

12-29

January 23, 2012

T 410.494.6365
F 410.821.0147
CDMudd@venable.com

HAND-DELIVERED

W. Carl Richards, Jr., Supervisor
Zoning Review Bureau
Department of Permits, Approvals
Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: SPIRIT AND INTENT REQUEST
12400 Owings Mills Boulevard
Reisterstown, Maryland
2nd Councilmanic District, 4th Election District

Dear Mr. Richards:

This firm represents That Bounce Place, LLC, lessee of a portion of the building located on the above-referenced property, which is located within the St. George's Industrial Park, northwest of the intersection of Owings Mills Boulevard and Timber Grove Road, in the Reisterstown area of Baltimore County. Enclosed are a print out from the Maryland State Department of Assessments and Taxation (Tax Map 49, Parcel 289, Lot 2) for the property and an aerial zoning map that confirms that the property is zoned ML-IM (Manufacturing, Light – Industrial, Major). The building on the subject property is presently occupied by an indoor soccer facility, a laser tag use known as XP Laser Sport, and an indoor party and play center known as Jump Zone, which uses were determined in 2008 by the Director of the Department of Permits and Development Management to be within the spirit and intent of a decision of the Board of Appeals approving a special exception for a "commercial recreation facility" in Case No. 97-563-XA (the "1998 Case"). Our client intends to replace the Jump Zone use with a similar use known as That Bounce Place. I am writing to request that you confirm, by countersignature below, that the That Bounce Place use is within the spirit and intent of the Board's order in the 1998 Case.

The enclosed spirit and intent letter, dated May 23, 2008, provides detailed explanations of both the 1998 Case and of the uses that currently occupy the building. In particular, the 2008 letter explains that Jump Zone is a recreational facility specifically designed for children, which includes "moonwalks, inflatables, bouncers, obstacle courses, giant slides, ball and other interactive games." The PDM director's countersignature on the 2008 letter confirmed that Jump Zone constituted a "commercial recreational facility," as defined in Section 101 of the Baltimore County Zoning Regulations (BCZR) (copy enclosed) and that the use was within the spirit and intent of the order and site plan approved in the 1998 Case.

Mr. W. Carl Richards, Jr., Supervisor
January 23, 2012
Page 2

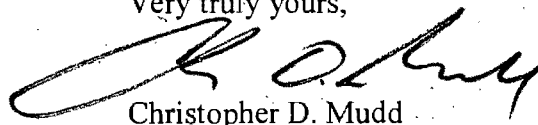
Our client now proposes to take over the portion of the building occupied by Jump Zone and to use it to operate That Bounce Place, without making any major modifications to the space (see the enclosed site plan). That Bounce Place is a family-oriented business that offers play and exercise for children of all ages on an assortment of inflatable obstacle courses, slides, bouncers, and other interactive units, and also offers minor retail sales of snacks, drinks, shirts, hats, party supplies, and toys that pertain to the bouncing business. Just like with Jump Zone, That Bounce Place offers the opportunity for organized parties and daily "open bounce" sessions, which enable children to run, jump, slide, and play their way to the exercise, fitness, and recreational opportunities they need. Therefore, That Bounce Place should be determined to constitute a "commercial recreational facility" and to be within the spirit and intent of the order and site plan approved in the 1998 Case, just as Jump Zone was in the 2008 spirit and intent letter.

If you are in agreement that Bounce Palace qualifies as a "commercial recreational facility," as defined in Section 101 of the BCZR, and that the use is, therefore, within the spirit intent of the order and site plan approved by the Board in the 1998 Case, please countersign this letter below.

I have enclosed with this letter a check in the amount of \$100.00 made payable to "Baltimore County, Maryland" to cover the administrative costs associated with this review. Once your response has been prepared, please contact our office and we will have someone pick it up.

Thank you for your attention to this matter.

Very truly yours,



Christopher D. Mudd

AGREED AND ACCEPTED:

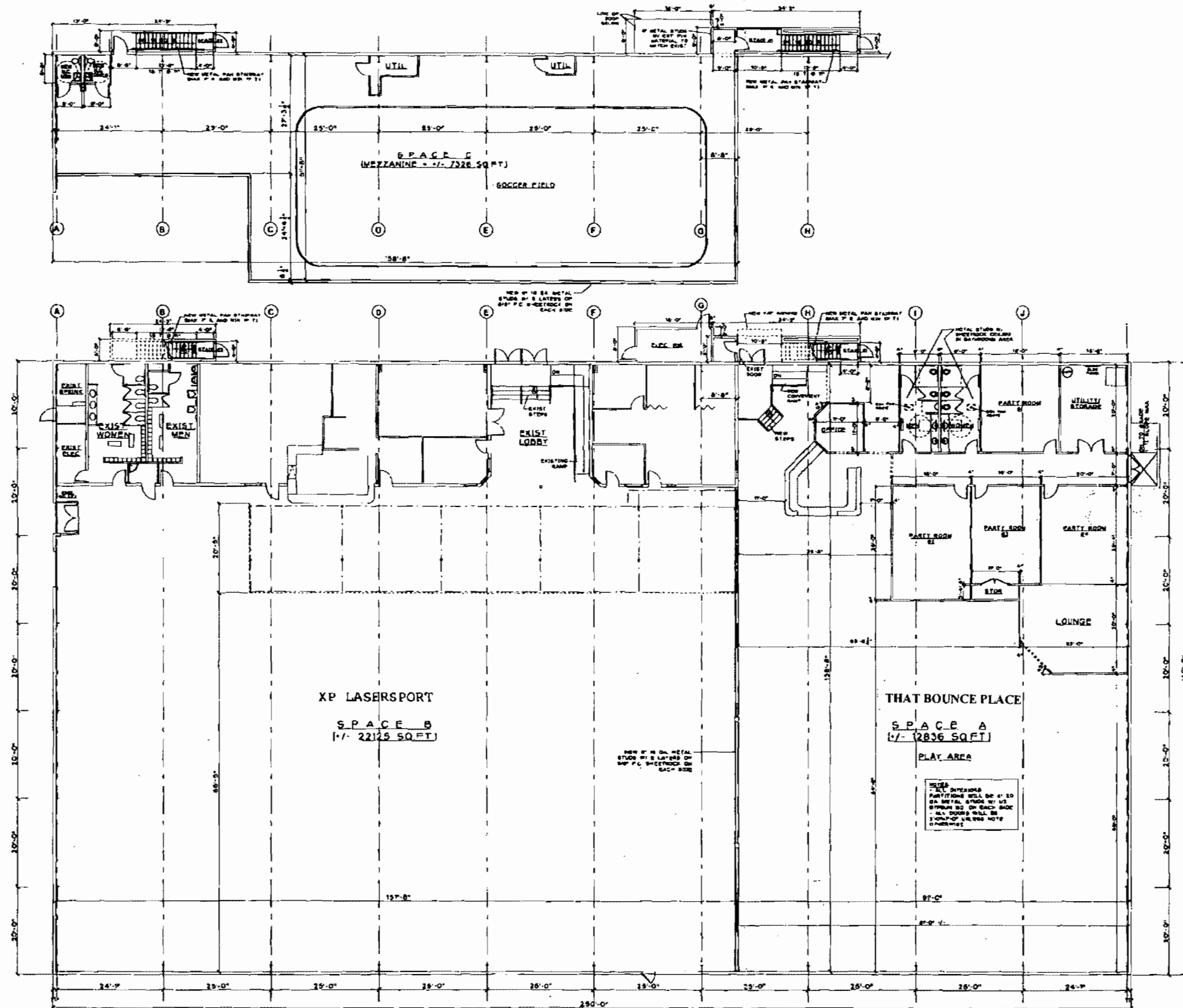
*



W. Carl Richards, Jr., Supervisor
Zoning Review Bureau

CDM
Enclosures

* We need That Bounce Place
floor plan + site plan for
the zoning file 97-563-XA.



PROPOSED PLANS SCALE 3/32"=1'-0"

APPROVED AND ACCEPTED AS WITHIN THE SPIRIT AND INTENT OF CASE #97-563-XA

WCR
 W. Carl Richards, Jr., Supervisor
 Dept. of Permits Approvals and Inspections,
 Zoning Review Bureau

DONALD B. RATCLIFFE & ASSOC.
 ARCHITECTS AND PLANNERS
 1001 Shattuck Road, Suite 200, Rockville, MD 20850
 TEL: 410-444-3700 FAX: 410-444-3701

OWINGS MILLS SPORTS PLEX
 12400 OWINGS MILLS BLVD.
 REISTERSTOWN, MARYLAND

CONTENT:	
PROPOSED PLANS, AND ELEVATIONS	
REVISED:	
1	2
3	4
5	6
7	8
9	10
11	12
13	14
15	16
17	18
19	20
21	22
23	24
25	26
27	28
29	30
31	32
33	34
35	36
37	38
39	40
41	42
43	44
45	46
47	48
49	50
51	52
53	54
55	56
57	58
59	60
61	62
63	64
65	66
67	68
69	70
71	72
73	74
75	76
77	78
79	80
81	82
83	84
85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

A-1
 SHEET 1 OF 1

(410) 494-6285

dhkarceski@venable.com

May 23, 2008

HAND-DELIVERED

Mr. Timothy M. Kotroco, Director
Department of Permits and
Development Management
County Office Building - Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: EXPEDITED SPIRIT AND INTENT REQUEST
12400 Owings Mills Boulevard
Reisterstown, Maryland
2nd Councilmanic District, 4th Election District

Dear Mr. Kotroco:

This firm represents Owings Mills Sports Arena Partners LLC, legal owner of the above-referenced property, which is the location of the Owings Mills Sports Arena ("OMSA"). The OMSA is located within the St. George's Industrial Park, northwest of the intersection of Owings Mills Boulevard and Timber Grove Road, in the Reisterstown area of Baltimore County. To help identify the property location, I have enclosed a print out from the Maryland State Department of Assessments and Taxation (Tax Map 49, Parcel 289, Lot 2), and I have also enclosed a zoning map from the Office of Planning's website, which confirms that the property is zoned ML-IM (Manufacturing, Light - Industrial, Major). The property is presently improved with the 42,000+ sq. ft. OMSA building that formerly contained two indoor soccer fields, which were approved as a "commercial recreational facility" special exception use by the Board of Appeals in **Case No. 97-563-XA** (the "1998 Case"). Our client intends to renovate the interior of the building, as described in detail below, and I am writing to request that you confirm that the uses and supporting parking proposed by our client are within the spirit and intent of the Board's order in the 1998 Case.

By way of a brief history, in the 1998 Case, the petitioners requested a special exception for a commercial recreational facility (indoor soccer) and for an accessory arcade therewith, as well as a variance to permit reduced side and rear yard setbacks for the proposed building. A hearing was held before the Deputy Zoning Commissioner of Baltimore County, at which several community groups and individual community members appeared in support of the zoning relief. Others attended the hearing and objected based upon their concerns related to traffic. The Deputy Zoning Commissioner issued an order (enclosed) approving the special exception and variance, subject to a condition that the soccer game times be staggered, so as to alleviate any potential traffic issues.

Mr. Timothy M. Kotroco, Director

May 23, 2008

Page 2

A community association (Historic Glyndon, Inc.) and two individuals appealed the decision, and the Board of Appeals held a de novo hearing on the matter, wherein it received testimony both from protestants and supporters of the use. Again, traffic was the main concern of the protestants, along with concerns over adequate parking for the proposed use. However, the petitioner's traffic expert, as well as Steve Weber, Chief of Traffic Engineering for Baltimore County, each concluded that the proposed use would not adversely impact traffic in the surrounding area. And the Board noted that the petitioner planned to have double the amount of parking spaces required by the Baltimore County Zoning Regulations ("BCZR"), which was more than adequate. Based on these facts, the substantial evidence presented by petitioner, and the significant support for the proposed use offered by numerous residents and community associations in the area (including, the St. George's Station Association and Reisterstown-Owings Mills-Glyndon Association), the Board issued an order (enclosed) granting the requested zoning relief. The Board subjected its approval to the same soccer game staggering requirement imposed by the Deputy Zoning Commissioner, as well as a requirement that the accessory arcade be limited to a total of ten machines.

Now, our client intends to renovate the interior of the OMSA by retaining an indoor soccer field, and splitting the remaining space between two additional tenants; the building footprint will remain unchanged, other than the addition of two exterior stairs to the second floor and a 144 sq. ft. electrical room. As shown on the enclosed building layouts (labeled Sheets "A-1" and "A-2"), the building will be broken up into three different spaces. Space C (shown in detail on Sheet A-1), which is a 7326 sq. ft. mezzanine level in the OMSA, will contain the indoor soccer field use that will be retained, along with supporting restrooms and a spectator area. Space B (shown in detail on Sheet A-2) will contain a use known as "XP Laser Sport," a 22,125 sq. ft. laser tag facility, containing a lobby and restroom area, arcade (with no more than ten games), briefing room, two staging areas, tech and office space, a storage area, and a playing field area. Space A (shown in detail on Sheet A-1) will contain a use known as "Jump Zone," a 12,836 sq. ft. recreational space for children, containing a lobby and office area, a large play area and lounge area, restrooms, a storage room, and four party rooms. We believe that all three of these uses are considered "commercial recreational facilities" and, therefore, the uses, and the supporting parking, are within the spirit and intent of the order and plan approved in the 1998 Case.

Because the indoor soccer field proposed by our client for the mezzanine level of the OMSA is the same use approved in the 1998 Case, but much smaller in size, it is within the spirit and intent of the order and plan approved in that case. Furthermore, as demonstrated below, the recreational uses to be operated by XP Laser Sport and Jump Zone will likewise afford area children additional recreational opportunities.

Mr. Timothy M. Kotroco, Director
May 23, 2008
Page 3

BCZR Section 101 (enclosed) defines "commercial recreational facilities" as:

Facilities whose principal purpose is to provide space and equipment for nonprofessional athletic activities. A commercial recreational facility includes, but is not limited to, a baseball-batting range or cage; golf-driving range; putting green; miniature golf; athletic field; swimming pool; skating rink or course; baseball, racquetball, tennis or squash court; archery range or similar facility; or any combination of the above. . . .

This definition specifically indicates that the uses permitted thereunder are "not limited to" those specifically listed and it also states that other "similar facilities" are permitted, which language together accommodates XP Laser Sport and Jump Zone. XP Laser Sport, while not a use specifically listed in the definition, certainly fits within that definition. For example, the laser tag players will be running around a playing field, much like an athletic field, and will be honing their target practice skills, much like on an archery range. This is the exact type of recreational facility contemplated under the definition above. XP will also have no more than ten arcade games, which is consistent with the relief granted in the 1998 Case. Jump Zone's website describes the use as "an Indoor Party and Play Center" that features "moonwalks, inflatables, bouncers, obstacle courses, giant slides, ball and other interactive games." In other words, this facility is truly designed for children's recreation. In the same way that the specific uses listed in the commercial recreational facility definition allow people of all ages to exercise and otherwise maintain personal fitness, so too will Jump Zone do the same for children. During both organized parties and daily "open play" sessions, Jump Zone will be a place where children can run, jump, slide, and play their way to the exercise, fitness, and recreational opportunities they need.

Not only are the three proposed uses within the OMSA compatible with the "commercial recreational facility" use granted in the 1998 Case, but the parking associated with these uses will also meet the parking calculations shown on the site plan approved in the 1998 Case (enclosed). The OMSA is improved with 105 parking spaces, the same amount shown on the plan, and each of the uses will require parking at the same ratio approved in the 1998 Case: 1 car per 4 people in attendance. The soccer field, much like the soccer fields in the 1998 Case, will be calculated as follows: 30 players (15 players per team x 2 teams x 1 field), 20 spectators, and 3 staff members, for a total of 53 people, thus requiring 14 parking spaces (53/4). This is an overall reduction of 33 spaces from that required under the 1998 Case. XP Laser Tag, at full capacity will have 150 people, which will require 38 spaces (150/4), plus 3 spaces for the 728 sq. ft. arcade (at 4 spaces per 1,000 sq. ft.) and 2 spaces for the 336 sq. ft. office (at 3.3 spaces per 1,000 sq. ft.). Jump Zone, at full capacity, will have 150 people, which will require 38 parking spaces (150/4), plus 1 space for the 121 sq. ft. office (3.3 spaces per 1,000sf). The three uses

Mr. Timothy M. Kotroco, Director
May 23, 2008
Page 4

together will require 96 parking spaces, which is less than the 105 shown on the plan approved in the 1998 Case and, therefore, within the spirit and intent of the order and plan approved in that case.

If you are in agreement that the above described uses are "commercial recreational facilities," as defined in Section 101 of the BCZR, and that the uses, as shown on the enclosed floor plans, are within the spirit intent of the order and site plan approved by the Board in the 1998 Case, please countersign this letter below. Please further confirm by countersignature that the above-provided parking calculations for each use are in conformance with the parking regulations of BCZR Section 409, and that sufficient parking is provided on-site to accommodate these uses.

As we are requesting an expedited response, I have enclosed with this letter a check in the amount of \$250.00 made payable to "Baltimore County, Maryland" to cover the administrative costs associated with this review. Once your response has been prepared, please contact our office and we will have someone pick it up.

Thank you, in advance, for your attention to this matter.

Very truly yours,

David H. Karceski / com
David H. Karceski

AGREED AND ACCEPTED:

Timothy M. Kotroco / TMK
Timothy M. Kotroco, Director
Department of Permits and
Development Management

DHK/cdm

Enclosures

cc: Mr. Mark Neumann (w/o enclosures)

TO1DOCS1/CDM01/#259324v1

** Subject to a siteplan + floor plan
as revised being submitted and
approved with a signature block
and included as an update to
the zoning file.*

120/100

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
GARY BRIGHTWELL -PETITIONER	*	COUNTY BOARD OF APPEALS
DAVID GONZALES -C.P. FOR		
SPECIAL EXCEPTION AND VARIANCE*		OF
ON PROPERTY LOCATED ON THE		
SOUTH SIDE GLYNOWINGS DRIVE,	*	BALTIMORE COUNTY
530' NORTHWEST OF C/L GLYNLEE		
COURT (12400 GLYNOWINGS DRIVE)*		CASE NO. 97-563-XA
4TH ELECTION DISTRICT		
3RD COUNCILMANIC DISTRICT	*	

* * * * *

O P I N I O N

This case comes before the County Board of Appeals by way of an appeal from the decision of the Deputy Zoning Commissioner for Baltimore County wherein Petitions for Special Exception and Variances were approved. A special exception was granted to permit a commercial recreational facility, accessory arcade and related accessory uses on a 2-acre unimproved parcel in the Owings Mills area of the County. Variances were granted to permit the indoor recreational facility to be located within 100 feet of a residential zone line, a side yard setback of forty-two (42) feet in lieu of the required fifty (50) feet, and a rear yard setback of thirty-five (35) feet in lieu of the required fifty (50) feet.

This matter was heard de novo by this Board on January 7, 1998, and public deliberation was held on March 3, 1998. Counsel for Petitioner was Howard L. Alderman, Jr., Esquire; and Counsel for Appellants /Protestants was J. Carroll Holzer, Esquire. People's Counsel for Baltimore County did not participate in these proceedings.

David E. Gonzales, owner and Petitioner, testified of his desire to construct a one-story building of approximately 35,000 sq. ft. on the subject property zoned M.L.-I.M., which is located in the St. George's Industrial Park on Glynowings Drive. As the site is industrially zoned land, Petitioner had several options for

MICROFILMED

use of the property but described the County's need for the proposed indoor soccer facility due to the increasing popularity of the sport. His proposed facility will contain two indoor soccer fields that would be readily adaptable as indoor lacrosse fields. One field will be larger and used by older youth, while the smaller field will be reserved for smaller children's contests. The ancillary services of a snack food area, an arcade game area, and a children's party room are expected to be used by parents and siblings in attendance at the soccer games. There will be a limited seating area for parents to watch the contests in the climate-controlled facility. The proposed facility will be operated as a private commercial enterprise.

Mr. Gonzales testified of support for the soccer arena from various community organizations and individual citizens. The St. George's Station Association, representing residents of the townhouse community near the subject site, provided signature support for the recreational facility.

Robert Sellers, Esquire, representing the Reisterstown-Owings Mills-Glyndon Association, agreed that the proposed use is needed, but was neutral on the present site because of concern for adequate parking.

Counsel for Protestants contended that Mr. Gonzales has no arrangement for extra parking, if needed, at the warehouse sites that exist nearby in the Industrial Park. Locations on Glynowings Drive provide no alternative since parking there is prohibited. Protestant's counsel surmised that over-flow arena parking using the St. George's townhouse complex would be detrimental to the neighborhood.

In response, Petitioner explained that the required number of

MICROFILMED

parking spaces for the facility under the Baltimore County Zoning Regulations (BCZR) has been doubled from 50 to 105. He further agreed to Mr. Sellers request that the times for games scheduled to be played on the two fields be staggered. Game times shall stagger with one contest beginning at the half-time of the game currently being played. This scheduling of contests, with the two games ending at different times, will alleviate concerns over the overlapping of traffic.

Mrs. Nancy Kaestner, president of Historic Glyndon, Inc., testified in her individual capacity in opposition to the petition for special exception and the variances sought for construction of the soccer arena. Mrs. Kaestner considered the proposed facility an "inappropriate land use" as the site in the St. George's Industrial Park is zoned for industrial uses, such as the warehouses that make up the St. George's Park adjacent to a mainline railway. Other uses of the M.L.-I.M. zoned location, such as the soccer facility, will bring a high traffic volume to the area, which when added to the current heavy traffic on Butler Road and Central Avenue will have an adverse effect on the Glyndon community. Mrs. Kaestner expressed misgivings over traffic on the narrow rural roads leading to the facility, concerns for parking, and that the in and out flow and direction of traffic from the site as games end and others begin will cause congestion at the location at Glynowings Drive and feeder roads.

Dwight Little, a licensed professional engineer with expertise in zoning and development, testified that he prepared the Plat of the M.L.-I.M. zoned property, and described the subject site as irregular in shape, like a trapezoid, and unique as to other lots in the industrial park and area. Mr. Little cited other zoning

MICROFILMED

classifications in the immediate area as D.R. 5.5 and D.R. 16 (Petitioner's Exhibit #5), with the railroad right-of-way to the south separating the M.L.-I.M. site from residential zoning beyond, and thus the need for a setback variance. The subject site was the only one not developed for any purpose.

Petitioner has requested special exception approval pursuant to Section 253.2D.4 of the BCZR, recently adopted by the County Council, recognizing Commercial Recreational Facilities as being compatible uses when the proposed special exception use meets the minimum requirements under Section 502.1 of the County regulations. Referring to Bill 21-96 and its "definition" of the County regulations permitting commercial recreational facilities in the M.L.-I.M. zone, Mr. Little likened the proposed arena to an ice rink for non-professional athletic activity. Mr. Little, recalling his experience with other M.L.-zoned properties and his personal residence adjacent to an indoor soccer facility in Baltimore County, testified to its compatibility with residential uses. He further opined that the proposed facility at the St. George's Industrial Park would not have any adverse effects at the subject property above and beyond those inherent with those uses irrespective of where in the M.L. zone they are located. Mr. Little opined that the proposed special exception uses meet the requirements of BCZR 502.1.

Mr. Christian Profaci, a resident of Glyndon and an active member of his community, testified to his view that soccer is big business and the proposed arena will be an entertainment center for all. He visualized problems with "hangers-on." With a young daughter, he expressed concerns for heavy traffic on two-lane roads with no sidewalks.

MICROFILMED

Ms. Mary Ellen Porter, a resident of Glyndon for 13 years, testified on behalf of herself and the Glyndon Community Association. Mrs. Porter asserted that the subject property is flat, rectangular, and not unique. She argued that the vacant site could be developed into a low-impact warehouse facility like others in the industrial park. Mrs. Porter contended that two soccer fields on a site not large enough to support them is the only reason for the variances. She testified that the facility could be built with one soccer field requiring no variances, with sufficient parking, and a construction of which she would not be opposed.

Mrs. Porter conducted a survey of all M.L. zones in the County and found that the subject site is different than the great majority of M.L. sites in that it is bordered by residential zones on both the front and rear boundaries. It was her lay opinion that this condition exists in few M.L. locations, and that, therefore, the site deserves more rigorous scrutiny than an M.L. site in the middle of an industrial zone. It is not accessible by a regional arterial highway system, but is in fact only accessible in all directions entirely through residentially zoned neighborhoods. Mrs. Porter believed that the facility should not be permitted because of the anticipated traffic impact on Glyndon, and information that the County was proposing to construct an indoor facility nearby on Route 140. She had no confirmation of this rumor.

Mr. Stephen Weber, Chief of Traffic Engineering for the County, was subpoenaed by Petitioner /Appellee to testify, and he observed that any traffic associated with the proposed uses would not have any adverse impact on the surrounding areas. He testified that any use would increase the traffic from what is now a vacant

lot.

Any special exception use, if seen to be in the interest of the general welfare and a benefit to the community, is a valid presumption for approval. In this case the evidence and testimony offered showed that the proposed indoor soccer facility and accessory uses would provide a needed service and meet the increasing demand for indoor soccer facilities. The County Council recognized such facilities as being compatible uses pursuant to BCZR 253.2D.4 for Commercial Recreational Facility, and BCZR 423.C for an accessory arcade as part of that facility.

Support for the soccer facility was expressed through more than six pages of signatures of parents (Petitioner's Exhibit #4) in the Reisterstown-Owings Mills-Glyndon area. The primary opposition by Historic Glyndon, Inc., was concern for increased traffic over narrow roads leading to the facility and a concern for lack of off-street parking. Based on Mr. Guckert's testimony and findings from his traffic study, the Board agrees that the facility would not create any adverse impact on traffic conditions. Mr. Weber's concurrence with the views of Mr. Guckert that the uses would not adversely impact the surrounding area is equally compelling and uncontradicted by Protestants.

With Petitioner's plan to double the required parking spaces, and the staggered game schedule to avoid a mass departure from the arena at any one time, strongly approved by the County and community associations, principal objections as to parking and traffic have been alleviated.

After due consideration of the testimony and evidence, the Board finds that the Petitioner has met the burden of proof with regard to the special exception requirements specified in Section

MICROFILMED

502.1 of the BCZR. We find it clear from the testimony that the requested special exception will not be detrimental to the health, safety, or general welfare of the locality involved; will not tend to create congestion in roads, streets or alleys therein; will not create a potential hazard from fire, panic or other dangers; will not tend to overcrowd land and cause undue concentration of population; will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; will not interfere with adequate light and air; will not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; and, further, will not be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR.

The Board is persuaded that the special exception use of the subject property for a Commercial Indoor Recreational Facility permitted under BCZR 253.2D.4 and 423.C, satisfies the standards of Section 502.1 and should be granted.

Protestants argue that this case stands or falls on the approval of variances, and that if the variances are denied, then any requested grant of the special exception for the project becomes moot. The Petition for Variances seeks relief to permit the soccer arena to be located within 100 feet of a residential zone line, with a side yard setback of 42 feet in lieu of 50 feet and a rear yard setback of 35 feet in lieu of 50 feet.

Section 307.1 of the BCZR sets forth the legal standards which must be met before any variance can be granted among which are the following:

MICROFILMED

Are there special circumstances in existence that are peculiar or unique to the land which is the subject of the variance request?

Would strict compliance with the regulation result in practical difficulty or unreasonable hardship?

Protestants claim that Petitioner failed to meet the legal standards for the granting of a variance by the testimony of their own witnesses. They assert that Petitioner and his engineer agreed an office building could be built, as well as other uses such as a warehouse, under the M.L.-I.M. zoning. Mr. Little had concurred that a soccer facility with one soccer field could be built on the subject property without the need for variances. Mr. Little, according to Protestants' counsel, described the property visually as basically "a square or rectangle" and similar to other lots in the industrial park. Petitioner became the owner of the property after the Deputy Zoning Commissioner's decision, and Protestants contend that he knew the location of the property lines and BCZR setback requirements. Counsel for Protestants also makes special note of omissions by the Deputy Zoning Commissioner regarding landscaping requirements and a condition in the Zoning Advisory Comment referencing parking conditions that was not incorporated by the Deputy Zoning Commissioner.

Looking at the variances, the Board must address the decision of the Maryland Court of Special Appeals in the Cromwell v. Ward case that "a property's peculiar characteristic or unusual circumstances, relating only and uniquely to that property, must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unreasonable hardship exists." (Emphasis added.)

MICROFILMED

Protestants contend that the site is flat without any irregular property lines, although there was no evidence that they referred to topography maps, but relied on photographs. In contrast, Mr. Little made a color mark-up of the Plat (Petitioner's Exhibit #6), showing the shape of the side property line and the "jog" in the rear property line, which make the property unique from other properties in the area. Mr. Little noted that other sites in the industrial park did not have the same irregular lines. The Board finds it interesting that the subject property is the only undeveloped lot in the Park, although accessible by the same roads and allowable for the same purposes.

The lot is an anomaly when compared to its neighbors at the subject site. It's not rectangular and has an odd shape compared to other lots in the industrial park. The width (66' to 83') of the railroad right-of-way and the D.R. 5.5 boundary down the middle of the railroad, the 50-foot setback from a rear property line required for land areas within 100 feet of a residential zone, as well as the other setbacks required by the regulation, impose a more severe impact on the subject property as referenced in Cromwell. The variance relief requested is not for the entire length of either side or completely along the rear property lines, but only for that area of an existing "jog" in the rear property line that distinguishes it from its neighbors. Likewise, the existing side property lines taper inward from the rear boundary forward, thus requiring a variance relief of 18 feet of each side of the 140-foot long building, effectively bringing it into compliance with the adjoining properties.

It has been argued that Petitioner had the opportunity to know of the property line configuration before his purchase. However,

MICROFILMED

the Board concurs that Petitioner had no part in establishing the existing property lines. A boundary survey by Petitioner merely identified the already existing hardship created by the irregular property lines of the odd-shaped property. This hardship is not self-created. Referencing Cromwell, Mr. Little opined that the setback regulations for portions of M.L.-I.M. zoned properties which lie within 100 feet of a residential zone boundary impact the subject site more severely because of its unique characteristics, with none of the other lots in St. George's Industrial Park having similar property lines or constraints.

With regard to the variances requested, we agree that the subject property has special circumstances that are unique to the land, and strict compliance with the regulations would result in practical difficulty or unreasonable hardship. The legal standards for a variance set by Section 307.1 of the BCZR have been met by the Petitioner, and the Board is persuaded that the variance relief requested should be granted. In addition, the variances requested will not cause any injury to the public health, safety or general welfare.

O R D E R

IT IS, THEREFORE, THIS 20th day of April, 1998, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to allow the use of the property for a Commercial Recreational Facility (indoor soccer) be and the same is hereby GRANTED; and it is further

ORDERED that requested variance relief to permit the indoor recreational facility to be located within 100 feet of a residential zone line, a side yard setback of forty-two (42) feet in lieu of the required fifty (50) feet, and a rear yard setback of

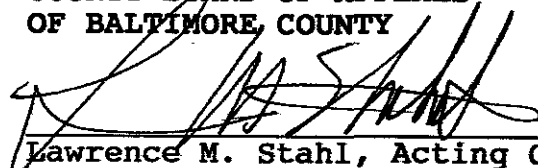
MICROFILMED

thirty-five (35) feet in lieu of the required fifty (50) feet be and is hereby GRANTED, all in accordance with Petitioner's Exhibit #5, subject to the following restrictions:

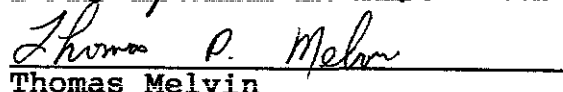
1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The Petitioners shall stagger the times for the games to be played on the two soccer fields. Games shall alternate and begin at the half-time of the game currently being played. This staggering effect will alleviate the concerns raised over the overlapping of traffic between games.
3. The accessory arcade use shall be limited to a total of ten (10) machines and shall be available primarily for players' siblings and during birthday parties.
4. A sidewalk will be constructed between the proposed parking areas and Glynwings Drive.
5. The plan shall conform to Section 1XC.2.3(1) of the Landscape Manual providing landscape buffering required by the County.
6. A special hearing shall be required within six (6) months of the opening of the facility to review the parking conditions.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence M. Stahl, Acting Chairman


Harry E. Buchheister, Jr.


Thomas Melvin

CBA on January 7, 1998 with the Petitioner presenting the testimony of Mr. Gonzales, Dwight Little, Petitioner's Engineer, Steve Webber, Baltimore County Traffic Engineering, and Wes Guckard, Petitioner's Traffic Expert. Mr. Robert Sellers, attorney for ROG, testified to that organization's position. The Protestants presented the testimony of Nan Kaestner, Christian Burton Profaci, a letter presented on behalf of Foster Nichols, marked as Protestant's Exhibit Number 3 and the testimony of Mary Ellen Porter.

STATEMENT OF FACTS

The Protestants will herein briefly state only the facts relevant to support Protestants case, recognizing that the CBA had the opportunity to take notes of all of the testimony, and that Petitioner's witnesses and experts presented other facts to support their request for the Special Exception and Variance.

Protestants submit that this case stands or falls on the approval of the variances by the CBA, and that if the variances fail, then the grant of the Special Exception for this Plan becomes moot. In this respect, the Petitioners failed to prove their own case under the requirements of the Baltimore County Zoning Regulations Section 307.1 and the Maryland Case Law interpreting the law of variances. In this case there was no need for the Protestants to put on a case in light of the failure of the Petitioners to meet the legal standards for the grant of a variance by the testimony of the Petitioner's very own witnesses.

To summarize, this point, Petitioners presented the testimony of the owner/developer Mr. Gonzales. Gonzales testified that he "could build an office building on the site," that he could use the site for "any other uses such as a warehouse," available under the zoning classification of ML-IM. Thereafter, Dwight Little, of Duvall and

MICROFILMED

Associates, the Petitioner's qualified engineer, testified that he prepared the plat to accompany the Petition for Special Exception and Variances. Little described the property as being basically "square or rectangle,"; he testified that the subject site is similar to other lots in the industrial park, and that the subject site is, at the present time, unimproved. He then testified that the subject site could be used for a smaller soccer facility with one soccer field in a smaller building without the need for any variances being granted by the CBA. He testified the reason for two soccer fields was economic on the part of the owner. In addition, he testified the subject site could be used for an office building or warehouse without the need for a variance request. He presented a plat prepared marked as Petitioner's Exhibit Number 6 with various color lines, which clearly established that there is a large buildable area on the subject site without the need for a variance request, and that that buildable site was usable for an indoor soccer field or other uses. Little testified that the Petitioner Gonzales became the owner of the property after being Contract Purchaser since the Zoning Commissioner decision and before the CBA Hearing, knowing the location of the property lines and the existence of various Baltimore County Zoning Regulations setback requirements.

Mr. Little testified in regard to the Special Exception that he did not analyze this ML-IM Zone in relationship to any other ML-IM Zone in Baltimore County for comparison purposes to establish that the subject site was not atypical of ML-IM zoning in Baltimore County.

The Protestants in their case emphasized the following points:

1. The Baltimore County Zoning Regulations require the CBA to limit the number of machines permitted in the arcade and this was not done by the Deputy Zoning

MICROFILMED

Commissioner and should be done by this Board. The Petitioner suggested twenty (20) machines.

2. The Zoning Advisory Comments of Robert Bowling dated June 30, 1997 of the development plans review states that the proposal does NOT conform to Section IX.C.2.B.(1) of the Landscape Manual that requires seven (7) percent of interior of a parking lot to be reserved for landscaping. Further, the proposed points of access and parking layout are not acceptable and subject to all development comments and regulations. This Zoning Advisory Comment was ignored by the Zoning Commissioner and still exists as a limitation and criticism in the record.

3. The Planning Report comments of Jeff Long and Gary Kerns in the Zoning Advisory Comment call for a condition of the Special Exception approval if granted that a Special Hearing be required within six months of the opening of the center to review the parking conditions, and that suggested condition was not incorporated by the Zoning Commissioner and should be by this Board.

4. Mary Ellen Porter appeared and testified on behalf of herself as well as the Glyndon Community Association, first as to the variances. She testified that the subject site is not unique, it is a roughly three-hundred (300) by three-hundred (300) foot flat site, comparable in shape to the neighboring sites on either side in the industrial park. She testified that the lot currently is vacant and could be developed into a low-impact warehouse facility like its neighbors on either side (acknowledged by both the Petitioner and his expert, Dwight Little). She testified that the reason for the variances being requested is that the facility includes two soccer fields onto a site that is not large enough to support it, thereby creating the parking concerns which have been expressed by all

MICROFILMED

Protestants, as well as acknowledged by the Petitioners in their providing more parking than is required under the Baltimore County Zoning Regulations. Mrs. Porter testified that the facility could be built with one soccer field without a variance request, which position had previously been acknowledged by Dwight Little in the Petitioner's case. She indicated that she would not be opposed to a smaller building containing only one field.

Foster Nichols, Jr., an appellant from the Zoning Commissioner decision, could not be in attendance due to business, however his letter to the Board of January 5, 1998 was marked and admitted as Protestant's Exhibit Number 3. Nichols makes the same points in regard to the variance request.

Both Nichols and Porter presented evidence in regard to the Special Exception Request of the Petitioner that it should not be granted. Their reasoning is contained on Pages 2 and 3 of Protestant's Exhibit 3. In summary, that position could be stated as follows:

The Protestants analyzed the Baltimore County Zoning Maps and inventoried all of the ML zones. There are approximately twelve thousand (12,000) acres of ML land in Baltimore County, the majority of which is located in industrial parks accessed by major highways and buffered from residential areas. However, there are twenty-nine (29) ML zones that are either "sliver" manufacturing zones, existing almost exclusively along freight rail lines or are individual properties in spot locations which most likely existed before the current zoning regulations were in place. The Protestants defined "sliver parcels" as sites which are five-hundred (500) feet or less across and are bordered on at least two sides by residential areas. Most significantly, the sum total of the acreage in these "sliver" parcels is a very small percentage of total ML zoning. The framers of the

zoning regulations intended the ML zones for industrial parks and these "sliver" parcels exist by historical accident. If the subject site were in a typical ML zone in an industrial park, there would not be the same impact on adjacent residential properties as exist in the "sliver" parcels. The subject site, therefore is unique in respect to its zoning and the comparison with other properties in the ML zone. Given the uniqueness of this particular site as a "sliver" ML zone bordered on two sides by residential areas, the site deserves more rigorous scrutiny of impact than the prototypical ML site in the middle of an industrial zone. This site, while bounded on the left and right by other ML parcels, borders DR residential zoning on both front and back edges. This condition exists in few if any, other locations in the County. Further, this site does not exist with vehicular access to the site from a regional arterial highway system, which typically exists within industrial or commercial zones, but in fact passes in all directions entirely through residentially zoned land. The only way to drive to this site is through existing neighborhoods. The traffic aspect and road system is defined in Protestant's Exhibit 3, Pages 2 and 3.

LEGAL ARGUMENT

A. Variances- The evidence will not permit this CBA to grant the variances in the instant case based upon the testimony of the Protestant's witnesses set forth above in the statement of facts. The law is clear. There is nothing unique concerning the land itself in this case. The subject site is basically flat, unimproved by any existing structures, relatively square, and subject to the construction of other types of facilities permitted in the ML-IM zone, such as warehouses, etc. It is even clearer and acknowledged that a facility for an indoor soccer field could be built for one field. It is to the economic benefit of the Petitioner to construct a two-field facility, purely from a financial reward

MICROFILMED

standpoint. Economics has no place in the granting of a variance under existing case law in the State of Maryland, which the Board is very familiar with, nor under the Baltimore County Zoning Regulations Section 307.1. While the subject property is clearly not unique, it is also clear in the instant case that any hardship which may be claimed is of the Petitioner's own doing in light of his awareness of the Baltimore County Zoning Regulations, his desire for economic gain, and the fact that this is a self imposed or created hardship, if indeed, it is a hardship. This Board is clearly aware of the Maryland cases: North vs. Saint Mary's County, 99 Md. App. 502 (1994), Cromwell vs. Ward, 102 Md. App. 691 (1995), Leo J. Umberly vs. People's Counsel for Baltimore County, 108 Md. App. 497 (1996), and in a case decided by this very Board, Mark Lakin vs. The Southern Land Company et al. (Glyndon Meadows Development Plan and Variance Request), in which this very Board recognized that where an undeveloped piece of property existed and a variance request was filed with the Board, the Board wrote the following:

"It is this Board's opinion that the variance request is driven more for the purpose of profit, and that the need for the variance has been self-inflicted by the developer. It is the developer who has drawn the plan and configured the lot in such a manner as to require the requested variances. We can not conclude from the testimony that the plan as presented is the only possible one, and it certainly seems reasonable to conclude that a plan could have been drawn providing for lots, without the requested variance. The developer appears to be seeking, through the use of variances, to have larger building envelopes for larger homes. For these reasons, the Board declines to grant the requested variance on the ground that the hardship or practical difficulty experienced by the developer was self-inflicted, and that nothing concludes the development of the property under the existing plan with the existing variances being denied."

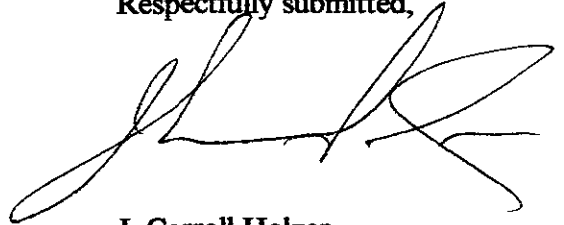
Clearly here, that situation applies. This Petitioner as previously stated, could develop a soccer field facility or other uses on the subject site without the variances. For the reasons stated herein, the variance request must be denied.

MICROFILMED

B. Special Exception- If the variances are denied, the Special Exception must fall, as requested on Petitioner's Exhibit 1, the plan to accompany the Petition for Special Hearing and Special Exception. See Chesterhaven Beach Partnership vs. Board of Appeals for Queen Anne's County, 103 Md. App. 324 (1995). In any event, the Protestants have established that the Petitioner's Proposal would have an unusual adverse impact as compared with other ML zone locations, and that it would be inconsistent with the purposes, spirit, and intent of the zoning scheme for reasons as set forth by the testimony of Mary Ellen Porter and Protestant's Exhibit 3. The CBA is permitted to find that in this instance, the Petitioners have not met the requirements of Section 502.1, and that the subject site as used by a two-field indoor soccer facility would have an unusual adverse impact on this neighborhood, as opposed to any other ML Zone. See People's Counsel vs. Mangione, 84 Md. App. 738 (1991). See also Board of County Commissioner's vs. Holbrooke, 314 Md. 210 (1988), in which the Maryland Court of Appeals found that it was sufficient for the Cecil County Board of Appeals to deny a Petition for Special Exception on the basis that the placing of a mobile home trailer in front of the Protestant's permanent home, the trailer which could be viewed from the Protestant's home would impair neighboring property values to a greater extent than it would elsewhere in the zone. This case is an example of how far this honorable Board could go to deny the Petitioner's Request for Special Hearing. Protestants suggest that the Board should deny the Special Exception Request for the reasons herein set forth.

MICROFILMED

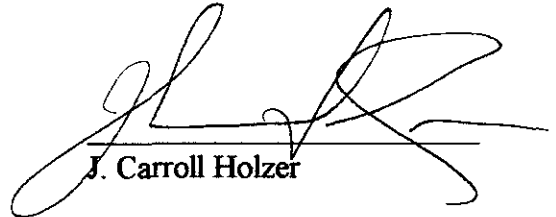
Respectfully submitted,



J. Carroll Holzer
Holzer & Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
410-825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of January, 1998, a copy of the foregoing Memorandum of Protestants was mailed first class, postage pre-paid to, Howard Alderman, Jr. Esquire, Levin & Gann, 305 West Chesapeake Avenue, Towson, Maryland 21204



J. Carroll Holzer



County Board of Appeals of Baltimore County

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

April 20, 1998

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

RE: Case No. 97-563-XA
Gary Brightwell

Dear Mr. Holzer:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure with a photocopy provided to this office concurrent with filing in Circuit Court. 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,

A handwritten signature in cursive script, appearing to read "Kathleen C. Bianco".

Kathleen C. Bianco, Administrator
County Board of Appeals

encl.

cc: Christian & Mary Profaci
c/o J. Carroll Holzer
Foster Nichols, Jr.
Glyndon Community Association
Howard L. Alderman, Jr., Esquire
Gary Brightwell
David E. Gonzales, President
People's Counsel for Baltimore County
Pat Keller /Planning
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Bärnhart, County Attorney

MICROFILMED

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@counsel.com

January 28, 1998

HAND DELIVERED

Lawrence M. Stahl, Acting Chairman
Ms. Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: David E. Gonzales, Inc., et al., Petitioners/Appellees
12400 Glynowings Drive
Case No.: 97-563-XA
Appellees' Post-Hearing Memorandum

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN 28 PM 12:18

Dear Ms. Bianco and Mr. Stahl:

At the conclusion of the January 7, 1998 hearing held by the Board on the above-captioned case, counsel for the respective parties were directed to submit written Memoranda in lieu of closing argument. I am pleased to provide to you and members of the Board, the original and three copies of the Post-Hearing Memorandum on behalf of my clients, David E. Gonzales, Inc., et al., the Petitioners/Appellees in this case. Should you or any member of the Board have any questions or desire additional information or copies of this Memorandum, as always, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA:las

Enclosures (4)

cc: David E. Gonzales, Inc. (w/enclosure)
J. Carroll Holzer, Esquire (w/enclosure)
G. Dwight Little, P.E. (w/enclosure)
J. Wes Guckert, President (w/enclosure)
Robert D. Sellers, Esquire (w/enclosure)

MICROFILMED

(Blue Booklet - Back of File)

IN RE: PETITIONS FOR
SPECIAL EXCEPTION AND VARIANCE

S/S Glynowings Drive
12400 Glynowings Drive
~~2209-2341 Vandermast Lane~~
3rd Councilmanic District
4th Election District

Gary Brightwell - Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER FOR
* BALTIMORE COUNTY
* Case No. 97-563-XA

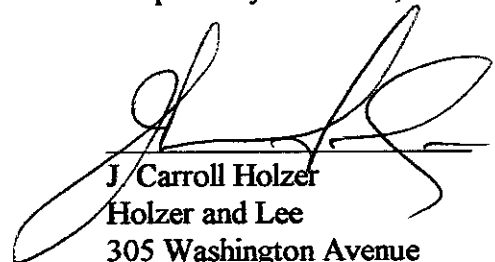
* * * * *

NOTICE OF APPEAL

Appellants Glyndon Community Association; Foster Nichols, Jr.; and Christian and Mary Profaci, individually by and through their attorney J. Carroll Holzer and Holzer and Lee, hereby note an appeal to the County Board of Appeals from the decision of the Deputy Zoning Commissioner of Baltimore County rendered on August 22, 1997.

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs of the appeal.

Respectfully submitted,

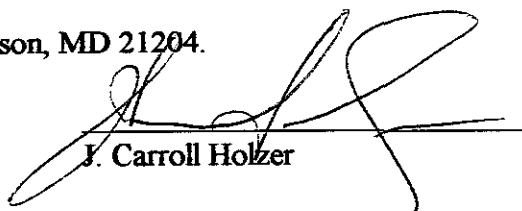


J. Carroll Holzer
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
410-825-6961
Attorney for Appellants

RECEIVED
R4E 9/18/97
ZONING OFFICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of September, 1997 a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to, Howard Alderman, Jr., Esquire, Levin & Gann, 305 West Chesapeake Avenue, Towson, MD 21204.



J. Carroll Holzer

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S Glynowings Drive,
530'NW of the c/l Glynlee Court * DEPUTY ZONING COMMISSIONER
(12400 Glynowings Drive)
4th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District * Case No. 97-563-XA

Gary Brightwell
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the subject property, Gary Brightwell, and the Contract Purchaser, David E. Gonzales, Inc., by David E. Gonzales, President, through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioners request a special exception to permit a Commercial Recreational Facility (Indoor Soccer) to be located on the subject property and to permit an accessory arcade in combination therewith, pursuant to Sections 253.2.D.4 and 423.C, respectively, of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners seek variance relief from Sections 255.2, 243.2 and 243.3 of the B.C.Z.R. to permit a commercial recreational facility to be located within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of the required 50 feet, and a rear yard setback of 35 feet in lieu of the required 50 feet. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Gary Brightwell, owner of the property, David E. Gonzales and Cliff Perlow, representatives of David E. Gonzales, Inc., Dwight Little, Professional Engineer with W. Duvall and Associates, Inc., who prepared the site plan

MICROFILMED

ORDER RECEIVED FOR FILING
Date 8/22/97
By [Signature]

For the property, Howard L. Alderman, Jr., Esquire, attorney for the Petitioners, and several other individuals who appeared in support of the request, all of whom signed the Petitioners Sign-In Sheet. Several individuals appeared in opposition to the request and signed the Protestants Sign-In sheet. Numerous other individuals appeared, not necessarily as Protestants, but as concerned citizens, all of whom signed the Citizens Sign In Sheet, including, Robert Sellers, Esquire, who appeared on behalf of the Reisterstown-Owings Mills-Glyndon Community Association, and Caren Shillman, who appeared on behalf of Councilman Bryan McIntire, in whose district the subject property lies.

Testimony and evidence offered revealed that the subject property consists of a gross area of 2.00 acres, more or less, zoned M.L.-I.M. and is presently unimproved. The property is sandwiched between the southwest side of Glynowings Drive and the Western Maryland Railroad line in Owings Mills. The Petitioner proposes to develop the site with an indoor soccer facility, consisting of a 35,000 sq.ft., one-story building, 31 feet in height, containing two indoor soccer fields. In addition, the Petitioner proposes to include a small video arcade and retail/concession area to be used in conjunction with the soccer fields.

On behalf of the Petitioner, Mr. Dwight Little testified concerning the subject property and layout of the proposed building. Testimony indicated that there are two points of ingress and egress to the site from Glynowings Drive as shown on Petitioner's Exhibit 1. The building is proposed to be located in the center of the property, with drive aisles and parking spaces located around the perimeter of the site. While the parking calculations for the proposed use require that the Petitioner provide 52 parking spaces, the Petitioner has utilized all available space,

ORDER RECEIVED FOR FILING
Date 8/22/97
By [Signature]

and to their credit, are providing 105 parking spaces which far exceeds that which is required by the zoning regulations. The Petitioners cited the lack of recreational facilities in this area, particularly for indoor soccer, and testified to the tremendous need for this facility. Testimony revealed that many parents who have children involved in this sport activity have to travel great distances to enroll their children in soccer programs, given the lack of such facilities in this area. Therefore, there was a great deal of support for the proposed project by those who attended the hearing.

As noted above, several individuals appeared, not necessarily as Protestants, but out of concern for this project. Mr. Robert Sellers, who appeared on behalf of the Reisterstown-Owings Mills-Glyndon Community Association, appeared and testified concerning some of the issues they have with the plan. Mr. Sellers testified that his organization welcomes the proposed use to the area and has no objections to the special exception or variance relief requested. He did, however, express concern over the number of parking spaces proposed by the Petitioner. Mr. Sellers testified that while he understands the Petitioner has far exceeded the parking requirements as calculated by the zoning regulations, he believes that in actuality, the facility will generate more of a parking demand than the number of spaces provided. Mr. Sellers correctly pointed out that should both soccer fields be in use at the same time, players and parents would be arriving for the next scheduled series of games at approximately the same time. Thus, the parking demand would double during that particular 15 to 20 minute overlap of time. While he agreed that the parking requirements proposed would satisfy two games being played at the same time, the overlap of traffic arriving for the next set of games causes Mr. Sellers

some concern that the parking proposed might not be adequate. Mr. Sellers' suggested that given the fact that there are two soccer fields proposed, the start time for games should be staggered so that both fields do not end their games at the same time. This would greatly assist in the overlapping parking problem foreseen by Mr. Sellers. In addition, it was suggested that the Petitioners consult with the adjacent property owners to negotiate an overflow parking arrangement with other facilities in the area. The Petitioners agreed with Mr. Sellers' suggestion for staggering start times and indicated that they would pursue alternative parking plans with other property owners in the area.

Mr. Foster Nichols, a transportation planner by profession, next testified in opposition to the Petitioner's request. Mr. Nichols was also concerned over the impact of traffic in his community as well as parking on the site. He does not believe it is appropriate for the Petitioners to operate a commercial enterprise such as an indoor soccer facility as proposed in a warehouse zone. He believes that the traffic generated by such a use will adversely affect his neighborhood and cause excessive traffic in Glyndon, particularly on Central Avenue. The vicinity map of this area shows that Glynowings Drive actually turns into Central Avenue in Glyndon. Therefore, Mr. Nichols is concerned regarding the additional traffic that will be generated through this residential corridor. Mr. Nichols further testified to the inadequacies of several railroad crossings in the area where streets cross the Western Maryland Railroad line at-grade. He believes that funding should be appropriated to improve those grade crossings so that traffic can flow more easily into this area.

At the conclusion of the testimony and evidence presented, several telephone calls and letters were received by this Office, both in

ORDER RECEIVED FOR FILING
8/22/77
JEP

support of and in opposition to the proposed facility. As a result of the additional interest shown in this project, I deemed it necessary to perform a site inspection of the Glynowings Drive area and the subject property. Many of the objections raised to this project concerned the increased amount of traffic that will access this facility through the community of Glyndon and Central Avenue. My inspection of this area and the vicinity map shows that there are many alternate routes of access to the subject site in addition to Central Avenue. This property can be accessed from Bond Avenue to the northwest, and Timber Grove Road to the southeast. Testimony indicated that this particular facility will attract patrons on a regional basis. That is, patrons from the entire area surrounding the subject site will use this facility. Therefore, traffic coming to and from the site will use different methods of access, given the existing road system shown on the vicinity map. The residents' concern that Central Avenue will be overcrowded would have more merit if Central Avenue were the only method of access to the property. However, I find that there are many other access routes to the property than just Central Avenue. Therefore, the issue of traffic overburdening Central Avenue is not sufficient to warrant a denial of the special exception request.

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

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner

ORDER RECEIVED FOR FILING

Date

By

has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

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

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

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

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

8/22/97
[Signature]

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

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

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 22nd day of August, 1997 that the Petition for Special Exception to permit a Commercial Recreational Facility (Indoor Soccer) to be located on the subject property and to permit an accessory arcade in combination therewith, pursuant to Sections 253.2.D.4 and 423.C, respectively, of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 255.2, 243.2 and 243.3 of the B.C.Z.R. to permit a commercial recreational facility to be located within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of the required 50 feet, and a rear yard setback of 35 feet in lieu of the required 50

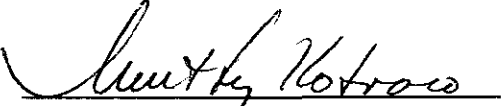
ORDER RECEIVED FOR FILING

Date 8/22/97

By [Signature]

feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED,
subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioners shall stagger the times for the games to be played on the two soccer fields. Games shall alternate and begin at the half-time of the game currently being played. This staggering effect will alleviate the concerns raised over the overlapping of traffic between games.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 8/22/97
By [Signature]



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

August 22, 1997

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
S/S Glynowings Drive, 530' NW of the c/l Glynlee Court
(12400 Glynowings Drive)
4th Election District - 3rd Councilmanic District
Gary Brightwell- Petitioner
Case No. 97-563-XA

Dear Mr. Alderman:

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

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

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Gary Brightwell
430 Main Street, Reisterstown, Md. 21136

Mr. David E. Gonzales, President, David E. Gonzales, Inc.
17 Glenberry Court, Phoenix, Md. 21131

Robert Sellers, Esq., 4125 Worthington Ave., Reisterstown, Md. 21136
Mr. Mike Snitzer, c/o 11022 Reisterstown Road, Owings Mills, Md. 21117
Mr. Foster Nichols, 4708 Butler Road, Glyndon, Md. 21071
Ms. Nan Kaestner, Pres., Historic Glyndon, Inc., Glyndon, Md. 21071
People's Counsel; Case Files

MICROFILMED



RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
PETITION FOR VARIANCE *
12400 Glynowings Dr., S/S Glynowings Dr, * ZONING COMMISSIONER
430' NW of c/l Glynlee Court *
4th Election District, 3rd Councilmanic * OF BALTIMORE COUNTY

Legal Owner: Gary Brightwell * CASE NO. 97-563-XA
Contract Purchaser: David E. Gonzales, Inc. *
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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1997, a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 305 W. Chesapeake Avenue, Suite 113, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

MICROFILMED

563



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at

12400 Glynowings Drive

which is presently zoned

ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

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

DAVID E. GONZALES, INC.
(Type or Print Name)

By: [Signature]
Signature DAVID E. GONZALES, PRESIDENT

17 Glenberry Court
Address
Phoenix, Maryland 21131
City State Zipcode

Legal Owner(s)

GARY BRIGHTWELL
(Type or Print Name)

[Signature]
Signature
(Type or Print Name)

430 Main Street 410-833-5949
Address Phone No.

Reisterstown, Maryland 21136
City State Zipcode
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

HOWARD L. ALDERMAN, JR., ESQUIRE
Name
305 W. Chesapeake Ave. #113,
Towson, MD 21204 410-321-0600
Address Phone No.

Attorney for Petitioner.

HOWARD L. ALDERMAN, JR.
(Type or Print Name)

[Signature]
Signature
LEVIN & SANDY, P.A.
305 West Chesapeake Ave. #113
Address Phone No. 410-321-0600
Towson, Maryland 21204
City State Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: [Signature] DATE 8/13/97

MICROFILMED

ORDER RECEIVED FOR FILING

Date

By

Attachment 1

PETITION FOR SPECIAL EXCEPTION

Address: 12400 Glynowings Dive

Legal Owner: Gary Brightwell

Contract Purchaser: David E. Gonzales, Inc.

Present Zoning: ML-IM

9M-563-X

REQUESTED RELIEF:

Special Exception approval, pursuant to BCZR § 253.2.D.4 for a Commercial Recreational Facility (Indoor Soccer) and pursuant to BCZR § 423.C, for an accessory arcade in combination therewith.

FOR ADDITIONAL INFORMATION CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderma@counsel.com

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 12400 Glynowings Drive

which is presently zoned ML-1M

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

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

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

Contract Purchaser/Lessee:

DAVID E. GONZALES, INC.

(Type or Print Name)

By:

Signature David E. Gonzales, President

17 Glenberry Court

Address

Phoenix MD 21131

City State Zipcode

Attorney for Petitioner:

Howard L. Alderman, Jr., Esq.

(Type or Print Name)

Signature

LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204

Attorney's Phone No.: (410) 321-0600

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

Legal Owner(s):

GARY BRIGHTWELL

(Type or Print Name)

Signature

(Type or Print Name)

Signature

430 Main Street 410833-5949

Address

Phone No

Reisterstown MD 21136

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
305 West Chesapeake Avenue, Suite 113
Towson, Maryland 21204
Tel.: (410) 321-0600

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

MICROFILMED

Attachment 1

PETITION FOR VARIANCE

Address: 12400 Glynowings Dive

Legal Owner: Gary Brightwell

Contract Purchaser: David E. Gonzales, Inc.

Present Zoning: ML-IM

97-563-X

REQUESTED RELIEF:

A variance from BCZR §§ 255.2, 243.2 & 243.3 to permit, for those portions of a Commercial Recreational Facility within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of the 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required.

JUSTIFICATION:

1. Irregular shape and pre-existing configuration of lot;
2. Requested setback is sufficient given intervening railroad tracks and right-of-way, and
3. For such further reasons as will be presented at the time of the hearing on this Petition.

FOR ADDITIONAL INFORMATION CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderma@counsel.com

MICROFILMED

ORDER RECEIVED FOR FILING
Date 8/20/07
By [Signature]

W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners

ZONING DESCRIPTION FOR 12400 GLYNOWINGS DRIVE

911-563-X

Beginning at a point on the south side of Glynowings Drive, which is 70 feet wide, at the distance of 430 feet northwest of the centerline of the nearest improved intersecting street, Glynlee Court, which is 62 feet wide. Being Lot No. 2 in the subdivision of St. George's Industrial Park as recorded in Baltimore County Plat Book #51 Folio #130, containing 2.000 acres. Also known as 12400 Glynowings Drive and located in the 4th Election District, 3rd Councilmanic District.



MICROFILMED

563

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/3, 1997

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/3, 1997.

THE JEFFERSONIAN,

A. Henrickson
LEGAL AD. - TOWSON

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: 897-565-7A
12400 Gilmorings Drive, 430'
S/S Gilmorings Drive
NW of 6th Street Court
4th Election District
3rd Councilmanic
Legal Owner(s):
Gary Brightwell
Contract Purchaser(s):
David E. Gonzales, Inc.

Special Exception: for a commercial recreational facility (indoor soccer) and for an accessory arcade in combination therewith Variance: to permit for the portions of a commercial recreational facility within 100 feet of a residential zone line; side yard setbacks of 42 feet in lieu of 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required.

Hearing: Tuesday, July 29, 1997 at 9:00 a.m., Room 467 Courts Bldg., 481 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.

(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

7/055 July 3 C155203

MICROFILMED

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

038107

DATE 6-13-97

ACCOUNT 01-615

By MDK

Itm: 563

AMOUNT \$ 300.00

RECEIVED FROM: Gozales Corp - 12400 Glynwings Drive

FOR: 050 - Special Exception - \$ 300.00

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME

6/16/1997 6/13/1997 15:40:21

REG MS01 CASHIER CLM OML DRAWER

6 MISCELLANEOUS CASH RECEIPT

Receipt # 015471

CR NO. 038107

\$300.00 CHECK: FHB

Baltimore County, Maryland

MICROFILMED

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

038166

DATE 6/20/97

ACCOUNT 01-615

Itm: 563

By: MDK

AMOUNT \$ 350.00

RECEIVED FROM: Leon + Gum, P.A. - 12400 Glynwings Dr.

FOR: 110 - Revisa \$ 100.00
020 - Com Var. \$ 250.00

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME

6/23/1997 6/20/1997 15:47:37

REG MS06 CASHIER KMCN KXM DRAWER

6 MISCELLANEOUS CASH RECEIPT

Receipt # 002419

CR NO. 038166

\$350.00 CHECK

Baltimore County, Maryland

MICROFILMED

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 044211

DATE 9/22/97 ACCOUNT R-001-6150

AMOUNT \$ 385.00

RECEIVED FROM: J. Carroll Holzer, P.A.

FOR: Appeal - Case # 97-563-XA

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

LY

PAID RECEIPT

PROCESS ACTUAL TIME
9/23/2077 9/22/1997 14:53:56
REG 4801 CASHIER CLUM CML SPANISH
5 MISCELLANEOUS CASH RECEIPT
Receipt # 022589
CR NO. 044211

385.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 044211

DATE 9/22/97 ACCOUNT R-001-6150

AMOUNT \$ 385.00

RECEIVED FROM: J. Carroll Holzer, P.A.

FOR: Appeal - Case # 97-563-XA

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

LY

PAID RECEIPT

PROCESS ACTUAL TIME
9/23/2077 9/22/1997 14:53:56
REG 4801 CASHIER CLUM CML DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 022589
CR NO. 044211

385.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

042694

DATE 9/15/97

ACCOUNT R001-6150

AMOUNT \$ 5.00

RECEIVED
FROM:

FOR:

Copies

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME
9/15/1997 9/15/1997 14:12:05

REG WSO5 CASHIER BTRY BXT DRAWER 5

MISCELLANEOUS CASH RECEIPT

Receipt # 028142

CR NO. 042694

OFLN

5.00 CASH

Baltimore County, Maryland

MICROFILMED

CASHIER'S VALIDATION



Baltimore County
Department of Permits and
Development Management

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

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 563

Petitioner: Gary Brightwell

Location: 12400 Glynowings Drive

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Howard L. Alderman Jr Esq

ADDRESS: Levin & Gunn PA - 305 W. CHESAPEAKE AVE #113
TOWSON MD 21204

PHONE NUMBER: (410) 321-0600

AJ:ggg

(Revised 09/24/96)

MICROFILMED

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than * _____

Format for Sign Printing, Black Letters on White Background:

Item # 563

ZONING NOTICE

Case No.: 97-563-X

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: * _____

DATE AND TIME: * _____

REQUEST: special exception for a commercial recreational
facility (indoor soccer) and for an accessory arcade
in combination therewith.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

Request for Zoning Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than * _____

Format for Sign Printing, Black Letters on White Background:

Item 563

ZONING NOTICE

Case No.: 97-563-XA

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: *

DATE AND TIME: *

REQUEST: variance to permit side yard setbacks of
42 ft in lieu of 50 ft and a rear setback
of 35 ft in lieu of 50 ft

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

RE: Case No.: 97-563 XA

Petitioner/Developer: DAVID GONZALEZ, ETAL

Date of Hearing/Closing: 7/29/97

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 #12400 GLYNOWINGS DR.

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

Sincerely,

Patrick M O'Keefe 7/17/97
(Signature of Sign Poster and Date)

Patrick M. O'Keefe

(Printed Name)

523 Penny Lane

(Address)

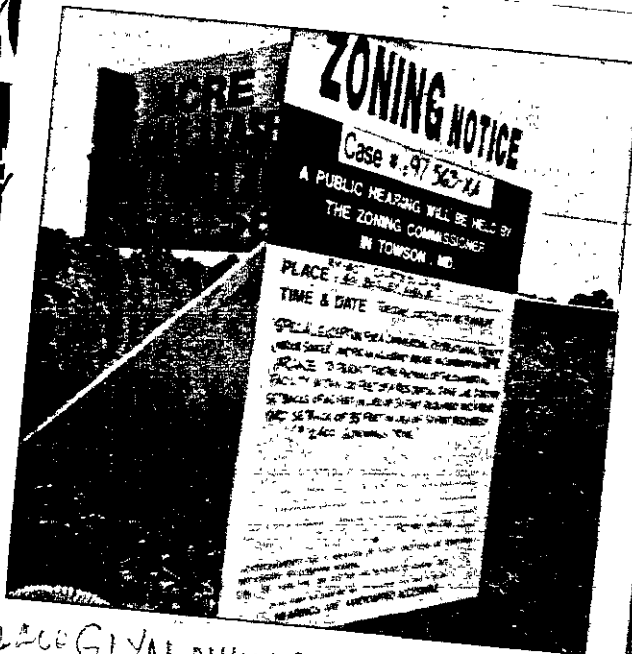
Hunt Valley, MD 21030

(City, State, Zip Code)

(410) 666-5366

(Telephone Number)

Pager (410) 646-8354



12400 GLYNOWINGS DRIVE
97-563 XA

F-7/7/97

MICROFILMED

RE: Case No.: 97-563 XA

Petitioner/Developer: _____

GARY BRIGHTWELL

Date of Hearing/Closing: _____

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 _____

12400 GLYNOWINGS DR.

The sign(s) were posted on 10/22/97
(Month, Day, Year)

Sincerely,

Gary Freund 10/22

(Signature of Sign Poster and Date)

GARY FREUND

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

TO: PPTUXENT PUBLISHING COMPANY
July 3, 1997 Issue - Jeffersonian

Please forward billing to:

Howard L. Alderman, Jr., Esq.
Levin & Gann, P.A.
305 W. Chesapeake Avenue #113
Towson, MD 21204
410-321-0600

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-563-XA
12400 Glynowings Drive
S/S Glynowings Drive, 430' NW of c/l Glynlee Court
4th Election District - 3rd Councilmanic
Legal Owner(s): Gary Brightwell
Contract Purchaser(s): David E. Gonzales, Inc.

Special Exception for a commercial recreational facility (indoor soccer) and for an accessory arcade in combination therewith.

Variance to permit, for the portions of a commercial recreational facility within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required.

HEARING: TUESDAY, JULY 29, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED



Baltimore County
Department of Permits and
Development Management

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

June 24, 1997

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-563-XA
12400 Glynowings Drive
S/S Glynowings Drive, 430' NW of c/l Glynlee Court
4th Election District - 3rd Councilmanic
Legal Owner(s): Gary Brightwell
Contract Purchaser(s): David E. Gonzales, Inc.

Special Exception for a commercial recreational facility (indoor soccer) and for an accessory arcade in combination therewith.

Variance to permit, for the portions of a commercial recreational facility within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required.

HEARING: TUESDAY, JULY 29, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

Arnold Jablon
Director

cc: Gary Brightwell
Howard L. Alderman, Jr., Esq.
David E. Gonzales, Inc.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY JULY 14, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 15, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-563-XA

IN THE MATTER OF: GARY BRIGHTWELL -Petitioner
(12400 Glynowings Drive)
4th Election District; 3rd Councilmanic

(Petitions for Special Exception and Variance
GRANTED with restrictions by D.Z.C.)

ASSIGNED FOR: THURSDAY, NOVEMBER 6, 1997 at 10:00 a.m.

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

Please refer to the Board's Rules of Practice & Procedure,
Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Christian & Mary Profaci
c/o J. Carroll Holzer
Foster Nichols, Jr.
Glyndon Community Association

Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioner : Gary Brightwell

David E. Gonzales, Inc. : David E. Gonzales, President

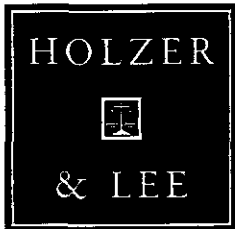
Robert Sellers, Esquire
Mike Snitzer
Nan Kaestner, President /Historic Glyndon

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

MICROFILMED





LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE

305 WASHINGTON AVENUE
SUITE 502

TOWSON, MD 21204
(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

October 22, 1997

7034

HAND DELIVERED

Kathleen Bianco
Administrator
County Board of Appeals
400 Washington Avenue
Towson, Maryland 21204

Re: In The Matter of Gary Brightwell, Petitioner
Case No. 97-563-XA

Dear Ms. Bianco:

I received notice of the hearing in the above matter scheduled for Thursday, November 6, 1997 at 10:00 a.m. One of our key witnesses is currently out of the country and will not be available in time for the hearing. We had not been contacted about the availability of this date and had we been, we would not have agreed to hold the hearing on November 6. Consequently, I respectfully request that the hearing be postponed until a mutually agreeable time with the Board of Appeals and counsel.

If you need to call me, I can be reached at 410-825-6961. I apologize for any inconvenience.

Very truly yours,

J. Carroll Holzer

JCH:clg

cc: Glyndon C.A.

Howard Alderman, Jr., Esq.

Robert Sellers, Esq.

97 OCT 22 PM 3:03
RECEIVED
COUNTY BOARD OF APPEALS
MICROFILMED
P.P. 20 1/07/98 } CH ✓ OK
HA ✓ OK



County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 27, 1997

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-563-XA

IN THE MATTER OF: GARY BRIGHTWELL -Petitioner
(12400 Glynwings Drive)
4th Election District; 3rd Councilmanic

(Petitions for Special Exception and Variance
GRANTED with restrictions by D.Z.C.)

which was scheduled to be heard on November 6, 1997 has been POSTPONED at the request of Counsel for Appellants /Protestants due to unavailability of key witness; and has been

REASSIGNED FOR: WEDNESDAY, JANUARY 7, 1998 at 10:00 a.m.

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

Please refer to the Board's Rules of Practice & Procedure,
Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Christian & Mary Profaci
c/o J. Carroll Holzer
Foster Nichols, Jr.
Glyndon Community Association

Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioner : Gary Brightwell

David E. Gonzales, Inc. : David E. Gonzales, President

Robert Sellers, Esquire
Mike Snitzer
Nan Kaestner, President /Historic Glyndon

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

MICROFILMED



100-103

BEFORE THE
COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

Case No. 97-563-XA

DAVID E. GONZALES, INC., *et al*,

Petitioners/Appellees

12400 Glynowings Drive
4th Election District
3rd Councilmanic District
Reisterstown/Owings Mills, Maryland

APPELLEES' POST-HEARING MEMORANDUM

David E. Gonzales, Inc., *et al* ("Appellees"), by and through their undersigned legal counsel, hereby submits this Post-Hearing Memorandum in accordance with the direction of the County Board of Appeals at the hearing held on the above-referenced case on January 7, 1998, in lieu of closing argument.

STATEMENT OF THE CASE

This case involves the appeal of a final decision of the Deputy Zoning Commissioner for Baltimore County, dated August 22, 1997, wherein Petitions for Special Exception and Variance were approved, with conditions, for a proposed Commercial Recreational Facility, accessory arcade and related accessory uses on a 2.0± acre, presently unimproved parcel

located on the southwest side of Glynowings Drive sandwiched between that roadway and the Western Maryland Railroad line in the Owings Mills area of the County (the "Subject Property"). The Deputy Commissioner's decision was appealed, purportedly by the Glyndon Community Association and three individuals (the "Protestants"). This Board conducted a nearly day-long hearing on Protestants' appeal, at which time Appellees presented expert and lay testimony in support of the relief prayed. The Protestants' case consisted solely of unsubstantiated concerns of lay witnesses in opposition to the requested relief. At the conclusion of the case, this Board requested that counsel for the respective parties submit written memoranda in lieu of closing argument.

THE RELEVANT FACTS

The Subject Property is presently owned by David E. Gonzales and Francine Gonzales, his wife.¹ The Appellees propose to construct a single-story building, comprised of approximately 35,000 square feet, on the Subject Property which is presently zoned ML-IM and is part of the St. George's Industrial Park. In support of the requested relief, Mr. Gonzales testified that the proposed recreational facility will contain two indoor soccer fields,² together with ancillary services such as a party room for children's birthday parties, food areas and an accessory arcade which is expected to be used during parties and by siblings of youth participating in soccer games. Mr. Gonzales testified further that, unlike

¹ A deed, dated November 10, 1997, by and between Gary M. Brightwell (a co-petitioner below) and Mr. and Mrs. Gonzales (Mr. Gonzales testified that Appellee, David E. Gonzales, Inc., is a corporation owned and controlled by him), recorded among the Land Records of Baltimore County in Liber 12518, folio 504, was introduced and accepted into evidence as Petitioners' Exhibit No. 1.

² The soccer fields can also be adapted readily for use as indoor lacrosse fields.

other indoor sports facilities, the improvements for the Subject Property will be climate controlled, as both heat and air conditioning will be provided.

On direct and cross-examination, Mr. Gonzales described that the need for the proposed indoor soccer facility resulted from the explosive growth of the sport of soccer and the fact that Baltimore County, despite having designated two major growth areas³ within its borders, has merely acquired recreational land, leaving the construction of indoor soccer facilities to the private sector. The proposed facility will be operated as a private, for-profit commercial recreational facility, open to families, recreational councils, and the general public.

The evidence of the overwhelming support for this indoor soccer facility went beyond the testimony of Mr. Gonzales and included:

- ▶ A letter from the St. George's Station Townhouse Association, Inc. [the St. George's Townhouse community is located on the north side of Glynowings Drive in the immediate area of the Subject Property], dated December 10, 1997 and addressed to Councilman T. Bryan McIntire, describing the benefits of the proposed facility, including but not limited to: i) the ability to participate in indoor sports activities without having to travel for 20-30 minutes; and ii) the many other [less acceptable] uses that could be made of the subject property. (This letter was accepted into evidence as Petitioners' Exhibit No. 2.)
- ▶ A collection of 6 ½ pages of signatures of parents of children who participate in various fall soccer programs who support the construction of the proposed indoor soccer facility. This collection was transmitted to Councilman McIntire under cover of a letter from Ms. Lynn Frost dated December 20, 1997, and was accepted into evidence as Petitioners' Exhibit No. 3.
- ▶ Signatures collected from parents of children who "regularly utilize the facilities provided" by the Owings Mills Recreation and Parks Council,

³ Those designated growth areas are Owings Mills (including, generally, the Subject Property) and White Marsh.

addressed to this Board, in support of the proposed soccer facility and urging this Board to uphold the decision of the Deputy Zoning Commissioner. These nearly 7 pages of signatures were accepted into evidence as Petitioners' Exhibit No. 4.

Mr. Gonzales testified that the parking proposed on the Subject is double that otherwise required by the Baltimore County Zoning Regulations ("BCZR"). The reasons for Mr. Gonzales proposing 100 percent more parking than required were his desire to provide, based on his experience as a "soccer dad", adequate, on-site parking and the fact that there is no parking permitted on Glynowings Drive. At the hearing before Commissioner Kotroco, and also before this Board, Mr. Robert Sellers, Esquire, appearing on behalf of the Reisterstown-Owings Mills-Glyndon Association⁴, indicated that the Association recognized that the proposed use is needed, but were concerned about the number of parking spaces, notwithstanding the fact of the 100 percent increase in proposed spaces over that otherwise required. Mr. Sellers requested in connection with any approval by this Board of the requested relief, that the approval be conditioned upon: i) the staggering of game times between the two proposed fields; and ii) that a sidewalk be constructed between the proposed parking area and Glynowings Drive.⁵ The decision of the Deputy Zoning Commissioner included, as Restriction No. 2, the following:

The Petitioners shall stagger the times for the games to be played on the two soccer fields. Games shall alternate and begin at the half-time of the game

⁴ The required compliance with Rule No. 8 of this Board's Rules of Procedure for the appearance by Mr. Sellers was introduced and accepted into evidence as Board Exhibit No. 1. Mr. Sellers is also the Zoning Board Chairman of that community organization.

⁵ Mr. Gonzales, on behalf of the Appellees, agreed to both conditions at this Board's hearing on Protestants' appeal.

currently being played. This staggering effect will alleviate the concerns raised over the overlapping of traffic between games.

Mr. Gonzales testified that he supported the restriction and would encourage this Board to incorporate it into any order granting approval of the relief requested.

On cross-examination, Mr. Gonzales indicated that the proposed facility would include one full-sized soccer field and one smaller field for younger children. Two fields are required to address the unmet need for indoor soccer facilities in this area of the County and to make the quality of the facility proposed by Mr. Gonzales economically feasible. Based on the analysis conducted to date, Mr. Gonzales indicated that most of the players and families patronizing the proposed facility would come from south of the Subject Property, as there are only two other indoor soccer facilities in the County, at Perring Parkway and the Freestate Indoor Facility, located in a ML-IM zone, northeast of White Marsh. Moreover, Mr. Gonzales indicated that travel soccer leagues would not be a large percentage of anticipated play and that, despite the peak, winter/early spring demand for indoor soccer, the facility would be open year-round to meet off-peak demand and to keep the facility completely operational. The accessory arcade use would be limited to a total of twenty (20) machines⁶ and would be available primarily for players' siblings and during birthday parties.

The Special Exception Relief

The Appellee has petitioned for Special Exception approval: i) pursuant to BCZR §253.2.D.4, for an indoor soccer Commercial Recreational Facility; and ii) pursuant to

⁶ Section 423.C.4 of the BCZR requires that the zoning commissioner (or on appeal, this Board) specify the minimum number of amusement devices to be maintained in the arcade.

BCZR §423.C, for an accessory arcade in combination therewith. Commercial Recreational facilities, including without limitation indoor soccer, are a recent addition to the BCZR. The County Council, in its adoption of Bill No.21-96⁷, expressly recognized such facilities as being compatible uses where the conditions applicable to all Special Exception uses could be met. As discussed below in the Argument portion of this Memorandum, Appellee presented uncontradicted, expert testimony that the proposed special exception uses meet all requirements of the BCZR **and** that adverse effects from the proposed uses, if any, would be no different than anywhere else in the ML-IM zoning district. In fact, testimony was offered, both on direct and cross-examination, that many uses permitted on the Subject Property as of right, would result in a far greater impact at this location than those proposed.⁸

In support of Protestants' appeal, Ms. Kaestner took the stand to testify in her individual capacity.⁹ Ms. Kaestner indicated that she thought that the proposed soccer facility was "an inappropriate land use" as the subject site is zoned for industrial uses and that the County's Master Plan did not, in her understanding, intend for commercial uses in

⁷ A copy of the Commercial Recreational Facility legislation, as enacted, is included in the record as Petitioners' Exhibit No. 7.

⁸ This evidence was offered by Appellees for the benefit of the Protestants only. As a matter of law, the evaluation of the potential impacts of a proposed special exception use in relation to those associated with a use permitted as of right has been rejected. *See, Schultz v. Pritts*, 291 Md. 1, 22 (1981), rejecting the standard set forth in *Gowl v. Atlantic Richfield Co.*, 27 Md. App. 410, 417-18 (1975).

⁹ Although Ms. Kaestner asserted that she is the current president of an organization known as Historic Glyndon, Inc., she did not testify on behalf of that organization as she could not produce organizational documents in compliance with Rule 8 of this Board's Rules of Procedure.

this zone.¹⁰ Ms. Kaestner acknowledged that she lives farther away from the Subject Property than the residents of the St. George's Station townhomes which are located across Glynowings Drive and which, as noted above, support the Petitioners' request. Although Ms. Kaestner alleged that she was concerned about traffic coming to the proposed facility, she acknowledged that all roads in the area are County/public roads, available for general use by the public.

In contrast, the Petitioner presented G. Dwight Little, a licensed Maryland professional engineer whose qualifications as an expert engineer with an emphasis in zoning and development were stipulated to by counsel for the Protestants. Mr. Little testified that the Plat which accompanied the Petitions for Variance and Special Exception were prepared under his direction and/or control.¹¹ Mr. Little described the Subject Property as being zoned ML-IM and that, based on his preparation for the Board's hearing and familiarity with the area, other zoning classifications in the immediate area were DR 5.5, DR 16 and ML-IM. Comparing the Subject Property to other, existing lots in the St. George's Industrial Park, Mr. Little opined that the Subject Property was irregular in shape, that the Petitioners had no role in configuring the property lines and that the shape and configuration made the Subject Property unique as to other lots in the area.

Referring to the BCZR definition of "Commercial Recreational Facility", Mr. Little opined that the proposed indoor soccer facility's principal purpose is to provide space and

¹⁰ The issue of general compatibility of Commercial Recreational Facilities and uses in combination therewith in ML-IM zones has, as is discussed below, been legislatively resolved.

¹¹ The Plat was accepted into evidence as Petitioners' Exhibit No. 5.

equipment for non-professional athletic activities on the two proposed athletic fields. Further, Mr. Little described the proposed building as similar to that which would house a skating rink, indoor tennis courts or a bowling alley. Mr. Little described the two, existing, privately operated, indoor soccer facilities in the County; one at Perring Parkway and one in White Marsh.¹²

As to the uses within the proposed building, Mr. Little testified that the approximate size of the principal and each accessory use was as follows:

USE	APPROXIMATE SIZE (sq.ft.)
Principal:	
2 Soccer Fields	22,760
Accessory:	
Office Space	336
Party Room/Arcade	720
Bathrooms	600
Concessions	336
Retail Sales	350
Mechanicals	500
Storage Areas	644

Mr. Little testified that the proposed arcade use would be **accessory to the principal soccer field use**, that it would be **located on the same lot** as the indoor soccer facility and

¹² This Board should take judicial notice of the approval of the Freestate Indoor Soccer Facility on ML-IM zoned land located at 5809-11 Allender Road in the White Marsh area of the County. The zoning relief in that case (Case No. 96-386-X) was heard and decided by Deputy Zoning Commissioner Kotroco on May 13, 1996.

that it would be **located within the same building** as the principal use. Reiterating the testimony of Mr. Gonzales, Mr. Little indicated that there would be **no more than 20 amusement devices** within the proposed arcade use.

On cross-examination, Mr. Little acknowledged that he had not analyzed or cataloged every ML zoned piece of property in Baltimore County; Mr. Little stated that he relies on the County and its Zoning Office to keep such records. On re-direct examination, Mr. Little testified that in his experience (both as a former County employee and now as a private engineer) he has provided expert services for and is familiar with many other ML zoned properties throughout Baltimore County. As someone who lived immediately adjacent to the Perring Parkway indoor soccer facility for eight years, Mr. Little testified as to its compatibility with residential uses and that the proposed facility at the Subject Property would not have any adverse effects at the Subject Property above and beyond those inherent with those uses irrespective of where in the ML zone they are located.

The testimony of John Wesley Guckert, President of The Traffic Group, Inc., whose qualifications as an expert in matters of traffic and traffic impact were stipulated to by counsel for the Protestants, relative to traffic associated with the proposed uses showed that:

- ▶ Mr. Guckert conducted two, separate field visits to the subject property.
- ▶ Mr. Guckert, in preparation for his appearance and testimony before this Board, reviewed traffic volume counts prepared under his direction and control, as well as data existing in the files of The Traffic Group and Baltimore County files, especially as related to signalized traffic intersections in the immediate area of the subject property.

- ▶ After consulting available census data, Mr. Guckert prepared a drawing showing estimated arrival patterns for persons visiting the Subject Property, which showed clearly the majority of the anticipated trips arriving on routes south and southwest of the Subject Property.¹³ The percentages of anticipated arrival patterns were based on existing population concentration, including the effect of the low population density north and northeast of the Subject Property¹⁴ and the effect of competitive facilities which already exist in Hampstead and Westminster, both within Carroll County.
- ▶ Testifying from a written analysis prepared by The Traffic Group, Inc. under his direction and control,¹⁵ Mr. Guckert gave his expert opinion that the proposed facility would not create any adverse impact on traffic conditions and that even given the worst condition (all 105 parking spots filling and emptying within a 60 minute period), there would still be more than sufficient capacity along the road system to accommodate the number of vehicles generated by the proposed uses.
- ▶ Mr. Guckert's expert, uncontradicted opinion¹⁶ was that, based on his knowledge of the Subject Property and the proposed uses, and his knowledge of other ML zoned property in Baltimore County, the proposed uses would not have any adverse impact

¹³ The anticipated arrival pattern drawing prepared by Mr. Guckert was introduced and accepted into evidence as Petitioners' Exhibit No. 8.

¹⁴ The small community of "Glyndon" is located north of the Subject Property.

¹⁵ The written analysis for the "Owings Mills Indoor Soccer Facility - Glynowings Drive" dated November 4, 1997, was accepted into evidence as Petitioners' Exhibit No. 9.

¹⁶ In fact, Protestants waived their right to even cross-examine Mr. Guckert.

at the proposed location, above and beyond those that are inherently associated with such uses, irrespective of their location within the ML zoning district.

Both Messrs. Little and Guckert offered independent, expert, supporting testimony relative to how the proposed special exception uses meet (and in some cases exceed) the minimum requirements for Special Exception uses required by BCZR §502.1. Likewise, testifying under subpoena filed by Appellee, Mr. Stephen Weber, a long-term employee of Baltimore County's Traffic Engineering and Transportation Planning Division within the Department of Public Works, opined that any traffic associated with the uses proposed by the Appellee would not have any adverse impact on the surrounding areas, including without limitation, Glyndon. Mr. Weber acknowledged that since the Subject Property is currently vacant, there will be some increase in traffic irrespective of the use placed thereon. However, Mr. Weber explained that, in his opinion, some of the trips to the Subject Property are those that are associated with families already traveling Glynowings Drive to get to one of the two indoor soccer facilities in Carroll County or already on the road for other purposes. As to any distinction between the volume and nature of traffic associated with commercial recreational uses and manufacturing uses, the only distinction recognized by Mr. Weber was that general distinction between trucks [manufacturing uses] and cars [commercial recreational facilities].

In contrast, the Protestants produced the lay testimony of Mr. Profaci who lives at 506 Bond Avenue, in Glyndon. Although Mr. Profaci did not take the opportunity to attend the hearing before the Deputy Zoning Commissioner, he described his concerns about traffic,

the potential, adverse effects of the proposed arcade use¹⁷ and the fact that the facility will be operated "for profit". Mr. Profaci was very candid that, due to the age of his young daughter, he did not patronize existing, indoor soccer facilities.

The final, lay witness produced by the Protestants¹⁸ was Ms. Mary Ellen Porter who has lived at 4611 Butler Road in Glyndon for 13 years. Ms. Porter produced the requisite Rule 8 compliance for her to offer testimony on behalf of the Glyndon Community Association. Ms. Porter testified that her Association was comprised of families living within the Glyndon zipcode, which number about 100, 66 of which are current, dues paying members of the Association. Although she did not espouse any education, training or expertise in surveying or engineering, Ms. Porter offered testimony that the Subject Property was flat and that there were no existing constraints thereon. Ms. Porter then described the efforts taken to "inventory" the parcels in Baltimore County currently zoned ML. Ms. Porter then testified, without any articulated basis, that the special exception use of commercial recreational facility was intended only "for industrial parks." Having lived in the area for 13 years, Ms. Porter testified on cross-examination that the "closest industrial park" was located approximately 10-15 minutes away by car; this is in direct contradiction to the expert testimony of Mr. Little and the Plat to accompany the zoning Petitions in this Case

¹⁷ Mr. Profaci attempted to compare the proposed indoor soccer facility and accessory uses, which are utilized primarily by families, organized teams and birthday parties for younger children, to a roller skating rink in Towson that had become, in Mr. Profaci's words a "hang out". The incongruity of comparison of these two uses should be more than merely obvious to this Board.

¹⁸ Over the objection of counsel for the Appellee, a letter from Mr. Foster Nichols outlining his concerns was accepted into evidence as Protestants' Exhibit No. 3.

(Protestants' Exhibit No. 5) that the **Subject Property is located within the St. George's Industrial Park.**

Finally, Ms. Porter offered her belief that the proposed indoor soccer facility should not be permitted because of: i) the anticipated traffic impact on Glyndon, especially given the 3 residential developments approved in the area and development in Carroll County which have made peak morning and evening hour traffic worse; and ii) Ms. Porter's understanding that the County was proposing to construct an indoor soccer facility on Maryland Route 140.¹⁹ Ms. Porter concurred that the proposed uses should have little or no impact on commuter or "peak hour" traffic, but suggested that there were "too few" parking spaces proposed; when cross-examined on the issue of parking, Ms. Porter was unable to suggest how the "right" number of spaces could be calculated. On further cross-examination, Ms. Porter acknowledged that she had never been to an indoor soccer facility and had no direct knowledge of how such facilities operated or the traffic associated with them.

The Variance Relief

The Appellee proposes to construct a single-story facility, within an existing Industrial Park, on land which is zoned ML-IM, but which is physically located between two Density Residential (DR) zone boundaries. The first DR zone exists to the north, beyond the centerline of Glynwings Drive, and contains a wide variety of residential dwellings, including without limitation, those of the St. George's Townhouse Association. To the south,

¹⁹ On cross-examination, Ms. Porter acknowledged that she had not consulted or reviewed either the County's Capital Budget or its Capital Program as adopted by the County Council to confirm her "understanding".

UNRECORDED

the second DR zone line boundary lies within the Western Maryland Railroad right-of-way.

Mr. Little, Appellees' expert witness who testified without contradiction, described how he had examined the official 200' scale zoning maps for the area of the Subject Property and how he had examined the shape and configuration of recorded lots in the immediate area. Included within the lots examined by Mr. Little were the other lots in the St. George's Industrial Park. Mr. Little described, in his expert opinion, that the skewing of the side property lines of the Subject Property, together with the 15' jog in the rear property line make the Subject Property unique from other properties in the immediate area. Mr. Little noted on direct and cross-examination that other properties in the St. George's Industrial Park did not have the same irregular property lines and most of them were improved with a variety of building styles.

Mr. Little then described the variance relief requested by the Petitioner as follows: variance from BCZR §§ 255.2, 243.2 & 243.3 to permit, for those portions of a Commercial Recreational Facility within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of the 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required. Pursuant to BCZR §255.2, Mr. Little described how portions of properties that are zoned ML and located within 100 feet of a residential zone, must satisfy the 50 foot rear and side yard setback requirements as specified in the MR zone.²⁰ Mr. Little testified that the distance from the front of the proposed building and the DR 16 zone boundary line in Glynowings Drive was greater than the 100 feet required and that the rear of the proposed

²⁰ As noted below, if located more than 100 feet from a residential zone, the ML rear and sideyard setbacks are 30 feet.

building was located approximately 82 feet from the DR 5.5 zone line which lies within the Western Maryland Railroad right-of-way.²¹ The width of the railroad right-of-way was described by Mr. Little as being 66 to 83 feet wide and that the area of proposed rear yard setback included 20 to 46 feet of that right-of-way.²² In an effort to delineate graphically the various zoning lines for the Board, Mr. Little made reference to a [crude] color mark-up of the Plat to accompany the Petitions²³ and described the colored lines thereon as follows:

Light Green: Property boundary of subject property

Grey Lines: DR 16/ML-IM zoning boundary in the front (Glynowings Drive) and DR 5.5/ML-IM boundary in the rear (Railroad)

Orange Lines: 100 feet from the residential zone lines on the north and south of the subject property

Tan Line: Outline of proposed Commercial Recreational Facility

Tan Shading: That portion of the proposed Commercial Recreational Facility located within 100 feet of the rear ML-IM/DR 5.5 zoning boundary

Dark Green Line: The 50' setback from a **rear property line** required for land areas within 100 feet of a residential zone

Dark Brown Lines: The 50' setback from a **side property line** required for land areas within 100 feet of a residential zone

Dark Blue Lines: The 30' sideyard setback lines required in the ML-IM zone for all portions of the site that are more than 100 feet from a residential zone boundary

²¹ The location of a portion of the proposed building within this 100 foot area results in the application of rear and side yard setbacks standards that are not applicable to the majority of the proposed building which exists beyond 100 feet from the zone boundary.

²² The varying width of the railroad right-of-way and the corresponding amounts included in the rear yard setback area is a function of the irregular, jogged rear property line of the Subject Property.

²³ The colored mark-up is included in evidence as Petitioners' Exhibit No. 6.

Mr. Little described that the proposed building was **rectangular in shape** and, given the **unique effect of the irregular property lines**, a side yard setback variance was required only for those side portions of the building and approximately 120 feet of the rear face of the building that lie within 100 feet of the DR zone line within the railroad right-of-way to the south.

Ms. Porter who testified merely as a lay witness without any reference to surveying or engineering abilities, attempted to use the 200' official zoning maps, which show the zoning of the Subject Property²⁴ **only**²⁵, in an assertion of there being no constraints to the development thereof. Ms. Porter, referring to the official zoning maps, described the Subject Property as being shaped like other lots in the ML zone in which it is located. On cross-examination, Ms. Porter was unable to use the official zoning maps to describe the property lines of the Subject Property, other than to make reference to its general location on those maps as identified during the cross-examination of Appellees' expert engineer, Mr. Little.

Mr. Little testified that, in his expert opinion, the variance relief requested by Appellee:

- ▶ is justified by the property lines and topography that are unique and peculiar to the Subject Property as compared to other properties in the ML zone and the St. George's Industrial Park
- ▶ will not increase the residential density, beyond that otherwise allowable by the BCZR

²⁴ These maps were accepted into evidence as Protestants' Exhibit No. 6A & B.

²⁵ Property line **are not shown or otherwise delineated on the 200' zoning maps.**

- ▶ would eliminate the effect of strict compliance with the BCZR that unreasonably prevents the use of the subject property for a permitted purpose
- ▶ will do substantial justice to the Petitioners as well as other property owners in the district
- ▶ is the minimum relief necessary and can be granted so that the spirit and intent of the BCZR will be observed, and public health, safety and welfare secured

Upon completion of all evidence and testimony at the hearing before this Board, both the Protestants/Appellants and the Petitioners/Appellees rested their respective cases. This Board closed the record in the above-captioned case except for the receipt of memoranda from counsel.

LEGAL ARGUMENT IN SUPPORT OF THE PETITIONS

THE SPECIAL EXCEPTION REQUEST

The Petitioners/Appellees have met their burden for the proposed Special Exception Uses as required by Sections 423C & 502.1 of the Baltimore County Zoning Regulations

A special exception use is "part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid." *Anderson v. Sawyer*, 23 Md. App. 612, 617, 329 A.2d 716 (1974); *See also, Harford County v. Preston*, 322 Md. 493, 498, 588 A.2d 772 (1991) The Petitioners were required to meet the statutory requirements established by the Baltimore County Council; the Petitioners did not have to show that the proposed use would be a benefit to the community. *Preston* at 498. However, in this case the evidence offered by the Petitioners showed that the proposed indoor soccer facility and accessory uses would provide a needed service to the community and meet the increasing demand for indoor soccer facilities in the County, especially in the

northwest area; a service and demand that is not being met by the County or its Department of Recreation and Parks.

The facts and evidence in this case in support of the requested relief are overwhelming. The witnesses presented by the Petitioners, lay and expert alike, testified affirmatively and conclusively that the proposed indoor soccer facility and accessory uses at this location will not have any adverse impacts or effects above and beyond those inherently associated with such uses, irrespective of their location in the Manufacturing Light (ML) zone.

The Petitioners in this case are seeking a statutorily authorized special exception for a Commercial Recreational Facility and accessory uses as recently authorized by the Baltimore County Council. Special Exceptions are different and distinct from requests for variances from the County's Zoning Code. *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995) Unlike a variance request which seeks a relaxation or elimination of minimum bulk or area requirements in the Zoning Regulations, a special exception is a use "which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone". *Creswell v. Baltimore Aviation Service, Inc.*, 257 Md. 712, 719, 264 A.2d 838 (1970)

As noted by the appellate courts of this State, if the express conditions of the statutes governing special exceptions are met "it is a permitted use because the legislative body has made that policy decision." *Chester Haven Beach Partnership v. Board of Appeals*, 103 Md. App. 324, 336, 653 A.2d 532 (1995) One of the most recently reported cases in Maryland to deal with special exception uses was filed on October 2, 1995 by Judge Cathell writing

for the Court of Special Appeals in the case of *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995). Reaffirming the Maryland standard for evaluating Special Exception requests articulated by the late Judge Rita Davidson in the case of *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981), Judge Cathell wrote:

[I]t is not whether a special exception/conditional use is compatible with permitted uses that is relevant in the administrative proceedings. **The legislative body, by designating the special exception, has deemed it to be generally compatible with the other uses.** In special exception cases, therefore, **general compatibility is not normally a proper issue for the agency to consider.** That issue has already been addressed and **legislatively resolved.** Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), **it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency.**

Mossburg at 8-9. (Emphasis supplied.)

A bright line must be drawn between the Special Exception relief sought by the Appellees and their Petition for Variance relief. The variance relief sought by Appellees does not involve the statutorily defined requirements for approval of the requested Special Exception.²⁶

²⁶ Compare, the decision in the *Chester Haven Beach* case where Queen Anne's County established specific criteria necessary for approval of Chester Haven's requested special exception approval. Chester Haven sought to vary one of the special exception criteria. If the requested relaxation or variance of the specific special exception criterion was not granted, Chester Haven could not meet its burden for special exception approval. In *dicta*, the Court of Special Appeals suggests that obtaining a variance from the express requirements necessary for special exception approval may destroy the legislative presumption of compatibility afforded special exception uses. *Chester Haven* at 336. Such variances are not being sought by Appellee in the instant case; Appellees are seeking variances from the bulk/area requirements applicable to any use; permitted as of right or by special exception.

Appellee has met its statutory burden (BCZR §502.1) as well as the additional test set out by *Schultz v. Pritts* and its progeny. Through expert and lay witnesses alike, the Appellees have introduced **substantial evidence** in support of their case. In stark contrast, the Appellants' have produced only lay witnesses (and a writing from one of the named Appellants) who testified as to their discontent with the proposed uses, their views on traffic in the area (which in part has resulted from other, unrelated development over the years) and their fears that their "community"²⁷ will be affected adversely if the requested relief is granted. In reviewing applications for special exception approval, the appellate courts of this state have long held that:

Zoning is not a plebiscite and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of (a) project . . . **amounted to no evidence at all.**

Entzian v. Prince George's County, 32 Md. App. 256, 262-63 (1976), *quoting Rockville Fuel and Feed Company, Inc. V. Board of Appeals of the City of Gaithersburg*, 257 Md. 183 (1970) (Emphasis supplied.)

There is uncontroverted evidence in the record to support the granting of the Special Exception relief sought by the Appellees. The Appellees have shown conclusively that the adverse effects of the proposed Special Exception uses at the Subject Property would be no greater than the adverse effects ordinarily associated with those uses if located elsewhere in the ML-IM district.

²⁷ It should not go unnoticed that the Appellants live in Glyndon, some distance from the Subject Property and that the **closest community** (St. George's Townhome Association located directly across the street) **supports** the requested relief.

THE VARIANCE REQUEST

The pre-existing, unique circumstances affecting the Subject Property, in conjunction with the otherwise applicable restrictions of the Baltimore County Zoning Regulations result, absent the requested variance relief, in practical difficulty to the Petitioners/Appellees, preventing use of the property for a purpose that has been legislatively predetermined to be compatible with the area.

The Subject Property is located within the St. George's Industrial Park and, as testified to by Mr. Little, the Appellees had no role or part in establishing the existing property lines of the lot. The Protestants have testified to this Board that other properties in the Industrial Park are improved with similar buildings of rectangular shape. Unlike Mr. Ward, the property owner in *Cromwell v. Ward*, 102 Md. App. 691, 651 A. 2d 424 (1995), the boundary survey performed by Appellees (i.e. an "accurate measurement") merely identified the **already existing hardship created by the irregular property lines**. Unlike the property sought to be improved by Mr. Ward, the Subject Property, because of its irregular shape and topography, is **unique** compared to other lots in the Industrial Park.

Testifying for the Protestants, Ms. Porter indicated that she had viewed the Subject Property and, in her opinion, it is "flat" and there was no evidence of irregular property lines. It is interesting to note that the photographs submitted by Ms. Porter²⁸ showed the road network and not the topography of the Subject Property or the otherwise "regular" property lines perceived by Ms. Porter. The credible, expert testimony of Mr. Little remains uncontradicted that the Subject Property is not uniform and regular like other lots in the park, but that the lot is in essence a trapezoid and, further, that the rear line has a 15 foot deep jog

²⁸

Accepted into evidence as Protestants' Exhibit No. 5 A-H.

in it. The attempt to provide uniform development by keeping the proposed, non-residential improvements as far from the existing residences and the residential zone line as possible, while maintaining the front face building line established by the existing buildings constructed previously in the Industrial Park, becomes completely frustrated given the existing alignment of the property lines of the Subject Property. The variance relief sought by Appellees is **not for the entire length of either side or completely along the rear property lines**. The width of the proposed building face is 250 feet as shown on Petitioners' Exhibit No. 5. The variance from the rear yard setback requirement is requested for only 120 feet of that face, being that portion **in the area of the existing jog in the rear property line**. Likewise, if the **existing, side property lines** did not taper inward from the rear property line forward, the side yard variance relief requested would not be necessary. Instead, the variance relief is only along approximately 18 feet of each side of the proposed building (each side is 140 feet in total length).²⁹

The de minimus nature of the requested relief is, however, not the statutory standard which must be met by the Petitioners. Rather, BCZR §307.1, sets forth the legal tests which must be met before any variance can be granted:

- ▶ are there special circumstances or conditions in existence that are peculiar to the land or structure which is the subject of the variance request?
- ▶ would strict compliance with the requirements of the BCZR result in practical difficulty or unreasonable hardship?

²⁹ The areas of variance relief are shown graphically on Petitioners' Exhibits No. 5 & 6.

- ▶ will any increase in residential density, beyond that otherwise allowable by the BCZR, result if the requested relief is granted?
- ▶ can the requested relief be granted so that the spirit and intent of the BCZR will be observed, and public health, safety and welfare secured?

Additional, "common law" requirements for the granting of variances have been developed over the years by the appellate courts in this state. In consideration of an "area" variance, as is being requested by the Petitioners in this case, the Court of Special Appeals has held that the Petitioner must show that:

- ▶ strict compliance with the BCZR would unreasonably prevent use of the subject property for a permitted purpose and the required conformity with the BCZR would be unnecessarily burdensome
- ▶ that the relief requested will do substantial justice to the petitioners as well as other property owners in the district
- ▶ that the relief requested is the minimum relief necessary to give substantial relief to the petitioners as well as other property owners in the district

Anderson v. Board of Appeals of Chesapeake Beach, 22 Md. App. 28, 39 (1974) [adapted to reference the BCZR]

The most recent articulation of the law of variances in Maryland was authored by the Honorable Dale R. Cathell (then an associate judge of the Maryland Court of Special Appeals) in the *Cromwell v. Ward* case. The holding of that Court regarding variance law in general, and Baltimore County variance law in particular, was that:

... a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's

uniqueness before any consideration will be given to whether practical difficulty or unreasonable hardship exists.

Cromwell at 721.

The unchallenged testimony of Mr. Little addresses each of the above-described criteria, including without limitation, the stringent test of the *Cromwell* case. Mr. Little opined in his expert capacity that the setback regulations for portions of ML-IM zoned properties which lie within 100 feet of a residential zone boundary impact the Subject Property **more severely** because of the unique property lines which form its perimeter; with none of the other lots in the St. George's Industrial Park having similar property lines or constraints.³⁰ As noted above [several times] the difficulty/hardship which is imposed upon the Subject Property by a literal enforcement of the BCZR was not self-created;³¹ none of the Petitioners/Appellees had any role in subdividing or laying out the lots in the St. George's Industrial Park, including without limitation, the Subject Property. The impact of the BCZR setback requirements **affect the Subject Property disproportionately** as compared to their effect on the other, regularly shaped lots in the Industrial Park.

The Appellees have met their burden. The variance relief prayed by the Petitioners should be granted in accordance with the uncontradicted, substantial evidence in support thereof offered by the Appellees.

³⁰ The testimony of Ms. Porter that she did not [upon walking the site] "see" any difference in property lines between the Subject Property and other lots in the park has no bearing on the legal and unreasonably burdensome effect that their irregular shape and configuration truly have on the Subject Property.

³¹ *See, Cromwell* at 722.

CONCLUSION

Soccer, indoor as well as outdoor, is one of the fastest growing sports in the Country today and certainly within Baltimore County. Appellees have proposed to address the existing and future need for indoor soccer facilities (which need is not being met by the County) by constructing a Commercial Recreational Facility and accessory arcade. Having increased the required parking by 100 percent and accepting a recommendation for the staggering of games proposed by the Reisterstown-Owings Mills-Glyndon Association, Inc., the Petitioners' proposal was approved by the Deputy Zoning Commissioner for Baltimore County. On appeal by a few individuals and one association who reside well north of the Subject Property, the Appellees have presented uncontradicted and substantial evidence in support of the Petitions for Special Exception and Variance. The support of the residential communities in the immediate area for the proposed facility has been overwhelmingly demonstrated. The Appellees have met all of the required standards for approval of their Petitions.

This Board should apply the law to the evidence presented and approve the Special Exception relief requested, subject to the condition imposed by the Deputy Zoning Commissioner below and the condition regarding the installation of a sidewalk as agreed to at this Board's hearing, and grant the Variance relief as prayed.

Respectfully submitted,



Howard L. Alderman, Jr.

Levin & Gann, P.A.

305 West Chesapeake Avenue, Suite 113

Towson, Maryland 21204

(410) 321-0600

Attorneys for Petitioners/Appellees

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 1998 a copy of the foregoing Appellees' Post-Hearing Memorandum was mailed by first class mail, postage prepaid, to J. Carroll Holzer, HOLZER & LEE, 305 Washington Avenue, Suite 502, Towson, Maryland 21204, attorney for the Protestants.


Howard L. Alderman, Jr.

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN 28 PM 3:30

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S GLYNOWINGS DR. * COUNTY BOARD OF
(12400 GLYNOWINGS DR.) * APPEALS
FOURTH ELECTION DISTRICT * OF BALTIMORE COUNTY
THIRD COUNCIL MANIC DISTRICT * CASE NO. 97 - 563 - XA
GARY BRIGHTWELL - PETITIONER *

* * * * *

MEMORANDUM OF PROTESTANTS

Foster Nichols, Jr., Christian and Mary Profaci, and the Glyndon Community Association, Protestants by J. Carroll Holzer, Holzer & Lee, hereby presents this brief Memorandum in lieu of Closing Arguments and says:

STATEMENT OF THE CASE

This case comes to the County Board of Appeals (hereinafter "CBA") by way of an appeal de novo from the decision of the Deputy Zoning Commissioner of Baltimore County on August 22, 1997, granting a Special Exception to permit a commercial recreational facility (Indoor Soccer) to be located on the subject property, and to permit an accessory arcade in combination therewith, pursuant to Sections 253.2.D.4 and 423.C and the granting of a Petition for Variance seeking relief from Sections 255.2, 243.2 and 243.3 of the Baltimore County Zoning Regulations to permit a commercial recreational facility to be located within one-hundred (100) feet of a residential zone line, side yard setback of forty-two (42) feet in lieu of the required fifty (50) feet, and a rear yard setback of thirty-five (35) in lieu of the required fifty (50) feet. The case was heard before the

Case No. 97-563-XA

Gary Brightwell - Petitioner

S/s Glynowings Dr., 530' NW of the c/l
Glynlee Court (12400 Glynowings Drive)

4th Election District

Appealed: 9/18/97

(See Pet. Ex. #1 -
Plan to Accompany Petition)

MICROFILMED



Baltimore County
Department of Permits and
Development Management

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

July 24, 1997

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 West Chesapeake Avenue, Suite 113
Towson, MD 21204

RE: Item No.: 563
Case No.: 97-563-XA
Petitioner: Gary Brightwell

Dear Mr. Alderman:

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 June 13, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over a rectangular stamp that contains the same name in a bold, sans-serif font.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

MICROFILMED



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director Date: July 1, 1997
Department of Permits & Development
Management

FROM: Robert W. Bowling, Chief **SIGNED: ROBERT W. BOWLING**
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for June 30, 1997
Item No. 563

The Development Plans Review Division has reviewed the subject zoning item. This proposal does not conform with Sec. IX.C.2.b.(1) of the Landscape Manual that requires 7% of the interior of a parking lot to be reserved for landscaping.

The proposed points of access and parking layout are not acceptable and are subject to all development comments and regulations.

RWB:HJO:jrb

cc: File

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

June 25, 1997

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

RE: Property Owner: Light Street Partners Longview Ltd. Ptnsd.
Gary Brightwell

Location: DISTRIBUTION MEETING OF June 23, 1997

Item No.: 356 and 363

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments which are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

MICROFILMED

REVIEWER: LT. ROBERT P. BRUERWALL

Fire Marshal C. Lee, PHONE 887-4500, MS-1102F

File





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 7.1.97
Item No. 563 MK

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,

P. J. Burns
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

MICROFILMED

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Sim
7/29

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

Date: July 2, 1997

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: 12400 Glynowings Drive

INFORMATION

Item Number: 563

Petitioner: Brightwell Property

Zoning: ML-IM

Requested Action: Variance and Special

Summary of Recommendations:

The applicant requests a special exception for a Commercial Recreational Facility and an accessory arcade. In addition, variances are requested for portions of the Commercial Recreational Facility to be located within 100 feet of a residential zone line, side yard setbacks of 42 feet in lieu of the 50 feet required and a rear yard setback of 35 feet in lieu of the 50 feet required.

A Commercial Recreational Facility and an accessory arcade have the potential to be a major attraction. While that applicant's site plan indicates that twice the number of required parking spaces is being provided, staff remains concerned about parking capacity. Since it is virtually impossible to gauge the future demand for parking at the subject property, this office recommends that the operator of the facility be required to file a special hearing - within six months of the opening of the center - to demonstrate that the facility is operating in a manner that results in no negative impact on the residential community.

Prepared by:

Jeffrey M. L...

Division Chief:

Gary L. Kerns

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE:

July 11, 97

FROM: R. Bruce Seeley *RBS/ly*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee

Meeting Date:

June 23

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

Item #'s:

562

563

RBS:sp

BRUCE2/DEPRM/TXTSBP

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

Date: July 9, 1997

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

SIGNED: ROBERT W. BOWLING

SUBJECT: Zoning Advisory Committee Meeting
for July 7, 1997
Item No. 563 (Revised)

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

RWB:HJO:jrb

cc: File

ZONE707.563

MICROFILMED

**IN RE: PETITIONS FOR SPECIAL
EXCEPTION AND VARIANCE**

**12400 Glynowings Drive
4th Election District
3rd Councilmanic District**

**Gary Brightwell and David E. Gonzales, Inc.,
Petitioners/Appellees**

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

Case No.: 97-563-XA

REQUEST FOR SUBPOENA DUCES TECUM

Please issue a subpoena duces tecum for the following named witness and command him to appear at the hearing on the above-referenced matter scheduled before the Baltimore County Board of Appeals on **Wednesday, January 7, 1998 at 10:00 a.m.**, and to continue until conclusion of the hearing on these cases, at the Board's Hearing Room in Room 48 the Old Courthouse, Towson, Maryland, 21204:

Stephen E. Weber
Department of Public Works
Traffic Engineering and Transportation Planning
111 West Chesapeake Avenue, **Room 326**
Towson, Maryland 21204
410.887.3554

The witness should also be directed to **bring with him to the Hearing any and all documents, plans, orders, decisions, policies, denials, computations, approvals, files and records in his custody, possession or control** concerning the above-captioned matters, and any related matters for the above captioned case and property.

Mr. Sheriff/Private Process Server:

Please process this Subpoena Duces Tecum in accordance with Rule 5 of the Board of Appeals of Baltimore County.



Clerk, County Board of Appeals for Baltimore County

This subpoena request is made on behalf of the undersigned attorneys for Gary Brightwell and David E. Gonzales, Inc., Petitioners/Appellees.



Howard L. Alderman, Jr.

LEVIN & GANN, P.A.

Suite 113

305 West Chesapeake Avenue

Towson, Maryland 21204

(410) 321-0600

Attorneys for Petitioners/Appellees

Dated: December 30, 1997

RECEIVED
COUNTY BOARD OF APPEALS

**IN RE: PETITIONS FOR SPECIAL
EXCEPTION AND VARIANCE**

**12400 Glynowings Drive
4th Election District
3rd Councilmanic District
Gary Brightwell and David E. Gonzales, Inc.,
Petitioners/Appellees**

**BEFORE THE
COUNTY BOARD
OF APPEALS
FOR
BALTIMORE COUNTY
Case No.: 97-563-XA**

AFFIDAVIT OF SERVICE

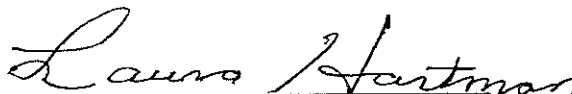
I, Robert D. Porter, hereby certify that:

1. I am over 18 years of age, under no legal disability, and am competent to testify as to the matters and facts set forth herein.
2. On December 30, 1997 at 10:10 a.m., I personally served the Request for Subpoena Duces Tecum in County Board of Appeals Case No. 97-563-XA signed by Charlotte E. Radcliffe, Clerk of the County Board of Appeals for Baltimore County, on Stephen E. Weber by leaving a copy at his office, Department of Public Works - Traffic Engineering and Transportation Planning, at 111 West Chesapeake Avenue, Room 326, Towson, Maryland 21204 with Lisa Wright, his secretary, who was in charge thereof.


Robert D. Porter

**STATE OF MARYLAND
COUNTY OF BALTIMORE**

I HEREBY CERTIFY that on this 30th day of December, 1997, before me the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared Robert D. Porter, who made an oath in due form of law.


Notary Public

My Commission Expires 5-10-99

LAURA HARTMAN
NOTARY PUBLIC STATE OF MARYLAND
Commission Expires May 10, 1999



MICROFILMED



Baltimore County
Department of Permits and
Development Management

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

September 22, 1997

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue, Ste. 113
Towson, MD 21204

RE: Petitions for Special
Exception and Variance
S/S Glynowings Dr., 530'
NW of the c/l Glynlee Court
(12400 Glynowings Drive)
4th Election District
3rd Councilmanic District
Gary Brightwell -
Petitioner
Case No. 97-563-XA

Dear Mr. Alderman:

Please be advised that an appeal of the above-referenced case was filed in this office on September 18, 1997 by J. Carroll Holzer, Esquire on behalf of Glyndon Community Association, Foster Nichols, Jr., and Christian and Mary Profaci. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over a horizontal line.

ARNOLD JABLON
Director

AJ:rye

c: Robert Sellers, Esquire
Mr. Mike Snitzer
People's Counsel

MICROFILMED



Printed with Soybean Ink
on Recycled Paper

APPEAL

Petitions for Special Exception and Variance
S/S Glynwings Drive, 530' NW of the c/l Glynlee Court
(12400 Glynwings Drive)
4th Election District - 3rd Councilmanic District
Gary Brightwell - Petitioner
Case No. 97-563-XA

Petitions for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners, Citizens, and Baltimore County Representatives Sign-In
Sheets

Petitioners' Exhibit: 1 - Plan to Accompany Petition for Special
Exception

Six Letters of Opposition

Letter from Nan Kaestner, President Historic Glyndon, Inc., to Timothy
Kotroco, Deputy Zoning Commissioner

County Council of Baltimore County, MD Legislative Session 1996,
Legislative Day No. 2, Bill No. 21-96

Deputy Zoning Commissioner's Order dated August 22, 1997 (Granted)

Notice of Appeal received on September 18, 1997 from J. Carroll
Holzer, Esquire on behalf of Glyndon Community Association, Foster
Nichols, Jr., and Christian and Mary Profaci

c: J. Carroll Holzer, Esquire, Holzer and Lee, 305 Washington Avenue,
Suite 502, Towson, MD 21204
Howard L. Alderman, Jr., Esquire, Levin & Gann, 305 W. Chesapeake
Avenue, Suite 113, Towson, MD 21204
Mr. Gary Brightwell, 430 Main Street, Reisterstown, MD 21136
Mr. David E. Gonzales, President, David E. Gonzales, Inc., 17
Glenberry Court, Phoenix, MD 21131
Robert Sellers, Esquire, 4125 Worthington Avenue, Reisterstown,
Maryland 21136
Mr. Mike Snitzer, c/o 11022 Reisterstown Rd, Owings Mills, MD 21117
Mr. Foster Nichols, 4708 Butler Road, Glyndon, MD 21071
Ms. Nan Kaestner, President, Historic Glyndon, MD 21071
People's Counsel of Baltimore County, M.S. 2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

MICROFILMED

Case No. 97-563-XA

SE -Commercial recreational facility (indoor soccer) and accessory arcade.
VAR -Located within 100 feet of residential zone line; side and rear yard setbacks.

8/22/97 -Deputy Zoning Commissioner's Order in which Petitions for Special Exception and Variances GRANTED with restrictions.

10/15/97 -Notice of Assignment for hearing scheduled for Thursday, November 6, 1997, at 10:00 a.m. sent to following:

J. Carroll Holzer, Esquire
Christian & Mary Profaci
c/o J. Carroll Holzer
Foster Nichols, Jr.
Glyndon Community Association
Howard L. Alderman, Jr., Esquire
Gary Brightwell
David E. Gonzales, President /David E. Gonzales, Inc.
Robert Sellers, Esquire
Mike Snitzer
Nan Kaestner, President /Historic Glyndon
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

10/22/97 -Letter from C. Holzer /One of his key witnesses is out of the country and will be unavailable for 11/06/97 hearing date; requests postponement.

10/27/97 -T/C from H. Alderman regarding PP request; confirmed his availability on proposed new date of 1/07/98; also received t/c from S. Leese - C. Holzer is clear on that date; will confirm availability of witnesses.

- Advised Sterling that case would be reassigned to January 7, 1998 and notice sent, inasmuch as proposed date was better than two months away and C. Holzer was available at that time.

- Notice of PP and Reassignment sent to parties. Rescheduled to Wednesday, January 7, 1998 at 10:00 a.m.

1/07/98 -Hearing concluded before Board (L.M.B.); memos due from 1/28/98; deliberation to be held on 3/03/98; notice to be sent.

1/09/98 -Notice of Deliberation sent to parties; scheduled for Tuesday, March 3, 1998 at 9:30 a.m.; copy to L.M.B.)

1/28/98 -Appellees' Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of Petitioners.

-Memorandum of Protestants filed by J. Carroll Holzer, Esquire.

3/03/98 -Public deliberation held; Petition for Special Exception /GRANTED; Petition for Variances GRANTED; pursuant to Petitioner's Exhibit #5 and with conditions to be included as part of Board's Order. Appellate period to run from date of written Order and not today's date. (L.M.B.)

MICROFILMED

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: L. Stahl
T. Melvin
H. Buchheister

DATE: January 28, 1998

FROM: Kathi

SUBJECT: Case No. 97-563-XA /David E. Gonzales, et al /Petitioners
(Property Owner /Petitioner formerly Gary Brightwell)

The subject matter is scheduled for deliberation on Tuesday, March 3, 1998, at 9:30 a.m. As requested by the Board at the conclusion of the hearing on January 7, 1998, the following documents were filed by Counsel, copies of which are provided herewith for each panel member's review:

1. Appellees' Post-Hearing Memorandum filed by Howard L. Alderman, Jr., Esquire, on behalf of David E. Gonzales, Inc., et al, Petitioners (former Petitioner /Property Owner /Gary Brightwell).
2. Memorandum of Protestants filed by J. Carroll Holzer, Esquire, on behalf of Foster Nichols, Jr., Christian and Mary Profaci, and the Glyndon Community Association, Protestants.

A copy of the Notice of Deliberation was forwarded to you on January 9th. Should you have any questions regarding the above, or need any additional information, please call me.

kathi

Attachments

MICROFILMED



County Board of Appeals of Baltimore County

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

January 9, 1998

NOTICE OF DELIBERATION

Having concluded the hearing in this matter on January 7, 1998, the Board has scheduled the following date and time for deliberation in the matter of:

GARY BRIGHTWELL -Petitioner
Case No. 97-563-XA

DATE AND TIME : Tuesday, March 3, 1998 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE: CLOSING BRIEFS ARE DUE FROM COUNSEL ON WEDNESDAY, JANUARY 28, 1998 Original and 3 copies)

Kathleen C. Bianco
Administrator

cc: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Christian & Mary Profaci
c/o J. Carroll Holzer
Foster Nichols, Jr.
Glyndon Community Association

Counsel for Petitioners : Howard L. Alderman, Jr., Esq
Petitioner : Gary Brightwell

David E. Gonzales, Inc. : David E. Gonzales, President

Robert Sellers, Esquire
Mike Snitzer
Nan Kaestner, President /Historic Glyndon

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

Copies to: L.M.B.

MICROFILMED



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Gary Brightwell -Petitioner
Case No. 97-563-XA

DATE : March 3, 1998 @ 9:30 a.m.

BOARD /PANEL : Lawrence M. Stahl (LMS)
Harry E. Buchheister, Jr. (HEB)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-563-XA /Gary Brightwell -
Petitioner; Petition for Special Exception and Petition
for Variance.

IN ATTENDANCE: Howard L. Alderman, Jr., Esquire, Counsel for
Petitioners; and J. Carroll Holzer, Esquire,
Counsel for Protestants /Appellants. The Office of
People's Counsel did not participate in these
proceedings.

LMS: Good morning, everybody. We are here, March 3, 1998, in the
matter of Gary Brightwell, Case No. 97-563-XA; we are here for
deliberation. Counsel is here, and as we all know, and
certainly as learned counsel experienced in Board matters
understand, we are here for the three of us to talk. They are
here as our guests and as part of the public -- no comments
and so forth. We will come to our conclusions. Harry?

HEB: It is my impression from the hearing and memos submitted that
the proposed soccer arena is strongly supported by a majority
of the citizens living in the location of the facility;
particularly, the St. George's townhouse community.
Protestants come primarily from Glyndon Community Association
in Historic Glyndon, a community north of the site. Support
for the commercial community recreational facility also came
from R-OM-G Association who indicated need and support for the
proposed use.

The primary opposition by Glyndon Association was alarm over
increased traffic the facility would bring to the narrow rural
roads leading to the facility, roads that have become main
arteries of traffic. Concern for lack of off-street parking,
capacity for parking on the site, to and fro flow and
direction of traffic from the site as games end and others
begin -- Protestants argue this will cause congestion at the
location at Glynowings Drive and feeder roads.

Support expressed through six pages of signatures; Owings
Mills Rec and Parks Counsel addressed support with seven pages
of signatures, and urged support of the decision of the Deputy
Zoning Commissioner. The single-story soccer arena is
designed to provide two soccer fields, an arcade of amusement

MICROFILMED

Gary Brightwell -Petitioner Case No. 97-563-XA
Minutes of Deliberation

machines, snack bar and limited seating for parents during games in area of 35,000 sq. ft. The subject property will operate as a private for profit recreational facility in an M.L.-I.M. zone that is unimproved two-acre site in St. George's Industrial Park.

Two other such facilities in the County are located in M.L.-I.M. zones. Petitioner has requested special exception approval pursuant to 253.2.d.4 of the BCZR recently adopted by the County Council, recognizing such facilities as being compatible uses when the proposed special exception use meets the minimum requirements for a special exception under Section 502.1 of the County regulations.

Counsel for Petitioner asserts that the proposed use meets all requirements and that any adverse effects would be no different at this site than anywhere else in M.L.-I.M. zone district. After study of the area, Mr. Guckert, traffic expert, gave his opinion that the proposed soccer arena would not have an adverse effect on traffic conditions and that road system could accommodate the number of vehicles using the facility.

Mr. Weber of Baltimore County Traffic Engineering Division also testified that the proposed use would not have an adverse impact on Glyndon and surrounding areas. With this broad support, I feel that the Petitioner has introduced substantial evidence satisfying the standards of 502.1.

The special exception relief, in my opinion, should be granted.

However, Protestants argue that the case stands or falls on the approval of variances and that if the variances fail the granting of the special exception for the soccer arena becomes moot. The Petition for Variance seeks relief to permit the soccer arena to be located within 100 feet of a residential zone line with a side yard setback of 42 feet in lieu of 50 feet and a rear yard setback of 35 feet in lieu of 50 feet.

Regulation 307.1 sets forth the legal standards which must be met before any variance can be granted:

Are there special circumstances in existence that are peculiar or unique to the land which is the subject of the variance request? and

Would strict compliance to the regulations result in practical difficulty or unreasonable hardship?

The unimproved site is there. It appears to be basically rectangular, similar to other improved lots in the St.

George's Industrial Park. The owner, Mr. Gonzales, testified that he could build a number of uses on M.L.-I.M. site without variances. There was testimony given that the subject site could be used for one soccer facility rather than two planned without need for any variances.

The site borders a residential zone. A condition that exists in few other locations in the County's M.L. zones. Acknowledged that it is to the economic benefit of the Petitioner to construct two-field soccer facility.

This Board knows that economics has not been a reason for granting a variance under the law. Petitioner argues that the subject site, while appearing to be like other property in the St. George's Industrial Park has existing hardship created by irregular property lines as identified by boundary survey.

Protestants view the site as flat with regular property lines. The testimony of Mr. Little, Petitioner's engineer, described the lot as something of a trapezoid. Petitioner reasons that the uniqueness of the property is caused by the jog and the required variance relief is requested for that area in the existing jog.

Because side lines dip inward, side yard variance relief of 18' is requested on each side. This condition of the land gives the reason to recognize that the land has some peculiarities but the reality of hardship seems debatable. Petitioner had to be aware of the property's use for his planned soccer facility. In order to construct the facility for the commercial purpose he had in mind only to find out that variances would be needed seems to be self-created hardship.

...at this point, I believe I will stop and let the others go forward.

LMS: Harry, you go as far as you need to go, and we'll pick it up from there.

There are issues and there are issues in this as far as I see it. I think if we took a straw poll while trying this case, there were probably not two people where they didn't have something to do with soccer. Recreational outlets for children are needed; not a bad thing. Frankly, it's not as much a matter in my mind as it would be if we were talking about development where something totally different was coming into the area and there was argument of good vs bad thing.

People across the street do not seem upset about it. However, the case does not rise or fall on that.

Gary Brightwell -Petitioner Case No. 97-563-XA
Minutes of Deliberation

Popularity and necessity is really not the issue we are dealing with, but a clear, relatively straight-forward determination to be made. I'll take the easy one first - the special exception. For all the reasons Harry, you set out, let me make one general comment:

Protestants memo makes one salient point -- it's not really a matter of Protestants' testimony but does the Petitioner make his case. I essentially agree with that premise.

Without demeaning Protestants' witnesses, most concerns were traffic and quality of life, but I think counsel was correct in that you were qualified or you do not qualify, and that's the burden of proof issue.

As to the special exception, I agree with you, Harry. The case has been clearly made. There was testimony to requirements under 502.1; all considerations answered. Have no problem with what was said as to "laundry list" under 502.1. Traffic issues are debatable; staggered times is really a good idea. Works from a traffic point of view.

There is twice the number of parking spaces. Interesting comments by Guckert -- worse case scenario where all 105 are filled and emptying in same period of time -- even presuming that, show no overflow or problem with traffic flow. Also, Weber, I believe, said there was enough diffusing roads to deal with it. I'm flatly convinced that the requirements for the special exception have been clearly made. I believe the special exception should be granted. It's certainly allowed within that zone. One comment -- A couple of the protestants redefined M.L.-I.M. to include sliver M.L.-I.M. zones and therefore require different standards. I don't agree the law does that at this point; don't know that it's such a bad idea. One of the problems with zoning is we try broad brush -- broad general rules. I don't believe it's changed anything particularly.

Looking at the variances, I agree that a variance is more problematic. We have to follow Cromwell v. Ward; we have to follow the code; must find it unique. We have a property and, again, protestants' witnesses gave general observations of the property. The only real person who spoke with any authority as to actual shape, size or configuration was Petitioner's expert, Mr. Little.

I found it interesting that this is the only undeveloped lot; whenever something is set apart or treated differently, always look to whether or not there is a reason for that. Same place, accessible by same roads and allowable for same purposes.

The only difference I could ascertain - lot has an anomaly - it's not rectangular. Looking at map of properties in the area, this is an odd shape; not in the universe but compared to other lots in the development, in that business park.

And because its configuration is different, I recognize that it be dealt with in a different way from objective point of view. I found it interesting that counsel for protestants commented about case - we were given a quote from Glyndon Meadows development plan and variance request -- I pulled out the case and read it; Developer had 25 lots and asked for 25 variances for less setback space; so that 25 houses could be that much bigger. That's pushing the envelope and trying to reconfigure development for economic advantage.

I do not believe this is analogous to that situation. Where there was a piece of water blocked property -- number of lots but person with corner lot wanted variance. Ultimately came down to that fact -- all were water front lots; all were rectangular in shape. The only difference - this one had water on both sides and required thing to be reversed in order to put a house on it - did require a variance.

I found this to be an analogous situation to where we are now. Found it unique when compared to other lots. Petitioner wants to compensate for that jog in the back portion; not straight rectangle - slopes in.

With this variance it would be brought into sameness with other lots to be developed in the same way. As we look at Cromwell, uniqueness requires that it have inherent characteristics not shared by other property -- first one is its shape -- I think here we have for whatever reason a shape that was different, not in a tremendous way, but different. Cromwell does not say the uniqueness must be of "X" degree - highest or lowest on a scale of 10. Only that it must be different; have different characteristics one of which is shape. I believe we clearly have a property which was treated differently and is different from other properties being utilized for same purposes -- for only reason that it's different. May be easier to see if it were grossly different. But it's different enough that it affects use of property in relation to other like properties in the area. That difference in its shape that calls upon its different use than other properties in the area make it unique to those properties. That's what Cromwell seems to call it.

HEB: You're suggesting that it is not the use that is being planned for this property that makes it unique; it's the physical natural characteristic.

LMS: ...I'm falling back on the basics.

Gary Brightwell -Petitioner Case No. 97-563-XA
Minutes of Deliberation

HEB: Seems the protestants are also saying that Petitioner should have known in advance that his proposal just won't fit on this lot.

LMS: This is the second half of it. Let's accept for the moment that there is uniqueness. Let's go now to that question that talks about inherent difficulties and whether brought on himself. I don't think the law stands for the proposition that any use is better than use for which you need a variance. I don't think it says that. I don't think you are required to be anything at all so you don't have to ask for a variance.

Someone is simply asking for a variance in order to use the lot as others are being used. The variances we give as a Board are very limited and specific in nature and not far-reaching. Variances are fine-tuning adjustments required by law as being needed to allow proper and appropriate uses when compared to other properties. Very minor and specific variances requested geared to factor that made it unique.

TPM: Characteristics of the land create the need for variance.

HEB: If it were like all other properties in the area, he would not need it.

TPM: Caused by small discrepancy in the land.

LMS: Very limited relief required and requested to accomplish limited purpose. Shows that to a reasonable man, that given the zoning, given the lay of the land, he is being subjected to hardship and practical difficulty for which there is a remedy. Law provides for fine-tuning if necessary because the property is unique; uniqueness characteristic which we have...

TPM: I believe the characteristics of the land caused the need for variance. If it was not for that characteristic of that land different from others in the park, it would not be necessary.

LMS: I would like to address other issues:

Issues of sidewalk, which I think is necessary;

Issues of landscaping - I think the County should be satisfied; notwithstanding the fact that people across the street say it's okay, anyone who builds has responsibility to see that it fits within the community in as less obtrusive way as possible and provide landscape buffering required by the County;

Accessory uses - no problem with snack bar. As practical matter, having been in these facilities, people are with grandchildren, nieces, nephews - there's nothing wrong with children parties, snack bar area; makes business successful. Once you decide it should be there, then you

Gary Brightwell -Petitioner Case No. 97-563-XA
Minutes of Deliberation

set up rules, and so forth;
Machines /Arcade - are a little bit of a different issue.
Argument was that siblings, kids waiting for next session;
requested 20 machines; is a lot of machines.

TPM: I don't know, with the size of that building. It's not like an arcade; there are 50 machines or more in arcade. I don't want to turn this into an arcade, but is 20 the right number; would suggest this be the maximum.

LMS: We can set what we want within that structure. If it's purely an accessory use, possibly would consider 10; could only be an accessory use with 10 machines. In summary so far:

Think the special exception has been amply made case for it; think there is uniqueness; think there is practical difficulty and hardship under the law; therefore I would grant the limited variance requested; would require landscaping approval; would reduce machines to 10; would stagger times for starting.

TPM: I agree with you. I agree with the variance; that was what the protestants argued - it could fall on variance requested; believe we could limit to 10 the number of machines.

LMS: What do you think, Harry?

HEB: I will finish what I was going to say --

I ended by saying that it appeared to be a self-created hardship in the eyes of the protestants. Petitioner's counsel countered this self-created hardship view by saying it was a pre-existing unique circumstance affecting the subject property - conflicts with otherwise applicable restrictions of the zoning regulations.

That resulted in practical difficulty to the Petitioner. Testimony given asserts that tests have been made. Special circumstances exist peculiar to the land; strict compliance would result in practical difficulty or unreasonable hardship. There's no increase in residential density; relief is in the spirit of the zoning regulations.

Section 307 permits granting variance when these conditions or terms exist and have been met. Referencing Cromwell v. Ward, Petitioner argues that the impact of the setback requirements affect the subject property disproportionately as compared to regulation's effect on other lots in the industrial park.

The setback regulations for portions of M.L.-I.M. property within 100 feet of residential zone impact the subject property more severely because of its unique property line

Gary Brightwell -Petitioner Case No. 97-563-XA
Minutes of Deliberation

from the end perimeter, while no other lots have similar property lines or constraints.

Unusual circumstances of side yard relate only to the subject property and have existed since the industrial park was drawn up. Hardship difficulty is not self-created. Property is unique and warrants relief requested and approval of the plan.

LMS: How do you feel about restrictions, staggered times, landscaping?

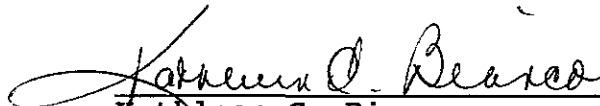
HEB: The Deputy Zoning Commissioner's restrictions should be included: also I am for the reduction in the number of machines - seems fair; also for landscaping aspect - concerns from County agencies should be addressed. And one of those was landscaping.

LMS: Okay. We are therefore unanimous. The Board is unanimous in its determination. The special exception and variance will be granted with limitations on the project as we have discussed. The Board will issue an opinion and order to that effect. The right of appeal will be 30 days from the issuance of the order and opinion and not today's date. That appeal would be appropriately on the record and to the Circuit Court for Baltimore County.

We are adjourned.

* * * * *

Respectfully submitted,



Kathleen C. Bianco
Administrator

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** February 2, 1999
Permits & Development Management

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

SUBJECT: Closed File:
97-563-XA /Gary Brightwell -Petitioner
David Gonzales -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.

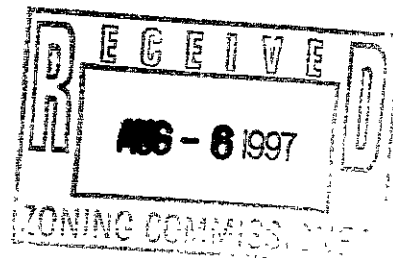
Attachment (Case File No. 97-563-XA)

MICROFILMED

Historic Glyndon Incorporated

Glyndon, Maryland 21071

Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204



Dear Mr. Kortoco,

I am writing to state the view of Historic Glyndon Inc. with regard to Case # 97563XA concerning the request for a special exception to allow a sports facility to be built. Historic Glyndon opposes this proposal for the following reasons:

Preface: Before stating our reasons for opposition, I would like to express our dismay over the fact that we received no notification of the hearing regarding this proposal. I know that notification is not part of your job, however had we been notified we certainly would have presented our views on this case in person to you at the hearing. I realize that you can only rule on testimony from the hearing so I will limit comments to those that reiterate what Glyndon community member Foster Nichols stated at the hearing. He is a vice president of the Glyndon Community Association which also received no notification. After reading the article in the paper the morning of the hearing, Foster was able to leave work and attend the hearing.

Inappropriate Land Use: The proposed site is zoned for manufacturing. Historically areas near railroads were zoned this way to provide for industries relating to the railroad. Although industries relating to the railroad are not needed any more- the zoning designation has remained. The existing warehouses coexist well with the community. They generate low traffic and do not adversely affect the welfare of the surrounding neighborhoods. I do not feel it was the intent of the County Master Plan in allowing this designation to see it have a high traffic, commercial use.

Traffic- Of course in Glyndon our focus is on Central Avenue and Butler Road, however in looking at many of the surrounding streets and obvious routes to this site it is clear that many of these roads are substandard for the added traffic created by this project. Central Avenue and Butler Roads are routes that carry traffic through the heart of Historic Glyndon- a residential neighborhood and the county's 1st Historic District. Although the county at one time had plans for highway extensions, these plans have never been implemented, leaving traffic to adversely affect the community of Glyndon and others. This new facility would only add to the problem.

Substandard Railroad Crossings: As a result of this facility there will be many trips across the railroad tracks at both Bond and Timber Grove. These are both narrow crossings not equipped for high density traffic. Again, in the past the County talked of bridges to relieve the track crossings, however nothing was built out. The railroad crossings then would become more dangerous with increased traffic. Your hearing demands specific formulas for parking but requires absolutely no study of how the traffic will get there to eventually park.

Lastly please consider the welfare of Glyndon, a community of which the County is proud, We struggle to maintain the integrity of our neighborhood amid constantly encroaching development from every direction. This facility would force more traffic through the heart of Glyndon as the obvious route to this proposed facility from the many regions of the county from which this facility will draw.

Please consider our request that you deny this request for a special exception sports facility.

Thank you,

Nan T. Kaestner
Nan Kaestner
President Historic Glyndon, Inc.

MICROFILMED

Kaestner
Historic Glyndon Incorporated
Glyndon, Maryland 21071
Box 3608
Glyndon, Md.
21071

Mr. Timothy Kotroco
Room 405
County Courts Building
401 Boskey Ave.
Towson, Md. 21204

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@counsel.com

October 13, 1997

Kristine A. Howanski, Esquire
Chairman, County Board of Appeals
for Baltimore County
400 Washington Avenue
Room 49
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
97 OCT 15 PM 12:10

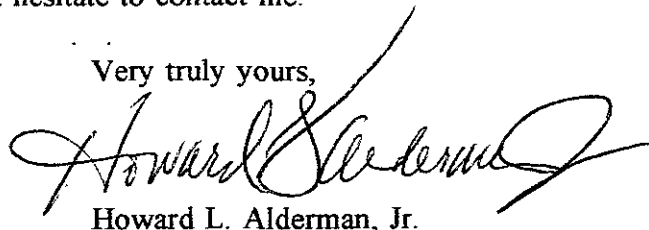
RE: Gary Brightwell, Property Owner
Case No.: 97-563-XA
Request for Expedited Hearing Date

Dear Ms. Howanski:

I had the pleasure of representing Mr. Brightwell, owner of the property at 12400 Glynowings Drive, and David E. Gonzales, Inc., contract purchaser of the Brightwell property at a hearing before the Deputy Zoning Commissioner for Baltimore County. That hearing requested the approvals necessary for the construction of a two court, indoor soccer facility on the subject property.

By letter dated September 22, 1997, Arnold Jablon, Director of the Department of Permits and Development Management has advised me and my clients that an appeal has been noted by J. Carroll Holzer, Esquire on behalf of several clients. The purpose of this letter is to request that the Board schedule this matter for hearing as soon as possible. We understand that the Board's schedule is full, however, this request is made so that our client can proceed expeditiously with its attempts to obtain the approvals necessary to construct an indoor soccer facility in the Owings Mills area. Should you or any member of the Board desire additional information in support of this request, as always, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/lah

cc: Mr. Gary Brightwell
David E. Gonzales, Inc.
J. Carroll Holzer, Esquire

MICROFILMED

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

97-2737
6/10/97
TOL
8
ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@counsel.com

June 10, 1997

VIA HAND DELIVERY

Arnold Jablon, Director
Department of Permits & Development Management
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

RE: 12400 Glynowings Drive
Request for Expedited Hearing

Dear Mr. Jablon:

I have the pleasure of representing the Petitioners with respect to a Petition for Special Exception for the above-referenced property. I am filing this date the Petition which seeks approval of an indoor soccer facility and accessory arcade use in combination therewith.

I am confident that you are aware of the lack of adequate indoor soccer facilities in the Northwest area of the County. In order to meet the demands of teams that are gearing up for the fall season, my clients will need to get underway as soon as possible, assuming a favorable opinion by the Zoning Commissioner. Therefore, we are requesting that the Petition filed this date be considered for an expedited hearing, after the required posting and legal notice.

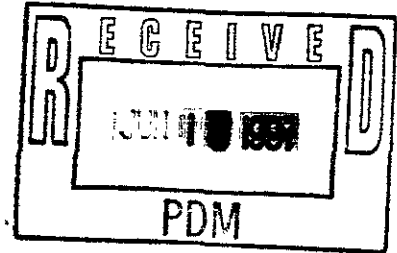
Should you need any additional information in your evaluation of this request, please contact me immediately. Thank you for your consideration of this request.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk

c: Ms. Gwendolyn Stephens, Docket Clerk
Mr. Gary Brightwell
David E. Gonzales, Inc.
Mr. Robert Barrett, Executive Office

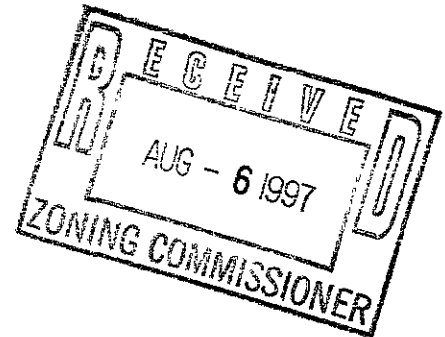


97-563

RECORDED

August 5, 1997

Mr. Timothy M. Kotrocho
County Courts Building, Room 405
401 Bosley Ave.
Towson, Maryland 21204



Dear Mr. Kotrocho,

As a twenty year resident of Glyndon and life long resident of Baltimore County, I was shocked and angered to learn of a proposed indoor athletic facility to be built at the end of Central Ave. in the Historic residential community of Glyndon. I am a parent of two young athletic boys, and for many years I have driven all over the countryside to and from soccer and lacrosse games at every hour of the day, seven days a week. I know how frenzied parents drive trying to arrive at a scheduled game. I know the impact that these facilities can have on our county roads; the volume of traffic, noise, and the danger to pedestrians. I also understand that the county has proposed a multi-purpose athletic complex to be built less than three miles away and that this location would be at the terminus of I-795 on county property well suited for this public use.

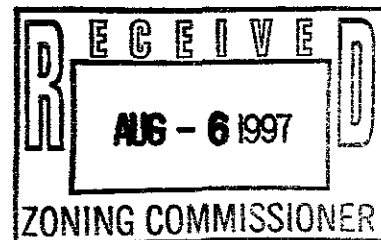
It is my opinion that a facility that would draw large numbers of cars at all hours of the day, every day of the week is not appropriate for a location when the most traveled route would be directly through a small community with stop signs at every corner! The long term effect would be a nightmare not only for the residents of this community but also for the hundreds of parents rushing to a location at the end of a small country road. Please consider this when making a decision on this proposal. A visit out to our 125 year old community would convince you that the athletic complex proposed on property at the end of a super highway with supporting roadways is much more appropriate than one in a small residential community.

Sincerely yours,

Meredith Burch Wells

MICROFILMED

August 04, 1997



Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Kotroco,

I am stating my opposition to case 97563XA- the granting of a special exception sports facility use. I feel that it is an inappropriate land use. The warehouses presently in that manufacturing zone coexist well with the community in that they do not generate high traffic. A commercial facility such as the proposed one does !!!

The traffic generated by the facility would adversely affect the welfare of the Glyndon Community by forcing heavy traffic, seven days a week , down Butler road and Central Avenue- the two main arteries of Historic Glyndon- a residential neighborhood.

The safety of the railroad crossings at both Bond and Timbergrove roads would also be compromised.

Please look ahead and see the traffic that will come to this facility and ask yourself "How will it get there ?" For much of the region the most direct route is right through Glyndon!

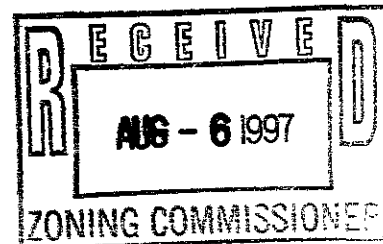
Please deny this request for its inappropriateness, and adverse affect on community welfare.

Thank you,

Uleanor H. Taylor
Box 43
Glyndon, Md.
21071

MICROFILMED

August 04, 1997



Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Kotroco,

I am stating my opposition to case 97563XA- the granting of a special exception sports facility use. I feel that it is an inappropriate land use. The warehouses presently in that manufacturing zone coexist well with the community in that they do not generate high traffic. A commercial facility such as the proposed one does !!!

The traffic generated by the facility would adversely affect the welfare of the Glyndon Community by forcing heavy traffic, seven days a week , down Butler road and Central Avenue- the two main arteries of Historic Glyndon- a **residential neighborhood**.

The safety of the railroad crossings at both Bond and Timbergrove roads would also be compromised.

Please look ahead and see the traffic that will come to this facility and ask yourself "How will it get there ?" For much of the region the most direct route is right through Glyndon!

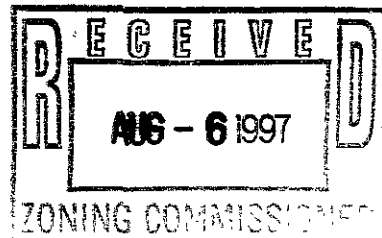
Please deny this request for its inappropriateness, and adverse affect on community welfare.

Thank you,

Tami Daniel
225 Central Avenue
Glyndon, Md. 21071

MICROFILMED

August 04, 1997



Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Kotroco,

I am stating my opposition to case 97563XA- the granting of a special exception sports facility use. I feel that it is an inappropriate land use. The warehouses presently in that manufacturing zone coexist well with the community in that they do not generate high traffic. A commercial facility such as the proposed one does !!!

The traffic generated by the facility would adversely affect the welfare of the Glyndon Community by forcing heavy traffic, seven days a week , down Butler road and Central Avenue- the two main arteries of Historic Glyndon- a residential neighborhood.

The safety of the railroad crossings at both Bond and Timbergrove roads would also be compromised.

Please look ahead and see the traffic that will come to this facility and ask yourself "How will it get there ?" For much of the region the most direct route is right through Glyndon!

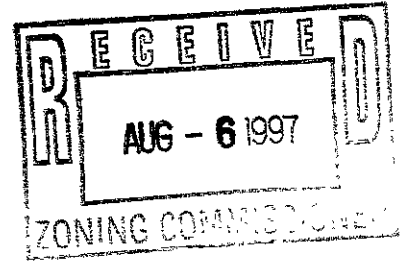
Please deny this request for its inappropriateness, and adverse affect on community welfare.

Thank you,

*Dana R. Hammond
206 Central Ave.
Glyndon, MD 21071*

MICROFILMED

August 04, 1997



Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Kotroco,

I am stating my opposition to case 97563XA- the granting of a special exception sports facility use. I feel that it is an inappropriate land use. The warehouses presently in that manufacturing zone coexist well with the community in that they do not generate high traffic. A commercial facility such as the proposed one does !!!

The traffic generated by the facility would adversely affect the welfare of the Glyndon Community by forcing heavy traffic, seven days a week , down Butler road and Central Avenue- the two main arteries of Historic Glyndon- a residential neighborhood.

The safety of the railroad crossings at both Bond and Timbergrove roads would also be compromised.

Please look ahead and see the traffic that will come to this facility and ask yourself "How will it get there ?" For much of the region the most direct route is right through Glyndon!

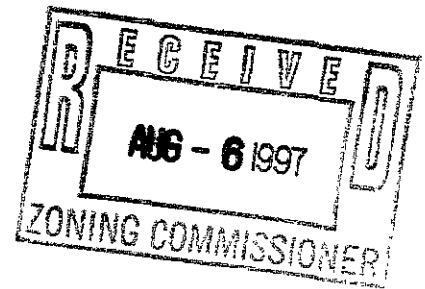
Please deny this request for its inappropriateness, and adverse affect on community welfare.

Thank you,

Anna Welsh
4601 Prospect Avenue
Glyndon, Md.
21071

MICROFILMED

August 04, 1997



Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204

Dear Mr. Kotroco,

I am stating my opposition to case 97563XA- the granting of a special exception sports facility use. I feel that it is an inappropriate land use. The warehouses presently in that manufacturing zone coexist well with the community in that they do not generate high traffic. A commercial facility such as the proposed one does !!!

The traffic generated by the facility would adversely affect the welfare of the Glyndon Community by forcing heavy traffic, seven days a week, down Butler road and Central Avenue- the two main arteries of Historic Glyndon- a residential neighborhood.

The safety of the railroad crossings at both Bond and Timbergrove roads would also be compromised.

Please look ahead and see the traffic that will come to this facility and ask yourself "How will it get there ?" For much of the region the most direct route is right through Glyndon!

Please deny this request for its inappropriateness, and adverse affect on community welfare.

Thank you,

Martha J. Healy
Box 43 (222 Central Ave.)
Glyndon, Md. 21071

MICROFILMED

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

CLIFF Perlow
DAVID E GONZALES
LARRY WINNER
Marie Wilner
Dwight Little
Howard L. Alderman Jr Esq
Marty Lyons

9 Dorset Hill Ct Owings Mills 21117
17 GLENBERRY CT. PHOENIX MD 21134
3905 ESGARTHWAY OWINGS MILLS MD 21117
3905 Esqarth Way Owings Mills MD 21117
W. Duvall & Assoc.
530 E. Joppa Rd. Towson 21286
305 W. Chesapeake Ave #43
Towson MD 21204
10 Barnstable Ct. Owings Mills 21117



Printed with Soybean Ink
on Recycled Paper

MICROFILMED

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

Robert Sellers

4125 Worthington Ave
Reisterstown 21136

Gary Brightwell

430 Main St. Reisterstown

21136 MD

Mike Snitzer

Pineville Reca Mills Canal
c/o 11022 Reisterstown Rd 21117

Michael Feingersh

12128 Velvet Hill Dr.

Owings Mills, MD 21117

[The Velvet Hill Community on Bonita Ave and
Owings Mills Blvd is very much in favor of this facility]

Steve Rosen

3722 Birchmore Ct Owings
Mills, MD 21117

Foster Nichols

4708 Butler Road
Glyndon, MD 21071

* Stephanie Kalinich / Owings Mills Times
please send copy of order - thanks!

409 Washington Ave / 21204

MICROFILMED

PLEASE PRINT CLEARLY

BALTIMORE COUNTY REPRESENTATIVES
SIGN-IN SHEET

NAME

CAREN SHILLMAN

ADDRESS

COUNCILMAN MCINTIRE

MICROFILMED

File No. E-12828-97
12400 Glynowings Drive

RECORD AND RETURN TO:
EXECUTIVE TITLE GROUP, LTD.
2 Reservoir Circle, #202
Baltimore, Maryland 21208
410-653-7150

Pet. E.L. #1

THIS DEED Made this 10th day of November, 1997, by and between GARY M. BRIGHTWELL, of Baltimore County, State of Maryland, Grantor and party of the first part, and DAVID E. GONZALES and FRANCINE GONZALES, his wife, Grantees and parties of the second part.

WITNESSETH, That in consideration of the sum of THREE HUNDRED FIFTY THOUSAND DOLLARS AND 00/100 (\$350,000.00), the actual consideration paid or to be paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said party of the first part does grant and convey to the said parties of the second part, their personal representatives and assigns, in fee simple, all that lot of ground situate in the Fourth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 2 on a plat entitled "Resubdivision of St. George's Industrial park" Section One and recorded among the Land Records of Baltimore County on August 31, 1984 in Liber EHK, Jr. 51, folio 130. Also being known as 12400 Glynowings Drive.

Containing 2.0 acres, more or less.

BEING the same lot ground and premises which by Deed dated December 10, 1990 and recorded among the Land Records of Baltimore County in Liber S.M. No. 8671, folio 489, was granted and conveyed by Phoenix Limited Partnership, a Maryland Limited Partnership, unto Gary M. Brightwell, the within named Grantor.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described land and premises to the said parties of the second part, their personal representatives and assigns, in fee simple.

AND the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will

MICROFILMED

0012518 505

warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said Grantor.

Witness:

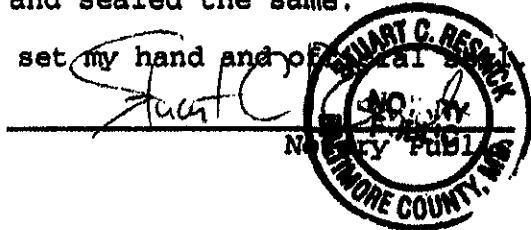
Stuart C. Resnick

Gary M. Brightwell (SEAL)
Gary M. Brightwell

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 10 day of November, 1997, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Gary M. Brightwell, Grantor, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and of



My Commission Expires:

June 1, 1998

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Stuart C. Resnick
Stuart C. Resnick, Attorney

deed.glyn(wr15)

EXECUTIVE TITLE GROUP, LTD.
2 RESERVATION CIRCLE, #202
BALTIMORE, MD. 21208
E-12828-97 / SCR

0012518 506

066095 NOV 21 1997

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: BALTIMORE

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

(☐ Check Box If Addendum Intake Form is Attached.)

1	Type(s) of Instruments	☒ Deed	☒ Mortgage	Other	Other
2	Conveyance Type Check Box	☒ Improved Sale	☐ Unimproved Sale	☒ Release of Mortgage	☐ Multiple Accounts
		Arms-Length [1]	Arms-Length [2]	Arms-Length [3]	Length Sale [9]

3	Tax Exemptions (If Applicable)	Recordation
		State Transfer
	Cite or Explain Authority	County Transfer

4	Consideration and Tax Calculations	Consideration Amount
		Purchase Price/Consideration \$ 350,000.00
		Any New Mortgage \$ 150,000.00
		Balance of Existing Mortgage \$
		Other: \$
		Other: \$
		Full Cash Value \$

5	Fees	Finance Office Use Only
		Transfer and Recordation Tax Consideration
		Transfer Tax Consideration \$ 350,000.00
		X (1.5) % = \$ 5,250.00
		Less Exemption Amount \$
		Total Transfer Tax \$ 5,250.00
		Recordation Tax Consideration \$
		X () per \$500 = \$
		TOTAL DUE \$
		Agent: <u>JB</u>
		Tax Bill: <u>14943.94</u>
		C.B. Credit: <u>—</u>
		Ag. Tax/Other: <u>—</u>

6	Description of Property	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	04	20-00-000933	8671/130			(5)
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR(3c)	SqFt/Acreage (4)
		St. George's Industrial Park		2			51/130
		Location/Address of Property Being Conveyed (2)					
		12400 Glynwings Drive					
		Other Property Identifiers (if applicable)					Water Meter Account No.
		Residential ☒ or Non-Residential ☐ Fee Simple ☒ or Ground Rent ☐ Amount:					
		Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred:					

7	Transferred From	Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
		Larry E. Knight	Gary M. Brightwell
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)
8	Transferred To	Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
		Phoenix Limited Partnership	David E. Gonzalez & Francine Gonzalez, his wife
		New Owner's (Grantee) Mailing Address	
		17 Glenberry Court, Phoenix, Maryland 21131	
		Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

9	Other Names to Be Indexed	
10	Contact/Mail Information	Instrument Submitted By or Contact Person
		Name: Stuart C. Resnick
		Firm: Executive Title Group, Ltd.
		Address: 2 Reservoir Circle, #202
		Balto., Md. 21208 Phone: (410) 653-7150
		☒ Return to Contact Person
		☐ Hold for Pickup
		☐ Return Address Provided

11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER
	Assessment Information
	Yes ☒ No Will the property being conveyed be the grantee's principal residence?
	Yes ☒ No Does transfer include personal property? If yes, identify:
	Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line									
Terminal Verification		Agricultural Verification		Whole		Part		Trans. Process Verification	
Assessment Number:	19	Date Received:	19	Geo.	Map	Sub.	Block	Plat	Lot
Land		Use		Zone	Grid	Section		Ex. Cd.	
Town Cd.		Ex. St.							

PAID RECEIPT	
White - Clerk's Office	
Clerk - SDAT	
Pink - Office of Finance	
Goldenrod - Preparer	
AOC-OC-300 (6/93)	

DP FD SURE \$ 5.00
RECORDING FEE 20.00
RECORDATION T 1,750.00
TR. TAX STATE 1,750.00
TOTAL 3,525.00
Regd BA02 Rct: \$ 26514
SM LL Blk # 2320
Nov 26, 1997 10:15 am

5,250.00 CHECK
COUNTY, MARYLAND

7/10

1

RECEIVED
11/22/1997
15:17:14
TIME

RECEIVED
11/22/1997
15:17:14
TIME

STATE OF MARYLAND, BALTIMORE COUNTY, TO WITH

I HEREBY CERTIFY that the foregoing is a true copy of the original
DEED taken from the records of said Circuit Court as
recorded in Liber SM No. 12518
Title 504-506 one of the LAND
records of Baltimore County.

IN TESTIMONY WHEREOF I hereto set my hand
and affix the seal of the Circuit Court for
Baltimore County
this 5TH day of JAN 19 98

Raymond C. [Signature]

Clark of the Circuit Court of Baltimore County

Board Exh #1

REISTERSTOWN - OWINGS MILLS - GLYNDON COORDINATING COUNCIL, INC.

The undersigned hereby acknowledge and attest that on November 3, 1997 the members of Reisterstown - Owings Mills - Glyndon Coordinating Council, Inc., a Maryland corporation ("ROG") in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: If the soccer facility is to be built, ROG strongly supports the staggering of the game times which was included in the Zoning Commissioner's Opinion; wants to ensure more than adequate parking and pedestrian access via sidewalks.

AND FURTHER RESOLVED: That the Board empowers and instructs Robert D. Sellers, as the chair of its Zoning Review Committee, to represent ROG at a hearing before the Board of Appeals of Baltimore County in the case known as 97-563-XA and delegates Mr. Sellers to appear at that hearing for ROG and make known to the Board the position of ROG in this matter and further, empowers Mr. Sellers to participate in the hearing by testimony and/or argument on any issue which may arise.

AS WITNESS OUR HANDS THIS 5th day of ^{JANUARY} ~~November~~, 1997 ⁸.

ATTEST:

The Reisterstown- Owing Mills- Glyndon
Coordinating Council, Inc.

Sue Kessler
Sue Kessler, Secretary

BY: George Harmon
George Harmon, President



Pet Exh #2

December 10, 1997

T. Bryan McIntire
Courthouse 2nd Floor
400 Washington Avenue
Towson, Maryland 21204

RE: Owings Mills Soccer Facility

Dear Mr. McIntire:

The Board of Directors of St. George's Station Road Townhouse Association, located off of Glynwings Drive, near the proposed indoor soccer facility are in favor of this facility being built.

We feel that there are not enough recreational facilities in the area. Our young people need the opportunity to be able to participate in athletics during the winter and cold weather months without having to travel 20-30 minutes.

We have heard that other neighborhoods in the area are opposed to this facility, due to increase in the amount of traffic in the area. However, we are not overly concerned about this issue. We are aware that this property is zoned for many different types of businesses and realize that someone will eventually buy this property. We would welcome this facility and the opportunities that will be offered to the community.

Please think about the children in the area and their recreational needs and allow this facility to be built.

Very Truly yours,

Mitchell Brody, Acting President
Suzanne McFalls, Treasurer
Lynn Frost, Secretary
John DiNatale, Member at Large

[Handwritten signatures: Mitchell Brody, Suzanne McFalls, Lynn Frost, John DiNatale]

cc: Howard Alderman
Mr. David Gonzales

MICROFILMED

Pet. Exh #3

JAN - 2

December 20, 1997

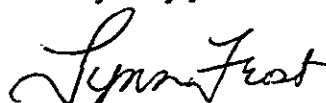
T. Bryan McIntire
Courthouse 2nd Floor
400 Washington Avenue
Towson, Maryland 21204

RE: Owings Mills Soccer Facility

Dear Mr. McIntire:

Enclosed is a petition of parents of many children who participate in various fall soccer programs in the area. I was surprised to find out that many of them were not aware of this proposed facility. Once they were informed of the plans they were very much in favor of the facility being built.

Very truly yours,


Lynn Frost

cc: Howard Alderman
David Gonzales

MAILED

PETITION IN FAVOR OF
INDOOR SOCCER FACILITY
ON ELYNINGS DRIVE.

DATE	PRINT NAME	ADDRESS	SIGNATURE
11/10/97	Howard Jeffrey Grove	19003 Haverhill Rd	H. Jeffrey Grove
11/10/97	MARK OWENS	2300 Croston Rd	Mark Owens
11/10/97	DAISY A GROVE	13927 Haverhill Rd	Daisy A Grove
	Karen Levin	3642 Eltham Way	Karen Levin
	Joan Brown	12318 Timberbrook Pl.	Joan Brown
11-10-97	Itamar Wulfer	4204 Adrienne Way	Itamar Wulfer
11-10-97	Patricia Helms	17 Adrienne Ct.	Patricia Helms
11-10-97	Glen Helms	17 Adrienne Ct.	Glen Helms
11-10-97	Valerie Grove	113 2nd Ave	Valerie Grove
	Sharon Page	314 Bryant St	Sharon Page
11-10-97	Mark Glass	206 Greenwood Ave	Mark Glass
11-10-97	Karen Grove	12262 Bonmot Pl	Karen Grove
11-10-97	CHARLOTTE GLASS	14003 Haverhill Rd	Charlotte Glass
11-10-97	FRANCISCO RICHARD	12262 BONMOT PL.	Francisco Richard
11/10/97	FRISCO BLIGIN	6 Barn Gate	Frisko Bligin
11/10/97	Alfred Bligin	220 DELIGHT MEADOWS RD 21136	Alfred Bligin
11/10/97	Steve Morris	106 Thedale 21136	Steve Morris
11/10/97	George Muszelik	100 Farn Ave 21136	George Muszelik
11/10/97	George Muszelik	1805 Billy Barton Cir 21136	George Muszelik
11/10/97	Hypolame Muszelik	112 Glyndon Dr 21136	Hypolame Muszelik
11/10/97	Rita K Denson	1805 Billy Barton 21136	Rita K Denson
11/10/97	Bill Schwartz	32 Spire Milla 21133	Bill Schwartz
11/10/97	Richard Morris	214 Bond Ave	Richard Morris

STUART SAPIENSTEIN 22 HARMO G
TAD PULA 2318 VELVET RIDGE DR 2117

MIKE RIEDER 103 BRUNK ROAD REISTERSTOWN MD 2136

W. C. G. 11-10-97

David Ross 12132 Velvet Hill Dr.

WALTER J. RUFF 3RD 214 ALHAMBRA RD.

RANDOLPH HAINES 141 WESTMINSTER RD

Chris Olson 15805 Honor Pike Upperco (Chris Olson)

Garry Slattick 9 Square Ct Reisterstown

Patrick Wheeler 609 St. George's Station

Nancy Miller 3 Richards Green Ct

Marilyn Galtstein 12 Franklin Valley Marilyn Galtstein

9 Richards Green 2117
3 Richards Green 2117

Chuck Snee 305 Tan Greenway Reisterstown 21136

Robert Uckman 3802 Timberline Way Reisterstown MD 21136

Nikki Holbrook 3802 Timberline Way Reisterstown 21136

Mr. Timothy Ray 410 Main St. Reist. Md. 21136

Pale Roth 330 Kendigs Mill Rd Owings Mills Md 21117

Aue Winters 11919 Tanayn Reisterstown 21136

Albert E. Long 5236 M. G. Rd Reisterstown 21136

James May 3712 TIMBER VIEW WAY REISTERSTOWN MD 21136

David Wheeler 2 Beelinger Ct Reist MD 21136

Mr. and Mrs. Robert Stumason 12613 Timbly Grove Rd Reisterstown Md 21136

GORDON BENGEL 612 WOOD Glen Ct Timonium Md 21083

William Reedy 3201 GLOUCESTER DR FAIRFAX MD 21047

Keith Rayner 2837 Scarft Rd Fallston Md 21047

Jim Murray 328 High Knob Ln Reisterstown 21136

Howard Cohen 1 Brookshire Dr Reist 21136

Gary Risch 21 High Side Ct 21136

DAVID A. BROWN 2 GLEN GARDN 21136

ALAN SILVER 6 MERINO CT

Maura Weinberg - 14 Lane Ct. Reisterstown, Md 21136
 Anne Haddad 12201 Long Lake Dr. Owings Mills 21117
 Karen Kohn, 312 Elynden Dr. Seaside Md 21136
 Chris Wheeler 429 Sacred Heart Ave Reisterstown, Md 21138
 Karen Esler 808 Shopp Ct Hanover, Md 21074
 [Signature] McElh 12213 Longhollow Dr MD 21117 (410) 561-1377
 Mary J. [Signature] 5503 Waywood Dr. Reisterstown Md 21136 (410) 429-1111
 [Signature] 7 Village Park Ct Reisterstown 410 823-6200
 Mary McDonald 215 Chatter Drive Reisterstown 410-526-5704
 Bill Hight 82 Ritters Ln. Owings Mills MD 410-322-5761
 Erik Smith 15821 Tandy Rd. Upperco, MD 410-239-0344
 Ken [Signature] 1017 Oak Valley Dr. Sykesville Md 410-791-1300
 David [Signature] 120 Sunningdale Cir. Pikesville MD 21136
 [Signature] 3509 Sunking Ct Reisterstown MD 21138 410-237-5000
 Helen Caldwell 915 Cindy Ln. Westminster
 [Signature] NOWATY, 12211 LONG LAKE DRIVE, OWINGS MILLS, 21117 410 322 4879
 Barry L. Hedden 9810 Bridle Brook Dr. MD 21117 410-581-9561
 Debbie Bruzes 1117 Jeffers Ct. West [Signature] (410) 876-9440
 Judy Burke 1349 Emory Church Rd Upperco (410) 251-4714
 Bob Gutierrez 4407 Wyndford Dr. Owings Mills MD 21117 410 561-9401
 Kathy Cathcart 220 Bradley Hill Dr. Reisterstown MD 21136 410 833-3232
 Ann Wheeler 6 Carmelite Ct. ' ' 410 833-7339
 Robin Thrift 502 Deacon Brook Cir 410 526-6342
 Nan Kane 307 Cherry Chapel Rd 410-526-7833
 Hope Scannell 13 Campitelli Ct. Reisterstown 21136 410-517-2207
 Sandy + Tony Pagnotto 9211 Harvest Rush 21117 410-356-1102
 Debbie + Guy G.P. 223 Greenvue Ave 21136 410-833-6543
 Kathie Scott Reich 2101 Merose Ave 21163 410-965-1705
 Robin + Jamie Dalaney 2063 Misty Meadows Rd. Finksburg 21048 410 810-7580
 [Signature] + Bob [Signature] 409 Deacon, [Signature] Reisterstown 410 333-9666
 Gary L. Davis 18828 Foxchase Ct. Finksburg MD 21120 410-922-1301
 Dave Wisniewski 3824 Gravelton Rd. Manchester, MD 410-237-8301

PETITION IN FAVOR OF INDOOR SOCCER FACILITY ON GLYNOWINGS DRIVE

DATE	NAME	ADDRESS
11/18/97	Linda Riley	1 Squire Ct 21136
11/18/97	RON GREEN	1 IVY BRIDGE CT 21136.
11/18/97	Mary Kemp	10020 Dolfield Rd 21117
11/18/97	Lee Harrison	12620 Mt. Laurel Ct. 21136
11/18/97	Joe Pearce	12732 Gores Mill Rd 21136
11/18/97	George Tague	1802 FAWN WAY 21048
11/18/97	Timothy R Pearce	12732 GORES MILL RD 21136
11/18/97	Carol A. Campbell	12020 GORES Mill Rd 21136
11/18/97	August Krueger	3409 Esther Bl. 21224
11/18/97	Steve Campbell	9000 CREEK CT 21117
11/22/97	Jim McCarriick	1417 Francke Ave Lutherville
11/28/97	Dee Gaster	3904 Thoroughbred
11/22/97	W. Hill	42 LOCKLEVEN DR.
11/22/97	Annette Kassa	494 Erin Gorth 21146
11/22/97	Derek Dell	1906 Ridgewood Rd Hanover
11/22/97	Harri Wambel	1 Bon Bon Ct Reisterstown
11/22/97	Dr. E. Chisler	316 Fenwood Dr. Sparrows Point
11/22/97	John Selan	308 Delight Meadows Park 21136
11/22/97	Barry Lynn	26 Old Creek Ct 21117
11/22/97	Kimberly [Signature]	[Signature] 21140
11/23/97	Margiet Beppner	322 Estate Rd 21136
11/24/97	Joe Riley	12353 Dancrest Dr 21136

PETITION IN FAVOR OF THE INDOOR
SOCCER FACILITY ON GLYNNING DRIVE

DATE	NAME	ADDRESS	SIGNATURE
11/13	ALAN Schuman	29 Franklin Valley C.	[Signature]
"	Albert Kanksky	12127 Velvet Hill Dr.	[Signature]
"	Mark Ellison	11 Harrod Ct.	[Signature]
11/13	Charles Miller	11416 Reist Rd.	[Signature]
11/14	Charles Weinstein	10 Squire Ct.	[Signature]
11/14	Terry Chessler	33 Bellinger Ct.	[Signature]
11/14	Gale Kerston	200 Gentlebrook Rd	[Signature]
11/14	Patricia Stewart	5 Trout Brook Circle	[Signature]
11/14	Alan A. Sebel	14 Redmile Ct	[Signature]
11-14	Jim [unclear]	13040 Tarragon Rd	Ina Quarter
11-14	MORTON MILLER	4400 S. WOODBROOK LA 4-103 21117	[Signature]
11-14	Karen Grove	14003 Hanover Road	Karen Grove
11/14	Maria Goldman	30 Harrod Ct.	Maria R. Goldman
11/13	Brian Musee	9018 Bruce Rd	[Signature]
11/13	Ilene Carroll	109 Church Rd 21117	Ilene Carroll
11/13	Kathleen P. Pratt	4330 Butler Rd. 21017	Kathleen Pratt
11/13	Jean Stark	2 Nob Hill Park Dr. 21136	Jean Stark
11/13	MARGARET HEIN	105 THORNDEN CT 21136	[Signature]
11/13	Joyce Prince	9824 Biddlebrook Dr 21117	[Signature]
11/13	Jared Abay	9824 Biddlebrook Dr 21117	Jared Abay
11/13	KEIS Brown	5 Rider Mill Ct 21137	KEIS Brown
11/13	Barbara Anderson	3766 Fieldstone Rd. 21133	Barbara Anderson
11/13	Arlene Ellison	11 Harrod Ct 21136	Arlene Ellison
11/13	Cynthia Runker	308 Janet Rd 21136	Cynthia Runker

<u>Date</u>	<u>Name</u>	<u>Address</u>	<u>Signature</u>
11/13/97	Jim Koehler	312 Janet Road	Jim P. Koehler
11/22/97	Arthur Atencio	200 Tollgate Rd.	Arthur Atencio
11/22/97	Elen Davres	329 Lantana Dr	Elen Davres
11/22/97	Missy Fanshaw	1 Cherry Tree	Missy Fanshaw
11/22/97	Glenn M. O'Leary	46 Meigs Ct	Glenn M. O'Leary
11/22/97	Stephen E. King	50 Meigs Ct	Stephen E. King
12/14/97	Jay Socia B. Ashby	643 St. George	Jay Socia B. Ashby
12/14/97	Stephen Mistler	649 St. George	Stephen Mistler

PETITION

Pet. Sub #4

TO: BALTIMORE COUNTY BOARD OF APPEALS
OLD COURT HOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

RE: CASE No: 97-563-XA
12400 GLYNOWINGS DRIVE
INDOOR SOCCER FACILITY

We, the parents of children who regularly utilize the facilities provided to us by the Owings Mills Recreation and Parks Council, are submitting this petition in support of the proposed indoor soccer facility to be located at 12400 Glynowings Drive. We are strongly urging the Baltimore County Board of Appeals to uphold the decision rendered by Mr. Timothy Kotroco, the Deputy Zoning Commissioner, on August 22, 1997 granting approval of the special exception and variance requested by the property owner for the land's use as an indoor soccer facility.

MICROFILMED

Case No: 97-563-XA
12400 Glynowings Drive
Indoor Soccer Facility

Name: Neil Miller

Address: 8 Oak Hill Ct
Owings Mills, MD

Name: Barbara B Demichiech

Address: 8 Oak Hill Court
Owings Mills, MD 21117

Name: Steve L. Gotherf

Address: 43 Lestimore Way
Owings Mills MD 21117

Name: Steve Albert

Address: 3709 BIRCHMERE CT
OWINGS MILLS MD 21117

Name: Robert H. Puz

Address: 5 Red Maple Ct
Owings Mills MD 21117

Name: L. M. H.

Address: 10938 BASKERVILLE RD.
REISTERSTOWN, MD. 21136

Name: DAVID POSNE

Address: 3751 Spring Lake Lane
Owings Mills Md 21117

Name: Bill Friedman

Address: 1331 Kingsbury Rd
Owings Mills 21117

Name: Steve Neune

Address: 6 Oak Hill Ct
Owings Mills MD 21117

Name: Ker Coles

Address: 4 Indian Pkwy Ct
Owings - Mills

Name: Robin Gold

Address: 4 Indian Pkwy Ct
Owings Mills, MD 21117

Name: Nena B Becker

Address: 3107 Hardy Tweens Dr
OW MD 21117

Name: [Signature]

Address: 11 STABLEMERE CT
21209

Name: Sam L. Amy

Address: 333 Bryanstone Rd
Reisterstown, MD 21136

Name: Joyce Gregory

Address: 333 Bryanstone Rd
Reisterstown 21136

Name: Patricia Rodding

Address: 160 Wilgate Rd
Owings Mills, MD 21117

Case No: 97-563-XA
12400 Glynowings Drive
Indoor Soccer Facility

Name: David R. Redding
Address: 136 Welgate Road
Owings Mills, MD 21117

Name: GREGORY Hill
Address: 107 HAMMERSHIRE RD
OWINGS MILLS, MD

Name: Pamela Hill
Address: 707 Hammershire RD
OWINGS MILLS, MD

Name: TIM HENTER
Address: 1015 KINGS BURY RD
REIST, MD 21136

Name: Sheri Smith
Address: 1013 Dunholme Rd
Reist, MD 21136

Name: Ben Schuman
Address: 19 Beedman Court
Owings Mills, MD 21117

Name: Jay A. Joffe
Address: 2711 Honeywood
Ow Mills 21117

Name: Steve Beck
Address: 11 Hantef Dr.
Owings Mills, MD 21117

Name: L. F. Smart
Address: 345 Kearney Dr. O. Mills
L. F. Smart 21117

Name: Lygia
Address: 9411 Hannah's Mill Rd
Owings Mills, MD 21117

Name: Mary Holman
Address: 14 Oak Hill Ct
Owings Mills, MD 21117

Name: Kendrick
Address: 3747 Ashby Way
Owings Mills, MD 21117

Name: Nancy Harok
Address: 3747 Ashby Way
Owings Mills, MD 21117

Name: Charles W. Mead
Address: 3 Flemington Ct
Owings Mills, MD 21117

Name: Vendy Meador
Address: Owings Mills

Name: Pam Evans
Address: 11 Blacksmith Ct
21136

Case No: 97-563-XA
12400 Glynowings Drive
Indoor Soccer Facility

Name: Vonne Fishbein
Address: 602 Academy Ave
21117

Name: Sonath J. Khan
Address: 18 Blandville Ct
Ow Mills 21117

Name: Tim Cellet
Address: 31 R. Hershman
Owings Mills

Name: Susan Seney
Address: 18 Dorset Hill
Owings Mills MD

Name: Scott Yinger
Address: 3701 Wine Road
Westminster, MD

Name: Pam Exler
Address: 3720 Ashley Way
Owings Mills, Md.

Name: Ed Rose
Address: 3722 Buckman Ct
Owings Mills, MD 21117

Name: Eileen Yaffe
Address: 3229 Hunting Tower Dr
Owings Mills MD
21117

Name: Bob & Kelley Zerk
Address: 17 High Side G
21117

Name: Tim Sipes
Address: 4 Fairbridge Ct
Owings Mills, Md. 21117

Name: Susan Sipes
Address: 4 Fairbridge Ct
O.M. 21117

Name: Ray Hahn
Address: 10800 Stang Rd
O.M. 21117

Name: Margaret P. Clugan
Address: 16 Cornbury Ct
O.M. 21117

Name: NELS LEAVEY
Address: 3739 Ashley Way
O.M. 21117

Name: MIKE LARGE
Address: 61 Strawberry Rd
Owings Mills Md 21117

Name: _____
Address: _____

Case No: 97-563-XA
12400 Glynwings Drive
Indoor Soccer Facility

Name: Alan Hen
Address: 9 Pinewood Farm Ct
Owings Mills 21117

Name: Jill Mopsky
Address: 24 Birch Bark Ct
Owings Mills, Md 21117

Name: Tom Ames
Address: 13 BIRCH BARK CT
OWINGS MILLS

Name: David Lerbowitz
Address: 6 Ashgrove Way
Reisterstown, MD 21136

Name: Susan Hitzman
Address: 14 Oak Hill Ct
Owings Mills, md 21117

Name: Ann Davis
Address: 8 Allspice Ct.
Owings Mills, Md 21117

Name: Vickie Keller
Address: 12 Garrison Ridge Ct.
Owings Mills MD 21117

Name: Sharon Snyder
Address: 19 Goldenbloss Ct.
Owings Mills, Md
21117

Name: Cathy Mitkema
Address: 4 Brimwood Rd
Owings Mills, MD 21117

Name: Barbara L. Tapper
Address: 226 Rotterslea Ct
Owings Mills, md 21117

Name: Jill Tapper
Address: 226 Rotterslea Ct
Owings Mills, md 21117

Name: Pedro C. Alvarez
Address: 24 Ridgeway Rd.
Reister. MD. 21136

Name: Andrea Spelling
Address: 30 Laticree Way
Owings Mills, Md - 21117

Name: BARRY KAMON (KAMEN)
Address: 5 Poplar Ct
OWINGS MILLS, MD. 21117

Name: Herb Wolfson
Address: 100 North Coast
OM, Md 21115

Name: Linda Barber
Address: 413 Flint Hill Dr.
Owings Mills 21117

Case No: 97-563-XA
12400 Glynowings Drive
Indoor Soccer Facility

Name: Samuel Reese
Address: 12 White Willow Ct
Dwight Mills, Md 21117

Name: Bruce Barton
Address: 4313 FLINT HILL DR
DWINGS MILLS, MD 21117

Name: Thomas Humphrey
Address: 501 maude ave.
Baltimore M.D.

Name: Beverly Humphrey
Address: 3536 sq. 6.1 rd.
Randallstown MD

Name: Cliff Paulsen
Address: 9 Dorset Hill Ct
Dwings Mills Md 21117

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Petition For Support of The Owings Mills Indoor Sports Complex, located on Glynnowing Dr. in Reisterstown Md.

The Facility includes Two Indoor Soccer/Lacrosse Fields, Party Room, Concessions + Limited Arcade Use.

The Following is A list of Supporters

	Name	Address	Phone #
1	Montgomery	10 Barnstable Ct	356-5831
2	J.R.	21 BORRIS CT 21117	581-9595
3	Sid McPhee	24 Bird Bank Ct. 21117	363-0209
4	Joan Hoffman	14 Oak Hill Ct 21117	363-1588
5	Carne Goodman	7511 Labyrinth Rd. 21208	484-7736
6	Bryan Goodman	7511 Labyrinth Rd 21208	484-7736
7	Northcutt	28 Aston Ct 21117	363-2120
8	Joe H. Marcus	3413 Nancy Ellen Way 21117	654-0077
9	Helen G. Marcus	3413 Nancy Ellen Way 21117	654-0077
10	Cindy Kleiman	11 Romney Ct Owings Mills	363-0541 21117
11	Steve Fabian	39 BEECHAM COURT Owings Mills	902 1319
12	DAVID S. OSTROW	11419 CROWD FORD Owings Mills	654-0604
13	Adriana Lanes	12366 Boncrest Dr. Reisterstown	410 833-1820
14	Marlene Miller	7 Walk Ave Owings Mills	410-356-5815
15	Marilynn Gordon	1013 Kingsbury Rd Reist	410-526-5106
16	Mark Stewart	1013 Kingsbury Rd Reist	410-526-5106
17	Jerel Brager	26 Oak Hill Ct. OM	410-356-6838
18	Steve Leplan	316 Wembley Rd.	410-833-5920
19	Corey Salwer	9131 Georgian Way OM	410 659-0639

- 20 Paula Albert 16 Rozani Ct, 21117 356-3302
- 21 Jim Layton 2111 Harmony Woods Rd 21117 560-1727
- 22 Larry Layton " " " " " " " "
- 23 Mary Beth Day 8 Woodhollow Ct 21117 356-0844
- 24 Mark Hummel 3684 Ashley Way 21117 356-2899
- 25 Eric Blaker 4 Preakness Court 21117 410-363-1039
- 26 Andrea Blakey 14 Greenbriar Court 21008 410-602-3214
- 27 Tuna 47 Tahoe Ct 410 906-8950
- 28 Antonio Smith 2880 Woodbrook Ave. (410) 669-3305
- 29 Antoinette Smith " " " (410) 669-8091
- 30 Kristine Smith
- 31 Judy Goldberg 12 Jenner Pt. (410) 356-1141
- 32 Keith Goldberg 12 Jenner Pt. (410) 356-1141
- 33 Donna Doll 504 Nammershue Rd (410) 356-5113
- 34 Sally Shapiro 3701 Thoroughbred Ln. (410) 581-1284
- 35 Gordon Heyman 22 Holly Ct 410-356-0226
- 36 Marc Casse 3750 Ashley Way 21117 (410) 356-7264
- 37 R. A. Olazagasti 106 Macdon Dr. 21136 (410) 833-5695
- 38 Linda Boreau 304 Bonnie Meadow Cr 410 833-5723
- 39 Sheri Fox 3902 Longlake Drive 410 356-5570
- 40 Wendy Schurick 2 Winton Ct., CM. 21117 410-363-0873
- 41 Chris Gurnea 12403 Preserve Way Belts 21136 (410) 833-7429
- 42 Tom Lutz 14 Beth Ct. Owings Mills 581-5244
- 43 Neil G. 12066 Long Lake Dr (410) 356-6981

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1996, LEGISLATIVE DAY NO. 2
BILL NO. 21-96

MR. LOUIS L. DEPAZZO, COUNCILMAN

BY THE COUNTY COUNCIL, JANUARY 16, 1996

A BILL
ENTITLED

Put. 5th
#7

AN ACT concerning

Commercial Recreational Facilities

FOR the purpose of amending the definition of commercial recreational facilities in the
Zoning Regulations and permitting these facilities to be located in certain
manufacturing zones of the County.

BY repealing and re-enacting, with amendments

Section 101, the definition of Commercial Recreational Facilities, Section 241.1,
by adding a permitted use, alphabetically, and Sections 248.4.A and ~~253~~ 253.2C. and
D.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report from the
Planning Board, dated October 19, 1995, concerning the subject legislation and held a public
hearing thereon on December 4, 1995, now, therefore

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
{Brackets} indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

MICROFILMED

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 101, the Definition of Commercial Recreational
3 Facilities, Section 241.1, by adding a permitted use, alphabetically, and Sections 248.4.A.
4 and ~~253~~ 253.2C. and D. of the Baltimore County Zoning Regulations, as amended, be and
5 they are hereby repealed and re-enacted, with amendments, to read as follows:

6 Section 101 - Definitions.

7 Words used in the present tense include the future; words in the singular number
8 include plural number; the word "shall" is mandatory. For the purposes of these regulations,
9 certain terms and words are defined below:

10 Commercial Recreation RECREATIONAL Facilities: Facilities whose principal purpose
11 is to provide space and equipment for non-professional athletic activities. A commercial
12 recreational facility includes, but is not limited to a [health or athletic club;] baseball-batting
13 range or cage; golf-driving range; putting green; miniature golf; athletic field; swimming pool;
14 skating rink or course; baseball, racquetball, tennis or squash court; [bowling alley;] archery
15 range or similar facility or any combination of the above. For the purpose of these
16 regulations, a commercial recreational facility shall not include a rifle, pistol, skeet, or trap
17 range, go-cart course, amusement park, or similar use.

18 M.R. Zone - Manufacturing Restricted

19 Section 241 - Use Regulations

20 241.1 - The following uses are permitted, provided their operations are entirely

1 within enclosed buildings except where approval of the development plan indicates
2 otherwise:

3 **COMMERCIAL RECREATIONAL FACILITIES**

4 M.L.R. Zone - Manufacturing Light, Restricted

5 Section 248 - Use Regulations

6 248.4 - Special Exceptions - When permitted as special exceptions (see
7 Sections 270 and 502):

8 A. The following uses:

9 Airstrips.

Automotive-service station, subject to the provisions of Section 405.

11 Boat yard (including marine railway).

12 COMMERCIAL RECREATIONAL FACILITIES

13 Excavations, controlled (see Section 403).

14 Heliport, Type II.

15 Public utility uses other than those noted in Section 200.11 excluding
16 steam power plant.

17 Riding stable (commercial) [golf driving range, miniature golf, baseball
18 batting range; as interim income-producing uses].

19 Sanitary or rubble landfills (see Section 412).

20 Sludge disposal facility - Co-landfilling (see Section 412.A2.A).

1 Sludge disposal facility - Composting (see Section 412.A2.B).

2 Sludge disposal facility - Handling in general (see Section 412.A2.C).

3 Sludge disposal facility - Incineration (see Section 412.A2.D).

4 Sludge disposal facility - Landspreading (see Section 412.A2.E).

5 Volunteer fire company.

6 Wireless transmitting or receiving structure not permitted by Section 426.

7 Section 253 M.L. Zone (Manufacturing, Light)

8 Use Regulations.

9 253.2 Uses Permitted by Special Exception.

10 The uses listed in this subsection are permitted by special exception only
11 (see Section 502)

12 C. The following interim uses, provided that it is shown by the petitioner
13 and verified by the director of public works that public sewerage and water-supply facilities
14 will not be available to the site of any such use for a period of at least two years after the time
15 the petition is heard, and provided, further, that any such use shall be discontinued and the
16 grant of the special exception shall expire on a date within a year after such time as public
17 sewerage and water-supply facilities do become available to the site, as shall be more
18 particularly stipulated in the order granting the special exception:

19 1. Amusement parks;

20 [2. Baseball-batting ranges;]

21 [3.] 2. Farms, or limited-acreage wholesale flower farms;

22 [4. Golf-driving ranges;]

1 [5.] 3. Kennels;

2 [6. Miniature-golf courses;]

3 [7.] 4. Radio or television broadcasting studios;

4 [8.] 5. Racetracks;

5 [9.] 6. Riding stables, commercial;

6 [10.] 7. Shooting ranges;

7 [11.] 8. Trailers, non-accessory, subject to the provisions of Section
8 415, except that trailer parks are not permitted;

9 [12.] 9. Used-motor vehicle outdoor sales areas; and

10 [13.] 10. Veterinarians' offices.

11 D. The following miscellaneous uses:

12 1. Signs, outdoor-advertising (see Section 413.3);

13 2. Wireless transmitting or receiving structure not permitted by
14 Section 426; and

15 3. After-Hours Club, provided that it is located at least 1,000 feet
16 from any residentially-used dwelling, residential zone line, church, park, child care center, or
17 school existing prior to the filing of the application for special exception.

18 4. COMMERCIAL RECREATIONAL FACILITIES.

19 SECTION 2. And be it further enacted that this Act shall take effect forty-five days
20 from the date of its enactment.

21 B02196



*Returning
exhibit
#9*

November 4, 1997

Mr. David Gonzales
17 Glenberry Court
Phoenix, Maryland 21131

RE: Owings Mills Indoor Soccer
Glynowings Drive
Baltimore County, Maryland
Our Job No.: 971017

Dear Mr. Gonzales:

At your request, The Traffic Group, Inc. has undertaken an analysis to determine the impact of the development of two indoor soccer fields to be located along the west side of Glynowings Drive, south of Bond Avenue and north of Timber Grove Road.

The primary purpose of the soccer fields will be to provide an indoor recreation area.

BASE CONDITIONS

Access to the property will be directly from Glynowings Drive and the property is proposed to contain 105 parking spaces.

Glynowings Drive is basically a 50-foot wide roadway without parking posted for 35 MPH. The nearest signalized intersection along Glynowings Drive is at

*The Traffic Group, Inc.
Suite 600
40 W. Chesapeake Avenue
Towson, Maryland 21204
410-583-8405
Fax 410-321-8458*

MICROFILMED

Timber Grove Road. This intersection is operating at a Level of Service "A" according to Baltimore County records.

The Traffic Group, Inc. undertook an intersection turning movement count from 7-9 AM and 4-6 PM on July 9, 1997 at the intersection of Glynowings Drive - Central Avenue and Bond Avenue. The total vehicles observed along with a condition diagram of the intersection and photographs are contained in Appendix A to this report. The Traffic Group, Inc. undertook an intersection capacity analysis and determined that intersection is currently operating at a Level of Service "A" during the morning peak hour and a Level of Service "A" during the evening peak hour.

Additionally, The Traffic Group, Inc. undertook a 24-hour machine count along Glynowings Drive in the vicinity of the site and determined that Glynowings Drive is currently carrying 4,800 vehicles per day (ADT). The heaviest one hour in the morning is from 8 AM to 9 AM with 343 vehicles. The heaviest evening hour is from 5 PM to 6 PM with 449 vehicles. After 6 PM, the heaviest one hour (between 6 PM and 10 PM) is 6 PM to 7 PM carrying 394 vehicles.

Clearly, this roadway has the ability to carry at least twice the current volume of traffic.

RESULTS AND CONCLUSIONS

The subject property will likely generate traffic in the late afternoon and early evening hours, and will not be a factor for traffic generation during the morning or during the day on weekdays. With 105 parking spaces, the site could logically generate 105 cars inbound and 105 cars outbound during a single one hour period, if the parking lot were to completely fill and empty in a 60-minute period.

Mr. David Gonzales

November 4, 1997

Page 3

(I believe this would be a highly unlikely situation.) Even if this unlikely situation did occur, there would still be more than sufficient capacity along the road system to accommodate the vehicles generated.

In summary, it is my opinion that the proposed use will not create an adverse affect on traffic conditions and that sufficient roadway capacity exists along Glynowings Drive to accommodate the proposed indoor soccer use.

Sincerely,



John W. Guckert
President

JWG/lmk

cc: Howard Alderman
Glenn Cook
Mickey Cornelius

(g:\ltr\jwg\gonzales)

APPENDIX A

VEHICLE TURNING MOVEMENT COUNT - SUMMARY

Counted by: MH

Date: July 9, 1997

Day: Wednesday

Intersection of: Bond Ave.

and: Central Ave.

Location: Balto.Co., Md.

Weather: Fair, Hot

Entered by: SB

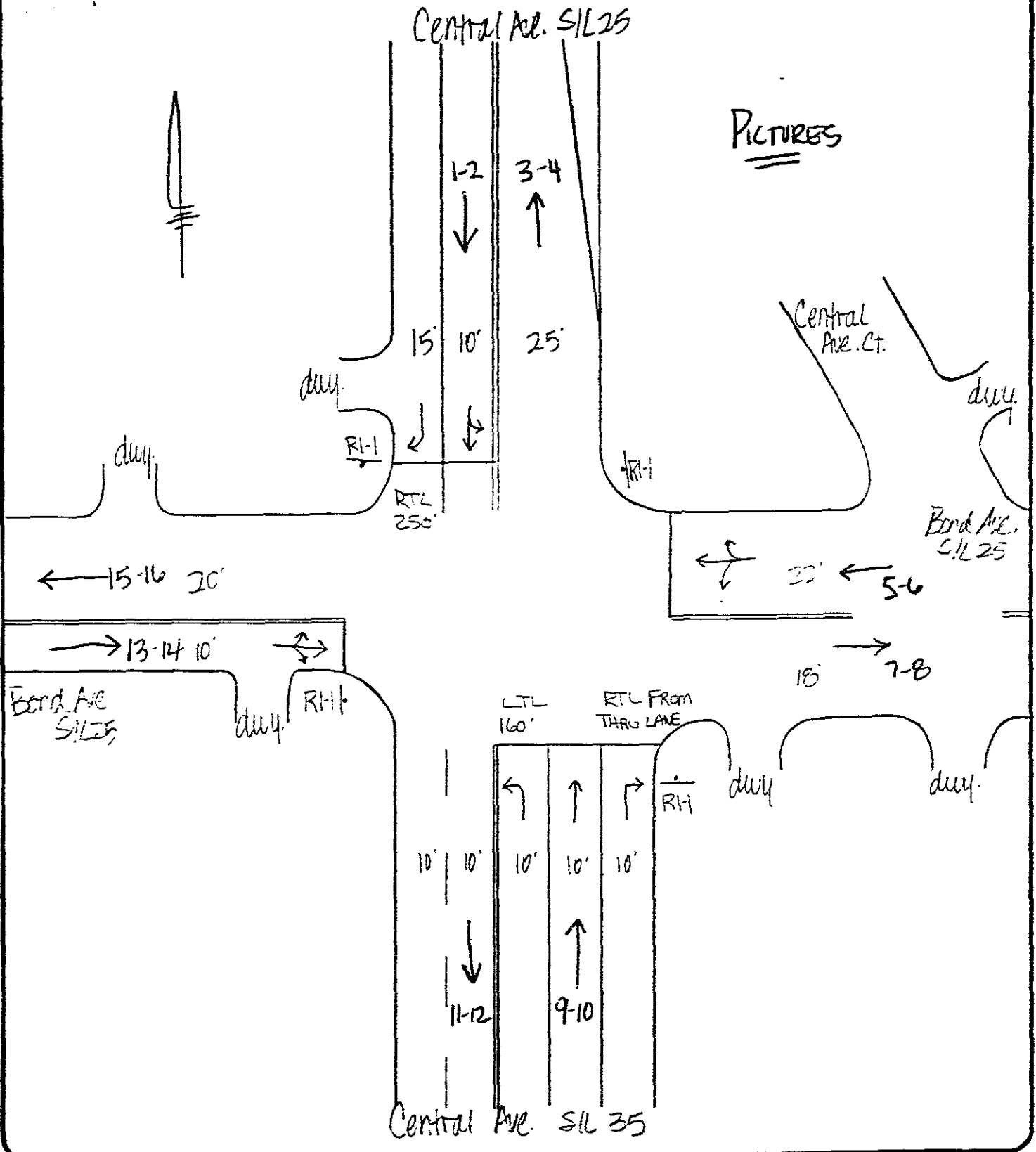


TIME	TRAFFIC FROM NORTH on: Central Ave.					TRAFFIC FROM SOUTH on: Central Ave.					TRAFFIC FROM EAST on: Bond Ave.					TRAFFIC FROM WEST on: Bond Ave.					TOTAL N + S + E + W
	RIGHT	THRU	LEFT	U-TN	TOTAL	U-TN	LEFT	THRU	RIGHT	TOTAL	RIGHT	THRU	LEFT	U-TN	TOTAL	U-TN	LEFT	THRU	RIGHT	TOTAL	
AM																					
07:0-15	2	21	0		23		15	12	11	38	2	3	8		13		4	24	17	45	119
15-30	2	22	4		28		14	5	9	28	4	3	6		13		3	27	29	59	128
30-45	2	27	4		33		11	5	21	37	6	4	9		19		1	30	32	63	152
45-00	0	35	4		39		12	13	17	42	2	5	8		15		1	26	38	65	161
08:0-15	0	28	3		31		14	7	13	34	3	8	10		21		1	22	27	50	136
15-30	3	22	6		31		21	14	11	46	2	5	9		16		3	19	25	47	140
30-45	1	28	6		35		14	13	7	34	6	10	12		28		2	16	28	46	143
45-00	5	22	3		30		18	23	6	47	6	12	9		27		2	11	23	36	140
2 Hr Totals	15	205	30	0	250	0	119	92	95	306	31	50	71	0	152	0	17	175	219	411	1119
1 Hr Totals																					
07-08	6	105	12	0	123	0	52	35	58	145	14	15	31	0	60	0	9	107	116	232	560
715-815	4	112	15	0	131	0	51	30	60	141	15	20	33	0	68	0	6	105	126	237	577
730-830	5	112	17	0	134	0	58	39	62	159	13	22	36	0	71	0	6	97	122	225	589
745-845	4	113	19	0	136	0	61	47	48	156	13	28	39	0	80	0	7	83	118	208	580
08-09	9	100	18	0	127	0	67	57	37	161	17	35	40	0	92	0	8	68	103	179	559
PEAK HOUR																					
730-830	5	112	17	0	134	0	58	39	62	159	13	22	36	0	71	0	6	97	122	225	589
PM																					
04:0-15	6	20	2		28		18	20	10	48	4	16	11		31		2	11	21	34	141
15-30	5	22	3		30		22	23	8	53	3	15	10		28		4	14	26	44	155
30-45	8	19	4		31		35	19	10	64	5	16	12		33		5	10	22	37	165
45-00	6	15	3		24		20	22	10	52	3	30	11		44		6	15	28	49	169
05:0-15	9	16	4		29		31	39	12	82	3	30	17		50		6	14	24	44	205
15-30	5	17	5		27		48	25	12	85	6	30	20		56		4	13	30	47	215
30-45	7	25	4		36		35	32	16	83	5	24	16		45		7	11	21	39	203
45-00	5	17	4		26		34	16	15	65	3	23	16		42		5	10	31	46	179
2 Hr Totals	51	151	29	0	231	0	243	196	93	532	32	184	113	0	329	0	39	98	203	340	1432
1 Hr Totals																					
04-05	25	76	12	0	113	0	95	84	38	217	15	77	44	0	136	0	17	50	97	164	630
415-515	28	72	14	0	114	0	108	103	40	251	14	91	50	0	155	0	21	53	100	174	694
430-530	28	67	16	0	111	0	134	105	44	283	17	106	60	0	183	0	21	52	104	177	754
445-545	27	73	16	0	116	0	134	118	50	302	17	114	64	0	195	0	23	53	103	179	792
05-06	26	75	17	0	118	0	148	112	55	315	17	107	69	0	193	0	22	48	106	176	802
PEAK HOUR																					
05-06	26	75	17	0	118	0	148	112	55	315	17	107	69	0	193	0	22	48	106	176	802

4

Central Ave. S/L 25

PICTURES



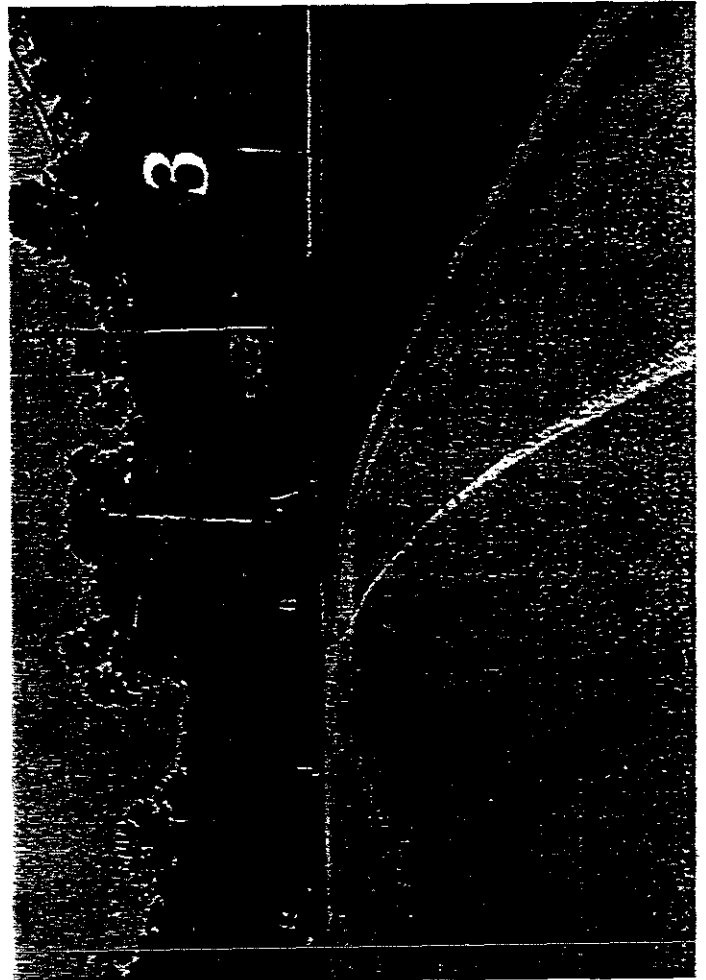
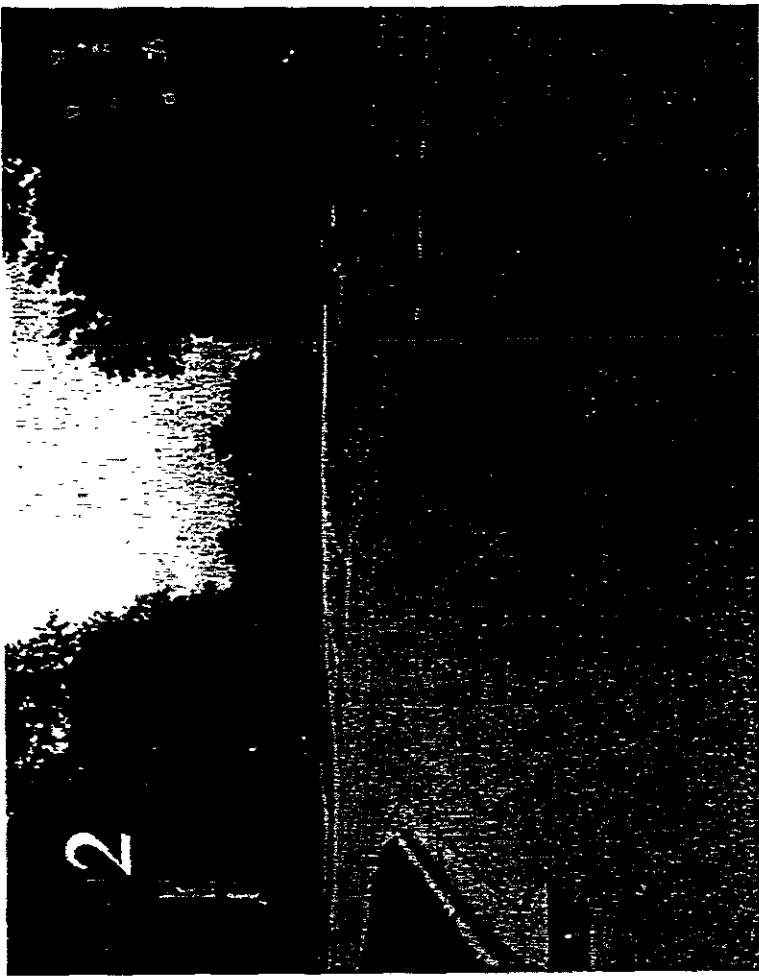
THE TRAFFIC GROUP, INC.

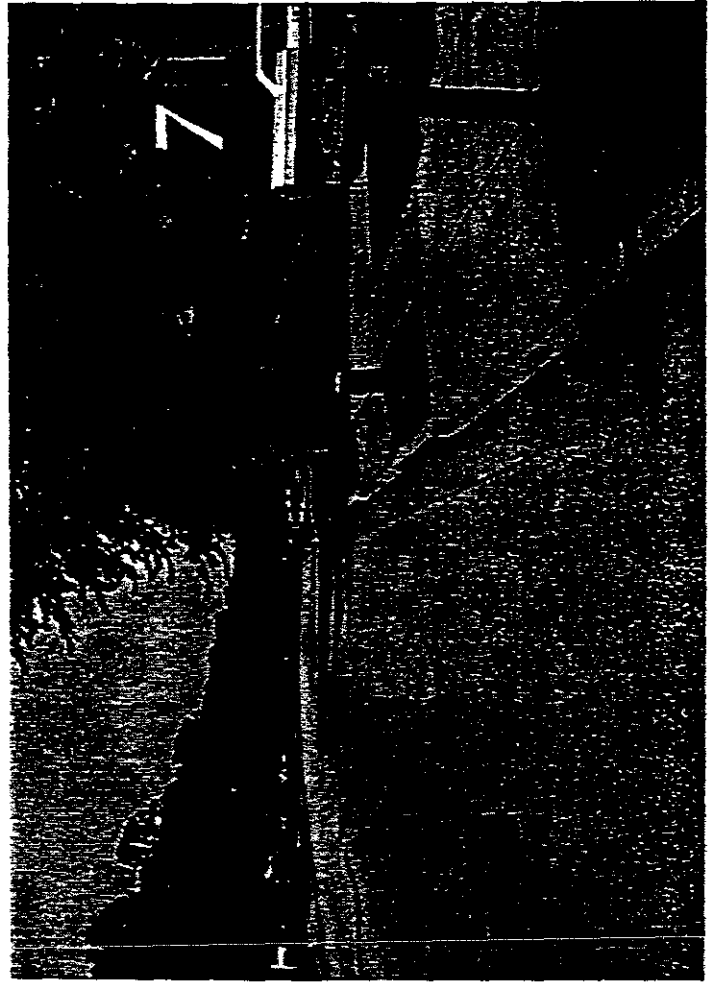
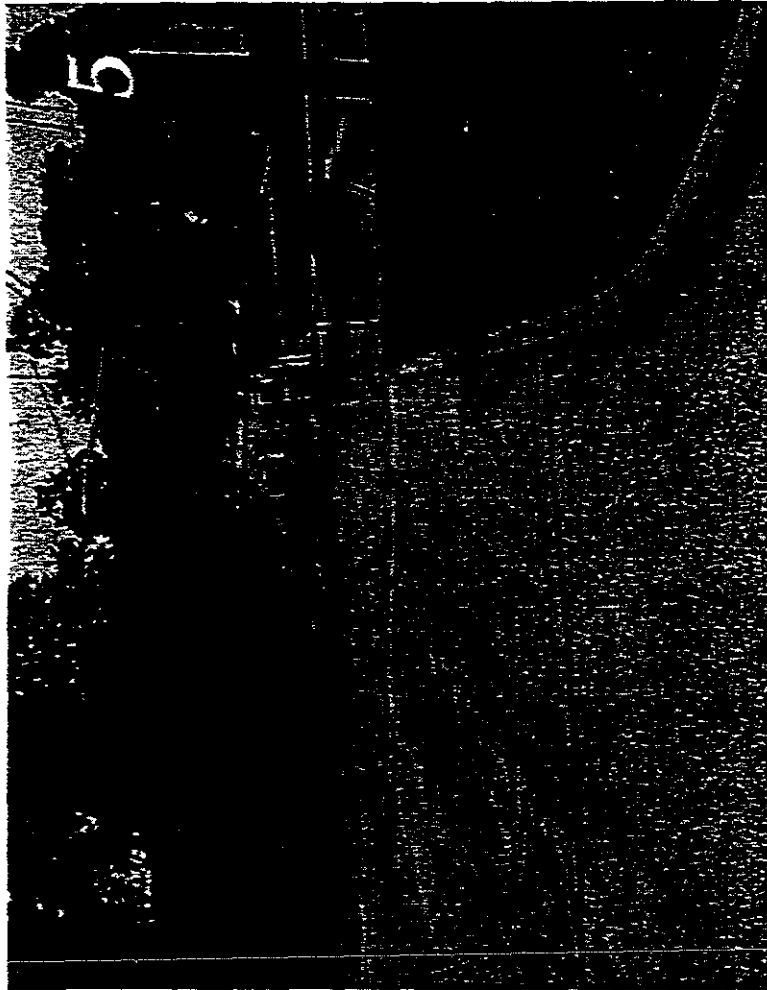
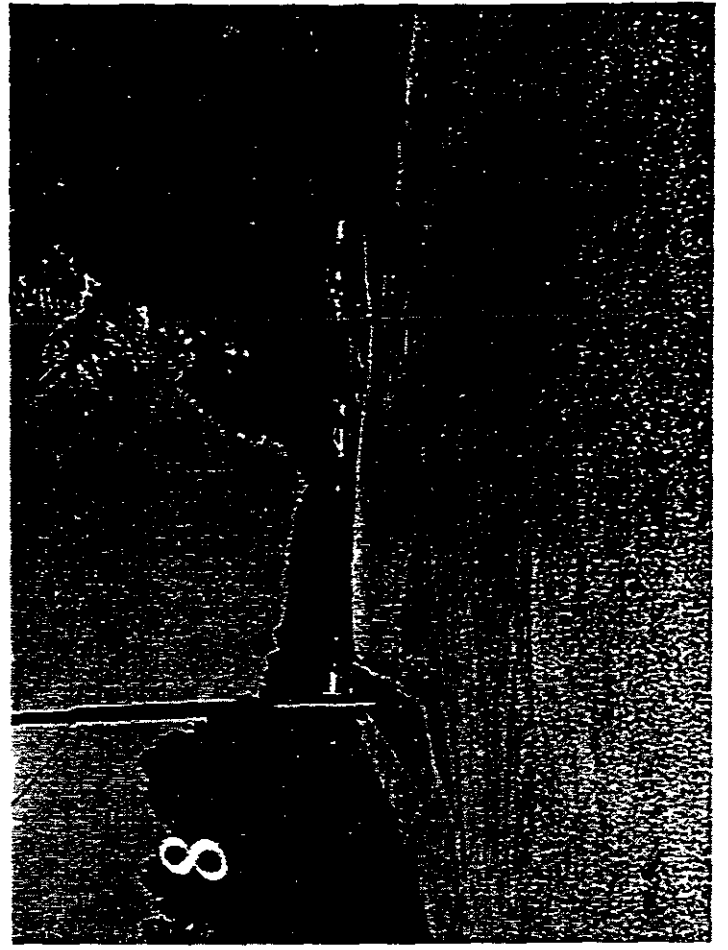
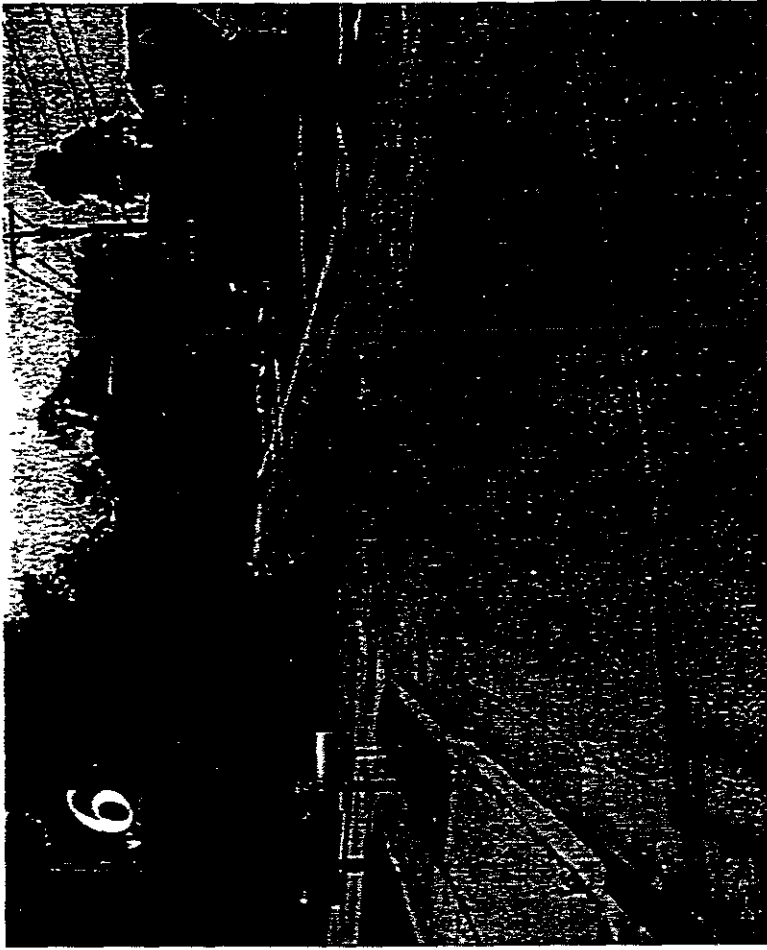
JOB NO. 970626

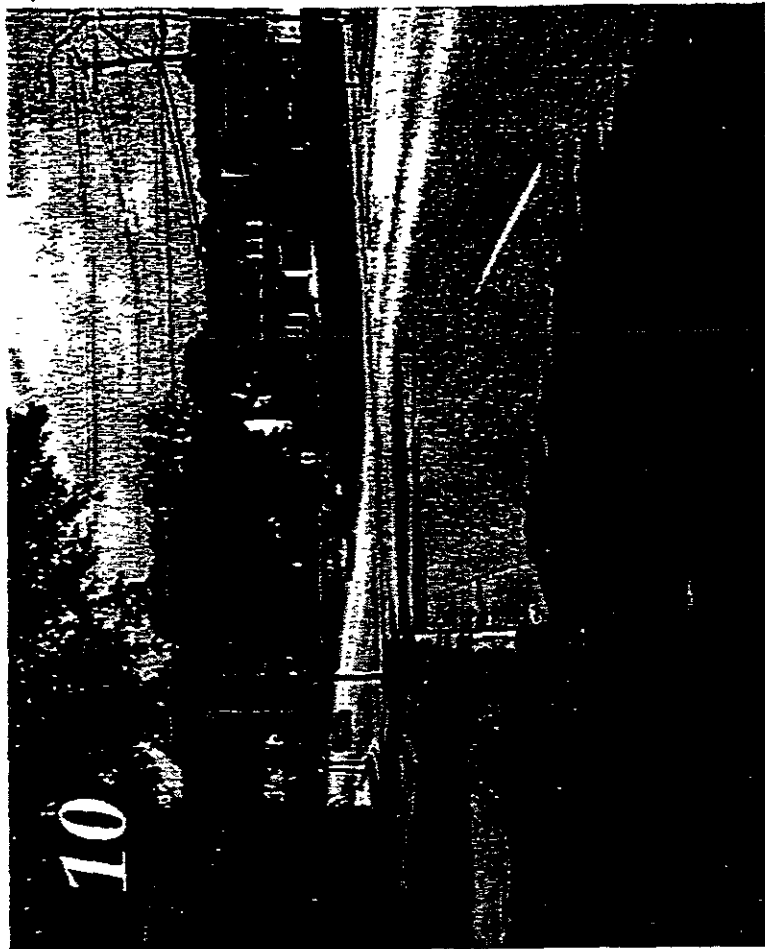
BY C/S SUBJECT Wilson Farm

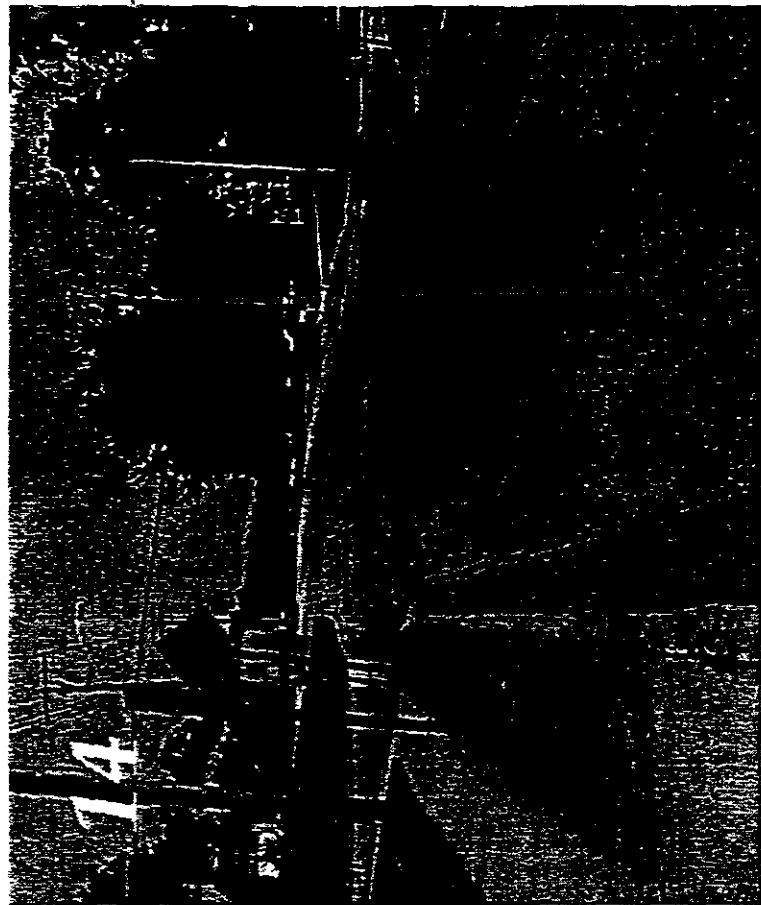
SHEET NO. 1 OF 4

DATE 6/1/71









THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023001.PRN

13:31 Pg 1

Sta: 100000000001 Id: 100000000001 CId: 01 Fmt: 300 - Imperial Int: 15 Min.
 Start: Thu - Oct 23, 1997 at 12:00 End: Fri - Oct 24, 1997 at 12:00
 City/Town: Owings Mills/In.Soc. County: Baltimore
 Location: Glynwings Rd., 0.5 Mi South of Bond St. File: D1023001.PRN
 Ln1-North

Thu - Oct 23, 1997

Lane	1	Total
12:15	25	25
12:30	31	31
12:45	40	40
13:00	30	30
13:15	27	27
13:30	27	27
13:45	32	32
14:00	26	26
14:15	25	25
14:30	29	29
14:45	59	59
15:00	47	47
15:15	53	53
15:30	56	56
15:45	40	40
16:00	54	54
16:15	62	62
16:30	67	67
16:45	59	59
17:00	68	68
17:15	81	81
17:30	72	72
17:45	72	72
18:00	50	50
18:15	49	49
18:30	55	55
18:45	73	73
19:00	41	41
19:15	39	39
19:30	28	28
19:45	25	25
20:00	29	29
20:15	33	33
20:30	30	30
20:45	36	36
21:00	20	20
21:15	29	29
21:30	22	22
21:45	17	17
22:00	25	25
22:15	18	18
22:30	10	10
22:45	18	18
23:00	12	12
23:15	10	10
23:30	15	15
23:45	3	3
24:00	6	6

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023001.PRN

13:32 Pg 2

10-27-1997

Fri - Oct 24, 1997

Lane	1	Total
Daily Totals	1775	1775
Percentages	100.00	

Fri - Oct 24, 1997

00:15	2	2
00:30	7	7
00:45	1	1
01:00	9	9
01:15	5	5
01:30	6	6
01:45	5	5
02:00	3	3
02:15	1	1
02:30	3	3
02:45	5	5
03:00	2	2
03:15	4	4
03:30	1	1
03:45	0	0
04:00	0	0
04:15	0	0
04:30	2	2
04:45	0	0
05:00	4	4
05:15	2	2
05:30	2	2
05:45	3	3
06:00	9	9
06:15	2	2
06:30	14	14
06:45	18	18
07:00	22	22
07:15	20	20
07:30	30	30
07:45	30	30
08:00	31	31
08:15	24	24
08:30	37	37
08:45	26	26
09:00	27	27
09:15	21	21
09:30	25	25
09:45	27	27
10:00	26	26
10:15	24	24
10:30	21	21
10:45	23	23
11:00	19	19
11:15	22	22
11:30	25	25

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023001.PRN

13:32 Pg 3

10-27-1997

Fri - Oct 24, 1997

Lane	1	Total
-----	-----	-----
11:45	24	24
12:00	27	27

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023001.PRN

13:32 Pg 4

10-27-1997

Sta: 1000000000001 Id: 1000000000001 CId: 01 Fmt: 300 - Imperial Int: 15 Min.
 Start: Thu - Oct 23, 1997 at 12:00 End: Fri - Oct 24, 1997 at 12:00
 City/Town: Owings Mills/In.Soc. County: Baltimore
 Location: Glynwings Rd., 0.5 Mi South of Bond St. File: D1023001.PRN
 Lnf-North

Station Data Summary

Lane	1	Total
Grand Totals	2416	2416
Percentages	100.00	

Am/Pm Peak Hour Totals

Lane	1	Total
Am Hour 8-9	114	114
Percentages	4.72	4.72
Pm Hour 17-18	275	275
Percentages	11.38	11.38

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023002.PRN

13:32 Pg 1

10-27-1997

Sta: 200000000002

Id: 200000000002

Cid: 01

Fmt: 300 - Imperial

Int: 15 Min.

Start: Thu - Oct 23, 1997 at 12:00

End: Fri - Oct 24, 1997 at 12:00

City/Town: Owings Mills\In.Soc.

County: Baltimore

Location: Glynwings Rd., 0.5 Mi South of Bond St.

File: D1023002.PRN

Ln1-South

Thu - Oct 23, 1997

Lane	1	Total
12:15	25	25
12:30	19	19
12:45	25	25
13:00	28	28
13:15	36	36
13:30	26	26
13:45	20	20
14:00	30	30
14:15	27	27
14:30	36	36
14:45	39	39
15:00	38	38
15:15	37	37
15:30	43	43
15:45	32	32
16:00	40	40
16:15	39	39
16:30	44	44
16:45	49	49
17:00	44	44
17:15	41	41
17:30	41	41
17:45	48	48
18:00	41	41
18:15	43	43
18:30	49	49
18:45	34	34
19:00	40	40
19:15	45	45
19:30	43	43
19:45	38	38
20:00	33	33
20:15	23	23
20:30	41	41
20:45	22	22
21:00	20	20
21:15	17	17
21:30	15	15
21:45	13	13
22:00	14	14
22:15	11	11
22:30	13	13
22:45	10	10
23:00	10	10
23:15	9	9
23:30	13	13
23:45	8	8
24:00	8	8

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D10Z3002.PRN

13:32 Pg 2

10-27-1997

Fri - Oct 24, 1997

Lane	1	Total
Daily Totals	1420	1420
Percentages	100.00	

Fri - Oct 24, 1997

00:15	7	7
00:30	4	4
00:45	0	0
01:00	3	3
01:15	2	2
01:30	1	1
01:45	3	3
02:00	4	4
02:15	3	3
02:30	0	0
02:45	2	2
03:00	1	1
03:15	0	0
03:30	1	1
03:45	2	2
04:00	1	1
04:15	2	2
04:30	3	3
04:45	1	1
05:00	3	3
05:15	9	9
05:30	6	6
05:45	11	11
06:00	11	11
06:15	10	10
06:30	21	21
06:45	34	34
07:00	42	42
07:15	44	44
07:30	49	49
07:45	49	49
08:00	75	75
08:15	70	70
08:30	66	66
08:45	57	57
09:00	36	36
09:15	36	36
09:30	27	27
09:45	33	33
10:00	32	32
10:15	33	33
10:30	26	26
10:45	23	23
11:00	30	30
11:15	24	24
11:30	30	30

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

Volume by Lane Report - D1023002.PRN

13:32 Pg 3

10-27-1997

Fri - Oct 24, 1997

Lane

11:45

12:00

1

31

26

Total

31

26

THE TRAFFIC GROUP INC.

TOWSON, MARYLAND

10-27-1997

Volume by Lane Report - D1023002.PRN

13:32 Pg 4

Sta: 200000000002 Id: 200000000002 CId: 01 Fmt: 300 - Imperial Int: 15 Min.
 Start: Thu - Oct 23, 1997 at 12:00 End: Fri - Oct 24, 1997 at 12:00
 City/Town: Owings Mills\In.Soc. County: Baltimore
 Location: Glynowings Rd., 0.5 Mi South of Bond St. File: D1023002.PRN
 Ln1-South

Station Data Summary

Lane	1	Total
Grand Totals	2404	2404
Percentages	100.00	

Am/Pm Peak Hour Totals

Lane	1	Total
Am Hour 8-9	229	229
Percentages	9.53	9.53
Pm Hour 16-17	176	176
Percentages	7.32	7.32

CBA 97-563 XA

GARY BRIGHTWELL

SP 34 & Variance

Protestant Exhibits

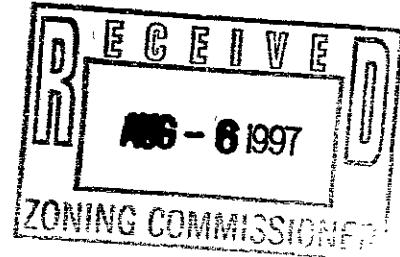
- ✓ Prot. Exh #1 - Letter to DZC Rotocco from Kaufner. (From Below)
- ✓ Prot. Exh #2 - Zoning Com. "record" from below.
- ✓ Prot. Exh #3 - Typed letter from Prot. Foster Nichols
- ✓ Prot. Exh #4 - Rule 8 documents - Mary Porter
- Prot. Exh #5A -
- B -
 - C -
 - D - Bonds Central & Hyawmings
 - E - Bond Ave to RR
 - F - "
 - G - Bonds Ave to Dagum Farm
 - H - "
- Prot. Exh 6A & B - Two Zoning Maps intersecting site.

MICROFILMED

Historic Glyndon Incorporated

Glyndon, Maryland 21071

Mr. Timothy Kotroco
Room 405
County Courts Building
401 Bosley Ave.
Towson, Md. 21204



Dear Mr. Kortoco,

I am writing to state the view of Historic Glyndon Inc. with regard to Case # 97563XA concerning the request for a special exception to allow a sports facility to be built. Historic Glyndon opposes this proposal for the following reasons:

Preface: Before stating our reasons for opposition, I would like to express our dismay over the fact that we received no notification of the hearing regarding this proposal. I know that notification is not part of your job, however had we been notified we certainly would have presented our views on this case in person to you at the hearing. I realize that you can only rule on testimony from the hearing so I will limit comments to those that reiterate what Glyndon community member Foster Nichols stated at the hearing. He is a vice president of the Glyndon Community Association which also received no notification. After reading the article in the paper the morning of the hearing, Foster was able to leave work and attend the hearing.

Inappropriate Land Use: The proposed site is zoned for manufacturing. Historically areas near railroads were zoned this way to provide for industries relating to the railroad. Although industries relating to the railroad are not needed any more- the zoning designation has remained. The existing warehouses coexist well with the community. They generate low traffic and do not adversely affect the welfare of the surrounding neighborhoods. I do not feel it was the intent of the County Master Plan in allowing this designation to see it have a high traffic, commercial use.

Traffic- Of course in Glyndon our focus is on Central Avenue and Butler Road, however in looking at many of the surrounding streets and obvious routes to this site it is clear that many of these roads are substandard for the added traffic created by this project. Central Avenue and Butler Roads are routes that carry traffic through the heart of Historic Glyndon- a residential neighborhood and the county's 1st Historic District. Although the county at one time had plans for highway extensions, these plans have never been implemented, leaving traffic to adversely affect the community of Glyndon and others. This new facility would only add to the problem.

Substandard Railroad Crossings: As a result of this facility there will be many trips across the railroad tracks at both Bond and Timber Grove. These are both narrow crossings not equipped for high density traffic. Again, in the past the County talked of bridges to relieve the track crossings, however nothing was built out. The railroad crossings then would become more dangerous with increased traffic. Your hearing demands specific formulas for parking but requires absolutely no study of how the traffic will get there to eventually park.

Lastly please consider the welfare of Glyndon, a community of which the County is proud. We struggle to maintain the integrity of our neighborhood amid constantly encroaching development from every direction. This facility would force more traffic through the heart of Glyndon as the obvious route to this proposed facility from the many regions of the county from which this facility will draw.

Please consider our request that you deny this request for a special exception sports facility.

Thank you,

Nan T. Kaestner

Nan Kaestner

President Historic Glyndon, Inc.

Protestants #1
(CBA)

MICROFILMED

FOSTER NICHOLS, JR.
4708 BUTLER ROAD
P.O. Box 303
GLYNDON, MARYLAND 21071

Prot. Exh #3

January 5, 1998

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

Reference: Petition for Special Exception and Variances
Gary Brightwell - Petitioner
12400 Glynowings Drive
Case No. 97-563-XA

Dear Sirs,

I am a resident of Glyndon, testified at the original special exception/variance hearing, and I am one of the protestants against the granting of a special exception and variances for an indoor soccer facility on Glynowings Drive.

I am an engineering consultant and must travel frequently to where my clients and projects are located. I regret that I will need to be in Cleveland on January 7th, the date of the appeal hearing, for a client presentation that cannot be rescheduled. However, this letter summarizes my testimony. In addition, Ms. Mary Ellen Porter will testify at the hearing on behalf of the Glyndon Community Association and address these same issues.

An indoor soccer facility is needed in northwest Baltimore County, but the proposed site on Glynowings Drive is unsuitable for such a facility. Permitting this use on the site would introduce the first major regional commercial land use in this corridor that is accessible only via narrow streets through residential neighborhoods.

The site is too small to accommodate a two-field soccer facility with adequate parking to meet the projected demand. Therefore, variances were requested by the petitioners in order to provide as much on-site parking as possible, reflecting concerns over the quantity of available on-site parking that were echoed in the original hearing by representatives of Councilman Bryan McIntire and the Reisterstown-Owings Mills-Glyndon Coordinating Council (ROG).

However, variances are not to be granted solely to increase the area of developable land on a site to enable a use that otherwise would not fit on the site as of right - unless the site is in some way unique or unless development consistent with zoning is precluded by unusual site constraints. There is nothing unique about this parcel. It is rectangular in shape, in fact almost square, and it sits between two parcels that are shaped similarly. The proposed site is vacant and is flanked on either side by warehouse-type buildings. There are no apparent constraints that would preclude development of a similar warehouse-type building on this site, containing similar light industrial uses. Consequently, the requested variances are not allowable under the law, regardless of any ancillary benefits that may accrue to the proposed development plan. I urge you to deny the variance request.

With respect to the Special Exception petition, I have found that the shape, size and configuration of the zoning district within which the site lies are atypical of ML zoning in Baltimore County - resulting in a

MICROFILMED

much greater proximity of the ML zone to adjacent residential uses and a greater degree of impact on those residential areas caused by the proposed use than would be typical for ML-zoned property throughout the county.

I inspected each one of the county's zoning maps and inventoried all of the ML zones within the county. Baltimore County contains a total of 12,012 acres of ML-zoned land (including ML land within the IM and AS overlay districts), according to data provided by the Baltimore County Office of Planning. I found that the vast majority of ML-zoned land in the county lies within industrial parks or within large districts of contiguous manufacturing or commercial property. Most ML land in the county is well-buffered from nearby residential areas. Examples in this area include the Owings Mills Industrial Park, the land along the newly-built Red Run Boulevard and the Hunt Valley/Loveton areas. Virtually all of these industrial parks or large tracts of ML-zoned property have very good vehicular access from the regional arterial or interstate highway system. However, there are a relatively few ML zoning districts that are small and narrow, bordering residentially-zoned land on more than one side. Almost all of these zones are found in one of two configurations: (1) on individual parcels that historically have been in manufacturing use, sometimes dating from before the development of zoning ("spot" industrial zones); and (2) along freight railroads where industrial activity formerly was located to take advantage of rail access ("sliver" industrial zones). The zone within which the proposed site lies is one of the latter, situated alongside the former Western Maryland Railroad (now CSX). I identified a total of 29 such zones in the entire county, totaling 282 acres of land or approximately 2.3 percent of the total land area of the county zoned ML. These zones, therefore, are atypical and unique and should receive closer scrutiny in the consideration of any special exception request. Given the preponderance and relative availability of ML land in large, contiguous tracts and industrial parks, the review of potential uses permitted in ML zoning by special exception should apply a stricter residential-compatibility standard for "spot" and "sliver" zones in primarily residential areas.

I also observed in my investigation that the MR zoning designation (a more restrictive manufacturing zone that is intended to ensure compatibility of industrial development with adjacent residential land) is often used along the edges of larger ML zones to provide a transition between industrial and sensitive residential areas. The MR zone is more restrictive in its allowable uses (the proposed regional commercial use for an indoor soccer facility, for example, would not be permitted in MR), requires increased buffering and screening and a compatibility review of proposed development.

MR would seem to be an ideal zoning classification for the sliver and spot manufacturing zoning districts. During the last comprehensive zoning cycle, however, the Glyndon Community Association was advised that the "sliver" ML zones could not be re-zoned as MR because the stringent set-back requirements typically would render existing development non-conforming and restrict the size of buildings on-site. As a result, the county's current zoning map has the anomalous condition that these 29 isolated sliver and small manufacturing zones retain an ML designation while the larger industrial districts are able to have an MR buffer around their edges - offering greater protection to neighboring residential areas.

As a result, granting special exceptions for more intense uses in this case (and in similarly configured sliver ML zones) would effectively penalize the neighbors of these zones for their proximity to old railroad rights-of-way and the shortcomings of the county's zoning regulations with respect to implementing more restrictive industrial zoning in areas adjacent to residential neighborhoods.

This site, while bounded on the left and right by other ML parcels, borders DR residential zoning on both its front and back edges. This condition exists in very few other locations in the County. Compounding the difficulty is the fact that the vehicular access to the site from the regional arterial highway system does not exist within industrial or commercial zones and, in fact, passes in all directions entirely through residentially-zoned land. The only way to drive to this site is through existing neighborhoods.

Given the atypical shape of the ML zone along Glynowings Drive, and the nature of the proposed use - a major regional commercial facility - the adjacent residential neighborhoods (including historic Glyndon as well as several Reisterstown neighborhoods) would be negatively impacted by the traffic generated by the facility. Traffic volume is not as much an issue as the nature of the traffic. Current travel on Glynowings Drive is largely limited to residents of the area, because there are no major "destination" facilities in the

corridor and there are no arterial roadways connecting to it, except for Owings Mills Boulevard to the south. Though Glynowings Drive itself is five lanes wide, it can only be reached via narrow, two-lane roads in all directions. All of these roadways (Central Avenue, Bond Avenue to the east and west, Timber Grove Road and Bonita Avenue south of Kendig Mill Road) pre-date the intense residential development east of the railroad tracks and are underdesigned to handle current traffic, much less additional traffic generated by regional commercial uses. The county recognized this in the last Master Plan, which provided a number of roadway improvements, including new roadway links, in the area surrounding Glynowings Drive. In the intervening ten years, despite a clearly demonstrated need, none of these roadway improvements has been made, except for the connection to Owings Mills Boulevard in the south. All traffic is forced to pass through formerly quiet neighborhoods and across the unsafe railroad grade crossings at Bond Avenue and Timber Grove Road.

While it is true that the traffic to and from the site would be distributed across multiple access routes, it is also true that a significant proportion (from the east, north and northwest) would use Butler Road and Central Avenue to get to and from the site. The dearth of existing indoor soccer facilities in the county compounds the difficulties associated with developing a facility at this site. In particular, the facility will draw from a large area of the metropolitan region, and people will travel over long distances to reach the site. According to the petitioner's testimony at the original hearing, the nearest comparable indoor soccer facilities are located in Hampstead and on Perring Parkway. That means that this facility can expect to draw from such areas as Westminster and Finksburg, Upperco, Cockeysville, Timonium and the entire York Road/I-83 corridor from Towson north. Travelers to this facility will be less familiar with the neighborhood roads than local residents, and there will likely be an increase in problems and safety hazards, such as running of the stop signs along Central Avenue.

As noted by others at the original hearing, off-site parking is a severe problem. Should demand for parking exceed the supply at any time, there is no safe, convenient spill-over space close to the site to accommodate parking. Parking is prohibited along Glynowings Drive and there are no shoulders that could be used for parking. Such parking would occur on residential streets more than 1,000 feet from the site and require people to cross the 5-lane roadway without the benefit of either a crosswalk or sidewalk along the west side of Glynowings. Even if the developer provides a sidewalk along his property, the adjoining warehouse parcels do not have sidewalks.

In conclusion, I would like to reiterate my position that the proposed use requiring a special exception is not workable on this site, but that as-of-right light manufacturing or warehousing uses similar to those present on the neighboring parcels in this zone would be ideally suited to this parcel. Aside from the poor vehicular access to this site, the proposed regional commercial use is too big to fit on a 2-acre parcel. A smaller facility on the site (e.g., a single soccer field with 70-80 parking spaces) would generate less of an impact and could be developed completely as of right. I would support such a reduction in size, if the owner and developer are intent on creating a soccer facility here. Though not relevant to this proceeding, I would strongly prefer development of this type of facility in a more appropriate location on or close to regional and major arterial highways.

I would be pleased to clarify and points that may be unclear and answer any questions that you might have. I can be reached during working hours at 410-385-4160.

Thank you for your careful consideration of this request.

Very truly yours,

Foster Nichols, Jr.
Foster Nichols, Jr.

Prot. Exp
#4

Glyndon Community ASSOCIATION

RESOLVED: That the position of the Glyndon Community
Association as adopted by the ~~(Board of Directors)~~ ~~(Zoning Committee)~~ Community
Association membership
on the zoning matter known as:

Gary Brightwell - Petitioner CASE #: 97-563-XA
12400 Glynowings Drive

is that:

The Glyndon Community Association opposes the granting of
a Special Exception and Variances on 12400 Glynowings Drive

AS WITNESS OUR HANDS AND SEAL THIS 6 DAY OF January,
1998.

ATTEST:

Glyndon Community ASSOCIATION

Mary B. Rogers
Secretary

Mary Ellen Porter
President

MICROFILMED

The Glyndon Community ASSOCIATION

RESOLVED: That at the Annual meeting of the
Glyndon Community Association held on March 30,
1995, it was decided by the Association that responsibility for review
and action on all zoning matters ~~for the period~~ until voted otherwise
be placed in the (Board of Directors) ~~(Zoning Committee)~~ consisting of
the following members:

current Board of Directors as elected bi-annually
and zoning committee as appointed bi-annually

AS WITNESS OUR HANDS AND SEAL THIS 6 day of January,
1998.

ATTEST:

Glyndon Community ASSOCIATION

Mary B. Pate
Secretary

Mary Ellen Pate
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

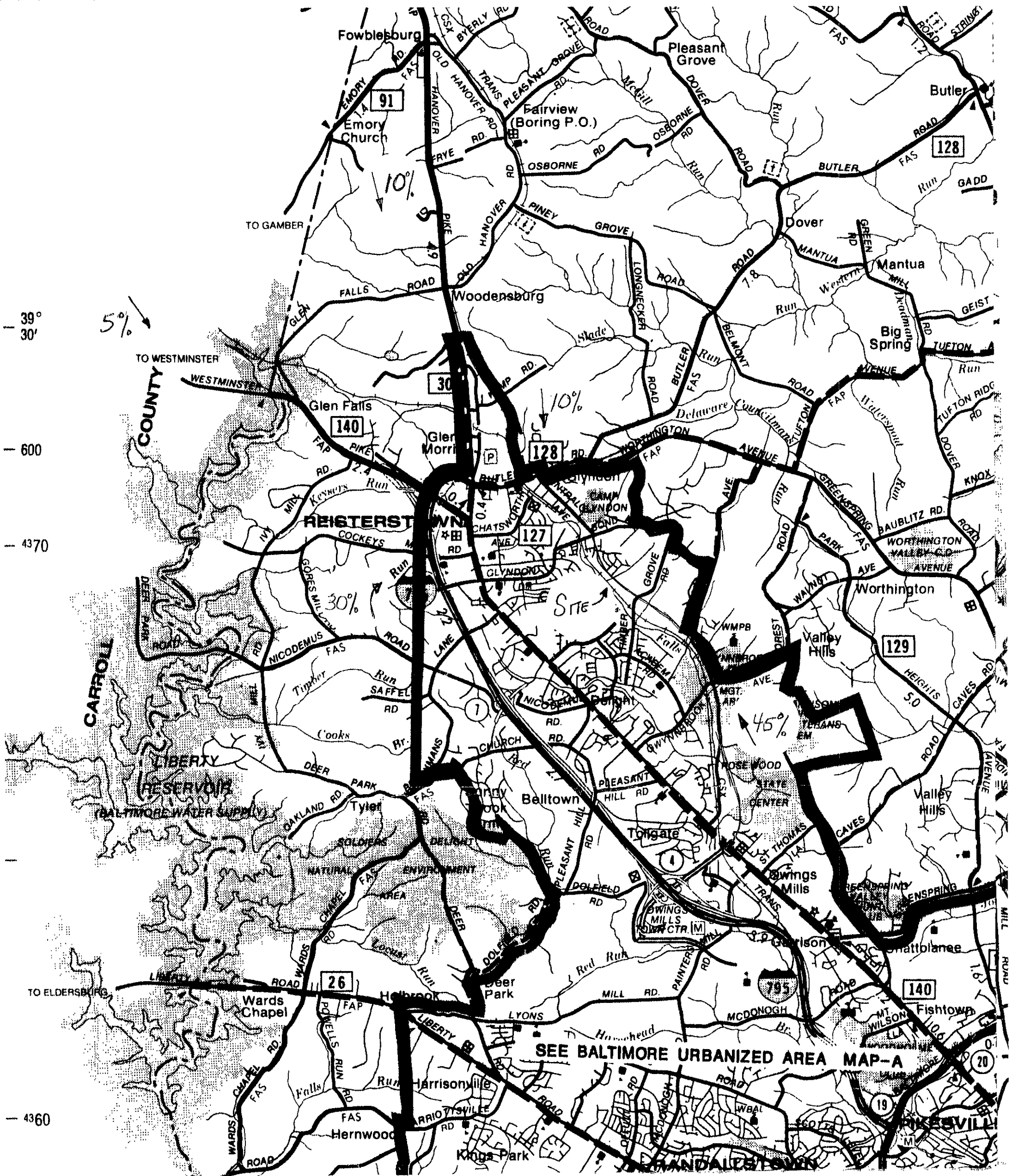
I hereby swear upon penalty of perjury that I am currently
a duly elected member of the (Board of Directors) (Zoning Committee)
of the Glyndon Community Association.

ATTEST:

Mary Ellen Porter

Mary B. Poggi
Secretary

Mary Ellen Porter
President



Reisterstown #8

MICROFILMED

97-563-XA

Gary Brightwell

Prots' # 5A-5H

MICROFILMED





