer, utilize the already cleared areas, and maximize the distance of the substation from the neighboring residences, reducing the possibility of any exposure to EMFs at the external property lines. Therefore, granting the requested variance would do substantial justice to BGE, the 1750-1800 customers presently served by the Ivy Hill substation, future customers to be served by this substation, and the surrounding property owners.

BGE also presented sufficient facts upon which the Board could conclude that granting the variance would be consistent with the spirit and intent of the zoning regulations. As Mr. Gavrelis testified, the zoning regulations have recognized that public utility companies must be permitted to provide service to their customers, even in rural residential areas. (T. 1/12/95, pp. 106-108) Again, it must be reiterated that the reason for having setback requirements, to protect adjoining property owners, is not being served under the circumstances because BGE owns all three lots on which the setback requirements are an issue. Granting the requested variance would be consistent with the spirit of the ordinance because exterior setbacks are being preserved, and the public safety and welfare will be secured.

From the substantial and uncontroverted evidence presented by BGE, the Board should find that requiring BGE to strictly comply with the setback requirements of Section 1A04.3.B.3 would result in practical difficulty for BGE in that requiring such compliance does not serve the purpose behind the ordinance, that granting the variance would result in

substantial justice for BGE, the many customers served by the Ivy Hill substation, whose service would be made more reliable, and the surrounding property owners, and that granting the variance would be consistent with the spirit and intent of the zoning regulations.

III. Use of Tract A for the Proposed Substation is Not an "Amendment" to the Forwood Final Development Plan.

At the initial hearing before the Board of Appeals, which took place on October 10, 1994, the Protestants asserted that this proceeding was actually, in part, premature because the Final Development Plan for Forwood had to be amended to incorporate the uses proposed for Tract A under the Site Plan. No such additional proceedings are necessary, however, and this proceeding is not premature because, as the Zoning Commissioner found and as BGE proved at the hearings before the Board of Appeals, the use of Tract A for the proposed substation does not constitute an amendment to the Forwood Final Development Plan.

The Final Development Plan for Forwood, which was submitted as Petitioner's Exhibit 8, identifies Tract A as being "conveyed to adjoining property owner BG&E Co." The transfer of Tract A to BGE is further indicated by an arrow from the subdivision to the property on which the Ivy Hill substation is located. The substation property is clearly labeled "BG&E Company" with the deed reference. The written notation and graphic representation of the transfer in the form of an arrow clearly evidence an intention that the property not be developed as a residential lot and that the property was to be conveyed to BGE for a nonresidential use.^{5/}

^{5/} BGE also presented copies of two CRG approved plans for the Forwood subdivision. The first plan has Tract A labeled as "Lot 25" with the same data as the other twenty-four residential lots. Petitioner's Exhibit 25. The second plan amends the first to change "Lot 25" to "Tract A" with a note "to be conveyed to adjoining lot owner" and an arrow showing transfer to the adjoining BGE property. Footnote continued on next page

This interpretation of the Final Development Plan was confirmed by Mr. Gavrelis, expert land planner. (T. 1/12/95, pp. 76-81) Mr. Gavrelis explained that, in his opinion, the arrow “links” Tract A with the property owned by BGE. (T. 1/12/95, pp. 77-78) It is evident, from a review of the Final Development Plan, that Tract A is not a residential lot; the only markings on this tract are the boundary lines and those referencing the transfer to BGE. Further, unlike the other twenty-four residential lots, this property, which is labeled “tract,” has no building envelope, nor is there a septic disposal area or well shown. (T. 1/12/95, pp. 78-79) From the notations on the Plan, Mr. Gavrelis concluded that, based on his experience, the Final Development Plan effectively removed Tract A from potentially being developed as a part of the Forwood residential development and inextricably linked Tract A with the uses, existing or proposed, on the adjoining BGE property. (T. 1/12/95, pp. 79, 131-133)

According to Section 1B01.3, the purpose of a final development plan is to provide for disclosure to prospective residents and for proper review of residential developments by the zoning authority. Mr. Gavrelis properly concluded that those purposes were served under these circumstances because the Plan gives clear notice to those concerned what the future use of Tract A will be. (T. 1/12/95, pp. 80-81, 131-133) In Mr. Gavrelis’ opinion, because the Final Development Plan forewarns of the future use of Tract A by BGE, the utilization of Tract A as proposed is not an amendment or modification of the Forwood Final Development Plan. (T. 1/12/95, p. 81)

Footnote continued from previous page

Petitioner’s Exhibit 26. Because this last CRG plan predates the Final Development Plan, it further substantiates the intent of the developer, Baltimore County, and BGE to remove Tract A from the Forwood Final Development Plan.

At the time BGE purchased Tract A, because none of the lots in the Forwood development had been sold, if the developer, BGE, or Baltimore County believed that the notations contained in the Final Development Plan were insufficient to put the public on notice, the plan could have, and would have, been amended by simple resubmission of the plan. B.C.Z.R. Section 1B01.3.A.7. (T. 1/12/95, p. 131-133, 142) Obviously, everyone involved understood that the notations were to give notice to future lot owners that BGE would be utilizing the property for a non-residential purpose, *i.e.*, for purposes of the local distribution substation.

Even if the Board believes that the proposed use of Tract A constitutes an amendment to the Final Development Plan for Forwood, this proceeding is still not be premature, and further proceedings on the “amendment” are not necessary because the procedures for amendment, under Section 1B01.3.7, have effectively been complied with by BGE under the circumstances of this case.

As drafted, the zoning regulations indicate that an amendment to a final development plan must first be approved by the Planning Board as being in accord with the provisions adopted by the Board under the authority of B.C.Z.R. Section 504. Exercising its authority under Section 504 , the Planning Board adopted the Comprehensive Manual of Development Policies (“C.M.D.P.”), and, in turn, authorized the Director of Planning to make the

determination as to compliance of development plans. See Petitioner's Exhibit 22 (T/ 12/95, pp. 81-83)^{6/}

BGE has essentially received such approval from the Director of Planning. The Office of Planning and Zoning has reviewed the Site Plan, which shows the proposed use, and, through their comment, has approved the requested special exception and variance. See Petitioner's Exhibit 23. Because the issue of an additional hearing was raised in the Petition for Special Exception and because no hearing was, in fact, required, this comment supports the conclusion that the proposal complies with the requirements of Section 504. (T. 1/12/95, pp. 81-84, 126-127)

According to Section 1B01.3.7, a determination must also be made as to whether the "amendment" is consistent with the spirit and intent of the original plan and with the development policies. (T. 1/12/95, pp. 127-128) At the hearings before the Board, BGE produced testimony demonstrating that use of the proposed substation was, in fact, consistent with the spirit and intent of the original final development plan. As Mr. Gavrelis testified, because the Final Development Plan evidences an intent that "Tract A" was to be conveyed to and used by BGE for other than residential purposes, placement of a stormwater management facility and a minute portion of the substation equipment on the tract is in accord with the intent of the original plan. (T. 1/12/95, pp. 84-85) The Board, therefore,

^{6/} As required, the C.M.D.P., with the provision granting the Director of Planning this authority, was submitted to the County Council for approval. Because the Council raised no objection within 45 days after submission, the C.M.D.P. is deemed to have been approved. B.C.Z.R. Section 504.

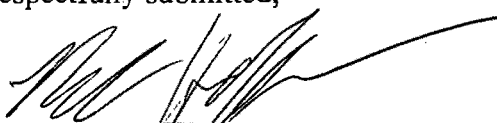
could find, based on the testimony presented before it, that this "amendment" is consistent with the Final Development Plan and the development policies.

Further, under Section 1B01.3.7, a determination must be made that the amendment complies with the requirements of Section 502.1 (Special Exception). As outlined in detail in Section I.B. of this Memorandum, BGE presented overwhelming testimony as to each of these requirements. Therefore, the procedure for amending a final development plan has essentially been met under the circumstances of this case. For this reason, the Board should not permit this purely technical argument to prevent it from reaching the merits of this case.

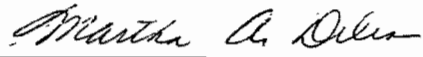
CONCLUSION

As the above recitation of the evidence demonstrates, Petitioner BGE produced strong and substantial evidence of its entitlement to the requested special exception and variance. Therefore, BGE respectfully requests that the Board grant the special exception and variance, which would allow BGE to expand the Ivy Hill substation and fulfill its statutory obligation of proving adequate and reliable electric service to its customers.

Respectfully submitted,



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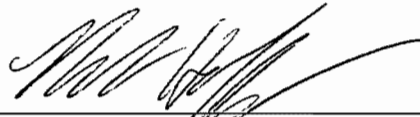


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6TH day of February, 1995, a copy of the foregoing PETITIONER'S MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL EXCEPTION AND VARIANCE was mailed to J. Carroll Holzer, P.A., Holzer & Lee, 305 Washington Avenue, Suite, Towson, Maryland 21204.



ROBERT A. HOFFMAN

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2-6-95

IN THE MATTER OF	*	BEFORE THE
BGE IVY HILL SUBSTATION	*	COUNTY BOARD OF APPEALS
S/W CORNER OF RIDGE ROAD AND	*	BALTIMORE COUNTY
JOEL COURT	*	
8th ELECTION DISTRICT	*	
3rd COUNCILMANIC DISTRICT	*	CASE NO. 94-452-XA

* * * * *

MEMORANDUM IN LIEU OF FINAL ARGUMENT

I.

Statement of the Case

Prots, Friends of the Ridge, and individuals Mr. & Mrs. Nigel Howse, Mr. & Mrs. Robert O'Hara, Mr. & Mrs. Ron Hanley, Mr. & Mrs. Carl Follo, Mr. & Mrs. Robert Rytter, Mr. & Mrs. Ira Brown, Mr. & Mrs. Dieter Langendorf, Mr. & Mrs. Andrew Lansman, Mr. & Mrs. Jeffrey Bozel, Mr. & Mrs. Bruce Pitcher, and Mr. & Mrs. Joe Czajkowski, by J. Carroll Holzer, Holzer and Lee, hereby submit the following Memorandum in Lieu of Closing Final Argument as requested by the County Board of Appeals.

This matter comes before the Board as both a Petition for Special Exception and a Petition for Zoning Variance for the property located on the southwest corner of the intersection of Ridge Road and Joel Court in northern Baltimore County. Within the Petition for Special Exception, relief is requested to approve an outdoor electric public utility service center (electric substation) in an RC-5 zone, pursuant to Section 1A04.2.B.1.1 of the Baltimore County Zoning Regulations (hereinafter B.C.Z.R.) and if necessary, to amend the Fox Ridge Estates (formerly Forewood Property) final development plan. The Petition for Zoning Variance

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requests a variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit structures as close as zero feet (0') from an interior lot line in lieu of the required fifty feet (50') building setback. The relief requested was shown on Petitioner's Exhibit Number Three.

A hearing was conducted before the Zoning Commissioner of Baltimore County and on the 24th day of June 1994, the Petitions for Special Exception and Variance were granted. An appeal to the commissioner's order was filed by the protestants to this Board.

The Board conducted hearings on five days beginning in October 1994 and ending on January 19, 1995.

II.

Summary of Protestants' Position

- ◆ BGE's proposed increase of an existing one-transformer substation containing approximately twelve hundred (1,200) square feet to a two-transformer, multiple switch-gear and circuit equipment increasing the size to a 22,000+ square foot serving an increased service area does not belong in this residential neighborhood and because of its size and capacity, it will serve an area in excess of the existing service area for the present facility. In addition to its increased size, it is spilling out of its original lot confines to include expansion into a parcel of the original Fox Ridge subdivision as well as a current residential lot serving the Vinup family as a residence. The service area for the existing facility will be increased to take in

additional area of Baltimore County which is subject to additional development in the coming years. The protestants do not believe that their neighborhood should be required to serve additional areas of the county which could properly contain their own substation and accompanying equipment.

- ◆ BGE failed to establish the need for such a huge facility to be located at Ivy Hill on the basis of their own figures projecting a four percent (4%) growth per year or seventy-five (75) units to be added per year. Such minimal projected growth rates from Baltimore County as well as BGE itself fails to justify an increased megawattage from 16.6 megawatts currently to 64 megawatts, or a four hundred percent (400%) increase.
- ◆ The physical threat demonstrated to the community consists of, in addition to the heavy electrical equipment contained within BGE's fencing, a proposed stormwater management pond three to four feet (3' - 4') deep, which poses a significant risk to children. There is a strong likelihood that the fence and equipment will pose an attractive nuisance to young children. In addition, evidence was submitted by protestants indicating that this location is susceptible to lightning, fire, explosion, and noise.
- ◆ The extensive discussion of electromagnetic fields (EMF's) was not designed to prove to the Board that there is a direct link between EMF's and possible cancer effects among residents. Electromagnetic field testimony was designed,

however, to establish that the scientific community has proven that EMF's penetrate the human body and catalyze cellular changes and that multiple studies have indicated that there is a risk to humans from exposure to EMF's. Until safety standards can be established and a definitive link proven, BGE must act prudently and does not have the right to impose higher risk on present residents, nor to determine the degree of risk to which private citizens should be exposed. The net effect of the EMF testimony is to further establish that an electrical substation with the accompanying increase of high-current wires, as in this case, belongs in an area properly insulated from human activity and homes.

♦ Detrimental effect of this facility on property values

The Board has had the opportunity to see protestants' Exhibit Numbers 17-19 which are photographs of numerous substations of BGE around Baltimore County and surrounding areas. These photos, as well as the Board's own knowledge of the equipment to be placed in the Ivy Hill Substation, are just one half of the detrimental effects of this proposal on the property values in the community. In addition, the perception of human health risk created by the multiple studies that have become so widespread and publicized over the last few years have produced a reluctance in numerous buyers of real estate to acquire property located in or near power lines or substations. These two combined effects, the aesthetic and the perceived human health risk, clearly in the

opinion of both experts who testified, have established potential detrimental effects in regard to property value. More importantly, testimony from individual witnesses established an actual reduction in value of acquired property in the neighborhood after this case arose as well as the unique situation of one prospective buyer determining not to locate in the subdivision because of this issue. Clearly, detrimental effect on the property value has been established in this case.

- ◆ The current law still requires the need to amend the final development plan in this case which amendment needs to be reviewed by the planning board. The delegation to the Director of Planning is not correct as a matter of law and is in conflict with the Baltimore County Code. Even if the proper procedure was performed in this matter, it is clear that a BGE substation can not conceivably comply with the original purpose of the Fox Ridge Estates. Certainly, there can be no consistency between a residential subdivision and a proposal for an electric substation on one parcel of that subdivision.
- ◆ BGE has failed to establish the uniqueness of this site which would permit the application of the standard of practical difficulty or unreasonable hardship for the purpose of variance. This site and this property is "no different than any other parcel in the neighborhood in that it is flat,

moderately forested, with no unusual physical features that would permit the granting of the variance."

- ◆ The character of this neighborhood, a peaceful, pastoral atmosphere, will be forever and dramatically altered if permission is granted for the increased Special Exception. It will never resemble the neighborhood which residents built and cherished. Homes and lifestyles will be dramatically altered by the granting of this Special Exception to accommodate BGE. Infrastructure, which BGE indicates is required to place the facility in this location is only wires and poles. They can be safely buried anywhere to lead to an installation which does not wreak havoc on homeowners and a neighborhood.
- ◆ Evidence revealed that no regulatory agency in the state of Maryland or Baltimore County monitors or regulates in any meaningful way substation activities. BGE is monitored by no legal authority in the placing, enlargement, or increased service area, but to their stockholders. This Board is the only regulatory agency evaluating this proposed request in monitoring or conditioning the activities of BGE.

III.

Outline of Issues

I. Increased Size

- A. Physical: 1,200 square feet to 22,000 square feet

- B. Capacity: 16.6 megawatt transformers to 64 megawatt transformers
- C. Geographical: Expansion from Tract C, 0.40 acres, to Tract A, 1.5 acres and Tract B, 0.9 acres
- D. Service Territory: Increase Over Existing Service Territory
- II. Lack of Need: BGE's Failure to Establish Need
- III. Physical Threat to Neighborhood
 - A. Stormwater management pond does not presently exist; fencing inadequate
 - B. Susceptible to lightning, fire, and explosion
 - C. Noise
- IV. EMF's
- V. Detrimental Effects on Property Value
 - A. Expert Opinion
 - B. Individual Opinion
- VI. Need to Amend Final Development Plan
- VII. Failure to Meet Burden of Proof on Variances

IV.

Statement of General Facts of Protestants' Case

A. BGE Case

Monica McGrady, the Project Engineer, and Lawrence S. Taylor, the Area Planner identified the site plan for the Ivy Hill substation as being 2.9 acres including 1.5 acres of the parcel located in the protestants' subdivision of Fox Ridge

Estates and 0.9 acres owned by the Vinup family, whose property will be adversely affected to make room for the expanded substation. McGrady testified to the extensive increase in switch-gears, transformers, and switch and bus supports that will be located within the fenced portion of the proposed substation. Taylor was instrumental in disclosing in cross-examination what has been marked as Developers' Exhibit Number Ten, the Service Territory. That Exhibit establishes that BGE intends to service a larger territory than is portions of Mays Chapel area. Taylor testified that the growth of the area is consistent according to the BGE forecast of seventy-five (75) units added per year with a projected growth rate of four percent (4%) per year. It was these figures of Mr. Taylor and James Ryan, Area forecaster for BGE, that the citizens used in formulating their testimony. Ryan testified that he did not obtain the statistics or figures from Baltimore County in his forecast but used information through the new business activity center of BGE to track and develop his projections. Most importantly, he testified that they used a land use base model provided by the utility industry standard for other utilities all over the country. It is not localized for Baltimore County and it is certainly not personal to the projections of Baltimore County as are the figures which later were admitted into evidence by the Baltimore County Planning Department. Ryan characterized the growth as "low

to moderate pace" and confirmed the seventy-five (75) customers per year and four percent (4%) increase. He admitted that the increase in additional development was due to the adding of additional service area to the substation's territory.

Ryan testified that the current transformers rated at 16.6 megawatts and has not exceeded that wattage except for one day last winter (1994) when they recorded a demand of 20.1 megawatts. He acknowledged that that figure was a one-day extraordinary event. He testified that 150 added units would add 1.5 megawatts of demand to the substation. He further testified that ten (10) years ago the Ivy Hill substation served one thousand (1,000) homes, and now approximately one thousand seven hundred fifty (1,750) homes, with a projected growth of four percent (4%) per year. He testified that both phases would bring a total of 64 megawatts or a four hundred percent (400%) increase to the capacity of the substation. Mrs. Bonnie Johansen testified in regard to the EMF issue as to the milli-Gauss readings as well as Linda Erdreich, Ph.D., Environmental Scientist, who likewise testified as an expert in risk assessment and an epidemiologist. The clear import of Ms. Erdreich's testimony was that she was not a medical doctor, she was not an engineer, she was not an electrical engineer, and she was not an active working scientist in the laboratory doing analysis. She testified that her function as an epidemiologist was

simply to read all of the materials available and assess in her opinion whether or not there was risk attached to EMF's. She acknowledged that there were a number of studies to support the concern for the effects of EMF's on residences (as opposed to workers) but that she believed the weight of the evidence did not favor those studies. Paul Taylor, Civil Engineer for G. W. Stevens, testified as to the stormwater management facility planned. Danny Davis was presented as a forester who testified in regard to his land planting activities and management of BGE's substations and landscaping. Examples of his involvement in designing landscaping plans can be seen in protestants' Exhibits Seventeen through Twenty. Protestants submit that the landscaping of all of the substations, including the ones that this witness designed are an abomination to the neighborhoods in which they are located. The Board can examine for themselves the photographs and come to their own conclusion.

Finally, George Gavrelis qualified as an expert Land Planner and testified as to the satisfaction of the 502.1 criteria as well as his theory for the final development plan. Discussion of this will be presented in the Legal Argument dealing with that issue.

B. Protestants' Case

The protestants' case was generally organized along issues beginning with a general discussion of the size of

the increase for the BGE facility being presented by Carol Rytter and her husband Robert Rytter. Protestants' Exhibit Numbers Three, Four, and Five basically established that the present site of the substation is being enlarged onto adjacent parcels as previously noted. The Rytter overlay on Protestants' Exhibit Number Four establishes that much of the green forest buffer on developer's Exhibit Number Three is actually located on property not owned by BGE, and the protestants' overlay established that fact very clearly, as well the fact that the relative proportions of the enlarged substation versus what is existing at the present time.

Concerning the need for this enlarged facility, protestants presented Caroline Beatty and Pam Budashine who testified as members of the County Planning Staff that they obtained and developed figures for the current Ivy Hill service area as well as the addition of the Hickory Ridge section by utilizing transportation zones of the County. The thrust of protestants' Exhibits Six A and B indicated that the transportation zones for the area when adjusted because some of them went outside of the actual service area showed a relatively minor increase of units up to the year 2020 in both units and population figures. Dave Thomas from the Department of Public Works likewise testified that to the best of his ability within the service area no water and sewer was being proposed for the existing service area in the future by Baltimore County.

Ron Hanley, using the testimony and figures of representatives of BGE as well as the County population and unit growth figures developed protestants' Exhibits Seven through Ten, charting the various alternative scenarios as to the actual increase or need versus the proposed capacity. Under all circumstances, the yellow or proposed capacity area far exceeded on the charts the actual need for capacity as demonstrated most favorably to BGE either through their own testimony or as more accurately reflected by the county figures as submitted by the Office of Planning and Zoning. Philip Vanderhaden testified as an employee of the Public Service Commission and an Engineer that the Public Service Commission does not regulate BGE's substation below 69,000 KV. Basically, the Public Service Commission does not know what equipment is on site, does not know the substation service area, doesn't review the adequacy or number of lines in and out of the substation. The latest record for the "one-line" diagram in the Public Service Commission files, for example, was dated in 1980, showing a woeful lack of knowledge of the existing substation status. Importantly, Vanderhaden testified that if this Board grants approval to BGE, no agency or governmental authority regulates what takes place at this substation, including the state or federal governments. Vanderhaden suggested that there were other methodologies of placing a substation in a community either underground or within a structure which could be more

compatible within a residential zone. Finally, he testified that he had tried to obtain information in regard to the lines and other data from BGE but they refused to submit any information to him because of the hearing before this Board of Appeals. That exchange of correspondence and BGE's refusal to provide information to the Public Service Commission as well as to the protestants is contained in protestants' Exhibit Number Eleven. Finally, Vanderhaden did acknowledge that fire or explosions are possible and occur at substations based on his knowledge at the Public Service Commission.

Turning next to property values, the protestants presented the testimony of Pete Kern, qualified as an expert appraiser, and submitted as protestants' Exhibit Number Thirteen, his consultation report in which he concluded that there would be a negative influence on property values as a result of the proposed construction of the enlarged substation. Attached to the consultation report are many articles and literature which establish and support Kern's conclusion. Significantly, the protestants did not have to rely on experts' opinion but presented the testimony of Alison Roose who was able to purchase her home based upon her alerting the seller to the BGE expansion of Ivy Hill issue and the related EMF concerns, reducing the sale price from \$350,000.00 to \$290,000 for her property, a reduction of \$60,000.00 based totally upon the concern for the proposed substation.

Finally, Robert Gensler, an individual unknown to the protestants until shortly before the hearing on the last day, testified that he had a contract on an existing house in the Fox Ridge subdivision and that based upon what he heard at the hearing, his concerns in regard to the decreased property value of the proposed house that he was purchasing, he was breaking his contract, even at the loss of the \$5,000.00 deposit in order not to acquire the property within the subdivision adjacent to the proposed BGE facility.

The community next presented its testimony concerning the Special Exception criteria under 502.1 related to concerns of a number of individual property owners against the proposed expansion. Pam Follo, an adjacent property owner to the proposed facility and perhaps the closest neighbor, testified that while she knew there was an existing substation of 1,200 square feet on the site when she acquired her property, she could not possibly have anticipated that such a facility would grow to a 22,000 square foot substation. In addition, she felt assured that Parcel A contained in her subdivision could not be used by BGE for anything more than a buffer between the substation and her home. She also testified that she could not possibly have anticipated that BGE could have acquired the Vinup property for the sole purpose of knocking it down to expand their substation in a residential zone.

Ms. Follo expressed concern in regard to the EMF issue but clearly indicated that since the literature is

inconclusive, even though there are credible and respected sources indicating that there are possible risks between EMF's and increased likelihood of childhood leukemia and breast cancer, Alzheimers, and cancer in general, that the very nature of the inconclusiveness of the studies should not require the neighborhood to assume the risk of this increased facility. She identified and entered into evidence photographs of twenty-six (26) substations that she had visited which indicate the nature of the communities in which they are located as well as the landscaping for those substations. Those Exhibits are marked as protestants' Exhibit Numbers Seventeen through Nineteen. The photographs will show the integral parts of the substation as well as the lack of appropriate landscaping. It can be seen from looking at the photographs that the proposed eight to ten foot (8' - 10') landscaping by BGE still does not screen the height of the structures, the bus supports, the transformers, the switching structure, and the switching gear enclosure, all of which exceed the height. Furthermore, she testified that BGE's own landscaper indicated that in the winter time, the existing facility as well as the new facility will be seen from the Follo property, even with the eight to ten foot (8' - 10') evergreen plantings. Her testimony also included the fact that there were only two of these substations east Towson and Sudbrook which were actually in purely

residentially neighborhoods and that both of them were abominations in terms of the aesthetic view.

Andy Lansman and Elizabeth Langendorf likewise raised impacts upon the neighborhood based upon the increased size. Thomas St. Ville, an attorney for a local large law firm testified that had he known of this planned expansion, he would not have purchased his property, which is four properties west on Ridge Road from the BGE facility. The important part of his testimony was that in January 1994, he looked at the County's ten year Master Plan in terms of growth and development; he looked at the subdivision plats for his subdivision; he looked at the Vinup property, and he concluded that it was safe to buy his home. He testified that he had no way of knowing or expecting that BGE could acquire the Vinup property, ask for Special Exception, and receive permission to extend a substation on that residential site.

Turning to the issue of the filed development plan, Ira Brown, Joseph Czajkowski, Carl Follo, and Nigel Howse, all adjacent property owners, testified in regard to their acquiring a lot in the Fox Ridge Estates subdivision. All identified their property in relationship to the subject site on protestants' Exhibit Number Three. Brown did not know of BGE's ownership of Tract A until he called to complain about the upkeep of the lot in regard to a fire at the substation on May 25, 1994. Joe Czajkowski never received a plat of the

entire development and was told that the community owned Tract A when he settled on the property and was given no indication of BGE's ownership of Tract A. He also thought it reasonable to propose an alternate location, which was the Oregon Ridge Park, suggesting that BGE should examine other locations not in a residential zone.

Carl Follo testified that he is within three hundred feet (300') of the subject site, that he was provided a plat which did not show ownership by BGE. Follo testified that he knew Tract A was part of his subdivision and believed only residential structures could be built upon it. He further testified he objected to the use of Tract A in the Fox Ridge Estates subdivision to support the BGE facility. Finally, Nigel Howse testified that he purchased in May 1994 and at the time he likewise had no awareness of BGE's ownership. Nigel Howse's property is immediately adjacent to the BGE facility as proposed and a part of the Fox Ridge Estates subdivision. (Testimony in regard to the legal aspect of the final development plan will be discussed during the analysis of Norman Gerber's testimony.)

The community then presented evidence in regard to the EMF issue from Dr. Zory Glaser, who qualified as an expert and who testified in regard to EMF studies and effects of EMF. Dr. Glaser can be set apart from BGE's witness in that his résumé marked as protestants' Exhibit Number Twenty-Two establishes that Dr. Glaser is in fact an expert on

electromagnetic radiation bio-effects, risk assessment associated with exposure to EMF radiation, dosimetry (dosage) of non-ionizing radiation, standards and regulations pertaining to non-ionizing radiation, biophysics, physical and polymer chemistry, and microbiology. He has been qualified in administrative agencies, courts hearing boards, and in federal courts in the United States. Contrary to the BGE expert, Dr. Glaser has actual hands-on experience and work in the laboratory over the years of his career with the Department of the Navy concerning the effects of EMF's. In his testimony, he analyzed other case studies and literature. He reviewed the testimony of the BGE expert by reading the transcript and he concluded that he has concerns in regard to homes, pets, children across the street and on those properties surrounding the power lines leading to and from the substation.

Protestants have always submitted to the Board that they have no need to affirmatively establish the medical link between EMF's and human health. It is believed that protestants have established through the testimony of Dr. Glaser the fact that credible studies by credible scientists have concluded that there are negative impacts on the human body as a result of exposure to EMF's, that risk of possible connection and future proof of related health hazards should not be borne by the community in this instance. In addition, the evidence clearly reflects the perception of EMF concerns

are significant in the related property value area. As a result together, these risks and concerns and perceptions are enough to cause concerns under the qualifications of Section 502.1 of the B.C.Z.R. Mrs. Mary O'Hara and Nancy Muegel testified as to their personal concerns in regard to EMF exposures on their homes and children.

Protestants presented the expert testimony of Norman Gerber, former Planning Director of Baltimore County, who testified in regard to the final development plan/variances/special exception. In general, Gerber's testimony in regard to the final development plan was that the Baltimore County Code required submittal of this amendment to the final development plan to the Planning Board and that the purported resolution of the Planning Board delegating that authority to the Planning Director is a violation of the County Law and County code, which takes precedence. In addition, he felt that even if the matter was reviewed, that clearly the use for an electrical substation was not an appropriate use envisioned within the context of the original subdivision and should be denied. He testified that the variances should not be granted because there was nothing unusual at all in regard to this property under the most recent case of David Cromwell vs. Arthur Thomas Ward, decided January 4, 1995 by the Court of Special Appeals. Finally, in his analysis of the Special Exception criteria of Section 502.1, the court opined that the size of this enlargement presented an intrusion into the

residential nature of the neighborhood causing unnecessary and negative impact on the health, safety, and welfare of the community, a change of the character of the neighborhood, an increased concern for fire explosion danger, and other panic, including panic from EMF's and the perception of that health issue as being appropriate reasons to deny the Special Exception under those criteria.

Finally, the Valleys Planning Council testified in opposition to the proposed facility as exemplified by protestants Exhibit Number Twenty-Nine. Nancy Muegel testified on behalf of the Chestnut Ridge Grace Pre-School directly across the street in opposition. Lisa Eberling testified in opposition for Schwann Valley Association, Inc. Floyd Pawn testified on behalf of Hunt Club Hill Association against the proposal.

V.

Legal Arguments

A. Baltimore County Zoning Regulations

The applicable sections of the B.C.Z.R. are well known to this Board. First, Section 50.21 requires that before any Special Exception is granting, it must appear that the use for which the Special Exception is requested will not:

1. be detrimental to the health, safety, or general welfare of the locality involved;
2. tend to create congestion in roads, streets, or alleys therein;

3. create a potential hazard from fire, panic or other dangers;
4. tend to overcrowd land and cause undue concentration of population;
5. interfere with adequate provisions for schools, parks, water, sewerage, etc.;
6. interfere with adequate light and air;
7. be inconsistent with the purposes of the property zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations.

Second, Section 411, B.C.Z.R., provides for public utility uses permitted by Special Exception, the following additional regulations shall apply:

Section 411.1 - The use must be needed for the proper rendition of the public utility service and the location thereof shall not seriously impair the use of neighboring property (emphasis supplied).

Third, Section 307 of the B.C.Z.R. permits the granting of variances: only in cases where special circumstances or conditions exist that are peculiar to the land or structures which is the subject of the variance request and where strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship.

These, then, are the criteria by which the evidence presented before the Board must be examined. A general

discussion of the case law interpreting these sections will be addressed later in this memorandum. The following arguments have to be viewed within the context of the above Baltimore County Zoning Regulations.

I. First Legal Argument: Proposed Substation Expansion in Size

- A. Physical Size - The proposed substation will increase in size from the existing 1,200 square feet to approximately 22,000 square feet and will extend from the existing Tract C onto Tract A, which is a part of the subdivision of Fox Ridge Estates, as well as Tract B, which is currently a residential property with a residence upon it, owned by the Vinup family. (This property was subsequently acquired by BGE on September 30, 1994).
- B. Capacity - In addition, the capacity of the Ivy Hill facility will be increased from a 16.6-megawatt transformer to two 32-megawatt transformers for a total of 64 megawatts, or a 400% increase in capacity. The proposal will include in addition to the transformers, bus supports, a twenty by forty foot (20' by 40') metal switching structure, switching enclosures, and other equipment, all of which will exceed the proposed screening height of eight to ten feet of evergreens. The sheer size of the physical expansion proposed and its intrusion into the Fox Ridge Estates subdivision as well as neighboring piece of residentially zoned property

produces the many issues and concerns raised by the community at this hearing.

- C. Geographical Expansion - The gross increase in substation size, the unwarranted expansion onto an existing residential property which will be demolished to make room for the enlarged substation, and the addition of more service area to support electric service to other areas of Baltimore County in addition to what is currently being serviced by Ivy Hill substation satisfies the violation of section 502.1 in that this expansion will be detrimental to the health, safety, or general welfare of the locality involved. This proposed expansion is inconsistent with the purposes of the property zoning classification and inconsistent with the spirit and intent of the zoning regulations. Clearly, the zoning regulations were never meant to permit a facility such as the proposed substation, which can only be viewed as industrial and commercial in nature to be located in such close proximity to adjacent residences and adjoining residential property. One only need look at the various photos of the existing substations presented by Mrs. Follo in her testimony to understand the unwarranted intrusion into this residential subdivision (see protestants' Exhibit Numbers Seventeen through Nineteen). It should be noted in reviewing these photos that many of the substations depicted in the

photographs are not even the size of the proposed subdivision. For instance, the Jacksonville substation is approximately a third the size of the proposed expansion and its effects can readily be seen in the protestants Exhibit. The visual impact of this proposed facility can readily be seen from the comparison charts submitted by Robert Rytter as protestants' Exhibits Three, Four, and Five.

- D. Service Territory Expansion - The physical expansion and the geographical expansion is accompanied likewise by an expansion of the service territory to include what is called the Hickory Ridge area during the course of the hearing before the Board. The effect of the increased service territory is to put a burden upon the protestants' community to support electric service to an area that is currently not being supplied by the Ivy Hill substation. In effect, it means that BGE is sacrificing this community to preclude the need to construct a substation or transformer station in another area of Baltimore County where service may be needed. protestants believe that not only is this an improper and unwarranted intrusion in their community, but that it is patently unfair to require a change in character of their neighborhood to support another area which will not be burdened by such an unsightly facility.

II. Second Legal Argument: BGE's Failure to Establish Need

As set forth above, BGE must establish that the proposed expansion must be needed for the proper rendition of the public utility service and that the location thereof shall not seriously impair the use of the neighboring property. To suggest that this facility will not seriously impair the use of the neighboring property is to ignore completely the obvious. The same arguments which applied to the denial of the Special Exception pursuant to Section 502.1 are applicable to Section 411.1 and that the evidence supports the level of serious impairment to the use of the neighboring property.

Turning to the proof of need, the protestants believed that they could utilize the very testimony of BGE to show that BGE's projected growth rate did not warrant the expansion proposed. In addition, protestants sought out information from Baltimore County which established that BGE's projections were far in excess of what the county proposed for the growth rate in the service area.

The figures previously presented in this memorandum establishing the growth rate as developed by Baltimore County Office of Planning and Zoning established that through the use of transportation districts, an accurate analysis of the proposed growth rate of the BGE service area, both including and excluding the Hickory Ridge additional service area could be made. Through the use of traffic zones and giving BGE the benefit of the doubt for those zones which exceeded the

limits of the service territory, it became clear that under the Baltimore County figures that in examining protestants' Exhibit Number Seven, the unit Growth comparison, the Baltimore County figures in dealing with units of increase were far below that of BGE's estimate to the year 2020 as demonstrated on protestants' Exhibit Number Seven. On that same Exhibit, BGE's increase of seventy-five (75) units per year was likewise plotted as well as their other alternative growth projection of four percent (4%) per year. It can be seen that the Baltimore County figures (which BGE did not rely upon but used a country-wide modeling program) are clearly much less and protestants submit more accurate. However, giving BGE the benefit of the doubt, protestants' Exhibit Number Eight was presented which showed the need comparison versus the capacity proposed by the increased substation. On that Exhibit, using the BGE assumption of seventy-five (75) units equaling 0.7 megawatt, the capacity of the proposed Phase I and Phase II enlarged substation facility was diagrammed in yellow, which shows the dramatic capacity in excess of the need, both through Phase I and Phase II.

Furthermore, in protestants' Exhibit Numbers Nine and Ten, the protestants plotted not only the need comparisons previously discussed, but also included within those projections the Hickory Meadow area, which is being added to the existing service area of the Ivy Hill substation. Even

with that area added, including all existing units served by the area of Hickory Meadows, it can be clearly seen that again the capacity from this expansion is far in excess of what is actually needed by using all of the figures and comparisons most favorable to BGE.

Finally, in a protestants' Exhibit, it was shown that using Baltimore County projections by the year 2020, we arrive at a 10.7% increase since 1995, whereas under the BGE data, in the same year, 2020, beginning with an assumption of 75 units per year, we see an increase of 111.4%. While using an assumption of four percent increase, BGE arrives at 177.3% increase in the year 2020.

Protestants believe they have demonstrated by two methods that the increased capacity is not needed, even assuming the Hickory Meadow area is added to the existing service territory, which protestants believe is improper and should not be done for the foregoing reasons.

For all the above reasons, protestants submit that clearly BGE has failed to establish a basis of need.

III. Third Legal Argument: Physical Threats to the Neighborhood

A. Stormwater Management Pond and Enlarged Facility - The testimony of the various protestants will not be herein restated. However, it is clear that there is significant concern in regard to young children being able to access the stormwater management pond, which will only be protected by a 42" high fence. In addition, the eight

foot fence surrounding the increased dangerous equipment proposed for the enlarged facility affords nothing more than an attractive nuisance for neighborhood children and beyond to be attracted to. Clearly there are many reports in the testimony of concern for children being hurt by the dangerous equipment after climbing the fence or entering through an unlocked gate.

- B. Fire and Explosion - In addition, multiple witnesses testified to the location of this substation on a ridge, which makes it susceptible to lightning strikes and to fires and explosions. There had been a previous fire testified to at this very location and there was testimony from the Public Service Commission representative, as well as others, as to the potential explosion of equipment contained in a substation.
- C. Finally, there was testimony in regard to noise emanating from this site that is currently noticeable to the residents. This testimony should afford the protestants relief under Section 502.1 A and C.

IV. Fourth Legal Argument: EMF's

There was much testimony presented by both sides to the Board concerning the effect and the magnitude of electromagnetic field exposure to the residents of this community. The mere fact that so much information is available to present to the Board from experts on both sides, those who believe that there has been established a medical link

between EMF's and the effect upon human health versus those who believe that the case studies have not established such a link, establishes a strong basis for the Board's consideration of this issue in its overall evaluation under Sec. 502.1.

Clearly, both sides were forced to acknowledge that there has been substantial case work performed since 1970 and that a number of case studies reflect a link between EMF's and cancer. These studies are simply dismissed by the BGE experts; however, that dismissal alone does not answer the question for this Board. It was never anticipated that the protestants would prove to the Board's satisfaction that there is a direct medical link between EMF's and cancer and harmful effects upon the residents of this community. It was anticipated and successfully presented to the Board that there would be a showing to the Board that there is sufficient concern among scientists who are recognized as qualified experts in their fields to establish that there is a strong reason to be concerned about the health effects of EMF's. BGE's experts simply analyzed all the reports and concluded that the weight of evidence was against the medical connection. Protestants' expert did not simply review the case studies performed by others and conclude that there was no cause for concern. He in fact has a twenty year history of working in the scientific field on the equipment and on animals subject to EMF's in the laboratory to determine that

based on his analysis of this situation that he had cause for concern for the safety of the residents in this neighborhood from the increased electrical energy being generated by the wires leading to and from this substation and from the substation itself. That is all that the protestants ever intended to establish to this Board.

Furthermore, the cause for concern is shared not just by experts in this field, but is shared by appraisers of real property concerning the perception of the harmful effects of EMF's on real property values. One need only look at the writings and literature attached to the report of Pete Kern to understand the protestants' point of view in regard to this issue.

The scientific community has proven that EMF's penetrate the human body and catalyze cellular changes. Until appropriate safety standards can be established by federal, state, and local officials and the scientists in this field, protestants submit that BGE must act prudently. BGE does not have the right to impose potentially higher risks on current residents. BGE does not have the right to determine the degree of risk to which a private citizen should be exposed in this community.

It is too well known to the protestants, as well as to the Board, that for decades, scientists debated the harmful effects of smoking and secondary smoking upon the human body, and today, we all know the detrimental effects of smoking

upon an individual and those in the immediate vicinity. In addition, it is also clear that for years, the industry ignored warning of the concerns for asbestos and its effect upon humans. After the scientific community finally established proof of the detrimental link between asbestos and human health, it was too late for those many persons who had been subjected improperly over the years to such exposure. It is that threat that the protestants seek to avoid in the instant case. Clearly, until the proof has been irrefutably established showing that there is no danger to humans from EMF's, this Board should not gamble with the health and safety of the surrounding neighbors for the sake of this project, nor does BGE have the right to determine that these citizens must be exposed to whatever degree of risk there is from EMF's from this facility.

It is clear that the protestants need not prove the medical link to satisfy Section 502.1C.

V. Fifth Legal Argument: Devaluation of Property Value

A. The negative impact upon property value is clearly within the subject matter of section 502.1A as well as within the definition of Section 411.1 wherein the proposed facility shall not seriously impair the use of neighboring property. Those two provisions certainly provide for an analysis of the detrimental effect of this subject site upon the property values of the surrounding neighborhood. The effect of this facility on property

values in the opinion of witness Pete Kern takes the form of: 1) negative impact as a result of the aesthetic considerations of simply viewing a substation and power lines such as those represented by the photographs in the protestants' Exhibits; and 2) the perception of a human health risk from EMF's to a prospective purchaser. There are numerous cases involving courts which have ruled that a property owner need not prove the medical link between EMF's and cancer but simply may establish that there is a general public perception of concern which is sufficient to detrimentally effect property values. In analyzing the public perception, it is clear that from the extensive number of journals and article titles found on pages six and seven of the Kern report that knowledge of EMF's effects is widespread and is the subject of over three hundred articles that were available to Kern in his analysis. He concluded that public knowledge and concern over EMF hazards is rising irrespective of its validity and that scores of lawsuits involving EMF's have been filed around the country.

Kern concluded that courts are now allowing lawsuits which bypass the medical issues and focus solely on the economic impact of buyers' fears. He further concluded that sale prices of homes located near power generation and conveyance are lower than those not within line of sight according to realtors and scientifically based

studies. Further, the average time for selling a house is increased when located within sight of an electrical feature such as a power line or substation. The Board need only review the literature excerpts attached to Kern's report to understand this issue. Interestingly enough, in cross-examination of BGE's expert appraiser, Walter Ryder acknowledged a number of significant points, among those being that the perception of the public concerning danger from EMF's was increasing, that there has been litigation which has gone to the jury based upon perception of people's concerns, and that there have been multiple articles and studies in trade journals which define the industry's concern for the effect of power lines and substations upon property values.

- B. In this case, however, we have more than just a "battle of experts." We have specific testimony and documentation to support the fact that property values have already been affected by the BGE proposal. The testimony of Alison Roose established that she had a lease by agreement for her home in the amount of \$350,000.00 and that when she went to execute on the lease and buy her residence, she was able to utilize the proposed expansion of BGE to reduce the purchase price to \$290,000.00, or an eighteen percent (18%) decrease based solely on the BGE proposed substation. In addition, the startling testimony of Robert Gensler who identified

himself during the course of this case as a prospective purchaser of a lot within the Fox Ridge Estates subdivision is worthy to note. Gensler was unknown to the protestants until the hearing. However, upon his listening to the testimony of the EMF experts as well as reviewing the appraiser's report, he concluded that he did not want to acquire a home in the Fox Ridge Estates subdivision, and he was willing to break his contract and lose his \$5,000.00 deposit in order to do so. The protestants submit that that is direct and strong evidence to support the testimony of Pete Kern in his analysis of the potential real estate drop in value for the protestants involved in this case.

As previously stated under Section 502.1A and 411.1, this evidence clearly establishes an impairment of the use of neighboring property and an impact upon the health, safety, and general welfare of the community.

VI. Sixth Legal Argument: Need to Amend Final Development Plan

Norman Gerber, former County Planning Director, provided expert testimony and opined that the final development plan of Fox Ridge Estates needed to be amended. He testified that Section 1A00.4 requires a final development plan for all subdivisions in RC zones be governed by Section 1B01.3.A.7. That section requires that after final development plans have been approved, they may be amended after the sale of interest in nearby property by Special Exception procedures in the

manner provided under Section 502 subject to the following provisions: Section 1B01.3.A.7B(1) provides the amendment must first be approved by the Planning Board as being in accord with provisions adopted under the authority of Section 504.

It is clear in this case that the Planning Board has never reviewed the amendment to this final development plan. It is also undisputed that the protestants, particularly Follo, Howse, O'Hara, Brown, Rytter and Langendorf reside within three hundred (300) feet of the subject property. It is also clear that BGE alleges that the Planning Board has delegated, by an amendment to the Comprehensive Manual of Development (CMDP), the responsibility for approving amendments to final development plans to the Director of Planning. Gerber testified and protestants submit that this was an illegal action by the Planning Board. The B.C.Z.R. is of "inclusive construction." There are no provisions for delegation of this function. In the opinion of Gerber, the method of amending the B.C.Z.R. is clearly Section 26-123(a), (b) and (c) of the Baltimore County Code. This is clearly an amendment to the B.C.Z.R. and the Code was not followed.

BGE alleges that this action was based on Section 504.2 of the B.C.Z.R. However, this action of delegation of authority to the Planning Director is in conflict and inconsistent with Section 504.1 of the B.C.Z.R., which says any addition to the CMDP is acceptable if they "are not

inconsistent with these regulations." In the opinion of the protestants and Gerber, this delegation is clearly inconsistent. As a matter of law, the delegation was improper, and the Planning Board must review the final development plan for this project.

Assuming for the sake of argument that procedurally the Planning Board had approved this particular amendment, the amendment must be in accord with specific standards and requirements. It is clear that the standard for an amendment to the final development plan is that "the amendment would be consistent with the spirit and intent of the original plan and of this article." protestants submit and are confident that any interpretation of the original subdivision plan for Fox Ridge Estates under no stretch of the imagination could include the use of Parcel A as a location for a substation. It is clearly not consistent with the idea of a residential subdivision and has absolutely no basis in reason to believe that a substation is consistent with the spirit and intent of the original development plan.

Gerber opined that the proposed amendment to the final development plan for the use of Parcel A as a BGE substation was not consistent with the spirit and intent of the original plan. Gerber testified that "the primary purpose of the requirement for a final development plan and the amendment plan is to provide some protection to purchasers of lots in an uncompleted subdivision so that the use could not be

changed to something undesirable to them after they made their purchase."

Gerber further rejected the expert opinion of BGE witness George Gavrelis that somehow the final development plan by simply including the fact that BGE was the owner of Parcel A put the Protestants on notice and that amendment to the final development plan was not necessary. He specifically pointed out Section 1B01.3A.5B, which requires that each parcel or final development plan must show the locations, type, and exterior dimensions of all proposed structures and all existing structures generalized floor plans, layout of parking facilities, streets and drives giving access to, etc.

Gerber's testimony was that ownership was not the criteria for the amendment of a final development plan and does not in any way, shape or form alert the prospective purchasers at Fox Ridge Estates what was the intended use of the parcel. Gerber distinguished between the proposed use not being consistent with the uses on the other lots and simply the ownership of the various parcels and lots. Ownership of the parcel by BGE was not sufficient to avoid the need to amend the final development plan. Protestants can conceive of no possible analysis that would permit the Board to conclude that the use of this parcel is consistent with the overall intended use of the Fox Ridge Estates subdivision plan.

Gerber further testified that in his opinion the proposed enlargement of the Ivy Hill substation was detrimental to the health, safety, and general welfare pursuant to general welfare pursuant to Section 502.1A that it violated Section 502.1C, that it violated Section 502.1D, that it was inconsistent with the purpose of the property zoning under Section 502.1G, and that this Special Exception should be therefore denied.

VII. Variances - Failure to Prove

The previous discussion of the B.C.Z.R. relating to Section 307.1 make it abundantly clear that the county regulations require some "special circumstance or conditions exist which are peculiar to the land which is the subject of the variance request." One must analyze the testimony of the only witness presented by BGE, George Gavrelis, to establish the variance criteria. Mr. Gavrelis' testimony can be found in the transcript for January 10, 1995, at page 105. When asked what was unique to this site, he responded that "it's a site that is wooded; it's a site as proposed, wooded edges can be retained and the substation, as proposed, is, in effect, tries to concentrate the improvement regardless of the internal lot lines to come up with a more rational and coherent way to in effect provide for the substation and at the same time provide green landscape edges and I think that's what's unique about this site." Later, in the cross-

examination, he was asked at page 110, what was the reason for the variance. He was then asked on page 111:

Q: Is there anything else different about this site combining the three parcels into the 2.8 acres other than the fact that it's treed?

A: There's a substation already there.

Q: Exactly. And other than that?

A: It has existing infrastructure.

Q: It has lines serving it in and out?

A: Exactly.

Q: Other than that?

A: I think that's enough.

That is all of the testimony which supports the requested variance as set forth by BGE in this case. In analyzing a most recent decision by Judge Cathell of the Court of Special Appeals, in the case of David Cromwell v. Arthur Thomas Ward III, CSA No. 94-617, filed January 4, 1995, the court ruled in a case presented before this very Board, the Court of Special Appeals noted that zoning variances and exceptions have often been confused because of a tendency to intermingle the concept of Special Exception/Conditional Uses and Variances.

The Court wrote that variance analysis is a two-step process, with the first step requiring a finding that the property is unique or different from the surrounding properties and the zoning provision impacts disproportionately upon that property. If the first step is satisfied,

then the Board should determine whether any practical difficulty or unreasonable hardship is caused by the property's unique character exists. In the Ward case, no evidence came before the Zoning Board that showed Ward's property to be "peculiar, unusual, or unique." It can also be said that in a similar case in which this Honorable Board granted variances in the case of Williams Estates, 92-460-SPHA, the Court of Special Appeals likewise reversed this Board on a variance involving the same general issue, Grethchen Floyd, et al. v. Williams Estates, et al., No. 551, September Term, 1994.

Here, it is clear that there is nothing unique about this particular piece of property that sets it apart from and distinguishes it from any other parcel of land in the area. Indeed, Norman Gerber testified during the course of his testimony that in his opinion this property was not unique when compared to the nature of surrounding properties in such a manner as to cause the setbacks in Section 1A04.3B3 to impact this property disproportionately. Gerber testified that each parcel looks similar to any other lot on Ridge, Falls, or Gent Roads. Some nearby lots have more trees, and some have less. There are no unusual topographic considerations unique to the Petitioners' property.

Gerber concluded that the variances are primarily to permit a more intensive coverage of the lots which in fact the very nature of the variances goes to in his opinion prove

the point that under Section 502.1, that this proposed substation will negatively impact the general welfare of the locality involved and be inconsistent with the purpose of the property zoning classification. In Gerber's opinion, the variances simply establish the tendency to overcrowd the land and cause undue concentration under Section 502.1D of the B.C.Z.R.

VIII. Legal Conclusions: For all of the above reasons, protestants respectfully submit to this Honorable Board that BGE has clearly failed to meet its responsibilities under Section 502.1, 411.1, and 307.1 of the Baltimore County Zoning Regulations.

Protestants, in an analysis of general case law concerning the granting of Special Exceptions, would suggest to this Board that the following cases clearly support the proposition that this Special Exception request for an enlarged substation by BGE should be denied.

It is well recognized in Maryland that the case of Shultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) is a case of some significance in setting forth the appropriate guidelines and standards to be used by the Board in determining whether a requested Special Exception use would have an adverse effect upon the health, safety, or general welfare of the community of neighborhood. This case, decided in 1981 and authored by the late Judge Rita Davidson, has been well cited by various administrative Hearing Officers, as well as Circuit Courts in

their analyses of the facts presented in their individual cases.

Shultz held:

"We now hold that the appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that the particular use proposed at the particular location proposed would have any adverse effect above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone." At page 1331.

However, the Court, in the same Opinion, at page 1327, stated the same principle in a slightly different fashion:

"[These] cases establish that a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the requested Special Exception uses would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located anywhere within the Zone" (emphasis supplied).

Because administrative agencies and Courts in many jurisdictions in the State struggled with the application of the Shultz v. Pritts standard, the Court of Appeals granted certiorari and vacated a Court of Special Appeals decision in the case of Board of County Commissioners v. Holbrook, 314 Md. 210, 550 A.2d 664 (1988). The Honorable Judge Harry Cole wrote the Opinion for the Court in the Holbrook case, and incidentally also sat on the Court at the time of Shultz v. Pritts.

The facts in the Holbrook case are very important to understand before analyzing the facts as presented in the instant case by the Protestants. In the words of the Court in Holbrook:

"Holbrook obtained a temporary building permit in July, 1985, which permitted him to move a mobile home onto his heavily wooded 2.8 acre parcel of land located in a sparsely developed rural area of Cecil County. He placed his mobile home in a small clearing near the border line between his property and a 1.5 acre tract owned by Mr. & Mrs. Peters. In October, 1985, the Peters completed construction of a new residence with a value of \$147,000.00 located less than 150 feet from their neighbor's mobile home... Alarmed at the prospect that their unobstructed view of the nearby trailer would become permanent (when Holbrook applied for a permanent Special Exception), the Peters protested granting of the Special Exception on the basis, that "I do object to a trailer being permanently adjacent to my property because I feel it would be detrimental to the value of my home." Mrs. Peters offered six (6) photographs in evidence.

It is also important to understand that the Court of Special Appeals reversed the Circuit Court and the Board of Appeals' denial of the Special Exception and held "under Shultz, the proper test to be applied by the Board in determining whether to deny the Special Exception was whether evidence was presented which demonstrated that a mobile home on the Appellant's land had any adverse impact effects on the neighboring properties above and beyond those inherently associated with such a Special Exception use irrespective of its location within the AR Zone." The Court of Special Appeals held that since there was no substantial evidence before the Board of Appeals to meet that test, the denial of

the Appellant's application was arbitrary, capricious and illegal.

Judge Cole, in reversing the Court of Special Appeals, cited the previously recited standard from Shultz v. Pritts and specifically pointed out that:

"We then defined the specific nature of the requisite adverse impact required to warrant denial of the Special Application: (a) a Special Exception use has an adverse effect and must be denied when it is determined from the facts and circumstances that the grant of the request of Special Exception use would result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would otherwise result from the development of such a Special Exception use located elsewhere within the Zone." At page 217.

The Court went on to state:

"We believe that the facts and circumstances of this case evidenced by the undisputed testimony in photographic exhibits clearly satisfy the Shultz standard of particular impact (emphasis supplied). The evidence revealed that the Peters built their \$147,000.00 house in a uniquely valuable heavily forested low growth area. Moreover, photographs clearly depict the direct and approximate view of the mobile home from the Peters home. The Board found that this evidence vividly indicated that the debilitating effect of the mobile home on the value of the Peters property, inferring thereby that the trailer's continued presence would create significantly greater adverse effects in this location than were it located in other areas in the Zone."

The Court of Appeals found that the mobile home in this particular location would impair neighboring property value to a greater extent than it would elsewhere in the Zone.

It is submitted by the Protestants that the application of the Holbrook case to the instant case clearly provides this Board with the authority, in view of the evidence

presented, to deny the Special Exception request for the reasons previously set forth.

Finally, a recent Court of Special Appeals case, People's Counsel for Baltimore County, et al. v. Nicholas Mangione, 85 Md. App. 738, 584 A.2d 1318 (1991) is also applicable here. In People's Counsel v. Mangione, a Special Exception was requested in Baltimore County for a nursing home on a four (4) acre parcel inside a single family detached home area of Lutherville in Baltimore County zoned DR5.5. In that case, this Board found that the proposed project would overwhelm and dominate the surrounding landscape. The Court of Special Appeals recited Judge Cole's comments in Holbrook as well as quoting from Shultz v. Pritts when it was stated "a Special Exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses, which the Legislature has determined to be permissible, absent any fact or circumstance negating the presumption (emphasis supplied). In Mangione, this Board relied upon, and the Court of Special Appeals affirmed, that testimony of odors being generated from the site, as well as traffic on narrow winding streets, as well as the project dominating the surrounding landscape, were all appropriate factors from which the trier of fact could determine that the Shultz standard of particular adverse impact was satisfied.

IX. Summary

This case can best be summarized by one of the protestants, Rosemary Hanley. Mrs. Hanley testified before this Board as follows:

"As a psychologist, my concern is always about people and the impact of factors which affect their lives. In my view this proceeding is really about the impact of the proposed expansion of the Ivy Hill substation on the residents, the people, the men, women and children who live there. My neighbors have asked me to reiterate their concerns. I think I can do that best by explaining my own concerns.

"My concern is not really about property values. It is about what effect the loss of property values may have on the people who own these homes. It may be about the loss of equity to pay for a child's college tuition. It is about losing a dream which was realized by hard work and sacrifice. In my case, it is about the loss of security for retirement. There is no trust fund, no large investments, no windfall inheritance. If the property value of my home is materially affected I could very well lose the ability to purchase another comparable home. I have the most modest home of the group, but it is my home...simple and comfortable. It was appraised for \$245,000 last year. If I were in the market for a new home right now, I would not pay \$245,000 to live across the street from a 21,000 square foot substation; I would not pay \$200,000 to live across the street from a 21,000 square foot substation; I would not pay \$150,000 to

live across the street from a 21,000 square foot substation. I would not pay for the experience to live there at all. Does BGE have the right to diminish my property value, particularly when they can relocate their facility to an area which will not directly impact people?

"My concern is not really about electromagnetic fields. It is about the degree of risk my friends, their children and my family may be exposed to. What may happen to a child four feet tall who is intrigued by a stormwater management system which is three to four feet deep and is 'protected' by a 3½ foot fence? What will happen to nearby residents if a gigantic facility explodes or catches fire? What will happen to a ten year old riding a bike too near a chain link fence with an electrostatic charge and bumps into it? What will happen to me if the wires which cross my property carry higher current? My grandmother died of breast cancer and my mother has had one breast removed. What if BGE is wrong and so many others are right? Who gets the right to decide how much risk I should be exposed to? Who gets to ignite the fuse for my personal time bomb?

"Because the potential for harm is there, until positively refuted, BGE does not have the right to expose me and my children to dramatically higher current, to greater safety risks which may result from human error, equipment malfunction, or acts of God. They do not have the right to determine the degree of risk to which we should be exposed.

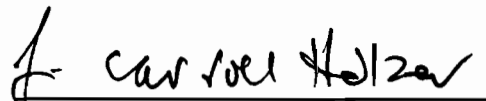
Only you as members of the Board of Appeals of the Office of Zoning in Baltimore County can grant them special permission in the form of a variance and/or Special Exception to take over that right.

"We're talking about a residential neighborhood, a place where families live and children play. Most of us chose to live in the area because of its character, peacefulness, sense of security, and charm...rolling countryside, pastoral atmosphere, nearly free from big noisy trucks and many of the hazards found in crowded, urban, or mixed commercial/industrial areas. There is no question in my mind that if BGE is allowed to erect two transformers, a 20 by 40 foot switch gear building, bus supports, capacitors, a seven foot high chain length fence topped by barbed wire, then the general character of this neighborhood will be forever and dramatically altered. The need for a substation of this magnitude has not been established. The necessity for destroying a neighborhood where people live has not been established. The justification for encroaching on the rights of citizens for the primary purpose of accommodating BGE can never be established.

"In the end it is my greatest concern that the people in government, civil servants, elected and appointed officials, assume the responsibility to protect the rights and welfare of citizens against real threat of harm and that private citizens, homeowners retain and safeguard their right to

protect their property and their lives. We have learned that the Public Service Commission does not regulate substations of this nature and, indeed, there is no regulatory agency in the State of Maryland which is charged with accountability for this substation. Particularly after my experience with the tactics employed by BGE in the last six months, I do not have any confidence that they will act responsibly toward my neighbors and me. Many people advised me against fighting BGE. I was told that they are too big, too powerful, too wealthy; that I could never win. We have to win. It is the only way that we can protect our rights as homeowners and our personal health and safety."

Respectfully submitted,



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Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 6th day of February 1995, a copy of the foregoing Memorandum in Lieu of Final Argument was mailed, postage pre-paid, to Robert Hoffman, Esquire, Venable, Baetjer & Howard,

J. Carroll Holzer
J. Carroll Holzer

1-18-95

RE :	IN THE MATTER OF	*	BEFORE THE
	BG&E, LEGAL OWNER	*	COUNTY BOARD OF APPEALS
	(IVY HILL SUBSTATION)	*	
	8TH ELECTION DISTRICT	*	OF
	3RD COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	PETITIONER	*	CASE NO.: 94-452-XA

* * * * *

REQUEST FOR SUBPOENA

Please issue a Subpoena for the following individual to have all records, correspondence, plats, plans and any other written documents contained in Zoning Administration and Development Management's files relating to the property known as Foxridge Estates, formerly known as the Forwood property, available at the Baltimore County Board of Appeals for the hearing scheduled in the above referenced matter on Thursday, January 19, 1995 at 9:00 a.m.:

Ms. Stella Lowery,
Management Assistant
Zoning Administration and
Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Mr. Sheriff/Private Process Server:

Please process this Subpoena in accordance with Rule 5 of the Rules of Practice and Procedure of the County Board of Appeals.


KATHLEEN WEIDENHAMMER
Administrative Assistant

95 JAN 18 PM 2:26

RECEIVED
COUNTY BOARD OF APPEALS

This subpoena request is made on behalf of the undersigned attorneys for the Petitioner.

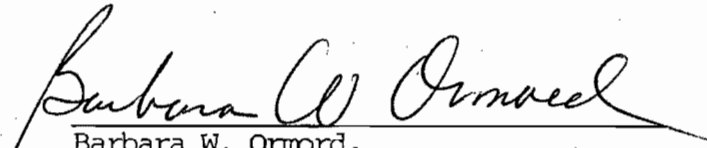


ROBERT A. HOFFMAN
Venable, Baetjer and Howard
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of January, 1995, a copy of the foregoing Subpoena was hand-delivered to:

Ms. Stella Lowrey,
Management Assistant
Zoning Administration and
Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



Barbara W. Ormord,
Legal Assistant

SUBP0198.GPW

1-5-95
IN THE MATTER OF

BGE Ivy Hill Substation

S/w Corner of Ridge Rd. &

Joel Ct. 3rd Council Dist.

*

BEFORE THE

*

COUNTY BOARD OF APPEALS

*

BALTIMORE COUNTY

*

CASE NO. 94-452-XA

*

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SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday Jan. 10, 1995 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Custodian of the Records, Balto. Gas & Electric
Address: Charles Center, P.O. Box 1475
Balto., MD 21203

SERVE ON: Martha Delea, Esq., BG & E and Robert Hoffman, Esq.
210 Allegheny Ave., P.O. Box 5517, Towson, MD 21204
Towson, 21204

Name: J. Carroll Holzer

Firm: Holzer & Lee

SEE ATTACHED SHEET FOR DOCUMENTS Address: 305 Washington Ave. #502
Towson, MD 21204

825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Cer
County Board of Appeals of
Baltimore County

Cost: \$

Summoned: , 19

Not served: , 19

Sheriff of Baltimore County

95 JAN -5 PM 1:31
RECEIVED
COUNTY BOARD OF APPEALS

Subpoenaed Records for Case No. 94-452-XA BGE Ivy Hill Substation:

1. A current Copy of BGE system operating diagrams (one line diagrams).
2. A set of plans for the proposed expansion of Ivy Hill Substation.
3. A system map showing the configuration of distribution circuits currently fed from Ivy Hill and the substations immediately surrounding it.
4. A system map showing the configuration of the distribution circuits to be fed from Ivy Hill and the substations immediately surrounding it, once the expansion has been completed.
5. The substation load information for the Ivy Hill substation for the last three years.

1-4-95
IN THE MATTER OF

BGE Ivy Hill Substation

S/w Corner of Ridge Rd. &

Joel Ct. 3rd Council Dist.

* BEFORE THE
* COUNTY BOARD OF APPEALS
* BALTIMORE COUNTY
* CASE NO. 94-452-XA

* * * * *

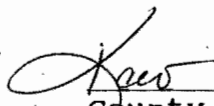
SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday Jan. 10, 1995 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Dave Thomas
Address: Ass't Dir. of Public Works
County Office Bldg.
Towson, MD 21204

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 305 Washington Ave. #502
Towson, MD 21204
825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.


County Board of Appeals of
Baltimore County

Cost: \$ _____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

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COUNTY BOARD OF APPEALS
95 JAN -4 PM 3:00

IN THE MATTER OF

BGE Ivy Hill Substation

S/w Corner of Ridge Rd. &

Joel Ct. 3rd Council Dist.

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★

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BEFORE THE

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

CASE NO. 94-452-XA

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SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday Jan. 10, 1995 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Carolyn Beatty

Address: Balto. Co. Office of Planning
County Courts Bldg. 4th Fl.

Towson, MD 21204

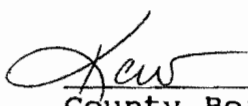
Name: J. Carroll Holzer

Firm: Holzer & Lee

Address: 305 Washington Ave. #502
Towson, MD 21204

825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.


County Board of Appeals of
Baltimore County

Cost: \$ _____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
95 JAN -4 PM 3:00

IN THE MATTER OF

BGE Ivy Hill Substation

S/w Corner of Ridge Rd. &

Joel Ct. 3rd Council Dist.

* BEFORE THE

* COUNTY BOARD OF APPEALS

* BALTIMORE COUNTY

* CASE NO. 94-452-XA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday Jan. 10, 1995 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Phillip VanderHayden
Address: PSC Engineering Division
6 St. Paul St. Rm. 1920
Baltimore, MD 21202-6806

Name: J. Carroll Holzer
Firm: Holzer & Lee
Address: 305 Washington Ave. #502
Towson, MD 21204
825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.


County Board of Appeals of
Baltimore County

Cost: \$ _____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
95 JAN -4 PM 3:01

APPEAL

Petition for Special Exception and Variance
S/W Corner of Ridge Road and Joel Court
(Ivy Hill Substation)
8th Election District - 3rd Councilmanic District
Baltimore Gas & Electric Co.-Legal Owners/Tract A & B
Frederick R. Vinup, et ux-Legal Owners/Tract C
Case No. 94-452-XA

Petition(s) for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to Accompany Petition for Special
Exception and Variance
2 - Proposed Ivy Hill Substation Expansion
3 - One photograph of site out-lined in yellow
4 - Plat to Accompany Petition for Special
Exception and Variance
4A-4T - Twenty photographs of site
5A-5B - Two photographs of substation
6 - Forwood Property Final Development Plan
7 - Walter A. Reiter, Jr.-Qualifications

Four miscellaneous letters

Zoning Commissioner's Order dated June 24, 1994 (Granted)

Notice of Appeal received on July 21, 1994 from J. Carroll Holzer,
Esquire

c: J. Carroll Holzer, Holzer and Lee, Suite 502, 305 Washington
Avenue, Towson, MD 21204
Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 West
Allegheny Avenue, Towson, MD 21204
Martha A. Delea, Esquire, Baltimore Gas and Electric Company,
P.O. Box 1475, Charles Center, Baltimore, MD 21203-1475
Mr. and Mrs. Frederick Vinup, 1821 Ridge Road, Reisterstown, 21136
Mark K. Cohen, Esquire, 120 E. Baltimore Street, Baltimore, 21202
Mr. and Mrs. Raymond Fischer, 1822 Ridge Road, Reisterstown, 21136
Mrs. Dorothy Marsden, 1823 Ridge Road, Reisterstown, 21136
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Manager
Docket Clerk
Arnold Jablon, Director of ZADM

APPEAL

Petition for Special Exception and Variance
S/W Corner of Ridge Road and Joel Court
(Ivy Hill Substation)
8th Election District - 3rd Councilmanic District
Baltimore Gas & Electric Co.-Legal Owners/Tract A & B
Frederick R. Vinup, et ux-Legal Owners/Tract C
Case No. 94-452-XA

- ✓ Petition(s) for Special Exception and Variance ✓
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: ✓ 1 - Plat to Accompany Petition for Special Exception and Variance
✓ 2 - Proposed Ivy Hill Substation Expansion
✓ 3 - One photograph of site out-lined in yellow
✓ 4 - Plat to Accompany Petition for Special Exception and Variance
✓ 4A-4T - Twenty photographs of site
✓ 5A-5B - Two photographs of substation
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✓ 7 - Walter A. Reiter, Jr.-Qualifications

- ✓ Four miscellaneous letters
- ✓ Zoning Commissioner's Order dated June 24, 1994 (Granted)
- ✓ Notice of Appeal received on July 21, 1994 from J. Carroll Holzer, Esquire

*c: J. Carroll Holzer, Holzer and Lee, Suite 502, 305 Washington Avenue, Towson, MD 21204, *Counsel for Appellants (Protestants)*
Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 West Allegheny Avenue, Towson, MD 21204
Martha A. Delea, Esquire, Baltimore Gas and Electric Company, P.O. Box 1475, Charles Center, Baltimore, MD 21203-1475
Mr. and Mrs. Frederick Vinup, 1821 Ridge Road, Reisterstown, 21136
~~Mark K. Cohen, Esquire, 120 E. Baltimore Street, Baltimore, 21202~~
Mr. and Mrs. Raymond Fischer, 1822 Ridge Road, Reisterstown, 21136
Mrs. Dorothy Marsden, 1823 Ridge Road, Reisterstown, 21136
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Manager
Docket Clerk
Arnold Jablon, Director of ZADM

ANDREW LANSMAN ET AL
9 JOEL COURT
REISTERSTOWN MD 21136
(APPELLANTS/PROTESTANTS)

The Honorable Paula C. Hollinger
Senate Office Building
Room 206
Annapolis, MD 21401-1991

The Honorable TriBnyān McIntire
County Council

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COUNTY BOARD OF APPEALS

94 JUL 22 AM 11:15

Out per
Htr. 9/14/94

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 21, 1994

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard
210 West Allegheny Avenue
Towson, MD 21204

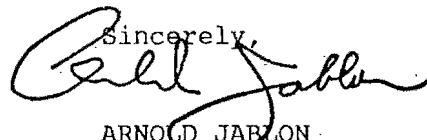
Martha A. Delea, Esquire
Baltimore Gas and Electric Co.
P.O. Box 1475, Charles Center
Baltimore, MD 21203-1475

RE: Petition for Special Exception and Variance
S/W Corner of Ridge Road and Joel Court
(Ivy Hill Substation)
8th Election District
3rd Councilmanic District
Baltimore Gas and Electric-Legal Owner &
Contract Purchaser/Tract A & C
Fredrick R. Vinup, et ux-Legal Owner/Tract B
Case No. 94-452-XA

Dear Mr. Hoffman and Ms. Delea:

Please be advised that an appeal of the above-referenced case was filed in this office on July 21, 1994 by J. Carroll Holzer, Esquire on behalf of Nigel Howse, Robert O'Hara, ron Hanley, Carl Follo, Robert Rytter, Ira Brownk Dieter Langendorf, Andrew Lansman, Jeffrey Bozell, Bruce Pitcher, Joe Czajkowski and Friends of the Ridge.. 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. & Mrs. Frederick Vinup
Mark K. Cohen, Esquire
Mr. & Mrs. Raymond Fisher
Mrs. Dorothy Marsden
People's Counsel

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COUNTY BOARD OF APPEALS
94 JUL 22 AM 11:15



6-24-94

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND ZONING VARIANCE
S/W cor. of inters. of Ridge * ZONING COMMISSIONER
Rd. and Joel Court
Ivy Hill Substation * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 94-452-XA
Legal Owner & Contract Purchaser:
Tracts A & C: Baltimore Gas & *
Electric Co.
Legal Owner: Tract B: Frederick *
R. Vinup, et ux,

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Exception and Petition for Zoning Variance for the property located on the southwest corner of the intersection of Ridge Road and Joel Court in northern Baltimore County. Within the Petition for Special Exception, relief is requested to approve an outdoor electric public utility service center (electric substation) in an R.C.5 zone, pursuant to Section 1A04.2.B.11 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, if necessary, to amend the Fox Ridge Estates (formerly Forwood property) Final Development Plan. Within the Petition for Zoning Variance, a variance is sought from Section 1A04.3.B.3 of the B.C.Z.R. to permit structures as close as 0' from an interior lot line in lieu of the required 50 ft. building setback. All of the relief requested is more particularly shown on Petitioners' Exhibit No. 1, the site plan to accompany the Petitions for Special Exception and Variance.

Appearing at the requisite public hearing held for this case were two representatives of Baltimore Gas and Electric Company (BG&E), owner of a portion of the subject property and Contract Purchaser of the remainder of the site. These included Ed Carmen, an electrical engineer, who studies BG&E's anticipated power needs, and Monica P. McGrady, who designed the

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Date

By

6/24/94
M. Horak

ite plan. Also appearing on behalf of the Petitioner was Walter A. Reiter, Jr., a Real Property Appraiser. The Petitioner was represented by Robert A. Hoffman, Esquire and Martha Delea, Esquire.

Several residents of the surrounding locale also appeared in opposition. These included Andrew Lansman and Pamela Fallo who served as spokesman for several residents in the Foxridge Estates community. Also present were Joann Czaykowski, Raymond and Dorothy Fisher, Peggy Bealsfield and Dorothy Marsden. The Protestants were unrepresented by counsel, but for Rosemary Hanley who was represented by Mark K. Cohen, Esquire.

Testimony and evidence was received from Edward Carmen, a planner of electric systems with BG&E. Mr. Carmen observed that the subject site is divided into three tracts, known as lots A, B and C. Tracts A & C are owned by BG&E and tract B is under contract for acquisition by the company from Frederick R. and Ann L. Vinup. Presently, the tracts owned by BG&E are improved with a small electric substation. This existing substation helps supply electricity to the surrounding locale. The area that is provided service from this station encompasses approximately 6 sq. miles.

Mr. Carmen indicated that he has made a comprehensive study of the growth of this area and the company's needs in the future. Based upon the study, he has concluded that the station will be overloaded by the winter of 1995. Moreover, he observed that the existing station was installed in the mid 1950s. Because of the growth of the area since that time and advances in technology, BG&E, proposes revitalizing the improvements on site. Specifically, the electrical equipment on the property will be removed. In its place, modern equipment will be installed which will upgrade the electrical capacity of this substation. These improvements will result in more efficient and a higher capacity station. Mr. Carmen also testified that as part of the improvement of the site, the overhead wires which lead

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Date

By

to the property from Falls Road will be eliminated and cables will be placed underground. Mr. Carmen's testimony was technical in character and discussed extensively the need requirements as contained within Section 411 of the B.C.Z.R.

Also offering extensive testimony was Monica McGrady, a senior project engineer with BG&E and the author of the development plan. She confirmed Mr. Carmen's testimony about the history of the use of the site. She noted that the property originally owned by BG&E is labeled Tract C and was acquired in 1956. She offered several photographs, including an aerial photograph, which shows the existing station and use at the present time. Subsequently, BG&E purchased Tract A in December 1988 and has entered into a contingent contract with Mr. and Mrs. Vinup to acquire Tract B. These recent acquisitions were made with an eye towards the proposed improvements. The total area of the site is 2.9 acres and the property is zoned R.C.5. Ms. McGrady also explained that all of the improvements on site, with the exception of a 100 ft. antenna, will be dismantled and retired. Ultimately, the site will be improved with an upgraded station. However, these improvements will be completed in two phases. The first phase will involve construction on the west side of the property, on that portion of the site farthest away from the Foxridge Estates community. Ultimately, however, additional equipment will be installed in the central portion of the site. As shown on the site plan and described by the witness, the equipment installed will be of a different character than that now on the property. The tallest piece of equipment to be installed will be approximately 14 ft. high. Moreover, all of the equipment will be surrounded by a 7 ft. fence with an additional 1 ft. height of barbed wire. Moreover, significant testimony was offered regarding other improvements to the site including the installation of a new driveway on the northwest side. This

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Date

6/24/90

By

Ch. Grady

will replace two existing gravel driveways which access the property from the north and east. These existing driveways will be closed and replanted. Moreover, a large volume of testimony was offered about landscaping which is proposed on the site to buffer same from the surrounding community. Lastly, Ms. McGrady comprehensively discussed the requirements contained in Sections 411 and 502.1 of the B.C.Z.R. as they relate to the required special exception. Moreover, testimony was offered concerning the requirements in Section 307 of the regulations as same relates to the variance request.

Walter A. Reiter, Jr., a professional real estate appraiser, also testified about the proposed improvements. He particularly noted the elimination of the two existing driveways and burial of the electric cables from Falls Road as positive events in terms of property values in the community. He is also favorably impressed with the extensive landscaping proposed by the Petitioner. In his opinion, this screening will sufficiently protect the most affected properties. He identified those properties as the Marsden property to the west of the site, the Hanley property to the north and the Follo property to the west.

As to the Protestants, most of their concerns were voiced through their spokespersons, Andrew Lansman and Pamela Follo. Ms. Follo is the most affected property owner, residing immediately across Joel Court from the site. Mr. Lansman's house is the next lot down Joel Court. These witnesses voiced opposition to the project due to its alleged incompatible nature with existing uses. They are particularly concerned about the effects of the proposed electric substation within the midst of their residential community. Certain other concerns as to safety, traffic and effect on property values were also raised.

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Date

By

It is indeed true that the substation is located within close proximity to the surrounding residential community. However, I am not persuaded that it will adversely affect same. It is of particular note that the electric substation use has been present at this location for many years. As noted above, BG&E has had a transformer and other equipment on this site since the mid 1950s. This matter appears to be a case of the most recent residents of the community objecting to a use which has been in the locale for many years. From the photographs submitted, the Foxridge Estates community is obviously new. In fact, Mrs. Follo indicated that her house was built approximately 3 years ago. Nearly 40 years have passed since BG&E acquired tract C and 4 years have elapsed since the company's acquisition of tract A in 1988. Clearly, the Protestants were aware of the long history of this use when their homes were built and on legal notice of BG&E's intentions.

Nonetheless, the concerns of the citizens are reasonable. They invested, no doubt, large sums to acquire their homesites and erect their dwellings. However, in recognition of these concerns, the Petitioner has made significant efforts to eliminate the effects of the proposed use. Initially at the hearing, Mr. Hoffman and Mr. Cohen, representing the Hanleys, noted that an agreement had been reached between their respective clients to amend the plan to provide additional landscaping to the north of the site. Specifically, the company has agreed to install a row of evergreen trees along the front of the Hanley property. It is to be particularly stressed that BG&E's improvements in this respect will be made off site across Ridge Road. Thus, the existing forest on the north of the subject property will not be disturbed. The improvements on the Hanley property will be from that area across from the subject site to the existing evergreen trees which presently occupy the Hanley property adjacent to the

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Date

6/24/94

By

M. Horak

intersection of Ridge and Gent Roads. BG&E has agreed to install evergreens not less than 8 ft. in height at a distance of 15 ft. from center to center. Moreover, the trees to be installed will be properly mulched and will be under warranty for a period of at least one year. Based on this agreement, the Hanleys withdrew their opposition to the Petition.

In addition to the landscaping proposed for the Hanley's benefit, the Petitioner has also agreed to install a second row of evergreens on the east side of the property. These trees will be installed along Joel Court at a point immediately north of Mrs. Follo's driveway to the driveway which is to be abandoned. This will be a second row of trees, to provide additional screening above and beyond what is already shown on the plan. That is, the site plan already shows a significant line of evergreens to be planted on the east side of the property. Moreover, additional landscaping is shown on the plan immediately surrounding the fenced area as well as a row of evergreens on the west side of the site shielding same from the Marsden property. I believe that all of these improvements are appropriate and will adequately buffer the site from the surrounding locale. In fact, with the advances in technology and noise control, the relocation and elimination of driveways and the burial of the overhead lines, the site may prove to be less obtrusive than before.

As to the Petition for Special Exceptions, I am, therefore, persuaded that same shall be granted. The testimony offered was persuasive that the Petitioner has complied with the requirements contained in both Sections 411 and 502.1 of the B.C.Z.R. As to Section 411, those standards pertain to requirements for public utility uses. Ms. Carmen's testimony was persuasive. The standards in Section 502.1 of the B.C.Z.R. relate to all special exception uses. In the instant case, I am convinced that use of the site,

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Date

By

as proposed, will not be detrimental to the health, safety and general welfare of the locale.

As to the Petition for Variance, same should likewise be granted. It is of the utmost importance to note that the 50 ft. setback distance will be observed from the tract boundary. The variance in this case is technically necessary only because of the internal lot lines between tracts A, B & C. In fact, clustering of the improvements within the interior of the site will result in a better buffering from adjacent properties. I am convinced that the Petitioner has met its burden as contained in Section 307 of the B.C.Z.R. to obtain this variance.

A final comment is in order about the necessity of amending the Final Development Plan for Fox Ridge Estates. As an adjacent property to the subject site, that Final Development Plan showed BG&E's tract. Although the proposed improvements are not shown, the ownership is indicated. Thus, it does not appear that an amendment to the Fox Ridge Estates Final Development Plan is warranted.

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

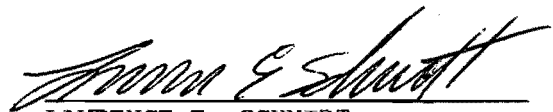
THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of June, 1994 that, pursuant to the Petition for Special Exception, approval for an outdoor electric public utility service center (electric substation) in an R.C.5 zone, pursuant to Section 1A04.2.B.11 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit structures as close as 0' from an interior lot line in lieu of the required 50 ft. building setback, be and is hereby GRANTED,

subject, however, 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 its 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 property shall be landscaped in substantial accordance with the landscaping shown on Petitioner's Exhibit No. 1. Moreover, additional landscaping shall be provided on the Hanley property and on the east side of the site consistent with the findings set forth herein.



LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

ORDER RECEIVED FOR FILING

Date

6/24/94

By

M. J. G. [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 24, 1994

Robert Hoffman, Esquire
210 W. Allegheny Avenue
Towson, Maryland 21204

Martha A. Delea, Esquire
Baltimore Gas and Electric Co.
P.O. Box 1475, Charles Center
Baltimore, Maryland 21203-1475

RE: Case No. 94-452-XA
Petitions for Special Exception and Variance
Legal Owner & Contract Purchaser: Balto. Gas & Electric Co.
Legal Owner: Frederick R. Vinup, et ux

Dear Mr. Hoffman and Ms. Delea:

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

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

Very truly yours,

A handwritten signature in cursive script, reading "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.

cc: Mr. and Mrs. Frederick Vinup, 1821 Ridge Road, Reisterstown, Md. 21136
Mark K. Cohen, Esquire, 120 E. Baltimore Street, Balto. Md. 21202
Mr. Andrew Lansman, 9 Joel Court, Reisterstown, Md. 21136
Ms. Pamela Follo, 1 Joel Court, Reisterstown, Md. 21136
Mr. and Mrs. Raymond Fisher, 1822 Ridge Road, Reisterstown, Md. 21136
Mrs. Dorothy Marsden, 1823 Ridge Road, Reisterstown, Md. 21136



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 10, 1994

Martha A. Delea, Esquire
Baltimore Gas & Electric Company
Charles Center
P.O. Box 1475
Baltimore, Maryland 21203-1475

RE: Case No. 94-452-XA, Item No. 430
Petitioner: Baltimore Gas & Electric and
Frederick R. and Ann L. Vinup
Petitions for Special Exception and Variance

Dear Ms. Delea:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on May 10, 1994 and scheduled for a hearing accordingly. Any attached comments from a 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.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

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.

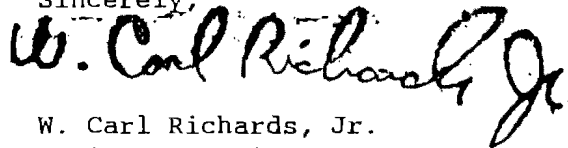
1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this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

Zoning Plans Advisory Committee Comments
Martha A. Delea, Esquire
Date: June 10, 1994
Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.
3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Sincerely,



W. Carl Richards, Jr.
Zoning Supervisor

WCR:cm
Enclosures

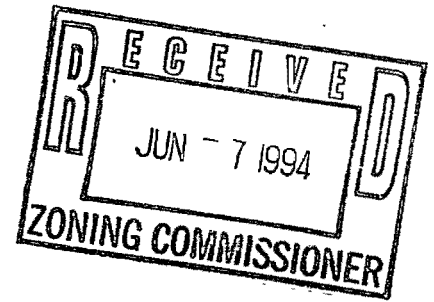
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

JES 6/21
94-452XA

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning



DATE: June 2, 1994

SUBJECT: Southwest corner of the intersection of Ridge Road and Joel Court

INFORMATION:

Item Number: 430
Petitioner: Baltimore Gas & Electric Company
Property Size: _____
Zoning: R.C. 5
Requested Action: _____
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

This project received approval of a limited exemption on April 4, 1994. At that time, in reaction to the plan submitted with the request, staff requested that additional landscaping be provided to screen the subject site from adjacent homes located along Joel Court. The plat accompanying this Petition satisfies the concern regarding the provision of additional landscaping. Therefore, staff recommends the applicant's request be granted.

Prepared by: Jeffrey W. Gay

Division Chief: Pat Keller

PK/JL:lw

Any access to Tenbury Road, whether it be temporary or permanent, should be denied. Tenbury Road is a residential street and this unwarranted intrusion would negatively impact the well maintained community of Dulaney Village.

Prepared by:

Jeffrey M. Lee

Division Chief:

Angela L. Kerns

PK/JL:lw



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

525-94

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

Re: Baltimore County
Item No.: +430 (JLL)

Dear Ms. Minton:

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 project.

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 DAVID N. RAMSEY, ACTING CHIEF
~~John Contestabile, Chief~~
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/20/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEEBELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 428, 430, AND 439.

RECEIVED
MAY 20 1994

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: May 27, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief *RWB/Dak*
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for May 31, 1994
Item No. 430

The Developers Engineering Section has reviewed the subject zoning item. The submitted schematic landscape plan is tentatively approved. A final landscape plan is required prior to release of permits.

RWB:sw

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

June 14, 1994

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #430 - Ivy Hill Substation
Intersection of Ridge Road & Joel Court
Zoning Advisory Committee Meeting of May 23, 1994

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Regarding the Forest Conservation Regulations:

1. Provide a plan showing the existing woods lines on the property.
2. Provide data on current acreage of forest on site and what acreage of forest will be left on site after all necessary clearing has been performed. Provide data on how much square footage of forest is to be removed.
3. If more than 40,000 square feet of forest is to be disturbed then the property will have to comply with Baltimore County's Forest Conservation Regulations. In addition, what will be the fate of the parcel lines?

✓
JLP:GCS:sp

IVYHILL/DEPRM/TXTSBP

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

zc
fjs
6/21
(410) 887-3353

June 16, 1994

Martha A. Delea, Esquire
Baltimore Gas & Electric Company
Charles Center
P. O. Box 1475
Baltimore, Maryland 21203-1475

RE: Case No. 94-452-XA, Item No. 439
Petitions for Special Exception and Variance

Dear Ms. Delea:

Enclosed are copies of comments received from the Department of Environmental Protection and Resource Management on June 16, 1994 for the above-referenced case.

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

Sincerely,

Charlotte Minton

Charlotte Minton

Enclosure



Z.C.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 6, 1994

Mr. Joseph C. Laverghett
1205 York Road
Lutherville, Maryland 21093

RE: Case No. 94-466-SPH, Item No. 452
Petition for Special Hearing

Dear Mr. Laverghett:

Enclosed are copies of comments received from the Office of
Planning and Zoning on July 5, 1994 for the above-referenced case.

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

Sincerely,

A handwritten signature in cursive script that reads "Charlotte Minton".

Charlotte Minton

Enclosure



RE: PETITION FOR SPECIAL EXCEPTION*
PETITION FOR VARIANCE

Ivy Hill Substation *
S/W corner of intersection of *
Ridge Road and Joel Court, 8th *
8th Election District, *
3rd Councilmanic *

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO.: 94-452-XA

Legal Owner, Tracts A & C: *
Baltimore Gas & *
Electric Company *
Legal Owner, Tract B: Frederick R. *
Vinup and Ann L. Vinup*
Petitioners

* * * * *

94-452-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Martha A. Delea, Esquire, Baltimore Gas & Electric Company, Charles Center, P. O. Box 1475, Baltimore, MD 21203-1475, and to Robert A. Hoffman, Esquire, 210 Allegheny Avenue, Towson, MD 21204, attorneys for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

HO

430

Plan dropped of without final
filing review. Rob H. said will
attempt to use SPX to also amend
F.D.P. I said its your decision
since this is usually handled by special
hearing. ^{overall plan provided but not referenced with amendments}
(No Overall description for Fox ridge
Est. in file called Rob H.)
on 5/10/94. 5/11/94
Eventually you will need amended
FDP plans.

JLL

To: John Lewis
From: Page Wingert

John,

Attached is the filing
package for BG+E, re:
Ivy Hill substation. You
have already reviewed w/
Barb White & we have
made requested revisions.
Call if any questions arise. ^{That's} Page

I don't necessarily agree with how this
is being addressed but I bow to the
attorneys privilege of asking for what they want.

(Told R.H. about possible
DRC issues needing to
be correct)

Spoke to Page Wingert. Possible Revisions
he'll talk to R.H.

~~No hearings~~ Some revisions made.
Comments still stand.

No Post Adj. sheet
with package called R.H.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



January 27, 1995

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

RECEIVED
COUNTY BOARD OF APPEALS
95 JAN 0 AM 11:10

Master Anthony Fusco
27 Salt Hill Court
Timonium, Maryland 21093

Dear Master Fusco:

Thank you for your recent letter regarding the proposed power station located near your father's house at 5 Forward Court.

Although your letter was directed to me, the case involving the proposed power station is actually before the Baltimore County Board of Appeals. The Board is an agency which is responsible for reviewing decisions from both my office and other County agencies. The Board is now considering my previous decision which approved the power station.

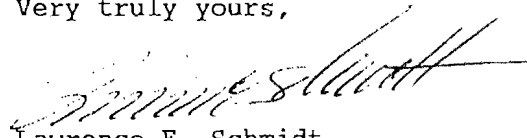
From my understanding of the proceedings before the Board, they have just recently concluded a lengthy hearing regarding this project. At that hearing, all persons with an interest in the matter were allowed to testify and present evidence and information in support of their position. I am sure that your father and his neighbors were given an opportunity to voice their opinions.

I expect that the Board will issue a decision shortly. Their decision will be based upon all of the facts and information presented to them.

Thank you for your interest in this matter. It is gratifying to see citizens take an interest in the zoning process in Baltimore County, particularly citizens of your age.

Please do not hesitate to call me if you would like to discuss this matter further.

Very truly yours,


Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

cc: Board of Appeals of Baltimore County w/ attachment ✓



27 Salt Hill court
Tiomumon, MD 201930
January 13, 1995

400 Washington Ave
Towson, MD 21204

Dear Zoning Commity,

My name is Anthony Fusco. I'am 12 years old. I go to Ridgely Middle school. On the weekend I vist my dad. He lives at 5 Forward court. You said that you going to make a the power statoin there bigger. Right now you can't even tell that it is there. According to you you want to make alot bigger. When you make it it is going to make the property value go down. It will all so make it unsafe for the childern to play around there. I don't know much about these station but I think it still going to make alot of noise to make and won't it make some pollition. I not sure about this but wouldn't it do that. I close now saying please don't don't make it any bigger that it is now if not the goodness of your heart but for the residents there.

Sincerly,

Anthony Fusco

Anthony Fusco



C.A. Dutch Ruppersberger, III
Baltimore County Executive

Executive Office
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2450
Fax: (410) 887-5781

February 1, 1995

Ms. Pam Fallo
"Friends of the Ridge"
1 Joel Court
Reisterstown, MD 21136

RE: Ivy Hill Substation
Zoning Case No. 94-452-XA

Dear Ms. Fallo:

This letter is written in response to a referral from the Honorable Paul S. Sarbanes, United States Senator, regarding the proposal by the Baltimore Gas and Electric Company (BGE) to expand the Ivy Hill substation which is located at the intersection of Ridge Road and Joel Court in the Chestnut Ridge area of Baltimore County.

Public utility service centers are one of the uses listed in the Baltimore County Zoning Regulations that are not permitted as a matter of right in a residential zone; such use may only be permitted by special exception. All of the uses permitted by special exception are considered to be proper use of the land, but have certain aspects which call for special consideration of each proposal. Because the uses could be detrimental to the public welfare under certain conditions, the uses listed as special exceptions are permitted by law only if granted by the zoning commissioner, and subject to an appeal to the board of appeals (board).

As you know, the board has recently concluded five days of testimony on this matter as a result of an appeal of the zoning commissioner's decision to grant a special exception and variance to BGE for the construction of an outdoor electric public utility service center in an R.C. 5 zone. Closing arguments, in the form of written memoranda, are due to be submitted to the board by February 6, 1995; thereafter, a date to deliberate this matter in a public forum will be scheduled.

Neither the executive nor the legislative branch of government may interfere with a process that is adopted by law to culminate in a quasi-judicial forum. The law clearly establishes the parameters for the zoning commissioner, acting as an independent officer of the county, to have sole authority to grant the above-referenced special exception. Similarly, the board is authorized by the Baltimore County Code to review the zoning commissioner's decision upon appeal.

With this in mind, I can assure you that this project will receive a complete and thorough review by the board based on the record and testimony presented to them. Baltimore County will consistently review all proposals within the confines required by law; additionally, proposals will be scrutinized with an emphasis toward the issues and concerns raised by the community.



Ms. Pam Fallo
February 1, 1995
Page 2

I remain confident that the board will act in the best interests of the citizens of Baltimore County as they consider issues that are so critical to the welfare of the community. Thank you for sharing your concerns with Senator Sarbanes and me as we await the board's decision.

Sincerely,

A handwritten signature in cursive script, reading "C.A. Dutch Ruppertsberger, III".

C.A. Dutch Ruppertsberger, III
County Executive

CADR:jvm

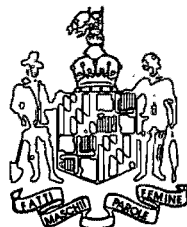
c: Hon. Paul S. Sarbanes

COMMITTEES:
ECONOMIC AND ENVIRONMENTAL AFFAIRS
CHAIR-HEALTH SUBCOMMITTEE

SENATE CHAIR
ADMINISTRATIVE, EXECUTIVE, LEGISLATIVE
REVIEW COMMITTEE

JOINT COMMITTEE
ON HEALTH CARE DELIVERY AND FINANCING

NATIONAL CONFERENCE OF
STATE LEGISLATURES



SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401-1991

4331-94
130/94
TO BS
in B file
PAULA C. HOLLINGER

11 DISTRICT
BALTIMORE COUNTY

HOME ADDRESS:
55 RAISIN TREE CIRCLE
BALTIMORE, MD 21208-1364
(410) 484-4888

DISTRICT OFFICE:
SENATE OFFICE BUILDING
ROOM 206
ANNAPOLIS, MARYLAND 21401-1991
TELEPHONE: (410) 841-3131

94-452

August 29, 1994

Arnold Jablon
Director
Zoning Administration & Development
Management Office
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

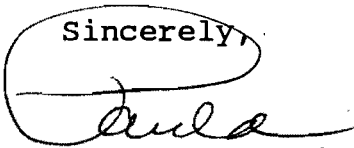
I am writing in support of the Hunt Cup Hill Association's opposition to the expansion of Baltimore Gas & Electric's substation on Ridge Road.

I was surprised to learn that BGE did not notify the community appropriately before the hearing on the project on June 21 and subsequent granting of their petition on June 24. I understand this petition has now been appealed by the community.

I agree with the community's assessment that a substation some seventeen times the size of the present one does not belong in a residential area. With Hunt Valley's industrial area only three miles away, I cannot understand why the Ridge Road site was chosen.

The community has cited several reasons for their opposition: 1) a health threat to the community due to increased emission of EMF, 2) a threat to the children of the community, 3) an environmental hazard to wildlife, and, 4) would give a foothold in the area for future industrial development. I agree with their analysis of this issue and look forward to working with them to successfully appeal BGE's petition. I hope the county will re-think this proposal and listen carefully to the concerns of the residents who will be affected by such invasive construction.

Sincerely,


Paula C. Hollinger

pch/lt
cc: Jack Lodge, BGE
Margaret Worrall

RECEIVED
AUG 30 1994

ZADM



430

CHARLES CENTER • P.O. BOX 1475 • BALTIMORE, MARYLAND 21203-1475

MARTHA A. DELEA
ATTORNEY
(410) 234-5697

May 6, 1993

94-452-XA

VIA COURIER

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517

Re: Ivy Hill Substation

Dear Rob:

Enclosed herewith for filing are the following documents:

1. Six signed copies of the Petition for Special Exception.
2. Six signed copies of the Petition for Variance.
3. Twenty copies of the drawing entitled "Plat To Accompany Petition For Zoning Special Exception And Variances".
4. Four copies of each of the metes and bounds descriptions for the properties.

It is my understanding from Barbara that you already have a copy of the 200 foot scale map marked NW17E; therefore one in not included in this package.

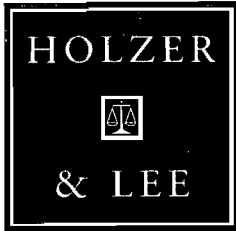
Please let me know when the Petitions have been accepted for filing by the Zoning Office.

Very truly yours,

Martha

Martha A. Delea

Enclosures
CC: Monica McGrady



LAW OFFICES

J. CARROLL HOLZER, PA
THOMAS J. LEE

J. HOWARD HOLZER
1907-1989

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923

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

July 20, 1994

HAND DELIVERED

Mr. Arnold Jablon, Director
Zoning Administration and Development Management
County Office Building
111 West Chesapeake Ave.
Towson, MD 21204

Re: Appeal of Case No. 94-452-XA

Dear Mr. Jablon:

On behalf of my clients Nigel Howse, Robert O'Hara, Ron Hanley, Carl Follo, Robert Rytter, Ira Brown, Dieter Langendorf, Andrew Lansman, Jeffrey Bozell, Bruce Pitcher, Joe Czajkowski, and Friends of the Ridge, I hereby note an appeal of the decision of the Zoning Commissioner in the above referenced Petitions for Special Exception and Zoning Variance decided on June 24, 1994.

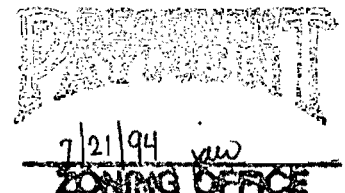
On behalf of my clients I am submitting a check in the amount of \$460.00 to cover the cost of the appeal to the County Board of Appeals. If you have any questions, please call me at 825-6961.

Very truly yours,

J. Carroll Holzer

J. Carroll Holzer

JCH:t11



OBER, KALER, GRIMES & SHRIVER

ATTORNEYS AT LAW
120 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202-1643
(410) 685-1120
FACSIMILE (410) 547-0699
CABLE "RITNEY"
TELEX 8-7774

MARC K. COHEN
DIRECT DIAL NUMBER
(410) 347-7663

OFFICES IN
WASHINGTON, D. C.
NEW YORK
NEW JERSEY

September 13, 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Attention: Kathleen C. Weidenhammer, Administrative Assistant

RE: Case No. 94-452-XA
Baltimore Gas & Electric Co./Ivy Hill Substation

Dear Ms. Weidenhammer:

Please withdraw my appearance as counsel for Protestant R. Hanley in the above-captioned case. It is my understanding that this Protestant is now represented by Mr. J. Carroll Holzer.

Should you have any questions or require any additional information, please feel free to communicate with me at any time.

Very truly yours,


Marc K. Cohen

MKC:th

cc: Ms. Rosemary Hanley
J. Carroll Holzer, Esquire

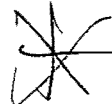
MKC:307473.1:09/13/94

94 SEP 14 PM 12:00
RECEIVED
COUNTY BOARD OF APPEALS

JOHN C. ERICKSON
13008 HEIL MANOR DRIVE
REISTERSTOWN, MARYLAND 21136

August 22, 1994

The Board of Appeals of Baltimore County
400 Washington Avenue
The Old Courthouse
Room 49
Towson, MD 21204

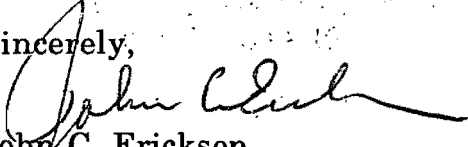


RE: Case Number 94-452-XA

Dear Sirs:

I live in the area where the proposed substation improvements are being requested by Baltimore Gas & Electric. I fully support BG&E's efforts to upgrade the electric power for our region. I believe it is ludicrous that a group of "not in my backyard" protesters would attempt to block the good faith efforts of BG&E to keep our power requirements at proper levels. I am sure these protesters are the first to scream when they experience brownouts and outages on the extreme temperature days. BG&E has been a responsible provider of power for years. Let us trust their technical judgment and assist them in every possible way to get on with their work. With a few less lawsuits and protests, our electric costs might be more reasonable.

Sincerely,


John C. Erickson

cc: Carroll Holzer, Esq.
305 Washington Avenue, Suite 502
Towson, MD 21204

Baltimore Gas & Electric Company
Clare Miller, Local Affairs Director
31 West Lexington Street
Baltimore, MD 21201

Dutch Ruppertsberger (Councilman)
400 Washington Avenue
Old Courthouse, 2nd Floor
Towson, MD 21204

Helen Bentley (State Congresswoman)
200 E. Joppa Road, Suite 400
Towson, MD 21286

Janice Piccinini (State Senator)
204 River Way Court, #104
Owings Mills, MD 21117

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 24 PM 12:12

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

BALTIMORE, MD
WASHINGTON, D.C.
MCLEAN, VA
ROCKVILLE, MD

210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21285-5517
(410) 494-6200
FAX (410) 821-0147

RICHARD M. VENABLE (1839-1910)
EDWIN G. BAETJER (1868-1945)
CHARLES MCH. HOWARD (1870-1942)

WRITER'S DIRECT NUMBER IS

July 27, 1994

(410) 494-6262

ROBERT A. HOFFMAN

HAND-DELIVERED

County Board of Appeals of
Baltimore County
Old Court House
400 Washington Avenue
Towson, Maryland 21204

Attn.: Ms. Kathy Weidenhammer

Re: Baltimore Gas & Electric Co. - Ivy Hill
Case No. 94-452-XA

Dear Ms. Weidenhammer:

On behalf of our client, Baltimore Gas & Electric Co., I am writing to inform the Board that the I believe that the hearing for this matter may well take more than one day. Accordingly, I would respectfully request that two or three consecutive hearing dates be scheduled.

Should you have any questions, please do not hesitate to call. I thank you for your consideration of this matter.

Sincerely,

Rob Hoffman BY: GPW
Robert A. Hoffman

RAH/dok

cc: J. Carroll Holzer, Esq.
Martha A. Delea, Esq.

RECEIVED
COUNTY BOARD OF APPEALS
94 JUL 27 PM 7:06



Falls Road Community Association

P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204

February 11, 1995

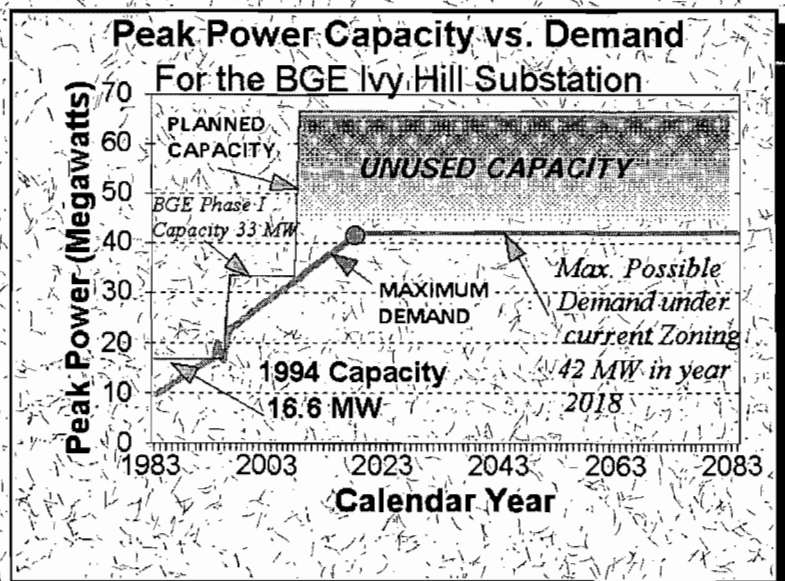
95FEB 15 PM 2:56
RECEIVED
COUNTY CLERK
BALTIMORE COUNTY

Gentlemen,

This is in reference to case 94-452-XA regarding the request by the Baltimore Gas & Electric Co. for a special exception to upgrade their Ivy Hill power distribution substation. You may recall that the Board of Appeals called me, as the representative of the Falls Road Community Association to testify as a "friend of the Court" on the first day of the hearing, October 4, 1994. At that time I stated the position of the Falls Road Community Association, Inc. which was: "not opposed to Phase I but opposed to Phase II" of the BGE plan. That position remains the same today.

In my testimony I stated that it was the opinion of the FRCA Board of Directors that this station was over-designed. That opinion at that time was based on a general familiarity with our community and the extent that FRCA anticipated further development could occur given the limitations imposed by existing zoning. At that point in time BGE had not seen fit to provide the community with sufficient information regarding the service area, the number of customers now served, the historical growth rate (new homes being constructed), and other factors which would permit an independent evaluation of future potential growth.

On the second day of the hearing, January 10, 1995 BGE witness James Ryan provided sufficient data to permit such an assessment. The 100 year chart shown to the right summarizes the impact of the BGE plan in terms our community can relate to. It was evident from witness Ryan's testimony that BGE did not take into account in any way the limitations that zoning imposes on the maximum number of homes.



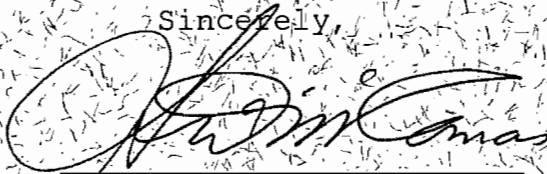
The resulting 58 percent over-design (e.g., 66.4 Megawatts of peak capacity vs. 41.8 Megawatts of peak demand) for Phase II is directly reflected in the size of the facility and the facility preparation for Phase II is part of the Phase I activity. Because the size of that facility imposes an unnecessary hardship on the surrounding community, the FRCA Board of Directors at its February meeting directed me to communicate this finding to the Board of Appeals.

It is the opinion of the FRCA Board that this is not new information or testimony since it derives directly from BGE's testimony, but simply supports FRCA's earlier recommendations:

- 1: that Phase II not be approved, and
- 2: that Phase I be scaled back to accommodate only that part essential to accommodate the Phase I equipment.

It is hoped that this will assist the Board of Appeals in its deliberations.

Sincerely,



A. Douglas McGomas, Executive Director

cc: H. George Meredith, Esq. President
FRCA Board of Directors
J. Carroll Holzer, Esq.
Claire Miller, BGE



Falls Road Community Association

P.O. Box 555 Brooklandville, Maryland 21022

ESTABLISHED
1947

September 16, 1994

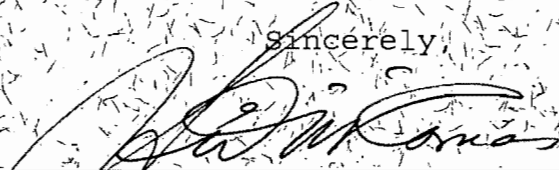
Chairman
Board of Appeals for Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Dear Sir,

This letter is to present the position of the Officers and Directors of the Falls Road Community Association (FRCA) with regard to the request for Special Exception by the Baltimore Gas & Electric Co. for the upgrading of their Ivy Hill power substation, case number '94-452-XA scheduled to be heard by the Board on October 4 and October 6, 1994.

Attached you will find the original and a duplicate copy of the necessary papers to comply with Paragraph 2 of Rule 8 of the Board of Appeals which authorize me to testify on this matter. I am submitting these in advance due to a potential travel conflict which I have which may not allow me to testify personally. Please enter the position of our Association on this matter into the record as clearly enunciated in the attached Resolution in the event I am unable to attend.

Sincerely,


A Douglas McComas, Executive Director

94 SEP 23 AM 11:56

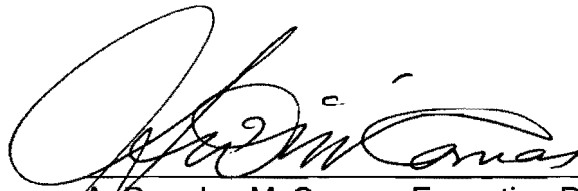
RECEIVED
COUNTY BOARD OF APPEALS

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS
September 15, 1994

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Falls Road Community Association, Inc.

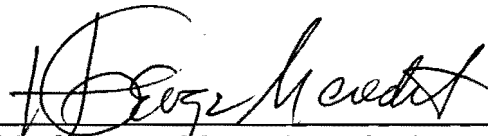


A. Douglas McComas, Executive Director

ATTEST: **The Falls Road Community Association, Inc.**



Dasha Bindler, Secretary



H. George Meredith, Acting President

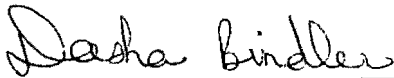
THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

P.O. Box 555, Brooklandville, Maryland 21022

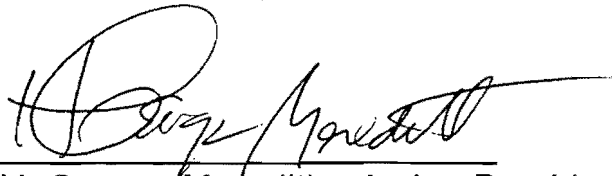
RESOLVED: *(At the 1993 Annual Meeting of the Falls Road Community Association, Inc. held on November 2, 1993 the Association membership voted as follows:)* Responsibility for review and action on all zoning matters for the period beginning November 3, 1993 through the date of the next Annual meeting, is delegated to the President of the Association, Charles H. Schmenner and/or the Executive Director of the Association, A. Douglas McComas or their designated representatives.

AS WITNESS OUR HANDS AND SEAL THIS 15th day of September 1994.

ATTEST: **The Falls Road Community Association, Inc.**



Dasha Bindler, Secretary



H. George Meredith, Acting President

THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

P.O. Box 555, Brooklandville, Maryland 21022

RESOLVED: That the position of the Falls Road Community Association, Inc. as adopted by the Board of Directors on the zoning matter related to the proposed upgrade of the IVY HILL SUBSTATION by the Baltimore Gas and Electric Co., Inc.

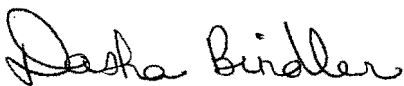
The Board of Directors supports the PHASE I upgrade which would approximately double the capacity of the existing facility as being necessary and desirable to the ability of BG&E to provide adequate power to the community served. However it is opposed to the inclusion of the PHASE II upgrade in this Special Exception (which would quadruple the present capacity of this facility.) Specifically the Board of Directors at its monthly meeting on September 15, 1994 moved as follows:

"As an organization we will not oppose the proposed Phase I but ask the Board of Appeals to eliminate the request for any construction beyond that required by Phase I, and that the perimeter and supporting infrastructure be reduced approximately 50% in order that the existing woodland be preserved to the greatest extent possible."

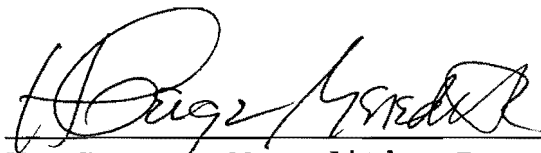
AS WITNESS OUR HANDS AND SEAL THIS 15th day of September 1994.

ATTEST:

The Falls Road Community Association, Inc.



Dasha Bindler, Secretary



H. George Meredith, President

THE FALLS ROAD COMMUNITY ASSOCIATION, Inc.

P.O. Box 555, Brooklandville, Maryland 21022

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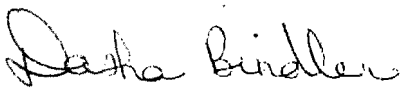
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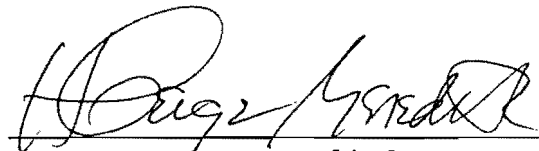
AS WITNESS OUR HANDS AND SEAL THIS 15th day of September 1994.

ATTEST:

The Falls Road Community Association, Inc.



Dasha Bindler, Secretary



H. George Meredith, President

June 28, 1995

RECEIVED
EXECUTIVE OFFICE

1995 JUN 30 P 4: 33

County Executive C.A. "Dutch" Ruppensberger
400 Washington Avenue
Old Court House
Towson, MD

Dear Mr. Ruppensberger;

Why are you and Mr. Jablon so anxious to proceed with the construction of the Ivy Hill Substation? Mr. Ruppensberger, what role do you play in bringing this nightmare to our community? Many of us are becoming extremely disheartened, disillusioned and frustrated with our judicial system as well as our elected representatives.

We hang onto the slim hope that one of our elected officials will be able to stop this until we are able to exercise our rights in the judicial process. You should know **the following new information has come to light.**

1. **The site plan that was approved by the Baltimore County Board of Appeals shows no structure higher than 14ft. 6in., with most structure being 13ft. 6 in. or less.** These specs were also verified by Ms. Monica McGrady, BGE Project Manager, in testimony before the Baltimore County Board of Appeals on October 4, 1994. (Exhibit II) **The actual construction plans filed by BGE, with permits issued by Mr. Arnold Jablon, Director - Department of Permits and Development Administration in Baltimore County, show that these structures are now 15ft 9in.** (See comparison - Exhibit III) The Board ruled that the initial landscaping plan was inadequate to screen structures which are 14 1/2 feet high. Clearly, structures which are 23% taller will be even more difficult to hide. So much for that...BGE decided to basically say "in your face".
2. **The site plan that was approved by the Baltimore County Board of Appeals shows a large vacant area at the center section of the subject site.** We asked several times; why does this facility have to be so big...BGE always evaded the question...now we know *some* of the reasons why. **It is very clear on the construction plans that were approved by ZADM that this area is in reality to be converted into a permanent garage/storage area for BGE mobile transformers.** The mobile equipment will be 45ft. X 10ft. It is obvious that this was BGE's intent from the very beginning. This is **INCREDULOUS.** One of our main concerns throughout this entire process has been that once BGE received the approval BGE could do anything they wanted. From the beginning we believed that the actual intended use of the expanded substation was not to supply electricity to the existing service area. County figures show that the unit growth will grow by only 4% to the year 2010. BGE plans to expand capacity to 400%. (See Chart, Exhibit IV attached) BGE does not need to expand the capacity of this substation to meet demand caused by the 4% growth, a conclusion drawn from their own testimony. Once again BGE said "in your face". What next? A nuclear power plant.

BGE does not have to proceed with construction plans. BGE Engineer Lawrence Taylor testified on October 4, 1994 before the Baltimore County Board of Appeals that a mobile

transformer could be used "temporarily" to accommodate any electrical need if plans were delayed. (Exhibit V). On December 1, 1994, Claire Miller, Director of Local Affairs for BGE bulk mailed a letter to approximately 1,000 homeowners, taxpayers, voters, BGE customers in the area indicating that BGE would roll in a mobile substation (temporary equipment on a trailer) as an emergency measure when the weather turns cold, and Nancy Caplan, Director of Public Affairs for BGE, was interviewed by The Towson Times on March 1, 1995 when she noted "delays in construction could mean a mobile transformer would have to be brought to the site to handle increased demand next year. (See Exhibits VI & VII)

Even Ms. Miller's letter is full of untruths! In testimony given before the Appeals Board Mr. Lawrence Taylor, BGE Engineer, testified that the Ivy Hill Substation overloaded once, on January 4, 1994, during the coldest winter on record. (Exhibit VIII). Consequently, BGE concluded that the existing service capacity was inadequate. However, on that same day, BGE was airing public service announcements asking customers throughout Maryland to decrease their electrical intake to prevent brown outs! The truth is, if the Ivy Hill Substation is inadequate, then so was every other substation serving every community that lost power on that day. Ms. Miller inferred that residents lost power because of inadequate capacity on September 18th 1994. In truth, power was interrupted due to an automobile accident when a car hit a utility pole. It is very obvious that Mr. Taylor, Ms. Miller and Ms. Caplan were attempting to intimidate a community.

So why don't they bring in a mobile substation for temporary use, instead of bulldozing ahead with their permanent plans? Once this expansion is completed, regardless of how strong our legal appeal is, it will be very difficult for a judge to overturn...it will already have been built, it will already be there!!! Because the community stood its ground and demanded their day in court we firmly believe that BGE never ever intended to utilize a temporary mobile unit. We know this expanded substation is to be used for purposes other than servicing residents in this area. Once again BGE said "in your face".

How can we express our feelings? Let's put it this way, we now know first hand how totally convoluted and unresponsive our government actually is. Many Homeowner Associations have called expressing concerns that this is setting a precedent. They worry that their voices and appeals and their judicial rights mean nothing, particularly if BGE is permitted to forge ahead with construction before given the final approval in the court system.

We have had enough!! Our community has been put through hell.. and, by whom...our very own public utility, our very own Judicial system, and our very own elected officials. We all know that this is not happening in **your** community! The apathy in the public sector regarding our elected officials is so very sad. Most people believe we are foolish and fully expect their officials to do nothing. So far, they have been right! We cannot give up and we refuse to become disillusioned until the substation is built! Regardless of the outcome we promise the following:

1. We are an extremely energized group of educated homeowners and have been forming a Homeowners' Coalition that will be very politically motivated. We will notify every homeowners' association through either direct mail, phone or the Internet that their appeal process is in extreme

danger of being eradicated by big developers and big business and that their elected officials are doing nothing to intervene.

2. This coalition will be non-partisan. We will work diligently to support candidates and incumbents who recognize homeowners' rights. We will work just as hard to defeat candidates and incumbents who do nothing to support homeowners' rights.

3. We are not anti-development, anti-business, anti-growth. We simply stand for common sense, fairness and honesty.

4. **The cornerstone of the Coalition's by-laws is the Fifth Amendment.**

In Mr. Jablon's letter dated January 20, 1995 he said, "*The law does not provide me with the authority to withhold permits once the Board has rendered its decision providing, of course, that the request for permits comports with the Board's order.*" Does Mr. Jablon know how to read!? We demand that you as our elected official call Mr. Arnold Jablon, advise him that the Construction plans BGE filed with permit requests deviated substantially from the original plan approved by the Baltimore County Board of Appeals. Demand to know whether he knew the plans deviated significantly, and if so, why he granted the permits and if not, why did he not check what the Board had approved before issuing those permits. **BGE misrepresented the intended use of this expansion as well as the size and scope of the structures to be erected!** We will not allow our government official to turn their heads and pay lip service to those who elected them.

We demand that you, as our elected official call BGE immediately and demand that they suspend further construction so that we may pursue our legal rights in the Courts.. One of our legal arguments will be that an illegal action was taken by the Baltimore County Planning Board as it relates to the Final Development Plan of "Fox Ridge Estates". (Copy of Page 35 - final argument attached) If you fail to do so judgment may result in a "*de facto*" approval because the existence of the expanded substation will no doubt influence the judicial decision. Even if we win at a judicial review level it is highly unlikely that a judge would order the dismantling of an expensive 22,000 sq. ft. electrical substation erected by our public utility. This is only part of BGE's underhanded strategy. They are an arrogant corporation!

TO PUT IT SIMPLY, UNLESS CONSTRUCTION IS SUSPENDED, WHETHER WE WIN OR LOSE AT A JUDICIAL REVIEW LEVEL BGE WILL GET THEIR SUBSTATION AND THE RESIDENTS WILL GET THE SHAFT!!!

We demand that as our elected official you take a public stand on this issue. The voting public deserves to know where you stand. The voting public will respond to your action; we are tired of words. The time for rhetoric has passed, the time for action is **NOW!!!**

Sincerely,

FRIENDS OF THE RIDGE
(410) 252-6122

EXHIBIT I

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

PETITION OF: Friends of the Ridge,
individuals Mr. & Mrs. Nigel
Howse, Mr. & Mrs. Robert
O'Hara, Mr. & Mrs. Ron Hanley,
Mr. & Mrs. Carl Follo, Mr. & Mrs.
Robert Rytter, Mr. & Mrs. Ira
Brown, Mr. & Mrs. Dieter
Langendorf, Mr. & Mrs. Andrew
Lansman, Mr. & Mrs. Jeffrey
Bozel, Mr. & Mrs. Bruce Pitcher,
and Mr. & Mrs. Joe Czajkowski at
305 Washington Avenue, Suite 502,
Towson, Maryland 21204

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS FOR BALTIMORE COUNTY
400 Washington Avenue, Room 49
Old Courthouse
Towson, Maryland 21204

IN THE MATTER OF:
THE APPLICATION OF
BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)
FOR SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST CORNER OF
RIDGE ROAD AND JOEL COURT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
Case No.: 94-452-XA

Civil Action

Case No.: 03-C-95-5315

EX-PARTE INJUNCTION TO STAY OPERATION OF PERMITS

Petitioners Friends of the Ridge and individuals Mr. and Mrs.
Nigel Howse, Mr. and Mrs. Robert O'Hara, Mr. and Mrs. Ron Hanley,
Mr. and Mrs. Carl Follo, Mr. and Mrs. Robert Rytter, Mr. and Mrs.
Ira Brown, Mr. and Mrs. Dieter Langendorf, Mr. and Mrs. Andrew
Lansman, Mr. and Mrs. Jeffrey Bozel, Mr. and Mrs. Bruce Pitcher,
and Mr. and Mrs. Joe Czajkowski, by and through their attorney, J.
Carroll Holzer and Holzer and Lee, pursuant to Rules 7-205 and 8B

LAW OFFICE
HOLZER AND LEE
405 WASHINGTON AVENUE
SUITE 502
TOWSON, MARYLAND
21204

(410) 825-6961
FAX: (410) 825-4923

72, file this Motion to Stay the Operation of Permits from the Baltimore County Department of Licensing and Permits in connection with expansion of the BGE substation at 1821 Ridge Road, Ivy Hill. The application of Baltimore Gas and Electric Company, case Number 94-452-XA was tried and heard in five (5) days of testimony before the County Board of Appeals which rendered its decision on May 31, 1995 Ordering that BGE's Petition for Special Exception for an electrical substation in an R.C. 5 zone, and their Petition for Variance be granted.

On or about June 14, 1995, Baltimore County Department of Licenses and Permits issued a grading permit for subject BGE site at 1821 Ridge Road, permit number B237378. On June 21, 1995, the County Department of Licenses and Permits issued permit number B237372 to construct 11 foundations for the substation addition.

On June 16, 1995, Petitioners filed a Petition for Judicial Review, case number 03-C-95-5315, from the decision of the County Board of Appeals (CBA). Petitioners will raise valid issues before the Circuit Court, including the need to amend the final development plan for the substation that would be required to go to the County Planning Board. The CBA erred as a matter of law in granting BGE's Petition for Variance because the utility failed to establish the "uniqueness" of this site which would permit the application of the practical difficulty, or unreasonable hardship standard as described in Cromwell v. Ward, 102 Md. App. 691 (1995). Additionally, the CBA erred in granting the Special Exception when

it failed to consider all the tests set forth in Sec. 502.1 and Sec. 411 of the Baltimore County Zoning Regulations.

Petitioners will be irreparably harmed by the operation of said grading and foundation permits because the buffers and screening provided by the mature stand of 80-year old hardwood trees between the BGE substation and Petitioners' residences are being cut down in large numbers reducing the value of Petitioners' real property, significantly diminishing the peaceful enjoyment of their residential neighborhood. The large number of tall hardwood trees on the .7 acre site between the BGE substation and residential homes that have already been cleared, with many stumps sticking out of the ground is an obvious blight and major hardship to the adjoining property owners. With the grading, cutting and removal of trees comes a constant flow of trucks, heavy equipment, parked vehicles owned by BGE and their subcontractors along Ridge Road, impeding neighbors' vehicle access to Joel Court, along with loud construction noises emanating from the substation commencing at 7 a.m. are a nuisance and dramatically reduces adjoining property owners from fully utilizing their homes. See Affidavit of Carol Rytter, Exhibit A, attached hereto and incorporated herein.

Affidavit of Rosemary Hanley, attached hereto and incorporated herein as Exhibit B, says that she is being permanently injured by construction of the substation pending its appeal because of the diminution of the value of her home having a 22,100 square feet electrical facility operating within ten feet of her property line. She believes that construction of the substation with electrical

equipment, cables, and support structures will likely be a permanent feature in her neighborhood even if the Courts reverse the CBA.

Excavation, stripping of mature hardwood trees, and construction of the expanded substation in a R.C. 5 zone prior to review by the Circuit Court will create a use incompatible with the adjoining property, irreparably harming Petitioners. Petitioner Pamela Follo through her Affidavit attached hereto as Exhibit C, testifies that on June 19, 1995, she listed her house at 1 Joel Court for sale. Her house was appraised at a value of \$425,000 prior to the issuance of the permits and construction and she has been advised by several real estate agents that she and her husband could expect to get only 75% of the appraised value, a reduction of \$106,250, because of the construction and substantial increase in size of the BGE substation. This is both immediate and substantial harm. Carl Follo, through his affidavit attached hereto as Exhibit D, says that he and his wife, Pamela, are suffering immediate harm by the expansion of the substation because he will be unable to attract interest from prospective buyers to his house with the cutting down of so many mature hardwood trees, operation of trucks, heavy equipment, grading, and erection of the planned electric substation this summer. Issuance of the permit to construct 11 concrete foundations and work to perform same will cause immediate and irreparable harm to petitioners because it sets in motion placing upon the substation site electrical equipment, lines and superstructures necessary to generate the requested electricity

despite the fact your Petitioners have filed an appeal to this Court challenging the CBA's approval of the variances and special exception.

Petitioner Ira Brown of 5 Joel Court through his affidavit attached hereto as Exhibit E, testifies that BEC's proceeding with plans to dramatically expand the substation has caused him severe anxiety and frequent panic attacks. The demolition of mature trees, exposing the substation, and the realization that the greatly enlarged facility will encroach upon residential property, permanently reducing the value of his home, making it impossible to get full value for his home.

The Petition for Judicial Review before the Circuit Court has a likelihood of success based on the legitimate legal issues raised and the facts preserved in the record.

Petitioners respectfully request that any requirement for posting bond be waived.

J. Carroll Holzer

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 22nd day of June 1995, a copy of the foregoing Ex-Parte Injunction to Stay operation of Permits was sent via facsimile transmission, to Robert Hoffman, Esquire, Venable Baetjer and Howard, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21204.

J. Carroll Holzer
J. Carroll Holzer

A:\Ridge.INJ

1 You're certainly welcome to go back and get something to
2 look at.

3 A. I don't have it with me.

4 Q. You don't have it with you. Okay. Do you know
5 the amount of impervious surface that you're adding to the
6 existing three tracts?

7 A. No, I don't know.

8 Q. Did you try to calculate it?

9 A. It will be calculated by the two engineers I have
10 contracted. We comply with all the regulations of
11 Baltimore County.

12 Q. But you can't tell us right now what you're
13 substituting in terms of the forest areas with impervious
14 surface?

15 A. No.

16 Q. What will the base or all of these various
17 transformers and so forth be? The area that is marked in
18 white, is that to be gravel?

19 A. That is crushed stone.

OL-25- 20 Q. When you originally testified about the various
21 heights of the components to this substation, it appeared

Over

1 they went anywhere from nine feet to thirteen feet,
2 thirteen and a half feet?

McGrady 3 A. It goes as shown on the zoning plat, up to 14 and
4 a half feet.

5 Q. And your fence is seven feet high with a half
6 foot of barbed wire --

7 A. One foot of barbed wire. So it will be eight
8 feet, total height.

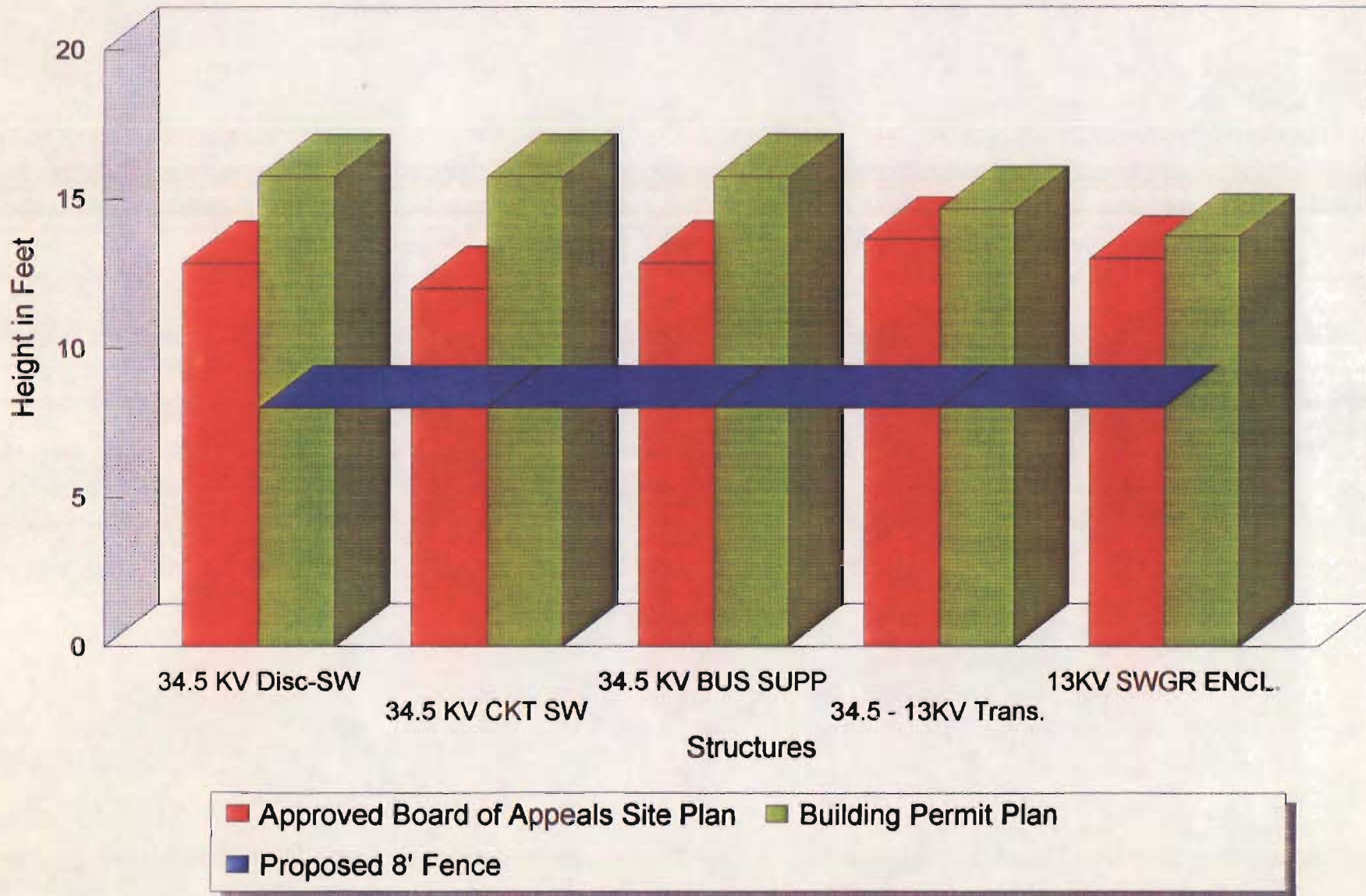
9 Q. In terms of the appearance of all these
10 transformers and the other components, the switchers and
11 the capacitors, are they going to be painted in the same
12 color that they appear to be on the photographs, a
13 battleship gray color?

14 A. We are planning to paint them dark green because
15 we think it will blend in better with that specific
16 environment where there's a lot of green and woods and
17 landscaping.

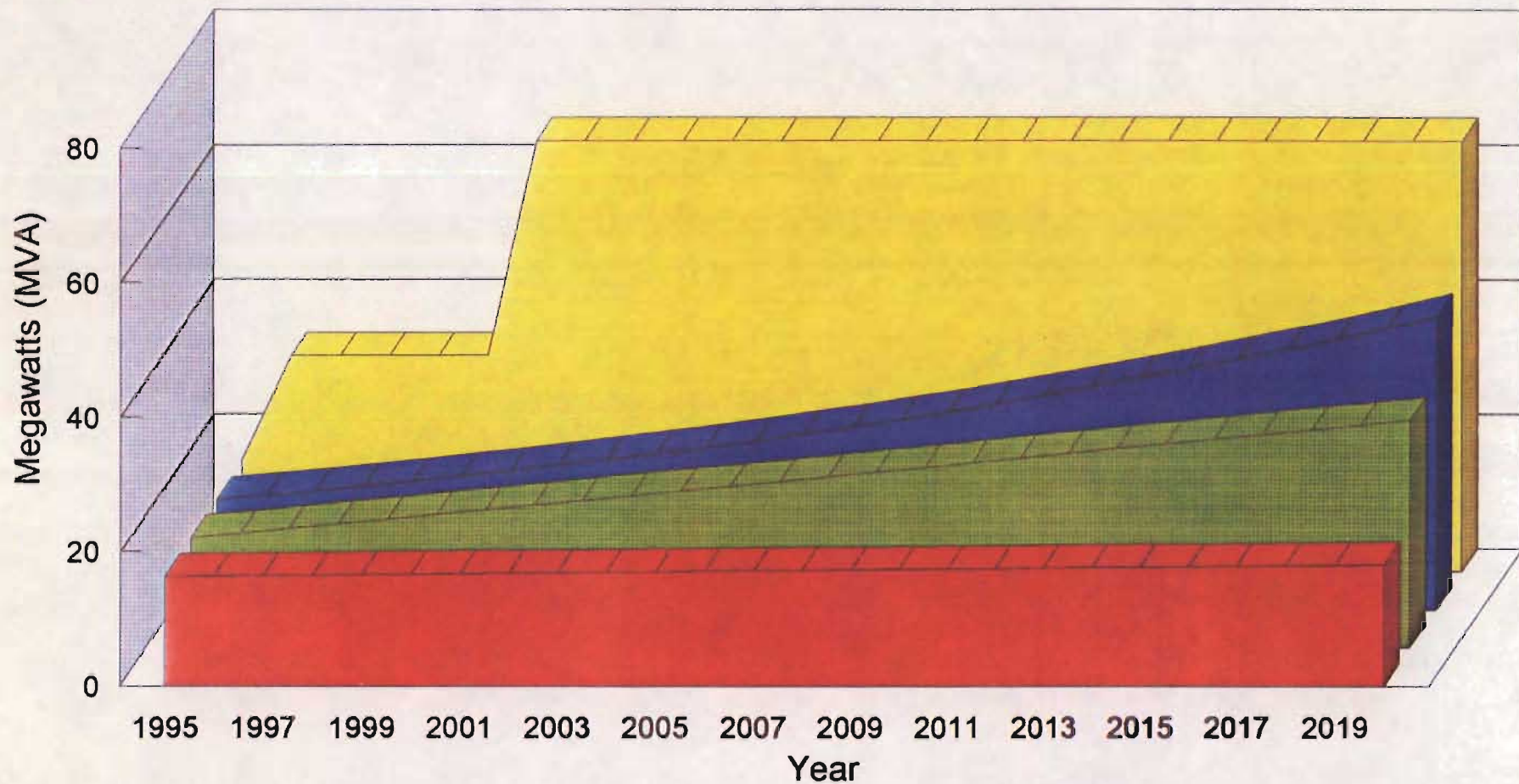
18 Q. So they are going to be painted dark green.
19 What was the size of this photograph, Exhibit 6-B? And I
20 think it showed this switch gear enclosure. That's
21 thirteen feet high, is that correct?

Differences in Height of Structures

(Approved Board of Appeals Plan vs Building Permit)



Need Comparisons vs Capacity



- Baltimore County
- BGE (75 units/year)
- BGE (4% increase/year)
- Proposed substation capacity

assumes 75 units = .7megawatt

1 rating it the same. I guess that means it can do the same?

2 A. We like to feel we know all things, but we don't.

3 Q. I think there are a lot of people in this
4 audience that might agree with you.

Kolger 5 Now, insofar as the concerns that you had for
6 1995, the winter of 1995, how at the present time are you
7 anticipating resolving that matter if the Ivy Hill
8 substation is not yet on line?

Jay 9 A. Well, my preferred plan if the substation is not
10 available at the time is to put in a mobile substation at
11 the Ivy Hill site which would have enough capacity to
12 supply the demand for load.

Kolger 13 Q. What does that mobile transformer consist of?

Jay 14 A. Well, it consists of a high voltage switch, a
15 transformer on a trailer type assembly, controls and
16 protection equipment, and a low side abraiter (phonetic),
17 which is essentially a fuse.

Kolger 18 Q. In addition to that temporary trailer operation,
19 do you have any plans to alleviate or supply power through
20 any other distribution center to this area in the event of
21 another occurrence like in January of 1994?

L. By/aw-1 A. Currently, my preferred plan is to use the mobile
2 substation.

Halger-3 Q. I understand. Suppose though that has a flat tire
4 coming down Falls Road when it runs over one of the Save
5 the Ridge signs and doesn't get there. Do you have any
6 other factor in mind?

By/aw-7 A. We have adequate mobile substation capacity so
8 that the flat tire will not obstruct our ability to supply
9 load.

Halger-10 Q. So you're saying there's no other alternative
11 that you have, or there is, but you don't want to tell me
12 about it?

By/aw-13 A. My preferred plan to install a mobile
14 transformer.

15 Q. Could you tell us what your "not preferred plan"
16 is?

17 A. There isn't -- we don't really have any
18 reasonable alternative to remove or relieve 25 percent
19 overload at the Ivy Hill substation, other than additional
20 substation capacity, in my professional judgment.

21 Q. Are you grounded in the workings as an electrical

CORPORATE AFFAIRS

Baltimore Gas and Electric Company
P.O. Box 1475
Baltimore, Maryland 21203-1475



EXHIBIT
VI

December 1, 1994

Dear Neighbor:

Over the past ten months, there have been three outages at our Ivy Hill Substation that are directly related to the age of the equipment. One outage was on the coldest day of 1994. However, the other two, on September 18 and November 4, occurred in mild weather.

Not only is the equipment old, but the replacement parts are obsolete. We cannot buy new parts to fix or replace the ones we have.

In order to assure that there are minimal outages due to the age of the equipment, we may have to roll in a mobile substation (temporary equipment on a trailer) as an emergency measure when the weather turns cold.

We regret any inconvenience this action may cause. As you know we are trying to expand this station with new equipment. Your support of our proposed substation upgrade is appreciated.

If you should have any questions or would like us to meet with your community, please contact me at 234/6543.

Sincerely,

A handwritten signature in cursive script, reading 'Clare C. Miller', is written over a horizontal line.

Friends of Ridge angered by appeals board decision

BY PAT VAN DEN BEEMT

Members of the Friends of the Ridge community group say they are so outraged by Baltimore County Board of Appeals' approval of an enlarged electrical substation in their neighborhood that they pledge to amend county law while seeking to have the decision reversed.

"We will take this appeal as far as we can and we're very serious about pursuing a change in public utility zoning laws," said Carol Rytter after the Board's decision last week.

Rytter is a member of a group that formed this summer to fight Baltimore Gas & Electric Co.'s plans to significantly expand the Ivy Hill substation in her neighborhood near Ridge and Falls Road.

BGE received a special exception from zoning commissioner Lawrence Schmidt in June to add

on to a small substation that has been on Joel Court since 1956.

In order to have enough land for the larger facility, BGE purchased a residential lot and a house next to the substation. The house will be razed, giving BGE a total of three acres for the substation.

The zoning commissioner's ruling allowed BGE to build a substation in a residential area. BGE will expand the existing 1,500 square-foot substation to one measuring 19,125 square feet. That decision was appealed by the Friends group to the Board of Appeals.

While BGE says the larger substation is needed to provide electricity to the local service area that is steadily growing, neighbors complained that it would pose a threat to their health, safety, and property values.

After listening to five days of testimony, the three-member board decided unanimously last week to support the special exception.

"Paramount in our decision is the fact that there is already a substation there," said board Chairman William Hackert several days after the decision was announced. "BGE is mandated to provide electricity, and we feel a three-acre wooded site where one already exists is a proper place."

But the Friends group says the board merely "rubber-stamped the zoning commissioner's approval." They will continue the appeal to the Circuit Court.

"We feel the board acted in a cavalier and condescending manner and never really gave our concerns any serious consideration," Rytter said.

BGE spokeswoman Nancy Caplan said the original goal was to have the new substation in service by December, 1995. She noted delays in construction could mean a mobile transformer would have to be brought to the site to handle increased demand next year.

IN THE MATTER OF

BGE IVY HILL SUBSTATION

S/W CORNER OF RIDGE ROAD AND
JOEL COURT

8th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* BALTIMORE COUNTY
*
* CASE NO. 94-452-XA

* * * * *

MEMORANDUM IN LIEU OF FINAL ARGUMENT

I.

Statement of the Case

Prots, Friends of the Ridge, and individuals Mr. & Mrs. Nigel Howse, Mr. & Mrs. Robert O'Hara, Mr. & Mrs. Ron Hanley, Mr. & Mrs. Carl Follo, Mr. & Mrs. Robert Rytter, Mr. & Mrs. Ira Brown, Mr. & Mrs. Dieter Langendorf, Mr. & Mrs. Andrew Lansman, Mr. & Mrs. Jeffrey Bozel, Mr. & Mrs. Bruce Pitcher, and Mr. & Mrs. Joe Czajkowski, by J. Carroll Holzer, Holzer and Lee, hereby submit the following Memorandum in Lieu of Closing Final Argument as requested by the County Board of Appeals.

This matter comes before the Board as both a Petition for Special Exception and a Petition for Zoning Variance for the property located on the southwest corner of the intersection of Ridge Road and Joel Court in northern Baltimore County. Within the Petition for Special Exception, relief is requested to approve an outdoor electric public utility service center (electric substation) in an RC-5 zone, pursuant to Section 1A04.2.B.1.1 of the Baltimore County Zoning Regulations (hereinafter B.C.Z.R.) and if necessary, to amend the Fox Ridge Estates (formerly Forewood Property) final development plan. The Petition for Zoning Variance

manner provided under Section 502 subject to the following provisions: Section 1B01.3.A.7B(1) provides the amendment must first be approved by the Planning Board as being in accord with provisions adopted under the authority of Section 504.

It is clear in this case that the Planning Board has never reviewed the amendment to this final development plan. It is also undisputed that the protestants, particularly Follo, Howse, O'Hara, Brown, Rytter and Langendorf reside within three hundred (300) feet of the subject property. It is also clear that BGE alleges that the Planning Board has delegated, by an amendment to the Comprehensive Manual of Development (CMDP), the responsibility for approving amendments to final development plans to the Director of Planning. Gerber testified and protestants submit that this was an illegal action by the Planning Board. The B.C.Z.R. is of "inclusive construction." There are no provisions for delegation of this function. In the opinion of Gerber, the method of amending the B.C.Z.R. is clearly Section 26-123(a), (b) and (c) of the Baltimore County Code. This is clearly an amendment to the B.C.Z.R. and the Code was not followed,

BGE alleges that this action was based on Section 504.2 of the B.C.Z.R. However, this action of delegation of authority to the Planning Director is in conflict and inconsistent with Section 504.1 of the B.C.Z.R., which says any addition to the CMDP is acceptable if they "are not

inconsistent with these regulations." In the opinion of the protestants and Gerber, this delegation is clearly inconsistent. As a matter of law, the delegation was improper, and the Planning Board must review the final development plan for this project.

Assuming for the sake of argument that procedurally the Planning Board had approved this particular amendment, the amendment must be in accord with specific standards and requirements. It is clear that the standard for an amendment to the final development plan is that "the amendment would be consistent with the spirit and intent of the original plan and of this article." protestants submit and are confident that any interpretation of the original subdivision plan for Fox Ridge Estates under no stretch of the imagination could include the use of Parcel A as a location for a substation. It is clearly not consistent with the idea of a residential subdivision and has absolutely no basis in reason to believe that a substation is consistent with the spirit and intent of the original development plan.

Gerber opined that the proposed amendment to the final development plan for the use of Parcel A as a BGE substation was not consistent with the spirit and intent of the original plan. Gerber testified that "the primary purpose of the requirement for a final development plan and the amendment plan is to provide some protection to purchasers of lots in an uncompleted subdivision so that the use could not be

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

June 20, 1995

(410) 887-3353

Ms. Carol Ritter
3 Joel Court
Reisterstown, Maryland 21136

RE: BGE Ivy Hill Substation
8th Election District

Dear Ms. Ritter:

As you know, BGE has applied for and received permits to grade for construction of its Ivy Hill Substation.

These permits have been issued pursuant and subject to a recent Board of Appeals (Board) hearing decision approving the project.

As an appeal to Circuit Court has been filed by an attorney on behalf of many protestants, you request that these permits be rescinded or stayed pending the appeal.

Section 26-209 (e) of the Baltimore County Code states, as follows:

"While an appeal is pending before the Board, no permit may be issued and no plat recorded in connection with a plan which is the subject of such appeal. If the Board's order is appealed, the appellant may request that the court stay the issuance of a permit or the recordation of a plat pending its decision."

The law does not provide me with the authority to withhold permits once the Board has rendered its decision, providing, of course, that the request for permits comports with the Board's order.

I certainly understand your concern and the issue you raise. If the courts should reverse the Board's decision, BGE will be required to return the property, to the extent possible, to its condition prior to the grading of the property.

I recognize this incongruity. How are mature trees replaced? However, the courts and the law itself do not provide me with the authority to prevent the issuance of otherwise lawful permits, even though an appeal is pending before the courts.

Ms. Carol Ritter
Page Two
June 20, 1995

The attorney for the appellant, J. Carroll Holzer, is certainly familiar with the law cited above and, I am sure, is very knowledgeable about the procedure for requesting a judicial stay of the issuance of the permits. I would certainly cooperate with any such request and order for stay. If such a request had been made by the attorney to the courts immediately after the Board's decision, and granted, only then could I have refused to issue permits. Certainly, if the attorney had done so then, perhaps the severity of this situation could have been avoided.

I recognize that this response is not the answer you seek; however, I hope you can, at the very least, understand the limited scope of the authority we have at this point in the process.

Sincerely,

ARNOLD JABLON
Director
Department of Permits and
Development Management

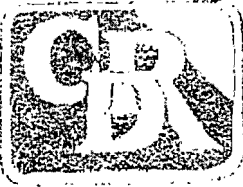
AJ:ljb

FACSIMILE

TO: L. Schmitt, Baltimore Co. Zoning CommissionerFROM: N. R. Howe

OUR FAX NO. IS: (410) 525-2849

DATE: JUN 27, 1994NUMBER OF PAGES INCLUDING THE COVER PAGE: 2

6/29/94
TO LES
g

CDR ASSOCIATES

P.O. Box 20113
Baltimore, Maryland 21234

FAX

Date

June 29, 1994

Number of pages including cover sheet

2

To:

Larry Schmidt
Zoning Commissioner

Phone:

Fax phone:

887-5708

CC:

From:

Joseph H. Czarnecki

CDR Associates, Inc.

Baltimore, MD 21284

Phone:

(410) 661-7984

Fax phone:

(410) 984-1700

REMARKS:

☐ Urgent☐ For your review☐ Reply ASAP☐ Please comment

JOSEPH H. CZAJKOWSKI
6 JOEL COURT
REISTERSTOWN, MD 21136

Mr. Larry Schmidt
Zoning Commissioner
Baltimore City Zoning Commissioner's Office
400 Washington Avenue
Towson, MD 21204

June 29, 1994

Re: BG&E Petition
Case #'s 3760-X and 4535-X

94-452 XA

Dear Mr. Schmidt:

I am a resident of the Fox Ridge Estates development where BG&E is planning the **MAJOR EXPANSION** of their Ivy Hill sub-station. I reside at 6 Joel Court with my wife, Joann, and two young children. My wife attended the June 21, 1994 hearing regarding the "Special Variance and Exception" requested by BG&E. Had the magnitude of the proposed expansion been properly made public prior to this hearing, many more residents would have been in attendance to express their discontent.

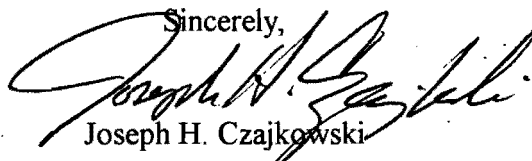
Our family, like others in our development and surrounding developments, is vehemently opposed to BG&E's plan. It makes no sense to jeopardize the health and safety of our families because it is "convenient" for BG&E to use this location. In addition, this dangerous eye sore will have a significantly negative impact on the value of all neighboring homes. With all of the other available, undeveloped farmland in this area, certainly another less intrusive site could be used.

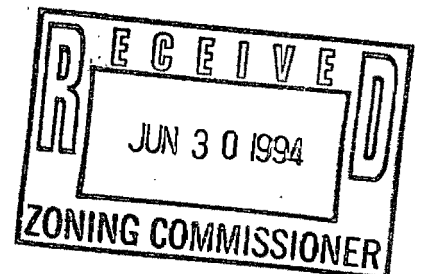
As I understand it, you are responsible for approving or denying BG&E's request. As such, you will also be held accountable by all of the adversely affected families should a decision to approve this project be made. We strongly recommend your denial of BG&E's petition.

Our community is united and committed in preventing this **MAJOR EXPANSION** at this site. We will not simply "roll-over" and accept this expansion. We will not quietly go away if the petition is approved. A rubber stamp, automatic approval of BG&E's plan is unacceptable.

Please advise me in writing of your decision including all supporting rationale.

Sincerely,


Joseph H. Czajkowski



R. W. **BOZEL** Transfer, Inc.
REFRIGERATED TRUCK SERVICE

2000 HAMMONDS FERRY ROAD • BALTIMORE, MD 21227 • (410) 247-3966 • FAX (410) 247-6849

"SINCE
1919"



June 27, 1994

Baltimore County Zoning Commission
4000 Washington Avenue
Towson, MD 21204

Attention: Larry Schmidt

Reference: Case #3760-X, 4535-X
Variance Request for Special Exception

Dear Mr. Schmidt,

On behalf of my fellow residents of Fox Ridge Estates, I am writing this letter in opposition to the special exception request by the Baltimore Gas & Electric Company for the proposed Ivy Hill Substation. We strongly urge you to deny Baltimore Gas & Electric's request for two main reasons.

First, and foremost - Safety. As a parent of three small children myself, as well as a neighbor to many other families with small children, I am deeply concerned with potential safety problems should the proposed substation be constructed. The health hazards associated with living in close proximity to electrical substations have been well documented and reported in newspapers and television alike. While I realize that there have been no conclusive studies done as yet, I, for one, do not feel that the possible health hazard is worth the risk.

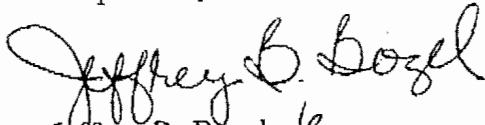
Second, Fox Ridge Estates is an upper-middle class neighborhood inhabited by families who have worked hard, saved their money, and purchased homes in a community where they can live in an aesthetically pleasing, safe environment. In many cases, families have sunk their entire savings into their home - an asset that should appreciate in value. The proposed substation jeopardizes this. An eyesore, and a health risk, the proposed substation is a blight on our neighborhood. Without question, this would cause our property value to plummet.

On a personal note, when I purchased my home approximately one year ago I was assured by the builder that the lot now planned for the utility station would only be used to build another single family home. Now I am faced with the prospect of the unsightly Ivy Hill Substation.

Larry Schmidt
Baltimore County Zoning Commission
June 27, 1994
Page Two

In imploring you to deny this request, your consideration of our thoughts and fears will be greatly appreciated.

Respectfully,


Jeffrey B. Bozel
Vice President

JBB:le

June 27, 1994

L. Schmidt
Zoning Commissioner
Baltimore County
Zoning Commissions Office
400 Washington Avenue
Towson, Maryland 21204

Dear Mr. Schmidt:

I wish to register my strong objections to petitions made by the BG&E Co. applying for variance of planning and for special exception to use the residential property to erect an electric substation. I own land next to the proposed unacceptable development and the BG&E Co. have not contacted me, nor the previous owners of the land (the Kircheners) to explain their proposals.

I am therefore requesting you to delay your decision re their applications pending a public and residents meeting which is to be held shortly. Obviously I and many other residents in Joel Court, Fox Ridge, Ridge Road and Gent Road, would prefer you to reject their applications.

Re: Application by
Baltimore Gas & Electric
System Engineering &
Construction Department
Lexington & Liberty St.
1020 G&E Building
Baltimore, Maryland 21201

Property located in
Election District
3rd Council District
Zoned RC5
Tax Map 50
Parcel #247, 338 & 79
Tract A. Zoning Map D2

Yours sincerely,



N. R. Howse
4 Joel Court
Fox Ridge
Reisterstown, MD 21136

Business Phone (410) 525-1800

cc: J. Francomano
Francomano & Karpook, P.A.
Legal Offices
20 S. Charles Street
Sun Life Building
Baltimore, Maryland 21201

VIA FACSIMILE
(410) 887-5708

1 Joel Court
Reisterstown, MD 21136
June 27, 1994.

Mr. Larry Schmidt, Zoning Commissioner
Baltimore County Zoning Commissioners Office
400 Washington Avenue
Towson, MD 21204

RE: BG&E PETITION
CASE NOS. 3760-X and 4535-X

Dear Mr. Schmidt:

My wife, Pam and I live at 1 Joel Court, Reisterstown, MD, directly across the street from BG&E's Ivy Hill sub-station, which they are planning to expand if you grant them a special exception and variance.

I was unable to personally attend the hearing on Tuesday, June 21, 1994 at 2:00 p.m.. My wife did attend and returned quite upset with BG&E's plan to remove the existing sub-station and replace it with one that is 21,277 square feet. This is over 17 times larger than the existing sub-station which is 1,237 square feet. In BG&E's earlier notification, they presented this project as a minor expansion and indicated they would be building towards the Vinup property on Ridge Road and not towards Joel Court where 11 new homes have been built in the past three years.

I have just received a copy of BG&E revised plan and I am very upset, as are my Joel Court and Ridge Road neighbors. Their plan would bring the 7 foot enclosure fence, topped with barbed wire, within 110 feet of Joel Court. They will have to clear much of the existing woods and would make the enclosure very visible. The 7 foot chain link fence would do nothing to hide the very unsightly and numerous transformers, capacitors and switching structures.

I certainly would not have built my home here if I had known of this massive sub-station, and I'm sure I will be unable to sell my house at anywhere near its current value. I feel the market value on all of the houses in the Fox Ridge Estates (27 houses), as well as scores of houses on Ridge and Falls Roads, will also plummet.

Page 2

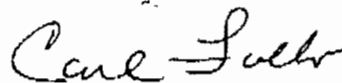
Letter to Larry Schmidt, Zoning Commissioner
Baltimore City Zoning Commissioners Office
Re: Case Nos. 3760-X and 4535-X

Had more knowledge of BG&E's extensive plan for this sub-station been made available to this community, you would have seen a much larger and more vocal turnout at the hearing. My neighbors are gathering at my home on Monday, June 27, 1994 at 7:00 p.m. to discuss our options and means to communicate our concerns. Many are deeply concerned about the health hazards associated with electromagnetic power lines and transformers, particularly on young children. Some are concerned that the existence of a much larger and visible sub-station will be an attractive nuisance that their young children may try to explore.

All are concerned with the unsightliness of the structures and the significant decrease in the values of our homes, which to most represent our entire life savings.

I would appreciate your declining BG&E's petition for an exception and variance and ending our nightmare and saving us a nerve racking and costly legal battle.

Sincerely,



Carl Follo

CF/kld

RECEIVED

JUL 11 1995

ZADM



Brinker, Ink. © D. Brinker

6/28

Mr. Ruppelberger,

Thank you for your attention.
Community conservation is
very much at stake here and
we appreciate anything you can
do to help us.

M.T.

RECEIVED
COUNTY BOARD OF APPEALS

94 DEC 19 PM 12:06

~~X~~

Dec 15

I'm writing this note in support of the expansion of the Lutz Hill Substation. It seems as though BGE has purchased more than enough land to surround the station, and plans adequate landscaping surrounding it. Since the substation affects me and my family for effective + efficient service of lights + heat I felt a need to perhaps counteract some of the negativity of such an important service. It's unfortunate that with every ^{positive} change there has to be road blocks. In the letter I received on Nov 10 it talked of associations to

meet with "Friends of the Ridge" to
discuss the situation and they refused.

How do they expect to compromise?

Meanwhile we could have another winter
where we had no electric for almost 24 hours.

Where are the other people in the
community who support ~~the~~ B6+E?

Well I'm one who does support the
substation. And I'm sure there are
many, many more. If I can help,
let me know.

Thanks.

Abby Stevens
3006 Walnut Ave
Owings Mills, Md 21117
581 5377

BARRY KOH, PH.D.
12110 RIDGE VALLEY DRIVE
OWINGS MILLS, MD 21117
410/252-3180



November 21, 1994

Baltimore County Board of Appeals
Attention: Mr. William Hackett
400 Washington Avenue
Towson, MD 21204

Dear Mr. Hackett:

I am a resident of Chestnut Ridge and recently became aware of BGE's attempt to expand the Ivy Hill Substation. I am also aware that BGE was granted permission to expand the station in June of 1994. However, this permission was appealed by a group of eleven families calling themselves, "Friends of the Ridge."

I would like to make it clear that I, a long-time resident of Chestnut Ridge, am in favor of the substation expansion. I have confidence that BGE has the expertise to recognize that the substation's capacity must be increased. I also feel that the opposition of the Friends of the Ridge is self-serving and not in the best interest of the overall community. I believe these families all purchased their property and built their homes long after the original substation was erected. BGE appears to be going out of their way to accommodate the reasonable concerns of these homeowners in the substation expansion. I object to any further delay in granting approval to BGE.

Sincerely yours,

Barry Koh, Ph.D.

BK/cmw

cc: Clare C. Miller, BGE

W/Chrono/BaltCty-1

RECEIVED
COUNTY BOARD OF APPEALS
94 NOV 25 PM 1:03

Dec 2, 1994

Vince Laudicina
P.O. Box 603
Owings Mills, MD 21117

RECEIVED
COUNTY BOARD OF APPEALS

94 DEC -5 PM 4:39



To: William Hackett

Dear Mr. Hackett:

Certainly my family and I are in favor of BGE being granted the zoning necessary to expand their Ivy Hill Substation. I can't understand how the 11 or 12 families that appose the enlargement; can, stand in the way of the other 2000 or so families receiving uninterrupted services from this facility.

Seems to me that the opposition moved "TO" the nuisance; IF, you can call the Substation a nuisance. Even if our family lived next to the substation we would not consider it a nuisance.

We live on the corner of Greenspring & Walnut Aves. and our Electric Power comes through the Ivy Hill Substation. Last winter on a very Icy day our power was cut off for 9 hours or so, do to the demand for Electric Power that the substation couldn't deliver because it was overloaded.

I certainly hope that common sense will prevail in this controversy.

Sincerely yours
Vince Laudicina

Thursday January 12th

Mr. William Hackett
Chairman
Baltimore County Board of Appeals
Towson, Maryland

RECEIVED
COUNTY BOARD OF APPEALS
95 JAN 17 AM 11:29

Dear Sir -

Baltimore Gas and Electric people claim the electrical sub station in this area of Ridge and Falls Road is seriously obsolete and difficult to maintain since at least some replacement parts are hard to get. They also claim some power outages are a result of the condition of this equipment. We strongly support a project to correct this problem.

My wife and I have lived in this immediate area, on Ivy Hill Road, for more than thirty years. We have been very much concerned about power outages, especially in the last ten years. As a matter of fact which I am sure you can check, power was out for a period this very day.

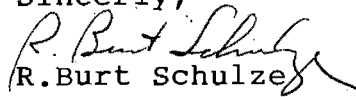
"Friends of the Ridge" say Baltimore Countys growth by the year 2010 is forecast at only 3.6%. This statement does not take into account two much more relevant factors - the growth in this area in the last decade is certainly far in excess of 3.6%, and that growth would certainly seem to promise a high rate for some time to come.

"Friends" contest BGEs statement that a new sub station could enhance property values. On the other hand, what would happen to property values if it becomes true, and generally known that sub station facilities, at a point in the fairly near future, become even more obviously inadequate and hard to keep in repair.

"Friends" suggests that the sub station improvement can be done instead in an industrial park area. That is easy to suggest and may even be true but what are the penalties. Is it practical? How much would this cost? Would this distribution equipment from such a sub station be even more unsightly?

Lets be sure there is a practical and better alternative plan before opposing this one.

Sincerely,


R. Burt Schulze

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

RECEIVED
COUNTY BOARD OF APPEALS
94 OCT 13 AM 10:54

TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

DEAR MR. JABLON:

I WAS UNABLE TO ATTEND THE APPEAL HEARING ON THE ABOVE CAPTIONED CASE, BUT I WISH TO FORMALLY REGISTER MY OPPOSITION TO THE PROPOSED EXPANSION OF THE BALTIMORE GAS & ELECTRIC IVY HILL SUBSTATION FOR THE FOLLOWING REASONS:

1. INDUSTRIAL SUBSTATIONS DO NOT BELONG IN ANY RESIDENTIAL NEIGHBORHOOD.
2. THE UNKNOWN EFFECTS OF ELECTRO MAGNETIC FIELDS TO THE PUBLIC.
3. THE ELECTRICAL EXPANSION WILL CREATE THE INFRASTRUCTURE FOR FUTURE INDUSTRIAL AND COMMERCIAL DEVELOPMENT IN THE ENTIRE AREA.

SINCERELY,

John Rolph
NAME

37 WANDSWORTH BRIDGE WAY
ADDRESS

LOUTHERVILLE, MD. 21093

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

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SINCERELY,

Richard J. Little

RICHARD J. LITTLE
NAME

1907 RIDGE ROAD
ADDRESS

REISTERSTOWN MD. 21136

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Danica + Tony Fusco
NAME

54 Forward Ct
ADDRESS

Cockeysville, Md 21030

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

NAME

ADDRESS

2 SPRINGHILL FARM CT.
HUNT VALLEY, MD
21030

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

William M. Ley
NAME

9 Bearwood Farm Court
ADDRESS

Reisterstown Md 21136

RECEIVED

OCT 12 1994

ZADM

Post Script: This absolutely is the wrong place to build a substation. With all the other open land in Baltimore County, certainly BGE could find an alternative sight without a problem

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

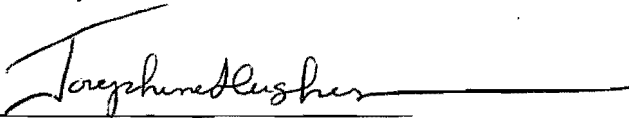
RE: CASE #94-452-XA

DEAR MR. JABLON:

I WAS UNABLE TO ATTEND THE APPEAL HEARING ON THE ABOVE CAPTIONED CASE, BUT I WISH TO FORMALLY REGISTER MY OPPOSITION TO THE PROPOSED EXPANSION OF THE BALTIMORE GAS & ELECTRIC IVY HILL SUBSTATION FOR THE FOLLOWING REASONS:

1. INDUSTRIAL SUBSTATIONS **DO NOT** BELONG IN ANY RESIDENTIAL NEIGHBORHOOD.
2. THE UNKNOWN EFFECTS OF ELECTRO MAGNETIC FIELDS TO THE PUBLIC.
3. THE ELECTRICAL EXPANSION WILL CREATE THE INFRASTRUCTURE FOR FUTURE INDUSTRIAL AND COMMERCIAL DEVELOPMENT IN THE ENTIRE AREA.

SINCERELY,



NAME

Walnut Spring Farm, 4331 Black Rock Rd.
ADDRESS

Upperville, MD 21153

RECEIVED

OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

NAME

ADDRESS

John Frederic Oey
1127 GREENWAY Road
Coweyville. 21030

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Robert A Brown
NAME

13007 Talisman Rd.
ADDRESS

Reisterstown, Md 21136

RECEIVED
OCT 12 1994
ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Sharon & Calvin Rowe

NAME

2009 Anie Rep Rd

ADDRESS

Pistertown, Md.

21136

RECEIVED
OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Susan W Miller
NAME

13 Valley Glen Ct
ADDRESS

Reston md
21136

RECEIVED

OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Judith A. Marsh
NAME

12420 Falls Road
ADDRESS

Cockeysville, Md.
21030

Bruce D. Marsh

12420 Falls Rd.
Cockeysville Md. 21030

RECEIVED

OCT 12 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

RECEIVED
COUNTY BOARD OF APPEALS
94 OCT 17 AM 10:38

TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

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SINCERELY,

JAMES NORMAN
NAME

12909 FALLS RD
ADDRESS

Cockeysville MD 21030

RECEIVED
OCT 14 1994
ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

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SINCERELY,

Elizabeth E. Little
NAME

1907 Ridge Rd.
ADDRESS

Reisterstown Md 21136

RECEIVED
OCT 14 1994

ZADM

I am very opposed to the expansion
of the Balto. Gas + Electric substation!

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Mrs. Edith B. Tolley
NAME

7 Hickory Hill Rd.
ADDRESS

Cockeysville 21030

RECEIVED
COUNTY BOARD OF APPEALS
94 OCT 17 PM 2:33

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

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SINCERELY,

Barbara Shaw
NAME

1506 Ivy Hill Rd
ADDRESS

Cockeysville, Md 21030

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

MR. AND MRS. TRUXTON CRAIN HOUSTON
NAME

1901 RIDGE ROAD
ADDRESS

REISTERSTOWN, MD 21136 -

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

NANCY M gill
NAME

1011 Billy Barton Cr
ADDRESS

Restertown MD 21134

RECEIVED
COUNTY BOARD OF APPEALS
94 NOV - 1 PM 2:40

RECEIVED
OCT 31 1994
ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Eileen Seunarine
NAME

1525 Applecroft Ln
ADDRESS

Cockeysville, MD 21030

RECEIVED

OCT 31 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Charles P. McCausland, III

NAME

13421 Falls Rd

ADDRESS

Cockeysville Ind. 21030

RECEIVED
OCT 31 1994
ZADM

RECEIVED
COUNTY BOARD OF APPEALS

94 OCT 28 AM 11:15

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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SINCERELY,

Karen A. Colbert
NAME

12910 Falls Rd
ADDRESS

Cockeysville Md 21030

RECEIVED
OCT 25 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

RECEIVED
COUNTY BOARD OF APPEALS
94 OCT 20 PM 2:11

TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

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SINCERELY,

Arlene M. Jasber
NAME

1113 Justa Lane
ADDRESS

Lakewood Md
21030

RECEIVED
OCT 19 1994

ZADM

My husband died of cancer this year after 30 years
of living next to high-power lines. I have cancer.
My neighbors died of cancer. Need I say more?

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

RECEIVED
COUNTY BOARD OF APPEALS
94 OCT 12 AM 10:11

TO: BALTIMORE COUNTY BOARD OF APPEALS

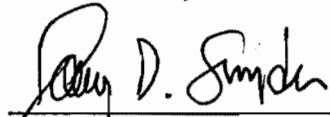
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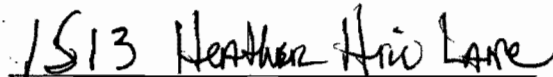
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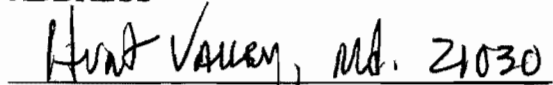
SINCERELY,



NAME



ADDRESS



RECEIVED
OCT 11 1994
ZADM

4982-94

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

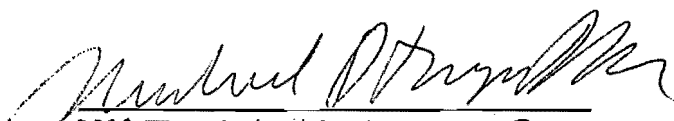
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SINCERELY,


NAME MICHAEL. D. TREGER

1504 BROADWAY RD.
ADDRESS

LUTHERVILLE, MD. 21093

RECEIVED
OCT 11 1994
ZADM

4983-94

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

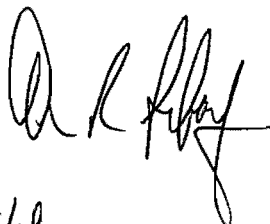
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SINCERELY,

DR. Alan Scharf 

NAME

1905 Billy Barton Circle

ADDRESS

Reisterstown, Md 21136

RECEIVED

OCT 11 1994

ZADM

4984-24

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

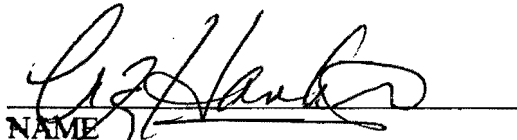
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SINCERELY,


NAME

1509 HEATHER HILL LN.
ADDRESS

COCKEYSVILLE 21030

RECEIVED

OCT 11 1994

ZADM

4985-94

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

TO: BALTIMORE COUNTY BOARD OF APPEALS

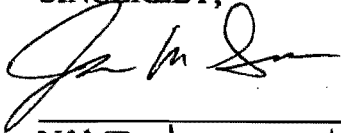
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SINCERELY,



NAME James M. Smith

13 Dellwood Court
ADDRESS

Hunt Valley, md
21030

RECEIVED
OCT 11 1994

ZADM

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
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SINCERELY,

Eliana A. Jones
NAME

John H. Ward

ADDRESS

12807 Gent Road

Baltimore Md

21136

ARNOLD JABLON
DIRECTOR
ZONING ADMINISTRATION & DEVELOPMENT
MANAGEMENT OFFICE
111 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

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DEAR MR. JABLON:

I WAS UNABLE TO ATTEND THE APPEAL HEARING ON THE ABOVE CAPTIONED CASE, BUT I WISH TO FORMALLY REGISTER MY OPPOSITION TO THE PROPOSED EXPANSION OF THE BALTIMORE GAS & ELECTRIC IVY HILL SUBSTATION FOR THE FOLLOWING REASONS:

1. INDUSTRIAL SUBSTATIONS **DO NOT** BELONG IN ANY RESIDENTIAL NEIGHBORHOOD.
2. THE UNKNOWN EFFECTS OF ELECTRO MAGNETIC FIELDS TO THE PUBLIC.
3. THE ELECTRICAL EXPANSION WILL CREATE THE INFRASTRUCTURE FOR FUTURE INDUSTRIAL AND COMMERCIAL DEVELOPMENT IN THE ENTIRE AREA.

SINCERELY,

Nancy Gray
NAME

1 Springhill Farm Ct.
ADDRESS

Cokeysville, Md. 21030

RECEIVED
OCT 11 1994

ZADM

*"Never doubt that a small group of thoughtful,
committed citizens can change the world: indeed,
it's the only thing that ever has."*

- Margaret Mead

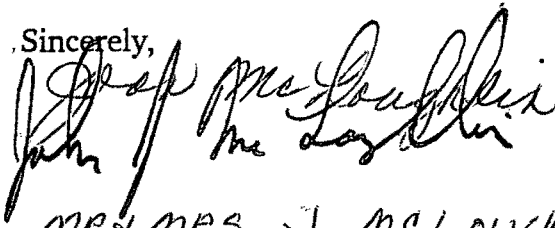
TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

I am unable to attend the appeal hearing on the above captioned case, but I wish to formally register my opposition to the proposed expansion of the Baltimore Gas & Electric Ivy Hill substation for the following reasons:

1. Industrial substations do not belong in any residential neighborhood.
2. The unknown effects of electro magnetic fields to the public.
3. The electrical expansion will create the infrastructure for future industrial and commercial development in the entire area.

Sincerely,



MR & MRS J. MCLOUGHLIN
NAME

13017 GENT RD.
ADDRESS

REISTERSTOWN MD 21136

RECEIVED
COUNTY BOARD OF APPEALS
94 SEP 29 PM 3:34

Carolyn Kleintank
1116 Greenway Road
Cockeysville, Maryland 21030

October 6, 1994

Mr. Arnold Jablon, Director
Zoning Administration & Development
Management Office
111 West Chesapeake Avenue
Towson, Maryland 212204

RE: Case #94-452-XA

Dear Mr. Jablon:

I was unable to attend the appeal hearing on the above captioned case, but I wish to formally register my opposition to the proposed expansion of the Baltimore Gas & Electric Ivy Hill substation for the following reasons.

1. Industrial substations DO NOT belong in any residential neighborhood.
2. The electrical expansion will create the infrastructure for future industrial and commercial development in the entire area. I live in an area that is primarily residential and I want to maintain this as there are so few areas that have this beauty without all the congestion of commercial and industrial
3. The unknown effects of electro magnetic fields to the public.

Yours very truly,

Carolyn Kleintank
Carolyn Kleintank

RECEIVED

OCT 12 1994

ZADM

PLEASE PRINT CLEARLY

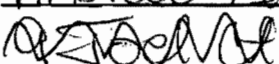
PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Rosemary Haulby
by Marc K. Cohen esq
120 E. Bafto.


Bafto., MD
21202

Andrew Laismann


9 Joel Ct
Reisterstown MD

{ Sam Fraello

1 Joel Court
Reisterstown, Md 21136

Joann Gaykowski

6 Joel Court
Reisterstown, Md 21136

Raymond Fisher

1822 Ridge Rd 21136

Dorothy P. Fisher

1822 Ridge Road 21136

Peggy Bessard

1825 Ridge Rd

Dorothy Marsden

1823 Ridge Rd 21136

Ann & Fred Vinup

1821 Ridge Rd. 21136

PETITIONER(S) SIGN-IN SHEET

ADDRESS

210 Allegheny Ave 21204

BGE & P.O. Box 1475 / Balt. Md 21203

B6 if

P.O. Box 1475, Bangor, ME 21203

PEDE

2. " " Ray 1020 4 2 2

Real Property Consultants - 5730 Executive Dr.
21228



CASE NO. 94-452-XA

BALTIMORE GAS & ELECTRIC CO. - Legal Owner, Tract A & C
FREDERICK R. VINUP, ET UX - Legal Owner, Tract B

S/W cor. of inters. of Ridge Road and
Joel Court (Ivy Hill Substation)

8th District

Appealed: 7/21/94

A30



Petition for Special Exception

94-452-XA

to the Zoning Commissioner of Baltimore County

for the property located at Southwest corner of intersection of Ridge Road and Joel Court

which is presently zoned RC5

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

an outdoor electric public utility service center (electric substation) in an RC5 zone pursuant to Section 1A04.2.B.11 of the Baltimore County Zoning Regulations and to amend the Fox Ridge Estates (formerly Forwood property) Final Development Plan if necessary.

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

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

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

Contract Purchaser ~~XXXX~~ (Tract B)

Baltimore Gas & Electric Company
(Type or Print Name)

By: [Signature]
Signature: Carserlo Doyle, Vice President
P.O. Box 1475

Address
Baltimore, Maryland 21203
City State Zipcode

Legal Owner(s):

See Attached
(Type or Print Name)

Signature
(Type or Print Name)
Signature

Attorney for Petitioner:

Martha A. Delea, Esquire
(Type or Print Name)

[Signature]
Signature: Baltimore Gas & Electric Company
Charles Center
P.O. Box 1475 234-5697
Address Phone No.
Baltimore, MD 21203-1475
City State Zipcode

Address Phone No.

City State Zipcode
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman, Esquire
Name: 210 Allegheny Avenue
Towson, MD 21204 494-6262
Address Phone No.

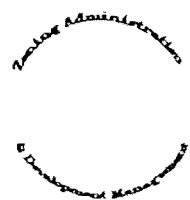
OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

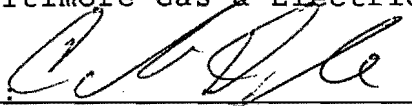


A30

Legal Owner Tracts A & C:

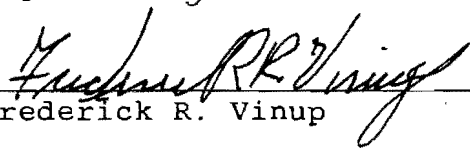
94-452-XA

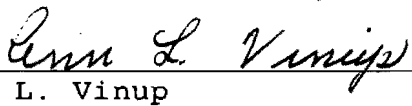
Baltimore Gas & Electric Company

By: 

Carserlo Doyle, Vice President
P.O. Box 1475
Baltimore, Maryland 21203
(410) 234-5697

Legal Owner, Tract B:


Frederick R. Vinup


Ann L. Vinup

1821 Ridge Road
Reisterstown, Maryland 21136-5617



Petition for Variance

94-452-XA

to the Zoning Commissioner of Baltimore County

for the property located at

Southwest corner of intersection of
Ridge Road and Joel Court

which is presently zoned

RC5

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 Variance from Section(s) 1A04.3.B.3 to permit structures as close as 0 feet from interior lot lines in lieu of the required 50 foot building setback.

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

To be determined at hearing.

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

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

Contract Purchaser (Tract B)

Baltimore Gas & Electric Company

(Type or Print Name)

By:

Charles Doyle

Signature Charles Doyle, Vice President

P.O. Box 1475

Address

Baltimore, Maryland 21203

City

State

Zipcode

Attorney for Petitioner:

Martha A. Delea, Esquire

(Type or Print Name)

Martha A. Delea

Signature Baltimore Gas & Electric Company

Charles Center

P.O. Box 1475 234-5697

Address

Phone No.

Baltimore, Maryland 21203-1475

City

State

Zipcode

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.

Legal Owner(s):

See Attached

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman, Esquire

Name 210 Allegheny Avenue

Towson, MD 21204 494-6262

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following date

Next Two Months

ALL OTHER

REVIEWED BY:

DATE

5/10/94

NO FINAL/DROP OFF

A30

Legal Owner Tracts A & C:

Baltimore Gas & Electric Company

By: *C. C. Doyle*
Carserlo Doyle, Vice President
P.O. Box 1475
Baltimore, Maryland 21203
(410) 234-5697

Legal Owner Tract B:

Frederick R. Vinup
Frederick R. Vinup

Ann L. Vinup
Ann L. Vinup

1821 Ridge Road
Reisterstown, Maryland 21136-5617

A30

**LEGAL DESCRIPTION
LANDS OF
BANKERS TRUST COMPANY
BALTIMORE GAS AND ELECTRIC COMPANY**

94-452-XA

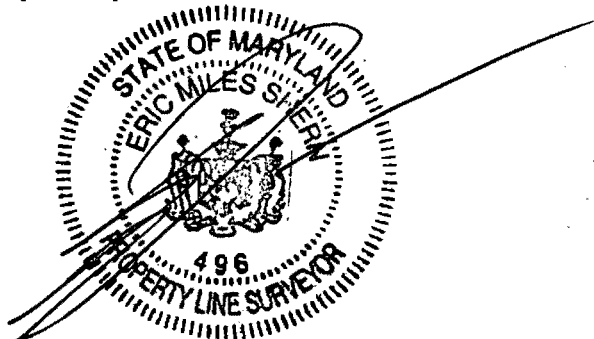
ALL THAT CERTAIN tract of land situated in Baltimore County, Maryland. Said tract being more particularly described as follows:

BEGINNING at a concrete monument found on the northwesterly line of Tract "A" as shown on the Subdivision Plan for Fox Ridge Estates dated April 4, 1988 and recorded among the Land Records of Baltimore County in Plat Book 59, Folio 29. Said tract being the most easterly corner of a tract of land described in deed to Frederick R. Vinup and Ann L. Vinup from Frank J. Marsden, Jr. and Suzanne S. Marsden dated November 21, 1968 and recorded among the Land Records of Baltimore County in Liber 4941, Folio 720. Thence North 42 degrees 30 minutes 18 seconds West, passing a concrete monument found at a distance of 201.16 feet and continuing for a distance of 12.63 feet for a total distance of 213.79 feet to a point within the right-of-way of Ridge Road. Thence North 60 degrees 30 minutes 02 seconds East, along said Ridge Road, a distance of 102.64 feet to a point for corner. Thence South 42 degrees 30 minutes 18 seconds East, through said right-of-way of Ridge Road, a distance of 28.10 feet to a point for corner. Said point being the most northwest corner of hereinbefore mentioned Tract "A" as shown on the Subdivision Plan for Fox Ridge Estates. Thence along the property line of said Tract "A", the following two courses and distances: (1) South 42 degrees 30 minutes 18 seconds East, passing a "+" in stone found at a distance of 14.68 feet and continuing 98.92 feet for a total distance of 113.60 feet to a concrete monument found for corner; (2) South 21 degrees 23 minutes 42 seconds West, a distance of 111.36 feet to the point of beginning. Said tract being as shown as Tract "C" on Boundary & Topographic Survey of Ivy Hill Substation dated January 10, 1994 prepared for Baltimore Gas and Electric Company by ASM Technologies, Inc. (Project No. 9368x5).

CONTAINING 0.4081 acres or 17,777 square feet of land.

BEING all that tract of land described in deed to Bankers Trust Company and Baltimore Gas and Electric Company from Frank J. Marsden, Jr. and Dorothy Louise Marsden and Fidelity-Baltimore National Bank & Trust Company dated April 10, 1956 and recorded among the Land Records of Baltimore County, Maryland in Liber 2911, Folio 289.

May 4, 1994



ASM TECHNOLOGIES, INC

A30

**LEGAL DESCRIPTION
LANDS OF
FREDERICK R. VINUP
ANN L. VINUP**

94-452-XA

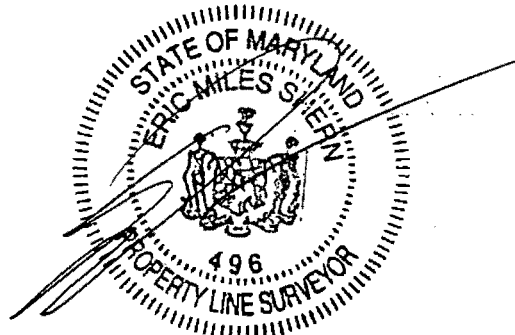
ALL THAT CERTAIN tract of land situated in Baltimore County, Maryland. Said tract being more particularly described as follows:

BEGINNING at a concrete monument found on the northwesterly line of Tract "A" as shown on the Subdivision Plan for Fox Ridge Estates dated April 4, 1988 and recorded among the Land Records of Baltimore County in Plat Book 59, Folio 29. Said point being the southeast corner of a tract of land described in deed to Bankers Trust Company and Baltimore Gas and Electric Company from Frank J. Marsden, Jr. and Dorothy Louise Marsden and Fidelity-Baltimore National Bank & Trust Company dated April 10, 1956 and recorded among the Land Records of Baltimore County in Liber 2911, Folio 289. Thence South 21 degrees 23 minutes 37 seconds West, along said northwesterly line of Tract "A", a distance of 167.03 feet to a 1/2" pipe found for corner. Said point being the northeast corner of Lot 1 as shown on plan of the Marsden Property dated May 26, 1978 and recorded among the Land Records of Baltimore County in Plat Book 43, Folio 7. Thence North 42 degrees 30 minutes 18 seconds West, along the northeasterly line of said Lot 1, passing a 1/2" pipe found at a distance of 290.77 feet and continuing for a distance of 7.65 feet to a concrete monument set and continuing for a distance of 23.48 feet for a total distance of 321.90 feet to a point within the right-of-way of Ridge Road. Thence North 60 degrees 30 minutes 00 seconds East, along said Ridge Road, a distance of 153.95 feet to a point for corner. Said point being the southwest corner of hereinbefore mentioned tract of land described in deed to Bankers Trust Company and Baltimore Gas and Electric Company. Thence South 42 degrees 30 minutes 18 seconds East, passing a concrete monument found at a distance of 12.63 feet and continuing for a distance of 201.16 feet for a total distance of 213.79 feet to the point of beginning. Said tract being as shown on survey dated December 6, 1993 prepared for Baltimore Gas and Electric Company by ASM Technologies, Inc. (Project No. 9368x5).

CONTAINING 0.9224 acres or 40,179 square feet of land.

BEING all that tract of land described in deed to Frederick R. Vinup and Ann L. Vinup from Frank J. Marsden, Jr. and Suzanne S. Marsden dated November 21, 1968 and recorded among the Land Records of Baltimore County, Maryland in Liber 4941, Folio 720.

December 6, 1993



ASM TECHNOLOGIES, INC

A30

**LEGAL DESCRIPTION
LANDS OF
BANKERS TRUST COMPANY
BALTIMORE GAS AND ELECTRIC COMPANY**

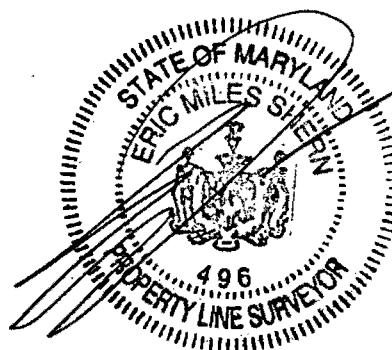
94-452-XA

ALL THAT CERTAIN tract of land situated in Baltimore County, Maryland. Said tract being known as Tract "A" as shown on the Subdivision Plan for Fox Ridge Estates dated April 4, 1988 and recorded among the Land Records of Baltimore County in Plat Book 59, Folio 29. Said tract being more particularly described as follows:

BEGINNING at a concrete monument set on the westerly right-of-way line of Joel Court. Said point being the most easterly corner of Lot 24 as shown on the above referenced Subdivision Plan for Fox Ridge Estates. Thence North 73 degrees 49 minutes 47 seconds West, along the northerly line of said Lot 24 as shown on the Subdivision Plan for Fox Ridge Estates, a distance of 208.95 feet to a concrete monument set for corner. Said point being on the easterly line of Lot 1 as shown on the plan of the Marsden Property dated May 26, 1978 and recorded among the Land Records of Baltimore County in Plat Book 43, Folio 7. Thence North 21 degrees 23 minutes 37 seconds East, along the easterly line of said Lot 1 as shown on the plan of the Marsden Property, a distance of 51.61 feet to a 1/2" pipe found for corner. Said point being the most southerly corner of a tract of land described in deed to Frederick R. Vinup and Ann L. Vinup from Frank J. Marsden, Jr. and Suzanne S. Marsden dated November 21, 1968 and recorded among the Land Records of Baltimore County in Liber 4941, Folio 720. Thence North 21 degrees 23 minutes 37 seconds East, along the easterly line of said Frederick R. Vinup and Ann L. Vinup tract, a distance of 167.03 feet to a concrete monument found for corner. Said point being the most southerly corner of a tract of land described in deed to Bankers Trust Company and Baltimore Gas and Electric Company from Frank J. Marsden, Jr. and Dorothy Louise Marsden and Fidelity-Baltimore National Bank & Trust Company dated April 10, 1956 and recorded among the Land Records of Baltimore County in Liber 2911, Folio 289. Thence along the property line of said Bankers Trust Company and Baltimore Gas and Electric Company tract, the following two (2) courses and distances: (1) North 21 degrees 23 minutes 42 seconds East, a distance of 111.36 feet to a concrete monument found for corner; (2) North 42 degrees 30 minutes 18 seconds West, passing a "+" in stone found at a distance of 98.92 feet and continuing 14.68 feet for a total distance of 113.60 feet to a point for corner. Said point being on the southeasterly right-of-way line of Ridge Road. Thence along said right-of-way line of Ridge Road, the following two (2) courses and distances: (1) North 61 degrees 30 minutes 00 seconds East, a distance of 75.00 feet to a concrete monument set for corner; (2) South 78 degrees 17 minutes 10 seconds East, a distance of 35.42 feet to a concrete monument set for corner. Said point being on the southwesterly right-of-way line of hereinbefore mentioned Joel Court. Thence along said right-of-way line of Joel Court, the following three (3) courses and distances: (1) South 28 degrees 00 minutes 00 seconds East, a distance of 75.00 feet to a 5/8" rebar with cap set for corner; (2) along a curve to the right, said curve having a central angle of 43 degrees 30 minutes 00 seconds, a radius of 475.00 feet, an arc length of 360.63 feet, a chord bearing of South 06 degrees 15 minutes 00 seconds East, and a chord distance of 352.03 feet to a 5/8" rebar with cap set for corner; (3) South 15 degrees 30 minutes 00 seconds West, a distance of 64.00 feet to the point of beginning. Said tract being as shown as Tract "A" on Boundary & Topographic Survey of Ivy Hill Substation dated January 10, 1994 prepared for Baltimore Gas and Electric Company by ASM Technologies, Inc. (Project No. 9368x5).

CONTAINING 1.5628 acres or 68,075 square feet of land.

May 4, 1994



ASM TECHNOLOGIES, INC

**LEGAL DESCRIPTION
FOX RIDGE ESTATES**

ALL THAT CERTAIN tract of land situated in Baltimore County, Maryland. Said tract being known as Fox Ridge Estates as shown on Subdivision Plan dated April 4, 1988 and recorded among the Land Records of Baltimore County in Plat Book 59, Folio 29. Said tract being more particularly described as follows:

BEGINNING at a point at the intersection of the centerlines of Falls Road and Ridge Road. Thence along and within the right-of-way of Falls Road the following seven (7) courses and distances: (1) South 08 degrees 39 minutes 52 seconds East, a distance of 100.93 feet to a point for corner; (2) South 36 degrees 13 minutes 42 seconds East, a distance of 1372.94 feet to a point for corner; (3) South 37 degrees 11 minutes 10 seconds East, a distance of 121.29 feet to a point for corner; (4) South 53 degrees 29 minutes 18 seconds West, a distance of 49.05 feet to a point for corner; (5) South 33 degrees 16 minutes 19 seconds East, a distance of 410.74 feet to a point for corner; (6) Along a curve to the left, said curve having a radius of 2506.48 feet, an arc length of 31.33 feet, a chord bearing of South 32 degrees 54 minutes 52 seconds East, and a chord distance of 31.33 feet to a point for corner; (7) South 49 degrees 31 minutes 17 seconds East, a distance of 120.88 feet to a point for corner. Said point being on the most northerly corner of a tract of land now or formerly owned by Bahram Sina as described in deed recorded among the Land Records of Baltimore County in Liber OTG 4541, Folio 164. Thence along the perimeter of said Bahram Sina tract, the following two (2) courses and distances: (1) South 77 degrees 30 minutes 52 minutes West, a distance of 852.21 feet to a point for corner; (2) South 04 degrees 30 minutes 38 seconds East, a distance of 831.05 feet to a point for corner. Said point being a northeast corner of a second tract of land now or formerly owned by Bahram Sina as described in deed recorded among the Land Records of Baltimore County in Liber EHK, Jr. 6005, Folio 466. Thence along the perimeter of said second tract of Bahram Sina, the following two (2) courses and distances: (1) North 77 degrees 58 minutes 54 seconds West, a distance of 893.19 feet to a point for corner; (2) South 86 degrees 58 minutes 08 seconds West, a distance of 435.36 feet to a point for corner. Said tract being on a easterly line of a tract of land now or formerly owned by Martha C. Thompson as described in deed to Martha C. Thompson recorded among the Land Records of Baltimore County in Liber GLB 1832, Folio 243. Thence along the perimeter of said Martha C. Thompson tract, the following two (2) courses and distances: (1) North 01 degrees 55 minutes 08 seconds East, a distance of 739.26 feet to a point for corner; (2) South 82 degrees 57 minutes 37 seconds West, a distance of 24.75 feet to a point for corner. Said point being a easterly corner of a tract of land now or formerly owned by P. Bealefield as described in deed recorded among the Land Records of Baltimore County in Liber EHK, Jr. 6542, Folio 420. Thence along the perimeter of said P. Bealefield tract, the following two (2) courses and distances: (1) North 00 degrees 00 minutes 46 seconds East, a distance of 604.94 feet to a point for corner; (2) North 21 degrees 23 minutes 37 seconds East, a distance of 1014.07 feet to a point for corner. Said point being the most easterly corner of a tract of land now or formerly owned by BG&E, Co. as described in deed recorded among the Land Records of Baltimore County in Liber GLB 2911, Folio 289. Thence along said BG&E, Co. tract, the following two (2) courses and distances: (1) North 42 degrees 30 minutes 18 seconds West, a distance of 98.92 feet to a point for corner; (2) North 42 degrees 18 minutes 58 seconds West, a distance of 42.67 feet to a point for corner. Said point being within the right-of-way of hereinbefore mentioned Ridge Road. Thence along and within the right-of-way of said Ridge Road, the following four (4) courses and distances: (1) North 62 degrees 29 minutes 37 seconds East, a distance of 106.92 feet to a point for corner; (2) North 55 degrees 45 minutes 07 seconds East, a distance of 137.23 feet to a point for corner; (3) North 66 degrees 29 minutes East, a distance of 137.46 feet to a point for corner; (4) North 77 degrees 29 minutes 37 seconds East, a distance of 277.86 feet to the point of beginning.

CONTAINING 79.457 acres of land.

May 24, 1994

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

94-452-X12

District Pth

Date of Posting 6/3/94

Posted for: Special Exception & Variance

Petitioner: Bellco Gas & Elec. & Frederick & Ann Vinup

Location of property: SW/Cor Ridge Rd & Lowl Court

Location of Signs: Facing road way, on property being zoned

Remarks:

Posted by M. J. Healey
Signature

Date of return: 6/10/94

Number of Signs: 1



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

94-452-XA

District 8th Date of Posting 7/29/94
Posted for: Appeal
Petitioner: Bette Cox & Elec. & Fred. R. Vinny, Et al
Location of property: SW/cor, Ridge Rd & Loel Court
Location of Signs: Facing road way on property being appealed
Remarks: _____
Posted by M. Keates Date of return: 8/5/94
Signature
Number of Signs: 1

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: #94-452-XA
(Item 430)
Ivy Hill Substation
S/W corner of intersection

of Ridge Road and Joel Court
8th Election District
3rd Councilmanic
Legal Owner, Tracts A & C:
Baltimore Gas & Electric Company
Legal Owner, Tract B:
Frederick R. Vinup and
Ann L. Vinup
Hearing: Tuesday,
June 21, 1994 at 2:00
p.m. in Rm. 118, Old
Courthouse.

Special Exception for an outdoor electric public utility service center (electric substation) and to amend the Fox Ridge Estates Final Development Plan, if necessary.
Variance to permit structures as close as zero feet from interior lot lines in lieu of the required 50 foot building setback.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.
5/325 May 26.

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 27, 1994

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 May 26, 1994.

THE JEFFERSONIAN,

A. H. Henrichson
LEGAL AD. - TOWSON

94-452-XA

BG & E /IVY HILL SUBSTATION

Exhibit No.: Pet. #2

Taken for purpose of duplication
(to the COB)

BY:

Sterling Leese
HOLZER & LEE

RETURNED :
#2

6/23/95 cu

Exhibit No.: Pet. #3

Taken for purpose of duplication
(to the COB)

BY:

Sterling Leese
HOLZER & LEE

RETURNED :
#3

6/23/95

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

No.

3220

DATE 7/22/74 ACCOUNT R-101-6150

AMOUNT \$ 460.00

RECEIVED FROM: J. CARROLL HOLZEK

FOR: APPEAL, CASE NO. 94-452-XA

D3A03#0732MICHR

\$460.00

BA 0011:14A007-02-04

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-6150

Number

430

BY JLL (DROPOFF)
NO FINAL.

Date

5/10/94

SPX CODE	050
VAR	020
(2) SIGNS	080
	TOT

300.00
250.00
70.00
\$620.00

OWNER: S.BG+E / VINUP

LOC SW CORNER RIDGE RD AND JOEL CT. 01A01#0188MICHRC

EA C002:31PMD5-10-94

\$620.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

TX-894-146

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

*Drop off
Called RH
needs to be completed.*

94-452-XA

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 430

Petitioner: BG + E

Location: Ivy Hill

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Barbara Armord

ADDRESS: Venable Baetjer + Howard

218 Allegheny Ave, Towson, MD 21204

* PHONE NUMBER: 494-6201

*MUST BE SUPPLIED

Item Number: 430
Planner: JLL
Date Filed: 5-10-94

P E T I T I O N P R O C E S S I N G F L A G

94-452-XA

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney

✓

The following information is missing:

Descriptions, including accurate beginning point

Actual address of property

Zoning

Acreage

Plats (need 12, only ____ submitted)

200 scale zoning map with property outlined

Election district

Councilmanic district

BCZR section information and/or wording

Hardship/practical difficulty information

✓ Owner's ~~signature (need minimum 1 original signature) and/or~~
~~printed name and/or address and/or telephone number~~ TRACT "B"

Contract purchaser's signature (need minimum 1 original
signature) and/or printed name and/or address

Signature (need minimum 1 original signature) and/or
printed name and/or title of person signing for legal
owner/contract purchaser

Power of attorney or authorization for person signing for
legal owner and/or contract purchaser

Attorney's signature (need minimum 1 original signature)
and/or printed name and/or address and/or telephone number

Notary Public's section is incomplete and/or incorrect
and/or commission has expired

TO: PUTUXENT PUBLISHING COMPANY
May 26, 1994 Issue - Jeffersonian

Please forward billing to:

Barbara Ormord
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204
494-6201

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: 94-452-XA (Item 430)
Ivy Hill Substation
S/W corner of intersection of Ridge Road and Joel Court
8th Election District - 3rd Councilmanic
Legal Owner, Tracts A & C: Baltimore Gas & Electric Company
Legal Owner, Tract B: Frederick R. Vinup and Ann L. Vinup
HEARING: TUESDAY, JUNE 21, 1994 at 2:00 p.m. Rm. 118 Old Courthouse

Special Exception for an outdoor electric public utility service center (electric substation) and to amend the Fox Ridge Estates Final Development Plan, if necessary.
Variance to permit structures as close as zero feet from interior lot lines in lieu of the required 50 foot building setback.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MAY 20, 1994

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: 94-452-XA (Item 430)

Ivy Hill Substation

S/W corner of intersection of Ridge Road and Joel Court

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Legal Owner, Tracts A & C: Baltimore Gas & Electric Company

Legal Owner, Tract B: Frederick R. Vinup and Ann L. Vinup

HEARING: TUESDAY, JUNE 21, 1994 at 2:00 p.m. Rm. 118 Old Courthouse

Special Exception for an outdoor electric public utility service center (electric substation) and to amend the Fox Ridge Estates Final Development Plan, if necessary.

Variance to permit structures as close as zero feet from interior lot lines in lieu of the required 50 foot building setback.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Baltimore Gas & Electric Company
Frederick and Ann Vinup
Robert A. Hoffman, 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.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





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

September 2, 1994

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. 94-452-XA

BALTIMORE GAS & ELECTRIC CO. /Legal Owners,
Tract A & B; FREDERICK R. VINUP, ET UX /Legal
Owners, Tract C
S/w Corner of Ridge Road and Joel Court (Ivy
Hill Substation)
8th Election District
3rd Councilmanic District

Note: Day #1 = 10/04/94

Postponed on the recd

10/06/94; Day #2 = 1/10/95

SE -Outdoor electric substation in R.C. 5
zone;
VAR -Structures as close as 0' from interior
lot line in lieu of required 50' bldg setback.

6/24/94 -Z.C.'s Order in which Petition for
Special Exception and Petition for Variance
were GRANTED.

ASSIGNED FOR:

TUESDAY, OCTOBER 4, 1994 at 10:30 a.m. /Day #1 and
THURSDAY, OCTOBER 6, 1994 at 10:30 a.m. /Day #2

cc: J. Carroll Holzer, Esquire
Andrew Lansman, et al

Counsel for Appellants /Protestants
Appellants /Protestants

Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
Mr. & Mrs. Frederick Vinup

Counsel for Petitioners
Counsel for Petitioners
Petitioner
Petitioners

w/d appearance
9-14-94

~~Mark K. Cohen, Esquire~~
Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM

~~Counsel for Protestant R. Hanley~~

Copy sent 9/08/94: Hon. Paula C. Hollinger

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.



Printed with Soybean Ink
on Recycled Paper

10/04/94 -T/C from Carroll Holzer 4:15 p.m. -
Has ZC case (contin case) in
Upper Marlboro on 1/11/95; is available
remaining two dates being held.

TO BE BROUGHT TO ATTENTION OF BOARD PRIOR
~~TO START OF DAY #2 ON 10/06/94.~~

7/27/94 -Letter from R. Hoffman, Counsel for Petitioner, requesting consideration by Board for scheduling additional consecutive days for hearing of this appeal (preferably three days) based upon prior hearing on this matter, and his belief that more than one day, and probably more than two days, will be needed.

8/05/94 -T/C from Carroll Holzer; is in agreement with R. Hoffman that more than one day will be required for this matter. Advised Mr. HOLZER that Board's docket is now being set into November 1994.



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

October 6, 1994

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. 94-452-XA

BALTIMORE GAS & ELECTRIC CO. /Legal Owners,
Tract A & B; FREDERICK R. VINUP, ET UX /Legal
Owners, Tract C
S/w Corner of Ridge Road and Joel Court (Ivy
Hill Substation)
8th Election District
3rd Councilmanic District

SE -Outdoor electric substation in R.C. 5
zone;

VAR -Structures as close as 0' from interior
lot line in lieu of required 50' bldg setback.
6/24/94 -Z.C.'s Order in which Petition for
Special Exception and Petition for Variance
were GRANTED.

Which was POSTPONED on the record 10/06/94 has been scheduled for the
following agreed-upon dates:

ASSIGNED FOR:

~~TUESDAY, JANUARY 10, 1995 at 10:00 a.m. /Day #2;~~
~~THURSDAY, JANUARY 12, 1995 at 10:00 a.m. /Day #3;~~
~~TUESDAY, JANUARY 17, 1995 at 10:00 a.m. /Day #4; and~~
~~THURSDAY, JANUARY 19, 1995 at 10:00 a.m. /Day #5~~

NOTE: The Board is also holding Friday, January 20, 1995, if needed for
completion of the hearing in this matter.

cc: J. Carroll Holzer, Esquire
Andrew Lansman, et al

Counsel for Appellants /Protestants
Appellants /Protestants

Robert A. Hoffman, Esquire
Martha A. Delea, Esquire
Baltimore Gas & Electric Co.
Mr. & Mrs. Frederick Vinup

Counsel for Petitioners
Counsel for Petitioners
Petitioner
Petitioners

Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden
People's Counsel for Balto Co
Lawrence E. Schmidt
Timothy Kotroco
The Hon. Paula C. Hollinger

Pat Keller
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon, Dir /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

** Amended Notice Sent 1/12/95.*





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 12, 1995

AMENDED NOTICE OF ASSIGNMENT *Days #4 and #5

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. 94-452-XA

BALTIMORE GAS & ELECTRIC CO. /Legal Owners,
Tract A & B; FREDERICK R. VINUP, ET UX /Legal
Owners, Tract C
S/w Corner of Ridge Road and Joel Court (Ivy
Hill Substation)
8th Election District
3rd Councilmanic District

SE -Outdoor electric substation in R.C. 5
zone;
VAR -Structures as close as 0' from interior
lot line in lieu of required 50' bldg setback.
6/24/94 -Z.C.'s Order in which Petition for
Special Exception and Petition for Variance
were GRANTED.

which is scheduled for Day #4 (1/17/95) and Day #5 (1/19/95), the last two days scheduled for hearing in this matter, will begin on those dates at the amended hour as indicated below; and has been

REASSIGNED FOR: TUESDAY, JANUARY 17, 1995 at 9:00 a.m. /Day #4; and
THURSDAY, JANUARY 19, 1995 at 9:00 a.m. /Day #5

cc: J. Carroll Holzer, Esquire Counsel for Appellants /Protestants
Andrew Lansman, et al Appellants /Protestants

Robert A. Hoffman, Esquire Counsel for Petitioners
Martha A. Delea, Esquire Counsel for Petitioners
Baltimore Gas & Electric Co. Petitioner
Mr. & Mrs. Frederick Vinup Petitioners

Mr. & Mrs. Raymond Fischer
Mrs. Dorothy Marsden Pat Keller
People's Counsel for Balto Co W. Carl Richards /ZADM
Lawrence E. Schmidt Docket Clerk /ZADM
Timothy Kotroco Arnold Jablon, Dir /ZADM
The Hon. Paula C. Hollinger

Kathleen C. Weidenhammer
Administrative Assistant





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

February 10, 1995

NOTICE OF DELIBERATION

Memorandums having been filed, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

IVY HILL SUBSTATION /BALTIMORE GAS &
ELECTRIC COMPANY - PETITIONER
CASE NO. 94-452-XA

DATE AND TIME : Wednesday, February 22, 1995 at 9:00 a.m.
LOCATION : Room 48, Basement, Old Courthouse

cc: J. Carroll Holzer, Esquire	Counsel for Appellants /Protestants
Andrew Lansman, et al	Appellants /Protestants
Robert A. Hoffman, Esquire	Counsel for Petitioners
Martha A. Delea, Esquire	Counsel for Petitioners
Baltimore Gas & Electric Co.	Petitioner
Mr. & Mrs. Frederick Vinup	Petitioners
Mr. & Mrs. Raymond Fischer	
Mrs. Dorothy Marsden	Pat Keller
People's Counsel for Balto Co	W. Carl Richards /ZADM
Lawrence E. Schmidt	Docket Clerk /ZADM
Timothy Kotroco	Arnold Jablon, Dir /ZADM
The Hon. Paula C. Hollinger	Joseph V. Maranto /ZADM

HRM

Kathleen C. Weidenhammer
Administrative Assistant



PETITION OF: Friends of the Ridge, et al
CIVIL ACTION # 3-C-95-5315

IN THE MATTER OF BALTIMORE GAS & ELECTRIC CO.
(IVY HILL SUBSTATION)

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

CONTAINED
IN
BOX

Mary Ross
Clerk's Office

Date: 7/13/95

RECEIVED AND FILED

95 JUL 17 PM 2:50

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

PETITIONER'S
EXHIBITS

Ret. Ex. 1

Monica P. McGrady, P.E.
4532 Rusty Gate
Ellicott City, MD 21043, U.S.A.
(410) 461-0792 home, (410) 234-5294 office

Experience

Senior Project Engineer, Baltimore Gas and Electric Co., Baltimore, MD.
01/91 - present: Responsible for the design, engineering and construction of high voltage electric substations. Project management functions include planning, scheduling, budget preparation, cost control, contract development and management, equipment procurement, leading and coordinating people and activities.

Engineer, Baltimore Gas and Electric Company, Baltimore, MD.
02/89 - 12/90: Performed power system analysis studies to plan for proper reactive power compensation and steady state voltage on the electric system. Also performed selected planning studies to assure reliable and economical operation and expansion of the electric system through extensive use of load flow programs.

Engineer, HMJ Corporation, Washington, DC.
10/88 - 12/88: Verified and completed a research report on power conditioning systems for the Strategic Defense Initiative Organization.

Teaching Assistant, The George Washington University, Washington, DC.
1/88 - 12/88: Taught a power systems laboratory to students in their senior year. Major emphasis of the course was on transformers and measurements of the characteristics of devices used to generate electricity.

Education

Registered Professional Engineer, State of Maryland, June 1993.

The George Washington University, Washington, DC. - Master of Science with a concentration in Energy Conversion, Power Systems and Transmission Engineering, February 1989. GPA: 4.0/4.0

Syracuse University, Syracuse, NY. - Bachelor of Science in Electrical Engineering (Summa Cum Laude), May 1986. GPA: 3.8/4.0

Areas of Expertise

- o Substation grounding design, electric and magnetic field analysis, equipment rating, power system analysis, transient analysis, design of electric transmission and distribution systems, design of emergency and standby power systems, electromechanical and direct energy conversion.

- o Fluent in Spanish and knowledge of Italian.

Professional Memberships

- o Member of the Advisory Committee for the Substation Magnetic Fields Research Group of the Electric Power Research Institute.
- o Member of the IEEE and the Power Engineering Society.
- o Member of Eta Kappa Nu and Tau Beta Pi engineering honor societies.

P. 228 - LOT A2
RAYMOND J. FISHER, ET. AL.
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035868
LIBER / FOLIO: 5426 / 87
ZONED R.C.5

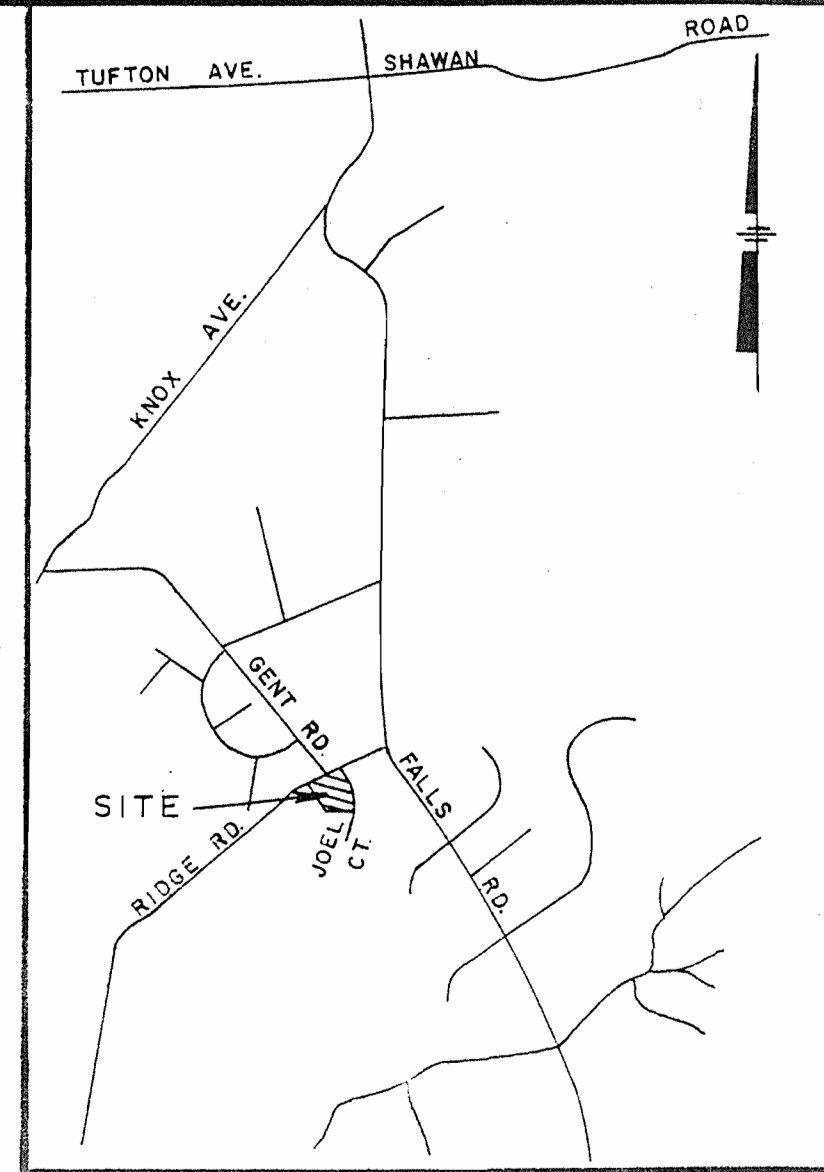
P. 228 - LOT A1
RONALD P. HANLEY
ROSEMARY HANLEY
1820 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035867
LIBER / FOLIO: 6059 / 411
ZONED R.C.5

P. 51
GRACE METHODIST CHURCH, INC.
FALLS ROAD
COCKEYSVILLE, MD. 21030

TAX ACCOUNT: 08-0807060575
2.940 ACRES
LIBER / FOLIO: 2335 / 99
ZONED R.C.5

EX. DRIVEWAY

Petitioners
EX 2



SCALE: 1" = 2000'

NOTES:

1. IVY HILL SUBSTATION IS AN UNATTENDED STATION AND NO PERMANENT EMPLOYEES ARE TO BE LOCATED ON THE PREMISES. AVERAGE DAILY TRIPS: 17/WEK.
2. THERE ARE NO EXISTING OR PROPOSED WATER AND SEWER TO THE STATION.
3. FENCE: 8 FT. OVERALL HEIGHT CONSISTING OF 7 FT. OF CHAIN LINK FABRIC AND THREE STRANDS OF BARBED WIRE (TURNED OUT).
4. ROADWAY: COMPACT SUBGRADE TO 35% DENSITY AS DETERMINED BY ASTM 1557-70. INSTALL 8" OF CR-467 CRUSHED STONE BASE IN TWO LIFTS AND COMPACT EACH LIFT WITH A 10 TON ROLLER. INSTALL 2" BITUMINOUS BINDER COURSE (B1 BAND). INSTALL 1" BITUMINOUS CONCRETE SURFACE (SN BAND) AS PER MARYLAND STATE HIGHWAY ADMINISTRATION SPECIFICATIONS.
5. AREA WITHIN FENCE TO BE COVERED WITH 4" OF STONE OVER NEW GRADE. STONE SHALL BE GRAY IN COLOR, WITH A LOS ANGELES ABRASION RATING LESS THAN 50% AND GRADATION IN ACCORDANCE WITH MARYLAND STATE HIGHWAY ADMINISTRATION SPECIFICATIONS.
6. ALL AREAS NOT COVERED BY STONE OR PAVING WILL BE SEEDED WITH GRASS ACCORDING TO MARYLAND S.C.S. AND/OR BALTIMORE COUNTY SPECIFICATIONS.
7. ALL ELECTRIC STRUCTURES ARE FUNCTIONALLY ATTACHED.
8. TOPOGRAPHIC AND BOUNDARY INFORMATION TAKEN FROM SURVEY PERFORMED BY: ASM TECHNOLOGIES, INC.
2 WEST FORREST AVENUE
SHREWSBURY, PA. 17361
717-235-6325
9. EXISTING SEPTIC SYSTEM SHALL BE PURIFIED AND BACKFILLED OR REMOVED AT TIME OF RAZING THE EXISTING HOUSE.
10. EXISTING WELL SHALL BE BACKFILLED BY A LICENSED WELL DRILLER WHO MUST SUBMIT A WELL ABANDONMENT REPORT AT THE TIME OF RAZING THE EXISTING STRUCTURE.
11. PETITION FOR A VARIANCE FROM SECTION 1404.3.B.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT STRUCTURES AS CLOSE AS 0 FEET FROM INTERIOR LOT LINES IN LIEU OF THE REQUIRED 50 FOOT BUILDING SETBACK.
12. PETITION FOR A SPECIAL EXCEPTION UNDER THE ZONING REGULATIONS OF BALTIMORE COUNTY TO USE THE HEREIN DESCRIBED PROPERTY FOR AN OUTDOOR ELECTRIC PUBLIC UTILITY SERVICE CENTER (ELECTRIC SUBSTATION) IN A RES ZONE PURSUANT TO SECTION 1404.2.B.11 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

CASE NO. 3780-X
PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION TO USE SAID PROPERTY FOR THE CONSTRUCTION OF AN ELECTRICAL TRANSFORMER SUBSTATION. DEPUTY ZONING COMMISSIONER BY ORDER DATED MARCH 14, 1999, GRANTED SPECIAL EXCEPTION REQUEST.

CASE NO. 4835-X
PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION FOR WIRELESS TRANSMITTING AND RECEIVING STATION. ZONING COMMISSIONER BY ORDER DATED MARCH 9, 1999, GRANTED SPECIAL EXCEPTION REQUEST.

APPLICANT/OWNER/CONTRACT PURCHASER
BALTIMORE GAS & ELECTRIC COMPANY
SYSTEM ENGINEERING & CONSTRUCTION DEPARTMENT
LEXINGTON & LIBERTY STREETS
1020 G & E BUILDING
BALTIMORE, MD. 21201
C/O MONICA P. McGRADY, P.E.
1-410-234-5294

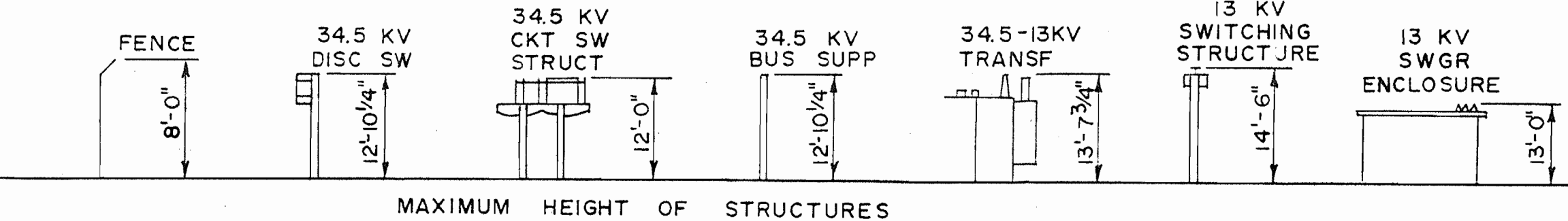
THIS PROPERTY LOCATED IN THE
8TH ELECTION DISTRICT OF
3RD COUNCIL DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED R.C.5
TAX MAP NO. 50
PARCEL NO. 247, 338, & 79 / TRACT A
TOTAL AREA: 2.8933 ACRES
ZONING MAP NO. D-2



Rev	Date	J.C./Est. No.	Description	Approved	ENGINEERING	PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL EXCEPTION AND VARIANCES
					Civil..... Elec..... Proj. Engr..... Proj. Mgr..... Supv. Engr.....	34.5-13.8 KV SUBSTATION IVY HILL
					DESIGN GROUP Designer..... Checked..... Appd..... Date Appd.....	BALTIMORE GAS AND ELECTRIC COMPANY DISTRIBUTION & TRANSMISSION ENGINEERING DEPT. SYSTEM ENGINEERING SECTION
					File..... Microfilm..... Orig. Rev. No.	Scale: 1" = 20' Dwg. No. 400-701-E

LEGEND

A = FUTURE 34.5 KV CAPACITOR
B = 34.5 KV DISC SWITCHING STRUCTURE
C = 34.5 KV CIRCUIT SWITCHER
D = 34.5 KV BUS SUPPORT
E = 34.5 KV TRANSFORMER
F = 13 KV BUS SUPPORT
G = 13 KV LOAD BRK. SWITCHING STRUCTURE
H = 13 KV SWITCHGEAR



MAXIMUM HEIGHT OF STRUCTURES

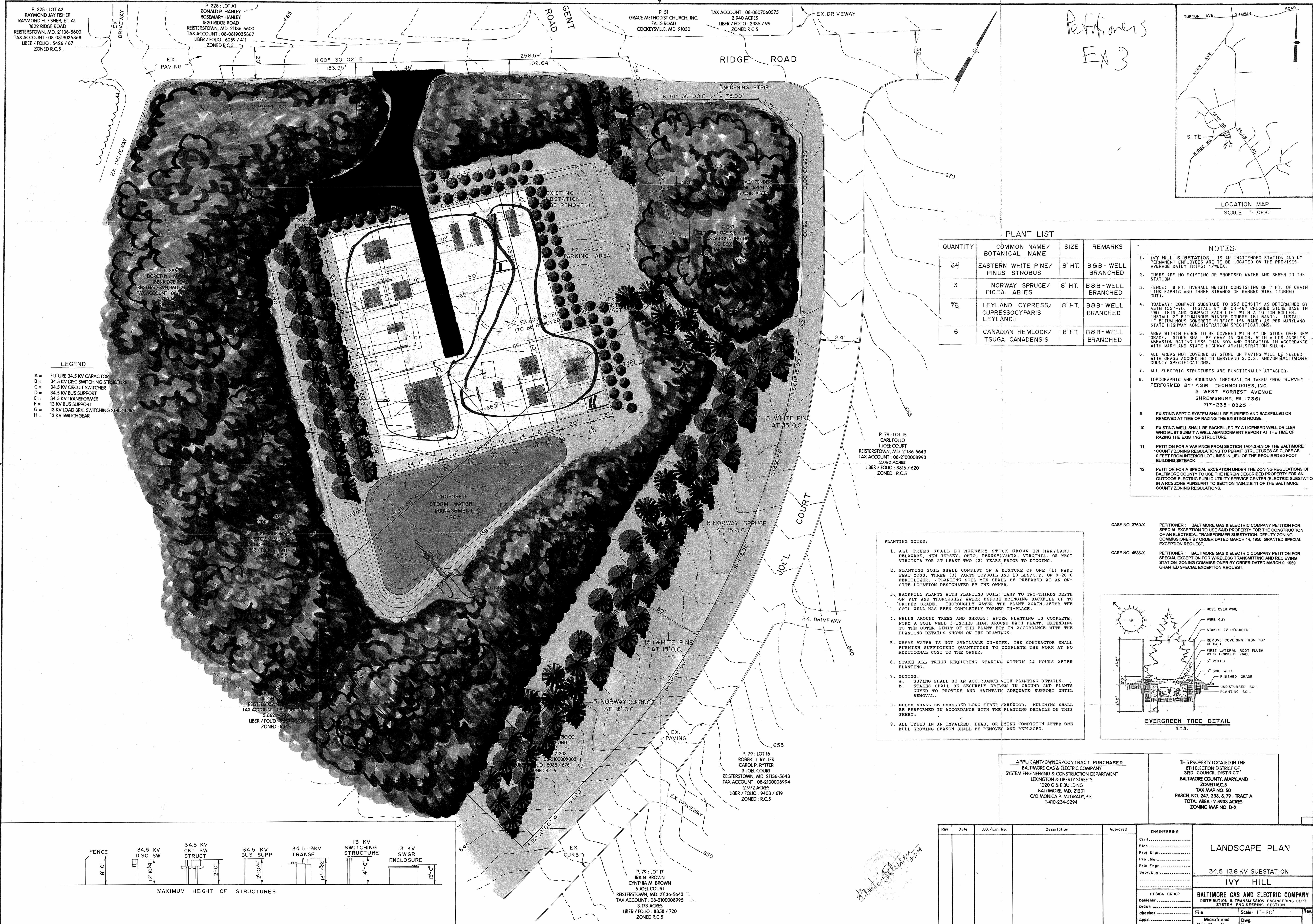
P. 79 - LOT 17
IRAN BROWN
CYNTHIA M. BROWN
5 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008995
3.173 ACRES
LIBER / FOLIO: 8658 / 720
ZONED R.C.5

P. 79 - LOT 16
ROBERT J. RYTER
CAROL P. RYTER
3 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008994
2.972 ACRES
LIBER / FOLIO: 9403 / 619
ZONED R.C.5

TRACT A
BALTIMORE GAS & ELECTRIC CO.
TAX ACCOUNTING UNIT
P.O. BOX 1475
BALTIMORE, MD. 21203
TAX ACCOUNT: 08-2100009003
LIBER / FOLIO: 8085 / 676
ZONED R.C.5

P. 79 - LOT 24
JAMES J. KIRCHNER, JR.
TINA M. KIRCHNER
4 JOEL COURT
REISTERSTOWN, MD. 21136
TAX ACCOUNT: 08-2100009002
3.662 ACRES
LIBER / FOLIO: 9657 / 396
ZONED R.C.5

P. 79 - LOT 15
CARL FOLLO
1 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008993
2.950 ACRES
LIBER / FOLIO: 9916 / 620
ZONED R.C.5



P. 228 - LOT A2
RAYMOND J. FISHER, ET. AL
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035868
LIBER / FOLIO: 5426 / 87
ZONED R.C.5

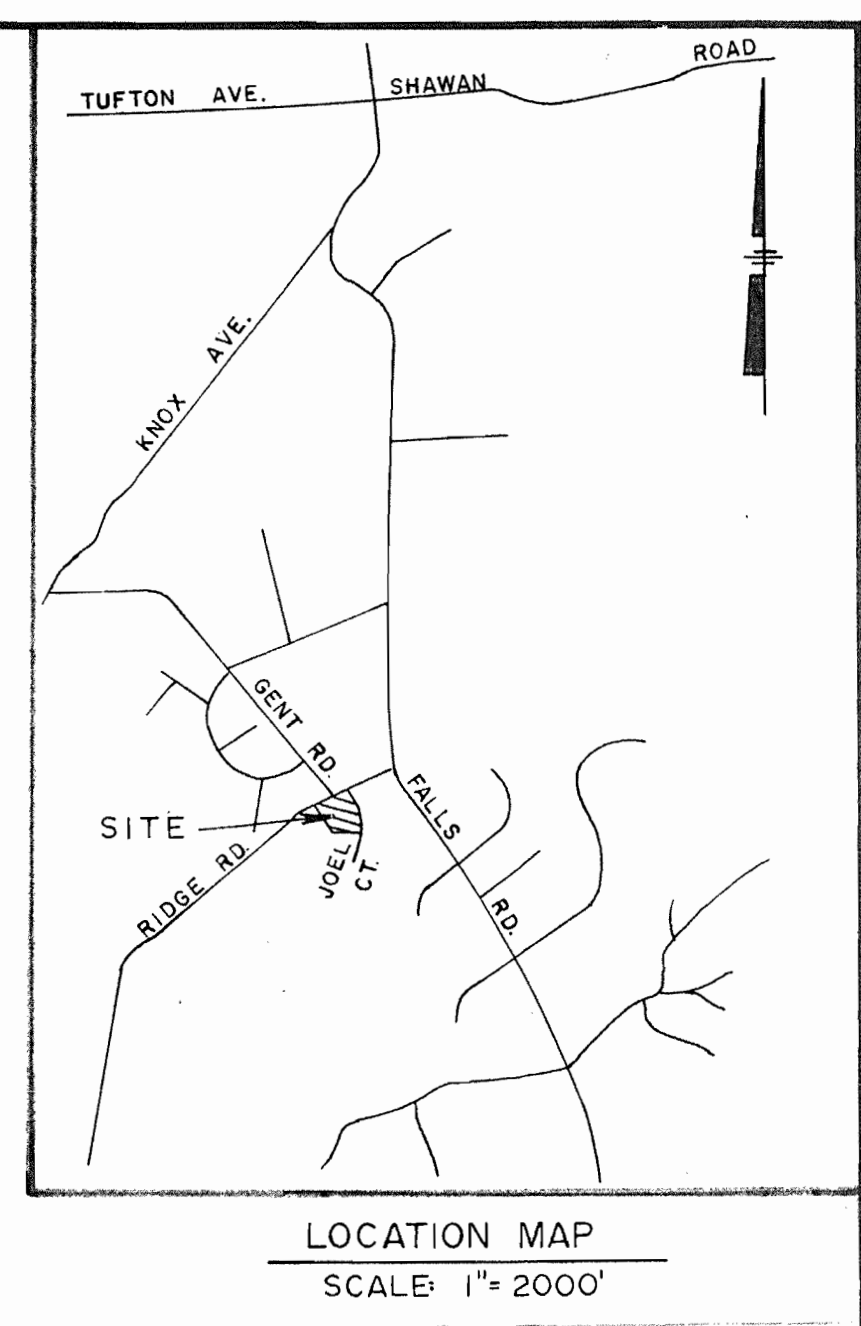
P. 228 - LOT A1
RONALD P. HANLEY
ROSEMARY HANLEY
1820 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035867
LIBER / FOLIO: 6059 / 411
ZONED R.C.5

P. 51
GRACE METHODIST CHURCH, INC.
FALLS ROAD
COCKEYSVILLE, MD. 21030

TAX ACCOUNT: 08-0807060575
2.940 ACRES
LIBER / FOLIO: 2335 / 99
ZONED R.C.5

EX. DRIVEWAY

Petitioners
Ex 3



PLANT LIST

QUANTITY	COMMON NAME/ BOTANICAL NAME	SIZE	REMARKS
64	EASTERN WHITE PINE/ PINUS STROBUS	8' HT.	B&B - WELL BRANCHED
13	NORWAY SPRUCE/ PICEA ABIES	8' HT.	B&B - WELL BRANCHED
76	LEYLAND CYPRESS/ CUPRESSOCYPARIS LEYLANDII	8' HT.	B&B - WELL BRANCHED
6	CANADIAN HEMLOCK/ TSUGA CANADENSIS	8' HT.	B&B - WELL BRANCHED

- NOTES:
1. IVY HILL SUBSTATION IS AN UNATTENDED STATION AND NO PERMANENT EMPLOYEES ARE TO BE LOCATED ON THE PREMISES. AVERAGE DAILY TRIPS: 1/PM
 2. THERE ARE NO EXISTING OR PROPOSED WATER AND SEWER TO THE STATION.
 3. FENCE: 8 FT. OVERALL HEIGHT CONSISTING OF 7 FT. OF CHAIN LINK FABRIC AND THREE STRANDS OF BARBED WIRE (TURNED OUT).
 4. ROADWAY: COMPACT SUBGRADE TO 95% DENSITY AS DETERMINED BY ASTM 1557-70. INSTALL 8" OF CR-461 CRUSHED STONE BASE IN TWO LIFTS AND COMPACT EACH LIFT WITH A 10 TON ROLLER. INSTALL 2" BITUMINOUS BINDER COURSE (B1 BAND). INSTALL BITUMINOUS CONCRETE SURFACE (S1 BAND) AS PER MARYLAND STATE HIGHWAY ADMINISTRATION SPECIFICATIONS.
 5. AREA WITHIN FENCE TO BE COVERED WITH 4" OF STONE OVER NEW GRADE. STONE SHALL BE GRAY IN COLOR, WITH A LOS ANGELES ABRASION RATING LESS THAN 50% AND GRADATION IN ACCORDANCE WITH MARYLAND STATE HIGHWAY ADMINISTRATION SH-4.
 6. ALL AREAS NOT COVERED BY STONE OR PAVING WILL BE SEEDED WITH GRASS ACCORDING TO MARYLAND S.C.S. AND/OR BALTIMORE COUNTY SPECIFICATIONS.
 7. ALL ELECTRIC STRUCTURES ARE FUNCTIONALLY ATTACHED.
 8. TOPOGRAPHIC AND BOUNDARY INFORMATION TAKEN FROM SURVEY PERFORMED BY: ASM TECHNOLOGIES, INC. 2 WEST FORREST AVENUE SHREWSBURY, PA. 17361 717-235-8325
 9. EXISTING SEPTIC SYSTEM SHALL BE PURIFIED AND BACKFILLED OR REMOVED AT TIME OF RAZING THE EXISTING HOUSE.
 10. EXISTING WELL SHALL BE BACKFILLED BY A LICENSED WELL DRILLER WHO MUST SUBMIT A WELL ABANDONMENT REPORT AT THE TIME OF RAZING THE EXISTING STRUCTURE.
 11. PETITION FOR A VARIANCE FROM SECTION 1404.3.B.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT STRUCTURES AS CLOSE AS 0 FEET FROM INTERIOR LOT LINES IN LIEU OF THE REQUIRED 50 FOOT BUILDING SETBACK.
 12. PETITION FOR A SPECIAL EXCEPTION UNDER THE ZONING REGULATIONS OF BALTIMORE COUNTY TO USE THE HEREIN DESCRIBED PROPERTY FOR AN OUTDOOR ELECTRIC PUBLIC UTILITY SERVICE CENTER (ELECTRIC SUBSTATION) IN A R.C.5 ZONE PURSUANT TO SECTION 1404.2.B.11 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

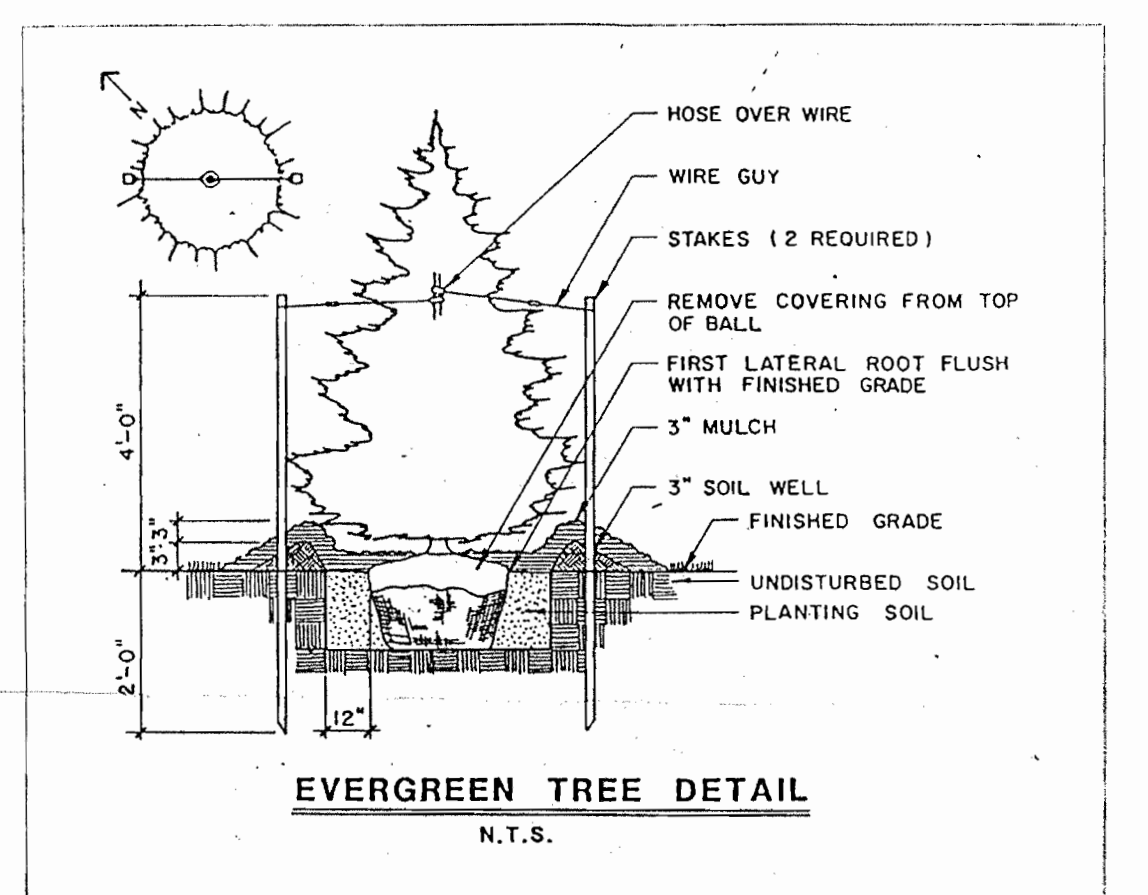
- LEGEND
- A = FUTURE 34.5 KV CAPACITOR
 - B = 34.5 KV DISC SWITCHING STRUCTURE
 - C = 34.5 KV CIRCUIT SWITCHER
 - D = 34.5 KV BUS SUPPORT
 - E = 34.5 KV TRANSFORMER
 - F = 13 KV BUS SUPPORT
 - G = 13 KV LOAD BRK. SWITCHING STRUCTURE
 - H = 13 KV SWITCHGEAR

P. 79 - LOT 15
CARL FOLLO
1 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008993
2.950 ACRES
LIBER / FOLIO: 8816 / 620
ZONED R.C.5

- PLANTING NOTES:
1. ALL TREES SHALL BE NURSERY STOCK GROWN IN MARYLAND, DELAWARE, NEW JERSEY, OHIO, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA FOR AT LEAST TWO (2) YEARS PRIOR TO DIGGING.
 2. PLANTING SOIL SHALL CONSIST OF A MIXTURE OF ONE (1) PART PEAT MOSS, THREE (3) PARTS TOPSOIL AND 10 LBS/C.Y. OF 0-20-0 FERTILIZER. PLANTING SOIL MIX SHALL BE PREPARED AT AN ON-SITE LOCATION DESIGNATED BY THE OWNER.
 3. BACKFILL PLANTS WITH PLANTING SOIL: TAMP TO TWO-THIRDS DEPTH OF PIT AND THOROUGHLY WATER BEFORE BRINGING BACKFILL UP TO PROPER GRADE. THOROUGHLY WATER THE PLANT AGAIN AFTER THE SOIL WELL HAS BEEN COMPLETELY FORMED IN-PLACE.
 4. WELLS AROUND TREES AND SHRUBS: AFTER PLANTING IS COMPLETE, FORM A SOIL WELL 3-INCHES HIGH AROUND EACH PLANT, EXTENDING TO THE OUTER LIMIT OF THE PLANT PIT IN ACCORDANCE WITH THE PLANTING DETAILS SHOWN ON THE DRAWINGS.
 5. WHERE WATER IS NOT AVAILABLE ON-SITE, THE CONTRACTOR SHALL FURNISH SUFFICIENT QUANTITIES TO COMPLETE THE WORK AT NO ADDITIONAL COST TO THE OWNER.
 6. STAKE ALL TREES REQUIRING STAKING WITHIN 24 HOURS AFTER PLANTING.
 7. GUYING:
 - a. GUYING SHALL BE IN ACCORDANCE WITH PLANTING DETAILS.
 - b. STAKES SHALL BE SECURELY DRIVEN IN GROUND AND PLANTS GUYED TO PROVIDE AND MAINTAIN ADEQUATE SUPPORT UNTIL REMOVAL.
 8. MULCH SHALL BE SHREDDED LONG FIBER HARDWOOD. MULCHING SHALL BE PERFORMED IN ACCORDANCE WITH THE PLANTING DETAILS ON THIS SHEET.
 9. ALL TREES IN AN IMPAIRED, DEAD, OR DYING CONDITION AFTER ONE FULL GROWING SEASON SHALL BE REMOVED AND REPLACED.

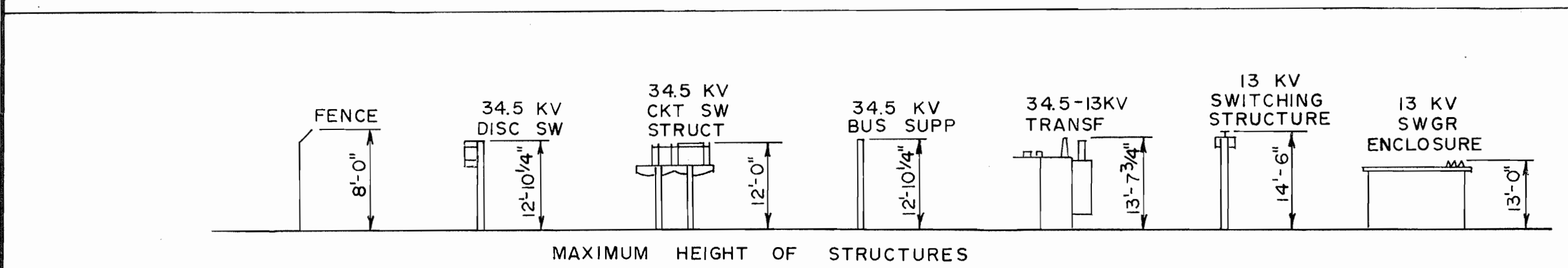
CASE NO. 3760-X PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION TO USE SAID PROPERTY FOR THE CONSTRUCTION OF AN ELECTRICAL TRANSFORMER SUBSTATION. DEPUTY ZONING COMMISSIONER BY ORDER DATED MARCH 14, 1996. GRANTED SPECIAL EXCEPTION REQUEST.

CASE NO. 4535-X PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION FOR WIRELESS TRANSMITTING AND RECEIVING STATION. ZONING COMMISSIONER BY ORDER DATED MARCH 6, 1999. GRANTED SPECIAL EXCEPTION REQUEST.



APPLICANT/OWNER/CONTRACT PURCHASER
BALTIMORE GAS & ELECTRIC COMPANY
SYSTEM ENGINEERING & CONSTRUCTION DEPARTMENT
LEXINGTON & LIBERTY STREETS
1020 G & E BUILDING
BALTIMORE, MD. 21201
C/O MONICA P. McGRADY, P.E.
1-410-234-5294

THIS PROPERTY LOCATED IN THE
8TH ELECTION DISTRICT OF,
3RD COUNCIL DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED R.C.5
TAX MAP NO. 50
PARCEL NO. 247, 338, & 79: TRACT A
TOTAL AREA: 2.935 ACRES
ZONING MAP NO. D-2



P. 79 - LOT 17
IRA N. BROWN
CYNTHIA M. BROWN
5 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008995
3.173 ACRES
LIBER / FOLIO: 8858 / 720
ZONED R.C.5

Rev	Date	J.O./Est. No	Description	Approved	ENGINEERING	DESIGN GROUP	FILE	Scale: 1" = 20'	Rev.
					Civil..... Elec..... Plan Engr..... Prim Engr..... Supv Engr.....	Designer..... Drawn..... Checked..... Appd..... Date Appd.....	File..... Microfilmed..... Orig. Q.....	Dwg. No..... Rev. No.....	

LANDSCAPE PLAN

34.5-13.8 KV SUBSTATION
IVY HILL

BALTIMORE GAS AND ELECTRIC COMPANY
DISTRIBUTION & TRANSMISSION ENGINEERING DEPT.
SYSTEM ENGINEERING SECTION

CASE 3760-X

Pet. Ex. 4

PETITION FOR SPECIAL EXCEPTION
UNDER THE ZONING REGULATIONS AND
RESTRICTIONS OF BALTIMORE COUNTY

3760-X

MAP
#8-2
"X"
3/9/54

3760-X

In THE MATTER OF :
BALTIMORE GAS AND ELECTRIC COMPANY :
BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

For a Special Exception Under the Zoning Regulations
and Restrictions of Baltimore County

To the Zoning Commissioner of Baltimore County:

Baltimore Gas and Electric Company hereby petitions for a Special
Exception under the Zoning Regulations and Restrictions of Baltimore County,
passed by the County Commissioners of Baltimore County, agreeable to Chapter
877 of the Acts of the General Assembly of Maryland of 1943, and amendments
thereto, for a certain use and exception as provided under said Regulations
as follows:

A Special Exception for the construction of an electrical trans-
former substation on a parcel of land situate on the southeast side of
Ridge Road 625 feet westerly from Falls Road in the Eighth Election District
of Baltimore County, Maryland.

The location and the description of the land to be used for said
electrical transformer substation is shown outlined in red on the plat
attached hereto marked Petitioner's Exhibit "A" and made a part hereof.

Said parcel of land is described as follows:



BEGINNING for the same on the southeast side of Ridge
Road at the distance of 625 feet measured westerly along
said road from the corner formed by the intersection of
the south side of Ridge Road with the west side of the
Falls Road, thence binding on the southeast side of Ridge
Road, South 67 degrees 40 minutes West 102.3 feet, thence
leaving said road and running South 34 degrees 19 minutes
East 199 feet, more or less, thence binding on the division
lines between Frank J. Maraden, Jr., and Lawrence F. For-
wood the three following courses and distances, viz: North
29 degrees 35 minutes East 111.35 feet, North 34 degrees
19 minutes West 99 feet to a stone marked "S" and North 34
degrees 08 minutes West 30 feet more or less to the place
of beginning.

John Henry Tumbford
24 W. Pennsylvania Avenue
Towson - 4, Maryland
William A. Spence
100 Lexington Building
Baltimore - 1, Maryland
ATTORNEYS FOR PETITIONERS

Frank J. Maraden, Jr.
Frank J. Maraden, Jr.
Dorothy L. Maraden
Dorothy L. Maraden
OWNERS
BALTIMORE GAS AND ELECTRIC COMPANY
By *William A. Spence*
Vice President
CONTRACT PURCHASER

3760-X

Petersons

6a



Ret. Ex 6B





Pet. 6C



Pet Ex 6D

Pet. Ex. 7a-1 (1)



Pet. Ex. 7 b-2



Pet. Ex 7c-3



Pct. Ex 7D-4



Pet. Ex 7 E - 5



Pet. Ex 7 F-6



Ref. 10.1



Ret. Ex 74-8



Ret. En ⁷ ~~7~~ - 9



Ret. Ex. 7-V-10



Pet. Ex. 7-K-11



Lawrence S. Taylor
8774 Cloudleap Court T3
Columbia, Maryland 21045
410-992-7768

EXPERIENCE:

Baltimore Gas and Electric Company, Baltimore, Maryland

Principal Engineer, Area Planning 4/93 to present:

Supervised a unit of 6 engineers, 1 secretary and 2 technicians responsible for expanding the BGE area supply system and developing system reactive support plans. Managed the downsizing of the unit from 12 engineers and 3 technicians. Reviewed all plans for quality of design before issue. Prioritized discretionary projects to reduced capital expenditures. Established direction and strategy for the inclusion of demand side management and distributed generation concepts into the distribution planning process. Managed the job proficiency system for salary adjustments; promoted and terminated employees as appropriate. Served on strategic management team that developed strategies for the distribution division response to increased competition and the information superhighway. Performed a technical study of the impact on the distribution system of future electric vehicle use.

Principal Planner, Substation and Subtransmission Planning Group, 11/89- 3/93:

Led a team of 6 engineers and 2 technicians in developing expansion plans for the area supply system. Assigned projects and did performance evaluations of group members. Reviewed all plans for quality of design before issue to the substation design engineers. Managed a \$30 million capital budget, recommending cuts as necessary to achieve budget objectives. Over 600 MW of distribution station capacity added while leading the team.

General Supervisor of Operations, Southern Department 10/87 -10/89:

Supervised a section of 30 (field and office) technicians and clerks, with 3 hourly supervisors as direct reports. Supervised the analysis of operating problems for the portion of the distribution system serving about 500,000 customers. Provided engineering direction to the field technicians resolving customer power quality complaints. Engineered system design changes to improve power quality to electric customers, including all buried cable replacement projects. Worked closely with construction to minimize disruption of existing neighborhoods. Provided the customer relations department with technical advice on customer damage cases from surges, low and high voltage, etc.

Supervisor of Project Engineering 11/85-9/87:

Supervised a team of 5 technicians and 2 clerks responsible for expanding Baltimore city's distribution feeder system. Reviewed all projects for engineering quality before release to construction. Served as project engineer on a job that successfully installed multiple 34 kV submarine cables across Baltimore Harbor. Provided technical consulting to the construction forces operating and maintaining the downtown secondary network system. Served as the primary liaison with the Baltimore City conduit section on all major conduit jobs to be built by BGE.

Senior Engineer/Engineer Distribution Engineering 12/79-10/85:

Developed guidelines for the design of the electric distribution system including system configuration, fuse coordination and loading guidelines. Did engineering studies and made recommendations on lightning protection, cable life cycles, and cable-in-conduit standards. Developed standards and specified equipment for underground vaults, pad mounted switching enclosures and splice boxes. Assisted cable engineer in developing specifications for 13 kV and 600 V power cable.

Hittman Associates, Columbia Maryland

Engineer 4/78-11/79:

Produced studies and proposals for the Department of Energy on alternative energy, storage technologies and energy conservation regulations.

Rochester Gas and Electric, Rochester NY

Assistant Distribution Engineer 7/73-7/77 :

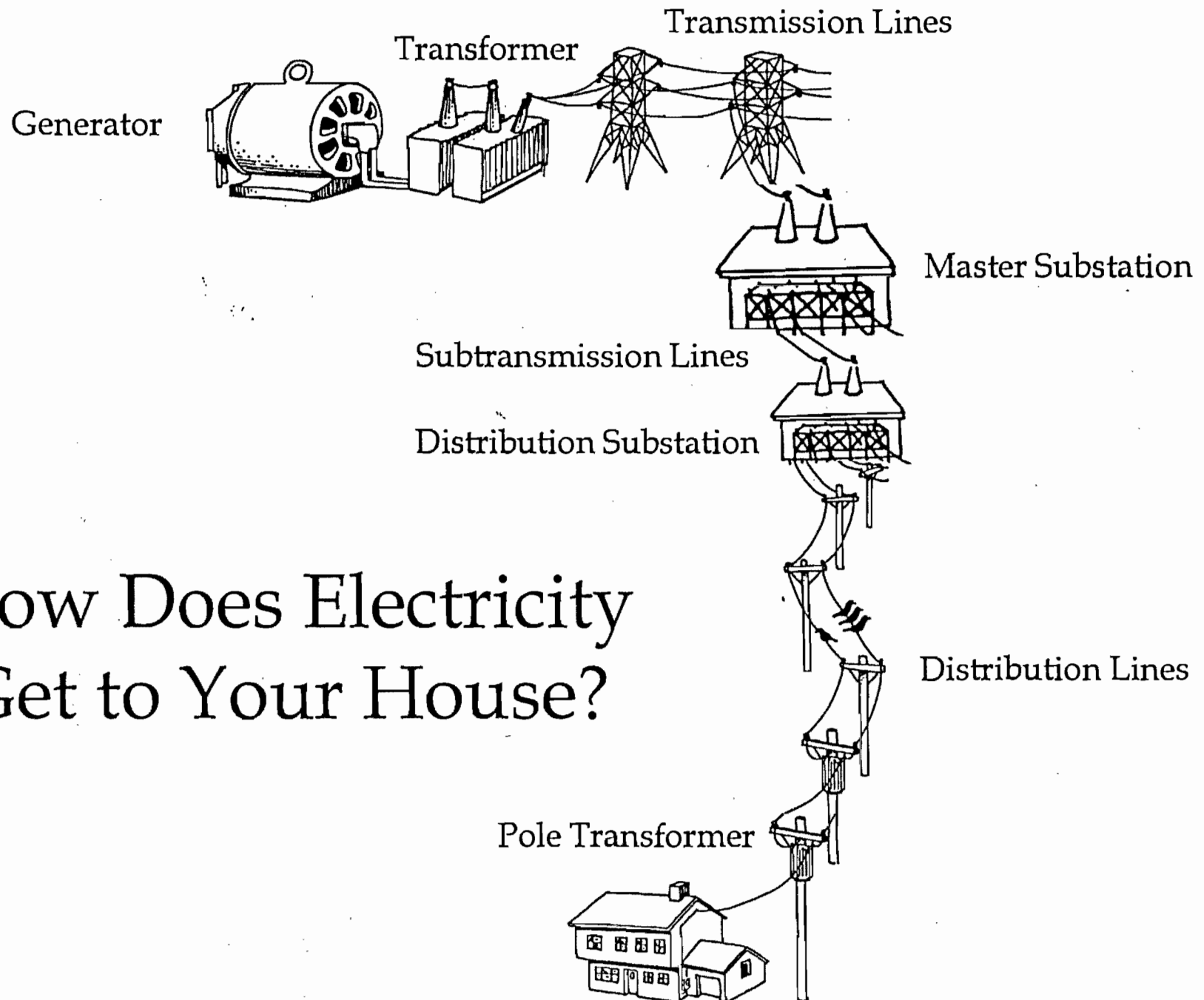
Worked as a planning engineer developing long range expansion plans for the area supply system. performed flicker calculations and monitored substation bus voltage for proper operation.

EDUCATION:

Bachelors Degree in Electrical Engineering, 1971. The Cooper Union for the Advancement of Science and Art in New York, NY.

PERSONAL:

Date of Birth: August 29, 1950
Marital Status: Single



How Does Electricity Get to Your House?

James F. Ryan, Jr.
900 Gas and Electric Building
P.O. Box 1475
Baltimore, MD 21203

(410) 234-5129

P R O F E S S I O N A L Q U A L I F I C A T I O N S

State of Maryland
Department of Licensing and Regulation
Baltimore, MD

REGISTERED PROFESSIONAL ENGINEER/ELECTRICAL, APRIL, 1993
LICENSE #19849

District of Columbia
Department of Consumer and Regulatory Affairs
Washington, DC

REGISTERED PROFESSIONAL ENGINEER/ELECTRICAL, AUGUST, 1992
LICENSE #9820

E D U C A T I O N

Virginia Polytechnic Institute and State
University
Blacksburg, VA

1980 - 1985

BACHELOR OF SCIENCE IN ELECTRICAL ENGINEERING, JUNE 1985.

University of Baltimore
Baltimore, MD

1987 - 1990

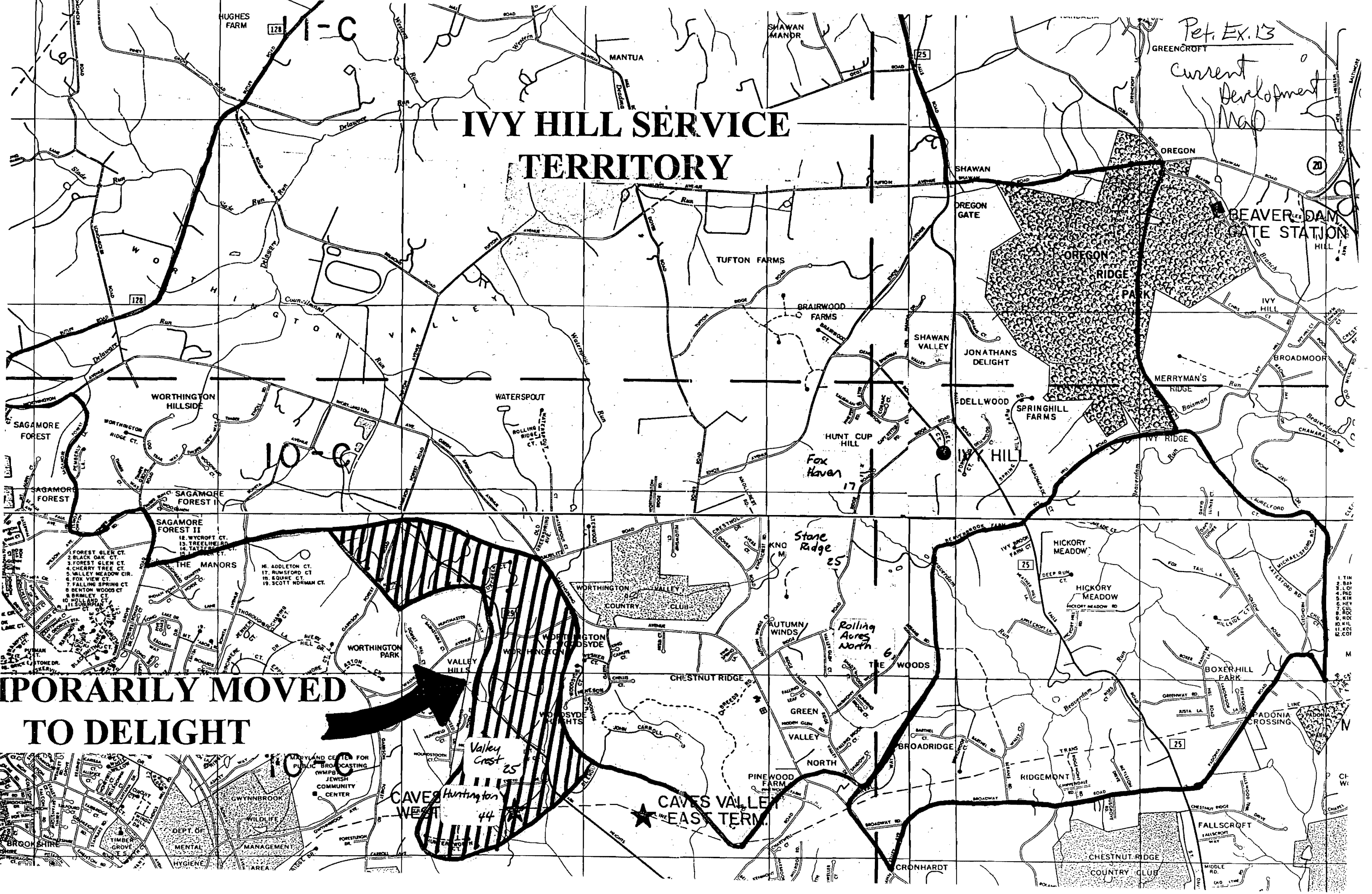
MASTER OF BUSINESS ADMINISTRATION, JUNE 1990.

P R O F E S S I O N A L E X P E R I E N C E

Baltimore Gas and Electric Company
Baltimore, MD

DECEMBER, 1992 TO PRESENT - AREA FORECAST LEADER: PROVIDE TECHNICAL LEADERSHIP AND DIRECTION TO A TEAM OF THREE RESPONSIBLE FOR THE DEVELOPMENT OF SMALL AREA DISTRIBUTION FACILITY PLANNING FORECASTS. FORECASTS ARE DEVELOPED USING ENGINEERING, STATISTICAL, AND GEOGRAPHIC ANALYSIS OF ELECTRIC DEMAND, DEMOGRAPHICS, AND LAND USE. POSITION REQUIRES STRONG BACKGROUND IN PRINCIPLES OF ELECTRIC DISTRIBUTION, AND FREQUENT COMMUNICATION WITH ENGINEERS RESPONSIBLE FOR DISTRIBUTION SYSTEM PLANNING AND OPERATION.

JUNE, 1985 TO NOVEMBER, 1992 - FORECASTER, AREA FORECASTING: PREPARED FORECASTS OF SMALL AREA DEMAND TO SUPPORT THE PLANNING OF



IVY HILL SERVICE TERRITORY

TEMPORARILY MOVED
TO DELIGHT

Pet. Ex. 13
Current Development Map

★ CAVES VALLEY EAST TERM.

CURRICULUM VITAE

Linda Schuman Erdreich, Ph.D.
Bailey Research Associates, Inc.
292 Madison Avenue
New York, N.Y. 10017

EDUCATION

1979	Ph.D., University of Oklahoma, Epidemiology
1977	M.S., University of Oklahoma, Biostatistics and Epidemiology
1968	M.Ed., Temple University, Science Education
1964	B.A., Temple University, Biological Sciences

EXPERIENCE

1991-Present	Principal Scientist Bailey Research Associates, Inc. New York, NY
1989-1991	Senior Research Associate Environmental Research Information, Inc. New York, NY
1987-1989	Senior Associate ICF-Clement Associates, Inc. Edison, N.J.
1984-1987	Group Leader Methods Evaluation and Development Staff Office of Research and Development Environmental Criteria and Assessment Office U.S. Environmental Protection Agency Cincinnati, OH
1981-1984	Senior Epidemiologist Office of Research and Development Environmental Criteria and Assessment Office U.S. Environmental Protection Agency Cincinnati, OH

PAUL W. TAYLOR, P.E.

Associate, Project Manager

George William Stephens, Jr. & Associates, Inc.

Registration: Professional Engineer, Maryland (Md. Reg. No. 13741)

Education: The Johns Hopkins University, Civil Engineering, 1983

Professional Experience:

Mr. Taylor has over twenty-three years of experience in site development engineering, with design and project management experience on a broad range of projects. In addition to site design, Mr. Taylor has expertise in the areas of utility design, stormwater management design, sediment control design, and road and bridge design. In addition, while serving as a staff engineer for Harford County Department Public Works, Mr. Taylor was responsible for the design, bid document preparation and construction management on several public sector road, bridge & recreation projects:

Mr. Taylor has provided site design and engineering for the following commercial and institutional projects:

- * State Highway Administration, Bel Air Maryland - Bel Air Complex Site, Utilities and Storm Water Management.
- * Joppa-Magnolia Fire Station No. 3, Edgewood, Maryland - Site, Utilities and Stormwater Management.
- * Fashion Park Commercial, Joppa, Maryland - Site, Sediment Control and Utilities and Public Roads.
- * Amoco Service Station, Havre de Grace, Maryland - Site, Utilities, Sediment Control and Stormwater Management.
- * Unitarian Universalist Church, Churchville, Maryland - Site, Septic System Design, Sediment Control & Stormwater Management.

In addition, Mr. Taylor has project management experience on a wide range of site development projects including:

Durham Manor, Harford Co., Md.
Grace Harbour, Havre de Grace, Md.
Amyclae Business Center, Harford Co., Md.

ZONING EXHIBIT

Pet. Ex. 16

BGE IVY HILL

TOTAL AREA IN ACRES	TRACT "A" 1.5628 AC.	TRACT "B" 0.9224 AC.	TRACT "C" 0.4081 AC.	TOTAL 2.8933 AC.
EXISTING WOODED AREA	1.0008 AC.	0.3958	0.2011 AC.	1.5977 AC.
EXISTING LAWN AREA	0.562 AC.	0.3818	0.0562 AC.	1 AC.
EXISTING GRAVEL AREA	0 AC.	0.0551 AC.	0.1149 AC.	0.17 AC.
EXISTING IMPERVIOUS AREA	0 AC.	0.0395 AC.	0.0193 AC.	0.0588 AC.
EXISTING BUILDING AREA	0 AC.	0.0502 AC.	0.0166 AC.	0.0668 AC.
BUILDING COVERAGE	0.00 %	5.44 %	4.07 %	2.31 %
PROPOSED WOODED AREA	0.7308 AC.	0.1846 AC.	0.1111 AC.	1.0265 AC.
PROPOSED LAWN AREA	0.7712 AC.	0.2794 AC.	0.1297 AC.	1.1803 AC.
PROPOSED GRAVEL AREA	0.0297 AC.	0.3151 AC.	0.1442 AC.	0.489 AC.
PROPOSED IMPERVIOUS AREA	0.0311 AC.	0.1240 AC.	0.0231 AC.	0.1782 AC.
PROPOSED BUILDING AREA	0 AC.	0.0193 AC.	0 AC.	0.0193 AC.
BUILDING COVERAGE	0.00 %	2.09 %	0.00 %	0.67 %
AREA OF SWM POND	0.1856 AC.	0.0565 AC.	0 AC.	0.2421 AC.
AREA OF WOODS REMOVED TO CONSTRUCT POND	0.1765 AC.	0.0061 AC.	0 AC.	0.1826 AC.
AREA OF WOODS REMOVED FOR PROPOSED SITE	0.2700 AC.	0.2112 AC.	0.0900 AC.	0.5712 AC.
AREA INSIDE FENCE EXCLUDING SWM POND	0.0331 AC.	0.3566 AC.	0.0569 AC.	0.4466 AC.

Jan. 5, 1995

Pet. Ex. 17



PROPOSED IVY HILL SUBSTATION PLANTING
TREE SPECIES INFORMATION

SPECIES	SIZE AT PLANTING (FT.)		GROWTH RATE (FT./YR.)	MATURE HEIGHT (FT.)	MATURE WIDTH (FT.)	COMMENTS
	HT.	WIDTH				
LEYLAND CYPRESS	8'	3'	2 - 3'	60 - 70'	10 - 15'	Considered fastest growing conifer. Will reach 100' in 60 years.
WHITE PINE	8 - 10'	4 - 5'	2'	50 - 80'	20 - 40'	Considered fastest growing pine. Will reach 50 - 75' in 25 - 40 years.
NORWAY SPRUCE	8 - 10'	3 - 4'	1 - 1.5'	40 - 60'	25 - 30'	Medium to fast growth, especially when young. Will reach 75' after 50 years.
EASTERN HEMLOCK	8 - 10'	4 - 5'	1 - 1.5'	40 - 70'	25 - 30'	Medium growth in full sunlight, slower in shade. Will reach 25 - 50' in 15 - 30 years.



GEORGE E. GAVRELIS

Vice President



George Gavrelis has broad, extensive training and background in planning and zoning, particularly in Baltimore County. He has a thorough knowledge of planning and zoning procedures, as well as the detailed requirements and standards of the zoning and development regulations. His expertise assures that projects comply with applicable standards and move more expediently through the approval process.

Mr. Gavrelis is recognized as an expert witness in planning, zoning and land use issues and testifies before the Zoning Commissioner, the Board of Appeals and the Circuit Court.

Professional Background

Daft-McCune-Walker, Inc.
Towson, Maryland
1984 - Present

Private Planning Consultant
1982 - 1984

Developers General
Corporation
1972 - 1982

Baltimore County Office of
Planning and Zoning
Towson, Maryland
1951 - 1972
Director, 1963 - 1972

Education

Master of City Planning
Harvard University Graduate
School of Design

Bachelor of Arts
Harvard College

Associations

American Institute of
Certified Planners, Charter
Member

American Planning
Association

Committees

The Towson Partnership
Urban Design and Towson
Core Subcommittees

Executive Steering
Committee, Baltimore
County Master Plan, Strategic
Plan 2000

Long Range Planning
Committee, Trinity Episcopal
Church

Advisory Group
1992 Comprehensive Zoning
Map Guidelines

Significant Projects

Towson Commons
Towson, Maryland

Mays Chapel North Planned
Unit Development
Timonium, Maryland

Caves Valley Golf Club
Documented Site Plan
Reclassification and Special
Exception

Land Owners Council,
Reciprocal Regional
Development Agreement
Owings Mills Growth Area
Baltimore County, Maryland

New Density Residential
Zones
Baltimore County, Maryland

The Guide Plan, a
Comprehensive Plan for
Baltimore County, Maryland

Guest Lecturer

National Conventions,
National Association of
Home Builders
Houston, Texas
Las Vegas, Nevada

Development Seminar,
National Association of
Home Builders
Phoenix, Arizona

Home Builders Institute,
Home Builders Association
of Maryland

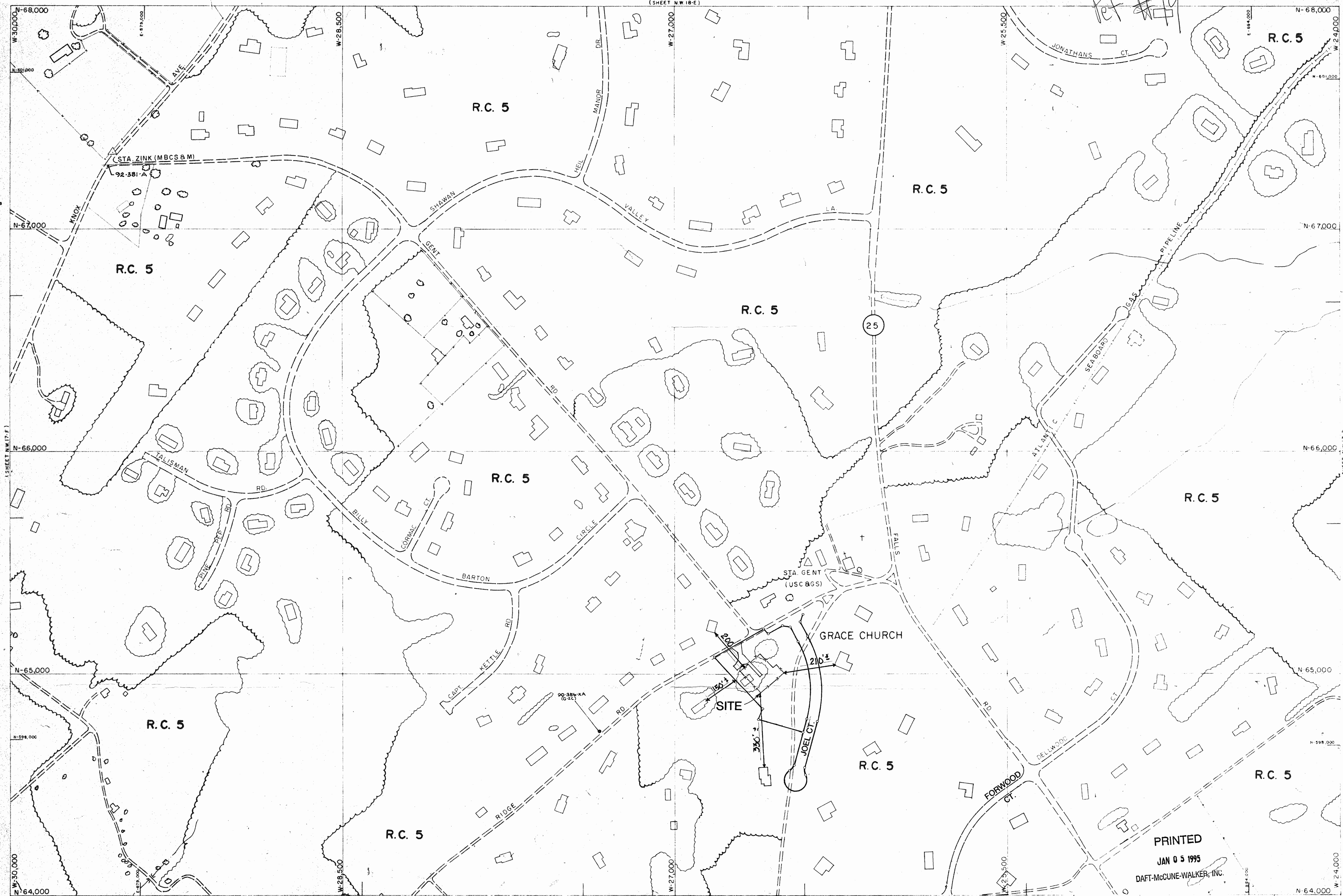
Awards

Home Builders Association
of Maryland, Distinguished
Service Award
1979 and 1980

Baltimore County Chamber
of Commerce Leadership
Award, Growth
Management Committee
1981



DAFT-McCUNE-WALKER, INC.



V - SW

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

Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

Chairman, County Council

SCALE
1" = 200' ±

DATE OF PHOTOGRAPHY
JANUARY 1986

PRINTED
JAN 05 1995
DAFT-MCCUNE-WALKER, INC.

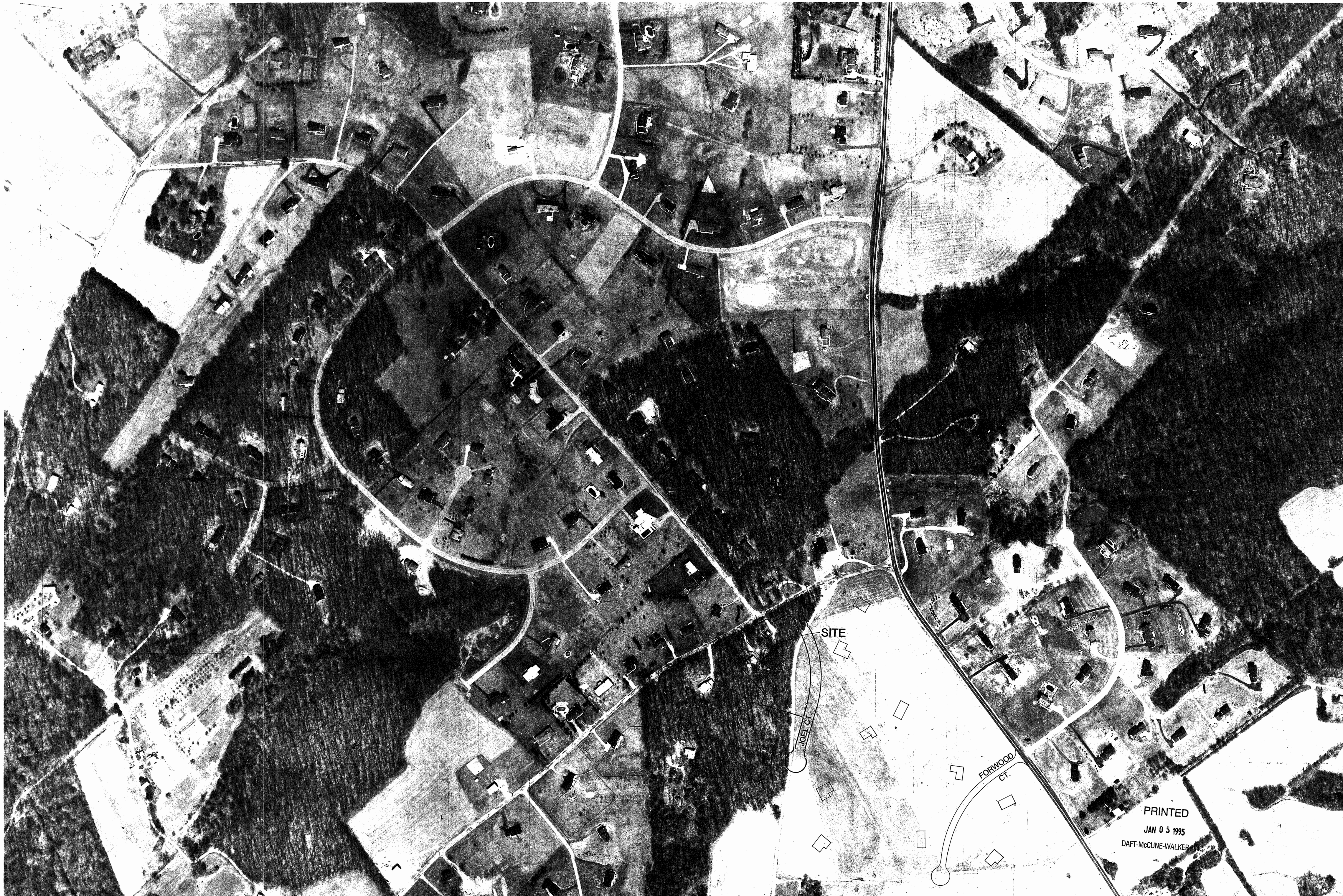
LOCATION
GRACE CHURCH

SHEET
N. W.
17-E

Distances

4446

Ref
#20



PRINTED

JAN 0 5 1995

DAFT-MCCUNE-WALKER INC.

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	GRACE CHURCH	N.W. 17-E
DATE OF PHOTOGRAPHY JANUARY 1986		

MICROFILMED

12/15/92

Ref. Ex. 21





PLANNING BOARD POLICIES AND RESOLUTIONS

Final Development Plans.....	3
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Pet. Ex. 23

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

RECEIVED

JUN 15 1994

OFFICE OF
PLANNING & ZONING

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: June 2, 1994

SUBJECT: Southwest corner of the intersection of Ridge Road and Joel Court

INFORMATION:

94-452-XA

Item Number: 430

Petitioner: Baltimore Gas & Electric Company

Property Size:

Zoning: R.C. 5

Requested Action:

Hearing Date: / /

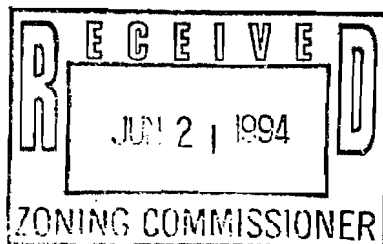
SUMMARY OF RECOMMENDATIONS:

This project received approval of a limited exemption on April 4, 1994. At that time, in reaction to the plan submitted with the request, staff requested that additional landscaping be provided to screen the subject site from adjacent homes located along Joel Court. The plat accompanying this Petition satisfies the concern regarding the provision of additional landscaping. Therefore, staff recommends the applicant's request be granted.

Prepared by:

Division Chief:

PK/JL:lw



QUALIFICATIONS

Walter A. Reiter, Jr., JD, ASA
Certified General Appraiser, #56

EDUCATION

- Georgetown University
Loyola College - B.S. Degree
University of Maryland Law School - J.D.
Degree

CONTINUING
EDUCATION

- AIREA - Courses I, II and Industrial VII
AIREA - Uniform Standards Professional
Practice
Appraisal Standards of Practice and
Workshop

CERTIFICATION

- Certified General Real Estate
Appraiser, State of MD, #04-056
General Appraiser, Commonwealth of
Pennsylvania, #GA-000724-L
Appraiser - Certified General, State of
Delaware, #XL-0000079
Senior Member - American Society of
Appraisers
Member - Baltimore and Howard Counties
Appraisers' Society
Member - Maryland Bar

QUALIFIED
EXPERT WITNESS

- U.S. Federal Court of Baltimore City and
Rockville
Circuit Courts of Baltimore City and
County, Allegany, Howard, Frederick,
Washington, Carroll, Harford, Anne
Arundel, Montgomery, and Queen Anne's
Counties

EXPERIENCE

- Real estate appraiser, 1967 to present
Real estate business since 1958

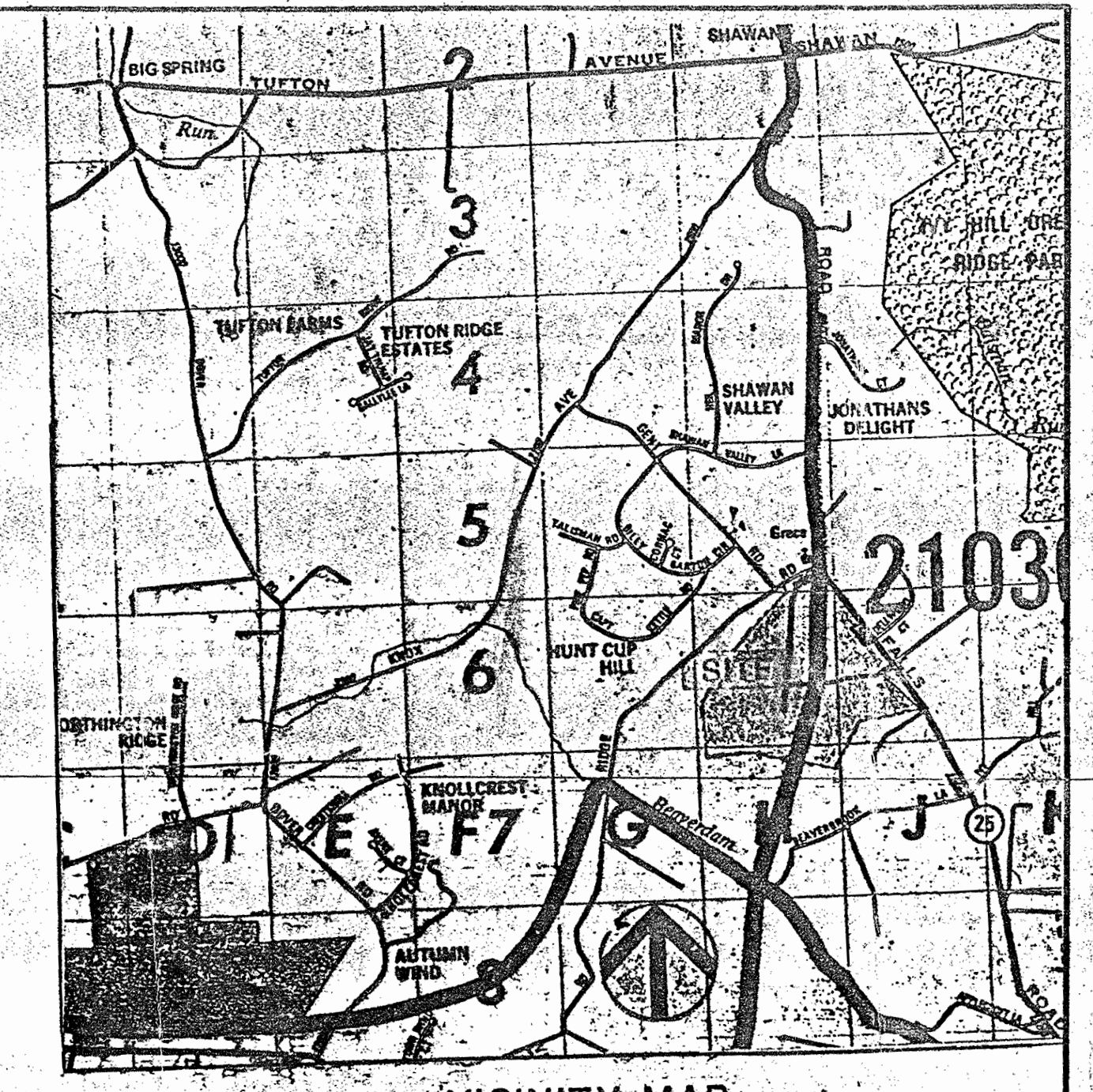
INSTRUCTOR

- The Johns Hopkins University - 12 years,
Real Estate and Appraisal Principles
Towson State University
AIREA - Condemnation - Mock Trial
Loyola College - Seminar, 1991
IRWA - Skills of An Expert Witness, 1990

SERVED AS
OFFICER AND/OR
DIRECTOR

- American Society of Appraisers, MD Chapter,
President and Director
Baltimore County Appraisers' Society -
President and Director

"SOIL TYPES AND LIMITATIONS"					
Soil Series and Symbol	Hydro Class	With Assessment	Without Assessment	Street and Sidewalk	
Belle (BdA)	D	Severe: High Water Table; Poor Natural Drainage	Severe: High Water Table; Poor Natural Drainage	Severe: Hi Water Table; Poor Natur Drainage	
Bloom (BbB)	S	Slight	Slight	Moderate: S1	
Bloom (BbC)	S	Moderate: Slope	Moderate: Slope	Severe: S1	
Glenale (GcC)	B	Moderate: Slope	Moderate: Slope	Severe: S1	
Glenale (GcD)	C	Severe: High Water Table	Moderate: High Water Table	Severe: Hi Water Table	
Manor (McB)	B	Slight	Slight	Moderate: S1	
" (McD, McE)		Severe: Slope	Severe: Slope	Severe: S1	



- General Notes**
1. Watershed 11, Subwatershed 36, Councilmanic District 3, Census Tract #4081
 2. Site Data: Current Zoning and Acreage: Net = 71.01 Acres +/- MC-5 (Includes 11' of ex. Falls Rd R/W). Gross = 18.44 Acres +/- MC-5 = 52.47 Units
 3. All units will be for sale.
 4. Parking: Required = 25 units @ 2 Spaces/Unit = 50 Spaces
 5. Landscape Requirements: Required = 25 units @ 1 tree/unit = 25 trees (25 major deciduous trees)
 6. Existing vegetation consisting of hardwood forest will be removed. The developer will replace existing vegetation with a minimum 7000 sq ft of clearing per lot shall be permitted.
 7. Existing structures and buildings of water are as shown on plan.
 8. There is one existing residence, an existing barn and an existing root cellar which will be retained on the site. The remaining existing structures will be removed. None of the existing structures are on the Baltimore County Landmark List or the National Register.
 9. Open space is not required in this zone.
 10. Stormwater management quantity has been vetted. Management of water quality will be handled on a lot by lot basis. Letter dated 12-4-88.
 11. The limit of the wetlands coincides with the limits of the Belle (BdA) soils as determined from the 1" = 400' soil map. There are no known critical areas, archaeological sites, endangered species habitats, or hazardous materials on the site.
 12. Panhandle drives will have 16 feet wide bituminous paving and will be maintained equally by all parties having rights to their use. Lot 16 will be 12' wide.
 13. No construction or grading will occur within the limits of the vegetated stream buffer, with exception of the well to be drilled on lot 12.
 14. Refuse collection pads will provide 16 sq ft per unit served. Pad will provide an unobstructed ramp facing the cul-de-sac.
 15. The root cellar on lot 22 meets Section 400 (Baltimore County Zoning Regulations).
 16. There will be no access to Falls Rd except from Forwood Ct.
 17. Each lot will be a minimum of one acre.
 18. All buildings will be 75 ft from centerline of street and 50 ft from other tract boundaries and lot lines.
 19. No more than 15% of any lot may be covered by buildings.
 20. Any existing gas tank and pump is not permitted to remain on lot 21. It conflicts with zoning policy No. A-16. If the owner/developer does not agree, a public hearing may be requested for an interpretation/justification for its retention.
 21. Grading for lots to be performed by individual lot owners. For grading of the proposed panhandle, see profiles.
 22. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of plat recording. For panhandle lots, refuse collection, snow removal and road maintenance will be provided to the lot owner by the panhandle and street R/W line only and not by Baltimore County. The proposed panhandle sections shall be 8' to 12' wide with a 3' wide bituminous concrete surface on all panhandle roads. Widths are shown on plan.
 23. All electric systems are a minimum 200 ft from 331 stream.
 24. No further subdivision of the parcel shown hereon will be allowed unless approved by the Baltimore County Planning and Zoning Commission.
 25. Where applicable, facilities shall be installed in accordance with current regulations or as amended by the Baltimore County Planning and Zoning Commission.
 26. If and when water & sewer facilities become available to the subdivision, connection thereto shall be required by the agency having jurisdiction.
 27. No building permit shall be issued for the construction of a dwelling on a lot shown on the final plat until a well approved by applicable State and County agencies having jurisdiction, has been located on the site of the lot.
 28. In accordance with Sec. 22-29 of the Development Regulations, the tentative Resource Action to protect the soils in this development which have moderate to severe limitations is to keep all building envelope on the 25% slope soils and to place a 20 ft building setback off the 25% slopes. In addition, the developer will place all access currently cultivated, in a grass cover.
 29. A letter to the Zoning Commissioner has been written to justify the barn on lot 21 as a farm use. In the event the Commissioner does not agree, a variance for an accessory building, will be filed for.
 30. The location of the cul-de-sac is shown on lot 21/16. The cul-de-sac is shown on lot 21/16. The cul-de-sac is shown on lot 21/16.

LEGEND:

- 1. STREET LIGHT
- 2. TRASH PAD
- 3. 25% GRADE
- 4. GOOD WELL
- 5. FAULT/SLIP/THROW
- 6. CONDUIT/PIPE/TEST
- 7. DRY HOLE
- 8. SOIL LINE
- 9. WELL/DECK

Forwood

8th ELECTION DISTRICT
SCALE 1"=100'
PUBLIC SERVICES CRG # 87/22 (SEE AREA # 222)
RANKING No.

OWNERS:

LOT 21 - LAWRENCE P. FORWOOD
RESIDENTS: MD. 21136
3185/380 246/161 FOR. OR. 04-53004/5302
PART OF LOTS 214 - DENNIS TEDDY ETAL
10649 FALLS ROAD
LUMBERVILLE, MARYLAND 21093
7051/0015 08-16-015103

OWNER/DEVELOPER:

GEO. V. PALMER & CO. INC.
Baltimore, MD 21203 #21-00-000705
#77-4511

BALTIMORE COUNTY MD. COUNTY REVIEW GROUP

This Plan Was Reviewed By The CRG On 12/1/88 With The Following Action Taken

AMENDED PLAN APPROVED 12/1/88

Plan Approved CRG Robert E. Corbally
Plan Approved CRG Gary L. Harris
Approval & Plan Date 12/1/88

REVIS: C.R.G. Plan Approved Continued Map Required Plan Approved

Forwood PROPERTY

8th ELECTION DISTRICT BALTIMORE Co. MD
SCALE 1"=100' DEC. 15, 1987
PUBLIC SERVICES CRG # 87/22 (SEE AREA # 222)
RANKING No.

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 OBLANWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

REVISION	
DATE	REVISION
2-1	PER CRG COMMENTS
2-1	DEPRM COMMENTS
2-1	B.C. F.D. (CONS. PLAN) DATE 3-1

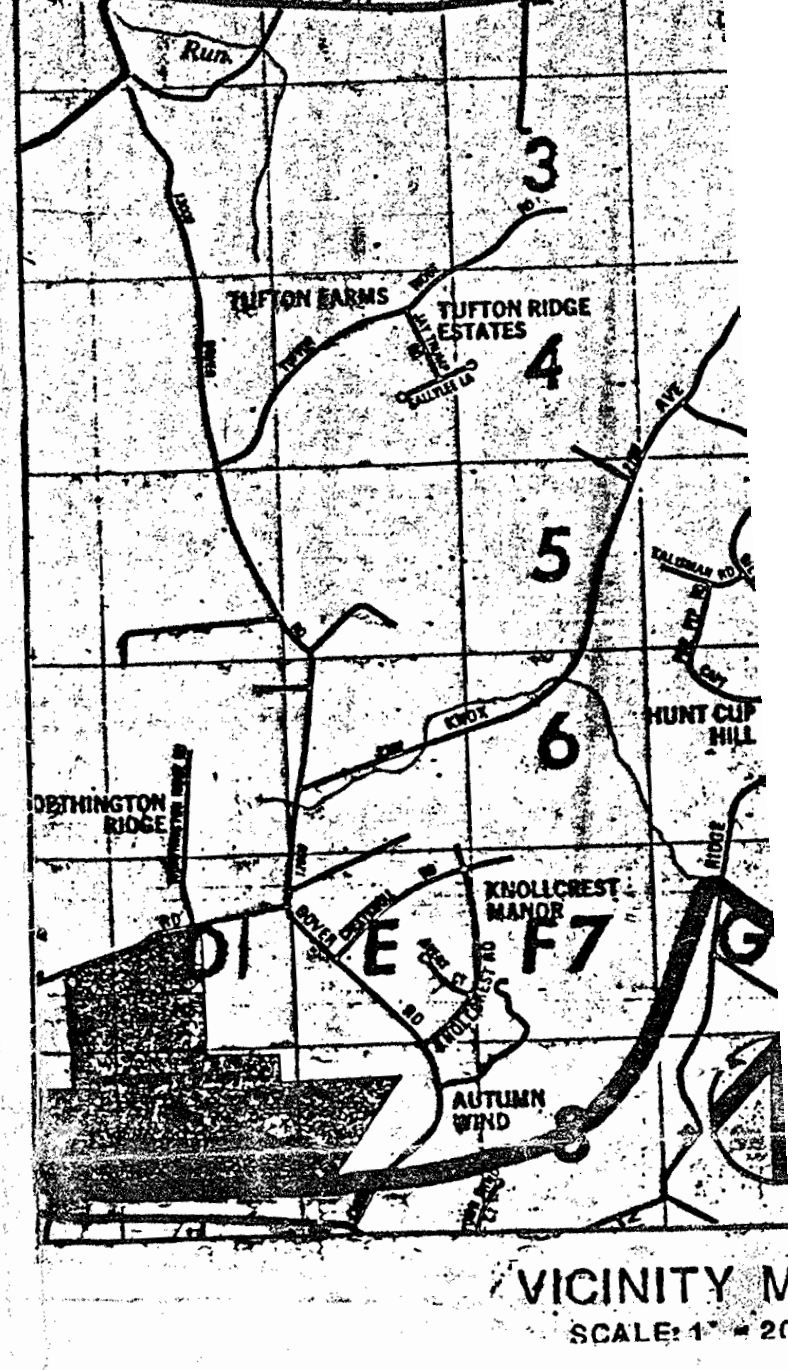
'PROFILE PANHANDLE'
LOTS 19, 20, 21, 22 & 23
SCALE: HORIZ 1"=100'
VERT 1"=10'

'PROFILE PANHANDLE'
LOTS 24 & 25
SCALE: HORIZ 1"=100'
VERT 1"=10'

'PROFILE PANHANDLE'
LOTS 6, 7, 8, 9, 10
SCALE: HORIZ 1"=100'
VERT 1"=10'

'PROFILE PANHANDLE'
LOT 14
SCALE: HORIZ 1"=100'
VERT 1"=10'

Soil Series and Symbol	Hydr. Class	With Drainage	Without Drainage	Street and Parking
Boile (Ba)	D	Severe: High Water Table; Poor Natural Drainage	Severe: High Water Table; Poor Natural Drainage	Severe: Hi Water Table; Poor Natur Drainage
Elloch (Eh2)	B	Slight	Slight	Moderate: S1
Elloch (Eh3)	B	Moderate: Slope	Moderate: Slope	Severe: S1
Glennville (Gh2)	B	Moderate: Slope	Moderate: Slope	Severe: S1
Glennville (Gh3)	C	Severe: High Water Table	Moderate: High Water Table	Severe: Hi Water Table
Manor (Mc2)	B	Slight	Slight	Moderate: S1
Manor (Mc3, Mc4)	B	Severe: Slope	Severe: Slope	Severe: S1



- General Notes
- Watershed 11; Subwatershed 36, Councilmanic District 3, Census Tract #4083
 - Site Data: Current Zoning and Acreage: 24.45 Acres +/- RC-5 (Includes 33% of ex. Falls Rd R/W.) Density: Permitted - 22.47 Units Proposed - 22.47 Units
 - All units will be for sale.
 - Parking: Required - 224 spaces @ 2 Spaces/Dwelling Unit
 - Landscape Requirements: Required - 24 units @ 1 tree/unit = 24 trees (24 major deciduous trees)
 - Existing vegetation consists of hardwood forest and cultivated fields. Only trees for house and pathside construction will be removed. The developer will require by existing stream and bodies of water are shown on plan.
 - There is one existing residence, an existing barn and an existing root cellar which will be retained on the site. The remaining existing structures will be removed. None of the existing structures are on the Baltimore County Landmark List or the National Register.
 - Open space is not required in this zone.
 - Stormwater management quantity has been waived. Management of water quality will be handled on a lot by lot basis. Letter dated 12-4-86.
 - The limit of the wetlands coincides with the limits of the 100' buffer zone.
 - Geological sites, endangered species habitats, or hazardous materials on the site.
 - Handmade drains will have 16 feet wide bituminous paving and will be maintained equally by all parties having rights to their use. Lot 16 will be 15' wide.
 - No construction or grading will occur within the limits of the vegetated stream buffer, with exception of the well to be drilled on Lot 22.
 - Refuse collection pads will provide 16 sq ft per unit served. Pad will provide an unobstructed opening facing the pad-to-pad.
 - The root cellar on Lot 22 meets Section 400 (Baltimore County Zoning Regulations).
 - There will be no access to Falls Rd except from Forward Ct.
 - Each lot will be a minimum of 75 ft and 50 ft from other tract.
 - No more than 15% of any lot.
 - The existing gas tank and gas remain on Lot 21, it conflicts with the proposed public hearing may be required justification for it to remain.
 - Grading for lots to be performed.
 - Handmade lots subject to development to be recorded in Baltimore County at the time of subdivision.
 - All septic systems are a minimum of 100' from the stream.
 - 25.00 further subdivision of the land is not approved by the Baltimore County Planning Department.
 - 26.00 and when water is sever fails the subdivision, connection to the sewer system shall be in place.
 - 27.00 building permit shall be in place.
 - 28.00 building permit shall be in place.
 29. A letter to the Zoning Commission to justify the best use of the land.

LEGEND:

- STREET LIGHT
- TRASH PAD
- 25% GRADE
- GOOD WELL
- FAULT LINE
- GOOD TREE TRUNK
- DRY HOLE
- SOIL LINE
- WELL AREA

BALTIMORE COUNTY MD COUNTY REVIEW GROUP

This Plan Was Reviewed By The CRG On 12-4-86 With The Following Action Taken:

REVISED PLAN APPROVED

AMENDED PLAN

Plan Approved: DPM

Plan Approved: OPZ

Approval Expiration Date: 11-21-91

Plan Disapproved: Continued Review

Plan Referred To: Plan No.

FORWOOD PROPERTY

8th ELECTION DISTRICT BALTIMORE CO. MD
SCALE 1"=100'
PUBLIC SERVICES CRG # 8742 (SEE PLAN # 86222)
PLANNING NO.

OWNERS:

LOT 21-LAWRENCE P. FORWOOD
REITS: BAL MD, 21136
3185/320-246/161 FOS: 04-04-530065502
PART OF LOTS 311-DENNIS PEDDY ETAL
10820 FALLS ROAD
LUTHERVILLE MARYLAND 21033
7051/000-016/015703

OWNER:

GRAY & SONS
BAL MD 21023 #2100-000750
#711-44



"PROFILE PANHANDLE"
LOTS 19, 20, 21, 22, 23
SCALE: HORIZ 1"=100'
VERT 1"=10'

"PROFILE PANHANDLE"
LOTS 9, 10, 11, 12
SCALE: HORIZ 1"=100'
VERT 1"=10'

"PROFILE PANHANDLE"
LOTS 6, 7, 8, 9, 10
SCALE: HORIZ 1"=100'
VERT 1"=10'

"PROFILE PANHANDLE"
LOT 10
SCALE: HORIZ 1"=100'
VERT 1"=10'

GERHOLD, CROS
REGISTERED PROFESSIONAL
412 DELAWARE
TOWSON MARYL

DATE	REV
12-21	REV CRG
2-1	DEPR
2-9	BC, FD
2-29	SHA CO
3-11	REV DEPR
5-5	AMEND LO



**L. H. Rosenberg
& Associates Inc.**

13010 Heil Manor Drive
Reisterstown MD 21136

Pet. Ex. 27

January 18, 1995

Clare Miller
Baltimore Gas & Electric Co.
PO Box 1475
Baltimore MD 21203

FAX DELIVER

Dear Ms Miller:

I am a resident of the Shawan Valley community and reside at 13010 Heil Manor Drive, Reisterstown MD 21136. My house is approximately ¼ mile from your current substation at Ridge Road off of Falls Road.

I have over the past several months been reading the literature provided by both BGE and the group opposed to your proposed substation expansion. I was shocked to learn that the community association that represents my area (Shawan Valley Community Association) has taken a stand opposing the proposed expansion. I am further dismayed that the Association is using "scare" tactics ("Save our children" etc.) to bolster there position. The following facts are important to put the Association's position into perspective.

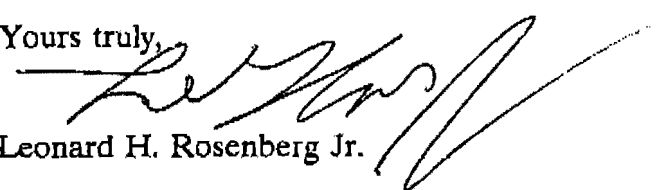
- A. The Association **does not** represent all of the properties in the community and in fact is not a "Property Owners Association" as defined in Maryland Law. It is merely a voluntary organization of property owners in the area that wish to join together for common purposes.
- B. The only function that the Association performs that could be construed as coming close to a POA is that it appoints the "Architecture Review Committee" that reviews and approves building plans as required by the deed covenants.
- C. All the dues paying members of the Association were not present at the meeting that voted on the Association's position opposing the expansion. Also since all the dues paying members do not represent all the property owners in the area the statement that the community is opposed is not exactly accurate.

(410) 252-2439

I as a property owner in the area am not opposed to the BGE's proposed expansion of the substation.

Furthermore as an engineer I have been able to read through the "scare" tactics of the "Save the Ridge" group and make an objective analysis. I am however doubtful that all the residents in the area have that ability and are subject to obvious falsehoods and misstatements of fact.

Yours truly,


Leonard H. Rosenberg Jr.

(410) 252-2439



THE HARVEST GROUP

November 21, 1994

Ms. Clare Miller
Baltimore Gas and Electric Company
P.O. Box 1475
Baltimore, MD 21203-1475

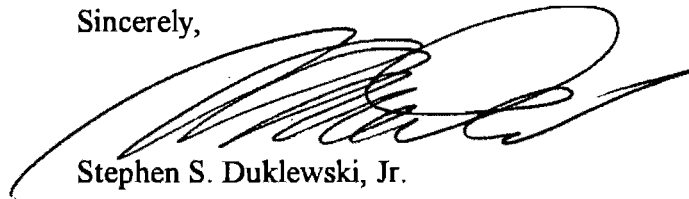
REF: Letter Dated November 10, 1994

Dear Ms. Miller:

I endorse your efforts to expand the Ivy Hill Substation. The project is long overdue. Power failures and surges have increased substantially in the past twelve years.

Unfortunately, friends of the Ridge do not understand that services must respond to growth. Their obstructionist attitude hurts logical citizens of the community.

Sincerely,



Stephen S. Duklewski, Jr.

SSD/tlm

*Harvest Securities
Harvest Insurance
Harvest Financial Services
Harvest Development*

2345 York Road / Harvest Building / Timonium, Maryland 21093 / Telephone (301) 561-9040

BARRY KOH, PH.D.
12110 RIDGE VALLEY DRIVE
OWINGS MILLS, MD 21117
410/252-3180

November 21, 1994

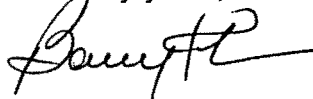
Baltimore County Board of Appeals
Attention: Mr. William Hackett
400 Washington Avenue
Towson, MD 21204

Dear Mr. Hackett:

I am a resident of Chestnut Ridge and recently became aware of BGE's attempt to expand the Ivy Hill Substation. I am also aware that BGE was granted permission to expand the station in June of 1994. However, this permission was appealed by a group of eleven families calling themselves, "Friends of the Ridge."

I would like to make it clear that I, a long-time resident of Chestnut Ridge, am in favor of the substation expansion. I have confidence that BGE has the expertise to recognize that the substation's capacity must be increased. I also feel that the opposition of the Friends of the Ridge is self-serving and not in the best interest of the overall community. I believe these families all purchased their property and built their homes long after the original substation was erected. BGE appears to be going out of their way to accommodate the reasonable concerns of these homeowners in the substation expansion. I object to any further delay in granting approval to BGE.

Sincerely yours,



Barry Koh, Ph.D.

BK/cmw

cc: Clare C. Miller, BGE

W/Chrono/BaltCty-1



December 1, 1994

Dear Neighbor:

Over the past ten months, there have been three outages at our Ivy Hill Substation that are directly related to the age of the equipment. One outage was on the coldest day of 1994. However, the other two, on September 18 and November 4, occurred in mild weather.

Not only is the equipment old, but the replacement parts are obsolete. We cannot buy new parts to fix or replace the ones we have.

In order to assure that there are minimal outages due to the age of the equipment, we may have to roll in a mobile substation (temporary equipment on a trailer) as an emergency measure when the weather turns cold.

We regret any inconvenience this action may cause. As you know we are trying to expand this station with new equipment. Your support of our proposed substation upgrade is appreciated.

If you should have any questions or would like us to meet with your community, please contact me at 234/6543.

Sincerely,

Clare C. Miller

*We do support your
proposed substation upgrade. Thanks -
Please keep pushing ahead.
Peter and Mary Torrieri
13000 Gent Rd.*

*FILE. WE
SUPPORT THIS
EXPANSION.*

Sam Kaler

November 10, 1994

*FELLOWSHIP CT.
12502 REISTERSTOWN MD 21136*



Dear Neighbor:

This letter is intended as an update on BGE's efforts to expand the Ivy Hill Substation and to provide the Falls Road corridor with reliable service.

BGE was granted zoning to expand the station in June of 1994. This was appealed in July by a group of 11 families calling themselves Friends of the Ridge. Hearings began on October 4 and 6. They will resume in January 1995 - (This is the first available block of time that the Appeals Board had on their calendar).

Since we last corresponded with you, we have attempted to meet with this new organization to begin a dialogue to perhaps reach some sort of compromise. We have been unsuccessful in these attempts.

We have met with the Falls Road Community Association, the Chestnut Ridge Community Association, Congresswoman Helen Bentley's staff and Councilman C.A. "Dutch" Ruppertsberger.

Listed below are the results of those meetings:

1. The Falls Road Community Association's Board voted "to recommend to the Board of Appeals that they support BGE's need to build Phase I of this project, but recommend eliminating Phase II.
2. The Chestnut Ridge Community Association's Board voted that there "was not sufficient evidence to oppose expansion of this substation". They support the need for reliable service.
3. Congresswoman Bentley's staff offered to help mediate this issue. BGE accepted this offer. Friends of the Ridge rejected it.
4. Councilman C.A. "Dutch" Ruppertsberger offered to meet with Friends of the Ridge. They cancelled the meeting.
5. As late as October 13, the Falls Road Community Association offered to mediate. BGE accepted - Friends of the Ridge rejected it.

To help set the record straight on misinformation that has been distributed by the Friends of the Ridge, we have provided this letter and a fact sheet on the station. If you would like more information or a presentation to your community organization, or group of neighbors, please contact me at 234-6543.

Sincerely,

Clare C. Miller

Clare C. Miller

FACT SHEET IVY HILL EXPANSION

- . There is a substation there! It has been there since 1956. It is old. We need to replace it.**
- . Growth in the area is the reason for expansion. There are nearly twice as many homes as there were in 1985. This is compounded by the size of the homes - they use much more electricity than an average home.**
- . We have 2.9 acres at Ridge Road and Joel Court. We will use 0.45 acres for the project. We typically buy only the land necessary. We have bought extra land to use as a buffer in consideration of our neighbors.**
- . We will plant over 150 more trees. Our site is currently heavily wooded with trees as tall as 50 to 80 feet. We will retain as many as possible. In addition we will plant over 150 more.**
- . Electromagnetic fields (EMF) will remain the same and may even be lower at the property line - because we have bought extra property; because the equipment going in has the advantage of over 40 years of technological advances.**

- . **We already modified the original plan after the community meeting in April because of a neighbor's request. We would like to continue to work with the community in just that fashion.**
- . **We have committed and continue to commit that we will bury all lines and take down 5 poles between Falls Road along Ridge Road to the station as part of this project.**
- . **Substations must be near the customers they serve. There are close to 60 substations in Baltimore County. Nearly one half of them are located in residential areas serving residential customers.**

PROTESTANT'S
EXHIBITS

Press Release

May 3, 1994

For more information, contact:

The National EMR Alliance

410 West 53rd Street, Suite 402

New York, NY 10019

(212) 554-4073



President Clinton Asks EPA To Address EMF Issue

"... Sweden has concluded that EMFs do lead to higher rates of cancer...I, frankly was somewhat impressed by the arguments made by the Swedes."

President Bill Clinton

An ABC Special hosted by Peter Jennings, "Answering Childrens Questions" has brought the issue of electromagnetic field (EMF) radiation to President Clinton's attention.

President Clinton met with a number of children at the White House on March 19th and responded to questions about issues that concern them. Kevin Larm, a twelve year old boy from Omaha, Nebraska was invited to participate in this televised event but was hospitalized in Washington, D.C. the evening before the broadcast.

Kevin Larm is suffering from leukemia. Kevin's home has a pad mounted electrical transformer in his backyard. There is an electrical substation near his school. Kevin and his family believe that exposure to electromagnetic (EMF) radiation is the cause of his leukemia.

Kevin's brother Patrick, attended the ceremony at The White House on March 19th in Kevin's place and presented President Clinton with a package the Larm family had put together that included letters from neighbors and other children in the neighborhood who have contracted brain tumors and other various forms of cancer. Although Kevin was unable to attend the ceremony, a videotape was shown that Kevin made to show the President the enormity of the EMF problem in their town in Omaha, Nebraska. In the video, Kevin spoke of his friend Joshua whom recently died of a brain tumor. Kevin said "the power company says there's nothing to electromagnetic fields, EMFs. I just think it's a big cover up."

Julie Larm, Kevin's mother, told the National EMR Alliance that she believes that "EMF is the great American holocaust." She said, "My son survived the chemo death camp. We are doing what we can so that other children will not have to suffer like Kevin has."

Peter Jennings introduced Patrick to President Clinton. Patrick asked the President, "I have heard that recent studies have linked EMFs to

"Never doubt that a small group of thoughtful,
committed citizens can change the world: indeed,
it's the only thing that ever has."

- Margaret Mead

TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

I am unable to attend the appeal hearing on the above captioned case, but I wish to formally register my opposition to the proposed expansion of the Baltimore Gas & Electric Ivy Hill substation for the following reasons:

1. Industrial substations do not belong in any residential neighborhood.
2. The unknown effects of electro magnetic fields to the public.
3. The electrical expansion will create the infrastructure for future industrial and commercial development in the entire area.

Sincerely,



NAME

1907 BILLY BAXTON CIRCLE

ADDRESS

Reisterstown Md 21136

Prot. Exh 2 Ident

P. 228 : LOT A2
RAYMOND JAY FISHER
RAYMOND H. FISHER, ET. AL
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT : 08-0819035868
LIBER / FOLIO : 5426 / 87
ZONED R.C.5

RC
RO
182
REISTERSTO
TAX ACCOU
LIBER / F
ZO

EX.
PAVING

EX. DRIVEWAY

660

12 WHITE PINE
AT 15' O.C.

P. 386
DOROTHY L. MARSDEN
1823 RIDGE ROAD
REISTERSTOWN, MD. 21136-5617
TAX ACCOUNT : 08-1900006034
2.759 ACRES
ZONED R.C.5

EX. HOUSE
& CONC. WALK
(TO BE REMOVED)

EX. WOODS

EX. SEPTIC
CLEAN OUT

EX. SHEDS
(TO BE REMOVED)

655

P. 338
FREDRICK R. VINUP
ANN L. VINUP
1821 RIDGE ROAD
REISTERSTOWN, MD. 21136-5617
TAX ACCOUNT : 08-0822035540
LIBER / FOLIO : 4941 / 720
ZONED : R.C.5

51.61'

N 21° 23' 37" E

N 73° 49' 47" W

P. 79 : LOT 24
JAMES J. KIRCHNER, JR.
TINA M. KIRCHNER
4 JOEL COURT
REISTERSTOWN, MD. 21136
TAX ACCOUNT : 08-2100009002
3.662 ACRES
LIBER / FOLIO : 9657 / 396
ZONED : R.C.5

208.95'

650

Part Exh 4

This map illustrates the geographical context of Tuftonville, TN. Key features include:

- Major Roads:**
 - Route 128:** A prominent yellow-highlighted road running diagonally across the upper portion of the map.
 - Route 25:** Another yellow-highlighted road running vertically along the right side of the map.
 - Tufton Av:** A central horizontal road labeled in large black letters.
 - Shawan Rd:** Located to the east of Tufton Av, running diagonally.
 - Jerome Rd:** Further east, running horizontally.
- Local Streets:** Numerous other roads are shown, including Mantua Mill Rd, Piney Grove Rd, Belmont Rd, Worthington Av, Bonita Av, Garrison Forest Rd, Huntmaster Wy, Greenspring Av, Kelley Av, Broadway Rd, Wapondown Rd, and Meghorn Rd.
- Zip Codes:** The map is populated with various zip code numbers, indicating different postal areas. These range from 304 in the northwest to 375 in the southeast, with intermediate codes like 306, 312, 314, 330, 332, 333, 334, and 335.
- Geographical Features:** Dashed lines likely represent railroad tracks or water bodies. The map shows a network of smaller residential or commercial streets branching off the main routes.

SUBDIVISION REPORT

PROJECTS WITH PLAN APPROVAL FOR THE PERIOD 10/1/89
THROUGH 10/1/94 FOR TRANSPORTATION ZONES 307, 313, 332,
333, 334, 330



FILE # 40160002

PROJECT VELVET HILLS ADDITION NORTH (RESUB OF LOTS 88-92)

LOCATION 5 SCOTT NORMAN COURT, NW CORNER OF TABOR LANE AND BONITA AVENUE

STATUS	PLAT RECORDED	# PROPOSED UNITS/LOTS	12	TAX MAP #	49
DEVELOPMENT TYPE	SFD	# DEVELOPED UNITS/LOTS	10	GRID	15
ACREAGE	7.3	SQ. FEET OF BLDG:	0	PARCEL	381
PLAN APPROVAL	7/11/91	ZONING1:	DR 2	SEWERSHED	67
PLAT APPROVAL	1/7/92	ZONING2:		WATERSHED	
DATE RECORDED	2/5/92	ZONING3:		GROWTH MONITORING AREA	CCA
LIBER/FOLIO	00064/00018			COUNCIL DISTRICT	3
COMMENT	RESUB OF LOTS 88-92 TO CREATE 14 LOTS. OVERALL TRACT DR 2=44.5190 ACRES, RC 5=5.4958 ACRES, ALLOWED 100 LOTS, RESUB OF 6 LOTS=86 LOTS AND 14 NEW LOTS =100.			CENSUS TRACT	4044.02

FILE # 40333002

PROJECT WORTHINGTON GREENS (SECTION 2)

LOCATION 12509 VALLEY PINES DRIVE, S/S OF BAUBLITZ ROAD

STATUS	PLAT RECORDED	# PROPOSED UNITS/LOTS	12	TAX MAP #	50
DEVELOPMENT TYPE	SFD	# DEVELOPED UNITS/LOTS	2	GRID	7
ACREAGE	28.6	SQ. FEET OF BLDG:	0	PARCEL	281, 460
PLAN APPROVAL	1/17/91	ZONING1:	RC 5	SEWERSHED	36
PLAT APPROVAL	9/24/91	ZONING2:		WATERSHED	
DATE RECORDED	11/8/91	ZONING3:		GROWTH MONITORING AREA	RPA
LIBER/FOLIO	00063/00134			COUNCIL DISTRICT	3
COMMENT	ALSO MAP 49, BLK 12, PARCEL 288. PLAT 2 OF SECTION RECORDED 2/18/94 (66/ 72)			CENSUS TRACT	4049

FILE # 40378001

PROJECT VALLEYS CREST FARM (AMENDED)

LOCATION 3 FOREST BLUFF COURT, HUNTING TWEED ROAD AND PARK HEIGHTS AVENUE

STATUS	PLAT RECORDED	# PROPOSED UNITS/LOTS	24	TAX MAP #	49
DEVELOPMENT TYPE	SFD	# DEVELOPED UNITS/LOTS	8	GRID	24
ACREAGE	49.4	SQ. FEET OF BLDG:	0	PARCEL	46
PLAN APPROVAL	7/24/90	ZONING1:	RC 5	SEWERSHED	61
PLAT APPROVAL	10/4/90	ZONING2:		WATERSHED	
DATE RECORDED	10/12/90	ZONING3:		GROWTH MONITORING AREA	RPA
LIBER/FOLIO	00062/00127			COUNCIL DISTRICT	3
COMMENT	ORIGINAL CRG APPROVED 02/08/90.			CENSUS TRACT	4049

TZ	1990	1990	DRAFT		FINAL	DRAFT		FINAL	DRAFT		FINAL
	UNITS	POP	UNITS	POP	POP	UNITS	POP	POP	UNITS	POP	POP
307	100	209	100	202	215	100	190	207	100	187	205
313	90	231	94	234	235	119	279	280	119	274	275
330	1720	5449	2035	6244	6247	2239	6448	6449	2258	6394	6396
332	840	2740	883	2789	2791	957	2839	2841	967	2820	2820
333	700	2293	736	2334	2336	788	2347	2347	817	2393	2393
334	530	1644	624	1874	1875	2605	7346	7348	2634	7302	7303
	3980	12566	4472	13677	13699	6808	19448	19472	6897	19369	19392

SOURCE: ROUND 5 COOPERATIVE FORECAST-FINAL AS ADJUSTED BY BMC

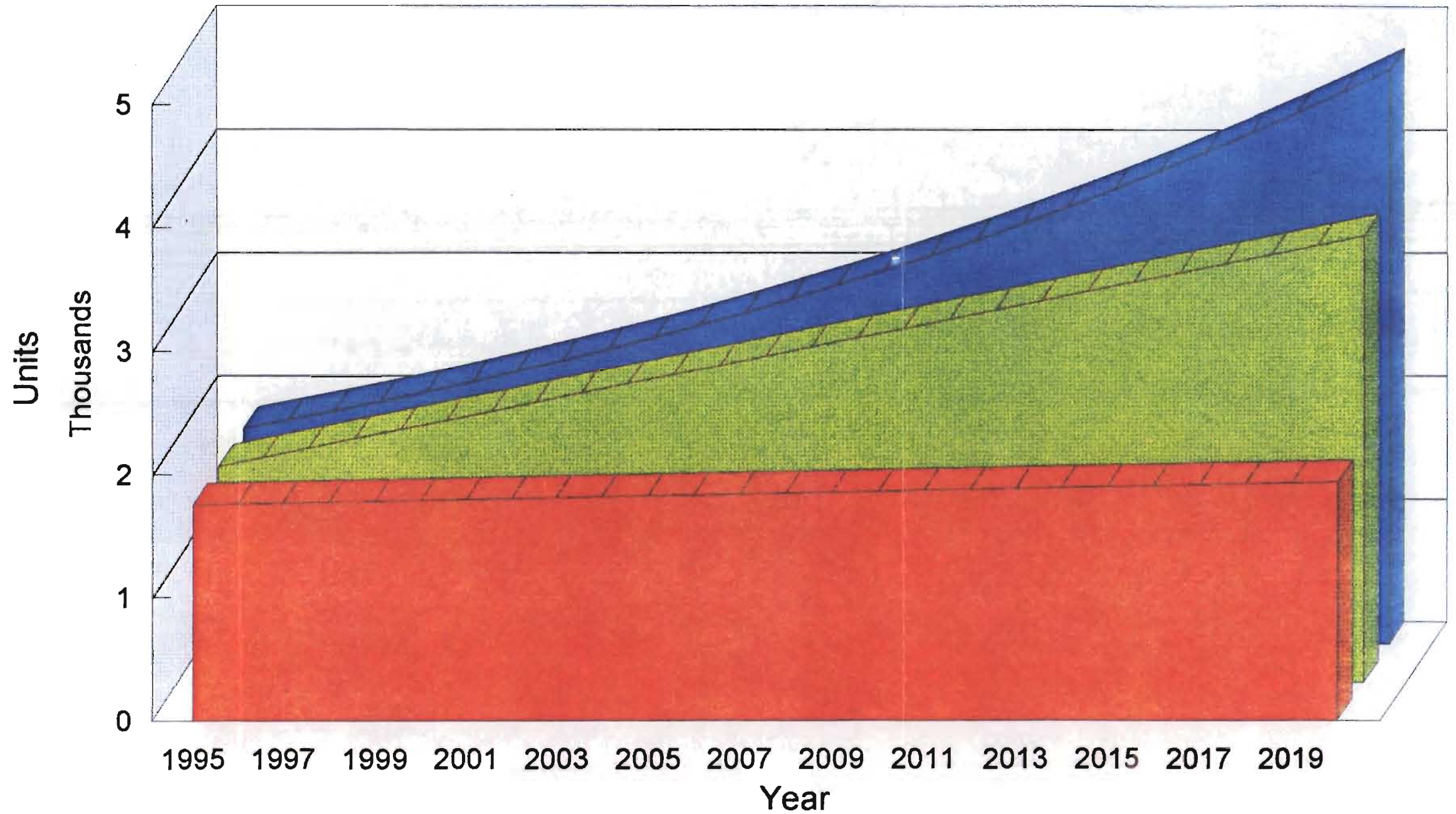
	Traffic Zones				
	1990	1995	2010	2020	
307	100	100	100	100	
313	90	94	119	119	
330	1,720	2,035	2,239	2,258	
332	840	883	957	967	
333	700	736	788	817	
	3,450	3,848	4,203	4,261	<u>10.7% Since 1995</u>

	BGE Data				
	1994	1995	2010	2020	
Assumes 75 units/year	1,750	1,825	2,950	3,700	<u>111.4% Since 1995</u> <i>4</i>
Assumes 4% inc./year	1,750	1,820	3,278	4,852	<u>177.3% Since 1995</u> <i>4</i>

Prof Exh 7

Unit Growth Comparison

(1995 - 2020)



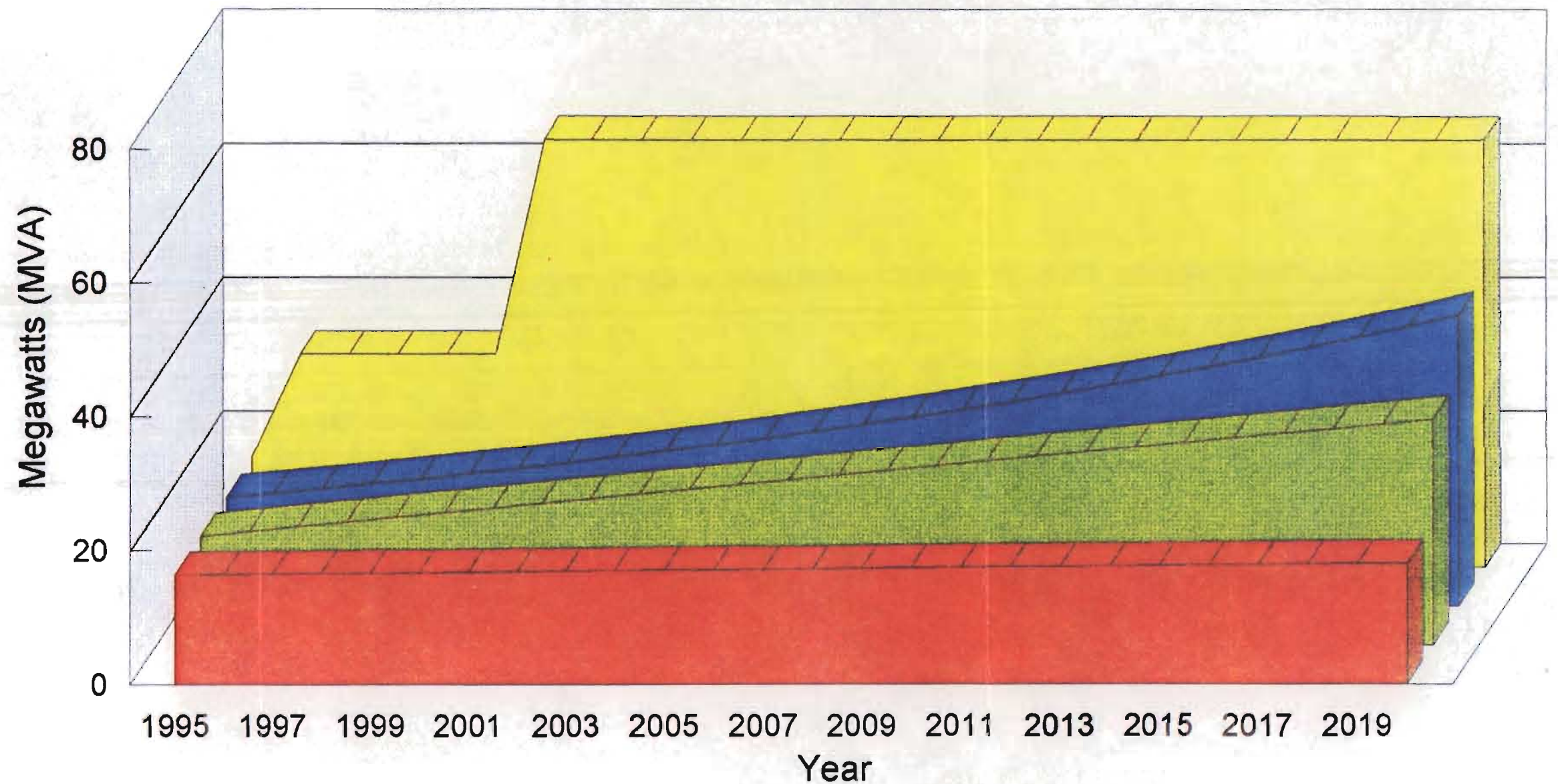
■ Baltimore County Projection

■ BGE (75 units/year)

■ BGE (4% increase/year)

Prot. En. 8/8

Need Comparisons vs Capacity



Baltimore County

BGE (4% increase/year)

BGE (75 units/year)

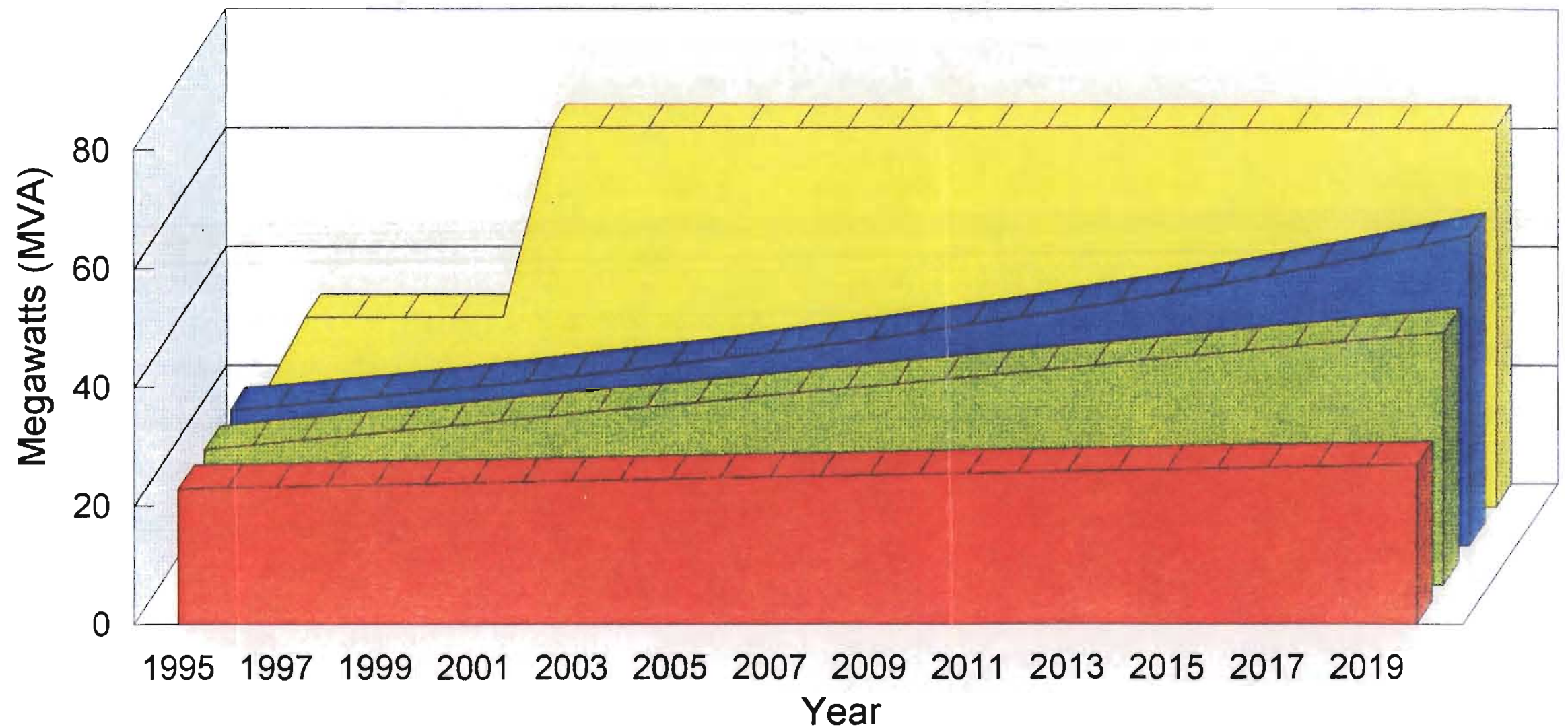
Proposed substation capacity

assumes 75 units = .7 megawatt

Prot Exh 9

Need Comparison vs Capacity

(All Projections include Hickory Meadow)



■ Baltimore County Proj. + Hickory Meadow

■ BGE (75 units/yr) + Hickory Meadow

■ BGE (4% inc./yr) + Hickory Meadow

■ Propsed substation capacity

assume 75 units = .7 megawatt

Prot Exh 10 P. 10

COMMISSIONERS

FRANK O. HEINTZ
CHAIRMAN

CLAUDE M. LIGON
E. MASON HENDRICKSON
SUSANNE BROGAN
GERALD L. THORPE

STATE OF MARYLAND

PUBLIC SERVICE COMMISSION
ENGINEERING DIVISION

6 ST. PAUL CENTRE
BALTIMORE, MARYLAND 21202-6806
(410) 767-8056
FAX (410) 333-6086

JOSEPH H. WALTER
CHIEF ENGINEER

CARL S. WEINBERGER, P.E.
ASSISTANT CHIEF ENGINEER

Prot. Ex. 11

December 8, 1994

Martha Delea, Esq.
Baltimore Gas & Electric Company
P.O. Box 1475
17th Floor
Baltimore, Md 21203-1475

Dear Ms. Delea:

Pam Follo has sent me a letter requesting some information regarding PSC regulations and details of BGE's operating system. I would appreciate it if you would have someone provide me with the following information or materials.

1. A current copy of the BGE system operating diagrams (one line diagrams).
2. A set of plans for the proposed expansion of the Ivy Hill substation.
3. A system map showing the configuration of the distribution circuits currently fed from Ivy Hill and the substations immediately surrounding it.
4. A system map showing the configuration of the distribution circuits to be fed from Ivy Hill and the substations immediately surrounding it, once the expansion has been completed.
5. The substation load information for the Ivy Hill substation for the last three years.

Prot Ex 11

ERNEST J. KERN, MAI, SRA

Education

B.S. Commerce, University of Virginia - 1953
Sales Management, Youngstown, Ohio, University of Youngstown
Millwork Course, Michigan State University

Real Estate and Appraisal Courses Successfully Completed

Commercial Real Estate, Johns Hopkins University
Industrial Real Estate, Johns Hopkins University
Residential and Commercial Appraisal, Johns Hopkins University
Society of Real Estate Appraisers, Course 1, University of KY
Certified Property Management, Course 1, Atlanta, GA - 1967
Certified Property Management, Course 2, Washington, DC - 1967
Certified Property Management, Course 3, Miami, FL - 1968

Case Studies in Real Estate Valuation, Course 2-1, American Institute of Real Estate Appraisers,
1982, University of Houston

Valuation Analysis and Report Writing, Course 2-2, American Institute of Real Estate Appraisers,
1983, University of Georgia

Standards of Professional Practice, Course 2-3, American Institute of Real Estate Appraisers,
1982, Richmond Metropolitan Chapter

Introduction to Real Estate Investment Analysis, Course 006, American Institute of Real Estate
Appraisers, 1983, Eckerd College

Instructor's Course, Society of Real Estate Appraisers Course 101, Indiana University, 1976
Instructor's Course, Society of Real Estate Appraisers Course 102, Purdue University, 1982
Society of Real Estate Appraisers Course 201, Loyola College, Baltimore, MD - 1973

Real Estate and Appraisal Courses Attended

Society of Real Estate Appraisers Course 301

Capitalization Theory & Techniques Part A, Course 1BA, American Institute of Real Estate
Appraisers, 1985, University of North Carolina

Capitalization Theory & Techniques Part B, Course 1BB, American Institute of Real Estate
Appraisers, 1985, University of North Carolina

Case Studies in Real Estate Valuation, Course 2-1, American Institute of Real Estate Appraisers,
1986, University of Central Florida

General State Appraiser's Exam, Review Course - January 1991
SREA Appraiser's Symposium, San Antonio, TX - September 1990, 4 days
SREA Appraiser's Symposium, Minneapolis, MN - September 1989

Prof. Ex. 13

Consultation Report for
FRIENDS OF THE RIDGE
1 JOEL COURT
REISTERSTOWN, MARYLAND 21136

Proposed BGE Ivy Hill Substation

September 30, 1994

Prepared by

Kern Realty & Appraising, Inc.
606 Baltimore Avenue, Suite 103
Baltimore, MD 21204



LONG & FOSTER
REALTORS®

Executive Offices
11351 Random Hills Road • Fairfax, Virginia 22030
(703) 359-1500
MD/DC/PA/DE Division
9094 Baltimore Boulevard • College Park, Maryland 20740
(301) 441-8101

Listing Office: _____
Phone: _____
Selling Office: Pikassville
Phone: 410-653-1700

CONTRACT OF SALE

(Baltimore, Carroll, Harford and Howard Counties)

Libert 8627 **Folio** 825 **Date of Deed** 90/10

LISTING BROKER O'Connor, Piper & Flynn **BROKER NO.** 6907

LISTING AGENT Roni Schultz **TELEPHONE(S)** 821-1700

SELLING BROKER Long & Foster **BROKER NO.** 6315

SELLING AGENT Norma Moritz **TELEPHONE(S)** 653-1700

This CONTRACT OF SALE made this 12 day of DEC. November 19 94 by and between EEG

SELLER NAME Michael and Mary Glynn

ADDRESS 11 Forwood Ct COCKEYSVILLE, MD 21030 **ZIP** _____

SOCIAL SECURITY NUMBER _____ **AND** _____

BUYER NAME Robert N. Gensler & Elizabeth E. Gensler

ADDRESS 8637 Tower Bridge **ZIP** 21093

SOCIAL SECURITY NUMBER 219-70-5650 - 526-43-4945

1. **PROPERTY DESCRIPTION:** Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property")

known as 11 Forwood Ct.

located in Balto., County City/County, Maryland Zip 21030

together with the improvements thereon, and all rights and appurtenances thereto belonging.

2. **ESTATE:** The Property is being conveyed: X in fee simple or subject to an annual ground rent, now existing / to be created of _____ Dollars (\$ n/a payable semi-annually, as now or to be recorded

among the Land Records of n/a City/County, Maryland.

If the Property is subject to a ground rent and the ground rent is not timely paid, the owner of the reversionary interest may bring an action of ejectment against the leasehold owner pursuant to Section 8-402.2 of the Real Property Article, Annotated Code of Maryland (as amended). As a result of this action, the owner of the reversionary interest may be discharged from the lease and obtain title to the Property in fee.

3. **PURCHASE PRICE:** The purchase price is ONE HUNDRED AND THIRTY THOUSAND - FIVE Dollars (\$ 130,000.00)

4. **PAYMENT TERMS:** The payment of the purchase price shall be made by Buyer as follows:

(a) An initial deposit by way of check in the amount of Five thousand Dollars (\$ 5,000.00) at the time of execution of this Contract.

(b) An additional deposit, by way of _____ Dollars (\$ n/a) to be paid within _____

(c) The purchase price, less any and all deposits shall be paid in full by Buyer in cash, wired funds, bank check or by certified check at settlement.

5. **SETTLEMENT:** Settlement shall be on 60 days from above 19 _____ or sooner by mutual agreement between the parties.

6. **HOME AND/OR ENVIRONMENTAL INSPECTION:** If Buyer desires the right to condition Buyer's obligations under this Contract upon the results of a home inspection and/or environmental inspection, the right to do this must be included in an Addendum to this Contract at the time it is signed. Buyer acknowledges that neither the Brokers nor their agents are responsible for defect. Addendum Attached EEG Inspection(s) Declined _____ Buyer's Initials _____

7. **FINANCING:** This Contract is contingent upon Buyer obtaining a written commitment for a mortgage loan secured by the Property as follows:

(CHECK ONE) ☒ **No Financing Contingency** ☐ **Conventional Loan as follows:**

☐ See FHA Financing Addendum **Loan Amount \$** _____

☐ See attached VA Financing Addendum **Term of Note** _____ years

☐ See attached Assumption Addendum **Amortization** _____ years

☐ See attached Owner Financing Addendum **Interest Rate** _____ %

Type n/a

8. **LENDER FEES/CHARGES:** Buyer agrees to pay to the Lender loan origination/loan discount fees of n/a % of the Loan Amount and Seller agrees to pay loan origination/loan discount fees of n/a % of the Loan Amount. Any reduction in the loan origination/loan discount fees shall be shared by the Seller and Buyer on a basis equal to their respective proportionate obligation for the original total of said fees. All mortgage insurance premiums as required by Lender shall be paid by Buyer. If the existing loan is to be transferred to/assumed by Buyer, Buyer agrees to pay all fees and charges required by Lender.

9. **MORTGAGE APPLICATION AND COMMITMENT:** Buyer expressly agrees to make written application for the mortgage as herein described within n/a (_____) calendar days from the date of execution of this Contract by all parties. If such written mortgage commitment is not obtained by Buyer, or by Seller, at Seller's option, for Buyer, within _____ calendar days from the date of this Contract, this Contract of Sale shall be null and void and of no further legal effect, and all deposits hereunder shall be disbursed in accordance with the terms of the "Deposit" Paragraph. If Buyer has complied with all of Buyer's obligations under this Contract, including those with respect to applying for financing and seeking to obtain financing, then the release of deposit agreement shall provide that all monies on deposit shall be returned to Buyer.

10. **DEPOSIT:** Buyer hereby authorizes and directs the Listing Broker to hold the initial deposit without negotiation or deposit until the parties have executed and accepted this Contract. Upon acceptance by Seller, the Listing Broker shall expeditiously cause the initial deposit to be placed in escrow as specified below. If Seller does not execute and deliver this Contract, the initial deposit shall be immediately returned to the Buyer. All deposit money paid under this Contract shall be held in escrow by the Listing Broker. If the Seller and the Buyer do not instruct the Listing Broker otherwise, deposits of \$5,000 or more shall be placed, at the sole discretion of the Listing Broker, in a non-interest bearing account or an interest bearing account that pays all interest to the Maryland Housing Resource Corporation. If the Seller and the Buyer do not instruct otherwise, deposit money of less than \$5,000 shall be placed in an interest bearing account that pays all interest to the Maryland Housing Resource Corporation. Listing broker may charge a fee for establishing an interest bearing account.

The Seller and the Buyer instruct the Listing Broker to place all deposit monies in:

☐ An interest bearing account, with interest payable to the Maryland Housing Resource Corporation; interest may be taxable to the Buyer.

☐ A non-interest bearing account.

☐ An interest bearing account, the interest on which, in the absence of default by the Buyer, shall accrue to the benefit of the Buyer.

The deposit shall be disbursed by the Listing Broker at settlement. Otherwise the deposit shall be disbursed in accordance with a properly executed release of deposit agreement by Buyer and Seller. If a dispute arises between the parties to the transaction as to the disposition of the deposit, refer to the "Broker Liability" Paragraph.

This is a legally binding contract. If not understood, seek competent advice.

THE PARTIES' INITIALS ARE FOR IDENTIFYING PAGES 1 AND 2 (ON REVERSE) OF THIS CONTRACT OF SALE:

EEG EEG Emg EEG

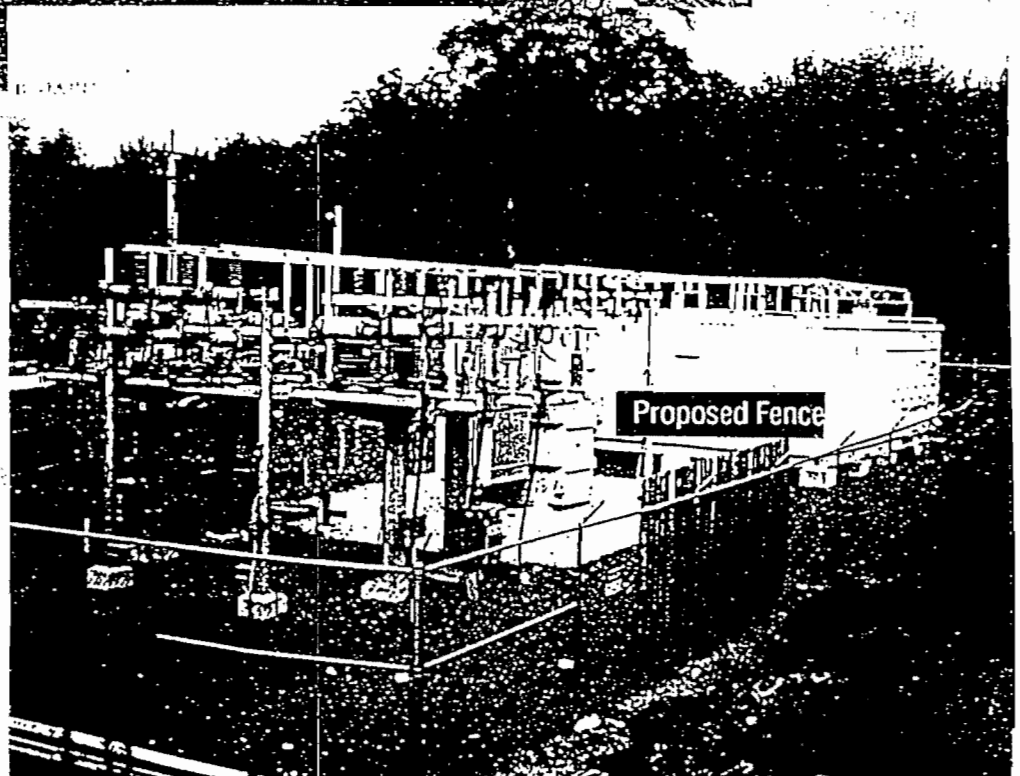
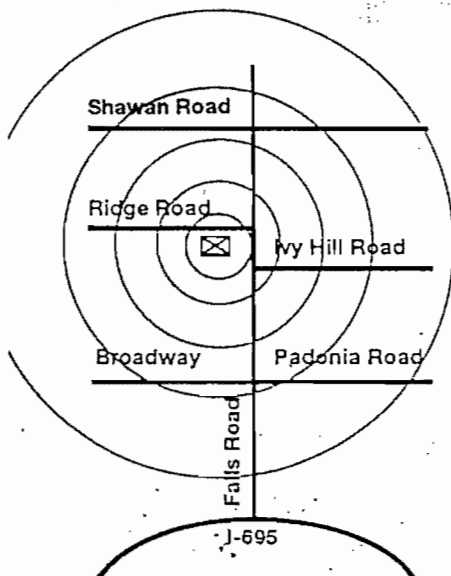
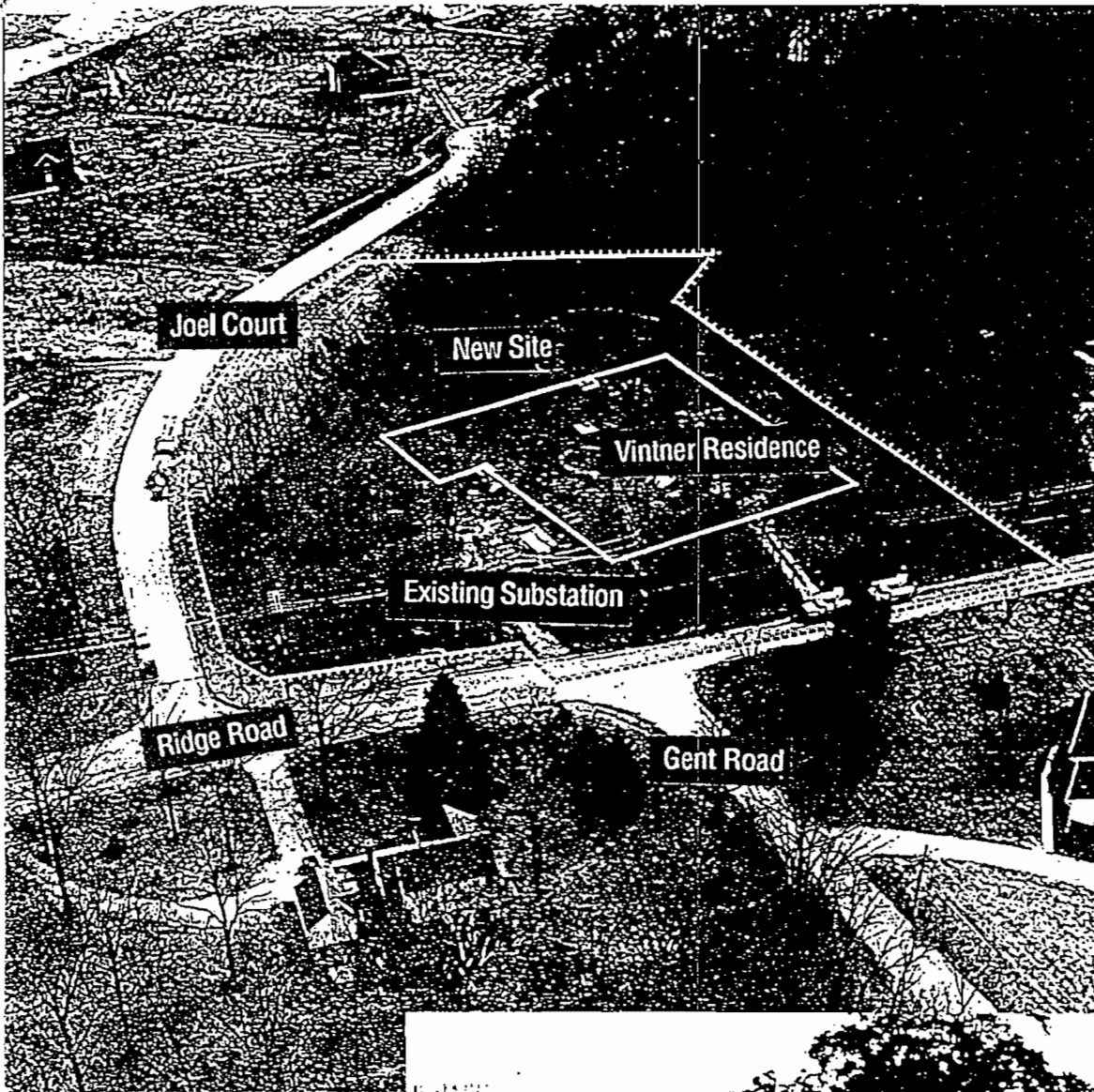
Buyer Buyer Seller Seller

1103 REVISED 8-91

PAGE 1 OF 4

LF106 (Part 1)

Prot. Exh 14



Similar Project Provided by BGE

PHOTO ALBUM

Regal Class

Prot Ex #20

Prot Ex #19

PHOTO ALBUM

Prot. Ex. 22

Updated 12/92

GLASER, Zory (Zorach) Raphael, Ph.D., M.P.H.
CAPTAIN, U.S. Public Health Service (PHS #44964)

October 1990

VITA

BORN October 12, 1940, in Philadelphia, PA

53
Age 49

EDUCATION (and early Military Training)

Philadelphia College of Textiles and Science (1958-'62), B.S. in Chemistry,
Awarded with highest honors, 1962.

Military Service-Connected (As an enlisted Naval Reservist, and with periods of
Active Duty), Highest grade attained: Aviation Electronics Technician
First Class (Aircrew), E-6 (AT1(AC)), (1958-'69).

(Commissioned Service in USN and USPHS listed under Professional Experience)
Navy Electronics Schools: Navigation, Radar, and Communications Equipment
Operation and Maintenance, and Flightcrew Communications Operation.
Correspondence courses in a variety of subjects, and from many different
schools, were also completed during this period. Subjects included:
Mathematics and Electronic Engineering courses, and Instrumentation.

Polytechnic Institute of Brooklyn*, N.Y. (1963-'68), Ph.D. in Polymer and
Physical Chemistry (Minor-Biophysics); Awarded with honors, 1969.
(* Presently known as Polytechnic University of New York)

Additional Graduate Training (1969-'85) in Physiology, Physiologic Psychology,
Pharmacology, Toxicology, Immunochemistry, Microbiology, Biophysics,
Biochemistry, Endocrinology, Biomedical Instrumentation, Health Physics,
Radiation Physics, Occupational Medicine, Computer Programming, Cancer
Chemotherapy, Oceanography, Industrial Hygiene Techniques, and 21 credits
in the fields of Management and Public/ R&D Administration (Univ. VA).

Johns Hopkins University, School of Hygiene and Public Health, Baltimore MD
(1987-'90*), M.P.H., Masters Degree in Public Health, Areas of emphasis:
Toxicology, Risk Assessment, Environmental Health Engineering, Industrial
Hygiene, Radiation Health, and Occupational Medicine. (* Degree earned
while attending classes on a part-time basis)

PROFESSIONAL OCCUPATIONAL EXPERIENCE

1960 (Summer)	U.S. Army Chemical Center, Edgewood Arsenal, MD (Chemistry Technician & Statistical Analysis of Toxicology data)
1961 & '62 (Summers)	National Starch & Chemical Corp., Research Lab., Plainfield, N.J. (Chemist, Polymer synthesis and characterization)
1963-'64	Teaching Fellow, Chemistry Dept., Polytechnic Institute of Brooklyn
1964-'66	Research Fellow, Chemistry Dept., Polytechnic Institute of Brooklyn

SPECIAL KITCHEN FEATURES

- ☐ KitchenAide Appliance Package—(Individual House Package May Differ)
- ☐ Instant Hot
- ☐ Double Bowl Stainless Steel Gourmet Sink with Single Lever Faucet
- ☐ Choice of Designer Oak Cabinetry
- ☐ Choice of Complimenting Countertop Color
- ☐ 8x8 Ceramic Tile Flooring—Kitchen and Morning Room
- ☐ Cold Water Line For Automatic Ice Maker

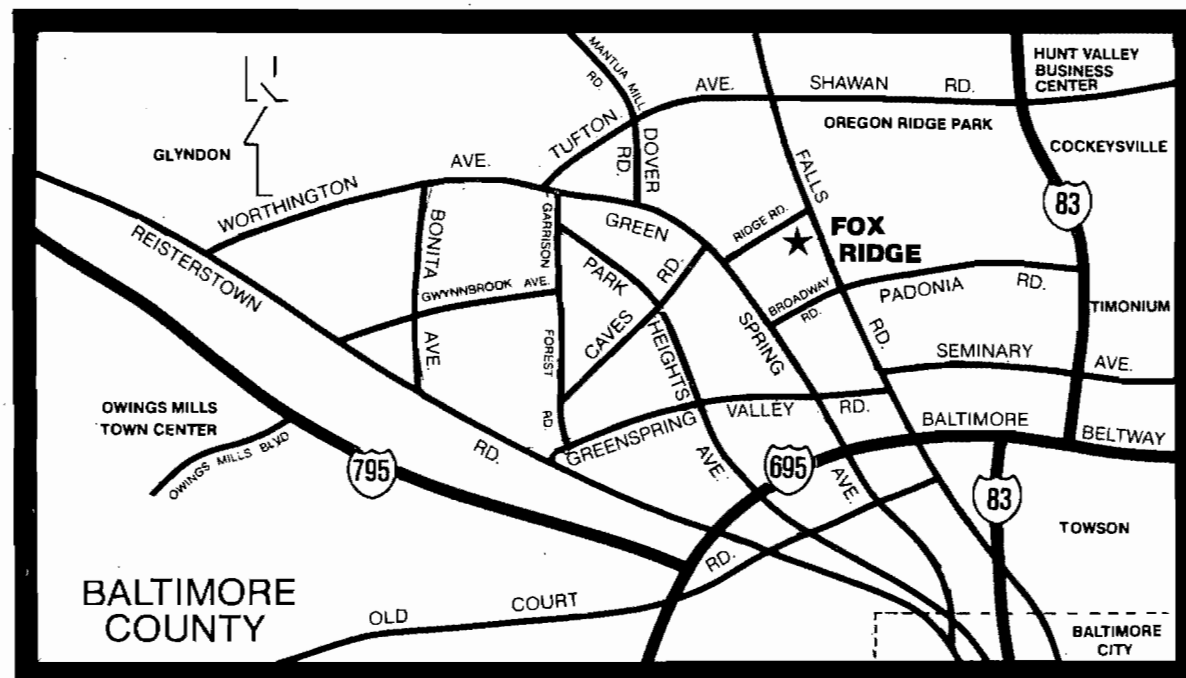
SPECIAL BATHROOM FEATURES

- ☐ Master Bathroom with Separate Oversized Soaking Tub and Glass Enclosed Shower
- ☐ Double Bowl Vanity in Master Bath and Family Bath
- ☐ Ceramic Wall and Floor Tile in Master Bath and Family Bath
- ☐ White Wood Vanity in Master Bath and Family Bath
- ☐ Pedestal Sink in First Floor Powder Room

CONVENIENCE, CONVENIENCE, CONVENIENCE...

- ☐ Downtown Baltimore
- ☐ Hunt Valley
- ☐ Towson
- ☐ Route 695, Interstate 83, Jones Falls Expressway
- ☐ Owings Mills Town Center, Hunt Valley Mall, Harborplace, Galleria
- ☐ Oregon Ridge Park
- ☐ Maryland's Finest Private and Public-Schools and Colleges
- ☐ Much, Much, More.....

ALL FEATURES LISTED ARE SUBJECT TO CHANGE WITHOUT FURTHER NOTICE.



FOX RIDGE ESTATES COMMUNITY

JGS
CORPORATION

Fox Ridge
E S T A T E S

FEATURES

EXTERIORS

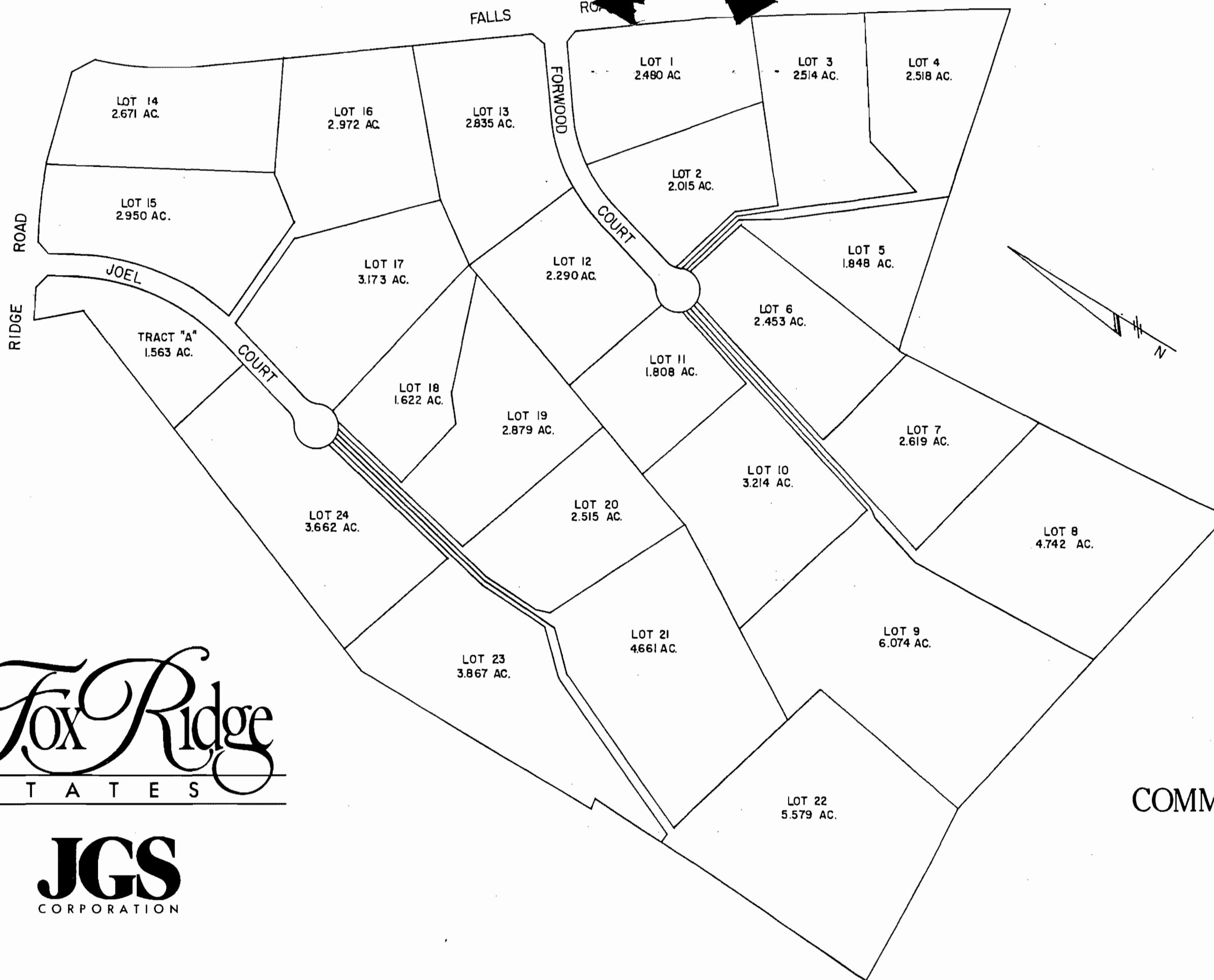
- ☐ Brick Front—Oversized Brick—Many Choices Available
- ☐ Low Maintenance Designer Vinyl Siding—Beaded Edge Style Available
- ☐ Timberline Composition Self Sealing Roof Shingles
- ☐ Aluminum Gutters and Downspouts
- ☐ Steel Insulated Front Entry Doors
- ☐ Insulated Glass French Door Depending on House Design (or)
Insulated Glass Sliding Door with Screen Depending on House Design
- ☐ Two Weatherproof Exterior Electrical Outlets
- ☐ Front and Rear Hose Connection
- ☐ Andersen Energy Saving Insulated Windows with Screens
- ☐ Pressure Treated Wood Deck
- ☐ Two Automatic Garage Door Openers
- ☐ Seeded Yard and Landscape Package

INTERIORS

- ☐ Hardwood Flooring in Entry Foyer, Powder Room, Dining Room, and Living Room
- ☐ Architecturally Enhancing Crown Molding in Living Room, Dining Room, Foyer, and Chair Rail Molding in Dining Room
- ☐ Colonial Style Stained Oak Hand Rail with Painted Wood Railings
- ☐ Six Panel Colonial Style or Classique Style Interior Doors
- ☐ Masonry Fireplace in Family Room
- ☐ Front Entrance Two Car Garage
- ☐ Door Chimes
- ☐ Ventilated Closet Shelving
- ☐ Decorator Lighting Package
- ☐ Recessed Fixtures in Kitchen, Morning Room, and Family Room
- ☐ Two Zone Electric Energy Efficient Heat Pump/Air Conditioning System
- ☐ Smoke Detectors
- ☐ Pre-Wire for Telephone and Cable Television, and Security Hook Up
- ☐ Washer/Dryer Connection
- ☐ Laundry Tub
- ☐ R-30 Insulation in Attic
- ☐ R-13 Insulation in Sidewalls
- ☐ R-11 Insulation in Basement Ceiling
- ☐ 400 Amp Electric Service
- ☐ Two 52 Gallon Hot Water Heater
- ☐ Two Piece Plumbing Rough-In/Basement (When Grade Allows)
- ☐ Ten Year Warranty Program—Residential Warranty Corporation (RWC)

Continued on back page

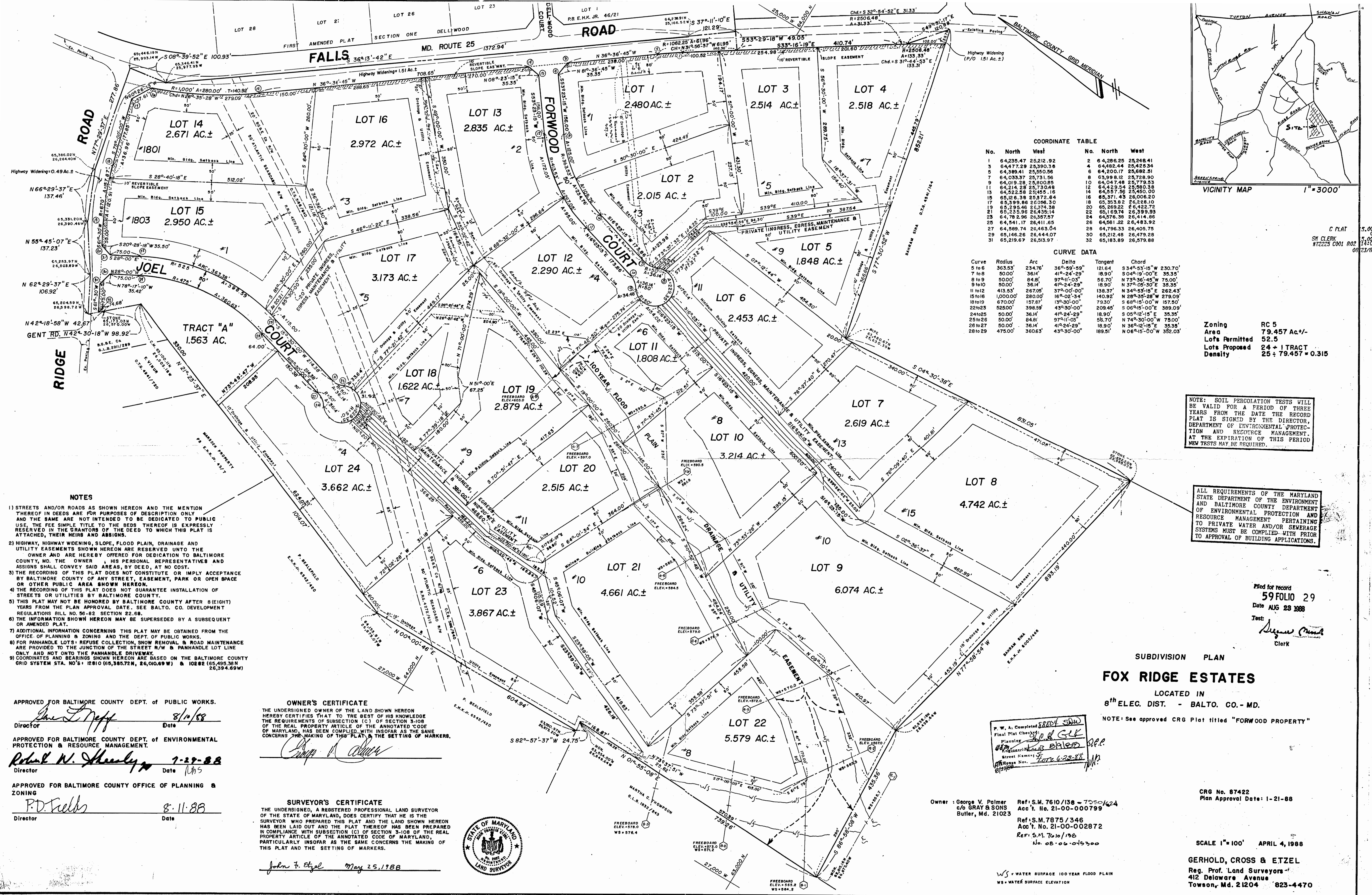
PROT EXH #24



Fox Ridge
ESTATES

JGS
CORPORATION

COMMUNITY PLAN



NOTE: SOIL PERCOLATION TESTS WILL BE VALID FOR A PERIOD OF THREE YEARS FROM THE DATE THE RECORD PLAT IS SIGNED BY THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT. AT THE EXPIRATION OF THIS PERIOD NEW TESTS MAY BE REQUIRED.

ALL REQUIREMENTS OF THE MARYLAND STATE DEPARTMENT OF THE ENVIRONMENT AND BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERTAINING TO PRIVATE WATER AND/OR SEWERAGE SYSTEMS MUST BE COMPLIED WITH PRIOR TO APPROVAL OF BUILDING APPLICATIONS.

Filed for record
59FOLIO 29
Date AUG 28 1988

Test:
[Signature]
Clerk

SUBDIVISION PLAN

FOX RIDGE ESTATES

LOCATED IN
8th ELEC. DIST. - BALTO. CO. - MD.

NOTE: See approved CRG Plat titled "FORWOOD PROPERTY"

P. W. A. Completed 8/28/88 SDW
Final Plat Checked: *[Signature]*
Planning: *[Signature]*
Survey Name: *[Signature]*
House No.: *[Signature]*

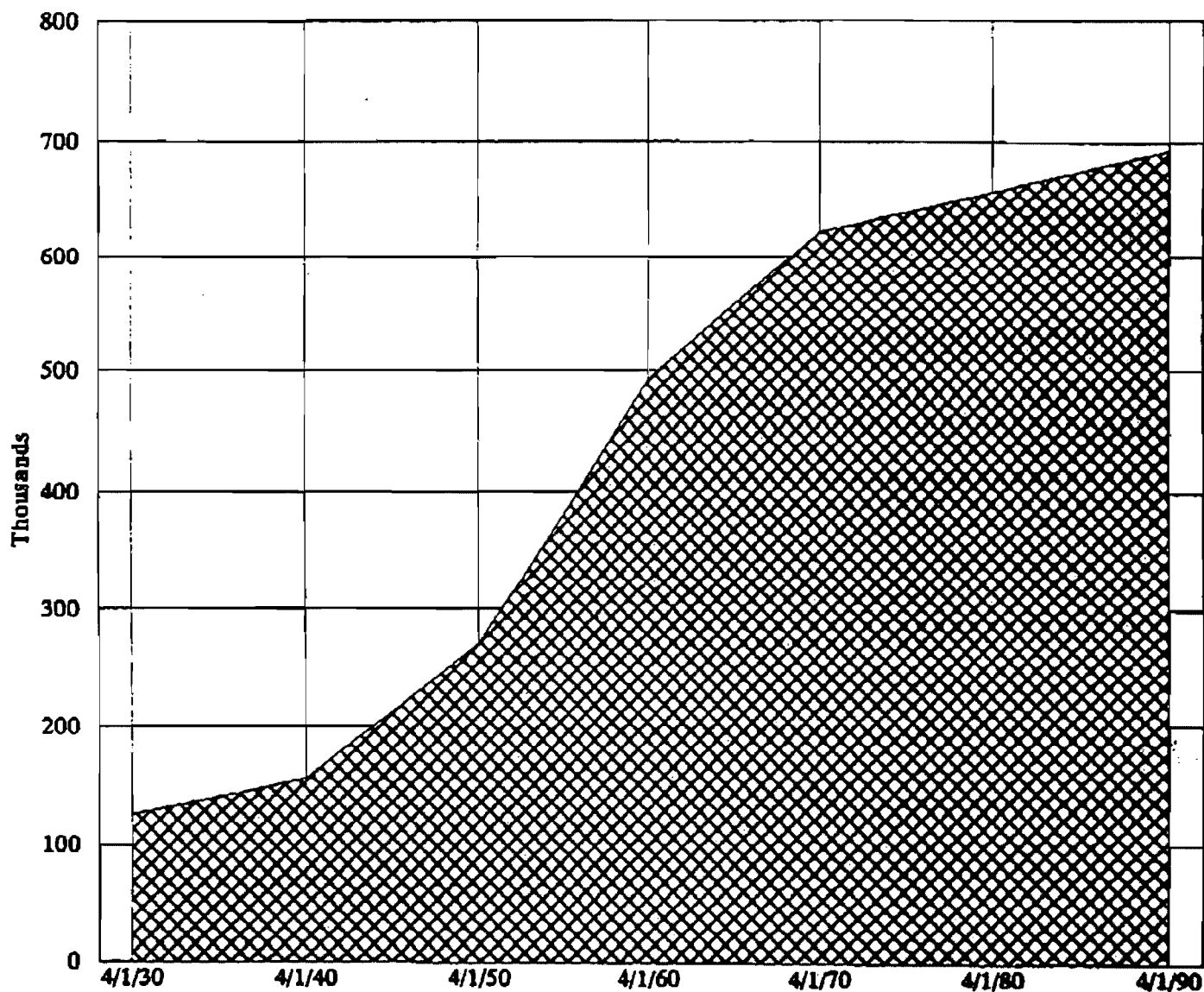
Owner: George V. Palmer
c/o GRAY & SONS
Butler, Md. 21023
Ref: S.M. 7610/138 - 7050/1624
Acc't. No. 21-00-000799
Ref: S.M. 7875/346
Acc't. No. 21-00-002872
Ref: S.M. 7610/138
No. 08-06-045300

WS = WATER SURFACE ELEVATION
WS = WATER SURFACE ELEVATION

BALTIMORE COUNTY POPULATION¹

DATE	POPULATION	PERCENT CHANGE
------	------------	-------------------

4/1/30	124585	
4/1/40	155825	25.10%
4/1/50	270273	73.45%
4/1/60	492428	82.20%
4/1/70	621077	26.13%
4/1/80	655615	5.56%
4/1/90	692134	5.57%

¹Population Information provided by the Bureau of the Census

PROT Exh # 26

CURRICULUM VITAE

NORMAN E. GERBER, AICP

35 Pickburn Court Cockeysville, MD 21030

**Business
(410)667-4543**

**Facsimile
(410)683-4079**

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.

9/80 to 1/88

Baltimore County, Baltimore County Maryland

The Office of Planning and Zoning

Director

Administered the planning program, and the budgets of the Office of Zoning and the Peoples Council. Baltimore County Baltimore County Maryland The Office of Planning and Zoning

Planning Board



401 Bosley Avenue
Towson, MD 21204

887-3211

June 25, 1991

The Honorable Douglas B. Riley
Chairman, Baltimore County Council
The Old Courthouse
Towson, MD 21204

Dear Councilman Riley:

Enclosed is a Final Report of the Baltimore County Planning Board which I am submitting to you in accordance with Section 22-21 of the Baltimore County Code, 1978, as amended.

This report is in response to a request from the Zoning Commissioner to update and streamline the requirements for Final Development Plans. The legislation includes changes to the submittal and plan amendment requirements which will shorten the approval process while making the plan a more effective zoning enforcement tool. In addition, the name will be changed to Zoning Plan to more clearly differentiate the document from other development plans.

Sincerely,

A handwritten signature in cursive script that reads "P. David Fields".

P. David Fields

Secretary to the Planning Board

PDF/prh
Riley#2/TXTPRH

cc: The Honorable Roger B. Hayden, County Executive
Members, Baltimore County Council
Merreen E. Kelly, Administrative Officer
Thomas Toporovich, Secretary to County Council
J. Robert Haines, Zoning Commissioner
H. Emslie Parks, County Attorney
Harold Reid, Chairman of the Planning Board
Members, Baltimore County Planning Board
Nicholas Spinnato, Sr., Senior Executive Assistant
Arnold Jablon, Director, ZADM

Prot Exl 28 for IDen

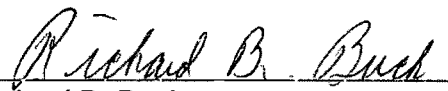
**THE VALLEYS
PLANNING COUNCIL, INC.**

Prot. Ex. 29
212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

January 1, 1995

To Whom It May Concern:

John Bernstein is the Executive Director of The Valleys Planning Council, Inc. As such he is authorized to represent the views of the organization. He is authorized to speak at public meetings, before the County Council, and in legal proceedings before the Zoning Commissioner, the Board of Appeals, in District of Circuit Court and in any other proceeding in which The Valleys Planning Council may have an interest.


Richard B. Buck
President


Kathleen Pontone, Esq.
Secretary

Prot. Ex. 30

"Never doubt that a small group of thoughtful,
committed citizens can change the world: indeed,
it's the only thing that ever has."

- Margaret Mead

TO: BALTIMORE COUNTY BOARD OF APPEALS

RE: CASE #94-452-XA

I am unable to attend the appeal hearing on the above captioned case, but I wish to formally register my opposition to the proposed expansion of the Baltimore Gas & Electric Ivy Hill substation for the following reasons:

1. Industrial substations do not belong in any residential neighborhood.
2. The unknown effects of electro magnetic fields to the public.
3. The electrical expansion will create the infrastructure for future industrial and commercial development in the entire area.

Sincerely,

Susan A. Pentz
NAME

11130 Reisterstown Rd
ADDRESS

Owings Mills, MD 21117

SHAWAN VALLEY

ASSOCIATION

RESOLVED: That at the Annual Membership meeting of the
SHAWAN VALLEY Association held on October 18,
1994, it was decided by the Association that responsibility for review
and action on all zoning matters for the period INDEFINITE as per Article III
be placed in the (Board of Directors) (~~Zoning Committee~~) consisting of of Bylaws
the following members: LIZA EBELING NEIL ADLERBERG
KATHY HOOPER LIBBY DAVIS
SONJA SOUTHERN MARTHA LESSNER
STAN KRASKA BOB POLLOCK
TOM SEYBOLD

AS WITNESS OUR HANDS AND SEAL THIS 18th day of January,
1995.

ATTEST:

SHAWAN VALLEY ASSOCIATION

Sonja Southern
Secretary

Liza Ebeling
President

RESOLUTION

Hunt Cup Hill Community ASSOCIATION

RESOLVED: That the position of the Hunt Cup Hill Community Association as adopted by the Board of Directors on the zoning matter known as: The expansion of the Ivy Hill Substation is that: We are against the proposed Phase 1 and Phase 2 residential substation expansion.

AS WITNESS our hands and seal this 94 day of JAN., 1995.
Hunt Cup Hill Community ASSOCIATION

Nancy L. Stude
SECRETARY

Clayton P. Smith
PRESIDENT

Heather Hill Homeowners Association

P. O. Box 721

Brooklandville, Maryland 21022 0721

Friends of the Ridge
Attn: Pam Follo
1 Joel Court
Reisterstown, Md

Dear Pam,

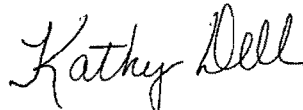
The Heather Hill Homeowners Association has looked at the plans for the BG&E substation upgrade. We have examined the various points put forth by both sides. In the end we have decided that it is not in our best interest to ignore this process without our input.

After polling most of the home owners and discussion among the members of the board, we have decided to support your position that BG&E should revise their plan to quadruple the size of the substation at Joel Court and Ridge Road. The general consensus is that there are other areas in which a substation could be built that is away from already developed housing. Considering that extensive development is planned for the Falls Road Corridor, it makes more sense to place discreetly landscaped substations in several of the as yet undeveloped areas. Potential residents could make their decision to buy or not buy with the substation already in place.

On the matter of EMFs, we know the studies are not conclusive. This being the case, we prefer that the utility err on the side of conservatism. The families that live nearby should not have their health jeopardized should the studies exonerating EMFs be wrong.

Enclosed is a check to help defray the cost of challenging the proposed substation. We hope you are successful and support your efforts on behalf of our communities.

Sincerely,



Kathy Dell
President for the
Heather Hill Homeowners Association

ProAEn #33

Prot Exh. # 34

James J. Lippas
31 Springhill Farms
Hunt Valley Md 21030

January 18, 1995

To: Baltimore County Board of Appeals

Re: Case # 94-452-XA

I am unable to attend the appeal hearing on the above captioned case, but I wish to formally register my opposition to the proposed expansion of the B. D. & E. Ivy Hill substation.

While we all understand the need to upgrade and expand electric service within the Falls Road corridor, a decision to permit the expansion of the Ivy Hill substation ignores the safety, health and economic well being of our community. And the environment we are all responsible to preserve.



January 18, 1995

Mrs. Carol Rytter
Friends of the Ridge
One Joel Court
Reisterstown, MD 21136

Dear Carol:

The National EMR Alliance is a forum for effective communication, networking and organization of citizen action groups involved in the electromagnetic field (EMF) radiation issue.

We believe that EMF is hazardous to life and constitutes a significant threat to the public's health.

To that end, the Alliance is in favor of, and hopes to foster, local, regional, national and international efforts to reduce, mitigate and, where possible, eliminate hazardous exposure to EMF. Friends of the Ridge is one of over three hundred and fifty grassroots organizations involved with the National EMR Alliance who are committed to improving the electrical environment for their selves, their families and their communities.

The National EMR Alliance applauds the efforts of its member group Friends of Ridge who are working to protect the rights of the citizens of Baltimore County from hazardous levels of EMF. In particular, its opposition of the enlargement by Baltimore Gas & Electric Company of an electrical substation within a residential area.

The Savitz-Loomis study published on January 15th by the *American Journal of Epidemiology* joins a growing list of over fifty positive residential and occupational studies which support the conclusion that exposure to elevated EMF promotes the development of various forms of cancers and leukemias including brain cancer, female and male breast cancer, spontaneous abortions (miscarriages) and other serious health maladies. Never in the history of environmental research has there been so much evidence that a substance is carcinogenic than there is with EMF.

The issue of adverse health effects associated with exposure to EMF radiation is fast becoming the health and environmental issue of the decade. The following statements indicate the seriousness of this issue.

410 West 53rd Street • Suite 402 • New York, New York 10019
(212) 354-4073 phone • (212) 977-5541 fax

* BEFORE THE

* COUNTY BOARD OF APPEALS

★ BALTIMORE COUNTY

★ CASE NO. 94-452-XA

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday Jan. 10, 1995 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Custodian of the Records, Balto. Gas & Electric
Address: Charles Center, P.O. Box 1475
Balto., MD 21203

SERVE ON: Martha Delea, Esq., BG & E and Robert Hoffman, Esq.
210 Allegheny Ave. , P.O. Box 5517, Towson, MD 21204
Towson, 21204

Name: J. Carroll Holzer

Firm: Holzer & Lee

SEE ATTACHED SHEET FOR DOCUMENTS Address: 305 Washington Ave. #502
Towson, MD 21204

825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

Chunotto $\approx$ Radchyp

County Board of Appeals of
Baltimore County

Cost: \$

Summoned: _____, 19____

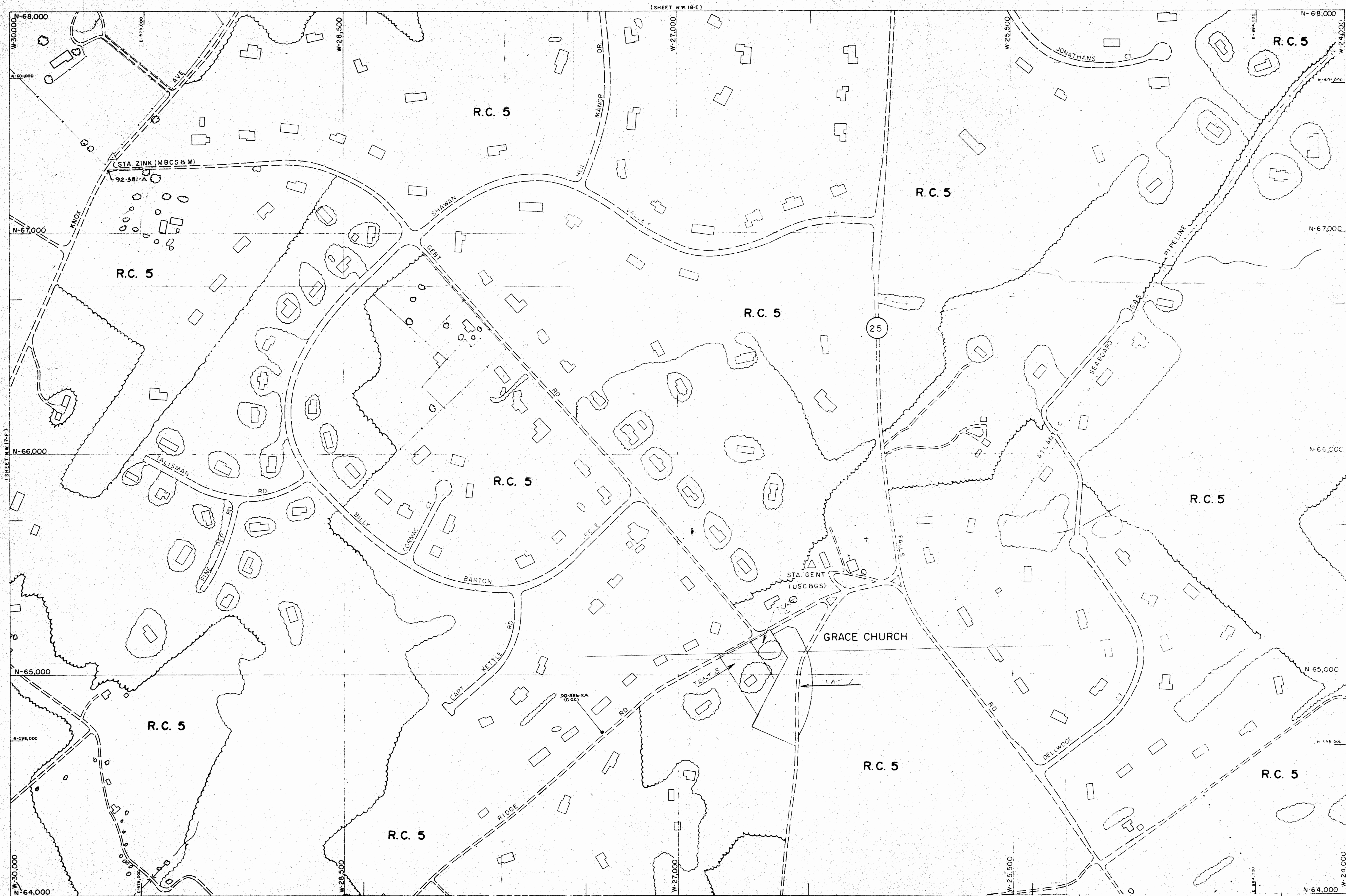
Not served: _____, 19____

Sheriff of Baltimore County

95 JAN -5 PM 1:31

RECEIVED
COUNTY BOARD OF APPEALS

MISCELLANEOUS
EXHIBITS



**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

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

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Chairman, County Council

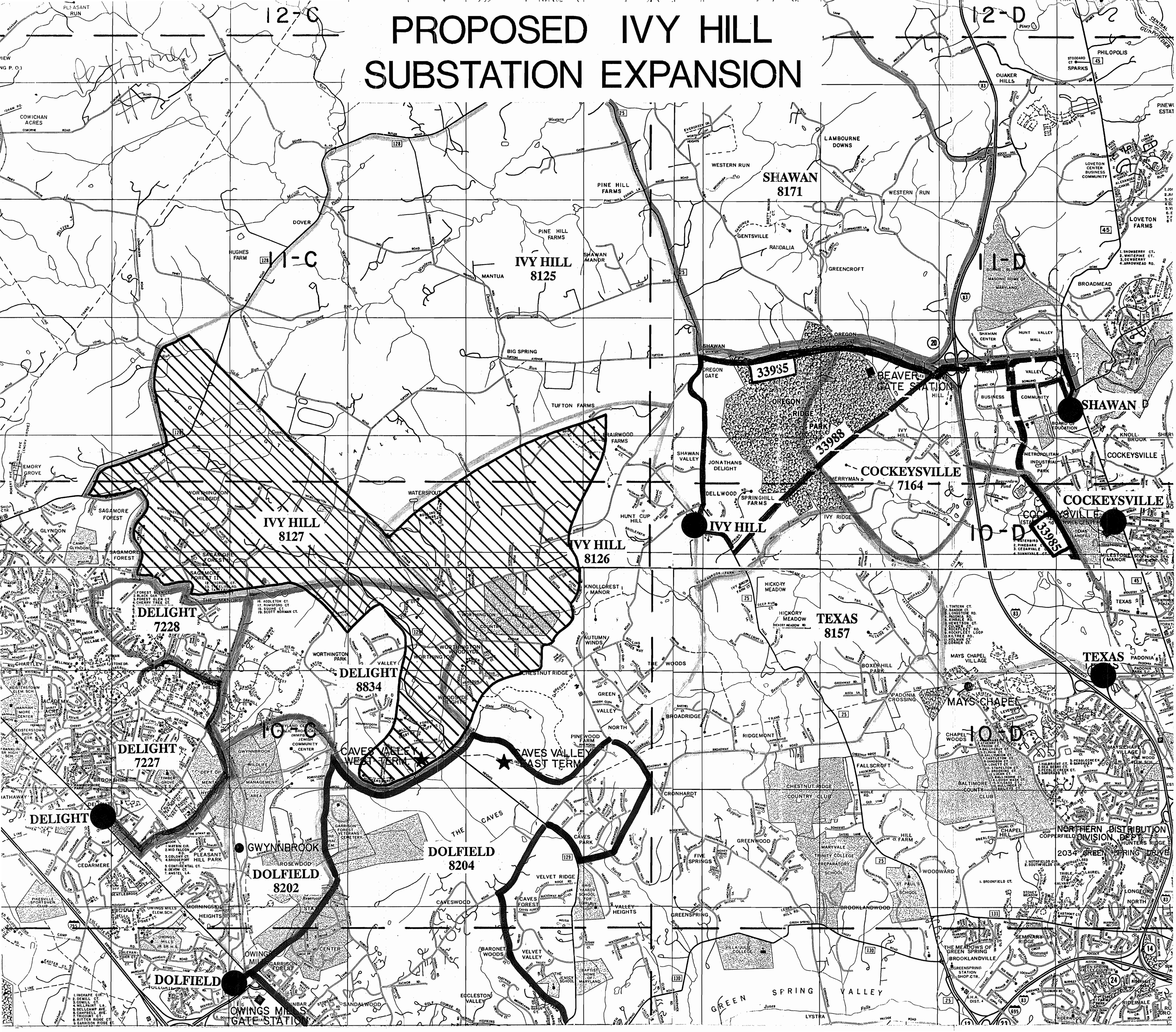
SCALE 1" = 200'	LOCATION GRACE CHURCH	SHEET N. W. 17-E
DATE OF PHOTOGRAPHY JANUARY 1986		

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

94-452-17

730

PROPOSED IVY HILL SUBSTATION EXPANSION



1999

P. 228 - LOT A2
RAYMOND J. FISHER
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035868
LIBER / FOLIO: 5426 / 87
ZONED R.C.5

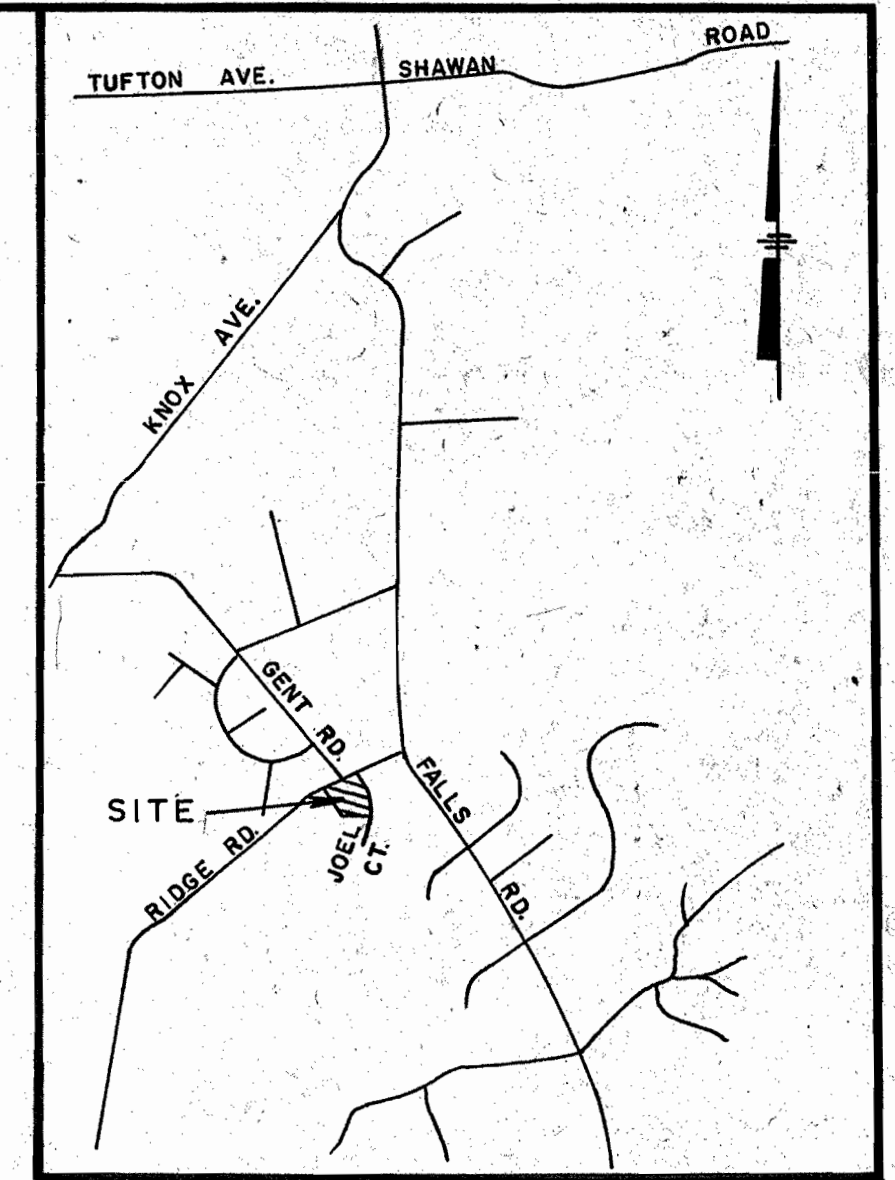
P. 228 - LOT A1
RONALD P. HANLEY
ROSEMARY HANLEY
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035867
LIBER / FOLIO: 6059 / 411
ZONED R.C.5

P. 51
GRACE METHODIST CHURCH, INC.
FALL ROAD
COCKEYSVILLE, MD. 21030

TAX ACCOUNT: 08-0807060575
2.940 ACRES
LIBER / FOLIO: 2235 / 99
ZONED R.C.5

EX. DRIVEWAY

Petitioner
#1



LOCATION MAP
SCALE: 1"=2000'

NOTES:

1. IVY HILL SUBSTATION IS AN UNATTENDED STATION AND NO PERMANENT EMPLOYEES ARE TO BE LOCATED ON THE PREMISES. AVERAGE DAILY TRIPS: 1/WEK.
2. THERE ARE NO EXISTING OR PROPOSED WATER AND SEWER TO THE STATION.
3. FENCE: 8 FT. OVERALL HEIGHT CONSISTING OF 7 FT. OF CHAIN LINK FABRIC AND THREE STRANDS OF BARBED WIRE (TURNED OUT).
4. ROADWAY: COMPACT SUBGRADE TO 95% DENSITY AS DETERMINED BY ASTM 1557-70. INSTALL 8" OF CR-67 CRUSHED STONE BASE IN TWO LIFTS AND COMPACT EACH LIFT WITH A 10 TON ROLLER. INSTALL 2" BITUMINOUS BINDER COURSE (1ST BAND). INSTALL 1" BITUMINOUS CONCRETE SURFACE (1ST BAND) AS PER MARYLAND STATE HIGHWAY ADMINISTRATION SPECIFICATIONS.
5. AREA WITHIN FENCE TO BE COVERED WITH 4" OF STONE OVER NEW GRADE. STONE SHALL BE GRAVEL IN ACCORDANCE WITH LOS ANGELES ABRASION RATING LESS THAN 50% AND GRADATION IN ACCORDANCE WITH MARYLAND STATE HIGHWAY ADMINISTRATION SHA-4.
6. ALL AREAS NOT COVERED BY STONE OR PAVING WILL BE SEEDED WITH GRASS ACCORDING TO MARYLAND S.C.S. AND/OR BALTIMORE COUNTY SPECIFICATIONS.
7. ALL ELECTRIC STRUCTURES ARE FUNCTIONALLY ATTACHED.
8. TOPOGRAPHIC AND BOUNDARY INFORMATION TAKEN FROM SURVEY PERFORMED BY: ASM TECHNOLOGIES, INC. 2 WEST FORREST AVENUE SHREWSBURY, PA. 17361 717-235-8325
9. EXISTING SEPTIC SYSTEM SHALL BE PURIFIED AND BACKFILLED OR REMOVED AT TIME OF RAZING THE EXISTING HOUSE.
10. EXISTING WELL SHALL BE BACKFILLED BY A LICENSED WELL DRILLER WHO MUST SUBMIT A WELL ABANDONMENT REPORT AT THE TIME OF RAZING THE EXISTING STRUCTURE.
11. PETITION FOR A VARIANCE FROM SECTION 1404.3.B.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT STRUCTURES AS CLOSE AS 0 FEET FROM INTERIOR LOT LINES IN LIEU OF THE REQUIRED 50 FOOT BUILDING SETBACK.
12. PETITION FOR A SPECIAL EXCEPTION UNDER THE ZONING REGULATIONS OF BALTIMORE COUNTY TO USE THE HEREIN DESCRIBED PROPERTY FOR AN OUTDOOR ELECTRIC PUBLIC UTILITY SERVICE CENTER (ELECTRIC SUBSTATION) IN A R.C.5 ZONE PURSUANT TO SECTION 1404.2.B.11 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

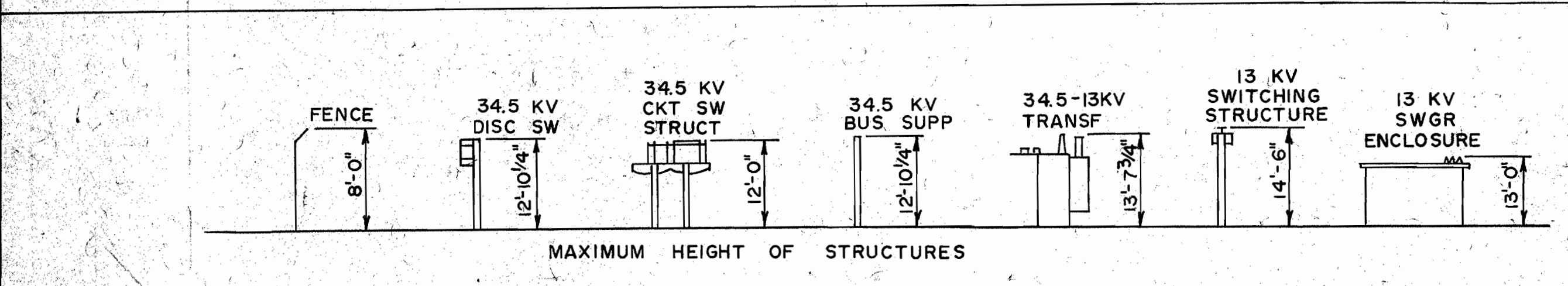
CASE NO. 3780-X

PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION TO USE SAID PROPERTY FOR THE CONSTRUCTION OF AN ELECTRICAL TRANSFORMER SUBSTATION. DEPUTY ZONING COMMISSIONER BY ORDER DATED MARCH 14, 1996, GRANTED SPECIAL EXCEPTION REQUEST.

CASE NO. 4535-X

PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION FOR WIRELESS TRANSMITTING AND RECEIVING STATION. ZONING COMMISSIONER BY ORDER DATED MARCH 9, 1996, GRANTED SPECIAL EXCEPTION REQUEST.

- LEGEND
- A= FUTURE 34.5 KV CAPACITOR
 - B= 34.5 KV DISC SWITCHING STRUCTURE
 - C= 34.5 KV CIRCUIT SWITCHER
 - D= 34.5 KV BUS SUPPORT
 - E= 34.5 KV TRANSFORMER
 - F= 13 KV BUS SUPPORT
 - G= 13 KV LOAD BRK. SWITCHING STRUCTURE
 - H= 13 KV SWITCHGEAR



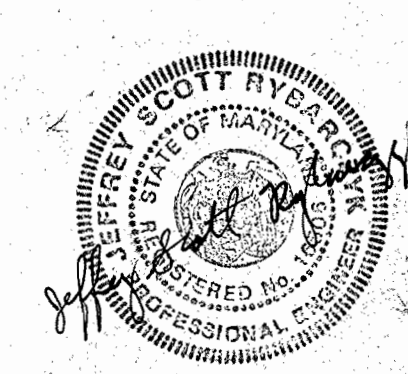
P. 79 - LOT 24
JAMES J. KIRCHNER, JR.
TINA M. KIRCHNER
4 JOEL COURT
REISTERSTOWN, MD. 21136
TAX ACCOUNT: 08-210009002
3.662 ACRES
LIBER / FOLIO: 9657 / 396
ZONED: R.C.5

R. 338
FREDRICK R. VINUP
ANN L. VINUP
1821 RIDGE ROAD
REISTERSTOWN, MD. 21136-5617
TAX ACCOUNT: 08-0822035540
LIBER / FOLIO: 4941 / 720
ZONED: R.C.5

P. 79 - LOT 15
CARL FOLO
1 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008993
2.950 ACRES
LIBER / FOLIO: 8816 / 620
ZONED: R.C.5

P. 79 - LOT 16
ROBERT J. RYTTER
CAROL P. RYTTER
3 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008994
2.972 ACRES
LIBER / FOLIO: 9403 / 619
ZONED: R.C.5

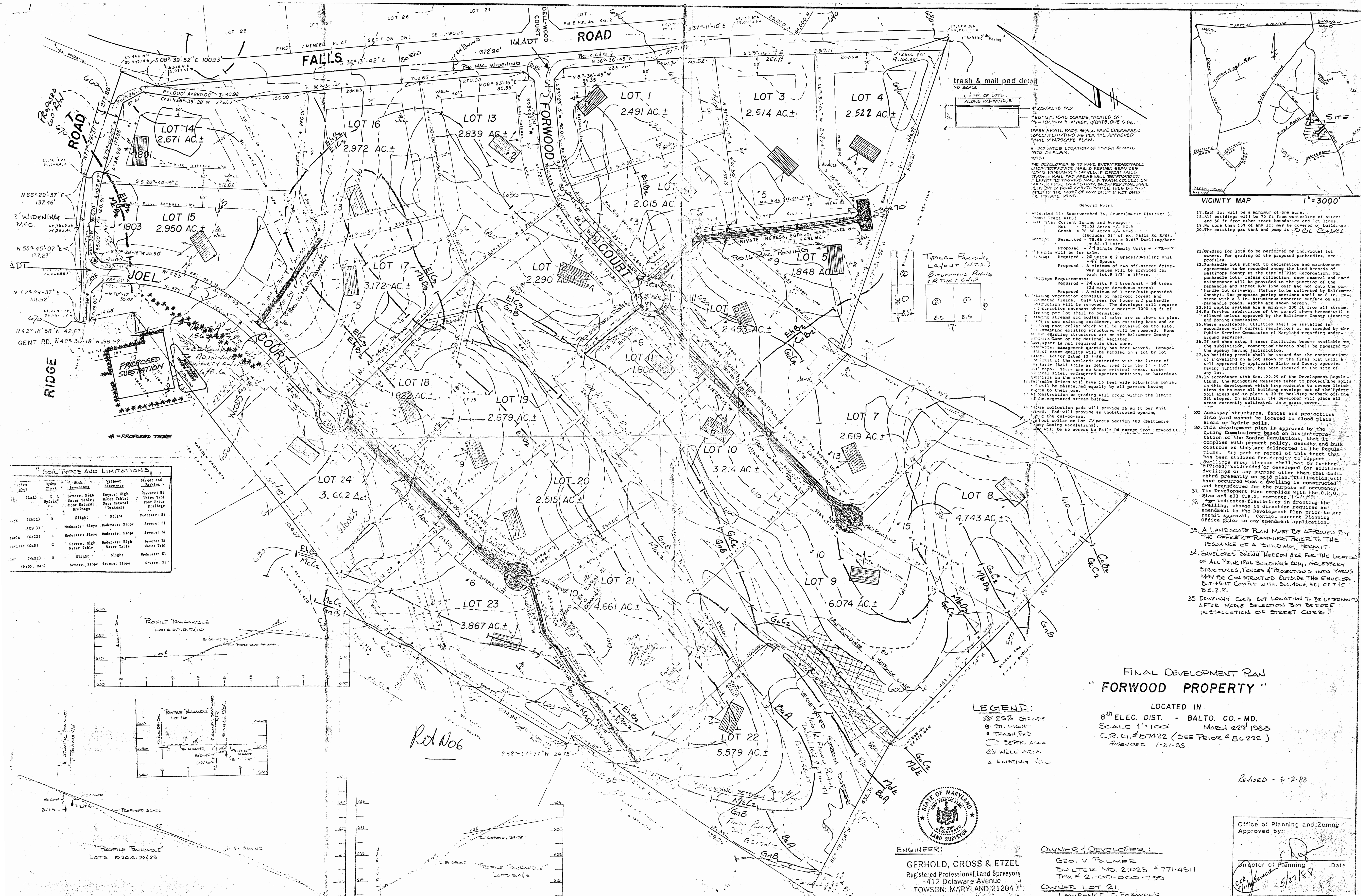
P. 79 - LOT 17
IRA N. BROWN
CYNTHIA M. BROWN
5 JOEL COURT
REISTERSTOWN, MD. 21136-5643
TAX ACCOUNT: 08-2100008995
3.178 ACRES
LIBER / FOLIO: 8858 / 720
ZONED: R.C.5



APPLICANT/OWNER/CONTRACT PURCHASER
BALTIMORE GAS & ELECTRIC COMPANY
SYSTEM ENGINEERING & CONSTRUCTION DEPARTMENT
LEXINGTON & LIBERTY STREETS
1020 G & E BUILDING
BALTIMORE, MD. 21201
C/O MONICA P. McGRADY, P.E.
1-410-234-5294

THIS PROPERTY LOCATED IN THE
8TH ELECTION DISTRICT OF
3RD COUNCIL DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED R.C.5
TAX MAP NO. 50
PARCEL NO. 247, 338, & 79 - TRACT A
TOTAL AREA: 2.8933 ACRES
ZONING MAP NO. D-2

Rev	Date	J.O./Est. No.	Description	Approved	Engineering	Design Group	File	Scale	Dwg. No.	Rev.
					Civil..... Elec..... Proj. Engr..... Prim. Engr..... Supv. Engr.....	designer..... drawn..... checked..... appd..... date appd.....	Microfilmed Orig. □	1"=20'	400-701-E	
						PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL EXCEPTION AND VARIANCES				
						34.5-13.8 KV SUBSTATION IVY HILL				
						BALTIMORE GAS AND ELECTRIC COMPANY DISTRIBUTION & TRANSMISSION ENGINEERING DEPT. SYSTEM ENGINEERING SECTION				

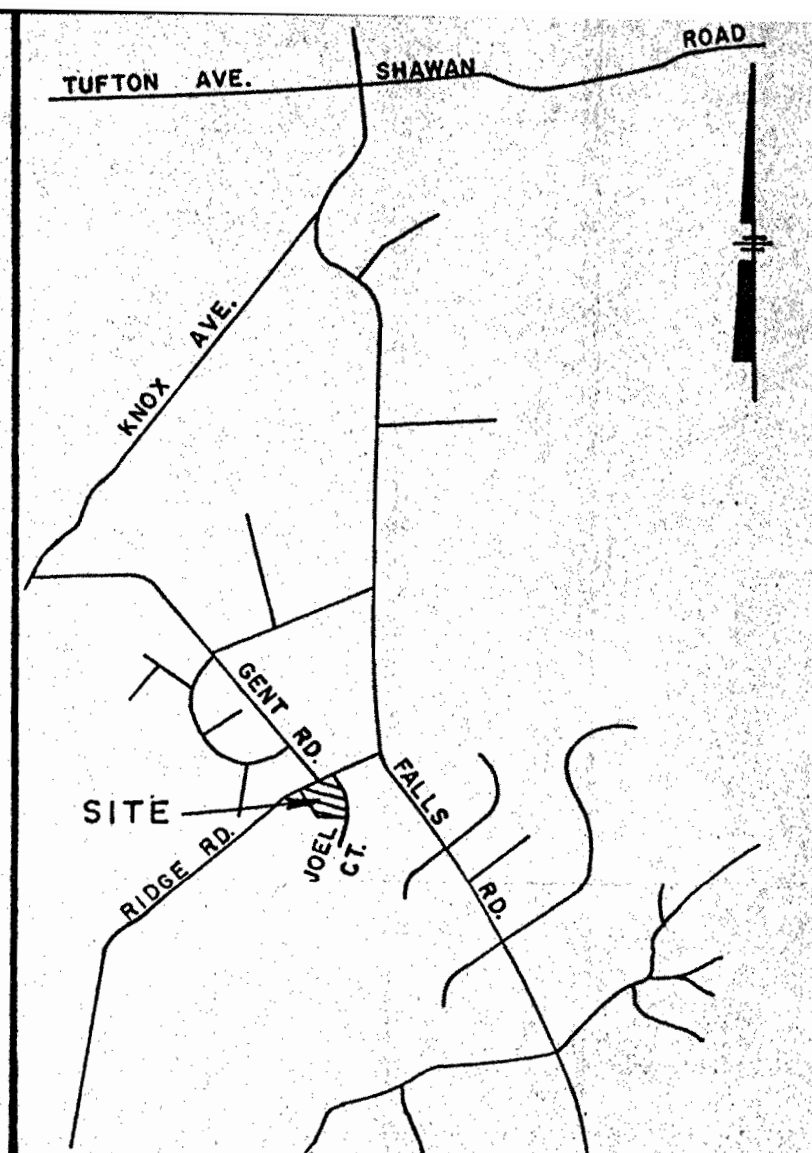


P. 228: LOT A2
RAYMOND H. FISHER, ET. AL.
1822 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035868
LIBER / FOLIO: 5426 / 87
ZONED R.C.5

P. 228: LOT A1
RONALD P. HANLEY
ROSEMARY HANLEY
1820 RIDGE ROAD
REISTERSTOWN, MD. 21136-5600
TAX ACCOUNT: 08-0819035867
LIBER / FOLIO: 4059 / 411
ZONED R.C.5

P. 51
GRACE METHODIST CHURCH, INC.
FALLS ROAD
COCKEYSVILLE, MD. 21030

TAX ACCOUNT: 08-0807060575
2.940 ACRES
LIBER / FOLIO: 2335 / 99
ZONED R.C.5



LOCATION MAP
SCALE 1"=2000'

NOTES:

1. IVY HILL SUBSTATION IS AN UNATTENDED STATION AND NO PERMANENT EMPLOYEES ARE TO BE LOCATED ON THE PREMISES. AVERAGE DAILY TRIP: 1/1 WEEK.
2. THERE ARE NO EXISTING OR PROPOSED WATER AND SEWER TO THE STATION.
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4. ROADWAY: COMPACT SUBGRADE TO 95% DENSITY AS DETERMINED BY ASTM 1557-70. INSTALL 8" OF CR-467 CRUSHED STONE BASE IN TWO LIFTS AND COMPACT EACH LIFT WITH A 10 TON ROLLER. INSTALL 2" BITUMINOUS BINDER COURSE (B1 BAND). INSTALL 1" BITUMINOUS CONCRETE SURFACE (S1 BAND) AS PER MARYLAND STATE HIGHWAY ADMINISTRATION SPECIFICATIONS.
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2 WEST FORREST AVENUE
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717-235-8325
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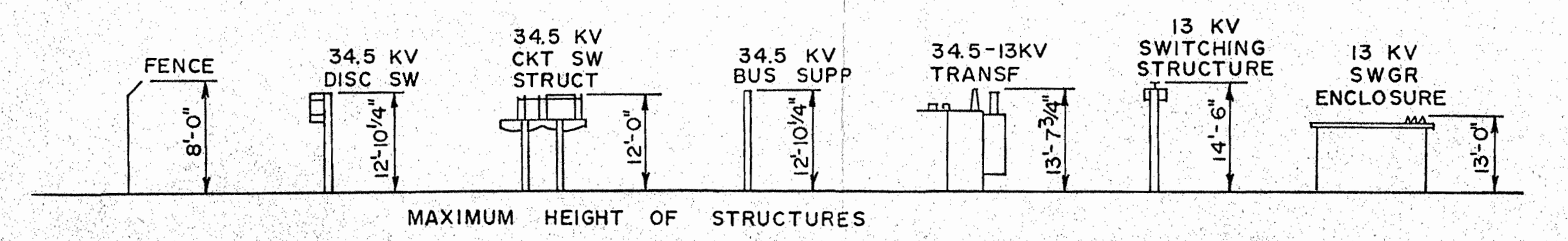
CASE NO. 3760-X PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION TO USE SAID PROPERTY FOR THE CONSTRUCTION OF AN ELECTRICAL TRANSFORMER SUBSTATION. DEPUTY ZONING COMMISSIONER BY ORDER DATED MARCH 14, 1995, GRANTED SPECIAL EXCEPTION REQUEST.

CASE NO. 4535-X PETITIONER: BALTIMORE GAS & ELECTRIC COMPANY PETITION FOR SPECIAL EXCEPTION FOR WIRELESS TRANSMITTING AND RECEIVING STATION. ZONING COMMISSIONER BY ORDER DATED MARCH 8, 1999, GRANTED SPECIAL EXCEPTION REQUEST.

APPLICANT/OWNER/CONTRACT PURCHASER
BALTIMORE GAS & ELECTRIC COMPANY
SYSTEM ENGINEERING & CONSTRUCTION DEPARTMENT
LEXINGTON & LIBERTY STREETS
1020 G & E BUILDING
BALTIMORE, MD. 21201
C/O MONICA P. McGRADY, P.E.
1-410-234-5294

THIS PROPERTY LOCATED IN THE
8TH ELECTION DISTRICT OF
3RD "COUNCIL DISTRICT"
BALTIMORE COUNTY, MARYLAND
ZONED R.C.5
TAX MAP NO. 50
PARCEL NO. 247, 338, & 79: TRACT A
TOTAL AREA: 2.8933 ACRES
ZONING MAP NO. D-2

Rev	Date	J.O./Est. No.	Description	Approved	ENGINEERING	PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL EXCEPTION AND VARIANCES
					Civil..... Elec..... Proj. Engr..... Prin. Engr..... Supr. Engr.....	34.5-13.8 KV SUBSTATION IVY HILL
					DESIGN GROUP	BALTIMORE GAS AND ELECTRIC COMPANY DISTRIBUTION & TRANSMISSION ENGINEERING DEPT. SYSTEM ENGINEERING SECTION
					Designor..... Drawn..... checked..... Appd..... Date Appd.....	File..... Microfilmed..... Orig. O..... Dwg. No. 400-701-E Rev.....



Real Property Consultants, Inc.

QUALIFICATIONS

Walter A. Reiter, Jr., JD, ASA
Certified General Appraiser, #56

EDUCATION

- Georgetown University
Loyola College - B.S. Degree
University of Maryland Law School - J.D.
Degree

CONTINUING EDUCATION

- AIREA - Courses I, II and Industrial VII
AIREA - Uniform Standards Professional
Practice
Appraisal Standards of Practice and
Workshop

CERTIFICATION

- Certified General Real Estate
Appraiser, State of MD, #04-056
General Appraiser, Commonwealth of
Pennsylvania, #GA-000724-L
Appraiser - Certified General, State of
Delaware, #XL-0000079
Senior Member - American Society of
Appraisers
Member - Baltimore and Howard Counties
Appraisers' Society
Member - Maryland Bar

QUALIFIED EXPERT WITNESS

- U.S. Federal Court of Baltimore City and
Rockville
Circuit Courts of Baltimore City and
County, Allegany, Howard, Frederick,
Washington, Carroll, Harford, Anne
Arundel, Montgomery, and Queen Anne's
Counties

EXPERIENCE

- Real estate appraiser, 1967 to present
Real estate business since 1958

INSTRUCTOR

- The Johns Hopkins University - 12 years,
Real Estate and Appraisal Principles
Towson State University
AIREA - Condemnation - Mock Trial
Loyola College - Seminar, 1991
IRWA - Skills of An Expert Witness, 1990

SERVED AS OFFICER AND/OR DIRECTOR

- American Society of Appraisers, MD Chapter,
President and Director
Baltimore County Appraisers' Society -
President and Director

Ref No 7



Pet No 3

#1

Ref 4A



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#2

Ref 4B



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peta Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#3

Ref 4C



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Pete Andrew

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#4

4D



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Andrew

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#5

YE



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



46

40 F



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peta Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#7

4G



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Anderson
916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#8

4H



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Andrews

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#9

4 I



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Pete Anderson

916 N. Charles St.
Baltimore, MD 21201-5378

410-727-8800

Fax 410-752-1302



10

4 J



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Peter Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



#11

4K



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

Debra Anderson

916 N. Charles St.
Baltimore, MD 21201-5378
410-727-8800
Fax 410-752-1302



12

4L



BLAKESLEE GROUP

ADVERTISING/DESIGN/PHOTOGRAPHY

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Ret.

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TRANSCRIPTS

IN THE MATTER OF	*	BEFORE THE
BG&E, legal owner	*	COUNTY BOARD OF APPEALS
(Ivy Hill Substation)	*	OF BALTIMORE COUNTY
8th Election District	*	Case No. 94-452-XA
3rd Councilmanic District	*	January 19, 1995

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 9 o'clock a.m., January 19, 1995.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

ORIGINAL

1

1 IN THE MATTER OF * BEFORE THE
2 BG&E, legal owner *
3 (Ivy Hill Substation) * COUNTY BOARD OF APPEALS
4 8th Election District *
5 3rd Councilmanic District * OF BALTIMORE COUNTY
6 * Case No. 94-452-XA
7 *
8 * January 17, 1995
9 *
10 *
11 *
12 *
13 *

8 The above-entitled matter came on for hearing
9 before the County Board of Appeals of Baltimore County at
10 the Old Courthouse, Towson, Maryland 21204 at 1:30 o'clock
11 p.m., January 17, 1995.
12 *
13 *

14 BOARD MEMBERS:

15 WILLIAM T. HACKETT, Chairman

16 ROBERT O. SCHUETZ

17 S. DIANE LEVERO
18
19

20 Reported by:
21 Lorne Langer

ORIGINAL

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TRANSCRIPT OF PROCEEDINGS

IN THE MATTER OF * BEFORE THE
BALTIMORE GAS & ELECTRIC
CO./ Legal Owners, Tract A * COUNTY BOARD OF APPEALS
& B; FREDERICK R. VINUP,
et ux/Legal Owners, Tract C * OF BALTIMORE COUNTY
(Ivy Hill Substation)
8th Election District * Case No.: 94-452-XA
3rd Councilmanic District * January 17, 1995

* * * * *

The above matter came on for hearing before the
Board of Appeals of Baltimore County at 9:10 a.m., January
17, 1995, at the Old Courthouse, 400 Washington Avenue,
Towson, Maryland 21204.

* * * * *

BEFORE: WILLIAM T. HACKETT, Chairman

ROBERT O. SCHUETZ

S. DIANE LEVERO

Reported by:
Diane M. Hebert

1 IN THE MATTER OF * BEFORE THE
2 BG&E, legal owner * COUNTY BOARD OF APPEALS
3 (Ivy Hill Substation) * OF BALTIMORE COUNTY
4 8th Election District * Case No. 94-452-XA
5 3rd Councilmanic District * January 12, 1995

6 * * * * *

7 The above-entitled matter came on for hearing
8 before the County Board of Appeals of Baltimore County at
9 the Old Courthouse, Towson, Maryland 21204 at 10 o'clock
10 a.m., January 10, 1995.

11 * * * * *

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15 ORIGINAL
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20 Reported by:

21 C.E. Peatt

1 IN THE MATTER OF * BEFORE THE
2 BG&E, legal owner * COUNTY BOARD OF APPEALS
3 (Ivy Hill Substation) * OF BALTIMORE COUNTY
4 8th Election District * Case No. 94-452-XA
5 3rd Councilmanic District * January 10, 1995

6 * * * * *

7 The above-entitled matter came on for hearing
8 before the County Board of Appeals of Baltimore County at
9 the Old Courthouse, Towson, Maryland 21204 at 10 o'clock
10 a.m., January 10, 1995.

11 * * * * *

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15 ORIGINAL
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20 Reported by:

21 C.E. Peatt

IN THE MATTER OF	*	BEFORE THE
BG&E, legal owner	*	COUNTY BOARD OF APPEALS
(Ivy Hill Substation)	*	OF BALTIMORE COUNTY
8th Election District	*	Case No. 94-452-XA
3rd Councilmanic District	*	October 4, 1994

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., October 4, 1994.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

Case No. 94-452-XA /Baltimore Gas & Electric Co., Inc. /F. Vinup

Petitioner's Exhibit No. 11 -- For purpose of copy and return

By: Sterling Leese

Signature:

Sterling Leese

Date:

10/13/94

*Returned
10/13/94
2:50 p.m.*