IN RE: PETITION FOR VARIANCE 9900 Dolfield Road 4th Election District 3rd Councilmanic District OMG Limited Partnership, *Owner/Respondent* Peoples' Counsel for Baltimore County, *Appellant*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. 99-483-A

ORDER

This matter having come before the Board pursuant to an appeal by the Office of People's Counsel of the November 2, 1999 *Findings of Fact and Conclusions of Law* issued by the Zoning Commissioner of Baltimore County and upon consideration of the evidence and discussion of counsel for the parties in open hearing held, it is this 26th day of March, 2001, by the County Board of Appeals for Baltimore County,

ORDERED, that pursuant to Section 450.5.B.7 of the *Baltimore County Zoning Regulations* roof signs are not permitted in Baltimore County; and it is

FURTHER ORDERED that the sign which is the subject of this case shall be removed from the subject property on or before August 1, 2001.

COUNTY BOARD OF APPEALS

Lawrence M. Stahl, Chairman

Charles L. Marks

Donna M. Felling

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

BALTIMORE COUNTY, MAR AND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Item 483

No. 065381

DATE 5-28-99 ACCOUNT R-001-6150

AMOUNT $ 250.00

RECEIVED FROM: OMG LTD. Partnership

FOR: Commercial (Sign) Variance filing fee
9000 Delfield Rd.

99-483-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACCOUNT TIME
5/28/1999 5/28/1999 10:25:29
REG 0005 CASHIER MISC. REC DRAWER 5
DEP 5 5/98 ZONING VERIFICATION
Receipt # 105715 DATE
CR NO. 065381
Recpt Tot. 250.00
250.00 CK .00 CH
Baltimore County, Maryland

CASHIER'S VALIDATION

01-838
MAR 28 2001

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

CCR

March 26, 2001

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204
Towson, MD 21204

RE: *In the Matter of: OMG Limited Partnership*
Case No. 99-483-A

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. This file will be closed upon the expiration of 30 days from today's date.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

Enclosure

c: Howard L. Alderman, Jr., Esquire
Charles Nass, Land Manager /OMG
Kaye Bushel, Esquire
David Hamil, P.E. /David S. Thaler & Associates, Inc.
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR VARIANCE N/S Dolfield Road, 346' S of the intersection of Allgate Road and Dorgate Road (9000 Dolfield Road) 4th Election District 3rd Councilmanic District OMG Limited Partnership and Sidney Emmer, General Partner – Petitioners	* * * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 99-483-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, OMG Limited Partnership, by Sidney Emmer, General Partner. The Petitioners seek relief from Section 450.4.15 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a real estate sign in a residential zone to be 150 sq.ft. in area in lieu of the maximum allowed 8 sq.ft., and from Section 450.5.B.7 of the B.C.Z.R. to permit said sign to be located atop a roof where none is permitted. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite hearing held in this case were Sidney Emmer, a General Partner of the OMG Limited Partnership, property owners; Charles Nass, Land Development Manager for OMG Limited Partnership; David A. Hamil, Professional Engineer with David. S. Thaler & Associates, Inc., the land use consulting firm which prepared the site plan for this property; and, Kaye Brooks Bushel, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered at the hearing revealed that the subject property consists of a gross area of 12.68 acres, more or less, split zoned D.R.3.5, D.R.10.5, and D.R.16. The property is an irregularly shaped parcel which abuts Dolfield Road to the south and Dorgate Road to the north in Owings Mills. The property was the subject of a combined Hearing Officer's

ORDER RECEIVED FOR FILING
Date 11/2/99
By

Hearing and Petition for Zoning Variance, Case Nos. IV-391 and 98-84-A, respectively. By Order of Deputy Zoning Commissioner Timothy M. Kotroco on October 30, 1997, the development plan was approved and variance relief was granted for the proposed development of the subject property with a high-quality apartment complex, which will ultimately provide 159 rental units. The property is now being built out in accordance with the approved plan.

The Petitioners now come before me seeking variance relief for an existing sign which has been mounted atop the roof of one of the buildings. The sign has apparently been at that location since development of the subject property began around the end of 1998. The sign is a 150 sq.ft. banner which advertises the location of the apartment complex.

Testimony and evidence offered revealed that the sign has been very effective in identifying the site to potential tenants. It was indicated that the sign can not be seen from I-795 (Northwest Expressway), a fact which was substantiated during my site visit to the property. The sign can, however, be seen from Owings Mills Boulevard. In this regard, it was indicated that vehicular access to the property can be confusing for those unfamiliar with the area. From I-795, one would exit onto Dolfield Road and would need to make a U-turn traffic movement in order to reach the apartment complex. It was indicated that the sign was placed on the roof of one of the buildings in order to assist traffic and better identify the site.

Testimony and evidence was also offered that there was no adverse impact caused by the sign on any neighboring residential area. In fact, testimony indicated that there was no objection by the neighboring Homeowners' Association. The fact that the sign has existed for some time without apparent complaint is also relevant.

Based upon the testimony and evidence presented, I am persuaded to grant the variance to permit the sign to remain on an interim basis. In this regard, relief shall be approved so as to permit the sign to remain in its present location for a period not to exceed two years from the date of this Order. In my view, the project should be fully built out and occupied by that time. In my judgment, the Petitioners have presented sufficient testimony and evidence to support a granting of the variance. The special circumstances that exist in this case are the property's unusual location

ORDER RECEIVED FOR FILING
Date 11/2/99
By

and the difficulty to reach same from the major arterial roads (I-795) in the area. The sign does not present a traffic hazard in that same is not visible from I-795. As the project is completed and occupied, the need for the sign will be eliminated. Thus, variance relief for a reasonable time is warranted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted in accordance with the modification set forth above.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of November, 1999 that the Petition for Variance seeking relief from Section 450.4.15 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a real estate sign in a residential zone to be 150 sq.ft. in area in lieu of the maximum allowed 8 sq.ft., and from Section 450.5.B.7 of the B.C.Z.R. to permit said sign to be located atop a roof where none is permitted, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following terms and conditions:

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 relief granted herein is limited to a period of two years from the date of this Order. At the expiration of that time, the subject sign must be removed or the Petitioner must file a Petition for Special Hearing to approve an extension of that time.

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

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 11/2/99
By

483

August 11, 1997

EMMER PROPERTY
(DESCRIPTION FOR ZONING PURPOSES ONLY)

Beginning at a point located 346 feet, more or less, south of the intersection of Allgate Road and Dorgate Road, thence approximately 24 feet, more or less, east of Dorgate Road easterly right-of-way line, thence running the following ten (10) courses and distances:

1. South 35°02'12" East 714.57 feet, more or less, to a point; thence,
2. North 53°12'48" East 274.50 feet, more or less, to a point; thence,
3. South 34°52'21" East 587.89 feet, more or less, to a point; thence,
4. South 71°21'09" West 284.16 feet, more or less, to a point; thence,
5. North 35°02'12" West 15.20 feet, more or less, to a point; thence,
6. South 69°21'33" West 216.35 feet, more or less, to a point; thence,
7. South 69°21'33" West 224.99 feet, more or less, to a point; thence,
8. North 21°34'36" West 390.87 feet, more or less, to a point; thence,
9. North 34°11'40" West 709.19 feet, more or less, to a point; thence,
10. North 55°00'40" East 326.00 feet, more or less, to the point of beginning.

Containing 12.68 acres of land, more or less.

SAM/gfl/Emmer/8/11/97

STATE OF MARYLAND
BERNARD F. LINSENMEYER
No. 503
PROPERTY LINE SURVEYOR

4/8/97

99-483-A

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: July 27, 2001

TO: Arnold Jablon, Director
Permits & Development Management
Attn: David Duvall

FROM: Charlotte E. Radcliffe
Board of Appeals

SUBJECT: **CLOSED FILES**

99-483-A /OMG Ltd. Partnership
00-161-SPHA /Joseph G. Holter, et ux
00-270-SPHA /Charlene C. & Fred D. Miller-LO; David W. Miller-CP
00-277-XA /Goodwill Industries of the Chesapeake, Inc.
00-456-A /Joseph G. Holter and Winsome Homes, Inc.
00-481-XA /Karl Pick
01-008-A /Baltimore Aviation Service, Inc.-LO; Forge Landing LLC-CP
01-191-SPH /Summit Country Club-LO;
Bais Hamedrash and Mesivta of Balto., Inc.-CP

Since the above captioned cases have been resolved or dismissed, we are hereby closing the files and returning same to your office herewith.

Attachments: Case File Nos: 99-483-A; 00-161-SPHA; 00-270-SPHA; 00-277-XA; 00-465-A; 00-481-XA; 01-008-A; and 01-191-SPH

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

LUCR

*** HEARING ROOM – *Room 48* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF FEBRUARY 19, 2001

TUESDAY **02/20** **9:30 am** Christine Carnahan –LO/Petitioners
8603 Manorfield Road 11th E; 6th C

00-439-A

PUBLIC DELIBERATION (Hearing 2/08/01)

---

10 am OMG Ltd. Partnership – Petitioners
346' S of the intersection of Allgate and Dorgate Roads (9000 Dofield Road)
4th E; 3rd C

99-483-A

VAR –To permit real estate sign in a residential zone to be 150 sf ilo maximum allowed 8 sf; and to permit said sign to be located atop roof where none is permitted

---

WEDNESDAY **02/21** *(00-184-X / Escalante PP'd to 6/20/01)*

THURSDAY **02/22** *(CC-99-1357 / Southwest PP'd to 4/26/01)*

" " **10 am** James L. Cook – LO
4 Jacob Lee Court
N/s Jacob Lee Court, 125' E of c/l New Avenue

01-58-A

VAR –side yard setback of 7' ilo required 10' for Proposed garage addition to existing dwelling

---

:: Executive Office
Law Office
Director /PDM

People's Counsel
Planning Office
Court Info. Desk

County Council
Board Members
Court Reporter

Printed with Soybean Ink

CERTIFICATE OF POSTING

RE: Case No.: 99 483 A

Petitioner/Developer: OMG Ltd. Partnership

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 9000 Delfield Rd 21117

The sign(s) were posted on 10/6/00
(Month, Day, Year)

Sincerely,

(Signature of Sign Poster and Date)

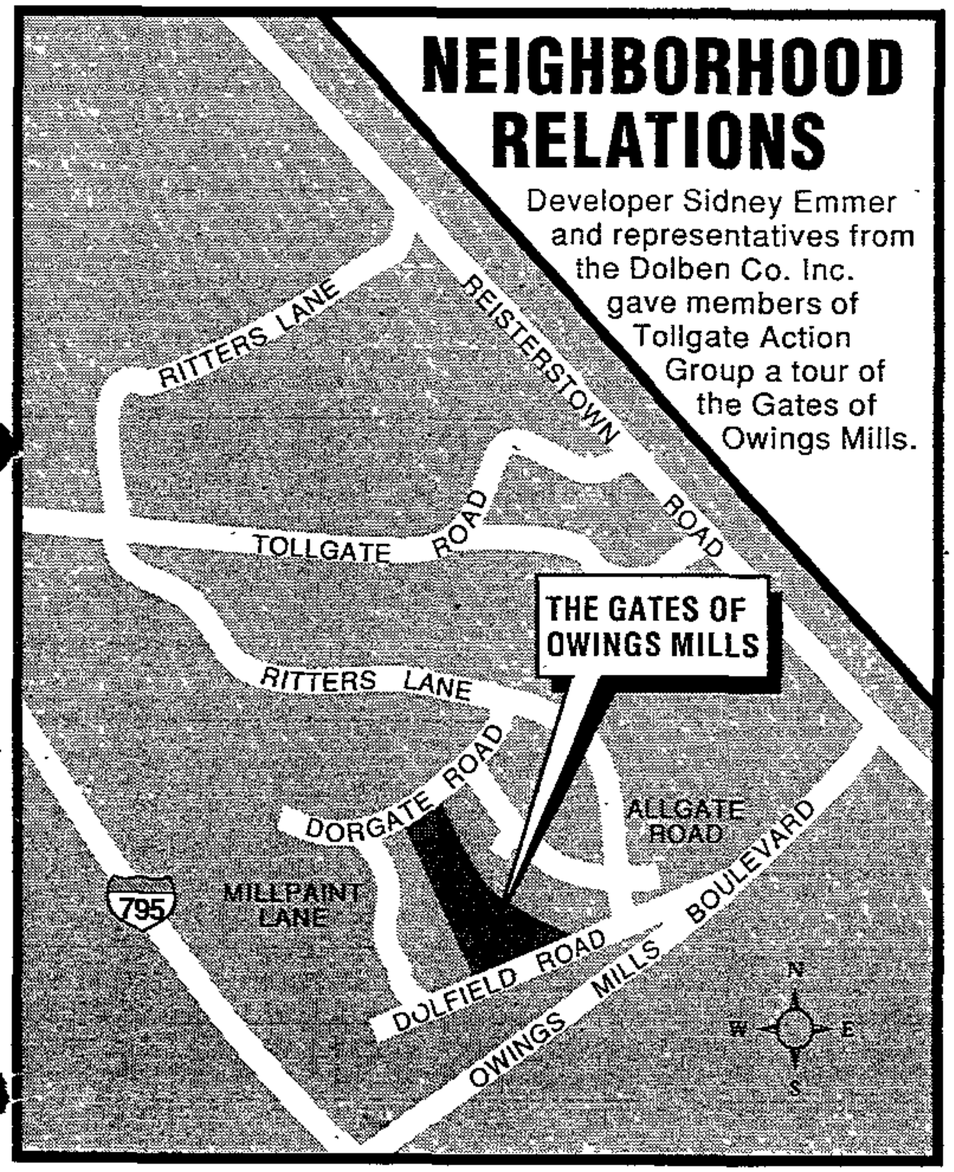
DEREK J. PROPALIS
(Printed Name)

111 W. Chesapeake Ave
(Address)

Towson MD 21204
(City, State, Zip Code)

410 887 3352
(Telephone Number)

First apartments shown at Gates of Owings Mills



SOURCE: BALTIMORE COUNTY PADM

INFOGRAPHIC BY EILEEN STRAW

BY KEELEY WEBSTER

When developer Sidney Emmer first decided to build the Gates of Owings Mills, he wanted to create a community, not just an apartment complex.

He designed the apartments in keeping with that goal.

"People should feel at home," Emmer said.

Emmer also decided that he wanted the residents to be a part of the larger Tollgate community that the complex will rest in.

So he met with residents at the onset, going beyond what the county required. He made design changes at the request of Tollgate residents. As a result, his plans sailed through the county planning process in October 1997.

"The community worked the way we wanted it to," Emmer said. "It has a real sense of community."

Even though Emmer has already completed several of the 159 apartments on the 13-acre site since construction began in April, he is still keeping Tollgate residents informed.

Emmer and representatives from The Dolben Company, Inc., the company managing the complex, held an informal open house Nov. 12 so that members of the Tollgate Action Group could see the model apartments and ask questions.

"This is very informal," Emmer said of the impromptu open house. "I just wanted Art's group, who worked with us from the start, to see how it's coming along."

After seeing the model apartment, former Tollgate Action Group president Art Coppersmith's question wasn't to Emmer, but to his wife. Coppersmith wants to know when they can move in.

"He thinks it's beautiful and wants to move in," said Edelgard Coppersmith, his wife.

"All she has to do is say 'yes,'" Coppersmith said. "I have seen quite a few apartments. I have seen most of them in New Town — but this is impressive."

"He's been after me the last couple of years. But I've put too much work into our house and I want to enjoy it for at least a couple more years," she said.

Pat Heitmann, the longest tenured member of Tollgate Action Group, did have some questions for Emmer. She wanted to know when the trees will be planted.

Emmer told her the landscaping will be done in the spring.

"You are moving along a lot faster than I thought you would — that's nice," Heitmann said.

The apartments are designed in a circle around a parking lot with a clubhouse at the entrance. The access road, Owings Gate, makes a slow climb off Dolfield Road.

At the entrance to the complex visitors will find a clubhouse that has the feel of a Vermont bed and breakfast, with four cozy striped upholstered chairs in the sitting area, a pool table area with antique billiard decorations, a basement exercise area, shower room and outdoor pool.

A penthouse apartment located on top of the clubhouse may be pricey, but the one-, two- and three-bedroom apartments were designed to target young people starting out, young couples and empty-nesters, according to David Newcome, the senior regional property manager for The Dolben Company, Inc.

Each apartment has a washer and dryer and a balcony. And 47 garages are available for an additional cost on a first-come, first-serve basis.

Newcome said that even though Dolfield hasn't held an official open house, the management company has already rented several apartments. Visitors to the site have told Newcome they like the floor plan and overall design.

"The designers tried to keep it as wide open and bright as possible," Newcome said. "The six-foot-long windows also allow a lot of light in."

Melissa Coppola Hegarty, the property manager, said her company has had seven to 10 people walk in each week for the past three weeks.

"Now the pressure is on us to get the units finished and make them available," Emmer said. "We have commitments into the next 28 built."

Emmer said work crews are building the apartments at a clip of 14 every two to three weeks. Construction is scheduled to be completed by April 1999.

Ref No 3

NOTICE OF ZONING 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: #99-483-A
9000 Dolfield Road
N/S Dolfield Road, approx. 320' W of South Ritters Lane; also S/S Dorgate Court, 350' W of Allgate Road
4th Election District
3rd Councilmanic District
Legal Owner(s):
OMG Limited Partnership

Variance: to allow a 150-square foot real estate sign in lieu of the 8 square feet permitted and to allow a roof sign in lieu of none permitted.

Hearing: Tuesday, July 20, 1999 at 2:00 p.m. in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

7/044 July 1 C322765

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/1, 1999

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 7/1, 1999

THE JEFFERSONIAN,

S. Wilkinson

LEGAL ADVERTISING

[redacted]

CERTIFICATE OF POSTING

RE: CASE # 99-483-A
PETITIONER/DEVELOPER:
(OMG Limited Part.)
DATE OF Hearing
(July 27, 1999)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

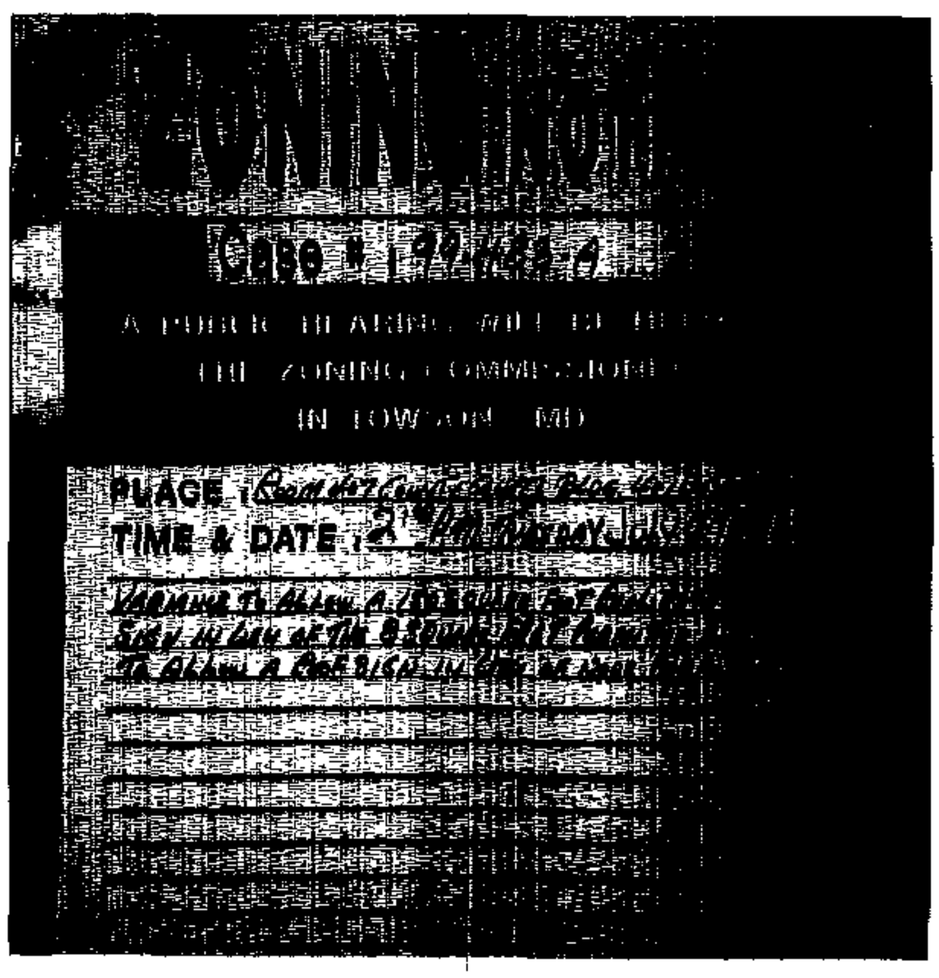
ATTENTION : MS. GWENDOLYN STEPHENS

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

9000 Dolfield Road Baltimore , Maryland 21117_____

The sign(s) were posted on_____ 7-9-99 _____
(Month, Day, Year)



Sincerely,

7/9/99
(Signature of Sign Poster & Date)

_____Thomas P. Ogle, Sr._____

_____325 Nicholson Road_____

___Baltimore, Maryland 21221___

_____(410)-687-8405_____
(Telephone Number)

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 99-483-A

Petitioner: DMG LTD. Partnership

Address or Location: 9000 Dolfield Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Charles Ness

Address: 1801 Falls Rd.

Balto., Md. 21208

Telephone Number: (410) 685-5200

Revised 2/20/98 - SCJ

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

June 23, 1999

Mr. Charles Nass
1801 Falls Road
Baltimore, MD 21201

Dear Mr. Nass:

RE: Case Number 99-483-A, 9000 Dolfield Road

The above matter, previously assigned to be heard on July 20, 1999 has been postponed at your request. It has been **rescheduled for Tuesday, July 27, 1999 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.**

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with notice of the original hearing date, as quickly as possible a notice of the new hearing date should be affixed to the sign(s).

If you need further information or have any questions, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,

Arnold Jablon
Director

AJ:scj

C: OMG Limited Partnership

Printed with Soybean Ink
on Recycled Paper

RECEIVED
JUL - 6 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

July 23, 1999

Mr. Charles Nass
OMG Limited Partnership
1801 Falls Road
Baltimore, MD 21201

Dear Mr. Nass:

RE: Case No.: 99-483-A, Petitioner: OMG Limited Partnership,
Location: 9000 Dolfield Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on May 28, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments 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.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:ggs

Enclosures

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

June 16, 1999

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

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JUNE 7, 1999

Item No.: See Below Zoning Agenda:

Gentlemen:

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

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

456, 457, 458, 459, 460, 461, 462, 464, 465, 466, 467,

468, 469, 470, 471, 472, 474, 475, 476, 477, 478, 479,

480, 483 484, AND 485

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

RECEIVED JUN 2 1 1999

Printed with Soybean Ink
on Recycled Paper

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

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

Date: June 16, 1999

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for June 14, 1999
Item Nos. 456, 459, 460, 461, 462, 464, 466, 467, 468, 469, 471, 472, 474, 475, 476, 477, 482, 483, 484, & 485

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZAC06149.NOC

RECEIVED JUN 2 1 1999

6/16/99
to CR

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 15, 1999

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

RECEIVED JUN 1 8 1999

SUBJECT: 9000 Dolfield Road

INFORMATION:

Item Number: 483

Petitioner: OMG Limited Partnership

Zoning: DR 3.5, DR 10.5 and DR 16

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has consistently opposed variances for signs whose purpose is to draw the attention of interstate highway drivers and their passengers. Signs of this nature raise serious concerns regarding traffic safety. For the reasons stated above, this office recommends that the applicant's request be denied.

Section Chief: Jeffrey W. Long

AFK/JL

C:\JEFF_L\483.doc

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 6 · 4 · 99

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

RE: Baltimore County
Item No. 483 JJS

Dear. Ms Stephens:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Michael M. Lenhart, Chief
Engineering Access Permits Division

My telephone number is _____

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

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 15, 1999

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

SUBJECT: 9000 Dolfield Road

INFORMATION:

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Section Chief: Jeffrey W. Long

AFK/JL

C:\JEFF_L\483.doc

APPEAL

Petition for Variance
9000 Dolfield Road
346' S of the intersection of Allgate and Dorgate Roads
4th Election District –3rd Councilmanic District
OMG Ltd. Partnership, Petitioners
Case No. 99-483-A

Petition for Variance (filed 05/28/99)

Zoning Description of Property

Notice of Zoning Hearing (dated 06/14/99)

Certification of Publication (The Jeffersonian 07/01/99)

Certificate of Posting (posted 07/09/99 by Thomas P. Ogle, Sr.)

Entry of Appearance by People's Council (dated 06/23/99)

Petitioners' Sign-In Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibits:
1. 6 Photographs
2. Plat to Accompany Special Exception (dated 05/24/99)
3. Article of Gates of Owings Mills

Letter to Arnold Jablon from Charles Nass, Land Development Manager dated 06/21/99

Zoning Commissioner's Order, dated 11/02/99 (Granted with Conditions)

Letter from Lawrence E. Schmidt, to Kaye Brooks Bushel, Esquire, dated 11/02/99

Notice of Appeal received 11/19/99 from Peter Zimmerman on behalf half of People's Counsel

Request for Zoning Appeal Status from Charlotte Radcliffe, dated 08/31/00

c: Kaye Bushel, 210 W. Pennsylvania Avenue, Towson, MD 21204
Charles Nass. 1801 Falls Road, Baltimore, MD 21201
David Hamil, 7115 Ambassador Road, Baltimore, MD 21244
People's Counsel, M.S. 2010
Arnold Jablon, PDM Director
Zoning Commissioner

Counsel for Petitioner:
Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

RECEIVED
BOARD OF APPEALS
00 SEP 22 AM 9:07

Case No. 99-483-A

VAR –To permit real estate sign in residential zone to be 150 sf ilo of maximum allowed 8 sf; to permit said sign to be atop roof where none is permitted.

11/02/99 –Z.C.'s decision in which VAR was GRANTED with conditions.

12/14/00 -Notice of Assignment sent to following; assigned for hearing on Tuesday, February 20, 2001 at 10 a.m.:

Peter Max Zimmerman /People's Counsel for
Baltimore County
Kaye Bushel, Esquire
Charles Nass /OMG
David Hamil /David S. Thaler & Assoc
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

1/08/01 – Entry of Appearance filed by Howard L. Alderman, Jr., Esquire, on behalf of OMG Limited Partnership, Petitioner.

2/20/01 – Board convened for hearing (Stahl, Felling, Marks); parties reached agreement; proposed Order to be submitted by counsel per terms of agreement.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 14, 2000

NOTICE OF ASSIGNMENT

CASE #: 99-483-A

IN THE MATTER OF: OMG LTD PARTNERSHIP -Petitioners
9000 Dolfield Road 4th Election District; 3rd Councilmanic

11/02/99 – Petition for Variance GRANTED with conditions by Zoning Commissioner.

ASSIGNED FOR: **TUESDAY, FEBRUARY 20, 2001 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Appellant : Peter Max Zimmerman /People's Counsel for Baltimore County

Counsel for Petitioners : Kaye Bushel, Esquire
Petitioners : Charles Nass, Land Manager /OMG

David Hamil, P.E. /David S. Thaler & Associates, Inc.

Counsel for Petitioner
(entered 1/08/01)
Howard L. Alderman, Jr., Esquire

Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

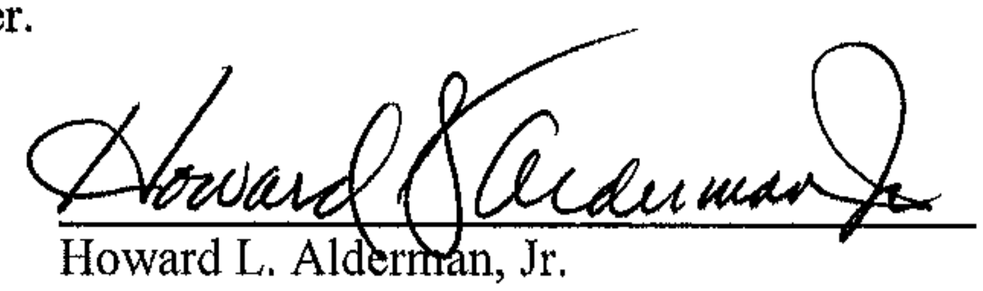
IN RE:	**PETITION FOR VARIANCE** **9900 Dolfield Road** **4th Election District** **3rd Councilmanic District** **OMG Limited Partnership, Owner** **Petitioner**	**BEFORE THE** **COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No. 99-483-A**

01 JAN -8 PM 3:05
COUNTY BOARD OF APPEALS
RECEIVED

ENTRY OF APPEARANCE

Ms. Bianco:

Please enter the appearance of the undersigned legal counsel in the above-captioned matter on behalf of the above-captioned Petitioner.



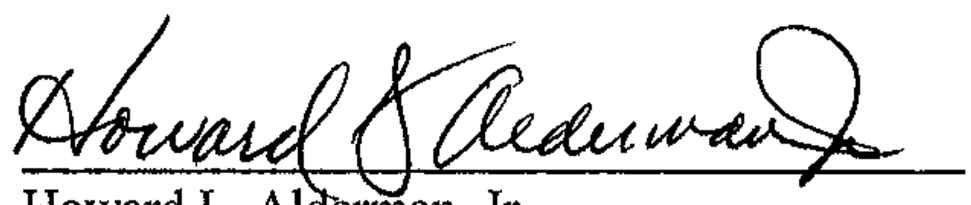
Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
Halderman@LevinGann.com [e-mail]

Attorneys for Petitioners/Owners

Date: January 5, 2001

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2001, one copy of the foregoing Entry of Appearance was mailed, postage prepaid, First Class United States Mail to: Peter Max Zimmerman, Esquire and Carole S. Demilio, Esquire, Office of People's Counsel, 400 Washington Avenue, Towson, Maryland 21204.



Howard L. Alderman, Jr.

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

September 21, 2000

Kaye Brooks Bushel, P.A.
Basik, Bushel & Young
210 West Pennsylvania Avenue, Ste 720
Baltimore, MD 21204

Dear Mr. Bushel:

RE: Petition for Administrative Variance, Case No. 99-483A, 9000 Dolfield Road, 4th District, OMG Ltd. Partnership, Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on 11/18/99 by Peter Max Zimmerman. 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 the Board of Appeals at 410-887-3180.

NOTE: The subject property will be posted with the date, time, and location of the appeal hearing. If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

Sincerely,

Arnold Jablon
Director

AJ:rsj

c: David Hamil, 7115 Ambassador Road, Baltimore, MD 21244
People's Counsel MS 2010
Zoning Commissioner
Arnold Jablon

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COUNTY BOARD OF APPEALS
00 SEP 22 AM 9:07

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Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 18, 1999

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
9000 Dolfield Road, 346' S of the intersection of
Allgate and Dorgate Rds
4th Election Dist., 3rd Councilmanic
OMG Ltd. Partnership, Petitioners
Case No.: 99-483-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated 11/02/1999 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/caf

Carole S. Demilio
Deputy People's Counsel

RECEIVED
NOV 19 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

PMZ/CSD/caf

cc: Kaye Brooks Bushel, Esq., Attorney for Petitioners

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

9/1/00
SL
✓

DATE: August 31, 2000

TO: Stella Lowery
Permits & Development Management

FROM: Charlotte E. Radcliffe
Board of Appeals

SUBJECT: Request for Zoning Appeal Status
In the Matter of: ***OMG Ltd. Partnership*** - Petitioners
Case No. ***99-483-A***

The Board received an inquiry from Peter Zimmerman on Aug. 18th, as to the scheduled date of the hearing in the above captioned matter. At that time, we discovered we had no record of this appeal and that the file was not sent over from PDM.

I have obtained a copy of People's Counsels appeal letter filed with PDM on Nov. 19, 1999, and am attaching same with a request for the current status of this appeal.

Please have the appeals clerk telephone our office at #3180 as soon as possible. Thank you for your assistance.

Attachment

/cer

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 18, 1999

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
9000 Dolfield Road, 346' S of the intersection of
Allgate and Dorgate Rds
4th Election Dist., 3rd Councilmanic
OMG Ltd. Partnership, Petitioners
Case No.: 99-483-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated 11/02/1999 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/caf

Carole S. Demilio
Deputy People's Counsel

RECEIVED
NOV 19 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

RECEIVED
NOV 19 1999
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

PMZ/CSD/caf

cc: Kaye Brooks Bushel, Esq., Attorney for Petitioners

00-2746
SEP - 1 2000

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

March 26, 2001

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204
Towson, MD 21204

RE: *In the Matter of: OMG Limited Partnership*
Case No. 99-483-A

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. This file will be closed upon the expiration of 30 days from today's date.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

Enclosure

c: Howard L. Alderman, Jr., Esquire
Charles Nass, Land Manager /OMG
Kaye Bushel, Esquire
David Hamil, P.E. /David S. Thaler & Associates, Inc.
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE, 8TH FLOOR
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4525
410-321-0600
TELECOPIER 410-296-2801

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)

March 2, 2001

01 MAR -6 PM 12:01
COUNTY BOARD OF APPEALS

Ms. Kathleen Bianco
County Board of Appeals for
Baltimore County
400 Washington Avenue, Room 49
Old Courthouse
Towson, Maryland 21204

Re: OMG Limited Partnership
Case No.: 99-483-A

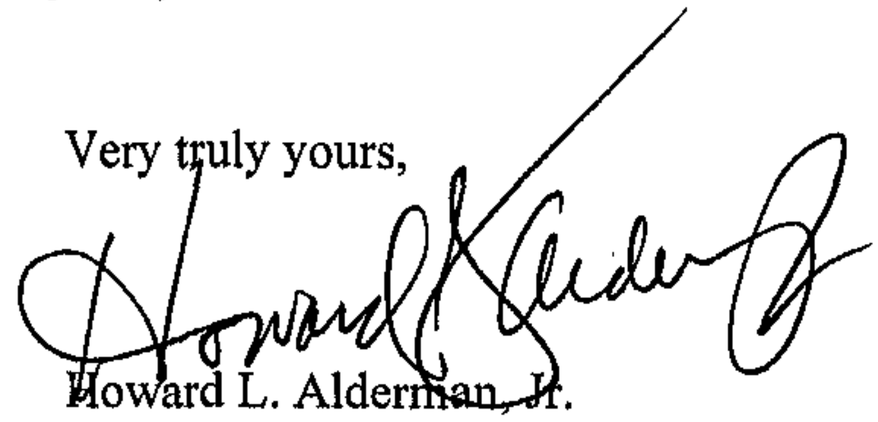
Dear Ms. Bianco:

At the Board's request, I have prepared a proposed Order in connection with the disposition of the above-referenced case in open hearing. I have previously provided a copy of this proposed Order to Carole DeMilio, Deputy People's Counsel for Baltimore County and have received a call from Ms. DeMilio to forward the Order in its present form to the Board for consideration.

Upon consideration of the enclosed Order, should the Board or any member thereof desire any additional information, please do not hesitate to contact Ms. DeMilio and me.

Thank you for the opportunity to prepare this jointly reviewed Order for consideration by the Board.

Very truly yours,



Howard L. Alderman, Jr.

HLA/pal
Enclosure
cc/enc: Carole DeMilio, Deputy People's Counsel
OMG Limited Partnership
U:\hla\bianco-k.ltr-13373-3.wpd

IN RE: PETITION FOR VARIANCE **9900 Dolfield Road** **4th Election District** **3rd Councilmanic District** **OMG Limited Partnership,** ***Owner/Respondent*** **Peoples' Counsel for Baltimore County,** ***Appellant***	**BEFORE THE** **COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No. 99-483-A**

ORDER

This matter having come before the Board pursuant to an appeal by the Office of People's Counsel of the November 2, 1999 *Findings of Fact and Conclusions of Law* issued by the Zoning Commissioner of Baltimore County and upon consideration of the evidence and discussion of counsel for the parties in open hearing held, it is this 26th day of March, 2001, by the County Board of Appeals for Baltimore County,

ORDERED, that pursuant to Section 450.5.B.7 of the *Baltimore County Zoning Regulations* roof signs are not permitted in Baltimore County; and it is

FURTHER ORDERED that the sign which is the subject of this case shall be removed from the subject property on or before August 1, 2001.

COUNTY BOARD OF APPEALS

Lawrence M. Stahl, Chairman

Charles L. Marks

Donna M. Felling

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

6/25/99
V SJ

SIDNEY EMMER BUILDERS, INC. 1801 FALLS ROAD, BALTIMORE, MARYLAND 21201 410-685-5200

June 21, 1999

Arnold Jablon
Baltimore County
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson , MD 21204

Re: Zoning Hearing
Case Number 99-483-A
9000 Dolfield Road
July 20, 1999, 2:00 PM

Dear Mr. Jablon:

I am writing to request that the above scheduled hearing be rescheduled. The owner of the property will be out of town on the scheduled date. I contacted the docket clerk in the Zoning Office and was told to request a new date in writing.

I hope you will accommodate this request. If you have any questions please contact our office.

Sincerely,

Charles Nass
Land Development Manager

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

June 14, 1999

NOTICE OF ZONING 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: 99-483-A
9000 Dolfield Road
N/S Dolfield Road, approximately 320' W of South Ritters Lane; also S/S Dorgate Court, 350' W of Allgate Road
4th Election District – 3rd Councilmanic District
Legal Owner: OMG Limited Partnership

Variance to allow a 150-square foot real estate sign in lieu of the 8 square feet permitted and to allow a roof sign in lieu of none permitted.

HEARING: Tuesday, July 20, 1999 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

c: OMG Limited Partnership
Charles Nass

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY JULY 5, 1999.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391. SOPHIA JENNINGS - DOCKET CLERK

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on Recycled Paper

RE: PETITION FOR VARIANCE 9000 Dolfield Road, N/S Dolfield Rd, appx. 320' W of S. Ritters Ln; also S/S Dorgate Ct, 350' W of Allg 4th Election District, 3rd Councilmanic	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	FOR
Legal Owner: OMG Ltd. Partnership Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. 99-483-A

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

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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 1999 a copy of the foregoing Entry of Appearance was mailed to Charles Nass, 1801 Falls Road, Baltimore, MD 21201, representative for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

November 2, 1999

Kaye Brooks Bushel, Esquire
Basik, Bushel & Young
210 West Pennsylvania Avenue, Suite 720
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
N/S Dolfield Road, 346' S of the intersection of Allgate and Dorgate Roads
(9000 Dolfield Road)
4th Election District – 3rd Councilmanic District
OMG Limited Partnership & Sidney Emmer, General Partner - Petitioners
Case No. 99-483-A

Dear Ms. Bushel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has 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,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Messrs. Sidney Emmer and Charles Nass
OMG LP, 1801 Falls Road, Baltimore, Md. 21201
People's Counsel; Case File

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on Recycled Paper

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Kaye Bushel	210 W Penn Ave 21204
CHARLES NASS	1801 FALLS RD 21201
DAVID A. HAMIL DST & A	7115 AMBASSADOR RD. 21244
Sid Emmer	1801 Falls Rd. 21201

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

September 21, 2000

Kaye Brooks Bushel, P.A.
Basik, Bushel & Young
210 West Pennsylvania Avenue, Ste 720
Baltimore, MD 21204

Dear Mr. Bushel:

RE: Petition for Administrative Variance, Case No. 99-483A, 9000 Dolfield Road, 4th District, OMG Ltd. Partnership, Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on 11/18/99 by Peter Max Zimmerman. 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 the Board of Appeals at 410-887-3180.

NOTE: The subject property will be posted with the date, time, and location of the appeal hearing. If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

Sincerely,

Arnold Jablon
Director

AJ:rsj

c: David Hamil, 7115 Ambassador Road, Baltimore, MD 21244
People's Counsel MS 2010
Zoning Commissioner
Arnold Jablon

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on Recycled Paper

2

3

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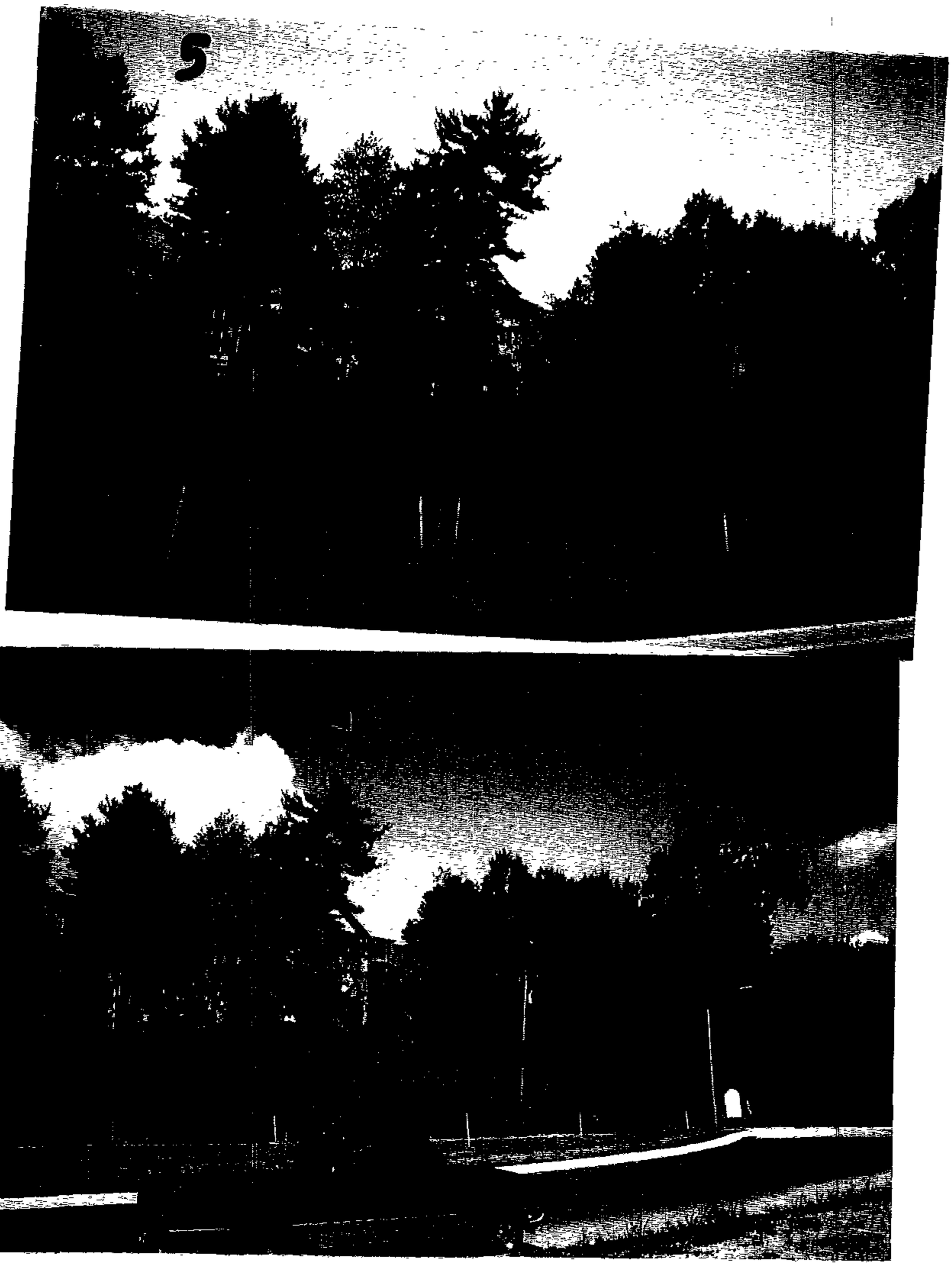

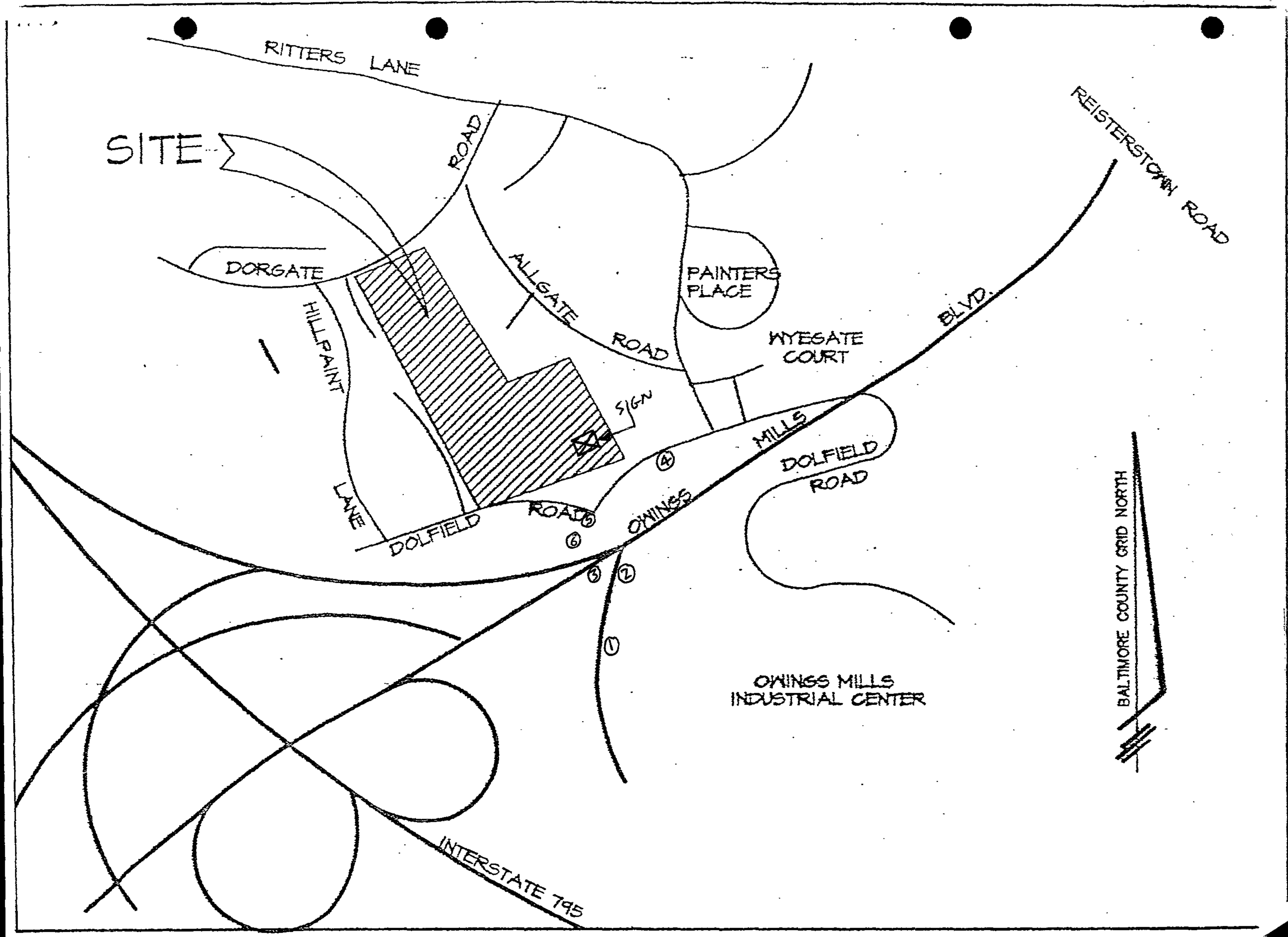
RITTERS LANE
SITE
ROAD
REISTERSTOWN ROAD
DORGATE
HILLPAINT
ALLGATE ROAD
PAINTERS PLACE
WYEGATE COURT
BLVD.
SIGN
MILLS
DOLFIELD ROAD
LANE
DOLFIELD ROAD
OWINGS
OWINGS MILLS INDUSTRIAL CENTER
INTERSTATE 795
BALTIMORE COUNTY GRID NORTH
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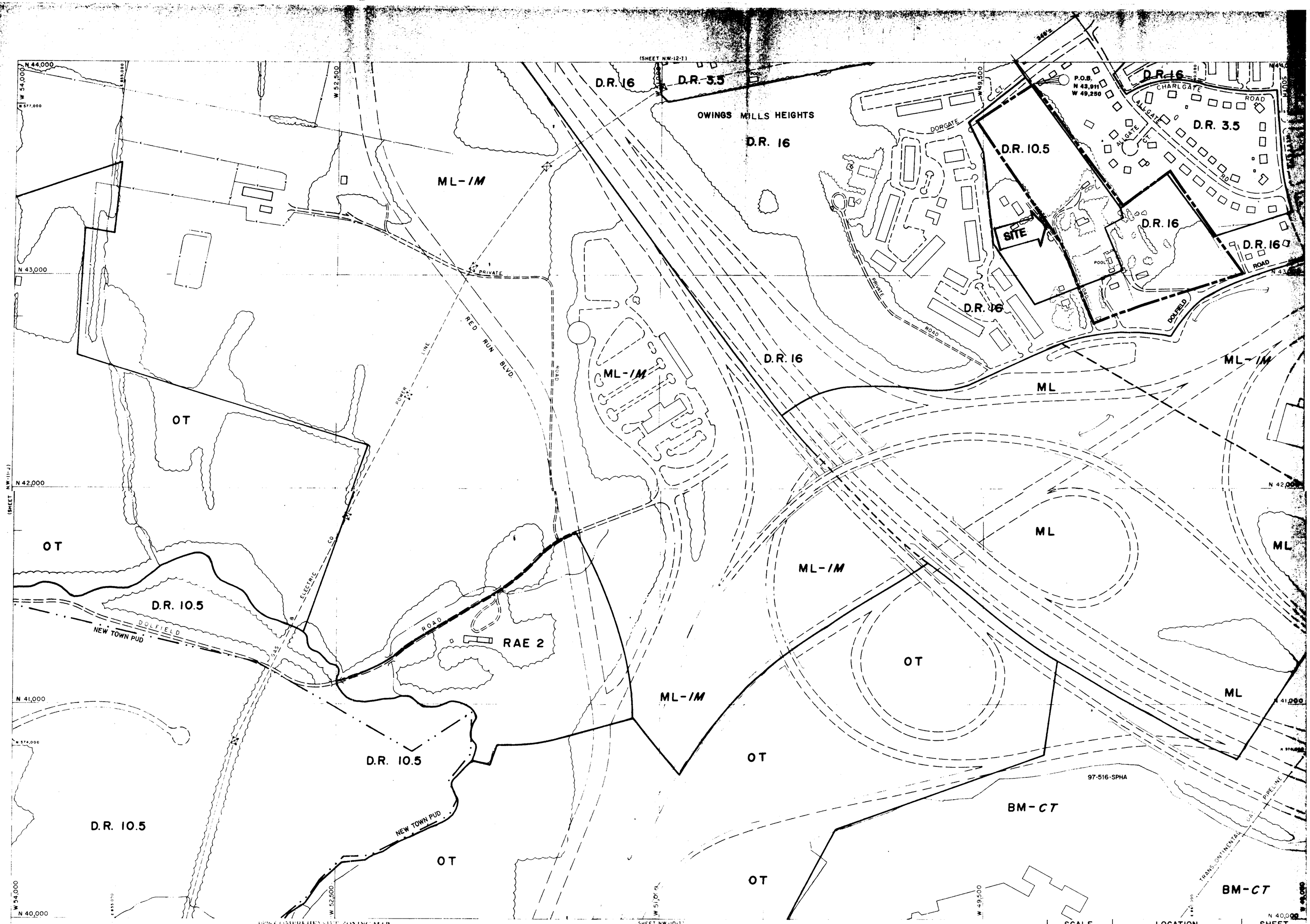
CASE NO. 99-483-A

OMG Ltd. Partnership - Petitioners

346' S of the intersection of Allgate and Dorgate Roads (9000 Dolfield Road)

4th Election District Appealed: 11/19/99

(See Plat to accompany Petition - Petitioner's #2)



1976 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
ON OCTOBER 5, 1976
Bills Nos. 159-96, 160-96, 161-96, 132-96, 133-96, 134-96, 135-96
Kevin Lawrence
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	OWINGS MILLS	N.W. 11-1
DATE OF PHOTOGRAPHY JANUARY 1986		

1996 BALTIMORE COUNTY 200 SCALE ZONING MAPS (NW 11-1)
TO ACCOMPANY ZONING PETITION

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
7115 AMBASSADOR ROAD
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-7428
(410) 944-ENGR (410) 944-3647

DST&A

25' 100' 50' 200' 400'

#482

EMMER PROPERTY

99-483-A

Phone: 410-823-8070
Fax: 410-823-4967

ATTN: Alan S. Scott, R.L.A.

5. PROPERTY REFERENCES: (HISTORY)

PARCEL STACT	TAX ACCOUNT NO-SEA	DEED	TAX MAP	GRID	ADC MAP	HELD SINCE
189	04-04-00-2720	4918/362	59	20	34 SP46	1984
189	04-04-00-2720	4860/582	59	20	34 SP46	1984
187	04-04-00-2840	4008/488	59	20	34 SP46	1963
	04-04-00-0841					
180	04-04-00-0036	12468/87	59	20	34 SP46	1977
181	04-04-00-0038	12468/87	59	20	34 SP46	1977

Current deed reference 12468/32

For title history: p. 180 & p.181: Reference prior deeds 3454/640 (1914) and 2484/248 (1954)

Boundary: D.S. Thaler & Associates, Inc., May 1997

Topography: D.S. Thaler & Associates, Inc., February 1997

Zoning: Baltimore County, Key Map 77-SW & Baltimore County Design Drawings

Zoning History: Zoning 200 Scale Zoning Map (1968) (Ver 11-1)

Soils: U.S.D.A.- Baltimore County Soil Survey Manual (Map 38)

Wetlands: N/A

Floodplain: N/A

Steep Slopes & Erodible Soils Analysis: N/A

Forest Stand Delineation: Exploration Research Inc. May 1997

Forest Conservation Worksheet: D.S. Thaler & Associates, Inc. August 1997

Phase I Environmental Site Assessment: ECO Dynamics Group, January 1997

6. GENERAL DATA:

Residential Materials: 4 — Watershed: 21 — Subwatershed 67 — Subdrainage: 67

Census Tract: 4051.02

Councilmanic District: 5, Councilman Bryan McIntire

School Information: School District: Owings Mills — School Capacity: 704 — Mid-Year Enrollment: 750 — Estimated Pupil Yield: Elementary: 95 — Middle: 12 — High School: 19

7. SITE INFORMATION:

DENSITY ALLOWED:

ZONE	NET AREA	GROSS AREA	DENSITY ALLOWED
DR-5.5	0.9AC+/-	0+0.9=0.9AC+/-	2 Dwelling Units
DR-10.5	6.71 AC+/-	+0.06 Dorsey Road = 6.28 Ac.+/-	66 Dwelling Units
DR-16	5.42AC+/-	+0.06 Dorsey Road = 5.48 Ac.+/-	49 Density Units
Total	12.88AC+/-	12.52AC+/-	67 Dwelling Units +5 Density Units

DENSITY PROPOSED:

	DR-16	DR-10.5	Total
	26 (3 BDRM units) x 0.75 = 19.5 Density Units	20 (1 BDRM units)	46 (1 BDRM units)
	54 (2 BDRM units) x 1 = 54 Density Units	94 (2 BDRM units)	18 (2 BDRM units)
Total:	80 Units proposed or 73.5 Density Units	114 Units proposed 66 Units allowed +14 Units	194 Units

+5 Density Units allowed
-73.5 Density Units proposed
+2.5 Density Units remaining (2 BDRM.)
or (2.5 x 1 = 2) Dwelling Units

2 Dwelling Units allowed - 14 Dwelling Units = 12 Dwelling Units Remaining in DR 10.5 * DR 16 Zones
2 Dwelling Units remaining in DR 5.5 Zone

Note: Density may be utilized across DR-16 & DR-10.5 zone lines.

A. Parking:
Required: Apartment Units:
20 Efficiency = 20# spaces
294 1 Bdrm = 0% = 56 spaces
Plus:
46 (1 bedroom) x 2 people = 92
(18 (2 bedroom) x 3 people = 54
Total = 202
46 people x 20% = 105 (people in pool @ one time)
105 @ 1 space/7 people = 15 spaces
Total Required = 217
Proposed: 46 garage spaces
257 surface spaces
Total Proposed = 303spaces

B. Pool Area:
Required: Pool Size @ 100 people x 10SF/person = 1000SF
Pool Enclosure @ 100 people x 20SF/person = 2000 SF
Proposed: Pool Size @ 1550 SF
Pool Enclosure @ 5662 SF

C. Open Space:
Required: 680 SF/Dwelling x 194 = 2.87 AC+/-
Proposed: 3.4 AC.+/- (forest conservation easement, passive use)

D. Landscape planting as specified in the Baltimore County Landscape Manual, adopted October 1, 1992

	REQUIRED	PROPOSED
ADJACENT ROAD:	1 P.U./40 L.F. Min. 75% major deciduous	Dolfield = 785' +/- Dorgate = 826' +/- Commercial = 1000' +/- 2161'+/-/40 = 54 P.U.* — 54 P.U.*
INTERIOR ROAD:	1 P.U./30 L.F. Min. 75% major deciduous	950'+/-/30 = 28.5 P.U. — 28.5 P.U.
PARKING:	1 P.U./2 spaces Min. 75% major deciduous 7% of parking area reserved for landscaping	256/2 = 21 P.U. — 21.5 P.U.
SCREEN OF PARKING LOTS FROM ADJACENT PUBLIC R/W:	Class 'B' screen 1 P.U./35 L.F. Min. 3' Ht. at maturity Min. 36" Ht. at installation	86'+/-/35 = 2.4 P.U. — 2.4 P.U.
SCREEN OF DUMPSTERS:	Class 'A' screen 1 P.U./35 L.F. Min. 6' Ht. at maturity Min. 50" at installation	240'+/-/35 = 16 P.U.* — 16 P.U.*
STORMWATER MANAGEMENT:	1/ side slopes are > 4:1, Class 'A' screen 1 P.U./35 L.F. Min. 6' Ht. at maturity Min. 50" Ht. at installation	480'+/-/35 = 53 P.U. — 53 P.U.
RTA:	Area of buffer (S.P.)/400 S.F. Min. 50% e.g. trees Min. 50% major deciduous	1500 S.F.+/-/400 = 4.5 P.U. — 4.5 P.U.
TOTAL:		156.4 P.U.* — 156.4 P.U.*

*(Credit will be applied for at the time of Final Development Plan submittal)

8. UTILITIES: Public water and sewer will be provided.

9. USE: The existing use is residential. The proposed use is residential.

10. EXISTING: There are no known historic buildings, critical areas, archaeological sites, endangered species, or hazardous materials* on the site.

*May have to the applicant, location and description of hazardous materials as defined by Section 1-101 of the environmental article of the annotated Code of Maryland, as from time to time amended.

11. ROADS: All roads are private.

12. AVERAGE DAILY TRIPS (ADT): Average daily trips are calculated from the Baltimore County Comprehensive Manual of the Development Policy. Average Daily Trip: = 194 units x 6.5/unit = 1,054 ADTS

13. STORMWATER MANAGEMENT: Stormwater management will conform to Baltimore County Standards. Stormwater management facility shall be screened from adjacent residential properties.

14. GRADING: Grading shown is schematic only.

15. VEGETATION: Existing vegetation will be retained in areas not needed for construction or grading. Existing vegetation consists of woods and open.

17. SIGHT LINES: Proposed sight lines are shown on the plan and will be cleared and graded and kept permanently clear to ensure unobstructed sight at all times.

18. STORAGE TANKS: There are no known underground storage tanks on-site.

19. LIGHTING: Proposed lighting is shown on Light standards (8 ft)he will be directed so as not to spill onto off-site residences and shall be a maximum of 10 lux. Lighting intensity shall not exceed 0.2 foot candles at the tract boundary.

20. This property as shown on the plan has been held intact since ... (see note 18). No known part of the gross area of the property as shown on the plan has been utilized, recorded or represented as density or area to support any off-site dwellings.

21. All small lots on record (less than two acres) that are vacant and/or has adjacent property which is zoned DR-1, 2, 3.5, 5.5 or RC supporting a single family detached or duplex dwelling within 150 feet of tract boundary create a Residential Transition Area (RTA) private within the 100' wide area adjacent to the tract boundary as delineated on the plan.

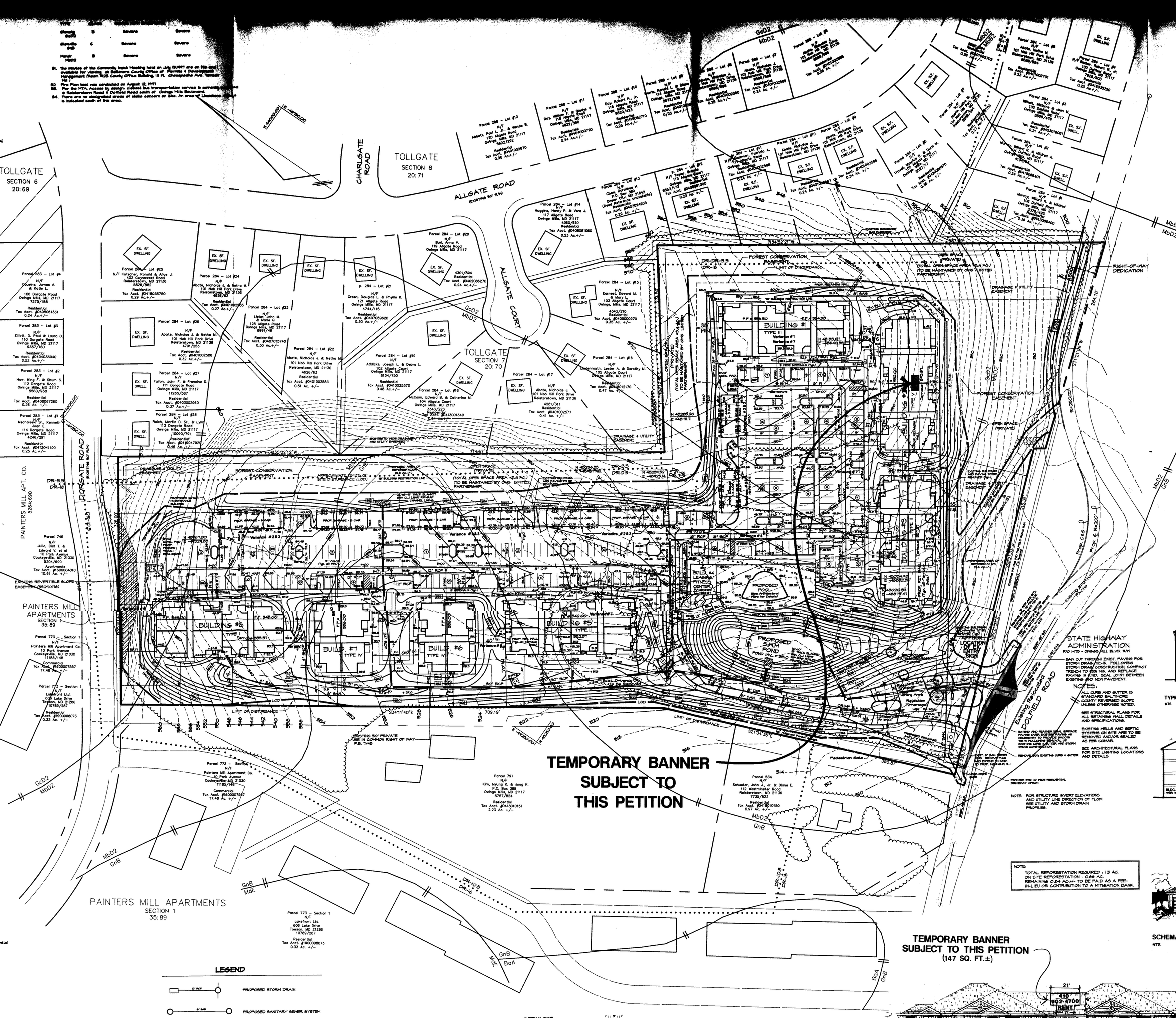
22. Soil and Slope Mitigation Measures:
The developer shall do the following in those areas where severe or moderate soil limitations are indicated and/or steep slopes occur:
a. Insure that grading plans consider protection of these areas from increase in run-off. This will include diverting roof down spouts and drives into storm drains.
b. Stabilization of disturbed areas in accordance with approved sediment control practices.
c. Provide for geotechnical assistance with private inspectors as required.

23. Sidewalks shall be provided on all public roads. Repair of sidewalks improvements to Dorgate Rd. and Dolfield Rd. will be requested.

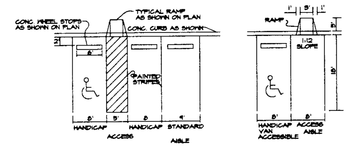
24. Future signs shall conform with BCZR Section 413 and all zoning policies (see zoning variance request #5).

25. Building foot prints shown are for illustrative purposes only and may not represent the actual foundation plan.

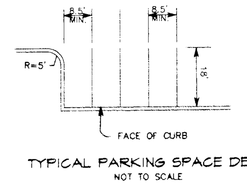
26. All parking areas and maneuvering areas will be paved with macadam and permanently striped.



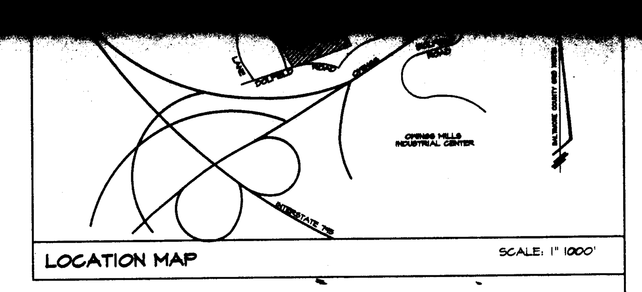
LEGEND



HANDICAP RAMP & PARKING SPACE DETAIL
NOT TO SCALE



TYPICAL PARKING SPACE DETAIL
NOT TO SCALE



LOCATION MAP SCALE: 1" 1000'

10-30-97
Hearing Officer's Order
CASE # IV-391 & 98-84 A

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 30th day of October, 1997 that the development plan for the Emmer Property, identified herein as Developer's Exhibit 1, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policies (C.M.D.P.) as follows: 1) From section 1B01.1.B.1.c(5) of the B.C.Z.R. and Page 14, Section II.A of the C.M.D.P. (as amended) to permit a building height of 56 feet within the 180-foot Residential Transition Area (RTA) in lieu of the permitted 35-foot building height; 2) from Section 400.1 of the B.C.Z.R. to permit accessory buildings to be located in the front and side yards, and for any corner lots, to permit accessory buildings to be located outside the third of the rear yard farthest removed from the street and to permit the accessory building to occupy more than 50% of each third; 3) from Section 400.3 of the B.C.Z.R. to permit an accessory building height of 18 feet in lieu of the maximum permitted 15 feet; 4) from Section 409.6.A.4 of the B.C.Z.R. to permit three (3) parking spaces (as amended) in lieu of the required 16 for a swimming pool; 5) from Section 413.1.D of the B.C.Z.R. to permit a double-faced identification sign of 64 sq.ft. total in lieu of the maximum permitted 15 sq.ft. sign; 6) from Section 413.A, Page 15 of the C.M.D.P. (as amended) to permit building front elevation to building side elevation and building rear elevation to building side elevation setbacks of 40.7 in lieu of the required 60 feet; and to permit building face to be 40 to 55 feet and 30 feet of the edge of a private road in lieu of the required 60 feet or 30 feet, in accordance with Developer's/Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner/Developer may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioner/Developer 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 Petitioner shall be responsible for the cost of a sewer that serves for the proposed development to Campbell Road will be laid-up or interfere with the access provided to Mr. & Mrs. John Schuster and their property located at 112 Westminster Road. The Petitioner shall notify the above citizens "what can be affected by virtue of this development."

3) When applying for any permits, the site plan and landscape plan must reflect the relief granted herein and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County

PREVIOUSLY APPROVED VARIANCE REQUESTS (SEE 10-30-97 HOH ORDER)

1) Per Section 1B 01.1.B.1.c. (5) of Baltimore County Zoning Regulations and page 14 of Section II.A. (Residential Standards) of the CMDP:
To allow a building height of 56 feet, more or less, within the 100-foot R.T.A. in lieu of the allowed 35 foot building height.

2) Per Section 400.1 of Baltimore County Zoning Regulations:
To allow accessory buildings to be located in the front and side yards and for any corner lots, to permit accessory buildings to be located outside the third of the rear yard farthest removed from the street and to permit the accessory building to occupy more than 50% of each third.

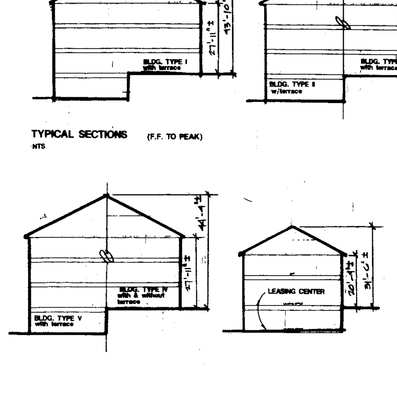
3) Per Section 400.3 of Baltimore County Zoning Regulations:
To allow an accessory building height of 18' in lieu of the allowed 15' building height.

4) Per Section 409.6.A.4 of Baltimore County Zoning Regulations:
To allow one (3)parking space in lieu of 16 spaces required for the swimming pool to be located within the area of "Court B"

5) Per Section 413.1.E.1 of the Baltimore County Zoning Regulations:
To allow a 64 SF double-faced community identification sign in lieu of the permitted 15 SF signage.

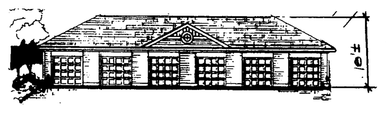
6) Per CMDP II.A. (Residential Standards) page 25:
To allow a building front elevation to building side elevation and building rear elevation to building side elevation setback of 40' in lieu of 60' required.

7) CMDP II.A. page 25:
To allow a building facade to be within 15' and 30' of the edge of a private road in lieu of 35' required.



TYPICAL SECTIONS (F.F. TO PEAK)
NTS

NOTE:
TOTAL REFORESTATION REQUIRED : 1.9 AC.
ON SITE REFORESTATION : 0.66 AC.
REMAINING 0.24 AC.+/- TO BE FINE, FEE-IN-LIEU OR CONTRIBUTION TO A MITIGATION BANK.

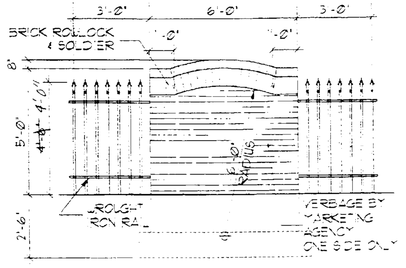


SCHEMATIC GARAGE FRONT ELEVATION
NTS

SCHEMATIC LEASING CENTER FRONT ELEVATION
NTS

TEMPORARY BANNER SUBJECT TO THIS PETITION (147 SQ. FT.±)

SCHEMATIC BUILDING ELEVATION (TYP.)



ENTRANCE SIGN DETAIL
N.T.S.

AREA: 31 SF/FACE
62 SF/TOTAL

REVISIONS:

OWNER / DEVELOPER
CMS LIMITED PARTNERSHIP
SIDNEY EMMER GENERAL PARTNER
(801 FALLS ROAD
BALTIMORE MARYLAND 21201
(410) 685 5200

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS
LANDSCAPE ARCHITECTS
SURVEYORS
LAND PLANNERS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21244
(410) 944-ENGR, (410) 944-3647

DATE: 5/24/99
SCALE: 1"=50'
C.I.:
PROJ. NO.: 01966K
SHEET 1 OF 1

PROPERTY PLAN TO ACCOMPANY A ZONING P

BALTIMORE COUNTY MARYLAND

4 TH. ELECTION DISTRICT

EMMER PROPERTY

PLAN TO ACCOMPANY A ZONING PETITION

ELECTION DISTRICT: 4
COUNCILMANIC DISTRICT: 3
PDM#: IV-391

483

REASON FOR THIS VARIANCE:
TO ALLOW A TEMPORARY BANNER

Pet No 2

99-483-A

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9000 Dolfield Road Owings Mills

which is presently zoned DR3.5,DR10.5,DR16

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, leg owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto an made a part hereof, hereby petition for a Variance from Section(s)

450.4.15 to allow a 150 square foot Real Estate sign in a residential zone in lieu of the 8 square feet permitted.

450.5.B.7 to allow a roof sign in a residential zone. where None is permitted. (Both Variances are for the same sign).

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicat hardship or practical difficulty)

Removal of the banner would create a financial hardship.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zonir 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.

ORDER RECEIVED FOR FILING
Date 11/2/99

Contract Purchaser/Lessee:

None
Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

An attorney will be present at the hearing
Name - Type or Print

but has not been elected.
Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

OMG Limited Partnership
Sidney Emmer, General Partner
Name - Type or Print

Signature

Name - Type or Print

Signature

1801 Falls Road — (410)685-5200
Address — Telephone N

Baltimore — Maryland — 21201
City — State — Zip Cod

Representative to be Contacted:

Charles Nass
Name

1801 Falls Road — (410)685-5200
Address — Telephone No

Baltimore — Maryland — 21201
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 1/2 hrs.

UNAVAILABLE FOR HEARING
Reviewed By _____ Date 5-28-99

Case No. 99-483-A

REV 9/15/98

KAYE BROOKS BUSHEL, P.A.
ATTORNEY AT LAW

BASIK, BUSHEL & YOUNG
AN ASSOCIATION OF
PROFESSIONAL CORPORATIONS
210 WEST PENNSYLVANIA AVENUE
SUITE 720
BALTIMORE, MARYLAND 21204

(410) 583-1400
FAX (410) 583-1921

IN RE: PETITION FOR SPECIAL HEARING (No Specific Location) Richard A. Moore Petitioner	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 99-371-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed, pursuant to Section 500.7 of the B.C.Z.R., by Richard A. Moore, through his attorney, John P. Evans, Esquire. The Petitioner seeks an interpretation of the requirements of Section 426.5(d) of the Baltimore County Zoning Regulations (B.C.Z.R.). There is no specific property at issue, only an interpretation of the B.C.Z.R. is requested. Essentially, the Petitioner seeks a determination as to whether special exception approval for the erection of a wireless telecommunications tower in a C.R. district is required, or, in the alternative, whether such a tower is permitted by right.

This case was heard simultaneously and in conjunction with Case No. 99-366-SPHA, in which the Petitioner in the instant case, Richard A. Moore, filed Petitions for Special Hearing and Variance relief for property located at 3314 Paper Mill Road. The decision in that case is being rendered simultaneously with this opinion and order.

The instant Petition is filed pursuant to Section 500.7 of the B.C.Z.R. In essence, the Petitioner requests "declaratory judgment"-type relief. Section 500.7 empowers the Zoning Commissioner with wide discretion and latitude in the performance of his duties. Therein, the Zoning Commissioner is authorized to conduct such hearings and pass such orders as, in his discretion, are necessary for the proper enforcement of the zoning regulations. This power includes, but is not limited to, conducting hearings on nonconforming uses, or, to determine any rights whatsoever of any interested person of any property in Baltimore County, as it may be affected by the B.C.Z.R. Under the umbrella of this regulation, I will address the issue raised in

ORDER RECEIVED FOR FILING
Date 10/19/99
By

the Petition for Special Hearing. In my judgment, a resolution of the issue presented herein is necessary for the proper enforcement of the zoning regulations.

Appearing at the requisite public hearing held for this case was Richard A. Moore, Petitioner, and his attorney, John P. Evans, Esquire. Appearing in opposition to the request was Michael Tanczyn, Esquire, on behalf of Louis Eichelberger; Karl Nelson, Esquire on behalf of Cellular One, Inc.; and, Robert A. Hoffman, Esquire on behalf of Bell Atlantic, Inc.

As noted above, the issue presented herein is easily identified; to wit, need the owner of a property overlaid with a C.R. district obtain special exception approval to erect a wireless communications tower?

The answer to this question is difficult, in that the relevant sections of the B.C.Z.R. are clearly in conflict. Section 259 of the B.C.Z.R. regulates the C.R. districts. The initials "C.R." are designated to mean Commercial/Rural district and the legislative purpose and intent in creating this district is found in Section 259.2 of the B.C.Z.R. Therein, it is provided that the Commercial/Rural district was established to provide opportunities for convenience shopping and personal services that are frequently needed by the rural, residential and agricultural population and tourists. Thus, the C.R. district is often applied to country villages such as Jacksonville. The C.R. district is frequently an enclave in a sea of R.C. (resource conservation) zoning. The C.R. district dominates the small villages and hamlets throughout the rural areas of Baltimore County which are predominantly zoned to promote agriculture and preserve natural resources (R.C.). The C.R. district designation can be placed over underlying commercial districts. Section 259.2.A.2 provides that those underlying zones may be B.L., B.M., B.R., or R.O. Those zones all support office/ business uses.

Section 259.3 sets out special regulations for C.R. districts. Subsection 259.3.A.1 provides that any use permitted by right in the underlying zone in which the C.R. district is applied, and which meets the bulk regulations of Section 259.3.C.1, is permitted by right. Those bulk regulations include limitations on the size and height of a <u>building</u>, which, as defined in Section 101 of the B.C.Z.R., is a structure enclosed within exterior walls or firewalls for the

shelter, support or enclosure of persons, animals, or property of any kind. Clearly, a wireless communications tower is not a building but a structure. Thus, the bulk regulations are not applicable to towers.

Moreover, it is clear that a wireless communications tower less than 200 feet in height is permitted by right in the B.L., B.M., .R. and R.O. zones. (See Section 426.5). A reading of Section 259 alone would be persuasive to a finding that wireless communications towers are permitted by right in the C.R. districts, assuming that the C.R. district overlays the B.L., B.M., B.R. or R.O. zone. That is, the opponents of Mr. Moore's Petition argue that it is the zone designation that controls the use, not the district.

A conflict arises however, when one examines the language of Section 426.5 of the B.C.Z.R. Therein, a chart is presented which regulates the construction of wireless communications towers. The chart states that in the C.R. district, wireless communications towers are permitted only by special exception, regardless of the underlying zone. Thus, the issue turns on whether one adopts the superiority of the underlying zone (pursuant to Section 259), or, the superiority of Section 426 (the wireless communications tower statute).

The wireless communications statute was enacted under Bill 30-98. This is relatively new legislation, enacted well after the adoption and most recent amendment of Section 259. It is assumed that the County Council was aware of the language of Section 259 when it enacted this legislation. Nonetheless, the legislature adopted the chart and language in Section 426.5, including the requirement that special exception approval need be obtained before towers were constructed in the C.R. district, no matter what the underlying zone.

It is the cardinal rule of statutory construction to ascertain and effectuate the legislative intent. In the event of an ambiguity within a statute, such intent should be gleaned from the ordinary and properly understood meaning of the words used therein, absent manifest contrary legislative intent. See State v. Bricker, 321 Md. 86 (1990). All parts of the statute are to be reconciled and harmonized, if possible, including those which appear to be in conflict. See Cloverfields Improvement Assn., Inc., v. Seabreeze Properties, Inc., 280 Md. 382 (1977). Where

ORDER RECEIVED FOR FILING
Date 10/19/99
By

two provisions of a statute appear to be inconsistent or contradictory, it is the duty of the reviewing body (Zoning Commissioner) to reconcile them so as to effectuate the legislative purpose. See Maryland Industrial Development Financing Authority v. Meadow-Croft, 243 Md. 515 (1966).

It has also been held that a Court or reviewing body should not presume that in enacting a statute, the legislature intended to create an ineffective or invalid law. See First National Bank of Maryland v. Shpritz, 63 Md. App. 623 (1985). Last, when two statutes relate to the same general subject matter, and in the event of any conflict between them, the later statute governs. See Criminal Injuries Compensation Board v. Gould, 273 Md. 486 (1974).

The character of the C.R. district is of particular note. Although indeed the C.R. district is commercial in nature, it is recognized that C.R. districts are placed adjacent to rural and/or residential lands. In my judgment, this is significant. That is, the drafters of the B.C.Z.R. no doubt intended, by the adoption of the C.R. district, to provide opportunities for limited commercial development adjacent to rural residential and agricultural lands, while recognizing the rural and non-commercial character of the area at large.

Based upon the facts presented and the law as set out above, it is my judgment that the language in Section 426.5 of the B.C.Z.R. controls. That is, in order for a wireless communications tower to be constructed in the C.R. district, special exception approval must be granted.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 19th day of October, 1999 that special exception approval for the erection of a wireless telecommunications tower in the C.R. district is required, pursuant to the requirements of Section 426.5(d) of the Baltimore County Zoning Regulations, and as such, the Petition for Special Hearing be and is hereby GRANTED.

10/19/99

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs