IN THE MATTER OF THE APPLICATION OF FILLETI COMPANY -LEGAL OWNER; AND SOUTHLAND CORPORATION -CONTRACT PURCHASER -PETITIONERS FOR A RECLASSIFICATION AND SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE SEC DUNMANWAY AND SOLLERS POINT ROAD (7501 DUNMANWAY) 12TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. CR-97-470-X (Cycle I, 1997)

* * * * * * * * * *

OPINION

This case comes before the County Board of Appeals of Baltimore County on a Petition for Reclassification of the property's zoning from B.L. to B.L.-A.S., and for a special exception permitting the use of a service station in combination with an existing convenience store.

A public hearing was conducted by this Board on October 30, 1997, with a public deliberation held on November 26, 1997. Petitioner was represented by John B. Gontrum, Esquire; Kenneth J. Colbert and William Monk testified on behalf of the Petitioner. Carole S. Demilio, Deputy People's Counsel for Baltimore County, also participated in these proceedings. There were no protestants at the public hearing.

The instant site is located on the southeast corner of Sollers Point Road and Dunmanway, and is approximately .867 acre, improved by a 7-11 convenience store, consisting of 2,585 sq. ft.

The site was reclassified from R-6 to B.L. and a special exception for an automotive service station was granted in 1955; with its construction following shortly thereafter. In 1984 the Filleti Company and Southland Corporation were granted a special exception for the use of a convenience store in combination with a service station. The existing service station was removed, and the 7-11 store as it exists today was built. Shortly thereafter, due to a combination of financial restraints and a subsequent Maryland law prohibiting petroleum companies from operating their own service stations, the fuel service station was never constructed. Since that time, the Southland Corporation has divested itself from the Cities Service Petroleum Corporation and is able to proceed with the original concept, which was approved in 1984.

Mr. Kenneth J. Colbert, a registered professional engineer in land development for the past 29 years, and accepted as an expert, testified in support of Petitioner's request for reclassification of the subject property. He was the author of the site plan which has been submitted as Petitioner's Exhibit #6. He described the subject site as being located on "a small island of commercial businesses in the middle of a large residential community." To the north, across Dunmanway, is a fire station, a Knights of Columbus, an auto/marine service store, a liquor store, and a Moose Lodge. To the south is a "sub" shop (also owned by the Filleti Company) and a grocery store. Mr. Colbert stated that an Amoco Station exists immediately next door and a High's store in combination with a service station operates one-half block away and has the A.S. designation which is documented on the 1996 200-scale Comprehensive Zoning Map (Petitioner's Exhibit #4). To the west are townhomes which are zoned D.R. 10.5.

Mr. Colbert reviewed the provisions required for a special exception in Section 502.1 of the Baltimore County Zoning Regulations (BCZR), and indicated the use of a service station in combination with the existing convenience store would not be harmful to the community in any way, and there would actually be an improvement in traffic safety, since the northernmost site entrance closest to the intersection would be eliminated, and that an existing 24-foot entrance would be enlarged to 35 feet.

On cross-examination by People's Counsel, Mr. Colbert stated the use of a service station in combination with the existing convenience store would be well-suited for this site. He testified that the documented site plan conforms with the standards set forth in Section 405.4 of the BCZR. He also indicated the "proof of need" for a service station in Section 405.3 has also been satisfied with no abandoned service stations in a one-mile radius of the subject site.

Mr. William Monk testified next on behalf of Petitioner's request for reclassification. He has been a land-use planner in Baltimore County for the past 18 years, and was accepted as an expert. He testified he was familiar with the subject site dating back to 1982 when he first performed a feasibility study for the Southland Corporation. He indicated that the current use of only the convenience store is not the most efficient use of the property. He stated that the paved area of the site is under-utilized and large enough to accommodate gas pumps which would best serve the neighborhood, and be consistent with the Master Plan for the surrounding area, meeting all requirements in Section 235.J.2 of the BCZR. Mr. Monk also echoed the testimony of Mr. Colbert, stating all requirements of Section 502.1 (BCZR) needed for a special exception have been satisfied, and noted the Amoco Station which operates immediately next door, and the High's /service station one-half block away. He also stated there are no abandoned service stations in a one-mile radius of the subject property.

Mr. Monk also confirmed the Planning Board's analysis and recommendations (Petitioner's Exhibit #7) summarizing "the addition of three gas pumps to the existing commercially zoned site would not negatively impact the surrounding community and the application of the A.S. District would be consistent with the property's zoning history."

Mr. Monk opined the County Council erred in not applying the A.S. district to the subject site when drafting the 1996 Comprehensive Zoning Maps, since the Amoco Station had operated for many years as its immediate neighbor, without the A.S. district designation.

He also noted the existence of the High's /service station one-half block away, which had the A.S. district retained by the County Council on the 1996 Comprehensive Zoning Maps.

That concluded Petitioner's case in chief. Ms. Demilio did not offer any witnesses, but in defending the county maps, indicated that, if the Board found error on behalf of the County

Council in drafting the latest Zoning Maps, the A.S. district would be appropriate.

In order for a service station to exist, the A.S. district must be applied and satisfy Section 405 (BCZR) which was adopted and amended by Bill No. 172 (1993).

This Board has the authority to make a change as to the district, division, or zone in which a property is classified (zoning reclassification) as provided by the Baltimore County Code, Section 2-356(j). This Board must determine from the testimony and the evidence produced at the hearing that (1) there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified; or (2) that the last classification of the property was established in error and that the property's reclassification is warranted by that change or error. The finding of such change or error and that the prospective reclassification is warranted may be made only upon consideration of the factors related to the purpose of the zoning regulations and maps. These include, but are not limited to, all of the following: Population trends, availability and adequacy of present and proposed transportation facilities, water supply facilities, compatibility of uses generally allowable under the prospective classification, the present and projected development or character of the surrounding areas, any pertinent recommendation of the Planning Board or Office of Planning and consistence of the current prospective classification with the Master Plan, County

Plan for Sewage and Water Supply Facilities, and the Capital Program.

Under Baltimore County Code, Section 2-356(k), the issue of substantial change does not apply, as it was less than one year since the adoption of the 1996 Comprehensive Zoning Maps. In order to succeed, Petitioner must establish error in the last classification of the property.

The Board, having heard oral testimony and having reviewed the various exhibits offered into evidence, finds that the present zoning of the subject property as B.L. should be reclassified to B.L.-A.S. The Board further finds that the Baltimore County Council erred when the comprehensive zoning maps were last approved.

Clearly the existence of the Amoco Station which has operated for many years immediately next door to the subject site (presently without the A.S. designation), the history of the subject site where a service station operated for over 30 years, and the High's /service station one-half block away, support Petitioner's request for the B.L.-A.S. reclassification.

Before any request for special exception may be granted, the Board must be satisfied that the requirements of Section 502.1 of the BCZR have been satisfied. Again, based on the oral testimony and evidence submitted at the hearing, the Board is satisfied that the requirements of Section 502.1 of the Baltimore County Zoning Regulations have been satisfied, and will grant the special exception request.

ORDER

IT IS THEREFORE, this 14th day of January, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification from B.L. to B.L.-A.S. be and is hereby **GRANTED**; and it is further

ORDERED that the Petition for Special Exception for a service station in combination with a convenience store be and is **GRANTED.**

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Acting Chairman

Donna M. Felling

Donna M. Felling

Thomas P. Melvin

Thomas P. Melvin

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

January 14, 1998

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

RE: Case No. CR-97-470-X
Filleti Company /Southland Corporation

Dear Mr. Gontrum:

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

Enclosure

cc: Don Filleti /Filleti Company
Robert Fitzgerald /Southland Corp.
Kenneth Colbert, PE
Colbert, Matz, Rosenfelt, Inc.
James Earl Kraft
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink on Recycled Paper

PETITION FOR RECLASSIFICATION	*	BEFORE THE
RE: 2910 SOLLERS POINT ROAD 7591 DUNMANWAY	*	BOARD OF APPEALS
Petitioners: Filletti Company	*	OF
The Southland Corporation	*	BALTIMORE COUNTY
	*	CASE NO. R-97-470-X

RECEIVED
COUNTY BOARD OF APPEALS
97 OCT 29 PM 3:20

MEMORANDUM OF PETITIONERS

The property owner, Filletti Company, and the contract purchaser, The Southland Corporation, has petitioned the Board of Appeals of Baltimore County to reclassify the above-referenced property lying in the 7th councilmanic district from zoning classification B.L. to zoning classification B.L.-A.S. and for a special exception for a use of gasoline service station in common with a convenience store.

STATEMENT OF FACTS

The subject parcel of property consists of .867 acres improved by a 7-11 convenience store located on the southeast corner of Sollers Point and Dunmanway Roads. The property currently is zoned B.L. To the east of the site lies a service station leased to the Amoco Oil Company also zoned B.L. To the south lies a small strip center and a carry-out restaurant, which also is owned by Filletti Company. Across Dunmanway are townhouses zoned D.R. 10.5, and a fire station is located across Sollers Point Road.

Although the zoning on the site originally was residential (R.6), the zoning was changed by Petition in the mid-1950's to commercial in Case No. 3530-RX. The commercial B.L. zoning was specifically adopted in order to permit a gasoline service station at the property. A service station subsequently was constructed on the property and operated until the mid-1980's. In 1984 Filletti Company and Southland petitioned the zoning commissioner for a special exception, special hearing and for variances in Case No. 85-71-XSPHA to allow a convenience store and service station as a use in common. The special hearing was to amend the original site plan and order granting the rezoning for the service station. All of the sought relief was granted.

Soon after the granting of the relief the existing service station was taken down and replaced with a convenience store. At the time The Southland Corporation owned Cities Service Petroleum Company, and their pumps were to be placed on the property. Maryland subsequently passed a law forbidding companies which owned petroleum companies from actually owning gasoline service stations, and due to this law and financial problems incurred by the Southland Corporation culminating in a bankruptcy proceeding the new gasoline service was not added to the convenience store. Since that time Southland has divested the Cities Service company and is able to proceed with the concept approved in the 1984 zoning hearing.

The site plan now before the Board has changed the site plan approved in the 1984 case in several important respects. First, the variances sought in the prior case are no longer needed or applicable. Second, there are fewer entrances needed onto the roadways. Finally, the pump islands have been made smaller.

Since approval of the plan in 1984, however, there have been several changes to the zoning law. Now, since Bill No. 172, 1993, service stations are not permitted in a B.L. zone unless the relatively new A.S. district is applied to the zone. The A.S. district was adopted in 1993 and was applied to all properties which had a district overlay of C.N.S, C.S.A, C.S. -1 or C.S. -2. No properties without these districts were given an A.S. designation regardless of whether service stations existed or had been approved.

In the 1996 comprehensive zoning maps the subject property was not raised as a zoning issue. In fact, in the entire 7th councilmanic district staff did not raise any issue asking for an A.S. district. They did propose, however, in Issue 7-015 pertaining to a large tract on the northwest corner of Merritt Boulevard and Sollers Point Road that the A.S. district be removed from the tract. The property contained a convenience store in combination with a service station. Eventually, the A. S. district was retained by the Council.

DISCUSSION

Although the zoning of the property is remaining the same, the Petitioners are seeking the addition of an overlay district to the zoning classification. Section 2-356 (a)(1) gives the Board of Appeals the power to change the district within which a piece of property is classified. Section 2-356(j) recites the findings that must be made prior to reclassifying the property. This includes a finding of error in the last classification and that the proposed classification is warranted by that error.

The consideration of a district change is usually held to a lesser burden of proof of error than a change in the underlying zoning classification. See Tennison v. Shomette, 38 Md. App. 1, 379 A.2d 187 (1977); In re: Guiseppi Automotive, Baltimore County Board of Appeals, R82-196. In the Guiseppi Automotive case the Board was asked to extend an I.M. district in an M.L. zone in order to permit a special exception for an existing service garage use. The Board acknowledged that it was being asked to substitute its judgment for that of the County Council, but felt that had the Council been presented with the same facts as were presented to it of the location of the property, of the history of the property and of the proposed plan for use that it would have granted the new district.

In Tennison the Court held that error had been committed because when the zoning classification was placed on a property it clearly ran contrary to a recent rezoning of the property that had been approved a year previously. The Court believed that a more liberal standard of error applied when seeking a change from one commercial subcategory to another than in a change from one use category to another.

The issue in this case is not whether the County Council made an error in judgment but rather whether the council made a decision based on incomplete or incorrect information when it failed to apply the A.S. district to the subject property. In short, the issue is basically the same as that posed by the Board in Guiseppi Automotive of whether the council would have rezoned the property had it the full information available to the Board. See White v. Spring, 109 Md. App. 692, 675 A. 2d 1023 (1996). In this case it is clear that the Council did not have before it information on the history of this property or on the adjacent tract and did not know that for over thirty years the subject property had been approved for a service station use and that the adjoining property was in fact so used despite the lack of the A.S. designation.

As the planning staff and planning board reports indicate, the site is well-suited for the proposed use. It is located at the crossroads of two substantial residential communities, and is located in a commercialized area well-trafficked by the neighborhoods. It truly meets the test of the now repealed community neighborhood district. Neither the old Dundalk community to the west nor the crowded residential area to the south area are suitable for gasoline service stations. Automotive service is well situated for this property, however, which is probably why there has been an Amoco station located on the adjacent tract for many years and why this site has been used and approved as a service station consistently over the last half century. The council simply did not have available to it the information about the historic use of the site, its location to the communities, it prior approvals, the documented plan for usage or the implications of the A.S. designation for the continued use of the property.

It is instructive to note that even the nearby High's property previously zoned A.S. was proposed to lose its designation as part of an overall look at the zoning of the large tract. It simply got lost in the shuffle of looking at proposed uses on the balance of the tract. Only at the council level did the A.S. designation get approved back on the property. Even so, the 1,000 scale zoning map does not show the A.S. district overlaying the zoning of the property. It does show, however, on the 200 scale zoning map. This is illustrative not only of the confusion and lack of awareness of the importance of the A.S. designation but also of the fact that traditionally districts have played a much inferior role to the underlying zoning classification.

Since the council did not have before it the information necessary to make an informed decision on the application of the district to the existing zone on the property, it is perfectly appropriate for the Board to find error and to assign the requested district to the property based upon the filed plan. People's Counsel for Baltimore County v. Williams, 45 Md. App. 617, 415 A. 2d 585 (1980).

CONCLUSION

In conclusion, Petitioners request the Board to find error in the failure of the Baltimore County Council to place the A.S. district designation on the existing B.L. zone on the property and to approve the filed site plan as part of the reclassification and the special exception for the use of a convenience store in combination with a service station.

Respectfully submitted,

John B. Gontrum

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the Property at 7501 Dunmanway

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an BL zone to an BL-AS zone, for the reasons given in the attached and (2) for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

Service station in combination with convenience store with floor area greater than 1500 sq. ft.

and (3) for the reasons given in the attached statement a variance from the following sections of the Zoning Regulations of Baltimore County:

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

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser/Lessee:

Robert Fitzgerald DIST. REP.
(Type or Print Name)

[signature]
Signature

The Southland Corp.
Address

5300 Shawnee Road

City	State	Zip Code
Alexandria,	VA	22312

Attorney for Petitioner:

John Gontrum
(Type or Print Name)

[signature]
Signature

814 Eastern Blvd. 410-686-8274
Address Phone No.

City	State	Zip Code
Baltimore,	MD	21221

Legal Owner(s):

Don Filleti / FILLETI CO.
(Type or Print Name)

Ken [signature]
Signature

(Type or Print Name)

Signature

Filleti Company
7815 Seaside Road (410) 285-5300
Address Phone No.

City	State	Zip Code
Baltimore,	MD	21222

Name, address and phone number of legal owner, contract purchaser or representative to be contacted.

Kenneth J. Colbert, P.E.
Colbert Matz Rosenfelt, Inc.
Name

3723 Old Court Road #206 410-653-3838
Address Phone No.

Baltimore, MD 21208

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING ______

unavailable for Hearing the following dates ______

Next TWO Months

ALL ______ OTHER ______

REVIEWED BY: ______ DATE ______

ok to file JRF 2/28/97

CR-97-470-X

Revised 9/5/95

CR-97-470-X

STATEMENT OF REASONS FOR RECLASSIFICATION

The property owner Filleti Company and Petitioner and Lessee The Southland Corporation petition the Board of Appeals of Baltimore County pursuant to Section 2-356 for reclassification of property located 2901 Sollers Point Road in the 7th Councilmanic District from B.L. to B.L.- A.S. and for a special exception for a service station in combination with a convenience store in excess of 1,500 square feet.

The subject property has been zoned B.L. since the inception of the comprehensive zoning map process. The site is located on the southeast corner of Dunmanway and Sollers Point Road and consists of almost .9 acres. It currently is improved by a convenience store and parking area.

Adjacent to the site on the east is an Amoco fuel service station, which has existed on the property for decades. To the south the owners of the subject property own a restaurant, and there is a small strip shopping center on the southeast corner. Across Sollers Pint Road is property long zoned D.R. 10.5 and built as townhouses and a county fire station is directly across Dunmanway from the property.

Twice before the property has been approved for a fuel service station. In 1955 a special exception was granted for a fuel service station and again in 1984 a special exception was granted for a fuel gas and go in connection with a convenience store. Consequently, there is a long standing historic use and approval of the site for zoning as permitted by the district of A.S. sought for the property.

A documented site plan is being filed in conjunction with the requested zoning depicting a proposed use for the property if the requested A.S. district is applied to the site. The plan indicates that the only addition to the property would be three (3) gas pump stations under a 57'x24' canopy. No variances are being requested.

The proposed use is very much in keeping with the historic approved uses of the site and of the adjacent property and would permit additional improvements including landscaping for the property.

No change in the underlying B.L. zoning classification is being sought, nor is there a change sought to the basic improvements to the property. The Petitioner believes that it was error not to permit or recognize the previously approved uses for the site. This history indicates at least two public hearings over a period of thirty (30) years both acknowledging that the use now proposed is not endangering the public health, safety or general welfare. Neither the zoning of the surrounding properties nor the uses have changed over the last twenty-six (26) years to indicate that the permissions previously given would be inharmonious with continued use of the site as a fuel service station in conjunction with a convenience store would be harmful to the community. Obviously, the continued use of the adjacent Amoco service station indicates the suitability of the subject site for the proposed use. Unfortunately, when the A.S. zone was proposed in 1993 prior to the most recent maps, it was only generally applied to certain pre-existing districts and not to sites that had been granted the use or historically used for fuel service stations.

Obviously, the Council did not have a documented plan to review in the comprehensive zoning map process or the knowledge of the history of the site, and the site was not a zoning map issue in the last map process. A review of the site, however, indicates that the site is ideally located in a commercialized area with access to nearby residences to serve the needs of the surrounding population. The centralized location of a fire station across the street indicates the fact that this location is centralized to the surrounding neighborhood and a review of the vicinity map will indicate just how much of a neighborhood center this site and the surrounding properties have become over the years. The proposed use is in full compliance with land usage within the area and with the Master Plan of Baltimore County.

In conclusion, the Petitioner believes that the failure of the County Council to apply an A.S. district to the subject property was error and that the redistricting as proposed is warranted. The use as proposed will be in harmony with the health, safety and general welfare as well as the historic and current planning objectives of the County.

CR-97-478-X

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

ZONING DESCRIPTION
7501 DUNMANWAY

BEGINNING AT A POINT ON THE SOUTH SIDE OF DUNMANWAY, 65 FEET WIDE, 55 FEET MORE OR LESS FROM THE CENTERLINE OF SOLLERS POINT ROAD; THENCE LEAVING SAID POINT OF BEGINNING AND BINDING ALONG SAID RIGHT-OF-WAY SOUTH 75 DEGREES 12 MINUTES 51 SECONDS EAST 199.31 FEET; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING SOUTH 14 DEGREES 46 MINUTES 53 SECONDS WEST 169.31 FEET; THENCE NORTH 75 DEGREES 32 MINUTES 16 SECONDS WEST 221.10 FEET TO A POINT ON THE EAST SIDE OF SOLLERS POINT ROAD, 60 FEET WIDE; THENCE BINDING ALONG SAID RIGHT-OF-WAY NORTH 13 DEGREES 30 MINUTES 49 SECONDS EAST 145.04 FEET; THENCE BY A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND AN ARC LENGTH OF 39.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 37,753 SQUARE FEET OF LAND, MORE OR LESS.

I:\JOBS\96061.WPF 2-26-97

3723 Old Court Road, Suite 206 Baltimore, Maryland 21208
Telephone: (410) 653-3838 / Facsimile: (410) 653-7953

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 035074

DATE 5/23/97 ACCOUNT 001-6150

AMOUNT $ 35.00 (WCR)

RECEIVED FROM: Romadka, Gontrum & McLaughlin

FOR: #080 - SIGN POSTING
#CR-97-470-X -- Cycle I
7501 Dummanway

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

$35.00 PAID
Baltimore County, Maryland
Office of Budget & Finance

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND 028531
OFFICE OF FINANCE - REVENUE DIVISION CR-97-410-X ~~#4~~ #6
MISCELLANEOUS CASH RECEIPT

DATE 2-25-97 ACCOUNT 001-6181

AMOUNT $ 800.00

RECEIVED FROM: Colber Matz Rosenfelt

072 RECLASS -- 500
050 Sp. Ex. --- 300
Taken by JRF

FOR: 7501 Dumanway

03A91#0262MICHRC $800.00
BA C003:38PM02-28-97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CERTIFICATE OF POSTING

Posting 10/15

RE: Case No.: CR-97-470-X

Petitioner/Developer: Filleti Company

Southland Corporation

Date of Hearing/Closing: Oct 30, 1997

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 7501 Dunman Way

The sign(s) were posted on 10/7/97
(Month, Day, Year)

Sincerely,

Gary Freund 10/7
(Signature of Sign Poster and Date)

GARY FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

9/96
cert.doc

County Board of Appeals of Baltimore County

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

May 15, 1997

NOTICE OF HEARING

CASE NUMBER: CR-97-470-X
7501 Dunmanway
SEC Dunmanway and Sollers Point
12th Election District - 7th Councilmanic
Legal Owner(s): Filleti Company
Contract Purchaser(s): Southland Corporation

Reclassification to change the property's zoning from B.L. to B.L.-A.S.
Special Exception for a service station in combination with convenience store with floor area greater than 1,500 square feet.

HEARING: THURSDAY, OCTOBER 30, 1997 at 10:00 a.m., Room 48 Old Courthouse, 400 Washington Avenue, before the County Board of Appeals.

Robert O. Schuetz /ds

ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

RECEIVED
COUNTY BOARD OF APPEALS
97 MAY 14 PM 12: 23

cc: Filleti Company
Southland Corporation
John Gontrum, Esq.
Kenneth Colbert, P.E.

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on Recycled Paper

County Board of Appeals of Baltimore County

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

November 3, 1997

NOTICE OF DELIBERATION

Having concluded its hearing on October 30, 1997, the Board of Appeals has scheduled the following date and time for deliberation in the matter of:

Filleti Company, Owner; Southland Corp. -C.P.
CASE NO. CR-97-470-X

DATE AND TIME : **Wednesday, November 26, 1997 at 9:30 a.m.**

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

Kathleen C. Bianco
Administrator

cc: Counsel for Petitioner : John B. Gontrum, Esquire
Petitioner /Legal Owner : Filleti /Filleti Company
Petitioner /Contract Purchaser : Robert Fitzgerald /Southland Corporation

Colbert, Matz, Rosenfelt, Inc. : Kenneth J. Colbert, PE

James Earl Kraft, Bd of Education
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Jeffrey Long
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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Baltimore County
Department of Permits and
Development Management

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

October 6, 1997

John Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Item No.: 470
Case No.: R-97-470
Petitioner: Filleti Company

Dear Mr. Gontrum:

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 February 28, 1997.

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 (410-887-3391).

Sincerely,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

April 30, 1997

John Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Reclassification Petition
Cycle I, #CR-97-470-X
7501 Dunmanway

Dear Mr. Gontrum:

As you are aware, Baltimore County is no longer responsible for posting properties for routine zoning hearings. However, Baltimore County will post all properties that were filed as part of Cycle I zoning reclassification. To cover the cost of posting this property, you must remit a check for $35.00 (payable to Baltimore County, Maryland). Please send this check, as soon as possible, to either myself or Sophia.

If you have any questions regarding the sign posting, please do not hesitate to contact Gwendolyn Stephens at 410-887-3391.

Very truly yours,

W. Carl Richards

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

c: Board of Appeals

Printed with Soybean Ink
on Recycled Paper

Property Description

Zoning Description for 9101 Transoms Road, Baltimore, MD 21236.
NE CORNER OF TRANSOMS AND BALLYGAR ROAD.

Being known and designated as lot 7, Block F, as shown on a Plat entitled "Resubdivision Plat B North Gate Hall", which Plat is recorded among the Land Records of Baltimore County in Liber EHK Jr. No. 38, folio 70. The improvements thereon being known as No. 9101 Transoms Road. Currently Liber 7419, page 520 and 521. Plat book #37, folio #91, lot #7, section #B, located in the 11 Election District, 5 Councilmanic District.

165

RE: PETITION FOR ZONING RECLASSIFICATION * BEFORE THE COUNTY
PETITION FOR SPECIAL EXCEPTION
7501 Dunmanway, SEC Dunmanway and * BOARD OF APPEALS OF
Sollers Point Road, 12th Election
District, 7th Councilmanic * BALTIMORE COUNTY

Legal Owner(s): Filleti Company * Case No. CR-97-470-X
Contract Purchaser/Lessee: The Southland Corp.
Petitioners *

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

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

RECEIVED
COUNTY BOARD OF APPEALS
97 AUG 19 PM 1:41

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 1997, a copy of the foregoing Entry of Appearance was mailed to John Gontrum, Esq., 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** May 20, 1998
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. CR-97-470-X
Filleti Company, L.O.; and Southland Corporation, C.P.

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. CR-97-470-X)

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 5.7.97
Item No. CR-97-470-X
Filleti Co.
#7501 Dunmanway

Dear Ms. Eubanks:

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

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

L. J. Gredlein

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

FILLETI COMPANY -PROPERTY OWNER; SOUTHLAND CORPORATION -C.P. - PETITIONERS SEC Dunmanway and Sollers Point Road (7501 Dunmanway)	CR-97-470-X ITEM #6, CYCLE I, 1997 12th Election District 7th Councilmanic District
From B.L. to B.L.-A.S. .867 acre	Documented Site Plan

February 28, 1997 Petition for Reclassification filed by John B. Gontrum, Esquire, on behalf of Petitioners.

John B. Gontrum, Esquire ROMADKA, GONTRUM & McLAUGHLIN 814 Eastern Boulevard Baltimore, MD 21221	Counsel for Petitioners
Don Filleti Filleti Company 7815 Seaside Road Baltimore, MD 21222	Petitioner
Robert Fitzgerald The Southland Corporation 5300 Shawnee Road Alexandria, VA 22312	Petitioner

Kenneth J. Colbert, PE
Colbert Matz Rosenfelt, Inc.
3723 Old Court Road, #206
Baltimore, MD 21208

James Earl Kraft
Baltimore County Board of Education
Mail Stop 1102-J

People's Counsel for
Baltimore County

Pat Keller
Jeffrey Long
Lawrence E. Schmidt
W. Carl Richards, Jr.
Docket Clerk /PDM
Arnold Jablon, Director /PDM

CR-97-470-X /Filleti Company / The Southland Corporation

10/29/97 -Memorandum of Petitioners filed by John B. Gontrum, Esquire, on behalf of Petitioners.

10/30/97 -Hearing concluded before; scheduled for public deliberation on Thursday, November 26, 1997 at 9:30 a.m. Notice to be sent.

11/03/97 - Notice of Deliberation sent to parties and copy to panel members (L.F.M.) -deliberation on 11/26/97 at 9:30 a.m.

CR-97-470-X

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

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

JILL D. LOPER

* Also Admitted In the District of Columbia

TOWSON OFFICE:
307 W. ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 825-0711

April 25, 1997

Carl Richards
Zoning Administrator
Department of Permits and Development Management
County Office Building
111 W. Chesapeake Ave.
Towson, Md. 21204

7501 Dunmanway

Re: Reclassification Sollers Point Rd

Dear Mr. Richards:

With respect to the above-referenced Petition for reclassification and special exception, my client is abandoning any existing claim to grandfathered status for a service station based on the previous cases in that the previous special exception for a service station was not utilized in Case No. 85-71-XSPHA.

Very truly yours,

John B. Gontrum

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Filleti Company /Owner; Southland Corp., CP
Case No. CR-97-470-X Cycle I 1997

DATE : November 26, 1997 @ 9:30 a.m.

BOARD /PANEL : Lawrence M. Stahl (LMS)
Donna M. Felling (DMF)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

Those present included John B. Gontrum, Esquire, Counsel for Petitioner; and Carole S. Demilio, Deputy People's Counsel for Baltimore County.

Purpose: To deliberate Case No. CR-97-470-X, Petition for Reclassification; testimony and evidence received at hearing on October 30, 1997.

LMS: Good morning. This is the public deliberation session for Case No. CR-97-470-X. The Board who heard the original case is present today and without further ado we will proceed.

TPM: The Petitioner is seeking a reclassification of subject property to BL-AS and special exception for service station in combination with convenience store pursuant to Section 2-356 of the Baltimore County Code. Petitioner is seeking change due to error by County Council -- did not have all information before them.

History -- service station operated from 1950s to 1980's. In 1984, Zoning Commissioner granted right to build convenience store with service station; existing station removed and convenience store built due to financial constraints and law regarding petroleum company /service stations.

Mr. C_____, a registered professional engineer and accepted as an expert testified as to a High's Store and station 1/2 block away in AS district; Amoco adjacent to site; requirements of 405.3 have been met; documented site plan conforms with 405; area sufficient for gas pumps; opined that 502.1 has been met and that it would actually be an improvement in traffic safety; one entrance would be closed and moved further from intersection.

Bill Monk testified as to existence of Amoco and High's service station /store 1/2 block away; Monk stated that site was large enough; consistent with Master Plan and in appropriate area; no abandoned station within 1-mile radius.

Requirements of 502.1 for special exception had been met; had been satisfied; was compatible with neighborhood.

Mr. Monk opined that had the County Council had all information they would have assigned the AS district.

I believe that, if the Council had known the history, the existence of Amoco and High's service station less than 1/2 block away, this would have received AS district.

From the expert testimony, requirements of special exception have been satisfied. Property should be reclassified to BL-AS and the special exception granted to allow convenience store in combination with service station.

DMF: I'm not going to reiterate all Tom's pointed out; in reviewing information supplied by the County, I would also say there would not be a negative impact on the surrounding community; no variances needed for this property with the documented site plan; twice approved for a service station, most recently in 1984. Application of AS district would be consistent.

As to question of Council's knowledge of the property and the Council's use of AS district in nearby parcel -- I believe one might concur that there was an error on the part of the County Council, and that the reclassification should be granted as you have outlined to BL-AS.

LMS: In spite of the fact that the Board is required to have a 2 to 1 majority, will go forward but not as completely as you have done, Tom.

The bottom line -- I concur but I think it is necessary for the record and the opinion to reflect that, notwithstanding responsibility of People's Counsel to defend the maps which is an important requirement of their job, but that the reason we have reclassification procedures is because sometimes all good-intentioned people make mistakes -- in the broad, general sense as opposed to intentional error. I think the Council's treatment of the 7th district -- no recommendation by staff and also that they had even recommended that one be removed and Council left it in. To me it indicates that the level of knowledge the Council had of what that site was and its history was less than optimum.

In that -- there is a "fault" in that -- but the practical result was that had the Council known the plans and history, they would have had no problem with the AS classification. I do not see it expanding or altering significantly what previously went on. Would be appropriate use of the property.

I believe that we should, under our responsibilities to not only provide special exception and the like but to reclassify and approve the request made by the Petitioners.

We do not rule from today; we rule from the date of the written opinion, and all rights of appeal to that determination would arise and will run 30 days from the date of that Opinion.

We are adjourned.

****

Respectfully submitted,

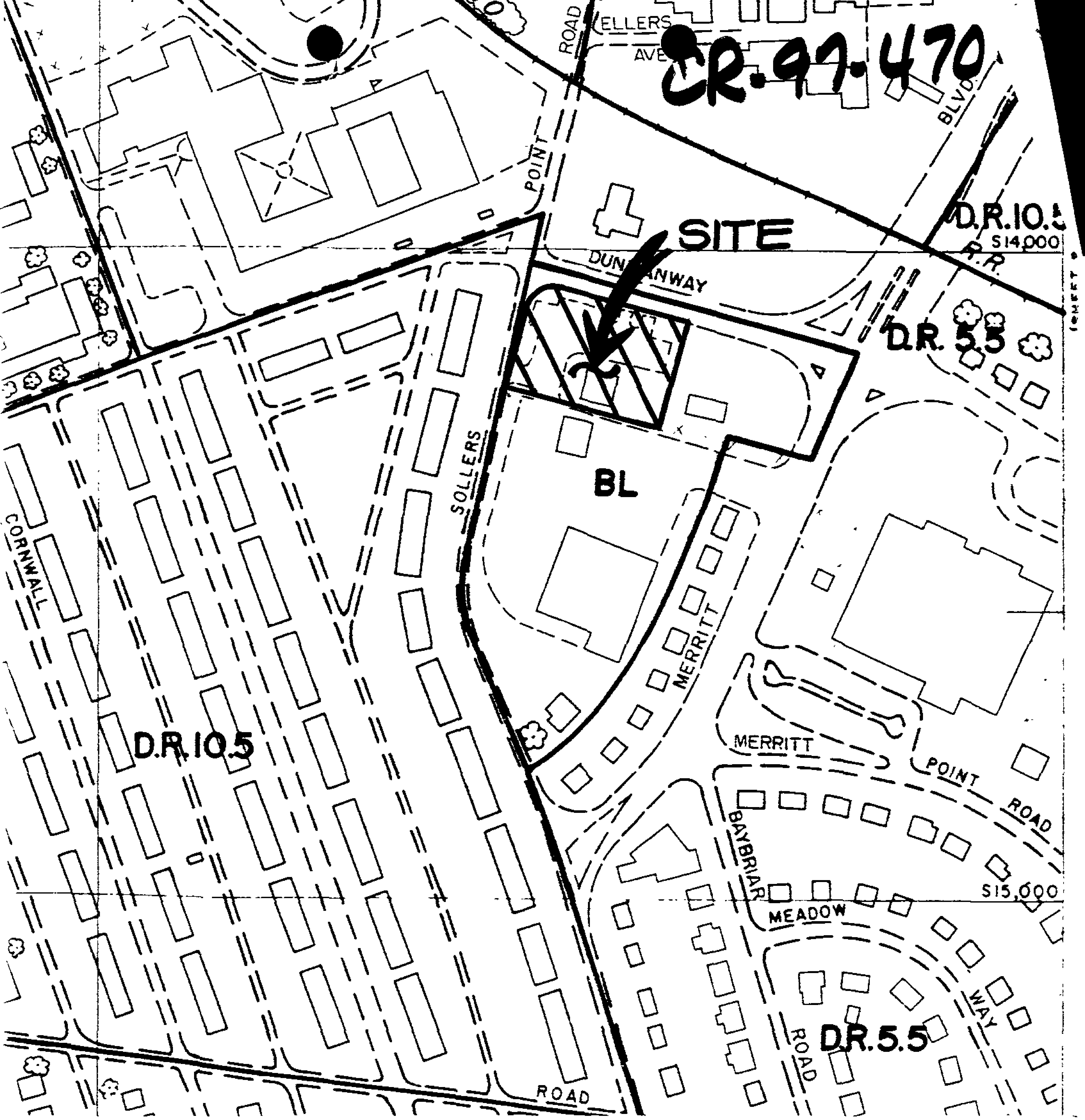
Kathleen C. Bianco

Kathleen C. Bianco
Administrator

APPROXIMATE LOCATION OF SUBJECT SITE

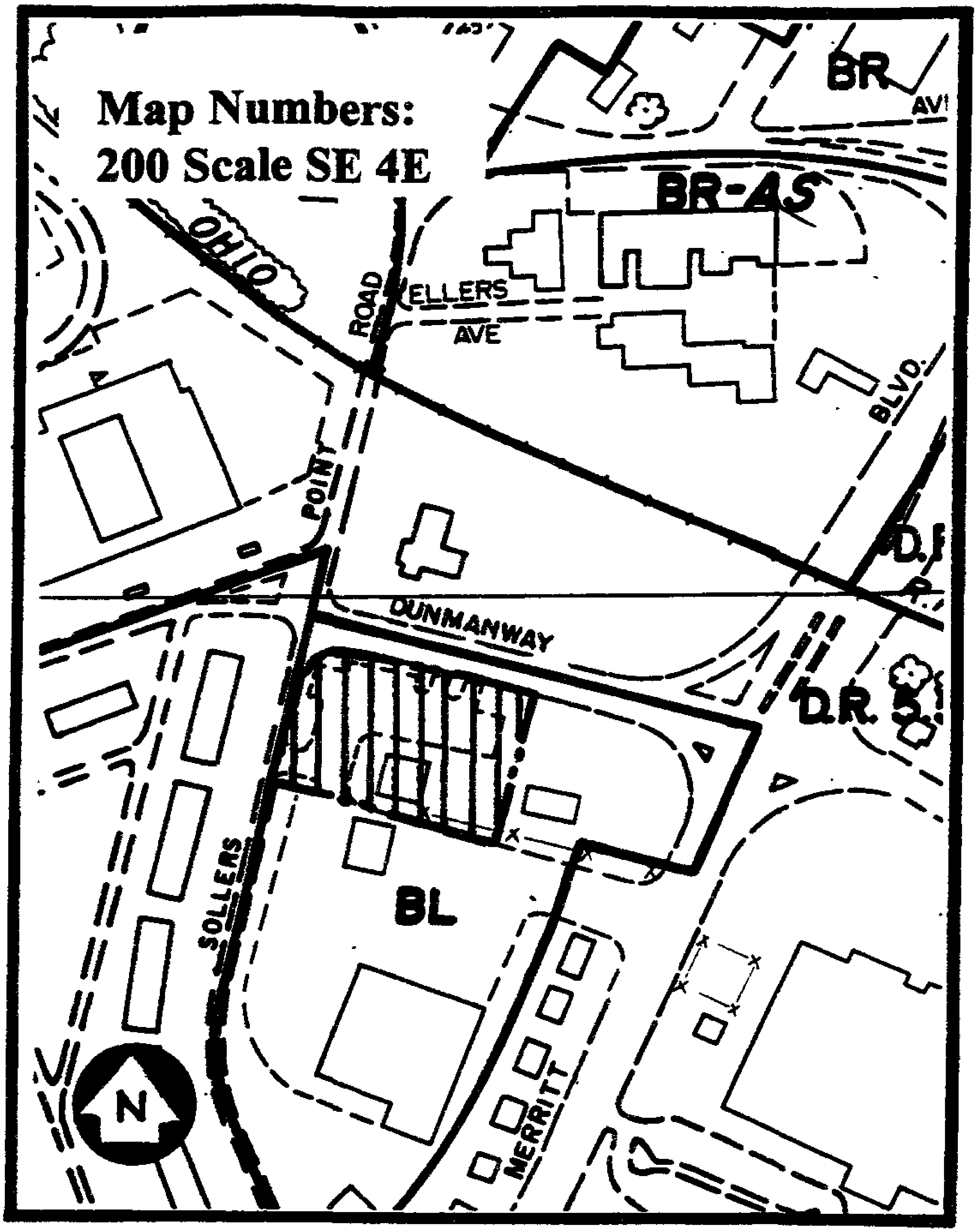
ZONING MAP
DUNDALK- PATAPSCO NECK

SHEET 4A - E4 SCALE: 1" = 1000'



ZONING MAP
"DUNDALK"
SHEET S.E.-4E SCALE: 1"=200'
(1996 COMPREHENSIVE)
ZONING MAP

Pet.'s # 7



ITEM NUMBER 6
Location of Property Under Petition

Scale 1" =200'

CASE NO. CR-97-470

PETITIONER:

Don Fillet/Fillet Company, Legal Owner - The Southland Corporation, Contract Purchaser

REQUESTED ACTION:

The applicant seeks reclassification of the subject property to BL-AS (Business Local - Automotive Service), and a special exception for a service station in combination with a convenience store in excess of 1,500 square feet.

EXISTING ZONING:

BL

LOCATION:

7501 Dunmanway

AREA OF SITE:

.0867 acre

ZONING OF ADJACENT PROPERTY/USE:

North:	DR 5.5	County Fire Station
Northwest:	DR 5.5	Dundalk Middle School
South:	BL	Carry out and small strip center
East:	BL	Amoco service station
West:	DR 10.5	Townhomes

SITE DESCRIPTION:

This site is currently improved with a 2,585 square foot 7-11 store.

WATER AND SEWERAGE:

The site is served by public water and sewer, and is designated as W-1, S-1 (existing service area) according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS:

The property has direct access to Dunmanway and Sollers Point Road.

ZONING HISTORY:

The site was reclassified from R6 to BL and a special exception was granted for an automotive service station in 1955. In 1984, a special exception was approved for a food store of less than 5,000 square feet in combination with a "gas and go" fuel station. Front and road centerline setback variances were also granted at that time.

MASTER PLAN / COMMUNITY PLANS:

This site is located within the boundaries of the Greater Dundalk Community Conservation Plan area. The planning process has just begun, and the effort should be completed in 1998. Site specific recommendations for this property should be available by the time the subject case is heard by the Board of Appeals.

PROPOSED vs. EXISTING ZONING:

Regulations governing the BL zone may be found in Section 230 of the Baltimore County Zoning Regulations (BCZR). The BL zone allows a wide range of uses in addition to those permitted in the residential zone immediately adjoining the property. Density is regulated by a floor area ratio of 3.0. However, density is realistically limited by parking requirements and economic constraints. Building height is limited by the height regulations; setbacks include front yards of no less than 10 feet and not less than 40 feet from the centerline of the street, except as specified in Section 302.2 of the BCZR. No setback is required for side yards, except for lots abutting a residential zone or on a corner lot on the street side; in these cases a 10 foot setback is required. The AS district regulations are found in Section 405 of the BCZR.

DOCUMENTED SITE PLAN:

The Documented Site Plan (DSP) reveals that the existing one-story convenience will remain. The DSP contains information regarding the proposed 50 square foot freestanding sign, and front and side elevation of the proposed canopy are also indicated on the plan. The plan proposes the elimination of the northernmost site entrance along Sollers Point Road. Curb and gutter and sidewalk improvements are proposed, as well.

OFFICE OF PLANNING ANALYSIS AND RECOMMENDATION:

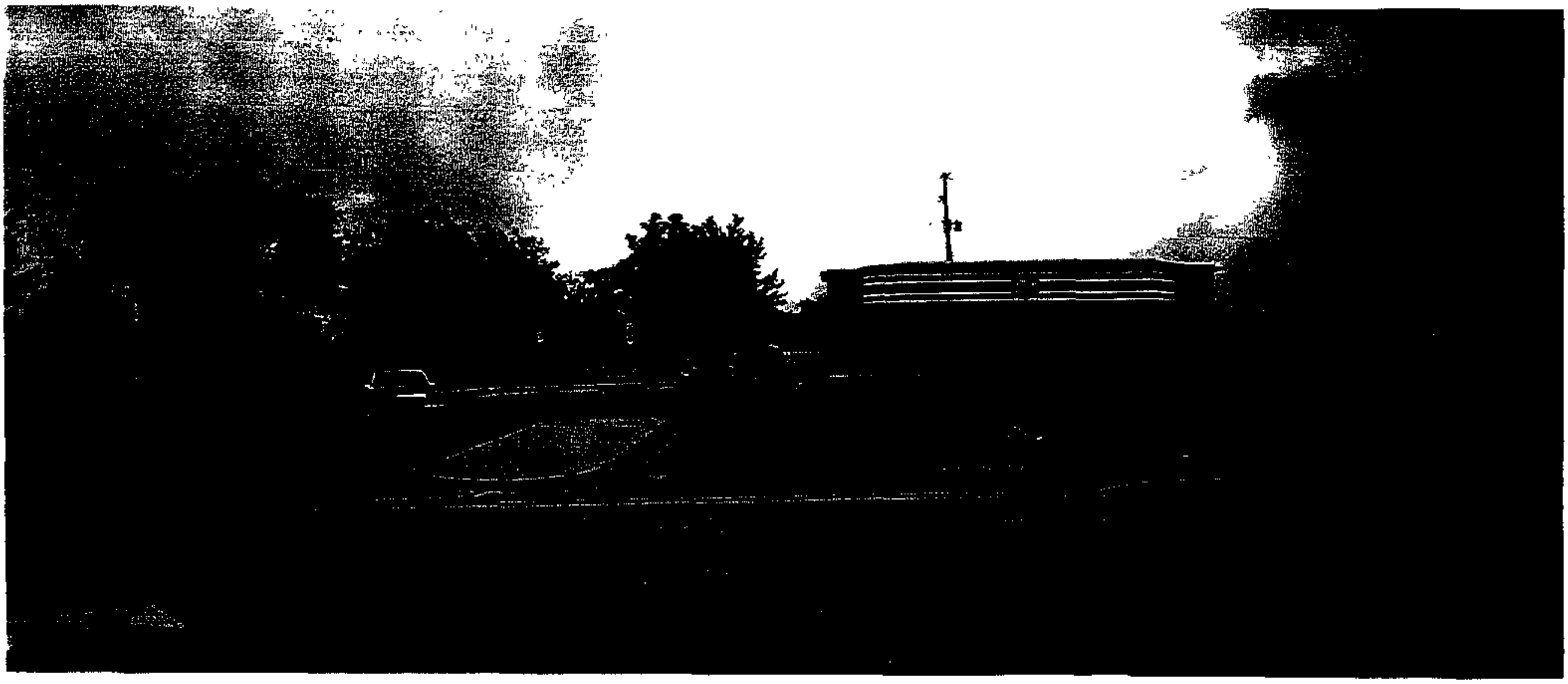
Based upon the information provided and analysis conducted, the Planning Office believes that adding three gas pumps to this existing commercially zoned site would not negatively impact the surrounding community. The property is large enough to accommodate the proposed use, without the need for variances.

As noted above, the site was twice approved for a service station, most recently in 1984. An application of the AS district would be consistent with the property's zoning history, and the site is well suited for the proposed use. Therefore, this office recommends that the AS district be applied to the subject property.

MISTAKE/CHANGE/ERROR:

It is the position of the Planning Office that the Comprehensive Zoning Map Process is the most appropriate means to address rezoning cases; consequently, it will be incumbent upon the petitioner to prove that the County Council made an error when the Comprehensive Zoning Maps were last adopted.

PETITIONER EXHIBIT # 2-A-E



EXISTING 7-ELEVEN STORE

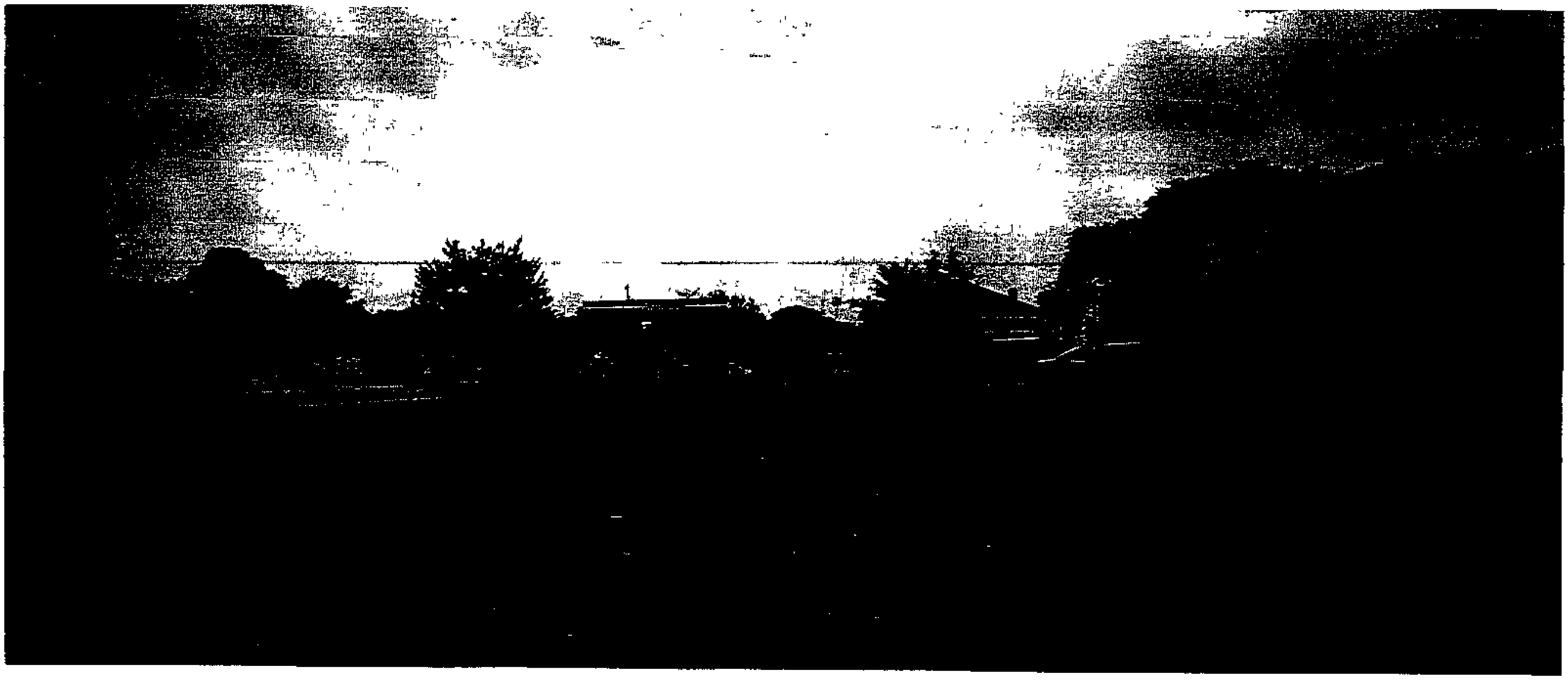
Ex 28

BALTIMORE COUNTY
FIRE STATION
NORTH SIDE OF DUNMANWAY

From Front of Store

SINGLE-FAMILY ATTACHED HOMES
WEST SIDE OF SOLLERS POINT RD

Ex 2C



LOOKING EAST AT
ADJACENT SERVICE STATION

LOOKING SOUTH AT
ADJACENT SHOPPING CENTER

ENVIRONMENTAL IMPACT STATEMENT
for the
SOLLERS POINT ROAD
7-ELEVEN PROPERTY

Submitted to:

Colbert Matz Rosenfelt, Inc.
3723 Old Court Road, Suite 206
Baltimore, Maryland 21208

Prepared By:

Chesapeake Environmental Management, Inc.
260 Gateway Drive, Ste. 21-C
Bel Air, Maryland
(410) 893-9016

February 26, 1997

CR-97-470-X

[redacted]

CHESAPEAKE

• ENVIRONMENTAL MANAGEMENT, INC. •

ENVIRONMENTAL IMPACT STATEMENT
for the
SOLLERS POINT ROAD
7-ELEVEN PROPERTY

Submitted to:

Colbert Matz Rosenfelt, Inc.
3723 Old Court Road, Suite 206
Baltimore, Maryland 21208

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Chesapeake Environmental Management, Inc.
260 Gateway Drive, Ste. 21-C
Bel Air, Maryland
(410) 893-9016

February 26, 1997

TABLE OF CONTENTS

1.0 INTRODUCTION

In compliance with Baltimore County Bill No. 98, Chesapeake Environmental Management, Inc. (CEM) has completed this Environmental Impact Statement (EIS) for the Sollers Point Road 7-ELEVEN property in Dundalk, Maryland. The purpose of the EIS is to fulfill environmental requirements to rezone the property from B.L. to B.L.-AS and to petition a special exception to add a gasoline station and underground storage tanks (USTs) to the existing 7-ELEVEN store. The EIS included an inventory of existing environmental features of the property, a review of proposed actions and potential environmental impacts and a description of the short-term and long-term effects of the proposed actions. A site visit was also conducted to inspect the property and adjacent properties.

2.0 SITE DESCRIPTION

2.1 Property Description

The property is a ±37,434 sq. ft. parcel located south and east of the intersection of Sollers Point Road and Dunmanway in southeastern Baltimore County, Maryland (Figure 1). The property is occupied by a 7-ELEVEN convenience store, parking facilities, landscaped areas and other related infrastructure. The area is served by public water and sewer. Photographs of the property and surrounding properties are located in Appendix A. A plan view of the site is included in Appendix B.

2.2 Surrounding Land Use

The property is surrounded by a mix of residential, commercial and institutional uses. Directly adjacent to the property to the north is the Dundalk Fire Station (Baltimore County Fire Station No. 6). An Amoco gas station, a restaurant, and a townhome development are located adjacent to the property to the east, south and west respectively.

2.3 Local Hydrology

The property, located in the Patapsco Watershed, is predominantly flat and generally drains to the east to an unnamed tributary of Bullneck Creek, located approximately 500 feet to the east of the subject property (Figure 2).

The majority of the runoff from the site is conveyed by the impervious areas to the stormwater management systems located on or near the subject property.

2.4 Soils

The site is mapped as being underlain by soils of the Sassafras-Urban Land complex. The Sassafras series consists of deep, well drained, nearly level to steep soils on uplands of the Coastal Plain. These soils formed unconsolidated deposits of dominantly sandy sediment. Sassafras soils are generally easy to work. Depth to bedrock is listed as being >10 feet and the high water table is >4 feet, depending on landscape position.

The Urban Land complex consists of soils of the Sassafras series, most of which have been cut, filled, graded, or otherwise disturbed for non-farm uses. Included in this mapping unit are soils with a few gravelly areas, some soils that have a silty surface layer, and some spots where the underlying material is hard and brittle. In many areas the soils have been covered by fill material to a depth of more that 18 inches. In other areas the upper horizons have been cut away. Due to the potential for disturbance of the upper soil horizons limitations to activities in these series are generally determined on a site specific basis.

2.5 Hydrogeologic Setting

The site lies within the undivided Quaternary deposits of the Coastal Plain Physiographic Province of Maryland. The following geological information is taken from "The Geological Map of Baltimore East Quadrangle," (Reinhardt and Crowley, 1979). CEM has not conducted any subsurface exploration under this phase of work. Excess precipitation and stormwater is likely conveyed to Bullneck Creek, located 500 feet east of the subject property.

The site is reported to be directly underlain by sand facies of the Patapsco Formation (Figure 4). This formation is typically well sorted, medium to fine grained quartz sand with locally abundant quartz gravel and clay clasts. Sands are planar to high-angle crossbedded and in some outcrops show fining-upward sequences 10 to 15 feet thick. Ferruginous cements typically form ledges at sand-clay boundaries or centimeter-size spheroids and pods within homogeneous sand. Tourmaline and zircon with minor staurolite and rutile constitute the heavy mineral suite. These sediments were deposited in and adjacent to channels of low gradient streams.

2.6 Visual Inspection and Resource Evaluation

A visual inspection of the property and adjacent properties was conducted on February 25, 1997. An inventory of natural features revealed the following.

2.6.1 Wetlands and Waterways

There were no wetlands or other 'Waters of the United States' located on the subject property. In general, surface water drainage was conveyed by the impervious area to the stormwater management system surrounding the property. Precipitation falling on the pervious areas of the property infiltrates rapidly into the well drained Sassafras soils.

Bullneck Creek flows to Bear Creek, a tidal tributary to the Lower Patapsco River. Bullneck Creek is a Use I-P drainage area which requires that 1) no sources of pathogenic or harmful organisms may be directed into the stream, 2) fecal coliform density must be less than 200 per 100 ml, 3) dissolved oxygen concentrations may not be less than 5 mg/1, 4) the maximum temperature outside of the mixing zone may not exceed 90°F or the ambient temperature of the surface waters, whichever is greater, <u>and</u> a thermal barrier that adversely affects aquatic life may not be established, 5) pH cannot be less than 6.5 or greater than 8.5, 6) turbidity may not exceed 150 units at any time or 50 units average, and 7) Maryland toxic substance criteria to protect freshwater aquatic organisms are applicable (COMAR, Title 26.08.02.03). According to Ms. Tammi Inbierowicz of Baltimore County's Department of Environmental Protection and Resource Management the subject property is located outside the Critical Area as defined by the Chesapeake Bay Critical Area Commission (COMAR Title 27).

2.6.2 Forest and Natural Resources

There were no forests or other natural resources on the property as defined by Maryland's Forest Conservation Act.

2.6.3 Rare, Threatened, and Endangered Species or Habitats

No rare, threatened or endangered species or supporting habitats were observed during the property inspection. A letter requesting an Environmental Review Statement from the Maryland Department of Natural Resources Fish, Heritage and Wildlife Administration is included in Appendix C of this report. Upon receipt, the Environmental Review Statement will be incorporated as an addendum to this report.

2.6.4 Hazardous or Toxic Wastes

No readily apparent sources of environmental liability were noted on the property, however a Phase I Environmental Site Assessment was not conducted in conjunction with this study.

2.6.5 Adjacent Properties and Surrounding Land Use

Adjacent properties were visually inspected from the public roadways. No readily ascertainable environmental concerns were noted in these areas. The regulatory status of these properties was not evaluated as a part of this investigation, however according to Mr. Bill Ensor of Baltimore County's Department of Environmental Protection and Resource Management, there was a history of petroleum contamination on the Amoco property located directly adjacent to the subject property.

3.0 ENVIRONMENTAL IMPACT ANALYSES

3.1 Proposed Actions

The proposed action at the 7-ELEVEN property is to expand the services of the existing convenience store by adding a gasoline station and improving pavement and curbing appurtenances. This action would require the installation of three, approximately 10,000 gallon double walled fuel USTs which would contain a variety of grades of unleaded gasoline.

3.2 Probable Impacts

Impacts to the environment associated with the proposed actions are expected to be *de minimis*. The activity will include the excavation of approximately 6000 sq. ft. of existing pavement and under-burden to construct the pumping islands and install the underground storage tanks. Curbing will also be relocated to facilitate the new design. The UST installations will be conducted by a certified system installer as per COMAR (26.10.06.01) (Appendix D). Excavated materials will be contained on-site during construction. Excess materials will be disposed of at an approved disposal facility in accordance with all applicable regulations.

3.3 Adverse, Unavoidable Impacts

There are no adverse environmental effects which cannot be avoided associated with the proposed project. Monitoring, leak detection and spill prevention measures will be implemented in accordance with COMAR (26.10).

3.4 Alternatives Analysis

From an environmental perspective the alternatives for siting of the pumping island and USTs are limited by the small size of the property and the engineering constraints imposed by existing infrastructure. An evaluation of soils, geology and topography indicates that these natural features are not significantly variant on the property; thus, no alternate siting priorities are necessary.

3.5 Cumulative, Long-Term Effects of the Proposed Action

Both the short-term and long-term effects on the environment from the installation of the USTs are expected to be minimal. Short-term effects include the small disturbances associated with the grading and installation of the pumping islands and the USTs.

Long-term effects of the operation of the gasoline station will be controlled and monitored by the Maryland Department of the Environment, Oil Pollution and Tank Management Division (MDE). The design, construction, installation, and operation of these tanks will be performed in accordance with the standards defined in COMAR (26.10.03.01). Monitoring of the petroleum tanks and piping for potential leakage is also a requirement of MDE and is defined in COMAR (26.10.05.02) and COMAR (26.10.05.01). Appendix D contains specific information concerning the best management practices that will be implemented to insure protection of the environment. Corrective action plan and release reporting requirements are also administered by MDE for the purpose of protecting the integrity of local and regional surface and ground-water systems.

At some point during the expected life-span of operations, the UST system may require an upgrade which would require additions to the existing system. These additions would only require activities in accordance with the impacts and the short and long-term effects previously discussed. Again, this activity would present *de minimus* potential for environmental degradation.

If for any reason the service station is required to close, either temporarily or permanently, the property owner is obligated to conform to the closure requirements of COMAR (26.10.10.05).

A review of geology, soils, and depth to ground-water information, accompanied with the stringent performance standards for new UST's would indicate that the site has low potential for UST leakage. The testing and monitoring requirements promulgated by MDE offer additional safeguards for the environment.

3.6 Beneficial Use of the Environment

Given the intent to operate the gasoline station in accordance with all applicable best management practices required by COMAR (26.10), the proposed improvements impose no apparent direct action that would produce irreversible or irretrievable commitment of resources, or that would curtail the beneficial use of the environment.

4.0 CONCLUSIONS

Based on a review of existing environmental features, regulatory constraints and site features it appears that the addition of a gasoline station to the existing 7-ELEVEN property will present *de minimis* short and long- term environmental impact to the subject property as well as neighboring properties. The high performance standards for state-of-the-art design and operation, accompanied by the suitability of the site to accommodate the proposed use, should minimize the potential for both short and long-term injurious effect to the surrounding environment.

5.0 REFERENCES

The following is a list of references used during this investigation.

1. Baltimore County Department of Environmental Protection and Resource Management, Mr. Bill Ensor, Personal Communication.

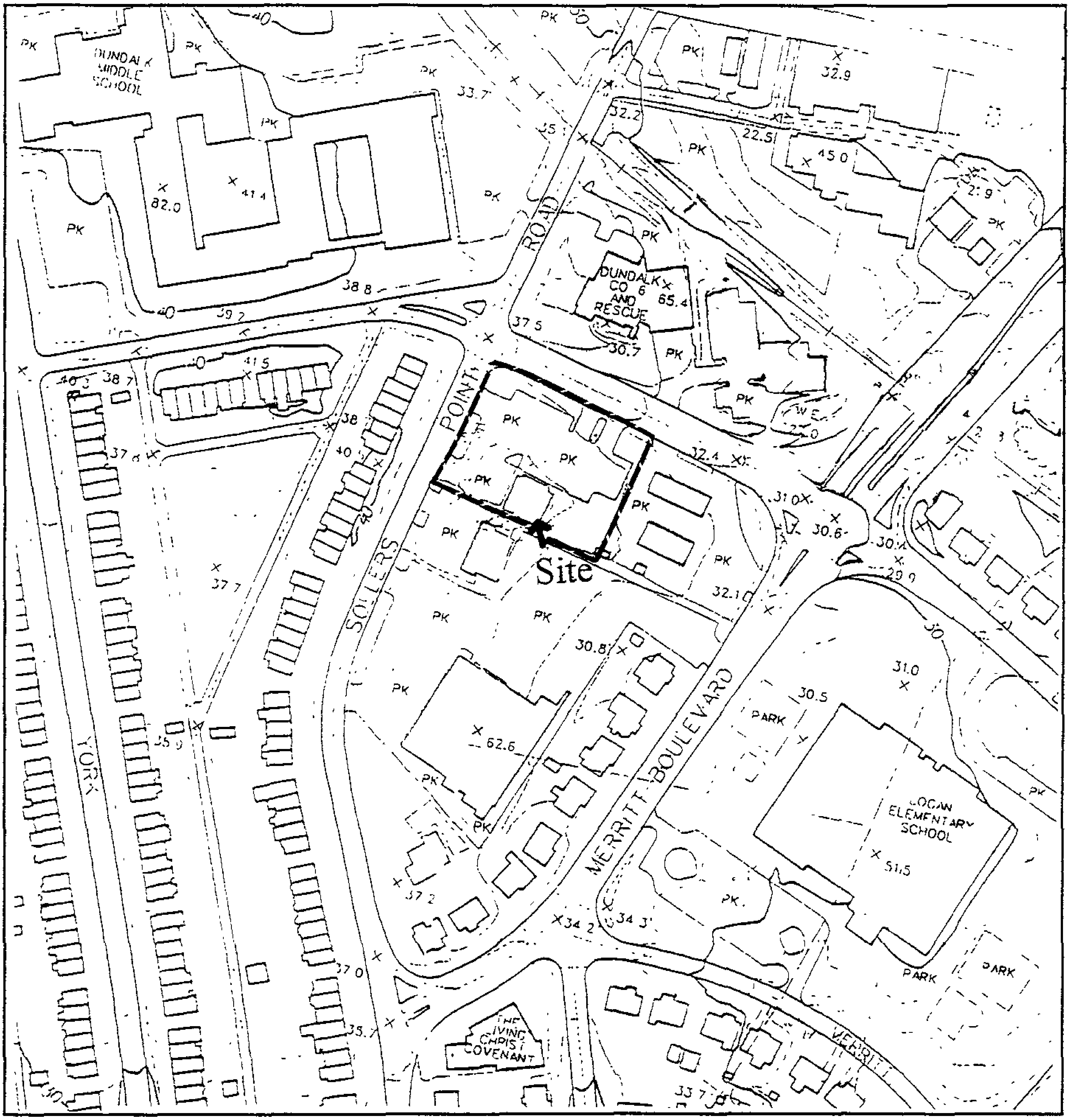
2. Baltimore County Department of Environmental Protection and Resource Management, Ms. Tammi Inbierowicz, Personal Communication.

3. Code of Maryland Regulations (COMAR), Title 26.10, Department of the Environment.

4. Crowley, et. Al. 1976, Geologic Map of the Baltimore East Quadrangle: Maryland Geological Survey.

5. Soil Conservation Service, 1976, Soil Survey: Baltimore County, Maryland, 149 pp.

FIGURES



0 100 200

SCALE IN FEET

N

Legend

Property Boundary

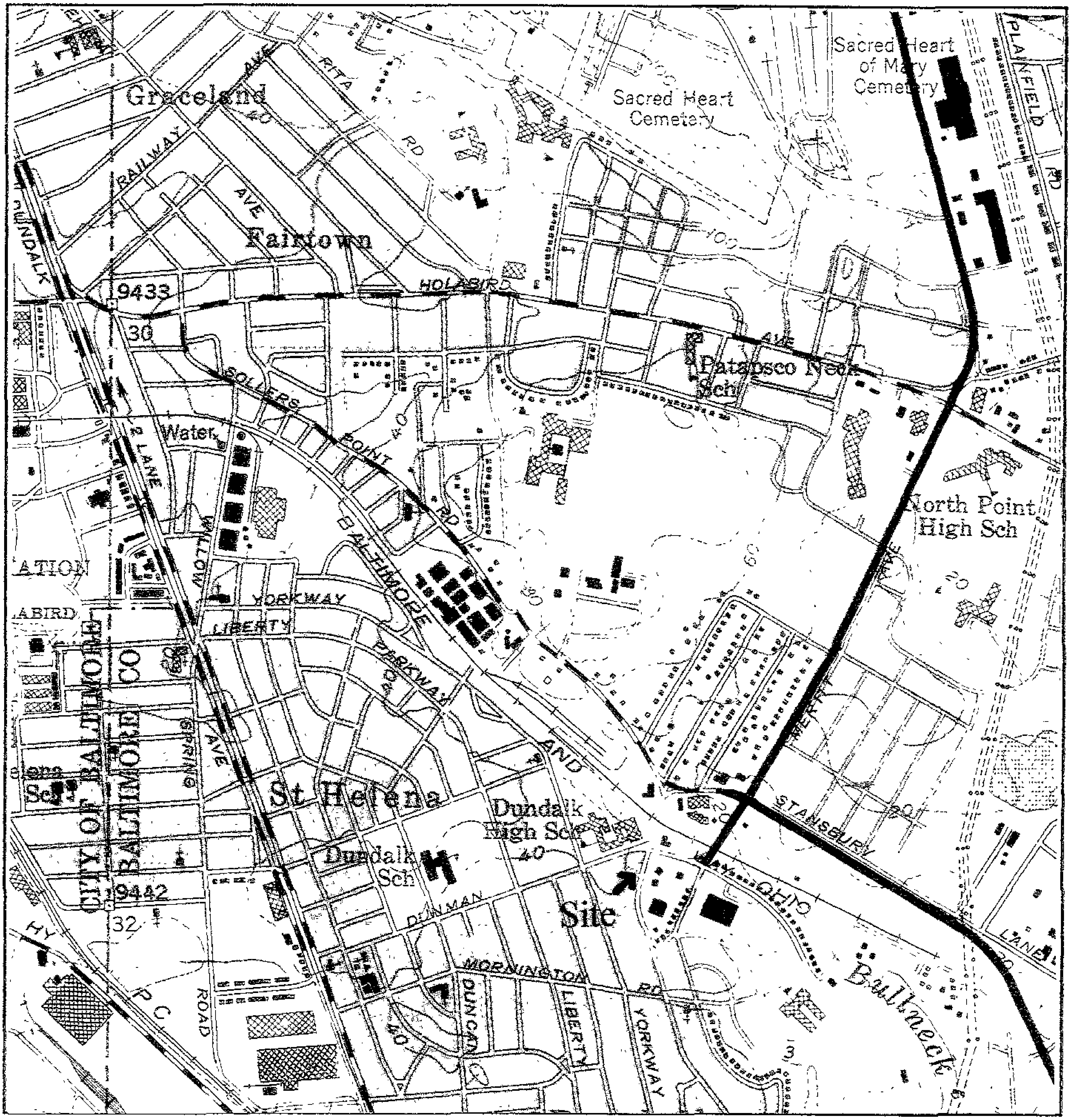
CHESAPEAKE

ENVIRONMENTAL MANAGEMENT, INC.

FIGURE 1

Site Location of the
7-Eleven Property
Baltimore County, MD

DRAWN BY: VTD	PREPARED FOR: Colbert Matz Rosenfelt, Inc.
DATE: 27 Feb 1997	



0 1000 2000

SCALE IN FEET

N

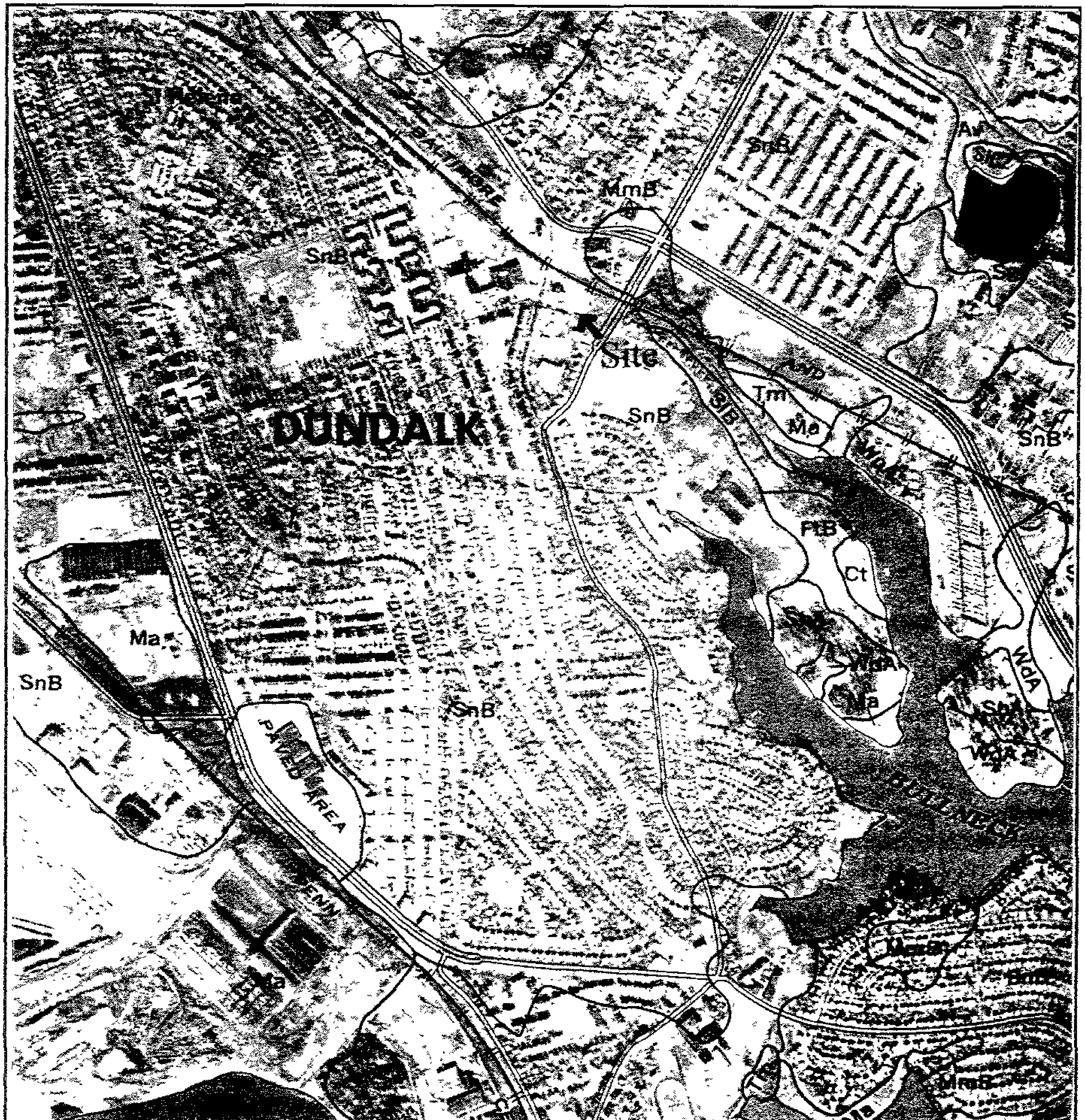
CHESAPEAKE

ENVIRONMENTAL MANAGEMENT, INC.

FIGURE 2

Topographic Site Location of the 7-Eleven Property Baltimore County, MD

DRAWN BY: VTD	PREPARED FOR: Colbert Matz Rosenfelt, Inc.
DATE: 27 Feb 1997	



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SCALE IN FEET

Legend

Snb, Slb, ShC3, Sha	Sassafras Series	Ma	Made Land
WdA, WoA	Woodstone Series	Ftb	Fort Mott Series
Sg	Sand and Gravel Pits	Ct	Coastal Beaches
		Mmb	Mattapex Series
		Tm	Tidal Marsh

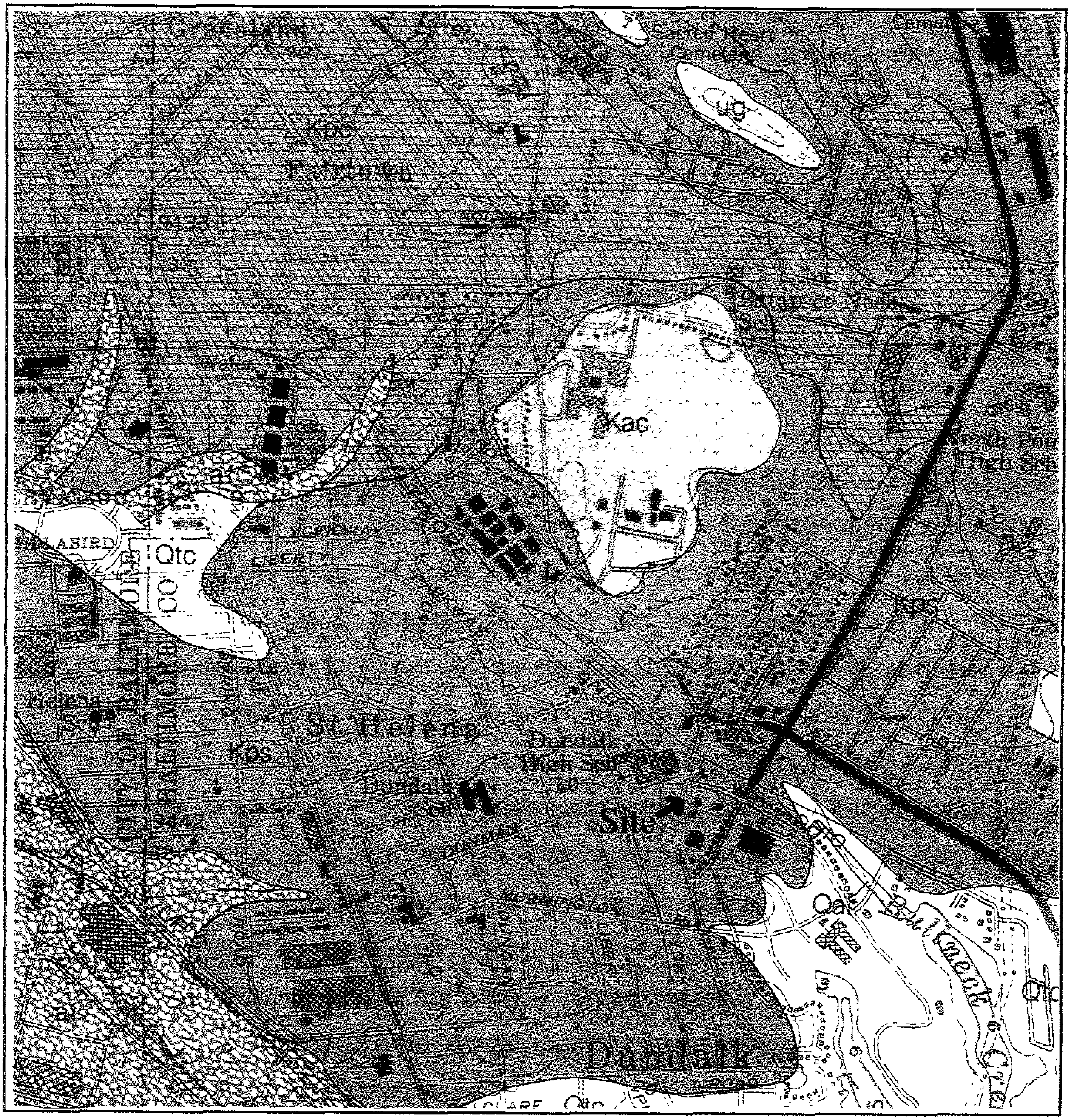
N

CHESAPEAKE
ENVIRONMENTAL MANAGEMENT, INC.

FIGURE 3

Soil Index for the
7-Eleven Property
Baltimore County, MD

DRAWN BY: VTD	PREPARED FOR: Colbert Matz Rosenfelt, Inc.
DATE: 27 Feb 1997	



0 1000 2000

SCALE IN FEET

N

Legend

- Patapsco Formation
- Arundel Formation
- Alluvium
- Upland Gravel
- Artificial Fill
- Talbot Formation

CHESAPEAKE

ENVIRONMENTAL MANAGEMENT, INC.

FIGURE 4

Geologic Setting of the 7-Eleven Property Baltimore County, MD

DRAWN BY: VTD

DATE: 27 Feb 1997

PREPARED FOR: Colbert Matz Rosenfelt, Inc.

APPENDIX A

Photographs

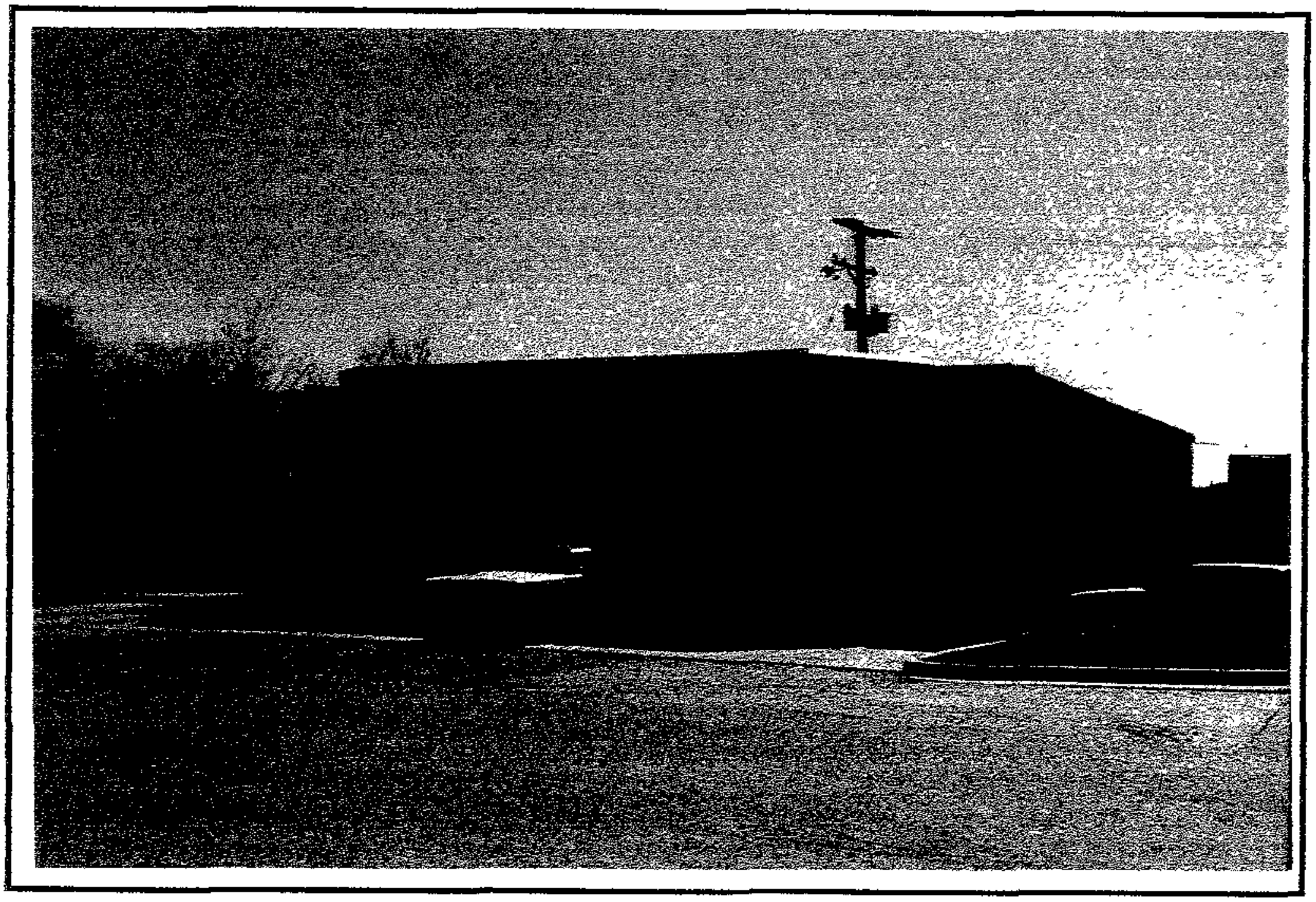


Photo #1: View of front of property looking south.

Photo #2: View of Amoco station to the east of the property.

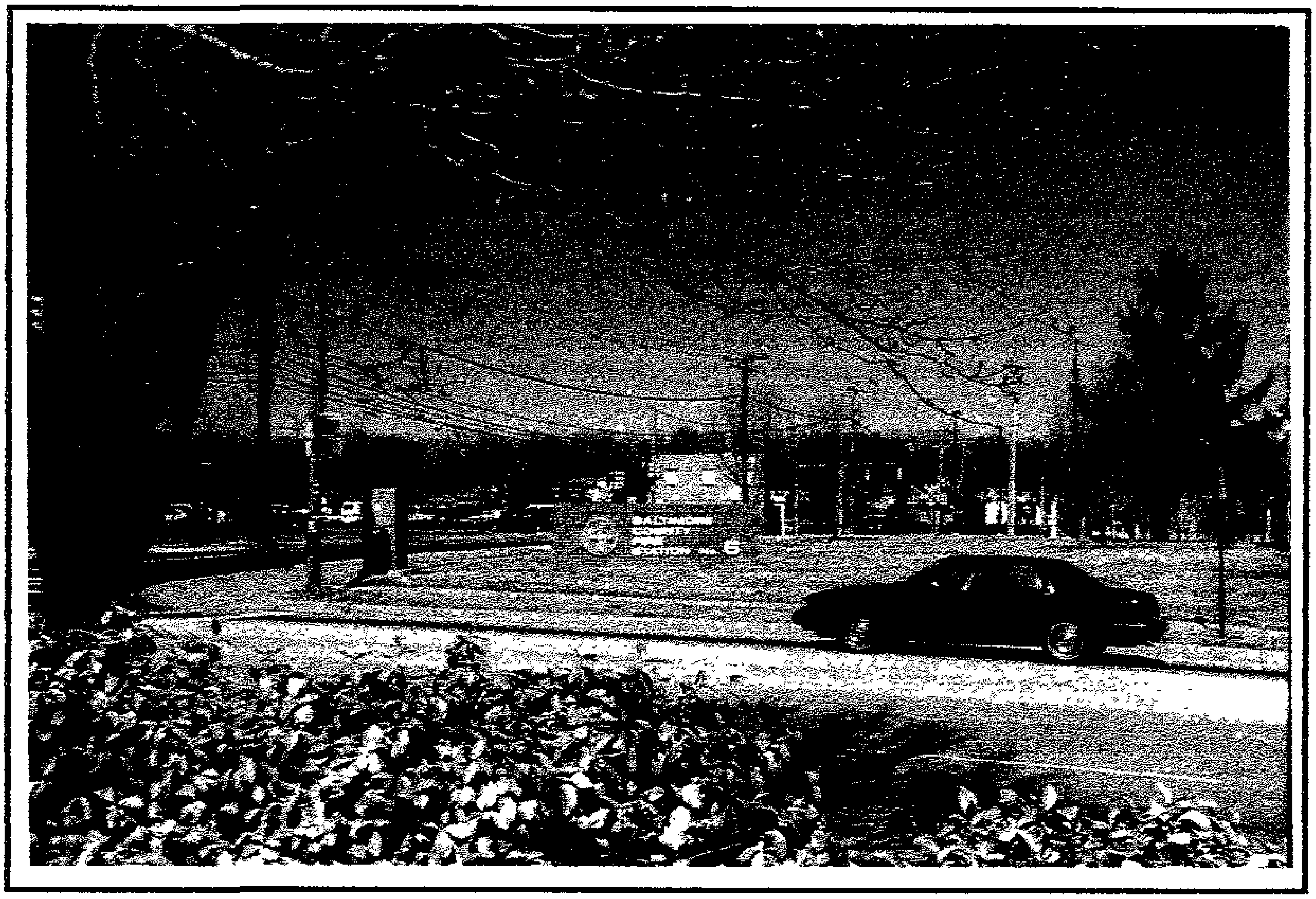


Photo #3: View from the property looking north across Dunmanway.

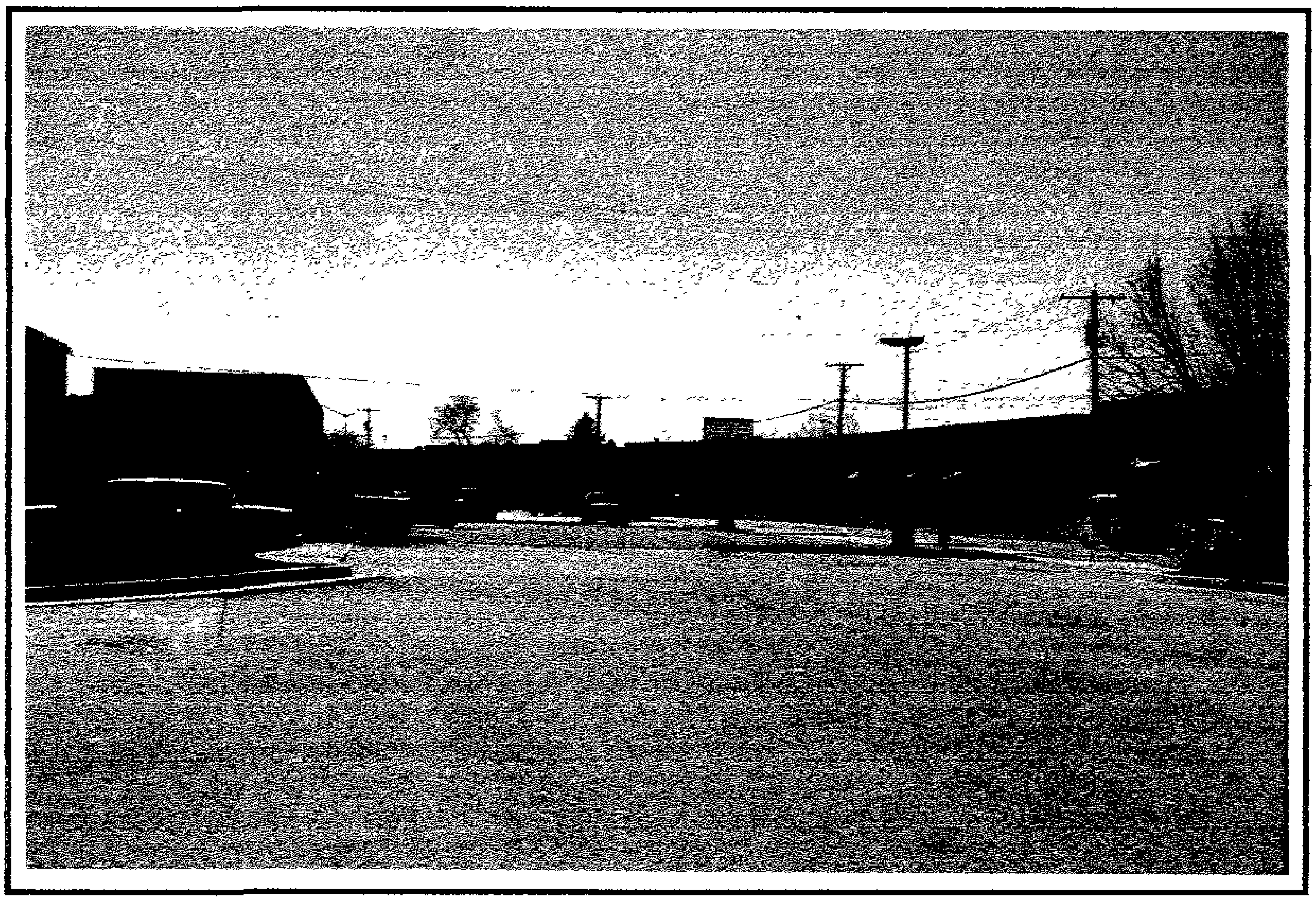
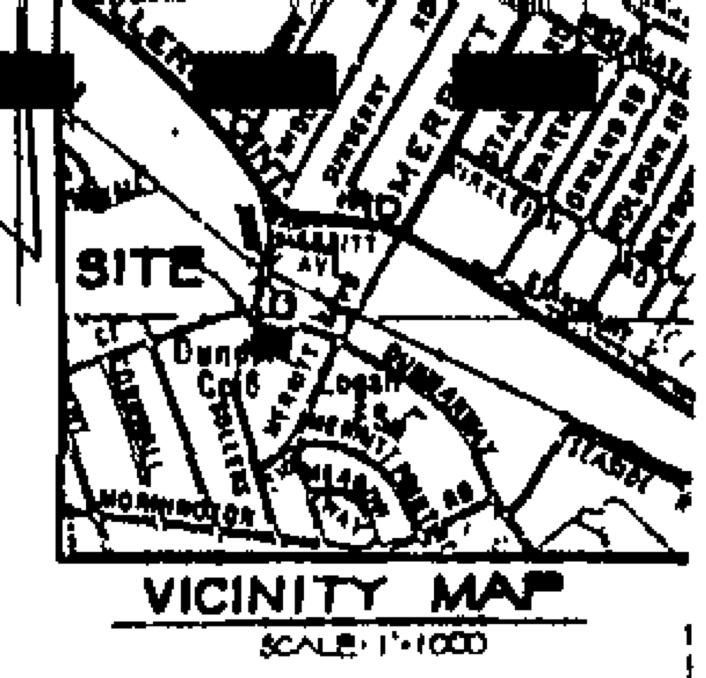
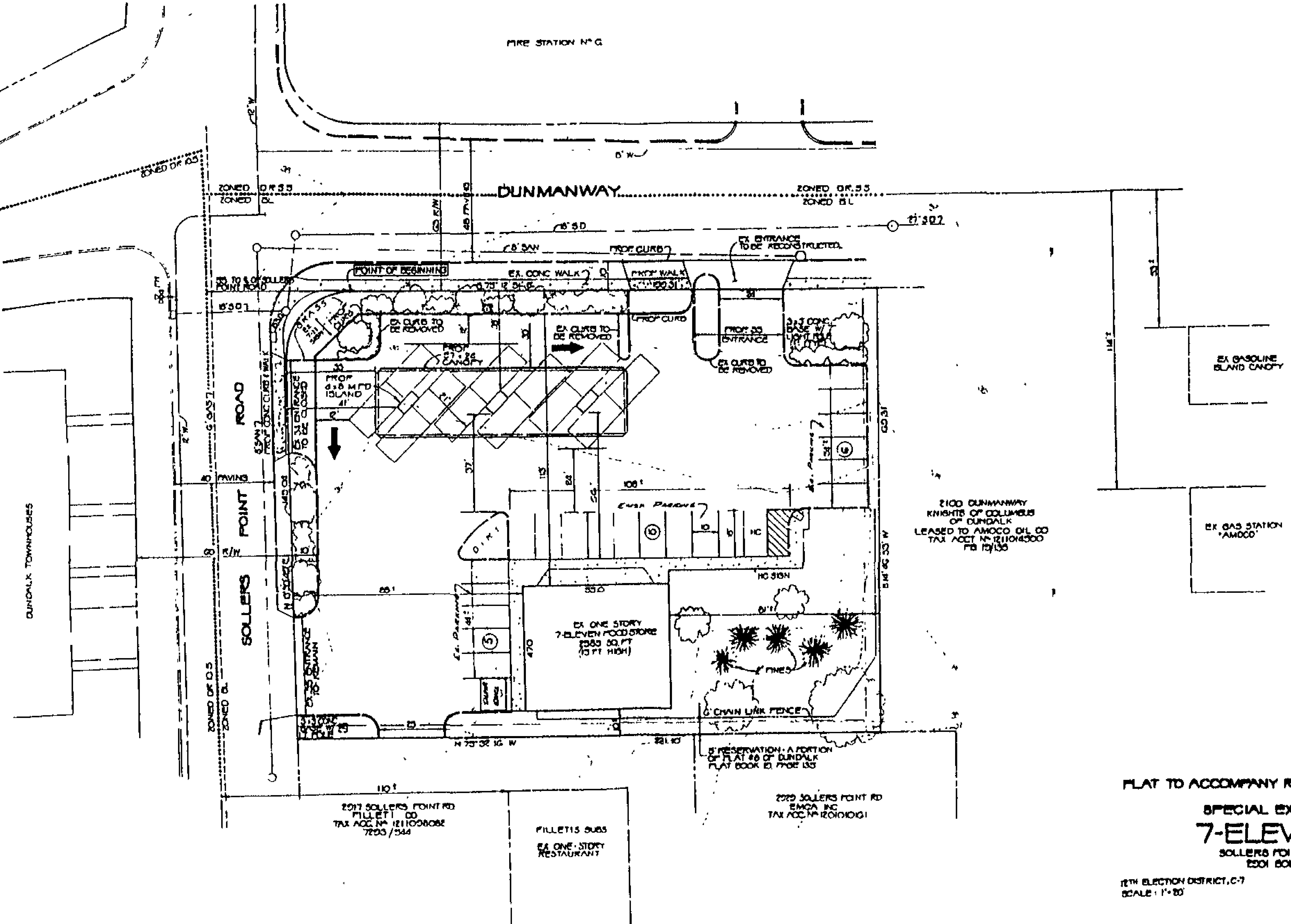


Photo #4: View from the property looking west.

APPENDIX B

Site Plan View





GENERAL NOTES

1. Owner: [illegible]

Applicant: [illegible]

2. Site Data

Tax Account No. [illegible]

Deed Reference [illegible]

Plat Reference [illegible]

Existing Use: Convenience Store

Proposed Use: Service Station in Combination with Convenience Store larger than 1,500 square feet.

Existing Zoning: B.L.

3. Rezoning Request: B.L. to B.L.-AS

4. Required Parking

Total Required 16 spaces

Total Provided [illegible] spaces incl. 1 HC

5. [illegible]

6. [illegible]

7. There are no [illegible] on the site.

8. Previous CRG [illegible]

9. [illegible]

ZONING HISTORY

Case No. [illegible]

[illegible]

Case No. [illegible]

[illegible]

PLAT TO ACCOMPANY REZONING CLASSIFICATION AND SPECIAL EXCEPTION HEARING

7-ELEVEN STORE

SOLLERS POINT ROAD AND DUNMANWAY
2001 SOLLERS POINT ROAD

12TH ELECTION DISTRICT, C-7
SCALE: 1"=20'

BALTIMORE COUNTY, MARYLAND
FEBRUARY 19, 1997

Colbert · Matz · Rosenfelt, Inc.
Engineers · Surveyors · Planners
3723 Old Court Road, Suite 206
Baltimore, Maryland 21208
Telephone (410) 653-3838
Facsimile (410) 653-7953

APPENDIX C

Agency Correspondence

CHESAPEAKE
• ENVIRONMENTAL MANAGEMENT, INC. •

February 24, 1997

Mr. Michael Slattery
Fish, Heritage & Wildlife Administration
Tawes State Office Building, E-1
508 Taylor Avenue
Annapolis, MD 21401

Re: Request for Rare, Threatened & Endangered Species Environmental Review Statement - Sollers Road 7-ELEVEN Property, Dundalk, Maryland.

Dear Mr. Slattery,

On behalf of our client, Colbert Katz Rosenfelt, Inc., we are requesting that your staff conduct an Environmental Review of your Natural Heritage database for any recorded occurrence of rare, threatened or endangered species on or about the Sollers Road 7-ELEVEN property in Dundalk, Maryland. This request is being made as part of the requirements of Baltimore County for a rezoning and special exception petition for the property.

I have enclosed a vicinity map and site plan for your review. If there are any questions or comments, please do not hesitate to contact this office at your earliest convenience. Thank you for your time and attention to this matter.

Best regards,

Tim Morris
Project Environmental Scientist

enclosures

260 Gateway Drive • Suite 21-C • Bel Air, Maryland 21014 • Phone (410) 893-9016 • FAX: (410) 893-9380

APPENDIX D

Maryland Regulations on Underground Storage Tanks

MARYLAND REGULATIONS

ON UNDERGROUND STORAGE TANKS

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 01 Oil Pollution

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, and 4-417, Annotated Code of Maryland

.01 Definitions.

A. In these regulations, the following terms in §B, below, have the meanings indicated. Terms not defined in §B have the meanings given to them in the relevant statutes, or if not defined in statutes, the meanings attributed by common use. The terms "Administration", "department", "operator", "person", "pollution", "transfer", "used oil", and "waters of the State", are defined in Environment Article, §§4-401 and 4-411, Annotated Code of Maryland. The meanings for these specific terms are provided below as a convenience, but persons affected by the Administration's regulations should be aware that these meanings are subject to amendment by the General Assembly. The terms "discharge" and "oil" include language in addition to the statutory definitions in §§4-401 and 4-411.

B. Terms Defined.

(1) "Administration" means the Hazardous and Solid Waste Management Administration.

(2) "Collecting agents" means chemical or other agents that can gel, congeal, herd, entrap, fix, or make an oil mass more rigid or viscous to facilitate its removal from the water surface.

(3) "Control" means the possession of the power to direct or cause the direction of the actions of a person.

(4) "Department" means the Department of the Environment.

(5) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, dumping, addition of, introduction of any pollutant into waters of the State, or the placing of any pollutant in a location where it is likely to pollute.

(6) "Dispersants" means those chemical agents or compounds which emulsify, disperse, or solubilize oil or which act to further the surface spreading of oil slicks in order to facilitate dispersal of oil.

(7) "General Oil Operations Permit" means the authorization established by Regulation .08 of this chapter for certain categories of facilities to operate without an individual Oil Operations Permit including:

(a) Service stations, garages, marinas, and other similar oil handling facilities under 50,000 gallons storage;

(b) All apartment buildings regardless of storage capacity;

(c) Any other facilities under 10,000 gallons storage except as otherwise provided in Regulation .07 of this chapter.

(8) "Licensee" means any person who is licensed to transfer oil in the State.

(9) "Oil Operations Permit" mans an individual written authority issued by the Administration pursuant to pertinent law and regulations and describing required performance for specific activities and operations of an oil storage or oil handling facility or vehicle.

(10) "Oil, petroleum products, and their by-products" means oil of any kind and in any liquid form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other waste, crude oils, and every other nonedible liquid hydrocarbon regardless of specific gravity. Oil includes aviation fuel, gasoline, kerosene, light and heavy fuel oils, diesel motor fuels, asphalt, and crude oils, but does not include liquified petroleum gases, such as liquified propane, or any edible oils.

(11) "Oil storage facility" means any facility, above or below ground, in which oil is stored, other than a private residence which stores oil for personal use.

(12) "Operator" means any person owning or operating an oil terminal facility whether by lease, contract, or any other form of agreement.

(13) "Permittee" means the person holding a valid Oil Operations Permit or subject to a General Oil Operations Permit issued by the Administration.

(14) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian,

executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(15) "Person in charge" means the owner or person designated by the owner, an operator, or permittee as the one with direct supervisory responsibility for an activity or operation at a facility, such as the transfer of oil to or from any points in the facility.

(16) "Pollution" means every contamination or alteration of the physical, chemical, or biological properties, of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters, or the discharge or deposit of any organic matter, harmful organism, liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds, fish, or other aquatic life.

(17) "Precision test" means a test conducted in accordance with the standards set forth in the "NFPA 329 Underground Leakage of Flammable and Combustible Liquids (1987 Edition)", which is incorporated by reference. For commercial names of tests approved by the Administration, see Regulation .23 of this chapter.

(18) "Similar oil handling facility" means any facility that stores and dispenses oil for use as a motor fuel.

(19) "Sinking agents" means those chemicals or other agents that can physically sink oil below the water surface.

(20) "Sorbent" means any substance that takes up and holds oil by either adsorption or absorption.

(21) "Spill (spilling)" means any release of oil.

(22) "State" means the State of Maryland.

(23) "Storage system" means a storage tank and all associated piping including fill, vents, dispensing, and return lines.

(24) "Transfer" means the off-loading of oil in the State from any commercial vessel, tank truck, tank car, pipeline, or any other means used for transporting oil.

(25) "Transport" means a tractor-trailer vehicular unit.

(26) "Truck tank" means a self-contained vehicular unit with a capacity of over 500 gallons, in which the automotive power and the hauling capacity are contained in one complete unit.

(27) "Used oil" means a petroleum-based or synthetic oil as an engine lubricant, engine oil, motor oil, or lubricating oil for use in an internal combustion engine, or a lubricant for motor vehicle transmissions, gears, or axles which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

(28) "Vessel" means every watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the State.

(29) "Waters of the State" includes both surface and underground waters within the boundaries of the State subject to its jurisdiction, including that portion of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage. The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency is included as waters of the State.

.02 Prohibition Against Oil Pollution.

A. A person may not pump, discharge, spill, throw, drain, deposit, or cause to be deposited, oil or other matter containing oil into, near, or in an area likely to pollute, waters of the State.

B. A person may not pump, discharge, deposit or cause to be deposited, bilge or ballast water, or water from any receptacle containing oil, in a manner by which oil may escape into, or in an area likely to pollute, waters of the State.

C. A person violating these prohibitions is subject to sanctions under Environment Article, §4-417, Annotated Code of Maryland, in addition to the permit and license modification, suspension, or revocation proceeding and in addition to any other sanctions provided by law.

.03 Report of Oil Spill or Discharge.

A. A person discharging or permitting the discharge of oil, or who either actively or passively participates in the discharge or spilling of oil, either from a land-based installation, including vehicles in transit, or from any vessel, ship, or boat of any kind, shall report the incident immediately to the Administration. He shall remain available until clearance to leave is given by the appropriate officials designated in §C(1) and (2) of this regulation.

B. The report of an oil spill or discharge shall be made to the Administration immediately, but not later than 2 hours after detection of the spill, and shall include:

(1) Time of discharge;

(2) Location of discharge;

(3) Mode of transportation or type of facility involved;

(4) Type and quantity of oil spilled;

(5) Assistance required;

(6) Name, address, amd telephone number of the person making the report; and

(7) Any other pertinent information requested by the Administration.

C. The Administration makes the following designation of its authority:

(1) A representative of the Administration may grant permission either by telephone, or at the scene of the spill, for the person responsible for the spill to leave the scene;

(2) A representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant clearance to leave the scene to the person responsible for an oil spill of less than 250 gallons without first giving notice to the Administration;

(3) A representative of any Maryland emergency fire and rescue service or any State, county, or local police officer on the scene may grant clearance to leave the scene to the person responsible for an oil spill greater than 250 gallons after the representative or police officer gives notice to and receives approval from the Administration.

D. Before release of the person responsible for the oil spill, the designated official shall obtain that person's name and address as well as information on how the spill occurred.

E. Ten working days after the removal and cleanup work has been completed, as required under Regulation .04A of this chapter, the person responsible for the spill shall prepare a completed written report of the occurrence and promptly submit the report to the Administration.

The written report shall be on the Administration's "Report of Spill" form or shall be on company letterhead and include the following information:

(1) Date, time, and place of spill;

(2) Amount and type of oil spilled;

(3) A complete description of circumstances contributing to the spill;

(4) A complete description of containment, removal, and clean-up operations including disposal sites and costs of the operations;

(5) Procedures, methods, and precautions instituted to prevent recurrence of an oil spill from the facility involved;

(6) Any other information considered necessary or required by the Administration for a complete description of the spill incident; and

(7) A certification that the information provided is true and correct to the knowledge of the person signing the report.

.04 Procedure for Removal.

A. Responsibility for the prompt control, containment, and removal of any spilled oil shall be with the person responsible for the discharge, the owner of the oil, and the person in charge of the facility, vessel, or vehicle involved in the spill. For spills occurring from improperly abandoned storage systems, the current land owner, and any person who owned, leased, or was otherwise responsible for a system at the time it was abandoned shall also be responsible. This responsibility shall continue until removal of the spilled oil has been accomplished to the satisfaction of the Administration or designee specified under Regulation .03C of this chapter.

B. Removal of oil shall be accomplished by physical or mechanical means such as the use of skimming devices or vacuum systems or by the use of inert sorbent material.

C. If sorbent material is employed, the material shall be removed and disposed of in accordance with all State, local, and federal requirements.

D. Collecting agents, dispersants, or sinking agents may not be used except when authorized by the Administration.

E. The Administration shall assume control of any spill situation when it determines that the responsible parties are not acting promptly to remove the spill, or are not undertaking removal or mitigation in a manner appropriate to control or rectify the conditions constituting the emergency or the hazard involved.

.05 Proof of Financial Responsibility for Vessels Involved in the Transfer of Oil.

A. Except as provided in §H, below, any vessel, whether self-propelled, while in, entering upon, or leaving the waters of the State for the purpose of discharging or receiving a cargo of oil in the State, shall obtain and provide upon request either to the Maryland Port Administration or the Department of the Environment one of the following proofs of financial responsibility:

(1) A surety bond;

(2) An insurance policy;

(3) Documentation of ability to self-insure;

(4) Department of Transportation Certificate of Financial Responsibility (Water Pollution);

(5) Documentation of a combination of §A(1), (2), (3), or (4); or

(6) Other alternatives acceptable to the Maryland Port Administration or the Department.

B. The bond, insurance policy, or other acceptable alternatives required by §A of this regulation shall:

(1) Be in an amount equal to $100 per gross ton of the vessel;

(2) Be in a form approved by the Maryland Port Administration or the Department;

(3) Include a statement of total value of coverage;

(4) Be payable to the State;

(5) Be issued when appropriate by a surety or insurance company approved by the Maryland Port Administration or the Department; and

(6) Provide in the body of the policy or surety bond or by means of endorsement, that in the event of an oil discharge, spillage, or other similar act from a vessel in the State, the proceeds shall be available to the State for costs incurred in containment, cleanup, elimination of oil residue, and restoration.

C. Evidence of self-insurance may be approved as an alternative to a bond or insurance policy if the self-insurer provides:

(1) A written statement signed by the self-insurer reciting that costs incurred by the State for containment, cleanup, elimination of oil residue, and restoration shall be paid to the State by the self-insurer; and

(2) Records of financial worth substantiating the ability of the self-insurer to cover these costs to which the largest vessel could be subject.

D. If an owner, operator, or a company chartering vessels owns, operates, or charters more than one vessel, a bond or acceptable alternative need only be established to meet the maximum liability to which the largest of the vessels could be subject.

E. If the Maryland Port Administration or the Department determines that oil had been discharged or spilled into the waters of the State from a vessel, the bond or its acceptable alternative shall be forfeited to the extent of the costs incurred by the Maryland Port Administration or the Department in:

(1) The containment, cleanup, and elimination of the oil residue discharged or spilled;

(2) Restoring to the extent of damage caused, the natural and recreational resources of the State; and

(3) Collecting any otherwise uncollectable fines levied against the vessel, its owner or agent, its charterer, or the owner or operator of the terminal at which the vessel discharges or receives oil.

F. Certificates, endorsements, surety bonds, insurance or other acceptable alternatives shall be released after the Maryland Port Administration or the Department has determined that all vessels covered by evidence of financial responsibility are not responsible and have not been responsible for paid or unreimbursed damages sustained through the discharge of oil into the waters of the State.

G. In the event of an oil discharge, spillage, or other similar act upon the waters of the State from a vessel which has acquired a Department of Transportation Certificate of Financial Responsibility (Water Pollution), reimbursement shall be made to the State for costs incurred by the State for containment, cleanup, elimination of the residue of the discharged or spilled oil, and for restoration of the natural and recreational resources of the State. This reimbursement shall be by endorsement of the Department of Transportation Certificate of Financial Responsibility (Water Pollution) to the State, or by separate insurance or surety bond or self-insurance, or by any other means acceptable to the State.

H. A vessel owned or operated by the United States or by a foreign government and not engaged in commerce, or a vessel carrying or receiving 25 barrels or less of oil is exempt from providing evidence of financial responsibility.

.06 Oil Transfer License.

A. A person shall obtain a license to transfer oil in the State.

B. A license shall be obtained by completing an application form provided by the Administration.

C. The required license fee shall be as determined by Environment Article, §4-411(c), Annotated Code of Maryland, and shall be paid monthly. The fee shall be paid not later than the last day of each month or postmarked 2 days before the end of each month for the number of barrels transferred the preceding month.

D. The number of barrels of oil transferred by the licensee shall be reported on forms provided by the Administration.

E. Shipment of oil in containers of less than 100 gallons capacity and of any liquid hydrocarbons not listed in §F of this regulation is exempt from the license fee.

F. The following oil products are subject to the transfer license fee:

(1) Gasoline;

(2) Gasohol;

(3) Kerosene;

(4) Diesel fuel;

(5) Aviation fuels;

(6) Nos. 2, 4, 5, and 6 oil;

(7) Crude oil;

(8) Asphalts (liquid);

(9) Hydraulic oils; and

(10) Lubricating oils.

.07 Oil Operations Permit.

A. A person engaging in one or more of the following activities shall obtain an Oil Operations Permit from the Administration in accordance with Regulations .07, .10, and .11 of this chapter:

(1) Oil storage facilities involving the storage of oil in quantities of 10,000 U.S. gallons or more (for additional requirements, see Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02—.11);

(2) Oil delivery by truck tank or by transport involving the delivery of oil by truck tanks or by transports to or from any point within the State (for additional requirements, see Regulations .02, .03, .04, .06, .16, and .17 of this chapter);

(3) Oil transfer facilities involving the transfer of oil in an onshore facility to or from any truck tank, transport, or tank car (for additional requirements, see Regulations .02, .03, .04, .06, .12, and .18 of this chapter and COMAR 26.10.02—.11);

(4) Facilities for the handling of used oil, involving the handling, reuse, processing, reprocessing, or disposal of any oils that have previously been used, and involving storage capacity of 1,000 gallons or more (for additional requirements, see Regulations .02, .03, .04, .06, .12, and .19 of this chapter and COMAR 26.10.02—.11;

(5) The oil delivery operations of out-of-State facilities which deliver oil to any point within the State (for additional requirements see Regulations .02, .03, .04, .06, .16, and .17 of this chapter);

(6) Service stations, garages, marinas, and any similar oil handling facilities having storage capacity of 50,000 gallons or more (for additional requirements see Regulations .02, .03, .04, .06, .12, and .20 of this chapter and COMAR 26.10.02—.11); or

(7) Facilities or operations of any storage capacity otherwise permitted under Regulation .08, engaged in the transporting or transferring of oil from one location to another, or storage of oil, if the Administration determines that the oil transport, transfer, or storage operation poses a water pollution hazard due to its size, nature, or location (for additional requirements see Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02—.11).

B. When more than one facility is operated by the same person, that person may file one application for a permit providing the application specifically identifies each facility and contains the information required by this chapter for all facilities involved.

.08 General Oil Operations Permit.

A. The following oil handling and oil storage facilities are permitted provided the conditions specified in this regulation for these facilities are met:

(1) Service stations, garages, marinas, and any similar oil handling facilities having storage capacity less than 50,000 gallons shall meet the requirements of Regulations .02, .03, .04, .06, .12, and .20 and COMAR 26.10.02—.11;

(2) Apartment buildings shall meet the requirements of Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02—.11;

(3) Other facilities having storage capacity less than 10,000 gallons shall meet the requirements of Regulations .02, .03, .04, .06, and .12 of this chapter and COMAR 26.10.02—.11.

B. In addition to the conditions imposed on the categories of facilities set out in §A, above, facilities subject to the General Oil Operations Permit shall:

(1) Make facilities available for reasonable inspection by the Administration;

(2) Make all records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility available for reasonable inspection by the Administration; and

(3) Complete any survey forms or other documents provided by the Administration.

.09 Facilities Exempt from Oil Operations and General Oil Operations Permits; Specially Permitted Activities.

A. Storage facilities at a single family residence and for personal use are exempt from the permit requirements of Regulations .07 and .08 of this chapter, but are subject to the requirements of Regulations .02, .03, and .04 of this chapter.

B. Storage facilities at farms with total storage capacity less than 10,100 gallons are exempt from the permit requirements of Regulations .07 and .08 and the inventory and testing requirements of COMAR 26.10.05.

C. Special Permit.

(1) A person shall obtain a special permit for the testing of oil pollution control measures or equipment.

(2) Before conducting any test or demonstration of equipment and materials for the control of oil pollution or scientific experimentation on the effect of oil spills, a person shall apply to the Administration for a special permit.

(3) A person shall comply with any conditions imposed by the Administration in the special permit upon issuance.

.10 Requirements for Application for an Oil Operations Permit (Not Applicable to General Oil Operations Permit).

A. The person in charge of each facility shall submit a written application for a permit, accompanied by a copy of the facility's comprehensive contingency plan, including a containment and cleanup plan.

B. The plan for containment and cleanup shall include the following information:

(1) List of persons, including names, addresses, and telephone numbers to be notified in the event of a spill at the facility;

(2) Provisions for quick control of an oil spill, including personnel, location, and procedures necessary to obtain equipment available for the containment and removal of a spill;

(3) Communications facilities available for use in control and cleanup operations;

(4) List of qualified contractors, equipment, and facilities available for oil spill cleanup operations; and

(5) Additional information which the Administration deems necessary.

C. An application for a permit shall be submitted on an approved form at least 60 days before the date of intended operation.

.11 Conditions for Issuance of a Permit (Not Applicable to General Oil Operations Permit).

A. After reviewing the oil handling procedures and practices involved and inspecting the facility, if necessary, the Administration shall issue the permit if it determines that the:

(1) Requirements of this chapter can be met;

(2) Facility is properly and adequately equipped to prevent oil pollution and control oil spills; and

(3) Person in charge of the facility has the capability to handle the oil in accordance with the requirements of this chapter.

B. A permit issued by the Administration shall be effective for a period of 5 years unless it is surrendered, suspended, revoked, otherwise terminated, or unless issued by the Administration, for reasons stated, for a shorter period of time.

C. The permittee shall agree to make:

(1) Facilities available for reasonable inspection by the Administration; and

(2) All records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility available for reasonable inspection by the Administration.

.12 Requirements for Facilities with Above-Ground Oil Storage Facilities.

A. Standards Incorporated by Reference.

(1) Storage tanks, venting, piping, and metering devices installed after April 21, 1978, shall be in accordance with the appropriate standards of the National Fire Protection Association and the American Petroleum Institute. Any underground piping associated with above-ground oil systems shall be installed in accordance with the requirements of COMAR 26.10.03.01C.

(2) The following National Fire Protection Association standards are incorporated by reference: "NFPA 30 Flammable and Combustible Liquids Code 1984" and "NFPA 30A Automotive and Marine Service Station Code 1984".

(3) The following American Petroleum Institute Standards are incorporated by reference:

(a) Standard Number 650, 1980, "Welded Steel Tanks for Oil Storage", Seventh Edition;

(b) Standard Number 620, 1982, "Recommended Rules for Design and Construction of Large, Welded, Low-Pressure Storage Tanks", Seventh Edition;

(c) Standard Number 2000, 1982, "Venting Atmospheric and Low-Pressure Storage Tanks (Non-refrigerated and Refrigerated)", Third Edition;

(d) Specification Number 12 B, 1977 (and Supplement 1, 1982), "Specification for Bolted Tanks for Storage of Production Liquids", Twelfth Edition;

(e) Specification Number 12 D, 1982 (and Supplement 1, 1983), "Specification for Field Welded Tanks for Storage of Production Liquids", Ninth Edition;

(f) Specification Number 12 F, 1982 (and Supplement 1, 1983), "Specification for Shop Welded Tanks for Storage of Production Liquids", Eighth Edition.

(4) If there is any inconsistency in the National Fire Protection Association and American Petroleum Institute Standards, the Administration may propose and adopt the appropriate standards.

B. The following requirements apply to all above-ground oil storage facilities:

(1) Above-ground storage sites with storage capacity of 10,000 gallons or more shall be surrounded with a continuous dike or wall capable of effectively holding the total volume of the largest storage container located within the area enclosed by the dike or wall. The construction and composition of this emergency holding area shall prevent movement of oil from this area into the waters of the State. The nature of the soil and the ground water conditions at the site shall be taken into consideration in the design or location, or both, of this emergency holding area. The floor and walls of the emergency holding areas shall have a permeability of 10^{-4} centimeters/second or less as measured by a test approved by the Department. The Administration reserves the right to require oil storage facilities of less than 10,000 gallons capacity to be diked if the facility is in a location likely to pollute the waters of the State.

(2) The Administration may exempt from this diking requirement any facility that can provide adequate alternative procedures for oil spill control. Request for this exemption shall be submitted to the Administration in writing. The Administration shall advise the person of approval or disapproval in writing.

(3) The construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood plain is prohibited unless a State Wetlands License, Wetlands Permit or Waterway Construction Permit is first obtained from the Department of Natural Resources.

(4) Each pipeline which is connected to a tank below the liquid level shall have valves located immediately adjacent to the storage tank.

(5) Seams, rivets, nozzle connections, valves, pumps, and pipelines directly connected to above-ground storage tanks shall be visually examined at least once a month for any oil leaks. Any leaks shall be promptly corrected.

(6) Any oil contaminated surface drainage leaving the containment area shall be passed through an oil separating system approved by the Administration, unless other oil pollution control measures acceptable to the Administration are provided.

(7) Flapper-type drain valves may not be used to drain diked areas. Drain valves for dikes shall be kept in the closed position, and shall be locked when not used to drain trapped water.

(8) A high liquid level gauge, an alarm system, or a pump cut-off device shall be installed by the owner or person in charge on any oil storage tank, from which the Administration determines an overflow of oil is possible. Since these emergency devices can fail to operate, their use for spill prevention purposes shall be considered only as auxiliary and supplementary to the use of personnel engaged in the transfer operation.

(9) Before each filling of an existing oil storage system, the liquid level shall be gauged and the measurement shall be recorded in writing. The gauging records shall be maintained for 30 days and shall be made available for reasonable inspection by the Administration. This requirement does not apply to any oil storage system installed before April 21, 1978, without provisions for the measurement of content.

(10) The Administration may require additional procedures for an oil storage system not having a vent which may be seen by the person positioned at the fill.

.13—.15 Repealed.

.16 Requirements for Oil Delivery by Truck Tank or by Transport.

A. Transfer hose and fittings shall be of a grade suitable for the type of oil product transferred and for the type of delivery.

B. Transfer hoses shall be designed to withstand pressure of the shut-off head of the cargo pump or pump relief valve setting.

C. Any vehicle used in the transport or transfer of oil shall be in compliance with COMAR 11.14 Motor Vehicle Administration—Motor Vehicle Inspection, and NFPA Standard 385, "Flammable and unloading oil, and shall stand in a position so as to have the loading or delivery receptacle in full view. If the driver leaves the equipment unattended for any reason, all nozzles, shut-off valves, pumps, and discharge control valves of the dispensing vehicles, as well as those of the receiving facility, shall be turned off or returned to the closed position.

D. A driver shall remain alert while the transfer is in progress and shall report immediately to his or her employer or supervisor any unusual condition involving the transfer operation, such as spills, any obvious discrepancies between the quantities delivered and received, or the existence of any equipment defects or unsafe delivery conditions.

E. A driver shall use proper hoses and fittings in the delivery of the oil.

F. Before beginning any transfer, the driver shall ensure that all hose connections are tight.

.18 Requirements for Oil Transfer Facilities.

A. This regulation is applicable only to those facilities with loading racks.

B. Requirements for Spill Control.

(1) The area of the loading rack in which a spill can occur shall be paved.

(2) Containment curbs, trenching, or other reasonable spill control systems shall be used for tank car, truck tank, and transport transfer areas.

(3) Oil spilled within the containment area shall be removed immediately and disposed of in a manner and location in accordance with all State, federal, and local codes.

(4) Containment facilities shall be designed to prevent the entrance of surface water runoff.

(5) Clean-up materials, such as sorbents, appropriate for the grades of oil being stored, shall be available at the facility for use in the cleanup and removal of spilled oil.

.19 Reporting of Collection and Ultimate Disposal of Waste Oil by Collectors and Processors.

A. A semiannual report on used oil collection by collectors and processors shall be submitted by July 15 of each year, for the period of

Combustible Liquids Tank Vehicles" 1979, which is incorporated by reference.

D. A vehicle used in the transport or transfer of oil shall be operated by a driver possessing a valid Oil Vehicle Operator's Certificate issued by the Administration.

.17 Requirements of Drivers of Truck Tanks and Transports.

A. A driver operating a truck tank or transport shall possess a valid Oil Vehicle Operator's Certificate in accordance with the following requirements:

(1) A driver in possession of a valid Oil Vehicle Operator's Certificate issued before the effective date of this chapter shall operate under the authority of that certificate until it expires;

(2) On or after July 1, 1985, the Oil Vehicle Operator's Certificate shall be issued by the Administration after the driver has completed an examination and has obtained a passing grade indicating his knowledge of the procedures employed for the safe handling of oil, oil spill control measures and oil spill reporting requirements;

(3) A Temporary Oil Vehicle Operator's Certificate, valid for 45 days, shall be issued to new drivers of a company operating under a valid Oil Operations Permit if a company official:

(a) Instructs the driver in the basic procedures employed for the safe handling of oil and oil spill reporting requirements, and

(b) Signs the temporary certification card provided to the Company by the Administration, acknowledging the driver has been instructed;

(4) A driver shall carry an Oil Vehicle Operator's Certificate at all times while involved in the transfer or transport of oil;

(5) A driver shall operate a truck tank or transport in accordance with NFPA Standard 385 "Flammable and Combustible Liquids Tank Vehicles" 1979, which is incorporated by reference;

(6) A driver shall be 21 years old or older as required by Transportation Article, §25-111, Annotated Code of Maryland.

B. An Oil Vehicle Operator's Certificate is not required for interstate drivers transporting petroleum products through Maryland.

C. A driver shall remain within 10 feet and in full and immediate control of the nozzle, shut-off valves, pumps, and emergency operating mechanism for the discharge control valve at all times when loading or

Regulations .01—.06 and .08—.13 transferred to COMAR 10.50.01 effective July 1, 1980

Regulations .01—.21 adopted effective January 28, 1985 (12:2 Md. R. 134)
Regulations .01A, B, .02C, .04A, .07A, .08A, .12A, .13, .15A, .17A, C amended effective December 28, 1987 (14:26 Md. R. 2743)
Regulations .04A, .12A, .13, .14B, C, .15, and .18B amended effective July 1, 1985 (12:13 Md. R. 1278)
Regulation .06 repealed and new Regulation .06 adopted effective December 28, 1987 (14:26 Md. R. 2743)
Regulation .09 amended effective September 23, 1985 (12:19 Md. R. 1847)
Regulation .14E adopted effective August 26, 1985 (12:17 Md. R. 1702)
Regulation .22 adopted effective December 28, 1987 (14:26 Md. R. 2743)
Appendix A amended effective August 26, 1985 (12:17 Md. R. 1702)
Appendix A recodified as Regulation .23 and amended effective December 28, 1987 (14:26 Md. R. 2743)

Chapter recodified from COMAR 08.05.04 to COMAR 26.10.01
Regulation .07A amended effective February 4, 1991 (18:2 Md. R. 151)
Regulation .08A amended effective February 4, 1991 (18:2 Md. R. 151)
Regulation .09B amended effective February 4, 1991 (18:2 Md. R. 151)
Regulation .12A amended effective February 4, 1991 (18:2 Md. R. 151)
Regulation .12B amended effective September 18, 1989 (16:18 Md. R. 2025)
Regulations .13—.15 repealed effective February 4, 1991 (18:2 Md. R. 151)
Regulation .17A amended effective September 18, 1989 (16:18 Md. R. 2025)
Regulation .20A amended effective February 4, 1991 (18:2 Md. R. 151)
Regulations .22—.24 repealed effective February 4, 1991 (18:2 Md. R. 151)
Regulation .23 amended effective May 1, 1989 (16:8 Md. R. 911)
Regulation .24 adopted effective, May 1, 1989 (16:8 Md. R. 911)

January 1—June 30, and by January 15 of each year, for the period of July 1—December 31. This report is to be made on a form available from the Administration.

B. The ultimate disposal of used oil shall be undertaken in a manner that will prevent any oil from reaching waters of the State.

.20 Requirements for Garages, Service Stations, Marinas, and Similar Oil Handling Facilities.

A. Storage systems shall be installed and operated in accordance with the requirements of Regulations .02—.04 and .12 of this chapter and COMAR 26.10.02—.11.

B. The oil distribution company shall be responsible for monitoring inventory control of the storage system when the facility operates under the meter marketing plan.

C. All sewers and drains serving these facilities, and receiving oil-bearing wastes or wastewaters from operations at these facilities, shall be provided with adequate and properly maintained oil separating systems.

D. The ultimate disposal of used oil shall be undertaken in a manner that will prevent water pollution, such as salvaging or sale to a salvage company, or use as fuel, or other methods in accordance with State, federal, and local codes.

E. Marina fuel delivery nozzles shall be equipped with a self-closing valve that will shut off the flow of fuel when the hand is removed from the nozzle. Hold open devices may not be used on these nozzles.

F. Each pipeline conveying oil to a wharf, pier, or dock shall be provided with a readily accessible block valve, located on shore, near the approach to the wharf, pier, or dock, and outside any diked area. Valves shall be grouped at one location.

.21 Effect on Other Government Regulations.

These regulations are not intended to and do not relieve the permittee of the duty to comply with all other valid governmental regulations governing activities regulated under these regulations.

Administrative History

Effective date: September 1, 1974 (1:1 Md. R. 33)
Regulation .07 amended effective April 21, 1978 (5:8 Md. R. 593)
Regulation .07C amended effective September 12, 1983 (10:18 Md. R. 1607)
Regulation .07 repealed effective January 28, 1985 (12:2 Md. R. 134)

.02 Applicability.

A. The requirements of COMAR 26.10.02—.11 apply to all owners and operators of an UST system as defined in Regulation .04 of this chapter except as otherwise provided in §§B and C of this regulation. Any UST system listed in §C of this regulation shall meet the requirements of Regulation .03.

B. The following UST systems are excluded from the requirements of COMAR 26.10.02—26.10.11:

(1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Resource Conservation and Recovery Act or a mixture of such hazardous waste and other regulated substances;

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C. §466 et seq.);

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(4) Any UST system whose capacity is 110 gallons or less, unless otherwise determined by the Department;

(5) Any UST system that contains a de minimus concentration of regulated substances;

(6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(7) Any residential UST system as defined under COMAR 26.10.02.04B(64);

(8) Any farm UST system as defined under COMAR 26.10.02.04B(64).

C. Deferrals.

(1) COMAR 26.10.03, 26.10.04, 26.10.05, 26.10.08, and 26.10.10 do not apply to any of the following types of UST systems:

(a) Wastewater treatment tank systems;

(b) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(c) Airport hydrant fuel distribution systems; and

(d) UST system with field-constructed tanks.

Chapter 02 Underground Storage Tanks

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Program Scope.

A. A person may not pump, discharge, spill, throw, drain, deposit, or cause to be deposited, oil, other matter containing oil, into, near, or in an area likely to pollute waters of the State.

B. A person violating these regulations is subject to sanctions under Environment Article, Title 4, Subtitle 4, Annotated Code of Maryland, in addition to the permit and license modification, suspension, or revocation proceeding and in addition to any other sanctions provided by law.

C. Responsibility for the prompt control, containment, and removal of any released regulated substance shall be with the person responsible for the discharge, the owner of the property, the owner of the regulated substance, the owner of the storage system, and the person-in-charge of the facility, vessel, or vehicle involved in the release. For releases occurring from improperly abandoned storage systems, the current land owner, and any person who owned, leased, or was otherwise responsible for a system at the time it was abandoned shall also be responsible. This responsibility shall continue until removal of the released regulated substance has been accomplished to the satisfaction of the Department.

D. These regulations are not intended to and do not relieve the owners or operators of the duty to comply with all other government regulations.

E. For purposes of this chapter and COMAR 26.10.03—.11, all hazardous substances, as defined in Regulation .04B(48) of this chapter are designated as controlled hazardous substances.

F. Controlled hazardous substances, as defined by §E, above, and Regulation .04B(48)(a) of this chapter, are exempt from the provisions of Environment Article, §§7-205, 7-209, 7-224, 7-226, 7-232, 7-249, and 7-253, Annotated Code of Maryland.

B. An underground storage system installed on or after March 15, 1985, that is protected by a cathodic protection system shall meet all of the following requirements:

(1) It shall have a test system installed to measure structure-to-soil potential as per the Department of the Environment's "Specifications and Drawings for Cathodic Protection of Buried Underground Storage System Piping";

(2) It shall be tested on an annual basis to determine if the cathodic protection system is in proper working order;

(3) The test results shall be recorded and kept at the facility or other location in control of and designated by the owner or person-in-charge for a period of 5 years and shall be made available to the Department upon request;

(4) If inadequate cathodic protection is indicated by a structure-to-soil potential measurement of less than 0.85 negative volts or by any other NACE accepted test, repairs shall be made to the cathodic protection system within 60 days of the test measurement.

C. On or after March 15, 1985, an underground storage system protected by impressed current systems shall be designed so that the impressed current source cannot be de-energized, at any time, including during closure of the oil storage facility, except to perform service work on the storage system or the impressed current cathodic protection system.

D. UST systems installed on or after March 15, 1985, shall be designed and installed to prevent releases due to structure failure for the operational life of the UST system.

E. UST systems installed on or after March 15, 1985, shall be constructed or lined with material that is compatible with the stored substance.

.04 Definitions.

A. In COMAR 26.10.02—26.10.11, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Aboveground release" means any release, discharge, or spill to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer

(2) COMAR 26.10.05 does not apply to any UST system that stores fuel solely for use by emergency power generators.

.03 Requirements for Deferred UST systems.

A. An underground storage system installed on or after March 15, 1985, shall be protected by one or more of the following methods:

(1) It shall have a properly installed and maintained cathodic protection system of either the impressed current or sacrificial anode type which satisfies one or more of the following:

(a) Engineered by an accredited corrosion specialist or cathodic protection specialist of the National Association of Corrosion Engineers.

(b) Installed according to requirements found in National Association of Corrosion Engineers Standard Number RP-02-85, "Control of External Corrosion in Underground or Submerged Metallic Piping Systems", which is incorporated by reference. The provision of the referenced documents, although stated as suggestions or discretionary requirements, are by this reference intended to be mandatory requirements for the described activities.

(c) Supplied by the original tank manufacturer for use on a tank approved by Underwriters Laboratories for general storage of petroleum products.

(d) Supplied by the original tank manufacturer for a tank certified by the manufacturer to have been made to American Society of Mechanical Engineers specifications.

(2) It shall be constructed of a noncorrosive material such as special alloys approved by the Department, fiberglass-reinforced plastic, or fiberglass-reinforced plastic-coated steel in accordance with Steel Tank Institute specifications, ACT-100, or equivalent specifications, and meet the following requirements:

(a) Certified by the manufacturer that it has been built to American Society of Mechanical Engineers standards;

(b) Approved by an accredited corrosion specialist of the National Association of Corrosion Engineers for use at precise locations; or

(c) Approved for use and storage of petroleum products by Underwriters Laboratories.

system, the piping that joins two UST systems should be allocated equally between them.

(11) "Consumptive use" with respect to heating oil means consumed on the premises.

(12) "Control" means the possession of the power to direct or cause the direction of the actions of a person, place, or thing.

(13) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

(14) "Department" means the Maryland Department of the Environment.

(15) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, dumping, addition, or introduction of any oil or other regulated substance into waters of the State, or the placing of any pollutant in a location where it is likely to pollute.

(16) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system such as the tank from the piping.

(17) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(18) "Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(19) "Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:

operations as the regulated substance moves to or from an UST system.

(2) "Administration" means the Hazardous and Solid Waste Management Administration of the Maryland Department of the Environment.

(3) "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(4) "Belowground release" means any release or discharge to the subsurface of the land or to ground water, or both. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

(5) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

(6) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

(7) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, this person shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

(8) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(9) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

(10) "Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST

(25) Heating Oil.

(a) "Heating oil" means petroleum that is:

(i) No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy, and No. 6 technical grades of fuel oil;

(ii) Other residual fuel oils including Navy Special Fuel Oil and Bunker C; and

(iii) Other fuels when used as substitutes for one of these fuel oils.

(b) Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(26) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(27) "Implementing agency" means the Maryland Department of the Environment.

(28) "Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations, including gas production plants, for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(29) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing oil or regulated substance.

(30) "Motor fuel" means petroleum or a petroleum-based substance that is:

(a) Motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol; and

(b) Typically used in the operation of a motor engine.

(31) "New tank system" means a tank system that shall be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.

(32) "Noncommercial purposes" with respect to motor fuel means not for resale.

(33) "Oil" means oil of any kind and in any liquid form including, but not limited to, petroleum, petroleum by-products, fuel oil, sludge

(a) The owner or operator has obtained all federal, State, or local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and

(b) Either of the following occurs:

(i) A continuous on-site physical construction or installation program has begun, or

(ii) The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

(20) "Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank shall be located on the farm property and for sole use in farm activities. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations.

(21) "Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the production process or for the storage of finished products or by-products from the production process.

(22) "Free product" refers to a regulated substance that is present as a nonaqueous phase liquid.

(23) "Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(24) "Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act (42 U.S.C. §§6901—6991)) or any mixture of these substances and petroleum, and which is not a petroleum UST system.

responsibility for an activity or operation at a facility, such as the transfer of oil to or from any points in the facility.

(42) "Person responsible for the discharge" means:

(a) The owner of the discharged oil;

(b) The owner, operator, or person-in-charge of the oil storage facility, vessel, or vehicle involved in the discharge at the time of or immediately before the discharge; and

(c) Any other person who through act of omission causes the discharge.

(43) "Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimus quantities of other regulated substances. This system includes those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, heating oils, lubricants, petroleum solvents, and used oils.

(44) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(45) "Pipeline facilities", including gathering lines, means new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

(46) "Pollution" means every contamination or alteration of the physical, chemical, or biological properties of any waters of the State, including a change in temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any organic matter, harmful organism, liquid, gaseous, solid, radioactive, or other substance into any waters of the State, as will render the waters harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, livestock, wild animals, or birds, fish, or other aquatic life.

(47) "Precision test" means a test approved by the Department and conducted in accordance with the standards set forth in the "NFPA 329 Underground Leakage of Flammable and Combustible Liquids", which is incorporated by reference. For commercial names of tests approved by the Department, see COMAR 26.10.07.

(48) "Regulated substance" means any substance identified as follows:

(a) Defined in §101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C.

containing oil or oil residues, oil refuse, oil mixed with waste, crude oils, and regardless of specific gravity, every other nonedible, nonsubstituted liquid petroleum fraction unless that fraction is specifically identified as a hazardous substance under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601. Oil includes aviation fuel, gasoline, kerosene, light and heavy fuel oils, diesel motor fuels, and asphalt, but does not include liquified petroleum gases, such as liquified propane, liquified natural gas, or any edible oils.

(34) "Oil storage facility" means any installation, structure, or premises, aboveground or underground, in which oil is stored. "Oil storage facility" does not include any farm tank or residential tank which stores 1,100 gallons or less of oil for noncommercial or personal use.

(35) "On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

(36) "Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under these regulations.

(37) "Operator" means any person in control of, or having responsibility for, the daily or periodic operation of the UST system.

(38) "Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

(39) "Owner" means:

(a) In a case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and

(b) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned the UST system immediately before the discontinuation of its use.

(40) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, State, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

(41) "Person-in-charge" means the owner or person designated by an owner, operator, or permittee as the one with direct supervisory

(d) Surface impoundment, pit, pond, or lagoon;

(e) Storm water or wastewater collection system;

(f) Flow-through process tank;

(g) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(h) Storage tank situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or pipes connected to any tank which is described in §B(64)(a)—(h) of this regulation.

(65) "Upgrade" means the addition or retrofit of some systems such as interior lining or cathodic protection, or both, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

(66) "UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(67) "Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

(68) "Waters of the State" include:

(a) Both surface and underground waters within the boundaries of the State subject to its jurisdiction, including that portion of the Atlantic Ocean within the boundaries of the State;

(b) The Chesapeake Bay and its tributaries;

(c) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(d) The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.

.05 General Operations Permit.

All underground storage systems regulated pursuant to this subtitle are permitted provided the following conditions are met:

A. All applicable requirements of COMAR 26.10.03—26.10.11 are met;

B. The facility is made available for inspection by the Department;

§§6901—6911i) but not including any substance regulated as a hazardous waste under Subtitle C of RCRA (Resource Conservation and Recovery Act); and

(b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, which are 60°F and 14.7 pounds per square inch, absolute. "Regulated substance" includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, heating oil, lubricants, petroleum solvents, and used oils.

(49) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an UST into ground water, surface water, subsurface soils, or into an area likely to pollute waters of the State.

(50) "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

(51) "Repair" means to restore a tank or UST system component that has caused a release of product from the UST system, or that has malfunctioned in any way.

(52) "Residential tank" is a tank located on property of a single-family residence used solely for personal use.

(53) "SARA" means Superfund Amendments and Reauthorization Act of 1986.

(54) "Secretary" means the Secretary of the Maryland Department of the Environment.

(55) "Septic tank" means a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from this receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(56) "Similar oil handling facility" means any facility that stores and dispenses oil for use as a motor fuel.

(57) "Spill" means any release of oil or a regulated substance.

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 03 UST Systems: Design, Construction, Installation, and Notification

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Performance Standards for New UST Systems.

A. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems shall meet the requirements of this chapter.

B. Tanks. Each tank shall be properly designed and constructed, and any portion underground shall be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in §B(1)—(5) of this regulation.

(1) The tank is constructed of fiberglass-reinforced plastic;

Agency note: The following industry codes may be used to comply with this subsection:

(a) Underwriters Laboratories Standard 1316, "Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products";

(b) Underwriters Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products"; or

(c) American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks".

(2) The tank is constructed of steel and cathodically protected in the following manner:

(a) The tank is coated with a suitable dielectric material,

(b) Field-installed cathodic protection systems are designed by a corrosion expert,

(c) Impressed current systems are designed to allow determination of current operating status as required in COMAR 26.10.04.02F, and

C. All records relative to these regulations and the Environment Article pertaining to the facility or operation of the facility are available for inspection by the Department; and

D. Any survey or other documents provided by the Department are completed in a timely manner.

Administrative History

Effective date: February 4, 1991 (18:2 Md. R. 151)

(1) The piping is constructed of fiberglass-reinforced plastic;

Agency note: The following codes and standards may be used to comply with this section:

(a) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";

(b) Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible Liquids and LP Gas";

(c) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids";

(d) Underwriters Laboratories of Canada Standard CAN4-S633-M81, "Flexible Underground Hose Connectors"; or

(e) Department of the Environment's specifications for control of corrosion to Ancillary Metallic Buried Fuel Systems.

(2) The piping is constructed of steel and cathodically protected in the following manner:

(a) The piping is coated with a suitable dielectric material,

(b) Field-installed cathodic protection systems are designed by a corrosion expert,

(c) Impressed current systems are designed to allow determination of current operating status as required in COMAR 26.10.04.02,

(d) Cathodic protection systems are operated and maintained in accordance with COMAR 26.10.04.02;

Agency note: The following codes and standards may be used to comply with this subsection:

(a) National Fire Protection Association Standards 30 & 30A, "Flammable and Combustible Liquids Code";

(b) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";

(c) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(d) National Association of Corrosion Engineers Standard RP 02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and

(e) Department of the Environment's Specifications and Drawings for Cathodically Protecting Buried Oil Piping.

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

(a) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life, and

(d) Cathodic protection systems are operated and maintained in accordance with COMAR 26.10.04.02 or according to guidelines established by the Department;

Agency note: The following codes and standards may be used to comply with this subsection:

(a) Steel Tank Institute "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks";

(b) Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks";

(c) Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-GO3.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coating and Galvanic System"; or

(d) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

(3) The tank is constructed of a steel-fiberglass-reinforced-plastic composite;

Agency note: The following industry codes may be used to comply with this subsection:

(a) Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks"; or

(b) The Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks".

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

(a) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life, and

(b) Owners and operators maintain records that demonstrate compliance with the requirements of §B(4)(a), above, for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than §B(1)—(4) of this regulation.

C. Piping. The piping that is in contact with the ground shall be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(2) Tank and piping system installation practices and procedures described in the following codes may be used to comply with these requirements:

(a) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";

(b) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

(c) American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System".

(3) On or after March 15, 1985, two permanent monitoring pipes shall be installed in opposing corners of new or replacement storage system installations. The monitoring pipes shall:

(a) Extend to a minimum depth of 2 feet below the bottom of the tanks in the tank field;

(b) Be constructed of schedule 40 PVC;

(c) Be a minimum of 2 inches in diameter;

(d) Be screened from the bottom to within 2 feet of ground surfaces;

(e) Have a minimum slot size of 0.020 inches and maximum slot size of 0.025 inches with not less than 30 slots per foot;

(f) Be completed by:

(i) Backfilling around the outside with fine pea gravel to prevent clogging, or

(ii) Wrapping in an appropriate filter cloth to prevent clogging;

(g) Be capped by a threaded cap or removable plug and protected from traffic with manhole and cover;

(h) Be identified to avoid confusion with product fill lines.

(4) Precision Test.

(a) A new storage system installed or an existing storage system repaired or upgraded on or after March 15, 1985, shall be tested for tightness by the "precision test" method upon completion of installation, repair, or upgrade and before operation of the system.

(b) Owners and operators maintain records that demonstrate compliance with the requirements of §C(3)(a), above, for the remaining life of the piping; or

Agency note: National Fire Protection Association Standard 30 & 30A, "Flammable and Combustible Liquids Code"; and National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with this subsection.

(4) The piping construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is not less protective of human health and the environment than the requirements in §C(1)—(3) of this regulation.

D. Spill and Overfill Prevention Equipment.

(1) Except as provided in §D(2), below, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators shall use the following spill and overfill prevention equipment:

(a) Spill prevention equipment that shall prevent release of product into the environment when the transfer hose is detached from the fill pipe by use of a spill catchment basin; and

(b) Overfill prevention equipment that shall:

(i) Automatically shut off flow into the tank when the tank is no more than 95 percent full, or

(ii) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in §D(1), above, if:

(a) Alternative equipment or method is used that is determined by the Department to be no less protective of human health and the environment than the equipment specified in §D(1)(a) and (b); or

(b) The UST system is filled by transfers of no more than 25 gallons at one time.

E. Installation.

(1) All tanks and piping shall be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, in accordance with the manufacturer's instructions, and in accordance with COMAR 26.10.06.

G. Certification of Installation. All owners and operators are required to have any installation or repair work done only by individuals certified by the State pursuant to COMAR 26.10.06.

.02 Upgrading of Existing UST Systems.

A. Alternatives Allowed. Not later than December 22, 1998, all UST systems containing a regulated substance, as defined in 40 CFR 280, Subpart A, shall comply with one of the following requirements:

(1) New UST system performance standards under this chapter;

(2) The upgrading requirements in §§B—D, below; or

(3) Closure requirements under COMAR 26.10.10, including applicable requirements for corrective action under COMAR 26.10.09.

B. Tank Upgrading Requirements.

(1) Steel tanks shall be upgraded to meet one of the requirements of this section in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory.

(2) Cathodic protection. A tank shall be upgraded by cathodic protection if the cathodic protection system meets the requirements of Regulation .01B(2)(b), (c), and (d) of this chapter and the integrity of the tank is ensured using one of the following methods:

(a) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before installing the cathodic protection system.

(b) The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with COMAR 26.10.05.04E—I.

(c) The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of 26.10.05.04D. The first tightness test shall be conducted before installing the cathodic protection system. The second tightness test shall be conducted between 3 and 6 months following the first operation of the cathodic protection system.

(d) The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than §B(2)(a)—(c), above.

(b) When a precision test is performed, the following information shall be kept on file at the facility or at a location designated by and in control of the owner or person-in-charge of the storage system, and shall be made available for reasonable inspection by the Department upon request:

(i) Commercial name of the test equipment;

(ii) The name of the testing company;

(iii) The name of the person conducting the test;

(iv) A certification that the person conducting the test has completed a training course in the proper use of the test equipment as given by the manufacturer of the test equipment or his authorized agent, or the Department;

(v) The data accumulated by the test; and

(vi) The results of the test as to whether the storage system is tight.

F. Requirements for Garages, Service Stations, Marinas, and Similar Oil Handling Facilities.

(1) Storage systems shall be installed and operated in accordance with the requirements of COMAR 26.10.02—.11.

(2) The oil distribution company shall be responsible for monitoring inventory control of the storage system when the facility operates under the meter marketing plan.

(3) All sewers and drains serving these facilities, and receiving oil-bearing wastes or wastewaters from operations at these facilities, shall be provided with adequately permitted and properly maintained oil separating systems.

(4) The ultimate disposal of used oil shall be undertaken in a manner that will prevent water pollution, such as salvaging or sale to a salvage company, or use as fuel, or other methods in accordance with State, federal, and local codes.

(5) Marina fuel delivery nozzles shall be equipped with a self-closing valve that will shut off the flow of fuel when the hand is removed from the nozzle. Hold open devices may not be used on these nozzles.

(6) Each pipeline conveying oil to a wharf, pier, or dock shall be provided with a readily accessible shut-off valve located on shore, near the approach to the wharf, pier, or dock, and outside any diked area. Valves shall be grouped at one location.

independent testing laboratory and shall meet the requirements of Regulation .01C(2)(b), (c), and (d). The codes and standards listed in Regulation .01C(2) may be used to comply with this requirement.

D. Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems shall comply with new UST system spill and overfill prevention equipment requirements specified in Regulation .01D.

.03 Notification Requirements.

A. On or before July 1, 1990, the owner, operator, or person-in-charge of an underground storage tank shall register the underground storage tank with the Department on a form provided by the Department.

B. Owners required to submit notices under §A of this regulation shall provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one notification form, but owners who own tanks located at more than one place of operation shall file a separate notification form for each separate place of operation.

C. Notices required to be submitted under §A of this regulation shall provide all of the information required in Sections I through VI of the prescribed form for each tank for which notice shall be given. Notices for each tank installed after July 1, 1990, shall also provide all of the information in Section VII of the prescribed form for each tank for which notice shall be given.

D. All owners and operators of new UST systems shall certify in the notification form compliance with the following requirements:

(1) Installation of tanks and piping under Regulation .01E;

(2) Cathodic protection of steel tanks and piping under Regulation .01B and C;

(3) Financial responsibility under COMAR 26.10.11; and

(4) Release detection under COMAR 26.10.05.02 and .03.

E. All owners and operators of new UST systems shall ensure that the installer certifies in the notification that the methods used to install the tanks and piping comply with the requirements in Regulation .01E.

F. A person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of the tank of the owner's

(3) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection under all of the following conditions:

(a) The lining is installed in accordance with the requirements of COMAR 26.10.04.04.

(b) The cathodic protection system meets the requirements of Regulation .01B(2)(b), (c), and (d) of this chapter.

(c) Tanks not meeting the recommendations of API Publication 1631 may not be relined.

(d) A storage system to which an interior lining has been applied shall have a cathodic protection system installed to prevent further corrosion of the system. This system shall be of the impressed current or sacrificial anode type and the installation shall be approved by an accredited corrosion specialist of the National Association of Corrosion Engineers.

(e) A storage system which has had an interior lining applied shall be tested by the precision test before being placed back into service.

(f) The owner or person-in-charge of the underground storage system shall maintain a written certification from the contractors performing the work in §B(3)(a), (c), and (e), above. This written certification shall state that all work has been done in accordance with the requirements of this regulation. The certification shall be made available for inspection by the Department.

(4) The following codes and standards may be used to comply with this section:

(a) American Petroleum Institute Publication 1631, "Recommended Practice of the Interior Lining of Existing Steel Underground Storage Tanks";

(b) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and

(c) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems".

C. Piping Upgrading Requirements. Metal piping that is in contact with the ground shall be cathodically protected in accordance with a code of practice developed by a nationally recognized association or

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 04 General Operating Requirements

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Spill and Overfill Control.

A. Owners and operators shall ensure that releases due to spilling or overfilling do not occur. The owner and operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling. The transfer procedures described in National Fire Protection Association Publication 385 may be used to comply with this requirement. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30 and 30A, "Flammable and Combustible Liquids Code".

B. An underground storage system installed after April 21, 1978, shall have provisions for taking direct measurements of content level by the stick method.

C. The person-in-charge shall measure the liquid level of metered storage systems each day of operation, and shall reconcile the results with pump meter readings and receipt of product. These records shall be kept for 5 years at the facility or a location under the control of and designated by the owner or person-in-charge and shall be made available to the Department for inspection.

D. Inventory variations exceeding ½ of 1 percent of the metered quantity of product over a period of 30 days shall be reported to the owner of the storage system, and an investigation shall immediately be initiated to determine the cause of the inventory variation. If inventory variation is reconciled and there is no indication of a leak, the cause of the variation as determined by the investigation shall be noted in the daily inventory records.

notification obligations under §A, above. The form provided by the Department shall be used to comply with this requirement.

G. Unless an underground storage tank is registered with the Department in accordance with the provisions of §A or B of this regulation, oil may not be sold to or received by the underground oil storage tank, with the exception of oil necessary to conduct the initial precision test for new storage systems.

H. For the purposes of this regulation, if any underground storage tank registered with the Department under §A or B of this regulation is removed, or no longer in use, the owner, operator, or person-in-charge of the underground storage tank shall notify the Department on an amended form not later than 30 days after the removal or discontinuance of use.

Administrative History

Effective date: February 4, 1991 (18:2 Md. R. 151)

L. All fill lines for an underground storage system shall be clearly marked to indicate the size of the tank and the type of product stored. The markings shall be as follows:

(1) A permanent tag or sign installed immediately adjacent to the fill which states the size of the storage system and the specific type of product being stored; or

(2) A color code shall be implemented according to the following requirements:

(a) Color markings shall be painted or placed around the fill or manhole cover in a manner that will readily identify the product in the storage system,

(b) The color code shall be printed on a sign not less than 8 x 10 inches with letters not less than ¾-inch high, posted at the facility in a prominent location and be available for inspection at all times to show the tank size and type of product,

(c) A different color code shall be used for each product or grade of product, or both, being stored at the facility.

M. Pipes or other openings not for transfer of product at the facility may not be any color which could be associated with a product stored at the facility.

N. The owner, operator, and other responsible parties shall report, investigate, and clean up any spills and overfills in accordance with COMAR 26.10.08.04.

.02 Operation and Maintenance of Corrosion Protection.

A. All owners and operators of steel UST systems with corrosion protection shall comply with the requirements of this regulation to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

B. All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that are in contact with the ground.

C. An underground storage system protected by impressed current systems shall be designed so that their impressed current source cannot be de-energized at any time, including during closure of the underground storage facility, except to perform service work on the storage system or the impressed current cathodic protection system.

E. If the investigation required by §D, above, indicates a loss of product, the owner or person-in-charge shall follow the procedures of COMAR 26.10.08.

F. The Department may require a precision test if the person-in-charge of a storage system has failed to reconcile daily inventory records as specified in §§C and D of this regulation.

G. The Department may require a precision test of the storage system and installation of monitoring wells if there is reason to believe there is or may have been a loss of product from a storage system.

H. Except for an underground storage tank regulated by COMAR 26.10.03.02 and protected against corrosion and installed as provided in COMAR 26.10.03, an underground storage tank, which has been buried for 15 years or more, or a storage system for which no installation date can be determined, shall meet the following requirements:

(1) It shall be tested for tightness in accordance with the precision test;

(2) The precision test shall be repeated on a storage system at intervals of not greater than 5 years;

(3) Storage systems with a total capacity of 550 gallons or less may be tested in accordance with COMAR 26.10.07.02.

I. The Department can require additional procedures for an underground storage system not having a vent that can be seen by a person positioned at the fill.

J. A high liquid level gauge, an alarm system, or a pump cut-off device shall be installed by the owner or the authorized person-in-charge on any underground storage tank from which the Department determines an overflow of oil is possible. Since these emergency devices can fail to operate, their use for spill prevention purposes shall be considered only as auxiliary and supplementary to the use of personnel engaged in the transfer operation.

K. Before each filling of an underground storage system which is not required to maintain daily inventory reconciliation records and which has provisions for measurement of contents, the liquid level shall be gauged and the measurement shall be recorded in writing. These records shall be maintained for 1 year and shall be made available for inspection by the Department.

(2) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations".

.04 Repairs Allowed.

A. Owners and operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs shall meet the requirements of this chapter.

B. Repairs to UST systems shall be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. The following codes and standards may be used to comply with this section:

(1) National Fire Protection Association Standard 30 & 30A "Flammable and Combustible Liquids Code";

(2) American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines"; and

(3) American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks".

C. Repairs to fiberglass-reinforced plastic tanks shall be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory in accordance with COMAR 26.10.06.

D. Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings shall be repaired in accordance with the manufacturer's specifications.

E. Repaired tanks and piping shall be tightness tested in accordance with COMAR 26.10.05.04D, 26.10.05.05C, and 26.10.07 before being placed back into service.

F. Within 6 months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with Regulation .02D and F of this chapter to ensure that it is operating properly.

G. UST system owners and operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this regulation.

D. All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) All cathodic protection systems shall be tested within 6 months of installation and at least every year thereafter; and

(2) The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with a code of practice developed by a nationally recognized association; the National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", may be used to comply with this section.

E. If inadequate cathodic protection is indicated by a structure-to-soil potential measurement of less than 0.85 negative volts or other NACE accepted test, repairs shall be made to the cathodic protection *system within 60 days of the test measurement.*

F. UST systems with impressed current cathodic protection systems shall also be inspected every 60 days to ensure that the equipment is running properly.

G. For UST systems using cathodic protection, records of the operation of the cathodic protection shall be maintained in accordance with Regulation .05 of this chapter to demonstrate compliance with the performance standards in this regulation. These records shall provide the following:

(1) The results of the last three inspections required in §F, above; and

(2) The results of testing from the last two inspections required in §D, above.

.03 Compatibility.

A. Owners and operators shall use a UST system made of or lined with materials that are compatible with the substance stored in the UST system.

B. Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:

(1) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and

D. Availability and Maintenance of Records.

(1) Owners and operators shall keep the records required either:

(a) At the UST site and immediately available for inspection by the Department; or

(b) At a readily available alternative site and be provided for inspection to the Department upon request.

(2) In the case of permanent closure records required under COMAR 26.10.10.05, owners and operators are also provided with the additional alternative of mailing closure records to the Department if they cannot be kept at the site or an alternative site as indicated above.

Administrative History

Effective date: February 4, 1991 (18:2 Md. R. 151)

.05 Reporting and Record Keeping.

A. Owners and operators of UST systems shall cooperate fully with inspections, monitoring, and testing conducted by the Department as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to the Environment Article, §4-401 et seq., Annotated Code of Maryland.

B. Reporting. Owners and operators shall submit the following information to the Department:

(1) Notification for all UST systems described in COMAR 26.10.03.03, which includes certification of installation for new UST systems described in COMAR 26.10.03.01G;

(2) Reports of all releases including releases pursuant to COMAR 26.10.08.01, spills and overfills pursuant to COMAR 26.10.08.04, and confirmed releases pursuant to COMAR 26.10.09.02;

(3) Corrective actions planned or taken including initial abatement measures pursuant to COMAR 26.10.09.03, initial site characterization under COMAR 26.10.09.04, free product removal pursuant to COMAR 26.10.09.05, investigation of soil and ground water cleanup required by COMAR 26.10.09.06, and corrective action plan pursuant to COMAR 26.10.09.07; and

(4) A notification before permanent closure or change-in-service pursuant to COMAR 26.10.10.02.

C. Record Keeping. Owners and operators shall maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used, as required in COMAR 26.10.03.01B(4) and 26.10.03.01C(3);

(2) Documentation of operation of corrosion protection equipment pursuant to Regulation .02 of this chapter;

(3) Documentation of UST system repairs pursuant to Regulation .04G of this chapter;

(4) Recent compliance with release detection requirements pursuant to COMAR 26.10.05.06; and

(5) Results of the site investigation conducted at permanent closure pursuant to COMAR 26.10.10.05.

Table 1
Schedule for Phase-In of Release Detection

Year System was Installed	*Year when Release Detection is Required (by December 22 of the year indicated)*				
	1989	*1990*	*1991*	*1992*	*1993*
Before 1965 or date unknown	RD	P			
1965—1969		P/RD			
1970—1974		P	RD		
1975—1979		P		RD	
1980—1988		P			RD
New tanks	Immediately upon installation				

P = Shall begin release detection for all pressurized piping in accordance with Regulation .02C(2).
RD = Shall begin release detection for tanks and suction piping in accordance with Regulations .02B and C(2) and .03.

D. Any existing UST system that cannot apply a method of release detection that complies with the requirements of this chapter shall complete the closure procedures in COMAR 26.10.10.02 by the date on which release detection is required for that UST system under §C of this regulation.

.02 Requirements for Petroleum UST Systems.

A. Owners and operators of petroleum UST systems shall provide release detection for tanks and piping as described in this regulation.

B. Tanks. All UST systems shall take daily inventory as described in Regulation .04B, below. In addition, tanks shall be monitored at least every 30 days for releases using one of the methods listed in Regulation .04E—I, except that:

(1) UST systems that meet the performance standards in COMAR 26.10.03.01 and .02, and the monthly inventory control requirements in Regulation .04B or C, below, shall use tank tightness testing, conducted in accordance with Regulation .04D, at least every 5 years until December 22, 1998, or until 10 years after the tank is installed or upgraded under COMAR 26.10.03.02B;

(2) UST systems that do not meet the performance standards in COMAR 26.10.03.01 or .02 may use monthly inventory controls, conducted in accordance with Regulation .04B or C, below, and annual

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DEPARTMENT OF THE ENVIRONMENT
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Chapter 05 Release Detection

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 General Requirements for All UST Systems.

A. Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(3) Meets the performance requirements in Regulation .04 or .05 of this chapter with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed before that date, shall be capable of detecting the leak rate or quantity specified for that method in Regulation .04C, D, and E or Regulation .05B and C with a probability of detection of 0.95 and a probability of false alarm of 0.05.

B. When a release detection method operated in accordance with the performance standards in Regulations .04 and .05 indicates that a release may have occurred, owners and operators shall notify the Department in accordance with COMAR 26.10.08.

C. Owners and operators of all UST systems shall comply with the release detection requirements of this chapter and of Table 1, as follows:

.03 Requirements for Hazardous Substance UST Systems.

A. Owners and Operators of hazardous substance UST systems shall provide release detection that meets the requirements of this regulation.

B. Release detection at existing UST systems shall meet the requirements for petroleum UST systems in Regulation .02. By December 22, 1998, all existing hazardous substance UST systems shall meet the release detection requirements for new systems in §C, below.

C. Release detection at new hazardous substance UST systems shall meet the following requirements:

(1) Secondary containment systems shall be designed, constructed, and installed to:

(a) Contain regulated substances released from the tank system until they are detected and removed;

(b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(c) Be checked for evidence of a release at least every 30 days. The provisions of 40 CFR §265.193, Containment and Detection of Release, may be used to comply with these requirements.

(2) Double-walled tanks shall be designed, constructed, and installed to:

(a) Contain a release from any portion of the inner tank within the outer wall; and

(b) Detect the failure of the inner wall.

(3) External liners, including vaults, shall be designed, constructed, and installed to:

(a) Contain 100 percent of the capacity of the largest tank within its boundary;

(b) Prevent the interference of precipitation or ground water intrusion with the ability to contain or detect a release of regulated substances; and

(c) Surround the tank completely, so that it is capable of preventing lateral as well as vertical migration of regulated substances.

(4) Underground piping shall be equipped with secondary containment that satisfies the requirements of §C(1), above; that is,

tank tightness testing, conducted in accordance with Regulation .04D, until December 22, 1998, when the tanks shall be upgraded under COMAR 26.10.03.02 or permanently closed under COMAR 26.10.10.02; and

(3) Tanks with a capacity of 550 gallons or less and not metered may use weekly tank gauging, conducted in accordance with Regulation .04C, below.

C. Piping.

(1) Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the requirements of this section.

(2) Pressurized Piping. Underground piping that conveys regulated substances under pressure shall:

(a) Be equipped with an automatic line leak detector conducted in accordance with *Regulation .05B; and*

(b) Have an annual line tightness test conducted in accordance with Regulation .05C or have monthly monitoring conducted in accordance with Regulation .05D.

(3) Suction Piping. Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every 3 years and in accordance with Regulation .05C, or use a monthly monitoring method conducted in accordance with Regulation .05D. Release detection is not required for suction piping that is designed and constructed to meet the following standards:

(a) The below-grade piping operates at less than atmospheric pressure;

(b) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c) Only one check valve is included in each suction line;

(d) The check valve is located directly below and as close as practical to the suction pump; and

(e) A method is provided that allows compliance with §C(3)(b)—(d), above, to be readily determined.

(e) Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and

(f) The measurement of any water level in the bottom of the tank is made to the nearest ⅛ of an inch at least once a month.

(2) Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets", may be used, where applicable, as guidance in meeting the requirements of this section.

C. Manual Tank Gauging.

(1) Manual tank gauging shall meet the following requirements:

(a) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

(b) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

(c) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest ⅛ of an inch;

(d) A leak is suspected and subject to the requirements of COMAR 26.10.08—26.10.10, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity	*Weekly Standard (one test)*	*Monthly Standard (average of four tests)*
550 gallons or less	10 gallons	5 gallons
551—1,000 gallons	13 gallons	7 gallons
1,001—2,000 gallons	26 gallons	13 gallons

(2) Only tanks of 550 gallons or less nominal capacity may use manual tank gauging as the sole method of release detection. Tanks of 551 to 2,000 gallons shall use the method in place of manual inventory control in §B(1), above. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this chapter.

trench liners and jacketing of double-walled pipe. In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with Regulation .05B of this chapter.

(5) Other methods of release detection may be used if owners and operators:

(a) Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in Regulation .04C—I, below, can detect a release of petroleum;

(b) Provide information to the Department on effective corrective action technologies, health risks, chemical and physical properties of the stored substance, and the characteristics of the UST site; and

(c) Obtain approval from the Department to use the alternate release detection method before the installation and operation of the new UST system.

.04 Method of Release Detection for Tanks.

A. Each method of release detection for tanks used to meet the requirements of Regulation .02, above, shall be conducted in accordance with this regulation.

B. Inventory Control.

(1) Product inventory control, or another test of equivalent performance, shall be conducted monthly to detect a release of at least ½ of 1 percent of the metered quantity on a monthly basis in the following manner:

(a) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(b) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest ⅛ of an inch;

(c) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

(d) Deliveries are made through a drop tube that extends to within 1 foot of the tank bottom;

detect releases within the excavation zone from any portion of the tanks that routinely contains product; and

(7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

G. Ground Water Monitoring. Testing or monitoring for liquids on the ground water shall meet the following requirements:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;

(2) Ground water is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil or soils between the UST system and the monitoring wells or devices is not less than 0.01 centimeters/second; that is, the soil should consist of gravels, coarse to medium sands, coarse silts, or other permeable materials;

(3) The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground water conditions;

(4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(5) Monitoring wells or devices shall intercept the excavation zone or as close to it as is technically feasible;

(6) The continuous monitoring devices or manual methods used can detect the presence of at least ⅛ of an inch of free product on top of the ground water in the monitoring wells;

(7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in §G(1)—(5) of this regulation and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

(8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

H. Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it shall be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(1) For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of

D. Precision Tightness Testing. A precision test as defined under COMAR 26.10.02.04 shall be capable of detecting a 0.05 gallon per hour leak rate from any portion of the tank system while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. Only tests approved by the Department as set forth in COMAR 26.10.07 shall be used.

E. Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:

(1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and

(2) Inventory control, or another test of equivalent performance, is conducted in accordance with the requirements of §B of this regulation.

F. Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:

(1) The materials used as backfill are sufficiently porous, such as pea gravel or sand, to readily allow diffusion of vapors from releases into the excavation area;

(2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile, such as gasoline, to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(3) The measurement of vapors by the monitoring device is not rendered inoperative by the ground water, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in §F(1)—(4) of this regulation and to establish the number and positioning of monitoring wells that will

(2) The Department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in §§D—I of this regulation. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator shall comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

.05 Methods of Release Detection for Piping.

A. Each method of release detection for piping used to meet the requirements of Regulation .02 of this chapter shall be conducted in accordance with this regulation.

B. Automatic Line Leak Detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.

C. Line Tightness Testing. A periodic test of piping shall be conducted only if it can detect a release of 0.10 gallons per hour at 1.5 times the operating pressure.

D. Applicable Tank Methods. Any of the methods in Regulation .04F—I of this chapter shall be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

.06 Release Detection Record Keeping.

All UST system owners and operators shall maintain records in accordance with COMAR 26.10.04.05 demonstrating compliance with all applicable requirements of this chapter. These records shall include the following:

A. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for 5 years from the date of installation;

B. The results of any sampling, testing, or monitoring shall be maintained for 1 year;

the tank that routinely contains product. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

(2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier provided that:

(a) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable, at least 10^{-6} centimeters/second for the regulated substance stored, to direct a release to the monitoring point and permit its detection;

(b) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

(c) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;

(d) The ground water, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

(e) The site is assessed to ensure that the secondary barrier is always above the ground water and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under these conditions; and

(f) Monitoring wells are clearly marked and secured with bolts or a lock to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

I. Other Methods. Any other type of release detection method, or combination of methods, can be used if approved by the Department, provided:

(1) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of at least 0.95 and a probability of false alarm of at most 0.05; or

C. A person receiving a score of less than 70 percent may request to be retested at any subsequent test offering and shall comply with Regulation .02C, above.

.04 Final Certification.

Final certification under this chapter shall be valid for 2 years from the date of issuance, provided all applicable requirements of this chapter are met.

.05 Proof of Final Certification.

An underground storage system installer with final certification shall have proof of final certification at all times the installer is at the installation or repair site.

.06 Suspension, Refusal, or Revocation.

Certification of an underground storage system installer may be suspended, refused, or revoked by the Department upon written notice from the Department of the facts that warrant suspension or revocation. Unless the suspension or revocation is ordered summarily as an emergency action under State Government Article, §10-405(b), Annotated Code of Maryland, the revocation shall be in effect 10 days after receipt of notice, unless, within 10 days after the date on which the notice of suspension, or revocation, is served, the installer in writing requests a hearing. The Department shall promptly schedule a hearing and after that give a decision, upon service of which, if unfavorable to the installer, the refusal, suspension, or revocation shall be in effect.

.07 Reapplication.

An individual whose certification was refused or revoked under Regulation .06, above, may not apply for a new certificate for 2 years from the date of refusal or revocation.

Administrative History

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DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 06 Underground Storage System Installer Certification

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 General.

An underground storage system shall be installed, upgraded, or repaired only in the presence and under the direction of an individual who is a certified underground storage system installer. In order for a system installer to be certified, the individual shall meet all applicable conditions of this chapter.

.02 Requirements.

An installer shall be allowed to install underground storage systems provided the following requirements are met:

A. All applicable requirements of COMAR 26.10.02—26.10.05 have been followed;

B. The underground storage system installers certification test has been taken at the date, time, and place stipulated by the Department and passed with a score of 90 percent or better;

C. A $100 application fee for certification has been remitted to the Department, made payable to the Maryland Oil Disaster Containment, Clean-up and Contingency Fund; and

D. Written approval and certification are granted by the Secretary.

.03 Certification Test Scores.

A. A person receiving a score of below 90 percent on the test in Regulation .02B, above, may not install, upgrade, or repair any underground storage system in Maryland.

B. A person receiving a score of between 70 percent and 90 percent on the test described in Regulation .02B may take a retest after 24 hours of receipt of the test score, but must retest within 60 days of notification of the test score.

exceeds manufacturers' claims, and that the system satisfies the definition of "precision test" set forth in COMAR 26.10.02.04B(47).

E. The State may waive the demonstration requirements of §D, above, if the applicant can verify that the test method has been approved or certified for use in a state with equivalent or more stringent certification standards than those contained in this regulation.

F. Approval of test equipment may be suspended or revoked by the Department upon written notice from the Department of facts that warrant suspension or revocation. Unless the suspension or revocation is ordered summarily as an emergency action under State Government Article, §10-405(b), Annotated Code of Maryland, the revocation shall be in effect 10 days after receipt of notice, unless within 10 days after the date on which the notice of suspension or revocation is served, the company, in writing, requests a hearing. The Department shall promptly schedule a hearing and return a decision, upon service of which, if unfavorable to the company, the suspension or revocation shall be in effect.

.02 Hydrostatic Test for Underground Storage Tanks with a Total Capacity of 550 Gallons or Less.

A. The precision test requirements of COMAR 26.10.04 and .05 may be satisfied by the use of a hydrostatic test if the underground tank to be tested has a total capacity of 550 gallons or less.

B. When a hydrostatic test is conducted, it shall be conducted according to the following guidelines:

(1) Equipment supplied by the tank system shall be turned off. This includes boilers, pumps, engines, etc.

(2) The tank shall be filled to capacity with product or water.

(3) A 2-inch diameter calibrated sight tube shall be attached to the tank fill. If necessary, remove the fill cap assembly to use the fill pipe threads to achieve a tight connection. If the fill pipe threads cannot be used, the sight tube may be attached to the vent or other tank opening. In this situation, the following apply:

(a) A calibrated sight tube may be fabricated from a 2-inch clear cast acrylic tubing.

(b) The tubing should be glued to the appropriate PVC fittings to provide a liquid tight connection to the tank.

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Chapter 07 Approved Testing Procedures

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Specific Approved Equipment.

A. The test methods listed in this chapter are approved by the Department for conducting precision tests on underground storage systems.

B. The following specific test methods are approved:

(1) Petro-Tite Tank Tester, Licensed by Heath Consultants Incorporated, 100 Tosca Drive, Stoughton, Massachusetts 02072;

(2) Leak Lokator LD2000, Licensed by Hunter Environmental Services, Inc., 115 DeWalt Avenue, N.W., Suite 400, Canton, Ohio 44702;

(3) EZY-CHEK, Licensed by Horner Creative Metals, Inc., 211 East Gove, Kawkawlin, Michigan 48631;

(4) Tank Auditor, Licensed by Leak Detection Systems, Inc., 13 Main Street, Hingham, Massachusetts 02043;

(5) Ainley Tank Tegrity Tester, Licensed by Soil Test Environmental Division, 86 Albrecht Drive, P.O. Box 8004, Lake Bluff, Illinois 60044-9902;

(6) Testronics Tank Tester System, Licensed by Steam Kat Corp., P.O. Box 1686, Salisbury, Maryland 21801;

(7) Accu-test Leak Computer by Acutest Corporation; and

(8) VPLT Tank Leak Testing System by Pan American Environmental Systems, 7315 North Atlantic Avenue, Cape Canaveral, Florida 32920-3792.

C. Any other test method approved in writing by the Secretary shall also be valid until revoked.

D. Other test methods may be approved in writing by the Secretary if the applicant can demonstrate that the test equipment meets or

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Chapter 08 Release Reporting, Investigation, and Confirmation

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Reporting of Suspected Releases.

A. If a storage system fails a test for tightness or is otherwise determined to be leaking, the person conducting the test, the owner, and the person-in-charge of the storage system shall notify the Department within 2 hours.

B. Owners and operators of UST systems shall report to the Department pursuant to §A, above, and follow the procedures in Regulation .03 for any of the following conditions:

(1) The discovery by owners or operators of released regulated substances at the UST site or in the surrounding area, such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water;

(2) Unusual operating conditions observed by owners and operators, such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced; and

(3) Monitoring results from a release detection method required under COMAR 26.10.05.02 and .03 that indicate a release may have occurred, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

.02 Investigation Due to Off-Site Impacts.

Owners, operators, and other responsible parties of UST systems shall follow the procedures in Regulation .03, below, to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer and utility lines, and

(c) A side plug or petcock may be incorporated near the bottom of the tubing to facilitate draining of the sight tube after the test.

(d) The tube should be calibrated in ¼-inch increments to simplify measurements. Taking caution to ensure that tank openings below the test level are liquid tight, the sight tube shall be filled to 2 feet above grade with product or water.

(e) The sight tube shall be shielded from direct sunlight and other adverse weather conditions to reduce thermal expansion and evaporation.

(f) The tank pressure and temperature shall be allowed to stabilize for at least 24 hours before beginning the test.

(4) Test Procedures. Upon beginning the test, the liquid level in the sight tube shall be accurately marked. The liquid level shall then be observed for a 1-hour period during which time any fluctuations in the liquid level shall be accurately marked and documented.

(5) Test Results.

(a) A fluctuation of more than 4 inches in the liquid level in the sight tube during the 1-hour test period shall indicate that the tank system has failed the test.

(b) Failures shall be reported to the Department in accordance with COMAR 26.10.04.05.

(c) A written record of all tests shall be maintained in accordance with COMAR 26.10.03.01E(4).

Administrative History

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be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners, operators, and other responsible parties shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence and source of the release.

(2) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners, operators, and other responsible parties shall begin corrective action in accordance with COMAR 26.10.09.

(3) If the test results for the excavation zone or the UST site do not indicate that the release has occurred, the Department will determine if further investigation is required.

.04 Reporting and Cleanup of Spills and Overfills.

Owners, operators, and other responsible parties shall contain and immediately clean up a spill or overfill and report to the Department within 2 hours and begin corrective action in accordance with COMAR 26.10.09. A release of hazardous substance equal to or in excess of its reportable quantity shall also be reported immediately, rather than within 24 hours, to the Department, and to the National Response Center under §§102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to the Department and appropriate local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.

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nearby waters of the State, that have been observed by the Department or brought to its attention by another party.

.03 Release Investigation and Confirmation Steps.

Unless corrective action is initiated in accordance with COMAR 26.10.09, owners, operators, and other responsible parties shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Regulation .01 of this chapter within 72 hours or another reasonable time period specified by the Department, using either the following steps or another procedure approved by the Department:

A. System Test. Owners and operators shall conduct tests according to the requirements for tightness testing under COMAR 26.10.05.04D and .05C, that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both. Upon notification that a storage system has failed a test, the person-in-charge or owner, or both, of the storage system shall take the following steps:

(1) Immediately notify the Department that the storage system has failed a test for tightness;

(2) Within 72 hours, begin an investigation to determine whether the leak is occurring in the tank or piping system;

(3) If the tank is determined to be leaking, immediately remove the product;

(4) If the piping system is determined to be leaking, immediately drain and discontinue the use of the piping system;

(5) The storage system shall either be repaired or removed in accordance with COMAR 26.10.10;

(6) Owners and operators shall conduct a site check as described in §B of this regulation if the test results for the system, tank, and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release;

(7) After repairs have been made to a storage system which has previously failed a test for tightness, a precision test shall be performed to verify that the condition which caused the original failure of the test has been corrected.

B. Site Check.

(1) Owners, operators, and other responsible parties shall measure for the presence of a release where contamination is most likely to

(2) Visually inspect any aboveground release or exposed below-ground releases and prevent further migration of the released substance into surrounding soils and ground water.

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures, such as sewers or basements.

(4) Begin corrective action in accordance with this chapter if the investigation in COMAR 26.10.04.01E indicates that a leak exists in the system, tank, or piping.

(5) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner, operator, and other responsible parties shall comply with applicable State and local requirements.

(6) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by COMAR 26.10.08.03B or the closure site assessment of COMAR 26.10.10.03A. In selecting sample types, sample locations, and measurement methods, the owner, operator, and other responsible parties shall consider the nature of the stored substance, the type of backfill, depth to ground water, and other factors as appropriate for identifying the presence and source of the release.

(7) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Regulation .05 of this chapter.

B. Within 20 days after release confirmation, or within another period of time required by the Department, owners, operators, and other responsible parties shall submit a report to the Department summarizing the initial abatement steps taken under §A and any resulting information or data.

.04 Initial Site Characterization.

A. Unless directed to do otherwise by the Department, owners, operators, and other responsible parties shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Regulations .02 and .03 of this chapter. This

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Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 09 Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 General.

Owners, operators of petroleum or hazardous substance UST systems, and other responsible parties shall, in response to a confirmed release from the UST system, comply with the requirements of this chapter.

.02 Initial Response.

A. Upon confirmation of a release in accordance with COMAR 26.10.08.03 or after a release from the UST system is identified in any other manner, owners, operators, and other responsible parties shall perform the following initial response actions within 24 hours of a release or within another reasonable period of time determined by the Department:

(1) Report the release to the Department as in COMAR 26.10.08;

(2) Take immediate action to prevent any further release of the regulated substance into the environment; and

(3) Identify and mitigate fire, explosion, and vapor hazards.

B. Standards set forth in the National Fire Protection Association Number 329, 1987, "Underground Leakage of Flammable and Combustible Liquids", are by this reference intended to be mandatory requirements for this regulation.

.03 Initial Abatement Measures and Site Check.

A. Unless directed to do otherwise by the Department, owners, operators, and other responsible parties shall perform the following abatement measures:

(1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment.

(3) There is evidence that contaminated soils may impact ground water; that is, as found during conduct of the initial response measures or investigations required under Regulations .01—.05; and

(4) The Department requests an investigation, based on the potential effects of contaminated soil or ground water on nearby surface water and ground water resources.

B. Owners, operators, and other responsible parties shall submit the information collected under §A, above, as soon as practicable or in accordance with a schedule established by the Department.

.07 Corrective Action Plan.

A. At any point after reviewing the information submitted in compliance with Regulations .02—.04, the Department reserves the right to require owners, operators, and other responsible parties to submit additional information or to develop and submit a corrective action plan for responding to contaminated soil and ground water. If a plan is required, owners, operators, and other responsible parties shall submit the plan according to a schedule and format established by the Department. Additionally, owners, operators, and other responsible parties may, after fulfilling the requirements of Regulations .02—.04 of this chapter, be required to submit a corrective action plan for responding to contaminated soil and ground water. In either case, owners, operators, and other responsible parties are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet this standard.

B. The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the Department may consider the following factors as appropriate:

(1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;

(2) The hydrogeologic characteristics of the facility and the surrounding area;

(3) The proximity, quality, and current and future uses of nearby surface water and ground water;

(4) The potential effects of residual contamination on nearby surface water and ground water;

information shall include, but is not necessarily limited to, the following:

(1) Data on the nature and estimated quantity of release;

(2) Data from available sources or site investigations, or both, concerning the following factors:

(a) Surrounding populations,

(b) Water quality,

(c) Use and approximate locations of wells potentially affected by the release,

(d) Subsurface soil conditions,

(e) Locations of subsurface sewers,

(f) Climatological conditions, and

(g) Land use;

(3) Results of the site check required under Regulation .03A(5); and

(4) Results of the free product investigations required under Regulation .03A(7) to be used by owners, operators, and other responsible parties to determine whether free product shall be recovered under Regulation .05.

B. Within 45 days of release confirmation or another reasonable period of time determined by the Department, owners, operators, and other responsible parties shall submit the information collected in compliance with this regulation to the Department in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the Department.

.05 Free Product Removal.

At sites where investigations under Regulation .03A(7) indicate the presence of free product, owners, operators, and other responsible parties shall remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Regulations .02—.04, above, or preparing for actions required under Regulations .06 and .07, below. In meeting the requirements of this regulation, owners, operators, and other responsible parties shall:

A. Conduct free product removal in a manner that contains the spread of contamination from entering previously uncontaminated areas by using recovery and disposal techniques appropriate to the

(5) An exposure assessment; and

(6) Any information assembled in compliance with this regulation.

C. Upon approval of the corrective action plan or as directed by the Department, owners, operators, and other responsible parties shall implement the plan, including modifications to the plan made by the Department. They shall monitor, evaluate, and report the results, implementing the plan in accordance with a schedule and in a format established by the Department.

D. In the interest of minimizing environmental contamination and promoting more effective cleanup, owners, operators, and other responsible parties shall begin cleanup of soil and ground water before the corrective action plan is approved provided that they:

(1) Notify the Department of their intention to begin cleanup;

(2) Comply with any conditions including verbal directions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and

(3) Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval.

Administrative History

Effective date: February 4, 1991 (18:2 Md. R. 151)

Chapter 10 Out-of-Service Systems and Closure

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Temporary Closure.

A. When a UST system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with COMAR 26.10.04.02, and any release detection in accordance with COMAR 26.10.05. COMAR 26.10.08 and 26.10.09 shall be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (approximately 1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.

B. When a UST system is temporarily closed for 3 months or more, owners and operators shall also comply with the following requirements:

(1) Leave vent line open and functioning;

(2) Cap and secure all other lines, pumps, manways, and ancillary equipment; and

(3) Fill tank or tanks with water and an appropriate corrosion inhibitor to protect from internal corrosion.

C. When a UST system is temporarily closed for more than 6 months, owners and operators shall permanently close the UST system if it does not meet either performance standards in COMAR 26.10.03.01 for new UST systems or the upgrading requirements in COMAR 26.10.03.02, except that the spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close the substandard UST systems at the end of this 6-month period in accordance with Regulations .02—.05, below, unless the Department provides an extension of the 6-month temporary closure period. Owners and operators shall complete a site assessment in accordance with Regulation .03 of this chapter before an application for an extension can be made.

.02 Permanent Closure and Changes-in-Service.

A. At least 30 days before beginning either permanent closure or a change-in-service under §§B and C, below, or within another reasonable time period determined by the Department, owners and operators shall notify the Department of their intent to permanently close or make the change-in-service, unless this action is in response to corrective action. The required assessment of the excavation zone under Regulation .03 of this chapter shall be performed after notifying the Department but before completion of the permanent closure or a change-in-service.

B. To permanently close a tank, owners and operators shall empty and clean it by removing all liquids and accumulated sludges. All lines shall be disconnected and capped. All tanks taken out-of-service permanently shall also be either removed from the ground or filled with an inert solid material approved by the Department.

C. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Regulation .03, below.

D. If the tank is removed the following should be done:

(1) All flammable or combustible liquids shall be removed from the system;

(2) The tank shall be purged of all explosive vapors before disposal;

(3) All lines shall be disconnected and capped; and

(4) All product or product-saturated soils found in the tank excavation shall be removed and disposed of as required by the Department.

E. If the tank is disposed of, the following shall be done:

(1) It shall be retested for flammable vapors and, if necessary, purged of all explosive vapors;

(2) Holes or openings shall be made in the tank to render it unfit for further use; and

(3) Tanks may not be crushed or cut up on-site if the operation poses a threat to public safety.

F. A previously used tank which is removed from the ground may not be reinstalled unless the original manufacturer provides a written certification that the used tank is suitable for service. The original manufacturer's written certification shall be kept on file at the facility or at a location designed by the owner or person-in-charge of the storage system and be made available for reasonable inspection by the Department for the life of the storage system. All installation requirements of this subtitle shall apply when a previously used tank is installed.

G. The following cleaning and closure procedures may be used to comply with this regulation:

(1) American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";

(2) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";

(3) American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks"; and

(4) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard...Working in Confined Space".

.03 Assessing the Site at Closure or Change-in-Service.

A. Before permanent closure or a change-in-service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release. The requirements of this section are satisfied if one of the external release detection methods allowed in COMAR 26.10.05.04F and G is operating in accordance with the requirements in COMAR 26.10.05.04 at the time of closure, and indicates no release has occurred.

B. If contaminated soils, contaminated ground water, or free product as liquid or vapor is discovered under §A, above, or by any other manner, owners and operators shall begin corrective action in accordance with COMAR 26.10.09.

.04 Applicability to Previously Closed UST Systems.

When directed by the Department, the owner and operator of a UST system permanently closed before December 22, 1988, shall assess the excavation zone and close the UST system in accordance with this chapter if releases from the UST may, in the judgment of the Department, pose a current or potential threat to human health or the environment.

.05 Closure Records.

A. Owners and operators shall maintain records in accordance with COMAR 26.10.04.05 that are capable of demonstrating compliance with closure requirements under this chapter.

B. The results of the excavation zone assessment required in Regulation .03 of this chapter shall be maintained for at least 5 years after completion of permanent closure or change-in-service in one of the following ways:

(1) By the owners and operators who took the UST system out of service;

(2) By the current owners and operators of the UST system site; or

(3) By mailing these records to the Department if they cannot be maintained at the closed facility.

C. Records which document temporary and permanent abandonment of underground storage systems shall be kept and made available for reasonable inspection by the Department at the facility or at a location designated by the owner or person-in-charge, and shall contain the following information:

(1) Tank size;

(2) Location of tank on the property;

(3) Date of abandonment;

(4) Method or methods used for abandonment of the system; and

(5) The name of the contractors who performed the work.

Administrative History

Effective date: February 4, 1991 (18:2 Md. R. 151)

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 10 OIL POLLUTION AND TANK MANAGEMENT

Chapter 11 Underground Storage Tank Financial Responsibility

Authority: Environment Article, §§4-405, 4-407, 4-408, 4-410, 4-411, 4-417, and 7-201 et seq., Annotated Code of Maryland

.01 Incorporation by Reference.

A. The Department incorporates by reference the provisions contained in 40 CFR §§280.90—280.112, as contained in 53 FR 43370—43382, as amended through October 31, 1990, with the exceptions contained in §B, below.

B. Exceptions.

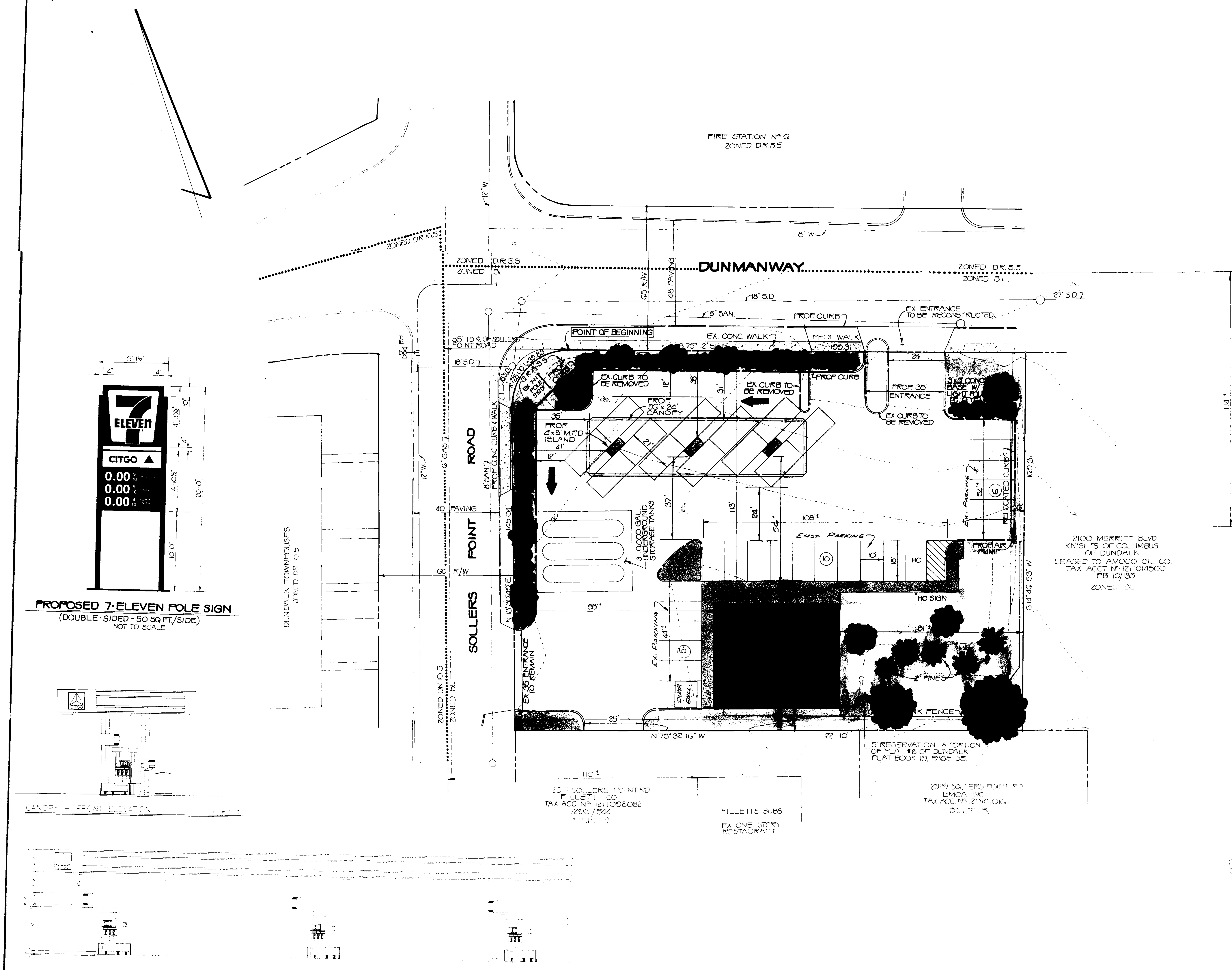
(1) "Director of the Implementing Agency" means the Secretary of the Department of the Environment.

(2) "EPA" means the State of Maryland.

(3) The requirements for "owner or operator" as contained in 40 CFR §§280.90—280.112, are to be assumed solely by the "owner", as defined in 40 CFR §280.12 and COMAR 26.10.02.04.

Administrative History

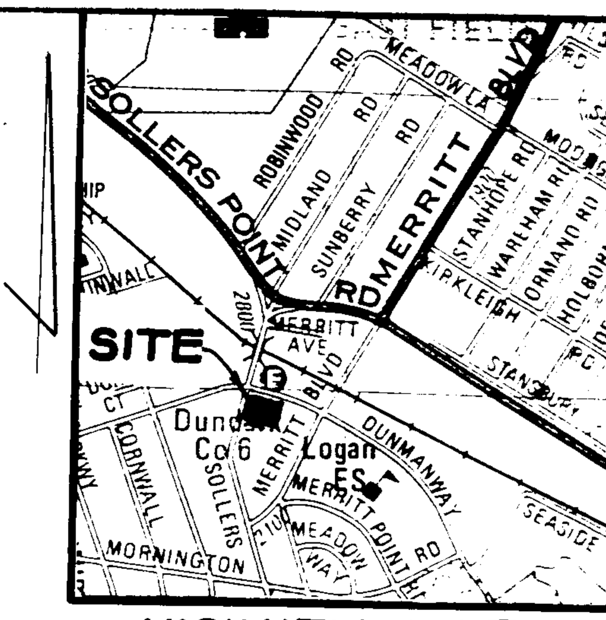
Effective date: February 4, 1991 (18:2 Md. R. 151)



ZONING HISTORY

Case No. 3530-RX
Rezoning from R6 to BL and Special Exception for automobile service station.
Granted June 6, 1955.

Case No. 85-71-XSPHA
Special Exception for food store with less than 5000 sq. ft. of retail sales area in combination with a service station. Special Hearing to amend Case No. 3530-RX to convert an existing automobile service station to a gas and go operation. Variance to Section 405.4.A.2.a. to permit a setback of 25 ft. from a street right-of-way in lieu of the required 35 ft and a setback of 55 ft. from the centerline of a street in lieu of the required 60 ft.
Granted September 20, 1984



VICINITY MAP
SCALE: 1"=1,000'

GENERAL NOTES

1. Owner: Filleti Company
7815 Seaside Road
Baltimore, Md. 21222

Applicant: The Southland Corporation
5300 Shawnee Road
Alexandria, Va. 22312
(703) 642-0711

2. Site Data
Tax Account No. 1204076525
Deed Reference 6591/525
Plat Reference 19/135

Site Size: 37,753 sq. ft. (0.867 acres)
Existing Building: 2,585 sq. ft.
Existing/Prop. F.A.R. 0.069
Max. Permitted F.A.R. 4.0

Existing Use: Convenience Store
Proposed Use: Service Station in Combination with Convenience Store larger than 1,500 square feet

Existing Zoning: B.L.
Zoning Map No. S.E. 4-E

3. Rezoning Request: B.L. to B.L.-AS

Special Exception Request: Service Station in Combination with Convenience Store larger than 1,500 square feet

4. Required Parking
1 space/employee on the largest shift = 3 spaces
5 spaces/1,000 sq. ft. - convenience store = 13 spaces
1 space for compressed air pump
Total Required: 17 spaces
Total Provided: 21 spaces incl. 1 HC

5. The maximum number of employees on site is 3. Hours of operation will be 24 hours per day.

6. Maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light and heat) will be in accordance with applicable State and local regulations.

7. All on-site lighting will be directed onto the site and will not adversely impact adjacent properties.

8. Required Site Area
Fuel service station - 15,000 sq. ft.
Convenience store - 10,340 sq. ft.
Total Area Required: 25,340 sq. ft.
Total Area Provided: 37,753 sq. ft.

9. There are no abandoned service stations within a one-mile radius of the property.

10. The property is not located within the Chesapeake Bay Critical Area. The property is not located within a 100-year floodplain. The property is not within a moratorium area or in an area where failure of the basic services maps currently exists per Section 4A02 (BCZR).

11. Previous CRG approval: September 27, 1984

12. Previous Commercial Building Permit B69980

13. Public restrooms to be provided for gasoline patrons.

14. Water to be provided for gasoline patrons.

LANDSCAPE REQUIREMENTS

1 Planting Unit/40 L.F. Adjacent Road
385 ft. = 10 P.U.
Provided: 5 major deciduous trees = 5 P.U.
61 shrubs = 12 P.U.
Total 17 P.U.

1 Planting Unit/12 parking spaces
21 spaces = 2 P.U.
Provided: 2 major deciduous trees = 2 P.U.
5 shrubs = 1 P.U.
5 evergreen trees = 2 P.U.
Total 5 P.U.

Required and Provided: Dumpster screening

DOCUMENTED PLAT TO ACCOMPANY REZONING CLASSIFICATION AND SPECIAL EXCEPTION HEARING

7-ELEVEN STORE

SOLLERS POINT ROAD AND DUNMANWAY
7501 DUNMANWAY

12TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
FEBRUARY 10, 1987

PET. EX 6

Colbert Matz Rosenfelt, Inc.

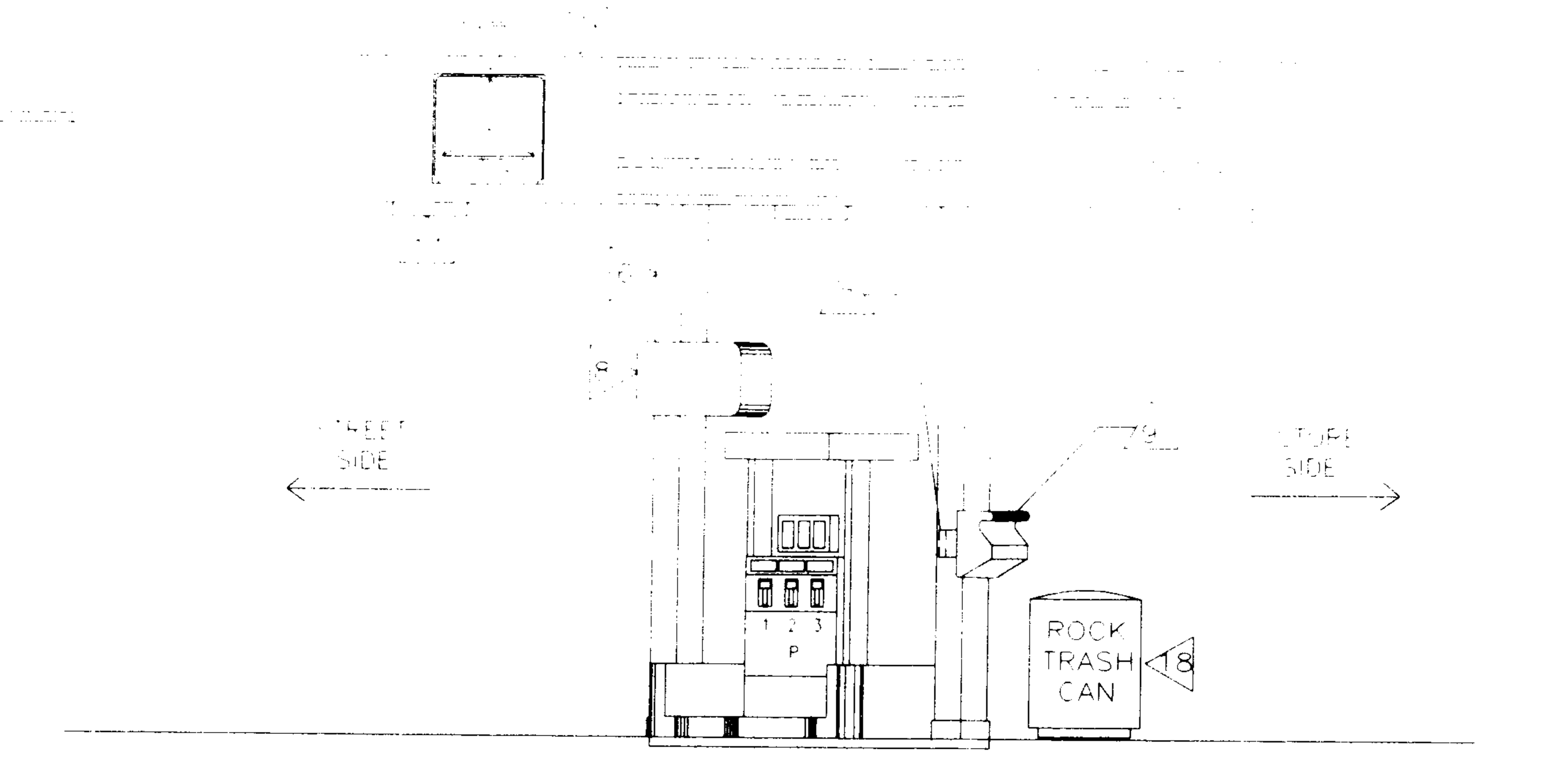
TYPICAL FLAG NOTES

1. 6" CONCRETE SLAB WITH #3 REINFORCING BARS @ 18" O.C. BOTH WAYS. (VERIFY PER LOCAL ORDINANCES AND SOIL CONDITIONS)
2. 3 - #3 X 5'-0" @ 45° TO MAT. TYPICAL AT EACH CORNER
3. TOP OF CONCRETE PAVING (SEE SPECIFICATIONS FOR FINISHING SLAB SURFACE AND RELATED DETAILS).
4. METAL "DOGBONE" ISLAND FORM (8'-0" X 4'-0"). FORM IS TO BE SET 3" BELOW TOP OF FINISHED CONC SLAB. (PAINT METAL CURB FACE).
5. MULTI-PRODUCT DISPENSER (MPD)
6. CANOPY COLUMN - PAINTED
7. INTERCOM CALL BOX. MECHANICALL FASTENED TO COLUMN FACING THE MPD MOUNT AT 5'-0" ABOVE SLAB
8. MERCHANDISE SPANDREL (PER NAT. GASOLINE) MOUNTING HEIGHT 8'-10" FROM CONCRETE PAVING TO BOTTOM OF SPANDREL
9. WASH BUCKET
10. SEE SITE PLAN FOR THE LOCATION OF VENT PIPES. INTERIOR CANOPY COLUMN LOCATION IS AN ALTERNATIVE
11. CANOPY LIGHT FIXTURE (STD. 400W S.M.H.).
12. LINE OF CANOPY ABOVE
13. SEE SHEET SP4 FOR DETAILS ON DOWN-SPOUT FROM CANOPY (INSIDE THE COLUMN)
14. OVERFLOW PROTECTION AS REQUIRED SEE CANOPY DRAWINGS & SPECIFICATIONS
15. GASOLINE CANOPY, SEE MANUFACTURER'S DRAWINGS & SPECIFICATIONS FOR DETAILS OF CONSTRUCTION
16. CANOPY FASCIA
17. ILLUMINATED SIGN CAN LOCATION (SEE SIGNAGE DRAWING: GR-1, FOR GUIDELINES ON THE PLACEMENT OF THE LOGO OR SIGN CAN).
18. ROCK TRACH CAN SUPPLIED BY SOUTHLAND INSTALLED BY GAS CONTRACTOR. 1-PER ISLAND

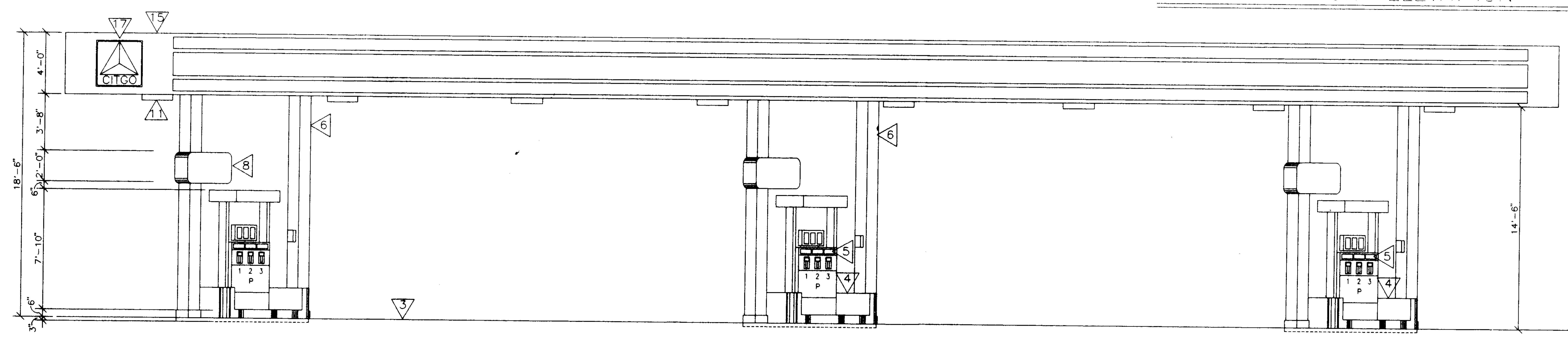
FASCIA TYPE :

A. TRI- STRIPE (NON-ILLUMINATED) W/ SIGN CANS FOR LOGOS (SEE SIGNAGE DRAWING SG-1, FOR STRIPE CONFIGURATION, COLOR, PLACEMENT, & RELATED DETAILS

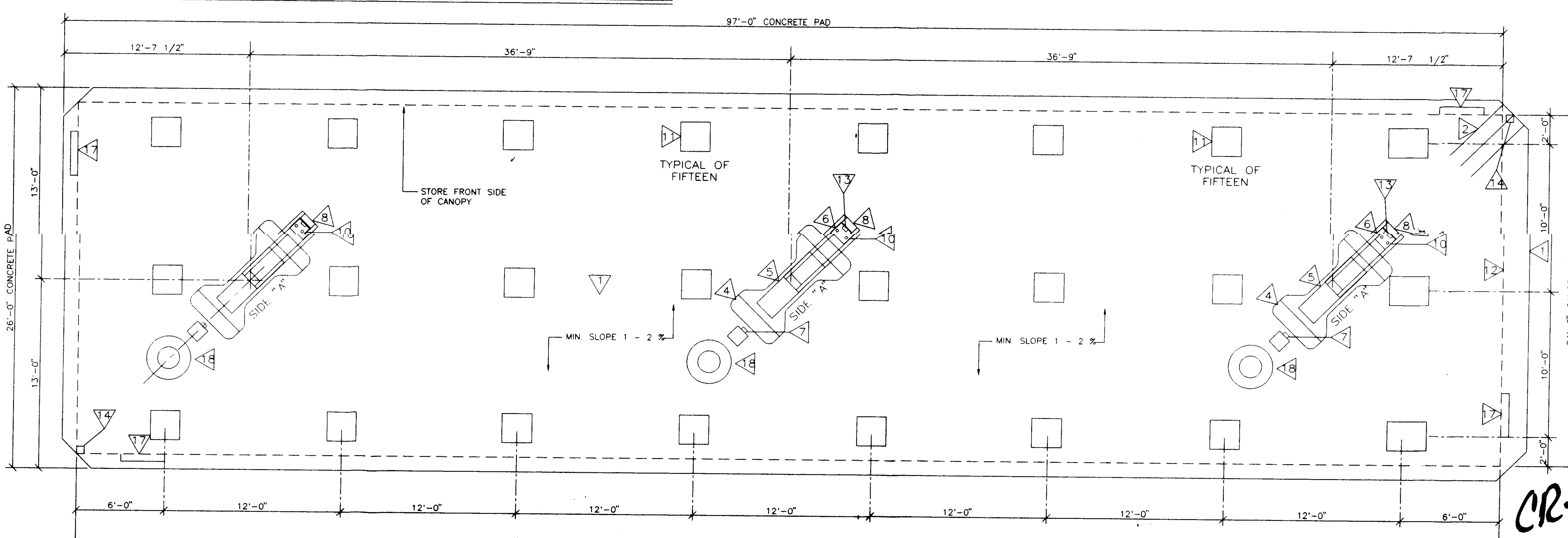
NOTE: REFER TO SITE PLAN FOR VENT LINE LOCATION. VENT LOCATION MAY VARY FROM THIS PLAN. SITE PLAN TAKES PRECEDENCE



CANOPY - FRONT ELEVATION 1/4" = 1'-0"



CANOPY - SIDE ELEVATION 1/4" = 1'-0"



PLAN - 3 MPD'S WITH 24' X 96' CANOPY 1/4" = 1'-0"

CR-97-470-X
Rev 4/30/97

File: D:\711\CANOPY\A-CNDE05
Plotting Scale: 1=4'

ARCHITECTURE/ENGINEERING
DEVELOPMENT

THE SOUTHLAND CORPORATION
CITY CENTER EAST
2711 N. HASKELL AVENUE
DALLAS,TX 75204
214-828-5580

FUEL ISLAND

DATE:	REVISIONS:
10-11-96	PER SOUTHLAND
10-28-96	PER SOUTHLAND

PROJECT NO: 96052

APPROVED: J. SANTI

DATE ISSUED: OCTOBER 1996

SHEET G1E OF 11 SHEETS

NOTE: METAL FASCIA ·

1. MET. FASCIA SHALL BE MANUFACTURED BY HOWMET ALUM. CORP. & PURCHASED THRU G.A.F. - COLOR: DARK BRONZE.

CR-97-470-X
Rev 4/30/97

SIEGEL & RUTHERFORD, INC.
MECH.-ELEC. ENGINEERS
2518 MARYLAND AVE.
BALTIMORE, MD. 21218

LOUIS A. SPITTEL
STRUCTURAL ENGINEER
P.O. BOX 122
ELLICOTT CITY, MD 21043

REVISIONS

BOARD OF EXAMINERS AND REGISTRATION OF ARCHITECTS · STATE OF MARYLAND

THE SOUTHLAND CORPORATION
2828 N. HASKELL · DALLAS, TEXAS 75221

PROJECT No.
DATE

EDWARD G ROGERS
ARCHITECT
P.O. BOX 246 · GIBSON ISLAND, MD. 21056

SHEET No.
6

F-SE E-SW	BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP	SCALE 1" = 200' ±	LOCATION	SHEET
THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210		DATE OF PHOTOGRAPHY JANUARY 1986	DUNDALK	S.E. 4-E

F-SE E-SW	BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP	SCALE 1" = 200' ±	LOCATION	SHEET
THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210		DATE OF PHOTOGRAPHY JANUARY 1986	DUNDALK	S.E. 4-F

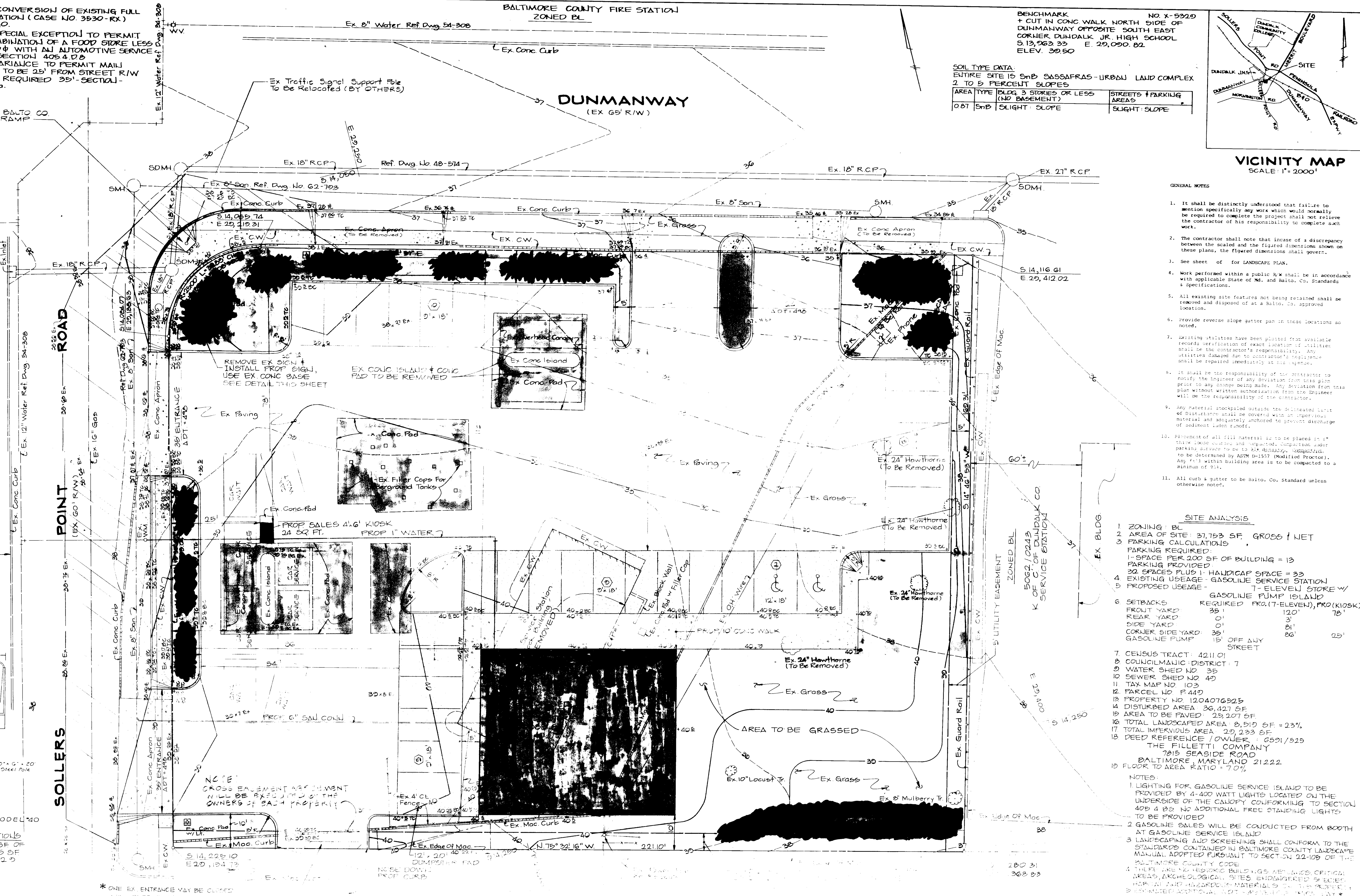
NOTES:
1. PLAN FOR CONVERSION OF EXISTING FULL SERVICE STATION (CASE NO. 3530-RX) TO GAS & GO.
2. PLAN FOR SPECIAL EXCEPTION TO PERMIT USE IN COMBINATION OF A FOOD STORE LESS THAN 5000# WITH AN AUTOMOTIVE SERVICE STATION - SECTION 405.4.D.8
3. PLAN FOR VARIANCE TO PERMIT MAIN STRUCTURE TO BE 25' FROM STREET R/W IN LIEU OF REQUIRED 35' - SECTION - 405.4.A.2.a.

PROVIDE STD BALTO CO. PEDESTRIAN RAMP

BENCHMARK NO. X-5329
+ CUT IN CONC WALK NORTH SIDE OF DUNMANWAY OPPOSITE SOUTH EAST CORNER DUNDALK JR. HIGH SCHOOL
S 13,563.33 E 29,090.82
ELEV. 39.50

SOIL TYPE DATA:
ENTIRE SITE IS SnB SASSAFRAS-URBAN LAND COMPLEX 2 TO 5 PERCENT SLOPES

AREA	TYPE	BLDG. 3 STORIES OR LESS (NO BASEMENT)	STREETS & PARKING AREAS
0.87	SnB	SLIGHT SLOPE	SLIGHT SLOPE



PARKING CALCULATIONS
1-SPACE PER 200 SF OF BLDG AREA = 2585 SF
2585 SF ÷ 200 = 12.9
REQUIRED = 13
PROVIDED = 32

* ONE EX. ENTRANCE MAY BE CLOSED

LEGEND
37 Existing Contour

GENERAL NOTES

1. It shall be distinctly understood that failure to mention specifically any work which would normally be required to complete the project shall not relieve the contractor of his responsibility to complete such work.
2. The contractor shall note that incase of a discrepancy between the scaled and the figured dimensions shown on these plans, the figured dimensions shall govern.
3. See sheet of for LANDSCAPE PLAN.
4. Work performed within a public R/W shall be in accordance with applicable State of Md. and Balto. Co. Standards & Specifications.
5. All existing site features not being retained shall be removed and disposed of at a Balto. Co. approved location.
6. Provide reverse slope gutter pan in those locations so noted.
7. Existing utilities have been plotted from available records verification of exact location of utilities shall be the contractor's responsibility. Any utilities damaged due to contractor's negligence shall be repaired immediately at his expense.
8. It shall be the responsibility of the contractor to notify the Engineer of any deviation from this plan prior to any change being made. Any deviation from this plan without written authorization from the Engineer will be the responsibility of the contractor.
9. Any material stockpiled outside the delineated Limit of Disturbance shall be covered with an impervious material and adequately anchored to prevent discharge of sediment laden runoff.
10. Placement of all fill material is to be placed in 8" thick loose courses and compacted. Compaction under parking surface to be to 90% density. Compaction to be determined by ASTM D-1557 (Modified Proctor). Any fill within building area is to be compacted to a minimum of 95%.
11. All curb & gutter to be Balto. Co. Standard unless otherwise noted.

SITE ANALYSIS

1. ZONING: BL
2. AREA OF SITE: 37,753 S.F. GROSS / NET
3. PARKING CALCULATIONS
PARKING REQUIRED:
1-SPACE PER 200 SF OF BUILDING = 13
PARKING PROVIDED:
32 SPACES PLUS 1-HANDICAP SPACE = 33
4. EXISTING USEAGE - GASOLINE SERVICE STATION
5. PROPOSED USEAGE - 7-ELEVEN STORE W/ GASOLINE PUMP ISLAND
6. SETBACKS

	REQUIRED	PRO. (7-ELEVEN)	PRO (KIOSK)
FRONT YARD	35'	120'	78'
REAR YARD	0'	3'	
SIDE YARD	0'	81'	
CORNER SIDE YARD	35'	86'	25'
GASOLINE PUMP	15' OFF ANY STREET		

7. CENSUS TRACT: 4211.01
8. COUNCILMANIC DISTRICT: 7
9. WATER SHED NO. 35
10. SEWER SHED NO. 49
11. TAX MAP NO. 103
12. PARCEL NO. P-449
13. PROPERTY NO. 1204076525
14. DISTURBED AREA: 36,427 S.F.
15. AREA TO BE PAVED: 25,207 S.F.
16. TOTAL LANDSCAPED AREA: 8,519 S.F. = 23%
17. TOTAL IMPERVIOUS AREA: 29,233 S.F.
18. DEED REFERENCE / OWNER: 6591/525
THE FILLETTI COMPANY
7815 SEASIDE ROAD
BALTIMORE, MARYLAND 21222
19. FLOOR TO AREA RATIO = 7.0%

NOTES:
1. LIGHTING FOR GASOLINE SERVICE ISLAND TO BE PROVIDED BY 4-400 WATT LIGHTS LOCATED ON THE UNDERSIDE OF THE CANOPY CONFORMING TO SECTION 405.4.B.5. NO ADDITIONAL FREE STANDING LIGHTS TO BE PROVIDED
2. GASOLINE SALES WILL BE CONDUCTED FROM BOOTH AT GASOLINE SERVICE ISLAND
3. LANDSCAPING AND SCREENING SHALL CONFORM TO THE STANDARDS CONTAINED IN BALTIMORE COUNTY LANDSCAPE MANUAL ADOPTED PURSUANT TO SECTION 22-105 OF THE BALTIMORE COUNTY CODE
4. THERE ARE NO HISTORIC BUILDINGS, WETLANDS, CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT AND HAZARDOUS MATERIALS ON THIS PROPERTY
5. ESTIMATED ADDITIONAL ADT


BALTIMORE COUNTY OFFICE
DUNDALK-PATAPSCO NECK
SCALE 1"=1000'
MAP INDEX
REVISED DATE SEP. '94
CHESAPEAKE BAY
BACK RIVER
BEAR CREEK
OLD ROAD BAY
SHALLOW CREEK
NORTH POINT STATE PARK
SPARROWS POINT
DUNDALK
EASTFIELD
GRAY HAVEN
STANBROOK
BEACHWOOD
NORTH POINT
EDGEMERE
SOLLERS
TURNERS STATION
FORT CARROLL
FORT HOWARD
FORT HOWARD VETERANS HOSPITAL
HOWARD PARK
PATAPSCO FREEWAY
EXPRESSWAY
PENINSULA
BETHLEHEM BLVD
MERRITT BLVD
ML-AS BLVD
SPARROWS POINT
BALTIMORE CITY
BALTIMORE COUNTY
ANNE ARUNDEL COUNTY
PBT EX 3