

IN RE: PETITION FOR VARIANCE
W/S Middle River Road, 260' N of the
c/l of Fuselage Avenue and Orems Road
(1431 Fuselage Avenue)
15th Election District
5th Council District

Tricon Global Restaurants, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 01-217-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 owner of the subject property, Tricon Global Restaurants, Inc., by Isaac Showell, Construction Manager, through their attorneys, Paul A. Tiburzi, Esquire, and Brian Quinn, Esquire. The Petitioner seeks relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 37 parking spaces in lieu of the required 49; from Section 409.10.B of the B.C.Z.R. to permit a drive-thru lane to cross a principal pedestrian access and to permit the required stacking lane to encroach into the required drive lane; and, from Section 409.4.B of the B.C.Z.R. to permit parking on a travel way. In addition, the Petitioner seeks relief from Part III of the Baltimore County Landscape Manual as follows: from Condition F, Service Lanes, Section 2, to permit a landscape space between paved surfaces and lot lines of 0 feet in lieu of the required 6 feet; from Condition B, Parking Lots, Section 2.c to permit a minimum parking island distance from face of curb to face of curb of 2.5 feet in lieu of the required 9 feet; from Condition B, Parking Lots, Section 2.d to permit a distance between face of curb and face of building of 6 inches in lieu of the required 6 feet; and from Condition G, Storage and Loading, Section 1.a to permit a landscape buffer of 0 feet in lieu of the required 20 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

ORDER RECEIVED FOR FILING
Date 2/28/01
By [Signature]

Appearing at the requisite public hearing in support of the request were Isaac Showell, Construction Manager for Tricon Global Restaurants, Inc., property owners, David S. Thaler and Heather K. Booth, who appeared on behalf of D. S. Thaler & Associates, Inc., the consultants who prepared the site plan for this property, and Paul Tiburzi, Esquire, attorney for the Petitioners. Appearing as a Protestant in the matter was John Kluttz, adjacent property owner.

Testimony and evidence offered revealed that the subject property consists of a gross area of 0.815 acres, more or less, zoned B.M.-A.S., and is improved with a Taco Bell Restaurant. The property is located on the northwest side of Middle River Road, just north of its intersection with Fuselage Avenue and Orem's Road in Middle River. Mr. Showell testified on behalf of Tricon Global Restaurants, Inc. and indicated that Tricon is the parent corporation of a number of fast food restaurants, including Taco Bell, KFC, and Pizza Hut. Mr. Showell is responsible for the development/redevelopment of these restaurants in the mid-Atlantic area. He described the subject site and indicated that the property has been used to support a Taco Bell Restaurant for at least 20 years. Although at one time franchised, the existing restaurant is company-owned. He also described the existing building as being old and in need of repair. Apparently, the structure does not meet current building code requirements and rehabilitation of same would be cost-prohibitive. Thus, the Petitioner wishes to raze the existing structure and construct a new building in its place.

On behalf of the Petitioner, Mr. Thaler testified and presented the plan. He described the subject property, surrounding neighborhood, and locale. Testimony indicated that the existing building is 1621 sq.ft in area and will be replaced with a 2578 sq.ft. building. Additionally, the parking lot and drive-thru will be reconfigured. Presently, vehicular access to the site is by way of a curb cut from Middle River Road. Mr. Thaler discussed in detail the variances that have been requested. These variances are necessary due to the new proposal and unusual nature of the site and locale. Specifically, a one-story building which is used as a dentist's office is surrounded on three sides by the subject property. Apparently, a lot was created which mirrors the footprint of that building, creating a "hole" in the subject lot. The shared parking arrangement for uses in the area is also significant. The dental office building apparently uses a number of parking spaces that

ORDER RECEIVED FOR FILING
Date: 2/28/07
BY: [Signature]

are actually on the Taco Bell property. In turn, patrons of the Taco Bell Restaurant frequently utilize an adjacent parking lot which serves the Food Lion grocery store on that property. In this regard, Mr. Thaler discussed the shared parking arrangement in some detail. He indicated that there are 18 parking spaces currently on the site, and although the proposed building will be larger, the site and lot will be reconfigured so that 37 parking spaces will be provided. This represents a significant increase in the number of parking spaces currently provided on site. Mr. Thaler also indicated that collectively, the Food Lion, dental office and Taco Bell restaurant would be required to provide 243 parking spaces under the parking regulations set forth in the B.C.Z.R. Following the proposed improvements, 240 spaces total will be provided.

Mr. Thaler also discussed the variances that relate to the stacking lane for the proposed drive-in window. That stacking lane will have a pedestrian access across same into the restaurant building and will also encroach into the drive lane. Mr. Thaler also discussed the variances from the requirements of Baltimore County's Landscape Manual. In sum, Mr. Thaler's testimony, which is contained within the record of the case and will not be repeated in detail here, discussed each of the variances requested and the alleged justification for same. In this regard, Mr. Thaler indicated that the property is unique by virtue of its shape and existing use and that the Petitioner will suffer a practical difficulty if relief is denied. He opined that the proposed redevelopment represents an upgrade to the site and is appropriate from a land planning perspective. In his opinion, the spirit and intent of the B.C.Z.R. will be observed by the adoption of the plan and relief can be granted without detrimental impact to the surrounding locale.

John Kluttz, III, adjoining property owner, also testified. Mr. Kluttz acknowledged that the Taco Bell operation had been a good neighbor and does not object to the rehabilitation of the site. He did indicate, however, that the area at large suffers from a severe parking problem. He opined that the redevelopment of this site as proposed could hurt the adjacent Food Lion business. His family owns that site, as well as other lots in the area. On cross examination, Mr. Kluttz admitted that the subject property was unique and confirmed that the Petitioner would suffer a practical difficulty if relief were denied. He opined that the Taco Bell Restaurant should be

ORDER RECEIVED FOR FILING
Date 8/28/14
By [Signature]

located on another property in the vicinity which is large enough to accommodate same without the need for variance relief.

Following the hearing, I conducted a site visit to the property. Indeed, it is unique, particularly, given the lot that was carved out to support the dental office building. I also noted the shared parking arrangement between these properties and uses. During my site visit, parking on the subject property was not over-crowded and the Food Lion parking lot was not congested. Additionally, I noted the variety of uses in the immediate locale and what appears to be a shared parking arrangement between many of these properties and land uses.

In addition to the testimony and evidence offered at the hearing, and my site visit to the property, other information was reviewed and considered. A written recommendation from the Office of Planning supports the requested variances, provided that a dumpster enclosure be provided and that same is constructed of brick or board-on-board material. Additionally, the Office of Planning recommends that major deciduous street trees be added along Martin Boulevard. A letter of support was also received from the Baltimore County Chamber of Commerce.

The consideration of Petitions for Variance must be adjudged in accordance with the standards set forth in Section 307 of the B.C.Z.R. This Section has been construed by the Appellate Courts of this state. The leading case is Cromwell v. Ward, 102 Md. App. 691 (1995). In Cromwell, the Court set out a three-pronged test which must be satisfied in order for variance relief to be granted. First, the applicant must show that the property is unique and that those unusual characteristics drive the need for variance relief. Mr. Thaler's testimony was persuasive in this regard, as was my site visit. Surely, this site is unique by virtue of its configuration and the uses thereon. Moreover, Mr. Klutz admitted during his cross-examination that the property is unique. Thus, I find that this prong is satisfied. Second, the applicant must show that the property owner would suffer a practical difficulty if relief were denied. I also find that this prong is met. In this regard, the uniqueness of the site renders strict compliance with the zoning regulations to be unduly burdensome. Third, the applicant must show that relief can be granted without detrimental impacts to the surrounding locale.

CORDED COPY FOR CHANG
Date 2/28/14
By [Signature]

This is the most difficult question presented in this case. Mr. Kluttz raised legitimate concerns regarding the impact from the redevelopment of this site on adjacent properties. Upon consideration of all the evidence presented, I am persuaded that there will not be detrimental impact sufficient to justify a denial of the variance. My decision is based on several factors. First, it is to be noted that parking on site will actually be increased as a result of the proposed redevelopment. Although the building will be larger, the proposed parking lot is laid out in a more efficient and appropriate manner. Secondly, there is apparently a legal arrangement between the dental offices and the owners of the Food Lion property to permit parking by dental patients on the Food Lion site. Obviously, this Zoning Commissioner cannot interfere with any legal agreements made between these property owners. Clearly, these uses have co-existed in a compatible manner over the years. I do not find any testimony persuasive to a finding that this compatibility will be disturbed under the proposal. In fact, it appears that the redevelopment of this site is appropriate and well thought out.

Having found that the Petitioner has satisfied the requirements of Section 307.1 of the B.C.Z.R. and Cromwell, *infra*, the variance shall be granted. However, as a condition precedent to the grant of the relief, I will require the applicant to comply with the recommendations made by the Office of Planning in their Zoning Advisory Committee (ZAC) comment as it relates to the screening of the dumpster and the planting of street trees.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of February, 2001 that the Petition for Variance seeking relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 37 parking spaces in lieu of the required 49; from Section 409.10.B of the B.C.Z.R. to permit a drive-thru lane to cross a principal pedestrian access and to permit the required stacking lane to encroach into the required drive-thru lane; from Section 409.4.B of the B.C.Z.R. to permit parking on a travel way; and, from Part III of the Baltimore County Landscape Manual as follows: from Condition F, Service Lanes,

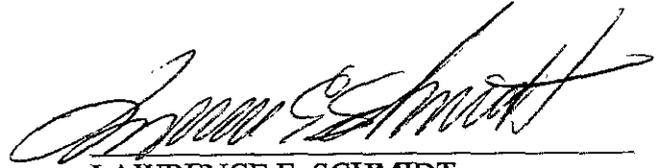
ORDER RECEIVED FOR FILING

Date

By

Section 2, to permit a landscape space between paved surfaces and lot lines of 0 feet in lieu of the required 6 feet; from Condition B, Parking Lots, Section 2.c to permit a minimum parking island distance from face of curb to face of curb of 2.5 feet in lieu of the required 9 feet; from Condition B, Parking Lots, Section 2.d to permit a distance between face of curb and face of building of 6 inches in lieu of the required 6 feet; and from Condition G, Storage and Loading, Section 1.a to permit a landscape buffer of 0 feet in lieu of the required 20 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its 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) Pursuant to the Zoning Advisory Committee (ZAC) comments submitted by the Office of Planning, dated December 6, 2000, the dumpster enclosure shall be constructed of brick or board-on-board material and additional major deciduous trees shall be provided in the northwest corner of the property adjacent to Martin Boulevard.
- 3) When applying for a building permit, the site plan and/or landscaping plan 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 2/28/01
By [Signature]



Baltimore County
Zoning Commissioner

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

March 1, 2001

Paul A. Tiburzi, Esquire
Brian Quinn, Esquire
Piper, Marbury, Rudnick & Wolfe
6225 Smith Avenue
Baltimore, Maryland 21209-3600

RE: PETITION FOR VARIANCE
W/S Middle River Road, 260' N of the c/l Fuselage Avenue & Orems Road
(1431 Fuselage Avenue)
15th Election District - 5th Council District
Tricon Global Restaurants, Inc. - Petitioners
Case No. 01-217-A

Dear Messrs. Tiburzi & Quinn:

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 Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", written over a white background.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Isaac Showell, Tricon Global Restaurants, Inc.
7250 Parkway Drive, Suite 310, Hanover, Md. 21076
Mr. David S. Thaler, D. S. Thaler & Associates, Inc.
7115 Ambassador Road, Baltimore, Md. 21244-7428
Mr. John Q. Kluttz, III, 1613 Wilson Point Road, Middle River, Md. 21220
Office of Planning; People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1431 Fuselage Avenue, Middle River, MD
which is presently zoned BM-AS

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

SEE ATTACHMENT NO. 1

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

SEE ATTACHMENT NO. 2

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 zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Paul A. Tiburzi
Brian Quinn
Name - Type or Print _____ City _____
Signature _____
Company **Piper Marbury Rudnick & Wolfe LLP**
Address **6225 Smith Avenue (410) 580-3000**
Baltimore MD 21209-3600
City State Zip Code

Legal Owner(s):

Tricon Global Restaurants, Inc.
Name - Type or Print _____
Signature _____
By: Isaac Showell, Construction Manager
Name - Type or Print _____
Signature _____
7250 Parkway Drive, Suite 310 (410) 712-0500
Address Telephone No. ext. _____
Hanover, MD 21076 140
City State Zip Code

Representative to be Contacted:

Stacey McArthur
Name **D.S. Thaler & Associates, Inc.**
7115 Ambassador Road (410) 944-3647
Address Telephone No. _____
Baltimore MD 21244-7428
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By JRF Date 11/22/00

01-217-A

ORDER RECEIVED FOR FILING
Date 11/22/00
By [Signature]

Attachment No. 1

1. PER SECTION 409.6.A.2. (B.C.Z.R.) TO ALLOW 37 PARKING SPACES IN LIEU OF THE REQUIRED 49 SPACES (42 SPACES FOR TACO BELL AND 7 SPACES FOR THE DENTIST OFFICE). THE DENTIST OFFICE IS ENTITLED TO UTILIZE PARKING SPACES LOCATED WITHIN THE TACO BELL AND FOOD LION PARKING LOTS, PER DEED REFERENCE 7847/250.
2. PER SECTION 409.10.B. (B.C.Z.R.) TO ALLOW A DRIVE THRU LANE TO CROSS A PRINCIPAL PEDESTRIAN ACCESS.
3. PER SECTION 409.10.B. (B.C.Z.R.) TO PERMIT THE REQUIRED STACKING LANE TO ENCROACH INTO THE REQUIRED DRIVE LANE.
4. PER SECTION 409.4.B. (B.C.Z.R.) TO ALLOW PARKING ON A TRAVEL WAY.
5. PER PART III, CONDITION F -SERVICE LANCES, 2. (BALTIMORE COUNTY LANDSCAPE MANUAL) TO ALLOW 0' OF LANDSCAPE SPACE BETWEEN PAVED SURFACES AND LOT LINE IN LIEU OF THE REQUIRED 6'.
6. PER PART III, CONDITION B-PARKING LOTS, 2.c. (BALTIMORE COUNTY LANDSCAPE MANUAL) TO ALLOW MINIMUM 2.5'± WIDE PARKING ISLAND FROM FACE OF CURB TO FACE OF CURB IN LIEU OF THE REQUIRED 9'.
7. PER PART III, CONDITION B-PARKING LOTS, 2.d. (BALTIMORE COUNTY LANDSCAPE MANUAL) TO ALLOW MINIMUM 6"± BETWEEN FACE OF CURB AND FACE OF BUILDING IN LIEU OF THE REQUIRED 6'.
8. PER PART III, CONDITION G-STORAGE AND LOADING, 1.a. (BALTIMORE COUNTY LANDSCAPE MANUAL) TO ALLOW 0' LANDSCAPE BUFFER IN LIEU OF THE REQUIRED 20'.

Attachment No. 2

1. due to constraints caused by the location of existing buildings (i.e., dentist's office and supermarket) on the lot and Baltimore County landscaping requirements, the unique configuration of the property is insufficient to accommodate the number of parking spaces required by Section 409.6.A.2. (B.C.Z.R.);
2. due to constraints caused by the unique configuration of the property, the proposed drive-thru lane must cross a principal pedestrian access in contradiction to 409.10.B.(B.C.Z.R.);
3. due to constraints caused by the location of existing buildings on the lot and the unique configuration of the property, the petitioner requests authority to allow parking on a travel way in contradiction to Section 409.4.B.(B.C.Z.R.);
4. due to the unique configuration of the property, the petitioner faces a practical difficulty in complying with certain sections of the Baltimore County Landscape Manual as required by Section 409.8.A. (B.C.Z.R.) and, as such, requests relief from certain requirements contained therein.

October 20, 2000

ZONING DESCRIPTION

Beginning at a point on the west side of Middle River Road (60' wide) said point being northerly 260 feet, more or less, from the centerline of Orem's Road (60' wide) thence running the following courses and distances:

1. South 05°50'00" East 34.89 feet, more or less, to a point; thence,
2. North 79°08'00" West 76.38 feet, more or less, to a point; thence,
3. South 10°52'00" West 20.00 feet, more or less, to a point; thence,
4. South 79°08'00" East 82.38 feet, more or less, to a point; thence,
5. South 05°50'00" East 68.59 feet, more or less, to a point; thence,
6. North 86°40'13" West 85.47 feet, more or less, to a point; thence,
7. South 69°46'05" West 162.42 feet, more or less, to a point; thence,
8. North 03°13'45" East 195.60 feet, more or less, to a point; thence,
9. North 84°30'00" East 55.44 feet, more or less, to a point; thence,
10. South 79°15'00" East 155.00 feet, more or less, to a point; thence,
11. North 64°00'00" East 7.35 feet, more or less, to the point of beginning.

Containing 32,470 square feet or 0.7454 acres of land, more or less.

Known as 1431 Fuselage Avenue located in the 15th Election District of Baltimore County, Maryland.

#217



90187

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

DATE 1/05/01 ACCOUNT 12016150

AMOUNT \$ 100.00

RECEIVED FROM:

FOR: Revision for per petition request
01-217-A

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAY TO THE ORDER OF

FOR DEPOSIT ONLY
NO CHECKS TO BE CASHED
NO DEPOSIT SLIP TO BE CASHED
NO DEPOSIT SLIP TO BE CASHED
NO DEPOSIT SLIP TO BE CASHED

100.00 US
BALTIMORE COUNTY, MARYLAND

527

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAN
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 87491

DATE 11-22-00 ACCOUNT R-001-6150

AMOUNT \$ 250.00

RECEIVED FROM: Esaac Showell
1131 Frisby Ave.
FOR: OL - VARIANCE ITEM # 217
TAKEN BY: JRF

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

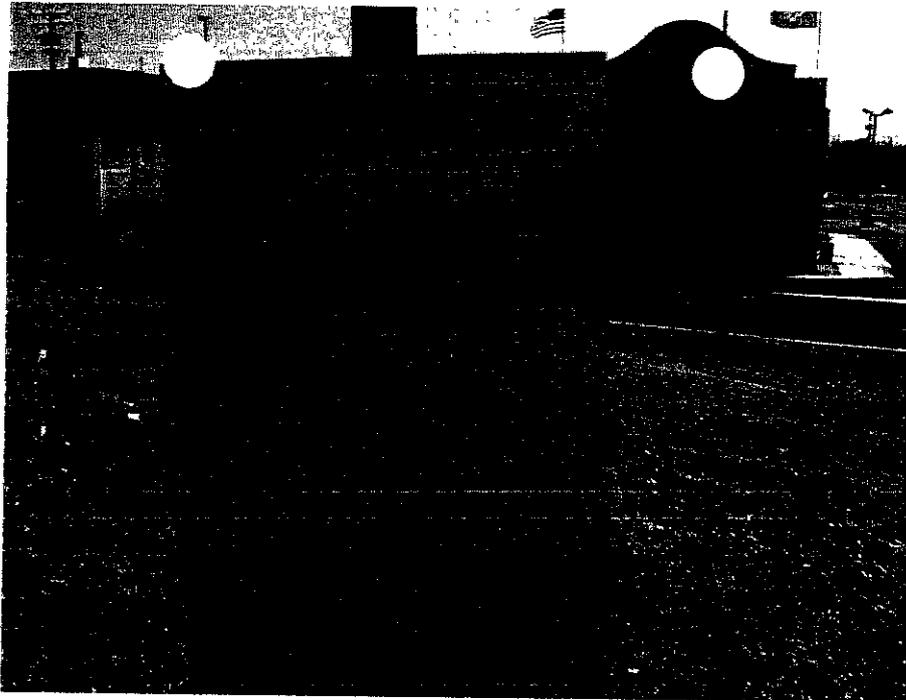
YELLOW - CUSTOMER

PAID RECEIPT

PRINTED ACTUAL PER
11/22/2000 11/22/2000 10:13:00
REG NO: CASHIER DODD AND DESSER
Dept 5 002 ZONING DEPARTMENT
FISBY E 10585
IN NO. 087491

Receipt Tot 250.00
250.00 OK
BALTIMORE COUNTY, MARYLAND

CASHIER'S VALIDATION



1431 Fuselage Ave.

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: #01-217-A

1431 Fuselage Avenue

WS Middle River Road, 260' +/- from centerline Orens Road

15th Election District - 5th Councilmanic District

Legal Owner(s): Tricon Global Restaurants, Inc.

Variance: to allow 37 parking spaces in lieu of the required 49 spaces; to allow a drive through lane to cross a principal pedestrian access; to permit the required stacking lane to encroach into the required drive lane; to allow parking on a travel way; to allow zero feet of landscape space between paved surfaces and lot line in lieu of the required 6 feet; to allow minimum 2.5 feet (+/-) wide parking island from face of curb to face of curb in lieu of the required 9 feet; to allow minimum 6 inches (+/-) between face of curb and face of building in lieu of the required 6 feet; and to allow zero feet landscape buffer in lieu of the required 20 feet.

Hearing: Wednesday, January 17, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bostley 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.

12/209 Dec. 28

C441582

CERTIFICATE OF PUBLICATION

TOWSON, MD, 12/28, 2000

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 12/28, 2000.

THE JEFFERSONIAN,
J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

**RE: CASE # 01-217-A
PETITIONER/DEVELOPER
(Taco Bell Restaurant)
DATE OF Closing HEARING
(1-17-01)**

**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
SIGNS(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT**

1431 Fuselage Avenue Middle River, Maryland 21220_____

THE SIGN(S) WERE POSTED ON _____ 12-28-00 _____
(MONTH, DAY, YEAR)

SINCERELY,

Thomas P. Ogle, Sr. / ego 12/28/00
(SIGNATURE OF SIGN POSTER & DATE)

_____**THOMAS P. OGLE SR.**_____

_____**325 NICHOLSON ROAD**_____

_____**BALTIMORE, MARYLAND 21221**_____

_____**410-687-8405**_____

(TELEPHONE NUMBER)

RE: PETITION FOR VARIANCE
1431 Fuselage Avenue, W/S Middle River Rd,
260' +/- from c/l Oreams Rd
15th Election District, 5th Councilmanic

Legal Owner: Tricon Global Restaurants, Inc.
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-217-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.

All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

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 7th day of December, 2000 a copy of the foregoing Entry of Appearance was mailed to Paul A. Tiburzi, Esq., Piper, Marbury, Rudnick & Wolfe, 6225 Smith Avenue, Baltimore, MD 21209, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN



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

December 1, 2000

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: 01-217-A
1431 Fuselage Avenue
W/S Middle River Road, 260' +/- from centerline Orem's Road
15th Election District - 5th Councilmanic District
Legal Owner Tricon Global Restaurants, Inc.

Variance to allow 37 parking spaces in lieu of the required 49 spaces; to allow a drive through lane to cross a principal pedestrian access; to permit the required stacking lane to encroach into the required drive lane; to allow parking on a travel way; to allow zero feet of landscape space between paved surfaces and lot line in lieu of the required 6 feet; to allow minimum 2.5 feet (+/-) wide parking island from face of curb to face of curb in lieu of the required 9 feet; to allow minimum 6 inches (+/-) between face of curb and face of building in lieu of the required 6 feet; and to allow zero feet landscape buffer in lieu of the required 20 feet.

HEARING: Wednesday, January 17, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

GJZ

C: Paul A. Tiburzi & Brian Quinn, Piper, Marbury, Rudnick & Wolfe LLP,
6225 Smith Avenue, Baltimore 21209
Tricon Global Restaurants, Inc., Isaac Showell, Construction Mgr.,
7250 Parkway Drive, Suite 310, Hanover 21076
Stacey McArthur, D.S. Thaler & Associates, Inc., 7115 Ambassador Road
Baltimore 21244

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, DECEMBER 29, 2000.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 28, 2000 Issue – Jeffersonian

Please forward billing to:
Brian M. Quinn
6225 Smith Avenue
Baltimore, MD 21209

410 580-4238

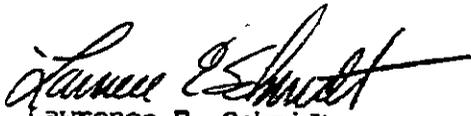
NOTICE OF ZONING HEARING

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: 01-217-A
1431 Fuselage Avenue
W/S Middle River Road, 260' +/- from centerline Oreams Road
15th Election District – 5th Councilmanic District
Legal Owner Tricon Global Restaurants, Inc.

Variance to allow 37 parking spaces in lieu of the required 49 spaces; to allow a drive through lane to cross a principal pedestrian access; to permit the required stacking lane to encroach into the required drive lane; to allow parking on a travel way; to allow zero feet of landscape space between paved surfaces and lot line in lieu of the required 6 feet; to allow minimum 2.5 feet (+/-) wide parking island from face of curb to face of curb in lieu of the required 9 feet; to allow minimum 6 inches (+/-) between face of curb and face of building in lieu of the required 6 feet; and to allow zero feet landscape buffer in lieu of the required 20 feet.

HEARING: Wednesday, January 17, 2001 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt
GDZ

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, 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.

**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: 01-217-A
Petitioner: Tricon Global Restaurants
Address or Location: 1431 Fuselage Avenue, Middle River-

PLEASE FORWARD ADVERTISING BILL TO:

Name: Brian M. Quinn
Address: 6225 Smith Ave
Baltimore, MD 21209-3600
Telephone Number: 410-580-4238



Baltimore County
Department of Permits and
Development Management

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

January 12, 2001

Paul A Tiburzi & Brian Quinn
Piper Marbury Rudnick & Wolfe LLP
6225 Smith Avenue
Baltimore MD 21209

Dear Mr's Tiburzi & Quinn:

RE: Case Number: 01-217-A, 1431 Fuselage Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 22, 2000.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

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

WCR: gdz

Enclosures

c: Tricon Global Restaurants Inc, Isaac Showell, 7250 Parkway Dr, Suite 310
Hanover 21076
Stacey McArthur, D S Thaler & Associates Inc, 7115 Ambassador Road,
Baltimore 21244
People's Counsel



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: March 8, 2001

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

SUBJECT: Zoning Advisory Committee Meeting
For January 22, 2001
Item Nos. 266, 267, 268, 269

and

Case No. 01-218-SPH (Cumberland Property)

and

Case No. 01-217-A (1431 Fuselage Avenue)

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

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt. **DATE:** December 12, 2000

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

SUBJECT: Zoning Advisory Committee Meeting
For December 11, 2000
Item No. 217

The Bureau of Development Plans Review has reviewed the subject zoning item.

The entrance locations are subject to approval by the Bureau.

Entrances shall be a minimum of 24 feet and a maximum of 35 feet wide, shall have 10-foot minimum radii curb returns, shall be located a minimum of 15 feet from any property line, and shall be constructed in accordance with Baltimore County standards as the developer's total responsibility.

See Department of Public Works' Standard Plate R-32 "Single Commercial Entrance".

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *rc/RBS*

DATE: December 15, 2000

SUBJECT: Zoning Petitions
Zoning Advisory Committee Meeting of December 4, 2000

DEPRM has no comments for the following zoning petitions:

Item #	Address
211	7514 Rossville Boulevard
216	1946 Catanna Avenue
217	1431 Fuselage Avenue
219	7307 Seven Mile Lane
220	24 Treadwell Court

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Joseph C Merrey
Zoning Review Division, DPDM

DATE: May 22, 2001

FROM: Lawrence E. Schmidt
Zoning Commissioner



SUBJECT: PETITION FOR VARIANCE
Tricon Global Restaurants, Inc.
(1431 Fuselage Avenue)
Case No. 01-217-A

As a follow-up to our meeting yesterday concerning the above-captioned matter, this letter is to confirm that Petitioner's Exhibit 2 is the correct site plan. Petitioner's Exhibit 1 was the original plan submitted with the Petition filed; however, at the hearing, a revised (red-lined) site plan was submitted and entered into evidence as Petitioner's Exhibit 2. The relief requested within the Petition was ultimately approved, based upon the representations made on the revised site plan. Therefore, Petitioner's Exhibit 2 is the correct site plan.

Should you have any further questions on the matter, please do not hesitate to call me.

LES:bjs

cc: Paul A. Tirburzi, Esquire, Piper Marbury Rudnick & Wolff
6225 Smith Avenue, Baltimore, Md. 21209-3600
Mr. David S. Thaler, D.S. Thaler & Assoc., Inc.
7115 Ambassador Road, Baltimore, Md. 21244-7428
Case File

1/1/0

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 6, 2000

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

- 6 -

SUBJECT: 1431 Fuselage Avenue

INFORMATION:

Item Number: 01-217

Petitioner: Tricon Global Restaurant, Inc.

Zoning: BM/AS

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the request variances, provided the following conditions are met:

1. Dumpster enclosure should be constructed of brick or board-on-board material.
2. Provide additional major deciduous street trees in the northwest corner of the property boarding Martin Blvd.

Prepared by: MaekA Cummings

Section Chief: Jeffrey W. Long

AFK:MAC:



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 12-1-08

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

RE: Baltimore County
Item No. 217 JRF

Dear Ms. Jackson:

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 Kenneth A. McDonald Jr., 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
CHAMBER OF COMMERCE**

Handwritten initials/signature in the top right corner.

January 16, 2001

JAN 18

Chairman
Terry F. Neimeyer, P. E.
KCI Technologies, Inc

**Sr. Vice Chairman-
Administration**
Ellen R. Fish
Provident Bank of MD

Immediate Past Chairman
Robert W. Locke, III
The Columbia Bank

President
Terry Slade Young

Board of Directors

Cheryl A. Bitner
AAI Corporation

Laura S. Borgerding
Bank of America

Lynne Brick
Brick Bodies Fitness Services

Robert W. Cannon, Esq.
Saul Ewing LLP

Sheldon K. Caplis
University of Maryland
Baltimore County

W. Geoffrey Carpenter, Esq.
McCormick & Company, Inc

J. Joseph Credit
Nottingham Properties, Inc

Donora L. Dingman
Venzon

James T. Drescher, Jr.
Skye Hospitality

Michael J. Falber
CareFirst BlueCross BlueShield

Anthony S. Fugett
ASF Systems, Inc

Wynne E. Hawk, R.N., J.D.
GBMC Healthcare, Inc

Candace E. Humphrey
AT&T

Stuart D. Kaplow, Esq., P.A.
Attorney-at-Law

Alan M. Leberknight
Towson University

Clare C. Miller
Constellation Energy Group

Carl G. Osterman
Bethlehem Steel Corporation

Sandra I. Pudifin
Leadership-Baltimore County
Chairman, Executive Board

Dennis F. Rasmussen
Rasmussen-Whiteford
Public Affairs Group, L.L.C.

H. Douglas Sansom
Comcast Cablevision of MD, L.P.

Richard T. Shortess, Jr.
Arthur Andersen LLP

Edward A. St. John
MIE Properties, Inc

Karen Kidwell Storey
Interactive Training

William W. Strickland, Jr.
T. Rowe Price Associates

William W. Whitty, Jr., SIOR
MacKenzie Commercial
Real Estate Services

Zoning Review Office
Room 111
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Tricon Global Restaurants, Inc. – Petition for Variance
Baltimore County Zoning Commissioner – Case No. 01-217-A

Dear Sir or Madam:

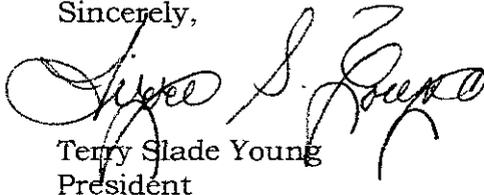
This is written on behalf of the Baltimore County Chamber of Commerce. I would like to communicate this organization's support for the variance petition filed as Case No. 01-217-A. It is my understanding that the applicant, Tricon Global Restaurants, Inc., requests a variance from certain parking and landscaping requirements in the County Code.

This organization appreciates the efforts of Tricon in enhancing economic development in the Middle River area. Each Tricon restaurant provides important employment opportunities for local residents and represents a major investment in the community. I understand that no objections have been filed on behalf of any County agency or member of the public.

The public hearing on this variance petition is scheduled for January 17, 2001. Please contact me if you have any questions regarding this matter.

Thank you for your consideration.

Sincerely,


Terry Slade Young
President



PIPER
MARBURY
RUDNICK
& WOLFE LLP

6225 Smith Avenue
Baltimore, Maryland 21209-3600
www.piperrudnick.com

PHONE (410) 580-3000
FAX (410) 580-3001

PAUL A. TIBURZI

paul.tiburzi@piperrudnick.com
PHONE (410) 580-4273

MAY 11

May 9, 2001

VIA TELECOPY AND FIRST CLASS MAIL

Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Baltimore County Zoning Commission
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

**Re: Petition for Variance
W/S Middle River Road, 260' N of the
c/l Fuselage Avenue & Orems Road
(1431 Fuselage Avenue)
15th Election District -- 5th Council District
Tricon Global Restaurants, Inc. - Petitioners
Case No. 01-217-A**

Dear Commissioner Schmidt:

In connection with the Order issued in the referenced case on March 1, 2001 (copy enclosed) it has come to our attention that the Order references Petitioner's Exhibit 1 as setting forth the site plan for this project (see bottom of Page 1 and Page 6). In fact, Petitioner's Exhibit 2 represented the final site plan, including changes to the location of a dumpster made to accommodate concerns expressed by a neighboring property owner. Our witness David Thaler explained the changes and you accepted the revisions because they satisfied the neighbor's concerns and did not otherwise affect our application. You admitted Petitioner's Exhibit 2 into evidence and that document is the site plan showing the final location of the dumpster and some associated landscaping. The requested variances were not materially different from Petitioner's Exhibit 1 to Petitioner's Exhibit 2 but the location of the dumpster and the landscape are somewhat different.



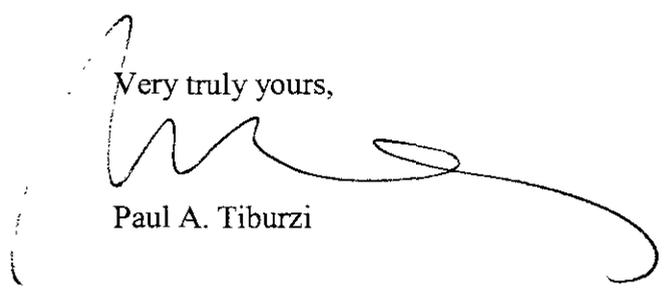
As indicated in the enclosed letter from Joseph Merrey, questions have been raised by the Planning Office about which exhibit depicts the final site plan. We would respectfully appreciate it if you could write a letter or memorandum to us and to Mr. Merrey clarifying the Order by making reference to Petitioner's Exhibit 2 as setting forth the final site plan for development of the project. The plans actually submitted by Tricon reflect Petitioner's Exhibit 2 as submitted to you at the hearing, not Petitioner's Exhibit 1 and that is the source of the confusion here.

All of this can be confirmed by reference to the notes and hearing transcript from the hearing in this matter which was conducted on Wednesday, January 17, 2001.

We have spoken with Mr. Merrey and he suggested that we make this request of you. He also suggested that the Order should be amended to mention Exhibit 2 specifically in the ordering paragraph on page 6.

Thank you for your consideration and please call on David or me if you have any questions about this.

Very truly yours,



Paul A. Tiburzi

PAT/cgl
Enclosure

cc: Mr. David S. Thaler
Ms. Heather Booth
Joseph C. Merrey, Planner II, Baltimore County Office of Planning
Mr. Kevin K. Jones

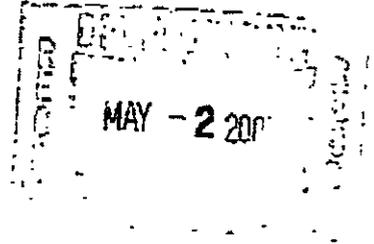


Baltimore County
Department of Permits and
Development Management

VS

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

April 26, 2001



Gerry Guidice
Tricon Global Restaurants, Inc.
11 Eves Drive
Suite 170
Marlton, New Jersey 08053

Dear Mr. Guidice:

RE: Building Permit #B448035C, 15th Election District

The zoning office cannot approve the above referenced building permit application for the following reason(s):

- 1. The submitted plan is not consistent with Petitioner's Exhibit number one in zoning case no. 01-217-A, said exhibit having been incorporated into the Zoning Commissioner's order (e.g. Dumpster location, landscape islands).
- 2. An approved landscape plan is required. Contact Avery Harden at 410-887-3751.
- 4. The subject proposal must be approved by the State Highway Administration. A copy of the plan has been forwarded to Larry Gredlein for review. He may be reached at 410-545-5603.
- 6. Revised plans (2 copies) must be submitted to my attention in room 111, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland. All plans must be accompanied by a cover letter listing the revisions and referencing the building permit number. Revised plans must be folded to 8-1/2" x 11".

Sincerely,

Joseph C. Merrey
Planner II
Zoning Review

Facsimile Transmission Sheet

P I P E R M A R B U R Y R U D N I C K & W O L F E LLP	
6225 Smith Avenue Baltimore, Maryland 21209-3600 www.piperrudnick.com PHONE (410) 580-3000 FAX (410) 580-3001	SENDER'S INFORMATION Paul A. Tiburzi paul.tiburzi@piperrudnick.com PHONE (410) 580-4273
To:	Commissioner Lawrence E. Schmidt
Company:	Baltimore County Zoning Commission
Phone:	(410) 887-4386
Fax:	(410) 887-3468
Date:	May 9, 2001
Number of Pages (including fax sheet):	11

Original will / will not follow.

The information contained in this facsimile message is confidential and, if addressed to our client or certain counsel, is subject to the attorney-client or work product privilege, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U. S. Postal Service.

For internal use only:

If confirmation has not been received by 7:30 p.m., Support Services should:

- Send my facsimile to its recipient by courier for next day delivery, and notify me. *(Provide address and details on reverse of this form.)*
- Attempt to transmit fax until _____ *(please indicate time)*. If transmission not confirmed, please notify me.
- Continue faxing until 8:00 p.m. If transmission not confirmed, discontinue and notify me.

27282-4/929 Signature _____

Comments:

PROFESSIONAL QUALIFICATIONS
David S. Thaler, P.E., L.S., F., ASCE

D. S. Thaler & Associates, Inc.
7115 Ambassador Road
P.O. Box 47428
Baltimore, Maryland 21244-7428

EDUCATION

Baltimore Polytechnic Institute	1966
Lehigh University - BS, Civil Engineering	1970
Lehigh University - MBA, Management	1971
Lehigh University - MA, Economics	1978
Lehigh University - Ph.D., Business & Economics (completed all but dissertation)	

PROFESSIONAL ENGINEER

• Maryland • Virginia • Pennsylvania • Delaware

REGISTERED LAND SURVEYOR - Maryland

LICENSED REAL ESTATE BROKER - Maryland

MEMBERSHIP IN PROFESSIONAL OR TECHNICAL SOCIETIES

American Society of Civil Engineers, since 1970 - Fellow
National Society of Professional Engineers, Member since 1971
Professional Engineers in Construction Division - Charter Member, since 1972
Maryland Society of Professional Engineers - Director, 1985-1989
Baltimore Chapter -President, 1985/86
Engineering Society of Baltimore - 1977-1995
Editorial Board - Baltimore Engineer - 1992
Society of American Military Engineers - 1972 - 1990
Beta Gamma Sigma (National Business Honorary) 1975
Maryland Society of Surveyors 1979-1992
Home Builders Association of Maryland, Inc., Baltimore County Chapter
Board of Directors, 1978 - 1989, 1994-1995
Secretary/Treasurer, 1979, second Vice President, 1980, 1981 - Vice President, 1982
Home Builders Association of Maryland, Inc.
Board of Directors 1988 - 1992
Chairman, Editorial Advisory Board Maryland Builder - 1988 - 1993
Chairman, Land Use Committee - 1987 - 1990
Founding President 1990 - Land Development Council, Vice President 1991-1996
Lamda Alpha International - (Honorary Land Economics Society)- since 1994

TriCon Global Restaurants, Inc./
1431 Fuselage Avenue

Case No. 01-217-A

Exhibit #4

AWARDS

- Lifetime Achievement - HBAM Land Development Council of Maryland, 2000.
- Consultant of the Year - Land Development Council of Maryland, 1995.
- Civil Engineer of the Year - American Society of Civil Engineers, 1990.
- Engineer of the Year - Engineers Week Council of Maryland, 1984/1985.
- Outstanding Young Engineer in Maryland - Maryland Society of Professional Engineers, 1983/1984.

JOURNALISM AWARD - 1983/1984, 1984/1985.

Maryland Society of Professional Engineers.

APPOINTMENTS TO COMMITTEES OR COMMISSIONS OF THE STATE OF MARYLAND

- *Task Force on the Preservation of State Streams*, 1990 - 1991 - Appointed by the Governor.
- *Advisory Commission on Energy Utilization in New Building*.
- *Committee of the Maryland Building Code for the Handicapped*.
- *State Water Quality Advisory Committee*, 1980 - 1983 - Appointed by Secretary of the Department of Natural Resources.
- *Governor's Task Force on Independent Living*, 1981.
- *Maryland Storm Water Management Committee Work Group*, 1983.

BALTIMORE COUNTY APPOINTMENTS

- *Integrated Watershed Management Task Force* - 1981.
- *Master Plan Advisory Group* - 1990.
- *Critical Areas Advisory Committee* - 1988 and 1992
- *Commercial Zoning Advisory Group* - 1992/1993.
- *Commercial PUD Advisory Group* - 1994.
- *Comprehensive Zoning Committee* - 1995.
- *Master Plan Advisory Group* - 1997.
- *Advisory Committee on Historic Sites* - 1998-1999, **Chairman**.

BALTIMORE CITY APPOINTMENT: Public Works Museum - Trustee - 1982 - 1987.

ENGINEERING AND TECHNICAL AFFAIRS EDITOR: The Daily Record - 1983-1985.

OTHER

Baltimore County Chamber of Commerce - **Chairman of the Board** - 1996 - 1998.
Baltimore Chamber Orchestra - **Board of Directors** - 1988 - 1994.
Advisor to the Douma of the Russian Federation - 1992.
Catonsville Community College - **Lecturer, Real Estate** - 1987-1997.
The Valley Academy - **Board of Directors** - 1995 - 1999.
Jewish Museum of Maryland - **Board of Trustees** - 2000.
Center for Organizational Performance - **Towson University** - **Board of Directors** - 2000 - 2001

LECTURER

- *Lehigh University* - Senior Civil Engineering Seminar, 1977, 1978, 1979.
- *Lehigh University* - Short Course in Urban Hydrology and Storm Water Management, 1980-1982.
- Seminar sponsored by the Federal Emergency Management Agency for the Association of State and Local Floodplain Managers, November 1981
- "Implementing Storm Water Management in Maryland," sponsored by *Maryland Chapter, American Planning Association*, November, 1983
- Keynote address for the newly registered Professional Engineers, October 1984.
- Land Development for Commercial and Industrial Properties
Catonsville Community College - January 1987
- "Investing in Raw Land" - Land Development and the Subdivision Process
 - Catonsville Community College*
 - Anne Arundel Community College*
 - Carroll County Community College*
 - Home Builders Association of Maryland* - 1986-1994.
 - Howard County Community College*
 - Engineering Society of Baltimore*
 - Property Owners Association of Maryland*
- "The Mystery of Surveying" Real Property Section, *Maryland Bar Association* 1985, 1989.
- "Zoning Trends" - *Greater Board of Realtors* - 1989.
- "Surveying" - *University of Baltimore, School of Law* 1990, 1995, 1997.
- "Land Development" - *University of Maryland, School of Law* 1991.
- "Land Development Processing" - *Real Property Section of the Bar Association of Maryland* November 1992.
- "Land Development Processing" - *Land Development Council* - September 1992.
- "Land Development in Baltimore County" - *Engineering Society of Baltimore* - May 1993.
- "The Developer as an Endangered Species" - *National Association of Industrial and Office Parks* June 1993.
- "Rethinking the Suburbs" - *The Maryland Institute* - June 1993.
- "Land Development Processing" - *Johns Hopkins University* - 1993 - 1997.
- "Value in Real Estate Through Zoning" - *Greater Baltimore Board of Realtors* - 1995.
- "Value in Real Estate Through Zoning" - *Home Builders Association of Maryland* - 1995.
- "A Pragmatic Approach to Traditional Neighborhood Design" - *Anne Arundel County Community College* - 1996.
- "Flexible Design Standards" - *Harford County Council* - 1996.
- "Designing For Livable Communities and Healthier Watersheds: Rewriting the Rules" - *Center For Watershed Protection* - February 1998.
- "Managing Growth in Maryland 2000 & Beyond" - *University of Maryland, College Park* - March 1998.
- "Master Planner Course" - *Lancaster County Planning Commission, Lancaster, PA* - July, 1998.
- "Building Better Communities: Rethinking the Development Model in Harford County" - *The Task Force on the Future of Growth in Harford County* - August, 1998.
- "Slaying the Beast: Preventing and Curing Sprawl in Maryland" - *The Maryland Chapter of the American Planning Association* - October, 1998
- "Rethinking the Suburbs - Creating a Non-Euclidian Model of Development" *The Maryland Institute for Continuing Professional Education of Lawyers, Inc., Advanced Real Property Institute,* April, 1999.

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
W/S Middle River Road, 160 ft. * ZONING COMMISSIONER
+/- NW c/l Martin Blvd. *
30 Middle River Road * OF BALTIMORE COUNTY
15th Election District *
5th Councilmanic District *
Thomas Tzomides, Petitioner * Case No. 98-321-A
* * * * *

Net No 5

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 30 Middle River Road in the Middle River community of eastern Baltimore County. The Petition was filed by Thomas Tzomides, property owner. Variance relief is requested from Section 235.1 of the Baltimore County Zoning Regulations (BCZR), to permit a front yard setback of 4 ft. in lieu of the required 15 ft. and a street centerline setback of 34 ft. in lieu of the required 40 ft. The subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the requisite public hearing held for this case was Thomas Tzomides property owner/Petitioner. Dr. Tzomides was represented by John B. Gontrum, Esquire. There were no Protestants or other interested persons present.

Testimony and evidence offered by the Petitioner was that the subject property is a rectangularly shaped lot approximately .037 acres in area, zoned BM-AS. The property is quite unusual in that it is virtually surrounded by another commercial property. That property contains an existing one story Taco Bell Restaurant building. The subject property and the Taco Bell lot are used in conjunction with one another in terms of parking and vehicular access. Both properties are located near the intersection of Middle River Road and Martin Boulevard in a densely commercial/business area.

[Handwritten signature/initials]

The subject property is improved with an existing one story building which occupies nearly the entire lot. The building is 1200 sq. ft. in area and contains a dentist office operated by Dr. Tzomides. Apparently, the property has had this use for many years. It is also of note that a large Food Lion store is located to the rear of the subject lot. A large parking area is jointly used by the patrons of the Food Lion store, the Taco Bell customers, and Dr. Tzomides' office.

Dr. Tzomides proposes adding a small addition to the front of the building. The proposed addition is 12 ft. in depth and 20 ft. in width. It was indicated that the addition would be used to provide a larger reception area and office space for the dentist's office. It was also noted that the addition was necessary to bring the office in compliance with the Americans with Disabilities Act. That is, the addition would be used to provide an easier means of access for Dr. Tzomides' disabled patients.

Variance relief is necessary for deficient front yard setbacks. A variance is requested to permit a front yard setback of 4 ft. in lieu of the required 15 ft., as measured from the front right of way line. A second variance is also requested for an insufficient setback from the centerline of the street. As shown on the plan, a setback of 34 ft. will be maintained in lieu of the required 40 ft.

Based upon the uncontradicted testimony and evidence offered, I am persuaded to grant the Petition. In my judgment, the Petitioner has offered sufficient testimony to comply with the requirements of Section 307 of the BCZR and the case law. The property is unique in view of its configuration, small size, and location adjacent to other properties. Additionally, the lot is insufficiently sized to permit the exposed expansion to the side or rear of the property. Thus, an addition to the front

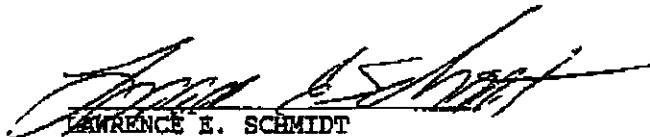
FILED
2000 OCT 23
R. D. HALE
CLERK

of the existing structure is the only practical approach to increase the size of the building and comply with the Americans with Disabilities Act, and will grant the Petition for Variance.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of May 1998, that a variance, from Section 235.1 of the Baltimore County Zoning Regulations (BCZR), to permit a front yard setback of 4 ft., in lieu of the required 15 ft., and a street centerline setback of 34 ft. in lieu of the required 40 ft., be and is hereby GRANTED, subject, however, to the following restriction:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILMS
Date 5/27/98
By M. Goral

LES/mmnn

PROFESSIONAL QUALIFICATIONS
David S. Thaler, P.E., L.S., F., ASCE

D. S. Thaler & Associates, Inc.
7115 Ambassador Road
P.O. Box 47428
Baltimore, Maryland 21244-7428

EDUCATION

Baltimore Polytechnic Institute	1966
Lehigh University - BS, Civil Engineering	1970
Lehigh University - MBA, Management	1971
Lehigh University - MA, Economics	1978
Lehigh University - Ph.D., Business & Economics (completed all but dissertation)	

PROFESSIONAL ENGINEER

• Maryland • Virginia • Pennsylvania • Delaware

REGISTERED LAND SURVEYOR - Maryland

LICENSED REAL ESTATE BROKER - Maryland

MEMBERSHIP IN PROFESSIONAL OR TECHNICAL SOCIETIES

American Society of Civil Engineers, since 1970 - Fellow
National Society of Professional Engineers, Member since 1971
Professional Engineers in Construction Division - Charter Member, since 1972
Maryland Society of Professional Engineers - Director, 1985-1989
Baltimore Chapter - President, 1985/86
Engineering Society of Baltimore - 1977-1995
Editorial Board - Baltimore Engineer - 1992
Society of American Military Engineers - 1972 - 1990
Beta Gamma Sigma (National Business Honorary) 1975
Maryland Society of Surveyors 1979-1992
Home Builders Association of Maryland, Inc., Baltimore County Chapter
Board of Directors, 1978 - 1989, 1994-1995
Secretary/Treasurer, 1979, second Vice President, 1980, 1981 - Vice President, 1982
Home Builders Association of Maryland, Inc.
Board of Directors 1988 - 1992
Chairman, Editorial Advisory Board Maryland Builder - 1988 - 1993
Chairman, Land Use Committee - 1987 - 1990
Founding President 1990 - Land Development Council, Vice President 1991-1996
Lamda Alpha International - (Honorary Land Economics Society) since 1994

TriCon Global Restaurants, Inc./
1431 FuseLage Avenue

Case No. 01-217-A

Exhibit #4

AWARDS

- Lifetime Achievement - HBAM Land Development Council of Maryland, 2000.
- Consultant of the Year - Land Development Council of Maryland, 1995.
- Civil Engineer of the Year - American Society of Civil Engineers, 1990.
- Engineer of the Year - Engineers Week Council of Maryland, 1984/1985.
- Outstanding Young Engineer in Maryland - Maryland Society of Professional Engineers, 1983/1984.

JOURNALISM AWARD - 1983/1984, 1984/1985.

Maryland Society of Professional Engineers.

APPOINTMENTS TO COMMITTEES OR COMMISSIONS OF THE STATE OF MARYLAND

- *Task Force on the Preservation of State Streams*, 1990 - 1991 - Appointed by the Governor.
- *Advisory Commission on Energy Utilization in New Building*.
- *Committee of the Maryland Building Code for the Handicapped*.
- *State Water Quality Advisory Committee*, 1980 - 1983 - Appointed by Secretary of the Department of Natural Resources.
- *Governor's Task Force on Independent Living*, 1981.
- *Maryland Storm Water Management Committee Work Group*, 1983.

BALTIMORE COUNTY APPOINTMENTS

- *Integrated Watershed Management Task Force* - 1981.
- *Master Plan Advisory Group* - 1990.
- *Critical Areas Advisory Committee* - 1988 and 1992
- *Commercial Zoning Advisory Group* - 1992/1993.
- *Commercial PUD Advisory Group* - 1994.
- *Comprehensive Zoning Committee* - 1995.
- *Master Plan Advisory Group* - 1997.
- *Advisory Committee on Historic Sites* - 1998-1999, **Chairman**.

BALTIMORE CITY APPOINTMENT: Public Works Museum - Trustee - 1982 - 1987.

ENGINEERING AND TECHNICAL AFFAIRS EDITOR: The Daily Record - 1983-1985.

OTHER

Baltimore County Chamber of Commerce - **Chairman of the Board** - 1996 - 1998.
Baltimore Chamber Orchestra - **Board of Directors** - 1988 - 1994.
Advisor to the Douma of the Russian Federation - 1992.
Catonsville Community College - **Lecturer, Real Estate** - 1987-1997.
The Valley Academy - **Board of Directors** - 1995 - 1999.
Jewish Museum of Maryland - **Board of Trustees** - 2000.
Center for Organizational Performance - **Towson University** - **Board of Directors** - 2000 - 2001

LECTURER

- *Lehigh University* - Senior Civil Engineering Seminar, 1977, 1978, 1979.
- *Lehigh University* - Short Course in Urban Hydrology and Storm Water Management, 1980-1982.
- Seminar sponsored by the Federal Emergency Management Agency for the Association of State and Local Floodplain Managers, November 1981
- "Implementing Storm Water Management in Maryland," sponsored by *Maryland Chapter, American Planning Association*, November, 1983
- Keynote address for the newly registered Professional Engineers, October 1984
- Land Development for Commercial and Industrial Properties
Catonsville Community College - January 1987
- "Investing in Raw Land" - Land Development and the Subdivision Process
 - Catonsville Community College*
 - Anne Arundel Community College*
 - Carroll County Community College*
 - Home Builders Association of Maryland* - 1986-1994.
 - Howard County Community College*
 - Engineering Society of Baltimore*
 - Property Owners Association of Maryland*
- "The Mystery of Surveying" Real Property Section, *Maryland Bar Association* 1985, 1989.
- "Zoning Trends" - *Greater Board of Realtors* - 1989.
- "Surveying" - *University of Baltimore, School of Law* 1990, 1995, 1997.
- "Land Development" - *University of Maryland, School of Law* 1991.
- "Land Development Processing" - *Real Property Section of the Bar Association of Maryland* November 1992.
- "Land Development Processing" - *Land Development Council* - September 1992.
- "Land Development in Baltimore County" - *Engineering Society of Baltimore* - May 1993.
- "The Developer as an Endangered Species" - *National Association of Industrial and Office Parks* June 1993.
- "Rethinking the Suburbs" - *The Maryland Institute* - June 1993.
- "Land Development Processing" - *Johns Hopkins University* - 1993 - 1997.
- "Value in Real Estate Through Zoning" - *Greater Baltimore Board of Realtors* - 1995.
- "Value in Real Estate Through Zoning" - *Home Builders Association of Maryland* - 1995.
- "A Pragmatic Approach to Traditional Neighborhood Design" - *Anne Arundel County Community College* - 1996.
- "Flexible Design Standards" - *Harford County Council* - 1996.
- "Designing For Livable Communities and Healthier Watersheds: Rewriting the Rules" - *Center For Watershed Protection* - February 1998.
- "Managing Growth in Maryland 2000 & Beyond" - *University of Maryland, College Park* - March 1998.
- "Master Planner Course" - *Lancaster County Planning Commission, Lancaster, PA* - July, 1998.
- "Building Better Communities: Rethinking the Development Model in Harford County" - *The Task Force on the Future of Growth in Harford County* - August, 1998.
- "Slaying the Beast: Preventing and Curing Sprawl in Maryland" - *The Maryland Chapter of the American Planning Association* - October, 1998
- "Rethinking the Suburbs - Creating a Non-Euclidian Model of Development" *The Maryland Institute for Continuing Professional Education of Lawyers, Inc., Advanced Real Property Institute,* April, 1999.

**TACO BELL RESTAURANT
200 SCALE ZONING MAP
TO ACCOMPANY ZONING PETITION**

COUNCILMANIC DISTRICT: 5
ELECTION DISTRICT: 15
200' Scale Baltimore County 1996 Zoning Map, NE-41

D & A
D. S. THALER & ASSOC., INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
P.O. BOX 41408
TIG WILKINSON ROAD
BALTIMORE, MARYLAND 21244
(410) 444-ENGR (410) 444-3641

DATE: OCTOBER 20, 2000

SCALE 1" = 200'	LOCATION MIDDLE RIVER	SHEET NE 4-1
DATE OF PHOTOGRAPHY JANUARY 1986		

**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP**

79% COMPATIBLE ZONING
THE RIVER

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21218

1-NE # 217



GLENN L. MARTIN COMPANY