AJ

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
SE/S Southwestern Boulevard opposite Leeds Avenue	*	DEPUTY ZONING COMMISSIONER
13th Election District	*	OF BALTIMORE COUNTY
1st Councilmanic District (4001 Southwestern Boulevard)	*	CASE NO. 00-277-XA
Goodwill Industries of the Chesapeake, Inc. Petitioner	*	

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

AMENDED ORDER

This matter came before this Deputy Zoning Commissioner as a requested special exception and variance filed for property located at 4001 Southwestern Boulevard. The special exception and variance request was granted subject to certain conditions and restrictions imposed at the end of the Order. Restriction No. 2 of my Order dated the 17th day of February, 2000 required that the property owner remove two (2) outdoor advertising signs from the subject property. By letter dated March 2, 2000, the attorney for the Petitioner requested that I modify my previous Order in that the Petitioner is bound by the terms and conditions of a real estate lease for the subject outdoor advertising signs.

Counsel for the Petitioner submitted to this Deputy Zoning Commissioner a copy of the real estate lease for the outdoor advertising signs on the subject property. The subject lease does bind the future owner of the property to the terms and conditions thereof. Specifically, the Lessor of the property has the right to keep and maintain the subject billboards up until the year 2008.

THEREFORE, IT IS ORDERED this 13th day of March, 2000, by this Deputy Zoning Commissioner, that Restriction No. 2 of my previous decision dated the 17th day of February, 2000 shall be amended as follows:

ORDER RECEIVED FOR FILING
Date 3/13/00
By N. Jameson

1. Restriction No. 2 of my previous decision requiring the Petitioner to remove the two (2) outdoor advertising signs prior to occupancy of the new building to be constructed on the premises shall be amended. The new restriction shall read that the Petitioner shall be required to remove the existing two (2) outdoor advertising signs on the subject property no later than December 1, 2008. The real estate lease entered into with the operators of these billboards shall not be extended or renewed past the termination date of November 30, 2008. Therefore, as stated previously, the two (2) outdoor advertising signs must be removed from the subject property no later than December 1, 2008.

IT IS FURTHER ORDERED that all other terms and conditions of my previous decision shall remain in full force and effect.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
Date 3/13/00
By R. Jameson

REAL ESTATE LEASE

Lease # 00493

This Agreement is made this 15th day of September, 19 92, by and between Baltimore Goodwill Industries, Inc. of 4001 Southwestern Blvd., Baltimore, Maryland 21229 (Name) (Street) (City) (State)

hereinafter called LESSOR and PENN ADVERTISING OF BALTIMORE, INC.
3001 Remington Avenue
Hampden, P.O. Box 4868
Baltimore, MD 21211

hereinafter called LESSEE.

1. **PREMISES.** The Lessor does hereby lease and demise to the Lessee space for outdoor advertising purposes at the "Premises" herein described as Southwestern Blvd. E/L., .3M N/O Knecht Avenue
space for four (4) existing 12' x 25' illuminated poster panels.

2. **TERM.** The term of this Lease shall be 5 years beginning on the 1st day of December, 19 93 and ending on the 30th day of November, 19 98 subject to the conditions of Paragraph 8 hereof.

3. **RENTAL.** The total rental payable during the term shall be Six Thousand and 00/100 ($ 6,000.00). Payments shall be made in 5 equal annual installments of $1,200.00 payable at 4001 Southwestern Blvd., Baltimore, Maryland 21229

4. **RENEWAL OPTION.** Lessee shall have the right to renew this Lease for an additional ten (10) year term upon the same terms and conditions. It is agreed that such right of renewal shall be considered as having been exercised by the Lessee by continued occupancy of said Premises and payment of rent in the manner herein provided for.

5. **USE.** The property is leased for the purpose of construction, operation and maintenance of outdoor advertising display(s). Lessee is herewith granted the sole and exclusive right to display advertising copy on the premises unless otherwise specified in this lease agreement. The Lessee shall have the right to erect, place and maintain advertising sign structures and equipment therefor on the demised premises, and post, paint, illuminate and maintain advertisements on such structures. All structures, equipment and materials placed upon the said premises by the Lessee shall always remain the property of, and may be removed by the Lessee at any time prior to or within a reasonable time after the expiration of the term hereof or any extension hereof.

6. **TERMINATION.** Lessee shall have the right to cancel this Lease upon thirty (30) days written notice to the Lessor if, at the Lessee's sole discretion, any of the following occur:
(a) Lessee's signs or structures on the Premises are or become entirely or partially obscured or destroyed and Lessee chooses not to repair said signs;
(b) The Premises are or become unsafe for maintenance of Lessee's signs or structures;
(c) The value of said location is or becomes diminished for advertising purposes;
(d) A temporary or permanent diversion or change of traffic occurs along the street or streets adjacent to, or leading past the Premises;
(e) Lessee is prevented by any present or future law, regulation or ordinance from constructing or maintaining such signs on the Premises.
In the event of termination, Lessor agrees to return to the Lessee any rent paid in advance for the unexpired term. In the event that any occurrence cited as (a) through (e) above temporarily exists, Lessee shall at its option, in lieu of termination, be entitled to an abatement of the rent for and during the period of the existence of the occurrence. Lessor agrees to return any rent paid in advance for the period of such abatement.

7. **PURCHASE OPTION.** Lessee shall have first option to purchase the above described Premises in the event the property is for sale. The consideration for this option is included in the lease cost. Any sale of the property to a third party must be made subject to this Lease and Lessor agrees to inform any purchaser of the existence of this Lease.

8. **CONDITION PRECEDENT TO LEASE'S EFFECTIVENESS.** This Lease shall become effective and rentals due hereunder only upon Lessee's receipt of all necessary permits for the erection or maintenance of such signs and upon the erection of said signs as Lessee may desire to construct or maintain on the Premises.

9. **LESSOR'S COVENANTS.** Lessor covenants to Lessee that:
(a) He has the authority to make this Lease;
(b) He will not permit any other signs to be erected on the Premises;
(c) He will not permit any shrubs, trees, vines or buildings to be planted or erected on the Premises which would obstruct or impair the visibility of the Lessee's structures;
(d) He will allow Lessee to trim, cut or remove from the Premises any tree, brush, bush or other vegetation which is necessary for an unobstructed view of the advertising structures displayed on the Premises.

10. **LESSEE'S COVENANTS.** Lessee covenants to Lessor that:
(a) It will promptly pay rental as due pursuant to this Lease;
(b) It will keep all structures erected on the Premises in good repair;
(c) It will use reasonableness in its cutting and trimming of trees, bushes, brush or other vegetation upon the Premises;
(d) It will promptly attempt to procure all permits necessary for construction and maintenance of advertising structures on Lessor's property.

11. **MISCELLANEOUS.** This Lease constitutes the entire understanding between the parties. This Lease shall inure to the benefit of and be binding upon the personal representatives, heirs, successors and assigns of the parties hereto. This Lease may be recorded by either party.
This agreement will not be binding on the Lessee until approved by **Penn Advertising Corporate Office.**

12. Remarks or other conditions not covered or specified above:
Said poster panels shall not advertise or promote the sale in any way of alcoholic beverages of any nature whatsoever.

INITIAL
BH

Lessor(s) Baltimore Goodwill Industries, Inc.

Signature(s)

Address 4001 Southwestern Blvd.
Baltimore, Maryland 21229

Telephone

Tax I.D. Number ~~52-059156~~ 52-0591576

or Social Security #

If the Lessor is a Corporation, list the name of the officer signing on behalf of the corporation and his title.

Officer Harvey Kettering

Signature X Harvey Kettering

Title President

Lessee:
Penn Advertising of Baltimore, Inc.
3001 Remington Avenue
Hampden, P.O. Box 4868
Baltimore, MD 21211

By: James W. Stahl Jr.

Its: G-M

9/14

UNDER REVIEW FOR FILING
Date 3/13/00
By R. Johnson

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCE SE/S Southwestern Boulevard opposite Leeds Avenue 13th Election District 1st Councilmanic District (4001 Southwestern Boulevard)	* * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 00-277-XA
Goodwill Industries of the Chesapeake, Inc. Petitioner	*	

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed by the legal owner of the subject property, Goodwill Industries of the Chesapeake, Inc. The Petitioner is requesting a special exception and variance for property they own at 4001 Southwestern Boulevard, located in the Arbutus area of Baltimore County. The property is zoned ML-IM. The special exception request is for a car wash and the variance request is from Section 255.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a side yard setback of 22 ft. in lieu of the required 30 ft. and a rear yard setback of 12 ft. in lieu of the required 30 ft. and to permit 4 parking spaces for drying vehicles in lieu of the required 12.

Appearing at the hearing on behalf of the special exception and variance request were Craig Pittinger, on behalf of the contract purchaser of the property, Tony Corteal, professional engineer with STV, Inc., Doug Heil and Patricia Kincan, also on behalf of the Petitioner. Ben Bronstein, attorney at law, represented the parties. Also in attendance was Eleanor VanDevender, a representative of the Greater Arbutus Community Alliance. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this request, is located on the south side of Southwestern Boulevard at its intersection with Leeds Avenue, adjacent to the Baltimore County/Baltimore City line. The subject property is improved with an existing three-story masonry building which is the home to Goodwill Industries. Goodwill Industries is

Date 2/17/00
By R Jameson

preparing to sell the subject property so that it may be converted into an EZ Storage facility and EZ Car Wash operation. EZ Storage proposes to renovate the existing Goodwill Industries office building, as well as construct an additional one-story, self-storage building on the side of the existing Goodwill building. In addition to renovating and constructing new storage areas, the contract purchaser also proposes to construct a car wash facility on the northeastern end of the subject property. That area is currently utilized as a parking lot at this time and will be converted into a self-service car wash operation.

As is the case with most EZ Storage facilities, a caretaker's residence will be provided on site so that this car wash/storage facility will have 24-hour security. This not only provides security for the storage facility, but also insures that the car wash will operate without detriment to the surrounding community. The caretaker's residence will be situated in the existing Goodwill building, immediately adjacent to the car wash operation. The storage facility itself will be fenced and gated with access to and from that facility by way of a magnetic entrance card. The car wash facility will be open to the general public 24 hours a day.

EZ Storage has been a regular petitioner before the Zoning Commissioner's office in that they have opened and operated many such similar storage facilities around Baltimore County. They have always proven to be responsible business and property owners. I have confidence that the storage and car wash combination of uses proposed for this property will operate without detriment to the surrounding neighborhood, so long as EZ Storage continues to provide a caretaker's residence on site, providing 24-hour security to the car wash operation. Therefore, I shall allow the car wash to operate 24 hours a day so long as a caretaker continues to reside on the premises.

Ms. Eleanor VanDevender, who appeared on behalf of the Greater Arbutus Community Alliance, was concerned about the 24-hour operation of the car wash. She expressed concern over residents who live along Leeds Avenue, whose homes are situated on the opposite side of

Southwestern Boulevard. However, I believe the car wash can operate 24 hours a day without detriment to those residents, so long as the caretaker continues to oversee the operation. Therefore, I believe a 24-hour operation is appropriate.

Also existing on the property to be developed are two billboards located immediately adjacent to the proposed one-story, self-storage building and parking lot area. Given the additional development taking place at this area of the site, I believe it is appropriate and, therefore, shall order that the two billboards be eliminated in order to make way for this new construction. Therefore, as a condition of approval of the special exception and variance granted herein, the existing property owner or the contract purchaser shall require that the existing billboards be eliminated.

It is clear the Baltimore County Zoning Regulations (B.C.Z.R.) permits the use proposed in a ML-IM 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 Baltimore County Zoning Regulations. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit No. 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

Date 2/17/2000
By R. Jameson

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.

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

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

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

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

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

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

THEREFORE, IT IS ORDERED this 17th day of February, 2000, by this Deputy Zoning Commissioner, that the Petitioner's Special Exception Request pursuant to the Baltimore County Zoning Regulations (B.C.Z.R.), for approval of a car wash, be and is hereby APPROVED.

IT IS FURTHER ORDERED that the Petition for Variance from Section 255.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a side yard setback of 22 ft. in lieu of the required 30 ft. and a rear yard setback of 12 ft. in lieu of the required 30 ft. and to permit 4 parking spaces for drying vehicles in lieu of the required 12, be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for their permit upon receipt of this Order; however, Petitioner is 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. As a result of the new development occurring on the subject property, the Petitioner shall be required to eliminate the two existing billboards as shown on the site plan submitted as Petitioner's Exhibit No. 1. These billboards must be taken down prior to a final occupancy permit being issued for the car wash and/or EZ Storage Facility.

3. Petitioner shall be required to submit a landscape and lighting plan to Avery Harden, Landscape Architect for Baltimore County, for his review and approval.

4. The Petitioner shall be permitted to operate the car wash facility on a 24-hour basis so long as the Petitioner provides a caretaker who resides on the subject property during that 24 hour period. In the event the Petitioner fails to provide a caretaker on site, then the hours of operation of the car wash facility shall be restricted to 7:00 A.M. to 11:00 P.M., seven days a week.

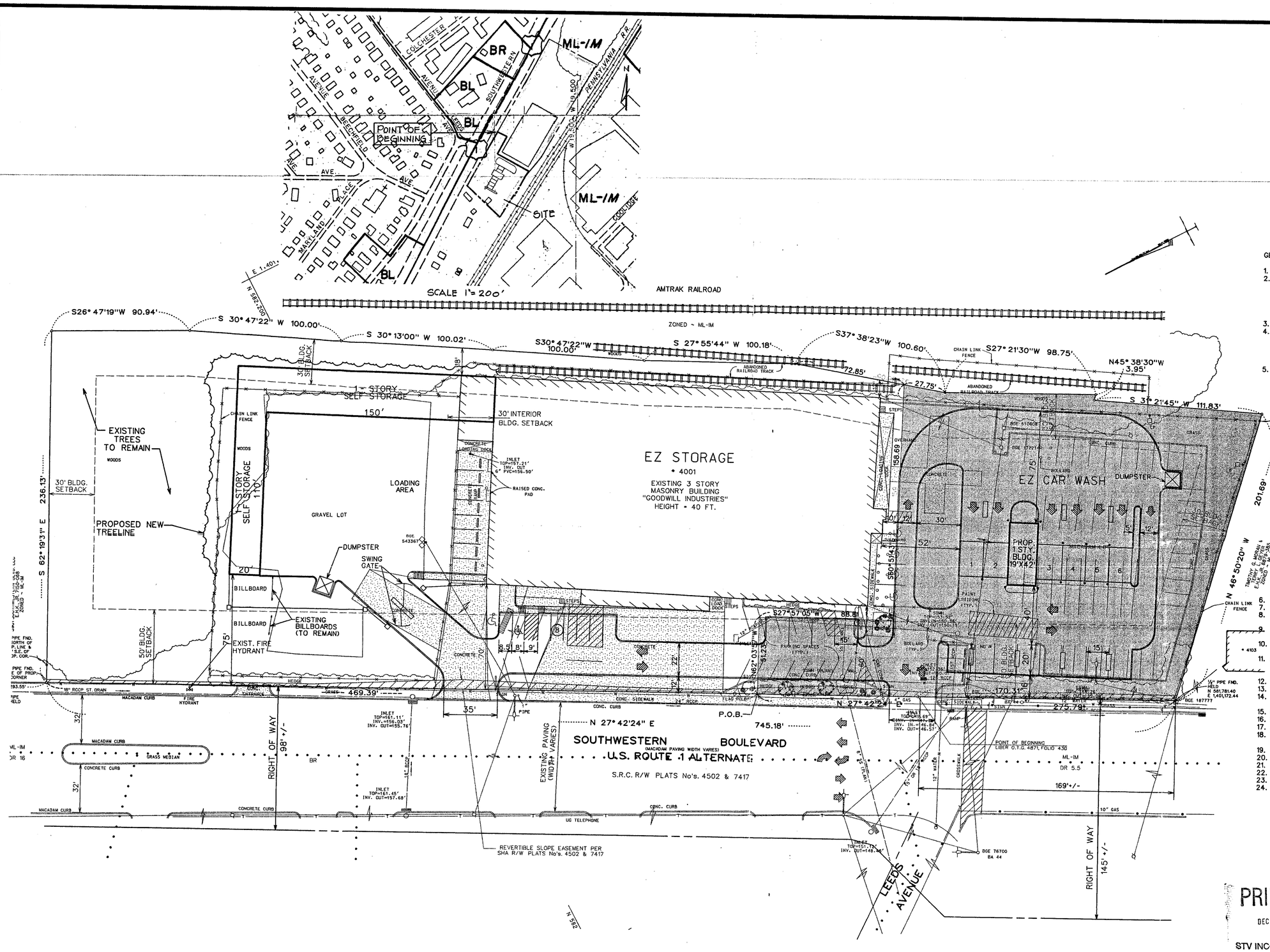
5. When applying for any permits, the site plan/landscape plan/lighting plan filed must reference this case and set forth and address the restrictions of this Order.

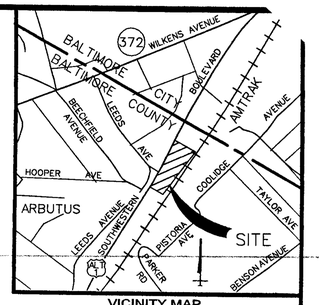
Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

Date 2/17/2000
By R. Jameson





VICINITY MAP
SCALE: 1" = 1,000'

GENERAL NOTES

1. APPLICANT: GOODWILL INDUSTRIES, INC. OF THE CHESAPEAKE
2. OWNER: GOODWILL INDUSTRIES, INC. OF THE CHESAPEAKE
   ADDRESS: 4001 SOUTHWESTERN BOULEVARD

   TAX MAP NUMBER: 101, GRID 18
   PARCEL: 1432
   TAX ACCOUNT NUBMER: 13-1302002340
3. COUNCILMANIC DISTRICT: 4
4. PREPARER: STV INCORPORATED
   21 GOVERNOR'S COURT
   BALTIMORE, MARYLAND 21244
   PHONE: 410-944-9112
   ATTN: KEN GREEN
5. SITE DATA: STORAGE FACILITY AND CAR WASH
   CURRENT ZONING: ML-IM
   DENSITY:
   PROPOSED EZ STORAGE BUILDING (ONE STORY) 7,200 SQ.FT. OR 0.165 AC. EXISTING BUILDING TO REMAIN FOR STORAGE (COMPARTMENTALIZED WAREHOUSE ESTABLISHMENT). THREE STORIES 107,640 SQ.FT. OR 2.47AC. PROPOSED SNOZZLES CAR WASH (ONE STORY) 2,320 SQ.FT. OR 0.053AC.
   NET SITE AREA: 3.920 AC. OR 170,737 SQ.FT.
   SETBACK REQUIREMENTS: FRONT - 50 FEET
   SIDES - 30 FEET
   REAR - 30 FEET
   INTERIOR BUILDINGS - 60 FEET
   FLOOR AREA RATIO ALLOWED: 2.0 X 170,737 S.F. = 341,474
   FLOOR AREA RATIO PROVIDED: 1.47 = 170,737 S.F. / 117,160 S.F.
   BUILDING HEIGHT ALLOWED: 40 FT. MAX. WITHIN 100 FT. OF BOUNDARY OF BUSINESS OR RESIDENCE ZONE.
   PARKING REQUIRED: OFFICE: 3.3 / 1,000 S.F. OF GROSS FLOOR AREA
   WAREHOUSE: 1/ EMPLOYEE ON THE LARGEST SHIFT
   CARWASH: 4 / FIRST TUNNEL AND 2 / ADDITIONAL TUNNELS
   2 / TUNNEL (FOR DRYING VEHICLES)
   6 TUNNELS X 2 = 12 SPACES
   PARKING PROPOSED: OFFICE (1,000 S.F.) = 5 SPACES
   WAREHOUSE (2 EMPLOYEES) = 2 SPACES
   CARETAKER = 1 SPACE
   CARWASH (DRYING) = 4 SPACES

   ALL SPACES WILL BE A MINIMUM OF 8.5 FT. X 18 FT. ALL PARKING MANEUEVERING AND AISLE AREAS ARE TO BE PAVED WITH A DURABLE AND DUSTLESS SURFACE OF BITUMINOUS CONCRETE AND PERMANENTLY STRIPED.
6. ZONING HISTORY: N/A
7. LIMITED EXEMPTION HAS BEEN REQUESTED PURSANT TO SEC. 26-171(a) (7).
8. THERE ARE NO WETLANDS, CRITICAL AREAS, ARCHEOLOGICAL SITES, OR ENDANGERED SPECIES HABITAT ON THE SITE TO OUR KNOWLEDGE.
9. A WAIVER HAS BEEN REQUESTED FROM THE STORMWATER MANAGEMENT REQUIREMENTS BASED ON THE INCREASE IN RUNOFF IS LESS THAN 10%.
10. ALL EXISTING STRUCTURES TO REMAIN, NO DEMOLITION WILL BE REQUIRED.
11. ALL LIGHTING FIXTURES TO ILLUMINATE THE PROPERTY SHALL BE ARRANGED TO REFLECT LIGHT AWAY FROM PUBLIC STREETS AND ADJACENT PROPERTIES. MAXIMUM HEIGHT FOR FIXTURES TO BE 30 FT.
12. TRASH WILL BE COLLECTED PRIVATELY.
13. THERE ARE NO WELLS OR SEPTIC SYSTEMS ON SITE.
14. THE NEAREST FIRE HYDRANT IS LOCATED ON SOUTHWESTERN BLVD. IN FRONT OF THE PROJECT SITE.
15. LANDSCAPE REQUIREMENTS: 50 PLANTING UNITS
16. LANDSCAPE PROVIDED: 50 PLANTING UNITS
17. AMENITY OPEN SPACE:
18. THIS PROJECT WILL REQUEST A DECLARATION OF INTENT TO MEET FOREST CONSERVATION REQUIREMENTS.
19. THE SITE CONSISTS OF LyB, LyD SOILS.
20. THE SITE IS LOCATED ON BUS ROUTE NO. (N/A).
21. THERE ARE NO HISTORICAL STRUCTURES ON THIS SITE.
22. THE SITE IS NOT LOCATED IN OR NEAR THE 100-YEAR FLOOD PLAIN.
23. THERE ARE NO HAZARDOUS MATERIALS ON SITE TO OUR KNOWLEDGE.
24. THERE ARE NO COMMERCIAL PERMITS ON RECORD.

00-277-XA

PRINTED
DEC 1999
STV INCORPORATED

STATE OF MARYLAND
DEBRA KAY WITZ
REGISTERED PROFESSIONAL ENGINEER
NO. 16656

STV Incorporated
engineers / architects / planners / scientists / construction managers
21 Governor's Court Baltimore, MD 21244-2722 (410) 944-9112

REVISIONS		
NO.	DATE	DESCRIPTION

GRAPHIC SCALE
90 60 30 0 60
75 45 15 30 90

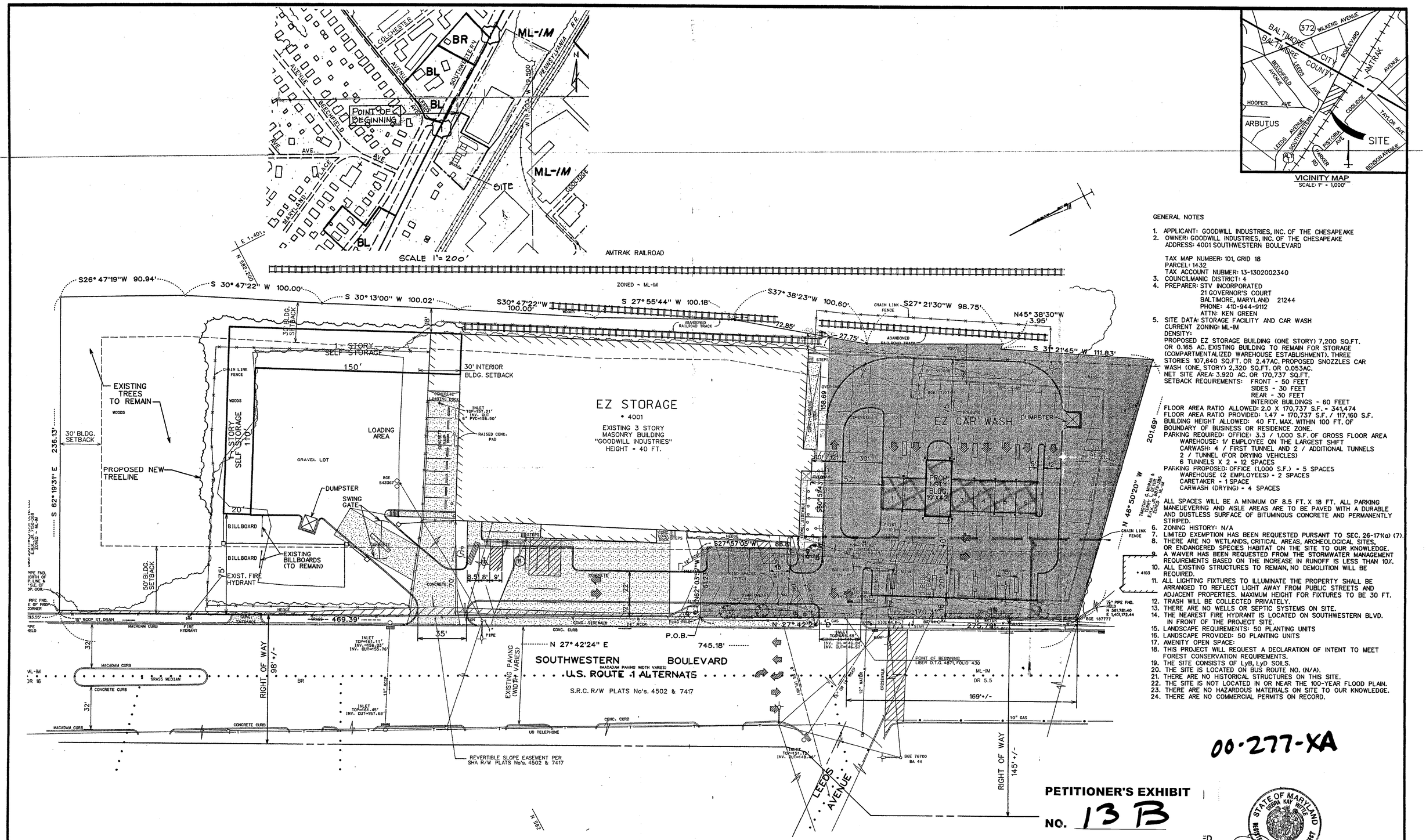
PLAN PREPARATION			
DRAWN BY:	M.BLOW	DATE:	DECEMBER 1, 1999
DESIGNED BY:	S. GRAPER	SCALE:	1" = 30'
CHECKED BY:		JOB NO.:	030-2448

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION AND VARIANCE
GOODWILL INDUSTRIES INC. OF THE CHESAPEAKE
NO. 4001 SOUTHWESTERN BOULEVARD
BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 13

DRAWING NO.

SHEET NO.
1 of 1

FILE: I:\PROJECTS\02448\zo01sien.dgn
DATE: 14-Dec-99 10:08



VICINITY MAP
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00-277-XA

PETITIONER'S EXHIBIT

NO. 13B

STATE OF MARYLAND
DEBRA KAY WILZ
REGISTERED
NO. 866
LANDSCAPE ARCHITECT

STV Incorporated

engineers / architects / planners / scientists / construction managers

21 Governor's Court Baltimore, MD 21244-2722 (410) 944-9112

REVISIONS		
NO.	DATE	DESCRIPTION

GRAPHIC SCALE
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75 45 15 30 90

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DRAWN BY:	M.BLOW	DATE:	DECEMBER 1, 1999
DESIGNED BY:	S. GRAPER	SCALE:	1" = 30'
CHECKED BY:	.	JOB NO.:	030-2448

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NO. 4001 SOUTHWESTERN BOULEVARD
BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 13

DRAWING NO.

SHEET NO.
1 of 1

FILE: B:\PROJECTS\02448\zo01sien.dgn
DATE: 14-Dec-99 01:18