IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - NW/S Washington Blvd. at SE/S Ridge Avenue (4308 Washington Boulevard) 13th Election District 1st Councilmanic District

Cloverland Farms Dairy, Inc. Petitioner

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 97-11-XA

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 4308 Washington Boulevard, located in the vicinity of Sulphur Spring Road in Halethorpe. The Petition was filed by the owners of the property, Cloverland Farms Dairy, Inc., by John M. Kemp, Vice President, through their attorney, Robert A. Hoffman, Esquire. The Petitioner requests a special exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq.ft., pursuant to Section 405.4.E of the Baltimore County Zoning Regulations (B.C.Z.R.), and variance relief as follows: From Sections 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the required 19; from Section 405.4.A.1 and 405.4.E.1 to permit a total site area of 21,170 sq.ft. in lieu of the minimum required 23,631 sq.ft., and a waiver of the requirement to provide public restrooms. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were John M. Kemp, Vice President of Cloverland Farms Dairy, Inc., legal owner of the property, David Martin and Nick Brader, representatives of George W. Stephens, Jr. and Associates, Inc., the engineering firm which prepared

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the site plan for this property, Kenneth Schmid, an expert traffic consultant, and Robert A. Hoffman, Esquire, attorney for the Petitioner. Several residents from the surrounding community appeared in opposition to the request, including Joseph Kinsey and Edward Smith, who testified. Theresa Loury, a community activist, also appeared, more as an interested citizen as opposed to being a Protestant.

As a preliminary matter, Mr. Hoffman brought to my attention that the Petitioner opined that a variance from site area requirements was not required. Mr. Hoffman noted that the need for that variance was based on the size of the entire building, which is 2900 sq.ft., and not the actual sales area proposed, which has been reduced to 1535 sq.ft. as set forth on Petitioner's Exhibit 2. I agree that a variance from site area requirements is no longer necessary; however, a special exception is still required inasmuch as the sales area exceeds the maximum permitted 1500 sq.ft., and the Petitioner wished to proceed on the remaining requests for variance.

Testimony and evidence offered revealed that the subject property consists of 0.486 acres, more or less, zoned B.R.-C.S.1 and is improved with a Royal Farm Store. Mr. Kemp testified that his company purchased this property in 1987 and built the existing store thereon in 1988. He testified that a bar business, known as Larry's Tavern, previously occupied the site, and that the building was rundown and the property in poor condition. Mr. Kemp testified that the Royal Farm Store greatly improved the site from its days as Larry's Tavern and that the proposed improvements by Cloverland Farms Dairy will further enhance the property.

On behalf of the Petitioner, Mr. Kemp testified that competition has increased with his Royal Farm Stores by virtue of oil companies, such as Exxon, Texaco, and others, converting their gasoline service stations

into gas and convenience store uses. He specifically identified a nearby Exxon which will be converting same to a convenience store/gas station. This has been a common occurrence among the Exxon service stations as well as many of the other oil companies in and around the Baltimore Area. Several oil companies have decided to get out of the automotive service business and have converted many of their gasoline service stations into convenience stores. Mr. Kemp testified that in order to be competitive, it has become necessary for Royal Farms to offer gasoline for sale at its stores. The Petitioner is desirous of installing two fuel pumps with an overhead canopy at the subject location. The proposed improvements are more particularly described on the site plan marked as Petitioner's Exhibit 1. Mr. Kemp testified that two gasoline pumps are necessary in order to compete with Exxon and other similar businesses in this area. Mr. Kemp noted that $250,000 will be spent in furtherance of adding the gasoline pumps, the canopy, and other upgrades to the existing store and property.

Furthermore, Mr. Kemp testified that they would be willing to change the method by which inventory is delivered to the subject site. Currently, a tractor trailer will park on one of the travel roadways adjacent to the property for the purpose of loading and unloading goods and supplies. This has hampered the flow of traffic on Ridge Avenue as well as Washington Boulevard and he indicated that this method of delivery would stop. He testified that the delivery company will have to use a smaller vehicle which can be parked on site when making deliveries to the store. Mr. Kemp noted that while it is customary for tractor trailers delivering gasoline to park on site to fill the gas tanks, in no way would these trucks park on Ridge Avenue or Washington Boulevard.

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As noted above, several residents from the surrounding community appeared in opposition to the Petitioner's request. Mr. Joseph Kinsey, a representative of the Halethorpe Improvement Association and the Arbutus Association, appeared and testified in opposition to the relief requested. Furthermore, Mr. Edward Smith, Vice President of the Halethorpe Civic League appeared and testified in opposition to the request. The testimony and evidence offered by these gentlemen demonstrated that they are opposed to another automotive service station use being located within this community. They believe that the County Council is planning to change the zoning of this property in October, 1996 so as not to allow any type of automotive service use at this location. They are also opposed to the additional commercialization of the subject site which would be the case if gasoline pumps are permitted. Furthermore, they are concerned over the security that is provided at the store at the present time. They indicated that this store has been robbed in the past and that it will likely be robbed in the future. They believe that additional security measures are needed at this time and that adding fuel pumps to the site will only exacerbate security problems in the future.

Further testimony revealed that there are no storm drains in the community on this side of Washington Boulevard and that a drainage problem currently exists. These residents are concerned that storm water runoff from the subject site will be toxic from the gas and oil associated with the proposed gasoline pumps and that this toxic runoff will be cast into their community during heavy rainfalls.

Testimony also revealed that there are problems with the way this Royal Farm Store receives deliveries from its distributors. These gentlemen testified that 18-wheelers will park on Ridge Avenue, and sometimes

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Date 7/21/95
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Washington Boulevard, when making deliveries. They testified that these trucks create blind spots and are a hazard to motorists travelling in this area and they would like to see this practice corrected.

As noted above, Theresa Loury appeared at the hearing and offered testimony as an interested party. Ms. Loury welcomed the Royal Farm Store to her community and testified that in her opinion, the proposed use is better than Larry's Tavern which existed prior to the store. Ms. Loury testified that she would like to see the Petitioner and the community continue negotiations in order to work out an amicable agreement. She also expressed concern that if the Royal Farm Store cannot remain competitive with the Exxon and Texaco service stations in the area, they might abandon the subject site and the business would leave their community. Mr. Kemp noted that it is a possibility the Royal Farm Store might abandon this site if they could not remain competitive with other businesses in the area and if the store actually operated at a loss.

After considering all of the testimony and evidence offered, both in support of and in opposition to the relief requested, I find that the special exception for a convenience store use in combination with a gasoline service station should be approved. I believe it is necessary for the Petitioner to add the two gasoline pumps proposed in order to remain competitive with the Exxon, Texaco, and Amoco service stations which are converting their service bays to convenience stores. The Petitioner has only requested the installation of two gasoline dispensing units so that it may offer gasoline as a convenience to its customers. I do not believe that the addition of these two pumps will over-commercialize the subject property or adversely affect the surrounding community. Furthermore, as Mr. Hoffman noted throughout the course of this hearing, the legislation

ORDER RECEIVED FOR FILING
Date 12/2/96
By

passed by the County Council was written to allow oil companies such as Exxon, Texaco and Amoco to convert their gasoline service stations to convenience store uses in combination with fuel sales. However, in this instance, it is an existing convenience store that wishes to add gasoline pumps to its operation. The law does not address convenience stores wishing to offer gasoline for sale. Therefore the legislation works somewhat of a hardship on the Petitioner, when it seeks to add gasoline dispensers to its convenience store chain. There are no other automotive services offered at this site other than the dispensing of gasoline, and thus, the special exception should be approved.

As to the variances requested, the Petitioner seeks relief to permit 12 parking spaces on the site in lieu of the required 19, and to grant a waiver of the requirement to provide public restrooms. I believe and hereby find that the 12 parking spaces proposed for this site will be sufficient to serve the proposed use. It should also be noted that the Petitioner was not given credit for the parking spaces that will exist under the canopy which is to be provided over the gasoline pumps. Practice dictates that many customers will often leave their cars parked at the gas pump when purchasing other convenience store products at such facilities. Therefore, it is expected that many of the customers at this site will use the spaces under the proposed canopy for parking. Thus, I believe sufficient parking exists and that the variance should be granted.

The Petitioner has also requested a waiver from being required to provide public restroom facilities. Public restrooms can pose a problem to the surrounding community, given the fact that individuals might tend to loiter around them or utilize them for illicit purposes. Therefore, I believe this variance should also be granted.

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Date 9/27/96
By

It is clear that the B.C.Z.R. permits the use proposed in a B.R.-C.S.1 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

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

ORDER RECEIVED FOR FILING
Date 9/27/94
By

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of September, 1996 that the Petition for Special Exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq.ft., pursuant

to Section 405.4.5 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the required 19 spaces, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a waiver from the requirement that the Petitioner must provide public restrooms, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 relief granted herein shall be rescinded.

2) The Petitioner shall not allow any service or delivery trucks to park either on Washington Boulevard or on Ridge Avenue. All service and delivery vehicles which call upon the Royal Farm Store shall park on the subject site to make their deliveries.

3) All temporary banners and signs, including the banner and the 4' x 4' post located on the subject property, shall be removed immediately.

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the variance from Sections 405.4.A.1 and 405.4.E.1 to permit a total site area of 21,170 sq.ft. in lieu of the minimum required 23,631 sq.ft., be and is hereby DISMISSED AS MOOT.

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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Date 10/27/96
By bjs

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

September 27, 1996

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
NW/S Washington Boulevard at SE/S Ridge Avenue
(4308 Washington Boulevard)
13th Election District - 1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Dear Mr. Hoffman:

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

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

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. John M. Kemp, Vice President, Cloverland Farms Dairy, Inc.
2200 N. Monroe Street, Baltimore, Md. 21217

Mr. Joseph P. Kinsey, 1519 Woodside Avenue, Baltimore, Md. 21227
Mr. & Mrs. Edward Smith, 4501 Spring Avenue, Baltimore, Md. 21227
Ms. Amy J. Hawkins, 4309 Spencer Street, Baltimore, Md. 21227-4527

Ms. Theresa Loury, 2517 Hammonds Ferry Road, Baltimore, Md. 21227

People's Counsel; Case File

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| RE: PETITION FOR SPECIAL EXCEPTION<br>PETITION FOR VARIANCE | * | BEFORE THE |
| 4308 Washington Blvd., NW/S Washington Blvd., corner SE/S Ridge Avenue<br>13th Election District, 1st Councilmanic | * | ZONING COMMISSIONER<br>OF BALTIMORE COUNTY |
| Cloverland Farms Dairy, Inc.<br>Petitioner | * | CASE NO. 97-11-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 5th day of August, 1996, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

| | | |
|---|---|---|
| IN THE MATTER OF THE APPLICATION OF CLOVERLAND FARMS DAIRY, INC. FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST SIDE OF WASHINGTON BOULEVARD AT THE SOUTHEAST SIDE RIDGE AVENUE (4308 WASHINGTON BOULEVARD) 13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT | * | BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 97-11-XA |

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## O P I N I O N

This case comes to the County Board of Appeals of Baltimore County and involves a request by the Petitioners for a special exception under Section 405.4.E.1 of the Baltimore County Zoning Regulations (BCZR) to permit installation of two fuel pumps to be operational in connection with an existing Royal Farms convenience store. The special exception request is also accompanied by a request for variance relief under Section 405.4.A.3.D and Section 409.6 of the BCZR to allow 12 parking spaces in lieu of the required 19 spaces; and from Section 405.4.A.1 and Section 405.4.E.1 to permit a total site area of 21,170 sq. ft. in lieu of the maximum required 23,631 sq. ft., and also a waiver of the requirement to provide public restrooms on the site plan.

Counsel for the Appellants /Protestants was Robert E. Greenwalt, Esquire, and Counsel for the Petitioner was Robert A. Hoffman, Esquire. Subsequent to the hearing relative to these matters, a public deliberation was held on Wednesday, June 18, 1997 at 9:30 a.m., due notice of which was provided to all interested parties.

The subject property is triangular in shape at the angle of

Ridge Avenue and Washington Boulevard. It is currently zoned B.R. (Business Roadside) and has an A.S. (Automotive Service) district classification.

On the day of the hearing, prior to presentation of the Petitioner's case-in-chief, Mr. Hoffman moved for dismissal on the basis that the Appellants /Protestants had not complied with Rule 3 "Appeals" of this Board's Rules of Practice and Procedure. Rule 3 states: "No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal." The Board took the Motion under advisement with the hearing going forward. The Board acknowledges that, while full compliance with Rule 3 was not adhered to by the Appellants, nevertheless, from a procedural standpoint, all interested parties in the proceedings had been timely notified, and while the technical aspects of Rule 3 had not been complied with, procedurally, there had been no prejudice to the Petitioner.

Rule 2 of the Board's Rules of Procedure state "No hearing shall be conducted without at least ten (10) days' notice to all parties of record or their counsel of record, unless agreed to by all such parties or their counsel of record." The Board's file clearly demonstrates that Mr. Greenwalt had written to Arnold Jablon on October 25, 1996 filing the appeal from the Deputy Zoning Commissioner's ruling on September 27, 1996, on behalf of the Halethorpe Improvement Association and Joseph P. Kinsley, referencing Case No. 97-11-XA and request for variances accompanied by cash receipt for $460.00 from Mr. Greenwalt. On October 29,

1996, Mr. Jablon forwarded a letter to the Board referencing the Petition for Special Exception, two variances, and noting the timely appeal on the part of the Appellants. In 1996, this Board had a case involving the approval of a development plan, wherein a "Motion to Dismiss" was granted, where the Appellants were not properly named in accordance with Rule 3(a), nor were any addresses furnished to the Board specifically until the actual date of the hearing, and then performed orally by Counsel for the Appellant. That Notice of Appeal listed the Appellants as "contiguous and adjacent landowners" in addition to not enumerating the full names and addresses of any protestants. However, that particular case involved a development plan under Section 26-209 of the Baltimore County Code, which is quite specific involving the timeframe for appeals from final action on a development plan; and the time period in which the Board is constrained to hear such cases and render a final order. In that case, the Board granted the Motion because the Appellants in the matter were not known within the prescribed filing period under Section 26-209. Again, it is quite important to note that, in that case, no individual appellant was named in either the notice or petition. Simply stating "appellants contiguous and adjacent landowners of Caves Farms Estates" coupled with the critical time element involved in a development review case, and what was deemed to be prejudicial to the Petitioner, the Board properly granted the "Motion to Dismiss" without even proceeding with the case-in-chief being presented. However, in the instant case, there was a hearing before the Deputy Zoning

Commissioner; and Mr. Joseph Kinsley appeared as a representative of the Halethorpe Improvement Association. The Board's Notice of March 17, 1997 indicates the case assigned for hearing on May 7, 1997 at 10:00 a.m. and clearly identifies Robert B. Greenwalt, Esquire, as representing the Halethorpe Improvement Association, and Joseph P. Kinsley and the Halethorpe Improvement Association as Protestants /Appellants. Rule 1-201 of the Maryland Rules of Procedure indicates that:

> "When a rule, by the word 'shall' or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of noncompliance in light of the totality of the circumstances and the purpose of the rule." (Emphasis added.)

The Board of Appeals, constituting an administrative body, is not bound by the strict rules of evidence of the law court. In Hyson v. Montgomery County, 217 A.2d 578, the Court of Appeals stated that "such bodies are not bound by rules of evidence, provided such agencies observe basic rules of fairness to parties appearing before them." This Board recognizes that Maryland courts have consistently upheld the sufficiency of notices of appeal, where the opposing party has had constructive or actual notice of the appeal, and there has been no prejudice, even though technically deficient (Mclay v. Maryland Assemblies, Inc., 269 Md. 465, 477, 306 A.2d 524 (1973). It is well-settled law in Maryland that, where there has been compliance with the substance of the requirements of statute or rules by one party and the other party has not been prejudiced, technical irregularities cannot be the basis for depriving persons

of an opportunity to assert their legal rights. (Mclay, 269 Md. 476-477) The purpose of the Board's rule therefore must be examined in light of the total circumstances surrounding its violation in order to determine the appropriate sanction. Obviously, the function of requiring the stating of names and addresses of appellants is to provide notice to the opposing side concerning the persons appealing. However, based on the prior hearing and notices sent forth by the Board, the Petitioner had sufficient notice of who was appealing the decision of the Deputy Zoning Commissioner; and was not prejudiced in any way by the omission of the addresses. If both the names and addresses had been omitted from the notice of appeal, then the Board would give serious consideration to granting the Motion to Dismiss. However, following the Court of Appeals ruling in The Town of Somerset v. Montgomery County Board of Appeals, 245 Md. 52, the Board believes that where there is compliance with the substance of the requirement of the statute or rules, if any other party has not been prejudiced, technical irregularities cannot be made the basis for depriving persons of the opportunity to assert their legal rights. Accordingly, therefore, the Board unanimously agreed to deny the Petitioner's Motion to Dismiss.

The Petitioner offered several witnesses in support of the special exception request and other relief requested. Mr. John M. Kemp, Vice President of Cloverland Farms Dairy, Inc., testified and stated that the firm operated 72 Royal Farm Stores throughout Maryland and Delaware. He related that a significant trend was

present among currently existing service stations to convert to a "mini-mart" status where fuel service and minimum food purchases could be made; and that Royal Farm Stores was attempting to add limited fuel service to those stores already existing where zoning was possible. He stated that 29 other Royal Farm Stores also had added fuel pumps; and that the company's goal was simply to be competitive and attempt to maintain the existing customer base. He opined that the limited number of pumps would serve only as a convenience to their presently existing customer base; and following the patterns observed at other Royal Farm Stores, most customers would simply park at the pump and then proceed inside for a short time to obtain snacks and limited food purchases, then simply wait at the pump till their tanks were full.

He stated that adding the fuel pumps at this location would improve the traffic flow pattern. He indicated that there would be no increase in the number of employees at this particular location, and that the store operated 24 hours a day with roughly three to four employees on duty at all times. He stated that convenience store deliveries were typically made between 7:30 a.m. and 11:30 a.m., and between 1:30 p.m. and 4:00 p.m., and that if the special exception were granted, efforts would be made on the part of management to keep the deliveries out of the peak hours. He further testified that, if the special exception were granted by the Board, they would be willing to live with any restrictions placed upon same and would provide parking for deliveries on the Washington Boulevard side, and also would place restrictions on

delivery hours, and would also cooperate in any way possible so as not to interfere with any residences on Ridge Avenue. He additionally testified that Petitioner was willing to restrict fuel deliveries to evening hours, the store would not be as busy as during peak times, in the late evening hours, and cooler air at this time would actually permit the company to pump more gas in the tanks because of the cooler weather, and he suggested deliveries could be made between 9:00 p.m. and 11:00 p.m. He also discussed additional landscaping and screening that would be provided by the Petitioner on Washington Boulevard and Ridge Avenue. Also testified to by Mr. Kemp was the general character of the area which he described Ridge Avenue as being a well-maintained residential area; Washington Boulevard being coupled with a number of commercial establishments and the proximity of a nearby Exxon station close to I-695. He indicated that his company had purchased this land area between 10 and 13 years ago, and it had previously been a bar; and in his opinion, the present facility enhanced the attractiveness of the general area.

Mr. Kemp also touched on criminal activity in the area and indicated that some of the Royal Farm Stores had had problems but those stores which did have gas pumping facilities also had much less criminal activity, basically due to the canopy lighting over the pumps and also the fact that, in today's modern society, many cars pulling up are equipped with a car or mobile phone which discourages criminal activity.

He indicated that the addition of the pumps and granting of

other relief would improve the general public welfare, safety and health, that the parking being provided was adequate, and that the fuel service island would actually help traffic congestion in the early morning, with deliveries restricted to the rear. Mr. Kemp also reviewed in detail the sales area (Petitioner's Exhibit No. 3) shown in yellow for the convenience store which excluded the service area, and stated that when the facility was built 10 years ago, the store did not anticipate gas pumps. He indicated that the Royal Farm Stores management had a significant investment in the property and also intended to spend significant funds relative to improved landscaping (page 31-32, transcript).

On cross-examination by Mr. Greenwalt, Mr. Kemp explained that his duties with the company entailed about 30 percent in their dairy operations and 70 percent in connection with their store operations involving personnel, real estate operations, strategic planning, etc. He stated that he frequently visited the stores and personally inspected each of the stores between four and five times a year, some more and some less, depending on the situation. He also responded to Mr. Greenwalt's questioning concerning Petitioner's Exhibit No. 2, the proposed site plan, the additional parking which was being provided in the rear with entry from the Robinson Lighting property, and also the landscaping which would be provided on the site. On cross-examination, considerable time was spent on the additional criminal activities which might be experienced if the special exception and other relief were granted, and Mr. Kemp stated that it was a primary consideration for the

Royal Farm Store management to make all their stores safe for both their customers and their employees. Also, pursued during the cross-examination were drainage problems in the rear and that access to the rear property to accommodate the additional property would be through the Robinson Lighting property, and that such permission, while not yet obtained, was very close to being secured. Mr. Kemp stated that, while there would not be any signage for this additional access, it would basically be reserved for parking for their employees, and vendors would be notified that deliveries would have to be made in this area and that through custom and usage, regular customers would always know the availability of the additional parking. Mr. Kemp stated that they would prefer not to have public restrooms, but rather limit them just for their employees because it had been his experience that public restrooms in such facilities could often be areas for loitering and drugs; and they would prefer not to have restrooms available in the presently existing building, but space was available to accommodate the public if required by the Board. On cross-examination, Mr. Kemp also related all efforts made concerning gas spillage and stated that they were providing over and above the State and Federal regulations, installing double-wall tanks and pipes along with electronic monitoring at all times, and that the Royal Farms did not consider this to be a significant problem area.

Mr. Peter Ratcliffe, an architect for Donald Ratcliffe & Associates, with 5 years experience, testified on behalf of the

Petitioner that he had prepared the floorplan document (Petitioner's Exhibit No. 3) and that this conformed to the existing store area. He stated he had not yet passed the architectural boards but was offered as someone capable of drafting these drawings.

Mr. James Singleton of the Maryland Pump Tank and Electric Company also testified. He has 10 years experience as installation supervisor in connection with retail gas sales and underground tanks. He stated that his company essentially installed the majority of such tanks for Royal Farms and had performed at least 10 activities of a similar nature to date. He testified at length as to the type of installation, the double-wall tank system, the steel within fiberglass containers, and of the electronic monitoring and alarm systems which existed at Royal Farm Stores with electronic FAX modem which was programmed to send an alarm to a centralized system, and that the equipment that was proposed for this site exceeded that which was required by Federal, State and County requirements. He further stated that the State only requires single-wall systems.

On cross-examination by Mr. Greenwalt, he further explained how tanks would be installed and also the measures being taken to minimize any spillage.

Mr. Jack Milliron, General Manager with Dunbar Alarm Systems, also testified. He opined that his company services all of Royal Farm locations, and that he personally oversees all Dunbar services. He indicated that he oversees the installation of alarms

on the premises, that they are on a 24-hour basis with "hold-up" buttons, also the various motion detectors, door alarms, and video locations in the Royal Farm Stores. He indicated that when an alarm was triggered, which are kept on a computer automatically, the operator calls the police immediately to respond to this situation. He also opined concerning the Royal Farm alarm history and indicated that 22 have gas pumps, and there have been 9 alarms; and as to the 51 without the gas pumps, there have been 96 alarms sounded. He further indicated that because of the alarm systems installed, it was his opinion that the safety has improved tremendously all the operations.

Mr. Kenneth Schmid, with the Traffic Concepts Company, also testified at length, was accepted by both sides as an expert in traffic engineering, and provided the Board with a detailed traffic analysis, an assessment of the vehicle impact on the proposed use, and the subject site. A quote "trip generation manual" was presented to the Board as Petitioner's Exhibit No. 5, and he estimated that there would probably be roughly a 15-percent increase with the addition of the gas pumps, that could possibly cause a minimum number of new trips, possibly five or more, and that based on his analysis, the addition of the pumps would not affect the level of traffic in the area. He further stated that he had personally observed the traffic flow in the area of the store between 7:00 and 8:15 a.m. and that there was considerable activity in the morning on the day of his observation. He stated that it was his recommendation that they find an alternate delivery site in

place of the front of the store or restrict times of delivery, and specifically recommended rear parking. He indicated that if seven spots were put in the rear of the building along with restrictions, no significant traffic problems would then exist at this location. He also stated that this store appears to have regular customers, and that they would become familiar with the new parking areas and would utilize them extensively.

On cross-examination, the witness indicated that at the time of his observation, all the parking spaces were not filled up, that cars continually came into the site, probably eight or ten at a time, that the site presently provided 15 spaces, that the rear parking was critical to relieve any parking problem. He also stated that the pumps that would be installed are actually parking places even though the building site was not allowed to construe them as such. Additionally, he testified to the character of the area being basically commercial and industrial in nature, that the residential section being predominant along Ridge Avenue. He also testified to the change in 1996 in which many properties were down-zoned from commercial to residential only along Washington Boulevard, as proposed by the Planning Department. However, existing commercial uses were retained, and the subject site was not affected, and retained what is now called an "A.S." zoning. The witness also stated the calculation of sales area specifically contained within Petitioner's Exhibit No. 3 and according to these calculations, no variance was needed. However, the witness did go on to testify as to what he considered to be the uniqueness of the

property, that is the geometry of the road network; the triangular shape of the area constrained by two major roadways; the right-of-way which had previously been taken by the State Highway Administration, and as a practical application, the green spaces which exist are actually part of the triangle which is part of the property though not owned by Royal Farms. He also testified as to the existing structure and to the fact that practical difficulty, if a variance was required, would result in the "chopping off" of the existing building. He stated that, at least upon his review of the site plan and proposed use, there would be no adverse impact on the neighborhood, and the building would stay, even if the addition of the pumps was not granted by the Board. The witness also testified concerning the fact that all safety concerns had been addressed by the proposed site design. The witness further testified that there was no particular problem relative to the overcrowding of land, since the Petitioner was utilizing the existing paved area and that the recommended site plan would actually improve traffic circulation both going and coming into the facility, accompanied by the additional rear parking. There would also be no impact relative to schools, parks, etc., since this was a residential facility with the infrastructure already existing and, since the building was already in existence, there were no particular problems relative to light and air conditions. The witness further testified that the suggested site plan was in harmony with the Master Plan and that the County Council recognized this when they maintained the "A.S." zoning designation.

Mr. Nicholas Brader, a licensed professional engineer, also testified in support of the Petitioner's request. He stated that he had prepared Petitioner's Exhibit No. 1, the site plan, and that he had further examined the drain and storage system from Ridge Avenue through the site with Petitioner's Exhibit No. 13 showing the drainage area on a topographical map. He stated that the addition of the seven parking spaces in the rear of the building which consisted of roughly 3,000 sq. ft. of new impervious area would essentially have no adverse impact on the site and that, in his opinion, the proposed use would result in a less severe impact than the original use as a tavern. That concluded the Petitioner's case-in-chief.

Mr. William Huey, of the Baltimore County Office of Planning, who is a community planner, indicated that he was involved in the 1992 map issues, and in the downzoning of a considerable area of Washington Boulevard, and that in the process of rezoning, the Office of Planning had looked at Washington Boulevard with about 18 acres involved, much of Washington Boulevard was residential. However, in making zoning changes, it was never intended to take away the current legal uses. The zoning on this particular site was not changed, but much of the zoning along Washington Boulevard was changed in an effort to lessen development for reasons of flooding problems. The major thrust of his testimony was that the subject site zoning was not changed, and that the comprehensive review of the Halethorpe area and goals was not to have Washington Boulevard "stripped out" and indeed to lessen development, because

of what were perceived to be severe flooding conditions in that area. However, the subject site's zoning was not changed.

Mr. Joseph Keach, 1711 Selma Avenue, Halethorpe, testified on behalf of the Halethorpe Improvement Association. He stated that he was the zoning chairman and was a long-time resident of the area. He stated that the improvement association had voted unanimously to support the staff's recommendations concerning this particular area. The Appellant submitted a number of photographs (Appellant's Exhibit No. 1) into evidence which basically illustrated how illegal Pepsi tractor/trailers were parked on Ridge Avenue and that the same truck took up a whole lane of traffic on that street. Additional photographs indicated cars parked on Ridge Avenue illegally where there existed three "No Parking" signs and also deliveries being made on Route 1 early on Saturday morning, illegally. Mr. Keach also opined relative to what he perceived to be a bad crime situation and an unanswered letter on the part of the Petitioner as to his concerns made in April 1996 relative to security because of robberies. He stated that he no longer uses this particular Royal Farm Store because of parking problems and that, in his opinion, the situation was a "nightmare" because there was not adequate parking, and a number of customers parked on the premises with rather large vehicles which took up more than one parking spot, and cars were frequently parked illegally along Ridge Avenue. In his opinion, spaces in the rear would be taken over by customers and the delivery problem would not be addressed by the addition of these parking spaces, and if the special exception

request was granted, it would simply aggravate an existing problem.

Mr. Joseph P. Kinsley, President of the Halethorpe Improvement Association, also testified. He indicated that the improvement association represented 190 homes in the immediate area of the Royal Farm Store, consisting of 385 individuals. He also stated that he resided at 1519 Woodside Avenue, which was about four to five blocks from the site, and that he resided there for approximately 34 years. He submitted for the Board's consideration a petition consisting of 450 signatures, 65 of which were residents along Ridge Avenue, stating opposition to the special exception which was admitted by the Board for the weight which its members would consider in this matter. He again related what he considered to be traffic, safety and crime issues in connection with the special exception request, and also his personal observations concerning vehicle parking on Ridge Avenue illegally on a regular basis.

Mr. Donald Hawkins, 1919 Woodside Avenue, also testified. He is president of the Halethorpe Civic League, which represents 208 families in the area, and he resides approximately four blocks away from the site. He also submitted additional petitions requesting that the Board deny the special exception and related similar problems with the parking, particularly in the early morning hours, difficulty in coming and going to the site and also what he personally had observed as being illegal parking on both Ridge Avenue and Washington Boulevard. He also related what the association considered to be drainage problems in the Halethorpe

area, and that the approval of this site would simply, in his opinion, exacerbate the situation.

Mr. Wayne Wright also spoke in opposition to the special exception request. He resides at 5507 Ridge Avenue about two blocks away from the site, and again he focused in on what he perceived to be problem areas in the form of illegal parking on Washington Boulevard, deliveries being illegally made on both Ridge Avenue and Washington Boulevard and what he considered to be severe congestion on the parking lot.

Mr. Paul Hayes, 4401 Ridge Avenue, one block away, also testified and basically agreed with the testimony previously offered by the prior witnesses. That concluded the evidentiary portion of the hearing.

At the conclusion of same, the Chairman requested that both sides submit a Brief to the Board which was done within the time period required by the Chairman. The Board, in determining whether or not a special exception should be granted, is required to follow the requirements set forth in Sections 502.1 and 502.2 of the Baltimore County Zoning Regulations, which specify:

> 502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:
>
> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion in roads, streets or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd land and cause undue

concentration of population;

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

502.2--In granting any special exception, the zoning commissioner or the board of zoning appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the zoning commissioner, or board of zoning appeals, upon appeal, shall enter into an agreement in writing with said zoning commissioner and/or the county commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

This Board, having heard the evidence and testimony, concludes that the Petitioner has met the burden of establishing the requirements of Section 502.1 of the BCZR. There was sufficient testimony and evidence proffered by Mr. Jack Milliron, General Manager of Dunbar Alarm Systems, relative to alarm systems and preventative crime measures being taken along with Mr. James T. Singleton, Maryland Pump Tank and Electric Company concerning the safety issues of the

fuel tanks to be installed (and alarms being set off by any possible spillage), accompanied by detailed traffic analysis submitted by Mr. Kenneth Schmid, vice president, Traffic Concepts, Inc., and conditions related by Mr. David Morton as to parking lot and delivery changes contemplated by the Petitioner which would assuage many of the Protestants' concerns. In addition, the Board was satisfied with the testimony and evidence submitted by Mr. Nicholas Brader concerning the fact that the proposed use would actually result in less impervious area than the original use as a tavern several years ago.

While the Board recognizes that there may be legitimate concerns which were raised by the Appellants /Protestants at the hearing, it is also the further conclusion of the Board that, with certain conditions being placed upon the special exception use, the majority of these concerns can be satisfied. In making its decision, the Board is directed by Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) in which the Court stated that:

> "Special exception use as an adverse effect must be denied when it is determined from the facts and circumstances that the granting of the requested special exception use would result in 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. Thus, case law has established that the appropriate standard to be used in determining whether a requested special exception would have an adverse effect and therefore should be denied is whether or not there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with the special exception use irrespective of its location within the zone."

Based upon the testimony and evidence, the Board is

constrained to conclude that the facts and circumstances in this case demonstrate that the particular use proposed would not have any adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

As to the variance request to permit 12 parking spaces rather than the required 19 spaces, this is no longer an issue since the Petitioners have redrawn the site plan to include the required 19 spaces. As to the site area requirements of Section 405.4.E.1, it is the conclusion of the Board that the property exceeds the calculation of required site area supported by the evidence so that no variance is necessary. Based upon Petitioner's Exhibit No. 3, the floor plan to which Mr. Peter Ratcliffe testified, based upon construction drawings and his own physical inspection of the premises to determine the sales area, the Board concludes that the Petitioner's calculation of the store sales area of 1,535 sq. ft. means the total required site area would equal 15,000 plus 6,140 sq. ft. for a total of 21,140 sq. ft., whereas the property area actually measures 21,170 sq. ft., which exceeds the regulatory requirements. Based upon the Petitioner's calculation of the Royal Farm Stores sales area of 1,535 sq. ft., it is the conclusion of the Board that no variance is necessary.

As to the restroom issue required under Section 405.4.B, testimony clearly has shown that there is available space for restrooms within the facility; and considering the number of individuals coming and going on a daily basis, the Board does see

a need for such facilities, and would require such facilities and not grant a waiver. The Board recognizes that there may be problems existing by reason of location of the store at its present location, but the weight of the evidence and testimony is such that the Board is convinced that the situation would not be exacerbated by the addition of the pumps but with requirements imposed by the Board, will alleviate the concerns of the Protestants.

## O R D E R

**THEREFORE, IT IS THIS** 30th day of July, 1997 by the County Board of Appeals of Baltimore County

**ORDERED** that the Petition for Special Exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq. ft., pursuant to Section 405.4.E of the Baltimore County Zoning Regulations (BCZR), in accordance with Petitioner's Exhibit No. 1 and Petitioner's Exhibit No. 2 (Final Landscape Plan) be and is hereby **GRANTED**, subject to the following restrictions:

1. The Petitioner shall submit for the Board's file a revised Plat that includes the 7 parking spaces incorporated in Petitioner's Exhibit No. 2 "Final Landscaping Plan."

2. The Petitioner must have in effect a legally binding Agreement with the owner of the property through which entry is to be made into the proposed rear parking area as incorporated in the site plan.

3. An alarm system shall be installed in the same manner and extent in which such systems currently exist at the Middle River and Belair Road stores.

4. The Petitioner shall require all employees to park their personal vehicles in spaces at the rear of the store.

5. All deliveries must be on site, preferably and to the

extent contractually possible, via rear entry and during off-peak hours.

6. The Petitioner shall not accept any vendor deliveries made directly from commercial vehicles parked along Ridge Avenue or Washington Boulevard.

7. Company fuel deliveries to replenish tanks may not occur during peak hours (6:00 a.m. to 8:00 p.m.).

8. The Petitioner shall be required to provide new landscaping as reflected on Petitioner's Exhibit No. 2 that shall screen delivery vehicles from view; and shall be required to maintain and replace any shrubbery with the passage of time.

9. All temporary banners and signs located on the subject property shall be removed immediately.

10. When applying for a building permit, the site plan must reference this case and set forth and address the restrictions of this Order.

**AND IT IS FURTHER ORDERED** the Petitioner's request for a waiver of the restroom requirement, per Section 405.4.B, is hereby **DENIED.** However, the restrooms shall be kept locked at all times; and keys shall be retained by the employees of the store for customers' and employees' usage exclusively.

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**

Charles L. Marks, Acting Chairman

Lawrence M. Stahl

Margaret Worrall

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

July 30, 1997

Robert B. Greenwalt, Esquire
20 University Avenue
Baltimore, MD 21228

RE: Case No. 97-11-XA
Cloverland Farms Dairy, Inc.

Dear Mr. Greenwalt:

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. Bianco, Administrator
**County Board of Appeals**

encl.

cc: Mr. Joseph P. Kinsley /Halethorpe Imp. Assn.
Robert A. Hoffman, Esquire
Mr. John M. Kemp /Cloverland Farms Dairy, Inc.
Mr. and Mrs. Edward Smith
Ms. Amy J. Hawkins
Ms. Theresa Lowry
People's Counsel for Baltimore County
Pat Keller
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink on Recycled Paper

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

| | | |
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| IN THE MATTER OF: | * | |
| CLOVERLAND FARMS DAIRY, INC. | * | Case No. 97-11-XA |
| PETITIONER | * | |

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MEMORANDUM OF APPELLANTS/PROTESTANTS

This matter came before the County Board of Appeals on appeal from the decision of the Deputy Zoning Commissioner granting the petition of Petitioner for a Special Exception and Variances. Hearing was held on May 7, 1997 and testimony and evidence received on behalf of Petitioner and Appellants.

The County Board of Appeals must consider the request for the Special Exception to Baltimore County Zoning Regulations §405. The Board must also consider the request for a Variance from the requirement to provide public restrooms. A Variance for site area requirements was dismissed as moot by the Deputy Zoning Commissioner and is not before the Board. The Variance to permit 12 parking spaces instead of the required 19 spaces was granted by the Commissioner, however, Petitioner has redrawn the site plan to include 19 spaces. Therefore, the Variance for parking spaces may now be moot or withdrawn and is not before the Board. Although the hearing before the Board took the better part of a day for testimony, it appears that there are just two remaining issues: Whether the Special Exception should be granted, and, Whether the Variance from the requirement to provide public restrooms should be granted.

The remaining Variance request can be considered without extensive discussion. There was virtually no testimony on the subject (Mr. Kemp, Vice President of Petitioner alluded to the topic on direct and cross examination) and no testimony from witnesses for the Appellants on the subject. The rationale for varying the requirement by Petitioner is to prevent undesirable activities around the restrooms. Yet, the store

would provide no convenience facilities which may encourage patrons to use surrounding areas in an emergency. The law regarding variances has been reviewed recently by the Court of Special Appeals. The variance can only be granted after a two-step inquiry, by first determining if the property is unique and unusual from surrounding properties and then by determining if an unreasonable hardship results from the zoning law. Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995). Also Umerley v. People's Counsel, 672 A.2d 173 (1996). There was no testimony that the restroom requirement caused an unreasonable hardship. Further, although David Martin for the Petitioner spoke of some unique aspect of the property, his testimony did not establish the uniqueness required by Maryland law. The Court of Special Appeals has discussed and defined how a property can be deemed unique in North v. St.Mary's County, 99 Md. App. 502, 638 A.2d 1175 (1994):

> "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e. its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." (North at 514)

The Petitioner failed to meet this requirement and the Variance should be denied.

Much more testimony was devoted to the Special Exception as every witness for both sides seemed to touch on some aspect of the requirement for the exception. The Special Exception is required by B.C.Z.R. §405.4.E because the proposed sales area of the store will exceed 1500 square feet. Although the size of the building is 2900 square feet, the proposed sales area will be 1535 feet. §405 of the B.C.Z.R. is not the only section applicable, the requirements of §502 must be satisfied before the Exception can be granted.

Mr. Martin's testimony for Petitioner made much of the harsh impact of §405 and the seeming inconsideration of the law for conversion of convenience stores to fuel service stations. He also decried the insanity of "lopping off" 35 square feet of sales area to meet the requirements of the section. However, Mr. Martin is not qualified to interpret County Council legislation and his characterization of the section is just not correct. §405 does indeed anticipate the conversion of convenience stores as evidenced by §405.4.E. Further, the intent expressed in the law itself is to regulate location and appearance of fuel service stations as well as additional uses at such sites. The County Council has not ignored the conversion of convenience stores to fuel service stations, but, in fact has anticipated such conversions. The requirements set forth in the section addressed such a conversion. Despite Mr. Martin's aversion to such requirements and Petitioner's desire that it not need to comply, a special exception must be obtained.

In order that the Special Exception be granted, Petitioner must satisfy the requirements of §502.1 B.C.Z.R. Counsel for Petitioner led Mr. Martin through a recitation of each of these factors and, for each factor, Mr. Martin concluded that the proposed use would not create any enumerated prohibition. Yet each of the witnesses for Appellants spoke to some aspect of the section and testified that the proposed use would indeed create problems. Wayne Wright and Paul Hays reside on Ridge Road adjacent to the store and testified that there are already problems with deliveries and patrons of the store. Pictures were introduced to show parking of patron or service vehicles on Ridge Road which block one lane of this narrow road and cause users to veer into oncoming traffic to get around such obstacles. The residents of the area, including Joseph Keech and Joseph Kinsey from the Halethorpe Improvement Association, testified that the problem of congestion is acute during the rush hours in the morning. Even the Petitioner's Expert, Kenneth Schmid,

acknowledged the problems with congestion in the morning. The testimony clearly established that congestion in adjacent roads is already a problem and it would be absurd to think that the addition of the gasoline pumps, and resultant loss of parking area, would alleviate this problem. The testimony indicates that the proposed use would create congestion in adjacent roads (§502.1(b)), tend to overcrowd the land (§502.1(d)), and be detrimental to the safety and general welfare of the locality (§502.1(a)).

The reality of this property confronted by the residents every day is that the property is too small for intensive commercial use. The present use causes problems to the surrounding community. The proposed use will compound those problems. In fact, the Petitioners acknowledge the problems. Initially, they have acknowledged the inadequate parking by revising the site plan to include 19 spaces. They have abandoned any pretense that 12 spaces are sufficient. Further, they promise to restrict fuel deliveries and other product deliveries to certain times and certain locations (product deliveries in the newly proposed rear parking area). Yet, there is no testimony that deliveries have been restricted, despite the well-known congestion. The Board and community residents are asked to rely on promises that the Petitioners will address the congestion by restrictions which they have not seen fit to impose before.

Petitioners have raised the specter of competition by gas station conversions near the site. However, the nearest Exxon station remains a fuel service station only, as noted by Joseph Keech. Mere financial hardship or the opportunity to increase profit at a site are not sufficient reasons to grant an exception. Marino v. City of Baltimore, 137 A.2d 198 (1957). In addition, the detriment to Petitioner in denying the exception must be weighed against the benefit to the community of retaining the current plan. Maryland Aviation Administration v. Newsome, 652 A.2d 116 (1995).

Appellants request that the Board reverse the decision of the Deputy Zoning Commissioner by denying the requested Variance and Special Exception. The Variance for parking spaces should be ruled moot by the Board pursuant to the Plot Plan (Exhibit 1) and Site Plan (Exhibit 2) showing 19 spaces. In the event that the **Variance** for parking spaces remains viable, the Board should deny the Variance because the Petitioners have failed to meet the judicial standards of Cromwell and Umerley. The proposed 12 spaces are totally inadequate to alleviate the congestion that will result from the addition of gas pumps.

Robert B. Greenwalt
Ste. 201, 611 Frederick Road
Catonsville, MD 21228
410-747-2821

I HEREBY CERTIFY that a copy of the foregoing Memorandum was mailed to Robert A. Hoffman, Esq., 210 Allegheny Avenue, Towson, MD 21204, this 28th day of May, 1997.

Robert B. Greenwalt

*Robert B. Greenwalt, Esq.*

*Suite 201, 611 Frederick Rd., Catonsville, MD 21228 410-747-2821 fax: 410-788-2774*

May 28, 1997

County Board of Appeals
Old Courthouse, Rm. 49
Towson, MD 21204

Re: Case #97-11-XA

To the Board:

Attached please find 3 duplicate originals of the Memorandum of Appellants in the above referenced case. The Memorandum is submitted by the date agreed and established at the hearing on May 7, 1997.

Counsel for Appellants intends to be present for deliberation on June 18, 1997.

Very truly yours,

Robert B. Greenwalt

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| PETITION OF CLOVERLAND FARMS DAIRY, INC. FOR SPECIAL EXCEPTION AND VARIANCE NW/S WASHINGTON BOULEVARD AT SE/S RIDGE AVENUE (4308 Washington Boulevard) | * | BEFORE THE |
| | * | COUNTY BOARD OF |
| | * | APPEALS OF |
| | * | BALTIMORE COUNTY |
| 13th Election District | * | |
| 1st Councilmanic District | * | Case No. 97-11-XA |

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**MEMORANDUM OF PETITIONER IN LIEU OF CLOSING ARGUMENT**

Petitioner, Cloverland Farms Dairy, Inc., by Robert A. Hoffman with Venable, Baetjer and Howard, LLP, its attorney, submits this Memorandum in lieu of closing argument in the above-captioned case.

## INTRODUCTION

This case involves Petitioner's request for: (1) a special exception under Section 405.4.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) so that it may install two fuel service pumps to be operated in combination with an existing Royal Farm convenience store; (2) a variance, if required, from the site area requirements set forth in Section 405.4.E. for fuel service in combination with a convenience store with a "sales area" in excess of 1500 square feet; and (3) a waiver of the restroom requirement applicable to fuel service stations. Petitioner also asks for a dismissal of the appeal from the Deputy Zoning Commissioner's order based upon a defect in the Notice of Appeal.

## STATEMENT OF FACTS

Petitioner owns and operates the Royal Farm chain of convenience stores, including a store on property located at 4308 Washington Boulevard at the intersection of Ridge Avenue in Halethorpe, Baltimore County (the "Property"). In order to effectively compete in a market where gas stations increasingly have accessory convenience stores, Petitioner has initiated a program to offer fuel service at many of its stores where, among other considerations, applicable zoning laws permit such a combination of uses.

On September 27, 1996, after a public hearing held on August 8, 1996, the Deputy Zoning Commissioner granted the requested special exception, ruled that no site area variance was required, granted a parking variance (no longer at issue in this case), and granted a waiver of the restroom requirement. On October 25, 1996, Joseph B. Kinsley and the Halethorpe Improvement Association (collectively, the "Appellants") filed a Notice of Appeal. At a de novo hearing before the County Board of Appeals of Baltimore County held on May 7, 1997, the Petitioner again introduced evidence and the testimony of several witnesses in support of its petition. At the conclusion of the hearing, the acting chairman requested that, in lieu of closing argument, counsel for the Petitioner and the Appellants submit memoranda in support of their respective positions.

The Property is zoned B.R. (Business Roadside) with an A.S. (Automotive Service) district classification. As part of the 1996 Comprehensive Zoning Map Process, Issue 1-005, the Baltimore County Council essentially rezoned this section of the Washington Boulevard corridor, with the exception of the Property, to a less permissive

zoning classification. Specifically, the County Council removed the A.S. district overlay from the entire surrounding area, deciding to allow fuel service only at the existing Royal Farm Property.

## ARGUMENT

### I. Based upon the Substantial Evidence Submitted at the Hearing, the Board Should Grant Petitioner's Request for Special Exception.

The 1993 legislation, which created the automotive services (A.S.) district, reflects the change in the operation of service stations, including the development that "the number of stations with convenience stores...has been increasing." B.C.Z.R. Section 405.1.C. In the B.R.-A.S. zone, a fuel service station, defined in the regulations as a "structure or land used...for the retail sale of automotive fuel, but not a truck stop," in combination with a convenience store having greater than 1500 feet in "sales area" is permitted by special exception under B.C.Z.R. Section 405.4.E.1, provided that the conditions set forth in B.C.Z.R. Section 502.1 are satisfied.

According to the established law of the State 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, if the Petitioner is able to prove that adding fuel service would not result in any of adverse conditions set forth in the applicable regulation (Section 502.1), the special exception should be granted. Id.

Furthermore, even in the case of a use which by its nature would result in adverse effects on the community, the burden of proof is on the objecting party to show that allowing the use on the subject property would have a greater adverse impact than if located elsewhere in the zone. Schultz, 291 Md. at 14, 22-23. The Appellants' assertions of adverse impact remain unsubstantiated by the evidence. The Appellants failed to establish any deleterious effect of the provision of fuel service at the Royal Farm and offered only anecdotal observations of existing conditions and predictions, which were easily refuted by Petitioner's witnesses.

As summarized in the following section, the Petitioner, therefore, established by overwhelming evidence that the addition of fuel service pumps to its convenience store operation would not produce an adverse impact upon the surrounding communities. To the contrary, the evidence shows that the changes the Petitioner will make to accommodate fuel service will improve conditions as they exist today.

### A. The Petitioner has satisfied all of the requirements of Section 502.1 for obtaining a special exception.

**Health, Safety, and General Welfare of the Locality**

The two main issues raised at the hearing related to Health, Safety and General Welfare were crime and safety:

***Crime.*** While it is common knowledge that convenience stores are often targets of crime, the evidence is persuasive that offering fuel service actually discourages the incidence of crime. To this effect, Mr. Jack Milliron, general manager of Dunbar Alarm

Systems, testified that there have been no alarms at the Middle River Royal Farm store since fuel service was installed in May of 1996, compared to several alarms in the period prior to the addition of fuel service. See Transcript of Hearing before the County Board of Appeals, dated May 7, 1997, p. 69, hereinafter referred to as "T." Relevant portions of the transcript have been attached to this Memorandum as Exhibit 1 for the Board's convenience. Additionally, the Bel Air Road store has not had an alarm tripped since fuel service was installed in November of 1996. (T., p. 69)

Mr. Milliron, therefore, concluded that the installation of fuel service pumps actually improves safety at the Royal Farm stores. (T., p. 69) This finding is logical for several reasons articulated by Mr. Jack Maynard Kemp, Vice-President of Cloverland Dairy and Royal Farm. He explained that the canopy lighting and the heightened risk of being observed by motorists, many of whom have car phones, discourage criminal activity. (T., pp. 35-36)

***Safety of Fuel Tanks.*** Petitioner plans to implement fuel tank safety precautions which exceed the state and federal requirements. Mr. James Thomas Singleton, installation supervisor for Maryland Pump Tank and Electric Company, testified that his company has installed underground fuel tanks at twelve Royal Farm properties using a double-walled piping system (to contain fuel in the event that the primary line fails), even though the state requires only single-walled piping. (T., pp. 61-63) The tanks are also electronically monitored, so that an alarm is triggered by any spillage at which point the company would be notified. (T., p. 62) The tanks, pumps, and dispensers are all

equipped with containment systems to protect against a fuel leak. (T., pp. 62, 64) The Petitioner is prepared to make these investments, which will cost up to $30,000.00 more than the governmental requirements, to ease the concerns of neighbors and the protect the environment. (T., p. 53-54)

**Traffic**

According to the evidence presented by the Petitioner, the traffic conditions at Ridge Road and Washington Boulevard are favorable, and the Petitioner plans to take additional steps to ease any existing traffic congestion. Mr. Kenneth Schmid, traffic engineer and Vice-President of Traffic Concepts, analyzed the traffic flow at the intersection using the critical lane method, used by the State Highway Administration, to determine the occurrence of conflicting flows of traffic. (T., p. 75) The intersection received the most favorable rating, an A, under Mr. Schmid's analysis. (T., p. 74) The intersection received the next best rating, a B, under the loaded cycle method uniquely used by Baltimore County. (T., p. 76) Further, Mr. Schmid estimated that ninety-five percent (95%) of the Royal Farm traffic ends up on Route 1 and does not travel along Ridge Road into the more residential areas. (T., p. 78)

The installation of fuel pumps at the Royal Farm should not increase traffic significantly, as these pumps are intended primarily to serve existing traffic. Mr. Kemp also testified that there will be no need for additional employees. (T., p.27) Mr. Schmid explained that convenience stores and gas stations are not "new trip generators," and he predicted a fifteen percent (15%) increase in traffic volume at the Property drawn

primarily from existing traffic flows. (T., p. 80) He anticipates only five new trips will result from the new use, producing a "minimal impact at those intersections." (T., p. 81)

Traffic in the Royal Farm parking lot, while quite busy during peak hours, will be alleviated by the addition of seven (7) new parking spaces at the rear and side of the store, where employees and delivery trucks will park. (T., p. 83; Petitioner's Exhibit 1) Mr. Schmid opined that, because most Royal Farm patrons make regular visits and enter from Route 1, they would have no trouble adapting to the different access for the new rear spaces. (T., p. 85)

In addition to restricting delivery trucks to these rear spaces, Petitioner is willing to make other changes to allay traffic concerns. Pursuant to Mr. Schmid's recommendations, fuel deliveries would be restricted to off-peak hours. (T., p. 86) According to Mr. Kemp, economics as well as traffic make it advantageous to have fuel delivered in the evening. (T., pp. 30-31) Also, new landscaping, shown on Petitioner's Exhibit 1, would screen delivery vehicles from view. (T., p. 31-32)

In addition to the seven spaces, the fueling areas would serve, for practical purposes if not officially, as parking spaces for store patrons who will now also purchase gas at the Royal Farm. (T., p. 88). Hence, as Mr. David Martin, Petitioner's expert land planner, opined, parking lot and delivery changes being made in conjunction with the installation of fuel pumps will improve the traffic situation as it now exists. (T., p. 125)

**Inconsistency with Zoning Regulations**

Mr. Martin stated that the bill creating the A.S. district, Bill No. 172-93, is a response to changing patterns in the fuel service industry, such as the elimination of repair services and combination with other uses such as convenience stores. (T., p. 116) The County gave a clear indication that the use of this Property as a convenience store/fuel service combination was in accord with the spirit and intent of the legislation when it decided, in the midst of pervasive down-zoning in the area, to retain the A.S. district at the Property. See Petitioner's Exhibits 7, 8, 9, and 10. Referring to the decision to retain the A.S. district on this property, Mr. Martin testified that he could "only conclude that they [the staff planners, Planning Board, and County Council] recognized this as an opportunity and a special circumstance which warranted the application of the A.S. district on this particular property." (T., p. 132)[1]

**Inconsistency with Impermeable Surface/Vegetation**

Mr. Nicholas Brader, licensed professional engineer, testified that the addition of the seven parking spaces, constituting approximately 3,000 square feet of new impervious area, would have no adverse impact on the site. (T., p. 140) In fact, he fully expects that the Property will continue to qualify for the County's stormwater management waiver in light of the fact that the proposed use will result in less impervious area than the original use as a tavern. (T., p. 139-140)

[1] Mr. Martin also observed that there are no other properties on the Comprehensive Zoning Maps introduced into evidence that would permit a convenience store to add fuel services. (T., p. 110) None of the down-zoned properties were permitted to retain the A.S. district classification. (T., p. 111)

He emphasized that, due to the low location of the Property within the 37-acre drainage area, any surface run-off would reach the underground stormwater management system before any significant amounts of upstream water would reach the Property. (T., p. 142) Further, in the event that an additional inlet would be required, it would be directed into the closed storm drain running underneath the Property. (T., p. 142) Therefore, the evidence demonstrated that there will be no adverse impact on neighboring properties with respect to stormwater management issues. (T., p. 139-140)

**Other Factors**

Mr. Martin testified, and the Appellants did not dispute, that the proposed use would not: (a) create a potential hazard from fire, panic or other dangers; (b) tend to overcrowd land and cause undue concentration of population; (c) interfere with adequate provisions for school, parks, etc.; or (d) interfere with adequate light and air. (T., p. 124-127)

Based upon the substantial evidence presented by the Petitioner in favor of the requested relief and the fact that the Appellants presented no substantive evidence to demonstrate that the proposed use would result in any adverse impact to the surrounding community, under the holding of Schultz v. Pritts, the Board should grant the requested special exception.

## II. The Board Should Conclude that the Property Satisfies the Site Area Requirements of Section 405.4.E.1. or, in the Alternative, it Should Grant the Petitioner a Variance Based Upon the Unique Characteristics of the Property.

### A. The Property Exceeds the Calculation of Required Site Area Supported by the Evidence So That No Variance is Necessary.

The Property area measures 21,170 square feet, which exceeds the regulatory requirements based upon Petitioner's calculation of the Royal Farm store's sales area of 1,535 square feet. Under B.C.Z.R. Section 405.4.A.1., the area required for the operation of the Royal Farm fuel service pump alone would be 15,000 square feet (the greater of 15,000 square feet or 1,500 square feet times the number of fuel service spaces, in this case, four). Where fuel service is offered in combination with a convenience store having a sales area in excess of 1,500 square feet, however, the site area must include additional square footage equal to four times the square footage of the store's sales area. Section 405.4.E.1. Based upon the Petitioner's calculation of the store's sales area of 1,535 square feet, the total required site area would equal 15,000 plus 6,140 square feet for a total of 21,140 square feet.

The Petitioner has introduced sound evidence to support its calculation of sales area. Mr. Peter Ratcliffe testified that he prepared Petitioner's Exhibit No. 3, the floor plan of the store, based upon construction drawings and his own inspection of the premises, to determine the sales area. (T., p. 58). The highlighted area represents the portion of the store where customers may obtain items for purchase. Mr. David Martin

supported this measurement of sales area, stating that the Council's intention was "to focus on what the customer uses as opposed to ancillary uses typically found in almost any building...,i.e., the counter space, the bathrooms, the storage...." (T., p.105)

This definition of "sales area" for purposes of Section 405.4.E.1 as the area where customers select items is logical given that most combination fuel service/convenience stores were originally gas stations. Often, the station discontinued certain automotive repair services and converted the repair bays into the convenience store. The station would already have a sales counter/cashier, storage area, and restrooms, so it would not make sense for these areas to be part of the convenience store "sales area" in calculating the additional site area required by the convenience store. It would be inequitable to require Petitioner to have a larger site area than if it were adding a convenience store to an existing gas station. (T., pp. 117-118)

### B. The Property Qualifies for a Variance, if Needed, from the Site Area Requirements based upon its Unique Configuration and Surroundings.

Although the Petitioner does not believe that a variance is required in this case, it has produced substantial evidence that the legal requirements for obtaining an area variance have been met. To obtain an area variance, as opposed to a use variance, the Board must find only that "special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and...strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship." B.C.Z.R. Section 307.1. The uniqueness of the conditions must

be such that the zoning restriction impacts more severely on this property owner. Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995). The conditions will be deemed to cause "practical difficulty" if, taking into account the interests of the owner and others, requiring strict compliance with the zoning regulations would unreasonably burden the property owner when the owner attempts to use the property for a permitted use. McLean v. Solely , 270 Md. 208, 214-215, 310 A.2d 783 (1973).

The Property is a very unusual triangular shape, as Mr. Martin explained, because of the angle at which Ridge Road and Washington Boulevard intersect. (T., p.107; Petitioner's Exhibit 1) Service stations usually are located at ninety-degree intersections, producing square shaped properties. (T., p. 129) The Property's usable area has been further limited by rights of way taken by the government to expand the roads. Because of the unusual shape of the Property created by the intersecting roads, the site area restriction has a greater impact on the Petitioner than on other property owners who operate fuel service stations.

If the Board rejects Petitioner's calculation of sales area, requiring the Petitioner to comply with the site area restriction would result not only in practical difficulty but would be virtually impossible. As Mr. Martin testified, the Petitioner would have to "chop off" part of the building or tear it down and rebuild, in his opinion an impractical application of land use planning. (T., p. 109) The Petitioner would effectively be prohibited from adding fuel service, a use clearly intended to be available to the Property by the County's application and retention of the A.S. district.

Moreover, given the configuration of open land around the Property, the site area is effectively larger than would be indicated by the legal boundaries. Mr. Martin spoke to the issue of the "practical application of land service" by recommending that the Board look at the Property together with its surroundings. In so doing, he concluded that the green spaces on the corner and within the right-of-way are "for practical purposes...part of the Property." (T., p. 108)

Finally, in addition to the totality of the evidence so far described as to impact, Mr. Martin testified that granting the variance would have no adverse impact upon the community. (T., p. 114) Evidence submitted as to the character of the neighborhood reveals two heavily traveled thoroughfares and, notwithstanding the downzoning efforts of the County, a corridor with substantial commercial use. Petitioner's Exhibits 7, 8, 9, and 10. Mr. Martin gave his professional opinion that granting the requested site area variance is in harmony with the spirit and intent of the regulation, particularly given that the legislation contemplated the gas station adding a convenience store at a "traditional square corner at a four-way intersection," which by definition would involve remodeling or rebuilding the existing structure. (T., p. 118). By contrast, it would not serve the interests of the zoning laws to apply this regulation to a triangular property with an existing building, where only the addition of fuel pumps would be required to add the fuel service station clearly intended to be permitted under the A.S. district.

## II. Granting Petitioner a Waiver of the Requirement of Section 405.4.B Requiring a Restroom Facility is in the Best Interest of the Community.

Mr. Kemp testified that, while there is space for bathrooms at the Property, public restrooms may encourage loitering and drug-related activity. For this reason, a waiver of the restroom requirement in Section 405.4.B. would be in the community's best interest and should be granted. (T., p. 52)

## III. The Appellants' Notice of Appeal is Defective and Should Be Dismissed.

Rule 3 of the Rules of Practice and Procedure of the County Board of Appeals dictates that "no appeals shall be entertained by the Board of Appeals unless the notice of appeal shall state the names and addresses of persons taking such appeal." Because the Notice of Appeal, dated October 25, 1996, did not recite the addresses of the Appellants, the Board of Appeals should dismiss the instant appeal. Petitioner's counsel raised this deficiency at the outset of the hearing before the Board of Appeals. The issue was taken under advisement by the Chairman, and Petitioner now requests that the Board rule favorably on Petitioner's motion for dismissal.

## CONCLUSION

Based upon the evidence submitted at the hearing, as summarized in this Memorandum, the Board should affirm the decision of the Deputy Zoning Commissioner and grant the requested relief to allow Petitioner to use the Property as a fuel service

station in combination with convenience store as envisioned by the Baltimore County Council in its comprehensive zoning process.

Respectfully submitted,

ROBERT A. HOFFMAN
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Petitioner
Cloverland Farms Dairy, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of May, 1997, a copy of the foregoing MEMORANDUM OF PETITIONER IN LIEU OF CLOSING ARGUMENT was mailed to Robert B. Greenwalt, Esquire, 20 University Avenue, Baltimore, Maryland 21228-3645, Attorney for the Appellants.

ROBERT A. HOFFMAN

TO1DOCS1/DCS01/0044618.01

# Petition for Special Exception

## to the Zoning Commissioner of Baltimore County

**for the property located at** 4308 Washington Boulevard

**which is presently zoned** BR-CS-1

97-11-XA

**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 part of hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

an automotive station in combination with a food store with a sales area larger than 1500 s.f., pursuant to Section 405.4.E. of the Baltimore County Zoning Regulations.

FMK

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 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/Lessee:**

(Type or Print Name)

Signature

Address

City State Zipcode

**Legal Owner(s):**

Cloverland Farms Dairy, Inc.
(Type or Print Name)

John M. Kemp, V.P.
Signature

By: John M. Kemp, Vice President
(Type or Print Name)

Signature

2200 N. Monroe Street 669-2222
Address Phone No.

Baltimore MD 21217
City State Zipcode

**Attorney for Petitioner:**

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-6200
Address Phone No

Towson MD 21204
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representati to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Name

210 Allegheny Ave, Towson, MD 21204 (410) 494-6200
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates
Next Two Months
ALL OTHER

REVIEWED BY: DATE

ORDER RECEIVED FOR FILING
Date
By

DROP - OFF
REVIEW
7/8/96
WCR

Zoning Administration & Development Management

# Petition for Variance

9

## to the Zoning Commissioner of Baltimore County

**for the property located at** 4308 Washington Boulevard

97-11-XA

**which is presently zoned** BR-CS-1

**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 part of hereof, hereby petition for a Variance from Section(s) 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the 19 spaces required; Variance from Section 405.4.A.1 and 405.4.E.1 to permit a site area of 21,170 s.f. in lieu of the 23,631 s.f. required and, a Variance to waive restroom requirement.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardships 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 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/Lessee:**

(Type or Print Name)

Signature

Address

City State Zipcode

**Legal Owner(s):**

Cloverland Farms Dairy, Inc.
(Type or Print Name)

John M. Kemp V.P.
Signature

By: John M. Kemp, Vice President
(Type or Print Name)

Signature

2200 N. Monroe Street 669-2222
Address Phone No.

Baltimore MD 21217
City State Zipcode

**Attorney for Petitioner:**

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-6200
Address Phone No

Towson MD 21204
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representati to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Name

210 Allegheny Ave, Towson, MD 21204 (410) 494-6200
Address Phone No.

ORDER RECEIVED FOR FILING
Date 7/8/96
By ucr

DROP-OFF
REVIEW
7/8/96
ucr

Zoning Administration & Development Management

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates
Next Two Months
ALL OTHER

REVIEWED BY: DATE

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

97-11-XA

Description to Accompany Petition for
Special Exception and Variance

June 21, 1996

The Point of Beginning being located southwesterly 167 feet plus or minus from the point of intersection of the centerline of Ridge Road and Washington Boulevard, also known as U.S. Route 1. Thence beginning for the same at the corner formed by the intersection of the southwest right-of-way line of Ridge Road as widened 25 feet from center with the northwest right-of-way line of Washington Boulevard, as widened 35 feet from center and shown on a Baltimore County Bureau of Land Acquisition Drawing RW 87-312-1 dated April 1, 1988 and recorded among the Plat Records of Baltimore County, Maryland in Liber 7841 Folio 037 thence binding on the northwest right-of-way line of Pleasant Plains Road as widened and shown on said plat,

1) South 04° 40' 12" West 258.21 feet,

2) North 61° 55' 13" West 179.83 feet,

3) North 28° 04' 48" East 208.00 feet,

4) South 79° 53' 12" East 29.70 feet to the point of beginning.

Containing 0.386 acres of land more or less.

**THIS DESCRIPTION COMPILED FOR ZONING PURPOSES ONLY**

**NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS**

## CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 97-11-XA

Towson, Maryland

District: ____

Date of Posting: 7/19/96

Posted for: Special Exception & Variance

Petitioner: Cloverland Farm Dairy

Location of property: NWS Wash. Blvd. SES Rt. 100 Hwy

Location of Signs: Facing roadway on property being zoned

Remarks: ____

Posted by: M. McNeely (Signature) Date of return: 7/20/96

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: #97-11-XA
(Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard corner SE/S Ridge Avenue
13th Election District
1st Councilmanic
Legal Owner(s):
Cloverland Farms Dairy, Inc.

**Special Exception:** for an automotive station in combination with a food store with a sales area larger than 1500 square feet. **Variance:** to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

Hearing: Thursday, August 8, 1996 at 9:00 a.m. in Rm. 118, Old Courthouse.

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.

7/270 July 25 C68842

# CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/25, 1996

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 7/25, 1996.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

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

No

DROP-OFF - NO KEITH
ITEM #9

DATE 7/2/99 ACCOUNT

97-11-XA

AMOUNT $ [illegible] 521.00

RECEIVED FROM: Cloverland Farms Dairy, Inc.

CV + SPX + 2 SIGN

#020 - VARIANCE - $250.00
#050 - SPECIAL EXCEPTION - $200.00
#080 - SIGN POSTING _ 35.00 = $70.00

FOR:

4303 Washington Blvd.

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

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

No 027969

DATE 2-10-99 ACCOUNT 1-662-650

AMOUNT $ 400.00

RECEIVED FROM: Robert Hammond

FOR: Appeal fee 97-11-A

02091101 07:10:CHRC $400.00
Bp Property Rpt: 0-SPL-SA

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

MICROFILMED

TO: PUTUXENT PUBLISHING COMPANY
July 25, 1996 Issue - Jeffersonian

Please foward billing to:

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204
494-6200

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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: 97-11-XA (Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard, corner SE/S Ridge Avenue
13th Election District - 1st Councilmanic
Legal Owner(s): Cloverland Farms Dairy, Inc.

Special Exception for an automotive station in combination with a food store with a sales area larger than 1500 square feet.
Variance to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

HEARING: THURSDAY, AUGUST 8, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

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
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 18, 1996

# 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: 97-11-XA (Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard, corner SE/S Ridge Avenue
13th Election District - 1st Councilmanic
Legal Owner(s): Cloverland Farms Dairy, Inc.

Special Exception for an automotive station in combination with a food store with a sales area larger than 1500 square feet.
Variance to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

HEARING: THURSDAY, AUGUST 8, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Cloverland Farms Dairy, Inc.
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 CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

Rescheduled from 1/16/96
CASE NUMBER: 96-245-SPH (Item 245)
7200 Green Bank Road
N/S Green Bank Road, 25' E of c/l Choptank Road
15th Election District - 5th Councilmanic
Legal Owner: Paul D. Kiebler and Jean A. Kiebler

Special Hearing to determine whether the divisional lines established on the plat accompanying this Petition are in compliance with the provisions of Section 417.3 and such other actions which will be required to construct the piers as shown on the plat; further to determine that the adjacent properties designated as Lot #31 and #32 are not in compliance with the provisions of B.C.Z.R. contained in Section 417; and to determine such items which may be presented at the hearing relative to this issue.

HEARING: WEDNESDAY, APRIL 3, 1996 at 9:00 a.m. in Room 106, County Office Building.

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Rescheduled from 11/29/95 and 2/21/96
CASE NUMBER: 96-168-SPHA (Item 162)
2260 Cromwell Bridge Road
Sanders Corner
NW/S Cromwell Bridge Road, 78' SW of c/l Loch Raven Road
9th Election District - 6th Councilmanic
Legal Owner: Ronald Sanders

Special Hearing to allow commercial parking in a residential zone; to amend a previous site plan dated 10/23/90 (case #91-256-SPH); to confirm an existing non-conforming use; and to approve a modified parking plan.
Variance to allow for a reduction in the required number of parking spaces from 72 to 39.

HEARING: WEDNESDAY, APRIL 3, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

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CASE NUMBER: 96-317-SPH (Item 316)
5 Celebrie Court
E/S Celebrie Court, approximately 500' S of Glenbaur Road
11th Election District - 5th Councilmanic
Legal Owner: Sharon L. Rose

Special Hearing to approve an addition for an in-law apartment with self-contained facilities and kitchen for owner's parents.

HEARING: WEDNESDAY, APRIL 3, 1996 at 11:00 a.m. in Room 106, County Office Building.

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CASE NUMBER: 96-318-A (Item 319)
1633 Jeffers Road
S/S Jeffers Road, 145' NE of c/l Thornton Road
8th Election District - 4th Councilmanic
Legal Owner: Charles M. Hughes and Lynnallen Hughes

Variance to permit two storage sheds to be situated in the side yard in lieu of the rear yard.

HEARING: WEDNESDAY, APRIL 3, 1996 at 2:00 p.m. in Room 106, County Office Building.

---

CASE NUMBER: 96-319-SPH (Item 318)
600 Reisterstown Road
4th Election District - 3rd Councilmanic
Legal Owner: Pikesville Plaza Building Company
Contract Purchaser/Lessee: L & J Associates, Inc.

Special Hearing to approve the use of the premises as a beauty shop with accessory massage services.

HEARING: THURSDAY, APRIL 4, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

---

CASE NUMBER: 96-320-SPH (Item 328)
600 Reisterstown Road
NWC Reisterstown Road and Slade Avenue
4th Election District - 3rd Councilmanic
Legal Owner: Frank Scarfield/Pikesville Plaza Building Company
Contract Purchaser/Lessee: Progressive Ambulance Company/Millard C. Sheppard

Special Hearing to approve an amendment to the site plan and parking variance granted in case #74-232-A to allow a total of 161 spaces provided in lieu of of the total 172 spaces permitted and to reduce the total by 12 spaces used for storage and parking by ambulances and limousines for a new total of 149 spaces.
Special Exception to permit a service garage providing for storage and parking of ambulances and limousines.

HEARING: THURSDAY, APRIL 4, 1996 at 10:00 a.m. in Room 118, Old Courthouse.

---

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

March 17, 1997

**NOTICE OF ASSIGNMENT**

CASE #: 97-11-XA

IN THE MATTER OF: CLOVERLAND FARMS DAIRY, INC. - Petitioner NW/s Washington Blvd at SE/s Ridge Avenue (4308 Washington Boulevard) 13th E; 1st C

(Petitions for Special Exception and Variance and request for waiver GRANTED.)

**ASSIGNED FOR:** WEDNESDAY, MAY 7, 1997 at 10:00 a.m.

**NOTICE:** This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

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Petitioner : John M. Kemp, Vice President Cloverland Farms Dairy, Inc.

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Case No. 97-11-XA

Cloverland Farms Dairy, Inc. - Petitioner

NW/s Washington Boulevard at SE/s Ridge Avenue
(4308 Washington Boulevard)

13th Election District Appealed: 10/25/96

(see attached copy of
vicinity map)

technically, quote, unquote, a parking space, I and everybody in this room has used the gas place as parking spaces.

So we believe that the existing problems right now, that adding the gasoline improves greatly those minor problems that exist to that.

Q. Are there any new employees who will be added because of the fuel service?

A. No, there would not.

Q. How many employees do you currently have at the store?

A. Approximately ten.

Q. Are they in shifts?

A. Yes. There will be a first, second and third shift.

Q. So it's a twenty-four hour day operation?

A. Yes, that's correct.

Q. How many employees -- is three employees on your largest shift?

A. Three, sometimes four, for peak periods. We augment some of the times with part-time help.

MARKED

Exhibit 1

the morning, it has a very good morning business, and we could restrict the hours there as well as require all the vendors to park back there so they won't interfere at all with traffic flow, so forth, or they wouldn't interfere with the residents across Ridge Avenue. They'd be more exposed to the heavily exposed Washington Boulevard.

Q. With regard to fuel service delivery if the relief is granted, if the fuel service trucks could not service the full pumps unless it was next to the fuel pumps -- I assume the tanks are underneath -- what do you have proposed as part of your request for a special exception on deliveries of fuel?

A. We presently -- as far as restrictions?

Q. Yes.

A. We presently restrict fuel deliveries to evening hours. There's a couple reasons why we do that. The first reason and most importantly is that the stores aren't as busy at nighttime, and no matter how big the site is, it's just more convenient and easier for the driver to get in during those times when customers aren't using the store.

The second reason is economic, that gasoline

expands. And if you get a delivery during the day, you basically have fuel that's hotter and it's -- you get less than if you get it at night. And it costs -- you actually save about thirty to fifty gallons on the delivery.

Q. If you would give the approximate hours?

A. We would restrict fuel deliveries here to -- we would -- one, the location would be restricted within a twenty-four time period, which we can control because it's our fuel. We could restrict this to anywhere from 9 o'clock at night, nine to ten or nine to eleven, depending on, you know --

Q. Nine to 11 p.m.?

A. Nine to 11 p.m. We could even do it in the afternoon, but we would want that truck only coming in if it was no congestion on the site.

Q. Are there any other upgrades to the site such as changes or improvements to the building facade or landscaping that you're proposing as part of this?

A. There would be. And the landscaping, in my opinion, is very nice right now, but we would propose adding a lot more landscaping screening than exists right

now.

And you can't tell on this plan, but if you look at the greenery there, you can see how, by the layout of the landscaping, it would pretty much shield the store, make a very nice presentation from Ridge Road. Of course, this virtually screened that entire side. And then back here, as you can see, those trees will be planted down there, will provide thick screening also on Washington Boulevard, and which is the more commercially traveled industrial side, so to speak. There's a lot of industry down in this area.

Q. When you say "down there," you're referring to the Washington -- the landscaping proposed on Petitioner's Exhibit No. 2 along Washington Boulevard?

A. Yes, that is correct.

Q. Mr. Kemp, are you generally familiar with the surrounding area around this particular store?

A. Yes, I am.

Q. Can you describe generally the character of the area along Washington Boulevard and back along Ridge and then across to the other side of Washington?

A. Well, crime -- as you will probably hear from opponents, we have had problems at this location. Where we have added gasoline pumps and stores with gasoline, there is much fewer -- much less crime than a store without, and there's a reason for that.

First off, with the canopy lighting, it's better lit. Secondly, crime, or robbery is a crime of opportunity and oftentimes not planned, and it's not necessarily planned in a convenience store.

What happens with the gas pumps, all our locations have pay the pump, so you have this canopy that's well lit. The parking lot is better lit, but screened so we can prevent it from going off site so it doesn't -- you can funnel it and focus it. You have a better lit lot. You have people using the pump and then a glass door front, and a lot of people. it's very popular today. You pay at the pump.

And so what happens, it becomes riskier to rob a convenience store or a gas station that has gasoline pumps than just a convenience store. Convenience stores, you know, you can pretty much watch the front.

If you were to basically rob a store like this that had gasoline, you run the risk of somebody pulling up just to get gas or pay at the pump. People have car phones today. It makes it a much riskier thing for a robber.

They do not like to rob these type locations. There's motorists being involved. And robbers, like most people, are smarter than we think they are, and they want to reduce the opportunity of them getting caught and going to jail. They don't want to be in jail.

Q. Based on that testimony, do you have an opinion whether the addition of the fuel service pumps would have any adverse impact on the public, health, safety or welfare?

A. If would improve the public safety, welfare and health, absolutely. Absolutely.

Q. Mr. Kemp, knowing the operation of your stores, do you believe that the parking spaces being provided and the locations of the fuel pumps in relationship to the store will be adequate to serve your customers' needs?

A. Absolutely, especially with adding more.

A. That's correct.

Q. There are no public restrooms that exist at this point?

A. For employees use only.

Q. Would those continue there if you're granted this use?

A. Yes. We have to provide bathrooms. Yes.

Q. Just for employees, but nothing for public?

A. Right. I mean, we have always said if it was a condition for granting the gas thing, we would put them in. But I don't think any community really wants them, because they become really a point for people to loiter and hang out some days, where drugs can be involved, so forth.

But there have been cases in the past where we have added fuel and they wanted the restrooms, and we have put them in.

So, you know, we certainly have space for that, so if they wanted restrooms, we could provide them.

Q. Would it also be a concern that people would, if there are no restrooms there, they would use some other

wooded area to relieve themselves?

A. I have done that on the highway and stuff. So I mean, I guess so.

MR. GREENWALT: Nothing further. If I could take just a moment?

Q. Mr. Kemp, let me ask you this. What provisions would be made for deliveries, for fuel deliveries in the event of some sort of spillage? Is there any provision for that?

A. We have -- yes, there are provisions for that. We have taken extra safeguards, and we'll have testimony a little later on from Maryland Public Tank. We are providing over and above what's required by federal and state law, Department of -- Federal Department of Environment, State Department of Environment.

We'll be providing here double walled tanks, double walled piping. We'll have sumps beneath dispensers with alarms. We'll have electronic monitoring. We'll have statistical electronic monitoring that goes on constantly.

This will be an expense of twenty to $30,000 over and above what the state and federal government requires

as an added safeguard, given the sensitive nature that neighbors may have or of any streams nearby or anything like that.

So we are going -- we are planning now today to go over and beyond the safety measures that are required and, of course, we're tightly regulated and controlled, and it's serious business to us also.

Q. Now, would these safeguards also work as far as customer spillage of gasoline?

A. Yes, they would. A stage one, stage two vapor recovery also.

Q. I am still puzzling over this question on deliveries. As you propose here with the store, immediately in front of your store towards the beltway -- I suppose this would be east? East of the store are the parking spaces, all this front, is that correct?

A. That's correct.

Q. Those are existing parking spaces at this point?

A. That is correct.

Q. It indicates apparently that -- if I read this correctly -- there will be a space between the edge of the

Q. Mr. Ratcliffe, you prepared the drawing, did you not, labeled as Petitioner's Exhibit No. 3 for identification purposes?

A. I did.

Q. Can you tell me how you prepared this drawing?

A. The drawing is basically a filtered version of the construction document used to build the store. It's on the computer and I reproduced it with the information providing the basic footprint and the sale areas and actual walking the store.

I also went over recently to confirm the store was built to our specifictions and to confirm the sales area that I show is accurate, with my own personal time.

Q. Mr. Ratcliffe, you say you have been employed by Donald Ratcliff & Associates for five years. You have an educational background in architecture as well a Master's of Architecture from the Catholic University in Washington. You're not as yet a licensed architect in the state of Maryland, but you have taken your board and are waiting the result?

A. Yes, I am.

gas retail.

Q. How long have you been with the company?

A. I have been with the company for ten years.

Q. Mr. Singleton, is it your company's job to install these underground tanks for fuel storage for Royal Farm Stores when they obtain approval to add fuel service?

A. Yes, sir.

Q. How many of those stores, if you know, approximately, have you done for Royal Farm?

A. I believe we have done at least twelve.

Q. Were you here for Mr. Kemp's testimony, talking about double walled pumps, electronic equipment to monitor the tanks, et cetera?

A. Yes.

Q. If you would, could you explain to the Board in maybe just a little more detail the type of installation that would be provided at this site, and whether it complies with or exceeds the requirements of the state of Maryland and the federal government?

A. It's a double walled tank system. The tank is a contained steel tank contained in fiberglass. Therefore,

if the primary tank should break through, the fiberglass will contain it.

And it also has an electronic monitor with a probe that will immediately alarm the store, and also it has a fax modem which will also send a fax to, I believe it's your office, overhead office, so not only is the store itself alarmed, the main office is also alarmed.

The lines are double walled piping which in the same case as if the primary line should have a failure, the secondary line will contain the product. Also the dispensers, which are what the nozzles are connected to, if you are not familiar with the dispenser, has a containment underneath those in case there is some problems with the dispensers, such as someone would run in it with a car or anything, any catastrophe, if a tree falls on it, I don't know, and in the ground the actual pumps mounted on top of the tanks, they are in a containment too.

Everything has electronic monitors, probes, to alarm as soon as there's any type of spillage.

Q. You described a lot of equipment. Does the

equipment you have described exceed the requirements of the state and federal laws?

A. Oh, yes.

Q. Does it exceed it in terms of double walled capacity as you have described for all the different units that go into a gas service operation?

A. I'm sorry, I don't understand what you are --

Q. Maybe I don't either. I will try again. Let's try it this way. In what way, if you would, does the equipment that you have described exceed the state and federal requirements?

A. Well and beyond.

Q. Can you tell the Board how?

A. Well, the state requires a single wall piping system, single wall tanks. The tanks, they should be cathodically protected and/or fiberglass contained, but they don't necessarily have to be double walled.

So basically it's more than double what the requirements are at the present time. And I am a Maryland certified installer, which makes me have to know what the state is requiring at the present time and then keeps us

up to date when they do change their requirements in every way.

MR. HOFFMAN: I have no further questions.

MR. GREENWALT: I just a few questions.

CROSS EXAMINATION

BY MR. GREENWALT:

Q. You're testifying to the tanks in the ground and pumps that would be above ground, is that correct?

A. Well, pumps are -- we consider pumps as being units that abound on top of the tanks. As you can -- as you consider pumps, are basically dispensers. All they do is calculate how much product is brought through them into your car.

Q. In any of the safety guards that you have described, or perhaps even if you haven't described them yet, is there any safeguard as far as a spillage of fuel onto the pavement, onto the parking area?

A. Yes, sir. I didn't mention that, but the state does require a five-gallon spill containment hole, which is where the truck is connected to the tank itself.

Therefore, if something should happen

two stores that originally did not have gas, and we maintained an alarm history. And since they have, in fact, put in gas, one in Middle River, we have not had any alarm since that period, which I believe was in May of 1996 when it was put in.

Prior to that, we had several. And the same one on Belair Road, which I believe was put in in November of 1996, we had not had an alarm.

Q. Based on those statistics, do you believe safety is improved with the installation of fuel service pumps at the various locations in the various Farm Stores?

A. Definitely.

MR. HOFFMAN: I have no further questions.

CROSS EXAMINATION

BY MR. GREENWALT:

Q. The alarm system you spoke of, is that currently in place at the Farm Store?

A. Yes.

Q. At this Farm Store location?

A. Yes.

Q. How often has that been tripped in the last year?

had rated this intersection, as they have a different method. They use a loaded cycle method. They analyze all the intersections in Baltimore County on some type of schedule, and their latest schedule of this intersection was a B level of service.

Q. Can I stop you there? If I could ask a question, you said based on the State Highway Administration methodolgy, the critical lane methodology calculating the level of service with this intersection, meaning Washington Boulevard and Ridge Avenue, the level of service is what?

A. A.

Q. And A is the best?

A. Yes.

Q. Did you, in making that determination, calculate any additional trips, car movements, vehicular movement that would be generated by the fuel service?

Q. We haven't gotten there yet, but we had made some projections.

Q. Let me hold off on that question. You have also just testified that the county methodology is something

called the loaded cycle method?

A. That is correct.

Q. Could you explain to the Board the differences between the critical lane method and the loaded cycle method

A. The critical lane method, you take the geometry of the intersection, basically the number of lane, the restrictions, whether right turn or left-turn lanes, and you take the amount of traffic in different directions. And basically what it is is a method that determines the amount of conflicting flows. So the north-south direction have a critical movement and the east-west direction have a critical movement, and you sum them together and come come up with the total critical lane volume.

The critical lane volume between zero and thousand is A level. Between a thousand and 1,500 is a B. 150 increments up to a 1450 critical lane volume which is the upper end.

Q. And beyond that, it could be considered a failing intersection?

A. An E level of service. And then it goes to an F

level of service.

Q. The loaded cycyle --

A. The loaded cycle method the county uses, basically goes out with personnel and they watch each approach to the intersection. Basically what they do is watch and make sure all the vehicles that quequed up in an intersection clear during that cycle, every approach to every intersection cleared, ever person, before it had to wait for additional cycle, and that's an A level of service.

One approach, for some reason they didn't all clear the green, and that occurs fifteen percent of the time during the cycle, it's given a B rating. And it goes on and on up to, I think, above seventy percent. A double cycle is a failing intersection.

Q. Does any other jurisdiction besides Baltimore County, Maryland use that?

A. Very unique.

Q. If you would then continue?

A. What we did, we analized the major intersection, but we also counted the site access points to the Royal

And we also found people that use the Ridge Avenue access, the majority made a right-hand turn out of the site and headed up to the signalized intersection, and a very low majority of the people made a left and turned down Ridge Avenue.

So the majority of the traffic and the customers that come into the site are coming from the Route 1 corridor.

Q. Is there a percentage in your report?

A. No. But if you look at the numbers I did, quickly, you can figure about seventy percent of the total traffic coming in and out of the the Route 1 access and counting of the people that come out Ridge Avenue and turn towards Route 1, it probably comes to ninety-five percent of the traffic. So those counts were done to establish patterns.

We also went to what's called the Institute of Transportation Engineers Trip Generation Manual and in this manual national statistics predict traffic flows for various uses, shows residential, shows office, and of course they have trip generation data on convenience

They are mainly serving an existing customer base, and that's brought out by the comparison of these trip generation rates.

Basically, the rates show -- well, about a fifteen percent increase in traffic volumes with the addition of the gas pump. And, by nature, these convenience stores and gas stations aren't even new trip generators on their own. They basically draw traffic from the customer base from the existing traffic.

So we are not producing fifteen percent new vehicle trips to the road network. We are just pulling fifteen percent more people off the existing flows.

So in our report, we really project we are going to have very minimal increase in new trips, somewhere like five in and five out in the morning and four in and four out in the evening.

Q. With those additional, for instance, fifteen percent, and you divide that based on the ITE trip generation numbers, that's where the fifteen percent comes from?

A. That is correct.

Q. Will those additional movements effect the levels of service at either our entrance points or other signalized intersections?

A. None at all.

Q. Can you explain why not? Maybe it's obvious.

A. Using critical lane volumes, the intersection was in the 500 range. As I testified before, you need to get to a thousand critical trips before you jump fram an A level of service to a B level. We are adding five total new trips, which aren't all critical trips, so the most it would do is it will be minimal impact at those intersections.

Q. How about the access to our unsignalized entrance and exit points?

A. Again, they were given critical lane volumes in the range of around 500. So, again, they'd still be in the A range.

Q. Did you personally observe traffic movement at the convenience store during the morning and afternoon peak hours?

A. Yes, I did.

someplace to -- an alternate place for these deliveries to be made, to have them made, or to restrict them. It shouldn't be in that site before 9 o'clock in the morning.

Q. You're familiar with the Petitioner's Exhibit No. 2? I think it's still up there. It shows the additional parking spaces?

A. Yes.

Q. You heard Mr. Kemp's testimony that would be the area for proposed deliveries?

A. Yes, I did.

Q. Was that your recommendation that area be utilized as a delivery area?

A. Yes, it was.

Q. If the delivery hours hours are restricted or this area is used as the location for the deliveries other than for fuel, what is your opinion with regard to whether there would be any adverse impact on the surrounding road networks?

A. If those seven spots are put in and there are restricted deliveries to that area, I don't see a problem with deliveries occurring from seven to nine. They could

delivery trucks being able to locate that particular access point after having been informed of where it is?

A. No. Royal Farm Store customers are pretty unique. They are not new. They don't drive by here and never come back again. I would think the store manager probably knows some of the people that come in there every day.

And like I said, seventy percent of the people coming in seem to be from the traffic pattern off Route 1, and as soon as they find out some space is over there, they are going to go there. And I don't think they are going to be underutilized.

Q. One more question on the fuel deliveries. You had made a recommendation regarding delivery time for fuel?

A. Yes. Full deliveries are going to -- Mr. Kemp made some suggestion to different size trucks. We put some turning temps (phonetic) on this plan, showed we could get the larger fifty-five foot long tractor trailer type unit in here. They come down Ridge Avenue and turn into the site from Ridge Avenue parallel to the fueling pumps and pull out onto Washington Boulevard.

Q. What time of day would there be restrictions?

A. Fueling and dumping would basically require the shutdown of the fuel pumping area. You wouldn't get people in and out of the fuel pumping area, so I would suggest that be done at a point at off peak hours, also from a sales point be done.

Q. So not between six and ten or three to seven?

A. No, not at all.

Q. So other than those times, deliveries at that location would be acceptable, in your opinion?

A. Yes.

MR. HOFFMAN: No further questions.

CROSS EXAMINATION

BY MR. GREENWALT:

Q. Mr. Schmid, if I understand your testimony correctly, when you observed the -- when you were there observing the store between between 7 a.m. and 8:15 a.m., you said every parking space was filled up, is that correct?

A. No, I don't think I said that.

Q. What did you say?

A. They were used. They weren't all full up. There

those parking spaces don't exist?

A. By nature, the parking -- the fueling areas act as parking spaces. And no jurisdiction allows you to count them as parking spaces, but very few people fuel their gas and then drive to a parking space to pay. They park their car there and pay.

These people are already customers of the store. They are coming in to get coffee, whatever. Now they're going to get fuel, so they park by the fueling position, get their gas, go in, buy their coffee and paper, come back out out.

So it's essential parking space. The three spaces to the east, eastern end of the site -- right now it gets five parking spaces where the fuel pump islands are. Now, there will be feuling positions or pumps will be put there. There will be three additional spots behind there. We recommended to Mr. Kemp he designate, have your employees park there or in the back. I would suggest his employees park in these eastern spots. They won't be coming in and out very often and they are more tough and more distance from the store, so I would recommend those

Q. These photographs will give the Board a sense or flavor for what?

A. What I believe is the character of the land, certainly the landscaping the store and the layout of the property.

A. Mr. Martin, you have heard the testimony of Mr. Kemp and Mr. Ratcliffe as regard to the sales area?

A. Yes.

Q. As shown on petitioner Exhibit No. 3?

A. I believe, yes.

Q. Do you concur that would be the sales area necessary to calculate the amount of site area required under Section 405.4.E.1?

A. Having read 405 very carefully and rather pointed exclusionary, inclusionary language in the bill, it's my opinion that the Council purposely thought the thing out carefully to focus on what the customer uses as opposed to the ancilliaray uses typically found in almost any building certainly, i.e., the counter space, the bathrooms, the storage, mechanical equipment kinds of things, so we would use this in our calculations.

agree with the analysis that we have presented, are there special circumstance or conditions that relate, that are peculiar to the land or the existing structures for this particular site?

A. Well, I mentioned earlier when I was talking about the land use patterns of Route 1, I think we talked about earlier just the sheer geometry of the road network here.

When you look at a convenience store in traditional sense that added fuel service pumps, or even a traditional fuel service station, you know, there was one on every corner, it was a typical situation, and the sites were typically a square shaped configuration.

This particular incident, it's been established the triangular shape in and of itself has been constrained by the two major road networks and over time properties have been reduced because of road rights-of-way, expansion and improvements to U.S. Route 1, so on, so forth.

Q. The state highway administration plat and takings are indicated on the site plan, are they not?

A. Yes. The current right-of-way is now indicated

on the site plan, and the zoning plat. If one were to start all over again with clean sheet of paper and, you know, you could easily forego any interpretation of the rules and regulations or even have a square site. This particular one happens to be existing, the location of the building is existing. We are already constrained by the road network and what's defined as the right-of-way, i.e., translates to the property.

However, there's a practical application of land service available. If you stand back, you know, the property lines don't show up anywhere except on a piece of paper. I believe the application in a practical sense is that the green space is there. It's out here on the corner, for example.

Q. You're referring to the areas contained within the right-of-way for Ridge Avenue and Washington Boulevard?

A. That's correct, by the triangular geometry of the turning lane coming out of Ridge onto Route 1. There's a nose of green space, for example, that from all pracaical perspective is a part of the property. It's a part of the

site. It's not there technically as a legal ownership.

Q. Mr. Martin, you testified to the configuration of the property and the State Highway administration rights-of-way and takings that constrain the site. Are the existing structures -- does the existence of the existing structures in this case present any facts that enter into your opinion? And, if so, what would those be?

A. The structure exists and it's of a certain size. The other option would be to meet the absolute letter of the site calculations, assuming that you don't take out the sales area, exclusive, and how I read the law, you treat the whole building as a gross square footage which I believe the previous original application did.

Q. Yes?

A. You have two choices. The building exists. You can chop off part of the building, get it back so the site will conform to what you can get in the building, or back your way into the calculation. Or can you tear the building down and start all over, build a smaller building so it conforms to how much area you have here.

In my way of thinking, that's not exactly a

practical application of land use planning or site planning principles to destroy architecture just to meet a calculation, which I don't believe is the way the building was intended in the first place.

Q. If you look at all the land use within the Washington Boulevard corridor, that was the subject of the rezoning request?

A. Yes.

Q. In 1996, with there any other properties that have an existing convenience store on it in an A.S. district that would allow for the conversion of a convenience store to a full service and convenience store operation?

A. Not on the two maps that I showed. there is the Exxon Tiger Mart which is further up Route 1, but not on the plan. There are no existing convenience stores on that particular exhibit that would be offered that because of the zoning changes.

Q. You mention the Exxon know station. That's located where?

A. Furtehr up Washington Boulevar, almost to the

beltway.

Q. Was it the subject of the comprehensive zoning map Issue 1-007?

A. I don't think it reached that far.

Q. You may want to check the thousand scale zoning map which is Petitioner's Exhibit No. 10.

A. I can't even see the issues on the thousand scale, to be honest with you.

Q. If you can answer the question -- let me make sure you have the right one. You should be looking at this one, Petitioner Exhibit No. 9 which has shaded.

A. No, it was not apart of that.

Q. Okay. I will ask you again, are there any properties that were within the area proposed to be downzoned that have existing convenience stores that have retained the A.S. district?

A. No.

Q. What is your opinion with regard to then the uniqueness of, or the special circumstances or peculilar nature of the structure?

MR. GREENWALT: I object to that question. I

into just the sales area devoted in the store to that function, which I don't agree with the the way I read the bill, take the gross square footage and back you your way into the calculation, we are only 2,000 square feet off on the site area, roughly 2,000 and some change.

If you back your way into that and divide that by four, we'd be loping off a couple hundred square feet off the existing building. That, to me, represents a practical difficulty, and certainly an impractical application of land site requirements as it's related in the bill.

Q. Do you have an opinion with regard to whether the granting of the variance would present any adverse impact on the surrounding neighborhood?

A. For the site area?

Q. Yes, specifically talking about the site area requirement.

A. Again, I believe that there is no impact. The practical application, the site is what it is. The building is going to stay where it is. The addition of the fuel service pump changes none of that. So I don't

us to have actual testimony on the specific burden of proof, and one of those specific requirements, it has to be within the strict --

THE CHAIRMAN: Rephrase the question.

MR. STAHL: More specifically, he can give his opinion, it seems to us, as to the spirit and intent of the regulations as they relate to land planning, which is his area of expertise.

MR. HOFFMAN: Okay.

Q. Mr. Stahl's question --

A. I will offer my opinion as I read the legislation, and I use it on a daily basis, and compare it to other pieces of legislation for which land use decisions are made at the firm of G.W. Stevens.

I read the preamble to the Bill. It talks about the changing patterns of what occurs at service stations, garages, pull in, change tires, et cetera, talks a lot about that how the industry has changed to provide strictly fuel sales, self service, et cetera, et cetera.

It kind of sets the stage for the next discussion which occurs in the Bill which is there are a lot of

things that need cleaned up in the CS district and here's a way to, as the normal occurrences and changes have evolved in the marketpace, we can utilize that, create a new A.S. district which sort of encompasses all these other strange districts into one, related strictly for automotive service uses.

Now, at the same time we get to do that, we're going to use this Bill and this legislation as a way to upgrade existing stores, to add additional landscaping, to solve problems on particular sites, and I think, in my opinion, having read that and applying it to this site and others similar in nature, to changing the use to add the fuel service, that there was a benchmark established in the Bill of you need 15,000 square feet fo the fuel service operation and you need four times whatever the sales area of the convenience store is.

That, also my opinion, the legislation was geared or focused more at the reverse of this procedure, that is, gas stations, service stations, again the traditional pull in, repair, changing tires, and the old garage door sort of service station, to adding -- taking that operation out

and adding convenience stores. When that's done, then you have got a fuel and a convenience store. And this particular case and in all the Royal Farm Stores that's been testified to, we are the opposite of that.

We have an existing store. But to stay competitive and play the same commercial game that the old traditional service station people are doing as relates to the marketplace, we are adding a fuel station. I think when you apply that and the strict letter of the law to what it is we are doing, as I read the Bill and as I applied it to a land use, it's my opinion that the Bill was looking at, here's a service station, we'll take, for example, this traditional square corner at a four-way intersection, a gas station on at least the opposite corner, you have an existing station with x-number of fuel pumps, now we want to convert the traditional garage area/sales counter, couple of coke machines, to a convenience store.

Well, that's automatically an operation where you're going to wholesale gut the building and remodel the thing or tear it down, and that's traditionally what we

welfare?

A. On this property as relates to health, safety and welfare, I already stated, if anything, the addition of the fuel service pump in conjunction with the convenience store operation enhances or improves the condition for health, safety and welfare on this property.

The addition of the fuel service pumps at this location is not detrimental to this site, nor would it be any worse or better at any other potential location, and we have been involved in many of thse where, obviously, we have had to prove the same standard. I don't think that's been the case. I don't think it's been demonstrated with the ones that have been granted and built and are operational today.

Q. Mr. Martin, do you have an minimum as to whether the proposed installation of the fuel pumps would create potential hazard from fire, panic or other dangers?

A. Well, I believe that they will not be, and again from a site planning perspective, looking at the input from various team members, this particular project as well as other safety concerns have been addressed, and I

believe they are addressed also on the the site.

Q. How are they addressed? In terms of fire supression, will this proposed construction meet all of the county building code, fire code, safety standards?

A. Absolutely.

Q. Would the installation of the fuel service pumps overcrowd the land or cause undue concentration of population?

A. No, there's no population coming in here. There's no crowding of the land or no population.

Q. I understand the "no population." In terms of overcrowding the land, will you explain why you believe the proposed installation of the fuel pumps and the convenience store won't be an overcrowding of the site?

A. We are utilizing the existing paved area for the fuel service pumps already in front of the store. As part of that, should the special exception be granted, we are improving some of that parking area and the circulation in front of the building.

Additionally, today, we propose to further enhance the site circulation and parking conditions by

adding these additional spaces to the rear of the building. So I believe that helps the situation as far as as circulation on the property.

Q. Would the proposed special exception uses interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements? It's a lot to answer.

A. Obviously because it's a commercial site there's no impact to the school district. There are no residential properties involveed with this. There's utility infrastructure existing all around the property, sewer, water, storm drainage, so that infrastructure has been covered.

What else is on the list? I'm sorry.

Q. Transportation or other public requirements, convenience or improvements.

A. Transportatioon we have talked about. Mr. Schmid talked about the level of service. This is not going to denegrate any of that transportatiaon network that surrounds the property.

Q. Would the proposed special exception use interfere with adequate light and air?

A. No.

Q. For the record, why not?

A. Light and air -- we are not building a smokestack. We are not building a high tower. The building exists. Again, we are improving the architecture, the facade. The canopy -- it's just a canopy on stilts.

Q. Would the proposed special exception use be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirt and intent of the zoning regulations?

A. Absolutely not. It's been identified on the most current comprehensive zoning. This is the only piece to maintain the A.S. automotive service district, and I believe that's in harmony with both what's on the master plan and also what's on the current zoning map today.

Q. Mr. Martin, would the proposed use be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations?

Q. Mr. Martin, just a couple questions.

A. Sure.

Q. I didn't quite understand when you were speaking earlier in the almost earliest part of our testimony about the configuration of service stations generally.

You seem to indicate that generally they used to have a square configuration, or something?

A. Well, traditionally, service station real estate people, and to this day, will still go and look for the traditional ninety-degree intersection and look at one of the best four corners, and they typically have tended to be square.

Q. I think you were making the comparison this site is triangular. But isn't it true that this site when it was purchased by Cloverland was triangular?

A. That's correct.

Q. Ridge Road and Washington Boulevard might have been some taking, but they haven't changed the pattern of the road in any way?

A. That's correct.

Q. Now, you also indicated -- talked about the

A. Well, because the A.S. district didn't exist prior to there. It was CS-1, but it's still BR and had A.S. placed on it.

Q. In the '96 rezoning?

A. Yes.

Q. Let me ask you, as far as 1-007, again if you know, was the recommendation of the staff, planning staff adopted by the County Council?

A. Not in total.

Q. So there was some change?

A. There was some changes. Some of the commercial and ML stuff, I think.

Q. I believe your testimony was that the site overall, in response to Mr. Hoffman's questions, would not be detrimental to the forestry, so forth, environmental factors in the area?

A. Correct.

Q. Are you aware there's a drain, existing drain right along the rear of the property?

A. Yes, I am.

Q. This proposal for the parking spaces there, in

Q. If you would, Mr. Brader, could you explain to the Board where the drainage area is located in relationship to the site?

A. The site shaded in red and it's the intersection of Washington Boulevard and Ridge Road right there. Our site is approximately half an acre, a little bit less, but for simplification, the total drainage area kind of wraps around, sort of follows Ridge Road and wraps around to the north and then back down again, comprising about thirty-seven acres approximately for the drainage area.

Our site is only -- I don't have the percentage handy, but one or two percent of the entire drainage area.

Q. Most of the impervious that's shown on the site plan is existing except for the addition of the seven parking spaces.

Could you explain what impact the addition of seven parking spaces of impervious area would have on the site? And if you could, also answer Bob's question about the conveyance of the water, what is now an open drain.

A. First of all, you get the site back there in '87 when originally developed for a Farm Store received a

storm water management waiver from the county based on the fact there was less impervious area proposed than existed with the -- I believe it was a bar somebody referred to that was there, or a tavern.

So there was slightly less impervious area. Now, with the additional impervious area for seven parking spaces, there is less impervious area.

And we believe we still qualify for the same storm water management variance or whatever from the county, according to the Baltimore County storm water management guidelines and regulations.

So I believe there would be no adverse impact due to that.

Q. What is the approximate square footage of the additional parking area, do you know?

A. Additional -- the total, I think, is about 3,000 square feet of paving.

Q. That would be added to the existing thirty-seven acre drainage area?

A. Right.

Q. The conveyance of the existing storm water

underground storm drain?

A. Correct. There's also another factor with the waiver. Due to the fact our site is very low in the drainage area, any runoff from our site would get into that storm drain before a lot of the water from upstream would get to us. It's another particular component in support of a waiver.

MR. HOFFMAN: Thank you. I have no other questions.

CROSS EXAMINATION

BY MR. GREENWALT:

Q. Mr. Brader, as far as surface runoff on the site itself, where would that run to? The storm water.

A. Towards the back end. It's possible final surveys would have to be done with the final construction plans for the parking lot. Possibly an additional inlet might be required to collect the water and direct it into the closed storm drain.

Q. But it would be directed into the closed storm drain?

A. Yes.

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 1, 1996

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

RE: Item No.: 9
Case No.: 97-11-XA
Petitioner: Cloverland Farms Dairy

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on July 8, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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# BALTIMORE COUNTY, MARYLAND

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT**

**TOWSON, MARYLAND 21204**

DIRECTOR

BUILDINGS ENGINEER

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM DATE: July 29, 1996

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 4308 Washington Boulevard

INFORMATION:

Item Number: 9

Petitioner: Cloverland Farms Dairy, Inc.

Property Size: _____

Zoning: BR-CS-I

Requested Action: _____

Hearing Date: ___/___/___

SUMMARY OF RECOMMENDATIONS:

The subject site is part of the 1996 Comprehensive Zoning Map Process Issue 1-005. This zoning reclassification petition is sponsored by the Planning Office and suggests that the intensive BR-AS zoning along Washington Boulevard be reduced to a less permissive zone. Specifically, if the staff and Planning Board recommendations on 1-005 are endorsed by vote of the County Council by October 16, 1996, the A.S. District Overlay will be removed from the entire Washington Boulevard corridor, effectively disallowing gas stations in the future.

The Planning Office recommends postponing the decision on Item 9 until after October 16, 1996 in order to allow the County Council to determine the future land uses along Washington Boulevard.

Prepared by: Jeffrey W. Long

Division Chief: Arnold F. Keller

PK/JL/lw

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

Date: July 22, 1996

TO: Arnold Jablon, Director
Department of Permits & Development Management

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for July 22, 1996
Item Nos. 008, 009, 010, 015 & 016

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE19

November 3, 1995

The Honorable John H. Garmer
Judge of the District Court for Baltimore County
Judge's Chambers
120 E. Chesapeake Avenue
Towson, Maryland 21286

RE: Baltimore County v. Greg and Dorothy White
Case No. SP00610-95

Dear Judge Garmer:

This it to advise that Greg and Dorothy White have paid $285.00 toward their bill.

Very truly yours,

WOJ,JR:ak

WILLIAM O. JENSEN, JR.
Assistant County Attorney

cc:
cc/Enc.: Greg and Dorothy White
cc/Enc.: Arnold Jablon, Director, PDM, M.S. 1105
James Gibson, Director, Finance, M.S. 2111

P.S.: Arnold Jablon: Do they owe us another $285.00? Have we billed them?

Bill, This is P.I.F.A $285.00 for Services Rendered. Thanks, Close Case, Wayne Plum Asst. Code Enf. Sup. 887-4032

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NOV - 7 1995
PDM

Baltimore County Government
Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410)887-4880

DATE: 07/23/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 22, 1996.

Item No.: SEE BELOW 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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:008,009,010,013,014, 015 AND 016.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

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BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM DATE: 7/19/82

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: July 22

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 8
9
10
15
16

RBS:sp

BRUCE2/DEPRM/TXTSBP

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 29, 1996

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

RE: Petition for Special Exception and Variance
NW/S Washington Blvd. at SE/S Ridge Avenue
(4308 Washington Blvd.)
13th Election District
1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Dear Mr. Hoffman:

Please be advised that an appeal of the above-referenced case was filed in this office on October 25, 1996 by Robert B. Greenwalt, Esquire on behalf of Joseph P. Kinsey and the Halethorpe Improvement Association. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: Mr. and Mrs. Edward Smith
Ms. Amy J. Hawkins
Ms. Theresa Loury
People's Counsel

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APPEAL

Petition for Special Exception and Variance
NW/S Washington Boulevard at SE/S Ridge Avenue
(4308 Washington Boulevard)
13th Election District - 1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Petition for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
1 - Plat to Accompany Petitions for Zoning Variances and Special Exception
2 - Building Footprint
3 - Letter from William Simmons and Cynthia Miller to Baltimore County dated August 7, 1996
4 - Development Plan/Landscape Plan
5A-5I - Nine Photographs
6 - Professional Resume of Kenneth W. Schmid

Protestants' Exhibits:
1 - Letter from Joe Keech, Zoning Chairman of the Halethorpe Improvement Association to the Zoning Commissioner dated July 30, 1996

Video Cassette Tape not Marked as Exhibit

Letter of Opposition

Two Miscellaneous Correspondences

Deputy Zoning Commissioner's Order dated September 27, 1996 (Granted)

Notice of Appeal received on October 25, 1996 from Robert B. Greenwalt, Esquire on behalf of Joseph P. Kinsey and the Halethorpe Improvement Association

c: Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204
Mr. John M. Kemp, Vice President, Cloverland Farms Dairy, Inc., 2200 N. Monroe Street, Baltimore, MD 21217
Mr. Joseph P. Kinsley, 1519 Woodside Avenue, Baltimore, MD 21227
Mr. and Mrs. Edward Smith, 4501 Spring Avenue, Baltimore, MD 21227
Ms. Amy J. Hawkins, 4309 Spencer Street, Baltimore, MD 21227-4527
Ms. Theresa Loury, 2517 Hammonds Ferry Road, Baltimore, MD 21227
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF *

CLOVERLAND FARMS DAIRY, INC. * Case No. 97-11-XA

Petitioner *

**SUBPOENA**

TO: BILL HUGHEY
401 Bosley Avenue, 4th Fl.
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO Personally Appear at Room 48, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on the 7th day of May, 1997 at 10:00 a.m.

Subpoena requested by Robert B. Greenwalt, Ste. 201, 611 Frederick Road, Catonsville, MD 21228, 410-747-2821, attorney for Appellants.

DATE:

Charlotte E. Radcliffe
Clerk, County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
97 APR 28 PM 3:59

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

May 9, 1997

**NOTICE OF DELIBERATION**

Having concluded this matter on May 7, 1997, deliberation has been scheduled by the Board as follows:

**CLOVERLAND FARMS DAIRY, INC. -Petitioner**
**CASE NO. 97-11-XA**

**DATE AND TIME** : Wednesday, June 18, 1997 at 9:30 a.m.

**LOCATION** : Room 48, Basement, Old Courthouse

**NOTE: CLOSING MEMOS ARE DUE FROM COUNSEL ON TUESDAY, MAY 27, 1997.**

Kathleen C. Bianco
**Legal Administrator**

cc: Counsel for Appellants /Protestants: Robert B. Greenwalt, Esquire
Appellants /Protestants : Joseph P. Kinsley and the Halethorpe Imp. Assn.

Counsel for Petitioner : Robert A. Hoffman, Esquire
Petitioner : John M. Kemp, Vice President Cloverland Farms Dairy, Inc.

Mr. and Mrs. Edward Smith
Amy J. Hawkins
Theresa Lowry

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Copied: C.L.W.

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COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

| | | |
|---|---|---|
| **IN THE MATTER OF:** | Cloverland Farms Dairy, Inc. -Petitioner<br>Case No. 97-11-XA | |
| **DATE** : | Wednesday, June 18, 1997 @ 9:30 a.m. | |
| **BOARD /PANEL** : | Charles L. Marks, Acting Chairman | (CLM) |
| | Lawrence M. Stahl | (LMS) |
| | Margaret Worrall | (MW) |
| **SECRETARY** : | *Kathleen C. Bianco*<br>Administrator | |

Those present at this deliberation included Robert A. Hoffman, Esquire, Counsel for Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County.

**CLM:** Let the minutes show that the County Board of Appeals is in its regularly scheduled session for deliberation of Cloverland Farms Dairy, Inc., Case No. 97-11-XA, assigned for today at 9:30 a.m.

Preliminary to the deliberation, just let me comment that this is a public session required by Maryland State law. Each Board member has had sufficient time to independently review their notes, the evidence and the exhibits submitted at the hearing, and based on their individual review, they have reached their own opinions in the case, which are not known until this deliberation takes place. That having been said, we will move into the deliberation process. I will opt to go first.

At this time, each Board member reviewed and commented on the testimony and evidence in the case as received by the Board at hearing, and the reasons why he or she reached the final decision as concluded at this deliberation.

Mr. Marks proceeded to review his notes, findings and decision regarding this matter. He also addressed the Motion to Dismiss brought by Mr. Hoffman on the ground that the name of the Appellant /Appellants did not appear on the appeal as required by the Board's rules, and denied same, setting forth Maryland law and upper court decisions supporting that denial. He stated that it is well-settled law in Maryland that technical irregularities cannot deprive persons of legal rights where the other party is not prejudiced. Mr. Marks then proceeded to detail the restrictions he would place upon the granting of this special exception and variance as requested; and that he found that the burden was met by Petitioners as required by law for the granting of same.

Minutes of Deliberation /Case No. 97-11-XA
/ Cloverland Farms Dairy, Inc. -Petitioner

Ms. Worrall, after stating that the details of the case were well-covered by Mr. Marks, expressed her thoughts, detailing her findings and conclusions as to the requested special exception and variance. Indicated she believed burden had been met for both special exception and variance requests, however, she set forth questions she had relative to the parking to the rear of the facility.

Mr. Stahl, after stating for the record his feelings relative to public deliberation by the Board and the effect it has on the decision-making process, then proceeded to first address the motion for dismissal, stating that the practical value of a motion is in its ability to address unfairness; that he does not believe that to be the situation here, since everyone knew everyone; everyone knew the issues; no harm; no foul. This made the Board unanimous that the Motion should not be granted. Mr. Stahl then continued to discuss with the other members his findings and conclusions as to Petitioner's requests. He addressed Margaret's questions regarding parking, and the Board collectively discussed this issue.

After reaching a final decision that the plan could go forward as proposed with certain restrictions and actions taken, the Board unanimously found in favor of Petitioner; that petitions were to be granted with restrictions; and that a written Opinion and Order would be issued, with appellate rights beginning with the date of the written Order.

Mr. Marks then adjourned this public deliberation session.

**********

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco

**BALTIMORE COUNTY, MARYLAND**

**Inter-Office Correspondence**

**TO:** C. Marks
L. Stahl
M. Worrall

**DATE:** May 29, 1997

**FROM:** Kathi

**SUBJECT:** Case No. 97-11-XA /Cloverland Farms Dairy, Inc. /Memorandum of Counsel

The subject matter is scheduled for public deliberation on Wednesday, June 18, 1997 at 9:30 a.m. Enclosed are the following documents filed by Counsel, as requested:

1. Memorandum of Petitioner in Lieu of Closing Argument filed by Robert A. Hoffman, Esquire, on behalf of Petitioner.

2. Memorandum of Appellants /Protestants filed by Robert B. Greenwalt, Esquire, on behalf of Appellants /Protestants.

Please let me know if you have any questions.

kathi

Attachments

Case No. 97-11-XA

SE -to permit use in combination automotive service station with food store with sales are greater than 1500 sf; VAR -parking spaces; total site area; and waiver of restroom requirement.

9/27/96 -Deputy Zoning Commissioner's Order in which Petitions for Special Exception and Variances GRANTED with restrictions.

---

3/17/97 -Notice of Assignment for hearing scheduled for Wednesday, May 7, 1997 at 10:00 a.m. sent to following:

Robert B. Greenwalt, Esquire
Joseph P. Kinsley and the
Halethorpe Imp. Assn.
Robert A. Hoffman, Esquire
John M. Kemp, Vice President
Cloverland Farms Dairy, Inc.
Mr. and Mrs. Edward Smith
Amy J. Hawkins
Theresa Loury
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

5/07/97 -Hearing concluded before Board; closing memos due from counsel May 27, 1997; to be publicly deliberated on 6/18/97; notice to be sent.

---

5/09/97 -Notice of Deliberation sent to parties; scheduled for Wednesday, June 18, 1997 at 9:30 a.m. (C.L.W.)

5/27/97 -Memo filed by Robert A. Hoffman, Esquire on behalf of Petitioner. Also, Mr. Hoffman inquired as to date agreed to at hearing; his recollection that 5/28/97 was the date given by Board. Inasmuch as C. Marks had given KCB date of 5/27/97, Mr. Hoffman filed his memo on that date.

5/28/97 -Memo filed by Robert Greenwalt, Esquire on behalf of Appellants; indicated in letter that 5/28/97 was the agreed-upon date for filing same.

5/29/97 -Copies of above memos to Board (CLW).

6/18/97 -Matter deliberated before the Board; G -special exception with restrictions; granted area variance; denied requested waiver re restrooms. Written Order to be issued; appellate period to run from date of written Order. C.L.W.

RE: Preliminary Petition Review (Item #)
Legal Owner:

Election District

Dear :

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the $100.00 revision fee.

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

Very truly yours,

:scj

Enclosure (receipt)

c: Zoning Commissioner

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 29, 1996

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

RE: **Drop-Off Petition Review (Item #9)**
4308 Washington Boulevard
Cloverland Farms Dairy, Inc.
13th Election District

Dear Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the $100.00 revision fee.

The special exception request is listed under Section 405.4.E.1 instead of Section 405.4.D.

The variance request (petition forms) are not filled out. There is no address, zoning, section number, request, or hardship.

The acreage and distance number 2 on the property description do not match the site plan.

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

Very truly yours,

Mitchell J. Kellman
Planner II,
Zoning Review

MJK:scj

Enclosure (receipt)

c: Zoning Commissioner

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

**TO:** Arnold Jablon, Director **DATE:** January 8, 1998
Permits & Development Management

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

**SUBJECT:** Closed File: Case No. 97-11-XA
Cloverland Farms Dairy, Inc.

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 97-11-XA)

Robert B. Greenwalt, Esq.

Suite 201, 611 Frederick Rd., Catonsville, MD 21228 410-747-2821 fax: 410-788-2774

May 8, 1997

County Board of Appeals
Old Courthouse, Rm 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 97-11-XA

To the Board:

Attached please find the duplicate originals required by Rule 8 to evidence the authorization of the Halethorpe Improvement Association for Joseph Keech and Joseph Kinsey to appear and testify for the Association.

Please include these documents in the file for the Case.

Very truly yours,

Robert B. Greenwalt

cc: Robert A. Hoffman, Esq.
Attorney for Petitioners (w/attachments)

RECEIVED
COUNTY BOARD OF APPEALS
97 MAY -8 PM 2:33

BE IT RESOLVED, by the Halethorpe Improvement Association that the Association is opposed to the grant of variances and special exceptions requested by Cloverland Farms Dairy, Inc. to operate a convenience store and automotive service station as set forth in Case No. 97-11-XA.

As adopted by the Board of Directors by unanimous vote the 22nd day of ~~May~~ October, 199 .

Secretary

President

BE IT RESOLVED, by the Halethorpe Improvement Association that the Association is opposed to the grant of variances and special exceptions requested by Cloverland Farms Dairy, Inc. to operate a convenience store and automotive service station as set forth in Case No. 97-11-XA.

As adopted by the Board of Directors by unanimous vote the 22nd day of ~~May~~ October, 199 .

Secretary

President

BE IT RESOLVED, by the Halethorpe Improvement Association that the responsiblity for review of and action of all zoning matters is placed in the Board of Directors and the Zoning Chairman.

As adopted by the Association by unanimous vote the 21st day of January 1997.

Sandra L. Cullen
Secretary

Joseph Kinsey
President

BE IT RESOLVED, by the Halethorpe Improvement Association that the responsiblity for review of and action of all zoning matters is placed in the Board of Directors and the Zoning Chairman.

As adopted by the Association by unanimous vote the 21st day of January 1997.

Sandra L. Cullen
Secretary

Joseph Kinsley
President

AFFIDAVIT OF JOSEPH KINSEY

I do solemnly declare and affirm under the penalties of perjury that the undersigned is the President of the Halethorpe Improvement Association. The number of members in the Association is 192 households. The Association represents the geographical area of the Halethorpe community, north and west of Washington Boulevard in Baltimore County.

The undersigned is authorized to present the views of the Halethorpe Improvement Association.

Date: May 7th, 1997

Joseph Kinsey

Joseph Kinsey

I do solem nly declare and affirm under the penalties of perjury that Joseph Kinsey is the President of the Halethorpe Improvement Association and a member of the Board of Directors.

Secretary

President

AFFIDAVIT OF JOSEPH KINSEY

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Secretary

Joseph Kinsey

President

AFFIDAVIT OF JOSEPH KEECH

I do solemnly declare and affirm under the penalties of perjury that the undersigned is the Zoning Chairman of the Halethorpe Improvement Association. The number of members in the Association is 192 households. The Association represents the geographical area of the Halethorpe community, north and west of Washington Boulevard in Baltimore County.

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Date: May 7th, 1997

Joseph Keech

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Sandra L. Cullen

Secretary

Joseph Kunsey

President

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Sandra L. Cullen

Secretary

Joseph Kinsey

President

96-375C

9

VENABLE, BAETJER AND HOWARD, LLP
*Including professional corporations*

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

**Writer's Direct Number:**
**410-494-6201**

July 5, 1996

***Hand Delivery***

Mr. Carl Richards
Department of Permits & Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Legal Owner: Cloverland Farms Dairy, Inc.
Property Location: 4308 Washington Boulevard
Petition for Special Exception and Variance

Dear Mr. Richards:

I am hereby drop filing the enclosed Petitions for Special Exception and Variance with regard to the above captioned property. This request has not been previously reviewed. Pursuant to Zoning Enforcement, there are no outstanding zoning violations on site. Enclosed for submittal are the following documents:

1. Petition for Special Exception (3)
2. Petition for Variance (3)
3. Zoning description (3)
4. Site Plans w/ 200' Zoning Map (12)
5. Check in the amount of $755.00

Drop-Off
No Review
7/8/96
WCR

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

Sincerely,

Barbara

Barbara W. Ormord
Legal Assistant

RECEIVED
JUL 5 1996
PDM

bw
cc: Robert A. Hoffman, Esquire

TO1DOCS1/BAW01/0027237.01

Robert B. Greenwalt, Esq.
20 University Avenue
Baltimore, MD 21228
410-747-7816

Rec 25 Oct 96
2:10 pm
CA Milton

October 25, 1996

RECEIVED OCT 25 '96

Arnold Jablon, Director
Room 111, County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Notice of Appeal

To Mr. Jablon:

On behalf of Joseph P. Kinsey and the Halethorpe Improvement Association, I hereby file an appeal of the Deputy Zoning Commissioner's decision in:

Case No. 97-11-XA
Petitions for Special Exception and Variance
Cloverland Farms Dairy, Inc. - Petitioner

The filing fee is attached. Please refer this matter to the Board of Appeals.

Very truly yours,

Robert B. Greenwalt

Mr Gorman W Reagan
4325 Ridge Ave.
Baltimore, Md. 21227
Sept. 21, 1996




Baltimore County Dept. of Zoning
Deputy Commissioner
400 Washington Avenue
Towson, Maryland 21204

Dear Deputy Commissioner: 97-11-XA

In reference to the Special Exception to the Zoning Requirements(Zoning Case #97-11-XA)for the Royal Farm Store at the 4300 Block of Washington Blvd & Ridge Avenue,Halethorpe, Md. to have Gasoline Pumps on a very Small Peice of Ground at that Heavily Traveled intersection.

I live in that same block on Ridge Avenue and I have talked with my neighbors about this very important Zoning Exception and with the exception of Mr. Simmons, which he is in favor of & he is an employee of Royal Farm Store. We are ALL VERY MUCH AGAINST this Special Exception to the Zoning. We very Strongly Urge You to Disapprove the Special Exception to Zoning. Royal Farm Vendors DOUBLE PARK on Ridge Avenue from 3:00AM & all though the day which is very unsafe & hinders traffic in both directions.

Sincerely Yours,
Gorman W. Reagan

To File
TMK

Gorman W. Reagan
4325 Ridge Avenue
Halethorpe, MD 21227







Deputy Commissioner
Timothy Kotnoco
400 Washington Avenue
Towson, Maryland 21204

Baltimore County Dept. of Zoning

PLEASE PRINT CLEARLY

**PETITIONER(S) SIGN-IN SHEET**

| NAME | ADDRESS |
|---|---|
| Rob Hoffman | 210 Allegheny Ave 21204 |
| DAVID MARTIN - | GWS - 658 KENILWORTH DR 21204 |
| NICK BRADER | " " |
| John M. Kemp | Cloverland 2200 N. Monroe St. |
| Peter W. Ratcliffe | 10404 STEVENSON RD. |
| Frank Gorgone | CLOVERLAND |
| Dorothy Mears | CLOVERLAND |
| Carol Fouellesl | Cloverland. |
| Ken Schmidt | 8258 Veterans Hwy Suite 193 Millersville, Maryland 21108 |

PLEASE PRINT CLEARLY

**PROTESTANT(S) SIGN-IN SHEET**

| NAME | ADDRESS |
|---|---|
| Joseph S. Rungey | 1519 Woodside Ave. #21227 |
| EDWARD SMITH | 4501 SPRING AVE 21227 |
| MARIE Smith | 4501 Spring Ave. 21227 |
| Cindy G. Hawkins | 4304 Spencer St 21227-4627 |
| Theresa Lowery | 2517 Hammonds Ferry 21227 |

APPEAL

Petition for Special Exception and Variance
NW/S Washington Boulevard at SE/S Ridge Avenue
(4308 Washington Boulevard)
13th Election District - 1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

✓ Petition for Special Exception and Variance

✓ Description of Property

✓ Certificate of Posting

✓ Certificate of Publication

✓ Entry of Appearance of People's Counsel

✓ Zoning Advisory Committee Comments

✓ Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
- ✓ 1 - Plat to Accompany Petitions for Zoning Variances and Special Exception
- ✓ 2 - Building Footprint
- ✓ 3 - Letter from William Simmons and Cynthia Miller to Baltimore County dated August 7, 1996
- ✓ 4 - Development Plan/Landscape Plan
- ✓ 5A-5I - Nine Photographs
- ✓ 6 - Professional Resume of Kenneth W. Schmid

Protestants' Exhibits:
- ✓ 1 - Letter from Joe Keech, Zoning Chairman of the Halethorpe Improvement Association to the Zoning Commissioner dated July 30, 1996

✓ Video Cassette Tape not Marked as Exhibit

✓ Letter of Opposition

✓ Two Miscellaneous Correspondences

✓ Deputy Zoning Commissioner's Order dated September 27, 1996 (Granted)

✓ Notice of Appeal received on October 25, 1996 from Robert B. Greenwalt, Esquire on behalf of Joseph P. Kinsey and the Halethorpe Improvement Association

c: Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204
Mr. John M. Kemp, Vice President, Cloverland Farms Dairy, Inc., 2200 N. Monroe Street, Baltimore, MD 21217
✱ Mr. Joseph P. Kinsley, 1519 Woodside Avenue, Baltimore, MD 21227
Mr. and Mrs. Edward Smith, 4501 Spring Avenue, Baltimore, MD 21227
Ms. Amy J. Hawkins, 4309 Spencer Street, Baltimore, MD 21227-4527
Ms. Theresa Lowry, 2517 Hammonds Ferry Road, Baltimore, MD 21227
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

✱ **Robert B. Greenwalt, Esquire** /Counsel for Appellants /Protestants
**20 University Avenue**
**Baltimore, MD 21228**

# BALTIMORE COUNTY, MARYLAND
## Inter-Office Memorandum

DATE: July 24, 1998

TO: S.G. Samuel Moxley
Councilman, First District

FROM: Arnold Jablon
Director, PDM

SUBJECT: Royal Farms Store Meeting
Site Location: 4308 Washington Boulevard

Staff has reviewed the petitioners plan in case number 97-11-XA and found the following concerning commercial deliveries, restrooms, and any addition to the number of fuel service spaces on this site:

1. Restriction #5 of the Board of Appeals (BOA) order states that the petitioner (i.e., Royal Farms) shall not accept any vendor deliveries from commercial vehicles parked along Ridge Avenue or Washington Boulevard.

2. The BOA further ordered "the restrooms shall be kept locked at all times; and keys shall be retained by the employees of the store for customers and employees use exclusively". However, the zoning regulations require that a restroom facility shall be provided for customers. If locked as per the BOA order, it complies with the order.

3. A special hearing will be required to approve any additional pumps on site.

4. The site area shown on the plan is 21,170 square feet. Section 405.4.A.1, BCZR, requires a minimum site area of 1,500 square feet for each fuel service space or a minimum of 15,000 square feet, whichever is greater. The convenience store requires an additional 8,632 square feet of site area.

Based on this assessment, it appears that approximately 4 additional fuel service spaces at 2-multi product pumps could possibly be approved at a public hearing. However, due to the existing site layout, staff cannot see how the required additional service and stacking areas for even one more pump could effectively work without substantial layout changes and variances.

**To Summarize:** The site could hypothetically support an additional pump island or two, but not without zoning hearings and major site alterations.

JLL:scj

c: zoning case #97-11-XA

7/18/98
Carl
please review
& compare w/
order & let
me know -

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and Development Management

FROM: S.G. Samuel Moxley
Councilman, First District

SUBJECT: Royal Farms Store meeting
SITE LOCATION: 4308 WASHINGTON BLVD.

DATE: July 14, 1998

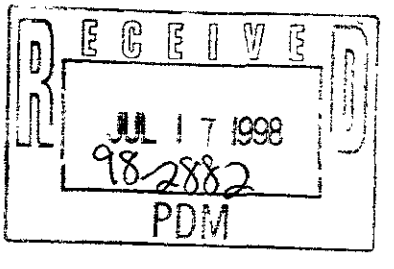
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As per the conversation my Aide had with you and your assistant, I am enclosing a brief overview of the community's concerns with the Royal Farms Store. The community has some valid concerns and I wanted to give you a heads-up on the main issues they discussed with Bryan.

Thanks for all your help and if you have any questions please give me a call.

SGM:bes

Arnold,
If there is anything we can do please let me know



Brief for the meeting on Royal Farms Store

The biggest concerns the community has are:
1. The sidewalks are only 4" wide, but they were supposed to be 6" wide. The community is worried that Royal Farms did this on purpose and plans to add more pumps at a later date. Is it possible for Royal Farms to request more gas pumps on that tiny piece of property? The community would feel much more at ease if they could not. Also, are the 4" sidewalks a violation because they do not match what the plan called for? The community is worried that no one will pay attention to this fact, even though the Board of Appeals stated that they were approving the plan as shown on the diagrams.

2. During the Board of Appeals hearing, a plastic shield for the light that shines onto Ridge Avenue was discussed. Royal Farms had mentioned that they would be willing to put up the shield to appease the homeowners along Ridge Avenue. However the decision stated that landscaping would be done to make sure homeowners on Ridge were shielded. The community is very happy with the landscaping, but the trees are too young to provide a shield. In five years the trees will be adequate, but for now the light still shines brightly into the homes. Is it possible to get Royal Farms to put a temporary plastic shield up to protect the homeowners until the trees mature?

3. The community is also concerned about the bathroom situation. The order states that customer bathrooms are required and must be locked at all times. Currently, Royal Farms is allowing the customers to use the employee bathroom in the stock room. Although this is still a bathroom that is secured from general public use, the community is concerned that this will be the permanent restroom. Is this one restroom all that would be required to fulfill the Board of Appeals decision?

4. Some of the delivery vehicles are loading and stopping on Ridge Avenue, a direct violation of the Board of Appeals decision. My office has instructed that the residents document each occurrence and submit it to your enforcement office. They also know that they would be required to testify and seem willing to do so. I am assuming that we will help the residents out if they are willing to testify.

I don't think it will be possible to satisfy the community representatives completely. I think the bathroom and shield concerns probably can't be adjusted to their liking, but if we determine that Royal Farms can not have more pumps and we will support the residents who are willing to testify to the violation of delivery locations I am sure they will be appeased.

**AFFIDAVIT OF HENRY PFIEFFER**

The undersigned resides at 4304 Ridge ~~Road~~ Ave., Halethorpe, Maryland, 21227, shown as Lot 6 on the Plat to Accompany Petitions submitted by Cloverland Farms Dairy, Inc. The undersigned resides across Ridge ~~Road~~ Ave. from the Royal Farm Store. Attached to this affidavit, and made a part hereof, are pictures taken by the undersigned of vehicles using or servicing the Royal Farm Store and parked on Ridge ~~Road.~~ Ave. The pictures were taken in November and December, 1996. + January + February HHP

The undersigned is unable to attend the hearing on May 7, 1997 due to his health, being unable to travel distances and remain away from home. The undersigned submits these pictures to the Board of Appeals in support of Appellants.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY that the contents of the foregoing Affidavit and the pictures attached hereto are true and correct, and that I am competent to testify to the matters herein.

Henry J. Pfieffer

Henry Pfieffer

App. #4 plus photos
i.d. only

Pet. # 5

# TRAFFIC BRIEF

## ROYAL FARM STORE
## US 1 @ Ridge Avenue
## Baltimore County, Maryland

May, 1997

Prepared By

Traffic Concepts, Inc.
Brightview Business Center
8258 Veterans Highway
Suite 19B
Millersville, Maryland
21108 410-987-0427

## INTRODUCTION

Cloverland Farms would like to add gasoline sales (four fueling positions) to an existing Royal Farms convenience store. This site is located in Baltimore County, and will have full access to US 1 (Washington Boulevard) and to Ridge Ave (See Exhibit 1). We have performed traffic counts at the US 1 at Ridge Ave./Northeast Ave. intersection to establish existing critical lane volumes. We have also contacted Baltimore County to determine their most recent level of service condition for this intersection.

It has been our experience that the addition of gasoline sales to a convenience store has little impact on traffic flows to the adjacent road system. In conjunction with proposed site modifications, this site will operate safely with little impact to the surrounding community.

## PROPOSED VEHICLE TRIP PATTERN

The existing facility is the type which draws it's customers from the adjacent road traffic flows. The majority of the vehicles entering and exiting the site are currently intercepted from the traffic currently traveling along Washington Boulevard and Ridge Ave. Therefore, this facility does not create a significant amount of new vehicle trips along the adjacent road network. The addition of gasoline sales will provide a new product to the existing customer base. The majority of gas sales will be made to customers that are currently using the store to purchase other products. Of the new gasoline sales, a large percentage of trips will be of the passby nature. Therefore, the vehicle impact to the adjacent road system will be minimal.

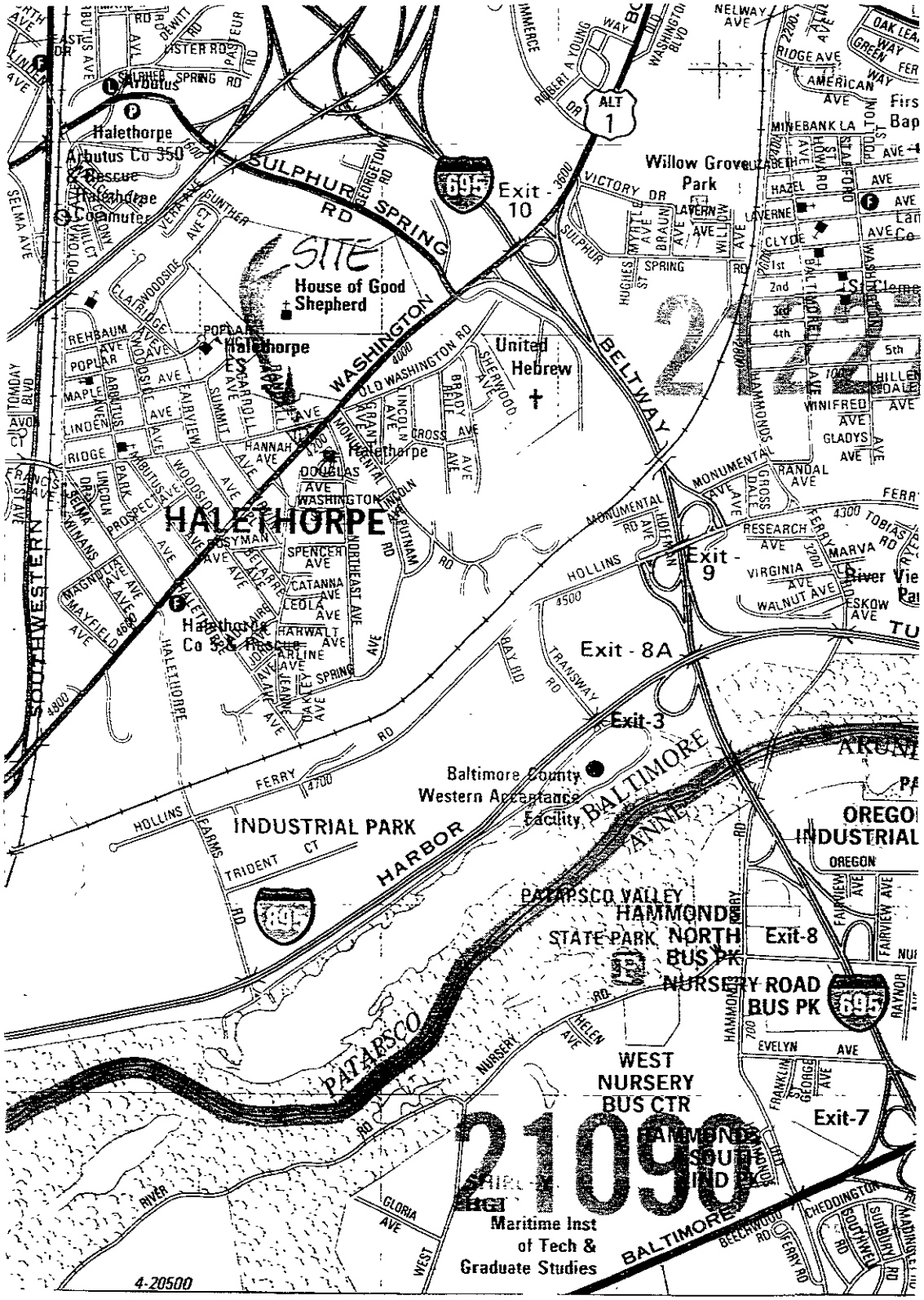



EXHIBIT 1
Site Location

TRAFFIC CONCEPTS, INC.

**EXISTING LEVELS OF SERVICE**

Peak hour turning movement counts were performed at the existing site access points and the intersection of US 1 at Ridge Ave./Northeast Ave (See Exhibit 2). Critical Lane Analyses were done to establish existing levels of service. The following are the results of these analyses:

| | AM | PM |
|---|---|---|
| | CLV (LOS) | CLV(LOS) |
| US 1 @ Ridge Ave./Northeast Ave. | 543(A) | 460(A) |
| US 1 @ Site Access | 329(A) | 379(A) |
| Ridge Ave. @ Site Access | 374(A) | 330(A) |

We also contacted Baltimore County for the latest loaded cycle level of service determination at the US 1 at Ridge Ave/Northeast Ave. intersection. The County's latest rating on this intersection was a "B" rating.

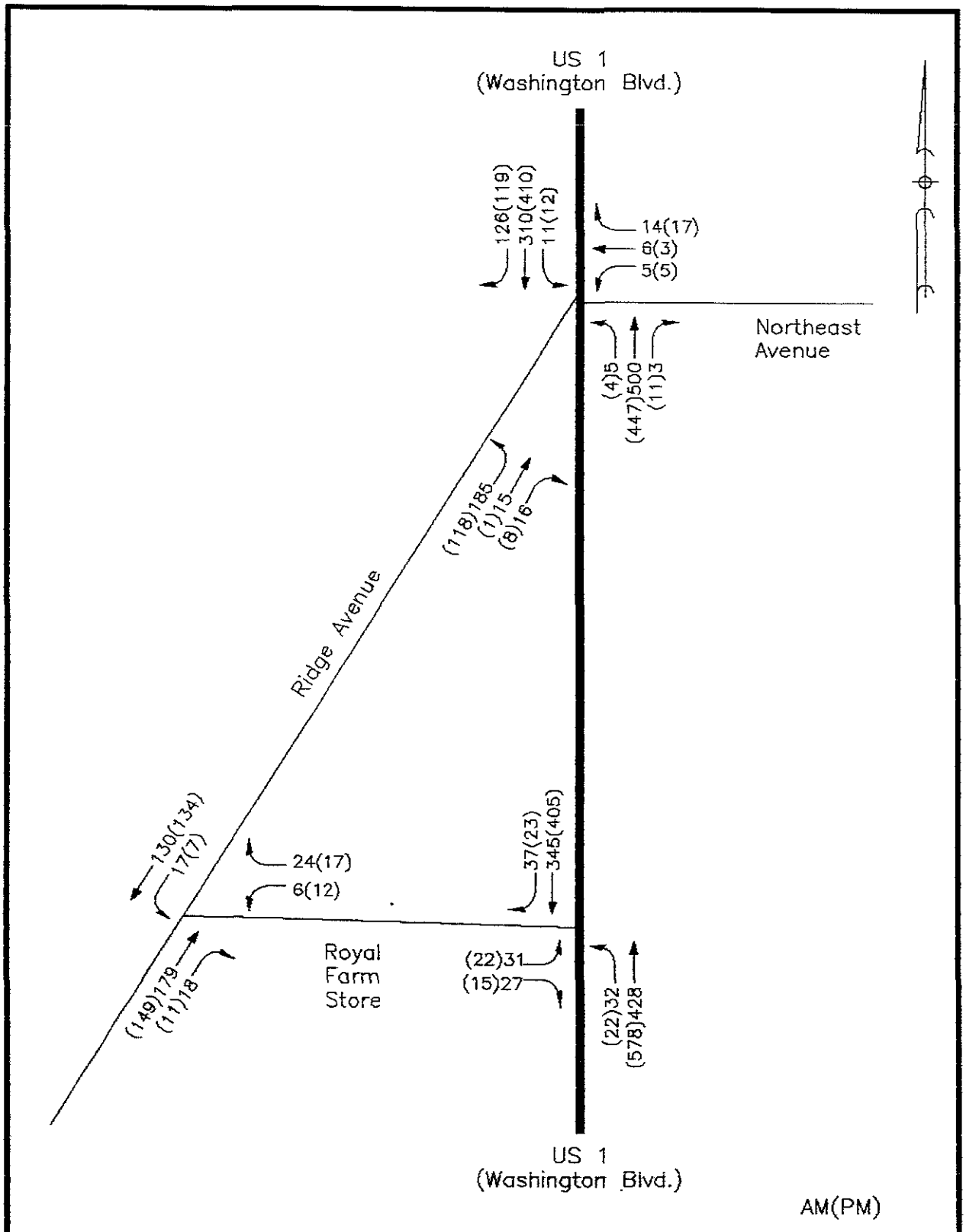



EXHIBIT 2
Existing Traffic Volumes

TRAFFIC CONCEPTS, INC.

**PROPOSED TRIP GENERATION**

We referred to the Institute of Transportation Engineers, Trip Generation Manual to determine the vehicle generation that can be expected from the addition of gasoline sales. The results are as follows:

| | AM | | PM | | ADT |
|---|---|---|---|---|---|
| | IN | OUT | IN | OUT | TOTAL |
| **Convenience Store** | | | | | |
| per 1000 gsf | 32.70 | 32.70 | 26.86 | 26.86 | 737.99 |
| 2877 square feet | 94 | 94 | 77 | 77 | 2123 |
| Less 60% Passby | -56 | -56 | -46 | -46 | -1274 |
| **Net New Trips** | **38** | **38** | **31** | **31** | **849** |
| **Convenience Store w/gasoline sales** | | | | | |
| per 1000 gsf | 37.47 | 37.47 | 31.28 | 31.28 | 845.60 |
| 2877 square feet | 108 | 108 | 90 | 90 | 2433 |
| Less 60% Passby | -65 | -65 | -54 | -54 | -1460 |
| **Net New Trips** | **43** | **43** | **36** | **36** | **973** |
| **Increase in New Trips** | **5** | **5** | **5** | **5** | **124** |

## SITE ACCESS

Two access points exist on this property. One access is provided to US 1 which operates as a major arterial roadway. US 1 is approximately 50' wide in this location and provides two thru lanes in each direction. Sight lines are adequate. The access has been designed for full traffic movements and to accommodate the turning radii of a full range of vehicle types. In our opinion, it will operate safely and efficiently. Our field examination at this site indicates little delay for vehicles exiting this access.

An additional access is provided to Ridge Ave. and will also allow for full traffic movements. Ridge Ave. operates as a collector road. Adjacent to the proposed access, the pavement is approximately 25 feet in width, marked with two 12' lanes. Sight lines are adequate. In our opinion, this access has also been designed to provide for the safe and efficient flow of traffic in and out of the site.

## SITE CONFIGURATION

The site will be modified to accommodate the proposed gas pump islands. The primary parking area is located adjacent to the store and provides nine (9) spaces. The gas fueling area will be located in the vicinity of the existing secondary parking area. This parking will be relocated east along the site, and will provide three parking spaces to be used generally by employees. It must be noted that, by the nature of the gasoline sales operation, the fueling position areas will act as parking spaces. Therefore, four (4) additional parking spaces will be provided. In addition, Cloverland Farms has negotiated an access through the adjacent property to provide an additional seven (7) parking spaces. We envision these spaces to be utilized by US 1 bound regular customers, and will instruct

all delivery trucks to use the parking area. The existing store provides fifteen (15) parking spaces. With the addition of the new parking area, nineteen (19) spaces will be provided, and including the fueling positions, this number will increase to twenty-three (23).

With most triangular-shaped properties, activity is compressed to the center of the lot. This site is no exception. During the busy hours of operation, it will be important not to accept fuel delivery. In order for fuel delivery to be made in a safe manner, the fueling position area will need to be closed. This operation will also block the secondary parking area along the east side of the site. This operation must occur during off-peak hours of the convenience store operation, therefore, no gasoline deliveries should occur between the hours of 6-10 AM and 3-7 PM.

It would also be appropriate on this site to require product delivery trucks to use the new parking lot in order to keep the primary parking area clear. All efforts should be made to schedule deliveries during off-peak times as well, to ensure that delivery trucks do not park in the primary parking area during peak business times.

**CONCLUSIONS AND RECOMMENDATIONS**

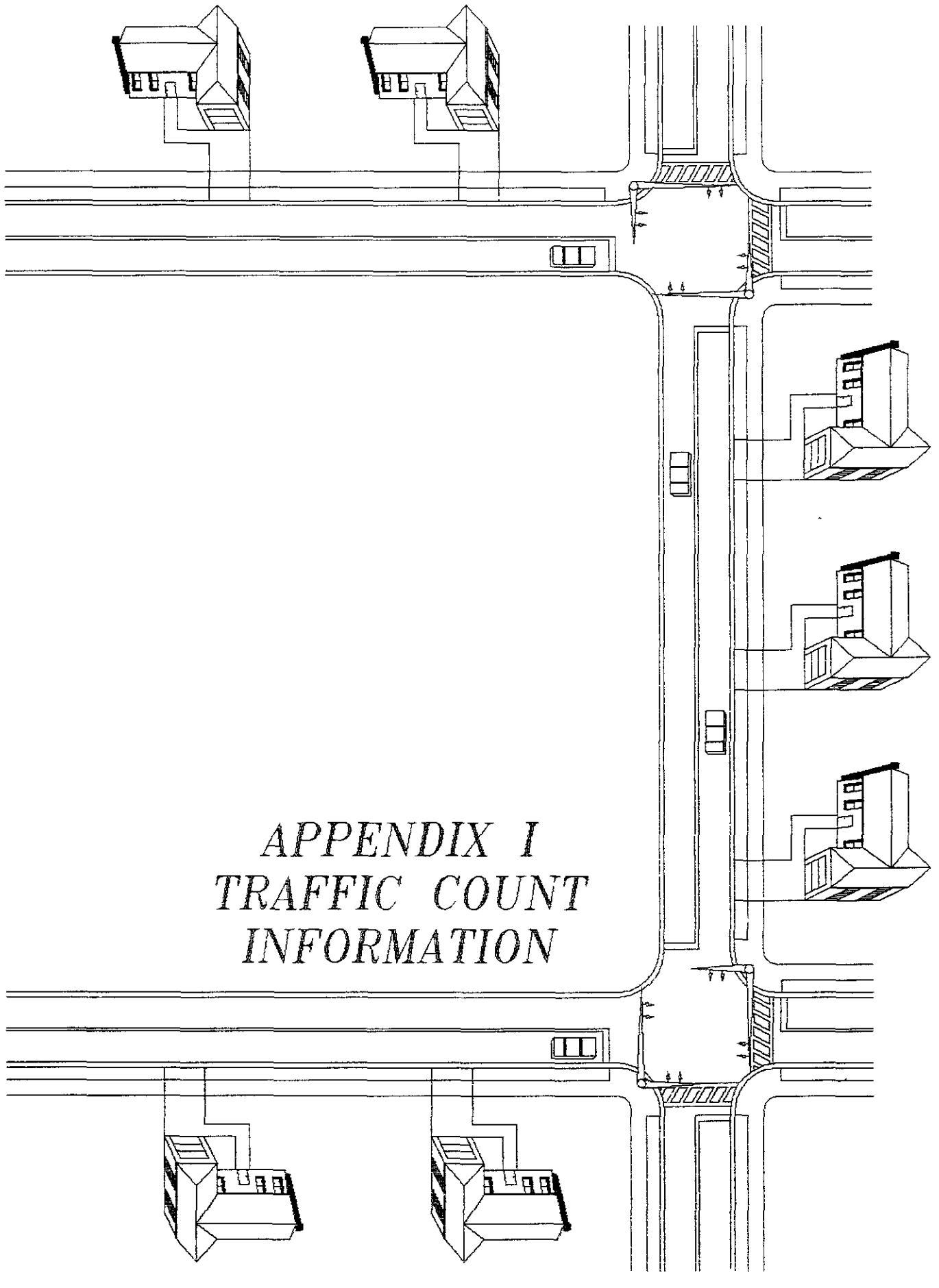
In our experience, the addition of gasoline sales does not significantly change the traffic flow associated with an existing convenience store. Traffic flow projected at the site entrances, as well as at the nearest major intersection of US 1 at Ridge Ave./Northeast Ave has been shown to operate at acceptable levels of service proposed during peak times. The additional traffic to be generated by the gasoline sales will not change operating conditions of the adjacent road system. Generally gas sales operations are located at intersections of high volume roadways, and this appears to be a typical location for gasoline sales.

The internal configuration of the site will be modified to locate the two proposed gasoline pumps. Although the pumps will be located where six parking spaces currently exist, eight (8) new spaces will be located within the site. The gasoline fueling positions will also provide parking spaces for those customers who are purchasing both convenience items and gasoline. It is important to restrict the delivery of gasoline to off-peak time periods when vehicle and pedestrian activities are low. It would also be prudent to require delivery trucks to use the proposed side parking area. This will insure safe and efficient internal site circulation.

It is our opinion the site as designed can operate safely and efficiently and have little vehicle impact to the surrounding road system and community. The site will not operate as a typical major brand gas station, but will provide the existing Royal Farm Store customers with an additional needed product. It is our opinion that there will be no adverse impact to the surrounding road network if the recommendations are followed as they relate to gasoline and product deliveries.

5/2/97

Kenneth W. Schmid — Date
Vice President, Traffic Concepts, Inc.



# *APPENDIX I*
# *TRAFFIC COUNT INFORMATION*

# PEAK HOUR TURNING MOVEMENT COUNT

**INTERSECTION:** US 1 @ RIDGE AVE **COUNTY:** BALTIMORE

**COUNT BY:** K. SMITH; C. WILLS **DATE:** APR. 17, 1997

**WEATHER:** RAINY **DAY:** THURSDAY

| | US 1 NORTHBOUND | | | US 1 SOUTHBOUND | | | RIDGE AVE EASTBOUND | | | NORTHEAST AVE WESTBOUND | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| TIME | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | TOTAL |
| AM | | | | | | | | | | | | | |
| 7:00-7:15 | 0 | 95 | 1 | 0 | 92 | 17 | 39 | 0 | 3 | 1 | 0 | 1 | 249 |
| 7:15-7:30 | 0 | 97 | 0 | 2 | 65 | 12 | 55 | 0 | 3 | 1 | 0 | 3 | 238 |
| 7:30-7:45 | 1 | 83 | 0 | 2 | 86 | 14 | 59 | 0 | 2 | 0 | 2 | 3 | 252 |
| 7:45-8:00 | 0 | 135 | 1 | 1 | 76 | 26 | 40 | 1 | 3 | 0 | 3 | 5 | 291 |
| 8:00-8:15 | 0 | 107 | 1 | 2 | 93 | 23 | 29 | 3 | 3 | 1 | 0 | 3 | 265 |
| 8:15-8:30 | 0 | 137 | 1 | 5 | 75 | 45 | 67 | 0 | 7 | 1 | 4 | 1 | 343 |
| 8:30-8:45 | 2 | 125 | 0 | 3 | 75 | 29 | 46 | 1 | 4 | 1 | 0 | 4 | 290 |
| 8:45-9:00 | 3 | 131 | 1 | 1 | 67 | 29 | 43 | 11 | 2 | 2 | 2 | 6 | 298 |
| PEAK HR 8:00-9:00 TOTALS | 5 | 500 | 3 | 11 | 310 | 126 | 185 | 15 | 16 | 5 | 6 | 14 | |
| PM | | | | | | | | | | | | | |
| 4:00-4:15 | 0 | 121 | 4 | 4 | 86 | 22 | 22 | 0 | 2 | 0 | 0 | 5 | 266 |
| 4:15-4:30 | 1 | 137 | 2 | 5 | 76 | 21 | 34 | 1 | 1 | 1 | 0 | 4 | 283 |
| 4:30-4:45 | 2 | 107 | 3 | 1 | 96 | 41 | 30 | 0 | 3 | 2 | 1 | 4 | 290 |
| 4:45-5:00 | 2 | 110 | 6 | 2 | 91 | 27 | 27 | 0 | 2 | 0 | 1 | 2 | 270 |
| 5:00-5:15 | 0 | 119 | 2 | 2 | 102 | 29 | 27 | 1 | 2 | 1 | 0 | 5 | 290 |
| 5:15-5:30 | 0 | 111 | 0 | 7 | 121 | 22 | 34 | 0 | 1 | 2 | 1 | 6 | 305 |
| 5:30-5:45 | 1 | 114 | 1 | 4 | 83 | 26 | 28 | 0 | 1 | 0 | 0 | 2 | 260 |
| 5:45-6:00 | 2 | 125 | 1 | 1 | 62 | 16 | 17 | 1 | 0 | 1 | 1 | 3 | 230 |
| PEAK HR 4:30-5:30 TOTALS | 4 | 447 | 11 | 12 | 410 | 119 | 118 | 1 | 8 | 5 | 3 | 17 | |

TRAFFIC CONCEPTS, INC.
8258 VETERANS HIGHWAY, SUITE 19B
MILLERSVILLE, MARYLAND 21108
(410) 987-0427
FAX (410) 987-4718

A:\96-M45\count1

# PEAK HOUR TURNING MOVEMENT COUNT

**INTERSECTION:** US 1 @ ROYAL FARM **COUNTY:** BALTIMORE

**COUNT BY:** K. SMITH **DATE:** APR. 18, 1997

**WEATHER:** CLEAR **DAY:** FRIDAY

| | US 1 NORTHBOUND | | | US 1 SOUTHBOUND | | | ROYAL FARM EASTBOUND | | | WESTBOUND | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| TIME | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | TOTAL |
| AM | | | | | | | | | | | | | |
| 7:00-7:15 | 2 | 84 | | | 82 | 6 | 8 | | 7 | | | | 189 |
| 7:15-7:30 | 6 | 76 | | | 73 | 6 | 5 | | 4 | | | | 170 |
| 7:30-7:45 | 10 | 106 | | | 87 | 13 | 12 | | 7 | | | | 235 |
| 7:45-8:00 | 12 | 118 | | | 90 | 6 | 5 | | 8 | | | | 239 |
| 8:00-8:15 | 6 | 89 | | | 86 | 6 | 10 | | 4 | | | | 201 |
| 8:15-8:30 | 4 | 115 | | | 82 | 12 | 4 | | 8 | | | | 225 |
| 8:30-8:45 | 5 | 112 | | | 82 | 5 | 6 | | 7 | | | | 217 |
| 8:45-9:00 | 1 | 84 | | | 64 | 7 | 5 | | 8 | | | | 169 |
| PEAK HR 7:30-8:30 TOTALS | 32 | 428 | | | 345 | 37 | 31 | | 27 | | | | |
| PM | | | | | | | | | | | | | |
| 4:00-4:15 | 10 | 140 | | | 88 | 0 | 3 | | 1 | | | | 242 |
| 4:15-4:30 | 7 | 122 | | | 68 | 5 | 3 | | 5 | | | | 210 |
| 4:30-4:45 | 2 | 134 | | | 99 | 9 | 3 | | 6 | | | | 253 |
| 4:45-5:00 | 7 | 157 | | | 92 | 5 | 4 | | 5 | | | | 270 |
| 5:00-5:15 | 8 | 144 | | | 107 | 4 | 8 | | 2 | | | | 273 |
| 5:15-5:30 | 5 | 143 | | | 107 | 5 | 7 | | 2 | | | | 269 |
| 5:30-5:45 | 4 | 115 | | | 88 | 3 | 4 | | 2 | | | | 216 |
| 5:45-6:00 | 6 | 107 | | | 81 | 5 | 3 | | 4 | | | | 206 |
| PEAK HR 4:30-5:30 TOTALS | 22 | 578 | | | 405 | 23 | 22 | | 15 | | | | |

TRAFFIC CONCEPTS, INC.
8258 VETERANS HIGHWAY, SUITE 19B
MILLERSVILLE, MARYLAND 21108
(410) 987-0427
FAX (410) 987-4718

A:\96-M45\count2

# PEAK HOUR TURNING MOVEMENT COUNT

**INTERSECTION:** RIDGE AVE @ ROYAL FARM **COUNTY:** BALTIMORE

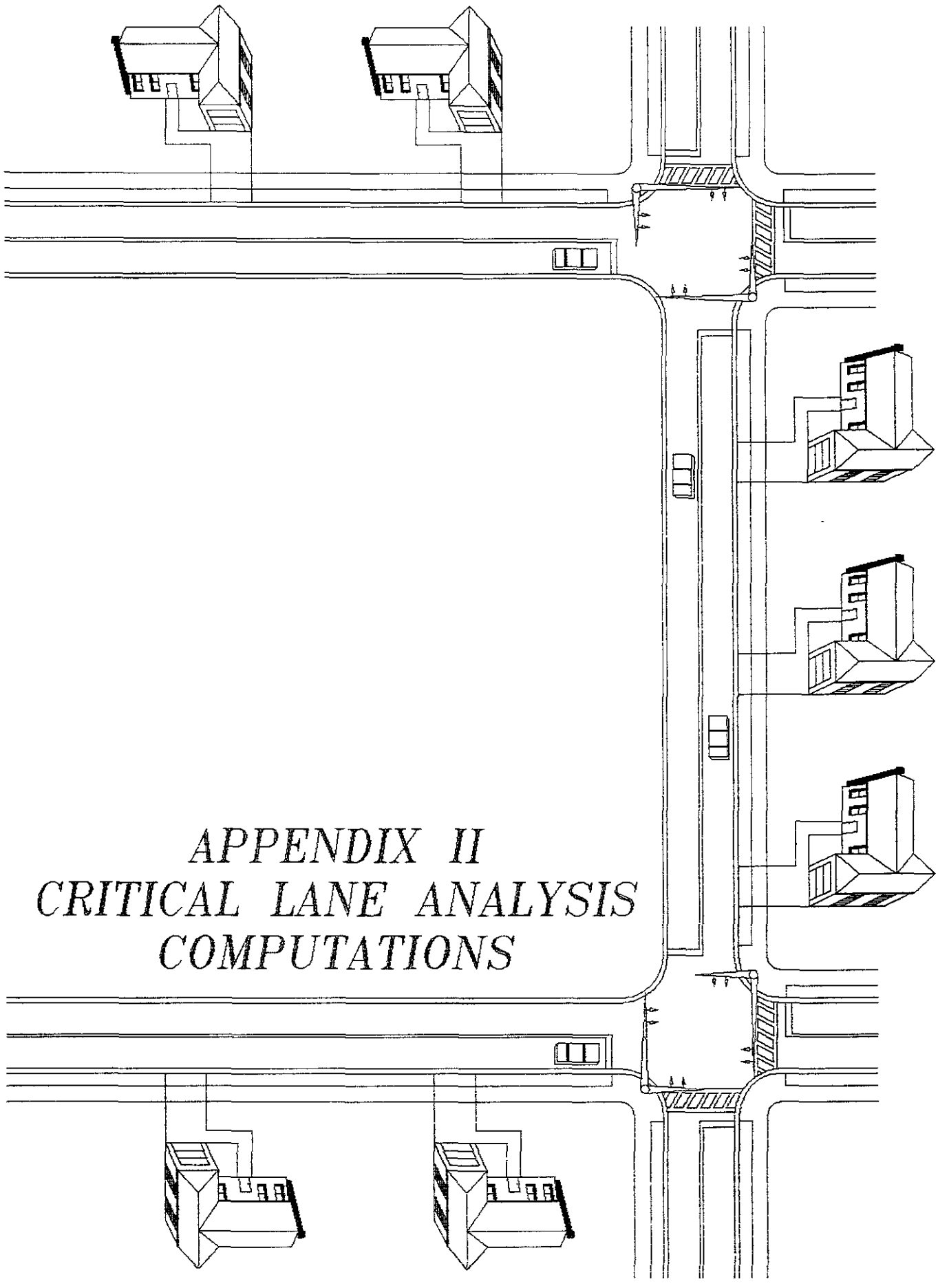
**COUNT BY:** C. WILLS **DATE:** APR. 18, 1997

**WEATHER:** CLEAR **DAY:** FRIDAY

| | RIDGE AVE NORTHBOUND | | | RIDGE AVE SOUTHBOUND | | | EASTBOUND | | | ROYAL FARM WESTBOUND | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| TIME | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | LEFT | THRU | RIGHT | TOTAL |
| AM | | | | | | | | | | | | | |
| 7:00-7:15 | | 36 | 8 | 5 | 20 | | | | | 1 | | 7 | 77 |
| 7:15-7:30 | | 44 | 4 | 3 | 13 | | | | | 4 | | 5 | 73 |
| 7:30-7:45 | | 46 | 2 | 4 | 12 | | | | | 3 | | 3 | 70 |
| 7:45-8:00 | | 30 | 1 | 3 | 22 | | | | | 2 | | 9 | 67 |
| 8:00-8:15 | | 39 | 2 | 1 | 35 | | | | | 0 | | 5 | 82 |
| 8:15-8:30 | | 56 | 9 | 11 | 39 | | | | | 4 | | 3 | 122 |
| 8:30-8:45 | | 54 | 6 | 2 | 34 | | | | | 0 | | 7 | 103 |
| 8:45-9:00 | | 30 | 4 | 2 | 16 | | | | | 2 | | 3 | 57 |
| PEAK HR 7:45-8:45 TOTALS | | 179 | 18 | 17 | 130 | | | | | 6 | | 24 | |
| PM | | | | | | | | | | | | | |
| 4:00-4:15 | | 49 | 4 | 1 | 21 | | | | | 1 | | 1 | 77 |
| 4:15-4:30 | | 35 | 2 | 3 | 35 | | | | | 4 | | 8 | 87 |
| 4:30-4:45 | | 35 | 3 | 2 | 28 | | | | | 1 | | 3 | 72 |
| 4:45-5:00 | | 37 | 4 | 1 | 35 | | | | | 4 | | 2 | 83 |
| 5:00-5:15 | | 42 | 2 | 1 | 36 | | | | | 3 | | 4 | 88 |
| 5:15-5:30 | | 24 | 4 | 4 | 32 | | | | | 8 | | 5 | 77 |
| 5:30-5:45 | | 22 | 1 | 2 | 25 | | | | | 3 | | 0 | 53 |
| 5:45-6:00 | | 20 | 2 | 3 | 26 | | | | | 2 | | 1 | 54 |
| PEAK HR 4:15-5:15 TOTALS | | 149 | 11 | 7 | 134 | | | | | 12 | | 17 | |

TRAFFIC CONCEPTS, INC.
8258 VETERANS HIGHWAY, SUITE 19B
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(410) 987-0427
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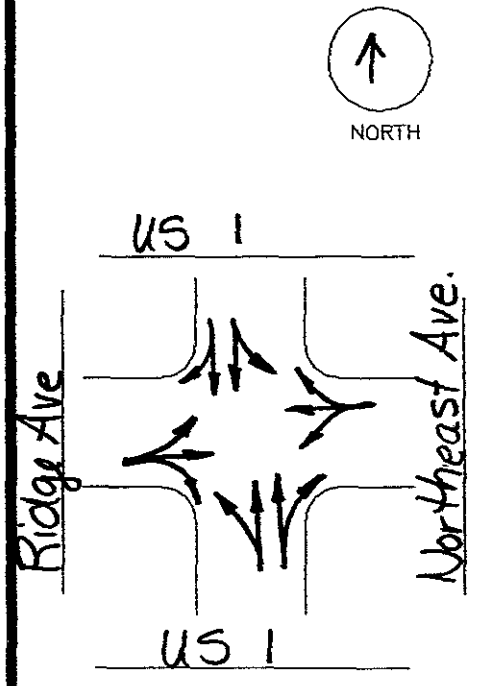
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# *APPENDIX II*
# *CRITICAL LANE ANALYSIS COMPUTATIONS*

**TRAFFIC CONCEPTS, Inc.**

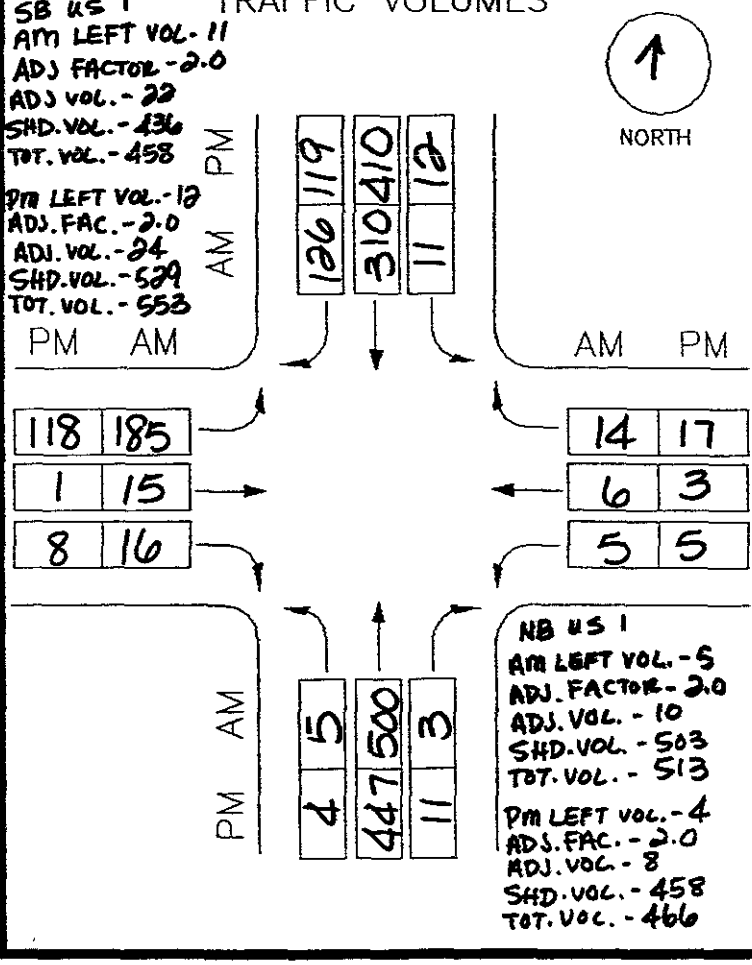
## LANE CONFIGURATION




## TRAFFIC VOLUMES

SB US 1
AM LEFT VOL.- 11
ADJ FACTOR -2.0
ADJ VOL.- 22
SHD.VOL.- 436
TOT. VOL.- 458

PM LEFT VOL.- 12
ADJ. FAC.- 2.0
ADJ. VOL.- 24
SHD.VOL.- 529
TOT. VOL.- 553




NB US 1
AM LEFT VOL.- 5
ADJ. FACTOR- 2.0
ADJ. VOL. - 10
SHD. VOL. - 503
TOT. VOL. - 513

PM LEFT VOL.- 4
ADJ. FAC. - 2.0
ADJ. VOL. - 8
SHD. VOL. - 458
TOT. VOL. - 466

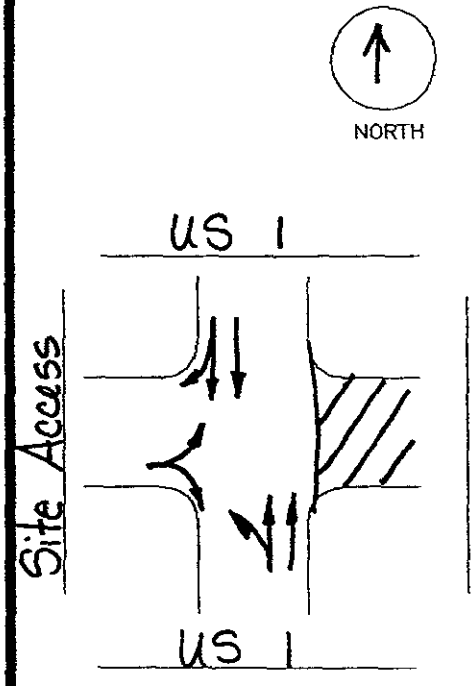
| | | TOTAL VOLUME * LUF + OPPOSING LEFTS * LUF = | CRITICAL LANE VOLUME | LEVEL OF SERVICE |
|---|---|---|---|---|
| AM | NB | 513 * .55 + 11 * 1.0 | 293* | |
| | SB | 458 * .55 + 5 * 1.0 | 257 | |
| | EB | (185+15+16) * 1.0 + (14+6+5) * 1.0 | 241* | A |
| | WB | (14+6+5) * 1.0 + (185+15+16) * 1.0 | 241 | 534 |
| PM | NB | 466 * .55 + 12 * 1.0 | 268 | |
| | SB | 553 * .55 + 4 * 1.0 | 308* | |
| | EB | (118+1+8) * 1.0 + (17+3+5) * 1.0 | 152* | A |
| | WB | (17+3+5) * 1.0 + (118+1+8) * 1.0 | 152 | 460 |

# CRITICAL LANE ANALYSIS

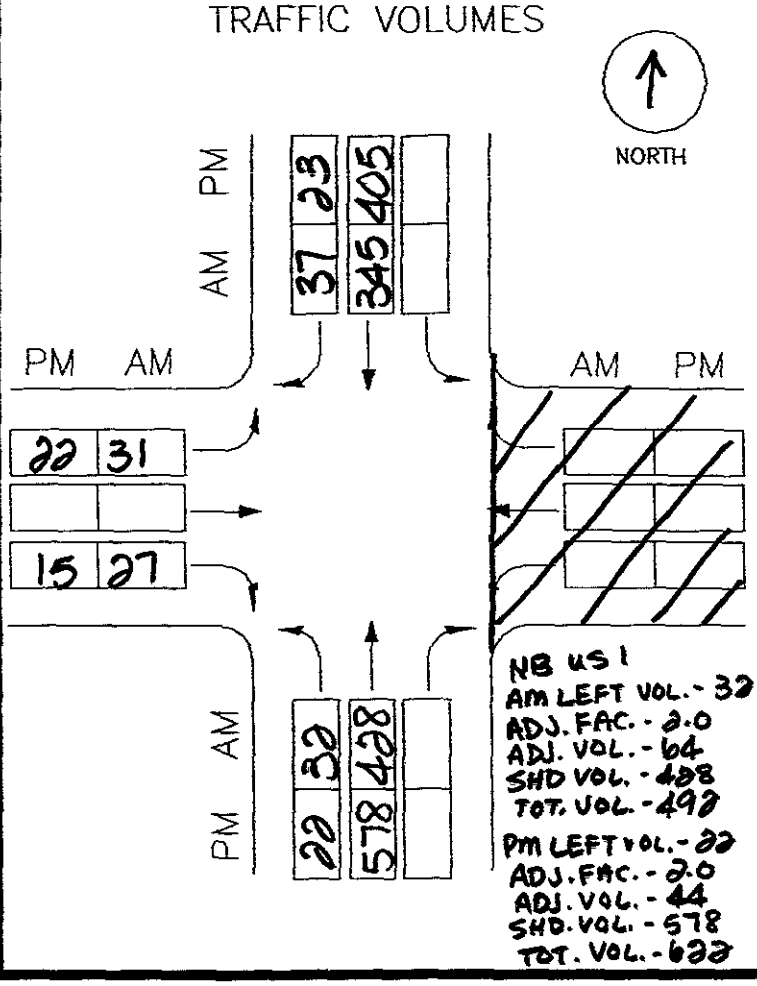
Prepared By: J. Hohman  Condition: Existing

**TRAFFIC CONCEPTS, Inc.**

## LANE CONFIGURATION




## TRAFFIC VOLUMES



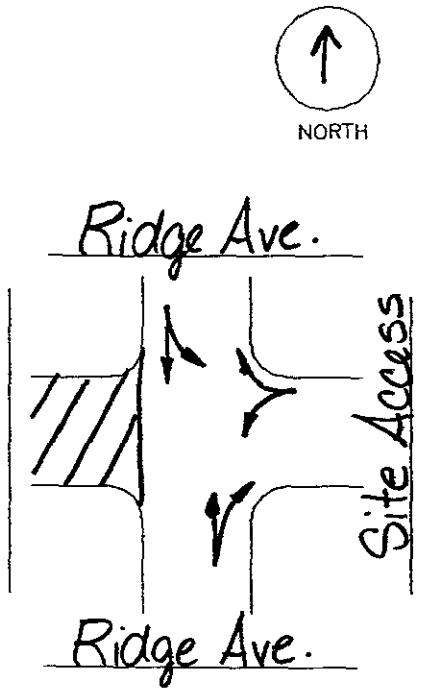

| | | TOTAL VOLUME * LUF + OPPOSING LEFTS * LUF = | CRITICAL LANE VOLUME | LEVEL OF SERVICE |
|---|---|---|---|---|
| AM | NB | 492 * .55 | 271 * | |
| | SB | (37+345) * .55 + 32 * 1.0 | 242 | |
| | EB | (31+27) * 1.0 | 58* | A |
| | WB | – | – | 329 |
| PM | NB | 622 * .55 | 342 * | |
| | SB | (23+405) * .55 + 22 * 1.0 | 257 | |
| | EB | (22+15) * 1.0 | 37* | A |
| | WB | – | – | 379 |

# CRITICAL LANE ANALYSIS

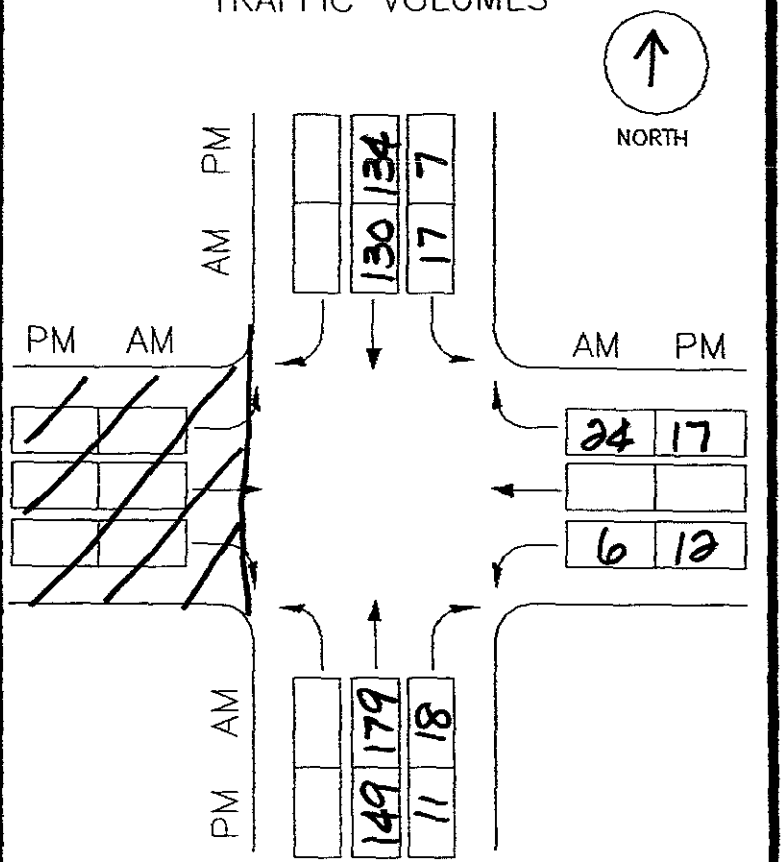
Prepared By: J. Hohman Condition: Existing

**TRAFFIC CONCEPTS, Inc.**

## LANE CONFIGURATION




## TRAFFIC VOLUMES




| | | TOTAL VOLUME * LUF + OPPOSING LEFTS * LUF = | CRITICAL LANE VOLUME | LEVEL OF SERVICE |
|---|---|---|---|---|
| AM | NB | (179+18) * 1.0 + (130+17) * 1.0 | 344* | |
| | SB | (130+17) * 1.0 | 147 | |
| | EB | - | - | A |
| | WB | (24+6) * 1.0 | 30* | 374 |
| PM | NB | (149+11) * 1.0 + (134+7) * 1.0 | 301* | |
| | SB | (134+7) * 1.0 | 141 | |
| | EB | - | - | A |
| | WB | (17+12) * 1.0 | 29* | 330 |

# CRITICAL LANE ANALYSIS

Prepared By: J. Hohman  Condition: Existing

LOCATION NORTHEAST AVE.-RIDGE AVE. + WASHINGTON BLVD. State Signal Number TROSIS

| | Recorder | Weather | Road Surface | Day of the Week | Date of Count |
|---|---|---|---|---|---|
| A.M. | SLH | CLEAR | DRY | MONDAY | 8/19/96 |
| P.M. | SLH | CLEAR | DRY | MONDAY | 8/19/96 |

PERCENTAGE TURNING MOVEMENTS & TOTAL VOLUMES

| ROAD NAME | | WASHINGTON BLVD. N BOUND | | | | WASHINGTON BLVD. S BOUND | | | | RIDGE AVE. E BOUND | | | | NORTHEAST AVE. W BOUND | | | | N+S+E+W |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | L | S | R | TOTAL | L | S | R | TOTAL | L | S | R | TOTAL | L | S | R | TOTAL | TOTAL |
| TURNING MOVEMENT | A.M. | 0% | 99% | 1% | 100% | 2% | 81% | 17% | 100% | 95% | 1% | 4% | 100% | 25% | 6% | 71% | 100% | N/A |
| | P.M. | 1% | 97% | 2% | 100% | 3% | 76% | 20% | 100% | 95% | 1% | 5% | 100% | 26% | 12% | 62% | 100% | N/A |
| TOTAL VOLUMES | A.M. | 1 | 753 | 7 | 801 | 19 | 670 | 137 | 826 | 275 | 4 | 17 | 296 | 11 | 3 | 30 | 48 | 1971 |
| | P.M. | 12 | 1031 | 18 | 1061 | 33 | 772 | 207 | 1012 | 231 | 3 | 8 | 242 | 17 | 6 | 32 | 56 | 2369 |
| GRAND TOTAL | | 13 | 1784 | 25 | 1862 | 52 | 1442 | 344 | 1838 | 506 | 7 | 25 | 538 | 28 | 9 | 62 | 99 | 4340 |

ESTIMATED ADT'S NORTH 13807 SOUTH 19928 EAST 537 WEST 2497

ESTIMATED CARS ENTERING THE INTERSECTION ---------- 18134

INTERSECTION: NORTHEAST AVE.-RIDGE AVE. - WASHINGTON BLVD.

DESC. WASHINGTON BLVD. IS A FOUR-LANE UNDIVIDED STATE RD.
NORTHEAST AVE. & RIDGE AVE. ARE BOTH TWO-LANE COUNTY RDS.

The signal functions as a 3 phase light. The cycle lengths in the morning averages 52 seconds and in the afternoon the cycle length averages approximately 63 seconds.
The peak hours were 7:15 to 8:15 A.M. and 5:00 to 6:00 P.M. The peak flow occurs on the S/B direction of WASHINGTON BLVD. during the A.M. peak hour and occurs on the N/B direction of WASHINGTON BLVD. during the P.M peak hour.

LOSES CYCLES:

| | N/B | S/B | E/B | W/B |
|---|---|---|---|---|
| % LOSS | N/A | N/A | N/A | N/A |
| AVG. DELAY | * | * | * | * |
| % LOSS | N/A | N/A | N/A | N/A |
| AVG. DELAY | * | * | * | * |

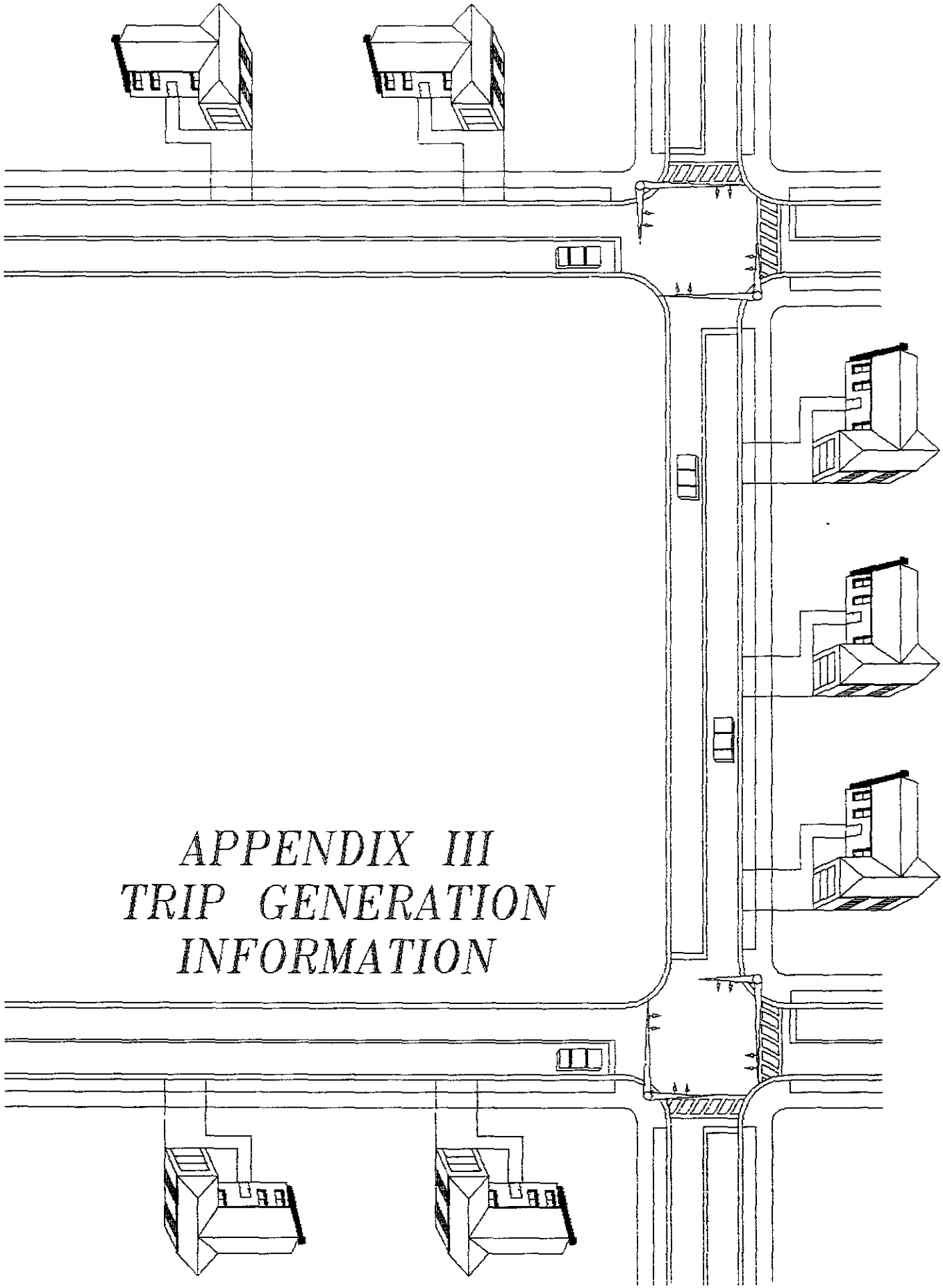
REMARKS: WAS LOS B 12/17/92

THE LEVEL OF SERVICE IS *

A = 0 - 5.0 B = 5.1 - 10.0 C = 10.1 - 20.0
D = 20.1 - 30.0 E = 30.1 - 45.0 F = 45.1 - OVER

FOR LOSSES ONLY (1) DATE RE-ISSUED: 11/12/96 APPROVED BY: AGR ISSUED BY: _____

Post-it® Fax Note 7671 # of pages ▶ 2
To KEN Date
Co./Dept. From KEITH
Phone # Co.
Fax # Phone # 887-3554
Fax #



# *APPENDIX III*
# *TRIP GENERATION INFORMATION*

Royal Farm Washington Bvld

SUMMARY OF TRIP GENERATION CALCULATION

FOR 2.877 TH.GR.SQ.FT. OF 24-HR CONVENIENCE MARKET

| | AVERAGE RATE | STANDARD DEVIATION | ADJUSTMENT FACTOR | DRIVE WAY VOLUME |
|---|---|---|---|---|
| AVG WKDY 2-WAY VOL | 737.99 | 336.24 | 1.00 | 2123 |
| 7-9 AM PK HR ENTER | 32.70 | 0.00 | 1.00 | 94 |
| 7-9 AM PK HR EXIT | 32.70 | 0.00 | 1.00 | 94 |
| 7-9 AM PK HR TOTAL | 65.39 | 28.37 | 1.00 | 188 |
| 4-6 PM PK HR ENTER | 26.86 | 0.00 | 1.00 | 77 |
| 4-6 PM PK HR EXIT | 26.86 | 0.00 | 1.00 | 77 |
| 4-6 PM PK HR TOTAL | 53.73 | 18.60 | 1.00 | 155 |
| AM GEN PK HR ENTER | 31.32 | 0.00 | 1.00 | 90 |
| AM GEN PK HR EXIT | 33.92 | 0.00 | 1.00 | 98 |
| AM GEN PK HR TOTAL | 65.24 | 35.17 | 1.00 | 188 |
| PM GEN PK HR ENTER | 27.42 | 0.00 | 1.00 | 79 |
| PM GEN PK HR EXIT | 25.32 | 0.00 | 1.00 | 73 |
| PM GEN PK HR TOTAL | 52.74 | 20.73 | 1.00 | 152 |
| SATURDAY 2-WAY VOL | 863.10 | 511.99 | 1.00 | 2483 |
| PK HR ENTER | 31.38 | 0.00 | 1.00 | 90 |
| PK HR EXIT | 32.67 | 0.00 | 1.00 | 94 |
| PK HR TOTAL | 64.05 | 33.10 | 1.00 | 184 |
| SUNDAY 2-WAY VOL | 758.45 | 415.86 | 1.00 | 2182 |
| PK HR ENTER | 30.55 | 0.00 | 1.00 | 88 |
| PK HR EXIT | 34.45 | 0.00 | 1.00 | 99 |
| PK HR TOTAL | 65.00 | 28.49 | 1.00 | 187 |

Note: A zero rate indicates no rate data available
Source: Institute of Transportation Engineers
Trip Generation, 5th Edition, With Feb. 1995 Update.

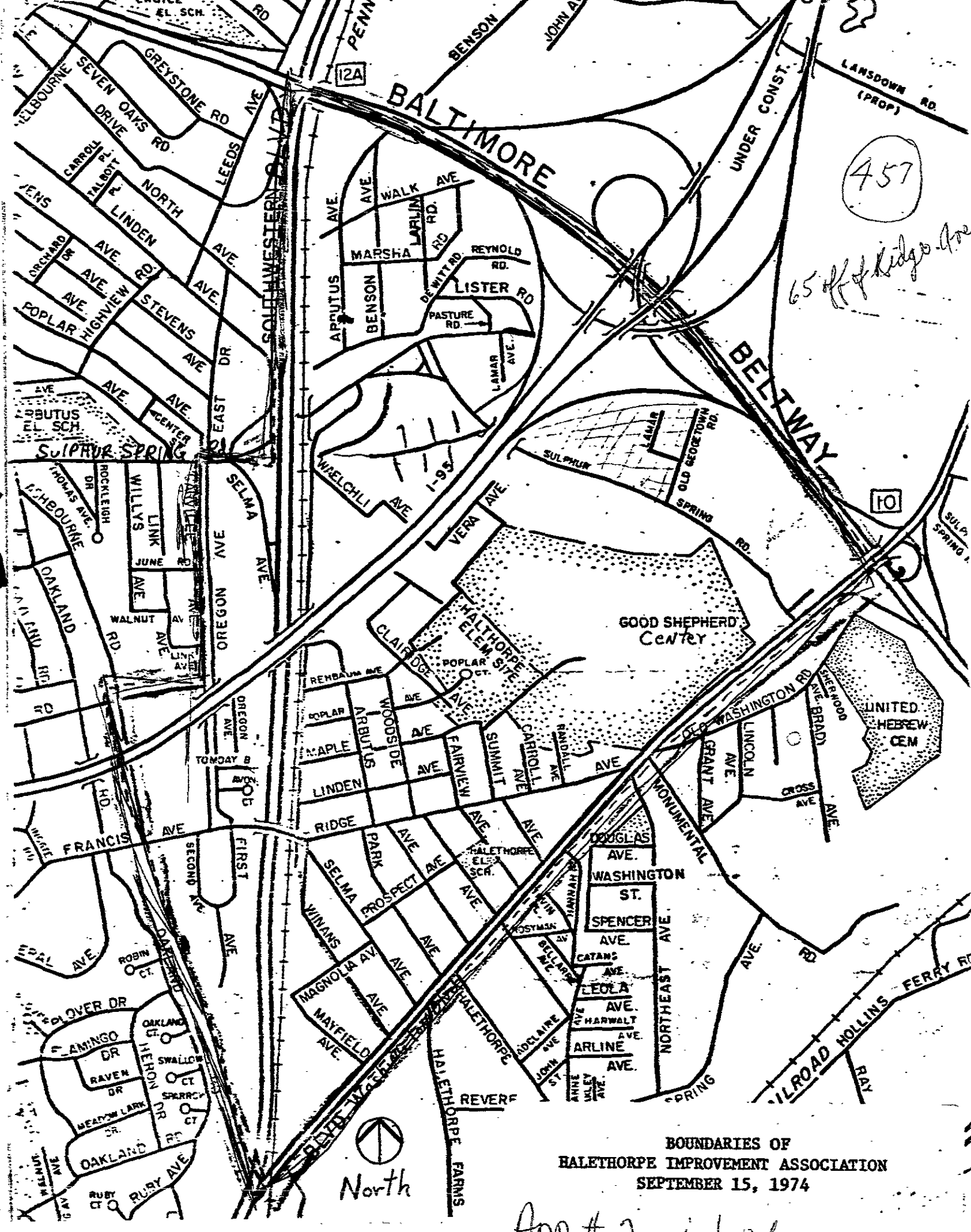
Royal Farm Washington Bvld

SUMMARY OF TRIP GENERATION CALCULATION

FOR 2.877 TH.GR.SQ.FT. OF CONVENIENCE MARKET WITH GAS PUMPS

| | AVERAGE RATE | STANDARD DEVIATION | ADJUSTMENT FACTOR | DRIVE WAY VOLUME |
|---|---|---|---|---|
| AVG WKDY 2-WAY VOL | 845.60 | 163.67 | 1.00 | 2433 |
| 7-9 AM PK HR ENTER | 22.61 | 0.00 | 1.00 | 65 |
| 7-9 AM PK HR EXIT | 22.61 | 0.00 | 1.00 | 65 |
| 7-9 AM PK HR TOTAL | 45.23 | 18.52 | 1.00 | 130 |
| 4-6 PM PK HR ENTER | 31.28 | 0.00 | 1.00 | 90 |
| 4-6 PM PK HR EXIT | 31.28 | 0.00 | 1.00 | 90 |
| 4-6 PM PK HR TOTAL | 62.57 | 36.32 | 1.00 | 180 |
| AM GEN PK HR ENTER | 22.61 | 0.00 | 1.00 | 65 |
| AM GEN PK HR EXIT | 22.61 | 0.00 | 1.00 | 65 |
| AM GEN PK HR TOTAL | 45.23 | 18.52 | 1.00 | 130 |
| PM GEN PK HR ENTER | 31.28 | 0.00 | 1.00 | 90 |
| PM GEN PK HR EXIT | 31.28 | 0.00 | 1.00 | 90 |
| PM GEN PK HR TOTAL | 62.57 | 36.32 | 1.00 | 180 |
| SATURDAY 2-WAY VOL | 1448.33 | 735.17 | 1.00 | 4167 |
| PK HR ENTER | 28.90 | 0.00 | 1.00 | 83 |
| PK HR EXIT | 26.68 | 0.00 | 1.00 | 77 |
| PK HR TOTAL | 55.58 | 0.00 | 1.00 | 160 |
| SUNDAY 2-WAY VOL | 1182.08 | 608.38 | 1.00 | 3401 |
| PK HR ENTER | 0.00 | 0.00 | 1.00 | 0 |
| PK HR EXIT | 0.00 | 0.00 | 1.00 | 0 |
| PK HR TOTAL | 0.00 | 0.00 | 1.00 | 0 |

Note: A zero rate indicates no rate data available
Source: Institute of Transportation Engineers
Trip Generation, 5th Edition, With Feb. 1995 Update.



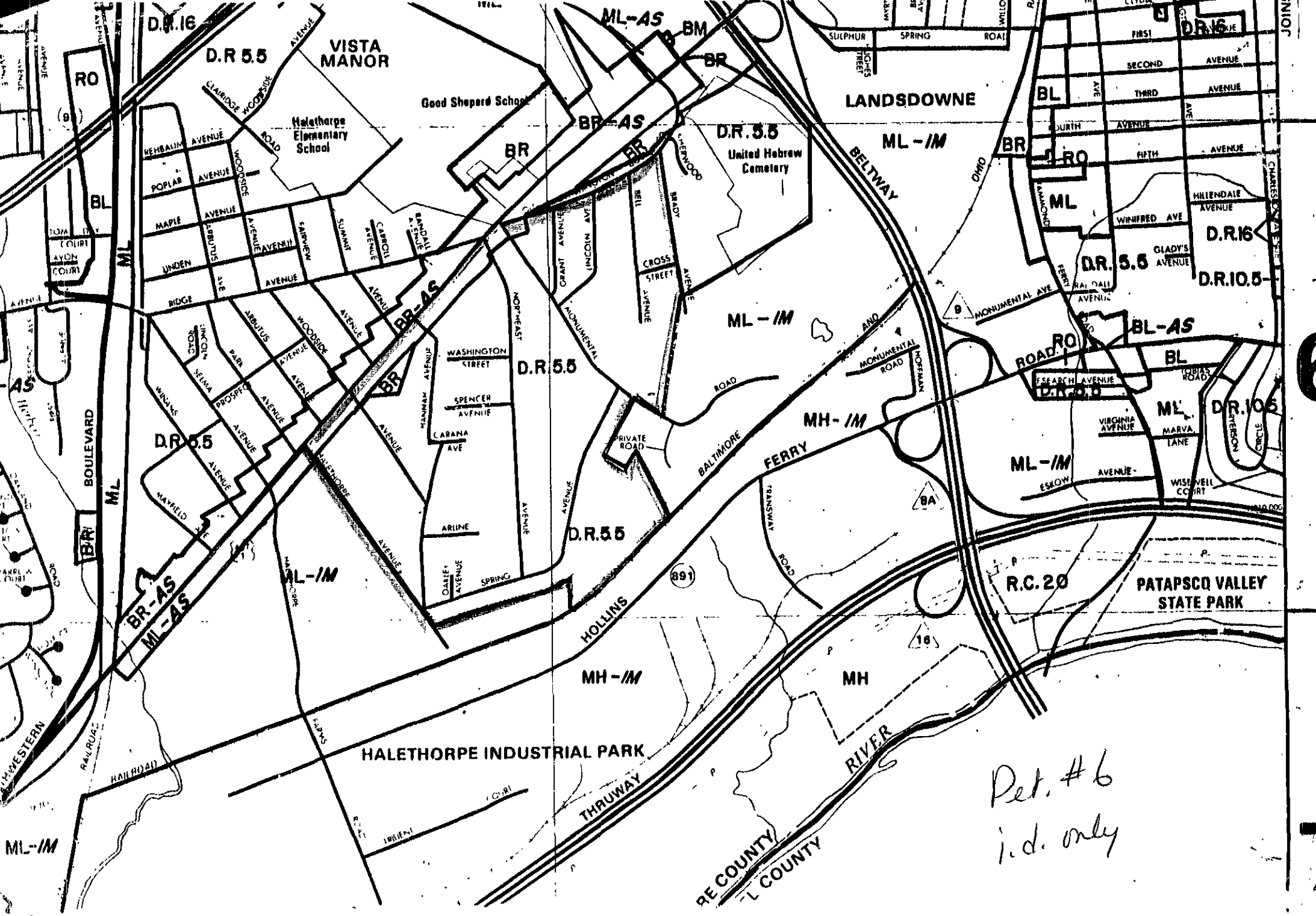

**BOUNDARIES OF**
**HALETHORPE IMPROVEMENT ASSOCIATION**
**SEPTEMBER 15, 1974**

App. # 2 - i. d. only

at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Kathleen A. Wright | 4507 Ridge Ave. 21227-4440 |
| Wayne B. Wright | 4507 ridge ave 21227 - |
| Mary A Lilly | 4503 Ridge Ave 21227 |
| Brad Hauk | 4605 Ridge Ave 21227 |
| Jon Timian | 4609 Ridge Ave 21227 |
| Michelle McDaniel | 4611 Ridge Ave. 21227 |
| Mary Hammock | 4610 Ridge Ave 21227 |
| William Vernon | 4606 Ridge Ave. 2127 |


VISTA MANOR
Good Shepard School
Halethorpe Elementary School
United Hebrew Cemetery
LANDSDOWNE
BELTWAY
BOULEVARD
FERRY
BALTIMORE
HOLLINS
MONUMENTAL ROAD
HALETHORPE INDUSTRIAL PARK
PATAPSCO VALLEY STATE PARK
R.C. 20
D.R. 5.5
D.R. 16
D.R. 10.5
ML-IM
MH-IM
MH
BR-AS
ML-AS
BL-AS
BR
ML
BL
RO
THRUWAY
RIVER
RAILROAD

Pet. #6
i.d. only

(43)

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

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| Name | Address |
|---|---|
| Arlethea G. Smith | 2059 Northeast Ave |
| Edwin D. Smith | 2059 Northeast Ave |
| Vanessa P Jakie | 4470 Spring Ave. |
| James Jakie | 4470 Spring Ave |
| Mary Smith | 4467 SPRING AVE |
| Cathy Smith | 4467 Spring Ave |
| | |
| | |

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

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| Name | Address |
|---|---|
| Donald S Hopkins | 1919 Woodside Ave. 21227 |
| Walker Jones | 1930 Northeast Ave 21227 |
| Lou Nichols | 1953 Catonna Ave 21227 |
| Stephanie M Conley | 1951 CATANNA AVE 21227 |
| Alma G Weems | 4309 Arline Ave 21227 |
| Carl F Cox Jr | 1951 Catanna Ave. 21227 |
| Lula Francis | 1947 Catonna Ave 21227 |
| Walter Jones | 2030 Northeast Ave 21227 |

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

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| Name | Address |
|---|---|
| Josiah Williams | 1930 Northeast Ave 21227 |
| EDWARD SMITH | 4501 Spring Ave 21227 |
| Cindy J. Hawkins | 4309 Spencer St. 21227-4527 |
| Hazel K. Chambers | 2017 Northeast Ave. 21227 |
| David M. Cottrell | 4307 Arline Ave. 21227 |
| | 1924 Woodside Ave 21227 |
| Rena S. Irwin | 2050 Northeast Ave. 21227 |
| Marion E. Fields | 4304 Spencer St 21227 |

Riding Bus on May 7, 1997

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Eloise Chesley | 4300 Ridge Ave, |
| Lula Frances | 1947 Catawba Ave. |
| [illegible] | 1930 Northeast Ave. |
| Andrew Lucyga | 2007 Northeast Ave |
| Mark W. [illegible] | 4311 LEOLA AVE. 21227 |
| Frances E. Williams | 1928 Northeast Avenue |
| Sandra Byers | 4303 Arbutus Ave. |
| [illegible] | 1900 Northeast Ave |

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| Name | Address |
|---|---|
| Dorothy W. Wiggins | 2029 Northeast Ave. |
| Marion E. Fields | 4304 Spencer Rd |
| John Swanick | 1948 Catawba Ave. |
| Courtney Suggs | 2007 Northeast Avenue |
| Ernest Williams | 1928 Northeast Avenue |
| Linda Carter | 1932 Northeast Avenue |
| | |
| | |

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| Name | Address |
|---|---|
| Shilond Hawkins | 1919 Woodside Ave 21227 |
| Dolores Nickens | 1925 Woodside Ave 21227 |
| [illegible] | 2041 Northeast Ave 21227 |
| [illegible] | 1971 Woodside Ave Balt Md 21227 |
| Mary Mundell | 1921 Woodside ave |
| | |
| | |
| | |
| | |

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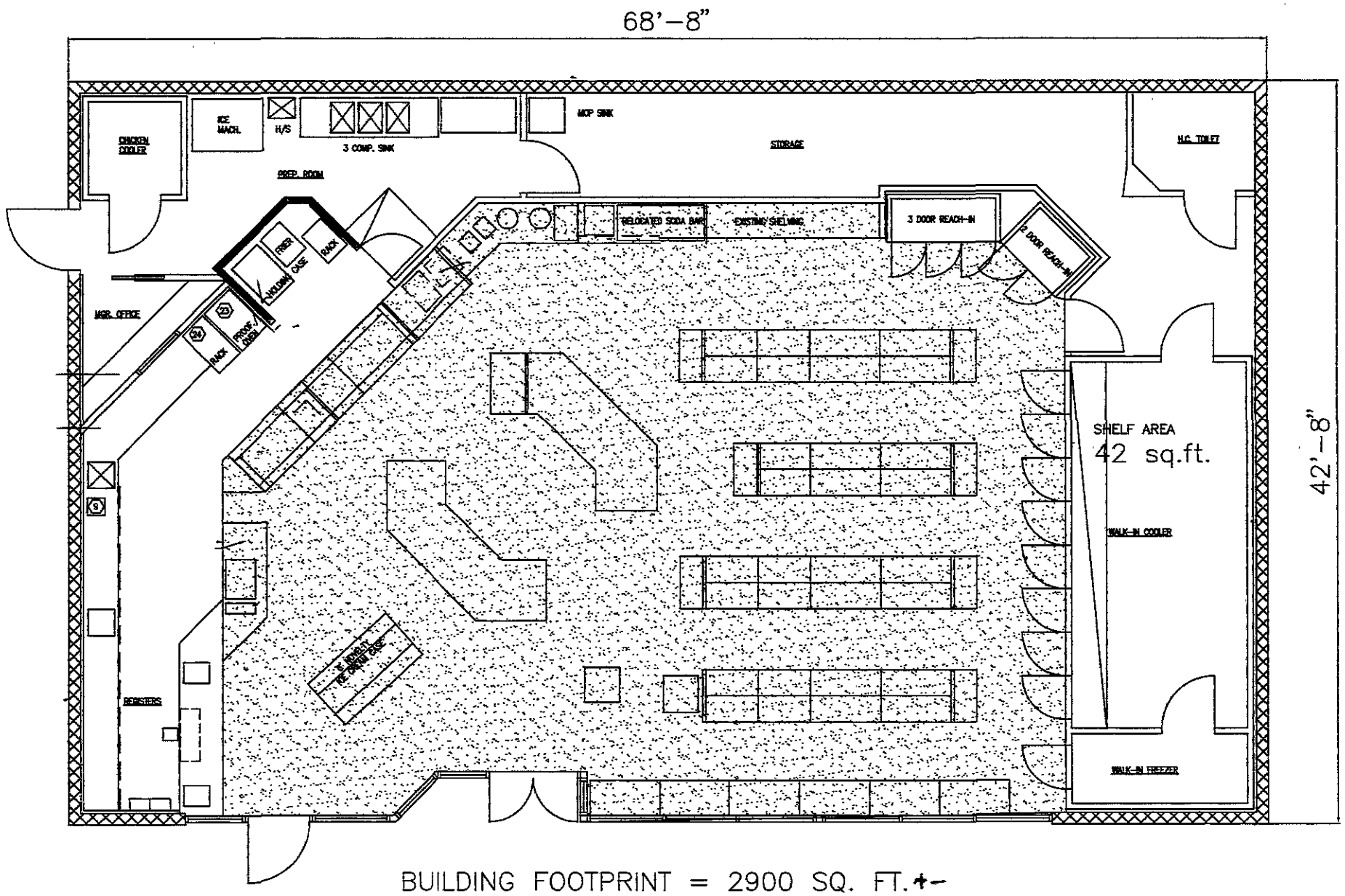
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| Name | Address |
|---|---|
| WALTER L. JONES | 2013 HALETHORPE, AVE. |
| ETHEL JONES | 2013 HALETHORPE AV. |
| | |
| | |
| | |
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| | |
| | |
| | |

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| Name | Address |
|---|---|
| Desiree Mundell | 2021 Northeast Ave |
| David Howard | 1924 Woodside AVE |
| | |
| | |
| | |
| | |
| | |
| | |
| | |




BUILDING FOOTPRINT = 2900 SQ. FT.+-

SALES AREA (SHADED REGION) = 1535 SQ. FT.

PROPOSED FLOOR PLAN C-TYPE STORE
scale 1/8" = 1'-0"

PETITIONER'S EXHIBIT 7

*Halethorpe Improvement Association*
*P.O. Box 7306*
*Halethorpe, Maryland 21227*

July 30, 1996

Zoning Commissioner
Baltimore County Office of Planning
401 Bosley Avenue
4th Floor
Towson, MD 21204

Ref: Case No. 97-11-XA
Special Exception to Zone Requirements

Dear Zoning Commissioner,

There are many ramifications regarding the special exception request approval that would, without a doubt, affect the health, safety, and general welfare of Halethorpe and its' residents. Some of these issues are as follows:

Increased Traffic

A gas 'n go will increase traffic-related problems on Route 1 and Ridge Avenue. The store does not presently have adequate customer/vendor parking. Large customer and vendor trucks, unable to access the lot, either park illegally on Ridge (blocking one lane) or Route 1, creating blind spots for customers leaving the lot. This is already a serious situation, and a serious accident in the making. Royal Farms is now asking the County to overlook the parking shortage and grant exception to the minimum requirement. The current bad situation will be aggravated, and the residents of Halethorpe will suffer the consequences.

Lighting and Signage

Residents of Ridge Avenue are directly across from the proposed site. Their view would be a gas station. Their property values will decrease. Lights and signs will impact them directly. Their quality of life goes down. No one wants to live across from a gas station. Royal Farms uses cheap "tie up" promotional signs now. They are offensive and would no doubt be used to promote a gas 'n go, to the detriment of the neighborhood.

Crime

Royal Farms stores on Route 1 and Wilkens Avenues have been the target of numerous robberies in the past. Halethorpe Improvement Association's letter in June 1996 asking for improved security was not answered by Royal Farms. The employees and resident customers will be in more danger if a gas 'n go is allowed.

PROTESTANT'S
EXHIBIT NO. 1

Comprehensive Re-Zoning

Royal Farms is asking the County to overlook a shortage of 2,461 square feet, and grant exception. This does not go hand in hand with Baltimore County's current effort to down zone the Route 1 corridor in Halethorpe. The down zoning effort is being made to help stabilize older, established neighborhoods like Halethorpe and make them more attractive in the hopes of revitalizing older areas. To allow a special exception for this property would be a rude slap in the face to Halethorpe. This location is one of the main entrances to Halethorpe. If we are to have any more signs in this area, let the sign say "Welcome to Halethorpe", not "Unleaded $1.25 gallon".

Thank you for your consideration in this matter.

Sincerely,

Joe Keech

Joe Keech
Zoning Chairman,
Halethorpe Improvement Association

cc: Halethorpe Civic Association
Maiden Choice Community Association
Greater Arbutus Community Alliance

8/7/96

Baltimore County
To whom it may concern:

I have resided and owned my two properties (4310 & 4312 Ridge Avenue) for approximately 20 years. In that time I have watched our neighborhood change as all neighborhoods do, luckily some good and unfortunately some bad.

When I moved to my residence at 4310 Ridge Avenue, the space now occupied by the Royal Farm Store, was at that time Larry's Bar. The property was never kept up and caused numerous problems for the neighborhood. The lot was completely dirt and a convenient place for outsiders to abandon cars as well as their trash. To put it nicely, the place was a continual eyesore as well as a breeding ground for undesirables. On any day you could be awakened at 2am with rowdy people leaving or relieving themselves on the parking lot.

When we heard the Royal Farm Store was taking over the property we were delighted. Improvement was here at last. During the years that they have been there we have witnessed a pleasant transition. The property has been continually and lovingly cared for. It has become a place of convenience for a large population of elderly residents that are within walking distance. To see this area today, you would never guess where it has come from. The look of the grounds and parking lot alone have greatly improved the looks for the surrounding area.

Thank you for providing me this opportunity to speak out.

Sincerely,

William A. Simmons
(4312 Ridge Avenue)
Current resident

Cynthia A. Miller
(4310 Ridge Avenue)
Former Resident

PETITIONER'S
EXHIBIT 3

Professional Resume
of
Kenneth W. Schmid
3726 Frankford Ave.
Baltimore, MD 21206

**Experience:**

**January 1993 - Present**
Traffic Concepts, Inc.
Brightview Business Center
8258 Veterans Highway, Suite 19B
Millersville, MD 21108

Owner, Vice-President

Provide traffic engineering consultant services to the public and private sectors including: Expert Testimony before the County Zoning Officer and Board of Appeals for Special Exception and Rezoning cases. Development of Feasibility Analysis including access alternatives and the assessment of the impact of pertinent Adequate Public Facilities legislation of local governments on potential development sites. Development of Traffic Impact Studies including critical lane, highway capacity and signal warrant analysis, recommendations of road improvements necessary to meet various Adequate Public Facility criteria and leading negotiations with government agencies to secure waivers to Adequate Public Facilities legislation. Design and preparation of traffic signal, maintenance of traffic, pavement marking and road improvement concept plans. Preparation of technical and price proposals.

**December 1989 - January 1993**
Ronald W. Johnson Associates, Inc.
Building 400, Suite 420
2661 Riva Road
Annapolis, MD 21401

Chief - Traffic Engineering Section

Started and developed the traffic engineering section at this consulting firm. Duties included: Directing the activities of the Traffic Engineering Section. Providing expert testimony at over 30 Special Exception, Rezoning and Appeal cases. Development of more than 130 Feasibility and Traffic Impact Studies. Design and Preparation of traffic signal design, maintenance of traffic and road improvement concept plans.

PETITIONER'S
EXHIBIT 4

**December 1986 - November 1989**
Anne Arundel County
Department of Public Works
Traffic Engineering Division
Annapolis, MD 21401

Traffic Engineer III and IV

Supervised the daily operations of the Development and Operation Section of the Traffic Engineering Division. This included full responsibility for reviewing and recommending approval or denial of Rezoning and Special Exception cases, subdivisions and building permit applications. Supervised the activity of three engineers and seven traffic analysts. Duties included traffic control design and implementation throughout the County, for example traffic control design for the Baltimore & Annapolis Hiker/Biker trail.

**July 1984 - December 1986**
Maryland State Highway Administration
District #5 Office
Annapolis, MD 21401

Traffic Engineer III

Duties included traffic signal design, construction inspection and conducting various traffic engineering studies in order to make recommendations to the District Traffic Engineer.

**May 1981 - July 1984**
Maryland State Highway Administration
Office of Traffic and Safety
Hanover, MD 21076

Traffic Engineer I and II

Duties included developing signal design and signal systemization plans, reviewing signal design plans submitted by consultants, and developing equipment and construction design specifications. The development of traffic signal and traffic signal system timing often required the consideration of pedestrians and bicycle routes throughout the major highway system.

**Education:**

Baltimore Polytechnic Institute, 1976 graduate

Essex Community College, 1976 - 1978

University of Maryland, 1981 graduate
Bachelor of Science - Civil Engineering

Various Continuing Education courses in the Traffic Engineer and Highway Design fields

**Publications:**

Developed the Signal Design Manual currently in use by the Maryland State Highway Administration Office of Traffic & Safety

**Affiliations:**

Institute of Transportation Engineers, 1985 - Present

National Federation of Independent Businesses, 1993 - Present

**References:**

Mr. Harry Blumenthal
Blumenthal & Delavan, P.A.
170 Jennifer Road, Suite 240
PO Box 868
Annapolis, MD 21401-6484
(410) 573-2900

Mr. Gary Westholm
Powell and Westholm, Inc.
2661 Riva Road, Unit 300
Annapolis, MD 21401
(410) 974-6850

Mr. Lawrence E. Elliott
Assistant District Engineer - Traffic
Maryland State Highway Administration
District #5 Office
138 Defense Highway
Annapolis, MD 21401
(410) 841-5450

# TRAFFIC CONCEPTS, INC.
## CLIENT LIST

**GOVERNMENT**

Maryland State Highway Adminstration
Anne Arundel County
Calvert County
Carroll County
Howard County

**LAW FIRMS**

Crain & Scott - Evelyn Bergaila
Donetelli & Klein
Lessans & Tate
Lechowicz & Davis
Hillman, Brown & Darrow, P.A.
Meyers Billingsley, Shipley, Curry, Rodbell & Rosenbaum, P.A.
Blumenthal, Wayson, Offutt, Klos & Delavan, P.A.
Anthony Christholf
Robert Fuoco
William C. Trevillian

**ENGINEERS/MISC.**

A.J. Properties, Inc.
ATCS P.L.C.
Advanced Surveys
Anarex, Inc.
Belle Grove Corporation
Blumenthal-Kahn Electric Limited Partnership
Calvert Memorial Hospital
Cattail Associates, Inc.
Co-Mart, Inc.
Constellation Real Estate, Inc.
Crabree, Rohrbaugh & Associates
Crofton Farms Development Corporation
Davco Restaurants
Development Facilitators, Inc.
Dick Parris Design
Diversified Investment Assoc., Inc.
Driggs Corporation
Ed Brown & Associates
Exxon Oil, U.S.A.
Fine Companies
Frederick Ward & Associates
G. W. Stephens, Jr. & Assoc, Inc.
G. W. Koch Associates, Inc.
The Gott Company

**TRAFFIC CONCEPTS, INC.**
**CLIENT LIST cont'd**

Halle Enterprises
HCH Properties
JDL
J.A. Chishom & Weber Associates
John E. Harms, Jr. & Associates
John H. Plummer & Associates, Inc.
Landform Technical Services
Lovell Land, Inc.
Messick & Associates
Mr. John Dorsey
Mr. Robert Douglas, Sr.
Mrs. Jane Nes
Ms. Kim Lawson
Park Engineering, Inc.
Quality Built Homes
Reliable Contracting Company, Inc.
Rebco Homes
RHS Engineering
RLS Design Group
Richard L. Beall, Inc.
Ronald W. Johnson Associates, Inc.
Royal Farm Stores
Provident Bank
Sturbridge Associates
Tech Group, Inc.
Terrain, Inc.
US Homes
W. F. Utz Construction, Inc.
Wheeler, Goodman, Masek & Assoc.
Whitney, Bailey, Cox & Magnani
Winchester Homes

**INDIRECT CLIENT LIST**

Annapolis Federal Savings Bank
B.G. & E.
Bank of Annapolis
Besche Oil (Shell Oil Company)
Blockbuster Video Store
Checkers
Hechingers
Shell Oil Company

# SAMPLE PROJECT LISTING
# TRAFFIC CONCEPTS, INC.

## EXPERT TESTIMONY

Anne Arundel County
Baltimore City
Baltimore County
Calvert County
Harford County
Howard County
Talbot County
City of Annapolis

## TRAFFIC IMPACT STUDIES

Anne Arundel County Detention Center
Patuxent High School
Bank of Annapolis
Co-Mart/Parole Town Center
Crofton Farms
Blockbuster Video Store
Besche Oil - West Street
West Street Shopping Center
Brockington residential development
Chestnut Hill Farm
Crofton Crest
Falcon Crest
Hechingers - Southdale
Lion's Gate Condominiums
MD 2 Restaurant Park
Mayfair Village
Noah's Ark Day Care Center
Parke West Shopping Center
Penderbrooke
Schramm Turkey Farm
The Sanctuary
Winmark Center, Phase II

## ROAD IMPROVEMENT CONCEPT PLANS

MD 760 - Calvert County
MD 3 - Anne Arundel County
MD 177 @ Forest Drive - Anne Arundel County
Sanner Road @ Pindell School Road - Howard County

## SAMPLE PROJECT LISTING (cont'd)
## TRAFFIC CONCEPTS, INC.

### TRAFFIC SIGNAL DESIGN

MD 3 @ Greenbranch Lane - with interconnect plan
MD 177 @ Forest Glen Drive
MD 3 @ Waugh Chapel Road
Jumpers Hole @ Kinder Road
Riva Road @ Harry S. Truman Parkway
US 1 @ Montgomery Road

### MAINTENANCE OF TRAFFIC PLANS

Patuxent Road - involved the development of three phases of maintenance of traffic plans.
Ridgeview Shopping Center - Sewer Extension Plan - involved development of maintenance of traffic plans for the construction of one mile extension of existing sewer line.
Sims Property - developed traffic control plan
Dough Roller - developed traffic control plan

### MISC. PROJECTS

Konterra Condemnation - Consultant Services
Cromwell Property - Consultant Services
North Arundel Hospital - Traffic Corridor Study
Asbury Solomons Island - Traffic Signal Study
Windy Hill Elementary - Traffic Impact & Signal Study
Heritage Harbor - Traffic Impact & Signal Study
Steeple Chase - Waiver Negotiations
Severn Gardens - Highway Striping Plan

# Professional Resume of Kenneth W. Schmid

3726 Frankford Ave.
Baltimore, MD 21206

**Experience:**

**January 1993 - Present**

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Brightview Business Center
8258 Veterans Highway, Suite 19B
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PETITIONER'S EXHIBIT 6

**December 1986 - November 1989**
Anne Arundel County
Department of Public Works
Traffic Engineering Division
Annapolis, MD 21401

Traffic Engineer III and IV

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The Gott Company

**TRAFFIC CONCEPTS, INC.**
**CLIENT LIST cont'd**

Halle Enterprises
HCH Properties
JDL
J.A. Chisholm & Weber Associates
John E. Harms, Jr. & Associates
John H. Plummer & Associates, Inc.
Landform Technical Services
Lovell Land, Inc.
Messick & Associates
Mr. John Dorsey
Mr. Robert Douglas, Sr.
Mrs. Jane Nes
Ms. Kim Lawson
Park Engineering, Inc.
Quality Built Homes
Reliable Contracting Company, Inc.
Rebco Homes
RHS Engineering
RLS Design Group
Richard L. Beall, Inc.
Ronald W. Johnson Associates, Inc.
Royal Farm Stores
Provident Bank
Sturbridge Associates
Tech Group, Inc.
Terrain, Inc.
US Homes
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Wheeler, Goodman, Masek & Assoc.
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Chestnut Hill Farm
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Falcon Crest
Hechingers - Southdale
Lion's Gate Condominiums
MD 2 Restaurant Park
Mayfair Village
Noah's Ark Day Care Center
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Penderbrooke
Schramm Turkey Farm
The Sanctuary
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Windy Hill Elementary - Traffic Impact & Signal Study
Heritage Harbor - Traffic Impact & Signal Study
Steeple Chase - Waiver Negotiations
Severn Gardens - Highway Striping Plan

App. # 5

Received 4/11/97

*TERRENCE B. SHERIDAN*
Chief of Police

**Baltimore County Police**
Headquarters
700 East Joppa Road
Towson, Maryland 21286-5501

(410) 887-2214
Fax (410) 821-8887

Integrity . . . Fairness . . . Service

April 8, 1997

Mr. Joseph Kinsey
Halethorpe Community Association
1519 Woodside Avenue
Baltimore, Maryland 21227

Dear Mr. Kinsey:

As you requested, I have checked through our Crime Analysis Unit and learned that since April 26, 1996 there has been sixteen armed robberies at the Royal Farm Store, 4308 Washington Blvd, 21227.

If I can be of further assistance, please do not hesitate to contact me at 887-0872.

Sincerely,

W. Kahler

Sgt. William Kahler
Community Outreach Unit
Precinct One, BCoPD

# ARBUTUS COMMUNITY ASSOCIATION INC.

**TOWNHALL—1349 STEVENS AVENUE**
**BALTIMORE, MARYLAND 21227**
**FOUNDED 1928**

January 23, 1997

Balto. County Board of Appeals

The Arbutus Community Association unanimously voted on Wednesday, January 22 to support the Halethorpe Improvement Association's opposition to the zoning varience at the Royal Farm Store at 4308 Washington Blvd. in Halethorpe, zoning variance 97-11-XA.

Our membership, which has over 270 members, feel that this is in direct conflict with the Southwest Revitalization vision.

Reaspectfully yours,

George Freson

George Freson
Corresponding Secretary

App. #7

Pet. #6


50th ANNIVERSARY
GWS
1940-1990

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS

GEORGE WILLIAM STEPHENS, JR
(1888-1983)

W HARRY JESSOP, JR., P.L.S.
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VALEK ZARSKI

BEL AIR

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RICHARD L UMBARGER, P.E

ASSOCIATES
JOHN M CONWELL JR P.E
ROWAN G GLIDDEN, L.A
GERALD P. MARAGOS, P.E. & P.L.S
WALTER H NOYES P.L.S


# CURRICULA VITAE
# DAVID L. MARTIN, L.A.

**Director of Land Planning / Landscape Architecture**
**George William Stephens, Jr., & Associates**

**Professional Registration:** Landscape Architecture
Maryland - No. 776
Pennsylvania - No. 573-E

**Education:**
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

**Professional Affiliations:**
American Society of Landscape Architects, Member
Urban Land Institute, Associate

Professional practice includes 26 years of land planning, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has previously been qualified as an expert in land planning, site planning and zoning issues in Baltimore County, Howard County, Harford County, Anne Arundel County and the Federal District Court in Baltimore.

Mr. Martin has practiced in the State of Maryland for the past ten years. Additionally, he has practiced in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

Significant planning projects include Cedar Lane Farms PUD, Baltimore County, Westwicke, Baltimore County, developments of Regional Impact (DRI) in Florida including; Palm Coast - 10,00 acre master plan, Florida - 6,500 acre mixed use PUD master plan, and Doral Park. Mr. Martin also directed a planning team to design a mixed use residential resort community in the Commonwealth of the Bahamas.

Mr. Martin has prepared numerous comprehensive zoning petitions in previous zoning cycles in Baltimore County including the 1996 issues. He also served on an ad-hoc committee which authored the Service Employment (SE) zone of the Baltimore County Zoning Regulations.

***GREATER ARBUTUS COMMUNITY ALLIANCE***
***P. O. BOX 18223***
***ARBUTUS, MARYLAND 21227***

App. #8

March 20, 1997

RE: Case No. 97-11-XA Petition for Special Exception and Variance NW/S Washington Blvd. At SE/S Ridge Avenue, Cloverland Farm Dairy, Inc.

To Whom It May Concern:

The Greater Arbutus Community Alliance, an umbrella organization of community groups, business, religious and educational institutions in Southwest Baltimore County, has reviewed the facts surrounding the proposed installation of gas pumps at the Royal Farm Store in Halethorpe, MD.

Based upon this review, the Leadership Council of the Alliance is writing to express their strong opposition to this proposal. The Alliance supported the Baltimore County Planning Board's recommendation to reduce the proliferation of commercial growth along the Route 1 corridor as part of the Comprehensive Zoning process, as well as part of the well publicized initiative to revitalize the southwest area (Halethorpe, Arbutus, Lansdowne, Baltimore Highlands, and Maiden Choice). The planning board recommended that the zoning for this parcel change during last October's zoning map process congruent with this initiative to retain a more residential character. In respect to the Royal Farm operation, the County Council elected <u>not</u> to support the recommendations of both the planning board and the local community, allowing Royal Farm to retain their zoning, thereby allowing them to request the referenced special exception and variance.

The Alliance, therefore, would like to express its unanimous support of the Halethorpe Improvement Association, Inc. and the Halethorpe Civic League in their efforts to reverse this approval on appeal. Baltimore County planners have stated many time that a vital part of revitalization is "guarding the gateways" to the communities. This site anchors one of the three main "gateways" to Halethorpe. Clearly the increased traffic, delivery problems, lack of adequate parking, increased lighting, decrease in adjacent property values, and the potential increase in the rate of crime in the already well documented high crime rate along this corridor (including one recent homicide in the commission of an armed robbery), and particularly at this site, does not enhance any gateway location.

Additionally, the owners of this property have failed to demonstrate any willingness to work with the Baltimore County Police to lower the astounding number of armed robberies occurring at this location as well as their Maiden Choice neighborhood location. The owners have also been unable to provide market data to substantiate their claim that the lack of a "gas and go" will put them out of business.

The Greater Arbutus Community Alliance must go on record in complete and total disagreement with Zoning Commissioner Katroco's decision to allow a special exception for the construction of a "gas and go" at this location, as well as his allowance for variances at this site.

We appreciate the court's consideration in allowing us to express our views and for their consideration thereof. We would strongly support a decision to overturn this decision. A decision we see as working to the disadvantage of our community and one with the potential for further erosion of the safety of our citizens.

Sincerely,

Robert J. Latham

Bob Latham
President

cc: Mr. Donald E. Hawkins, President, Halethorpe Civic League
Mr. Joseph P. Kinsey, President, Halethorpe Improvement Association, Inc.

App. #9

Copy

*Donna Cameron*
*975 Regina Drive*
*Baltimore, Maryland 21227*

May 7, 1997

TO WHOM IT MAY CONCERN:

As a resident of the Maiden Choice Community, I support the Halethorpe Community in its opposition to the building of a gas station for the following reasons:

1) The proposed owner, Royal Farms Stores is known to our association as the worst convenience store in the area. We have a Royal location in our community on Wilkens Avenue. The store is a frequent target for crime due to its known lack of security. It has been robbed more than ten times in the last year. The store has experienced a decline as residents fear shopping there. We (and the police) have contacted the corporation numerous times in an attempt to improve this situation, but to no avail. Meanwhile this deteriorating store sits in our neighborhood.

2) For the last six years, I have worked with the Maiden Choice Community Association to remediate the site of an abandoned gas station at the intersection of Maiden Choice Lane and Westland Avenue. We have been stalled, as has the property owner, by the fact that the underground tanks of this station had ruptured and leaked gasoline into the community. Leeds Federal Bank, located across the street from this station, experienced gas leaking under their building from the tanks. On at least one occasion, the bank was closed briefly due to the danger to its workers.

   The community has had to endure this abandoned eyesore while the EPA supervised the clean-up efforts. Again, I emphasize that this has been going on for six years.

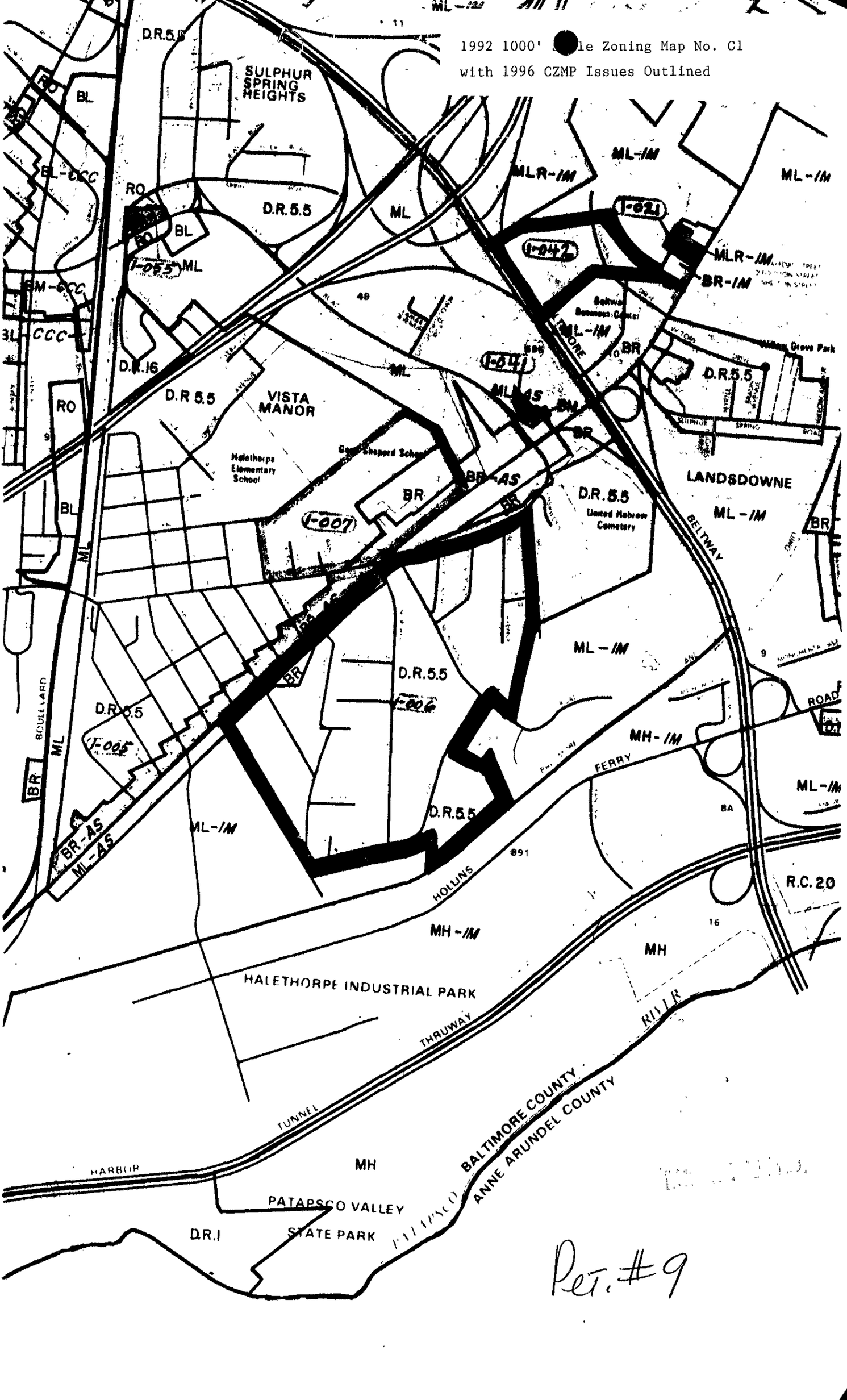
Please do not allow Royal Farms, a company known to us as lacking in care and responsibility, to bring a gas station with its additional safety hazards to the Halethorpe Community.

Sincerely,

dc

Donna Cameron

1992 1000' [redacted]le Zoning Map No. C1
with 1996 CZMP Issues Outlined




Pet. #9

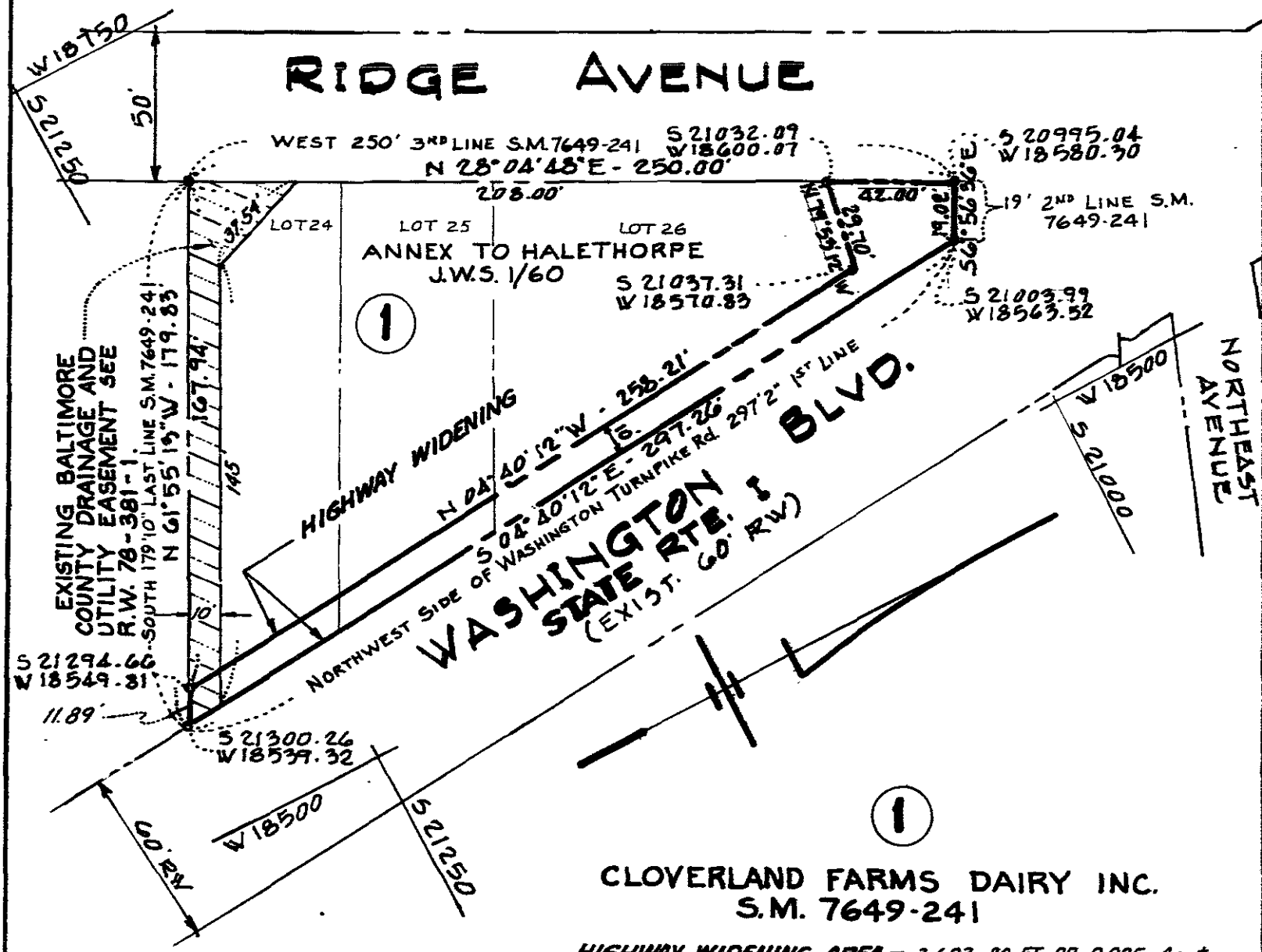
1996 1000' Scale Zoning Map No. 2A

Ref. # 10



KEUFFEL & ESSER COMPANY

Plat #12




HIGHWAY WIDENING AREA = 3,683 SQ. FT. OR 0.085 Ac. ±

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

DISTRICT NO. 13 C1

POSITION SHEET NO. 21, 22 SW 13

CONSTRUCTION PLAN NO.

FEDERAL PROJECT NO. OR MARYLAND PROJECT NO.

APPROVED ..... ROADS ENGINEER

DATE 2/24/88

APPROVED ..... CHIEF, BUREAU OF LAND ACQUISITION

DATE 2-22-88

APPROVED ..... SUPERVISOR, DIVISION OF DRAFTING

DATE 2-22-88

AREA TO BE ACQUIRED

REVERTIBLE SLOPE EASEMENT

TEMPORARY CONSTRUCTION AREA

EXISTING COUNTY R/W

AREA TO BE RELEASED

TEMPORARY SLOPE EASEMENT

| ITEM NO. | RECORDED |
|---|---|
| 1 | 7841-037 |

DRAWN BY

PLAT CHECKED B.L.M.

AREA CHECKED BLM 9-28-87

TITLE CHECKED GRC 12/3/87

CONSULTING ENGINEER OR SURVEYOR

DATE 6/25/87 REG NO 3[illegible]6

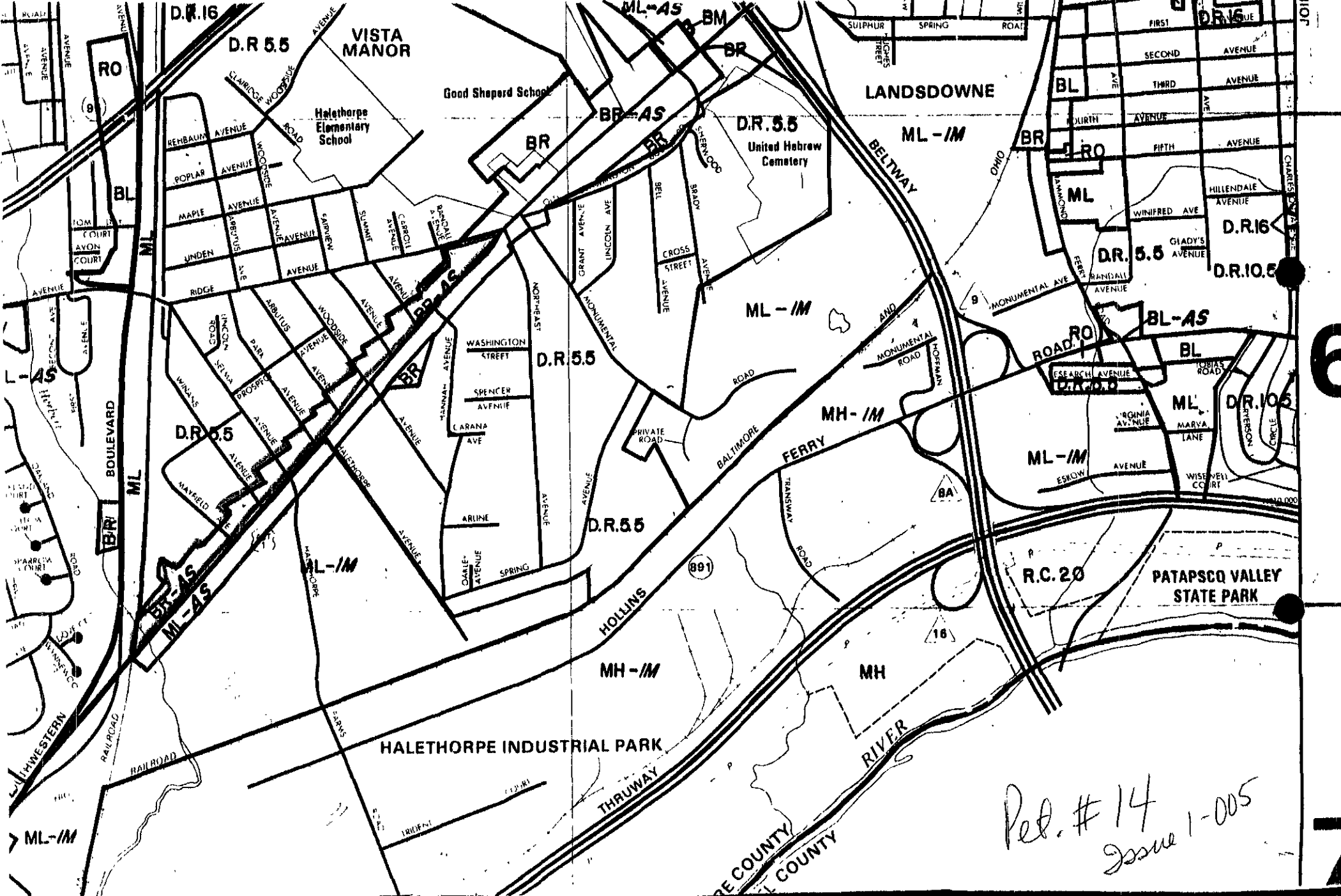
SHEET 1 OF 1

SCALE: 1" = 50'

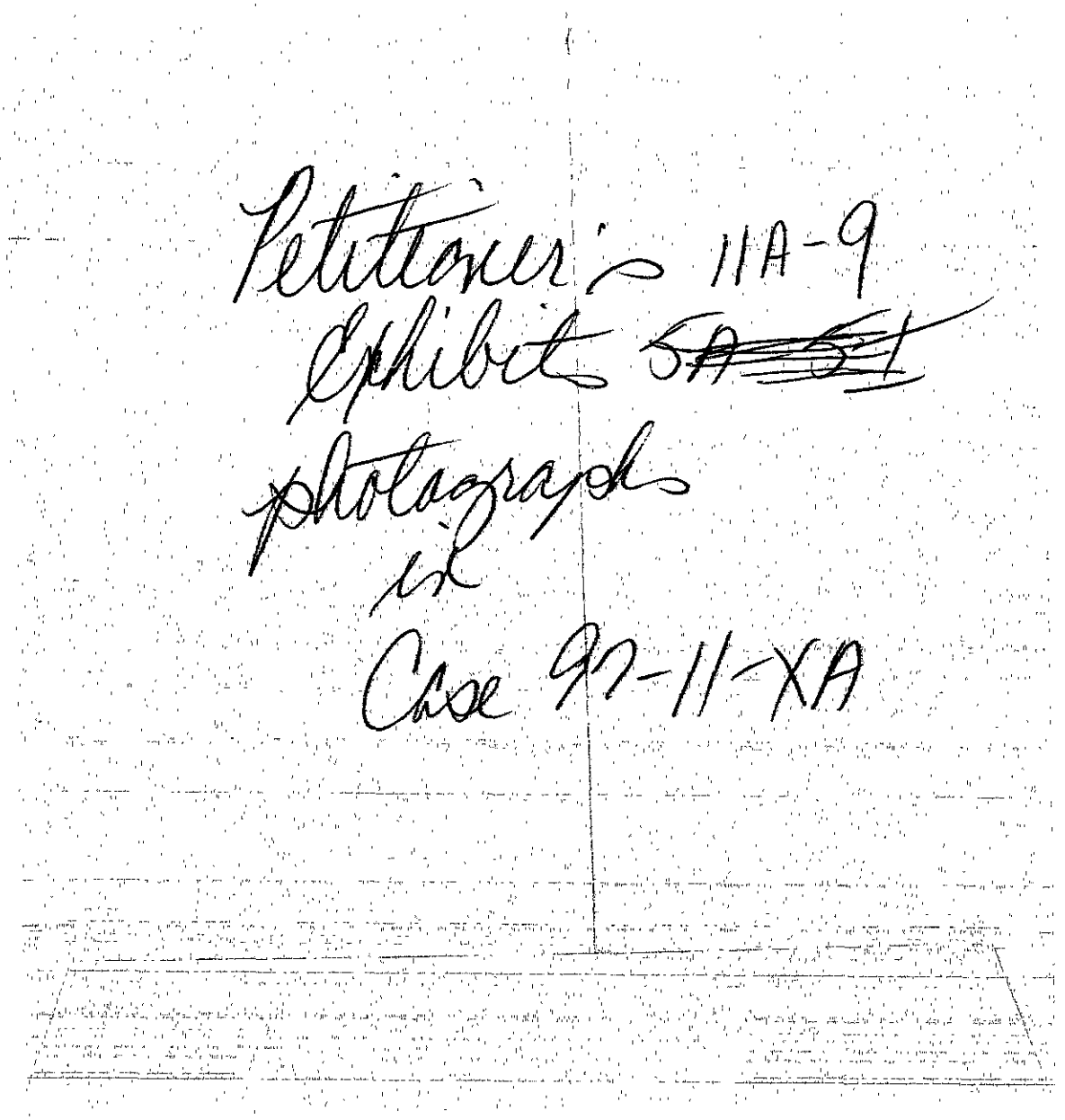
B.C. JOB ORDER NO. S-RW-2246

RW 87-312-1

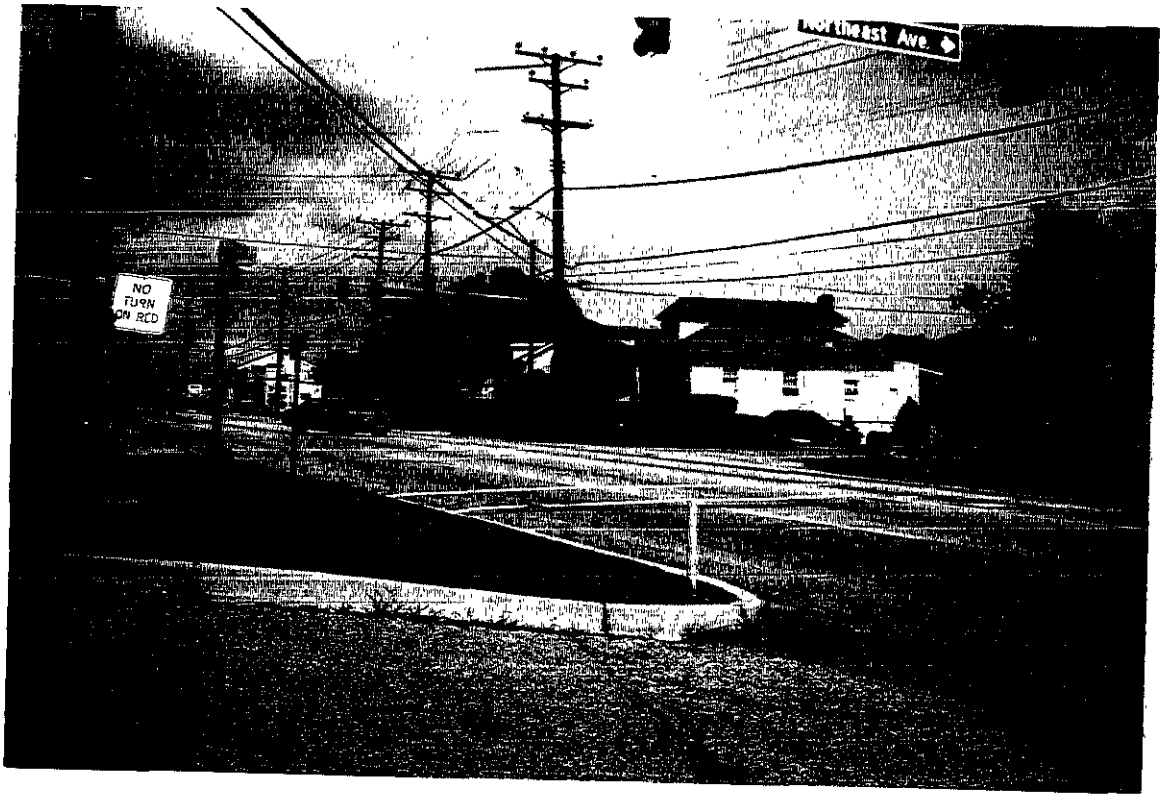
REVISIONS




Pet. #14
Issue 1-005

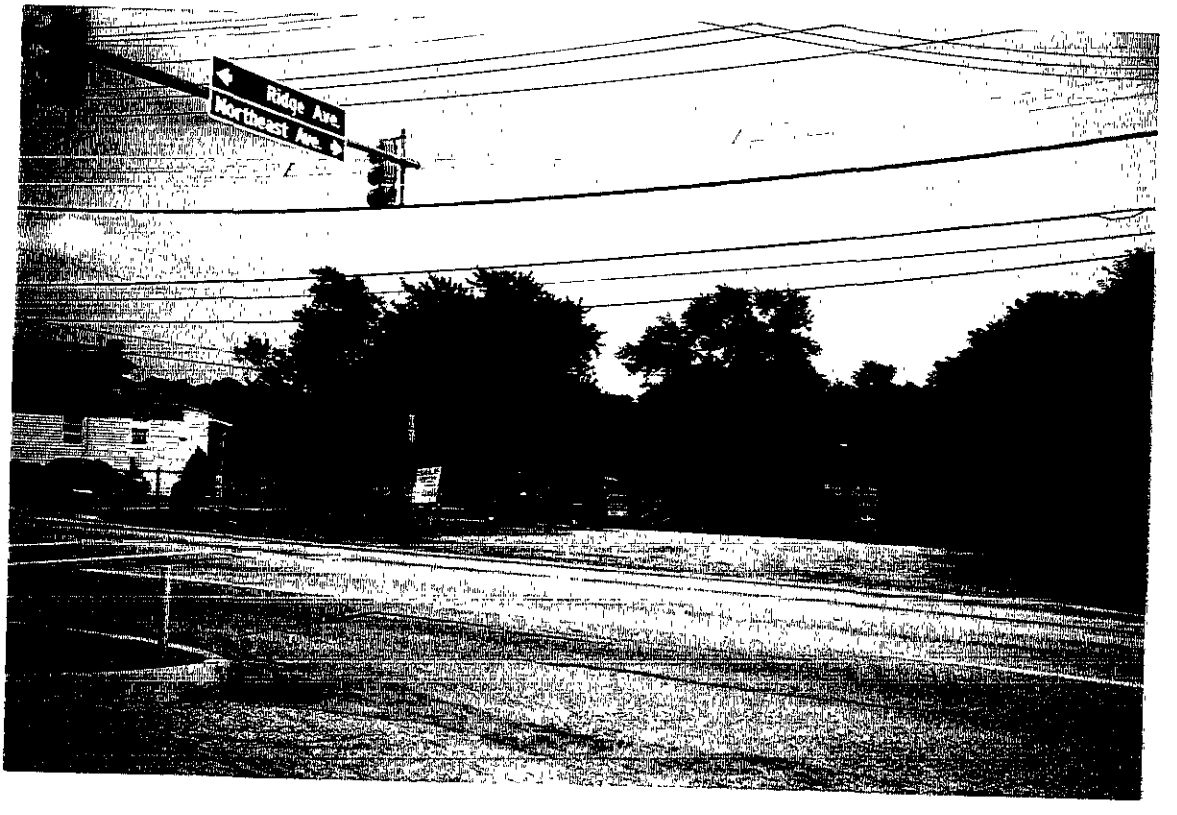


Petitioner's 11A-9
Exhibit ~~5A~~ 5-1
photograph
in
Case 92-11-XA


NO
TURN
ON RED




Coca-Cola
$2.99
$2.39


Ridge Ave.
Northeast Ave.







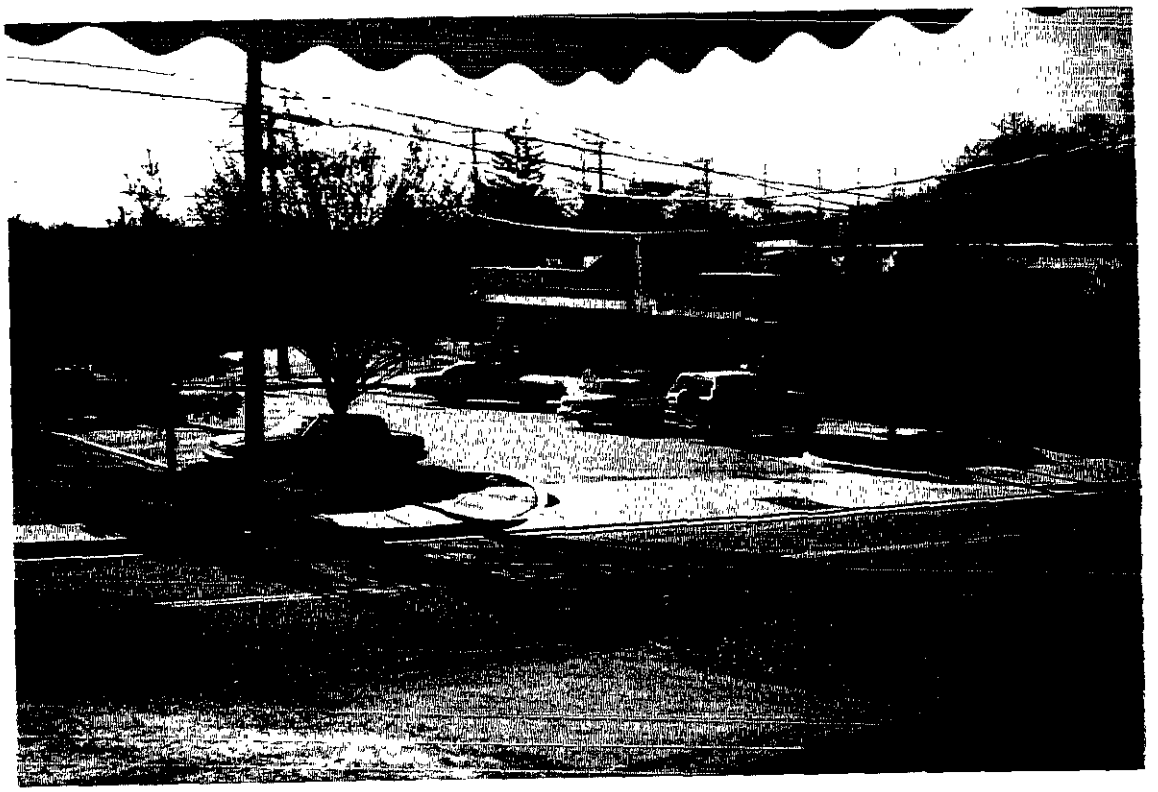



ROYAL
FARM
STORES

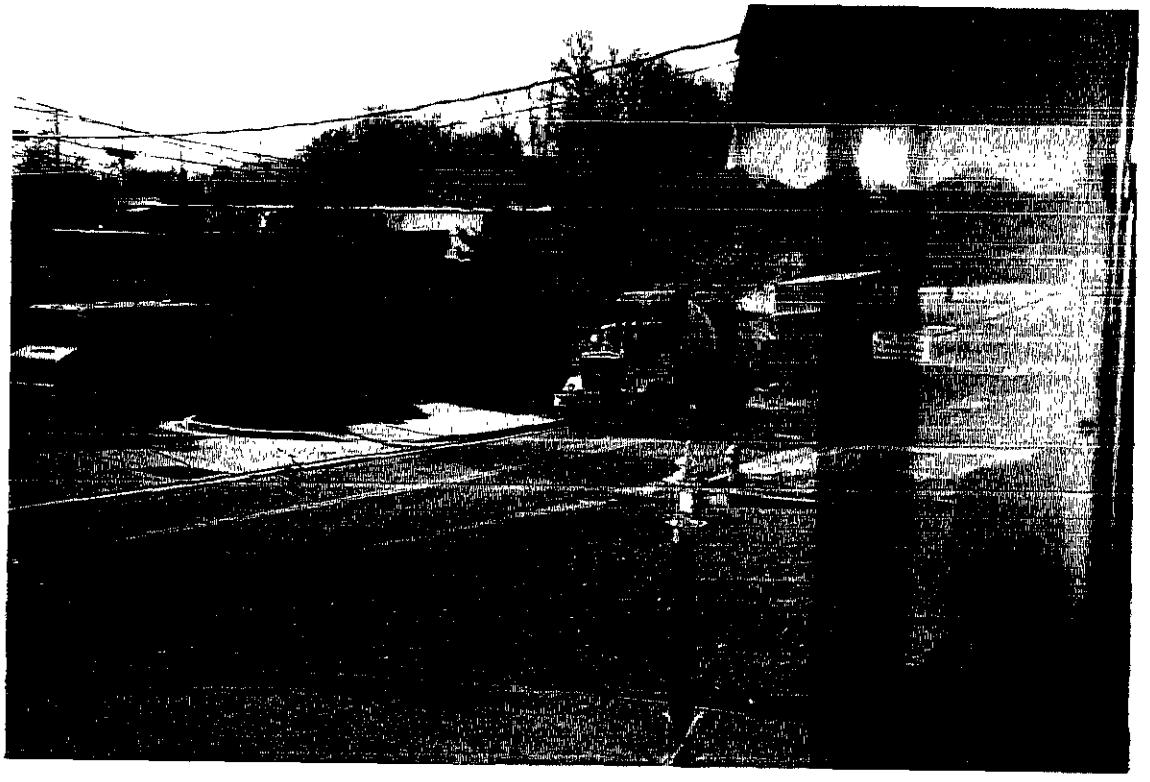


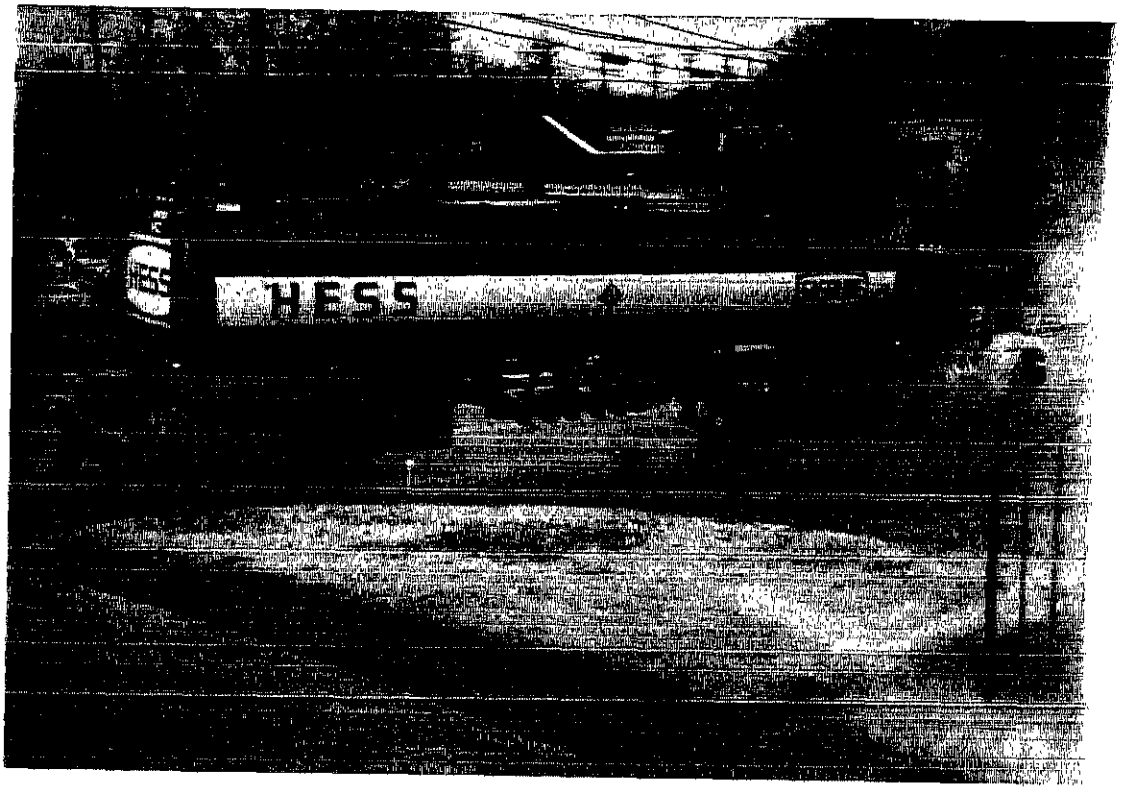




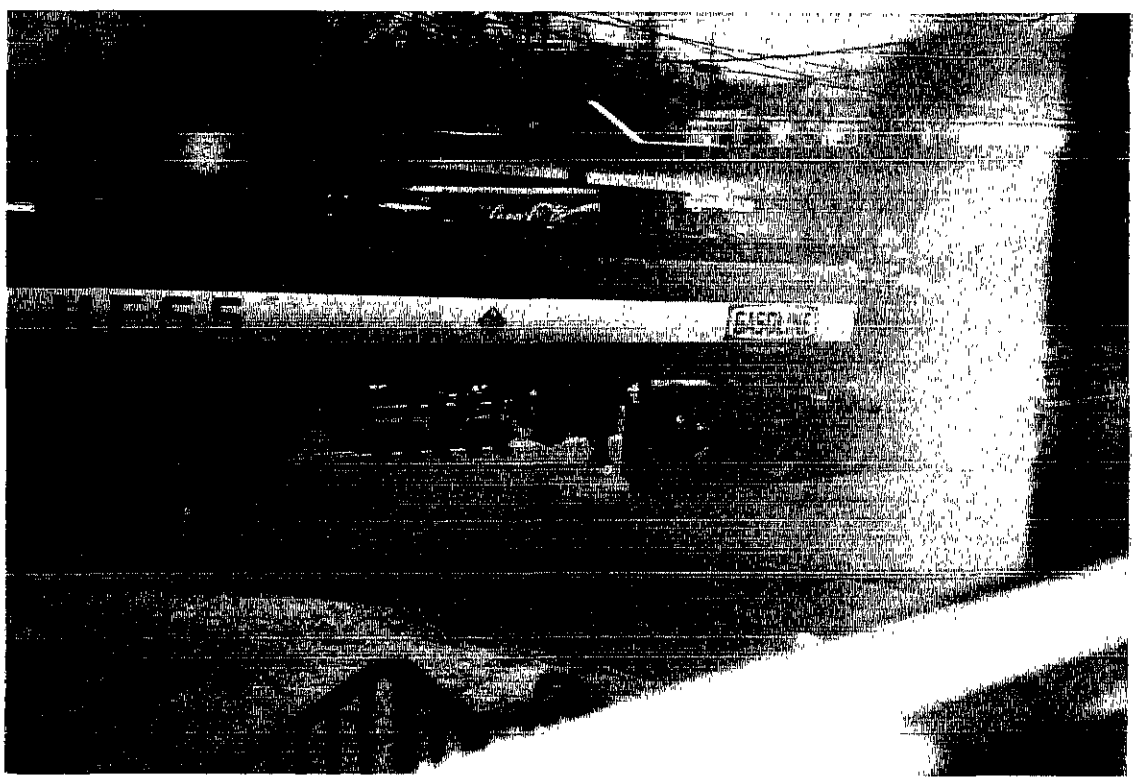






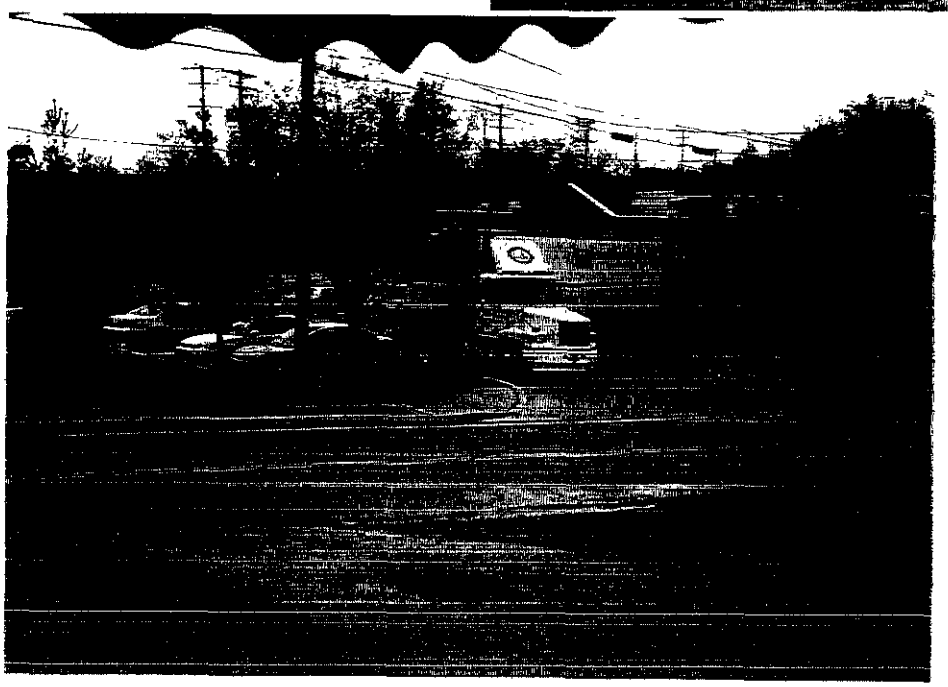

HESS



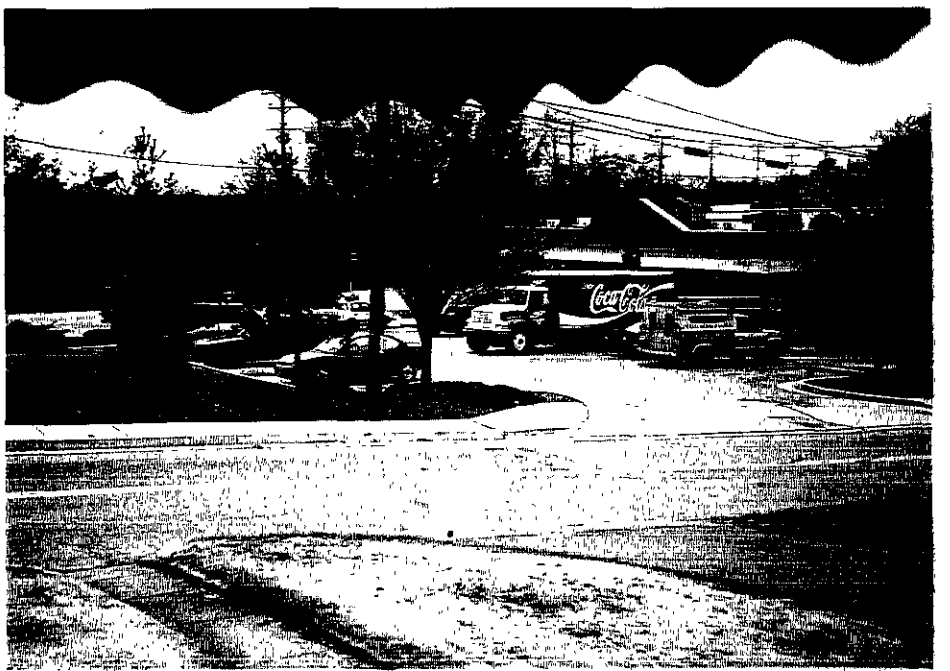





Rollins



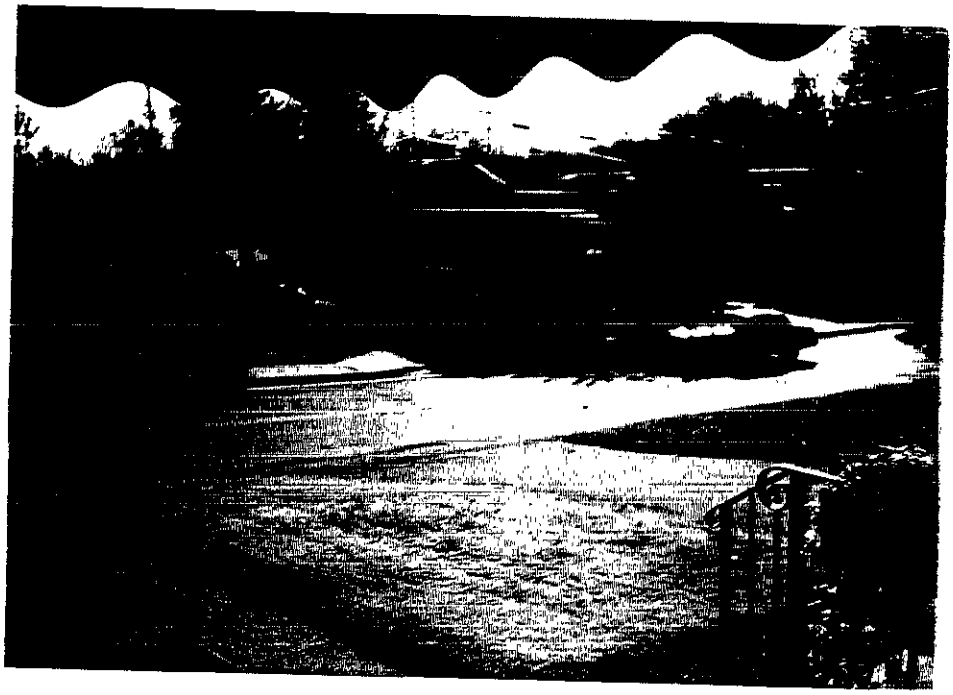



Coca-Cola

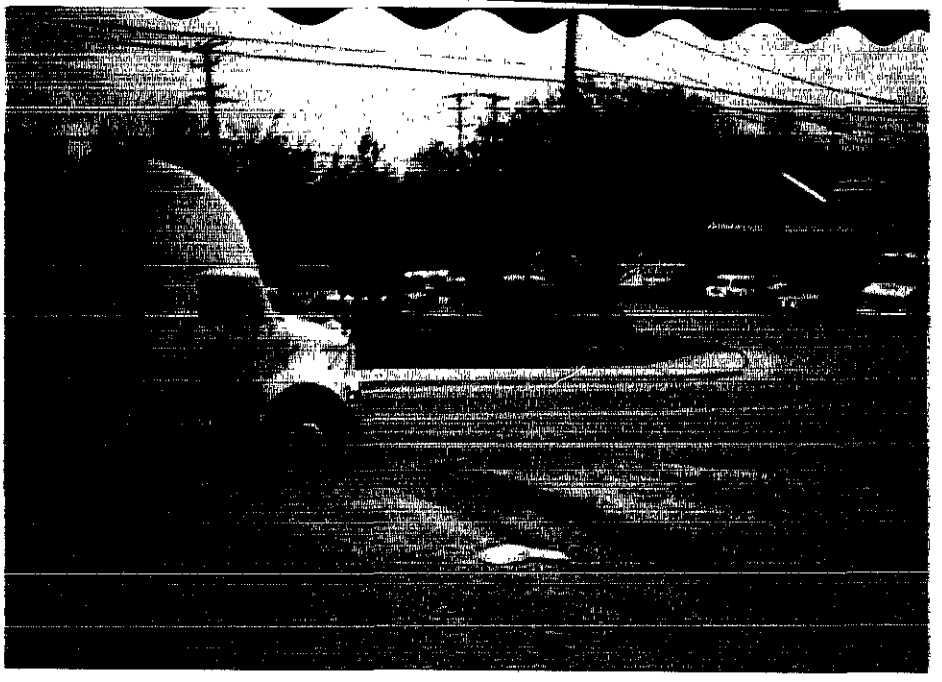



viking freight


viking freight
A Caliber System Company

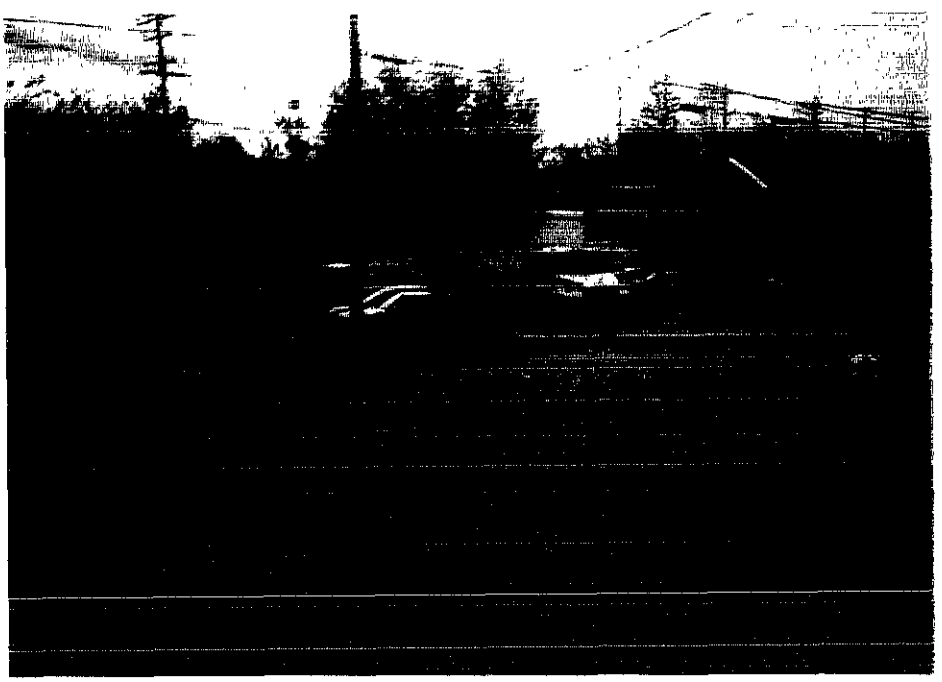


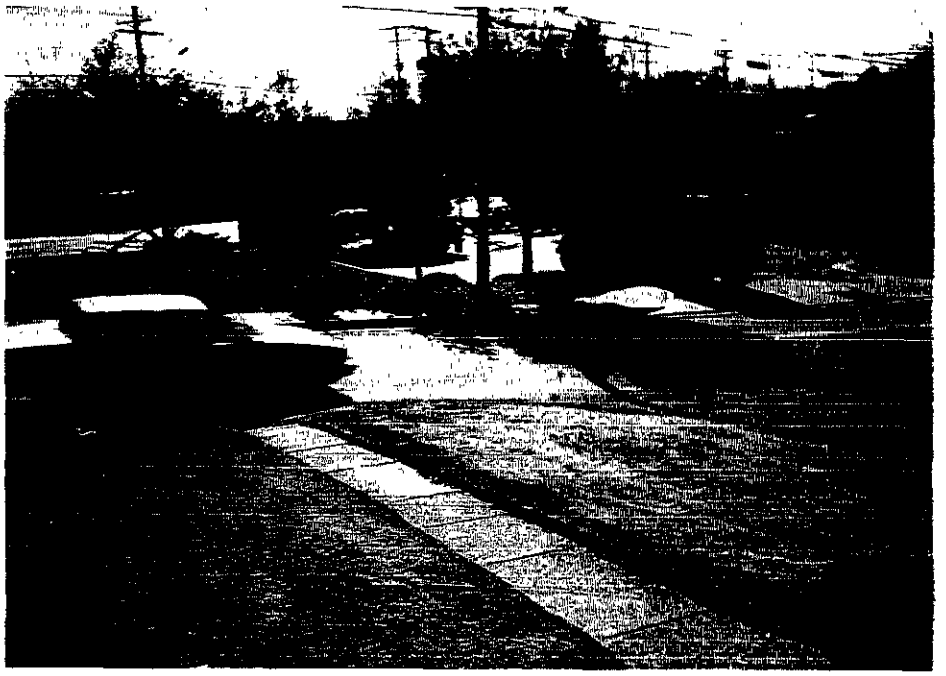




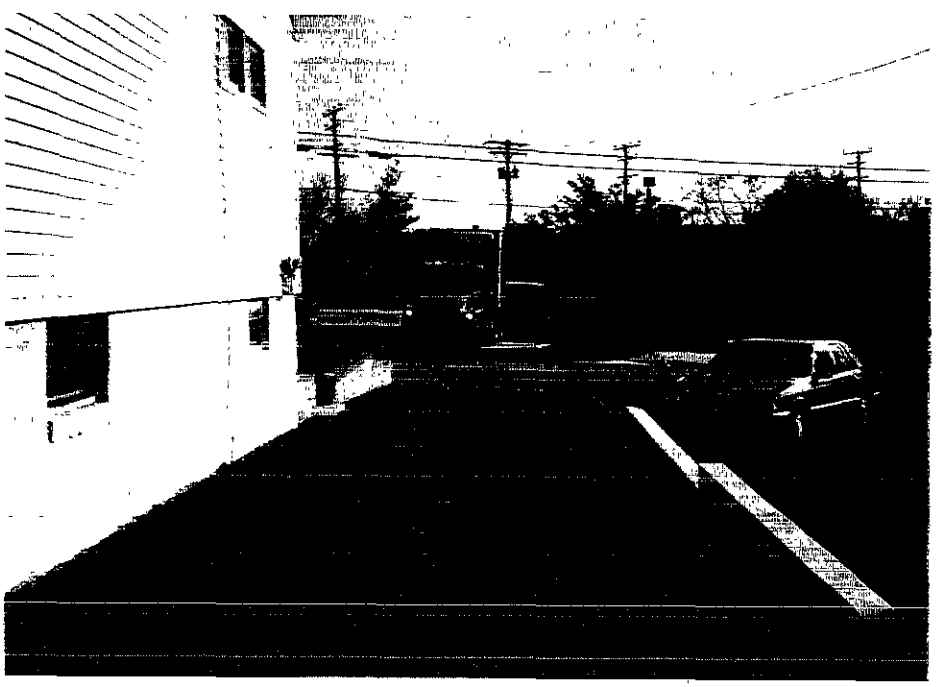




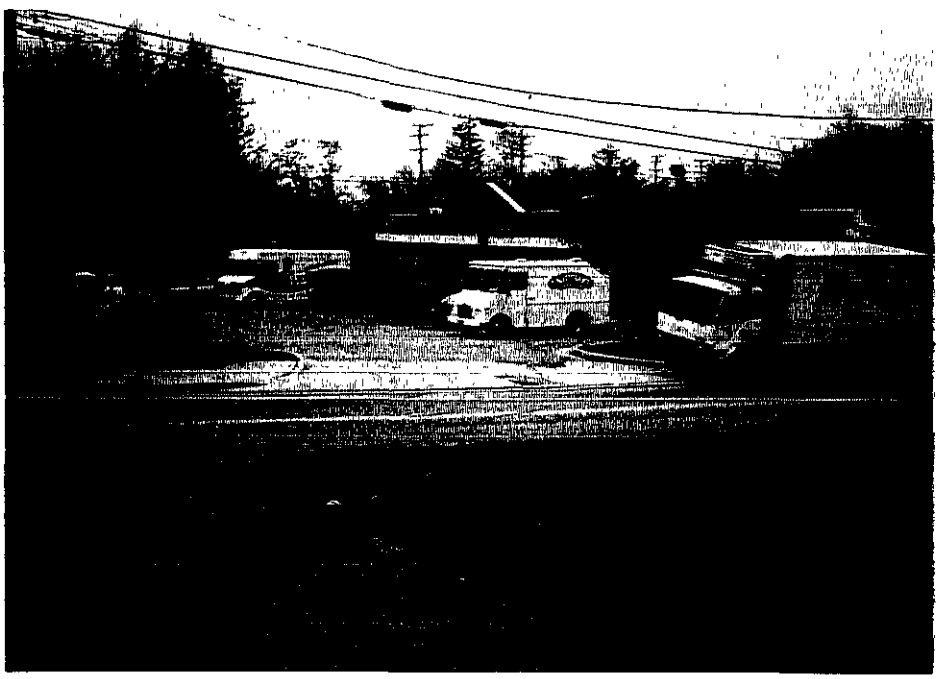






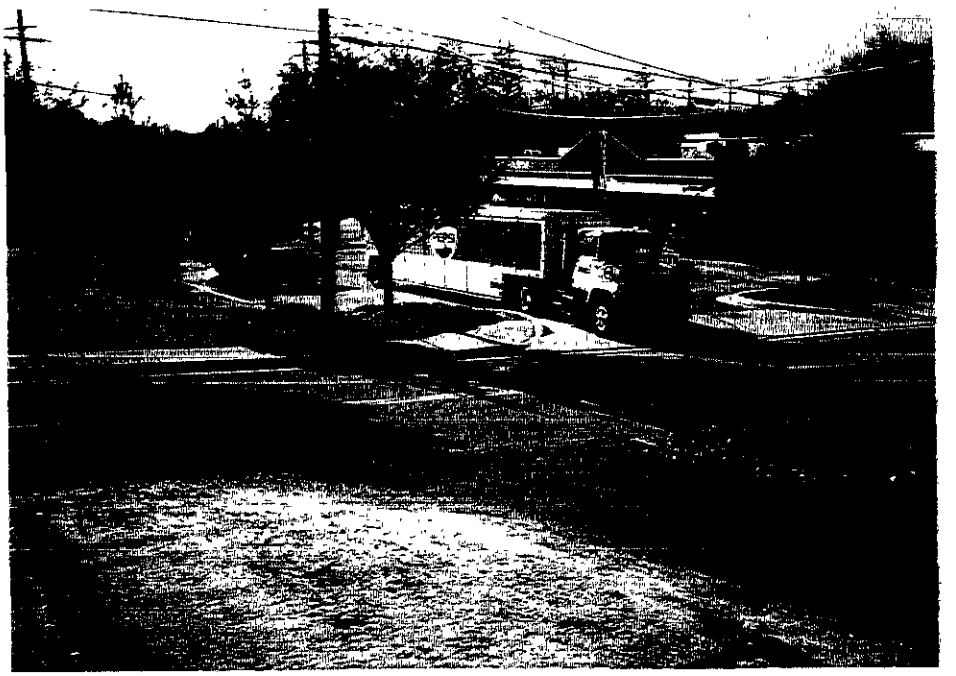






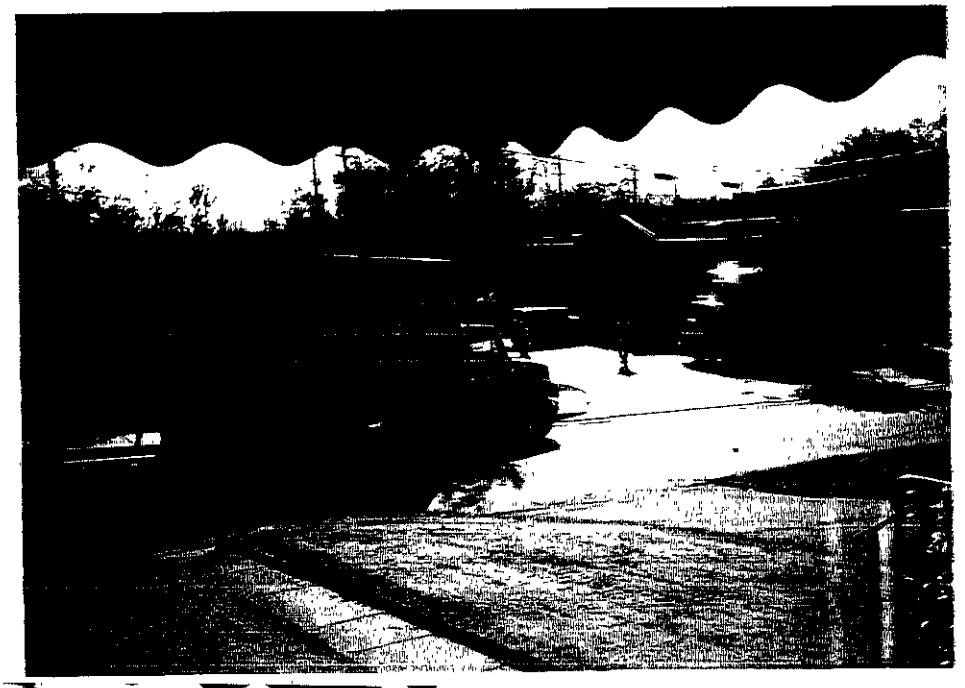

HOLLY

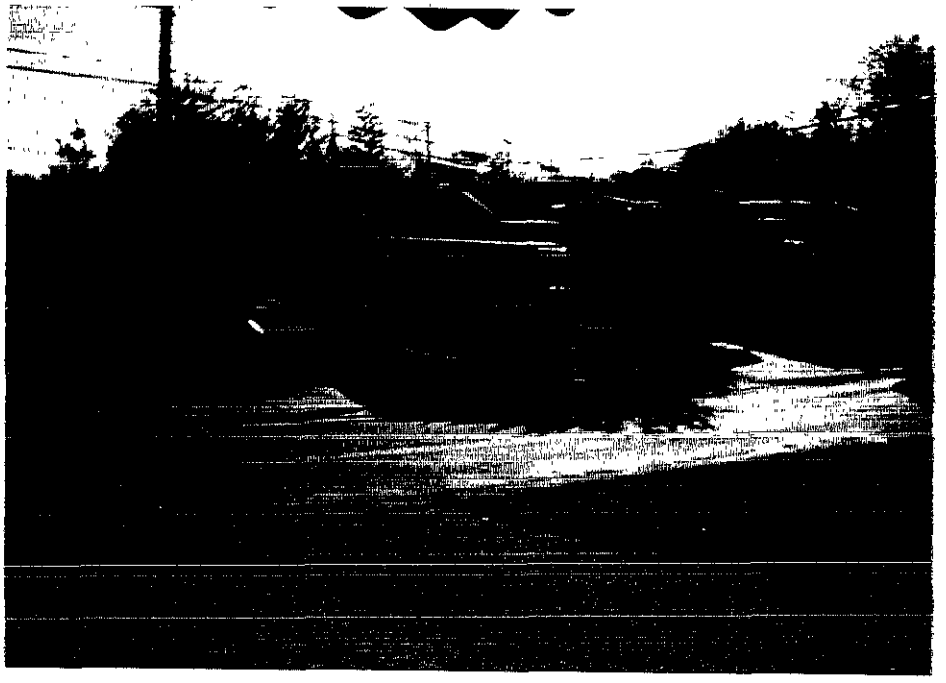






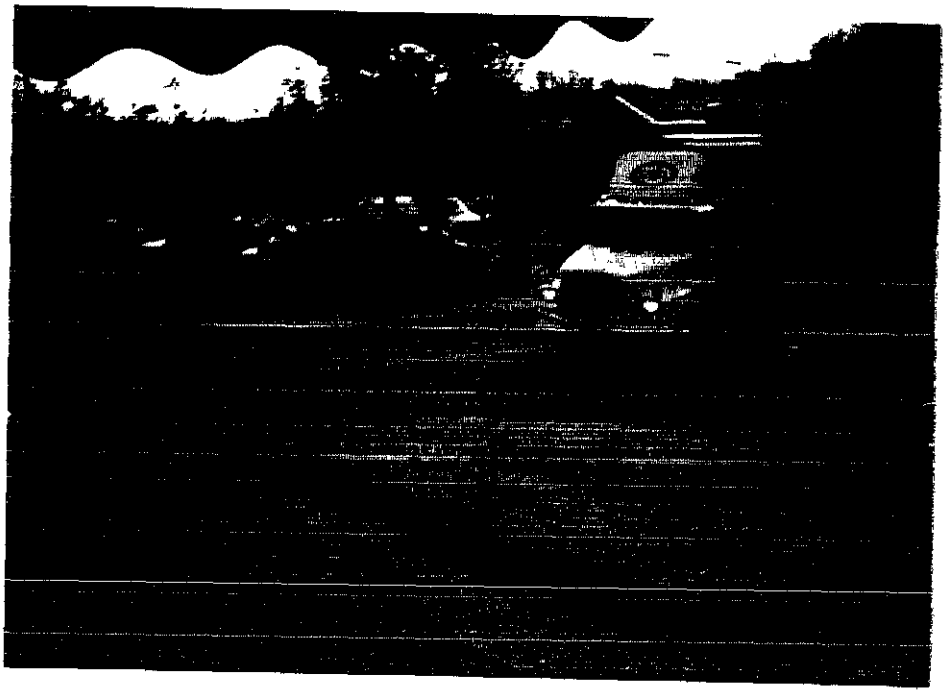




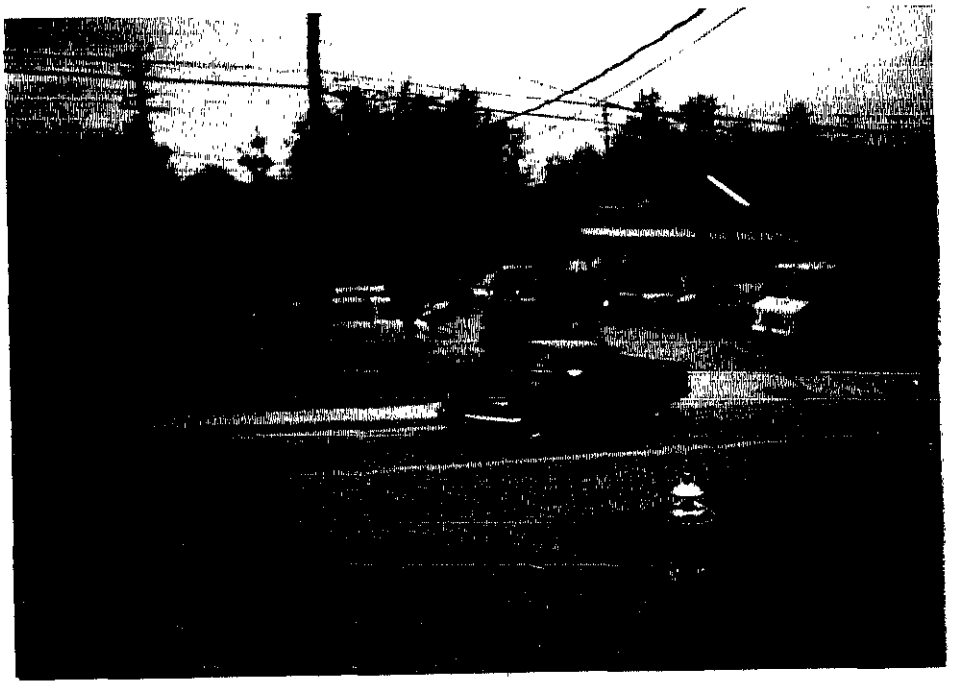


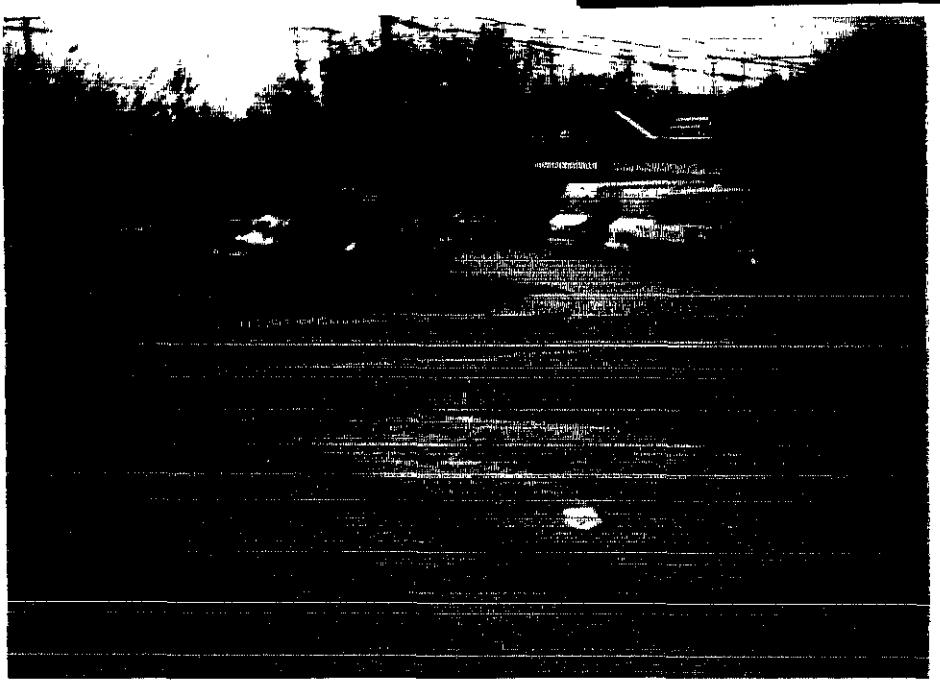














In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Kathleen A. Wright | 4507 Ridge Ave. 21227-4440 |
| Wayne B. Wright | 4507 ridge ave 21227 - |
| Mary A Lilly | 4503 Ridge Ave 21227 |
| Brad Hauck | 4605 Ridge Ave 21227 |
| Jon Timian | 4609 Ridge Ave 21227 |
| Michelle McDaniel | 4611 Ridge Ave. 21227 |
| Mary Hammock | 4610 Ridge Ave 21227 |
| William Vernon | 4606 Ridge Ave. 2127 |

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| Name | Address |
|---|---|
| [signature] | 4505 Ridge Ave 21227 |
| Theresa Summers | 4505 Ridge Ave 21227 |
| Francis A. Haas | 4600 Ridge Ave 21227 |
| [signature] | 1201 LINDEN AVE |
| F. R. Rembrandt II | 4612 RIDGE AVE |
| [signature] | 4612 Ridge Ave |
| M. L. Leonhardt | 4612 Ridge Ave. |
| [signature] | 4611 Ridge Ave |

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| Name | Address |
|---|---|
| Ramona Swanson | 4406 Ridge Ave |
| William C Hey | 4422 Ridge Ave |
| Don Knowles | 4418 Ridge Ave |
| Audrey Knowles | 4418 Ridge ave |
| Gina Thomas | 4416 Ridge Ave |
| Joan Tolson | 4416 Ridge Ave. |
| M. E. Duke | 4412 Ridge Ave |
| Hilda M. Schwartz | 4411 RIDGE AVE |

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| Name | Address |
|---|---|
| Ramon Piña | 4604 Ridge Ave. |
| Loretta Bartley | 4504 Ridge Ave |
| Kenny Bartley | 4504 Ridge Ave |
| F.T. Annulis | 4501 Ridge Ave |
| F.T. ANNULIS | 4501 RIDGE AVE |
| Elizabeth J. Annulis | 4501 Ridge Ave. |
| Timothy D Miller | 1706 Arbutus Ave |
| Noreen Stark | 1706 Arbutus Ave |
| | |

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| Name | Address |
|---|---|
| James A Hunn | 4333 Ridge Ave |
| Regina F. Greaves | 4333 Ridge Ave. |
| Norman W. Reagan | 4325 Ridge Ave. Halethorpe, Md 21227 |
| Kandalean K. Reagan | 4325 Ridge Ave. |
| Anthony J. O'Neill | 4314 Ridge Ave |
| Jean Allyard | 4318 Ridge Ave. |
| Kenneth Allyard | 4318 Ridge Ave. |
| Danny Chiles | 4317 Ridge Ave 21227 |

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By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Catherine Pfeiffer | 4307 Ridge Ave. |
| Henry J. Pfeiffer | 4304 Ridge Ave |
| Lora Dougherty | 4302 Ridge Ave. C.P. |
| Anna Dougherty | 4302 Ridge Ave. C.P. |
| Denise K. Bosley | 4319 Ridge Ave |
| Allen Bosley | 4319 Ridge Ave |
| Betty Kempf | 4323 Ridge Ave. |
| Katherine Caldwell | 4320 Ridge Av. |

4411 Ridge Ave. Signed
4401 Ridge Ave Signed

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| Name | Address |
|---|---|
| Gina Lewis | 4337 Ridge Ave Halethorpe MD 21227 |
| Todd M. Lewis | 4337 Ridge Ave Halethorpe MD 21227 |
| Linda S Orr | 4321 Ridge Ave Balt 21227 |
| Donald Orr | 4321 Ridge Ave Bal. 21227 |
| Jackie Turner | 1721 Summit Ave 21227 |
| Mr & Mrs. William P. Lewis | 4400 Ridge Ave 21227 |
| Edward Snyder | 4402 Ridge ave. 21227 |
| Marcella Snyder | 4402 Ridge Ave 21227 |

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| Name | Address |
|---|---|
| Bertha Hylton | 4507 Oak Ave Halethorpe Md. 21227 |
| Ada Bigel | 4601 Poplar ave Halethorpe, Md. |
| Teresa Fowles | 4504 Linden Ave. Halethorpe, Md. 21227 |
| Linda K. Slayton | 1711 Poplar Ave Halethorpe Md |
| [illegible] | 4605 Linden Ave Halethorpe MD 21227 |
| Elaine Dawson | 4411 Ridge Ave 21227 |
| Charles Tilly | 4503 Ridge Ave |
| Rita M. Harthousen | 4413 Ridge Avenue |

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| Name | Address |
|---|---|
| Debbie Mayne | 1713 Carroll ave |
| Jon R. Rinaldo | 1707 CARROLL AVE |
| Andy Rinaldo | 1707 CARROLL AVE. |
| Thomas Cave | 1716 Carroll Ave. |
| Tom & Donna Mason | 4322 Ridge Ave 1702 Fun |
| Kathy Stump | 1709 CARROLL AVE |
| Carl W Stump | 1705 CARROLL AVE |
| Cathy A. Kunas | 1705 CARROLL AVE |

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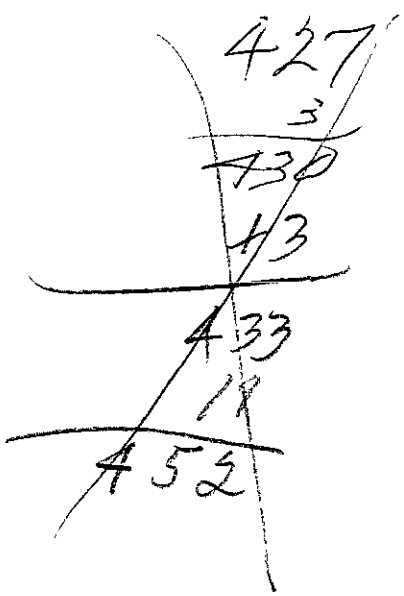
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| Name | Address |
|---|---|
| Charles A. Greene | 1717 Carroll Ave |
| Mary Beth Bruch | 1716 Carroll Ave. |
| Barbara Brown | 1712 Carroll Ave |
| Thomas W. Brown | 1712 CARROLL AVE |
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| Name | Address |
|---|---|
| Lori E. Filz | 1700 Carroll Ave. Balto. MD 21227 |
| Rose M. Filz | 1700 Carroll Ave. Balt. 21227 |
| Alice L Kuenzle | 1705 carroll Ave Balto 21227 |
| Debbie Nava, RN | 1714 Carroll Ave Balt. Md. 21227 |
| Gabe Hurd / my pet | 1714 Carroll Ave Balto MD 21227 |
| William H White | 1713 CARROLL AVE BALTO MD 21227 |
| Joann F Mayne | 1713 CARROLL AVE BALTO MD 21227 |
| Mary A. Green | 1717 Carroll Ave |


427
3
430
43
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19
452

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| Name | Address |
|---|---|
| [illegible] | 4413 Ridge Ave |
| [illegible] | 1715 Summit Ave |
| Evelyn Reiffer | 1714 Summit Ave. |
| Delores Merry | 4406 Ridge Ave |
| Roy Stover | 4406 RIDGE Ave |
| Ella Mae Kirby | 4420 Ridge Ave. |
| Mary F. Johnigen | 4404 Ridge Ave. |
| Pauline Campbell | 4404 Ridge Ave. |

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| Name | Address |
|---|---|
| Charles Johns | 1811 Summit Ave Halethorpe MD 21227 |
| Kevin M. Green | 1813 Summit Ave. Halethorpe, Md. 21227 |
| Katie R. Davis | 1816 Summit Ave Halethorpe 21227 |
| Paul Hayes | 4401 Ridge ave 21227 |
| M Jeannette Hayes | 4401 Ridge Ave 21227 |
| Betty Jane Zyrkie | 1804 Summit Ave 21227 |
| Sylvia Zyrkand | 1808 Summit Ave 21227 |
| Leon B. Rutkowski | 1806 Summit Ave 21227 |

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| Name | Address |
|---|---|
| Nancy A Ebare | 1702 Summit Ave. 21227 |
| Macie R. Grace | 1704 Summit Ave 21227 |
| Timothy P Badeau | 1717 Summit Ave 21227 |
| Joseph Kwiczynski | 1705 Summit Ave |
| Dale M. Scholz | 1701 SUMMIT AVE 21227 |
| Kathleen Scholz | 1701 Summit Ave. 21227 |
| Robert T. Grace | 1704 Summit Ave 21227 |
| John Kolinsky | 1708 Summit Ave 21227 |

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| Name | Address |
|---|---|
| James L Morrissett | 1713 Summit Ave |
| J. Lee Stecker | 1713 Summit Ave |
| Lisa Wilson | 1719 Summit Ave |
| Joseph R. Wilson | 1719 Summit Ave. |
| Charles Bendt | 1712 Summit Ave. |
| Ann Bendt | 1712 Summit Ave |
| | |
| Steven Robinson | 1709 SUMMIT AVE. |

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| Name | Address |
|---|---|
| Jane P. Hager | 1803 Summit Ave # 21227 |
| Margaret B.J. Zirkle | 1804 Summit Ave # 21227 |
| William F. Zirkle | 1804 Summit Ave - # 21227 |
| Myrtle Taylor | 5844 Oakland Rd # 21227 |
| L. May Seymour | 1700 Summit Ave. # 21227 |
| Donald Seymour | 1700 Summit Ave -21227 |
| Wm. J. Thomas | 1711 Summit Ave, 21227 |
| Kathryn Thomas | 1711 Summit Ave. |

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| Name | Address |
|---|---|
| Rachel Rubino | 1806 Summit Ave. 21227 |
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| Name | Address |
|---|---|
| Edwin H. Shinnamon | 1709 Arbutus Avenue 21227 |
| Jessie H. Shinnamon | 1709 Arbutus Avenue 21227 |
| Richard Edwards Jr | 4502 Ridge Ave 21227 |
| Gloria Schmidt | 1715 Arbutus Av 21227 |
| Cheryl A Wess | 1715 ARBUTUS AV 21227 |
| Janet Smith | 1710 Arbutus Ave 21227 |
| J De Nicolai | 1711 Arbutus Ave 21227 |
| Anthony Nicolai | 1711 Arbutus Ave 21227 |

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| Name | Address |
|---|---|
| Norman V. Mattatall | 1813 Arbutus Ave. |
| Jack Lomatt | 1815 Arbutus Ave |
| Bruce Heldman | 1611 Arbutus Ave. |
| PAUL CLANIC | 1807 ARBUTUS AVE |
| Jerry Hayn | 1805 ARBUTAS Ave. |
| Judy Watson | 1801 Arbutus Ave. |
| | |
| | |

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| Name | Address |
|---|---|
| Diane M. Nicolai | 1711 Arbutus Ave 21227 |
| JAMES SCHWANTZ | 1806 Arbutus Ave 21227 |
| Charlene Bickell | 1816 Arbutus 21227 |
| Virginia Miles | 1816 Arbutus 21227 |
| Bob Hose | 1820 ARBUTUS 21227 |
| Jim Parsons | 1822 Arbutus 21227 |
| Janet Hartman | 1821 Arbutus Ave. |
| Wayne Rom | 1819 Arbutus Ave |

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| Name | Address |
|---|---|
| BRENDA S MEILE | 1702 ARBUTUS AVE 21227 |
| Charles W. Meile Jr | 1702 ARBUTUS AVE 21227 |
| BRYAN E. MILLER | 1704 ARBUTUS AVE. 21227 |
| Lisa Miller | 1704 Arbutus AVE 21227 |
| Jeanette Reidy | 1718 Arbutus Ave 21227 |
| Mary Hood | 1720 Arbutus Ave. 21227 |
| Sandy A. Glover | 1713 Arbutus Ave. 21227 |
| Kirk T. Glover | 1713 Arbutus Ave 21227 |

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| Name | Address |
|---|---|
| CHARLES A Popp | 1516 Arbutus Ave 21227 |
| Name | 1516 Arbutus Ave 21227 |
| Edgar J Lowman | 1515 Arbutus Ave 21227 |
| Mary Wallace | 1519 Arbutus Ave 21227 |
| Rachel Shapiro | 1521 Arbutus Ave |
| Mary Sullivan | 1516 Arbutus Ave 21227 |
| Patrick D Milnor | 1511 Arbutus Ave 21227 |
| | |

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| Name | Address |
|---|---|
| Karen J. Kokaski | 4504 Maple Ave 21227 |
| Charles S. Kokoski | 4504 Maple Ave 21227 |
| Catherine L. Kokaski | 4504 Maple Ave. 21227 |
| Walter A Sompayrac | 1814 Park Ave. 21227 |
| Thomas J. Sullivan | 1513 Arbutus Ave. 21227 |
| Steve Williams | 5632 Ashbourne Rd |
| John Williams | 5632 Ashbourne Rd |
| Ed Deitzler | 5637 Ashbourne Rd. |

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| Name | Address |
|---|---|
| Pauline C. Miller | 4511 Poplar Ave. |
| Lee J. Miller | 4511 Poplar Ave. |
| Dolores Watson | 4613 Poplar Ave. |
| [illegible] | 4506 POPLAR AV. |
| David Gill | 4502 Poplar Ave |
| [illegible] | 4421 Poplar Ave |
| Richard Evans | 1615 Woodside Ave |
| Charlotte T. Seifer | 4503 Poplar Av. |

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| Name | Address |
|---|---|
| Daniel J. McGonigle Jr | 4419 Maple Ave 21227 |
| Patricia M McGonigle | 4419 Maple ave 21227 |
| Olga Danastas | 4417 Maple Ave 21227 |
| John Danastas | 4417 Maple ave 21227 |
| Lorraine ~~Henry~~ A. Claycomb | 4415 Maple Ave. 21227 |
| Glenn Claycomb | 4415 Maple Ave 21227 |
| Kurt Burke | 4418 Maple Ave. 21227 |
| Nancy Mellendick | 4416 Maple Ave 21227 |

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| Name | Address |
|---|---|
| Sister Mary Rosaria Baxter | 4100 Maple Ave, Balt, Md 21227 |
| Sr. Mary Catherine Mossei | 4100 Maple Ave., Baltimore, MD 21227 |
| [illegible] | 4100 Maple Ave, Baltimore |
| [illegible] | 4100 Maple Avenue Baltimore MD 21227 |
| Sr. Marie Agnes Prunte | 4100 Maple Ave. - Balto. Md. 21227 |
| Sr. Margaret Cullinan | 4100 Maple Ave Balto Md 21227 |
| [illegible] | 4100 Maple Ave Baltimore Md 21227 |
| Gertrude C. Coffey | 4100 Maple Avenue Halethorpe, Md 21227 |

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| Name | Address |
|---|---|
| [illegible] | 4100 Maple Ave Balto. Md. 21227 |
| [illegible] M. Regina Long | 4100 Maple Ave Baltimore Md 21227 |
| Euphemia Jenkins RBA | 4100 Maple Avenue Baltimore 21227 |
| Mary Laetitia Hughes | 4100 Maple Ave Baltimore MD 21227 |
| Elizabeth Larkin | 4100 Maple Ave Halethorpe, MD 21227 |
| [illegible] Marie Agnes Hunter | 4100 Maple Ave. Halethorpe, Md 21227 |
| M. Marie Dolores | 4100 Maple Ave., Baltimore, MD 21227-4099 |
| [illegible] | 4100 Maple Ave Baltimore MD 21227 |

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| Name | Address |
|---|---|
| Regina Lloyd | 4507 Maple Ave. |
| Bruce A Lloyd | 4507 Maple Ave |
| Marlene Milnor | 4604 Maple Ave. |
| Kirk Milnor | " " " |
| Matthew Gary | 4505 Maple Avenue |
| [illegible] | 4503 Maple Ave. |
| Janet Hartman | 1821 Arbutus Ave. |
| Paul Hartman | 1821 arbutus ave. |

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| Name | Address |
|---|---|
| Laurence T. Gary | 4505 Maple Ave |
| Patrick B White | 4503 Maple Ave 2nd floor |
| Melanie M. White | 4503 Maple Avenue 2nd Floor |
| Catherine E. Gary | 4505 Maple Ave. |
| Anthony P. Bonomo Jr. | 4505 Maple Ave. |
| Matthew M. Gary | 4505 Maple Avenue |
| Sarah J. Mahan | 1305 Potomac Ave |
| Joan M Mahan | 1305 Potomac Ave |

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| Name | Address |
|---|---|
| William N. Lucas Jr. | 4420 Linden Ave. |
| Joyce P. Lucas | 4420 Linden Ave. |
| Mark Jason Dawson | 4419 Linden Ave |
| Oscar R. McGowan | 4419 Linden Ave |
| Joan-Patricia Lester | 4615 Linden Ave |
| Thomas E. Lester | 4615 Linden Ave |
| Joan Hennessy | 4422 Linden Ave. |
| Brenda Bernath | 4422 Linden Ave. |

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| Name | Address |
|---|---|
| Mary J. Krebs | 4601 Linden Ave. |
| Clarence H. Krebs | 4601 Linden Ave. 21227 |
| Joseph J. Lund. | 4605 Linden Ave 21227 |
| Ann-Marie Lund | 4605 Linden Ave 21227 |
| Cheryl Herbert | 4417 Linden Ave |
| Joseph Herbert | 4417 Linden Ave |
| John Cook | 4415 Linden Ave |
| Geraldine Callahan | 4605 Linden Ave. |

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| Name | Address |
|---|---|
| Angela T. Schaecker | 4415 Linden Ave |
| William H. Lucas Sr | 4420 Linden Ave |
| Wendy Glassband | 4613 Linden Avenue |
| Brian Atkinson | 4613 LINDEN AVE |
| Joseph W French Jr | 4611 Linden Ave |
| Teresa B Brennan | 4501 Linden AVE |
| Ronald L Shuneman | 4500 Linden Ave |
| Jane C. Driscoll | 4500 LINDEN AVE |

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| Name | Address |
|---|---|
| Nellie Miller | 4422 Linden Ave. |
| Helen Johnson | 4422 Linden Ave. |
| Marilyn Sears | 1225 Francis Ave |
| Rita Minafsky | 4612 Linden Ave |
| Shawn Martin | 4612 Linden Ave |
| Catherine Dion | 429 Linden Ave. |
| Janice Holtman | 4602 Linden ave |
| Larry Holtman | 4602 Linden Ave |

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| Name | Address |
|---|---|
| Mrs Young | 4603 Linden Ave. |
| Mrs W. Young | 4603 Linden Ave. |
| Olivia Kramer | 4603 Linden Ave. |
| Ronald C Cody | 4507 LINDEN AVE |
| Louise Ryan | 4504 Linden Ave. |
| Kay Rones | 4502 Linden Ave. |
| James Rones | 4502 Linden Ave. |
| Sandra Meroney | 4503 Linden Ave. |

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| Name | Address |
|---|---|
| Pam Cohee | 4414 Maple Ave 21227 |
| Stephen Best | 4412 Maple Ave. |
| Roy L Hicks | 1703 Fair View Ave |
| Tammy Hicks | 1703 Fair View Ave |
| Johnny R. Parker | 1709 Fair View Ave |
| James Penna | 1709 Fair View Ave |
| [illegible] | 1709 Fairview Ave |
| Victoria Bagrowski | 1811 Fairview Ave. |

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| Name | Address |
|---|---|
| Beverly Orrell | 1713 Fairview Ave. |
| Jean Orrell | 1713 Fairview Avenue 21227 |
| Henry C Bergen | 1717 FAIRVIEW AVE BALTO 21227 |
| Mary S Rust | 1801 Fairview Ave. 21227 |
| Mildred C Lesnika | 1803 Fairview Ave 21227 |
| Christopher F Bagnoski | 1809 Fairview 21227 |
| Monica Bagnoski | 1809 Fairview 21227 |
| Mary Silseth | 1811 Fairview 21227 |

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| Name | Address |
|---|---|
| [redacted] Phipps | 1815 Fairview Ave |
| | 1815 Fairview Ave |
| | 1817 Fairview Ave |
| ✓ Sandra Barbo | 1816 Fairview Ave |
| Carol C. Grange | 1820 Fairview Ave. |
| Jerry Wilder | 1820 Fairview ave. |
| | 1818 Fairview Ave |
| Mary O Stebing | 1819 Fairview Ave |

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| Name | Address |
|---|---|
| Robert H. Stebing Sr. | 1819 Fairview Ave |
| Andrei Yelovich | 1819 Fairview Ave |
| Karen Yelovich | 1819 Fairview Ave |
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| Name | Address |
|---|---|
| Leigh Nash | 4003 Lincoln Dr |
| Lee Faelt | 17732 WINANS AVE |
| Katy Lang | 1731 Winans Ave |
| Michael Mann | 1715 Park Ave 21227 |
| Kimberly Mann | 1715 Park Ave 21227. |
| Susan E. Stanley | 1711 Park Cove 21227 |
| | |
| | |
| | |

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| Name | Address |
|---|---|
| Ronald Wright | 1702 Park Ave. |
| Brian L. Stallings | 1719 Park Ave |
| Mary Charlotte Deibel | 1716 Park Ave |
| Charlotte Wallace | 1714 Park Ave |
| [signature] | 1709 Park Ave. |
| Debra K. Sturm | 1711 Park Ave. |
| Lorraine Glover | 1707 Park Ave |
| Victoria Boyer | 1707 Park Ave |

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| Name | Address |
|---|---|
| Patsy A. Phillips | 1818 PARK AVE 21227 |
| Melissa Brooke | 1820 Park Avenue 21227 |
| Katherine Gannon | 1821 Park Ave 21227 |
| Theodore F. Miller | 1815 PARK AVE 21227 |
| Dorothy A. Miller | 1815 Park Ave. |
| Amanda C. Gilbert | 1813 Park Ave |
| Chad M. Newbold | 1811 PARK AVE |
| Howard J. King | 1805 Park Ave 21227 |

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| Name | Address |
|---|---|
| BILL Rhodes | 1806 PARK AVE |
| Bertha Upton | 1807 Park Ave |
| Henri Harmon | 1810 Park Ave. 21227 |
| Patrick Harmon | 1810 Park Ave 21227 |
| Gloria Harmon | 1810 Park Ave 21227 |
| Ann D Hempgrave | 1814 Park Ave. 21227 |
| Wendell Phillips | 188 Park Ave. 21227 |
| Martin L Evans | 1825 Park ave 21227 |

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| Name | Address |
|---|---|
| Ray Clark | 1800 PARK AVE |
| Ernestine Clark | 1800 Park Ave |
| Julie M Bain | 1824 Park Ave. |
| | |
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| Name | Address |
|---|---|
| Chas B. Wilson | 1810 SELMA AVE, |
| Charlotte Ault | 1800 Selma Ave. |
| Dorothy B. Molinsek | 1801 Selma Ave. |
| Lynne L. Sider | 1803 Selma Ave |
| Richard K. Sider | 1801 Selma Ave |
| | |
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By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Linda Wood | 1720 Selma Ave. |
| Marie Herrick | 1723 Selma Ave |
| Jan M. Herrick | 1723 Selma Ave. |
| Jean D. Pohlman | 1725 Selma Ave # A |
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| Name | Address |
|---|---|
| Stephanie Keech | 1711 Selma Ave. |
| Joe Keech | 1711 Selma Ave. |
| Laura E. Warren | 1811 Selma Ave. |
| David O. Ray | 1817 Selma Ave |
| Virginia Berger | 1821 Selma Ave |
| Linda Stellar | 1823 Selma Ave |
| Greg Lewis | 1814 Selma Ave |
| [illegible] | 1810 Selma Ave. |

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| Name | Address |
|---|---|
| Carl C Turnley | 1717 Selma Ave 21227 |
| Betty L. Burch | 1719 Selma Ave 21227 |
| Kathleen L Burch | 1719 Selma Ave 21227 |
| Robert P. Uhlig | 1726 Selma Ave 21227 |
| Elvira Uhlig | 1726 Selma Ave. 21227 |
| Willy Uhlig | 1726 Selma Ave 21227 |
| Elizabeth H. Israel | 1721 Selma Ave |
| Frank G Butler Jr. | 1721 Selma Ave |

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| Name | Address |
|---|---|
| Betty Riedel | 1728 Selma Ave. 21227 |
| | 1758 Shelne Ave 21227 |
| Margie Morris | 1724 Selma Ave |
| Ray Morris | 1724 Selma Ave |
| Maurice A. Baumgartner | 1722 SELMA AVE |
| Johnnie W. Marks | 1718 Selma Avenue |
| Raymond F. Myers | 1716 Selma Ave |
| | 1712 Selma Ave |

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| Name | Address |
|---|---|
| Janie Nash | 4603 Lincoln Drive |
| Lola M. Halas | 4601 Lincoln Drive |
| Leigh Nash | 4603 Lincoln Dr |
| Jan Winbrow | 4508 Maple Ave |
| Frann Todd | 1704 Lincoln Drive |
| Darrell Todd | 1704 Lincoln Drive |
| | |
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| Name | Address |
|---|---|
| Mrs John Globerstein | 4627 Magnolia Ave Balto Md 2122 |
| Lisa Ann Hreffen | 4627 Magnolia Ave. Balto Md 21227 |
| Bonnie J King | 1735 Wickam Ave Balto Md 21227 |
| Donald C Globerstein | 4627 Magnolia Ave |
| Donald L Monaghan | 1802 Mayfield Ave |
| Lori Fritz | 1803 Mayfield Ave |
| Mr. Mrs. Warfield | 1512 Mayfield Ave |
| Edw. R. Connelly | 1820 Mayfield Ave |

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| Name | Address |
|---|---|
| Richard Duncan | 1817 MAYFIELD AVE. |
| Ruth Dun | 1815 Mayfield Ave |
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| Name | Address |
|---|---|
| Charlene Reilly<br>Charlene M Reilly | 4617 Magnolia Ave 21227 |
| Michael F Reilly | 4617 Magnolia Ave 21227 |
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| Name | Address |
|---|---|
| [signature] | 4620 Magnolia Ave |
| [signature] | 4620 Magnolia Ave |
| Betty P Link | 4616 Magnolia Ave |
| [signature] | 4616 Magnolia Ave |
| Edna L. Godman | 1737 Winans Ave |
| Edward Godman | 1737 Winans Ave |
| Irene Little | 1733 Winans Ave |
| | |

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| Name | Address |
|---|---|
| Aileen Ruckert | 1807 Winans Ave |
| Marie M. Hoddinott | 1811 Winans Ave, 21227 |
| Keith G. Hoddinott | 1811 Winans Ave., Balto., Md. 21227-4438 |
| R. Gordon Hoddinott | 1811 Winans Ave Balto Md 21227 |
| James W. Ruckert | 1807 Winans Ave Balto. Md. 21227 |
| Karen S. Braun | 1807 Winans Ave #2 |
| | |
| | |

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| Name | Address |
|---|---|
| James E Klein | 1509 Vera Avenue |
| Hemly Klein | 1509 VERA AVENUE |
| Charlene Palmer | 122 Wadelli ave 21227 |
| Timothy K O'Loughlin | 121 Wadelli Ave 21227 |
| Betty Woolford | 1401 Woodside Ave 21227 |
| Betty Mauro | 122 Wadelli Ave 21227 |
| Edward Palmer | 122 WADELLI AVE 21227 |
| Patricia E. Dell | 1405 WOODSIDE AVE 21227 |

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| Name | Address |
|---|---|
| [illegible] Sanders | 1804 Woodside Ave. |
| [illegible] | 1802 Woodside Ave 21227 |
| John W. Allen | 1810 Woodside Ave. Halethorpe 21227 |
| [illegible] | 1809 Woodside ave, Halethorpe, 21227 |
| Theresa S. Itzel | 1809 Woodside Ave Halethorpe, MD 21227 |
| Alan P. Muth | 1829 Woodside Ave. Balt. MD 21227 |
| George C Derby | 1831 Woodside Ave 21227 |
| Doug S Arthur | 4422 WASHINGTON BLVD 21227 |

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| Name | Address |
|---|---|
| Joan B. Eason | 1615 Woodside Ave. |
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| Name | Address |
|---|---|
| Martin F. Fowler<br>Helen M. Fowler | 1822 Woodside Ave. |
| | 1822 Woodside Ave. |
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| Name | Address |
|---|---|
| [signature] | 1404 Woodside Ave |
| Dawn M. Serio | 1404 Woodside Ave |
| | |
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| Name | Address |
|---|---|
| Steven J. Shaw, Sr | 1514 Claridge Ave |
| Eugene J. Dyer | 1615 Woodside Ave |
| Mulford B. Riggin | 4422 Linden Ave. |
| Helen L. Nickey | 1516 WOODSIDE AVE. |
| Loretta Nickey | 1516 Woodside ave. |
| Tom Nickey | 1516 Woodside Ave. |
| | |
| | |

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| Name | Address |
|---|---|
| Donald H. Munn | 1517 WOODSIDE AVE 21227 |
| Kyle L. Merson | 1517 Woodside Ave. 21227 |
| Flora Tyler | 1512 Woodside Ave 21227 |
| Norman D. Tyler | 1512 WOODSIDE AVE. 21227 |
| Helen E. Kinsey | 1519 Woodside Ave 21227 |
| Joseph P. Kinsey | 1519 Woodside Ave. 21227 |
| Felicitas C. Roldan | 1514 Woodside Ave., 21227 |
| Larry V. Quist | 4604 Rehbaum Ave. |

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| Name | Address |
|---|---|
| C J Wagner | 1525 Ashley Ave |
| Lou Copeland | 4602 Rehbaum Ave |
| Ida Davis | 4602 Rehbaum Ave. |
| Zelda Bucchieri | 4608 Rehbaum Ave |
| Kenneth W. Kidd | 4600 Rehbaum Ave |
| Gertrude W. Kidd | 4600 Rehbaum Ave |
| Bernie Crosby | 4603 Rehbaum Ave. |
| Bernadette M Goy | 4500 Poplar Ave |

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| Name | Address |
|---|---|
| Lillian Sadler | 4501 Rehbaum Ave. |
| Joseph R. Allen Sr | 4511 Rehbaum Ave |
| Helen Allen | 4511 Rehbaum Ave |
| Jan Sturgis | 4510 Poplar Ave |
| Pete Sturgis | 4510 Poplar Ave |
| [illegible] | 4601 REHBAUM |
| Sandra J Charlton | 4601 Rehbaum |
| Caroline Houghtling | 1525 Arbutus Ave |

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| Name | Address |
|---|---|
| Angela M. Cox | 1506 Claridge Ave. |
| Timothy J Cox | 1506 Claridge Ave. |
| Bridget Buck | 1502 Claridge Ave |
| Dawn M Parr | 1709 Woodside Avenue |
| Ann C. Lowery | 4503 Rehbaum Ave. |
| Nelda B Knight | 4505 Rehbaum Ave |
| Ronald P. Schultz | 4507 Rehbaum ave. |
| Danielle L Lee | 4500 Rehbaum Ave. |

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| Name | Address |
|---|---|
| Henry A Piekarski | 4607 Rebburn Ave Balto MD 21227 |
| Mary Piekarski | 4607 Rebburn Ave Balto MD 21227 |
| Thomas H. Pugh | 1605 Woodside Ave Balto MD 21227 |
| Mary E. Pugh | 1605 Woodside Ave. 2122 |
| Donna Stinchcomb | 1608 Claridge Ave. 21227 |
| Harrison Moffett | 1606 Claridge Ave 21227 |
| JoAnn Costa | 1603 Claridge 21227 |
| Robert C. Boss | 1511 CLARIDGE AVE |

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Norbert B. Rozanski | 1504 Claridge Ave. |
| Ruby D. Rozanski | 1504 Claridge Ave. |
| William Roeder | 1505 Claridge Ave. |
| Edna E Roeder | 1505 Claridge Ave |
| Joseph C Bodenkopf | 1503 Claridge Ave |
| Kathleen A. Bodenkopf | 1503 Claridge Ave |
| Kathy Boss | 1511 Claridge Ave |
| Shirley Rent | 1600 Claridge Ave. |

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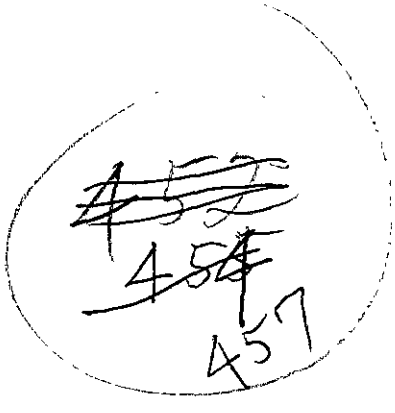
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| Name | Address |
|---|---|
| Audrey A Sideton | 1516 Claridge Ave 21227 |
| Frank Sutton | 1509 CLARIDGE AVE 21227 |
| Jane Sutton | 1509 Claridge Ave 21227 |
| Irene Wagner | 1510 Claridge Ave 21227 |
| William Davey | 1508 Claridge Ave 21227 |
| John M Doyle Jr | 1512 Claridge Ave 21227 |
| Robert Wolf | 1510 Claridge Ave 21227 |
| Lorraine E. Shaw | 1514 Claridge Ave 21227 |

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| Name | Address |
|---|---|
| Omar Fowler | 1604 Claridge Ave. #21227 |
| Gerry Fowler | 1604 Claridge Ave. #21227 |
| Sandra L Cullen | 1603 Claridge Avenue 21227 |
| [illegible] Cullen | 1603 Claridge Ave 21227 |
| Donna J Doyle | 1512 Claridge Ave 21227 |
| Wilbert Zeck | 1507 Claridge Ave. |
| Ann Mae Zeck | 1507 Claridge Ave. |
| Catherine Davey | 1508 Claridge Ave. |



(40)

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| Name | Address |
|---|---|
| Gertrude Deaton | 5637 Ashbourne Rd. |
| Ed. Deaton | 5637 Ashbourne Rd. |
| Francis Goodrich Sr | 5635 Ashbourne Rd. |
| Mary C Goodrich | 5635 Ashbourne Rd. |
| John F Williams | 5632 Ashbourne Rd. |
| Irene F. Williams | 5632 Ashbourne Rd |
| Don Dickins | 5639 Ashbourne Rd |
| Diana Dickins | 5639 Ashbourne Rd |
| | |

App. # 3 i.d. only

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| Name | Address |
|---|---|
| Leslie Krause | 5508 Osage Ave. 21227 |
| Gail Crosh | 5524 Ashtowne Rd 21227 |
| Mary Lischbod | 5556 Dolores Ave 21227 |
| Grace Lapp | 1717 Wilson Ave. 21227 |
| Norman E Brooks | 1819 Mayfield Ave 21227 |
| Carol Fox | 5539 Leith Ave 21227 |
| | |
| | |
| | |

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| Name | Address |
|---|---|
| BRIAN TOWNS | 1027 BEECHFIELD AVE. ARBUTUS MD 21227 |
| Michael Kennedy | (Colonial Insurance company) 220 Newby Ave, 21228 |
| Bernadette Hoffman-Wolf | 5521 Ashbourne Rd Arbutus 21227 |
| Donna Cimon | 975 Regina Dr 21227 |
| [illegible] | 1262 Vogt Ave |
| Paula Thorp | 5524 Selma Ave. 21227 |
| Donna Everhart | 5518 Selma Ave 21227 |
| Donald E. Crawford | 5506 Sycamore Ave 21227 |

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| Name | Address |
|---|---|
| Doris Cooper | 5504 Sycamore Ave. |
| John Cuhant | 5518 Selma ave |
| Bill Price | 1257 Birch Ave |
| Charles Warren | 1038 Elm RD |
| | |
| | |
| | |
| | |
| | |

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| Name | Address |
|---|---|
| | 1159 Lincoln Ave 21227 |
| | 5205 Hazel Ave 21227 |
| | 5205 Hazel Ave 21227 |
| | 1205 Oakland Terr Rd 21227 |
| | 5551 Link Ave. Arbutus 21227 |
| | 1322 Brewster St Balt MD 21227 |
| | |
| | |

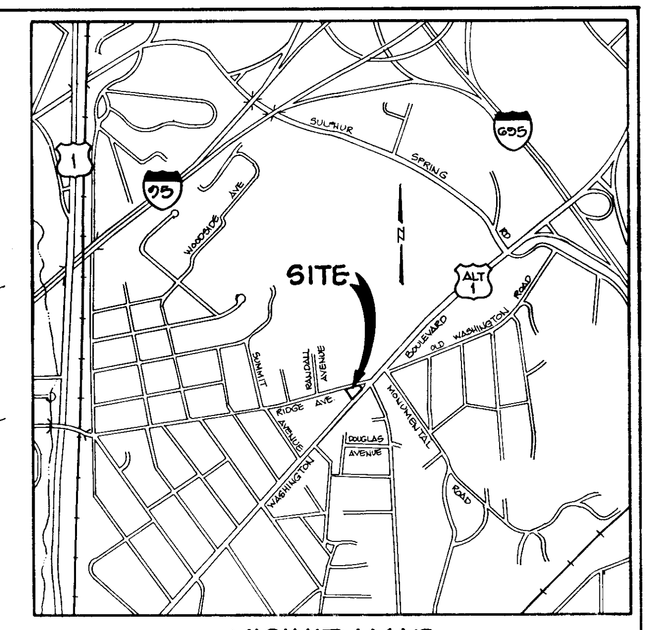
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| Name | Address |
|---|---|
| James F Gillis | 1225 POPLAR AVE ARBUTUS, Md 21227 |
| Sharon L. Marino | 1252 Locust Avenue Arbutus, Md 21227 |
| Beverly Gillis | 1225 Poplar Ave Arbutus, Md. 21227 |
| Michele Meseke | 1250 Birch Ave Balto, MD 21227 |
| Jeffrey Meseke | 1258 Locust Ave Balto, MD 21227 |
| [illegible] | 714 WOODLAND DR Relay MD 21227 |
| Sue Kratchman | 714 Woodland Dr Lilay, Md 21227 |
| Nick Mory | 9 TOLLINTON COURT RELAY, MD 21227 |

## GENERAL NOTES

1. Stormwater management is exempt (less than 5,000 S.F. of additional paving).
2. All signs to be in accordance with B.C.Z.R.
3. Site will comply with section 405.4.A.2.C. (B.C.Z.R.)
4. Any underground fuel tanks to be installed with all local, state & federal regulations.
5. Final landscape plan to be approved by Baltimore County.
6. The site shall be made to comply with all applicable sections of the Fire Prevention Code prior to occupancy or beginning of operation.
7. The buildings and structures existing or proposed shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code" 1991 Edition prior to occupancy.
8. There are no abandoned gas stations within a one half mile radius of the site or 2 abandoned stations within one mile of the site.
9. All lighting that is to be relocated will be positioned so as not to reflect into residential areas or interfere with traffic.

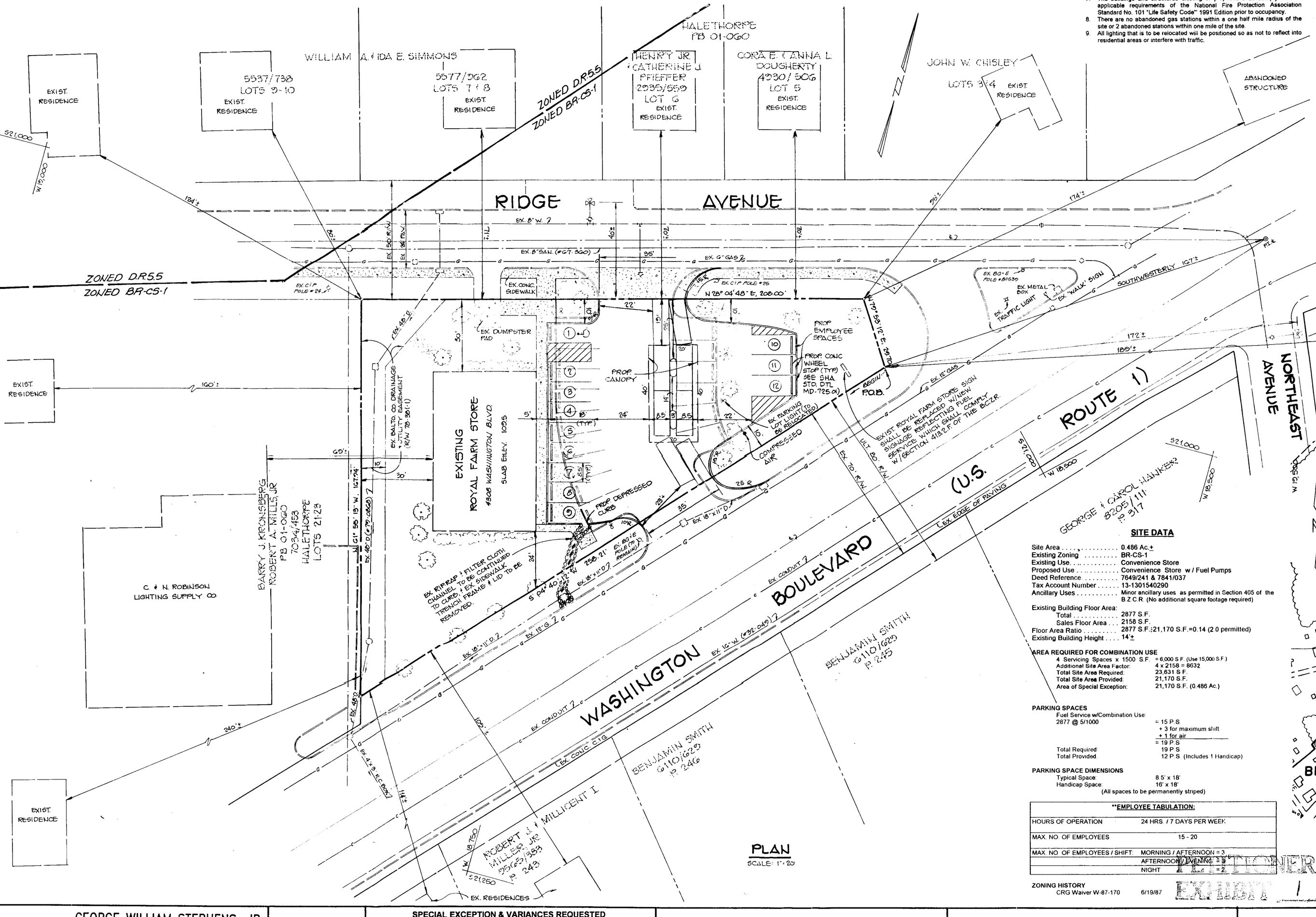



## VICINITY MAP

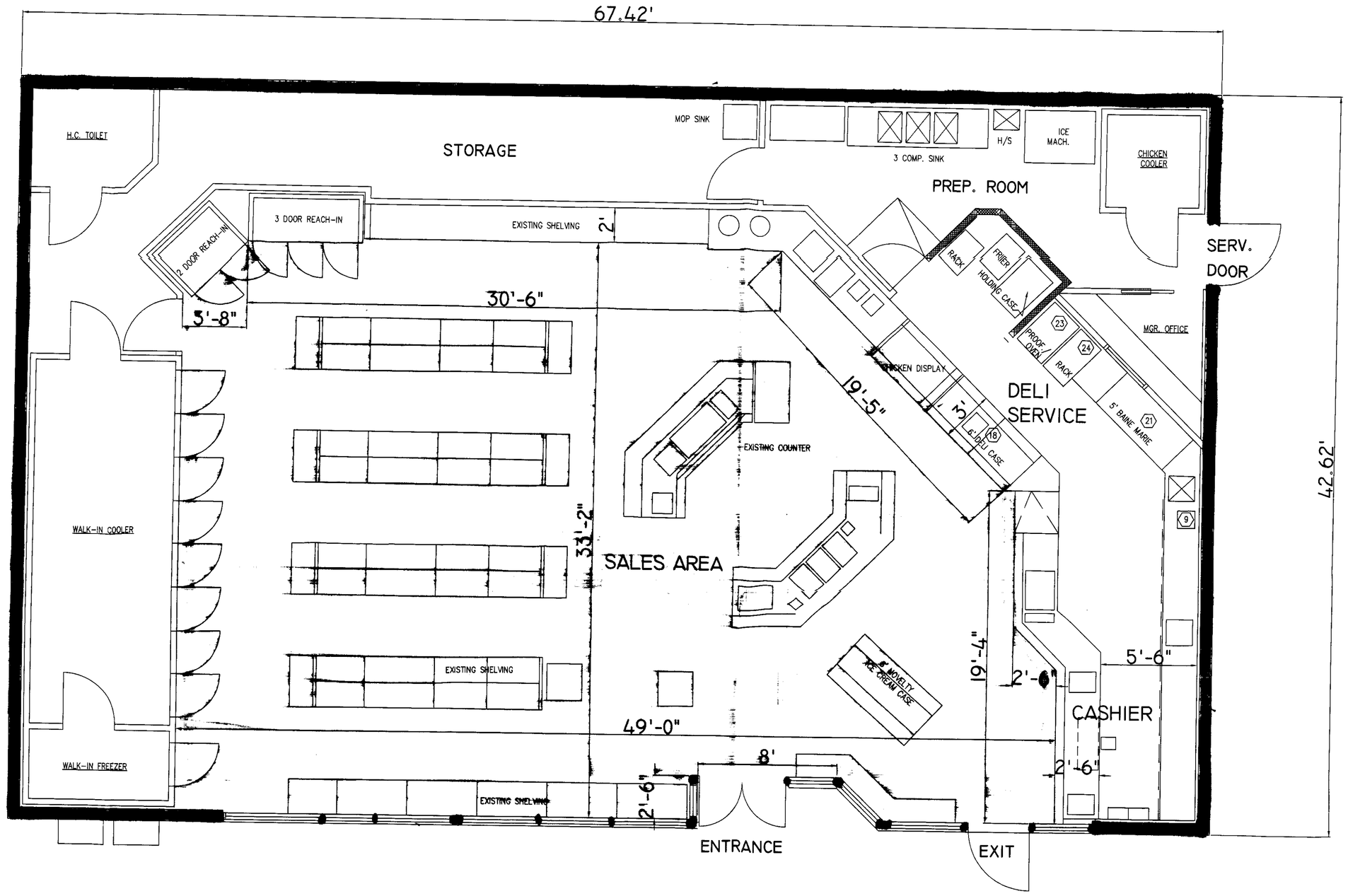
SCALE: 1"=1000'

## LEGEND

- PROPERTY LINE
- EX. CURB & GUTTER
- PROP. CURB & GUTTER
- EX. FIRE HYDRANT
- EX. WATER
- EX. SEWER
- EX. STORM DRAIN
- EX. GAS
- EX. BG & E POLE
- EX. ROAD RIGHT-OF-WAY
- ZONING LINE
- EX. TRAFFIC LIGHT
- EX. PARKING LOT LIGHT


RIDGE AVENUE
EX. 8" W. ?
EX. 8" SAN. (@GT. 300')
EX. G" GAS
EX. C.I.P. POLE #24
EX. C.I.P. POLE #25
N 28° 04' 48" E, 208.00'
EX. CONC. SIDEWALK
EX. DUMPSTER PAD
PROP. EMPLOYEE SPACES
PROP. CANOPY
PROP. CONC. WHEEL STOP (TYP.) SEE SHA STD. DTL. MD. 725.01
EX. PARKING LOT LIGHT (TO BE RELOCATED)
COMPRESSED AIR
PROP. DEPRESSED CURB
EX. 18"x11"D
EX. 8G1E POLE (TO BE REMOVED)
EX. RIPRAP & FILTER CLOTH CHANNEL TO BE CONTINUED TO CURB & EX. SIDEWALK. TRENCH, FRAME & LID TO BE REMOVED.
EX. 12" G
EX. 10"x11"D
EX. CONDUIT
EX. 15"W. (+32.04')
EX. CONC. C.I.P.
EX. 4" & 8" SCH 80 PVC
EX. 48"D
EX. BALTO. CO. DRAINAGE & UTILITY EASEMENT (R/W 78.361-1)
EXIST. ROYAL FARM STORE SIGN SHALL BE REPLACED W/NEW SIGNAGE REFLECTING FUEL SERVICE WHICH SHALL COMPLY W/ SECTION 413.2.F OF THE B.C.Z.R.
EX. TO R/W
EX. EDGE OF PAVING
EX. 80-E POLE #81639
EX. METAL BOX
EX. TRAFFIC LIGHT
EX. WALK SIGN
SOUTHWESTERLY 167'±
EX. ?
EX. 4
BEGIN F.O.B.
N 79° 55' 12" E, 28.70'
ROUTE 1
(U.S.
NORTHEAST AVENUE
EXISTING ROYAL FARM STORE
#308 WASHINGTON BLVD
SLAB ELEV. 1025
WASHINGTON BOULEVARD
EX. 15"W. (+32.04')
EX. CONDUIT
EX. CONC. C.I.P.
BENJAMIN SMITH G110/623 P. 245
BENJAMIN SMITH G110/623 P. 246
ROBERT J. & MILLICENT I. MILLER, JR. 2931/353 P. 243
EXIST. RESIDENCE
EXIST. RESIDENCE
EXIST. RESIDENCE

Petitioner's
#3




FLOOR PLAN
SCALE 1/4"=1'-0"

SALES AREA

1535 SQ. FT.

# ROYAL FARMS

STORE #46

4308 WASHINGTON BLVD.
HELETHORPE , MARYLAND 21227


DONALD B. RATCLIFFE & ASSOC.
ARCHITECTS AND PLANNERS
10404 Stevenson Road, Stevenson, Maryland 21153
484-7010

CDI Designs Inc.
5500 Broadway
Riverdale, New York 10463
212 563-9000


Renovations for: ROYAL FARMS

CONTENT:
FLOOR PLAN

REVISED:

| # | date | # | date |
|---|---|---|---|
| | | | |

DATE: 5/03/97
SCALE: AS SHOWN
DRAWN BY: P.W.R.

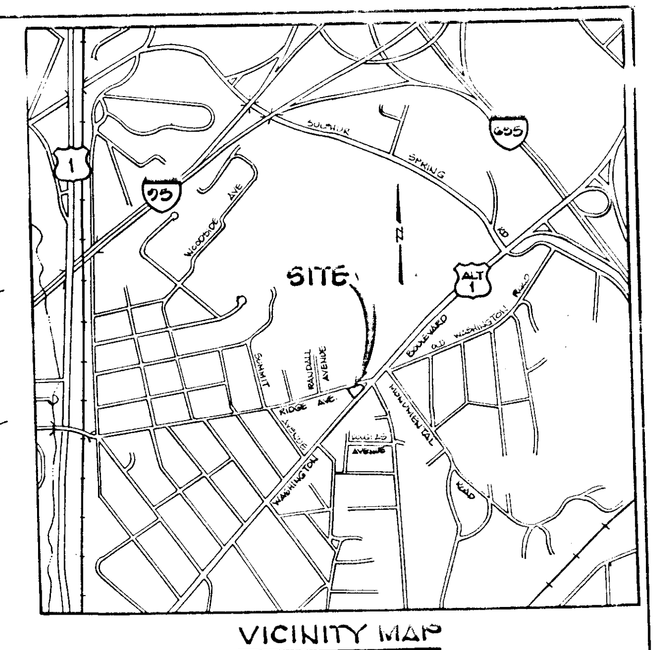
A1

SHEET 1 OF 1

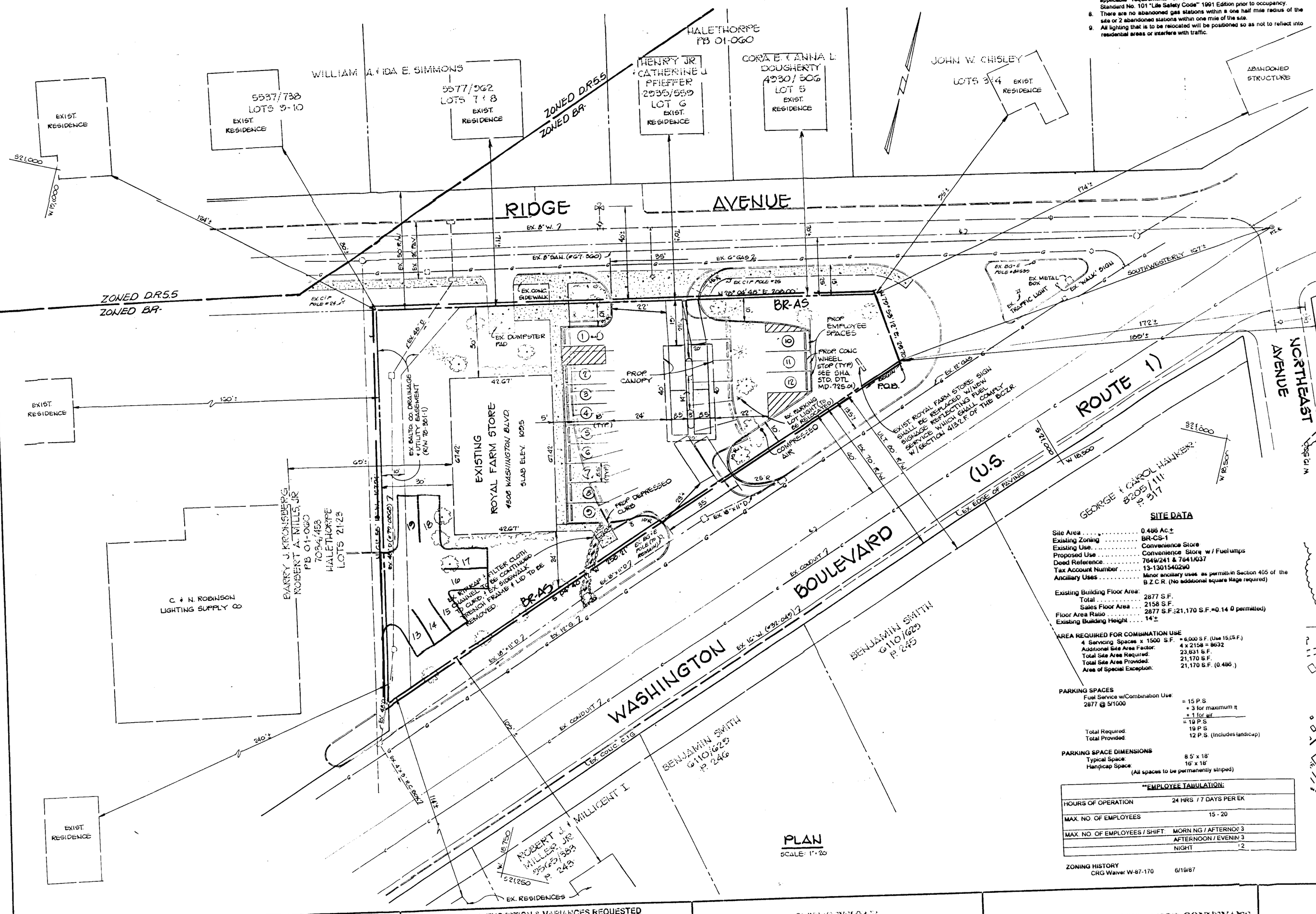
Petitioners #1

## GENERAL NOTES

1. Stormwater management is exempt (less than 5,000 S.F. of additional paving).
2. All signs to be in accordance with B.C.Z.R.
3. Site will comply with section 405.4.A.2.C. (B.C.Z.R.)
4. Any underground fuel tanks to be installed with all local, state & federal regulations.
5. Final landscape plan to be approved by Baltimore County.
6. The site shall be made to comply with all applicable sections of the Fire Prevention Code prior to occupancy or beginning of operation.
7. The buildings and structures existing or proposed shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code" 1991 Edition prior to occupancy.
8. There are no abandoned gas stations within a one half mile radius of the site or 2 abandoned stations within one mile of the site.
9. All lighting that is to be relocated will be positioned so as not to reflect into residential areas or interfere with traffic.




VICINITY MAP
SCALE: 1"=1000'


HALETHORPE
PB 01-060
WILLIAM A. & IDA E. SIMMONS
5537/738
LOTS 9-10
EXIST. RESIDENCE
5577/062
LOTS 7 & 8
EXIST. RESIDENCE
HENRY JR. & CATHERINE J. PFIEFFER
2936/559
LOT 6
EXIST. RESIDENCE
CORA E. & ANNA L. DOUGHERTY
4930/506
LOT 5
EXIST. RESIDENCE
JOHN W. CHISLEY
LOTS 3 & 4
EXIST. RESIDENCE
ABANDONED STRUCTURE
EXIST. RESIDENCE
RIDGE AVENUE
ZONED D.R.5.5
ZONED BR-
EX. 8" W.
EX. 8" SAN. (GT. 5000)
EX. 6" GAS
EX. C.I.P. POLE #25
EX. C.I.P. POLE #24
EX. CONC. SIDEWALK
EX. DUMPSTER PAD
BR-AS
PROP. EMPLOYEE SPACES
PROP. CONC. WHEEL STOP (TYP.) SEE SHA STD. DTL. MD. 725.01
PROP. CANOPY
EX. PARKING LOT LIGHT (TO BE REMOVED)
EX. 12" GAS
EXIST. ROYAL FARM STORES SIGN SHALL BE REPLACED W/NEW SIGNAGE REFLECTING FUEL SERVICE, WHICH SHALL COMPLY W/SECTION 413.2.E OF THE B.O.C.R.
EX. METAL BOX
EX. TRAFFIC LIGHT
EX. WALK SIGN
SOUTHWESTERLY 107'±
NORTHEAST AVENUE
HARRY & BERNETTA L. DOUGHERTY
PB 07-023
G.R. 7114
OAK PARK
SECT. B LOT 1
D. R. 5.5
ROUTE 1
(U.S.
EX. EDGE OF PAVING
EXIST. RESIDENCE
EX. BALTO. CO. DRAINAGE & UTILITY EASEMENT (R/W 70-901-1)
EXISTING ROYAL FARM STORE
#308 WASHINGTON BLVD
SLAB ELEV. 102.5
FROST DEPRESSED
COMPRESSED AIR
EX. 15" CMP
EX. 18" RCP
EX. 30" R/W
EX. 36" R/W
EX. 48" R/W
EX. 42" R/W
EX. 10" W
EX. 8" W
EX. 6" W
EX. 4" W
EX. 2" W
EX. CONDUIT
EX. CONC. CTG.
EX. 15" CMP
EX. 6" SAN.
EX. 4" SAN. & R.C.P. (GT. 060")
EX. 4" SAN. FORCE MAIN
EX. 4" SAN. & R.C.P.
EX. 8" SAN.
EX. 6" SAN.
EX. 4" SAN.
EX. 2" SAN.
EX. 15" CMP
EX. 12" CMP
EX. 10" CMP
EX. 8" CMP
EX. 6" CMP
EX. 4" CMP
EX. 2" CMP

Petitioner's #2




EVERGREEN TREE PLANTING
NTS



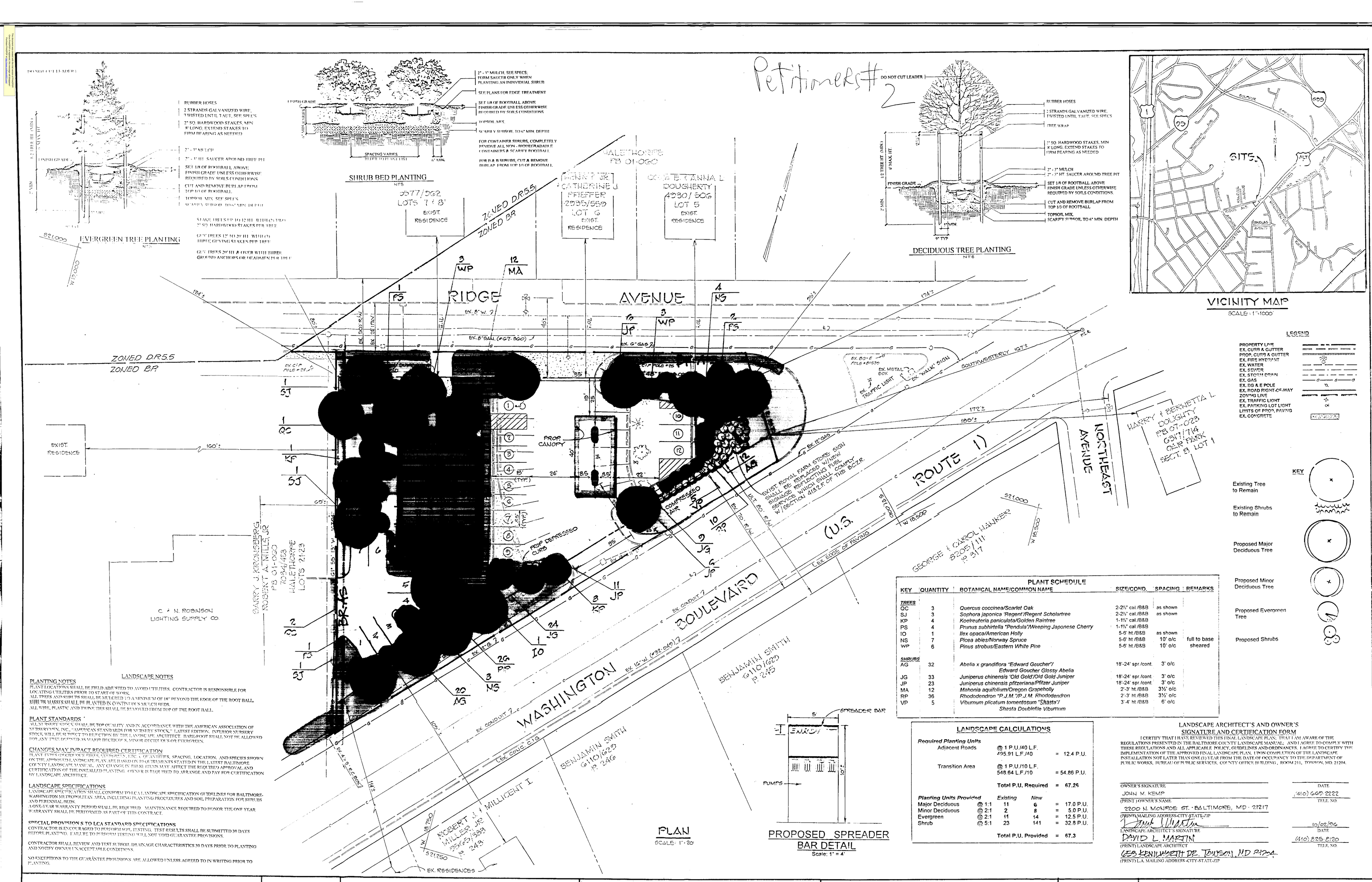

SHRUB BED PLANTING
NTS

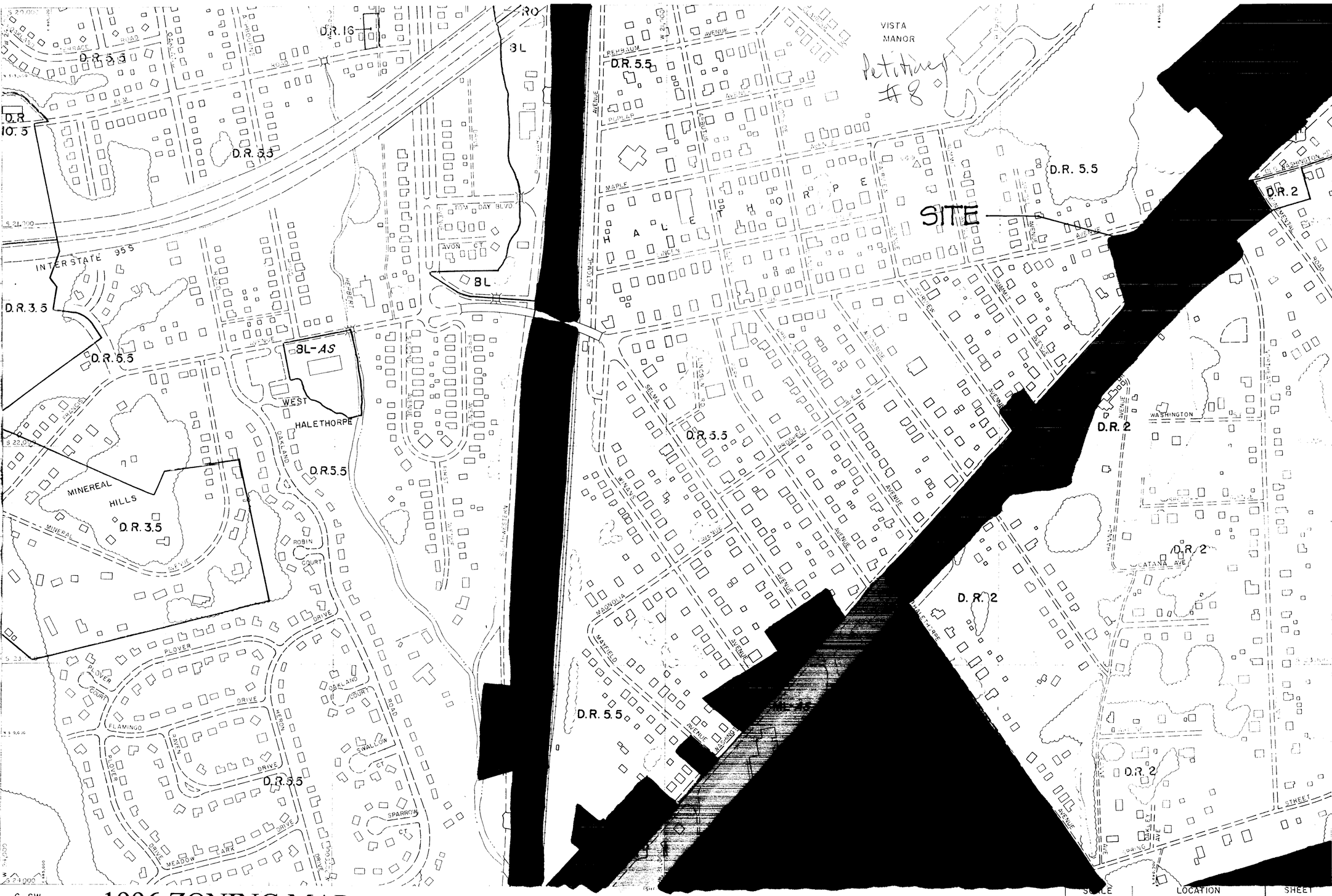



DECIDUOUS TREE PLANTING
NTS




VICINITY MAP
SCALE: 1" = 1000'


HENRY F. JR. & CATHERINE J. PFIESTER 2235/559 LOT 6 EXIST. RESIDENCE
CHARLTANNA L. DOUGHERTY 4330/506 LOT 5 EXIST. RESIDENCE
HALETHORPE PB 01-060
0577/062 LOTS 7 & 8 EXIST. RESIDENCE
ZONED DR5.5
ZONED BR
RIDGE AVENUE
EX. 8" W. ?
EX. 8" SAN. (#GT-360)
EX. 6" GAS ?
EX. C.I.P. POLE #21
EX. POLE #21639
EX. METAL BOX
EX. TRAFFIC LIGHT
EX. WALK SIGN
SOUTHWESTERLY 167'±
PROP. CANOPY
PROP. DEPRESSED CURB
COMPRESSED AIR
EXIST. ROYAL FARM STORE SIGN SHALL BE REPLACED W/NEW SIGNAGE REFLECTING FUEL SERVICES WHICH SHALL COMPLY W/SECTION 413.E.F. OF THE BCZR.
EX. 12" GAS
EX. 10" W.L.
EX. 8" C.L.
EX. 6" C.L.
EX. 6" S.C.O.
EX. 15" W.L. (#22,049) ?
EX. CONDUIT ?
EX. CURB INLET
EX. C.I.P.
EX. 4" S.C.O. #2557
EX. 8" C.I.P.
EX. 8" C.L.
EX. 8" W.L.
EX. 6" W.L.
EX. 6" S.C.O.
EX. 4" S.C.O.
EX. 10" W.L.
EX. 12" W.L.
EX. 15" W.L.
EX. 8" S.C.O.
EX. 8" C.I.P.
EX. 6" C.I.P.
EX. 4" S.C.O.
EX. 10" C.I.P.
EX. 12" C.I.P.
EX. 15" C.I.P.
EX. 8" C.O.
EX. 6" C.O.
EX. 4" C.O.
EX. 10" C.O.
EX. 12" C.O.
EX. 15" C.O.
EX. 8" C.I.P.
EX. 6" C.I.P.
EX. 4" C.I.P



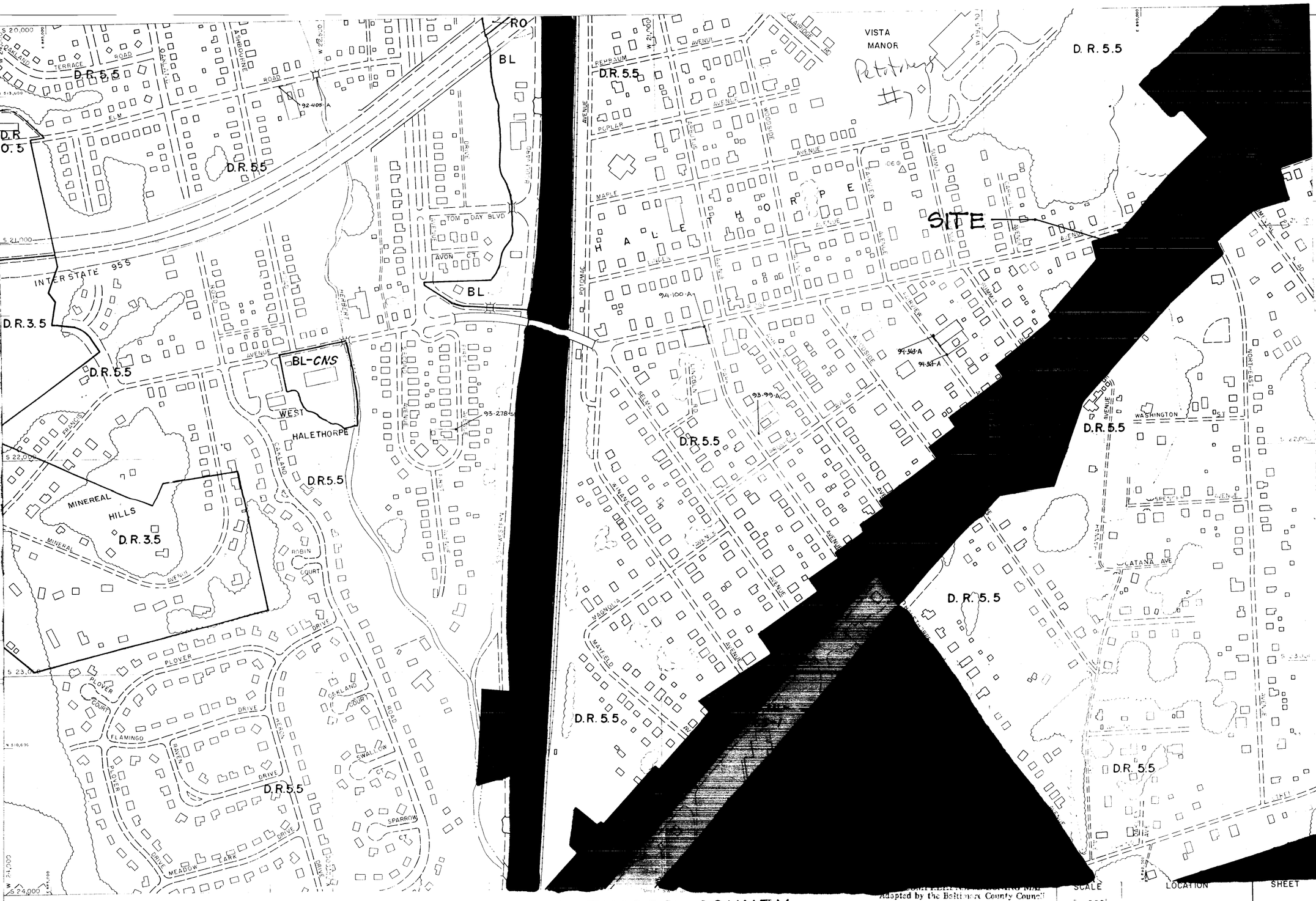

G- SW
C- NW

# 1996 ZONING MAP

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

| SCALE | LOCATION | SHEET |
|---|---|---|
| 1" = 200' ± | HALETHORPE | S.W. 6-D |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | |




G - SW
C - NW

# 1992 ZONING MAP

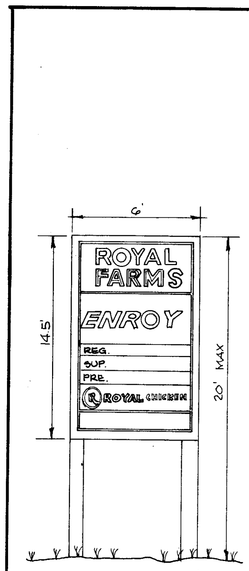
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 133-92, 134-92, 135-92, 136-92, 137-92, 138-92, 139-92

William C. Howard III
Chairman, County Council.

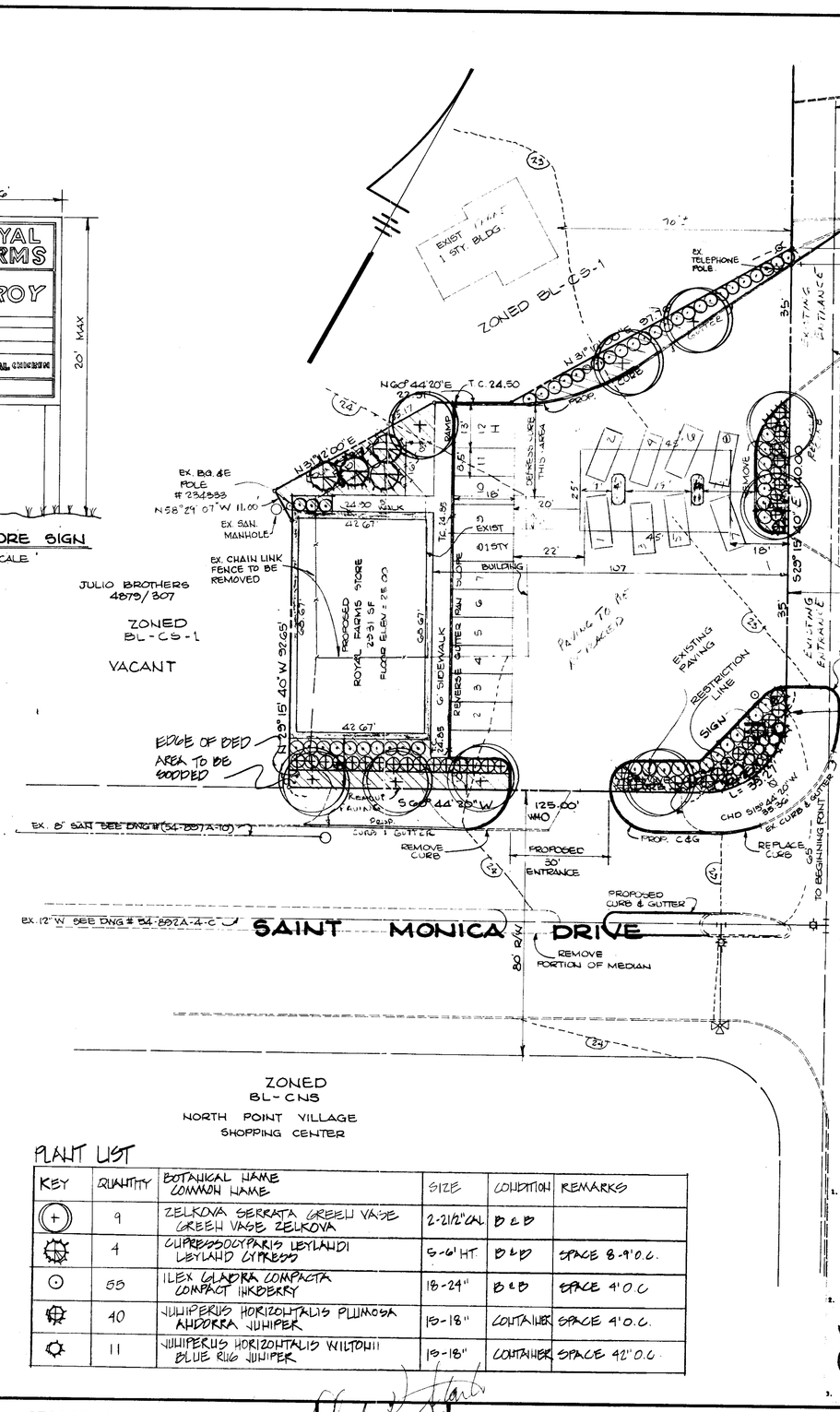
| SCALE | LOCATION | SHEET |
|---|---|---|
| 1" = 200' | HALETHORPE | S.W. 6-D |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | |

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210




FOOD STORE SIGN

NOT TO SCALE

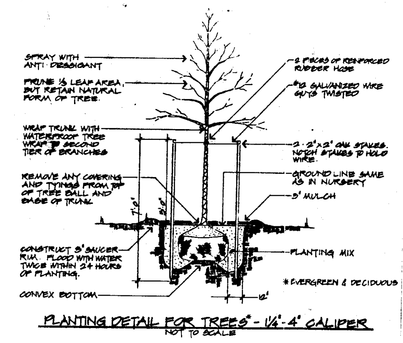



## PLANT LIST

| KEY | QUANTITY | BOTANICAL NAME COMMON NAME | SIZE | CONDITION | REMARKS |
|---|---|---|---|---|---|
| (+) | 9 | ZELKOVA SERRATA GREEN VASE GREEN VASE ZELKOVA | 2-2½" CAL | B & B | |
| ✳ | 4 | CUPRESSOCYPARIS LEYLANDI LEYLAND CYPRESS | 5-6' HT. | B & B | SPACE 8-9' O.C. |
| ⊙ | 55 | ILEX GLABRA COMPACTA COMPACT INKBERRY | 18-24" | B & B | SPACE 4' O.C. |
| ✳ | 40 | JUNIPERUS HORIZONTALIS PLUMOSA ANDORRA JUNIPER | 15-18" | CONTAINER | SPACE 4' O.C. |
| ✳ | 11 | JUNIPERUS HORIZONTALIS WILTONII BLUE RUG JUNIPER | 15-18" | CONTAINER | SPACE 42" O.C. |

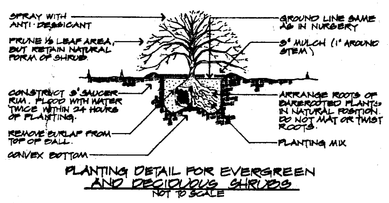
## LEGEND

SITE BOUNDARY LINE
EX. CONTOUR
PROPOSED GRADE
EX. CURB & GUTTER
PROP. CURB & GUTTER
PROP. LIGHTS
(400 WATT H. PRESSURE SODIUM FIXTURE MOUNTED ON EXISTING UTILITY POLE)
LANDSCAPE AREAS



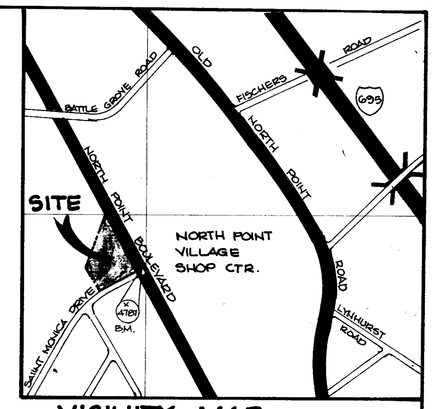

PLANTING DETAIL FOR TREES 6' - 1½" - 4" CALIPER

NOT TO SCALE




PLANTING DETAIL FOR EVERGREEN AND DECIDUOUS SHRUBS

NOT TO SCALE




VICINITY MAP

SCALE: 1" = 200'

BENCH MARK # X 4787 ELEVATION 22.931
DESCRIPTION: GALVANIZED SPIKE IN MAC WEST SIDE NORTH POINT BLVD & ST MONICA DRIVE

## ZONING HEARING REQUESTS

1. SPECIAL EXCEPTION UNDER SECTION 405.2B.5 TO PERMIT AN AUTOMOTIVE SERVICE STATION.
2. USE IN COMBINATION UNDER SECTION 405.4 D.5 TO PERMIT A USE IN COMBINATION WITH A FOOD STORE WITH LESS THAN 5000 SF IN RETAIL SALES AREA
3. VARIANCE TO SECTION 405.2B.5 TO PERMIT AN ACCESS TO SAINT MONICA DRIVE (COLLECTOR STREET).
4. VARIANCE TO SECTION 405.4A.1 TO PERMIT A TOTAL SITE AREA OF 18949 SF IN LIEU OF THE REQUIRED 26724 SF.
5. VARIANCE TO SECTION 413.2F TO PERMIT A SIGN WITH A TOTAL AREA OF 174 SF IN LIEU OF THE REQUIRED 100 SF.
6. VARIANCE TO SECTION 409.6A2a TO PERMIT 12 PARKING SPACES IN LIEU OF THE REQUIRED 15 SPACES.
7. VARIANCE TO SECTION 405.4A.2.a TO PERMIT A SIDE YARD SETBACK OF 15 FEET FROM THE STREET RIGHT OF WAY AND 55 FEET FROM THE CENTER LINE IN LIEU OF THE REQUIRED 35 FEET AND 60 FEET RESPECTFULLY.
8. VARIANCE TO SECTION 405.4A.3.a TO PERMIT A CURB TANGENT LENGTH BETWEEN AN ACCESS DRIVEWAY AND ANY CORNER OF 5 FEET AND A DISTANCE OF 4 FEET BETWEEN AN ACCESS DRIVEWAY AND A PROPERTY LINE IN LIEU OF THE REQUIRED 20 FEET AND 10 FEET RESPECTFULLY.

## LANDSCAPE REQUIREMENTS

1. (1) P.U. PER 40 LF OF ADJACENT ROAD W/A MIN 50% MINOR TREES = 375 LF ÷ 40 = 8.6 = 9 P.U.'S
2. PARKING LOTS W/ LESS THAN 15 SPACES EXEMPT FROM PROVIDING INTERIOR LANDSCAPE
3. CLASS 'D' SCREEN REQ'D BETWEEN PARKING & PUBLIC R.O.W. = 345 LF ÷ 15 = 23 P.U.'S
4. NO ADJACENT RESIDENTIAL USE
5. SCREEN DUMPSTER

TOTAL = 32 P.U.'S

## LANDSCAPE PROVIDED

1. 32.2 P.U.'S
   - 9 MAJOR DECIDUOUS = 9 P.U.'S
   - 4 EVERGREEN TREES = 2 P.U.'S
   - 106 SHRUBS = 21.2 P.U.'S
2. DUMPSTER TO BE SCREENED W/BOARD ON BOARD FENCE + EVERGREENS

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

SIGNATURE AND CERTIFICATION BLOCK

1. I certify that this Final Landscape Plan meets all requirements (check above appropriate):
   - ☒ Baltimore County Landscape Manual
   - ☐ Office of Planning Zoning CRG or Waiver No. _____
   - ☐ Special Exception/Hearing/Variance No. _____
   - ☐ Other: Approved Site Plan No. _____

JOHN ROHDE
Landscape Architect's Signature — L.A.'s Name (please print)
110 E. PENNSYLVANIA TOWSON, 21286 825-3885
Address — City — State — Zip — Phone

2. "I certify that I have reviewed this Final Landscape Plan, that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with those regulations and all applicable policy, guidelines and ordinances. I agree to implement this plan and certify to Baltimore County the implementation within ___ days."

JOHN KEMP
Owner's Signature — Owner's Name (please print)
CLOVERLAND FARMS DAIRY, INC.
Address — City — State — Phone
2200 NORTH MONROE ST., BALTIMORE, MD 21217

3. _____

## GENERAL NOTES

1. PUBLIC SEWER AND WATER ARE EXISTING, CONTRACTOR TO VERIFY LOCATION & DEPTH
2. CONTRACTOR TO VERIFY EXISTANCE OF ANY GAS LINES ON SITE CALL MISS UTILITY (800) 257-7777.
3. LANDSCAPE PLAN TO BE PROVIDED BY LANDSCAPE ARCHITECT.
4. LIGHTING TO BE ERECTED SO AS NOT TO:
   A - REFLECT INTO RESIDENTIAL AREA.
   B - INTERFACE WITH TRAFFIC.
   C - EXCEED 15 FEET IN HEIGHT.
5. ANY NEW PAVING TO BE A MINIMUM OF 5" BITUMINOUS CONCRETE SURFACE COURSE ON 7" CRUSHER RUN BASE.
6. CONTRACTOR TO PROVIDE SPRAY-CRETE TOPPING ON ALL PROPOSED EXTERIOR WALKWAYS.
7. ON SITE CURB & GUTTER TO BE STANDARD BALTO. CO. 7" C&G.
8. TOPO TAKEN FROM BALTO CO. POSITION SHEET 11 SE 2B.
9. DUMPSTER TO BE SCREENED WITH WITH 6' HIGH BOARD ON BOARD FENCE WITH METAL GATE WITH SLATS.
10. STANDARD STATE TYPE A CURB ON NORTH POINT BOULEVARD
11. EXISTING SERVICE STATION WAS A NON-CONFORMING USE AND HAS BEEN ABANDONED.
12. SEE 200 SCALE ZONING MAP 5 E 3G.
13. NO SCHOOL OR CHURCH WITHIN 300 FEET.
14. NOT IN A CRITICAL AREA.
15. ENTIRE SITE IS IN TYPE IIIA AND IS 94% IMPERV.
16. NO HAZARDOUS MATERIAL ON SITE TO OUR KNOWLEDGE.
17. NO WELL OR SEPTIC SYSTEM ON SITE.
18. STORM WATER MANAGEMENT WAIVED 12-27-91.
19. WATERSHED - 7.5 GUN DEVELOPED 45
20. CENSUS TRACT - 4524 7th COUNCILMANIC DISTRICT
21. [illegible]

## PETITIONER'S EXHIBIT 4

BALTIMORE COUNTY DEPT. OF PUBLIC WORKS LANDSCAPE PLAN APPROVED by E. Olson Hawks 2-12-93

## SITE DATA

ZONE - BL-CS-1
AREA - 0.435 ACRES ±
EXISTING USE - VACANT SERVICE STATION (TO BE REMOVED)
PROPOSED USE - ROYAL FARM STORE AND TWO FUEL ISLANDS WITH TWO DISPENCERS CAPABLE OF SERVING FOUR (4) CARS AT ONE TIME, WITH 4 STACKING SPACES EACH
TOTAL AREA REQUIRED - 4 x 1500 = 6000 SF (USE 15,000 SF MIN.)
COMBINATION USES - FOOD STORE SALES ROYAL FARM STORE
ADDITIONAL SQUARE FOOTAGE FACTOR - 4 x 2931 = 11724 SF
TOTAL AREA REQUIRED - 15,000 + 11724 = 26724 SF
TOTAL AREA TRACT - 0.435 AC = 18949 SF.
PARKING REQUIRED - 1 SPACE FOR EVERY 200 SF OF FLOOR SPACE 2931 ÷ 200 = 15 SPACES
PARKING PROVIDED - 12 SPACES INCLUDING 1 HANDICAP TYPICAL SPACE - 8.5' x 18' HANDICAP - 13' x 18'.

NOTES:

1. Contractor to notify Miss Utility a minimum of 72 hours prior to digging. Telephone: 1-800-257-7777
2. The Landscape Architect is to be notified 48 hours before planting begins. The location of all plant material is to be approved in the field by the Landscape Architect.
3. This plan is to be used for planting only.
4. No tree or shrub planting pits are to be left open or unattended.

MICROFILMED

DPW # 12302 Z

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
656 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825--8120

HUMAN & ROHDE, INC.
Landscape Architects
110 E. Pennsylvania Avenue
Towson, Maryland 21286
(410) 825-3885

DEVELOPER
CLOVERLAND FARMS DAIRY, INC.
2200 NORTH MONROE STREET
BALTIMORE, MD. 21217
(301) 669-2222

| NO. | REVISION | DATE |
|---|---|---|
| 1 | REV. SETBACK, ENTRANCE & ISLANDS | 12/28/92 |
| 2 | REV. ISLANDS | 1/11/93 |
| 3 | REV. PER ZONING COMMENTS | 1/14/93 |

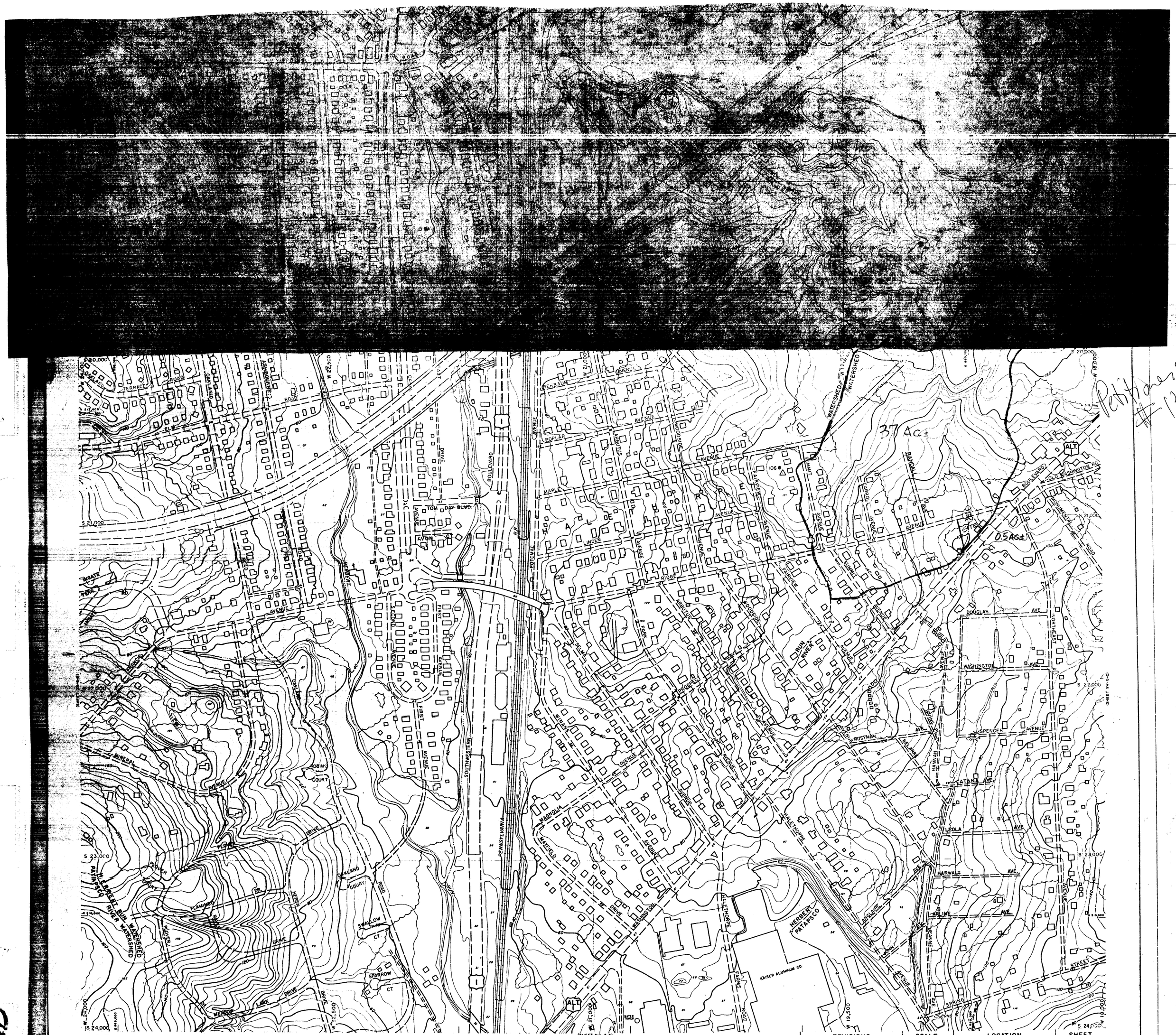
DEVELOPMENT PLAN / LANDSCAPE PLAN

# ROYAL FARMS STORE

4015 NORTH POINT BOULEVARD
SECTION 2 LOT 3 NORTH POINT VILLAGE 62/143
15th ELECTION DISTRICT C-7 BALTIMORE COUNTY MARYLAND
SCALE: 1" = 20' DATE: OCTOBER 1992, FEBRUARY 1993

PN7143

DRAWING NUMBER
SW-6D




Pathways #13

G-SW
C-NW

# PHOTOGRAMMETRIC MAP OF
# BALTIMORE COUNTY METROPOLITAN AREA

| REVISIONS | | |
|---|---|---|
| | BY | DATE |
| | TEO | 2/20/85 |

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

SCALE: 1" = 200'

DATE OF PHOTOGRAPHY: APRIL 1953

LOCATION: HALETHORPE

SHEET: S.W. 6-D

IN THE MATTER OF THE APPLICATION OF CLOVERLAND FARMS DAIRY, INC. FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST SIDE OF WASHINGTON BOULEVARD AT THE SOUTHEAST SIDE RIDGE AVENUE (4308 WASHINGTON BOULEVARD) 13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT * BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 97-11-XA

* * * * * * * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County and involves a request by the Petitioners for a special exception under Section 405.4.E.1 of the Baltimore County Zoning Regulations (BCZR) to permit installation of two fuel pumps to be operational in connection with an existing Royal Farms convenience store. The special exception request is also accompanied by a request for variance relief under Section 405.4.A.3.D and Section 409.6 of the BCZR to allow 12 parking spaces in lieu of the required 19 spaces; and from Section 405.4.A.1 and Section 405.4.E.1 to permit a total site area of 21,170 sq. ft. in lieu of the maximum required 23,631 sq. ft., and also a waiver of the requirement to provide public restrooms on the site plan.

Counsel for the Appellants /Protestants was Robert E. Greenwalt, Esquire, and Counsel for the Petitioner was Robert A. Hoffman, Esquire. Subsequent to the hearing relative to these matters, a public deliberation was held on Wednesday, June 18, 1997 at 9:30 a.m., due notice of which was provided to all interested parties.

The subject property is triangular in shape at the angle of



Ridge Avenue and Washington Boulevard. It is currently zoned B.R. (Business Roadside) and has an A.S. (Automotive Service) district classification.

On the day of the hearing, prior to presentation of the Petitioner's case-in-chief, Mr. Hoffman moved for dismissal on the basis that the Appellants /Protestants had not complied with Rule 3 "Appeals" of this Board's Rules of Practice and Procedure. Rule 3 states: "No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal." The Board took the Motion under advisement with the hearing going forward. The Board acknowledges that, while full compliance with Rule 3 was not adhered to by the Appellants, nevertheless, from a procedural standpoint, all interested parties in the proceedings had been timely notified, and while the technical aspects of Rule 3 had not been complied with, procedurally, there had been no prejudice to the Petitioner.

Rule 2 of the Board's Rules of Procedure state "No hearing shall be conducted without at least ten (10) days' notice to all parties of record or their counsel of record, unless agreed to by all such parties or their counsel of record." The Board's file clearly demonstrates that Mr. Greenwalt had written to Arnold Jablon on October 25, 1996 filing the appeal from the Deputy Zoning Commissioner's ruling on September 27, 1996, on behalf of the Halethorpe Improvement Association and Joseph P. Kinsley, referencing Case No. 97-11-XA and request for variances accompanied by cash receipt for $460.00 from Mr. Greenwalt. On October 29,



1996, Mr. Jablon forwarded a letter to the Board referencing the Petition for Special Exception, two variances, and noting the timely appeal on the part of the Appellants. In 1996, this Board had a case involving the approval of a development plan, wherein a "Motion to Dismiss" was granted, where the Appellants were not properly named in accordance with Rule 3(a), nor were any addresses furnished to the Board specifically until the actual date of the hearing, and then performed orally by Counsel for the Appellant. That Notice of Appeal listed the Appellants as "contiguous and adjacent landowners" in addition to not enumerating the full names and addresses of any protestants. However, that particular case involved a development plan under Section 26-209 of the Baltimore County Code, which is quite specific involving the timeframe for appeals from final action on a development plan; and the time period in which the Board is constrained to hear such cases and render a final order. In that case, the Board granted the Motion because the Appellants in the matter were not known within the prescribed filing period under Section 26-209. Again, it is quite important to note that, in that case, no individual appellant was named in either the notice or petition. Simply stating "appellants contiguous and adjacent landowners of Caves Farms Estates" coupled with the critical time element involved in a development review case, and what was deemed to be prejudicial to the Petitioner, the Board properly granted the "Motion to Dismiss" without even proceeding with the case-in-chief being presented. However, in the instant case, there was a hearing before the Deputy Zoning



Commissioner; and Mr. Joseph Kinsley appeared as a representative of the Halethorpe Improvement Association. The Board's Notice of March 17, 1997 indicates the case assigned for hearing on May 7, 1997 at 10:00 a.m. and clearly identifies Robert B. Greenwalt, Esquire, as representing the Halethorpe Improvement Association, and Joseph P. Kinsley and the Halethorpe Improvement Association as Protestants /Appellants. Rule 1-201 of the Maryland Rules of Procedure indicates that:

> "When a rule, by the word 'shall' or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of noncompliance in light of the totality of the circumstances and the purpose of the rule." (Emphasis added.)

The Board of Appeals, constituting an administrative body, is not bound by the strict rules of evidence of the law court. In Hyson v. Montgomery County, 217 A.2d 578, the Court of Appeals stated that "such bodies are not bound by rules of evidence, provided such agencies observe basic rules of fairness to parties appearing before them." This Board recognizes that Maryland courts have consistently upheld the sufficiency of notices of appeal, where the opposing party has had constructive or actual notice of the appeal, and there has been no prejudice, even though technically deficient (Mclay v. Maryland Assemblies, Inc., 269 Md. 465, 477, 306 A.2d 524 (1973). It is well-settled law in Maryland that, where there has been compliance with the substance of the requirements of statute or rules by one party and the other party has not been prejudiced, technical irregularities cannot be the basis for depriving persons



of an opportunity to assert their legal rights. (Mclay, 269 Md. 476-477) The purpose of the Board's rule therefore must be examined in light of the total circumstances surrounding its violation in order to determine the appropriate sanction. Obviously, the function of requiring the stating of names and addresses of appellants is to provide notice to the opposing side concerning the persons appealing. However, based on the prior hearing and notices sent forth by the Board, the Petitioner had sufficient notice of who was appealing the decision of the Deputy Zoning Commissioner; and was not prejudiced in any way by the omission of the addresses. If both the names and addresses had been omitted from the notice of appeal, then the Board would give serious consideration to granting the Motion to Dismiss. However, following the Court of Appeals ruling in The Town of Somerset v. Montgomery County Board of Appeals, 245 Md. 52, the Board believes that where there is compliance with the substance of the requirement of the statute or rules, if any other party has not been prejudiced, technical irregularities cannot be made the basis for depriving persons of the opportunity to assert their legal rights. Accordingly, therefore, the Board unanimously agreed to deny the Petitioner's Motion to Dismiss.

The Petitioner offered several witnesses in support of the special exception request and other relief requested. Mr. John M. Kemp, Vice President of Cloverland Farms Dairy, Inc., testified and stated that the firm operated 72 Royal Farm Stores throughout Maryland and Delaware. He related that a significant trend was



present among currently existing service stations to convert to a "mini-mart" status where fuel service and minimum food purchases could be made; and that Royal Farm Stores was attempting to add limited fuel service to those stores already existing where zoning was possible. He stated that 29 other Royal Farm Stores also had added fuel pumps; and that the company's goal was simply to be competitive and attempt to maintain the existing customer base. He opined that the limited number of pumps would serve only as a convenience to their presently existing customer base; and following the patterns observed at other Royal Farm Stores, most customers would simply park at the pump and then proceed inside for a short time to obtain snacks and limited food purchases, then simply wait at the pump till their tanks were full.

He stated that adding the fuel pumps at this location would improve the traffic flow pattern. He indicated that there would be no increase in the number of employees at this particular location, and that the store operated 24 hours a day with roughly three to four employees on duty at all times. He stated that convenience store deliveries were typically made between 7:30 a.m. and 11:30 a.m., and between 1:30 p.m. and 4:00 p.m., and that if the special exception were granted, efforts would be made on the part of management to keep the deliveries out of the peak hours. He further testified that, if the special exception were granted by the Board, they would be willing to live with any restrictions placed upon same and would provide parking for deliveries on the Washington Boulevard side, and also would place restrictions on



delivery hours, and would also cooperate in any way possible so as not to interfere with any residences on Ridge Avenue. He additionally testified that Petitioner was willing to restrict fuel deliveries to evening hours, the store would not be as busy as during peak times, in the late evening hours, and cooler air at this time would actually permit the company to pump more gas in the tanks because of the cooler weather, and he suggested deliveries could be made between 9:00 p.m. and 11:00 p.m. He also discussed additional landscaping and screening that would be provided by the Petitioner on Washington Boulevard and Ridge Avenue. Also testified to by Mr. Kemp was the general character of the area which he described Ridge Avenue as being a well-maintained residential area; Washington Boulevard being coupled with a number of commercial establishments and the proximity of a nearby Exxon station close to I-695. He indicated that his company had purchased this land area between 10 and 13 years ago, and it had previously been a bar; and in his opinion, the present facility enhanced the attractiveness of the general area.

Mr. Kemp also touched on criminal activity in the area and indicated that some of the Royal Farm Stores had had problems but those stores which did have gas pumping facilities also had much less criminal activity, basically due to the canopy lighting over the pumps and also the fact that, in today's modern society, many cars pulling up are equipped with a car or mobile phone which discourages criminal activity.

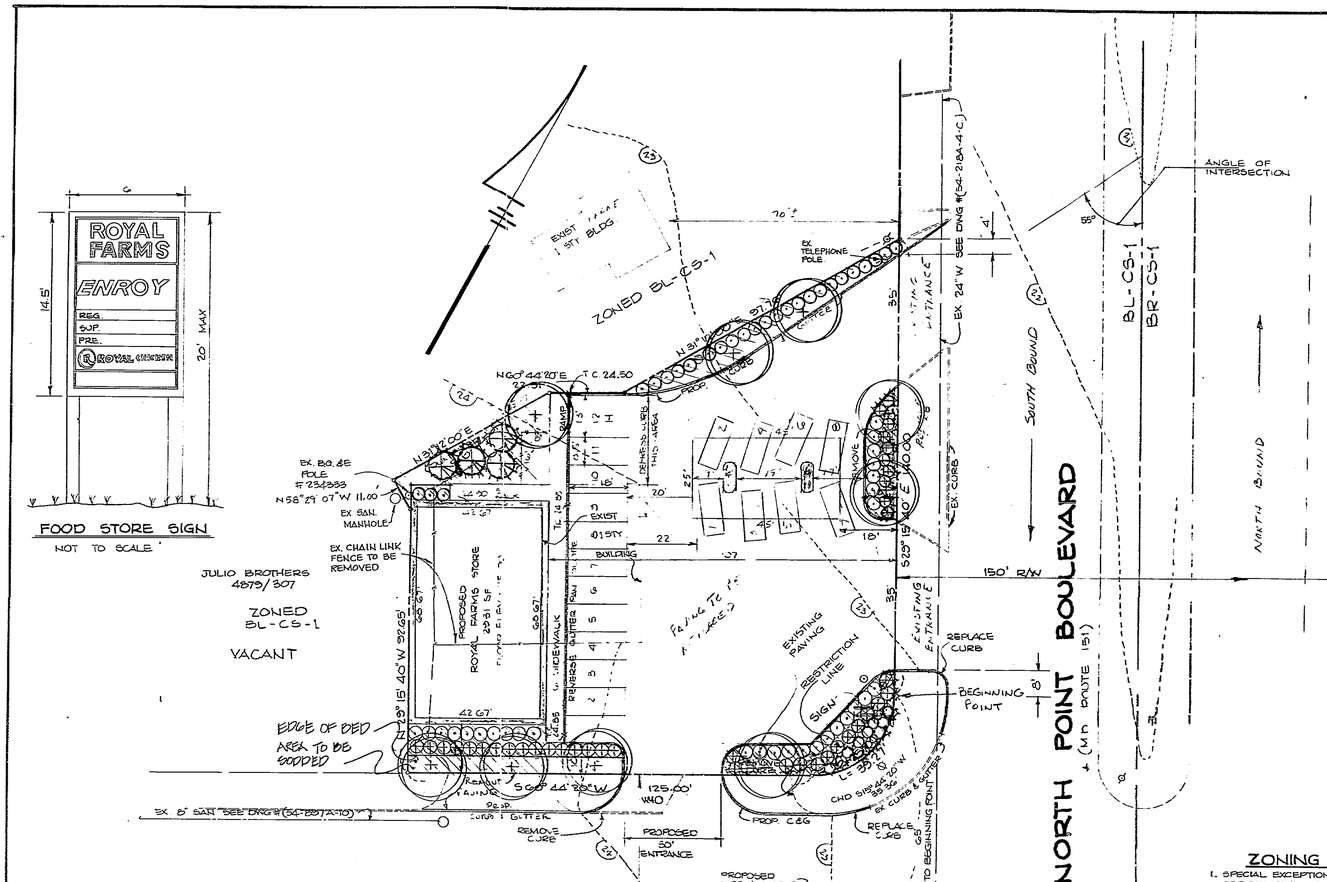
He indicated that the addition of the pumps and granting of



other relief would improve the general public welfare, safety and health, that the parking being provided was adequate, and that the fuel service island would actually help traffic congestion in the early morning, with deliveries restricted to the rear. Mr. Kemp also reviewed in detail the sales area (Petitioner's Exhibit No. 3) shown in yellow for the convenience store which excluded the service area, and stated that when the facility was built 10 years ago, the store did not anticipate gas pumps. He indicated that the Royal Farm Stores management had a significant investment in the property and also intended to spend significant funds relative to improved landscaping (page 31-32, transcript).

On cross-examination by Mr. Greenwalt, Mr. Kemp explained that his duties with the company entailed about 30 percent in their dairy operations and 70 percent in connection with their store operations involving personnel, real estate operations, strategic planning, etc. He stated that he frequently visited the stores and personally inspected each of the stores between four and five times a year, some more and some less, depending on the situation. He also responded to Mr. Greenwalt's questioning concerning Petitioner's Exhibit No. 2, the proposed site plan, the additional parking which was being provided in the rear with entry from the Robinson Lighting property, and also the landscaping which would be provided on the site. On cross-examination, considerable time was spent on the additional criminal activities which might be experienced if the special exception and other relief were granted, and Mr. Kemp stated that it was a primary consideration for the

FOOD STORE SIGN
NOT TO SCALE

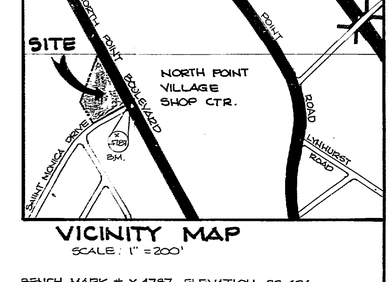



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| KEY | QUANTITY | BOTANICAL NAME / COMMON NAME | SIZE | CONDITION | REMARKS |
|---|---|---|---|---|---|
| (+) | 9 | ZELKOVA SERRATA GREEN VASE / GREEN VASE ZELKOVA | 2-2½" CAL | B & B | |
| ✲ | 4 | CUPRESSOCYPARIS LEYLANDI / LEYLAND CYPRESS | 5-6' HT | B & B | SPACE 8-9' O.C. |
| ⊙ | 55 | ILEX GLABRA COMPACTA / COMPACT INKBERRY | 18-24" | B & B | SPACE 4' O.C. |
| ✲ | 40 | JUNIPERUS HORIZONTALIS PLUMOSA / ANDORRA JUNIPER | 15-18" | CONTAINER | SPACE 4' O.C. |
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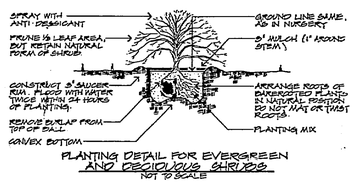
## LEGEND

SITE BOUNDARY LINE
EX. CONTOUR
PROPOSED GRADE
EX. CURB & GUTTER
PROP. CURB & GUTTER
PROP. LIGHTS




PLANTING DETAIL FOR TREES 6' - 1½" - 4" CALIPER
NOT TO SCALE

ZONED
ML-CS-1




PLANTING DETAIL FOR EVERGREEN AND DECIDUOUS SHRUBS
NOT TO SCALE




VICINITY MAP
SCALE: 1" = 200'

BENCH MARK # X4767 ELEVATION 22.431
DESCRIPTION: GALVANIZED SPIKE IN MAG WEST SIDE NORTH POINT BLVD & ST MONICA DRIVE

## GENERAL NOTES

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   B - INTERFACE WITH TRAFFIC
   C - EXCEED 15 FEET IN HEIGHT.
5. ANY NEW PAVING TO BE A MINIMUM OF 5" BITUMINOUS CONCRETE SURFACE COURSE ON 7" CRUSHER RUN BASE.
6. CONTRACTOR TO PROVIDE SPRAY-CRETE TOPPING ON ALL PROPOSED EXTERIOR WALKWAYS.
7. ON SITE CURB & GUTTER TO BE STANDARD BALTO. CO. 7" C&G.
8. TOPO TAKEN FROM BALTO CO FOSTION SHEET 11 SE 2B.
9. DUMPSTER TO BE SCREENED WITH WITH 6' HIGH BOARD ON BOARD FENCE WITH METAL GATE WITH SLATS.
10. STANDARD STATE TYPE A CURB ON NORTH POINT BOULEVARD
11. EXISTING SERVICE STATION WAS A NON-CONFORMING USE AND HAS BEEN ABANDONED.
12. SEE 200 SCALE ZONING MAP 5 E 3G.
13. NO SCHOOL OR CHURCH WITHIN 300 FEET.
14. NOT IN A CRITICAL AREA.
15. EXISTING SITE IS [illegible] OF MAP 12 94% IMPV.
16. NO [illegible] ON SITE TO BE REMOVED.
17. NO WELL OR SEPTIC SYSTEM ON SITE.
18. STORM WATER MANAGEMENT WAIVED 11-21-89.
19. WATERSHED #5 - PUBLIC SEWERSHED: 45
20. TRACT - 4524 7th Councilmanic District
21. [illegible] ZONED ML-CS-1 AND

## ZONING HEARING REQUESTS

1. SPECIAL EXCEPTION UNDER SECTION 405.2B5 TO PERMIT AN AUTOMOTIVE SERVICE STATION.
2. USE IN COMBINATION UNDER SECTION 405.4 D.6 TO PERMIT A USE IN COMBINATION WITH A FOOD STORE WITH LESS THAN 5000 SF IN RETAIL SALES AREA
3. VARIANCE TO SECTION 405.2B.5 TO PERMIT AN ACCESS TO SAINT MONICA DRIVE (COLLECTOR STREET)
4. VARIANCE TO SECTION 405.4A.1 TO PERMIT A TOTAL SITE AREA OF 18949 SF IN LIEU OF THE REQUIRED 20724 SF
5. VARIANCE TO SECTION 413.2F TO PERMIT A SIGN WITH A TOTAL AREA OF 174 SF IN LIEU OF THE REQUIRED 100 SF.
6. VARIANCE TO SECTION 409.6A.2.a TO PERMIT 12 PARKING SPACES IN LIEU OF THE REQUIRED 15 SPACES.
7. VARIANCE TO SECTION 405.4A.2.a TO PERMIT A SIDE YARD SETBACK OF 15 FEET FROM THE STREET RIGHT OF WAY AND 55 FEET FROM THE CENTER LINE IN LIEU OF THE REQUIRED 35 FEET AND 60 FEET RESPECTFULLY.
8. VARIANCE TO SECTION 405.4A.3.a TO PERMIT A CURB TANGENT LENGTH BETWEEN AN ACCESS DRIVEWAY AND ANY CORNER OF 8 FEET AND A DISTANCE OF 4 FEET BETWEEN AN ACCESS DRIVEWAY AND A PROPERTY LINE IN LIEU OF THE REQUIRED 20 FEET AND 10 FEET RESPECTFULLY.

## LANDSCAPE REQUIREMENTS

1. (1) PU PER 40 LF OF ARTERIAL ROAD W/A MIN 50% MAJOR TREES = 345LF ÷ 40 = 8.6 = 9 PU'S
2. PARKING LOTS W/ LESS THAN 15 SPACES EXEMPT FROM PROVIDING INTERIOR LANDSCAPE
3. CLASS 'B' SCREEN REQ'D BETWEEN PARKING & PUBLIC R.O.W. = 345 LF ÷ 15 = 23 PU'S
4. NO ARTERIAL RESIDENTIAL USE
5. SCREEN DUMPSTER

TOTAL = 32 PU'S

## LANDSCAPE PROVIDED

1. 32.2 PU'S
   9 MAJOR DECIDUOUS = 9 PU'S
   4 EVERGREEN TREES = 2 PU'S
   106 SHRUBS = 21.2 PU'S
2. DUMPSTER TO BE SCREENED W/BOARD ON BOARD FENCE + EVERGREENS

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING

SIGNATURE AND CERTIFICATION BLOCK

1. I certify that this Final Landscape Plan meets all requirements (check where appropriate):
   - Baltimore County Landscape Manual
   - Office of Planning Zoning CRG or Waiver No. _____
   - Special Hearing/Hearing/Variance No. _____
   - Approved Site Plan No. _____

JOHN KEMP
Landscape Architect's Signature — Ltd.'s Name (please print)
110 E. PENNSYLVANIA AVENUE, TOWSON, 21286 — 825-3885
Address — City — State — Zip — Phone

2. "I certify that I have reviewed this Final Landscape Plan, that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to implement this plan and certify to Baltimore County its implementation within

JOHN KEMP
Owner's Signature — Date — Owner's Name (please print)
CLOVERLAND FARMS DAIRY, INC.
Address
2200 NORTH MONROE ST., BALTIMORE, MD 21217
City — State — Zip
REVISION BY:

3.

PETITIONER'S EXHIBIT 4

BALTIMORE COUNTY
DEPT. OF PUBLIC WORKS
LANDSCAPE PLAN APPROVED
by E. Chang Hsueh
2-1-93

## SITE DATA

ZONE - BL-CS-1
AREA - 0.435 ACRES ±
EXISTING USE - VACANT SERVICE STATION (TO BE REMOVED)
PROPOSED USE - ROYAL FARM STORE AND TWO FUEL ISLANDS WITH TWO DISPENCERS CAPABLE OF SERVING TWO (2) CARS AT ONE TIME. WITH 4 STACKING SPACES
TOTAL AREA REQUIRED - 4 x 3500 = 14000 SF (USE 15,000 SF MIN.)
COMBINATION USES - FOOD STORE SALES
ROYAL FARM STORE
ADDITIONAL SQUARE FOOTAGE FACTOR - 4 x 2831 = 11324 SF
TOTAL AREA REQUIRED - 15,000 + 724 = 26724 SF
TOTAL AREA TRACT - 0.435 AC = 18949 SF
PARKING REQUIRED - 1 SPACE FOR EVERY 200 SF OF FLOOR SPACE 2831 ÷ 200 = 15 SPACES
PARKING PROVIDED - 12 SPACES INCLUDING 1 HANDICAP
TYPICAL SPACE - 8.5' x 18'
HANDICAP - 15' x 18'.

NOTES:

1. Contractor to notify Miss Utility a minimum of 72 hours prior to digging. Telephone: 1-800-257-7777
2. The Landscape Architect is to be notified 48 hours before planting begins. The location of all plant material is to be approved in the field by the Landscape Architect.
3. This plan is to be used for planting only.
4. No tree or shrub planting pits are to be left open or unattended.

DPW # 122302 Z


GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
656 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

HUMAN & ROHDE, INC.
Landscape Architects
110 E. Pennsylvania Avenue
Towson, Maryland 21286
(410) 825-3885

DEVELOPER
CLOVERLAND FARMS DAIRY, INC.
2200 NORTH MONROE STREET
BALTIMORE, MD. 21217
(301) 669-2222


| NO. | REVISION | DATE |
|---|---|---|
| 1 | REV SETBACK, ENTRANCE & ISLANDS | 12/16/92 |
| 2 | REV ISLANDS | 1/19/93 |
| 3 | REV PER ZONING COMMENTS | 1/29/93 |

DEVELOPMENT PLAN / LANDSCAPE PLAN

# ROYAL FARMS STORE

4015 NORTH POINT BOULEVARD
SECTION 2 LOT 3 NORTH POINT VILLAGE 62/143
15TH ELECTION DISTRICT BALTIMORE COUNTY MARYLAND

SCALE 1" = 20'
DATE OCTOBER 1992
FEBRUARY 1993

1-29-93

DRAWING NUMBER

Petitioner's #13

37.4c±

.054c±

G-SW
C-NW

# PHOTOGRAMMETRIC MAP OF
# BALTIMORE COUNTY METROPOLITAN AREA

| REVISIONS | | | SCALE | LOCATION | SHEET |
|---|---|---|---|---|---|
| | BY | DATE | 1" = 200' | HALETHORPE | S.W. 6-D |
| | TG | 2/20/85 | DATE OF PHOTOGRAPHY APRIL 1953 | | |

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

Royal Farm Store management to make all their stores safe for both their customers and their employees. Also, pursued during the cross-examination were drainage problems in the rear and that access to the rear property to accommodate the additional property would be through the Robinson Lighting property, and that such permission, while not yet obtained, was very close to being secured. Mr. Kemp stated that, while there would not be any signage for this additional access, it would basically be reserved for parking for their employees, and vendors would be notified that deliveries would have to be made in this area and that through custom and usage, regular customers would always know the availability of the additional parking. Mr. Kemp stated that they would prefer not to have public restrooms, but rather limit them just for their employees because it had been his experience that public restrooms in such facilities could often be areas for loitering and drugs; and they would prefer not to have restrooms available in the presently existing building, but space was available to accommodate the public if required by the Board. On cross-examination, Mr. Kemp also related all efforts made concerning gas spillage and stated that they were providing over and above the State and Federal regulations, installing double-wall tanks and pipes along with electronic monitoring at all times, and that the Royal Farms did not consider this to be a significant problem area.

Mr. Peter Ratcliffe, an architect for Donald Ratcliffe & Associates, with 5 years experience, testified on behalf of the



Petitioner that he had prepared the floorplan document (Petitioner's Exhibit No. 3) and that this conformed to the existing store area. He stated he had not yet passed the architectural boards but was offered as someone capable of drafting these drawings.

Mr. James Singleton of the Maryland Pump Tank and Electric Company also testified. He has 10 years experience as installation supervisor in connection with retail gas sales and underground tanks. He stated that his company essentially installed the majority of such tanks for Royal Farms and had performed at least 10 activities of a similar nature to date. He testified at length as to the type of installation, the double-wall tank system, the steel within fiberglass containers, and of the electronic monitoring and alarm systems which existed at Royal Farm Stores with electronic FAX modem which was programmed to send an alarm to a centralized system, and that the equipment that was proposed for this site exceeded that which was required by Federal, State and County requirements. He further stated that the State only requires single-wall systems.

On cross-examination by Mr. Greenwalt, he further explained how tanks would be installed and also the measures being taken to minimize any spillage.

Mr. Jack Milliron, General Manager with Dunbar Alarm Systems, also testified. He opined that his company services all of Royal Farm locations, and that he personally oversees all Dunbar services. He indicated that he oversees the installation of alarms



on the premises, that they are on a 24-hour basis with "hold-up" buttons, also the various motion detectors, door alarms, and video locations in the Royal Farm Stores. He indicated that when an alarm was triggered, which are kept on a computer automatically, the operator calls the police immediately to respond to this situation. He also opined concerning the Royal Farm alarm history and indicated that 22 have gas pumps, and there have been 9 alarms; and as to the 51 without the gas pumps, there have been 96 alarms sounded. He further indicated that because of the alarm systems installed, it was his opinion that the safety has improved tremendously all the operations.

Mr. Kenneth Schmid, with the Traffic Concepts Company, also testified at length, was accepted by both sides as an expert in traffic engineering, and provided the Board with a detailed traffic analysis, an assessment of the vehicle impact on the proposed use, and the subject site. A quote "trip generation manual" was presented to the Board as Petitioner's Exhibit No. 5, and he estimated that there would probably be roughly a 15-percent increase with the addition of the gas pumps, that could possibly cause a minimum number of new trips, possibly five or more, and that based on his analysis, the addition of the pumps would not affect the level of traffic in the area. He further stated that he had personally observed the traffic flow in the area of the store between 7:00 and 8:15 a.m. and that there was considerable activity in the morning on the day of his observation. He stated that it was his recommendation that they find an alternate delivery site in



place of the front of the store or restrict times of delivery, and specifically recommended rear parking. He indicated that if seven spots were put in the rear of the building along with restrictions, no significant traffic problems would then exist at this location. He also stated that this store appears to have regular customers, and that they would become familiar with the new parking areas and would utilize them extensively.

On cross-examination, the witness indicated that at the time of his observation, all the parking spaces were not filled up, that cars continually came into the site, probably eight or ten at a time, that the site presently provided 15 spaces, that the rear parking was critical to relieve any parking problem. He also stated that the pumps that would be installed are actually parking places even though the building site was not allowed to construe them as such. Additionally, he testified to the character of the area being basically commercial and industrial in nature, that the residential section being predominant along Ridge Avenue. He also testified to the change in 1996 in which many properties were down-zoned from commercial to residential only along Washington Boulevard, as proposed by the Planning Department. However, existing commercial uses were retained, and the subject site was not affected, and retained what is now called an "A.S." zoning. The witness also stated the calculation of sales area specifically contained within Petitioner's Exhibit No. 3 and according to these calculations, no variance was needed. However, the witness did go on to testify as to what he considered to be the uniqueness of the



property, that is the geometry of the road network; the triangular shape of the area constrained by two major roadways; the right-of-way which had previously been taken by the State Highway Administration, and as a practical application, the green spaces which exist are actually part of the triangle which is part of the property though not owned by Royal Farms. He also testified as to the existing structure and to the fact that practical difficulty, if a variance was required, would result in the "chopping off" of the existing building. He stated that, at least upon his review of the site plan and proposed use, there would be no adverse impact on the neighborhood, and the building would stay, even if the addition of the pumps was not granted by the Board. The witness also testified concerning the fact that all safety concerns had been addressed by the proposed site design. The witness further testified that there was no particular problem relative to the overcrowding of land, since the Petitioner was utilizing the existing paved area and that the recommended site plan would actually improve traffic circulation both going and coming into the facility, accompanied by the additional rear parking. There would also be no impact relative to schools, parks, etc., since this was a residential facility with the infrastructure already existing and, since the building was already in existence, there were no particular problems relative to light and air conditions. The witness further testified that the suggested site plan was in harmony with the Master Plan and that the County Council recognized this when they maintained the "A.S." zoning designation.



Mr. Nicholas Brader, a licensed professional engineer, also testified in support of the Petitioner's request. He stated that he had prepared Petitioner's Exhibit No. 1, the site plan, and that he had further examined the drain and storage system from Ridge Avenue through the site with Petitioner's Exhibit No. 13 showing the drainage area on a topographical map. He stated that the addition of the seven parking spaces in the rear of the building which consisted of roughly 3,000 sq. ft. of new impervious area would essentially have no adverse impact on the site and that, in his opinion, the proposed use would result in a less severe impact than the original use as a tavern. That concluded the Petitioner's case-in-chief.

Mr. William Huey, of the Baltimore County Office of Planning, who is a community planner, indicated that he was involved in the 1992 map issues, and in the downzoning of a considerable area of Washington Boulevard, and that in the process of rezoning, the Office of Planning had looked at Washington Boulevard with about 18 acres involved, much of Washington Boulevard was residential. However, in making zoning changes, it was never intended to take away the current legal uses. The zoning on this particular site was not changed, but much of the zoning along Washington Boulevard was changed in an effort to lessen development for reasons of flooding problems. The major thrust of his testimony was that the subject site zoning was not changed, and that the comprehensive review of the Halethorpe area and goals was not to have Washington Boulevard "stripped out" and indeed to lessen development, because



of what were perceived to be severe flooding conditions in that area. However, the subject site's zoning was not changed.

Mr. Joseph Keach, 1711 Selma Avenue, Halethorpe, testified on behalf of the Halethorpe Improvement Association. He stated that he was the zoning chairman and was a long-time resident of the area. He stated that the improvement association had voted unanimously to support the staff's recommendations concerning this particular area. The Appellant submitted a number of photographs (Appellant's Exhibit No. 1) into evidence which basically illustrated how illegal Pepsi tractor/trailers were parked on Ridge Avenue and that the same truck took up a whole lane of traffic on that street. Additional photographs indicated cars parked on Ridge Avenue illegally where there existed three "No Parking" signs and also deliveries being made on Route 1 early on Saturday morning, illegally. Mr. Keach also opined relative to what he perceived to be a bad crime situation and an unanswered letter on the part of the Petitioner as to his concerns made in April 1996 relative to security because of robberies. He stated that he no longer uses this particular Royal Farm Store because of parking problems and that, in his opinion, the situation was a "nightmare" because there was not adequate parking, and a number of customers parked on the premises with rather large vehicles which took up more than one parking spot, and cars were frequently parked illegally along Ridge Avenue. In his opinion, spaces in the rear would be taken over by customers and the delivery problem would not be addressed by the addition of these parking spaces, and if the special exception



request was granted, it would simply aggravate an existing problem.

Mr. Joseph P. Kinsley, President of the Halethorpe Improvement Association, also testified. He indicated that the improvement association represented 190 homes in the immediate area of the Royal Farm Store, consisting of 385 individuals. He also stated that he resided at 1519 Woodside Avenue, which was about four to five blocks from the site, and that he resided there for approximately 34 years. He submitted for the Board's consideration a petition consisting of 450 signatures, 65 of which were residents along Ridge Avenue, stating opposition to the special exception which was admitted by the Board for the weight which its members would consider in this matter. He again related what he considered to be traffic, safety and crime issues in connection with the special exception request, and also his personal observations concerning vehicle parking on Ridge Avenue illegally on a regular basis.

Mr. Donald Hawkins, 1919 Woodside Avenue, also testified. He is president of the Halethorpe Civic League, which represents 208 families in the area, and he resides approximately four blocks away from the site. He also submitted additional petitions requesting that the Board deny the special exception and related similar problems with the parking, particularly in the early morning hours, difficulty in coming and going to the site and also what he personally had observed as being illegal parking on both Ridge Avenue and Washington Boulevard. He also related what the association considered to be drainage problems in the Halethorpe




G-SW
C-NW

# 1996 ZONING MAP

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

| SCALE | LOCATION | SHEET |
|---|---|---|
| 1" = 200'± | HALETHORPE | S.W. 6-D |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | |




G - SW
C - NW

# 1992 ZONING MAP

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 103-92, 104-92, 105-92, [illegible]

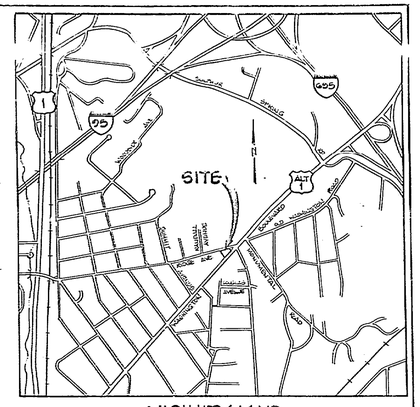
William E. Howard, Jr.
Chairman, County Council.

| SCALE | LOCATION | SHEET |
|---|---|---|
| 1" = 200' | HALETHORPE | S.W. 6-D |
| DATE OF PHOTOGRAPHY JANUARY 1986 | | |

Petitioners #1

## GENERAL NOTES

1. Stormwater management is exempt (less than 5,000 S.F. of additional paving).
2. All signs to be in accordance with B.C.Z.R.
3. Site will comply with section 405.4.A.2.C. (B.C.Z.R.
4. Any underground fuel tanks to be installed with local, state & federal regulations.
5. Final landscape plan to be approved by Baltimore County.
6. The site shall be made to comply with all applicable sections of the Fire Prevention Code prior to occupancy or beginning operation.
7. The buildings and structures existing or proposed shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code" 1991 Edition prior to occupancy.
8. There are no abandoned gas stations within one mile of the site or 2 abandoned stations within one mile of the site.
9. All lighting that is to be relocated will be positioned so as not to reflect into residential areas or interfere with traffic.




VICINITY MAP
SCALE: 1"=1000'

LEGEND

| | |
|---|---|
| PROPERTY LINE | |
| EX. CURB & GUTTER | |
| PROP. CURB & GUTTER | |
| EX. FIRE HYDRANT | |
| EX. WATER | W |
| EX. SEWER | |
| EX. STORM DRAIN | |
| EX. GAS | |
| EX. B.G.E. E POLE | |
| EX. ROAD RIGHT-OF-WAY | |
| ZONING LINE | |
| EX. TRAFFIC LIGHT | |
| EX. PARKING LOT LIGHT | |

## SITE DATA

| | |
|---|---|
| Site Area | 0.486 Ac.± |
| Existing Zoning | BR-CS-1 |
| Existing Use | Convenience Store |
| Proposed Use | Convenience Store w / Fuel Pumps |
| Deed Reference | 7649/241 & 7841/037 |
| Tax Account Number | 13-1301540290 |
| Ancillary Uses | Minor ancillary uses as permitted in Section 405 of the B.Z.C.R. (No additional square footage required) |
| Existing Building Floor Area: | |
| Total | 2877 S.F. |
| Sales Floor Area | 2158 S.F. |
| Floor Area Ratio | 2877 S.F./21,170 S.F.=0.14 (2.0 permitted) |
| Existing Building Height | 14'± |

AREA REQUIRED FOR COMBINATION USE

| | |
|---|---|
| 4 Servicing Spaces x 1500 S.F. | = 6,000 S.F. (Use 15,000 S.F.) |
| Additional Site Area Factor: | 4 x 2158 = 8632 |
| Total Site Area Required: | 23,631 S.F. |
| Total Site Area Provided: | 21,170 S.F. |
| Area of Special Exception: | 21,170 S.F. (0.486 Ac.) |

PARKING SPACES

Fuel Service w/Combination Use:
2877 @ 5/1000 = 15 P.S
+ 3 for maximum shift
+ 1 for air
= 19 P.S
Total Required: 19 P.S
Total Provided: 12 P.S. (Includes 1 Handicap)

PARKING SPACE DIMENSIONS

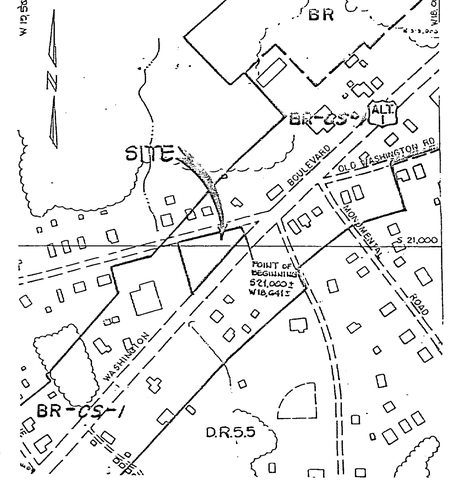
| | |
|---|---|
| Typical Space: | 8.5' x 18' |
| Handicap Space: | 16' x 18' |

(All spaces to be permanently striped)

**EMPLOYEE TABULATION:

| | | |
|---|---|---|
| HOURS OF OPERATION | 24 HRS. / 7 DAYS PER WEEK | |
| MAX. NO. OF EMPLOYEES | 15 - 20 | |
| MAX. NO. OF EMPLOYEES / SHIFT: | MORN NG / AFTERNOON | =1 |
| | AFTERNOON / EVENING | =1 |
| | NIGHT | =1 |

ZONING HISTORY
CRG Waiver W-87-170 6/19/87




PART OF 1996 ZONING MAP SW G-D
SCALE: 1"=200'

PLAN
SCALE: 1"=20'

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120

## SPECIAL EXCEPTION & VARIANCES REQUESTED

- Special exception to permit an automotive station in combination with a food store with a sales area larger than 1500 S.F. [Section 405.4.D]
- Variance to permit 12 parking spaces in lieu of 19 required [Sections 405.4.A.3.D and 409.6]
- Variance to permit a site area of 21,170 S.F. in lieu of 23,631 S.F. required [Section 405.4.A.1 & 405.4.E.1]
- Variance to waive restrooms [Section 405.4.B]

OWNER/DEVELOPER
Cloverland Farms Dairy, Inc.
2200 North Monroe Street
Baltimore, Maryland 21217
(410) 669-2222

THIS PLAT IS NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS

SEE SITE PLAN DATED MAY 26, 1987

# PLAT TO ACCOMPANY PETITIONS FOR ZONING VARIANCES & A SPECIAL EXCEPTION

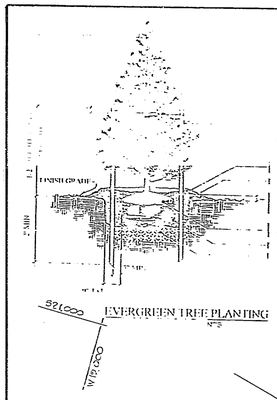
# ROYAL FARM STORE

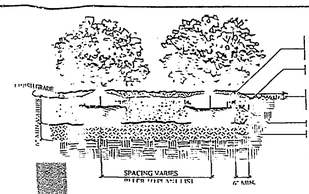
4306 Washington Boulevard (Std. Route 1)
Baltimore, Maryland 21227

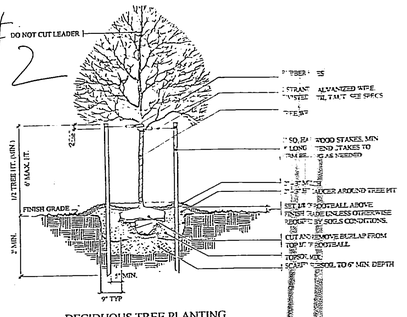
Election District 13
Councilmanic District 1
Scale: 1"= 20'

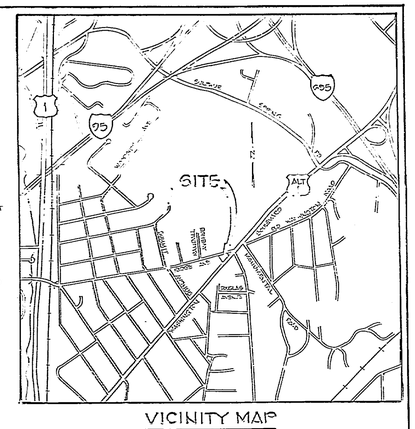
Tax Map 106 - Parcel 594
June 22, 1996
Sheet 1 of 2

Petitioners # 2




LEGEND

PROPERTY LINE
EX. CURB & GUTTER
PROP. CURB & GUTTER
EX. TREE W/DRIP LINE
EX. WATER
EX. SEWER
EX. STORM DRAIN
EX. GAS
EX. BG & E POLE
EX. ROAD RIGHT-OF-WAY
ZONING LINE
EX. TRAFFIC LIGHT
EX. PARKING LOT LIGHT
LIMITS OF PROP. PAVING
EX. CONCRETE

KEY

Existing Tree to Remain

Existing Shrubs to Remain

Proposed Major Deciduous Tree

Proposed Minor Deciduous Tree

Proposed Evergreen Tree

Proposed Shrubs

ZONED D.R.5.5
ZONED B.R.

EXIST RESIDENCE

C. & N. ROBINSON LIGHTING SUPPLY CO.

BARRY J. KRONSBERG, ROBERT A. WILLS, JR.
LIBER 7094/483
F.B. 91-060
HALETHORPE
LOTS 21,23

EXISTING

PROP. CANOPY

PROP. DEPRESSED CURB

EX. 8" W.L.

EX. 8" SAN. (GRAVITY)

EX. 6" SAN. FORCE MAIN

EX. 6" STORM DRAIN

EX. 6" GAS

EX. 6" CONDUIT

EX. 10" W.L. (CONDUIT)

EX. 10" W.L.

EX. 12" STORM DRAIN

EX. 18" STORM DRAIN

EX. 24" STORM DRAIN

EX. 30" STORM DRAIN

EX. 36" STORM DRAIN

EX. 42" STORM DRAIN

EX. 48" STORM DRAIN

EX. 54" STORM DRAIN

EX. 60" STORM DRAIN

EX. 66" STORM DRAIN

EX.

area, and that the approval of this site would simply, in his opinion, exacerbate the situation.

Mr. Wayne Wright also spoke in opposition to the special exception request. He resides at 5507 Ridge Avenue about two blocks away from the site, and again he focused in on what he perceived to be problem areas in the form of illegal parking on Washington Boulevard, deliveries being illegally made on both Ridge Avenue and Washington Boulevard and what he considered to be severe congestion on the parking lot.

Mr. Paul Hayes, 4401 Ridge Avenue, one block away, also testified and basically agreed with the testimony previously offered by the prior witnesses. That concluded the evidentiary portion of the hearing.

At the conclusion of same, the Chairman requested that both sides submit a Brief to the Board which was done within the time period required by the Chairman. The Board, in determining whether or not a special exception should be granted, is required to follow the requirements set forth in Sections 502.1 and 502.2 of the Baltimore County Zoning Regulations, which specify:

> 502.1--Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:
>
> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion in roads, streets or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd land and cause undue



> concentration of population;
>
> e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
>
> f. Interfere with adequate light and air;
>
> g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
>
> h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.
>
> 502.2--In granting any special exception, the zoning commissioner or the board of zoning appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the zoning commissioner, or board of zoning appeals, upon appeal, shall enter into an agreement in writing with said zoning commissioner and/or the county commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

This Board, having heard the evidence and testimony, concludes that the Petitioner has met the burden of establishing the requirements of Section 502.1 of the BCZR. There was sufficient testimony and evidence proffered by Mr. Jack Milliron, General Manager of Dunbar Alarm Systems, relative to alarm systems and preventative crime measures being taken along with Mr. James T. Singleton, Maryland Pump Tank and Electric Company concerning the safety issues of the



fuel tanks to be installed (and alarms being set off by any possible spillage), accompanied by detailed traffic analysis submitted by Mr. Kenneth Schmid, vice president, Traffic Concepts, Inc., and conditions related by Mr. David Morton as to parking lot and delivery changes contemplated by the Petitioner which would assuage many of the Protestants' concerns. In addition, the Board was satisfied with the testimony and evidence submitted by Mr. Nicholas Brader concerning the fact that the proposed use would actually result in less impervious area than the original use as a tavern several years ago.

While the Board recognizes that there may be legitimate concerns which were raised by the Appellants /Protestants at the hearing, it is also the further conclusion of the Board that, with certain conditions being placed upon the special exception use, the majority of these concerns can be satisfied. In making its decision, the Board is directed by Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) in which the Court stated that:

> "Special exception use as an adverse effect must be denied when it is determined from the facts and circumstances that the granting of the requested special exception use would result in 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. Thus, case law has established that the appropriate standard to be used in determining whether a requested special exception would have an adverse effect and therefore should be denied is whether or not there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with the special exception use irrespective of its location within the zone."

Based upon the testimony and evidence, the Board is



constrained to conclude that the facts and circumstances in this case demonstrate that the particular use proposed would not have any adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

As to the variance request to permit 12 parking spaces rather than the required 19 spaces, this is no longer an issue since the Petitioners have redrawn the site plan to include the required 19 spaces. As to the site area requirements of Section 405.4.E.1, it is the conclusion of the Board that the property exceeds the calculation of required site area supported by the evidence so that no variance is necessary. Based upon Petitioner's Exhibit No. 3, the floor plan to which Mr. Peter Ratcliffe testified, based upon construction drawings and his own physical inspection of the premises to determine the sales area, the Board concludes that the Petitioner's calculation of the store sales area of 1,535 sq. ft. means the total required site area would equal 15,000 plus 6,140 sq. ft. for a total of 21,140 sq. ft., whereas the property area actually measures 21,170 sq. ft., which exceeds the regulatory requirements. Based upon the Petitioner's calculation of the Royal Farm Stores sales area of 1,535 sq. ft., it is the conclusion of the Board that no variance is necessary.

As to the restroom issue required under Section 405.4.B, testimony clearly has shown that there is available space for restrooms within the facility; and considering the number of individuals coming and going on a daily basis, the Board does see



a need for such facilities, and would require such facilities and not grant a waiver. The Board recognizes that there may be problems existing by reason of location of the store at its present location, but the weight of the evidence and testimony is such that the Board is convinced that the situation would not be exacerbated by the addition of the pumps but with requirements imposed by the Board, will alleviate the concerns of the Protestants.

**O R D E R**

**THEREFORE, IT IS THIS** 30th day of July, 1997 by the County Board of Appeals of Baltimore County

**ORDERED** that the Petition for Special Exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq. ft., pursuant to Section 405.4.E of the Baltimore County Zoning Regulations (BCZR), in accordance with Petitioner's Exhibit No. 1 and Petitioner's Exhibit No. 2 (Final Landscape Plan) be and is hereby **GRANTED**, subject to the following restrictions:

1. The Petitioner shall submit for the Board's file a revised Plat that includes the 7 parking spaces incorporated in Petitioner's Exhibit No. 2 "Final Landscaping Plan."
2. The Petitioner must have in effect a legally binding Agreement with the owner of the property through which entry is to be made into the proposed rear parking area as incorporated in the site plan.
3. An alarm system shall be installed in the same manner and extent in which such systems currently exist at the Middle River and Belair Road stores.
4. The Petitioner shall require all employees to park their personal vehicles in spaces at the rear of the store.
5. All deliveries must be on site, preferably and to the



extent contractually possible, via rear entry and during off-peak hours.

6. The Petitioner shall not accept any vendor deliveries made directly from commercial vehicles parked along Ridge Avenue or Washington Boulevard.
7. Company fuel deliveries to replenish tanks may not occur during peak hours (6:00 a.m. to 8:00 p.m.).
8. The Petitioner shall be required to provide new landscaping as reflected on Petitioner's Exhibit No. 2 that shall screen delivery vehicles from view; and shall be required to maintain and replace any shrubbery with the passage of time.
9. All temporary banners and signs located on the subject property shall be removed immediately.
10. When applying for a building permit, the site plan must reference this case and set forth and address the restrictions of this Order.

**AND IT IS FURTHER ORDERED** the Petitioner's request for a waiver of the restroom requirement, per Section 405.4.B, is hereby **DENIED**. However, the restrooms shall be kept locked at all times; and keys shall be retained by the employees of the store for customers' and employees' usage exclusively.

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**

Charles L. Marks, Acting Chairman

Lawrence M. Stahl

Margaret Worrall

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

July 30, 1997

Robert B. Greenwalt, Esquire
20 University Avenue
Baltimore, MD 21228

RE: Case No. 97-11-XA
Cloverland Farms Dairy, Inc.

Dear Mr. Greenwalt:

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,

Kathleen C. Bianco, Administrator
County Board of Appeals

encl.

cc: Mr. Joseph P. Kinsley /Halethorpe Imp. Assn.
Robert A. Hoffman, Esquire
Mr. John M. Kemp /Cloverland Farms Dairy, Inc.
Mr. and Mrs. Edward Smith
Ms. Amy J. Hawkins
Ms. Theresa Lowry
People's Counsel for Baltimore County
Pat Keller
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Barnhart, County Attorney

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BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

| | | |
|---|---|---|
| IN THE MATTER OF: | * | |
| CLOVERLAND FARMS DAIRY, INC. | * | Case No. 97-11-XA |
| PETITIONER | * | |

MEMORANDUM OF APPELLANTS/PROTESTANTS

This matter came before the County Board of Appeals on appeal from the decision of the Deputy Zoning Commissioner granting the petition of Petitioner for a Special Exception and Variances. Hearing was held on May 7, 1997 and testimony and evidence received on behalf of Petitioner and Appellants.

The County Board of Appeals must consider the request for the Special Exception to Baltimore County Zoning Regulations §405. The Board must also consider the request for a Variance from the requirement to provide public restrooms. A Variance for site area requirements was dismissed as moot by the Deputy Zoning Commissioner and is not before the Board. The Variance to permit 12 parking spaces instead of the required 19 spaces was granted by the Commissioner, however, Petitioner has redrawn the site plan to include 19 spaces. Therefore, the Variance for parking spaces may now be moot or withdrawn and is not before the Board. Although the hearing before the Board took the better part of a day for testimony, it appears that there are just two remaining issues: Whether the Special Exception should be granted, and, Whether the Variance from the requirement to provide public restrooms should be granted.

The remaining Variance request can be considered without extensive discussion. There was virtually no testimony on the subject (Mr. Kemp, Vice President of Petitioner alluded to the topic on direct and cross examination) and no testimony from witnesses for the Appellants on the subject. The rationale for varying the requirement by Petitioner is to prevent undesirable activities around the restrooms. Yet, the store

would provide no convenience facilities which may encourage patrons to use surrounding areas in an emergency. The law regarding variances has been reviewed recently by the Court of Special Appeals. The variance can only be granted after a two-step inquiry, by first determining if the property is unique and unusual from surrounding properties and then by determining if an unreasonable hardship results from the zoning law. Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995). Also Umerley v. People's Counsel, 672 A.2d 173 (1996). There was no testimony that the restroom requirement caused an unreasonable hardship. Further, although David Martin for the Petitioner spoke of some unique aspect of the property, his testimony did not establish the uniqueness required by Maryland law. The Court of Special Appeals has discussed and defined how a property can be deemed unique in North v. St.Mary's County, 99 Md. App. 502, 638 A.2d 1175 (1994):

> "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e. its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." (North at 514)

The Petitioner failed to meet this requirement and the Variance should be denied.

Much more testimony was devoted to the Special Exception as every witness for both sides seemed to touch on some aspect of the requirement for the exception. The Special Exception is required by B.C.Z.R. §405.4.E because the proposed sales area of the store will exceed 1500 square feet. Although the size of the building is 2900 square feet, the proposed sales area will be 1535 feet. §405 of the B.C.Z.R. is not the only section applicable, the requirements of §502 must be satisfied before the Exception can be granted.

Mr. Martin's testimony for Petitioner made much of the harsh impact of §405 and the seeming inconsideration of the law for conversion of convenience stores to fuel service stations. He also decried the insanity of "lopping off" 35 square feet of sales area to meet the requirements of the section. However, Mr. Martin is not qualified to interpret County Council legislation and his characterization of the section is just not correct. §405 does indeed anticipate the conversion of convenience stores as evidenced by §405.4.E. Further, the intent expressed in the law itself is to regulate location and appearance of fuel service stations as well as additional uses at such sites. The County Council has not ignored the conversion of convenience stores to fuel service stations, but, in fact has anticipated such conversions. The requirements set forth in the section addressed such a conversion. Despite Mr. Martin's aversion to such requirements and Petitioner's desire that it not need to comply, a special exception must be obtained.

In order that the Special Exception be granted, Petitioner must satisfy the requirements of §502.1 B.C.Z.R. Counsel for Petitioner led Mr. Martin through a recitation of each of these factors and, for each factor, Mr. Martin concluded that the proposed use would not create any enumerated prohibition. Yet each of the witnesses for Appellants spoke to some aspect of the section and testified that the proposed use would indeed create problems. Wayne Wright and Paul Hays reside on Ridge Road adjacent to the store and testified that there are already problems with deliveries and patrons of the store. Pictures were introduced to show parking of patron or service vehicles on Ridge Road which block one lane of this narrow road and cause users to veer into oncoming traffic to get around such obstacles. The residents of the area, including Joseph Keech and Joseph Kinsey from the Halethorpe Improvement Association, testified that the problem of congestion is acute during the rush hours in the morning. Even the Petitioner's Expert, Kenneth Schmid, acknowledged the problems with congestion in the morning. The testimony clearly established that congestion in adjacent roads is already a problem and it would be absurd to think that the addition of the gasoline pumps, and resultant loss of parking area, would alleviate this problem. The testimony indicates that the proposed use would create congestion in adjacent roads (§502.1(b)), tend to overcrowd the land (§502.1(d)), and be detrimental to the safety and general welfare of the locality (§502.1(a)).

The reality of this property confronted by the residents every day is that the property is too small for intensive commercial use. The present use causes problems to the surrounding community. The proposed use will compound those problems. In fact, the Petitioners acknowledge the problems. Initially, they have acknowledged the inadequate parking by revising the site plan to include 19 spaces. They have abandoned any pretense that 12 spaces are sufficient. Further, they promise to restrict fuel deliveries and other product deliveries to certain times and certain locations (product deliveries in the newly proposed rear parking area). Yet, there is no testimony that deliveries have been restricted, despite the well-known congestion. The Board and community residents are asked to rely on promises that the Petitioners will address the congestion by restrictions which they have not seen fit to impose before.

Petitioners have raised the specter of competition by gas station conversions near the site. However, the nearest Exxon station remains a fuel service station only, as noted by Joseph Keech. Mere financial hardship or the opportunity to increase profit at a site are not sufficient reasons to grant an exception. Marino v. City of Baltimore, 137 A.2d 198 (1957). In addition, the detriment to Petitioner in denying the exception must be weighed against the benefit to the community of retaining the current plan. Maryland Aviation Administration v. Newsome, 652 A.2d 116 (1995).

Appellants request that the Board reverse the decision of the Deputy Zoning Commissioner by denying the requested Variance and Special Exception. The Variance for parking spaces should be ruled moot by the Board pursuant to the Plot Plan (Exhibit 1) and Site Plan (Exhibit 2) showing 19 spaces. In the event that the Variance for parking spaces remains viable, the Board should deny the Variance because the Petitioners have failed to meet the judicial standards of Cromwell and Umerley. The proposed 12 spaces are totally inadequate to alleviate the congestion that will result from the addition of gas pumps.

Robert B. Greenwalt
Ste. 201, 611 Frederick Road
Catonsville, MD 21228
410-747-2821

I HEREBY CERTIFY that a copy of the foregoing Memorandum was mailed to Robert A. Hoffman, Esq., 210 Allegheny Avenue, Towson, MD 21204, this 28th day of May, 1997.

Robert B. Greenwalt

*Robert B. Greenwalt, Esq.*

*Suite 201, 611 Frederick Rd., Catonsville, MD 21228 410-747-2821 fax 410-788-2774*

May 28, 1997

ounty Board of Appeals
ld Courthouse, Rm. 49
owson, MD 21204

Re: Case #97-11-XA

o the Board:

Attached please find 3 duplicate originals of emorandum of Appellants in the above referenced case. he Memorandum is submitted by the date agreed and established t the hearing on May 7, 1997.

Counsel for Appellants intends to be present for eliberation on June 18, 1997.

Very truly yours,

Robert B. Greenwalt

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|---|---|---|
| PETITION OF CLOVERLAND FARMS DAIRY, INC. FOR SPECIAL EXCEPTION AND VARIANCE NW/S WASHINGTON BOULEVARD AT SE/S RIDGE AVENUE (4308 Washington Boulevard) | * | BEFORE THE |
| | * | COUNTY BOARD OF |
| | * | APPEALS OF |
| | * | BALTIMORE COUNTY |
| 13th Election District | * | |
| 1st Councilmanic District | * | Case No. 97-11-XA |

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**MEMORANDUM OF PETITIONER IN LIEU OF CLOSING ARGUMENT**

Petitioner, Cloverland Farms Dairy, Inc., by Robert A. Hoffman with Venable, Baetjer and Howard, LLP, its attorney, submits this Memorandum in lieu of closing argument in the above-captioned case.

**INTRODUCTION**

This case involves Petitioner's request for: (1) a special exception under Section 405.4.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) so that it may install two fuel service pumps to be operated in combination with an existing Royal Farm convenience store; (2) a variance, if required, from the site area requirements set forth in Section 405.4.E. for fuel service in combination with a convenience store with a "sales area" in excess of 1500 square feet; and (3) a waiver of the restroom requirement applicable to fuel service stations. Petitioner also asks for a dismissal of the appeal from the Deputy Zoning Commissioner's order based upon a defect in the Notice of Appeal.

**STATEMENT OF FACTS**

Petitioner owns and operates the Royal Farm chain of convenience stores, including a store on property located at 4308 Washington Boulevard at the intersection of Ridge Avenue in Halethorpe, Baltimore County (the "Property"). In order to effectively compete in a market where gas stations increasingly have accessory convenience stores, Petitioner has initiated a program to offer fuel service at many of its stores where, among other considerations, applicable zoning laws permit such a combination of uses.

On September 27, 1996, after a public hearing held on August 8, 1996, the Deputy Zoning Commissioner granted the requested special exception, ruled that no site area variance was required, granted a parking variance (no longer at issue in this case), and granted a waiver of the restroom requirement. On October 25, 1996, Joseph B. Kinsley and the Halethorpe Improvement Association (collectively, the "Appellants") filed a Notice of Appeal. At a de novo hearing before the County Board of Appeals of Baltimore County held on May 7, 1997, the Petitioner again introduced evidence and the testimony of several witnesses in support of its petition. At the conclusion of the hearing, *the acting chairman requested that, in lieu of closing argument, counsel for the Petitioner* and the Appellants submit memoranda in support of their respective positions.

The Property is zoned B.R. (Business Roadside) with an A.S. (Automotive Service) district classification. As part of the 1996 Comprehensive Zoning Map Process, Issue 1-005, the Baltimore County Council essentially rezoned this section of the Washington Boulevard corridor, with the exception of the Property, to a less permissive zoning classification. Specifically, the County Council removed the A.S. district overlay from the entire surrounding area, deciding to allow fuel service only at the existing Royal Farm Property.



**ARGUMENT**

**I. Based upon the Substantial Evidence Submitted at the Hearing, the Board Should Grant Petitioner's Request for Special Exception.**

The 1993 legislation, which created the automotive services (A.S.) district, reflects the change in the operation of service stations, including the development that "the number of stations with convenience stores...has been increasing." B.C.Z.R. Section 405.1.C. In the B.R.-A.S. zone, a fuel service station, defined in the regulations as a "structure or land used...for the retail sale of automotive fuel, but not a truck stop," in combination with a convenience store having greater than 1500 feet in "sales area" is permitted by special exception under B.C.Z.R. Section 405.4.E.1, provided that the conditions set forth in B.C.Z.R. Section 502.1 are satisfied.

According to the established law of the State 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, if the Petitioner is able to prove that adding fuel service would not result in any of adverse conditions set forth in the applicable regulation (Section 502.1), the special exception should be granted. Id.

Furthermore, even in the case of a use which by its nature would result in adverse effects on the community, the burden of proof is on the objecting party to show that allowing the use on the subject property would have a greater adverse impact than if located elsewhere in the zone. Schultz, 291 Md. at 14, 22-23. The Appellants' assertions of adverse impact remain unsubstantiated by the evidence. The Appellants failed to establish any deleterious effect of the provision of fuel service at the Royal Farm and offered only anecdotal observations of existing conditions and predictions, which were easily refuted by Petitioner's witnesses.

As summarized in the following section, the Petitioner, therefore, established by overwhelming evidence that the addition of fuel service pumps to its convenience store operation would not produce an adverse impact upon the surrounding communities. To the contrary, the evidence shows that the changes the Petitioner will make to accommodate fuel service will improve conditions as they exist today.

**A. The Petitioner has satisfied all of the requirements of Section 502.1 for obtaining a special exception.**

**Health, Safety, and General Welfare of the Locality**

The two main issues raised at the hearing related to Health, Safety and General Welfare were crime and safety:

***Crime.*** While it is common knowledge that convenience stores are often targets of crime, the evidence is persuasive that offering fuel service actually discourages the incidence of crime. To this effect, Mr. Jack Milliron, general manager of Dunbar Alarm



Systems, testified that there have been no alarms at the Middle River Royal Farm store since fuel service was installed in May of 1996, compared to several alarms in the period prior to the addition of fuel service. See Transcript of Hearing before the County Board of Appeals, dated May 7, 1997, p. 69, hereinafter referred to as "T." Relevant portions of the transcript have been attached to this Memorandum as Exhibit 1 for the Board's convenience. Additionally, the Bel Air Road store has not had an alarm tripped since fuel service was installed in November of 1996. (T., p. 69)

Mr. Milliron, therefore, concluded that the installation of fuel service pumps actually improves safety at the Royal Farm stores. (T., p. 69) This finding is logical for several reasons articulated by Mr. Jack Maynard Kemp, Vice-President of Cloverland Dairy and Royal Farm. He explained that the canopy lighting and the heightened risk of being observed by motorists, many of whom have car phones, discourage criminal activity. (T., pp. 35-36)

***Safety of Fuel Tanks.*** Petitioner plans to implement fuel tank safety precautions which exceed the state and federal requirements. Mr. James Thomas Singleton, installation supervisor for Maryland Pump Tank and Electric Company, testified that his company has installed underground fuel tanks at twelve Royal Farm properties using a double-walled piping system (to contain fuel in the event that the primary line fails), even though the state requires only single-walled piping. (T., pp. 61-63) The tanks are also electronically monitored, so that an alarm is triggered by any spillage at which point the company would be notified. (T., p. 62) The tanks, pumps, and dispensers are all



equipped with containment systems to protect against a fuel leak. (T., pp. 62, 64) The Petitioner is prepared to make these investments, which will cost up to $30,000.00 more than the governmental requirements, to ease the concerns of neighbors and the protect the environment. (T., p. 53-54)

**Traffic**

According to the evidence presented by the Petitioner, the traffic conditions at Ridge Road and Washington Boulevard are favorable, and the Petitioner plans to take additional steps to ease any existing traffic congestion. Mr. Kenneth Schmid, traffic engineer and Vice-President of Traffic Concepts, analyzed the traffic flow at the intersection using the critical lane method, used by the State Highway Administration, to determine the occurrence of conflicting flows of traffic. (T., p. 75) The intersection received the most favorable rating, an A, under Mr. Schmid's analysis. (T., p. 74) The intersection received the next best rating, a B, under the loaded cycle method uniquely used by Baltimore County. (T., p. 76) Further, Mr. Schmid estimated that ninety-five percent (95%) of the Royal Farm traffic ends up on Route 1 and does not travel along Ridge Road into the more residential areas. (T., p. 78)

The installation of fuel pumps at the Royal Farm should not increase traffic significantly, as these pumps are intended primarily to serve existing traffic. Mr. Kemp also testified that there will be no need for additional employees. (T., p.27) Mr. Schmid explained that convenience stores and gas stations are not "new trip generators," and he predicted a fifteen percent (15%) increase in traffic volume at the Property drawn



primarily from existing traffic flows. (T., p. 80) He anticipates only five new trips will result from the new use, producing a "minimal impact at those intersections." (T., p. 81)

Traffic in the Royal Farm parking lot, while quite busy during peak hours, will be alleviated by the addition of seven (7) new parking spaces at the rear and side of the store, where employees and delivery trucks will park. (T., p. 83; Petitioner's Exhibit 1) Mr. Schmid opined that, because most Royal Farm patrons make regular visits and enter from Route 1, they would have no trouble adapting to the different access for the new rear spaces. (T., p. 85)

In addition to restricting delivery trucks to these rear spaces, Petitioner is willing to make other changes to allay traffic concerns. Pursuant to Mr. Schmid's recommendations, fuel deliveries would be restricted to off-peak hours. (T., p. 86) According to Mr. Kemp, economics as well as traffic make it advantageous to have fuel delivered in the evening. (T., pp. 30-31) Also, new landscaping, shown on Petitioner's Exhibit 1, would screen delivery vehicles from view. (T., p. 31-32)

In addition to the seven spaces, the fueling areas would serve, for practical purposes if not officially, as parking spaces for store patrons who will now also purchase gas at the Royal Farm. (T., p. 88). Hence, as Mr. David Martin, Petitioner's expert land planner, opined, parking lot and delivery changes being made in conjunction with the installation of fuel pumps will improve the traffic situation as it now exists. (T., p. 125)



**Inconsistency with Zoning Regulations**

Mr. Martin stated that the bill creating the A.S. district, Bill No. 172-95, is a response to changing patterns in the fuel service industry, such as the elimination of repair services and combination with other uses such as convenience stores. (T., p. 116) The County gave a clear indication that the use of this Property as a convenience store fuel service combination was in accord with the spirit and intent of the legislation when it decided, in the midst of pervasive down-zoning in the area, to retain the A.S. district at the Property. See Petitioner's Exhibits 7, 8, 9, and 10. Referring to the decision to retain the A.S. district on this property, Mr. Martin testified that he could "only conclude that they [the staff planners, Planning Board, and County Council] recognized this as an opportunity and a special circumstance which warranted the application of the A.S. district on this particular property." (T., p. 132)[1]

**Inconsistency with Impermeable Surface/Vegetation**

Mr. Nicholas Brader, licensed professional engineer, testified that the addition of the seven parking spaces, constituting approximately 3,000 square feet of new impervious area, would have *no adverse impact on the site.* (T., p. 140) In fact, he fully expects that the Property will continue to qualify for the County's stormwater management waiver in light of the fact that the proposed use will result in less impervious area than the original use as a tavern. (T., p. 139-140)

[1] Mr. Martin also observed that there are no other properties on the Comprehensive Zoning Maps introduced into evidence that would permit a convenience store to add fuel services. (T., p. 110) None of the down-zoned properties were permitted to retain the A.S. district classification. (T., p. 111)



He emphasized that, due to the low location of the Property within the 37-acre drainage area, any surface run-off would reach the underground stormwater management system before any significant amounts of upstream water would reach the Property. (T., p. 142) Further, in the event that an additional inlet would be required, it would be directed into the closed storm drain running underneath the Property. (T., p. 142) Therefore, the evidence demonstrated that there will be no adverse impact on neighboring properties with respect to stormwater management issues. (T., p. 139-140)

**Other Factors**

Mr. Martin testified, and the Appellants did not dispute, that the proposed use would not: (a) create a potential hazard from fire, panic or other dangers; (b) tend to overcrowd land and cause undue concentration of population; (c) interfere with adequate provisions for school, parks, etc.; or (d) interfere with adequate light and air. (T., p. 124-127)

Based upon the substantial evidence presented by the Petitioner in favor of the requested relief and the fact that the Appellants presented no substantive evidence to demonstrate that the proposed use would result in any adverse impact to the surrounding community, under the holding of Schultz v. Pritts, the Board should grant the requested special exception.



**II. The Board Should Conclude that the Property Satisfies the Site Area Requirements of Section 405.4.E.1. or, in the Alternative, it Should Grant the Petitioner a Variance Based Upon the Unique Characteristics of the Property.**

**A. The Property Exceeds the Calculation of Required Site Area Supported by the Evidence So That No Variance is Necessary.**

The Property area measures 21,170 square feet, which exceeds the regulatory requirements based upon Petitioner's calculation of the Royal Farm store's sales area of 1,535 square feet. Under B.C.Z.R. Section 405.4.A.1., the area required for the operation of the Royal Farm fuel service pump alone would be 15,000 square feet (the greater of 15,000 square feet or 1,500 square feet times the number of fuel service spaces, in this case, four). Where fuel service is offered in combination with a convenience store having a sales area in excess of 1,500 square feet, however, the site area must include additional square footage equal to four times the square footage of the store's sales area. Section 405.4.E.1. Based upon the Petitioner's calculation of the store's sales area of 1,535 square feet, the total required site area would equal 15,000 plus 6,140 square feet for a total of 21,140 square feet.

The Petitioner has introduced sound evidence to support its calculation of sales area. Mr. Peter Ratcliffe testified that he prepared Petitioner's Exhibit No. 3, the floor plan of the store, based upon construction drawings and his own inspection of the premises, to determine the sales area. (T., p. 58). The highlighted area represents the portion of the store where customers may obtain items for purchase. Mr. David Martin



supported this measurement of sales area, stating that the Council's intention was "to focus on what the customer uses as opposed to ancillary uses typically found in almost any building....i.e., the counter space, the bathrooms, the storage...." (T., p.105)

This definition of "sales area" for purposes of Section 405.4.E.1 as the area where customers select items is logical given that most combination fuel service/convenience stores were originally gas stations. Often, the station discontinued certain automotive repair services and converted the repair bays into the convenience store. The station would already have a sales counter/cashier, storage area, and restrooms, so it would not make sense for these areas to be part of the convenience store "sales area" in calculating the additional site area required by the convenience store. It would be inequitable to require Petitioner to have a larger site area than if it were adding a convenience store to an existing gas station. (T., pp. 117-118)

**B. The Property Qualifies for a Variance, if Needed, from the Site Area Requirements based upon its Unique Configuration and Surroundings.**

Although the Petitioner does not believe that a variance is required in this case, it has produced substantial evidence that the legal requirements for obtaining an area variance have been met. To obtain an area variance, as opposed to a use variance, the Board must find only that "special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and...strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship." B.C.Z.R. Section 307.1. The uniqueness of the conditions must

County Board of Appeals of Baltimore County

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

May 9, 1997

NOTICE OF DELIBERATION

Having concluded this matter on May 7, 1997, deliberation has been scheduled by the Board as follows:

CLOVERLAND FARMS DAIRY, INC. -Petitioner
CASE NO. 97-11-XA

DATE AND TIME : Wednesday, June 18, 1997 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE: CLOSING MEMOS ARE DUE FROM COUNSEL ON TUESDAY, MAY 27, 1997.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Protestants: Robert B. Greenwalt, Esquire
Appellants /Protestants : Joseph P. Kinsley and the Halethorpe Imp. Assn.

Counsel for Petitioner : Robert A. Hoffman, Esquire
Petitioner : John M. Kemp, Vice President Cloverland Farms Dairy, Inc.

Mr. and Mrs. Edward Smith
Amy J. Hawkins
Theresa Lowry

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Copied: C.L.W.

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Cloverland Farms Dairy, Inc. -Petitioner
Case No. 97-11-XA

DATE : Wednesday, June 18, 1997 @ 9:30 a.m.

BOARD /PANEL : Charles L. Marks, Acting Chairman (CLM)
Lawrence M. Stahl (LMS)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrator

Those present at this deliberation included Robert A. Hoffman, Esquire, Counsel for Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County.

CLM: Let the minutes show that the County Board of Appeals is in its regularly scheduled session for deliberation of Cloverland Farms Dairy, Inc., Case No. 97-11-XA, assigned for today at 9:30 a.m.

Preliminary to the deliberation, just let me comment that this is a public session required by Maryland State law. Each Board member has had sufficient time to independently review their notes, the evidence and the exhibits submitted at the hearing, and based on their individual review, they have reached their own opinions in the case, which are not known until this deliberation takes place. That having been said, we will move into the deliberation process. I will opt to go first.

At this time, each Board member reviewed and commented on the testimony and evidence in the case as received by the Board at hearing, and the reasons why he or she reached the final decision as concluded at this deliberation.

Mr. Marks proceeded to review his notes, findings and decision regarding this matter. He also addressed the Motion to Dismiss brought by Mr. Hoffman on the ground that the name of the Appellant /Appellants did not appear on the appeal as required by the Board's rules, and denied same, setting forth Maryland law and upper court decisions supporting that denial. He stated that it is well-settled law in Maryland that technical irregularities cannot deprive persons of legal rights where the other party is not prejudiced. Mr. Marks then proceeded to detail the restrictions he would place upon the granting of this special exception and variance as requested; and that he found that the burden was met by Petitioners as required by law for the granting of same.

Minutes of Deliberation /Case No. 97-11-XA
/ Cloverland Farms Dairy, Inc. -Petitioner

Ms. Worrall, after stating that the details of the case were well-covered by Mr. Marks, expressed her thoughts, detailing her findings and conclusions as to the requested special exception and variance. Indicated she believed burden had been met for both special exception and variance requests, however, she set forth questions she had relative to the parking to the rear of the facility.

Mr. Stahl, after stating for the record his feelings relative to public deliberation by the Board and the effect it has on the decision-making process, then proceeded to first address the motion for dismissal, stating that the practical value of a motion is in its ability to address unfairness; that he does not believe that to be the situation here, since everyone knew everyone; everyone knew the issues; no harm; no foul. This made the Board unanimous that the Motion should not be granted. Mr. Stahl then continued to discuss with the other members his findings and conclusions as to Petitioner's requests. He addressed Margaret's questions regarding parking, and the Board collectively discussed this issue.

After reaching a final decision that the plan could go forward as proposed with certain restrictions and actions taken, the Board unanimously found in favor of Petitioner; that petitions were to be granted with restrictions; and that a written Opinion and Order would be issued, with appellate rights beginning with the date of the written Order.

Mr. Marks then adjourned this public deliberation session.

**********

Respectfully submitted,

Kathleen C. Bianco



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: C. Marks
L. Stahl
M. Worrall

DATE: May 29, 1997

FROM: Kathi

SUBJECT: Case No. 97-11-XA /Cloverland Farms Dairy, Inc. /Memorandum of Counsel

The subject matter is scheduled for public deliberation on Wednesday, June 18, 1997 at 9:30 a.m. Enclosed are the following documents filed by Counsel, as requested:

1. Memorandum of Petitioner in Lieu of Closing Argument filed by Robert A. Hoffman, Esquire, on behalf of Petitioner.

2. Memorandum of Appellants /Protestants filed by Robert B. Greenwalt, Esquire, on behalf of Appellants /Protestants.

Please let me know if you have any questions.

kathi

Attachments

Case No. 97-11-XA — SE -to permit use in combination automotive service station with food store with sales are greater than 1500 sf; VAR -parking spaces; total site area; and waiver of restroom requirement.

9/27/96 -Deputy Zoning Commissioner's Order in which Petitions for Special Exception and Variances GRANTED with restrictions.

3/17/97 -Notice of Assignment for hearing scheduled for Wednesday, May 7, 1997 at 10:00 a.m. sent to following:

Robert B. Greenwalt, Esquire
Joseph P. Kinsley and the Halethorpe Imp. Assn.
Robert A. Hoffman, Esquire
John M. Kemp, Vice President Cloverland Farms Dairy, Inc.
Mr. and Mrs. Edward Smith
Amy J. Hawkins
Theresa Loury
People's Counsel for Baltimore County
Pat Keller — Arnold Jablon, Director /PDM
Lawrence E. Schmidt — Virginia W. Barnhart, Co Atty

5/07/97 -Hearing concluded before Board; closing memos due from counsel May 27, 1997; to be publicly deliberated on 6/18/97; notice to be sent.

5/09/97 -Notice of Deliberation sent to parties; scheduled for Wednesday, June 18, 1997 at 9:30 a.m. (C.L.W.)

5/27/97 -Memo filed by Robert A. Hoffman, Esquire on behalf of Petitioner. Also, Mr. Hoffman inquired as to date agreed to at hearing; his recollection that 5/28/97 was the date given by Board. Inasmuch as C. Marks had given KCB date of 5/27/97, Mr. Hoffman filed his memo on that date.

5/28/97 -Memo filed by Robert Greenwalt, Esquire on behalf of Appellants; indicated in letter that 5/28/97 was the agreed-upon date for filing same.

5/29/97 -Copies of above memos to Board (CLW).

6/18/97 -Matter deliberated before the Board; G -special exception with restrictions; granted area variance; denied requested waiver re restrooms. Written Order to be issued; appellate period to run from date of written Order. C.L.W.

RE: Preliminary Petition Review (Item #)
Legal Owner:

Election District

Dear :

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the $100.00 revision fee.

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

Very truly yours,

:scj

Enclosure (receipt)

c: Zoning Commissioner

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 29, 1996

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

RE: Drop-Off Petition Review (Item #9)
4308 Washington Boulevard
Cloverland Farms Dairy, Inc.
13th Election District

Dear Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the $100.00 revision fee.

The special exception request is listed under Section 405.4.E.1 instead of Section 405.4.D.

The variance request (petition forms) are not filled out. There is no address, zoning, section number, request, or hardship.

The acreage and distance number 2 on the property description do not match the site plan.

Printed with Soybean Ink on Recycled Paper



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

Very truly yours,

Mitchell J. Kellman
Planner II,
Zoning Review

MJK:scj

Enclosure (receipt)

c: Zoning Commissioner

be such that the zoning restriction impacts more severely on this property owner. Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995). The conditions will be deemed to cause "practical difficulty" if, taking into account the interests of the owner and others, requiring strict compliance with the zoning regulations would unreasonably burden the property owner when the owner attempts to use the property for a permitted use. McLean v. Soley, 270 Md. 208, 214-215, 310 A.2d 783 (1973).

The Property is a very unusual triangular shape, as Mr. Martin explained, because of the angle at which Ridge Road and Washington Boulevard intersect. (T., p.107; Petitioner's Exhibit 1) Service stations usually are located at ninety-degree intersections, producing square shaped properties. (T., p. 129) The Property's usable area has been further limited by rights of way taken by the government to expand the roads. Because of the unusual shape of the Property created by the intersecting roads, the site area restriction has a greater impact on the Petitioner than on other property owners who operate fuel service stations.

If the Board rejects Petitioner's calculation of sales area, requiring the Petitioner to comply with the site area restriction would result not only in practical difficulty but would be virtually impossible. As Mr. Martin testified, the Petitioner would have to "chop off" part of the building or tear it down and rebuild, in his opinion an impractical application of land use planning. (T., p. 109) The Petitioner would effectively be prohibited from adding fuel service, a use clearly intended to be available to the Property by the County's application and retention of the A.S. district.



Moreover, given the configuration of open land around the Property, the site area is effectively larger than would be indicated by the legal boundaries. Mr. Martin spoke to the issue of the "practical application of land service" by recommending that the Board look at the Property together with its surroundings. In so doing, he concluded that the green spaces on the corner and within the right-of-way are "for practical purposes...part of the Property." (T., p. 108)

Finally, in addition to the totality of the evidence so far described as to impact, Mr. Martin testified that granting the variance would have no adverse impact upon the community. (T., p. 114) Evidence submitted as to the character of the neighborhood reveals two heavily traveled thoroughfares and, notwithstanding the downzoning efforts of the County, a corridor with substantial commercial use. Petitioner's Exhibits 7, 8, 9, and 10. Mr. Martin gave his professional opinion that granting the requested site area variance is in harmony with the spirit and intent of the regulation, particularly given that the legislation contemplated the gas station adding a convenience store at a "traditional square corner at a four-way intersection," which by definition would involve remodeling or rebuilding the existing structure. (T., p. 118). By contrast, it would not serve the interests of the zoning laws to apply this regulation to a triangular property with an existing building, where only the addition of fuel pumps would be required to add the fuel service station clearly intended to be permitted under the A.S. district.



**II. Granting Petitioner a Waiver of the Requirement of Section 405.4.B Requiring a Restroom Facility is in the Best Interest of the Community.**

Mr. Kemp testified that, while there is space for bathrooms at the Property, public restrooms may encourage loitering and drug-related activity. For this reason, a waiver of the restroom requirement in Section 405.4.B. would be in the community's best interest and should be granted. (T., p. 52)

**III. The Appellants' Notice of Appeal is Defective and Should Be Dismissed.**

Rule 3 of the Rules of Practice and Procedure of the County Board of Appeals dictates that "no appeals shall be entertained by the Board of Appeals unless the notice of appeal shall state the names and addresses of persons taking such appeal." Because the Notice of Appeal, dated October 25, 1996, did not recite the addresses of the Appellants, the Board of Appeals should dismiss the instant appeal. Petitioner's counsel raised this deficiency at the outset of the hearing before the Board of Appeals. The issue was taken under advisement by the Chairman, and Petitioner now requests that the Board rule favorably on Petitioner's motion for dismissal.

**CONCLUSION**

Based upon the evidence submitted at the hearing, as summarized in this Memorandum, the Board should affirm the decision of the Deputy Zoning Commissioner and grant the requested relief to allow Petitioner to use the Property as a fuel service



station in combination with convenience store as envisioned by the Baltimore County Council in its comprehensive zoning process.

Respectfully submitted,

ROBERT A. HOFFMAN
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Petitioner
Cloverland Farms Dairy, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May, 1997, a copy of the foregoing MEMORANDUM OF PETITIONER IN LIEU OF CLOSING ARGUMENT was mailed to Robert B. Greenwalt, Esquire, 20 University Avenue, Baltimore, Maryland 21228-3645, Attorney for the Appellants.

ROBERT A. HOFFMAN

TO1DOCS1:DCS01:96445[illegible]





technically, quote, unquote, a parking space, I and everybody in this room has used the gas place as parking spaces.

So we believe that the existing problems right now, that adding the gasoline improves greatly those minor problems that exist to that.

Q. Are there any new employees who will be added because of the fuel service?

A. No, there would not.

Q. How many employees do you currently have at the store?

A. Approximately ten.

Q. Are they in shifts?

A. Yes. There will be a first, second and third shift.

Q. So it's a twenty-four hour day operation?

A. Yes, that's correct.

Q. How many employees -- is three employees on your largest shift?

A. Three, sometimes four, for peak periods. We augment some of the times with part-time help.

Exhibit 1



IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - NW/S Washington Blvd. at SE/S Ridge Avenue (4308 Washington Boulevard) 13th Election District 1st Councilmanic District

Cloverland Farms Dairy, Inc. Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 97-11-XA

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 4308 Washington Boulevard, located in the vicinity of Sulphur Spring Road in Halethorpe. The Petition was filed by the owners of the property, Cloverland Farms Dairy, Inc., by John M. Kemp, Vice President, through their attorney, Robert A. Hoffman, Esquire. The Petitioner requests a special exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq.ft., pursuant to Section 405.4.E of the Baltimore County Zoning Regulations (B.C.Z.R.), and variance relief as follows: From Sections 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the required 19; from Section 405.4.A.1 and 405.4.E.1 to permit a total site area of 21,170 sq.ft. in lieu of the minimum required 23,631 sq.ft., and a waiver of the requirement to provide public restrooms. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were John M. Kemp, Vice President of Cloverland Farms Dairy, Inc., legal owner of the property, David Martin and Nick Brader, representatives of George W. Stephens, Jr. and Associates, Inc., the engineering firm which prepared

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Date
By

the site plan for this property, Kenneth Schmid, an expert traffic consultant, and Robert A. Hoffman, Esquire, attorney for the Petitioner. Several residents from the surrounding community appeared in opposition to the request, including Joseph Kinsey and Edward Smith, who testified. Theresa Lowry, a community activist, also appeared, more as an interested citizen as opposed to being a Protestant.

As a preliminary matter, Mr. Hoffman brought to my attention that the Petitioner opined that a variance from site area requirements was not required. Mr. Hoffman noted that the need for that variance was based on the size of the entire building, which is 2900 sq.ft., and not the actual sales area proposed, which has been reduced to 1535 sq.ft. as set forth on Petitioner's Exhibit 2. I agree that a variance from site area requirements is no longer necessary; however, a special exception is still required inasmuch as the sales area exceeds the maximum permitted 1500 sq.ft., and the Petitioner wished to proceed on the remaining requests for variance.

Testimony and evidence offered revealed that the subject property consists of 0.486 acres, more or less, zoned B.R.-C.S.1 and is improved with a Royal Farm Store. Mr. Kemp testified that his company purchased this property in 1987 and built the existing store thereon in 1988. He testified that a bar business, known as Larry's Tavern, previously occupied the site, and that the building was rundown and the property in poor condition. Mr. Kemp testified that the Royal Farm Store greatly improved the site from its days as Larry's Tavern and that the proposed improvements by Cloverland Farms Dairy will further enhance the property.

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On behalf of the Petitioner, Mr. Kemp testified that competition has increased with his Royal Farm Stores by virtue of oil companies, such as Exxon, Texaco, and others, converting their gasoline service stations



into gas and convenience store uses. He specifically identified a nearby Exxon which will be converting same to a convenience store/gas station. This has been a common occurrence among the Exxon service stations as well as many of the other oil companies in and around the Baltimore Area. Several oil companies have decided to get out of the automotive service business and have converted many of their gasoline service stations into convenience stores. Mr. Kemp testified that in order to be competitive, it has become necessary for Royal Farms to offer gasoline for sale at its stores. The Petitioner is desirous of installing two fuel pumps with an overhead canopy at the subject location. The proposed improvements are more particularly described on the site plan marked as Petitioner's Exhibit 1. Mr. Kemp testified that two gasoline pumps are necessary in order to compete with Exxon and other similar businesses in this area. Mr. Kemp noted that $250,000 will be spent in furtherance of adding the gasoline pumps, the canopy, and other upgrades to the existing store and property.

Furthermore, Mr. Kemp testified that they would be willing to change the method by which inventory is delivered to the subject site. Currently, a tractor trailer will park on one of the travel roadways adjacent to the property for the purpose of loading and unloading goods and supplies. This has hampered the flow of traffic on Ridge Avenue as well as Washington Boulevard and he indicated that this method of delivery would stop. He testified that the delivery company will have to use a smaller vehicle which can be parked on site when making deliveries to the store. Mr. Kemp noted that while it is customary for tractor trailers delivering gasoline to park on site to fill the gas tanks, in no way would these trucks park on Ridge Avenue or Washington Boulevard.

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Date
By

As noted above, several residents from the surrounding community appeared in opposition to the Petitioner's request. Mr. Joseph Kinsey, a representative of the Halethorpe Improvement Association and the Arbutus Association, appeared and testified in opposition to the relief requested. Furthermore, Mr. Edward Smith, Vice President of the Halethorpe Civic League appeared and testified in opposition to the request. The testimony and evidence offered by these gentlemen demonstrated that they are opposed to another automotive service station use being located within this community. They believe that the County Council is planning to change the zoning of this property in October, 1996 so as not to allow any type of automotive service use at this location. They are also opposed to the additional commercialization of the subject site which would be the case if gasoline pumps are permitted. Furthermore, they are concerned over the security that is provided at the store at the present time. They indicated that this store has been robbed in the past and that it will likely be robbed in the future. They believe that additional security measures are needed at this time and that adding fuel pumps to the site will only exacerbate security problems in the future.

Further testimony revealed that there are no storm drains in the community on this side of Washington Boulevard and that a drainage problem currently exists. These residents are concerned that storm water runoff from the subject site will be toxic from the gas and oil associated with the proposed gasoline pumps and that this toxic runoff will be cast into their community during heavy rainfalls.

Testimony also revealed that there are problems with the way this Royal Farm Store receives deliveries from its distributors. These gentlemen testified that 18-wheelers will park on Ridge Avenue, and sometimes



Washington Boulevard, when making deliveries. They testified that these trucks create blind spots and are a hazard to motorists travelling in this area and they would like to see this practice corrected.

As noted above, Theresa Loury appeared at the hearing and offered testimony as an interested party. Ms. Loury welcomed the Royal Farm Store to her community and testified that in her opinion, the proposed use is better than Larry's Tavern which existed prior to the store. Ms. Loury testified that she would like to see the Petitioner and the community continue negotiations in order to work out an amicable agreement. She also expressed concern that if the Royal Farm Store cannot remain competitive with the Exxon and Texaco service stations in the area, they might abandon the subject site and the business would leave their community. Mr. Kemp noted that it is a possibility the Royal Farm Store might abandon this site if they could not remain competitive with other businesses in the area and if the store actually operated at a loss.

After considering all of the testimony and evidence offered, both in support of and in opposition to the relief requested, I find that the special exception for a convenience store use in combination with a gasoline service station should be approved. I believe it is necessary for the Petitioner to add the two gasoline pumps proposed in order to remain competitive wich the Exxon, Texaco, and Amoco service stations which are converting their service bays to convenience stores. The Petitioner has only requested the installation of two gasoline dispensing units so that it may offer gasoline as a convenience to its customers. I do not believe that the addition of these two pumps will over-commercialize the subject property or adversely affect the surrounding community. Furthermore, as Mr. Hoffman noted throughout the course of this hearing, the legislation



passed by the County Council was written to allow oil companies such as Exxon, Texaco and Amoco to convert their gasoline service stations to convenience store uses in combination with fuel sales. However, in this instance, it is an existing convenience store that wishes to add gasoline pumps to its operation. The law does not address convenience stores wishing to offer gasoline for sale. Therefore the legislation works somewhat of a hardship on the Petitioner, when it seeks to add gasoline dispensers to its convenience store chain. There are no other automotive services offered at this site other than the dispensing of gasoline, and thus, the special exception should be approved.

As to the variances requested, the Petitioner seeks relief to permit 12 parking spaces on the site in lieu of the required 19, and to grant a waiver of the requirement to provide public restrooms. I believe and hereby find that the 12 parking spaces proposed for this site will be sufficient to serve the proposed use. It should also be noted that the Petitioner was not given credit for the parking spaces that will exist under the canopy which is to be provided over the gasoline pumps. Practice dictates that many customers will often leave their cars parked at the gas pump when purchasing other convenience store products at such facilities. Therefore, it is expected that many of the customers at this site will use the spaces under the proposed canopy for parking. Thus, I believe sufficient parking exists and that the variance should be granted.

The Petitioner has also requested a waiver from being required to provide public restroom facilities. Public restrooms can pose a problem to the surrounding community, given the fact that individuals might tend to loiter around them or utilize them for illicit purposes. Therefore, I believe this variance should also be granted.



It is clear that the B.C.Z.R. permits the use proposed in a B.R.-C.S.1 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

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



1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of September, 1996 that the Petition for Special Exception to permit a use in combination automotive service station with a food store with a sales area of greater than 1500 sq.ft., pursuant



to Section 405.4.5 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the required 19 spaces, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a waiver from the requirement that the Petitioner must provide public restrooms, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 relief granted herein shall be rescinded.

2) The Petitioner shall not allow any service or delivery trucks to park either on Washington Boulevard or on Ridge Avenue. All service and delivery vehicles which call upon the Royal Farm Store shall park on the subject site to make their deliveries.

3) All temporary banners and signs, including the banner and the 4' x 4' post located on the subject property, shall be removed immediately.

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the variance from Sections 405.4.A.1 and 405.4.E.1 to permit a total site area of 21,170 sq.ft. in lieu of the minimum required 23,631 sq.ft., be and is hereby DISMISSED AS MOOT.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

September 27, 1996

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
NW/S Washington Boulevard at SE/S Ridge Avenue
(4308 Washington Boulevard)
13th Election District - 1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Dear Mr. Hoffman:

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

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

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. John M. Kemp, Vice President, Cloverland Farms Dairy, Inc.
2200 N. Monroe Street, Baltimore, Md. 21217

Mr. Joseph P. Kinsey, 1519 Woodside Avenue, Baltimore, Md. 21227
Mr. & Mrs. Edward Smith, 4501 Spring Avenue, Baltimore, Md. 21227
Ms. Amy J. Hawkins, 4309 Spencer Street, Baltimore, Md. 21227-4527

Ms. Theresa Loury, 2517 Hammonds Ferry Road, Baltimore, Md. 21227

People's Counsel; Case File

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
PETITION FOR VARIANCE
4308 Washington Blvd., NW/S Washington Blvd., corner SE/S Ridge Avenue * ZONING COMMISSIONER
13th Election District, 1st Councilmanic * OF BALTIMORE COUNTY
Cloverland Farms Dairy, Inc. * CASE NO. 97-11-XA
Petitioner
* * * * * * * * * * * * *

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
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August, 1996, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner.

PETER MAX ZIMMERMAN

# Petition for Special Exception

## to the Zoning Commissioner of Baltimore County

for the property located at 4308 Washington Boulevard

which is presently zoned BR-CS-1

97-11-XA

9

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 part of hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

an automotive station in combination with a food store with a sales area larger than 1500 s.f., pursuant to Section 405.4.X. of the Baltimore County Zoning Regulations.

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 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/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):

Cloverland Farms Dairy, Inc.
(Type or Print Name)

John M. Kemp, V.P.
Signature

By: John M. Kemp, Vice President
(Type or Print Name)

Signature

2200 N. Monroe Street 669-2222
Address Phone No.

Baltimore MD 21217
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Name

210 Allegheny Ave, Towson, MD 21204 (410) 494-6200
Address Phone No.

Attorney for Petitioner:

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-6200
Address Phone No.

Towson MD 21204
City State Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates

Next Two Months

ALL OTHER

REVIEWED BY: DATE

ORDER RECEIVED: DROP-OFF 9:00 REVIEW
Date: 7/8/96
By: WCR

Zoning Administration & Development Management

# Petition for Variance

## to the Zoning Commissioner of Baltimore County

for the property located at 4308 Washington Boulevard

97-11-XA

which is presently zoned BR-CS-1

9

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 part of hereof, hereby petition for a Variance from Section(s) 405.4.A.3.D and 409.6 to permit 12 parking spaces in lieu of the 19 spaces required; Variance from Section 405.4.A.1 and 405.4.E.1 to permit a site area of 21,170 s.f. in lieu of the 23,631 s.f. required and, a Variance to waive restroom requirement.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardships 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 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/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):

Cloverland Farms Dairy, Inc.
(Type or Print Name)

John M. Kemp, V.P.
Signature

By: John M. Kemp, Vice President
(Type or Print Name)

Signature

2200 N. Monroe Street 669-2222
Address Phone No.

Baltimore MD 21217
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
Name

210 Allegheny Ave, Towson, MD 21204 (410) 494-6200
Address Phone No.

Attorney for Petitioner:

Robert A. Hoffman
Venable, Baetjer and Howard, LLP
(Type or Print Name)

Signature

210 Allegheny Ave. (410) 494-6200
Address Phone No.

Towson MD 21204
City State Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing the following dates

Next Two Months

ALL OTHER

REVIEWED BY: DATE

ORDER RECEIVED: DROP-OFF 9:00 REVIEW
Date: 7/8/96
By: WCR

Zoning Administration & Development Management

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

97-11-XA

9

Description to Accompany Petition for
Special Exception and Variance

June 21, 1996

The Point of Beginning being located southwesterly 167 feet plus or minus from the point of intersection of the centerline of Ridge Road and Washington Boulevard, also known as U.S. Route 1. Thence beginning for the same at the corner formed by the intersection of the southwest right-of-way line of Ridge Road as widened 25 feet from center with the northwest right-of-way line of Washington Boulevard, as widened 35 feet from center and shown on a Baltimore County Bureau of Land Acquisition Drawing RW 87-312-1 dated April 1, 1988 and recorded among the Plat Records of Baltimore County, Maryland in Liber 7841 Folio 037 thence binding on the northwest right-of-way line of Pleasant Plains Road as widened and shown on said plat,

1) South 04° 40' 12" West 258.21 feet,

2) North 61° 55' 13" West 179.83 feet,

3) North 28° 04' 48" East 208.00 feet,

4) South 79° 53' 12" East 29.70 feet to the point of beginning.

Containing 0.386 acres of land more or less.

**THIS DESCRIPTION COMPILED FOR ZONING PURPOSES ONLY**

**NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS**

## CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 97-11-XA

Towson, Maryland

District: ---

Date of Posting 7/19/96

Posted for: Special Exception & Variance

Petitioner: Cloverland Farms Dairy

Location of property: N/S Wash. Blvd, SE/S Ridge Hwy

Location of Signs: Facing roadway on property being zoned

Remarks:

Posted by: [signature] Signature

Date of return: 7/28/96

Number of Signs: 1

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

No. 027969

DATE 7/25/96 ACCOUNT R-001-6150

AMOUNT $ 460.00

RECEIVED FROM: Cloverland Farms Dairy, Inc.

FOR: Appeal re: 97-11-A

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

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

No. 025026

DROP-OFF - NO REVIEW
ITEM #9
DPDM-6150

DATE 7/8/96 ACCOUNT R-001-6150

97-11-XA

AMOUNT $ 525.00

RECEIVED FROM: Cloverland Farms Dairy, Inc.

CV + SPX + 2 SIGN

FOR: 4308 Washington Blvd.

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

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: #97-11-XA (Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard, corner SE/S Ridge Avenue
13th Election District
1st Councilmanic
Legal Owner(s): Cloverland Farms Dairy, Inc.
Special Exception: for an automotive station in combination with a food store with a sales area larger than 1500 square feet; Variance: to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

Hearing: Thursday, August 8, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

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.

7/270 July 25 D0842

## CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/25, 1996

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 7/25, 1996.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

TO: PETTICORT PUBLISHING COMPANY
July 25, 1996 Issue - Jeffersonian

Please forward billing to:

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204
494-6200

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: 97-11-XA (Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard, corner SE/S Ridge Avenue
13th Election District - 1st Councilmanic
Legal Owner(s): Cloverland Farms Dairy, Inc.

Special Exception for an automotive station in combination with a food store with a sales area larger than 1500 square feet.
Variance to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

HEARING: THURSDAY, AUGUST 8, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

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
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 18, 1996

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: 97-11-XA (Item 9)
4308 Washington Boulevard
NW/S Washington Boulevard, corner SE/S Ridge Avenue
13th Election District - 1st Councilmanic
Legal Owner(s): Cloverland Farms Dairy, Inc.

Special Exception for an automotive station in combination with a food store with a sales area larger than 1500 square feet.
Variance to permit 12 parking spaces in lieu of the 19 spaces required; to permit a site area of 21,170 square feet in lieu of the 23,631 square feet required; and to waive restroom requirement.

HEARING: THURSDAY, AUGUST 8, 1996 at 9:00 a.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Cloverland Farms Dairy, Inc.
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.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 17, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-11-XA

IN THE MATTER OF: CLOVERLAND FARMS DAIRY, INC. - Petitioner NW/s Washington Blvd at SE/s Ridge Avenue (4308 Washington Boulevard) 13th E; 1st C

(Petitions for Special Exception and Variance and request for waiver GRANTED.)

ASSIGNED FOR: WEDNESDAY, MAY 7, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Protestants: Robert B. Greenwalt, Esquire
Appellants /Protestants : Joseph P. Kinsley and the Halethorpe Imp. Assn.

Counsel for Petitioner : Robert A. Hoffman, Esquire
Petitioner : John M. Kemp, Vice President Cloverland Farms Dairy, Inc.

Mr. and Mrs. Edward Smith
Amy J. Hawkins
Theresa Loury

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 1, 1996

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

RE: Item No.: 9
Case No.: 97-11-XA
Petitioner: Cloverland Farms Dairy

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on July 8, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

Printed with Soybean Ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, PDM DATE: July 29, 1996

FROM: Arnold F. "Pat" Keller, III, Director, OP

SUBJECT: 4308 Washington Boulevard

INFORMATION:

Item Number: 9

Petitioner: Cloverland Farms Dairy, Inc.

Property Size: _____

Zoning: BR-CS-I

Requested Action: _____

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

The subject site is part of the 1996 Comprehensive Zoning Map Process Issue 1-005. This zoning reclassification petition is sponsored by the Planning Office and suggests that the intensive BR-AS zoning along Washington Boulevard be reduced to a less permissive zone. Specifically, if the staff and Planning Board recommendations on 1-005 are endorsed by vote of the County Council by October 16, 1996, the A.S. District Overlay will be removed from the entire Washington Boulevard corridor, effectively disallowing gas stations in the future.

The Planning Office recommends postponing the decision on Item 9 until after October 16, 1996 in order to allow the County Council to determine the future land uses along Washington Boulevard.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kerns

PK/JL/lw

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: July 22, 1996

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for July 22, 1996
Item Nos. 008, 009, 010, 015 & 016

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE19

Baltimore County Government
Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410)887-4880

DATE: 07/23/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 22, 1996.

Item No.: SEE BELOW 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.

8. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:008,009,010,013,014, 015 AND 016.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

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BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM DATE: 7/9/96

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: 7/22

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 8
9
10
15
16

RBS:sp

BRUCE2/DEPRM/TXTSBP

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 29, 1996

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

RE: Petition for Special Exception and Variance
NW/S Washington Blvd. at SE/S Ridge Avenue
(4308 Washington Blvd.)
13th Election District
1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Dear Mr. Hoffman:

Please be advised that an appeal of the above-referenced case was filed in this office on October 25, 1996 by Robert B. Greenwalt, Esquire on behalf of Joseph P. Kinsey and the Halethorpe Improvement Association. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: Mr. and Mrs. Edward Smith
Ms. Amy J. Hawkins
Ms. Theresa Loury
People's Counsel

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APPEAL

Petition for Special Exception and Variance
NW/S Washington Boulevard at SE/S Ridge Avenue
(4308 Washington Boulevard)
13th Election District - 1st Councilmanic District
Cloverland Farms Dairy, Inc. - Petitioner
Case No. 97-11-XA

Petition for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
1 - Plat to Accompany Petitions for Zoning Variances and Special Exception
2 - Building Footprint
3 - Letter from William Simmons and Cynthia Miller to Baltimore County dated August 7, 1996
4 - Development Plan/Landscape Plan
5A-5I - Nine Photographs
6 - Professional Resume of Kenneth W. Schmid

Protestants' Exhibits:
1 - Letter from Joe Keech, Zoning Chairman of the Halethorpe Improvement Association to the Zoning Commissioner dated July 30, 1996

Video Cassette Tape not Marked as Exhibit

Letter of Opposition

Two Miscellaneous Correspondences

Deputy Zoning Commissioner's Order dated September 27, 1996 (Granted)

Notice of Appeal received on October 25, 1996 from Robert B. Greenwalt, Esquire on behalf of Joseph P. Kinsey and the Halethorpe Improvement Association

c: Robert A. Hoffman, Esquire, Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204
Mr. John H. Kemp, Vice President, Cloverland Farms Dairy, Inc., 2200 N. Monroe Street, Baltimore, MD 21217
Mr. Joseph P. Kinsley, 1519 Woodside Avenue, Baltimore, MD 21227
Mr. and Mrs. Edward Smith, 4501 Spring Avenue, Baltimore, MD 21227
Ms. Amy J. Hawkins, 4309 Spencer Street, Baltimore, MD 21227-4527
Ms. Theresa Loury, 2517 Hammonds Ferry Road, Baltimore, MD 21227
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF *

CLOVERLAND FARMS DAIRY, INC. * Case No. 97-11-XA

Petitioner *

SUBPOENA

TO: BILL HUGHEY
401 Bosley Avenue, 4th Fl.
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO Personally Appear at Room 48, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on the 7th day of May, 1997 at 10:00 a.m.

Subpoena requested by Robert B. Greenwalt, Ste. 201, 611 Frederick Road, Catonsville, MD 21228, 410-747-2821, attorney for Appellants.

DATE: Charlotte E. Radcliffe
Clerk, County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
97 APR 28 PM 3:59

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: January 8, 1998
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 97-11-XA
Cloverland Farms Dairy, Inc.

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 97-11-XA)

---

*Robert B. Greenwalt, Esq.*

*Suite 201, 611 Frederick Rd., Catonsville, MD 21228 410-747-2821 fax: 410-788-2774*

May 8, 1997

County Board of Appeals
Old Courthouse, Rm 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 97-11-XA

To the Board:

Attached please find the duplicate originals required by Rule 8 to evidence the authorization of the Halethorpe Improvement Association for Joseph Keech and Joseph Kinsey to appear and testify for the Association.

Please include these documents in the file for the Case.

Very truly yours,

Robert B. Greenwalt

cc: Robert A. Hoffman, Esq.
Attorney for Petitioners (w/attachments)

RECEIVED
COUNTY BOARD OF APPEALS
97 MAY -8 PM 2:33

---

BE IT RESOLVED, by the Halethorpe Improvement Association that the responsiblity for review of and action of all zoning matters is placed in the Board of Directors and the Zoning Chairman.

As adopted by the Association by unanimous vote the 21st day of January 1997.

Secretary Pamela L. Cullen — President Joseph Kinsey

---

BE IT RESOLVED, by the Halethorpe Improvement Association that the Association is opposed to the grant of variances and special exceptions requested by Cloverland Farms Dairy, Inc. to operate a convenience store and automotive service station as set forth in Case No. 97-11-XA.

As adopted by the Board of Directors by unanimous vote this 22nd day of ~~May~~ October, 199 .

Secretary Pamela L. Cullen — President Joseph P. Kinsey

---

AFFIDAVIT OF JOSEPH KINSEY

I do solemnly declare and affirm under the penalties of perjury that the undersigned is the President of the Halethorpe Improvement Association. The number of members in the Association is 192 households. The Association represents the geographical area of the Halethorpe community, north and west of Washington Boulevard in Baltimore County.

The undersigned is authorized to present the views of the Halethorpe Improvement Association.

Date: May 7th, 1997 Joseph Kinsey

I do solem nly declare and affirm under the penalties of perjury that Joseph Kinsey is the President of the Halethorpe Improvement Association and a member of the Board of Directors.

Secretary Pamela L. Cullen — President Joseph Kinsey

---

PLEASE PRINT CLEARLY PROTESTANT(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| Joseph P. Kinsey | 1519 Woodside Ave. 21227 |
| Bernice Smith | 4501 Spring Ave 21227 |
| Mattie Smith | 4501 Spring Ave. 21227 |
| Joseph Hawkins | 4301 Spencer St 21227-4627 |
| Pamela Lewis | 2517 Hammond Ferry 21227 |

---

VENABLE, BAETJER AND HOWARD, LLP
*including professional corporations*

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200 Fax (410) 821-0147

OFFICES IN
MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Writer's Direct Number:
410-494-6201

July 5, 1996

*Hand Delivery*

Mr. Carl Richards
Department of Permits & Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Legal Owner: Cloverland Farms Dairy, Inc.
Property Location: 4308 Washington Boulevard
Petition for Special Exception and Variance

Dear Mr. Richards:

I am hereby drop filing the enclosed Petitions for Special Exception and Variance with regard to the above captioned property. This request has not been previously reviewed. Pursuant to Zoning Enforcement, there are no outstanding zoning violations on site. Enclosed for submittal are the following documents:

1. Petition for Special Exception (3)
2. Petition for Variance (3)
3. Zoning description (3)
4. Site Plans w/ 200' Zoning Map (12)
5. Check in the amount of $755.00

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

Sincerely,

Barbara W. Ormord
Legal Assistant

Drop-Off
No Review
7/8/96
WCR

RECEIVED
5 1996
PDM

bw
cc: Robert A. Hoffman, Esquire

TO1DOCS1/BAW01/0027237.01

96-3951
9

---

Robert B. Greenwalt, Esq.
20 University Avenue
Baltimore, MD 21228
410-747-7816

Rec 25 Oct 96
2:10 pm
CAH Jr.

October 25, 1996

RECEIVED OCT 25 1996

Arnold Jablon, Director
Room 111, County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Notice of Appeal

To Mr. Jablon:

On behalf of Joseph P. Kinsey and the Halethorpe Improvement Association, I hereby file an appeal of the Deputy Zoning Commissioner's decision in:

Case No. 97-11-XA
Petitions for Special Exception and Variance
Cloverland Farms Dairy, Inc. - Petitioner

The filing fee is attached. Please refer this matter to the Board of Appeals.

Very truly yours,

Robert B. Greenwalt

---

Mr. Gorman W. Reagan
4325 Ridge Ave.
Baltimore, Md. 21227
Sept. 21, 1996

RECEIVED
SEP 23 1996
ZONING COMMISSIONER

Baltimore County Dept. of Zoning
Deputy Commissioner
400 Washington Avenue
Towson, Maryland 21204

Dear Deputy Commissioner:

In reference to the Special Exception to the Zoning Requirements(Zoning Case #97-11-XA)for the Royal Farm Store at the 4300 Block of Washington Blvd & Ridge Avenue,Halethorpe, Md. to have Gasoline Pumps on a very Small Peice of Ground at that Heavily Traveled intersection.

I live in that same block on Ridge Avenue and I have talked with my neighbors about this very important Zoning Exception and with the exception of Mr. Simmons, which he is in favor of & he is an employee of Royal Farm Store. We are ALL VERY MUCH AGAINST this Special Exception to the Zoning. We very Strongly Urge You to Disapprove the Special Exception to Zoning. Royal Farm Vendors DOUBLE PARK on Ridge Avenue from 3:00AM & all though the day which is very unsafe & hinders traffic in both directions.

Sincerely Yours,

Gorman W. Reagan

To file 1mk

---

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

| NAME | ADDRESS |
|---|---|
| Rick Schmidt | 210 Allegheny Ave 21204 |
| DAVID MARTIN | 6WS-658 KENILWORTH DR 21204 |
| NICK BRADER | " " |
| John M. Kemp | Cloverland 2200 W. Monroe St. |
| Peter W. Ratcliffe | 10804 STONYSIDE RD |
| Frank Gorbutt | CLOVERLAND |
| Dorothy Mears | CLOVERLAND |
| Carl Richards | CLOVERLAND |
| Rick Schmidt | 8258 Veterans Hwy Ste 190 Millersville, Md 21108 |

8/7/96

Baltimore County
To whom it may concern:

I have resided and owned my two properties (4310 & 4312 Ridge Avenue) for approximately 27 years. In that time I have watched our neighborhood change as all neighborhoods do, luckily some good and unfortunately some bad.

When I moved to my residence at 4310 Ridge Avenue, the space now occupied by the Royal Farm Store, was at that time Larry's Bar. The property was never kept up and caused numerous problems for the neighborhood. The lot was completely dirt and a convenient place for outsiders to abandon cars as well as their trash. To put it nicely, the place was a continual eyesore as well as a breeding ground for undesirables. On any day you could be awakened at 2am with rowdy people leaving or relieving themselves on the parking lot.

When we heard the Royal Farm Store was taking over the property we were delighted. Improvement was here at last. During the years that they have been there we have witnessed a pleasant transition. The property has been continually and lovingly cared for. It has become a place of convenience for a large population of elderly residents that are within walking distance. To see this area today, you would never guess where it has come from. The look of the grounds and parking lot alone have greatly improved the looks for the surrounding area.

Thank you for providing me this opportunity to speak our.

Sincerely,

William A. Simmons
(4312 Ridge Avenue)
Current resident

Cynthia A. Miller
(4310 Ridge Avenue)
Former Resident

PETITIONER'S
EXHIBIT 3

08/08/1996 08:23 418-987-4718 TRAFFIC CONCEPTS,INC PAGE 01

Professional Resume
of
Kenneth W. Schmid
3726 Frankford Ave.
Baltimore, MD 21206

PAGE 02

**Experience:**

**January 1993 - Present**
Traffic Concepts, Inc.
Brightview Business Center
8258 Veterans Highway, Suite 19B
Millersville, MD 21108

Owner, Vice-President

Provide traffic engineering consultant services to the public and private sectors including: Expert Testimony before the County Zoning Officer and Board of Appeals for Special Exception and Rezoning cases. Development of Feasibility Analysis including access alternatives and the assessment of the impact of pertinent Adequate Public Facilities legislation of local governments on potential development sites. Development of Traffic Impact Studies including critical lane, highway capacity and signal warrant analysis, recommendations of road improvements necessary to meet various Adequate Public Facility criteria and leading negotiations with government agencies to secure waivers to Adequate Public Facilities legislation. Design and preparation of traffic signal, maintenance of traffic, pavement marking and road improvement concept plans. Preparation of technical and price proposals.

**December 1989 - January 1993**
Ronald W. Johnson Associates, Inc.
Building 400, Suite 420
2661 Riva Road
Annapolis, MD 21401

Chief - Traffic Engineering Section

Started and developed the traffic engineering section at this consulting firm. Duties included: Directing the activities of the Traffic Engineering Section. Providing expert testimony at over 30 Special Exception, Rezoning and Appeal cases. Development of more than 130 Feasibility and Traffic Impact Studies. Design and Preparation of traffic signal design, maintenance of traffic and road improvement concept plans.

PETITIONER'S
EXHIBIT 4

Design and Preparation of traffic signal design, maintenance of traffic and road improvement concept plans.

PETITIONER'S
EXHIBIT 6

App. # 5

Received 4/11/97

*TERRENCE B. SHERIDAN*
Chief of Police

**Baltimore County Police**
Headquarters
700 East Joppa Road
Towson, Maryland 21286-5501

(410) 887-2214
Fax (410) 821-8887

Integrity . . . Fairness . . . Service

April 8, 1997

Mr. Joseph Kinsey
Halethorpe Community Association
1519 Woodside Avenue
Baltimore, Maryland 21227

Dear Mr. Kinsey:

As you requested, I have checked through our Crime Analysis Unit and learned that since April 26, 1996 there has been sixteen armed robberies at the Royal Farm Store, 4308 Washington Blvd, 21227.

If I can be of further assistance, please do not hesitate to contact me at 887-0872.

Sincerely,

W. Kahler

Sgt. William Kahler
Community Outreach Unit
Precinct One, BCoPD

*Nationally Accredited Since 1984*

ARBUTUS COMMUNITY ASSOCIATION INC.

TOWNHALL—1349 STEVENS AVENUE
BALTIMORE, MARYLAND 21227
FOUNDED 1928

January 23, 1997

Balto. County Board of Appeals

The Arbutus Community Association unanimously voted on Wednesday, January 22 to support the Halethorpe Improvement Association's opposition to the zoning varience at the Royal Farm Store at 4308 Washington Blvd. in Halethorpe, zoning variance 97-11-XA.

Our membership, which has over 270 members, feel that this is in direct conflict with the Southwest Revitalization vision.

Reaspectfully yours,

George Freson
George Freson
Corresponding Secretary

App. #7

Per. #5

TRAFFIC BRIEF

ROYAL FARM STORE
US 1 @ Ridge Avenue
Baltimore County, Maryland

May, 1997

Prepared By

Traffic Concepts, Inc.
Brightview Business Center
8258 Veterans Highway
Suite 19B
Millersville, Maryland
21108 410-987-0427

Per. #6

GWS

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
CONSULTING ENGINEERS

GEORGE WILLIAM STEPHENS, JR.
(1888-1985)

W. HARRY JESSUP JR., P.L.S.
CHIEF EXECUTIVE OFFICER

LEONARD A. PARSON, P.E.
PRESIDENT

JAMES A. MARKLE, P.E.
FREDERICK N. CHANDOR, IV, P.E.
PAUL W. TAYLOR, P.E.
VICE PRESIDENTS

TOWSON
SENIOR ASSOCIATES
ROBERT D. BARKLEY
NICHOLAS J. BRADLEY, III, P.E.
PASQUALE R. CARLO
WALTER J. DENER, P.L.S.
ROBERT P. HENRY, P.L.S.
DAVID L. MARTIN, L.A.
ELIZABETH VENTMILLER
IWONA ROSTEK-GARSKA, P.E.

ASSOCIATES
ROBERT W. MATZ, P.P.L.S.
BRENT C. PETERSEN, L.A.
THOMAS V. WOODCOCK, JR., L.A.
VALEK ZARNO

BEL AIR
SENIOR ASSOCIATES
WAYNE E. MANSPEIZER, P.L.S.
RICHARD J. UMBARGER, P.E.

ASSOCIATES
JAMES N. CHANDLER, JR., P.E.
ROWAN G. GLIDDEN, L.A.
GERALD P. MARAGON, P.E. & P.L.S.
WALTER H. NOYES, P.L.S.

**CURRICULA VITAE**
**DAVID L. MARTIN, L.A.**

**Director of Land Planning / Landscape Architecture**
**George William Stephens, Jr., & Associates**

**Professional Registration:** Landscape Architecture
Maryland - No. 776
Pennsylvania - No. 573-E

**Education:**
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

**Professional Affiliations:**
American Society of Landscape Architects, Member
Urban Land Institute, Associate

Professional practice includes 26 years of land planning, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has previously been qualified as an expert in land planning, site planning and zoning issues in Baltimore County, Howard County, Harford County, Anne Arundel County and the Federal District Court in Baltimore.

Mr. Martin has practiced in the State of Maryland for the past ten years. Additionally, he has practiced in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

Significant planning projects include Cedar Lane Farms PUD, Baltimore County, Westwicke, Baltimore County, developments of Regional Impact (DRI) in Florida including; Palm Coast - 10,00 acre master plan, Florida - 6,500 acre mixed use PUD master plan, and Doral Park. Mr. Martin also directed a planning team to design a mixed use residential resort community in the Commonwealth of the Bahamas.

Mr. Martin has prepared numerous comprehensive zoning petitions in previous zoning cycles in Baltimore County including the 1996 issues. He also served on an ad-hoc committee which authored the Service Employment (SE) zone of the Baltimore County Zoning Regulations.

TOWSON: 658 KENILWORTH DRIVE • SUITE 100 • TOWSON, MARYLAND • 21204 • (410) 825-8120 • FAX (410) 583-0288
BEL AIR: 205 EAST BROADWAY • BEL AIR, MARYLAND • 21014 • (410) 879-1500 • (410) 838-3800 • FAX (410) 893-0425
*P.E. - Professional Engineer; P.L.S. - Professional Land Surveyor, P.P.L.S. - Professional Property Line Surveyor, L.A. - Landscape Architect*

*GREATER ARBUTUS COMMUNITY ALLIANCE*
*P. O. BOX 18223*
*ARBUTUS, MARYLAND 21227*

App. #8

March 20, 1997

RE: Case No. 97-11-XA Petition for Special Exception and Variance NW/S Washington Blvd. At SE/S Ridge Avenue, Cloverland Farm Dairy, Inc.

To Whom It May Concern:

The Greater Arbutus Community Alliance, an umbrella organization of community groups, business, religious and educational institutions in Southwest Baltimore County, has reviewed the facts surrounding the proposed installation of gas pumps at the Royal Farm Store in Halethorpe, MD.

Based upon this review, the Leadership Council of the Alliance is writing to express their strong opposition to this proposal. The Alliance supported the Baltimore County Planning Board's recommendation to reduce the proliferation of commercial growth along the Route 1 corridor as part of the Comprehensive Zoning process, as well as part of the well publicized initiative to revitalize the southwest area (Halethorpe, Arbutus, Lansdowne, Baltimore Highlands, and Maiden Choice). The planning board recommended that the zoning for this parcel change during last October's zoning map process congruent with this initiative to retain a more residential character. In respect to the Royal Farm operation, the County Council elected not to support the recommendations of both the planning board and the local community, allowing Royal Farm to retain their zoning, thereby allowing them to request the referenced special exception and variance.

The Alliance, therefore, would like to express its unanimous support of the Halethorpe Improvement Association, Inc. and the Halethorpe Civic League in their efforts to reverse this approval on appeal. Baltimore County planners have stated many time that a vital part of revitalization is "guarding the gateways" to the communities. This site anchors one of the three main "gateways" to Halethorpe. Clearly the increased traffic, delivery problems, lack of adequate parking, increased lighting, decrease in adjacent property values, and the potential increase in the rate of crime in the already well documented high crime rate along this corridor (including one recent homicide in the commission of an armed robbery), and particularly at this site, does not enhance any gateway location.

App. #9

Copy

Donna Cameron
975 Regina Drive
Baltimore, Maryland 21227

May 7, 1997

TO WHOM IT MAY CONCERN:

As a resident of the Maiden Choice Community, I support the Halethorpe Community in its opposition to the building of a gas station for the following reasons:

1) The proposed owner, Royal Farms Stores is known to our association as the worst convenience store in the area. We have a Royal location in our community on Wilkens Avenue. The store is a frequent target for crime due to its known lack of security. It has been robbed more than ten times in the last year. The store has experienced a decline as residents fear shopping there. We (and the police) have contacted the corporation numerous times in an attempt to improve this situation, but to no avail. Meanwhile this deteriorating store sits in our neighborhood.

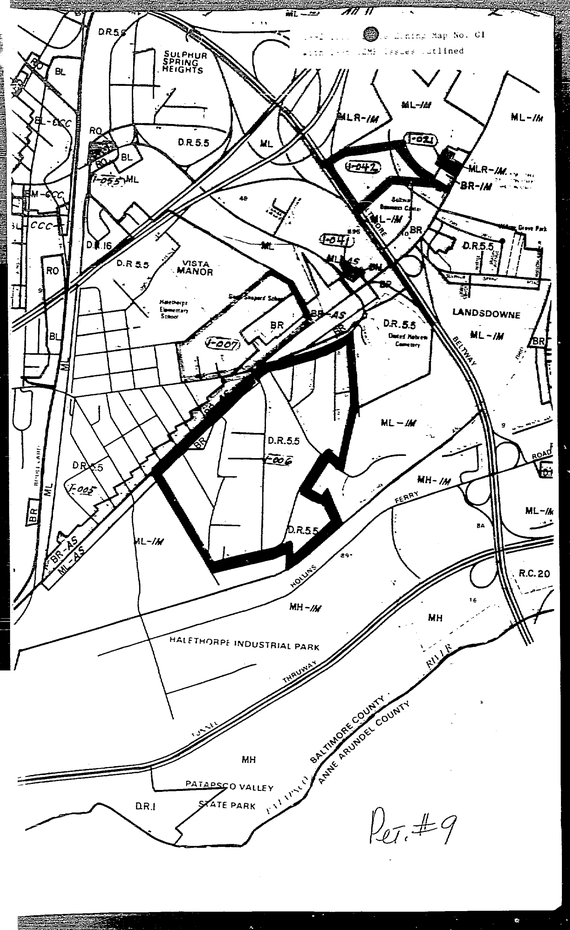
2) For the last six years, I have worked with the Maiden Choice Community Association to remediate the site of an abandoned gas station at the intersection of Maiden Choice Lane and Westland Avenue. We have been stalled, as has the property owner, by the fact that the underground tanks of this station had ruptured and leaked gasoline into the community. Leeds Federal Bank, located across the street from this station, experienced gas leaking under their building from the tanks. On at least one occasion, the bank was closed briefly due to the danger to its workers.

The community has had to endure this abandoned eyesore while the EPA supervised the clean-up efforts. Again, *I emphasize that this has been going on for six years.*

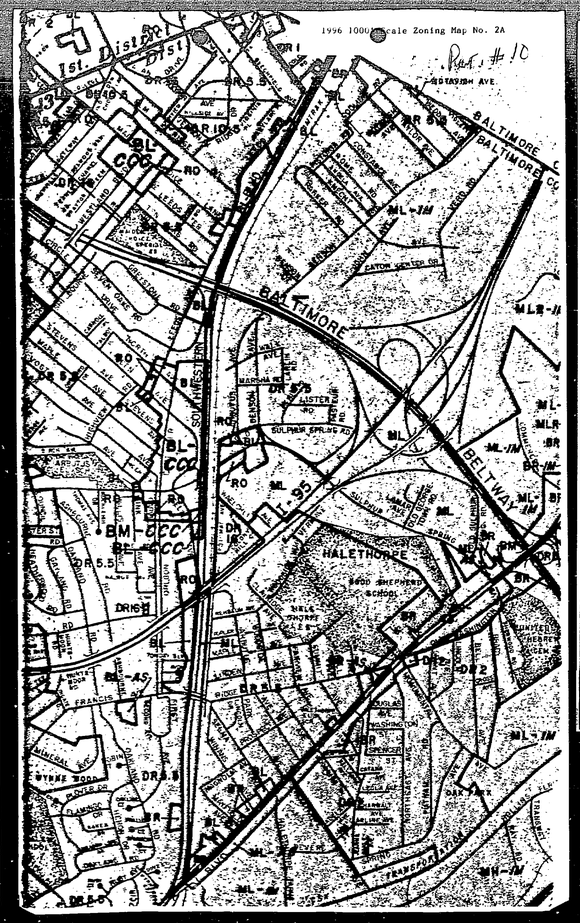
Please do not allow Royal Farms, a company known to us as lacking in care and responsibility, to bring a gas station with its additional safety hazards to the Halethorpe Community.

Sincerely,

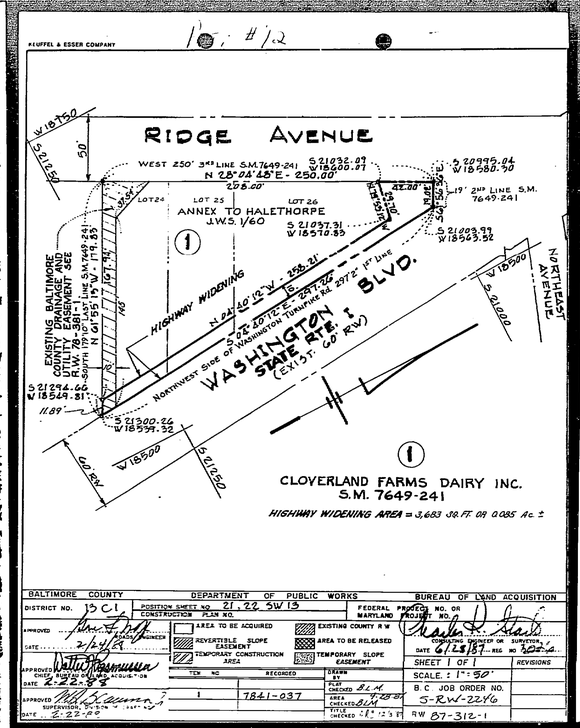
dc
Donna Cameron

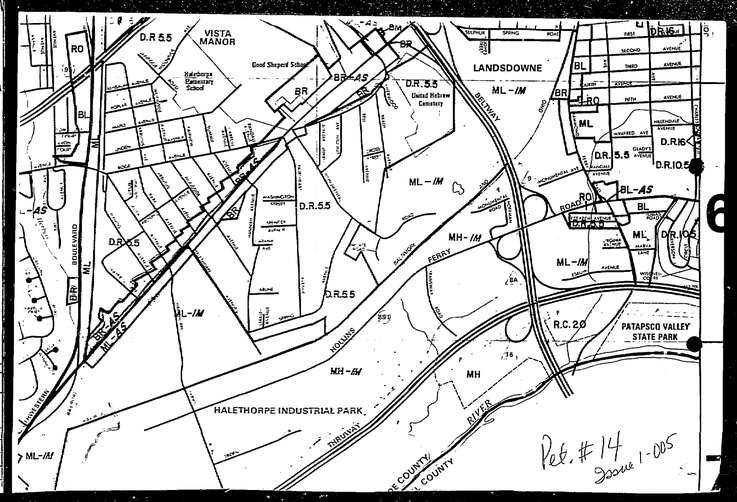



Pet. #9




Pet. #10



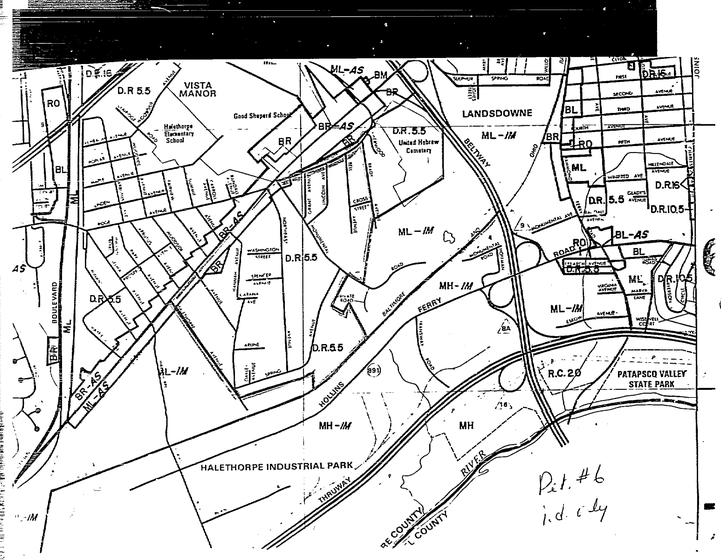

Pet. #14
Issue 1-005

(43)

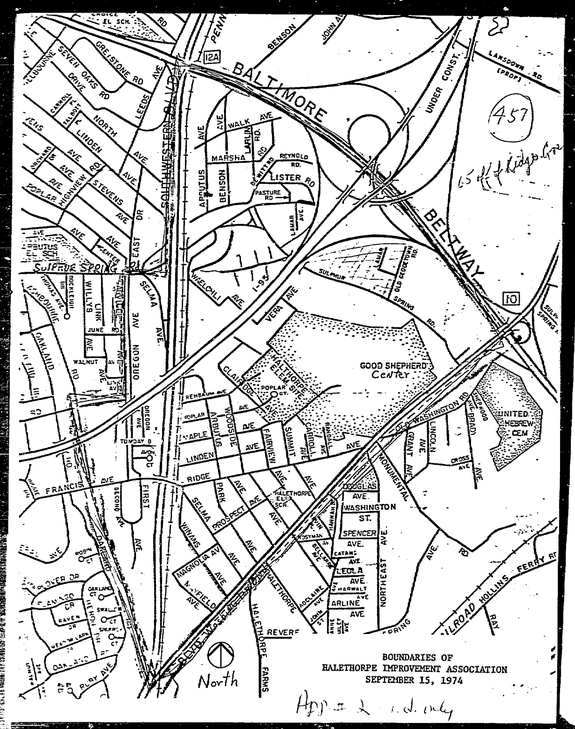
In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Kathleen D. Smith | 2059 Northeast Ave |
| Edwin F. Smith | 2059 Northeast Ave |
| Vanessa J. Tobie | 4470 Spring Ave. |
| James Tobie | 4470 Spring Ave |
| Pat Scott | 4467 Spring Ave |
| Kelly Scott | 4467 Spring Ave |
| | |
| | |




Pet. #6
i.d. only




App. # 2 i.d. only

(45)

In the matter of Case Number 97-11 before the Zoning Commissioner, Cloverland Farms Dairy, Inc. has requested a special exception to allow an automotive service station with its Royal Farm Store located at 4308 Washington Boulevard. Cloverland also requested a variance of the number of parking spaces from 19 to 12 and a waiver of the requirement for public restrooms. The Special Exception and Variances were granted by the Zoning Commissioner on September 27, 1996. The Halethorpe Improvement Association has appealed this decision to the Board of Appeals. The Halethorpe Civic League supports the appeal. Both groups are OPPOSED to the creation of an automotive service station at the Royal Farm Store. The service station will adversely affect the health, safety and general welfare of the Halethorpe community. Customer and vendor parking on Ridge Avenue and Route 1 will increase traffic problems. Brightly lit service area and signs will affect adjacent properties. The proposed use is not in harmony with future comprehensive zoning plans for the community.

By my signature below, I acknowledge that I am aware of the request to create an automotive service station in the Royal Farm Store at 4308 Washington Boulevard, that I am a resident of the adjacent community, and I am OPPOSED to the Special Exception and Variances granted to permit such use.

| Name | Address |
|---|---|
| Kathleen A. Wright | 4507 Ridge Ave. 21227-4440 |
| Warren Wright | 4507 Ridge Ave 21227 - |
| Mary J. Wright | 4507 Ridge Ave 21227 |
| Rand Hack | 4605 Ridge Ave 21227 |
| Jon Timian | 4609 Ridge Ave 21227 |
| [illegible] McDaniel | 4611 Ridge Ave. 21227 |
| [illegible] Hammock | 4610 Ridge Ave 21227 |
| [illegible] Vernon | 4606 Ridge Ave. 2127 |

Polaroid

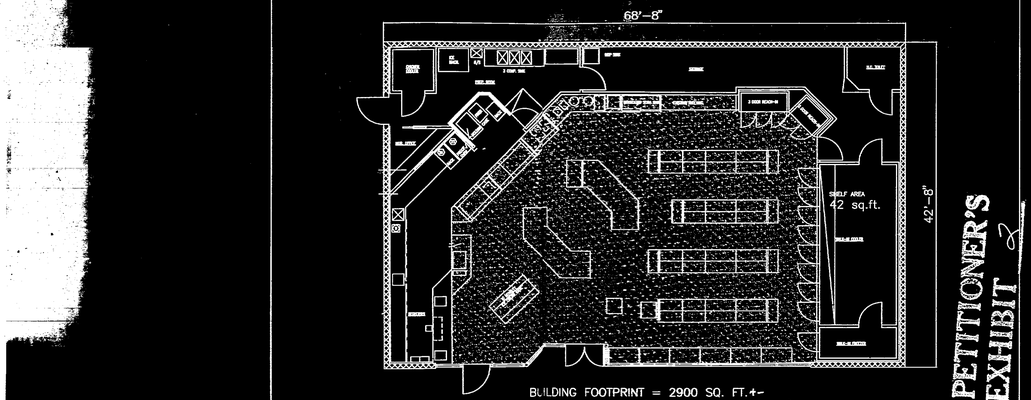
SPECCASSETTE

T-120

97-11-XA (...nwood)

VID... FARMS

8/6/9...




BUILDING FOOTPRINT = 2900 SQ. FT.+-
SALES AREA (SHADED REGION) = 1535 SQ. FT.

PROPOSED FLOOR PLAN C-TYPE STORE
scale 1/8" = 1'-0"

PETITIONER'S EXHIBIT 2

*Halethorpe Improvement Association*
*P.O. Box 7306*
*Halethorpe, Maryland 21227*

July 30, 1996

Zoning Commissioner
Baltimore County Office of Planning
401 Bosley Avenue
4th Floor
Towson, MD 21204

Ref: Case No. 97-11-XA
Special Exception to Zone Requirements

Dear Zoning Commissioner,

There are many ramifications regarding the special exception request approval that would, without a doubt, affect the health, safety, and general welfare of Halethorpe and its' residents. Some of these issues are as follows:

Increased Traffic

A gas 'n go will increase traffic-related problems on Route 1 and Ridge Avenue. The store does not presently have adequate customer/vendor parking. Large customer and vendor trucks, unable to access the lot, either park illegally on Ridge (blocking one lane) or Route 1, creating blind spots for customers leaving the lot. This is already a serious situation, and a serious accident in the making. Royal Farms is now asking the County to overlook the parking shortage and grant exception to the minimum requirement. The current bad situation will be aggravated, and the residents of Halethorpe will suffer the consequences.

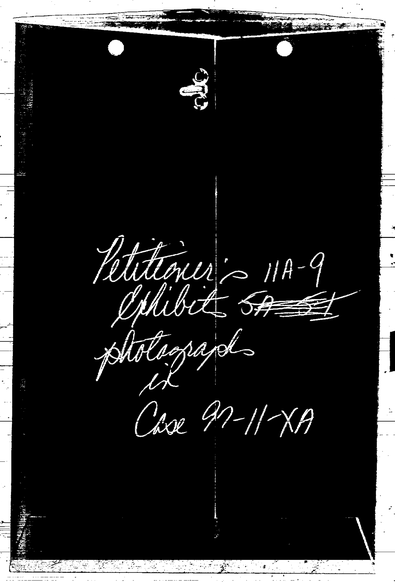
Lighting and Signage

Residents of Ridge Avenue are directly across from the proposed site. Their view would be a gas station. Their property values will decrease. Lights and signs will impact them directly. Their quality of life goes down. No one wants to live across from a gas station. Royal Farms uses cheap "tie up" promotional signs now. They are offensive and would no doubt be used to promote a gas 'n go, to the detriment of the neighborhood.

Crime

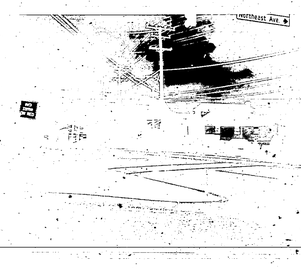
Royal Farms stores on Route 1 and Wilkens Avenues have been the target of numerous robberies in the past. Halethorpe Improvement Association's letter in June 1996 asking for improved security was not answered by Royal Farms. The employees and resident customers will be in more danger if a gas 'n go is allowed.

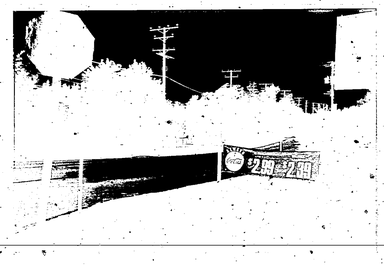
PROTESTANT'S EXHIBIT NO. 1

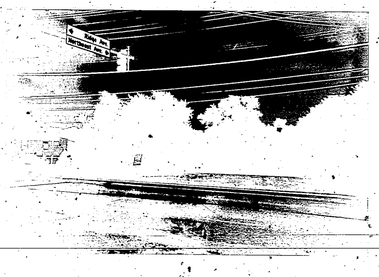


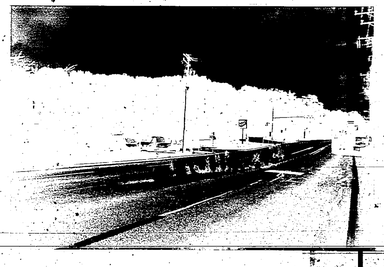
Petitioner's 11A-9
Exhibit ~~5A~~ ~~5B~~
photographs
in
Case 97-11-XA

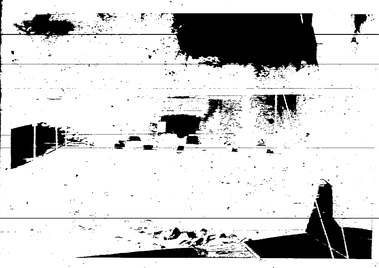












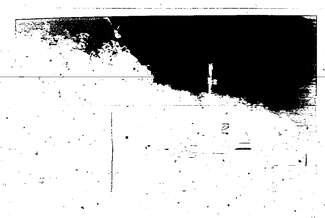












App. # 4
i.d. only

**AFFIDAVIT OF HENRY PFIEFFER**

The undersigned resides at 4304 Ridge ~~Acres~~ Ave, Halethorpe, Maryland, 21227, shown as Lot 6 on the Plat to Accompany Petitions submitted by Cloverland Farms Dairy, Inc. The undersigned resides across Ridge ~~Acres~~ Ave from the Royal Farm Store. Attached to this affidavit, and made a part hereof, are pictures taken by the undersigned of vehicles using or servicing the Royal Farm Store and parked on Ridge ~~Acres~~ Ave. The pictures were taken in November and December, 1996. I am unable to attend the hearing on May 7, 1997 due to my health, being unable to travel distances and remain away from home. The undersigned submits these pictures to the Board of Appeals in support of Appellants.

*The undersigned is unable* HMP

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY that the contents of the foregoing Affidavit and the pictures attached hereto are true and correct, and that I am competent to testify to the matters herein.

Henry Pfieffer

App. # 4 plus photos
i.d. only

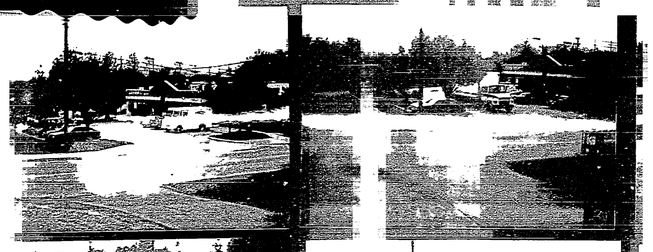




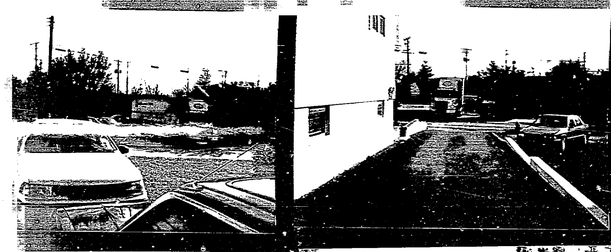






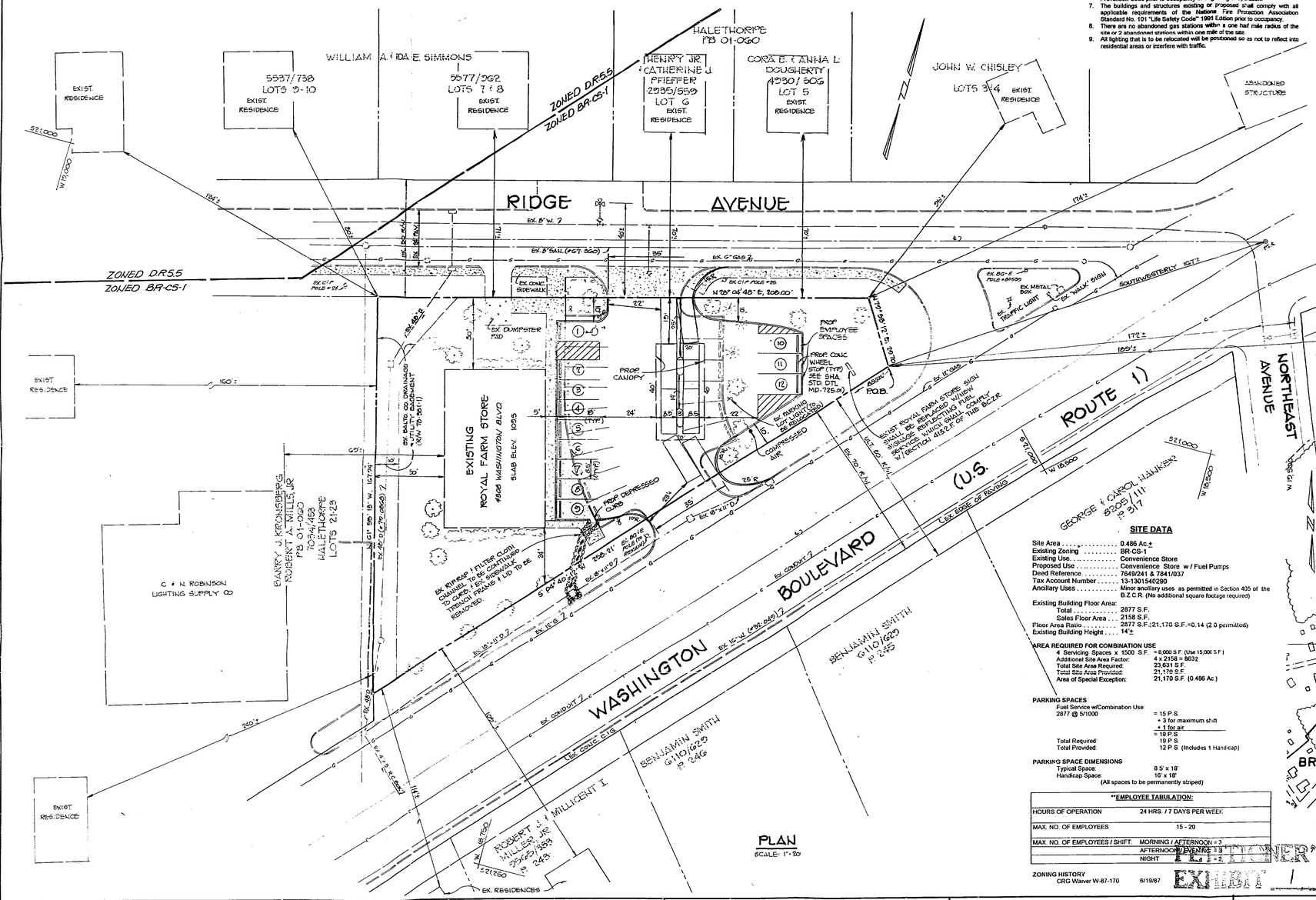





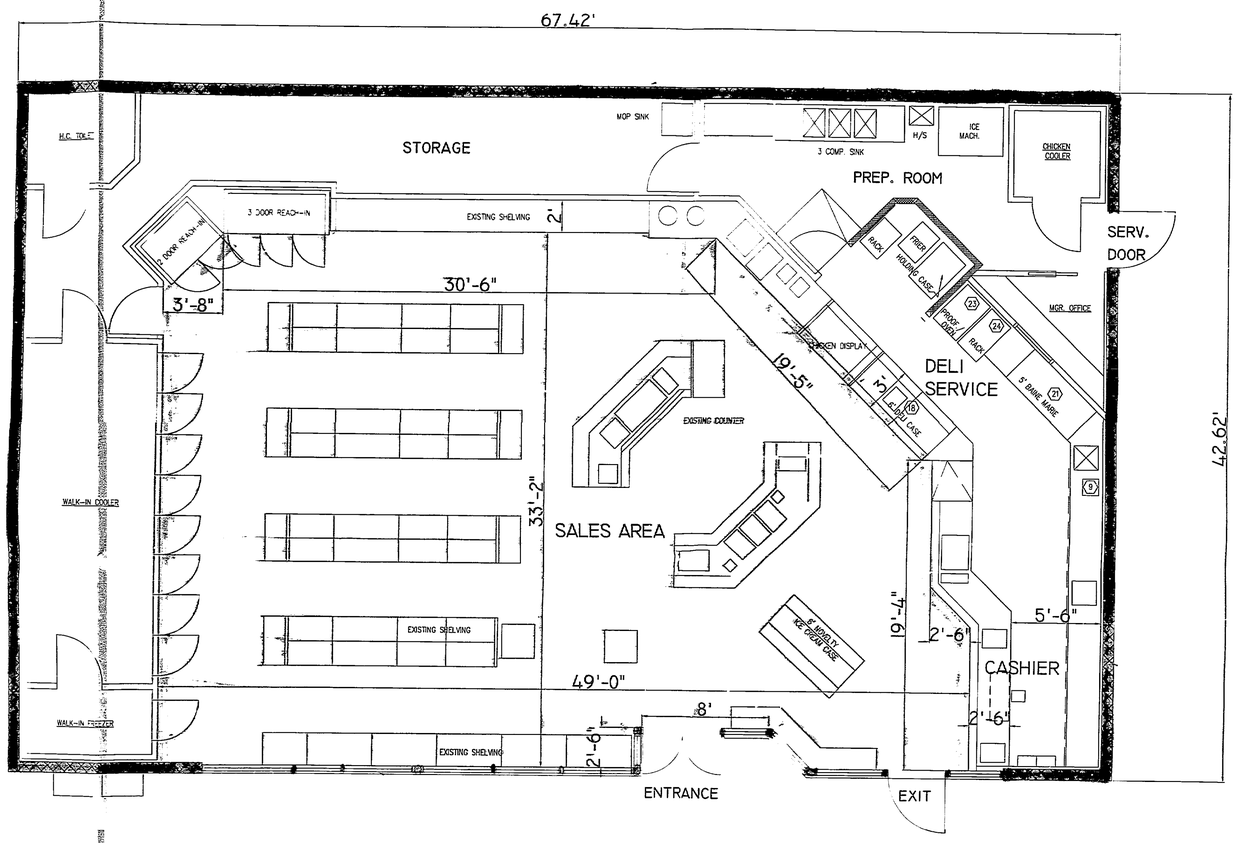



## GENERAL NOTES

1. Stormwater management is exempt (less than 5,000 S.F. of additional paving).
2. All signs to be in accordance with B.C.Z.R.
3. Site will comply with section 405.4.A.2.C (B.C.Z.R.)
4. Any underground fuel tanks to be installed with all local, state & federal regulations.
5. Final landscape plan to be approved by Baltimore County.
6. The site shall be made to comply with all applicable sections of the Fire Prevention Code prior to occupancy or beginning of operation.
7. The buildings and structures existing or proposed shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code" 1991 Edition prior to occupancy.
8. There are no abandoned gas stations within a one half mile radius of the site or 2 abandoned stations within one mile of the site.
9. All lighting that is to be relocated will be positioned so as not to reflect into residential areas or interfere with traffic.


WILLIAM A. & IDA E. SIMMONS
5537/730
LOTS 9-10
EXIST. RESIDENCE
5577/062
LOTS 7 & 8
EXIST. RESIDENCE
HALETHORPE
PB 01-060
HENRY JR. & CATHERINE J PFIEFFER
2935/559
LOT 6
EXIST. RESIDENCE
CORA E. & ANNA L. DOUGHERTY
4330/506
LOT 5
EXIST. RESIDENCE
JOHN W. CHISLEY
LOTS 3 & 4
EXIST. RESIDENCE
ABANDONED STRUCTURES
EXIST. RESIDENCE
ZONED DR 5.5
ZONED BR-CS-1
RIDGE AVENUE
EX. 8" W. ?
EX. 8" SAN. (FCT. 360)
EX. 6" GAS ?
EX. C.I.P. POLE #25
N 28° 04' 48" E, 208.00'
EX. CONC. SIDEWALK
EX. DUMPSTER PAD
PROP. EMPLOYEE SPACES
PROP. CONC. WHEEL STOP (TYP.) SEE SHA STD DTL MD-725.04
PROP. CANOPY
EX. PARKING LOT LIGHTING TO BE RELOCATED
COMPRESSED AIR
EXIST. ROYAL FARM STORE SIGN SHALL BE REPLACED W/NEW SIGNAGE REFLECTING FUEL SERVICE WHICH SHALL COMPLY W/SECTION 413.2.F OF THE BCZR.
EX. METAL BOX
EX. TRAFFIC LIGHT
EX. WALK SIGN
SOUTHWESTERLY 107.7
EXIST. RESIDENCE
EX. DRAINAGE & UTILITY EASEMENT (N/W TO S/E)
EXISTING ROYAL FARM STORE
#4308 WASHINGTON BLVD
SLAB ELEV. 1055
ROUTE 1)
(U.S.
NORTHEAST AVENUE
HARRY V. & GERVETTA L. DOUGHTY
PB 07-023
GS 7/174
OAKPARK
SECT. B LOT 1
D. R. 5.5
BR
BR-CS-1
ALT
SITE
BOULEVARD
WASHINGTON RD
POINT OF BEGINNING
N 10,641±
E 21,000
EX. EDGE OF PAVING
EX. CURB
EX. 18"x41" D.I.
EX. 30" R.C.P.
EX. 15" W. (736.049) ?
EX. 6" W. ?
EX. CONDUIT ?
EX. CONC. SIDEWALK
EX. 8" W. ?
EX. 8" SAN. ?
EX. 4" G. ?
EX. 8" G. ?
EX. 6" G. ?
EX. 8" W. ?
EX. 4" SAN. ?
EX. 8" SAN. ?
EX. 8" W. ?
EX. 8" G. ?
EX. 6" W. ?
EX. 8" W

Pet. Exhibit's #3




FLOOR PLAN
SCALE 1/4"=1'-0"

SALES AREA
[redacted]
1535 SQ. FT.

# ROYAL FARMS
STORE #46

4308 WASHINGTON BLVD.
HELETHORPE , MARYLAND 21227

DONALD B. RATCLIFFE & ASSOC.
ARCHITECTS AND PLANNERS
10404 Stevenson Road, Stevenson, Maryland 21153
484-7010

CDI Designs Inc.
5500 Broadway
Rivendale, New York 10463
212-562-9000

Renovations for: ROYAL FARMS
STORE #46

CONTENT:
FLOOR PLAN

REVISED:

| # | date | # | date |
|---|---|---|---|

DATE: 5/03/97
SCALE: AS SHOWN
DRAWN BY: P.W.R.

A-1

SHEET 1 OF 1